From: Commission PSC[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=565157EF0E424645A1B0A7CD562C8871-COMMISSION]

Sent: Tue 11/04/2023 6:42:16 AM (UTC)

To: Michael De'Ath (QED) [redacted]

Subject: Correspondence from the Public Sector Commission

Attachment: SIGNED Letter from Robert Setter to Michael De Ath.pdf

Attachment: Attachment one - Framework - SES 3 complaints.PDF

Attachment: Attachment two - Matters assessed report.PDF

Attachment: Attachment three - Template - Instrument of Delegation.DOCX

Attachment: Attachment four - Letter template - home entity DG to independent DG.DOCX

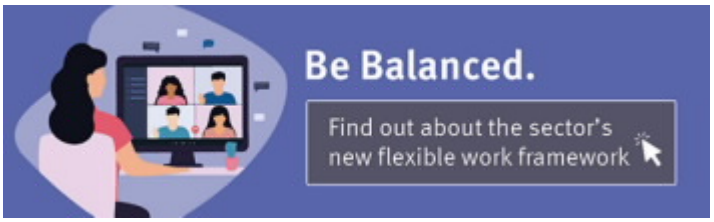
Good afternoon Michael,

Please find attached correspondence from the Public Sector Commissioner, Robert Setter. The correspondence relates to the oversight of senior executive complaint.

Kindest regards,

Queensland Government
Public Sector Commission

P [redacted]
E [redacted] | **W** psc.qld.gov.au
[redacted]



I acknowledge the Traditional Owners and Custodians of the land upon which I live, work and walk. I recognise their connection to land, sea and community and pay respects to Elders past, present and emerging.

Queensland Government

Public Sector Commission

Please quote: **TF/23/4957**

6 April 2023

Mr Michael De'Ath
Director-General
Department of Education

Via email – [redacted]

Dear Michael

Oversight of senior executive complaint devolved by the Crime and Corruption Commission (CCC)

Consistent with a recommendation of the 2022 *Review into the culture and accountability in the Queensland public sector*, the Chief Executive Leadership Board endorsed the Framework for oversight of complaints about senior public service employee devolved by the CCC (the framework) (**Attachment 1**). The framework requires an independent Director-General to manage complaints against SES3 (and equivalent) or higher public service employees.

The Department of Education has advised the Public Sector Commission (PSC) of a complaint against Ms Kym Bancroft, Deputy Director-General, Office of Industrial Relations devolved by the CCC. As Ms Bancroft is an officer at SES4 level, this matter is subject to the framework . I have nominated Mr Mark Cridland, Director-General, Department of Resources as the independent Director-General to deal with this complaint in accordance with the directions provided by the CCC (**Attachment 2**).

To authorise this arrangement, an instrument of delegation to Mr Cridland is required to delegate to him the authority to deal with this complaint. I have attached a template instrument of delegation and letter template for you to complete and provide to Mr Cridland (**Attachment 3 and Attachment 4**).

The Department of Education's Ethical Standards Unit will support Mr Cridland by managing the investigation and any subsequent discipline process, in accordance with the framework. I have been advised there are no conflicts of interest with this arrangement. I request that you assign a contact person from this team to case manage the matter, and have them contact Mr Cridland to discuss the process. The PSC will provide additional support to Mr Cridland at his request.

Mr Cridland will provide me with an update on the progress of this matter in six months' time, and every six months until the

[redacted]

matter has been resolved. You will also be provided with a copy of these reports.

Should you have any further queries or require further information, please contact Mr David Reed, Executive Director, Public Sector Employment Practice, via email [redacted] or telephone [redacted]

Yours sincerely

[redacted]

Robert Setter
Commissioner

Enclosed:
Attachment 1 - Framework for oversight of senior public service employee complaints devolved by the CCC
Attachment 2 - Directions from the CCC
Attachment 3 - Instrument of delegation template
Attachment 4 – Letter template

Framework for oversight of senior public service employee complaints devolved by the Crime and Corruption Commission

Effective 1 March 2023, this framework supports complaints devolved by the Crime and Corruption Commission (CCC), including complaints about former employees, for all public service Senior Executive Service (SES) 3, or equivalent and higher.

