



Office of the Work Health and Safety Prosecutor

Annual Report 2024-2025



State of Queensland 2025

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Office of the Work Health and Safety Prosecutor

Annual Report 2024–2025

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17 September 2025

The Honourable Jarrod Bleijie MP
Deputy Premier
Minister for State Development, Infrastructure and Planning
Minister for Industrial Relations
1 William Street
BRISBANE QLD 4000

Dear Minister,

As the appointed Work Health and Safety Prosecutor (WHSP), I am pleased to present my report for the period 1 July 2024 until 30 June 2025.

The WHSP is required by Schedule 2, s.49(1), of the *Work Health and Safety Act 2011* to give to the Minister, as soon as practicable after the close of each financial year, but not later than four months after the close, a report on the performance of the functions of the WHSP during that year.

The functions of the WHSP are:

- to conduct and defend proceedings under the Act before a court or tribunal
- to advise the regulator on matters relating to the Act
- any other function given to the WHSP under the Act or another Act.

The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after the Minister receives it, pursuant to Schedule 2, s.49(3), of the *Work Health and Safety Act 2011*.

The report includes a copy of each guideline made by the WHSP, in force during the year, as required by Schedule 2, s.49(2), of the *Work Health and Safety Act 2011*.

Yours sincerely



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Work Health and Safety Prosecutor

2024–2025 review

Introduction

I am the Work Health and Safety Prosecutor (WHSP). I was appointed on 31 October 2022 by the Governor in Council, on the recommendation of the Minister.

The Office of the Work Health and Safety Prosecutor (OWHSP) is attached to the Department of State Development, Infrastructure and Planning (the Department) for administrative support services, which is effected through the Office of Industrial Relations (OIR).

As an independent statutory prosecution office established under the *Work Health and Safety Act 2011* (the Act), my office conducts and defends proceedings for breaches of Queensland's work health and resource safety and health laws.

The OWHSP consists of myself (as both Chief Executive Officer¹ and WHSP), and my staff.

Summary – functions and operation

My functions are:

- to conduct and defend proceedings under the Act before a court or tribunal
- to advise the regulator on matters relating to the Act
- any other function given to me under the Act or another Act.

I have powers given to me under the Act, together with the power to do all things necessary or convenient for the performance of those functions.

I represent the State and, although I report to the Minister, I am not under the control or direction of the Minister.

In 2024–2025, the OWHSP prosecuted matters investigated and referred by both OIR (primarily Work Health and Safety Queensland - WHSQ) and Resources Safety and Health Queensland (RSHQ).

At the end of the reporting period:

- There were 125 cases before various levels of Queensland courts
- 97 briefs of evidence referrals had been received, relating to 190 suspects
- 91 cases were successfully finalised, and \$6,799,750 in fines were imposed
- 232 decisions were made to prosecute, out of which 81 decisions were made to start prosecutions and 151 were made to not prosecute
- Of the decisions to prosecute there were:
 - 55 decisions made to prosecute bodies corporate
 - 26 decisions made to prosecute individuals (including 14 workers and four officers/site senior executives).

In 2024–2025 the OWHSP incurred direct costs of \$4,740,363². This was mainly in relation to staffing and legal costs.

The OWHSP conducted approximately:

- 520 mentions (in person, by phone, or administratively)
- 87 sentence hearings
- 21 other hearings (for District Court or Industrial Court appeals, other applications including for costs, directions, and pre-trial hearings)
- 24 trial or hearing review mentions
- 29 trial or hearing days
- 1 presentation of an indictment
- 1 pre-inquest attendance
- 1 arraignment.

¹ Within the meaning of the *Public Sector Act 2022*.

² This figure excludes accommodation and other corporate expenses incurred directly by the Office of Industrial Relations (OIR) to support the OWHSP. OIR is currently funded for this purpose partly through the Department of State Development, Infrastructure and Planning (DSDIP) and partly by Resources Safety and Health Queensland (RSHQ).

OWHSP staff

At 30 June 2025, the OWHSP comprised 24 people (that is, 23 staff plus the WHSP)³. In 2024–2025 the OWHSP's full time equivalent (FTE) cap increased from 18.43 to 21.43. Two of the additional FTE were used for prosecutors and one FTE for administrative support.

The OWHSP's staff are controlled by the WHSP but are employed under the *Public Sector Act 2022* by the Department. Of that staff, there were fifteen lawyers, three paralegals and five members of the practice administration team.

Every member of the OWHSP's staff deserves recognition for the hard work they do every day.

WHSP and Director of Public Prosecution Guidelines

The Act provides for the mandatory issue by the WHSP of general guidelines in relation to the prosecution of offences under the Act, which must be published on the website of the WHSP. The Act also provides that the WHSP may issue written guidelines to any of their staff, the Regulator or public service employees employed in the department undertaking work relevant to the WHSP's functions under the Act.

On 17 April 2019, the former WHSP, Aaron Guilfoyle, issued a guideline on the advice and charging function of the OWHSP, which was reissued on 21 September 2020. Pursuant to s.48(2) of the Act, the guideline, a copy of which is annexed, applies to OWHSP staff, the Regulator, and relevant staff of OIR. The guideline continued in force in 2024–2025⁴.

On 7 November 2019, Mr Guilfoyle also issued a guideline on prosecution disclosure, which was then reissued on 21 September 2020, a copy of which is annexed⁵.

The offences under the Act include indictable offences, for which lengthy sentences of imprisonment are available. It is vital to the proper conduct of all prosecutions, and particularly those for serious offences, that appropriate disclosure is made by investigators and prosecutors. The disclosure guideline aims to ensure that occurs. Pursuant to s.48(2) of the Act, the guideline applies to OWHSP staff, the Regulator, and relevant staff of OIR. The guideline continued in force in 2024–2025.

The Guidelines of the DPP (*Director's Guidelines*) continue to apply to all decisions of the WHSP in respect of the conduct of prosecutions. Consequently, any guidelines issued by the WHSP are to be read with, and subject to, the *Director's Guidelines*.

The *Director's Guidelines* state, amongst other things:

- there must be sufficient evidence with reasonable prospects of conviction beyond a reasonable doubt in order to start a case
- it must be in the public interest to proceed
- the exercise of prosecution discretion must be impartial and fair
- cases must be presented expeditiously but properly so as to assist a court to arrive at the truth
- any decision to terminate a case should involve consultation with investigators and those affected by the decision.

Effectiveness, efficiency and transparency

The OWHSP achieved a conviction rate of 96.8 per cent against a target of 90 per cent during 2024–2025 (delivering an improvement of 4.4 per cent from the previous reporting period). This was in relation to 91 out of 94 cases that proceeded to a decision or verdict.

There were seven contested summary cases in the reporting period. There were four successful cases and three unsuccessful cases, meaning 57.1 per cent that proceeded to decision or verdict resulted in conviction. Whilst this did not meet our target of 70 per cent, it was still an improvement of 28.5 per cent on the previous reporting period.

A total of \$6,799,750 in fines were imposed in the reporting period. In addition to fines, my staff also made submissions about other sentencing options available to the court in the Act, such as adverse publicity orders, orders for restoration, work health and safety project orders, and training orders.

³ Annexure A – OWHSP Organisational Chart as at 30 June 2025.

⁴ Annexure B – Advice function and the decision to charge (Guideline 1/2019)

⁵ Annexure C – Disclosure (Guideline 2/2019), including Annexure to Disclosure (Guideline 2/2019)

A selection of notable prosecution cases is discussed elsewhere in my report.

There were 232 decisions to prosecute or not prosecute made in 2024–2025. Out of those decisions, 81 were to commence new cases.

In the reporting period 17.2 per cent of decisions (or 40 out of 232 decisions) met our target of assessing referrals in 120 days. The average time taken to assess a brief rose from 246 days in 2023–2024 to 286 days in 2024–2025.

Decisions to prosecute or not prosecute are made after careful reflection upon all the admissible and relevant evidence sent for consideration on referrals from the regulators, along with application of the *Director's Guidelines*. My lawyers provide me with comprehensive and critical privileged legal advice about the specific duty holders referred to by regulators, but also continue to do so about any additional duty holders they identify if the evidence discloses other potential contraventions of the relevant legislation. Of course, I retain an independent ability to start cases where I identify it is appropriate to, in addition (or contrary) to specific referrals. Such thorough and independent decision-making remains a hallmark of the work of the OWHSP.

The length of time my lawyers take to review referrals reflects the complexity and volume of the evidence contained in matters sent to the OWHSP. Once cases are started, a number of mentions, pre-trial and directions hearings, and other types of applications can occur, which need to be addressed by my lawyers and resolved in court. The majority of cases started by the OWHSP resolve successfully, but that fact too means my lawyers must take time to prepare for sentencing hearings, including making detailed submissions about a case and responding to matters raised by defence.

Our stakeholders and the Queensland community expect our work to be done in a timely manner to assist in the efficient administration of justice. I will continually look for ways to improve the efficiency and effectiveness of the OWHSP and deliver on our Business Plan for 2025–26⁶. At the same time, I must maintain a psychosocially healthy workplace that ensures all staff are physically and mentally well.

