

# Annual Report

2020/2021



# LECC

Law Enforcement  
Conduct Commission

# LECC

Law Enforcement  
Conduct Commission

Level 3, 111 Elizabeth Street  
Sydney NSW 2000

Email: [contactus@lecc.nsw.gov.au](mailto:contactus@lecc.nsw.gov.au)

Postal address  
GPO Box 3880  
Sydney NSW 2001

Phone: (02) 9321 6700  
Toll free: 1800 657 079  
Fax: (02) 9321 6799

Copyright: © State of New South Wales through the Law Enforcement Conduct Commission, NSW, Australia, 2000. You may copy, distribute, display, download and otherwise freely deal with this work for any purpose, provided that you attribute the Law Enforcement Conduct Commission as the owner. However, you must obtain permission from the Commission if you wish to (a) charge others for access to the work (other than at cost), (b) include the work in advertising or a product for sale, or (c) modify the work.

Disclaimer: This document has been prepared by the Law Enforcement Conduct Commission for general information purposes. While every care has been taken in relation to its accuracy, no warranty is given or implied. Further, recipients should obtain their own independent advice before making any decision that relies on this information.

This report is available on the Commission's website: [www.lecc.nsw.gov.au](http://www.lecc.nsw.gov.au).  
For alternative formats such as Braille, audiotape, large print or computer disk, please email: [media@lecc.nsw.gov.au](mailto:media@lecc.nsw.gov.au) or phone: (02) 9321 6700, toll free: 1800 657 079 or fax: (02) 9321 6799.

ISBN 978-1-74003-038-0

# LETTER FROM THE CHIEF COMMISSIONER AND CEO

26 October 2021

The Hon Matthew Ryan Mason Cox MLC  
President  
Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon Johnathan O’Dea MP  
Speaker  
Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

**Dear Mr President and Mr 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 2021.

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*.

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

Yours faithfully,



**The Hon R O Blanch AM QC**  
Chief Commissioner



**Christina Anderson**  
CEO

**LECC**  
Law Enforcement  
Conduct Commission

# CONTENTS

---

|   |    |             |     |
|---|----|-------------|-----|
| CHAPTER 1                                     |    |             |     |
| Chief Commissioner's Foreword                 | 6  | Appendix 1  | 89  |
| CHAPTER 2                                     |    | Appendix 2  | 103 |
| Snapshot 2020-21                              | 9  | Appendix 3  | 104 |
| CHAPTER 3                                     |    | Appendix 4  | 105 |
| What We Do                                    | 11 | Appendix 5  | 107 |
| CHAPTER 4                                     |    | Appendix 6  | 111 |
| Assessing Complaints                          | 21 | Appendix 7  | 117 |
| CHAPTER 5                                     |    | Appendix 8  | 147 |
| Investigating Serious Officer<br>Misconduct   | 29 | Appendix 9  | 148 |
| CHAPTER 6                                     |    | Appendix 10 | 150 |
| Oversight and Critical Incident<br>Monitoring | 41 | Index       | 151 |
| CHAPTER 7                                     |    |             |     |
| NSW Crime Commission                          | 69 |             |     |
| CHAPTER 8                                     |    |             |     |
| Prevention and Education                      | 71 |             |     |
| CHAPTER 9                                     |    |             |     |
| Legal Matters                                 | 79 |             |     |
| CHAPTER 10                                    |    |             |     |
| Governance and Accountability                 | 81 |             |     |
| CHAPTER 11                                    |    |             |     |
| Community Engagement                          | 85 |             |     |

# CHIEF COMMISSIONER'S FOREWORD

I am pleased to present the Law Enforcement Conduct Commission Annual Report for 2020-2021. The year has been unusual because of the COVID19 pandemic and the necessary restrictions on the movement of staff during the year. The work of the Commission has been able to continue because we have been able to provide all relevant staff with laptop computers and much of the work of the Commission can be done remotely. The one area where there has been great difficulty is the conducting of hearings and as with all the courts in New South Wales we have had limited scope to carry out such hearings and examinations. One positive aspect of our experience is that it has been demonstrated that much of the oversight work of the Commission can be done remotely and once circumstances return to normal we can review the possibility of staff being able to work from home in a more flexible way.

As foreshadowed in last year's Annual Report there have been significant changes to the structure of the Commission. Legislation was passed to remove the position of one Commissioner. This was done because it was assessed the position was not needed and the removal of the position created budget savings. The structure of the Commission was then reviewed in order to create a more unified structure rather than see the Commission as having two separate functions one relating to Police Integrity and the other to oversight of complaints about police conduct. The result was legislation changing the title of the remaining Commissioner from Commissioner for Integrity to Commissioner. A Public Service Senior Executive position of Executive Director of Operations was then created to have responsibility for operational areas of the Commission. Those changes have had the effect of unifying the Commission, increasing the efficiency of the Commission while also achieving some cost savings.

In spite of the difficulties encountered during the year the Commission has been able to complete the assessment of 3,276 complaints received about police conduct, reviewed 1,538 reports of police misconduct and carried out 125 investigations. This level of activity compares well with other years when the Commission did not operate under the restrictions it has had this year.

# CHIEF COMMISSIONER'S FOREWORD

The Commission has also presented three significant reports to Parliament those being the final report on police strip searches, the report on the police administration of the Child Protection Register and a report into the effectiveness of police procedures for workplace equity matters. In respect of these reports and other reports I acknowledge the dedication and expertise of the Prevention and Education team of the Commission and the cooperation of the NSW Police Force in assisting with those reports and in particular their willingness to adopt recommendations in the reports.

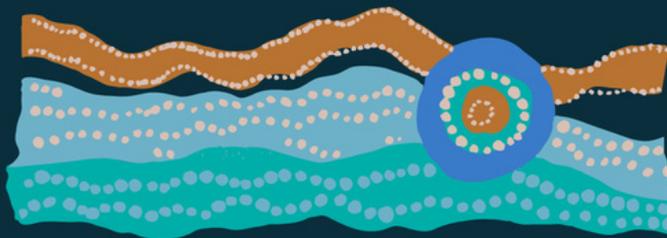
This year was also the year we began the implementation of the strategic plan for the 2020 to 2023 period. It was also the year when LOIS, the computerised case management system, was introduced. Both of these innovations will be of major assistance in the future work of the Commission.

I wish particularly to thank the staff of the Commission for their dedication to the work of the Commission during such a difficult year.

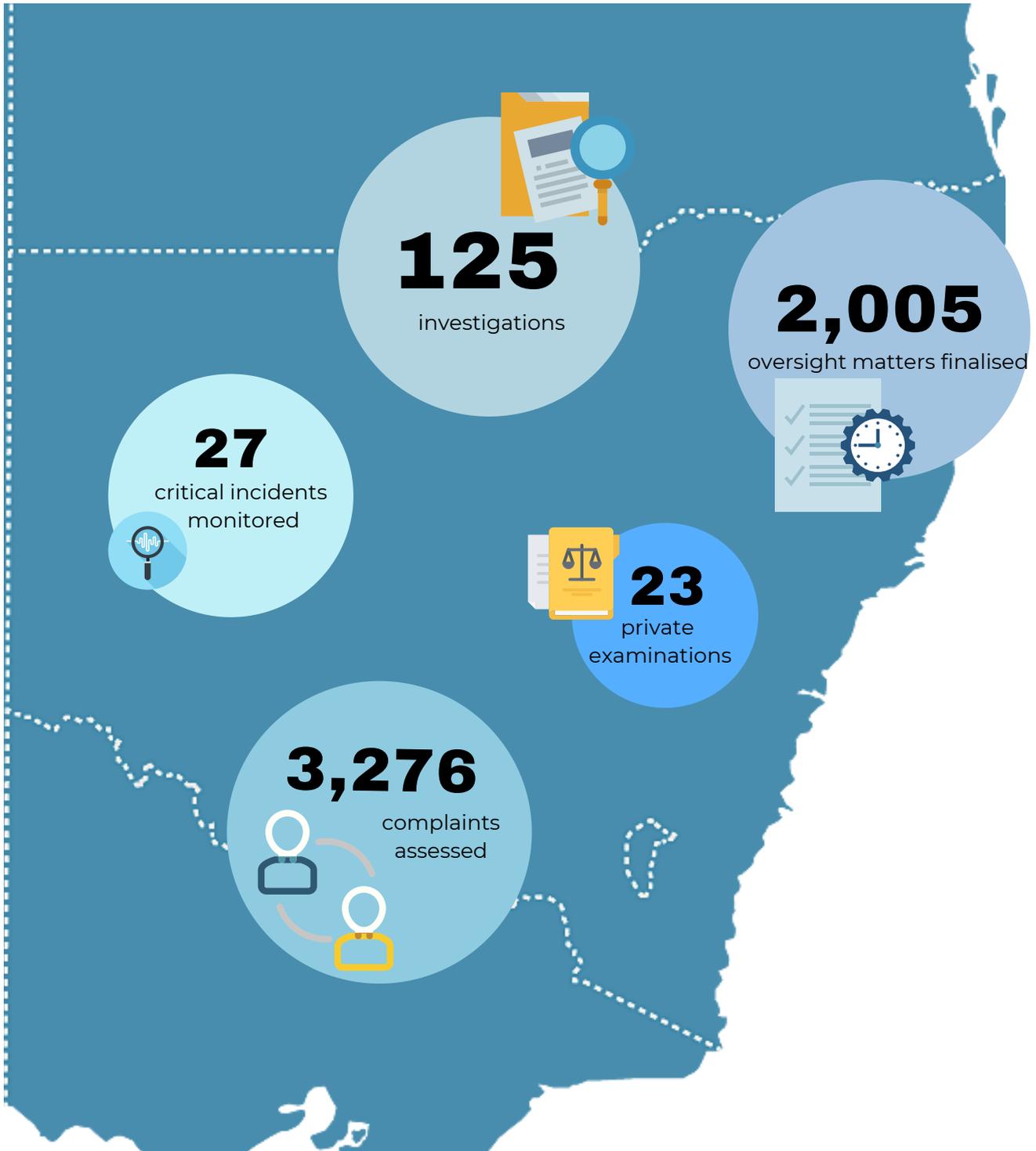


The HON R O Blanch AM QC  
Chief Commissioner

The Law Enforcement Conduct Commission acknowledges and pays respect to the Traditional Owners and Custodians of the lands on which we work, and recognises their continuing connection to the lands and waters of NSW. We pay our respects to the people, the cultures, and the Elders past and present.







LECC

Law Enforcement  
Conduct Commission

**SNAPSHOT  
2020-21**



# WHAT WE DO

## OUR HISTORY

---

The Law Enforcement Conduct Commission (the Commission) commenced operations on 1 July 2017. The Commission was formed following the review of police oversight by former NSW shadow Attorney General Mr Andrew Tink AM who recommended the establishment of a single civilian oversight body for the New South Wales Police Force (NSWPF) and the New South Wales Crime Commission (NSWCC) to help streamline and strengthen the oversight of these bodies.

The Commission replaced the Police Integrity Commission and the Police and Compliance Branch of the Office of the Ombudsman.

## OUR WORK

---

The Commission has its functions defined within the *Law Enforcement Conduct Commission Act 2016* (NSW) (LECC Act). The LECC Act guides our work and objectives which include;

- to promote the integrity and good repute of the NSWPF and the NSWCC by ensuring that they properly carry out their functions and responsibilities in relation to the handling of complaints (and information that the Commission becomes aware of otherwise than through a complaint that indicates or suggests conduct is (or could be) officer misconduct or officer maladministration or agency maladministration),
- to provide for the independent detection, investigation and exposure of serious misconduct and serious maladministration within the NSWPF and the NSWCC that may have occurred, be occurring, be about to occur or that is likely to occur,
- to foster an atmosphere in which complaints, provision of other information about misconduct and independent oversight are viewed positively as ways of preventing officer misconduct, officer maladministration and agency maladministration,
- to provide for independent oversight and real time monitoring of critical incident investigations undertaken by the NSWPF,
- to provide for the scrutiny of the exercise of powers by the Law Enforcement Conduct Commission and its officers by an Inspector and for the Commission and for the Inspector to be accountable to Parliament,
- to provide for the oversight by the Inspector of the use of covert powers under various Acts.

## 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. The Commission monitors all declared critical incidents. The Commission may cease monitoring if it later considers that it is no longer in the public interest.

A critical incident is an incident involving a police operation that results in death or serious injury to a person. The Commission's monitoring of critical incident investigations provides 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 if it considers it to be in the public interest to do so.

In 2020-21, the Commission commenced monitoring 27 new critical incident investigations, with Commission investigators attending 13 (48%) of these new critical incidents. Further information about critical incident investigation monitoring can be found in chapter 6 of this report.

## OVERSIGHT OF COMPLAINT HANDLING

Oversight of the handling of misconduct investigations by the NSWPF and NSWCC is a principal function of the Commission as the majority of complaints about misconduct are dealt with by 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;
- request further investigation in relation to the misconduct matter; and
- request reconsideration of 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 inquiries 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 inquiries, 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 2020-21, 1538 NSWPF misconduct investigations, NSWCC misconduct investigations and critical incident investigations were received by the Commission and subject to oversight. 2005 matters, including matters received in previous years, were finalised by oversight in 2020-21. Further information about the Commission's oversight functions can be found in chapter 6 of this report.

## INVESTIGATING SERIOUS POLICE MISCONDUCT

A principal function of the Commission is to detect and investigate allegations of serious misconduct by NSWPF and/or NSWCC officers. The Investigations and Intelligence Units in the Integrity Division of the Commission consist of multi-disciplinary teams conducting investigations. Teams operate under the supervision of the Director Investigations (Integrity) and consist of Senior Investigators, a Senior Financial Investigator, Investigators, Investigations Officers, a Team Leader Intelligence and, Intelligence Analysts. The Director Investigations (Integrity) reports to the Executive Director Operations.

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

In 2020-21 the Commission conducted 125 investigations, comprising 47 preliminary enquiries, 35 preliminary investigations and 43 full investigations. A profile of significant Integrity investigations can be found in chapter 5.

The Commission is an independent body responsible for the oversight of the NSWPF and the NSWCC. As such it must carry out its functions without fear or favour and with a view to assuring the community that policing in this state is carried out in a responsible and appropriate manner. The Commission recognises that the law enforcement bodies of NSW have the same ambitions and that often the Commission will act collaboratively with them. However there are other times when the Commission acts independently in order to ensure public trust and confidence in the integrity of these organisations.

The key priorities of the Strategic Plan 2020-23 are to build trust with the NSWPF and NSWCC; improve efficiency and effectiveness; and increase the impact and awareness of the Commission’s work. Throughout this report detailed information is provided on the work undertaken by the Commission and the progress made towards each strategic focus area during this reporting period. The Commission’s Strategic Plan 2020-23 can be found on the Law Enforcement Conduct Commission website [www.lecc.nsw.gov.au](http://www.lecc.nsw.gov.au).

**Purpose**  
 Improve community trust in law enforcement by maintaining and enhancing the accountability and integrity of NSW law enforcement agencies.

**Vision**  
 A highly effective, independent oversight body that works constructively with the NSW Police Force and the NSW Crime Commission to prevent, detect and investigate serious and systemic corruption, misconduct and maladministration.

**2020-2023 Strategic Priorities**

|  |  |  |
|--|--|--|
| <p><b>Build trust with the NSWPF and NSWCC</b></p> <p>Develop and maintain productive and collaborative relationships with the NSWPF and the NSWCC whilst demonstrating independence and objectivity to achieve greater accountability in the provision of law enforcement in NSW.</p> | <p><b>Improve efficiency and effectiveness</b></p> <p>Improve efficiency and effectiveness with a focus on the integration of technology and contemporary analytical processes, whilst ensuring all the LECC’s functions are underpinned by structured, proportionate and accountable decision making.</p> | <p><b>Increase impact and awareness</b></p> <p>Maintain and build confidence in the LECC’s work and impact by providing practical research and recommendations, reporting on outcomes and achievements, and enhancing community awareness of our independent role.</p> |
|--|--|--|

**People focus**    The LECC is comprised of high performing people who have a common sense of purpose and strive for continuous improvement. The organisation values people as its most important asset.

**Collaborative culture**    The LECC has an inclusive and collaborative culture that benefits from our shared knowledge and capability.

**Values**

|                |       |           |               |         |
|----------------|-------|-----------|---------------|---------|
| Accountability | Trust | Integrity | Collaboration | Service |
|----------------|-------|-----------|---------------|---------|

# LECC STRATEGIC PLAN 2020-23

*The strategic plan 2020-23 sets the vision and the purpose of the Commission over the reporting period. The vision and purpose is informed by Commission experiences over the first three years of operation and designed to ensure the community’s confidence and trust in the diligence and integrity of the Commission’s work.*

## LECC STRATEGIC PLAN 2020-23

**MEASURING OUR SUCCESS**

We evaluate our performance toward the objectives in the 2020–23 Strategic Plan against the following performance measures:

- Building and maintaining strong bilateral working relationships with the NSWPF and NSWCC which includes open, timely and transparent sharing of information
- Maintaining a fit for purpose case management system and improved analytics capability
- Having the Commission's recommendations accepted and actioned by the NSWPF and NSWCC
- Improved processes to identify how our work assists the NSWPF and NSWCC to identify, address and prevent serious misconduct and maladministration
- Improved response to complainants
- Improved stakeholder engagement and awareness of the Commission
- Improved staff engagement and wellbeing

**STRATEGIC PRIORITY 1****BUILDING TRUST WITH THE NSWPF & NSWCC****Open dialogue**

The Commission has initiated a program of open and shared communications with the NSWPF and NSWCC. During the reporting period the agencies discussed and collaborated on areas of concern including;

- the use and application of body worn video,
- working with NSWPF on misconduct matters,
- NSWCC providing access to their complaints database.

**Conduct awareness and engagement sessions**

- A training module on search powers developed by the Commission was presented to officers in the Lismore area in June 2021. The training module has been provided to NSWPF who will develop and deliver the module going forward.

- Representatives from the Audit Team and Prevention and Education Team presented to staff of the NSWCC about identifying corruption risks.
- Oversight presented at NSWPF PSDI and PSM forums.

**Initiate and participate in joint projects**

With the aim to further develop productive and constructive relationships to achieve mutually agreed beneficial outcomes, the Commission will continue to collaborate on this enterprise.

Development of in principal agreement to enhance the working exchange between Prevention and Education and the education function of Professional Standards Command.

## LECC STRATEGIC PLAN 2020-23

### STRATEGIC PRIORITY 2 IMPROVE EFFICIENCY AND EFFECTIVENESS

#### Introduce a new case management system

The Commission's new case management system was live from February 2021. The new system known as LOIS replaces the legacy system of the Police Integrity Commission (PIC) and brings together requirements of the Integrity and Oversight functions. The LOIS system will be further enhanced during the 2021-2022 financial year based on recommendations from the business units which will expand functionality, searching and reporting requirements.

#### Develop our analytical strategic capability

Through identifying and considering emerging issues and trends and making recommendations as to the best course of action for the Commission to take in response to the issues identified. We have achieved the following:

- Establishment of the Misconduct Themes Committee. This Committee draws upon the knowledge and expertise from across the Commission to identify and respond to emerging trends/themes and systemic issues in relation to misconduct and maladministration within the NSWPF and the NSWCC. The Committee meets quarterly. A review committee will be introduced in the 2021-22 reporting period to oversee recommendations prior to presenting to the Commissioners.
- Establishment of an Information Officer role with responsibility for harnessing and reporting on data and trends across the Integrity and Oversight Divisions.

### STRATEGIC PRIORITY 3 INCREASE IMPACT AND AWARENESS

#### Enhance the way we measure our impact

Our aim is to ensure we have rigorous processes in place to track how our work assists the NSWPF and NSWCC to identify, address and prevent serious misconduct and maladministration. We do this by;

- Reviewing work completed and installing a process of continuous feedback of review outcomes into the way we operate.
- Tracking and measuring responses to our recommendations.
- Implementing a robust system for ensuring timely responses from NSWPF and NSWCC to all statutory requests.

#### Strengthening awareness of and confidence in the Commission

Ensuring our work is understood and visible, by using a variety of methods to share the outcomes of our work with the community. During the reporting period:

- A review of the Commission's approach to outreach and community engagement commenced. A pilot program was established in the second half of the reporting period to look at who, when and how we engage with the community and stakeholders. A snapshot of the program is due to be presented to senior executive members in the first quarter of 2021-22. It is envisaged that the pilot program will inform how community engagement is conducted moving forward.

## LECC STRATEGIC PLAN 2020-23

**STRATEGIC PRIORITY 4  
PEOPLE FOCUS**

We invest in our staff by ensuring they have a meaningful performance and development plan that aligns with our strategic plan and values. During the reporting period we have increased the people leadership capacity of our senior executive through participation in the NSW Public Service Leadership Academy as well as delegating and developing people leadership capabilities to more junior staff through acting arrangements and providing support and clarity around position requirements.

**STRATEGIC PRIORITY 5  
COLLABORATIVE CULTURE**

We continue to build an inclusive and cohesive culture through our values, the sharing of knowledge and collaborative work practices. During the reporting period we have:

- Continued to support the LECC Staff Consultative Committee (LSCC) as an open communication channel between staff and the executive. This Committee includes representation across all areas of the Commission and is an avenue for staff to put forward suggestions, ideas and concerns and takes an active role in reviewing Commission policies.
- Acknowledged diversity within the Commission through recognition of significant cultural days and events.
- Internally published a monthly communication to ensure that all areas of the Commission remain aware of and connected to each other's work.
- Conducted whole of staff meetings and information sessions on a regular basis to both educate staff and disseminate information.

# OUR PEOPLE

## OUR SENIOR EXECUTIVE TEAM

### CHIEF COMMISSIONER THE HON R O BLANCH AM, QC

The Chief Commissioner, the Hon R O Blanch AM QC, joined the Commission in February 2020.

He graduated with a Bachelor of Arts in 1963 and a Bachelor of Laws in 1966 from the University of Sydney. In 1973 he was admitted as a barrister and appointed as a Public Defender. In 1980 he was appointed Queen's Counsel and as the Deputy Senior Public Defender. Chief Commissioner Blanch was appointed Crown Advocate in 1984 and in 1987 he was appointed as the first Director of Public Prosecutions in NSW. He was appointed as a judge of the Supreme Court in February 1994 and as Chief Judge of the District Court in December 1994. For the duration of his time as Chief Judge, he was also Chair of the Medical Tribunal and towards the end of his term, was appointed as President of the Dust Diseases Tribunal. Following his retirement from the Courts in 2014, Chief Commissioner Blanch served as Chairman of the Serious Offenders Review Council, Assistant Commissioner and Acting Commissioner of the Independent Commission Against Corruption and presided over an inquiry into the conviction of a woman for the killing of her four children.

### COMMISSIONER THE HON LEA DRAKE

The Commissioner, the Hon Lea Drake, joined the Commission in April 2017. Prior to joining the Commission,



*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. Integrity Investigators employed at the Commission are drawn from police services in other jurisdictions in Australia or overseas.*

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.

## OUR PEOPLE

**CHIEF EXECUTIVE OFFICER  
MS CHRISTINA ANDERSON**

Ms Anderson is a member of CPA Australia, has a strong background in Government finance having worked in a number of agencies including the Royal Commission into the NSW Police Service, Sydney Opera House Trust and the Department of Environment. She returned to the Police Integrity Commission as Finance Manager in 2008 before joining the Commission in 2017. Ms Anderson was appointed as CEO in May 2021.

As CEO Ms Anderson leads and directs the day-to-day management of the affairs of the Commission and is responsible for implementing the decisions of the Commissioners. Having responsibility for governance and the delivery of corporate services, including the employment of staff with the necessary skills and experience to perform the functions of the Commission within its statutory and budgetary framework, Ms Anderson provides advice to assist the Commissioners in their decision-making, and provides leadership and guidance to the executive management team.

**EXECUTIVE DIRECTOR OPERATIONS  
MR GARY KIRKPATRICK**

Mr Kirkpatrick holds the position of Executive Director Operations and is responsible for the performance and conduct of the Oversight and Integrity Divisions of the Commission. Mr Kirkpatrick was a Federal Agent in the Australian Federal Police prior to being appointed a Manager then later the Director Operations within the Police Integrity Commission. At the commencement of the Law Enforcement Conduct Commission, he was appointed as Director Integrity and was later appointed the Executive Director Operations.

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

# ASSESSING COMPLAINTS

---

The Assessments function plays an important role in the Commission's statutory responsibilities. Firstly, the Assessments team conducts an assessment of all complaints made directly to the Commission in order to identify whether the Commission will exercise its investigative functions, or whether the complaint will be referred to the NSWPF for their action. Secondly, the Assessments team conducts an assessment of all complaints made to the NSWPF that are classified as notifiable misconduct matters, in order to determine whether the Commission will exercise its statutory functions, or whether it agrees with the decision of the NSWPF to investigate (or decline to investigate) the misconduct matter.

In many instances the Commission will be required to conduct two assessments of the same complaint. The Commission will further assess any complaint referred to the NSWPF to determine whether the NSWPF has dealt with it appropriately and consider whether the Commission will monitor that NSWPF investigation. This second assessment is not captured by the Commission as a statistic and is not included in the statistics documented below on the number of complaints assessed.

Of the complaints made directly to the NSWPF, the Commission assesses all complaints which are notifiable and determines whether:

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

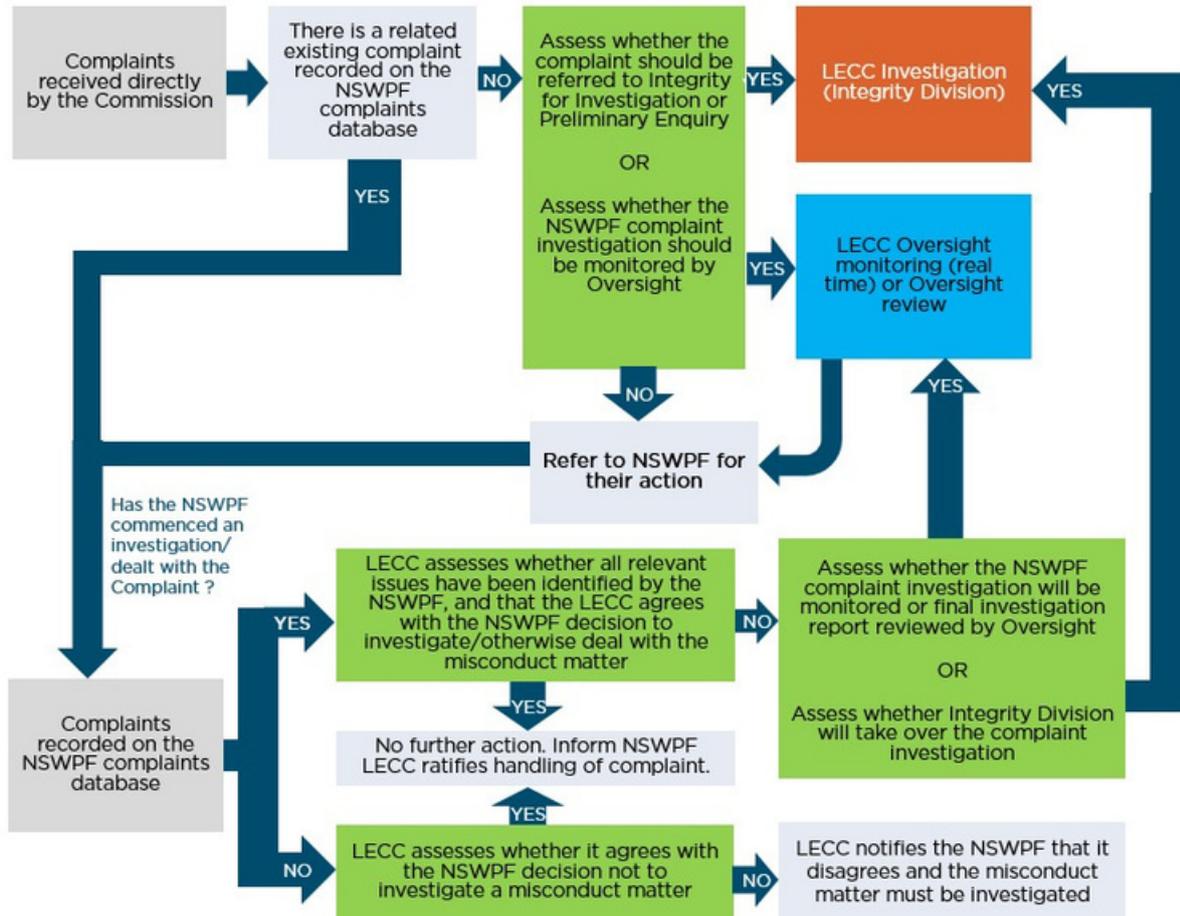
If the Commission does not agree with the police decision to decline to investigate a misconduct matter, it will require the NSWPF to investigate the matter as well as notify the complainant of that fact.

After assessment, all misconduct matters are referred to the Commission's Complaint Action Panel. The Complaint Action Panel reviews the assessment of all complaints and either confirms the recommendation of the Assessments team, or makes an alternate decision, which may include the Commission investigating or monitoring the investigation of the misconduct matter.

The Complaint Action Panel consists of the Commissioners, the Executive Director Operations, the Director Investigations (Oversight), Director Investigations (Integrity) and Team Leader Assessments.

