

COMMISSION OF INQUIRY INTO THE CFMEU AND  
MISCONDUCT IN THE CONSTRUCTION INDUSTRY

## Statement of Paul Smith

I, Paul Smith, of an address known to the Commission, Regional Director, make oath and say as follows:

### A Background

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1. Since January 2013, I have held the role of Regional Director at Workplace Health and Safety Queensland (**WHSQ**) within the Office of Industrial Relations (**OIR**).
2. WHSQ is the body within the Queensland Government that is responsible for regulating and improving workplace health and safety in Queensland. I am currently the Regional Director for North Queensland, which encompasses Cairns, Townsville and Mackay.
3. I have held the Regional Director role across various regions, including:
  - a. Acting Regional Director for Central Queensland Wide Bay, which encompassed Maryborough, Bundaberg, Rockhampton and Mackay, from 2013 to 2015; and
  - b. Regional Director for North and Central Queensland, which encompassed Cairns, Townsville, Mackay, Rockhampton and Gladstone, from 2015 to 2025.
4. When I was the Regional Director for North and Central Queensland, I was responsible for about three quarters of the geographical area of Queensland, from Miriam Vale just south of Gladstone to the Torres Strait. After I took over responsibility for the statewide Agricultural Unit in 2025, the geographical remit for the region I manage was reduced to North Queensland, being Cairns, Townsville and Mackay.
5. I have worked at WSHQ since 2006. In my time at WSHQ, I have been employed in the following roles:
  - a. Senior Inspector between 2006 and 2007;
  - b. Principal Inspector (Operations) between 2007 and 2008; and
  - c. Regional Operations Manager between 2008 and 2013.
6. Prior to joining WSHQ, I trained and worked as a motor mechanic between 1983 and 1999 operating a family business and then worked as a Transport Inspector for Queensland Transport between 1999 and 2005.

7. As Regional Director, I am responsible for all aspects of work health and safety regulatory compliance in the region, including in the construction industry. I manage Operations Managers, who directly report to me. WSHQ inspectors report directly to Operations Managers.

## B Functions of WSHQ in the regions

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8. The regional structure for WSHQ differs from central Brisbane. In Brisbane, the various units for industry sectors (such as the construction and industrial sectors) are all separately managed. However, in the regions, a hybrid model operates where, as Regional Director, I am responsible for all industry sectors in my region. The inspectors in the regions still have specialisations, such as in construction, but they need to work across different industry sectors as well. For example, I would estimate that about 70% of attendances at construction sites in my region are performed by construction inspectors, with the rest of the attendances carried out by other inspectors.
9. In the regions, there is a small number of staff covering a vast area. When I was Regional Director for North and Central Queensland, I had approximately 44 full-time positions (of which there were somewhere between 30-35 inspector positions), though most of the time we had about 10 vacancies at any one time, covering the area from Miriam Vale south of Gladstone to the Torres Strait across all industry sectors.
10. From about 2015 or 2016, the concept of a standalone construction inspectorate for central Brisbane started to emerge, which evolved into the Construction Strategy Unit (**CSU**). At this time and after this until around 2018, the CSU was managed by a number of people including Mark Houston and Peter Twigg. Helen Burgess was a Principal Advisor in the CSU.
11. In April 2018, Ms Burgess became the acting Director of Construction Compliance and Field Services (**CCFS**) which controlled and directed the construction inspectors in the South East Queensland. Later that year she was appointed to that position on a permanent (ie not acting) basis. Despite these changes, her area of responsibility was limited to South East Queensland including central Brisbane and the Gold Coast, and later Toowoomba and the Sunshine Coast. Regional construction inspectors continued to report to the relevant Regional Director.
12. As Regional Director, I was on the same level of WSHQ hierarchy as Ms Burgess after she became the Director of CCFS. Ms Burgess and I both directly reported to

the Executive Director, which was Julie Nielsen until 2018, then Marc Dennett from 2018 to about early 2022, then Andrew Harris and currently Sarina Wise.

13. The work required of WSHQ inspectors in the regions comprises of proactive and reactive work. Proactive work includes planning a schedule of proactive inspections, as well as undertaking educative work with stakeholders. Reactive work is attending to call outs on work sites as a result of notifications from stakeholders — for example, injuries, complaints or other dangerous events, including requests for assistance from unions.

### C The period from 2013 to 2015

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14. Between 2013 and 2015, my experience was that WSHQ treated stakeholders equally, whether it be unions, principal contractors and subcontractors. No one party was prioritised over another. There was a focus on educating stakeholders, especially principal contractors and subcontractors, as well as on compliance.
15. When I first commenced as a Regional Director in 2013, requests for assistance to attend sites alongside union permit holders didn't really occur.
16. In the early days of my role, the local organisers from the CFMEU and other unions (such as the BLFQ) would occasionally call me or come into the office to discuss any substantial or persistent issues on a particular site, but we did not get bombarded with constant requests to send inspectors to constructions sites — which occurred in later years, as I describe below.

### D The period from 2016 to 2018

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17. In 2016, I started to observe a cultural shift in WSHQ. CFMEU complaints were disproportionately prioritised. Although not to the same extent as from 2018 onwards when this prioritisation escalated to a very high level of responsiveness to every request from the CFMEU.
18. During the period from 2016 to 2018, when Ms Burgess was a Principal Advisor in the CSU, I received regular emails from her asking for information about attendances on construction sites, notices issued by my inspectors and requests for explanation for why notices sought by the CFMEU were not issued.

### E The period from 2018 to 2023

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19. As set out above, in early 2018, Ms Burgess commenced as Director of CCFS. Shortly thereafter, I observed a noticeable increase in pressure from CCFS for regional inspectors to immediately respond to CFMEU complaints and notifications.

20. As I describe below, the increase in pressure manifested in several ways, including:
- a. phone calls from Ms Burgess to me and to my Operations Managers, in which Ms Burgess demanded that inspectors be directed to attend sites immediately, regardless of what other priorities they had; and
  - b. strongly worded requests from Ms Burgess that inspectors issue compliance notices without regard as to whether they had formed the requisite reasonable belief required under the legislation.

#### **E.1 Phone calls from Ms Burgess requesting inspectors**

21. After Ms Burgess commenced as Director of CCFS in April 2018, I frequently received phone calls from her requesting attendance by WSHQ inspectors at construction sites across North and Central Queensland. It is difficult to put an exact number on how often I would receive these calls, but I would estimate it was about weekly on average across the period of her tenure as Director of CCFS. Some weeks, there may be multiple calls, followed by, say, a week with no contact. These calls were often early in the morning starting at about 6:30am as construction sites were commencing for the day.
22. From these phone calls with Ms Burgess, it was clear that CFMEU officials contacted her directly rather than through the Assessment and Advisory (**AAA**) service which was supposed to perform the triaging function of WSHQ for complaints and incident notifications. I say this because she regularly mentioned that she had spoken to CFMEU officials directly. The vast majority of her calls related to CFMEU requests, with only occasional calls about ETU requests or PPTEUQ requests. I cannot recall any calls on behalf of other stakeholders although there may have been one or two. I considered this to be an example of preferential treatment being afforded to the CFMEU over other stakeholders.
23. If I did not answer her phone calls, Ms Burgess would directly ring the Operations Managers who reported to me. I considered this to be inappropriate given that these Operations Manager did not report to her and her responsibility was limited to construction inspectors in South East Queensland.
24. These calls always projected a great sense of urgency. In Ms Burgess' view, if the CFMEU wanted us on site then we needed to drop everything and go. Ms Burgess constantly pushed for CFMEU complaints and notifications to be prioritised over all others and for WSHQ inspectors to follow CFMEU directions during site inspections. Often inspectors were already attending the same sites regularly and in some cases

had attended a particular site only a day prior to a request from Ms Burgess to attend that site.

25. I did not agree with the view that WHSQ should be constantly prioritising CFMEU complaints. When I received these calls from Ms Burgess, I would try to get more information about the issues that the CFMEU was complaining about to test whether the request was genuinely urgent. I would often push back on these requests because there were always competing priorities and the vast geographical spread of the field offices in Cairns, Townsville, Mackay, Rockhampton and Gladstone meant that redirecting resources for urgent attendances was time consuming and diverted inspectors away from other work, including proactive work.
26. But while many of Ms Burgess' requests ultimately turned out to involve minor or non-urgent issues that did not justify an urgent attendance by inspectors, it was usually difficult to determine this in advance of inspectors actually attending the site. Hence, while I often tried to push back on Ms Burgess' requests for inspectors, in most cases I ultimately allocated inspectors to be sent to the site, although not always with the urgency that Ms Burgess was demanding.
27. During this period from 2018 onwards, I observed a general pattern where CFMEU complaints targeted builders that either did not have a CFMEU enterprise agreement or allowed a disfavoured subcontractor to work on site.

## **E.2 Phone calls from Ms Burgess seeking notices**

28. After attending sites in response to CFMEU complaints, further disputes with Ms Burgess would emerge if, as often happened, my inspectors did not write the notices (or all of the notices) sought by the CFMEU. Ms Burgess would call me and demand explanations for why my inspectors did not write the notices that the CFMEU wanted. I provided the explanations, such as that a particular issue was rectified or was not an imminent risk or that inspectors are still gathering evidence. Despite these explanations, Ms Burgess would demand that the notices sought by the CFMEU be issued. When I refused to comply, Ms Burgess would often make comments to the effect that she would complain to Mr Dennett or that the Minister's office will be unhappy, implying that I would find myself in trouble if I did not comply with her demands or did not get my reports to comply.
29. If I did not agree to issues the notices that the CFMEU wanted, Ms Burgess would escalate the issue to Mr Dennett. I know this because, about 80% of the time, after speaking with Ms Burgess and pushing back on her demands for notices, Mr Dennett would call me asking for explanations of the same issues. During these

conversations, Mr Dennett regularly said words to the effect of: “*We are getting pressure from the Minister’s office on this*”. In response, I would give Mr Dennett a similar explanation to the one I had just given to Ms Burgess.

30. I found it surprising that Mr Dennett, as Executive Director, was regularly involved in the minutiae of technical issues on a particular construction site, as this is something that is normally dealt with at the inspector level. I found the apparent involvement of the Minister’s office in such low level details even more surprising.
31. This practice of the Executive Director making regular calls to me to inquire about the minutiae of particular issues raised by the CFMEU on particular sites only existed under Mr Dennett. Both his predecessor, Ms Nielsen and his successor, Mr Harris, did not do this. While Ms Nielsen and Mr Harris would sometimes call me about a particular construction site, this was only very occasionally and usually in response to some serious incident on site.

### **E.3 Introduction of the Compliance Monitoring and Enforcement Policy (CMEP)**

32. The pressure to issue notices escalated after the introduction of the Compliance Monitoring and Enforcement Policy (**CMEP**) in late 2018.

Attached to this witness statement and marked **PS-1** is a copy of the first iteration of CMEP issued in December 2018.

33. The CMEP introduced a requirement for inspectors to issue notices for certain contraventions, including the requirement to issue infringement notices for certain “*priority*” contraventions, thus removing the discretion of inspectors whether to issue these notices. I disagreed with the removal of the inspector’s discretion. In my view, having a discretion whether to issue a notice allows inspectors to tailor their regulatory response to the particular circumstances and promote education of construction contractors. Further, many of the particular contraventions that the CMEP listed for “*priority*” enforcement were relatively minor or non-urgent issues.
34. Although the CMEP required that a notice must be issued for particular contraventions, the individual inspector still needs to be reasonably satisfied that a contravention had occurred. This created a point of contention with Ms Burgess and the CFMEU as my inspectors would not write notices unless they formed the reasonable belief required by the legislation.
35. The CMEP became a lever of pressure used against inspectors on site where they had decided not to issue a notice or when they had not yet formed a reasonable belief as to a contravention. My inspectors would report to me that it was regularly cited by

CFMEU permit holders on site to pressure inspectors into issuing notices. Ms Burgess also regularly raised the CMEP with me whenever inspectors declined to issue infringement notices sought by the CFMEU or there was any delay in doing so due to the need to gather more evidence by an inspector.

36. In the course of preparing this statement, I have obtained statistics which show there was a dramatic increase in the number of infringement notices issued by inspectors in the Central and North Queensland region as between financial years 2017/2018 and 2018/2019:
- a. 28 notices in 2017/2018:
  - b. 158 notices in 2018/2019:
37. The same is true for the number of improvement and prohibition notices issued by inspectors in the Central and North Queensland region as between 2017/2018 and 2018/2019, namely:
- a. 1,321 notices in 2017/2018; and
  - b. 3,209 notices in 2018/2019.
38. I am aware that the number of notifications or incidents reported by WSHQ inspectors was being used by other government agencies and departments to track contractors' safety performance. This was explained in some detail by Ms Burgess in an email to other regional directors dated 11 September 2023.
- Attached to this witness statement and marked **PS-2** is a copy of this email exchange dated 11 September 2023.
39. In my view, this increase was directly caused by the introduction of the CMEP in late 2018. It did not correlate with any reduction in the rate of workplace accidents.

## F Specific incidents

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### F.1 Overview of incidents

40. After Ms Burgess was appointed to her role as Director of CCFS, I had to deal with her constantly as a conduit for requests made by the CFMEU for inspectors to attend sites in the region under my supervision. I did not attend sites myself, so where I have set out an incident or interaction on site, this information has been provided to me by my inspectors.
41. The incidents described below do not represent the full extent of my dealings with Ms Burgess. Rather, they are examples of the pressure she attempted to put on inspectors under my supervision to prioritise CFMEU requests for attendances and

issue notices against contractors and subcontractors, as well as her disbelieving inspectors in preference for the CFMEU version of events.

## **F.2 Complaint about Ms Farrington's workwear**

42. Shortly after Ms Farrington commenced with WSHQ as my Operations Manager, Ms Burgess called me and said words to the effect that Ms Farrington had turned up on a construction site in stilettos. Ms Burgess said she had been told about this, which could only have come from the CFMEU representatives.

43. I remember calling Ms Farrington half-laughing while passing on what Ms Burgess had said. Ms Farrington told me she had not been issued her steel cap boots yet and she was attending the site office, not the site itself, so she had worn her normal work shoes.

44. After that I called Ms Burgess back and passed on Ms Farrington's explanation.

## **F.3 Cairns Performing Arts Centre Incident and subsequent Facebook Post**

45. On or around 4 April 2018, Ms Farrington, told me about an incident that occurred at the Cairns Performing Arts Centre (**CPAC**).

46. Ms Farrington informed me that Inspectors Rob Duckworth and John Dalamaras were involved in an incident with CFMEU representative Roland Cummins (known as Roly). Ms Farrington said that during the incident, Mr Cummins behaved in a manner which Mr Duckworth and Mr Dalamaras perceived to be threatening. Mr Cummins ended up being prosecuted and convicted for intimidating an inspector under s 190 of the WHS Act. However, Mr Cummins' conviction was overturned on appeal.

47. Shortly after the incident itself, there was a derogatory Facebook post put up by the CMFEU that attacked the two inspectors. Ms Burgess' Facebook account 'liked' one of the comments on the post.

48. I viewed the post and understood it to be inappropriate and undermining of WSHQ staff. I interpreted Ms Burgess liking the comment as showing support for the CFMEU's criticism of WSHQ staff. It also showed Ms Burgess engaging with a stakeholder through her personal Facebook account. I considered both of those things to be inappropriate.

49. I reported the matter to Mr Dennett, who was acting in the role of Executive Director, Compliance and Field Services while Ms Neilson was on leave. I rang and spoke to Mr Dennett about these posts and he said that he would look into this. He later told me that he had looked into the matter and dismissed the post as insignificant. From what I understood from Mr Dennett, he spoke to Ms Burgess and she denied that she

liked a CFMEU post, but only 'liked' a comment. I was later told by Mr Dennett that Ms Burgess had been asked to take herself off Facebook, but I don't know what happened with that.

50. After this incident at CPAC, there was an ongoing concern on the part of WSHQ inspectors based in Cairns about having to deal with Mr Cummins on site.
51. On 25 March 2020, Ms Farrington emailed me raising concerns with me about dealing with Mr Cummins in light of his recent conviction at that time. Among other things, she asked if the Executive Director, Mr Dennett, and the Director of CCFS, Ms Burgess, had *“put some thought into placing some boundaries on the way cfmeu contact our organisation”* following Mr Cummins' conviction. She said: *“Whether we are mending relationships or not this individual has been found guilty of S190 breach so I would hope our organisation would regroup and give some direction to Cairns re Roly”*.
52. I forwarded her email to Mr Dennett. His response was that *“her language in her email below [was] inappropriate”* and showed a *“clear bias”* and that he is *“concerned that Shannon is fuelling the issues”*. I disagreed with that view.

Attached to this witness statement and marked **PS-3** is a copy of that email.

53. In the same email, Mr Dennett also referred to Ms Farrington's *“recent comments to the DDG about accepting their behaviour”*, which Mr Dennett claimed were *“inappropriate”*. I understood this to be a reference to a conversation Ms Farrington had with Craig Allen, the Deputy Director-General (**DDG**) of the OIR, at a meeting with Regional Directors and Operations Managers in Brisbane on 25 March 2020. In the context of a discussion about CFMEU behaviour and Mr Cummins' conviction for intimidating Inspector Duckworth, Ms Farrington said to Mr Allen words to the effect *“why do we accept their bad behaviour, why don't we do something about it”*. I did not consider this comment to be inappropriate.

#### **F.4 Capricornia Correctional Centre**

54. In early 2020, construction was occurring at the Capricornia Correctional Centre located north of Rockhampton. CPB Contractors Pty Ltd (**CPB**) was the principal contractor for this project.
55. In February 2020, the CFMEU sought to access the site under their right of entry powers from CPB to obtain subcontractor information. This included requests for personal information relating to workers employed by subcontractors, such as employees' induction records. CPB refused to provide this information. CPB told me

that they believed they could not provide this information because the employees were not their employees, they were employees of a subcontractor. CPB also told me that they were concerned that the CFMEU was seeking contact information of these employees in order to determine if they were members of the CFMEU. I tried to broker a deal with the CFMEU, whereby CPB would provide the training records with employee names redacted, but the CFMEU would not accept this.

56. On 18 February 2020, WHSQ issued a compliance notice in response to the CFMEU's complaint about CPB refusing to provide the information. However, the notice was overturned on review.

Attached to this witness statement and marked **PS-4** is a copy of the notice dated 18 February 2020 and the review decision overturning that notice dated 17 March 2020.

57. Despite this review outcome, Royce Kupsch from the CFMEU made a complaint about WHSQ not issuing notices with respect to CPB's failure to comply with CFMEU's requests for this information. Mr Dennett told me that he had undertaken to Mr Kupsch that WHSQ would further investigate this issue.

58. This issue was investigated by Andrew Stathooles as the Operations Manager based in Rockhampton, supported by WHSQ inhouse legal officer Graham Lee. They determined that CPB did not need to provide these records.

59. During the course of this investigation, Mr Kupsch repeatedly contacted Mr Dennett about the progress of the investigation. I knew this as Mr Dennett told me about it, as he would ring me after he was contacted by Mr Kupsch to seek updates on the investigation.

60. I told Mr Dennett that it was improper for Mr Kupsch to be continually asking questions about the investigation that was being conducted. I formed the view that he was trying to pressure and influence the conduct of the investigation, which was improper.

61. Following this investigation outcome, I spoke with Mr Dennett, who was content for the outcome letter to be sent to the CPB and the permit holder, but did not want me to send a separate letter that Mr Lee had drafted for me to send to Michael Ravbar. Mr Dennett said if Mr Ravbar receives this letter, it may cause problems. I cannot provide a copy of the draft letter to Mr Ravbar because it was part of legal advice prepared by Mr Lee.

62. Mr Dennett later told me he had raised the issue with the CFMEU directly, but I was not provided with any confirmation or outcome. The matter exemplified to me the

sustained pressure placed on WHSQ to act in accordance with the CFMEU's expectations, even where legal grounds to do so were lacking.

#### **F.5 Townsville Sun Metals Site**

63. Sun Metals Corporation Pty Ltd (**Sun Metals**) operates a chemical processing plant south of central Townsville, which was undergoing major expansion works in 2020.
64. On 27 October 2020, I received a phone call from Ms Burgess regarding WHSQ inspectors attending the Sun Metals site. She alleged that WHSQ inspectors had been conducting announced visits — information she said was provided to her by CFMEU representative Grant Harradine.
65. The CMEP does not allow announced visits unless this is necessary due to remote travel or site access requirements, for example, a prison complex.
66. The Sun Metals site is a major hazard facility. Due to the high-risk nature of Sun Metals being a chemical processing plant, access to the site was controlled by Sun Metals via boom gates. Because of this, our inspectors had a standing arrangement with Sun Metals to notify them prior to arrival to facilitate entry. This arrangement was with the operator of the plant, Sun Metals, and not with the principal contractor undertaking the works (which was Watpac), and was thus consistent with the CMEP requirements. As the operator of the plant, Sun Metals was advised of our attendance so that we could be escorted without delay to the construction site where work was being undertaken by the principal contractor. The principal contractor was not advised of our attendance prior to our arrival.
67. I explained this to Ms Burgess, but she insisted that Mr Harradine's version of events was correct and stated that she believed Mr Harradine over the inspectors. I found this deeply concerning, as it undermined the professionalism and integrity of my team. Ms Burgess became upset during the call and told me I speak to her *"exactly how her Inspectors speak to her."* She was angry and then hung up.
68. Attached to this witness statement and marked **PS-5** is a copy of a diary note I kept about this call from Ms Burgess.
69. A day or two later, Mr Dennett contacted me and confirmed that our actions were compliant with the CMEP. He said that had spoken to Ms Burgess and advised her to relay that clarification back to the CFMEU.