Briefing of external counsel and equitable briefing

The OWHSP briefed external counsel to provide advice and appear on behalf of the office on complex and critical cases.

We briefed women in 64 per cent of those cases briefed to counsel. Women were also paid 61 per cent of the value of all brief fees. This is double the target of 30 per cent set in the Law Council of Australia's 2016 *Equitable Briefing Policy* (which is to be considered, amongst other factors, when engaging barristers for government work — pursuant to the *Whole of Government policy for barristers undertaking legal work for Queensland Government departments* (2019)).

Gender equality, inclusion and diversity, and the elimination of sexual harassment

The OWHSP celebrates diversity, encourages inclusion and equality, and proactively works to ensure sexual and sex or gender-based harassment is eliminated in our workplace. I also aim to ensure our workforce represents the diverse views, experiences and backgrounds of the people of Queensland.

At 30 June 2025 women comprised 60 per cent of the leadership team, which includes myself and four senior officers, and 68 per cent of the legal practitioners.

Training was again provided on eliminating sexual and sex or gender-based harassment as part of my staff's professional development. We appointed a Sexual Harassment Contact Officer, and a member of the leadership team attended further specialised training on responding to sexual harassment in the workplace.

⁶ Annexure D – OWHSP Business Plan 2025–26

Staff development and enrichment

The work the OWHSP does is not only cognitively demanding but exposes staff to potentially distressing and traumatic material, and annual vicarious trauma training was again provided to all staff during 2024–2025.

Members of staff also undertook professional development in maintaining and improving their skills on other topics including:

- recruitment and selection
- psychosocial leadership training and support.

The leadership team also attended the regular Director's Forums hosted by OIR.

The internal all-staff quarterly professional development days program was continued throughout the reporting period as it will be in 2025–2026.

Additionally, staff attended events organised by the Queensland Bar Association, the Law Society of Queensland, the Women Lawyers Association of Queensland Inc, and the Attorney-General of Queensland (at the Equitable Briefing Event at Parliament House). Staff also attended Women in Leadership events.

Stakeholder engagement

The OWHSP continued to engage with OIR (principally WHSQ) and RSHQ through regular liaison meetings, attendance at internal workshops and conferences (including the Electrical Safety Office's Senior Leadership meeting in Brisbane in March 2025 and WHSQ's North Central Regional professional development day in Townsville in May 2025), and provision of training to investigators and inspectors.

Additionally, my office maintained the Brief of Evidence Oversight Committee to provide ongoing feedback to WHSQ about referrals.

Engagement with external groups

I undertook the following community and external stakeholder engagement during the reporting period:

- In September 2024, I presented at the McCullough Robertson Annual WHS Conference in Brisbane about my review to examine the scope and application of the industrial manslaughter laws.
- In March 2025, I attended the National Safety Council of Australia's 2025 National Safety Conference in Sydney, as a discussion panel member. The discussion areas included respect at work and workplace harassment, and industrial manslaughter laws.
- In April 2025, I presented at the Maximising Regulatory Enforcement & Compliance Outcomes Conference 2025 in Melbourne, which was hosted by The Hatchery. I presented on "Prosecuting complex regulatory offences: the basis, the challenges and the outcomes".
- On 3 June 2025, I delivered a keynote session on "Case Studies in Work Health and Safety Prosecution and Lessons Learned" at the 2025 Australian Institute of Health and Safety National Conference, hosted by the Australian Institute of Health and Safety (AIHS) on the Gold Coast.

Affected and injured workers, persons, next of kin and family engagement

When meeting with affected and injured workers, persons, next of kin and families, my staff and I aim to ensure we provide timely, professional and open communication about the role of our office, and legal process generally. We treat all those involved with courtesy, compassion, respect and dignity, in a person focused manner responsive to any questions or comments they may have.

This work continued in the reporting period, often facilitated through the Coronial and Family Liaison Services (CFLS) who provide ongoing support (including psychosocial support) to the families of deceased or seriously injured persons following an incident. I have maintained regular liaison meetings with members of CFLS and appreciate their responsiveness and expertise in assisting us to communicate effectively.

Additionally, members of my staff attended the Workers' Memorial Day Breakfast, which was a solemn commemoration of lives lost from work-related injury or illness.

Customer complaints

The OWHSP is open to receiving all types of feedback, including complaints, and to effective complaints management to continuously improve our service delivery. The OWHSP's Customer Complaints Management Policy and a separate related Procedure are published on the OWHSP's website.

During the reporting period, the OWHSP also updated its website to make the process for providing feedback and complaints clearer.

The WHSP, as the Chief Executive of the OWHSP, must before 30 September, after the end of each financial year, publish on its website customer complaints information in accordance with section 264(3) of the *Public Sector Act 2022*.

No customer complaints were received in the reporting period⁷.

Information privacy

The OWHSP commits to ensuring the personal information of stakeholders, suspects, defendants, and others who provide information to the office is managed and protected consistent with the Queensland Privacy Principles in the *Information Privacy Act 2009*.

One report of a breach of privacy was received in the reporting period, affecting a self-represented defendant and others. It was managed in accordance with the relevant privacy legislation and OIR's Privacy Response Breach Procedure.

Requests to commence a prosecution and referrals to the Director of Public Prosecutions

The Act provides a regime in which a request can be made to the WHSP to commence a prosecution where a suspected work health and safety offence has been committed. Equivalent provisions also exist in the *Safety in Recreational Water Activities Act 2011*, the *Electrical Safety Act 2002* and the various resources safety acts.

The regime also provides for the referral of matters for consideration by the Director of Public Prosecutions (DPP) where the WHSP declines to prosecute.

In 2024–2025, four requests for prosecution were received and responded to. Upon request, following the WHSP's decision not to prosecute in two matters, they were subsequently referred to the DPP. The DPP also subsequently determined no prosecutions should occur.

Indictable prosecutions and engagement with the DPP

The OWHSP prosecutes indictable offences for reckless conduct and industrial manslaughter. I possess a commission to indict.

Under the *Director of Public Prosecutions Act 1984*, the DPP must still authorise indictable prosecutions conducted by the OWHSP prior to the presentation of an indictment. Those prosecutions are otherwise conducted and funded by the OWHSP.

One complaint was laid and the indictment presented at the Emerald District Court in the reporting period for the alleged offence of industrial manslaughter, in contravention of section 48C(1) of the *Coal Mining Safety and Health Act 1999*⁸.

I would like to thank the Director and his staff for their ongoing liaison with the OWHSP.

⁷ This customer complaints reporting figure will be published on the OWHSP's website effectively when this Annual Report is published, that is, after it has been Tabled in the Legislative Assembly by the Minister.

⁸ RS2023-001 — Indictment presented 22 May 2025.

Notable prosecutions 2024–2025

Company fined \$70,000 after 17-year-old worker injured at meat manufacturing facility¹

On 9 May 2023, 17-year-old Worker A, was working in the packaging area alongside Worker B, who demonstrated how to load sausages into the delinker. As they were working, Worker B opened the cover to the exit chute and placed their hand into the exit chute to dislodge a sausage which had become stuck. The following day, the two workers were both working in the packing area. While working with the delinker, Worker A opened the cover to the exit chute and placed their hand inside to dislodge a sausage which had become stuck, as they had seen Worker B do the previous day. Worker A's wrist was struck by a rotating blade, causing the plastic blade cover to break. The 17-year-old sustained a laceration to their left wrist, which was approximately 8 centimetres long. Worker A was transported to hospital and later required surgery.

On 8 July 2024, the defendant company was sentenced in the Beenleigh Magistrates Court for breaching section 32 of the *Work Health and Safety Act 2011* ('the Act'), having failed to comply with its primary health and safety duty pursuant to section 19(1) of the Act.

The Magistrate fined the defendant company \$70,000. A conviction was not recorded.

Mine operator fined for failing to ensure risk at mine was at an acceptable level²

The defendant operated a mine in Central Queensland.

On 31 December 2018, an incident occurred at a mine in central Queensland involving the death of a dozer operator, who had been conducting dragline bench preparation work. As part of the mining process areas must be stabilised through a process known as dragline bench preparation, so that draglines can operate. Dragline bench preparation includes a process that involves dozer operators pushing slots (dozer blades) of dirt and rock around the bench area to level the ground so that a dragline can sit on the bench (this process is referred to as dozer bench preparation). Once the dragline bench is prepared, the dragline can be brought in to remove the material to uncover coal.

The incident occurred after the dozer began tramping out parallel to the bench edge, when the dozer operator's dozer changed direction and trammed over the bunded low wall edge, rolling approximately 18 metres down an embankment.

On 9 August 2024, the defendant (mine operator) was sentenced in the Brisbane Industrial Magistrates Court, having failed to comply with sections 41(1)(a) and 34(e) of the *Coal Mining Safety and Health Act 1999*, to ensure risk at the mine was at an acceptable level. (It was not alleged that the death of the dozer operator was caused by the defendant's failures).

The defendant was fined \$78,000 and a conviction was not recorded.