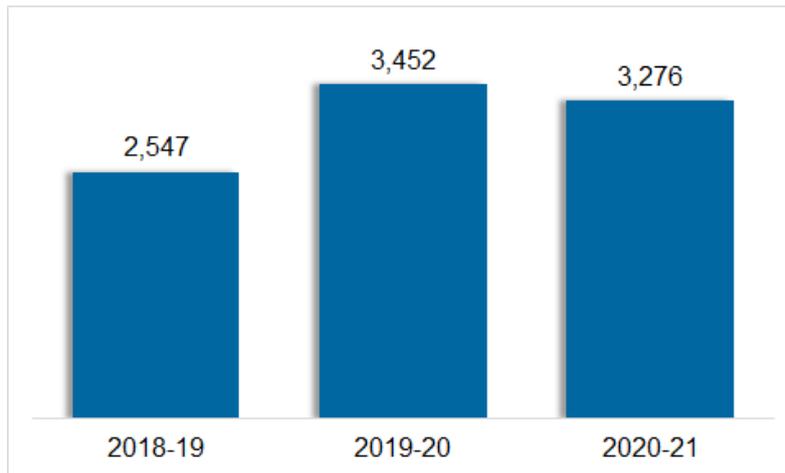
*'The Assessments function plays an important role in the Commission's statutory responsibilities.'*

NSWPF COMPLAINTS ASSESSMENT WORKFLOW

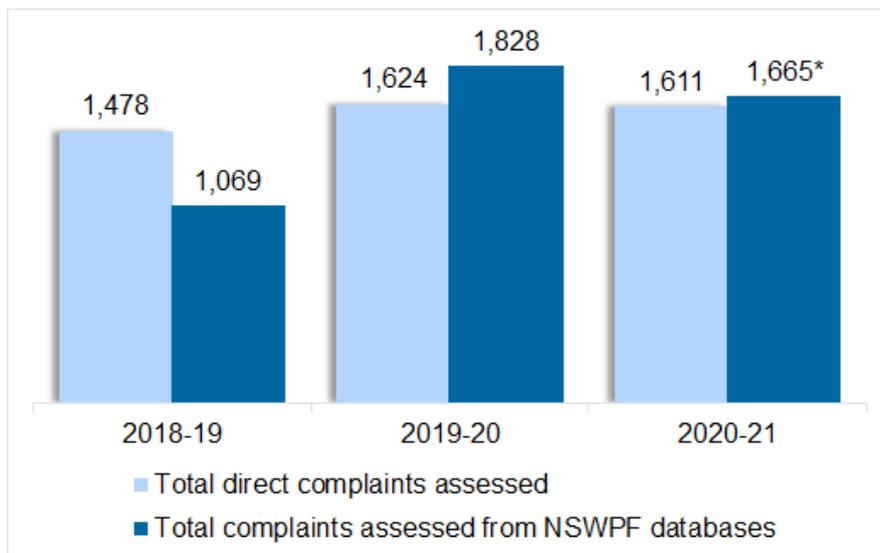


## COMPLAINTS ASSESSED

Total complaints assessed by reporting period



Total % of complaints that were made directly to the Commission vs complaints assessed from NSWPF databases



\*Two complaints were self-generated by the Commission

## MANDATORY REPORTING

Section 33 of the LECC Act requires various public officials to report to the Commission any matter they suspect on reasonable grounds may concern officer misconduct or serious maladministration. This includes the NSW Ombudsman, the Independent Commission Against Corruption (ICAC) Commissioner and the NSW Crime Commissioner.

Reports of misconduct matters by other agencies made pursuant to s 33 of the LECC Act



Breakdown of complaints made directly to the Commission: police vs public



\*Complainants who identified themselves as, or are reasonably suspected of being employees of the NSWPF. It is also strongly suspected, based on the contents of the complaints, that a number of other anonymous complaints to the Commission have been received from NSWPF employees; however, this cannot be confirmed.

## NOTIFIABLE MISCONDUCT MATTERS

The Commission and the NSWPF entered into an agreement pursuant to s 14 of the *Law Enforcement Conduct Commission Act 2016* (referred to as the s 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 focusses its oversight functions.

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

- failing to comply with the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW);
- 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.

The s 14 Guidelines are published on the Commission's website.

In order to assess some notifiable misconduct matters, the Commission is required to request the provision of further information from the NSWPF pursuant to s 102, LECC Act. The material requested predominantly contains video (body worn video, in-car video, CCTV etc.). The NSWPF has not provided the Commission access to the system that stores body worn videos and other material. Obtaining this material in order to finalise assessment can add significant extra time to the complaint handling process of the Commission.

There were 122 requests for information (at assessment) – s 102, LECC Act within the 2020-21 reporting period compared with 95 requests for the previous reporting period 2019-20.

The average time taken for the Commission to receive material requested was 29 days.

## REQUESTS FOR INFORMATION REGARDING INVESTIGATION TIMELINESS

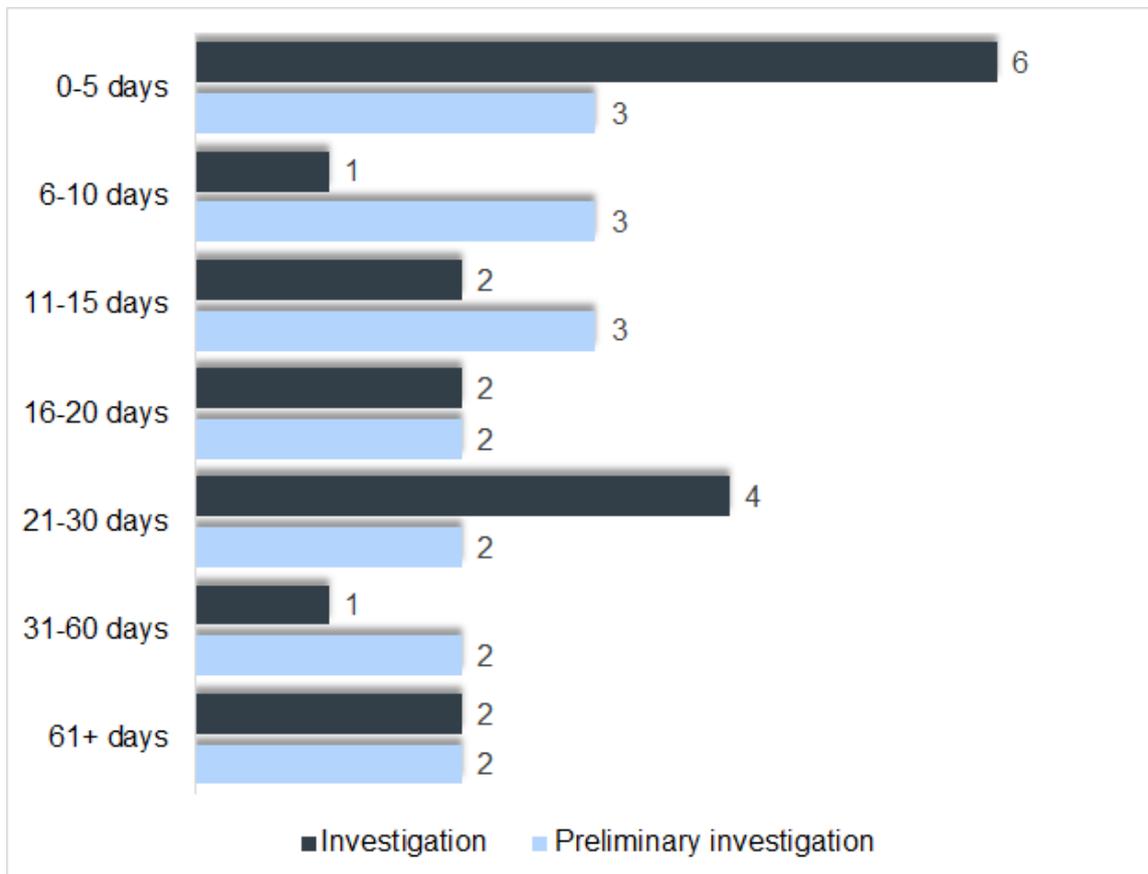
If the Commission is satisfied that a NSWPF investigation of a misconduct matter is not being conducted in a timely manner it may request information that demonstrates how the matter is being investigated, or explains why it is not being investigated, in a timely manner.

Requests for information on timeliness – s 103, LECC Act; there was one request for information on investigation timeliness in the reporting period compared to 22 requests for the previous 2019-20 period.

### TIMELINESS TO INVESTIGATE

The average time to commence a preliminary investigation or investigation of a misconduct matter that was investigated by the Commission was 20 business days. It should be noted on a number of occasions, after assessment, the Commission may also conduct a preliminary enquiry prior to commencing an investigation.

The time interval between the receipt of each misconduct matter by the Commission and the Commission deciding to investigate the misconduct matter is outlined in the chart below:



### DISAGREEMENT WITH THE NSWPF DECISION TO DECLINE INVESTIGATION

Section 99(3), LECC Act provides that if the Commission disagrees with the NSWPF decision to decline to investigate a misconduct matter, the Commission must notify the NSWPF of that disagreement and the misconduct matter must be investigated.

Disagree with the decision to deal with misconduct matter – s 99, LECC Act. In 2020-21 reporting period there were 17 requirement to investigate notices, compared with 117 in 2019-20.

Approximately 18% of matters where a s 99(3) requirement to investigate was issued resulted in at least one sustained finding being made. Approximately 47% resulted wholly no sustained findings being made. A number of the s 99(3) requirements to investigate were later withdrawn by the Commission after further representations were made by the NSWPF and one investigation was not finalised at the time of reporting.

## CASE STUDY 1: EXT2020-0962

In February 2020, a solicitor made a complaint on behalf of the complainant to the Commission. That complaint included:

- that around 7.00pm on 2 March 2018 the complainant was at a light rail train station in Sydney when he was approached by four police officers;
- details of the police officers and the police vehicle, including number plate;
- that police stopped and questioned the complainant and that after many minutes of repeated questioning he was verbally abusive to police;
- that one of the officers assaulted the complainant by pushing him to the ground and punching him;
- that the complainant and his vehicle was searched;
- that the officers made derogatory and insulting comments;
- that the officers provided their workplace location, prior to leaving.

Almost immediately following the interaction with police, the complainant went to a nearby police station (not the location mentioned by the police officers) to make a complaint. He was told by police that they could not take a complaint from him.

The Commission assessed the complaint and determined that it was not going to investigate the allegations under Part 6, LECC Act and disseminated it to the NSWPF for action. The complaint was triaged by the NSWPF and declined for investigation.

Following the matter being declined, the complainant's solicitor again contacted the Commission. The Commission wrote to the NSWPF and requested they provide further information to the complainant about the reasons for declining the investigation.

The NSWPF provided additional reasons that included:

- the incident could not be found in the police system and the complainant could not provide the names or locations of any involved officers;
- the registration details do not match a vehicle registered to the NSWPF;
- the incident occurred too long ago to justify an investigation.

The complainant's solicitor again contacted the Commission, providing correspondence from four months prior to the complaint, which showed the solicitor had attempted to officially obtain information relating to the incident from the NSWPF InfoLink. InfoLink had informed the solicitor that there was no information on COPS, and indicated that a reverse COPS audit was undertaken and no records were identified.

The Commission subsequently undertook its own reverse COPS audits on the complainant. This identified that numerous police officers had undertaken COPS searches on the complainant and his vehicle after 7.10pm. They also appeared to confirm that the complainant attended the local police station shortly after the incident. In accordance with s 99(3), LECC Act the

## CASE STUDY 1: EXT2020-0962

Commission required the NSWPF to investigate the complaint. The Commission also determined that it would monitor the investigation pursuant to s 101, LECC Act.

The NSWPF investigation identified sufficient information to indicate that it was likely the stop and search of the complainant did occur, and so too his attempt to make a complaint. This included patrol logs showing officers were at the suburb where the incident occurred as well as the vehicle used by them having an almost identical registration to that in the complaint (one digit different).

No record of the interaction with the complainant was located in any of the subject officer's notebooks, and no COPS events were created. All officers indicated that they had no recollection of the incident involving the complainant.

Consequently, the investigation resulted in not sustained findings for issues of failure to comply with *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) (LEPRA), unreasonable use of force, unprofessional behaviour and malicious damage.

Additionally, not sustained findings were made against the officers at the police station where the complainant attempted to make a complaint immediately after the event.

The NSWPF relied on the fact that the *Police Act 1990* (NSW) requires a complaint to be made in writing.

Sustained findings were made against two officers for failing to appropriately record reasons for conducting a COPS search on the complainant. These officers were provided advice and guidance.

The Commission is preparing a report under s 134, LECC Act raising concerns around this matter, including:

- the fundamental failure to create any records of the use of police powers resulted in not sustained findings as there were many officers and the specific actions of officers could not be individually attributed.
- the failure to facilitate a written complaint from the complainant at the time of reporting to the police station.

# INVESTIGATING SERIOUS OFFICER MISCONDUCT

---

A principal function of the Commission is to detect and investigate allegations of serious misconduct by members of the NSWPF and NSWCC officers.

The Investigations Unit in the Integrity Division of the Commission consists of multi-disciplinary teams including Investigators, Investigations Officers and Intelligence Analysts operating under the supervision of Senior Investigators when conducting investigations. The teams are supported by a Senior Financial Investigator with expertise in complex financial analysis and investigation. The Intelligence Analysts are part of the Intelligence Unit which operates in support of investigations teams under the supervision of a Team Leader. The Senior Investigators and Team Leader Intelligence report to the Director Investigations (Integrity). The Director Investigations (Integrity) reports to the Executive Director Operations.

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

In 2020-21 the Commission conducted 47 Preliminary Enquiries and 78 Investigations, comprising of 35 Preliminary Investigations and 43 Full Investigations. A profile of significant Integrity investigations can be found at the end of this chapter.

*'In 2020-21 the Commission conducted 47 Preliminary Enquiries and 78 Investigations, comprising of 35 Preliminary Investigations and 43 Full Investigations.'*



## PROCESS

---

Complaints are assessed by the Assessments team (see Chapter 4) and presented to the Complaint Action Panel (CAP). The CAP determines which matters are appropriate for investigation by the Commission.

The Commission may choose to initiate an investigation, a preliminary investigation or to make some further enquiries before any 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.

An investigation can then be conducted using covert and overt investigative techniques as is deemed appropriate to each matter. Information is gathered and assessed and if coercive powers are deemed necessary and appropriate an examination may be proposed.

On completion of an investigation, a s 132 report may be tabled in Parliament or a s 135 report may be provided to the Minister for Police and the Commissioner of Police.

Public reports are published on the Commission website.

## COMMISSION EXAMINATIONS

---

The Commission may hold examinations (hearings) as part of its investigation process. The decision to hold an examination in private or public must have regard to the relevant considerations under the LECC Act, particularly those factors set out in s 63(5).

The Commission can summon persons to appear at examinations and compel witnesses to produce documents or answer questions.

During 2020-21 the Commission conducted 23 private examinations. No public examinations were conducted.

# PROFILE OF ACTIVE INVESTIGATIONS DURING 2020-21

During 2020-21 the Commission undertook 47 Preliminary Enquiries and 78 Investigations, comprising of 35 Preliminary Investigations and 43 Full Investigations.

Of these, 70 matters were completed and 55 were ongoing at 30 June 2021. The average time taken to complete a misconduct investigation varies given the variety of issues and circumstances that affect each case. For example, if an investigation results in a criminal prosecution, the Commission will not close its file until the conclusion of the proceedings, which may take a number of years.

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

Profile of 2020-21 investigations, preliminary investigations and preliminary enquiries

| ALLEGATION   | INV | PI | PE |
|--|-----|----|----|
| Adverse mention by the court   |     | 1  |    |
| Assault (On/Off Duty) - Actual bodily harm   | 1   | 1  |    |
| Assault (On/Off Duty) - Common   |     | 2  |    |
| Attempting to pervert the course of justice  | 3   | 2  | 3  |
| Breach of Code of Conduct (not specified elsewhere)  | 2   |    |    |
| Bribery  | 2   | 8  | 5  |
| Choke/headlock/pressure point technique  | 5   |    |    |
| Collusion between police witnesses   |     |    |    |
| Convenience accesses - by officer about self or another party  | 1   |    | 1  |
| Corrupted a witness  |     |    | 1  |
| Corruption - misuse of authority   |     | 1  | 1  |
| Corruption - Protection of person involved in criminal activity  |     | 1  |    |
| Covering up inappropriate conduct  | 2   |    | 1  |
| Cultivation or manufacture   |     | 1  |    |
| Custody - Fail to provide medical treatment  |     | 1  |    |
| Dealing or supply  | 3   | 1  | 3  |
| Delay in investigation   |     |    |    |
| Discrimination   | 3   |    | 1  |
| Dishonesty - falsifying - fraud  |     |    | 3  |
| Dishonesty - untruthfulness - lie during enquiries   |     |    | 3  |
| Drink driving offences   | 1   |    |    |
| Fail to check brief/inadequate preparation of brief  |     |    |    |
| Fail to comply with legislation/code of practice   | 1   | 1  | 1  |
| Fail to comply with LEPR - arrest  |     | 1  | 1  |
| Fail to comply with LEPR - other   |     | 2  |    |
| Fail to comply with LEPR - searching   |     |    | 1  |
| Fail to comply with operational procedures, standing orders or Commissioner's directives (not specified elsewhere) |     |    |    |

PROFILE OF ACTIVE INVESTIGATIONS

| ALLEGATION   | INV | PI | PE |
|--|-----|----|----|
| Fail to comply with policy / procedures - Conflict of Interest Policy and Procedure                                      | 3   | 3  | 5  |
| Fail to provide adequate/appropriate victim support  |     |    |    |
| Fail to report offence   | 1   |    | 1  |
| Fail to report suspected/alleged misconduct  | 3   |    | 1  |
| Failing to keep secure   |     |    | 1  |
| Failure to interview witnesses   |     | 1  |    |
| Failure to investigate   | 1   | 1  | 2  |
| Falsely claiming for duties not performed  | 1   |    |    |
| Falsifying official records  | 4   | 1  |    |
| Firearm discharged   |     |    |    |
| Firearm displayed  |     |    |    |
| Giving favours/bias with no or little perceived personal benefit   | 1   | 1  | 1  |
| Harassment   | 2   |    | 2  |
| Homicide   |     |    |    |
| Illicit drug use   | 4   |    | 3  |
| Improper/unauthorised search   |     | 1  | 1  |
| Improper association   | 9   | 9  | 11 |
| Improper interference in an investigation by another police officer  |     | 1  | 2  |
| Improper use of discretion   | 1   |    |    |
| Improper use of handcuffs  | 3   |    |    |
| Inadequacies in informal resolution (or other internal procedure)  |     |    | 1  |
| Inadequate investigation/lack of impartiality  | 2   | 2  | 2  |
| Inappropriate conditions   | 3   |    |    |
| Inappropriate prosecution/misuse of prosecution power  |     | 1  | 1  |
| Incivility/rudeness/verbal abuse (oral complaints of rudeness are a local management issue)                              | 2   | 1  | 1  |
| Inconsiderate/insensitive/uncooperative behaviour  | 1   |    |    |
| Internal complaint arising from reports and records about performance  | 1   |    |    |
| Intimidating, aggressive or unwelcome behaviour and unfair treatment, either in the workplace or during service delivery | 1   |    | 3  |
| Lied during proceedings/in statement/on affidavit  | 1   | 1  |    |
| Lying to investigator / supervisor conducting inquiries  |     |    | 1  |
| Make false statement (verballing)  |     |    |    |
| Maladministration (as described in the LECC Act) - Unreasonable, unjust, oppressive or improperly discriminatory         |     | 1  |    |
| Minor unprofessional conduct that can be appropriately dealt with and immediately finalised by workplace                 |     |    | 1  |
| Mislead the court  | 1   |    |    |
| Misuse authority for personal benefit or the benefit of an associate (including obtaining sexual favours)                | 7   | 7  | 8  |
| Misuse of official vehicle   | 1   |    |    |
| Misuse of other facilities / equipment   |     |    | 1  |
| Neglect of duty/duty of care   | 1   |    |    |
| No allegations   |     |    | 3  |
| Theft/misappropriation of official property  |     |    |    |
| Theft/misappropriation of seized property  |     | 5  |    |
| Offence punishable upon conviction by a max sentence of 5 years or more  | 3   |    |    |

PROFILE OF ACTIVE INVESTIGATIONS

| ALLEGATION  | INV | PI | PE |
|---|-----|----|----|
| Offence punishable upon conviction by a max sentence of not less than 3 years and not more than 5 years | 1   |    |    |
| Other   |     |    |    |
| Other summary offences  | 2   |    |    |
| Perjury   | 3   |    |    |
| Possession (not misappropriation of seized drugs)   | 1   | 1  |    |
| Prevented a witness from providing a statement or giving evidence                                       | 1   | 1  |    |
| Property missing after search   | 1   |    |    |
| Property and exhibits - Loss of   |     |    | 1  |
| Protection of person(s) involved in drugs   | 6   | 5  | 6  |
| Provide incorrect or misleading information   | 1   |    | 1  |
| Pushed/shoved/jostled/grabbed/manhandled/wrestled etc (soft empty hand)                                 | 4   | 1  | 1  |
| Pushed to ground/ slammed against a wall/ punched/ kicked/ kneed/ head butted/ struck (hard empty hand) | 1   | 1  |    |
| Reason not given/warrant not produced   |     |    |    |
| Refusal to charge/prosecute/initiate proceedings  | 1   |    |    |
| Service standards/ethical standards/guidelines - Disobey reasonable direction                           |     | 1  |    |
| Service standards/ethical standards/guidelines - Neglect of Duty  |     |    | 1  |
| Sexual assault  | 2   |    |    |
| Stealing and property - stealing  |     | 1  |    |
| Tampering with or destroying property and exhibits  |     | 1  |    |
| Telecommunications misuse   |     |    | 1  |
| Threats/intimidation (not assault/excessive force)  | 1   |    | 1  |
| Trade accesses - accessing information for sale/personal gain   |     |    |    |
| Unauthorised/improper disclosure of information   | 7   | 5  | 9  |
| Unauthorised detention  |     |    | 2  |
| Unauthorised removal/use of property and exhibits   |     |    |    |
| Unauthorised secondary employment   | 2   | 1  |    |
| Unauthorised use of official vehicle  | 1   | 2  |    |
| Unauthorised / improper use of prescription drug  |     | 1  |    |
| Unlawful (insufficient evidence of offence)   |     |    | 1  |
| Unnecessary or improper use of arrest   | 1   | 2  |    |
| Unprofessional conduct - Inappropriate behaviour  |     | 1  |    |
| Unprofessional conduct - Unfair treatment   |     |    | 1  |
| Unreasonable use of force (on duty) - Weaponless force  | 1   | 4  |    |
| Unreasonable use of force with a defensive spray  | 1   |    |    |
| Unreasonable use of force with an impact weapon (baton, torch, stick, rope)                             | 4   | 2  |    |
| Untruthfulness - lie during enquiries   | 1   |    |    |
| Using authority in situation where conflict of interest exists  | 2   |    | 2  |
| Victimisation/bullying  |     | 3  | 1  |
| Withholding or suppression of evidence  | 1   |    | 2  |
| Wrongful seizure of property  |     |    |    |

## INVESTIGATION OUTCOMES

The following tables report on the Commission’s investigation outcomes for all investigations finalised during 2020-21.

Finalised full investigation outcomes\*

| Investigation outcome   | Investigations |
|---|----------------|
| Full investigations referred to the ODPP for consideration of prosecution action                            | 2              |
| Full investigations that resulted in a dissemination of information to the NSWPF                            | 9              |
| Full investigations that resulted in information being disseminated to other law enforcement agencies (LEA) | 2              |
| No further action   | 8              |

\*An investigation may have more than one outcome.

Preliminary investigation outcomes

| Preliminary investigation outcome  | Preliminary investigations |
|--|----------------------------|
| Preliminary investigations that progressed to become full investigations   | 1                          |
| Matter referred to current full investigation  | 0                          |
| Preliminary investigations that resulted in a dissemination of information to the NSWPF                            | 3                          |
| Preliminary investigations that resulted in information being disseminated to other law enforcement agencies (LEA) | 0                          |
| No further action  | 13                         |

Preliminary enquiry outcomes

| Preliminary enquiry outcome   | Preliminary enquiries |
|---|-----------------------|
| Preliminary enquiries that progressed to become full investigations   | 3                     |
| Preliminary enquiries that progressed to become preliminary investigations                                    | 2                     |
| Preliminary enquiries that resulted in a dissemination of information to the NSWPF                            | 6                     |
| Preliminary enquiries that resulted in information being disseminated to other law enforcement agencies (LEA) | 0                     |
| No further action   | 26                    |

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

Referrals from on-going investigations

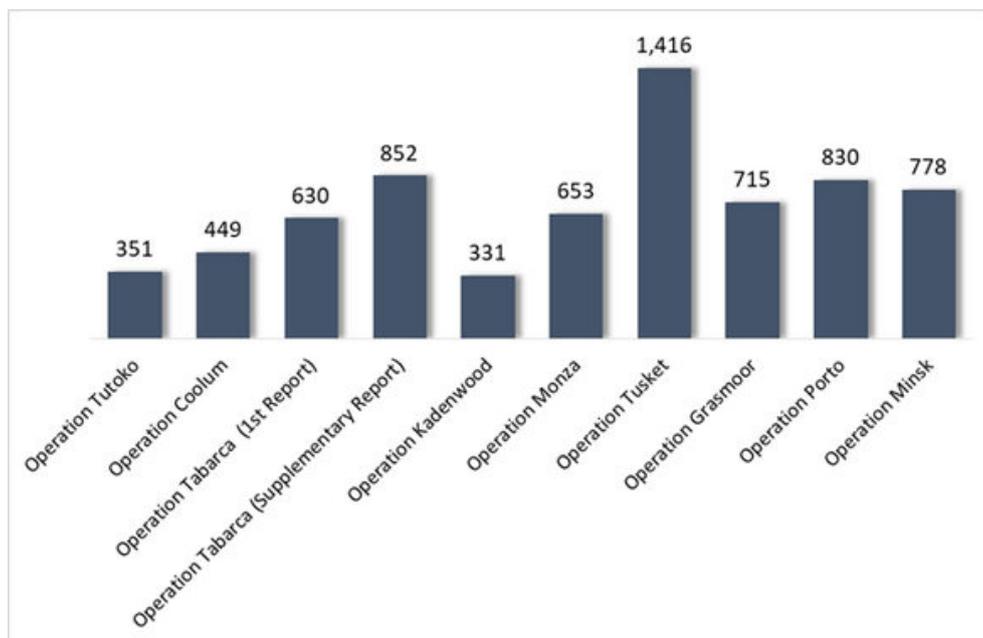
| Investigation    |      | No. of proposed offences | No. of individuals |
|------------------|------|--------------------------|--------------------|
| Operation Denali | CDPP | 2                        | 1                  |
| Operation Tutoko | ODPP | 56                       | 2                  |

Court Attendance Notices (CANs) or charges being served

| Investigation     | No. of CANs served | No. of individuals | Charges |
|-------------------|--------------------|--------------------|---------|
| Operation Errigal | 1                  | 1                  | 4       |
| Operation Tutoko  | 2                  | 2                  | 42      |

## TIMELINESS

Actual time taken\* in days to investigate a matter in respect of which a report is made



\* Time taken from the decision to investigate up to the time a report is sent to the Minister.

## SIGNIFICANT COMMISSION INVESTIGATIONS

### OPERATION CADWAL

Operation Cadwal is an investigation conducted by the Commission concerning allegations that an officer in a specialist command is involved in the supply of prohibited substances. The investigation is ongoing. Specialist capabilities of the Commission have been utilised during this investigation.

### OPERATION CELSIAN

Operation Celsius is an investigation conducted by the Commission stemming from the assault of a Police Officer concerning serious misconduct of a number of officers within a metropolitan Command. The Commission is being assisted by the Professional Standards Command. A number of private examinations were conducted. The investigation is ongoing.

### OPERATION DENALI

Operation Denali is an investigation conducted by the Commission concerning allegations of serious police misconduct by a number of mid-ranking police officers at a specialist command. During the investigation the Commission identified one of the officers was involved in unrelated criminal offences. The Commission disseminated relevant material to the NSWPF for management action against the involved officer. The officer was subject to a search warrant by the Commission and was arrested and charged by the NSWPF. A brief of evidence relating to the criminal offences has been referred to the Commonwealth Director of Public Prosecutions and the officer has been charged with serious offences and is currently before the courts. The Commission was assisted by the Professional Standards Command during the investigation.

### OPERATION FARO

Operation Faro is an investigation conducted by the Commission into allegations of unreasonable use of force. A number of private examinations were conducted. The investigation is ongoing.

### OPERATION GLANSDALE

Operation Glansdale was an investigation conducted by the Commission into allegations of serious misconduct of a NSWPF officer in a regional command whereby it was alleged that the officer failed to adequately investigate a murder inquiry due to improper association with a person accused of the murder. No evidence was identified to support the allegation and information was disseminated to the NSWPF for their consideration.

### OPERATION KADENWOOD

Operation Kadenwood was an investigation conducted by the Commission into allegations regarding unreasonable use of force by an officer. A s 132 Report was tabled in Parliament.

### OPERATION KROSNO

Operation Krosno is an investigation conducted by the Commission into allegations of unreasonable use of force by officers of a specialist command. A number of private examinations were conducted. The investigation is ongoing.

## SIGNIFICANT COMMISSION INVESTIGATIONS

**OPERATION MONZA**

Operation Monza was an investigation conducted by the Commission concerning the conduct of officers from a specialist command allegedly harassing a legal practitioner. A number of private examinations have been conducted. The Commission engaged with the NSWPF throughout the investigation and reported on a number of recommendations. A s 132 Report was tabled in Parliament in March 2021.

**OPERATION NARRAN**

Operation Narran is an investigation being conducted by the Commission into allegations of serious police misconduct by an officer in a regional command including misconduct in a public office, unlawful disclosure of information and corruption. The investigation is ongoing.

**OPERATION PORTO**

Operation Porto was an investigation conducted by the Commission into allegations that a male had been illegally strip searched by police officers whilst walking home from his mother's house during the day, and in a public street with no regard for his personal privacy and without justification. A number of private examinations was conducted.

A s 132 Report has been tabled in Parliament.

**OPERATION TABINA**

Operation Tabina is an investigation into an allegation of serious misconduct by a senior officer within the NSWCC. The Commission engaged with a Commonwealth agency during the investigation and also consulted with the Commissioner of the NSWCC. The investigation is ongoing.

**OPERATION TORRENS**

Operation Torrens is an investigation conducted by the Commission into allegations of prohibited drug use by a NSWPF officer. The Commission is being assisted by the Professional Standards Command. The investigation is ongoing.

**OPERATION TABOURIE**

Operation Tabourie is an investigation being conducted by the Commission into allegations that a NSWPF officer has released confidential information. The investigation is ongoing.

## RESPONSES TO RECOMMENDATIONS MADE BY THE COMMISSION

### *Operation Errigal*

Operation Errigal was an investigation conducted by the Commission into allegations of serious police misconduct by a senior officer in a regional command including complaints about the officer's conduct with staff, the creation of official records which did not disclose all the material facts, failure to declare a conflict of interest and failure to follow NSWPF standard operating procedures. A number of private examinations were conducted.

A report to Parliament in July 2019 made a number of recommendations, including that the Director of Public Prosecutions consider whether any criminal offences had been committed by the senior officer.

In September 2020 the Commission received advice from the DPP that there was sufficient evidence to charge the now former officer with 4 counts of Knowingly give false or misleading evidence at examinations pursuant to s 151(1), LECC Act and 1 count of Fail to produce document etc. required by summons etc. pursuant to s 150(1)(d), LECC Act. The now former officer has been charged and the matter is before the court.

### *Operation Tutoko*

Operation Tutoko was an investigation conducted by the Commission following allegations that an officer was engaged in inappropriate predatory behaviour towards young vulnerable females. During the investigation the Commission also established the officer was involved in other criminal offences outside of his employment as a NSWPF officer. A private examination was conducted. A report to Parliament in July 2020 made a number of recommendations, including that the Director of Public Prosecutions consider whether any criminal offences had been committed by the officer and one civilian.

