
ANNUAL REPORT
2019-20

LECC

Law Enforcement
Conduct Commission

LETTER FROM THE CHIEF COMMISSIONER AND CEO

29 October 2020

The Hon John Ajaka MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

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

Dear Mr President and Mr Speaker,

In accordance with section 12 of the *Annual Reports (Departments) Act 1985* and section 139 of the *Law Enforcement Conduct Commission Act 2016*, the Commission hereby furnishes to you the Law Enforcement Conduct Commission Annual Report for the year ended 30 June 2020.

The Annual Report has been prepared in accordance with the requirements of the *Annual Reports (Departments) Act 1985* and the *Law Enforcement Conduct Commission Act 2016*.

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

Yours faithfully



The Hon R O Blanch AM QC
Chief Commissioner



M.M. O'Brien
CEO and General Counsel

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1. CHIEF COMMISSIONER'S FOREWORD

I am pleased to present the Law Enforcement Conduct Commission Annual Report for 2019-2020. This is my first Annual Report as the Chief Commissioner of the Commission. I would like to thank my predecessor the Hon Michael Adams QC for his work in establishing the Commission and acknowledge the considerable achievements made by the Commission under his stewardship.

The Commission was established in 2016. The model that was set up was an amalgamation of the Police Integrity Commission and the Police and Compliance Branch of the Ombudsman. In the beginning a three Commissioner structure was seen as an appropriate way to set up the new Commission. Lessons from the last three years of the Commission's existence indicate the model needs to be changed and I anticipate this will occur in the next reporting period and a new structure for the Commission will be created.

These changes will coincide with the Commission's Strategic Plan 2020-2023. The Strategic Plan has been developed by the Commission and is informed by the experiences of the Commission over the last three years. This Strategic Plan sets out the Commission's aims as well as providing a clear path for achieving these aims. I look forward to reporting on them in the Commission's next Annual Report.

The Commission made some considerable achievements during 2019-2020. This has been particularly evident in its Prevention and Education function and its Investigations function.

Operation Tepito for example examined the Suspect Targeting Management Plan adopted by the New South Wales Police Force in January 2000. The Commission investigated how the plan is used on children and young people and in February 2020 tabled an Interim Report in Parliament. The report contained 15 recommendations for the NSW Police Force and pleasingly the NSWPF accepted all 15 recommendations and has redesigned the Plan including the methods for selecting and targeting children and young people.

The Commission's investigations into the conduct of strip searches by NSW Police Force has also brought about a number of changes to the practices and procedures of the NSW Police Force. An overarching report of these investigations will be tabled in Parliament during the next reporting period.

As this Report demonstrates the Commission has also been very busy overseeing complaints received and this work has continued unabated in spite

of the difficulties experienced during the COVID19 pandemic. Fortunately much of the work of the Commission has been able to proceed with staff working remotely.

I would like to thank the staff of the Commission for their hard work and professionalism during 2019-2020. I look forward to continuing the important work of the Commission in the coming year.

A handwritten signature in blue ink, appearing to read 'R O Blanch', with a stylized flourish at the end.

The Hon R O Blanch AM QC

Chief Commissioner

2.

WHAT WE DO

2.1 OUR HISTORY

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

The Commission replaced the Police Integrity Commission and the Police and Compliance Branch of the Office of the Ombudsman and also has the power to oversight police investigations of critical incidents.

2.2 OUR WORK

The Commission is the independent oversight body for the NSWPF and the NSWCC and takes complaints about NSW Police officers, NSW Police civilian staff and Crime Commission staff.

2.2.1 DETECTING SERIOUS MISCONDUCT AND MALADMINISTRATION

One of the Commission's primary functions is to detect, investigate and expose serious misconduct and serious maladministration in the NSWPF and NSWCC. The Commission may investigate police or Crime Commission officers who are suspected of involvement in:

- soliciting or accepting bribes;
- perverting the course of justice (for example by planting evidence at a crime scene, interfering with a brief of evidence or lying in court);
- serious assaults;
- releasing confidential police information to criminals;
- improperly interfering in police investigations;
- improper relationships with criminals;
- manufacturing, cultivating or supplying prohibited drugs;
- crimes attracting a minimum of five years imprisonment (for example, serious fraud).

2.2.1.1 WHAT IS SERIOUS MISCONDUCT AND SERIOUS MALADMINISTRATION?

Serious misconduct is conduct that could:

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

Serious maladministration is conduct of a serious nature that is:

- unreasonable;
- unjust;
- oppressive or improperly discriminatory; or

- arises wholly or in part from improper motives.

2.2.2 ASSESSING COMPLAINTS

Complaints come to the Commission in a number of ways, including:

- members of the public;
- the NSWPF complaints management database; and
- Public Interest Disclosures, amongst other things.

All complaints are assessed by the Assessments team and recommendations on those complaints made. Complaints are then referred to the Complaint Action Panel consisting of the LECC Commissioners and other senior staff. Complaints which may indicate employees of the NSWPF or NSWCC have engaged in serious misconduct or serious maladministration may be investigated by the LECC which is independent of New South Wales Police.

The balance of complaints not directly investigated by the Commission are referred to police for action and may be the subject of either oversight monitoring (where Commission investigators monitor the police's investigation of a complaint in real time) or oversight review (where Commission investigators review the police investigation of a complaint).

In 2019-20 3,452 complaints were assessed by Commission staff, 47 % of which came directly to the Commission and 53 % assessed from NSWPF databases. Further information about the assessment process can be found in Chapter 3 of this report.

2.2.3 MONITORING CRITICAL INCIDENT INVESTIGATIONS

The Commission has the power to independently oversight and monitor the investigation of critical incidents by the NSWPF if it decides that it is in the public interest to do so.

A critical incident includes an incident involving a police operation that results in death or serious injury to a person. The Commission monitors the investigation of critical incidents from the time of the incident until the completion of the investigation by police to provide assurance to the public and the next of kin that police investigations into critical incidents are conducted in a competent, thorough and objective manner. In doing so the Commission considers whether the NSWPF has adequately considered the following:

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

If the Commission forms the view that the investigation is not being conducted in an appropriate manner it can advise the NSWPF and/or the Coroner of its concerns and make recommendations in relation to the concerns identified. The NSWPF is required to consider and respond to concerns and recommendations raised by the Commission. The Commission may make the advice that it has given to the NSWPF or the Coroner public after the conclusion of the critical incident investigation.

In 2019-20 the Commission commenced monitoring 27 new critical incident investigations, with Commission investigators attending 16 (59%) of these new critical incidents. Further information about critical incident investigation monitoring can be found in Chapter 5 of this report.

2.2.4 OVERSIGHT OF COMPLAINT HANDLING

Another primary function of the Commission is to oversee NSWPF and NSWCC investigations of alleged misconduct by staff of those agencies. The Commission may monitor, in real time, the progress of serious or significant misconduct matter investigations but in the majority of cases usually considers the adequacy of the investigation once investigation reports are completed by the relevant law enforcement agency.

If the Commission is not satisfied with the way the complaint has been investigated or with the management action taken, the Commission advises the NSWPF or NSWCC of the concerns and the reason for these concerns and may:

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

The NSWPF and/or the NSWCC must provide the information or advice requested and must notify the Commission of their decision in relation to a request for further inquiries or reconsideration of the findings or remedial action to be taken. In the event that the NSWPF and/or the NSWCC do not decide to conduct further inquiries, reconsider findings and/or reconsider management action to be taken, they must provide reasons for their decision.

If the Commission is not satisfied with the decision it may provide a report to the relevant agency and Minister or a special report to Parliament. If the complaint concerns serious misconduct or maladministration the Commission may decide to conduct its own investigation.

In 2019 – 20 the Commission finalised oversight of 987 NSWPF misconduct investigations, NSWCC misconduct investigations and critical incident investigations. Further information about the Commission's oversight functions can be found in Chapter 3 of this report.

2.2.5 INVESTIGATING SERIOUS POLICE MISCONDUCT

A principal function of the Commission is to detect and investigate allegations of

serious misconduct by NSWPF and/or NSWCC officers. The Investigations and Intelligence Units in the Integrity Division of the Commission consist of multi-disciplinary teams conducting Investigations. Teams operate under the supervision of a manager and consist of senior investigators, a senior financial investigator, investigators and investigations officers. The Division's Intelligence Unit is under the supervision of a team leader and consists of intelligence analysts. The Manager Integrity and Team Leader Intelligence report to the Director Investigations.

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

During 2019-20 the Commission worked on 159 investigations, comprising 53 preliminary enquiries, 49 preliminary investigations and 57 full investigations. Of these, 100 matters were completed and 59 were ongoing at 30 June 2020.

Further information about the Commission's Integrity Division can be found in Chapter 4 of this report.

2.3 LECC STRATEGIC PLAN 2020- 2023

During 2019 – 2020 the Commission developed its Strategic Plan for 2020 – 2023. This strategic plan was devised by the Commission and is informed by the experiences of the Commission over the last three years. It addresses the purpose of the Commission over the next three years.

The plan recognises that the Commission is an independent body responsible for the oversight of the NSW Police Force and the Crime Commission. As such it must carry out its functions without fear or favour and with a view to assuring the community that policing in this state is carried out in a responsible and appropriate manner. The Commission recognises that the law enforcement bodies of NSW have the same ambitions and that often the Commission will act collaboratively with them. However there are other times when the Commission acts independently and has been given the power of investigation to enable it to do so.

The plan sets three strategic priorities for 2020- 2023. These are to build trust with the NSWPF and NSWCC; improve efficiency and effectiveness; and increase the impact and awareness of the Commission's work. The plan details how these aims will be advanced and how these activities will be reported. The Commission's Strategic Plan 2020-2023 can be found on the Law Enforcement Conduct Commission website www.lecc.nsw.gov.au

2.4 OUR PEOPLE

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

The Commission has a policy of not employing serving or former NSWPF or NSWCC officers. Any police investigators employed at the Commission are drawn from police services in other jurisdictions in Australia or overseas.

2.4.1 OUR SENIOR EXECUTIVE TEAM

CHIEF COMMISSIONER THE HON R O BLANCH AM, QC

The Chief Commissioner, the Hon R O Blanch AM QC, joined the Commission in February 2020. He graduated with a Bachelor of Arts in 1963 and a Bachelor of Laws in 1966 from the University of Sydney. In 1973 he was admitted as a barrister and appointed as a Public Defender. In 1980 he was appointed Queen's Counsel and as the Deputy Senior Public Defender. Chief Commissioner Blanch was appointed Crown Advocate in 1984 and in 1987 he was appointed as the first Director of Public Prosecutions in NSW. He was appointed as a judge of the Supreme Court in February 1994 and as Chief Judge of the District Court in December 1994. For the duration of his time as Chief Judge, he was also Chair of the Medical Tribunal and towards the end of his term, was appointed as President of the Dust Diseases Tribunal. Following his retirement from the Courts in 2014, Chief Commissioner Blanch served as Chairman of the Serious Offenders Review Council, Assistant Commissioner and Acting Commissioner of the Independent Commission Against Corruption and presided over an inquiry into the conviction of a woman for the killing of her four children.

COMMISSIONER FOR INTEGRITY THE HON LEA DRAKE

The Commissioner for Integrity, the Hon Lea Drake, joined the Commission in April 2017. Prior to joining the Commission, Commissioner Drake was a Senior Deputy President with the Fair Work Commission from 1994 to 2017 (who, by virtue of s 63 (2) of the *Workplace Relations Act 1996* (Cth) held the same rank, status and precedence of a Justice of the Federal Court). Commissioner Drake was previously a partner at MacMahon and Drake Solicitors, a Councillor and Chairperson of the Professional Misconduct Committee of the Law Society of New South Wales and a Commissioner of the Law Reform Commission of NSW. Commissioner Drake's qualifications include a Bachelor of Laws and a Diploma of Industrial Relations and Labour Law from the University of Sydney. Commissioner Drake was admitted as a solicitor in 1976.

CEO AND GENERAL COUNSEL MS MICHELLE O'BRIEN

Ms O'Brien graduated with a BA, LLB from the University of New South Wales in 1986. She was admitted as a solicitor the same year and practised in private legal firms in Sydney for the next eight years. In 1994 Ms O'Brien joined the Wood Royal Commission into the New South Wales Police Service as a lawyer and thereafter the Police Integrity Commission, which was established at the end of the Wood Royal Commission. In 2014 Ms O'Brien became an Accredited Specialist in Government and Administrative Law. She was appointed as Solicitor to the Commission on 1 July 2017, and CEO and General Counsel on 1 July 2019.

Ms O'Brien is responsible for the delivery of all corporate and legal services to the Commission, including the employment of staff with the necessary skills and

experience to perform the functions of the Commission within its statutory and budgetary framework.

PREVIOUS EXECUTIVE APPOINTMENTS DURING 2019-2020

During the reporting period the former Chief Commissioner the Hon Michael Adams QC's term expired in February 2020. The former Commissioner Oversight Mr Patrick Saidi's appointment was terminated on 15 January 2020.

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

3. ASSESSING COMPLAINTS

3.1 OVERVIEW

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

In many instances the Commission will be required to conduct two assessments of the same complaint. Firstly, the Commission undertakes an assessment of all complaints made directly to the Commission and, if it is referred to the NSWPF the Commission will then determine whether the NSWPF has dealt with it appropriately and consider whether the Commission will monitor that NSWPF investigation. This second assessment is generally not captured by the Commission as a statistic and therefore the work involved in this second assessment is not accurately reflected in the statistics documented below on the number of complaints assessed.

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

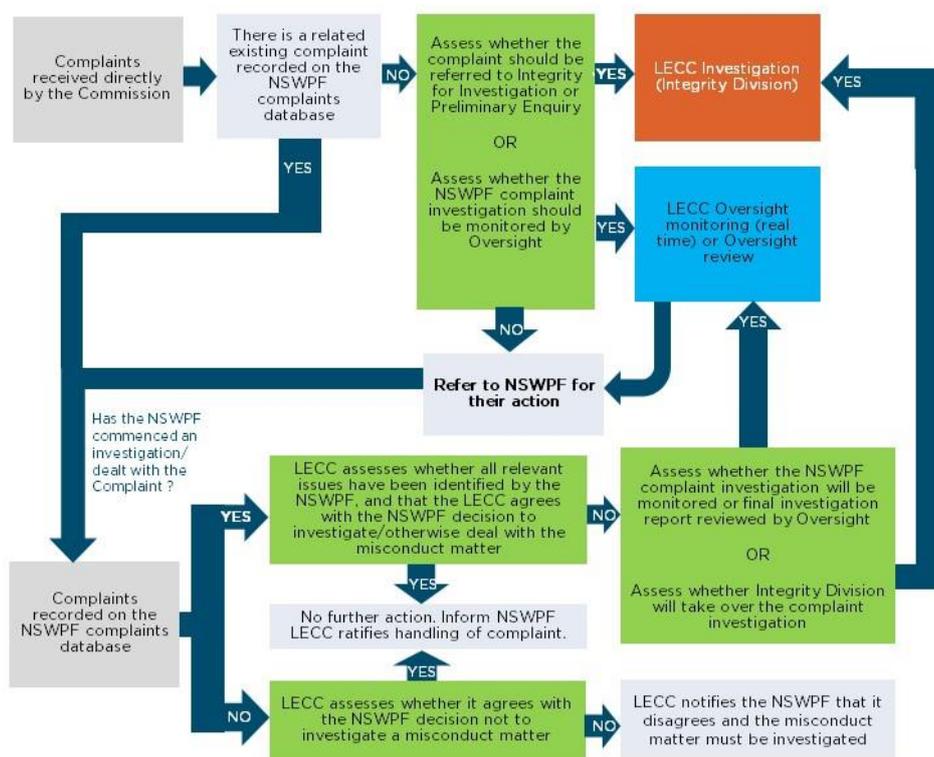
- the Commission will take over the investigation of the complaint;
- the Commission will monitor the NSWPF investigation;
- all relevant issues have been identified by the NSWPF; and
- the Commission agrees with the NSWPF decision to investigate, or otherwise deal with, the misconduct matter.

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

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

The Complaint Action Panel consists of the Commissioners, the Director Investigations (Integrity) and the Director Investigations (Oversight).

NSWPF complaints assessment workflow



3.2 COMPLAINTS ASSESSED

Total number of matters assessed by the Commission during the year

	2018-19	2019-20
TOTAL COMPLAINTS ASSESSED	2,547	3,452

The Commission assessed 905 (35%) more complaints in 2019-20 than in 2018-19. This increase is predominantly attributed to the Assessments team implementing new methodologies for complaint assessments in order to reduce the time taken to assess some matters. This has ensured that more detailed assessments are undertaken of more serious complaints.

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

	2018-19	2019-20
Total direct complaints assessed	1,478	1,624 (47%)
Total complaints assessed from NSWPF databases	1,069	1,828 (53%)

There was an increase of approximately 10% in complaints made directly to the Commission. While there has also been an increase in the total complaints assessed from the NSWPF database, a significant proportion of these were as a result of a backlog in unassessed complaints at 30 June 2019.