Company fined \$400,000 after falling scaffold tower fatally injures bystander³

On 25 July 2021, a bystander was attending his child's football match, leaning against a perimeter fence. A 2.4 metre aluminium scaffold tower fell on top of him, crushing him against the fence and causing fatal injuries, namely a laceration to the left atrium of his heart, which lead to his death.

The defendant company was engaged by a local sports club to supply and install a scaffold tower to be used as a filming platform to record competition games. The defendant was not requested to, and did not provide, any information, training, or instruction to the sports club about the safe use and/or storage of the scaffold tower.

It was determined that the scaffold tower was not appropriately constructed, or secured, to withstand the wind speeds it was exposed to. It was further discovered that the defendant had provided a scaffold tower to the same local sports club for the same purpose from February to September the previous year.

On 16 August 2024, the defendant company was sentenced ex parte in the Brisbane Magistrates Court for a single breach of section 32 of the *Work Health and Safety Act 2011* (Qld) ('the Act'), having failed to comply with their health and safety duty pursuant to section 19(2) of the Act.

The Magistrate fined the defendant company \$400,000 and considered it appropriate to record a conviction.

¹ E332512

² RS2020-008

³ E304772

Fines totalling \$40,000 for multiple electrical safety breaches⁴

In late 2021, a project commenced to relocate a retail store. The principal contractor for the project underwent a tender evaluation process for the electrical work at a property. The defendant put forth quotes for the electrical work as part of this process. The principal contractor subsequently engaged the defendant, through their business, as a subcontractor to conduct the electrical work for the property.

The defendant organised a number of labour hire staff and inexperienced persons to perform the electrical work. The defendant did not submit an Electrical Work Request form to connect the store to the mains power and the way the electrical work was performed allowed the premises to siphon power in an unmetered fashion to the store.

The store opened in December 2021. Numerous defects were identified by staff of the store after it opened. This included lights not functioning, the hot water system causing a circuit breaker to trip, and electrical cables hanging from the ceiling above the shop floor.

In about April 2022, a staff member of the store went to reset a circuit breaker and received an electric shock to his finger. He observed an arc of electricity make contact with his finger, causing a visible painful burn. He did not require medical attention.

At all material times the defendant was not the holder of an electrical contractor licence.

On 3 September 2024, the defendant was sentenced in the Gympie Magistrates Court for breaching section 40C of the *Electrical Safety Act 2002* ('the Act') by failing to comply with their electrical safety duty pursuant to section 30 of the Act. The defendant was further charged and sentenced in relation to three offences of conducting a business or undertaking that included the performance of electrical work whilst not holding an electrical contractor licence contrary to section 46(1) of the Act.

The Magistrate fined the defendant \$40,000 in total and exercised their discretion not to record a conviction.

Grievous bodily harm at Quarry⁵

On 16 August 2022, the defendant reversed a front-end loader that they were driving, into a co-worker, crushing the co-worker between the rear of the front-end wheel loader and the rear of a stationary fuel truck, causing grievous bodily harm to the co-worker.

On 11 September 2024, the defendant, pleaded guilty at the Maryborough Magistrates Court and was sentenced, having failed to comply with sections 36(2)(a) and 31(1)(b)(iii) of the *Mining and Quarrying Safety and Health Act 1999*.

The Magistrate imposed a combined 21 months' probation and 200 hours unpaid community service order on the defendant and recorded a conviction.

Asbestos Assessor fined \$7,000⁶

Between 6 September 2021 and 11 September 2021, the sole trader defendant completed a clearance inspection for the purposes of providing a clearance certificate certifying that all asbestos contaminated materials had been removed from a Toowoomba hospital floor, no residual fragments or debris had been sighted, and that the asbestos removal area was safe for reoccupation.

The defendant was aware that Class B removal methods had been used and upon their attendance at the Hospital on 7 September 2021 the floor was still wet from the removal. The defendant did not wait for the floor to dry before they performed their inspection and provided a clearance certificate, certifying that all asbestos had been removed from the room.

Further testing confirmed that chrysotile asbestos remained in the room, with seven samples, made up of floor fragments and samples of the glue all testing positive.

On 25 September 2024, the defendant, after entering a plea of not guilty, was convicted in the Toowoomba Magistrates Court for breaching section 33 of the *Work Health and Safety Act 2011* ('the Act'), having failed in their duty under section 19(2) of the Act to ensure that the health and safety of other persons was not put at risk by the work carried out as part of their business and undertaking.

The defendant was fined \$7,000. No conviction was recorded.

⁴ E314209

⁵ RS2023-007

⁶ E306902

Fines imposed for failures to protect swimmers⁷

On 28 October 2018, a lagoon was open to the public and a father and son entered the water. The father started to struggle as he swam into the deeper water of the lagoon with his son on his back. He then became immersed under water with his son becoming immersed a short time later. The two lifeguards on duty did not detect the father and son in distress or immersed under water. Members of the public notified the lifeguards of the immersed father and son and despite attempts neither could be revived.

On 3 October 2024, the defendant company and its director in charge of lifeguarding at the lagoon were sentenced in the Brisbane Magistrates Court for breaching section 32 of the *Work Health and Safety Act 2011* ('the Act'). The company failed to comply with its primary health and safety duty pursuant to section 19(2) to ensure the health and safety of persons was not put at risk from its business providing lifeguarding services. The director failed to exercise due diligence to ensure the company complied with its duty pursuant to section 27 of the Act.

The Magistrate fined the company \$250,000 and the director \$45,000 with no convictions recorded.

Amusement ride operator fined \$50,000 after incident involving children⁸

On 13 May 2023, two twelve-year olds were the only passengers on an amusement ride. They were secured into the ride's gondola by over shoulder harnesses. As the gondola ascended, the harnesses released and opened. One child held onto their harness, and the other thought someone told them to "jump" and they jumped off the ride. The child was caught by a volunteer, but both fell backwards, and the child suffered a fractured ankle. As the incident unfolded another volunteer ran from the ride platform to the ticket booth and pressed the emergency button on the HMI Controller.

Until this incident the defendant was unaware the harnesses could be discharged during an active ride cycle. Prior to operating the amusement ride, the defendant engaged an engineer to perform a Major Inspection of the ride. The defendant relied on that certification to satisfy themselves the ride was safe to use.

The defendant failed to familiarise themselves with the HMI Controller and remote control functions, to clearly label the remote control button combinations, to have an identifiable emergency stop button that was immediately accessible on the ride platform, and to adequately train volunteer operators.

On 18 October 2024, the defendant was sentenced in the Ipswich Magistrates Court for breaching section 32 of the *Work Health and Safety Act 2011*, having failed to comply with their primary health and safety duty pursuant to section 19(1).

The Acting Magistrate fined the defendant \$50,000. A conviction was not recorded.

\$425,000 fine for a WHS Act Category 2 offence after training failure⁹

On 26 June 2021, a worker and their partner who were employed by a responsible agency for The State of Queensland, attended a location on the Bruce Highway in Burpengary, in response to reports that a stolen vehicle was travelling northbound. They parked their marked vehicle in preparation to deploy a tyre deflation device ('TDD'), (noting TDD's are placed across a roadway in order to safely conclude vehicle pursuits or to immobilise a vehicle). The workers were provided generic approval to do so. In doing so, workers are required to position themselves close to the expected path of the target vehicle, which is often travelling at high speed. It is a plainly hazardous activity which poses a high risk of injury, including fatal injury.

The worker deployed the TDD and, while they were retreating off the road, they were struck by the stolen car, which was travelling at approximately 150 kilometres per hour. The worker suffered fatal injuries and died as a result of the collision.

In their 10 years of employment, the worker completed only around five hours of training in the use of TDDs. That training was primarily theoretical, and lacked the cognitive demands of a 'real-world' context, thereby not adequately preparing workers for a dynamic operational situation. By the time of their death, the inadequacies in relation to their TDD training had existed for almost 10 years. The inadequacies persisted despite the defendant being notified of multiple incidents of TDD-related injuries during that time.

⁷ E263527

⁸ E332641

⁹ E303482

On 18 November 2024, the defendant agency was sentenced in the Caboolture Magistrates Court for breaching sections 19(1) and 32 of the *Work Health and Safety Act 2011*, having failed to comply with its primary health and safety duty.

The defendant was fined \$425,000 and a conviction was not recorded.

Food manufacturing company fined and ordered to publicise offending involving exposing workers to death and serious injury¹⁰

On 4 June 2022, a worker was attempting to clean a conveyor on a lasagne production line, and was strangled after becoming trapped in an exposed moving part of the machine, causing their death.

On 13 June 2022, a worker attempted to move a mixer while in operation, which lead to the worker's hand being injured.

The defendant company failed to develop procedures for the use of these machines, and to train staff, supervise staff and subject staff to periodic compliance audits regarding the procedure for the task of using the mixer.

On 19 November 2024, the defendant company was convicted at the Richlands Magistrates Court for breaching section 32 of the *Work Health and Safety Act 2011*, having failed to comply with its primary health and safety duty pursuant to section 19(1).

The Magistrate fined the defendant company a total of \$270,000 and ordered the defendant company to publish the details of the offending, the consequences of the offending and the penalties imposed by the court, in the February 2025 edition of the Food and Beverage Industry News magazine, under section 236(1)(a)(i) of the *Work Health and Safety Act 2011*. A conviction was not recorded.

