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ANNUAL REPORT  
2017-2018

LECC

Law Enforcement  
Conduct Commission



# LETTER FROM THE CHIEF COMMISSIONER AND CEO

**LECC**  
Law Enforcement  
Conduct Commission

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22 October 2018

The Hon John Ajaka MLC  
President  
Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon Shelley Hancock MP  
Speaker  
Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

**Dear Mr President and Madam Speaker,**

In accordance with section 12 of the *Annual Reports (Departments) Act 1985* and section 139 of the *Law Enforcement Conduct Commission Act 2016*, the Commission hereby furnishes to you the Law Enforcement Conduct Commission Annual Report for the year ended 30 June 2018.

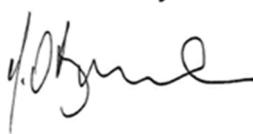
The Annual Report has been prepared in accordance with the requirements of the *Annual Reports (Departments) Act 1985* and the *Law Enforcement Conduct Commission Act 2016*.

I draw your attention to section 142(2) of the *Law Enforcement Conduct Commission Act 2016*, pursuant to which I recommend that this Annual Report be made public forthwith.

Yours faithfully



**The Hon M F Adams QC**  
Chief Commissioner



**Michelle O'Brien**  
Acting CEO

# CONTENTS

|   |           |
|---|-----------|
| LETTER FROM THE CHIEF COMMISSIONER AND CEO .....                                  | 1         |
| <b>1. CHIEF COMMISSIONER'S FOREWORD .....</b>                                     | <b>4</b>  |
| <b>2. WHAT WE DO.....</b>   | <b>8</b>  |
| 2.1 Our history .....   | 9         |
| 2.2 Our work .....  | 9         |
| 2.3 Assessing complaints .....  | 10        |
| 2.4 Monitoring critical incident investigations .....                             | 10        |
| 2.5 Oversight of complaint handling .....   | 10        |
| 2.6 Investigating serious police misconduct.....                                  | 11        |
| 2.7 LECC Strategic Plan 2017-20 .....   | 11        |
| 2.8 Our people .....  | 12        |
| <b>3. CRITICAL INCIDENT MONITORING.....</b>                                       | <b>14</b> |
| 3.1 Overview .....  | 15        |
| 3.2 Monitoring critical incident investigations .....                             | 15        |
| 3.3 Monitoring limitations.....   | 16        |
| 3.4 Total critical incidents/monitored .....                                      | 17        |
| 3.5 Analysis of 29 critical incidents pre-july 2017 .....                         | 18        |
| 3.6 Lawfully intercepted information.....   | 19        |
| 3.7 Drug and alcohol testing.....   | 19        |
| 3.8 Conflicts of interest .....   | 19        |
| 3.9 Other Part 8A misconduct .....  | 19        |
| <b>4. ASSESSING COMPLAINTS.....</b>   | <b>20</b> |
| 4.1 Overview .....  | 21        |
| 4.2 Section 14 Guidelines/Notifiable Misconduct.....                              | 22        |
| 4.3 Transition from c@ts.i to IAPro by the NSWPF .....                            | 22        |
| 4.4 Complaints assessed.....  | 22        |
| 4.5 Mandatory reporting.....  | 23        |
| 4.6 Description of the types of matters that were referred to the Commission..... | 23        |
| 4.7 Complaints from the judiciary .....   | 23        |
| 4.8 NSW Crime Commission .....  | 24        |
| <b>5. OVERSIGHT AND AUDIT.....</b>  | <b>25</b> |
| 5.1 Oversight overview .....  | 26        |
| 5.2 Audit overview .....  | 29        |
| <b>6. INVESTIGATING SERIOUS POLICE MISCONDUCT.....</b>                            | <b>31</b> |
| 6.1 Investigating serious police misconduct.....                                  | 32        |
| <b>7. NSW CRIME COMMISSION.....</b>   | <b>38</b> |

|            |   |            |
|------------|---|------------|
| 7.1        | Overview .....  | 39         |
| <b>8.</b>  | <b>PREVENTION AND EDUCATION</b> .....   | <b>41</b>  |
| 8.1        | Overview .....  | 42         |
| 8.2        | Key projects .....  | 42         |
| 8.3        | Looking forward to 2018-19 .....  | 43         |
| 8.4        | Report under s 87O of <i>the Law Enforcement (Powers and Responsibilities) Act 2002</i> .....                 | 43         |
| <b>9.</b>  | <b>LEGAL MATTERS</b> .....  | <b>44</b>  |
| 9.1        | Overview .....  | 45         |
| <b>10.</b> | <b>GOVERNANCE AND ACCOUNTABILITY</b> .....  | <b>48</b>  |
| 10.1       | Governance and accountability .....   | 49         |
| <b>11.</b> | <b>COMMUNITY ENGAGEMENT</b> .....   | <b>51</b>  |
| 11.1       | Community engagement .....  | 52         |
| <b>1.</b>  | <b>APPENDIX 1</b> .....   | <b>54</b>  |
| 1.1        | Appendix 1 .....  | 55         |
| <b>2.</b>  | <b>APPENDIX 2</b> .....   | <b>67</b>  |
| 2.1        | Appendix 2: <i>Law Enforcement conduct Commission Act 2016</i> statutory reporting compliance checklist ..... | 68         |
| <b>3.</b>  | <b>APPENDIX 3</b> .....   | <b>70</b>  |
| 3.1        | Appendix 3: Allegations assessed .....  | 71         |
| <b>4.</b>  | <b>APPENDIX 4</b> .....   | <b>72</b>  |
| 4.1        | Appendix 4: Statistical data on exercise of Commission powers .....   | 73         |
| <b>5.</b>  | <b>APPENDIX 5</b> .....   | <b>74</b>  |
| 5.1        | Appendix 5: Prosecutions conducted by the DPP in 2017-18 arising from Commission investigations .....         | 75         |
| <b>6.</b>  | <b>APPENDIX 6</b> .....   | <b>78</b>  |
| 6.1        | Appendix 6: Annual Report under the <i>Government Information (Public Access) Act 2009</i> .....              | 79         |
| 6.3        | Public Interest Disclosures .....   | 83         |
| <b>7.</b>  | <b>APPENDIX 7</b> .....   | <b>85</b>  |
| 7.1        | Appendix 7: Financial Statements .....  | 86         |
| <b>8.</b>  | <b>APPENDIX 8</b> .....   | <b>132</b> |
| 8.1        | Appendix 8: Organisation structure .....  | 133        |
| <b>9.</b>  | <b>APPENDIX 9</b> .....   | <b>134</b> |
| 9.1        | Appendix 9: Law Enforcement Conduct Commission publications .....   | 135        |
| <b>10.</b> | <b>APPENDIX 10</b> .....  | <b>136</b> |
| 10.1       | Appendix 10: Directory, definitions and printing requirements .....   | 137        |
|            | <b>INDEX</b> .....  | <b>138</b> |
|            | <b>CONTACT INFORMATION</b> .....  | <b>141</b> |

# 1. CHIEF COMMISSIONER'S FOREWORD

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The Law Enforcement Conduct Commission commenced operations on 1 July 2017, and this report outlines the important work conducted in our first full year of independent oversight of the NSW Police Force (NSWPF) and the NSW Crime Commission (NSWCC). The Commission operates completely independently of the NSWPF and the NSWCC and is not subject to the control or direction of the Minister in the exercise of its functions.

2017-18 was a challenging but rewarding year for the Commission. Commission staff were engaged in the very important work of investigating police and Crime Commission misconduct and maladministration, whilst also refining operational and corporate policies and procedures that underpin the work we do. As a new Commission, it was important to build a culture of integrity and trust with Commission staff, the NSWPF and NSWCC and most importantly, with the NSW public.

A key priority for the Commissioners and senior staff was developing collaborative and productive relationships with the law enforcement agencies we oversight. It is important to note that in 2017-18, the NSWCC was in the throes of a restructure that resulted in the loss of staff and much uncertainty, however the relationship between the NSWCC and the LECC has, to date, been cooperative and cordial.

We have taken significant steps to build our relationship with the NSWPF in the hope that a more collaborative approach will increase cooperation and mutual understanding. Commissioners and senior staff regularly attend NSWPF forums and meetings and have provided training to police investigators on the LECC’s role in overseeing police handling complaints about their own officers. The Commission will continue to collaborate with the NSWPF and NSWCC to detect, investigate and expose misconduct to ensure a high degree of public confidence is maintained in the integrity of NSW law enforcement agencies.

Despite our best efforts and the Commission’s hardworking staff, we are constrained by a budget that does not allow us to take on all the investigations we would like. We are, like most other State Government organisations, expected to achieve so-called “efficiency dividend” savings of 3% of our annual budget for the next four years. The following table illustrates the impact the efficiency dividend will have on the LECC budget over this period:

|                                  | 2018-19      | 2019-20      | 2020-21      | 2021-22      |
|----------------------------------|--------------|--------------|--------------|--------------|
| Original recurrent funding level | \$22,354,000 | \$22,329,000 | \$22,462,000 | \$22,985,000 |
| Less “efficiency dividend”       | -\$206,000   | -\$402,000   | -\$597,000   | -\$1,187,000 |
| Amended recurrent funding level  | \$22,148,000 | \$21,927,000 | \$21,865,000 | \$21,798,000 |

There can be no question, of course, as to the Government’s responsibility for setting its budgetary priorities. However, the apparent assumption that the same or even more work can be done with fewer resources, implied by the use of the euphemism “efficiency dividend” is, in LECC’s case, unjustified. The fact is that the reduction in our financial means will inevitably result in reduction of staff and, necessarily, less oversight of law enforcement. We will, of course, do our best with what we have. Ultimately, the level of oversight is for the Government to determine.

The LECC was established on a supposedly budget neutral basis, however the *Law Enforcement Conduct Commission Act 2016* (LECC Act) requires the Commission to include three full time Commissioners and a Chief Executive Officer. The addition of two full time Commissioners and a CEO (and support staff), compared to previous agencies results in an additional cost of \$1,437,652. However, additional budget was not provided to fund these appointments and as such, it necessarily reduced positions within the operational areas of the Commission. Coupled with the announced reduced funding we have been told to expect and this budget negative status, the Commission has, and will have to refer matters back to the NSWPF for investigation which should otherwise have been independently investigated by the LECC.

Despite the Commission's challenging budget position, I'm pleased to report on the significant work completed by Commission staff in 2017-18, which included:

- Monitoring 34 NSWPF critical incident investigations, 19 of which Commission staff attended the critical incident scene.
- Assessing 2549 complaints.
- Conducting 29 private examinations, and 4 days of public examinations.
- Conducting 179 investigations, comprising 83 preliminary enquiries, 68 preliminary investigations and 28 full investigations.
- Visiting Port Macquarie, Walgett, Moree, Dubbo, Wellington and the greater Sydney region as part of the Commission's Community Engagement program.
- Commencing four extensive research projects.
- Presenting to solicitors and community organisations at a range of forums including the Youth Justice Coalition, Walgett Youth Justice Forum, Legal Aid Cooperative Legal Service Delivery program, Law Society Children's Legal Issues Committee, Women's Legal Service, Aboriginal Legal Service, Children's Legal Service, and the Justice Disability and Multicultural Advisory Councils, amongst others.

Of the investigations commenced, the following allegations were frequently raised (often overlapping):

- Misuse authority for personal benefit or the benefit of an associate (including obtaining sexual favours)
- Improper/unauthorised search
- Dealing or supply
- Harassment
- Excessive use of force
- Perjury

It is important to note that the overwhelming majority of complaints about the police do not justify the use by the Commission of its investigative powers and are appropriately investigated by the police, with the majority of these complaints being overseen, and if necessary, monitored by the Commission. If the Commission is not satisfied with the way the complaint has been investigated or with the management action taken, the NSWPF will be informed of the concerns and the reason for them, and may:

- request further information or advice about the reasons for a decision;
- conduct further enquiries in relation to the misconduct matter; and
- reconsider the findings made or the remedial action to be taken.

At the time of writing, the Commission furnished its first three reports to Parliament in September 2018, which are available on the Commission website. We will share more information about these investigations and others in the 2018-19 annual report. I also look forward to the finalisation of research projects commenced in 2017-18, of which we will share our findings and recommendations, where appropriate, in next year's report. The Commission's research projects are systems-focussed and analyse potential systemic issues in the NSWPF, including:

- The Suspect Targeting Management Plan (STMP) and its application for children and young people
- Operation Tuskett: a systems-focused investigation relating to the resourcing and management of a specialist command of the NSWPF, compliance with specific legislation and the policing of certain offenders
- Analysis of high risk critical incidents
- Bullying and sexual harassment

Finally, I want to thank Commission staff for their hard work during 2017-18. Establishing a new organisation like the LECC is an arduous process and staff have been patient and diligent in bringing together the functions of the Police Integrity Commission, the Police and Compliance Branch of the NSW

Ombudsman's office and the Inspector of the Crime Commission. Whilst we continue to refine our processes and identify areas to improve efficiency, I believe we are well placed to build on our successes in 2017-18 and share more of our work publicly during the year and in the 2018-19 report.

A handwritten signature in black ink, appearing to read 'M F Adams', with a stylized, cursive script.

**The Hon M F Adams QC**  
Chief Commissioner

**2.**

WHAT WE DO

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## 2.1 OUR HISTORY

By Letters Patent dated 20 May 2015, former NSW Shadow Attorney General Mr Andrew Tink AM was commissioned to examine ways in which oversight of the NSW Police Force (NSWPF) and the NSW Crime Commission (NSWCC) could be streamlined and strengthened.

Mr Tink submitted a report entitled Review of Police Oversight (the Tink Review) to Government on 31 August 2015. The Tink Review recommended the establishment of a single civilian oversight body for the NSWPF and the NSWCC.

On 26 November 2015, Minister for Police the Hon Troy Grant MP announced the establishment of a Law Enforcement Conduct Commission to exercise the functions carried out by the Police Integrity Commission (PIC) and the Police and Compliance Branch of the NSW Ombudsman's office (PCB). The new Commission would also have additional oversight powers concerning police investigations into critical incidents.

The PIC, the Inspector of the Crime Commission and the PCB were abolished when the Commission commenced operations on 1 July 2017. This annual report covers the Commission's first full year of operations.

## 2.2 OUR WORK

The Commission is the independent oversight body for the NSWPF and NSWCC and takes complaints about NSW Police officers, NSW Police civilian staff and Crime Commission staff.

### 2.2.1 DETECTING SERIOUS MISCONDUCT AND MALADMINISTRATION

One of the Commission's primary functions is to detect, investigate and expose serious misconduct and serious maladministration in the NSWPF and NSWCC. The Commission may investigate police or Crime Commission officers who are suspected of involvement in:

- soliciting or accepting bribes
- perverting the course of justice (for example by planting evidence at a crime scene, interfering with a brief of evidence or lying in court)
- serious assaults
- releasing confidential police information to criminals
- improperly interfering in police investigations
- improper relationships with criminals
- manufacturing, cultivating or supplying prohibited drugs
- crimes attracting a minimum of five years imprisonment (for example, serious fraud)

### 2.2.2 WHAT IS SERIOUS MISCONDUCT AND SERIOUS MALADMINISTRATION?

*Serious misconduct* is conduct that could:

- result in a prosecution for a serious offence;
- result in serious disciplinary action;
- demonstrate a pattern of misconduct or maladministration;
- be deemed corrupt conduct.

*Serious maladministration* is conduct of a serious nature that is:

- completely unreasonable;
- unjust;
- oppressive or improperly discriminatory; or
- arises wholly or in part from improper motives.

## 2.3 ASSESSING COMPLAINTS

Complaints come to the Commission in a number of ways, including:

- members of the public
- the NSWPF complaints management database; and
- Public Interest Disclosures, amongst other things.

Complaints are assessed by an internal Complaint Action Panel, which consists of the three LECC Commissioners and other senior staff. Complaints which may indicate employees of the NSWPF or NSWCC have engaged in serious misconduct or serious maladministration may be investigated by the LECC, independently of police.

The balance of complaints not directly investigated by the Commission are referred to police for action, and may be the subject of either oversight monitoring (where Commission investigators monitor the police's investigation of a complaint in real time) or oversight review (where Commission investigators review the police's investigation of a complaint).

In 2017-18, 2549 complaints were assessed by Commission staff, 49% of which came directly to the Commission, with 51% assessed from NSWPF databases. Further information about the assessment process can be found in chapter 4 of this report.

## 2.4 MONITORING CRITICAL INCIDENT INVESTIGATIONS

The Commission has the power to independently oversight and monitor the investigation of critical incidents by the NSWPF if it decides that it is in the public interest to do so.

A critical incident is an incident involving a police operation that results in death or serious injury to a person. The Commission monitors the investigation of critical incidents from the time of the incident until the completion of the investigation by police, to provide assurance to the public and the next of kin that police investigations into critical incidents are conducted in a competent, thorough and objective manner. In doing so, the Commission considers whether the NSWPF has adequately considered the following:

- the lawfulness and reasonableness of the actions of NSWPF officers involved in the critical incident;
- the extent to which the actions of the NSWPF officers complied with relevant law and policies and procedures of the NSWPF;
- any complaint about the conduct of involved NSWPF officers and any evidence of misconduct;
- the need for changes to relevant policies, practices and procedures of the NSWPF; and
- any systemic, safety or procedural issues arising from the actions of NSWPF officers.

If the Commission forms the view that the investigation is not being conducted in an appropriate manner, it can advise the NSWPF and/or the Coroner of its concerns and make recommendations in relation to the concerns identified. The NSWPF is required to consider and respond to concerns and recommendations raised by the Commission. The Commission may make the advice that it has given to the NSWPF or the Coroner public after the conclusion of the critical incident investigation.

In 2017-18, the Commission monitored 34 critical incident investigations, with Commission investigators attending 19 of the critical incident scenes. Further information about critical incident investigation monitoring can be found in chapter 3 of this report.

## 2.5 OVERSIGHT OF COMPLAINT HANDLING

The Commission oversees NSWPF and NSWCC investigations of alleged misconduct by officers of those agencies. The Commission may monitor, in real time, the progress of serious or significant misconduct matters but usually considers the adequacy of the investigation once investigation reports are completed by the relevant law enforcement agency.

If the Commission is not satisfied with the way the complaint has been investigated by the relevant agency or with the management action taken, the Commission advises the NSWPF or NSWCC of the concerns and the reason for these concerns, and may:

- request further information or advice about the reasons for a decision;
- conduct further enquiries in relation to the misconduct matter; and
- reconsider the findings made or the remedial action to be taken.

In response, the NSWPF and/or the NSWCC must provide the information or advice requested, and must notify the Commission of their decision in relation to a request for further enquiries or reconsideration of the findings or remedial action to be taken. In the event that the NSWPF and/or the NSWCC do not decide to conduct further enquiries, reconsider findings and/or reconsider management action to be taken, they must provide reasons for their decision. If the Commission is not satisfied with the decision, it may provide a report to the Minister or a special report to Parliament.

If the complaint concerns serious misconduct or maladministration, the Commission may decide to conduct its own investigation.

In 2017-18, 1296 NSWPF misconduct investigations, NSWCC misconduct investigations and critical incident investigations were subject to oversight by the LECC. Further information about Commission's oversight functions can be found in chapter 5 of this report.

## 2.6 INVESTIGATING SERIOUS POLICE MISCONDUCT

A principal function of the Commission is to detect and investigate allegations of serious misconduct of NSWPF officers and misconduct of NSWCC officers. The Investigations team in the Integrity Division of the Commission consists of two multi-disciplinary capabilities including that of Investigations operating under the supervision of a manager and consists of Senior Investigators, a Senior Financial Investigator, Investigators and Investigations Officers. The Division also includes the Intelligence capability under the supervision of a Team Leader and consists of Intelligence Analysts and Intelligence Support Officers. The Manager and Team Leader report to the Director Investigations.

Investigations and Intelligence functions within the Integrity Division operate with and are supported by other teams within the Division and from other Divisions and sections of the Commission. These include Legal Services, Assessments, Prevention and Education, Electronic Collection and Covert Services, amongst others.

Upon receipt by the Commission of new allegations of misconduct, usually, but not always, in the form of a complaint, the Commission may choose to initiate an Investigation or a Preliminary Investigation or to make some further enquiries before any further decision is made. This may include contacting the complainant (if one is identified), another person or another agency in order to seek further information and clarification.

In 2017-18, the Commission conducted 179 investigations, comprising 83 preliminary enquiries, 68 preliminary investigations and 28 full investigations. Further information about the Commission Integrity Division can be found in chapter 6 of this report.

## 2.7 LECC STRATEGIC PLAN 2017-20

The inaugural LECC Strategic Plan 2017-2020 sets out the objectives and priorities of the Commission, and identifies key measures of success for the first three years of operations.

Highlighted in the Strategic Plan is the LECC's endeavour to work closely with the NSWPF and NSWCC to identify instances of serious misconduct and maladministration. At the same time, the LECC must maintain, and be seen to maintain, its independence.

The Plan places an emphasis on prevention and education initiatives aimed at identifying and reducing the potential for corruption, misconduct and maladministration. It is anticipated that much of this work will be performed in collaboration with the agencies with whose activities it is concerned.

The Plan also highlights the LECC's work with a range of community organisations to be informed of the impact of law enforcement at the everyday level of the people with whom it deals, ensure its community engagement work identifies opportunities to build trust in the work of the Commission and confidence in its ability to investigate law enforcement misconduct and maladministration.

The Strategic Plan 2017-2020 focuses on the following five strategic themes that extend across all areas of the LECC's work:

#### **Delivering results**

Consistent delivery of what the Commission was established to do.

#### **Service and engagement**

Build relationships with the community and the agencies being overseen.

#### **Organisational capability**

Having the skills, capabilities, technology and governance that enable the Commission to achieve its operational goals.

#### **Lawful and fair**

Powers of compulsion and reporting are used fairly and in the public interest.

#### **People**

A diverse and capable workforce that is committed to continuous learning and open to new ideas and current best practices.

## 2.8 OUR PEOPLE

The Commission employs a variety of experienced people with specialised skills.

The Commission has a policy of not employing serving or former NSWPF or NSWCC officers. Any police investigators employed at the Commission are drawn from police services from other jurisdictions, both in Australia and overseas.

### 2.8.1 OUR SENIOR EXECUTIVE TEAM

#### **CHIEF COMMISSIONER THE HON M F ADAMS QC**

The Chief Commissioner, the Hon M F Adams QC, graduated with a Bachelor of Laws from the University of Sydney in 1969. He practised as a barrister in NSW and occasionally in other states and territories. Appointed Queen's Counsel in 1988, Mr Adams was a part-time Chairperson of the NSW Law Reform Commission from 1996 to 2006. Before taking up the position of Chief Commissioner of the Law Enforcement Conduct Commission in February 2017, he had served as a judge of the Supreme Court of NSW since 1998.

#### **COMMISSIONER FOR INTEGRITY THE HON LEA DRAKE**

The Commissioner for Integrity, the Hon Lea Drake, joined the Commission in April 2017. Prior to joining the Commission, Commissioner Drake was a Senior Deputy President with the Fair Work Commission from 1994 to 2017 (who, by virtue of s 63 (2) of the *Workplace Relations Act 1996* (Cth) held the same rank, status and precedence of a Justice of the Federal Court). Commissioner Drake was previously a partner at MacMahon and Drake Solicitors, a Councillor and Chairperson of the Professional Misconduct Committee of the Law Society of New South Wales and a Commissioner of the Law Reform Commission of NSW. Commissioner Drake's qualifications include a Bachelor of Laws and a Diploma of Industrial Relations and Labour Law from the University of Sydney. Commissioner Drake was admitted as a solicitor in 1976.

#### **COMMISSIONER FOR OVERSIGHT MR PATRICK SAIDI**

The Commissioner for Oversight, Mr Patrick Saidi joined the Commission in June 2017. Prior to his appointment, Mr Saidi was at the private bar where he appeared in many important and high profile

inquests and Commissions of Inquiry. Mr Saidi is a graduate of the University of Sydney with a B.Ec and also a graduate of the University of New South Wales with a LL.B.

#### CHIEF EXECUTIVE OFFICER MS AMBER WILLIAMS

The Chief Executive Officer, Ms Amber Williams, formulates and implements the Commission's vision, workforce capability and overall strategic direction.

As the Commission agency head, the CEO carries out the employer functions of the NSW Government in relation to public service senior executives and non-executive employees, and provides the leadership direction and governance necessary to ensure successful delivery of the Commission's operational functions against Commission and financial goals.

Ms Williams was previously Executive Director, Strategic Human Resources for the NSW Department of Justice, with a workforce of approximately 14,000. At the Department of Justice, Ms Williams was responsible for leading and setting the strategic direction of the HR Division whilst ensuring operational delivery of business projects and key workplace reforms.

Ms Williams commenced maternity leave on 25 May 2018, and Solicitor to the Commission, Ms Michelle O'Brien, commenced acting in the CEO role.

#### SOLICITOR TO THE COMMISSION MS MICHELLE O'BRIEN

Ms O'Brien graduated with a BA, LLB from the University of New South Wales in 1986. She was admitted as a solicitor the same year and practiced in private legal firms in Sydney for the next eight years with a break in 1989 when she worked as a solicitor in London.

In 1994, Ms O'Brien joined the Wood Royal Commission into the New South Wales Police Service as a lawyer and went on to become Commission Solicitor at the Police Integrity Commission, which was established at the end of the Wood Royal Commission.

In 2014, Ms O'Brien became an Accredited Specialist in Government and Administrative Law and was appointed to the Commission on 1 July 2017.

As Solicitor to the Commission, Ms O'Brien acts as the Chief Legal Advisor for the Commission, delivering high level strategic legal advice to support the Chief Commissioner, Commissioners and CEO with respect to the legal operations of the agency.

The Solicitor to the Commission is a member of the Commission's Executive Committee and is responsible for leading the Commission's Legal Services team.

A copy of the Commission's organisation chart can be found in Appendix 8 of this report.

**3.**

CRITICAL  
INCIDENT  
MONITORING

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## 3.1 OVERVIEW

The Commission entered into formal arrangements with the NSW Police Force (NSWPF) regarding the monitoring of critical incident investigations by the Commission in February 2018. The Commission successfully engaged with the NSWPF, Police Association and State Coroner in drafting these arrangements, and prior to its finalisation the NSWPF facilitated the Commission's monitoring function in a similar manner to the finalised arrangements.

From 1 July 2017 to 30 June 2018 the NSWPF declared 34 critical incidents. The Commission initiated monitoring of all 34 critical incidents from the time of being notified of the declarations. Three critical incident investigations were ceased by the NSWPF on the basis that the injuries sustained by the injured parties were not of the requisite seriousness. The Commission continues to monitor the remaining 31 critical incident investigations, which are still open and have not been finalised by the NSWPF in the reporting period.

## 3.2 MONITORING CRITICAL INCIDENT INVESTIGATIONS

The NSWPF is required to notify the Commission immediately after the declaration of a critical incident<sup>1</sup>. The average time between the declaration of a critical incident and the Commission being notified of the critical incident was around 24 minutes<sup>2</sup> in 2017-18, with the timeliest notification being around 5 minutes after its declaration. Whilst the time taken to notify the Commission of the critical incident has, at this stage, had no real impact upon the Commission's ability to effectively monitor critical incidents, there is room to improve notification timeliness.

In respect to the critical incident that occurred at Central Station in July 2017, which involved death by police shooting, the Commission became aware of the critical incident through media coverage prior to the critical incident being declared as such. Once declared as a critical incident, the Commission was notified within 10 minutes.

Originally the notification of a new critical incident to the Commission occurred around the same time as, or even prior to, notification to the NSWPF Review Officer (currently an officer from the Professional Standards Command). The NSWPF has recently changed the manner in which the Commission is notified of a new critical incident and that notification is now conducted by the NSWPF Review Officer. It is anticipated that this new notification methodology employed by the NSWPF will further increase the time taken to notify the Commission of critical incident declarations as the NSWPF Review Officer is not one of the first people notified of the incident.

In monitoring a critical incident, authorised Commission staff may attend the location of the critical incident, be present as observers at interviews conducted in relation to the critical incident, be provided transcripts and recordings of interviews conducted, as well as be provided access to documents obtained during the course of the investigation<sup>3</sup>

The Commission is provided access to the investigation management database in which the critical incident investigation is managed, and the Commission's investigators review documents uploaded to this database in a timely manner. Copies of anything else not stored on the investigation management database are requested by Commission staff and reviewed like all other material.