## F.6 Townsville – Tower Crane Evacuation Plan

70. On 31 May 2021, I requested Inspector John Finn to attend a construction site in Townsville following a CFMEU complaint regarding a tower crane emergency evacuation plan.
71. While on site, I was in frequent contact with Mr Finn. He informed me he was conducting his investigative duties and had not yet formed a reasonable belief of a contravention. Despite this, Ms Burgess called me a number of times to pressure me to get Mr Finn to issue a compliance notice immediately.
72. She was in direct contact with Mr Harradine and relayed Mr Harradine's version of events to me, which conflicted with the updates I was receiving from Mr Finn.
73. Mr Finn informed me that Mr Harradine was speaking directly to Ms Burgess while on site and that Ms Burgess appeared to believe Mr Harradine's account over his. I made it clear to Ms Burgess that an improvement notice would not be issued unless a reasonable belief could be formed in accordance with the *Work Health and Safety Act 2011* (Qld) (**WHS Act**) that there was a contravention. To this, Ms Burgess said words to the effect "*They will be unhappy*", which I took to be a reference to the CFMEU. I told Ms Burgess I did not care whether they are unhappy, it is not about the CFMEU being happy or unhappy, it is about applying the legislation.
74. After more evidence was properly gathered by Mr Finn, he ended up issuing an improvement notice in relation to this notification on 3 June 2021.
- Attached to this witness statement and marked **PS-6** is a copy of emails exchanged between Ms Burgess and Mr Finn about this request for attendance to which I was copied.
75. Mr Finn told me after leaving the site that during the site visit, Mr Harradine made a threatening comment to Mr Finn, saying words to the effect of "*Tell your Director Paul Smith he wants to start doing his job, or he'll find himself in trouble.*" I considered this an improper attempt to influence the issuing of a compliance notice.
76. I reported this comment to Mr Dennett when I spoke to him a day or two later as part of one-on-one planned meetings that happened on a fortnightly basis. Mr Dennett said that he will raise it with Mr Kupsch. Later, Mr Dennett told me that Mr Kupsch said he would raise it with the permit holder.

## G Meeting between CFMEU and WSHQ on 6 August 2020

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77. On 6 August 2020, a meeting was held between WSHQ and CFMEU officials at the CFMEU office in Bowen Hills, Queensland. The purpose of this meeting was said to

be improving relations between the CFMEU and WSHQ. I attended via Microsoft Teams. From memory, it went for about an hour.

78. The meeting was a one off — it was not a regular occurrence that WSHQ staff would meet with CFMEU officials. I found the idea of this meeting bizarre and irregular, so I decided to take a file note of it.

Attached to this witness statement and marked **PS-7** is a copy of a file note I took throughout the course of this meeting.

79. The following people attended the meeting:

- a. Michael Ravbar;
- b. Jade Ingham;
- c. Royce Kupsch;
- d. Mr Dennett;
- e. Ms Burgess;
- f. Mark Murphy – WSHQ Operations Manager;
- g. Mark Houston – WSHQ Operations Manager;
- h. Peter Yates – WSHQ Regional Director; and
- i. Greg Karlssen – WSHQ Operation Manager.

80. This meeting was arranged by Mr Dennett. It included other Regional Directors and Operations Managers from other regions, which are listed in my file note. Even though Operations Managers attended from other regions, Mr Dennett told me that I was allowed to attend, but the CFMEU did not want me to bring my Operations Managers from North and Central Queensland because they did not like them.

81. The Operations Managers in North and Central Queensland at this time were:

- a. Andrew Stathooles (Gladstone and Rockhampton Operations Manager);
- b. Rich Christie (Mackay and Townsville Operations Manager); and
- c. Ms Farrington (Cairns Operation Manager).

82. Because the Operations Managers I managed were not invited to attend, I sought their input the day prior to the meeting as to any issues they wanted me to raise.

Attached to this witness statement and marked **PS-8** is a copy of an email chain from Mr Stathooles dated 5 August 2020, which I forwarded to Mr Dennett prior to the meeting on 6 August 2020.

83. For most of the discussion on 6 August 2020, Mr Ravbar was talking. At one point, I raised the issue of the poor treatment of WSHQ inspectors by CFMEU officials on site. I said to Mr Ravbar that I was not happy about the disrespectful interactions that were occurring and in effect, that it did not meet community expectations, particularly swearing at inspectors. I said that this wasn't appropriate and Mr Ravbar agreed with me.
84. During the meeting, Mr Ravbar claimed that the inspectorate in my region was too close to the industry stakeholders and that I was pro-industry. I did not accept this and said words to the effect that I was pro no-one, I just administer the legislation.
85. During the meeting, Mr Kupsch also requested that the Operations Managers in North and Central Queensland take the calls of a CFMEU permit holder in Townsville, Mick Robinson. In my view, it was not our role to respond to their calls directly all the time, we wanted to encourage them to contact AAA using the 1300 number.
86. Another topic of discussion which was raised by Mr Ravbar related to Australian Building and Construction Commission (**ABCC**). In this part of the discussion, Mr Ravbar voiced his strong dislike for the ABCC and said he was opposed to OIR voluntarily assisting the ABCC in relation to workplace industrial matters.
87. By way of context, if the ABCC requested information about what we had uncovered as part of our site inspections in relation to right of entry disputes, under s 271 of the WHS Act, the OIR could voluntarily provide that information to the ABCC to assist a corresponding regulator, which often occurred.
88. Mr Ravbar expressed his firm view that the OIR should not be assisting the ABCC and providing information unless formally required by a notice to do so. Mr Dennett agreed with him and told Mr Ravbar that the OIR would not voluntarily assist the ABCC and would only cooperate and assist if compelled to do so. Mr Ravbar thanked him for this. I found Mr Dennett's agreement very surprising. After this meeting, I do not know if the WSHQ in fact stopped voluntarily sharing information with the ABCC as requests for information from other regulators were usually handled by the Executive Director.
89. I was never involved in another meeting like that.
90. Later that evening, Mr Dennett sent an email to the WSHQ attendees thanking us for our participation.

Attached to this witness statement and marked **PS-9** is a copy of the email from Mr Dennett dated 6 August 2020.

91. After the 6 August 2020 meeting, during my regular one-on-one meetings with Mr Dennett, I raised with him that I did not feel comfortable about that meeting. I said to him words to the effect of: “*Why are we meeting with the CFMEU? Why don’t we meet with the AWU? Why don’t we meet with the Australian Sugar Mill Council? Why don’t we meet with all stakeholders?*”. Mr Dennett only replied to the effect that “*They’re a significant stakeholder*”. I did not think this was a compelling justification.
92. I also recall that I raised that I did not feel comfortable about the meeting with Peter Yates, another of the Regional Directors present. He agreed and told me that he also raised it with Mr Dennett.

## H 2022 Complaint to OIR – Ethical Standards

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93. In September 2022, I made a complaint to Mr Harris, who was the Executive Director at the time, in relation Ms Burgess’ conduct and the CFMEU’s influence over the OIR. Attached to this witness statement and marked **PS-10** is a copy of the original complaint I sent to Mr Harris dated 11 September 2022. This was the culmination of many years of frustration about Ms Burgess’ conduct and the pressure applied to regional inspectors.
94. In my written complaint dated 11 September 2022, I said the following:

...

*There appears to be no separation from Helen Burgess’s absolute favouritism, inappropriate behaviour and conflict of interest towards the CFMEU.*

*In her role as a public servant and my dealings with her as RD NCQ over the past 4 years I have witnessed on many occasions concerning behaviour when she has tried to encourage me to take favourable action on behalf of the CFMEU when there was no legitimate legislative or legal reasons for doing so. On each of the occasions I called out her behaviour saying that her requests are inappropriate and if she continued I would report her trying to influence me to the CCC - her response was that the Minister will not be happy and she is going to tell Marc Dennett ED CFS and that I will be in trouble ( trying to intimidate me ) On each of these occasions I would usually receive a subsequent call from the ED Marc Dennett to get my reasons for the the [sic] compliance action taken or not taken and my decision was generally always respected and supported. I continually made the point to Marc about her behaviour and that she continually supports the CFMEU’s position on what compliance action WHSQ should take and does not support the decision the inspector had taken based on the evidence available to them at the time .*

...

95. On 24 November 2022, I was interviewed by OIR Ethical Standards, namely, Gavin Gleeson and Gary Lambert.
96. In summary, I raised my concerns that Ms Burgess was inappropriately attempting to influence inspectors and was inappropriately disclosing information to the CFMEU. Examples I have given in this statement, passed along to me by my inspectors, as well as my own experience handling her requests by telephone were the primary subject of the interview.
97. In early 2023, I was informed by Mr Gleeson that the complaint that I had made had been referred across to the Crime and Corruption Commission (**CCC**) and they had accepted the matter for investigation.

## I The period after Ms Burgess ceased to be the Director of CCFS

98. In early 2023, Ms Burgess' role was significantly reduced and she was removed from the position of Director of CCFS. After this change she only had a couple of inspectors reporting to her, working on major projects. This led to a substantial reduction in the pressure placed on inspectors, although I maintained a concern about her leaking information to the CFMEU in her new role as she continued to have access to WSHQ databases and internal information about the work that the WSHQ was doing in the construction sector.
99. Further, I remained concerned about the level of influence the CFMEU still had within WSHQ. This influence remained in different ways, including:
- a. the involvement of CFMEU officials in the selection panels for high-level positions with WSHQ, such as for the role of Executive Director for Compliance and Field Services; and
  - b. the preferential arrangements given to the CFMEU complaints or requests for assistance, bypassing the normal AAA triage system.

### **I.1 Selection panels for high-level WSHQ positions**

100. I raised the issue of the CFMEU being on the selection panel for the appointment of a new Executive Director with the then-DDG of OIR, Peter McKay, in early July 2023. Attached to this witness statement and marked **PS-11** is a copy of an email I sent to Mr McKay dated 4 July 2023 raising my concerns with the CFMEU remaining on the panel, as well as a file note I took when Mr McKay called me on 7 July 2023 to respond to my email.

101. Ultimately, Ms Wise was appointed to the position.

## I.2 Continued preferential arrangements with the CFMEU

102. In early 2023, the then-DDG, Kym Bancroft, developed a draft triaging process where the CFMEU would be required to contact WSHQ in the same manner as every other stakeholder — through the AAA service. That process was never implemented. I am aware from emails and conversations that I had with Ms Bancroft throughout this period that she experienced a significant amount of pressure from the CFMEU for attempting to implement this system.

Attached to this witness statement and marked **PS-12** is a copy of emails I was copied into about the attempts to implement the triaging process by Ms Bancroft in early 2023.

103. In 2024, a different process was put in place by Ms Wise, whereby Regional Directors became the point of contact for the CFMEU, who would then refer the matter to AAA for allocation to the relevant Operations Manager. I continued to see this as an example of preferential treatment for the CFMEU, in comparison to any other stakeholder, including any other union. I considered this to be inappropriate for an independent regulator.

104. On 28 June 2024, I raised these concerns with Ms Wise.

Attached to this witness statement and marked **PS-13** is a copy of an email exchange I had with Ms Wise dated between 28 June 2024.

105. On 25 July 2024, the Compliance & Field Services Senior Leadership Team had a meeting and the issue of triaging was discussed again. I took a file note of the discussion.

Attached to this witness statement and marked **PS-14** is a copy of my file note dated 26 July 2024.

106. In this meeting, Ms Wise informed us that the planned 1300 number would not be happening because it was still under consideration by the acting DDG Donna Heelan and the Minister's office. I expressed my disapproval because the introduction of the new triage system had been dragging on for too long since it was first developed in February 2023. I said that if this wasn't resolved soon, North and Central Queensland would be going on its own and the CFMEU will be told to use the 1300 number.

107. Later Ms Wise and I spoke separately about this. She said she agreed with me but said words to the effect that she was getting push back on the triaging process from the DDG and the Minister's office.

108. On 4 September 2024, there was a Teams meeting called by Ms Heelan to provide an update on the triaging process. This meeting was attended by Executive Directors, Regional Directors and Operations Managers. Ms Heelan advised the triage system would not be introduced at this time. I again raised concerns about preferential treatment being provided to the CFMEU, even after the Federal Government had put them into administration.

Attached to this witness statement and marked **PS-15** is a copy of my file note of this meeting.

109. Just prior to the 2024 state election, Ms Wise told me confidentially that Ms Heelan was waiting on the outcome of the election before deciding whether or not to implement this proposal. I did not consider this to be an appropriate response because in my view the implementation of the triage system was an operational decision for the OIR that did not require ministerial intervention. Shortly after Labor lost the 2024 state election, Ms Heelan approved the triage proposal and from then on the CFMEU has been required to use 1300 number and go through the AAA system as with other stakeholders. In my experience this has been working well.

## J Meeting with Minister Grace Grace on 24 January 2023

110. In January 2023, I was acting as an Executive Director of WHS Compliance and Field Services for approximately two and a half weeks.
111. During this period, there was an incident at South Rock State School in Yarrabilba, which is just south of Logan. A side tipper overturned on site and WSHQ was criticised for not attending the site or sending an engineer to site to assess the issue prior to Minister Grace attending the school grounds.

Attached to this witness statement and marked **PS-16** is a copy of a media release about Minister Grace's attendance at South Rocks State School on 23 January 2023.

112. This incident required me to attend a ministerial meeting with Minister Grace on 24 January 2023, which occurred at 1:30pm at 1 William Street. Ms Bancroft, Michael De'Ath who was the Director-General for the Department of Education at the time, were also present as were a number of ministerial advisors whose names I do not recall.

Attached to this witness statement and marked **PS-17** is a copy of my diary noting this meeting on 24 January 2023 at 1:30pm.

113. During this meeting, aside from the incident at the school, I took the opportunity to raise with Minister Grace the treatment of inspectors by the CFMEU on sites in the

regions. I told Minister Grace that my substantive role was based in North and Central Queensland and that the CFMEU regularly expect us to respond to toilet complaints quicker than serious matters or fatalities. She responded with words to the effect of: *“well, I hope you aren’t doing that”*. I said words to the effect of: *“I don’t do it, and they don’t like me for it either”*. To that, Minister Grace responded with words to the effect of: *“Well, they don’t like me either”*.

114. Towards the end of the meeting, Mr De’Ath raised the fact that there were two matters which had been referred to the CCC involving Ms Burgess, but they had been sent back to OIR to deal with. Minister Grace responded with words to the effect of: *“It’s just terrible how they treat that poor woman, there is a band of inspectors that really give her a hard time and doing the wrong thing, they just don’t want to do their jobs”*.
115. At the time, I was sitting there thinking — how could the Minister have been so misled? There had been many human resources issues with Ms Burgess and inspectors leaving over their treatment by Ms Burgess. I wondered if no one had properly briefed Minister Grace about the impact Ms Burgess’ conduct was having on the inspectors and the amount of distress that had been caused by her conduct. However, I was not privy to any earlier information she was provided so I could not say why Minister Grace made these comments.
116. Later, I was told by Ms Bancroft that she was criticised by Mr De’Ath for letting me attend that meeting because I had raised a complaint about Ms Burgess and the CFMEU which was referred to the CCC. Ms Bancroft said she was criticised for her lack of judgment in bringing me along, even though I was acting Executive Director at the time.
117. When Ms Bancroft told me this, I decided to write a file note of my recollection of the meeting in case there was any further criticism. Attached to this witness statement and marked **PS-18** is a copy of the file I drafted about one month later, which sets out my recollection of the meeting on 24 January 2023.

## **K** Involvement in CCC investigation into Ms Burgess

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118. In July 2023, I was contacted by the CCC about the complaint that I made to OIR Ethical Standards about Ms Burgess.
119. I was asked to attend a record of Interview on 8 August 2023 which I attended and was interviewed by two CCC officers. The subject matter of the interview was much the same as the interview I had undertaken with OIR Ethical Standards on 24 November 2022.

120. On the 17 April 2025, I received an outcomes letter from the CCC. This letter stated that there was sufficient evidence against Ms Burgess which had been referred back to the OIR for disciplinary action. The CCC also made broader recommendations for the OIR to consider.

Attached to this witness statement and marked **PS-19** is a copy of the outcome letter I received from the CCC.

121. At about this time, I received a call from Mr Gleeson. He said he was calling to say that the matter I sent to the CCC had come back and no further action was going to be taken.

122. This confused me. The contents of the letter from the CCC said that the allegations were substantiated, so I expected that disciplinary action would be taken by the OIR against Ms Burgess. I said to Mr Gleeson words to the effect of: *"I don't know what you are referring to, I have an outcomes letter here and it says it has been referred back for disciplinary action and that there are some organisational lessons"*. Mr Gleeson said I must have been interpreting it wrong. I got quite annoyed at this. I said I was not, and I sent him a copy of the letter.

123. He rang me back later and said that Ms Heelan, who was the Acting DDG at the time, was going to call me about it.

124. Ms Heelan and I did speak on the phone about this and exchanged emails.

Attached to this witness statement and marked **PS-20** is a copy of an email exchange between Ms Heelan and I between 19 May 2025 and 23 May 2025.

125. In her email, Ms Heelan said (among other things):

*The CCC procedural recommendations are either, completed, or are on track for completion.*

*Effective from July 2025 OIR will have an Ethics and Integrity Committee with a strategy and action plan, this will also enable staff to raise issues (anonymously if chosen) this committee will include the OIR EDs, the DDG, and Director Ethical Standards. The standing up of this Committee will be communicated to the OIR team in the coming weeks.*

*The OIR Ethical Standards Unit has been allocated an additional resource to provide proactive services, face to face training, audits etc.*

*The CMEP is undergoing a holistic review and the recommendations arising from this review will be considered and actioned in due course. The 'discretion' component for issuing notices is part of this review.*

126. Fundamentally, over many years, the independence and integrity of the Regulator was compromised by systems that allowed the CFMEU to influence the work of its inspectors, which in my view meant these changes should have been enacted quickly. While the CMEP has recently been reviewed, as far as I know the other measures mentioned by Ms Heelan still have not been implemented to ensure that there is no external influence or regulatory capture. My concern was that senior OIR management were to varying degrees influenced and captured by the CFMEU and there is nothing in place that would prevent this from reoccurring in the future.

This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*

AFFIRMED at Mackay on 8 May 2026

PAUL SMITH

*Paul Smith*

.....  
Signature of deponent

BEFORE ME:

JACK KERIN  
Solicitor

*Jack Dominic Kerin*

.....  
Signature of witness

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-1 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*

.....

Paul Smith

*Jack Dominic Kerin*

.....

Witness (Lawyer)

# **Compliance Monitoring and Enforcement Policy**

**Workplace Health and Safety Queensland  
Electrical Safety Office Queensland**

**December 2018**

December 2018

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# 1 Introduction

## 1.1 Policy scope

This policy covers the administration and enforcement of the following legislation:

- *Work Health and Safety Act 2011* (WHS Act),
- *Work Health and Safety Regulation 2011* (WHS Regulation),
- *Electrical Safety Act 2002* (ES Act)
- *Electrical Safety Regulation 2013* (ES Regulation).
- *Safety in Recreational Water Activities Act 2011* (SRWA Act)
- *Safety in Recreational Water Activities Regulation 2011* (SRWA Regulation).

In the text of this policy these regulatory instruments are referred to as “the legislation”.

Under the legislation, the Regulator is appointed by the Governor in Council. The Regulator may delegate to an Inspector, appropriately qualified public service employee or person prescribed under a regulation, a function or power under the legislation. Inspectors are subject to the Regulator’s direction (s162 WHS Act and s137B ES Act). This Policy provides direction by the Regulator in the exercise of the inspector’s compliance powers.

In general terms, the legislation is administered by Workplace Health and Safety Queensland and the Electrical Safety Office who are both referenced as the “regulator”. The monitoring and enforcement of compliance with the legislation occurs by the inspectorate. The following core concepts from the legislation are reflected in the regulator’s approach and factored into enforcement decisions:

- workers should be protected from exposure to the risks of illness or injury by duty holders in the course of their business or undertaking
- other people should not have their health and safety put at risk as a result of work being carried out
- duty holders in control of the work that creates the risk are in the best position to eliminate or minimise exposure to those risks
- duty holders, including persons conducting a business or undertaking PCBUs, officers, workers and others need to be proactive in ensuring health and safety in the workplace
- primary duty holders must communicate, and collaborate with workers and representatives, to manage work health and safety risks
- where there are multiple duty holders then they need to work together to exchange ideas and information about reducing or eliminating risks in their workplace.

## 1.2 The regulator

The regulator is responsible for securing compliance through effective and appropriate monitoring and enforcement.

The regulator uses a range of tools to promote and secure compliance with the legislation: to ensure duty holders eliminate or minimise exposure to the risk of illness and injury; and, ensure duty holders who contravene health and safety requirements are held to account.

Inspectors authorised under the legislation are key agents in this regulatory approach, using the powers conferred upon them to provide information and advice about compliance, and to monitor and enforce compliance which includes directing compliance, imposing a sanction, or both.