Construction supply company fined \$250,000 after worker death¹¹

On 8 February 2023, a worker was killed while using a forklift, slings and a metal chain to remove steel mesh from a shipping container.

The defendant company failed to develop and implement a safe procedure for a task involving unloading steel mesh from shipping containers which required the steel mesh to be removed by a mobile crane; and required a suitably licensed and trained dogman or rigger to select and inspect appropriately rated slings and associated lifting equipment, apply an appropriate slinging technique, and safely direct the mobile crane to transport the steel mesh. Further, the defendant should have trained and instructed its workers in relation to the above procedure.

On 18 December 2024, the defendant was convicted and fined \$250,000 in the Brisbane Magistrates Court after pleading guilty for breaching section 32 of the *Work Health and Safety Act 2011*, having failed to comply with its primary health and safety duty pursuant to section 19(1). A conviction was not recorded.

Concreting company fined after truck contacts overhead powerlines¹²

On 4 November 2021, two workers engaged by the defendant company suffered an electric shock when a concrete pouring boom contacted powerlines, resulting in electrical burns and arm amputation.

The defendant company was engaged to supply concrete for a residential construction. The worksite was located on a residential public street. There were power lines directly above the footpath between the entrance to the site and the road.

On 14 January 2025, the defendant company was sentenced in the Southport Magistrates Court for breaching section 40C of the *Electrical Safety Act 2002* ('the Act') for failing to comply with its duty under section 30 of the Act to ensure, so far as was reasonably practicable, that its business or undertaking was conducted in a way that was electrically safe.

The Magistrate fined the defendant \$65,000 and exercised their discretion not to record a conviction.

¹⁰ E318299 and E318640

¹¹ E329119

¹² E309436

Quarry site senior executive fined for failures causing grievous bodily harm¹³

On 28 August 2023, a worker at a quarry was seriously injured while performing a task involving lifting a full 1,000 litre water tank using machinery with lifting forks.

The defendant failed to ensure there was a procedure which set out an appropriate work method for the use of machinery with lifting forks, workers had been appropriately trained in the use of lifting forks on machinery; and workers conducted risk assessments in relation to the task involving lifting a full 1,000 litre water tank.

On 12 February 2025, the defendant, pleaded guilty at the Brisbane Magistrates Court and was sentenced, having failed to comply with sections 31(b)(iii) and 36(1)(c) of the *Mining and Quarrying Safety and Health Act 1999*.

The Magistrate fined the defendant \$40,000. No conviction was recorded.

Fine imposed after ten divers and instructor left alone in ocean¹⁴

On 30 January 2022, the defendant, a vessel master for a company that provided recreational diving activities, left ten divers and a dive instructor unattended in the ocean, approximately three nautical miles from shore, at a Brisbane dive site. The defendant took the divers' surface support vessel back to shore because another diver was suffering from a serious medical issue, and in doing so the defendant left the other divers at sea unattended for a period of around 30 minutes.

On 3 April 2025, the defendant pleaded guilty at the Maroochydore Magistrates Court and was sentenced for failing to comply with section 22 of the *Safety in Recreational Water Activities Act 2011* (the Act), having failed to comply with their duty pursuant to section 18(a) of the Act, to take reasonable care that their acts or omissions did not adversely affect the health and safety of persons for whom recreational water activities were provided.

The Magistrate fined the defendant \$10,000 and a conviction was not recorded.

Pineapple farm and Directors found guilty after worker run over by trailer¹⁵

On 1 August 2022, a worker of a pineapple farm, sat in a trailer attached to a tractor, with his legs over the side of the trailer, in front of the trailer's wheel guard, under the conveyor. His feet kept continuous contact with the ground, and his right foot came into contact with something pushing it underneath the dual wheels of the trailer. The injured worker was pulled off the trailer and went underneath the dual wheels beneath it, resulting in serious injuries requiring hospitalisation and surgery.

On 29 February 2024, the defendant company was found guilty after trial and sentenced in the Maryborough Magistrates Court for breaching section 32 of the *Work Health and Safety Act 2011* ('the Act'), having failed to comply with its primary health and safety duty pursuant to section 19(1). The company's two Directors were charged alongside the company and were found guilty after trial and sentenced for their failure to comply with the duty owed as an officer and to exercise due diligence, pursuant to section 27 of the Act.

The company was fined \$65,000 and each Director was fined \$5,000. Convictions were not recorded. The defendants unsuccessfully appealed the verdict, with the Maryborough District Court delivering its decision on 23 April 2025.

¹³ RS2024-002

¹⁴ E313240

¹⁵ E320962

Manager fined \$35,000 and must undertake training after repeated breaches¹⁶

On 1 August 2022, the defendant manager (a worker) directed other workers to move a one-tonne metal tub by positioning it on top of four metal load skates and then moving the tub while it was positioned on top of the load skates. The tub fell off the load skates onto a 17-year-old worker's leg crushing it and causing a midshaft femur fracture.

On 25 November 2022, the defendant directed a 16-year-old worker to operate a hydraulic guillotine at the workplace, in circumstances where they were not supervised. The 16-year-old worker had also not been adequately trained and recorded to be competent to operate the hydraulic guillotine.

The 16-year-old worker crushed the tip of his middle finger on his right hand while he operated the hydraulic guillotine.

On 12 May 2025, the defendant was convicted by the Beenleigh Magistrates Court for two offences of breaching section 32 of the *Work Health and Safety Act 2011* ('the Act'), having failed to comply with their obligation as a worker pursuant to section 28(b) of the Act, to take reasonable care that their acts or omissions did not adversely affect the health and safety of other persons.

The Magistrate fined the defendant a total of \$35,000 and ordered the defendant to undertake a specific five-day training course regarding work health and safety obligations to be carried out by a registered training organisation (pursuant to section 241 of the Act).

A conviction was recorded for each offence.

Company convicted and fined \$400,000 after fatal explosion¹⁷

The defendant conducted a business in the sale and service of new, used and demonstrator trucks, and the sale of parts.

On 22 October 2022, a 21-year old apprentice heavy diesel mechanic (worker) used an electric handheld grinder to de-rim a used metal drum. A spark from the grinder caused an explosion, engulfing the worker in flames and resulting in burns to 95 per cent of his body. He died of his injuries.

A second worker who was at the doors of the bin room suffered burns to 15 per cent of his body. A third worker sustained partial thickness burns to both his hands and the tip of his nose. A fourth worker suffered psychological injuries.

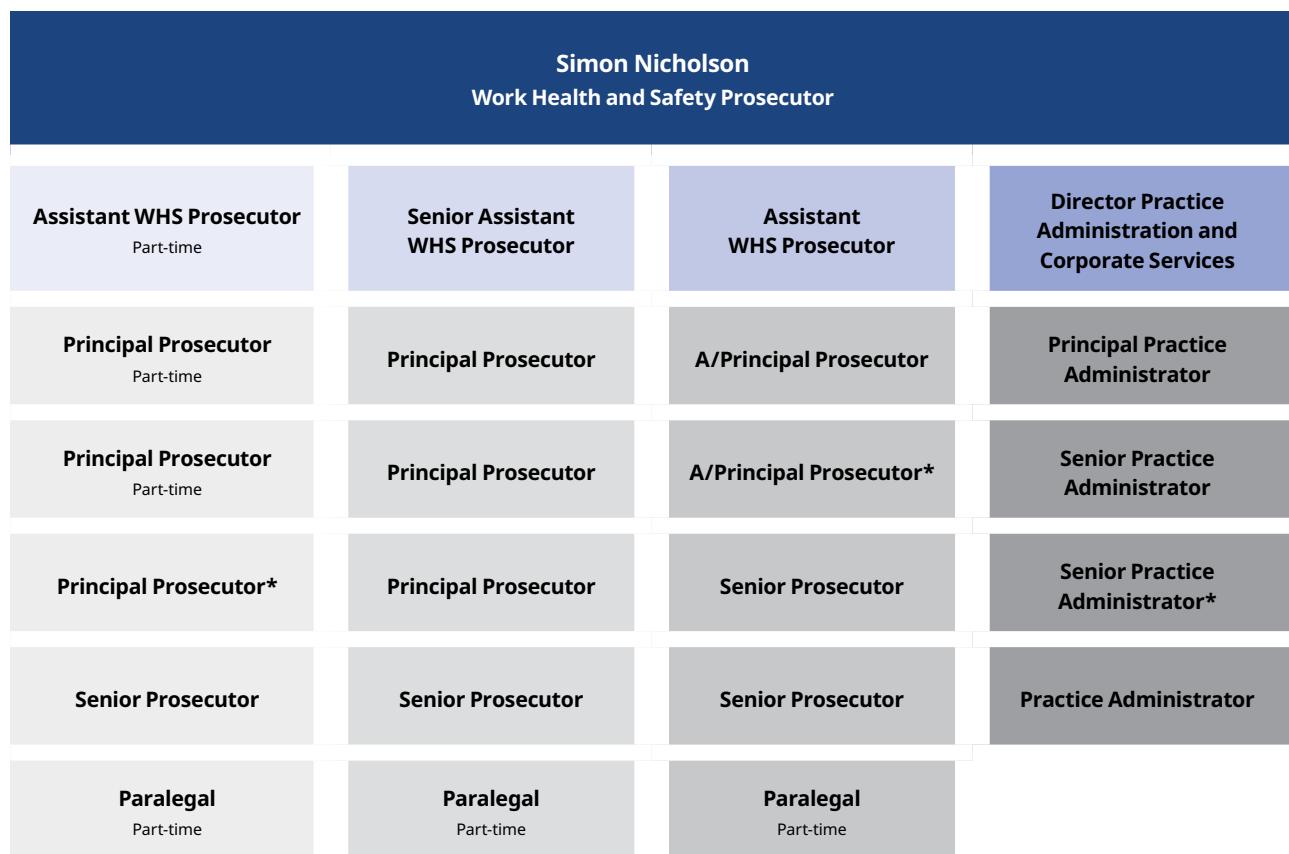
On 23 May 2025, the defendant company was sentenced in the Southport Magistrates Court for breaching section 32 of the *Work Health and Safety Act 2011* (the Act), having failed to comply with its primary health and safety duty under section 19 of the Act.