In February 2021 the Commission received advice from the DPP that there was sufficient evidence to charge the now former officer with 14 counts of Dishonestly Obtaining a Benefit by Deception pursuant to s 192E(1)(a) of the *Crimes Act 1900* (NSW) and 14 counts of Larceny pursuant to s 117 of the *Crimes Act 1900* (NSW). The now former officer has been charged and the matter is before the court.

RESPONSES TO RECOMMENDATIONS MADE BY THE  
COMMISSION*Operation Coolum*

Operation Coolum was an investigation conducted by the Commission into allegations of serious misconduct by a senior officer including a complaint about the officer's sexual harassment of a staff member. Private examinations were conducted. In November 2020 the Commission published a report to Parliament in which it recommended that NSWPF conduct a review of its policies and guidelines in regard to the steps to be taken by staff when a welfare check is conducted upon an injured officer. NSWPF has undertaken a review and implemented a number of changes as to how welfare checks are to be conducted.

*Operation Minsk*

Operation Minsk was an investigation conducted by the Commission concerning an allegation of an officer in a specialist command having improper associations. A number of private examinations were conducted. A s 135 Report was provided. The NSWPF have recommended a number of appropriate disciplinary actions against the involved officer.



# OVERSIGHT AND CRITICAL INCIDENT MONITORING

---

The LECC Act places primary responsibility for the investigation of allegations of misconduct against employees of the NSWPF and NSWCC, upon those respective agencies. A principle function of the Commission is to ensure those misconduct matters are dealt with, and where necessary investigated, in an appropriate manner by the relevant agency.

The Oversight Investigations team undertakes reviews of finalised misconduct matter investigations conducted by the NSWPF pursuant to Part 8A, *Police Act 1990* (NSW) in order to ensure whether those investigations were conducted reasonably and satisfactorily, with appropriate outcomes.

The Oversight Investigation team also monitors ongoing investigations conducted by the NSWPF or the NSWCC pursuant to s 101, LECC Act. This may include the investigation of new complaints or investigations which are considered by the Commission to be deficient and a further investigation is conducted by the NSWPF.

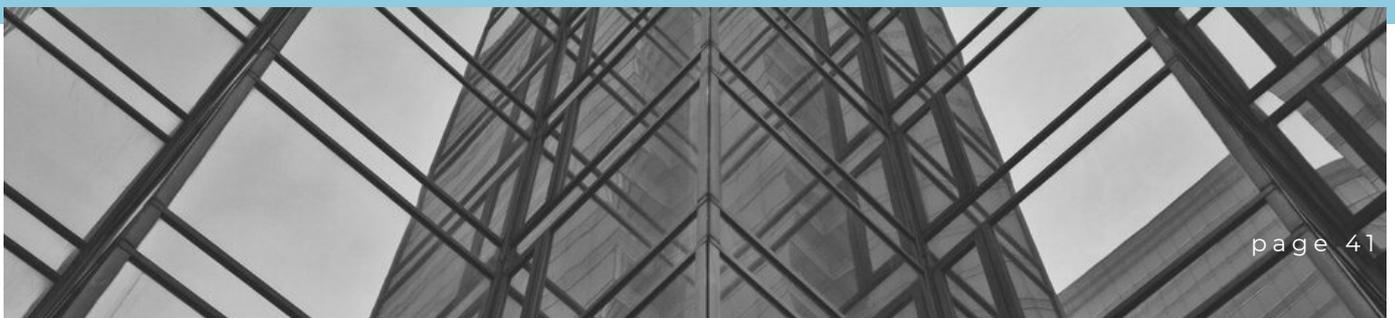
The team also supports the Commission's objective of identifying opportunities to

address systemic issues in complaint handling by the NSWPF and in the exercise of police powers.

The Commission undertakes varying levels of oversight of NSWPF misconduct investigations. In order to determine the level of oversight required, the Oversight Investigations team conducts a preliminary review of all notifiable misconduct matters to assess their level of risk and priority. The team then finalises oversight or conducts a further targeted or detailed review of the investigation.

At capacity, the Oversight Investigation team structure comprises a Manager and ten (FTE) staff members.

During the reporting period, the Oversight Investigations team received 1,511 NSWPF misconduct matter investigations for oversight under Part 7, LECC Act, an 8% increase on last year and nearly a 44% increase from two years earlier. The Commission finalised review of 1,984 misconduct matter investigations during the reporting year which included matters brought forward from the previous year.



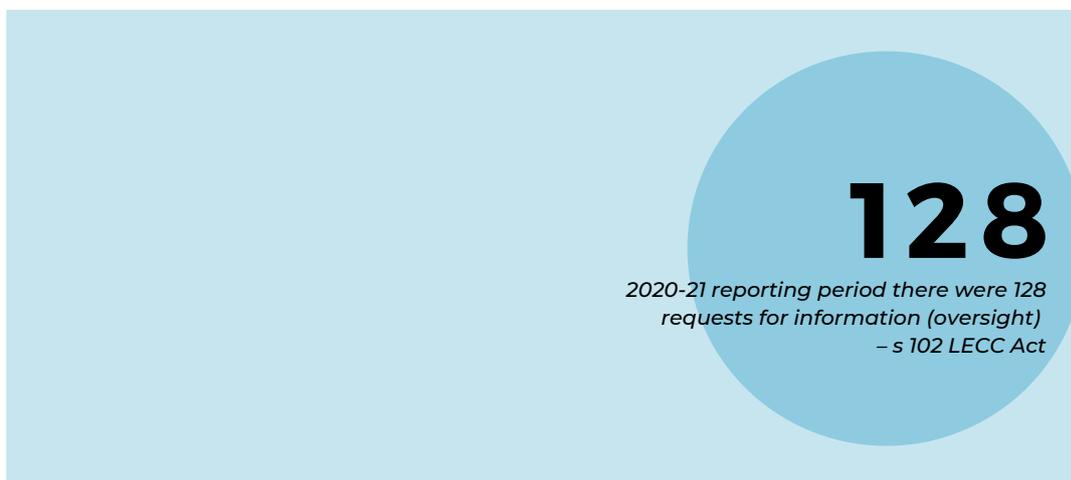
## REQUESTS FOR INFORMATION

The Commission does not have immediate electronic access to numerous items used by the NSWPF to determine misconduct matters. In particular body worn video, in-car video and other electronic media. In order to undertake its oversight function under Part 7, LECC Act, the Commission is required to request additional information from the NSWPF in relation to specific investigations. This information includes:

- an explanation of policies, procedures and practices relating to the conduct;
- documentary and other information in respect of inquiries made by the NSWPF into the misconduct matter;
- explanation, comment of information in connection with the misconduct matter.

in the 2020-21 reporting period there were 128 requests for information (oversight), s102, LECC Act, compared with 102 requests in the previous reporting period 2019-20.

Section 102, LECC Act requires the NSWPF or NSWCC (as relevant) to provide the information requested. The Commission can withdraw the request if the NSWPF or NSWCC (as relevant) objects to the provision of the material and the Commission is satisfied the grounds of the objection are well-founded.



## NEW CASE MANAGEMENT SYSTEM

The Commission's new case management system, LOIS, is a significant improvement for the Oversight Investigation team from the previous system, CMS, which was a legacy system of the Police Integrity Commission and not designed for the oversight of misconduct investigations. LOIS has automated the creation of finalised NSWPF misconduct investigations, alleviating ongoing errors in the previous methodology of notification to the Commission. This has also meant an increase to the number of finalised investigation reports the Commission is receiving and is required to process and oversight.

## NSWPF MISCONDUCT INVESTIGATIONS, NSWCC MISCONDUCT INVESTIGATIONS AND CRITICAL INCIDENT INVESTIGATIONS SUBJECT TO OVERSIGHT

The *Police Act 1990* (NSW) and *LECC Act* facilitate the Commission's oversight of misconduct matter investigations by the NSWPF. The Commission can oversee any misconduct matter investigation, however, primarily restricts that oversight to matters classified as notifiable misconduct under the s 14 Guidelines. The below table of matters received includes only matters classified as notifiable misconduct.

### Matters received

|  | 2018-19 | 2019-20 | 2020-21 |
|--|---------|---------|---------|
| Completed NSWPF notifiable misconduct matter investigations received | 1,051   | 1,396   | 1,511   |
| Completed NSWCC notifiable misconduct matter investigations received | 1       | 1       | 0       |
| New NSWPF critical incident investigations declared and received     | 32      | 27      | 27      |
| Total  | 1,084   | 1,424   | 1,538*  |

\*This includes misconduct matter investigations and critical incident investigations that were received by the Commission and for which oversight was not finalised as of 30 June 2021.

### Matters finalised

|   | 2018-19 | 2019-20 | 2020-21 |
|---|---------|---------|---------|
| NSWPF notifiable misconduct matter investigations where oversight was finalised by the Commission | 1,221   | 969     | 1,984   |
| NSWPF critical incident investigations where monitoring finalised by the Commission               | 3       | 18      | 21      |
| Total   | 1,224   | 987     | 2,005   |

## CORRESPONDENCE PURSUANT TO S 104 AND S 105, LECC ACT

The Commission has responsibility for reviewing misconduct matter investigations undertaken by the NSWPF and NSWCC in order to ensure that they have been undertaken in an appropriate manner with well-reasoned outcomes and findings.

Where the Commission considers that a misconduct matter has not been properly investigated, it can request the NSWPF or the NSWCC (as relevant), pursuant to s 104, LECC Act, to conduct a further investigation.

If the Commission is not satisfied with the NSWPF or NSWCC decision concerning action to be taken as a result of a misconduct investigation, it may request a review of that decision, pursuant to s 105, LECC Act.

During the reporting period the following actions were taken under ss 104, 105, LECC Act.

Requests pursuant to s 104 and s 105

|   | 2020-21 |
|---|---------|
| Section 104 requests issued   | 8       |
| Total number of reinvestigations following s 104 notices  | 2       |
| Total number of reinvestigations that resulted in a different finding                               | 0       |
| Total number of declined further investigations that resulted in new or amended findings            | 3       |
| Total number of reinvestigations that resulted in the same findings but management action was taken | 0       |
| Section 105 requests issued   | 4       |
| Total number of different findings following a s 105 notice for review of decision                  | 1       |

On occasions the NSWPF decline to conduct a further investigation, however, as a result of the review by the NSWPF to determine whether a further investigation would be undertaken they may make a different finding. Similarly, the Commission may make a request under both ss 104 and 105, LECC Act for a further investigation and/or review of the finding.

## CASE STUDY 2: FINDINGS MADE WITHOUT FURTHER INVESTIGATION (P1703147)

An internal police complainant reported that while working with the subject officer, in a suburb approximately 10kms from the city, the subject officer observed three males and indicated to the complainant that the guys were hot and that he was going to search them. The complainant indicated the males were not acting in a manner that justified them being stopped and searched. Following the search the males were issued a move on direction under LEPRa.

The misconduct investigator recommended sustained findings against the subject officer. The quality review officer disagreed with the sustained finding, indicating that in the absence of a version from the subject officer, who had declined to be interviewed, the COPS event should form the basis for interpreting the lawfulness of the stop and search. That COPS event indicated that police believed the males were drug affected due to their eyes being dilated and admission that they had come from a nightclub in the city known for drug use.

Despite no drugs being located during the search and the limited information to undertake the search, the review officer also disagreed with a not sustained finding relating to the move on direction.

The Commander made not sustained findings. The Commission detailed what it considered to be the deficiencies in the investigation and requested a further investigation by the NSWPF pursuant to s 104, LECC Act.

The Commander declined to conduct a further investigation, however, overturned the earlier findings on the evidence already available. Sustained findings were made for failing to comply with LEPRa (searching) and unprofessional conduct.

## SECOND REQUESTS FOR FURTHER INVESTIGATION

The NSWPF model for dealing with misconduct matters is a decentralised model, which means that the Commander for the subject officer is the delegate for investigation outcomes and findings, as well as, if required, management action.

This decentralised model includes that if the Commission considers a misconduct investigation to be deficient and requests consideration of a further investigation, that request is usually dealt with by the delegated Commander.

As a result, there will be times when the Commission disagrees with the Commander's decision not to further investigate a misconduct matter, and on those occasions the Commission may issue a second s 104, LECC Act request for further investigation.

In any second s 104 requests for further investigation, the Commission will generally request that it be considered independently of the delegated Commander, however, this is a decision for the NSWPF. For instance, in June 2020 the Commission sent a second s 104, LECC Act request for further investigation in a matter relating to s 21E, *Child Protection (Offenders Registration) Act 2000* (CPOR Act).

Despite the Region indicating 'the actions of (the subject officer) were apparently motivated by a desire to ensure that a NSWPF colleague complied with the Declarable Association Policy, this action was unarguably not for law enforcement purposes as required by s 21E, CPOR Act.' The delegated Commander disagreed and did not make misconduct findings against the subject officer.

In the later mentioned report pursuant to s 134, LECC Act, 'Oversight of MIR2020-0147', the Commission sent a second request for a further investigation, after the acting Commander declined the first request for further investigation. Considering the hierarchical nature of the NSWPF it is yet to be seen whether an acting Commander would make a different decision than that of their substantive Commander.

In that report the Commission further suggested that a different methodology for the NSWPF handling of s 104, LECC Act requests for further investigation may prevent second requests for further investigation from the Commission. The NSWPF have declined to implement another method and the reasons provided by them are reasonable, however, without change second requests for further investigation may continue to be necessary.

During the reporting period, the Commission sent a second s 104, LECC Act request for further investigation in three misconduct matters (EXT2018-2320, MIR2020-0147 and EXT2020-2197). Two of these matters were declined for further investigation while one resulted in a new sustained finding.

## OTHER MATTERS RAISED AS A RESULT OF OVERSIGHT

### CASE STUDY 3:

## POLICY CONSIDERATION REGARDING POLICE DOGS SOPS (LMI1702925)

Two days after a female had attempted self-harm in a known suicide location, she was sighted by police again in the general vicinity of that location. The police officer that sighted the female held fears for her safety. She then evaded the officer and disappeared into bushland with her dog. In an attempt to locate the female, police requested assistance from the Dog Unit and a search was conducted with their assistance. The female was located unharmed towards the bottom of a steep embankment.

The police dog handler held fears for the female's safety and made physical contact with her. A struggle commenced. As a result of the struggle the police dog bit the female, which it is trained to do, on her back and then head. The injuries required surgery.

A misconduct investigation was commenced with not sustained findings being made. During the Commission's review of that investigation, the NSWPF indicated:

*'Police Dogs are a readily available and extremely effective tool used worldwide to locate persons including...Persons with mental health concerns, Drug induced issues and medical episodes such as dementia, Alzheimer's and autism...they offer a rapid response which is paramount when dealing with vulnerable persons.'*

The Commission was satisfied with the misconduct investigation and its findings, however, formally raised policy considerations for the NSWPF.

Namely, the NSWPF policy regarding the use of general purpose dogs did not have any guidance around using them in situations involving concerns for welfare and when dealing with persons with mental health concerns. References in the SOPS appeared to be in relation to the location and apprehension of persons of interest who were escaped detainees or persons accused of committing a crime.

The Commission further indicated that a general purpose dog cannot distinguish between an offender and a person where there is a concern for welfare, and that they are trained to protect their handler when a physical struggle occurs.

The Commission recommended the NSWPF consider reviewing the NSWPF Operational Issues – Police Dogs – Standard Operation Procedures to include explicit protocols or guidance around the use of general purpose dogs to locate persons that are not offenders but are considered to have mental health concerns, drug induced issues or suffering from medical episodes such as dementia, Alzheimer's and autism.

The NSWPF have stated that the General-Purpose Manual is in the final stages of a full review, and that once the revised manual is approved all General-Purpose dog handlers will be required to acknowledge that they have read and understand the new guidelines in relation to dealing with vulnerable persons. Additionally, the NSWPF Mental Health Intervention Team have developed a bespoke one-day course for all General-Purpose dog handlers to attend.

## OTHER MATTERS RAISED AS A RESULT OF OVERSIGHT

## CASE STUDY 4:

### SECTION 21E OF THE CHILD PROTECTION (OFFENDERS REGISTRATION) ACT 2000 (MIR2019-1481 & MIR2019-0997)

Last year the Commission reported on a matter involving a police officer working within the Child Protection Register that disclosed to another police officer that their neighbour, and friend, was a registerable person on the Child Protection Register.

A misconduct investigation was undertaken by the NSWPF and the reason provided for this disclosure was in order for the other officer to comply with the declarable association policy. The outcomes were not sustained findings against both officers.

The Commission reviewed the investigation and considered the NSWPF failed to consider s 21E of the *Child Protection (Offenders Registration) Act 2000* (CPOR Act) which states that a person must not disclose any information relating to a registerable person obtained in connection with the administration or execution of the Act unless the disclosure is made in connection with the administration or execution of the Act or a corresponding Act or for law enforcement purposes.

The Commission requested a further investigation pursuant to s 104, LECC Act, and the Commander declined to further investigate the misconduct matter, indicating there was no disclosure of information in breach of s 21E, CPOR Act. The Command further indicated that it was ‘...more likely than not – done so in a work-related capacity...’

The Commission sent a second request for the NSWPF to consider a further investigation into this matter, requesting that it be considered by the relevant Region. In addition to the previous request the Commission indicated that it was of the view that there is a distinction between a ‘work related purpose’ and a ‘law enforcement purpose’ and that consideration should be given to obtaining a legal opinion around the parameters of a ‘law enforcement purpose’ under s 21E, CPOR Act.

The request was reviewed by the Professional Standards Command for the Region who indicated that they agreed with the Commission’s position, however, there was no need for a further investigation and on the evidence available a sustained finding should be made.

The Region sent this report to the Command, however, the Commander did not agree with the recommended sustained finding and did not change the original decision. They further indicated that they did not agree with the view of what constituted a ‘law enforcement purpose’. The Region did not overrule the decision of the Commander but did recommend to the Child Protection Registry that they should prepare educational material on s 21E, CPOR Act and distribute that information state-wide.

**CASE STUDY 4: SECTION 21E OF THE CPOR ACT 2000  
(MIR2019-1481 & MIR2019-0997)**

After the Commission identified a similar issue relating to a disclosure contrary to s 21E, CPOR Act in another misconduct investigation, MIR2019-1481, it wrote to the NSWPF in both matters and requested information to clarify the NSWPF position on s 21E, CPOR Act and NSWPF policies and procedures.

The NSWPF indicated that:

1. they consider a disclosure relating to a registrable person lawful where the disclosure is:

- a. to a senior officer in order to comply with s 211F of the *Police Act 1990* (NSW);
- b. to the Commission in accordance with s 131 of the *Police Act 1990* (NSW) and the s 14 Guidelines; and
- c. to the subject officer in dealing with a misconduct matter under Part 8A and Part 9 of the *Police Act 1990* (NSW).

2. the Child Protection Registry Information Disclosure Policy and Procedure is being reviewed, including further explanation about authorised/justified disclosures pursuant to s 21E, CPOR Act

The NSWPF response appears to confirm the Commission's view that the disclosures in MIR2019-0997 and MIR2019-1481 were contrary to s 21E, CPOR Act. Further clarification within the relevant Policy and Procedure should prevent similar future disclosures.

## OTHER MATTERS RAISED AS A RESULT OF OVERSIGHT

## CASE STUDY 5: LAW NOTE (EXT2020-0433)

In January 2020, police in a Greater Sydney suburb observed a 14 year old Aboriginal male known to them. Police undertook a bail compliance check on the youth which stated that he was not to be in a public place unless with his mother, attending school, or sporting activity approved by his mother.

The young person was arrested for breach of bail around 5.40pm, and placed in handcuffs for transport to the local police station. About 40 minutes later, the young person's sister attended the police station with a signed note from the mother and asked that he be released. Police did not believe the authenticity of the note and requested the telephone number for the mother.

Another 40 minutes later the mother attended the police station and confirmed the authenticity of the original note. The police officers dealing with the mother consulted with the custody Sergeant who stated that the youth had been charged, bail refused and would be transported to a youth detention centre for the night. That transfer did not occur for another 5 hours.

Police investigated a complaint from the sister of the young person and made not sustained findings. The Commission reviewed the investigation and requested a further investigation pursuant to s 104, LECC Act. The Commission indicated that the report did not address why the arrest of the Aboriginal young person was not

discontinued and released into the care of his mother, having consideration of ss 77(2) and (3), *Bail Act 2013* (NSW).

The Commission also indicated that consideration should be given to remedial action, including officers reviewing the decisions in a similar unreported Children's Court matter in which alternatives to arrest and detention of Aboriginal and Torres Strait Islander young persons was discussed.

The relevant Command responded that they had reviewed the matter and it was their view that police had acted in good faith, and the Children's Court matter was a single opinion of Children's Court Magistrate and not raised in a superior court. They also indicated that the young person, legal representative or parent in EXT2020-0433 did not request a bail review, and that if one was requested the Duty Officer may have formed a view to release the young person.

Despite the above views in regards to the Children's Court matter the Command did provide a copy of this matter to the subject officers. The NSWPF also referred the matter internally in the hope that it would result in a State-Wide message or Law Note to assist in future similar circumstances.

The Command has now confirmed that a Law Note would be published and distributed State-Wide and that future training material would be released to assist police faced with similar circumstances relating to bail.

## MONITORING

The Commission may choose to monitor the carrying out of a misconduct investigation being conducted by the NSWPF or the NSWCC if it is of the opinion that it is in the public interest to do so, pursuant to s 101, LECC Act. That monitoring provides real-time oversight of misconduct investigations.

When monitoring a misconduct investigation, in addition to other functions in Part 7, LECC Act, the Commission may:

- i. be present as an observer during interviews;
- ii. confer with police officers about the conduct of the investigation; and
- iii. request the provision of reports on the progress of the investigation.

On 1 July 2020 the Commission and the NSWPF agreed to guidelines regarding the monitoring of Part 8A, *Police Act 1990* (NSW), misconduct matter investigations.

The Commission tabled two reports in parliament in July 2020 which relate to two NSWPF investigations that were monitored by the Commission. These were:

- i. 'Arrest, detention and Strip Search of Two Female Protestors on 10/11/2017'; and
- ii. 'Strike Force Blackford – Report'

As of 30 June 2021, the Commission was actively monitoring eleven NSWPF misconduct matter investigations in accordance with s 101, LECC Act.

| Monitoring   | 2019-20 | 2020-21 |
|--|---------|---------|
| On hand monitoring matters at commencement of reporting year | 15      | 11      |
| New monitoring matters commenced during reporting year       | 9       | 23      |
| Total monitored by the Commission during reporting year      | 24      | 34      |
| Finalised monitoring matters during the reporting year       | 13      | 23      |
| On hand monitoring matters as of end of reporting year       | 11      | 11      |

## MONITORING

Misconduct investigations monitored by the Commission during the reporting period included allegations of:

1. Use of force during the arrest of a young Aboriginal male in Surry Hills on 1 June 2020 (MIR2020-0655)
2. Use of force during the arrest of a male at a regional music festival (EXT2020-1629)
3. Assault by an off duty police officer in June 2021 (MIR2021-0812)
4. Failure to investigate a domestic violence report, where a later investigation resulted in the offender being charged with numerous personal violence offences (EXT2020-1245)
5. Excessive use of force and unlawful arrest of producer for YouTube channel 'FriendlyJordies' (MIR2021-0798)
6. Discrimination of a number of female employees by a Superintendent (MIR2020-0783)
7. Unlawful search, excessive use of force, unprofessional conduct and failure to create records relating to a search of a male at a metropolitan train station in March 2018 (EXT2020-0962)
8. Unreasonable use of discretion and excessive use of force in responding to a noise complaint in December 2020 (EXT2021-0532)
9. Excessive use of force against an Aboriginal male on New Year's Eve (EXT2020-0091)
10. Sexual harassment and sexual touching of junior colleague (MIR2021-0422)
11. Racial discrimination (MIR2021-0411)
12. Unauthorised recording of other officers under the *Surveillance Devices Act 2004* (Cth) (MIR20210422)

The Commission exercises varying levels of monitoring and each matter is dependent upon many individual factors. Regardless of the type of monitoring undertaken, the Commission encourages the relevant Commands to provide the investigation report in a timely manner to allow the Commission to review it and, if necessary, raise any concerns prior to the subject officers and complainants being notified of the outcomes. This timely interaction provides greater fairness to subject officers and complainants, and may prevent the Commission from having to send a formal s 104, LECC Act request for a further investigation, and for that investigation to be reopened.

## CASE STUDY 6: REQUEST TO FURTHER INVESTIGATE (EXT2020-1629)

In May 2020, following the assessment of a complaint, the Commission referred it to the NSWPF for investigation. That investigation was monitored by the Commission pursuant to s 101, LECC Act.

The complaint related to the arrest of an individual at a music festival in regional NSW. The male had been pursued on foot by police after stealing an identification lanyard and had avoided at least one police officer. Body worn video from one officer captured a point in time after the arrest, as the male was seated on the ground.

While being spoken to by police the male asked them for water and the immediate response from the police officer that he had earlier evaded was to swear at the male and tell him to shut up. In doing so that police officer also stepped towards the male.

At this point the police officer recording the event on the body worn video turned away and switched off the body worn video. The body worn video was turned back on after an altercation between the other officer and the male had finished and formal questioning of the male commenced. The body worn video did back capture much of the altercation, but no audio is captured during that back capture.

The Police District investigating the matter positively engaged with the Commission throughout the investigation and on a number of occasions dialled the Commission investigator into their Complaint Management Team meetings where the progress of the investigation was discussed.

On 8 January 2021 the Police District attempted to phone the Commission, however were unable to speak with the Commission investigator. Subsequently they finalised their investigation that day, making not sustained findings and notifying the subject officers and the complainant of the outcome.

The Commission became aware of the finalised investigation early the following week and considered there were a number of deficiencies in that investigation. As a result the Commission sent a request for further investigation, pursuant to s 104, LECC Act, and the NSWPF undertook a further investigation of the matter.

The issues raised by the Commission included:

- the subject officer's reliance upon his court statement, which was inconsistent with the body worn video;
- that the actions of that officer to swear at the male and move to stand over him in an intimidating manner unnecessarily led to the altercation;
- concerns that it appeared, from the manner and timing of the body worn video being switched on and off, that it had been deliberately switched off.

The additional investigation included an opinion from a Weapons and Tactics officer as well as further questioning of the subject officers around their actions. While the outcome was not sustained findings, the Commission considered sufficient and reasonable investigative inquiries had been made by the NSWPF to reach that outcome, and that on the requisite standards the findings were open to the NSWPF to make.

## SECTION 134 REPORTS

The Commission provided the Minister, the Commissioner of Police and complainants with three reports, pursuant to s 134, LECC Act, relating to its oversight of NSWPF misconduct investigations. Additionally, two of these reports ('Arrest, Detention and Strip Search of Two Female Protestors on 10/11/2017' and 'Strike Force Blackford') were also tabled in Parliament pursuant to s 138, LECC Act.

### *Arrest, detention and strip search of two female protestors on 10/11/2017*

In July 2020 the Commission's report 'Arrest, detention and Strip Search of Two Female Protestors on 10/11/2017' was tabled in Parliament. This matter relates to NSWPF investigation into misconduct arising from the arrest, detention and strip search of two female protestors in November 2017. The Commission's Oversight Investigation Team monitored this investigation pursuant to s 101, LECC Act.

The initial NSWPF investigation resulted in not sustained findings on all issues. The Commission was not satisfied the investigation had been properly conducted and requested a further investigation pursuant to s 104, LECC Act.

The further investigation resulted in a number of sustained findings, however, not sustained findings were made against the two officers that undertook the strip searches. It was the Region Commanders view that it was not misconduct, instead a performance issue. The Commission did not agree with the not sustained findings and made further representations to the NSWPF. As a result of the Commission's representations, the new Region Commander made sustained findings.

### *Strike Force Blackford*

In July 2020 the Commission's report 'Report on the monitoring of NSWPF misconduct matter investigation - Strike Force Blackford' was tabled in Parliament.

Strike Force Blackford was a unique investigation initiated by the Professional Standards Command into a number of strip searches by the NSWPF, primarily at music festivals, and included a focus on broader organisational issues.

The Commission monitored this investigation pursuant to s 101, LECC Act, including being present at interviews conducted by the NSWPF and conferring with investigators.

The analysis and findings in Strike Force Blackford informed changes to NSWPF policy, procedures and training in relation to the conduct of strip searches in general and in particular, to the conduct of strip searches at music festivals.

## MONITORING

*Oversight of MIR2020-0147*

In June 2020, the Commission provided the Commissioner of Police, the Minister for Police and the complainant with a copy of a report published pursuant to s 134, LECC Act.

This matter related to an incident which arose following lengthy dealings with a male that escalated into a physical confrontation after the male lawfully refused to be driven home by police in the rear of a caged police vehicle. The incident was captured on body worn video.

The male was ultimately arrested for assaulting police and resisting arrest, and bail was refused. Prior to the matter proceeding to an examination the Police Prosecutions Command correctly identified a number of issues with the matter. Despite the Command responsible for the prosecution declining to withdraw the charges, the Police Prosecutions Command ultimately withdrew the charges. The civilian had been in custody for approximately seven months at the time of the charges being withdrawn.

The Police Prosecutions Command submitted a report that initiated a misconduct investigation. The civilian also submitted a complaint. The initial misconduct investigation resulted in not sustained findings despite the available evidence which included the body worn video and the Police Prosecutions Command's observations of the actions and the lawfulness of the arrest.

The Commission requested a further investigation pursuant to s 104, LECC Act, setting out the matters it considered deficient in the earlier investigation.

This request was considered by an acting Commander at the Command and a further investigation was declined.

The Commission wrote a second time requesting a further investigation or, in the alternate, making different findings on the already available evidence. On this occasion the Commission asked for the request to be considered independent of the Command. The request was again considered by the subject officer's Command, but on this occasion a new substantive Commander. That Commander made a number of sustained findings on the available evidence.

The Commission's s 134 report provided details of actions taken by the NSWPF and the Commission in order to ensure that police misconduct arising in this incident was appropriately dealt with. This included the Commission requiring the NSWPF to investigate the complaint, and on two occasions requesting a further investigation of the misconduct as the initial investigation was considered deficient.

This report highlighted the need, with the current system of dealing with requests for further investigation, to request further investigations on multiple occasions. The Commander in this misconduct matter had already declined to withdraw the prosecution of the civilian and then made findings relating the lawful use of police powers when the Police Prosecutions Command had indicated there was no lawful exercise of powers. The Commission's first request for a further investigation was also sent to the Command and dealt with by an acting

## OVERSIGHT OF MIR2020-0147

Commander, who due to the hierarchical nature of the police force may be reluctant to make a different decision to that of the substantive Commander. The Commission suggested another possible methodology for consideration of s 104, LECC Act requests.

