

Operation Tusk Fact Sheet 2: Findings and recommendations in the final report

Finding 1:

Since 2002 the NSW Police Force has made over 700 incorrect decisions about the administration of the Child Protection Register, including:

- incorrect decisions that 96 people were not ‘registrable persons’ under the *Child Protection (Offenders Registration) Act 2000* (NSW) (CPOR Act);
- incorrect decisions that 43 people were ‘registrable persons’ under the CPOR Act;
- incorrectly calculating the reporting periods of 485 registrable persons as being shorter than the periods required by the CPOR Act, and
- incorrectly calculating the reporting periods of 144 registrable persons as being longer than the periods required by the CPOR Act.

These incorrect decisions arose, wholly or in part, from mistakes of law or fact.

Finding 2:

As a result of the incorrect decisions referred to in Finding 1, the NSW Police Force unlawfully required persons to report their personal details to police for a number of years. Some of these persons were also subjected to unlawful home inspections by the NSW Police Force, in purported reliance on the power in s 16C of the CPOR Act.

Finding 3:

As a result of the incorrect decisions referred to in Finding 1, the NSW Police Force charged and arrested persons for failing to comply with reporting obligations or providing false or misleading information under the CPOR Act, when those persons were not under any obligation to report under that Act at the relevant time. These were actions of a serious nature which, although not unlawful, were unjust or oppressive in their effects.

Finding 4:

The NSW Police Force made decisions to write letters to Mr DD, Mr NN and Mr KK about their obligations under the CPOR Act, which were in effect misleading. These decisions, although not unlawful, were unreasonable or unjust in their effects.

Recommendation 1:

Notify persons who may have been subjected to unlawful or unjust actions by the NSW Police Force. The NSW Police Force write to each of the 277 people identified by the CPR case review who may have been subjected to unlawful or unjust actions by the NSW Police Force as a result of errors in the Child Protection Register. Each letter should:

- explain the specific error that was made in their case;
- identify each of the types of actions that the NSW Police Force may have mistakenly subjected the person to as a result of that error, and
- apologise for these errors, and suggest the person may wish to obtain independent legal advice.

Recommendation 2:

Adopt a responsive model of resourcing for the Child Protection Registry. The NSW Police Force ensure that the resourcing of the Registry is reviewed at least every two years, and that staffing is maintained at a level sufficient to perform statutory functions under the CPOR Act efficiently and accurately.

Recommendation 3:

Refer the CPOR Act to the NSW Law Reform Commission for review. The Attorney-General urgently refer the *Child Protection (Offenders Registration) Act 2000* (NSW) to the NSW Law Reform Commission for comprehensive review, to be completed within six months.

Recommendation 4:

Introduce a statutory review mechanism. A provision should be included in the *Child Protection (Offenders Registration) Act 2000* (NSW) (or any Act which replaces it) which gives a person the right to seek review by the NSW Police Force of the decision that they meet the definition of a registrable person under the Act, and/or the decision as to which reporting period applies to the person. Consideration should be given to providing a right of appeal from the NSW Police Force review to a tribunal or court.

Recommendation 5:

Establish a dedicated legal officer position in the Child Protection Registry. The NSW Police Force establish at least one ongoing legal officer position within the Registry that is dedicated solely to supporting Registry staff, and fill that position as a matter of priority.

Recommendation 6:

Provide reasons for decisions under the CPOR Act. The NSW Police Force provide written notification to each person placed on the Register of the basis upon which their status as a registrable person and their reporting period has been determined, including the

sections of the CPOR Act relied on. For persons already on the Register, this information is to be provided upon request.

Recommendation 7:

Prioritise the ‘CPR COPS’ upgrade project. The NSW Police Force prioritise the recruitment for the CPR COPS upgrade project to ensure that the project is completed as soon as possible.

Recommendation 8:

Establish an interagency Child Protection Register Committee. The NSW Police Force initiate the establishment of a Child Protection Register Committee with relevant authorities to discuss and decide the obligations, compliance risks and mitigation strategies of each authority in relation to the statutory framework governing the Register.

Recommendation 9:

Develop an interagency governance framework. The NSW Police Force initiate the creation and implementation of a robust interagency governance framework to ensure consistent service delivery in accordance with each authority’s responsibilities under the statutory framework for the Register.

Recommendation 10:

Implement a Child Protection Register governance framework. The NSW Police Force develop and implement a governance framework to ensure compliance by all local commands across New South Wales with the statutory framework for the Register. This framework should:

- leverage the expertise of the Child Protection Registry to support local commands and provide quality assurance;
- ensure that emerging compliance risks are identified and addressed, and
- contain appropriate reporting mechanisms to ensure future accountability.

Recommendation 11:

Introduce independent compliance auditing of the Child Protection Register. Provisions should be included in the *Child Protection (Offenders Registration) Act 2000* (NSW) (or any Act which replaces it) for independent compliance audits of the Register, with publicly reported (and de-identified) results, similar to those in the *Sex Offenders Registration Act 2004* (Vic).