The Magistrate imposed a fine of \$400,000 and a conviction was recorded.

¹⁶ E326110 and E320958
¹⁷ E324443

Annexure A

OWHSP Organisational Chart as at 30 June 2025



* Denotes 3 x new FTEs added to the OWHSP's Establishment in the reporting period.

Annexure B

Advice function and the decision to charge

(OWHSP Guideline 1/2019)

Issued: 17 April 2019

Reissued: 21 September 2020

Pursuant to s.48 of Schedule 2 to the *Work Health and Safety Act 2011* (the Act), this guideline is issued to:

- a. the staff of the WHS Prosecutor;
- b. the regulator; and
- c. any public service employees employed in the department undertaking work relevant to the WHS Prosecutor's functions under the Act.

Provision of pre-brief advice

1. The Office of the Work Health and Safety Prosecutor regards the provision of pre-brief advice to the Office of Industrial Relations as a valuable practice that is in the interests of both the OWHSP and OIR. When providing pre-brief advice, it is important that the separation of the investigative and prosecutorial functions is maintained and recognised.
2. The OWHSP is available to provide pre-brief advice to OIR in:
 - a. matters which are significant, complex or major;
 - b. sensitive matters;
 - c. matters of particular importance for OIR's enforcement strategy; or
 - d. matters that are likely to have an impact on a broader class of cases;
 - e. as agreed by the OWHSP and OIR, as resources permit for both offices.
3. It is OIR's responsibility to make operational decisions, including as to whether an investigation would be warranted, an investigation's scope, the ongoing management of an investigation, the prioritisation of investigations and the deployment of resources during investigations. The OWHSP will take into account OIR's prioritisation of their matters in providing pre-brief advice.
4. The OWHSP may be requested to provide legal advice on such things as:
 - a. the identification of the elements of offences;
 - b. evidentiary issues;
 - c. substantive impediments to proving the offence and how these might be addressed;
 - d. identifying particular witnesses who could be spoken to and lines of inquiry that may assist; and
 - e. the seriousness of the offending.
5. In requesting advice, OIR should identify the legal issues and potential offences on which advice is sought. Whilst a full brief of evidence is not required for the purpose of pre-brief advice, sufficient factual background against which to frame the advice should be provided. This information should be provided in writing.
6. In drafting pre-brief advice, the OWHSP lawyer should consider consulting with the Work Health and Safety Prosecutor (WHS) or the WHS's delegate before coming to a concluded view and the final advice should be settled by the WHS or the WHS's delegate before it is provided to OIR. It will not be possible in every case for the OWHSP to give legal advice on whether, on the evidence, there are reasonable prospects of a conviction when consulted in the investigative stage. The material that has been assembled for the consideration of the OWHSP at the investigation stage, particularly in urgent matters, may be inadequate to make that assessment even with a number of provisos. In some instances, it will still be of assistance to OIR to identify areas of deficiency, in order that they may be addressed.
7. Requests for advice should be settled by nominated senior officer in OIR and the decision to accept a request for advice will be made by the WHS or the WHS's delegate.
8. The OWHSP is also available to discuss in general terms a matter with OIR and provide an indication of the issues that may arise for consideration or deal with any straight forward issues. Any thoughts expressed in such discussion or consultation are done so on the basis that they represent a best view on the information provided and are not determinative of a more informed OWHSP view.

Annexure B

Advice function and the decision to charge

(OWHSP Guideline 1/2019)

Issued: 17 April 2019

Reissued: 21 September 2020

9. Requests for urgent legal advice may be made and the OWHSP will assist where possible, however, advice can only be provided when there is adequate time to consider the material. In some circumstances, it may not be possible to give legal advice in the time available. Any advice provided orally should be confirmed in writing at the earliest possibility by the OWHSP lawyer.
10. The decision to grant an indemnity is one for the Attorney General. If it becomes apparent in the investigation that a successful prosecution will depend on an indemnity being given to a participant in the crime, OIR as the investigative agency should seek the early advice of the OWHSP. Where investigators consider that an indemnity or a commitment to obtain the testimony or evidence of a person by way of an induced statement may be required, OWHSP should be consulted. This consultation should take place prior to an induced statement being taken.

The Decision to Charge

11. The decision to commence a prosecution under the WHS Act is one ultimately for the WHSP (save for where a delegation has been given to an inspector to take proceedings for a category 3 offence under the WHS Act). That decision is made by applying the Guidelines of the Director of Public Prosecutions.
12. The decision to proceed on indictment, ultimately reflected in the filing of an indictment, is a decision for the Director of Public Prosecutions or a prosecutor who holds a commission from the Director to sign indictments.
13. Whilst the decision to charge does not rest with OIR, the decision will have regard to the views of OIR in its recommendation to the OWHSP.
14. Ordinarily, a brief of evidence must be referred to the OWHSP before a prosecution is instituted by the WHSP (or for definitive advice on whether to commence a prosecution under the Guidelines of the Director of Public Prosecutions where OIR proposes to institute proceedings subsequent to that advice).
15. Upon the receipt the brief of evidence the OWHSP will:
 - a. examine the brief to determine whether a prosecution should be instituted and, if so, on what charge or charges;
 - b. provide the draft complaint to OIR for the purpose of consultation prior to the complaint being made;
 - c. contingent upon the outcome of that consultation, commence a prosecution by making and filing a complaint.
16. Where OIR has the ability to commence a prosecution under certain legislation, it will often refer a brief of evidence to the OWHSP for assessment. In those circumstances, upon the receipt the brief of evidence the OWHSP will:
 - a. examine the brief to determine whether a prosecution should be instituted and, if so, on what charge or charges;
 - b. advise OIR of the outcome;
 - c. if a prosecution is to be instituted, prepare a complaint; and
 - d. send the complaint to the agency for execution and service.
17. Where OIR has the ability to commence a prosecution for certain offences, including by reason of authorisation by the WHSP, there may nevertheless be instances where it requests that the WHSP institute proceedings contingent upon the assessment of a brief of evidence. In those circumstances, OIR should indicate in the referral for assessment to OWHSP if such a request is being made.
18. Where OWHSP determines that there is insufficient evidence to commence a prosecution, or that there is sufficient evidence but that the public interest does not require a prosecution, reasons for that decision will be provided to OIR.

Annexure C

Disclosure (Guideline 2/2019)

Issued: 17 April 2019
Reissued: 21 September 2020

Pursuant to s.48 of Schedule 2 to the *Work Health and Safety Act 2011* (the Act), this guideline is issued to:

- a. the staff of the WHS Prosecutor;
- b. the regulator; and
- c. any public service employees employed in the department undertaking work relevant to the WHS Prosecutor's functions under the Act.