The NSWPF responded to this, indicating: *'The NSW Police Force Misconduct Management Framework operates on a de-centralised basis, with most matters being referred to the subject officer's command for action. Commanders have the Commissioner's delegated authority to determine whether an investigation is warranted, and to conduct investigations where it is determined to be necessary and implement management action where appropriate.'*

*'It is important that Commanders, as the Commissioner's delegate, deal with misconduct matters that relate to officers within their Command. This includes consideration of, and response to, any issues raised by the Commission, under the provisions of s 104 or 105....'*

*'...A fundamental question that must be asked when considering whether to reopen a matter that has been decided is one of fairness. Subject officers are entitled to expect finality in the investigation and management action.'*

*While accepting that clear deficiencies in the original investigation or decision may warrant revisiting an investigation or decision, these issues should be subject to consideration by the Commissioner's delegate (the subject officer's Commander) with sufficient weight being given to the question as to whether revisiting the matter is fair in the circumstances'.*

## 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 where the Commission had serious concerns about the outcomes and considered there was a public interest for further investigation. The Integrity Division may conduct preliminary enquiries into the referred information and may commence an investigation under Part 6, LECC Act.

The Integrity Division have two currently active investigations, commenced during the reporting period, following referrals from Oversight.

## WITNESS PROTECTION

The NSWPF administers the Witness Protection program, which is governed by the *Witness Protection Act 1995* (NSW). The aim of the program is to protect the safety and welfare of significant crown witnesses and others who give information about criminal activities.

The Commission has three primary areas of responsibility under the *Witness Protection Act 1995* (NSW). These responsibilities relate to appeals by the witness protection applicant or participant against a decision of the Commissioner of Police relating to -

- i. non-inclusion onto the witness protection program;
- ii. suspension from the witness protection program; and
- iii. termination from the witness protection program.

The Commission did not exercise any functions under the *Witness Protection Act 1995* (NSW) during the reporting period.

## AUDIT

The Commission's audit team consists of two staff, and has a responsibility to keep under scrutiny the systems established for dealing with misconduct matters within the NSWPF and NSWCC.

In doing so, the Commission has undertaken a number of audits within this annual report period which includes a variety of strategic, targeted and routine audits.

### *Number of audits completed and outcomes*

#### **NSW Crime Commission**

The Commission conducted one on-site inspection of the NSWCC, in accordance with s 32, LECC Act, in February 2021.

#### **NSW Police Force**

The Commission conducted two on-site audit inspections of the NSWPF:

- the Liverpool City Police Area Command; and
- the Mid-North Coast Police District.

The Commission conducted a number of targeted desktop audits relating to the NSWPF complaint handling system, including:

- The NSWPF timeliness trial;
- NSWPF Management action.

Additionally, the audit team undertook a review of the NSWPF use of body worn video, as well as a review of complaints against police around COVID-19. The Commission has engaged with the NSWPF and NSWCC regarding the outcomes of any relevant audits and reviews, including any areas for improvement. The Commission has not produced any reports in accordance with s 32(5), LECC Act.

## CASE STUDY 7: NSW MANAGEMENT ACTION

The Oversight and Audit teams undertook a review of 100 matters in which NSWPF implemented management action for sustained findings. The purpose of the review was to consider the sufficiency of reasons provided in support of management action decisions, and the adequacy of management action implemented.

While the review indicated that the majority of Commanders provided sufficient reasons to support management action decisions, it did observe a number of instances where limited information and reasons were provided to justify the type and level of management action implemented. For instance, in one matter a Commander provided sufficient reasoning as to management action against one subject officer, but no reasoning was provided for the other subject officer.

It was noted by the Commission that in a number of matters the Commission was required to request further information and/or documentation as the misconduct matters management database, IAPro, did not contain the required information. This included:

- Commander certified copies of investigation reports and resolution outcomes reports;
- Information around referrals to the IRP;
- Copies of the IRP notification form; and,
- Information about the nature of the management action, including the scope of any training and counselling.

One important outcome from this review was the identification of four matters in which Commanders had not referred misconduct matters that, under the NSWPF Management Action Guidelines, are required to be mandatorily referred to the Internal Review Panel (IRP). This panel is chaired by the Assistant Commissioner of Professional Standards Command and provides recommendations for action as a result of sustained findings in specified matters. Three of these matters related to failures of officers to keep safe their firearm.

Following correspondence from the Commission three of the matters were then referred to the IRP, while it was indicated that the fourth matter was not referred to the IRP as the subject officer was suspended from the NSWPF on a criminal matter.

Review of the handling of Human Sources from the Legal Profession

The Commission previously undertook a review of the handling of lawyers as human information sources by the NSWPF and NSWCC. The Commission is satisfied that the NSWPF and NSWCC have robust systems for the identification and management of human sources from the legal profession.

Following these reviews the Commission did however make a number of recommendations to strengthen the existing policies, procedures and/or systems.

During this reporting year the NSWCC and NSWPF have both notified the Commission that they have implemented most of the recommendations of the Commission. The Commission also reviewed the summary and recommendations of the 'Victorian Royal Commission into the Management of Police Informants'. There was nothing identified within this review to cause the Commission to undertake any further reviews of the systems of the NSWPF or NSWCC.

*Note: Management Action is action taken by the NSWPF in response to sustained findings in a misconduct matter.*

## COMMUNICATIONS WITH COMPLAINANTS

### SECTION 137 OF POLICE ACT 1990 (NSW)

It was reported last year that the Commission's audit team conducted a review of 116 finalised misconduct matters to ascertain whether the NSWPF had been complying with the requirement under ss 137(1)(a)(i), 137(1)(a)(ii), *Police Act 1990* (NSW) in relation to consulting with complainants and advising them of actions already taken or to be taken. This review identified a number of inconsistencies in the NSWPF handling of s 137 requirements.

In August 2020, the Commission made three recommendations for the NSWPF to consider:

- i. reinforcing with complaint handlers, professional standards officers and Commanders the requirements of s 137, *Police Act 1990* (NSW);
- ii. separating questions relating to s 137, *Police Act 1990* (NSW) within the investigation templates to ensure consideration of both subsections (i) and (ii);
- iii. providing an approved and consistent mechanism to record compliance with s 137, *Police Act 1990* (NSW).

In December 2020, the NSWPF responded to the Commission and indicated that the NSWPF Misconduct Management Framework had been updated to provide advice to Complaint Management Teams (CMT), Commanders, Professional Standards Duty Officers (PSDO) and Executive Officers of their roles and responsibilities in providing advice or consultation with a complainant and providing notification to the Commission in accordance with its legislative requirements. Business rules around the NSWPF misconduct matters management system, IAPro, were also updated.

While the NSWPF did not action recommendation (ii), the above actions taken by them should ensure better compliance with the requirements of s 137, *Police Act 1990* (NSW).

## CASE STUDY 8: COMPLAINANT NOTIFICATION

During the monitoring of the NSWPF investigation, Strike Force Blackford, the Commission had communications with the solicitor representing one of the individuals strip searched at a music festival. They indicated they had not been informed of the outcomes of the investigation.

The NSWPF Professional Standards Command undertook the investigation into Strike Force Blackford, and when referring that finalised investigation to the Commander of the subject officer they indicated that, if applicable, the Command should consult with the complainant pursuant to s 37, *Police Act 1990* (NSW).

The Commander in certifying the investigation report for this matter ticked the section of the form which indicated *'I am satisfied the complainant has been informed of the outcome of the investigation and also advised of action already taken and / or consulted with regard to action to be taken.'* and stated *'complainant did not wish to take part in process.'*

The Commission wrote to the NSWPF and requested information about what actions had been taken to comply with the requirement to notify the complainant.

As a result of the Commission's enquiries with the NSWPF, they phoned and formally wrote to the complainant and provided her with the outcome of the investigation. The earlier failure to notify the complainant of the outcome was attributed to a misunderstanding that Professional Standards Command had consulted with the complainant throughout the investigation.

## CRITICAL INCIDENTS

---

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. The Commission's policy is to monitor all declared critical incidents. The Commission's role in monitoring is important and ensures public confidence that the NSWPF investigate critical incidents in a competent, thorough and objective manner.

The Commission's critical incident monitoring team consists of three investigators and provides 24 hour on-call coverage for notification and attendance every day of the year. Where a critical incident results in the death of a person the Coroner is required to hold an inquest into the manner and cause of death. In contrast, critical incidents which result in serious injury to a person are not subject to the Coroner's jurisdiction but most often are linked to criminal proceedings.

In February 2018 the Commission entered into formal arrangements with the NSWPF regarding the monitoring of critical incident investigations. In October 2018 the Commission also finalised a Memorandum of Understanding with the NSW State Coroner in relation to monitoring of critical incident investigations which are also subject to the coronial jurisdiction. These agreements will be refined over time and the Commission will continue to work cooperatively with the NSWPF, the NSW Coroner and the Crown Solicitor's office in relation to our critical incident monitoring function.

In the reporting period, the NSWPF declared 27 critical incidents. This is the same as the previous reporting year. The Commission commenced monitoring all 27 critical incident investigations from the time the Commission was notified of the declarations. The NSWPF ceased two critical incident investigations shortly after declaration as the injuries were either less serious than first considered or preliminary investigations indicated that there was no relationship between the injury to the person and the actions of police.

The Commission ceased monitoring three declared critical incidents. These incidents involved suicides in which the Commission considered there was no significant causal connection between the actions of police and the death or serious injury. The NSWPF continue to investigate these matters as critical incidents.

The Commission continues to monitor the remaining 22 critical incident investigations.

As of 30 June 2021 the Commission was monitoring 55 ongoing critical incident investigations.

## CRITICAL INCIDENTS

**WHAT IS A CRITICAL INCIDENT?**

A critical incident is an incident involving a police officer or NSWPF employee that results in death or serious injury to a person. It must also be declared to be a critical incident by the Commissioner of Police or his delegate. The LECC Act provides guidance about the features of a critical incident.

These include incidents where death or serious injury arises:

- from the discharge of a firearm by a police officer;
- from the use of force or defensive equipment by a police officer;
- from the use of a police vehicle by a police officer;
- while in police custody or while attempting to escape police custody; or
- during any police operation where the injury or death is likely to have resulted from the police operation.

There is no requirement for the Commissioner of Police or his delegate to declare an incident that contains these features, to be a critical incident. The Commission has no jurisdiction to monitor a police investigation of a critical incident unless, or until, a declaration is made.

**NOTIFICATION TO COMMISSION**

The NSWPF is required to notify the Commission immediately after the declaration of a critical incident. The average time between the declaration of a critical incident being made and the Commission being notified of the critical incident was around 60 minutes during the reporting year. This is approximately 10 minutes timelier than the last reporting year. The earliest notification to the Commission was approximately 10 minutes after declaration.

**FUTURE REPORT ON CRITICAL INCIDENT MONITORING**

The function of an independent agency monitoring critical incident investigations commenced upon the establishment of the Commission in 2017. Since this time the Commission has monitored 119 critical incidents investigations.

The Commission is currently drafting a report to contain relevant information and observations from the monitoring of critical incidents between 2017 and 2021.

This report is anticipated to be presented to Parliament, pursuant to s 138, LECC Act, prior to the end of 2021.

## CRITICAL INCIDENT INVESTIGATIONS

Critical incident investigations are lengthy and often complex investigations. Once declared, critical incidents are investigated by the homicide squad or a criminal investigation team from a police area command or district that is independent from the command in which the incident occurred. In addition, every critical incident investigation is reviewed by the NSWPF Professional Standards Command.

A critical incident investigation is broader in scope than a standard criminal investigation. The Senior Critical Incident Investigator (SCII) is required to consider the actions of police officers leading up to the incident as well as at the time of the incident. Investigating police must also consider the need for any changes to policies, practices, or procedures that arise in the course of the critical incident investigation, in order to mitigate future risks of a similar incident occurring in the future.

The NSWPF keeps critical incident investigations open until all related coronial and criminal proceedings have been finalised. Nearly all critical incident investigations have either related coronial or criminal proceedings, or both, attached. Some of these criminal proceedings involve the most serious of criminal charges such as murder and are expected to take a number of years to be finalised by the courts.

## OBTAINING VERSIONS FROM INVOLVED OFFICERS

In most instances there are no legal requirements for officers to provide a version of events in critical incident investigations conducted by NSW Police. Despite this, officers normally assist and provide a version of events in a timely manner. In critical incidents involving a death it is open for the Coroner to obtain evidence from involved officers.

In the critical incident investigation into the death of a man in February 2018, six involved officers refused to provide a version of events to the investigating police. The State Coroner called the six involved officers in an early tranche of the inquest and obtained versions from them. While in this matter the evidence was obtained 18 months after the incident, this could be undertaken in a more contemporaneous manner in similar circumstances.

The Commission would encourage the early notification to the Coroner of instances where involved officers decline to provide a version of events.

## MONITORING CRITICAL INCIDENT INVESTIGATIONS

The LECC Act provides that Commission investigators may be present as observers at interviews conducted in relation to the critical incident, attend the location of critical incidents, and be provided access to all documents (including interview recordings and transcripts) obtained during the course of the investigation when monitoring critical incidents.

Commission investigators have monitored the investigation of all critical incidents declared in 2020-21, have attended around 50% of critical incident locations and generally have been provided access to all documents within a reasonable timeframe. However, unlike monitoring functions outlined within Part 7 of the Act (oversight of misconduct matter investigations), consent must be provided by the person being interviewed and, the senior critical incident investigator, to allow Commission investigators to be present as an observer during an interview, either in person or by audio visual link .

In every critical incident investigation to date, involved police officers have refused to consent for the Commission investigator to be present or to remotely observe their interviews. This appears to be a consistent and state-wide position taken by police officers involved in critical incidents. The power to observe interviews of involved officers in critical incident investigations, as it currently stands in the LECC Act, appears to be an illusory power. As the Act does not require that a reason be provided for refusal, the reasons that involved police officers choose to refuse are unclear.

During the course of monitoring a critical incident investigation the Commission will raise questions or potential concerns with the NSWPF at an early stage. These are normally dealt with by the NSWPF prior to finalisation of the investigation.

At the conclusion of a critical incident investigation by the NSWPF, the Commission is required to notify the NSWPF (and Coroner where relevant) either that it considers the investigation to have been fully and properly conducted, or, that it considers an aspect of the investigation was inappropriate. With all critical incident monitoring investigations finalised in the reporting period, the Commission was satisfied at the end of the investigations that they were fully and properly conducted.

Regardless of being satisfied with critical incident investigations, on occasions the Commission may during that final notification also raise related matters for further consideration.

## CASE STUDY 9:

# SAFE DRIVING POLICY CONSIDERATIONS (STRIKE FORCE GAREMYN)

A vehicle attracted the attention of police due to its manner of driving. Although police did not engage the vehicle in a pursuit, police followed the vehicle for over 7 kms before the driver abandoned the vehicle on private property in bushland at about 4 am to evade police. Although police located the vehicle shortly after it was abandoned, police did not locate the driver. Nine months later the remains of the driver were located at the bottom of a cliff, not far from where police located abandoned vehicle.

During the monitoring of the critical incident investigation the Commission raised a number of matters for consideration of the NSWPF. Most of these concerns related to the failure of involved police to follow existing policies and procedures, which appeared to have contributed to the delay in locating the remains of the driver. The NSWPF responded positively to the concerns raised by providing police from the Command with reminders as to existing policies and obligations and by revising training scenarios. The Command also introduced weekly checks of vehicle GPS functions and updated the Command policy regarding the towing of vehicles. A Part 8A misconduct investigation was also commenced into the quality of the initial missing person investigation making sustained findings in relation to the actions of the subject officer.

The Commission had also recommended that consideration be given to amending

the Safe Driving Policy so as to provide guidance to police on how to follow and/or monitor vehicles. In the Critical Incident Investigation Report the Senior Critical Incident Investigator expressed the view that this was a mute [sic] point since the Coroner had not made any recommendations in this regard.

While the Coroner did not explicitly make a recommendation, in the findings Her Honour was clearly of the view that the Safe Driving Policy should provide some guidance to how a 'follow' or 'monitor' should be conducted.

As a result, upon finalisation of the critical incident investigation the Commission notified the NSWPF that they were satisfied that the investigation was fully and properly conducted. However, the Commission also recommended that the NSWPF give further consideration to whether it would be appropriate to include guidelines in relation to the 'following' or 'monitoring' of vehicles, which are not captured under the current Safe Driving Policy.

The NSWPF has now provided advice that the recommendation had been discussed with the Commander of the Traffic and Highway Patrol Command, and that while it is not possible to capture specific scenarios in the policy, the views of the Coroner and Commission around guidance on 'follow' and 'monitor' would be considered in the upcoming review of the Safe Driving Policy.

## CRITICAL INCIDENTS

## CRITICAL INCIDENTS DECLARED DURING 2020-21

| Critical incidents  | 2018-19 | 2019-20 | 2020-21 |
|---|---------|---------|---------|
| Declared by NSWPF   | 32      | 27      | 27      |
| Monitoring commenced by the Commission                    | 32      | 27      | 27      |
| Attended location   | 27      | 16      | 13      |
| Ceased being classified as critical incident by the NSWPF | 4       | 1       | 2       |
| Finalised investigation by the NSWPF                      | 3       | 18      | 21      |
| Finalised by the Commission                               | 0       | 18      | 21      |

## FEATURES OF CRITICAL INCIDENTS

| Critical incidents features | 2018-19 | 2019-20 | 2020-21 |
|-----------------------------|---------|---------|---------|
| Death                       | 11      | 22      | 16      |
| Serious injury              | 21      | 5       | 11      |
| Total                       | 32      | 27      | 27      |

## CATEGORIES OF CRITICAL INCIDENTS

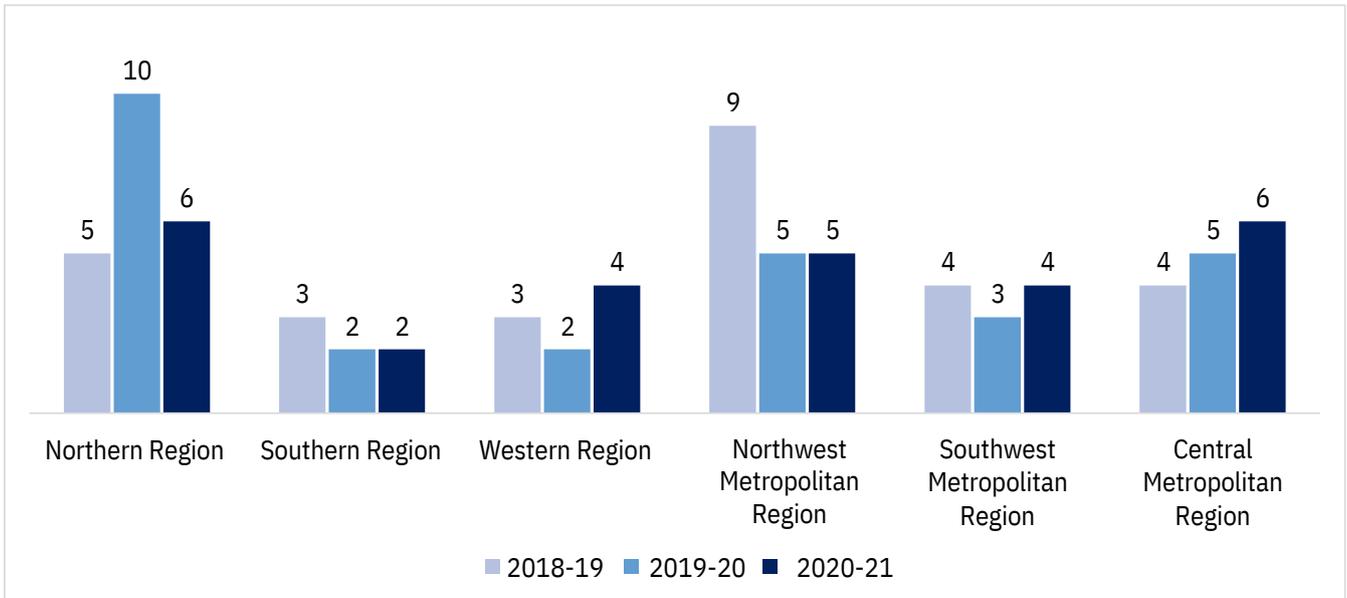
| Categories of critical incidents*  | 2018-19 | 2019-20 | 2020-21 |
|--|---------|---------|---------|
| Death or serious injury arises from a discharge of a firearm   | 7       | 5       | 6       |
| Death or serious injury arises from the use of defensive equipment   | 0       | 0       | 1       |
| Death or serious injury arises from the application of physical force  | 1       | 0       | 0       |
| Death or serious injury arises from the use of a police vehicle  | 3       | 4       | 7       |
| Death or serious injury arises while the person is in custody or while escaping or attempting to escape from custody                               | 1       | 0       | 1       |
| Death or serious injury appears likely to have resulted from any police operation  | 16      | 17      | 12      |
| Declared under s111(b) of the LECC Act – <i>the Commissioner of Police has other grounds for considering it is in the public interest to do so</i> | 0       | 0       | 0       |
| Total  | 28**    | 26**    | 27      |

\*These categories are drawn from ss 110, 111, LECC Act.

\*\*Critical incident investigations ceased by the NSWPF are excluded.

CRITICAL INCIDENTS

CRITICAL INCIDENTS BY NSWPF REGION



MISCONDUCT PERIPHERAL TO A CRITICAL INCIDENT INVESTIGATION

Throughout the course of a number of critical incident investigations the monitoring team and/or the NSWPF have identified issues not directly related to the critical incident being investigated which could be considered to amount to officer misconduct. Where these issues have been raised with the NSWPF they have generally been dealt with by the NSWPF as separate misconduct matter investigations under Part 8A, *Police Act 1990* (NSW). The Commission overlooks these investigations in accordance with its Part 7, *LECC Act* oversight function.

# NSW CRIME COMMISSION

---

In November 2017, the Commission entered into an agreement and guidelines with the NSWCC in accordance with s 14, 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.

In June 2019 these Guidelines were amended to clarify that the reporting of notifiable misconduct matters pursuant to the s 14 Guidelines related only to complaints involving employees of the NSWCC. Alleged misconduct relating to employees of the NSWPF was still required to be reported to the Commission in accordance with s 33 of the Act.

In addition the Commission issued s 33 Guidelines, indicating the types of complaints about the NSWPF that are required to be reported to the Commission by the NSWCC.

During the reporting period, the Commission assessed three misconduct matters involving members of the NSWCC referred by the NSWCC under the s 14 Guidelines, two misconduct matters involving members of the NSWPF referred by the NSWCC under the s 33 Guidelines, one misconduct matter involving members of the NSWCC referred by the ICAC and two complaints about the NSWCC made directly to the Commission.

## INVESTIGATIONS

There were two full investigations and no preliminary enquiries conducted within the 2020-21 period.

Operation Tabina is an investigation into an allegation of serious misconduct by a senior officer within the NSWCC. The Commission engaged with a Commonwealth agency during the investigation and also consulted with the Commissioner of the NSWCC. The investigation is ongoing.





# PREVENTION AND EDUCATION

---

The Commission's Prevention and Education team undertakes research and investigations that focus on systemic misconduct or maladministration in the NSWPF and NSWCC, such as conduct or practices which might be unlawful or unreasonable.

The team considers the practices and processes of these agencies, as well as compliance with legislation and policies. The team's reports make recommendations aimed at improving the way the agency can identify and prevent misconduct, unlawful actions and unreasonable practices. The recommendations address issues such as the clarity of policies and instructions given to officers, the level of supervision officers receive and officer training and education.

In addition to the major projects outlined below, the team has commenced a number of projects that will be ongoing into the coming year. One such project considers the extent that current NSWPF use of force reporting practices accurately reflect instances of use of force in the field. This project aims to determine how the reporting system can be improved.

In 2020-21, the team also conducted a preliminary review of complaints about Domestic and Family Violence matters that were received by the Commission since 1 July 2017. This review will inform further analysis of the way police manage and investigate such incidents.

This year, the work of the team culminated in three significant reports tabled in Parliament. The final report in the Commission's Inquiry into NSW Police Force strip search practices was tabled pursuant to s 138, LECC Act. The report into the NSWPF administration of the Child Protection Register, and a report into the effectiveness of NSWPF processes and procedures for managing workplace equity matters were both tabled pursuant to s 132, LECC Act.

The team also conducts a number of legislative reviews under various legislation that requires the Commission to keep under scrutiny the use of particular powers conferred on police. These are detailed in the following pages.

## PREVENTION AND EDUCATION REPORTS

### Strip Search Inquiry

On 15 December 2020 the Commission presented to Parliament its final report in the Inquiry into NSW Police Force strip search practices. The Inquiry comprised seven investigations, oversight of a number of police investigations into complaints about strip searches and analysis of NSWPF policies and training. That report is available on the Commission's website.

The Commission made 25 recommendations aimed at further clarifying the instructions provided to police officers to ensure that strip searches are conducted lawfully, enhancing record keeping to improve accountability, ensuring that training provided to officers about when and how to strip search is clear and comprehensive and enhancing the quality assurance processes to check that strip searches are conducted appropriately and lawfully. Many of the recommendations were aimed at strengthening officer understanding about the thresholds that must be satisfied before conducting a strip search. Of the 22 recommendations directed at the NSWPF, 15 have been agreed, implemented or partially implemented.

Three recommendations (recs. 3, 11 and 15) asked Parliament to consider clarifying some of the strip search provisions within LEPR which sets out police powers to conduct strip searches.

These recommendations were aimed at creating an exhaustive definition of a strip search, providing clarity about whether police can require a person to bend over, squat or move their genitalia during a strip search, and providing specific guidance in LEPR as to how the requirement that 'the seriousness and urgency of the circumstances make the strip search necessary' is to be interpreted. The Minister for Police, who is the minister responsible for LEPR said he will defer consideration of any such amendments until the impact of the changes made by NSWPF can be evaluated. Evaluation of the impact of the changes introduced by the NSWPF have been impacted by the COVID-19 pandemic.

Further detail about the NSWPF response to the recommendations will be posted on the Commission's website in early November 2021.

The Commission acknowledges and welcomes the significant work undertaken by the NSWPF during the Inquiry to improve both the conduct of strip searches and the records that are kept about strip searches. This includes the introduction of new policies, fact sheets, and tools and prompts to remind police officers of the legal requirements for conducting strip searches. Additional training and processes to check strip searches comply with the law were also introduced.

## Operation Tuskett: NSWPF's Administration of the Child Protection Register

On 22 June 2021 the Commission presented to Parliament a further report on its investigation into the NSWPF's administration of the Child Protection Register: The New South Wales Child Protection Register: Operation Tuskett Supplementary Report. The report is available on our website.

The Commission's previous report on Operation Tuskett, published on 31 October 2019, revealed that since 2002 the NSWPF had made over 700 errors in implementing the Register. The Commission made 11 recommendations in that report to fix the problems that had occurred and prevent further errors in the Register.

In the Operation Tuskett Supplementary Report, the Commission concluded that the NSWPF has implemented, or is in the process of implementing, all of the recommendations which are within its power to implement, namely Recommendations 1, 2, 5, 6, 7, and 10. These included making sure that the NSWPF Child Protection Registry has adequate staff, including dedicated legal support, upgrades to electronic systems, and sending out further letters to persons affected by errors in the Register.

Recommendations 8 and 9, regarding improving interagency collaboration in relation to the Register, require action by courts and other authorities with responsibilities under the *Child Protection (Offenders Registration) Act 2000* (NSW) (CPOR Act). Recommendations 3, 4 and 11

require changes to the CPOR Act, and therefore require action by the NSW Government and the NSW Parliament. However the NSWPF has undertaken considerable work to develop proposals for reforms to the CPOR Act, based on the Commission's analysis of the significant problems with the Act.

The Commission has now closed Operation Tuskett. However, there remains an urgent need for substantial changes to the CPOR Act. It is inevitable that the NSWPF will continue to make errors in the administration of the Register unless and until the law is changed. If the NSW Parliament does not substantially reform the CPOR Act, a further inquiry by the Commission may become necessary in future.

## Operation Tepito: Application of the Suspect Targeting Management Plan to Young People

The Suspect Targeting Management Plan (STMP) is a proactive policing policy applied to adults and young people, adopted by the NSWPF in January 2000. It seeks to reduce serious crime in the community by targeting repeat offenders known to local police. The Commission commenced an investigation into the use of the STMP on people under 18 years of age in late June 2018.

The Commission's interim report was tabled in Parliament in February 2020, and is available on our website. It contained analysis of how the STMP had been applied to a state-wide cohort of more than 400 children, and included 15 recommendations for the NSWPF. In November 2020 the NSWPF implemented a re-designed policy, called 'STMP III' across the state, in response to the Commission's report.

In mid-2021, the Commission commenced analysis of a cohort of all people under the age of 18 who were being managed under STMP III in the first 6 months of operation of that new policy. The Commission plans to present a final report under Operation Tepito in 2021-22, with a particular focus on assessing the adequacy of the NSWPF's responses to the recommendations made in the interim report.

## Conduct Management Plans

In 2020-21 the Commission analysed a cohort of officers who had been placed on Conduct Management Plans between 1 January 2017 and 1 January 2018 with the aim of reviewing the effectiveness of Conduct Management Plans in modifying the conduct of officers who have engaged in misconduct.

Conduct Management Plans are a framework for the use of management action to modify officer behaviours. The Commission's focus was on conduct management plans implemented after the resolution or investigation of officer misconduct.

The review found that a small percentage of officers continued to engage in misconduct after having successfully completed one or more Conduct Management Plans, or engaged in similar misconduct while they were still on a Conduct Management Plan. The Commission made ten recommendations to the NSWPF with a focus on improving record keeping practises and the timeliness of Conduct Management Plans.

The NSWPF has recently implemented significant changes to the way it manages and addresses misconduct matters, including improvements to the timeliness of investigations and a focus on remediation of officers. The Commission will review the impact of these changes in our ongoing work.

The review of Conduct Management Plans was finalised in 2020-21, and the report will be tabled in Parliament later in 2021.

## Operation Shorewood: How the NSWPF Deals with Workplace Equity Matters

In July 2020, the Commission published its report in relation to Operation Shorewood. This report, available on the Commission's website, considers the effectiveness of NSWPF processes and procedures that manage workplace equity matters. Important issues identified in the Commission's review included timeliness of investigations, the experience of physical and/or psychological harm by complainants and low levels of complainant confidence in the way the NSWPF manages and investigates workplace equity matters.

The Commission made six recommendations that focus on preventing and responding to workplace equity matters. In particular the Commission emphasised that improving the timeliness of investigations and record keeping practices are key to improved responses to such matters. The NSWPF has indicated in-principle acceptance of the report's recommendations. While the intent of the recommendations will be met, some have been impacted by broader changes to processes for managing misconduct matters and timeliness standards for investigations currently being implemented by the NSWPF.