The Commission raises questions and concerns about critical incident investigations when they are identified, and these communications occur through the NSWPF Review Officer allocated for each critical incident investigation.

The Commission is generally being updated with relevant information about the critical incident investigation in a timely manner, and this has facilitated in a number of critical incident Commission

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<sup>1</sup> s 112 of the LECC Act

<sup>2</sup> Excluding a number of statistical outliers. For instance, in one critical incident that was not declared until a number of months after the incident due to no prior knowledge of the death, the Commission was not notified until 11 days after the making of the declaration.

<sup>3</sup> s 114 of the LECC Act

investigators being present at scene walkthroughs, major crime reviews, briefings conducted by the NSWPF Senior Critical Incident Investigator and searches conducted in connection with critical incidents.

### 3.3 MONITORING LIMITATIONS

Section 114(3)(c) of the *Law Enforcement Conduct Commission Act 2016* (LECC Act) provides the Commission with the ability to be present at, or remotely monitor, interviews conducted by the NSWPF for the purpose of the critical incident investigation.

Unlike monitoring functions outlined within Part 7 of the LECC Act (oversight of misconduct matter investigations), the authority within s 114(3)(c) has an additional requirement that the person being interviewed and the Senior Critical Incident Investigator must consent to the Commission being present.

Section 114 of the LECC Act provides for much of the Commission's statutory monitoring functions, including:

For the purpose of the Commission monitoring a critical incident investigation, a Commissioner or other officer of the Commission authorised in writing by a Commissioner may do all or any of the following:

- (a) attend a place where a critical incident occurred for the purpose of observing the exercise by police officers of any investigatory powers at or in relation to the place,
- (b) be given access without unreasonable delay to transcripts or any recordings of interviews of witnesses of a critical incident conducted by police officers for the purposes of the investigation,
- (c) with the consent of the person being interviewed and the senior critical incident investigator, be present as an observer during an interview conducted by police officers for the purposes of the investigation or view such an interview by audio visual link,
- (d) require the nominated contact for the critical incident to provide, within the period specified by the Commission, access to documents obtained or prepared by police officers for the purposes of the investigation

Whilst there were 34 critical incidents during the reporting period, the Commission was refused consent by the involved police officers to be present or remotely monitor all of their interviews.

It is not clear on what basis the involved police officers refused consent and the LECC Act does not require that a reason be provided. It appears to be an automatic position taken by involved police officers. Real time monitoring of interviews of involved police officers appears to be an illusory power.

To date, the Commission has been provided consent to be present at one interview conducted as part of the critical incident investigation, and that interview was with a Corrective Services officer who was seriously injured by a police prosecutor at a court complex.<sup>4</sup>

The Commission recognises that interviews with involved officers or witness officers in a critical incident investigation may already contain a number of people including interviewers, interviewee, support person and solicitor. The Commission concedes that the presence of additional persons in the interview room may be impractical and may impact the interview in an undesirable way. As such, the Commission's preference in monitoring critical incident interviews would be through the use of remote interview monitoring facilities, as this would alleviate the need to be present in the room in which the interview is being conducted.

Unfortunately, the NSWPF currently has a low number of police stations with remote interview monitoring facilities, and as such the Commission would generally need to be physically present in a room to monitor an interview. Although the Commission recognises that the lack of remote monitoring facilities may affect the willingness of interviewers and interviewees to allow the Commission's staff to

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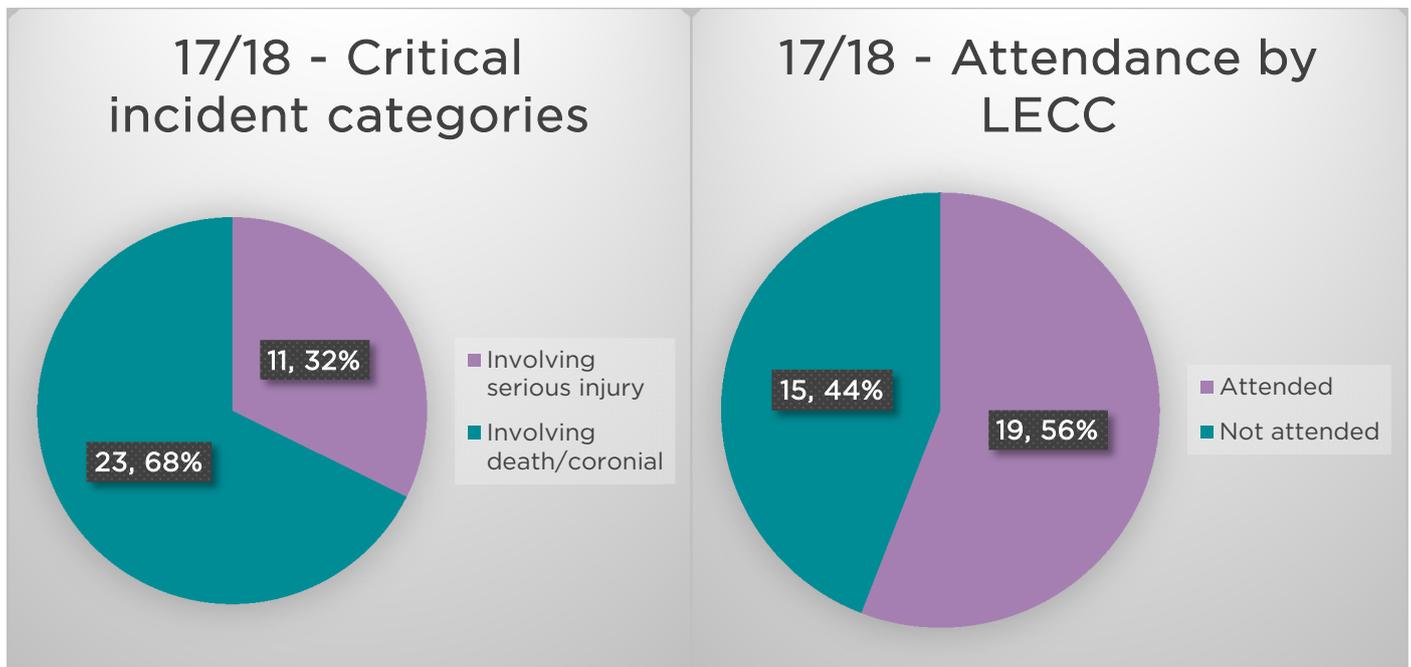
<sup>4</sup> The police prosecutor has since been charged with recklessly causing grievous bodily harm and assault occasioning actual bodily harm in relation to this critical incident, as well as common assault and affray for another incident that occurred within the same local court complex a number of weeks earlier.

monitor interviews, the Commission's staff have been declined permission to monitor interviews with involved police officers, even where remote interview monitoring facilities are available. Where there are remote monitoring facilities it is unclear why interviewer and/involved officer interviewees decline to consent to the Commission's staff monitoring involved officer interviews, as there is no requirement that reasons for declining consent are provided.

### 3.4 TOTAL CRITICAL INCIDENTS/MONITORED

#### Categories of critical incident

| CRITICAL INCIDENTS                                  | 2017-18        |
|---|----------------|
| Declared by the NSWPF                               | 34             |
| Monitored by LECC                                   | 34             |
| Ceased as critical incident investigations by NSWPF | 3              |
| Ceased being monitored by the Commission            | 0              |
| Finalised   | 0 <sup>5</sup> |



<sup>5</sup> As no critical incident investigations were finalised by the NSWPF, the LECC was not able to finalise its monitoring of any of the investigations.

## Critical incident categories

| CATEGORY  | NUMBER IN 2017-18 |
|---|-------------------|
| Death in the course of a police operation <sup>67</sup>                             | 8                 |
| Death arising from a police vehicle pursuit   | 5                 |
| Death arising from the discharge of a firearm by a police officer                   | 4                 |
| Death in police custody   | 4                 |
| Serious injury of a person in police custody  | 3                 |
| Serious injury arising from a NSW police operation                                  | 3                 |
| Death from the use of police appointments (not firearm)                             | 1                 |
| Discharge of firearm by police in high risk operational circumstances               | 1                 |
| Serious injury arising from a police vehicle pursuit                                | 1                 |
| Serious injury arising from the discharge of a police firearm                       | 1                 |
| Serious injury as a result of the application of physical force by a police officer | 1                 |
| Serious injury to police officer/s arising from a police operation                  | 1                 |
| Suicide resulting from the discharge of a police firearm                            | 1                 |
| <b>TOTAL</b>  | <b>34</b>         |

### 3.5 ANALYSIS OF 29 CRITICAL INCIDENTS PRE-JULY 2017

There were 81 open critical incident investigations when the Commission's monitoring powers commenced on 1 July 2017. The Commission assessed 29 of these to be high-risk according to a number of criteria, including the nature of the incident and the vulnerability of persons involved. The Prevention and Education team has analysed NSWPF records for this subset of critical incident investigations. The purpose includes benchmarking compliance by the NSWPF with critical incident investigation guidelines, informing Commission practice, and ascertaining the reasons for delays in finalisation. The Commission will also identify and report on any outstanding recommendations arising from the Police Integrity Commission's report, Project Harlequin (2017).

A preliminary analysis of records was completed and provided to the Commissioner of Police and the Professional Standards Command in February 2018. Further enquiries are being undertaken with both the NSWPF and the Coroner to explore emerging issues.

<sup>6</sup> 'In the course of a police operation' is a broad definition and has included a variety of incidents, including: police responding to concerns for welfare and when at the location an individual has been critically injured with limited or no police involvement; incidents in which police have contained a premises and during attempts to negotiate with the occupants the occupants have critically injured themselves; and, and individual seriously injuring themselves whilst being pursued by police on foot.

<sup>7</sup> As at 15 June 2018, section 23 of the *Coroners Act 2009* now states 'As a result of police operations' and has omitted 'In the course of police operations'.

### 3.6 LAWFULLY INTERCEPTED INFORMATION

There is currently an unresolved question between the LECC and the NSWPF regarding the Commission's ability to access and review lawfully intercepted information obtained by the NSWPF pursuant to the *Telecommunications (Interception and Access) Act 1979* as part of its monitoring of critical incident investigations. The Commission is currently not being provided access to this material.

The inability of the Commission to review lawfully intercepted information has the potential to result in the Commission being unable to effectively determine whether a critical incident investigation has been conducted appropriately as it is unable to review all relevant material. The relevant legislation will shortly be referred to the Solicitor General for advice.

### 3.7 DRUG AND ALCOHOL TESTING

Drug and alcohol testing of directly involved officers in a critical incident is mandatory in most circumstances. Despite this, in some circumstances it is not possible to undertake drug or alcohol tests on the involved officers in a timely manner.

For instance, one critical incident being investigated by the NSWPF involved an individual who had been followed by the NSWPF late one evening, and as a result of that police attention the individual abandoned his vehicle on the side of a road and fled into neighbouring bushland. The male was not located by police at the time, and a number of months later his body was located at the base of a cliff approximately 400 metres from where he had stopped the vehicle. The officers who had followed him several months earlier were correctly declared involved officers by the critical incident investigation team. Current legislative provisions require the involved officers to be subjected to mandatory drug and alcohol testing despite the elapsed time from the critical incident. Any drug or alcohol testing of the involved officers in this instance would have had no correlation to the actual critical incident. This anomaly has been identified as an area for possible legislative amendment.

### 3.8 CONFLICTS OF INTEREST

Conflict of interest declarations are required from all investigators assisting with a critical incident investigation. The Critical Incident Monitoring team reviews all conflict of interest forms, and in most instances the Commission was satisfied that the conflict was managed appropriately by the NSWPF Senior Critical Incident Investigator.

In one instance a conflict was considered a significant conflict that involved an investigator having a close personal relationship with the husband of one of the officers involved in the critical incident. The Commission raised this as an issue with the NSWPF and that consideration should be given to removing the officer from the critical incident investigation team as it was the Commission's view that this conflict of interest would be difficult to successfully manage.

The Commission's request was rejected by the Senior Critical Incident Investigator and the investigator continued as part of the investigation team. The investigator was eventually removed from the investigation, only after the potential conflict became an actual conflict, and that officer was approached inappropriately by the officer identified as the conflict.

### 3.9 OTHER PART 8A MISCONDUCT

Throughout the course of a number of critical incident investigations, the monitoring team identified a number of issues not directly related to the critical incident which could be officer misconduct. These issues were raised with the NSWPF, and generally dealt with by the NSWPF as separate misconduct matter investigations under Part 8A of the *Police Act 1990*.

**4.**

# ASSESSING COMPLAINTS

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## 4.1 OVERVIEW

Section 26 of the *Law Enforcement Conduct Commission Act 2016* (LECC Act) states that a principal function of the Commission is to detect officer misconduct. The Commission exercises this function through a number of processes including the assessment of information and complaints regarding alleged officer misconduct. The Commission's assessment process is a key step in detecting officer misconduct.

At capacity, the Assessment team structure comprises eight full time equivalent staff members, with responsibility for undertaking the assessment of all complaints received directly by the Commission, as well as all new complaints recorded on the NSW Police Force (NSWPF) complaints database.

Misconduct matters come to the Commission's attention in a number of ways including:

- directly from the public, usually via the Commission's website complaint form or via letter;
- from judicial officers and legal representatives; and
- via the NSWPF complaints database, which changed in the reporting period from c@tsi to IAPro.

When assessing complaints on the NSWPF complaints database, the Commission undertakes various assessments including:

- whether the Commission will take over the investigation of that complaint;
- whether all relevant issues have been identified by police; and
- with notifiable misconduct matters, whether the Commission agrees with the NSWPF decision to investigate or otherwise deal with the misconduct matter.

The Commission has statutory responsibilities to notify the NSWPF as to whether it agrees or disagrees with the decision to investigate or otherwise deal with every notifiable misconduct matter. If the Commission does not agree it will require the NSWPF to investigate the misconduct matter and also notify the complainant of that fact.

After assessment, all misconduct matters are referred to the Commission's Complaint Action Panel with preliminary recommendations for action provided by the Assessment team. The Panel reviews all matters and either confirms the preliminary recommendation, or makes an alternate decision which may include Commission investigation or monitoring of the misconduct investigation by the NSWPF or NSW Crime Commission (NSWCC).

The Complaint Action Panel consists of all three Commissioners, Director Investigations Integrity, Director Investigations Oversight and other senior staff that can help inform the Commission in its decision.

Where complaints are made directly, they will generally come before the Complaint Action Panel within a week. Although on occasions there is sufficient information to enable an immediate decision to be made by the Commissioners, as to conduct an investigation, most often it will be necessary to conduct some form of preliminary enquiry first.

The time taken for preliminary enquiries varies depending on the allegations contained within the misconduct matter. Thus, no useful indication of the time interval between the receipt of each misconduct matter by the Commission and the Commission deciding to investigate the matter can be given.

It is a fair indication of the information specified in s 139(2)(f)(i) of the LECC Act that a decision to investigate will usually be made within a week or so of that matter coming to the Commissioners' attention, if a preliminary enquiry is treated as the commencement of the

investigation process, even though in the result the Commission may decide the matter should be referred back to the NSWPF for investigation.

## 4.2 SECTION 14 GUIDELINES/NOTIFIABLE MISCONDUCT

The Commission and the NSWPF entered into an agreement pursuant to s 14 of the LECC Act (referred to as the Section 14 Guidelines) in November 2017. This agreement constitutes guidelines outlining the categories of complaints that are required to be notified to the Commission, and upon which the Commission primarily focuses its oversight functions. Prior to November 2017 the Commission and the NSWPF were operating in accordance with the previous Class and Kind Agreement between the NSWPF, the NSW Ombudsman's office and the Police Integrity Commission.

The s 14 Guidelines have broadened the classes of matters that are now notifiable to the Commission. One relevant addition to the types of matters that are notifiable to the Commission, and which has never been sufficiently captured, is:

*"Letters of demand, Statements of Claim, originating process or other pleadings or particulars...that alleges, expressly or impliedly, an act or omission capable of constituting serious misconduct..."*

## 4.3 TRANSITION FROM C@TS.I TO IAPRO BY THE NSWPF

In April 2018, the NSWPF transitioned to a new misconduct matters information system, IAPro, and decommissioned the old system [c@ts.i](#). This transition has presented a number of challenges to the Commission, particularly with regard to reviewing new notifiable misconduct matters registered with the NSWPF, receiving finalised s 137 investigation reports and the copying of relevant documentation from the NSWPF system.

The Commission is continuing to work with the NSWPF in order to make these processes more efficient.

## 4.4 COMPLAINTS ASSESSED

**Total number of matters dealt with (assessed) by the Commission during the year<sup>8</sup>:**

|                           | 2017-18 |
|---------------------------|---------|
| Total complaints assessed | 2549    |

**Total % of complaints that were non-referred and from the NSWPF**

|  | 2017-18    |
|--|------------|
| Total non-referred complaints assessed         | 1254 (49%) |
| Total complaints assessed from NSWPF databases | 1295 (51%) |

<sup>8</sup> As reported in the monthly Strategic Operations Committee

## 4.5 MANDATORY REPORTING

### Reports of misconduct matters made pursuant to s 33 of the LECC Act

|  | 2017-18 |
|--|---------|
| NSW Crime Commission                           | 11      |
| Independent Commission Against Corruption      | 23      |
| Officer of the Director of Public Prosecutions | 1       |
| Police   | 1295    |

### Breakdown of complaints directly to the LECC: police vs public

|   | 2017-18    |
|---|------------|
| Police who identified themselves as police <sup>9</sup> . | 79 (6%)    |
| Members of the public                                     | 1254 (94%) |

## 4.6 DESCRIPTION OF THE TYPES OF MATTERS THAT WERE REFERRED TO THE COMMISSION

Misconduct matters referred to the Commission from the NSWPF are all matters that are identified as notifiable misconduct matters in accordance with the s 14 Guidelines agreed to between the Commission and the NSWPF.

The types of misconduct frequently referred to the Commission include allegations of:

- failing to comply with the *Law Enforcement (Powers and Responsibilities) Act 2002*;
- protection of person(s) involved in drugs or other criminality;
- unreasonable use of force;
- failure to investigate; and
- Statements of Claim raising questions of serious misconduct.

## 4.7 COMPLAINTS FROM THE JUDICIARY

As a result of identifying a perceived gap between the identification of possible misconduct by a magistrate or judicial officer and the recording of that misconduct onto the NSWPF misconduct matters information system, the Commission has actively engaged with the judiciary in NSW in order to encourage the direct reporting of misconduct information to the Commission.

During the reporting year, the Commission received four complaints directly from magistrates. One of those complaints resulted in a full investigation by the Commission into issues around the excessive use of force in a metro Sydney police station. In that matter, the magistrate had earlier directed that the police prosecutor lodge the matter as a complaint through the NSWPF complaints system. This complaint was never recorded by police onto their system.

<sup>9</sup> Includes current, former and unsworn. It is also strongly suspected that a number of other anonymous complaints to the LECC have been made by serving police officers based on the contents of the complaints; however it cannot be confirmed that they were serving police officers.

## 4.8 NSW CRIME COMMISSION

In November 2017, the Commission entered into an Agreement and Guidelines with the NSW Crime Commission in accordance with s 14 of the LECC Act. These guidelines outline the categories of misconduct matters that are required to be notified to the Commission, and upon which the Commission primarily focusses its oversight functions.

Between 1 July 2017 and 30 June 2018, the Commission assessed seven misconduct matters involving serving members of the NSW Crime Commission. The allegation types included:

- bribery
- fabrication of evidence
- attempting to pervert the course of justice
- improper association
- protection of person(s) involved in drugs
- unauthorised/improper disclosure of information
- fail to declare a conflict of interest
- misuse of authority for personal benefit

# 5. OVERSIGHT AND AUDIT

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## 5.1 OVERSIGHT OVERVIEW

At capacity, the Oversight Investigations team structure comprises nine full time staff members. The team undertakes many of the functions previously undertaken by the Police and Compliance Branch of the NSW Ombudsman's office, including the review and monitoring of NSW Police Force (NSWPF) investigations of notifiable misconduct matters.

The Oversight Investigations team may:

- Undertake reviews pursuant to Part 8A of the *Police Act 1990* misconduct matter investigations conducted by the NSWPF
- Actively monitor Part 8A complaint investigations

The team also supports the Commission's objective of identifying opportunities to address systemic issues in complaint handling by the NSWPF and in the exercise of police powers.

During the reporting period the Oversight Investigations team received 1261 NSWPF investigations for oversight.

Since this time, the Oversight Investigations team has implemented a prioritisation model to strategically identify matters which warrant review by an investigator in the Oversight Investigations team. In 2018-19, this process will be further refined to ensure that the resources of this team are utilised appropriately.

### 5.1.1 OVERSIGHT CASE MANAGEMENT SYSTEM

The Commission undertakes all of its investigations, oversight and monitoring functions within the previous Police Integrity Commission (PIC) case management system known as CMS. This system was primarily utilised by the PIC to undertake investigations and was not designed for oversight and monitoring functions now being undertaken by the Commission.

The Commission has implemented a small number of improvements to CMS to more effectively manage oversight functions; however, a substantial change to this system has not been undertaken as the Commission is in the process of developing a new case management system to replace CMS.

The new system, called LECC Oversight and Integrity System (LOIS) is expected to be operational in the first half of 2019.

### 5.1.2 TRAINING FOR OVERSIGHT INVESTIGATORS

The Oversight team has actively sought knowledge about how the NSWPF undertakes its business, and in doing so has attended various information and training sessions with the NSWPF.

This included information and training around use of force presented by the NSWPF, as well as the operation of In Car Video in police vehicles.

Exposure to further information and training delivered by the NSWPF is believed to be highly beneficial to Commission staff in their roles of overseeing NSWPF complaint investigations.

### 5.1.3 THE NUMBER OF NSWPF MISCONDUCT INVESTIGATIONS, NSWCC MISCONDUCT INVESTIGATIONS AND CRITICAL INCIDENT INVESTIGATIONS SUBJECT TO OVERSIGHT

|  | 2017-18 |
|--|---------|
| NSWPF misconduct matter investigations received and overseen                               | 1261    |
| NSWPF misconduct matter investigations where oversight was finalised prior to 30 June 2018 | 671     |
| NSWCC misconduct matter investigations overseen  | 1       |
| NSWPF critical incident investigations where oversight finalised prior to 30 June 2018     | 3       |
| NSWPF critical incident investigations overseen  | 34      |

### 5.1.4 TRANSITION OF OVERSIGHT FUNCTION FROM THE NSW OMBUDSMAN'S OFFICE

Upon commencement of operations, the Commission received a caseload of approximately 586 open files from the NSW Ombudsman's office which required oversight.

The receipt of this significant caseload, in addition to overseeing newly finalised misconduct matter investigations from the NSWPF, with limited staff and a case management system not designed for overseeing investigations, has presented numerous challenges for the Commission.

The Oversight Division is working with the developers of the Commission's new case management system to develop more efficient and effective systems for managing and reporting oversight matters.

The Oversight Investigations team has also undertaken targeted recruitment to ensure that the investigators within this team are suitably trained and experienced.

### 5.1.5 NUMBER OF NSWCC MISCONDUCT INVESTIGATIONS THAT WERE THE SUBJECT OF OVERSIGHT BY THE COMMISSION UNDER PART 7 OF THE LECC ACT

The Commission oversaw one completed misconduct matter investigation undertaken by the NSWCC. No issues were identified by the Commission in respect of those investigations.

### 5.1.6 REFERRALS TO THE INTEGRITY DIVISION

Having one agency with responsibility for overseeing NSWPF misconduct investigations and undertaking investigations into serious misconduct has provided a number of opportunities for the internal referral of matters to the Integrity Division. These referrals have included officers with concerning complaint histories as well as the takeover of finalised NSWPF misconduct investigations in respect of which the Commission had serious concerns about the outcome and considered there was a public interest in further investigation.

As a result of overseeing two finalised NSWPF misconduct matter investigations, which resulted mostly in not sustained findings by the NSWPF, the Commission decided that it was not satisfied with the NSWPF investigations and outcomes. Consequently the Commission made a decision to take-over the misconduct matters and commenced its own investigations into the matters. These investigations are still ongoing.

**CASE STUDY 1:** As a result of reviewing a finalised NSWPF misconduct matter investigation involving drug related allegations against a sworn NSWPF officer, the Oversight Investigation team, whilst having no serious concerns with the not-sustained findings made within the NSWPF investigation, had ongoing concerns about the subject officer and his overall complaint history that included further allegations relating to drug activity. The Oversight Investigation team referred the officer to the Integrity Division for consideration of an investigation, and an investigation was commenced (Operation Carlow).

Operation Carlow was an investigation initiated by the Commission following information received relating to allegations of serious police misconduct by an officer of a regional police Command including drug use, drug supply and criminal associations. A covert investigation was conducted and this led to further allegations against the officer. A number of private examinations were conducted by the Commission. A report of the investigation is in preparation and is expected to include recommendations for consideration of prosecution of the officer.

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## 5.1.7 TAKEOVER OF FINALISED NSWPF MISCONDUCT INVESTIGATIONS

Upon reviewing or monitoring a misconduct matter, the Commission may identify that it is a class of matter that could be investigated by the Commission in accordance with Part 6 of the LECC Act. In these cases, the Commission has the ability to take over and investigate that misconduct, even if the investigation by the NSWPF has been finalised.

In 2017-18, the Commission identified two finalised NSWPF investigations with outcomes with which the Commission did not agree and which were referred to the Integrity Division as warranting investigation under Part 6 of the LECC Act. These were matters in which the findings made by the NSWPF indicated that the matters were substantially not sustained. These misconduct matters were accepted as Part 6 investigations by the Integrity Division and named Operation Rozzano and Operation Chivero. Further information about these investigations can be found in chapter 6 of this report.

## 5.1.8 OVERSIGHT MONITORING

At the time of writing, the Commission is actively monitoring seven NSWPF misconduct matter investigations in accordance with s 101 of the *Law Enforcement Conduct Commission Act 2016* (LECC Act). Monitoring active NSWPF misconduct investigations allows the Commission to oversee these investigations in real time, including attendance at interviews conducted by the NSWPF, conferring with investigators about the investigation and requesting progress updates.

These investigations concern misconduct matters that are in the public interest to be monitored, although the Commission is not undertaking the investigation itself.

The Commission intends to increase its focus on actively monitoring NSWPF misconduct investigations in 2018-19.

**CASE STUDY 2:** In February 2018, the Commission commenced monitoring the investigation of a misconduct matter that included allegations of unlawful strip searching of two individuals brought into custody at a metropolitan Sydney custody station. In monitoring this investigation, the Commission met with the investigator and Commander as well as attending two interviews with subject officers in the investigation. At various stages throughout the investigation by the NSWPF, the Commission raised a number of concerns with the investigation, including that the scope of the investigation should include whether there were systemic issues concerning strip searching at the relevant police station. The NSWPF made numerous not-sustained findings in this investigation, and the Commission notified the NSWPF that it did not agree with the findings in early July 2018, requesting a

further investigation of the misconduct matter. This request was accepted by the NSWPF and a reinvestigation commenced.

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## 5.1.9 CORRESPONDENCE PURSUANT TO SS 104 AND 105 OF THE LECC ACT

The Commission has responsibility for reviewing misconduct matter investigations undertaken by the NSWPF in order to ensure that they have been undertaken in an appropriate manner with well-reasoned outcomes and findings. The Commission has written to the NSWPF in accordance with ss 104 and 105 of the LECC Act in order for the NSWPF to undertake further investigations or review the outcomes and findings on a number of investigations.

Correspondence pursuant to ss 104 and 105 was not restricted to matters in which the NSWPF has made not-sustained findings, but has also included instances where sustained findings were made against subject officers. For instance, as a result of overseeing a NSWPF investigation that resulted in numerous officers having sustained findings made against them, the Commission wrote to the NSWPF in June 2018, pursuant to s 105 of the LECC Act, and indicated that the Commission did not believe that a number of the findings were justified. The Commission further requested that the NSWPF reconsider those findings as well as the management action that resulted from them. At the time of writing, the Commission had not received a response from the NSWPF as to whether they had reconsidered those findings.

## 5.2 AUDIT OVERVIEW

Pursuant to s 32 of the LECC Act, the Commission is responsible for keeping under scrutiny the systems for dealing with NSWPF and NSWCC complaints.