3.3 MANDATORY REPORTING

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

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

	2018-19	2019-20
NSW Crime Commission	4	11
Independent Commission Against Corruption	63	38
Inspector of Custodial Services	0	1

Breakdown of complaints directly to the LECC: police vs public

	2018-19	2019-20
Officers who identified themselves as police ¹	94	118 (7%)
Members of the public	1,384	1,506 (93%)

¹ Complainants who identified themselves as, or are reasonably suspected of being employees of the NSWPF. It is also strongly suspected, based on the contents of the complaints, that a number of other anonymous complaints to the Commission have been received from NSWPF employees; however, this cannot be confirmed.

3.4 NOTIFIABLE MISCONDUCT MATTERS

The Commission and the NSWPF entered into an agreement pursuant to s 14 of the LECC Act (referred to as the s 14 Guidelines) in November 2017. This agreement outlines the categories of complaints that are required to be notified to the Commission and upon which the Commission primarily focusses its oversight functions.

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

- failing to comply with the *Law Enforcement (Powers and Responsibilities) Act 2002*;
- protection of person(s) involved in drugs or other criminality;
- unreasonable use of force;
- failure to investigate; and
- Statements of Claim raising questions of serious misconduct.

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

<https://www.lecc.nsw.gov.au/what-we-do/s14agreement.pdf>

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

Requests for information (at assessment) – s 102 of the LECC Act

	2019-20
Requests for information	95

3.5 ALLEGATIONS

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

Types of allegations assessed

ALLEGATION ²	2019-20
Improper use of force	6.75%
Failure to investigate	6.5%
Inadequate investigation / lack of impartiality	5.25%
Inconsiderate / insensitive / uncooperative behaviour	4.25%
Incivility / rudeness / verbal abuse (oral complaints of rudeness are a local management issue)	4.00%
Intimidating, aggressive or unwelcome behaviour and unfair treatment, either in the workplace or during service delivery	3.75%
Improper use of discretion	2.75%
Improper / unauthorised search	2.75%
Neglect of duty / duty of care	2.75%
Misuse authority for personal benefit or the benefit of an associate (including obtaining sexual favours) **	2.50%
Discrimination	2.25%
Breach of Code of Conduct (not specified elsewhere)	2.25%
Fail to comply with operational procedures, standing orders or Commissioner's directives (not specified elsewhere)	2.00%
Unlawful (insufficient evidence of offence)	2.00%
Inappropriate prosecution / misuse of prosecution power	1.75%
Victimisation / bullying	1.50%
Unauthorised / improper disclosure of information	1.50%
Fail to provide adequate / appropriate victim support	1.50%
Threats / intimidation (not assault, excessive force)	1.50%
Refusal to charge / prosecute / initiate proceedings	1.25%
Failure to notify results	1.25%
Improper association	1.25%
Other ³	38.75%

² Complaints assessed often include multiple allegations within the one complaint

³ The 'Other' category includes all other allegation types that are individually less than 1.25% of all allegations assessed. This includes allegations such as investigation delay; false accusation; fail to inform witness; attempting to pervert the course of justice; protection of persons involved in drugs; fabricating evidence; bribery; and, illicit drug use.

3.6 TIMELINESS TO INVESTIGATE

The average time to commence a preliminary investigation or investigation of a misconduct matter that was investigated by the Commission was 39 business days. It should be noted on a number of occasions, after assessment, the Commission may also conduct a preliminary enquiry prior to commencing an investigation.

The time interval between the receipt of each misconduct matter by the Commission and the Commission deciding to investigate the misconduct matter

TIME INTERVAL	PRELIMINARY INVESTIGATION	INVESTIGATION
0-5 days	0	3
6-10 days	1	1
11-15 days	1	0
16-20 days	0	1
21-30 days	0	1
31-60 days	1	4
61+ days	5	8

3.7 NSW CRIME COMMISSION

In November 2017, the Commission entered into an agreement and guidelines with the NSWCC 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 focusses its oversight functions.

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

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

During the reporting period, the Commission assessed 3 misconduct matters involving members of the NSWCC referred by the NSWCC under the s 14 Guidelines; 9 misconduct matters involving members of the NSWPF referred by the NSWCC under the s 33 Guidelines; and 1 misconduct matter involving members of the NSWPF referred by the NSWCC under s 34 of the LECC Act.

3.8 TRANSITION FROM C@TS.I TO IAPRO BY THE NSWPF

In April 2018, the NSWPF transitioned to a new misconduct matters information system, IAPro, and decommissioned the old system c@ts.i. The transition presented a number of challenges to the Commission, including the review of new notifiable misconduct matters registered with the NSWPF, receipt of finalised investigation reports pursuant to s 137 of the *Police Act 1990* and the copying of relevant documentation from the new system.

3.9 DISAGREEMENT WITH THE NSWPF DECISION TO DECLINE INVESTIGATION

Section 99(3) of the LECC Act provides that if the Commission disagrees with the NSWPF decision not to investigate a misconduct matter, the Commission must notify the NSWPF of that disagreement and the misconduct matter must be investigated.

In the reporting period the Commission notified the NSWPF that it did not agree with the decision to decline to investigate 117 misconduct matters and issued letters pursuant to s 99(3) of the LECC Act requiring the NSWPF to investigate.

Approximately 13% of matters where a s 99(3) requirement to investigate was issued resulted in at least one sustained finding being made, while approximately 50% resulted wholly in not sustained findings being made. A number of the s 99(3) requirements to investigate were later withdrawn by the Commission after further representations were made by the NSWPF and a number of investigations were not finalised at the time of reporting.

In July 2019 the Commission wrote to the NSWPF and indicated that an analysis of previously issued s 99(3) letters by the Commission identified that approximately 30% of matters had not had the required investigation commenced. Since then, new processes have been implemented by the NSWPF which have resulted in a significantly greater compliance with s 99(3) requirements to investigate.

CASE STUDY 1:

In April 2019 the NSWPF declined to investigate a complaint made by a serving police officer who, at that time, was suspended from duty in relation to a matter in which she had been criminally charged. Those charges alleged that electronic recordings made by the complainant were contrary to the *Surveillance Devices Act 2007*. The officer complained the NSWPF had conducted a deficient investigation and malicious prosecution in relation to those criminal charges. The charges were withdrawn by the Office of the Director of Public Prosecution (ODPP) on the first day of the trial.

Following the NSWPF declining to investigate the complaint the Commission received additional information from the complainant's solicitor and independently obtained audio recordings of the costs application made following the withdrawn prosecution. The material obtained indicated that following a subpoena issued by the officer in the criminal prosecution a 'significant number of exculpatory documents were identified' which lead to the withdrawal of the charges by the ODPP.

In November 2019 the Commission notified the NSWPF that it did not agree with the decision to decline to investigate the complaint. The Commission indicated the triage decision inappropriately placed responsibility for commencing the prosecution upon the ODPP. The ODPP’s recommendation to prosecute was based upon in complete evidence provided by the NSWPF. The NSWPF was also notified that its decision that a related investigation would address the allegation of an inadequate investigation was inappropriate as the investigator on the related investigation was the subject officer of the current complaint.

Following the requirement to investigate, the NSWPF Professional Standards Command investigated the complaint and found that the original investigation was inadequate. A “not sustained” finding was made for the complaint of malicious prosecution. The complainant’s suspension from duty was overturned in August 2020.

The Professional Standards Command also reviewed a number of other investigations involving the complainant where sustained findings had previously been made. Subsequently NSWPF overturned a number of those sustained findings.

3.10 REQUESTS FOR INFORMATION REGARDING INVESTIGATION TIMELINESS

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

Requests for information on timeliness – s 103 of the LECC Act

	2019-20
Requests for information on investigation timeliness	22

The majority of the requests for information on timeliness related to investigations that did not appear to have commenced following an earlier s 99(3) of the LECC requirement to investigate.

4.

INVESTIGATING SERIOUS POLICE MISCONDUCT

4.1 INVESTIGATING SERIOUS POLICE MISCONDUCT

A principal function of the Commission is to detect and investigate allegations of serious misconduct by NSWPF and/or NSWCC officers. The Investigations and Intelligence Units in the Integrity Division of the Commission consists of multi-disciplinary teams operating under the supervision of a manager and consisting of senior investigators, a senior financial investigator, investigators and investigations officers. The Division also includes the Intelligence Unit under the supervision of a team leader and consisting of intelligence analysts. The Manager Integrity and Team Leader Intelligence report to the Director Investigations.

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

In 2019-20 the Commission conducted 159 investigations, comprising 53 preliminary enquiries, 49 preliminary investigations and 57 full investigations. A profile of significant Integrity investigations can be found at the end of this chapter.

4.2 PROCESS

Complaints are assessed by the Assessments team (see Chapter 3) and matters deemed suitable of integrity investigation are put to the Complaint Action Panel (CAP) for consideration. Following a CAP meeting a complaint may be deemed appropriate for investigation by the Integrity Division.

The Commission may choose to initiate an investigation, a preliminary investigation or to make some further enquiries before any decision is made. This may include contacting the complainant (if one is identified), another person or another agency in order to seek further information and clarification.

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

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

4.2.1 COMMISSION HEARINGS

The Commission may hold hearings (examinations) as part of its investigation process. The decision to hold a hearing in private or public must have regard to the relevant considerations under the *Law Enforcement Conduct Commission Act 2016* (LECC Act), particularly those factors set out in s 63(5). The Commission can summon persons to appear at hearings and compel witnesses to produce documents or answer questions.

During 2019-20 the Commission conducted 45 private examinations and 10 public examinations.

4.2.2 PROFILE OF ACTIVE INVESTIGATIONS DURING 2019-20

During 2019-20 the Commission worked on 159 investigations, comprising 53 preliminary enquiries, 49 preliminary investigations and 57 full investigations. Of these, 100 matters were completed and 59 were ongoing at 30 June 2020. The average time taken to complete a misconduct investigation varies given the variety of issues and circumstances that affect each case. For example, if an investigation results in a criminal prosecution, the Commission will not close its file until the conclusion of the proceedings, which may take a number of years.

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

Profile of 2019-20 investigations, preliminary investigations and preliminary enquiries

ALLEGATION	INV	PI	P
Adverse mention by the court	1	1	1
Attempting to pervert the course of justice	3		1
Breach of Code of Conduct (not specified elsewhere)	5		
Bribery	3	3	3
Choke/headlock/pressure point technique	1		
Collusion between police witnesses	2		
Convenience accesses – by officer about self or another party	1		
Covering up inappropriate conduct	5	1	2
Cultivation or manufacture		1	
Dealing or supply	4	2	2
Delay in investigation			1
Discrimination	8	1	2
Drink driving offences	1		
Fail to check brief/inadequate preparation of brief	1		
Fail to comply with legislation/code of practice	1		1
Fail to comply with operational procedures, standing orders or Commissioner's directives (not specified elsewhere)	2	2	
Fail to declare a conflict of interest	7	7	5
Fail to provide adequate/appropriate victim support		1	
Fail to report offence	2		
Fail to report suspected/alleged misconduct	4		1
Failure to interview witnesses		1	
Failure to investigate		3	3
Falsely claiming for duties not performed	1	1	
Falsifying official records	4	2	
Firearm discharged			1

ALLEGATION	INV	PI	PE
Firearm displayed	1		
Giving favours/bias with no or little perceived personal benefit	4	4	3
Harassment	7	1	2
Homicide			1
Illicit drug use	3	2	3
Improper/unauthorised search	13	6	4
Improper association	10	18	12
Improper interference in an investigation by another police officer			3
Inadequacies in informal resolution (or other internal procedure)		1	1
Inadequate investigation/lack of impartiality	1	3	3
Inappropriate conditions	7	3	1
Inappropriate prosecution/misuse of prosecution power		2	1
Incivility/rudeness/verbal abuse (oral complaints of rudeness are a local management issue)	2		2
Inconsiderate/insensitive/uncooperative behaviour	1		2
Internal complaint arising from reports and records about performance	1		
Intimidating, aggressive or unwelcome behaviour and unfair treatment, either in the workplace or during service delivery	6	2	2
Lied during proceedings/in statement/on affidavit	2	2	3
Make false statement (verballing)	1		1
Mislead the court			2
Misuse authority for personal benefit or the benefit of an associate (including obtaining sexual favours)	15	11	6
Misuse of official vehicle	1		
Neglect of duty/duty of care	2		
No allegations	1		8
Theft/misappropriation of official property			1
Theft/misappropriation of seized property		1	1

ALLEGATION	INV	PI	PE
Offence punishable upon conviction by a max sentence of 5 years or more	7		
Offence punishable upon conviction by a max sentence of not less than 3 years and not more than 5 years	2	2	
Other			1
Other summary offences	3		1
Perjury	3		
Possession (not misappropriation of seized drugs)	1	1	
Property missing after search			1
Protection of person(s) involved in drugs	4	9	6
Provide incorrect or misleading information	1	1	
Pushed/shoved/jostled/grabbed/manhandled/wrestled etc (soft empty hand)	7	2	2
Pushed to ground/slammed against a wall/punched/kicked/kneed/head butted/struck (hard	2	2	2
Reason not given/warrant not produced		1	
Refusal to charge/prosecute/initiate proceedings		1	
Sexual assault	1	1	1
Tampering with or destroying property and exhibits		1	
Telecommunications misuse			1
Threats/intimidation (not assault/excessive force)	1		1
Trade accesses - accessing information for sale/personal gain			1
Unauthorised/improper disclosure of information	8	7	8
Unauthorised detention	1		2
Unauthorised removal/use of property and exhibits			1
Unauthorised secondary employment	4	2	
Unauthorised use of official vehicle	2		
Unlawful (insufficient evidence of offence)	3	2	1
Unnecessary or improper use of arrest	5	3	
Unreasonable use of force with an impact weapon (baton, torch,	2		
Using authority in situation where conflict of interest exists	5	2	2
Victimisation/bullying	3	1	
Withholding or suppression of evidence			2
Wrongful seizure of property			1

4.3 INVESTIGATION OUTCOMES

The following tables report on the Commission's investigation outcomes for all investigations finalised during 2019-20.

Finalised full investigation outcomes⁴

INVESTIGATION OUTCOME	INVESTIGATIONS
Full investigations referred to the ODPP for consideration of prosecution action	2
Full investigations that resulted in a dissemination of information to the NSWPF	12
Full investigations that resulted in information being disseminated to other law enforcement agencies (LEA)	1
No further action	17

Preliminary investigation outcomes

PRELIMINARY INVESTIGATION OUTCOME	PRELIMINARY INVESTIGATIONS
Preliminary investigations that progressed to become full investigations	6
Preliminary	7
Matter referred to current full investigation	0
Preliminary investigations that resulted in information being disseminated to other law enforcement agencies (LEA)	0
No further action	23

⁴ An investigation may have more than one outcome.

Preliminary enquiry outcomes

PRELIMINARY ENQUIRY OUTCOME	PRELIMINARY ENQUIRIES
Preliminary enquiries that progressed to become full investigations	2
Preliminary enquiries that progressed to become preliminary investigations	3
Preliminary enquiries that resulted in a dissemination of information to the NSWPF	3
Preliminary enquiries that resulted in information being disseminated to other law enforcement agencies (LEA)	0
No further action	24

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

Referrals from on-going investigations

INVESTIGATION	NO. OF PROPOSED OFFENCES	NO. OF INDIVIDUALS
Operation Errigal	2	1
Operation Ramberg	1	1
Operation Carlow	2	1

Court Attendance Notices or charges being served

OPERATION	NUMBER OF CANS SERVED	NUMBER OF INDIVIDUALS	CHARGES
Operation Tambora	1	1	1

4.4 TIMELINESS

Time interval between the completion of each public examination conducted during the year and the furnishing of a report on the matter

INVESTIGATION	NO OF DAYS
Operation Gennaker	155
Operation Brugge	197
Operation Cusco	218

Actual time taken⁵ to investigate any matter in respect of which a report is made

INVESTIGATION	NO OF DAYS
P44257	508
P46307	375
Operation Trieste	154
Operation Taupo	371
Operation Asinara	1725
Operation Mindo	626
Operation Fiera	1 st report - 99 2 nd report - 140
Operation Korat	253
Operation Dukono	645
Operation Adelite	1604
Operation Cusco	490
Operation Brugge	547

⁵ Time taken for the decision to investigate up to the time a report is sent to the Minister.

INVESTIGATION	NO OF DAYS
Operation Gennaker	245
Operation Karuka	610
Operation Sandbridge	638
Operation Mainz	456
Operation Tabarca	630

4.5 SIGNIFICANT COMMISSION INVESTIGATIONS

Operation Adelite was an investigation conducted by the Commission into allegations that senior officers of a Command were engaged in inappropriate relationships with serious organised crime figures. Extensive covert and overt investigative strategies were employed by the Commission to establish evidence of the relationships. A number of private hearings were conducted to examine these relationships and if NSWPF policies regarding inappropriate associations were followed. A s 135 Report was prepared and provided to the Minister and Commissioner of Police.

