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Our Reference: AD-22-0188-01 22/052029
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SENSITIVE

1 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: Commission of Inquiry into specific matters relating to the Crime and
Corruption Commission (Commission of Inquiry)**

Thank you for the invitation to provide a submission to the Commission of Inquiry contained in the letter received by the Crime and Corruption Commission (CCC) on 2 March 2022.

Please find **enclosed**:

1. Redacted submissions and supporting attachments relating to the scope of the inquiry (**redacted submission**);
2. Unredacted submissions and supporting attachments relating to the scope of the inquiry (**unredacted submission**);
3. CCC Operations Manual (**Operations Manual**); and
4. Instruments of Delegation relating to the scope of the inquiry (**Instruments of Delegation**).

The CCC notes that submissions which the Commission of Inquiry determines are confidential will not be published and that it reserves the discretion to redact or not to publish particular information. The CCC wishes to maintain confidentiality over parts of the enclosed material on the basis that it contains operationally sensitive information and the names of people whose matters are still before the courts.

This claim of confidentiality extends to items 2, 3 and 4 above, namely the unredacted submission, the Operations Manual and the Instruments of Delegation.

The CCC respectfully supports the publication of item 1, the redacted submission, subject to the Commission of Inquiry's discretion to redact or not publish particular information or submissions.

Item 1, Attachment J, contains details of successful prosecutions over the last three years. This information has not been redacted as it is publicly available. However, the Commission of Inquiry may wish to consider exercising its discretion to redact or not publish this information.

In the event the Commission of Inquiry determines to maintain confidentiality over parts of the CCC's submissions, the CCC respectfully requests that, if an individual or entity seeks access to any confidential CCC submission or annexure, including for example under the *Right to Information Act 2009* (Qld) or some other process, the Chairperson or the Chief Executive Officer of the CCC be informed and afforded the opportunity to provide submissions in relation to the particular request.

For completeness, the CCC notes that the submissions and supporting material is provided to the Commission of Inquiry in response to its request and pursuant to the CCC's power to disclose information under s60(2) of the *Crime and Corruption Act 2001* (Qld).

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

Yours sincerely,

A rectangular box with a black border, used to redact the signature of Bruce Barbour.

Bruce Barbour
Acting Chairperson

encl.



Crime and Corruption Commission
QUEENSLAND

Submission

Commission of Inquiry relating to the Crime and Corruption Commission

April 2022



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List of abbreviations

AM	Member of the Order of Australia
CBRC	Cabinet Budget Review Committee
CCC	Crime and Corruption Commission
CCC (WA)	Corruption and Crime Commission (Western Australia)
CEO	Chief Executive Officer
CJC	Criminal Justice Commission
CMC	Crime and Misconduct Commission
CRC	Crime Reference Committee
DAB	Detective Appointment Board
DAP	Development and Performance
DJAG	Department of Justice and Attorney-General
DPP	Director of Public Prosecutions
DTP	Detective Training Program
DWP	Digital Workplace Program
ELT	Executive Leadership Team
EOI	Expression of Interest
GIC	Governor in Council
GRC	Governance, Risk and Compliance
HR	Human Resources
HREAP	Human Research Ethics Advisory Panel
IBAC	Independent Broad-based Anti-Corruption Commission (Victoria)
ICAC (NT)	Independent Commissioner Against Corruption (Northern Territory)
ICAC NSW	Independent Commission Against Corruption New South Wales
ICT	Information and Communication Technologies
IM	Identification of Matters
LGAQ	Local Government Association of Queensland



MM	Management of Matters
MoPI	Matters of Particular Interest
MOU	Memorandum of Understanding
MP	Matter Practices
NSW ODPP	New South Wales Office of the Director of Public Prosecutions
ODPP	Office of the Director of Public Prosecutions
OIC	Office of the Integrity Commissioner
OPM	Operational Procedures Manual
OPP	Office of Public Prosecutions
PCCC	Parliamentary Crime and Corruption Committee
PCJC	Parliamentary Criminal Justice Commission
PIM	Public Interest Monitor
PRD	Performance Review and Development
QC	Queen's Counsel
QCAT	Queensland Civil and Administrative Tribunal
QCC	Queensland Crime Commission
QPS	Queensland Police Service
QPS OPM	Queensland Police Service Operational Procedures Manual
SA ICAC	Independent Commission Against Corruption (South Australia)
SEO	Senior Executive Officer
ToR	Term of Reference
UPA	Unit of Public Administration
WPAC	Witness Protection Advisory Committee



List of legislation

Constitution of Queensland 2001 (Qld)
Corrective Services Act 2006 (Qld)
Corruption, Crime and Misconduct Act 2003 (WA)
COVID-19 Emergency Response Act 2020 (Qld)
Crime and Corruption Act 2001 (Qld)
Crime and Corruption Amendment Act 2016 (Qld)
Crime and Corruption and Other Legislation Amendment Act 2018 (Qld)
Crime and Misconduct Act 2001 (Qld)
Crime and Misconduct and Other Legislation Amendment Act 2014 (Qld)
Crime Commission Act 1997 (Qld)
Criminal Code Act 1899 (Qld)
Criminal Justice Act 1989 (Qld)
Criminal Justice Legislation Amendment Act 1997 (Qld)
Criminal Procedure Act 1986 (NSW)
Criminal Proceeds Confiscation Act 2002 (Qld)
Domestic and Family Violence Protection Act 2012 (Qld)
Education (Queensland College of Teachers) Act 2005 (Qld)
Evidence Act 1977 (Qld)
Health Ombudsman Act 2013 (Qld)
Health Practitioner Regulation National Law Act (Qld)
Human Rights Act 2019 (Qld)
Independent Broad-based Anti-corruption Commission Act 2011 (Vic)
Independent Commission Against Corruption Act 1988 (NSW)
Independent Commission Against Corruption Act 2012 (SA)
Independent Commissioner Against Corruption Act 2017 (NT)
Integrity Act 2009 (Qld)
Integrity Commission Act 2009 (Tas)
Integrity Commission Act 2018 (ACT)
Justice Legislation (COVID-19 Emergency Response – Proceedings and Other Matters) Regulation 2020 (Qld)
Legal Profession Act 2007 (Qld)
Local Government Act 2009 (Qld)



Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018 (Qld)

Mental Health Act 2016 (Qld)

Parliament of Queensland Act 2001 (Qld)

Police Act 1998 (SA)

Police Act 1990 (NSW)

Public Administration Act 2004 (Vic)

Police Powers and Responsibilities Act 2000 (Qld)

Public Sector Management Act 1994 (ACT)

Police Service Administration Act 1990 (Qld)

Public Service Act 2008 (Qld)

Public Trustee Act 1978 (Qld)

Surveillance Devices Act 2004 (Cth)

Telecommunications (Interception and Access) Act 1979 (Cth)

Witness Protection Act 1995 (NSW)

Witness Protection Act 2000 (Qld)

Working with Children (Risk Management and Screening) Act 2000 (Qld)



Structure of the submission

The submission is presented in four parts:

Part A – Response to Term of Reference 3(a)

Part B – Response to Term of Reference 3(b)

Part C – Response to Term of Reference 3(c)

Part D – Response to the “Matters of Particular Interest” (MoPI) provided by the Commission of Inquiry relating to the Crime and Corruption Commission (Commission of Inquiry), as outlined in its correspondence to the CCC, received by the CCC on 2 March 2022.

Some of the issues relevant to the Terms of Reference (ToR) and MoPIs are interrelated.

The answers provided respond to the ToR and MoPIs, and, for the most part, are self-contained for the convenience of the Commission of Inquiry. Where appropriate, the CCC has used cross-referencing.



Part A: Response to Term of Reference 3(a)

1. Paragraphs 3(a)(i) and (ii) of the ToR are as follows:

- “(a) noting the findings of the Parliamentary Crime and Corruption Committee’s (PCCC) Report No. 108, *Inquiry into the Crime and Corruption Commission’s investigation of former councillors of Logan City Council; and related matters*, the adequacy and appropriateness of the structure of the Crime and Corruption Commission (CCC) in relation to use of seconded police officers, including having regard to:
- i. the views and recommendations of Tony Fitzgerald QC, as expressed in the report of the *Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct* (the Fitzgerald Inquiry Report) in respect of the establishment of the Criminal Justice Commission (CJC);
 - ii. the structure of other Australian State and Territory integrity bodies, with a particular emphasis on the use of seconded police officers, including the tenure, qualifications and training of such personnel;”

2. This part responds to the ToR, but does so in broad terms. It details the nature of the problem, role and functions of the CCC, oversight of the CCC, and how seconded police are used by the CCC, bearing in mind the recommendations of the Fitzgerald Inquiry Report.
3. This part also directly responds to the structure of other Australian State and Territory integrity bodies and their use of seconded police.

The nature of the problem

4. Since the Fitzgerald Inquiry Report, which established the CCC’s predecessor the CJC, the CCC has evolved, but its core work has remained largely the same. The CCC exists to reduce the incidence of major crime and corruption in Queensland.

Trends in major crime and corruption

5. The nature of the “major crime and corruption problem” has evolved, broadly in line with socio-economic and political changes, but its core features remain the same. 32 years on from the Fitzgerald Inquiry Report, there remains “a serious crime problem in Australia”.¹
6. Organised crime groups, both local and those operating through transnational networks, have a strong presence in Queensland and their sophistication is increasing. In addition to existing

¹ Fitzgerald, G. E. 1989. *Commission of inquiry into possible illegal activities and associated police misconduct*, p. 148: <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/The-Fitzgerald-Inquiry-Report-1989.pdf>.



capabilities, including the use of violence, organised crime groups are increasingly professionalised, using sophisticated business models, emerging and specialised technology, and facilitators who provide critical expertise. Professions commonly leveraged by these groups include lawyers, accountants and financial advisers.

7. Presently, the main sources of criminal wealth in Queensland are illicit drugs, fraud and cybercrime, with the most visible being cash holdings, real property, vehicles and high-value goods.
8. The use of digital assets, such as cryptocurrencies, to enable crime and realise criminal wealth, has grown exponentially in recent years. This, as well as the use of other technologies such as the dark web, encryption and dedicated encrypted devices, are reducing the effectiveness of available policing techniques, powers and legislation.
9. Opportunities for serious public sector misconduct and corruption are shaped by changing social, economic and political landscapes, as well as culture, governance and internal controls, and systems and processes.
10. Reforms to the public sector framework (e.g. state and local electoral systems, machinery-of-government changes and legislative amendments) and significant events (like the global health pandemic, major disasters, major events (such as the 2032 Olympics), new investment and development) create new obligations, systems and processes that, in turn, have the potential to generate increased corruption risk.

The political and social context

11. The Queensland public, rightfully, continues to expect transparent and fair electoral processes and for political power to be exercised with integrity and in the public interest.
12. In the intervening decades since the Fitzgerald Inquiry Report, changing political and social dynamics have influenced the CCC's operating environment.
13. The three tiers in Australia's system of government – Federal, State and Territory, and Local Government (Councils) – have both distinct and overlapping areas of responsibility. Changing political and social landscapes, driven by legislative changes, socio-economic factors, evolving community expectations and significant events,² alter the power, influence and responsibilities of the tiers of government.

² This has come to the fore in State and Territory Governments negotiating their responsibilities with the Federal Government over responses to the COVID-19 pandemic.



14. The CCC has been responsive to this changing context, prioritising our areas of focus in conjunction with partner agencies (including the Queensland Police Service (QPS)) to have the greatest impact on crime and corruption and to meet community expectations.

The law enforcement context

15. Queensland's law enforcement environment has changed markedly from that outlined in the Fitzgerald Inquiry Report.
16. The QPS, like many other advanced law enforcement agencies worldwide, has been on a prolonged journey towards professionalisation, achieved through professional association, structured training and development, development of codes of ethical behaviour, and oversight and discipline processes. The QPS Integrity Framework³ establishes clear standards of behaviour and the Ethical Standards Command is charged with promoting ethical behaviour, discipline and professional practice through deterrence, education and system improvements.
17. The CCC has a professional and productive working relationship with the QPS and both agencies capably navigate the different aspects of the relationship. Key elements of the relationship include:
 - a) The CCC and QPS have been strategic partners for over 30 years. The QPS provides a cohort of 85 police officers to support the delivery of the CCC's crime, corruption and witness protection functions.
 - b) In both the crime and corruption jurisdictions, the CCC and QPS conduct joint investigations.
 - c) In the crime function, through the referral system, the CCC investigates matters to support major crime investigations undertaken by other law enforcement agencies, particularly the QPS.
 - d) The CCC is responsible for the investigation and recovery of the proceeds of crime in Queensland. The QPS refers matters to the CCC for confiscation investigation.
 - e) In the corruption function, the CCC oversights particular QPS incidents (deaths in police operations and other significant police incidents), monitors how the QPS is dealing with allegations of corrupt conduct, investigates serious allegations of corrupt conduct, and (where appropriate) applies to the Queensland Civil and Administrative

³ Queensland Police Service 2014. *The Queensland Police Service Integrity Framework*, <https://www.police.qld.gov.au/sites/default/files/2018-12/QPS-ESC-Integrity-Framework.pdf>.



Tribunal (QCAT) for a review of a “reviewable decision” (which includes decisions relating to police misconduct made by the QPS against police officers).

18. Crime trends and a multiplicity of law enforcement agencies — where there is considerable overlap of function and strategy, whether those agencies are primarily concerned with transnational, national, state or regional issues — means Australia’s law enforcement model is undergoing substantial and rapid transformation. At a strategic level, agencies are navigating a re-definition of their roles, as much in relation to each other as in relation to an increasingly complex, borderless and technology-facilitated crime arena.
19. The CCC recognised these trends and impact in its 2019 Crime Strategy Review, and since that time and recognising that it does not have primary responsibility for law enforcement in Queensland (that is the role of the QPS), has been providing independent specialist services on referral. The provision of specialist services requires active collaboration and innovation.

The integrity context

20. The Fitzgerald Inquiry Report sought to “become a catalyst and platform for continuing reform, by which public confidence in the administration can be restored, and political processes improved.”⁴
21. The maturation of the integrity context in Queensland, and other jurisdictions, over the past 32 years suggests the Fitzgerald Inquiry Report was successful in igniting a reform agenda that recognised the responsibility for creating and upholding integrity in public administration rests on the community, parliament and the bodies established specifically for that purpose.
22. The current integrity regime includes permanent institutions and systems, some of which have been operational for some time, and others that have been recently created to address gaps and strengthen confidence in the regime.
23. The integrity regime in Queensland comprises the CCC, the Office of the Queensland Ombudsman, the Public Service Commission, the Office of the Information Commissioner, the Auditor-General (and Queensland Audit Office), the Electoral Commission of Queensland, the Queensland Racing Integrity Commission, the Office of the Independent Assessor, and the Integrity Commissioner.

⁴ Fitzgerald Inquiry Report, p. 357.



Crime and Corruption Commission

History and evolution of the agency

24. Since the 1987–89 Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, the agency has evolved, most significantly in the following ways:

- a) the CJC was established in 1989 to help restore confidence in our public institutions. The CJC investigated police and public sector misconduct as well as working with police to investigate organised and major crime. The Queensland witness protection service was established within the CJC.
- b) In 1997 the CJC's crime function was given to the newly formed Queensland Crime Commission (QCC), which was also tasked with investigating paedophilia.
- c) In 2001 the Queensland Government decided to form a single body to fight crime and public sector misconduct — the Crime and Misconduct Commission (CMC), a statutory body created under the *Crime and Misconduct Act 2001* (Qld) (CM Act).
- d) On 1 July 2014, following extensive reviews and legislative changes, the CM Act changed to the *Crime and Corruption Act 2001* (Qld) (CC Act) and the CMC became the CCC. A new jurisdiction and framework for the CCC was developed with a focus on serious and systemic corruption.

25. A summary of the CCC's history can be found at <https://www.ccc.qld.gov.au/about-us/our-history> and in Attachment A.

The Crime and Corruption Commission of today

26. While the CCC has evolved, its core objective and services have remained largely the same. The CCC's strategic objectives are to reduce the incidence of major crime and corruption in Queensland, and build organisational capability. In achieving these strategic objectives, the CCC provides the following functions:

- a) investigating serious and organised crime;
- b) receiving, assessing and investigating allegations of corruption;
- c) developing strategies to prevent crime and corruption;
- d) conducting research and undertaking intelligence activities on crime, corruption, policing and other relevant matters;
- e) restraining and recovering suspected proceeds of crime; and



- f) administering Queensland's witness protection program.
27. The CC Act, which establishes the CCC and sets out its functions and powers, reflects the history of the CCC (including the evolution of the misconduct and corruption jurisdiction and the integration of the major crime function), and a changing crime and corruption environment, and an evolving operational focus. There has never been a wholesale review of the CC Act, and, as such, there are some limitations and inconsistencies with the CC Act (see also MoPI 18).
28. An extensive range of legislative reforms have been proposed – by the CCC, the PCCC and others – to deliver improvements to the CCC's processes, governance, powers and jurisdiction. Some of these legislative amendments have been implemented and they have delivered the anticipated improvements. Some amendments are in progress and some amendments have been supported by government but have not progressed. While the CCC appreciates the government has a challenging legislative and policy agenda, the CCC has observed a lack of action on some of these matters.
29. The CCC's 2020 submission⁵ to the PCCC Review of the Crime and Corruption Commission's activities – 2021 (PCCC 5-Year Review (2021))⁶ summarises the status of more recent legislative reform proposals, and provides detailed information about the CCC's functions, powers and corporate governance.⁷
30. In the interests of providing a concise response to the ToR, the CCC does not repeat the information contained in its 2020 submission here. Rather, the CCC focuses on activities or initiatives that have strengthened the CCC's corporate governance since that time or areas that the CCC suggests would benefit from review and are relevant to the ToR.

Strategy and corporate governance

31. The CCC operates in an environment with unique statutory governance and accountability requirements. The environment and its complexity are amplified by increasingly sophisticated criminal and corruption activities, financial constraints and changing social and political contexts.
32. These factors mean that effective internal controls and accountability mechanisms are vital for managing the CCC's exposure to risk, and promoting public confidence in the CCC's work and the decisions the CCC makes.

⁵ CCC 2020. *PCCC five-yearly review submission*: <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/RCCC-21CB/submissions/00000027.pdf>.

⁶ PCCC 2021. Report No. 106, 57th Parliament – Review of the Crime and Corruption Commission's activities: <https://documents.parliament.qld.gov.au/TableOffice/TabledPapers/2021/5721T932.pdf>.

⁷ CCC submission to the PCCC 5-Year Review (2021), pp. 10-12, 30-51, and 90-113.



33. The CCC maintains the view that its corporate governance arrangements should be informed by three principles. These are that the CCC must be independent, be subject to strong checks and balances, and ensure that the CCC operates to best practice standards.

CCC Commissioners

34. CCC Commissioners include the Chairperson, a part-time Commissioner who is the Deputy Chairperson, and three part-time Ordinary Commissioners.⁸
35. 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, Chief Executive Officer (CEO) and Commission Officers.⁹
36. A person is qualified for appointment as the Chairperson or Deputy Chairperson if the person has served as, or is 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.¹⁰ A person is qualified for appointment as an Ordinary Commissioner if the person has qualifications, experience or standing appropriate to assist the CCC to perform its functions.¹¹
37. The appointments of CCC Commissioners are made by the Governor in Council (GIC), following nomination by the Minister. Nominations must have the bi-partisan support of the PCCC.¹²
38. The term of appointment is up to five years, and re-appointment is permitted as long as the maximum tenure does not exceed 10 years,¹³ however, in 2021 the Government indicated its support for the PCCC's recommendation to make a single non-renewable appointment for a term of seven years.
39. The CCC Commissioners endorse this recommendation. More recent appointments have been made for only two years, which significantly limits the opportunity for CCC Commissioners and the CCC to effectively engage, and the potential for CCC Commissioners to contribute to the work of the CCC.
40. This current state does not differ markedly from the model outlined in the Fitzgerald Inquiry Report, which envisaged highly qualified and experienced CCC Commissioners.

⁸ CC Act, s. 262.

⁹ CC Act, s. 251.

¹⁰ CC Act, s. 224.

¹¹ CC Act, s. 225.

¹² CC Act, ss. 228 and 229.

¹³ CC Act, s. 231.



41. To be effective, CCC Commissioners must have a mix of skills, experience and capabilities. However, given the nature of the CCC's work, its complex legal framework and the powers it has, the need for multiple CCC Commissioners to be experienced legal practitioners must be recognised.
42. Under the current model, the Chairperson assumes a significant workload and responsibility, and CCC Commissioners, who are engaged in a part-time capacity, may not be available to act in the role of Chairperson in the Chairperson's absence. In the CCC Commissioners' view, this is not ideal and, therefore, at least two other CCC Commissioners (the Deputy Chairperson and one Ordinary Commissioner) should have the qualifications and capability to act in the role of Chairperson.

Chief Executive Officer

43. A new standalone CEO role was established when the *Crime and Misconduct and Other Legislation Amendment Act 2014* (Qld) (2014 amendments) took effect on 1 July 2014. Prior to this, the Chairperson effectively held the dual role of Chairperson and CEO.
44. The CEO is responsible to CCC Commissioners for the administration of the CCC, and for the financial accountability functions and public record powers delegated in the CC Act.
45. The CEO role enables a stronger focus on effective and efficient operations, and investment in the right things at the right time to enhance service delivery and organisational performance.
46. The CEO is subject to the same appointment framework as CCC Commissioners – appointment is made by the GIC, following nomination by the Minister. Nominations must have the bi-partisan support of the PCCC.¹⁴ Leave in excess of 10 days must be approved by the Minister.¹⁵
47. The CEO reports to the Chairperson and under the terms of appointment, must enter into a performance agreement with the Chairperson.
48. CCC Commissioners are of the view that the involvement of the Minister and PCCC in the appointment and management of the CEO may undermine the rightful independence of the role. CCC Commissioners support legislative amendment to provide for the CCC Commissioners to appoint and, via the Chairperson, to manage the CEO directly.

Executive Leadership Team

¹⁴ CC Act, ss. 228 and 229.

¹⁵ CC Act, s. 234.



49. The Executive Leadership Team (ELT) supports the CCC by leading discussions, providing advice and making recommendations on strategic and operational matters critical to the performance of the CCC's functions.
50. Membership of the ELT includes the Chairperson, CEO, Senior Executive Officer (SEO) (Crime), SEO (Corruption), General Manager Operations Support and General Manager Corporate Services.
51. In 2018, coinciding with the introduction of the Operating Model, Operational Framework and Operations Manual, the functions of the ELT were expanded. The ELT is now also responsible for considering potential investigations and project proposals, and for ongoing review of approved investigations and projects to ensure resources are effectively deployed to maximise outcomes.

Tenure of Senior Officers

52. CCC Commissioners, the CEO and Senior Officers¹⁶ (at the Senior Executive Service level) of the CCC may not be appointed for more than ten years. The tenure of police officers is dealt with later in the submission.
53. Senior Officers of the CCC must not hold office for more than 10 years (though this may be extended to 15 years if deemed necessary for the efficient operation of the CCC) and the restriction on tenure applies not only to continued employment in one role or even one division, but within the entire agency.
54. The Fitzgerald Inquiry Report provided for a fixed term for the appointment of the first Chairman, although it was silent as to the rationale for this, and made no recommendation for term limits to be applied to any other officers of the CJC.
55. Tenure limits of Senior Officers presents significant organisational risk.¹⁷ Limiting tenure potentially undermines the CCC's ability to attract and retain highly experienced senior executives, prevents leaders taking the longer-term planning horizon necessary to steer a complex organisation, makes managing a multi-generational and multi-disciplined workforce more difficult, and undermines the ability to establish strong corporate governance and supervision practices.
56. There are also aspects of tenure limits that are illogical. Under the current regime, the General Manager of Corporate Services does not have a tenure limit, but the head of the Legal Risk and Compliance business unit, who reports to the General Manager of Corporate Services, does.

¹⁶ Section 247(5) of the CC Act states that a Senior Officer is a person whose principal duties relate directly to the performance of the CCC's prevention, crime, corruption, research or intelligence functions or the giving of legal advice to the CCC, but does not include a Senior Officer whose duties support the CCC's functions.

¹⁷ CCC submission to the PCCC 5-Year Review, p. 33.



57. There are currently six roles within the CCC that are defined as Senior Officer roles. Due to recent turnover in these roles, the current incumbents have a substantial amount of tenure remaining before approaching the 10-year limit under section 247(3) of the CC Act, which is the limit most commonly applied. The next Senior Officer to approach their tenure limit will be the SEO (Crime) in 2027.
58. The recent turnover of Senior Officers reflects a difficulty in the tenure limit as it is currently described whereby within the space of three months from December 2021 to February 2022, three Senior Officers resigned, two specifically due to their tenure limit. The risk and impact of the loss of institutional knowledge and expertise is high and creates a cyclical pattern of turnover because of arbitrary limits.
59. The CCC has, on numerous occasions, sought reconsideration of tenure limits of Senior Officers to mitigate this risk, to bring Queensland in line with other jurisdictions and to ensure consistency across the public sector (such restrictions do not apply elsewhere across the Queensland public sector).
60. The PCCC has taken the view that long-term tenures and limited changes at the executive level can lead to a potential corruption risk and other issues relevant to the culture and environment, and has not been minded to support reconsideration of the issue.¹⁸
61. CCC Commissioners are of the view that concerns about reducing corruption risks, if they genuinely do exist to a greater extent than is presented in the broader public sector, are effectively managed by the corporate governance practices and oversight.

Governance more broadly

62. More broadly, the CCC has a range of measures in place to ensure and support each Commission Officer's efficient and effective performance; they have relevance to all Commission Officers, police and civilians alike:
- a) Governance framework – An extensive framework for achieving good governance, outlining key leadership roles, executive management and governance committees, parliamentary oversight, performance and culture expectations.
 - b) Governance in practice – The CCC has a range of key decision-making entities – in particular, CCC Commissioners, the ELT, and the Crime Reference Committee (CRC) – which provide for robust governance and monitoring of CCC activities.

¹⁸ PCCC 5-Year Review (2021), p. 30.



- c) Legislation – Most notably section 213 of the CC Act, which criminalises the wilful disclosure or the record making of information that is confidential, and section 329 of the CC Act, which defines improper conduct and states how a notification must be made.
- d) Policy and procedure – Including the Operations Manual (see below), Code of Conduct, and an extensive body of corporate policies and procedures that guide how things are done.

Recent developments - Operating Model, Operational Framework and a single Operations Manual

- 63. In 2018, the CCC commenced a comprehensive review leading to reform of its governance, policies and processes to deliver improved outcomes. This review led to the introduction of the Operating Model (see Attachment B), Operational Framework (see Attachment C) and a single Operations Manual (provided to the Commission of Inquiry).
- 64. This review was unrelated to matters relevant to the Report No. 108, 57th Parliament – *Inquiry into the Crime and Corruption Commission’s investigation of former councillors of Logan City Council; and related matters* (PCCC Logan Inquiry Report),¹⁹ but it is noteworthy that a number of significant improvements have been implemented and embedded since the time that inquiry was undertaken.
- 65. The Operating Model describes how the CCC approaches its business and includes the principles to guide how operational activities are undertaken. To support effective governance, the ELT’s involvement in the assessment and review of operational matters is intended to ensure that resources are centrally coordinated, and operational activity monitored to ensure ongoing feasibility and delivery of intended outcomes.
- 66. In tandem, the Operational Framework establishes the minimum standards for how the CCC conducts its activities and achieves the purposes of the CC Act.
- 67. At the policy level, the Operations Manual is a single point of reference for operational activities, providing clear guidance on how complaints handling and investigations are conducted, along with the associated support activities. The manual is divided into three main sections:
 - a) Identification of Matters (IM) – relating to the receipt and assessment of matter.
 - b) Management of Matters (MM) – covering the delivery and finalisation of investigations.

¹⁹ PCCC Logan Inquiry Report: <https://documents.parliament.qld.gov.au/tp/2021/5721T2051.pdf>.



- c) Matter Practices (MP) – including processes relating to witnesses, the collection of documents and information, and covert activities.
68. The CCC's Digital Workplace Program (DWP)²⁰ has also delivered a new digital Governance, Risk and Compliance (GRC) system that has improved the coordination, reporting and management of risks, incidents and broader compliance obligations, with electronic workflow functionality and easy access to policies and forms.

The CCC's crime function

Purpose and key areas of activity

69. One of the CCC's primary functions is to combat and reduce the incidence of major crime. Major crime is defined in Schedule 2 of the CC Act.
70. The CCC performs its crime function by undertaking the statutory functions given to it in the CC Act.²¹
71. In addition to the CCC's responsibility to combat major crime, the CCC also has responsibility for restraining and recovering suspected proceeds of crime.
72. The CC Act provides investigative powers that are not available to the QPS or any other Queensland government agency. The hearings power enables the CCC to compel witnesses to attend and give evidence, even where that may require them to incriminate themselves in the commission of an offence. The civil confiscation power enables the CCC to obtain court orders for the forfeiture of suspected proceeds of crime even though a person has not been convicted of the relevant crimes.
73. The special nature of these capabilities requires the CCC to balance the tension between public interest vulnerability and public benefit and value. This is an important reason why these powers are vested in an independent agency such as the CCC.
74. In support of the strategic vision for safe communities, the CCC remains focused on:
- a) Illicit markets of high value or high public impact
 - b) Crimes involving loss of life or serious injury to a person
 - c) Crimes against children and vulnerable victims.

²⁰ From 1 July 2018, the CCC received funding of \$16.3 million over four financial years (and approximately \$3.9 million ongoing funding per year) to address a range of organisational ICT risks and invest in new technology and digital tools. The DWP was subsequently established to deliver enhancements to the CCC's organisational resilience (through transitioning to cloud services), forensic computing processes and technologies, and online intelligence gathering processes and security.

²¹ CC Act, s. 26.



The referral process

75. The CCC does not have a standing crime jurisdiction for its investigation activities. It only has a crime jurisdiction for investigations by way of referrals or authorisations made or approved by the CRC.
76. The CRC is established under Part 2 of Chapter 6 of the CC Act to oversee the general conduct of the performance of the CCC's functions in relation to major crime or a specific intelligence operation.
77. CRC Referrals are of two types:
 - a) General Referral — a jurisdictional authority under which a particular investigation may be approved in accordance with the terms of the general referral. A general referral will identify a general area of major crime in respect of which the CCC may undertake particular investigations.
 - b) Specific Referral — a jurisdictional authority that identifies a specific QPS investigation (already in existence but that has not been effective) that the CRC has now approved the CCC to undertake.
78. The referral system allows the CCC to both investigate matters identified through CCC intelligence target development and to support major crime investigations undertaken by other law enforcement agencies, particularly the QPS.
79. Currently, the CCC has the following general referrals:
 - a) Serious Crime (Sexual Offences) General Referral (confirmed 28 July 2020).
 - b) Serious Crime (Homicide) General Referral 2018 (made 24 April 2018).
 - c) Serious Crime (Vulnerable Victims) General Referral 2013 (confirmed 28 November 2017).
 - d) Terrorism General Referral (confirmed 25 February 2020).
 - e) Organised Crime General Referral (confirmed 23 March 2020).
 - f) Criminal Paedophilia General Referral (confirmed 25 May 2020).

Composition and structure

80. The Crime Division is organised into five business units:



- a) Office of the SEO (Crime) – leads the Division and is responsible for the proper performance of the crime functions.²²
- b) Crime Operations — multi-disciplinary teams support law enforcement investigations into organised offending, including major crime and intelligence operations.
- c) Proceeds of Crime — assesses and develops potential confiscation opportunities to restrain, forfeit and recover criminally acquired wealth. The CCC’s jurisdiction involves both civil confiscation and confiscation arising after conviction for serious drug offences.
- d) Crime Hearings and Legal — provides legal advice and advocacy, and assesses whether hearings may advance and help solve serious crimes.
- e) Crime Strategy — provides strategic intelligence and insights to improve operational effectiveness and identify crime prevention opportunities.

81. Police officers are central to Crime Operations, specifically:

- a) The business unit is managed by the Executive Director Crime Operations, who is a Detective Superintendent.
- b) That role is supported by two Directors Crime Operations, who are Detective Inspectors.
- c) There are also four Operations Leaders (Detective Senior Sergeants) who work with multi-disciplinary teams of Intelligence Analysts, Financial Investigators, Operations Support staff, and police.
- d) In total, there are 13 police officers in the Crime Operations.

The CCC’s corruption function

Purpose and key areas of activity

82. One of the CCC’s primary functions is to reduce the incidence of corruption in the public sector. Under the CC Act, the CCC must ensure that complaints about corruption, or information or matters involving corrupt conduct, are dealt with in an appropriate way. Section 35(3) makes clear that the CCC must focus on more serious cases of corrupt conduct and cases of systemic corrupt conduct.

²² CC Act, s. 245(3)(a).



83. The CCC receives and assesses complaints, monitors the way units of public administration (UPAs) deal with allegations or corrupt conduct, conducts corruption investigations, and undertakes strategic intelligence, audits and prevention activities.
84. The main avenues by which the CCC is made aware of suspected corruption are through complaints made to the CCC or through mandatory notification from a public official, however, information is also received via routine audits, media articles, intelligence activities, court proceedings or referrals from the Coroner, or allegations made by a member of the public.
85. Complaints are assessed in accordance with the CCC's assessment procedures and an assessment decision is made by the appropriate responsible officer or committee. An assessment decision can include commencing a CCC investigation (only ELT may approve a complaint progressing to investigation), referring for further inquiries, referring to a UPA for investigation (with or without CCC monitoring), referring to another agency for action, or taking no action.²³
86. Due to the CCC's focus on serious and systemic corrupt conduct and the number of complaints the CCC receives far exceeding its investigative capacity, most complaints received by the CCC are devolved to the relevant UPA, including the QPS.
87. More recently, the CCC has also identified "high risk" complaint categories and targeted investigative, intelligence and research activity at those areas to drive behavioural change. These "high risk" categories, the selection of which is informed by audit, strategic intelligence and research activity, have included corruption involving elected officials, misuse of confidential information, and exploitation of public sector resources, excessive use of force by police, and the abuse of authority.
88. CCC investigations are conducted by multi-disciplinary teams and rely on the skills of Investigators (both police and civilian), Financial Investigators, Intelligence Analysts and Lawyers.

Composition and structure

89. The Corruption Division is organised into four business units:
- a) Office of the SEO (Corruption) - leads the division and is responsible for the proper performance of the corruption functions.²⁴
 - b) Integrity Services – receives and assesses corruption and police misconduct complaints, performs the CCC's statutory monitoring function and provides oversight of the QPS disciplinary process.

²³ CC Act, s. 46.

²⁴ CC Act, s. 245(3)(b).



- c) Strategy, Prevention and Legal – provides strategic intelligence, corruption prevention, audits of UPAs systems and processes, and legal advice relevant to corruption matters.
- d) Corruption Operations – multi-disciplinary teams conduct feasibility assessments to determine whether the investigation of a complaint is justified, and (if approved) investigations.

90. Seconded police officers are central to Corruption Operations, specifically:

- a) The business unit is led by the Executive Director Corruption Operations, who is a QPS Detective Superintendent.
- b) There are six operations teams, three of which are led by police officers.
- c) In total, there are 18 police officers in Corruption Operations.

The CCC's other functions

Research

Purpose and key areas of activity

91. The Research function is a support function within the CCC's operating environment. That is, it supports the performance of the CCC's principal functions (Corruption, Crime, Civil Confiscation and Witness Protection).

92. The CCC performs its Research function by undertaking research projects:

- a) to support the proper performance of its functions;
- b) into the incidence and prevention of criminal activity;
- c) into any other matter relating to the administration of criminal justice or relating to corruption referred to the CCC by the Minister;
- d) into any other matter relevant to any of its functions; and
- e) as required under legislation other than the CC Act.

93. The CCC has a research ethics framework to ensure its research projects conform to the highest ethical and quality standards. The framework comprises three elements:

- a) The *Human Research Ethics Guidelines* outline the values and principles Commission Officers must adhere to when planning and conducting research activities involving humans.



- b) The *Human Research Ethics Policy and Procedure* identifies the processes by which human research must be considered before it can proceed.
- c) The Human Research Ethics Advisory Panel (HREAP) and sub-panels ensure that any human research conforms to the highest ethical and quality standards. The membership of the HREAP includes external members; there are no police officers on the HREAP.

Intelligence

Purpose and key areas of activity

- 94. The Intelligence function supports the performance of the CCC's principal functions (Corruption, Crime, Civil Confiscation and Witness Protection).
- 95. The CCC performs its Intelligence function by:
 - a) undertaking intelligence operations and activities, including specific intelligence operations authorised by the CRC to support the proper performance of the CCC's functions and holding intelligence function hearings.
 - b) analysing intelligence data and ensuring that intelligence data collected is appropriate for the proper performance of its functions, while minimising the unnecessary duplication of intelligence data.

Witness protection

Purpose and key areas of activity

- 96. The CCC administers the Witness Protection program under the *Witness Protection Act 2000* (Qld) (WP Act), and under section 56(a) of the CC Act.
- 97. The purpose of the Witness Protection function is to provide full protection, interim protection and short-term protection services to individuals who may be in danger due to providing assistance to a law enforcement agency. This includes personal protection, court security, secure relocation, management of welfare needs and identity changes.
- 98. To be included in the Witness Protection program, a person must require Witness Protection from a danger arising because:
 - a) the person has assisted a law enforcement agency; or
 - b) the person has a relationship or association with another person who has assisted a law enforcement agency.



99. A person does not have to be a witness in a court of law to qualify for Witness Protection.
100. New participants in the Witness Protection Program are received via applications from an officer or investigator at a law enforcement agency or identified by the Chairperson's own initiative.
101. Details on the approval, commencement, and management of Witness Protection programs are outlined in the Operations Manual MP05: Witness Protection.

Composition and structure

102. The Witness Protection Advisory Committee (WPAC) is responsible for managing and reviewing the CCC's Witness Protection cases (described in response to MoPI 10), and includes police and civilian Commission Officers.
103. The Witness Protection unit is led by a Detective Senior Sergeant and is part of the CCC's Operations Support Division. The Witness Protection unit is [REDACTED]
104. A Witness Protection Officer is appointed for each person accepted into the Witness Protection Program, and is responsible for:
- a) providing the appropriate level of witness protection approved in accordance with CCC policies and procedures;
 - b) monitoring the protected witness; and
 - c) ensuring the witness's compliance with the Witness Protection agreement.

Support capabilities

105. Operational and corporate capabilities are delivered to the Crime, Corruption, Civil Confiscation and Witness Protection functions by:
- a) Operations Support Division: delivers both overt and covert capabilities (forensic computing, evidence/property management, electronic collections, intelligence support, human source management, physical and technical surveillance) that provide a timely, efficient and professional service supporting the investigative strategy of the CCC. The Division also has line management of the Witness Protection function. There are 53 QPS officers seconded to the CCC who perform roles in this Division.
 - b) Strategy, Innovation and Insights: drives innovation, conducts research, builds organisational critical capabilities and implements transformational change.



- c) Corporate Services - provides finance and procurement, human resources, digital and information technology, records management, corporate legal risk and compliance, security and facilities, and communications capabilities.

106. This structure ensures the cost-effective development of critical operational capabilities and provides a resourcing model that can flex to accommodate operational demands. Corporate services are delivered in a client-centred way that seeks to enable operational teams to focus on operational outcomes.

Oversight of the CCC

Responsible Minister and budget allocation

107. The CCC falls within the justice portfolio and reports to the Attorney-General on a six-monthly basis.²⁵ Its funding channels through the Department of Justice and Attorney-General (DJAG).

108. The CCC urges consideration of an independent funding model. The rationale for this recommendation is outlined in more detail in response to MoPI 18.

Parliamentary Crime and Corruption Committee

109. The CCC is accountable to the Parliament through the PCCC and through it, to the Queensland public.

110. Pursuant to section 302A of the CC Act, the PCCC is required to generally hold its meetings in public, but can decide to hold its meeting (or part thereof) in private. This model seeks to strike the right balance between maintaining the confidentiality of CCC activities when it is required to effectively perform its functions, and the need for transparency to promote public confidence in both the CCC and PCCC.

111. In practice, each meeting generally has a public and private component, and the CCC provides separate reports, relevant to each component, to the PCCC in advance of the meeting to facilitate effective and appropriate discussion.

112. The CCC respects the statutory duty of the PCCC to monitor and review the performance of the CCC, and is highly responsive to the PCCC's information requests.

113. The CCC is acutely aware of the operational sensitivity of some of its work, and the Chairperson and members of the ELT who attend PCCC meetings resist answering questions, particularly in the

²⁵ CC Act, s. 260.



public session, that may risk inadvertently disclosing sensitive information that may hinder operational activities.

Parliamentary Commissioner

114. The Parliamentary Commissioner assists the PCCC in its oversight and monitoring of the CCC's activities.
115. The Parliamentary Commissioner has the capacity to investigate complaints against the CCC or Commission Officers at the direction of the PCCC. The Parliamentary Commissioner's powers include compelling Commission Officers and others to give evidence at a hearing, and the power to require the production of records, files and other documents.
116. The Parliamentary Commissioner also conducts reviews of the CCC's activities, and inspections and audits of its records (either as mandated by legislation, or at the PCCC's direction), and reports the results of its inspections to the PCCC. These inspections represent an important check on the CCC's activities, as they involve a review "after the fact" of the exercise of covert powers by the CCC.
117. The Parliamentary Commissioner may also be tasked by the PCCC to investigate allegations of suspected improper conduct under section 329 of the CC Act, or perform other functions as considered necessary or desirable by the PCCC.

Public Interest Monitor

118. The Public Interest Monitor (PIM) is a statutorily appointed officer²⁶ who is responsible for monitoring applications for, and the use of, particular types of warrants (covert search warrants, surveillance device warrants and telecommunications interception warrants) obtained by the CCC under the *Police Powers and Responsibilities Act 2000* (Qld) (PPRA), the *Telecommunications (Interception and Access) Act 1979* (Cth) (TIA Act) or the CC Act.²⁷
119. The PIM's primary responsibility is to appear on applications for the exercise of covert powers, and to make submissions about, and test the appropriateness of, the warrants sought.²⁸
120. The PIM is also responsible for monitoring the use of these covert powers, and to report where appropriate regarding issues of non-compliance. The PIM is also responsible for gathering

²⁶ CC Act, s. 324.

²⁷ Note that the PIM also exercises the same functions for the QPS for its applications for warrants for these covert powers.

²⁸ CC Act, s. 11.



statistical information about the use and effectiveness of surveillance device warrants, covert search warrants and telecommunications interception warrants.

121. While there is no legislative requirement to do so, the CCC notifies the PIM of a suspected breach of a condition of telecommunications interception warrants and surveillance device warrants in advance of the compliance affidavit, which is a requirement of the warrant scheme, becoming due. The CCC takes the position that, given the PIM or their deputies appear on warrant applications, it is reasonable to expect that they should be kept abreast of compliance issues in the existing warrants. The issue of non-compliance might be a relevant consideration where an application is made to renew an existing warrant.

122. In response to the PCCC 5-Year Review (2021), the Government indicated its support for legislating a requirement that the CCC report breaches of telecommunications interception or surveillance device warrants to the PIM or issuing authority.

Public Interest Advocate

123. Legislative amendments to the telecommunications interception legislative regime introduced by the Commonwealth in 2015, and amended in relevant respects since, regulate the circumstances in which law enforcement and security agencies may obtain telecommunications information in relation to journalists and media organisations (“journalist information warrants”).

124. Applications for journalist information warrants are considered and tested by the Public Interest Advocate – a statutorily appointed officer who exercises a similar role in respect of such applications as does the PIM in other applications by the CCC.

Supreme Court

125. Some of the CCC’s coercive powers, and powers for compulsorily obtaining information, are exercisable only with the approval of a Supreme Court judge. These include applications for covert search warrants, surveillance device warrants, monitoring and suspension orders for financial institutions, and notices for witnesses to immediately attend a hearing.

126. Further, the Supreme Court exercises an oversight role in respect of certain activities by the CCC. A person may apply to the Supreme Court for a review of the CCC’s investigation where they believe the investigation is proceeding unfairly. The Supreme Court is also responsible for determining claims of privilege and reasonable excuse raised by persons subject of the CCC’s compulsory powers.



Crime Reference Committee

127. The CRC is established under the CC Act, and has the following functions:²⁹

- a) to refer major crime to the CCC for investigation;
- b) to authorise the CCC to undertake specific intelligence operations;
- c) to review general referrals; and
- d) to coordinate investigations into major crime conducted by the CCC with another entity.

128. The CRC may also give the CCC directions imposing limitations on a crime investigation, including limitations on the exercise of the CCC's powers for the investigation, and may direct, in certain circumstances, an investigation to end.³⁰ The CRC may also exercise these powers in respect of a particular investigation commenced under a general referral.³¹

129. In 2021, the PCCC recommended, and the CCC supported, the CC Act be amended to enable the CRC to approve special investigations and special intelligence operations other than in respect of a "criminal organisation" to ensure the CCC can respond to an evolving criminal landscape that involves actors operating across networks or who act individually. In its response, the Government recognised the issue and committed to explore solutions.

Controlled Operations Committee

130. The Controlled Operations Committee is established under the PPRA to consider and make recommendations about applications for "controlled operations" to be undertaken by the QPS or the CCC. 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.

131. The Controlled Operations Committee comprises an independent Chair, who is a retired Supreme Court or District Court judge, the Commissioner of Police (or a nominee) and the Chairperson of the CCC.

²⁹ CC Act, s. 275.

³⁰ CC Act, s. 29.

³¹ CC Act, s. 29A.



Seconded police at the CCC

Context

132. QPS officers have been seconded to the CCC since the commencement of the CJC. Their role at the CCC originates from a Fitzgerald Inquiry Report recommendation specifying the structure and use of seconded police officers in both investigative and specialist roles.³²
133. Accordingly, when the CJC was established in 1989 to help restore confidence in Queensland's public institutions, it was staffed with a blend of civilians, and seconded QPS officers.
134. Notably, the decision to second QPS officers to the CJC was taken at a time when police corruption in Queensland, was systemic and organised. Notwithstanding that context, current police officers were considered necessary to deliver on that remit and efforts to reform the administration of criminal justice in Queensland more generally.
135. Most recently, the PCCC Logan Inquiry made various findings on the use of seconded police (pp. 98-104, 142-143), relating to the decision to charge (which is discussed in detail in MoPI 5-7, and in the responses to ToR 3(a), 3(b)(i) and 3(b)(ii)).
136. Accordingly, it is relevant to consider the CCC's internal controls to safeguard against incursions on independence and transparency.

Safeguards

137. The CCC has a well-established recruitment practice when selecting QPS officers with the required skillset for an intended role. This is supported by a Memorandum of Understanding (MOU), a secondment policy, and a Concept of Operations (described in detail in the response to MoPI 13).
138. There are several factors that – in addition to those set out in the *Strategy and corporate governance* section – mitigate the risk that police or any Commission Officer will act unethically in the performance of their CCC duties:
- a) The Chairperson, the CEO, and all CCC Commissioners are civilians, and must have the skills and experience specified in the CC Act.
 - b) The CCC uses multi-disciplinary teams, comprising a blend of police and civilians, in investigations. Importantly, bringing the views of different disciplines to bear on a matter strengthens the investigative process (removes potential for group think) and outcomes (investigation actions are “tested”).

³² Fitzgerald Inquiry Report, pp. 311-312 and 318-320.



- c) The CCC uses an Expression of Interest (EOI) model to seek interest from police to work in investigation teams; because police officers apply to be seconded to the CCC, they may arguably be driven by personal motivation or interest to work in the area, as opposed to a rotation model, where individual choice is absent or limited.³³
- d) There are limits on the term of police secondment to the CCC. Such limits were not always enforced but have been since 2016.

139. Police officers seconded to the CCC are required to maintain currency in all QPS performance standards, as well as CCC training compliance. Training and development is described in the section below *Training and development*, and in the response to MoPI 7.4.

The current police cohort at the CCC

140. The police establishment at the CCC is 85 officers (“base establishment”).

141. As at 14 March 2022, 88 QPS officers were seconded to the CCC, comprising:

- a) 83 officers against the base establishment of 85 positions (i.e. there were four vacant positions and two of those had temporary relieving arrangements); and
- b) an additional five police officers who were assisting in particular corruption investigations (not shown in organisational chart).

142. Police at the CCC work in three divisions (see the organisational chart provided in response to MoPI 1).

143. The most senior police officer at the CCC (a Detective Chief Superintendent) is the General Manager of the Operations Support Division, and is a member of the ELT. This position also leads the QPS CCC Police Group (see the responses to MoPIs 7.5, 10, and 13).

144. Pursuant to section 255(4) of the CC Act, the efficient deployment of seconded police officers at the CCC is the joint responsibility of the CEO and the most senior police officer seconded to the CCC.

145. Recent data (updated December 2021) shows that the cohort of seconded police had been at the CCC for between one month and eight years (average: 2.5 years) (for more information about the secondment policy and terms of secondments, see response to MoPI 12).

³³ A rotation model was in effect in the mid-2010s.



146. In 2021-22, the CCC received \$12.8M (which includes all on-costs) in funding from Treasury for the police contingent. This figure excludes eight seconded police officers that work in the Physical Surveillance Unit but are paid for by QPS.

Training and development

147. By the time police are seconded to the CCC, the QPS has already invested significantly in their development. The QPS has an extensive training and development program, and the capability delivered by this training is leveraged by the CCC.

148. Depending on the CCC role they are undertaking, police must demonstrate a baseline capability. For instance, police undertaking investigator roles at the CCC must have a Detective appointment, the training for which is described in detail in the response to MoPI 13.

149. During their secondment, police stay connected to the QPS and their individualised training program which ensures police officers working at the CCC continue to have contemporary knowledge.

150. In addition to the QPS training, the CCC has an extensive training suite (delivered via a digital platform – CCC Learning) which is accessed by police and civilian Commission Officers. Mandatory training reflects the specific role being undertaken and the delegations and authorisations attached to it. Elective or optional training covers CCC-specific powers and processes, and broader leadership and management skills.

151. The result is that the CCC employs highly skilled police officers who continue their professional development while at the CCC, then return to the QPS with a more diverse capability set through their further training and experiences at the CCC.

152. In 2020, the Police Group Application was developed by the CCC. It assists supervisors to monitor training compliance and performance standards, and tracks training modules required by the QPS and the CCC to ensure essential capabilities are maintained. It is also designed to prompt conversations about training compliance during monthly performance meetings.

153. For more information specific to training in relation to investigation and decision to charge, refer to the responses to MoPIs 7.4 and 12).

Capabilities delivered by police officers

154. The CCC considers that multi-disciplinary teams – of which police officers are an important component – remain a critical element in achieving the CCC's objectives in a timely and cost-efficient manner.



155. A primary reason that the CCC considers multi-disciplinary teams as one of the keystones of its success is the mix of capabilities and perspectives that can be rapidly brought to bear on investigative matters.

156. Police officers bring a range of capabilities to the CCC, including: access to and contemporary knowledge of powers (refer to response to ToR 3(b)(ii)); contemporary experience applying investigative strategies and skillsets; contemporary knowledge of the administration of criminal law in Queensland (including current knowledge of case law); contemporary knowledge of specialist technical methodologies; contemporary training and experience in situational risk assessment and response (Operational Skills training, Use of Force training); interoperability with other law enforcement agencies; detailed, contemporary knowledge of how the QPS operates (legislation, policy, procedures, systems, conventions, culture); and liaison and ability to interface with the QPS to secure and manage police resources.

157. Looking to the future, the CCC acknowledges that:

- a) the qualification and continuing professional development of civilian investigators is likely to continue to improve, and the size of a suitably qualified and experienced civilian cohort is likely to increase;
- b) the use of private providers of technical and support services (e.g. forensic computing, physical and technical surveillance) to government is likely to continue to increase and, in time, these providers may be able to supplement the QPS in their offering to the CCC;
- c) attracting and retaining these skills may be challenging, particularly as these specialised skills are likely to attract a significant rate in a competitive market;
- d) it is unclear, at this stage, whether there is a naturally-occurring, competitive market (e.g. many buyers and sellers, low barriers to entry, information availability) or whether the market would require significant government support; and
- e) transitioning from in-house capability to an “as a service” model may require a coordinated approach from all law enforcement agencies for it to be cost-efficient and effective.

158. The CCC Commissioners consider that retaining seconded police is an efficient and effective model that has appropriate safeguards. Further, it is a model that allows flexibility to adjust the specialist composition as capabilities (or the CCC’s need for capabilities) change.



159. Having observed police officers work effectively in multi-disciplinary teams at the CCC since the commencement of the CJC and in the absence of demonstrable integrity failures, the CCC suggests that the case to alter the model has not been made out.

160. Notwithstanding, the CCC supports proper consideration of all models that builds CCC and QPS capabilities, and will enable the CCC to execute on its purpose.

The structure of other Australian State and Territory integrity bodies and use of seconded police officers

The integrity agencies in Australia

161. Excluding the CCC, the following integrity agencies are established in Australia:

- a) NSW: the Independent Commission Against Corruption established under the *Independent Commission Against Corruption Act 1988* (NSW) (ICAC (NSW) Act);
- b) VIC: the Independent Broad-based Anti-Corruption Commission established under the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (IBAC (Vic) Act);
- c) SA: the Independent Commission Against Corruption established under the *Independent Commission Against Corruption Act 2012* (SA) (ICAC (SA) Act);
- d) TAS: the Integrity Commission established under the *Integrity Commission Act 2009* (Tas) (Integrity (TAS) Act);
- e) WA: the Corruption and Crime Commission established under the *Corruption, Crime and Misconduct Act 2003* (WA) (CCC (WA) Act);
- f) NT: the Office of the Independent Commissioner Against Corruption established under the *Independent Commissioner Against Corruption Act 2017* (NT) (ICAC (NT) Act); and
- g) ACT: the Integrity Commission established under the *Integrity Commission Act 2018* (ACT) (Integrity (ACT) Act).

Do any of the other integrity agencies in Australia have the power to investigate and commence prosecutions (i.e. lay criminal charges)?

162. Each of the integrity agencies is addressed below.

New South Wales



163. The CCC notes the discussion of the ICAC NSW's power to charge or prosecute in the PCCC Logan Inquiry Report starting at p. 163. As is there stated, whilst the ICAC NSW can make a recommendation to charge, the ODPP in NSW provides written advice to ICAC NSW about whether to charge and what to charge.
164. One of the functions of ICAC NSW is to gather and assemble, during or after the completion of investigations, evidence that may be admissible in the prosecution of a person for a criminal offence against the law of NSW in connection with corrupt conduct and to furnish the evidence to the ODPP: section 14(1)(a) of the ICAC (NSW) Act.
165. A proceeding for an offence may be commenced by officers of ICAC NSW only if the ODPP has given ICAC NSW authority in writing to do so: section 14A of the *Criminal Procedure Act 1986* (NSW) (Criminal Procedure Act). The ODPP may liaise with ICAC NSW but is to act independently in deciding to advise that proceedings for the offence may be commenced: section 14A(3).
166. For the purposes of section 14A of the Criminal Procedure Act, an "officer of ICAC" is a person acting in the capacity of:
- a) a Commissioner;
 - b) an Assistant Commissioner; or
 - c) an "officer of ICAC" which is defined to include an officer of ICAC.
167. Under the ICAC (NSW) Act, an "officer of ICAC" includes a member of staff of the Commission: section 3 of the ICAC (NSW) Act. A member of the staff of the Commission includes a member of staff appointed by the CEO under section 104 of the ICAC (NSW) Act: section 3.
168. It follows that an ordinary officer of ICAC NSW, who is not necessarily a police officer, may commence criminal proceedings provided that the NSW ODPP has authorised it in writing under section 14A of the Criminal Procedure Act. This is consistent with the PCCC's Logan Inquiry Report, p. 164.

Victoria

169. Under section 190 of the IBAC (Vic) Act, proceedings for an offence in relation to any matter arising out of an IBAC investigation may be brought by:
- a) the IBAC;
 - b) a sworn IBAC Officer who is authorised by the Commissioner; or
 - c) a police officer.



170. If IBAC considers it appropriate, it may at any time refer any matter to a relevant prosecutorial body: section 74 of the IBAC (Vic) Act.

South Australia

171. The SA ICAC does not commence criminal proceedings and the CCC is informed by the SA ICAC that seconded police at that agency do not lay charges.

172. The ICAC (SA) Act was recently amended to remove the power of the SA ICAC to refer matters directly to the Director of Public Prosecutions.

173. Under section 7(a) of the ICAC (SA) Act, the SA ICAC's functions include – to identify corruption in public administration and to investigate and refer it to a law enforcement agency for any further investigation and prosecution. A “law enforcement agency” includes, for example, the South Australia Police or the Australian Federal Police, but does not include the Director of Public Prosecutions: section 4(1).

174. Under section 36(1)(a) of the ICAC (SA) Act, on completing an investigation or at any time during an investigation, the SA ICAC may refer a matter to the relevant law enforcement agency for further investigation and potential prosecution.

175. Section 36(1a) recently commenced to state that, for the avoidance of doubt, the SA ICAC must not refer a matter directly to a prosecution authority but may only refer it to a law enforcement agency who will be responsible for any further investigation and prosecution of the matter.

176. In practice, the matter must now pass from the SA ICAC through a “law enforcement agency” (such as the police) before it is referred to the Director of Public Prosecutions.

177. For completeness, the CCC notes the transcript of the High Court appeal in *R v Bell* [2022] HCA Trans 030. The CCC submits that the matters raised for consideration on the appeal are not directly relevant to the CCC or to the CC Act.

178. In *Bell*, special leave was revoked at the hearing of the appeal after the abovementioned amendments to the ICAC (SA) Act (which were made after special leave was granted but before the appeal was heard) removed the power of SA ICAC to refer matters directly to the Director of Public Prosecutions. Part of the appeal related to SA ICAC's power under the ICAC (SA) Act to refer matters for prosecution to the DPP.

179. Special leave was revoked by the High Court in *Bell* on the undertaking of the SA DPP not to make further requests of SA ICAC for assistance in the prosecution of any matter. The aborted *Bell* appeal is of particular importance to SA ICAC. In practice it means that SA ICAC officers are likely



to have little to do with the conduct of prosecutions once they are referred to a law enforcement agency and, thereafter, potentially to the DPP.

Tasmania

180. The CCC notes the PCCC Logan Inquiry Report (at p. 163) which states that the Integrity Commission in Tasmania does not have the power to lay charges or prosecute.

181. The Integrity Commission's functions include:

- a) referring complaints or any potential breaches of the law to the Commissioner of Police or the DPP for action: section 8(1)(h) of the Integrity (TAS) Act; and
- b) when conducting investigations into misconduct, gathering evidence for the prosecution of persons for offences: section 8(1)(m) of the Integrity (TAS) Act.

182. On completion of an investigation, the investigator must prepare a report for the CEO, who must submit a report to the Board of the Integrity Commission: section 55 of the Integrity (TAS) Act. Under section 14(a), the members of the Board are the Chief Commissioner, a person with experience in local government, a person with experience in law enforcement or the conduct of investigations, and a person with the experience listed in section 14(1)(g).

183. The CEO may recommend that the report of any findings and any other information obtained in the investigation be referred to the Commissioner of Police or the DPP for action: section 57(2)(b)(iv).

184. The Board may then refer the report and any information to the Commissioner of Police or the DPP for action: section 58(2)(b)(iv). The Board may make a recommendation as to the appropriate action that it considers should be taken: section 58(3).

Western Australia

185. The CCC (WA) Act contains no express power to commence criminal proceedings, commence charges, or to prosecute.

186. The Corruption and Crime Commission's serious misconduct function is performed by, among other things, assembling evidence which may be admissible in the prosecution of a criminal offence and furnishing it to an independent agency, which includes the Director of Public Prosecutions: section 26(2)(h) of the CCC (WA) Act.

187. Further, the Corruption and Crime Commission may refer allegations to the Director of Public Prosecutions for action (s. 33) and make recommendations as to whether consideration should be given to the prosecution of particular persons: section 43.



188. The Corruption and Crime Commission's 2020-21 Annual Report states (at p. 25):

"The Commission has no power to prosecute criminal offences but it will provide material to prosecuting authorities such as the WA Police Force, the State Solicitor's Office and the Office of the Director of Public Prosecutions. Those bodies determine whether to commence a prosecution."

Northern Territory

189. The CCC notes the PCCC Logan Inquiry Report (at p. 163) which states that the Office of the Independent Commissioner Against Corruption in the Northern Territory does not have the power to lay charges or prosecute.

190. A function of the Independent Commissioner includes to identify and investigate improper conduct and respond to it by referring matters for prosecution: section 18(1) of the ICAC (NT) Act.

191. The Independent Commissioner may at any time refer to the Director of Public Prosecutions a matter that has come to their attention that may involve improper conduct: section 25 of the ICAC (NT) Act.

ACT

192. The Integrity Commission does not lay charges or commence any prosecutions.

193. The functions of the Integrity Commission include the investigation of conduct that is alleged to be corrupt conduct and referring suspected instances of criminality or wrongdoing to the appropriate authority for further investigation and action: section 23(1)(a)(b) of the Integrity (ACT) Act.

194. Under section 111, the Integrity Commission may at any time refer a matter to a prosecutorial body if the matter is relevant to the exercise of that body's functions and if the Integrity Commission considers it appropriate to refer it: section 111(1). In deciding whether to refer, the Commission must consult the prosecutorial body: section 111(2).

Do any of the other integrity agencies in Australia have the power to conduct the prosecution of criminal proceedings themselves (i.e. conduct and maintain the criminal prosecution once it is commenced)?

195. Except for IBAC in Victoria, none of the integrity agencies have the express power to conduct and maintain criminal prosecutions. Prosecutions are conducted by separate prosecuting bodies, such as the relevant Director of Public Prosecutions or police prosecutions.



196. As mentioned above, under section 190 of the IBAC (Vic) Act, proceedings for an offence in relation to any matter arising out of an IBAC investigation may be brought by:

- a) IBAC; or
- b) a sworn IBAC Officer who is authorised by the Commissioner.

197. Also, if IBAC considers it appropriate, it may at any time refer any matter to a relevant prosecutorial body: section 74 of the IBAC (Vic) Act.

198. The CCC understands there is a protocol between IBAC and the Victorian ODPP about the conduct of prosecutions arising from investigations which provides that the prosecution of indictable offences is conducted by the ODPP, and IBAC (Vic) prosecutes summary offences.

199. IBAC's Annual Report for 2020-21 states (at p. 31):

"IBAC may bring criminal proceedings for an offence in relation to any matter arising out of an IBAC investigation. IBAC works collaboratively with the Office of Public Prosecutions (OPP) which, in its function as Victoria's state prosecution agency, takes carriage of IBAC's serious indictable prosecutions. IBAC's in-house prosecutors appear in criminal proceedings in matters listed in the summary jurisdiction."

Which integrity agencies in Australia have the power to second police officers into their agency regardless of their operating model?

200. The integrity agencies in the following states or territories have the power to second police officers into their respective agencies:

- a) New South Wales
- b) South Australia
- c) Tasmania
- d) Northern Territory
- e) Western Australia.

New South Wales

201. Under section 101B of the ICAC (NSW) Act, a ICAC NSW investigator who is a seconded police officer has and may exercise all the functions (including powers, immunities, liabilities and responsibilities) that a police officer of the rank of constable duly appointed under the *Police Act 1990* (NSW) has and may exercise under any law of the State.



202. Section 101B does not operate to subject a ICAC NSW investigator to the control and direction of the Commissioner of Police or any other police officer when acting in the person's capacity as an officer of the ICAC NSW.

203. Under section 105, while a member of the NSW Police Force is a member of the staff of the ICAC NSW, the member may continue to act as a constable. The member retains rank, seniority and remuneration as a police officer: section 104(12) and Section 4, Schedule 3 of the ICAC (NSW) Act.

South Australia

204. A police officer or special constable may be seconded to assist the SA ICAC and he or she is an investigator for the purposes of the Act: section 14(4) of the ICAC (SA) Act.

205. Unless otherwise agreed between the SA ICAC and the Commissioner of Police, a police officer or special constable seconded to assist SA ICAC may continue to exercise all powers and authorities vested in the person by or under the *Police Act 1998* (SA), or another Act or law, as a member of South Australia Police: section 14(4a) of the ICAC (SA) Act.

Tasmania

206. Under section 21(4) of the Integrity (Tas) Act, at the request of the CEO, the Commissioner of Police is to make available police officers to undertake investigations and assist with inquiries on behalf of the Integrity Commission. The Commissioner of Police and the CEO are to enter into a written agreement concerning the provision of police officers: section 21(10).