It was important for the Commission to ensure the audit function was established quickly as reduced resources in the Ombudsman's office resulted in an inability to conduct regular audits of the NSWPF's processes for handling complaints. The Commission delayed on-site audits of the NSWPF in order to establish a Memorandum of Understanding with the NSWPF about the conduct of those audits. Negotiations around this MoU were well advanced until in early 2018 the NSWPF indicated that they would not be signing a MoU with the Commission as they deemed it not necessary.

The Commission entered into a MoU with the NSWCC about the conduct of audits relating to the NSWCC.

### 5.2.1 NUMBER OF AUDITS COMPLETED AND OUTCOMES

In the Commission's first year of operation, the audit function allowed the Commission to understand the operation of misconduct matter related policies and processes. This included the technological and governance systems that support these processes. The implementation of the LECC Act also required the NSWPF and NSWCC to make some changes to their processes for dealing with misconduct matters. The Commission used its audit function to monitor these changes and, where necessary, feedback was provided for consideration.

The audit function has allowed the Commission to gain valuable insights into how the NSWPF and NSWCC manage misconduct matters.

The Commission conducted one on-site audit of the NSWCC, and one on-site audit of the NSWPF. In addition to these on-site audits, the Commission undertook a number of desktop audits relevant to the handling of misconduct matters by the NSWPF as well as the NSWCC.

Ad-hoc audits have also been undertaken on NSWPF Facebook pages.

## 5.2.2 PLANNED FUTURE AUDITS

The Commission will continue to audit how the NSWPF and NSWCC deal with misconduct matters by identifying and managing them in accordance with regulatory requirements.

These audits will explore in greater detail how complaint information can support continuous improvement or indicate potential systemic inadequacies that require attention. This is to ensure that the NSWPF and NSWCC recognise the greater value of complaints beyond fulfilling its regulatory compliance requirements.

## 5.2.3 DESCRIPTION OF ITS ACTIVITIES DURING THE FINANCIAL YEAR IN RELATION TO THE EXERCISE OF ITS FUNCTIONS UNDER SS 27 AND 32 OF THE LECC ACT

The Commission formally exercised functions under s 32 of the LECC Act on two occasions, both being in respect of the on-site inspections of records detailed above.

The Commission has engaged with the relevant areas of the NSWPF and NSWCC regarding the outcomes of those inspections including areas for improvement. The Commission has not produced any reports in accordance with s 32(5) of the LECC Act.

**6.**

INVESTIGATING  
SERIOUS POLICE  
MISCONDUCT

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## 6.1 INVESTIGATING SERIOUS POLICE MISCONDUCT

A principal function of the Commission is to detect and investigate allegations of serious misconduct of NSW Police Force (NSWPF) officers and misconduct of NSW Crime Commission (NSWCC) officers. This chapter will provide an overview of the Commission's Integrity Division which is responsible for those investigations. The end of the chapter contains a profile of some of the more significant Integrity investigations open during the reporting period.

### 6.1.1 STRUCTURE OF THE INVESTIGATIONS TEAM WITHIN THE INTEGRITY DIVISION

The Investigations team of the Integrity Division of the Commission consists of two multi-disciplinary capabilities. One is investigations operating under the supervision of a manager and consisting of Senior Investigators, a Senior Financial Investigator, Investigators and Investigations Officers. The other is the Intelligence capability under the supervision of a Team Leader and consists of Intelligence Analysts and Intelligence Support Officers. The Manager and Team Leader report to the Director Investigations.

Investigations and Intelligence functions within the Integrity Division operate with, and are supported by, other teams within the Division and from other Divisions and sections of the Commission. These include Legal Services, Assessments, Prevention and Education, Electronic Collection, Covert Services and others.

### 6.1.2 PROCESS

Upon receipt, complaints are triaged by the Assessments team (see chapter 4). Matters deemed suitable are put to the Complaint Action Panel for consideration. Following that consideration a complaint may be determined to be appropriate to be investigated by the Integrity Division. This process usually takes place within one week of the complaint being received.

The Commission may choose to initiate an investigation or a preliminary investigation or to make some further enquiries before any further decision is made. This may include contacting the complainant (if one is identified), another person or another agency in order to seek further information and clarification.

### 6.1.3 COMMISSION HEARINGS

The Commission may hold hearings (examinations) as part of its investigation process. The decision to hold a hearing in private or public must have regard to the relevant considerations under the *Law Enforcement Conduct Commission Act 2016* (LECC Act), particularly those factors set out in s 63(5). The Commission can summons persons to appear at hearings and compel witnesses to produce documents or answer questions.

During 2017-18 the Commission conducted 29 private examinations, and 4 days of public examinations. There were also two submissions hearings held in public (Operation Tambora and Operation Corwen).

### 6.1.4 PROFILE OF ACTIVE INVESTIGATIONS DURING 2017-18

During 2017-18 the Commission worked on 179 investigations, comprising 83 preliminary enquiries, 68 preliminary investigations and 28 full investigations.

Of these, 96 matters were completed and 83 were ongoing as at 30 June 2018.

(8 closed investigations, 34 completed or escalated preliminaries and 54 completed or escalated enquiries). The average time taken to complete a misconduct matter investigation is not reported given the wide variety of issues and circumstances that affect each case.

A description of the types of allegations investigated during the reporting year is presented in the following table.

### Profile of investigations

| ALLEGATION   | INVESTIGATIONS | PRELIMINARY INVESTIGATIONS |
|--|----------------|----------------------------|
| Adverse mention by the court   | 2              | 4                          |
| Attempting to pervert the course of justice  | 1              |                            |
| Bribery  | 1              |                            |
| Choke/headlock/pressure point technique  | 1              |                            |
| Collusion between police witnesses   | 1              |                            |
| Cover up inappropriate conduct   | 2              |                            |
| Dealing or supply  | 3              | 6                          |
| Delay in investigation   |                | 1                          |
| Discrimination   | 1              | 3                          |
| Fabrication of evidence (other than perjury or verballing)   | 1              |                            |
| Fail to check brief/inadequate preparation of brief  | 1              |                            |
| Fail to comply with legislation/code of practice   | 1              |                            |
| Fail to comply with operational procedures, standing orders or Commissioner's directives (not specified elsewhere) | 2              |                            |
| Fail to declare a conflict of interest   | 2              | 3                          |
| Fail to investigate  |                | 1                          |
| Fail to notify results   |                | 1                          |
| Fail to provide medical treatment  | 1              |                            |
| Fail to report offence   | 2              |                            |
| Fail to report suspected/alleged misconduct  | 2              |                            |
| Failing to keep secure   |                | 1                          |
| Failure to interview witnesses   |                | 1                          |
| False accusation   | 1              |                            |
| Falsely claiming for duties not performed  |                | 1                          |
| Falsely reporting an offence   | 1              |                            |
| Falsifying official records  | 3              | 1                          |

|  |   |   |
|--|---|---|
| Firearm displayed  | 1 |   |
| Giving favours/bias with no or little perceived personal benefit   | 1 | 1 |
| Harassment   |   | 8 |
| Illicit drug use   | 3 |   |
| Improper association   | 5 | 5 |
| Improper disposal procedures   |   | 2 |
| Improper/unauthorised search   | 2 | 8 |
| Improper use of discretion   | 1 | 1 |
| Improper use of handcuffs  | 1 |   |
| Inadequate investigation/lack of impartiality  | 1 | 4 |
| Inappropriate conditions   | 1 | 1 |
| Inappropriate prosecution/misuse of prosecution power  |   | 5 |
| Inappropriate transport or conditions of transport   | 1 |   |
| Intimidating, aggressive or unwelcome behaviour and unfair treatment, either in the workplace or during service delivery |   | 2 |
| Lied during proceedings/in statement/on affidavit  | 2 | 1 |
| Make false statement (verballing)  | 1 |   |
| Misuse authority for personal benefit or the benefit of an associate (including obtaining sexual favours)                | 3 | 6 |
| Misuse of official vehicle   | 1 |   |
| Neglect of duty/duty of care   | 1 |   |
| Of seized property   |   | 1 |
| Offence punishable upon conviction by a max sentence of 5 years or more  | 6 | 1 |
| Offence punishable upon conviction by a max sentence of not less than 3 years and not more than 5 years                  | 3 | 1 |
| Other summary offences   | 1 |   |
| Perjury  | 2 | 1 |
| Possession (not misappropriation of seized drugs)  | 1 |   |
| Protection of person(s) involved in drugs  | 1 | 3 |
| Pushed to ground/slammed against a wall/punched/kicked /knee/head butted/struck (hard empty hand)                        | 3 | 2 |
| Pushed/shoved/jostled/grabbed/manhandled/wrestled etc (soft empty hand)  | 5 | 5 |

|   |   |   |
|---|---|---|
| Trade accesses – accessing information for sale/personal gain               | 1 | 1 |
| Unauthorised detention  | 1 | 2 |
| Unauthorised/improper disclosure of information                             | 1 | 4 |
| Unauthorised removal/use of   |   | 2 |
| Unauthorised secondary employment   | 3 |   |
| Unauthorised use of official vehicle  | 2 |   |
| Unlawful (insufficient evidence of offence)                                 |   | 2 |
| Unnecessary or improper use of arrest                                       | 1 | 2 |
| Unreasonable use of force with a defensive spray                            |   | 1 |
| Unreasonable use of force with an impact weapon (baton, torch, stick, rope) | 1 |   |
| Victimisation/bullying  |   | 4 |
| Wrongful seizure of property  | 1 |   |

## 6.1.5 INVESTIGATION OUTCOMES

The following tables report on the Commission's investigation outcomes for all investigations finalised during 2017 - 18<sup>10</sup>.

### Finalised Full Investigation Outcomes

| INVESTIGATION OUTCOME   | INVESTIGATIONS | % OF 28 |
|---|----------------|---------|
| Full investigations referred to the ODPP for consideration of prosecution action                            | 1              | 4%      |
| Full investigations that resulted in a dissemination of information to the NSWPF                            | 2              | 7%      |
| Full investigations that resulted in information being disseminated to other law enforcement agencies (LEA) | 0              |         |
| No further action   | 6              | 21%     |

### Preliminary Investigation Outcomes

| PRELIMINARY INVESTIGATION OUTCOME   | PRELIMINARY INVESTIGATIONS | % OF 68 |
|---|----------------------------|---------|
| Preliminary investigations that progressed to become full investigations                | 8                          | 12%     |
| Preliminary investigations that resulted in a dissemination of information to the NSWPF | 8                          | 12%     |

<sup>10</sup> Investigations may have more than one outcome.

|  |    |     |
|--|----|-----|
| Preliminary investigations that resulted in information being disseminated to other law enforcement agencies (LEA) | 0  |     |
| No further action  | 19 | 28% |

#### Preliminary enquiry outcomes

| PRELIMINARY ENQUIRY OUTCOME   | PRELIMINARY ENQUIRIES | % OF 83 |
|---|-----------------------|---------|
| Preliminary enquiries that progressed to become full investigations   | 3                     | 4%      |
| Preliminary enquiries that progressed to become preliminary investigations                                    | 28                    | 34%     |
| Preliminary enquiries that resulted in a dissemination of information to the NSWPF                            | 5                     | 6%      |
| Preliminary enquiries that resulted in information being disseminated to other law enforcement agencies (LEA) | 0                     |         |
| No further action   | 31                    | 37%     |

The Commission made the following referrals from ongoing investigations during the reporting period.

#### Referrals from on-going investigations

| INVESTIGATION | NUMBER OF PROPOSED CHARGES | NUMBER OF INDIVIDUALS | AGENCY |
|---------------|----------------------------|-----------------------|--------|
|               | 0                          | 0                     |        |

The following investigations taken over from the Police Integrity Commission resulted in Court Attendance Notices or charges being served.

#### Court Attendance Notices or charges being served

| OPERATION           | NUMBER OF CANS SERVED | NUMBER OF INDIVIDUALS | CHARGES |
|---------------------|-----------------------|-----------------------|---------|
| Asinara - 29380     | 1                     | 1                     | 2       |
| Montecristo - 25178 | 4                     | 4                     | 255     |
| Bindaree - 28087    | 1                     | 1                     | 1       |

## 6.1.6 SIGNIFICANT COMMISSION INVESTIGATIONS

**Operation Rozzano** is an investigation conducted by the Commission focusing on the manner in which the Traffic and Highway Patrol Command manage and conduct investigations relating to allegations of misconduct against officers within that Command. The investigation was initiated following the receipt of a complaint made to police about excessive use of force and inappropriate use of a firearm by an officer when arresting a male person in 2015. The Commission has maintained a dialogue with senior officers of the Command throughout the investigation with a view to identifying meaningful improvements in systems.

**Operation Ramberg** is an investigation initiated and conducted by the Commission relating to allegations of fraud and other offences and conduct issues by a senior officer in a regional Command. A number of private hearings were conducted by the Commission during the investigation. A report regarding this matter is under preparation.

**Operation Corwen** was an investigation commenced by the Commission following a complaint by a magistrate relating to the conduct of officers at a metropolitan Command and their use of force on a handcuffed female prisoner. A number of private hearings were conducted by the Commission during the investigation. A report regarding this matter was furnished to Parliament in September 2018 and can be viewed on the Commission's website.

**Operation Chivero** is another investigation conducted by the Commission focusing on the manner in which the Traffic and Highway Patrol Command manage and conduct investigations relating to allegations of misconduct against officers within that Command. The Commission has maintained a dialogue with senior officers of the Command throughout the investigation with a view to identifying meaningful improvements in systems. The substantive matter being investigated is the use of force on a female driver. A number of private hearings have been conducted in this matter and the investigation is ongoing.

**Operation Baltra** was an investigation commenced by the Commission following a complaint received relating to the conduct of officers at a metropolitan Command and the unreasonable use of force on a female prisoner. A number of private hearings were conducted by the Commission during the investigation. A report regarding this matter was furnished to Parliament in September 2018 and can be viewed on the Commission's website.

**Operation Genyen** was an investigation initiated by the Commission following the receipt of a complaint alleging serious misconduct of an officer in a special Command relating to drug use and supply and other conduct issues. An extensive covert and overt investigation was conducted and at the completion of the investigation the Commission was satisfied that there was no basis for the allegations and that the claims were false. A report was furnished to the Commissioner of Police to that effect.

**Operation Tambora** was an investigation initiated by the Commission following the receipt of a number of complaints alleging serious police misconduct following television coverage of police use of force on a naked youth at Byron Bay. The Commission conducted an investigation and identified a number of eyewitnesses. The Commission conducted a number of private and public hearings and later took submissions in public in Byron Bay. A report regarding this matter was furnished to Parliament in September 2018 and can be viewed on the Commission's website. One officer has been recommended for consideration of prosecution.

**Operation Kariba** is an investigation conducted by the Commission relating to allegations of serious police misconduct by officers in a metropolitan police Command following the detainment of a male homeless person and the manner in which that person was dealt with by police whilst detained. A number of private hearings were conducted by the Commission and a report is in preparation.

**Operation Carlow** was an investigation initiated by the Commission following information received relating to allegations of serious police misconduct by an officer of a regional police Command including drug use, drug supply and criminal associations. A number of private hearings were conducted by the Commission. A report of the investigation is in preparation.

**7.**

NSW CRIME  
COMMISSION

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## 7.1 OVERVIEW

The Commission is required to separately report on NSW Crime Commission (NSWCC) matters in its Annual Report. The purpose of this section is to report on work undertaken by the Commission during 2017-18.

In November 2017, the Commission entered into an Agreement and Guidelines with the NSWCC in accordance with section 14 of the *Law Enforcement Conduct Commission Act 2016* (LECC Act). These guidelines outline the categories of misconduct matters that are required to be notified to the Commission, and upon which the Commission primarily focuses its oversight functions.

Between 1 July 2017 and 30 June 2018, the Commission assessed seven misconduct matters involving serving members of the NSW Crime Commission. The allegation types included:

- Bribery
- Fabrication of evidence
- Attempting to pervert the course of justice
- Improper association
- Protection of person(s) involved in drugs
- Unauthorised/improper disclosure of information
- Fail to declare a conflict of interest
- Misuse of authority for personal benefit

### 7.1.1 INVESTIGATIONS

There was one full investigation and no preliminary investigations for 2017-18.

#### NSWCC Preliminary Investigations

| INDICATOR  | 2017-18 |
|--|---------|
| No Further Action  | 0       |
| Investigations that progressed to become full investigations   | 0       |
| Investigations that resulted in a dissemination of information to the NSWCC                            | 0       |
| Investigations that resulted in information being disseminated to other law enforcement agencies (LEA) | 0       |

#### NSWCC Full Investigations

| INDICATOR  | 2017-18  |
|--|----------|
| No Further Action  | 0        |
| Investigations that resulted in a dissemination of information to the NSWCC  | 1        |
| Investigations that resulted in information being disseminated to other law enforcement agencies (LEA)                 | 0        |
| Investigations referred to the office of the Director of Public Prosecutions for considerations of prosecution action. | 0        |
| <b>Total</b>   | <b>1</b> |

## 7.1.2 AUDITS OF THE NSWCC

In 2017-18, the Commission entered into a Memorandum of Understanding with the NSWCC about the conduct of audits relating to the NSWCC and conducted one on-site audit of the NSWCC. The outcomes of that audit were discussed with the NSWCC after 30 June 2018, and the Commission continues to work with the NSWCC to improve the systems in place between the two agencies for the reporting, investigation and oversight of misconduct matters.

The Commission will continue to audit how the NSWCC deals with misconduct matters by identifying and managing them in accordance with regulatory requirements.

These audits will explore in greater detail how complaints information can support continuous improvement or indicate potential systemic inadequacies that require attention. This is to ensure that the NSWCC recognises the greater value of complaints beyond fulfilling its regulatory compliance requirements.

For further information about the Commission's audit functions, please see the Oversight chapter in this report.

8.

PREVENTION  
AND  
EDUCATION

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## 8.1 OVERVIEW

Preventing serious officer misconduct is one of the Commission's principal functions. The Commission's Prevention and Education team conducts research and investigation based projects that focus on systemic misconduct and maladministration in the NSW Police Force (NSWPF) and the NSW Crime Commission (NSWCC). The team aims to work collaboratively with the NSWPF and NSWCC to identify and respond to those risks.

The Prevention and Education team can engage with the NSWPF under s 27 of the *Law Enforcement Conduct Commission Act 2016* (LECC Act), where the NSWPF agrees to provide information to inform research conducted by the Commission. That research may culminate in a report, or may be retained to inform the work the Commission undertakes in oversighting or investigating misconduct matters.

## 8.2 Key projects

### 8.2.1 ANALYSIS OF CRITICAL INCIDENT INVESTIGATIONS OPEN AT 1 JULY 2017

There were 81 open critical incident investigations at 1 July 2017. The Commission selected 29 of the 81 critical incidents for analysis on the basis that they:

- involved the homicide of a police officer, or
- involved any death or imminent death as a result of the application of physical force by a police officer, or
- involved any death or imminent death resulting from the discharge of a firearm by a police officer, or
- involved a death in police custody, or
- involved persons from the community who were considered vulnerable, or
- were linked to complaint investigations under Part 8A of the *Police Act 1990*.

The Prevention and Education team has analysed NSWPF records for this subset of critical incident investigations. The purpose included benchmarking compliance by the NSWPF with critical incident investigation guidelines, informing Commission practice, and ascertaining the reasons for delays in finalisation.

A preliminary analysis of records was completed and provided to the Commissioner of Police and the Professional Standards Command in February 2018.

A number of the issues identified in that analysis are taken into account by the Commission's Critical Incident Monitoring team when it liaises with NSWPF critical incident investigators in 'real time' as their investigations progress. This is an example of how the Commission's independent critical incident monitoring function can have a meaningful impact on the way critical incidents are investigated.

The Commission's findings will be provided to the NSWPF in the 2018-19 reporting year.

### 8.2.2 COLLABORATION WITH COMMISSION INVESTIGATORS

Members of the Prevention and Education team work closely with investigators in the Integrity Division to assist in identifying systemic issues arising from investigations into serious misconduct, particularly those that might suggest a course of conduct amounting to agency maladministration.

The Prevention and Education team has been involved in the investigation of multiple allegations of sexual harassment, bullying and discrimination against a senior police officer at a particular Command. From this, the team has initiated research into the systems and

practices used by the NSWPF to investigate and address complaints about sexual harassment, bullying and discrimination within the NSWPF. The team hopes to work collaboratively with the NSWPF to explore ways to improve how such complaints are dealt with. A number of individual investigations relate to this issue.

### 8.2.3 SUSPECT TARGETING MANAGEMENT PLAN (STMP)

The Suspect Targeting Management Plan (STMP) is a proactive policing policy adopted by the NSWPF in January 2000 that seeks to reduce serious crime in the community by targeting repeat offenders.

The Prevention and Education team is analysing the way the NSWPF applies the STMP to persons under 18 years of age. As part of this research, the team is considering a range of information held by police about the young people placed on the STMP, including the reasons for the young person to be the subject of an STMP and the way police interact with people on the STMP.

### 8.2.4 OPERATION TUSKET: A SYSTEMS-FOCUSED INVESTIGATION

The Prevention and Education team initiate investigations where the conduct relates to agency maladministration. One such investigation, significantly progressed in 2017-18, relates to the work of a specialist Command of the NSWPF, compliance with specific legislation and the policing of certain offenders.

An interim report has been provided to the Commissioner of Police setting out the Commission's preliminary views and provisional recommendations. The NSWPF has worked collaboratively with the Commission throughout the investigation and it is hoped that this collaborative approach will continue when addressing the issues identified. It is expected that a report will be publicly released at the conclusion of the investigation.

## 8.3 LOOKING FORWARD TO 2018-19

For the reporting period, the investigations and projects undertaken by the Prevention and Education team are yet to result in final reports and recommendations. The Commission anticipates reporting on the finalisation of a number of Prevention and Education projects in the 2018-19 annual report.

## 8.4 REPORT UNDER S 870 OF THE LAW ENFORCEMENT (POWERS AND RESPONSIBILITIES) ACT 2002

The Commission is required to keep under scrutiny the exercise of powers conferred on police under Part 6A of the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA). The scrutiny of the exercise of those powers was previously undertaken by the NSW Ombudsman.

Part 6A allows police to authorise the use of special powers to prevent or control large-scale public disorder. The special powers were created as a response to the Cronulla riots in 2005. They include powers to establish a cordon around a specified target area, or a road block in a specified target road. Part 6A also gives police special powers to do things in the target area that would ordinarily require a warrant or the formation of reasonable suspicion of criminal activity. For example, police may stop and search vehicles and people, seize and detain things, and disperse groups.

In 2017-18, the NSW Police Force did not use the powers under Part 6A of LEPRA. The powers have not been used since March 2011.

# 9. LEGAL MATTERS

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## 9.1 OVERVIEW

This chapter contains information about important statutory provisions and legal developments of significance in 2017-18.

### 9.1.1 LEGISLATION

#### 9.1.1.1 LAW ENFORCEMENT CONDUCT COMMISSION ACT 2016

The principal parts of the *Law Enforcement Conduct Commission Act 2016* (LECC Act) commenced on 1 July 2017. This was the date the Commission became fully operational and was able to commence exercising its investigative powers. Details of the number of times those powers were exercised in the reporting year can be found elsewhere in this report.

#### 9.1.1.2 GOVERNMENT SECTOR FINANCE BILL 2018

The NSW Parliament has passed the *Government Sector Finance Bill* (GSF Bill), which will replace three separate pieces of legislation—the *Public Authorities (Financial Arrangements) Act 1987*, the *Annual Reports (Statutory Bodies) Act 1984* and the *Annual Reports (Departments) Act 1984*. When it comes into effect, the GSF Act will cover all public financial management matters, except audit matters. The *Public Service Audit Act 1983* will be renamed the *Government Sector Audit Act* and will separately address audit matters.

Under the GSF Act, the Commission will be deemed a “GSF agency”. The GSF Act will introduce the concept of an “accountable authority” who will be responsible for the performance and financial management of the agency. The Chief Executive Officer will be the accountable authority for the Commission. Key roles and responsibilities of the CEO under the GSF Act will include:

- developing and maintaining the policies and procedures regarding financial management—and ensuring compliance with the Government sector finance legislative framework;
- establishing and maintaining effective risk management procedures;
- ensuring the integrity of financial and performance information;
- ensuring that expenditure of money for the agency is done in a way that is authorised.

Employees of the Commission will fall within the definition of “government officers”. The legislative framework will require government officers to perform their roles in accordance with specific values—accountability, integrity and transparency—which will be codified under the GSF Act as guiding principles for government sector financial management. Officers will be held responsible for any loss of government resources through dishonesty or misconduct.

### 9.1.2 RESPONSE TO SUBPOENAS

From time to time, the Commission is served with subpoenas requiring the production (in Court) of documents, or information acquired during the exercise of its functions. Officers of the Commission cannot be required to produce documents or divulge information which has been obtained in the exercise of functions under the LECC Act. This is subject to certain limited exceptions. These exceptions are for the purposes of a prosecution, disciplinary proceedings, or proceedings under Division 1A or 1C of Part 9 of the *Police Act 1990* arising out of an investigation conducted by the Commission in the exercise of its functions.

Where the Commission is served with a subpoena falling outside these limited exceptions, the issuing party is invited instead to make an application to the Commission to exercise discretion to release information pursuant to s 180(5)(d) of the LECC Act. Under that section,

the Commission has broad discretion to authorise the release of documents or information held by the Commission, if satisfied that it is necessary to do so in the public interest.

### 9.1.3 SECTION 180(5) DISSEMINATIONS

The LECC Act imposes strict obligations of secrecy upon officers of the Commission in relation to information acquired in the exercise of their functions under the Act.

Generally, the disclosure of information other than for the purposes of the LECC Act, purposes connected with prosecution or disciplinary proceedings arising from a Commission investigation, or law enforcement and investigative purposes is dealt with under s 180(5)(d) of the LECC Act.

The Commission can direct that confidential information held by the Commission be released, but only if it is considered necessary in the public interest to do so.

During 2017-18, the Commission disseminated information on three (3) occasions under s 180(5)(d) of the LECC Act.

### 9.1.4 PROPOSED AMENDMENTS TO *THE LAW ENFORCEMENT CONDUCT COMMISSION ACT 2016* (LECC ACT)

#### 9.1.4.1 LECC ACT S 44

There are occasions when the NSWPF is conducting an investigation into alleged police misconduct and the subject officer refuses to answer questions on the grounds that the answers might incriminate the officer. In the absence of the officer's account of the incident it is difficult for the NSWPF to determine the appropriate interim action to be taken to manage the officer while awaiting the outcome of the investigation.

The Commission is in a position to assist in those situations because of its power to summons an officer to a private examination in which the officer can be compelled to answer questions about the matter. The transcript of that hearing could then be made available to the NSWPF for the purpose of better informing decisions about the management of the officer. Although the officer is entitled to object to answering the Commission's questions, he/she must nevertheless give an answer and the effect of the objection is that any answers given cannot be used against the officer except (relevantly) in disciplinary proceedings or for the purposes of management action under the Police Act (s74 LECC Act).

A difficulty which arises is that the Commission is only able to hold an examination for the purposes of a Commission investigation, and so the Commission would need to take over the NSWPF investigation in order to conduct an examination under the LECC Act. Section 44(7) requires the Commissioner of Police to discontinue the police investigation in those circumstances.

It would be preferable if the Commission was able to conduct an examination as part of a mutually agreed joint investigation in such cases, without taking over the investigation from the NSWPF pursuant to s 44 and then handing it back after the hearing.

The Commission believes that an amendment to the LECC Act to permit the Commission to exercise investigation powers for the purpose of such joint investigations with the NSWPF would allow for more streamlined cooperation between our two agencies and place the Commissioner of Police in a better informed position for the purpose of making management decisions regarding the officer's employment, earlier than would otherwise be possible in the police investigation.

#### 9.1.4.2 LECC ACT S 62

Section 62(1) of the LECC Act permits the Chief Commissioner and Commissioner for Integrity to conduct an examination for the purpose of an investigation. The Commissioner for Oversight is not permitted to conduct an examination. This means that, if the Commission was overseeing a matter being investigated by the NSWPF and decided to take over the investigation pursuant to s 44, the Oversight Division could conduct the investigation but the Commissioner for Oversight could not preside at any necessary examinations conducted for the purpose of the Commission's investigation. The examinations would have to be handed over to one of the other Commissioners to conduct.

