

# LECC

Law Enforcement  
Conduct Commission

## Agency Information Guide

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# Agency Information Guide

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## 1. Introduction

This Agency Information Guide (AIG) has been produced in accordance with section 20 of the *Government Information (Public Access) Act* (GIPA Act) 2009, which requires Government agencies to make certain Government information publicly available.

The Law Enforcement Conduct Commission (the Commission) has produced this Agency Information Guide (AIG) in accordance with the GIPA Act with a view to providing the public with information about the Commission, in particular its functions, structure, legislative power and opportunities for community participation with the Commission.

Specifically, this AIG outlines the following information about the Commission:

- structure and functions of the Commission,
- ways in which the functions of the Commission affect members of the public
- ways in which members of the public can participate in the formulation of the Commission's policies and the exercise of its functions
- The types of information the Commission will make publicly available
- The secrecy provisions that apply to the Commission as a law enforcement agency

## 2. Structure and Functions of the Law Enforcement Conduct Commission

### Functions of the Law Enforcement Conduct Commission (the Commission)

The Commission is constituted under the *Law Enforcement Conduct Commission Act 2016* (the LECC Act) and commenced operation in 2017.

The Commission was established as an independent investigative body to oversight the NSW Police Force (NSWPF) and NSW Crime Commission, with the primary purpose of detecting and investigating misconduct and corruption in these agencies and oversighting the investigation of critical incidents within the NSWPF.

The Commission also has a prevention and education function which involves assessing the effectiveness and appropriateness of misconduct and maladministration programs and initiatives by the NSWPF and NSW Crime Commission and making recommendations accordingly.

As part of its oversight function, the LECC Act also empowers the Commission to audit the systems and records in relation to misconduct matters of the NSWPF and NSW Crime Commission.

### Structure of the Commission

The senior executive team of the Commission consists of the Chief Commissioner, Commissioner for Oversight, Commissioner for Integrity, Chief Executive Officer and the Solicitor to the Commission.

The Commissioners are statutory appointments and are responsible for determining when the Commission should exercise its investigative powers in relation to NSWPF or NSW Crime Commission officer misconduct or maladministration. This includes conducting examinations of the officers in question and issuing search warrants for the purposes of an investigation.

The Commission's Chief Executive Officer (CEO) formulates and implement's the Commission's vision, workforce capability and overall strategic direction. As the head of agency, the CEO carries out the employer functions of the NSW Government which includes providing leadership and governance necessary to ensure successful delivery of the Commission's strategic and financial objectives.

The Solicitor to the Commissions acts as the chief legal advisor for the Commission, delivering high level strategic legal advice to support the Chief Commissioner, Commissioners and the CEO with respect to the legal operations of the agency. The Solicitor to the Commission develops and oversees the provision of legal services, identification and management of legal risks and projects as well as satisfying the legal, strategic and operational needs of the Commission.

### Oversight of the Commission

The Commission is overseen by an Inspector who was statutorily appointed to oversee the functions and operations of the Commission. Specifically, functions of the Inspector include:

- Auditing the operations of the Commission for the purpose of monitoring compliance with the law of the State, and
- Dealing with conduct amounting to agency maladministration on the part of the Commission and conduct amounting to officer misconduct or officer maladministration on the part of officers of the Commission and
- Assessing the effectiveness and appropriateness of the policies and procedures of the Commission relating to the legality or propriety of its activities.

These functions can be exercised on the Inspector's own initiative or at the request of the Minister, in response to a complaint made to the Inspector about the Commission, or in response to a reference by the Parliamentary Joint Committee (see below) or any other Government agency.

The powers of the Inspector are broad and enable the Inspector to (among other things):

- investigate any aspect of the Commission's operations or any conduct of officers of the Commission,
- require officers of the Commission to supply information or produce documents or other things about any matter, or any kind of matter, relating to the Commission's operations or any conduct of officers of the Commission,
- require officers of the Commission to attend before the Inspector to answer questions or produce documents or other things relating to the Commission's operations or any conduct of officers of the Commission,
- investigate and assess Commission misconduct matters,
- refer matters relating to the Commission or officers of the Commission to other agencies for consideration or action,
- recommend disciplinary action or criminal prosecution against officers of the Commission.