The regulator takes the following approach in fulfilling its regulatory functions:

- targeting regulatory activity through evidence based research and data analysis of risk of serious harm and/or fatalities to focus on high priority areas for enforcement.
- adopting a high interaction approach involving key agencies, stakeholders and workplaces.
- practising highly visible, credible, proportionate, transparent and consistent enforcement.
- focusing on unmanaged risk and compliance or duty based contraventions, with duty holders being held accountable for contraventions of the legislation
- prioritising sustainable compliance through the provision of information and advice that assists duty holders to implement higher order controls to design and adopt WHS management solutions.
- providing information, resources, education and training.

This approach is summarised below.

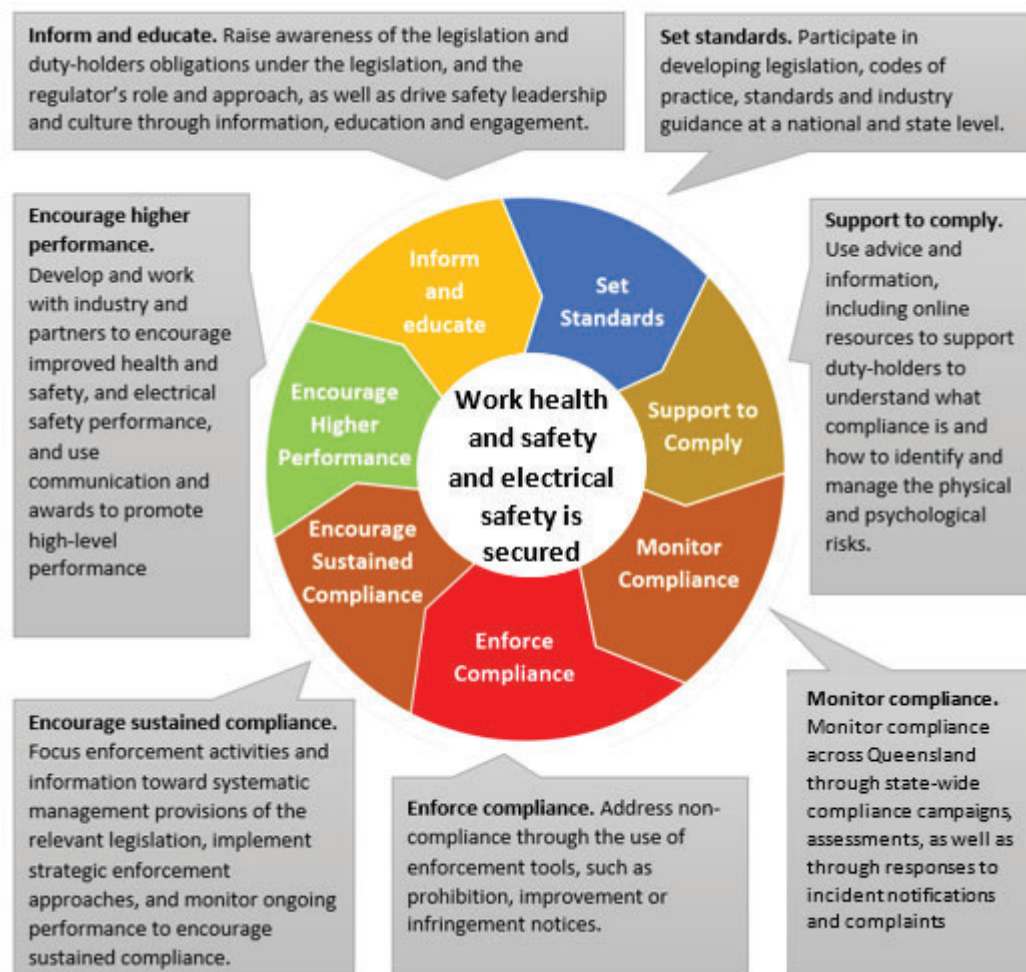


Figure 1: The regulatory approach

### 1.3 Purpose

The Compliance Monitoring and Enforcement Policy (this policy) explains how the regulator uses compliance monitoring and enforcement to ensure duty holders are meeting their legislative duties, and to create credible deterrents for contravening the legislation.

The Compliance and Enforcement Framework, is aligned with Strategic Lever 4 of the Five Year Strategic Plan for WHS in Queensland: Regulating effectively. The purpose of the policy is to inform duty holders of the regulator's approach to compliance monitoring and

enforcement and guide inspectors and their managers in their decision-making and use of enforcement measures.

Duty holders must comply with their obligations under the legislation to ensure workers and others are not exposed to unacceptable risks that may result in death, injury or illness.

The purpose of *monitoring compliance* and, when required, *enforcing compliance*, is to ensure duty holders comply with their obligations. This may require directing remedial or compliance action. The threat of being caught and the deterrent effect of a strong regulator will provide a better environment where the risk of exposure to injury and illness is minimised.

Enforcement measures available to the inspectorate include prohibition notices, improvement notices, electrical safety protection notices, unsafe equipment notices and infringement notices (on the spot fines).

Whether there is a single issue, or multiple issues that result in a number of enforcement decisions, inspectors consider the overall enforcement approach, including whether it:

- deals with the most serious risks in order of priority
- takes account of the magnitude of the breaches and provides a proportionate response to the level of risk
- adequately addresses systemic problems with a focus on common causation factors
- secures sustained compliance, including system wide changes where multiple contraventions are apparent
- influences and deters other duty holders in the same industry
- increases the likelihood of sustained compliance.

## 2 Principles of compliance monitoring and enforcement

Compliance monitoring and enforcement is designed to ensure the following aims:

- obvious risks to the physical and psychological health and safety of workers and others are managed and any contraventions of the legislative requirements are quickly addressed;
- work is conducted in a way that is electrically safe;
- PCBUs are fulfilling their duties under the legislation to ensure the health and safety of workers and others; and
- officers<sup>1</sup> of a PCBU are exercising due diligence to ensure the PCBU is complying with any relevant duties.

With a focus on contraventions identified as a high priority for enforcement, the regulator will:

- monitor compliance through observation, conversation and document examination at the workplace; and
- take action to enforce compliance where there are unmanaged risks and contraventions with high levels of culpability leaving workers and others exposed to the likelihood of serious injury or illness.

The regulator is guided by seven nationally agreed principles when undertaking its compliance monitoring and enforcement role, exercising its regulatory responsibility and administering the legislation. The principles<sup>2</sup> are:

<i>Consistency</i>	The regulator will endeavour to ensure that similar circumstances lead to similar approaches being taken, providing greater protection and certainty in workplace and industry.
<i>Constructiveness</i>	The regulator will provide support, advice and guidance to assist compliance with the legislation and build capability.
<i>Transparency</i>	The regulator will demonstrate impartiality, balance and integrity.
<i>Accountability</i>	The regulator is willing to explain its decisions and make available avenues of complaint or appeal.
<i>Proportionality</i>	Compliance and enforcement responses are proportionate to the seriousness of the conduct.
<i>Responsiveness</i>	Compliance and enforcement measures are responsive to the particular circumstances of the duty holder or workplace.
<i>Targeted</i>	Activities are focussed on the areas of assessed highest risk or the regulator's strategic enforcement priorities.

<sup>1</sup> Officers are persons who make, or participate in making decisions that affect the whole, or substantial part, of the business or undertaking of the State, Commonwealth or other State for the purpose of the legislation.

<sup>2</sup> The principles outlined are in accordance with the [National Compliance and Enforcement Policy](#).

## 3 Monitoring compliance

The regulator monitors compliance with the legislation, maintains a credible threat of detecting non-compliance and constantly improves its capacity to detect and respond to non-compliance. The primary focus is on ensuring duty holders comply with the legislation so that workers and others are not exposed to the risk of injury and illness. The regulator prioritises compliance monitoring activities to focus on the industries and mechanisms which pose the greatest risk of harm to the health and safety and electrical safety of workers and others.

Inspectors undertake workplace visits using observation, discussion and review of documents to make an assessment of the level of risk and extent of compliance. These visits may be initiated by state-wide compliance campaigns (e.g. safety blitzes), workplace assessments (e.g. audits and inspections) or in response to incident notifications or complaints. Inspectors will not give prior notice of entry to a workplace except in specific circumstances (e.g. remote sites where it is necessary to ensure someone is on site or where it is necessary to ensure a particular person is available) and where advance notice will not compromise the intention of the visit.

### 3.1 Status of standards

In addition to complying with the legislation, duty holders in Queensland must follow the safety measures in Approved Codes of Practice (ACoP) and electrical safety duty holders must also follow the safety measures in Ministerial Notices. Duty holders can follow another method outlined in a technical or an industry standard to manage hazards and risks, as long as it provides an equivalent or higher standard of work health and safety to the standard required in the ACoP or Ministerial Notice.

When addressing matters where a risk of harm is present, inspectors will assess the degree of uncontrolled risk as a fundamental premise of any enforcement decision, and will consider whether the risk has been eliminated or minimised according to the legislation or relevant standard so far as is reasonably practicable.<sup>3</sup>

### 3.2 Quality of risk management controls

Inspectors will determine the quality of controls implemented to eliminate or manage the risk so far as reasonably practicable. An assessment is made to determine the level and suitability of control measures being applied. That assessment provides a residual risk rating with five levels of control. These five levels are outlined below:

1. Controls are in place. The controls are currently as prescribed by the legislation, are working and are effective, i.e. the hazard or risk has been eliminated or residual risk is minimised.
2. Controls are in place, so far as is reasonably practicable. There is some remaining risk because better controls do not appear to be available or a better alternative would require investment grossly disproportionate to the risk. Ongoing monitoring of this risk is needed.
3. Controls are low level with no evidence of investigation into higher order controls or assessment of the feasibility of implementing higher order controls. Low level control measures may still be considered a contravention if higher level control measures are reasonably practicable.

<sup>3</sup> Inspectors may refer to standards to determine what is reasonably practicable (see glossary).

4. Controls currently in place are inadequate. There are known problems or limitations with existing controls and further action is needed to eliminate or minimise exposure to the risk.
5. The risk is essentially uncontrolled. Controls either have not been implemented, or they are grossly inadequate. Urgent action is required.

A residual risk rating of three or higher would indicate a contravention has occurred and enforcement action is required.

### 3.3 Management Systems Approach

Duty holders seeking to manage exposure to the risk of injury or illness must design and implement a sustainable systematic management approach focussing on high order controls. Higher order systematic solutions and controls include:

- PCBUs consulting with workers;
- PCBUs consulting, coordinating and cooperating with other duty holders;
- Officers of PCBUs exercising due diligence (WHS Act s27(5); ES Act 38A) and ensuring the PCBU is complying with any relevant duties;
- WHS management systems that collect and maintain registers and records and reporting systems as part of ensuring compliance;
- Provision of adequate welfare facilities and a safe workplace;
- Good work design that optimises work health and safety, human performance, job satisfaction, and business success (see Principles of Good Work Design Handbook published by Safe Work Australia).

While a contravention of these, or similar, provisions may not result in an immediate risk to health and safety, it does indicate that there is failure in the comprehensive health and safety management in the workplace and consequently higher potential for harm to occur.

Where an inspector identifies a suspected contravention of broader, or higher level duties, the inspector may utilise enforcement options to secure compliance and deter the adoption of lower level control measures.

## 4 Directed compliance

The regulator has a number of enforcement measures available to direct compliance or sanction non-compliance. These measures work as an effective incentive for compliant behaviour and as a deterrent to non-compliance.

Enforcement responses are specific and proportionate to the situation they address, taking into account:

- the level of risk
- the level of actual or potential harm
- the availability, clarity and status of standards or guidance
- any relevant history of non-compliance
- whether the contravention has been identified as a priority area for enforcement by the regulator.

During workplace visits inspectors may identify contraventions that the duty holder can rectify in the presence of the inspector to achieve immediate compliance. Immediate rectification of contraventions will be recorded by the Inspector. Contraventions that cannot be immediately rectified will result in a notice to remedy.

Identification of lower level breaches may indicate failures in the management system and higher order controls. Where individual or collective contraventions are identified the inspector is empowered to issue notices for contravention of broader, or higher order duties. For example, after issuing a prohibition notice to stop the unsafe operation of a fork-lift, an improvement notice may be issued for contravening s19(3)(F) – provision of information, training, instruction or supervision. The PCBU should have observed, stopped and rectified the prohibited activity and ensured appropriate training and supervision was undertaken to ensure the safe operation of the fork-lift.

Consideration will be given to any relevant history of non-compliance as a repeat of similar contraventions could be indicative of a systematic management failure. In these circumstances the inspector is empowered to take action for contravention of the higher order duties under the legislation, including the PCBU's primary duties and an officers duty to exercise due diligence.

#### 4.1 Enforcement measures

When the inspector identifies a contravention, they are required to use their powers under the legislation to address the contravention. Inspectors are empowered to direct compliance by various means including the issue of:

- improvement notices
- prohibition notices – for work activities that give rise to a serious risk to health and safety of a person, an inspector will prohibit the activity until risks are appropriately managed
- electrical safety protection notices – for circumstances causing, or likely to cause, an immediate electrical risk to persons or property at a place
- non disturbance notices - to facilitate the exercise of an inspector's compliance powers
- unsafe equipment notices - for defective or hazardous electrical equipment that is likely to cause a serious electrical incident.

The first priority for directed compliance is to address any circumstances that involve:

- a serious risk<sup>4</sup> to health and safety arising from immediate or imminent exposure to a hazard by issuing a prohibition notice; or
- an immediate electrical risk by issuing an electrical safety protection notice (ESPN). The electrical supply will also be isolated in these circumstances.

In each case the inspector will give an oral direction and issue a written notice. See Flowchart 1: Enforcement overview (at end of this policy) for a high level outline of the regulator's approach to enforcement

##### 4.1.1 Prohibition Notice (WHS Act s195-197)

Prohibition notices will be issued by an inspector to stop an activity that is occurring or may occur at a workplace if they reasonably believe the activity involves, or would involve, a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard. For example: unguarded machinery or working at heights without any control measures.

Where the direction has been given orally, the direction must be confirmed by a written prohibition notice and given to the person that has control over the activity as soon as reasonably practicable. The notice will stipulate the matter that gives rise to the risk (or is likely to give rise to the risk) and, the provision in the legislation that is being, or is likely to be

<sup>4</sup> A serious risk to health or safety is not defined in the WHS Act. In general terms a serious risk can be considered a significant risk that is neither trivial nor slight, which has a real chance of materialising (Fallas v Mourlas [2006] NSWCA 32).

contravened. The prohibition notice may also contain recommendations such as measures that could be taken to remedy the contravention.

Improvement notices may also be issued at the same time to address any underlying failure, including systematic management provisions under the relevant legislation that led to the serious risk arising.

#### 4.1.2 Electrical safety protection notice (ES Act s147(8))

An electrical safety protection notice (ESPN) will be issued in all cases where an inspector reasonably believes that circumstances are causing, or likely to cause, an immediate electrical risk to persons or property.

This will include action to disconnect the supply of electricity to the area that is not considered electrically safe. Inspectors will also ensure an exclusion zone is in place around the area until the electricity supply can be disconnected.

Where the direction has been given orally, the direction must be confirmed by a written ESPN and given to the person as soon as reasonably practicable.

Improvement notices may also be issued at the same time to address any underlying failure to comply with systematic management provisions under the relevant legislation that led to the serious risk arising.

#### 4.1.3 Improvement Notice (WHS Act s191-192; ES Act s146-146A)

An improvement notice is issued:

- in order to remedy a contravention,
- to prevent a likely contravention from occurring,
- to remedy the things or operations causing the contravention or likely contravention (causal factors) within a specified timeframe.

Inspectors will issue an improvement notice in all cases where they reasonably believe that a person is contravening a provision of the legislation; or has contravened a provision and believes it is likely that it will continue or be repeated. The exception to this is where immediate rectification of a contravention occurs while the inspector is at the workplace and this must be recorded by the inspector. Where the contravention is evidence of a systematic management failure the inspector will issue an Improvement Notice that addresses the systematic management failure.

The purpose of an improvement notice is to focus the duty holder on the tasks to be carried out in order to remedy a contravention or any causal factors to achieve compliance with their duties under the legislation. For example, an inspector may issue a notice to remedy a contravention of risk management or hazard control provisions. The inspector may also issue a notice to address broader, or higher level duties under the legislation.

The notice stipulates the contravention, the provision that is being contravened (or is likely to be contravened), and a time frame (a compliance period) by which the duty holder must comply with the notice. The notice may also contain directions for measures to be taken to remedy the contravention or prevent a recurrence, or likely recurrence of the contravention.

An improvement notice may also be issued even when a prohibition notice or electrical safety protection notice has been issued. Unless the contravention is otherwise addressed by a prohibition notice or electrical safety protection notice, an improvement notice will be issued where the contravention cannot be immediately remedied while the inspector is at the workplace or onsite.

## 4.2 Other directions

### 4.2.1 Unsafe equipment notice (ES Act s148)

An unsafe equipment notice will be issued if an inspector reasonably believes that electrical equipment is so defective or hazardous that it is likely to cause a serious electrical incident. The purpose of the unsafe equipment notice is to require the owner to make the electrical equipment harmless or incapable of operation.

The owner may choose to have the item made electrically safe or destroyed. An unsafe equipment tag must be attached securely to the equipment.

### 4.2.2 Non-Disturbance Notice (WHS Act s198-199; ES Act s149)

An inspector may issue a non-disturbance notice if he/she reasonably believes it is necessary to do so to facilitate the exercise of their powers. For instance, a non-disturbance notice may be issued to preserve the site at which a notifiable event has occurred, or to stop any disturbance of a particular site (including plant, substance, structure or thing associated with the site), for a specified time that is reasonable in the circumstances (of no more than 7 days). The non-disturbance notice must state the period of non-disturbance; the obligations of the person to whom the notice is issued; the measures to be taken to preserve the site; and the penalty for contravening the notice.

A non-disturbance notice does not prevent any action, to assist an injured person, remove a deceased person, make the site safe to prevent further injury, that is associated with a police investigation, or for which an inspector has given permission.

## 5 Sanctions

Sanctions, such as an infringement notice, licence suspension, enforceable undertaking (EU) or prosecution are penalties for non-compliance and act as a further incentive to comply with the legislation. Sanctions also act as a general deterrent for other duty holders who may consider contravening their duties.

### 5.1.1 Infringement Notice

Infringement notices (on the spot fines) are issued under the *State Penalties Enforcement Regulation 2014* (SPER) and may be issued by an inspector if they believe, on reasonable grounds, that a person is committing or has committed an infringement notice offence under the legislation. Infringement notices may be issued to an organisation, individual or both.

There are currently 240 infringement notice offences for contraventions of the WHS and ES legislation. The regulator has identified a smaller number as priority areas for enforcement. An inspector will have additional focus on these areas, and if an inspector identifies a contravention of a provision determined by the regulator to be a priority, the inspector will issue an infringement notice. The provisions determined as a priority by the regulator will change periodically to reflect current and emerging risks.

The priority areas do not prevent an inspector from issuing an infringement notice for an infringeable offence not identified as a priority; an inspector may issue an infringement notice for any infringement notice offence.

The full list of infringement notice offences, including those indicated as priority areas for enforcement, is available on the Worksafe website.

An inspector will use other directed compliance measures, in conjunction with infringement notices, to ensure the contravention is remedied.

Infringement notices may be issued for risk based or systematic WHS management contraventions, such as *failure to ensure, so far as is reasonably practicable, that a person, plant or thing did not come within an unsafe distance of an overhead or underground electric line* (SPER Schedule 1 - ES Reg s68(1)) or failure of the duty holder to comply with *registration holder must keep registration document available for inspection under the Act* (SPER Schedule 1 - WHS Reg s262(1)).

An infringement notice may be revoked and the matter referred for prosecution in circumstances where further investigation reveals that there is reason to pursue a higher order sanction.

If the recipient of an infringement notice makes full and proper payment of the penalty then the liability of the alleged offence is discharged and no prosecution may be brought. However, where the fine has not been paid, or payment has commenced by instalment and not satisfied in full, the infringement notice may be withdrawn, the penalty amount already paid refunded, and prosecution commenced.

The recipient of an infringement notice may choose a hearing in the Magistrates Court instead of paying the fine.

### 5.1.2 Review of authorisations

A range of authorisations, such as licences, permits, registration and certificates are issued under the legislation. The terms and conditions of a specific authorisation, such as high risk work and electrical licences, are set out in the relevant documents.

If a duty holder fails to adhere to the conditions set out in the authorisation documents, the licence may be suspended, cancelled or conditions of a licence amended. Suspension or cancellation of a licence or other authorisation is typically used where the offence was of a nature that exposed persons to serious risk or where other penalties have not resulted in improvements that reduce risk. Details of all licence suspensions and cancellations will be published on the Worksafe website.

### 5.1.3 Enforceable Undertakings (WHS Acts216, ES Act s49)

An EU is an enforcement pathway permitted under the legislation as an alternative to a court imposed sanction following an alleged contravention of the legislation. An EU cannot be accepted for a category 1 offence<sup>5</sup> (reckless conduct), category 2 causing death, or industrial manslaughter.

An EU allows a duty holder to voluntarily enter into a legally-binding agreement with WHSQ to implement effective health and safety initiatives. The agreement outlines actions the duty holder will undertake to address the contravention and deliver tangible benefits for workers, industry, and the community as a whole.