This exclusion of the Commissioner for Oversight, who is suitably experienced and qualified to conduct examinations, wastes a valuable resource available to the Commission and results in unnecessary duplication. The inclusion of the Commissioner for Oversight in s 62(1) would provide a simple solution to this anomaly.

# 10. GOVERNANCE AND ACCOUNTABILITY

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## 10.1 GOVERNANCE AND ACCOUNTABILITY

The Commission is accountable to a Parliamentary Joint Committee and the Inspector of the Law Enforcement Conduct Commission. It also maintains a number of internal governance committees to operate effectively.

### 10.1.1 THE INSPECTOR OF THE LAW ENFORCEMENT CONDUCT COMMISSION

The Inspector is an independent statutory officer whose function is to provide oversight of the Commission and its officers.

The Hon Terry Buddin SC was appointed as the Inspector of the Law Enforcement Conduct Commission on 1 July 2017.

The principal functions of the Inspector are to:

- undertake audits of the operations of the Commission;
- deal with (by reports and recommendations) complaints made to the Inspector about maladministration and/or misconduct on the part of the Commission and/or its officers, including former officers;
- assess the effectiveness and appropriateness of the Commission's policies and procedures.

### 10.1.2 THE PARLIAMENTARY JOINT COMMITTEE

The functions of the Parliamentary Joint Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission (the Committee), as they relate to the Commission, are set out in section 131 of the *Law Enforcement Conduct Commission Act 2016*.

The Committee reviews the Commission's performance, examines its annual and other reports, and reports to Parliament on matters relating to the Commission's functions.

The Committee can examine trends and changes concerning Police or Crime Commission officer misconduct, and practices and methods relating to such conduct, and report on changes needed to the Commission and the Commission's Inspector's functions, structures and procedures.

At the time of writing, members that serve on the Committee include:

- Mr Lee Evans, MP (Chair)
- Mr Stephen Bromhead, MP (Deputy Chair)
- The Hon Wes Fang, MLC
- The Hon Trevor Khan, MLC
- Mr Paul Lynch, MP
- Dr Hugh McDermott, MP
- The Hon Adam Searle, MLC

### 10.1.3 INTERNAL GOVERNANCE

The Commission has a number of internal governance committees to monitor its day-to-day functions. The internal governance committees include:

#### 10.1.3.1 EXECUTIVE COMMITTEE

The Executive Committee meets weekly to discuss matters concerning the management and functioning of the Commission.

Members of the Committee include:

- Chief Commissioner
- Commissioner for Integrity
- Commissioner for Oversight
- CEO
- Solicitor to the Commission
- Director, Investigations (Integrity)
- Director, Investigations (Oversight)
- Director, Electronic Collections
- Director, Covert Services

#### 10.1.3.2 CEO & COMMISSIONERS COMMITTEE

The CEO & Commissioners Committee meets fortnightly to ensure the effective administration of operational resources, approval of Commission reports, review and management of risks across the Commission and approval of the annual Commission budget and capital expenditure.

#### 10.1.3.3 STRATEGIC OPERATIONS COMMITTEE

The Strategic Operations Committee (SOC) meets monthly to ensure the effective administration of operational resources, provides strategic direction to investigations, and acts as a consultative forum for investigative research and prevention reports, as well as auditing proposals.

#### 10.1.3.4 AUDIT AND RISK COMMITTEE

As required by NSW Treasury policy 09-05 *Internal Audit and Risk Management Policy for the NSW Public Sector*, and with the independence and governance requirements of Treasury Circular 09/08, the Commission's Audit and Risk Committee provides independent assistance to the CEO by monitoring, reviewing and advising on the Commission's governance processes, risk management and control frameworks, and its external accountability obligations. The Audit and Risk Committee meet quarterly.

### 10.1.4 STAFF VETTING

Commission staff occupy positions of trust and work with sensitive and confidential material. The Commission's Security and Vetting Policy ensures staff are aware of their responsibilities regarding the integrity of Commission information and systems.

All staff employed by the LECC are required to comply with the Commission's Employment Suitability Check and Australian Government Security Vetting Agency (AGSVA) security clearance process as part of the employment application process. The Commission has a policy of not employing current or former NSWPF or NSWCC officers.

**11.**

COMMUNITY  
ENGAGEMENT

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## 11.1 COMMUNITY ENGAGEMENT

The Commission recognises the strong need for targeted community engagement and works directly with community organisations to increase awareness of the role of the Commission, its purpose, accessibility to it and trust. This work is critical to facilitate communication with community members who may wish to report law enforcement misconduct or maladministration but do not feel confident to do so.

The Community Engagement team works with community legal centres, Legal Aid, the Aboriginal Legal Service and other organisations to raise awareness of the Commission.

In 2017-18, the Community Engagement team along with the LECC Commissioners participated in a number of community events and conferences, including:

- Children's Legal Issues Committee at the Law Society
- Walgett Youth Justice Forum
- Children's Legal Service annual conference
- Justice Multicultural Advisory Council
- Justice Disability Advisory Council
- Granville Tafe Student Open Day
- Youth Justice Coalition
- Legal Aid's Cooperative Legal Service Delivery Program

The Community Engagement team also visited a number of regional and remote communities around NSW to meet with local police, legal representatives, members of the community and elders. Areas visited include Moree, Dubbo, Walgett and Wellington, amongst others.

### 11.1.1 SENIOR OFFICER ENGAGEMENT

The LECC's Commissioners are actively involved in the Commission's outreach and engagement activities. The Commissioners attended and presented at a number of external events this year, including:

- Local Court Magistrates' Conference in Sydney Metropolitan Region, Northern Region and Southern Region
- Australian Public Sector Anti-Corruption Conference
- IBAC Corruption Prevention and Integrity Conference
- 7<sup>th</sup> Annual National Public Sector Fraud and Corruption Congress
- NSW Integrity Agency Collaboration Group

### 11.1.2 COLLABORATION WITH THE NSW POLICE FORCE

The Commission places an emphasis on collaboration with the agencies it oversees. In 2017-18, the LECC Commissioners and other senior staff participated in a number of meetings, forums and training conducted by the NSWPF, including but not limited to:

- Use of force training
- Critical incident workshop
- Crime Managers conference
- Northern Region Duty Officer forum
- Professional Standards Managers forum
- Monthly Internal Review Panel and Commissioner's Advisory Panel
- Women in Road Policing conference
- Inter-Command Forum on Workplace Equity

### 11.1.3 ENGAGEMENT WITH ADULTS AND YOUNG PEOPLE IN CUSTODY

Section 38 of the *Law Enforcement Conduct Commission Act 2016* relates to complaints made by prisoners. In 2017-18, the Commission worked with both Corrective Services NSW (CSNSW) and Juvenile Justice NSW (JJNSW) to facilitate privileged communication between inmates and detainees with the Commission to enable complaints to be received from adults and young people in custody.

The Commission entered into a Memorandum of Understanding with CSNSW in October 2017 which agreed upon methods of communication between inmates and Commission assessment staff. Commission staff also presented to the CSNSW Governor's Conference at Long Bay in 2017, and to Cobham Juvenile Justice Centre staff on two occasions to increase awareness of the Commission and their role in facilitating the making of complaints. In 2017-18, 35 complaints were received from inmates and detainees in NSW Correctional Centres and Juvenile Justice Centres.

### 11.1.4 WORKING WITH ABORIGINAL COMMUNITIES

The Commission recognises the overrepresentation of Aboriginal people in the criminal justice system and is committed to working with Aboriginal communities to ensure we are accessible.

During 2017-18, Commission staff undertook training in Working with Aboriginal Communities through the NSW Ombudsman's office and with the NSWPF.

Staff also celebrated NAIDOC Week on 6 July 2017 with a presentation by the most senior serving Aboriginal police officer in NSW.

Commission staff meet regularly with the Aboriginal Legal Service to identify communities that may benefit from LECC outreach, and to discuss potential systemic issues which may form the basis of Commission research reports. The Commission's Community Engagement team also regularly meets with teams within Legal Aid to identify hard-to-reach communities that may respond to outreach work by the LECC.

# 1. APPENDIX 1

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## 1.1 APPENDIX 1

### 1.1.1 Industrial relations

The Law Enforcement Conduct Commission (LECC) became operational on 1 July 2017. The terms and conditions of employment for non-Executive officers of the Commission are governed by the *Crown Employees (Law Enforcement Conduct Commission) Award 2017* and the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009*. Senior Executive Officers of the Commission are employed under the provisions of the *Government Sector Employment Act 2013*.

#### 1.1.1.1 PROPOSED ORGANISATION RESTRUCTURE

As the first year of the Commission unfolded, the Commissioners and the Executive team determined that the existing organisation structure was not ideal to meet the ongoing needs of the LECC. Discussions involving the Commissioners, the Commission CEO and other members of the Executive team, as well as comment and feedback from Commission staff members, led to the creation of a proposed revised Commission organisation structure designed to improve the employment conditions of Commission staff and to better position the Commission to meet future challenges. The adjustments required to facilitate the proposed new Commission organisation structure resulted in the abolition of 21 roles and the subsequent creation of 20 new roles.

In order to minimise the impact on existing staff the Commission CEO determined that the proposed organisation restructure constituted a 'major restructure' under section 23 of the Government Sector Employment (General) Rules 2014 on the basis that a significant number of Commission employees could potentially be declared excess employees under the proposed restructure. The Commission CEO determined that recruitment related to the proposed organisation restructure would be restricted to persons employed in ongoing employment at the Commission and persons who had been employed in temporary employment at the Commission for a period of at least twelve months. To date one staff member has chosen to accept the offer of a voluntary redundancy as a result of this organisation restructure process. There are no other excess employee matters expected to arise out of the proposed organisation restructure.

Communication and consultation with the Public Service Association (PSA) was commenced in June 2018 and on 4<sup>th</sup> July 2018 the PSA confirmed that, after consultation with their members, they consented to the proposed organisation structure going ahead. It is the Commission's intention that the new organisation restructure be in place by 30 October 2018.

#### 1.1.1.2 LECC AWARD RENEGOTIATION

The *Crown Employees (Law Enforcement Conduct Commission) Award 2017* (the LECC Award) came into effect on 1 July 2017 and was to remain in force until 30 June 2018. On 1 June 2018, the Commission received notification from the NSW Department of Industrial Relations that the NSW Treasurer had approved proposed variations to the LECC Award. A period of communication and consultation with the PSA followed and on 18 July 2018 the PSA indicated that their membership was agreeable to the proposed changes to the LECC Award. The NSW Industrial Relations Commission approved the proposed changes to the LECC Award.

These changes have been achieved with a view to improving existing employment conditions in identified areas of the Commission and to better position the LECC to meet future challenges.

### Number of officers and employees by category & comparison to the prior year

|                               | 2017 | 2018   |
|-------------------------------|------|--------|
| Statutory appointments        | 3    | 3      |
| Male Executive appointments   | 3    | 5      |
| Female Executive appointments | 1    | 2      |
| Operational staff             | 7    | 45     |
| Support staff                 | 18.9 | 45.65  |
| Total                         | 31.9 | 100.65 |

### Senior Executives–Remuneration Band determination, number of officers and gender breakdown comparison

| Band                        | 2017-18 |      |
|-----------------------------|---------|------|
|                             | Female  | Male |
| Band 4 (Secretary)          | 0       | 0    |
| Band 3 (Deputy Secretary)   | 0       | 0    |
| Band 2 (Executive Director) | 2       | 0    |
| Band 1 (Director)           | 0       | 5    |

### Senior Executives–Remuneration range comparison

| 2017-18                     | REMUNERATION RANGE         | AVERAGE REMUNERATION |
|-----------------------------|----------------------------|----------------------|
| Band 4 (Secretary)          | \$463,551pa to \$535,550pa | n/a                  |
| Band 3 (Deputy Secretary)   | \$328,901pa to \$463,550pa | n/a                  |
| Band 2 (Executive Director) | \$261,451pa to \$328,900pa | \$304,708pa          |
| Band 1 (Director)           | \$183,300pa to \$261,450pa | \$230,610pa          |

### Staff movement 2017-18

| NUMBER OF STAFF WHO COMMENCED EMPLOYMENT | NUMBER OF STAFF WHO CEASED EMPLOYMENT |
|--|---------------------------------------|
| 42                                       | 16                                    |

#### 1.1.1.3 EXECUTIVE REMUNERATION

The Chief Commissioner and two Commissioners for the Law Enforcement Conduct Commission are appointed by the Governor pursuant to section 18 of the *Law Enforcement Conduct Commission Act 2016*, and, pursuant to clause 9 of Schedule 1 of the Act, are not subject to the *Government Sector Employment Act 2013*.

The Hon M F Adams QC was appointed as Chief Commissioner effective from 13 February 2017. His remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Commissioner's remuneration was \$486,875pa.

The Hon Lea Drake was appointed as Commissioner for Integrity effective from 14 April 2017. Her remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Commissioner's remuneration was \$365,157pa.

Patrick J Saidi was appointed as Commissioner for Oversight effective from 7 June 2017. His remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Commissioner's remuneration was \$365,157pa.

As holders of independent public offices, the Chief Commissioner, the Commissioner for Integrity and the Commissioner for Oversight are not subject to an annual performance review, and are responsible to Parliament in the performance of the functions of their respective offices.

Throughout the reporting year two people were employed by the Commission in Public Sector Senior Executive Service roles within Executive Band 2, and five persons were employed within Executive Band 1, of the *Government Sector Employment Act 2013*. All members occupying Public Service Senior Executive Service roles at the Commission are employed under individual Public Sector Senior Executive employment contracts, the terms of which provide for regular performance assessment.

#### 1.1.1.4 PERSONNEL POLICIES

Throughout the reporting period the Commission continued to build on its suite of personnel (HR) related procedures and policies to ensure clarity and transparency within the employment environment. The following policies and procedures were implemented in the 2017-18 reporting period:

- Commission Staff – Prior Employment Restrictions policy
- Study Assistance policy
- Threat of Harm procedure
- On-call procedure
- Recall to Duty procedure

A number of existing personnel (HR) policies were also reviewed and updated throughout the reporting period. These included:

- Performance and Development guidelines
- Employee Induction procedure
- Flexible Working Hours policy
- Dealing with Offensive Material policy

#### 1.1.1.5 TRAINING AND DEVELOPMENT

The Commission continued to provide a broad range of training and development opportunities to staff throughout the 2017-18 reporting period. Training covered specialist areas including:

- First Aid training and recertification
- Records Management Fundamentals
- Australian Institute of Professional Intelligence Officers Conference
- Public Sector Women in Leadership Forum
- Fraud and Corruption Congress
- Government Solicitors Conference

Generic training opportunities provided to staff throughout 2017-18 included:

- Plain English Essentials Workshops
- Dealing with Difficult Behaviour

- Touch Typing course
- Professional Telephone Skills

The implementation of the Commission’s Study Assistance policy in this reporting period also resulted in leave and monetary support being provided to staff members undertaking tertiary level studies in a number of specialist areas including:

- Masters of Law
- Public Sector Management Program
- Graduate Certificate in Investigations
- Masters in Investigations

#### 1.1.1.6 WORKPLACE HEALTH AND SAFETY

Throughout the reporting period, there were a total of eight workplace incidents reported. Of these, one resulted in time loss from work. A total of five work days were lost as a result of a foot fracture following a trip and fall.

The LECC has effective procedures in place to ensure adherence to the requirements of workplace health and safety (WHS) legislation. The Commission Executive are informed of all relevant workplace health and safety matters through the receipt of a detailed report every six months. Management continues to work closely with the WHS Committee to ensure the health and safety of all staff and visitors in the workplace. There were no workplace health and safety related prosecutions under the *Work Health and Safety Act 2011* during this reporting period.

#### 1.1.1.7 DISABILITY ACTION PLAN

A Disability Action Plan for the Commission is in the process of being developed with a view to it being finalised and adopted in the next reporting period. The Commission’s Disability Action Plan will cover the period from 2018-2021 with key strategy outcomes designed to increase focus on providing appropriate services to cater for the needs of disabled people and to ensure that the Commission is accessible to the disabled in all of its functions. Within the new organisation structure one role has been identified as a targeted disability role with a view to it being filled in the next reporting period. Within the 2017-18 reporting period, four of the Commission’s staff members identified as having a disability. No workplace adjustments were required for these staff members.

#### 1.1.1.8 ACTION PLAN FOR WOMEN

**Table 17: Action Plan for Women 2017-18**

| OBJECTIVE  | RESULTS/PLANS   |
|--|---|
| <p><b>An equitable and balanced workplace responsive to all aspects of women’s lives</b></p> | <p>A total of 16.95% of the Commission’s female employees are currently employed on approved part-time and other special working arrangements as a means of balancing work and home life responsibilities. 15.25% of the Commission’s female employees were granted extended periods of leave including leave without pay throughout the reporting period for various reasons relating to their personal circumstances.</p> |

Policies and procedures are in place at the Commission to ensure that women who are seeking a better work/life balance are given the opportunity to do so by accessing a variety of flexible work practices. This applies to women returning from maternity related leave as well as those with other personal responsibilities and obligations.

**Equitable access for women to educational and training development opportunities**

15 of a total of 23 higher duties, staff development opportunities across the organisation were filled by women during this reporting period. Five of a total of eight study assistance approvals for tertiary level studies were for applications made by female staff members at the Commission throughout the reporting period.

**Promote the position of women**

Women currently make up a total of 54.63% of the Commission's workforce. A total of 50% of the Commission's management level positions are held by women and 61.02% of the Commission's female staff are remunerated above the equivalent of NSW Public Sector Administrative & Clerical Officers Grade 5.

## 1.1.2 INFORMATION AND COMMUNICATIONS TECHNOLOGY MANAGEMENT

The LECC IT Division has completed a stable first full year of operations under the management of the IT Director.

A number of major works were undertaken over the year with the primary goal to stabilise and modernise the technology services provided to the Commission. These included the implementation of a new telephony system and internet service, replacement of internet and intranet platforms, establishment of a corporate WiFi network and more mobile computing capability, full refresh of the Information Security Management Systems (ISMS) policy document suite, and the completion of a restricted tender for the provision of a replacement investigations and complaints case management system, the development of which will occur in the next financial year.

## 1.1.3 DIGITAL INFORMATION SECURITY POLICY

The Commission is required to annually attest to the adequacy of its digital information and information systems security. The attestation statement can be found below.

**Digital Information Security Annual Attestation Statement  
for the 2017-18 Financial Year of the Law Enforcement Conduct Commission**

I, Michelle O'Brien, am of the opinion that Law Enforcement Conduct Commission had an Information Security Management System in place during the 2017-2018 financial year that is consistent with the Core Requirements set out in the NSW Government Digital Information Security Policy.

The controls in place to mitigate identified risks to the digital information and digital information systems of Law Enforcement Conduct Commission are adequate.

There is no agency under the control of Law Enforcement Conduct Commission which is required to develop an independent ISMS in accordance with the NSW Government Digital Information Security Policy.

The Law Enforcement Conduct Commission has maintained compliance with ISO 27001 Information technology - Security techniques - Information security management systems - Requirements and independently reviewed by the Internal Audit Bureau NSW during the 2013-2014 financial year \*.

*\* Note that the Law Enforcement Conduct Commission has been operational for only 1 year (since July 2017) and inherited legacy Police Integrity Commission systems, and their former ISO compliance. The Commission is going through a new process to be certified again in the 2018-2019 financial year.*



Michelle O'Brien

A/CEO, Law Enforcement Conduct Commission

## 1.1.4 DELIVERY OF ELECTRONIC SERVICES

During 2017-18 the Commission's new public website attracted 18,620 visitors, at an average of 51 visitors per day.

## 1.1.5 MAJOR WORKS

The Commission is currently in the process of implementing a new case management system. The initial phase of work including consulting and scoping requirements commenced in early 2018 with an expected completion and go live date of March 2019. The total capital investment is \$525,800, of which \$160,360 was expensed during the reporting period.

## 1.1.6 AUDITS

The Audit Office of NSW was engaged to carry out an audit of the 2017-18 Financial Statements of both the Law Enforcement Conduct Commission and the Office of the Law Enforcement Conduct Commission. Copies of the Independent Audit Reports appear with the Financial Statements in Appendix 7.

The Financial Statements for 2017-18 were prepared and submitted to the Audit Office of NSW within the required timeframe.

## 1.1.7 INSURANCE

Major insurance risks for the Commission are the security of its employees, property and equipment and the risk of work-related injuries, which may result in workers' compensation insurance claims. The Commission's insurance coverage is provided by the NSW Treasury Managed Fund, through icare self-insurance. Coverage including property, public liability and

motor vehicle is administered by Gallagher Bassett Pty Ltd. Workers' compensation insurance is administered by QBE.

Insurance premiums are determined based on a combination of benchmarks and actual claims made by the Commission in previous years. As this was the first operational year of the Commission, the 2017-18 premiums reflected the insurance history of the Police Integrity Commission resulting in the premium for general insurance decreasing by 14% while the workers compensation premium was consistent for both years.

## 1.1.8 RISK MANAGEMENT AND INTERNAL CONTROL

The Internal Audit Committee is responsible for the management of risk and for auditing internal controls. For further information, please refer to the 'Internal Audit Committee' section in chapter 10, Governance and Accountability.

**Internal Audit and Risk Management Attestation Statement for the 2017-18 Financial Year for the Law Enforcement Conduct Commission**

I, Michelle O'Brien, am of the opinion that the Commission has internal audit and risk management processes in operation that are compliant with the eight core requirements set out in the *Internal and Audit Risk Management Policy for the NSW Public Sector*, specifically:

| Core Requirement   | Compliant, non-compliant or in transition |
|--|---|
| <b>Risk Management Framework</b>   |   |
| 1.1 The agency head is ultimately responsible and accountable for risk management in the agency.   | Compliant                                 |
| 1.2 A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/NZS ISO 31000:2009.  | In transition                             |
| <b>Internal Audit Function</b>   |   |
| 2.1 An internal audit function has been established and maintained.  | Compliant                                 |
| 2.2 The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing.  | Compliant                                 |
| 2.3 The agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.   | Compliant                                 |
| <b>Audit and Risk Committee</b>  |   |
| 3.1 An independent audit and risk committee with appropriate expertise has been established.   | Compliant                                 |
| 3.2 The audit and risk committee is an advisory committee providing assistance to the agency head on the agency's governance processes, risk management and control frameworks, and its external accountability obligations. | Compliant                                 |
| 3.3 The audit and risk committee has a Charter that is consistent with the content of the 'model charter'.   | Compliant                                 |

**Membership**

The Chair and members of the Audit and Risk Committee are:

- Independent Chair - Ms Carolyn Walsh, appointed 1 July 2017, for a 5 year term ending 30 June 2022.
- Independent Member - Mr Peter Scarlett, appointed 1 July 2017, for a 5 year term ending 30 June 2022.
- Independent Member - Ms Marcia Doheny, appointed 1 April 2018, for a 5 year term ending 31 March 2023.

**Departures from Core Requirements**

I, Michelle O'Brien, advise that the internal audit and risk management processes for the Law Enforcement Conduct Commission depart from the following core requirements set out in the *Internal Audit and Risk Management Policy for the NSW Public Sector*:

The departure from the core requirements is due to the agency implementing measures to achieve compliance with policy requirements consistent with the permitted transitional arrangements,

| Departure            | Reason for departure and description of practicable alternative measures being implemented  |
|----------------------|---|
| In Transition        |   |
| Core requirement 1.2 | The Commission is currently finalising its risk management framework, Centium have been engaged to assist with full implementation of the framework and risk register by December 2018. |



Michelle O'Brien  
Acting Chief Executive Officer  
Date 24/08/18

### 1.1.9 ACCOUNTS PAYABLE POLICY

The Commission has set a benchmark for paying 95% of all accounts received within creditors' trading terms. This benchmark was achieved in all quarters. The majority of delays in paying invoices outside our creditors' payment terms are as a result of invoicing for goods not yet delivered, or for incorrect goods in which case the Commission withholds payment until it is satisfied that the goods and/or services have been received as contracted.

The Commission was not required to pay interest to creditors due to late payment of accounts during the 2017-18 financial year.

#### Aged analysis within each quarter 2017-2018

| QTR.          | CURRENT<br>(IE WITHIN<br>DUE DATE) | LESS THAN 30<br>DAYS<br>OVERDUE | BETWEEN 30<br>AND 60 DAYS<br>OVERDUE | BETWEEN 61<br>AND 90<br>DAYS<br>OVERDUE | MORE THAN 90<br>DAYS OVERDUE |
|---------------|------------------------------------|---------------------------------|--------------------------------------|---|------------------------------|
|               | \$'000                             | \$'000                          | \$'000                               | \$'000                                  | \$'000                       |
| All Suppliers |                                    |                                 |                                      |   |                              |
| Sept          | 1,330                              | 3                               | 0                                    | 0                                       | 0                            |
| Dec           | 1,263                              | 18                              | 0                                    | 0                                       | 0                            |
| March         | 1,378                              | 0                               | 0                                    | 0                                       | 0                            |
| June          | 3,392                              | 13                              | 0                                    | 0                                       | 0                            |

| Small business suppliers |     |   |   |   |   |   |
|--------------------------|-----|---|---|---|---|---|
| Sept                     | 17  | 0 | 0 | 0 | 0 | 0 |
| Dec                      | 81  | 0 | 0 | 0 | 0 | 0 |
| March                    | 79  | 0 | 0 | 0 | 0 | 0 |
| June                     | 120 | 0 | 0 | 0 | 0 | 0 |

### Accounts due or paid within each quarter 2017-2018

| MEASURE   | SEPT        | DEC         | MAR         | JUN         |
|---|-------------|-------------|-------------|-------------|
| All suppliers   |             |             |             |             |
| Number of accounts due for payment  | 328         | 346         | 351         | 447         |
| Number of accounts paid on time   | 326         | 339         | 348         | 441         |
| Actual percentage of accounts paid on time (based on number of accounts)                | 99.4%       | 98%         | 99%         | 98.7%       |
| Dollar amount of accounts due for payment   | \$1,333,499 | \$1,280,873 | \$1,378,321 | \$3,404,600 |
| Dollar amount of accounts paid on time  | \$1,330,463 | \$1,263,420 | \$1,377,677 | \$3,391,535 |
| Actual percentage of accounts paid on time (based on \$)                                | 99.8%       | 98.6%       | 99.98%      | 99.6%       |
| Number of payments for interest on overdue accounts                                     | Nil         | Nil         | Nil         | Nil         |
| Interest paid on overdue accounts   | Nil         | Nil         | Nil         | Nil         |
| Measure   | Sept        | Dec         | Mar         | Jun         |
| Small business suppliers  |             |             |             |             |
| Number of accounts due for payment to small businesses                                  | 27          | 44          | 43          | 45          |
| Number of accounts due to small businesses paid on time                                 | 27          | 44          | 43          | 45          |
| Actual percentage of small business accounts paid on time (based on number of accounts) | 100%        | 100%        | 100%        | 100%        |
| Dollar amount of accounts due for payment to small businesses                           | \$16,868    | \$80,529    | \$79,278    | \$120,294   |
| Dollar amount of accounts due to small businesses paid on time                          | \$16,868    | \$80,529    | \$79,278    | \$120,294   |
| Actual percentage of small business accounts paid on time (based on \$)                 | 100%        | 100%        | 100%        | 100%        |
| Number of payments to small business for interest on overdue accounts                   | Nil         | Nil         | Nil         | Nil         |
| Interest paid to small business on overdue accounts                                     | Nil         | Nil         | Nil         | Nil         |

### 1.1.10 LAND DISPOSAL

The Commission does not hold any real property.

### 1.1.11 CONSULTANTS

The following consultants were engaged to provide expert advice and assistance in the areas of building engineering and IT system certification.

| CONSULTANT                      | NATURE OF SERVICE  | COST     |
|---------------------------------|--|----------|
| Hivint Pty Ltd                  | ISMS review and certification  | \$48,920 |
| DS Consulting Engineers Pty Ltd | Consultation on air-conditioning and building engineering specification. | \$21,380 |

### 1.1.12 DISCLOSURE OF CONTROLLED ENTITIES

The Commission, as a reporting entity, comprises itself and the Office of the Law Enforcement Conduct Commission (the Office). The Office is a special purpose entity; its only function is to provide personnel services to the Commission.