207. While undertaking work on behalf of the Integrity Commission, an authorised police officer who is a police officer continues to have the functions and powers of a police officer but reports to the CEO, or other nominee, in relation to the work being undertaken on behalf of the Integrity Commission: section 21(7).

Northern Territory

208. Under section 123(c) of the ICAC (NT) Act, the ICAC's staff consists of, among others, police officers made available by the Commissioner of Police under an arrangement with the ICAC.

209. Unless otherwise agreed, a police officer made available to the ICAC continues to have the duties, obligations, powers and privileges conferred or imposed on the police officer as a police officer: section 123(2) of the ICAC (NT) Act.

210. A police officer who is a member of ICAC staff is subject only to the direction of the ICAC or another member of the ICAC staff: section 124.

Western Australia



211. A police officer may be seconded to the Corruption and Crime Commission under section 181 of the CCC (WA) Act.

212. An officer seconded is subject to the control and direction of the Corruption and Crime Commission and not the employing authority: section 181(3).

213. A seconded police officer is an “officer of the Commission”: section 3.

Victoria

214. In Victoria, the IBAC (Vic) Act does *not* provide for seconded police officers.

215. Any employees are employed under the *Public Administration Act 2004* (Vic): section 35 of the IBAC (Vic) Act.

216. IBAC may enter into agreements or arrangements for the use of the services of any staff of a Department, statutory authority or other public body: section 35(2).

217. Persons employed under section 35 are included in the definition of an “IBAC Officer”: section 3.

218. A “police officer” is not listed as an “IBAC Officer”: section 3.

The ACT

219. In the ACT, the Integrity (ACT) Act does *not* provide for police officers to be seconded to the agency.

220. Section 47 provides that the staff of the Integrity Commission consists of the CEO, staff employed under section 48, and consultants and contractors engaged under section 49.

221. Employed staff must be employed under the *Public Sector Management Act 1994* (ACT).

222. Consultants and contractors may be engaged on terms and conditions decided by the Integrity Commission: section 49 of the Integrity (ACT) Act.

223. The 2019-20 Annual Report states that several staff were seconded to the ACT Integrity Commission from other integrity agencies. As expected, the Annual Report does not refer to seconded police officers.



Part B: Response to Term of Reference 3(b)

ToR 3(b)(i) Matters relevant to findings and recommendations of the PCCC Logan Inquiry

224. Paragraph 3(b)(i) of the ToR is as follows:

- “(b) the adequacy and appropriateness of legislation, procedures, practices and processes relating to the charging and prosecution of criminal offences for serious crime and corruption in the context of CCC investigations, including having regard to:
 - i. relevant findings and recommendations of the PCCC Report No. 108, “Inquiry into the Crime and Corruption Commission’s investigation of former councillors of Logan City Council; and related matters” and other previous relevant reports of the PCCC;”

225. Respectfully, the CCC maintains the adverse findings should be read with caution due to concerns about how some aspects of the Inquiry were conducted. The CCC has previously ventilated these concerns in a letter to the PCCC dated 6 September 2021.³⁴ One of these concerns relates to a lack of transparency, most notably relating to the PCCC’s failure to make public the Summary of Opinion by retired District Court of Queensland Chief Judge, Mr Kerry O’Brien AM and the chronology prepared by the CCC, despite requests by the CCC for their publication.

226. On 20 January 2022, the CCC wrote to the Premier and the Attorney-General and Minister of Justice and provided a response to the PCCC Logan Inquiry Report’s recommendations. A copy of this correspondence is included at Attachment D.

227. In that response, the CCC observed that the inquiry process had been challenging, but acknowledged that worthwhile lessons could be drawn from it. The CCC also indicated that significant changes had been implemented since the period that was the focus of the Inquiry, the result of which served to improve operational performance.

228. The CCC has made progress on matters under its control and provides the following update.

229. Recommendation three of the PCCC Logan Inquiry Report proposed that consideration should be given to a requirement that the CCC obtain the recommendation of the Office of the Director of Public Prosecutions (ODPP), or a senior independent legal advisor, before exercising (through

³⁴ The existence of the CCC’s letter to the PCCC, and the reference to the Summary Opinion of Mr Kerry O’Brien AM and chronology are contained in the Crime and Corruption Commission’s Outline of Submissions 15 October 2021 (PDF page 65), at paragraphs 3, 8 and 15 respectively as referred to in: PCCC Logan Inquiry Report’s volume of additional information, pp. 2, 3 and 4: <https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2021/5721T2052.pdf>.



seconded police officers) the discretion to charge serious criminal offences in the exercise of its corruption function.

230. Recently the CCC amended the relevant section of the Operations Manual MM02: Matter briefs to provide that the CCC will seek advice either from the ODPP or external senior counsel where the matter involves novel, complex or infrequently used criminal charges or the application of charges in a novel manner, and may include cases in which mandatory suspension or disqualification from office is a consequence of charging or conviction (discussed in more detail in the response to ToR 3(c)(vi)).

231. Recommendation four proposed that the CCC engage in a reform of culture (including seeking external advice) to assist in creating a best practice organisational culture that aligns with the purpose, functions and goals of the CCC to enhance public confidence in the organisation.

232. In its response, the CCC recognised that, while significant strategic and operational improvements had been implemented, continual focus on strategy, structure, processes and people is required to achieve alignment between organisational purpose and culture. The CCC flagged that it would continue its program of reform, and be responsive to the PCCC's recommendation, by undertaking an external review of our current practices in relation to assessment of corrupt conduct complaints.

233. The CCC advises that it is finalising the Terms of Reference for that review, which will include elements focusing on culture, principles, people, process, systems and technology, information, intelligence and analytics.

ToR 3(b)(ii) The use and role of seconded police officers and retention of their powers pursuant to sections 174 and 255 of the CC Act

234. Paragraph 3(b)(ii) of the ToR is as follows:

“(b) the adequacy and appropriateness of legislation, procedures, practices and processes relating to the charging and prosecution of criminal offences for serious crime and corruption in the context of CCC investigations, including having regard to:

ii. the use and role of seconded police officers and the retention of their powers pursuant to sections 174 and 255 of the *Crime and Corruption Act 2001*,”

235. As stated earlier in this submission, seconded police officers are an important component of the multi-disciplinary team approach utilised by the CCC in achieving its objectives in a timely and cost-efficient manner. As set out in the organisational chart, police perform a wide range of tasks



which are primarily linked to the retention of their powers pursuant to sections 174 and 255 of the CC Act. The powers used by police officers are set out in the response to ToR 3(b)(iii).

236. The role of police officers is set out in the response to MoPI 7 (and all its parts).

ToR 3(b)(iii) The extraordinary nature of the CCC's powers and functions under the CC Act

237. Paragraph 3(b)(iii) of the ToR is as follows:

- “(b) the adequacy and appropriateness of legislation, procedures, practices and processes relating to the charging and prosecution of criminal offences for serious crime and corruption in the context of CCC investigations, including having regard to:
 - iii. the extraordinary nature of the CCC's powers and functions under the *Crime and Corruption Act 2001* and differences from police powers in the investigation, charging and prosecution of criminal offences, including provisions of the PPRA;”

238. Section 5(2) of the CC Act provides the CCC with investigative powers not ordinarily available to the police service, that enable the CCC to effectively investigate major crime and criminal organisations and their participants. Many of these extraordinary powers are not unique to the CCC with members of the QPS having access to similar powers with the obvious exception of the conduct of coercive hearings. For example, a notice to produce requiring financial information under the CC Act is a similar power to the QPS notice to a financial institution under the PPRA.

239. There are some differences between the powers available under the PPRA to the powers available under the CC Act. The most notable being the power of arrest which is only contained in the PPRA.

240. As referenced previously, police officers seconded to the CCC retain their powers. Section 365 of the PPRA states it is lawful for a police officer, without a warrant, to arrest an adult the police officer reasonably suspects has committed or is committing an offence if it 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 sections 790 or 791;
- j) because the offence is an offence against the Domestic and Family Violence Protection Act 2012 (Qld), sections 177, 178 or 179;
- k) because of the nature and seriousness of the offence;
- l) because the offence is—
- m) an offence against the Corrective Services Act 2006 (Qld) (Corrective Services Act), section 135(4); or
- n) an offence to which the Corrective Services Act, section 136 applies.

241. 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 (s. 365(2) PPRA).

242. It is also lawful for a police officer to arrest under a warrant (s. 369 PPRA).³⁵

243. Section 382 of the PPRA provides an alternative way for a police officer to start a proceeding against a person that reduces the need for custody associated with arrest (s. 382(1) PPRA).

244. A police officer may issue and serve a notice to appear on a person 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 (s. 382(2) PPRA).

245. In *PRS v Crime and Corruption Commission* [2019] QSC 83 at [52] Davis J specifically referred to police officers seconded to the CCC and the lawful exercise of their powers:

“It is the police officer who must form the ‘reasonable suspicion’ before issuing a notice to appear. The CCC cannot direct any police officer to act unlawfully. In particular, the CCC could not direct a seconded police officer to issue a notice to appear without him forming the requisite suspicion. If the police officer, though, forms the requisite suspicion, the police officer exercises the powers given to him or her under the PPRA to issue a notice to appear and it is therefore the police officer, not the CCC, who will charge the applicant.”

³⁵ “Arrest” means to apprehend, take into custody, detain, and remove to another place for examination or treatment.



Identification of the statutory or common law powers exercised by seconded police officers

246. The statutory powers commonly exercised by police officers seconded to the CCC are provided under various legislation including the following:

- a) CC Act;
- b) PPRA;
- c) *Surveillance Devices Act 2004* (Cth) (SD Act);
- d) TIA Act.

247. Each Act and the powers provided therein will be set out and considered in more detail below.

248. There are no relevant common law powers that are commonly used by seconded police officers when performing duties for the CCC.

The CC Act

249. Section 255 of the CC Act provides for the secondment of police officers to the CCC, by arrangement of the CEO of the CCC and on the approval of the relevant Minister.³⁶

250. By section 174(2) of the CC Act, a police officer who is seconded to the CCC under section 255 retains, and may exercise, all powers held by the person as a member of that office. That means that a police officer retains and may exercise their powers under, for example, the PPRA, whilst seconded to the CCC. So much is also clear from section 255(5), which provides that seconded police officers continue to be a police officer for all purposes and to have all the functions and powers of a police officer, without being limited to the performance of the CCC's functions.³⁷ Those powers provided under separate legislation, and retained by police when seconded to the CCC, will be set out later, under each of the relevant Acts.

251. In terms of powers available to seconded police under the CC Act, seconded officers who are also an "authorised commission officer" may exercise certain powers under the CC Act. "Authorised commission officer" is defined in section 272 of the CC Act. Section 272(2) includes a duly authorised police officer who is a member of a crime function police task force established under section 32 of the CC Act. A police officer seconded to the CCC under section 255 is a "commission officer" for the

³⁶ Section 255(2)(b).

³⁷ Although, as s. 255(4) provides, the efficient deployment of a seconded police officer is the joint responsibility of the CEO and the most senior police officer seconded to the CCC.



purposes of section 257(1), and is therefore captured by section 272(1).³⁸ If deemed appropriately qualified, a seconded police officer is therefore capable of being authorised by the Chairperson pursuant to section 272(1) to perform the functions of, and exercise the powers of, an “authorised commission officer”.

252. The following powers are provided for in the CC Act in respect of “authorised commission officers”, and are able to be used by seconded police officers who hold an authorisation under section 272:

- a) search warrants, pursuant to section 86 – for crime, corruption and confiscation investigations;³⁹
- b) urgent searches to prevent loss of evidence, pursuant to section 96;
- c) searches of persons, pursuant to sections 100, 101, and 105;
- d) “additional powers warrants”, only in relation to a corruption or crime investigation relating to terrorism, pursuant to section 158;⁴⁰
- e) power to enter, only for a corruption investigation, pursuant to section 73;⁴¹
- f) powers to require information or production of documents, pursuant to section 72, 74, 74A, and 75;⁴²
- g) power to seize evidence, in relation to a crime investigation, confiscation related investigation or a corruption investigation, pursuant to section 110, 110A, and 111;
- h) power to apply to the Supreme Court for a monitoring order, pursuant to sections 119C, or a suspension order, pursuant to section 119I;
- i) surveillance warrants, only in relation to a corruption investigation, pursuant to sections 121;⁴³

³⁸ “Commission Officer” includes seconded police officers: s. 257(1).

³⁹ Section 86(1)(a) and (b). Related powers include those set out in ss. 88A and 88B to include in the warrant a requirement for, or to subsequently require, a person to provide access to a digital device.

⁴⁰ This power is only able to be exercised by an authorised commission officer who is at least an Inspector in rank, and only with the Chairperson’s approval: ss. 158(1) and (2).

⁴¹ This power is only exercisable by the Chairperson or delegate.

⁴² These powers are only exercisable by a Commission Officer who has been delegated this power by the Chairperson but allows the delegate to require that the information/documents be produced to an identified commission officer.

⁴³ This power is exercisable by an authorised Commission Officer who holds at least the rank of Inspector (s. 121(2) and (3)), and only where the Chairperson reasonably believes a person has been, is, or is likely to be, involved in corruption being investigated by the CCC (s. 121(1)).



- j) controlled operations, only in relation to suspected corruption offences, pursuant to section 139;⁴⁴
- k) authority to acquire or use an assumed identity, pursuant to section 146S;⁴⁵
- l) covert search warrants, only in respect of a crime investigation, pursuant to section 148;⁴⁶
- m) arrest warrants, pursuant to sections 167 to 169.⁴⁷

The PPRA

253. By virtue of sections 174(2) and 255(5) of the CC Act, police officers seconded to the CCC retain and use the following powers which are provided for under the PPRA:

- a) search warrants, pursuant to section 150;
- b) search to prevent loss of evidence, pursuant to section 160;
- c) monitoring orders, pursuant to section 199, and suspension orders, pursuant to section 205;
- d) covert search warrants, pursuant to section 212;⁴⁸
- e) controlled operations, pursuant to Chapter 11, and controlled activities, pursuant to Chapter 10;
- f) assumed identities, pursuant to Chapter 12;
- g) surveillance device warrants, pursuant to section 328,⁴⁹ including emergency authorisations, pursuant to section 343,⁵⁰ and retrieval warrants, pursuant to section 336.
- h) arrest and/or charging by way of a notice to appear, pursuant to Chapter 14;
- i) questioning and detention, pursuant to Chapter 15; and

⁴⁴ The application must be approved by the Chairperson, or in certain circumstances, an SEO (s. 139(2) and (3)), and must be referred to the Controlled Operations Committee established under the PPRA (s. 140) unless ss. 141 or 142 applies to the application.

⁴⁵ The power to apply is conferred on a Commission Officer, who may apply to the Chairperson for authority (s. 146S(1)).

⁴⁶ The application requires the Chairperson's approval (s. 148(1)) and an authorised Commission Officer who is a police officer must hold at least the rank of Inspector (s. 148(2)).

⁴⁷ Applications under s. 167 require the Chairperson's approval (s. 167(1)) or delegate's approval.

⁴⁸ The application may only be made by a police officer of at least the rank of Inspector (s. 212).

⁴⁹ The application may only be made by a senior officer of a law enforcement agency (s. 328(1)), which is defined in s. 322 to mean, in relation to a police officer, an officer of at least the rank of Inspector.

⁵⁰ Which may be authorised under s. 343 by a police officer of at least the rank of Inspector.



j) forensic procedures, pursuant to Chapter 17.

254. These powers, available to and exercised by police officers, are not otherwise available to the CCC.

The SD Act

255. On rare occasions, namely where a PPRA surveillance device warrant is not otherwise available,⁵¹ a seconded police officer may use the availability of surveillance device warrants, pursuant to section 14 of the SD Act.

256. This power is also available to the CCC more broadly.⁵²

The TIA Act (Cth)

257. Telecommunications interception warrants, pursuant to sections 46,⁵³ 46A⁵⁴ and 48,⁵⁵ are available to the CCC under Chapter 2 of the TIA Act.

258. A seconded police officer may make such an application, and so too may a Commission Officer of the CCC.⁵⁶

The CCC's use of seconded police officers and their associated powers/functions (not otherwise available under CC Act)

259. Sections 174(2) and 255(5) of the CC Act make plain that police seconded to the CCC retain their powers and functions as police officers. There would be limited utility in seconding a police officer to the CCC if in doing so, their powers and responsibilities of office were lost.

260. Although the CC Act provides for Commission Officers and/or authorised Commission Officers who are not police officers to conduct investigations and exercise certain powers, those powers are relatively limited in respect of investigating crime/general offending (rather than corruption investigations). For example, powers of entry,⁵⁷ surveillance device warrants,⁵⁸ and powers relating to controlled operations⁵⁹ under the CC Act are only available in respect of corruption investigations and/or suspected corruption offences. These powers are not available more

⁵¹ This power is primarily used in respect of certain Commonwealth offences: s. 14(2), or where the activity under investigation occurs in another state or territory and the PPRA is not recognised as a corresponding law.

⁵² See the list of law enforcement agencies provided under s. 6A, which includes, at item 25, the CCC.

⁵³ Telecommunications interception warrant.

⁵⁴ Named person warrant.

⁵⁵ Warrant that also authorises entry onto premises.

⁵⁶ Section 39(2)(f).

⁵⁷ Pursuant to s. 73.

⁵⁸ Pursuant to s. 121.

⁵⁹ Pursuant to s. 139.



broadly under the CC Act for other investigations. The CCC is therefore dependent on the PPRA powers retained by seconded police officers in respect of investigations. Without access to police officers and/or powers under the PPRA, investigations of CCC matters outside of the corruption sphere would be impacted by the absence of these investigative tools.

261. A further example of the utility of seconded police officers' usual powers is the limited availability of covert search warrants under the CC Act,⁶⁰ which are provided therein only in respect of a crime investigation. The PPRA provides covert search warrant powers not otherwise available under the CC Act. In practice, applications for covert search warrants are therefore made by a seconded police officer under the PPRA. This investigative tool would not be available without seconded police officers being available to the CCC.

262. Search warrants provide another example. Warrants are generally sought under the CC Act. However, in certain circumstances, PPRA search warrants are required by the CCC in circumstances where a warrant under the CC Act is not possible or effective. Examples of where a PPRA warrant can be used (and a CC Act warrant would not suffice) include an urgent application where an on-call magistrate is not available (in these circumstances, a PPRA search warrant can be brought before a Justice of the Peace, allowing an urgent warrant to be issued where that would not be possible under the CC Act); or where the warrant seeks to obtain interstate property from another law enforcement agency, this requires a PPRA warrant as opposed to a CC Act warrant.⁶¹

263. 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.

264. The availability and use of such powers by seconded police officers are essential to the proper functioning of the CCC, and is the express purpose of sections 174(2) and 255(5) of the CC Act.

⁶⁰ Pursuant to s. 148.

⁶¹ See s. 722 of the PPRA, and Schedule 4, Part 4 of the Police Powers and Responsibilities Regulation 2012.



ToR 3(b)(iv) Consequences arising from laying criminal charges as a result of a CCC investigation, including provisions under section 175K of the *Local Government Act 2009* (Qld)

265. Paragraph 3(b)(iv) of the ToR is as follows:

- “(b) the adequacy and appropriateness of legislation, procedures, practices and processes relating to the charging and prosecution of criminal offences for serious crime and corruption in the context of CCC investigations, including having regard to....
- iv. the consequences arising from the laying of criminal charges as a result of a CCC investigation, including the provisions under section 175K of the *Local Government Act 2009* for a person to be automatically suspended as a councillor when the person is charged with a ‘disqualifying offence’.”

Section 175K of the *Local Government Act 2009* (Qld)

266. Section 175K of the *Local Government Act 2009* (Qld) (LG Act) provides:

“175K Automatic suspension for certain offences

- (1) A person is automatically suspended as a councillor when the person is charged with a disqualifying offence.
- (2) Subsection (3) applies if, when a person is appointed or elected as a councillor, a proceeding for a disqualifying offence against the person has been started but has not ended.
- (3) The person is automatically suspended as a councillor when the person’s term as councillor starts.”

267. A “disqualifying offence” is defined in section 153(6) of the LG Act which is the section that addresses the consequences for a councillor who is convicted (as opposed to charged) of particular offences. In each case the relevant definition of a “disqualifying offence” is the same.

268. Section 153(6) of the LG Act relevantly provides:

- “(6) A person automatically stops being a councillor when the person is convicted of any of the following offences (each a ***disqualifying offence***) -
- (a) a treason offence; or
- (b) an electoral offence; or
- (c) a serious integrity offence; or
- (d) an integrity offence.”



269. A “treason offence” is defined in section 153(2). An “electoral offence” is defined in section 153(3). An “integrity offence” and a “serious integrity offence” are defined in Schedule 1 of the LG Act.

270. Section 153(1) precludes a person from being a councillor for certain time periods after their conviction for these offences and thereby assigns greater consequences to a councillor’s conviction for an offence rather than the laying of a charge.

271. Paragraph 3(b)(iv) of the ToR relates to the adequacy and appropriateness of certain matters, including legislation, relating to the charging and prosecution of criminal offences having regard to the consequences of charging, and specifically, in relation to section 175K of the LG Act.

272. In summary, for the reasons explained below, the CCC’s view is that it is appropriate for councillors to be suspended with pay if they are charged with a “disqualifying offence” as defined in the LG Act.

273. However, the ultimate decision about how and when automatic suspension occurs is a matter for parliament. For example, it is a matter for parliament, and not the CCC, to determine:

- a) whether the suspension of councillors should occur “automatically” upon charges being laid for disqualifying offences, or at some other point in time prior to conviction or after the exercise of a discretion;
- b) whether the definition of “disqualifying offence” should be changed, such as to include other serious offences; and
- c) whether legislative reform is required to address other consequences which may flow from the automatic suspension of councillors (such as the effect of an inquorate council or other members of that inquorate council who have not been charged with any criminal offences).

274. These matters of policy, which are matters for parliament, do not constrain, limit, or otherwise affect the decision to charge criminal offences provided that the available evidence supports a prima facie case with reasonable prospects of a conviction and if the public interest favours the prosecution. Accordingly, in the CCC’s view, section 175K of the LG Act is not a relevant consideration in the decision by a seconded police officer to charge councillors with disqualifying offences.

275. An explanation of the CCC’s views is provided below.

Automatic suspension of councillors who are charged with certain offences

276. It is appropriate for councillors to be suspended with pay if they are charged with a “disqualifying offence” as those offences are currently defined. Suspension from office (with pay) is a measure



intended to protect the community by maintaining public confidence that councillors can perform their role and make decisions in the public interest.

277. The policy of automatic suspension reinforces integrity and improves transparency and accountability in local government. These were stated policy objectives of the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018 (Qld). The CCC therefore supports the underlying policy intent of section 175K of the LG Act.

278. The policy objectives of promoting integrity and accountability in local government coincides with the CCC's overriding responsibility when performing its corruption functions to promote public confidence in the integrity of units of public administration (which includes a local council): section 34(d) of the CC Act.

279. The "local government principles" underpin the LG Act. The principles include, relevantly:

- a) transparent and effective processes and decision-making in the public interest: section 4(2)(a) of the LG Act;
- b) democratic representation, social inclusion and meaningful community engagement: section 4(2)(c) of the LG Act;
- c) good governance of, and by, local government: section 4(2)(d) of the LG Act; and
- d) ethical and legal behaviour of councillors: section 4(2)(e) of the LG Act.

280. The "local government principles" govern all action taken under the LG Act, which naturally includes the actions of councillors. In section 4 of the LG Act, "to ensure the system of local government is accountable, effective, efficient and sustainable", parliament has required that:

- a) anyone performing a responsibility under the LG Act to do so in accordance with the "local government principles"; and
- b) any action taken under the LG Act must be consistent with the "local government principles" and provide results consistent with those principles, insofar as that is within the control of the person taking action.

281. Councillors must make decisions, and be seen by the public to make decisions, in the public interest. Councillors have the power to make policy and other decisions in many areas affecting the lives, lifestyle, and well-being of members of the local government area. It follows that a councillor must not breach the trust placed in them as councillors (and a breach of trust which is reckless or committed with knowledge is "misconduct" under s. 150L of the LG Act). The high standards



imposed on councillors are commensurate with their heavy responsibilities and public representation, and justify the suspension (with pay) if charged with a serious criminal offence.

282. If the subject of the “disqualifying offence” charge related to work-related conduct, it is not unreasonable to suspect that a councillor might find it hard to divorce their ongoing role as a councillor from the requirement, in the interest of transparent decision-making, to manage any conflicts of interest.

283. The “automatic” nature of the suspension means that a councillor does not have a show cause process prior to the commencement of the suspension, or a review or appeal process. However, the *Explanatory Memorandum* relevantly stated: “the suspension is considered necessary to maintain public confidence that councillors are properly able to perform their role and to make decisions in the public interest”.⁶²

The mechanism of automatic suspension

284. The CCC observes (without it intending in any way to be a criticism) that it did not have the opportunity to provide written submissions to a parliamentary committee or other appropriate parliamentary body at the time that section 175K was introduced into the LG Act. Ultimately, the legislative mechanism by which suspension occurs (such as at the time of charging or some other point), and its adequacy and appropriateness, is a matter for parliament to determine.

285. Although a matter for parliament, the CCC provides the following comments.

Definition of “disqualifying offence”

286. As mentioned, a “disqualifying offence” is defined in section 153(6) of the LG Act. The LG Act’s *Explanatory Notes* state that “competent representation accords with community expectations and public interest”. Accordingly, the “disqualifying offences” as currently defined have a nexus to the duties and public expectations of elected officials. There are many serious crimes that do not fall within the definition of “disqualifying offence”, such as murder, rape, assault, and serious drug offences.

287. Several different “suspension” mechanisms exist across the Queensland public sector. Those mechanisms vary depending upon the seriousness of the charge, the profession of the alleged offender, and the stage of prosecution. Anecdotally, it is also not unusual in practice for the

⁶² Explanatory Notes for amendments to be moved during consideration in detail by the Honourable Stirling Hinchliffe, Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs, Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018, p. 10.



consequence of a person being charged with a serious criminal offence for them to lose or be stood down from their employment (and not always with pay).

“Automatic” suspension of councillors

288. Suspension of councillors charged with disqualifying offences occurs automatically by operation of section 175K of the LG Act.

289. There are arguments for and against “automatic” suspension.

290. “Automatic” suspension is simple, efficient, and unambiguous. It eliminates the need for the exercise of discretion, which demands good judgment and careful reasoning. The exercise of discretion can take time and, in some instances, is also susceptible to abuse. It may also be susceptible to administrative or judicial review or other legal challenge.

291. On the other hand, the absence of any room for discretion may result in harsh and unintended consequences for councillors and communities.

292. It is for parliament to decide whether some capacity for discretion needs to be built into the suspension mechanism in section 175K of the LG Act. If so, parliament should further determine whether that discretion should rest with the charged councillor or solely with the Minister or with some other person or body.

Other consequences which may flow from the operation of section 175K

293. The CCC recognises that section 175K of the LG Act may have consequences other than mere suspension of the councillor.

294. The consequences for the Logan City Council are well known and have been the subject of the PCCC Logan Inquiry. The suspensions left Logan City Council with only four non-suspended councillors who were unable to create a quorum to make decisions or pass local laws. The Minister subsequently formed the view that the said Council was “incapable of performing its responsibilities” and elected to dissolve the Council and appoint an interim administrator. As a result, all Logan City Councillors were dismissed and not just those charged.

295. Parliament may wish to consider whether legislative reform is required to address the wider consequences which may flow from the operation of section 175K of the LG Act.

Is section 175K of the LG Act a relevant charging consideration?

296. In the CCC’s view, though these consequences have been criticised, what occurred with the Logan City Council was the almost inevitable effect of the combination of the “automatic” suspension provided for in section 175K of the LG Act and the discretion given to the Minister to dissolve a



council and appoint an administrator. If the two-tier test in the Office of the Director of Public Prosecutions Director's Guidelines (Director's Guidelines) is satisfied, it is not the CCC's role to decline to lay charges (via a seconded police officer) solely because of the effect of section 175K of the LG Act.

297. The operation of section 175K of the LG Act is not a factor which could ever influence, override, or outweigh a decision to prosecute where the offence is serious, the evidence is sufficient, and it is in the public interest to prosecute. Instead, if the evidence is sufficient and the public interest favours the prosecution, then the Director's Guidelines indicate a prosecution *should* be commenced.

298. The CCC's Operations Manual states that in deciding whether to commence a prosecution in a corruption matter, the seconded police officer should apply the same two-tiered test as the ODPP as set out in paragraph 4 of the Director's Guidelines, namely:

- a) is there sufficient evidence? and
- b) does the public interest require a prosecution?

299. The Director's Guidelines state (pages 3-4):

"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.

[... a list of possible discretionary factors is then listed]

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."

300. Under the subheading "Impartiality", the Director's Guidelines state the following:

"A decision to prosecute or not prosecute must be based upon the evidence, the law and these guidelines. It must never be influenced by:-

- (a) race, religion, sex, national origin or political views;
- (b) personal feelings of the prosecutor concerning the offender or the victim;
- (c) possible political advantage or disadvantage to the government or any political group or party; or
- (d) the possible effect of the decision on the personal or professional circumstances of those responsible for the prosecution."



301. The operation of section 175K of the LG Act is a legislative choice reflecting a policy decision made by parliament. It is relevant to the decision to prosecute and the question of public interest in deciding whether to prosecute. Ultimately, it is a question of weight to attach to the operation of section 175K against other public interest considerations such as the seriousness of the offence. The CCC (via a seconded police officer) needs to be careful it does not treat elected politicians differently from others if it were to treat the consequences of automatic suspension as a relevant consideration whether a charge should be laid. In the CCC's view, to do so would not be impartial and would not be a decision based upon the evidence, the law, and the Director's Guidelines.
302. Such an approach would also be contradictory to the intention of parliament as it has decided to enact legislation which immediately suspends councillors from office where it was clear (and the intended consequence) that the automatic suspension occur at the point of charging and before conviction. In other words, the suspension was deliberately designed to have effect at a point in time before allegations of criminality are finally determined by the courts. This deliberate choice should not then be a factor to weigh against the commencement of a prosecution in the first place.
303. It is not for an executive agency such as the CCC to arrogate for itself a discretion to, depending on the characteristics of the accused, decide the ultimate effect of the laws passed by the parliament. The CCC could never let that consideration affect the exercise of its powers. For the CCC to decide not to recommend consideration of charges because a councillor might be suspended under law validly passed by the parliament would subvert the clear purpose of that law.
304. It follows that a specific acknowledgement in writing about the consequence of charging under the LG Act, or to record in writing the consequence that a councillor would be suspended because of section 175K of the LG Act, is not required.

Consequences arising from the laying of criminal charges in other situations

305. A serious criminal charge has emotional, social, and financial impacts for any person charged. Such impacts are inevitable when criminal charges are laid against individuals in our justice system.⁶³ These are not unique to a local councillor when charged with a disqualifying offence.
306. However, as identified in relation to councillors, criminal charges might trigger additional consequences for individuals holding specific appointments.

⁶³ As acknowledged in the CCC submission to the PCCC Logan Inquiry: CCC 2021. *In the matter of: the Parliamentary Crime and Corruption Commission's Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters – Crime and Corruption Commission's submission dated 26 July 2021*, pp. 2: <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/ICCLCC-5502/submissions/00000025.pdf>.



307. Refer below for examples of “additional consequences” relevant to appointment holders within the CCC’s jurisdiction.

308. Factors such as the seriousness of the charge and the profession of the alleged offender will be relevant to what consequences flow from the laying of the charge.

309. In summary, the laying of criminal charges may:

- a) trigger reporting obligations for the alleged offender;
- b) result in the alleged offender’s automatic suspension from duties; or
- c) enliven certain discretions from supervisors or regulatory bodies.

Teachers

310. If an “approved teacher” is charged with a “serious offence”,⁶⁴ the Queensland College of Teachers must immediately suspend the teacher’s registration or permission to teach once notified about the charge.⁶⁵

311. QCAT must then review the continuation of the suspension to decide whether the teacher’s case is exceptional, in which case it may be ended, provided the best interests of children are served.

Judges

312. A judge may only be removed from an office by the GIC, on an address of the Legislative Assembly, for “incapacity” or “proved misbehaviour justifying removal from the office”.⁶⁶ A criminal charge does not necessarily result in removal from office.

Members of Parliament

313. The Queensland Ministerial Handbook provides that Ministers must stand down if they are charged with an offence involving “serious impropriety”.⁶⁷ However, there are no statutory mechanisms in place that require a Member of Parliament to do or not do an act in light of being criminally charged.⁶⁸

⁶⁴ *Working with Children (Risk Management and Screening) Act 2000* (Qld), s. 15.

⁶⁵ *Education (Queensland College of Teachers) Act 2005* (Qld), s. 48.

⁶⁶ *Constitution of Queensland 2001* (Qld), s. 61.

⁶⁷ Department of the Premier and Cabinet 2021. *The Queensland ministerial handbook – ministerial code of conduct*, p. 72: <https://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/assets/ministerial-handbook.pdf?e>.

⁶⁸ Although a member’s seat in the Legislative Assembly automatically becomes vacant if they are *convicted* of an offence listed in s. 72(1)(i) of the *Parliament of Queensland Act 2001* (Qld).



Police officers

314. If a police officer is charged with an indictable offence, the Commissioner of Police may exercise their discretion to stand the officer down or suspend the officer from duty.⁶⁹ The laying of criminal charges does not legislatively result in a police officer's suspension.

315. However, it is reasonably routine for one of those steps to be taken for the charged officer to be stood down or suspended with or without full pay because there needs to be public confidence in the police service.

Public service employees

316. Public service employees must inform their chief executive if they are charged with an indictable offence.⁷⁰

317. If a prosecuting authority is aware that a person is a public service employee in a department and, the person is charged with a "relevant offence"⁷¹, the prosecuting authority must provide the department's chief executive details of the offence only after that person has been committed to court for trial.⁷²

318. The chief executive of a department may suspend a person from duty if "the proper and efficient management of the department might be prejudiced if the officer is not suspended".⁷³ This discretion is broad and, arguably, might be enlivened if the employee is facing a criminal charge.

Health practitioners

319. Registered health practitioners must inform their National Board if they are charged with an offence punishable by 12 months imprisonment or more.⁷⁴

320. The *Health Ombudsman Act 2013* (Qld) gives the Health Ombudsman the power to take "immediate registration action" on health practitioners if the Health Ombudsman reasonably believes the action is in the public interest. Immediate registration action might involve:

- a) imposition of conditions on the practitioner's registration; or
- b) suspension of the practitioner's registration.

321. The *Health Practitioner Regulation National Law Act 2009* (Qld) (Health Practitioner Regulation National Law Act) provides an example of when action may be taken in the public interest:

⁶⁹ *Police Service Administration Act 1990* (Qld), s. 6.1(1)(b).

⁷⁰ *Public Service Act 2008* (Qld), s. 181(2).

⁷¹ *Public Service Act 2008* (Qld), s. 170(7).

⁷² *Public Service Act 2008* (Qld), s. 170(2).

⁷³ *Public Service Act 2008* (Qld), s. 137.

⁷⁴ *Health Practitioner Regulation National Law Act 2009* (Qld), s. 130.



“A registered health practitioner is charged with a serious criminal offence, unrelated to the practitioner’s practice, for which immediate registration action is required to be taken to maintain public confidence in the provision of services by health practitioners.”⁷⁵

⁷⁵ Health Practitioner Regulation National Law Act, s. 156.



Part C: Response to Term of Reference 3(c)

ToR 3(c)(i) Observations about relevant findings and recommendations of the PCCC Logan Inquiry Report

322. Section 49 of the CC Act only applies to the corruption function. It does not apply to the crime function.

323. Paragraph 3(c)(i) of the ToR is as follows:

- “(a) the adequacy and appropriateness of section 49 of the *Crime and Corruption Act 2001*, including consideration of:
 - i. relevant findings and recommendations of the PCCC Report No. 108, “Inquiry into the Crime and Corruption Commission’s investigation of former councillors of Logan City Council; and related matters’ and other previous relevant reports of the PCCC;”

324. The CCC acknowledges the findings made by the PCCC in its Logan Inquiry Report.

325. The CCC also respects the independence of the ODPP and notes the ODPP is required to make decisions in individual prosecutions, including whether to discontinue a prosecution.

326. In relation to the findings and recommendations of the Logan Inquiry Report, the following information is relevant.

327. On 26 April 2019, eight former councillors from Logan City Council were conjointly charged by a police officer seconded to the CCC. Prior to the commencement of the committal hearing, the CCC received a draft outline of submissions from the ODPP on 23 November 2020 in anticipation of no case submissions being made by each of the defendants at the committal hearing. No issues with the evidence were raised with the CCC at that time.

328. A committal hearing with cross-examination of 20 witnesses commenced on 30 November 2020. The committal hearing was adjourned (part-heard) on 10 December 2020. At this time, the ODPP considered there were limited prospects of a successful prosecution based on:

- a) credibility issues with respect to Ms Kelsey; and
- b) whether the evidence excludes innocent hypotheses in relation to the reasons for the defendants voting to terminate Kelsey’s employment.

329. In December 2020, the ODPP received submissions from each of the defendants requesting the ODPP not proceed further with the prosecution. The defence submissions were provided to the CCC on 12 January 2021 for response. On 2 February 2021, the CCC made a submission to the ODPP recommending the matter continue, not only because there was a prima facie case, but



because there were reasonable prospects of success. The CCC's position rested, not only on the evidence already given in the committal hearing, but on the evidence the defendants gave during the Queensland Industrial Relations Commission proceedings.

330. On 6 April 2021, the CCC received the following written advice from the ODP: *In relation to the prosecution of the charges of Fraud alleged against each of the eight defendants there are insufficient prospects of success to justify continuing further. The charges of Fraud will be discontinued against each defendant.*

331. On 9 April 2021, the CCC met with the Director of Public Prosecutions. The purpose of the meeting was to discuss the Director's decision to discontinue the charges of fraud against the eight councillors. In addition to the CCC's written submission dated 2 February 2021, oral submissions were made regarding the evidence in support of the matter proceeding.

332. On 14 April 2021, the Director of Public Prosecutions appeared and informed the court "*after further consideration the DPP has determined that there is insufficient evidence to continue with the fraud charges in relation to each defendant*". No evidence was offered in relation to the charge of fraud against each of the defendants.

ToR 3(c)(ii) The evolution of section 49

"(c) the adequacy and appropriateness of section 49 of the *Crime and Corruption Act 2001*, including consideration of:

ii. the evolution of section 49, including the nature and purpose of amendments made in the Crime and Corruption and Other Legislation Amendment Act 2018;"

333. Section 49 of the CC Act applies when the CCC investigates a corruption matter and decides that prosecution proceedings or disciplinary action should be considered.

334. If so, the CCC may report on the investigation to other named bodies. Among those bodies is a report to a "prosecuting authority" "for the purposes of any prosecution proceedings the authority considers warranted": section 49(2)(a), CC Act.

335. Section 49(5) of the CC Act provides that the Director of Public Prosecutions is not a "prosecuting authority".

336. Section 49 of the CC Act is currently as follows (Reprint 69, as at 25 May 2020):

"49 Reports about complaints dealt with by the commission

(1) This section applies if the commission investigates (either by itself or in cooperation with a public official), or assumes responsibility for the investigation of, a complaint about, or information or matter involving,



corruption and decides that prosecution proceedings or disciplinary action should be considered.

- (2) The commission may report on the investigation to any of the following as appropriate—
 - (a) a prosecuting authority, for the purposes of any prosecution proceedings the authority considers warranted;
 - (b) the Chief Justice, if the report relates to conduct of a judge of, or other person holding judicial office in, the Supreme Court;
 - (c) the Chief Judge of the District Court, if the report relates to conduct of a District Court judge;
 - (d) the President of the Childrens Court, if the report relates to conduct of a person holding judicial office in the Childrens Court;
 - (e) the Chief Magistrate, if the report relates to conduct of a magistrate;
 - (f) the chief executive officer of a relevant unit of public administration, for the purpose of taking disciplinary action, if the report does not relate to the conduct of a judge, magistrate or other holder of judicial office.
- (3) If the commission decides that prosecution proceedings for an offence under the Criminal Code, section 57 should be considered, the commission must report on the investigation to the Attorney-General.
- (4) A report made under subsection (2) or (3) must contain, or be accompanied by, all relevant information known to the commission that—
 - (a) supports a charge that may be brought against any person as a result of the report; or
 - (b) supports a defence that may be available to any person liable to be charged as a result of the report; or
 - (c) supports the start of a proceeding under section 219F, 219FA or 219G against any person as a result of the report; or
 - (d) supports a defence that may be available to any person subject to a proceeding under section 219F, 219FA or 219G as a result of the report.
- (5) In this section—
prosecuting authority does not include the director of public prosecutions.”

337. For the benefit of the Commission of Inquiry, and because it is mentioned in paragraph 3(c)(ii) of the ToR, the CCC provides the following outline of the legislative history of section 49 of the CC Act and its previous equivalents.

338. The Fitzgerald Inquiry Report contemplated that the Official Misconduct Division of the CJC could report to the ODPP “for consideration of prosecution”: p. 311. The “Official Misconduct Division” is the former name of what is now called the Corruption Division of the CCC.



339. When the *Criminal Justice Act 1989* (Qld) (CJ Act) was first enacted on 31 October 1989, the CJ Act described one of the functions of the “Official Misconduct Division” to “report as prescribed in relation to its investigations”: section 2.20(2)(h) of the CJ Act.

Section 2.24 of the CJ Act

340. Section 2.24 is the closest analogue in the original CJ Act to the current section 49, CC Act.

341. Section 2.24 was, relevantly, as follows:

“2.24 Reports of Division.

- (1) The Director of the Official Misconduct Division shall report on-
 - (a) every investigation carried out by the Division;
 - (b) every matter of complaint, or information, submitted to him by the Complaints Section of the Division.
- (2) A report shall be made to the Chairman with a view to such action by the Commission as he considers desirable and, with the authority of the Chairman, to such one or more of the following as the Chairman considers appropriate-
 - (a) the Director of Prosecutions, or other appropriate prosecuting authority, with a view to such proceedings as the Director of Prosecutions or other authority considers warranted;
- ...
- (3) A report made to the Director of Prosecutions or the Executive Director of the Commission must contain, or be accompanied by, all relevant information known to the Official Misconduct Division, whether the information-
 - (a) supports a charge that may be brought against any person in consequence of the report; or
 - (b) supports a defence that may be available to any person liable to be charged in consequence of the report.
- (4) Where a complaint of official misconduct or of misconduct has been furnished to the Complaints Section of the Division, the Director shall cause a response to be given to the complainant (if his identity and whereabouts are known to the Commission) that states-
 - (a) if no action has been taken on the complaint, the reason for inaction;
 - (b) if action has been taken on the complaint, what that action is, the reason that action is appropriate in the circumstances of the case and the result of that action, if it be known at the time of making the response.”

Section 33 of the CJ Act

342. From 28 January 1994, the CJ Act was amended to provide for technical amendments recommended by the Parliamentary Criminal Justice Commission (PCJC).



343. The relevant reporting power was moved to section 33 “Reports of division”. Section 33 was materially the same as the old section 2.24.

344. Section 33 was, relevantly, as follows:

- “33. (1) The director of the Official Misconduct Division shall report on—
- (a) every investigation carried out by the division (other than by or on behalf of the Complaints Section);
 - (b) every matter of complaint, or information, submitted to the director by the Complaints Section of the division.
- (2) A report shall be made to the chairperson with a view to such action by the Commission as the chairperson considers desirable and, with the authority of the chairperson, to such 1 or more of the following as the chairperson considers appropriate—
- (a) the Director of Prosecutions, or other appropriate prosecuting authority, with a view to such prosecution proceedings as the Director of Prosecutions or other authority considers warranted;
- ...
- (3) A report made to the Director of Prosecutions or the executive director of the Commission must contain, or be accompanied by, all relevant information known to the Official Misconduct Division, whether the information—
- (a) supports a charge that may be brought against any person in consequence of the report; or
 - (b) supports a defence that may be available to any person liable to be charged in consequence of the report.”

Section 33 of the CJ Act until the enactment of the CC Act in 2001

345. Section 33 of the CJ Act remained in materially similar terms until the CC Act was passed in 2001.

346. In 1994, minor amendments were made to section 33 of the CJ Act.

347. In 1997, a more substantial amendment was made to section 33.⁷⁶ Subsection 33(7) was inserted which related to the Director of Public Prosecutions requiring the CCC to make further investigation or supply further information:

“(7) If the director of public prosecutions requires the commission to make further investigation or supply further information relevant to a prosecution, whether started or not, to which the content of a report made to the director under subsection (2)(a) relates, the director of the official misconduct division must take all reasonable steps to further investigate the matter or provide the further information.”

⁷⁶ Pursuant to the *Criminal Justice Legislation Amendment Act 1997* (Qld).



348. The amendment had been recommended by the PCJC. The *Explanatory Notes* for the 1997 Amendment Bill state, relevantly:

“Clause 20 provides for the amendment of section 33 (**Reports of division**) to provide for reports to be made to and responsibility for action to lie with the commission, rather than the chairperson. The amendments provide for a person whose conduct is adversely reported on in a report to be given a reasonable opportunity to comment on the report. The changes ensure that all relevant information is provided to the person to whom the final report is provided under the section and that the director of public prosecutions may require further information, as suggested by the parliamentary committee in report 13. The amendments also give the commission the capacity to direct that the commission should respond to complainants in respect of certain types of matters.”

349. By 2001 also, the relevant report to the ODPP was made “with the authority of the commission” rather than only with the authority of the “chairperson”.

The legislative history of relevant amendments to the CC Act

350. When the CC Act (then known as the CM Act) commenced on 8 November 2001, the old section 33 of the CJ Act was incorporated into a new section 49 of the CC Act.

351. When first enacted in 2001, section 49 of the CC Act was as follows:

“49 Reports about complaints dealt with by the commission

- (1) This section applies if the commission investigates (either by itself or in cooperation with a public official), or assumes responsibility for the investigation of, a complaint about, or information or matter involving, misconduct and decides that prosecution proceedings or disciplinary action should be considered.
- (2) 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;
 - (b) the Chief Justice, if the report relates to conduct of a judge of, or other person holding judicial office in, the Supreme Court;
 - (c) the Chief Judge of the District Court, if the report relates to conduct of a District Court judge;
 - (d) the President of the Childrens Court, if the report relates to conduct of a person holding judicial office in the Childrens Court;
 - (e) the Chief Magistrate, if the report relates to conduct of a magistrate;
 - (f) the chief executive officer of a relevant unit of public administration, for the purpose of taking disciplinary action, if the report does not relate to the conduct of a judge, magistrate or other holder of judicial office.



- (3) A report made under subsection (2) must contain, or be accompanied by, all relevant information known to the commission that—
 - (a) supports a charge that may be brought against any person as a result of the report; and
 - (b) supports a defence that may be available to any person liable to be charged as a result of the report.
- (4) If the director of public prosecutions requires the commission to make further investigation or supply further information relevant to a prosecution, whether started or not, the commission must take all reasonable steps to further investigate the matter or provide the further information.”

352. The *Explanatory Notes* for the CC Act relevantly stated:

“Reports about complaints dealt with by the commission [CJ Act, s33]

Clause 49 — provides the commission with an ability to report if it investigates or takes over the investigation of a complaint. It may report to one or more of the director of public prosecutions or other prosecuting authority, the listed judicial officials or if these do not apply, the chief executive officer of a relevant unit of public administration for the purpose of taking disciplinary action.

Reports under the clause must contain or be accompanied by all relevant information known to the commission that supports a charge and a defence to a charge. The director of public prosecution may require the commission to make further investigation or supply further information relevant to a prosecution.”

2018 amendments to section 49 of the CC Act

353. Until 2018, section 49 of the CC Act remained materially unchanged. There were some presently irrelevant amendments relating to the CCC’s power to commence proceedings under section 219F or section 219G of the CC Act.

354. In November 2018, the *Crime and Corruption and Other Legislation Amendment Act 2018* (Qld) (2018 amendments to the CC Act) removed the power of the CCC to refer corruption investigation briefs to the ODPP for the purposes of considering prosecution proceedings. A “prosecuting authority” was defined not to include the ODPP: section 49(5) of the CC Act.

355. Information could still be provided first to the QPS and then to the ODPP. The 2018 *Explanatory Note* stated:

“The Bill removes the power for the Commission to refer corruption investigation briefs to the ODPP for the purposes of considering prosecution proceedings. The amendment will not affect the ability for evidence gathered by the Commission during



the course of its corruption investigation to be provided to the QPS and consequentially the ODPP as a part of the usual prosecutorial process.”

356. The 2018 amendments to the CC Act followed the recommendation of the PCCC in the PCCC Review of the Crime and Corruption Commission’s Activities – 2016 (PCCC 5-Year Review (2016)).⁷⁷ The Director of Public Prosecutions had submitted to that review that it was desirable to remove the availability of the section 49 procedure for the CCC to report to the ODPP. The Director of Public Prosecutions referred to the impost on the ODPP and that the power was undesirable in the light of recent decisions about compulsorily obtained information.⁷⁸ The PCCC recommended that consideration be given to removing the section 49 power for the reasons given by the Director of Public Prosecutions.

357. In May 2016, the CCC had advised the PCCC that it saw no reason why the amendment could not be made, based on the Director of Public Prosecutions’ submission.⁷⁹

358. The PCCC 5-Year Review (2021) summarises the above changes at pages 86 to 87.⁸⁰

359. The history of section 49 of the CC Act is also summarised in the PCCC Logan Inquiry Report at pages 153 to 159.

ToR 3(c)(iv) Obtaining advice from the respective Directors of Public Prosecutions in other jurisdictions

360. Paragraph 3(c)(iv) of the ToR are as follows:

- “(c) the adequacy and appropriateness of section 49 of the *Crime and Corruption Act 2001*, including consideration of:
 - iv. the approach to review by, and the obtaining of advice from, respective Directors of Public Prosecutions in other jurisdictions of charges arising out of investigations by serious crime and corruption integrity bodies;”

361. The PCCC Logan Inquiry Report at pages 162 to 168 and other previous relevant reports of the PCCC contain an analysis of other jurisdictions. See also the CCC’s response to ToR 3(a)(ii).

⁷⁷ PCCC 2016. *Report No. 97, 55th Parliament – Review of the Crime and Corruption Commission*: <https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2016/5516T1027.pdf>.

⁷⁸ PCCC 5-Year Review (2016), p. 33.

⁷⁹ PCCC 5-Year Review (2016), pp. 33-34.

⁸⁰ PCCC 5-Year Review (2021), pp. 86-87.



ToR 3(c)(v) The CCC's interaction with the DPP, including information sharing and other processes that facilitate interaction

362. Paragraph 3(c)(v) of the ToR is as follows:

- “(c) the adequacy and appropriateness of section 49 of the *Crime and Corruption Act 2001*, including consideration of:
 - v. the CCC's interaction with the Director of Public Prosecutions (DPP), including existing information sharing and other processes that facilitate interaction;”

363. The CCC enjoys a highly professional and positive working relationship with the ODPP.

364. The CCC occasionally seeks advice from the ODPP prior to a police officer commencing a prosecution. Recently the CCC Operations Manual was updated to explain the circumstances in which advice may be sought by the CCC. Further information on the recent amendments and referral process is set out below.

365. Interactions between the two agencies occur most commonly after charges have been laid and the ODPP is the prosecuting agency. The CCC provides to the ODPP briefs of evidence for prosecutions conducted by the ODPP. There is typically ongoing interaction between ODPP officers and the CCC's investigating officers and legal officers about the management of prosecutions, including disclosure processes and arrangements with witnesses.

366. In some cases, the CCC requests the ODPP take carriage of matters arising from CCC investigations whilst the matter remains in the Magistrates Court (that is, matters which will proceed on indictment but prior to committal or to be heard summarily). This has occurred in cases where the matter is complex because of the nature of the charges (for example, complicated fraud) and where efficiencies arise because there are multiple defendants across related matters even if not jointly charged. Other reasons the ODPP may take carriage in the Magistrates Court include geographical practices (where ODPP routinely takes carriage of matters proceeding to committal) or where there is potential for the local police prosecution corps to be conflicted.

367. In these cases, as in cases where matters have been committed, the CCC prepares a brief of evidence for the ODPP in accordance with the policy and procedure set out in the Operations Manual section MM02: Matter briefs.

368. The CCC respects the independence of the ODPP and that the ODPP is required to make decisions in individual prosecutions, including whether to discontinue a prosecution, and the acceptances of pleas from defendants.



369. The ODPP usually seeks the views of the CCC about these issues before a decision is made. Whilst the CCC does not always agree with the decisions made by the ODPP, the CCC respects and accepts them.

370. The CCC and the ODPP conduct *ad hoc* joint training sessions and representatives have met to discuss topical cases and law reform. For example, the Deputy Director of Public Prosecutions attended the CCC in November 2021 to deliver a presentation on a recent prosecution and the inherent complexities of perjury prosecutions.

ToR 3(c)(iii) Current and proposed policy, procedure and practice relating to the obtaining of independent advice by the CCC on complex prosecutions

ToR 3(c)(vi) whether there should be a requirement that the CCC obtain a recommendation from the DPP, or a senior independent legal advisor, before police officers use their discretion to charge serious criminal offences and implications for agencies associated with such requirements

Amendment of section 49 of the CC Act

371. Paragraphs 3(c)(iii) and (vi) of the ToR are as follows:

“(c) the adequacy and appropriateness of section 49 of the *Crime and Corruption Act 2001*, including consideration of:

...

- iii. current and proposed policy, procedure and practice relating to the obtaining of independent advice by the CCC on complex prosecutions;
- vi. whether there should be a requirement that the CCC obtain a recommendation from the DPP, or a senior independent legal advisor, before police officers use their discretion to charge serious criminal offences and implications for agencies associated with such a requirement;”

372. The CCC has also been asked to address the following MoPI (page 5, 6th bullet point, referred to in this report as MoPI 25):

“the proposition (reflected in paragraph 16 of the submission by Local Government Association of Queensland to the Committee dated 22 July 2021) that section 49 of the Crime and Corruption Act should be amended to require report to and review by the Director of



Public Prosecutions before criminal charges are laid in respect of “disqualifying offences” (within the meaning of section 153(6) of the LG Act 2009):

16. Accordingly, in response to this term of reference, it is the LGAQ’s submission that section 49 is not appropriate and sufficient and should be amended to prevent what happened to the former councillors of Logan City Council from ever occurring again. At the very least, from the LGAQ’s perspective, section 49 should be amended to require an intended CCC decision to lay criminal charges for a “disqualifying offence” (see section 153(6) of the Local Government Act 2009 – discussed further in response to term of reference k below) to be first subject to a report to, and review by, the DPP, prior to such charges being laid;”

373. These issues are related and are addressed together.

374. The CCC’s view is that:

- a) there should not be a statutory requirement that the CCC obtain a recommendation from the ODPP, or a senior independent legal advisor, before police officers use their discretion to charge serious criminal offences. Instead, it should remain for the CCC to seek advice in accordance with its existing policy on a case-by-case basis; and
- b) section 49 should not be amended to require report to and review by the ODPP before criminal charges are laid in respect to “disqualifying offences”.

375. These legislative amendments to section 49 are not necessary for the following reasons:

- a) the reasons submitted by the then Acting Director of Public Prosecutions, Mr Michael Byrne QC, on 28 July 2015 to the PCCC (with which submissions the CCC agrees);
- b) the CCC has the internal expertise to address the appropriateness of criminal charges, including by the internal preparation of legal observations in accordance with the CCC Operations Manual;
- c) in addition to the preparation of internal legal observations, the CCC intends to seek independent external advice in certain matters where the individual circumstances of the case warrants it, and is discussed below;
- d) the CCC requires flexibility to seek external advice on a case-by-case basis, rather than be required in each case to do so; and
- e) requiring a report to the ODPP in all cases, or even only those involving “disqualifying offences”, may have the undesirable consequence of delaying a charging decision for many months and make further demands on the finite resources of the ODPP. If disqualification from office is a consequence of charging, the CCC’s updated policy



provides that this may be a factor in the CCC deciding to seek external advice either from the ODPP or external senior counsel.

The former Acting Director of Public Prosecutions' submissions about amendment of section 49, CC Act

376. In his submissions dated 28 July 2015 to the PCCC 5-Year Review (2016), the then Acting Director of Public Prosecutions, Mr Byrne QC, submitted that a legislative amendment to section 49 was desirable. At the time, the ODPP was included as a prosecuting authority to whom the CCC could report under section 49 of the CC Act.

377. In summary, the Acting Director of Public Prosecutions' reasons why it was desirable to amend section 49 were:

- a) briefs from the CCC "regularly languish for months" in the ODPP before a proper advice can be provided to the CCC;
- b) the referral for advice prior to charging has the effect of "bridging the divide between the investigative function and the independent prosecutorial function";
- c) the CCC can appropriately advise as to whether charges should result from an investigation;
- d) the ODPP is not specifically funded to undertake the advice work, which is time consuming and was an "undesirable impost on the finite budgetary resources" of the ODPP; and
- e) the CCC must, pursuant to section 49(4) of the Act, provide all relevant information that supports a charge and supports a defence. Practically, that means that the compulsorily obtained information must be provided to the ODPP. That in turn means that senior staff who provide initial advice have been exposed to the material and cannot prosecute the matter, should that be the result of the advice provided.

378. In May 2016, the CCC advised the PCCC that it saw no reason why, based on Mr Byrne QC's submission, such an amendment to section 49 could not be made.

379. Section 49 was subsequently amended to remove the ODPP as a "prosecuting authority".

380. In its 26 July 2021 opening submission to the PCCC Logan Inquiry, the CCC adopted the reasons of Mr Byrne QC and submitted that there was no compelling reason to change section 49 in its current form.



381. This remains the CCC's position for the reasons articulated by Mr Byrne QC. In particular, the CCC is concerned that a requirement for the CCC to report to the ODPP in all cases would lead, without the dedication of additional resources to the ODPP or the establishment of a special prosecuting unit within the ODPP, to months-long (and possibly longer) delays. This is not intended as a criticism of the ODPP, but is reflective of previous experience, and generally aligns with the experience in other jurisdictions (e.g. ICAC NSW).

The preparation of legal observations with criminal briefs

382. The Operations Manual sets out what must be included in a criminal brief of evidence, including legal observations. The requirement for legal observations is addressed in MM02: Matter briefs section 4.1.4.

Current practice about referring matters to the DPP for advice

383. Cases in which such advice may be sought are those where the matter involves novel, complex or infrequently used criminal charges or the application of charges in a novel manner, and may include cases in which mandatory suspension or disqualification from office is a consequence of charging or conviction.

384. For corruption matters, the Chairperson or the SEO (Corruption) will liaise with the ODPP about a referral. The referral is usually by letter requesting advice on possible criminal charges.

385. A referral from the Corruption Division to the ODPP will usually occur at the end of an investigation. By this time, the evidence gathering is substantially finished, there is an investigation report or a brief of evidence, a legal officer has provided legal observations, and the Chairperson or the SEO (Corruption) has considered the information. These earlier steps should ensure that matters with little or no prospects or public interest are not referred to the ODPP, where resources are also limited.

The CCC's policy on obtaining independent external advice on certain prosecutions before charges are laid

386. Paragraph 3(c)(iii) of the ToR is as follows:

“(c) the adequacy and appropriateness of section 49 of the *Crime and Corruption Act 2001*, including consideration of:

...

- iii. current and proposed policy, procedure and practice relating to the obtaining of independent advice by the CCC on complex prosecutions”.



387. The CCC has also been asked to address the following MoPI (page 4, 9th bullet point, MoPI 17):

“the Crime and Corruption Commission’s intention in the future to obtain an independent external advice on complex prosecutions before charges are laid, either from the Director of Public Prosecutions or other appropriately qualified and independent advisor, as described in the Crime and Corruption’s Outline of Submissions to the Committee dated 15 October 2021, paragraph 267:

267. The Commission intends in the future to obtain independent external advice on complex prosecutions before charges are laid, either from the DPP where appropriate, or some other appropriately qualified and independent advisor. The Commission respectfully notes for the PCCC's benefit the evidence of Mr Heaton (3 September 2021, pp 8 - 9) relevant to the question of the DPP providing advice about charges.”

388. The CCC’s current policy and procedure relating to the obtaining of independent advice is as described in the Operations Manual MM02: Matter briefs sections 4.1.2 and 4.1.3.

389. This policy makes clear that if a matter is referred to the ODPP for advice, the ODPP’s decision about the matter is final and the advice must be communicated to the case officer.

390. MM02: Matter briefs section 4.1.2 Briefs to counsel (external) provides guidance on determining the general need for external counsel or solicitors.

391. The CCC’s *Activities of Corporate Legal and Litigation Policy and Procedure* and *Engaging External Counsel and Solicitors Policy and Procedure* outline the procedure to select and engage external counsel or solicitors.

392. In the CCC’s view, these policies are adequate and appropriate and do not require supplementation with a legislative requirement to seek advice from the ODPP in all cases.



Part D: Response to Matters of Particular Interest

393. In its correspondence to the CCC, received on 2 March 2022, the Commission of Inquiry requested information relevant to “Matters of particular interest” (MoPI).

394. The CCC has responded to each MoPI, cross referencing to parts A-C which address the broader ToR, where appropriate.

MoPI 1

Detailed organisational chart of the Crime and Corruption Commission

395. The purpose and organisational structure of the CCC is outlined in Part A, and in Attachment E.

396. The CCC comprises:

- a) CCC Commissioners;
- b) the CEO and Office of the Commission; and
- c) Five divisions: Corruption, Crime, Operations Support, Strategy Insights and Innovation, and Corporate Services.

MoPI 2

The Crime and Corruption Commission’s investigative processes, including the role played by seconded police

397. The CCC’s investigative processes are outlined in its Operations Manual, section MM01. This policy deals with crime, confiscation, and corruption matters.

398. The Operations Manual section MM01 outlines the lifecycle of an investigation matter in four stages: Assessment (pre-project assessment); Feasibility; Delivery; and Post-delivery.

399. The matter stages may have one or more sub-stages. The transition of a matter from one stage or sub-stage to another is a milestone that in each case is supported by a key decision (see response to MoPI 10).

400. Seconded police at the CCC are involved in the investigative process as investigators, technical specialists, operational support (e.g. surveillance), and as intelligence officers.

401. Each investigation is allocated a Case Manager and the investigative team is formed with regard to the following considerations:



- a) Skills: team members should have the appropriate knowledge, expertise and personal skills to conduct and complete an investigation, given its subject matter, nature and complexity
- b) Size: the size of the team should be appropriate to the requirements of an investigation;
- c) Stability: the team, or at least the core of the team should as far as possible remain the same for the period of an investigation and be located as close as possible to each other to ensure there is continuity of communication and efficient transfer of information between team members; and
- d) Empowerment: team members should have the autonomy, authority and knowledge required to make operational and technical decisions, according to the particular responsibilities assigned to them.

402. Further detail on the role of police in investigative processes and decision-making is in MoPI 10.

MoPI 3

Any public (e.g., website) explanation of the Crime and Corruption Commission's role, jurisdiction, and processes

Website

403. The CCC's website contains plain-English information about the agency's role, jurisdiction and processes to assist members of the public to understand the various statutory functions undertaken by the CCC and the associated powers and legislation. The website also houses the CCC's publications, prevention material and media releases that contain information about our work. The online forms for members of the public and public sector agencies to report corrupt conduct to the CCC are also available on the website.

404. The main sections of the website that contain information about the CCC's role, jurisdiction and processes are summarised below:

- a) *About Us* - The About Us section contains the core information about the CCC's functions, powers, relevant legislation, oversight and accountability, leadership (including the role of the CCC Commissioners and ELT), the history of the agency and details about the strategic plan. [<https://www.ccc.qld.gov.au/about-us>]
- b) *Our Crime Work* - The Crime section contains information specific to the Crime jurisdiction of the CCC. It provides an overview of the Crime portfolio including



information on the role of a crime commission, definitions of major crime as defined in the CC Act, the role of the CRC and how the process of general and specific referrals operate. The Crime section also contains information on proceeds of crime detailing the confiscation schemes available under the *Criminal Proceeds Confiscation Act 2002* (Qld) (CPC Act) and how the process of restraint and forfeiture operate. The Crime section also provides information about the use of coercive hearings and information for witnesses. [<https://www.ccc.qld.gov.au/crime>]

- c) *Our Corruption Work* - The Corruption section contains information specific to the Corruption jurisdiction of the CCC. It provides definitions of corrupt conduct, the CCC's role in police oversight and the levels of monitoring the CCC can undertake when matters are devolved to units of public administration. [<https://www.ccc.qld.gov.au/corruption>]

405. The website also contains a range of information specific to members of the public who may be contemplating reporting corruption or who have made a decision to report corruption. This includes advice and resources to help potential complainants write a complaint, information on which agencies are within the CCC's jurisdiction, details of the assessment process following a complaint being made and information on why the CCC may determine to refer the complaint to another agency. Information on the purpose of an investigation and the investigative powers available to the CCC from the CC Act and PPRA are referenced. Members of the public can submit reports of corruption via an online form, by downloading a template to complete and post to the CCC, by making a phone call or by emailing the CCC. Details of these complaint processes are contained on the report corruption page.

