

Annual Report

2022-23

LECC

Law Enforcement
Conduct Commission



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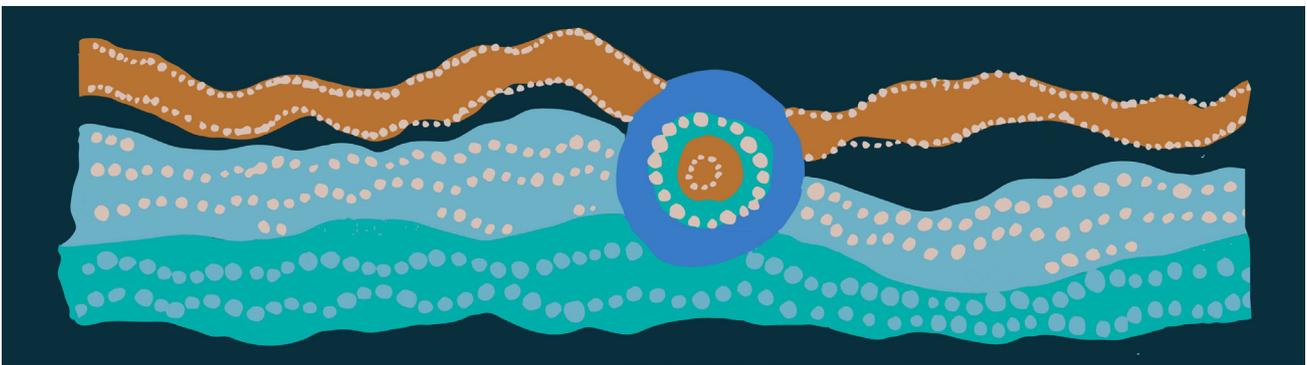
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Acknowledgement of Country

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



*Sand Dunes (1991, Licensed reproduction, ink on canvas)
John and Ros Moriarty, Balarinji Design Studio, Jumbana Group*

An excerpted graphical element of the Sand Dunes artwork has formed part of the Commission's Acknowledgement of Country graphic device since 2021.

The artwork tells the story of clan people's journey to a camping place on sun-bleached sands along weathered shores. Food is prepared and stories are shared around the fire near their shell middens.

The original Sand Dunes artwork is gouache on paper and part of the Balarinji art collection acquired by the National Museum of Australia in 2009. The collection comprises 409 individual art works, predominantly gouache on paper, created by the Balarinji design studio. The works were created by John and Ros Moriarty and various artists, both Indigenous and non-Indigenous, who were part of the Balarinji team.

This artwork features in the Commission's first Reconciliation Action Plan, which will be launched in the next financial year.

23 October 2023

The Hon Ben Franklin MLC
President
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

The Hon Greg Piper MP
Speaker
Legislative Assembly
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Mr President and Mr Speaker

Law Enforcement Conduct Commission Annual Report

In accordance with Division 7.3 of the *Government Sector Finance Act 2018* (NSW) and s 139 of the *Law Enforcement Conduct Commission Act 2016* (NSW) (LECC Act), the Commission provides you with a copy of the Law Enforcement Conduct Commission Annual Report for the year ended 30 June 2023.

The Annual Report has been prepared in accordance with the requirements of the *Government Sector Finance Act 2018* (NSW), the LECC Act, and the NSW Government Annual Reporting Framework.

Under s 142(2) of the LECC Act, we recommend that this Annual Report be made public immediately.

Yours sincerely



The Hon Peter Johnson SC
Chief Commissioner



Anina Johnson
Commissioner

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From our Commissioners

This Annual Report documents the many ways in which the Commission works to ensure that the people of NSW have confidence in our independent oversight of law enforcement agencies.

We wanted to highlight some key themes from the Report. In the past year, the Commission has continued to publicly highlight misconduct issues in law enforcement, through our reports and hearings. We have expanded the way in which we engage with the NSW community. Finally, the Commission has turned inward and begun the process of developing a Reconciliation Action Plan.

Assessing the complaints made to the Commission gives us high quality data about emerging issues in law enforcement. This year, the Commission completed 4,703 assessments. The assessment process also ensures the NSW Police Force deal with complaints about misconduct appropriately and identify matters that the Commission should investigate.

The NSW Police Force and the NSW Crime Commission are key members of our community. We continue to work collaboratively with them through regular formal and informal contact across all levels of our agencies.

This year we established a formal arrangement for getting input from other sectors of the community, through a legal stakeholders consultative group. The group alerts the Commission to community issues of concern and allows the Commission to provide information about its work and processes.

We continue to collaborate with other integrity agencies across Australia.

In November 2022, the Commission co-hosted a very successful Australian Public Sector Anti-Corruption Conference in Sydney. The conference was a valuable opportunity to share research and learn from the experience of other similar agencies.

In September 2022, the Commission took the important step of committing to develop our first Reconciliation Action Plan. We were guided by Badu Island man Jason Timor. Law enforcement agencies have a long and often adversarial relationship with First Nations peoples. As the oversight agency, the Commission needs to be culturally safe and able to influence the institutions, systems and behaviour that impact Aboriginal and Torres Strait Islander communities.

The Chief Commissioner presided over Operation Mantus, which dealt with allegations that a First Nations young person had been assaulted while being detained by police. The hearings also canvassed the use of body-worn video cameras by police and the police practice of interviewing people against their legal advice. The Commission's findings will be handed down in the next financial year.

The Commission's reports are thoroughly researched and rely on data which is rarely available to other researchers. They are an important mechanism for promoting desirable changes in law enforcement practice. This year we tabled 7 reports, all of which contributed to public discussion. We are grateful for the collaboration of the NSW Police Force in this research.

We wanted to highlight one report in particular. The Review of Five Years of Independent Monitoring of Critical Incidents demonstrates how the Commission's monitoring and oversight role in this area promotes public confidence in the integrity of these important police investigations. The public focus on critical incidents during the financial year made the report's publication a timely one.

As the year closed, we finalised our new strategic plan for 2023-2026. That plan has 3 goals:

1. Proactively address growing areas of concern across law enforcement practice.
2. Increase public awareness of the Commission's role and purpose.
3. Foster a Commission culture that is unified, inclusive and innovative.

The work of the Commission this year has laid a strong foundation to achieve the goals of our next strategic plan. Our staff remain our greatest strength and we thank them for their hard work and commitment to the integrity of law enforcement in NSW.



The Hon Peter Johnson SC
Chief Commissioner



Anina Johnson
Commissioner



2022–23 at a glance

4,703



Assessments
completed

2,129



Investigations
oversighted

131



Critical incidents
monitored

56



Investigations
conducted

22



Examination
days

7



Reports
tabled

1 Overview

This section details what we set out to do, our purpose, and our values. It also summarises our key functions, the legislation that governs our work, and our organisational structure.

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1.1 Aims and objectives

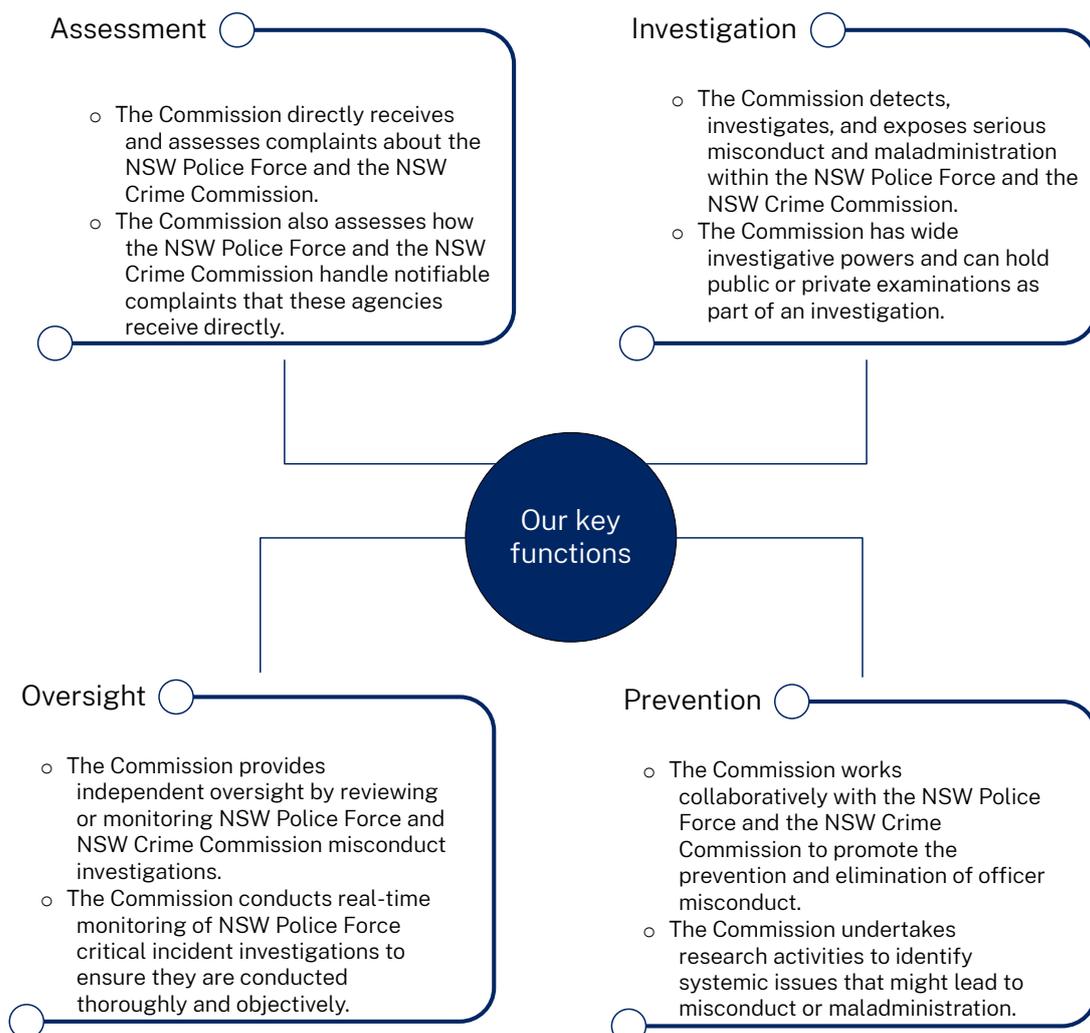
Our purpose

The Commission provides the NSW public with a strong, fair, and impartial system of law enforcement oversight in NSW.

The Commission's primary role is to detect, oversight, investigate, and expose misconduct and maladministration within the NSW Police Force and the NSW Crime Commission.

Our key functions

The following pages provide a summary of the Commission's key functions.





Assessing complaints

The assessment of complaints is a core function of the Commission.

Complaints come to the Commission in several ways, including from:

- members of the public
- the NSW Police Force complaints management database
- NSW Crime Commission complaints
- Public Interest Disclosures (PID).

Our Assessments team assesses all complaints, and then refers the complaints and recommendations to the internal Complaint Action Panel (CAP).

The CAP consists of the Chief Commissioner, the Commissioner and other senior staff.

The CAP may decide that the Commission ought to investigate a complaint independently of police if the complaint indicates employees of the NSW Police Force or NSW Crime Commission have engaged in serious misconduct or serious maladministration.

Complaints which are not investigated by the Commission are referred to the police. The Commission may exercise its oversight monitoring function (where Commission investigators monitor the NSW Police Force's investigation of a complaint in real-time) or oversight review function (where Commission investigators review the NSW Police Force's investigation of a complaint, when the investigation is complete).

Further information about the assessment process can be found in chapter 3.1 of this report.





Oversight of complaint handling

The NSW Police Force and the NSW Crime Commission have primary responsibility for dealing with complaints about misconduct relating to their employees. However, the Commission is responsible for overseeing these agencies' handling of misconduct investigations.

We may monitor, in real-time, the progress of serious or significant misconduct matters. However, we usually consider the adequacy of the investigation once investigation reports are completed by the relevant law enforcement agency.

If we are not satisfied with the way the relevant agency has investigated the complaint, or with the management action taken, we advise the NSW Police Force or NSW Crime Commission of our concerns and the reason for these concerns, and may request:

- further information or advice about the reasons for a decision
- further investigation of the misconduct matter
- reconsideration of the findings made or the remedial action to be taken.

In response, the NSW Police Force and NSW Crime Commission must:

- provide the information or advice requested
- notify the Commission of their decision in relation to a request for further inquiries or investigation
- notify the Commission of their decision in relation to a request for reconsideration of the findings or remedial action to be taken.

If the NSW Police Force and the NSW Crime Commission decide not to conduct further inquiries, reconsider findings, or reconsider management action to be taken, they must provide the Commission with reasons for their decision. If we are not satisfied with the decision, we may provide a report to the Minister or a special report to Parliament.

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

Further information about the Commission's oversight functions can be found in chapter 3.3 of this report.





Investigating serious officer misconduct

Another of the Commission's primary functions is to detect, investigate, and expose serious misconduct and serious maladministration in the NSW Police Force and NSW Crime Commission.

Serious misconduct or serious maladministration may:

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

- be oppressive or improperly discriminatory
- arise wholly or in part from improper motives.

These investigations are conducted by multi-disciplinary teams drawn from the Investigations and Intelligence Units in the Commission's Integrity Division. They operate under the supervision of the Manager Integrity Investigations and Director Integrity, and in collaboration with the other Divisions of the Commission.

Further information about the Commission's Integrity Division can be found in chapter 3.2 of this report.



Preventing misconduct

The Commission assists the State's law enforcement agencies to improve the way they identify, prevent, and minimise misconduct, unlawful actions, and unreasonable practices.

We do this by conducting research into the way the NSW Police Force and NSW Crime Commission work so we can identify any unlawful or unreasonable practices, processes, and policies. This can include:

- reading police records
- analysing police databases
- speaking with police officers
- meeting with members of the community.

We work collaboratively with the NSW Police Force and NSW Crime Commission to promote the prevention and elimination of officer misconduct, particularly through the identification of systemic issues that are likely to be conducive to officer misconduct, officer maladministration, and agency maladministration.

Further information about the Commission's prevention function can be found in chapter 3.5 of this report.



Monitoring critical incident investigations

The Commission has the power to independently monitor the NSW Police Force's investigation of critical incidents if it is in the public interest to do so.

We monitor all declared critical incidents. We may cease monitoring if 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, we consider whether the NSW Police Force has adequately addressed:

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

If we form the view that the investigation is not being conducted in an appropriate manner, we can advise the NSW Police Force and/or the Coroner of our concerns and make recommendations.

The NSW Police Force must consider and respond to the Commission's concerns and recommendations. We may make the advice that we gave to the NSW Police Force or the Coroner public after the conclusion of the critical incident investigation if we consider it to be in the public interest to do so.

Further information about critical incident investigation monitoring can be found in chapter 3.3 of this report.



Our values

Accountability

- We take responsibility for our decisions and actions.
- We are transparent about our decision-making.
- We provide a timely and quality service to the public and the agencies we work with.

Fairness

- Our decisions are impartial.
- We use our powers and resources proportionately.
- We build community trust by making fair and equitable decisions.



Integrity

- We are independent and act in the public interest.
- We act honestly and ethically.
- We approach challenges with courage.

Respect

- We value diversity of skills, experience, and ideas.
- We work collaboratively across the Commission and consult with stakeholders.
- We listen to others' point of view.

1.2 Our charter

The Commission was set up to strengthen law enforcement integrity, by preventing, detecting, and investigating misconduct and maladministration within law enforcement in NSW.

The Commission was established in 2017 after the Hon Troy Grant MP accepted the recommendations of Mr Andrew Tink AM for a single civilian oversight body for the NSW Police Force and NSW Crime Commission.

The Commission exercises the functions previously carried out by the Police Integrity Commission and the Police Division of the Office of the Ombudsman.

We are a permanent independent investigative commission that provides oversight of the NSW Police Force and NSW Crime Commission to help maintain public trust and confidence in the integrity of these agencies.

The [Law Enforcement Conduct Commission Act 2016 \(NSW\)](#) (LECC Act) outlines our functions,

powers, and how we work with other public sector agencies.

We operate completely independently of the agencies we oversight and are not subject to the control or direction of the Premier or any Minister in the exercise of our functions.

We are accountable to the people of NSW and are subject to scrutiny by the Inspector of the Law Enforcement Conduct Commission and the Parliamentary Joint Committee.

We are also subject to the [Privacy and Personal Information Protection Act 1998 \(NSW\)](#), and the [Public Interest Disclosures Act 1994 \(NSW\)](#) (PID Act) (and now the [Public Interest Disclosures Act 2022 \(NSW\)](#)) in terms of how we handle complaints and misconduct information provided to us.



The LECC Act guides our work and objectives, including to:

- promote the integrity and good repute of the NSW Police Force and the NSW Crime Commission by ensuring that they properly carry out their functions and responsibilities in relation to the handling of complaints
- independently detect, investigate, and expose serious misconduct and serious maladministration within the NSW Police Force and the NSW Crime Commission that may have occurred, be occurring, be about to occur or that is likely to occur
- provide independent oversight and review of the investigation of misconduct by the NSW Police Force and the NSW Crime Commission
- prevent officer misconduct and officer maladministration and agency maladministration within the NSW Police Force and the NSW Crime Commission by:
 - i. identifying systemic issues that may lead to the occurrence of officer misconduct, officer maladministration, and agency maladministration
 - ii. assessing the effectiveness and appropriateness of their procedures relating to the legality and propriety of their members' activities
 - iii. encouraging collaborative evaluation of opportunities for, and implementation of, desirable changes in such procedures
 - iv. making recommendations with respect to education and training about prevention of officer misconduct, officer maladministration, and agency maladministration
- ensure that agencies work collaboratively to support and promote the prevention of officer misconduct, officer maladministration, and agency maladministration and to improve their processes and systems
- recognise the primary responsibilities of the NSW Police Force and NSW Crime Commission to investigate and prevent officer misconduct and officer maladministration within those agencies and agency maladministration while providing oversight of those functions
- 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
- provide independent oversight and real-time monitoring of critical incident investigations undertaken by the NSW Police Force.

1.3 Management and structure

Our people

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

To avoid conflicts, the Commission has a policy of not employing serving or former sworn NSW Police Force or NSW Crime Commission officers. Integrity Investigators employed at the Commission are drawn from police services in other jurisdictions in Australia or from overseas.

Our organisational structure

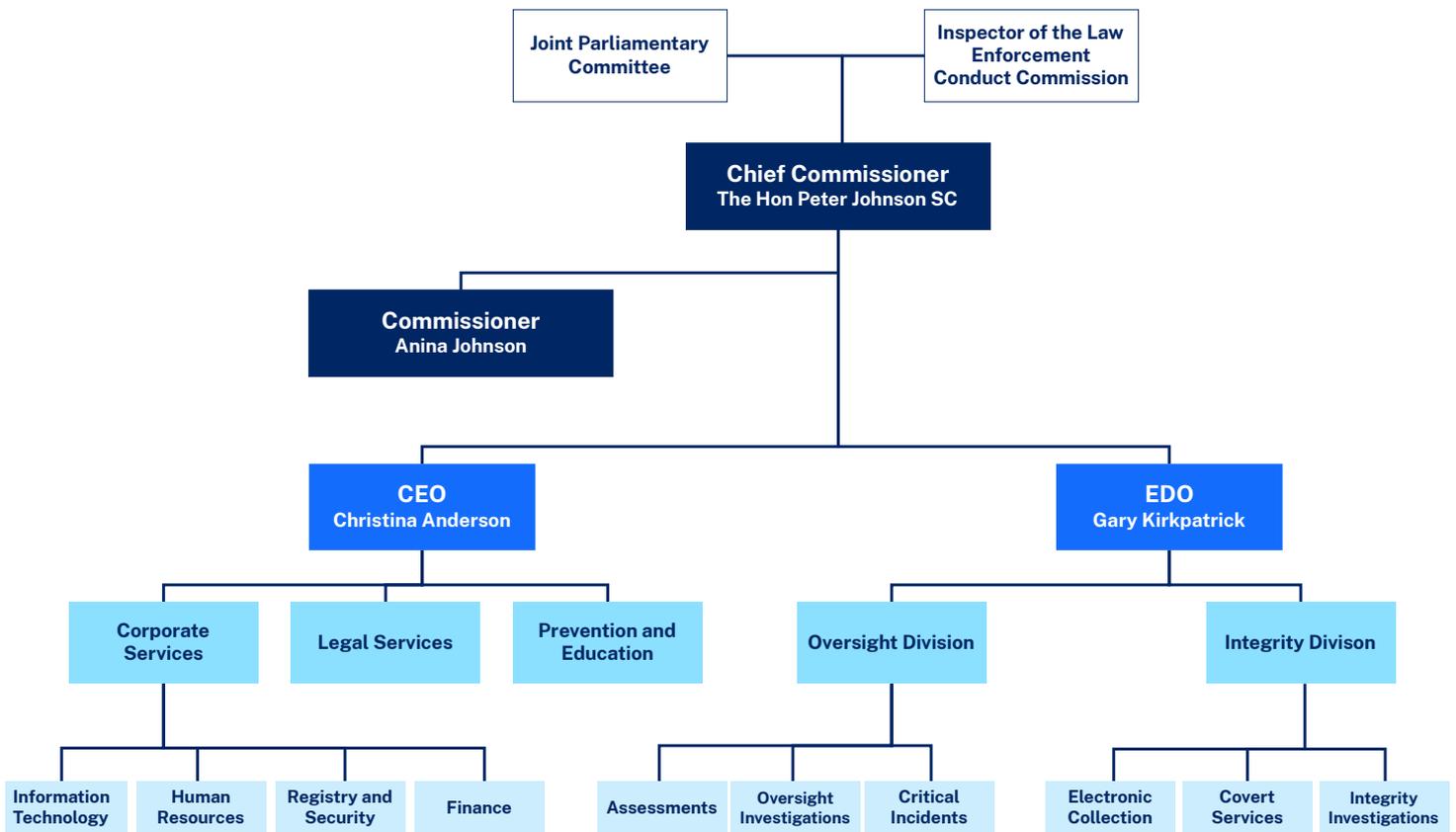
The Commission's structure consists of a Chief Commissioner and Commissioner appointed by the Governor, a CEO, and an Executive Director Operations.

The 2 Commissioner structure provides a robust decision-making process in relation to the use of the Commission's coercive powers. As the holders of independent statutory positions, the Chief Commissioner and Commissioner are accountable to Parliament for the performance of their functions.

The CEO of the Commission, as the head of the staff agency, employs the staff undertaking the work of the Commission and is responsible for the management and governance of the Commission and other public sector related obligations. The Executive Director Operations is accountable for the investigations of the Oversight and Integrity Divisions, surveillance, and electronic collections of the Commission.

The CEO and Executive Director Operations work with the Commissioners to ensure there is appropriate resourcing and support for Commission operations.

Our organisational chart



Our senior executive team

Chief Commissioner: The Hon Peter Johnson SC



The Hon Peter Johnson SC was appointed as the Chief Commissioner of the Law Enforcement Conduct Commission in July 2022.

Chief Commissioner Johnson graduated with a Bachelor of Arts in 1972, a Bachelor of Laws in 1975 and a Master of Laws in 1982, all from the University of Sydney. He was admitted as a solicitor in 1976 and worked from 1976 to 1982 in the Public Solicitor's Office (now Legal Aid NSW), appearing in criminal proceedings in Courts of Petty Sessions, the District and Supreme Courts. He was admitted as a barrister in 1982 and appointed as Senior Counsel in 1997. He practised at the private bar in a range of matters including criminal trials and appeals, administrative law and health disciplinary proceedings. He also has extensive experience as Counsel Assisting (or Counsel for an interested party) before Royal Commissions, Special Commissions of Inquiry, the Police Integrity Commission, the Independent Commission Against Corruption, coronial inquests and inquiries under s 475 of the *Crimes Act 1900* (NSW).

Chief Commissioner Johnson appeared in various inquiries with a policing context, including: the Blackburn Royal Commission in 1988 and 1989 (as junior Counsel Assisting), the inquest concerning the suspected death of Christopher Dale Flannery in 1994–1996 (as Counsel Assisting), the Royal Commission into the NSW Police Service in 1995–1996

(as Counsel for the Police Board of NSW) and the Police Integrity Commission Phase II and Phase III Operation Saigon hearings in 1999–2001 concerning the fatal shooting by police officers of Roni Levi (as Senior Counsel Assisting).

In 1998 and 1999, Chief Commissioner Johnson occasionally sat as an Acting Judge of the District Court of NSW, hearing and determining civil proceedings.

In 2003 and 2004, Chief Commissioner Johnson was an Assistant Commissioner at an inquiry by the Independent Commission Against Corruption (ICAC). The inquiry recommended prosecuting a member of Parliament for having made deliberately false and misleading statements to ICAC about using his official staff to help establish a private gaming consultancy which he proposed to operate after his retirement from Parliament.

In 2005, Chief Commissioner Johnson was appointed as a Judge of the Supreme Court, where he sat in the Common Law Division. He served as Possession List Judge (2005–2009) and Criminal List Judge (2013–2017). He presided at a wide range of criminal and civil trials and sat frequently as an appellate judge in the Court of Criminal Appeal. He has also served as a part time Commissioner of the NSW Law Reform Commission, contributing to criminal law reform in the areas of sentencing and criminal appeals.