Disclosure Principles

1. The guiding principle in determining what material should be disclosed by the prosecution is that there is a need to ensure that the accused receives a fair trial.
2. In order to ensure that the accused receives a fair trial, there must be adequate notice of the evidence to be adduced as part of the prosecution case.
3. The prosecution's duty of disclosure is ethical in nature and it is an obligation that is owed to the court. It is a significant aspect of the administration of criminal justice and the court's capacity to ensure the accused's right to a fair trial. Accused are entitled to know the case against them, so that they can properly defend the charges they face. An accused is entitled to know the evidence that will be adduced in support of the charges and whether there is any other material which may be relevant to the defence of the charges, including material relating to the credibility or reliability of a prosecution witness. A failure to disclose may result in a miscarriage of justice.
4. In addition to fulfilling statutory obligations relating to disclosure, the prosecution must disclose to the accused any material which:
 - a. can be seen on a sensible appraisal by the prosecution to run counter to the prosecution case (i.e. points away from the accused having committed the offence); or
 - b. might reasonably be expected to assist the accused in advancing a defence; or
 - c. might reasonably be expected to undermine the credibility or reliability of a material prosecution witness.
5. The prosecution duty of disclosure under this guideline does not extend to disclosing material which is:
 - a. relevant only to the credibility of defence (as distinct from prosecution) witnesses;
 - b. relevant only to the credibility of the defendant;
 - c. relevant only because it might deter the defendant from giving false evidence or raising an issue of fact which might be shown to be false;
 - d. relevant in that it might alert and prevent the defendant from creating a trap for themselves based on suspect evidence (i.e. a suspect alibi), if at the time the prosecution became aware of the material it was not disclosable pursuant to Paragraph 4.
6. A precondition for prosecution disclosure is that the material is in the possession of, or the information is known by, the prosecution. For the purposes of this guideline, and at common law, there is no distinction between the prosecuting agency and the investigative agency. The courts generally regard the investigative agency and the prosecuting agency as "the prosecution". Consequently, the OWHSP largely depends on OIR as the investigative agency to inform it of the existence of material which should be disclosed to the defence, whether the investigative agency holds it or is aware it is held by a third party including another, State, Territory or Commonwealth agency, private entity or individual.
7. If a matter involves investigation by more than one agency, the OWHSP depends on OIR, as the investigative agency which refers the brief to the OWHSP, to inform the OWHSP of all disclosable material which any of the agencies involved hold or are aware of.
8. Disclosure should be timely and occur as soon as is reasonably practicable. The disclosure obligation is ongoing throughout the prosecution process and continues after trial and the conclusion of any appeals.
9. Disclosure of the prosecution case will ordinarily be by provision of a copy of the brief of evidence. A copy of the brief should always be provided where requested. There may be matters, however, where a defendant wishes to plead guilty quickly without a copy of a brief of evidence being requested and provided. The duty of disclosure is not incompatible with a defendant wanting to plead guilty before a full brief is served and a plea of guilty may well be accepted by the prosecution in such circumstances.

Annexure C

Disclosure (Guideline 2/2019)

Issued: 17 April 2019

Reissued: 21 September 2020

10. The prosecution may hold or be aware of information or material, other than the material in the brief of evidence, which has:
 - a. been gathered or come to the attention of investigators in the course of the investigation; or
 - b. is otherwise held within any part of OIR, other agencies, or a third party;that satisfies the requirements for disclosure set out in the Disclosure Principles in this guideline.
11. Examples of material that may fall within this category of material appear below.

Disclosure affecting credibility or reliability of a prosecution witness

12. The prosecution should disclose to the defence information in its possession which is relevant to the credibility or reliability of a prosecution witness, for example:
 - a. a relevant previous conviction or finding of guilt;
 - b. a statement made by a witness which is inconsistent with any other statement made by the witness;
 - c. a relevant adverse finding in other criminal proceedings or in non-criminal proceedings (such as disciplinary proceedings, civil proceedings or a Royal Commission);
 - d. evidence before a court, tribunal or Royal Commission which reflects adversely on a witness;
 - e. any physical or mental condition which may affect reliability;
 - f. any concession or benefit which has been offered or granted to a witness in order to secure that person's testimony for the prosecution;
 - g. where credibility is in issue, that the witness has been charged with a relevant offence.
13. Some examples of material of the kind referred to in paragraph 12. are further discussed below.

Previous convictions

14. Minor prior convictions for formal or non-contentious witnesses may not meet the requirements for disclosure, whereas previous convictions for perjury and offences involving dishonesty should always be disclosed to defence.
15. The prosecution must, on request, disclose a copy of a criminal history of a proposed witness which is in the possession of the prosecution. Where blanket requests for 'all witnesses' are made, the prosecution should attempt to negotiate with defence practitioners to ensure that unnecessary checks do not have to be undertaken for formal or non-contentious witnesses.
16. The duty to disclose relevant prior convictions is not confined to cases of specific requests for the criminal histories of witnesses. For that reason, it is appropriate for the prosecution to ensure, prior to the commencement of any trial or summary hearing, that criminal history checks have been undertaken for significant civilian witnesses whose credit may be in issue. In addition to paragraph 14, in some cases convictions relating to Driving Under the Influence or illicit substances might be relevant particularly if the proposed witness is to give evidence relating to operation of plant/machinery.

Adverse findings

17. Where a prosecution witness has been the subject of an adverse finding (including a finding of dishonesty) in other criminal proceedings, disciplinary proceedings, civil proceedings or a Royal Commission, such adverse findings should be disclosed by the prosecution to the defence. That is, unless the finding does not meet the requirements for disclosure set out in the Disclosure Principles in this guideline. Regard should be had to the nature of the evidence expected to be given and the issues likely to arise in the case at hand. For example, it may not be necessary to disclose adverse findings which arise from inefficiency, incompetence or disobedience of orders, but it might be necessary to disclose any history relevant to those matters in paragraph 16.

Annexure C

Disclosure (Guideline 2/2019)

Issued: 7 November 2019
Reissued: 21 September 2020

Concessions to witnesses

18. The prosecution must disclose:

- any concession offered or provided to a witness with respect to his or her involvement in suspected offences in order to secure his or her evidence for the prosecution, whether as to choice of charge, the grant of an undertaking or otherwise;
- any monetary or other benefit or inducement that has been claimed by, or offered or provided to, a witness. This does not include any payments made in the ordinary and usual course of a witness coming to court to give evidence (e.g. the payment of travel and accommodation expenses or the fees of expert witnesses) and disclosure will be subject to any legislative requirements such as witness protection legislation; and
- where the witness participated in the suspected offending that is the subject of the charges against the defendant, whether the witness has been dealt with in respect of his or her own involvement and, if so, whether the witness received a discount on sentence as a result of undertaking to cooperate with the prosecution in relation to the current matter.

Disclosure affecting the competence or credibility of an expert witness or of expert or scientific evidence

19. The prosecution should disclose to the defence information of which it is aware that is relevant or potentially relevant to the competence or credibility of an expert witness the prosecution intends to rely on.

20. The prosecution should also disclose to the defence information of which it is aware that is in the form of an expert opinion and/or in the nature of scientific evidence, which differs from such evidence already received by the prosecution or in some way casts doubt on the opinions or evidence on which the prosecution intends to rely where that opinion or evidence is relevant and not merely speculative.

Disclosure of a statement by a witness who is not credible

21. If the prosecution has a statement from a person whose evidence meets the requirements for disclosure as set out in the Disclosure Principles in this guideline, but who will not be called because they are not credible, the defence should be provided with copy of the statement of that witness. The witnesses contact details may also be provided in certain circumstances – see s.590AP Criminal Code (Qld)¹.

Material withheld from disclosure

22. Where material has been withheld from disclosure as:

- it is considered that the material is immune from disclosure on public interest grounds; or
- disclosure of the material is precluded by statute; or
- it is considered that legal professional privilege should be claimed in respect of the material;

the defence should ordinarily be informed of this. In most cases it should be possible to provide some general information as to the nature of the material concerned. The extent of any further information will be determined by reference to the particular matter, but as a general rule information about the nature of the claim should be provided unless it will compromise that claim (e.g. the fact of there being an informer claim is not usually disclosed). Notification of the existence of such material may in some circumstances generate the issuing of a summons or subpoena to produce the material.

23. If the existence of material that otherwise meets the requirements for disclosure as set out in the Disclosure Principles in this guideline cannot be disclosed at all because of one of the matters identified in paragraph 22, or where a claim for immunity has been upheld by a court, then consideration will need to be given as to whether it is fair for the prosecution to proceed or continue in the absence of such disclosure. In some circumstances a prosecution may not be able to proceed and may need to be discontinued.

¹ See Annexure to Disclosure Guideline 2/2019_Disclosure legislation

Annexure C

Disclosure (Guideline 2/2019)

Issued: 7 November 2019
Reissued: 21 September 2020

Disclosure and Sentencing

24. While disclosure most frequently arises in the context of hearings and trials there are some important obligations on the prosecution in the context of the sentencing process. In particular, any information or material that may affect an assessment of the moral culpability of a defendant on sentence should be disclosed. Such material will often be in the possession of OIR and should be disclosed to the OWHSP in that event.

Other Matters

Timing of Disclosure

25. Disclosure should be timely, and occur as soon as practicable, always remembering the obligation is ongoing throughout the prosecution process, including during the sentencing process and continues after trial and the conclusion of any appeals (see s.590AL Criminal Code (Qld))². However, in certain circumstances, it may be appropriate to delay disclosure. Some examples of this may include the following:

- where disclosure might prejudice ongoing investigations (see paragraphs 22 and 23), and OIR requests the non-disclosure of material that would otherwise be disclosable under this guideline, disclosure may be able to be delayed until after the investigations are completed;
- where the prosecution is of the opinion that to disclose evidence is likely to lead to a witness being intimidated, or a risk to the safety of a witness, or to some other interference with the course of justice.

26. Where disclosure of material has been delayed in accordance with the preceding paragraph, the defence should ordinarily be so informed, unless to do so might compromise the reason for the delay (e.g. the existence of an ongoing investigation).

How material should be disclosed

27. There are various ways material may be disclosed, and this guideline does not purport to prescribe a necessary means of disclosure. Material may be disclosed in hard copy or electronic form. Disclosure may occur via a schedule listing the material, or by making the material available for inspection or copying. Where a schedule listing material is provided, it should include a description making clear the nature of that material and the defence should be informed that arrangements may be made to inspect the material. This is because the essence of disclosure is that the defence be made aware of the existence of the material – in many instances they may not actually wish to have a copy of the material.