Subject of complaint	Decision maker	Instrument required	Public Sector Commission (PSC) role	Entity role
Directors-General (excluding Director-General, Department Premier and Cabinet (DPC), Commissioner of Police and Commissioner of Fire and Emergency Services)	Director-General, DPC	Requires instrument of delegation from the Premier to Chair of Public Sector Governance Council under s281 of the *Public Sector Act 2022*.	• Establish terms of reference, engage independent. investigators as necessary, manage investigation, support any discipline process. • Obtain independent legal advice if required. • Provide progress reports to the CCC as required. • Brief the Director-General, DPC as required.	• Limited to providing access to relevant evidence, documentation and potential witnesses. • Meeting obligations under the *Public Interest Disclosure Act 2010*.

Queensland Government

Director-General, DPC	**Investigation** – CCC responsible. Subject to CCC agreeing to this role. **Decision on discipline** – the Premier. Noting on advice from the Solicitor-General.	Not applicable. Cannot be delegated.	• Obtain independent legal advice if required. • Provide progress reports to the CCC as required. • Support any discipline process. • Brief the Premier as required.	• For the investigation – as requested by CCC. • Meeting obligations under the *Public Interest Disclosure Act 2010.*
Commissioner of Fire and Emergency Services	**Investigation** – CCC responsible. Subject to CCC agreeing to this role. **Decision on discipline –** Governor in Council on recommendation of Minister for Fire and Emergency Services.	Not applicable. Cannot be delegated.	• Obtain independent legal advice if required. • Provide progress reports to the CCC as required. • Support any discipline process. • Brief the Minister as required.	• For the investigation – as requested by CCC. • Meeting obligations under the *Public Interest Disclosure Act 2010.*
Commissioner of Police	**Investigation –** CCC responsible. **Decision on discipline** - in accordance with s4.5 *Police Service Administration Act 1990.*	Any delegation required is in accordance with legal advice	• Role, if any, to be determined considering CCC and legal advice.	• In accordance with CCC and legal advice.
SES3 and above (excluding Directors-General) Queensland Health SES3 and above and Health Executive Service (HES) employee equivalents with a direct reporting relationship to Director-General, Queensland Health	Independent Director-General	Requires an instrument of delegation from the Director-General or agency Chief Executive of the home entity under s282 of the *Public Sector Act 2022.*	• Approve that conflicts of interest in the entity can be managed appropriately so that the entity can manage the investigation process and support any discipline process. • Responsible for the investigation and support of discipline process where conflicts cannot be managed. • Provide oversight and support the independent Director-General by advising on key steps in the investigation and	• Identify conflicts of interest and complete a conflicts of interest management plan if required. • Establish terms of reference, engage independent investigators as necessary, and manage investigation. • Support the independent Director-General for any discipline process. • Obtain independent legal advice if required. • Provide progress reports to the CCC and PSC as required. • Meeting obligations under the *Public Interest Disclosure Act 2010.*

			discipline processes where it is managed by the entity. • Coordinate progress reporting from entity.	
Queensland Health SES3 and above and HES equivalents – no direct reporting relationship to Director-General, Queensland Health	To be managed in accordance with Queensland Health policies and procedures.			

File Number: CO-23-0542 **Received Date:** 09-FEB-2023 **EA Reference** MIS034280

Matter Type: Notification

Method of Lodgement: Correspondence from Qld Public Sector Agency

Concerned Parties: Anonymous ANONYMOUS306350 (Discloser) [Suppressed Person]

Ms Lauren MATEER (Notifier)
A/Director
Intake and Assessment DOE

Persons of Interest:
Ms Kym BANCROFT (Subject)
Department of Education
Office of Industrial Relations

Mr Tristan CASEY (Possible Subject)
Statutory Authorities
Queensland University of Technology

Associate Professor Xiaowen HU (Possible Subject)
Statutory Authorities
Queensland University of Technology

Precis:

AF - Exploitation of public resources

PID

Department of Education notify of allegations against a Deputy Director-General, Office of Industrial Relations (OIR).

