

Assessments

17.1 – Complaint Assessment Policy

This Complaint Assessment Policy provides the framework to which the Commission will handle complaints made about the New South Wales Police Force and New South Wales Crime Commission.

Document Control

Policy title	Complaint Assessment
Responsible business unit	Assessments
Approval	<i>Chief Commissioner</i>
Date of approval	18 March 2019
Security Classification	UNCLASSIFIED
DLM	SENSITIVE: NSW GOVERNMENT
Review period	12 months
Next review	March 2020

Version History

Version	Date	Reason for amendment
v1.0	18 March 2019	

Printed copies and e-copies on personal drives may not be up to date.
Check the electronic Policy Library to ensure you have the latest version of this document.

Contents

1.	Definitions	4
2.	Values	5
3.	The role of the LECC	5
4.	Complaints Best Practice	6
	Goals of LECC Complaint Assessment	7
	Whole of Government Complaint Handling	7
5.	Customer Service Principles	8
	Responsiveness	8
	Objectivity and fairness (complaint handling & reviews of internal decisions)	8
	Confidentiality	9
6.	Lodging Complaints	9

1. Definitions

LECC	Law Enforcement Conduct Commission
LECC Act	<i>Law Enforcement Conduct Commission Act 2016</i>
Misconduct Matter	A complaint or misconduct information as defined in <i>the Law Enforcement Conduct Commission Act 2016</i>
NSWPF	New South Wales Police Force
NSWCC	New South Wales Crime Commission
s 14 Guidelines	Guidelines agreed between the LECC and the NSWPF setting out the kind of misconduct matters that should or should not be investigated, matters that should be notified to the Commission, matters that NSWPF or NSWCC would ordinarily investigate, the kinds of matters that will be oversighted by the LECC and how matters are referred and the level of information required.
Serious maladministration	<ul style="list-style-type: none"> (a) in the case of an agency—if the conduct involved is unlawful (that is, constitutes an offence or is corrupt conduct or is otherwise unlawful), or (b) in the case of an agency or officer—if the conduct involved is of a serious nature and, although it is not unlawful: <ul style="list-style-type: none"> (i.) is unreasonable, unjust, oppressive or improperly discriminatory in its effect, or (ii.) arises, wholly or in part, from improper motives.
Serious misconduct	<ul style="list-style-type: none"> (a) conduct of a police officer, administrative employee or Crime Commission officer that could result in prosecution of the officer or employee for a serious offence or serious disciplinary action against the officer or employee for a disciplinary infringement, (b) a pattern of officer misconduct, officer maladministration or agency maladministration carried out on more than one occasion, or that involves more than one participant, that is indicative of systemic issues that could adversely reflect on the integrity and good repute of the NSW Police Force or the Crime Commission, (c) corrupt conduct of a police officer, administrative employee or Crime Commission officer.

2. Values

- 2.1 The LECC values of trust, collaboration, integrity, accountability and service are the basis of a values-led workplace culture. The LECC requires behaviour and conduct of all staff to comply with the LECC Code of Ethics and Conduct.

3. The role of the LECC

- 3.1 The LECC Act sets out the Commission's role which is, essentially, to promote the integrity and good repute of the NSWPF and the NSWCC by making sure that they properly carry out their functions and responsibilities in relation to the investigation of possible misconduct or maladministration of which they become aware, independently detecting, investigating and exposing serious misconduct or serious maladministration, overseeing the investigation of incidents where someone is killed or seriously injured in a police operation and making recommendations about education and training aimed at preventing misconduct or maladministration.
- 3.2 The LECC Act requires the LECC to recognise that the investigation and prevention of misconduct or maladministration within the NSWPF and the NSWCC is primarily the responsibility of those agencies. Although the LECC can always take over an investigation of possible misconduct or maladministration, it will only do so where there is a good reason for thinking that its involvement will be of significant benefit that might otherwise not occur. It follows that most complaints that are made to the LECC about misconduct or maladministration will be referred to the NSWPF and/or the NSWCC to deal with, although the LECC will oversee the investigations of complaints about serious misconduct to ensure they are not unsatisfactory and, in some cases of particular interest, actively monitor the investigation as it proceeds.
- 3.3 The LECC is empowered by the LECC Act to conduct investigations of possible serious misconduct or serious maladministration and, for that purpose, can use compulsory powers that require, for example, the production of documents, the provision of information and even the examination on oath of a relevant witness, including a police officer. Examinations may be conducted in public where it is in the public interest to do so. Where an examination is conducted in public, however, the identity of witnesses can still be protected, if appropriate.