As a trial and sentencing Judge, Chief Commissioner Johnson presided in a wide range of proceedings including charges of murder, manslaughter, terrorism, female genital mutilation, tax fraud, and money laundering.

Since 1986, Chief Commissioner Johnson has been a joint author of "Criminal Practice and Procedure (NSW)", LexisNexis.

Commissioner: Anina Johnson



Ms Johnson has degrees in law and sociology from Murdoch University and a Masters (Research) in Law from the Australian National University, which she completed with the help of a Lionel Murphy Scholarship.

She was appointed as Commissioner of the Law Enforcement Conduct Commission in May 2022.

Ms Johnson held the position of Deputy President (Forensic) at the NSW Mental Health Review Tribunal from 2012 to 2022, where she sat in both the Forensic and Civil Divisions of the Tribunal. She was also involved in strategic issues in relation to forensic mental health, including significant legislative reform.

Prior to her appointment to the Tribunal, Ms Johnson was a Senior Solicitor and Solicitor Advocate in the NSW Crown Solicitor's Office for 12 years, where she appeared in complex matters, including as Counsel Assisting the Coroner in coronial inquests relating to policing matters.

Ms Johnson is an Adjunct Associate Professor with the University of NSW and has published and presented in the areas of mental health, criminal law, and administrative law.

Chief Executive Officer: Christina Anderson

Ms Anderson was appointed CEO in May 2021.

Ms Anderson is a member of CPA Australia, and has extensive public sector experience within finance and corporate governance having worked in several agencies including the Royal Commission into the NSW Police Service, Sydney Opera House Trust, and the Department of Environment.

As CEO, Ms Anderson provides advice to assist the Commissioners in their decision-making and provides leadership and guidance to the executive management team.

Ms Anderson is responsible for leading and directing day-to-day management of the Commission to ensure compliance with statutory and budgetary frameworks.

Executive Director Operations: 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 as Manager, and 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.

2 Strategy

This section outlines the activities we undertook throughout the reporting period to support our strategic priorities. It also introduces our strategic plan for the next 3 years of operation.

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2.1 Strategy overview

Strategic priority

Improving community trust in law enforcement by maintaining and enhancing accountability and integrity of NSW law enforcement agencies.

Strategic 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.

This is the final year of the Commission's strategic plan for 2020–2023.

Our key achievements are outlined in the following pages. Further details of the work the Commission has undertaken towards each focus area are throughout this report.

Towards the end of the reporting period, the Commission involved all staff to develop a strategic plan for the next 3 years of operation. The 2023–2026 Strategic Plan recognises our core functions while building and strengthening our capabilities to deliver these functions effectively and efficiently for the State of NSW.

Both strategic plans recognise the independence of the Commission and the importance of our role in promoting the integrity of law enforcement in NSW. All Commission functions are exercised independently and include the investigation and oversight of law enforcement agencies and co-operation with them in a range of areas.

2.2 Strategic Plan 2020–2023

Strategic priority 1: Build trust with the NSW Police Force and NSW Crime Commission

Develop and maintain productive collaborative relationships with the NSW Police Force and NSW Crime Commission whilst demonstrating independence and objectivity to achieve greater accountability in the provision of law enforcement in NSW.

We maintained our focus on building effective relationships with the NSW Police Force and NSW Crime Commission.

Throughout the reporting period, we presented to and engaged with several key groups on a range of issues. Specifically, these activities included:

- meeting regularly at an Executive level with the NSW Police Force Professional Standards Command to discuss police internal investigations and outcomes
- presenting to NSW Police Force commands to inform those commands about the Commission's observations and concerns
- Commission officers attending the NSW Police Force Mastery Program and Influencer Course to present to police officers who are undergoing development in leadership positions
- making recommendations through our reports that lead to improvements in practice and procedure
- sharing ideas and providing feedback on the NSW Police Force Aboriginal Strategic Direction
- attending the NSW Police Force Internal Review Panel as observers to monitor the process of management of disciplinary action.

Strategic priority 2: Improve efficiency and effectiveness

Improve efficiency and effectiveness with a focus on the integration of technology and contemporary analytical processes, whilst ensuring all the Commission's functions are underpinned by structured, proportionate, and accountable decision making.

During the reporting period, the Commission upgraded its core operating system, resulting in improvements to productivity and connectivity.

We are developing our analytics capability through implementing initiatives that enhance the efficiency and effectiveness of our work. We will continue to invest and train our staff in data analytics tools, such as integrating and simplifying reporting to help identify trends in complaint allegations including systemic issues.

We have collaborated with other integrity agencies to identify project opportunities and share ideas on work related to police misconduct.

We undertook an internal audit of our community engagement activities and processes to identify gaps and opportunities for improvement. The audit included comparing the Commission's activities with those of integrity agencies across Australia that have similar structures and purpose, as well as engaging with key stakeholders representing vulnerable community groups.

To make sure that we are communicating clearly with complainants and law enforcement agencies, the Commission has revised all of its letter templates. We are already seeing the benefit of these changes, with fewer people needing to come back to the Commission with questions.

We streamlined the process for conducting integrity checks under s 71 of the *Police Act 1990* (NSW), which improved the timeliness of our response to the NSW Police and reduced our administrative workload.

We invested in our people through increased professional development and training. The total spend on training for the year compared to the previous year increased by over 100%.

Strategic priority 3: Increase impact and awareness

Maintain and build confidence in the Commission's work and impact by providing practical research and recommendations, reporting on outcomes and achievements, and enhancing community awareness of our independent role.

During the reporting period, we increased our impact and awareness by:

- reviewing and updating our website to improve accessibility and content
- implementing a recommendations database that will include the recommendations we make to the NSW Police Force and NSW Crime Commission together with their response
- commencing work on 2 info-graphic videos (expected to be finalised before the end of 2023), which will be available on our website and will provide an overview of the complaints process and of critical incident monitoring.

We also created the LECC Users Group (the LUG), which brings together representatives from the Commission, Redfern Legal Centre, Legal Aid NSW, Public Interest Advocacy Centre, and the Aboriginal Legal Service. The LUG provides an opportunity to exchange information between the Commission and those who advocate on behalf of people who are subject to the use of police powers. It also alerts the Commission to issues of concern, difficulties with our complaints process, and opportunities for improvement and development of collaborative relationships.

Strategic priority 4: People focus

The Commission 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.

During the reporting period, the Commission:

- upskilled our managers and team leaders on having real conversations
- supported our executive through participation in the Leadership Academy
- launched an online learning module to support staff training and development
- broadened our Employee Assistance Program to provide monthly voluntary debrief sessions so that all Commission officers have access to wellbeing services including confidential counselling
- launched our pilot mentoring program providing an opportunity to transfer knowledge and build networks. Feedback from staff was positive, and we will look to expand and continue the program into the future.

Strategic priority 5: Collaborative culture

The Commission has an inclusive and collaborative culture that benefits from our shared knowledge and capability.

To promote an inclusive and collaborative culture, during the reporting period we:

- provided training for all staff on respectful workplace behaviour
- reviewed our values, which underpin the way we work and expected behaviours
- consulted with staff through online surveys and Jam sessions to assist with developing and embedding our values
- held Commission wide events celebrating significant cultural days, the contribution and skills of our female workforce, and took part in, and encouraged, whole of Commission fundraising initiatives
- held regular all staff information sessions covering general updates, as well as bespoke presentations on topics of interest and relevance to the Commission with internal and external presenters.

We are committed to providing all staff with opportunities to increase their cultural awareness. During the reporting period, we commenced work on our first Reflect Reconciliation Action Plan (RAP). We established a RAP working group bringing together staff from all areas of the Commission and provided cultural awareness training to increase our understanding and appreciation of Aboriginal and Torres Strait Islander culture and history.

2.3 Strategic Plan 2023–2026



Strategic priority 1: Striving for systemic change

Our ambition is to proactively address growing areas of concern in law enforcement practice across NSW. The Commission will embrace a strategic analytics approach, characterised by proactive measures and leadership, informed by data driven forecasting, and supported by system-wide education and impact initiatives. We will foster greater collaboration, championing knowledge and skills sharing, to ensure that the Commission is a cohesive organisation that can optimally oversight the NSW Police Force and the NSW Crime Commission.



Strategic priority 2: Demonstrating our value

It is essential to actively work to increase public awareness of the Commission's role and purpose, to enable stronger awareness and recognition of the Commission's public value in upholding the standards of law enforcement in NSW. Greater community and partner engagement will bolster public confidence in our independence and objectivity. This will ensure our services are accessible, and we can maximise our impact, so the Commission can gain greater recognition and trust as an organisation.



Strategic priority 3: Connecting through our culture

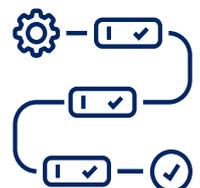
Our aim is for a Commission with a unified vision and purpose, and with a culture that can attract and retain the greatest talent in increasingly competitive markets. We will actively strive to foster cohesion and innovation across our teams, and nurture an ethos of 'One Commission, One Culture'. Our internal standards of best practice and integrity will foster cultural safety, and ensure we can lead by example, setting a firm standard for others to follow.

We will foster genuine inclusion and celebrate diversity, to best support and champion our staff.

3 Operations and performance

This section details the Commission’s operational activities and achievements during the reporting period.

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3.1 Assessing complaints

24



Directions to investigate under s 99(3)

226



Requests for information

114



Recommendations about handling of complaints under s 131(4)

In 2022–23, we completed **4,703** assessments

391



Hours of videos received

422



Phone calls received

3,034



Additional correspondence received

Overview

The Assessments function plays a vital role in fulfilling the Commission's statutory responsibilities.

Firstly, the Assessments team assesses all complaints made directly to the Commission to identify whether we will exercise our investigative functions or refer the complaint to the NSW Police Force to action.

Secondly, the Assessments team assesses all complaints made to the NSW Police Force that are classified as notifiable misconduct matters to determine whether we will exercise our statutory functions or agree with the NSW Police Force's decision to investigate (or decline to investigate) the misconduct matter.

In many instances, the Commission must conduct 2 assessments of the same complaint. In addition to assessing complaints made directly to the Commission, we will conduct a second assessment of any notifiable complaints that we have referred to the NSW Police Force. This second assessment allows the Commission to determine whether the NSW Police Force has dealt with the complaint appropriately, and provides an opportunity to decide whether the Commission will monitor that NSW Police

Force investigation. Before the new case management system's implementation, we could not report on this second assessment. Since 2021–22, we have reported on these second assessments, which are required under the LECC Act.

Of the complaints made directly to the NSW Police Force, 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 NSW Police Force investigation
- the NSW Police Force has identified all relevant issues
- the Commission agrees with the NSW Police Force decision to investigate, or otherwise deal with, the misconduct matter.

If we disagree with the police's decision to decline to investigate a notifiable misconduct matter, we will require the NSW Police Force to investigate the matter and notify the complainant of that fact.



Assessment of complaints

During the reporting period, we completed 4,703 assessments, which is a slight reduction from last year. The number of direct complaints to the Commission has not changed significantly in the past 4 years. However, the number of notifiable complaints received by the NSW Police Force that the Commission assesses have more than doubled (see table 2).¹

During the reporting period, the Commission took an average 38 days from receipt of complaint to assessment decision.

Table 1: total number of assessments of complaints completed by the Commission

Total assessments completed	2018-19	2019-20	2020-21	2021-22	2022-23
	2,547	3,452	3,276	5,095	4,703

Table 2: total complaints assessed that were direct to the Commission compared to complaints assessed from NSW Police Force databases

	2018-19	2019-20	2020-21	2021-22	2022-23
Total direct complaints assessed	1,478 (58%)	1,624 (47%)	1,611 ² (49%)	1,811 (35%)	1,599 (34%)
Total complaints assessed following referral to the NSW Police Force ³	Not reported	Not reported	Not reported	794 (16%)	653 (14%)
Total complaints assessed from NSW Police Force databases (non-referred)	1,069 (42%)	1,828 (53%)	1,665 (51%)	2,490 (49%)	2,451 (52%)

Table 3: breakdown of complaints directly to the Commission by police officer compared to members of the public

	2018-19	2019-20	2020-21	2021-22	2022-23
Officers who identified themselves as police ⁴	94 (6%)	118 (7%)	110 (7%)	142 (8%)	162 (10%)
Members of the public	1,384 (94%)	1,506 (93%)	1,501 (93%)	1,669 (92%)	1,437 (90%)

¹ Excluding the previously unreported secondary assessments undertaken by the Commission.

² Two complaints were self-generated by the Commission.

³ Prior to the implementation of the new case management system, the Commission was unable to track the additional assessment undertaken on a complaint once it was referred to the NSW Police Force. This assessment is required to determine whether the Commission is satisfied with the NSW Police Force decision to deal with the complaint (i.e. investigate or decline).

⁴ Complainants who identified themselves as or are reasonably suspected of being employees of the NSW Police Force. It is also strongly suspected, based on the contents of the complaints, that several other anonymous complaints to the Commission have been received by NSW Police Force employees, but this cannot be confirmed.

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 within the NSW Police Force. These public officials include the NSW Ombudsman, the Independent Commission Against Corruption Commissioner, and the Commissioner of the NSW Crime Commission.

Table 4: reports of misconduct matters by other agencies under s 33 of the LECC Act

	2018-19	2019-20	2020-21	2021-22	2022-23
NSW Crime Commission	4	11	5	2	5
Independent Commission Against Corruption	63	38	70	97	80
Fire and Rescue NSW	0	0	0	1	2
Office of the Director of Public Prosecutions	0	0	0	0	2
Office of the Children's Guardian	0	0	0	0	1

Notifiable misconduct matters

The Commission and the NSW Police Force originally entered into an agreement under s 14 of the LECC Act in November 2017. This agreement, referred to as the s 14 Guidelines, outlines the categories of complaints required to be notified to the Commission and upon which it primarily focuses 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 criminal activity
- unreasonable use of force
- failure to investigate.

We also receive matters related to Statements of Claim that raise serious misconduct issues.

In November 2022, the Commission and the NSW Police Force updated the s 14 Guidelines. The update to the s 14 Guidelines focussed primarily on removing subjective elements from the notifiable misconduct provisions to ensure that notifiable misconduct is more easily identifiable.

Requests for information

The Commission does not have direct electronic access to numerous items that the NSW Police Force uses to determine misconduct matters. Such items include body-worn videos, in-car videos, and other electronic media.

Historically, the Commission has needed to request the provision of further information. Requests for information have been made either under s 41(1) of the LECC Act, if it relates to a complaint made directly to the Commission, or s 102 of the LECC Act, if it relates to a complaint already on the NSW Police Force's complaints database. During the reporting period, the NSW Police Force notified the Commission that it did not believe the Commission has the legislative power to request videos under s 41 of the LECC Act. As such, we ceased requesting material under this section in November 2022. All requests are now made under s 102 of the LECC Act.

Table 5: requests for information under s 41 of the LECC Act

Requests for information (s 41)	2021-22	2022-23
	15	16

Table 6: requests for information (at assessment)⁵ under s 102 of the LECC Act

Requests for information (s 102)	2019-20	2020-21	2021-22	2022-23
	95	122	108	226 (+109%)

We are required to review video footage to decide, under s 99 of the LECC Act, whether we are satisfied with the NSW Police Force's handling of a complaint. During the reporting year, the Commission's Assessments team received and viewed video footage relating to 243 misconduct matters, totalling around 390 hours of footage. The use of video footage in triaging complaints is expected to continue to increase in the coming years.

In the reporting year, it took on average 26 days to receive videos from the NSW Police Force following a request.

Delays in response time are particularly problematic if the Commission disagrees with the NSW Police Force's triage decision. If the Commission cannot access materials promptly, the NSW Police Force may advise both the officer who is the subject of a complaint and the complainant of the Police decision. Weeks later, the officer and complainant may then be told that the Commission disagrees with the NSW Police Force's approach. This is difficult for both the officer and the complainant.

After the conclusion of this reporting year, the Commission requested that the NSW Police Force provide all videos used in the triaging of a notifiable misconduct matter to the Commission within 7 days of finalising the triage. In September 2023, the Commission and NSW Police Force agreed on a new process for electronic material to be provided to the Commission without the need to make individual requests. It is hoped the new process will significantly reduce the time taken for the Commission to assess the NSW Police Force triage of a complaint.

⁵ The Oversight Investigations team reports separately on requests it makes under s 102 of the LECC Act.

Disagreement with the NSW Police Force's decision to decline to investigate

Under s 99 of the LECC Act, the Commission must review the NSW Police Force's handling of notifiable misconduct and their decision to investigate (or decline to investigate) that complaint. Following our review, we must tell police if we are satisfied or not satisfied with their decision.

If we are not satisfied with the NSW Police Force's decision to decline to investigate a complaint, we must notify the NSW Police Force of that disagreement and the NSW Police Force must investigate the misconduct matter (s 99(3) of the LECC Act).

Table 7: disagree with the decision to deal with misconduct matter under s 99(3) of the LECC Act

Requirement to investigate	2019-20	2020-21	2021-22	2022-23
	117	17	16	24

Table 8: outcomes from s 99(3) of the LECC Act

	2022-23
Matters resulting in at least one sustained finding	7
Total sustained findings	15
Officers with sustained findings	10
Matters resulting in not sustained findings	8
Withdrawn by the Commission	2

Seven matters where the Commission issued a s 99(3) requirement to investigate resulted in the NSW Police Force making at least one sustained finding. In total, the NSW Police Force made 15 sustained findings against 10 officers following an investigation required under s 99(3) of the LECC Act. Eight matters resulted wholly in no sustained findings being made. One s 99(3) requirement to investigate was later withdrawn by the Commission after further representations were made by the NSW Police Force and one investigation was not finalised at the time of reporting.

At the time of reporting, there were still 6 matters in which the required investigation had not been finalised.

Case study: Requirement to investigate (EXT2022-0744)

On 21 February 2022, a letter of demand was issued in relation to NSW Police Force officers' arrest of and use of force against a civilian in November 2019. The letter of demand was registered onto the NSW Police Force complaint system, as required by the s 14 Guidelines.

On 4 March 2022, the NSW Police Force triaged the letter of demand and identified 2 misconduct issues relating to unreasonable use of force. However, the NSW Police Force declined to investigate the allegations.

The triage included the following comments in support of the declination:

1. The body-worn video, Taser footage and event narrative were all reviewed during the triage.
2. In November 2019, the Taser Review Panel determined the taser use was justified in the circumstances.

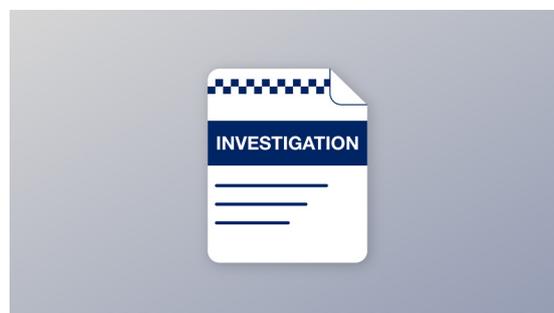
After reviewing the body-worn video, the Commission's Assessments team raised concerns with the NSW Police Force and directed it to investigate the complaint. These concerns included:

1. The other officers present appeared to disagree with the subject officer's use of force.
2. Taser probes were forcibly removed from the complainant, contrary to the NSW Police Force's Standard Operating Procedures.
3. The subject officer's complaint history involving the use of force.

Following the required investigation, the NSW Police Force made a sustained finding against one officer for unreasonable use of force. The NSW Police Force investigation report stated:

There is clear evidence that the subject officer, without wearing any PPE, walked to the complainant and after placing one hand on her back, removed the Taser Probes without any form of communication.

The matter was referred to the NSW Police Force's Internal Review Panel and the officer received a formal Commander's Warning Notice.



Recommendations

The Commission can make recommendations to the NSW Police Force about how to investigate or deal with a misconduct matter. While the NSW Police Force does not have to follow the recommendations, it is required to take those recommendations into account when considering the misconduct matter.⁶

The Commission's recommendations to the NSW Police Force can include requesting that additional complaint issues be triaged, or that a complaint should be investigated at a higher level, such as an evidence-based investigation.

Table 9: recommendations on dealing with misconduct matters under s 131(4) of the *Police Act 1990* (NSW)

Section 131(4) recommendations	2021-22	2022-23
	62	114

Requests for information regarding investigation timeliness

If the Commission is satisfied that a NSW Police Force 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 explain why it is not being investigated in a timely manner.

Table 10: requests for information on timeliness under s 103 of the LECC Act

Requests for information on investigation timeliness	2019-20	2020-21	2021-22	2022-23
	22	1	1	5

⁶ *Police Act 1990* (NSW) s 131(4).

3.2 Investigating serious officer misconduct

56



Investigations
conducted

29



Private
examinations

8



Public
examinations

In 2022–23, we conducted **84** preliminary enquiries and investigations

46



Matters
completed

38



Matters
ongoing

2



Public reports
(s 132)

Overview

A principal function of the Commission is to detect and investigate allegations that members of the NSW Police Force and NSW Crime Commission are engaged in serious misconduct.

The Investigations Unit in the Integrity Division of the Commission consists of multi-disciplinary teams.

Investigations and Intelligence functions within the Integrity Division operate in

collaboration with the Oversight Division, Legal Services, Assessments, Prevention and Education, Electronic Collection and Covert Services Units.

In 2022–23, the Commission conducted 28 Preliminary Enquiries and 56 Investigations, comprising of 19 Preliminary Investigations and 37 Full Investigations.

A profile of significant Integrity investigations can be found at the end of this chapter.

The process

Complaints are first assessed by the Commission's Assessments team (see chapter 3.1) and then referred to the internal Complaint Action Panel (CAP). The CAP determines which matters are appropriate for the Commission to investigate.

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 to seek

further information and clarification.

The Commission can then conduct an investigation using covert and overt investigative techniques, depending on the matter. We gather and assess information. If coercive powers are appropriate, we can proceed to an examination.

On completion of an investigation, we may table a s 132 report in Parliament or provide a s 135 report to the Minister for Police and the Commissioner of Police.

Commission examinations

The Commission may hold examinations as part of its investigation process.

The decision to hold an examination in private or public is made under s 63 of the LECC Act. The Commission can summon persons to

appear at examinations and compel witnesses to produce documents or answer questions.

During 2022–23, the Commission conducted 29 private examinations and 8 public examinations.

Profile of investigations during 2022–23

During 2022–23, the Commission undertook 28 Preliminary Enquiries and 56 Investigations, comprising 19 Preliminary Investigations and 37 Full Investigations. Of these, 46 matters were completed and 38 were ongoing at 30 June 2023.

The average time taken to complete a misconduct investigation varies depending on the circumstances of 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 we investigated during the reporting year is presented in the following table.