The NSWPF agreed in principle to the recommendations as detailed in the Commission's report, available on our website. The NSWPF noted that a review conducted by the Professional Standards Command into the way misconduct

matters are managed would address four of the recommendations. The remaining two recommendations will be considered as part of a realignment of responsibilities for workplace reviews to the Human Resources Command.

The Commission intends to conduct a further review to assess if changes to the NSWPF misconduct matters management model address the intent of the Commission's recommendations. The Commission will report on the outcome of this review in the next Annual Report.

## Joint Project between the Commission and the NSW Police Force

On 8 May 2020 the Commission presented to Parliament its report in Operation Mainz, an investigation into whether various NSW Police Force (NSWPF) officers had failed to comply with the requirement of the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA) during the search of a 16 year old Aboriginal boy. That report is available on the Commission's website.

During the private examinations conducted in Operation Mainz it was evident that the subject officers did not have an adequate knowledge of their powers and responsibilities under LEPRA. Whilst the officers took the opportunity to re-appraise themselves with LEPRA prior to their private examinations before the Commission, the learning outcome achieved was inadequate.

In Operation Mainz the Commission considered that the current manner in which police are trained in their powers and responsibilities should be seriously reconsidered. Further, the Commission recommended that the NSWPF consider instigating wide-ranging, face to face tutorials or workshops in which real life situations are discussed as hypotheticals and which raise the various practical implementations of LEPRA.

Following a positive discussion between the Commissioner, the Hon Lea Drake and the Commissioner of Police, Mr Michael Fuller APM it was agreed that the Commission and the NSWPF would work collaboratively to develop a possible new

training module in accordance with the recommendation in the Operation Mainz report. Multiple development meetings, attended jointly by the Commission and the NSWPF, were held to develop the new module.

A trial was conducted in two locations, Newcastle in February 2021 and Lismore in June 2021. The presenters were barrister

Mr Geoff Denman, Counsel Assisting the Commission in Mainz and a Northern Region Training Officer, representing the NSWPF. A number of senior NSWPF officers attended the trials. The feedback was very positive.

The Commission has now ceased its work on this joint project with the NSWPF. It is a matter for the NSWPF to consider if and how the training module might be implemented more broadly across the state.

The Commission acknowledges the valuable work undertaken by the NSWPF in co-operation with the Commission on this project. This positive outcome has been achieved through collaboration and, if implemented more broadly, the Commission believes this training will be of significant value to the ongoing education of NSWPF officers in relation to their powers and responsibilities.

## LEGISLATIVE REVIEWS

### AMENDMENTS TO CONSORTING POWERS USED BY NSWPF

The Commission has continued its review of the operation of amendments to consorting laws under Part 3A, *Crimes Act 1900* (NSW). The Commission's review extends from February 2019 to February 2022.

Under the consorting laws, it is a criminal offence to continue to associate or communicate with someone who has previously been convicted of an indictable offence after receiving an official consorting warning.

The NSWPF has provided the Commission with consorting data extracted from its Computerised Operational Policing System (COPS) in relation to consorting incidents as well as the demographic data, and conviction histories, of all those subject to the consorting law. The Commission also reviewed NSWPF consorting policy documentation and information sourced from the courts, Parliament, and academic and media articles.

In June 2021, the Commission provided the NSWPF with an analysis of the use of the consorting powers over the first half of the review period, along with recommendations to address issues detected. The Commission aims to publish the interim report in the second half of 2021 and will seek submissions from those with an interest in the operation of the amendments.

### TERRORISM (POLICE POWERS) ACT 2002 (NSW) – COVERT SEARCH WARRANTS AND PREVENTATIVE DETENTION ORDERS

Under the *Terrorism (Police Powers) Act 2002* (NSW) (TPP Act), the Commission is required to prepare reports every three years on the NSWPF's exercise of powers relating to preventative detention orders and covert search warrants. Previously this function was performed by the NSW Ombudsman.

In July 2020 the Commission commenced its review of the NSWPF's use of these counter-terrorism powers during the period 1 January 2017 to 30 June 2020 (the reporting period). The NSWPF has provided the Commission with its policies, procedures and forms, and Commission staff have reviewed the NSWPF files for the counter-terrorism covert search warrants issued to, and executed by, the NSWPF during the reporting period. The NSWPF has not used the preventative detention order powers during the reporting period.

The Commission's work on the review is ongoing. Once its review is complete, the Commission will furnish its report to the Attorney General and the Minister for Police. The Attorney General is required to table the report in Parliament as soon as practicable after he receives it.

## LEGISLATIVE REVIEWS

**REPORT UNDER SECTION 870 OF  
THE LAW ENFORCEMENT  
(POWERS AND RESPONSIBILITIES)  
ACT 2002 (NSW)**

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

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, search and detain vehicles and people, seize property and disperse groups.

In 2020-21, the NSWPF did not use the powers under Part 6A LEPRA. The powers have not been used since March 2011.



# LEGAL MATTERS

*This chapter contains information about important statutory provisions and developments of significance in 2020–21*

## LAW ENFORCEMENT CONDUCT COMMISSION AMENDMENT (COMMISSIONERS) ACT 2021

---

As reported in the Commission's Annual Report 2019-20, Mr Patrick Saidi's appointment as Commissioner for Oversight, was terminated on 15 January 2020. From that time onwards, the functions of the Commissioner for Oversight have been shared between the Chief Commissioner and the Commissioner for Integrity.

On 17 June 2021 the Law Enforcement Conduct Commission Amendment (Commissioners) Bill 2021 NSW, received Royal Assent and passed into law. This legislation abolished the 'three Commissioner model' introduced by the *Law Enforcement Commission Conduct Act 2016* (NSW). Under that Act the Commission was comprised of a Chief Commissioner, Commissioner for Integrity and a Commissioner for Oversight. Instead, the Commission now consists of a Chief Commissioner and one other Commissioner appointed by the Governor. The previously appointed Commissioner for Integrity became that Commissioner.

Previously, a decision of the Commission to exercise any its functions under s 19, LECC Act required the authorisation of the Chief Commissioner and at least one of the other two Commissioners. Under the amendments to the LECC Act passed in June 2021, the functions of the Commission under that section must be authorised by the Chief Commissioner after consulting with the other Commissioner.

## RESPONSE TO SUBPOENAS

---

From time to time, the Commission is served with subpoenas requiring the production (in court) of documents, or other 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, *Police Act 1990 (NSW)* 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 its discretion to release information pursuant to s 180(5)(d), 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.

## 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), 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 2020-21, the Commission disseminated information under s 180(5)(d), LECC Act on five occasions.

## INTEGRITY CHECKS

---

One of the Commission's responsibilities is to respond to requests from the NSWPF or other law enforcement agencies, to conduct integrity checks for integrity information relating to current or former NSWPF officers. The majority of requests come from the NSWPF, specifically, Police Promotions within the Workforce Capability Branch of the Human Resources Command. The NSWPF requests integrity checks on all appointments/promotions to the rank of Sergeant and above, as well as any transfers that may be particularly sensitive. During 2020-21, the Commission conducted 380 integrity checks on NSWPF officers.

# 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.*

## 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; and
- assess the effectiveness and appropriateness of the Commission's policies and procedures.

## 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 s 131, LECC Act.

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, practices and methods relating to such conduct, and report on changes needed to the Commission and the Commission Inspector's functions, structures and procedures.

The Executive of the Commission met with the Parliamentary Joint Committee on 28 May 2021.

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

- Mr Dugald Saunders, MP (Chair)
- The Hon Peter Poulos, MLC (Deputy Chair)
- The Hon Lou Amato, MLC
- Mr Mark Coure, MP
- Mr Paul Lynch, MP
- Dr Hugh McDermott, MP
- The Hon Adam Searle, MLC

## INTERNAL GOVERNANCE

---

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

### *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
- Chief Executive Officer
- Executive Director Operations
- Director, Investigations (Integrity)
- Director, Investigations (Oversight)
- Director, Electronic Collections and IT
- Director, Covert Services
- Manager, HR
- Manager, Finance

### *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.

### *Audit and Risk Committee*

As required by NSW Treasury policy 15-03 Internal Audit and Risk Management Policy for the NSW Public Sector, 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 met quarterly on 17 July 2020; 17 September 2020; 4 December 2020 and 21 April 2021.

## **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 Commission are required to comply with the Commission's Employment Suitability Check and Australian Government Security Vetting Agency (AGSVA) security clearance process. The Commission has a policy of not employing current or former NSWPF or NSWCC officers.



# COMMUNITY ENGAGEMENT

---

The Commission aims to work directly with community organisations to increase awareness of the role and purpose of the Commission, and be informed about issues of relevance within communities across the State. This engagement builds trust and assists to inform the way the Commission ensures the integrity of law enforcement in New South Wales.

In May 2021, the Commission re-instated the community engagement role after a period of review. While the pandemic has limited the nature of our community engagement over the year, the new role has allowed the Commission to consolidate how we engage with the community and plan its future work.

## SENIOR OFFICER ENGAGEMENT

---

The Commissioners are actively involved in the Commission's engagement activities. The Commissioners, Directors and other senior officers met with and attended a number of events including meetings with a range of law enforcement and community organisations and integrity agencies including:

- AUSTRAC
- Australian Commission for Law Enforcement Integrity (ACLEI)
- Australian Criminal Intelligence Commission (ACIC)
- Australian Federal Police (AFP)
- Australian Taxation Office (ATO)
- Independent Broad-based Anti-Corruption Commission (IBAC)
- Independent Commission Against Corruption (ICAC)
- NSW Ambulance Service
- NSW Health
- NSW Ombudsman
- Reconciliation NSW
- Redfern Legal Centre (RLC)



## COLLABORATION WITH THE NSWPF AND OTHER INTEGRITY AGENCIES

---

We engage continually with the agencies we oversight, the NSWPF and NSWCC. This includes providing presentations about our work, as well as receiving presentations that inform Commission staff about operational issues, including new tools and technology.

Key collaboration initiatives included senior staff delivering a presentation to the Interagency Working Group established by the NSWPF to consider much needed reforms to the CPOR Act and one of the Commission's senior executive being invited to attend the NSWPF Commanders Complaint Management Team program which forms part of its Mastery program.

In 2020-21, the Commissioners and other senior staff participated in a number of meetings, forums and training, including but not limited to:

- Presentation delivered by NSWPF Professional Standards Command on Witness Support Unit;
- Presentation delivered by the NSWPF Professional Standards Command on Workplace conduct policy enhancements;
- Presentation delivered by the Australian Federal Police (AFP) on cyber-crime;
- Presentation delivered by the Australian Criminal Intelligence Commission (ACIC) on cross-jurisdictional crime;
- Presentation delivered by Australian Commission for Law Enforcement Integrity (ACLEI) on operational methodologies;
- AUSTRAC provided an information session around their role and function;
- Commission senior staff presented to NSWCC on identifying corruption risks;
- The Commission presented a pilot skills enhancement program to Lismore & Newcastle command areas to assist with enhancing police operational capabilities;
- NSWPF Internal Review Panel and Commissioner's Advisory Panel; and
- Fortnightly operational meetings with NSWPF and the Commission Executive Director of Operations, Director of Investigations (Integrity) and Director of Investigations (Oversight).



# APPENDICES





# APPENDIX 1

## Annual Reports reporting requirements

### INDUSTRIAL RELATIONS

The terms and conditions of employment for non-executive officers of the Commission are governed by the Crown Employees (Law Enforcement Conduct Commission) Award 2018 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* (NSW).

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

|                               | 2018   | 2019   | 2020 | 2021 |
|-------------------------------|--------|--------|------|------|
| Statutory appointments        | 3      | 3      | 2/3  | 2    |
| Male Executive appointments   | 5      | 5      | 5    | 5    |
| Female Executive appointments | 2      | 2      | 1    | 1    |
| Operational staff             | 45     | 52     | 56   | 57   |
| Support staff                 | 45.65  | 46.60  | 44   | 44   |
| Total                         | 100.65 | 108.60 | 108  | 109  |

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

| Band                        | Female 2020-21 | Male 2020-21 |
|-----------------------------|----------------|--------------|
| Band 4 (Secretary)          | 0              | 0            |
| Band 3 (Deputy Secretary)   | 0              | 0            |
| Band 2 (Executive Director) | 1              | 1            |
| Band 1 (Director)           | 0              | 5            |

Senior Executives–Remuneration range comparison

| Band                        | Remuneration Range         | Average Remuneration |
|-----------------------------|----------------------------|----------------------|
| Band 4 (Secretary)          | \$487,051pa to \$562,650pa | n/a                  |
| Band 3 (Deputy Secretary)   | \$345,511pa to \$487,050pa | n/a                  |
| Band 2 (Executive Director) | \$274,701pa to \$345,550pa | \$330,000 pa         |
| Band 1 (Director)           | \$192,600pa to \$274,700pa | \$246,814 pa         |

Staff movement 2020-21

| Number of staff who commenced employment | Number of staff who ceased employment |
|--|---------------------------------------|
| 15                                       | 19                                    |

### *Executive Remuneration*

The Commissioners for the Law Enforcement Conduct Commission are appointed by the Governor pursuant to s 18, LECC Act, and, pursuant to clause 9 of Schedule 1 of the Act, are not subject to the *Government Sector Employment Act 2013 (NSW)*.

The Hon R O Blanch AM, QC was appointed as Chief Commissioner effective from 3 February 2020. His remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Chief Commissioner's salary was \$511,520pa.

The Hon Lea Drake was appointed as Commissioner for Integrity effective from 14 April 2017. The royal assent of the Law Enforcement Conduct Commission Amendment (Commissioners) Bill 2021 (NSW) on 17 June 2021, resulted in the Commissioner for Integrity title being removed from the LECC Act and replaced by the title of Commissioner. Effective from 17 June 2021, The Hon Lea Drake assumed the role of Commissioner. Her remuneration in these roles is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Commissioner's salary was \$383,640pa.

The role of Commissioner for Oversight remained vacant in this reporting period until 17 June 2021 at which time the royal assent of the Law Enforcement Conduct Commission Amendment (Commissioners) Bill 2021 (NSW) resulted in reference to this title being removed from the LECC Act.

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

In the Commission's current Executive level structure, two staff members are employed in Public Sector Senior Executive Service roles within Executive Band 2, and four staff members within Executive Band 1, of the *Government Sector Employment Act 2013 (NSW)*. All staff 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.

### *Executive employee expenditure*

The percentage of total employee related expenditure of the Department in the reporting year that relates to senior executives, compared with the percentage at the end of the previous reporting year is shown below. The 2021 percentage is higher than the previous reporting period as termination payments were made to two senior executive members during the 2020-21 financial year.

| 2020   | 2021   |
|--------|--------|
| 18.47% | 20.98% |

### *Cost of the operations of the Commission*

Cost of the operations of the Commission under each of Parts 6, 7 and 8, LECC Act (s 139(5))

|                    | Employee related | Other       | Total       |
|--------------------|------------------|-------------|-------------|
| Integrity          | \$6,537,520      | \$1,690,330 | \$8,227,850 |
| Oversight          | \$2,605,020      | \$61,910    | \$2,666,930 |
| Critical Incidents | \$685,026        | \$44,034    | \$729,060   |

### *Personnel Policies*

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

- Code of Ethics and Conduct
- Conflict of Interest Policy and Procedure
- Consultative Arrangements Policy
- Dealing with Offensive Material Policy
- Disciplinary Action Policy
- Flexible Working Arrangements Policy
- Gift and Benefit Policy
- Identity Cards, Badges and Designations Policy and Procedure
- LECC Employees: Prior Employment Restrictions Policy
- Performance and Development Guideline
- Return to Work Policy
- Security Vetting and Clearance Policy and Procedure
- Social Media Policy

### *Workplace health and safety*

The Commission 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.

The WHS Committee meets regularly and is chaired by an employee of the Commission with both staff and executive representatives active on the Committee. There were no workplace health and safety related prosecutions under the *Work Health and Safety Act 2011* (NSW) during this reporting period.

### *Training and development*

The Commission continued to provide a broad range of Training and Development opportunities to staff throughout the 2020-21 reporting period. All staff have access to Affiliate Membership to the NSW Institute of Public Administration Australia allowing access to a variety of training and development opportunities.

Training covered specialist areas including:

- Certificate IV in Government Investigations
- Fire Warden Training
- Government Solicitors Conference
- Human Capital Management (HCM)
- NSW Government Community of Financial Professionals
- NSW Government Community of HR Practice
- NSW Government Community of Policy Professionals
- Respectful Workplace Training
- Strategic Workforce Planning Masterclass Program

Generic training opportunities provided to staff throughout 2020-21 included:

- First Aid & CPR Training

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:

- Diploma of Police Intelligence Practice
- Juris Doctor

### *Diversity action plan*

The Commission has an obligation to provide the people of NSW a fair approach in work opportunities, accessibility and services.

The Commission's Diversity Action Plan covers the period from 2019-2021. The key strategy outcomes of the Diversity Action Plan are focussed on:

- Service Delivery – Mainstream services delivered for everyone
- Planning – Strong Plans to deliver services
- Leadership – Demonstrated leadership in culturally inclusive practices
- Engagement – Collaboration with diverse communities

The Commission recognises that a diverse workforce adds value and is committed to ensuring workforce diversity is integrated into workforce planning.

The Commission aims to diversify its workforce and initiate inclusive work practices, including:

- providing flexible work arrangements for its employees
- ensuring equitable practices for training and development opportunities
- providing vicarious trauma training to staff who felt traumatised or at risk of same because of confronting material they were exposed to in the course of their duties at the Commission
- regular ergonomic assessments and adjustments which included the provision of adjustable sit-stand desks to 21 staff to accommodate spinal related disability or discomfort
- provision of a 24/7 Employee Assistance Service to support well-being and mental health issues for employees
- inclusion of workforce diversity as part of everyday Commission business
- providing an accessible and inclusive environment for staff and visitors
- use of interpreter services to assist clients from non-English-speaking backgrounds.

Whilst the Commission is governed by legislative requirements, it recognises the importance of being committed to enhancing the accessibility of its services to all communities of NSW, specifically hard to reach communities.

The Diversity Action Plan aims to ensure that the needs of people from cultural and linguistically diverse backgrounds, people with disabilities and those from vulnerable communities have access to the Commission and all of its functions. Contact details for the Commission can be found in Appendix 10 of this report.

| Salary \$         | Male | Female | Unspecified Gender | Aboriginal or Torres Strait Islander person | Member of a Minority Group | First Language Spoken as a child was not English | Person with Disability |
|-------------------|------|--------|--------------------|---|----------------------------|--|------------------------|
| 0 - 72,077        | 2    | 3      | 0                  | 0   | 1                          | 1  | 1                      |
| 72,078 - 81,158   | 1    | 3      | 0                  | 0   | 1                          | 0  | 1                      |
| 81,159 - 96,054   | 7    | 7      | 0                  | 0   | 1                          | 0  | 1                      |
| 96,055 - 110,064  | 5    | 28     | 0                  | 1   | 2                          | 3  | 0                      |
| 110,065 - 124,901 | 10   | 18     | 0                  | 0   | 1                          | 5  | 0                      |
| 124,902 - 151,609 | 17   | 9      | 0                  | 0   | 4                          | 3  | 0                      |
| 151,610 - 184,964 | 3    | 1      | 0                  | 0   | 0                          | 1  | 0                      |
| 184,964 - 274,700 | 5    | 0      | 0                  | 0   | 0                          | 0  | 0                      |
| Over 274,700      | 2    | 2      | 0                  | 0   | 0                          | 0  | 0                      |

# Source: Workforce Profile

NOTE: Figures for some employees not reported due to privacy.

*Multicultural action plan*

The Commission’s Multicultural Action Plan for 2018 – 2021 details the method in which the Commission endeavours to address the Focus Areas and Outcomes outlined in the Multicultural Policies and Services Program (MPSP) Framework.

This plan includes specific targets that sit under the key strategy outcomes focussed on Service Delivery and Engagement.

*Action plan for women*

Action Plan for Women 2020-21

| OBJECTIVE   | RESULTS/PLANS  |
|---|--|
| <p>An equitable and balanced workplace responsive to all aspects of women’s lives</p>   | <p>Women who are seeking a better work/life balance are able to access a variety of flexible work practices in accordance with the Commission’s Flexible Working Policy. Such flexible work practices include remote working, job-sharing or reducing work hours/days and are available to women returning to work from maternity leave as well as those with other personal responsibilities and obligations.</p> <p>Throughout the reporting period 25.4% of the Commission’s female employees accessed flexible working arrangements.</p> |
| <p>Equitable access for women to educational and training development opportunities</p> | <p>There were 11 out of a total of 30 higher duties and staff development opportunities across the Commission that were filled by women during this reporting period. Five out of a total of 10 study assistance approvals for tertiary level studies were for applications made by female staff members at the Commission throughout the reporting period.</p>  |
| <p>Promote the position of women</p>  | <p>Women made up a total of 56.25% of the Commission’s workforce throughout the reporting period. A total of 60% of the Commission’s management level positions are held by women and 78.5% of the Commission’s female staff are remunerated above the equivalent of NSW Public Sector Administrative &amp; Clerical Officers Grade 5.</p>   |

## INFORMATION AND COMMUNICATIONS TECHNOLOGY MANAGEMENT

---

The Commission's IT department renewed its ISO 27001 ("Information technology - Security techniques - Information security management systems – Requirements") compliance and certification in May 2021. Certification was first achieved in 2019 and has been satisfactorily maintained since then, ensuring the Commission's compliance with the NSW Government Cyber Security Policy.

The Commission's core business system (complaints and investigations case management system) replacement project progressed to a live implementation in June 2020. In March 2021 the system successfully had all data migrated from the previous CMS system and this system has now been deprecated. Additional modules and enhancements to the new system are ongoing with most due to be completed by April 2022.

Further works were undertaken throughout the year to ensure the Commission maintained effective and efficient technology support for its operations. Some examples are: replacement and/or upgrade of all firewall infrastructure, replacement of the core network switches, provisioning of a Nutanix HCI solution, phased laptop fleet renewal, and an annual full refresh of IT policy documentation.

## 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 2020-21 Financial Year for Law Enforcement Conduct Commission

I, Christina Anderson, am of the opinion that Law Enforcement Conduct Commission (LECC) had an Information Security Management System (ISMS) in place during the 2020-21 financial year that is consistent with the Core Requirements set out in the NSW Governments Cyber Security Policy. Furthermore the LECC achieved compliance with ISO 27001 "Information technology – Security techniques-information security management systems-Requirements" as independently assessed and reviewed by SAI Global during the 2020-21 financial year.

The controls in place to mitigate identified risks to the digital information and digital information systems of the LECC are adequate. This regime is monitored by an appropriate cyber security governance forum at the LECC which also ensures that the agency is making continuous improvements to the management of cyber security governance and resilience. Regular cyber risk reporting is also provided to the agency's independent Audit and Risk Committee.

There is no agency under the control of the LECC which is required to develop an independent ISMS in accordance with the NSW Government Cyber Security Policy.



Christina Anderson  
Chief Executive Officer

## DELIVERY OF ELECTRONIC SERVICES

---

During 2020-21 the Commission's public website attracted 28,627 visitors, at an average of 78 visitors per day.

## AUDITS

---

Our financial statements are prepared in accordance with legislative provisions and accounting standards. They are audited by the NSW Auditor General, who is required to express an opinion as to whether the statements fairly represent the financial position of the Commission. The audit report and our financial statements are included at Appendix 7.

The Financial Statements for 2020-21 were prepared and submitted to the Audit Office of NSW within the required timeframe.

## 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, worker's 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. For the reporting period the general insurance premium increased by \$27,827 or 7.1% reflecting sector wide increases, the worker's compensation premium increased by \$11,226 or 8.4%.

## RISK MANAGEMENT AND INTERNAL CONTROL

The Internal Audit and Risk 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 2020-21 financial year for the Law Enforcement Conduct Commission;

I, Christina Anderson, 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 31000:2018.  | Compliant                                 |
| <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.



Christina Anderson  
Chief Executive Officer

Date 30 July 2021

## 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 2020-21 financial year.

Aged analysis at the end of each quarter 2020-21

### All Suppliers

| Qtr. | Current<br>(ie within due date)<br>\$'000 | Less than 30<br>days overdue<br>\$'000 | Between 30<br>and 60 days<br>overdue<br>\$'000 | Between 61<br>and 90 days<br>overdue<br>\$'0000 | More than 90<br>days overdue<br>\$'000 |
|------|---|--|--|---|--|
| Sept | 1,183                                     | 5                                      | 0  | 0   | 0                                      |
| Dec  | 1,650                                     | 2                                      | 0  | 0   | 0                                      |
| Mar  | 1,735                                     | 7                                      | 0  | 0   | 0                                      |
| Jun  | 1,622                                     | 11                                     | 0  | 0   | 0                                      |

### Small business suppliers

| Qtr. | Current<br>(ie within due date)<br>\$'000 | Less than 30<br>days overdue<br>\$'000 | Between 30<br>and 60 days<br>overdue<br>\$'000 | Between 61<br>and 90 days<br>overdue<br>\$'0000 | More than 90<br>days overdue<br>\$'000 |
|------|---|--|--|---|--|
| Sept | 31  | 0                                      | 0  | 0   | 0                                      |
| Dec  | 61  | 0                                      | 0  | 0   | 0                                      |
| Mar  | 40  | 0                                      | 0  | 0   | 0                                      |
| Jun  | 126                                       | 0                                      | 0  | 0   | 0                                      |

## Accounts due or paid within each quarter 2020-21

## All suppliers

| Measure  | Sept        | Dec         | Mar         | Jun         |
|--|-------------|-------------|-------------|-------------|
| Number of accounts due for payment                                       | 233         | 283         | 241         | 367         |
| Number of accounts paid on time  | 231         | 281         | 233         | 362         |
| Actual percentage of accounts paid on time (based on number of accounts) | 99.2%       | 99.3%       | 96.7%       | 98.6%       |
| Dollar amount of accounts due for payment                                | \$1,187,660 | \$1,651,039 | \$1,741,512 | \$1,621,718 |
| Dollar amount of accounts paid on time                                   | \$1,182,965 | \$1,648,941 | \$1,734,948 | \$1,610,313 |
| Actual percentage of accounts paid on time (based on \$)                 | 99.6%       | 99.9%       | 96.6%       | 99.3%       |
| Number of payments for interest on overdue accounts                      | Nil         | Nil         | Nil         | Nil         |
| Interest paid on overdue accounts  | Nil         | Nil         | Nil         | Nil         |

## Small business suppliers

| Measure   | Sept     | Dec      | Mar      | Jun       |
|---|----------|----------|----------|-----------|
| Number of accounts due for payment to small businesses                                  | 17       | 21       | 21       | 38        |
| Number of accounts due to small businesses paid on time                                 | 17       | 21       | 21       | 38        |
| 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                           | \$30,748 | \$60,764 | \$40,243 | \$126,441 |
| Dollar amount of accounts due to small businesses paid on time                          | \$30,748 | \$60,764 | \$40,243 | \$126,441 |
| 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       |

## CONSULTANTS

---

During the reporting period Consultants were engaged to provide expert advice and assistance, with engagement fees totalling less than \$50,000. No consultants were engaged where the total fee was more than \$50,000.

| Category  | Nature of service                          | Cost    |
|-----------|--|---------|
| Corporate | Mercer – evaluation of executive positions | \$9,600 |

## 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.

## CREDIT CARD CERTIFICATION

---

To ensure operational requirements are met in an efficient manner eligible staff are issued with corporate credit cards allowing for 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.

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.

## 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 as part of an on-going program to replace all air-conditioning units running on R22 refrigerant with more energy efficient units, the Commission upgraded 2x computer room air-conditioning units and 1x package unit. In addition to this 1x 40KVA UPS unit was installed replacing 2x 40KVA UPS units halving the power output and reducing the heat load in the data centre. This project continues to see ongoing reductions in energy costs and usage and is reflected on NSW Government CASPER website as a high score rating based on year on year reductions. In line with government directions the Commission continues to source a minimum of 6% green power.

During the extended COVID-19 work from home period all programmed AC units, lighting and other non-essential appliances were shut down. Programming was switched to manual wall controllers and activated on an as required basis. The programming is now monitored weekly depending on current work from home orders.

The Commission promotes initiatives to reduce overall energy consumption including:

- Carrying out regular maintenance and monitoring of energy use.
- Enabling energy saving features on office equipment, placing a high emphasis on energy ratings when purchasing new office and ICT equipment and staff education.
- Incorporating lighting and AC within the Building Management System to allow time management of use with the ability to switch to manual controlling as required.

## 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 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 cartridge, mobile phones and batteries.
- Redundant office furniture and equipment together with computer equipment is donated or recycled by an endorsed recycling centre.

## MAJOR ASSETS

---

During the reporting period the Commission spent a total of \$630,344 on specialized IT infrastructure and equipment including upgrading storage, and security systems, as well as routine replacement of laptops, monitors and printers.

Building works undertaken during the year included new carpet in the Registry totalling \$32,564.

The Commission has a policy of purchasing operational vehicles as this allows greater flexibility in the management of the fleet. Five operational vehicles were replaced at a cost of \$147,084.

Purchases of other plant and equipment totalled \$328,691 and included upgrade of air-conditioning units, photo-copiers as well as other specialised operational equipment.

## OVERSEAS VISITS

---

There was no overseas travel during the reporting period.