Operation Carlow was an investigation conducted by the Commission regarding allegations of serious misconduct involving drug use by an officer in a regional command. A number of covert and overt investigative techniques were utilized during the investigation and a number of private examinations were later conducted. The conduct of another officer was also considered as part of the investigation. The Commission was assisted by both the Professional Standards Command and the relevant specialist Command during the investigation. Information provided to NSWPF later saw both officers dismissed. A criminal Brief of Evidence is also in preparation by an interstate law enforcement agency following the provision of information gathered during the Commission's investigation.

Operation Chivero was an investigation conducted by the Commission regarding allegations of unreasonable use of force by an officer in a specialist regional Command. A s 132 Report was tabled in Parliament.

Operation Cusco was a Commission investigation arising from concerns that NSWPF officers had been conducting excessive and invasive bail compliance checks, including late at night and multiple times during the night. A number of public examinations were held in September 2019. During the Commission's investigation the NSWPF updated its processes and provided guidance and training to its officers. A s 132 Report was tabled in Parliament.

Operation Dukono was an investigation conducted by the Commission into allegations that officers in a regional police district conducted unreasonable searches of visitors to a country NSW correctional centre. A number of private

examinations were conducted by the Commission. Throughout the process the Commission engaged with the NSWPF. During and after the process the NSWPF updated its guidance and training to officers. A s 132 Report was tabled in Parliament.

Operation Errigal was an investigation conducted by the Commission into allegations of serious police misconduct by a senior officer in a regional command including complaints about the officer's conduct with staff, the creation of official records which did not disclose all the material facts, failure to declare a conflict of interest and failure to follow NSWPF standard operating procedures. A number of private examinations were conducted. A report to Parliament in July 2019 made a number of recommendations, including that the Director of Public Prosecutions consider whether any criminal offences had been committed by the senior officer. A dissemination by the Commission of related material was also provided to the NSWPF for management action of involved officers.

Operation Fiera was an investigation conducted by the Commission following allegations that a senior officer of the NSWPF had acted improperly during a promotion process. A number of private examinations were conducted. A s 135 Report was provided to the Minister of Police and the Commissioner of Police.

Operation Korat was an investigation conducted by the Commission concerning allegations that a junior officer was associating with criminals and assisting those criminals. A private hearing was conducted and the officer resigned from the NSWPF. The Commission was assisted by the Professional Standards Command during the investigation.

Operation Minsk is an investigation conducted by the Commission concerning allegation of an officer in a specialist command having improper associations with criminals. A number of private hearings were conducted. The investigation is ongoing.

Operation Monza is an investigation conducted by the Commission concerning the conduct of officers from a specialist command allegedly harassing a legal practitioner. A number of private hearings have been conducted. The Commission has been assisted by both the Professional Standards Command and the relevant specialist Command during the investigation. The investigation is ongoing.

Operation Rozzano was an investigation conducted by the Commission regarding allegations of serious misconduct by an officer in a regional specialist Command following actions involving use of force tactics. The Commission has been assisted by the relevant specialist Command during the investigation. A s 132 Report was tabled in Parliament.

Operation Tabarca was an investigation conducted by the Commission following allegations of bullying and harassment in the work place involving a senior officer. A number of private hearings were conducted and evidence sought from civilian, police and expert witnesses. The Commission engaged with both the NSWPF and Police Association (PANSW) during the investigation process. A s 132 Report was tabled in Parliament.

Operation Topsail was an investigation conducted by the Commission regarding allegations of serious misconduct by a senior officer within the NSWCC following an audit conducted by the Commission. No evidence of serious misconduct was established and the investigation was discontinued. The investigation was referred back to the Crime Commission for their consideration.

Operation Tutoko was an investigation conducted by the Commission following allegations that an officer was engaged in inappropriate predatory behavior towards young vulnerable females. During the investigation the Commission also established the officer was involved in other criminal offences outside of his employment as a NSWPF officer. A private hearing was conducted. A Brief of Evidence relating to the criminal offences is in preparation. Information was also disseminated to the NSWPF for consideration. Throughout the investigation the Commission has been assisted by the Professional Standards Command.

4.6 RESPONSES TO RECOMMENDATIONS MADE BY THE COMMISSION

4.6.1 OPERATION TAMBORA

In September 2018 the Commission published a report to Parliament in which it recommended that a senior constable be considered for prosecution for the offence of Assault Occasioning Actual Bodily Harm. In September 2019 the Commission received advice from the DPP that there was sufficient evidence to charge one offence of Common Assault. The officer has been charged and the matter is before the court.

4.6.2 STRIP SEARCH INVESTIGATIONS

On 20 October 2018 the Commission announced it was undertaking an inquiry into the practices of the NSWPF in relation to the conduct of strip searches. The inquiry was prompted by a number of complaints about the way police conducted particular strip searches as well as information from a variety of community organisations.

Strip searches can be an important tool for police, assisting to identify hidden items that may be stolen, dangerous or may provide evidence of relevant offences. However strip searches are also a particularly intrusive form of search and impact on the privacy, dignity and bodily autonomy of the person searched. For that reason the legislation that empowers police to conduct strip searches, LEPR establishes particular limits on when and how they should be conducted. It is imperative that police act lawfully and responsibly when conducting strip searches: to ensure the rights of citizens are upheld, to maintain the integrity of any subsequent prosecution of persons found to have been breaking the law, and for the preservation of the reputation of the NSWPF.

Issues relating to the way NSWPF officers conduct strip searches has attracted significant public attention. The concerns of the Commission centred on how well the police comply with legal requirements when conducting strip searches. The

Commission also focused on the level of instruction and supervision given to individual officers regarding their powers and responsibilities when strip searching people as well as the adequacy of records kept by police.

Throughout 2019 the Commission used a variety of ways to consider police practices regarding strip searches including conducting private hearings, actively monitoring complaint investigations that were being carried out by police, reviewing complaint investigation reports completed by police, and conducting research and analysis into police policy and training. From October to December 2019 the Commission conducted public hearings.

As part of the strip search focus the Commission conducted a number of investigations examining the way police conducted particular strip searches including: Operation Sandbridge, Operation Brugge, Operation Mainz, Operation Karuka and Operation Grasmoor. The issues canvassed whether police formed suspicion on reasonable grounds to conduct the strip search, strip searching young people without a support person present as required by law, use of force during a strip search, the conduct of the strip search and whether proper privacy was provided to the person being searched.

Operation Brugge was an investigation arising from a direct complaint from a solicitor acting on behalf of a young person. The complaint related to a strip search at a music festival in regional NSW. The matter was the subject of public examinations in October 2019. The issues examined included the strip search of the young person taking place without an appropriate support person being present. A s 132 Report was tabled in Parliament.

Operation Grasmoor was an investigation commenced after the Commission received a number of complaints from persons in a regional NSW location. The complaints concerned the alleged misuse of stop, search and detain provisions and strip searches by NSWPF officers. Subject officers were identified by the Commission and private examinations were held both at the regional location and also at the Commission. A s 135 Report was provided to the Minister of Police and the Commissioner of Police.

Operation Karuka was an investigation commenced after the Commission received a direct complaint alleging that a sexual assault had occurred during a strip search at a Sydney metropolitan police station. Following an investigation, five subject officers were identified and private examinations were undertaken. No evidence of a sexual assault was identified. Numerous breaches of the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA) were indicated including the use of force to effect a strip search. A s 132 Report was tabled in Parliament.

Operation Mainz was an investigation commenced after the Commission received a complaint from a legal service on behalf of a young person in a regional location who had been stopped by NSWPF officers and suspected of being in possession of a prohibited drug. The young person was strip searched in a public area prior to being transported to a local police station where a further

search was conducted. The Commission conducted a number of examinations, both in the regional location and at the Commission. A s 132 Report was tabled in Parliament.

Operation Sandbridge was an investigation that commenced following a successful civil claim against NSW Police. The claimant stated that he had been unlawfully detained, arrested, strip searched and charged with hindering police. The claimant was awarded over \$100,000 by the District Court. Private examinations were conducted by the Commission and deficiencies were identified relating to NSW Police training, procedures and custody management protocols. A s 132 Report was tabled in Parliament.

As a result of the Commission's investigations a number of enhancements and changes to procedure and training were implemented by NSWPF. An overarching report by the Commission of the strip search investigations is to be tabled in Parliament in 2020-21.

5. OVERSIGHT AND CRITICAL INCIDENT MONITORING

5.1 OVERSIGHT OVERVIEW

The Oversight Investigations team primarily undertakes reviews of misconduct matter investigations conducted by the NSWPF pursuant to Part 8A of the *Police Act 1990* to determine whether those investigations were conducted reasonably and satisfactorily, and whether the outcomes were appropriate.

The Oversight Investigation team may also monitor ongoing investigations conducted by the NSWPF or the NSWCC. This includes investigations which are considered by the Commission to be deficient and where a further investigation is conducted by the NSWPF.

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

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

During the reporting period, the Oversight Investigations team received 1396 NSWPF misconduct matter investigations for oversight under Part 7 of the LECC Act and finalised a review of 969 misconduct matter investigations. This represents a 33% increase on last reporting year.

CASE STUDY 2:

During the oversight and monitoring of a number of NSWPF investigations, including the investigation into Strike Force Blackford and EXT2019-1584, the Commission identified that the NSWPF had a practice of issuing banning notices under the Sydney Olympic Park Authority Regulation to some attendees at music festivals following the conduct of person searches by police. Some NSWPF Operational Orders for music festivals also included guidance around the issuing of banning notices.

The Regulation provides for the banning of individuals for up to 6 months if the person has contravened a provision of the Regulation. It should also be noted that police do have authority to issue these notices; however in some instances banning notices appeared to have been issued in instances that did not appear to meet the requirements of the Regulation. The Commission noted the issue was also identified by the South West Metropolitan Region as part of its review of EXT2019-1584 and that review made recommendations to not continue the issuing of banning notices.

The Commission wrote to the NSWPF highlighting the Regulation as well as the above two misconduct investigations and provided a relevant extract from an operational order. The Commission indicated that it was questionable whether there were any breaches of the Regulations and that this may not necessarily be officer misconduct but indicate instead a potential systemic issue.

Pursuant to s 102 of the LECC Act, the Commission requested advice as to the NSWPF corporate position on issuing banning notices and whether the outcomes of the mentioned misconduct matters would be reflected within future Operational Orders and/or training.

The NSWPF notified the Commission that while police retain authority to issue banning notices, the South West Metropolitan Region had already resolved to stop issuing banning notices at events held at the Sydney Olympic Park. That responsibility would be transferred to the Sydney Olympic Park Authority and the NSWPF position would be reflected within future Operational Orders. Police officers would also be reminded that the decision to issue a banning notice rests with the Authority.

5.2 REQUESTS FOR INFORMATION

In order to carry out its oversight function under Part 7 of the LECC Act, the Commission may on occasions need to request additional information from the NSWPF in relation to specific investigations. This information includes:

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

Requests for information (oversight) – s 102 of the LECC Act

	2019-20
Requests for information	102

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

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

Matters received

	2018-19	2019-20
Completed NSWPF misconduct matter investigations received	1,051	1,396
Completed NSWCC misconduct matter investigations received	1	1
New NSWPF critical incident investigations received	32	27
Total	1,084	1,424⁶

Matters finalised

	2018-19	2019-20
NSWPF misconduct matter investigations where oversight was finalised	1,221	969
NSWPF critical incident investigations where monitoring finalised by Commission	3	18
Total	1,224	987

5.4 CORRESPONDENCE PURSUANT TO SECTIONS 104 AND 105 OF THE LECC ACT

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

Where the Commission considers that a misconduct matter has not been properly investigated it can request the NSWPF or the NSWCC (as appropriate) under s 104 of the LECC Act to conduct a further investigation. If the Commission is not satisfied with the NSWPF or NSWCC decision

⁶ This includes misconduct matter investigations and critical incident investigations that were received by the Commission and in respect of which oversight was not finalised as of 30 June 2020

concerning action to be taken as a result of a misconduct investigation it may request a review of that decision under s 105 of the LECC Act.

During the reporting period, the Commission wrote to the NSWPF in accordance with ss 104 and 105 of the LECC Act in order for the NSWPF to undertake further investigations or review the outcomes and findings.

Requests pursuant to ss 104 and 105

	2019-20
Section 104 requests issued	34
Section 105 requests issued	8
Total number of reinvestigations following s104 notices	8
Total number of reinvestigations that resulted in a different finding	4
Total number of reinvestigations that resulted in the same findings but management action was taken	4

In a number of instances the NSWPF declined to conduct a further investigation. However as a result of the review by the NSWPF to determine whether a further investigation would be undertaken they made different findings.

In two matters the Commission remained unsatisfied with the NSWPF response to requests for further investigation and made subsequent requests for these investigations to be considered by the relevant NSWPF Region. These requests form Case Studies 3 and 4.

CASE STUDY 3:

In July 2019 a person on the Child Protection Register attended a metropolitan police station for their annual Child Protection Register Review. During that meeting it was disclosed to the subject officer that the registerable person lived next door to another police officer and the two were friends.

Following the review the subject officer made contact with the police officer who lived next door to the registerable person. Contact was initially by email and the subject officer was clearly identified as an officer attached to the Child Protection Register. Later during a telephone conversation the subject officer indicated to the other officer that he might want to stay away from the neighbour and that he should keep his kids away too. Following conversation with the subject officer the neighbouring police officer made a disclosure to his senior officers.

A misconduct investigation was commenced against the subject officer for an unauthorised/improper disclosure as well as the neighbouring police officer for a failure to declare a declarable association. The outcomes of the investigation were not sustained findings against both officers.

The Commission reviewed the finalised NSWPF investigation and in April 2020 sent a letter pursuant to s 104 of the LECC Act requesting a further investigation. The correspondence included the aspects of the investigation the Commission considered deficient.

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

The responsible Police Area Command declined to further investigate the misconduct matter indicating there was no disclosure of information in breach of s 21E of CPORA. The Command further indicated that it was 'more likely than not - done so in a work-related capacity'.

In June 2020 the Commission sent a second request for the NSWPF to consider a further investigation into this matter requesting that it be considered by the relevant Region. In addition to the previous request the Commission indicated that it was of the view that there is a distinction between a 'work related purpose' and a 'law enforcement purpose' and that consideration should be given to obtaining a legal opinion around the parameters of a 'law enforcement purpose' under s 21E of CPORA.

Additionally the Commission highlighted that the subject officer had a recent sustained finding for the improper release of information in which the investigator noted 'I was satisfied this was not an education issue, the (subject) officer had a sound working knowledge of the correct procedures. Legislation and policy are being circumvented to reduce paperwork'.

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

The Region indicated 'the actions of [the] Constable ...were apparently motivated by a desire to ensure that a NSWPF colleague complied with the Declarable Association Policy. This action was unarguably not for law enforcement purposes as required by s 21E of the Act.'

The Region sent this report to the relevant Command however the Commander stated they did not agree with the recommended sustained finding and would not change the original decision. They further indicated that they did not agree with the view of what constituted a 'law enforcement purpose'.

The Region recommended to the Child Protection Register that they should prepare educational material on s 21E of CPORA and distribute that information State-wide. The Region did not overturn the decision of the Commander.

CASE STUDY 4:

In April 2019 a cyclist was riding within the Royal National Park when he rode past the subject officer who was conducting speed detections. It is alleged that the cyclist yelled profanities at the subject officer as he rode past. The officer followed the cyclist and attempted to stop him. The cyclist refused to stop.

After numerous attempts to intercept the cyclist the officer drove ahead and stopped his vehicle. He then stood in front of the cyclist with his arms out. The cyclist continued riding and the officer attempted to stop him. This resulted in the cyclist being thrown a number of meters from his bicycle. The cyclist was unconscious and was later diagnosed with a fractured skull.

The cyclist was later issued with infringement notices for ride recklessly and not obey direction of police.

The NSWPF conducted a misconduct investigation and made a not sustained finding for unreasonable use of force. The investigator indicated 'I believe the subject officer used the most reasonable and least amount of force which was available, and as such, stood in the pathway of the moving bicycle in the hope [the cyclist] would slow down and stop...'.

The Commission was not satisfied the misconduct investigation had been properly investigated and pursuant to s 104 of the LECC Act requested the NSWPF conduct a further investigation. The Commission indicated it would be open to the NSWPF to make a number of findings including for unreasonable use of force, failing to follow operational procedures (Safe Driving Policy) and untruthfulness.