Table 11: profile of 2022-23 investigations (INV), preliminary investigations (PI) and preliminary enquiries (PE)

Allegation	INV	PI	PE
Administration – Fail to create records	2	1	
Assault (On / Off Duty) – Actual bodily harm	2		1
Assault (On / Off Duty) – Common	1		
Attempting to pervert the course of justice	2		
Breach of Code of Conduct (not specified elsewhere)	1		
Bribery	2	2	
Bullying		2	
Choke / headlock / pressure point technique	4		
Common Law	1		
Corruption – Bribery		1	1
Corruption – Misuse of authority	6	5	3
Corruption – Protection of person involved in criminal activity	5	1	4
Covering up inappropriate conduct	2		
Cultivation or manufacture		1	
Custody – Fail to caution / give information / communicate rights		1	
Custody – Fail to meet requirements for vulnerable persons	3		
Custody – Fail to provide medical treatment	2		
Custody – Improper treatment / failure to provide necessities	1		
Dealing or supply	2	1	
Discrimination	1		
Driving offences – Unnecessary speeding			1
Evidence – False statement / Perjury	2		
Evidence – Pervert the course of justice	2		

Allegation	INV	PI	PE
Evidence –Withhold or suppress evidence	1		
Fabrication of evidence (other than perjury or verballing)	1		
Fail to comply with LEPRA –Arrest	2		
Fail to comply with LEPRA –Other	6	1	
Fail to comply with LEPRA –Searching	1	1	
Fail to comply with LEPRA –Strip searching	1		
Fail to comply with other statutory legislation	1	1	
Fail to comply with policy / procedures –Breach of the A/C standing direction for Academy / Education Services		1	
Fail to comply with policy / procedures –Conflict of Interest Policy and Procedure	5		
Fail to comply with policy / procedures –Declarable Associations Policy	3	1	3
Fail to comply with policy / procedures –Email and Internet Policy (refer to the Information Security Manual)		1	
Fail to comply with policy / procedures –Official use of Social Media Policy			2
Fail to comply with policy / procedures –Other	1	3	
Fail to comply with policy / procedures –Secondary Employment Policy	1		2
Fail to declare a conflict of interest	1		
Fail to report offence			1
Failure or delay in returning			1
Falsely claiming for duties not performed	1		
Falsifying -Falsify official records	3		
Falsifying –Fraud		1	
Falsifying official records	4		
Giving favours / bias with no or little perceived personal benefit		1	
Illicit drug use	1		
Improper / unauthorised search	2		
Improper association	3	5	1
Improper use of discretion	2	1	
Inadequate investigation / lack of impartiality	1		
Inappropriate conditions	1		
Indictable Offence	4	2	2
Internal complaint arising from reports and records about performance management	1		
Intoxication -Alcohol			1
Loss of property and exhibits		1	

Allegation	INV	PI	PE
Maladministration (as described in the LECC Act) –Unreasonable, unjust, oppressive or improperly discriminatory	2	1	
Misuse authority for personal benefit or the benefit of an associate (including obtaining sexual favours)	4	2	3
Misuse of official vehicle	1		
Neglect of duty / duty of care	1		
Offence punishable upon conviction by a max sentence of 5 years or more	1		
Outcome –Deficient / inadequate investigation –Other	1		
Possess –Prohibited drug	1		
Possession (not misappropriation of seized drugs)		1	
Prevented a witness from providing a statement or giving evidence	1		
Process -Improper interference in an investigation by another police officer	1		
Property missing after search	1		
Prosecution –Adverse comment	1		
Prosecution –Fail to charge / prosecute / initiate proceedings	1		
Prosecution –False / improper / malicious proceedings	1		2
Protection of person(s) involved in drugs	3	2	1
Provide incorrect or misleading information	2		
Pushed / shoved / jostled / grabbed / manhandled / wrestled etc (soft empty hand)	1		
Pushed to ground / slammed against a wall / punched / kicked / kneed / head butted / struck (hard empty hand)	1		
Refusal to charge / prosecute / initiate proceedings	1		
Sexual assault	1		
Sexual harassment –Unwanted sexual advances		1	
Sexual misconduct			1
Stealing and Property –Other			1
Supply -Prohibited drug	1		5
Tampering with or destroying –Property and exhibits		2	
Unauthorised / improper disclosure of information			1
Unauthorised / improper disclosure of information –Complaints			1
Unauthorised / improper disclosure of information –COPS	2		1
Unauthorised / improper disclosure of information –Other NSW Police Force information	7	1	4
Unauthorised / improper use of prescription drug	1		1
Unauthorised / unlawful access –For financial gain			1

Allegation	INV	PI	PE
Unauthorised / unlawful access –For personal gain / use	1	2	1
Unauthorised / unlawful access –On behalf of another	1		4
Unauthorised use of official vehicle	1	1	
Unlawful (insufficient evidence of offence)	1		
Unnecessary or improper use of arrest	1		
Unprofessional conduct –Disrespectful behaviour	1	1	
Unprofessional conduct –Inappropriate behaviour	1		2
Unprofessional conduct –Incivility / Rudeness	1		1
Unprofessional conduct –Unfair treatment			1
Unreasonable / Unprofessional behaviour (not customer service related)	2		1
Unreasonable use of force (on duty) –Weaponless force	7	1	
Unreasonable use of force (on duty) –with arms / appointments	3		
Unreasonable use of force (on duty) –with vehicle / vessel		1	
Unreasonable use of force with an impact weapon (baton, torch, stick, rope)	2		
Untruthfulness –Lie during enquiries	1	1	
Untruthfulness –Make false complaint			1
Untruthfulness –Other		1	
Use –Prohibited drug			2
Using authority in situation where conflict of interest exists	1		
Victimisation / bullying		1	
Withholding or suppression of evidence	1	1	

Investigation outcomes

The following tables report on the Commission's investigation outcomes for all investigations finalised during 2022–23.

Table 12: finalised full investigation outcomes⁷

Investigation outcome	Investigations
Full investigations referred to the ODPP for consideration of prosecution action	0
Full investigations that resulted in a dissemination of information to the NSW Police Force	4
Full investigations that resulted in information being disseminated to other law enforcement agencies	0
No further action	11

Table 13: preliminary investigation outcomes

Preliminary investigation outcome	Preliminary investigations
Preliminary investigations that progressed to become full investigations	0
Matter referred to current full investigation	0
Preliminary investigations that resulted in a dissemination of information to the NSW Police Force	3
Preliminary investigations that resulted in information being disseminated to other law enforcement agencies	0
No further action	8

Table 14: preliminary enquiry outcomes

Preliminary enquiry outcome	Preliminary enquiries
Preliminary enquiries that progressed to become full investigations	0
Preliminary enquiries that progressed to become preliminary investigations	0
Preliminary enquiries that were referred to current full investigations	1
Preliminary enquiries that were referred to current preliminary investigations	1
Preliminary enquiries that resulted in dissemination of information to the NSW Police Force	1
Preliminary enquiries that resulted in dissemination of information to other law enforcement agencies	0
No further action	18

⁷ An investigation may have more than one outcome.

The Commission did not make referrals from ongoing investigations during the reporting period.

Table 15: Court Attendance Notices (CANs) or charges being served

Operation	Number of CANs served	Number of individuals	Charges
Operation Tambre	1	1	1

Timeliness to investigate

On average, the Commission commenced a preliminary investigation or investigation of a misconduct matter within 23 business days from receipt of the matter. Following assessment, the Commission may also conduct a preliminary enquiry prior to commencing an investigation.

The time interval between the Commission's receipt of each misconduct matter and the Commission deciding to investigate the misconduct matter is outlined in the table below.

Table 16: time interval between the Commission's receipt of a misconduct matter and decision to investigate

Time interval	Preliminary investigation	Investigation
0-5 days	1	1
6-10 days	1	2
11-15 days	1	1
16-20 days	0	0
21-30 days	3	1
31-60 days	1	0
61+ days	0	4

Timeliness of furnishing a report

Under s 139(2)(f)(vi) of the LECC Act, the Commission is required to report on the time interval between the completion of each public examination conducted during the year and the furnishing of a report on the matter. The Commission conducted public examinations under Operation Mantus. The investigation is ongoing and a report will be furnished at the end of the investigation.

Table 17: actual time taken to investigate any matter in respect of which a report is made

Investigation	Number of days
Operation Kurumba (supplementary report)	294
Operation Denali	1370

Significant Commission investigations

Operation Venti was an investigation into allegations of NSW Police Force officers' use of force against and unlawful detention of a young Aboriginal person. We conducted several private examinations and found that the officer's actions amounted to serious misconduct and recommended that the NSW Police Force act against the officer under s 181 or s 173 of the *Police Act 1990* (NSW). The Commission tabled a s 132 [Report](#) in Parliament on 13 July 2023.

Operation Talos is an investigation into allegations that a NSW Police Force officer engaged in serious misconduct and failed to comply with the NSW Police Force standards of professional conduct, the code of conduct and ethics, the statement of values, and other NSW Police Force policies and procedures. We have conducted a private examination and intend to conduct an additional private examination. The investigation is ongoing.

Operation Bleinheim was an investigation that considered whether NSW Police Force officers conducted an unlawful strip search and used excessive force against a young person. Whilst the Commission identified some minor instances where officers had not adhered to NSW Police Force policies and procedures, the conduct did not amount to serious misconduct. The Commission did not identify sufficient evidence to support the allegations of an unlawful strip search and excessive use of force. We provided the information to the NSW Police Force for its consideration.

Operation Dartmoor is an investigation into an allegation that an officer from the NSW Police Force was involved in money laundering offences, involving the sale of gold bullion in excess of \$1,000,000. We utilised a range of specialist capabilities to investigate the matter. The Commission applied for and was granted 2 search warrants. Whilst executing the warrants, the Commission seized gold bullion to the value of \$250,000

and a number of electronic devices. The officer has resigned from the NSW Police Force. Our investigation is still ongoing.

Operation Potosi is an investigation into allegations that a NSW Police Force officer used unreasonable force against a young person. At the time, the young person was in custody, and a patient in a hospital. Nursing staff at the hospital alleged that they witnessed the officer tackle, repeatedly punch, and drag the young person on the hospital floor. We held private examinations of a number of hospital staff and NSW Police Force staff. A s 132 [Report](#) was tabled in Parliament on 25 September 2023. The Commission found that the officer's actions amounted to serious misconduct and recommended that the NSW Police Force act against the officer under s 181 or s 173 of the *Police Act*. The Commission proposes to seek the Director of Public Prosecutions' advice on whether a prosecution should be initiated on 2 charges of assault, contrary to s 61 of the *Crimes Act 1900* (NSW).

Operation Morta is an investigation into allegations that a member of the NSW Police Force in a specialist unit disclosed confidential police information and failed to declare their declarable associations with persons who have significant criminal histories. The investigation is ongoing.

Operation Narran was an investigation concerning allegations of Misconduct in a Public Office and bribery by a NSW Police Force officer from a regional Command. As the officer was removed from the NSW Police Force following a related NSW Police Force investigation, the Commission discontinued its investigation.

Operation Mantus is an investigation into allegations that members of the NSW Police Force used excessive force during the apprehension and arrest of an Aboriginal young person in northern NSW in September 2022, including other issues arising from

the young person's detention in custody following that arrest. The investigation involved interviewing a number of witnesses, 11 public examinations and a number of private examinations. The Commission used its powers to issue notices to produce under s 55 of the LECC Act. During the course of the investigation, various systemic issues within the NSW Police Force were identified and further investigated. These issues included the interviewing of people despite declining the interview after receiving legal advice, custody management issues, and the use of body-worn cameras. At the conclusion of the hearings, all parties were invited to make submissions. The Commission received submissions from Counsel Assisting and the legal representatives of various parties, including Legal Aid NSW and the Aboriginal Legal Service (NSW/ACT) Limited, and is now in the process of drafting a report under s 132 of the LECC Act.

Operation Woden is an investigation into allegations that members of the NSW Police Force engaged in serious misconduct in their handling of a registered human source. We have utilised investigation strategies and statutory powers of the Commission, including the use of notices to produce and a private examination. The Commission was granted and executed 2 search warrants, seizing material and evidence relevant to the investigation. The matter remains ongoing.

Operation Baku is an investigation into allegations that a member of a NSW Police Force specialist unit released confidential information to persons involved in organised crime. We have utilised a range of specialist capabilities to conduct the investigation, which is ongoing.

Operation Calayo is an investigation into allegations that a NSW Police Force officer attached to a specialist unit released confidential information. In addition to utilising the Commission's specialist capabilities, we have engaged with the NSW Police Force Professional Standards Command to assist with our investigation. The investigation is ongoing.

Operation Cadwal is an investigation concerning allegations that an officer in a specialist command is involved in the supply of prohibited substances. The Commission executed 2 search warrants, which resulted in the NSW Police Force taking management action and suspending a serving NSW Police Force officer. The officer has since resigned from the NSW Police Force. We have utilised specialist capabilities of the Commission during the investigation, which is ongoing.

INT211443 was an investigation relating to allegations that NSW Police Force officer(s) were failing to comply with the provisions of the *Crime (Forensic Procedures) Act 2000* (NSW) (the Act) with respect to taking DNA samples from persons in police custody. We conducted an extensive investigation into these allegations and found no evidence to sustain the allegations. We identified that the NSW Police Force has implemented a range of strategies to adequately:

- safeguard and prevent missed opportunities to take DNA
- prevent breaches of the Act
- educate and train NSW Police Force officers
- review and monitor DNA captures to ensure compliance with the Act and internal NSW Police Force policies and procedures.



Responses to the Commission's recommendations

Operation Errigal

Operation Errigal was the Commission's investigation into allegations of serious police misconduct by the now former Superintendent Michael Rowan.

The complaints covered 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 NSW Police Force standard operating procedures.

We conducted a number of private examinations. Our [report](#) to Parliament in July 2019 made a number of recommendations, including that the DPP consider whether the officer had committed any criminal offences.

In September 2020, the Commission received advice from the DPP that there was sufficient evidence to charge Mr Rowan with 4 counts of knowingly give false or misleading evidence at examinations under s 151(1) of the LECC Act and one count of fail to produce document etc. required by summons etc. under s 150(1)(d) of the LECC Act.

On 10 March 2022, Mr Rowan entered a plea of guilty to 2 counts of knowingly give evidence that is false or misleading in a material particular (s 151(1) of the LECC Act).

On 19 July 2022, Mr Rowan was sentenced to 8 months in prison with a non-parole period of 6 months. In her sentencing, Magistrate Megan Greenwood said the offending 'strike[s] to the heart of the justice system'. Magistrate Greenwood said there was community interest in organisations like the Law Enforcement Conduct Commission being able to conduct investigations with people telling the truth, stating 'there's a strong need

for general deterrence given you were a serving and very senior police officer'.

Mr Rowan lodged an appeal on the sentence and was granted bail. The matter was set down for hearing before the District Court on 7 February 2023. Mr Rowan's appeal against severity of sentence was heard in the Downing Centre District Court before his Honour Judge Smith SC. Mr Rowan's appeal against severity was allowed.

Judge Smith SC confirmed the conviction and found that nothing other than a term of imprisonment was appropriate given the nature of the offending, which everyone agreed was serious and struck at the heart of, and undermined, the administration of justice. However, his Honour took into account the evidence in the form of a psychiatric report (not available to the Magistrate at the time of sentencing), which said that Mr Rowan was suffering from an adjustment disorder with mixed anxiety and depressive mood which contributed to his offending (lying to the Commission). There were also 2 other psychiatric reports which had been relied upon in support of his medical retirement which said that Mr Rowan was suffering from mental health issues from about late 2017 to early 2018.

The Judge found that Mr Rowan's moral culpability was reduced because of his mental health which was causally related to his offending. Accordingly, his Honour determined that the term of imprisonment should be served by way of an intensive correction order commencing 7 February 2023 and expiring 6 October 2023. Mr Rowan was also ordered to perform 100 hours community service.

Operation Denali

The Commission's investigation, Operation Denali, concerned allegations of serious police misconduct by several mid-ranking police officers at a specialist command.

During the investigation, we identified that serving NSW Police Force Sergeant Michael Mannah had accessed over 5,000 images of child abuse material. The Commission executed search warrants on Mr Mannah's car and home on 22 January 2021, where various items were seized. He was subsequently arrested and charged with one count of using a carriage service to access child abuse material under s 474.22(1) of the *Criminal Code Act 1995* (Cth) (count 1).

The Commonwealth Director of Public Prosecutions took carriage of the prosecution and on 27 July 2021, laid a further charge of possessing or controlling child abuse material obtained or accessed using a carriage service under s 474.22A of the *Criminal Code Act 1995* (Cth) (count 2). On 30 September 2022, a jury at the Downing Centre District

Court returned a verdict of guilty on count 1 and not guilty on count 2. Mr Mannah was granted bail. At the time of the offence, Mr Mannah was a serving officer of the NSW Police Force. Mr Mannah resigned from the NSW Police Force prior to the matters being heard at court.

On 20 January 2023, Judge Bourke SC sentenced former officer Mr Mannah to:

- 12 months jail with a non-parole period of 4 months
- a recognizance of 2 years with conditions, including a referral to a Corrective Services NSW psychologist for suitability for the sex offenders program.

In sentencing, Judge Bourke SC found that Mr Mannah had shown no contrition.

A [report](#) under s 132 of the LECC Act was tabled in Parliament on 27 June 2023.

Operation Kurumba

Operation Kurumba was the Commission's investigation into allegations that the former NSW Police Commissioner Michael Fuller failed to declare a conflict of interest regarding the ownership of racehorses.

A [report](#) was tabled in Parliament in March 2022.

In December 2022, the Commission presented to Parliament '[Operation Kurumba Supplementary Report](#)', which extended the Commission's March 2022 investigation into former Police Commissioner Mr Fuller's ownership of racehorses. This further investigation arose as a result of concerns raised by the Inspector of the Law Enforcement Conduct Commission about the findings made by the Commission in its earlier report.

The Commission noted senior NSW police officers' ownership of racehorses gave rise to a declarable perceived or potential conflict of interest.

The Commission's later report concluded that an officer's declaration of a conflict of interest is not an admission of wrongdoing, and the disclosure process formed an important part of a transparent system.

The Commission concluded that Mr Fuller should have completed declarations of potential and perceived conflicts of interest which disclosed his interest in racehorses.

The Commission's later report also withdrew critical comments made of the media which were included in its Operation Kurumba publication of March 2022.

The Commission found there was some disconnect between the NSW Police Force Secondary Employment Policy and the NSW Police Force policy concerning conflicts of interest. Whereas the former policy made express provision for 'high risk industries' (which included gaming and racing), the policy regarding conflicts of interest was silent.

We recommended the Commissioner of Police clarify the NSW Police Force's position regarding the ownership of racehorses by police officers of any rank and consider amending the conflicts of interest policy to

identify gaming and racing as a 'high risk industry'.

In response to the Commission's recommendations, the Commissioner of Police advised that she had determined not to prohibit racing animal ownership, but that she would update the NSW Police Force policies regarding secondary employment and conflicts of interest.

A table setting out the NSW Police Force's [response](#) to the Operation Kurumba Supplementary Report is now available on the Commission's website.

Operation Tambre

Operation Tambre was a Commission investigation into allegations of serious misconduct by a NSW Police Force officer that commenced in late 2021.

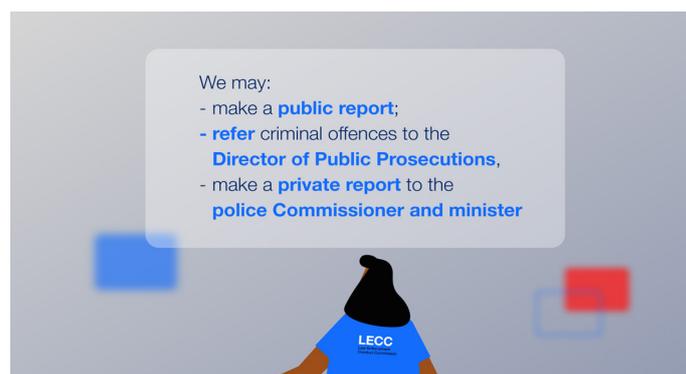
In January 2022, the Commission conducted a private examination. We provided a private report to the Commissioner of Police and the Minister for Police under s 135 of the LECC Act in April 2022, which included a recommendation that consideration should be given to obtaining advice from the DPP concerning the prosecution of Constable Daniel Keneally.

The Commission determined that a 'private' report under s 135 of the LECC Act rather than a 'public' report under s 132 was appropriate given the prospect of criminal proceedings being instituted. This was done to guard against any potential interference with criminal proceedings.

On advice from the DPP, a Commission officer commenced criminal proceedings against Constable Keneally alleging an offence of fabricating false evidence with the intent to mislead any judicial tribunal contrary to s 317(b) of the *Crimes Act 1900* (NSW). Following the usual practice, the Office of the DPP took over the prosecution under s 9 of the *Director of Public Prosecutions Act 1986* (NSW).

The matter was heard at the Downing Centre Local Court on 18 and 19 September 2023. The Magistrate has reserved his decision until 21 November 2023.

The Commission will provide a s 132 Report to Parliament when the criminal proceedings have concluded.



3.3 Oversight and critical incident monitoring

34



Misconduct investigations monitored

263



Requests for information (s 102)
(85% increase from 2021-22)

31



Requests for further investigation (s 104)
(310% increase from 2021-22)

In 2022-23, we oversighted 2,129 investigations

22



New sustained findings against 15 officers following Oversight actions

131



NSW Police Force Critical Incident investigations monitored

6



Audits of the NSW Police Force and NSW Crime Commission conducted

Overview

The LECC Act places primary responsibility on the NSW Police Force and the NSW Crime Commission to investigate allegations of misconduct against their employees. A core 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 reviews the finalised misconduct matter investigations conducted by the NSW Police Force under Part 8A of the *Police Act 1990* (NSW) (Police Act). These reviews ensure that the NSW Police Force conducted those investigations reasonably and satisfactorily, with appropriate outcomes.

The Oversight Investigations team also monitors ongoing investigations conducted by the NSW Police Force or the NSW Crime Commission under s 101 of the LECC Act. This may include the investigation of new complaints, or where the Commission considers an investigation to be deficient, request that a further investigation is conducted by the NSW Police Force.

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

The Commission has finite resources and undertakes varying levels of oversight of NSW Police Force and NSW Crime Commission misconduct investigations. To determine the level of oversight required, the Oversight Investigations team triages all notifiable misconduct matters to assess their level of risk and priority. This risk assessment determines whether we finalise a matter at triage, conduct a preliminary review or a full review.

During the reporting period, the Oversight Investigations team received 2,104 NSW Police Force misconduct matter investigations for oversight under Part 7 of the LECC Act. The Commission finalised the review of 2,129 notifiable misconduct matter investigations during the reporting year, which included matters brought forward from the previous year.



Requests for information

The Police Act requires the Commission to have unrestricted access to the NSW Police Force misconduct database. However, the NSW Police Force does not use this database to store electronic evidence relating to misconduct matters. This includes body-worn video, Taser footage, in-car video, CCTV or footage provided by complainants.

The Commission does not have direct electronic access to the systems used by the NSW Police Force to store this material. Therefore, we request the provision of this material from the NSW Police Force to complete our oversight function under Part 7 of the LECC Act.

As well as electronic evidence, we can request other information from the NSW Police Force, such as:

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

In the next reporting period, the Commission and the NSW Police Force will trial a new process that should reduce the time taken for the Commission to receive relevant electronic material. It is hoped the new process will significantly reduce the time we take to review NSW Police Force misconduct investigations and make it faster for us to exercise our oversight functions.

Table 18: requests for information (Oversight) under s 102 of the LECC Act

Requests for information (s 102)	2019-20	2020-21	2021-22	2022-23
	102	128	142	263

Section 102 of the LECC Act requires the NSW Police Force or the NSW Crime Commission (as relevant) to provide the information requested. The Commission can withdraw the request if the NSW Police Force or NSW Crime Commission objects and the Commission is satisfied that the grounds of the objection are well-founded.

Case study: Section 102 – request for information leading to further investigation and findings (MIR2022-1156)

In August 2022, an internal police complainant made a complaint about an officer's failure to properly deal with a significant domestic violence related incident. The subject officer did not provide sufficient information to a detective for a proper evaluation of the appropriate course of action.

Four days after the incident, the Domestic Violence Action Team reviewed the available evidence. That same day, they arrested and charged the offender with 2 counts of breach of an Apprehended Domestic Violence Order (ADVO), sexual touching, and aggravated break, enter and steal.

Following a NSW Police Force misconduct investigation, the Commander made a sustained finding for a failure to initiate an investigation – domestic and family violence related. The Commander decided that an appropriate outcome was for the subject officer to be counselled.

The Commission reviewed the NSW Police Force misconduct investigation and sent a request under s 102 of the LECC Act, which included the following questions:

1. Has the COPS event been updated to accurately reflect the allegations made?
2. Given the significant inconsistencies between the DVEC and the subject officer's recount of the incident, is the Command satisfied the subject officer was being truthful?
3. Noting the subject officer received counselling in 2020 following sustained findings for a similar allegation, did the Commander consider implementing a Conduct Management Plan?

As a result of our request for information, the NSW Police Force reviewed the matter and commenced a further investigation. This further investigation included an additional 2 subject officers.

After completing the further investigation, the Commander made a further sustained finding against the original subject officer for failing to comply with the Domestic and Family Violence Standard Operating Procedures. The Commander did not sustain a finding for untruthfulness. In relation to the 2 additional subject officers, the Commander sustained a finding against one officer for 'deficient or inadequate investigation – domestic and family violence related'.

The Command took the following management action against the original subject officer for the additional finding:

- Commander's Warning Notice
- Revocation of Leading Senior Constable status

Misconduct investigations and critical incident investigations subject to oversight

The Police Act and the LECC Act set out the statutory framework for the Commission's oversight of misconduct matter investigations by the NSW Police Force. The Commission can oversee any misconduct matter investigation. However, the focus is on oversight of matters classified as notifiable misconduct under the s 14 Guidelines. The table below only includes matters classified as notifiable misconduct.

Table 19: matters received

	2019-20	2020-21	2021-22	2022-23
Completed NSW Police Force notifiable misconduct matter investigations received	1,396	1,511	2,385	2,104
Completed NSW Crime Commission notifiable misconduct matter investigations received	1	0	1	1
New NSW Police Force critical incident investigations declared and received	27	27	36	45
Total	1,424	1,538	2,422	2,150

Table 20: matters finalised

	2019-20	2020-21	2021-22	2022-23
NSW Police Force notifiable misconduct matter investigations where oversight was finalised by the Commission	969	1,984	2,402	2,129
NSW Police Force critical incident investigations where monitoring was finalised by the Commission	18	21	22	20
Total	987	2,005	2,424⁸	2,149

⁸ 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.

Correspondence under ss 104 and 105 of the LECC Act

If the Commission considers that the NSW Police Force or the NSW Crime Commission have not properly investigated a misconduct matter, we can request the relevant agency to conduct a further investigation under s 104 of the LECC Act.

If the Commission is not satisfied with the NSW Police Force or the NSW Crime Commission decision concerning action to be taken as a result of a misconduct investigation, we may request a review of that decision under s 105 of the LECC Act.