406. The CCC provides information on its website for the public sector. It details the obligations of units of public administration to notify the CCC of any reasonable suspicion of corrupt conduct, in accordance with sections 38 or 40 of the CC Act, and provides information to assist CCC Liaison Officers in units of public administration to understand the corrupt conduct jurisdiction and associated obligations. An online form for units of public administration to notify corrupt conduct to the CCC is available on the website.

407. The CCC's Charter of Service⁸¹ relating to complaints is also available on the website. This provides information to members of the public about the standards of service they can expect if they lodge a complaint about corruption in the public sector. It also details what recourse a complainant has if they do not receive this service.

⁸¹ CCC 2021. *Our charter of service*, <https://www.ccc.qld.gov.au/complainants/our-charter-service>.



408. With a view to developing the capacity of unit of public administration to prevent and deal with corruption, the CCC also makes a range of prevention material publicly available.⁸²

Media

409. The media section of the website contains information to provide context to journalists reporting on CCC matters including the CCC media policy, terminology used by the CCC, information about reporting on public and private hearings. This section also provides the list of all media releases. [<https://www.ccc.qld.gov.au/media>]

Social media

410. The CCC has corporate Twitter, Facebook and YouTube accounts to reach audiences who consume their information via social media. These are available at:

- Twitter - @CCC_QLD – https://twitter.com/ccc_qld
- Facebook – <https://www.facebook.com/CrimeandCorruptionCommission/>
- YouTube - <https://www.youtube.com/channel/UCmkYI2wABDiCzZJh4Hx6KMg>

Public meetings

411. The role, jurisdiction and processes of the CCC are often discussed at Budget Estimates and PCCC meetings. Transcripts of these meetings are available to members of the public.

External presentations

412. The CCC is invited to speak at various forums. While not all of these are public events, they are external to the CCC and they provide a valuable opportunity for interested stakeholders to hear firsthand from Commission Officers about the jurisdiction, work and outcomes across all work areas of the CCC.

QPS intranet

413. The CCC's "Getting Results" publication, which sets out how to engage the CCC to assist with serious and organised crime investigations, and the Proceeds of Crime brochure, which sets out how to refer matters for proceeds of crime action, are accessible to police via the QPS intranet.

MoPI 4

Relevant policies and procedures affecting decisions to commence prosecutions arising out of Crime and Corruption Commission investigations;

⁸² CCC 2022. *Corruption prevention*, <https://www.ccc.qld.gov.au/public-sector/corruption-prevention>.



MoPI 5

How and by whom decisions relevant to the Terms of Reference are made by the Crime and Corruption Commission, including decisions to lay charges and other decisions potentially affecting a person's rights (such as rights to liberty, privacy or reputation)

MoPI 6

The criteria by reference to which such decisions are made

414. Issues relating to MoPIs 4, 5 and 6 are addressed together.

Decisions relevant to ToR

415. Decisions which are relevant to the Commission of Inquiry ToR are largely conferred on the Chairperson under the CC Act. Section 270 of the CC Act allows the Chairperson to delegate certain powers to appropriately qualified Commission Officers (provided to the Commission of Inquiry).

416. The Commission exercises powers under a number of Acts, including the following:

- a) CC Act
- b) CPC Act
- c) PPRA
- d) TIA Act
- e) WP Act
- f) SD Act.

417. Sub-delegation generally occurs via a formal instrument of delegation, which outlines the power that is sub-delegated, the position/s the power is sub-delegated to and the limits on the sub-delegation.

418. The Legal, Risk and Compliance unit maintains and monitors the Instruments of Delegation Register to ensure instruments remain current. This unit also works with accountable officers to ensure policies supporting these sub-delegations are in alignment.

Relevant policies and procedures relevant to Crime and Corruption investigations

419. The Operations Manual provides a consistent framework for policies and procedures relating to complaints handling and investigations, including associated support activities.

420. It supports the Operational Framework and Operating Model, and contains three sections (described in *Strategy and corporate governance* section).



421. The CCC also has a *Human rights policy and procedure* the purpose of which is to outline the organisation's obligations as a public entity and referral entity under the *Human Rights Act 2019* (Qld). Under the policy and the *Human Rights Act*, the CCC must act and make decisions in a way that is compatible with human rights and must give proper consideration to human rights relevant to the decision.

422. All the CCC's policies and procedures (operational and corporate policies) undergo a human rights assessment prior to being approved. Only draft policies or procedures that are assessed as being compatible with human rights are approved.

423. A summary of practices relevant to MoPIs 4, 5 and 6 is outlined below.

Decision-making framework

424. The Operations Manual section IM01: Portfolio Assessment and Review outlines the requirements for the portfolio assessment and review governance functions of the CCC.

The assessment of matters under the CC Act

425. The Operations Manual section IM03: Assessment of matters contains detailed policy and procedure on the assessment of complaints by the CCC and the criteria by which the matters are assessed.

The conduct and planning of a CCC investigation

426. The Operations Manual section MM01: Matter Management, Planning and Conduct outlines the activities involved in managing, planning and conducting an investigation, and the distinct roles and responsibilities (including key decisions) that are aligned with and are supported by the CCC's broader organisational structures and systems. Appendix A to the Operations Manual section MM01: Matter Management, Planning and Conduct, contains a table of key decisions and who is responsible for making and recording them.

Decisions relevant to laying charges and commencing prosecutions

427. The CCC's policies and procedures are described in the Operations Manual section MM02: Matter Briefs, in section 4.2 Criminal briefs of evidence.

428. The Chairperson (or the CCC) does not decide to lay criminal charges. If the CCC decides in a Corruption matter that prosecution proceedings should be considered, the Chairperson, Deputy Chairperson, or the delegate of the Chairperson, may refer the matter to an appropriate police officer seconded to the CCC. In practice, the decision to refer matters to seconded police officers is typically taken by the Chairperson.



429. The final decision whether to lay criminal charges always lies with a seconded police officer, who is required to apply the two-tiered test described in the ODPP's Director's Guidelines. A seconded police officer is not subject to a direction or order by the CCC or the Chairperson to lay criminal charges.

430. All relevant information known to the CCC that supports a charge and which supports a defence should be provided to the Chairperson to allow an assessment of the evidence.⁸³ The same material should also be provided to the seconded police officer who is selected to consider charges.

431. The seconded police officer to whom the matter is referred to decide if charges should be laid must have the appropriate rank and experience required. The police officer is required to apply the two-tiered test in the Director's Guidelines, namely:

- a) is there sufficient evidence? and
- b) does the public interest require a prosecution?

432. This two-tier test is also a requirement of the QPS Commissioner's Operational Procedures Manual (QPS OPM) which also applies to the seconded police officers.

MoPI 7

The law, practice and any procedures governing decisions by police officers seconded to the Crime and Corruption Commission to commence criminal proceedings arising out of corruption investigations under the Crime and Corruption Act 2001, including:

MoPI 7.1 any requirements that police officers apply the Director's Guidelines dated 30 June 2016, issued by the Director of Public Prosecutions (the Director's Guidelines), when making such decisions, including the two-tiered test detailed at section 4 on pages 2-5 of that document (the two-tiered test)

433. The Operations Manual – discussed in the response to MoPIs 4-6 – outlines the law, practice and procedures governing decisions by police to commence criminal proceedings in the corruption jurisdiction.

434. Section 3.4.1 of the QPS OPM is also relevant. This section provides that the QPS service policy to commence proceedings is drawn from the Director's Guidelines and based on a two-tiered test:

- a) Is there sufficient evidence? and

⁸³ CC Act, s. 49(4).



b) Does the public interest require a prosecution?

435. A police officer must adhere to the policy listed in the QPS OPM, particularly 3.4.2 (the decision to institute proceedings and public interest).

MoPI 7.2 the source of any such requirement (such as any direction by the Queensland Commissioner of Police under section 4.9 of the *Police Service Administration Act 1990*)

436. The introduction of the QPS OPM expressly states that the QPS OPM is issued pursuant to section 4.9 of the *Police Service Administration Act 1990* (Qld) (PSAA).

437. 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 (s. 4.9(1) PSAA).

MoPI 7.3 any training given to police officers to inform their application of the two-tiered test, including with respect to evaluating the sufficiency of evidence and considering the public interest

438. Police officers seconded to the CCC in investigative teams must hold the appointment of detective. From the moment a police officer is a recruit they are provided training in relation to the application of the two-tiered test. At recruit level, police officers are exposed to various lectures and training courses. There is particular emphasis on the sufficiency of evidence. Detectives are provided additional training on the two-tiered test.

439. The QPS Prosecutions Training Office also delivers training in relation to the sufficiency of evidence and public interest. These courses are available to all QPS staff.

MoPI 7.4 any processes utilised to ensure that police officers who make decisions to commence criminal proceedings are competent to make them

440. The processes to ensure competence of police officers who make decisions speaks to the recruitment and selection of police officers, and regular assessments of performance.

441. Recruitment and selection, which includes qualifications and experience, is described in MoPI 12; assessments of performance are described below.

442. The performance of an agency - in public and private sectors – is, in part, a reflection of the performance of its employees. Recognising this, agencies, like the CCC and QPS, have established robust performance assessment and development frameworks to ensure that employees are performing at a satisfactory level.

443. The Queensland Public Service Commission has implemented leadership competencies to achieve some degree of consistency across the public sector.



444. Police officers seconded to the CCC are assessed against their capability to perform the role they are performing at the CCC.
445. The degree of oversight of police at the CCC is arguably much higher than occurs in a posting outside of the CCC. The Operational Framework and the relevant Operations Manuals set out a highly structured approach to decision-making that occurs across the governance, management, operational and technical levels of an investigation.
446. Like any police officer posted to a Command throughout Queensland, a police officer seconded to the CCC who fails to demonstrate the capability to perform the duties of their role will be assessed as falling short of the requisite standard and efforts will be made to improve their performance.
447. Police officers seconded to the CCC remain connected to the QPS performance and assessment framework. This approach recognises that police retain their powers and should be trained and assessed for that purpose, and ensures that police seconded to the CCC can easily reintegrate into the QPS at the end of their term of secondment.
448. Prior to January 2022, police officer performance was managed and reviewed under the QPS Performance Review and Development (PRD) policy and guidelines. Performance and Development Agreements were established in September of each year, a Mid Cycle Review occurred in April of the following year, and an End Cycle Review occurred in August.
449. In January 2022, the QPS commenced managing performance under the QPS Development and Performance (DAP) policy and guidelines. This process commences in January and finalises in December. There is no Mid Cycle review under the new process.
450. Under both the PRD and the DAP processes, performance conversations can occur at any time and are not restricted to mid and end cycle reviews. This recognises the need for regular and responsive feedback that occurs in the course of normal duties.
451. The processes for managing police officers who are not performing to the required standard are outlined in the QPS document Managing Unacceptable Performance and Conduct – Fact Sheet.

MoPI 7.5 any processes to ensure independent oversight of those decisions

452. Commission Officers appreciate how the CCC's obligation to act independently, impartially and fairly⁸⁴ translates to their day-to-day practice and decisions.

⁸⁴ CC Act, s. 57.



453. The processes to ensure independent oversight of decisions by police officers seconded to the CCC to commence criminal proceedings arising out of corruption investigations are outlined in its Operations Manual.
454. Further, seconded police officers at the CCC remain bound by the PSAA and QPS OPM.
455. Additional oversight occurs via the multi-disciplinary investigation teams, which include legal officers. These legal officers are bound by ethical requirements, rules and protocols governing their conduct under the *Legal Profession Act 2007* (Qld). This allows for a high standard of independent and impartial advice.
456. While the police officer retains their independence, a number of additional steps are in place at the CCC which are intended to draw on the significant expertise of Senior Officers at the CCC and to provide an additional layer of oversight to decisions to commence criminal proceedings.
457. As stated earlier, a lawyer (generally the lawyer attached to the team) will prepare observations on the brief. This involves an analysis of potential criminal and disciplinary charges, including an assessment of prospects of success.
458. If the investigator forms the view that a prosecution should be considered, the matter is progressed through the Executive Director to the SEO (Corruption). The SEO (Corruption) is required to be a lawyer, and is generally a lawyer with significant experience in investigations and/or criminal litigation. The SEO (Corruption) considers the brief of evidence and the observations in considering whether the matter should progress to the Chairperson.
459. The Chairperson (or their delegate) considers the matter and decides if it should be referred to a prosecuting authority (generally a seconded police officer) for consideration of charges. The Chairperson is invariably a highly experienced lawyer.
460. This process of review is not required in investigations entirely undertaken by the QPS.

MoPI 7.6 whether there is any inconsistency between a direction to police officers to apply the two-tiered test and any other criteria that police officers are required to apply in deciding whether to commence criminal prosecutions

Notice to appear under section 382(2) of the PPRA

461. Section 382 of the PPRA is in Chapter 14, Part 5 which is entitled “Alternative to arrest”. Section 382 is as follows:

“382 Notice to appear may be issued for offence

- (1) The object of this section is to provide an alternative way for a police officer to start or continue a proceeding against a person that reduces the need for



custody associated with arrest and does not involve the delay associated with issuing a complaint and summons under the *Justices Act 1886*.

Note—

For starting proceedings against children by notices to appear, see the *Youth Justice Act 1992*.

- (2) A police officer may issue and serve a notice (notice to appear) on a person 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.
- (3) A notice to appear must be personally served on a person.
- (4) However, a notice to appear for an offence against the Road Use Management Act or the Heavy Vehicle National Law (Queensland) may be served on a person by registered post if it is served as in the way provided for under the Justices Act 1886, section 56(1)(a) or (2)(a), (b) or (c).

Note—

The *Justices Act 1886*, section 56(1)(a) or (2)(a), (b) or (c) authorises service on a person at the person's place of business or residence last known to the complainant, or at an address stated on the person's driver licence or a current certificate of registration for the person's motor vehicle.

- (5) If a person is alleged to have committed offences as a child and as an adult, a separate notice to appear must be issued for the offences committed as a child."

462. Section 382 does not alter the grounds on which a police officer should commence a prosecution.

It is clear from section 382(1) that the notice to appear mechanism is expressly intended as an alternative to arrest. In other words, it is an alternative way to commence a criminal prosecution, but it does not by its terms alter the basis on which a criminal proceeding should be commenced.

463. A notice to appear may only be served by a police officer if the officer reasonably suspects the person has committed or is committing the offence or is asked by an officer who has the suspicion to issue and serve the notice.

464. Section 382 does not refer to the "two-tiered test" but neither does the power to arrest without a warrant (s. 365) or arrest with a warrant (ss. 369 and 370). The absence of any reference in the legislation to the "two-tiered test" does not make the test inapplicable to police officers commencing a prosecution.

465. The Commissioner of Police has issued the QPS OPM pursuant to section 4.9 of the PSAA. A police officer is required to comply in all respects with the QPS OPM: section 4.9(3). A failure to comply with it may constitute grounds for disciplinary action.



466. Under the QPS OPM, a police officer who issues a notice to appear under section 382 of the PPRA is required to apply the two-tier test. Under the QPS OPM:

- a) QPS policy on when to commence proceedings, which applies the two-tier test, is drawn from the Director's Guidelines: QPS OPM, section 3.4.1, p. 12;
- b) the Director's Guidelines should be complied with by police officers: QPS OPM, section 3.4.5, p. 15;
- c) there are four methods available to commence proceedings, the first of which is a notice to appear under section 382 of the PPRA: QPS OPM, section 3.5, p. 30; and
- d) wherever practicable, proceedings should be commenced by a notice to appear: QPS OPM, section 3.5.3, p. 30.

467. As stated in section 4.222 of the Operations Manual section MM02: Matter briefs, seconded police officers should apply the same two-tiered test that the ODPP applies in determining whether to commence a criminal prosecution.

468. The Operations Manual further refers to paragraph 4 of the Director's Guidelines.⁸⁵

469. It follows that there is no inconsistency between a direction to police officers to apply the two-tiered test and the power to issue a notice to appear under section 382 of the PPRA.

MoPI 7.7 any law, practice or procedure that may affect a decision by a police officer to commence criminal proceedings, including any law, practice or procedure under which directions may be given to a police officer that may affect their decision whether or not to commence any criminal proceeding (such as a direction by the Crime and Corruption Commission or the Commissioner of the Queensland Police Service)

470. The law, practice and procedures that may affect a decision by a police officer to commence criminal proceedings has been addressed above in response to ToR 3(b)(ii), ToR 3(b)(iii), MoPI 4, MoPI 7.1, and MoPI 7.2.

471. A police officer seconded to the CCC is not directed to charge or commence criminal proceedings. The process by which a police officer seconded to the CCC must follow in considering whether to charge is set out in MoPI 4.

MoPI 8

Any steps that the Crime and Corruption Commission can take, and any steps that it has taken, in the course of Crime and Corruption Commission investigations or hearings to minimise inappropriate impacts on affected parties

⁸⁵ See 4.2.2 of the Operations Manual MM02: Matter Briefs.



Context

472. Investigations, including those involving hearings, will always impact individuals who are the subject of them, witnesses who play a role in providing information or evidence, and organisations who provide information to support the investigation.
473. The CCC mostly conducts its hearings in private and on a confidential basis to protect the parties involved, the substance of the investigation and the investigative methodology.
474. When conducting hearings, a hearing risk management plan is completed to identify potential risks to witnesses and Commission Officers, and to ensure suitable strategies are implemented to manage such risks. A risk assessment is also completed for hearings witnesses three days prior to their attendance, and adjustments are made having regard to any security measures required and to accommodate a witness's particular situation (where this is feasible and appropriate).
475. In addition, there are legislative safeguards which apply to ensure evidence obtained through coercive means is dealt with appropriately to minimise negative impacts on persons charged. Further, the CCC has adopted policies and procedures which ensures the appropriate disclosure of information in relation to evidence coercively obtained during an investigation.

Notice to produce

476. When requiring an oral or written statement of information, a stated document or thing, the CCC issues a Notice to Produce.
477. In giving a Notice to Produce, the CCC is required to give consideration to giving the recipient a reasonable time to comply (s. 74(2) CC Act). In making a determination of what is a reasonable time, consideration is given to the information required within the Notice.
478. The Notice to Produce may require the immediate production of a document or thing but only if the delay in the production of the document or thing may result in its destruction, removal or concealment or a delay may result in a serious prejudice to the conduct of the investigation (s. 74(4) CC Act).

Witness expenses and legal representation

479. A person attending a coercive hearing under an attendance notice, or otherwise as a witness at the request of the CCC, is paid the allowances and expenses payable to the person if the person were appearing before a Magistrates Court (s. 204 CC Act).
480. A witness attending a coercive hearing or making an appeal to the Supreme Court in relation to a coercive hearing is also entitled to apply for Legal Aid (s. 205 CC Act).



481. The entitlements listed above in relation to coercive hearings are outlined within the attendance notice, issued under section 82 of the CC Act.

Attendance notice

482. Witnesses attending hearings are provided with information in their attendance notice about what to expect during the hearing and who will conduct the questioning.

483. An attendance notice must state the general nature of the matters which the person may be questioned at the coercive hearing (s. 82(2)(b) of the CC Act). The attendance notice also provides information in relation the witness expenses and legal representation.

484. Decisions to exercise coercive powers are reviewable in the courts and therefore the supporting application for an Attendance Notice is to be factually correct and of a high quality.⁸⁶

485. To issue an Attendance Notice, Counsel Assisting or the team lawyer, must prepare a written application for its issue. The application summarises the status of the investigation and should outline:

- a) the relevance of the witness' anticipated evidence;
- b) the forensic purpose of the examination;
- c) the age, antecedents, and current location of the proposed witness;
- d) any known infirmities or physical or mental health issues;
- e) relevant human rights considerations; and
- f) if it is proposed that the notice be a confidential notice under section 84 of the CC Act, the reasons why this is considered appropriate.⁸⁷

486. The power to issue an attendance notice is exercised by a delegate of the Chairperson under section 270(a) of the CC Act. The delegation is only provided to the following positions:

- a) SEO (Crime);⁸⁸
- b) SEO (Corruption);
- c) Executive Director Crime Hearings and Legal; and
- d) Executive Director Corruption Strategy, Prevention and Legal.

⁸⁶ See Operations Manual section MP03: Hearings (Closed and Public), p.10.

⁸⁷ See Operations Manual section MP03: Hearings (Closed and Public), p.10.

⁸⁸ If the commission hearing is being held under an authorisation under s. 55D, the Chairperson (or in this case, the SEO (Crime)) may issue an attendance notice requiring a person to attend immediately at the commission hearing at a stated place (s. 86(6) of the CC Act).



Protection orders

487. A witness at a commission hearing must answer a question put to the person, unless the person has a reasonable excuse⁸⁹ and/or on the ground of self-incrimination privilege or grounds of confidentiality.⁹⁰ A presiding officer may make an order under section 197(5) of the CC Act, where an answer given by the witness is not admissible in evidence in any civil, criminal or administrative proceedings.⁹¹

Non-publication orders

488. Prior to the hearing, the presiding officer may make a non-publication order under section 180(3) of the CC Act, which prohibits, without the CCC's written consent, the publication of:

- a) an answer given or document or thing produced at a hearing or anything about the answer document or thing
- b) information that might enable the existence or identity of a person who is about to give or has given evidence before the CCC at hearing to be ascertained.

489. Information from a closed hearing, and any record of it, is prohibited from publication to any person, without the CCC's consent or contrary to the CCC's order, by virtue of section 202(1) of the CC Act.

490. However, publication of hearing information may be permitted by an Authority to Disclose CCC hearing information order issued under section 60(2) of the CC Act. The order sets out the range of investigative or intelligence purposes for which hearings materials may be used.

491. To issue an order, the Request to Disclose CCC hearings information (ss. 60(2) and s. 202(1) and Authority to Disclose CCC hearing information (ss. 60(2) and 202(1)) templates are prepared and approved by the delegate of the Chairperson under section 270 of the CC Act.⁹²

492. The positions which have been delegated the power to disclose hearings information are:

- a) SEO (Crime);
- b) SEO (Corruption);
- c) Executive Director Corruption Strategy, Prevention and Legal;⁹³ and

⁸⁹ CC Act, ss. 190(1), (2).

⁹⁰ For crime hearings, see s. 190(2) CC Act; for corruption hearings see s. 190(2A).

⁹¹ CC Act, s. 197(2).

⁹² See Operations Manual MP03: Hearings (Closed and Public), p. 7.

⁹³ Other than Commission hearings information from crime hearings and crime related intelligence hearings.



- d) Executive Director Crime Hearings and Legal.⁹⁴

Coercively obtained evidence

493. For the purposes of this section, the CCC has interpreted coercively obtained evidence to mean evidence acquired through hearings, directed police interviews and the requirement to provide information orally.⁹⁵ There is other evidence which has not been included into this category for the purposes of this section, i.e. evidence obtained through search warrants and surveillance device warrants.

494. “Hearing materials” means any answer given, statement, document or thing produced to the CCC by an individual upon requirement, despite an objection on the basis of self-incrimination privilege, to giving or producing any of those things.⁹⁶

495. The CCC must not include hearing materials of a person charged in a brief to the ODPP or police prosecutions corps, unless the charge being prosecuted is about a matter described under section 197(3) of the CC Act (including a prosecution for perjury by the witness).⁹⁷

496. Where the brief is being provided to the ODPP for the prosecution of an offence other than under section 197(3):

- a) the CCC must include a description of the nature of the hearing materials in the Index to Brief (i.e. transcript or audio of the accused’s examination on the relevant date)
- b) the Index to Brief provided by the CCC must also set out a description of the nature of:
 - exhibits tendered at CCC hearings (i.e. document or thing)
 - contact details of the CCC case officer(s).

497. In relation to the accused’s copy of the brief:

- a) the CCC must provide a copy of the hearing materials directly to the accused or their lawyer (if known) to comply with the prosecution’s disclosure obligations; and
- b) the CCC must advise the ODPP in writing when copies of the hearing materials have been provided to the accused or their lawyer.

498. If at any time the ODPP wishes to access the hearing materials, then:

- a) the request by the ODPP should be in writing (an email will suffice); and

⁹⁴ Other than Commission hearings information from corruption hearings and corruption related intelligence hearings.

⁹⁵ CC Act, ss. 72 and 75.

⁹⁶ See Operations Manual MM02: Matter briefs, p. 5.

⁹⁷ See Operations Manual MM02: Matter briefs, p. 5.



- b) and before providing any material to the ODPP, the Commission Officer is to ensure that the consent of CCC has been obtained and that otherwise, the disclosure of the materials is not contrary to an authorisation or order of the CCC.⁹⁸

499. If a charge of perjury arises out of a CCC hearing a separate brief of evidence must be prepared for that charge. The brief relating to the perjury charge must not be combined with the brief relating to the substantive charge of which the ODPP has carriage.⁹⁹

Disclosure of CCC hearing information

500. For completeness, Commission Officers are only permitted to disclose or publish CCC hearing information to another entity for specified purposes (either for performing CCC functions or for the purposes of the other entity) where written authority has been given by an authorised delegate under section 60(2). This authority may be given at the same time as, or any time after, a hearing is authorised.¹⁰⁰

MoPI 9

The respective roles played by the Chairperson and other Commission Members in making decisions relevant to the Terms of Reference

501. This item is dealt with in ToR 3(a)(i) and MoPIs 5, 6 and 7.

MoPI 10

The roles played by police officers in making investigative, prosecutorial and other decisions

Investigative decisions

502. The activities involved in managing, planning and conducting a crime or corruption investigation take place at different levels within the Operational Framework. At each level there are distinct roles and responsibilities that are aligned with and supported by the CCC's broader organisational structure and systems.

503. This approach maximises efficiency while minimising risk, by ensuring that individuals with the appropriate knowledge, skills and abilities are responsible for making the right decisions in the right context.

⁹⁸ See Operations Manual section MM02: Matter briefs, p. 2.

⁹⁹ The ODPP should allocate a separate legal officer and Crown Prosecutor to those that are assigned to the substantive charge and ensure that the briefs are kept separated during the prosecution of both matters.

¹⁰⁰ See Operations Manual section MM04: Disclosure and requests for information, p. 10.



504. The Operational Framework recognises four distinct levels at which investigation roles and responsibilities are exercised: governance, management, operational and technical.

505. Police officers have a role in decision-making at all four levels of that framework (note that key decisions support the transition of an investigation across the four stages of its lifecycle, which is described in response to MoPI 2). The role of police officers at each level of the Operational Framework is explained below.

506. At the **governance level**:

- a) One police officer is a member of the ELT; one of its roles is overseeing and reviewing the investigation portfolio. This officer is a Detective Chief Superintendent who holds the position of General Manager Operations Support.
- b) The Commissioner of Police is a member of the CRC and the Controlled Operations Committee.

507. At the **management level** of the Operational Framework, management activities and decisions are the responsibility of the CCC operational Directors and Executive Directors. Management activities and decisions for investigations include: resource allocation for investigations; ensuring investigations meet the CCC's strategic and performance objectives; and ensuring key decisions are understood, translated correctly and given operational effect.

- a) For the crime function, there are two Directors who are Detective Inspectors and one Executive Director who is a Detective Superintendent.
- b) For the corruption function, there are two Directors who are Detective Inspectors and one Executive Director who is a Detective Superintendent.

508. At the **operational level**, operational activities and decisions are the responsibility of Operations Leaders assigned to investigation teams (also known as Case Managers). Operational activities and decisions include the day-to-day work undertaken by the team to progress the investigation towards realising its anticipated value, such as:

- a) implementing key decisions consistent with other governance and management requirements to achieve the purpose of the investigation;
- b) engaging and managing the structured cycles of operational planning and decision-making;
- c) managing or co-ordinating the delivery of investigation products and results; and



- d) leading the investigation team and managing and coordinating the investigation resources.

509. Each Operations Leader has responsibility for an investigation team that comprises individuals from various disciplines and specialists (for example, investigators, professional and technical specialists and support officers), and designates all or some of these officers, including a Primary and Secondary Case Officer, to a particular investigation.

- a) For the crime function, there are two Operations Leaders who are Detective Senior Sergeants.
- b) For the corruption function, there are five Operations Leaders who are Detective Senior Sergeants.

510. At the **technical level**, technical activities and decisions are the responsibility of investigation team members, whether working alone or together, who apply specialist skills or techniques to achieve the requirements of an investigation.

511. Technical activities involve undertaking discrete investigation practices and technical work such as: collecting evidence by interviewing or examining a witness; executing a search warrant, notice or other authority; engaging in surveillance; undertaking forensic analysis; collating, analysing, researching or reviewing information and evidence; preparing reports, correspondence and briefs; and administrative activities to support the investigation.

- a) For the crime function, there are seven Detective Sergeants who are investigators.
- b) For the corruption function, there are ten Detective Sergeants who are investigators.

512. More detail about governance, management, operational, and technical decisions for investigations is provided in the Operations Manual.¹⁰¹

The decision to charge

513. The police role in the decision to charge is described in other MoPIs (see 4, 5-7 and 10).

Other decisions

514. Other decisions by police at the CCC include strategic decisions. Two senior police officers occupy strategic roles: The Commissioner of Police; and the General Manager Operations Support Division.

515. The Commissioner of Police:

¹⁰¹ Specifically, see Operations Manual section MM01: Matter management, planning and conduct.



- a) is a member of the CRC and Controlled Operations Committee;
- b) directs police who are part of taskforces provided for under section 32 of the CC Act; and
- c) decides upon CCC requests for officer secondment or taskforce involvement.

516. The General Manager Operations Support:

- a) is a member of the ELT;
- b) leads the Operations Support Division, which involves the management and coordination of overt and covert operational support operations relating to criminal and intelligence investigations including Intelligence Support, Electronic Collections, Human Source, Physical and Technical Surveillance, Property Management, Forensic Computing support and Witness Protection program; and
- c) is accountable for delivering effective operational support, programs, strategies and business results that contribute to delivering successful outcomes for the CCC.

517. Other decisions by police at the CCC relate to their role in the CCC's witness protection function.

518. The Witness Protection Advisory Committee (WPAC) provides advice to the Chairperson and guidance to the Witness Protection Unit regarding the operation of the witness protection program. It has a combination of civilian (CEO to monitor budget and risk, and senior lawyer to ensure compliance with the WP Act) and three police representatives.

519. The functions of the WPAC include, but are not limited to:

- a) assessing, evaluating and making recommendations and/or directions in respect of: applications for protection; applications for new identity authority; withdrawals and termination from witness protection; advice that protection not offered or that an applicant not be included in the program; and other matters of significance relating to witness protection;
- b) providing recommendations and advice to the Chairperson on issues pertaining to witness protection;
- c) providing guidance and direction to the Witness Protection Unit in the fulfilment of its witness protection role as considered necessary; and
- d) notifying the CCC of significant financial implications in the provision of protection.



520. At the **operational level** of the Operational Framework, operational activities and decisions regarding witness protection are the responsibility of a Witness Protection Officer:

- a) This officer is responsible for providing the appropriate level of witness protection approved in accordance with the CCC policies and procedures, monitoring the protected witness, and ensuring the witness' compliance with the Witness Protection Agreement;
- b) Fifteen police are Witness Protection Officers (at the ranks of Senior Sergeant, Sergeant, Senior Constable).

521. Two police officers in the witness protection function undertake intelligence activities and do not manage operations (at the ranks of Sergeant, Senior Constable).

522. Other decisions by police at the CCC include their involvement in selection and recruitment decisions:

- a) The selection and recruitment of police at the CCC is outlined in response to MoPI 12.
- b) Under the CCC *Recruitment and Selection Policy and Procedure*, a selection panel for any other CCC vacancy may include a seconded police officer at the CCC.
- c) Under the CCC *Recruitment and Selection Policy and Procedure*, at least one external panel member must be included in selection panels for CCC vacancies in excess of 12 months duration that are classified at or above AO7/PO5 level, or exercise decision making authority in accordance with the CCC's HR Decision Making Framework. The external panel member may be a sworn police officer.

MoPI 11

The identification of the statutory or common law powers exercised by seconded police officers when performing duties for the Crime and Corruption Commission;

523. This item is dealt with in ToR 3(b)(iii).

MoPI 12

The processes with respect to the selection and secondment of police, and other officers and employees of the Crime and Corruption Commission, involved in investigations and decisions leading to the commencement of criminal proceedings, including steps taken concerning those persons' suitability, tenure, qualifications and training:



For example, this matter would include any steps taken to ascertain the knowledge and understanding of officers and employees about areas of law other than criminal law that may affect Crime and Corruption Commission corruption investigations, such as the law regulating disclosures made under the Public Interest Disclosure Act 2010; the role of the Queensland Industrial Relations Commission in relation to those disclosures; and any other relevant areas of administrative law, public law, employment law and public sector corporate governance;

524. Please see responses to MoPI 7.4 and 13.

Selection and secondment of police

525. Police officers are currently seconded to the CCC via the CCC Secondment of Police Officers to the Crime and Corruption Commission Policy (QPS Secondment Policy). The secondment policy is established under a QPS-CCC MOU. The QPS Secondment Policy applies to all police secondees, not just those involved in investigations or charging decisions.

526. The QPS Secondment Policy provides for two models of secondment of police to the CCC:

- a) Partnership model; and
- b) the Expression of Interest (EOI) model (see Attachments F-I).

527. The Partnership model applies to Physical Surveillance, Technical Surveillance, Forensic Computing, and Intelligence capabilities. Under the Partnership model, the relevant QPS capability retains ownership of the capability while supporting a shared approach to centralised functions such as capability development, research and development, training and recruitment. This model helps to deliver police officers with similar levels of capability, which ensures the continuity of the Physical Surveillance, Technical Surveillance, Forensic Computing, and Intelligence capabilities even when turnover occurs.

528. The EOI model applies to Investigation, Strategy and Performance, Human Source, and Witness Protection capabilities. Officers seconded under this model apply for vacancies through an expression of interest advertised in the QPS Gazette. Selection is by closed merit and not subject to review, however the provisions of the QPS Grievances Policy 2015/01 may apply. Appointments under this model in excess of 12 months are considered “permanent placements” and officers will vacate their substantive QPS position upon appointment. A panel is convened to assess the merit of the candidates against the capabilities of the role.

529. The term of secondment that applies to seconded police is specific to the “QPS capability” that is being sought, and is operationalised through the different recruitment models (that is, the Expression of Interest model, and the Partnership model, as described above).



530. Broadly, there are three categories for the term of secondment:

- a) Officers being appointed under the partnership model (officers seconded to Physical Surveillance, Technical Surveillance, Forensic Computing) have no minimum tenure, but a maximum tenure of five years, except for where they have successfully applied for an extension of their secondment to eight years based on complexities and changes to the work environment.
- b) Investigators, Strategy and Performance Officers, and Human Source Officers appointed under the EOI model have a minimum tenure of three years, but a maximum tenure of five years.
- c) Witness Protection Officers are appointed under the EOI model and have a minimum tenure of three years, but a maximum tenure of 8 years (the reasoning for this longer term of secondment is provided in the response to MoPI 13).

531. In some circumstances, the term of secondment can be extended beyond the maximum tenure upon consideration of the Police Resource Committee and approval of the CEO. Such circumstances include officers within two years of retirement, exceptional circumstances or where an extension would be operationally beneficial to the CCC.

Skills and competencies of police undertaking investigation roles

532. All police officers working as investigators at the CCC must have a Detective appointment. This approach provides very high confidence in the breadth and depth of experience required to undertake efficient and effective criminal investigations.

533. The QPS is responsible for delivering and deliberating on applicants' suitability for a Detective appointment.

534. A successful applicant for a Detective appointment must:

- a) complete of a minimum three years (36 months) competent performance in an investigative field, with the understanding that the Detective Appointment Board (DAB) may approve a lesser period in specific cases;
- b) successfully complete the Detective Training Program (DTP);¹⁰²
- c) demonstrate breadth and depth of experience in the investigation of a wide range of criminal offences;

¹⁰² Note that successful completion of DTP also results in the issue of the nationally accredited Advanced Diploma of Police Investigations (POL65115).



- d) demonstrate experience in the preparation of full briefs of evidence;
- e) demonstrate commitment to self-development;
- f) demonstrate use of contemporary strategies in the investigation, prevention and disruption of crime;
- g) maintain of a high standard of personal and professional integrity;
- h) demonstrate a professional attitude towards duties, colleagues, superiors and members of the public; and
- i) obtain supporting recommendations from the Officer in Charge, Detective Inspector (or equivalent), and Regional Crime Coordinator (or equivalent).

535. The DTP blends theory with operational practice to develop the required behaviours, skills, and knowledge of contemporary investigators. The DTP has three primary phases:

- a) Investigative processes and procedures – Fundamental investigative skills, legislation, policies and procedures.
- b) Crime-specific processes and procedures – Theory of law and procedures.
- c) Case investigation management skills.

536. Seconded police officers at the CCC maintain training, compliance, and performance standards through a range of tools (see also the section titled *Training and Development*):

- a) The Police Group Application – developed by the CCC in 2020, assists supervisors monitor training, compliance and performance standards, and tracks training modules required by the QPS and the CCC to ensure essential capabilities are maintained. It is also designed to prompt conversations about training compliance during monthly performance meetings.
- b) The CCC “CCCLearning|Professional” training platform.
- c) The QPS “Ignite” training platform.

Recruitment and selection of civilian investigators

537. In addition to seconded police officers, the CCC employs civilian investigators in the corruption jurisdiction.

538. Civilian investigators are engaged as:



- a) Director Corruption Operations – leads investigations and operations relating to allegations of serious or systemic corruption within the Queensland public sector, including the QPS; and
- b) Civilian investigators – investigate and report on cases of alleged corruption within the Queensland public sector, including the QPS through the effective and efficient use of investigative techniques, systems, processes and technologies.

539. Civilian investigators must demonstrate skills, including the capability to:

- a) Analyse and investigate complex matters using contemporary investigative techniques and technologies, demonstrated by experience as an investigator in a law enforcement agency or within the public sector.
- b) Utilise high risk investigative methodologies, including telephone interception, covert physical and technical surveillance, human source activities, controlled operations, search warrants (covert / overt) and coercive hearings.
- c) Demonstrate sound knowledge of criminal or administrative law and its application. Knowledge of, or ability to rapidly acquire knowledge of, the CC Act and other relevant legislation and the CCC's policies and procedures.

Recruitment and selection of other disciplines contributing to multi-disciplinary investigation teams

540. In addition to seconded police officers, there are a range of other Commission Officers who are not police officers who contribute expertise to corruption investigations, including:

- a) Lawyers (responsible for providing independent legal services, including legal advice, to multi-disciplinary teams conducting corruption investigations, including participating in the planning, conduct and oversight of those investigation; and ensuring investigations are conducted within jurisdiction; settling and making applications seeking internal, judicial and other external approvals to exercise the CCC's statutory powers; assisting in and directing the compilation of briefs of evidence for criminal charges and disciplinary proceedings for reference to prosecuting bodies and QCAT, and preparing detailed reports and correspondence on investigations);
- b) Financial Investigators (responsible for preparing and presenting complex financial analyses as an expert witness for use in criminal litigation or corruption proceedings);
- c) Intelligence Analysts (responsible for conducting operational intelligence activities and intelligence projects, and identifying strategic intelligence opportunities);



- d) Forensic Computing Officers (providing technical and specialist forensic computer support; undertaking analyses of electronic storage devices to recover evidence);
- e) The SEO (Corruption) (responsible for leading the corruption function, governance and performance); and
- f) Chairperson.

Knowledge and understanding of areas of law other than criminal law

541. As mentioned above, civilian investigators must demonstrate experience in either criminal or administrative law.

542. Principal and Senior lawyers are required to demonstrate knowledge of both criminal and administrative law as well as have the ability to conduct civil, criminal or quasi-criminal litigation. Experience in disciplinary tribunals or employment law are favourably regarded in the recruitment process for these roles.

543. Lawyers in the Corporate Legal area, and who may provide advice to Corruption investigators, are required to demonstrate experience in either criminal or administrative law.

544. The CCC may seek external legal advice in certain circumstances (i.e. complex matters, resource pressures, conflicts of interest, novel areas of law).

MoPI 13

The numbers of police officers seconded to the Crime and Corruption Commission, the duration of their secondments, and description of their roles

545. The response to this item should be considered alongside the response to ToR 3(a)(i). The secondment policy and process is described in the response to MoPI 12. The decision-making roles of police officers are described in MoPI 10.

Number of police officers seconded

546. The police base establishment at the CCC is 85 officers.

547. As at the 14 March 2022, 88 QPS officers were seconded to the CCC, comprising:

- a) 83 officers against the base establishment of 85 positions (i.e. there were four vacant positions and two of those had temporary relieving arrangements); and
- b) an additional five police officers who were assisting in particular corruption investigations (not shown in organisational chart).



548. Police at the CCC work in three CCC divisions – Crime, Corruption, and Operations Support (see MoPI 1 for a detailed organisational chart).

Description of police officer roles

549. Police officers seconded to the CCC occupy 14 role types, as described below:

- a) Police in an Investigator or Senior Investigator role perform an investigative function in a multi-disciplinary environment.
- b) Police in an Operations Leader (Investigations) role manage specialist investigations unit and allocate resources across multiple investigations.
- c) Police in an Intelligence Officer or Senior Intelligence Officer role provide support and assistance in the delivery of intelligence services, produces and advice.
- d) Police in a Witness Protection Officer role conduct witness protection duties. Police in a Witness Protection Coordinator role manage the Witness Protection Unit.
- e) Police in a Human Source Officer role manage human sources for intelligence collection and to facilitate the proactive targeting of criminal activities which present significant risks to the Queensland community.
- f) Police in a Surveillance Officer role (either Physical or Technical) conduct physical or technical surveillance activities and provide specialist support.
- g) Police in a Senior Surveillance Officer role plan, coordinate, provide, and maintain physical or technical surveillance resources and activities and provide specialist support.
- h) Police in a Team Leader (Surveillance) role provide leadership, supervision, advice and support to Commission Officers on physical or technical surveillance resources and activities.
- i) Police in an Operations Leader (Surveillance) role provide leadership, management and supervision of human and technical resources in the delivery of electronic surveillance and associated specialist technical support services.
- j) Police in a Strategy and Performance Officer role support the General Manager Operations Support by researching and analysing organisational performance and community engagement benchmarks and to advise on effectiveness of strategies.



- k) Police in the General Manager Operations Support role manage and coordinate overt and covert operational support operations relating to criminal, corruption and intelligence investigations (see also the response to MoPI 10).

Duration of secondment

550. The Fitzgerald Inquiry Report recommended that police seconded to the CJC should have a limited term of secondment.

551. Specifically, seconded police officers were recommended to have their term of secondment limited to two to three years (with extension where necessary for the completion of outstanding matters) and to only one rotation in the CJC.¹⁰³

552. In the late 2010s, the CCC executive noted that officers' term of secondment often exceeded five years, which the CCC executive deemed to be inappropriate.

553. At that time, in keeping with the sentiments of the Fitzgerald Inquiry Report and to ensure seconded officers were rotated to refresh their skills, the CCC instigated a significant policy change. This resulted in a new Memorandum of Understanding (MOU) and Concept of Operations between the CCC and QPS (described in response to MoPI 12).

554. As a result of the new MOU, 83% of police officers have a five-year term of secondment (data updated December 2021). Before the policy change, 33% of police officers had a five-year term of secondment.¹⁰⁴

555. Recent data (updated December 2021) shows that the current cohort of seconded police has been at the CCC for between one month and eight years (average: 2.5 years). There are currently three QPS officers seconded to the CCC which meet special considerations provided in the response to MoPI 12) such that their term of secondment, when complete, is scheduled to exceed eight years.¹⁰⁵

556. The CCC provides additional information below about the justification for the eight-year term of secondment for Witness Protection Officers, as it has not been raised elsewhere. For more general information about the term of secondment, including as it applies to Investigators, see the response to MoPI 12.

¹⁰³ Fitzgerald Inquiry Report, p. 311.

¹⁰⁴ It is important to note that 5 years is used here as it is a common term of secondment. Longer terms are provided for in particular circumstances. See the response to MoPI 12 for more information.

¹⁰⁵ Terms of secondment of 8 years and longer are provided for in particular circumstances. See the response to MoPI 12 for more information.



557. Officers seconded to witness protection have a minimum tenure of three years and a maximum tenure of eight years. This longer term of secondment for police officers in witness protection (relative to officers delivering on other functions) recognises the significant investment in training officers must have in witness protection duties. Of note:

- a) generally, officers have no experience in witness protection when they are seconded to the CCC; there is no comparable capability within the QPS; and
- b) officers are required to complete the national course and associated work practicum to gain an Advance Diploma; this typically takes about three years. If they were to return to the QPS after five years the CCC would only have a fully trained officer for two years.

558. On balance, less than a five-year term of secondment for this group is unsuitable on two bases: it would offer a low return on investment, and would result in a comparatively shallow pool of experience delivering on a complex role.

MoPI 14

The referral of matters to the Director of Public Prosecutions, including details about the types of matters that are referred; the form of the referrals; when matters are referred and why referrals are not made at an earlier stage;

559. Chapter MM02 of the Operations Manual, which deals with the referral of matters to the ODPP, was amended in March 2022. This response therefore addresses the CCC's approach to ODPP referrals both before and after those amendments.

Referrals to the ODPP before March 2022

560. Before March 2022, the Operations Manual stated:

"4.2.7 Referring to DPP for advice or where the DPP's consent is required

In relation to corruption operations, the CCC may seek the DPP's advice on a matter or may require the consent of the DPP prior to commencing a prosecution, for example, for secret commission offences. Where advice is being sought, the Chairperson or the relevant Senior Executive Officer will liaise with the DPP or a Deputy Director of Public Prosecutions prior to referring such a matter."

561. Past matters referred to the ODPP exhibit one or more of the following features:



- a) referral is required by legislation (such as s443M of the *Criminal Code Act 1899* (Qld) (Criminal Code) in relation to secret commissions);
- b) sensitivity relating to the profile of the subject of the investigation;
- c) complexity arising from the nature of the charges;
- d) considerable media/public interest; or
- e) differences of opinion within the CCC about whether conduct is criminal in nature, or it.

Referrals to ODPP after March 2022

562. Operations Manual section MM02: Matter briefs was updated in March 2022. It now provides, in relation to the referral of matters to the ODPP:

“4.1.3 Advice on certain cases

In certain cases (determined by reference to the criteria set out below), advice is to be sought from either the Director of Public Prosecutions (DPP) or external senior counsel (Queen’s Counsel or Senior Counsel).

The determination as to whether a matter should be referred for advice on this basis is to be made by the Senior Executive Officer (Crime) or Senior Executive Officer (Corruption), in consultation with the Chairperson. In matters in which the relevant Senior Executive Officer has a conflict of interests which prevents them from making that decision, the determination is to be made by the Executive Director, Crime Hearings & Legal, or Executive Director, Corruption Strategy, Prevention & Legal (again in consultation with the Chairperson) as is appropriate.

The case officer in a given investigation may consider that the matter is one in which external advice should be obtained. In such a case the case officer may seek such advice through the relevant Senior Executive Officer or Executive Director.

Also, in connection with any matter, whether it arises from the exercise of the Commission’s corruption or crime function, where there is a real question as to whether consideration might be given to the indemnification of a person proposed to be charged, this is a matter for DPP, and the matter ought be referred to the DPP for that advice...”

563. Section 4.1.3 of the Operations Manual section MM02: Matter briefs applies to both the corruption and crime functions.



564. Section 4.2.7 of the Operations Manual section MM02: Matter briefs has been slightly updated and now also applies to both Corruption and Crime functions. It states:

“Referring to DPP for advice or where the DPP’s consent is required

The CCC may seek the DPP's advice on a matter or may require the consent of the DPP prior to commencing a prosecution, for example, for secret commission offences. Where advice is being sought, the Chairperson or the relevant Senior Executive Officer will liaise with the DPP or a Deputy Director of Public Prosecutions prior to referring such a matter.”

Types of matters referred

565. Section 4.1.3 of the Operations Manual section MM02: Matter briefs provides:

“Cases in which such advice may be sought are those where the matter involves novel, complex or infrequently used criminal charges or the application of charges in a novel manner, and may include cases in which mandatory suspension or disqualification from office is a consequence of charging or conviction.”

Form of the referrals

566. Section 4.2.7 of the Operations Manual section MM02: Matter briefs provides:

“Prior to referral to DPP

Prior to the referral of the CCC matter brief of evidence to DPP, a minimum of two (2) copies of the brief must be prepared:

1. One (1) copy is to be labelled, “Prosecution Copy” on the spine and face of each volume (if more than one) and is the copy that must be provided to the DPP together with any privileged material for consideration
2. The remaining copy and a copy of the privileged material are to be filed with CCC Records Management.”¹⁰⁶

567. The form of the referral is typically correspondence from the relevant SEO requesting advice on possible criminal charges enclosing any legal observations and a partial or full brief of evidence.

When matters are referred

568. Section 4.1.3 of the Operations Manual section MM02: Matter briefs states, in relation to the timing of a referral:

“Ordinarily the advice will be sought at the conclusion of an investigation, when a decision is to be made as to whether a matter will be referred (for a Corruption

¹⁰⁶ See Operations Manual section MM02: Matter Briefs.



investigation – see s4.2.2), or arising out of a Crime investigation. However, such advice may be sought at any point in the investigation (noting that the conclusion of the investigation, when all evidence has been gathered is generally the appropriate time to obtain advice about prospects). Usually a matter will only be referred for advice where the investigation has formed the view that there is sufficient evidence to form a reasonable suspicion that an offence has been committed.”

569. This approach is intended to ensure that matters with little or no prospects or public interest are not referred to the ODPP.

MoPI 15

Responses from the Director of Public Prosecutions to referrals and whether decisions to lay charges are made by the Crime and Corruption Commission before responses have been received from the Director of Public Prosecutions;

570. ODPP responses to the CCC referrals vary in their form and level of detail.

571. Typically, where the CCC has made a formal, written referral, the ODPP will respond in kind, setting out a written opinion on the sufficiency of evidence to support prosecution or appropriateness of charges. However, on occasion, advice has been provided by Crown Prosecutors working in the ODPP. Commonly this is when the CCC has sought advice in relation to a secret commissions offence. Pursuant to section 442M(3) of the Criminal Code, no prosecution shall be commenced without the consent of a Crown Law Officer. Ultimately, the response has come back from a legal officer of the ODPP. However, on most occasions the advice has been from the DPP.

Referrals from the CCC’s Crime jurisdiction

572. [REDACTED]

573. [REDACTED]

574. [REDACTED]

[REDACTED]



a) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

c) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Referrals from the CCC's Corruption jurisdiction

[REDACTED]
[REDACTED]

a) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



[REDACTED]
[REDACTED]
c)

d)

e)

MoPI 16

A comparison (if known) of the differences between Queensland Police Service briefs of evidence to the Director of Public Prosecutions and referrals to the Director of Public Prosecutions by the Crime and Corruption Commission;

Criminal briefs

576. At the CCC, briefs are prepared by seconded police and civilian Investigators. There is no known material difference between a brief of evidence referred to the ODPP by the QPS or the CCC.

577. For Corruption matters only, all relevant information known to the CCC that supports a charge and supports a defence that may be available to the person should be provided to the Chairperson or the Deputy Chairperson to allow a proper assessment of the matter for Corruption matters.



The same information must be provided to the seconded police officer to consider whether charges should be preferred.

578. In effect, this means a full brief of evidence containing all relevant evidence should be provided to the Chairperson or Deputy Chairperson and to the relevant seconded police officer. Any non-compliance must be approved by the Executive Director, Corruption Operations, or the SEO (Corruption) prior to the brief being finalised.¹⁰⁸

Format of criminal briefs

579. Criminal briefs must include all the evidence the prosecutor proposes to rely upon in a proceeding, or has a duty to adduce as part of the prosecution case, even though that evidence may not be favourable.

580. The brief must include anything in the possession of the prosecution (the CCC) that might help the case for the accused person.

581. The brief must follow the format shown below:

- a) Index to brief
- b) List/non-availability of witnesses (including police/Commission Officers)
- c) Precis
- d) Original Statements
- e) Records of Interview
- f) Exhibits
- g) Child Witness Documentation
- h) Other Things.

582. A full description of what is required between A-H is stipulated in MM02: Matter briefs.¹⁰⁹

583. The brief can be in hard copy or electronic format. For larger briefs, an electronic brief is preferable. The Index to Brief (BOE-C-Form 1) is to be placed at the front of the brief.¹¹⁰

584. Further information relating to disclosures is outlined in Appendix A of the Operations Manual section MM02: Matter briefs.

¹⁰⁸ See Operations Manual section MM02: Matter briefs, p. 9.

¹⁰⁹ See Operations Manual section MM02: Matter briefs, pp. 10-14.

¹¹⁰ See Operations Manual section MM02: Matter briefs, p. 10.



585. The allocated lawyers are to prepare a legal advice (“observations”) in relation to Corruption matters.¹¹¹

586. It is standard practice at the CCC for legal observations to also accompany Corruption briefs provided to the ODPP. In relation to Crime briefs, legal observations are not a requirement, however, each team has an assigned legal officer involved during the investigation to provide legal advice and oversee any legal issues which may arise.

587. Due to their complexity, Corruption briefs may be overseen by a lawyer, however there is no requirement this occur. This does not change the presentation or contents of the brief.

Referrals

588. As stated earlier, the CCC may seek the ODPP’s advice on a matter or may require the consent of the ODPP prior to commencing a prosecution, for example, for secret commission offences. Where advice is being sought, the Chairperson or the relevant SEO will liaise with the Director or a Deputy Director of Public Prosecutions prior to referring such a matter.

589. Prior to the referral of the brief of evidence to the ODPP, a minimum of two copies of the brief must be prepared:

- a) One copy is to be labelled, “Prosecution Copy” on the spine and face of each volume (if more than one) and is the copy that must be provided to the DPP together with any privileged material for consideration.
- b) The remaining copy and a copy of the privileged material are to be filed with CCC Records Management.¹¹²

590. If the ODPP requires additional information, then that is provided at the time of the request.

MoPI 17

The Crime and Corruption Commission’s intention in the future to obtain an independent external advice on complex prosecutions before charges are laid, either from the Director of Public Prosecutions or other appropriately qualified and independent advisor, as described in the Crime and Corruption Commission’s Outline of Submissions to the Committee dated 15 October 2021, paragraph 267:

267. The Commission intends in the future to obtain independent external advice on complex prosecutions before charges are laid, either from the DPP where appropriate, or some other

¹¹¹ See Operations Manual section MM02: Matter briefs, p. 7.

¹¹² See Operations Manual section MM02: Matter briefs, p. 19.



appropriately qualified and independent advisor. The Commission respectfully notes for the PCCC's benefit the evidence of Mr Heaton (3 September 2021, pp 8 - 9) relevant to the question of the DPP providing advice about charges;

591. Refer to Operations Manual section 4.1.3 of MM02: Matter Briefs.

MoPI 18

The Crime and Corruption Commission's opinion concerning the strengths and weaknesses of the Crime and Corruption Act and the adequacy of the Crime and Corruption Commission's powers and resources insofar as they are relevant to the Terms of Reference;

Proposals for legislative reform and the strengths and weaknesses of the CC Act

592. The following proposals address the adequacy and appropriateness of the legislation affecting the performance of the CCC's function, including issues that have previously been raised with the PCCC.

Proposal 1: amend the definition of "corrupt conduct" in section 15 of the CC Act

593. The current definition of "corrupt conduct" in section 15(1) of the CC Act limits the CCC's jurisdiction to investigate certain persons and officeholders. Section 15(1) of the CC Act should be amended to ensure that the CCC has jurisdiction to investigate:

- a) Governor-in-Council appointments;
- b) Officers of Parliament; and
- c) any other appointee or officeholder which does not include a statutory mechanism for grounds for termination of appointment for a disciplinary breach.

594. Section 15(1) of the CC Act is as follows:

"15 Meaning of corrupt conduct

- (1) Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that—
 - (a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—
 - (i) a unit of public administration; or
 - (ii) a person holding an appointment; and



- (b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—
 - (i) is not honest or is not impartial; or
 - (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
 - (iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and
- (c) would, if proved, be—
 - (i) a criminal offence; or
 - (ii) a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment.”

595. As a result of section 15(1)(c)(ii) of the CC Act, conduct of persons who hold certain appointments must, if proved, be a *criminal offence* before it can amount to “corrupt conduct. These positions include:

- a) GIC appointments; and
- b) Officers of Parliament.

596. The CCC submits it should be amended to ensure that GIC appointments and Officers of Parliament are subject to the jurisdiction of the CCC.

Officers of Parliament

597. In Queensland, Officers of Parliament include such positions as:

- a) the Auditor General;
- b) the Ombudsman;
- c) the Information Commissioner; and
- d) the Queensland Integrity Commissioner.

Governor in Council appointments

598. Statutory appointments are embedded in legislation and general positions are not. GIC appointments are statutory appointments which are approved by the Governor. For example, s7 of the *Public Trustee Act 1978* (Qld) (PT Act) states there is a public trustee of Queensland, making it a statutory appointment. Section 9 of the PT Act requires a public trustee to be appointed by the GIC.



599. Certain appointments to some boards and statutory bodies also require consideration and approval by the GIC. Broadly speaking, these include energy, water, rail and ports statutory bodies.

600. Historically, the CCC has taken the approach that section 15(1)(c)(ii) is not engaged unless the relevant statutory framework for the appointment, including the instrument of appointment, provides grounds for the GIC to terminate the appointee for a disciplinary breach. If section 15(1)(c)(ii) is not engaged the result is that to be “corrupt conduct” the relevant conduct of the GIC appointee had to amount to, among other things, if proved, a criminal offence: section 15(1)(c)(i) of the CC Act.

601. In 2018, the CCC’s corruption function was expanded by the inclusion of section 33(2) of the CC Act.¹¹³

602. Section 33(2) is as follows:

- “(2) The commission’s **corruption functions** also include—
- (a) investigating and otherwise dealing with—
 - (i) conduct liable to allow, encourage or cause corrupt conduct; and
 - (ii) conduct connected with corrupt conduct; and
 - (b) investigating whether corrupt conduct or conduct mentioned in paragraph (a)(i) or (ii) may have happened, may be happening or may happen.”

603. The CCC has relied on section 33(2) of the CC Act as a basis to investigate some matters related to GIC appointees. There is good reason however, for this to be made explicit under the CC Act by amending the meaning of “corrupt conduct” in section 15(1).

Proposal 2: Amend section 15(2) of the CC Act to ensure that unlawful lobbying is within the CCC’s jurisdiction

604. The definition of “corrupt conduct” under section 15(2) of the CC Act should be amended to include unlawful lobbying, such as lobbying activity carried out by unregistered lobbyists.

605. Section 15(2) of the CC Act is as follows:

- “(2) **Corrupt conduct** also means conduct of a person, regardless of whether the person holds or held an appointment, that—
- (a) impairs, or could impair, public confidence in public administration; and
 - (b) involves, or could involve, any of the following—
 - (i) collusive tendering;

¹¹³ Pursuant to the *Crime and Corruption and Other Legislation Amendment Act 2018* (Qld).



- (ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)—
 - (A) protecting health or safety of persons;
 - (B) protecting the environment;
 - (C) protecting or managing the use of the State’s natural, cultural, mining or energy resources;
- (iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;
- (iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;
- (v) fraudulently obtaining or retaining an appointment; and
- (c) would, if proved, be—
 - (i) a criminal offence; or
 - (ii) a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment.”

606. In Queensland, a lobbyist must be registered. Lobbying by an unregistered lobbyist is prohibited. Section 71 of the *Integrity Act 2009* (Qld) (Integrity Act) provides that an unregistered lobbyist must not carry out a lobbying activity for a third-party client. There is, however, no penalty for unregistered lobbying and it is not an offence within the Integrity Act.

607. A lobbyist is required to renew their registration annually with a statutory declaration confirming their ongoing suitability. The information is kept on the lobbyist register maintained by the Office of the Integrity Commission (OIC). The OIC maintains the register of lobbyists. The OIC can cancel the registration of a lobbyist pursuant to section 62 of the Integrity Act.

608. A lobbyist or a related person for the lobbyist must not receive, or agree to receive, a success fee in relation to lobbying activity: section 69(2) of the Integrity Act. The maximum penalty is 200 penalty units.

609. A “success fee” is an amount of money or other reward the giving or receiving of all or part of which is contingent on the outcome of lobbying activity: section 69(5) of the Integrity Act.

610. Unregistered lobbying has the potential to impair public confidence in public administration. The CC Act should be amended to make clear that it falls within the CCC’s jurisdiction.

Proposal 3: The availability of the CCC’s investigatory powers under sections 73 and 75 of the CC Act in the performance of its monitoring role

611. The CC Act should be amended to provide for the CCC’s investigatory powers in sections 73 and 75 of the CC Act to apply to the performance of its monitoring role under sections 47 and 48.



612. The CCC has the following monitoring roles under the CC Act:

- a) to monitor investigations by the commissioner of police into police misconduct, including the power to assume responsibility for and complete an investigation: section 47; and
- b) to monitor investigations by public officials into corrupt conduct, including the power to assume responsibility for and complete an investigation: section 48.

613. A “corruption investigation” means “an investigation conducted by the commission in the performance of a corruption function”: Schedule 2 of the CC Act.

614. For a “corruption investigation”, the CCC has the following powers under the CC Act:

- a) to enter and search and seize documents: section 73; and
- b) Notice to Discover information: section 75.

615. The CCC notes also that section 35 states that the CCC may perform its corruption functions by conducting or monitoring investigations, gathering evidence for or ensuring evidence is gathered for the prosecution of persons for offences or for disciplinary proceedings: section 35(1)(h).

616. There is, therefore, some ambiguity about whether the CCC’s monitoring role under section 48 of the CC Act falls within the meaning a “corruption investigation” (and therefore permitting the statutory powers in ss. 73 and 75 to be exercised) or whether the monitoring role falls outside a corruption investigation but nevertheless within the corruption function as described in section 35.

617. The CCC has adopted the practice that its monitoring role as described in sections 47 and 48 of the CC Act does *not* fall within the meaning of a corruption investigation for the purposes of exercising the powers in sections 73 and 75. The CCC’s monitoring role is therefore fulfilled not using these powers but by reliance on its relationships with the agencies it monitors.¹¹⁴

618. In 2015, the CCC recommended that consideration be given to amending section 55 (sharing of intelligence information), section 73 (power to enter etc.), and section 75 (Notice to Discover) to expressly state that the powers may also be exercised in the performance of the CCC’s monitoring role.¹¹⁵ The CCC’s position remains that these amendments are desirable.

¹¹⁴ A similar submission was made by the CCC to the PCCC 5-Year Review (2021, p.18)

¹¹⁵ CCC submission to the PCCC 5-year Review (2016, p. 70).



619. If a unit of public administration refuses to cooperate with the CCC, the question arises whether the CCC should assume responsibility for and complete the investigation itself under sections 47 and 48.

620. In 2016, the PCCC stated:

“the Committee notes that in consequence of the increased emphasis placed on the principle of devolution by the 2014 amendments, investigations of alleged of [sic] corrupt conduct must increasingly be conducted by units of public administration. In order to maintain public confidence in with way in which corruption within a unit of public administration is dealt with – which is the Commission’s overriding responsibility – the Committee considers it desirable that the Commission is given sufficient powers to enable it to effectively monitor the way in which units of public administration deal with complaints.”¹¹⁶

621. The PCCC’s recommendation, although supported by the government in 2016, was not implemented. The CCC supported the recommendation again in 2020 in its submissions to the 2021 five-year review.¹¹⁷

622. In the PCCC 5-Year Review (2021), the PCCC no longer supported the recommendation.¹¹⁸

623. The CCC maintains its view that the powers under sections 73 and 75 should also apply to the performance of its monitoring role under sections 47 and 48.