# APPENDIX 2

## LECC Act statutory reporting compliance checklist

| Section of the Act  | 2020-21 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 5 – Investigating serious officer misconduct                                     |
| Section 139(2)(c) the total number of matters dealt with by the Commission during the year  | Chapter 4 – Assessing complaints   |
| 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 6 – Oversight and critical incidents   |
| Section 139(2)(e) the number of matters that were investigated by the Commission under Part 6 during the year   | Chapter 5 – Investigating serious officer 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 5 – Investigating serious officer 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 4 – Assessing complaints<br>Chapter 5 – Investigating serious officer misconduct |
| Section 139(2)(f)(iv) the total number of examinations and private and public examinations conducted during the year  | Chapter 5 – Investigating serious officer misconduct                                     |
| Section 139(2)(f)(v) the number of days spent during the year in conducting public examinations   | Chapter 5 – Investigating serious officer 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  | Chapter 5 – Investigating serious officer misconduct                                     |
| 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 | Chapter 5 – Investigating serious officer misconduct                                     |
| 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 findings and recommendations of the Commission   | Chapter 7 – Crime Commission   |
| 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 5 – Investigating serious officer misconduct                                     |
| Section 139(2)(k) the extent to which its investigations have resulted in prosecutions or disciplinary action in that year  | Appendix 5 – Prosecutions conducted  |
| 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 ss 27 and 32  | Chapter 6 – Oversight and critical incidents   |
| 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 – 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   |

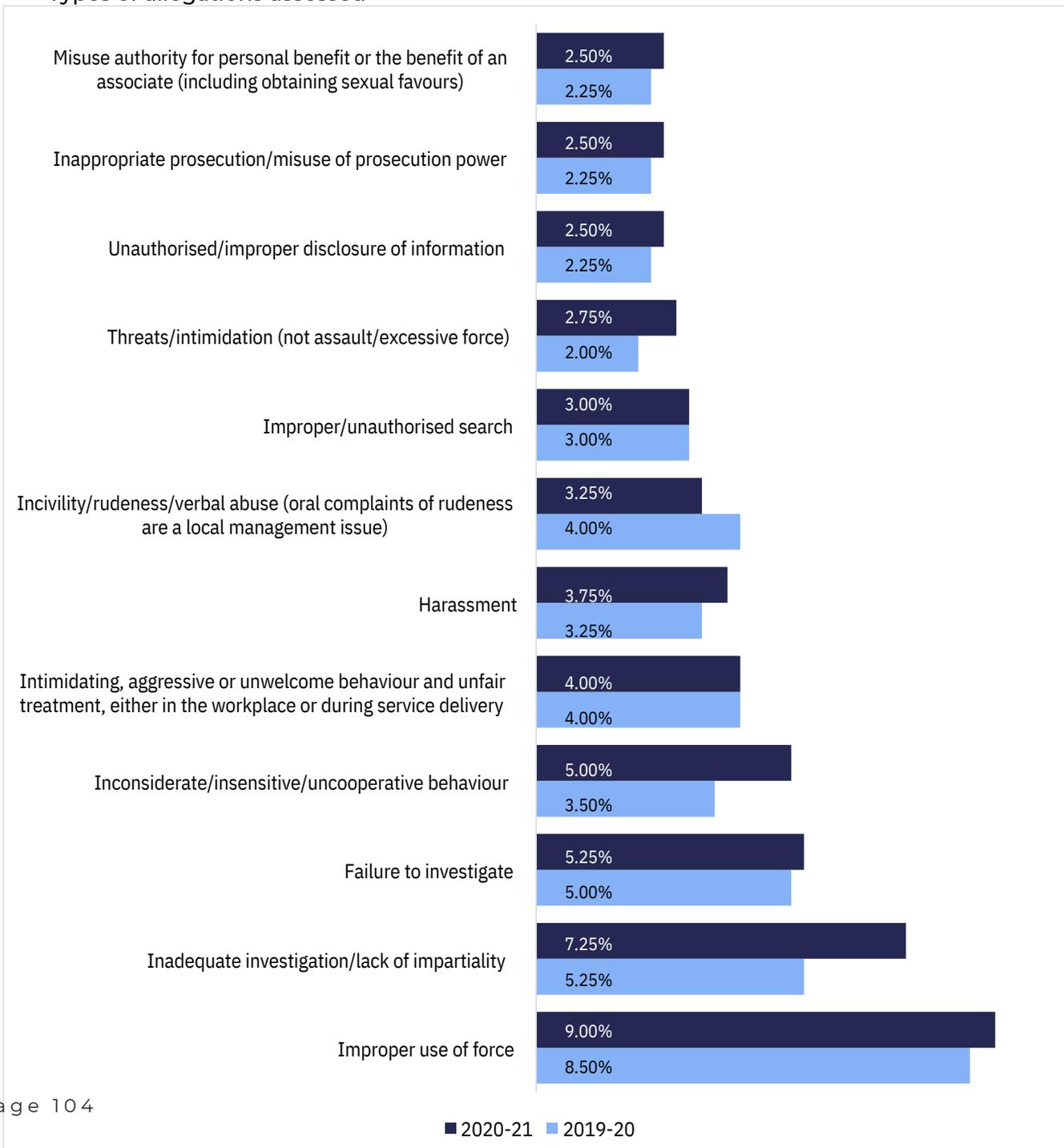
# APPENDIX 3

## Types of allegations assessed

Misconduct matters referred to the Commission from the NSWPF are all matters that are identified as notifiable misconduct matters in accordance with the s14 Guidelines agreed to between the Commission and the NSWPF.

The following chart represents the top complaint allegation types assessed by the Commission. It is relevant to note that each complaint assessed by the Commission may have more than one associated allegation. For instance, the Commission may assess a complaint that includes an allegation of the improper use of force as well as an allegation of an improper/unauthorised search.

Types of allegations assessed



# APPENDIX 4

## Statistical data on exercise of Commission powers

The following table indicates the frequency with which the Commission exercised its various powers in 2020-21.

| Functions  | 2020-21 |
|--|---------|
| <i>Under the Law Enforcement Conduct Commission Act 2016 (NSW)</i>   |         |
| S 24 - Establishment of task forces within the State   | 0       |
| S 54 - Requiring public authority or public official to produce a statement of information                                     | 4       |
| S 55 - Requiring a person to attend before an officer of the Commission and produce a specified document or other thing        | 73      |
| S 58 - Commission may authorise an officer of the Commission to enter and inspect premises etc.                                | 0       |
| S 63 - examination days:   |         |
| · Public   | 0       |
| · Private  | 15      |
| S 69 - Commissioner may summon a person to appear before the Commission and give evidence or produce documents or other things | 26      |
| S 79 (1) - Power of authorised officer to issue warrant  | 2       |
| S 79 (2) - Power of Commissioner to issue a warrant  | 0       |
| S 84 - Number of warrants obtained under <i>Surveillance Devices Act 2007 (Cth)</i>  | 4       |
| S 99(3) - Requirement for the NSWPF to investigate a misconduct matter   | 17      |
| S 102 - Commission request for information relating to a misconduct matter (total from assessments and oversight)              | 250     |
| S 103 - Commission request for information concerning the timely investigation of misconduct matter                            | 1       |
| S 104 - Commission may request further investigation of misconduct matter  | 8       |
| S 105 - Commission may request a review of the decision on action to be taken as a result of the misconduct matter             | 4       |
| S 132 - Reports on examinations  | 7       |
| S 134 - Commission may report on Commissioner of Police's or Crime Commissioner's decision on Commission's request             | 3       |
| S 135 - Report following Commission's investigation of misconduct matter relating to police                                    | 2       |
| S 138 - Special reports of Commission  | 3       |
| <i>Under Law Enforcement (Controlled Operations) Act 1997</i>  |         |
| Applications granted by Commission for authority to conduct controlled operations  | 0       |
| <i>Under Law Enforcement and National Security (Assumed Identities) Act 2010</i>   |         |
| Approval granted by Commissioner for acquisition and use of an assumed identity  | 6       |
| Applications granted for variation of assumed identity   | 9       |
| Applications granted for cancellations of assumed identity   | 15      |
| <i>Under Telecommunications (Interception &amp; Access) Act 1979</i>   |         |
| Warrants issued for the interception of communications   | 26      |



# APPENDIX 5

## Prosecutions in 2020-21 arising from Commission Investigations

NAME: Stephen Fletcher

OPERATION: Montecristo

CHARGES: 78 x s 192E(1)(b) Crimes Act 1900 (NSW) – Fraud

---

### STATUS/RESULT

- 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.
- 29/03/18: Mention in DCLC. The Registrar adjourned the matter with the brief to be served by 24/05/18 and listed for reply on 7/06/18.
- 7/06/18: Mention in DCLC. Adjourned to 19/07/18 due to the passing of Mr Cockburn, legal representative for Anthony Williams. All defendants excused on the next occasion if legally represented.
- 19/07/18: Mention in DCLC. Adjourned to 16/08/18 with balance of brief to be served by 2/08/18.
- 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. 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.
- 19/10/18: The matter is listed for trial on 30/09/19 in the District Court with an estimated duration of 6 weeks.
- 09/08/19: Readiness hearing in District Court before Justice Price. Matter adjourned for s140 conference to be held before 05/09/19 prior to a further readiness hearing on 20/09/19. Justice Price directed that the defence serve expert evidence by 19/08/19.
- 1/10/19: Trial commenced in District Court before Judge Beckett.
- 22/10/19: Judge Beckett directed the jury, on the application of the defence, to return verdicts of not guilty to all 78 charges on the indictment. Accordingly the jury did so, and the accused was discharged, bringing the trial to an end. An appeal against the decision is being considered in due course.
- 16/3/20: The Solicitor General, as an authorised delegate of the Attorney General of NSW, lodged an appeal in the Criminal Court of Appeal under s 108(2) of the *Crimes (Appeal and Review) Act 2001 (NSW)* for the court to determine the legal question, that of the correct approach to causation, raised by Beckett DCJ's direction. Listed for CCA callover on 26/3/2020. No appeal will be made for the CCA to overturn her Honour's decision to direct verdicts of acquittal on all counts and order a re-trial.
- 26/3/20: Callover in the CCA before the Registrar. Appeal hearing scheduled for 9/09/2020.

## STATUS/RESULT

- 9/09/20: Appeal heard in the NSWCCA. No specific date was given for the judgment to be handed down.
- 5/05/21: NSWCCA handed down its judgment, ultimately ruling in favour of the AG. It was held that the deception need not be the sole cause of the financial advantage/disadvantage, as long as it "substantially or significantly contributed to the outcome". Accordingly the Court stated that the trial judge should have left the causation issue to the jury as it was one of fact. In answer to the questions of law submitted, the court held the following. 1) Where a person, by a deception within the meaning of s 192E(1), *Crimes Act 1900* (NSW) [dishonestly] obtains the opportunity to place a bet, are any winnings resulting from that bet incapable of constituting a financial advantage obtained by that deception for the purposes of that provision? No. 2) Where a person, by a deception within the meaning of s 192E(1), *Crimes Act 1900* (NSW) [dishonestly] obtains the opportunity to place a bet, are any winnings paid out by the person with whom the bet was placed incapable of constituting a financial disadvantage caused by that deception for the purposes of that section? No. 3) Is a bet capable of constituting a financial advantage for the purposes of s 192E(1), *Crimes Act 1900* (NSW)? Yes.

NAME: Michial Greenhalgh

OPERATION: Tambora

CHARGES: 1 x s 61 Crimes Act 1900 (NSW) - Common assault

---

## STATUS/RESULT

- 23/10/2019: CAN served. First mention listed at Bryon Bay Local Court on 2/12/19.
- 2/12/2019: First mention heard in Byron Bay Local Court. The defence made an unsuccessful application to have Greenhalgh's name suppressed. Greenhalgh did not appear in person but pleaded not guilty. Matter adjourned to 3 February with orders of service of brief by 13 January.
- 3/2/2020: Matter held over for mention to 5/02/20.
- 5/2/2020: Matter held over for mention to 30/03/20. Trial dates set for 12-15 May 2020.
- 30/03/20: Matter held over for mention to 20/04/20 to fix a new hearing date. Hearing dates, 12-15 May 2020, vacated.
- 17/04/20: Matter relisted for mention on 14/9/20.
- 20/04/20: Mention before Magistrate Stafford at Bryon Bay LC. Hearing dates vacated.
- 16/06/20: Matter relisted for mention on 7/07/20.
- 7/07/20: Mention before Magistrate Stafford at Byron Bay LC. Mention adjourned to 21/07/20 to fix a hearing date.
- 21/07/20: Trial dates set for 9/11/20 - 12/11/20 at Lismore LC.
- 9/11/20 - 12/11/20: Hearing before Magistrate Michael Dakin at Lismore LC. Matter adjourned to 23/02/21 and set down for three days.

## STATUS/RESULT

- 23/02/21- 24/02/21: Hearing resumed before Magistrate Michael Dakin at Lismore LC. On 24/02/21, the Magistrate found the accused not guilty of the offence of common assault.
- 15/06/21: The DPP instituted an appeal in the Supreme Court seeking that the order made by Magistrate Dakin on 24 February 2021, to dismiss the charge of common assault, be set aside and that the matter be remitted to the Local Court to be dealt with according to law.

NAME: Michael Rowan

OPERATION: Errigal

CHARGES: 4 x s 151 LECC Act - False or misleading evidence

---

## STATUS/RESULT

- 3/12/20 CAN served. First mention listed at the Downing Centre on 21/01/2021.
- 21/01/2021: First mention heard before Deputy Chief Magistrate Allen in Downing Centre Local Court. Matter listed for Brief
- Status (Committal) on 25/03/2021. Brief to be served by 4/03/2021.
- 25/03/2021: Matter adjourned to 15 April 2021. Plea to be entered on this date.
- 15/04/2021: Matter heard before Deputy Chief Magistrate Allen at the Downing Centre Local Court. A plea of not guilty was entered for all 5 charges. Matter listed for Mention on 19 August 2021 and then for hearing on 8 and 9 September 2021 before the Downing Centre Local Court.

NAME: Robert Inglis

OPERATION: Tutoko

CHARGES: 14 x s 192E(1)(a) Crimes Act 1900 (NSW) - Fraud by dishonestly obtaining property,  
14 x s 117 Crimes Act 1900 (NSW) - Larceny

---

## STATUS/RESULT

- 10/06/21: CAN served. First mention listed at Sutherland Local Court on 22 July 2021.
- 22/07/21: First mention heard before Magistrate Higginson at Sutherland Local Court. The Defence are seeking clarification from the DPP on charges. Matter adjourned to 19 August 2021 for legal advice.

NAME: Madison Taylor

OPERATION: Tutoko

CHARGES: 14 x s 192E(1)(a) Crimes Act 1900 (NSW) - Fraud by dishonestly obtaining property, 14 x s 117 Crimes Act 1900 (NSW) - Larceny

---

#### STATUS/RESULT

- 10/06/21: CAN served. First mention listed at Sutherland Local Court on 22 July 2021.
- 22/07/21: Mention at Sutherland Local Court. Plea of guilty entered for all 14 charges. Listed for sentence on 29 July 2021.
- 29/07/21: Sentence before Magistrate H Donnelly at Sutherland Local Court. The offender was convicted and sentenced to a Community Corrections Order for a period of 18 months to commence on 29 July 2021 and expire on 28 January 2023.

NAME: Michael Mannah

OPERATION: Denali

CHARGES: 1 x s 474.22(1) Criminal Code Act - Use carriage to access child abuse material  
1 x s 39(1)(a) Firearms Act 1996 - Not keep firearm safely

---

#### STATUS/RESULT

- 23/1/21: Mention at Parramatta Local Court. Bail was granted. Adjourned to 16/3/21. Matter relisted on 18/2/21 at Fairfield Local Court.
- 18/2/21: Bail variation heard at Fairfield Local Court. Bail conditions were varied. Matter adjourned to 15 April 2021. Orders were made for the brief to be served by 15 April 2021 and reply on 15 April 2021
- 14/4/21: Prosecution brief served on CDPP and the defence.
- 15/4/21: Mention before Fairfield Local Court. Matter adjourned for mention/ charge certification to 25 May 2021.
- 25/5/21: Mention at DCLC. Matter adjourned to 15 June 2021 for charge certification, with the defendant excused on the next occasion if legally represented. Bail to continue.
- 15/6/21: Mention at DCLC. Matter adjourned to 27 July 2021 for further mention and for the CDPP to file and serve the charge certificate by that date.
- 27/7/21: Matter heard via email at Downing Centre Local Court. CDPP completed the charge certification and recommended an additional charge of possession of child exploitation material. Case conference to be held 30 August 2021. The matter is listed for Further Mention on 28 September 2021.

---

# APPENDIX 6

## The Government Information (Public Access) Act 2009 (NSW)

Under the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act) there are four ways that the Commission can make 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 LECC Act. Section 180(2), 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 2020-21 was negligible. No major issues arose during 2020-21 in connection with the Commission's compliance with GIPA requirements.

### **PROACTIVE RELEASE PROGRAM**

---

Under s 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 s 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 involves 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 is 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 has 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 liaised with staff employed in areas of the Commission which dealt with information of a kind which may be proactively released to ensure they 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.

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

---

During the reporting period, the Commission received four access applications.

All access applications were refused wholly or in part because the information requested was information referred to in Schedule 1 or Schedule 2 of the GIPA Act.

There were no internal reviews and no reviews by the Information Commissioner.

## **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

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

Further information is also able to be obtained from the Commission website

<http://www.lecc.nsw.gov.au> under the 'Access to Information' link.

## Number of applications by type of applicant and outcome

|  | Media | 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) |
|--|-------|-----------------------|-------------------------|--|---|-------------------------------|
| Access granted in full                             | -     | -                     | -                       | -  | -   | -                             |
| Access granted in part                             | -     | -                     | -                       | -  | -   | -                             |
| Access refused in full                             | -     | -                     | -                       | -  | -   | 3                             |
| Information not held                               | -     | -                     | -                       | -  | -   | 1                             |
| Information already available                      | -     | -                     | -                       | -  | -   | -                             |
| Refuse to deal with application                    | -     | -                     | -                       | -  | -   | -                             |
| Refuse to confirm/deny whether information is held | -     | -                     | -                       | -  | -   | -                             |
| Application withdrawn                              | -     | -                     | -                       | -  | -   | -                             |

## Invalid applications

|   | No. of applications |
|---|---------------------|
| Application does not comply with formal requirements (s 41 of the Act)  | -                   |
| Application is for excluded information of the agency (s 43 of the Act) | 3                   |
| Application contravenes restraint order (s 110 of the Act)              | -                   |
| Total number of invalid applications received                           | 3                   |
| Invalid applications that subsequently became valid applications        | -                   |

Conclusive presumption of overriding public interest against disclosure: matters listed in schedule 1 of Act

|   | Number of times consideration used |
|---|------------------------------------|
| Overriding secrecy laws                               | -                                  |
| Cabinet information                                   | -                                  |
| Executive Council information                         | -                                  |
| Contempt  | -                                  |
| Legal professional privilege                          | -                                  |
| Excluded information                                  | 3                                  |
| 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   | 1   |
| Exempt documents under interstate Freedom of Information legislation | -   |

## Timeliness

|  | No. of applications |
|--|---------------------|
| Decided within the statutory timeframe (20 days plus any extensions) | 4                   |
| Decided after 35 days (by agreement with applicant)                  | -                   |
| Applications by access applicants                                    | -                   |
| Total  | 4                   |

## Applications for review under part 5 of the Act (by type of applicant)

|   | Number of applications for review |
|---|-----------------------------------|
| Applications by persons to whom information is the subject of an access application | -                                 |

Applications transferred to other agencies under division 2 of part 4 of the Act  
(By type of transfer)

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

## 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 PID 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 Commission, as we are one of the investigating authorities under the PID Act.

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

PIDs 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 | 19   | 33  | 4              |
| Number of PIDS received                           | 19   | 33  | 4              |

Number of PIDs received, primarily about:

|                                      | Made by public officials performing day to day functions | Under a statutory or other legal obligation | All other PIDs |
|--------------------------------------|--|---|----------------|
| Corrupt conduct                      | 5  | 28  | 3              |
| Maladministration                    | 14   | 5   | 1              |
| Serious and substantial waste        | 0  | 0   | 0              |
| Government information contravention | 0  | 0   | 0              |
| Local government pecuniary interest  | 0  | 0   | 0              |
| Total                                | 19   | 33  | 4              |



### 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 Law Enforcement Conduct Commission (the Commission), which comprise the Statement by the Chief Commissioner, the Statement of Comprehensive Income for the year ended 30 June 2021, the Statement of Financial Position as at 30 June 2021, 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 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:

- have been prepared in accordance with Australian Accounting Standards and the applicable financial reporting requirements of the *Government Sector Finance Act 2018* (GSF Act), the *Government Sector Finance Regulation 2018* (GSF Regulation) and the Treasurer's Directions
- presents fairly the financial position, financial performance and cash flows of the Commission and the consolidated entity.

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 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 (including Independence Standards)' (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.

## **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, the GSF Act, GSF Regulations and Treasurer's Directions. The Chief Executive Officer's responsibility also includes 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 Commission's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

## **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.

The scope of my audit does not include, nor provide assurance:

- that the Commission or the consolidated entity carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- 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.



Somaiya Ahmed  
Director, Financial Audit Services

Delegate of the Auditor-General for New South Wales

1 October 2021  
SYDNEY

---

LAW ENFORCEMENT CONDUCT COMMISSION

Financial Statements 2020-21

**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  
Statement of Significant Accounting Policies ..... 7-8  
Notes to the Financial Statements .....9-28

---

## Law Enforcement Conduct Commission

### Statement by Chief Commissioner

Pursuant to Part 7.6(4) of the *Government Sector Finance Act 2018* ('the Act'), I state that these financial statements::

- have been prepared in accordance with the Australian Accounting Standards and the applicable requirements of the Act, and the Government Sector Finance Regulation 2018 and the Treasurer's directions, and
- present fairly the Commission's financial position, financial performance and cash flows as at 30 June 2021.



The Hon R O Blanch AM QC  
Chief Commissioner



C Anderson  
Chief Executive Officer

Law Enforcement Conduct Commission

**Statement of Comprehensive Income for the year ended  
30 June 2021**

|   | Notes | Parent Entity<br>(Law Enforcement<br>Conduct Commission) |                          | Economic Entity<br>(Consolidated) |                          |                          |
|---|-------|--|--------------------------|-----------------------------------|--------------------------|--------------------------|
|   |       | Actual<br>2021<br>\$'000                                 | Actual<br>2020<br>\$'000 | Budget<br>2021<br>\$'000          | Actual<br>2021<br>\$'000 | Actual<br>2020<br>\$'000 |
| <b>Continuing Operations</b>  |       |  |                          |                                   |                          |                          |
| <b>Expenses excluding losses</b>  |       |  |                          |                                   |                          |                          |
| Employee related expenses   | 2(a)  | 974  | 1,576                    | 17,939                            | 16,362                   | 17,642                   |
| Operating expenses  | 2(b)  | 2,425  | 2,744                    | 2,288                             | 2,425                    | 2,744                    |
| Personnel services  | 2(c)  | 15,386   | 16,052                   | --                                | --                       | --                       |
| Depreciation and amortisation   | 2(d)  | 3,061  | 3,070                    | 3,236                             | 3,061                    | 3,070                    |
| Finance costs   | 2(e)  | 118  | 140                      | 139                               | 118                      | 140                      |
| <b>Total expenses excluding losses</b>                                    |       | <b>21,964</b>  | <b>23,582</b>            | <b>23,602</b>                     | <b>21,966</b>            | <b>23,596</b>            |
| <b>Revenue</b>  |       |  |                          |                                   |                          |                          |
| Appropriation   | 3(a)  | 21,350   | 23,400                   | 22,736                            | 21,350                   | 23,400                   |
| Sale of goods and services from contracts with customers                  | 3(b)  | 39   | 20                       | 97                                | 39                       | 20                       |
| Grants and other contributions  | 3(c)  | 9  | --                       | --                                | 9                        | --                       |
| Acceptance by the Crown Entity of employee benefits and other liabilities | 3(d)  | 513  | 558                      | 645                               | 515                      | 560                      |
| Other income  | 3(e)  | --   | --                       | --                                | --                       | 12                       |
| <b>Total revenue</b>  |       | <b>21,911</b>  | <b>23,978</b>            | <b>23,477</b>                     | <b>21,913</b>            | <b>23,992</b>            |
| <b>Operating result</b>   |       | <b>(53)</b>  | <b>396</b>               | <b>(125)</b>                      | <b>(53)</b>              | <b>396</b>               |
| Gain/(loss) on disposal   | 4     | 33   | 37                       | 15                                | 33                       | 37                       |
| Other gains/(loss) - Impairment losses                                    | 5     | (66)   | (663)                    | --                                | (66)                     | (663)                    |
| <b>Net result</b>   |       | <b>(86)</b>  | <b>(230)</b>             | <b>(110)</b>                      | <b>(86)</b>              | <b>(230)</b>             |
| <b>Other comprehensive income</b>   |       |  |                          |                                   |                          |                          |
| <b>Total other comprehensive income</b>                                   |       | <b>--</b>  | <b>--</b>                | <b>--</b>                         | <b>--</b>                | <b>--</b>                |
| <b>TOTAL COMPREHENSIVE INCOME</b>   |       | <b>(86)</b>  | <b>(230)</b>             | <b>(110)</b>                      | <b>(86)</b>              | <b>(230)</b>             |

The accompanying notes form part of these financial statements

Law Enforcement Conduct Commission

Statement of Financial Position as at 30 June 2021

|  | Notes | Parent Entity<br>(Law Enforcement<br>Conduct<br>Commission) |                          | Economic Entity<br>(Consolidated) |                          |                          |
|--|-------|---|--------------------------|-----------------------------------|--------------------------|--------------------------|
|  |       | Actual<br>2021<br>\$'000                                    | Actual<br>2020<br>\$'000 | Budget<br>2021<br>\$'000          | Actual<br>2021<br>\$'000 | Actual<br>2020<br>\$'000 |
| <b>ASSETS</b>                              |       |   |                          |                                   |                          |                          |
| <b>Current Assets</b>                      |       |   |                          |                                   |                          |                          |
| Cash and cash equivalents                  | 7     | 587   | 498                      | 432                               | 593                      | 554                      |
| Receivables                                | 8     | 1,337   | 1,386                    | 1,311                             | 1,352                    | 1,386                    |
| <b>Total Current Assets</b>                |       | <b>1,924</b>  | <b>1,884</b>             | <b>1,743</b>                      | <b>1,945</b>             | <b>1,940</b>             |
| <b>Non-Current Assets</b>                  |       |   |                          |                                   |                          |                          |
| Receivables                                | 8     | 47  | 47                       | 47                                | 47                       | 47                       |
| Property, plant and equipment              | 9     |   |                          |                                   |                          |                          |
| - Land & buildings                         |       | 719   | 915                      | 879                               | 719                      | 915                      |
| - Plant & equipment                        |       | 2,394   | 2,118                    | 1,808                             | 2,394                    | 2,118                    |
| <b>Total property, plant and equipment</b> |       | <b>3,113</b>  | <b>3,033</b>             | <b>2,687</b>                      | <b>3,113</b>             | <b>3,033</b>             |
| Right-of-use assets                        | 10    | 5,766   | 7,766                    | 5,692                             | 5,766                    | 7,766                    |
| Intangible assets                          | 11    | 773   | 853                      | 1,253                             | 773                      | 853                      |
| <b>Total Non-Current Assets</b>            |       | <b>9,699</b>  | <b>11,699</b>            | <b>9,679</b>                      | <b>9,699</b>             | <b>11,699</b>            |
| <b>Total Assets</b>                        |       | <b>11,623</b>   | <b>13,583</b>            | <b>11,422</b>                     | <b>11,644</b>            | <b>13,639</b>            |
| <b>LIABILITIES</b>                         |       |   |                          |                                   |                          |                          |
| <b>Current Liabilities</b>                 |       |   |                          |                                   |                          |                          |
| Payables                                   | 12    | 320   | 261                      | 262                               | 324                      | 262                      |
| Borrowings                                 | 13    | 1,986   | 1,991                    | 2,071                             | 1,986                    | 1,991                    |
| Provisions                                 | 14    | 1,977   | 1,929                    | 1,935                             | 1,944                    | 1,935                    |
| <b>Total Current Liabilities</b>           |       | <b>4,283</b>  | <b>4,181</b>             | <b>4,268</b>                      | <b>4,254</b>             | <b>4,188</b>             |
| <b>Non-Current Liabilities</b>             |       |   |                          |                                   |                          |                          |
| Borrowings                                 | 13    | 4,696   | 6,679                    | 4,476                             | 4,696                    | 6,679                    |
| Provisions                                 | 14    | 616   | 609                      | 658                               | 666                      | 658                      |
| <b>Total Non-Current Liabilities</b>       |       | <b>5,312</b>  | <b>7,288</b>             | <b>5,134</b>                      | <b>5,362</b>             | <b>7,337</b>             |
| <b>Total Liabilities</b>                   |       | <b>9,595</b>  | <b>11,469</b>            | <b>9,402</b>                      | <b>9,616</b>             | <b>11,525</b>            |
| <b>Net Assets</b>                          |       | <b>2,028</b>  | <b>2,114</b>             | <b>2,020</b>                      | <b>2,028</b>             | <b>2,114</b>             |
| <b>EQUITY</b>                              |       |   |                          |                                   |                          |                          |
| Accumulated funds                          |       | 2,028   | 2,114                    | 2,020                             | 2,028                    | 2,114                    |
| <b>Total Equity</b>                        |       | <b>2,028</b>  | <b>2,114</b>             | <b>2,020</b>                      | <b>2,028</b>             | <b>2,114</b>             |

The accompanying notes form part of these financial statements

---

Law Enforcement Conduct Commission

**Statement of Changes in Equity for the year ended 30 June 2021**

|  | Parent Entity<br>(Law Enforcement Conduct<br>Commission) | Economic Entity<br>(Consolidated) |
|--|--|-----------------------------------|
| Notes  | Accumulated<br>Funds<br>\$'000                           | Accumulated<br>Funds<br>\$'000    |
| Balance at 1 July 2020                               | 2,114  | 2,114                             |
| Net result for the year                              | (86)   | (86)                              |
| Other comprehensive income:                          |  |                                   |
| Total other comprehensive income                     | --   | --                                |
| Total comprehensive income for the year              | (86)   | (86)                              |
| Transactions with owners in their capacity as owners | --   | --                                |
| Balance at 30 June 2021                              | 2,028  | 2,028                             |
| <br>   |  |                                   |
| Balance at 1 July 2019                               | 2,344  | 2,344                             |
| Net result for the year                              | (230)  | (230)                             |
| Other comprehensive income:                          |  |                                   |
| Total other comprehensive income                     | --   | --                                |
| Total comprehensive income for the year              | (230)  | (230)                             |
| Transactions with owners in their capacity as owners | --   | --                                |
| Balance at 30 June 2020                              | 2,114  | 2,114                             |

The accompanying notes form part of these financial statements

Law Enforcement Conduct Commission

Statement of Cash Flows for the year ended 30 June 2021

|   | Parent Entity<br>(Law Enforcement Conduct<br>Commission) |                          | Economic Entity<br>(Consolidated) |                          |                          |                          |
|---|--|--------------------------|-----------------------------------|--------------------------|--------------------------|--------------------------|
|   | Notes  | Actual<br>2021<br>\$'000 | Actual<br>2020<br>\$'000          | Budget<br>2021<br>\$'000 | Actual<br>2021<br>\$'000 | Actual<br>2020<br>\$'000 |
| <b>CASH FLOWS FROM OPERATING ACTIVITIES</b>                   |  |                          |                                   |                          |                          |                          |
| <b>Payments</b>   |  |                          |                                   |                          |                          |                          |
| Employee related  |  | (973)                    | (1,576)                           | (17,294)                 | (15,787)                 | (16,736)                 |
| Suppliers for goods & services                                |  | (2,938)                  | (4,025)                           | (2,213)                  | (2,999)                  | (4,089)                  |
| Personnel services  |  | (14,825)                 | (15,258)                          | --                       | --                       | --                       |
| Finance costs   |  | (111)                    | (132)                             | (139)                    | (111)                    | (132)                    |
| <b>Total Payments</b>   |  | <b>(18,847)</b>          | <b>(20,991)</b>                   | <b>(19,646)</b>          | <b>(18,897)</b>          | <b>(20,957)</b>          |
| <b>Receipts</b>   |  |                          |                                   |                          |                          |                          |
| Appropriation   |  | 21,350                   | 23,400                            | 22,736                   | 21,350                   | 23,400                   |
| Sale of goods and services                                    |  | 39                       | 20                                | --                       | 39                       | 32                       |
| Other   |  | 620                      | 587                               | 97                       | 620                      | 587                      |
| <b>Total Receipts</b>   |  | <b>22,009</b>            | <b>24,007</b>                     | <b>22,832</b>            | <b>22,009</b>            | <b>24,019</b>            |
| <b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>               | 19   | <b>3,162</b>             | <b>3,016</b>                      | <b>3,186</b>             | <b>3,112</b>             | <b>3,062</b>             |
| <b>CASH FLOWS FROM INVESTING ACTIVITIES</b>                   |  |                          |                                   |                          |                          |                          |
| Proceeds from sale of plant & equipment                       |  | 53                       | 44                                | 15                       | 53                       | 44                       |
| Purchases of plant & equipment                                |  | (1,043)                  | (1,006)                           | (700)                    | (1,043)                  | (1,006)                  |
| Purchases of intangible assets                                |  | (95)                     | (121)                             | (500)                    | (95)                     | (121)                    |
| <b>NET CASH FLOWS FROM INVESTING ACTIVITIES</b>               |  | <b>(1,085)</b>           | <b>(1,083)</b>                    | <b>(1,185)</b>           | <b>(1,085)</b>           | <b>(1,083)</b>           |
| <b>CASH FLOWS FROM FINANCING ACTIVITIES</b>                   |  |                          |                                   |                          |                          |                          |
| Payment of principal portion of lease liabilities             |  | (1,988)                  | (1,799)                           | (2,123)                  | (1,988)                  | (1,799)                  |
| <b>NET CASH FLOWS FROM FINANCING ACTIVITIES</b>               |  | <b>(1,988)</b>           | <b>(1,799)</b>                    | <b>(2,123)</b>           | <b>(1,988)</b>           | <b>(1,799)</b>           |
| <b>NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS</b> |  | <b>89</b>                | <b>134</b>                        | <b>(122)</b>             | <b>39</b>                | <b>180</b>               |
| Opening cash and cash equivalents                             |  | 498                      | 364                               | 554                      | 554                      | 374                      |
| <b>CLOSING CASH AND CASH EQUIVALENTS</b>                      | 7  | <b>587</b>               | <b>498</b>                        | <b>432</b>               | <b>593</b>               | <b>554</b>               |

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 2021

#### 1. STATEMENT 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 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 2021 have been authorised for issue by the Chief Commissioner and Chief Executive Officer for the Law Enforcement Conduct Commission on 30 September, 2021.