One specific aspect the Commission requested the NSWPF consider was whether the officer had engaged in a pursuit and if so whether they had complied with the Safe Driving Policy. That policy indicates '...a pursuit, regardless of speed, commences at the time you decide to pursue a

vehicle that has ignored a direction to stop.’ A bicycle is a vehicle under the *Road Rules*. This has not been part of the original investigation.

Following the Commission’s request the NSWPF conducted a review of the available evidence and determined that another investigation was not justified. However they sustained a finding for a new issue of unreasonable/unprofessional behaviour. This finding encapsulated the entirety of the incident. The reviewing police officer made a recommendation for a Region Commanders Warning Notice to be issued to the officer however the Commander determined that advice and guidance was sufficient. The Commission indicated that in its view a Region Commanders Warning Notice would have been more appropriate in the circumstances.

Additionally NSWPF:

- (i) identified that a ‘pursuit’ of a cyclist was not currently captured by the Safe Driving Policy, and made a recommendation that they obtain independent advice around the nexus between the policy and the *Road Rules* definition; and
- (ii) recommended that consideration be given to training/instruction around attempts to stop bicycles.

CASE STUDY 5:

In January 2019, the NSWPF finalised an investigation into an incident in which an Aboriginal man was taken into custody at a regional police station. While in one of the docks in the custody area the man removed his t-shirt and attempted to strangle himself.

The man was removed from the dock. All his clothes, except underwear, were removed. Police then immediately placed him into one of the cells. Prior to leaving him in the cell police conducted a cursory search and removed toilet paper.

CCTV from the cell shows two plastic knives protruding from the Perspex observation panel. The man began banging his head on the wall and then on the Perspex observation panel. He located the protruding plastic knife and started making self-harm motions across his forearm and later across his throat.

Police entered the cell, removed the knives and conducted a more thorough search of the cell. The NSWPF investigation made not sustained findings for all issues. The NSWPF indicated that Corrective Services were primarily responsible for clearing the cells before NSWPF officers placed the male into the cell.

Following a complaint by the man's mother, the Commission reviewed the NSWPF investigation and in August 2020 wrote to the NSWPF under s 104 of the Act requesting a further investigation including consideration of whether the NSWPF Handbook places an obligation on supervising sergeants and custody managers to ensure cells are cleared.

The Commission indicated that in its view it would be open for the NSWPF to make a sustained finding for the inadequate inspection of the cell. The Commission noted the NSWPF Handbook includes instructions to 'search every cell before and after use for anything which might be used to inflict harm or cause harm' as well as '(b)efore placement in cells, ensure appropriate checks, risk assessments, search and monitoring are carried out, as for any detained person'.

In January 2020 the NSWPF responded to the Commission request for a further investigation indicating they did not intend on changing their findings.

The NSWPF further indicated:

- (i) the cells were the primary responsibility of Corrective Services, who are trained to conduct thorough and intrusive searching of cells;
- (ii) there was a level of urgency in the situation and that given they did remove objects it was completely subjective whether the search was thorough enough; and
- (iii) Officers did search the cell as required in the NSWPF handbook, and the question of thoroughness is subjective.

The Commission did not agree with the NSWPF and in February 2020 requested the Region Commander to consider whether a further investigation should be caused.

The Region Commander notified the Commission that they did not see necessity to conduct a further investigation. However they did note that they were of view that it was the NSWPF responsibility to thoroughly inspect the cell prior to placing the man in it and that this was not done to an acceptable standard. The Region Commander also noted that the placement of the man into the cell was an exigent circumstance due to the attempt at self-harm and officers were of the mistaken belief that responsibility to thoroughly search the cell was the responsibility of Corrective Services. In their view it was not a deliberate disregard of policy or procedure. Further training of the subject officers was however undertaken by the Command.

The NSWPF additionally notified that they are undertaking an extensive review of the Handbook and Custody SOPS and the issue of custody cell clearances will be given consideration during the reviews.

5.5 MONITORING OF NSWPF AND NSWCC MISCONDUCT INVESTIGATIONS

The Commission may choose to monitor a misconduct investigation being conducted by the NSWPF or the NSWCC if it is of the opinion that it is in the public interest to do so, pursuant to s 101 of the LECC Act.

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

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

The Commission presented two reports to Parliament in July 2020 which relate to two NSWPF investigations that were monitored by the Commission during the reporting period. These were:

- (i) [‘Arrest, detention and Strip Search of Two Female Protestors on 10/11/2017’](#); and
- (ii) [‘Strike Force Blackford - Report’](#)

As of 30 June 2020, the Commission was actively monitoring eleven NSWPF misconduct matter investigations in accordance with s 101 of the LECC Act. Monitoring active misconduct investigations allows the Commission to oversee these investigations in real-time including attendance at interviews, conferring with investigators about the investigation and requesting progress updates.

MONITORING	2018-19	2019-20
On hand monitoring matters as of 1 July	7	15
New monitoring matters commenced since 1 July	10	9
Total monitored by the Commission during reporting year	17	24
Finalised monitoring matters during the reporting year	2	13
On hand monitoring matters as of 30 June	15	11

CASE STUDY 6: Strike Force Thornton

In October 2017, the Commission commenced monitoring an investigation being conducted by the NSWPF PSC. This investigation commenced as a result of a private WhatsApp group chat between numerous police officers from a metropolitan command being disclosed to management. This group chat contained numerous inappropriate comments which could be taken as

the potential bullying and harassment of other police officers as well as some comments constituting possible criminal conduct. Generally, the NSWPF investigation of this matter has been comprehensive with a number of officers being recommended for removal or other disciplinary action.

The WhatsApp group chat contained certain disclosures about an incident that had led to the arrest and charging of a civilian. These disclosures put into question the credibility of the evidence of the police case officer. The Commission was concerned around one discrete aspect of this investigation relating to the failure to disclose relevant information from the WhatsApp chat to the defence prior to the criminal matter proceeding to hearing. The information was directly relevant to the charges being contested at court and could have affected the credibility of the case officer in that matter. Instead, the hearing was allowed to proceed and the civilian convicted.

The Commission made representations to the NSWPF that they should take steps to bring the matter before the court so as to quash the convictions. The Police Prosecutions Command declined to take this course of action but did provide the relevant WhatsApp material to the defence which took steps to overturn the convictions by way of appeal proceedings to the District Court. Leave to appeal the convictions was required as the appeal period of 28 days had expired. Such leave to appeal was granted. On the appeal, the DPP offered no evidence with respect to two of the charges and the convictions were quashed with respect to those matters. The remaining charges were remitted to the Local Court for re-hearing. In those Local Court proceedings, all those prosecution charges were withdrawn and no convictions were recorded against the accused.

The Commission previously reported that the PSC recommended not sustained findings against the Detective Inspector and the police prosecutor in relation to the allegation that they failed to disclose the material.

In July 2019, pursuant to s 104 of the LECC Act, the Commission requested a further investigation of the issues relating to the Detective Inspector, setting out what the Commission considered were deficiencies in the earlier investigation. The NSWPF declined to undertake a further investigation, indicating that in its opinion the Detective Inspector's decision/actions did not constitute misconduct and that they may have made an error in judgment.

The Commission notified the NSWPF that it did not agree that a failure to disclose the WhatsApp material in this matter, prior to any hearing taking place, should not be considered misconduct. The Commission further outlined the service history of the Detective Inspector, which included around 20 years as a detective, and that the officer should have been aware of their duty to disclose. The evidence of the Detective Inspector during the investigation appeared to indicate that exploring the WhatsApp material within a complaint investigation should take precedence over the criminal trial.

The NSWPF did not conduct a further investigation or make different findings against the Detective Inspector. Despite similar concerns with the investigation and outcome of the investigation into the Police Prosecutor, having consideration of the response provided regarding the Detective Inspector, the Commission did not request a further investigation.

The PSC investigation report was also highly critical of the actions of the Commission in attempting to address the failures to disclose the WhatsApp material in the criminal matter. This included the Commission's communications with the Prosecutor. The Commission addressed these criticisms with the NSWPF and identified numerous factual inaccuracies contained within that criticism.

The Detective Inspector has since retired from the NSWPF.

In July 2020 the civilian commenced civil litigation against the NSWPF. That litigation is ongoing.

CASE STUDY 7: Danny Lim

The Commission previously reported that multiple individuals made complaints to the NSWPF regarding the conduct of police in the arrest of Mr Danny Lim at Barangaroo on 11 January 2019. The arrest was partially captured by bystanders and widely posted on social media.

The NSWPF had declined to investigate this matter and in March 2019 the Commission sent a letter pursuant to s 99(3) of the LECC Act requiring the NSWPF to investigate the complaints. The letter also identified a number of issues that the Commission recommended should be considered in the investigation of the complaint.

The Commission began monitoring the NSWPF investigation, pursuant to s 101 of the LECC Act, which continued into the current reporting period. This included observing all interviews with subject officers and conferring with investigating police throughout the investigation. In January 2020 the NSWPF finalised its investigation with a number of sustained findings being made.

The Commission was ultimately satisfied with the NSWPF investigation which made numerous sustained findings. As a result of the investigation, the Sydney City Police Area Command implemented a comprehensive range of measures to address the misconduct and other issues identified by the investigation. These measures included command-wide training and adjustment to the procedures to back-fill supervisory roles.

Mr Lim elected to have the criminal infringement notice for offensive conduct heard in the local court and was found not guilty. A statement of claim was filed by solicitors representing Mr Lim and that civil litigation has also been finalised on terms not to be disclosed.

5.6 REFERRALS TO THE INTEGRITY DIVISION

Having one agency with responsibility for overseeing NSWPF misconduct investigations and undertaking investigations into serious misconduct has provided a number of opportunities for the internal referral of matters to the Integrity Division. These referrals have included officers with concerning complaint histories, as well as the takeover of finalised NSWPF misconduct investigations where the Commission had serious concerns about the outcomes and considered there was a public interest for further investigation.

5.7 WITNESS PROTECTION

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

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

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

5.8 AUDIT

The Commission is responsible for keeping under scrutiny the systems established for dealing with misconduct matters within the NSWPF and NSWCC.

The Commission has undertaken a total of 11 audits within this annual report period which includes a variety of targeted, strategic and routine audits. The Audits team has also undertaken other related activities that are detailed further below.

5.8.1 NUMBER OF AUDITS COMPLETED AND OUTCOMES

NSW Crime Commission

The Commission conducted one on-site audit of the NSWCC in accordance with s 32 of the LECC Act in April 2020.

The Commission, with consent from the NSWCC, reviewed their use of legal professionals as human information sources. Following an extensive review, the Commission is satisfied with the manner in which the NSWCC has handled

information obtained from individuals within the legal profession. The Commission did however make a number of recommendations to the NSWCC to help improve upon the existing policy and procedure relating to the management of human information sources. In August 2020, the NSWCC updated their Human Source Management Policy and Procedure following the Commission's recommendations.

NSW Police Force

The Commission conducted two on-site audits of the NSWPF: the Eastern Beaches PAC and the Lake Macquarie Police District..

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

- responses to s 99(3) requirements to investigate;
- responses to s 102 requests for information
- responses to s 104 requests for further investigation; and
- compliance with requirements to notify complainants under s 137 of the *Police Act 1990*.

Additionally the audit team undertook reviews of the NSWPF social media policies and the human source practices and procedures relating to the use of legal professionals as informants.

The Commission has engaged with the relevant areas of the NSWPF and NSWCC regarding the outcomes of those audits including any areas for improvement. The Commission has not produced any reports in accordance with s 32(5) of the LECC Act.

5.8.2 COMMUNICATIONS WITH COMPLAINANTS

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

Following the review, the Commission made three recommendations for the NSWPF to consider:

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

5.9 CRITICAL INCIDENTS

The Commission has the power to independently oversight and monitor the investigation of critical incidents by the NSWPF if it decides that it is in the public interest to do so. The Commission's policy is to monitor all declared critical incidents. The Commission's role is to ensure that the NSWPF investigates critical incidents in a competent, thorough and objective manner.

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

In the reporting period the NSWPF declared 27 critical incidents. This was five less than the previous program year. The Commission commenced monitoring all 27 critical incident investigations from the time the Commission was notified of the declarations. The NSWPF ceased one critical incident investigation shortly after declaration as the injuries were either less serious than first considered or preliminary investigations indicated that there was no relationship between the injury to the person and the actions of police. The Commission continues to monitor the remaining 26 critical incident investigations. As of 30 June 2020 the Commission was monitoring 63 critical incident investigations.

5.9.1 WHAT IS A CRITICAL INCIDENT?

A critical incident is an incident involving a police officer or NSWPF employee that results in death or serious injury to a person. It must also be declared to be a critical incident by the Commissioner of Police or his delegate. The LECC Act provides guidance about the features of a critical incident.⁷ These include incidents where death or serious injury arises:

- from the discharge of a firearm by a police officer;
- from the use of force or defensive equipment by a police officer;
- from the use of a police vehicle by a police officer;
- while in police custody or while attempting to escape police custody; or
- during any police operation where the injury or death is likely to have resulted from the police operation.⁸

⁷ Section 110 LECC Act.

⁸ Police operation is defined in s 108 of the LECC Act and means any activity engaged by a police officer while exercising police functions apart from search and rescue operations.

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

5.9.2 NOTIFICATION TO COMMISSION

The NSWPF is required to notify the Commission immediately after the declaration of a critical incident.

The average time between the declaration of a critical incident being made and the Commission being notified of the critical incident was around 70 minutes during the reporting year. This is approximately 17 minutes slower than the last reporting year. The earliest notification to the Commission was approximately 15 minutes after declaration.

5.9.3 CRITICAL INCIDENT INVESTIGATIONS

Critical incident investigations are lengthy and often complex investigations. Once declared, critical incidents are investigated by the homicide squad or a criminal investigation team from a police area command or district that is independent from the command in which the incident occurred. In addition, every critical incident investigation is reviewed by the NSWPF PSC⁹.

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

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

5.9.4 OBTAINING VERSIONS FROM INVOLVED OFFICERS

In most instances there are no legal requirements for officers to provide a version of events in critical incident investigations conducted by NSW Police¹⁰. Officers normally assist and provide a version of events in a timely manner.

⁹ One critical incident has not been reviewed by the PSC, as that critical incident investigation included an examination of the actions of an officer attached the PSC.

¹⁰ There is a requirement to provide limited information in relation to motor vehicle crash, under the Road Rules 2014.

In the critical incident investigation into the death of a man in February 2018, six involved officers refused to provide a version of events to the investigating police officers. It was not until the State Coroner commenced an inquest and called the six involved officers that a version was obtained from them. This tranche of the inquest occurred in September 2019, more than 18 months after the critical incident.

While this inquest has not been finalised, Council Assisting the State Coroner has indicated that a potential recommendation may be a 'legislative response' to address the 'lack of contemporaneous account in circumstances where there is a NSW Police Force critical incident'.

5.9.5 MONITORING CRITICAL INCIDENT INVESTIGATIONS

The LECC Act provides that Commission investigators may be present as observers at interviews conducted in relation to the critical incident, attend the location of critical incidents, and be provided access to all documents (including interview recordings and transcripts) obtained during the course of the investigation when monitoring critical incidents.¹¹

Commission investigators have monitored the investigation of all critical incidents declared in 2019-20, have attended the majority of critical incident locations and generally have been provided access to all documents within a reasonable timeframe. However, unlike monitoring functions outlined within Part 7 of the Act (oversight of misconduct matter investigations), consent must be provided by the person being interviewed and, the senior critical incident investigator, to allow Commission investigators to be present as an observer during an interview, either in person or by audio visual link.¹²

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

5.9.6 CRITICAL INCIDENTS DECLARED DURING 2019-20

Commission investigators met with investigating police at or near the location of the incident soon after receiving notification in 60% of critical incidents.

CRITICAL INCIDENTS	2017-18	2018-19	2019-20
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¹¹ Section 114 of the *Law Enforcement Conduct Commission Act 2016*

¹² Section 114(3)(c) of the *Law Enforcement Conduct Commission Act 2016*

Declared by NSWPF	34	32	27
Monitoring commenced by the Commission	34	32	27
Attended location	19	27	16
Ceased being classified as critical incident by the NSWPF	3	4	1
Ceased being monitored by the Commission following NSWPF decision to cease	3	4	1
Finalised investigation by the NSWPF	0	3	18
Finalised by the Commission	0	0	18

5.9.7 FEATURES OF CRITICAL INCIDENTS

CRITICAL INCIDENT FEATURES	2017-18	2018-19	2019-20
Death	22	11	22
Serious Injury	8	21	5
TOTAL	30*	32	27

*2017-18 included an incident where no one was killed or seriously injured. The incident was declared under s 111(b) of the Act as the Commissioner of Police had other grounds for considering it was in the public interest to do so.