An EU is not imposed on a duty holder. A duty holder must apply to the regulator who considers the application and makes a decision about whether or not to accept it.

The regulator's decisions about EUs are made in accordance with its *Guidelines for the acceptance of an Enforceable Undertaking*.

<sup>5</sup> See definition in the appendix 1: glossary

#### 5.1.4 Prosecution

Prosecuting duty holders aims to provide a powerful deterrent to others and ensures that those who contravene the legislation are held to account. It draws attention to the consequences of contravening the legislation.

Serious contraventions of the legislation may be referred to the independent statutory office of the Director of Workplace Health and Safety Prosecutions (DWHSP). The DWHSP makes the decision to prosecute or not.

The DWHSP may decide to take prosecution action as a result of an investigation whether or not a contravention has resulted in a death, injury, illness or disease actually occurring.

Category 1 offences are referred to the Director of Public Prosecutions with the decision to prosecute being made by the DPP in line with the DPP's Prosecution Guidelines.

<https://www.worksafe.qld.gov.au/laws-and-compliance/prosecutions/guidelines-prosecutions>

## 6 Information and advice about compliance (WHS Act s160(a); ES Act 137(a))

When issuing a notice, an inspector will provide information to support understanding of the notice. This information will be provided verbally and, in some instances, may be confirmed or expanded upon in writing (e.g. by email). Such information should include clear explanation of the contravention and a brief explanation of what compliance looks like i.e. the evidence the inspector will be looking for to determine whether the notice is complied with. An inspector may also provide practical guidance and support, based on reliable information sources such as [worksafe.qld.gov.au](http://www.worksafe.qld.gov.au), Safe Work Australia or other WHS regulator websites, Codes of Practice and Australian/New Zealand Standards.

Where there isn't an apparent contravention or where the level of risk management does not meet the legal requirements for issuing a notice, an inspector may also provide practical guidance and compliance support.

In the circumstances where general information and advice is provided without a notice being issued, the inspector may follow this up by providing information in writing (e.g. email) with the regulator retaining a record of the information provided. For example, in a post workplace visit email, the inspector may provide links to, or copies of, any guidance or research discussed during the visit.

In some circumstances a referral may also be made to one of the regulator's programs or services, such as Workplace Assistance services, the Work Health Design Branch, the Safety Leadership at Work program or Mental Health at Work. These programs and services aim to assist the PCBU to comply through directed guidance which includes education, training or support.

## 7 Review of decisions

A person affected by an inspector's decision (other than the issue or content of an infringement notice) may apply to the regulator for an internal review of that decision. In these circumstances an eligible person may apply to the relevant body to have the decision reviewed:

- Internal review – application can be made to the regulator within 14 calendar days of the decision coming to the notice of the eligible person, or in relation to an improvement notice, an application must be made in the time stated in the notice or 14 calendar days, whichever is shorter.
- External review – application can be made to review the original decision or the internal review decision, within a specified time from the day the applicant received or became aware of the decision:
  - 30 calendar days to the Queensland Industrial Relations Commission
  - 28 calendar days to the Queensland Civil Administrative Tribunal.

The [list of reviewable decisions](#) document outlines who is eligible to apply for a review and who would undertake the external review.

**Note:** neither the decision to issue nor the content of an infringement notice is reviewable. The recipient of an infringement notice may choose a hearing in the Magistrates Court instead of paying the fine.

## 8 Periodic review

This policy will be reviewed at least every five years or where legislative amendments require a revision. The purpose of the review is to:

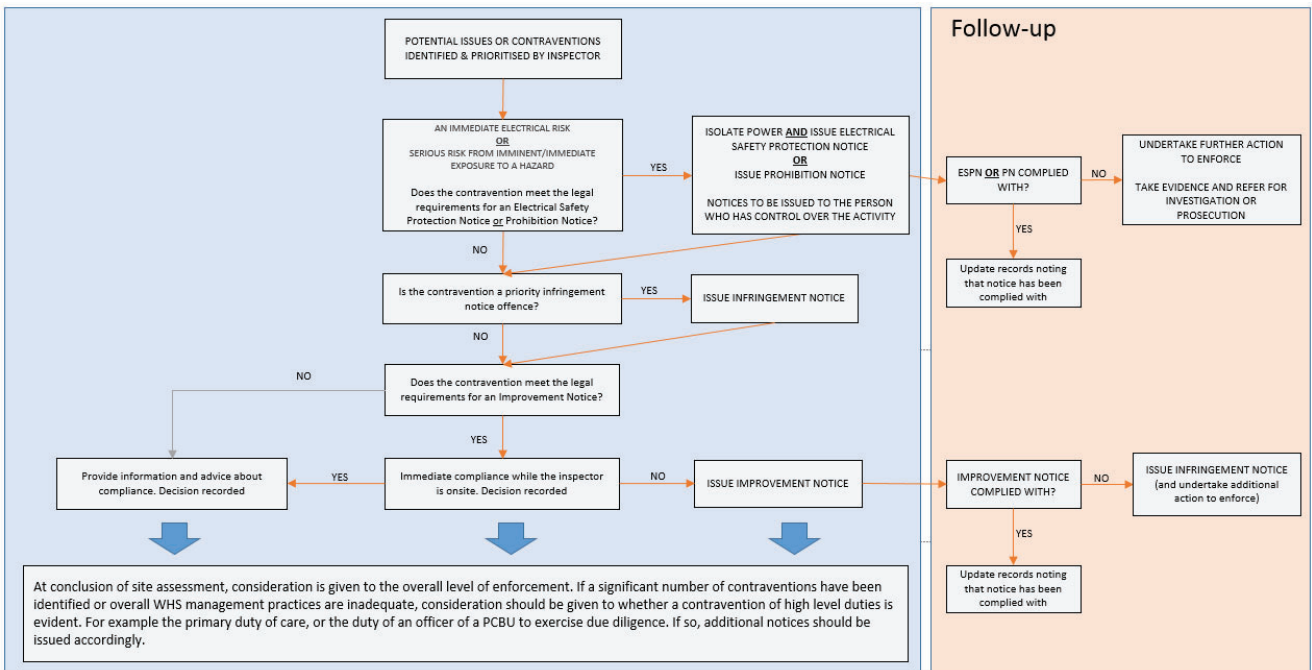
- address any operational inefficiency with this policy
- ensure this policy is achieving its objectives
- reflect new approaches to compliance and enforcement, and
- reflect any relevant legislative amendments.

## 9 Glossary

<i>Term</i>	<i>Definition</i>
<i>Authorisations</i>	A person or worker can be authorised under the legislation by a licence, permit, registration or other authority issued by the regulator under the legislation.
<i>Contravention</i>	Contravention means to an act of breaking or failing to observe a law
<i>Compliance</i>	Following the law, i.e. acting in accordance with the legislation, including fulfilling duties under the Act or Regulation and obtaining the right approvals or permissions. It means conducting authorised activities in accordance with any conditions or regulatory requirements.
<i>Category 1 offence</i>	Reckless conduct – category 1 (s31 WHS Act or s40B ES Act). A person commits a category 1 offence if – a) The person has a health and safety duty; and b) the person, without reasonable excuse, engages in conduct that exposes an individual to whom that duty is owed to a risk of death or serious injury or illness; and c) the person is reckless as to the risk to an individual of death or serious injury or illness.
<i>Duty holder</i>	The primary duty holder is the person conducting a business or undertaking (PCBU) as described under WHS Act s19 or ES Act s30.  If a PCBU has a duty or obligation, officers of the PCBU have a duty to exercise due diligence to ensure the PCBU complies that duty with (s27 WHS Act, s38A ES Act).  Principal contractors in high risk construction have additional duties under the WHS Regulation (Chapter 6 WHS Regulation).  Workers and other persons also have duties under sections 28-29 of the WHS Act.
<i>ES Act</i>	<i>Electrical Safety Act 2002</i>
<i>ES Regulation</i>	<i>Electrical Safety Regulation 2013</i>
<i>Enforcement response</i>	Action that aims to enforce compliance in order to reduce or stop workplace related death, injuries and disease by using: <ul style="list-style-type: none"> <li>• directive compliance to achieve a remedy of a contravention through the issue of notices; and/or</li> <li>• sanctions to deter non-compliance by holding duty holders to account, through prosecution, enforceable undertakings or the issue of infringement notices.</li> </ul>
<i>Inspector</i>	An inspector appointed under s156 WHS Act and s123 ES Act.
<i>Apparent non-compliance</i>	Apparent failure to comply with any provision of the relevant Act and Regulation which leads to further investigation into whether there was a contravention of the relevant legislation.
<i>Notifiable incident</i>	Any of the following events that arise from work: <ul style="list-style-type: none"> <li>• the death of a person; or</li> <li>• a serious injury or illness, or</li> <li>• a dangerous incident</li> </ul>

	As defined in WHS Act s35 - s37.
<i>Reasonably practicable</i>	Reasonably practicable, in relation to a duty to ensure health and safety, means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including— <ul style="list-style-type: none"> <li>a. the likelihood of the hazard or the risk concerned occurring; and</li> <li>b. the degree of harm that might result from the hazard or the risk; and</li> <li>c. what the person concerned knows, or ought reasonably to know, about— <ul style="list-style-type: none"> <li>i. the hazard or the risk; and</li> <li>ii. ways of eliminating or minimising the risk; and</li> </ul> </li> <li>d. the availability and suitability of ways to eliminate or minimise the risk; and</li> <li>e. after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.</li> </ul>
<i>Regulator</i>	The Regulator means the person appointed by the Governor in Council under Schedule 2 Part 1 s1 WHS Act
<i>regulator</i>	The regulator means Workplace Health and Safety Queensland and the Electrical Safety Office
<i>Residual Risk</i>	WHS Matrix – The ‘risk rating’ is determined by comparing the quality of the controls used by the duty holder compared with standards (legislation, Codes of Practice, etc.), taking into account what is reasonably practicable.
<i>WHS Act</i>	<i>The Work Health and Safety Act 2011</i>
<i>WHS Regulations</i>	<i>The Work Health and Safety Regulations 2011</i>
<i>WHSQ</i>	Workplace Health and Safety Queensland
<i>Workplace</i>	Any place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work (WHS Act s8). This includes a vehicle, vessel, aircraft or other mobile structure; and any waters and any installation on land, on the bed of any waters or floating on any waters.

Flowchart 1: Enforcement overview



## Disclaimer

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[worksafe.qld.gov.au](http://worksafe.qld.gov.au)

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-2 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith* .....

Paul Smith

*Jack Dominic Kerin* .....

Witness (Lawyer)

---

**From:** Paul Smith (WHS)  
**Sent:** Thursday, 14 September 2023 1:38 PM  
**To:** Helen Burgess [REDACTED]  
**Cc:** Kate Griffith [REDACTED]; Jason Plath [REDACTED]; Kym Tollenaere [REDACTED]; Dale Blight [REDACTED]; Stacey Ozolins [REDACTED]; Christopher Coxon [REDACTED]; Tara Bopf [REDACTED]; constructionstrategy <constructionstrategy@oir.qld.gov.au>  
**Subject:** RE: Immediate Compliances

Thanks Helen

Paul Smith  
Regional Director  
North and Central Queensland  
Compliance and Field Services  
**Workplace Health & Safety Queensland**  
Office of Industrial Relations

-----  
Level 5, Verde Central, 44 Nelson Street, Mackay 4740  
PO Box 1905, Mackay 4740  
P [REDACTED], M [REDACTED], F [REDACTED]

---

**From:** Helen Burgess [REDACTED]

**Sent:** Thursday, 14 September 2023 11:11 AM

**To:** Paul Smith (WHS) [REDACTED]

**Cc:** Kate Griffith [REDACTED]; Jason Plath [REDACTED]; Kym Tollenare [REDACTED]; Dale Blight [REDACTED]; Stacey Ozolins [REDACTED]; Christopher Coxon [REDACTED]; Tara Bopf [REDACTED]; constructionstrategy <[constructionstrategy@oir.qld.gov.au](mailto:constructionstrategy@oir.qld.gov.au)>

**Subject:** RE: Immediate Compliances

Hello Paul

Thank you for your email.

As requested, by way of explanation:

The Queensland Government is committed to maximising benefits for Queenslanders by using procurement to support local jobs and businesses and drive economic, environmental and social outcomes. This includes ensuring quality, safe workplaces for people engaged on major state government projects, through the highest possible standards of workplace health and safety, engaging appropriate numbers of trainees and apprentices, and best practice industrial relations. Ensuring quality, safe workplaces supports delivery of projects on time and on budget.

All government agencies subject to the Queensland Procurement Policy must apply the Best Practise Principles (BPP) to major projects of \$100 million or more. Government agencies include budget sector agencies, government owned corporations, statutory bodies and special purpose vehicles.

Implementation of the BPP is being administered through a whole of government approach, which OIR have supported since inception. OIR were heavily involved in the drafting of the workplace health and safety, and industrial relations aspects of the BPP.

Since 2019, the Construction Strategy Unit (CSU) has been requested to provide approximately 400 compliance history reports on principle contractors and sub-contractors who are either seeking to be pre-qualified for government funded construction work or are already working on a government funded construction project bound by the BPP. These compliance history reports usually cover a five year period or in the case it is project specific, just the duration of the project.

CSU regularly work with Energy and Public Works (EPW), the Department of Education, Queensland Health, and Transport and Main Roads in relation to the BPP.

As compliance history reports have been provided to EPW for the last four years, they have become accustomed to reviewing the data and they regularly ask questions about the trends apparent in many of the compliance history reports including:

- WHS incidents that have not resulted in any enforcement action being taken
- a decline in the number of notices being issued to contractors generally

These questions have led to discussions about immediate compliances and the purpose of them.

Immediate compliances are often not recorded in CISr in accordance with the relevant policy, which has made reporting on them in a fair and equitable way difficult. Due to the government seeking to raise the standards on their construction projects, they are keen to ensure the reporting encompasses the full history. The intent of the WHS component of the BPP is that the health and safety compliance and culture of contractors undertaking government funded work is continuously improving and that they are responding to and learning from previous non-compliances. As such, EPW has asked that we include immediate compliances so that they can better monitor these trends.

I am aware, and have previously discussed with Stacey, that on most of the major projects, inspectors are experiencing that principal contractors are sending a group of their representatives with the inspectors as the inspectors carry out the assessment so that any non-compliances can be immediately rectified, avoiding enforcement action. This is causing less enforcement action to be taken. By accurately recording the information surrounding the provision of the immediate compliance it will capture the non-compliances that the inspectors did identify and address while at the site.

Of note, it was the Construction Industry Sector Standing Committee who first raised concerns about inspectors often not taking any enforcement action when they attended a site, and the perception that it creates if inspectors are attending sites with no evidence of any meaningful interactions occurring. In response, OIR implemented the immediate compliances so that evidence could be collected in a way that is reportable to demonstrate to relevant internal and external stakeholders that meaningful interactions are occurring when inspectors attend sites, including in the absence of enforcement action being taken.

I hope this has answered your question, please let me know if you require further clarification.

Thanks  
Helen

### Helen Burgess

Director, Construction Strategy

Office of Industrial Relations

P: [REDACTED] M: [REDACTED]  
Level 11, 1 William Street, Brisbane QLD 4000  
GPO Box 69, Brisbane QLD 4001

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Work safe. Home safe.

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**From:** Paul Smith (WHS) [REDACTED]  
**Sent:** Tuesday, 12 September 2023 10:04 AM  
**To:** Helen Burgess [REDACTED]; Kate Griffith [REDACTED];  
Jason Plath [REDACTED]  
**Cc:** Kym Tollenare [REDACTED]; Dale Blight [REDACTED];

Stacey Ozolins [REDACTED]; Christopher Coxon  
[REDACTED]; Tara Bopf [REDACTED];  
constructionstrategy <[constructionstrategy@oir.qld.gov.au](mailto:constructionstrategy@oir.qld.gov.au)>  
**Subject:** RE: Immediate Compliances

Helen, I refer to your comment in your email below .

*'concerns have been raised by Energy and Public Works that the compliance history reports are not reflecting the full depth of a PCBU's safety performance '*

Can you please explain this as it would appear to be without foundation as how would EPW have formed this belief ?

Regards

Regards

Paul Smith  
Regional Director  
North and Central Queensland  
Compliance and Field Services  
**Workplace Health & Safety Queensland**  
Office of Industrial Relations

-----  
Level 5, Verde Central, 44 Nelson Street, Mackay 4740  
PO Box 1905, Mackay 4740  
P: [REDACTED], M: [REDACTED], F: [REDACTED]

---

**From:** Helen Burgess [REDACTED]  
**Sent:** Monday, 11 September 2023 5:15 PM  
**To:** Kate Griffith [REDACTED]; Jason Plath [REDACTED]; Paul Smith (WHS) [REDACTED]  
**Cc:** Kym Tollenaere [REDACTED]; Dale Blight [REDACTED]; Stacey Ozolins [REDACTED]; Christopher Coxon [REDACTED]; Tara Bopf [REDACTED]; constructionstrategy <[constructionstrategy@oir.qld.gov.au](mailto:constructionstrategy@oir.qld.gov.au)>  
**Subject:** Immediate Compliances

Hello RDs

As you are aware, OIR provides information to other government agencies (eg Energy and Public Works and Transport and Main Roads) on the compliance history of contractors tendering for government-funded construction and maintenance projects. This is part of the whole of government best practice principles for the procurement of government-funded work.

When PCBUs rectify compliances while inspectors are on site, these non-compliances must be recorded in CISr with a description of what the non-compliance was and how it was rectified. Attached is a guidance note on managing immediate compliances which is available on the intranet ([Inspector Guidance Note – Immediate Compliance](#)).

Would you please remind inspectors of the importance of recording 'immediate compliances' in CISr **and** including a description of what the non-compliance was and how it was rectified.

As outlined in the guidance note, 'immediate compliances' form part of a PCBU's compliance history. When preparing compliance history reports for the other government agencies, the Construction Strategy and Major Construction Program Unit (CSU) is increasingly finding that:

- Immediate compliances are not recorded in CISr through the notices module (although they may be mentioned in an activity description, in a workplace inspection report, or in an audit report)
- When immediate compliances are recorded in CISr, a description of the non-compliance and how it was rectified is not provided
- When a description of the non-compliance is provided, the level of detail is insufficient to identify what the actual non-compliance was.

Would you please remind inspectors that it is OIR policy that all 'immediate compliances' are recorded in CISr through the notices module and that a description of the non-compliance and how it was rectified must be included. This will also help with the quality of the compliance history reports that are being provided, as concerns have been raised by Energy and Public Works that the compliance history reports are not reflecting the full depth of a PCBU's safety performance.

Thank you for your assistance with this, it is appreciated.

Thanks  
Helen

### **Helen Burgess**

Director, Construction Strategy  
Office of Industrial Relations

---

P: [REDACTED] M: [REDACTED]  
Level 11, 1 William Street, Brisbane QLD 4000  
GPO Box 69, Brisbane QLD 4001

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**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-3 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith* .....

Paul Smith

*Jack Dominic Kerin* .....

Witness (Lawyer)

---

**From:** Marc Dennett  
**Sent:** Wednesday, 25 March 2020 9:26 AM  
**To:** Paul Smith (WHS)  
**Subject:** RE: Cfmeu interaction 6:44am

Paul we don't even have a copy of the decision so I am not sure what more we can do at this point – what are they looking for, we prosecuted Rolly the organisation has supported Rob? I understand the CFMEU are appealing the decision although I am yet to confirm that.

Broady and you have more information than me at this point.

Stay on line after CFS leadership and we can discuss further.

**Marc Dennett**

Executive Director

WHS Compliance and Field Services  
Office of Industrial Relations

-----  
P: [REDACTED] M: [REDACTED]  
Level 1, 60 Wisers Road, Maroochydore, QLD  
PO Box 5177, Maroochydore BC, QLD, 4558



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---

**From:** Paul Smith (WHS)  
**Sent:** Wednesday, 25 March 2020 9:17 AM  
**To:** Marc Dennett  
**Subject:** Re: Cfmeu interaction 6:44am

Marc, I think she is trying to hold it all together up there the staff are not happy with the level of information to Cairns staff following the Courts decision - can we possibly discuss something in relation to how we are to interact with Rolly and what information we can provide to allay their concerns.

If we don't I feel the staff may escalate this to the union and refuse to respond if he is on site .

Regards

Paul Smith

Regional Director  
Compliance & Field Services  
Workplace Health & Safety Queensland  
North & Central Queensland Region  
M: [REDACTED]  
P: [REDACTED]

On 25 Mar 2020, at 8:23 am, Marc Dennett [REDACTED] wrote:

Yep - while I understand where Shannon is coming from I think her language in her email below is inappropriate - there is a clear bias. I am concerned that Shannon is fuelling the issues even her recent comments to the DDG about accepting their behaviour was in my view inappropriate.

As with all other unions the contact is being made through the Manager.

**Marc Dennett**  
Executive Director  
WHS Compliance and Field Services  
Office of Industrial Relations

-----  
P: [REDACTED] M: [REDACTED]  
[Level 1, 60 Wisers Road, Maroochydore, QLD](#)  
[PO Box 5177, Maroochydore BC, QLD, 4558](#)

The most important reason for making your workplace safe,  
is not at work at all. Work Safe. Home Safe.