(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 (AAS), which include Australian Accounting Interpretations
- the requirements of the Government Sector Finance Act 2018 (GSF Act) and
- Treasurer's Directions issued under the GSF Act.

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 group statement is not included as figures would be the same as those disclosed in the Statements of Comprehensive Income and Financial Position.

The financial statements have been prepared on a going concern basis as management believe this to be appropriate, note 3a Appropriations outlines the Commissions funding source.

(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 an asset's cost of acquisition 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.

(e) **Comparative information**

Except when an AAS permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

---

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

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

*(i) Effective for the first time in 2020-21*

**AASB 1059 Service Concession Arrangements: Grantors**

AASB 1059 is effective from 1 July 2020. At the same time NSW Treasury Policy and Guideline Paper TPP 06-8: Accounting for Privately Financed Projects (TPP 06-8) was withdrawn effective from 1 July 2020.

Service Concession Arrangements are contracts between an operator and a grantor, where the operator provides public services related to a service concession asset on behalf of the grantor for a specified period of time and manages at least some of those services.

Where AASB 1059 applies, the grantor recognises the service concession asset when the grantor obtains control of the assets and measures the service concession asset at current replacement cost. At the same time the grantor recognises a corresponding financial liability or unearned revenue liability or a combination of both.

The Commission does not have arrangements that fall within the scope of AASB 1059 as such the adoption of AASB 1059 has had no impact on the financial statements.

Several other amendments and interpretations apply for the first time in FY2020-21, but do not have an impact on the financial statements of the Commission.

- AASB 2018-7 -- Regarding amendments to Australian Accounting Standards – Definition of Material
- AASB 2019-1 -- Regarding amendments to Australian Accounting Standards – References to the conceptual framework

*(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 1060 - General purpose financial statements - simplified disclosures for for-profit and not-for-profit tier 2 entities
- AASB 2020-1 -- Regarding amendments to Australian Accounting Standards - Classification of liabilities as current or non-current
- AASB 2020-3-- Regarding amendments to Australian Accounting Standards - Annual improvements 2018-2020 and other amendments
- AASB 2020-6 -- Regarding amendments to Australian Accounting Standards - Classification of liabilities as current or non-current - deferral of effective date

(g) *Impact of COVID-19 on Financial Reporting for 2020-21*

The Commission's financial report for the 2020-21 financial year has not been impacted by COVID-19.

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

| 2. EXPENSES EXCLUDING LOSSES                 | Law Enforcement<br>Conduct<br>Commission |              | Consolidated  |               |
|--|--|--------------|---------------|---------------|
|  | 2021                                     | 2020         | 2021          | 2020          |
|  | \$'000                                   | \$'000       | \$'000        | \$'000        |
| (a) Employee related expenses                |  |              |               |               |
| Salaries and wages (including annual leave)* | 901                                      | 1,438        | 13,128        | 14,650        |
| Redundancies                                 | --                                       | --           | 606           | 122           |
| Superannuation-defined benefit plans         | --                                       | --           | 35            | 50            |
| Superannuation-defined contribution plans    | 24                                       | 50           | 1,188         | 1,224         |
| Long service leave                           | --                                       | --           | 479           | 509           |
| Workers' compensation insurance              | --                                       | --           | 128           | 126           |
| Payroll tax and fringe benefits tax          | 49                                       | 86           | 797           | 958           |
| Other employee expenses                      | --                                       | 2            | --            | 3             |
|  | <b>974</b>                               | <b>1,576</b> | <b>16,362</b> | <b>17,642</b> |

\* 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                                    | 33           | 57           | 33           | 57           |
| Books and periodicals                                     | 70           | 66           | 70           | 66           |
| Auditor's remuneration-audit of the financial statements  | 58           | 52           | 58           | 52           |
| Consultancies   | 10           | 70           | 10           | 70           |
| Contractors   | 163          | 256          | 163          | 256          |
| External legal counsel                                    | 25           | 181          | 25           | 181          |
| Minor computer expenses                                   | 156          | 267          | 156          | 267          |
| Maintenance *   | 870          | 710          | 870          | 710          |
| Insurance   | 44           | 21           | 44           | 21           |
| Accommodation outgoings (utilities, cleaning)             | 174          | 196          | 174          | 196          |
| Expenses relating to short term leases                    | --           | 59           | --           | 59           |
| Variable lease payment, not included in lease liabilities | 134          | 72           | 134          | 72           |
| Minor equipment   | 107          | 119          | 107          | 119          |
| Motor vehicle costs (including leasing charges)           | 88           | 92           | 88           | 92           |
| Advertising   | 1            | 2            | 1            | 2            |
| Printing and stationery                                   | 14           | 37           | 14           | 37           |
| Staff development   | 113          | 91           | 113          | 91           |
| Travelling expenses                                       | 67           | 109          | 67           | 109          |
| Telephones  | 36           | 45           | 36           | 45           |
| Fees and searches   | 100          | 67           | 100          | 67           |
| Other**   | 162          | 175          | 162          | 175          |
|   | <b>2,425</b> | <b>2,744</b> | <b>2,425</b> | <b>2,744</b> |

|  |            |            |            |            |
|--|------------|------------|------------|------------|
| * Reconciliation - Total maintenance   |            |            |            |            |
| Maintenance expense - contracted labour and other (non-employee related), as above | 870        | 710        | 870        | 710        |
| Total maintenance expenses included in Note 2(b)                                   | <b>870</b> | <b>710</b> | <b>870</b> | <b>710</b> |

\*\* Other expenses include a number of line items that individually are not considered material, including translator costs, staff recruitment and medical expenses, secure shredding and minor operational expenses.

#### 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 or an enhancement of a part or component of an asset, in which case the costs are capitalised and depreciated.

## Law Enforcement Conduct Commission

### *Notes to and forming part of the Financial Statements for the year ended 30 June 2021*

#### **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.

#### **Lease expense**

The Commission recognises the lease payments associated with the following types of leases as an expense on a straight-line basis:

- Leases that meet the definition of short-term i.e. where the lease term at commencement of the lease is 12 months or less. This excludes leases with a purchase option.
- Leases of assets that are valued at \$10,000 or under when new.

Variable lease payments not included in the measurement of the lease liability (i.e. variable lease payments that do not depend on an index or a rate, initially measured using the index or rate as at the commencement date). These payments are recognised in the period in which the event or condition that triggers those payments occurs.

|     |  | Law Enforcement<br>Conduct<br>Commission |               | Consolidated |              |
|-----|--|--|---------------|--------------|--------------|
|     |  | 2021                                     | 2020          | 2021         | 2020         |
|     |  | \$'000                                   | \$'000        | \$'000       | \$'000       |
| (c) | Personnel Services expenses<br>Office of the Law Enforcement Conduct<br>Commission | <b>15,386</b>                            | <b>16,052</b> | --           | --           |
| (d) | Depreciation and amortisation expense  |  |               |              |              |
|     | Depreciation   |  |               |              |              |
|     | Computer Equipment   | 395                                      | 466           | 395          | 466          |
|     | Plant and Equipment  | 337                                      | 277           | 337          | 277          |
|     | Right-of-Use Assets - Equipment  | 3  | 5             | 3            | 5            |
|     | Amortisation   |  |               |              |              |
|     | Leasehold Improvements   | 228                                      | 220           | 228          | 220          |
|     | Right-of-Use Assets - Leasehold  | 1,923                                    | 2,034         | 1,923        | 2,034        |
|     | Intangibles  | 175                                      | 68            | 175          | 68           |
|     |  | <b>3,061</b>                             | <b>3,070</b>  | <b>3,061</b> | <b>3,070</b> |

Refer Note 9, 10 and 11 for recognition and measurement policies on depreciation and amortisation.

|     |   |            |            |            |            |
|-----|---|------------|------------|------------|------------|
| (e) | Finance costs   |            |            |            |            |
|     | Interest expense from lease liabilities                                       | 111        | 132        | 111        | 132        |
|     | Total interest expense  | 111        | 132        | 111        | 132        |
|     | Unwinding of discount and effect of changes in<br>discount rate on provisions | 7          | 8          | 7          | 8          |
|     |   | <b>118</b> | <b>140</b> | <b>118</b> | <b>140</b> |

#### RECOGNITION AND MEASUREMENT

Finance costs consist of interest and other costs incurred in connection with the borrowing of funds. Borrowing costs are recognised as expenses in the period in which they are incurred, in accordance with Treasury's mandate to not-for-profit NSW GGS entities.

### 3. REVENUE

#### RECOGNITION AND MEASUREMENT

Income is recognised in accordance with the requirements of AASB 15 *Revenue from Contracts with Customers* or AASB 1058 *Income of Not-for-Profit Entities*, dependent on whether there is a contract with a customer defined by AASB 15 *Revenue from Contracts with Customers*. Comments regarding the accounting policies for the recognition of income are discussed below.

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

(a) Appropriations

| Summary of Compliance   | 2021<br>\$'000 |               |              | 2020<br>\$'000 |               |            |
|---|----------------|---------------|--------------|----------------|---------------|------------|
|   | Appropriation  | Expenditure   | Variance     | Appropriation  | Expenditure   | Variance   |
| Original Budget per Appropriation Act   | 22,736         | 21,350        | 2,849        | 24,199         | 23,400        | 799        |
| <b>Total annual Appropriations / Expenditure / Net Claim on Annual Appropriations</b> | <b>22,736</b>  | <b>21,350</b> | <b>2,849</b> | <b>24,199</b>  | <b>23,400</b> | <b>799</b> |
| Amount drawn down against Annual Appropriations                                       |                | 21,350        |              |                | 23,400        |            |
| Comprising:<br>Appropriations (per Statement of Comprehensive Income)                 |                | 21,350        |              |                | 23,400        |            |
|   |                | 21,350        |              |                | 23,400        |            |
| <b>Appropriations (per Statement of Comprehensive Income)</b>                         |                |               |              |                |               |            |
| Recurrent   |                | 20,212        |              |                | 22,273        |            |
| Capital   |                | 1,138         |              |                | 1,127         |            |
|   |                | <b>21,350</b> |              |                | <b>23,400</b> |            |

Movement of Section 4.7 GSF Act – Deemed Appropriations:

|   | Law Enforcement Conduct Commission |                | Consolidated   |                |
|---|------------------------------------|----------------|----------------|----------------|
|   | 2021<br>\$'000                     | 2020<br>\$'000 | 2021<br>\$'000 | 2020<br>\$'000 |
| Opening balance   | 498                                | 364            | 554            | 374            |
| Add: additions of deemed appropriations                 | 712                                | 651            | 712            | 663            |
| Less: expenditure charged against deemed appropriations | (623)                              | (517)          | (673)          | (483)          |
| Closing balance   | <b>587</b>                         | <b>498</b>     | <b>593</b>     | <b>554</b>     |

The Summary of Compliance excludes deemed appropriations, is presented for the consolidated accounts and is based on the assumption that Consolidated Fund monies are spent first (except where otherwise identified or prescribed). 'Expenditure' refers to cash payments. The term 'expenditure' has been used for payments for consistency with AASB 1058 *Income of Not-for-Profit Entities*.

The Commission receives its funding under appropriations from the Consolidated Fund. Appropriations for each financial year are set out in the Appropriation Bill that is prepared and tabled for that year.

#### RECOGNITION AND MEASUREMENT

##### Parliamentary Appropriations other than deemed appropriations

Income from appropriations, other than deemed appropriations (of which the accounting treatment is based on the underlying transaction), does not contain enforceable and sufficiently specific performance obligations as defined by AASB 15. Therefore, except as specified below, appropriations (other than deemed appropriations) are recognised as income when the entity obtains control over the assets comprising the appropriations. Control over appropriations is normally obtained upon the receipt of cash.

Appropriations are not recognised as income in the following circumstances:

- Lapsed appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount is not controlled by the reporting GSF agency.

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

- The liability if any is disclosed as part of 'Current liabilities-Other'. The liability will be extinguished next financial year through the next annual Appropriations Act.

|  | Law Enforcement<br>Conduct<br>Commission |                | Consolidated   |                |
|--|--|----------------|----------------|----------------|
|  | 2021<br>\$'000                           | 2020<br>\$'000 | 2021<br>\$'000 | 2020<br>\$'000 |
| (b) Sale of goods and services from contracts with customers |  |                |                |                |
| Rendering of service - other government entities             | 39                                       | 20             | 39             | 20             |
|  | <b>39</b>                                | <b>20</b>      | <b>39</b>      | <b>20</b>      |

#### RECOGNITION AND MEASUREMENT

##### *Sale of goods*

Revenue from sale of goods is recognised as revenue when the entity satisfies a performance obligation by transferring the promised goods. The Commission does not in the usual course of business supply goods for sale.

##### *Rendering of services*

Revenue from rendering of services is recognised when the Commission satisfies the performance obligation by transferring the promised service. Revenue is recognised based on reference to the stage of completion (based on labour hours incurred to date), the Commission's standard payment terms of 14 days apply.

The revenue is measured at the transaction price agreed under the contract. No element of financing is deemed present as payments are due when service is provided.

|                                    |          |           |          |           |
|------------------------------------|----------|-----------|----------|-----------|
| (c) Grants and other contributions |          |           |          |           |
| Donations                          | 9        | --        | 9        | --        |
|                                    | <b>9</b> | <b>--</b> | <b>9</b> | <b>--</b> |

- (d) Acceptance by the Crown Entity of employee benefits and other liabilities

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

|                                  | Law Enforcement<br>Conduct<br>Commission |                | Consolidated   |                |
|----------------------------------|--|----------------|----------------|----------------|
|                                  | 2021<br>\$'000                           | 2020<br>\$'000 | 2021<br>\$'000 | 2020<br>\$'000 |
| Superannuation - defined benefit | 34                                       | 49             | 34             | 49             |
| Long service leave provision     | 479                                      | 509            | 479            | 509            |
| Payroll tax                      | --                                       | --             | 2              | 2              |
|                                  | <b>513</b>                               | <b>558</b>     | <b>515</b>     | <b>560</b>     |

|  |           |           |           |           |
|--|-----------|-----------|-----------|-----------|
| (e) Other Income                                     |           |           |           |           |
| Insurance claim receipts/hindsight adjustment refund | --        | --        | --        | 12        |
|  | <b>--</b> | <b>--</b> | <b>--</b> | <b>12</b> |

|   |             |              |             |              |
|---|-------------|--------------|-------------|--------------|
| 4. GAIN/(LOSS) ON DISPOSAL                      |             |              |             |              |
| Proceeds from disposal                          | 53          | 44           | 53          | 44           |
| Written down value of assets disposed           | (20)        | (7)          | (20)        | (7)          |
| Gain / (loss) on disposal                       | <b>33</b>   | <b>37</b>    | <b>33</b>   | <b>37</b>    |
| 5. OTHER GAIN/(LOSS)                            |             |              |             |              |
| Impairment loss - Right-of-use assets (note 10) | (66)        | (663)        | (66)        | (663)        |
|   | <b>(66)</b> | <b>(663)</b> | <b>(66)</b> | <b>(663)</b> |

## Law Enforcement Conduct Commission

### *Notes to and forming part of the Financial Statements for the year ended 30 June 2021*

#### RECOGNITION AND MEASUREMENT

##### Impairment losses on non-financial assets

Impairment losses may arise on non-financial assets held by the Commission from time-to-time. Accounting for impairment losses is dependent upon the individual asset (or group of assets) subject to impairment. Accounting Policies and events giving rise to impairment losses are disclosed in the following notes:

Receivables - Note 8  
 Plant and equipment - Note 9  
 Leases - Note 10  
 Intangible assets - Note 11

#### 6. PROGRAM GROUP OF THE COMMISSION

The Commission comprises a single program group 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.

#### 7. CURRENT ASSETS—CASH AND CASH EQUIVALENTS

|              | Law Enforcement<br>Conduct<br>Commission |                | Consolidated   |                |
|--------------|--|----------------|----------------|----------------|
|              | 2021<br>\$'000                           | 2020<br>\$'000 | 2021<br>\$'000 | 2020<br>\$'000 |
| Cash at bank | 575                                      | 486            | 581            | 542            |
| Cash on hand | 12                                       | 12             | 12             | 12             |
|              | <b>587</b>                               | 498            | <b>593</b>     | 554            |

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

|   |            |     |            |     |
|---|------------|-----|------------|-----|
| Cash and cash equivalents (per Statement of Financial Position) | <b>587</b> | 498 | <b>593</b> | 554 |
|---|------------|-----|------------|-----|

Refer Note 20 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.

#### 8. CURRENT/NON-CURRENT ASSETS—RECEIVABLES

|                               | Law Enforcement<br>Conduct<br>Commission |                | Consolidated   |                |
|-------------------------------|--|----------------|----------------|----------------|
|                               | 2021<br>\$'000                           | 2020<br>\$'000 | 2021<br>\$'000 | 2020<br>\$'000 |
| Prepayments                   | 1,247                                    | 1,255          | 1,247          | 1,255          |
| Other receivables             | 90                                       | 131            | 105            | 131            |
| Total current receivables     | <b>1,337</b>                             | 1,386          | <b>1,352</b>   | 1,386          |
| Other non-current receivables | 47                                       | 47             | 47             | 47             |
| Total non-current receivables | <b>47</b>                                | 47             | <b>47</b>      | 47             |

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

Refer Note 20 for details regarding credit risk of trade receivables 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 are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

#### Subsequent measurement

The Commission holds receivables with the objective to collect the contractual cash flows and therefore measures them as 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.

#### Impairment

An allowance for the expected credit losses (ECLs) is recognised for all debt financial assets not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows and the cash flows that the entity expects to receive, discounted at the original effective interest rate.

The Commission does not recognise an allowance for ECL's as all trade receivables held by the Commission are other government agencies (either State or Commonwealth), the dollar value is low, and as such are considered to be recoverable in full.

#### 9. 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 |
|---|-------------------------------------|---------------------------------|---------------------------------|-----------------|
| <b>At 1 July 2020 – fair value</b>          |                                     |                                 |                                 |                 |
| Gross carrying amount                       | 2,365                               | 3,213                           | 4,141                           | 9,719           |
| Accumulated depreciation and<br>impairment  | (1,450)                             | (2,016)                         | (3,220)                         | (6,686)         |
| Net carrying amount                         | <u>915</u>                          | <u>1,197</u>                    | <u>921</u>                      | <u>3,033</u>    |
| <b>Year ended 30 June 2021</b>              |                                     |                                 |                                 |                 |
| Net carrying amount at beginning of<br>year | 915                                 | 1,197                           | 921                             | 3,033           |
| Purchases of assets                         | 32                                  | 465                             | 546                             | 1,043           |
| Assets acquired for no consideration        | --                                  | 9                               | --                              | 9               |
| Disposals                                   | --                                  | (12)                            | --                              | (12)            |
| Depreciation expense                        | (228)                               | (337)                           | (395)                           | (960)           |
| Net carrying amount at end of year          | <u>719</u>                          | <u>1,322</u>                    | <u>1,072</u>                    | <u>3,113</u>    |
| <b>At 30 June 2021 – fair value</b>         |                                     |                                 |                                 |                 |
| Gross carrying amount                       | 2,397                               | 3,402                           | 4,614                           | 10,413          |
| Accumulated depreciation and<br>impairment  | (1,678)                             | (2,080)                         | (3,542)                         | (7,300)         |
| Net carrying amount                         | <u>719</u>                          | <u>1,322</u>                    | <u>1,072</u>                    | <u>3,113</u>    |
|   | Leasehold<br>improvements<br>\$'000 | Plant &<br>Equipment<br>\$'000s | Computer<br>Equipment<br>\$'000 | Total<br>\$'000 |
| <b>At 1 July 2019 – fair value</b>          |                                     |                                 |                                 |                 |
| Gross carrying amount                       | 2,358                               | 2,706                           | 3,972                           | 9,036           |
| Accumulated depreciation and<br>impairment  | (1,293)                             | (1,909)                         | (2,836)                         | (6,038)         |
| Net carrying amount                         | <u>1,065</u>                        | <u>797</u>                      | <u>1,136</u>                    | <u>2,998</u>    |

## Law Enforcement Conduct Commission

### *Notes to and forming part of the Financial Statements for the year ended 30 June 2021*

| Year ended 30 June 2020                  | Leasehold<br>Improvements<br>\$'000 | Plant &<br>Equipment<br>\$'000 | Computer<br>Equipment<br>\$'000 | Total<br>\$'000 |
|--|-------------------------------------|--------------------------------|---------------------------------|-----------------|
| Net carrying amount at beginning of year | 1,065                               | 797                            | 1,136                           | 2,998           |
| Purchases of assets                      | 70                                  | 684                            | 252                             | 1,006           |
| Disposals                                | --                                  | (7)                            | --                              | (7)             |
| Depreciation expense                     | (220)                               | (277)                          | (467)                           | (964)           |
| Net carrying amount at end of year       | <u>915</u>                          | <u>1,197</u>                   | <u>921</u>                      | <u>3,033</u>    |
| <br>                                     |                                     |                                |                                 |                 |
| <b>At 30 June 2020 – fair value</b>      |                                     |                                |                                 |                 |
| Gross carrying amount                    | 2,365                               | 3,213                          | 4,141                           | 9,719           |
| Accumulated depreciation and impairment  | (1,450)                             | (2,016)                        | (3,220)                         | (6,686)         |
| Net carrying amount                      | <u>915</u>                          | <u>1,197</u>                   | <u>921</u>                      | <u>3,033</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.

##### **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 & 7 years                  |
| Plant and equipment          | 3, 4, 5, 7 & 10 years           |
| Leasehold improvements       | the initial period of the lease |

##### **Right-of-use Assets acquired by lessees**

From 1 July 2019, AASB 16 Leases requires a lessee to recognise a right-of-use asset for most leases. The Commission has elected to present right-of-use assets separately in the Statement of Financial Position.

Further information on leases is contained at Note 10.

---

## Law Enforcement Conduct Commission

### *Notes to and forming part of the Financial Statements for the year ended 30 June 2021*

#### *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. When the carrying amount of an asset exceeds its 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 Commission's 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.

## 10. LEASES

#### *Entity as a lessee*

The Commission leases property and motor vehicles. Lease contracts are typically made for fixed periods of 3 to 5 years, but may have extension options. Lease terms are negotiated on an individual basis and contain a wide range of different terms and conditions. The lease agreements do not impose any covenants, but leased assets may not be used as security for borrowing purposes. The Commission does not provide residual value guarantees in relation to leases. Extension and termination options are included in a number of property leases. These terms are used to maximise operational flexibility in terms of managing contracts. The majority of extension and termination options held are exercisable only by the Commission and not by the respective lessor. In determining the lease term, management considers all facts and circumstances that create an economic incentive to exercise an extension, or not exercise a termination option. Extension options (or periods after termination options) are only included in the lease term if the lease is reasonably certain to be extended (or not terminated). Potential future cash outflows of \$665,000 have not been included in the lease liability because it is not reasonably certain that the lease will be extended. The assessment is reviewed if a significant event or a significant change in circumstances occurs which affects this assessment and that is within the control of the lessee. For leases managed by Property NSW (PNSW) the Commission has relied on the best available information provided by PNSW as to future accommodation plans for the Commission, for other leases the Commission has made an assumption based on business needs and past practice. The Commission was not required to adjust lease terms during the financial year.

AASB 16 Leases (AASB 16) requires a lessee to recognise a right-of-use asset and a corresponding lease liability for most leases.

The Commission has elected to recognise payments for short-term leases and low value leases as expenses on a straight-line basis, instead of recognising a right-of-use asset and lease liability. Short-term leases are leases with a lease term of 12 months or less. Low value assets are assets with a fair value of \$10,000 or less when new and comprise mainly equipment.

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

#### Right-of-use assets under leases

The following table presents right-of-use assets.

|                                   | Leasehold<br>Improvements<br>\$'000 | Plant &<br>Equipment<br>\$'000 | Total<br>\$'000 |
|-----------------------------------|-------------------------------------|--------------------------------|-----------------|
| Balance as at 1 July 2020         | 7,755                               | 10                             | 7,765           |
| Additions                         | --                                  | --                             | --              |
| Disposals                         |                                     | (7)                            | (7)             |
| Depreciation expense              | (1,923)                             | (3)                            | (1,926)         |
| Other movements - impairment loss | (66)                                | --                             | (66)            |
| Balance at 30 June 2021           | <u>5,766</u>                        | <u>--</u>                      | <u>5,766</u>    |

|                                   | Leasehold<br>Improvements<br>\$'000 | Plant &<br>Equipment<br>\$'000 | Total<br>\$'000 |
|-----------------------------------|-------------------------------------|--------------------------------|-----------------|
| Balance as at 1 July 2019         | 9,608                               | 15                             | 9,623           |
| Additions                         | 845                                 | --                             | 845             |
| Depreciation expense              | (2,035)                             | (5)                            | (2,040)         |
| Other movements - impairment loss | (663)                               | --                             | (663)           |
| Balance at 30 June 2020           | <u>7,755</u>                        | <u>10</u>                      | <u>7,765</u>    |

#### Lease liabilities

The following table presents liabilities under leases.

|                      | 2021<br>\$'000 | 2020<br>\$'000 |
|----------------------|----------------|----------------|
| Balance as at 1 July | 8,670          | 9,623          |
| Additions            | --             | 845            |
| Interest expense     | 111            | 132            |
| Payments             | (2,099)        | (1,930)        |
| Balance at 30 June   | <u>6,682</u>   | <u>8,670</u>   |

The following amounts were recognised in the Statement of Comprehensive Income during the period in respect of leases where the Commission is the lessee:

|   | 2021<br>\$'000 | 2020<br>\$'000 |
|---|----------------|----------------|
| Depreciation expense of right-of-use assets                                   | 1,926          | 2,039          |
| Interest expense on lease liabilities   | 111            | 132            |
| Expense relating to short-term leases   | --             | 59             |
| Variable lease payments, not included in the measurement of lease liabilities | 134            | 72             |
| Total amount recognised in the Statement of Comprehensive Income              | <u>2,171</u>   | <u>2,302</u>   |

The Commission had total cash outflows for leases of \$2,307,375 (GST inclusive) in FY2020-21 (FY2019-20 \$2,270,477).

#### RECOGNITION AND MEASUREMENT

The Commission assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

The Commission recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets, except for short-term leases and leases of low-value assets.

##### (i) RIGHT-OF-USE ASSETS

The Commission recognises right-of-use assets at the commencement date of the lease (i.e. the date the underlying asset is available for use). Right-of-use assets are initially measured at the amount of initial measurement of the lease liability (refer ii below), adjusted by any lease payments made at or before the commencement date and lease incentives, any initial direct costs incurred, and estimated costs of dismantling and removing the asset or restoring the site.

---

## Law Enforcement Conduct Commission

### **Notes to and forming part of the Financial Statements for the year ended 30 June 2021**

The right-of-use assets are subsequently measured at cost. They are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets, as below:

- Land and buildings 3 to 5 years
- Motor vehicles and other equipment 3 to 4 years

If ownership of the leased asset transfers to the Commission at the end of the lease term or the cost reflects the exercise of a purchase option, depreciation is calculated using the estimated useful life of the asset.

The right-of-use assets are also subject to impairment. 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. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount. After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in the net result.

#### (ii) LEASE LIABILITIES

At the commencement date of the lease, the Commission recognises lease liabilities measured at the present value of the lease payments to be made over the lease term.

Lease payments include:

- Fixed payments (including in substance fixed payments) less any lease incentives receivable;
- Variable lease payments that depend on an index or a rate;
- Amounts expected to be paid under residual value guarantees;
- Exercise price of a purchase options reasonably certain to be exercised by the Commission; and
- Payments of penalties for terminating the lease, if the lease term reflects the Commission exercising the option to terminate.

Variable lease payments that do not depend on an index or a rate are recognised as expenses (unless they are incurred to produce inventories) in the period in which the event or condition that triggers the payment occurs.

The lease payments are discounted using the interest rate implicit in the lease. If that rate cannot be readily determined, which is generally the case for the Commission's leases, the lessee's incremental borrowing rate is used, being the rate that the Commission would have to pay to borrow the funds necessary to obtain an asset of similar value to the right-of-use asset in a similar economic environment with similar terms, security and conditions.