5.9.8 CATEGORIES OF CRITICAL INCIDENTS

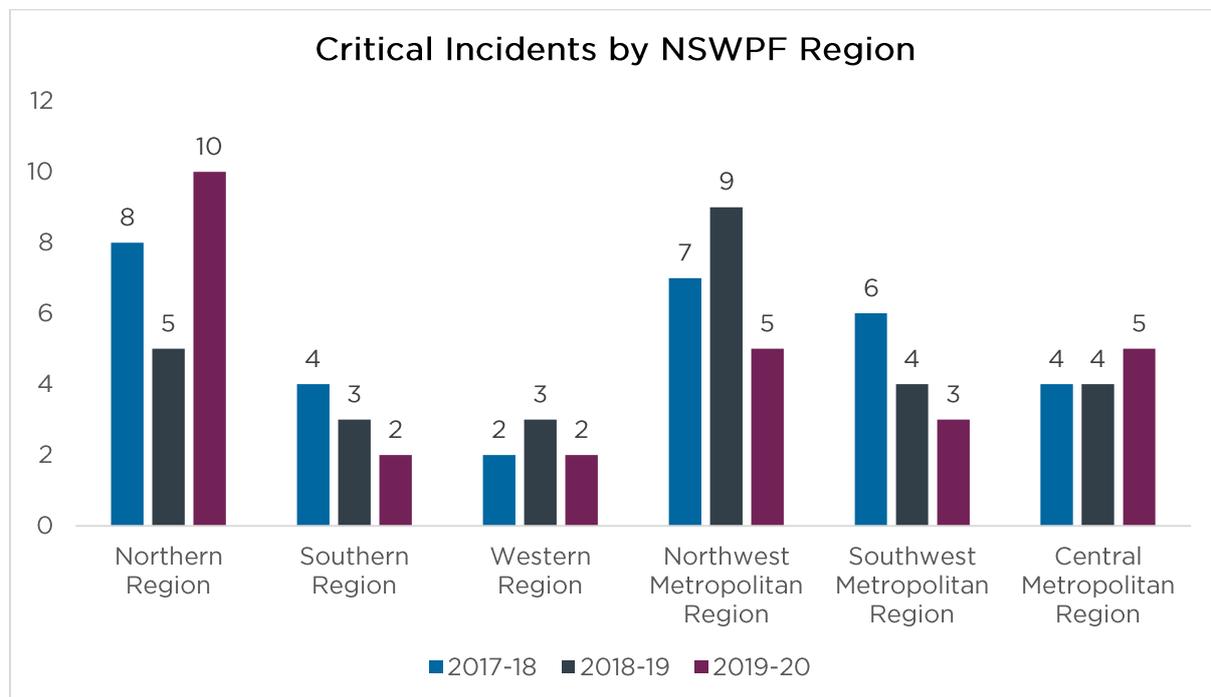
CATEGORIES OF CRITICAL INCIDENTS*	2017-18	2018-19	2019-20
Death or serious injury arises from a discharge of a firearm	6	7	5
Death or serious injury arises from the use of defensive equipment	1	0	0
Death or serious injury arises from the application of physical force	1	1	0

Death or serious injury arises from the use of a police vehicle	5	3	4
Death or serious injury arises while the person is in custody or while escaping or attempting to escape from custody	5	1	0
Death or serious injury appears likely to have resulted from any police operation	12	16	17
Declared under s111(b) of the LECC Act - <i>the Commissioner of Police has other grounds for considering it is in the public interest to do so</i>	1	0	0
TOTAL	31[#]	28[#]	26[#]

*These categories are drawn from ss 110 and 111 of the LECC Act 2016.

Critical incident investigations ceased by the NSWPF are excluded.

Source: NSWPF [E@gle.i](#) database 2017-2020.



Source: NSWPF [E@gle.i](#) database 2017- 2020.

5.9.9 CHARACTERISTICS OF CRITICAL INCIDENTS IN 2019-20

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 the next reporting period, the Commission expects a coronial inquest will be held in 16 of the 27 (59%) critical incidents. There are ongoing criminal proceedings in relation to 3 of the 27 (11%) critical incidents declared during 2019-20. One declared critical incident was downgraded and ceased to be monitored by the Commission after evidence arising during the course of the investigation found that police had no direct involvement in the critical incident.

In 14 of 27 (52%) critical incidents in the 2019-20 period, evidence arising in the course of the critical incident investigation suggested that mental health was a factor in the critical incident. In 11 of the 14 (78%) incidents, the deceased or seriously injured person appeared to be attempting to self-harm or to end their life at the time of their interaction with police. In the remaining three incidents, the evidence suggests that the person appeared to be experiencing a mental health episode.

In the 2019-20 period, critical incidents involving motor vehicle collisions that occurred during or soon after police officers followed or pursued a person in a police vehicle comprised 4 of the 27 (15%) incidents.

5.9.10 SECTION 116 NOTIFICATION

While monitoring a critical incident involving a serious injury to the civilian driver of a vehicle involved in a motor vehicle crash with police, the Commission identified there appeared to be sufficient evidence for charges to be laid against the driver of the police vehicle.

On 5 July 2019, the Commission recommended to the NSWPF under s 116 of the Act that the NSWPF seek urgent advice from the Office of the Director of Public Prosecutions (ODPP) regarding sufficiency of evidence for the laying of those charges. These offences were nearing their statute of limitations, and the previous position of the NSWPF had been that there was insufficient evidence to prosecute the police officer.

The NSWPF acted expeditiously upon the Commission's request and referred the brief to the ODPP. The ODPP advised there was sufficient evidence to charge the officer and the officer was served with a court attendance notice in relation to two offences.

The officer pleaded guilty to negligent driving occasioning grievous bodily harm. Following an appeal on the severity of sentence, no conviction was recorded and the officer was subject to a conditional release order for six months.

5.9.11 MISCONDUCT PERIPHERAL TO A CRITICAL INCIDENT INVESTIGATION

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

6. CRIME COMMISSION

6.1 OVERVIEW

The Commission is required to separately report on NSW Crime Commission (NSWCC) matters in its annual report. The purpose of this section is to report on work undertaken by the Commission during 2019-20.

The Commission has entered into an agreement and guidelines with the NSWCC in accordance with s 14 of the *Law Enforcement Conduct Commission Act 2016* (LECC Act). These guidelines outline the categories of misconduct matters that are required to be notified to the Commission and upon which the Commission primarily focusses its oversight functions.

Between 1 July 2019 and 30 June 2020, the Commission assessed allegations of 5 misconduct matters involving serving members of the NSWCC. The allegation types included:

- Bribery
- Attempting to pervert the course of justice
- Improper association
- Protection of person(s) involved in drugs
- Unauthorised/improper disclosure of information
- Fail to declare a conflict of interest
- Misuse of authority for personal benefit

6.2 INVESTIGATIONS

There were 4 full investigations and 1 preliminary enquiry conducted within the 2019-20 period.

Operation Topsail was an investigation by the Commission into allegations of serious misconduct by a senior officer within the NSWCC following an audit by the Commission. No evidence of serious misconduct was established and the investigation was discontinued. The investigation was referred back to the Crime Commission for their consideration

7. PREVENTION AND EDUCATION

7.1 OVERVIEW

The Commission's Prevention and Education team conducts research and investigations that focus on systemic misconduct or maladministration in the NSW Police Force (NSWPF) and NSW Crime Commission (NSWCC), such as actions or practices which might be unlawful or unreasonable.

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

In addition to the major projects outlined below, the team has been involved in monitoring the enforcement of the public health orders and restrictions made by the Minister for Health in relation to Covid-19 since their introduction in March 2020. This has involved examining complaints to identify any trends, as well as reviewing the operational policies and guidance the NSWPF has provided to police officers regarding the public health orders and how they should be enforced. Over the period of review, the information provided to officers has been comprehensive, easily accessible and regularly updated.

The team has also monitored the creation of the NSWPF Missing Person's Registry (MPR), which commenced on 1 July 2019. The MPR replaced the Missing Persons Unit (MPU) following an extensive internal review by the NSWPF. The NSWPF has undertaken significant work to develop the processes, technology and tools used by the MPR to improve the NSWPF response to investigations into missing persons. The new Standing Operating Procedures (SOPS), issued in early 2020, provide comprehensive guidance about the response to missing persons, unidentified bodies and human remains investigations, and training in the SOPs is being developed. The new processes within the MPR have led to a significant reduction in the average time it takes for missing persons to be located and for missing person cases to be finalised.

This year, the work of the team culminated in three reports presented to Parliament pursuant to section 132 of the LECC Act: Operation Tuskett, Operation Tepito and the Review of the NSWPF Standard Operating Procedures for Strip Searches in Custody. These are all available on the Commission's website.

7.2 KEY PROJECTS

7.2.1 OPERATION TUSKET: THE NSW POLICE FORCE'S ADMINISTRATION OF THE CHILD PROTECTION REGISTER

On 31 October 2019 the Commission's report *The New South Wales Child Protection Register: Operation Tuskett Final Report* was presented to Parliament. This investigation revealed that there have been problems with the Child Protection Register for over 17 years. The CPOR Act requires that a register be maintained containing the personal details of individuals who have been sentenced for certain sexual or violent offences involving children, or offences relating to child abuse material. Since 2002 the NSWPF

has made over 700 incorrect decisions about which persons were required to be included on the Register or about the number of years for which persons on the Register were legally required to report their information to police. Some of these errors resulted in child sex offenders being in the community without being monitored by the NSWPF. Other errors have led to the NSWPF unlawfully requiring people to report their personal information to police for a number of years. As a result, in certain cases people had been wrongly convicted and even unlawfully imprisoned for failing to report under the CPOR Act.

Since the start of Operation Tuskett in 2017 the NSWPF has worked collaboratively with the Commission to identify the systemic causes of the errors and pursue solutions, and has taken significant steps to improve the administration of the Register.

The Commission found there were a number of factors which had contributed over time to the errors in the Register. Some of the systemic problems were internal to the NSWPF, such as insufficient resources being allocated to the maintenance of the Register. However one of the most significant factors contributing to errors is the difficulty of applying the CPOR Act.

The Commission's report made 11 recommendations to remedy the unlawful conduct that had occurred and prevent further errors in the Register. The NSWPF supported, in whole or in part, the majority of the Commission's recommendations. The Commission notes pursuant to s 139(2)(i) of the LECC Act that these included three recommendations for legislative change, including urgent and comprehensive review of the entire CPOR Act by the NSW Law Reform Commission (rec 3), introduction of a statutory review mechanism (rec 4) and introduction of provisions to facilitate independent compliance auditing of the Register (rec 11).

In May 2020 the Commission initiated a formal review of the actions the NSWPF has taken to implement the 11 recommendations. The NSWPF's response to the recommendations will be considered in detail in that review, which will be the subject of a separate public report in 2020-21. To date, a number of the recommendations which are within NSWPF control have been implemented, particularly those relating to the resourcing of the Registry, and provision of information to persons placed on the Register. The NSWPF has also taken steps towards implementation of those recommendations that require actions by other authorities, including those relating to law reform. The NSWPF has commenced its own review of the CPOR Act which it states will consider the recommendations and observations about the law made in the Operation Tuskett Final Report. It has also established an Interagency Working Group to consult with other NSW Government agencies regarding the need for law reform.

7.2.2 OPERATION TEPITO: APPLICATION OF THE SUSPECT TARGETING MANAGEMENT PLAN TO YOUNG PEOPLE

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

The Commission commenced an investigation into the use of the STMP on children and young people in late June 2018. On 13 February 2020, the Commission presented an

interim report to Parliament. It contained analysis of how the STMP had been applied to a state-wide cohort of more than 400 children and young people under 18 years of age.

The interim report contained 15 recommendations for the NSW Police Force. These included that

- the NSWPF should create a risk assessment tool for the STMP that has been assessed as valid and reliable for use in relation to young people;
- the NSWPF increases the engagement of Aboriginal Community Liaison Officers in the development and application of the STMP for Aboriginal children and young people; and
- that the NSWPF increase the use of strategies that prioritise preventative and therapeutic responses to criminal behaviour of young people on the STMP.

The NSWPF accepted all 15 recommendations. Significantly it has re-designed STMP, including the methods for selecting and targeting children and young people. The Commission will monitor and review the trial and roll-out of the updated STMP mode, however its implementation has been delayed in response to changed NSWPF operational priorities during the covid-19 pandemic.

The Commission's final report will assess whether adequate responses to the Commission's interim report recommendations have been implemented. We hope to commence the data gathering and analysis required for the final report in late 2020.

7.2.3 OPERATION SHOREWOOD: HOW THE NSWPF DEALS WITH WORKPLACE EQUITY MATTER

Operation Shorewood involved a review of workplace equity matters that were investigated between 2017 and 2018. In the NSWPF, all forms of bullying, discrimination, harassment (including sexual harassment), vilification and victimisation are collectively known as 'workplace equity matters'. The NSWPF has extensive policies and procedures that govern the behaviour expected of its employees in the workplace. Operation Shorewood aimed to assess compliance with NSWPF policies and procedures for managing and investigating workplace equity matters and consider how the NSWPF monitors trends and outcomes in those matters. The review was finalised in 2019-20, and the report was tabled in parliament on 21 July 2020.

Operation Shorewood identified a range of issues, including recidivist behaviour among some officers; low levels of complainant confidence in the way the NSWPF deals with workplace equity matters; some complainants feared reprisal after making complaints; records indicating that some complainants experienced physical and/or psychological harm as a result of the bullying, discrimination and harassment; and some investigations were not completed in a timely manner.

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

The Commission will look at the effect of these new processes on the way workplace equity matters are addressed after a further 12 months, allowing some time for the changes to take effect.

7.2.4 STRIP SEARCH INQUIRY

During 2019-20, the Prevention and Education team continued its involvement in the Commission's inquiry into the practices of the NSWPF in conducting strip searches. This year, the team has focussed on monitoring changes introduced by the NSWPF to policies, processes and training in relation to the way police conduct strip searches.

On 13 February 2020 the Commission presented a report to Parliament: *Review of the NSWPF Standard Operating Procedures for Strip Searches in Custody*. The review, conducted in 2018-19, found a concerning level of inconsistency in over 100 locally managed Standard Operating Procedures (SOPs) addressing searches in custody. Many gave inadequate and incorrect instruction about conducting strip searches. In a draft report to the NSW Police Force in July 2019, the Commission made five recommendations to address these issues. In response the NSWPF developed a single, consolidated Charge Room and Custody Management SOP, and created a new Person Search Manual. These new policies implement all five of the Commission's recommendations. In 2019-20 the Commission has worked with the NSWPF to further develop the policy guidance contained in these new policies. The Commission also notes that the NSWPF made significant changes in late 2019 to the way strip search records are verified and audited. It also developed a range of changes to the procedures for conducting strip searches at music festivals.

The Commission proposes to publish a final report for the strip search inquiry in late 2020, which will reflect on the work undertaken across the Commission as well as evaluating the recent changes implemented by the NSWPF to improve officer compliance with legislative requirements when using strip search powers.

7.2.5 LEGISLATIVE REVIEW: AMENDMENTS TO CONSORTING POWERS USED BY NSW POLICE

On 28 February 2019, the Commission was given responsibility for reviewing the operation of amendments to consorting laws under Part 3A Division 7 of the *Crimes Act 1900* over a three year period.

The consorting laws make it a criminal offence for a person to continue to associate or communicate with people who have previously been convicted of an indictable offence after receiving an official police warning. The amendments exclude young people under 14 years from the offence of consorting, clarify what a consorting warning must say, provide timeframes for the warnings and allow police to issue a warning about persons who have committed indictable offences in other jurisdictions if they would be indictable if committed in New South Wales. The amendments also alter some of the defences to consorting charges to address concerns raised in a 2016 review by the NSW Ombudsman¹³ relating to the use of consorting powers when the person is an Aboriginal and Torres Strait Islander person associating within extended family and

¹³ *The consorting law: Report on the operation of Part 3A, Division 7 of the Crimes Act 1900*. NSW Ombudsman, April 2016.

kinship systems; or the consorting occurs in the course of the provision of a health or welfare service, transitory accommodation arrangements or when the person is complying with an order granted by the Parole Authority or Corrective Services NSW.

In 2019-20, the Commission worked with the NSWPF to procure relevant data relating to the use of the consorting powers up to end June 2020, representing nearly the first half of the reporting period. The early analysis indicates that, when compared with the Ombudsman's review period, there has been a considerable increase in the number of consorting warnings issued. However there have been considerably fewer charges, with only two since the amended powers commenced. The Commission hopes to provide the NSWPF with an interim report about their use of the powers for the period in late 2020.

7.2.6 REPORT UNDER SECTION 870 OF LEPR

The Commission is required to keep under scrutiny the exercise of powers conferred on police under Part 6A of LEPR.

Part 6A allows police to authorise the use of special powers to prevent or control large-scale public disorder. The special powers were created as a response to the Cronulla riots in 2005. They include powers to establish a cordon around a specified target area, or a road block in a specified target road. Part 6A also gives police special powers to do things in the target area that would ordinarily require a warrant or the formation of reasonable suspicion of criminal activity. For example, police may stop and search vehicles and people, seize and detain things and disperse groups.