Connect with us:

On 25 Mar 2020, at 8:07 am, Paul Smith (WHS) [REDACTED] wrote:

Marc , FYI- can we discuss at some stage.

I am just going into to a Physio appointment so will be about 45 min

Paul Smith  
Regional Director  
Compliance & Field Services  
Workplace Health & Safety Queensland  
North & Central Queensland Region  
M: [REDACTED]  
P: [REDACTED]

Begin forwarded message:

**From:** Shannon Farrington [REDACTED]  
**Date:** 25 March 2020 at 7:24:25 am AEST  
**To:** "Paul Smith (WHS)" [REDACTED]  
**Cc:** Andrew Stathooles [REDACTED]  
**Subject:** Cfmeu interaction 6:44am

Hi Paul,

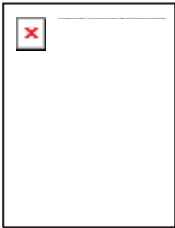
Can I ask if the ED and Director CSU have put some thought into placing some boundaries on the way cfmeu contact our organisation since the decision last week. I know we are working locally with organisers but the DDG made it clear he doesn't want us to divert from work we are doing to attend union complaints if we are at a site already addressing serious risk.

For background yesterday's interaction with Roly was fine.

This morning Roly messaged me at 6:44am. I directed him to the after hours number and process if serious and imminent or told him to wait for business hours. Whether we are mending relationships or not this individual has been found guilty of S190 breach so I would hope our organisation would regroup and give some direction to Cairns re Roly. Or at least give Rob Duckworth some feedback to let him know that the magistrate found his actions to be appropriate.

I can guarantee they've had a huddle and decided how to continue working our system, and I think this is part of their strategy.

Kind regards,



**Shannon Farrington**

Operations Manager, Cairns and Far North Queensland  
Compliance and Business Engagement  
Office of Industrial Relations

P: [REDACTED] M: [REDACTED]  
Email: [REDACTED]

Level 6, 5B William McCormack Building, Sheridan St, CAIRNS QLD  
4870

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-4 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith* .....

Paul Smith

*Jack Dominic Kerin* .....

Witness (Lawyer)

## Improvement notice

Notice No. I2028691

V1.3.18

Work Health and Safety Act 2011, Electrical Safety Act 2002, Safety in Recreational Water Activities Act 2011

This notice is issued under the *Work Health and Safety Act 2011* section 191, *Safety in Recreational Water Activities Act 2011* applied section 191 *Work Health and Safety Act 2011* or *Electrical Safety Act 2002* section 146. This notice requires the person (which includes a body corporate, government department or public authority) to whom it is issued to remedy a contravention of the Act or Regulations. **The legislation requires that the person to whom an improvement notice is issued must, as soon as possible, display a copy of the notice in a prominent place at or near the workplace, or part of the workplace at which work is being carried out that is affected by the notice.**

## Notice issued to:

Legal name of person/business or undertaking: CPB CONTRACTORS PTY LIMITED	
ABN: 98000893667	ACN: 000893667
Trading as:	
Address: ETNA CREEK RD , ROCKHAMPTON 4700 QLD	

## Details of contravention:

Site location
Capricorn Correctional Centre, Etna Creek Road, Rockhampton, Qld 4700
I, Greg Moran reasonably believe on 18-FEB-2020 at 12:30 that you are contravening a provision of the: <i>Work Health and Safety Act 2011</i> - section(s) 118(3)

## Brief description of how the provision is being or has been contravened:

CPB Contractors Pty Limited has failed, without a reasonable excuse, to allow a WHS entry permit holder to inspect, and make copies of documents relevant to a suspected contravention namely workers performing high risk construction activities not in accordance with the SWMS. WHS entry permit holders requested and were refuse access to CPB Contractors Pty Limited site induction records from 1 January 2019 to current date and Mittim Pty Ltd (Mitcon Projects) SWMS dated 1 Januray 2019 to current date.
---

## Directions (if any) as to the measures to be taken to remedy or prevent the contravention or likely contravention:

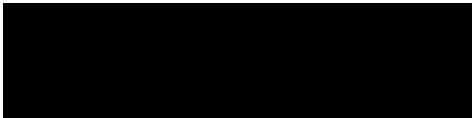

It is mandatory to comply with these directions

CPB Contractors Pty Limited are required to allow a WHS permit holder to inspect, and make copies of any document that is directly relevant to the suspected contravention and that is kept at the workplace, or is accessible from a computer that is kept at the workplace, namely CPB Contractors Pty Limited site induction records from 1 January 2019 to current date and Mittim Pty Ltd (Mitcon Projects) SWMS dated 1 Januray 2019 to current date..
--

## Recommendations (if any): It is not an offence to fail to comply with recommendations in a notice.

--

## Issuing inspector:

	186	
Signature of inspector	Inspector's ID	Inspector's contact number
18-FEB-2020	PO BOX 1504, ROCKHAMPTON 4700 QLD	
Date issued	Inspector's location	

## This contravention must be remedied before: Service method:

20-FEB-2020	Delivered directly to the person named by electronic transmission
MR MARK BOMBARDIERI	Management Representative For Person Conducting A Business Or Undertaking
Notice given to	Relationship to person to whom notice is issued

**This portion may be signed and returned where contravention has been remedied before the stated date.  
I certify that the requirements of this notice have been complied with:**

Name *in block letters*: \_\_\_\_\_ Position: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date complied: / /

ABN 94 496 188 983

Notice No. I2028691

An inspector may make minor technical changes to this notice in certain circumstances. This does not change the validity of the notice. You must comply with this notice within the period stated. Failure to comply with this notice may incur a maximum penalty of \$50,000 for an individual and \$250,000 for a body corporate, government department or public authority.

## PRIVACY COLLECTION STATEMENT

The Office of Industrial Relations (OIR) collects, uses, discloses and stores information in accordance with legislation it administers and all applicable privacy laws. This includes information collected by inspectors of OIR. Note that privacy laws do not apply if other laws conflict or allow or require the collection of information, and do not apply to the collection of information by OIR to the extent that it is exercising its law enforcement functions and non-compliance with privacy legislation is deemed necessary to fulfil those functions.



**Improvement notice**

V1.3.18

**Notice No. I2028691***Work Health and Safety Act 2011, Electrical Safety Act 2002, Safety in Recreational Water Activities Act 2011*

An inspector may make minor technical changes to this notice in certain circumstances. This does not change the validity of the notice. You must comply with this notice within the period stated. Failure to comply with this notice may incur a maximum penalty of \$50,000 for an individual and \$250,000 for a body corporate, government department or public authority.

**PRIVACY COLLECTION STATEMENT**

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## Internal review of decision

An eligible person whose interests are affected by an original decision may apply for the decision to be reviewed. Refer to the Internal review of decision ? guide for applicants, at [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au)

An eligible person is:

1. The person to whom the notice was issued.
2. A person conducting a business or undertaking whose interests are affected by the decision.
3. A worker whose interests are affected by the decision.
4. A health and safety representative who represents a worker whose interests are affected by the decision.

### How does a person apply for a review of a decision?

The application for internal review must:

- a) be made in the approved form to the reviewer
- b) supported by enough information to enable the reviewer to decide the application

An application for internal review relating to an improvement notice issued under the *Work Health and Safety Act 2011* and the *Safety in Recreational Water Activities Act 2011* must be lodged before the date stated in the notice for compliance or within 14 calendar days of the decision coming to the notice of the eligible person, whichever is the lesser.

For an improvement notice issued under the *Electrical Safety Act 2002*, the application for internal review must be made within 14 days after the day the applicant receives the notice.

Lodgement of the form can be made via email [whsrod@oir.qld.gov.au](mailto:whsrod@oir.qld.gov.au). Information about how to apply for an internal review of decision, including the application form, is available at [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au) or by calling 1300 362 128. There is no application fee.

The operation of the improvement notice is stayed (suspended) once the application for review of decision is lodged. The stay remains in effect until a decision is made by the internal reviewer and whichever of the following is earlier ? an external review is applied for or, 28 days have elapsed since the person became aware of the decision.

### What happens next?

The internal reviewer must make a decision within 14 calendar days of receiving the application for internal review. The internal reviewer can confirm or vary the reviewable decision, or set aside the reviewable decision and substitute the original decision for another decision. Once the internal reviewer makes the decision, they must notify the applicant of the decision and the reasons for the decision in writing.

## External review

An eligible person may apply to an external review body for a review of the internal decision of the internal decision reviewer, or the original decision of the regulator. From the day the applicant received or became aware of the decision, an application for external review must be made within:

- 30 calendar days to the Queensland Industrial Relations Commission (QIRC) relating to the *Work Health and Safety Act 2011*;
- 28 calendar days to the Queensland Civil Administration Tribunal (QCAT) relating to the *Electrical Safety Act 2002* or the *Safety in Recreational Waters Act 2011*.

QCAT and QIRC may confirm or vary the original decision, set aside the original decision and substitute another decision or set aside the original decision and return the matter to the decision maker with appropriate directions.

Please refer to [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au) or phone 1300 362 128 for more information on how to apply for an external review.

## Privacy collection statement

The Office of Industrial Relations (OIR) collects, uses, discloses and stores information in accordance with legislation it administers and all applicable privacy laws. This includes information collected by inspectors of OIR. Note that privacy laws do not apply if other laws conflict or allow or require the collection of information, and do not apply to the collection of information by the OIR to the extent that it is exercising its law enforcement functions and non-compliance with privacy legislation is deemed necessary to fulfil those functions.

The OIR's privacy information is on our website at [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au).

**An inspector may make minor technical changes to this notice in certain circumstances. This does not change the validity of the notice.**

**You must comply with this notice within the period stated. Failure to comply with this notice may incur a maximum penalty of \$50,000 for an individual and \$250,000 for a body corporate, government department or public authority.**

Our reference: 55517/I2028691

Telephone: [REDACTED]



Office of  
Industrial Relations

17 March 2020

Mr Pawel Zielinski

Minter Ellison

By email: [REDACTED]

Dear Mr Zielinski

**Re: Application for review – Improvement Notice I2028691**

I refer to the application for internal review received by the Office of Industrial Relations (OIR) on 19 February 2020 in relation to the decision to issue Improvement Notice I2028691 to CPB Contractors Pty Limited on 18 February 2020.

**Review decision of 4 March 2020**

I have set aside the decision to issue Improvement Notice I2028691 to CPB Contractors Pty Limited in accordance with section 118(3) of the *Work Health and Safety Act 2011* (the Act) and substituted a new decision to cancel the notice.

**Background**

On 18 February 2020 Inspector Greg Moran (the Inspector) issued Improvement Notice I2028691 (the notice) to CPB Contractors Pty Limited (CPB).

The notice states that on 18 February 2020 at 12:30 pm the Inspector reasonably believed CPB were contravening section 118(3) of the Act at Capricorn Correctional Centre, Etna Creek Road, Rockhampton (the workplace).

After attending the workplace and speaking with representatives from CPB and the CFMEU the Inspector formed a reasonable belief that CPB had failed, without reasonable excuse, to allow a WHS entry permit holder to inspect and make copies of documents relevant to a suspected contravention.

A decision to issue an improvement notice is a reviewable decision in accordance with section 223 of the Act and it is this decision CPB seek to be reviewed.

### **Grounds for review**

On behalf of CPB, Minter Ellison lodged an application for internal review of decision with OIR on 19 February 2020. Submissions provided by Mr Mark Norris, CPB Building Operations Manager, outlined the following grounds for review:

- There was, and remains, no evidence that the relevant WHS entry permit holders held a reasonable suspicion of a WHS contravention justifying their request to access the subject documents.
- There was no basis for the direction in the notice that all site induction records dating from 1 January 2019 are to be provided to the WHS entry permit holders.
- Even if the WHS entry permit holders did hold a reasonable suspicion of a contravention of the Act, that suspicion was limited to the circumstances of one unidentified worker, and there was no basis for a broader request of documents.
- The action sought by the notice would put CPB in direct breach of its obligations under the *Code for the Tendering and Performance of Building Work 2016* and therefore activate the exemption in s 118(2) of the WHS Act or alternatively amounts to a reasonable excuse to refuse the WHS entry permit holders access to the relevant documents.

### **Review process**

The review is an independent administrative process or a 'review on the papers'. This means that as the decision-maker, I have considered the material provided by the Inspectorate and any new information provided by you or another party during the review process.

All of the evidence including submissions, the application for review and inspectorate file has been considered, although I may not specifically refer to all of the documents in my review decision.

**Issues for determination**

The issuance of improvement notices and reviews of decision are governed by the Act.

Section 191 of the Act states, in short, that an inspector may issue an improvement notice, requiring the person to remedy a contravention, if they reasonably believe that a person is contravening a provision of the Act.

Section 192 of the Act requires that an improvement notice must state various things. In short, the notice must state that an inspector believes that a contravention exists, the relevant provision that is being contravened, briefly how the provision is being contravened, and the day by which a remedy is required.

Relevantly, section 117(1) of the Act states a WHS entry permit holder may enter a workplace for the purpose of inquiring into a suspected contravention of this Act that relates to, or affects, a relevant worker. Section 117(2) of the Act states the WHS entry permit holder must reasonably suspect before entering the workplace that the contravention has occurred or is occurring.

Section 118(1) of the Act outlines the actions the WHS entry permit holder may take in relation to the suspected contravention of the Act at the workplace. Relevantly, section 118(1)(d) states the WHS entry permit holder may require the relevant person conducting a business or undertaking (PCBU) to allow the WHS entry permit holder to inspect, and make copies of, any document that is directly relevant to the suspected contravention and that—

- i. is kept at the workplace; or
- ii. is accessible from a computer that is kept at the workplace.

Section 118(2) states the relevant PCBU is not required under subsection (1)(d) to allow the WHS entry permit holder to inspect or make copies of a document if to do so would contravene a law of the Commonwealth or a law of a State.

Section 118(3) of the Act states a relevant PCBU must not, without reasonable excuse, refuse or fail to comply with a requirement under section 118(1)(d) of the Act. Section 118(4) of the Act places an evidential burden on the defendant to show a reasonable excuse.

The relevant legislation may be viewed at:

<https://www.worksafe.qld.gov.au/laws-and-compliance/workplace-health-and-safety-laws/laws-and-legislation>

### **Evidence considered**

The evidence I have relied upon in reviewing this matter is:

- Improvement Notice I2028691 dated 18 February 2020
- CPB's application dated 19 February 2020 and submissions dated 20 February 2020
- Handwritten notes of Inspector Greg Moran dated 18 and 19 February 2020
- Handwritten notes of Inspector Lloyd Younger dated 18 February 2020
- Relevant recordings made in OIR's internal Compliance Investigation System Report (CISr) of various dates
- Union Interaction Report completed by Inspector Greg Moran dated 18 February 2020
- Blank Capricornia Correctional Centre Expansion Induction Assessment
- Various email correspondence between Inspector Moran and CPB
- *Work Health and Safety Act 2011* (the Act)
- *Work Health and Safety Regulation 2011* (the Regulation).

### **Summary of the evidence considered**

OIR's internal Compliance Investigation System Report (CISr) indicates OIR received a request for assistance from the CFMEU on 18 February 2020, as WHS entry permit holders had requested to inspect documents relating to site induction and had been refused.

Inspector Moran recorded in his notebook that he attended the workplace at 11:40 am on 18 February 2020 in the company of Inspector Lloyd Younger. The Inspector noted he met with Mr Chris Brodsky and Mr Tony Stott of the CFMEU. The Inspector recorded that Mr Brodsky and Mr Stott showed him their entry permits for the previous day. The Inspector noted Mr Brodsky and Mr Stott had spoken with Mr Darren Gaske during their attendance the previous day and Mr Rod Fitch today.

The Inspector noted he met with Mr Mark Bombardieri, Mr Rod Fitch and Mr Dave Ferguson from CPB. He recorded he was shown an induction template document and noted he identified personal information that could be in the induction checklist.

I have also reviewed a blank copy of a CPB document titled 'Capricornia Correctional Centre Expansion Induction Assessment' which includes the following information for the inductee to provide:

- Full name
- Personal phone number
- Personal address
- Date of birth
- Allergies
- Medical issues
- Emergency contact person name and contact details.

The Inspector further recorded in his notebook that CPB were checking with Kirsty from 'Corporate' whether names of workers could be provided to the CFMEU WHS entry permit holders. He further recorded:

Brought group back together for discussion. Kirsty (Industrial Relations Brisbane). Mitcon is sub contractor of interest. Tony happy to accept names only. Request induction records for Mitcon from January 2019. Kirsty Augustine advice is not to provide until such time as she received further legal advice. CFMEU requested Mitcon induction docs from 1 January 2019 to present plus Mitcon SWMS from 1 January 2019 to present. Site managers Bombardieri, Ferguson and Fitch agreeable to provide docs on corporate approval. Kirsty Augustine advice is she is seeking legal advice on whether docs can be made available. I advised all present I believe the request is reasonable & CPB should comply. I advised all present that WHS actions may change once issue reported to WHSQ management and further advice sought. Departed site about 1:35 pm.

I have reviewed the handwritten notes made by Inspector Younger during his attendance on 18 February 2020, which largely reflect the notes of Inspector Moran. Inspector Younger noted Mr Brodsky's concern was that he was refused access to records of workers' induction and safe work method statements (SWMS).

Inspector Younger noted Mr Bombardieri had been discussing with Ms Augustine over the phone and she advised not to provide the information until further notice. Inspector Younger noted it was agreed by both parties to terminate the meeting as 'the issue could not be resolved at this point'.

I note copies of the WHS entry permits issued by Mr Stott and Mr Brodsky were not obtained by the Inspectors.

Inspector Moran completed a Union Interaction Report in relation to the matter dated 18 February 2020 in which he recorded the following comments:

Union officials initially requested site induction documents to be made available for their inspection and CPB Contractors Pty Limited refused based on WHSA s.118(2) and privacy concerns.

My observation of the front page of the induction documents revealed they contained a significant amount of worker personal information such as driver's licence, private address and contact details, medical information, next of kin and their contact details etc.

I negotiated with both parties if they considered it acceptable to redact personal information from the induction documents so that all that remained was the workers name, date of induction, employer name, induction number.

CFMEU agreed to this outcome. CPB Contractors Pty Limited site management thought this would be acceptable but advised they would need to seek corporate approval. Corporate approval was denied until such time as they received legal advice.

The explanation given by the CFMEU for the requested historical documents was ambiguous. The relationship of all parties on site remained amicable.

Inspector Moran issued the notice to CPB by email on 18 February 2020. The Inspector recorded that he reasonably believed on 18 February 2020 at 12:30 pm that CPB were contravening section 118(3) of the Act. The Inspector recorded the following brief description of how the provision was being contravened:

CPB Contractors Pty Limited has failed, without a reasonable excuse, to allow a WHS entry permit holder to inspect, and make copies of documents relevant to a suspected contravention namely workers performing high risk construction activities not in accordance with the SWMS. WHS entry permit holders requested and were refuse [sic] access to CPB Contractors Pty Limited site induction records from 1 January 2019 to current date and Mittim Pty Ltd (Mitcon Projects) SWMS dated 1 Januray [sic] 2019 to current date.

The Inspector recorded the contravention must be remedied before 20 February 2020 and included the following direction as to the measure to be taken to remedy the contravention:

CPB Contractors Pty Limited are required to allow a WHS permit holder to inspect, and make copies of any document that is directly relevant to the suspected contravention and that is kept at the workplace, or is accessible from a computer that is kept at the workplace, namely CPB Contractors Pty Limited site induction records from 1 January 2019 to current date and Mittim Pty Ltd (Mitcon Projects) SWMS dated 1 Januray [sic] 2019 to current date.

Minter Ellison lodged an application for internal review on CPB's behalf on 19 February 2020. In support of the application CPB provided submissions dated 20 February 2020. CPB outlined that Mr Stott and Mr Brodsky attended the workplace on 17 February 2020 with entry notices. CPB submit the entry permits did not particularise the suspected contraventions to justify the access to and copying of the documents subject to the notice. CPB outline that the entry permits outlined the following 'particulars of entry':

- 1) Access and egress under normal and emergency conditions
- 2) Induction records / SWMS / Work Groups onsite
- 3) Exclusion zone in and around plant'

and

Access /Egress under normal and emergency conditions  
 Induction records / SMWS / work groups onsite  
 Exclusion zones in and around plant

CPB submit that the WHS entry permit holders were principally occupied in making observations with respect to issues they sought to be rectified following recent periods of heavy rain. CPB further outline:

In addition, and toward the end of their attendance on site, the WHS entry permit holders saw workers engaged by Mittim Pty Ltd (Mitcon) undertaking activities relating to lifting concrete panels. The WHS entry permit holders took issue with the fact that Mitcon was not using sound alarms to warn workers in the immediate areas of the lifts taking place. They requested, and were granted access to the Mitcon SWMS for the purposes of assessing whether implementing such an alarm was a requirement of the SWMS. They saw that it was not, and the WHS entry permit holders took no further issue with the matter.

At the conclusion of their attendance at site, the WHS entry permit holders asked whether CPB had records showing the inductions of Mitcon workers. CPB advised that it did. Mr Stott advised that he wished to review the induction records of Mitcon employees and to check that those workers had also signed the Mitcon SWMS. Mr Stott did not mention any particular concern in that regard, but merely suggested that this check was part of his usual reviews of induction records. In particular it was not suggested that the request was related to any belief or concern about a potential breach of any safety obligation. CPB site personnel advised the WHS entry permit holders that they would seek advice about the request. The WHS entry permit holders had no issue with that course, and advised that they would return the following day for the purpose of reviewing those records. At that time, no request was made or foreshadowed in respect of any review of induction records relating to workers other than those engaged by Mitcon.