Proposal 4: The CCC’s corruption prevention function and investigatory powers under sections 73 and 75 of the CC Act

624. After being removed in 2014, the CCC’s corruption prevention function (ss. 23 and 24) was restored in May 2016.¹¹⁹

625. In 2016, the PCCC recommended that the government consider amending sections 55, 73 and 75 of the CC Act to expressly provide that the powers conferred on the CCC by these provisions apply to the performance of the CCC’s corruption prevention function.¹²⁰ This was supported by the CCC at the time and in the PCCC 5-Year Review (2021).¹²¹

626. The CCC maintains its view that the powers under sections 73 and 75 should also apply to the performance of its corruption prevention function.

Proposal 5: Section 197 of the CC Act and the admissibility of evidence for a perjury prosecution

¹¹⁶ CCC submission to the PCCC 5-year Review (2016, p. 73).

¹¹⁷ CCC submission to the PCCC 5-year Review (2016, p. 18).

¹¹⁸ PCCC 5-Year Review (2021, p. 53).

¹¹⁹ Sections 6 and 7 of the *Crime and Corruption Amendment Act 2016* (Qld).

¹²⁰ PCCC 5-Year Review (2016, p. 81).

¹²¹ CCC submission to the PCCC 5-Year Review (2021, p. 19).



627. Section 197 of the CC Act should be amended to clarify that, if a perjury prosecution is commenced relating to the falsity or misleading nature of *an* answer given by a witness during a CCC hearing, then *all* answers given by the witness during the relevant hearing are admissible in those proceedings for the prosecution of the perjury offence.

628. Section 197 is relevantly as follows:

“197 Restriction on use of privileged answers, documents, things or statements disclosed or produced under compulsion

- (1) This section applies if—
 - (a) before an individual answers a question put to the individual by the commission or a commission officer or produces a document or thing or a written statement of information to the commission or a commission officer, the individual claims self-incrimination privilege in relation to the answer or production; and
 - (b) apart from this Act, the individual would not be required to answer the question or produce the document, thing or statement in a proceeding if the individual claimed self-incrimination privilege in relation to the answer or production; and
 - (c) the individual is required to answer the question or produce the document, thing or statement.
- (2) The answer, document, thing or statement given or produced is not admissible in evidence against the individual in any civil, criminal or administrative proceeding.
- (3) However, the answer, document, thing or statement is admissible in a civil, criminal or administrative proceeding—
 - (a) with the individual’s consent; or
 - (b) if the proceeding is about—
 - (i) the falsity or misleading nature of an answer, document, thing or statement mentioned in subsection (1) and given or produced by the individual; or
 - (ii) an offence against this Act; or
 - (iii) a contempt of a person conducting the hearing; or
 - (c) if the proceeding is a proceeding, other than a proceeding for the prosecution of an offence, under the Confiscation Act and the answer, document, thing or statement is admissible under section 265 of that Act.
- ...
- (7) Subsection (2) does not prevent any information, document or other thing obtained as a direct or indirect consequence of the individual giving or producing the answer, document, thing or statement from being admissible in evidence against the



individual in a civil, criminal or administrative proceeding.”

629. Section 197 of the CC Act provides a mechanism for a witness in a CCC hearing to claim self-incrimination privilege. It is commonly referred to as “use immunity”. If the immunity applies, the evidence given is not admissible against the individual in any civil, criminal, or administrative proceeding: section 197(2).

630. Section 197(3) provides exceptions to the immunity which ordinarily applies. One of the exceptions in section 197(3) is a proceeding about the falsity or misleading nature of an answer, document, thing, or statement made or given by an individual during a CCC hearing: section 197(3)(b)(i).

631. An issue arises as to the extent of the self-incrimination privilege and what evidence given during a CCC hearing is inadmissible. Section 197(1) refers to “an answer” and “a question” in the singular, using the definite article. Section 197(3), in providing for the exception against inadmissibility, refers to “the answer” being admissible if the proceeding is about “the falsity or misleading nature of an answer document or thing mentioned in subsection (1)”: section 197(3)(b)(i).

632. In May 2020, a Judge of the District Court ruled on a pre-trial application in relation to evidence to be received at the defendant’s trial for perjury. That ruling considered the interpretation of section 197 of the CC Act.¹²²

633. The effect of the ruling was that:

- a) only the specific answers the subject of the perjury charge were admissible in the proceedings against the defendant. In other words, section 197(3) provides an exception to the “use immunity” only for those answers given in a CCC hearing which are alleged to be lies; and
- b) every other answer given by the defendant during the CCC hearing was inadmissible in the perjury prosecution.

634. If this ruling were followed in other cases, then perjury prosecutions based on allegedly false evidence given in CCC hearings will be unduly difficult and artificial for both the prosecution and defence. Admitting only “the” answer may divorce the specific question(s) and answer(s) the subject of the perjury charge from other important and relevant contextual information given during the hearing.

¹²² As it is a pre-trial ruling, it is not publicly available, in accordance with the usual practice to avoid prejudice to ongoing criminal prosecutions.



635. There is another potential issue about section 197 which may require amendment or clarification. The exemption in section 197(3)(b)(i) only makes the evidence admissible in proceedings about the falsity of the answer given by the witness in the CCC hearing (i.e. not any other type of hearing).
636. Perjury cases (particularly those arising from CCC hearings) are often premised on an inconsistency between, on the one hand, evidence given by the witness in a CCC hearing, and on the other hand, other evidence given in another proceeding – whether that is during the same CCC hearing, at a different CCC hearing, or in a separate criminal proceeding.
637. Section 123A of the Criminal Code allows a jury to make a special finding if they are satisfied that an accused has made two contradictory statements under oath but cannot conclude which is false. A prosecution relying on section 123A would presumably fall within the scope of section 197(2) – being a proceeding about the falsity of an answer given in the CCC hearing.
638. However, situations will arise where the prosecution case for a perjury offence will be that a statement made in a CCC hearing is true, but the true statement falsifies another statement made under oath in another proceeding. Arguably in such circumstances, the true statement made in the CCC hearing would not be admissible: it is not a false or misleading statement made during a CCC hearing.
639. There may also be other circumstances in which a witness’s “truthful” answers may be relevant and probative but not admissible on the construction of section 197 adopted in the recent District Court ruling.
640. For example, a witness may have answered a series of questions about peripheral matters with clarity and ease of recollection, and then feigned memory loss or a lack of recall about the specific events being investigated. In such circumstances the other “truthful” answers may be relevant to assessing whether the witness honestly could not recall other evidence during the CCC hearing. As it stands, section 197 does not make this evidence admissible for this purpose.
641. In its submission to the PCCC 5-Year Review (2021), the CCC submitted that section 197 be amended to provide that, where a prosecution relates to the truth or falsity or misleading nature of an answer given, then all answers given by the witness are admissible in those proceedings.¹²³

¹²³ CCC submission to the PCCC 5-Year Review (2021, p. 49).



642. In the PCCC 5-Year Review (2021), the PCCC agreed and recommended that consideration be given to amending section 197 to ensure clarity about its interpretation and intent (Recommendation 12).¹²⁴

Proposal 6: Use of surveillance device warrants in corruption investigations

643. Amendments should be made to resolve the ambiguity between section 255(5) of the CC Act and section 325(4) of the PPRA regarding the power of a senior police officer to obtain a surveillance device warrant in a corruption investigation.

644. Under section 255(5) of the CC Act, police officers who are seconded to the CCC continue to have the functions and powers of a police officer, which are provided for in the PPRA. The PPRA includes the ability to obtain surveillance device warrants under section 328 of the PPRA.

645. Section 121 of the CC Act also contains the power to apply for a surveillance device warrant.

646. The ambiguity arises because in making the provision for seconded police officers to maintain their functions and powers, section 255(5) of the CC Act provides the following example:

“A police officer seconded to the commission may exercise the powers of a police officer under the *Police Powers and Responsibilities Act 2000* for an **investigation of alleged corruption** involving a relevant offence as defined in section 323 of that Act.” (emphasis added)

647. Section 325(4) of the PPRA provides:

“A function conferred under this chapter in relation to the activities of the CCC is only conferred for the purpose of a function conferred on the CCC under the *Crime and Corruption Act 2001* relating to **major crime** as defined under that Act.” (emphasis added)

648. Key differences between obtaining a surveillance device warrant under the CC Act as and the PPRA are as follows:

- a) 30-day duration in CC Act, as opposed to 90 days in the PPRA;¹²⁵
- b) warrants for a CCC crime investigation (as opposed to a corruption investigation) are only available under the PPRA;¹²⁶ and

¹²⁴ PCCC 5-Year Review (2021, p. 50).

¹²⁵ CC Act, s. 124(1).

¹²⁶ Surveillance device warrants are only authorised for warrants for a corruption investigation: s. 121 CC Act.



- c) only listening devices can be obtained under the CC Act. Under the PPRA, the device may be a data surveillance device, a listening device, an optical surveillance device, or a tracking device, or a device that is a combination of any two or more of the devices.¹²⁷

649. The CCC's view is that it would be preferable to omit subsection (4) from section 325 so that there is no ambiguity.

650. Both the CC Act and the PPRA require the applicant for the surveillance device warrant to be an "authorised commission officer".¹²⁸

651. The PCCC is aware of the ambiguity. In the PCCC 5-Year Review (2021), the PCCC stated:

"While it is acknowledged that the PPRA is explicit in confining surveillance device warrants to the serious category of 'major crime', the CCC continues to use its seconded police officers to obtain surveillance device warrants in relation to corruption investigations, in reliance on the provisions of the CC Act.

Given the CCC's focus on more serious cases of corrupt conduct and cases of systemic corrupt conduct, the committee considers it may be appropriate for the CCC to obtain surveillance device warrants in relation to corruption investigations, by application of both seconded police officers and authorised officers of the CCC (pursuant to the CC Act). It is noted, however, that there may be other relevant considerations which should be further explored by the DJAG."¹²⁹

652. In the PCCC 5-Year Review (2021), the PCCC recommended that the government review:

- a) the "uncertainty and potential conflict" between sections 255 of the CC Act and 325(4) of the PPRA; and
- b) whether a senior Commission Officer, or senior police officer, should be able to obtain surveillance device warrants for both the CCC's major crime and corruption functions (Recommendation 15).¹³⁰

Proposal 7: Claims of privilege and reasonable excuse in corruption and crime investigations

653. The CC Act should be amended:

- a) to permit claims of privilege and reasonable excuse in investigations where hearings are not otherwise already authorised;

¹²⁷ Section 322 of the PPRA.

¹²⁸ Section 121 of the CC Act and s. 322 of the PPRA, definition of "senior officer".

¹²⁹ PCCC 5-Year Review (2021, p. 55).

¹³⁰ PCCC 5-Year Review (2021, p. 55).



- b) to enable a claim of reasonable excuse to apply to a corruption investigative hearing; and
- c) to enable a claim for privilege in a crime hearing to include public interest immunity and parliamentary privilege.

654. In its submission to the PCCC 5-Year Review (2021), the CCC outlined the “in principle” agreement reached as part of the CCC and DJAG joint review to consolidate the following investigative powers.

655. Power to issue notices to discover information or documents: Create a single power to issue notices to discover information and notices to discover documents or things, if the Chairperson reasonably suspects that a person has information relevant to the investigation. This should apply to all of the CCC’s functions whether it be a crime investigation, specific intelligence operation (crime), corruption investigation, specific intelligence operation (corruption), witness protection function or confiscation-related investigation;

656. Reasonable excuse provisions: Create single uniform provisions applying to all the CCC’s functions to:

- a) establish the procedure by which claims of reasonable excuse may be made in response to a notice;
- b) establish a claim of reasonable excuse to refuse to answer a question asked in a hearing;
- c) provide for the safekeeping of documents that are the subject of a claim of reasonable excuse; and
- d) create a new provision for issuing a notice to attend a hearing to establish a claim of reasonable excuse.

657. Failing to answer a question or produce a document: Create single offence provisions applying to all the CCC’s functions for:

- a) failing to answer a question at a hearing; and
- b) failing to produce a document or thing at a hearing.

658. Deciding reasonable excuse and privilege claims: Create a single procedure applying to all the CCC’s functions for:

- a) deciding claims to establish a claim of reasonable excuse at a hearing; and



- b) deciding claims to establish a claim for privilege at a hearing.

659. The meaning of “reasonable excuse”: Establish a uniform application of the concept of “reasonable excuse” from responding to a notice including certain expressly identified privileges.

660. The joint review also identified that consequential amendment may be required to the power to hold hearings under section 176 of the CC Act, as follows:¹³¹

- a) amending section 176(2) to allow for confiscation related investigation hearings for the limited purpose of establishing a claim for reasonable excuse;
- b) amending section 176(3) to permit hearings to be held to establish reasonable excuse or privilege claims in specific intelligence operations if the authorisation under sections 55A or 55D does *not* already authorise the holding of a hearing; and
- c) amending section 176(3) to clarify that section 55D hearings (i.e. immediate response hearings) are part of the CCC’s crime function.

661. In its submissions to the PCCC 5-Year Review (2021), the CCC recommended that section 176 of the CC Act be amended to permit hearings to be undertaken for the purpose of establishing claims of privilege and reasonable excuse in investigations where hearings are not otherwise already authorised.

662. The PCCC did not support the CCC’s recommendation: (at p. 42)

“The committee acknowledges, however, that under the CC Act the CCC is already empowered to hold hearings and determine claims of privilege and reasonable excuse for crime investigations and intelligence and witness protection function hearings. It is noted that under the CC Act, the CCC does not have the ability to hold hearings related to a confiscation investigation, or intelligence investigation (unless authorised under section 55A and 55D of the CC Act).

The committee does not support the extension of the CCC’s powers to hold hearings as proposed by the CCC. The committee recognises the concerns raised by stakeholders about this proposal and considers that these concerns should be taken into account by DJAG in its review of Chapters 3 and 4 of the CC Act.”

663. There are differences in the types of privilege available in corruption and crime investigations. There is an inconsistency between the availability of privilege and reasonable excuse claims in those hearings.

¹³¹ CCC submission to the PCCC 5-Year Review (2021, pp. 41-42).



664. During a crime hearing, a witness must answer a question, unless a person has a reasonable excuse: section 190. The person is not entitled to remain silent or refuse to answer the question on a ground of privilege, other than legal professional privilege: section 190(2).

665. During a corruption hearing, the “reasonable excuse” protection is not available to the witness: section 192. Under section 192(2A), the person is entitled to refuse to answer the question on the grounds of the following privileges:

- a) legal professional privilege;
- b) public interest immunity; or
- c) parliamentary privilege.¹³²

666. The CC Act should be amended to regularise these differences.

Proposal 8: Publication of answers given at a hearing: sections 180(3) and 202 of the CC Act

667. The powers about the publication of hearings evidence in sections 180(3) and 202 of the CC Act should be amended to make them consistent.

668. Section 180(3) of the CC Act allows the presiding officer at a hearing to make orders restricting publication of hearings information.

669. Section 202 of the CC Act provides that a person must not without written consent or contrary to the CCC’s order, publish hearings information.

670. Sections 180 and 202 of the CC Act derive from the separation of the CJ Act and the *Crime Commission Act 1997* (Qld) and then the amalgamation of those two Acts into the CM Act (which is now called the CC Act).

671. There is potential inconsistency between sections 180(3) and 202.

672. Section 180(3) empowers the presiding officer to make orders prohibiting publication. On the other hand, section 202 of the CC Act prohibits publication without the CCC’s consent.

673. The presiding officer is taken to be “the Commission” for the purposes of the hearing: sections 180(4).

674. Most of the CCC’s functions are delegated to the Chairperson and are subdelegated to various officers under section 272. For example, it is on that basis that authorisation of publication of hearings information occurs by a delegated officer under section 60(2).¹³³

¹³² CC Act, s. 192(2A).

¹³³ Note, s. 202 does not have a delegation for publication of hearings information because it is a restrictive provision, as opposed to an authorisation.



675. It is arguable that the presiding officer at a hearing is “functus officio” once the hearing has concluded, and there is therefore no power to revise or vary an order made by the presiding officer during a hearing. This creates an issue if a non-publication order made by the presiding officer restricting publication needs to be varied or amended.

676. The alternative interpretation is that as the presiding officer is the CCC for the purposes of the hearing (s. 180(4)), it is the CCC in all cases which is making decisions about prohibiting publication.

677. The CCC submits that it is desirable for any ambiguity to be resolved by legislative amendment.

Proposal 9: Tenure limits for CEO and Senior Officer positions

678. Each of the CEO and the Senior Officer positions may not be appointed or employed for more than ten years. The CCC submits that these tenure limits should be removed.

679. The restriction on the Senior Officers’ tenure applies not only to continued employment in one role or even one division of the CCC, but within the entire organisation. This may have the perverse result of eliminating from a pool of potential candidates who have worked in different senior positions within the CCC.

680. The limitation on tenure of senior positions leads to implications in relation to staff attraction and retention, innovation, retaining corporate knowledge and succession planning.

681. Any Senior Officer may, for whatever reason, decide not to stay at the CCC for longer than 10 years – but to mandate that as a limit unnecessarily restricts the Senior Officer, and the CCC from most effectively managing their staffing needs.

Approach in other states

682. No term limits are imposed on the Chief Executive Officer’s role in Victoria. In New South Wales, the CEO of ICAC may be appointed for a term not exceeding seven years but is eligible for re-appointment (the legislation does not limit the number of terms a CEO may serve).¹³⁴ In the Australian Capital Territory, the CEO must not be appointed for longer than seven years.¹³⁵

683. The CC Act imposes limited tenure on Senior Officers. It is also the only Act to draw a distinction between officers with duties directly relating to the functions of the CCC, and those whose primary duties are supportive of the functions of the CCC. The rationale for this distinction is unclear. The utility of such a restrictive approach in Queensland is therefore questioned.¹³⁶

¹³⁴ *Independent Commission Against Corruption Act 1988* (NSW), s. 104.

¹³⁵ *Integrity Commission Act 2018* (ACT), s. 42.

¹³⁶ CCC Submission to the PCCC 5-Year Review (2021, p. 35).



Other public sector bodies

684. Similar restrictions do not apply elsewhere in the Queensland public sector. If concerns about reducing corruption risks outweigh the need to retain high-level staff, then the restrictions would be equally applicable across the public sector.

685. In 2020, the CCC recommended to the PCCC 5-Year Review (2021) that the limits on tenure be removed. In its report, the PCCC did not support the proposal.

Proposal 10: Amend section 329

686. The CCC has an extensive legislative and policy framework that sets out the obligations and standards of conduct expected of Commission Officers.

687. The CCC's external notification requirements have changed over time. These notification requirements, outlined in section 329 of the CC Act, are designed to provide a safeguard against the risk of Commission Officers not dealing with allegations of improper conduct against other Commission Officers appropriately.

688. Section 329 of the CC Act provides that the CCC must notify the PCCC and Parliamentary Commissioner of suspected improper conduct by CCC Commissioners and Commission Officers.

689. The duty to notify improper conduct under section 329 was substantially amended in 2014.¹³⁷ The 2014 amendments introduced an obligation on the notifier to disregard the intention of the person engaging in the conduct when forming the relevant suspicion, and included an expansion of the definition of improper conduct by the inclusion of section 329(4)(d) to (h).

690. The 2014 amendments, which added sections 239(4)(d) to (f) have created a regime that requires the CEO to deal with a significant number of reports of suspected improper conduct which, because intention is to be disregarded, requires notification of what is essentially conduct caused by human error, to be reported to the PCCC.

691. Since March 2020, the CEO has personally briefed new Commission Officers during CCC Corporate Induction sessions to ensure they understand the rationale for section 329 and how the CCC reporting process differs from other public sector organisations, the reporting process and their reporting obligations. These briefings are an important part of the governance and compliance framework, and are an effective way to establish expectations upon commencing employment at the CCC.

¹³⁷ *Crime and Misconduct and Other Legislation Amendment Act 2014 (Qld)* (2014 amendments).



692. The CCC supports timely external notification of behaviour that may involve improper conduct but, consistent with the position submitted to (2017) though not accepted by the PCCC (2019), is of the view that the current regime would benefit from refinement.

693. In the CCC's view, the version of section 329 immediately prior to amendment in 2014 more effectively balances the need for transparency and accountability, without imposing an unnecessary and unproductive administrative burden on the CCC or PCCC.

694. At a meeting with the PCCC on 25 February 2022, the Parliamentary Commissioner advised that, in terms of the nature of matters under section 329 of the CC Act, the matters are "by and large human errors" and "not substantive".

Proposal 11: use of audio-visual links or audio links for hearings

695. A presiding officer should retain the power to decide, where appropriate, to use audio visual links to conduct hearings.

696. Section 9 of the *Justice Legislation (COVID-19 Emergency Response – Proceedings and Other Matters) Regulation 2020* (Qld) (COVID Regulation) allows the use of audio-visual links or audio links for some CCC proceedings. The regulations were made under the *COVID-19 Emergency Response Act 2020* (Qld).

697. The COVID Regulation is due to expire on 30 April 2022.

698. In October 2020, the CCC used this power to conduct one examination using audio visual links. The CCC wishes to retain the power for the presiding officer to decide to use audio visual link to conduct hearings, when appropriate.

Proposal 12: use of audio-visual links for protected witnesses

699. The CCC has the witness protection function under the WP Act: section 56 of the CC Act. The WP Act should be amended to provide the ability of protected persons to give evidence via audio-visual link.

700. The WP Act currently does not include the power for protected persons to provide evidence via audio-visual link. In recent years, most requests for witnesses in the witness protection unit to provide evidence via audio-visual link because they are a "special witness" within the meaning of section 21A of the *Evidence Act 1977* (Qld) have been denied.

701. To establish that a witness is a "special witness" also requires disclosure of details, such as the nature and types of threats, that is protected from disclosure under the WP Act.



702. The witness protection unit invests significant resources into court security operations. These resources can be significant, especially in regional areas. A provision in the WP Act that allows, with leave of the court, protected witnesses to give evidence via audio visual link is desirable. For example a similar power is contained in section 31G(1) of the *Witness Protection Act 1995* (NSW).

Proposal 13: The Chief Executive Officer to be appointed by Chairperson and Commissioners

703. The CC Act should be amended to provide for the CEO to be appointed by CCC Commissioners, and given that the CEO reports directly to the Chairperson, it would also be practical and appropriate for leave of longer than 10 days to be approved by the Chairperson.

Amendments to Chapter 3 and 4 of the CC Act

704. In the PCCC 5-Year Review (2016), the PCCC recommended in Recommendation 6 that the government review Chapters 3 and 4 of the CC Act to:

- a) develop uniform provisions with generic application to CCC functions where appropriate; and
- b) clarify which specific privileges are abrogated or unaffected by the provisions of the CC Act.

705. The PCCC also recommended in Recommendation 7 that the government consider a review of the power provisions in the PPRA and the CC Act to:

- a) ensure consistency between the PPRA and the CC Act and between the various functions in the CC Act; and
- b) consider any new powers necessary for the CCC's operations.

706. In March 2019, a joint CCC and DJAG project commenced. The initial focus was on Recommendation 6.

707. The objective of the review of Chapters 3 and 4 of the CC Act is to enhance understanding and efficiency for users by:

- a) rationalising the existing legislative provisions that set out the coercive powers available to the CCC when performing its functions with a view to developing uniform provisions with generic application to its functions;
- b) clarifying which common law privileges apply and which are abrogated in relation to the exercise of the CCC's powers; and



- c) streamlining processes to minimise confusion, reduce inconsistencies and improve operational effectiveness.

708. The review of Chapters 3 and 4 of the CC Act is nearly finished. The DJAG and CCC reviewers have identified proposed uniform provisions and streamlined processes for the exercise of coercive powers.

709. These powers include the powers exercised and procedures followed outside the context of a hearing, such as the following:

- a) power to require an oral hearing or written statement of information/notice to discover information;
- b) power to require documents or other things/notice to discover documents or things;
- c) power to enter;
- d) initial procedure for a claim of reasonable excuse/privilege;
- e) procedure for safekeeping documents or things the subject to a claim of reasonable excuse; and
- f) notice to attend a hearing, including to establish a claim or reasonable excuse in relation to requirements to discover documents or things or information.

710. The powers also include the powers exercised and procedures followed at a hearing, such as the following:

- a) refusal to answer questions at a hearing;
- b) refusal to produce documents or things at a hearing;
- c) deciding claims at a hearing to establish a claim of reasonable excuse/privilege; and
- d) establishing a uniform application of the concept of reasonable excuse to include privileges.

711. To allow flexibility, the CCC also submits that consideration should also be given to permitting a power to withdraw a requirement in a notice to discover (s. 75) and a notice to produce for confiscation related investigation (s. 74A) for grounds other than a claim of privilege. Alternatively, a power to waive compliance with parts of a notice should be considered. The decision to withdraw a notice or waive a requirement ought to be permitted to be made by a different delegate of the same or higher seniority. This accounts for the prospect that the decision-maker who issued the notice might be unavailable.



712. The review of the reasonable excuse provisions in Chapter 3 of the CC Act, including the application of common law and statutory privileges in response to the exercise of various coercive powers, will require further consideration. The reviewers have identified the need for uniform reasonable excuse/privilege provisions noting that there is a different definition of privilege for crime investigations, intelligence or witness protection functions compared to corruption investigations and confiscation related investigations. The process for determining reasonable excuse also differs.

713. Following the review of the Chapter 3 and 4, the next stage of the joint review will address Recommendation 7 of the PCCC 5-Year Review (2016).

714. DJAG advised that work on the review is continuing. The CCC is committed to the completion of the review and the achievement of the relevant amendments which directly affect its powers and functions.

Resources

715. Regarding the adequacy of “resources”, the CCC’s effectiveness is (in part) contingent on the magnitude of the funding it receives, and on the mechanism to access funding.

716. Recent work by Transparency International Australia offers guidance to anti-corruption agencies¹³⁸ on both fronts.

717. On the magnitude of funding, Transparency International Australia makes the general observation that current government expenditure on anti-corruption agencies is low, both at the state level and at the existing and proposed federal levels.¹³⁹

718. Transparency International Australia recommends a minimum anti-corruption agency budget of 0.15% of public expenditure.

719. The CCC’s budget in 2020-21 represented 0.10% of the Queensland Government’s general government sector expenses for that financial year.

720. On the mechanism to access funding, Transparency International Australia has recommended safeguards on the funding of Australian anti-corruption agencies, as an additional protection from political interference.

¹³⁸ Transparency International Australia defines an anti-corruption agency as “a permanent government-funded agency created to prevent and control corruption that is separate from other government agencies but is accountable to parliament, the justice ministry or the executive. It centralises information on domestic corruption that is circulated to the media and other law enforcement agencies, and is recognised by, and accessible to, the public” (https://images.transparencycdn.org/images/2017_ACA_Background_Paper.pdf p. 6).

¹³⁹ Transparency International Australia 2020. *Australia’s National Integrity System: The blueprint for action*: https://transparency.org.au/wp-content/uploads/2020/11/NIS_FULL_REPORT_Web.pdf.



721. The CCC's current funding model reflects what was recommended by the Fitzgerald Inquiry Report: funding is provided by separate appropriations from Parliament, via a Minister. Under the current model, the CCC makes a budget submission to the Attorney-General which is then considered by the Cabinet Budget Review Committee (CBRC). If approved, the CBRC provides the funds to DJAG which then distributes the funds on a quarterly basis to the CCC.

722. Citing the risk of underfunding on political grounds,¹⁴⁰ the contemporary recommendation is for "Greater financial independence for all core integrity agencies and Australia's judiciaries based on 4-year, direct budget allocations by parliament."¹⁴¹

723. In its submission to the PCCC 5-Year Review (2021), the CCC argued that an independent funding model is consistent and most compatible with its statutory independence.

724. The majority of the PCCC declined to recommend a change to the funding model, however, it is noted that a Statement of Reservation made by the Member for Scenic Rim, the Member for Coomera and the member for Oodgeroo with respect to this issue.

MoPI 19

Details of successful prosecutions in the last 3 years resulting from Crime and Corruption Commission investigations (ie prosecutions that resulted in conviction), including the numbers of such prosecutions; a broad description of the allegations raised in each prosecution; the level of complexity involved in each prosecution; and the position of defendant (eg police officer, public servant, elected official) in each case;

725. There were successful Crime prosecutions against 38 different defendants in the last 3 years. For details, refer to Attachment J.

726. There were successful Corruption prosecutions against 37 different defendants in the last 3 years. For details, refer to Attachment J.

Level of complexity

727. Many factors weigh into prosecutorial complexity, such as:

- a) the number of defendants in a matter, co-defendants, and issues of joinder generally;

¹⁴⁰ In 2014, the Office of the Australian Information Commissioner was completely defunded by the federal government of the day. See for example: <https://www.theguardian.com/australia-news/2016/may/04/malcolm-turnbull-abandons-abbott-era-plan-to-abolish-privacy-watchdog>

¹⁴¹ Transparency International Australia 2020, p. 7..



- b) the nature of the offence, for example if it includes proving mental elements or if it means proving inferences drawn from circumstantial evidence (which is often the case with mental elements)
- c) if the conduct was subtle or well-disguised as legitimate;
- d) the use and management of evidence obtained through covert techniques, including telecommunications interception, surveillance devices, hearings;
- e) if evidence relied on in proving the elements of corruption related offences is primarily circumstantial;
- f) for computer hacking/misuse, the main issues are proving “unauthorised” and “benefit/detriment” which can be difficult;
- g) differing determinations as to legal issues and related proceedings (e.g. findings about materiality in perjury matters, related administrative law proceedings);
- h) cooperation of witnesses/defendants (s. 13A statements, use-derivative use undertaking sought / required);
- i) arresting officer returning to the QPS during the prosecution;
- j) change in prosecutor/s during the prosecution;
- k) witness management (difficult when witnesses are from remote areas);
- l) extensive court processes (e.g. committal hearing with cross-examination v Registry committal, s. 590AA proceedings);
- m) frequency of disclosure requests (ODPP/defence) and requests for additional evidence; and
- n) frequency of defence submissions.

728. Some of these features are inherent to the charges; others relate to defence strategies, evidentiary issues or practicalities associated with protracted prosecutions.

Relevance to CCC-initiated prosecutions

729. Corruption, by its nature, is insidious and difficult to prove. Offences commonly investigated by the CCC include official corruption,¹⁴² secret commissions,¹⁴³ fraud,¹⁴⁴ and misconduct in relation

¹⁴² Criminal Code, s. 87.

¹⁴³ Ibid, s. 442B.

¹⁴⁴ Ibid, s. 408C.



to public office¹⁴⁵ which involve mental elements such as “dishonesty”, “corruptly” and “intentionally”.

730. There is rarely direct evidence of these mental elements. The only objective evidence might be a money trail between the relevant parties, which may be disguised or have an innocent explanation. This creates potential difficulties in excluding, as would be required at trial, reasonable hypotheses consistent with an accused’s innocence.

731. These challenges are compounded by the fact that corrupt conduct is frequently engaged in by persons who are well-placed, by virtue of their appointment and level of acquired knowledge to exploit loopholes and conceal offending.

732. Corruption also has many of the characteristics of a “victimless crime”. If, for example, contractors are skimming money from a major public contract, it is difficult to detect, prove and prosecute. Particularly, when co-offender/s hold an appointment in the unit of public administration. The evidence requires a careful analysis of voluminous financial records by a forensic accountant. Prosecuting crimes of this intricacy and complexity therefore requires specialised skills and substantial resources.

733. In both the crime and corruption functions, the CCC has commenced prosecutions for perjury¹⁴⁶ which contains the mental element “knowingly”.

734. Regarding level of complexity, the following key has been developed for both crime and corruption investigations:

- a) Low: This categorisation has been used for matters that are routine and involve simple issues of fact and law. None, or few, of the features outlined above might have been present. They typically only require small briefs of evidence.
- b) Medium: This categorisation has been used for matters that are routine but have some elements of complexity, such as difficult issues of fact and law, some use of covert powers, availability of witnesses and evidence within the jurisdiction and within complex environments. For discontinued matters, the matter had some of the features described above and those features were typically relevant to the reason for discontinuing the matter.
- c) High: This categorisation has been used for matters involving multiple features described above. That is, they might have involved novel/difficult issues of fact and

¹⁴⁵ Ibid, s. 92A.

¹⁴⁶ Ibid, s. 123.



law, sophisticated and well supported defendants, conflicts of interest that needed to be carefully managed, and extensive use of covert powers, management of human sources and/or law enforcement participants.

MoPI 20

Details of unsuccessful prosecutions in the last 3 years (ie prosecutions that were discontinued or resulted in acquittals), including the numbers of such prosecutions; a broad description of the allegations raised in each prosecution; the level of complexity involved in each prosecution; and the position of the defendant (eg police officer, public servant, elected official) in each case;

735. There were unsuccessful Crime prosecutions against six different defendants in the last three years. For details, refer to Attachment K.

736. There were unsuccessful Corruption prosecutions against 34 different defendants in the last three years. For details, refer to Attachment K.

MoPI 21

The number of cases in the last 3 years in which a decision has been made not to commence a prosecution after a Crime and Corruption Commission investigation;

737. A “case”, for the purposes of this response, is defined as an overarching investigation.

Crime investigations not resulting in a prosecution

738. There was only one Crime investigation finalised between 1 July 2018 and 30 June 2021 where no prosecutions were commenced against any subject officers.

739. This was “Operation Komodo”, which involved an investigation into a solicitor allegedly acting as a professional facilitator to support the criminal activities of an organised crime network. It was determined that there was insufficient evidence to commence prosecutions. The ODPP was not consulted in relation to the decision not to commence a prosecution.

Corruption investigations not resulting in a prosecution

740. In the last three years, there have been 136 corruption investigations in which a decision has been made not to commence a prosecution following a corruption investigation.

741. In matters where no criminal charges were laid, alternative outcomes may have been:

- a) not substantiated and no further action required;
- b) substantiated and referred for consideration of disciplinary action;



- c) substantiated but no further action possible (such as where the subject officer has left employment and post-separation disciplinary action is not available);
- d) referred to UPA for further investigation (such as minor disciplinary or procedural issues which are able to be investigated separately from the more serious allegations, but are not “serious or systemic corruption”, and so should be devolved to the UPA); and
- e) prevention outcomes identified – this would include where opportunities are identified through the investigation for legislative reform, education, or improvement in fraud and corruption controls to reduce the risk of issues recurring.

MoPI 22

The number of corruption investigations carried out by public officials pursuant to referrals by the Crime and Corruption Commission, subject to the Commission’s monitoring role, and the number of successful and unsuccessful prosecutions arising from those investigations;

742. The CCC conducts two types of monitoring (reviews) in its corruption jurisdiction. These are described in section 4.1.2 of Operations Manual section IM04: Implementation of assessment decisions.

743. The table below sets out the total number of reviews carried out by the CCC in each period, and the number of each type of review.

Date period	Number of reviews completed	Merit and Compliance Review	Public Interest Review
2018-19	326	138	188
2019-20	308	162	146
2020-21	233	119	114
2021-22 (to 08/03/22)	161	63	98

The number of successful and unsuccessful prosecutions arising from those investigations

744. The CCC assumed responsibility for the investigation of the following matters, and the outcome (if finalised) is noted.



Date period	Matter number	Date assumed	Investigation outcome
2018-19	CO-17-1427	24/07/2018	Not substantiated
	CO-18-1454	04/12/2018	Matter referred back to QPS for further investigation, with no further advice to the CCC required.
	CO-18-2119	11/04/2019	Not substantiated
2019-20	CO-16-1475	05/07/2019	Not yet finalised Some allegations substantiated
2020-21	CO-20-1791	13/10/2020	Not yet finalised Some allegations substantiated
	CO-20-2014	29/10/2020	The matter was returned to QPS for further investigation and action, and continues to be monitored by the CCC as a Public Interest Review.
	CO-21-1028	21/05/2021	Not yet finalised Some allegations substantiated
2021-22	CO-20-2280	18/11/2021	Not yet finalised
(to 08/03/2022)	CO-20-2443	20/01/2022	Not yet finalised

745. For all matters the CCC monitors, the CCC records the outcomes of whether allegations are substantiated or not. It does not record whether a public official has referred a matter to the QPS or whether the QPS has preferred charges or commenced prosecution proceedings.

MoPI 23

The number of investigations during which compelled evidence has been obtained by the Crime and Corruption Commission and steps and processes utilised by the Crime and Corruption Commission to ensure that prosecutions are not defeated by contravention of legal requirements relating to the use of compelled evidence;



Compelled evidence

746. For the purposes of this response, “compelled evidenced” is defined as a reference to the examination of a witness in a corruption, crime or intelligence function hearing.

747. In relation to Crime (this does not include referred investigations and intelligence investigations), hearings evidence has been obtained in six investigations finalised over the last three financial years from 2018-19 to 2020-21.

748. In relation to Corruption, hearings evidence has been obtained in 20 of the 147 investigations finalised over the last three financial years from 2018-19 to 2020-21.

Processes relating to the use of compelled evidence

749. Section 4.1. of the Operations Manual section MM02: Matter briefs details controls in respect of compelled hearings evidence (see also response to MoPI 8).

750. Operations Manual section MP12 outlines the policy and procedure dealing with property evidence. It provides a process to ensure privileged evidence is separated and handled appropriately, subject to any privilege claim being determined.

751. Operations Manual section MM04 outlines the policies and/or procedures regarding disclosures and requests for information. This further ensures that prosecutions are not defeated by the contravention of legal requirements relating to the improper disclosure of compelled evidence.

752. As of February 2022, approvals to disclose pursuant to section 60(2) of the CC Act are generally subject to a condition that the approval does not authorise disclosure for an investigation into, or a prosecution for, offences of perjury arising from a crime hearing. This condition will not apply where such a prosecution is the purpose of the authority.

MoPI 24

The proposition (which is reflected in paragraph 183 of the submission to the Committee by McInnes Wilson Lawyers dated 26 July 2021) that concerns about compelled evidence that may arise from a requirement that referrals to the Director of Public Prosecutions should be made before prosecutions stemming from Crime and Corruption Commission corruption investigations are commenced can be better managed by limiting the evidence that is provided to the Director of Public Prosecutions:

183. Whilst the DPP’s concerns about being disclosed coerced materials are understandable, this should be better met by greater regulation of the evidence that goes to the DPP – limited as it should



be to admissible evidence in respect of the particular charges favoured in respect of particular persons – rather than by removing this important check on the exercise of power;

Compelled evidence

753. The CCC has the power to obtain “compelled evidence”. The CCC can conduct hearings under section 176 of the CC Act. Generally, a witness at a hearing must answer a question and is not entitled to remain silent or refuse to answer a question on the ground of self-incrimination privilege.

754. If a witness claims self-incrimination privilege before providing an individual answer, the witness is required to answer the question or produce the document, thing, or statement: section 197(1), CC Act. However, the answer, document, thing, or statement given or produced is not admissible in evidence against the individual in any civil, criminal, or administrative proceeding: section 197(2), CC Act.

755. Section 197(3) of the CC Act relates to derivative use of evidence. It provides that section 197(2) does not preclude any information, document, or other thing obtained as a direct or indirect consequence of the witness giving or producing the answer, document, thing, or statement from being admissible against the witness in a civil, criminal, or administrative proceeding.

The former Acting Director of Public Prosecutions’ concerns about compelled evidence

756. In a submission dated 28 July 2015 to the PCCC 5-Year Review (2016), the then Acting Director of Public Prosecutions, Mr Michael Byrne QC, recommended that section 49 of the CC Act should be amended.

757. One of Mr Byrne’s reasons for his view that it was desirable to amend section 49 of the CC Act related to the practical difficulties raised by compelled evidence, as follows:

“The trilogy of decisions, *namely X7 v Australian Crime Commission* (2013) 248 CLR 93, *Lee v New South Wales Crime Commission* (2013) 248 CLR 196 and *Lee v The Queen* (2014) 88 ALJR 656, apply to investigations during which a defendant (whether charged at the time or later) is required to answer questions or otherwise provide evidence in the investigation. For present purposes, examples of that compulsion can be found in notices issued under section 74 of the Act and in the course of hearings conducted under Chapter 4 of the Act where the witness declines to answer questions and is directed to do so.

The decisions mean, from a practical perspective, that where a prosecution is commenced against a witness who was earlier compelled to provide evidence and the prosecution relates to the same subject matter about which the compelled evidence was obtained, the prosecution cannot proceed where there is to be any reliance on



the compulsorily obtained evidence. Further and importantly for the purposes of this submission, it is very likely that the prosecution of any such person will not be permitted to proceed where any witness and/or any member of the prosecution team has been exposed to the compulsorily obtained evidence, even though that evidence is not to be relied upon in the prosecution.

The effect of these decisions on the manner in which briefs referred under section 49 of the Act are considered by this Office is considerable.

The Commission must, pursuant to section 49(4) of the Act, provide all relevant information that, inter alia, supports a charge and supports a defence. Practically, that means that the compulsorily obtained information must be provided to this Office. That in turn means that the senior staff member who provides the initial advice has been exposed to the material and cannot prosecute the matter, should that be the result of the advice provided. The creation of "Chinese walls" around the prosecution results in a double handling of a brief which is usually complex and lengthy and is a further impost on the finite budget resources of this Office."

758. At the time, the CCC supported these submissions and it continues to do so.

The Operations Manual and briefs to the ODPP

759. The Operations Manual governs the preparation of briefs to the ODPP and to police prosecutions which require compelled evidence to be managed appropriately, in the light of the abovementioned High Court authorities.

760. Section 4.1.1 of the Operations Manual section MM02: Matter briefs, addresses the inclusion of "hearing materials" in a criminal brief.

761. "Hearing materials" means any answer given, statement, document or thing produced to the CCC by an individual upon requirement, despite an objection on the basis of self-incrimination privilege, to giving or producing any of those things.¹⁴⁷

Limiting the evidence provided to the ODPP

762. A submission by McInnes Wilson dated 26 July 2021 made to the PCCC Logan Inquiry suggested that the ODPP's concerns about compelled evidence could be managed by "greater regulation of the evidence which goes to the ODPP – limited as it should be to admissible evidence".

763. The CCC's primary view is that section 49 of the CC Act should not be amended to require a report to the ODPP. However, should section 49 be amended to require such a report for the purposes of any prosecution proceedings the ODPP considers warranted, a rule that required any report to

¹⁴⁷ See Operations Manual section MM02: Matter briefs, p. 5.



the ODPP to be limited to “admissible evidence” (i.e. evidence excluding “compelled evidence”) in respect of particular charges is not appropriate.

764. The former section 49 of the CC Act required the CCC to include in a report to the ODPP “all relevant information known to the commission” that supported a charge that may be brought against any person because of the report, or which supported a defence available to that person.

765. The CCC accepts, and the Operations Manual makes clear, that compelled evidence is not admissible against a person in a criminal proceeding.

766. However, the fact of it not being admissible in a criminal proceeding does not mean it would be inappropriate in every case to report the compelled evidence to the ODPP (assuming that the CCC was required to report under s. 49).

767. Although not admissible in the prosecution against the person, there is the exception in section 197(7) of the CC Act which permits derivative use of evidence obtained by compulsion. For example, it would be possible for the ODPP to advise in relation to the proper lawful use which may be made of compelled evidence during any further investigation. The evidence obtained as a direct or indirect consequence is admissible against the person: section 197(7). It is possible too, that the compelled evidence, although not admissible, might reveal other strengths or weaknesses in the admissible evidence for the proposed prosecution against the individual (or others) or affect factors weighing on the public interest in the decision to prosecute.

768. It would still follow that the involvement of ODPP officers in the giving of the advice would disqualify them from any later prosecution against the person. The matter would need to be prosecuted by others at the ODPP who had not had access to the compelled evidence.

MoPI 25

The proposition (reflected in paragraph 16 of the submission by Local Government Association of Queensland to the Committee dated 22 July 2021) that section 49 of the Crime and Corruption Act should be amended to require report to and review by the Director of Public Prosecutions before criminal charges are laid in respect of “disqualifying offences” (within the meaning of section 153(6) of the Local Government Act 2009):

16. Accordingly, in response to this term of reference, it is the LGAQ's submission that section 49 is not appropriate and sufficient and should be amended to prevent what happened to the former councillors of Logan City Council from ever occurring again. At the very least, from the LGAQ's perspective, section 49 should be amended to require an intended CCC decision to lay criminal charges for a "disqualifying offence" (see section 153(6) of the Local Government Act 2009 - discussed



further in response to term of reference k below) to be first subject to a report to, and review by, the DPP, prior to such charges being laid; and

769. A detailed response is provided earlier in the submission when addressing ToR 3(c).

MoPI 26

Insofar as they are relevant to the terms of reference, the impact of the pandemic and associated restrictions, including technical obstacles, on the operations of the Crime and Corruption Commission.

Capability, planning and preparation, and resilience

770. During the pandemic, the CCC accelerated its remote working capability project to enable all Commission Officers to work remotely including the purchase of new information technology hardware and software.

771. At the peak of the pandemic, many Commission Officers were generally working remotely and at times every commission officer who could work remotely was required to do so. This result was made possible by:

- a) the CCC's strong investment in Information and Communication Technologies (ICT) and digital, which enabled the CCC to be an early adopter and leader in digital innovation;
- b) the resilience of Commission Officers, who demonstrated a sustained commitment to deliver crucial services that keep our community safe; and
- c) extensive planning and preparation, at agency, divisional and business unit levels, to identify innovative ways to deliver service lines remotely.

Redeployment of police officers and civilian officers

772. During the pandemic a total of 33 QPS officers seconded to the CCC, and five civilian Commission Officers, were redeployed to assist with COVID-19 activities in the QPS and other government agencies. The average duration of deployment for QPS officers was 21 days.

773. While it is difficult to quantify the impact of the pandemic and the associated restrictions, the CCC was impacted by the deployments.

Impact on the number of witnesses examined



774. 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.

775. Attachment L also details the total number of witnesses examined from 2016-17 financial year to 2020-21 for corruption investigations for corruption.

776. While there was no noticeable decrease in the number of referrals to the CCC, the pandemic resulted in a significant reduction in witnesses examined during 2020-21, specifically in relation to crime investigations.

777. 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.

Remote hearings

778. Section 9 of the COVID Regulation allows the use of audio visual links or audio links for particular proceedings.

779. In October 2020, the CCC conducted one examination using this power for a Corruption investigation. The hearing was conducted as Melbourne was declared a hotspot and to minimise the impact on the witness and Commission Officers.

PCCC oversight

780. Fewer PCCC-CCC joint meetings were held, and when they were, they were restricted to the Chairperson, CEO, SEO (Corruption) and SEO (Crime).





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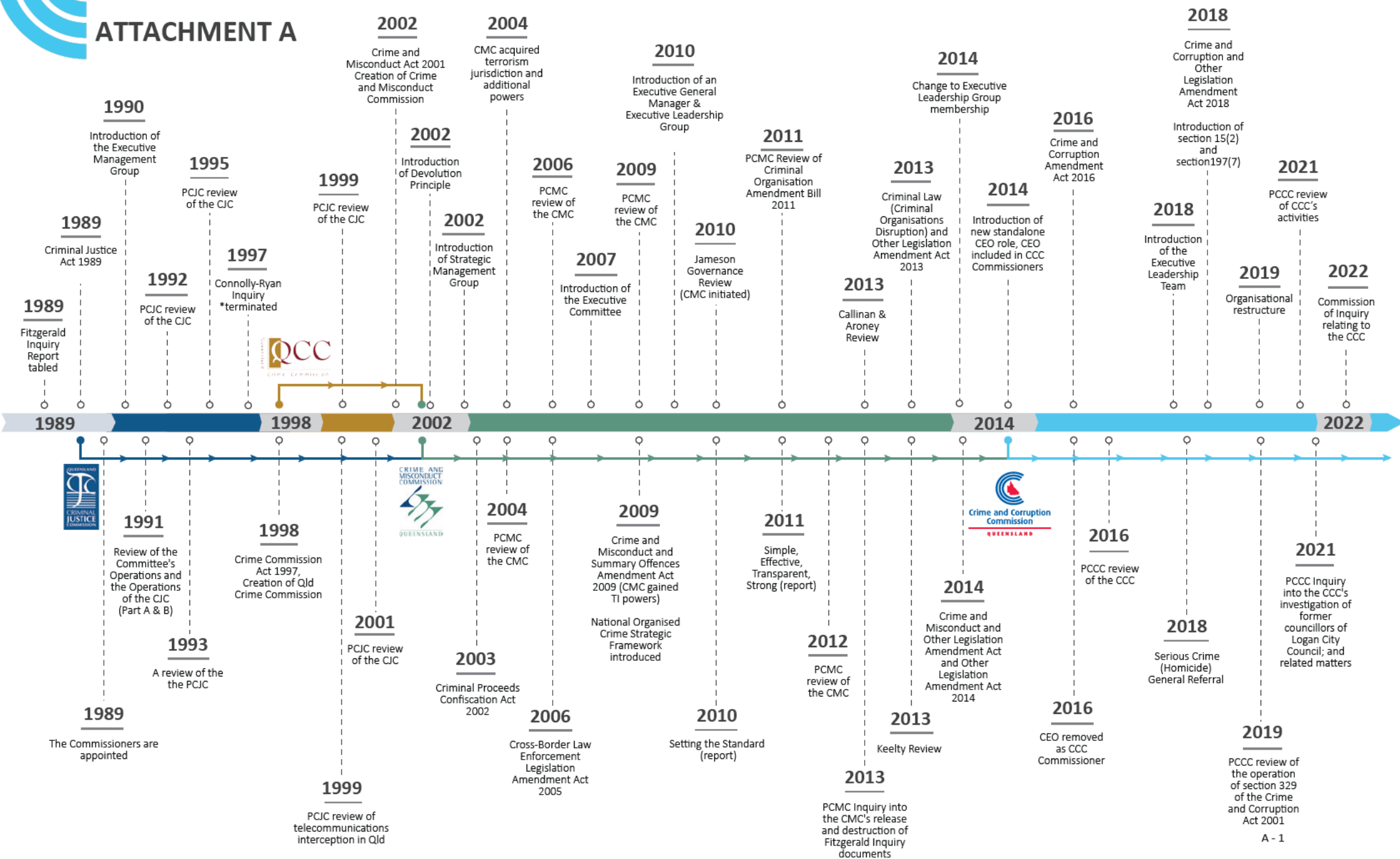
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www.ccc.qld.gov.au/subscribe

Agency Changes – Key events from the CJC to now



ATTACHMENT A



Annotations for Agency Changes – Key events from the CJC to now

1989, Fitzgerald Inquiry Report tabled:¹ The Fitzgerald Inquiry Report is tabled in Parliament in July 1989. The Inquiry is a comprehensive investigation of long-term systemic political corruption and abuse of power in Qld. It results in the establishment of the CCC's predecessor – the CJC, and the Electoral and Administrative Review Commission.

1989, Criminal Justice Act 1989:² The CJC comes into effect with the CJ Act (31 October 1989) and undertakes operations on a limited basis between November 1989 and April 1990. The remainder of the CJ Act comes into effect from 22 April 1990.

1989, The Commissioners are appointed:³ The Commissioners are appointed – comprising of a Chairperson and four Commissioners.

1990, Introduction of the Executive Management Group:⁴ Official introduction of the Executive Management Group – comprising of the Chairperson, General Counsel and Divisional Directors.

1991, Review of the Committee's Operations and Operations of the CJC (Part A & B):⁵ Review of the operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission (Report 9 & 13). 43 recommendations for consideration.

1992, PCJC review of the CJC:⁶ Review of the operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission (Report 18). Seven recommendations for consideration.

1993, A review of the PCJC:⁷ Review of the past twelve months operation of the Parliamentary Criminal Justice Committee of the 47th Parliament (Report 22). No recommendations for consideration.

1995, PCJC review of the CJC:⁸ A report of a review of the activities of the Criminal Justice Commission pursuant to s.118(1)(f) of the Criminal Justice Act 1989 (Report 26). 30 recommendations for consideration.

1997, Connolly-Ryan Inquiry:⁹ Inquiry into the effectiveness of the CJC. The Inquiry results in a budget reduction of \$2.7 million which in turn results in the reduction of 42 CJC staff. The Inquiry is subsequently terminated by the Supreme Court for apprehension bias.

1998, Crime Commission Act 1997:¹⁰ The QCC becomes an entity on 2 March 1998 under the Crime Commission Act 1997. The primary purpose of the QCC is to investigate organised crime and paedophilia.

1999, PCJC review of the CJC:¹¹ A report of a review of the activities of the Criminal Justice Commission pursuant to s.118(1)(f) of the Criminal Justice Act 1989 (Report 45). 53 recommendations for consideration.

1999, PCJC review of telecommunications interception in Qld:¹² The review examines whether Qld law enforcement agencies (including the CJC) should have the power of telecommunications interception. The PCJC concludes that the ability of the CJC, QPS and QCC to combat crime would be enhanced by giving such agencies telecommunication interception power.

¹ <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/The-Fitzgerald-Inquiry-Report-1989.pdf>

² <https://www.legislation.qld.gov.au/view/pdf/inforce/1996-08-08/act-1989-111> and <https://www.ccc.qld.gov.au/about-us/our-history/criminal-justice-commission/year-1-1989-90-establishment-criminal-justice>

³ <https://www.ccc.qld.gov.au/about-us/our-history/criminal-justice-commission/year-1-1989-90-establishment-criminal-justice>

⁴ <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CJC/CJC-Annual-Report-1990-1991-v1.pdf>, see page 3.

⁵ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/R-9ED4/rpt-13-031291.pdf> and

<https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/1991/4691T100.pdf>

⁶ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/APCJC-D12C/rpt-22-101293.pdf>

⁷ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/APCJC-D12C/rpt-22-101293.pdf>

⁸ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/TYRCJC1994-43E8/rpt-26-210295.pdf>

⁹ <https://www.ccc.qld.gov.au/about-us/our-history/criminal-justice-commission/year-8-1996-97-public-sector-and-police-probes-cjc>

¹⁰ <https://www.ccc.qld.gov.au/about-us/our-history/queensland-crime-commission> and

http://classic.austlii.edu.au/au/legis/qld/repealed_act/cca1997183.pdf

¹¹ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/TYRCJC1998-399F/Report45-cjcReview.pdf>

¹² <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/RN50TQ1999-708B/Report50.pdf>

2001, PCJC review of the CJC:¹³ Three Yearly Review of the Criminal Justice Commission – A report of a review of the activities of the Criminal Justice Commission pursuant to section 118(1)(f) of the Criminal Justice Act 1989 (Report 55). 131 recommendations for consideration.

2002, *Crime and Misconduct Act 2001*:¹⁴ In 2001, the State Government signals its intention to merge the CJC and the QCC to form a single entity, the CMC. The CMC commences on 1 January 2002, absorbing the roles of the former CJC and the former QCC.

2002, Introduction of Devolution Principle:¹⁵ The principle outlines that, subject to the cooperation and public interest principles and the capacity of the agency, action to prevent and deal with corruption in an agency should generally happen in the agency. The practical effect of devolution means that a complaint received by the CMC is not automatically investigated by the CMC. The CMC may refer it to the department, agency or council concerned, or to the QPS to action.

2002, Introduction of Strategic Management Group:¹⁶ The Executive Management Group is replaced by the Strategic Management Group – comprising of the Chairperson, Assistant Commissioner (Crime), Assistant Commissioner (Misconduct), Executive Director, Director Intelligence & Information, Director Research & Prevention, Director Complaints Services, Director Misconduct Investigations, Director Witness Protection & Operations Support, Director Crime Operations.

2003, *Criminal Proceeds Confiscation Act 2002*:¹⁷ The CPC Act commences in January 2003 and gives Qld a civil confiscation scheme (administered by the CMC) that enables the proceeds of illegal activity to be recovered whether or not the owner of the property was convicted of any illegal activity.

2004, CMC acquires terrorism jurisdiction and additional powers:¹⁸ The *Terrorism (Community Safety) Amendment Act 2004* comes into effect in April 2004 and amends provisions in the CM Act. The CMC acquires terrorism jurisdiction and additional powers to investigate terrorism offences.

2004, PCMC review of the CMC:¹⁹ Three Year Review of the Crime and Misconduct Commission (Report 64). 50 recommendations for consideration.

2006, *Cross-Border Law Enforcement Legislation Amendment Act 2005*:²⁰ The Act commences in June 2006 and outlines extensive changes to legislative provisions governing surveillance device warrants. It introduces a requirement for the Parliamentary Crime and Misconduct Commissioner to inspect the records of the Commission at six monthly intervals to ensure CMC compliance with legislation.

2006, PCMC review of the CMC:²¹ Three Year Review of the Crime and Misconduct Commission (Report 71). 28 recommendations for consideration.

2007, Introduction of the Executive Committee:²² The Executive Management Group is replaced by the Executive Committee – comprising of the Chairperson, Assistant Commissioner (Crime), Assistant Commissioner (Misconduct), Executive Director, Director Intelligence, Director Complaints Services, Director Witness Protection & Operations Support, Director Research and Prevention, Director Misconduct Investigations, Director, Crime Operations, Director Financial Investigations, Director Information Management.

¹³ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/RN50TQ1999-708B/Report50.pdf>

¹⁴ <https://www.legislation.qld.gov.au/view/pdf/inforce/2013-09-06/act-2001-069> and <https://www.ccc.qld.gov.au/about-us/our-history/year-1-2001-2002-creation-cmc-major-step-forward-queensland-law-enforcement>

¹⁵ <https://www.ccc.qld.gov.au/node/641>

¹⁶ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/TYRCMC2004-6D15/Report64-3yrReview.pdf>, see page 6.

¹⁷ <https://www.legislation.qld.gov.au/view/pdf/inforce/2017-03-05/act-2002-068> and <https://www.ccc.qld.gov.au/about-us/our-history/crime-and-misconduct-commission/year-2-2002-2003-scott-volkers-case-and>

¹⁸ <https://www.legislation.qld.gov.au/view/pdf/asmade/act-2004-008>

¹⁹ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/TYRCMC2004-6D15/Report64-3yrReview.pdf>

²⁰ <https://www.legislation.qld.gov.au/view/pdf/asmade/act-2005-045>

²¹ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/TYRCMC2006-D862/Report71-3yrReview.pdf>

²² <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/TYRCMC2006-D862/Report71-3yrReview.pdf> see page 107.

2009, PCMC review of the CMC:²³ Three Yearly Review of the Crime and Misconduct Commission Report 79. 29 recommendations for consideration.

2009, *Crime and Misconduct and Summary Offences Amendment Act 2009*:²⁴ In May 2009, the Commonwealth and Qld governments enact important legislation which enables the CMC to undertake lawful interception of telecommunications in the context of investigating criminal and misconduct offences.

2009, National Organised Crime Strategic Framework:²⁵ The Framework establishes a comprehensive and coordinated national and state response to target the most significant threats from organised crime.

2010, Introduction of an Executive General Manager and Executive Leadership Group:²⁶ Introduction of an Executive General Manager to assist the Chairperson in executing the CEO role. The Executive Committee is replaced by the Executive Leadership Group – comprising of the Chairperson, Executive General Manager, Assistant Commissioner Crime, Assistant Commissioner Misconduct.

2010, Jameson Governance Review (CMC initiated):²⁷ Review of internal governance and corporate practices of the CMC by external consultant. Recommended changes to executive structure.

2010, Setting the Standard:²⁸ CMC review of the QPS disciplinary system. 11 recommendations for consideration to improve the operation of the QPS disciplinary system.

2011, Simple, Effective, Transparent, Strong:²⁹ The Premier calls for an independent review, based on a recommendation from the CMC report 'Setting the Standard' into the QPS disciplinary system. 57 recommendations for consideration in relation to the police complaint management system.

2011, PCMC review of the *Criminal Organisation Amendment Bill 2011*:³⁰ Parliamentary Crime and Misconduct Committee review of the Criminal Organisation Amendment Bill 2011 in relation to CMC and QPS activities. The PCMC recommends the Criminal Organisation Amendment Bill 2011 be passed.

2012, PCMC review of the CMC:³¹ Three Yearly Review of the Crime and Misconduct Commission (Report 86). 38 recommendations for consideration.

2013, PCMC Inquiry into CMC's release and destruction of Fitzgerald Inquiry documents:³² The PCMC examines how and why the Fitzgerald Documents became publicly disseminated and why there was a failure to properly address the improper dissemination of the documents. 24 recommendations for consideration.

2013, Callinan and Aroney Review:³³ Review of the CMC, with a focus on improving the operation of the agencies responsible for fulfilling functions under the CM Act, and to ensure prioritisation of focus on criminal organisations, major crime and corruption. 17 recommendations for consideration, most notably, it recommends an administrative re-structure of the CMC.

2013, Keelty Review:³⁴ Administrative review of the CMC focusing on management systems of investigations and complaints, corporate governance and CMC work culture. 15 recommendations for consideration.

²³ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/TYRCMC2009-D94B/Report79-3yrReview.pdf>

²⁴ <https://documents.parliament.qld.gov.au/bills/2009/2356/09AC012-9f73.pdf>

²⁵ <https://www.homeaffairs.gov.au/criminal-justice/files/organised-crime-strategic-framework-overview.pdf>

²⁶ <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CMC/CMC-Annual-Report-2010-2011.pdf>

²⁷ Report available to the Commission of Inquiry, upon request. CCC reference: 13/067537 & 13/067541.

²⁸ <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CMC/Setting-the-standard-2010.pdf>

²⁹ <https://cabinet.qld.gov.au/documents/2011/May/Police%20Discipline%20Review/Attachments/independent-review-of-qld-police-discipline-system.pdf>

³⁰ <https://documents.parliament.qld.gov.au/tp/2011/5311T5702.pdf>

³¹ <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=171&id=3121>

³² <https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2013/5413T2362.pdf>

³³ <http://classic.austlii.edu.au/au/journals/UQLRS/2013/5.html>

³⁴ <https://documents.parliament.qld.gov.au/TableOffice/TabledPapers/2013/5413T4088.pdf>

2013, Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013:³⁵ In October 2013, amendments to the CM Act give the CMC new functions enabling it to hold hearings to gather intelligence about criminal activity by these organisations or associated misconduct by public officials. The powers also give the CMC an immediate-response function relating to outlaw motor-cycle groups (OMCGs) related incidents that threaten public safety or are anticipated threats to public safety.

2014, Crime and Misconduct and Other Legislation Amendment Act 2014:³⁶ The CCC comes into being on 1 July 2014 with the introduction of the CC Act. Under the new legislation, the crime function retains its focus on the most serious crime, albeit with some additional powers to use in intelligence hearings, while new corruption provisions require the CCC to focus on investigating serious and systemic corruption within units of public administration. The CCC's corruption prevention function is removed.

2014, Change to Executive Leadership Group membership³⁷: Changes to the Executive Leadership Group membership – Chairperson, CEO, Executive Director Crime, Executive Director Corruption, Executive Operations Support, Director Proceeds of Crime, Director Legal Services, Executive Director Strategic and Corporate Services.

2014, Introduction of new standalone CEO role, CEO included in CCC Commissioners:³⁸ Establishment of new stand-alone CEO role, the CEO is included in the CCC Commissioners.

2016, Crime and Corruption Amendment Act 2016:³⁹ Amendments to the CC Act allow any person appearing before a CCC hearing to seek financial assistance towards legal representation. Reinstatement of CCC corruption prevention function.

2016, CEO removed as CCC Commissioner:⁴⁰ The CEO is removed as a Commissioner, but retained a five member Commission by adding an additional Ordinary Commissioner.

2016, PCCC review of the CCC:⁴¹ Review of the Crime and Corruption Commission (Report 97). 29 recommendations for consideration.

2018, Introduction of the Executive Leadership Team:⁴² The Executive Leadership Group is replaced by the Executive Leadership Team – CEO, SEO Crime, SEO Corruption, Executive Director Operations Support, Executive Director Corporate Services, Executive Director Strategy, Innovation & Insights.

2018, Serious Crime (Homicide) General Referral:⁴³ In April 2018, a new general referral stream is introduced, the Serious Crime (Homicide) General Referral, which includes offences of homicide occurring since 1 January 1952.

2018, Crime and Corruption and Other Legislation Amendment Act 2018:⁴⁴ Introduction of section 15(2), which widens the definition of corrupt conduct to include certain conduct that impairs or could impair public confidence in public administration. Introduction of section 197(7), which establishes that derivative evidence obtained in a hearing may be used in subsequent proceedings against the witness or if a hearing identifies a new line of inquiry, it may be investigated, and admissible evidence gathered from it.

2019, Organisational restructure:⁴⁵ Organisational structure reform initiated by the CCC. The purpose of the re-structure is to simplify the governance structure, and clarify accountabilities, group related capabilities and increase centralisation.