3.4 As a general rule, the factors that indicate that an investigation is appropriate to be investigated by the LECC are that:

- serious misconduct or serious maladministration may have occurred;
- the possible officer misconduct involves a serious criminal offence;
- the possible office misconduct is so serious as to justify a recommendation for dismissal or, if the officer is an inspector or higher rank, the misconduct could justify a significant disciplinary outcome;
- the use of the LECC's compulsory powers could significantly assist the effectiveness, including timeliness, of an investigation;
- the matter is intrinsically of such importance as to justify the LECC taking responsibility for the investigation to maintain public confidence in the integrity of the NSWPF or NSWCC; or
- the matter is or might be part of a significant systemic problem.

Usually, an investigation by the LECC will involve several of these indicators.

4. Complaints Best Practice

4.1 The LECC has statutory obligations arising out of misconduct matters which allege, explicitly or implicitly, serious misconduct on behalf of a police officer, a Crime Commission officer, an administrative employee of the NSWPF or the NSWCC.

4.2 All complainants will be treated with courtesy and respect.

4.3 Complainants will receive accurate reporting of decisions or outcomes about their complaint.

- informing complainants of how their complaints will be dealt with;
- helping complainants to make a complaint where they have a problem doing so;
- acknowledging complaints received within 10 business days of receipt of a complaint; and
- informing complainants of the outcome of their complaint.

Goals of LECC Complaint Assessment

- 4.4 The goals for the LECC when receiving and retrieving complaints are:
- a) to be informed of and assess allegations or indications of serious officer misconduct or maladministration within the NSWPF or the NSWCC which may warrant investigation by the LECC or NSWPF or NSWCC with or without oversight;
 - b) be thorough, fair and professional in conducting assessments;
 - c) efficiently direct complaints which are not within the jurisdiction of the LECC, or do not warrant action by the LECC, to the appropriate agency to consider or act on;
 - d) utilise limited resources equitably and proportionately in respect to complaints; and
 - e) to interact with members of the community in a manner which is professional, fair and accountable, as befits a NSW statutory agency.

Whole of Government Complaint Handling

4.5 The LECC is committed to abiding by the whole of government complaint handling improvement program. This program is ongoing and the LECC will ensure that the complaint management process is kept in line with any changes that are implemented by the program.

4.6 The LECC endorses the commitments of the program, namely:

- respectful treatment
- information and accessibility
- good communication
- taking ownership
- timeliness
- transparency

5. Customer Service Principles

Responsiveness

- 5.1 The LECC will prioritise complaints in accordance with the urgency and/or risk of the issues raised and chronology from date received. If a matter concerns an immediate risk to safety or security, the response will be prompt and will be escalated appropriately.
- 5.2 The LECC will inform complainants, where appropriate, of the following:
- the complaints process applicable to their complaint;
 - their likely involvement in the process;
 - the anticipated timeframe of dealing with their complaint;
 - the possible or likely outcome of their complaint; and
 - the decision or outcome relating to their complaint.
- 5.3 Complainants will be advised as soon as practicable when the LECC is unable to deal with any part of their complaint or considers it an inappropriate matter for the LECC. Complainants will be given advice about where such issues and/or complaints may be directed (if known and appropriate).

Objectivity and fairness (complaint handling & reviews of internal decisions)

- 5.4 The LECC staff are empowered to handle complaints promptly and with as little formality as possible. Flexible approaches to service delivery and problem solving will be adopted, to enhance accessibility for people making complaints and/or their representatives. These approaches are still required to be delivered with professionalism and in line with policies and guidelines of the LECC.
- 5.5 Each complaint will be considered in an objective and unbiased manner.
- 5.6 Requests for internal reviews regarding how a complaint was managed will be conducted by a person other than the original decision maker and at a grade equal to or above the original decision maker.
- 5.7 Unless exceptional circumstances exist, a review will only be conducted where significant new and cogent information is presented to the LECC that would

warrant further action.

Confidentiality

5.8 The LECC will protect the identity of people making complaints where it is practicable and appropriate. Personal information that identifies individuals will only be disclosed or used by the LECC as permitted under the relevant privacy laws, secrecy provisions and any relevant confidentiality obligations. However, within legislative frameworks, referrals will be made if considered within the public interest.

6. Lodging Complaints

6.1 The LECC will ensure that information about how and where complaints may be made to or about the LECC are easily understood and accessible to everyone, particularly people who may require assistance.

6.2 If a person prefers or needs another person or organisation to assist or represent them in the making and/or resolution of their complaint, the LECC will communicate with them through their representative as appropriate. Anyone may represent a person wishing to make a complaint with that person's consent (e.g. advocate, family member, legal or community representative, member of Parliament, another organisation).