### 1.1.13 CREDIT CARD CERTIFICATION

To ensure operational requirements are met in an efficient manner, eligible staff are issued with corporate credit cards allowing minor purchases and emergency travel as needed. The Commission monitors the use of all cards issued. Staff are required to adhere to the Commission's policy which meets NSW Treasury guidelines, Premier's Memoranda and Treasurer's Directions. Cardholders must supply documented evidence of all expenditure approved by a delegated officer.

It is certified that credit card usage by Commission officers has been in accordance with the appropriate Government policies, Premier's Memoranda and Treasurer's Directions, and meets best practice guidelines. There were no known instances of misuse of credit cards during the year.

### 1.1.14 ENERGY MANAGEMENT PLAN

The Commission is committed to sustainable energy management principles. The Commission regularly reviews energy, water consumption and purchasing practices to minimise the impact of its operations on the environment. This year, the Commission upgraded a cooling tower pump, replaced two air-conditioning package units running on R22 refrigerant with more energy efficient units and continued the lighting upgrade switching to LED and timed sensors. All newly installed equipment has a higher energy efficiency rating than the equipment it replaced.

Consistent with NSW Government requirements and procurement policies, the Commission has an ongoing contract with its energy supplier to provide a minimum of 6% green power.

The Commission has introduced a number of initiatives to reduce overall energy consumption including:

- Carrying out regular maintenance.
- Enabling energy saving features on office equipment, placing a high emphasis on energy ratings when purchasing new office and ICT equipment and staff education.
- Installing energy efficient and sensor lighting in offices and meeting rooms that are less frequently used, linking the main lighting with the Building Management System to allow timer management.
- Continual monitoring of energy usage and the installation of a power factor unit.

### 1.1.15 WASTE MANAGEMENT

In accordance with the Government's resource efficiency policy, the Commission continues to implement measures which enable increased use of recycled material and better management of waste reduction.

Measures currently in place include:

- All purchased white copy paper contains 100% recycled content.
- All corporate printed paper products are sourced using recycled content.
- Reducing the number of public reports printed by making these available online.
- Staff are encouraged to minimise printing, print double sided and use online forms/templates where available.
- Recycle bins have been placed on all floors allowing staff to recycle all recyclable products including paper, plastic, glass as well as toner cartridges and mobile phones and batteries.
- Redundant office furniture and equipment together with computer equipment is donated or recycled by an endorsed recycling centre.

### 1.1.16 MAJOR ASSETS

During the reporting period, the Commission spent a total of \$1,003,085 on specialized IT infrastructure and equipment including servers, upgrades to the Commission's forensic capability, upgrading the HR kiosk system, and replacing monitors, laptops and MFDs. A new VOIP telephone system was installed at a cost of \$59,787.

Additional building works were undertaken during the year to better accommodate officers of the Commission into functional units as well as upgrades to the building access system and replacement of two air-conditioning units for a total cost of \$442,411. The Commission received a capital contribution from the Commonwealth of \$62,834.58 for building related works.

The Commission has a policy of purchasing operational vehicles allowing greater flexibility in the management of the fleet. Four operational vehicles were replaced at a cost of \$128,172. Purchases of other specialist equipment for the period totalled \$46,369.

### 1.1.17 OVERSEAS VISITS

The following Commission staff undertook overseas travel on official business during 2017-18.

#### Overseas visits

| OFFICER                  | DESTINATION | PURPOSE   | COST    |
|--------------------------|-------------|---|---------|
| Director Covert Services | Washington  | To attend an international surveillance conference hosted by the Federal Bureau of Investigation (FBI). | \$8,075 |

# 2. APPENDIX 2

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## 2.1 APPENDIX 2: LAW ENFORCEMENT CONDUCT COMMISSION ACT 2016 STATUTORY REPORTING COMPLIANCE CHECKLIST

| RELEVANT SECTION OF THE LAW ENFORCEMENT CONDUCT COMMISSION ACT 2016   | SECTION OF 2017-18 ANNUAL REPORT  |
|---|---|
| Section 139 (2) (a) description of the types of matters that were referred to the Commission  | Chapter 4 - Assessing complaints<br>Appendix 3 - Types of allegations assessed  |
| Section 139 (2) (b) a description of the types of matters investigated by the Commission  | Chapter 6 - Investigating serious police misconduct   |
| Section 139 (2) (c) the total number of matters dealt with by the Commission during the year  | Chapter 4 - Assessing complaints<br>Chapter 6 - Investigating serious police misconduct   |
| Section 139 (2) (d) the number of police investigations, Crime Commission investigations and critical incident investigations that were the subject of oversight by the Commission under Parts 7 and 8 during the year                | Chapter 5 - Oversight and audit   |
| Section 139 (2) (e) the number of matters that were investigated by the Commission under Part 6 during the year   | Chapter 6 - Investigating serious police misconduct   |
| Section 139 (2) (f) (i) the time interval between the receipt of each misconduct matter by the Commission and the Commission deciding to investigate the misconduct matter  | Chapter 4 - Assessing complaints  |
| Section 139 (2) (f) (ii) the number of misconduct matters commenced to be investigated but not finally dealt with during the year   | Chapter 6 - Investigating serious police misconduct   |
| Section 139 (2) (f) (iii) the average time taken to deal with misconduct matters and the actual time taken to investigate any matter in respect of which a report is made   | Chapter 6 - Investigating serious police misconduct<br><br>One s 135 report was prepared by the Commission in the reporting year. The time taken from commencement of the investigation to provision of the report was 29 days. A number of investigations were concluded in 2017-18 and reports will be furnished in the 2018-19 reporting year. |
| Section 139 (2) (f) (iv) the total number of examinations and private and public examinations conducted during the year   | Chapter 6 - Investigating serious police misconduct   |
| Section 139 (2) (f) (v) the number of days spent during the year in conducting public examinations  | Chapter 6 - Investigating serious police misconduct   |
| Section 139 (2) (f) (vi) the time interval between the completion of each public examination conducted during the year and the furnishing of a report on the matter   | NA: no investigations which included a public examination in 2017-18 were finalised in the reporting period. This will be reported in the 2018-19 Annual Report.  |
| Section 139 (2) (g) an evaluation of the response of the Commissioner of Police, relevant members of the Police Service Senior Executive Service and other relevant authorities to the findings and recommendations of the Commission | NA  |
| Section 139 (2) (h) an evaluation of the response of the Crime Commissioner, relevant members of the Crime Commission Senior Executive Service and other relevant authorities to the opinions and recommendations of the Commission   | NA  |
| Section 139 (2) (i) any recommendations for changes in the laws of the State, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions                                 | Chapter 9 - Legal matters   |
| Section 139 (2) (j) the general nature and extent of any information furnished under this Act by the Commission during the year to a law enforcement agency   | Chapter 6 - Investigating serious police misconduct   |

Section 139 (2) (k) the extent to which its investigations have resulted in prosecutions or disciplinary action in that year

NA: no referrals took place during the reporting period resulting in prosecutions arising from LECC investigations. There were no referrals to police which took place that resulted in disciplinary action.

Section 139 (2) (l) the number of search warrants issued by authorised justices and the Commissioner respectively under this Act in that year

Appendix 4 - Statistical data on exercise of Commission powers

Section 139 (2) (m) a description of its activities during that year in relation to the exercise of its functions under sections 27 and 32

Chapter 5 - Oversight and audit  
Chapter 8 - Prevention and Education

Section 139 (3) any such information that relates to investigations or other matters involving Crime Commission officers must be kept separate from other matters in the report

Chapter 7 - NSW Crime Commission

Section 139 (5) The financial report for the year to which the annual report relates is to set out the separate cost of the operations of the Commission under each of Parts 6, 7 and 8.

Appendix 7 - Financial statements

# 3. APPENDIX 3

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### 3.1 APPENDIX 3: ALLEGATIONS ASSESSED

| ALLEGATIONS*   | %    |
|--|------|
| Failure to investigate   | 7.3% |
| Improper use of force  | 6.5% |
| Inadequate investigation/lack of impartiality  | 5.0% |
| Incivility/rudeness/verbal abuse (oral complaints of rudeness are a local management issue)                              | 4.2% |
| Inconsiderate/insensitive/uncooperative behaviour  | 3.7% |
| Harassment   | 3.4% |
| Misuse authority for personal benefit or the benefit of an associate (including obtaining sexual favours)                | 2.9% |
| Intimidating, aggressive or unwelcome behaviour and unfair treatment, either in the workplace or during service delivery | 2.8% |
| Breach of Code of Conduct (not specified elsewhere)  | 2.8% |
| Fail to comply with operational procedures, standing orders or Commissioner's directives (not specified elsewhere)       | 2.8% |
| Neglect of duty/duty of care   | 2.2% |
| Unauthorised/improper disclosure of information  | 2.2% |
| Improper/unauthorised search   | 1.8% |
| Victimisation/bullying   | 1.8% |
| Threats/intimidation (not assault, excessive force)  | 1.7% |
| Protection of person(s) involved in drugs  | 1.4% |
| Improper use of discretion   | 1.3% |
| Inappropriate prosecution/misuse of prosecution power  | 1.3% |
| Offence punishable upon conviction by a max sentence of 5 years or more  | 1.2% |

\* Complaints assessed often include multiple allegations within the one complaint

# 4.APPENDIX 4

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## 4.1 APPENDIX 4: STATISTICAL DATA ON EXERCISE OF COMMISSION POWERS

The following table indicates the frequency with which the Commission exercised its various powers in 2017-18.

### Exercise of Commission's powers

| FUNCTIONS  | 2017-18 |
|--|---------|
| <b>Under the <i>Law Enforcement Conduct Commission Act 2016</i></b>  |         |
| S 24 - Establishment of task forces within the State   | NIL     |
| S 54 - Requiring public authority or public official to produce a statement of information                                     | 2       |
| S 55 - Requiring a person to attend before an officer of the Commission and produce a specified document or other thing        | 70      |
| S 58 - Commission may authorise an officer of the Commission to enter and inspect premises etc                                 | NIL     |
| S 63 - hearing days: <ul style="list-style-type: none"> <li>• Public</li> <li>• Private</li> </ul>                             |         |
| S 69 - Commissioner may summon a person to appear before the Commission and give evidence or produce documents or other things | 44      |
| S 79 (1) - Authorised justice may issue search warrant   | NIL     |
| S 79 (2) - Commissioner may issue a search warrant   | NIL     |
| S 84 - Number of warrants obtained under <i>Surveillance Devices Act 2007</i>  | 1       |
| <b>Under <i>Law Enforcement (Controlled Operations) Act 1997</i></b>   |         |
| Applications granted by Commission for authority to conduct controlled operations  | NIL     |
| Applications granted by Commissioner for variation to authority to conduct controlled operations                               | NIL     |
| <b>Under <i>Law Enforcement and National Security (Assumed Identities) Act 2010</i></b>  |         |
| Approval granted by Commissioner for acquisition and use of an assumed identity  | 29      |
| Applications granted for variation of assumed identity   | 0       |
| Applications granted for cancellations of assumed identify   | 4       |
| <b>Under <i>Telecommunications (Interception &amp; Access) Act 1979</i></b>  |         |
| Warrants issued for the interception of communications   | 17      |
| Warrants issued for access to stored communications  | 1       |

# 5. APPENDIX 5

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## 5.1 APPENDIX 5: PROSECUTIONS CONDUCTED BY THE DPP IN 2017-18 ARISING FROM COMMISSION INVESTIGATIONS

| NAME             | OPERATION             | CHARGE(S)   | STATUS/RESULT  |
|------------------|-----------------------|---|--|
| Darren AZZOPARDI | Operation Montecristo | 49 x s192E(1)(b) <i>Crimes Act 1900</i> (NSW) - Fraud                         | <p>1/11/17: CAN served. First mention in DCLC on 7/12/17.</p> <p>7/12/17: Mention in DCLC. Orders made for the brief to be served by 15/02/18 and listed for reply on 29/03/18.</p> <p>16/08/18: Mention in DCLC. All matters adjourned to 13/09/18 for pleas or waiver of committal.</p> <p>13/09/18: Mention in DCLC. AZZOPARDI waived committal and was committed to the NSW District Court. The matter was listed for 28/09/18.</p> <p>28/09/18: First mention in Downing Centre District Court before Chief Judge Price. The matter was adjourned to 19/10/18.</p>  |
| Grant BELL       | Operation Asinara     | 2 x s 253(b)(iii) <i>Crimes Act 1900</i> (NSW) - Forgery -make false document | <p>25/01/18: CAN served. First mention in Narrabri Local Court at 9.30am on 8/3/18.</p> <p>20/02/18: New CAN served. First mention re-listed in Gunnedah Local Court at 9:30am on 06/03/18.</p> <p>6/03/18: Mention in Gunnedah Local Court. Brief to be served by 17/04/18. Reply listed for 8/05/18.</p> <p>8/05/18: Mention in Gunnedah Local Court. Hearing set down for two days 5/09/18-6/09/18.</p> <p>5/09/18: Hearing commenced in Gunnedah Local Court. On 6/09/18 the matter was adjourned part-heard to 12/10/18 in Tamworth Local Court.</p> <p>12/10/18: At the conclusion of the Crown case, the defence handed up no case submissions. The matter was adjourned to 14/12/18 for the Crown to respond and the defence to make any submissions in reply.</p>   |
| Beaudie Cullen   | Operation Bindaree    | 2 x s 192E(1)(b) <i>Crimes Act 1900</i> (NSW) - Fraud                         | <p>14/11/17: CAN served. First mention in DCLC on 09/01/18.</p> <p>09/01/18: First mention in DCLC. Pleas of not guilty were entered to both sequences. Brief service orders were made for 6/02/18. Reply in court on 20/02/18.</p> <p>20/02/18: Mention in DCLC. The matter was set down for a three day hearing on 2/05/18-4/05/18 with a mention on 11/04/18 as a review date.</p> <p>11/04/18: Mention in DCLC to review progress of the matter. Confirmed hearing dates of 2/05/18-4/05/18.</p> <p>2/05/18-3/05/18: Hearing before Magistrate Covington. At the conclusion of the prosecution case, the defence made a no prima facie case submission. This was successful on sequence 2 due to lack of evidence regarding where the accused's vehicle was parked during the relevant periods, and to some extent where he was living. The Magistrate</p> |

|                  |                       |   |   |
|------------------|-----------------------|---|---|
|                  |                       |   | <p>found there was a prima facie case in relation to sequence 1, however it was dismissed on the basis that it could not be proved beyond reasonable doubt that the accused had falsely claimed his items were stolen. The defence will make a costs application to be held on a date to be advised.</p> <p>21/05/18: Costs application heard by Magistrate Covington in DCLC. HH found there was no basis for costs in relation to sequence 1 but was satisfied that sequence 2 was initiated without reasonable cause. The defence sought and was awarded \$27,500 in costs for three days of preparation and two days of hearing.</p>  |
| Hue Tran DANG    | Operation Binda       | 1 x s 11.5 <i>Criminal Code</i> and s 234(1)(b) <i>Migration Act 1958</i> (Cth) – Conspiracy to cause to be presented false or misleading statement to immigration official related to visa | <p>28/08/14: Application for arrest warrant made.<br/>4/09/14: Arrest warrant issued.</p>   |
| Nigel DAVEY      | Operation Aracari     | 1 x s 61 <i>Crimes Act 1900</i> (NSW) – Common Assault<br>1 x s 327(1) <i>Crimes Act 1900</i> (NSW) – Perjury   | <p>4/10/16: CAN served. First mention listed for 14/11/16 at Nowra Local Court.</p> <p>24/01/17: DAVEY appeared at Nowra Local Court. The matter was listed for mention on 7/03/17 and the venue changed to Queanbeyan Local Court.</p> <p>1/09/17: Defended hearing at Queanbeyan Local Court. Decision reserved.</p> <p>12/12/17: DAVEY found guilty of Common Assault and Perjury. Adjourned to 2/02/18 for sentence.<br/>2/02/18: Application made by DAVEY for an adjournment to have the matter dealt with under s 32 of the <i>Mental Health (Forensic Provisions) Act 1990</i>. The hearing of the application was adjourned to 3/4/18.</p> <p>3/04/18: Magistrate declined to grant the defendant's application for the matter to be dealt with under s 32. DAVEY was sentenced as follows:<br/>- 1 x Perjury as per s327(1) <i>Crimes Act 1900</i> (NSW): sentenced to a term of imprisonment of 12 months, commencing 3/04/18 with a non-parole period of 7 months, making him eligible for release on parole on 2/11/18.<br/>- 1 x Common Assault as per s61 <i>Crimes Act 1900</i> (NSW): Bond pursuant to s 9 of the <i>Crimes (Sentencing Procedure) Act 1999</i> for a period of 14 months.</p> <p>DAVEY lodged an appeal against conviction which is listed for bail application on 10/04/18.</p> <p>10/04/18: DAVEY granted conditional bail. Appeal against conviction listed for first mention on 23/07/18.</p> <p>30/07/18: Appeal against conviction listed for mention on 5/11/18.</p> |
| Stephen FLETCHER | Operation Montecristo | 78 x s 192E(1)(b) <i>Crimes Act 1900</i> (NSW) – Fraud  | <p>1/11/17: CAN served. First mention in DCLC on 7/12/17.</p> <p>7/12/17: Mention in DCLC. Orders made for the brief to be served by 15/02/18 and listed for reply on 29/03/18.</p>   |

16/08/18: Mention in DCLC. All matters adjourned to 13/09/18 for pleas or waiver of committal.

13/09/18: Mention in DCLC. FLETCHER waived committal and was committed to the NSW District Court. The matter was listed for 28/09/18.

28/09/18: First mention in Downing Centre District Court before Chief Judge Price. The matter was adjourned to 19/10/18.

Marc SMITH

Operation  
Montecristo

116 x s 192E(1)(b) *Crimes Act 1900* (NSW) - Fraud

2/11/17: CAN served. First mention in DCLC on 7/12/17.

7/12/17: Mention in DCLC. Orders made for the brief to be served by 15/02/18 and listed for reply on 29/03/18.

16/08/18: Mention in DCLC. All matters adjourned to 13/09/18 for pleas or waiver of committal.

13/09/18: Mention in DCLC. SMITH waived committal and was committed to the NSW District Court. The matter was listed for 28/09/18.

28/09/18: First mention in Downing Centre District Court before Chief Judge Price. The matter was adjourned to 19/10/18.

Anthony WILLIAMS

Operation  
Montecristo

12 x s192E(1)(b) *Crimes Act 1900* (NSW) - Fraud

1/11/17: CAN served. First mention in DCLC on 7/12/17.

7/12/17: Mention in DCLC. Orders made for the brief to be served by 15/02/18 and listed for reply on 29/03/18.

16/08/18: Mention in DCLC. All matters adjourned to 13/09/18 for pleas or waiver of committal.

13/09/18: Mention in DCLC. Williams sought an adjournment which was granted. The matter was adjourned to 24/09/18 in DCLC.

21/09/18: Mention in DCLC. WILLIAMS waived committal and was committed to the District Court. The matter was listed for 28/09/18.

28/09/18: First mention in Downing Centre District Court before Chief Judge Price. The matter was adjourned to 19/10/18.

# 6.APPENDIX 6

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## 6.1 APPENDIX 6: ANNUAL REPORT UNDER THE *GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009*

### 6.1.1 THE *GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009*

Under the *Government Information (Public Access) Act 2009* (GIPA Act) there are four ways that the Commission made information available to the public:

- the mandatory release of ‘Open Access Information’
- the proactive release of information for which there is no overriding public interest against disclosure
- the informal release of information in response to an informal request where there is no overriding public interest against the disclosure of that information; and
- the formal release of information in response to an access application where there is no overriding public interest against disclosure.

Schedule 2 of the GIPA Act provides that information which relates to the Commission’s “*corruption prevention, handling of misconduct matters, investigative and reporting functions*” is “*excluded information*” of the Commission and cannot be made the subject of an access application.

It is also conclusively presumed by Schedule 1 of the GIPA Act that there is an overriding public interest against disclosing information, the disclosure of which would be prohibited by the *Law Enforcement Conduct Commission Act 2016* (LECC Act). Section 180(2) of the LECC Act provides that a person who is or was an officer of the Commission must not, except in connection with the person’s functions under the Act, make a record of or divulge any information acquired in the exercise of the person’s functions under the Act. Section 180(5)(d) provides that such information may be divulged if the Commissioner or Inspector certifies that it is necessary to do so in the public interest.

Information which falls within the above two categories was not publicly disclosed by the Commission except under limited circumstances.

The impact on the Commission of fulfilling its requirements under the GIPA Act during 2017-18 was negligible. No major issues arose during 2017-18 in connection with the Commission’s compliance with GIPA requirements.

### 6.1.2 PROACTIVE RELEASE PROGRAM

Under section 7 of the GIPA Act, the Commission was authorised to proactively release any Government information that it holds, so long as there is no overriding public interest against disclosure of that information. Under section 7(3) of the GIPA Act the Commission must review its program for the release of Government information to identify the kinds of information that can be made publicly available under section 7. This review must be undertaken at least once every 12 months.

The Commission’s proactive release program involved the identification for release of information for which:

- there exists a public interest in being made publicly available (noting the general public interest in favour of the disclosure of Government information established by s 12 of the GIPA Act); and
- there was no overriding public interest against disclosure (by virtue of the operation of Schedules 1 and/or 2 of the GIPA Act or otherwise.)

The following are some of the ways in which, under its proactive release program, the Commission identified information which could be proactively released:

- the Right to Information officer consulted with managers of business units of the Commission to ascertain whether those units held information which could be proactively released;
- the Right to Information officer monitored the creation of new documents within the Commission of a kind which may be proactively released;
- the Right to Information officer liaised with staff employed in areas of the Commission which dealt with information of a kind which may be proactively released are aware of the Commission's proactive release program; and
- the Right to Information officer monitored both informal and formal requests for information received by the Commission under the GIPA Act to identify any trends in the types of information sought and considered whether the Commission held information relevant to those trends which could be proactively released.

### 6.1.3 ACCESS APPLICATIONS RECEIVED BY THE COMMISSION IN THE REPORTING PERIOD

During the reporting period, the Commission received three formal access applications (including withdrawn applications but not including invalid applications).

Three formal access applications were refused wholly or in part because the information requested was information referred to in Schedule 1 of the GIPA Act.

There was one internal review and no reviews by the Information Commissioner.

### 6.1.4 OBTAINING ACCESS TO AND SEEKING AMENDMENT OF THE COMMISSION'S RECORDS

In the first instance the contact person for obtaining access to documents is as follows:

Right to Information Officer  
Law Enforcement Conduct Commission  
GPO Box 3880  
SYDNEY NSW 2001  
Facsimile: (02) 9321 6799

Telephone enquiries may be made between 8.30am and 4:30pm on (02) 9321 6700.

Further information is also able to be obtained from the LECC website [www.lecc.nsw.gov.au](http://www.lecc.nsw.gov.au) under the 'Access to Information' link.

#### NUMBER OF APPLICATIONS BY TYPE OF APPLICANT AND OUTCOME

|                         | Access granted in full | Access granted in part | Access refused in full | Information not held | Information already available | Refuse to deal with application | Refuse to confirm/deny whether information is held | Application withdrawn |
|-------------------------|------------------------|------------------------|------------------------|----------------------|-------------------------------|---------------------------------|--|-----------------------|
| Media                   | -                      | 1                      | -                      | -                    | -                             | -                               | -  | -                     |
| Members of Parliament   | -                      | -                      | -                      | -                    | -                             | -                               | -  | -                     |
| Private sector business | -                      | -                      | -                      | -                    | -                             | -                               | -  | -                     |

|   |   |   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|---|---|
| Not for profit organisations or community groups            | - | - | - | - | - | - | - | - | - |
| Members of the public (application by legal representative) | - | - | - | - | - | - | - | - | - |
| Members of the public (other)                               | - | 1 | - | 1 | - | - | - | - | - |

| NUMBER OF APPLICATIONS BY TYPE OF APPLICATION AND OUTCOME                              |                        |                        |                        |                      |                               |                                 |  |                       |   |
|--|------------------------|------------------------|------------------------|----------------------|-------------------------------|---------------------------------|--|-----------------------|---|
|  | Access granted in full | Access granted in part | Access refused in full | Information not held | Information already available | Refuse to deal with application | Refuse to confirm/deny whether information is held | Application withdrawn |   |
| Personal information applications  | -                      | -                      | -                      | 1                    | -                             | -                               | -  | -                     | - |
| Access applications (other than personal information applications)                     | -                      | 2                      | -                      | -                    | -                             | -                               | -  | -                     | - |
| Access applications that are partly personal information applications and partly other | -                      | -                      | -                      | -                    | -                             | -                               | -  | -                     | - |

| INVALID APPLICATIONS  |                    |
|---|--------------------|
| Reason for invalidity   | No of applications |
| Application does not comply with formal requirements (section 41 of the Act)  | -                  |
| Application is for excluded information of the agency (section 43 of the Act) | -                  |
| Application contravenes restraint order (section 110 of the Act)              | -                  |
| Total number of invalid applications received                                 | 0                  |
| Invalid applications that subsequently became valid applications              | -                  |

| CONCLUSIVE PRESUMPTION OF OVERRIDING PUBLIC INTEREST AGAINST DISCLOSURE: MATTERS LISTED IN SCHEDULE 1 TO ACT |                                    |
|--|------------------------------------|
|  | Number of times consideration used |
| Overriding secrecy laws  | -                                  |
| Cabinet information  | -                                  |
| Executive Council information  | -                                  |
| Contempt   | -                                  |
| Legal professional privilege   | -                                  |
| Excluded information   | 2                                  |
| Documents affecting law enforcement and public safety  | -                                  |

|                                       |   |
|---------------------------------------|---|
| Transport safety                      | - |
| Adoption                              | - |
| Care and protection of children       | - |
| Ministerial code of conduct           | - |
| Aboriginal and environmental heritage | - |

#### OTHER PUBLIC INTEREST CONSIDERATIONS AGAINST DISCLOSURE: MATTERS LISTED IN TABLE TO SECTION 14 OF ACT

|  | Number of occasions when application not successful |
|--|---|
| Responsible and effective government                                 | -   |
| Law enforcement and security   | -   |
| Individual rights, judicial processes and natural justice            | -   |
| Business interests of agencies and other persons                     | -   |
| Environment, culture, economy and general matters                    | -   |
| Secrecy provisions   | 2   |
| Exempt documents under interstate Freedom of Information legislation | -   |

#### TIMELINESS

|  | Number of applications |
|--|------------------------|
| Decided within the statutory timeframe (20 days plus any extensions) | 2                      |
| Decided after 35 days (by agreement with applicant)                  | 1                      |
| Not decided within time (deemed refusal)                             | -                      |
| Total  | 3                      |

#### APPLICATIONS FOR REVIEW UNDER PART 5 OF THE ACT (BY TYPE OF APPLICANT)

|   | Number of applications for review |
|---|-----------------------------------|
| Applications by access applicants   | -                                 |
| Applications by persons to whom information the subject of access application relates (see section 54 of the Act) | -                                 |

#### APPLICATIONS TRANSFERRED TO OTHER AGENCIES UNDER DIVISION 2 OF PART 4 OF THE ACT (BY TYPE OF TRANSFER)

|                               | Number of applications transferred |
|-------------------------------|------------------------------------|
| Agency-initiated transfers    | -                                  |
| Applicant-initiated transfers | -                                  |

## 6.3 PUBLIC INTEREST DISCLOSURES

A Public Interest Disclosure (PID) is a report, complaint, or other information from a person working in or for the NSW public service. The disclosure must be about other public officials engaging in certain types of conduct.

The requirements for a Public Interest Disclosure are set out in the *Public Interest Disclosures Act 1994* (NSW) (PID Act). The PID Act provides legal protection to public officials who make a disclosure that meets these requirements.

Public sector employees can report certain types of PIDs to the LECC, as we are one of the investigating authorities under the PID Act<sup>11</sup>.