³⁵ <https://www.legislation.qld.gov.au/view/pdf/asmade/act-2013-064>

³⁶ <https://www.ccc.qld.gov.au/about-us/our-history/year-13-2013-14-two-major-reports-and-transitioning-cmc-ccc>

³⁷ <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/CCC-Annual-Report-2014-2015.pdf> see page 33.

³⁸ <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/CCC-Annual-Report-2014-2015.pdf>, see page 33.

³⁹ <https://www.legislation.qld.gov.au/view/pdf/asmade/act-2016-019>

⁴⁰ <https://documents.parliament.qld.gov.au/tp/2016/5516T1027.pdf>, see page 19.

⁴¹ <https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2016/5516T1027.pdf>

⁴² <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/CCC-Annual-Report-2018-19.pdf>, see page 65.

⁴³ <https://www.ccc.qld.gov.au/crime/our-crime-jurisdiction-what-ccc-investigates>

⁴⁴ <https://www.legislation.qld.gov.au/view/pdf/asmade/act-2018-029>

⁴⁵ Further information available to the Commission of Inquiry, upon request.

2019, PCCC review of the operation of section 329 of the *Crime and Corruption Act 2001*:⁴⁶ Parliamentary Crime and Corruption Committee review of Section 329 of the CC Act which places the duty on the CCC to notify the PCCC of suspected improper conduct by commissioners or commission officers. The review makes three recommendations, most notably, that the PCCC work with the CCC to review the protocols of notifications made under section 329 of the CC Act.

2021, PCCC review of the CCC's activities:⁴⁷ Review of the Crime and Corruption Commission's activities (Report 106). 30 recommendations for consideration.

2021, PCCC Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters:⁴⁸ The Inquiry investigating the issues raised by the Local Government Association of Queensland in relation to the CCC's investigation of former councillors of Logan City Council in 2018. The Inquiry makes 6 recommendations, most notably, it recommended the Qld Government instigate a review of the CCC's structure.

2022, Commission of Inquiry relating to the CCC:⁴⁹ January 2022, the Qld Premier announces an independent Commission of Inquiry into aspects of Qld's CCC.

⁴⁶ <https://documents.parliament.qld.gov.au/tableoffice/tables/papers/2019/5619T2215.pdf>

⁴⁷ <https://documents.parliament.qld.gov.au/tp/2021/5721T932.pdf>

⁴⁸ <https://documents.parliament.qld.gov.au/tp/2021/5721T2051.pdf>

⁴⁹ <https://www.justice.qld.gov.au/initiatives/crime-corruption-commission-inquiry>

ATTACHMENT B

Operating Model Governance Arrangements

March 2022



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1. Operating model

1.1 Overview

The Operating Model describes the way that the Crime and Corruption Commission (CCC) approaches its business and includes the guiding principles for the way that operational activities are undertaken.

The Operating Model encompasses the following:

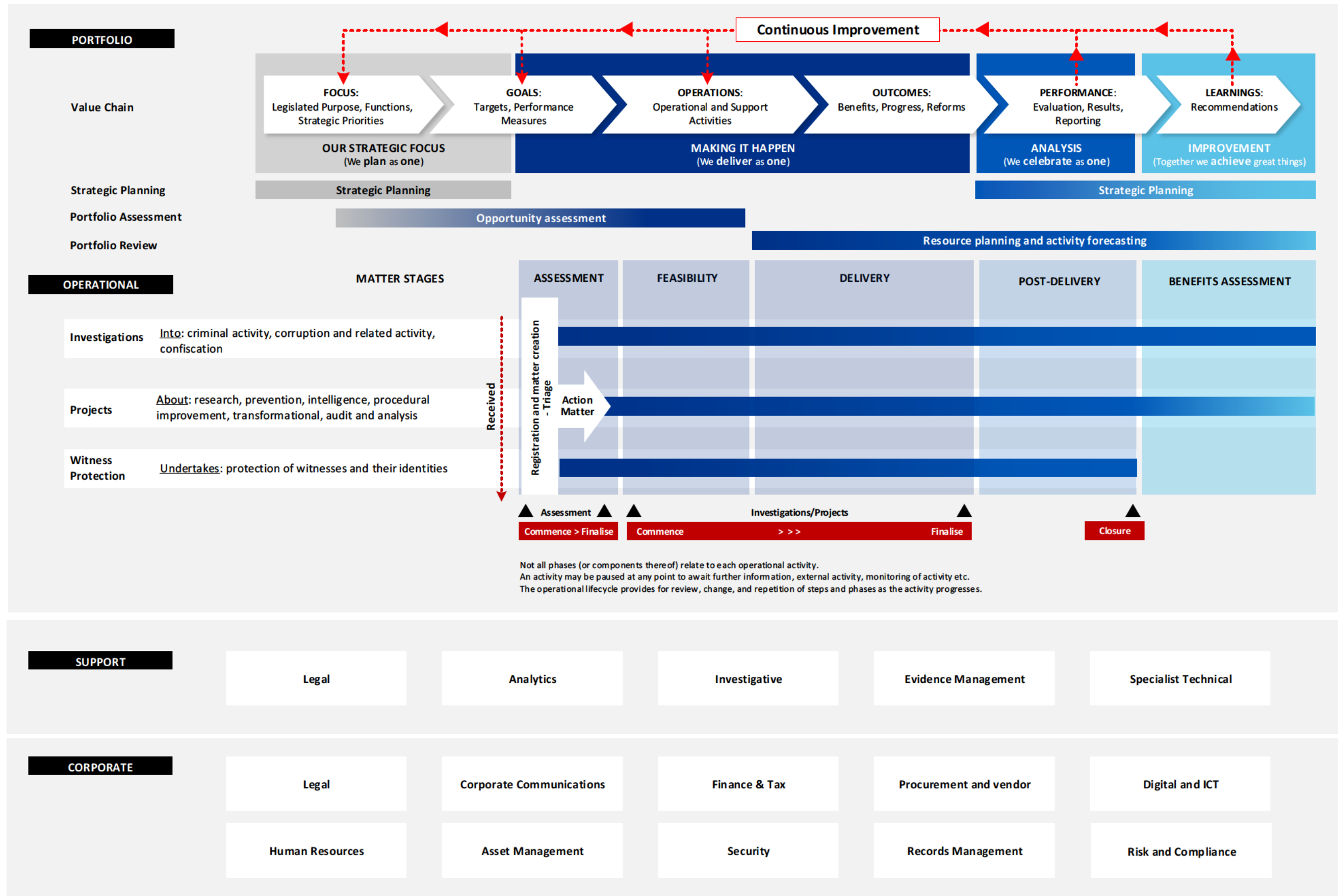
- CCC value chain – the process and activities through which the CCC creates and delivers value
- activity groups that deliver actions, products and services
- phases of activity undertaken throughout the lifecycle of the CCC's operational activities
- governance oversight systems and structures that ensure value is delivered to the CCC's customers and stakeholders.

1.2 Operating Model Lifecycle

The Operating Model Lifecycle (Figure 1) describes the relationship between the purpose and legislated functions of the CCC and its operational activities.

Figure 1:

OPERATING MODEL – LIFECYCLE



Activity Groups

The Lifecycle includes four key activity groups:

- Portfolio
- Operation
- Support
- Corporate.

The **portfolio activities** of the CCC encompass the operational governance and management work of the Senior Officers of the CCC. They are responsible for the development and implementation of the Strategic Plan, assessing emerging issues and opportunities, and the approval and review of consequential operational activities.

The Portfolio Strategic Planning process occurs at the beginning and at the end of the Operating Lifecycle. It is where 'We Plan as One' and where 'Together we Achieve Great Things'. The strategic planning process takes into account the purposes of the CCC, its functional responsibilities, and its strategic priorities as determined by legislation, government policy and the priorities set by the Commission and oversight bodies. Through the strategic planning process we evaluate the performance of the CCC and incorporate learnings back into the planning cycle.

- The *Portfolio Assessment* process translates the strategic plan to assess emerging issues and opportunities and determine which should progress as operational activities. Forward planning and scheduling of priority operational activities ensures that they are resourced and targeted.
- The *Portfolio Review* process evaluates the progress and performance of operational activities as they are undertaken, to ensure that they are capable of delivering the desired outcomes. The process also plays a leading role in post-delivery reviews.

The **operational activities** of the CCC represent the core business and frontline work of the CCC. Three types of operational activities are undertaken in the CCC:

- *Investigations* into criminal activity, corruption and related activity¹ and confiscation
- *Projects* about research, prevention, intelligence, procedural improvement, audit and analysis, and transformational programs and projects
- *Witness protection* undertakes protecting witnesses and their identities.

Support activities are undertaken to facilitate the effectiveness of the operational activities and are essential to successful execution. However, they are not undertaken as a CCC function for their own independent outputs. The specific expertise inherent in these activities is drawn upon at different stages of each type of operational activity.

Corporate activities support operational activities and strategy implementation.

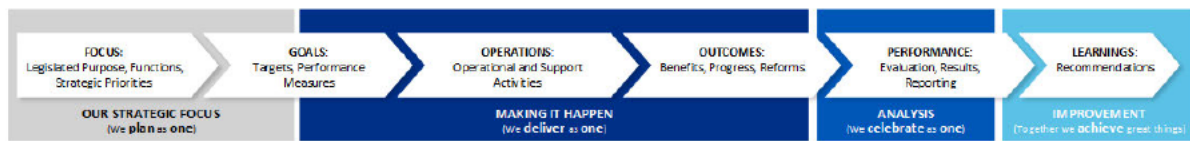
Value Chain

The CCC delivers value to:

- clients (entities with whom it undertakes transactions)
- customers (entities to whom it provides services)
- stakeholders (entities who have an active or material interest in the outcomes of the CCC).

¹ Corruption related activity includes monitoring of matters by the CCC.

The Value Chain indicates *how* the CCC engages the 1CCC way of working² and involves six steps:



For example:

- ‘We Plan as One’ by maintaining a focus on our legislated purposes and strategic priorities and setting realistic, achievable and measurable goals and targets.
- ‘We Deliver as One’ by taking those goals, targets and related performance measures and applying them to our operational and support services to ensure that they are focused on the delivery of real outcomes that deliver benefits to the Queensland community.
- ‘We Celebrate as One’ by recognising and celebrating our results and our collective achievements.
- ‘Together we achieve great things’ enables us to take pride in our work and apply lessons learned into our Operating Model as continuous improvement.

Phases

The operational activities undertaken by the CCC progress through distinct phases. There are five phases identified:

Phase	Description
Assessment	Opportunities for or the need to commence the investigation or project are considered, assessed and determined.
Feasibility	The business justification for the investigation or project is considered in more detail, and the scope is outlined in a high-level delivery plan.
Delivery	The investigation or project proceeds through one or more incremental steps, each involving cycles of planning, exploration and adaption, until anticipated outcomes are identified or delivered.
Post-Delivery	Outcomes arising from the project are implemented and their progress monitored.
Benefits Assessment	No further activities are being undertaken but the benefits of the investigation or project may be assessed and continue to be realised.

Not all phases (or components thereof) relate to every operational activity. Some activities go into great detail in some phases, whereas others pass quickly through them or bypass particular phases. This flexibility is broadly governed by business rules that reflect legislative requirements and operational reality. For example, an ‘immediate response’ activity in a crime investigation may not involve a discrete feasibility phase as that consideration may be undertaken as part of the assessment phase.

² The CCC Intranet provides details about the 1CCC way of working.

Also, an activity may be paused at any point to await further information or external activity, and assessment of that activity. The model allows operational flexibility and agility to pause and resume activities without losing continuity.

The operational lifecycle provides for regular review, change, and repetition of steps within phases as the activity progresses.

Although identified as an operational activity, witness protection is subject to different oversight and governance arrangements to those in place for investigations and projects. The WPAC assesses, evaluates and makes recommendations and/or directions in relation to witness protection matters (e.g. the WPAC assesses applications for protection), provides recommendations and strategic advice to the CCC Chairperson for decision-making, and advises the Commission of significant financial implications in the provision of protection.

1.3 Relationship with the Operational Framework

The CCC's Operational Framework has been established in tandem with the Operating Model and articulates a set of consistent standards that address how incoming matters (i.e. operational activities) are identified and managed throughout their lifecycle.

2. Governance Arrangements

2.1 Overview

Effective governance is a critical component of the Operating Model. While good governance is embedded across all stages of the Operating Model Lifecycle, the Executive Leadership Team (ELT) plays an important leadership role with respect to developing and implementing strategy, coordinating resources and evaluating performance.

Further information on how the ELT considers and reviews matters as part of its portfolio assessment and review functions is included under the ELT committee charter, and *Part 2: Matter Management* of the CCC's Operations Manual³.

Operational oversight of the witness protection function is the responsibility of the Witness Protection Advisory Committee (WPAC). In addition to its role in assisting the Chairperson, the WPAC has a monitoring and review function which ensures witness protection is provided in accordance with the *Witness Protection Act 2000* (Qld). The WPAC's governance functions are incorporated into its committee charter.

2.2 Management of matters

The governance of a matter (throughout its lifecycle) is represented on the following page (refer to **Figure 2**). The figure describes the ELT's functions of Portfolio Assessment and Portfolio Review and how these relate to the delivery of operational activities.

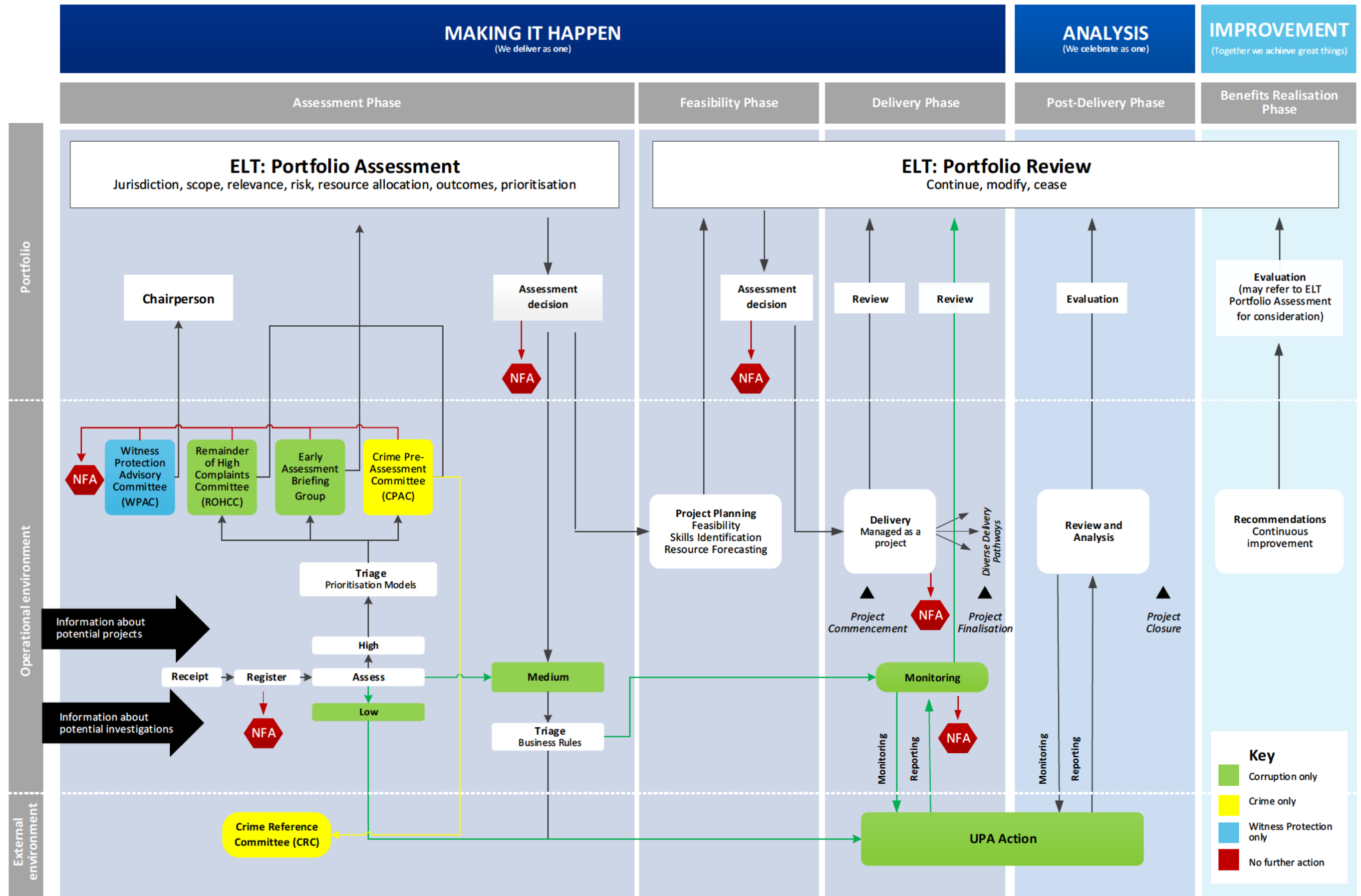
The ELT's involvement in assessment and review of operational matters is intended to ensure that the ELT can coordinate resources and monitor operational activity to ensure ongoing feasibility of operations and delivery of intended outcomes.

Governance deliberations and decisions by the CCC are subject to strict legislative and policy guidelines addressing areas such as assessment processes, assessment decisions, referrals, public interest disclosures, and the receiving and recording of information.

³ Published in the CCC's Governance, Risk and Compliance (GRC) system.

Figure 2:

Portfolio Governance Arrangements



2.3 Portfolio Assessment

At Portfolio Assessment the CCC balances strategic risks, opportunities and priorities with a view to ensuring that only those matters that are of potential value in delivering the CCC's strategic objectives are selected for investigation by the CCC.

Throughout the processing and assessment of information about potential investigations and projects, the details and decisions are captured in the CCC's case management system, providing a comprehensive audit path.

The CCC has written procedures about how information concerning potential investigations and projects is assessed and the process to initiate a matter (refer Operations Manual) or project.

Assessment (including triaging process)

Once information about potential investigations and project is received and recorded, it is triaged at the operational level to determine the appropriate assessment and oversight path. Business rules and risk matrices relevant to the type of matter being considered guide this triaging and are designed to ensure the assessment process and assessment decisions:

- take into account all relevant legislative requirements and considerations
- are coherent, consistent, objective and ethical
- are as transparent and accountable as possible
- reflect an efficient and effective use of the CCC's resources
- are appropriate having regard to the objectives and priorities of the CCC.

The *Complaint Categorisation and Prioritisation Model* (CCPM) guides the assessment and prioritisation of corruption matters.

Complaints or information about alleged corruption that have been assessed as 'Low' or 'medium' are referred directly to the relevant entity or Unit of Public Administration (UPA) for their attention, either with no further action or monitoring by the CCC.

Corruption matters categorised as 'High' are triaged to determine whether the matter should be referred to the Remainder of High Complaints Committee (ROHCC) or ELT Portfolio Assessment for an assessment decision. The Early Assessment Briefing Group also meets on an ad-hoc basis to consider High complaints which, because of their nature, need decisions made quickly.

The *Matter Prioritisation Model* guides the assessment and prioritisation of crime matters. An initial assessment is undertaken by the Crime Pre-Assessment Committee (CPAC) prior to a matter being referred to the ELT Portfolio Assessment.

Proposals for research, prevention, intelligence and other projects, once registered are submitted to the ELT Portfolio Assessment with an accompanying project proposal prepared by the project proponent following the necessary consultations.

ELT (Portfolio Assessment)

As outlined above, to deliver its Portfolio Assessment responsibilities the ELT requires matters to be triaged and briefs prepared using the CCC's Portfolio Assessment Methodology, prior to consideration.

The ELT (Portfolio Assessment) delivers these governance functions by:

- determining the prioritisation of matters, including assessing which investigations and projects become part of the ongoing work program
- considering and advising on policy, transformational, research and intelligence projects required to support the CCC's legislated purposes and functions
- considering resource commitments.

The ELT (Portfolio Assessment) may determine that a matter requires no further action or should be referred to the relevant unit of public administration (UPA) for action (in relation to corruption matters). Otherwise the ELT will allocate a Project Lead, the necessary resources to progress to the next phase in the Operating Model lifecycle and incorporate the matter into the ongoing work program. Some matters may be referred back to the operational area for additional assessment or further information.

The ELT may invite subject matter experts to the assessment meeting to elaborate on the briefing and assist with deliberations.

Outside of the arrangements detailed above, the Crime Reference Committee (CRC) and Joint Assessment and Moderation Committee (JAMC) continue to consider matters according to their legislative functions and/or terms of reference.

2.4 Portfolio Review

The ELT is the body that oversees, reviews and monitors investigations and projects that have been approved for implementation and are in the Feasibility, Delivery, Post-Delivery or Benefits Realisation phases.

The ELT (Portfolio Review) delivers these governance functions by:

- approving high-level plans (feasibility and delivery) and key decisions for matters
- coordinating resource commitments (e.g. assigning or re-assigning project leads and reviewing resource forecasts)
- overseeing and reviewing matter progress (scope, time, resource use, budget, risks, issues and outcomes)
- monitoring performance of operational activity against plan/s
- monitoring the progress of matters referred to UPAs for action
- ensuring the scope and way in which a matter is being undertaken continues to represent the best value for CCC.

At the end of the Feasibility phase, the ELT will determine whether the investigation or project is to transition to the Delivery phase, and approves the scope, high level delivery plan and resources necessary to progress the investigation or project.

Milestone reviews and project progress reviews are conducted at regular intervals during the Delivery phase.

The CCC has performance measures to monitor the investigations and projects it undertakes. Key performance measures⁴ include but are not limited to:

- efficiency measures
- quality measures

⁴ Refer to the CCC Operational Framework.

- effectiveness measures.

Reviews occur at regular times during the Delivery phase. The project lead is responsible for providing progress reports to the ELT (Portfolio Review) detailing performance against the agreed performance measures for the investigation or project and identifying risks and issues. At each review, the ELT will determine whether the investigation or project is to continue, or if its objectives or approach need to be changed to provide the CCC with the best return on its investment.

3. Metadata

Responsible officer:	Manager, Risk and Compliance	Accountable officer:	A/Executive Director, Strategy and Performance
Date approved:	15 March 2022	Review date:	15 March 2025

4. Appendix A – CCC committee membership

CCC committee membership

Position	Governance Committee	Operational Committees			External Committees	
	ELT	CPAC	ROHCC	WPAC	CRC	JAMC
Chairperson	Chair	-	-	-	Chair	Observer
Chief Executive Officer (CEO)	M	-	-	M	-	-
Senior Executive Officer, Crime	M	-	-	-	M	-
Senior Executive Officer, Corruption	M	-	Co-Chair	-	-	-
General Manager, Operations Support	M	-	-	Chair	-	-
General Manager, Corporate Services	M	-	-	-	-	-
General Manager, Strategy, Innovation and Insights	M	-	-	-	-	-
Executive Director, Crime Operations	-	Chair	-	-	-	-
Executive Director, Crime Hearings & Legal	-	M	-	-	-	-
Director, Crime Operations	-	M	-	-	-	-
Manager, Crime Strategy	-	M	-	-	-	-
Director, Proceeds of Crime	-	M	-	-	-	-
Director, Research and Insights	-	M	-	-	-	-
Executive Director, Integrity Services	-	-	Co-Chair	-	-	-
Executive Director, Corruption Strategy, Prevention & Legal	-	-	M	-	-	-
Executive Director, Corruption Operations	-	-	M	-	-	-
Director, Assessment	-	-	M	-	-	Chair
Director, Reviews						M
Manager, Assessment Unit	-	-	M	-	-	-
Senior Review Officer	-	-	M	-	-	-
Director, Operations Support	-	M	-	M	-	-
Director, Litigation and Advocacy	-	-	-	M	-	-
Officer in Charge, Witness Protection Unit	-	-	-	M	-	-
Notes: M= Member						



Operational Framework

September 2020

This framework establishes the minimum standards for how matters (operational activities) are identified and managed throughout their lifecycle, consistent with the functions outlined in the *Crime and Corruption Act 2001*.



Role of the Crime and Corruption Commission

History

The origins of the Crime and Corruption Commission (CCC) date back to 1989 following the Fitzgerald Inquiry (1987–89) Report. That report recommended the Queensland Parliament establish a body to fight organised crime and corruption to help restore confidence in our public institutions, and to be responsible for Queensland's witness protection program.

The Fitzgerald Report changed the policing and political landscape in Queensland. Since that time, the presence of an independent Commission dedicated to fighting organised crime and corruption has been a constant in Queensland public life. Although there have been a number of iterations of the Commission since 1989, the core work of the Commission has essentially remained the same.

The CCC is a statutory body, and its functions and powers are set out in the *Crime and Corruption Act 2001* (CC Act).

Functions

The CCC investigates crime and corruption, has oversight of both the police and the public sector, administers Chapter 2 and 2A of the *Criminal Proceeds Confiscation Act 2002* (Confiscation Act) and protects witnesses. The CCC is the only integrity agency in Australia with this range of functions. The CCC's work includes:

- investigating organised crime, paedophilia, terrorist activity and other serious crime
- receiving, assessing and investigating allegations of corruption
- undertaking crime and corruption prevention
- recovering the proceeds of crime
- providing witness protection
- conducting research and undertaking intelligence activities on crime, corruption, policing and other relevant matters.

The CCC administers the non-conviction based civil confiscation scheme contained within Chapter 2 of the Confiscation Act. Under this scheme, property can be restrained on the basis of a reasonable suspicion of someone having engaged in a serious crime related activity. The CCC also administers the serious drug offender confiscation order scheme (SDOCO) contained within Chapter 2A of the Confiscation Act. Under the SDOCO provisions, if a person is convicted of a qualifying offence, their property is liable to forfeiture even if acquired lawfully.

The CCC's function under the *Witness Protection Act 2000* (Witness Protection Act) protects witnesses who are under threat as a result of assisting a law enforcement agency. Witnesses include victims of crime, innocent bystanders to crime, and people who possess information about criminal or corrupt activity. Protection can also extend to members of the witness's family.

The CCC is not a court. When it investigates a matter, depending on the circumstances, the CCC may make findings and recommendations in its reports; but it cannot determine guilt or discipline anyone. As a result of its investigations, it can have people charged or refer matters to the Office of the Director of Public Prosecutions (ODPP) with a view to criminal prosecution. As a result of a corruption investigation it can also refer matters to the Queensland Civil and Administrative Tribunal (QCAT) to consider disciplinary action warranted, or to a Chief Executive of a unit of public administration to consider disciplinary action.

Powers

The CC Act and other legislation give the CCC investigative powers not available to the police or any other state government agency in conducting an investigation. These include powers to conduct coercive hearings and to hold public inquiries.

The CCC's investigative powers include search, surveillance and seizure powers. Where the CCC conducts joint investigations with other agencies, it uses these powers as well as its expertise in intelligence, financial analysis, forensic computing and covert investigative techniques.

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Part 1 - Operational Framework

Introduction

The CCC Operational Framework establishes the policy and minimum standards for how the Commission achieves the purposes of the CC Act.

The CCC has three principal purposes¹ described as:

- **Corruption** — to continuously improve the integrity of, and to reduce the incidence of corruption in, the public sector
- **Crime** — to combat and reduce the incidence of major crime
- **Confiscation** — to facilitate the CCC's role to conduct/administer the confiscation related investigations pursuant to the Confiscation Act.

The CCC has been established to primarily achieve these purposes² by undertaking **statutory functions**: prevention, crime, corruption, research, intelligence, civil confiscation and witness protection.

The CCC performs its statutory functions by engaging in three types of **operational activity**:

- *Investigations* — into criminal activity, corruption and related activity, and confiscation
- *Projects* — about research, prevention, intelligence, procedural improvement, audit and analysis
- *Witness protection* — protection of witnesses and their identities.

Standards

The CCC has an **Operating Model** that describes the relationship between the purposes, functions and operational activities of the CCC, encompassing the:

- CCC value chain of the process and activities through which the CCC creates and delivers value and benefits
- activity groups that deliver actions, products and services
- stages of activity undertaken through the lifecycle of CCC's operational activities
- governance and oversight systems and structures that ensure value and benefits are delivered to CCC customers and stakeholders.

The CCC maintains a **Strategic Plan**³ that establishes a platform for the CCC's focus over the next four years, as a unified and high-performing organisation.

The CCC has a **Risk Management Framework**³ that includes a **Risk Appetite Statement**³ which articulates the amount of risk the CCC is willing to tolerate or retain in pursuit of our values and strategic vision for safe communities supported by fair and ethical public institutions.

The CCC's Operating Model is supported by a set of Guiding Principles – these comprise a set of rules that define how the CCC undertakes its operational activities:

1. We act independently, impartially and fairly in the public interest

¹ Section 4 CC Act.

² Section 5 and Chapter 2 CC Act.

³ Available on CCC intranet.

2. We prioritise activities and resources to achieve the strategic direction of the Commission
3. We demonstrate transparency and accountability in decision making
4. We behave and act in accordance with the culture and values of the CCC
5. We work as one to achieve results
6. We ensure our systems and processes are efficient, effective, economic, timely and responsive
7. We invest in staff capability and learning to ensure continual improvement
8. We coordinate and engage with others to leverage experience, optimise resources and avoid duplication.

All staff have access to CCC strategic and operational documents through the CCC intranet, and all such documents are regularly reviewed by the Executive Leadership Team (ELT).

Part 2 – Operating Environment

Introduction

This part identifies the policy and standards relevant to the environment in which the CCC's operational activities are undertaken in performing its functions.

Of the CCC's statutory functions, four are principal functions (Corruption, Crime, Civil Confiscation and Witness Protection) and three are supporting functions (Prevention, Research and Intelligence).

The CCC's principal functions are jurisdictional in nature, while the supporting functions involve activities undertaken by the CCC to support the performance of one or more of the principal functions.

Principal Functions of the CCC

Corruption

The CCC has the corruption functions of raising standards of integrity and conduct in units of public administration, and ensuring complaints about, or information or matter involving, corruption are dealt with in appropriate ways.

The CCC has a standing corruption jurisdiction in relation to suspected corrupt conduct and police misconduct.⁴

Corrupt conduct⁵ means conduct of a person, regardless of whether the person holds or held an appointment, that:

- adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of:
 - a unit of public administration; or
 - a person holding an appointment; and
- results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that:
 - is not honest or is not impartial; or
 - involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
 - involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and
- would, if proved, be:
 - a criminal offence; or
 - a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

Corrupt conduct⁶ also means conduct of a person, regardless of whether the person holds or held an appointment, that:

- impairs, or could impair, public confidence in public administration; and

⁴ Section 22(2) and definition of "corruption" in Schedule 2 CC Act.

⁵ Section 15(1) CC Act.

⁶ Section 15(2) CC Act.

- involves, or could involve, any of the following:
 - collusive tendering;
 - fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described) –
 - (A) protecting health or safety of persons;
 - (B) protecting the environment;
 - protecting or managing the use of the State’s natural, cultural, mining or energy resources;
 - dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;
 - evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;
 - fraudulently obtaining or retaining an appointment; and
- would, if proved, be –
 - a criminal offence; or
 - a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment.

Police misconduct⁷ means conduct that:

- is disgraceful, improper or unbecoming a police officer; or
- shows unfitness to be or continue as a police officer; or
- does not meet the standard of conduct the community reasonably expects of a police officer.

Crime

The CCC has a function to investigate major crime, and investigate incidents that threaten public safety involving criminal organisations.

The CCC does not have a standing crime jurisdiction for its investigation activities. It only has a crime jurisdiction for investigations by way of referrals⁸ or authorisations⁹ made or approved by the **Crime Reference Committee (CRC)**.

The CRC is a committee established under Part 2 of Chapter 6 of the CC Act to oversee the general conduct of the performance of the CCC's functions in relation to major crime or a specific intelligence operation.¹⁰ The standing membership¹¹ of the CRC comprises: the Chairperson, the Senior Executive Officer (Crime), the Commissioner of Police, the Principal Commissioner of the Queensland Family and Child Commission, and two community representatives appointed by the Governor-in-Council upon the recommendation of the Minister.

CRC Referrals are of two types:¹²

- **General Referral** —a jurisdictional authority under which a particular investigation may be approved in accordance with the terms of the general referral. A general referral will identify a general area of major crime in respect of which the CCC may undertake particular investigations.

⁷ Schedule 2 CC Act; cf section 1.4 *Police Service Administration Act 1990*.

⁸ Section s 25 - 27 CC Act.

⁹ Section 55A and 55D CC Act.

¹⁰ The Crime Reference Committee has oversight of all specific intelligence operations, including those concerning corruption.

¹¹ The Senior Executive Officer (Corruption) is also a member if the Committee is considering an authorisation for an intelligence operation relating to suspect criminal activity that involves corruption and so too is the CEO of the Australian Crime and Intelligence Commission (ACIC) if the Committee is considering a referral or authorisation that involves the ACIC performing a legislative function — Section 278(1A) and (1B) of the CC Act.

¹² Sections 25 - 27 CC Act.

- **Specific Referral** — a jurisdictional authority that identifies a specific QPS investigation (already in existence but that has not been effective) that the CRC has now approved the CCC to undertake.

Major crime means¹³—

- criminal activity for which the maximum penalty is not less than 14 years imprisonment
- criminal paedophilia¹⁴
- organised crime¹⁵
- terrorism¹⁶
- something preparatory to, or undertaken to avoid detection or prosecution of criminal paedophilia, organised crime or terrorism.

CRC authorisations are of two types:

- *Intelligence Operation Authorisation* — authorisation to investigate or hold a hearing in relation to suspected **criminal activity**¹⁷
- *Immediate Response Authorisation* — authorisation to undertake an investigation or hold a hearing in relation to an **incident that has, does or may threaten public safety**.¹⁸

For both types of authorisation the suspected criminal activity must involve a participant in, or a criminal organisation as defined in the *Penalties and Sentences Act 1992*¹⁹ - that is, a group of three or more persons who engage in or have as their purpose engaging in activity constituting an indictable offence for which the maximum penalty is not less than seven years and who represent an unacceptable risk to the safety, welfare or order of the community.

The CRC may make a referral or approve an authorisation upon its own initiative or if requested to do so by the Senior Executive Officer (Crime), and also if:

- the Commissioner of the Police Service requests a specific referral be approved by the CRC, or
- the Senior Executive Officer (Corruption) requests a specific intelligence operation be authorised by the CRC (for example, where the operation is about suspected corruption).

The CRC may give the CCC directions imposing limitations on the conduct of an investigation under a referral or authorisation, including limitations on the use of powers by the CCC for the investigation. The CRC may also direct the CCC to end the investigation.²⁰

Civil Confiscation

The CCC has the civil confiscation functions conferred under Chapter 2 and 2A of the Confiscation Act.²¹

The CCC confiscation jurisdiction is limited to:

- *Non-conviction civil confiscation*²² — means a scheme where property can be restrained on the basis of a reasonable suspicion of someone having engaged in a serious crime related activity. However, it is not necessary for there to be an actual or imminent criminal charge or conviction. There is also no requirement to link the restrained property to the serious crime related activity.

¹³ Schedule 2 CC Act.

¹⁴ Schedule 2 CC Act.

¹⁵ Schedule 2 CC Act.

¹⁶ Schedule 2 CC Act.

¹⁷ Section 55A CC Act.

¹⁸ Section 55D CC Act.

¹⁹ Schedule 2 CC Act; Section 161O and 161P *Penalties and Sentences Act 1992*.

²⁰ Sections 29, 55C and 55F CC Act.

²¹ Section 56(b) CC Act and relevant definitions in Schedule 2 CC Act.

²² Section 13 Confiscation Act.

Ultimate forfeiture of property to the State can be achieved pursuant to forfeiture, proceeds assessment or unexplained wealth orders.

- *Serious drug offender confiscation*²³ — means a confiscation under the SDOCO contained within Chapter 2A of the Confiscation Act. Under the SDOCO provisions, if a person is convicted of a qualifying offence, their property is liable to forfeiture even if acquired lawfully.

Witness Protection

The CCC has the function to administer the Witness Protection Program under the Witness Protection Act.²⁴

A person (a protected witness) may be included in the Witness Protection Program if it is appropriate to include the person,²⁵ and the person needs protection from a danger arising because:

- the person is or has helped a law enforcement agency perform its functions, or
- the person's relationship or association with a protected witness.

A protected witness is also a person who has been included in the Witness Protection Program and having been given a new identity under the program, keeps that identity, even if the person is no longer included in the program.

Supporting Functions of the CCC

Prevention

The CCC has a prevention function to help to prevent major crime and corruption.²⁶

The CCC performs its prevention function²⁷ by:

- analysing the information and intelligence it gathers in support of its investigations into major crime and corruption and the results of its investigations
- analysing systems used within units of public administration to prevent corruption and providing information to, consulting with, and making recommendations to, units of public administration to increase the capacity of units of public administration to prevent corruption
- providing information relevant to its prevention function to the general community
- reporting on ways to prevent major crime and corruption and ensuring that in performing all of its functions it has regard to its prevention function.

Research

The CCC has a research function to undertake research to support its functions, matters referred to it by the Minister for Justice and the Attorney-General and as required by other legislation²⁸.

The CCC performs its research function by undertaking research:

- to support the proper performance of its functions²⁹
- into the incidence and prevention of criminal activity³⁰

²³ Section 93A Confiscation Act.

²⁴ Section 56(a) CC Act and relevant definition in Schedule 2 CC Act.

²⁵ Section 6 Witness Protection Act.

²⁶ Section 23 CC Act.

²⁷ Section 24 CC Act.

²⁸ Section 52 CC Act.

²⁹ Section 52(1)(a) CC Act.

³⁰ Section 52 (1)(b) CC Act.

- into any other matter relating to the administration of criminal justice or relating to corruption referred to the CCC by the Minister³¹
- into any other matter relevant to any of its functions³²
- as required under legislation other than the CC Act.

Intelligence

The CCC has an Intelligence function to undertake intelligence operations and activities, and maintain intelligence to support the CCC's functions.

The CCC performs its intelligence function by:

- undertaking intelligence activities, including specific intelligence operations authorised by the CRC to support the proper performance of the CCC's functions³³ and holding intelligence function hearings³⁴
- analysing the intelligence data collected to support its functions³⁵ and ensuring that intelligence data collected and held to support its functions is appropriate for the proper performance of its functions,³⁶ while minimising the unnecessary duplication of intelligence data.³⁷

In undertaking the intelligence function, the CCC must build and maintain a database of intelligence information³⁸ for use in support of all of its functions. To do this the CCC may use information acquired by it from any source available.

Operational Activities of the CCC

There are three kinds of operational activity the CCC engages in to perform its functions.

Investigations

An investigation is the process of collecting, examining and considering³⁹ information and evidence. The CCC undertakes different types of investigations, depending on the function of the CCC to which the investigation relates.

There are three types of **Corruption matter**:

- **CCC Corruption Investigation** – A matter that may incorporate multiple allegations of the same or substantially similar type of conduct. A matter may involve only CCC officers or may be joint (i.e. involve officers seconded from UPAs).
- **Monitored matter** – A matter that is substantively investigated by the UPA with some monitoring or oversight by CCC.
- **Significant Event** – Oversight of a QPS investigation into a critical incident, particularly one involving a death in police custody or police operation.

³¹ Section 52 (1)(c) CC Act.

³² Section 52 (1)(d) CC Act.

³³ Section 53(a) CC Act.

³⁴ Section 53(b) CC Act.

³⁵ Section 53(c) CC Act.

³⁶ Section 53(e) CC Act.

³⁷ Section 53(d) CC Act.

³⁸ Section 54 CC Act.

³⁹ Definition of "investigation" – Schedule 2 CC Act.

There are four types of **Crime Investigation**:

- **CCC Crime Investigation** – A matter approved under an established general referral⁴⁰ or a specific referral⁴¹ where the CCC is the lead agency. These operations are initiated by the CCC and the CCC is primarily responsible for the investigation outcomes.
- **Referred Crime Investigation** – A matter approved under an established general referral⁴² or a specific referral⁴³ where the Queensland Police Service (QPS) is the lead agency. These matters are initiated by the QPS and the QPS is primarily responsible for the investigation outcomes.
- **CCC Specific Intelligence Operation** – A matter approved under section 55A of the CC Act.
- **Immediate Response Operation** – A matter approved under section 55D of the CC Act.

A **Confiscation Investigation** is a matter conducted for the purpose of the Confiscation Act, Chapter 2 or 2A.

Projects

A project is planned work or an activity that is completed over a period of time and intended to achieve a particular purpose and/or support a function of the CCC.

The CCC undertakes different types of projects, depending on the function to which the project relates:

- **Research** —strategic, continuous improvement, administration of criminal justice, police powers and methods or prevention
- **Prevention** – development of guidelines and awareness programs
- **Intelligence** — target development, monitoring emerging trends and issues, producing strategic intelligence assessments and other intelligence products
- **Procedural improvement** - organisational, procedural and policy change (for example, implementing outcomes or recommendations of other projects), and
- **Audits and analysis** — corruption risk and prevention.

Witness Protection

The CCC, as part of the Witness Protection Program, undertakes activities for the purpose of personal protection, court security, video evidence management, secure relocation, management of welfare needs and identity changes.

Standards

The CCC has clear written policies and procedures for how its principal and supporting functions are performed. These are set out in the CCC's Operations Manual available to all CCC officers through the Governance, Risk and Compliance (GRC) system. Some operational procedures are not publicly available due to their sensitive nature and information classification level. In these instances, the Operations Manual outlines the procedures for seeking further assistance or information.

2.1 External Policy Standards

Where relevant, the CCC has regard to the requirements of the following external policies:

⁴⁰ Section 27 CC Act.

⁴¹ Section 27 CC Act.

⁴² Section 27 CC Act.

⁴³ Section 27 CC Act.

- Supreme Court Practice Directions,
- the Director's Guidelines⁴⁴ of the Office of the Director of Public Prosecutions for Queensland, and
- the policy of the Attorney-General of Queensland on the granting of an indemnity from prosecution⁴⁵ or an undertaking to a witness
- the guidelines for the execution of search warrants on legal offices agreed upon between the QPS and the Queensland Law Society
- the Protocol of the Legislative Assembly for search warrants executed on premises in Queensland Parliament.⁴⁶

2.2 Legal Framework

The CCC complies with all relevant state and Commonwealth law. CCC officers involved in undertaking investigations, other projects, witness protection and associated activities have access to up-to-date versions of all relevant laws via the internet and also on the CCC intranet.

Legal instruments of delegation are published on the intranet, along with financial and HR instruments of delegation which guide decision-making.

2.3 Ethical Conduct

CCC investigations, other projects, witness protection and associated activities are conducted in accordance with the CCC's Code of Conduct.⁴⁷

The CCC has corporate policy and procedure (refer *Protocols governing the reporting of improper conduct complaints against officers of the Crime and Corruption Commission; Reporting Improper Conduct procedure*) governing the ways in which complaints about the conduct of CCC officers are dealt with to ensure that issues are managed appropriately, promptly and transparently.

The CCC also has a research ethics framework to ensure its research projects conform to the highest ethical and quality standards. The framework comprises three elements:

- The CCC *Human Research Ethics Guidelines* outline the values and principles CCC officers must adhere to when planning and conducting research activities involving humans.
- The CCC *Human research ethics policy and procedure* identifies the processes by which human research must be conducted to ensure it conforms to the highest ethical and quality standards.
- The Human Research Ethics Advisory Panel (HREAP) and sub-panels ensure that any human research conforms to the highest ethical and quality standards.

2.3.1 Proper consideration of Human Rights

To comply with the *Human Rights Act 2019*, the CCC must act and make decisions that are compatible with human rights, and give proper consideration to relevant human rights when making decisions (refer to *CCC Human Rights policy and procedure; Guide – Human rights compatibility framework for decision making*).

2.4 Agency Relationships

The CCC has corporate and operational policies and procedures about how it communicates and engages with other agencies and records those activities.

⁴⁴ http://www.justice.qld.gov.au/__data/assets/pdf_file/0015/16701/directors-guidelines.pdf.

⁴⁵ Queensland Government Indemnity Guideline or CCC's policy *Grant of indemnities policy*.

⁴⁶ Protocols for the Execution of Search Warrants by the Crime and Corruption Commission on the Premises of a Member of the Queensland Legislative Assembly.

⁴⁷ Available on CCC intranet and GRC.

These procedures ensure the CCC complies with legislation and relevant Australian Standards and Codes, and include requirements for:

- making appropriate records of communications and activity between the CCC and other agencies, and
- the physical security and security classification of communications and documents.

In undertaking its functions, the CCC may request and collect information from other appropriate agencies (for example, Queensland Corrective Services, Rental Tenancies Authority, Electoral Commission), through established memorandum(s) of understanding (MOU), by accessing agency databases or through paid subscription based services. These types of collections are referred to as an authorised collection.

In exercising its functions, the CCC may work in cooperation with other law enforcement agencies, as well as other persons and bodies as appropriate. Such cooperation may include the establishment, coordination and/or participation in a joint task force with Queensland, interstate or Commonwealth authorities. The level of formality around such arrangements is determined having regard to the requirements of the CC Act, any other relevant state or Commonwealth legislation, the chief executive officer of the cooperating authority and operational demands.⁴⁸

2.5 Disclosure and requests for information

This section is about information to which section 213 of the CC Act applies.

Commission officers generally have authorisation to deal with CCC information when relevant to the discharge of their duties and in performing the Commission's functions.⁴⁹ However it is CCC policy that the written authority of an authorised delegate is required prior to the disclosure of:

- CCC information for the purpose of another entity (under section 60(2) or 202 CC Act), or
- CCC hearing information (unless the disclosure would not be an offence against section 202(1) CC Act).

In performing its functions, the CCC holds a large amount of information, much of which is confidential or sensitive. It is an offence for CCC officers to disclose CCC information except where it is for the purposes of the CCC or the CC Act, the parliamentary committee or an investigation into an alleged contravention of section 213 of the CC Act or the information is already publicly available.⁵⁰ It is also an offence to publish hearing materials information without the Commission's written consent or contrary to the Commission's order except in prescribed circumstances.⁵¹

Generally, entities that receive confidential information from the CCC commit an offence if they further disclose that information.⁵² Former Commission officers, including those seconded from another entity, are bound by the secrecy provisions in the CC Act (section 213) in relation to information that has come to their knowledge while an officer of the CCC. Former Commission officers may not deal with CCC information without an authority in accordance with the policy and procedure, *MM04 – Disclosure and requests for information*.

Section 60 of the CC Act is the principal disclosure provision and authorises the CCC to:

- Use any information, document or thing in the CCC's possession in performing the CCC's functions⁵³

⁴⁸ See section 32 CC Act for police task force arrangements for crime investigations and section 255 CC Act for secondment of officers from other departments including police officers.

⁴⁹ Refer section 213(3)(c) CC Act.

⁵⁰ Section 213 CC Act.

⁵¹ Section 202 CC Act.

⁵² Section 213 Act.

⁵³ Section 60(1) CC Act.

- give intelligence information or other information to any entity the CCC considers appropriate.

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Information obtained by a CCC officer by reason of, or in the course of, the exercise of that officer's functions under the CC Act may not be recorded, divulged or communicated to any other person, except in accordance with the CC Act.

The CCC may consult with and disclose evidence, intelligence and information to law enforcement agencies, as well as other persons and bodies if appropriate and necessary to do so in the public interest.⁵⁵

The CCC has written procedures about how information held by the CCC may be disseminated having regard to the requirements of the CC Act and any other relevant state and Commonwealth legislation. *MM04 – Disclosure and requests for information* documents how the CCC shares intelligence or information deemed appropriate of its own initiative and responds to requests for information from other agencies, persons or bodies. Standard templates for disclosing intelligence and information are also included.

This policy and procedure includes an outline of:

- the requirements for disclosures, including authorisations
- factors to consider when determining whether a disclosure is appropriate
- the imposition of confidentiality conditions
- the process for obtaining written consent and making the disclosure
- examples of disclosures that may be appropriate disclosures to entities
- recordkeeping requirements in relation to disclosed information.

2.6 International inquiries and foreign evidence

2.6.1 Outgoing requests to foreign law enforcement agencies for information and evidence

A request for information by the CCC to a foreign agency that does not involve the use of a compulsory power may be informally obtained. This includes international exchange requests with AUSTRAC. Informal requests for information are made through the Interpol National Central Bureau via the AFP Operations Coordination Centre (for general criminal intelligence) or to overseas financial intelligence units via AUSTRAC (for financial intelligence only).

Requests for information by the CCC to a foreign agency where the use of a compulsory power is necessary or the evidence is required in an admissible form under the *Foreign Evidence Act 1994* (Cth) are, if appropriate, obtained formally under the Australian Government Mutual Assistance Regime.

The CCC's policy and procedure, *MP11 – Mutual Assistance*, outlines the requirements for Commission officers initiating or responding to requests for assistance with foreign authorities through the Australian Government Mutual Assistance Regime.

Mutual Assistance Requests (MARs) are a reciprocal and formal process used to obtain government to government assistance in the collection of evidence or exercise of compulsory powers in a foreign jurisdiction to ensure criminals cannot evade prosecution due to evidence or proceeds of their crimes being located in different countries.

As stated in MP11, formal requests for information are made through the Australian Government Attorney-General's Department International Crime Cooperation Central Authority (ICCCA).

⁵⁴ Section 60(2) CC Act.

⁵⁵ Refer sections 60(2) and 202 of the CC Act.

2.6.2 Incoming requests from foreign law enforcement agencies for information and evidence

Any request from a foreign law enforcement agency for information in the possession of the CCC must be responded to formally.

Information relating to the procedures for responding to requests for information held by the CCC from foreign agencies is detailed in procedures *MP11 – Mutual assistance* and *MM04 – Disclosure and requests for information*.

2.7 Media

The CCC media policy, the *Communications policy and procedure*, describes how the CCC interacts with the media (for example, in relation to queries about the CCC's investigation work), including the requirement that Corporate Communications is the first point of contact for the media seeking information about the CCC.

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, is inside or outside of the CCC's offices or premises.

In addition, the CCC has an operational procedure, *MM03 – Matter reports and publications*, that applies to all CCC officers involved in the preparation, production, review and approval of externally focussed reports or publications (either public or confidential) arising from operational matters.

The CCC's corporate standards are located on the intranet under the section "Writing and publishing" and guidance is provided on a range of subject areas including information on writing and publishing, graphics, templates and how to use the CCC logo.

2.8 Staff Qualifications

The CCC has a multi-disciplinary approach to undertaking its operational activities.

All CCC officers have written position descriptions that include information about the purpose, nature and scope of their role, performance accountabilities for quality, operational effectiveness, people and communication, and required qualifications and/or relevant work experience.

CCC case officers include those primarily engaged as investigators as well as professional officers of varying disciplines such as lawyers, financial investigators and intelligence analysts. The minimum level of experience and qualifications for CCC case officers are:

- if primarily engaged as an investigator: significant experience investigating alleged serious offences and / or public sector corruption
- if primarily engaged in the coordination and supervision of investigations: broad and substantial experience investigating and managing investigations into alleged serious offences and/or public sector corruption, and
- if primarily engaged in a complaints assessment role: experience in complaints handling including relevant qualifications and training.

CCC case officers primarily engaged to provide administrative support or similar assistance work under the supervision of an appropriately qualified staff member.

Project CCC officers include those primarily engaged in the development of policy, research materials or intelligence activities to support the CCC's crime and corruption purposes. The minimum level of experience and qualifications for project CCC officers are:

- if a project leader: significant experience in either policy development, research or intelligence supervision plus an understanding of project management techniques in addition to their specialist discipline, and

- if a project officer: experience in either policy development, research or intelligence.

For support and corporate CCC officers primarily engaged as professional officers, such as lawyers, financial investigators, intelligence analysts, corruption prevention officers, technical or electronic evidence or other specialists, relevant tertiary qualifications and experience to effectively carry out the duties of the position are required.

2.9 Corporate performance

The CCC has a number of corporate performance indicators to measure its progress against strategic objectives and agreed service standards. These indicators typically measure the outcomes of investigations and projects in terms of effectiveness, efficiency, economy and timeliness.

Effectiveness measures reflect how well the actual outputs of a service achieve the CCC's stated purpose (objective), describing the quantifiable extent of the outcome experienced by service recipients as a result of the level and quality of the service provided. Effectiveness is often measured through customer and/or stakeholder satisfaction/experience surveys.

Efficiency measures reflect how capabilities (resources) are used to produce outputs for the purpose of achieving desired outcomes. They are expressed as a ratio of capabilities (resources) to outputs.

The concept of efficiency has three dimensions:

- technical efficiency - requires that outcomes be produced at the lowest possible cost
- allocative efficiency - requires the delivery of outcomes that consumers value most, from a given set of resources
- dynamic efficiency - means that, over time, consumers are offered a new approach to delivering outcomes or existing delivery at lower cost.

Other measures that have been adopted by the CCC include:

Measure	Description
Activity	Measure the number of service instances, service recipients, or other activities for the service (e.g. number of complaints, number of allegations). These activity measures are converted into efficiency measures by combining them with input measures to show the unit cost of the activity.
Cost	Measure the cost of outputs/services produced. For example, average cost of processing a complaint or undertaking an investigation.
Process	Process measures demonstrate how efficiently services are delivered, rather than how effectively services are delivered, and are sometimes used as proxies for effectiveness measures if it is impractical or uneconomical to measure the effectiveness of the service or its outcome.
Input	Measure the resources consumed in delivering a service, either as an absolute figure or as a percentage of total resources. CCC's input measures are funding and number of employees, person-days, which are converted to efficiency measures by combining them with activity measures to show the unit cost of the activity.
Quality	Measure how well a service is fit for purpose. The quality of a service can be measured using specific criteria such as timeliness, accuracy,

Measure	Description
	completeness, accessibility and equity of access and/or seeking feedback on one of these criteria through customer satisfaction surveys.
Timeliness	Measure the time taken to produce an output and provide an indication of the processing or service speed. Measures of timeliness provide parameters for 'how often' or 'within what time frame' outputs are to be produced.
Equity	Measure how well a service is meeting the needs of particular groups that have special needs or difficulties in accessing government services. Equity measures focus on any gap in performance between special needs groups and the general population.

Part 3 — Identification of Matters

Introduction

This part identifies the CCC's policy and standards for the way in which it assesses and decides whether or not to undertake an investigation⁵⁶, a project or to include a person as a participant in the Witness Protection Program.

The process by which the CCC receives information about, or identifies the need for an investigation or project differs, depending on the type of matter to which the information may be relevant.

Investigations

Information relevant to a **Corruption** Investigation may be received from a number of sources:

- any person may make a complaint to the CCC about a matter that concerns or may concern corruption⁵⁷
- the CCC may receive information or a matter involving alleged corruption from any other source
- public officials, such as the Ombudsman, the Commissioner of Police, the chief executive of a unit of public administration or a person who constitutes a corporate entity that is a unit of public administration, have a duty to report to the CCC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct⁵⁸
- The Commissioner of Police also has an obligation to report police misconduct.⁵⁹

Information about the need to undertake a **Crime** Investigation is received by the CCC from the QPS or identified by the CCC of its own initiative, for example because the information has come from:

- a witness or informant
- a dissemination from another law enforcement agency, or
- as a result of another investigation, or a research or intelligence project undertaken by the CCC.

Information about the need to undertake a **Confiscation** Investigation comes from various State and occasionally Commonwealth law enforcement agencies but principally the QPS. The information may also be identified because of an investigation undertaken by the CCC or activities undertaken to proactively identify matters for confiscation investigation.

Projects

The need to undertake a CCC project may be identified in a number of ways:

- Self-generated — Consultation with internal or external stakeholders identifies a need or knowledge gap on a particular issue or area of concern
- Ministerial referral⁶⁰ — The Minister for Justice and Attorney-General requests the CCC undertake particular research
- Legislative referral⁶¹ — Legislation requires the CCC to undertake particular research.

⁵⁶ See definition of "investigate" in Schedule 2 CC Act.

⁵⁷ Section 36(1) CC Act.

⁵⁸ Section 38 CC Act.

⁵⁹ Section 37 CC Act.

⁶⁰ Section 52(1)(c) CC Act.

⁶¹ Section 56(c) CC Act or pursuant to another Act.

Witness Protection

Information about the need to include a person as a participant in the Witness Protection Program is received by way of application from a law enforcement officer or identified by the CCC on its own initiative.⁶²

Standards

3.1 Receiving and recording information about potential matters for action

The CCC's place of business, e-mail and telephone contact information is published on the CCC's website. Corruption matters may be received by telephone, post, email, fax, in person attendance at the CCC premises, or via the online complaint lodgement form on the CCC website.

All law enforcement agencies in Queensland are provided with detail on the crime and confiscation investigation referral process and the application process and other information concerning the Witness Protection Program. The CCC website provides information concerning eligibility for the Witness Protection Program. The CCC's electronic recordkeeping system records information received about alleged crime or corruption, confiscation investigations and applications the CCC receives for witness protection, and how it assesses and deals with that information. The electronic records system has two parts:

- a **case management system**:
 - for investigations and projects — the central CCC repository for complaints or information about alleged major crime (including intelligence target assessments), criminal activity, corruption, police misconduct, confiscation and related matters. It holds information about past complaints, information, reports and investigations about such matters and is capable of facilitating the linking and retrieval of information to identify trends, risks and convergences.
 - for witness protection matters — records all enquiries regarding protection, applications for protection submitted and the outcome of assessments, all activities undertaken in relation to operational matters under the program, details of expenditure, and security and welfare measures relevant to particular operations.
- a **records management system** (eDRMS) for investigations and projects — a system for identifying, cataloguing and electronically storing all records seized, collected or created by the CCC in the course of an investigation or project or witness protection arrangement in accordance with the CCC's *Records Management Policy*.

The CCC is committed to receiving and recording matters in a timely and appropriate manner.

As described in IM02 – Receiving and recording matters, the CCC's assessment process begins with the receipt of information about a matter by the following means:

- for a *corruption* matter, with the receipt of information about the matter by any means (as outlined above)
- for a *crime* matter, upon receipt of a proposal in the approved form
- for a *confiscation* matter, upon receipt of a referral in writing.

IM02 – Receiving and recording matters provides procedural information on the requirements for receiving and recording information received by the CCC about alleged major crime, criminal activity, corrupt conduct, police misconduct or the need to undertake a confiscation investigation.

MP05 – Witness Protection provides procedural information about how to record applications and other information the CCC receives about the Witness Protection Program, and how the information is dealt with. Relevant procedures are also available off-line to witness protection staff. The CCC also

⁶² Section 6 Witness Protection Act.

has procedures (for example, *Research and Insights Project Approval and Administration policy and procedure*) about how to record proposals, external requests and requirements of the CCC to undertake research, intelligence and other projects and how that information is dealt with.

The CCC's *Recordkeeping policy (and associated procedure)* and *Vital Records policy and procedure* also outline recordkeeping obligations that are applicable to all CCC staff.

3.2 Public Interest Disclosures

The CCC's procedure, *Public interest disclosures against commission officers policy and procedure*, details how the CCC deals with matters classified as public interest disclosures (PIDs) under the Public Interest Disclosures Act 2010 ("the PID Act"). This procedure is available to all CCC officers and is designed to ensure that the required level of confidentiality is maintained in relation to the identity of the person who made the PID.

3.3 The assessment process

The CCC is committed to assessing each matter made or notified to it, or otherwise coming to its attention, and determining the appropriate action to deal with its contents in a timely and professional manner that accords with the CC Act.

In the assessment process the CCC balances strategic risks, opportunities and priorities with a view to ensuring that only those matters that are of potential value in delivering the CCC's strategic objectives are selected for investigation (refer to *IM03 – Assessment of matters* for further information).

The CCC has written procedures about how information concerning alleged major crime, criminal activity, corrupt conduct and police misconduct, or the need to undertake a confiscation investigation, is assessed (refer *IM03 – Assessment of matters*), as well as procedures dealing with the assessment of information about witness protection matters (refer *MP05 – Witness protection*) or a proposed project (for example, the *Research and Insights Project Approval and Administration policy and procedure*).

These assessment procedures are designed to ensure the assessment process and assessment decisions:

- take into account all relevant legislative requirements and considerations
- are coherent, consistent, objective and ethical
- are as transparent and accountable as possible
- reflect an efficient and effective use of the CCC's resources
- are appropriate having regard to the objectives and priorities of the CCC.

3.4 Assessment Decisions

A decision about whether the CCC should investigate information about major crime, criminal activity, corrupt conduct or police misconduct or undertake a confiscation investigation or project or accept a person as a participant in the Witness Protection Program is **an assessment decision**.

For a crime or corruption investigation, or a project or other matter requiring escalation to the ELT,⁶³ assessment decisions are made by the ELT (Portfolio Assessment). The ELT is responsible for considering complaints and potential investigations that have been triaged and assessed as high risk, and for reviewing project proposals, to ensure investment is optimised and strategic objectives are met. The ELT charter outlines the committee's portfolio assessment function responsibilities and is published in the GRC.

⁶³ The CCC's assessment procedures may require matters to be escalated to the ELT, even though a project or investigation is not supported or recommended, for example, where the matter has been assessed as high risk or sensitive.

For a witness protection matter, assessment decisions (for example, to recommend the Chairperson approve a person's admission to the witness protection program) are made by the CCC's Witness Protection Advisory Committee (WPAC). The WPAC charter is published in the GRC.

Assessment decisions may be:

- **Final** – the assessment decision may be implemented without further authorisation
- **Recommendatory** – the assessment decision must be authorised by another authority (for example, the Crime Reference Committee or the Chairperson) before it may be implemented.

If an assessment committee decides not to undertake (or recommend) an investigation, project or witness protection application it may:

- decide to take no further action at all in relation to the information, proposal or application
- if the information assessed is evidence of, or information about, a possible offence against a state or Commonwealth law, recommend to an appropriate delegate of the Commission that the information be given to an appropriate entity or law enforcement agency⁶⁴
- if it is considered that a UPA has a proper interest in the information in the performance of its functions, recommend to an appropriate delegate of the Commission that the information be given to the UPA for that purpose
- if the information is about alleged corruption:
 - decide that the CCC will deal with the information in cooperation with the UPA and/or the QPS
 - decide to refer the complaint to the UPA to be dealt with by the UPA alone, subject to the CCC's monitoring role
 - decide to refer a complaint that may involve criminal activity to the Commissioner of Police, subject to the CCC's monitoring role
 - decide to ask the Commissioner of Police to deal with complaints of police misconduct, subject to the CCC's monitoring role
 - decide to refer the complaint to another agency (including a law enforcement agency) that has a proper interest in the conduct, having regard to that agency's functions, or
 - take no action or discontinue action in accordance with section 46(2)(g) of the CC Act.

A CCC officer making an assessment decision must ensure the decision is not affected by self-interest, private affiliations, or the likelihood of personal gain or loss. CCC officers are responsible for ensuring actual, apparent or potential conflicts of interest are identified and disclosed. The *Conflicts of interest and other disclosures* policy and procedure provides more information.

The CCC's *Operating Model Governance Arrangements* provides further information regarding assessment decisions. *IM01 – Portfolio assessment and review*, *IM03 – Assessment of matters* and *IM04 – Implementation of assessment decisions* also provide information regarding the assessment of matters including alleged major crime, criminal activity, corrupt conduct, police misconduct or the need to undertake a confiscation investigation.

The *Research and Insights Project Approval and Administration policy and procedure* provides procedural information in relation to projects undertaken by Research and Insights.

MP05 – Witness Protection outlines the procedures in relation to witness protection matters.

3.4.1 Assessment Principles

In exercising its functions, the CCC must:

⁶⁴ Section 60(1) CC Act.

- at all times, act independently, impartially and fairly having regard to the purposes of the CC Act, and the importance of protecting the **public interest**⁶⁵ and the human rights of those concerned.⁶⁶
- work cooperatively with UPAs to achieve optimal use of available resources⁶⁷
- when performing its powers in relation to the procedures and operations of state courts or in relation to the conduct of a judicial officer, proceed having proper regard for the importance of preserving the independence of judicial officers⁶⁸

In relation to matters involving corruption, also have regard to the following principles:⁶⁹

- **Cooperation**
 - the CCC and UPAs should work cooperatively to deal with corruption
- **Capacity building**
 - the CCC has a lead role in building the capacity of UPAs to prevent and deal with cases of corruption effectively and appropriately
- **Devolution**
 - subject to the cooperation and public interest principles and the capacity of the UPA, action to prevent and deal with corruption in a unit of public administration should generally happen within the unit, and
- **Public interest**
 - the CCC has an overriding responsibility to promote public confidence:
 - in the integrity of UPAs, and
 - if the corruption does happen within a unit of public administration in the way it is dealt with
 - the CCC should exercise its power to deal with particular cases of corruption, when it is appropriate having primary regard to the following:
 - the capacity of, and the resources available to, a UPA to effectively deal with the corruption
 - the nature and seriousness of the corruption, particularly if there is reason to believe that corruption is prevalent or systemic within a UPA
 - any likely increase in public confidence in having the corruption dealt with by the CCC directly.