The Commission also reports to the Parliamentary Joint Committee (Joint Committee) on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission.

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

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

The Committee does not have the power to investigate particular conduct, or to reconsider the Commission's decisions, findings or recommendations about particular complaints or investigations.

### Legislative power

In undertaking its operations the following legislation has particular application to the Commission in exercising its functions:

*Law Enforcement Conduct Commission Act 2016 (NSW)*

*Surveillance Devices Act 2007 (NSW)*

*Criminal Assets Recovery Act 1990 (NSW)*

*Law Enforcement (Controlled Operations) Act 1997 (NSW)*

*Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)*

*Law Enforcement and National Security (Assumed Identities) Act 2010 (NSW)*

*Telecommunications (Interception and Access) Act 1987 (NSW)*

*Telecommunications (Interception and Access) Act 1979 (Cwth)*

## **3. How Commission functions affect members of the public**

The Commission was established to strengthen the oversight of law enforcement agencies in NSW, specifically the NSWPF and the NSW Crime Commission.

The public can be confident in the Commission as an independent and separate agency from the NSWPF and the Crime Commission, with the responsibility of preventing, detecting and investigating misconduct and maladministration within law enforcement in NSW. Members of the public are encouraged to report police officer or crime commission officer misconduct or maladministration to the Commission.

The Commission is also responsible for overseeing NSWPF investigations of critical incidents and has the power to make recommendations to the NSWPF about its investigation of an incident.

The Commission undertakes its oversight functions in an impartial and fair manner and conducts itself in line with its values of accountability, trust, integrity, teamwork and transparent service delivery.

Similarly, as outlined in this AIG, the public can be assured that the Commission itself is subject to a comprehensive accountability framework to ensure the Commission appropriately adheres to its statutory functions and responsibilities.

#### **4. How the public can participate in the Commission's policy development and in the exercise of its functions**

While the Commission's functions are regulated by legislation, community members are encouraged to contact the Commission if they have any suggestions concerning how the Commission can improve the way it fulfils its statutory functions and obligations. The Commission can be contacted in the following ways:

**Phone:** 9321 6700

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

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

**Mail:** GPO Box 3880, Sydney NSW 2001

**In person:** Level 3, 111 Elizabeth Street, Sydney NSW

##### **Complaints**

A core function of the Commission is to receive and investigate complaints about police officers and NSW Crime Commission offices concerning misconduct and maladministration. Members of the public can make a complaint via one of the contact methods listed above.

Following investigation in to a complaint, the Commission can make findings and recommendations and will at times make such findings and recommendations publicly available. This further provides an opportunity for the community to become aware of and provide feedback about the Commission's work.

##### **Community Engagement**

The Commission is currently in the process of developing its community engagement and outreach initiatives which will be critical to engaging hard to reach or disadvantaged communities.

The community outreach program will aim to ensure all citizens of NSW, regardless of race, gender, age, religion and culture, are able to report misconduct and maladministration in the NSWPF and NSW Crime Commission without fear or favour.

It is anticipated that through the Commission's community engagement work certain groups in the community will be given the opportunity to provide input that enhances decision making processes within the Commission on issues that may impact on their well-being and interests.

Community engagement strengthens the trust between the community and government by providing a platform for interested parties to have their voices heard, their views considered and acknowledged, and they are then informed of, and involved in, issues which may impact on them and/or their community.

Similarly, the Commission will also benefit from these community engagement activities, through

- a better understanding of the day-to-day experience of people in certain communities;
- better relationships between the community and government;
- community awareness and understanding about the Commission and our role in police oversight;
- a mechanism for feedback and evaluation about our policies and practices;
- reduced conflict within interested parties, as individuals and communities can hear and understand each other's points of view;
- uncovering new ideas and expertise.

The Commission acknowledges that communities value the opportunity to meet and discuss issues with each other and with government to develop innovative solutions, share their experiences and expand their understanding around issues.

For complex and controversial issues, undertaking community engagement processes earlier rather than later in the life of a policy development or project may have significant benefits and ensures the Commission has access to a diverse range of perspectives.