...

CPB outline that the WHS entry permit holders returned to the workplace on 18 February 2020 and again requested the induction records relating to Mitcon workers, as well as evidence those workers had signed Mitcon's SWMS. It was noted CPB site personnel advised they had been instructed by CPB Management not to release those documents. CPB state that Inspectors Moran and Younger subsequently attended the site and during discussions with the inspectors, CPB reiterated CPB's privacy concerns in relation to the requested documents. CPB further submitted:

At around this time, a group discussion took place between the Inspectors, CPB personnel and the WHS entry permit holders. In the course of this discussion, the WHS entry permit holders for the first time referred to a complaint that they had received from a labour hire worker who had intermittently worked for Mitcon on site. The complaint was explained to CPB personnel in a vague and confused way. In summary, the concern seemed to relate to whether, having regard to the fact that the worker had not been on site regularly, he ought to have been regularly re-inducted.

The allegation was difficult to understand given CPB standard safety procedures on site and, in the context of further discussions, it evolved to vague and unparticularised claims relating to the adequacy of Mitcon ensuring that its workers signed the company's SMWS. It did not descend to an assertion of a breach of the SMWS or any other safety obligation.

...

In their submissions, CPB outline the process surrounding their induction and state that this was relayed to the inspectors and the WHS entry permit holders.

On this background, CPB submitted four grounds for review. The first ground being that there is no basis for the Inspector to form a reasonable belief that CPB breached section 118(3) of the Act as:

- The WHS entry permit holders never articulated, in any meaningful way, the suspected contravention which entitled them access to the documents.
- The evidence does not disclose any proper basis for such suspicion.
- The fact that the suspected contravention was not particularised as part of the entry notice and the late reference to an anonymous complaint raises 'real concerns that, to the extent any concern was articulated by the WHS entry permit holders, this was done after the fact' rather than the suspicion existing before entry as required by section 117(2) of the Act.

The second ground for review is that there was no basis for the directions in the notice to require the production of any broader category of documents that related to Mitcon workers.

Thirdly, CPB submitted that, to the extent any reasonable concern was articulated by the WHS entry permit holders (which CPB disputes), that concern could only have related to the circumstances of one worker and therefore there was no basis to produce the records that related to all Mitcon workers.

In relation to the fourth ground for review, CPB submit the action required by the notice 'would put CPB in direct breach of its obligations under the *Code for the Tendering and Performance of Building Work 2016* (Code), and therefore activate the exemption in s 118(2) of the WHS Act'. CPB submit that this is because:

A key element of the Code is the focus that it places on employers and principal contractors implementing policies that ensure the rights of all workers to freedom of association. As part of its obligations in that regard, CPB has a specific obligation to ensure that 'officials, delegates, or other representatives of a building association do not undertake or administer induction processes'. Acceding to the demands of the WHS permit holders for access to the broad category of documents that they sought would have had that effect.

...

CPB further submit that they have 'a legitimate concern that the induction records are being sought for a collateral purpose' and that the requested records could be used for 'assessing whether site workers were members of the CFMMEU, with a view to accessing the personal information of non-members and potentially pressure them to join the CFMMEU'. CPB submitted that the obligations that apply to CPB under the Code amount to a reasonable excuse to refuse the WHS entry permit holders access to the documents.

### **Conclusion**

The Inspector issued the notice on 18 February 2020 on the basis he reasonably believed CPB were contravening section 118(3) of the Act. Specifically, the Inspector recorded in the notice that he formed his reasonable belief on the basis CPB failed, without a reasonable excuse, to allow a WHS entry permit holder to inspect and make copies of documents relevant to a suspected contravention, namely workers performing high risk construction activities not in accordance with the SWMS.

Section 117(1) of the Act states a WHS entry permit holder may enter a workplace for the purpose of inquiring into a suspected contravention of the Act that relates to, or affects, a relevant worker.

At the time of the Inspector's attendance, CPB had allowed the WHS entry permit holders access to the workplace in accordance with section 117 of the Act. For the purpose of the current matter, a dispute arose when the WHS entry permit holders requested copies of induction records and SWMS relating to Mitcon workers, purportedly under section 118(1)(d) of the Act.

Section 118(1)(d) of the Act outlines that, upon entry, the WHS entry permit holder may require the relevant PCBU to allow the WHS entry permit holder to inspect, and make copies of, any document that is directly relevant to the suspected contravention and that is kept at the workplace or is accessible from a computer that is kept at the workplace.

Section 118(3) of the Act states a relevant PCBU must not, without reasonable excuse, refuse or fail to comply with a requirement under section 118(1)(d) of the Act.

It can be observed that the right of a WHS entry permit holder to inspect and make copies of documents under section 118(1)(d) of the Act is limited to documents that are 'directly relevant' to the suspected contravention for which entry is sought.

I have not reviewed a copy of the relevant entry permit notices as a copy was not obtained by the Inspector. Based on the submissions of CPB at review, the entry permit notices record the suspected contraventions as relating to access and egress under normal and emergency conditions, 'induction records/SWMS/work groups onsite' and exclusion zones around plant.

In the notice, the Inspector has recorded the suspected contravention relates to 'workers performing high risk construction activities not in accordance with the SWMS'. I consider this suspected contravention does not correlate to what is submitted to be recorded in the entry permit notices.

I acknowledge that, upon his attendance at the workplace, the Inspector sought to broker an agreement between the parties in relation to access to the documents in circumstances where entry to the workplace had already been granted by CPB. However, apart from the information recorded in the notice, there is no evidence recorded in the Inspector's contemporaneous handwritten notes to indicate he considered how the requested documents directly related to the suspected contravention for which the WHS entry permit holders sought entry. Further, in the report the Inspector prepared after his attendance, he records that the 'explanation given by the CFMEU for the requested historical documents was ambiguous'.

At review, CPB also submit that the reason for the WHS entry permit holders requesting the subject documents on their first attendance on 17 February 2020 was not connected with any alleged contravention and that the complaint was explained to CPB in a vague and confused way.

For the reasons outlined above, I cannot be satisfied that the documents the WHS entry permit holders sought to inspect and make copies of were directly relevant to any suspected contravention for which entry was sought. Therefore I am not satisfied it was open to the Inspector to form a reasonable belief that CPB had contravened section 118(3) of the Act by refusing to provide access to the requested documents, given their request was not directly relevant to the suspected contravention.

It therefore follows, that CPB reasons for refusing access to the documents constitutes a reasonable excuse.

**Summary**

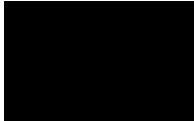
After consideration of the relevant evidence outlined above, I have set aside the decision of the Inspector to issue Improvement Notice I2028691 and substituted a new decision to cancel the notice.

**Appeal rights**

If you are aggrieved by the decision, then you may lodge an appeal in accordance with Schedule 2A of the Act with the Queensland Industrial Relations Commission (QIRC) within 30 days. The QIRC may be contacted on 1300 592 987 or by emailing [girc.registry@girc.qld.gov.au](mailto:girc.registry@girc.qld.gov.au).

If you have any queries in relation to the contents of this letter, please do not hesitate to contact me on telephone [REDACTED].

Yours sincerely



**Jayden Jones**

**Principal Review Officer**

Office of Industrial Relations

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-5 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith* .....

Paul Smith

*Jack Dominic Kerin* .....

Witness (Lawyer)

October 2020

27 Tuesday 301/065 Week 44

Lockdown office 830  
Travel Tuesday / Wednesday

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staff meeting 1945  
And off.

7:30

Call from Helen Burgess regarding  
Townville advising ~~of~~ in advance  
of our visit at various Sun hotels

- I confirmed after speaking with  
OH Nick Christie that we were  
depending on relation to completion  
of 2 significant events.

Helen and I discussed Sun hotels and the  
mess around access - Helen advised  
she was angry and hung up.

Catch up Andrew Breakfast IM  
Event Investigations

Conflict of Interest Andrew Matthews  
- no change  
- Andrew to confirm via email.

Discussion OIA HR

- Aleya Small, Shannon Farrington  
- Paul Smith  
regarding Ryan Badger.  
- issues raised by OH  
with him

January							February							March							April							May							June												
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**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-6 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith* .....

Paul Smith

*Jack Dominic Kerin* .....

Witness (Lawyer)

---

**From:** Helen Burgess  
**Sent:** Wednesday, 2 June 2021 8:28 AM  
**To:** John Finn  
**Cc:** Paul Smith (WHS); Marc Dennett  
**Subject:** RE: Request for assistance at the Hutchinson University project on University Drive Townsville

**Importance:** High

Hello Paul

I have not had a response to this email.

Would you please advise me the answer to the question below? I need to know as soon as possible please.

It appears as though the CMEP has not been followed.

Thanks  
Helen



**Helen Burgess**

Director, Construction Compliance and Field Services  
Office of Industrial Relations

P: [REDACTED] M: [REDACTED]  
Level 11, 1 William Street, Brisbane QLD 4000  
GPO Box 69, Brisbane QLD 4001



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---

**From:** Helen Burgess  
**Sent:** Tuesday, 1 June 2021 11:36 AM  
**To:** John Finn  
**Cc:** Paul Smith (WHS) ; Marc Dennett  
**Subject:** RE: Request for assistance at the Hutchinson University project on University Drive Townsville

Hello John

Thank you for the update.

As per the legislation and the attached guidance note, which you helped draft as part of the Lead Inspector group, the test must be carried out by the PC and relevant PCBUs to the point that emergency services would take control. This test should include the determined time frame of no communication or a request for assistance from the crane operator, a first aider trained in height safety climbing the crane to ascertain the situation and administer first response first aid if necessary, making a determination about contacting emergency services, if that decision is made the relevant subcontractors should all be involved in clearing the road at the front of the site so that emergency services can park their vehicles, clearing a path from the front of the site to the base of the tower crane so emergency personnel have a quick and safe path to the crane, stopping all necessary trades from carrying out work effecting that path, ensuring there is an operator for any other tower cranes on site available in case it is needed, ensuring electricians are on standby to assist emergency services if they require the crane to be energised or deenergised. This test does not involve emergency services. This test should all be achieved within the seven minutes emergency services undertake to arrive at the site.

You have advised that the emergency retrieval plan for the tower crane has not been tested. Would you please advise if an improvement notice has been issued for this test to occur?

Thanks  
Helen



### Helen Burgess

Director, Construction Compliance and Field Services  
Office of Industrial Relations

P: [REDACTED] M: [REDACTED]  
Level 11, 1 William Street, Brisbane QLD 4000  
GPO Box 69, Brisbane QLD 4001



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---

**From:** John Finn [REDACTED]  
**Sent:** Tuesday, 1 June 2021 10:05 AM  
**To:** Helen Burgess [REDACTED]; Paul Smith (WHS) [REDACTED]  
**Cc:** Marc Dennett [REDACTED]  
**Subject:** RE: Request for assistance at the Hutchinson University project on University Drive Townsville

Yesterday prior to leaving the site I advised Mr Harradine that the tower crane had been stood down until I received confirmation that the emergency services have been made aware of the presence of the tower crane and the requirements of the PC's tower crane operator rescue plan.

I am in the process of drafting and forwarding the hard copy of the notice to the PC representatives.

This morning at 05:02 and 07:29 I have received confirmation that the issue I identified as a non-conformance resulting in the issuing of the verbal prohibition notice has been addressed.

At 06:54 I responded to the PC representatives to advise that I am of the opinion that operator access to the tower crane can resume.

The decision to permit the operator to access the tower crane to resume operation was based on confirmation and acknowledgement from Michael O’Neil from Queensland Fire and Emergency Services (QFES) that he has been made aware of the tower crane operator rescue plan and what is required from QFES to undertake a rescue.

I have also had confirmation that the QFES are in the process of establishing the dates for training for a rescue from the tower crane. From subsequent conversations the training exercise **may** involve a new item of plant that QFES have recently acquired.

Regards

John Finn

A/Operations Manager  
Workplace Health and Safety Queensland  
Office of Industrial Relations  
Level 3 State Government Building 03  
187 -209 Stanley Street  
Townsville City 4810  
M: [REDACTED]  
P: [REDACTED]  
E: [REDACTED]

---

**From:** Helen Burgess [REDACTED]  
**Sent:** Tuesday, 1 June 2021 9:18 AM  
**To:** Paul Smith (WHS) [REDACTED]; John Finn [REDACTED]  
**Cc:** Marc Dennett [REDACTED]  
**Subject:** RE: Request for assistance at the Hutchinson University project on University Drive Townsville

Grant advised that the crane is in use.



**Helen Burgess**  
Director, Construction Compliance and Field Services  
Office of Industrial Relations  
P: [REDACTED] M: [REDACTED]  
Level 11, 1 William Street, Brisbane QLD 4000  
GPO Box 69, Brisbane QLD 4001



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---

**From:** Paul Smith (WHS) [REDACTED]  
**Sent:** Tuesday, 1 June 2021 8:30 AM  
**To:** John Finn [REDACTED]  
**Cc:** Helen Burgess [REDACTED]; Marc Dennett [REDACTED]  
**Subject:** Re: Request for assistance at the Hutchinson University project on University Drive Townsville

Helen, a verbal prohibition notice was issued and John advised Grant of this on site.

In addition John has had further discussions with the PCBU and Emergency Services late yesterday about what is expected in relation to testing the evacuation plan .

John. can you please provide an update for Helen and I.

Regards

Paul Smith  
Regional Director  
Compliance & Field Services  
Workplace Health & Safety Queensland  
North & Central Queensland Region  
M: [REDACTED]  
P: [REDACTED]

On 1 Jun 2021, at 8:09 am, Helen Burgess [REDACTED] wrote:

Hello Paul

Grant has contacted me this morning to advise that he is not aware of any enforcement action being taken yesterday. The emergency evacuation plan has not been tested for the tower crane.

Would you please advise what is being done?

Thanks  
Helen

### **Helen Burgess**

Director, Construction Compliance and Field Services  
Office of Industrial Relations

---

P: [REDACTED] M: [REDACTED]  
Level 11, 1 William Street, Brisbane QLD 4000  
GPO Box 69, Brisbane QLD 4001

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---

**From:** Helen Burgess [REDACTED]  
**Sent:** Monday, 31 May 2021 10:58 AM

75

To: WHSQ AAA <[WHSQ.AAA@oir.qld.gov.au](mailto:WHSQ.AAA@oir.qld.gov.au)>

Cc: Sam Brooker [REDACTED]; Johanna Sutherland

[REDACTED]; Paul Smith (WHS) [REDACTED]; John Finn

[REDACTED]; Marc Dennett [REDACTED]

**Subject:** Request for assistance at the Hutchinson University project on University Drive Townsville

Hello

The CFMEU (Grant Harradine [REDACTED]) has requested inspector assistance at the Hutchinson University project on University Drive Townsville.

The union official is entering the site under section 117.

The union official believes the suspected contraventions are occurring; are of a high risk nature and that workers are directly affected.

The issues are:

- The rescue plan for the tower crane has not been tested
- Non-compliant rigging register

May I please have an ETA?

Thanks  
Helen

**Helen Burgess**

Director, Construction Compliance and Field Services

Office of Industrial Relations

---

P: [REDACTED] M: [REDACTED]  
Level 11, 1 William Street, Brisbane QLD 4000  
GPO Box 69, Brisbane QLD 4001

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---

**From:** John Finn  
**Sent:** Thursday, 3 June 2021 12:24 PM  
**To:** Paul Smith (WHS); Helen Burgess; Marc Dennett  
**Subject:** Statutory Notices - J. Hutchinson Pty Ltd - James Cook University Project - James Cook Drive Douglas 4814

Good afternoon and I trust you are having a great day.

For your information, this morning I gathered what I believe to be sufficient evidence and I have issued J. Hutchinson Pty Ltd with an improvement notice to ensure that the Tower Crane Operator Rescue Plan for the operational tower crane is tested.

In discussions with the HS&E Manager and he has given me an assurance that the Tower Crane Operator Rescue Plan for the operational tower crane will be tested prior to the stipulated remedy date. I'll be seeking evidence that the plan is tested and that any deficiencies are identified, recorded and actions will be taken to address the deficiencies. The HS&E Manager has also advised that the testing regime will be monthly.

Additionally Besix Watpac have commenced works adjacent to the J. Hutchinson project and will have a tower crane erected. I will ensure that Besix Watpac will have site specific procedures in place to test the rescue procedures.

Also for your information this morning an inspector conducted a pro-active assessment at a Townsville construction site that also has a tower crane. I am pleased to advise that they only plan to remotely operate the tower crane i.e. from the ground and there is a rescue plan in place. The inspector gathered evidence that the plan has been tested. Their plan is due to be tested later this month and we will look to review the results of their test.

If you require any further information please do not hesitate to contact me.

Regards

John Finn

A/Operations Manager  
Workplace Health and Safety Queensland  
Office of Industrial Relations  
Level 3 State Government Building 03  
187 -209 Stanley Street  
Townsville City 4810

M: [REDACTED]  
P: [REDACTED]  
E: [REDACTED]



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**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-7 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith* .....

Paul Smith

*Jack Dominic Kerin* .....

Witness (Lawyer)

Thursday, 6 August 2020 11:00 AM

### Teams Meeting CFMEU AND WHSQ

#### Present

CFMEU Brisbane

Michael Rathbar

Jay Ingham

Royce Kupsch

Marc Dennett

Helen Burgess

Mark Murphy

Mark Houston

#### Teams participants

Peter Yates

Greg Karlssen

Paul Smith

General discussion and overview had by all about approving the working relationship.

I made mention of the following:

- developing respectful relationships and said we need to call out any bad behaviour and resolve this .
- improving the understanding for both the CFMEU and WHSQ in relation to the legislation regarding right of entry requirements .
- CMEP although can be further improved and refined has given consistency in how the regulator applies the legislation
- Escalating compliance and enforcement through systems based notices, sect 27 notices and regulatory prosecutions

RK asked if NCQ OP Managers could take Mick Robinson's calls - it was acknowledged we would when we could and get back to him via a text or a call as the situation required

CFMEU - MR spoke about :

- their role and what they want to achieve in protecting workers safety
- they also raised their dislike for ABCC, CPB and the right of entry legislation
- WHSQs relationship with PCBUs in regional areas - sometimes appears seems too close
- Regulator needs to play a straight bat

WHSQ through MD spoke about applying the legislation equally and fairly and the requirements when WHSQ is asked by the ABCC to provide information - this needs to be a formal legislative requirement.

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-8 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith* .....

Paul Smith

*Jack Dominic Kerin* .....

Witness (Lawyer)

---

-----Original Message-----

From: Paul Smith (WHS)

Sent: Wednesday, 5 August 2020 6:37 PM

To: Andrew Stathooles [REDACTED]; Shannon Farrington

[REDACTED]; Rich Christie [REDACTED]

Subject: CFMMEU Meeting

Hi Andrew, Shannon and Rich, as mentioned there is a meeting with the CFMEU that has been arranged that I am invited to tomorrow at 11 am via Teams.

I have attached the agenda, is there anything you would like me to raise/ suggest in line with the agenda topics.

Regards

---

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CFMMEU and OIR Meeting Agenda

1. Meet and greet
  - Introduction of CFMMEU key personnel
  - Introduction of Directors and Operations Managers and areas of responsibility within OIR.
2. Update from OIR on work occurring in construction industry
3. Engagement and expectations
  - Processes for dealing with ROE and 81 matters
  - Bridging the perceived / gap through mutual respect and sharing of information

---

-----Original Message-----

From: Paul Smith (WHS)

Sent: Thursday, 6 August 2020 9:04 AM

To: Marc Dennett [REDACTED]

Subject: FW: CFMMEU Meeting

Marc, FYI I have asked Andrew, Shannon and Rich if there are any things that they would like us to raise or suggest on their behalf at todays meeting .

Andrew has put a few dot points together that Shannon and Rich agree with .

I suppose the approach may be if the situation arises today within the discussion we can raise these or additionally they may be better covered off in relation to formal advise that we provide to them in relation to the legislation about union right of entry that Graham is working on .

Regards

Paul Smith

Regional Director, North & Central Queensland Compliance and Field Services  
Workplace Health & Safety Queensland Office of Industrial Relations

-----  
Level 5, Verde Central, 44 Nelson Street, Mackay 4740 PO Box 1905, Mackay 4740

P: [REDACTED], M: [REDACTED], F [REDACTED]

-----Original Message-----

From: Andrew Stathooles [REDACTED]

Sent: Wednesday, 5 August 2020 7:27 PM

To: Paul Smith (WHS) [REDACTED]; Shannon Farrington

[REDACTED]; Rich Christie [REDACTED]

Subject: RE: CFMMEU Meeting

Hi Paul,

Some points for discussion if you think appropriate;

1. WHSQ can strongly advise CFMEU that we will not be tolerating work related aggression including offensive language to inspectors or others in our presence and at the mere indication of such, inspectors will be removing themselves from the situation in accordance with the OIR's policy.
2. We would expect entry permit holders to issue a correctly drafted notice in accordance with provisions of the Act and that they hold a reasonable suspicion of a contravention- not the usual rubbish they raise that 'someone phoned them and reported unsafe access, egress and amenities'.
3. We would expect the entry permit holders to resolve any suspected contraventions before contacting WHSQ for assistance- in saying that, I would expect WHSQ would not require inspectors to drop everything and run to the CFMEU's assistance for insignificant issues.
4. We would expect their request for assistance to only be for issues they can't resolve or for significant issues.
5. We would expect they complain through the correct channels the same as other stakeholders, and their request is triaged the same as other complaints.
6. WHSQ remind them that inspectors can only take enforcement action where they are permitted by law. That is, unless there is a breach of the Act, Regulations or codes of practice, inspectors cannot intervene and act on emotion or opinion of others.