An assessment decision involves important considerations for the CCC that include balancing strategic risks and opportunities and prioritising and determining the commitment of significant CCC resources. There must be a sound business case for approving (or recommending the approval) of an investigation or other project, consistent with the CCC's strategic objectives and resource priorities.

Also, the Witness Protection Program must be managed to ensure its resources are invested to provide optimal value in delivering the CCC's Witness Protection Program objective of keeping witnesses safe.

3.4.2 Assessment Considerations

There are also a number of other relevant considerations that an assessment committee must take into account when deciding (or recommending) whether or not the CCC should undertake an investigation or another project or provide witness protection. These will vary depending on the type of matter under consideration. For example, the CCC is required, as far as practicable, to direct its

⁶⁵ Section 57 CC Act.

⁶⁶ *Human Rights Act (Qld) 2019*

⁶⁷ Section 59(1) CC Act

⁶⁸ Section 58(1) CC Act.

⁶⁹ Section 34 CC Act.

attention to the more serious cases of corrupt conduct and cases of systemic corrupt conduct within a UPA⁷⁰ and whenever possible liaise with a relevant public official in performing its corruption functions.⁷¹ Also the CCC has primary responsibility for dealing with information about corrupt conduct while the Commissioner of Police has responsibility for dealing with police misconduct subject to the CCC's monitoring role.⁷²

The CCC uses a Complaints Categorisation and Prioritisation Model to determine whether to make particular conduct the subject of an investigation.

Similarly, the Matter Prioritisation Model (Crime) is used to assess the priority of each crime-related matter, and is based on public interest and stakeholder value.

IM01: Portfolio assessment and review (Appendix A) provides a detailed list of relevant considerations for corruption matters, crime matters and confiscation investigations.

Matters that do not meet the criteria and are considered unsuitable for civil confiscation litigation or SDOCO scheme litigation may be returned to the originating agency with a recommendation that further inquiries be conducted or that alternative proceedings under the conviction based scheme or other legislation be instituted.

For witness protection matters, *MP05 – Witness protection* (refer s4.5) outlines the considerations when considering whether or not to recommend that the Chairperson approve a person for the Witness Protection Program.

Projects

In considering whether or not to approve a project, relevant considerations include:

- whether the proposed project is within the CCC's statutory functions or other legislative requirement
- the extent to which the proposed project has already been, or is currently, the subject of any research, assessment and development (as applicable) by another person or agency
- the scale and significance of the proposed project and the capacity of the CCC to deliver the project outcomes in a timely way
- whether it may be more appropriate or effective for another entity to undertake the proposed project
- whether the proposed project is a justifiable use of the CCC's resources
- the public interest and anticipated public benefit in undertaking the project, having regard to the identified project deliverables and outcomes
- for research projects, whether the proposed project complies with the CCC's research ethics framework and if required, the proposed methodology is likely to receive ethical clearance from the HREAP.

3.5 Referral of matters to other relevant authorities

The CCC may, before, during or after undertaking a corruption investigation, refer a matter to another appropriate person or body (the "public official") for investigation or other action.⁷³

If the CCC refers a matter to a public official, it may:

- recommend action that should be taken by the public official and the time frame for taking that action

⁷⁰ Section 35(3) CC Act.

⁷¹ Section 35(2) CC Act.

⁷² Section 45 CC Act.

⁷³ Section 46(2)(b) CC Act.

- provide the public official with any information the CCC has obtained during its investigation
- require the public official to keep any information so provided confidential and, therefore, subject to the secrecy provisions of the CC Act
- require the public official to provide the CCC with a report (of such nature and time frame as directed) in relation to the matter and the action the public official has taken.

The CCC has policies and procedures for how it determines whether and when to refer a matter to a public official for investigation or other action (refer *IM04 – Implementation of assessment decisions* and *MM01 – Matter management, planning and conduct*).⁷⁴ The policies and procedures are designed to ensure that matters are referred to relevant authorities for action only where the subject matter of the allegation or allegations is appropriate for referral because:

- the seriousness, apparent prevalence and/or importance in taking action in respect of the matter does not require the CCC to investigate and/or take action in relation to the matter
- the subject matter is not incapable of productive investigation and/or action by the CCC, for example by reason of the age of the matter, the ambiguity of the allegations or the lack of identifiable lines of inquiry
- the identity of a person who made a public interest disclosure or the safety of any person will not be compromised
- the public official has capacity to investigate the matter by reason of resources, access to necessary information and powers
- the integrity of the investigation and/or action is not likely to be compromised by reason, for example, of any actual or apparent conflict of interest, lack of transparency or resolve.

In many cases, the CCC reviews reports on matters that the CCC has referred to a public official for action which are subject to a review by the CCC.

The CCC has guidelines for how it reviews and assesses reports provided to the CCC by a public official, how the CCC resolves any issues of dissatisfaction with the report or any aspect of a requirement or recommendation it has made, and what action the CCC will take where those issues have not been resolved.

⁷⁴ Complainants Categorisation and Prioritisation Model; *IM04 – Implementation of assessment decisions* and *MM01 – Matter management, planning and conduct*.

Part 4 – Management of Matters

Introduction

This part identifies the CCC's policies and standards for effective and efficient management, planning and conduct of investigations, projects and witness protection matters undertaken by the CCC. These standards ensure that the CCC's investigations, projects and witness protection matters are conducted professionally, can withstand scrutiny by the public, media, government and court processes, and:

- the CCC's resources are invested to provide optimal value at all stages of the investigation
- the most critical questions, requirements and risks for an investigation are addressed early, and
- the progress of an investigation is transparent.

Standards

4.1 Roles and responsibilities

This framework recognises four distinct levels at which investigation and project roles and responsibilities are exercised: *Governance, Management, Operational and Technical*. Due to the CCC's function and size, some positions in the CCC may be involved in the activities of more than one role and therefore role separation is not always possible. For more information, see *MM01 – Matter management, planning and conduct*.

4.1.1 Technical and operational levels

Technical activities and decisions are the responsibility of team members, whether working alone or together, applying specialist skills or techniques to achieve the particular requirements of the investigation or project. These activities involve undertaking discrete investigation or project practices and technical work such as, collecting evidence by interviewing or examining a witness, executing a search warrant, notice or other authority, engaging in surveillance and undertaking forensic analysis, collating, analysing, research, or reviewing information and evidence, preparing reports and correspondence, briefs and administrative activities to support the investigation.

At the operational level, a case manager is appointed for each CCC investigation, project or witness protection matter. Case managers are senior specialists, team leaders or operational Directors at the CCC.

Case managers regularly review the conduct of a matter for which they are responsible to ensure compliance with policy, procedure and the progress of the matter against performance measures.

Where a team has been allocated to undertake the **investigation** or **project**, the case manager leads the team and co-ordinates the investigation or project activities at a high level, while the team is responsible for detailed planning as well as operational and technical delivery (*MM01 – Matter management, planning and conduct* provides more information).

For a **witness protection** matter, the case manager is the witness protection officer who is appointed for each person accepted into the Witness Protection Program. This officer is responsible for providing the appropriate level of witness protection approved in accordance with the CCC policies and procedures, monitoring the protected witness, and ensuring the witness' compliance with the Witness Protection Agreement.

4.1.2 Management level

At the management level, the CCC has Executive Directors and Directors (refer Tier 2 of Human Resources Decision-Making Framework) within each of its operational divisions and corporate support areas.

The Executive Directors and Directors ensure investigations, projects and witness protection matters for which they are accountable are meeting the CCC's strategic and performance objectives and that key decisions are understood, translated correctly and given operational effect. The Executive Directors and Directors co-ordinate resources and where required, contribute strategic, operational, technical and tactical advice and action.

4.1.3 Governance level

The Executive Leadership Team (ELT) has a Portfolio Review function and is responsible for overseeing, reviewing CCC investigations and projects that have been approved for implementation (refer to the CCC's *Operating Model Governance Arrangements*).

The ELT charter also outlines the ELT's Portfolio Review function responsibilities including the responsibility to analyse business activity and optimise the focus of CCC investment through its regular oversight of approved investigations and projects.

The ELT has an important governance responsibility of making key decisions (refer s4.4 of this Framework), recommending to, or endorsing a key decision of an appropriate delegate or authority (such as a Senior Executive Officer or the Crime Reference Committee). *IM01 – Portfolio assessment and review* also provides further guidance.

The Senior Executive Officer (Crime) must keep the CRC informed of the general conduct of his or her operations in the performance of the CCC's functions in relation to major crime and must notify the CRC when a crime investigation has been approved by the Chairperson or the Senior Executive Officer (Crime) under a general referral as soon as practicable.⁷⁵

The Senior Executive Officer (Crime) and the Senior Executive Officer (Corruption) must also:

- keep the CRC informed of their general operations in performance of the CCC's crime and corruption functions respectively, in so far as their operations relate to an intelligence operation, and⁷⁶
- if requested by the CRC, provide information concerning a matter relating to their respective major crime and/or intelligence operations and give the CRC any help it needs to consider that information.

The CRC may give directions to the CCC imposing limitations on a crime investigation, including limitations on the exercise of the CCC's powers for an investigation and may amend the terms of an investigation approval or under specific circumstances, or direct the CCC to end a crime investigation.⁷⁷

The Witness Protection Advisory Committee (WPAC) is responsible for managing and reviewing the CCC's Witness Protection Program cases. The WPAC charter outlines the principles on which its regular meetings will be conducted.

4.2 Commencement of a Matter

4.2.1 Investigations and projects

Investigations or projects commence when the assessment decision is final or, if recommendatory, is given effect by the appropriate authority (e.g. CRC or Chairperson).

⁷⁵ Section 277(1)(a)(i), 277(1)(b) and (2) of the CC Act.

⁷⁶ Section 277(1)(a)(iii) and 277(2A) of the CC Act.

⁷⁷ Section 29 and 55C and 55F of the CC Act.

4.2.2 Witness protection

Protection under the Witness Protection Program commences when a person signs a protection agreement.

4.3 Management approach and delivery model

The CCC has policies and procedures that deal with the conduct and planning of CCC investigations, projects and witness protection matters (for example, see *MM01 – Matter management, planning and conduct* in relation to investigations).

The CCC employs investigation management practices that are based on project management principles. The CCC recognises that as an empirically based project, an investigation requires an agile and incremental planning and delivery framework. Other projects and witness protection arrangements may require a more traditional project model in which a detailed project plan is prepared at the commencement of the project.

The planning and progress of each CCC investigation, project or witness protection case is monitored against a high-level delivery plan that identifies the investigation, project or witness protection scope, stages and key performance measures.

Where an agile project model is used for an investigation or project, to ensure responsive and quality decision making, general operational planning occurs as part of a structured cycle of planned operational activity followed by analysis and review. Significant operational or specific technical activities are planned as discrete strategies of action.

The planning process for an investigation, project or witness protection agreement requires continual review of:

- adequacy of resources
- timeliness and progress on agreed action
- outputs
- scope and purpose
- risks and issues.

4.4 Key Decisions

A **key decision** is a decision that establishes, confirms or affects:

- the business case for an investigation or project
- the scope and purpose of an investigation or project
- the issues an investigation or project is required to address
- key performance criteria and outcomes
- for an investigation or prevention function, whether or not to recommend the conduct of a public hearing.

The CCC's policies and procedures identify who is responsible for making or endorsing particular key decisions for investigations, projects and witness protection matters.

4.5 Public hearings

A public hearing is a significant operational activity in the progress of an investigation and, at the same time, a product of an investigation that is able to generate outcomes for a CCC investigation.

The decision to hold a public hearing is a key decision in an investigation. *MP03 – Hearings (closed and public)* provides detail on how it is determined whether or not to hold a public hearing and approval of the conduct of the public hearing.

4.6 Risk management

The CCC incorporates risk management into all parts of the planning and decision-making processes for its operational activities. Risk should also be reassessed at the completion of activities in order to identify potential areas for improvement.

The CCC risk management framework⁷⁸ guides all of the CCC's operational activities and objectives. A suite of risk management tools (including a risk analysis matrix) have been developed for the assessment of all current and emerging risks. Where it is determined that established controls are not sufficient to mitigate a risk, a risk management treatment plan is to be included in the relevant risk register.

The CCC has policies and procedures (refer Operations Manual) that provide guidance on specific operational and technical activities (e.g. the conduct of a hearing or the execution of a search warrant) to ensure risks are appropriately managed.

The CCC's risk management procedures comply with the Australian and New Zealand Risk Management Standard AS/NZ ISO31000:2018.

4.7 Record Keeping for Operational Activities

4.7.1 File and information management

The CCC has electronic systems for managing and recording information about the conduct of its matters. It provides training to CCC officers in the appropriate and effective use of the systems. The system has two interrelated parts:- a case management system and a records management system. For more information, refer section 3.1 of this Framework.

Supporting the electronic systems are policies and procedures for the retention and disposal of records, information and artefacts developed or gathered as part of conducting the CCC's business (see *Retention and Disposal of Records procedure*).

4.7.2 Activity recording

The CCC has policies and procedures that identify the specific requirements for collecting data and records relevant to investigations, projects and witness protection matters (Refer to *MM04 – Disclosure and requests for information*, *MP06 – General collections*, *MP12 – Property management*, *Recordkeeping policy*; *General Recordkeeping procedure*; *Vital Records procedure*).

4.8 Outcomes

The products or results of an investigation or project, when applied, produce outcomes able to generate change that, if measured, are the benefits (or value) realised from the conduct of the investigation or project.

The conduct of an investigation or project may produce one or more results, for example:

- no further action by the CCC
- 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 dissemination of intelligence and information
- an investigation report that may be the result of a public hearing, or a brief of evidence for referral to a prosecuting authority
- one or more persons being charged

⁷⁸ Related references: *Risk appetite statement*, *Risk management policy and procedure*, *Risk management framework*, *Risk analysis matrix* and *Risk establishment tool (template)*, *Fraud and Corruption Control Plan*.

- corruption prevention recommendations
- the restraint and forfeiture of property
- a public report.

4.8.1 Referral of information to a UPA

The CCC may refer information or evidence to a public official under sections 46, 49 or 60 of the CC Act. If it is desirable to do so, including for the purpose of taking disciplinary action, the CCC may also refer information to a UPA that is relevant to the exercise of the UPA's functions.

Such information may be provided by the CCC on the understanding, express or implied, that the information is confidential and subject to the secrecy provisions of the CC Act.

The CCC has written procedures (*IM04 – Implementation of assessment decisions* and *MM01 – Matter management, planning and conduct*) for the referral of such information.

4.8.2 Disseminations

Authorised officers of the CCC may disclose:

- if appropriate, evidence or intelligence and information to law enforcement and intelligence agencies
- if it is necessary to do so in the public interest, information to a person or body.

Such information may be provided by the CCC on the understanding that it is confidential and subject to the secrecy provisions of the CC Act. The CCC has a written policy and procedure (refer *MM04 – Disclosure and requests for information*) for the dissemination of information and intelligence which details the circumstances in which such material can be released and the statutory and procedural requirements that govern disclosure.

4.8.3 Investigation or project reports

CCC reports may be made public or kept confidential.

MM02 – Matter briefs outlines the requirements for the compilation and management of briefs of evidence, including those relating to criminal, disciplinary and confiscation proceedings.

MM03 – Matter reports and publications outlines the requirements for the preparation and production of reports for external audiences that are the product of an investigation.

4.8.4 Criminal briefs

The CCC may furnish to an appropriate authority:

- a brief of evidence that may be admissible in the prosecution of a person for a criminal offence against a law of the State of Queensland, another state, the Commonwealth or a territory
- a brief of evidence that may be admissible for confiscation action
- observations the CCC considers appropriate
- recommendations as to what actions the CCC considers should be taken in relation to the evidence.

The CCC is committed to delivering consistently high quality briefs of evidence. The CCC's objective is to ensure a brief of evidence is prepared to a standard that will maximise the potential for a successful prosecution. The CCC has a procedure (refer *MM02-Matter briefs*) for the preparation and delivery of a brief of evidence to an appropriate authority.

4.8.5 Corruption prevention recommendations

The CCC may, in a report on an investigation, make recommendations to a specified UPA to take action to reduce the likelihood of corruption occurring.

If the CCC makes any such recommendation, it must, as soon as practicable, furnish a copy of the recommendation to the public official.

MM03 – Matter reports and publications outlines the CCC's policy and procedure requirements for the furnishing of a copy of its reported corruption prevention recommendations to public officials.

4.8.6 The restraint and forfeiture of property

Under Chapter 2 of the Confiscation Act, the CCC may restrain a person's property on the basis of a reasonable suspicion of the person's engagement in serious crime related activity in the previous six years. It is not necessary for there to be an actual or imminent criminal charge or conviction against the person. There is also no requirement to link the restrained property to the serious crime related activity. Ultimate forfeiture of property to the State can be achieved pursuant to:

- a Forfeiture Order – where the restrained property has been acquired with illegitimate funds
- a Proceeds Assessment Order – where the benefit derived by a person is as a result of the person's engagement in illegal activity during the course of the previous six years
- an Unexplained Wealth Order – where the State has a suspicion a person has engaged in serious crime related activity at some stage over the course of the person's life and that person has derived income or wealth that has not been obtained from a legitimate source.

Under Chapter 2A of the Confiscation Act, where a person is convicted of a qualifying offence, the person's property is liable to forfeiture even if the property was acquired lawfully.

MP20 – Criminal Proceeds Confiscation provides procedural information in relation to this area of activity.

4.9 Finalising and Closing a Matter

The CCC has written procedures for finalising and closing a matter.

4.9.1 Investigations

The delivery stage of an investigation ends with a key decision to finalise a matter.

The post-delivery stage ends when all outcomes for the matter have been determined, for example, all proceedings initiated as a result of the matter (including any appeal proceedings) are final. To close a matter, the Case Manager must complete an Investigation Completion Report (Part C: Closure) for review and approval by the appropriate decision-maker.

When an investigation is closed no further operational activity can take place with respect to the investigation.

MM01 – Matter management, planning and conduct outlines the procedural information for the finalising and closing of an investigation.

4.9.2 Projects

A project is finalised upon the publication of all reports, assessments and products for which the project was approved, unless a key decision has been taken to discontinue the project.

A research project is closed upon the approval by the Director, Research and Insights of the project finalisation report.

The *Research and Insights Project Approval and Administration policy and procedure* outlines the procedures for finalising and closing a Research and Insights project.

4.9.3 Witness Protection

A protection arrangement is finalised when a person agrees to and signs the protection agreement.

A protection matter is closed when a protected witness' involvement with the program ceases by:

- the protected witness voluntary withdrawal from the program, or
- the Chairperson's decision to cease protection.

4.10 Quality assurance audits

The purpose of a quality assurance audit is to measure whether a CCC matter was conducted in accordance with these standards.

The CCC conducts quality assurance audits of its matter management processes as part of its risk management plan prepared by the CCC Internal Auditor.

Part 5 – Matter Practices

Introduction

This part identifies the CCC's practices for undertaking investigations, undertaking projects and providing witness protection. These practices ensure that the CCC's investigations, projects and witness protection matters are conducted professionally and can withstand scrutiny from the public, media, government and court processes.

Standards

5.1 Investigations

The CCC has minimum standards for methods and procedures for gathering, recording and storing evidence and the use of powers and other authorities to obtain evidence. These standards ensure that the aim of the evidence collection and handling is focussed on securing the most reliable relevant evidence of the matter under investigation.

5.1.1 Witnesses

A witness is anyone who supplies information to the CCC, whether unsolicited, voluntarily or otherwise, which may be used by the CCC in connection with an investigation.

A witness includes a confidential human source. The standards in relation to confidential human sources are limited to those listed under the covert human intelligence source heading below. The other witness standards do not (or do not necessarily) apply to covert human sources.

The CCC's procedure, *MP01 - Witness interviews, statements and other communications*, outlines the requirements for interviewing, taking statements from, and communicating with witnesses during investigations, including the necessary considerations prior to any formal contact with a witness.

Communicating with witnesses

Communications with witnesses may be for the purposes of:

- obtaining evidence
- establishing witness credibility
- organising logistical arrangements for interviews or taking statements
- communicating updates regarding the progress of an investigation.

During the course of communications with a witness, a case officer must ensure that any information that may prejudice the investigation is not disclosed.

A commission officer may communicate with a witness for the purpose of obtaining or receiving information relevant to a matter the CCC is investigating:

- by way of a formal record of interview
- in the preparation of a written statement
- by telephone or electronic communication or in person.

The procedure provides that:

- the evidence of a witness be taken and recorded in an appropriate way, having regard to the significance of the addition/change, and the manner and form of the previous statement
- where the change or addition to a witness's evidence affects the truthfulness of their previous evidence:
 - any undertaking to the witness about the use of the evidence may only be given in accordance with the procedure, and
 - if appropriate, there is disclosure of the statements, consistent with any legislative and natural justice requirements of the relevant jurisdiction.

Witness interviews

Interviews with witnesses are key to obtaining evidence that is complete, accurate and reliable. Where possible, witnesses are to be interviewed in a timely way to ensure the best recall of information and events.

MP01 – Witness interviews, statements and other communications outlines the different types of interviews conducted by the CCC to support or facilitate taking a written statement, interview preparation and considerations, and how to conduct interviews.

This procedure provides that:

- where practical, an accurate and complete record is made of all communications with witnesses
- where practical, sound recordings are made of oral communications
- formal interviews are appropriately planned
- there is compliance with legal requirements
- any undertaking to the witness about the use of the evidence is given only in accordance with the procedure
- information is not disclosed to a witness that will prejudice the investigation or a proceeding.

Witness Statements

Statements are a formal record of information provided by a witness. A statement should be objective, relevant and fair, and contain all evidence. For an outline of the requirements in relation to the form and content of statements, and the taking of statements, see *MP01 – Witness interviews, statements and other communications*.

Affidavits

The CCC has procedures that outline requirements for the form and content of an affidavit that ensures the affidavit prepared is in the format prescribed by the court in accordance with the relevant Act under which the affidavit is required or supplied and provisions of the Uniform Civil Procedure Rules 1999 (UCPR) (refer to Operations Manual, for example, *MM02 – Matter briefs*).

The examination of witnesses

The CCC has a policy and procedure (*MP03 – Hearings – closed and public*) that deals with requirements for the use of the CCC's power to summons and examine a witness on oath, whether or not the examination is to take place privately or in public.

The CCC's policies and procedures require:

- written authorisation processes using a standard template
- consideration be given to:
 - the effect on the work and lives of persons and entities who must comply with the CCC's requirements

- alternative, less intrusive or onerous methods of obtaining information and evidence for the purpose of CCC investigations
- the exercise of CCC powers is capable of withstanding legal scrutiny
- claims of privilege are dealt with appropriately
- a copy of any summons is kept with adequate records of the reason for issuing the summons, service information, use and related activities, and that these records are readily accessible.

Expert witnesses

An expert witness is a person whom, because of their experience, qualification or expertise, is qualified to provide an opinion or technical evidence in relation to an issue arising in a court proceeding.

The CCC may engage both internal and external experts to provide expert evidence.

The CCC may engage expert witnesses to provide forensic expert services and/or forensic expert witness services. The CCC also has employed experts (CCC officer experts) in the following areas of professional practice:

- forensic accounting
- forensic computing and electronic evidence
- intelligence analysis.

The procedure, *MP02 - Expert witnesses*, outlines the requirements for the CCC's use of expert witnesses for the provision of expert and technical evidence.

Covert human intelligence sources

The requirements for CCC officers who have contact with or process information from individuals utilised as covert human intelligence sources are outlined in *MP04 – Covert Human Intelligence Sources (CHIS)*.

As detailed in MP04, policies and procedures for CHIS are not available on the intranet due to the sensitive nature and information classification level involved in CHIS activities.

5.1.2 Physical evidence

Property (documents and things) may be obtained by a CCC officer by:

- the exercise of a power or authority, or
- a general collection (e.g. where property has been requested or acquired in circumstances where no power or authority has been exercised or relied upon or the property has been volunteered by a person).

The CCC is committed to maintaining the integrity of property in its possession and ensuring such property is managed lawfully and securely.

The CCC's Operations Manual contains procedural information for the collection and management of evidence (for example, refer *MP06 – General collections*).

Search warrants, coercive powers and other authorities

The CCC has a policy and procedure for obtaining and executing search warrants, refer - *MP08 – Search warrants*.

The CCC also has policies and procedures (*MP09 – Notices, orders and additional powers; MP14 – Electronic surveillance* and *MP15 – Covert search warrants*) for the use of its coercive powers and other authorities the CCC is given under various laws to request and obtain information and evidence from persons and agencies.

Where relevant, the CCC has regard to the requirements of:

- the guidelines for the execution of search warrants on legal offices agreed upon between the QPS and the Queensland Law Society
- the Protocol of the Legislative Assembly for search warrants executed on premises in Queensland Parliament.⁷⁹

Property procedures

The CCC has procedure (*MP12 – Property Management*) to ensure that:

- appropriate records are kept about property obtained by the CCC
- property that may be relevant to an investigation is recorded, preserved, treated and dealt with:
 - in compliance with all relevant legal requirements
 - as evidence until it is no longer required for an investigation, prosecution or other proceeding
 - so as to avoid any actual or perceived impropriety in the manner of the property's handling or the property's integrity, and
 - so as to avoid any detriment to the health and safety of a CCC officer or the public
 - so that property that is of a high risk, dangerous or unlawful to possess, for example money, firearms, drugs or child exploitation material, is dealt with lawfully and managed appropriately.

The CCC's property management system consists of:

- a register for authority sources ("the authority source register")
- a property register ("the property register").

The CCC also has a system for ensuring compliance with special conditions imposed upon the CCC in respect of its custody of property. Such conditions may include legally imposed time limits for property retention.

5.1.3 Covert methods

The CCC may use covert methods in the conduct of its investigations, for example by using:

- physical surveillance
- technical surveillance
- electronic surveillance (including telecommunications interception)
- human operatives and subterfuge
- assumed identities.

The use of covert methods may result in the CCC's obtaining witness evidence and/or physical evidence.

The CCC has policies and procedures governing its use of covert methods of investigation (refer *MP04 – Covert Human Intelligence Sources (CHIS)*, *MP13 – Physical surveillance*, *MP14 – Electronic surveillance*, *MP16 – Telecommunications interception and access*, *MP17 – Controlled operations*, *MP18 – Assumed identities*). This includes an outline of requirements for acquiring and using a legally obtained assumed identity.

It is the CCC's policy that assumed identities are acquired and used appropriately and ethically to facilitate investigations and intelligence gathering activities relating to suspected corruption offences and criminal activity.

⁷⁹ Protocols for the Execution of Search Warrants by the Crime and Corruption Commission on the Premises of a Member of the Queensland Legislative Assembly.

5.2 Projects

The CCC has standards for methods and procedures for collecting, recording and maintaining research, intelligence and other project data.⁸⁰ These standards ensure that:

- CCC project analysis, assessment and outcomes are robust and defensible
- where applicable, results of analysis and assessments are easily replicated
- resources are applied efficiently
- research projects are conducted in accordance with ethical guidelines.

5.2.1 Data management

The CCC has procedures that deal with the collection and management of data⁸¹ to ensure there is:

- a record of the relevant approvals to obtain internal or external data
- a record of the steps taken between when data is obtained or recorded in its raw form and the version upon which the final analyses are conducted
- compliance with the CCC's *Records management framework*
- use of data management notes for quantitative and qualitative data to provide sufficient information to easily replicate final analyses, results or assessments (e.g. a record of all associated syntax, scripts, coding and outputs)
- completion and approval of data analysis and collection plans prior to making a data request or commencing data collection, including but not limited to:
 - planned analyses to answer each research question or intelligence gap, including data sources, data variables, and methodological justification for the planned collection and analysis
 - a record of when the data request/s were made (and the relevant approvals).

5.2.2 Research data analysis and resource management

The CCC has ethical guidelines and practice standards for the selection and use of quantitative and qualitative data in order to select, enter, clean, code and analyse data. This is based on national ethical guidelines and research best practice.

Software packages and tools are available to CCC staff to ensure rigorous research and data analysis. CCC researchers and data scientists are allocated to projects in accordance with their specialist and technical skill sets.

5.2.3 Intelligence collection, collation and analysis

The CCC has standards for intelligence development and provision, including data collection, collation and analysis. Established law enforcement methodologies are used to produce strategic and operational intelligence products. Structured techniques are used to analyse intelligence data and recognised law enforcement templates are used to present this information. This approach ensures the efficient collection and analysis of intelligence data as well as ensuring CCC intelligence outputs are consistent with other law enforcement agencies.

The CCC uses specialised intelligence systems and software to store data and maintain a database of intelligence information for use in support all of its functions.⁸²

⁸⁰ Refer to *Research and Insights Project Approval and Administration policy and procedure*.

⁸¹ CCC human research ethics guidelines and the data management manual (under review). Refer CCC intranet (in interim), <http://my.ccc.intranet/work-areas/strategy-innovation-and-insights/research-and-insights/reporting-and-recordkeeping>.

⁸² Section 54 CC Act.

5.3 Witness Protection

The CCC has written procedures supporting the provision of witness protection services. Procedures applicable to the CCC Witness Protection Program are not generally available to CCC officers due to their sensitive nature and information classification level.

MP05 – Witness Protection provides a summary of the program and how access to detailed procedures may be sought.

Metadata

Responsible officer:	General Manager Corporate Services
Accountable officer:	Chief Executive Officer
Date approved:	4 September 2020
Framework review date:	4 September 2023
CM reference:	20/152605
Human rights compatibility review HP-RM reference:	20/205231
Category:	Operational
Keywords:	Operational, framework, investigation, project, witness protection, confiscation

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ATTACHMENT D

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Our Reference: AD-21-0582-03 | 22/008614
Contact Officer: Jen O'Farrell

OFFICIAL

20 January 2022

The Honourable Anastacia Palaszczuk MP
Premier and Minister for the Olympics
1 William Street
BRISBANE QLD 4000

By email: thepremier@premiers.qld.gov.au

Dear Premier,

RE: PCCC Report No 18, 57th Parliament, Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council, and related matters

We make this submission for consideration of the Queensland Government in responding to the Parliamentary Crime and Corruption Committee's (PCCC) Report No 108, 57th Parliament, Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters (the Inquiry).

We have also provided a copy of this letter of response to the Honourable Shannon Fentiman MP, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence and also to the Parliamentary Crime and Corruption Committee.

While the inquiry process was challenging, worthwhile lessons can be drawn from it which will see the Crime and Corruption Commission ('CCC') better placed into the future to deliver on its objectives – to combat and reduce major crime and corruption for the benefit of the people of Queensland.

As you know, we continually strive to improve our organisational performance, and have implemented many changes in recent years – many of which post-date the conduct which was the subject of the Inquiry, and which are relevant to some of those recommendations.

The PCCC report makes six recommendations directed to improving the culture and performance of the CCC – and in particular in relation to its Corruption function.

Our response to these follows.

Recommendation 1: The committee recommends the Queensland Government review the effectiveness and appropriateness of protections afforded to public interest disclosers under the Public Interest Disclosure Act 2010, including the roles of the Crime and Corruption Commission and other relevant entities.

The CCC agrees with this recommendation and looks forward to working with the Department of Justice and Attorney-General to clarify the intersection of the CCC's investigative functions in respect of the PID Act, and the protective aspects.

The Inquiry highlighted the particular complexities which arise for the protection of Public Interest Disclosers (PIDs) in Queensland.

Public Interest Disclosers are a vital source of information in relation to corruption and maladministration within units of public administration. The Public Interest Disclosure Act 2010 (PID Act) provides that an object of the act is to 'afford protection from reprisals to persons making public interest disclosures'.

The PID Act provides that public interest disclosures include complaints of corrupt conduct made by public officers (ss13, 16, 19), and we consider it appropriate that misconduct by a breach of the PID Act is expressly within the CCC's investigative jurisdiction (s67).

Under ss48 and 49 of the PID Act, the CCC may also apply to an industrial commission or the Supreme Court acting on the discloser's behalf and in their interests. This is an unusual feature of the PID Act and is the only circumstance in respect of which the CCC may act on behalf of an individual and in their interests.

One of the core issues which arose in the Inquiry was the extent and nature of the CCC's responsibilities in respect of a discloser. The CCC welcomes the opportunity to clarify these provisions. There is undoubtedly a strong public interest in having support available to a public interest discloser who may not have the same protections available as those about whom a disclosure is made. Because of the potential conflict with the CCC's investigative role, protection of a PID, other than as a witness in a CCC corruption investigation, may more appropriately be assigned to a separate entity but importantly we believe, an entity with the independence, powers and resources to offer the necessary support and protection to the PID, if necessary by seeking the currently available injunctive relief under ss46 and 47.

Recommendation 2: The committee recommends that the Queensland Government review the broad scope of both the present section 60 and former sections 60 and 62 of the Crime and Corruption Act 2001 to ensure an appropriate balance is reached between the Crime and Corruption Commission being able to utilise information in pursuance of its functions and the rights of other parties to not be detrimentally impacted by the dissemination of that information, in particular that obtained by use of the Crime and Corruption Commission’s extraordinary powers.

The disclosure provisions under the *Crime and Corruption Act 2001* (CC Act) were amended by the *Crime and Corruption and Other Legislation Amendment Act 2018*. The previous sections 60 and 62 were consolidated into a single section (the current s60).

This amendment was based on Recommendation 21 of the PCCC’s 2016 five-yearly review of the CCC. In its submission to that review, the CCC sought amendment of the existing disclosure provisions to ‘a more workable provision’ for the sharing of information in the CCC’s possession. The CCC recommended s16 of the *Independent Commission Against Corruption Act 1988 (NSW)* as a model provision.

The Explanatory Note to the amending legislation made clear that the amendment which brought about s60 in its current form was based on that provision, and the PCCC’s recommendation. The amendment was intended to provide the CCC ‘a broad power to disclose information to entities the Commission considers appropriate’.

The PCCC stated at p89: “Whatever else might be said about the actions and motives of the CCC in the October 2018 and November 2018 deliveries to the Logan City Council, it is quite arguable that they were in compliance with these statutory provisions.”

The issue taken up by the PCCC was not, then, whether these disclosures were permitted under the Act (subject to consideration of s57 obligations), but whether the existing disclosure provisions (contained in s60) are too broad. The PCCC raised particularly the need to ensure an appropriate balance is reached between the CCC using information in the performance of its functions, and “the rights of other parties to not be detrimentally impacted by the dissemination of that information, in particular that obtained by the use of the Crime and Corruption Commission’s extraordinary powers.” The reference to “extraordinary powers” in context is understood to be a reference to information or material obtained through those investigative powers not ordinarily available to the police service (including coercive hearings, and compulsory production powers).

It is important to note that the conduct which is relevant to this Recommendation occurred in 2018. This was prior to the introduction of the CCC’s Operations Manual, a set of comprehensive operational policy and procedures (not previously in existence within the CCC), which was developed by the current executive.

One chapter of the Operations Manual (chapter MMO4) deals exclusively with disclosure and requests for information. It includes a comprehensive discussion and policy position on how information may

be used and disclosed under ss60(1) and (2). It also provides non-exhaustive lists of examples of disclosures which may be made under these provisions to inform officers considering whether a disclosure is, or may be, authorised.

This is a mechanism to ensure that the application of the disclosure provisions is put in its appropriate context and is described at a sufficient level of detail to ensure all officers understand their obligations. The controls and safeguards set out in MM04 (and the Operations Manual more broadly) are directed to ensuring appropriate governance around these issues.

Notwithstanding the work which has been undertaken to ensure appropriately rigorous safeguards to prevent improper disclosure of information held by the CCC, we welcome further strengthening and clarification of these provisions, and are happy to engage in productive discussion on this recommendation.

Recommendation 3: The committee recommends the Queensland Government review section 49 of the Crime and Corruption Act 2001. Furthermore, consideration should be given to a requirement that the Crime and Corruption Commission obtain the recommendation of the Director of Public Prosecutions, or a senior independent legal advisor, before exercising (through seconded police officers) the discretion to charge serious criminal offences (including disqualification offences under the Local Government Act 2009) in the exercise of its corruption function.

We agree that in cases of serious criminal offending (including disqualification offences under the Local Government Act 2009) in the exercise of the CCC's corruption function, it is appropriate for the CCC to refer matters to a senior, independent legal advisor before any decision is made to refer the matter to a seconded police officer to consider charging.

The CCC has already implemented such a process in some recent matters and will incorporate the formal process in its Operations Manual by the end of March 2022.

As to whether the recommendation should be from the Director of Public Prosecutions ('DPP') or another legal advisor, the history of s49 of the CC Act supports the position that the 'recommendation' could be obtained from a senior independent legal advisor or the DPP.

As noted in the Inquiry Report, section 49 previously provided for the CCC to refer a report on a corruption investigation to "the director of public prosecutions, or other appropriate prosecuting authority, for the purposes of any prosecution proceedings the director or other authority considers warranted".

The DPP was removed from s49 as a result of recommendations arising from the PCCC's five-yearly review of the CCC in 2016. This amendment arose due to a submission from the DPP, supported by the CCC, that this created an unnecessary impost on the ODPP. This history was traversed in the recent five-yearly review.

During the present Inquiry, Mr Heaton QC, the current Director, noted that a reintroduction of the DPP into s49 (or a similar legislative change) would "lead to an increase in work coming to us", and may "obscure the independence of the DPP as a prosecuting authority".

We are mindful of the Director's concerns about the impost such a requirement would have on the ODPP's workload (which reflect those of his predecessor, now-Judge Byrne QC).

The CCC acknowledges the issues raised in the Inquiry, in respect to the exercise of the power to refer a matter to a prosecuting authority. ***As noted above, we agree that seeking independent advice in appropriate cases (and have already introduced an internal process to this effect) is an additional safeguard in cases where there is high public interest, such as arose in the Logan City Council matter.***

Recommendation 4 The committee recommends that the Crime and Corruption Commission engage in reform of culture (including seeking external advice) to assist in creating a best practice organisational culture that aligns with the purpose, functions and goals of the Crime and Corruption Commission under the Crime and Corruption Act 2001, and to enhance public confidence in the organisation.

The CCC agrees with recommendation 4.

Strategy, Structure, Processes and People are the areas the Commission and its executive are focussed on and collectively we recognise the need to excel in each of these dimensions so that the CCC is an agile and dynamic organisation which all stakeholders can have confidence in. Subsequent to the events central to the Inquiry, the CCC has developed a comprehensive suite of strategies including a new Crime strategy, Corruption strategy, Insights strategy, Digital strategy and Workforce strategy, all of which were designed in the last three years to ensure the CCC is focussed on keeping ahead of the game to reduce crime and improve the integrity of public institutions in the Queensland community. The staff engagement and broader external stakeholder consultation, particularly with respect to the Corruption strategy, indicates both CCC employees and external stakeholders are engaged with the vision and purpose of the CCC. We are confident that this provides a strong platform for continued improvement in this area.

Since 2017, we have implemented numerous initiatives aimed at improving the way we operate, including strategic work to position the CCC to face emerging challenges, as well as more technical work to improve our systems and governance processes, including a new Operating Model, Operational Framework and for the first time in the CCC's history a single Operations Manual which provides a consistent framework for policies and procedures relating to complaints handling and investigations, including associated support activities.

We recognise that achieving alignment between purpose and organisational culture requires ongoing focus. ***To continue this program of reform and to be responsive to the PCCCs recommendation we advise that we will, after completing the appropriate procurement process, be undertaking an external review of our current practices in relation to assessment of corrupt conduct complaints.***

The complaint lodgement and assessment process represent the front door to the CCC for the majority of people who may have contact with us and how we perform this function and deal with these stakeholders represents an important part of the cultural system of the CCC. This project will involve examining how we strike the right balance between our prevention and investigation responses, to ensure we are identifying, and referring for investigation, the most critical matters. This will also involve examining the way we deal with complainants, to ensure we are providing services that are valued by the people we provide services to.

Recommendation 5: The committee recommends the Department of Justice and Attorney-General consider issues regarding the tenure of senior officers, and take into account the Crime and Corruption Commission's (CCC) adoption of the committee's position in relation to single, non-renewable appointments for the CCC Chairperson, Deputy Chairperson and Ordinary Commissioners, in conjunction with its consideration of relevant recommendations of the committee's Report No. 106, arising from the five year review, tabled on 30 June 2021.

As noted in the recommendation, we agree with the changes proposed to be made to legislate single, non-renewable appointments for the CCC Chairperson, Deputy Chairperson and Ordinary Commissioners.

To the extent that Recommendation 5 is directed to considering imposing single fixed-term appointments for all senior officers of the CCC, we cannot support that recommendation. We have previously submitted, both to the PCCC review, and to Government, the reasons why we say these provisions make it harder for the CCC to attract and retain suitably qualified officers. The work of senior officers is highly challenging, and officers require time to develop in those roles.

We would welcome the opportunity to discuss with the Department of Justice and Attorney-General and the Public Service Commission, the merits or otherwise of the current scheme with respect to senior officers including the CEO, and any proposed changes to it.

Recommendation 6: The committee recommends the Queensland Government instigate a review of the CCC's structure in regards to its investigatory and charging functions, and the role of seconded police officers at the CCC, as a Commission of Inquiry or similar, to be headed by senior counsel of sufficient standing to consider this structural basis of the CCC that has its roots in the Fitzgerald Inquiry.

This recommendation is founded on the concerns expressed (at p161 of the Report) in relation to the CCC's process by which people are charged by seconded police officers.

One particular concern which underpins this recommendation is as to the desirability of an investigative body also having prosecutorial functions. This was by reference to the CCC having seconded police officers, who retain their power to charge in their capacity as police officers. The rationale which underpins these concerns appears to be that those who investigate may be unable to bring a sufficiently detached perspective to bear on the question of whether to bring charges.

In this regard we note that the police service itself has, and has always had, both prosecutorial and investigative functions. The structure, which is presently in place at the CCC, and which would be further strengthened by CCC seeking independent external legal advice (in accordance with recommendation 3) provides a far greater degree of oversight of the charging process than exists, for example, within the Queensland Police Service.

As the Report notes, the current structure of the CCC, in terms of utilising seconded police, was a recommendation of the Fitzgerald Inquiry. The Report notes that any change to the CCC's ability to have police officers seconded to investigate crime and corruption would be a significant policy shift and we consider may undermine public confidence in the ability for the CCC to combat and reduce major crime and corruption for the people of Queensland.

We respectfully suggest that the implementation of recommendation 3 may alleviate the concerns which underpin recommendation 6 and obviate the need for such an inquiry.

The CCC strives to continuously improve its operations and appreciates the opportunity to receive, consider and address feedback. We look forward to continuing to work closely and constructively with the Government and its agencies to combat and reduce major crime and corruption for the people of Queensland.

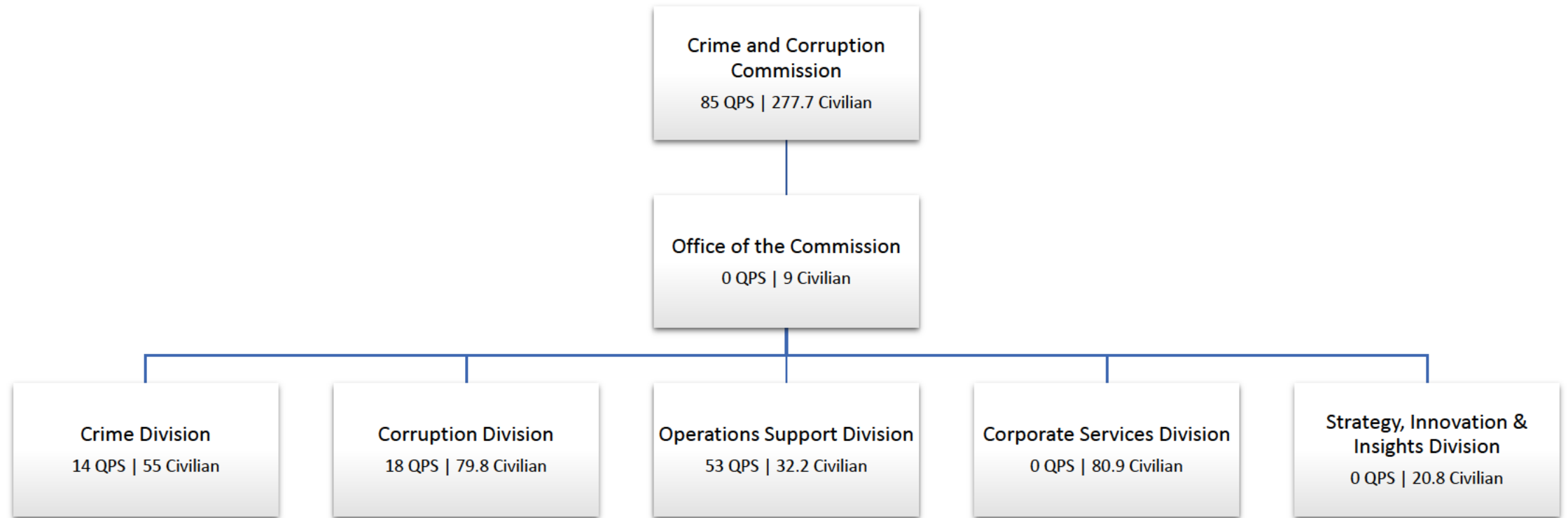
Yours sincerely

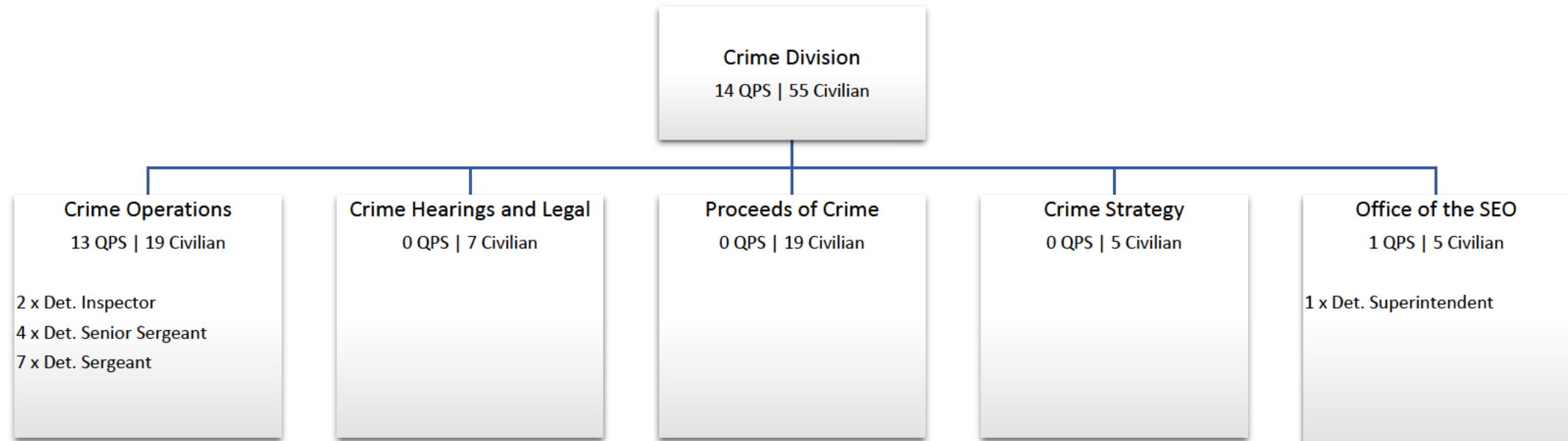


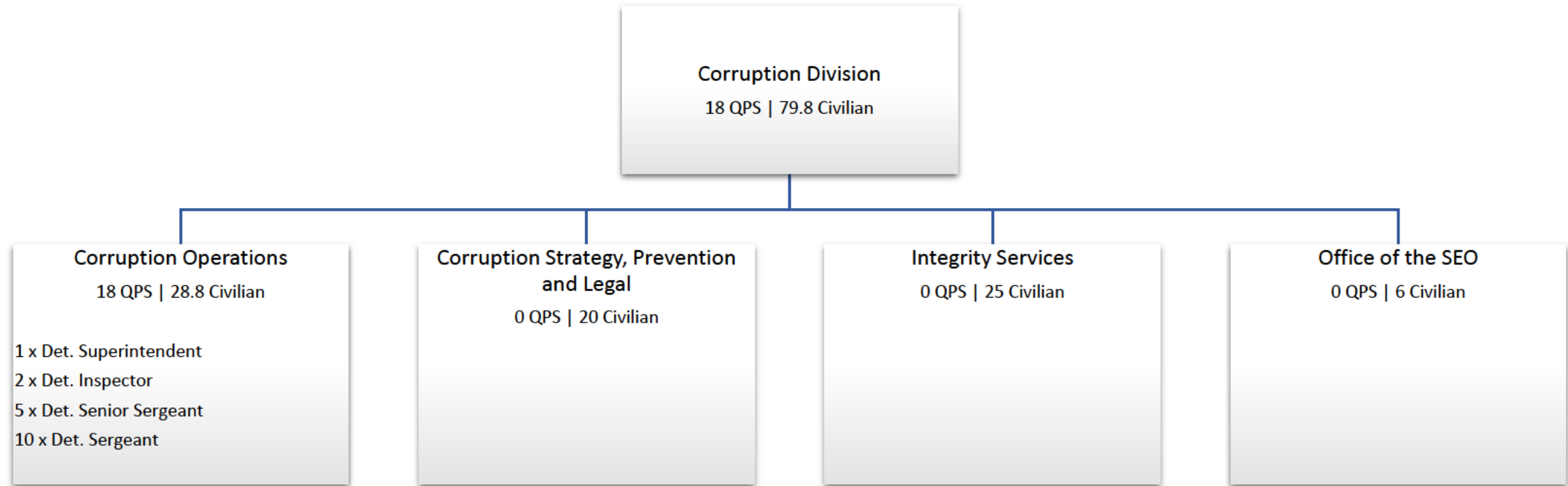
Alan MacSporran QC
Chairperson

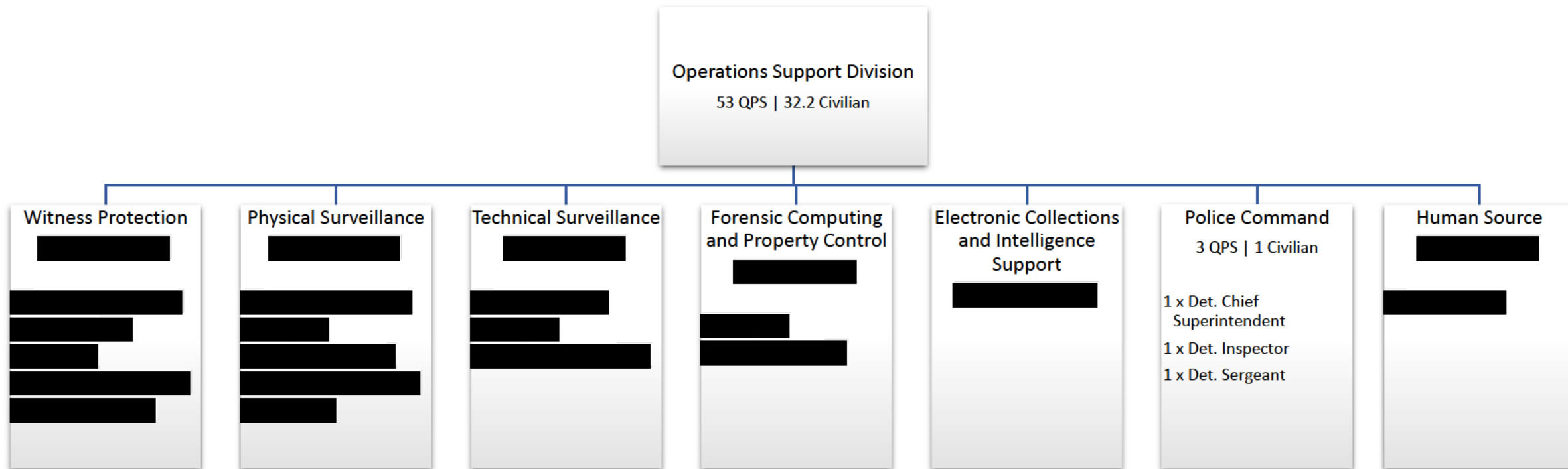
ATTACHMENT E

Budgeted FTE by QPS and Civilian roles in the CCC as at January 2022









ATTACHMENT F



Policy: Secondment of Police Officers to the Crime and Corruption Commission



1. Application

This policy applies to Queensland Police Service (QPS) officers seconded to the Crime and Corruption Commission {CCC} under section 255 (1) of the *Crime and Corruption Act 2001*. This policy does not apply to the establishment of a police task force or police officers who are part of a police task force.

2. Policy statement

The purpose of this policy is to facilitate the secondment of QPS officers to the CCC while ensuring these arrangements benefit individual officers, both agencies and the wider Queensland community. The effective recruitment, placement and return of QPS members will identify the CCC as an attractive workplace for members endeavouring to develop and enhance their skillset for future career advancement, both within and external to the QPS.

Under the authority of a Memorandum of Understanding this policy represents a commitment by both parties to establish contemporary and sustainable arrangements while improving outcomes for seconded officers. The QPS Service Alignment Program Board has approved a hybrid partnership model for the secondment of Technical and Physical Surveillance, Forensic Computing and Intelligence capabilities and an Expression of Interest {EOI} model for the Strategy and Performance, Investigative, Witness Protection and Human Source capabilities. A Concept of Operations has been developed recognising the unique nature of these arrangements where the QPS partnership and EOI models will be applied to the CCC as an external agency.

In the context of these models it is necessary that sufficient separation exists between the CCC and QPS to ensure the integrity and security of CCC operations and preserve public confidence in the independence of the CCC as an integrity agency with oversight of the QPS. This sterile corridor approach, distinct from the general QPS partnership model, will enable the efficient transition of officers between the two agencies while maintaining appropriate separation between command, control and operational functions.

3. Concept of Operations

In recognition of the two secondment models, separate Concept of Operations documents have been developed to support the administrative, logistical and human resource arrangements to operationalise this policy. These documents, developed through consultation with representatives from the QPS and CCC, deliver the strategic intent of this policy and may be amended upon approval of the Detective Chief Superintendent, CCC.

4. Partnership Model

4.1 Partnership Strategy

Officers within the Intelligence, Forensic Computing, Technical and Physical Surveillance capabilities are seconded under a partnership model where ownership of the capability rests with the QPS. This will ensure consistency in methodology, capability development, recruitment and training while facilitating the efficient allocation of resources across both agencies. Officers are appointed to the CCC Police Group where command, control and independence is maintained by the CCC. Selection for Sergeant and Senior Sergeant vacancies within

these capabilities will be undertaken pursuant to the QPS *Standard: Merit Selection*. Panels will be convened by the Central Panel Unit (CPU) including representation from the QPS and CCC. This recruitment process will also include a requirement that officers may be required to perform duties at either the QPS or CCC work unit and comply with any specific CCC employment conditions.

4.2 Conditions

Officers seconded under partnership arrangements are entitled to the same employment conditions and allowances as officers within the QPS owning capability and may participate equitably in the QPS owning capability work unit roster.

4.3 Secondment Period

Secondments will not be subject to a minimum time period. The QPS owning capability, in consultation with the Detective Chief Superintendent, CCC and the officer may rotate an officer between agencies at their discretion. Unless approved by the Chief Executive Officer, CCC a single secondment period will not exceed 5 years. Subsequent secondments may be considered however officers are required to return to the QPS owning capability in between secondments for a period of time as determined by the Detective Chief Superintendent, CCC.

4.4 Return to QPS - Partnership Model

Officers seconded under partnership arrangements will return to the QPS owning capability at the end of a secondment exclusive of the lateral transfer process. The QPS owning capability will ensure the CCC staffing commitment is maintained and officers are rotated to the CCC as required.

S. Expression of Interest Model

5.1 Expression of Interest Strategy

Officers seconded to Investigative, Strategy and Performance, Human Source or Witness Protection capabilities will apply for vacancies through an expression of interest (EOI) advertised in the QPS Gazette. Selection will be by closed merit and not subject to review however the provisions of the QPS *Grievances Policy 2015/01* may apply. The composition of a panel convened for an EOI will be at the sole discretion of the Detective Chief Superintendent, CCC. For the purpose of establishment management, appointments under this section in excess of 12 months are considered permanent placements and officers will vacate their substantive QPS position upon appointment.

5.2 Higher Duties

At the discretion of the Detective Chief Superintendent, CCC, an EOI vacancy may be identified **as a** higher duties position. Officers appointed in a higher duties capacity will receive higher duties payments and entitlements for the duration of their secondment in accordance with the QPS *Standard: Higher Duties and Relieving*. These positions are not considered brevet ranks and therefore officers are unable to progress pay points at the relieving rank.

5.3 Secondment Period

Generally officers seconded under an EOI will be subject to a minimum secondment period of 3 years. At the discretion of the Detective Chief Superintendent, CCC a secondment period not exceeding 12 months may be offered. Under these circumstances an officer does not vacate their substantive QPS position and the officer's release will be subject to negotiation between the Detective Chief Superintendent, CCC and the relevant QPS decision maker. The maximum secondment period is determined by the CCC Police Resource Committee under the authority of the Chief Executive Officer, CCC and is prescribed in the Concept of Operations - EOI Model.

5.4 Commissioned Officers

The transfer of commissioned officers between the QPS and CCC will be managed by the Detective Chief Superintendent, CCC in consultation with the Chief Executive Officer, CCC in accordance with the QPS lateral transfer of commissioned officer arrangements.

5.5 Return to QPS - EOI Model

Prior to appointment an undertaking will be provided to an officer to ensure they return to their capability and District/Command of origin at the end of their secondment.

In the event of significant personal, operational or organisational factors affecting an undertaking for placement, the Detective Chief Superintendent CCC, the officer and the CCC HR Business Partner will negotiate a position which best meets the need of the officer and Service. In this circumstance, an *"Application for Placement"* is furnished identifying three preferable locations by capability. The member will allocated a position, consistent with their preferences and organisational requirements. Officers seconded to the Witness Protection capability will be managed through the CCC Witness Protection Reintegration Program which also includes the nomination of three preferable locations or a return to their District/Command and capability of origin if applicable.

6. Transitional Arrangements

Transitional arrangements for officers seconded to the CCC at the date of effect of this policy are included in the relevant Concept of Operations documents. The intent of this policy is to preserve all employment conditions and entitlements to the extent that officers will not be disadvantaged by the introduction of this policy.

7. Relevant Legislation

Crime and Corruption Act 2001

Police Service Administration Act 1990

8. Endorsement

This policy rescinds all previous policies, directions and arrangements relating to the secondment of police officers to the Crime and Corruption Commission.



DOUG SMITH
DEPUTY COMMISSIONER
QUEENSLAND POLICE SERVICE

DATE: 22/9/2020



SIGNED:
JEN O'FARRELL
CHIEF EXECUTIVE OFFICER
CRIME AND CORRUPTION COMMISSION

DATE: 18/9/2020

ATTACHMENT G



MEMORANDUM OF UNDERSTANDING

BETWEEN

COMMISSIONER OF THE QUEENSLAND POLICE SERVICE

AND

**CHIEF EXECUTIVE OFFICER OF
THE CRIME AND CORRUPTION COMMISSION**

WHEREAS:

The parties desire to enter into a Memorandum of Understanding (MOU) to facilitate the secondment of Queensland Police Service (QPS) officers to the Crime and Corruption Commission (CCC) and their return to the QPS at the end of a secondment.

IT IS AGREED AS FOLLOWS

1. COMMENCEMENT

This MOU shall commence on the date of execution by the parties and continue until it is terminated by either party in accordance with clause 2.

2. TERMINATION

Notwithstanding any other provision of this MOU, a party may by written notice to the other party, terminate this MOU.

Unless otherwise agreed, twenty eight (28) days notice shall be provided to the other party of the intention to terminate this MOU.

3. PARTIES

The parties to this MOU are:

- a) Commissioner, Queensland Police Service and;
- b) Chief Executive Officer, Crime and Corruption Commission

4. PURPOSE

High level agreement exists between the QPS and the CCC for the secondment of police officers to the CCC. The purpose of this MOU is to establish the cooperative arrangements between the QPS and CCC for the secondment of police officers to the CCC to enable it to perform its legislated functions as defined in the *Crime and Corruption Act 2001* and for their return to the QPS at the end of a secondment.

5. DEFINITIONS/INTERPRETATION

“CCC” means the Crime and Corruption Commission.

“CEO” means the Chief Executive Officer of the Crime and Corruption Commission as defined in the *Crime and Corruption Act 2001*.

“Commissioner” means the Commissioner of the Queensland Police Service as defined in the *Police Service Administration Act 1990*.

“Member/s” includes staff members of the Queensland Police Service or a Police Officer.

“MOU” means this Memorandum of Understanding.

“Parties” collectively means the Commissioner of the Queensland Police Service and the Chief Executive Officer of the Crime and Corruption Commission or their representatives.

“Police Officer” means a member of the Queensland Police Service as defined in the *Police Service Administration Act 1990*.

“QPS” means the Queensland Police Service.

6. GUIDING PRINCIPLES

The parties agree that the cooperative arrangements between them are based on mutual respect, cooperation and shared principles in relation to the secondment of police officers to the CCC and their return to the QPS at the end of a secondment.

7. OPERATION OF THE MOU

This MOU describes the party's commitment to working together for their mutual benefit. It is not intended to be, nor is it, legally binding on the parties and it does not override any other legal or contractual obligations of the parties.

This MOU is to be read in conjunction with, and is subject to the *Crime and Corruption Act 2001* and the *Police Service Administration Act 1990*.

8. STATUTORY RESPONSIBILITIES

Pursuant to section 4.8 of the *Police Service Administration Act 1990*, the Commissioner is responsible for the efficient and proper administration, management and functioning of the Police Service in accordance with law. This includes the responsibility for the control of human, financial and other resources of the QPS.

Under the *Crime and Corruption Act 2001*, the CCC has the responsibility to combat and reduce the incidence of major crime and to reduce the incidence of corruption in the public sector.

Pursuant to section 255 (1) of the *Crime and Corruption Act 2001* the CEO may arrange with the chief executive officer of a department for the services of officers to be made available to the CCC. Pursuant to section 255(4) of the *Crime and Corruption Act 2001* if police officers are seconded to the CCC their efficient deployment is to be the joint responsibility of the CEO and the most senior police officer seconded to the CCC.

9. MANAGEMENT OF SECONDED POLICE OFFICERS

The parties agree that:

- a) QPS Members will be seconded to the CCC for a duration to be agreed upon by the Commissioner and CEO and such secondment shall be pursuant to the *Crime and Corruption Act 2001*.
- b) QPS Members will be seconded to Investigative, Physical Surveillance, Technical Surveillance, Forensic Computing, Strategy and Performance, Intelligence, Human Source or Witness Protections capabilities or any other such capabilities that the Commissioner and the CEO agree.
- c) At the conclusion of a secondment QPS Members will return to the QPS and be placed into a mutually agreed position commensurate with their skills, experience and qualifications. The agreement will be between the QPS, the CCC and the Member. If agreement is unable to be reached the parties will undertake dispute resolution.
- d) The QPS and the CCC will develop a joint secondment policy and supporting concept of operations to operationalise this MOU and facilitate the transition of Members between the CCC and QPS. Such documents will include administrative, human resource, financial and logistical matters and be developed with contributions from representatives of the parties.
- e) The QPS and the CCC will ensure appropriate separation between QPS and CCC operations to maintain the independence of the CCC as an agency with legislated oversight obligations of the QPS.

10. SECURITY/CONFIDENTIALITY/EXCHANGE OF INFORMATION

Any confidential information exchanged between the parties and/or any third party will be in accordance with any relevant statutory provisions and each organisation's guidelines.

11. DISPUTE RESOLUTION

Where there is disagreement between the parties over an issue covered by this MOU, or a related issue, the parties will seek to resolve the matter through negotiations between nominated representatives of the parties.

12. VARIATION

Where, during currency of this MOU, any of the parties desire the variation of its terms, the other party will participate in negotiations in good faith upon the issue. Amendments to this MOU may be made at any time with mutual written agreement of the parties.

13. REVIEW

Both parties will jointly review this MOU at intervals of not more than twelve (12) months to ensure that the overall objectives are being achieved.

14. ENTIRE AGREEMENT

This MOU constitutes the entire agreement of the parties with respect to the subject matter of this MOU and supersedes all prior agreement, representations, understanding and negotiations (either written or oral) with respect to such subject matter.