28. There may be cases where, having regard to:

- the absence of information available to the prosecution as to the lines of defence to be pursued; and/or
- the nature, extent or complexity of the material gathered in the course of the investigation;

there may be special difficulty in accurately assessing whether particular material meets the requirements for disclosure set out in the Disclosure Principles in this guideline. In these cases, after consultation with OIR, the prosecution may permit the defence to inspect such material.

Disclosure of material held by third parties

29. Where the prosecution is aware of disclosable material that is in the possession of a third party, the defence should be informed of:

- the name of the third party;
- the nature of the material; and
- the address of the third party (unless there is good reason for not doing so and if so, it may be necessary for the prosecution to facilitate communication between the defence and the third party).

² See Annexure to Disclosure Guideline 2/2019_Disclosure legislation

Annexure C

Annexure to Disclosure (Guideline 2/2019)

Issued: 7 November 2019
Reissued: 21 September 2020

Indictable offences

Criminal Code (Qld) Chapter 62, Chapter Division 3 - Disclosure by the prosecution

1. The provisions apply to a "relevant proceeding", which is defined in s.590AD to mean:
 - a. A committal proceeding, or a trial on indictment; or
 - b. A prescribed summary trial (defined in s.590AD as meaning a summary trial of certain indictable offences pursuant to nominated provisions under the *Criminal Code (Qld)*, or summary proceedings in relation to an indictable offence against the *Drugs Misuse Act 1986 (Qld)* where the prosecution has elected summary jurisdiction, or a charge for an offence prescribed under a regulation).
2. s.590AO provides that the prosecution does not have to disclose "sensitive evidence" (which is defined in s.590AF). A court may make an order in relation to disclosure of such material.
3. Nothing requires the prosecution to disclose information which it is otherwise unlawful to disclose (s.590AC(1)).

Mandatory disclosure

4. A copy of each of the following:
 - a. Bench charge sheet, complaint or indictment containing the charges against a person.
 - b. The accused's criminal history in the prosecution's possession.
 - c. Any statement of the accused in the prosecution's possession.
 - d. For each proposed prosecution witness who is or may be an "affected child" (defined in s.590AD by reference to the *Evidence Act 1977*, s.21AC), a written notice naming the child and describing why they may be an affected child.
 - e. For all other proposed prosecution witnesses, any statement in the prosecution's possession, or if there is no statement, written notice of the witness's name.
 - f. If s.93B of the *Evidence Act 1977 (Qld)* is to be relied upon (pre-recording of a child's evidence), a notice stating that intention and the matters set out in s.590C(2) of the *Criminal Code (Qld)*.
 - g. Any report of any test or forensic procedure relevant to the proceeding and in the prosecution's possession.
 - h. A written notice describing any test or forensic procedure, including one that is not yet completed, on which the prosecution intends to rely.
 - i. A written notice describing any "original evidence" (defined in s.590AD as a thing that may be tendered in the proceeding) on which the prosecution intends to rely. (An exhibit list should usually suffice.)
5. Anything else on which the prosecution intends to rely. (This may include maps or charts etc to be used as an aid for the Court or jury. It may also include a submission on a legal issue, for example, the reversal of the onus of proof, or a submission for an alternative verdict.)
6. Written notice of, or a copy of, anything else in the prosecution's possession prescribed by regulation.
7. Pursuant to s.590AI(2), this material must be disclosed as soon as practicable, but at least:
 - a. For a committal hearing or prescribed summary trial, 14 days before the date set by the court for the commencement of the hearing of evidence;
 - b. For a trial on indictment, no more than 28 days after presentation of the indictment, or if the trial starts less than 28 days after presentation, before the evidence starts to be heard.
8. A number of paragraphs in s.590AH(2) refer to items in the "possession of the prosecution." The expression "possession of the prosecution" is given an extended definition by s.590AE, and it includes things the "arresting officer" (defined in s.590AD as including a person who brought a charge if the accused was not arrested) or prosecutor were aware of, and which could be located without unreasonable effort. This definition would extend the expression "possession of the prosecution" to include things held by third parties and known to the police or prosecutor.

Annexure C

Annexure to Disclosure (Guideline 2/2019)

Issued: 7 November 2019
Reissued: 21 September 2020

9. The obligation to disclose an exculpatory thing continues post trial until the accused is discharged or acquitted or dies (that is, the obligation continues indefinitely even after the person has been convicted and has been unsuccessful on appeal) (s.590AL(3)). Exculpatory material is defined in s.590AD as “reliable evidence of a nature to cause a jury to entertain a reasonable doubt as to the guilt of the accused person.”

Disclosure on request

10. The matters listed below, which are disclosable on request, must all be disclosed as soon as practicable:
 - a. Particulars of a charge against the accused if a proposed prosecution witness is or may be an affected child. Must be disclosed as soon as practicable (s.590AJ(2)(a), s.590AK(2)).
 - b. A criminal history of a proposed witness for the prosecution that is in the possession of the prosecution (s.590AJ(2)(b), s.590AK(2)). “Possession of the prosecution” is given an extended definition in s.590AD. The common law requires the prosecution to disclose any criminal history of a witness, where their credit or reliability is in issue, whether requested by defence or not.
 - c. A copy or notice of any thing in the possession of the prosecution that may reasonably be considered to be adverse to the reliability or credibility of a proposed witness for the prosecution (s.590AJ(2)(c), s.590AK(2)).
 - d. Notice of anything in the possession of the prosecution that may tend to raise an issue about the competence of a proposed witness for the prosecution to give evidence in the proceeding (s.590AJ(2)(d), s.590AK(2)).
 - e. Any statement of any person relevant to the proceeding and in the possession of the prosecution but on which the prosecution does not intend to rely at the proceeding (s.590AJ(2)(e), s.590AK(2)).
 - f. A copy or notice of any other thing in the possession of the prosecution that is relevant to the proceeding but on which the prosecution does not intend to rely at the proceeding (s.590AJ(2)(f), s.590AK(2)). This may include documents such as accounting records, correspondence and emails seized pursuant to a warrant, but upon which the possession does not rely.

Summary Offences

Magistrates Court PD No.13 of 2010

11. The Practice Direction defines “Prosecution” to mean either the DPP or Police Prosecution Corps, but should be read to include OWHSP.
12. Prior to the initial appearance, and within a reasonable time of any request, a statement of facts is to be delivered to the Defence by the prosecution which had carriage of the matter at the time the request was made. If there has been no earlier request for a Statement of Facts, it is to be handed personally to a defendant, who is not legally represented, at an appropriate time before his/her first appearance.
13. Written notices which may be given pursuant to Chapter 62 Chapter Division 3 may, in addition to hard copy documents, be given by means of electronic communication.
14. In the event that the defence requests the Prosecution to provide to it certain specified statements and/or exhibits then the Prosecution will make copies of the same available for collection by the defence (and advise the Defence of same) within 14 days of the request or such longer time as directed by the Court.
15. The full brief of evidence must be made available by the Prosecution for collection within 35 days of the matter being set for trial and at least 14 days prior to the date set for the hearing of the trial. “Full brief”, means a brief which contains copies of signed statements of witnesses and exhibits upon which the prosecution proposes to rely on in the proceeding and all things in the possession of the prosecution, other than things the disclosure of which would be unlawful or contrary to public interest, that would tend to help the case for the defendant;
16. Briefs of evidence and any specified statements and/or exhibits shall have the statements endorsed with original signatures.

Annexure C

Annexure to Disclosure (Guideline 2/2019)

Issued: 7 November 2019

Reissued: 21 September 2020

17. "Specified statements and/or exhibits" means statements of the prosecution witnesses who will provide the "substantial evidence" in the matter and copies of exhibits of substantial evidence as requested by the defence or prosecution for the purposes of finalising a case conference.
18. "Substantial evidence" means the evidence which tends to prove an offence but does not include corroborative evidence or continuity evidence or evidence of ownership (except where it is expected that such evidence will be a major point of the litigation).

Professional Rules

2011 Barristers' Rules (made pursuant to the Legal Profession Act 2007 (Qld)) - R.86 and 87 Australian Solicitors Conduct Rules 2012 - R.29.5 and 29.6

19. 86/29.5 - A prosecutor must disclose to the opponent as soon as practicable all material (including the names of and means of finding prospective witnesses in connection with such material) available to the prosecutor or of which the prosecutor becomes aware which could constitute evidence relevant to the guilt or innocence of the accused other than material subject to statutory immunity, unless the prosecutor believes on reasonable grounds that such disclosure, or full disclosure, would seriously threaten the integrity of the administration of justice in those proceedings or the safety of any person.
20. 87/29.6 - A prosecutor who has decided not to disclose material to the opponent under Rule 86/29.5 must consider whether:
 - a. the charge against the accused to which such material is relevant should be withdrawn; and
 - b. the accused should be faced only with a lesser charge to which such material would not be so relevant.That consideration must occur as soon as practicable after the prosecutor has decided not to disclose material.