The objectives of the community engagement program of work are to ensure members of the public:

- Feel confident to report serious misconduct and serious maladministration to the LECC
- Have confidence in the integrity of the NSW Police Force and NSW Crime Commission
- Feel informed about their reporting obligations and what constitutes misconduct and maladministration
- Are confident to report to us as a confidential and robust law enforcement oversight organisation

## **5. The types of information that is held by the Commission that it will make publicly available**

The GIPA Act requires Government Agencies to make certain 'open access information' publicly available unless there is an overriding public interest against disclosure of the information.

Information which constitutes 'open access information' includes an Agency's Information Guide, policy documents, disclosure log of access to information applications, information about the agency in any document that is tabled in Parliament such as its annual report and the agency's register of Government contracts.



The Commission commenced operations on 1 July 2017 and is in the process of progressively making information publicly available on its website at [www.lecc.nsw.gov.au](http://www.lecc.nsw.gov.au)

However, given the Commission's broad and far reaching statutory powers, it often deals with highly sensitive and classified material and for this reason the Commission is under no obligation to disclose information that relates to its corruption prevention, complaint handling, investigative and reporting functions or information which is subject to the secrecy provisions within the LECC Act.

The Commission will endeavour to make information available that is in the public interest and is appropriate for public release, this may include:

- Corporate policy documents
- Documents that are tabled in Parliament such as the LECC Annual Report
- Disclosure log
- Records of information not publicly available
- Contracts register
- Strategic planning documents
- Findings of LECC investigation or reviews if it is in the public interest to release it publicly
- Code of conduct
- Process for handling complaints

## 6. How to access the Commission's information

Given the Commission's broad and far reaching statutory powers, it often deals with highly sensitive and classified material and for this reason the Commission is under no obligation to disclose information that relates to its corruption prevention, complaint handling, investigative and reporting functions or information which is subject to the secrecy provisions within the LECC Act.

However, the Commission will endeavour to publicly release information such as corporate policies and plans that do not disclose or reference any sensitive material pertaining to its statutory functions.

The GIPA Act, as outlined below prescribes the ways in which agencies can publicly release Government information.

### Open access information (mandatory release)

In accordance with the provisions in the GIPA Act NSW Government agencies are encouraged to proactively release Government information, ensuring that members of the public have access to that information unless there is an overriding public interest against disclosure.

Certain information held by an agency is the agency's open access information which that is information that an agency is required to make publicly available, such information includes (among other things) the agency information guide, information about the agency contained in any document tabled in Parliament by or on behalf of the agency and agency policy documents.

#### Authorised proactive release

In addition to the mandatory release requirements prescribed by the GIPA Act, the Commission will proactively release other information that might be of interest to the public, for instance, where appropriate reports of investigations in to misconduct.

The Commission will aim to identify government information within its holdings that can be made publicly available and appropriate for authorised proactive release.

#### Informal releases

The Commission routinely provides information on request where there is no overriding public interest against disclosure.

#### Access application (formal release)

The Commission acknowledges that making a formal access application is considered the 'last resort' for requesting government information.

The GIPA Act provides members of the public with a legally enforceable right to formally apply for access to specific information held by the Commission. While the Commission will make every effort to honour a request for information if it is in the public interest to do so, this will be assessed on a case by case basis and will consider the secrecy provisions of the LECC Act to which the Commission is bound.

The GIPA Act requires that formal access applications meet the following requirements. They must:

- be in writing
- be lodged with the correct agency
- state that you are seeking the information under the GIPA Act
- include your postal address for a response
- be clear and specific about the information you seek, so that we can identify it
- include the \$30 application fee and
- be addressed to:

#### **Right to Information Officer**

GPO Box 3880  
Sydney NSW 2001

Certain applications may incur additional processing charges. The

Commission's Right to Information Officer will advise applicants if their request is likely to occur charges in addition to the \$30 application fee,

#### **7. Annual review of the Agency Information Guide**

In accordance with s21 of the GIPA Act, the Commission will annually review and update (as required) this Agency Information Guide.