The NSW Police Force and the NSW Crime Commission do not have to undertake a further investigation or make a different decision on the outcome of the investigation. However, they are required to provide an explanation as to why they did not conduct a further investigation or make a different decision.

Sometimes, we ask the NSW Police Force to conduct a further investigation and they decline. However, they do review the matter to decide whether a further investigation is needed. As a result of that review, the NSW Police Force then make a different finding on the investigation.

During the reporting period, we made the following requests under ss 104 and 105 of the LECC Act.

Table 21: requests under ss 104 and 105 of the LECC Act

	2021-22	2022-23
Section 104 requests issued	10	31
Total number of reinvestigations following s 104 notices	4	11
Total number of reinvestigations that resulted in a different finding	2	6
Total number of declined further investigations that resulted in new or amended findings	1	5
Section 105 requests issued	3	5
Total number of different findings following a s 105 notice for review of decision	0	2

In total, there were 22 new sustained findings made against 15 NSW Police officers as a result of our oversight actions. At the time of reporting, there were 2 further investigations (under s 104 of the LECC Act) that had not yet been finalised by the NSW Police Force, and there was one matter that had not been finalised following a request under s 105 of the LECC Act.

Case study: Section 104 – request for further investigation (MIR2022-1026)

In May 2022, the NSW Police Force vacated a hearing date in relation to domestic violence offences. As a result, the NSW Police Force commenced a complaint investigation in relation to an inadequate investigation.

The NSW Police Force investigation resulted in a sustained finding. The subject officer received the management action of an Assistant Commissioner's Warning Notice and a 6 month conduct management plan.

Our review of the investigation identified that

the subject officer appeared to have been untruthful to the misconduct investigator.

We wrote to the NSW Police Force under s 104 of the LECC Act outlining the deficiencies in the original investigation and requested that additional findings be made against the subject officer.

The NSW Police Force took further action against the subject officer by making an additional sustained finding for 'Dishonesty: Untruthfulness – lie during enquiries'.

Case study: Section 104 – request for further investigation (EXT2022-3562)

In September 2022, a complaint was submitted to the NSW Police Force in relation to the inappropriate conduct of a police officer in taking a report of domestic and family violence from a victim.

Following an investigation into an allegation of 'unprofessional conduct – incivility / rudeness', the NSW Police Force made a not sustained finding.

The Commission reviewed the NSW Police Force investigation of EXT2022-3562. In February 2023, we requested a further investigation, under s 104 of the LECC Act, outlining what we considered deficiencies in the original investigation.

Amongst other things, we indicated that we believed there was sufficient evidence on the balance of probabilities to sustain a finding against the subject officer for an inadequate investigation – domestic and family violence.

The NSW Police Force accepted the Commission's request and undertook a further investigation.

That investigation identified that the alleged domestic violence offender was arrested in Queensland 2 days after the domestic

violence report and charged with offences relating to the report. It was also identified that there was a failure by the subject officer to record in COPS, or to investigate, offences relating to the taking and distribution of intimate images.

The second NSW Police Force investigation resulted in sustained findings for:

- 'Fail to investigate - Domestic and Family Violence related'
- 'Dishonesty – falsifying official records'

The subject officer had 2 other complaint matters requiring management action. All misconduct matters were considered together for reviewable management action, with a recommendation of dismissal under s 181D of the Police Act.

Second requests for further investigation

The NSW Police Force model for dealing with misconduct matters is a decentralised model, which means that the Commander for the subject officer makes the decision on investigation outcomes, findings, and any management action.

This means that if the Commission considers the first misconduct investigation was deficient and requests a further investigation, that request is also usually dealt with by the same Commander.

If the Commander decides not to further investigate a misconduct matter, the Commission can issue a second request for further investigation under s 104 of the LECC Act. If a second s 104 request is made, the Commission will usually ask that the request be considered by a different delegate. Whether this occurs is a decision for the NSW Police Force.

We did not issue any second requests under s 104 of the LECC Act during the reporting period.

Section 134 reports

Under s 134 of the LECC Act, the Commission may prepare a report about a NSW Police Force misconduct investigation.

We made one report under s 134 this reporting period. That report has been provided to the Commissioner of Police and the Minister.

Section 134 – Report on the Commission’s review of NSW Police Force misconduct matter investigation (EXT2021-2070)

In October 2021, we conducted a review of the NSW Police Force investigation of misconduct matter EXT2021-2070. The NSW Police Force investigation considered allegations made by a member of the public (‘the complainant’) against NSW Police Officers. Specifically, the complainant alleged police:

- failed to adequately investigate the domestic violence allegations his partner made against him prior to arresting him
- engaged in unprofessional conduct by making an inappropriate comment about his Post Traumatic Stress Disorder (PTSD)
- treated him improperly by transporting him in the rear of a caged police vehicle, which triggered a pre-existing

back injury when he was ‘flung around’ in the vehicle

- failed to give him adequate medical assistance for his back injury and PTSD.

The Commission requested police provide all footage related to the investigation. When reviewing the CCTV footage, we identified a potentially unlawful search, which the NSW Police Force had not previously considered. The issue was that the search of the (male) complainant appeared to have been performed by a female Custody Manager in breach of the NSW Police Force *Charge Room and Custody Management Standard Operating Procedures* and s 32(7) of the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW).

To learn the identity of the searching officer, the Commission requested all official records of the search under s 102 of the LECC Act. Having discovered no records, in January 2022, the District Commander made a sustained finding for ‘fail to create records’ against the officer who he believed performed the search. However, as this officer was male, the Commission was concerned that the District Commander had sustained a finding against the wrong officer and requested the Police District review the footage once more to confirm the identity of the searching officer.

On 9 February 2022, the Police District indicated they no longer had a copy of the CCTV footage which captured the search and requested the Commission provide them with a copy. On 7 April 2022, we provided the Police District with the requested footage, which enabled the NSW Police Force to correctly identify the officer who performed the unlawful search. The District Commander sustained 2 findings against that officer in relation to:

1. her search of the complainant
2. her failure to record the search as required.

To ensure the officer understands her search obligations, and to guard against the risk of future misconduct of this nature, the District Commander provided detailed counselling to the officer and required her to undertake a course on custody fundamentals.

The Commission also identified a potential ambiguity in the NSW Police Force policy on the retention of CCTV footage used as evidence in misconduct matter investigations. The policy directs police to indefinitely retain CCTV footage which relates to misconduct investigations, but also states that different kinds of footage ‘may have different protocols for retention’ and directs police to consider such. In this instance, the Police District relied upon the custody CCTV footage retention policy to determine they were only required to keep the footage for 6 months.

This report highlights the Commission’s use of statutory powers under Part 7 of the LECC Act to effectively oversee misconduct investigations conducted by the NSW Police Force. Section 107 of the LECC Act prohibits the Commission from controlling or directing NSW Police Force misconduct investigations, instead empowering the Commission and NSW Police Force to achieve oversight ‘by agreement.’ This matter demonstrates how the Commission and the NSW Police Force can work collaboratively to ensure the cogency of any findings made, as well as the effectiveness of any management action taken to address established misconduct.

Monitoring

Under s 101 of the LECC Act, the Commission may choose to monitor the progress of NSW Police Force or NSW Crime Commission misconduct investigations if it is of the opinion that it is in the public interest to do so. That monitoring provides real-time oversight of misconduct investigations.

When monitoring a misconduct investigation, the LECC Act allows the Commission to:

1. be present as an observer during interviews
2. confer with police officers about the conduct of the investigation
3. request the provision of reports on the progress of the investigation.

On 1 July 2020, the Commission and the NSW Police Force agreed to guidelines regarding the monitoring of misconduct matter investigations under Part 8A of the Police Act.

As of 30 June 2023, the Commission was actively monitoring 13 NSW Police Force misconduct matter investigations under s 101 of the LECC Act.

Table 22: status of matters monitored

	2019–20	2020–21	2021–22	2022–23
On hand monitoring matters at commencement of reporting year	15	11	11	11
New monitoring matters commenced during reporting year	9	23	20	23
Total monitored by the Commission during reporting year	24	34	31	34
Finalised monitoring matters during the reporting year	13	23	20	21
On hand monitoring matters as of end of reporting year	11	11	11	13

When we monitor a matter, we encourage the NSW Police Force Command to promptly provide us with their misconduct investigation report. This allows the Commission to review the report and raise any concerns before the subject officers and complainants are notified of the outcome. This process is fairer to the subject officers and the complainants. It should avoid the need for the Commission to formally request a further investigation under s 104 of the LECC Act.

The misconduct investigations we monitored during the reporting period included allegations of:

- Use of force against a young Aboriginal male already handcuffed and seated on the ground (MIR2022-1299)
- Use of force against a young Aboriginal male in Surry Hills in June 2020 (MIR2020-0655)
- Inappropriate release of information to a university about a current student (EXT2022-2960)
- Offensive, racist, homophobic, and derogatory comments by numerous officers in a WhatsApp chat (MIR2022-0753)
- Use of force on a young person (MIR2022-0761)
- Witness coaching (MIR2022-0349)
- Using a personal mobile to obtain unauthorised videos (MIR2021-0996)
- Threatening an Uber driver and destroying property (EXT2021-3781)
- Improper disclosure of police information (EXT2021-0213)
- False evidence (EXT2021-2471)
- Sexual touching (MIR2021-0422)
- Use of force during an arrest (EXT2020-4139)
- Use of force and attempt to pervert the course of justice (MIR2022-0836)
- Domestic violence incident involving a police officer (EXT2022-1174)
- Inappropriate conducting of Safe Driving Panel (MIR2022-1015)
- Arrest and use of force against 78-year-old male (MIR2022-1582)
- Racial discrimination, driving offences, excessive force, and other complaint issues (MIR2022-1639).

Case study: Arrest and use of force against 78-year-old male (MIR2022-1582)

In November 2022, the Commission became aware of police officers' use of force during their arrest of a 78-year-old male. The arrest and use of force was broadly publicised, and the Commission also received numerous direct complaints.

The NSW Police Force triaged a complaint the day after the incident and decided to

investigate an issue of unreasonable use of force.

Under s 101 of the LECC Act, we notified the NSW Police Force that the Commission would formally monitor the NSW Police Force's investigation. We also requested all body-worn video footage relating to the arrest.

Referrals to the Integrity Division

The Integrity Division receives referrals from a number of sources, including:

- the Complaint Action Panel may decide that a complaint made directly to the Commission should be investigated by the Commission
- the Complaint Action Panel may decide that a complaint made to the NSW Police Force or NSW Crime Commission should be investigated by the Commission
- the Oversight Division may have concerns about how the NSW Police Force or NSW Crime Commission are investigating a misconduct matter, and the Chief Commissioner may decide that the Commission should assume responsibility for the investigation.

The Integrity Division may conduct preliminary enquiries into the referred information and may commence an investigation under Part 6 of the LECC Act.

Witness protection

The NSW Police Force administers the Witness Protection program, which is governed by the *Witness Protection Act 1995* (NSW) (Witness Protection Act). 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 3 primary areas of responsibility under the Witness Protection Act. These responsibilities relate to appeals by the witness protection applicant or participant against a decision of the Commissioner of Police relating to:

1. non-inclusion onto the witness protection program
2. suspension from the witness protection program
3. termination from the witness protection program.

During the reporting period, we determined one appeal against non-inclusion onto the witness protection program under the Witness Protection Act. We did not make any different determination, and the decision to not include the witness onto the Witness Protection program remained. That determination was made within the 7 days as stipulated by the Witness Protection Act.

Audit

The Commission's Audit team has responsibility for scrutinising the misconduct management systems established by the NSW Police Force and the NSW Crime Commission.

Number of audits completed and outcomes

NSW Crime Commission

We conducted one on-site inspection of the NSW Crime Commission, in accordance with s 32 of the LECC Act, in June 2023.

Further details about this audit can be found in chapter 3.4.

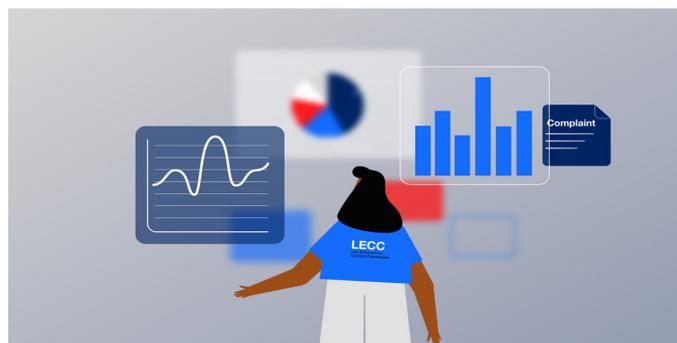
NSW Police Force

We conducted an audit and on-site inspection of the following NSW Police Force units:

- One Metropolitan Region
- One Metropolitan Command
- One Regional District

We also undertook the following desktop audits, and have provided drafts of these audit reports to the NSW Police Force:

- The manner and effectiveness of complainants being informed of the outcome of declined complaints in compliance with s 131(6) of the *Police Act 1990* (NSW).
- The decision to decline to investigate a complaint based on it being frivolous, vexatious or not made in good faith under s 132(b) of the *Police Act 1990* (NSW).



Critical incidents

The Commission has the power to independently oversight and monitor the NSW Police Force's investigation of critical incidents 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 NSW Police Force investigate critical incidents in a competent, thorough, and objective manner.

The Commission's critical incident monitoring team provides 24 hour on-call coverage for notification and attendance every day of the year.

What is a critical incident?

A critical incident is an incident involving a police officer or NSW Police Force 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 her 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
- 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 her 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.

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 NSW Police Force 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 critical incident investigations which are also subject to the coronial jurisdiction. These agreements are being refined and the Commission works cooperatively with the NSW Police Force, the NSW Coroner, and the Crown Solicitor's Office in relation to our critical incident monitoring function.

Critical incidents during the reporting period

During 2022–23, the Commission monitored the NSW Police Force investigation of 131 critical incidents. Of these, 45 were newly declared critical incident investigations, with 86 critical incidents carried over from the previous reporting period. We finalised 28 monitors of critical incidents investigations during the year, and 103 were still ongoing at 30 June 2023.

We commenced monitoring all 45 critical incident investigations declared in 2022–23 from the time the Commission was notified of the declarations.

During 2022–23, the NSW Police Force ceased 8 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.

Table 23: critical incidents declared

	2019–20	2020–21	2021–22	2022–23
Declared by the NSW Police Force	27	27	36	45
Monitoring commenced by the Commission	27	27	36	45
Attended location	16	13	23	34
Ceased being classified as a critical incident by the NSW Police Force	1	2	4	8
Finalised investigation by the NSW Police Force	18	21	13	10
Finalised by the Commission	18	21	22	10

Table 24: features of critical incidents

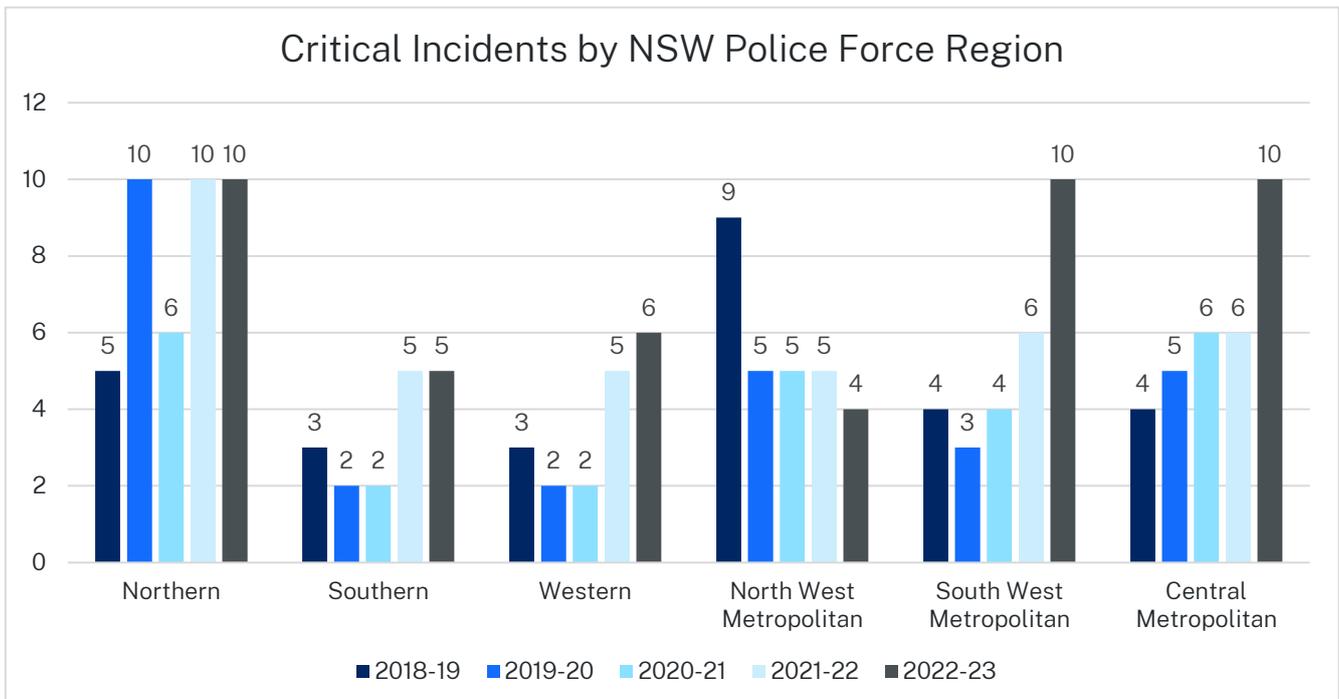
	2019–20	2020–21	2021–22	2022–23
Death	22	16	18	32 (71%)
Serious injury	5	11	18	13 (29%)
Total	27	27	36	45

Table 25: categories of critical incidents (drawn from ss 110 and 111 of the LECC Act)

	2019-20	2020-21	2021-22	2022-23
Death or serious injury arises from a discharge of a firearm	5	6	6	12
Death or serious injury arises from the use of defensive equipment	0	1	0	1
Death or serious injury arises from the application of physical force	0	0	3	1
Death or serious injury arises from the use of a police vehicle	4	7	11	10
Death or serious injury arises while the person is in custody or while escaping or attempting to escape from custody	0	1	1	5
Death or serious injury appears likely to have resulted from any police operation	17	12	15	16
Declared under s 111(b) of the LECC Act – the Commissioner of Police has other grounds for considering it is in the public interest to do so	0	0	0	0
Total	26*	27*	36*	45

* Number of critical incident investigations ceased by the NSW Police Force are excluded.

Graph 1: critical incidents by NSW Police Force Region



Notification to the Commission

The NSW Police Force 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 82 minutes, and a median time of 50 minutes, during the reporting year. The earliest notification to the Commission was approximately 5 minutes after declaration.

The time taken to notify the Commission of the critical incident declaration has not had a material impact on the Commission's functions in monitoring the investigation.

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, the NSW Police Force Professional Standards Command reviews every critical incident investigation.

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 during the critical incident investigation, to mitigate future risks of a similar incident occurring in the future.

The NSW Police Force keep 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 several years to be finalised by the courts.

On average, it has taken 2 years and 3 months for critical incident investigations involving a coronial inquest, and 1 year and 6 months for critical incident investigations involving any other court outcome,⁹ for those court proceedings to be finalised. It has also taken on average another 5 months for the NSW Police Force to finalise critical incident investigations reports following that court process.

We continue to see some delays in the NSW Police Force's provision of final critical incident investigation reports to the Commission, which impacts our completion of required advice under s 117 of the LECC Act, as to whether we are satisfied that the investigation was fully and properly conducted.

⁹ Coronial proceedings in which an inquest has been dispensed with, and criminal proceedings.

Section 113 of the LECC Act

Under s 113(2) of the LECC Act, a critical incident investigation is to include an examination on any of the following that are applicable:

- a. the lawfulness and reasonableness of the actions of the members of the NSW Police Force involved in the critical incident
- b. the extent to which those members complied with relevant legislation and policies, practices, and procedures of the NSW Police Force
- c. any complaint about the conduct of those members that has been referred to the senior critical incident investigator
- d. any evidence of officer misconduct by those members
- e. the need (if any) for changes to relevant policies, practices, and procedures of the NSW Police Force
- f. any systemic, safety or procedural issues arising from the actions of those members.

On occasion, the NSW Police Force may deal with one or more of the above separately from the SCII's investigation. The Commission still considers the handling of those aspects when it provides advice as to whether an investigation has been fully and properly conducted.

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
- be provided access to all documents (including interview recordings and transcripts) obtained during the investigation when monitoring critical incidents.

Commission investigators have monitored the investigation of all critical incidents declared in 2022–23, have attended around 71% 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), the person being interviewed and the SCII must consent to Commission investigators being 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 to the Commission investigator being 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 its monitoring of critical incident investigations, the Commission will raise questions or potential concerns with the NSW Police Force at an early stage. These are normally dealt with by the NSW Police Force prior to finalisation of the investigation.

At the conclusion of a NSW Police Force critical incident investigation, the Commission is required, under s 117 of the LECC Act, to notify the NSW Police Force (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.

Advice relating to the investigation of critical incidents under s 117

Any advice under s 117 of the LECC Act can include recommendations to the NSW Police Force. The Commission can also make any advice public.

During the current reporting period, we published a [table of critical incidents](#) onto our website. This table includes the incident date, location, the police strike force name, Commission monitoring status, and if the Commission provided advice about whether the investigation was fully and properly conducted.

Table 26: advice under s 117 of the LECC Act

	2021-22	2022-23
Advice after finalisation of critical incident investigation that it was fully and properly conducted (s 117(1)(a) of the LECC Act)	12	7
Advice upon the Commission's cessation of monitoring that the critical incident investigation was being fully and properly conducted (s 117(1)(a) of the LECC Act)	5	1
Advice that an aspect of the critical incident investigation was inappropriate (s 117(1)(b) of the LECC Act)	1	0

Misconduct allegations relating to critical incidents

Throughout the course of critical incident investigations, the monitoring team and/or the NSW Police Force may identify 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, they are generally dealt with by the NSW Police Force as separate misconduct matter investigations under Part 8A of the Police Act. The Commission oversees these investigations in accordance with its oversight function under Part 7 of the LECC Act.

Section 138 Report - Five Years (2017 – 2022) of Independent Monitoring of NSW Police Force Critical Incident Investigations

In May 2023, the Commission tabled a report to Parliament ‘Five Years (2017–2022) of Independent Monitoring of NSW Police Force Critical Incident Investigations’.

This report contained the following 7 recommendations to the NSW Police Force:

1. The NSW Police Force implement a procedure to provide a copy of all ‘Critical Incident Declaration/Non-Declaration by Region Commander’ forms (P1179) to the Commission in a timely manner.
2. The NSW Police Force amend the Critical Incident Guidelines and the Misconduct Matters Framework to provide that the Region Professional Standards Manager is responsible for ensuring that all appropriate and relevant information from the critical incident investigation is provided to the assigned misconduct matter investigator in a timely manner.
3. The NSW Police Force amend the Critical Incident Guidelines to specify that Critical Incident Investigation Reports (including SCII Report, Review Officer Report and Region Report) should be finalised by police within 3 months of the end of court proceedings, or within 6 months of the incident being declared if there are no court proceedings. In circumstances where it is not possible for a Critical Incident Investigation Report to be finalised within set timeframes, the reasons for the delay should be recorded on the e@gle.i case and assessed and managed by the Region Commander responsible for the critical incident investigation.
4. The NSW Police Force Critical Incident Guidelines instruct officers to complete an interim Critical Incident Investigation Report with recommendations prior to criminal or coronial proceedings, for the consideration of the NSW Police Force Executive.
5. The NSW Police Force Critical Incident Guidelines instruct critical incident investigators to provide the Commission with information on the ‘risks and areas for improvement’ identified in the course of the critical incident investigation prior to criminal or coronial proceedings.
6. The NSW Police Force amend the Critical Incident Guidelines to include robust procedures to notify the Commission within 7 days of ratification that a critical incident investigation has been finalised and provide a copy of the Critical Incident Investigation Report to the Commission. The procedures should indicate the person responsible for instructing the SCII to upload the Report and state that the Report should be uploaded as a product so the document is visible to the Commission.
7. The NSW Police Force amend the Critical Incident Guidelines to require the Region Report to include a response to any recommendations made in the Critical Incident Investigation Report.

The NSW Police Force responded to the Commission's recommendations. In summary, the NSW Police Force:

1. agreed in part to Recommendation 1:
 - a. The NSW Police Force did not agree to the provision of the P1179 forms in instances where it was determined to not declare a critical incident.
2. agreed in part to Recommendation 2:
 - a. The NSW Police Force indicated that misconduct is investigated by an officer's commander, and the Professional Standards Manager is to ensure that they have access to all appropriate and relevant information from the critical incident investigation.
3. agreed in principle to Recommendation 3:
 - a. The NSW Police Force agreed with the intent of the recommendation, but the timeframes will be suggested guidelines only.
4. did not agree with Recommendation 4
5. did not agree with Recommendation 5
6. agreed with Recommendation 6
7. agreed with Recommendation 7.