Annexure D

OWHSP Business Plan 2025–2026

Office of the Work Health and Safety Prosecutor

Business Plan 2025–2026

Our Work

The Office of the Work Health and Safety Prosecutor (OWHSP) is an independent prosecution office, established by the Queensland Parliament under the *Work Health and Safety Act 2011*. The OWHSP conducts and defends cases commenced under Queensland's workplace and resources health and safety laws. The OWHSP does not investigate incidents, which is the role of the Regulators who refer briefs of evidence for consideration.

Decisions to commence, amend, or terminate cases are made in accordance with the guidelines of the Director of Public Prosecutions (Qld).



Our purpose

Our purpose is to:



- provide an independent prosecution service
- meet the expectations of our client agencies and other stakeholders
- understand the priorities of our client agencies
- contribute to delivering outcomes for the safety of Queensland workers and the community.

Our objectives

Our objectives are to:



- be courteous and professional
- be consistent in our decision-making
- work as model litigants
- be efficient in order to deliver timely advice of decisions and outcomes about cases to our stakeholders.

Performance measures

We perform effectively:



- by applying the Guidelines of the Director of Public Prosecutions in 100% of cases
- by applying the *Human Rights Act 2019* in so far as addressing any incompatibility with a human right in our decision-making processes in 100% of cases

- by aiming to resolve 90% of cases we prosecute in conviction¹
- by aiming to achieve a conviction rate of 70% in matters prosecuted in defended summary hearings
- by aiming to achieve a conviction rate of 70% in matters tried on indictment.



We perform efficiently:

- by aiming to assess briefs of evidence within 120 days of referral.

Our strategic priorities

Our strategic priorities are:



- to provide an efficient, effective and transparent prosecution service
- to establish and maintain effective engagement with client agencies and stakeholders
- to develop and recognise our staff in a diverse, collaborative and just workplace that is free of all forms of harassment, with a commitment to psychosocial wellbeing.

We perform transparently through

- liaison with stakeholders including investigators, affected workers and families
- communication of outcomes of proceedings on the OWHSP website.



¹ The conviction rate is the percentage of defendants convicted in prosecutions which proceeded to a decision or verdict. The calculation does not include defendants where the OWHSP determined not to commence a prosecution or discontinued a prosecution prior to decision or verdict. 'Conviction' includes any finding of guilt, and is not limited to prosecutions in which a conviction is recorded. It also includes prosecutions with multiple charges, where at least one charge is proven.

Annexure E

Performance, efficiency and effectiveness data: 2019–2020 to 2024–2025

New referrals received						
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
New briefs of evidence (briefs) referred	85	96	81	127	99	97
Suspects identified in those briefs (prima facie)	233	252	205	187	237	190
Ongoing brief assessments at EOFY						
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
Brief assessments ongoing at EOFY, excluding those in suspension	31 briefs (relating to 61 suspects)	22 briefs (relating to 38 suspects)	49 briefs (relating to 110 suspects)	115 briefs (relating to 142 suspects)	61 briefs (relating to 105 suspects)	55 briefs (relating to 108 suspects)
Brief assessments suspended at EOFY whilst investigators responded to requisitions	11 briefs (relating to 20 suspects)	7 briefs (relating to 25 suspects)	15 briefs (relating to 45 suspects)	1 brief (relating to 1 suspect)	3 briefs (relating to 6 suspects)	1 brief (relating to 3 suspects)
Total briefs in brief assessment phase including those where requisitions were raised	42 briefs (relating to 81 suspects)	29 briefs (relating to 63 suspects)	64 briefs (relating to 155 suspects)	116 briefs (relating to 143 suspects)	64 briefs (relating to 111 suspects)	56 briefs (relating to 111 suspects)
Pre-brief legal advice requests ¹						
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
Requests for pre-brief advice	18	9	13	5	3	3
Pre-brief advice files open at the EOFY pending provision of legal advice by the OWHSP or the referral of a brief of evidence	11	Nil	Nil	1	Nil	Nil

¹ A brief may or may not ultimately be referred to the OWHSP for consideration after pre-brief advice is given.

Annexure E

Performance, efficiency and effectiveness data: 2019–2020 to 2024–25

Prosecutions successfully finalised during FY ²						
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
Prosecutions successfully finalised	42	83	72	53	85	91
Fines imposed in relation to successful prosecutions	\$5,501,200	\$8,430,600	\$3,589,600	\$2,915,760	\$6,826,260	\$6,799,750
Number of successful matters where a guilty plea was entered	<i>Not previously reported</i>	77	64	51	81	86
Number of successful matters which proceeded <i>ex parte</i>	<i>Not previously reported</i>	2	1	Nil	2	1
Unsuccessful or discontinued prosecutions during FY						
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
Unsuccessful prosecutions	2	5	7	2	7	3
Prosecutions withdrawn ³	1	18	18	19	19	27
Prosecutions withdrawn – EU ⁴	2	1	8	9	4	2
Total prosecutions finalised in the FY						
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
Total prosecutions finalised	47	107	105	83	115	123

² The final court order date must occur in the relevant financial year. In keeping with previous annual reports this excludes matters that are the subject of an appeal, unless the appeal relates only to the matter of costs.

³ The prosecution offered no evidence and the matters were discontinued. This figure does not include decisions to substitute charges or withdraw a charge when there are multiple charges.

⁴ Discontinued as a result of an Enforceable Undertaking being entered by the defendant with the WHS Regulator.

Annexure E

Performance, efficiency and effectiveness data: 2019–2020 to 2024–25

Complaints before the Court at the EOFY						
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
Complaints before the Court at EOFY	108	164	135	130	169	125
Prosecutorial decisions made in the FY						
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
Total prosecution decisions (to prosecute or not prosecute)	202	387	184	231	457	232
Number of briefs of evidence related to those decisions	85	104	51	70	154	107
Decisions to prosecute	105	149	58	76	165	81
<i>No of bodies corporate prosecuted</i>	64	77	35	47	99	55
<i>No of individuals prosecuted</i>	41	72	23	29	66	26
<i>Officers, within those individuals, prosecuted</i>	15	16	12	7	21	4
<i>Workers, within those individuals, prosecuted</i>	<i>Not previously reported</i>	<i>Not previously reported</i>	<i>Not previously reported</i>	8	22	14
Decisions not to prosecute	107	238	126	155	292	151
<i>No prima facie case</i>	82	197	94	102	183	95
<i>No reasonable prospects of conviction</i>	12	20	21	36	76	46
<i>Not in the public interest</i>	13	21	11	17	33	10

Annexure E

Effectiveness measures

KPI: Compliance in applying DPP Guidelines in decisions to commence, not commence, continue or discontinue (100%)

Result FY 2019/20	Result FY 2020/21	Result FY 2021/22	Result FY 2022/23	Result FY 2023/24	Result FY 2024/25
100% in relation to 202 decisions	100% in relation to 408 decisions	100% in relation to 215 decisions	100% in relation to 258 decisions	100% in relation to 482 decisions	100% in relation to 262 decisions

KPI: Prosecutions resulting in a conviction (90%)

Result FY 2019/20	Result FY 2020/21	Result FY 2021/22	Result FY 2022/23	Result FY 2023/24	Result FY 2024/25
KPI exceeded 95.4%	KPI exceeded 95.4%	KPI exceeded 91.4%	KPI exceeded 96.4%	KPI exceeded 92.4%	KPI exceeded 96.8%

KPI: Defendants in defended summary hearings resulting in conviction (70%)

Result FY 2019/20	Result FY 2020/21	Result FY 2021/22	Result FY 2022/23	Result FY 2023/24	Result FY 2024/25
KPI not met 50%	KPI not met 44.4%	KPI not met 16.7%	KPI exceeded 100%	KPI not met 28.6%	KPI not met 57.1%

KPI: Defendants tried on indictment and convicted (70%)

Result FY 2019/20	Result FY 2020/21	Result FY 2021/22	Result FY 2022/23	Result FY 2023/24	Result FY 2024/25
KPI not met 0%	Nil cases	KPI not met 66.6%	KPI exceeded 100%	Nil cases	Nil cases

Annexure E

Efficiency measures

KPI: Briefs of evidence assessed within 120 days of referral (100%)

Result FY 2019/20 ⁵	Result FY 2020/21	Result FY 2021/22	Result FY 2022/23	Result FY 2023/24	Result FY 2024/25
KPI not met 33.6%	KPI not met 23.1%	KPI not met 25%	KPI not met 10%	KPI not met 11.4%	KPI not met 17.2%

Average decision time in days per brief of evidence

Result FY 2019/20	Result FY 2020/21	Result FY 2021/22	Result FY 2022/23	Result FY 2023/24	Result FY 2024/25
161	202	178.2	262	246	286

KPI: Pre brief advice provided within 30 days (100%)

Result FY 2019/20	Result FY 2020/21	Result FY 2021/22	Result FY 2022/23	Result FY 2023/24	Result FY 2024/25
Data not reported	KPI not met 55%	KPI not met 45.5%	KPI not met 80%	KPI met 100%	KPI met 100%

⁵ The KPI in this reporting period was *briefs of evidence assessed within 90 days of referral* (85%).

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