It alleged the Deputy Director-General has failed to declare a conflict of interest when approving a contract for Queensland University of Technology (QUT) to undertake work for OIR. It is alleged that the key person undertaking the contract work at QUT, is a Director of New View Safety as is the Deputy Director-General and they both have a previous association.

The value of the contract for consultancy services is $120,000.

Related file CO-23-0213

Human Rights Complaint: No

Allegations - Current Assessment

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
1	Ms Kym BANCROFT (Subject)	Misuse authority	Misuse authority to benefit other(s) IIt is alleged the subject officer failed to declare conflicts of interest when approving a contract with Queensland University of Technology (QUT) to provide consultancy work. The subject officer has an association with two of the key personnel on the contract. She and one of the key personnel are directors of the same company, New View Safety. Further, she was a co-author along with two of the key personnel on the contract of a journal published by PubMed in September 2021.	Corrupt Conduct	Anonymous ANONYMOUS306350 (Discloser) [Suppressed Person], Ms Lauren MATEER (Notifier)

Status Referral to the UPA to deal with - Public Interest Review. (12)

Endorsement Commer The allegation if proved meets the definition of corrupt conduct. After considering the principles which apply under the CC Act, it has been decided to refer the notification to the Department of Education (DoE). That decision is considered appropriate having regard to the nature of the notification, the evidence provided in support of the concerns, the requirement of the CCC to focus on more serious cases of corrupt conduct and cases of systemic corrupt conduct (section 35(3) CC Act) and the capacity of the DoE to deal with the matter.

The CCC has determined to review this matter by way of a PUBLIC INTEREST REVIEW.

The first mandatory report is due 21 April 2023.

A Public Interest Review, due to the seriousness of the allegations, requires a strict reporting obligation on DoE. Progress reports are mandatory at six weeks, and then three months, six months and nine months, and you will be expected to finalise the investigation within 12 months unless you have reported special circumstances which might prevent this.

No action should be taken by DoE upon the basis of the report until the CCC has reviewed it and provided advice to the DoE.

Any report should attach a copy of relevant material (i.e. evidence obtained such as witness statements, interview summaries, DoE documents, etc.) which has been obtained and analysed during the course of DoE inquiries and which support any conclusions reached about the allegations.

The CCC officer dealing with this matter is Don Mabbutt, who may be contacted on [redacted] or [redacted]

Please note that any reports are to be referred to [redacted]

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
		(Cecelia CHRISTENSEN)			
	Date	10-MAR-2023			

Appendix: Allegation Tags

No	Subject	Activity Type	Activity Sub-type	Tags
1	Ms Kym BANCROFT (Subject)	Management of public assets and resources	Procurement - Sourcing and tendering, contract management	1. What type of person/group received the benefit? Company or business (excluding political donor) Friend 2. What benefit did/would the recipient get? Commercial or procurement 3. How did/would the subject officer provide that benefit? Inappropriately approve or influence a decision/outcome, or request another to 4. If there was a benefit to the subject officer, what was it? Unknown 5. Had the subject officer declared a conflict of interest? No 6. Did the subject officer act alone? Unknown 7. Did the subject officer act under the direction of a supervisor? Unknown

INSTRUMENT OF DELEGATION OF THE DIRECTOR-GENERAL, [DEPARTMENT NAME]

SHORT TITLE

This instrument may be cited as the *Instrument of Delegation of the Director-General, [Department name] relating to their functions and powers exercisable under [insert name of relevant legislation e.g Public Sector Act 2022; Crime and Corruption Act 2001] in respect of [name of senior executive, position, department].*

SCOPE OF DELEGATION

[***Note**: this draft instrument is only applicable to public sector Senior Executive Service (**SES**) 3 or equivalent and higher employees including Queensland Health SES 3 employees and Health Executive Service employee equivalents who have a direct reporting relationship to Director-General, Queensland Health. This draft instrument is not applicable to Directors-General. Delete note before finalising this document*]

On [*date*], a complaint about [*employee name, position, department*], a senior executive of the [*department name*], was referred to the Crime and Corruption Commission (**CCC**) pursuant to the *Crime and Corruption Act 2001* (**the Complaint**).