Under the *Public Interest Disclosures Act 1994* (PID Act), the LECC is required to collect and report on information about Public Interest Disclosures (PIDs). The following table outlines the information the LECC is required to report on under the Act.

| PUBLIC INTEREST DISCLOSURES RECEIVED              |  |   |                |
|---|--|---|----------------|
|   | Made by public officials performing day to day functions | Under a statutory or other legal obligation | All other PIDs |
| Number of public officials who made PIDs directly | -  | -   | -              |
| Number of PIDs received                           | -  | -   | -              |
| Number of PIDs received, primarily about:         |  |   |                |
| Corrupt conduct                                   | -  | -   | -              |
| Maladministration                                 | -  | -   | -              |
| Serious and substantial waste                     | -  | -   | -              |
| Government information contravention              | -  | -   | -              |
| Local government pecuniary interest contravention | -  | -   | -              |
| <b>Total</b>                                      | <b>0</b>   | <b>0</b>                                    | <b>0</b>       |

In 2017-2018, the LECC undertook a comprehensive review of its policy on responding to Public Interest Disclosures it receives from public officials in its capacity as an investigating authority (external PIDs).

After research and consultation with the Public Interest Disclosures Unit of the NSW Ombudsman, as well as all the relevant teams within the LECC, a new policy and PID Assessment form was drafted. This new policy provided more detailed guidance on how all staff should identify and respond to external PIDs, and the requirements and protections

<sup>11</sup> *Public Interest Disclosures Act 1994* (NSW) s 4.

under the *Public Interest Disclosures Act 1994*. The new policy was approved by the Commission Executive in May 2018, and was circulated to all Commission staff.

The LECC also produced a simplified version of the new policy for public officials considering making a PID to the Commission. This document, titled [‘Making a Public Interest Disclosure to the Law Enforcement Conduct Commission’](#), is available on the Commission’s website.

# 7. APPENDIX 7

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## 7.1 Appendix 7: Financial Statements



### INDEPENDENT AUDITOR'S REPORT

#### Law Enforcement Conduct Commission

To Members of the New South Wales Parliament

#### Opinion

I have audited the accompanying financial statements of the Law Enforcement Conduct Commission (the Commission), which comprise the Statements of Comprehensive Income for the year ended 30 June 2018, the Statements of Financial Position as at 30 June 2018, the Statements of Changes in Equity and the Statements of Cash Flows for the year then ended, notes comprising a Statement of Significant Accounting Policies and other explanatory information of the Commission and the consolidated entity. The consolidated entity comprises the Commission and the entities it controlled at the year's end or from time to time during the financial year.

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Commission and the consolidated entity as at 30 June 2018, and of their financial performance and cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015.

My opinion should be read in conjunction with the rest of this report.

#### Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Commission and the consolidated entity in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

## **Other Information**

Other information comprises the information included in the annual report of the Commission and the consolidated entity for the year ended 30 June 2018, other than the financial statements and my Independent Auditor's Report thereon. The Chief Commissioner is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by the Chief Commissioner.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

## **The Chief Commissioner's Responsibilities for the Financial Statements**

The Chief Commissioner is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Chief Commissioner determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chief Commissioner is responsible for assessing the ability of the Commission and the consolidated entity to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting except where operations will cease as a result of an administrative restructure.

## **Auditor's Responsibilities for the Audit of the Financial Statements**

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: [www.auasb.gov.au/auditors\\_responsibilities/ar3.pdf](http://www.auasb.gov.au/auditors_responsibilities/ar3.pdf). The description forms part of my auditor's report.

My opinion does not provide assurance:

- that the Commission or the consolidated entity carried out their activities effectively, efficiently and economically
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Chris Harper  
Director, Financial Audit Services

28 September 2018  
SYDNEY

**LAW ENFORCEMENT CONDUCT COMMISSION**

**Financial Statements 2017-18**

**Contents**

Statement by Chief Commissioner .....2  
Statement of Comprehensive Income .....3  
Statement of Financial Position.....4  
Statement of Changes in Equity .....5  
Statement of Cash Flows.....6  
Summary of Significant Accounting Policies .....7-8  
Notes to the Financial Statements.....9-23

## Law Enforcement Conduct Commission

### Statement by Chief Commissioner

Pursuant to Section 45F of the *Public Finance and Audit Act 1983*, I have formed the opinion that:

- (a) the accompanying financial statements in respect of the year ended 30 June 2018 have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015*, the Financial Reporting Directions mandated by the Treasurer
- (b) the financial statements exhibit a true and fair view of the financial position as at 30 June 2018 and financial performance for the year then ended of the Commission, and
- (c) there are no circumstances that would render any particulars included in the consolidated financial statements to be misleading or inaccurate.



The Hon M F Adams  
Chief Commissioner



M M O'Brien  
Acting Chief Executive Officer

This page is not audited

## Law Enforcement Conduct Commission

### Statement of comprehensive income for the year ended 30 June 2018

|  |       | Parent Entity<br>(Law Enforcement<br>Conduct<br>Commission) | Economic Entity<br>(Consolidated) |
|--|-------|---|-----------------------------------|
|  | Notes | Actual<br>2018<br>\$'000                                    | Actual<br>2018<br>\$'000          |
| <b>Expenses excluding losses</b>   |       |   |                                   |
| Employee related   | 2(a)  | 1,363   | 14,780                            |
| Operating expenses   | 2(b)  | 4,432   | 4,433                             |
| Personnel services   | 2(c)  | 12,880  | --                                |
| Depreciation and amortisation  | 2(d)  | 1,525   | 1,525                             |
| <b>Total expenses excluding losses</b>   |       | <b>20,200</b>   | <b>20,738</b>                     |
| <b>Revenue</b>   |       |   |                                   |
| Appropriation  | 3(a)  | 20,200  | 20,200                            |
| Sale of goods and services   | 3(b)  | 109   | 109                               |
| Grants and other contributions   | 3(c)  | 63  | 63                                |
| Acceptance by the Crown Entity of<br>employee benefits and other liabilities       | 3(d)  | --  | 524                               |
| Other income   | 3(e)  | 8   | 22                                |
| <b>Total revenue</b>   |       | <b>20,380</b>   | <b>20,918</b>                     |
| <b>Operating result</b>  |       | <b>180</b>  | <b>180</b>                        |
| <b>Gain/(loss) on disposal</b>   | 4     | <b>(2)</b>  | <b>(2)</b>                        |
| <b>Net result</b>  | 16    | <b>178</b>  | <b>178</b>                        |
| <b>Other comprehensive income</b>  |       |   |                                   |
| <i>Items that will not be reclassified to net result<br/>in subsequent periods</i> |       | --  | --                                |
| <b>Total other comprehensive income</b>  |       | <b>--</b>   | <b>--</b>                         |
| <b>TOTAL COMPREHENSIVE INCOME</b>  |       | <b>178</b>  | <b>178</b>                        |

The accompanying notes form part of these financial statements

## Law Enforcement Conduct Commission

### Statement of financial position as at 30 June 2018

|                                      |       | Parent Entity<br>(Law<br>Enforcement<br>Conduct<br>Commission) | Economic Entity<br>(Consolidated) |
|--------------------------------------|-------|--|-----------------------------------|
|                                      | Notes | Actual<br>2018<br>\$'000                                       | Actual<br>2018<br>\$'000          |
| <b>ASSETS</b>                        |       |  |                                   |
| <b>Current Assets</b>                |       |  |                                   |
| Cash and cash equivalents            | 6     | 965  | 1,030                             |
| Receivables                          | 7     | 1,045  | 1,084                             |
| <b>Total Current Assets</b>          |       | <u>2,010</u>   | <u>2,114</u>                      |
| <b>Non-Current Assets</b>            |       |  |                                   |
| Plant and equipment                  | 8     | 3,225  | 3,225                             |
| Intangible assets                    | 9     | 282  | 282                               |
| <b>Total Non-Current Assets</b>      |       | <u>3,507</u>   | <u>3,507</u>                      |
| <b>Total Assets</b>                  |       | <u>5,517</u>   | <u>5,621</u>                      |
| <b>LIABILITIES</b>                   |       |  |                                   |
| <b>Current Liabilities</b>           |       |  |                                   |
| Payables                             | 10    | 153  | 153                               |
| Provisions                           | 11    | 1,275  | 1,345                             |
| <b>Total Current Liabilities</b>     |       | <u>1,428</u>   | <u>1,498</u>                      |
| <b>Non-Current Liabilities</b>       |       |  |                                   |
| Provisions                           | 11    | 505  | 539                               |
| <b>Total Non-Current Liabilities</b> |       | <u>505</u>   | <u>539</u>                        |
| <b>Total Liabilities</b>             |       | <u>1,933</u>   | <u>2,037</u>                      |
| <b>Net Assets</b>                    |       | <u>3,584</u>   | <u>3,584</u>                      |
| <b>EQUITY</b>                        |       |  |                                   |
| Accumulated funds                    |       | 3,584  | 3,584                             |
| <b>Total Equity</b>                  |       | <u>3,584</u>   | <u>3,584</u>                      |

The accompanying notes form part of these financial statements

## Law Enforcement Conduct Commission

### Statement of changes in equity for the year ended 30 June 2018

|  | Parent Entity<br>(Law Enforcement Conduct<br>Commission) | Economic Entity<br>(Consolidated) |
|--|--|-----------------------------------|
| Notes  | Accumulated<br>Funds<br>\$'000                           | Accumulated<br>Funds<br>\$'000    |
| As at 1 July 2017                                      | --   | --                                |
| Net result for the year                                | 178  | 178                               |
| Other comprehensive income:                            |  |                                   |
|  | --   | --                                |
| Total other comprehensive income                       | --   | --                                |
| Total comprehensive income for the year                | <u>178</u>   | <u>178</u>                        |
| Transactions with owners in their capacity as owners   |  |                                   |
| Increase in net assets from administrative restructure | 12<br>3,406  | 3,406                             |
| Balance at 30 June 2018                                | <u>3,584</u>   | <u>3,584</u>                      |

The accompanying notes form part of these financial statements

## Law Enforcement Conduct Commission

### Statement of cash flows for the year ended 30 June 2018

|   | Parent Entity<br>(Law Enforcement<br>Conduct<br>Commission) | Economic Entity<br>(Consolidated) |
|---|---|-----------------------------------|
| Notes   | Actual<br>2018<br>\$'000                                    | Actual<br>2018<br>\$'000          |
| <b>CASH FLOWS FROM OPERATING ACTIVITIES</b>                   |   |                                   |
| <b>Payments</b>   |   |                                   |
| Employee related  | (1,363)   | (13,792)                          |
| Other   | (5,603)   | (5,603)                           |
| Personnel services  | (12,465)  | --                                |
| <b>Total Payments</b>   | <u>(19,431)</u>   | <u>(19,395)</u>                   |
| <b>Receipts</b>   |   |                                   |
| Appropriation   | 20,200  | 20,200                            |
| Other   | 694   | 676                               |
| <b>Total Receipts</b>   | <u>20,894</u>   | <u>20,876</u>                     |
| <b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>               | <u>1,463</u>  | <u>1,481</u>                      |
| 16  |   |                                   |
| <b>CASH FLOWS FROM INVESTING ACTIVITIES</b>                   |   |                                   |
| Purchases of plant & equipment                                | (1,471)   | (1,471)                           |
| Purchases of Intangible Assets                                | (209)   | (209)                             |
| <b>NET CASH FLOWS FROM INVESTING ACTIVITIES</b>               | <u>(1,680)</u>  | <u>(1,680)</u>                    |
| <b>NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS</b> |   |                                   |
|   | (217)   | (199)                             |
| Cash transferred in as a result of administrative restructure | 1,182   | 1,229                             |
| <b>CLOSING CASH AND CASH EQUIVALENTS</b>                      | <u>965</u>  | <u>1,030</u>                      |
| 6   |   |                                   |

The accompanying notes form part of these financial statements

## Law Enforcement Conduct Commission

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

#### (a) *Reporting entity*

The Law Enforcement Conduct Commission (the Commission) is a statutory corporation established under the *Law Enforcement Conduct Commission Act 2016*. The Commission commenced operations on 1 July, 2017 replacing the Police Integrity Commission (PIC) and Police and Compliance Branch (PCB) of the Ombudsman Office as the agency responsible for oversight of the NSW Police Force and NSW Crime Commission.

The Commission is a NSW government entity and is controlled by the State of New South Wales, which is the ultimate parent. The Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units. The Commission, as a reporting entity, comprises all of the entities under its control, namely: Office of the Law Enforcement Conduct Commission (the Office). The Office provides the Commission with personnel services.

In the process of preparing the consolidated financial statements for the economic entity, consisting of the controlling and controlled entity, all inter-entity transactions and balances have been eliminated, and like transactions and other events are accounted for using uniform accounting policies.

These financial statements for the year ended 30 June 2018 have been authorised for issue by the Chief Commissioner and Chief Executive Officer for the Law Enforcement Conduct Commission on 25 September, 2018.

#### (b) *Basis of preparation*

The Commission's financial statements are general purpose financial statements which have been prepared on an accruals basis and in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations)
- the requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015* and
- the Financial Reporting Directions mandated by the Treasurer.

Other than property, plant and equipment which is measured at fair value, the financial statements have been prepared in accordance with the historical cost convention.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is the entity's presentation and functional currency.

The Commission has only one program being Investigations, Research and Complaint Management and as such a program statement is not included as figures would be the same as those disclosed in the statement of comprehensive income and financial position.

#### (c) *Statement of Compliance*

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

#### (d) *Accounting for the Goods and Services Tax (GST)*

Income, expenses and assets are recognised net of the amount of GST, except that:

- the amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset or as part of an item of expense and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

## Law Enforcement Conduct Commission

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

**(e) Comparative information**

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements. As the Law Enforcement Conduct Commission did not exist as a reporting entity prior to 1 July, 2017 comparative information has not been shown with the exception of Note 12.

**(f) Changes in accounting policy, including new or revised Australian Accounting Standards**

*(i) Effective for the first time in 2017-18*

The Commission has reviewed new or revised Australian Accounting Standards effective for the first time in 2017-18 and believes that the impact if any on the financial statements would be immaterial.

*(ii) Issued but not yet effective*

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards, unless Treasury determines otherwise. The Commission is of the opinion that the possible impact of these Standards in the period of initial application would be immaterial.

- AASB 9 -- Regarding financial Instruments
- AASB 15, AASB 2014-5, 2015-8, & 2016-3 -- Regarding revenue from contracts with customers
- AASB 1058 -- Regarding income for Not-for-profit entities
- AASB 2016-7 -- Regarding amendments to Australian Accounting Standards - Deferral of AASB 15 for Not-for-Profit Entities
- AASB 2016-8 -- Regarding amendments to Australian Accounting Standards - Australian Implementation Guidance for Not-for-Profit Entities

The following standard which has been issued but is not yet effective has the potential to impact on the financial statements and disclosure requirements of the Commission.

- AASB 16 -- Leases applies to financial reporting periods beginning on or after January 2019. When adopted, AASB 16 will require the Commission to recognise all leases with a term of more than 12 months on the Statement of Financial Position, unless the underlying asset is of low value. The Commission's balance sheet will include a right of use asset representing its right to use the underlying leased asset and a leased liability representing its obligation to make lease payments. The Commission currently classifies all leases as operating leases and recognises lease payments as an expense on a straight-line basis over the lease term.

## Law Enforcement Conduct Commission

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

| 2. EXPENSES EXCLUDING LOSSES  | Law Enforcement<br>Conduct<br>Commission | Consolidated  |
|---|--|---------------|
|   | 2018                                     | 2018          |
|   | \$'000                                   | \$'000        |
| (a) Employee related expenses   |  |               |
| Salaries and wages (including annual leave)*  | 1,219                                    | 12,277        |
| Redundancies  | --                                       | 29            |
| Superannuation-defined benefit plans  | --                                       | 55            |
| Superannuation-defined contribution plans   | 61                                       | 1,051         |
| Long service leave  | --                                       | 467           |
| Workers' compensation insurance   | --                                       | 87            |
| Payroll tax and fringe benefits tax   | 69                                       | 797           |
| Other employee expenses   | 14                                       | 17            |
|   | <u>1,363</u>                             | <u>14,780</u> |
| * Salaries and wages shown under the Law Enforcement Conduct Commission relate to the statutory appointment of the Chief Commissioner, the Commissioner Integrity and Commissioner Oversight. |  |               |
| (b) Other operating expenses include the following:   |  |               |
| Administration charges  | 52                                       | 53            |
| Books and periodicals   | 56                                       | 56            |
| Auditor's remuneration-audit of the financial statements  | 49                                       | 49            |
| Consultancies   | 49                                       | 49            |
| Contractors   | 446                                      | 446           |
| External legal counsel  | 61                                       | 61            |
| Minor computer expenses   | 251                                      | 251           |
| Maintenance *   | 662                                      | 662           |
| Insurance   | 17                                       | 17            |
| Rent and outgoings  | 1,754                                    | 1,754         |
| Minor equipment   | 136                                      | 136           |
| Motor vehicle costs (including leasing charges)   | 118                                      | 118           |
| Advertising   | 4  | 4             |
| Printing and stationery   | 74                                       | 74            |
| Staff development   | 204                                      | 204           |
| Travelling expenses   | 167                                      | 167           |
| Telephones  | 42                                       | 42            |
| Fees and searches   | 28                                       | 28            |
| Other   | 262                                      | 262           |
|   | <u>4,432</u>                             | <u>4,433</u>  |
| * Reconciliation - Total maintenance  |  |               |
| Maintenance expense - contracted labour and other (non-employee related), as above  | 662                                      | 662           |
| Total maintenance expenses included in Note 2 (b)   | <u>662</u>                               | <u>662</u>    |

### RECOGNITION AND MEASUREMENT

#### **Maintenance expense**

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement of a part or component of an asset, in which case the costs are capitalised and depreciated.

#### **Insurance**

The Commission's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self-insurance for Government entities. The expense (premium) is determined by the Fund Manager based on past claims experience.

#### **Operating leases**

An operating lease is a lease other than a finance lease. Operating lease payments are recognised as an operating expense in the Statement of Comprehensive Income on a straight-line basis over the lease term. The Commission's motor vehicle fleet and rental property are the only assets subject to an operating lease.

## Law Enforcement Conduct Commission

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

|  | Law Enforcement<br>Conduct<br>Commission | Consolidated   |
|--|--|----------------|
|  | 2018<br>\$'000                           | 2018<br>\$'000 |
| (c) Personnel Services expenses                  |  |                |
| Office of the Law Enforcement Conduct Commission | 12,880                                   | --             |
| (d) Depreciation and amortisation expense        |  |                |
| Depreciation                                     |  |                |
| Computer Equipment                               | 457                                      | 457            |
| Plant and Equipment                              | 226                                      | 226            |
| Amortisation                                     |  |                |
| Leasehold Improvements                           | 801                                      | 801            |
| Intangibles                                      | 41                                       | 41             |
|  | <u>1,525</u>                             | <u>1,525</u>   |

### 3. REVENUE

#### RECOGNITION AND MEASUREMENT

Income is measured at the fair value of the consideration or contribution received or receivable. Comments regarding the accounting policies for the recognition of income are discussed below.

#### (a) Appropriations

| Summary of Compliance   | 2018<br>\$'000 |               |
|---|----------------|---------------|
|   | Appropriation  | Expenditure   |
| Original Budget per Appropriation Act                                     |                |               |
| Other Appropriations/Expenditure  |                |               |
| Section 24 PFAA - transfers of functions between entities                 | 24,895         | 20,200        |
| <b>Total Appropriations /Expenditure / Net Claim on Consolidated Fund</b> | <u>24,895</u>  | <u>20,200</u> |
| Appropriation drawn down  |                | <u>20,200</u> |
| Comprising:   |                |               |
| Appropriations (per Statement of Comprehensive Income)                    |                | <u>20,200</u> |
|   |                | 20,200        |
| <b>Appropriations</b>   |                |               |
| Recurrent   | 18,583         |               |
| Capital   | 1,617          |               |
|   | <u>20,200</u>  |               |

The Summary of Compliance is presented for the consolidated accounts and is based on the assumption that Consolidated Fund moneys are spent first (except where otherwise identified or prescribed).

#### Recurrent Appropriation

The Commission's recurrent appropriation of \$24.895 million was not fully drawn down primarily due to the ongoing delay in recruitment.

#### Capital Appropriation

The Commission expended \$1.62 million of the approved \$1.7 million. Major capital expenses included commencing a project to implement a new case management system to meet the

## Law Enforcement Conduct Commission

### *Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

requirements of both investigations and oversight, finalising building works to accommodate all staff of the Commission and upgrades to the Commission's IT and technical equipment.

#### RECOGNITION AND MEASUREMENT

##### **Parliamentary Appropriations and Contributions**

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants and donations) are recognised as income when the Commission obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

Appropriations are not recognised as income in the following circumstances:

- Unspent appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount must be repaid to the Consolidated Fund.
- The liability if any is disclosed as part of 'Current liabilities-Other'. The amount will be repaid and the liability will be extinguished next financial year.

|                                | Law Enforcement<br>Conduct<br>Commission | Consolidated |
|--------------------------------|--|--------------|
|                                | 2018                                     | 2018         |
|                                | \$'000                                   | \$'000       |
| (b) Sale of goods and services |  |              |
| Fee for service                | 109                                      | 109          |
|                                | 109                                      | 109          |

#### RECOGNITION AND MEASUREMENT

##### **Sale of goods**

Revenue from sale of goods is recognized as revenue when the entity transfers the significant risks and rewards of ownership of the goods, usually on delivery of the goods.

##### **Rendering of services**

Revenue from rendering of services is recognized when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

|  |    |    |
|--|----|----|
| (c) Grants and other contributions             |    |    |
| Commonwealth Government - capital contribution | 63 | 63 |
|  | 63 | 63 |

#### RECOGNITION AND MEASUREMENT

Income from grants (other than contributions by owners) is recognised when the entity obtains control over the contribution. The entity is deemed to have assumed control when the grant is received or receivable.

Contributions are recognised at their fair value. Contributions of services are recognised when and only when a fair value of those services can be reliably determined and the services would be purchased if not donated.

|  |    |     |
|--|----|-----|
| (d) Acceptance by the Crown Entity of employee benefits and other liabilities    |    |     |
| The following liabilities and/or expenses have been assumed by the Crown Entity: |    |     |
| Superannuation - defined benefit   | -- | 54  |
| Long service leave   | -- | 467 |
| Payroll tax  | -- | 3   |
|  | -- | 524 |
| (e) Other Income   |    |     |
| TMF hindsight adjustment refund  | 8  | 22  |
|  | 8  | 22  |

## Law Enforcement Conduct Commission

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

|    |                                       |   |                     |
|----|---------------------------------------|---|---------------------|
| 4. | <b>GAIN/(LOSS) ON DISPOSAL</b>        | <b>Law Enforcement<br/>Conduct<br/>Commission</b> | <b>Consolidated</b> |
|    |                                       | 2018  | 2018                |
|    |                                       | \$'000  | \$'000              |
|    | Proceeds from disposal                | (8)   | (8)                 |
|    | Written down value of assets disposed | 10  | 10                  |
|    | Gain / (loss) on disposal             | (2)   | (2)                 |

5. **PROGRAM GROUP OF THE COMMISSION**

The Commission comprises a single program group encompassing the transferred functions of the Police Integrity Commission and the Police and Compliance Branch of the NSW Ombudsman covering the detection, investigation and exposure of misconduct and maladministration in the NSW Police Force and NSW Crime Commission.

The Commission also oversees the independent monitoring and review of investigation by the NSW Police Force and NSW Crime Commission of complaints about the conduct of their Officers, and real time monitoring of NSW Police Force critical incidents.

Financial disclosure in respect of the transfer is included in Note 12.

6. **CURRENT ASSETS—CASH AND CASH EQUIVALENTS**

|              |     |       |
|--------------|-----|-------|
| Cash at bank | 953 | 1,018 |
| Cash on hand | 12  | 12    |
|              | 965 | 1,030 |

For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash on hand and cash at bank.

Cash and cash equivalent assets recognised in the Statement of Financial Position are reconciled at the end of the financial year to the Statement of Cash Flows as follows:

|   |     |       |
|---|-----|-------|
| Cash and cash equivalents (per Statement of Financial Position) | 965 | 1,030 |
| Cash and Cash Equivalents (per Statement of Cash Flows)         | 965 | 1,030 |

Refer Note 17 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.

7. **CURRENT ASSETS—RECEIVABLES**

|               |       |       |
|---------------|-------|-------|
| Prepayments   | 834   | 834   |
| Other debtors | 211   | 250   |
|               | 1,045 | 1,084 |

Refer Note 17 for details regarding credit risk of trade debtors that are neither past due nor impaired.

**RECOGNITION AND MEASUREMENT**

All 'regular way' purchases or sales of financial assets are recognised and derecognised on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace.

Receivables, including trade receivables, prepayments etc. are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market.

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2018

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Subsequent measurement is at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Short term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

#### Impairment

Receivables are subject to an annual review for impairment. Financial assets are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows have been affected.

The Commission first assesses whether impairment exists individually for receivables that are individually significant, or collectively for those that are not individually significant. Further, receivables are assessed for impairment on a collective basis if they were assessed not to be impaired individually.

The Commission does not recognise any impairment for receivable balances as all trade receivables held by the Commission are considered to be recoverable in full.

## 8. NON-CURRENT ASSETS—PLANT AND EQUIPMENT

Law Enforcement Conduct Commission and consolidated figures are shown together as the Office of the Law Enforcement Conduct Commission does not hold assets.

|  | Leasehold<br>improvements<br>\$'000 | Plant &<br>Equipment<br>\$'000s | Computer<br>Equipment<br>\$'000 | Total<br>\$'000 |
|--|-------------------------------------|---------------------------------|---------------------------------|-----------------|
| At 30 June 2018 – fair value               |                                     |                                 |                                 |                 |
| Gross carrying amount                      | 2,142                               | 3,065                           | 4,060                           | 9,267           |
| Accumulated depreciation and<br>impairment | (1,063)                             | (2,351)                         | (2,628)                         | (6,042)         |
| Net Carrying Amount                        | <u>1,079</u>                        | <u>714</u>                      | <u>1,432</u>                    | <u>3,225</u>    |

#### Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the current reporting period is set out below.

|  | Leasehold<br>Improvements<br>\$'000 | Plant &<br>Equipment<br>\$'000s | Computer<br>Equipment<br>\$'000 | Total<br>\$'000 |
|--|-------------------------------------|---------------------------------|---------------------------------|-----------------|
| Year ended 30 June 2018                                      |                                     |                                 |                                 |                 |
| Net carrying amount at 1 July 2017                           | --                                  | --                              | --                              | --              |
| Acquisitions through administrative<br>restructure (Note 13) | 1,630                               | 522                             | 1,096                           | 3,248           |
| Additions  | 250                                 | 427                             | 794                             | 1,471           |
| Disposals  | --                                  | (9)                             | (1)                             | (10)            |
| Depreciation Expense   | (801)                               | (226)                           | (457)                           | (1,484)         |
| Net carrying amount at end of year                           | <u>1,079</u>                        | <u>714</u>                      | <u>1,432</u>                    | <u>3,225</u>    |

#### RECOGNITION AND MEASUREMENT

##### Acquisition of plant and equipment

Plant and equipment are initially recognised at cost. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, i.e. deferred payment is effectively discounted over the period of credit.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

## Law Enforcement Conduct Commission

### *Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

#### **Capitalisation thresholds**

Plant and equipment and intangible assets costing \$5,000 and above individually, or forming part of a network costing more than \$5,000, are capitalised.

#### **Restoration Costs**

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.

#### **Assets not able to be reliably measured**

The Commission does not hold any assets that have not been recognised in the statement of financial position.

#### **Depreciation of plant and equipment**

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission.

All material identifiable components of assets are depreciated separately over their useful lives.

The Commission has adopted the following depreciation rates for the reporting period:

|                              |                                 |
|------------------------------|---------------------------------|
| Computer equipment           | 3 & 4 years                     |
| Intangible computer software | 3 & 4 years                     |
| Plant and equipment          | 3, 4 & 7 years                  |
| Leasehold improvements       | the initial period of the lease |

#### **Revaluation of plant and equipment**

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP 14-01). This policy adopts fair value in accordance with AASB 13 *Fair Value Measurement* and AASB 116 *Property, Plant and Equipment*.

The majority of Commission assets are non-specialised assets with short useful lives and are therefore measured at depreciated historical cost, as an approximation of fair value. The Commission has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

The residual values, useful lives and methods of depreciation of property, plant and equipment are reviewed at each financial year end.

#### **Impairment of plant and equipment**

As a not-for-profit entity with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. As plant and equipment is carried at fair value or an amount that approximates fair value, impairment can only arise in the rare circumstances such as where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not for profit entities to the higher of fair value less costs of disposal and depreciated replacement cost, where depreciated replacement cost is also fair value.