The Commission's [report](#) on 'Five Years (2017–2022) of Independent Monitoring of NSW Police Force Critical Incident Investigations' and the NSW Police Force's [full response](#) to the Commission's recommendations can be found on our website www.lecc.nsw.gov.au.

3.4 NSW Crime Commission

In November 2017, the Commission entered into an agreement and guidelines with the NSW Crime Commission in accordance with s 14 of the LECC Act. These guidelines outline the categories of misconduct matters that are required to be notified to the Commission, and upon which the Commission primarily focuses its oversight functions. The Guidelines were updated in June 2019 and again in November 2022.

The Commission issued s 33 Guidelines to indicate the types of complaints about the NSW Police Force that the NSW Crime Commission must report to the Commission.

During the reporting period, we assessed 2 misconduct matters involving members of the NSW Crime Commission referred by the NSW Crime Commission under the s 14 Guidelines and 3 misconduct matters involving members of the NSW Police Force referred by the NSW Crime Commission under the s 33 Guidelines. There were no misconduct matters involving members of the NSW Crime Commission referred by ICAC and no complaints about the NSW Crime Commission made directly to the Commission.

Audit

Under s 32(1) of the LECC Act, the Commission must scrutinise the systems established within the NSW Crime Commission for dealing with misconduct matters. To do so, the Commission exercises its powers under s 32(3)(a) to inspect the records of the NSW Crime Commission at least every 12 months.

As mentioned in chapter 3.3, we conducted an on-site inspection of the NSW Crime Commission on 6 June 2023. We also reviewed the NSW Crime Commission's:

- policies and procedures which relate to the handling of misconduct matters
- Code of Conduct
- misconduct management records for complaints received between 1 May 2022 and 30 June 2023.

We made 9 recommendations relating to the NSW Crime Commission's communication with complainants, referral of complaints about NSW Police Force members, assessment procedures, record keeping, and Complaint Handling Policy. The NSW Crime Commission accepted all 9 recommendations and provided a satisfactory implementation plan for each, with a view to full implementation by December 2023.

Investigations

The Commission conducted one full investigation, Operation Nizam, during the reporting period. The investigation is ongoing.

3.5 Prevention and Education

Policing of Domestic and Family Violence

Preventative detention and covert search warrants

Young people and the Suspect Target Management Plan

Use of force reporting

Consorting laws

Strip searches at music festivals

In 2022–23, our Prevention work focused on a number of themes and issues

Body-worn video

Bail compliance checks

NSW Police Force's Aboriginal Strategic Direction

Advice and Guidance to officers

Entry to property

Complaints made by Aboriginal people

Overview

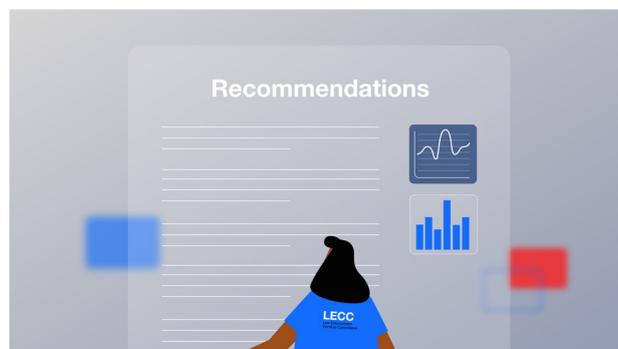
The Prevention and Education team undertakes research projects and investigations that focus on systemic misconduct and maladministration issues, such as conduct or practices that might be unreasonable or unlawful, with a view to assisting the NSW Police Force to address and prevent such misconduct.

In 2022–23, we published 4 public reports. In February 2023, we published our report on the way the NSW Police Force records and reports about their Use of Force and in June 2023, we published our Review of NSW Police Force responses to domestic and family violence incidents.

We also published 2 legislative reviews, one on recent amendments to the consorting laws in NSW and the other on the use of covert search warrants and preventative detention powers under the *Terrorism (Police Powers) Act 2002* (NSW).

We also progressed a range of other systemic focussed projects. In addition to the projects outlined below, we significantly progressed other projects that will form ongoing work for the team:

- We conducted a review of the current Body-Worn Video (BWV) Standard Operating Procedures, and complaints made between 2020 and 2023 which raised issues about the use of BWV by police. We gave the NSW Police Force an Observations paper to help inform us about the issues we identified in that review.
- In early 2023, the NSW Police Force created a new chapter in the Police Handbook to explain to officers their powers and limits of those powers governing their entry onto private premises in the course of their duties. The Commission provided suggestions to the NSW Police Force as to relevant information that needed to be included, and this was incorporated into the guidance for police.
- We made suggestions as to instructions the NSW Police Force should give police officers about the way police conduct bail compliance checks. While our suggestions have not been adopted, over the next financial year the Commission will focus attention on the way police conduct bail compliance checks.



Projects and investigations

The Prevention and Education team exercises the Commission's statutory functions under ss 27 and 51 of the LECC Act to undertake projects and investigations relating to:

- officer misconduct, officer maladministration, and agency maladministration education and prevention programs within the NSW Police Force or the NSW Crime Commission
- the effectiveness and appropriateness of the procedures of those agencies for ascertaining whether there is officer misconduct, officer maladministration

or agency maladministration, or any circumstances that may be conducive to such misconduct or maladministration

- ways in which officer misconduct, officer maladministration, and agency maladministration may be prevented
- systemic problems involving the NSW Police Force or NSW Crime Commission.

During the reporting period, we continued, commenced, and finalised a number of projects and investigations.

Use of force

On 21 February 2023, the Commission published its *Review of NSW Police Force Use of Force Reporting*. The review looked at 210 police records of times when police used force, as well as all relevant policies and training. We found:

- widespread inconsistencies in record keeping
- under-reporting of the use of force
- gaps in policies and training about how to record force
- at least one error in 73% of COPS events, even after supervisor review
- a lack of quality assurance processes.

The [final report](#) included 11 recommendations to the NSW Police Force to help improve:

- instructions to officers about what should be reported and when
- training about recording use of force
- operational database functionality

- quality assurance processes.

The NSW Police Force supported 7 of our recommendations, and indicated support 'in principle' for a further 2 recommendations. It has implemented 8 of the recommendations that were 'supported' or 'supported in principle'.

In response to our review, the NSW Police Force introduced a Use of Force Manual. Following our report, the NSW Police Force updated the Manual with an expanded definition of 'force', included further guidance on when to record force, and emphasised the importance of police making records which explain each individual tactic used and the reasons for use.

It also updated the Use of Force checklist in the COPS database, to facilitate more accurate reporting of the types of force used.

The NSW Police Force also reviewed the Mandatory Continuing Police Education Program available to all sworn police officers, and the relevant modules in the Advanced Diploma of Policing Practice course, to reflect the updated policy guidance.

Domestic and family violence

Police officers are the first responders to most domestic and family violence incidents that take place in NSW. They play a critical role in keeping victims safe, detaining or arresting offenders, and applying for protection orders. Police attend 180,000 incidents a year or about 500 every day. The NSW Police Force estimates that 40% of police work involves responding to domestic violence.

Our [review](#) considered the way police in NSW respond to domestic and family violence incidents by looking at complaint investigations linked to incidents involving a police response to domestic and family violence incidents. We looked at complaints made between 2017 and 2021.

We identified some important issues, including:

- police officers had been involved in domestic and family violence incidents, and at times were charged with domestic violence offences
- police officers were investigated for conducting inadequate investigations into reports of domestic and family violence incidents

- poor record keeping practices in relation to recording domestic and family violence incidents and risk assessments.

We made 13 recommendations to the NSW Police Force, including that it:

- improve processes for investigating officers who may be involved in domestic and family violence
- provide adequate and mandatory training to all officers in domestic and family violence procedures
- improve record keeping practices in relation to the removal of firearms
- make clear records every time police respond to a domestic and family violence incident.

The NSW Police Force supported 10 of our recommendations. The NSW Police Force is making significant changes to the way it manages and investigates domestic and family violence. The Commission will continue monitoring the way the NSW Police Force deals with complaints about domestic violence through our oversight function.

Operation Tepito – investigation into the application of the STMP to young people

The Suspect Targeting Management Plan (STMP) is a proactive policing policy applied to adults and young people, adopted by the NSW Police Force in January 2000. It seeks to reduce serious crime in the community by targeting repeat offenders known to local police.

In 2018, the Commission commenced an investigation under Operation Tepito to consider the application of the STMP on children and young people aged under 18 years.

We released an [interim report](#) in February 2020 detailing our analysis of a cohort of 429 young people who had been STMP targets between 2016–2018. The interim report highlighted concerns about the use of the STMP on young people and contained 15 recommendations for the NSW Police Force.

In response to the interim report, the NSW Police Force implemented a re-designed policy called ‘STMP III’. This policy has been operational since 20 November 2020.

In 2022–23, we reviewed the way young people are managed under STMP III. We looked at the way policing interactions were applied to a cohort of all 133 young people under the age of 18 who were selected for STMP III targeting in the first 6 months of that policy’s operation.

We provided the NSW Police Force with an Observations Paper in September 2022 which presented our analysis of the use of STMP III

on the young people in our cohort, and asked a range of questions to help us better understand how police would address some of the issues we saw in the use of the policy. We also conducted some targeted consultation with members of the Youth Justice Coalition in February 2023 to help inform our analysis.

The Commission’s report on its STMP review will be published in the next reporting year.

Audit of NSW Police Force strip search records from music festivals

Following the Commission’s final report of the [Inquiry into NSW Police Force strip search practices](#), the NSW Police Force implemented new procedures and officer training to improve strip search practices at music festivals.

Recommendation 13 from the Commission’s final report was that the NSW Police Force and the Commission collaboratively conduct an audit of strip searches occurring at music festivals. This would allow us to evaluate the impact of the procedures and training.

In the first half of 2023, we reviewed a sample of over 300 NSW Police Force records (COPS events and Field Processing Forms) relating to strip search operations at 5 music festivals that were held between May 2021 and June 2022.

The audit identified:

- poor adherence to record keeping requirements - this made it difficult for us to identify based on the records alone whether police officers had complied with legislative requirements
- only 47% (n=112) of the officers undertaking searches at the music festivals had completed the mandatory pre-event training package within the required timeframe

- a further 28% (n=67) of officers undertaking searches at the festival had not completed the training at all.

In response to our review, the NSW Police Force acknowledged:

- the findings reflected lower than acceptable standards of compliance with training and record keeping requirements
- the training and guidelines intended to improve strip search practice were not communicated to officers effectively – and this may have been because they were developed during the Covid 19 pandemic, when police were focussed on other operational priorities and no music festivals were occurring.

The NSW Police Force has re-circulated the relevant policy and training information and expectations to all officers throughout the state.

We published a [report](#) about our review in September 2023.

Monitoring the progress of the Aboriginal Strategic Direction

During 2022–23, we reviewed the progress of the NSW Police Force's *Aboriginal Strategic Direction 2018–2023*. The *Aboriginal Strategic Direction* (ASD) aims to inform all aspects of police engagement with Aboriginal and Torres Strait Islander communities across NSW.

The ASD nominated the Law Enforcement Conduct Commission as having a responsibility to monitor the NSW Police Force's progress under the strategy.

Key activities for our monitoring work included:

- reviewing all Command-based reporting, action plans, environmental scans, and Annual Reports occurring under the auspices of the ASD
- reviewing Closure Reports for ASD Crime Prevention Grants awarded by the NSW Police Force in 2018-2023
- looking at the NSW Police Force's Aboriginal cultural awareness training materials and state-wide training completion rates
- consultations with over 20 individuals including metropolitan and regional Commanders, Aboriginal Community Liaison Officers, senior members of the NSW judiciary, the Aboriginal Legal Service, the Transforming Aboriginal Outcomes team within the Department of Communities and Justice, and Aboriginal Affairs NSW.

We identified that:

- Aboriginal staff working for the NSW Police Force (including Aboriginal Community Liaison Officers, staff of the Aboriginal Coordination and Strategy Team, and all sworn and unsworn Aboriginal officers) perform

extremely important and valuable work in a very challenging cultural context

- at the local level, many Commands, Police Districts and Aboriginal Community Liaison Officers did a great deal of work to support Aboriginal communities during challenging times including bushfires, floods, and the COVID-19 pandemic
- there was a lack of information available to help us to monitor the NSW Police Force's progress under the ASD framework. In many cases, the NSW Police Force did not have access to relevant data or was unable to measure the indicators of success it had nominated for its own performance framework under the ASD
- during the same time period as the ASD 2018-2023, statistics show that Aboriginal people were significantly over-represented in interactions with NSW Police officers (e.g. police bail refused; issuing warnings under consorting legislation; targeting young people under the Suspect Target Management Program).

The Commission's review of the NSW Police Force *Aboriginal Strategic Direction 2018–2023* was tabled in Parliament on 23 October 2023.

Aboriginal complainants

In 2022, we began analysing complaints about police, made to either the Commission or the NSW Police Force, by or on behalf of Aboriginal and Torres Strait Islander people. Our analysis aimed to:

- find out how many complaints were made by Aboriginal and Torres Strait Islander people
- report on the number and types of allegations, and their outcome
- consider if there are improvements that the Commission should make to its processes to facilitate access for Aboriginal and Torres Strait Islander people.

While Aboriginal people are disproportionately represented in the

criminal justice system, their complaints only make up a small proportion of the total complaints about police.

This analysis is a first step, which we hope will help us to engage with Aboriginal and Torres Strait Islander communities and organisations that represent them, to:

- help implement Priority Reform 4 of Closing the Gap – to provide data to inform First Nations decision-making
- be transparent and accountable about the information we have that relates to Aboriginal and Torres Strait Islander complaints about police.

We hope to publish the results of our analysis in 2023–24.

Advice and Guidance – a common management action

In February 2023, the Commission started to review the NSW Police Force's use of Advice and Guidance to remediate or correct officers' conduct.

The Commission's preliminary research and analysis found:

- the NSW Police Force regularly uses Advice and Guidance as a form of management action for sustained findings of misconduct

- officers often receive Advice and Guidance when a Commander decides to decline to investigate an allegation of misconduct under s 132(a) of the *Police Act 1990* (NSW) 'action has, is being or will be taken'.

Between 1 January 2022 to 30 June 2022, 407 allegations of misconduct resulted in the 'action taken' of Advice and Guidance. We are analysing this data and will present our findings to the NSW Police Force later in 2023.

Operation Shorewood – following up on our recommendations

The NSW Police Force implemented its *Respectful Workplace Behaviour Misconduct Management Model* (RWB Model) in November 2020. Under the RWB Model, any misconduct matter involving an allegation of bullying, harassment, sexual harassment, discrimination, victimisation, and/or vilification between NSW Police Force members is described as a ‘Respectful Workplace Behaviour misconduct matter’.

The RWB model was introduced shortly after the Commission’s report, [Operation Shorewood: Review of how the NSW Police Force manages and investigates workplace equity matters](#). The Commission made 6 recommendations that focussed on preventing and responding to workplace equity matters. These focussed on improving the timeliness of investigations and record keeping practices. The NSW Police Force said that the RWB model would address the issues we had identified, and effectively respond to our recommendations.

To check on this, we looked at the way the police dealt with all Respectful Workplace Behaviour misconduct matters between 1 July 2021 and 1 July 2022 – a total of 127 matters.

We found that since the implementation of the RWB Model, the NSW Police Force:

- improved the timely completion of its investigations into RWB misconduct matters by 11%
- improved its rate of transfer of investigations to different local commands by 9%
- significantly improved record keeping practices.

The NSW Police Force has also strongly encouraged all its members to ‘Speak Up’ and take action when they experience or witness inappropriate behaviour in the workplace. This kind of cultural change is likely to be a gradual process, requiring ongoing commitment by the NSW Police Force, its leadership, and its employees.

The Commission will continue to monitor the annual reviews by the NSW Police Force to assess, where possible, the effectiveness of the RWB Model.

Correction from last year’s Annual Report: Review of the effectiveness of NSW Police Force Conduct Management Plans

On page 86 of the Commission’s 2021-22 Annual Report, we reported on our review of the effectiveness of NSW Police Force Conduct Management Plans.

Our report included an error relating to the NSW Police Force’s support for our recommendations. The NSW Police Force support or partially support recommendations 1, 2, 8, and 10. The NSW Police Force does not support recommendation 6. This was our typographical error.

Legislative reviews

Amendments to consorting powers used by the NSW Police Force

The Commission reviewed how police used consorting laws between February 2019 and February 2022, following amendments to those laws which came into effect in 2019. Those amendments included a requirement for the Commission to review the operation of the amendments for a 3 year period.

Our [review](#) found:

- police issued 16,480 warnings to 2,671 people
- general duties police officers gave 79% of the warnings
- police charged 11 people with consorting
- one person was charged twice
- no-one under 18 was charged
- police warned 48 people under the age of 18
- the laws were not used on children under 14 years of age
- Aboriginal and Torres Strait Islander people formed 42% of the people that police either warned or warned about.

One of the Commission's concerns was that many of the warnings general duties police officers issued related to comparatively less serious potential offending.

The NSW Police Force has changed its procedures to make sure the law is used to disrupt and prevent serious organised crime. However, the Commission made 2 recommendations that the law be changed to:

- expressly state that the purpose of the consorting law is to prevent serious criminal offending
- exclude those under the age of 18 from the consorting laws.

We also made 11 further recommendations to the NSW Police Force. These aimed to improve police systems, the guidance given to police officers, and the information police give to people warned about consorting.

The NSW Police Force accepted and supported 8 of these recommendations. We are awaiting further information about how the recommendations have been implemented. This will be made available on the Commission's website when it has been received.

Review of Parts 2A and 3 of the *Terrorism (Police Powers) Act 2002 (NSW)*

The Commission has an ongoing responsibility to scrutinise the NSW Police Force's use of covert search powers and preventative detention powers under the *Terrorism (Police Powers) Act 2002 (NSW)*. We are required to review the use of those

powers and report publicly every 3 years. The Attorney General tabled our most recent report which covered the period 1 January 2017 to 30 June 2020 on 1 July 2023. We reported about the details of that review in our last Annual Report.

Report under s 870 of the *Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)*

Under s 870 of the *Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)* (LEPRA), the Commission is required to keep under scrutiny the NSW Police Force's exercise of powers under Part 6A of LEPRA.

Part 6A allows the NSW Police Force to use special powers to prevent or control large-scale public disorder. These powers were given to police in response to the Cronulla riots in 2005. The powers allow the NSW Police Force to establish a cordon around a specified target area, or a roadblock

in a specified target road. Part 6A also gives the police special powers to do things within the target area that would ordinarily require a warrant or the formation of reasonable suspicion of criminal activity. For example, officers may stop and search vehicles and people, seize and detain things, and disperse groups.

In 2022-23, the NSW Police Force did not use the powers available to them under Part 6A of LEPRA. The NSW Police Force has not used these powers since March 2011.

3.6 Legal matters

Overview

This section contains information about important statutory provisions and developments of significance in 2022–23.

Prosecution outcomes

Operation Denali

Operation Denali was a lengthy investigation utilising specialist capabilities which revealed that Michael Mannah, who was a serving NSW police officer at the time, was using his mobile phone to access child abuse material. Mr Mannah's access occurred on 47 different dates from 110 unique websites, including access on his mobile phone whilst performing police duties at a COVID-19 quarantine hotel.

The Commission executed a search warrant at Mr Mannah's home on 22 January 2021, retrieving mobile phones and computer equipment. He was arrested and charged on the same day with offences under the *Criminal Code Act 1995* (Cth) and *Firearms Act 1996* (NSW). Mr Mannah resigned from the

NSW Police Force in February 2022. Mr Mannah pleaded not guilty to 2 charges relating to child abuse material and the matter was heard before a jury in the NSW District Court. On 30 September 2022, the jury returned a verdict of guilty to the charge of accessing child abuse material (s 474.22(1) of the Criminal Code) and not guilty to the charge of possessing or controlling child abuse material (s 474.22A of the Criminal Code).

He was sentenced on 20 January 2023 to a term of imprisonment of 12 months. After serving a period of 4 months, this was partially suspended upon entering into a recognisance under s 20(1)(b) of the *Crimes Act 1914* (Cth).

Operation Tambre

Operation Tambre was an investigation into allegations of serious misconduct by Daniel Keneally, a NSW Police Force officer.

The Commission commenced the investigation in late 2021 and conducted a private examination in January 2022. We provided a private report to the Commissioner of Police and the Minister for Police under s 135 of the LECC Act in April 2022, which included a recommendation that consideration should be given to obtaining

advice from the DPP concerning the prosecution of Constable Daniel Keneally.

Following receipt of advice from the DPP, criminal proceedings commenced against Constable Keneally on 17 November 2022 alleging one offence of fabricate false evidence with intent to mislead judicial tribunal (s 317(b) of the *Crimes Act 1900*). The proceedings remain before the court and we will provide a s 132 Report to Parliament once the proceedings have been finalised.

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

Disseminations under s 180(5) of the LECC Act

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

Section 180(5)(d) of the LECC Act deals with disclosures of information except for disclosures made for:

- purposes of the LECC Act
- purposes connected with prosecution or disciplinary proceedings arising from a Commission investigation
- law enforcement and investigative purposes.

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 2022-23, the Commission disseminated information under s 180(5)(d) of the LECC Act on 7 occasions.

Integrity checks

One of the Commission's responsibilities is to respond to requests from the NSW Police Force, or other law enforcement agencies, to conduct integrity checks for integrity information relating to current or former NSW Police Force officers. Most requests come from the NSW Police Force, specifically, Police Promotions within the Workforce Capability Branch of the Human Resources Command.

The NSW Police Force requests integrity checks on all appointments and promotions to the rank of Sergeant and above, as well as any transfers that may be particularly sensitive. During 2022-23, we conducted 576 integrity checks on NSW Police Force officers. This represents a 17% increase from the previous reporting period.

Legislative reform

In June 2022, the NSW Government announced that it would be introducing a suite of laws to combat organised crime.

In August 2022, the NSW Police Force invited the Commission, as part of its consultative process with key stakeholders, to make submissions on the following draft bills:

1. Crimes Amendment (Money Laundering) Bill 2022
2. Law Enforcement (Powers and Responsibilities) Amendment (Digital Evidence Access Orders) Bill 2022
3. Crime Commission Legislation Amendment Bill 2022
4. Dedicated Encrypted Criminal Communication Device Prohibition Orders Bill 2022.

We provided a submission in response. Our submission noted that the reforms were welcome and appeared to go a significant way towards disrupting organised criminal groups and their use of encrypted technology to avoid detection.

In October 2022, Parliament passed the suite of reforms. The new laws came into effect in February 2023, and include:

- new powers to confiscate unlawfully acquired assets of major convicted drug traffickers
- enhanced powers to target and confiscate unexplained wealth from criminal gangs
- expanded powers to stop and search for unexplained wealth and more effectively investigate organised crime
- new prohibition orders to target high-risk individuals likely to use dedicated encrypted devices to avoid law enforcement
- new money laundering offences for those dealing with and caught trying to disguise the proceeds of general crime
- new powers to enable police to direct a person to provide access to a digital device.

As a result of the reforms, the NSW Crime Commission now has the power, in prescribed circumstances, to issue a freezing notice directly to a financial institution. A copy of that freezing notice must be provided to the Commission (see s 48A(7) of the *Criminal Assets Recovery Act 1990* (NSW)).

3.7 Community engagement

The Commissioners and Commission officers engaged with community groups, stakeholders, and the public in a variety of ways throughout the year.

In 2022–23, the most common way the Commissioners, Directors, and other senior officers engaged with communities and stakeholders was in meetings and attending events.

Commissioners and senior officers also presented at relevant conferences, including the Australian Public Sector Anti-Corruption Conference, and the National Investigations Symposium. These presentations are an effective way to promote the work of the Commission to a broad range of public and private sector organisations and integrity practitioners.

We also engaged with external stakeholders by way of receiving submissions about some of the work that we undertake. From time to time, the Commission may call for submissions from the public or from particular stakeholder organisations that have expertise in areas relevant to our work. Sometimes we are approached by organisations who wish to provide a submission on an area of current or future work for the Commission. Such engagement with stakeholder groups helps the Commission to understand misconduct and integrity issues within law enforcement from a range of perspectives.

The Australian Public Sector Anti-Corruption Conference (APSACC) 2022

The Commission together with the Independent Commission Against Corruption and Australian Commission for Law Enforcement Integrity (now the National Anti-Corruption Commission), jointly hosted the Australian Public Sector Anti-Corruption Conference between 15 and 17 November 2022. This was a major event for the Commission and for experts and practitioners in anti-corruption across the country.

The conference was hosted in Sydney, with over 400 delegates attending from around the world, and more attending virtually. The conference is the leading anti-corruption event in Australia with a primary focus on preventing, exposing, and responding to corrupt conduct and corruption risks in the public sector, including all levels of government, elected bodies, the judiciary, police, and statutory bodies.

The Commissioners and Commission staff co-ordinated, hosted, presented, moderated, and attended the conference.