After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term, a change in the lease payments (e.g. changes to future payments resulting from a change in an index or rate used to determine such lease payments) or a change in the assessment of an option to purchase the underlying asset.

The Commission's lease liabilities are included in borrowings.

#### (iii) SHORT-TERM LEASES AND LEASES OF LOW-VALUE ASSETS

The Commission applies the short-term lease recognition exemption to its short-term leases of equipment (i.e. those leases that have a lease term of 12 months or less from the commencement date and do not contain a purchase option). It also applies the lease of low-value assets recognition exemption to leases of office equipment that are considered to be low value. Lease payments on short-term leases and leases of low value are recognised as expense on a straight-line basis over the lease term.

#### (iv) LEASES THAT HAVE SIGNIFICANTLY BELOW-MARKET TERMS AND CONDITIONS PRINCIPALLY TO ENABLE THE ENTITY TO FURTHER ITS OBJECTIVES

Right-of-use assets under leases at significantly below-market terms and conditions that are entered into principally to enable the entity to further its objectives, are measured at cost.

---

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

These right-of-use assets are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets, subject to impairment. The Commission does not currently have any leases that have terms significantly below market-value.

#### 11. 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 |
|--|--------------|
|  | \$'000       |
| <b>At 1 July 2020</b>  |              |
| Cost (gross carrying amount)                                 | 4,087        |
| Accumulated amortisation and impairment                      | (3,234)      |
| Net carrying amount  | <u>853</u>   |
| <b>Year ended 30 June 2021</b>                               |              |
| Net carrying amount at beginning of year                     | 853          |
| Additions  | 95           |
| Amortisation (recognised in “depreciation and amortisation”) | (175)        |
| Net carrying amount at end of year                           | <u>773</u>   |
| <b>At 30 June 2021</b>                                       |              |
| Cost (gross carrying amount)                                 | 4,178        |
| Accumulated amortisation and impairment                      | (3,405)      |
| Net carrying amount  | <u>773</u>   |
| <b>At 1 July 2019</b>  |              |
| Cost (gross carrying amount)                                 | 4,037        |
| Accumulated amortisation and impairment                      | (3,238)      |
| Net carrying amount  | <u>799</u>   |
| <b>Year ended 30 June 2020</b>                               |              |
| Net carrying amount at beginning of year                     | 799          |
| Additions  | 122          |
| Amortisation (recognised in “depreciation and amortisation”) | (68)         |
| Net carrying amount at end of year                           | <u>853</u>   |
| <b>At 30 June 2020</b>                                       |              |
| Cost (gross carrying amount)                                 | 4,087        |
| Accumulated amortisation and impairment                      | (3,234)      |
| Net carrying amount  | <u>853</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 3 or 4 years.

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

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.

#### 12. CURRENT LIABILITIES—PAYABLES

|                                      | Law Enforcement<br>Conduct<br>Commission |                | Consolidated   |                |
|--------------------------------------|--|----------------|----------------|----------------|
|                                      | 2021<br>\$'000                           | 2020<br>\$'000 | 2021<br>\$'000 | 2020<br>\$'000 |
| Accrued salaries, wages and on-costs | --                                       | --             | 221            | 171            |
| Personnel services payable           | 221                                      | 171            | --             | --             |
| Creditors                            | 99                                       | 90             | 103            | 91             |
|                                      | <b>320</b>                               | <b>261</b>     | <b>324</b>     | <b>262</b>     |

Refer Note 20 for details regarding liquidity risk, including a maturity analysis of the above payables.

#### 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.

#### 13. CURRENT / NON-CURRENT LIABILITIES—BORROWINGS

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

|  | Consolidated   |                |
|--|----------------|----------------|
|  | 2021<br>\$'000 | 2020<br>\$'000 |
| <b>Lease liabilities (see note 10)</b> |                |                |
| Current Lease liabilities              | 1,986          | 1,991          |
| Non-Current liabilities                | 4,696          | 6,679          |
|  | <b>6,682</b>   | <b>8,670</b>   |

Refer Note 20 for details regarding liquidity risk, including a maturity analysis of the above payables.

#### RECOGNITION AND MEASUREMENT

Borrowings represents lease liabilities.

#### Financial liabilities at amortised cost

Borrowings classified as financial liabilities at amortised cost are 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 net result when the liabilities are derecognised as well as through the amortisation process.

## Law Enforcement Conduct Commission

*Notes to and forming part of the Financial Statements for the year ended 30 June 2021*

14. CURRENT / NON-CURRENT LIABILITIES—PROVISIONS

|  | Law Enforcement<br>Conduct<br>Commission |              | Consolidated |              |
|--|--|--------------|--------------|--------------|
|  | 2021                                     | 2020         | 2021         | 2020         |
|  | \$'000                                   | \$'000       | \$'000       | \$'000       |
| <b>Employee benefits and related on-costs</b>  |  |              |              |              |
| Annual leave including on-costs  | 128                                      | 45           | 1,366        | 1,370        |
| Long service leave on-costs  | --                                       | --           | 628          | 614          |
| Provision for personnel services   | 1,849                                    | 1,884        | --           | --           |
|  | <b>1,977</b>                             | <b>1,929</b> | <b>1,994</b> | <b>1,984</b> |
| Current annual leave obligations expected to be settled after 12 months  |  |              | 123          | 192          |
| Current long service leave obligations expected to be settled after 12 months                                    |  |              | 52           | 79           |
|  |  |              | <b>263</b>   | <b>271</b>   |
| The liability is based on leave entitlements at 30 June 2021 using remuneration rates payable post 30 June 2021. |  |              |              |              |
| <b>Other Provisions</b>  |  |              |              |              |
| Restoration costs  | 616                                      | 609          | 616          | 609          |
| <b>Total other Provisions</b>  | <b>616</b>                               | <b>609</b>   | <b>616</b>   | <b>609</b>   |

|   | Consolidated |              |
|---|--------------|--------------|
|   | 2021         | 2020         |
|   | \$'000       | \$'000       |
| <b>Aggregate employee benefits and related on-costs</b> |              |              |
| Provisions - current                                    | 1,944        | 1,935        |
| Provisions - non-current                                | 50           | 49           |
| Accrued salaries, wages and on-costs (Note 12)          | 221          | 171          |
|   | <b>2,215</b> | <b>2,155</b> |

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

|   | Consolidated |            |
|---|--------------|------------|
|   | 2021         | 2020       |
|   | \$'000       | \$'000     |
| <b>Movements in provisions (other than employee benefits)</b> |              |            |
| <b>Restoration costs</b>                                      |              |            |
| Carrying amount at 1 July                                     | 609          | 601        |
| Additional provision - new lease                              | --           | --         |
| Unwinding/change in discount rate                             | 7            | 8          |
| <b>Carrying amount at 30 June</b>                             | <b>616</b>   | <b>609</b> |

### 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 2021**

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 8.4% 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. 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 of employee benefits and other liabilities'.

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 (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. 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 \$185.00 as per the lease agreement.

## 15. EQUITY

### RECOGNITION AND MEASUREMENT

#### **Accumulated Funds**

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

---

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

#### 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).

#### Equity Transfers – Recognition and Measurement

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.

## 16. COMMITMENTS

#### Capital Commitments

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:

|                       | Law Enforcement<br>Conduct<br>Commission |                | Consolidated   |                |
|-----------------------|--|----------------|----------------|----------------|
|                       | 2021<br>\$'000                           | 2020<br>\$'000 | 2021<br>\$'000 | 2020<br>\$'000 |
| Within one year       | --                                       | 44             | --             | 44             |
| Total (including GST) | --                                       | 44             | --             | 44             |

Capital commitments for 2021 include input tax credits of \$0 (2020: \$3,960) that are expected to be recoverable from the Australian Taxation Office.

## 17. 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.

## 18. 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. Major variances between the original budgeted amounts and the actual amounts disclosed in the financial statements are explained below.

#### Net result

The actual net result as at 30 June is better than budget, primarily due to:

Recurrent appropriation revenue is below budget due to the Commission not requiring the full approved appropriation, capital funding is close to budget.

Employee related expenditure is below budget due to the Commission carrying a number of vacant positions. The Commission has been pro-actively implementing a number of strategies to meet ongoing savings including restructuring Senior Executive roles and reviewing vacant positions prior to any recruitment action. There has been a small decline in expenses following COVID-19 restrictions.

## Law Enforcement Conduct Commission

### *Notes to and forming part of the Financial Statements for the year ended 30 June 2021*

Revenue from sales of goods and services is lower than budget as income received from other Government entities was largely recouping expenses.

#### **Assets and liabilities**

Assets and liabilities are slightly above budget due to an increase in cash and prepayments as at the reporting date.

#### **Cash flows**

Both payments and receipts are lower than budget reflecting lower expenses and funding levels required to meet expenses.

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

|   | Law Enforcement<br>Conduct Commission |              | Consolidated |              |
|---|---------------------------------------|--------------|--------------|--------------|
|   | 2021                                  | 2020         | 2021         | 2020         |
|   | \$'000                                | \$'000       | \$'000       | \$'000       |
| Net cash used on operating activities               | 3,162                                 | 3,016        | 3,112        | 3,062        |
| Depreciation and amortisation                       | (3,061)                               | (3,070)      | (3,061)      | (3,070)      |
| Allowance for impairment ROUA                       | (66)                                  | (663)        | (66)         | (663)        |
| Decrease/(increase) in provisions                   | (55)                                  | (237)        | (17)         | (244)        |
| Increase/(decrease) in prepayments and other assets | (49)                                  | 716          | (34)         | 678          |
| Decrease/(increase) in payables                     | (59)                                  | (29)         | (62)         | (30)         |
| Assets acquired free of charge                      | 9                                     | --           | 9            | --           |
| Net gain/(loss) on assets disposed                  | 33                                    | 37           | 33           | 37           |
| <b>Net result</b>                                   | <b>(86)</b>                           | <b>(230)</b> | <b>(86)</b>  | <b>(230)</b> |

#### 20. 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

| <b>Parent</b>                |             |  |                        |                        |
|------------------------------|-------------|--|------------------------|------------------------|
| <b>Financial Assets</b>      | <b>Note</b> | <b>Category</b>                                  | <b>Carrying Amount</b> | <b>Carrying Amount</b> |
| Class:                       |             |  |                        |                        |
|                              |             |  | 2021                   | 2020                   |
|                              |             |  | \$'000                 | \$'000                 |
| Cash and cash equivalents    | 7           | Amortised cost                                   | 587                    | 498                    |
| Receivables <sup>1</sup>     | 8           | Amortised cost                                   | 57                     | 47                     |
| <b>Financial Liabilities</b> |             |  |                        |                        |
| <b>Financial Liabilities</b> | <b>Note</b> | <b>Category</b>                                  | <b>Carrying Amount</b> | <b>Carrying Amount</b> |
| Class:                       |             |  |                        |                        |
|                              |             |  | 2021                   | 2020                   |
|                              |             |  | \$'000                 | \$'000                 |
| Payables <sup>2</sup>        | 12          | Financial liabilities measured at amortised cost | 320                    | 261                    |
| Borrowings                   | 13          | Financial liabilities measured at amortised cost | 6,682                  | 8,670                  |

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

| Consolidated                 |      |  |                 |                 |
|------------------------------|------|--|-----------------|-----------------|
| Financial Assets             | Note | Category   | Carrying Amount | Carrying Amount |
| Class:                       |      |  | 2021            | 2020            |
|                              |      |  | \$'000          | \$'000          |
| Cash and cash equivalents    | 7    | Amortised cost                                   | 593             | 554             |
| Receivables <sup>1</sup>     | 8    | Amortised cost                                   | 72              | 47              |
| <b>Financial Liabilities</b> |      |  |                 |                 |
| Class:                       |      |  | 2021            | 2020            |
|                              |      |  | \$'000          | \$'000          |
| Payables <sup>2</sup>        | 12   | Financial liabilities measured at amortised cost | 314             | 260             |
| Borrowings                   | 13   | Financial liabilities measured at amortised cost | 6,682           | 8,670           |

<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 AASB 7)

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 its right to receive cash flows from the asset or has assumed an obligation to pay the received cash flows in full without material delay to a third party under a pass-through arrangement; and either:

- where substantially all the risks and rewards have been transferred or
- where the Commission has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control.

When the Commission has transferred its rights to receive cash flows from an asset or has entered into a pass-through arrangement, it evaluates if, and to what extent, it has retained the risks and rewards of ownership. 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.

Continuing 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 credit losses or 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.

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

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.

#### Accounting policy for impairment of trade receivables and other financial assets

##### Receivables – trade receivables

Collectability of trade receivables is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand.

The Commission applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade receivables. To measure the expected credit losses, trade receivables have been grouped based on shared credit risk characteristics and the days past due.

Trade receivables are written off when there is no reasonable expectation of recovery.

Indicators that there is no reasonable expectation of recovery include, amongst others a failure to make contractual payments for a period of greater than 90 days past due date.

The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. The Commission's debtors are all other government entities either Commonwealth or State. No allowance for credit loss has been made as all amounts are considered to be collectable.

#### (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 prior periods' data and 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 | 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 |
| <b>Parent - 2021</b>       |                                      |                |                                  |                        |                      |                |             |           |
| Personnel services payable |                                      | 221            |                                  |                        | 221                  | 221            |             |           |
| Creditors                  |                                      | 99             |                                  |                        | 99                   | 99             |             |           |
| Lease liabilities          |                                      | 6,682          |                                  |                        | 6,682                | 1,986          | 4,696       |           |
|                            |                                      | 7002           |                                  |                        | 7002                 | 2,306          | 4,696       |           |

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

|   | Weighted average effective int. rate | \$'000         |                        |                        | Maturity Dates |             |           |
|---|--------------------------------------|----------------|------------------------|------------------------|----------------|-------------|-----------|
|   |                                      | Nominal amount | Interest Rate Exposure |                        | <1 year        | 1 - 5 years | > 5 years |
|   |                                      |                | Fixed interest rate    | Variable interest rate |                |             |           |
| <b>Parent- 2020</b>                     |                                      |                |                        |                        |                |             |           |
| Personnel services payable              |                                      | 171            |                        |                        | 171            |             |           |
| Creditors                               |                                      | 90             |                        |                        | 90             |             |           |
| Lease liabilities                       |                                      | 8,670          |                        |                        | 8,670          | 1,991       | 6,679     |
|   |                                      | 8,931          |                        |                        | 8,931          | 2,252       | 6,679     |
| <b>Consolidated - 2021</b>              |                                      |                |                        |                        |                |             |           |
| Accrued salaries and wages and on-costs |                                      | 221            |                        |                        | 221            | 221         |           |
| Creditors                               |                                      | 103            |                        |                        | 103            | 103         |           |
| Lease liabilities                       |                                      | 6,682          |                        |                        | 6,682          | 1,986       | 4,696     |
|   |                                      | 7,006          |                        |                        | 7,006          | 2,310       | 4,696     |
| <b>Consolidated - 2020</b>              |                                      |                |                        |                        |                |             |           |
| Accrued salaries and wages and on-costs |                                      | 171            |                        |                        | 171            | 171         |           |
| Creditors                               |                                      | 91             |                        |                        | 91             | 91          |           |
| Lease liabilities                       |                                      | 8,670          |                        |                        | 8,670          | 1,991       | 6,679     |
|   |                                      | 8,932          |                        |                        | 8,932          | 2,253       | 6,679     |

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 reporting date. The analysis assumes that all other variables remain constant.

*Interest rate risk*

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. 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 CARRYING 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.

---

## Law Enforcement Conduct Commission

### Notes to and forming part of the Financial Statements for the year ended 30 June 2021

#### (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 Commission 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.

#### 21. RELATED PARTY DISCLOSURES

Compensation for the Commission's key management personnel are as follows:

|                               | Consolidated |              |
|-------------------------------|--------------|--------------|
|                               | 2021         | 2020         |
| Short term employee benefits: | \$'000       | \$'000       |
| Salaries                      | 1,464        | 1,502        |
| Termination payments          | 251          | 279          |
| Superannuation                | 65           | 63           |
| Non-monetary benefits         | --           | --           |
| Total remuneration            | <u>1,780</u> | <u>1,844</u> |

Based on Treasury Circular TC17-12 and AASB 124, the Commission has determined its key management personnel (KMP) to consist of; the Chief Commissioner, Commissioner, CEO and Executive Director Operations. These individuals are considered to have authority and responsibility for planning, directing and controlling the activities of the Commission either individually or collectively. 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.

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.

Major transactions with other entities that are controlled/jointly controlled/ significantly influenced by NSW Government during 2020-21 were:

|   | Consolidated |              |
|---|--------------|--------------|
|   | 2021         | 2020         |
|   | \$'000       | \$'000       |
| NSW Government Property (accommodation at 111 Elizabeth Street, Sydney) | 2,214        | 2,097        |
|   | <u>2,214</u> | <u>2,097</u> |

Other transactions include:

- Long Service Leave and Defined Benefit Superannuation assumed by the Crown
- Appropriations (and subsequent adjustments in appropriations)
- Employer contributions paid to the Defined Benefit Superannuation funds
- Payments into the Treasury Managed Fund for workers compensation insurance and other insurances

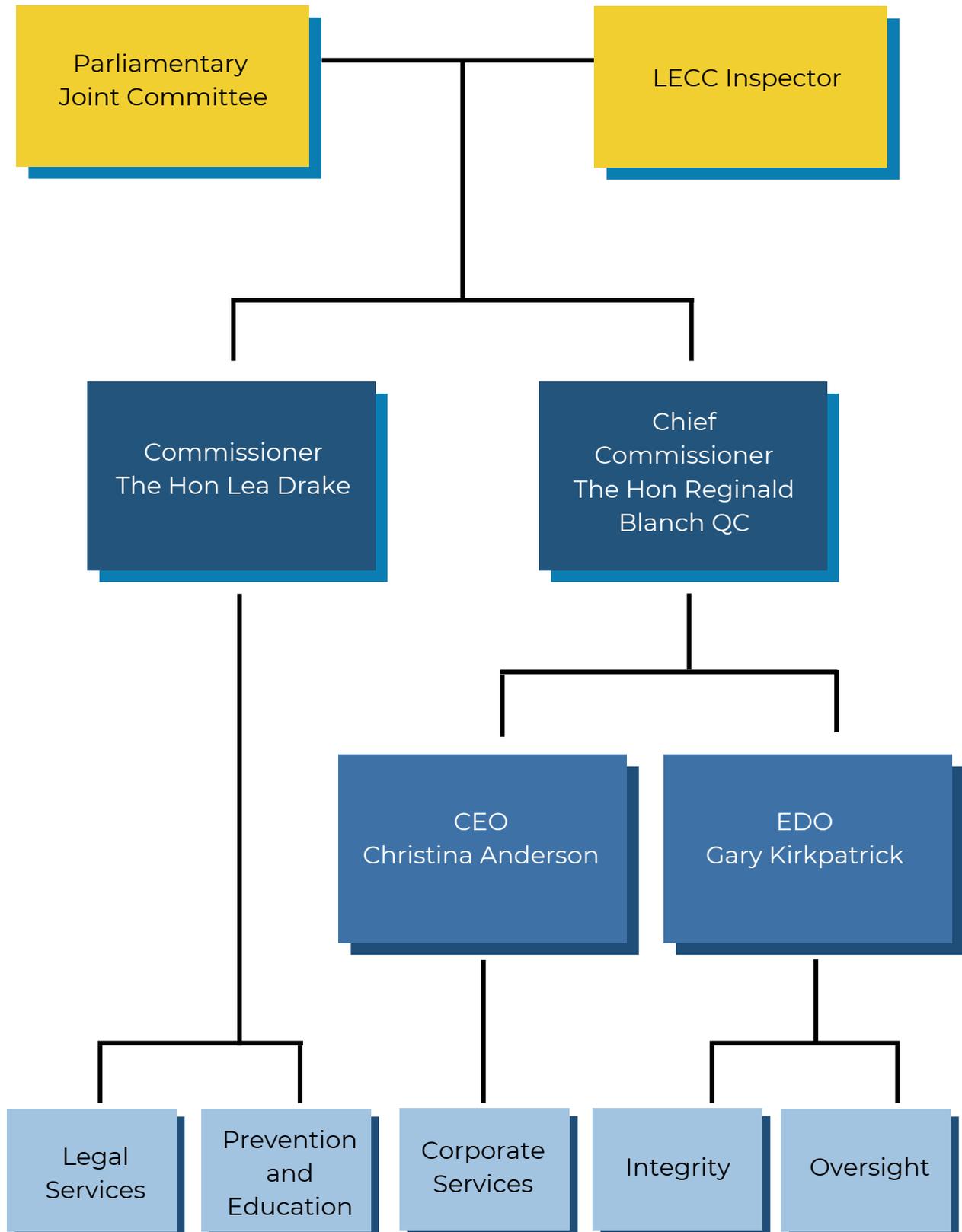
#### 22. EVENTS AFTER THE REPORTING DATE

No other 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 statements

# APPENDIX 8

## Organisation Structure



# APPENDIX 9

## Law Enforcement Conduct Commission Publications

### Operation Tusk Fact Sheet 5

Table of recommendations and their implementation  
Fact Sheet 22 June 2021

### Operation Tusk Fact Sheet 4

Summary of Supplementary Report on the NSW Child Protection Register  
Fact Sheet 22 June 2021

### Operation Tusk - Supplementary Report

A report on the actions the NSWPF has taken since the Commission's Operation Tusk Final Report, to address issues with the administration of the NSW Child Protection Register.

Report to Parliament 22 June 2021

### Operation Kadenwood - Video 1/1

YouTube Content 26 March 2021

### Operation Kadenwood

Report to Parliament 26 March 2021

### Operation Monza

Report to Parliament 26 March 2021

### Inquiry into NSW Police Force strip search practices.

A report outlining the work of the Law Enforcement Conduct Commission in investigating, overseeing and analysing the strip search practices of the NSWPF since 2018. The report also highlights the work undertaken by the NSWPF to address the Commission's concerns and enhance their policies, practices and the training provided to police officers.

Report to Parliament 15 December 2020

### Summary of the Strip Search Inquiry - Fact Sheet 1

Fact Sheet 15 December 2020

### Recommendations of the strip search inquiry - Fact Sheet 2

Fact Sheet 15 December 2020

**Thresholds for strip searches – Fact Sheet 3**

Fact Sheet 15 December 2020

**Operation Tabarca - Supplementary Report**

Report to Parliament 15 December 2020

**Operation Coolum**

Operation Coolum arose from a complaint referred to the Commission by the NSWPF. The complaint concerned an allegation by a junior police officer that in 2019, she was sexually harassed at home by her commanding officer.

Report to Parliament 30 November 2020

**Arrest, Detention and Strip Searching of Two Female Protesters on 10/11/2017**

An earlier report has been replaced by this amended version (160920). A report into the monitoring by the Commission of a NSWPF investigation into the arrest, strip search and release without charge on 10 November 2017 of two females involved in a protest about the treatment of refugees.

Report to Parliament 16 September 2020

**Strike Force Blackford - Report**

A report into the monitoring by the Commission of Strike Force Blackford, a NSWPF investigation into a number of complaints about strip searches performed by NSWPF officers, predominantly at music festivals.

Report to Parliament 21 July 2020

**Operation Shorewood**

Review of how the NSWPF manages and investigates workplace equity matters.

Report to Parliament 21 July 2020

**Operation Tutoko**

An investigation of NSWPF officer involved in systemic theft from Coles supermarket

Report to Parliament 21 July 2020

---

# APPENDIX 10

## Directory

### DIRECTORY

---

Level 3, 111 Elizabeth Street, Sydney NSW 2000

Office hours: 08:30am – 04:30pm (excluding weekends and public holidays)

GPO Box 3880, Sydney NSW 2001

Telephone: (61 2) 9321 6700

Freecall: 1800 657 079

Facsimile: (61 2) 9321 6799

Website: [www.lecc.nsw.gov.au](http://www.lecc.nsw.gov.au)

---

# INDEX

Allegations 14, 25, 27, 29, 31, 36, 37, 38, 39, 41, 52, 69, 103  
Assessments 6, 14, 21, 25, 26, 29, 30, 53, 90, 93, 134, 136, 144, 145  
Attorney General 11, 77, 107  
Audit 16, 27, 58, 59, 60, 81, 82, 95, 96, 97, 117, 118, 127, 146  
Audit and Risk Committee 83, 95, 97  
Body Worn Video 16, 25, 42, 53, 55, 58  
Budget 6, 118, 141  
Case management system 7, 16, 17, 42, 95  
Chief Commissioner 3, 5, 6, 7, 19, 79, 82, 90, 117, 119, 120, 125, 127, 142  
Chief Executive Officer, CEO 3, 20, 82, 83, 95, 97, 118, 120, 125, 146, 147  
Child Protection Register 7, 48, 71, 73, 148  
Collaboration 15, 73, 76, 86, 92  
Commission powers 103, 105  
Commissioner 6, 17, 19, 20, 24, 30, 37, 54, 82, 85, 90, 103, 111, 117, 127, 144, 146  
Commissioner of Police 30, 54, 55, 57, 63, 67, 76, 103  
Community 15, 17, 74, 85, 86, 92, 113  
Community engagement 17, 85, 86  
Complaint Action Panel 21, 30  
Complaints 6, 9, 11, 13, 16, 21, 30, 38, 41, 58, 69, 71, 81, 95, 103, 131, 149  
Conduct Management Plans 74  
Consorting 77  
Consultants 100  
Counter-terrorism powers 77  
Court Attendance Notices 35  
Critical incident 9, 11, 41, 62, 91, 103, 131  
Digital Information Security policy 95  
Director of Public Prosecutions 19, 36, 38  
Diversity Action Plan 92, 93  
Examination 6, 9, 30, 36, 55, 76, 103  
Executive Committee 82  
Executive Director Operations 6, 14, 20, 21, 29, 82, 86, 146  
Financial Statements 96, 117  
Findings 13, 26, 28, 44, 50, 60, 66, 103  
Governance 20, 81, 95, 97  
Government Information (Public Access) Act 2009, GIPA Act 111, 112  
Government Sector Employment Act 2013 89, 90, 117, 125  
Hearings 6, 30, 107, 108, 109  
IAPro 59, 60  
Industrial Relations 19  
Information technology 95  
Inspector 11, 81, 111, 147  
Integrity 6, 11, 14, 15, 17, 19, 20, 21, 22, 29, 42, 57, 79, 80, 82, 83, 85, 86, 90, 91, 127, 147

Investigation outcomes 34, 36  
Investigations 6, 9, 11, 12, 13, 14, 21, 22, 25, 26, 27, 28, 29, 30, 31, 34, 35, 36, 37, 38, 39, 41-49, 51-59, 60-76, 80, 82, 86, 92, 95, 103, 104, 107, 125, 131, 149  
Law Enforcement (Powers and Responsibilities) Act 2002, LEPRA 25, 28, 45, 72, 76, 78  
Law enforcement agencies 15, 34, 80  
Law Enforcement Conduct Commission Act 2016, LECC Act 11, 24, 25, 26, 27, 28, 30, 38, 41, 42, 43, 44, 45, 46, 46, 48, 50, 51, 52, 53, 54, 55, 57, 58, 63, 65, 67, 68, 69, 71, 72, 76, 78, 79, 80, 81, 90, 91, 109, 111  
Law Enforcement Conduct Commission, LECC 3, 6, 7, 11, 15, 18, 20, 22, 79, 81, 89, 90, 95, 97, 100, 112, 117, 119, 148, 149  
Legal Services 14, 29, 57  
LOIS 7, 17, 42  
Mandatory reporting 24  
Minister for Police 30, 55, 72, 77  
Misconduct 6, 11-15, 17, 21, 24, 25, 26, 29, 36-39, 41-48, 51, 52, 54, 57-60, 65, 68, 69, 71, 74, 81, 103, 104  
Monitoring 11, 12, 21, 22, 41, 43, 51, 52, 54, 61, 62, 63, 65, 66, 67, 68, 83, 101, 149  
NSW Crime Commission, NSWCC 11, 13-19, 29, 37, 41, 42, 43, 44, 51, 58, 59, 60, 69, 71, 83, 86  
NSW Ombudsman 24, 77, 85  
NSW Police Force, NSWPF 11-17, 19, 21-29, 34, 36-39, 41-49, 50-59, 60-69, 71-78, 80, 83, 86, 104, 148  
Operation Cadwal 36  
Operation Celsius 36  
Operation Coolum 39  
Operation Denali 35, 36, 110  
Operation Errigal 35, 38, 109  
Operation Faro 36  
Operation Glansdale 36  
Operation Kadenwood 36, 148  
Operation Krosno 36  
Operation Mainz 76  
Operation Minsk 39  
Operation Montecristo 107  
Operation Monza 37, 148  
Operation Narran 37  
Operation Porto 37  
Operation Shorewood 75, 149  
Operation Tabina 37, 69  
Operation Tabourie 37  
Operation Tepito 74  
Operation Torrens 37  
Operation Tusket 73, 148  
Operation Tutoko 35, 38, 109, 110, 149  
Overseas visits 102

Oversight 6, 9, 11-17, 20, 21, 22, 25, 29, 41, 42, 43, 46, 51, 54, 55, 57, 59, 62, 65, 68, 69, 72, 79, 81, 82, 86, 90, 91, 103, 147, 148

Parliamentary Joint Committee 81, 82, 147

Police Act 1990 28, 41, 43, 49, 51, 60, 61, 68, 80

Policies and procedures 12, 49, 66, 81

Preliminary enquiries 14, 29, 31, 34, 57, 69

Preliminary investigations 14, 29, 31, 34, 57, 62

Professional Standards Command, PSC 16, 36, 37, 48, 54, 59, 61, 64, 64, 75, 86

Public Interest Disclosures, PIDs 116

Recommendations 7, 12, 15, 16, 17, 37, 38, 59, 60, 66, 71, 72, 73, 74, 75, 77, 81, 103, 148

Remuneration 89, 90, 127, 139, 146

Right to Information 112

Risk Management 83, 97, 142

Security and Vetting 83

Senior Executive 6, 17, 18, 19, 86, 89, 90, 103, 141

Serious maladministration 11, 24

Serious misconduct 11, 13, 14, 16, 17, 25, 29, 36, 37, 39, 57, 69

State Coroner 62, 64

Statements of Claim 25

Statutory reporting 103

Strategic Operations Committee, SOC 82

Strategic Plan 7, 15, 16, 18

Strike Force Blackford 51, 54, 61, 149

Strike Force Garemyn 66

Strip search 7, 37, 51, 54, 61, 71, 72, 148, 149

Subpoenas 80

Suspect Targeting Management Plan, STMP 74

Training 16, 50, 54, 59, 66, 71, 72, 76, 86, 92, 93, 94, 148

WHS 91

Workplace equity 7, 71, 75, 149

Young person 50