These points have been raised with me from our inspectors and are analogous to my views.

Regards

Andrew Stathooles  
Inspector - Operations Manager  
Central and North Queensland Region  
Compliance and Field Services  
Workplace Health and Safety Queensland  
Office of Industrial Relations

-----  
P:  
M:  
E:

Ground Floor, 209 Bolsover Street, Rockhampton PO Box 1504, Rockhampton, Qld, 4701

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-----Original Message-----

From: Paul Smith (WHS) <Paul.Smith@oir.qld.gov.au>

Sent: Wednesday, 5 August 2020 6:37 PM

To: Andrew Stathooles [REDACTED]; Shannon Farrington

[REDACTED]; Rich Christie [REDACTED]

Subject: CFMMEU Meeting

Hi Andrew, Shannon and Rich, as mentioned there is a meeting with the CFMEU that has been arranged that I am invited to tomorrow at 11 am via Teams.

I have attached the agenda, is there anything you would like me to raise/ suggest in line with the agenda topics.

Regards

---

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**ANNEXURE SHEET**

This is the document referred to as PS-9 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith* .....

Paul Smith

*Jack Dominic Kerin* .....

Witness (Lawyer)

---

**From:** Marc Dennett [REDACTED]  
**Sent:** Thursday, 6 August 2020 8:17 PM  
**To:** Peter Yates [REDACTED]; Paul Smith (WHS) [REDACTED];  
Helen Burgess [REDACTED]; Mark Houston [REDACTED];  
Mark Murphy [REDACTED]; Greg Karlsson [REDACTED]  
**Subject:** Meeting Today

Hi all

Just a quick note to say thank you for attending the CFMMEU meeting today.

It's small steps but I am taking some positives out of today and hopefully we can build on things.

My hope is we can collectively make it better for our inspectorate. We have a role to play in terms of our jobs and we need to play it down the middle.

If we can build on this it will open a dialogue we can explore some of the deeper issues that arise.

This hasn't been done in 20 years. Thank you for allowing us to explore different options to improve things.

**Marc Dennett**

Executive Director  
WHS Compliance and Field Services  
Office of Industrial Relations

-----  
P: [REDACTED] M: [REDACTED]  
Level 1, [60 Wisnes Road, Maroochydore, QLD](#)  
[PO Box 5177, Maroochydore BC, QLD, 4555](#)

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**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-10 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*  
.....

Paul Smith

*Jack Dominic Kerin*  
.....

Witness (Lawyer)

**From:** [ethicalstandards](#)  
**To:** [Paul Smith \(WHS\)](#)  
**Subject:** FW: Formal Referral: Potential Ethical Standards Matters - Three Matters in Total  
**Date:** Wednesday, 23 November 2022 2:49:32 PM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image003.png](#)  
[Screenshot 2022-09-10 at 8.22.59 pm.png](#)  
[image001.png](#)  
[32 m Schwing incident - Cairns \(903 KB\).msg](#)

---

Hi Paul

Your email you sent to Andrew is below.

Thanks

Gavin

**Gavin Gleeson**

A/Director – Ethical Standards  
Business and Corporate Services  
Office of Industrial Relations

---

Level 11, 1 William Street, Brisbane Qld 4000

M: [REDACTED]

E: [REDACTED]

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---

**From:** Paul Smith (WHS) [REDACTED]  
**Sent:** Sunday, 11 September 2022 1:09 PM  
**To:** Andrew Harris [REDACTED]  
**Subject:** Fwd: E314803 - Boom Pump Failure Safety Alert - CFMEU Documents

Hi Andrew, just bringing this to your attention as another present example of information being freely provided to the CFMEU which was internal information.

This is a constant issue and I can sight another example about 3 years ago ( and others ) such as compliance notices being generated on CISR - Helen Burgess being advised of this and before inspectors Wayne Connors and Karim Deridder could hand deliver the notices to the PCBU a union permit holder was on site asking if the notices were displayed and when the inspector arrived he saw that the permit holder had copies of these same notices.

There appears to be no separation from Helen Burgess's absolute favouritism , inappropriate behaviour and conflict of interest towards the CFMEU.

In her role as a public servant and my dealings with her as RD NCQ over the past 4 years I have witnessed on many occasions concerning behaviour when she has tried to encourage me to take favourable action on behalf of the CFMEU when there was no legitimate legislative or legal reasons for doing so . On each of the occasions I called out her behaviour saying that her requests are inappropriate and if she continued I would report her trying to influence me to the CCC - her response was that the Minister will not be happy and she is going to tell Marc Dennett ED CFS and that I will be in trouble ( trying to intimidate me ) On each of these occasions I would usually receive a subsequent call from the ED Marc Dennett to get my reasons for the the compliance action taken or not taken and my decision was generally always respected and supported. I continually made the point to Marc about her behaviour and that she continually supports the CFMEU's position on what compliance action WHSQ should take and does not support the decision the inspector had taken based on the evidence available to them at the time .

This conflict and inappropriate behaviour was further witnessed on Friday 9/9/22 in the teams meeting that CFS Directors , yourself and others were present when she made the statement that the CFMEU have been advised that we are discussing the current triaging of construction complaints that they refer to her as Director CSG. I note she tried to blame two inspectors for this John Barber and Frank ( not sure of surname) for telling the CFMEU - however I doubt this, I suspect she was the source and this needs to be referred to ethical standards to be investigated.

The concerning thing and the point I made on Friday at the Teams meeting and something that I have been saying for about 4 years or more is the influence and control that the CFMEU try to put on WHSQ to aid and abet their agenda against other stakeholders/ PCBUs - we have got to a point where as a regulator we are not impartial and regulatory capture has occurred and is occurring.

Regards

Paul Smith  
Regional Director  
Workplace Health & Safety Queensland  
North and Central Queensland

Begin forwarded message:

**From:** Robert McDonald [REDACTED]  
**Date:** 10 September 2022 at 8:50:11 pm AEST  
**To:** "Paul Smith (WHS)" [REDACTED]  
**Subject:** FW: E314803 - Boom Pump Failure Safety Alert - CFMEU Documents

Evening Paul,

As discussed King Post failure safety alert link, issued 8 April 22.  
[Concrete placing boom king post failure | WorkSafe.qld.gov.au](https://www.worksafe.qld.gov.au/concrete-placing-boom-king-post-failure)

Below is the text I sent to Catherine Tam (Stu was on leave) and the text received

from PM at Cairns Convention Centre on 24 Mar 22.

Attached is the email Stu sent of the draft for the safety alert, 10 Mar 22, and the CFMEU safety alert.

Question - how did I receive the CFMEU safety alert via text 24 Mar 22 when the release date for the official Worksafe Qld alert was 8 Apr 22?

Compare the wording from Stu's draft, inclusive of my site photos of the incident, with the CFMEU document.

Call if you need anything further

Kind Regards,

**Rob McDonald**

**A/ Operations Manager**

WHSQ

Office of Industrial Relations

P: [REDACTED]

Email: [REDACTED]

Level 6, 5B Sheridan Street, William McCormack Building, Sheridan Street Cairns QLD 4870

PO Box 5464, Cairns QLD 4870

---

**From:** Robert McDonald [REDACTED]

**Sent:** Saturday, 10 September 2022 8:23 PM

**To:** Robert McDonald [REDACTED]

**Subject:** Screenshot 2022-09-10 at 8.22.59 pm

Sent from my iPhone

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-11 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith* .....

Paul Smith

*Jack Dominic Kerin* .....

Witness (Lawyer)

---

**From:** Paul Smith (WHS)  
**Sent:** Friday, 7 July 2023 3:49 PM  
**To:** Paul Smith (WHS)  
**Subject:** RE: CFS WHSQ ED interviews - file note re response

**Importance:** High

File note

Peter called and spoke about my email

H=said he shared my concerns however under the previous acting DDG the process has commenced Megan Barry is the chair and will keep a close eye on things Advised in future panel arrangements this will not occur

Paul Smith  
Regional Director  
North and Central Queensland  
Compliance and Field Services  
Workplace Health & Safety Queensland  
Office of Industrial Relations

-----  
Level 5, Verde Central, 44 Nelson Street, Mackay 4740 PO Box 1905, Mackay 4740

P: [REDACTED], M: [REDACTED] F: [REDACTED]

-----Original Message-----

From: Paul Smith (WHS)  
Sent: Tuesday, 4 July 2023 10:11 AM  
To: Peter McKay [REDACTED]  
Cc: oir.ethicalstandards [REDACTED]  
Subject: CFS WHSQ ED interviews

Hi Peter, please excuse my directness but I thought I would raise a concern that the inspectorate has recently become aware of and is speaking about and raising a concern about.

The concern is with the members on the current recruitment panel for the ED CFS .

I am of the understanding from what is rumoured is that the CFMEU is on the panel.

I know they have been on previous ED CFS recruitment panels.

This is a significant concern as I have a current matter with the CCC about their undue influence on OIR/ WHSQ .

Additionally the inspectorate has concerns about their ( CFMEUs )general behaviour, conduct and regulatory capture.

My view is that it is a very poor look generally and feeds into what Inspectors and Industry have been saying for a long time - the CFMEU have infiltrated OIR/WHSQ and exerts undue influence over OIR.

Clearly if the CFMEU is on the the panel or any other major stakeholder that we as a Regulator need to deal with under legislation that we administer demonstrates giving opportunity for undue influence on OIR and lacks independence .

In addition it will always be difficult for the successful applicant when they are appointed in the role to demonstrate that they are not being influenced by a stakeholder who was on the panel to make decisions in their favour.

The decision making in the ED CFS role under relevant legislation that is administered by OIR is extensive and any suggestion that can be made of bias would not be in the public interest nor would it demonstrate clear independence of OIR.

My suggestion is that independent panel members should be sourced from the Public Sector Commission, a representative from another WHS jurisdiction or the Chair of the WHS Board.

OIR needs to be singularly focused on being an independent regulator beyond reproach either perceived or real and this needs to start now and be across all aspects of what OIR does including recruitment.

Regards

Regards

Paul Smith  
Regional Director  
Workplace Health & Safety Queensland  
North and Central Queensland

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-12 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*

Paul Smith

*Jack Dominic Kerin*

Witness (Lawyer)

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**From:** Kym Bancroft  
**Sent:** Monday, 23 January 2023 2:11 PM  
**To:** Jennifer Pedler; Elias Jeha  
**Cc:** Natasha Carstens; Paul Smith (WHS)  
**Subject:** FOR REVIEW BY 4PM  
**Attachments:** DDG letter to CFMEU re CFS Jan 2023 (003).docx

**Importance:** High

Hi all

Please see slightly modified letter to CFMMEU.

Can you please review by 4pm, mark up any changes and send to Natasha for finalising and sending by COB today?

Jen, should CFMMEU fail to meet with us on Wednesday can you please draft a follow-up letter advising that I will not be responding to calls nor forwarding them on for triaging, effective immediately.

Thanks all



**Kym Bancroft**  
Deputy Director-General  
Office of Industrial Relations

-----  
Level 11, 1 William Street, Brisbane City

**M:** [REDACTED]  
**E:** [REDACTED]



Office of  
Industrial Relations

Department of Education

*Our reference:*

Mr Michael Ravbar  
State Secretary  
Construction, Forestry, Maritime, Mining and Energy Union  
Email: [REDACTED]

Dear Mr Ravbar

I refer to my email of 12 January 2023 notifying of the temporary triaging process for workplace, health and safety complaints, and the further email from Mr Kurt Pauls on 13 January 2023, confirming his earlier advice that the CFMMEU will not be adhering to this modified process.

As the Regulator, and in accordance with the Workplace Health and Safety Queensland (WHSQ), Compliance Monitoring and Enforcement Policy (CMEP), I have delegated appropriately qualified public service employees to manage issues that are notified to WHSQ in an effective and timely manner. This is a necessary step to ensure that the requirements of the CMEP are met, namely, highly visible, credible, proportionate, transparent and consistent enforcement.

Since my advice on 12 January 2023, multiple CFMMEU organisers have directly contacted me daily, requesting assistance on a range of matters. This direct approach to one individual is not safe. As you would appreciate, as the Deputy Director-General for the entire Office of Industrial Relations, it is simply not possible to meet the obligations of the Regulator by attempting to personally answer the concerns that you and your representatives might have by telephone, text or email. I request that this process cease immediately.

The Office of Industrial Relations is absolutely committed to ensuring Queensland workers and industry are healthy and safe. Continuing to contact me directly will not enable WHSQ to respond in a timely or appropriate manner and there is a risk that concerns raised by the CFMMEU will not be addressed. The advised temporary triage process allows WHSQ to respond to your organisers and members in a timely manner.

I again invite you to meet with me urgently on Wednesday 25 January 2023 at 10am, 1 William Street, to discuss your input into the finalisation of a permanent triaging process for workplace, health and safety complaints. Please propose an alternative date if this is not convenient.

I look forward to your earliest advice.

Yours sincerely

1 William Street Brisbane  
Queensland 4000 Australia  
GPO Box 69 Brisbane  
Queensland 4001 Australia  
**Telephone 13 QGOV (13 74 68)**  
**WorkSafe** +61 7 3247 4711  
**Website** [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au)  
[www.business.qld.gov.au](http://www.business.qld.gov.au)  
ABN 94 496 188 983

Kym Bancroft

**Deputy Director-General**  
**Office of Industrial Relations**  
/01/2023

---

**From:** Kym Bancroft  
**Sent:** Monday, 6 February 2023 9:28 AM  
**To:** Andrew Harris; Paul Smith (WHS); Kym Tollenaere; Terrie-anne Norris; Johanna Sutherland; Jason Plath; Sam Brooker; Brian Culleton  
**Cc:** Cathy Bray; Natasha Carstens; Bruce Awai  
**Subject:** Confidential: Next steps

Hi all

**(this email is not for forwarding, please keep confidential)**

As you are aware and discussed last week, recent comms have been issued to the Trade unions advising that they must adhere to the temp triaging process. They are not willing to meet, so included in this comms was that we will be issuing them with the permanent process in due course.

In preparation for this:

- Can we please prepare a noting brief to the MO/DG outlining what has transpired to date, including comms as appendix, their responses, our concerns and an overview of the new permanent process that we will be issuing to them
- Also need to include new draft comms to the trade unions advising that as of (xx/xx date) we won't be responding to their calls/texts/emails that are sent to me as DDG, and they will need to use the advised permanent process

Once we have the above ready, I will take to the DG/MO for sign off.

In the interim until we go live with our new permanent process we will continue to respond as we have been.

Jo, please include me in any final meetings once you have workshopped/landed on the permanent process after consultation with the RD's/Andrew etc; or send through for my review.

Any questions, please let me know.



**Kym Bancroft**  
Deputy Director-General  
Office of Industrial Relations

-----  
Level 11, 1 William Street, Brisbane City

**M:** [REDACTED]  
**E:** [REDACTED]

---

**From:** Kym Bancroft  
**Sent:** Thursday, 9 February 2023 12:45 PM  
**To:** Johanna Sutherland; Andrew Harris  
**Cc:** Kym Tollenaere; Paul Smith (WHS); Terrie-anne Norris; Christopher Coxon  
**Subject:** RE: Building Union complaint/request for Regulator attendance process

Thanks Jo

Looks good.

There has been consistent feedback from some of unions around the level of knowledge/assistance provided when the 1300 number is phoned and they see this as a significant barrier. Are there any mitigations we have already in place, or could put in place to address their feedback.

Also is there further consultation we need to do internally on the process?

We could one last attempt to engage in external consultation....wondering if ETU may engage?

Thanks



**Kym Bancroft**  
Deputy Director-General  
Office of Industrial Relations

-----  
Level 11, 1 William Street, Brisbane City

**M:** [REDACTED]  
**E:** [REDACTED]

---

**From:** Johanna Sutherland  
**Sent:** Tuesday, 7 February 2023 9:21 AM  
**To:** Kym Bancroft ; Andrew Harris  
**Cc:** Kym Tollenaere ; Paul Smith (WHS) ; Terrie-anne Norris ; Christopher Coxon  
**Subject:** Building Union complaint/request for Regulator attendance process

Hi Kym and Andrew,

See attached process documents put together to outline the proposed process for managing union requests moving forward.

The process will rely on Assessment Services for the initial lodgement and for managing requests received between 6 and 8am. Compliance Support Services will undertake a monthly review of relevant events to provide some key feedback to inform the process moving forward, the data sets to be considered are detailed in the attached matrix document.

We have tried to keep it as simple as possible.

Let me know if you would like to set up a quick meeting to discuss further. Kym, Paula and Terri-anne can come into 1W tomorrow so we can meet face to face if you like.

Kind regards,  
Jo



Johanna Sutherland  
Director, Licensing and Advisory Services  
Workplace Health and Safety Queensland  
Office of Industrial Relations

P: [REDACTED] M: [REDACTED]  
Level 11, 1 William Street, Brisbane QLD 4000  
GPO Box 69, Brisbane QLD 4001



### Compliance and Field Services

- We are committed to achieving regulatory excellence
- We value professionalism, integrity and accountability
- We will achieve our goals through team work and by showing respect

*The most important reason for making your workplace safe, is not at work at all.  
Work Safe. Home Safe.*

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**Please note: I sometimes work and send correspondence out of hours. Please do not feel obliged to respond outside of your own work hours.**

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-13 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*

Paul Smith

*Jack Dominic Kerin*

Witness (Lawyer)

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**From:** Sarina Wise  
**Sent:** Friday, 28 June 2024 12:11 PM  
**To:** Paul Smith (WHS); Kym Tollenaere; David Fletcher; Robert McDonald  
**Cc:** Johanna Sutherland; Christopher Coxon  
**Subject:** RE: RD Union triaging process

Firstly -apologies Rob, I left you off the initial email by accident.

Paul,

I have just spoken with Karin (Union Delegate) and determined the concern was mainly around the fact the Inspectors were not made aware of the change to have RDs be the first point of contact.

I should have been clearer to the group to say we should communicate this down to our OMs and respective teams. I am conscious that I am issuing a lot of ED comms at the moment, so assistance from RDs on messaging will be of great assistance. I have now committed to Karin that I will do comms next week on these changes to CFS.

Can I also ask that RDs please reiterate the importance of staff reading my ED comms, I received a call from an inspector the other day that had no knowledge of the 1 July engineered stone ban, noting I have sent 2-3 ED comms on this with links to training. It is a little disheartening that the troops are not reading these critical updates.

In relation to protecting my leadership team from Psychosocial harms, unfortunately you were on leave (Clint was acting) when this change discussion occurred with the RD group. In that conversation I was very clear that if this process becomes unmanageable for RDs or starts impacting your wellbeing, to please discuss with me to see what we can do. I have been calling Kym regularly as she has been receiving numerous calls and offering support to her. Kym has reported back that the engagements have been polite with the CFMEU to date however the volume is something we are monitoring. I don't believe you have received any calls from Unions since the process change however, please let me know if this changes and you need my support.

There is no expectation from me as your direct report that you need to answer your phone out of hours. If calls are coming in after hours, please let me know and I will divert those who are making the after-hours calls to me during those periods.

Thanks for your support,



**Sarina Wise**  
Executive Director  
WHS Compliance and Field Services

Workplace Health & Safety Queensland

Office of Industrial Relations

E: [REDACTED] M: [REDACTED]

---

**From:** Paul Smith (WHS)  
**Sent:** Friday, June 28, 2024 9:10 AM  
**To:** Sarina Wise ; Kym Tollenaere ; David Fletcher ; Robert McDonald  
**Cc:** Johanna Sutherland  
**Subject:** RE: RD Union triaging process

Sarina, the concern maybe with the HSRs that the OIR had developed a draft triaging process where the union like everyone else contacts AS . This process went no where and was meant to address the issue of regulatory capture.

The issue I have is with expectations about the union contacting RDs and expecting their calls to be answered 24/7 when the reality is that we are not able to take their calls all the time. The reality is that we have other priorities and commitments outside of permit holders wanting to speak to RDs. Also OIR has a duty to manage the psychosocial health of the RDs giving consideration to a range of risk factors such as job design, workload demands and work life balance.

Regards

Paul Smith  
Regional Director  
North and Central Queensland  
Compliance and Field Services  
**Workplace Health & Safety Queensland**  
Office of Industrial Relations

Level 5, Verde Central, 44 Nelson Street, Mackay 4740  
PO Box 1905, Mackay 4740  
P: [REDACTED], M: [REDACTED], F: [REDACTED]

---

**From:** Sarina Wise [REDACTED]  
**Sent:** Friday, June 28, 2024 8:48 AM  
**To:** Kym Tollenaere [REDACTED]; David Fletcher [REDACTED]; Paul Smith (WHS) [REDACTED]  
**Cc:** Johanna Sutherland [REDACTED]  
**Subject:** RD Union triaging process

Hi RDs – can you please review the below, HSRs are becoming unsettled with the new RD process so I am putting this together for clarity. This is how I understand it has been working in Kym’s region, can we confirm this is how we are managing across the state please?