We also co-hosted the National Anti-Corruption and Integrity Agency Commissioners and CEOs Meeting with ACLEI and NSW ICAC immediately before the conference began. This forum has been a useful way to share knowledge and learn from the practices of integrity agencies across the country. The Commissioners and CEOs met again in May 2023, this time hosted by the Northern Territory Independent Commission Against Corruption, and held in Alice Springs.

Engagement with government organisations, community, and stakeholder groups

The Commissioners and Commission staff engaged with a wide variety of government and non-government organisations during the year. These meetings were either for knowledge sharing or to allow the Commission to hear about the law enforcement and anti-corruption issues these organisations identify as important.

Organisations we have engaged with over the year include:

- Aboriginal Legal Service (NSW/ACT) Limited
- Aids Council of NSW and Inner City Legal Centre – Fair Play
- Audit Office of New South Wales
- Australian Criminal Intelligence Commission
- Australian Institute of Administrative Law Incorporated
- Australia-New Zealand Counter Terrorism Committee
- Children’s Court of New South Wales
- Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission
- Commonwealth Ombudsman
- Department of Premier and Cabinet
- Domestic Violence NSW
- Justice Health
- Legal Aid NSW
- Ngunya Jarjum
- NSW Electoral Commission
- NSW Treasury
- Redfern Legal Centre
- The ACT Integrity Commission
- The Australia and New Zealand School of Government
- The Australian Federal Police
- The Chief Magistrate of the Local Court of New South Wales
- The Corruption and Crime Commission, Western Australia
- The Council of Australasian Tribunals (COAT)
- The Crime and Corruption Commission, Queensland
- The Crown Solicitor’s Office
- The Department of Communities and Justice, Transforming Aboriginal Outcomes
- The District Court of NSW
- The Independent Broad-based Anti-corruption Commission, Victoria
- The Independent Commission Against Corruption
- The Independent Commission Against Corruption, South Australia
- The Independent Commissioner Against Corruption, Northern Territory
- Independent Police Conduct Authority, New Zealand
- The Inspector of Custodial Services

- The Inspector of the Law Enforcement Conduct Commission
- The Integrity Commission, Tasmania
- The Judiciary of the Supreme Court of the ACT
- The Law Society of New South Wales
- The Mental Health Services Learning Network
- The National Anti-Corruption Commission
- The New South Wales Office of the Director of Public Prosecutions
- The NSW Bureau of Crime Statistics and Research
- The NSW Coroner
- The NSW Ombudsman
- The NSW Public Service Commission
- The Public Interest Advocacy Centre
- The Surveillance Devices Commissioner
- The University of New South Wales
- Youth Justice Coalition
- Women's Legal Service NSW

Participation in programs and events

Throughout the year, Commission staff delivered presentations or facilitated sessions in a range of different events. These allow the Commission to demonstrate the impact of our work to different audiences, including:

- the National Anti-Corruption and Integrity Agency Commissioners and CEOs Meeting
- the Independent Commission Against Corruption's Corruption Resilience Program
- the National Investigations Symposium
- the NSW Public Service Commission's Executive Leadership Academy Program.

Engagement with Senior NSW Police Force and NSW Crime Commission Officers

The Commissioners regularly meet with the heads of the agencies we oversight - NSW Crime Commission Commissioner Michael Barnes and NSW Police Force Commissioner of Police Karen Webb APM.

Senior Commission staff regularly meet with Deputy and Assistant Commissioners of the NSW Police Force to obtain information about ongoing projects and to liaise about how we share information. Executive staff regularly attend meetings with the NSW Police Force Professional Standards Command to keep informed about the progress of their investigations.

As well as developing our knowledge about current police practice and policy, these meetings are an important way of building trust within the NSW Police Force.

Over the year, Commission staff delivered an information session to staff of the NSW Crime Commission. We also participated in a number of Professional Standards Managers Forum and Professional Standards District Inspector Forums of the NSW Police Force and delivered information sessions about our critical incident investigation monitoring function to police officers across the state. Our Executive Director Operations has also participated in presenting to the NSW Police Force Mastery Program - a leadership program for the development of senior police destined to become Superintendents.

Commission staff also engaged with a range of NSW Police Force committees, such as the Internal Review Panel, Police Powers Executive Committee, Police Powers Training Forum, and the Influencers Program, which is a development program conducted by the NSW Police Force to enhance the capability and understanding of officers moving to the Inspector level.

Engagement with legal stakeholders

The Commission's engagement practice broadened in 2022–23 with the creation of an external legal sector reference/advisory group/panel called the LECC Users Group. The Commission hosts and runs the group which provides a quarterly forum for the Commission to inform the group of its research as well as for represented community groups and stakeholders to engage with us and our work. One of the aims of the LECC Users Group is to capture the insights into public trust and confidence in NSW law enforcement, from stakeholders that represent clients who interact with the NSW Police Force. The group has representatives from:

- Aboriginal Legal Service (NSW/ACT) Limited
- Legal Aid NSW
- Redfern Legal Centre
- The Public Interest Advocacy Centre.

Media engagement

The Commission takes a considered approach to media relations. We publicise our work when it is in the public interest to do so. We aim to inform the public and the media when we table a report publicly in Parliament, monitor critical incidents, as well as when we hold public hearings. We welcome media enquiries from the broad range of broadcast, print and digital media outlets we inform about our work.

In 2022–23, we issued 14 media releases and statements about reports, 4 notices of public hearings, and 15 monitoring of critical incident media releases. Our engagement with the media has facilitated and supported wider recognition of our work.

Information sessions

The Commission runs regular information sessions for Commission staff. From time to time, we host external speakers. This gives our staff an opportunity to learn from their expertise as well as to build connections with other experts and organisations.

In 2022–23, we heard from the following external speakers:

- Brendan Thomas, Department of Communities and Justice, Transforming Aboriginal Outcomes
- Felicity Cox, former clinician with the Police, Ambulance, Clinical, Early Response, NSW Health
- Commander PSC, A/C Joe Cassar and Superintendent John Klepczarek - NSW Police Force Use of Force Panel
- Jason Timor, Two Point Co.
- Jenny Newman, Wiradjuri woman and First Nations educator
- Gina Frampton, Writing Comes Alive
- ACLEI staff - Brendan Hough, Executive Director Operations, Marnie Kennealy and Tess Parker
- Chief Inspector Matt Hanlon, NSW Police Force
- Melinda Smith, Justice Health and Forensic Mental Health Network
- Mr Michael Fletch, technical officer of the Australian Federal Police
- Her Honour Magistrate Teresa O’Sullivan, NSW State Coroner
- A/Inspector with the PSC, Rochelle Burgess, NSW Police Force
- Superintendent Rebecca Wyse, NSW Police Force
- Surveillance Devices Commissioner, Mr Don McKenzie
- Detective Sergeant Jeremy Byers the South Australia Police

3.8 Management and activities

Major assets

During the reporting period, the Commission spent a total of \$750,737 on specialised IT infrastructure, equipment and software including upgrading storage, and security systems, as well as routine replacement of laptops, monitors, and printers.

To allow greater flexibility and meet operational requirements, the Commission has a policy of purchasing vehicles. During the reporting period, we replaced 4 operational vehicles at a cost of \$163,354. Purchases of other plant and equipment totalled \$103,731 and included upgrade of air-conditioning units, photocopiers, as well as other specialised operational equipment.

Land disposal

The Commission did not dispose of land during the reporting period.

Research and Development

The Commission did not undertake research and development during the reporting period.

Overseas visits

There was no overseas travel during the reporting period.

Performance information

Information about the Commission's performance, including performance against strategic objectives, can be found in chapter 2.2 and throughout the report.

Measuring employee engagement through the People Matter Survey

The annual employee engagement survey, the People Matter Employee Survey (PMES), provides important insight into the experiences of our workforce.

Our response rate was 92% which is significantly higher than the sector average, and our engagement score was 66% an increase of 9% on the previous year.

The Commission scored well in the areas of flexible working (90%), risk and innovation (77%), and inclusion and diversity (75%).

We have taken action to address our lowest scoring areas: communication and change management (54%), senior management (58%), learning and development (55%), and recruitment (53%).

These actions include:

- continuing the CEO weekly email and a commitment to providing timely communication which includes the why, how, and when
- establishing a training advisory group
- continuing the mentoring program
- providing clear communication around recruitment processes and decisions.

Our 2022 PMES results showed a general improvement when compared to the 2021 PMES results.

Our PMES results for 2022 include:



Job satisfaction

79% of staff feel a sense of personal accomplishment in their role
+4% from 2021 and 8% higher than the sector average



Wellbeing

76% of staff experience satisfaction and fulfilment in work and life
+5% from 2021 and 18% higher than the sector average



Organisational values

91% of staff support the organisation's values
6% higher than the sector average



Teamwork and collaboration

84% of staff believe their workgroup collaborates effectively to achieve goals
+3% from 2021 and 5% higher than the sector average



Employee voice

74% of staff believe they can speak up and be heard
10% higher than the sector average

Cost of operations of the Commission

The following table outlines the Commission's cost of operations under Parts 6, 7, and 8 of the LECC Act (s 139(5)).

Table 27: cost of operations

	Employee related	Other	Total
Integrity	\$ 7,115,676	\$ 2,000,217	\$ 9,115,894
Oversight	\$ 1,523,309	\$ 59,932	\$ 1,577,242
Critical incidents	\$ 634,240	\$ 39,159	\$ 673,399

Performance reviews

Re-baselining review

Following the government review into funding arrangements for integrity agencies the Commission undertook to complete a re-baselining exercise.

The Commission engaged KPMG to assist with the re-baselining exercise through a review of our current workforce and future resourcing needs.

The review looked at the Commissions functions, divisional structure, and available resources. It involved group meetings, one-on-one meetings with key executive

members, comparisons with like agencies as well as analysis of trends in work complexity and complaint numbers over the life of the Commission.

The final report, which highlighted a need for additional resources across a number of areas, was used to inform and support our business case to government requesting additional funding. The budget bid was approved by the Expenditure Review Committee in full, and additional ongoing funding has been provided for the 2023–24 financial year.

Assessment function review

The Commission engaged Synoptic Consulting to conduct a review of the complaint assessment function, specifically looking at processes, practices, and staffing to determine if current resource levels were adequate and able to support projected future workload.

Synoptic Consulting used Hypothesis based methodology to review the assessment process starting with the receipt of a

complaint and concluding with the decision as to whether the Commission needs to take further action.

The final report included recommendations to improve process flows through a reorganisation of the operating model and simplified communication strategies. We have started to implement the agreed recommendations, including a change to the structure of the unit.

4 Management and accountability

This section summarises the Commission’s management and accountability structure, as well as industrial relations matters. It also details the frameworks we have in place to identify and manage risks.

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4.1 Human resources

Personnel policies

The Commission reviewed and updated several existing personnel (HR) policies throughout the reporting period, including:

- the Guide to managing positive Covid in the Workplace
- the Code of Ethics and Conduct
- the Flexible Working Hours Policy
- the Gifts and Benefits Policy
- the Disciplinary Action Policy
- the Disciplinary Action – Managing Unsatisfactory Behaviour or Misconduct procedure
- the Work Health and Safety Policy
- the Security Vetting and Clearance Policy and Procedure
- the Grievance Management Policy.

Training and development

The Commission continued to provide a broad range of Training and Development opportunities to staff throughout the 2022–23 reporting period. All staff have access to Affiliate Membership to the NSW Institute of Public Administration Australia and LinkedIn learning allowing access to a variety of training and development opportunities. Training covered specialist areas, including:

- APSACC Conference
 - Certificate IV in Government Investigations
 - Respectful Workplace Behaviour
 - First Nations Cultural Capability
 - Use of Force
 - Real Conversation training for Managers and Team Leaders
 - Community Engagement
 - Australia-New Zealand Counter Terrorism Committee’s Surveillance Capability Forum
 - The NSW Public Service Commission’s Executive Leadership Academy Program.
- Generic training opportunities provided to staff throughout 2022–23 included:
- Writing job applications
 - CPA Conference and events
 - Legalwise Conference and events
 - First Aid & CPR Training
 - NSW Government Community of Financial Professionals
 - NSW Government Community of HR Practice
 - NSW Government Community of Policy Professionals.

The Commission Study Assistance policy provides leave and monetary support to staff members undertaking approved tertiary level studies in several specialist areas, including:

- Executive Masters of Public Administration
- Master of Investigations
- Juris Doctor.

The Commission's employees

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).

Table 28: number of officers and employees by category

Employee category	2020	2021	2022	2023
Statutory appointments	2/3	2	2	2
Male Executive appointments	5	5	4	5
Female Executive appointments	1	1	1	1
Operational staff	56	57	68	68
Support staff	44	44	32	36
Total	108	109	108	112

Table 29: staff movements during 2022-23

Number of staff who commenced employment 2022-23	Number of staff who ceased employment 2022-23
21	20

Senior executive numbers, remuneration, and expenditure

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

The Hon Peter Johnson SC was appointed as the Chief Commissioner of the Law Enforcement Conduct Commission in July 2022. His remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period, the Chief Commissioner's salary was \$529,940pa.

Anina Johnson was appointed as Commissioner effective from 16 May 2022. Her remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period, the Commissioner's salary was \$397,455pa.

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, 2 staff members are employed in Public Sector Senior Executive Service roles within Executive Band 2, and 4 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.

Table 30: Senior Executives–Remuneration Band determination, number of officers and gender breakdown comparison

Band	Female 2022–23	Male 2022–23
Band 4 (Secretary)	0	0
Band 3 (Deputy Secretary)	0	0
Band 2 (Executive Director)	1	1
Band 1 (Director)	0	4

Table 31: Senior Executives–Remuneration range comparison for 2022-23

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	\$333,000 pa
Band 1 (Director)	\$192,600pa to \$274,700pa	\$239,000 pa

The percentage of the Commission's total employee related expenditure in the reporting year that relates to senior executives compared with the percentage at the end of the previous reporting year is shown below.

Table 32: comparison of percentage of expenditure that relates to senior executives

2021-22	2022-23
16.58%	16.35%

Consultants

The Commission engaged with a number of consultant services during the reporting period.

Table 33: consultancies equal to or more than \$50,000

Category	Consultant	Nature	Cost (ex GST)
Management services	KPMG	Re-baselining exercise to assist in determining ongoing resourcing requirements.	\$86,090
Management services	Bendelta	Assist with developing the 2023-2026 Strategic Plan.	\$112,250

Table 34: consultancies valued at less than \$50,000 (aggregate cost)

Category	Count	Cost (ex GST)
Business process review services	1	\$22,542
Management services	1	\$17,600
Human resources	3	\$ 30,476

Requirements arising from employment arrangements

The Commission is a statutory corporation established under the LECC Act. 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 of all the entities under its control, namely: the Office of the Law Enforcement Conduct Commission (the Office).

The Office provides the Commission with personnel services in that it employs the Commission's staff, except for the statutory office holders (namely, the Commissioners), who are employed directly by the Commission. Therefore, the Office is a special purpose entity – its only function is to provide personnel services to the Commission.

4.2 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 were previously set out in the *Public Interest Disclosures Act 1994* (NSW) (PID Act). From 1 October 2023, the new PID Act (the *Public Interest Disclosures Act 2022* (NSW)) came into effect. The PID Act provides legal protection to public officials who make a disclosure that meets these requirements. To educate staff about the requirements under the new Act, the Commission has held a number of information sessions, updated internal and external policies, and disseminated e-learning modules and training resources.

As an integrity agency the Commission can receive PIDs from all public sector employees. The Commission finalised 31 PID matters during the reporting period.

Under the PID Act, the Commission is required to collect and report on information about PIDs. This information is outlined in the following tables.

Table 35: Public interest disclosures received

	Made by public officials performing day to day functions	Made under a statutory or other legal obligation	All other PIDs
Number of public officials who made PIDs directly	26	0	1
Number of PIDs received	26	0	1

Table 36: number of PIDs received, by type

	Made by public officials performing day to day functions	Made under a statutory or other legal obligation	All other PIDs
Corrupt conduct	21	0	1
Maladministration	5	0	0
Serious and substantial waste	0	0	0
Government information contravention	0	0	0
Local government pecuniary interest	0	0	0
Total	26	0	1

4.3 Government Information (Public Access) Act 2009 (NSW)

Overview

Under the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act), there are 4 ways that the Commission can make information available to the public:

1. The mandatory release of 'Open Access Information'.
2. The proactive release of information for which there is no overriding public interest against disclosure.
3. The informal release of information in response to an informal request where there is no overriding public interest against the disclosure of that information.
4. 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 under 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) of the LECC Act provides that a person who is or was an officer of the Commission must not, except in connection with the person's functions under the Act, make a record of or divulge any information acquired in the exercise of the person's functions under the Act. Section 180(5)(d) provides that such information may be divulged if the Commissioner or Inspector certifies that it is necessary to do so in the public interest.

Information which falls within the above 2 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 2022–23 was negligible. No major issues arose during 2022–23 in connection with the Commission's compliance with GIPA requirements.

To obtain access to or seek amendments to 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.

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)
- 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
- 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 in 2022–23

During the reporting period, the Commission received 12 access applications.

One application was transferred under s 45 of the GIPA Act to the appropriate agency for that request and all other 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.

Statistical data on GIPA applications to the Commission can be found at Appendix 4 of this report.

4.4 *Privacy and Personal Information Protection Act 1998 (NSW)*

The Commission takes its responsibility to comply with the requirements of the *Privacy and Personal Information Protection Act 1998 (NSW)* (PIIP Act) and *Health Records and Information Privacy Act 2002 (NSW)* (HRIP Act) seriously.

Section 27 of the PIIP Act and s 17 of the HRIP Act provide that the Commission is not required to comply with the privacy principles except in connection with the Commission's exercise of its administrative and educative functions.

Our Privacy Management Plan sets out how the Commission complies with the principles and requirements of the PIIP Act and, where applicable, the HRIP Act. The Plan demonstrates our commitment to respecting the privacy rights of the Commission's employees and members of the public.

The Plan includes information on the type of personal information held by the Commission, how personal information can be accessed, as well as providing a reference tool for Commission staff dealing with personal information. Our Privacy Management Plan was reviewed for accuracy and currency in May 2023 and is accessible on our website.

The Commission did not receive any complaints relating to privacy during the reporting period.

Our [Privacy Management Plan](#) is accessible on our website.



4.5 Information and communications technology management

The Commission's IT department renewed its ISO 27001:2013 (Information technology - Security techniques - Information security management systems - Requirements) compliance and certification in May 2022. The Commission first achieved certification in 2019, and has satisfactorily maintained it since to ensure the Commission's compliance with the NSW Government Cyber Security Policy. The Commission has started to review and comply with the updated controls that were published in the ISO/IEC 27001:2022 standard.

We have significantly strengthened our cyber security through the Digital Restart Fund initiative. We completed the project in June 2023, which addressed 4 key areas: Network Segmentation, Application Control, Zero Trust Network Access, and Audit and Compliance. The Commission's completion of this project will increase the organisation's maturity against the NSW Cyber Security Mandatory 25 and the Australian Cyber Security Centre (ACSC) Essential Eight. It will assist the Commission to maintain its ISO certification by mitigating the identified risks.

The Commission's crown jewel (complaints and investigations case management system) remains fully operational and enhancements to the new system are ongoing. We have started an integration project using Microsoft Power BI. This will increase the Commission's operational activity in conducting statistical analysis and data gathering.

Between March and June 2023, the IT department rolled out Microsoft 365 services across the Commission. With this achievement, the Commission can

increasingly embrace the Digital.NSW Cloud Strategy vision of a government-wide adoption on consuming public cloud services across all agencies.

Throughout the reporting period, the IT department continuously undertook work to ensure the Commission maintained effective and efficient technology support for its operations. This included:

- the Nutanix HCI project, completed in December 2022
- automated patching to further increase compliance with the Essential Eight items of patching operating systems and applications
- Netwrix (SIEM) and Perimeta for 365 were deployed in September 2022, and are constantly monitoring server, user, and admin activities to strengthen auditing against configuration management baselines and to gain more visibility on behaviour anomalies for quicker escalation and resolution
- the Commission's website was upgraded in March 2023, designed using the Digital.NSW independent branding guidelines.

Furthermore, a full refresh of the backup systems and disaster recovery site is underway and is on track for completion by the end of October 2023.

During 2022-23, the Commission's public website attracted 35,050 visitors, at an average of 96 visitors per day.

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 2022–23 Financial Year for the Law Enforcement Conduct Commission

I, Christina Anderson, believe the Law Enforcement Conduct Commission (LECC) had an Information Security Management System (ISMS) in place during the 2022–23 financial year that is consistent with the Core Requirements set out in the NSW Government 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 2022–23 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.

The LECC has a cyber incident response plan, it is integrated with the security components of business continuity arrangements and has been tested over the previous 12 months with senior business executives. 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

4.6 Governance

Overview

Governance refers to the ways in which the Commission is held to account both internally and externally.

The LECC Act provides the Commission with extensive statutory powers. A compliance framework is in place to ensure the Commission does not abuse these powers and complies with relevant legislative requirements.

Internal governance is achieved through the Commission's internal structure and committees, delegations and authorisations, policies and procedures, risk and compliance management and planning.

External governance includes the roles and relationships between the Commission and Parliament, the Inspector of the LECC, the Audit and Risk Committee, and other NSW Public Sector agencies.

Internal governance

The Commission has a number of internal governance committees to monitor its day-to-day functions, these include the Executive Committee, Strategic Operations Committee, and the Audit and Risk Committee.

Executive Committee

The Executive Committee meets fortnightly 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, IT
- Manager, Prevention & Education
- Manager, Legal

Audit and Risk Committee

The Commission's Audit and Risk Committee works to a charter aligning with the NSW Treasury's Internal Audit and Risk Management Policy for the General Government.

The Committee comprises 3 external independent members. The Committee's role is to provide 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. Remuneration for the external members during the reporting period totalled \$24,684 (excluding GST).

The Audit and Risk Committee met quarterly during the reporting period, on 18 July 2022, 15 September 2022, 1 December 2022, and 28 April 2023.

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.

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.

Mr Bruce McClintock SC commenced his appointment as the Inspector of the Law Enforcement Conduct Commission on 1 July 2022.

The Inspector's functions are set out in Part 9 of the LECC Act. The Inspector has the following principal functions:

- Audit the operations of the Commission for the purpose of monitoring compliance with the law of the State.
- Deal with (by reports and recommendations) conduct amounting to agency maladministration on the part of the Commission and conduct amounting to officer misconduct or officer maladministration on the part of an officer of the Commission, whether or not the subject of a complaint.
- Assess the effectiveness and appropriateness of the Commission's policies and procedures.

The Commissioners meet regularly with the Inspector to discuss any issues of mutual interest.

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 of the 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 Committee met on 28 September 2022.

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

Chair:	Philip Donato	(IND, LA Member)
Deputy Chair:	Cameron Murphy	(ALP LC Member)
Members:	Sue Higginson	(GRNS, LC Member)
	Karen McKeown	(ALP, LA Member)
	Rachel Merton	(LIB, LC Member)
	Mark Taylor	(LIB, LA Member)
	Tri Vo	(ALP, LA Member)

4.7 Audits and risk management

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 in chapter 6.

We prepared and submitted the Financial Statements for 2022–23 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.

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 did not increase, the worker's compensation premium increased by \$11,542 or 9%, which is consistent with previous years.

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.

Risk management and internal control

Internal Audit and Risk Management Attestation Statement for the 2022-23 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 8 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
1 Risk Management Framework	
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
2 Internal Audit Function	
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
3 Audit and Risk Committee	
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 Marcia Doheny, appointed 2 October 2022, for a 4 year term ending 1 April 2026.
- Independent Member – Mr Peter Scarlett, appointed 2 October 2022, for a 3 year term ending 1 July 2025.
- Independent Member – Ms Ian Gillespie, appointed 2 October 2022, for a 5 year term ending 2 October 2027.



Christina Anderson
Chief Executive Officer

Staff vetting

Commission staff occupy positions of trust and work with sensitive and confidential material. Prior to employment all staff and contractors undergo a suitability assessment including background checks.

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. Staff are required to provide an annual update as well as update significant information as they occur.

The Commission's Security and Vetting Policy ensures staff are aware of their responsibilities regarding the integrity of Commission information and systems.

The Commission has a policy of not employing current or former NSW Police Force or NSW Crime Commission officers.

5 Sustainability

This section outlines the measures we have in place to identify and address the Commission’s key sustainability risks and opportunities, including those related to social and environmental matters.

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5.2 Work health and safety.....	113
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5.1 Modern Slavery Act 2018 (NSW)

The Commission is committed to respecting human rights and is taking action to identify and address the risks of modern slavery in its operations and procurement.

The term modern slavery describes serious forms of exploitation including human trafficking, servitude, forced labour, debt bondage, forced marriage, and deceptive recruiting for labour or services. It occurs when coercion, threats or deception are used to exploit victims and undermine or deprive them of their freedom. Modern slavery breaches the most fundamental freedoms and human rights of individuals and is never acceptable in any of its forms.

From 1 January 2022, the *Modern Slavery Act 2018* (NSW) requires reasonable steps to be taken to ensure that goods and services procured by and for government are not the product of modern slavery.