In 2019-20, the NSWPF did not use the powers under Part 6A LEPR. The powers have not been used since March 2011.

8.

LEGAL MATTERS

This chapter contains information about important statutory provisions and legal developments of significance in 2019-20.

8.1 LAW ENFORCEMENT CONDUCT COMMISSION ACT 2016

In a special report to Parliament, furnished on 3 December 2019, Assistant Inspector of the LECC, Mr Bruce McClintock SC, recommended that consideration be given to widening the definition of persons eligible for appointment as Chief Commissioner of the LECC. At that time, s 18(3) of the LECC Act provided that a person was not eligible to be appointed as Chief Commissioner or to act in that office unless the person was a current or former judge or other judicial officer of a superior court of record of New South Wales or of any other State or Territory of Australia. Mr McClintock expressed the view that *“there are very few people who fall within this category and that many would, for various reasons, be unsuitable or unwilling to accept”* an appointment as Chief Commissioner of the LECC, and that the provision undesirably narrowed the pool of persons available for appointment

Subsequently the *Law Enforcement Conduct Commission Amendment Bill 2020* was introduced to Parliament and passed. It addressed the concern raised by Mr McClintock SC and consistent with his recommendation, the definition of persons eligible to be appointed as Chief Commissioner (or Acting in the office) was widened to include a person who has *“special legal qualifications”*. A person who has *“special legal qualifications”* is a person who is, or is qualified to be appointed as, a judge or other judicial officer of a superior court of record of New South Wales or of any other State or Territory Australia; or is a former judge or judicial officer of such a court. A person would need to have at least five years' standing as an Australian lawyer to meet the *“special legal qualifications”* threshold. This amendment brought the eligibility criteria for Chief Commissioner of the LECC into line with the corresponding eligibility criteria for Commissioners of the Independent Commission Against Corruption

An additional provision was added to the Bill after it was introduced to Parliament. It provided that a LECC Commissioner could no longer be removed by the Governor under s 77 of the *Government Sector Employment Act 2013*. This amendment also brought the Commission into alignment with ICAC, as ICAC Commissioners were already exempt from the operation of that provision.

8.2 RESPONSE TO SUBPOENAS

From time to time, the Commission is served with subpoenas requiring the production (in court) of documents, or 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 1990* 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 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.

8.3 SECTION 180(5) DISSEMINATIONS

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

Generally, the disclosure of information other than for the purposes of the LECC Act, purposes connected with prosecution or disciplinary proceedings arising from a Commission investigation, or law enforcement and investigative purposes is dealt with under s 180(5)(d) of the LECC Act.

The Commission can direct that confidential information held by the Commission be released, but only if it is considered necessary in the public interest to do so.

During 2019-20, the Commission disseminated no information under s 180(5)(d) of the LECC Act.

9. GOVERNANCE AND ACCOUNTABILITY

9.1 GOVERNANCE AND ACCOUNTABILITY

The Commission is accountable to a Parliamentary Joint Committee and the Inspector of the Law Enforcement Conduct Commission. It also maintains a number of internal governance committees to operate effectively.

9.1.1 THE INSPECTOR OF THE LAW ENFORCEMENT CONDUCT COMMISSION

The Inspector is an independent statutory officer whose function is to provide oversight of the Commission and its officers.

The Hon Terry Buddin SC was appointed as the Inspector of the Law Enforcement Conduct Commission on 1 July 2017.

The principal functions of the Inspector are to:

- undertake audits of the operations of the Commission;
- deal with (by reports and recommendations) complaints made to the Inspector about maladministration and/or misconduct on the part of the Commission and/or its officers, including former officers;
- assess the effectiveness and appropriateness of the Commission's policies and procedures.

9.1.2 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 *Law Enforcement Conduct Commission Act*.

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

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

The Executive of the Commission met with the Parliamentary Joint Committee on 17 February 2020.

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

- Mr Dugald Saunders, MP (Chair)
- The Hon Trevor Khan, MLC (Deputy Chair)
- The Hon Lou Amato, MLC
- Mr Mark Coure, MP
- Mr Paul Lynch, MP

- Dr Hugh McDermott, MP
- The Hon Adam Searle, MLC

9.1.3 INTERNAL GOVERNANCE

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

9.1.3.1 EXECUTIVE COMMITTEE

The Executive Committee meets weekly to discuss matters concerning the management and functioning of the Commission. Members of the Committee include:

- Chief Commissioner
- Commissioner for Integrity
- Commissioner for Oversight
- CEO and General Counsel
- Director, Investigations (Integrity)
- Director, Investigations (Oversight)
- Director, Electronic Collections
- Director, IT and Corporate Services
- Manager, HR
- Manager, Finance

9.1.3.2 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.

9.1.3.3 AUDIT AND RISK COMMITTEE

As required by NSW Treasury policy 15-03 *Internal Audit and Risk Management Policy for the NSW Public Sector*, the Commission's Audit and Risk Committee provides independent assistance to the CEO by monitoring, reviewing and advising on the Commission's governance processes, risk management and control frameworks, and its external accountability obligations. The Audit and Risk Committee met quarterly on 18 July 2019; 19 September 2019; 11 December 2019 and 8 May 2020.

9.1.4 STAFF VETTING

Commission staff occupy positions of trust and work with sensitive and confidential material. The Commission's Security and Vetting Policy ensures staff are aware of their responsibilities regarding the integrity of Commission

information and systems.

All staff employed by the LECC are required to comply with the Commission's Employment Suitability Check and Australian Government Security Vetting Agency (AGSVA) security clearance process as part of the employment application process. The Commission has a policy of not employing current or former NSWPF or NSWCC officer.

10. COMMUNITY ENGAGEMENT

10.1 COMMUNITY ENGAGEMENT

The Commission recognises the strong need for targeted community engagement and works directly with community organisations to increase awareness of the role of the Commission, its purpose, accessibility to it and trust. This work is critical to facilitate communication with community members who may wish to report law enforcement misconduct or maladministration but do not feel confident to do so.

The Commission works with community legal centres, Legal Aid, the Aboriginal Legal Service and other organisations to raise awareness of the Commission.

In 2019-20, the Commission participated in a number of community events and meetings, including:

- The Women's Legal Service;
- The Youth Justice Coalition;
- The Police Aboriginal Strategic Advisory Committee;
- The Good Service Mob; and
- Open days at Local Courts.

10.1.1 SENIOR OFFICER ENGAGEMENT

The LECC's executive are actively involved in the Commission's outreach and engagement activities. On 29 August 2019, the Commissioners hosted a delegation from the Vietnamese Internal Affairs Commission. Commissioner Drake attended the Professional Standards Forum in Kiama and was guest speaker on 15 November 2019. Director Investigation-Oversight, Aaron Bantoft, met with the Redfern Legal Centre on 3 June 2020.

10.1.2 COLLABORATION WITH THE NSW POLICE FORCE

The Commission places an emphasis on collaboration with the agencies it oversees. In 2019-20, the LECC Commissioners and other senior staff participated in a number of meetings, forums and training conducted by the NSWPF, including but not limited to:

- Presentation delivered by NSWPF on complaint management procedures;
- Presentation delivered by the NSWPF on Body Worn Cameras;
- Presentation delivered by NSWPF on drug and alcohol testing in the NSWPF;
- NSWPF Internal Review Panel and Commissioner's Advisory Panel; and
- Fortnightly operational meetings with NSWPF and LECC Directors, Oversight and Integrity.

10.1.3 LECC DIVERSITY ACTION PLAN 2019–2021

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

In the reporting year the Commission completed new rest rooms which are wheelchair accessible. These are available to staff and Commission visitors.

The Commission maintains a team of telephonists who are trained to take complaints from members of the public who are prevented by disability, language or resources from submitting complaints online. Contact details for the Commission can be found on the last page of this report.

Vicarious trauma training was provided again this year to those members of staff who felt traumatised or at risk of same because of confronting material they were exposed to in the course of their duties at the Commission.

Adjustable desks providing the option to sit or stand were made available to 16 staff members to accommodate spinal related disability or discomfort.

The LECC Diversity Action Plan for 2019–2021 details the strategy which the Commission will implement in order to address the Focus Areas and Outcomes outlined in the Multicultural Policies and Services Program (MPSP) framework, directly aligning with the aforementioned legislation.

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

The Commission understands the need to build strong relationships with its stakeholders to deliver better outcomes for the community. A strong relationship with Aboriginal and Torres Strait Islander communities strengthens the Commission's organisational culture by celebrating cultural diversity and promoting inclusion.

This LECC Diversity Action plan was created in consultation with the Office of the NSW Ombudsman, Aboriginal Legal Service, Department of Justice, Legal Aid NSW and the NSW Independent Commission Against Corruption.

In addition to the above, the Community Engagement team created Easy English and CALD specific LECC brochures in five languages, Dinka/Juba, Farsi, Dari, Vietnamese and Arabic. The development process included consultation with the Department of Justice who similarly interact with culturally diverse communities.

1. APPENDIX 1

1.1 APPENDIX 1: ANNUAL REPORTS (DEPARTMENTS) ACT 2015 REPORTING

1.1.1 Industrial relations

The terms and conditions of employment for non-executive officers of the Commission are governed by the *Crown Employees (Law Enforcement Conduct Commission) Award 2018* and the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009*. Senior Executive Officers of the LECC are employed under the provisions of the *Government Sector Employment Act 2013*.

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

	2017	2018	2019	2020
Statutory appointments	3	3	3	2/3
Male Executive appointments	3	5	5	5
Female Executive appointments	1	2	2	1
Operational staff	7	45	52	56
Support staff	18.9	45.65	46.6	44
Total	31.9	100.65	108.60	108

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

Band	2019-20	
	Female	Male
Band 4 (Secretary)	0	0
Band 3 (Deputy Secretary)	0	0
Band 2 (Executive Director)	1	0
Band 1 (Director)	0	5

Senior Executives–Remuneration range comparison

2019-20	REMUNERATION RANGE	AVERAGE REMUNERATION
Band 4 (Secretary)	\$487,051pa to \$562, 650pa	n/a
Band 3 (Deputy Secretary)	\$345,551pa to \$487, 050pa	n/a
Band 2 (Executive Director)	\$274,701pa to \$345, 550pa	\$322,454 pa
Band 1 (Director)	\$192,600pa to \$274, 700pa	\$228,100 pa

Staff movement 2019-20

NUMBER OF STAFF WHO COMMENCED EMPLOYMENT	NUMBER OF STAFF WHO CEASED EMPLOYMENT
6	15

1.1.2 EXECUTIVE REMUNERATION

The Commissioners for the Law Enforcement Conduct Commission are appointed by the Governor pursuant to s 18 of the *Law Enforcement Conduct Commission Act 2016*, and, pursuant to clause 9 of Schedule 1 of the Act, are not subject to the *Government Sector Employment Act 2013*.

The Hon M F Adams QC was appointed as Chief Commissioner effective from 13th February 2017 for a 3 year period. His remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Chief Commissioner's salary was \$511520pa. This appointment ended on 31 January 2020.

The Hon R O Blanch AM, QC was appointed as Chief Commissioner effective from 3rd February 2020. His remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Chief Commissioner's salary was \$511520pa

The Hon Lea Drake was appointed as Commissioner for Integrity effective from 14th April 2017. Her remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Commissioner's salary was \$383640pa.

Patrick J Saidi was appointed as Commissioner for Oversight effective from 7th June 2017. His remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Commissioner's salary was \$383640pa. Mr Saidi's appointment was terminated on 16 January 2020. The position of Commissioner for Oversight remains vacant.

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.

Throughout the reporting year one person was employed by the Commission in a Public Sector Senior Executive Service role within Executive Band 2, and five persons were employed within Executive Band 1, of the *Government Sector Employment Act 2013*. All 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.

1.1.3 EXECUTIVE EMPLOYEE EXPENDITURE

The percentage of total employee related expenditure of the Department in the reporting year that relates to senior executives, compared with the percentage at the end of the previous reporting year.

2019	2020
18.68%	18.47%

1.1.4 COST OF THE OPERATIONS OF THE COMMISSION

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

	EMPLOYEE RELATED	OTHER	TOTAL
Integrity	\$6,559,259	\$1,782,225	\$8,341,484

Oversight Investigations	\$1,365,408	\$43,605	\$1,409,013
Critical Incidents	\$899,564	\$41,254	\$940,818

1.1.5 PERSONNEL POLICIES

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

- Code of Ethics and Conduct
- Gift and Benefit Policy
- Disciplinary Action Policy

1.1.6 TRAINING AND DEVELOPMENT

The Commission continued to provide a broad range of Training and Development opportunities to staff throughout the 2019-20 reporting period. Training covered specialist areas including:

- Vicarious Trauma
- Government Solicitors Conference
- Payroll
- HCM
- Cyber NSW Community or Practice Forum
- Digital Transformation and the Need for SD-WAN
- Fire Warden Training
- 2019 Digital.NSW Showcase
- Business Continuity/Resilience & Managing Conduct Issues
- Minter Ellison Public Sector Seminar Series
- Community of HR Practice – flexible work
- NSW Government Community of Financial Professionals

Generic training opportunities provided to staff throughout 2019-20 included:

- First Aid & CPR Training

The implementation of the Commission's Study Assistance policy in this reporting period also resulted in leave and monetary support being provided to staff members undertaking tertiary level studies in a number of specialist areas including:

- Diploma of Crime and Justice Studies
- Diploma of Police Intelligence Practice
- Juris Doctor

1.1.7 WORKPLACE HEALTH AND SAFETY

The Commission has effective procedures in place to ensure adherence to the requirements of workplace health and safety (WHS) legislation. The Commission's WHS policy was reviewed and updated in the reporting period. The Commission Executive are informed of all relevant workplace health and safety matters through the receipt of a detailed report every six months. Management continues to work closely with the WHS Committee to ensure the health and safety of all staff and visitors in the workplace. The WHS Committee meets regularly and is chaired by an employee of the LECC with both staff and executive representatives active on the Committee. There were no workplace health and safety related prosecutions under the *Work Health and Safety Act 2011* during this reporting period.

1.1.8 DIVERSITY ACTION PLAN

A Diversity Action Plan for the Commission was finalised during this reporting period. The LECC's Diversity Action Plan covers the period from 2019-2021 and was formally adopted by the Commission Executive in the second half of the 2019 year. The key strategy outcomes of the Diversity Action Plan are focussed on:

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

The Diversity Action Plan aims to ensure that the needs of people from cultural and linguistically diverse backgrounds, people with disabilities and those from vulnerable communities have access to the Commission and all of its functions.

1.1.9 MULTICULTURAL ACTION PLAN

The LECC Multicultural Action Plan for 2018 – 2021 details the method in which the Commission endeavours to address the Focus Areas and Outcomes outlines in the MPSP Framework.

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

1.1.10 ACTION PLAN FOR WOMEN

Action Plan for Women 2019-20

OBJECTIVE	RESULTS/PLANS
<p>An equitable and balanced workplace responsive to all aspects of women's lives</p>	<p>A total of 19.1% of the Commission's female employees were employed on approved part-time and other special working arrangements as a means of balancing work and home life responsibilities 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 maternity leave as well as those with other personal responsibilities and obligations.</p>
<p>Equitable access for women to educational and training development opportunities</p>	<p>22 of a total of 46 higher duties, staff development opportunities across the organisation were filled by women during this reporting period. 5 of a total of 10 study assistance approvals for tertiary level studies were for applications made by female staff members at the Commission throughout the reporting period.</p>

OBJECTIVE	RESULTS/PLANS
Promote the position of women	Women made up a total of 57.15% of the Commission's workforce throughout the reporting period. A total of 50% of the Commission's management level positions are held by women and 79.71% of the Commission's female staff are remunerated above the equivalent of NSW Public Sector Administrative & Clerical Officers Grade 5.

1.1.11 INFORMATION AND COMMUNICATIONS TECHNOLOGY MANAGEMENT

The Commission's IT department renewed its ISO 27001 ("Information technology - Security techniques - Information security management systems - Requirements") compliance and certification in June 2020, since first achieving certification in 2019. This ensures the Commission's compliance with the NSW Government Cyber Security Policy.

The Commission's core business system (complaints and investigations case management system) replacement project progressed to a live implementation in June 2020 following project delays, with some modules to follow early in the coming year.

Further works were undertaken throughout the year to ensure the Commission maintained effective and efficient technology support for its operations. Some examples are: extension of the WebEx audio-visual capability for all of the Commission's meeting and conferencing purposes, replacement and/or upgrade of all firewall infrastructure, completion of the Windows 10 rollout and phased laptop fleet renewal, and an annual full refresh of IT policy documentation. A full enablement of all eligible staff for remote working was achieved at very short notice at the onset of the COVID-19 pandemic in March 2020.