1. Union contacts relevant RD to advise of WHS concern or request for assistance.
2. RD refer matter to Assessment Service to triage and allocate to relevant OM for further assessment.
3. Relevant OM reviews request and determines if matter requires an inspector response and whether there requires any additional risk assessment relating to inspector attendance due to recent issues with the particular union requestors.(if matter does not warrant an inspector response the matter is referred back to RD to communicate outcome of assessment with Union)
4. Where an inspector response is warranted, OM allocates matter to inspector and ensures response will include two inspectors
5. RD provides updates and or outcomes to Union as required.



**Sarina Wise**  
Executive Director  
WHS Compliance and Field Services

Workplace Health & Safety Queensland  
Office of Industrial Relations

E: [REDACTED] M: [REDACTED]

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-14 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*

Paul Smith

*Jack Dominic Kerin*

Witness (Lawyer)

**Notes of discussion at CFS SLT Directors Meeting Brendale 25-7-24**

Present Paul Smith, Dave Mckenzie and Kym Tollenaere ( via teams) Rob McDonald. Chris Coxon, Sarina Wise, Zita Beuth, Elva Holmes

Discussion on the Triaging was asked not to be recorded by ED Sarina Wise as it was something that she did not want the CFMEU obtaining.

It was advised that the planned 1300 number triaging would not happen at this point as the DDG and Mins office was stilling considering

I voiced my disapproval and said that this is not appropriate, and we have been kicking the can down the road with this since Kym Bancroft developed this for introduction in February 2023 .

I said that NCQ will be going its own on this as we will not be taking the CFMEU calls and they will be told to use the 1300 number.

Sarina advised that she would not recommend this as it will cause problems and may undermine what she is trying to implement with DDG Dona Heelan and the Ministers Office.

I said that I will give them another two weeks to get the triaging sorted otherwise NCQ will go their own on this. I made the point forcefully and said why the holdup it is just ridiculous and it is just OIR giving preferential treatment to the CFMEU who is a corrupt organisation that has been put in administration by the Federal Government.

I later went after the meeting and had a discussion with Sarina Wise; she said that she is on my side with this and is getting push back from DDG and Mins Office with the triaging.

She asked that if could mention the triaging to Greg Quinn who was doing a review of WHSQ and ask if he could put in a recommendation for a 1300 number be recommended that the CFMEU and other unions could use instead of ring Directors and Executive Director directly.

I rang Greg Quinn that afternoon and spoke to him about this and recommended the 1300 number approach and a better service delivery option for the union and a better approach for workload and governance for WHSQ management

P smith

26-7-24

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-15 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*

Paul Smith

*Jack Dominic Kerin*

Witness (Lawyer)

# September

WEEK 36

109 July 2024

M	1	8	15	22	29
T	2	9	16	23	30
W	3	10	17	24	31
T	4	11	18	25	
F	5	12	19	26	
S	6	13	20	27	
S	7	14	21	28	

August 2024

M	5	12	19	26	
T	6	13	20	27	
W	7	14	21	28	
T	1	8	15	22	29
F	2	9	16	23	30
S	3	10	17	24	31
S	4	11	18	25	

September 2024

M	30	2	9	16	23
T		3	10	17	24
W		4	11	18	25
T		5	12	19	26
F		6	13	20	27
S		7	14	21	28
S	1	8	15	22	29

## 4 Wednesday 248/118

8.00 am 8-12 OFF

8.30 TEAMS MEETING OIAW CFMSU

9.00 O+A

9.30 - DDG, ED, OMS, RDS

9.30 - NO change in triaging

10.00 - DDG just doesn't want to change anything

10.30 - asked the Administrator if we should change the triaging - he said up to OIA - very busy

11.00

- I spoke up + so did Mark Norris about that is doesn't meet the Common Mail test

- IS not objection

- Encourages Regulatory Capture

- I also raised the Facebook posts + the previous behaviours of Permit Holders who are still employed by the CFMSU - The Administrator needs to address these things

- DDG said she would raise these

- Role of Engagement need defining -> P.S.

Q-D Administrator TANIS O'BRIEN

3.30 TEAMS MEETING

4.00 LORRAINE STOKES

4.30 DAWN BAILEY

MICHELLE BROOKER

Rockhampton

5.00 TEAM REVIEW

- RESET

6.00 pm 23/9 - 25/9

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-16 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*

Paul Smith

*Jack Dominic Kerin*

Witness (Lawyer)

## The Queensland Cabinet and Ministerial Directory

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Published Monday, 23 January, 2023 at 09:00 AM



#### JOINT STATEMENT

#### Premier and Minister for the Olympic and Paralympic Games

[The Honourable Anastacia Palaszczuk](#)

#### Minister for Education, Minister for Industrial Relations and Minister for Racing

[The Honourable Grace Grace](#)

## New schools open as students return for 2023

Around 875,000 Queensland students head back to school today for the start of the 2023 school year.

Education Minister Grace Grace marked the first day back visiting one of the four new schools opening its doors for the first time today – delivered by the Palaszczuk Government.

The Premier said South Rock State School at Yarrabilba in Logan represented a \$69 million investment by her government.

“The start of the school year is always a very exciting time, and it’s especially exciting for our new school communities,” the Premier said.

“This beautiful new school community has welcomed around 100 foundation students and staff, with numbers to grow as the community grows and will provide enrolment relief to Yarrabilba, Logan Village and Cedar Creek State Schools.”

The Premier said South Rock was one of four new Queensland state schools welcoming students from today – with the others located in Ripley, Augustine Heights and Palmview.

“Our government invested \$330 million to build the four new schools, which have supported 900 good, secure jobs for Queenslanders throughout construction,” the Premier said.

“That means since 2015 we’ve delivered 25 new schools – an investment of over \$1.6 billion.”

Education Minister Grace Grace said Queensland schools were welcoming almost 875,000 students through the gates to start the year including the 400 foundation students of the four new schools.

“More than 571,000 students will attend Queensland’s 1,262 state schools in 2023,” Ms Grace said.

“They will be guided by more than 55,000 teachers and 19,000 teacher aides from Day 1,” Ms Grace said.

“I’d like to give a special shout out to 44,000 new preppies who are starting their very first day of school too.

“The Palaszczuk Government is committed to opening new schools in Queensland’s fastest growing areas.

“The LNP opened none, shut down six and had a hit list of another 50 for closure.

“The Palaszczuk Government remains committed to providing all Queensland state school students with a world-class education, no matter where they live in our state.

“In the current budget we are spending almost \$2 billion on education infrastructure to make sure state school students are learning in state-of-the-art facilities, right across the state.

“That infrastructure investment is also supporting 4,200 good jobs for Queenslanders as we continue our economic recovery from COVID-19.

“For state schools this year I’m looking forward to updated respectful relationships education, the rollout of our Equity and Excellence strategy, the introduction of our new disability funding model, Dignity vending machines for all schools who want them, and our continued rollout of 40 times faster internet by the end of the year.

“The first week of the 2023 school year will also see teachers receive their first increased pay backdated to July, following the certification of the new enterprise bargaining agreement.”

Member for Logan Linus Power said South Rock State School was the fourth school the Palaszczuk Government had delivered in the Logan electorate, with another two planned.

“The Palaszczuk Government cares about the Logan community, and as Yarrabilba grows we are making sure the area has the good services it needs to thrive,” Mr Power said.

"The construction of South Rock State School Stage 1 includes great new classrooms, a special education learning centre, and a flexible learning space for art, science, and technology.

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"There is also room for this school to grow as Yarrabilba welcomes new families. When all stages are complete it will have the capacity to accommodate more than 1200 students."

South Rock State School Foundation Principal Aaron Jones said students and staff were very excited to show off their new school.

"It has been a privilege to work with the local community over the past year as we developed this impressive new school," Mr Jones said.

"We are fortunate to have had the support of the local Traditional Custodians as well as our neighbouring school communities and I know this will continue into the future.

"Our foundation students and staff are so excited to be here today and are loving the amazing facilities. We're all looking forward to building a strong and supportive school community with our focus always on quality education."

**ENDS**

**Media contact –**

Bryce Heaton (Minister Grace's office) – [REDACTED]

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**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-17 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*

Paul Smith

*Jack Dominic Kerin*

Witness (Lawyer)

January

WEEK 4

November 2022			December 2022			January 2023										
M	7	14	21	28	M	5	12	19	26	M	30	2	9	16	23	
T	1	8	15	22	29	T	6	13	20	27	T	31	3	10	17	24
W	2	9	16	23	30	W	7	14	21	28	W	4	11	18	25	
T	3	10	17	24	T	1	8	15	22	29	T	5	12	19	26	
F	4	11	18	25	F	2	9	16	23	30	F	6	13	20	27	
S	5	12	19	26	S	3	10	17	24	31	S	7	14	21	28	
S	6	13	20	27	S	4	11	18	25	S	1	8	15	22	29	

23 Monday 023/342

Lunar/Chinese New Year Holiday (CN, SG)

8.00 am *Burana* A/EO

WFH - *work unit* 7- 8.30.

9am IWS

9.30

CFS EO HR meeting

10.00

10.30

11.00

11.30

Noon

12.30

1.00

1.30

2.00

1700 off

2.30

3.00

3.30

4.00

4.30

5.00

January

WEEK 4

February 2023			March 2023			April 2023									
M	6	13	20	27	M	5	12	19	26	M	3	10	17	24	
T	7	14	21	28	T	6	13	20	27	T	4	11	18	25	
W	1	8	15	22	W	1	8	15	22	29	W	5	12	19	26
T	2	9	16	23	T	2	9	16	23	30	T	6	13	20	27
F	3	10	17	24	F	3	10	17	24	31	F	7	14	21	28
S	4	11	18	25	S	4	11	18	25	S	1	8	15	22	29
S	5	12	19	26	S	5	12	19	26	S	2	9	16	23	30

Lunar/Chinese New Year Holiday (CN, SG)

024/341 Tuesday 24

8.00 am *Burana* A/EO

8.30

IWS

9.00

9.30

10.00

10.30

10-1.30.

Meeting *minutes* *Spice Spice*

11.00 *Conclusion* *minutes*

11.30 *Reviewing*

*Have* *minutes* *staff*

Noon *DDG*

12.30 *DDG*

1.00

1.30

2.00

2.30

1700 off.

3.00

3.30

4.00

4.30

5.00

6.00 pm

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-18 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*

Paul Smith

*Jack Dominic Kerin*

Witness (Lawyer)

24/1/23

Notes of discussion at Mins Office February 24-2-23

Present Paul Smith, Min Grace Grace , Kym Bancroft, (DDG) Micheal De'ath, (DG ) ministerial staff x3

General introductions given by DG, I told the Min that I was from Mackay was A/ED and was RD of NCQ. I also said I knew local member Tim Mulhrin – short conversation about Tm who recently passed away as a nice guy well liked in Mackay community

Requested to attend Mins office regarding compliant to Mins office by CFMEU about WHSQ lack of response regarding overturning of side tipper at South Rocks State School Yarrabilba 24/1/23- ADCO Constructions PC.

According to CFMEU another incident occurred <sup>yesterday</sup> day before that WHSQ did not attend and also should have had an engineer attend also.

Discussion around the roll over I said not a big concern WHSQ inspector to attend site next day – no requirement for an Engineer for WHSQ to attend. Also ,no one was at risk in being struck by the plant and that side tippers have at times a propensity to roller over in particular circumstances like level of ground and if any dirt due to moist conditions remaining in the side tipper requiring lift of the tipper up and down to dislodged. WHSQ to look at system of work with PC onsite.

I then went onto say that the CFMEU may have required our attendance however due to the nature of the incident being a dangerous event it was not required.

I made the point that CFMEU wants us to respond to a number of low-level matters that we don't need to respond to just because they want us to.

I said they want us to respond to their toilet complaints quicker than we would respond to fatalities and this is not sustainable or appropriate.

I then said in NCQ we don't do this, but we seem to be their ready response in SEQ – I said they don't like me for this - the minister said I hope you don't either Paul and don't worry they don't like me either.

Min seemed to be concerned that we had not briefed her about the incident at the time. As there was an event at the school the next day following the incident and the Premier and Grace Grace attended and a question was asked by the media, and they did not know about the incident and OIR should have informed them. DDG said in future we will endeavour to keep you informed.

Further discussion was had about additional inspector numbers between the DG and Minister

There was a discussion about filling the CFS ED role permanently and a decision was made to pause the recruitment momentarily for some reason.

There was a final discussion that the DG had with the Minister about two matters that had been sent to the CCC in relation to Helen Burgess and that these had been sent back to OIR with recommendation for OIR action. The Minister responded and said that I feel sorry for Helen as she is just trying to do her job and there are a group of inspectors making it difficult for her. The DG said there are a few HR issues in relation to Helen that we are dealing with.

The DG then said there is a matter in relation to Helen Burgess that has been received by Ethical Standards that has been referred across to CCC and they have accepted this compliant.

25-2-23 P. SMITH - notes made of meeting

Friday 24/1/23

note - Kym mentioned that DG mentioned that she should not have have taken me to the meeting due to the matter I had with ESU + was being referred to C.C.C. - said showed lack of judgement (mentioned in confidence).

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-19 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*

.....  
Paul Smith

*Jack Dominic Kerin*

.....  
Witness (Lawyer)

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Our Reference: CO-22-3219 / 25/070987  
Contact Officer: Michelle Charteris

17 April 2025

Mr Paul Smith  
Regional Director – North & Central Queensland  
Office of Industrial Relations  
PO Box 1905  
Mackay QLD 4740

By email: [REDACTED]

Dear Mr Smith

**RE: Crime and Corruption Commission Investigation Outcome**

I refer to the complaints made to the Crime and Corruption Commission (CCC) on your behalf on 24 November 2022 and 13 July 2023 concerning alleged corrupt conduct by Ms Helen Burgess, a Director with the Office of Industrial Relations (OIR).

The complaint identified a number of concerns regarding Helen Burgess, including that she:

- misused her position and authority to improperly influence Workplace Health and Safety Queensland (WHSQ) inspectors to the benefit of the Construction, Forestry, Maritime and Energy Union (CFMEU).
- misused her authority by directing and/or influencing WHSQ Inspectors and Managers to take regulatory enforcement action to appease the CFMEU
- disclosed confidential information to the CFMEU.
- misused her authority by directing inspectors to issue notices to PCBUs (person conducting a business or undertaking) requiring the provision of confidential employee information and then released that information to the CFMEU.

It is noted that you provided further information via email and participated in an interview on 9 August 2023. This information was taken into consideration during the investigation.

The purpose of this letter is to communicate the outcome of the CCC's investigation to you as a public interest discloser in accordance with section 46 of the *Crime and Corruption Act 2001* (Qld) (CC Act) and section 32 of the *Public Interest Disclosure Act 2010* (Qld).

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Please note, the information contained in this letter is provided in confidence to protect the human rights, privacy and reputations of all affected persons. I ask that you respect the confidentiality of the CCC investigation and the outcome advice contained in this correspondence. In this regard, I draw your attention to the secrecy obligations under section 213 of the CC Act which are applicable to this and our previous interactions regarding this matter.

**The CCC investigation**

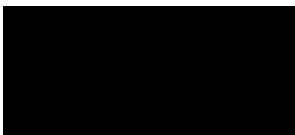
The CCC undertook investigations into the allegations raised by you. The investigation determined there is sufficient evidence to warrant consideration of disciplinary action.

I advise that the CCC has informed the Deputy Director-General about the findings of the CCC's investigation and referred them any relevant information in the possession of the CCC that may support the commencement of disciplinary action. Further, the CCC has also made recommendations regarding opportunities for the department to improve the policies and training in relation to the matters investigated.

I thank you for your cooperation and patience whilst this process was being completed.

If you have any further queries regarding this matter, please contact Michelle Charteris via email at [REDACTED] or phone [REDACTED].

Yours sincerely



Craig Capper  
**Senior Executive Officer (Corruption)**

**Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry**

**ANNEXURE SHEET**

This is the document referred to as PS-20 in the statement of Paul Smith affirmed at Mackay on 8 May 2026.

*Paul Smith*

Paul Smith

*Jack Dominic Kerin*

Witness (Lawyer)

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**From:** Donna Heelan  
**Sent:** Friday, 23 May 2025 3:40 PM  
**To:** Paul Smith (WHS)  
**Subject:** RE: CCC matter

Good afternoon Paul

Thank you for raising these matters with me.

It was good talking to you this afternoon, and I trust that I alleviated your concerns and demonstrated my commitment that there have been lessons learnt and improvements have and will continue to be implemented.

As discussed in summary.

The CCC procedural recommendations are either, completed, or are on track for completion.

Effective from July 2025 OIR will have an Ethics and Integrity Committee with a strategy and action plan, this will also enable staff to raise issues (anonymously if chosen) this committee will include the OIR EDs, the DDG, and Director Ethical Standards. The standing up of this Committee will be communicated to the OIR team in the coming weeks.

The OIR Ethical Standards Unit has been allocated an additional resource to provide proactive services, face to face training, audits etc.

The CMEP is undergoing a holistic review and the recommendations arising from this review will be considered and actioned in due course. The 'discretion' component for issuing notices is part of this review.

I appreciate your ongoing commitment to your role, and in ensuring that OIR is independent in its functions into the future.

Regards

Donna Heelan  
Deputy Director-General  
Office of Industrial Relations

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M: [REDACTED]  
Level 11, 1 William Street, Brisbane City

The most important reason for making your workplace safe, is not at work at all. Work Safe. Home Safe. Connect with us:

-----Original Message-----

From: Paul Smith (WHS) [REDACTED]  
Sent: Monday, 19 May 2025 4:23 PM  
To: Donna Heelan [REDACTED]  
Subject: CCC matter

Donna, please see attached letter that I received from the CCC in relation to the Helen Burgess and CFMEU.

I emailed the CCC last Monday and spoke to them today to get some clarification .

The CCC confirmed the attached letter is correct the letter in what it says in relation to sufficient evidence to warrant consideration for disciplinary action by OIR for Ms Burgess.

The CCC said there was insufficient evidence in relation to official corruption..

However, CCC advised OIR may consider the appropriateness for disciplinary action for such as misconduct and or non-adherence with the code of conduct and other public services standards and operational procedures and policies.

I also raised with Gavin Gleeson last week and the CCC today about the recommendations they have made regarding opportunities for the department to improve polices and training in relation to the matter investigated.

Before I say anything further, I am not blaming anyone for what happened however the point I will highlight is the collective allowed this to happen , by this I mean the leadership culture allowed this to happen.

I have a few comments if I may share about this :

The first is the potential conflict and closeness of the current OIR executive leadership group in overseeing the implementation of any recommendations. This is not due to any concern I have about the present OIR Executive group or about their conduct but more about that fact that things were largely to a degree unactioned in relation to Ms Burgess role and influence other than moving her form being able to direct inspectors in early 2024 , she still exerted influence in the role as Major Projects Director . However, the real concern was the influence the CFMEU exerted over OIRs operational direction which was allowed to continue up and until after the Queensland Government state election in October 2024 . Even after the Federal government decision to place the CFMEU in administration in August 2024 OIR was still reluctant to distance itself from the CFMEU and continued to give them preferential treatment in relation to the triaging process.

The other concern is with the CMEP which is an operational document the CFMEU influenced to promote their business model and influence OIRs operational direction. We still have this document even though there has been a review it is still in place as an official policy and influences how we administer WHS legislation . Concerns still exist with unannounced visits and legality with priority infringement notices .

Secondly the ability and independence in making sure these recommendations are operationalised appropriately , fit for purpose, sustainable and effective would require I am expecting significant resources and independence . I think with current workloads and demands it is possibly beyond our internal capacity to do justice to what needs to be achieved to ensure we don't see a repeat of this .

There was at the end of the day a lack of governance and strong leadership to manage the influence of an organisation such as the CFMEU who had known criminal links and the ability to unduly influence government and exert political influence on how the regulator performed its work and administered the legislation .

Unfortunately, over the past ten years OIR has suffered a lot of reputational damage and our independence has been diminished with industry and the community favouring particular stakeholders.

As well there has been a lack of organisational courage and leadership to protect and support the inspectors against an organisation such as the CFMEU who continually bullied and harassed inspectors either directly on site over the phone or on social media . Your only have to have been part of the inspectorate for the past ten years and if not to have read the QUT discovery report to understand the impact on the inspectorate

I see the recommendations as an opportunity to remedy these failures and an opportunity to say to inspectors sorry for what occurred, and this is what we are doing to prevent this from happening again.

I hope the changes are real and focused where they need to be which must be a top-down approach as this is where the influence by the CFMEU was exerted .

It would show strength by OIR Leadership to acknowledge what has occurred express a level of appropriate regret to the inspectorate for what was allowed to happen and for OIR to put in place arrangements to ensure that from this point on they will not be influenced unduly and will stive to be an independent and fair regulator and good employer for our people .

I will be in Brisbane tomorrow happy to catch up sometime Thursday flying back at 3pm if you want to discuss further .

Regards

Paul Smith  
Regional Director  
Workplace Health & Safety Queensland  
North and Central Queensland