The Commission's discretionary spending on goods and services is a small percentage of its total expenditure, regardless the Commission is committed to ensuring that all procurement is undertaken ethically to reduce the risk of modern slavery.

Our efforts throughout the reporting period continued to focus on understanding modern slavery risks and developing processes for identifying and addressing modern slavery, including:

- ongoing risk assessments across our supply chain
- engaging with our suppliers to identify and confirm their commitment to ending modern slavery practices

- embedding ethical buying practices in business processes and organisational culture
- updating policies, procedures, and systems to reflect the agency's commitment to addressing modern slavery risks.

Procurement considered to have a higher risk of modern slavery for the Commission include minor equipment and cleaning contractors.

We aim to reduce the likelihood of contributing to modern slavery issues by implementing recommended sustainable supply chain practices such as:

- paying suppliers within fair timeframes and avoiding undue delays
- avoiding unreasonable contract variations
- where possible using preapproved government suppliers
- only contracting with reputable suppliers.

5.2 Work health and safety

The Commission is committed to the health, safety and wellbeing of all staff and visitors.

We have 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 WHS Committee meeting minutes every 4 months.

There were no workplace health and safety related prosecutions under the *Work Health and Safety Act 2011* (NSW) during this reporting period.

As part of meeting this commitment during 2022–23, the Commission:

- continued to develop, support, and maintain safe working practices and principles
- promoted the Employee Assistance Program (EAP) which is available to all staff to enhance the emotional and psychological wellbeing of employees and their families
- provided the opportunity for all staff to attend regular 1:1 counselling around prevention of vicarious trauma
- refreshed our Work, Health and Safety Committee membership to ensure representation across all groups within the Commission
- encouraged all staff to be vaccinated against the flu and provided an opportunity to be vaccinated at the office.

5.3 Workforce diversity

Overview

The Commission understands the value people with diverse life and work experiences bring to the workplace. The Commission is committed to building a talented, responsive, and inclusive workforce, reflective of the diversity of the people of NSW.

We recognise that by embracing the different contributions, perspectives, and talents that make up our organisation we not only create a culture of participation, contribution and respect, but also increase innovation, creativity and organisational performance.

The Commission aims to enhance our employee experience through supporting staff to balance their work and personal life commitments and encourage overall wellness and ongoing learning opportunities.

This included:

- providing support for flexible working arrangements including providing tools to enable hybrid working
- supporting and acknowledging key events and culturally significant days including NAIDOC Week, International Women's Day, and Harmony Day

- ensuring all staff are included in the operations of the Commission through weekly CEO catch ups and regular whole of staff information sessions delivered in person and virtually
- encouraging and enabling women to participate and have a voice at all levels and functions of the Commission
- initiating the Commission's initial Reconciliation Action Plan for launch in 2023-24.

In the 2023–24 reporting period, we will continue to look for ways to instil positive change that will lead to a more inclusive workplace, including by:

- revising and updating our diversity and inclusion framework
- continuing to recognise and celebrate key multicultural events
- continuing development of a community engagement strategy.



Diversity statistics

Table 37: trends in the representation of workforce diversity groups in the Commission

Workforce Diversity Group	Benchmark	2021	2022	2023
Women	50%	55.1%	58.4%	58.3%
Aboriginal and/or Torres Strait Islander people	3.3%	1.0%	0.9%	0.9%
People whose first language spoken as a child was not English	23.2%	10.6%	13.7%	16.2%
People with Disability	5.6%	2.9%	4.6%	6.2%
People with Disability requiring work-related adjustment	N/A	0.0%	0.0%	2.7%

Note 1: The benchmark of 50% for representation of women across the sector is intended to reflect the gender composition of the NSW community.

Note 2: The NSW Public Sector Aboriginal Employment Strategy 2014–17 introduced an aspirational target of 1.8% by 2021 for each of the sector's salary bands. If the aspirational target of 1.8% is achieved in salary bands not currently at or above 1.8%, the cumulative representation of Aboriginal employees in the sector is expected to reach 3.3%.

Note 3: A benchmark from the Australian Bureau of Statistics (ABS) Census of Population and Housing has been included for People whose First Language Spoken as a Child was not English. The ABS Census does not provide information about first language, but does provide information about country of birth. The benchmark of 23.2% is the percentage of the NSW general population born in a country where English is not the predominant language.

Note 4: In December 2017 the NSW Government announced the target of doubling the representation of people with disability in the NSW public sector from an estimated 2.7% to 5.6% by 2027. More information can be found at: [Jobs for People with Disability: A plan for the NSW public sector](#). The benchmark for 'People with Disability Requiring Work-Related Adjustment' was not updated.

Table 38: trends in the distribution index for workforce diversity groups in the Commission

Workforce Diversity Group	Benchmark	2021	2022	2023
Women	100	93	92	92
Aboriginal and/or Torres Strait Islander people	100	N/A	N/A	N/A
People whose first language spoken as a child was not English	100	N/A	N/A	N/A
People with Disability	100	N/A	N/A	N/A
People with Disability requiring work-related adjustment	100	N/A	N/A	N/A

Note 1: A Distribution Index score of 100 indicates that the distribution of members of the Workforce Diversity group across salary bands is equivalent to that of the rest of the workforce. A score less than 100 means that members of the Workforce Diversity group tend to be more concentrated at lower salary bands than is the case for other staff. The more pronounced this tendency is, the lower the score will be. In some cases, the index may be more than 100, indicating that members of the Workforce Diversity group tend to be more concentrated at higher salary bands than is the case for other staff.

Note 2: The Distribution Index is not calculated when the number of employees in the Workforce Diversity group is less than 20 or when the number of other employees is less than 20.

Action plan for women

The following table outlines the Commission's objectives under the action plan for women and our achievements during the reporting period.

Table 39: the Commission's action plan for an equitable and balanced workplace for women

Objective	Results
An equitable and balanced workplace responsive to all aspects of women's lives	<p>Approximately one quarter of the Commission's female employees were employed on approved part-time and other special working arrangements throughout the reporting period.</p> <p>Policies and procedures are in place at the Commission to ensure that women who are seeking a better work/life balance are given the opportunity to do so by accessing a variety of flexible work practices. This applies to women returning from parental leave as well as those with other personal responsibilities and obligations.</p>
Equitable access for women to educational and training development opportunities	<p>Women filled 64% of higher duties and staff development opportunities across the Commission during this reporting period.</p>
Promote the position of women	<p>Women made up a total of 58% of the Commission's workforce throughout the reporting period.</p> <p>A total of 60% of the Commission's management level positions are held by women and 96% of the Commission's female staff are remunerated above the equivalent of NSW Public Sector Administrative & Clerical Officers Grade 5.</p>

5.4 Energy Management Plan

The Commission is committed to sustainable energy management principles. We regularly review our energy, water consumption, and purchasing practices to minimise the impact of the Commission’s operations on the environment.

All Commission air-conditioning and UPS units have now been replaced with more efficient units. In addition to this, most of our servers have been replaced, therefore reducing the heat load in the data centre. This project continues to see ongoing reductions in energy costs and usage and is reflected on the NSW Government CASPER website as a high score rating based on year-on-year reductions. Of the Commissions overall energy use, 25% is sourced as green power, which is well above the government minimum requirement of 6%.

The scheduling of our automatic air-conditioning and lighting is monitored

regularly and is programmed to minimal hours of use. Regular energy audits are also conducted to look for any improvements in energy use.

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.

Table 40: electricity usage

Reporting year	Energy Use in kWh	Remarks
2021-22	434178.36	Areas shut down over Covid
2022-23	461952.21	All areas back in operation

Table 41: paper usage

Reporting year	Number of reams purchased/used
2021-22	405
2022-23	410

Table 42: vehicle fleet

Reporting year	Number of hybrid vehicles	Number of electric vehicles	Total vehicles in fleet	Total KMs travelled (all)	Remarks
2021-22	2	0	4	35788	Covid period
2022-23	3	0	4	47423	

5.5 Waste management

In accordance with the NSW 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 we currently have in place include:

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

Table 43: waste stream reporting

Reporting year	Type of waste	Total volume in Tons
2021-22	General	9.7
2022-23	General	8.1
2021-22	Electronic (e-waste)	0.4
2022-23	Electronic (e-waste)	1.4
2021-22	Paper Cardboard	3.1
2022-23	Paper Cardboard	2.8

6 Financial performance

This section includes the Commission's financial statements for the reporting period and the Auditor General's independent report.

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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 2023, the Statement of Financial Position as at 30 June 2023, 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 and the consolidated entity in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants (including Independence Standards)' (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 have fulfilled my other ethical responsibilities in accordance with APES 110.

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 and the GSF Act, GSF Regulation 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 ability of the Commission and the consolidated entity to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

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

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

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

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

- that the Commission and the consolidated entity carried out their 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.



Nirupama Mani
Director Financial Audit

Delegate of the Auditor-General for New South Wales

26 September 2023
SYDNEY

6.2 Audited financial statements

Law Enforcement Conduct Commission Statement by Chief Commissioner

Pursuant to Section 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 provisions of the Government Sector Finance Act 2018, the Government Sector Finance Regulation 2018, Australian Accounting Standards, which includes Australian Accounting Interpretations and the Treasurer's Directions
- these financial statements present fairly the Commission's financial position, financial performance and cash flows as at 30 June 2023
- there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



A Johnson
Acting Chief Commissioner



C Anderson
Chief Executive Officer

Law Enforcement Conduct Commission
Statement of Comprehensive Income for the year ended 30 June 2023

	Notes	Parent Entity (Law Enforcement Conduct Commission)		Economic Entity (Consolidated)		
		Actual 2023 \$'000	Actual 2022 \$'000	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
Continuing Operations						
Expenses excluding losses						
Employee related expenses	2(a)	995	908	18,963	17,516	16,176
Operating expenses	2(b)	3,401	2,609	2,698	3,401	2,609
Personnel services	2(c)	16,516	15,266	--	--	--
Depreciation and amortisation	2(d)	3,079	3,073	3,127	3,079	3,073
Finance costs	2(e)	51	82	63	51	82
Total expenses excluding losses		24,042	21,938	24,851	24,047	21,940
Revenue						
Appropriation	3(a)	23,100	20,850	24,129	23,100	20,850
Sale of goods and services from contracts with customers	3(b)	--	21	--	--	21
Grants and other contributions	3(c)	90	340	90	90	340
Acceptance by the Crown Entity of employee benefits and other liabilities	3(d)	807	230	696	809	232
Other income	3(e)	97	--	58	100	--
Total revenue		24,094	21,441	24,973	24,099	21,443
Operating result		52	(497)	122	52	(497)
Gain/(loss) on disposal	4	66	59	15	66	59
Other gains/(loss) - Unwinding/ change in discount rate	5	(11)	32	--	(11)	32
Net result from continuing operations		107	(406)	137	107	(406)
Total other comprehensive income		--	--	--	--	--
TOTAL COMPREHENSIVE INCOME		107	(406)	137	107	(406)

The accompanying notes form part of these financial statements

Law Enforcement Conduct Commission
Statement of Financial Position as at 30 June 2023

	Notes	Parent Entity (Law Enforcement Conduct Commission)		Economic Entity (Consolidated)		
		Actual 2023 \$'000	Actual 2022 \$'000	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
ASSETS						
Current Assets						
Cash and cash equivalents	7	345	667	581	347	689
Receivables	8	1,254	1,020	1,378	1,254	1,037
Total Current Assets		1,599	1,687	1,959	1,601	1,726
Non-Current Assets						
Receivables	8	47	47	47	47	47
Property, plant and equipment	9					
- Land & buildings		292	530	607	292	530
- Plant & equipment		2,243	2,035	2,213	2,243	2,035
Total property, plant and equipment		2,535	2,565	2,820	2,535	2,565
Right-of-use assets	10	1,976	3,871	1,956	1,976	3,871
Intangible assets	11	1,064	1,203	1,273	1,064	1,203
Total Non-Current Assets		5,622	7,686	6,096	5,622	7,686
Total Assets		7,221	9,373	8,055	7,223	9,412
LIABILITIES						
Current Liabilities						
Payables	12	480	443	262	507	452
Borrowings	13	2,321	2,201	2,053	2,321	2,201
Provisions	14	2,019	2,126	1,922	1,928	2,105
Total Current Liabilities		4,820	4,770	4,237	4,756	4,758
Non-Current Liabilities						
Borrowings	13	77	2,397	483	77	2,397
Provisions	14	595	584	687	661	635
Total Non-Current Liabilities		672	2,981	1,170	738	3,032
Total Liabilities		5,492	7,751	5,407	5,494	7,790
Net Assets		1,729	1,622	2,648	1,729	1,622
EQUITY						
Accumulated funds		1,729	1,622	2,648	1,729	1,622
Total Equity		1,729	1,622	2,648	1,729	1,622

The accompanying notes form part of these financial statements

Law Enforcement Conduct Commission
Statement of Changes in Equity for the year ended 30 June 2023

	Notes	Parent Entity (Law Enforcement Conduct Commission) Accumulated Funds \$'000	Economic Entity (Consolidated) Accumulated Funds \$'000
Balance at 1 July 2022		1,622	1,622
Net result for the year		107	107
Other comprehensive income:		--	--
Total other comprehensive income		--	--
Total comprehensive income for the year		107	107
Transactions with owners in their capacity as owners		--	--
Balance at 30 June 2023		<u>1,729</u>	<u>1,729</u>
Balance at 1 July 2021		2,028	2,028
Net result for the year		(406)	(406)
Other comprehensive income:		--	--
Total other comprehensive income		--	--
Total comprehensive income for the year		(406)	(406)
Transactions with owners in their capacity as owners		--	--
Balance at 30 June 2022		<u>1,622</u>	<u>1,622</u>

The accompanying notes form part of these financial statements

Law Enforcement Conduct Commission

Statement of Cash Flows for the year ended 30 June 2023

	Notes	Parent Entity (Law Enforcement Conduct Commission)		Economic Entity (Consolidated)		
		Actual 2023 \$'000	Actual 2022 \$'000	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES						
Payments						
Employee related		(995)	(908)	(18,267)	(16,836)	(15,661)
Suppliers for goods & services		(4,295)	(2,649)	(2,698)	(4,298)	(2,766)
Personnel services		(15,806)	(14,886)	--	--	--
Finance costs		(62)	(82)	(63)	(62)	(82)
Total Payments		(21,158)	(18,525)	(21,028)	(21,196)	(18,509)
Receipts						
Appropriation		23,100	20,850	24,129	23,100	20,850
Sale of goods and services		--	21	--	16	21
Grants and other contributions		90	340	90	90	340
Other		795	479	58	797	479
Total Receipts		23,985	21,690	24,277	24,003	21,690
NET CASH FLOWS FROM OPERATING ACTIVITIES	19	2,827	3,165	3,249	2,807	3,181
CASH FLOWS FROM INVESTING ACTIVITIES						
Proceeds from sale of plant & equipment		69	61	15	69	61
Purchases of plant & equipment		(910)	(468)	(950)	(910)	(468)
Purchases of intangible assets		(108)	(594)	(440)	(108)	(594)
NET CASH FLOWS FROM INVESTING ACTIVITIES		(949)	(1,001)	(1,375)	(949)	(1,001)
CASH FLOWS FROM FINANCING ACTIVITIES						
Payment of principal portion of lease liabilities		(2,200)	(2,084)	(2,161)	(2,200)	(2,084)
NET CASH FLOWS FROM FINANCING ACTIVITIES		(2,200)	(2,084)	(2,161)	(2,200)	(2,084)
NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS		(322)	80	(287)	(342)	96
Opening cash and cash equivalents		667	587	868	689	593
CLOSING CASH AND CASH EQUIVALENTS	7	345	667	581	347	689

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 2023

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* (NSW).

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 2023, have been authorised for issue by the Acting Chief Commissioner and Chief Executive Officer for the Law Enforcement Conduct Commission on 22 September, 2023.

(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
- the 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 a single state outcome being, Investigations, Research and Complaint Management. As such, a state outcome 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 Commission's funding source).

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

(c) Superannuation on annual leave loading

The Commission has determined that it is not probable a liability arises to pay superannuation on annual leave loading. This position has been formed based on current inquiries, other information currently available to management, and after considering the facts from a decision in the Federal Court of Australia: Finance Sector Union of Australia v Commonwealth Bank of Australia [2022] FedCFamC2G 409. That decision confirmed that, in relation to the industrial agreement considered in that case, annual leave loading did not form part of ordinary time earnings and therefore, did not require superannuation contributions to be made under superannuation guarantee legislation because the obligation to pay annual leave loading was not referable to ordinary hours of work or to ordinary rates of pay. Rather, it was paid by reference to the period of annual leave, and for the purpose of compensating employees for their loss of opportunity to work additional hours at higher rates during this period.

This position will be re-assessed in future reporting periods as new information comes to light on this matter.

(d) Statement of Compliance

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

(e) Accounting for the Goods and Services Tax (GST)

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

- 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.

(f) 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 2023

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

(i) Effective for the first time in 2022-23

The accounting policies applied in 2022-23 are consistent with those of the previous financial year. Several amendments and interpretations apply for the first time in 2022-23, but do not have an impact on the financial statements of the Commission:

- AASB 2020-3 – Regarding amendments to Australian Accounting Standards – Annual improvements 2018-2020 and other amendments
- AASB 2021-7 – Regarding amendments to Australian Accounting Standards – Effective date of amendments to AASB 10 and AASB 128 and editorial corrections
- AASB 2022-3 – Regarding amendments to Australian Accounting Standards – Illustrative Examples for Not-For-Profit Entities accompanying AASB 15

(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 following new Australian Accounting Standards have not been applied and are not yet effective:

- AASB 2020-1 – Regarding amendments to Australian Accounting Standards – Classification of liabilities as current or non-current – deferral of effective date
- AASB 2021-2 Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates
- AASB 2022-1 Amendments to Australian Accounting Standards – Initial Application of AASB 17 and AASB 9 – Comparative Information
- AASB 2022-9 – Regarding amendments to Australian Accounting Standards – Insurance contracts in the Public Sector; and
- AASB 2022-10 – Regarding amendments to Australian Accounting Standards – Fair Value Measurement of Non-Financial Assets of Not-for-Profit Public Sector Entities.

The Commission is of the opinion that the possible impact of these Standards in their period of initial application to either be non-applicable or immaterial.

(h) Impact of COVID-19 on Financial Reporting for 2022-23

The Commission's financial statements for the 2022-23 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 2023

2. EXPENSES EXCLUDING LOSSES

(a) Employee related expenses

	Law Enforcement Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Salaries and wages (including annual leave)*	850	825	14,053	13,610
Redundancies	--	--	91	211
Superannuation–defined benefit plans	--	--	43	61
Superannuation–defined contribution plans	68	23	1,425	1,194
Long service leave	--	--	766	171
Workers' compensation insurance	--	--	129	118
Payroll tax and fringe benefits tax	77	60	1,000	810
Other employee expenses	--	--	9	1
	995	908	17,516	16,176

* Salaries and wages shown under the Law Enforcement Conduct Commission relate to the statutory appointment of the Chief Commissioner and Commissioner.

Employee related expenditure is below budget due to the Commission carrying a number of vacant positions, recruitment action for which continues.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

(b) Other operating expenses include the following:

	Law Enforcement Conduct Commission		Consolidated	
	2023 \$'000	2022 \$'000	2023 \$'000	2022 \$'000
Administration charges	48	40	48	40
Books and periodicals	73	72	73	72
Auditor's remuneration—audit of the financial statements—audit review of financial information	55	54	55	54
Consultancies	269	--	269	--
Contractors	268	192	268	192
External legal counsel	72	--	72	--
Minor computer expenses	293	218	293	218
Maintenance	1,080	1,003	1,080	1,003
Insurance	55	55	55	55
Accommodation outgoings (utilities, cleaning)	182	161	182	161
Variable lease payments, not included in lease liabilities	92	128	92	128
Minor equipment	173	69	173	69
Motor vehicle costs (including leasing charges)	111	89	111	89
Printing and stationery	15	15	15	15
Staff development	215	101	215	101
Travelling expenses	149	58	149	58
Telephones	29	28	29	28
Fees and searches	50	40	50	40
Other*	172	286	172	286
	3,401	2,609	3,401	2,609

* 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.

Other operating expenses are above budget due to increased costs of maintenance, consultants, contractors, staff development and travel.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

RECOGNITION AND MEASUREMENT

Maintenance expense

Day-to-day servicing and maintenance costs are charged as expenses when they are 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.

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 are excluded from the measurement of the Commission's lease liability (i.e. repayments that do not depend on an index or a rate, 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 such payments occurs.

(c) **Personnel Services expenses**

	Law Enforcement Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Office of the Law Enforcement Conduct Commission	16,516	15,266	--	--

d) **Depreciation and amortisation expense**

Depreciation				
Computer Equipment	327	401	327	401
Plant and Equipment	373	378	373	378
Leasehold Improvements	238	235	238	235
Right-of-Use Assets - Leasehold	1,895	1,895	1,895	1,895
Intangibles	246	164	246	164
	3,079	3,073	3,079	3,073

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

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

(e) Finance costs

	Law Enforcement Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Interest expense from lease liabilities	51	82	51	82
Total Interest Expense	51	82	51	82

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 General Government Sector (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 as 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 2023

(a) Appropriations and Transfers to the Crown

Summary of Compliance

	2023	2022
	\$'000	\$'000
Original Budget per <i>Appropriation Act</i>	24,129	22,766
Other Appropriations		
Variations made to the appropriations during the financial year	--	170
Total spending authority from parliamentary appropriations, other than deemed appropriations	24,129	22,936
Add:		
Own source revenue money received during the year	973	901
Own source revenue balance brought forward from prior years	1,132	231
Total	26,234	24,068
Less: total expenditure	(24,413)	(21,654)
Variance	1,821	2,414
Less:		
The spending authority from appropriations lapsed at 30 June	--	(1,282)
Own source revenue balance carried forward to following years	1,821	1,132
	2023	2022
	\$'000	\$'000
Appropriations (per Statement of Comprehensive Income)	23,100	20,850
Total amount drawn down against Annual Appropriation	23,100	20,850

- The Summary of Compliance includes deemed appropriations, is presented for the consolidated accounts, and is based on the assumption that annual appropriations 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.
- Deemed appropriations is a legal concept under the GSF Act that does not have a corresponding financial statement line item. Instead, deemed appropriations may come from various sources, such as sale of goods and services, and the corresponding revenue is disclosed in the relevant sections of these items in the financial statements.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

The *Appropriation Act 2022 (Appropriations Act)* (and the subsequent variations, if applicable) appropriates the sum of \$24.129m to the Premier out of the Consolidated Fund for the services of the Law Enforcement Conduct Commission for the year 2022-23. The Treasury and Energy Legislation Amendment Act 2022 made some amendments to sections 4.7 and 4.9 of the GSF Act. These amendments commenced on 14 November 2022 and are applied retrospectively. As a result, the lead Ministers for the Commission, being the Premier and Special Minister for State, is taken to have been given an appropriation out of the Consolidated Fund under the authority section 4.7 of the GSF Act, at the time the Commission receives or recovers any deemed appropriation money, for an amount equivalent to the money that is received or recovered by the Commission. These deemed appropriations are taken to have been given for the services of the Commission.

In addition, government money that the Commission receives or recovers, from another GSF agency, of a kind prescribed by the GSF regulations that forms part of the Consolidated Fund, is now capable of giving rise to deemed appropriations.

On 16 June 2023, the GSF Amendment (Deemed Appropriations) Regulation 2023 was approved to bring the GSF regulations in line with the above deemed appropriation amendments to the GSF Act.

The spending authority of the Premier and Special Minister for State for the services of the special office, from the *Appropriations Act* and deemed appropriation money, has been delegated/ sub-delegated to officers of the Commission.

The summary of compliance has been prepared by aggregating the spending authorities for the services of the Commission. It reflects the status at the point in time this disclosure statement is being made.

The Commission receives its funding from the Consolidated Fund. Appropriations for each financial year are set out in the Appropriation bill that is prepared and tabled for that year. The State Budget and related 2023-24 Appropriation Bill has been delayed until September 2023. However, pursuant to section 4.10 of the GSF act, the Treasurer has authorised ministers to spend specified amounts from the Consolidated Fund. This authorisation is current from 1 July 2023 until the earlier of 30 September 2023 or enactment of the 2023-24 Appropriation Act.

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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

(b) Sale of goods and services from contracts with customers

	Law Enforcement Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Rendering of service – other government entities	--	21	--	21
	--	21	--	21

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), where 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

	Law Enforcement Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Grants without sufficiently specific performance obligations.	90	340	90	340
	90	340	90	340

RECOGNITION AND MEASUREMENT

Income from grants without sufficiently specific performance obligations is recognised when the Commission obtains control over the granted assets (e.g. cash).