1.1.12 DIGITAL INFORMATION SECURITY POLICY

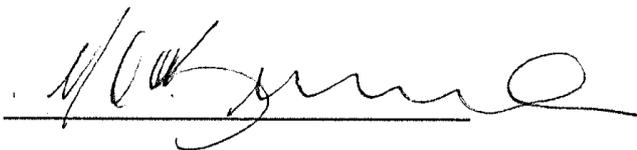
The Commission is required to annually attest to the adequacy of its digital information and information systems security. The attestation statement can be found below.

Digital Information Security Annual Attestation Statement for the 2019-2020 Financial Year for Law Enforcement Conduct Commission

I, Michelle O'Brien, am of the opinion that Law Enforcement Conduct Commission (LECC) had an Information Security Management System (ISMS) in place during the 2019-2020 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 2019-2020 financial year.

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

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



20/08/20

M. M. O'Brien
CEO & General Counsel

1.1.13 DELIVERY OF ELECTRONIC SERVICES

During 2019-20 the Commission's public website attracted 24,372 visitors, at an average of 67 visitors per day.

1.1.14 MAJOR WORKS

The Commission implemented a new case management system in June 2020, with some functionality following in the next reporting period. The total capitalised to June 2020 was \$706,135, of which \$23,121 was expensed during the reporting period

1.1.15 AUDITS

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

The Financial Statements for 2019-20 were prepared and submitted to the Audit Office of NSW within the required timeframe.

1.1.16 INSURANCE

Major insurance risks for the Commission are the security of its employees, property and equipment and the risk of work-related injuries, which may result in workers' compensation insurance claims. The Commission's insurance coverage is provided by the NSW Treasury Managed Fund, through icare self-insurance. Coverage including property, public liability and motor vehicle is administered by Gallagher Bassett Pty Ltd, worker's compensation insurance is administered by QBE.

Insurance premiums are determined based on a combination of benchmarks and actual claims made by the Commission in previous years. For the reporting period the general insurance premium increased by \$8,900 or 34% reflecting sector wide increases, the worker's compensation premium had a slight increase of \$1,330 or 1%.

1.1.17 RISK MANAGEMENT AND INTERNAL CONTROL

The Internal Audit Committee is responsible for the management of risk and for auditing internal controls. For further information please refer to the 'Internal Audit Committee' section in chapter 10, Governance and Accountability.

Internal Audit and Risk Management Attestation Statement for the 2019-20 Financial Year for the Law Enforcement Conduct Commission

I, Michelle O'Brien, am of the opinion that the Commission has internal audit and risk management processes in operation that are compliant with the eight core requirements set out in the *Internal and Audit Risk Management Policy for the NSW Public Sector*, specifically:

Core Requirement	Compliant, non-compliant or in transition
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
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
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 Carolyn Walsh, appointed 1 July 2017, for a 5 year term ending 30 June 2022.
- Independent Member – Mr Peter Scarlett, appointed 1 July 2017, for a 5 year term ending 30 June 2022.
- Independent Member – Ms Marcia Doheny, appointed 1 April 2018, for a 5 year term ending 31 March 2023.

M M O'Brien

Chief Executive Officer

Date 26/08/20

1.1.18 ACCOUNTS PAYABLE POLICY

The Commission has set a benchmark for paying 95% of all accounts received within creditors' trading terms. This benchmark was achieved in all quarters. The majority of delays in paying invoices outside our creditors' payment terms are as a result of invoicing for goods not yet delivered, or for incorrect goods in which case the Commission withholds payment until it is satisfied that the goods and/or services have been received as contracted.

The Commission was not required to pay interest to creditors due to late payment of accounts during the 2019-20 financial year.

Aged analysis at the end of each quarter 2019-2020

Qtr.	Current (ie within due date)	Less than 30 days overdue	Between 30 and 60 days overdue	Between 61 and 90 days overdue	More than 90 days overdue
	\$'000	\$'000	\$'000	\$'000	\$'000
All Suppliers					
Sept	1,449	4	0	0	0
Dec	1,802	9	0	0	0
March	1,328	44	0	0	0
June	2,282	0	0	0	0
Small business suppliers					
Sept	77	0	0	0	0
Dec	149	0	0	0	0
March	18	0	0	0	0
June	109	0	0	0	0

Accounts due or paid within each quarter 2019–2020

Measure	Sept	Dec	Mar	Jun
All suppliers				
Number of accounts due for payment	316	320	302	312
Number of accounts paid on time	313	314	287	308
Actual percentage of accounts paid on time (based on number of accounts)	99.7%	97.5%	95.5%	98.7%
Dollar amount of accounts due for payment	\$1,452,495	\$1,811,225	\$1,371,344	\$2,282,195
Dollar amount of accounts paid on time	\$1,448,513	\$1,802,288	\$1,327,613	\$2,282,113
Actual percentage of accounts paid on time (based on \$)	99 %	99.9%	96.8%	100%
Number of payments for interest on overdue accounts	Nil	Nil	Nil	Nil
Interest paid on overdue accounts	Nil	Nil	Nil	Nil
Measure	Sept	Dec	Mar	Jun
Small business suppliers				
Number of accounts due for payment to small businesses	30	37	16	18
Number of accounts due to small businesses paid on time	30	37	16	18
Actual percentage of small business accounts paid on time (based on number of accounts)	100%	100%	100%	100%
Dollar amount of accounts due for payment to small businesses	\$76,687	\$148,587	\$17,727	\$109,285
Dollar amount of accounts due to small businesses paid on time	\$76,687	\$148,587	\$17,727	\$109,285
Actual percentage of small business accounts paid on time (based on \$)	100%	100%	100%	100%
Number of payments to small business for interest on overdue accounts	Nil	Nil	Nil	Nil
Interest paid to small business on overdue accounts	Nil	Nil	Nil	Nil

1.1.19 LAND DISPOSAL

The Commission does not hold any real property.

1.1.20CONSULTANTS

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

Category	Nature of service	Cost
Corporate	KPMG - Assist with development of the Commissions 2020-23 strategic plan.	\$69,500

1.1.21 DISCLOSURE OF CONTROLLED ENTITIES

The Commission, as a reporting entity, comprises itself and the Office of the Law Enforcement Conduct Commission (the Office). The Office is a special purpose entity; its only function is to provide personnel services to the Commission.

1.16 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.

1.17 ENERGY MANAGEMENT PLAN

The Commission is committed to sustainable energy management principles. The Commission regularly reviews energy, water consumption and purchasing practices to minimise the impact of its operations on the environment.

This year as part of an on-going program to replace all air-conditioning units running on R22 refrigerant with more energy efficient units the Commission upgraded its cooling towers and replaced 5 AC package units. This project continues to see ongoing reductions in energy costs and usage. In line with government directions the Commission continues to source a minimum of 6% green power.

During the extended COVID19 work from home period all programmed AC units, lighting and other non-essential appliances were shut down. Programing has been switched to manual wall controllers and activated on an as required basis.

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.

1.1.22 WASTE MANAGEMENT

In accordance with the government's resource efficiency policy the Commission continues to implement measures which enable increased use of recycled material and better management of waste reduction.

Measures currently in place include:

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

1.1.23 MAJOR ASSETS

During the reporting period the Commission spent a total of \$623,768 on specialized IT infrastructure and equipment including upgrading the Commission's finance system, firewalls and increasing forensic capability, as well as routine replacement of laptops, monitors and printers.

Building works undertaken during the year included upgrading meeting and office space for a total cost of \$70,203.

The Commission has a policy of purchasing operational vehicles as this allows greater flexibility in the management of the fleet. Five operational vehicles were replaced at a cost of \$165,799. Purchases of other plant and equipment totalled \$267,996 and included upgrade of air-conditioning units and cooling towers as well as other specialised operational equipment.

1.1.24 OVERSEAS VISITS

There was no overseas travel during the reporting period.

2.

APPENDIX 2

2.1 APPENDIX 2: LAW ENFORCEMENT CONDUCT COMMISSION ACT 2016 STATUTORY REPORTING COMPLIANCE CHECKLIST

SECTION OF THE ACT	2019-2020 ANNUAL REPORT
Section 139(2)(a) description of the types of matters that were referred to the Commission	Chapter 3 – Assessing complaints Appendix 3 – Types of allegations assessed
Section 139(2)(b) a description of the types of matters investigated by the Commission	Chapter 4 – Investigating serious police misconduct
Section 139(2)(c) the total number of matters dealt with by the Commission during the year	Chapter 3 – Assessing complaints
Section 139(2)(d) the number of police investigations, Crime Commission investigations and critical incident investigations that were the subject of oversight by the Commission under Parts 7 and 8 during the year	Chapter 5 Oversight and critical incidents
Section 139(2)(e) the number of matters that were investigated by the Commission under Part 6 during the year	Chapter 4 Investigating serious police misconduct
Section 139 (2) (f) (i) the time interval between the receipt of each misconduct matter by the Commission and the Commission deciding to investigate the misconduct matter	Chapter 3 – Assessing complaints
Section 139 (2) (f) (ii) the number of misconduct matters commenced to be investigated but not finally dealt with during the year	Chapter 4 – Investigating serious police misconduct
Section 139 (2) (f) (iii) the average time taken to deal with misconduct matters and the actual time taken to investigate any matter in respect of which a report is made	Chapter 3 – Assessing complaints Chapter 4 – Investigating serious police misconduct
Section 139 (2) (f) (iv) the total number of examinations and private and public examinations conducted during the year	Chapter 4 – Investigating serious police misconduct
Section 139 (2) (f) (v) the number of days spent during the year in conducting public examinations	Chapter 4 – Investigating serious police misconduct
Section 139 (2) (f) (vi) the time interval between the completion of each public examination conducted during the year and the furnishing of a report on the matter	Chapter 4 – Investigating serious police misconduct
Section 139 (2) (g) an evaluation of the response of the Commissioner of Police, relevant members of the Police Service Senior Executive Service and other relevant authorities to the findings and recommendations of the Commission	Chapter 4 – Investigating serious police misconduct
Section 139 (2) (h) an evaluation of the response of the Crime Commissioner, relevant members of the Crime Commission Senior Executive Service and other relevant authorities to the findings and recommendations of the Commission	Chapter 7 – Crime Commission
Section 139 (2) (i) any recommendations for changes in the laws of the State, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions	Chapter 9 – Legal matters
Section 139 (2) (j) the general nature and extent of any information furnished under this Act by the Commission during the year to a law enforcement agency	Chapter 4 – Investigating serious police misconduct
Section 139 (2) (k) the extent to which its investigations have resulted in prosecutions or disciplinary action in that year	Appendix 5 – Prosecutions conducted

Section 139 (2) (l) the number of search warrants issued by authorised justices and the Commissioner respectively under this Act in that year

Appendix 4 – Statistical data on exercise of Commission powers

Section 139 (2) (m) a description of its activities during that year in relation to the exercise of its functions under ss 27 and 32

Chapter 5 - Oversight and critical incidents
Chapter 8 - Prevention and Education

Section 139 (3) any such information that relates to investigations or other matters involving Crime Commission officers must be kept separate from other matters in the report

Chapter 7 - Crime Commission

Section 139 (5) The financial report for the year to which the annual report relates is to set out the separate cost of the operations of the Commission under each of Parts 6, 7 and 8.

Appendix 1

3.

APPENDIX 3

3.1 APPENDIX 3: ALLEGATIONS ASSESSED

Types of allegations assessed

ALLEGATION ¹⁴	2019-20
Improper use of force	8.50%
Inadequate investigation/lack of impartiality	5.25%
Failure to investigate	5.00%
Incivility/rudeness/verbal abuse (oral complaints of rudeness are a local management issue)	4.00%
Intimidating, aggressive or unwelcome behaviour and unfair treatment, either in the workplace or during service delivery	4.00%
Inconsiderate/insensitive/uncooperative behaviour	3.50%
Harassment	3.25%
Improper/unauthorised search	3.00%
Breach of Code of Conduct (not specified elsewhere)	2.75%
Fail to comply with operational procedures, standing orders or Commissioner's directives (not specified elsewhere)	2.50%
Unlawful (insufficient evidence of offence)	2.50%
Improper use of discretion	2.25%
Misuse authority for personal benefit or the benefit of an associate (including obtaining sexual favours)	2.25%
Unnecessary or improper use of arrest	2.25%
Inappropriate prosecution/misuse of prosecution power	2.25%
Unauthorised/improper disclosure of information	2.25%
Threats / intimidation (not assault, excessive force)	2.00%
Neglect of duty/duty of care	1.75%
Unauthorised detention	1.75%
Discrimination	1.25%

¹⁴ Complaints assessed often include multiple allegations within the one complaint

4.

APPENDIX 4

4.1 APPENDIX 4: STATISTICAL DATA ON EXERCISE OF COMMISSION POWERS

The following table indicates the frequency with which the Commission exercised its various powers in 2019-20.

Exercise of Commission's powers

FUNCTIONS	2019-2020
Under the <i>Law Enforcement Conduct Commission Act 2016</i>	
S 24 – Establishment of task forces within the State	0
S 54 – Requiring public authority or public official to produce a statement of information	9
S 55 – Requiring a person to attend before an officer of the Commission and produce a specified document or other thing	97
S 58 – Commission may authorise an officer of the Commission to enter and inspect premises etc	0
S 63 – hearing days:	
• Public	10
• Private	45
S 69 – Commissioner may summon a person to appear before the Commission and give evidence or produce documents or other things	75
S 79 (1) – Authorised justice may issue search warrant	0
S 79 (2) – Commissioner may issue a search warrant	0
S 84 – Number of warrants obtained under <i>Surveillance Devices Act 2007</i>	4
Under <i>Law Enforcement (Controlled Operations) Act 1997</i>	
Applications granted by Commission for authority to conduct controlled operations	0
Under <i>Law Enforcement and National Security (Assumed Identities) Act 2010</i>	
Approval granted by Commissioner for acquisition and use of an assumed identity	9
Applications granted for variation of assumed identity	4
Applications granted for cancellations of assumed identify	0
Under <i>Telecommunications (Interception & Access) Act 1979</i>	
Warrants issued for the interception of communications	14
Warrants issued for access to stored communications	5

5.

APPENDIX 5

5.1 APPENDIX 5: PROSECUTIONS CONDUCTED BY THE DPP IN 2019-20 ARISING FROM COMMISSION INVESTIGATIONS

NAME	OPERATION	CHARGE(S)	STATUS/RESULT
Robert John Ware	Operation Snowshoe	<p>1 x s 107 <i>Police Integrity Commission Act 1996</i> (NSW) - Give false evidence before the Police Integrity Commission</p> <p>1 x s 192G(b) <i>Crimes Act 1900</i> (NSW) - Intend to defraud by false or misleading statement</p> <p>1 x s 192E(1)(b) <i>Crimes Act 1900</i> (NSW) - Fraud (obtain benefit by deception).</p>	<p>7/05/19: CAN served. First mention in Downing Centre Local Court on 25/06/19.</p> <p>25/06/19: Mention in DCLC. WARE entered a plea of not guilty. Brief to be served by 23/07/19. Next mention 15/08/19.</p> <p>15/08/19: Mention in DCLC. Hearing set down for 24/10/19 and 25/10/19 with a readiness mention on 3/10/19.</p> <p>3/10/19: Readiness hearing in DCLC. Dates for hearing confirmed for 24/10/19 and 25/10/19.</p> <p>21/10/19: CAN served. First mention in DCLC on 3/12/19.</p> <p>23/10/19: DPP application to vacate granted. Matter listed for mention, along with the new charges, 3/11/2019.</p> <p>3/12/19: Mention in DCLC before Deputy Registrar Hoffman. WARE entered 2 x pleas of not guilty for the fraud offences. Brief service orders were made. Brief to be served 9/1/20 and reply on 30/1/20. S 107 PIC charge was adjourned for mention, along with the 2 x fraud charges, to 30/1/20.</p> <p>30/01/20: Both matters mentioned before Magistrate Henson at Downing Centre LC. An order was made for the brief for the fraud charges to be served by 20/02/20. Both matters listed for reply on 5/03/20.</p> <p>5/03/20: Both matters were mentioned before Magistrate Viney at the DCLC. The matters were adjourned to 26/03/2020 for mention.</p>