15. NOTICES

Unless otherwise agreed by the parties, a notice or other communication which can be given to or served shall be deemed to be given or served if it is in writing and signed on behalf of the party and is either delivered by hand, email or posted to the business address of the other party.

16. EXECUTION

IN WITNESS WHEREOF the parties have executed the Memorandum of Understanding on the dates indicated below:

SIGNED

KATARINA CARROLL
COMMISSIONER
QUEENSLAND POLICE SERVICE

DATE: 24 / 9 / 2020

SIGNED:.....

JEN O'FARRELL
CHIEF EXECUTIVE OFFICER
CRIME AND CORRUPTION COMMISSION

DATE: 24 / 9 / 2020

ATTACHMENT H



Concept of Operations

Crime and Corruption Commission and Queensland Police Service

Secondment Arrangements

Partnership Model

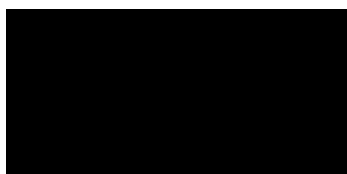
Physical and Technical Surveillance

Forensic Computing

Intelligence

1 Endorsement and Authorisation

This document is issued under the authority of the Detective Chief Superintendent, Crime and Corruption Commission as prescribed by the *Secondment of Police Officers to the CCC Policy*.



.....
Darryl Johnson APM
Detective Chief Superintendent
Crime and Corruption Commission Police Group

2 Version Control and Amendments

Version Control

This document may be amended from time to time after consultation with the relevant Queensland Police Service (QPS) and Crime and Corruption Commission (CCC) parties and upon approval by the Detective Chief Superintendent, CCC.

Amendment Register

Ver. No.	Date	Comments	Approved By
1	7/10/20	Version 1	Darryl Johnson

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3 Purpose

The purpose of this document is to establish a Concept of Operations that will govern the implementation the Partnership Model alignment of the QPS and CCC Physical and Technical Surveillance, Forensic Computing and Intelligence capabilities under the auspices of the QPS Service Alignment Program (SAP).

- CCC Physical Surveillance Unit to QPS Operations Support Command, Covert and Specialist Operations Group - Surveillance Operations Unit;
- CCC Technical Surveillance Unit to QPS Operations Support Command, Covert and Specialist Operations Group - Technical Surveillance Unit;
- CCC Forensic Computer Unit to QPS Operations Support Command, Forensic Services Group - Electronic Evidence Unit; and
- CCC Intelligence Unit to QPS Crime and Intelligence Command, State Intelligence Group.

This Concept of Operations also operationalises the joint QPS and CCC *Secondment of Police Officers to the CCC* policy. This document sets out the administrative, logistical and human resource functions to facilitate the secondment of police officers to the CCC and should be read in conjunction with the policy as it relates to the Physical and Technical Surveillance, Forensic Computing and Intelligence capabilities. Information relating to covert policing methodologies is not be included in this document.

4 Background

Since its inception in 1989 the Crime and Corruption Commission (CCC) has maintained a cohort of Queensland Police Service (QPS) officers seconded to support its strategic and operational objectives. These unique arrangements facilitate the secondment of QPS officers to the CCC under a policy established in 2015 for a period not exceeding 5 years in capabilities that include Forensic Computing, Physical Surveillance, Technical Surveillance and Intelligence. As the 2015 policy evolved, officers experienced difficulties returning to suitable positions in the QPS resulting in considerable anxiety and concern for those officers. This was in part, due to the incorrect perception that officers performing duties within the CCC lose relevance and currency of contemporary policing methodologies. Furthermore the issue has created reputational damage to the CCC Police Group as a desirable work location to the extent that there are now difficulties in attracting suitable officers to work at the CCC. This has future strategic implications as the QPS may be unable to meet the commitment to maintain a contingent of 86 officers across all CCC capabilities. Extensive consultation with the current cohort of officers, past officers and senior management at both agencies established a need and willingness to develop contemporary arrangements to meet the evolving needs of both agencies and improve outcomes for officers who are seconded to the CCC.

In 2019 the QPS Strategic Review recommended the redesign of the Central Functions Model with a philosophy of transitioning accountability for deployment of local resources to the Districts, whilst still maintaining the realised benefits of the Central Function approach. Planning for a re-designed Central Function Model commenced under the Service Alignment Program (SAP) and in 2020 the SAP Board approved an addition to the current Central Function Model, with the inclusion of a Partnership Model where some capabilities would be transitioned to district control under a partnership arrangement.

It was evident that the current CCC secondment arrangements fell broadly within the scope of the Partnership Model and an opportunity existed to realise significant benefits to both agencies and

individual officers using hybrid Partnership Model to facilitate the secondment of police officers to the CCC. Under these arrangements the relevant QPS capability retains ownership of the capability while supporting a shared approach to centralised functions such as capability development, research and development, training and recruitment.

The success of these arrangements relies on the commitment, maturity and flexibility of all parties through a shared responsibility to manage the secondment and rotation of officers between the QPS and the CCC.

5 Evaluation / Review

Evaluating the success of the Partnership Model alignment is seen as a critical element to embedding the organisational structure as best practice in delivering the strategic and operational objectives of the QPS and CCC. A Focus Maintenance Group has been established to drive regular evaluation and advise the Chief Superintendent, CCC on any adjustments to this document as the partnership arrangements evolve.

6 Partnership Strategy

6.1 General Provisions

Officers within the Intelligence, Forensic Computing, Technical and Physical Surveillance capabilities are seconded under a partnership strategy where ownership of the capability rests with the QPS. Command and control will be retained by the CCC for the duration of the secondment thereby ensuring a sterile corridor is maintained. Selection for vacancies within these capabilities will be undertaken pursuant to the QPS *Standard: Merit Selection*. This recruitment process will include provision that officers may be required to perform duties at either the QPS or CCC work unit. Where it is necessary to convene a panel for open merit selection for Sergeant and Senior Sergeant vacancies, such panel will be convened by the Central Panel Unit (CPU) and include representation from the QPS and CCC as appropriate.

Recruitment for the Physical and Technical Surveillance selection program will be coordinated by the Covert and Specialist Operations Group with representation from the CCC as appropriate. The advertisement for vacancies will include any necessary employment conditions or specialist skills required to perform duty at either agency. Officers seconded to the CCC will occupy a substantive QPS position number attached to the CCC Police Group establishment list for the duration of their secondment. Upon rotation to the QPS capability the officer will be placed into a substantive QPS position within the respective capability.

Officers seconded under partnership arrangements are entitled to the same employment conditions and allowances as officers within the QPS capability, e.g. operational shift allowance (OSA) and may participate equitably in the QPS capability work unit roster.

6.2 Authority for secondment

Section 255 of the CC Act provides that the CCC may second the services of members of the QPS if;

- The secondment is approved by the Minister of the Crime and Corruption Commission and the Minister administering the *Police Service Administration Act 1990*; and
- The secondment is arranged between the relevant decision maker of the CCC and the QPS.

Section 257 of the CC Act prescribes a police officer who is seconded to the CCC under s.255 of the Act:

- Remains a member of the QPS; and
- Is entitled to their existing and accruing rights as if employment as an officer of the CCC were a continuation of employment with the QPS; and
- Continues to be required to contribute to any superannuation scheme to which the person is required to contribute as a member of the QPS; and
- Continues to be a police officer for all purposes and to have the functions and powers of a police officer without being limited to the performance of the CCC's functions.

6.3 Minimum Secondment Period

Secondments will not be subject to a minimum time period as it relates to the placement at the CCC. The QPS capability, in consultation with the officer and the Detective Chief Superintendent, CCC may rotate an officer between agencies at their discretion. Officers will be subject to the minimum tenure requirement as it relates to the QPS capability.

6.4 Maximum Secondment Period

Subject to section 6.3 officers will be seconded under a partnership arrangement for a period not exceeding 5 years. Subsequent secondments may be considered however officers are required to return to the QPS capability in between secondments for a period of time as determined by the Detective Chief Superintendent, CCC in consultation with the QPS capability owner.

6.5 Return to QPS

Officers seconded under partnership arrangements will return (rotate) to the owning capability work unit within the QPS at the end of the secondment. The QPS capability will be responsible for ensuring the CCC staffing commitment is maintained.

The rotation of officers between QPS and CCC capabilities will be managed through an 'Administrative Transfer' submitted to the Principal HR Business Partner, CCC by the Strategy and Performance Officer, CCC in consultation with the relevant decision makers and KPOC's.

6.6 Transitional Arrangements - Partnership Model

In recognition of the complexities and changes to the work environment, officers seconded to these specialist capabilities, excluding Intelligence, will have the option of extending their secondment from a maximum of 5 years to 8 years. Such an extension will only apply to those officers seconded to the CCC at the date of effect of the *Secondment of Police Officers to the CCC* policy. All officers will also retain their original employment conditions and allowances unless they elect to accept the conditions and allowances in place at the owning command, e.g. a non OSA officer will not be compelled to transition to OSA. Officers may use the *QPS Flexible Working Arrangements Policy 2018/04* to maintain their current working conditions where there is a conflict with conditions in place at the QPS capability.

Officers relieving in higher duties positions at the date of effect of this policy may remain in those positions until such time as they vacate the position. At this time the position will be advertised as prescribed by section 6.1 of these arrangements.

Officers substantively attached to a QPS capability at the date of effect of these arrangements will not be directed to work at a CCC work unit, however future recruitment processes will include such a requirement.

6.7 Vetting

Prior to appointment, all officers seconded to the CCC are required to undergo vetting as prescribed by the CCC *Personnel Security Policy and Procedure*.

6.8 Confidentiality

Officers seconded to the CCC are bound by the secrecy provisions prescribed in s. 213 of the *Crime and Corruption Act 2001*. The provisions of this section are to be considered when exchanging information between the QPS and CCC.

7 Individual Work Unit Administrative Functions

7.1 Physical and Technical Surveillance

7.1.1 CCC Work Unit Descriptor

The CCC Physical Surveillance Unit comprises [REDACTED]
[REDACTED] All positions are substantive under the CCC Police Group establishment list and receive OSA, clothing allowance, OIC allowance and Detective/PC allowance where applicable. [REDACTED] are currently relieving in higher duties appointments for a maximum period of 5 years and may be subject to an extension to 8 years as prescribed by section 6.6.

The CCC Technical Surveillance Unit comprises [REDACTED]
[REDACTED] All positions are substantive under the CCC Police Group establishment list and receive OSA, clothing allowance and OIC allowance where applicable. The [REDACTED] are currently relieving in higher duties appointments for a maximum period of 5 years and may be subject to an extension to 8 years as prescribed by section 6.6.

7.1.2 Decision Maker

- Detective Chief Superintendent, General Manager Operations Support. (CCC)
- Detective Superintendent, Covert and Specialist Operations Group. (QPS)

7.1.3 Key Point of Contact

- Senior Sergeant, Strategy and Performance. (CCC)
- Director (Insp), Operations Support - Surveillance. (CCC)
- Inspector, Surveillance Operations Unit. (QPS)
- Inspector, Technical Surveillance Unit. (QPS)

7.1.4 Rostering and Operational Shift Allowance (OSA)

The QPS and CCC Surveillance work units will operate on separate rosters with preparation, management and audit functions undertaken by the respective work units in isolation. Officers at the CCC and QPS surveillance units are currently in receipt of OSA, this will continue with equity maintained within each individual roster.

7.1.5 Cross Operations, Short Term Assistance and Relieving

To maintain a sterile corridor all operational activity will occur in isolation. Ad-hoc, short term or operation specific assistance between agencies may occur upon approval of the relevant decision makers provided that such assistance does not require the physical attendance by an officer at the other agency's covert premises. Formal assistance and temporary relieving opportunities at the CCC will require formal CCC vetting, CCC induction and approval by the CCC Chief Executive Officer.

7.1.6 Leave Management

Leave will be managed, approved and recorded by individual work units. The relevant decision maker for each agency is the accountable officer with respect to meeting leave liability targets as prescribed by QPS policy. All ESS functions will be managed within individual work units.

Relief from the QPS capability for CCC officers accessing leave entitlements is not required with absences managed within the CCC capability. Upon agreement by the relevant decision makers, temporary appointments may be made subject to staff availability, in these circumstances all costs will be met by the CCC.

7.1.7 PDA and Supervision

All officer performance (PDA) and accoutrement inspections will be maintained by individual work units within existing supervisory structures.

7.1.8 Training

All officers will meet the formal training requirements of the QPS capability prior to appointment to Surveillance work units. The cost of initial training, e.g. Physical Surveillance Course will be met by the QPS. On-going training and development will occur at individual work unit level where costs will be met by each unit. Joint training activities and development opportunities may occur upon approval of the relevant decision maker with costs shared commensurate with the level of agency representation.

7.1.9 Rotation

The rotation of staff between the QPS and CCC work units will be managed by the Detective Inspector Surveillance Operations Unit, Detective Inspector Technical Surveillance Unit and the Director (Insp) Operations Support, consistent with the secondment period limits identified in section 6 of this document.

7.1.10 Backstopping

Each work unit will maintain their current backstopping arrangements in isolation. [REDACTED]

[REDACTED]

7.1.11 Finance

The police cohort at the CCC is funded through the Department of Justice and Attorney-General and this concept of operations will have no impact on the current budgetary arrangements. Higher duties, and any operational costs incurred through cross operational activity or short term relieving will be met by the requesting work unit.

7.2 Forensic Computer Unit (CCC) - Electronic Evidence Unit (QPS)

7.2.1 CCC Work Unit Descriptor

The Forensic Computer capability at the CCC includes [REDACTED] under the CCC Police Group establishment list. [REDACTED] receive clothing allowance and report to a civilian Director. The positions also report to the Senior Sergeant, Strategy and Performance, CCC for the purpose of managing ESS, PDA/Ignite and other specific QPS functions. [REDACTED] currently non-OSA and will move to OSA status during this transition.

7.2.2 Decision Maker

- Detective Chief Superintendent, General Manager Operations Support. (CCC)
- Superintendent, Forensic Services Group. (QPS)

7.2.3 Key Point of Contact

- Senior Sergeant, Strategy and Performance. (CCC)
- Executive Director (Civilian), Operations Support - Forensic Computing and Property. (CCC)
- Inspector, Electronic Evidence Unit. (QPS)

7.2.4 Rostering, Operational Shift Allowance (OSA) and On-Call

QPS officers seconded to the CCC Forensic Computer Unit (FCU) will participate equitably in the QPS Electronic Evidence Unit (EEU) roster. To maintain the integrity of roosting practices, CCC FCU officers will also equitably participate in QPS on-call (phone divert referral / advice) arrangements, provided that such on-call arrangements do not require physical examination or attendance by CCC FCU officers. On-call costs will be met by the QPS through cost centre acquittal via ESS.

7.2.5 Cross Operations, Short Term Assistance and Relieving

To maintain a sterile corridor, all operational activity will occur in isolation. Short term operation specific assistance and professional development placements between agencies may occur upon approval of the relevant decision makers. Such placements at the CCC are also subject to formal CCC vetting, CCC induction and approval of the CCC Chief Executive Officer.

7.2.6 Leave Management

Leave will be managed, approved and recorded by individual work units. The relevant decision maker for each agency is the accountable officer with respect to meeting leave liability targets as prescribed by QPS policy. Leave, overtime and other ESS functions will be approved by the Senior Sergeant, CCC

Strategy and Performance in consultation with the Executive Director, CCC Forensic Computing and Property.

Relief from the QPS capability for CCC officers accessing leave entitlements is not required. Such absences are managed within the CCC capability and may be off-set through the use of contract or temporary appointments managed and funded by the CCC.

7.2.7 PDA and Supervision

All officer performance (PDA) and accoutrement inspections will be maintained by individual work units within existing supervisory structures. Officers seconded to the FCU, CCC will have their PDA and accoutrements managed by the Senior Sergeant, CCC Strategy and Performance in consultation with the Director, CCC Forensic Computing and Property.

7.2.8 Training

On-going training and development will occur at the individual work unit level. Joint training activities may occur upon approval by the relevant decision makers with costs shared commensurate with the level of agency representation.

7.2.9 Rotation

The rotation of staff between the QPS and CCC work units will be managed by the Inspector, Electronic Evidence Unit and the Director, Forensic Computing and Property consistent with the secondment period limits identified in section 6 of this document.

7.2.10 Civilians

The use of civilian EEU staff to fill vacancies at the CCC FCU may be considered upon consultation with the relevant decision makers and approval of the Chief Executive Officer, CCC.

7.2.11 Finance

The police cohort at the CCC is funded through the Department of Justice and Attorney-General and this Concept of Operations will have no impact on the current budgetary arrangements. Any operational costs (exclusive of base wage costs) incurred through cross operational activity or on-call arrangements will be met by the receiving work unit. Officers performing short term relieving at the CCC will have their wages and operational costs met by the CCC provided such officer occupies a CCC position number. Where a CCC placement occurs as 'surplus', the base wage cost will be met by the QPS with operational costs, e.g. overtime met by the CCC.

7.3 Intelligence

7.3.1 CCC Work Unit Descriptor

The intelligence capability at the CCC includes [REDACTED] under the CCC Police Group establishment list. The officers currently seconded to the CCC are [REDACTED] who are relieving in long term higher duties appointments for a maximum period of 5 years. The officers are currently embedded in the Witness Protection Unit (OSA) and the Corruption Division (non-OSA) [REDACTED] Det/PC and clothing allowance. During the transition the non-OSA officer will move to OSA.

7.3.2 Decision Maker

- Detective Chief Superintendent, General Manager Operations Support. (CCC)
- Detective Chief Superintendent, State Intelligence Group, Crime and Intelligence Command (QPS)

7.3.3 Key Point of Contact

- Senior Sergeant, Strategy and Performance Officer. (CCC)
- Director (Insp), Operations Support - Witness Protection. (CCC)
- Executive Director (Supt), Corruption Division. (CCC)
- Detective Superintendent, State Intelligence Group, Crime and Intelligence Command. (QPS).

7.3.4 Rostering, Operational Shift Allowance (OSA)

██████████ seconded to the CCC Intelligence (Witness Protection - Covert) currently participates equitably in an OSA roster and will continue to do so. ██████████ seconded to the CCC Intelligence capability (Corruption) is currently non-OSA. During the transition ██████████ subject to section 6.6 of this document, will participate equitably in the QPS State Intelligence Group roster. To maintain the integrity of rostering practices, ██████████ will also participate in Q-Desk duties at Police HQ. These duties will include 3 night shifts, 4 times a year. The cost of NOSA will be met by the QPS through cost centre acquittal via ESS.

7.3.5 Cross Operations, Short Term Assistance and Relieving

To maintain a sterile corridor all operational activity will occur in isolation. Short term operation specific assistance and professional development placements between agencies may occur upon approval of the relevant decision makers. Such placements at the CCC are also subject formal CCC vetting, CCC induction and approval of the CCC Chief Executive Officer.

7.3.6 Leave Management

Leave will be managed, approved and recorded by individual work units. The relevant decision maker for each agency is the accountable officer with respect to meeting leave liability targets as prescribed by QPS policy. Leave, overtime and other ESS functions will be approved by the OIC, Witness Protection and the Inspector, Corruption Division as appropriate.

Relief from the QPS capability for CCC officers accessing leave entitlements is not required. Such absences are managed within the CCC capability and may be off-set through the use of contract or temporary appointments managed and funded by the CCC.

7.3.7 PDA and Supervision

All officer performance (PDA) and accoutrement inspections will maintained by individual work units and within the existing supervisory structures. Officers seconded to the CCC will have their PDA and accoutrements managed within the Witness Protection Unit and Corruption Division as appropriate.

7.3.8 Training

On-going training and development will occur at individual work unit level however joint training and professional development activities may occur upon approval by the relevant Inspector / Director with costs shared commensurate with the level of agency representation.

7.3.9 Rotation

The rotation of staff between the QPS and CCC work units will be managed by the Inspector, State Intelligence Group and the Detective Chief Superintendent, CCC consistent with the secondment period limits identified in section 6 of this document.

7.3.10 Finance

The police cohort at the CCC is funded through the Department of Justice and Attorney-General and this Concept of Operations will have no impact on the current budgetary arrangements. Any operational costs (exclusive of base wage costs) incurred through cross operational activity or on-call arrangements will be met by the work unit receiving the benefit. Officers performing short term relieving at the CCC will have their wages and operational costs met by the CCC provided such officer occupies a CCC position number. Where a placement occurs as 'surplus', the base wage cost will be met by the owning agency with operational costs, e.g. overtime met by the CCC.

8 Focus Maintenance Group

8.1 Purpose

The Focus Maintenance Group (FMG) will play a key role in the on-going evaluation of these arrangements and provide advice to the Chief Superintendent, CCC on amendments required. The FMG will also consider and support the rotation of officers between the QPS and CCC work units. A collaborative approach to problem solving will ensure issues are identified and resolved in the spirit of the Partnership Model and to the benefit of both agencies.

8.2 Establishment

The FMG is established and membership is approved under the authority of the *Secondment of Police Officers to the CCC* policy.

8.3 Membership

Role	Position and Agency
Chair	Detective Chief Superintendent, CCC
Member	Director (Inspector) Surveillance, CCC
Member	Executive Director (Civilian) Forensic Computing, CCC
Member	Detective Inspector, Surveillance Operations Unit, QPS

Member	Detective Inspector, Technical Surveillance, QPS
Member	Inspector, Forensic Imaging Section, QPS
Member	Inspector, State Intelligence Group, QPS
Member	PSBA Senior HR Business Partner, CCC & CIC
Member	PSBA Senior HR Business Partner, OSC
Secretariat	Strategy and Performance Officer, CCC

8.4 Governance

The FMG will meet monthly or as determined by the Chair. Members may appoint a proxy to attend in their absence and guests may attend upon approval by the Chair.

Meetings may be in person or by electronic means, e.g. Teams / teleconference. Minutes will be kept by the Secretariat to record the business and decisions of the group. Urgent or incidental matters may be dealt with through the use of a flying minute where it is not practical for the group to meet. At the discretion of the Chair, separate meetings by individual capability may occur.

Amendments to this Concept of Operations will be noted in the minutes, approved by the Detective Chief Superintendent, CCC upon recommendation of the FMG and recorded in the amendment register. The consideration of individual staff rotations will also be noted in the minutes.

END

ATTACHMENT I



Concept of Operations

Crime and Corruption Commission and Queensland Police Service

Secondment Arrangements

Expression of Interest Model

Investigations

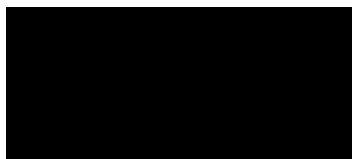
Strategy and Performance

Human Source

Witness Protection

1 Endorsement and Authorisation

This document is issued under the authority of the Detective Chief Superintendent, Crime and Corruption Commission as prescribed by the *Secondment of Police Officers to the CCC Policy*.



.....
Darryl Johnson APM
Detective Chief Superintendent
Crime and Corruption Commission Police Group

2 Version Control and Amendments

Version Control

This document may be amended from time to time after consultation with the relevant Queensland Police Service (QPS) and Crime and Corruption Commission (CCC) parties and upon approval by the Detective Chief Superintendent, CCC.

Amendment Register

Ver. No.	Date	Comments	Approved By
1	7/10/20	Version 1	Darryl Johnson

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3 Purpose

The purpose of this document is to establish a Concept of Operations to operationalise the joint Queensland Police Service (QPS) and Crime and Corruption Commission (CCC) *Secondment of Police Officers to the CCC* policy. This document sets out the administrative, logistical and human resource functions to facilitate the secondment of police officers to the CCC and should be read in conjunction with the policy as it relates to the Strategy and Performance, Investigations, Human Source and Witness Protection capabilities.

4 Background

Since its inception in 1989 the Crime and Corruption Commission (CCC) has maintained a cohort of Queensland Police Service (QPS) officers seconded to support its strategic and operational objectives. These unique arrangements facilitate the secondment of QPS officers to the CCC under a policy established in 2015 for a period not exceeding 5 years in capabilities that include Strategy and Performance, Human Source, Investigations and Witness Protection. As the 2015 policy evolved, officers experienced difficulties returning to suitable positions in the QPS through the lateral transfer system resulting in considerable anxiety and concern for those officers. This was in part, due to the incorrect perception that officers performing duties within the CCC lose relevance and currency of contemporary policing methodologies. Furthermore the issue has created reputational damage to the CCC Police Group as a desirable work location to the extent that there are now difficulties in attracting suitable officers to work at the CCC. This has future strategic implications as the QPS may be unable to meet the commitment to maintain a contingent of 86 officers across all CCC capabilities. Extensive consultation with the current cohort of officers, past officers and senior management at both agencies established a need and willingness to develop contemporary arrangements to meet the evolving needs of both agencies and improve outcomes for officers who are seconded to the CCC.

5 Evaluation / Review

Evaluating and reviewing these arrangements is seen as a critical element in establishing an organisational structure to deliver the strategic and operational objectives of the QPS and CCC. A Focus Maintenance Group (FMG) has been established to drive regular evaluation and advise the Chief Superintendent, CCC on any adjustments to this document as the arrangements evolve.

6 Expression of Interest Strategy

6.1 General Provisions

Officers seconded to Investigative, Strategy and Performance, Human Source or Witness Protection capabilities will apply for vacancies through an expression of interest (EOI) advertised in the QPS Gazette for a period as prescribed in sections 6.3 and 6.4 of this document. Selection will be by closed merit and not subject to review, however the provisions of the QPS *Grievances Policy 2015/01* may apply. The composition of a panel convened for an EOI will be at the sole discretion of the Detective Chief Superintendent, CCC. For the purpose of establishment management, appointments under this section in excess of 12 months are considered permanent placements and officers will vacate their substantive QPS position upon appointment.

6.2 Higher Duties

At the discretion of the Detective Chief Superintendent, CCC a vacancy may be identified as a higher duties position. Officers appointed in a higher duties capacity will receive higher duties payments and entitlements for the duration of their secondment in accordance with the *QPS Standard: Higher Duties and Relieving*. These positions are not considered brevet ranks and therefore officers are unable to progress pay points at the relieving rank.

6.3 Minimum Secondment Period

Officers seconded under this section will be subject to a minimum secondment period of 3 years.

At the discretion of the Detective Chief Superintendent, CCC a secondment period not exceeding 12 months may be offered. Under these circumstances an officer does not vacate their substantive QPS position and the officer's release will be subject to negotiation between the Detective Chief Superintendent, CCC and the relevant QPS decision maker. Where there is agreement to extend a secondment beyond 12 months the officer will vacate their substantive QPS position and the secondment will default to a 3 to 5 year period with the initial 12 month period of duty included in the total period.

6.4 Maximum Secondment Period

Unless an alternative secondment period is identified, officers seconded to the Investigative, Human Source and Strategy and Performance capabilities will be seconded for an initial period of 3 years with a possibility of an extension of 2 years where the total secondment period will not exceed 5 years.

Officers seconded to the Witness Protection capability will be seconded for an initial period of 3 years with a possibility of an extension of 5 years where the total secondment period will not exceed 8 years. This extended period recognises the significant training requirements and highly specialist nature of Witness Protection duties.

An optional 2 or 5 year extension is activated by default unless a reason, e.g. performance, organisational / unit restructuring or career development, is identified by exception. In such circumstances the extension will be determined by the Chief Executive Officer (CEO), CCC in consultation with the CCC Police Resource Committee. An officer may return to the QPS at any time after the activation of an extension subject to section 6.7 and 6.8 of this document.

6.5 Additional Secondments

The CCC supports subsequent secondments, however these will be assessed on a case-by-case basis. Where an officer, who has returned to the QPS after a secondment makes application (EOI) at a later stage for an additional secondment to the CCC, this will be considered in line with the existing secondment process and subject to approval of the CCC Police Resource Committee. Additional secondments or transfers between capabilities within the CCC will reset the secondment period limits identified in section 6.3 and 6.4 of this document.

6.6 Secondment Period - Commissioned Officers

Commissioned officers seconded to the CCC are subject to a maximum secondment period of 5 years unless an extension is approved. The transfer of commissioned officers between the QPS and CCC is managed by the Detective Chief Superintendent in consultation with the Chief Executive Officer, CCC in accordance with the QPS lateral transfer of commissioned officer arrangements.

6.7 Return to QPS - EOI Model

Prior to appointment, an undertaking will be provided to an officer to ensure they return to their capability and District/Command of origin at the end of their secondment.

If significant personal, operational or organisational factors affecting an undertaking for placement exist, the Detective Chief Superintendent, the officer and the CCC HR Business Partner will negotiate a position which best meets the need of the officer and the QPS. In this circumstance, an *Application for Placement* is furnished 8 months prior to the end of a secondment identifying 3 preferable locations by capability and District/Command. The officer will then be allocated a position consistent with either an undertaking or preferences as prescribed by section 6.8.

An officer who returns to the same capability at their location of origin does not recommence a new tenure.

6.8 Ending a Secondment

An officer's secondment is considered rescinded and may end under the following circumstances;

- Officer has reached their minimum secondment requirement and applies for a placement at the QPS pursuant to section 6.7;
- Officer has reached their maximum secondment requirement and an application for extension has not been supported;
- Officer gains a position on merit at the QPS;
- Separation from the QPS; and
- An officer's secondment is rescinded by the CEO as prescribed by the CC Act.

To return to the QPS an officer will furnish an *Application for Placement* no earlier than 2 years and 4 months from commencement or any time thereafter. Officers wishing to remain for the maximum secondment period will furnish an *Application for Placement* 8 months prior to the expiry date consistent with section 6.7.

An *Application for Placement* will be endorsed by the Chief Superintendent, CCC and referred to the CCC HR Business Partner who will negotiate and consult with the relevant Business Partner and QPS relevant decision maker. Officers will be allocated a QPS position no later than 8 months following the submission of an *Application for Placement* at either the location of their undertaking or a location nominated as a preference as prescribed by section 6.7. If there are no vacancies the officer will be placed into a position (surplus) as approved by a Deputy Commissioner, pending substantive placement into the next available vacancy at the location.

Where agreement cannot be reached to place an officer following the submission of an *Application for Placement*, the matter will be referred to a Deputy Commissioner for a decision.

Witness Protection officers will participate in the Witness Protection Reintegration Program and the principles of this section also apply to the transition of these officers to a substantive position within the QPS.

6.9 Transitional Arrangements

Officers seconded to the CCC at the date of effect of the *Secondment of Police Officers to the CCC* policy will return to the QPS upon the submission of an *Application for Placement* as prescribed by sections 6.7 and 6.8 of this policy exclusive of the provisions relating to an undertaking. These officers will nominate a minimum of three preferred locations by capability and District / Command following negotiation with the Detective Chief Superintendent, CCC and CCC HR Business Partner.

7 Administration

7.1 Authority for Secondment

Section 255 of the CC Act provides that the CCC may second the services of members of the QPS if;

- The secondment is approved by the Minister of the Crime and Corruption Commission and the Minister administering the *Police Service Administration Act 1990*; and
- The secondment is arranged between the relevant decision maker of the CCC and the QPS.

Section 257 of the CC Act prescribes a police officer who is seconded to the CCC under s.255 of the Act:

- Remains a member of the QPS;
- Is entitled to their existing and accruing rights as if employment as an officer of the CCC were a continuation of employment with the QPS;
- Continues to be required to contribute to any superannuation scheme to which the person is required to contribute as a member of the QPS; and
- Continues to be a police officer for all purposes and to have the functions and powers of a police officer without being limited to the performance of the CCC's functions.

7.2 Generic Recruitment

Subject to the provisions of section 8 of the *QPS Standard: Merit Selection* and at the discretion of the Detective Chief Superintendent CCC, generic recruitment may occur where an applicant identified as meritorious during an EOI process, may be appointed to subsequent vacancies within 6 months of the EOI closure date.

7.3 Extending a Secondment

The CEO CCC decision maker may extend the secondment of a police officer for a further period beyond the maximum period. Such extensions will be considered on a case-by-case basis, and generally be dependent on one of the following;

- Operational outcomes will be significantly and negatively impacted by the return of the police officer at the specified end date; or
- Extenuating personal circumstances (ill health, within 2 years of retirement) mean that it is reasonable for the police officer to continue to perform existing duties with the CCC for a further period of time.

7.4 Existing Specialist Skills Maintenance

Officers seconded to the CCC may possess specialist qualifications or skills, e.g. negotiator, dignitary protection. Such officers will be afforded the opportunity to participate in skills maintenance training or requalification as necessary. It is incumbent on the officer and their manager to plan such training to minimise the impact on CCC operational activity.

7.5 Professional Development

Officers are encouraged to attend external courses and training opportunities whether they be QPS courses, CCC sponsored courses or privately sourced opportunities. Preference will be given to officers applying for training courses relevant to their CCC duties, however it is recognised that officers may apply for unrelated courses or development opportunities to enhance their future career prospects upon return to the QPS. In these circumstances preference will be given to officers who have reached the minimum secondment period with attendance subject to operational commitments.

7.6 External Secondments and Placements

Under certain circumstances and subject to the approval of the CEO CCC, officers may participate in external placements for the purpose of professional development to enhance their future career prospects upon return to the QPS. As a general rule, officers who have completed the minimum secondment period will be given preference and release will be subject to operational requirements. This section should be read in conjunction with the Witness Protection Reintegration Program which applies specifically to members of the Witness Protection Unit.

7.7 Vetting

Prior to appointment, all officers seconded to the CCC are required to undergo vetting as prescribed the CCC *Personnel Security Policy and Procedure*.

7.8 Confidentiality

Officers seconded to the CCC are bound by the secrecy provisions prescribed in s. 213 of the *Crime and Corruption Act 2001*.

8 Focus Maintenance Group

8.1 Purpose

The Focus Maintenance Group (FMG) will play a key role in the on-going evaluation of these arrangements and provide advice to the Chief Superintendent, CCC on amendments required to this document.

8.2 Establishment

The FMG is established and membership approved under the authority of the *Secondment of Police Officers to the CCC* policy.

8.3 Membership

Role	Position and Agency
Chair	Detective Chief Superintendent, CCC
Member	Detective Superintendent, Crime, CCC
Member	Detective Superintendent, Corruption, CCC
Member	Detective Inspector, Ops Support (WPU & HSU), CCC
Member	PSBA Senior HR Business Partner, CCC
Secretariat	Strategy and Performance Officer, CCC

8.4 Governance

The FMG will meet monthly or as determined by the Chair. Members may appoint a proxy to attend in their absence and guests may attend upon approval by the Chair.

Meetings may be in person or by electronic means, e.g. Teams / teleconference. Minutes will be kept by the Secretariat to record the business and decisions of the group. Urgent or incidental matters may be dealt with through the use of a flying minute where it is not practical for the group to meet.

Amendments to this Concept of Operations will be approved by the Detective Chief Superintendent, CCC upon the recommendation of the FMG. All recommendations will be noted in the minutes (resolutions) and be recorded in the Amendment Register.

END

ATTACHMENT J

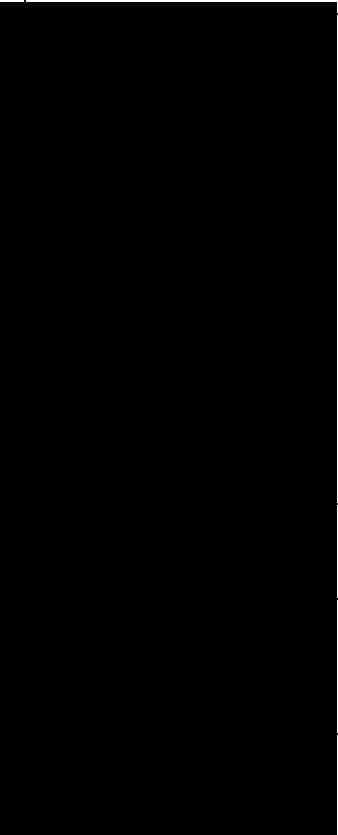








Successful Crime and Corruption prosecutions in the last 3 years

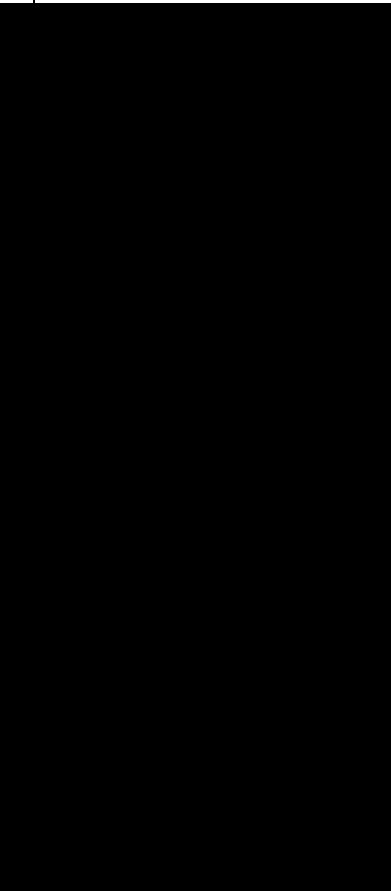




Successful Crime prosecutions: 1 July 2018 – 30 June 2021

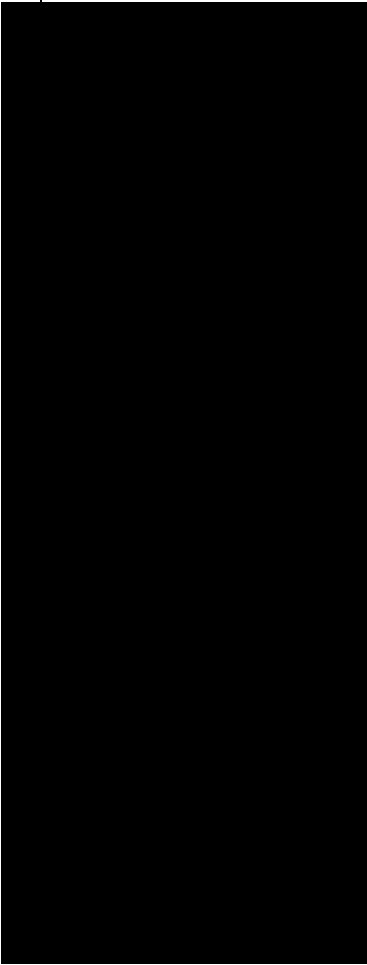

Defendant	Position of Defendant	Allegations	Complexity
	Ordinary Target	Possession, Possess Utensil	Low
	Ordinary Target	Possession, Possess Thing Possession, Possess Thing Driving Unlicensed	Low
	Ordinary Target	Possession	Low
	Ordinary Target	Supply, Possession Driving Unlicensed Possession, Possess Utensil	Low
	Ordinary Target	Possession, Possess Utensil	Low
	Ordinary Target	Breach of Bail	Low
	Ordinary Target	Possession, Possess Utensil	Low
	Ordinary Target	Possession, Possess Thing	Low
	Ordinary Target	Trafficking, Supply, Possession	Medium
	Ordinary Target	Trafficking	Medium
	Ordinary Target	Trafficking, Supply, Possession	Medium
	Ordinary Target	Supply, Money Laundering	Medium
	Ordinary Target	Perjury	Medium
	Ordinary Target	Trafficking, Possession Supply	Medium
	Ordinary Target	Possession	Low
	Ordinary Target	Money Laundering	Medium
	Ordinary Target	Refuse to Answer Questions	Low
		Trafficking, Possession, Possess Property, Possess Utensil, Pervert Course of Justice, Contravene Order	Medium
		Dangerous Operation of Motor Vehicle, Evasion	Low

Defendant	Position of Defendant	Allegations	Complexity
	Ordinary Target	Possession, Possess Property, Possess Utensil	Low
	Ordinary Target	Contravene Order	Low
	Ordinary Target	Drug Driving	Low
	Ordinary Target	Possession	Low
	Ordinary Target	Possession, Possess Property acquired for use, Possess Stolen Property, Contravene Order	Low
	Ordinary Target	Possession, UUMV	Low
	Ordinary Target	Possession, Possess Utensil	Low
	Ordinary Target	Possession, Possess Property, Possess Utensil, Pervert Course of Justice	Medium
	Ordinary Target	Possession, Possess Weapon, Tainted Property	Low
	Ordinary Target	Possession, Possess Utensil	Low
	Ordinary Target	Possession, Possess Property	Low
	Ordinary Target	Possession, Receiving Tainted Property, Possess Weapon, Possess Counterfeit Money, Stealing	Low
	Solicitor	Breach of Bail	Medium
		Breach of Bail	Medium
	Ordinary Target	Falsify Record, Fraud	Medium
	Ordinary Target	Fail to Answer Question	Low
		Trafficking, Possession, Possess Property	Medium
	Ordinary Target	Possession, Possess thing to Commit Offence, Possess thing for use	Medium
		Trafficking, Supply	
	Ordinary Target	Produce	Medium
	Ordinary Target	Produce, Possession	Medium
	Ordinary Target	Contravene Order	Low
	Ordinary Target	Possession, Possess Utensil	Low
	Ordinary Target	Possession	Low


Successful Corruption prosecutions in the last 3 years

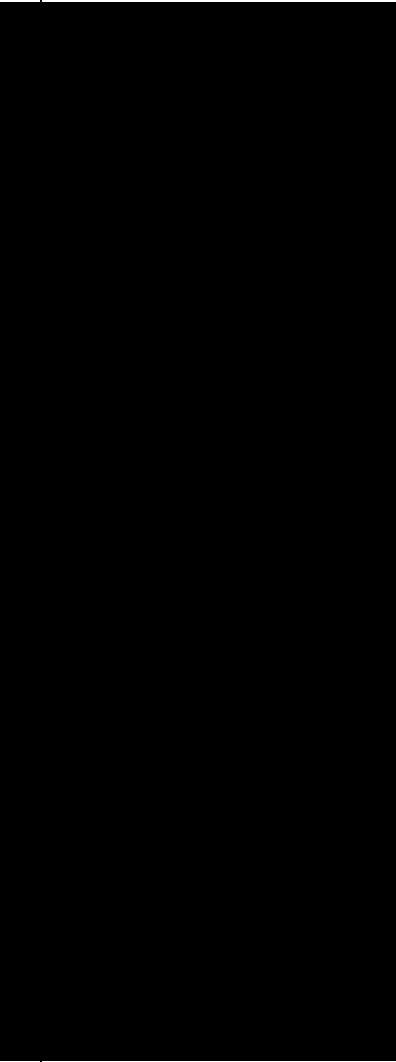





Defendant	Position of Defendant	Broad description of allegations	Level of Complexity
	Council Employee	<p>The defendant dishonestly gained a benefit of \$30,000 for another person while an employee of  </p> <p>The defendant dishonestly gained a benefit of \$6,000 for another person while an employee of  </p> <p>The defendant dishonestly gained a benefit of \$12,500 for another person while an employee of  </p> <p>The defendant dishonestly gained a benefit of \$9,900 for another person while an employee of  </p>	High
	Police Officer	Supply Dangerous Drugs. Possess Dangerous Drug.	High
	Not UPA	Supply of steroids Possession of a mobile telephone used in connection with the commission of a crime	High
	Not UPA	Trafficking Dangerous Drugs Possession of steroids and cannabis Possession of a pipe for use in connection with the smoking of a dangerous drug	High

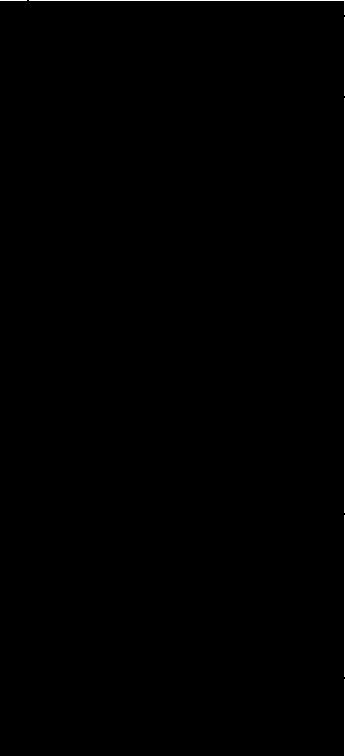
Defendant	Position of Defendant	Broad description of allegations	Level of Complexity
	Not UPA	<p>It was alleged the defendant broke a condition of a bail undertaking</p> <p>It was alleged the defendant arranged for the dumping of fill into a street from a private site at Ipswich City Council rates in abuse of the authority of office, with intent to dishonestly gain a benefit</p> <p>It was alleged the defendant attempted to dishonestly gain a sum of money for himself. And the yield from the dishonesty was of more than \$30,000, namely \$33,000.</p> <p>It was alleged the defendant, being the holder of the office of  and being charged by virtue of such office with the duty of  corruptly agreed to receive a sum of money</p>	High
	Public Servant	Dealt with information gained because of public office with intent to dishonestly gain a benefit	Medium
	Not UPA	It was alleged the defendant made a demand with intent to gain a benefit, and made that demand with a threat to cause detriment	High
	Council Employee	<p>It was alleged the defendant corruptly obtained a benefit namely a sum of money to facilitate a fill services brokerage agreement and subsequent works</p> <p>It was alleged the defendant attempted to pervert the course of justice by influencing a witness with a false written statement in order to provide false evidence</p> <p>It was alleged the defendant corruptly obtained a sum of money on account of his actions in the discharge of the duties of his office to facilitate Ipswich City Council works to </p> <p></p>	High

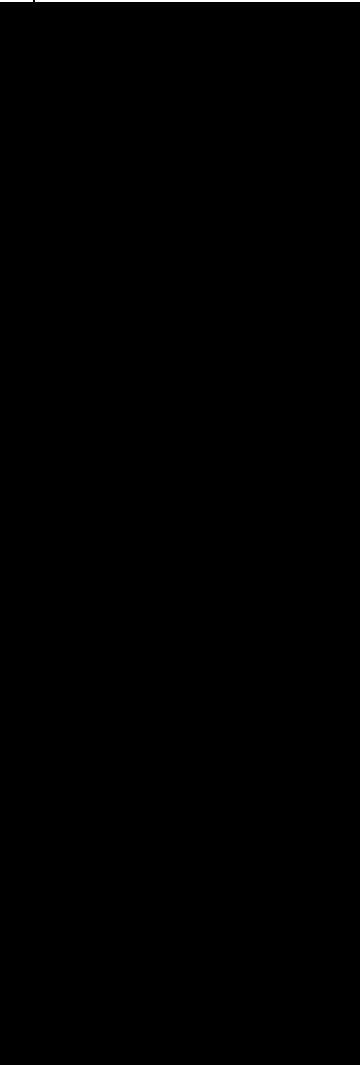
Defendant	Position of Defendant	Broad description of allegations	Level of Complexity
	Not UPA	It was alleged the defendant corruptly obtained a benefit namely a sum of money on account of his actions in the discharge of the duties of his office to facilitate a fill services brokerage agreement and subsequent works.	High
	Not UPA	It was alleged the defendant corruptly obtained a sum of money on account of his actions in the discharge of the duties of his office to facilitate a fill services brokerage agreement and subsequent works.	High
	Not UPA	It was alleged the defendant corruptly gave to the  a sum of money to facilitate Ipswich City Council works	High
	Not UPA	It was alleged the defendant demanded a sum of money, without reasonable cause, with intent to gain a benefit or cause a detriment to another	High
	Elected Official	<p>It was alleged the defendant (on 2 occasions) demanded a sum of money, without reasonable cause, with intent to gain a benefit or cause a detriment to another</p> <p>It was alleged the defendant unlawfully and indecently assaulted another person</p> <p>It was alleged the defendant corruptly received money, the receipt of which would tend to influence him to show favour to any person in relation to his principal's business</p>	High

Defendant	Position of Defendant	Broad description of allegations	Level of Complexity
		<p>It was alleged the defendant dishonestly applied to his own use and the use of another tools in his possession subject to a direction. And the property was of a value of \$30,000 or more.</p> <p>It was alleged the defendant dishonestly applied to his own use or the use of another a sum of money in his possession subject to a condition.</p> <p>It was alleged the defendant knowingly gave false testimony in a CCC hearing</p> <p>It was alleged the defendant unlawfully obtained and had possession of a restricted drug (Sildenafil)</p> <p>It was alleged the defendant corruptly received and agreed to receive benefits on account of the defendant having in the discharge of his duties of his office the promotion of the property development</p> <p>It was alleged the defendant dishonestly applied to his own use or the use of another a sum of money belonging to the Ipswich City Council.</p> <p>It was alleged the defendant, being a public officer with intent to dishonestly gain a benefit for another, did an act in the abuse of the authority of office.</p>	
██████████	Council Employee	It was alleged the defendant, who was charged by virtue of their employment to seek and recommend contractors and to process tenders, corruptly obtained \$120,604.13 in exchange for recommending the acceptance of a contract to a private company.	High

Defendant	Position of Defendant	Broad description of allegations	Level of Complexity
	Not UPA	It was alleged the defendant corruptly gave a benefit to a holder of a public office in exchange for recommending the acceptance of a contract to a private company.	High
	Elected Official	It was alleged the defendant knowingly gave false testimony at a CCC Hearing.	Medium
	Council Employee	It was alleged the defendant, dishonestly obtained a sum of money from Central Highlands Regional Council.	Medium
	Public Servant	Corrupt procurement practices within QFES	High
	Public Servant	It was alleged the defendant received cash incentives from businesses tendering contracts with QFES through his private business	High
	Elected Official (Fraser Coast Regional Council Mayor)	It was alleged the defendant dishonestly involved himself in the recruitment process for a position at the Council. It was alleged the defendant used a restricted computer without the consent of its controller	Medium
	Not UPA	It was alleged the defendant gave a gift of secret commission to an agent	High
	Public Servant	It was alleged the defendant received a secret commission	High
	Police Officer	It was alleged the defendant failed to take appropriate action regarding a suspected drink driver who was an interstate police officer.	Medium
	Police Officer	It was alleged the defendant failed to take appropriate action regarding a suspected drink driver who was an interstate police officer.	Medium

Defendant	Position of Defendant	Broad description of allegations	Level of Complexity
	Public Servant	It was alleged the defendant conducted a large number of unauthorised checks on computer systems accessible in her role, and provided information from those checks to the complainant in this matter.	Medium
	Not UPA	That on the 7th day of May 2018 at Redcliffe   did unlawfully supply a dangerous drug namely dizepam to another person namely  That on the 21st day of June 2018 at Redcliffe   unlawfully had in her possession a thing namely pipe that she had used in connection with the smoking of a dangerous drug.	Low
	Not UPA	It was alleged the defendant unlawfully supplied a dangerous drug (buprenorphine) to another person It was alleged the defendant unlawfully supplied buprenorphine to another person within a correctional facility.	Low
	Public Servant	It was alleged the defendant carried on the business of unlawfully trafficking steroid drugs It was alleged the defendant unlawfully had possession of steroid drugs	Medium
	Public Servant	Supplying a dangerous drug It was alleged the defendant had unlawful possession of cannabis and steroids	Low

Defendant	Position of Defendant	Broad description of allegations	Level of Complexity
	Public Servant	It was alleged the defendant unlawfully assaulted a person	Low
	Not UPA	<p>It was alleged the defendant carried on the business of unlawfully trafficking in the dangerous drug namely steroid drugs</p> <p>It was alleged the defendant unlawfully had possession of a dangerous drug namely steroid drugs</p> <p>It was alleged the defendant had in possession a sum of money reasonably suspected of being the proceeds of an offence</p>	Medium
	Public Servant	It was alleged the defendant used a restricted computer without consent and caused or intended to cause detriment, damage or gain	Low
	Police Officer	It was alleged the defendant prepared, signed and submitted a statement on behalf of another police officer without their knowledge	Low

Defendant	Position of Defendant	Broad description of allegations	Level of Complexity
	Public Servant	<p>It was alleged the defendant fraudulently applied for sick leave on 10 occasions and was absent but did not apply for leave on a further four occasions. On those 14 occasions, the defendant was aware that the co-defendant was not sick or was absent without leave and aided their fraudulent activity by approving the requests (Charge 1)</p> <p>As the school principal, the defendant was issued a corporate credit card. Between 18 March 2016 and 7 November 2019, the defendant made 100 fraudulent transactions with the credit card totalling \$29,132.18 for either his benefit or for the benefit of others (Charge 2)</p> <p>Between 27 April 2014 and 5 September 2018, the defendant used the Japanese school tours to fraudulently gain a total of \$34,811.56 for his own benefit (Charge 3)</p>	Medium
	Public Servant	Fraud - Dishonestly Gain Benefit/Advantage by Employee	Low
	Not UPA	It was alleged the defendant was in possession of dangerous drugs and drug paraphernalia during an execution of a Crime and Corruption Act Search Warrant	Low
	Not UPA	It was alleged the defendant was in possession of 4 capsules containing MDMA which was seized during a search warrant	Low

ATTACHMENT K

Unsuccessful Crime and Corruption prosecutions in the last 3 years

A – Crime matters

CCC investigation

Operation [REDACTED] was an investigation into allegations of fraud, money laundering and drug supply/use withing the firm [REDACTED] Lawyers.

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED]	Ordinary target [REDACTED]	2 x Perjury (s123(1) of the <i>Criminal Code Act 1899</i> (Qld))

Powers used during the investigation

- Closed hearings
- Notices to Produce (s74 CCA)
- Search Warrants (s151 PPRA)
- TI service warrant
- Arrest warrant (s371 PPRA)

Broad description of allegations

It was alleged [REDACTED] gave false evidence in a closed CCC hearing on [REDACTED], and again on [REDACTED].

Key events

[REDACTED] charged – [REDACTED]:

[REDACTED] allegedly false testimony occurred when [REDACTED] denied having discussed with [REDACTED], the taking of cash payments from [REDACTED] clients. This evidence was material to the question as to [REDACTED] alleged knowledge of [REDACTED] alleged involvement in fraud concerning the way [REDACTED] dealt with those cash payments. [REDACTED] was a principal person of interest in relation to Operation [REDACTED]

The CCC had conferred with and briefed then-DPP, now His Honour Judge Byrne QC, on potential charges arising from Operation [REDACTED] at various times, including in relation to the prosecution of [REDACTED] for perjury. The DPP initially allocated the [REDACTED] prosecution to an [REDACTED] Crown Prosecutor, [REDACTED] to avoid conflicts of interest within the [REDACTED].

One count of perjury discontinued by the DPP – [REDACTED]

Prior to the committal hearing, lawyers for [REDACTED] submitted that the prosecution against [REDACTED] in relation to the alleged perjury on [REDACTED] should be discontinued. [REDACTED]

████████████████████ The DPP accepted the submission on that count, and it was discontinued.

First no case submission (committal hearing) – ██████████

A committal hearing for ██████████ was held on ██████████. No witnesses were called, and the evidence was argued on the depositions, with ██████████ legal representative making a no case submission. That submission was rejected by the presiding Magistrate and ██████████ was committed to stand trial in the District Court.

An indictment alleging the one count of perjury was presented by the DPP on ██████████. ██████████ lawyers subsequently made three pre-trial applications.

Second no case submission (pre-trial hearing) – ██████████

On ██████████, lawyers for ██████████ sought orders that the indictment be permanently stayed on the basis there was no case to answer. The application was based on arguments that the evidence could not support a finding that ██████████ knowingly lied in the hearing, or that the alleged lie was material. ██████████ Honour Judge ██████████ dismissed the application in a judgement given on ██████████ ██████████

Application to exclude hearing evidence (pre-trial hearing) – ██████████

On ██████████, lawyers for ██████████ made application to ██████████ Honour Judge ██████████ that all answers ██████████ had given in the hearing on ██████████ and ██████████ be ruled inadmissible against ██████████ in ██████████ trial, except those answers which formed the particulars of the charge. Alternatively, ██████████ requested ██████████ Honour to exercise a discretion to exclude the evidence based on unfairness. On ██████████, ██████████ Honour granted the application on both grounds.

Third no case submission (pre-trial hearing) – ██████████ :

On ██████████, lawyers for ██████████ made a further application for a permanent stay of the proceedings on the basis that, having regard to the evidence excluded on ██████████, the prosecution was foredoomed to fail and was an abuse of process. Alternatively, application was made for a temporary stay of proceedings until such time as steps were taken to ensure no person involved in the prosecution of ██████████ had access to or knowledge of the excluded evidence.

On ██████████, ██████████ Honour Judge ██████████ dismissed both applications but ordered a new prosecution team which had not had access to the inadmissible evidence be appointed to consider the matter. ██████████ Crown Prosecutor ██████████ of the ██████████ Office and Legal Officer ██████████ of the ██████████ Office were allocated as the prosecution team.

Fourth no case submission (at trial) – ██████████ :

On ██████████, the matter proceeded to trial in the District Court before ██████████ Honour Judge ██████████. The prosecution called one witness, ██████████. The Crown prosecutor asked ██████████ three questions: ██████████ name, rank and station. ██████████ was then cross-examined. The remainder of the evidence was admitted by consent. The two relevant questions and two relevant answers were then played to the jury.

At the end of the prosecution case, the defence made a no case submission. The no case submission was based on two arguments:

- Firstly, the alleged lie was not material to a question then pending in the CCC investigation; and
- Secondly, without the excluded evidence, a jury had no proper context within which to assess the defendant's answer.

■ Honour Judge ■ accepted the submission in relation to the second argument and directed the jury to acquit – which they did.

Level of complexity

This prosecution involved a **high** level of complexity. The allegedly deliberate false testimony must be material to the matter being investigated, which requires detailed examination of context from the prosecution. The ‘knowingly’ element is also inherently challenging to establish, as false testimony may occur through inadvertence, confusion, lack of memory or a myriad of other explanations. This was evidenced in relation to the first discontinued count of perjury. The prosecution was further complicated by the change of prosecutors and multiple no case submissions.

CCC investigation

Operation [REDACTED] was an investigation into drug trafficking and money laundering involving cocaine, methylamphetamine and performance and image enhancing drugs in south-east Queensland.

Defendant's name	Defendant's position	Charges
[REDACTED]	Ordinary Target	1 x Possess Dangerous drug in excess of schedule 3 but less than schedule 4 (s9 (1)(b) of the <i>Drugs Misuse Act 1986</i>) 1 x Possess proceeds suspected of being proceeds (s10A(1)(d) of the <i>Drugs Misuse Act 1986</i>)
[REDACTED]	Ordinary Target	1 x Possess Dangerous drug in excess of schedule 3 but less than schedule 4 - s9 (1)(b) of the <i>Drugs Misuse Act 1986</i>) 1 x Possess Dangerous drug s9 of the <i>Drugs Misuse Act 1986</i>) 1 x Possess proceeds suspected of being proceeds (s10 A(1)(d) of the <i>Drugs Misuse Act 1986</i>)

Broad description of allegations

[REDACTED] was a close associate of the primary target. [REDACTED] was charged in [REDACTED] by Australian Federal Police for Drug Importation and Trafficking and was, at the time, on bail with reporting and curfew conditions. Due to [REDACTED] close connection with the primary target, several covert investigation strategies commenced into [REDACTED]

Powers used during the investigation

- Notices to Produce (s74 CCA)
- Search Warrants (s87 CCA)
- Search Warrants (s151 PPRA)
- TI service and named person warrant
- Surveillance device warrant (s330 PPRA)

A search warrant was executed at the residence of [REDACTED] and [REDACTED] where police located two clip seal plastic bags containing what was believed to be cocaine, vials of Testosterone, and \$10,000 in cash.

[REDACTED] and [REDACTED] were charged conjointly in relation to the cocaine and cash and [REDACTED] solely charged in relation to the steroids.

The drug charges were discontinued after a third party provided an affidavit indicating [REDACTED] was the owner of the drugs. The third party was subsequently charged with possess dangerous drug (exceeding schedule). [REDACTED] received 6 months recognisance and was fined \$500.

In relation to the possess proceeds charges, they were dismissed after a submission by defence that the money had been legitimately obtained via [REDACTED] business.

Level of complexity

These prosecutions involved a **low** level of complexity as the charges were relatively simple, and routine.

CCC investigation

Operation [REDACTED] was an investigation into the conduct of solicitors, including the director, of the legal practice [REDACTED] [REDACTED] Lawyers, including allegations of money laundering, drug trafficking and fraud.

Defendant's name	Defendant's position	Charges
[REDACTED]	Ordinary Target	1 x Perjury s123(1) of the <i>Criminal Code Act 1899</i>
[REDACTED] [REDACTED]	Ordinary Target	1 x Perjury s123(1) of the <i>Criminal Code Act 1899</i>

Powers used during the investigation

- Hearings
- Notices to Produce (s74 CCA)
- Search Warrant (s87 CCA)
- Surveillance device warrant (s330 PPRA)
- TI service warrant
- Arrest warrant (s371 PPRA)

Broad description of allegations

The defendants appeared in investigative hearings and both were alleged to have provided false testimony relating to their knowledge of matters relevant to the investigation.

The defendants pleaded not guilty and defence argued that that the prosecution would fail as the prosecution had not proven the defendants had knowingly lied about their knowledge of the matters being probed.

DPP prosecutors assessed the framing of the questions in the hearings as well as the responses given. It was considered that whilst there was evidence the defendants had general knowledge of the matters, their specific knowledge at the time of examination was not articulated clearly.

The DPP accepted the defence submission. However, the statute of limitations for an alternative simple offence was considered to have passed so the DPP discontinued all proceedings against the defendants.

A subsequent review identified that the DPP had not considered Section 52 of the *Justices Act 1886*, which extended the statute of limitations by an additional year.

Level of complexity

These prosecutions involved a **medium** level of complexity due to the inherent difficulties of proving the elements of a perjury charge (discussed above, in relation to [REDACTED]).

CCC investigation

Operation [REDACTED] was an investigation focussing on a criminal organisation alleged to be laundering money in Queensland. Members of this network, including legal and financial practitioners acting as professional facilitators, are alleged to have been involved in activities including money laundering, fraud, accumulation of unexplained wealth, tax evasion or other criminal activity.

Defendant's name	Defendant's position	Charges
[REDACTED]	Ordinary target ([REDACTED])	1 x Supplying dangerous drugs s6 of the <i>Drugs Misuse Act 1986</i>

Powers used during the investigation

- Hearings
- Notices to Produce (s74 CCA)
- Search Warrants (s87 CCA)
- Search Warrants (s151 PPRA)
- TI service warrant

Broad description of allegations

During the investigation it was identified that the primary target was an alleged user and supplier of cocaine to close associates. Covert investigative strategies identified several occasions where the primary target utilised junior employees to assist in the supply of cocaine, including [REDACTED], to collect and deliver cocaine on his behalf.

The DPP decided to discontinue the charge because, while there was evidence of [REDACTED] being involved in the alleged supply, there was no direct evidence of [REDACTED] possession of the drug.

Level of complexity

This prosecution involved a **low** level of complexity as the charge was relatively simple and routine.

B – Corruption matters

CCC Corruption Investigation

Investigation [REDACTED]

Defendants' names, positions and charges

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED] <i>Charged conjointly with [REDACTED]</i>	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	1 x Misconduct in relation to public office (s92A of the <i>Criminal Code 1899</i> (Qld))
[REDACTED] [REDACTED] <i>Charged conjointly with [REDACTED]</i>	[REDACTED] [REDACTED] [REDACTED]	1 x Misconduct in relation to public office (s92A of the <i>Criminal Code 1899</i> (Qld))
[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	1 x Fraud (s408C <i>Criminal Code 1899</i> (Qld)) Note: originally charged with 3 x Forgery (s488(1)(a) of the <i>Criminal Code 1899</i> (Qld))

Investigation [REDACTED] was an investigation focusing on:

- Allegations of corrupt conduct involving senior officers and elected officials of [REDACTED] City Council, including [REDACTED] providing favourable treatment to several contractors to the [REDACTED] City Council including [REDACTED] and
- Allegations that [REDACTED] was involved in an organised crime network involving several persons of interest engaging in criminal activity, which included the provision of secret commissions, unlawful prostitution and suspected immigration offences relating to the falsification of visa applications and sponsorships for those persons engaging in illegal prostitution.

Background

[REDACTED] holds popular rugby league matches between State of Origin league stars and local rugby teams to raise profits.

[REDACTED] arranged an event game to be held on [REDACTED] at [REDACTED]. On [REDACTED] contacted [REDACTED] requesting funding from [REDACTED] City Council towards the event. [REDACTED] advised [REDACTED] that he would donate \$10,000 and have [REDACTED] handle the sponsorship of the event. It was agreed the profit from the event would be donated to the City of [REDACTED] Community Fund, which was controlled by [REDACTED].