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

(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 Conduct Commission		Consolidated	
	2023 \$'000	2022 \$'000	2023 \$'000	2022 \$'000
Superannuation – defined benefit	41	59	41	59
Long service leave provision	766	171	766	171
Payroll tax	--	--	2	2
	807	230	809	232

(e) Other Income

Insurance claim receipts/hindsight adjustment refund	--	--	3	--
Sale of minor equipment	2	--	2	--
Seminars and Training Contributions	95	--	95	--
	97	--	100	--

4. GAIN/(LOSS) ON DISPOSAL

Proceeds from disposal	69	61	69	61
Written down value of assets disposed	(3)	(2)	(3)	(2)
Gain / (loss) on disposal	66	59	66	59

5. OTHER GAIN/(LOSS)

Unwinding/change in discount rate – Makegood provision (note 14)	(11)	32	(11)	32
	(11)	32	(11)	32

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 asset) subject to impairment. Accounting Policies and events giving rise to impairment losses are disclosed in the following notes:

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

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

6. STATE OUTCOME GROUP

The Commission comprises a single outcome 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 investigations 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 Conduct Commission		Consolidated	
	2023 \$'000	2022 \$'000	2023 \$'000	2022 \$'000
Cash at bank	343	665	345	687
Cash on hand	2	2	2	2
	345	667	347	689

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)	345	667	347	689
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Refer to Note 20 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

8. CURRENT/NON-CURRENT ASSETS – RECEIVABLES

	Law Enforcement Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Prepayments	1,142	893	1,142	893
Other receivables	112	127	112	144
Total current receivables	1,254	1,020	1,254	1,037
Other non-current receivables	47	47	47	47
Total non-current receivables	47	47	47	47

Refer to 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 ECLs as all trade receivables held by the Commission are payable by other government agencies (either State or Commonwealth), the dollar value is low, and as such, are considered to be recoverable in full.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

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 improvements \$'000	Plant & Equipment \$'000	Computer Equipment \$'000	Total \$'000
At 1 July 2021 – fair value				
Gross carrying amount	2,397	3,402	4,614	10,413
Accumulated depreciation and impairment	(1,678)	(2,080)	(3,542)	(7,300)
Net carrying amount	719	1,322	1,072	3,113
Year ended 30 June 2022				
Net carrying amount at beginning of year	719	1,322	1,072	3,113
Purchases of assets	46	238	185	469
Disposals	--	(1)	(2)	(3)
Depreciation expense	(235)	(378)	(401)	(1,014)
Other movements; transfer between class	--	11	(11)	--
Net carrying amount at end of year	530	1,192	843	2,565
	Leasehold improvements \$'000	Plant & Equipment \$'000	Computer Equipment \$'000	Total \$'000
At 1 July 2022 – fair value				
Gross carrying amount	2,444	3,190	4,344	9,978
Accumulated depreciation and impairment	(1,914)	(1,998)	(3,501)	(7,413)
Net carrying amount	530	1,192	843	2,565
	\$'000	\$'000	\$'000	\$'000
Year ended 30 June 2023				
Net carrying amount at beginning of year	530	1,192	843	2,565
Purchases of assets	--	267	643	910
Disposals	--	--	(2)	(2)
Depreciation expense	(238)	(373)	(327)	(938)
Net carrying amount at end of year	292	1,086	1,157	2,535

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

	Leasehold improvements \$'000	Plant & Equipment \$'000	Computer Equipment \$'000	Total \$'000
At 30 June 2023 – fair value				
Gross carrying amount	2,443	3,236	4,761	10,440
Accumulated depreciation and impairment	(2,151)	(2,150)	(3,604)	(7,905)
Net carrying amount	292	1,086	1,157	2,535

RECOGNITION AND MEASUREMENT

Acquisition of plant and equipment

Plant and equipment are initially recognised at cost. Cost includes the amount of cash or cash equivalents paid or the fair value of the 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, and 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 provisions 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 materially 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 to 8 years
Intangible computer software	4 to 9 years
Plant and equipment	3 to 14 years
Leasehold improvements	the period of the lease

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

Right-of-use Assets acquired by lessees

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.

Revaluation of plant and equipment

Physical non-current assets are valued in accordance with NSW Treasury's 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP 21-09) and the Treasurer's Direction Valuation of Physical non-Current Assets at Fair Value (TD21-05). Both TPP21-09 and TD21-05 adopt 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 their 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 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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

10. LEASES

Entity as a lessee

The Commission leases property. Lease contracts are typically made for fixed periods of three to five 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 have historically comprised of equipment.

Right-of-use assets under leases

The following table presents right-of-use assets.

	Leasehold improvements	Total
	\$'000	\$'000
Balance as at 1 July 2022	3,871	3,871
Depreciation expense	(1,895)	(1,895)
Balance at 30 June 2023	1,976	1,976
Balance as at 1 July 2021	5,766	5,766
Depreciation expense	(1,895)	(1,895)
Balance at 30 June 2022	3,871	3,871

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

Lease liabilities

The following table presents liabilities under leases.

	2023	2022
	\$'000	\$'000
Balance as at 1 July 2022	4,598	6,682
Interest expense	51	82
Payments	(2,251)	(2,166)
Balance at 30 June 2023	2,398	4,598

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

	2023	2022
	\$'000	\$'000
Depreciation expense of right-of-use assets	1,895	1,895
Interest expense on lease liabilities	51	82
Variable lease payments, not included in the measurement of lease liabilities	92	128
Total amount recognised in the Statement of Comprehensive Income	2,038	2,105

The Commission had total cash outflows for leases of \$2,565,956 (GST inclusive) in FY2022-23 (FY2021-22 \$2,514,842).

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 to (ii) Lease Liabilities 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.

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

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

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 option 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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

- (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.

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
At 1 July 2021	
Cost (gross carrying amount)	4,178
Accumulated amortisation and impairment	(3,405)
Net carrying amount	773
Year ended 30 June 2022	
Net carrying amount at beginning of year	773
Additions	594
Amortisation (recognised in “depreciation and amortisation”)	(164)
Net carrying amount at end of year	1,203
At 1 July 2022	
Cost (gross carrying amount)	4,753
Accumulated amortisation and impairment	(3,550)
Net carrying amount	1,203
Year ended 30 June 2023	
Net carrying amount at beginning of year	1,203
Additions	108
Disposals	(1)
Amortisation (recognised in “depreciation and amortisation”)	(246)
Net carrying amount at end of year	1,064
At 30 June 2023	
Cost (gross carrying amount)	4,736
Accumulated amortisation and impairment	(3,672)
Net carrying amount	1,064

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

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 four to nine years.

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

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

12. CURRENT LIABILITIES – PAYABLES

	Law Enforcement Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Accrued salaries, wages and on-costs	--	--	362	342
Personnel services payable	362	342	--	--
Creditors	118	101	145	110
	480	443	507	452

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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

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.

Lease liabilities (see note 10)	Consolidated	
	2023	2022
	\$'000	\$'000
Current Lease liabilities	2,321	2,201
Non-Current liabilities	77	2,397
	2,398	4,598

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.

14. CURRENT / NON-CURRENT LIABILITIES – PROVISIONS

	Law Enforcement Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Employee benefits and related on-costs				
Annual leave including on-costs	33	113	1,260	1,514
Long service leave on-costs	--	--	734	642
Provision for personnel services	1,986	2,013	--	--
	2,019	2,126	1,994	2,156
Current annual leave obligations expected to be settled after 12 months			115	136
Current long service leave obligations expected to be settled after 12 months			66	51

The liability is based on leave entitlements at 30 June 2023 using remuneration rates payable post 30 June 2023.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

	Law Enforcement Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Other Provisions				
Restoration costs	595	584	595	584
Total other Provisions	595	584	595	584

	Consolidated	
	2023	2022
	\$'000	\$'000
Aggregate employee benefits and related on-costs		
Provisions – current	1,928	2,105
Provisions – non-current	66	51
Accrued salaries, wages and on-costs (Note 12)	362	342
	2,356	2,498

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	
	2023	2022
	\$'000	\$'000
Movements in provisions (other than employee benefits)		
Restoration costs		
Carrying amount at 1 July 2022	584	616
Unwinding/change in discount rate	11	(32)
Carrying amount at 30 June 2023	595	584

RECOGNITION AND MEASUREMENT

Employee benefits and related on-costs

Salaries and wages, annual leave and sick leave

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

Annual leave is not expected to be settled wholly before 12 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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

15. EQUITY

RECOGNITION AND MEASUREMENT

Accumulated Funds

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

Reserves

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

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 Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Within one year	701	45	701	45
Total (including GST)	701	45	701	45

Capital commitments for 2023 include input tax credits of \$70,078 (2022: \$4,137) 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 slightly lower than budget, primarily due to:

Employee related expenditure is below budget due to the Commission carrying several vacant positions, recruitment action for which continues. Other operating expenses are above budget due to increased cost of maintenance, contractors, consultants, training and travel.

Other Income is higher than budget as the Commission received a share of profit as a co-host of APSACC 2022 which was not budgeted for.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

Assets and liabilities

Assets are below budget due to a decrease in cash holdings and non-current assets being lower than budget at year end. Total liabilities are close to budget, movement between current liabilities are higher than budget due to an increase in payables including accrued salaries and higher current borrowings relating to Right of Use Assets.

Cash flows

Payments are on budget; receipts are lower than budget as the Commission did not drawdown its full appropriation. Closing cash is slightly below budget.

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

	Law Enforcement Conduct Commission		Consolidated	
	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000
Net cash used on operating activities	2,827	3,165	2,807	3,181
Depreciation and amortisation	(3,079)	(3,073)	(3,079)	(3,073)
Decrease/(increase) in provisions	96	(117)	149	(130)
Increase/(decrease) in prepayments and other assets	234	(317)	218	(315)
Decrease/(increase) in payables	(37)	(123)	(54)	(128)
Net gain/(loss) on assets disposed	66	59	66	59
Operating result	107	(406)	107	(406)

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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

a) Financial instrument categories

Parent				
Financial Assets	Note	Category	Carrying Amount	Carrying Amount
Class:			2023 \$'000	2022 \$'000
Cash and cash equivalents	7	Amortised cost	345	667
Receivables ¹	8	Amortised cost	47	47
Financial Liabilities	Note	Category	Carrying Amount	Carrying Amount
Class:			2023 \$'000	2022 \$'000
Payables ²	12	Financial liabilities measured at amortised cost	460	443
Borrowings	13	Financial liabilities measured at amortised cost	2,398	4,598
Consolidated				
Financial Assets	Note	Category	Carrying Amount	Carrying Amount
Class:			2023 \$'000	2022 \$'000
Cash and cash equivalents	7	Amortised cost	347	689
Receivables ¹	8	Amortised cost	47	63
Financial Liabilities	Note	Category	Carrying Amount	Carrying Amount
Class:			2023 \$'000	2022 \$'000
Payables ²	12	Financial liabilities measured at amortised cost	486	437
Borrowings	13	Financial liabilities measured at amortised cost	2,398	4,598

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

² 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 these at each financial year end.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

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:

- substantially all the risks and rewards have been transferred; or
- 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.

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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

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

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 no 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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

Maturity analysis and interest rate exposure of financial liabilities

	Weighted average effective int. rate	Nominal amount	\$'000 Interest Rate Exposure			Maturity Dates		
			Fixed interest rate	Variable interest rate	Non-interest bearing	<1 year	1-5 years	> 5 years
Parent - 2023								
Personnel services payable		362			362	362	--	--
Creditors		118			118	118	--	--
Lease liabilities		2,398			2,398	2,321	77	--
		2,878			2,878	2,801	77	--
Parent-2022								
Personnel services payable		342			342	342	--	--
Creditors		101			101	101	--	--
Lease liabilities		4,598			4,598	2,168	2,430	--
		5,041			5,041	2,611	2,430	--
Consolidated-2023								
Accrued salaries and wages and on-costs		362			362	362	--	--
Creditors		145			145	145	--	--
Lease liabilities		2,398			2,398	2,321	77	--
		2,905			2,905	2,828	77	--
Consolidated-2022								
Accrued salaries and wages and on-costs		342			342	342	--	--
Creditors		95			95	95	--	--
Lease liabilities		4,598			4,598	2,168	2,430	--
		5,035			5,035	2,605	2,430	--

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

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 is performed on the same basis as for 2022. 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 material 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.

(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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2023

21. RELATED PARTY DISCLOSURES

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

	Consolidated	
	2023	2022
Short term employee benefits:	\$'000	\$'000
Salaries	1,606	1,565
Post-employment benefits	116	69
Total remuneration	1,722	1,634

Based on Treasury Circular TC16-12 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 2022-23 were:

	Consolidated	
	2023	2022
	\$'000	\$'000
NSW Government Property (accommodation at 111 Elizabeth Street, Sydney)	2,364	2,317
	2,364	2,317

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; and
- 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

Appendices

This section includes the appendices to the Annual Report.

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Appendix 1: LECC Act statutory reporting compliance checklist

Section of the LECC Act	Reporting requirement	2022 –23 Annual Report
S 139(2)(a)	Description of the types of matters that were referred to the Commission	Chapter 3.1 –Assessing complaints
S 139(2)(b)	Description of the types of matters investigated by the Commission	Chapter 3.2 –Investigating serious officer misconduct
S 139(2)(c)	The total number of matters dealt with by the Commission during the year	Chapter 3.1 –Assessing complaints
S 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 3.3 –Oversight and critical incident monitoring
S 139(2)(e)	The number of matters that were investigated by the Commission under Part 6 during the year	Chapter 3.2 –Investigating serious officer misconduct
S 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 3.2 –Investigating serious officer misconduct
S 139(2)(f)(ii)	The number of misconduct matters commenced to be investigated but not finally dealt with during the year	Chapter 3.2 –Investigating serious officer misconduct
S 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 3.2 –Investigating serious officer misconduct
S 139(2)(f)(iv)	The total number of examinations and private and public examinations conducted during the year	Chapter 3.2 –Investigating serious officer misconduct
S 139(2)(f)(v)	The number of days spent during the year in conducting public examinations	Appendix 2 – the Commission’s exercise of powers
S 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 3.2 –Investigating serious officer misconduct

Section of the LECC Act	Reporting requirement	2022 –23 Annual Report
S 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 3.2 – Investigating serious officer misconduct
S 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 3.4 – NSW Crime Commission
S 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 3.6 – Legal matters
S 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 3.2 – Investigating serious officer misconduct
S 139(2)(k)	The extent to which its investigations have resulted in prosecutions or disciplinary action in that year	Chapter 3.6 – Legal matters Appendix 3 – Prosecutions arising
S 139(2)(l)	The number of search warrants issued by authorised justices and the Commissioner respectively under this Act in that year	Appendix 2 – the Commission’s exercise of powers
S 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 3.3 – Oversight and critical incident monitoring Chapter 3.5 – Prevention and Education
S 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 3.4 – NSW Crime Commission
S 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	Chapter 3.8 – Management and activities Chapter 6 – Financial performance

Appendix 2: Statistical data on exercise of powers

The following table indicates the frequency with which the Commission exercised its various powers under the LECC Act in 2022-23.

Powers and functions	2022-23
Under the LECC Act	
S 24 – Establishment of task forces within the State	0
S 54 – Requiring public authority or public official to produce a statement of information	6
S 55 – Requiring a person to attend before an officer of the Commission and produce a specified document or other thing	89
S 58 – Commission may authorise an officer of the Commission to enter and inspect premises etc	0
S 63 – examination days	
Public	8
Private	14
S 69 – Commissioner may summon a person to appear before the Commission and give evidence or produce documents or other things	29
S 79(1) – Authorised justice may issue search warrant	4
S 79(2) – Commissioner may issue a search warrant	0
S 84 – Number of warrants obtained under the <i>Surveillance Devices Act 2007</i> (NSW)	5
S 99(3) – Requirement for the NSW Police Force to investigate a misconduct matter	24
S 102 – Commission request for information relating to a misconduct matter (total from Assessments and Oversight)	489
S 103 – Commission request for information concerning the timely investigation of misconduct matter	5
S 104 – Commission may request further investigation of misconduct matter	31
S 105 – Commission may request a review of the decision on action to be taken as a result of the misconduct matter	5
S 132 – Reports on examinations	2
S 134 – Commission may report on Commissioner of Police’s or Crime Commissioner’s decision on Commission’s request	1
S 135 – Report following Commission’s investigation of misconduct matter relating to police	0
S 138 – Special reports of Commission	4

Powers and functions**2022 – 23**Under the *Police Act 1990* (NSW)

S 131(4) – Commissioner of Police is to take into account any misconduct matters management guidelines or recommendation of the LECC in deciding how to investigate or deal with the misconduct matter	114
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Under the *Law Enforcement (Controlled Operations) Act 1997* (NSW)

S 6 – Applications granted by the Commission for authority to conduct controlled operations	0
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Under the *Law Enforcement and National Security (Assumed Identities) Act 2010* (NSW)

S 6 – Approval granted by the Commissioner for acquisition and use of an assumed identity	9
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S 9 – Applications granted for variation of assumed identity	4
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S 9 – Applications granted for cancellations of assumed identity	3
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Under the *Telecommunications (Interception and Access) Act 1979* (Cth)

S 46 – Warrants used for the interception of communications	16
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S 116 – Warrants issued for access to stored communications	0
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Under the *Surveillance Devices Act 2004* (Cth)

Number of surveillance device warrants obtained	2
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Appendix 3: Prosecutions in 2022–23 arising from Commission investigations

Name

Daniel KENEALLY

material pursuant to s 474.22A of the *Criminal Code 1995* (Cth)

Updates and outcomes

Following Operation Tambre, the Commission sought advice from the Director of Public Prosecutions (DPP) about the sufficiency of evidence to commence criminal proceedings against Mr Keneally.

Following receipt of that advice, Mr Keneally was charged with one count of fabricating false evidence with the intent to mislead a tribunal pursuant to s 317 of the *Crimes Act 1900* (NSW).

Mr Keneally has pleaded not guilty, and the matter was listed for hearing to commence on 18 September 2023.

The outcome of this matter will be reported on in the next Annual Report.

Name

Michael MANNAH

Updates and outcomes

Following the execution of a search warrant in Operation Denali, Mr Mannah was charged with:

- one count of use carriage service to access child abuse material pursuant to s 474.22(1) of the *Criminal Code 1995* (Cth)
- one count of use carriage service to possess/control child exploitation

- one count of not keep firearm safely pursuant to s 39(1)(a) of the *Firearms Act 1996* (NSW).

The Commission was not involved with the Firearms Act charge, which was prosecuted by the NSW Police Force and the NSW DPP.

The Commonwealth DPP took over the prosecution of the charge relating to the child abuse material, with the Commission acting as the informant.

On 28 September 2021, Mr Mannah entered a plea of not guilty in relation to the 2 Commonwealth offences.

Following a jury trial, Mr Mannah was found guilty of the first count (access child abuse material) and not guilty of the second count (possess child exploitation material).

On 20 January 2023, Mr Mannah was sentenced to 12 months imprisonment, with 4 months to be served in prison, and upon his release is subject to a recognisance release order for 2 years.

Mr Mannah pleaded guilty to the firearms offence. A conviction was not recorded. However, a \$800 fine was imposed.

Name

Blake KONESKI

document or other pursuant to s 150(1)(d) of the *Law Enforcement Conduct Commission Act 2016* (NSW).

Updates and outcomes

Following Operation Ramberg, the Commission sought advice from the DPP about the sufficiency of evidence to commence criminal proceedings against Mr Koneski.

Mr Rowan entered a plea of guilty in relation to 2 counts of knowingly give false or misleading evidence at a LECC examination. The remaining charges were withdrawn.

Following receipt of that advice, Mr Koneski was charged with:

On 19 July 2022, Mr Rowan was sentenced to a term of imprisonment of 8 months with a non-parole period of 6 months.

- five counts of obtain financial advantage by deception pursuant to s 192E(1)(b) of the *Crimes Act 1900* (NSW)
- in the alternative, five counts of intention to defraud by false or misleading statement pursuant to s 192G(b) of the *Crimes Act 1900* (NSW).

Mr Rowan appealed against the severity of the sentence. The appeal was allowed and on 2 February 2023 it was held that the term of imprisonment (8 months) was to be served by way of an intensive corrections order, as well as 100 hours of community service.

Mr Koneski entered a plea of guilty to 4 counts of intention to defraud by false or misleading statement pursuant to s 192(G)(b) of the *Crimes Act 1900* (NSW), with one charge under the same section placed on a Form 1. All other charges were withdrawn.

Name

Michial GREENHALGH

Updates and outcomes

Following Operation Tambora, the Commission sought advice from the DPP about the sufficiency of evidence to commence criminal proceedings against Mr Greenhalgh.

On 9 August 2022, Mr Koneski was sentenced to an Intensive Corrections Order for a period of 9 months and a Community Corrections Order for a period of 18 months.

Following receipt of that advice, Mr Greenhalgh was charged with one count of common assault pursuant to s 61 of the *Crimes Act 1900* (NSW). Mr Greenhalgh pleaded not guilty.

Name

Michael ROWAN

Updates and outcomes

Following Operation Errigal, the Commission sought advice from the DPP about the sufficiency of evidence to commence criminal proceedings against Mr Rowan.

On 24 February 2021, the Magistrate found Mr Greenhalgh not guilty of the offence of common assault. On 15 June 2021, the DPP instituted an appeal seeking that the order made 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. The appeal was allowed, and the matter was remitted to the Local Court. His Honour found that the Magistrate had not considered the objective reasonableness of the use of force by Mr Greenhalgh. On 14 February 2023, the Magistrate found that Mr Greenhalgh's use of force was reasonable on both the subjective and objective test, and upheld his original decision. The charge was dismissed.

Following receipt of that advice, Mr Rowan was charged with:

- four counts of knowingly giving false or misleading evidence pursuant to s 151(1) of the *Law Enforcement Conduct Commission Act 2016* (NSW)
- one count of failing to produce a

Appendix 4: Statistical data on GIPA applications to the Commission

Table A: 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 (by legal representation)	Members of the public (other)
Access granted in full	0	0	0	0	0	0
Access granted in part	0	0	0	0	1	0
Access refused in full	1	0	0	0	5	4
Information not held	0	0	0	0	0	0
Information already available	0	0	0	0	0	0
Refuse to deal with application	0	0	0	0	0	0
Refuse to confirm / deny whether information is held	0	0	0	0	0	0
Application withdrawn	0	0	0	0	0	0

* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

Table B: number of applications by type of application and outcome*

	Personal information applications*	Access applications (other than personal information applications)	Access applications that are partly personal information applications and partly other
Access granted in full	0	0	0
Access granted in part	1	0	0
Access refused in full	0	4	6
Information not held	0	0	0
Information already available	0	0	0
Refuse to deal with application	0	0	0
Refuse to confirm / deny whether information is held	0	0	0
Application withdrawn	0	0	0

* A personal information application is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

Table C: invalid applications

Invalid applications	Number of applications
Application does not comply with formal requirements (s 41 of the Act)	0
Application is excluded information of the agency (s 43 of the Act)	11
Application contravenes restraint order (s 110 of the Act)	0
Total number of invalid applications received	0
Invalid applications that subsequently became valid applications	0

Table D: conclusive presumption of overriding public interest against disclosure (matters listed in Schedule 1 of the Act)

Consideration type	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	11
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	11
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0
Privilege generally - Sch 1(5A)	0
Information provided to High Risk Offenders Assessment	0

* More than one public interest consideration may apply in relation to a particular access application and if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

Table E: other public interest considerations against disclosure (matters listed in table to s 14 of the Act)

Consideration type	Number of times consideration used*
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0

Table F: Timeliness

Timeframe within which decision was made	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	7
Decided after 35 days (by agreement with applicant)	3
Not decided within time (deemed refusal)	1

Table G: number of applications reviewed under Part 5 of the Act (by type of review and outcome)

Type of review	Decision varied	Decision upheld
Internal review	0	0
Review by Information Commissioner*	0	0
Internal review following recommendation under section 93 of Act	0	0
Review by NCAT	0	0
Total	0	0

* The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Table H: applications for review under Part 5 of the Act (by type of applicant)

Applicant type	Number of applications for review
Applications by access applicants	0
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	0

Table I: applications transferred to other agencies

Transfer type	Number of applications
Agency-Initiated Transfers	1
Applicant-Initiated Transfers	0

Table J: requests for Consultation under s 54A of the Act

	Number of requests
Request for consultation	12

Appendix 5: The Commission's publications in 2022–23

Publication title	Publication type	Date published
Covert Search Warrants & Preventative Detention Orders Review under the <i>Terrorism (Police Powers) Act 2002</i> (NSW) January 2017 - June 2020	Statutory requirement to report under s 27ZC of the <i>Terrorism (Police Powers) Act 2002</i> (NSW)	1 July 2022
Operation Kurumba – Supplementary Report	Section 132 Report to Parliament	14 December 2022
Review of NSW Police Force Use of Force Reporting	Section 138 Report to Parliament	21 February 2023
Review of the operation of amendments to the consorting law under Part 3A Division 7 of the <i>Crimes Act 1900</i> (NSW) – Final Report	Section 138 Report to Parliament	27 February 2023
Five years (2017-2022) of Independent Monitoring of NSW Police Force Critical Incident Investigations	Section 138 Report to Parliament	22 May 2023
Review of NSW Police Force responses to domestic and family violence incidents	Section 138 Report to Parliament	14 June 2023
Operation Denali	Section 132 Report to Parliament	27 June 2023