On [*date*], the CCC referred the Complaint to [*DG name and office*] to be dealt with, pursuant to the *Crime and Corruption Act 2001*.

Pursuant to section 282 of the *Public Sector Act 2022* (PS Act), the chief executive:

- of a public service entity may delegate the chief executive's functions under an Act (including the PS Act) to an appropriately qualified person; and
- of a public sector entity other than a public service entity may delegate the chief executive's functions under the PS Act to an appropriately qualified person.

I, [*DG Name and position*], delegate to [*independent DG name and position*], or anyone acting in that position from time to time, my functions and powers that are necessary and convenient to deal with the Complaint, pursuant to:

- Chapter 3, Part 8 of the PS Act;
- any relevant Queensland Government Directives made pursuant to Chapter 6, Part 5 of the PS Act; and
- Sections 48(2) and (3) of the *Crime and Corruption Act 2001*.

This delegation is made to *[independent DG name and position*] and any person acting in that position from time to time.

This Instrument of Delegation does not permit sub-delegation by [*independent DG name and position*], or any person acting in that position from time to time.

Section 27A of the *Acts Interpretation Act 1954* applies to this delegation, subject to any conditions that apply to the delegation as expressed in this Instrument of Delegation.

References to statutes in this Instrument of Delegation are to be construed as including all statutory provisions, consolidating, amending or replacing statutes and all regulations, rules, orders, prescribed forms and other authorities pursuant thereto.

DATE OF EFFECT

This Instrument of Delegation of the Director-General, *[Department name]* relating to their functions and powers exercisable under [insert name of legislation] in respect of *[name of senior executive, position, department]* takes effect from the date of this Instrument and is effective until revoked.

Dated at Brisbane this day of [month] [year].

……..
[Name]
Director-General
[Department]

Please quote: Tracking reference

Insert Date

Independent Director-General Name
Position

Via email – email address
Cc – [redacted]

Dear [Name]

Oversight of senior executive complaint devolved by the Crime and Corruption Commission (CCC)

I have been advised by Robert Setter, Commissioner, Public Sector Commission (PSC) on [date of letter]that you have been nominated as the independent decision maker to manage the complaint devolved by the Crime and Corruption Commission (CCC) regarding [senior executive name, position, department].

To give authority to this arrangement, I have provided an instrument of delegation under section 282 of the *Public Sector Act 2022* (the Act), delegating you the power to manage the matter with effect from [date] (**Attachment 1**). You must manage this matter in accordance with any instructions received from the CCC in the Matters Assessed Report (**Attachment 2**), and in accordance with provisions of the Act and any relevant employment directives.

You will be supported in managing this complaint by [home entity] Ethical Standards Unit OR the Public Sector Commission. This will include any case management support you require to deal with this matter, including engaging an investigator and throughout any subsequent discipline process that may occur. I have arranged for [Name, position (e.g. Director in ESU)] to act as your contact for this matter. [Name] will contact you shortly to provide all relevant materials to this matter and to seek your instructions on how to proceed.

In addition to any reporting requirements the CCC may require for this matter, the PSC also requires progress reports to be provided at 6 monthly intervals, until the matter is finalised. [Home entity] Ethical Standards Unit will assist with the preparation and submission of the progress reports on your behalf.

I thank you for your assistance in managing this matter. Should you have any further queries or require further information, please contact [Name], [Position title], [Work unit], via [email address] or telephone (07) [telephone number].

Yours sincerely

[Name]
Director-General
Department Name

Enclosed:
Attachment 1 – Instrument of delegation
Attachment 2 – Matters Assessed Report from the CCC