Evidence was obtained capturing [REDACTED] alleged plan for [REDACTED] to receive the \$10,000 from [REDACTED] City Council through the submission of false invoices to [REDACTED] City Council. [REDACTED] and [REDACTED] allegedly agreed that to circumvent the operation of the

Donations and Sponsorship policy, ██████ would submit separate invoices for advertising and for two tables at the event. This would then eliminate the need for the \$10,000 donation be submitted to a committee for approval.

██████ submitted three separate invoices totalling \$10,000 and ██████ authorised payment for the invoices.

Broad description of allegations

It was alleged:

- ██████ and ██████, with intent to dishonestly gain a benefit for ██████ of ██████ authorised the payment of false invoices.
- ██████, with intent to defraud ██████ City Council submitted three forged invoices for payment towards sponsorship.

Powers used during the investigation

Following the CCC decision to investigate, several investigative steps were undertaken, including:

- Notices to Discover, pursuant to s. 75 of the CC Act
- Notices to Produce, pursuant to s. 74 of the CC Act
- Search warrants under the *Police Powers and Responsibilities Act 2009* (the PPRA)
- Interviews with witnesses and obtaining statements
- Telecommunication interception warrants issued under the *Telecommunications (Interception and Access) Act 1979* (Cth) (the TIA Act)
- Surveillance device warrants issued under the PPRA
- investigative hearings authorised under s176 of the CC Act
- Physical surveillance of key persons of interest
- Preparation of intelligence profiles
- Analysis of historic and prospective call charge records authorised under ss178 and 180 of the TIA Act
- Review of law enforcement intelligence holdings
- Open-source research
- Review of previous complaints made to the CCC
- Preparation of financial profiles
- Analysis of financial records
- Forensic examination of electronic devices and data

Key events – ██████

██████ charged – ██████:

██████ was charged conjointly with ██████:

- 1 x Misconduct in relation to public office

██████ charged – ██████

██████ was charged conjointly with ██████:

- 1 x Misconduct in relation to public office

Registry Committal – ██████:

██████████ charge proceeded by way of Registry Committal on ██████████ as agreed between the defence and ODPP. ██████████ was committed to stand trial in the Brisbane District Court.

Directions hearing – ██████████:

The defence for ██████████ made an application to cross-examine witnesses at committal hearing. The Crown Prosecutor appeared to make submissions on the Crown's position with respect to the defence application.

Committal hearing commences – ██████████

A committal hearing with cross-examination commenced on ██████████ for ██████████.

██████████ was committed to stand trial in the Brisbane District Court.

Indictment presented – ██████████:

A joint indictment was presented before the Brisbane District Court for s92A(1)(c):

That on diverse dates between the ██████████ and the ██████████
██████████ at ██████████ or elsewhere in the State of Queensland, ██████████ and
██████████ being a public officer, did an act namely approved and delivered
invoices in abuse of the authority of office, with intent to dishonestly gain a benefit for
International Legends of League Pty Ltd.

On ██████████, the matter was transferred to the ██████████ District Court.

s590AA pre-trial hearing commences – ██████████:

On ██████████, ODPP advised the CCC that the pre-trial hearing was listed for ██████████ and ██████████
██████████ and the trial had been moved to commence on ██████████

The pre-trial hearing commenced on ██████████ to determine the defence application to
exclude evidence relating to third party communications that did not involve ██████████.

s590AA pre-trail hearing commences – ██████████:

The defence for ██████████ sought a pre-trial hearing to cross examine ██████████ (who had provided
a witness statement to the CCC leading up to the trial date). The pre-trial hearing commenced
on ██████████

District Court trial commences – ██████████:

There had been two previous trial dates listed – the week commencing ██████████ and the
week commence ██████████.

On ██████████, the ODPP advised the CCC that the defence had raised making an application
to have a judge alone trial as it had been determined that ██████████ District Court was too small
to proceed with a 'double-header' trial with a jury during the COVID pandemic.

The trial commenced on ██████████ in the ██████████ Court. It had been listed to
proceed for two weeks. ██████████ and ██████████ entered pleas of not guilty to the charge upon
which they had been indicted.

On ██████████ and ██████████ were found not guilty by a jury.

Other charges – ██████████

██████████ was also charged separately in relation to another matter arising from Operation ██████████ was charged along with ██████████, in relation to an agreement related to the dumping of fill on preferential terms, with an offence of Misconduct in Public Office (s92A Code).

██████████ was convicted on ██████████ following a trial in the ██████████ District Court. On ██████████, the Court of Appeal (██████████) quashed ██████████ conviction. The Court held that the jury was required to exclude, beyond reasonable doubt, that ██████████ would have acted in the same way but for the improper purpose, and that as a result they were not properly directed. The court held 2-1 (██████████ dissenting) that the evidence was capable of sustaining a conviction on this alternative basis, and ordered that there be a re-trial. That matter remains before the courts.

██████████ had previously pleaded guilty in relation to his involvement in this matter, and his conviction is recorded in the ██████████.

Key events - ██████████

██████████ charged – ██████████

██████████ was charged with:

- 3 x Forgery

Summary trial commences – ██████████

On an unknown date, the police prosecutor who had carriage of the criminal prosecution had offered no evidence to the 3 x Forgery charges and charged ██████████ from the bench with 1 x Fraud charge.

A summary trial was originally listed to commence on ██████████. The summary trial was delisted and listed to commence on ██████████ for two days.

On ██████████, the summary trial commenced for:

- 1 x Fraud:
That between the ██████████ ██████████ at ██████████ and elsewhere in the State of Queensland one ██████████ dishonestly obtained a sum of money from the ██████████ City Council.

Upon the prosecution closing its case, the defence elected neither to call nor lead evidence. The matter was adjourned to ██████████ for the purpose of closing submissions.

Closing submissions – ██████████:

The charge wording alleges ██████████ dishonestly obtained a sum of money from ██████████ City Council. The defence argued that ██████████ could not and did not personally obtain a sum of money from ██████████ City Council but rather it was the company ██████████ that obtained the money.

The prosecution submitted that as the director of the company, ██████████ had personally obtained a sum of money from ██████████ City Council.

At the conclusion of the closing submissions, the Magistrate reserved ██████████ decision until ██████████.

Reserved decision – ██████████

The Magistrate accepted the defence submissions. The Magistrate acquitted [REDACTED] and the charges were discharged.

Level of complexity - Medium

Having regard to the below internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of these prosecutions is considered **Medium**:

- [REDACTED] and [REDACTED] charged as co-defendants
- [REDACTED] and [REDACTED] matters proceeded in Brisbane then transferred to [REDACTED]
- [REDACTED] and [REDACTED] matters proceeded separate to [REDACTED] matters which was dealt with in the summary jurisdiction
- extensive use of evidence derived from the exercise of powers noted above
- committal with cross-examination [REDACTED] versus registry committal [REDACTED] causing delay in presenting the Indictment and proceeding to trial
- nature of the offences for all defendants required proving the mental element of dishonesty and intention
- [REDACTED] original charges were substituted for one charge of fraud
- Arresting officer returned to the QPS prior to the prosecution of all matters

CCC investigation

██████████

Defendants' names, positions and charges

Defendant's name	Defendant's position	Charges
██████████ ██████████	██████████ ██████████ ██████████	27 x Fraud (s408C(1)(a)(i) of the <i>Criminal Code</i> 1899 (Qld)); or alternatively 27 x Fraudulent falsification of records (s430(a) of the <i>Criminal Code</i> 1899 (Qld)) <i>Note: ██████████ was originally charged with 28 x Fraudulent falsification of records (s430(a) of the Criminal Code 1899 (Qld))</i>

Background

The investigation obtained evidence identifying a longstanding systemic and culturally accepted alleged practice of dishonestly circumventing the Community Donations policy to ensure the ██████████ City Council paid for auction items purchased by ██████████ after he attended charity events held by community organisations. The payment for the auction items was disguised as a community donation.

██████████ offending behaviour was allegedly facilitated by the actions of ██████████ was responsible for the compilation and submission of a Community Donations Request form (signed by the community organisation) and other supporting documentation to the Community Development Branch of ██████████ City Council for approval and payment. ██████████ allegedly fraudulently falsified the Communication Donations Request form, leaving out any reference to the payment amount and that the payment was for auction items purchased by ██████████, to ensure they were processed and paid.

██████████ would retain the auction items for ██████████ own benefit or for the benefit of others associated with ██████████

Broad description of allegations

It was alleged ██████████ fraudulently made false entries in Community Donations Request forms for the benefit of ██████████.

Powers used during the investigation

Following the CCC decision to investigate, several investigative steps were undertaken, including:

- Notices to Discover, pursuant to s. 75 of the CC Act
- Notices to Produce, pursuant to s. 74 of the CC Act
- Search warrants under the PPRA
- Interviews with witnesses and obtaining statements
- Telecommunication interception warrants issued under the TIA Act
- Surveillance device warrants issued under the PPRA
- Closed investigative hearings authorised under s176 of the CC Act
- Physical surveillance of key persons of interest

- Preparation of intelligence profiles
- Analysis of historic and prospective call charge records authorised under ss178 and 180 of the TIA Act
- Review of law enforcement intelligence holdings
- Open-source research
- Review of previous complaints made to the CCC
- Preparation of financial profiles
- Analysis of financial records
- Forensic examination of electronic devices and data

Key events

charged –

was charged with:

- 28 x Fraudulent falsification of records (s430(a) of the Criminal Code 1899 (Qld))

Registry Committal –:

charges proceeded by way of Registry Committal on as agreed between the defence and ODPP. was committed to stand trial in the Brisbane District Court.

Indictment presented –:

An indictment was presented before the District Court for:

- 27 x Fraud (s408C(1)(a)(i) of the *Criminal Code 1899* (Qld)) or alternatively 27 x Fraudulent falsification of records (s430(a) of the *Criminal Code 1899* (Qld))

Note: In relation to the donations fraud, had originally been charged and committed to stand trial on 3 x Fraud.

Defence submission and negotiations commenced -:

The defence for made a submission to the ODPP to consider abandoning the charges on the basis that did not act dishonestly, and that it was not in the public interest to continue with the prosecution.

On 10 January 2020, the ODPP sought the CCC's view on

Nolle prosequi entered by ODPP –:

The indictment against remained before the Brisbane District Court until entered a plea of guilty to the fraud charges was indicted on.

The ODPP entered a nolle prosequi on and matters were discontinued.

Level of complexity – Low

Having regard to the below internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of these prosecutions is considered **Low**:

- Primary offender [REDACTED] had not charged with 27 fraud offences originally at the time [REDACTED] had been charged – Brief of evidence for [REDACTED] had to be compiled during the course of the prosecution of [REDACTED].
- Low frequency of defence disclosure requests or ODPP requisitions however the ODPP requisition required further investigation and evidence gathering.
- [REDACTED] application was submitted to the ODPP seeking [REDACTED].
- [REDACTED] had provided a witness statement making partial admissions - [REDACTED] involvement was at the direction of her immediate supervisor and [REDACTED].
- The ODPP recommended applying for a [REDACTED] – The CCC originally determined to charge [REDACTED].
- Discontinued after primary offender [REDACTED] accepted responsibility and pleaded guilty.

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Defendant's name	Defendant's position	Charges
██████████ ██████████	██████████████████ ██████████████████ ██████████████████	14 x Fraud (s408C of the Criminal Code 1899 (Qld)) 1 x Breach bail (s.29 <i>Bail Act 1980</i> (Qld))

Background

During Operation [REDACTED], the CCC's investigation of corruption within [REDACTED] City Council [REDACTED] the CCC investigated allegations against [REDACTED]

Broad description of allegations

It was alleged that as a councillor of [REDACTED], between [REDACTED] and [REDACTED], [REDACTED] bid at charity auctions for various items and had approved authorised payment for auction items by way of a donation from [REDACTED] community donations fund to the community organisation which held the auction. On the remaining occasion, no payment was made.

Powers used during the investigation

Following the CCC decision to investigate, several investigative steps were undertaken, including:

- Notice to Discover powers exercised under s75 of the CC Act
- Notice to Produce powers exercised under s74 of the CC Act
- Execution of search warrants under the PPRA
- Interviews with witnesses and obtaining statements
- Telecommunication interception warrants issued under the TIA Act
- Execution of surveillance device warrants issued under the PPRA
- Closed investigative hearings authorised under s176 of the CC Act
- Physical surveillance of key persons of interest
- Preparation of intelligence profiles
- Analysis of historic and prospective call charge records authorised under ss178 and 180 of the TIA Act
- Review of law enforcement intelligence holdings
- Open-source research
- Review of previous complaints made to the CCC
- Preparation of financial profiles
- Analysis of financial records
- Forensic examination of electronic devices and data

Key events

██████████ charged – ██████████:

██████████ was charged with seven charges of fraud.

At a later date, [REDACTED] was charged with breach of a bail condition.

ODPP laid additional charges of fraud – [REDACTED]

A summary trial before the [REDACTED] Magistrates Court was listed to commence on [REDACTED].

On [REDACTED], the ODPP brought the matter on for mention to have [REDACTED] charged from the bench with seven additional charges of fraud. This brought the total number of charges of fraud to 14. The summary trial date of [REDACTED] was adjourned.

As a result of the adjournment of the summary trial, the defence made an application for costs thrown away. The determination of the costs application was reserved until the conclusion of the proceedings.

[REDACTED] convicted after Magistrates Court trial – [REDACTED]:

On [REDACTED], the summary trial commenced. The ODPP offered no evidence with respect to one charge of fraud. The summary trial proceeded against [REDACTED] for 12 charges of fraud and one charge of attempted fraud. A senior Crown Prosecutor, appeared for the prosecution. At the conclusion of the summary trial, the decision was reserved to [REDACTED]

On [REDACTED], the Magistrate found [REDACTED] [REDACTED] of 12 charges of fraud and one of attempted fraud.

The Magistrate found, amongst other things, that [REDACTED]:

- knew the Council's policy on donations did not permit the use of the Council's community donations fund where an individual was to obtain a material or personal benefit
- applied Council funds to [REDACTED] own use by authorising payment from the community donations fund to expunge the debt [REDACTED] (or others) incurred by bidding at the auctions and to obtain the right to the property the subject of the bid, and
- acted dishonestly by the standards of ordinary people in doing so.

The matter was adjourned for sentence to [REDACTED].

On [REDACTED], the parties made submissions towards sentence. [REDACTED] entered a plea of guilty to one charge of breach of a bail condition. The Magistrate adjourned his decision on sentence until [REDACTED]

[REDACTED] convicted and sentenced – [REDACTED]

- For each of the fraud charges, [REDACTED] was sentenced to a term of imprisonment of six months, wholly suspended for a period of 18 months;
- For the attempted fraud charge, [REDACTED] was sentenced to a term of imprisonment of three months, wholly suspended for a period of 18 months to be served concurrently with the above, and
- For the breach of bail condition, [REDACTED] was convicted and not further punished.

[REDACTED] appeal to the District Court successful – [REDACTED]:

Prior to the delivery of the sentence, [REDACTED] filed an appeal under section 222 of the *Justices Act 1886* (Qld) on [REDACTED]

The appeal was heard on [REDACTED]. [REDACTED] appealed against conviction for the 12 fraud charges and one attempted fraud charge, and the recording of a conviction for the breach of bail charge. The senior Crown Prosecutor again appeared for the prosecution.

On [REDACTED], an appeal under s. 118 of the *District Court of Queensland Act 1967* (Qld) seeking leave to appeal the District Court decision was filed. The application seeking leave to appeal was heard on [REDACTED]. The District Court upheld [REDACTED] appeal, set aside the convictions and entered verdicts of acquittal for the fraud charges and attempted fraud charge and set aside the order recording a conviction for the breach of bail offence, and ordered that no conviction be recorded for that offence.

[REDACTED] Honour Judge [REDACTED] of the District Court concluded:

- the use of the Council's community donations fund to pay for charity auction items was neither outside nor prohibited by Council policy
- the evidence "overwhelmingly suggest[ed]" that the respondent believed that the practice was within Council policy, provided [REDACTED] did not benefit personally
- the respondent had not applied the Council funds to [REDACTED] own use, but rather to the Council's, for the purpose of genuine donations, and
- dishonesty was not proved.

The prosecution sought to appeal the District Court decision. On [REDACTED], the Court of Appeal refused leave to appeal.

Level of complexity – Medium

Having regard to the below internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of this prosecution is considered **Medium**.

- Charges involved dishonesty elements in the context of organisational policy
- Divergent judicial opinions at various levels on key issues
- Prosecution added 7 x additional charges of fraud prior to the first-listed summary trial date
- [REDACTED], the defendant had made admissions during record of interview, and there was extensive use of evidence derived from search warrants and notices to discover.

CCC Corruption Investigation

[REDACTED]

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED] [REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED] [REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED] [REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED] [REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED] [REDACTED]
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CCC Corruption Investigation

Investigation into [REDACTED] Council

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	5 x fraud (s408C of the <i>Criminal Code Act 1899</i>) 5 x fraudulent falsification of records (s430 of the <i>Criminal Code Act 1899</i>)

Broad description of allegations

In [REDACTED], the then Crime and Misconduct Commission (CMC) commenced an investigation into allegations of official misconduct against [REDACTED] and [REDACTED] (the former [REDACTED] of [REDACTED] Council) regarding corrupt or dishonest misuse of [REDACTED] resources and the dishonest misuse of resources of the [REDACTED] an organisation aimed at pursuing commercial benefits for the [REDACTED].

It was alleged that before [REDACTED] resigned, [REDACTED] executed a Deed of Release (the Deed) between [REDACTED] and [REDACTED] to which a Council Resolution was required. Under the terms of the Deed, [REDACTED] was entitled to a severance payment of \$500,492.02.

On [REDACTED], [REDACTED] was present at the passing of the council resolution concerning the Deed. It was alleged that [REDACTED] was told that the Council had not approved the Deed and [REDACTED] subsequently prepared false minutes of the meeting confirming that the Council had resolved unconditionally to approve the Deed. [REDACTED] received the payment under the terms of the Deed of Release on [REDACTED].

The investigation also considered the allegation that [REDACTED], in his role as [REDACTED] of the [REDACTED] [REDACTED] (after resigning from his role as [REDACTED]) paid [REDACTED] a total sum of \$58,400 comprising four payments from the [REDACTED] and that he created four fake tax invoices in [REDACTED] to justify the payments to [REDACTED].

Powers used during the investigation

Following the decision to investigate the allegations, the following investigative steps were undertaken, including:

- Notices to Discover, pursuant to s. 75 of the CC Act
- Interviews with witnesses

Charges

[REDACTED] charged with fraud

In [REDACTED] was charged with five counts of fraud pursuant to s408 of the *Criminal Code Act 1899* (the Criminal Code) and five counts of fraudulent falsification of records pursuant to s430 of the Criminal Code.

Committal Proceedings in relation to \$500k severance payment – [REDACTED]

On [REDACTED], [REDACTED] appeared at a committal hearing in the [REDACTED] Magistrates Court in relation to the severance payment received under the terms of the Deed of Release. [REDACTED] was ordered to stand trial on a date to be fixed.

Due to a perceived conflict, the matter was later transferred from the [REDACTED] District Court to the [REDACTED] District Court.

First District Court trial of [REDACTED]

[REDACTED] stood trial before [REDACTED] Honour Judge [REDACTED] in the District Court [REDACTED] between [REDACTED] and [REDACTED] in relation to the \$500k severance payment. The prosecution was represented by the Office of the Director of Public Prosecutions.

Outcome

On [REDACTED] the jury returned a verdict of not guilty in relation to the fraud charges against [REDACTED].

Second District Court trial of [REDACTED]

[REDACTED] and [REDACTED] were also both committed to stand in separate trials in relation to the payments made by [REDACTED] to [REDACTED] from the [REDACTED] totalling \$58,400.

On [REDACTED] [REDACTED] was found guilty of fraud in the District Court [REDACTED] before [REDACTED] Honour Judge [REDACTED]. [REDACTED] received a sentence of two years imprisonment, wholly suspended. [REDACTED] has appealed this decision and the matter is currently before the Court of Appeal.

Prosecution of [REDACTED]

The prosecution of [REDACTED] in relation to this matter has not yet proceeded to trial. As a result of a 'disclosure issue' (no further detail available), [REDACTED] and [REDACTED] trials were severed and [REDACTED] matter was moved to [REDACTED] matter remains before the Brisbane District Court, and is next listed for mention on [REDACTED]

Level of complexity - Medium

Having regard to the internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of these prosecutions is considered **Medium**:

- the nature of the offence required proving the element of dishonesty and benefit
- the alleged conduct was disguised as a legitimate or official practice
- a significant amount of time had elapsed from the date of the key event (the Council resolution concerning the Deed taking place in [REDACTED] to [REDACTED] first trial taking place in [REDACTED])
- the key witnesses in the matter gave differing accounts when giving testimony at trial
- some witnesses were hard to locate as they live in [REDACTED]
- witnesses gave evidence remotely as the matter had been transferred from [REDACTED] to [REDACTED]
- the arresting officer had returned to the QPS prior to [REDACTED] first trial. The QPS officer who took over the matter also returned to the QPS prior to the first trial.

CCC investigation

Investigation [REDACTED]

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED]	Businessman, [REDACTED] [REDACTED] [REDACTED] [REDACTED]	2 x official corruption (s. 87(1)(b) <i>Criminal Code Act 1899</i> (Qld))
[REDACTED] [REDACTED]	Businessman, [REDACTED] [REDACTED]	2 x official corruption (s. 87(1)(b) <i>Criminal Code Act 1899</i> (Qld))

Defendants' names and positions

- [REDACTED] - [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Broad description of allegations

Operation [REDACTED] investigated allegations of corrupt procurement practices within the [REDACTED].

[REDACTED] was responsible for significant procurement by [REDACTED], including warehousing of inventory and commercial cleaning of uniforms. [REDACTED] was instrumental in arranging secondary employment for himself and [REDACTED] with two companies that were tendering for [REDACTED] work, [REDACTED] and [REDACTED].

[REDACTED], and to a lesser extent [REDACTED], took active steps to assist [REDACTED] in the preparation of tenders for [REDACTED] work worth millions of dollars, including releasing confidential tender information before it was available publicly, assisting the companies write and prepare tender documents, providing technical knowledge to the companies to assist their tenders, providing feedback and suggestions on their tender documents and, in the case of [REDACTED], making recommendations to [REDACTED] selection panels that those companies should be selected.

Neither [REDACTED] nor [REDACTED] disclosed the secondary employment or any conflict of interest to [REDACTED], and they both took steps to hide their involvement with the two companies.

[REDACTED] earned approx. \$194,000 over a three year period from the two companies, and [REDACTED] approx. \$54,000.

Charges

- [REDACTED] was charged on [REDACTED] with four counts of Official Corruption contrary to section 87(1)(a) of the Criminal Code;
- [REDACTED] was charged on [REDACTED] with two counts of official corruption contrary to section 87(1)(b) of the Code and with two counts of money laundering contrary to section 250(1)(b) of the *Criminal Proceeds Confiscation Act 2002*;

- [REDACTED], Director of [REDACTED], was charged on [REDACTED] with two counts of official corruption contrary to section 87(1)(b) of the Code; and
- [REDACTED], Director of [REDACTED], was charged on [REDACTED] with two counts of official corruption contrary to section 87(1)(b) of the Code.

Outcome – [REDACTED]

[REDACTED] pleaded guilty to 4 counts of official corruption and on [REDACTED] was sentenced to three years imprisonment, suspended after 6 months, with a five year operation period on the suspension.

On [REDACTED], [REDACTED] pleaded guilty to two counts of recklessly engaging in money laundering under s250(1)(B) of the *Criminal Proceeds Confiscation Act 2002* and was sentenced to a wholly suspended 12 month term of imprisonment and a conviction was recorded. [REDACTED] dismissed [REDACTED] soon after.

Outcome [REDACTED]

Following a committal hearing in [REDACTED], [REDACTED] were committed to stand trial. [REDACTED] was cross examined at that committal hearing.

On [REDACTED] a pre-trial “Basha” hearing under s590AA of the Criminal Code was conducted in the prosecutions of [REDACTED]. Sparks was again cross examined.

During the committal and in the “[REDACTED]” hearing, [REDACTED] gave evidence that was inconsistent with the evidence [REDACTED] gave to the CCC in [REDACTED] witness statement.

Following a no case submissions to the DPP from lawyers for [REDACTED], in [REDACTED] the DPP decided not to continue to trial in the matters of [REDACTED], and the DPP discontinued the prosecutions.

[REDACTED]:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Powers used during the investigation

- Telecommunication interception warrants issued under the TIA Act
- Search warrants, pursuant to s. 86 of the CC Act
- Notices to discover, pursuant to s. 75 of the CC Act
- Investigative hearings authorised under s176 of the CC Act

Level of complexity – High

Having regard to the internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of these prosecutions is considered **High**:

- Implicated co-defendants
- Difficulty proving mental elements of ‘corruptly’

- The alleged corrupt behaviour was well disguised as legitimate consulting work by [REDACTED] and [REDACTED]
- The management of significant amounts of covert evidence
- [REDACTED]
- Unreliability of the evidence given by [REDACTED] and [REDACTED] changing story over time.

CCC investigation

Operation [REDACTED]

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED]	[REDACTED] [REDACTED]	1 x stealing 1 x Official Corruption (s87 of the <i>Criminal Code Act 1899</i> (Qld)). (later amended by DPP to 1 x Receipt of secret commissions per s442B of the <i>Criminal Code Act 1899</i> (Qld)) (<i>note – this prosecution was successful</i>)
[REDACTED] [REDACTED]	Civilian	1 x Official Corruption (s87 of the Criminal Code). (later amended by DPP to 1 x Receipt of secret commissions per s442B of the <i>Criminal Code Act 1899</i> (Qld))

Broad description of allegations

[REDACTED], the former [REDACTED] at [REDACTED] Shire Council, and his friend, [REDACTED] the director of an [REDACTED] company, were jailed for secret commissions offences as a result of this investigation.

In [REDACTED] role at [REDACTED] Shire Council, [REDACTED] was responsible for the appointment of contractors, the calling of tenders, and the appointment and allocation of engineering-related work for the Council. [REDACTED] and [REDACTED] were personal friends, a fact that [REDACTED] failed to disclose to [REDACTED] employer.

The CCC investigation showed that between [REDACTED] and [REDACTED], [REDACTED] allegedly corruptly obtained for [REDACTED] 79 payments totalling just over \$120,000 from [REDACTED] company, [REDACTED]. The payments to [REDACTED] were in exchange for [REDACTED] ensuring the Council entered into a contract with [REDACTED] worth just over \$1 million.

Charges

[REDACTED] and [REDACTED] were all originally charged with Official Corruption (s87 of the Criminal Code).

The DPP later amended those charges to:

- Receipt of secret commissions against [REDACTED] and [REDACTED] (s442B of the Criminal Code) and
- Gift of secret commissions against [REDACTED] (s442BA of the Criminal Code).

Outcome

On [REDACTED], [REDACTED] pleaded guilty in the [REDACTED] District Court to receiving secret commissions, and was sentenced to five years imprisonment, suspended after 20 months, with an operational period of five years.

On [REDACTED] pleaded guilty in the [REDACTED] District Court to paying secret commissions. On [REDACTED] he was sentenced to three years imprisonment, suspended after nine months, with an operational period of five years.

Withdrawn charges

[REDACTED]

[REDACTED] was originally charged with secret commissions offences on the basis that [REDACTED] was a party to [REDACTED] offences as the corrupt payments from [REDACTED] company to [REDACTED] were disguised as wages to [REDACTED] and were paid into [REDACTED] bank account.

As part of the investigation, the CCC obtained [REDACTED], which was submitted to the DPP in support of a [REDACTED]. After considering [REDACTED], the ODPP decided there was no evidence of corruption on [REDACTED] behalf as [REDACTED] was an innocent victim of [REDACTED] and [REDACTED] corrupt arrangement. The secret commissions charges against [REDACTED] were then discontinued.

[REDACTED] stealing charges

CCC investigators executed a search warrant at [REDACTED] house early in the investigation, during which a pair of QPS issue hand cuffs were found. [REDACTED] had previously been a police officer with QPS.

[REDACTED] was charged with stealing the hand cuffs. Much later, when [REDACTED] offered to plead guilty to the secret commission charges, [REDACTED] offer was on the basis that the DPP discontinued the stealing charge, and [REDACTED] would surrender possession of the hand cuffs. The DPP and CCC agreed.

Powers used during the investigation

- Telecommunications interception warrants issued under the TIA Act
- Search warrant, pursuant to s. 86 of the CC Act
- Notices to discover, pursuant to s. 75 of the CC Act

Level of complexity – High

Having regard to the internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of these prosecutions is considered **High**:

- Co-defendants
- Difficulty proving the mental element of ‘corruptly’
- The corrupt arrangement was well disguised as “legitimate” conduct through disguising the corrupt payments as wages to [REDACTED] from [REDACTED]
- Language barriers.

CCC investigation

Investigation [REDACTED]

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED]	Employee of [REDACTED] [REDACTED] Shire Council	2 x Fraud (s408C Criminal Code Act 1899 (Qld))
[REDACTED]	Former [REDACTED] [REDACTED] Shire Council ([REDACTED])	1 x Fraud contrary to s408C(1)(b) of the Criminal Code Act 1899 (Qld)

Broad description of allegations

It was alleged between [REDACTED] and [REDACTED] and [REDACTED] dishonestly obtained property in the form of loans and accommodation from [REDACTED] the owner of the [REDACTED].

[REDACTED] was in financial difficulty and needed to sell [REDACTED]. It was alleged [REDACTED] made promises to [REDACTED] that [REDACTED] would use [REDACTED] influence as [REDACTED] of the [REDACTED] to ensure that the [REDACTED], a subsidiary of [REDACTED], would buy the [REDACTED]. In exchange, it was alleged [REDACTED] loaned money to [REDACTED] and [REDACTED] and provided free [REDACTED] to them and their family members. The evidence showed [REDACTED] had transferred approximately \$108,000 to [REDACTED] and [REDACTED] during the relevant period.

It was separately alleged that [REDACTED] dishonestly applied to the use of another a banking credit belonging to [REDACTED] Shire Council.

Charges

On [REDACTED], [REDACTED] was charged with 2 x counts of fraud. These were withdrawn by the DPP on [REDACTED]. The matter was dealt with by way of adult caution, which is a diversionary measure available for first offenders who accept responsibility for their conduct, and the level of offending supports such diversionary action.

On [REDACTED], both [REDACTED] and [REDACTED] were charged with fraud contrary to s408C(1)(b) of the *Criminal Code 1899*, with a circumstance of aggravation as the amount of property dishonestly obtained exceeded \$100,000 (s408C(2A)(a)).

The prosecution of [REDACTED] and [REDACTED] were separated soon after charges were laid. The ODPP agreed to the CCC's request to manage the prosecution prior to committal, and the [REDACTED] office of the ODPP had carriage of the prosecution from very early in the proceedings.

On [REDACTED], a committal hearing was held in respect of the charges against [REDACTED].

Following the committal hearing, [REDACTED] lawyers filed a no case submission on [REDACTED]

In summary, the submission from defence:

- disputed the reliability of [REDACTED] evidence;
- argued any prima facie case for fraud was against [REDACTED]; and
- submitted there was no evidence of dishonesty against [REDACTED]

On [REDACTED], the Magistrate determined there was insufficient evidence to commit [REDACTED] and the charges against [REDACTED] were dismissed.

The charges against [REDACTED] are still before the court. [REDACTED] has pleaded not guilty and the matter is listed in the [REDACTED] District Court, week commencing [REDACTED]

Powers used during the investigation

- Telecommunications interception warrants issued under the TIA Act
- Search warrant, pursuant to s86 of the CC Act
- Notices to discover, pursuant to s75 of the CC Act

Level of complexity – Medium

Having regard to the internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of these prosecutions is considered **Medium**:

- Co-defendants
- Difficulty proving the mental element of 'dishonestly'
- Unreliability of a key prosecution witness, [REDACTED].

CCC investigation

Investigation [REDACTED]

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	Misconduct in relation to public office (s. 92A of the <i>Criminal Code 1899</i> (Qld)) x 2

Broad description of allegations

There were two broad allegations arising out of this investigation:

- i. actively advocating a shift in the timing of the [REDACTED] project, despite having a conflict of interest (COI); and
- ii. actively advocating for the scope of the [REDACTED] project to include [REDACTED], despite having a COI.

Allegation one

It was alleged, [REDACTED] used [REDACTED] influence as [REDACTED] of [REDACTED]) to have [REDACTED] officers in the Engineering, Construction and Maintenance division of [REDACTED] make amendments to both the scope of works and timing of the delivery of the [REDACTED] project.

As a consequence of [REDACTED] direct intervention, [REDACTED] officers:

- i. brought forward the timing for the investigation/planning, design and construction from 2025/26 (after being pushed out in 2016) to 2018/19 to ensure the project was completed prior to the [REDACTED] local government election; and
- ii. amended the scope to cover all of [REDACTED] in particular [REDACTED] property of [REDACTED]

In relation to the front block, it was alleged [REDACTED] planned to use this for commercial purposes, by inserting a service station, with ancillary use and food outlets. It was alleged [REDACTED] intended to obtain a benefit from this.

Allegation two

It was alleged [REDACTED] placed leverage on the issue, and lobbied other councillors, the former Chief Executive Officer (CEO), [REDACTED] and Deputy CEO by convincing them that the [REDACTED] and the fuel industry would not support the proposed amendments in their current state. Consequently, [REDACTED] used his position as the Mayor of the [REDACTED] in order to lobby the removal of the reference to 200 square metres [REDACTED] for ancillary shops attached to service stations.

Charges

Charge one

There was ongoing liaison between the ODPP and CCC prior to the discontinuation of charges. The charges were discontinued by the ODPP during committal and prior to final submissions.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Charge two

[REDACTED]

[REDACTED]

[REDACTED]

Powers used during the CCC investigation

- Telecommunications interception warrants issued under the TIA Act
- Search warrant, pursuant to s. 86 of the CC Act
- Notices to discover, pursuant to s. 75 of the CC Act
- Closed investigative hearings authorised under s176 of the CC Act

Level of complexity – High

Having regard to the internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of these prosecutions is considered **High**:

- Proving element of charge - dishonesty and other reasons for conduct, i.e. but for dishonest intention [REDACTED] did what [REDACTED] did: [REDACTED] [2021] QCA 268.

CCC investigation

Investigation [REDACTED]

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED]	[REDACTED]	Official Corruption (s. 87 of the <i>Criminal Code</i> 1899 (Qld)) x 1
[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	Official Corruption (s. 87 of the <i>Criminal Code</i> 1899 (Qld)) x 1

Broad description of allegations

It was alleged [REDACTED] corruptly received the benefits for [REDACTED] 'on account of' using [REDACTED] position as [REDACTED], to inappropriately:

- advocate for a development application made by [REDACTED] for [REDACTED], which was not within [REDACTED] division; and
- provide [REDACTED] information to [REDACTED], which he would otherwise not be privy to.

It was alleged [REDACTED] inappropriately gifted property to [REDACTED] in order for him to:

- advocate for [REDACTED] application within [REDACTED]
- be the 'go between' between [REDACTED] and [REDACTED]; and
- asked [REDACTED] to make inquiries in relation to information [REDACTED] wanted to obtain.

It was alleged [REDACTED] engaged in corrupt conduct by corruptly receiving the following gifts and benefits from [REDACTED], including:

- rent free accommodation at [REDACTED];
- a sum of \$22,000 towards the purchase of [REDACTED] from [REDACTED], from [REDACTED] via [REDACTED], [REDACTED];
- a sum of \$40,000 payment after the settlement of [REDACTED] from [REDACTED]
- a fully funded trip to [REDACTED]; and
- a payment of \$10,257.50 for signs in relation to [REDACTED] [REDACTED] campaign in [REDACTED].

For the majority of these gifts and benefits, it was alleged [REDACTED] also failed to make transparent declarations.

Charges

There was ongoing liaison between the ODPP and CCC prior to the discontinuation of charges. The charges against [REDACTED] and [REDACTED] were discontinued prior to committal. The ODPP concluded there was insufficient evidence against [REDACTED] and [REDACTED] to prove the offence of official corruption.

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Powers used during the investigation

- Telecommunications interception warrants issued under the TIA Act
- Search warrants, pursuant to s. 86 of the CC Act
- Notices to discover, pursuant to s. 75 of the CC Act
- Closed investigative hearings authorised under s176 of the CC Act

Level of complexity – High

Having regard to the internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of these prosecutions is considered **High**:

- Co-defendants
- Difficulty proving elements of charge - 'corruptly' received and 'on account of'
- Further difficulty in proving nexus between benefit and action in discharge of duties in absence of any evidence of a 'quid pro quo' agreement.

CCC investigation

██████████

Defendant's name	Defendant's position	Charges
██████████	Civilian	1 x Disclose public information (s. 84(1) of the CC Act).

Broad description of allegations

It was alleged the defendant disclosed that ██████ had received a confidential notice to discover, pursuant to s. 75 of the CC Act.

Background

On ██████████, ██████ was served with a confidential notice to discover, pursuant to s. 75 of the CC Act at ██████ residence.

On ██████████, ██████ provided a statement. Of relevance, ██████ stated the following:

- ██████ commenced contacting ████████████████████, a former ████████████████████ at Queensland ██████ after he saw an article in the Courier Mail dated ██████████, outlining allegations of financial corruption by ██████████
- ██████ had not disclosed the existence of the Notice to any other person.

On ██████████, ██████ attended the CCC and also provided a statement pursuant to section 75 of the CC Act, in relation to the investigation. During ██████ interview, ██████ stated that ██████ had contacted ██████ and when they subsequently met. ██████ had then showed ██████ the Notice.

Charges

Disclosure of a confidential document (s. 84(1) of the CC Act).

On ██████████, a CCC investigator served a witness summons on ██████, by way of email as attempts to serve ██████ in person had failed. A request for an adjournment on the day was not accepted by the Magistrate and defence counsel successfully argued there was no case to answer.

Powers used during the investigation

- Notices to discover, pursuant to s. 75 of the CC Act

Level of complexity – Low

Low - discontinued where key witness failed to attend

CCC investigation

Investigation [REDACTED]

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	3 x Misconduct in relation to public office (s92A of the <i>Criminal Code 1899</i> (Qld)); or alternatively 3 x Computer hacking and misuse (s408E of the <i>Criminal Code 1899</i> (Qld))
[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	2 x Misconduct in relation to public office (s92A of the <i>Criminal Code 1899</i> (Qld)); or alternatively 2 x Computer hacking and misuse (s408E of the <i>Criminal Code 1899</i> (Qld))

Background to allegations

In [REDACTED], around the time of the "Royal Commission into Trade Union Governance and Corruption", there was infighting between factions in the [REDACTED] Queensland, primarily between [REDACTED] and [REDACTED]

On [REDACTED] employee [REDACTED] was issued a Notice to Appear and had his driver licence suspended for drink driving.

On or before [REDACTED] asked [REDACTED] to ask [REDACTED] to find out if [REDACTED] had lost his licence. On [REDACTED] telephoned his brother, [REDACTED] and later sent [REDACTED] a text message with [REDACTED] name and date of birth.

On [REDACTED] conducted unauthorised searches of the QPRIME system. He then provided information to [REDACTED] who provided it to [REDACTED] who provided it to [REDACTED] who then confronted [REDACTED]

[REDACTED] denied the allegations and [REDACTED] sent a message to [REDACTED] that stated [REDACTED] had denied losing [REDACTED] licence, and asked [REDACTED] for confirmation of whether the QPRIME computer system had his address, middle name or whether there could be two persons under the date of birth that [REDACTED] originally provided to [REDACTED] to do the QPRIME search. [REDACTED] then conducted further unauthorised searches in relation to [REDACTED]. [REDACTED] then telephoned [REDACTED] who then sent an SMS to [REDACTED]

On multiple dates in the weeks following this, there were conversations between [REDACTED] and other persons where [REDACTED] discussed attempts to find out information about [REDACTED] including whether [REDACTED] had lost his licence. These conversations included an acknowledgement by [REDACTED] that it would be illegal for a [REDACTED] to disclose this information but that [REDACTED] had done checks for them ([REDACTED]).

On [REDACTED], [REDACTED] employee [REDACTED] (who worked closely with [REDACTED]) telephoned a former [REDACTED] employee [REDACTED] to discuss workplace issues [REDACTED] was having with [REDACTED] and also raised suspicions [REDACTED] was unlicensed. [REDACTED] later had telephone contact with [REDACTED]

Later that day, [REDACTED] conducted unauthorised searches on the [REDACTED] in relation to [REDACTED] and sent [REDACTED] a message stating "Licence Disqualified until August for high range dd." The following morning this information was passed via telephone conversations from [REDACTED] to [REDACTED] to [REDACTED]. A few days later, [REDACTED] contacted [REDACTED], who contacted [REDACTED] asking for a further check to be conducted, however this was not conducted.

On or before [REDACTED] asked [REDACTED] to ask [REDACTED] to find out more specific information around the offence committed by [REDACTED]. On [REDACTED] again messaged [REDACTED] and provided [REDACTED] name and date of birth for [REDACTED] information to conduct a [REDACTED] search.

On [REDACTED] again conducted unauthorised searches on the [REDACTED] system. [REDACTED] then provided information to [REDACTED], who provided it to [REDACTED], who provided it to [REDACTED].

From late [REDACTED], there were further multiple communications between [REDACTED] and others where [REDACTED] was discussed. [REDACTED] stated that [REDACTED] would focus on [REDACTED] with a view of [REDACTED] being fired now that [REDACTED] had resigned. [REDACTED] subsequently took extended leave, resigned, and moved interstate to seek other employment.

On [REDACTED] around the same time [REDACTED] conducted the unauthorised searches on QPRIME in relation to [REDACTED] also conducted searches on the home address and family members of a [REDACTED] after [REDACTED] was asked to attend a [REDACTED]. As a result of these checks, [REDACTED] provided information about the residents to [REDACTED] including that the [REDACTED] was recorded on [REDACTED] systems and "Not for good reasons either".

In [REDACTED], during the course of this investigation it was identified that [REDACTED] ([REDACTED]), a colleague and friend of [REDACTED] had conducted numerous unauthorised checks on [REDACTED] relating to searches conducted on [REDACTED] and associates. Investigations subsequently identified 19 separated occasions on various dates between [REDACTED] and [REDACTED] that [REDACTED] unlawfully accessed the [REDACTED] system, conducted checks and accessed information.

Broad description of allegations

[REDACTED]

It was alleged on [REDACTED], [REDACTED] conducted two unauthorised searches of [REDACTED] to gain information with respect to a [REDACTED] employee (disqualified from holding a drivers licence), for no legitimate operational purpose. In addition, on or about [REDACTED] disclosed the confidential QPS information gained to [REDACTED], an employee of [REDACTED].

It was further alleged on [REDACTED], [REDACTED] conducted one unauthorised search of [REDACTED] to gain information with respect to a [REDACTED] employee (disqualified from holding a driver licence), for no legitimate operational purpose. It was further alleged that on or about [REDACTED] disclosed the confidential QPS information gained to [REDACTED], an employee of the [REDACTED]. Finally, it was alleged on [REDACTED], [REDACTED] conducted an unauthorised search of [REDACTED] to gain information with respect to a member of the public. It is

alleged that on [REDACTED] disclosed confidential [REDACTED] information to [REDACTED]

[REDACTED]

It was alleged that on or about the [REDACTED] and the [REDACTED] counselled [REDACTED] to deal with personal information of a member of the public, gained because of [REDACTED] office.

Powers used during the investigation

Following the CCC decision to investigate, several investigative steps were undertaken, including:

- Review of [REDACTED] audits of [REDACTED] and [REDACTED] computer usage
- Telecommunication interception warrants issued under the TIA Act
- Review of telephone records
- Notice to Discover powers exercised under s75 the CC Act
- Execution of search warrants on [REDACTED], [REDACTED] and other persons
- Analysis of telephones seized
- Interviews.

Key events

[REDACTED] charged – [REDACTED]

[REDACTED] was charged with:

- 3 x Misconduct in relation to public office, or alternatively
- 3 x computer hacking and misuse.

[REDACTED] charged – [REDACTED]:

[REDACTED] was charged with:

- 2 x Misconduct in relation to public office, or alternatively
- 2 x Computer hacking and misuse.

Committal hearing for [REDACTED] commences – [REDACTED]:

A committal hearing with cross-examination commenced on [REDACTED] with respect to the following charges only:

- [REDACTED]: 3 x Misconduct in relation to public office, and
- [REDACTED]: 2 x Misconduct in relation to public office.

Both [REDACTED] and [REDACTED] were committed to stand trial in the District Court.

The following charges were adjourned over a period of time until the Misconduct in relation to public office charges were dealt with:

- [REDACTED]: 3 x Computer hacking and misuse, and
- [REDACTED]: 2 x Computer hacking and misuse.

District Court trial commences – [REDACTED]:

[REDACTED] and [REDACTED] entered pleas of not guilty to the charges upon which they had been committed.

At the completion of the prosecution case on the third day of trial, [REDACTED], Defence Counsel made a no case submission. [REDACTED] Honour Judge [REDACTED] accepted there was no case to answer, referring to, amongst other things, the following issues:

- In relation to the element of dishonesty – [REDACTED] Honour was of the view the evidence to prove dishonesty was lacking as [REDACTED] used his own unique login to gain the information, therefore, it was easily traceable, and
- In relation to the element of benefit – [REDACTED] Honour was of the view there was no evidence of how the information would benefit [REDACTED].

A senior Crown Prosecutor, subsequently entered a nolle prosqui, which [REDACTED] Honour accepted and [REDACTED] and [REDACTED] were discharged.

[REDACTED] *discharged in relation to remaining offences - [REDACTED]*
[REDACTED]

On [REDACTED], the prosecutor offered no evidence in relation to the remaining charges (Computer hacking and misuse) and [REDACTED] and [REDACTED] were discharged.

Other alleged offenders

On [REDACTED], [REDACTED] entered a plea of guilty in the [REDACTED] Magistrates Court to two charges of abuse of office and was fined \$3000 with no conviction recorded.

Level of complexity – Medium

The prosecutions of [REDACTED] and [REDACTED] were of **Medium** level complexity

- Committal hearing involved cross-examination
- Uncooperative witnesses
- Return of the arresting to QPS prior to the trial
- In addition, the dishonesty and gain elements were unable to be made out following close of prosecution in District Court
- [REDACTED]

The prosecution of [REDACTED] was of **Medium** level complexity. Issues are similar to those for the prosecution of [REDACTED]. These included uncooperative witnesses and the return of the arresting to QPS prior to the trial. In addition, the dishonesty and gain elements were unable to be made out following close of prosecution in District Court [REDACTED].

CCC investigation

Investigation [REDACTED]

Defendant's name, position and charges

Defendant's name	Defendant's position	Charges
[REDACTED]	[REDACTED] [REDACTED]	3 x Perjury (s123 of the <i>Criminal Code 1899</i> (Qld)) 1 x Misconduct in relation to public office (s92A of the <i>Criminal Code 1899</i> (Qld))

Background to allegations

On [REDACTED], an anonymous complainant provided information to the CCC alleging:

- [REDACTED] of the [REDACTED] District used [REDACTED] influence to employ [REDACTED], to an administrative position within the Queensland Police Service (QPS); and
- [REDACTED] was habitually taking leave and her rosters and timesheets did not reflect the correct time she had worked.

It was alleged that the person influenced by [REDACTED] was [REDACTED] [REDACTED] who engineered the employment process to result in the employment of [REDACTED] [REDACTED]

On [REDACTED], this matter was referred for investigation to the QPS Ethical Standards Command (ESC). After an initial investigation conducted by ESC, the matter was assumed by the CCC on [REDACTED], at the request of the ESC.

[REDACTED]
[REDACTED]
[REDACTED]

Broad description of allegations

It was alleged [REDACTED] gave false evidence at the CCC hearing when:

- [REDACTED] denied that [REDACTED] had discussed the CCC investigation with a member of the Queensland Police Employee Union of Employees;
- [REDACTED] denied that [REDACTED] had discussed the CCC investigation with [REDACTED], and
- [REDACTED] claimed her conversation with [REDACTED] was of a minor nature.

Powers used during the investigation

Following the CCC decision to investigate the allegations (and prior to the [REDACTED] [REDACTED]), a number of investigative steps were undertaken, including:

- examination of call charge records for phones associated with [REDACTED] [REDACTED] and [REDACTED];
- Telecommunications interception warrants issued under the TIA Act
- stored communications obtained under the TIA Act
- Notices to Discover, pursuant to s. 75 of the CC Act

- interviews with witnesses and directed interviews of police officers; and
- Closed investigative hearings authorised under s176 of the CC Act

Key events

charged - :

was charged with three counts of perjury. was also charged with one count of misconduct in relation to public office, alleging that dishonestly intended to gain a benefit for in authorising the employment of by signing a false and misleading recruitment document which created the perception of a transparent and independent recruitment process.

Committal proceedings - :

appeared before the Magistrates Court and was committed to stand trial on the three charges of perjury. The prosecution was represented by Office of the Director of Public Prosecutions senior Crown Prosecutor, . The charge of misconduct in relation to public office did not proceed after the Crown Prosecutor decided to withdraw the charge after conducting a case conference with the principal witness prior to the committal proceedings.

First pre-trial application - :

made an application to the District Court, heard by Honour Judge . The application contended that the false evidence gave at the CCC closed hearing on was not material pursuant to the provisions of the perjury offence. Honour held that the CCC was entitled to test credit as was a vital witness in the investigation and was the person chiefly involved in the appointment of in circumstances where there were irregularities in the appointment. credit was paramount. Honour ruled that the statements were material because they materially affected credit. In a decision dated the application was refused.

Second pre-trial application - :

made an application to the Supreme Court, heard by Honour Justice . The application asserted that the decision of the to authorise a closed hearing did not have effect because failed to have regard to up to date information. The application contended that did not have the jurisdiction to hold a closed hearing and therefore the hearing was not a judicial proceeding under the perjury provisions. In a decision dated Honour dismissed the application.

Honour held that the District Court was the appropriate court for the determination of the question of lawfulness of the authority to hold the closed hearing.

In a further decision in relation to costs dated , Honour ordered that pay the costs of the CCC, and the State of Queensland.

Third pre-trial application - :

application to the District Court was heard by Honour Judge . The application asserted that the decision of of the CCC to authorise a closed hearing was invalid and the closed hearing a nullity as it was made in breach of the 'up to date information' principle. It was also argued that as decision maker failed to take into account a mandatory relevant consideration. On Honour dismissed the application.

First District Court trial commences - :

The matter proceeded to trial in the District Court before [REDACTED] Honour Judge [REDACTED] between [REDACTED] and [REDACTED]. The prosecution was represented by [REDACTED] of Public Prosecutions, [REDACTED]

Defence Counsel raised the issue of materiality as ruled upon previously by [REDACTED] Honour Judge [REDACTED] in [REDACTED]. Honour did not think it necessary to consider or reopen the issue of materiality. On [REDACTED], due to the improper conduct of a juror, [REDACTED] Honour dismissed the jury and ordered a mistrial.

Second District Court trial commences – [REDACTED]:

The Office of the Director of Public Prosecution elected to continue to prosecute the charges against [REDACTED] at a second trial. The prosecution was again represented by [REDACTED]

The second trial proceeded before [REDACTED] Honour Judge [REDACTED]. On application by Defence Counsel at the end of the prosecution case (opposed by [REDACTED]), [REDACTED] Honour considered [REDACTED] had the jurisdiction to reopen the issue of materiality and the decision by [REDACTED] Honour Judge [REDACTED]. [REDACTED] Honour ruled that the issues about which [REDACTED] gave false evidence were not material to the principal matter investigated by the CCC.

Given the ruling on the issue of materiality, on [REDACTED], [REDACTED] Honour directed the jury to find [REDACTED] not guilty on all three counts of perjury.

Level of complexity – High

This prosecution involved a **High** level of complexity.

- Multiple pre-trial hearings in relation to materiality and whether the CCC had the jurisdiction to bring [REDACTED] in for a closed hearing
- A judicial review proceeding
- A change in prosecutor three times during the prosecution of the matter (four prosecutors in total)
- A high frequency of disclosure requests
- The CCC's arresting officer had returned to the QPS.

The matter highlights the difficulty associated with establishing the 'materiality' element of a perjury charge.

The deliberate false testimony must be material to the matter being investigated, which requires detailed examination of context from the prosecution. In the first trial [REDACTED] Honour Judge [REDACTED] was of the view that the issue of materiality had been adequately dealt with by [REDACTED] Honour Judge [REDACTED] in a pre-trial application. However, [REDACTED] Honour Judge [REDACTED] took a different view in the second trial. The 'knowingly' element of perjury is also inherently challenging to establish, as false testimony may occur through inadvertence, confusion, lack of memory or a myriad of other explanations.

CCC Investigation

██████████

Defendant's name	Defendant's position	Charges
██████████	██████████ ██████████ ██████████	1 x Misconduct in relation to public office (s92A of the <i>Criminal Code 1899</i> (Qld)) <i>Note – ██████████ was also charged with various counts of computer hacking and misuse. These prosecutions were finalised outside the specified 3-year range</i>

Background to allegations

On ██████████ the CCC received a referral from the Queensland Police Service (QPS) manager of a covert drug operation in Brisbane – Operation ██████████

QPS advised that between ██████████ and ██████████, ██████████, a QPS ██████████, was in contact with a secondary target of ██████████. ██████████ was arrested on ██████████ for possession of methylamphetamines.

The CCC subsequently obtained evidence to indicate ██████████ engaged in ██████████ work for his friend ██████████. ██████████ was arrested and charged for an assault on a security officer at ██████████. ██████████ was bailed to appear at Brisbane Magistrates Court on ██████████. ██████████ appeared in person and pleaded guilty. Court documents indicated ██████████. No conviction was recorded, and ██████████ was fined \$700.

Broad description of allegations

It was alleged that ██████████ had accessed QPRIME and conducted two checks on ██████████, on ██████████ and ██████████. ██████████ was not linked on QPRIME as being involved in or being assigned any tasks relating to any occurrences or matters involving ██████████.

It was further alleged that ██████████ performed unauthorised QPRIME checks on two other friends and QPRIME checks on a car ██████████ was considering purchasing.

In relation to the s92A charge, it was alleged ██████████ involved ██████████ in the prosecution of ██████████ friend ██████████ without disclosing any conflict of interest and ██████████ to reduce the penalty imposed on ██████████.

██

Following the CCC's decision to investigate the allegations, a number of investigative steps were undertaken, including:

- QPRIME audits of ██████████ QPS computer usage;
- review of call charge records;
- Notice to Discover powers exercised under s75 *Crime and Corruption Act 2001*;
- execution of a search warrant on ██████████ place of residence, and subsequent analysis of a phone seized; and
- interviews with witnesses and directed interviews of police officers.

Key events

██████████ charged – ██████████:

██████████ was charged with 10 charges:

- seven charges of computer hacking and misuse with a circumstance of aggravation for unauthorised QPRIME checks on ██████████
- two charges of computer hacking and misuse with a circumstance of aggravation for unauthorised QPRIME checks on ██████████, the vendor of a motor vehicle ██████████ was considering purchasing, and
- one charge of misconduct in relation to public office with respect of his handling of the prosecution of ██████████ friend ██████████

██████████ pleads guilty to one charge of computer hacking and misuse and other computer hacking and misuse charges dismissed – ██████████:

██████████ pleaded guilty in the Magistrates Court to one count of computer hacking and misuse in respect of his QPRIME checks on the vendor of the motor vehicle. ██████████ was fined \$550 and no conviction was recorded.

On the same date, the ODPP presented no evidence in relation to the other eight counts of computer hacking and misuse and those charges were dismissed.

Indictment presented – on or about ██████████:

The indictment, charging one count of Misconduct in relation to public office and signed by ██████████ ██████████ was presented in the District Court.

District Court trial results in hung jury – ██████████:

██████████ pleaded not guilty to one count of misconduct in relation to public office at a District Court trial in Brisbane which commenced on ██████████.

On ██████████, the jury were discharged after being unable to reach a verdict.

District Court re-trial results in acquittal – ██████████:

On ██████████, the District Court listed the matter for a re-trial to commence on ██████████. After deliberations, the jury found ██████████ not guilty of the charge on ██████████.

Level of complexity – Medium

Having regard to the internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of this prosecution is considered **Medium**:

- At the time of charging ██████████, ██████████ had retired from the QPS ██████████
- The s92A offence required prosecution to prove a ‘dishonest intent’ by ██████████ to obtain a benefit for ██████████. This required drawing an inference from circumstantial evidence to prove ██████████ state of mind
- After ██████████ was committed to stand trial, the defence made a submission to the ODPP requesting they not present an Indictment on the basis that the prosecution could not prove the element of ‘dishonest intent’. The submission was rejected and an Indictment was presented on or about ██████████.
- There was extensive use of evidence derived from the powers noted above.

- Additional evidence and statements were required to be obtained shortly before the commencement of the first trial.
- For the first trial, the jury deliberated for three days prior to being discharged for unable to reach a verdict.
- Uncooperative witnesses for both trials.
- [REDACTED] gave evidence at both trials.
- Unable to locate [REDACTED] who was alleged to have received a benefit. [REDACTED] did not give evidence at either trial.

CCC Investigation
Operation [REDACTED]

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED]	Civilian	1 x permit use of place for the trafficking of a dangerous drug (s. 11 of the <i>Drugs Misuse Act 1986</i>). 1 x possession of a dangerous drug (s. 9 of the <i>Drugs Misuse Act 1986</i>).
[REDACTED]	Civilian	1 x trafficking in dangerous drugs (s. 5 of the <i>Drugs Misuse Act 1986</i>) 2 x possession of a dangerous drug (s. 9 of the <i>Drugs Misuse Act 1986</i>)

Broad description of allegations

The key allegations investigated during Operation [REDACTED] were allegations that certain [REDACTED] police, including [REDACTED] were purchasing and on supplying steroids and other performance and/or image enhancing drugs (PIEDs).

During the investigation, it was identified that [REDACTED] had made cash payments for steroids to a [REDACTED] business run by [REDACTED] and [REDACTED]. Further, multiple electronic payments had been made to [REDACTED] and [REDACTED] bank accounts.

In [REDACTED], search warrants were executed at both the residence and business address of [REDACTED].

On [REDACTED], [REDACTED] pleaded guilty to trafficking of dangerous drug and possession of dangerous drug offences.

Charges

On [REDACTED], [REDACTED] was charged with one count of permit use of place for the trafficking of a dangerous drug (s. 11 of the *Drugs Misuse Act 1986*).

On [REDACTED] was charged with one count of possession of a dangerous drug (s. 9 of the *Drugs Misuse Act 1986*).

On [REDACTED] was charged with one count of trafficking in dangerous drugs (s. 5 of the *Drugs Misuse Act 1986*) and two counts of possession of a dangerous drug (s. 9 of the *Drugs Misuse Act 1986*)

Withdrawal of charges

On [REDACTED], the possession of dangerous drug charge laid against [REDACTED] was withdrawn by Police Prosecution Corps.

On [REDACTED], all charges laid against [REDACTED] were withdrawn by Police Prosecution Corps.

On [REDACTED], the remaining charge of 'permit use of place' laid against [REDACTED] was withdrawn by Police Prosecution Corps.

No explanation has been provided by the Police Prosecution Corps as to the reason why these charges were withdrawn. However, it is suspected this occurred because of ██████ statement that ██████ did not have any knowledge of ██████ criminal activity.

Powers used during the investigation

Following the CCC decision to investigate, several investigative steps were undertaken, including:

- Notices to Discover, pursuant to s. 75 of the CC Act
- Search warrants under the PPRA
- A controlled operation conducted under the CC Act
- Interviews with witnesses and obtaining statements
- Telecommunication interception warrants issued under the TIA Act
- Physical surveillance of key persons of interest
- Preparation of intelligence profiles
- Analysis of historic and prospective call charge records authorised under ss178 and 180 of the TIA Act
- Review of law enforcement intelligence holdings
- Open-source research
- Review of previous complaints made to the CCC
- Preparation of financial profiles
- Analysis of financial records
- Forensic examination of electronic devices and data

Level of complexity – Low

Having regard to the internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of these prosecutions is considered **low**:

Evidence was provided by ██████ that ██████ and ██████ had no knowledge or involvement in ██████ drug trafficking and possession.

CCC Investigation

Taskforce [REDACTED]

Defendant's name	Defendant's position	Charges
[REDACTED] [REDACTED] [REDACTED]	Corrective Service Officers at [REDACTED] [REDACTED]	3 x Misconduct in relation to public office (s92A of the <i>Criminal Code 1899</i> (Qld))
[REDACTED] [REDACTED]	Corrective Service Officers at [REDACTED] [REDACTED]	2 x Misconduct in relation to public office (s92A of the <i>Criminal Code 1899</i> (Qld))
[REDACTED] [REDACTED]	Corrective Service Officers at [REDACTED] [REDACTED]	1 x Misconduct in relation to public office (s92A of the <i>Criminal Code 1899</i> (Qld))
[REDACTED])	Corrective Service Officers at [REDACTED] [REDACTED]	1 x Misconduct in relation to public office (s92A of the <i>Criminal Code 1899</i> (Qld))

Broad description of allegations

Allegations of corrupt conduct involving corrective services officers (CSOs) at [REDACTED]
[REDACTED]

Charges

In [REDACTED], the defendants were charged with Misconduct in relation to public office (s92A of the *Criminal Code 1899* (Qld)) in relation to three separate incidents.

1. The first incident was a prisoner-on-prisoner assault. It was alleged [REDACTED], Many and [REDACTED] dishonestly recorded details of the assault in order to protect a favoured prisoner. In doing so, they failed to ensure the security, safety and effective management and supervision of prisoners at the correctional centre.
2. The second incident was another prisoner-on-prisoner assault. It was alleged [REDACTED] failed to intervene in the assault and failed to record particular details in order to protect a favoured prisoner.
3. The third incident was failure to report contraband. It was alleged [REDACTED] [REDACTED] discovered contraband items in the possession of a prisoner, but failed to report the finding or otherwise take action, in order to protect that prisoner. Objects matching the description of the contraband were identified during a search warrant.

[REDACTED] was the only CSO charged in relation to allegation two.

The ODPP was not contacted for advice prior to the charges being laid.

Another defendant, [REDACTED], died prior to any committal proceedings.

On [REDACTED], the ODPP discontinued charges against [REDACTED] and [REDACTED] in relation to the prisoner on prisoner assault described in incident one above and non-reporting of contraband as described in incident three above. This occurred after Committal. [REDACTED]
[REDACTED]
[REDACTED]

On [REDACTED], the charges against [REDACTED] in relation to the prisoner on prisoner assault described for incident one above were discontinued, noting the charge, incident and evidence for [REDACTED] was identical to [REDACTED].

Charges against [REDACTED] in relation to incidents one and three above were discontinued at the CCC's request prior to committal.

[REDACTED] was subsequently committed to trial in relation to one charge relating to incident two above after a committal hearing on [REDACTED] [REDACTED] [REDACTED]. That charge was discontinued on [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED].

Powers used during the investigation

- Investigative hearings authorised under s176 of the CC Act
- Search warrants, pursuant to s. 86 of the CC Act
- Telecommunication interception warrants issued under the TIA Act

Level of complexity – Medium

Having regard to the internal and external factors that impacted the prosecution, including the nature of the offence, the level of complexity of these prosecutions is considered **Medium**:

- [REDACTED] was a supervisor at the correctional centre. [REDACTED] was more senior, and had a perceived higher level of culpability, than [REDACTED] or [REDACTED] death prior to committal had implications for prosecutions against the remaining defendants.

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

ATTACHMENT L

Witnesses examined in CCC investigative hearings by crime and corruption divisions

Witnesses examined in crime investigations (including referred investigations) from financial years 2016-17 to 2020-21

CCC Investigative Hearings	2016-17	2017-18	2018-19	2019-20	2020-21
Number of referred investigations conducted	35	25	25	28	26
Number of witnesses examined for referred investigations ¹	172	160	137	147	88
Number of internal investigations conducted overall (inc. specific intelligence and crime investigations)	9	7	8	4	7
Of internal investigations – how many involved hearings ²	6	3	5	4	2
Number of witnesses examined for internal investigations ³	132	26	61	61	19

Witnesses examined in 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

¹ The number of witnesses is the sum of the totals for the respective investigations and the attributed year is the year of the commencement of the investigations not the date the witnesses were examined.

² If at least one witness was examined then a hearing has been held. The alignment to financial year is based on the investigation commencement date and not the date of the hearings.

³ The number of witnesses is the sum of the totals for the respective investigations and the attributed year is the year of the commencement of the investigations not the date the witnesses were examined.