The Commission assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the Commission estimates the asset's recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

As a not-for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

All of the Commissions non-current assets are considered to be non-specialised assets with short useful lives measured using the depreciated historical cost as an approximation of fair value and as such do not require fair value hierarchy disclosures under AASB 13.

## Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2018

### 9. NON-CURRENT INTANGIBLE ASSETS – SOFTWARE

Law Enforcement Conduct Commission and consolidated figures are shown together as the Office of the Law Enforcement Conduct Commission does not hold assets.

|  | Consolidated<br>\$'000 |
|--|------------------------|
| <b>At 30 June 2018</b>                                       |                        |
| Cost (gross carrying amount)                                 | 3,563                  |
| Accumulated amortisation and impairment                      | (3,281)                |
| Net Carrying Amount  | <u>282</u>             |
| <b>Year ended 30 June 2018</b>                               |                        |
| Net carrying amount at 1 July, 2017                          | --                     |
| Acquisitions through administrative restructure (Note 12)    | 114                    |
| Additions  | 209                    |
| Amortisation (recognised in "depreciation and amortisation") | (41)                   |
| Net carrying amount at end of year                           | <u>282</u>             |

#### RECOGNITION AND MEASUREMENT

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Commission's intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.

All research costs are expensed. Development costs are only capitalised when certain criteria are met.

The useful lives of intangible assets are assessed to be finite.

The Commission's intangible assets are amortised using the straight-line method over a period of 4 years.

The amortisation period and the amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

### 10. CURRENT LIABILITIES—PAYABLES

|                                      | Law Enforcement<br>Conduct<br>Commission | Consolidated   |
|--------------------------------------|--|----------------|
|                                      | 2018<br>\$'000                           | 2018<br>\$'000 |
| Accrued salaries, wages and on-costs | --                                       | 53             |
| Personnel services payable           | 53                                       | --             |
| Creditors                            | 100                                      | 100            |
|                                      | <u>153</u>                               | <u>153</u>     |

Refer Note 17 for details regarding liquidity risk, including a maturity analysis of the above payables.

## Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2018

### RECOGNITION AND MEASUREMENT

Payables represent liabilities for goods and services provided to the Commission and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in the net result when the liabilities are derecognised as well as through the amortisation process.

### 11. CURRENT / NON-CURRENT LIABILITIES—PROVISIONS

|   | Law Enforcement<br>Conduct<br>Commission | Consolidated   |
|---|--|----------------|
|   | 2018<br>\$'000                           | 2018<br>\$'000 |
| <b>Current</b>  |  |                |
| Employee benefits and related on-costs                  |  |                |
| Annual leave including on-costs                         | 80                                       | 936            |
| Long service leave on-costs                             | --                                       | 385            |
| FBT provision   | --                                       | 24             |
| Provision for personnel services                        | 1,195                                    | --             |
|   | <u>1,275</u>                             | <u>1,345</u>   |
| Expected to be settled within 12 months                 |  | 1,223          |
| Expected to be settled after 12 months                  |  | 122            |
|   |  | <u>1,345</u>   |
| <b>Non-current</b>                                      |  |                |
| Employee benefits and related on-costs                  |  |                |
| Long service leave on-costs                             | --                                       | 22             |
| Payroll tax and FBT provision                           | --                                       | 12             |
| Restoration costs                                       | 505                                      | 505            |
| <b>Total Provisions</b>                                 | <u>505</u>                               | <u>539</u>     |
| <b>Aggregate employee benefits and related on-costs</b> |  |                |
| Provisions - current                                    |  | 1,345          |
| Provisions - non-current                                |  | 34             |
| Accrued salaries, wages and on-costs (Note 10)          |  | 53             |
|   |  | <u>1,432</u>   |

Restoration costs - the Commission is required to reinstate the leased premises to the condition they were in as at the date the premises was first leased.

|   |            |
|---|------------|
| <b>Movements in provisions (other than employee benefits)</b> | 2018       |
| Restoration costs   | \$'000     |
| Carrying amount at 1 July, 2017                               | --         |
| Increase due to administrative restructure (note 13)          | 505        |
| Carrying amount at end of financial year                      | <u>505</u> |

### RECOGNITION AND MEASUREMENT

#### *Employee Benefits and related on-costs*

#### Salaries and wages, annual leave and sick leave

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

## Law Enforcement Conduct Commission

### *Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with *AASB 119 Employee Benefits*.

Actuarial advice obtained by Treasury has confirmed that the use of a nominal approach plus the annual leave on annual leave liability (using 7.9% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The Commission has assessed the actuarial advice based on the Commission's circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the Commission does not expect to settle the liability within 12 months as the Commission does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

#### **Long Service Leave and Superannuation**

The Commission's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits.'

Long service leave is measured at present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using Commonwealth government bond rate at the reporting date.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (ie Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (ie State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

#### **Consequential on-costs**

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

#### **Other Provisions**

Provisions are recognised when: the Commission has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation. When it is expected that some or all of a provision will be reimbursed, for example, under an insurance contract, the reimbursement is recognised as a separate asset, but only when the reimbursement is virtually certain. The expense relating to a provision is presented net of any reimbursement in the Statement of Comprehensive Income.

Any provisions for restructuring are recognised only when the Commission has a detailed formal plan and the Commission has raised a valid expectation in those affected by the restructuring that it will carry out the restructuring by starting to implement the plan or announcing its main features to those affected.

The Commission recognises a make good provision for the anticipated costs of future restoration of leased premises as required under the terms of agreement. The provision includes future cost estimates associated with dismantling and reinstatement of the leased premises to original condition. The calculation is based on a square metre rate of \$150.00 (as per lease agreement).

## 12. EQUITY

### RECOGNITION AND MEASUREMENT

#### **Accumulated Funds**

The category 'Accumulated Funds' includes all current and prior period retained funds.

#### **Reserves**

Separate reserve accounts are recognised in the financial statements only if such accounts are required by specific legislation or Australian Accounting Standards (e.g. asset revaluation surplus and foreign currency translation reserve).

## Law Enforcement Conduct Commission

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

### Increase / Decrease in Net Assets from Equity Transfers

The transfer of net assets between entities as a result of an administrative restructure and transfers of programs / functions and parts thereof between NSW public sector entities are designated or required by Australian Accounting Standards to be treated as contributions by owners and recognised as an adjustment to 'Accumulated Funds'. This treatment is consistent with AASB 1004 Contributions and Australian Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities*.

Transfers arising from an administrative restructure involving not-for-profit and for-profit government entities are recognised at the amount at which the assets and liabilities were recognised by the transferor immediately prior to the restructure. Subject to below, in most instances this will approximate fair value.

All other equity transfers are recognised at fair value, except for intangibles. Where an intangible has been recognised at (amortised) cost by the transferor because there is no active market, the entity recognises the asset at the transferor's carrying amount. Where the transferor is prohibited from recognising internally generated intangibles, the entity does not recognise that asset.

The following assets and liabilities were transferred from the Police Integrity Commission (PIC) as at 1 July 2017. Current liabilities relating to employee provisions for staff transferred from the Police and Compliance Branch of the NSW Ombudsman's Office are included in the figures shown below for staff who had been employed within the LECC transition unit and were paid by the PIC prior to the commencement of the Commission and as such leave liabilities were recognised by the PIC as at 30 June 2017.

### Statement of Assets and Liabilities for the transferred functions as at 1 July 2017

|                                      | PIC<br>As at<br>1 July 2017 | LECC<br>30 June<br>2018 | PIC<br>30 June<br>2017 |
|--------------------------------------|-----------------------------|-------------------------|------------------------|
|                                      | \$'000                      | \$'000                  | \$'000                 |
| <b>ASSETS</b>                        |                             |                         |                        |
| <b>Current Assets</b>                |                             |                         |                        |
| Cash and cash equivalents            | 1,229                       | 1,030                   | 1,229                  |
| Receivables                          | 475                         | 1,084                   | 475                    |
| <b>Total Current Assets</b>          | <b>1,704</b>                | <b>2,114</b>            | <b>1,704</b>           |
| <b>Non-Current Assets</b>            |                             |                         |                        |
| Plant and equipment                  | 3,248                       | 3,225                   | 3,248                  |
| Intangible assets                    | 114                         | 282                     | 114                    |
| <b>Total Non-Current Assets</b>      | <b>3,362</b>                | <b>3,507</b>            | <b>3,362</b>           |
| <b>Total Assets</b>                  | <b>5,066</b>                | <b>5,621</b>            | <b>5,066</b>           |
| <b>LIABILITIES</b>                   |                             |                         |                        |
| <b>Current Liabilities</b>           |                             |                         |                        |
| Payables                             | 187                         | 153                     | 187                    |
| Provisions                           | 941                         | 1,345                   | 941                    |
| <b>Total Current Liabilities</b>     | <b>1,128</b>                | <b>1,498</b>            | <b>1,128</b>           |
| <b>Non-Current Liabilities</b>       |                             |                         |                        |
| Provisions                           | 532                         | 539                     | 532                    |
| <b>Total Non-Current Liabilities</b> | <b>532</b>                  | <b>539</b>              | <b>532</b>             |
| <b>Total Liabilities</b>             | <b>1,660</b>                | <b>2,037</b>            | <b>1,660</b>           |
| <b>Net Assets</b>                    | <b>3,406</b>                | <b>3,584</b>            | <b>3,406</b>           |
| <b>EQUITY</b>                        |                             |                         |                        |
| Accumulated funds                    | 3,406                       | 3,584                   | 3,406                  |
| <b>Total Equity</b>                  | <b>3,406</b>                | <b>3,584</b>            | <b>3,406</b>           |

## Law Enforcement Conduct Commission

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

### 13. COMMITMENTS

|  | Law Enforcement<br>Conduct<br>Commission | Consolidated |
|--|--|--------------|
|  | 2018                                     | 2018         |
|  | \$'000                                   | \$'000       |
| (a) <b>Capital Commitments</b>   |  |              |
| Aggregate capital expenditure for the acquisition of computer software and hardware, office equipment and leasehold improvements, contracted for at balance date and not provided for: |  |              |
| Within one year  | 374                                      | 374          |
| Total (including GST)  | 374                                      | 374          |
| (b) <b>Operating Lease Commitments</b>   |  |              |
| Future minimum rentals payable under non-cancellable operating lease as at 30 June are, as follows:  |  |              |
| Within one year  | 1,791                                    | 1,791        |
| Later than one year and not later than five years  | 157                                      | 157          |
| Later than five years  | --                                       | --           |
| Total (including GST)  | 1,948                                    | 1,948        |

These operating lease commitments relate to the Commission's rental of property and motor vehicle fleet, and are not recognised in the financial statements as liabilities. The total commitments for 2018 include input tax credits of \$211,090 that are expected to be recoverable from the Australian Taxation Office.

### 14. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

As at the reporting date, the Commission is not aware of any contingent liabilities or assets that will materially affect its financial position.

### 15. BUDGET REVIEW

Budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders) are not reflected in the budgeted amounts.

The determination made under section 24 of the *Public Finance and Audit Act* to transfer the budgets of the Police Integrity Commission and Police and Compliance Branch of the NSW Ombudsman to the Law Enforcement Conduct Commission from 1 July, 2017 was not approved prior to the 2017-18 budget being finalised and as such there are no budgeted amounts to report against for the period.

### 16. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET RESULT

|   | Law Enforcement<br>Conduct<br>Commission | Consolidated |
|---|--|--------------|
|   | 2018                                     | 2018         |
|   | \$'000                                   | \$'000       |
| Net cash used on operating activities               | 1,463                                    | 1,481        |
| Depreciation and amortisation                       | (1,525)                                  | (1,525)      |
| Decrease/(increase) in provisions                   | (362)                                    | (411)        |
| Increase/(decrease) in prepayments and other assets | 578                                      | 609          |
| Decrease/(increase) in creditors                    | 34                                       | 34           |
| Net gain/(loss) on assets disposed                  | (10)                                     | (10)         |
| Net result  | 178                                      | 178          |

## Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2018

### 17. FINANCIAL INSTRUMENTS

The Commission's principal financial instruments are outlined below. These financial instruments arise directly from the Commission's operations or are required to finance the Commission's operations. The Commission does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The Commission's main risks arising from financial instruments are outlined below, together with the Commission's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these financial statements.

The Chief Commissioner has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Commission, to set risk limits and controls and to monitor risk. Compliance with policies is reviewed by the Commission on a continuous basis.

#### a) Financial instrument categories

##### Parent

| Financial Assets          | Note | Category  | Carrying Amount |
|---------------------------|------|---|-----------------|
| Class:                    |      |   | 2018<br>\$'000  |
| Cash and cash equivalents | 6    | N/A   | 965             |
| Receivables <sup>1</sup>  | 7    | Loans and receivables<br>(at amortised cost)        | 37              |
| Financial Liabilities     | Note | Category  | Carrying Amount |
| Class:                    |      |   |                 |
| Payables <sup>2</sup>     | 10   | Financial liabilities<br>measured at amortised cost | 153             |

##### Consolidated

| Financial Assets          | Note | Category  | Carrying Amount |
|---------------------------|------|---|-----------------|
| Class:                    |      |   | 2018<br>\$'000  |
| Cash and cash equivalents | 6    | N/A   | 1,030           |
| Receivables <sup>1</sup>  | 7    | Loans and receivables<br>(at amortised cost)        | 67              |
| Financial Liabilities     | Note | Category  | Carrying Amount |
| Class:                    |      |   |                 |
| Payables <sup>2</sup>     | 10   | Financial liabilities<br>measured at amortised cost | 150             |

<sup>1</sup> Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7)

<sup>2</sup> Excludes statutory payables and unearned revenue (i.e. not within scope of AASB7)

The Commission determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

#### b) Derecognition of financial assets and financial liabilities

A financial asset is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the Commission transfers the financial asset:

- where substantially all the risks and rewards have been transferred or
- where the Commission has not transferred substantially all the risks and rewards, if the entity has not retained control.

Where the Commission has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the Commission's continuing involvement in the asset. In that case, the Commission also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the Commission has retained.

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2018

Continued involvement that takes the form of a guarantee over the transferred asset is measured at the lower of the original carrying amount of the asset and the maximum amount of consideration that the Commission could be required to repay.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires. When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as the derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised in the net result.

#### c) Offsetting financial instruments

Financial assets and financial liabilities are offset and the net amount is reported in the Statement of Financial Position if there is a currently enforceable legal right to offset the recognised amounts and there is an intention to settle on a net basis, or to realise the assets and settle the liabilities simultaneously.

#### d) Financial risks

##### (i) CREDIT RISK

Credit risk arises when there is a possibility of the Commission's debtors defaulting on their contractual obligations, resulting in a financial loss to the Commission. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Commission, including cash and receivables. No collateral is held by the Commission. The Commission has not granted any financial guarantees.

Credit risk associated with the Commission's financial assets, other than receivables is managed through the selection of counterparties and establishment of minimum credit rating standards. Authority deposits held with NSW TCorp are guaranteed by the State.

##### Cash and cash equivalents

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to NSW Treasury.

##### Receivables - trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors.

The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. No provision for doubtful debts has been made as all amounts are considered to be collectable.

As at 30 June, the ageing analysis of trade debtors is as follows:

| <u>Consolidated</u>          | <u>2018</u><br><u>\$'000</u> |
|------------------------------|------------------------------|
| Neither past due or impaired | 31                           |
| Past due but not impaired    |                              |
| < 3 months overdue           | --                           |
| 3-6 months overdue           | --                           |
| > 6 months overdue           | --                           |
| Total receivables            | <u>31</u>                    |

The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7. Therefore the total will not reconcile to the receivables total in Note 7.

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2018

#### (ii) LIQUIDITY RISK

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continuously manages risk through monitoring future cash flows and planning to ensure adequate holdings of liquid assets. The Commission does not have a bank overdraft facility.

During the current year, there were no defaults of loans payable. No assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the Commissioner (or person appointed by the Commissioner) may automatically pay the supplier simple interest. No interest was applied during the year.

The table below summarises the maturity profile of the Commission's financial liabilities, together with the interest rate exposure.

#### Maturity analysis and interest rate exposure of financial liabilities

|   | Weighted average effective int. rate | \$'000<br>Interest Rate Exposure |                     |                        | Maturity Dates       |            |             |
|---|--------------------------------------|----------------------------------|---------------------|------------------------|----------------------|------------|-------------|
|   |                                      | Nominal amount                   | Fixed interest rate | Variable interest rate | Non-interest bearing | <1 year    | 1 - 5 years |
| <b>Parent</b>                           |                                      |                                  |                     |                        |                      |            |             |
| <b>2018</b>                             |                                      |                                  |                     |                        |                      |            |             |
| Personnel services payable              |                                      | 53                               |                     |                        | 53                   | 53         |             |
| Creditors                               |                                      | 100                              |                     |                        | 100                  | 100        |             |
|   |                                      | <u>153</u>                       |                     |                        | <u>153</u>           | <u>153</u> |             |
| <b>Consolidated</b>                     |                                      |                                  |                     |                        |                      |            |             |
| <b>2018</b>                             |                                      |                                  |                     |                        |                      |            |             |
| Accrued salaries and wages and on-costs |                                      | 50                               |                     |                        | 50                   | 50         |             |
| Creditors                               |                                      | 100                              |                     |                        | 100                  | 100        |             |
|   |                                      | <u>150</u>                       |                     |                        | <u>150</u>           | <u>150</u> |             |

The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities, therefore the amounts disclosed above may not reconcile to the statement of financial position.

#### (iii) MARKET RISK

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Commission's exposure to market risk is primarily through interest rate risk. The Commission has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on profit and equity due to a reasonably possible change in risk variable is outlined in the information below for interest rate risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the Commission operates and the time frame for the assessment (i.e. until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the statement of financial position date. The analysis assumes that all other variables remain constant.

## Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2018

### Interest rate risk

Exposure to interest rate risk would primarily arise through interest bearing liabilities. The Commission does not account for any fixed rate financial instruments at fair value through profit or loss or as available-for-sale. Therefore, for these financial instruments, a change in interest rates would not affect profit or loss or equity.

The Commission does not have interest bearing liabilities and does not receive interest on cash assets held as such there is no exposure to interest rate risk.

### e) Fair value measurement

#### (i) FAIR VALUE COMPARED TO CARRY AMOUNT

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

#### (ii) FAIR VALUE RECOGNISED IN THE STATEMENT OF FINANCIAL POSITION

When measuring fair value, the valuation technique used maximises the use of relevant observable inputs and minimises the use of unobservable inputs. Under AASB 13, the entity categorises, for disclosure purposes, the valuation techniques based on the inputs used in the valuation techniques as follows:

- Level 1 - quoted (unadjusted) prices in active markets for identical assets/liabilities that the Commission can access at the measurement date.
- Level 2 - inputs other than quoted prices included within level 1 that are observable, either directly or indirectly.
- Level 3 - inputs that are not based on observable market data (unobservable inputs).

The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of many of the financial instruments.

## 18. RELATED PARTY DISCLOSURES

The Commission's key management personnel compensation are as follows

|                               | 2018<br>\$'000 |
|-------------------------------|----------------|
| Short term employee benefits: |                |
| Salaries                      | 1,478          |
| Non-monetary benefits         | --             |
| Total remuneration            | <u>1,478</u>   |

Key management personnel and their compensation disclosures are limited to the key decision makers who have authority and responsibility for planning, directing and controlling the activities of the Commission.

During the year, the Commission did not enter into transactions with key management personnel, their close family members and the members of its controlled entities.

During the year, the Commission entered into transactions with other entities that are controlled/jointly controlled/significantly influenced by the NSW Government. These transactions in aggregate are a significant portion of the Commission's rendering of services and receiving of services.

These transactions include:

- Long Service Leave and Defined Benefit Superannuation assumed by the Crown
- Appropriations (and subsequent adjustments in appropriations)
- Transactions relating to the Treasury Banking System
- Employer contributions paid to the Defined Benefit Superannuation funds
- Payments into the Treasury Managed Fund for workers compensation insurance and other insurances.
- Payments to Property NSW for office accommodation rental.

Law Enforcement Conduct Commission

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

19. EVENTS AFTER THE REPORTING DATE

No events have occurred between the financial reporting date and the date of these financial statements that require adjustment to, or disclosure in these financial statements.

End of audited financial statement



## INDEPENDENT AUDITOR'S REPORT

### Office of Law Enforcement Conduct Commission

To Members of the New South Wales Parliament

#### Opinion

I have audited the accompanying financial statements of Office of Law Enforcement Conduct Commission (the Office), which comprise the Statement of Comprehensive Income for the year ended 30 June 2018, the Statement of Financial Position as at 30 June 2018, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement of Significant Accounting Policies and other explanatory information.

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Office as at 30 June 2018, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015.

My opinion should be read in conjunction with the rest of this report.

#### Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Office in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

## **Other Information**

Other information comprises the information included in the Office's annual report for the year ended 30 June 2018, other than the financial statements and my Independent Auditor's Report thereon. The Chief Executive Officer of the Office is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by the Chief Executive Officer.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

## **Chief Executive Officer's Responsibilities for the Financial Statements**

The Chief Executive Officer is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Chief Executive Officer determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chief Executive Officer is responsible for assessing the Office's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting except where the Office's operations will cease as a result of an administrative restructure.

## **Auditor's Responsibilities for the Audit of the Financial Statements**

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: [www.auasb.gov.au/auditors\\_responsibilities/ar4.pdf](http://www.auasb.gov.au/auditors_responsibilities/ar4.pdf). The description forms part of my auditor's report.

My opinion does not provide assurance:

- that the Office carried out its activities effectively, efficiently and economically
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements



Chris Harper  
Director, Financial Audit Services

28 September 2018  
SYDNEY

**Office of the Law Enforcement Conduct Commission**

**Financial Statements 2017–18**

**Contents**

Statement by Chief Executive Officer ..... 2

Statement of Comprehensive Income ..... 3

Statement of Financial Position ..... 4

Statement of Changes in Equity ..... 5

Statement of Cash Flows ..... 6

Summary of Significant Accounting Policies ..... 7

Notes to the Financial Statements ..... 8-16

## Office of the Law Enforcement Conduct Commission

### Statement by Chief Executive Officer

Pursuant to Section 45F of the *Public Finance and Audit Act 1983*, I have formed the opinion that:

- (a) the accompanying financial statements in respect of the year ended 30 June 2018 have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015*, the Financial Reporting Directions mandated by the Treasurer
- (b) the financial statements exhibit a true and fair view of the financial position as at 30 June 2018 and financial performance of the Office for the year then ended, and
- (c) there are no circumstances that would render any particulars included in the consolidated financial statements to be misleading or inaccurate.



M M O'Brien  
Acting Chief Executive Officer

This page is not audited

## Office of the Law Enforcement Conduct Commission

### Statement of comprehensive income for the year ended 30 June 2018

|  | Notes | 2018<br>\$'000 |
|--|-------|----------------|
| <b>Expenses excluding losses</b>   |       |                |
| Employee related expenses  | 2     | 13,418         |
| <b>Total expenses excluding losses</b>   |       | <u>13,418</u>  |
| <br>   |       |                |
| <b>Revenue</b>   |       |                |
| Personnel services   |       | 12,880         |
| Acceptance by the Crown Entity of employee benefits and other liabilities      | 3     | 524            |
| Other revenue  | 3     | 14             |
| <b>Total Revenue</b>   |       | <u>13,418</u>  |
| <br>   |       |                |
| <b>Net Result</b>  | 11    | <u>—</u>       |
| <br>   |       |                |
| <b>Other comprehensive income</b>  |       |                |
| <i>Items that will not be reclassified to net result in subsequent periods</i> |       |                |
| <b>Total other comprehensive income</b>  |       | —              |
| <br>   |       |                |
| <b>TOTAL COMPREHENSIVE INCOME</b>  |       | <u>—</u>       |

The accompanying notes form part of these financial statements

Office of the Law Enforcement Conduct Commission

Statement of financial position as at 30 June 2018

|                                      | Notes | 2018<br>\$'000      |
|--------------------------------------|-------|---------------------|
| <b>ASSETS</b>                        |       |                     |
| <b>Current Assets</b>                |       |                     |
| Cash and cash equivalents            | 4     | 65                  |
| Receivables                          | 5     | <u>1,287</u>        |
| <b>Total Current Assets</b>          |       | <u>1,352</u>        |
| <b>Total Assets</b>                  |       | <u><b>1,352</b></u> |
| <b>LIABILITIES</b>                   |       |                     |
| <b>Current Liabilities</b>           |       |                     |
| Payables                             | 6     | 53                  |
| Provisions                           | 7     | <u>1,265</u>        |
| <b>Total Current Liabilities</b>     |       | <u>1,318</u>        |
| <b>Non-Current Liabilities</b>       |       |                     |
| Provisions                           | 7     | <u>34</u>           |
| <b>Total Non-Current Liabilities</b> |       | <u>34</u>           |
| <b>Total Liabilities</b>             |       | <u><b>1,352</b></u> |
| <b>Net Assets</b>                    |       | <u><b>--</b></u>    |
| <b>EQUITY</b>                        |       |                     |
| Accumulated funds                    |       | <u><b>--</b></u>    |
| <b>Total equity</b>                  |       | <u><b>--</b></u>    |

The accompanying notes form part of these financial statements

Office of the Law Enforcement Conduct Commission

**Statement of changes in equity for the year ended 30 June 2018**

|  | <b>Accumulated<br/>Funds<br/>\$'000</b> | <b>Total<br/>\$'000</b> |
|--|---|-------------------------|
| <b>Balance at 1 July 2017</b>                  | --                                      | --                      |
| Net result for the year                        | --                                      | --                      |
| Other comprehensive income                     | --                                      | --                      |
| <b>Total comprehensive income for the year</b> | <u>--</u>                               | <u>--</u>               |
| <b>Balance at 30 June 2018</b>                 | <u>--</u>                               | <u>--</u>               |

The accompanying notes form part of these financial statements

Office of the Law Enforcement Conduct Commission

Statement of cash flows for the year ended 30 June 2018

|   | Notes | 2018<br>\$'000         |
|---|-------|------------------------|
| <b>CASH FLOWS FROM OPERATING ACTIVITIES</b>                   |       |                        |
| <b>Payments</b>   |       |                        |
| Employee related  |       | <u>(12,506)</u>        |
| <b>Total Payments</b>   |       | <u><b>(12,506)</b></u> |
| <b>Receipts</b>   |       |                        |
| Personnel services  |       | <u>12,524</u>          |
| <b>Total Receipts</b>   |       | <u><b>12,524</b></u>   |
| <b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>               |       | <u><b>18</b></u>       |
| <b>NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS</b> | 11    | 18                     |
| Cash transferred in as a result of administrative restructure | 8     | <u>47</u>              |
| <b>CLOSING CASH AND CASH EQUIVALENTS</b>                      | 4     | <u><b>65</b></u>       |

The accompanying notes form part of these financial statements

*Office of the Law Enforcement Conduct Commission*

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) *Reporting entity*

The Office of the Law Enforcement Conduct Commission (the Office) is an Agency of the Government Service, established pursuant to Part 3 of Schedule 1 to the Government Sector Employment Act 2013. It is a not-for-profit entity as profit is not its principal objective. It is domiciled in Australia and its principal office is at 111 Elizabeth Street Sydney NSW 2000.

The Office is a controlled entity of the Law Enforcement Conduct Commission (LECC) as such these statements form part of the consolidated accounts of the LECC. The LECC commenced operations on the 1st of July, 2017 replacing the Police Integrity Commission (PIC) and Police and Compliance Branch (PCB) of the Ombudsman Office as the agency responsible for oversight of the NSW Police Force and NSW Crime Commission.

The objective of the Office of the Law Enforcement Conduct Commission is to provide personnel services to the Law Enforcement Conduct Commission.

The financial statements for the year ended 30 June 2018 have been authorised for issue by the Acting Chief Executive Officer for the Office of the Law Enforcement Conduct Commission on 25 September, 2018.

(b) *Basis of preparation*

The Office's financial statements are general purpose financial statements which have been prepared on an accrual basis and in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations)
- the requirements of the Public Finance and Audit Act 1983 and Public Finance and Audit Regulation 2015 and
- the Financial Reporting Directions issued by the Treasurer.

Financial items are prepared in accordance with the historical cost convention.

Judgments, key assumptions and estimations that management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

(c) *Statement of Compliance*

These financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) *Comparative information*

As the Office of the Law Enforcement Conduct Commission did not exist as a reporting entity prior to 1 July, 2017 comparative information have not been shown with the exception of Note 8.

(e) *Changes in accounting policy, including new or revised Australian Accounting Standards*

(i) *Effective for the first time in 2017-18*

There have been no new or revised Australian Accounting Standards effective for the first time in 2017-18 that have impacted the Office.

(ii) *Issued but not yet effective*

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards, unless Treasury determines otherwise. There have been no new Australian Accounting Standards issued which will impact the Office.

*Office of the Law Enforcement Conduct Commission*

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

|   |               |
|---|---------------|
| <b>2. EXPENSES EXCLUDING LOSSES</b>             |               |
|   | 2018          |
|   | \$'000        |
| <b>Employee related expenses</b>                |               |
| Salaries and wages (including recreation leave) | 11,058        |
| Redundancies                                    | 29            |
| Superannuation-defined benefit plans            | 54            |
| Superannuation-defined contribution plans       | 993           |
| Long Service Leave                              | 467           |
| Workers' compensation insurance                 | 87            |
| Payroll tax                                     | 727           |
| Other   | 3             |
|   | <u>13,418</u> |

For the 2017/18 financial year the audit fee for auditing the Office is included in the audit fee for the LECC.

**3. REVENUE**

RECOGNITION AND MEASUREMENT

Income is measured at the fair value of the consideration or contribution received or receivable. Comments regarding the accounting policies for the recognition of income are discussed below.

**Rendering of services**

Revenue from rendering of personnel services is recognized when the service is provided and only to the extent that the associated recoverable expenses are recognised.

**(a) Rendering of services**

|   |               |
|---|---------------|
| Personnel services income from the LECC | 12,880        |
|   | <u>12,880</u> |

**(b) Acceptance by the Crown Entity of employee benefits and other liabilities**

The following liabilities and / or expenses have been assumed by the Crown Entity:

|                                      |            |
|--------------------------------------|------------|
| Superannuation-defined benefit plans | 54         |
| Long Service Leave                   | 467        |
| Payroll tax on superannuation        | 3          |
|                                      | <u>524</u> |

The movement in long service leave includes leave taken and paid out on termination together with an adjustment at year end to the accrual reflecting the movement in the bond rate and present value calculation.

**(c) Other revenue**

|                                       |           |
|---------------------------------------|-----------|
| Insurance hindsight adjustment refund | 14        |
|                                       | <u>14</u> |

**4. CURRENT ASSETS - CASH AND CASH EQUIVALENTS**

|              |           |
|--------------|-----------|
| Cash at bank | 65        |
|              | <u>65</u> |

Refer Note 12 for details regarding credit risk and market risk arising from financial instruments.

*Office of the Law Enforcement Conduct Commission*

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

5. CURRENT ASSETS - RECEIVABLES

|                    | 2018<br>\$'000 |
|--------------------|----------------|
| Personnel services | 1,248          |
| Other debtors      | <u>39</u>      |
|                    | <u>1,287</u>   |

Refer Note 12 for details regarding credit risk and market risk arising from financial instruments.

RECOGNITION AND MEASUREMENT

All 'regular way' purchases or sales of financial assets are recognised and derecognised on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace.

Receivables, including personnel services, prepayments etc. are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market.

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Subsequent measurement is at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Short term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

**Impairment**

Receivables are subject to an annual review for impairment. Financial assets are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows have been affected.

The Office first assesses whether impairment exists individually for receivables that are individually significant, or collectively for those that are not individually significant. Further, receivables are assessed for impairment on a collective basis if they were assessed not to be impaired individually.

The Office does not recognise any impairment for receivable balances as all trade receivables held by the Commission are considered to be recoverable in full.

6. CURRENT LIABILITIES -PAYABLES

|                                      |           |
|--------------------------------------|-----------|
| Accrued salaries, wages and on-costs | <u>53</u> |
|                                      | <u>53</u> |

RECOGNITION AND MEASUREMENT

Payables include accrued salaries, wages and related on costs (such as payroll tax, tax and workers' compensation insurance) where there is certainty as to the amount and timing of settlement. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised net result when the liabilities are derecognised as well as through the amortisation process.

*Office of the Law Enforcement Conduct Commission*

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

| 7. CURRENT/NON-CURRENT LIABILITIES –PROVISIONS   | 2018<br>\$'000 |
|--|----------------|
| <b>Current</b>                                   |                |
| <b>Employee benefits and related on-costs</b>    |                |
| Annual leave including on-costs                  | 855            |
| Long service leave on-cost                       | 386            |
| Fringe benefits tax                              | 24             |
|  | <u>1,265</u>   |
| Expected to be settled within 12 months          | 1,159          |
| Expected to be settled after 12 months           | 106            |
|  | <u>1,265</u>   |
| <b>Non-current</b>                               |                |
| <b>Employee benefits and related on-costs</b>    |                |
| Long service leave on-cost                       | 22             |
| Payroll tax                                      | 12             |
|  | <u>34</u>      |
| Aggregate employee benefits and related on-costs |                |
| Provisions - Current                             | 1,265          |
| Provisions - Non-current                         | 34             |
| Accrued salaries and wages (note 6)              | 53             |
|  | <u>1,352</u>   |

The Office has referred to leave taken during the year to determine the split between leave expected to be taken within the next 12 months and leave expected to be taken after 12 months.

RECOGNITION AND MEASUREMENT

**Employee Benefits and related on-costs**

*Salaries and wages, annual leave and sick leave*

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with *AASB 119 Employee Benefits*.

Actuarial advice obtained by Treasury has confirmed that the use of a nominal approach plus the annual leave on annual leave liability (using 7.9% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The Office has assessed the actuarial advice based on the Office's circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the Office does not expect to settle the liability within 12 months as the Office does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

*Long Service Leave and Superannuation*

The Office's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Office accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

*Office of the Law Enforcement Conduct Commission*

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

Long service leave is measured at present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using Commonwealth government bond rate at the reporting date.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (ie Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (ie State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

**Consequential on-costs**

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

**Other Provisions**

The Office has no other provisions.

**8. EQUITY**

RECOGNITION AND MEASUREMENT

**Accumulated Funds**

The category 'Accumulated Funds' includes all current and prior period retained funds.

**Increase / Decrease in Net Assets from Equity Transfers**

The transfer of net assets between entities as a result of an administrative restructure and transfers of programs / functions and parts thereof between NSW public sector entities are designated or required by Australian Accounting Standards to be treated as contributions by owners and recognised as an adjustment to 'Accumulated Funds'. This treatment is consistent with AASB 1004 Contributions and Australian Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities*.

Transfers arising from an administrative restructure involving not-for-profit and for-profit government entities are recognised at the amount at which the assets and liabilities were recognised by the transferor immediately prior to the restructure. Subject to below, in most instances this will approximate fair value.

The following assets and liabilities were transferred from the Police Integrity Commission Staff Agency (PIC Staff Agency) as at 1 July 2017. Current liabilities relating to employee provisions for staff transferred from the Police and Compliance Branch of the NSW Ombudsman's Office are included in the figures shown below for staff who had been employed within the LECC transition unit and paid by the PIC Staff Agency prior to the commencement of the Commission and as such leave liabilities were recognised by the PIC Staff Agency as at 30 June 2017.

*Office of the Law Enforcement Conduct Commission*

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

Statement of Assets and Liabilities for the transferred functions as at 1 July 2017

|                                      | PIC Staff<br>Agency<br>As at<br>1 July<br>2017<br>\$'000 | Office of<br>the LECC<br>30 June<br>2018<br>\$'000 | PIC Staff<br>Agency<br>As at<br>30 June<br>2017<br>\$'000 |
|--------------------------------------|--|--|---|
| <b>ASSETS</b>                        |  |  |   |
| <b>Current Assets</b>                |  |  |   |
| Cash and cash equivalents            | 47   | 65   | 47  |
| Receivables                          | 918  | 1,287  | 918   |
| <b>Total Current Assets</b>          | <b>965</b>   | <b>1,352</b>                                       | <b>965</b>  |
| <b>Total Assets</b>                  | <b>965</b>   | <b>1,352</b>                                       | <b>965</b>  |
| <b>LIABILITIES</b>                   |  |  |   |
| <b>Current Liabilities</b>           |  |  |   |
| Payables                             | 43   | 53   | 43  |
| Provisions                           | 895  | 1,265  | 895   |
| <b>Total Current Liabilities</b>     | <b>938</b>   | <b>1,318</b>                                       | <b>938</b>  |
| <b>Non-Current Liabilities</b>       |  |  |   |
| Provisions                           | 27   | 34   | 27  |
| <b>Total Non-Current Liabilities</b> | <b>27</b>  | <b>34</b>  | <b>27</b>   |
| <b>Total Liabilities</b>             | <b>965</b>   | <b>1,352</b>                                       | <b>965</b>  |
| <b>Net Assets</b>                    | <b>--</b>  | <b>--</b>  | <b>--</b>   |
| <b>EQUITY</b>                        |  |  |   |
| Accumulated funds                    | --   | --   | --  |
| <b>Total Equity</b>                  | <b>--</b>  | <b>--</b>  | <b>--</b>   |

9. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

As at the reporting date, the Office is not aware of any contingent liabilities and contingent assets that will materially affect its financial position.

10. COMMITMENTS FOR EXPENDITURE

As at the reporting date, the Office does not have any commitments.

11. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET RESULT

|   |           |
|---|-----------|
|   | 2018      |
|   | \$'000    |
| Net cash used in operating activities               | 18        |
| Decrease/(increase) in provisions                   | (377)     |
| Increase/(decrease) in prepayments and other assets | 369       |
| Decrease/(increase) in creditors                    | (10)      |
| <b>Net result</b>                                   | <b>--</b> |

*Office of the Law Enforcement Conduct Commission*

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

**12. FINANCIAL INSTRUMENTS**

The Office's principal financial instruments are outlined below. These financial instruments arise directly from the Office's operations or are required to finance the Office's operations. The Office does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The Office's main risks arising from financial instruments are outlined below, together with the Office's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout this financial statement.

The Chief Executive Officer has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Office, to set risk limits and controls and to monitor risk. Compliance with policies is reviewed by the Commission's Audit and Risk Committee.

**a) Financial instrument categories**

| Financial Assets          | Note | Category                                     | Carrying Amount |
|---------------------------|------|--|-----------------|
| Class:                    |      |  | 2018            |
|                           |      |  | \$'000          |
| Cash and cash equivalents | 4    | N/A  | 65              |
| Receivables <sup>1</sup>  | 5    | Loans and receivables<br>(at amortised cost) | 1,287           |

| Financial Liabilities | Note | Category   | Carrying Amount |
|-----------------------|------|--|-----------------|
| Class:                |      |  | 2018            |
|                       |      |  | \$'000          |
| Payables <sup>2</sup> | 6    | Financial liabilities<br>Measured at amortised<br>cost | 50              |

<sup>1</sup> Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7)

<sup>2</sup> Excludes statutory payables and unearned revenue (i.e. not within scope of AASB7)

**b) Derecognition of financial assets and financial liabilities**

A financial asset is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the Office transfers the financial asset:

- where substantially all the risks and rewards have been transferred or
- where the Office has not transferred substantially all the risks and rewards, if the entity has not retained control.

Where the Office has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the Office's continuing involvement in the asset. In that case, the Office also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the Office has retained.

Continued involvement that takes the form of a guarantee over the transferred asset is measured at the lower of the original carrying amount of the asset and the maximum amount of consideration that the Office could be required to repay.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires. When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as the derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised in the net result.

*Office of the Law Enforcement Conduct Commission*

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

c) **Offsetting financial instruments**

Financial assets and financial liabilities are offset and the net amount is reported in the Statement of Financial Position if there is a currently enforceable legal right to offset the recognised amounts and there is an intention to settle on a net basis, or to realise the assets and settle the liabilities simultaneously.

d) **Financial risks**

(i) **Credit Risk**

Credit risk arises when there is a possibility of the Office's debtors defaulting on their contractual obligations, resulting in a financial loss to the Office. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Office, including cash and receivables. No collateral is held by the Office. The Office has not granted any financial guarantees.

*Cash and cash equivalents*

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System.

*Receivables - trade debtors*

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors.

The Office is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. No provision for doubtful debts has been made as all amounts are considered to be collectable.

As at 30 June, the ageing analysis of trade debtors is as follows:

|                              | 2018<br>\$'000 |
|------------------------------|----------------|
| Neither past due or impaired | 31             |
| Past due but not impaired    |                |
| < 3 months overdue           | --             |
| 3-6 months overdue           | --             |
| > 6 months overdue           | --             |
| Total receivables            | <u>31</u>      |

The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7. Therefore the total will not reconcile to the receivables total in Note 7.

(ii) **Liquidity Risk**

Liquidity risk is the risk that the Office will be unable to meet its payment obligations when they fall due. The Office continuously manages risk through monitoring future cash flows and planning to ensure adequate holdings of liquid assets. The Office does not have a bank overdraft facility.

During the current year, there were no defaults of loans payable. No assets have been pledged as collateral. The Office's exposure to liquidity risk is deemed insignificant based on current assessment of risk.

**Office of the Law Enforcement Conduct Commission**

**Notes to and forming part of the Financial Statements for the year ended 30 June 2018**

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (that are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the Chief Executive Officer (or a person appointed by the CEO) may automatically pay the supplier simple interest. No interest was applied during the year. The table below summarises the maturity profile of the Office's financial liabilities, together with the interest rate exposure.

**Maturity analysis and interest rate exposure of financial liabilities**

|                                      | Weighted average effective int. rate | Nominal amount | \$'000<br>Interest Rate Exposure |                        |                      | Maturity Dates |            |           |
|--------------------------------------|--------------------------------------|----------------|----------------------------------|------------------------|----------------------|----------------|------------|-----------|
|                                      |                                      |                | Fixed interest rate              | Variable interest rate | Non-interest bearing | <1 year        | 1- 5 years | > 5 years |
| 2018                                 |                                      |                |                                  |                        |                      |                |            |           |
| Accrued salaries, wages and on-costs |                                      | 53             | --                               | --                     | 53                   | 53             | --         | --        |
|                                      |                                      | 53             | --                               | --                     | 53                   | 53             | --         | --        |

**(iii) Market Risk**

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Office's exposure to market risk is primarily through interest rate risk. The Office has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on profit and equity due to a reasonably possible change in risk variable is outlined in the information below for Interest rate risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the Office operates and the time frame for the assessment (i.e. until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the statement of financial position date. The analysis assumes that all other variables remain constant.

**Interest rate risk**

Exposure to interest rate risk would primarily arise through interest bearing liabilities. The Office does not account for any fixed rate financial instruments at fair value through profit or loss or as available-for-sale. Therefore, for these financial instruments, a change in interest rates would not affect profit or loss or equity.

The Office does not have interest bearing liabilities and does not receive interest on cash assets held as such there is no exposure to interest rate risk.

**(iv) Fair Value Measurement**

The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of many of the financial instruments.

**13. RELATED PARTY DISCLOSURES**

*Office of the Law Enforcement Conduct Commission*

*Notes to and forming part of the Financial Statements for the year ended 30 June 2018*

During the year, the Office entered into transactions with other entities that are controlled/jointly controlled/significantly influenced by the NSW Government. These transactions in aggregate are a significant portion of the Office's rendering of personnel services.

These transactions include:

- The provision of personnel services to the Law Enforcement Conduct Commission
- Long Service Leave and Defined Benefit Superannuation assumed by the Crown
- Transactions relating to the Treasury Banking System
- Employer contributions paid to the Defined Benefit Superannuation funds
- Payments into the Treasury Managed Fund for workers compensation insurance.

During the year, the Office did not enter into transactions with key management personnel, their close family members and the members of its controlled entities.

Key management personnel and their compensation disclosures are limited to the key decision makers who have authority and responsibility for planning, directing and controlling the activities of the Office. The Office of the LECC considers this to be the Chief Executive Officer. Compensation related to key management personnel are as follows

|                               | <u>2018</u><br><u>\$'000</u> |
|-------------------------------|------------------------------|
| Short term employee benefits: |                              |
| Salaries                      | 265                          |
| Non-monetary benefits         | <u>--</u>                    |
| Total remuneration            | <u>265</u>                   |

**14. EVENTS AFTER THE REPORTING PERIOD**

There have been no significant events after the reporting period which would materially affect these statements.

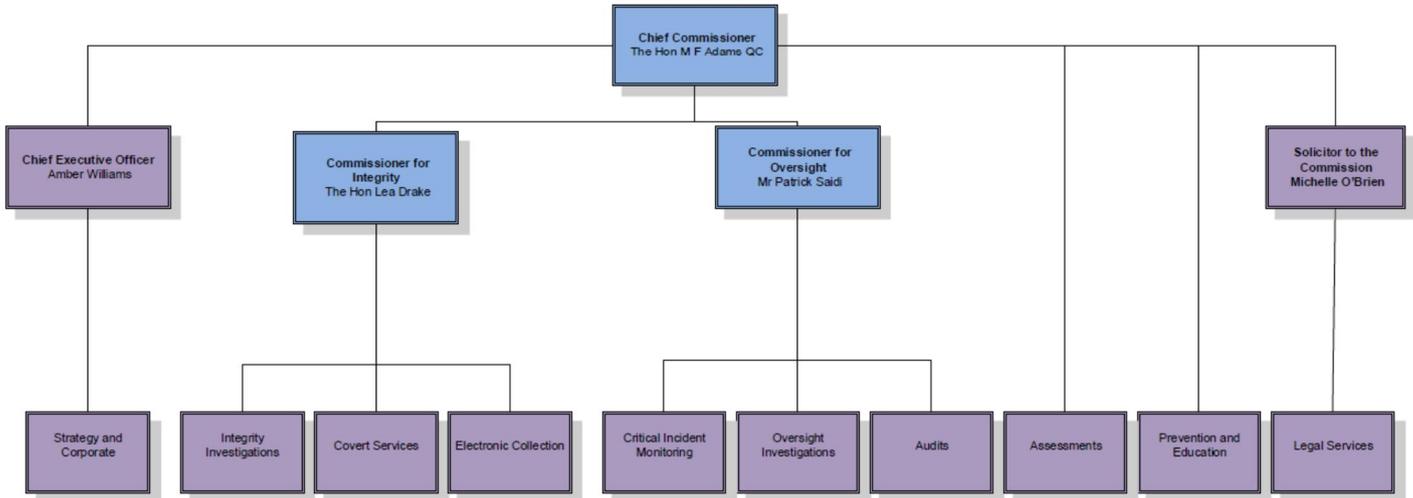
End of audited financial statements.

# 8. APPENDIX 8

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# 8.1 APPENDIX 8: ORGANISATION STRUCTURE

LECC FUNCTIONAL ORGANISATION CHART



# 9. APPENDIX 9

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## 9.1 APPENDIX 9: LAW ENFORCEMENT CONDUCT COMMISSION PUBLICATIONS

The Commission did not publish any reports in the reporting period.

# 10.APPENDIX 10

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## 10.1 APPENDIX 10: DIRECTORY, DEFINITIONS AND PRINTING REQUIREMENTS

### 10.1.1 DIRECTORY

| Address   | Postal Address  | Website  |
|---|---|--|
| Level 3, 111 Elizabeth Street<br>SYDNEY NSW 2000<br>Office hours: 8.30am-4.30pm<br>(excluding weekends and public holidays) | GPO Box 3880<br>SYDNEY NSW 2000<br>Telephone: (61 2) 9321 6700<br>Freecall: 1800 657 079<br>Facsimile: (61 2) 9321 6799 | <a href="http://www.lecc.nsw.gov.au">www.lecc.nsw.gov.au</a> |

### 10.1.2 DEFINITIONS

| Acronym  | Definition   |
|----------|--|
| CALD     | Culturally and linguistically diverse                  |
| GSE Act  | <i>Government Sector Employment Act 2013</i>           |
| LECC     | Law Enforcement Conduct Commission                     |
| LECC Act | <i>Law Enforcement Conduct Commission Act 2016</i>     |
| NSWPF    | New South Wales Police Force                           |
| NSWCC    | New South Wales Crime Commission                       |
| OICC     | Office of the Inspector of the Crime Commission        |
| PANSW    | Police Association of NSW                              |
| PCB      | Police and Compliance Branch of the Ombudsman's Office |
| PIC      | Police Integrity Commission                            |
| SOC      | Strategic Operations Committee                         |
| WHS      | Work Health and Safety                                 |

### 10.1.3 ANNUAL REPORT COSTS

Total External Costs: \$0 (including design and printing costs)

# INDEX

|  |   |
|--|---|
| Aboriginal communities .....                           | 53  |
| Aboriginal Legal Service                               |   |
| ALS .....  | 6, 52, 53   |
| Allegations .....                                      | 6, 11, 23, 28, 32, 33, 36, 37, 42, 68, 71   |
| Assessment .....                                       | 6, 10, 18, 21, 22, 24, 32, 39, 68, 71   |
| Audit .....  | 25, 29, 30, 40, 45, 60  |
| Audit and Risk Committee .....                         | 50  |
| Budget .....   | 5, 6, 50  |
| c@ts.i .....   | 22  |
| Caprera .....  | 32  |
| CEO  |   |
| CEO .....  | 1, 5, 13, 45, 50, 55  |
| Amber Williams .....                                   | 13  |
| Chief Commissioner .....                               | 1, 7, 12, 13, 50, 56, 57  |
| Michael Adams QC .....                                 | 1, 7, 12  |
| Children's Legal Service .....                         | 6, 52   |
| Collaboration .....                                    | 5, 43   |
| Commissioner for Integrity .....                       | 12, 50, 57  |
| Lea Drake .....  | 12, 57  |
| Commissioner for Oversight .....                       | 12, 50, 57  |
| Patrick Saidi .....                                    | 12  |
| Commissioner of Police .....                           | 18, 42, 43, 68  |
| Commissioners .....                                    | 5, 10, 13, 21, 50, 52, 55, 56   |
| Community Engagement .....                             | 6, 12, 52, 53, 141  |
| Complaint Action Panel .....                           | 10, 21  |
| Complaints .....                                       | 68  |
| Consultants .....                                      | 65  |
| Corrective Services NSW .....                          | 53  |
| Court Attendance Notices .....                         | 36  |
| Crime Commission .....                                 | 5, 7, 9, 10, 11, 12, 21, 24, 32, 39, 40, 49, 50, 68, 69, 137                                    |
| Critical Incidents .....                               | 6, 9, 10, 11, 15, 16, 17, 18, 19, 27, 42, 68  |
| Department of Justice .....                            | 13  |
| Digital Information Security policy .....              | 59  |
| Efficiency dividend .....                              | 5   |
| Excessive use of force .....                           | 6   |
| Executive Committee .....                              | 49  |
| Findings .....   | 6, 11, 28, 29, 42, 68   |
| Full investigations .....                              | 32  |
| GIPA Act .....   | 79, 80  |
| <i>Government Information (Public Access) Act 2009</i> |   |
| GIPA .....   | 79  |
| <i>Government Sector Employment Act 2013</i>           |   |
| GSE Act .....  | 55, 56, 57, 137   |
| <i>Government Sector Finance Bill</i>                  |   |
| GSF Bill .....   | 45  |
| Hearings .....   | 32  |
| IAPro .....  | 22  |
| Industrial Relations .....                             | 12  |
| Inspector .....  | 7, 9, 49, 79, 137   |
| Integrity division .....                               | 11, 27, 28, 32, 42  |
| investigation outcomes .....                           | 35  |
| Investigations .....                                   | 5, 6, 9, 10, 11, 15, 16, 17, 18, 19, 26, 27, 28, 29, 32, 33, 35, 36, 37, 39, 42, 43, 50, 68, 69 |
| Judiciary .....  | 23  |

|   |   |
|---|---|
| Juvenile Justice NSW .....                                    | 53  |
| <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> |   |
| LEPRA .....   | 23, 43  |
| Law Enforcement Conduct Commission                            |   |
| LECC .....  | 12, 13, 80  |
| <i>Law Enforcement Conduct Commission Act 2016</i> .....      | 1, 5, 16, 32, 45, 49, 53, 56, 68, 73, 137   |
| LECC Act .....  | 1, 5, 16, 32, 45, 49, 53, 56, 73, 137   |
| Law Society .....   | 6, 12, 52   |
| LECC .....  | 5, 6, 10, 11, 12, 16, 17, 22, 23, 28, 29, 30, 32, 39, 40, 42, 45, 50, 52, 53, 55, 58, 59, 80, 137 |
| LECC Award .....  | 55  |
| Legal Aid .....   | 6, 52, 53   |
| Legal Services .....  | 11, 13, 32  |
| Memorandum of Understanding                                   |   |
| MoU .....   | 29, 40, 53  |
| Minister for Police .....                                     | 5, 9, 11  |
| Misconduct .....  | 21, 68  |
| NSW Ombudsman .....   | 7, 9, 22, 26, 27, 43, 53  |
| NSW Police Force  |   |
| NSWPF .....   | 5, 9, 10, 11, 12, 15, 21, 26, 32, 42, 43, 50, 52  |
| Ongoing investigations .....                                  | 36  |
| Operation Aracari .....                                       | 76  |
| Operation Asinara .....                                       | 75  |
| Operation Baltra .....  | 37  |
| Operation Binda .....   | 76  |
| Operation Bindaree .....                                      | 75  |
| Operation Carlow .....  | 28, 37  |
| Operation Chivero .....                                       | 37  |
| Operation Corwen .....  | 32, 37  |
| Operation Genyen .....  | 37  |
| Operation Kariba .....  | 37  |
| Operation Montecristo .....                                   | 75, 76, 77  |
| Operation Ramberg .....                                       | 37  |
| Operation Rozzano .....                                       | 36  |
| Operation Tambora .....                                       | 32, 37  |
| Operation Tusket .....  | 43  |
| Operations Advisory Group .....                               | 50  |
| Parliament .....  | 1, 6, 11, 45, 49, 57, 80  |
| Parliamentary Joint Committee .....                           | 49  |
| People .....  | 12  |
| <i>Police Act 1990</i> .....                                  | 19, 26, 42, 45  |
| Police Association .....                                      | 15, 137   |
| Police Integrity Commission                                   |   |
| PIC .....   | 6, 9, 18, 22, 26, 61, 137   |
| Policies and procedures .....                                 | 5, 10, 45, 49, 57   |
| Preliminary enquiries .....                                   | 6, 11, 32   |
| Preliminary investigations .....                              | 32  |
| Prevention and Education .....                                | 11, 18, 32, 42, 43  |
| Private examinations .....                                    | 6, 32   |
| Professional Standards Command .....                          | 15, 18, 42  |
| Prosecution .....   | 9, 34, 35, 39, 45, 46, 71   |
| PSA .....   | 55  |
| Public examinations .....                                     | 6, 32, 68   |
| Public Interest Disclosures .....                             | 10  |
| Public Service Association                                    |   |
| PSA .....   | 55  |

|                                      |                           |
|--------------------------------------|---------------------------|
| Recommendations.....                 | 6, 10, 18, 21, 43, 49, 68 |
| Remuneration .....                   | 56, 57                    |
| Research projects .....              | 6                         |
| Restructure .....                    | 5, 55                     |
| Secondary employment.....            | 35                        |
| Section 14 guidelines .....          | 18, 22, 23, 39, 42, 57    |
| Security and Vetting.....            | 50                        |
| Senior Executive.....                | 12, 68                    |
| Serious maladministration.....       | 9, 52                     |
| Serious misconduct.....              | 9                         |
| Solicitor to the Commission .....    | 13, 50                    |
| Michelle O'Brien .....               | 1, 13                     |
| State Coroner .....                  | 10, 15, 18                |
| STMP.....                            | 43                        |
| Strategic Operations Committee ..... | 50                        |
| Strategic Plan.....                  | 11                        |
| Subpoenas.....                       | 45                        |
| Suspect Targeting Management Plan    |                           |
| STMP.....                            | 43                        |
| Tink Review .....                    | 9                         |
| Training.....                        | 5, 26, 52, 53, 57, 59     |
| Troy Grant MP .....                  | 9                         |
| Website .....                        | 6, 60, 80, 141            |
| Workplace Health and Safety          |                           |
| WHS.....                             | 58                        |
| Youth Justice Coalition.....         | 6, 52                     |

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Hours of operation  
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