NAME	OPERATION	CHARGE(S)	STATUS/RESULT
			<p>26/03/20: Mention before Magistrate Thompson. Both matters adjourned to 25/06/20.</p> <p>25/06/20: Mention before Magistrate Thompson. Both matters adjourned to 23/7/20.</p> <p>23/07/20: Both matters adjourned to 6/08/20.</p> <p>14/08/20: Fraud charge adjourned to 17/9/20 at the Downing Centre LC for sentence. The other matter was prevented from being listed for sentence.</p> <p>6/08/20: WARE entered a plea of guilty to the fraud charge pursuant to s192G(b) of the <i>Crimes Act</i>. Matter adjourned to 17/9/20 at the Downing Centre LC for sentence.</p> <p>17/09/20: Magistrate Price recorded a conviction against WARE for the fraud offence pursuant to s192G(b) of the <i>Crimes Act</i>. The charge pursuant to 192E(1)(b) was taken into account on a Form 1. WARE was sentenced to a Community Corrections Order for a period of 12 months, commencing on 17/9/20 and expiring on 16/9/21.</p>
Michial Greenhalgh	Operation Taborra	1 x s61 <i>Crimes Act 1900</i> (NSW) - Common assault	<p>23/10/2019: CAN served. First mention listed at Bryon bay Local Court on 2/12/19.</p> <p>2/12/2019: First mention heard in Byron Bay Local Court. The defence made an unsuccessful application to have Greenhalgh's name suppressed. Greenhalgh pleaded not guilty. Matter adjourned to 3 February with orders of service of brief by 13 January 2020.</p> <p>3/2/2020: Matter held over for mention to 5/02/20.</p> <p>5/2/2020: Matter held over for mention to 30/03/20. Trial dates set for 12-15 May 2020.</p>

NAME	OPERATION	CHARGE(S)	STATUS/RESULT
			<p>30/03/20: Hearing dates, 12-15 May 2020, formally vacated due to COVID-19. Matter held over for mention to 20/04/20 to fix a new hearing date.</p> <p>17/04/20: Matter relisted for mention on 14/9/20.</p> <p>20/04/20: Mention before Magistrate Stafford at Bryon Bay LC. Hearing dates vacated.</p> <p>16/06/20: Matter relisted for mention on 7/07/20.</p> <p>7/07/20: Mention before Magistrate Stafford at Byron Bay LC. Mention adjourned to 21/07/20 to fix a hearing date.</p> <p>21/07/20: Trial dates set for 9/11/20 - 12/11/20 at Lismore LC.</p>
Darren Azzopardi	Operation Montecristo	49 x s192E(1)(b) <i>Crimes Act 1900</i> (NSW) - Fraud	<p>1/11/17: CAN served. First mention in DCLC on 7/12/17.</p> <p>7/12/17: Mention in DCLC. Orders made for the brief to be served by 15/02/18 and listed for reply on 29/03/18.</p> <p>29/03/18: Mention in DCLC. OGC sought an adjournment for the brief to be served by 24/05/18. The Registrar adjourned the matter with the brief to be served by 24/05/18 and listed for reply on 7/06/18.</p> <p>7/06/18: Mention in DCLC. Adjourned to 19/07/18 due to the passing of Mr Cockburn, legal representative for Anthony Williams. All defendants excused on the next occasion if legally represented.</p> <p>19/07/18: Mention in DCLC. Adjourned to 16/08/18 with balance of brief (any assistance from SMITH) to be served by 2/08/18.</p>

NAME	OPERATION	CHARGE(S)	STATUS/RESULT
			<p>16/08/18: Mention in DCLC. All matters adjourned to 13/09/18 for pleas or waiver of committal.</p> <p>13/09/18: Mention in DCLC. AZZOPARDI waived committal and was committed to the NSW District Court. The matter was listed for 28/09/18.</p> <p>28/09/18: First mention in Downing Centre District Court before Chief Judge Price. The matter was adjourned to 19/10/18.</p> <p>19/10/18: The matter is listed for trial on 2/12/19 in the District Court with an estimated duration of 10 days.</p> <p>11/10/19: Listed at the Sydney District Court for a readiness hearing before Judge Price.</p> <p>29/10/19: Re-listed at the Sydney District Court on 31/10/19 for the prosecution to apply to vacate the trial date of 2/12/19.</p> <p>30/10/19: Listed at the Sydney District Court before Judge Hunt. The trial date of 2/12/19 was formally vacated.</p>
Stephen Fletcher	Operation Montecristo	78 x s 192E(1)(b) <i>Crimes Act 1900</i> (NSW) - Fraud	<p>1/11/17: CAN served. First mention in DCLC on 7/12/17.</p> <p>7/12/17: Mention in DCLC. Orders made for the brief to be served by 15/02/18 and listed for reply on 29/03/18.</p> <p>29/03/18: Mention in DCLC. The Registrar adjourned the matter with the brief to be served by 24/05/18 and listed for reply on 7/06/18.</p> <p>7/06/18: Mention in DCLC. Adjourned to 19/07/18 due to the passing of Mr Cockburn, legal representative for Anthony Williams. All defendants excused on the next occasion if legally represented.</p>

NAME	OPERATION	CHARGE(S)	STATUS/RESULT
			<p>19/07/18: Mention in DCLC. Adjourned to 16/08/18 with balance of brief to be served by 2/08/18.</p> <p>16/08/18: Mention in DCLC. All matters adjourned to 13/09/18 for pleas or waiver of committal.</p> <p>13/09/18: Mention in DCLC. FLETCHER waived committal and was committed to the NSW District Court. The matter was listed for 28/09/18.</p> <p>28/09/18: First mention in Downing Centre District Court before Chief Judge Price. The matter was adjourned to 19/10/18.</p> <p>19/10/18: The matter is listed for trial on 30/09/19 in the District Court with an estimated duration of 6 weeks.</p> <p>09/08/19: Readiness hearing in District Court before Justice Price. Matter adjourned for s140 conference to be held before 05/09/19 prior to a further readiness hearing on 20/09/19. Justice Price directed that the defence serve expert evidence by 19/08/19.</p> <p>1/10/19: Trial commenced in District Court before Judge Beckett.</p> <p>22/10/19: Judge Beckett directed the jury, on the application of the defence, to return verdicts of not guilty to all 78 charges on the indictment. Accordingly the jury did so, and the accused was discharged, bringing the trial to an end. An appeal against the decision is being considered in due course.</p> <p>16/3/20: The Solicitor General, as an authorised delegate of the Attorney General of NSW, lodged an appeal in the Criminal Court of Appeal under s 108(2) of the <i>Crimes (Appeal and Review) Act 2001</i> (NSW) for the</p>

NAME	OPERATION	CHARGE(S)	STATUS/RESULT
			<p>court to determine the legal question, that of the correct approach to causation, raised by Beckett DCJ's direction. Listed for CCA callover on 26/3/2020. No appeal will be made for the CCA to overturn her Honour's decision to direct verdicts of acquittal on all counts and order a re-trial.</p> <p>26/3/20: Callover in the CCA before the Registrar. Appeal hearing scheduled for 9/09/2020.</p> <p>9/09/20: Appeal heard in the NSWCCA. No specific date was given for the judgment to be handed down.</p>
Marc Smith	Operation Montecristo	<p>58 x s 192E(1)(b) <i>Crimes Act 1900</i> (NSW) – Fraud</p> <p>58 x s 192J <i>Crimes Act 1900</i> (NSW) – Dealing with identity information to commit an indictable offence.</p>	<p>2/11/17: CAN served. First mention in DCLC on 7/12/17.</p> <p>7/12/17: Mention in DCLC. Orders made for the brief to be served by 15/02/18 and listed for reply on 29/03/18.</p> <p>29/03/18: Mention in DCLC. OGC sought an adjournment for the brief to be served by 24/05/18. The Registrar adjourned the matter with the brief to be served by 24/05/18 and listed for reply on 7/06/18.</p> <p>7/06/18: Mention in DCLC. Adjourned to 19/07/18 due to the passing of Mr Cockburn, legal representative for Anthony Williams. All defendants excused on the next occasion if legally represented.</p> <p>19/07/18: Mention in DCLC. Adjourned to 16/08/18 with balance of brief to be served by 2/08/18.</p> <p>16/08/18: Mention in DCLC. All matters adjourned to 13/09/18 for pleas or waiver of committal.</p>

NAME	OPERATION	CHARGE(S)	STATUS/RESULT
			<p>13/09/18: Mention in DCLC. SMITH waived committal and was committed to the NSW District Court. The matter was listed for 28/09/18.</p> <p>28/09/18: First mention in Downing Centre District Court before Chief Judge Price. The matter was adjourned to 19/10/18.</p> <p>19/10/18: Mention in DCDC. Adjourned for mention on 2/11/18.</p> <p>2/11/18: Mention in DCDC. Trial set down for 6/01/20 for four weeks with a readiness hearing listed for 7/06/19.</p> <p>7/06/19: Hearing date of 6/01/20 was vacated and re-listed to 20/04/20 for four weeks. A readiness hearing is listed for 31/01/2020.</p> <p>27/11/19: The matter was listed at the Sydney District Court before Judge Syme. The trial date of 20/4/20 was formally vacated.</p>
Anthony Williams	Operation Montecristo	12 x s192E(1)(b) <i>Crimes Act 1900</i> (NSW) - Fraud	<p>1/11/17: CAN served. First mention in DCLC on 7/12/17.</p> <p>7/12/17: Mention in DCLC. Orders made for the brief to be served by 15/02/18 and listed for reply on 29/03/18.</p> <p>29/03/18: Mention in DCLC. OGC sought an adjournment for the brief to be served by 24/05/18. The Registrar adjourned the matter with the brief to be served by 24/05/18 and listed for reply on 7/06/18.</p> <p>7/06/18: Mention in DCLC. Adjourned to 19/07/18 due to the passing of Mr Cockburn, legal representative for Anthony Williams. All defendants excused</p>

NAME	OPERATION	CHARGE(S)	STATUS/RESULT
			<p>on the next occasion if legally represented.</p> <p>19/07/18: Mention in DCLC. Adjourned to 16/08/18 with balance of brief to be served by 2/08/18.</p> <p>16/08/18: Mention in DCLC. All matters adjourned to 13/09/18 for pleas or waiver of committal.</p> <p>13/09/18: Mention in DCLC. Williams sought an adjournment which was granted. The matter was adjourned to 24/09/18 in DCLC.</p> <p>21/09/18: Mention in DCLC. WILLIAMS waived committal and was committed to the District Court. The matter was listed for 28/09/18.</p> <p>28/09/18: First mention in Downing Centre District Court before Chief Judge Price. The matter was adjourned to 19/10/18.</p> <p>19/10/18: The matter is listed for trial on 18/11/19 in the District Court with an estimated duration of 10 days.</p> <p>27/09/19: Readiness hearing before Price J. The matter is still listed for 18/11/19.</p> <p>1/11/19: The matter was listed at the Sydney District Court before Judge Syme. The trial date of 18/11/19 was formally vacated.</p>

6. APPENDIX 6

6.1 APPENDIX 6: ANNUAL REPORT UNDER THE GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009

6.1.1 THE GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009

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

- the mandatory release of ‘Open Access Information’
- the proactive release of information for which there is no overriding public interest against disclosure
- the informal release of information in response to an informal request where there is no overriding public interest against the disclosure of that information; and
- the formal release of information in response to an access application where there is no overriding public interest against disclosure.

Schedule 2 of the GIPA Act provides that information which relates to the Commission’s “*corruption prevention, handling of misconduct matters, investigative and reporting functions*” is “*excluded information*” of the Commission and cannot be made the subject of an access application.

It is also conclusively presumed by Schedule 1 of the GIPA Act that there is an overriding public interest against disclosing information, the disclosure of which would be prohibited by the *Law Enforcement Conduct Commission Act 2016* (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 two categories was not publicly disclosed by the Commission except under limited circumstances.

The impact on the Commission of fulfilling its requirements under the GIPA Act during 2019- 20 was negligible. No major issues arose during 2019-20 in connection with the Commission’s compliance with GIPA requirements.

6.1.2 PROACTIVE RELEASE PROGRAM

Under s 7 of the GIPA Act, the Commission is authorised to proactively release any Government information that it holds, so long as there is no overriding public interest against disclosure of that information. Under s 7(3) of the GIPA Act the Commission must review its program for the release of Government information to identify the kinds of information that can be made publicly available under section 7. This review must be undertaken at least once every 12 months.

The Commission's proactive release program involves the identification for release of information for which:

- there exists a public interest in being made publicly available (noting the general public interest in favour of the disclosure of Government information established by s 12 of the GIPA Act); and
- there is no overriding public interest against disclosure (by virtue of the operation of Schedules 1 and/or 2 of the GIPA Act or otherwise).

The following are some of the ways in which, under its proactive release program, the Commission has identified information which could be proactively released:

- the Right to Information officer consulted with managers of business units of the Commission to ascertain whether those units held information which could be proactively released;
- the Right to Information officer monitored the creation of new documents within the Commission of a kind which may 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 are aware of the Commission's proactive release program; and
- the Right to Information officer monitored both informal and formal requests for information received by the Commission under the GIPA Act to identify any trends in the types of information sought and considered whether the Commission held information relevant to those trends which could be proactively released.

6.1.3 ACCESS APPLICATIONS RECEIVED BY THE COMMISSION IN THE REPORTING PERIOD

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

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

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

6.1.4 OBTAINING ACCESS TO AND SEEKING AMENDMENT OF THE COMMISSION'S RECORDS

In the first instance the contact person for obtaining access to documents is as follows:

Right to Information Officer

Law Enforcement Conduct Commission GPO Box 3880

SYDNEY NSW 2001

Facsimile: (02) 9321 6799

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 LECC website

www.lecc.nsw.gov.au under the 'Access to Information' link.

NUMBER OF APPLICATIONS BY TYPE OF APPLICANT AND OUTCOME								
	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	-	-	1	-	-	-	-	-
Members of Parliament	-	-	-	-	-	-	-	-
Private sector business	-	-	-	-	-	-	-	-
Not for profit organisations or community groups	-	-	-	-	-	-	-	-
Members of the public (application by legal representative)	-	1	-	-	-	-	-	-
Members of the public (other)	-	2	-	-	-	1	-	-

INVALID APPLICATIONS	
	Number of applications
Application does not comply with formal requirements (s 41 of the Act)	-
Application is excluded information of the agency (s 43 of the Act)	5
Application contravenes restraint order (s 110 of the Act)	-
Total number of invalid applications received	5
Invalid applications that subsequently became valid applications	-

CONCLUSIVE PRESUMPTION OF OVERRIDING PUBLIC INTEREST AGAINST DISCLOSURE: MATTERS LISTED IN SCHEDULE 1 OF ACT

	Number of times consideration used
Overriding secrecy laws	-
Cabinet information	-
Executive Council information	-
Contempt	-
Legal professional privilege	-
Excluded information	5
Documents affecting law enforcement and public safety	-
Transport safety	-
Adoption	-
Care and protection of children	-
Ministerial code of conduct	-
Aboriginal and environmental heritage	-

OTHER PUBLIC INTEREST CONSIDERATIONS AGAINST DISCLOSURE: MATTERS LISTED IN TABLE TO SECTION 14 OF ACT

	Number of occasions when application not successful
Responsible and effective government	-
Law enforcement and security	-
Individual rights, judicial processes and natural justice	-
Business interests of agencies and other persons	-
Environment, culture, economy and general matters	-
Secrecy provisions	-
Exempt documents under interstate Freedom of Information legislation	-

TIMELINESS

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	4
Decided after 35 days (by agreement with applicant)	-
Applications by access applicants	-

APPLICATIONS FOR REVIEW UNDER PART 5 OF THE ACT (BY TYPE OF APPLICANT)

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

APPLICATIONS TRANSFERRED TO OTHER AGENCIES UNDER DIVISION 2 PART 4 OF THE ACT (BY TYPE OF TRANSFER)

	Number of applications transferred
Agency initiated	-
Applicant initiated transfers	-

6.2 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 Public Interest Disclosure are set out in the *Public Interest Disclosures Act 1994* (NSW) (PID Act). The PID Act provides legal protection to public officials who make a disclosure that meets these requirements.

Public sector employees can report certain types of PIDs to the LECC, as we are one of the investigating authorities under the PID Act¹⁴.

Under the *Public Interest Disclosures Act 1994* (PID Act), the LECC is required to collect and report on information about Public Interest Disclosures (PIDs). The following table outlines the information the LECC is required to report on under the Act.

PUBLIC INTEREST DISCLOSURES RECEIVED			
	Made by public officials performing day to day functions	Under a statutory or other legal obligation	All other PIDS
Number of public officials who made PIDS directly	1	0	73
Number of PIDS received	1	0	73
Number of PIDS received, primarily about:			
Corrupt conduct	1	0	53
Maladministration	0	0	19
Serious and substantial waste	0	0	0
Government information contravention	0	0	0
Local government pecuniary interest contravention	0	0	0
TOTAL	1	0	73

¹⁴ *Public Interest Disclosures Act 1994* (NSW) s 4.

7.

APPENDIX 7

7.1 APPENDIX 7: FINANCIAL STATEMENTS



Law Enforcement Conduct Commission

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of the Law Enforcement Conduct Commission (the Commission), which comprise the Statements of Comprehensive Income for the year ended 30 June 2020, the Statements of Financial Position as at 30 June 2020, the Statements of Changes in Equity and the Statements 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:

- give a true and fair view of the financial position of the Commission and the consolidated entity as at 30 June 2020, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015

My opinion should be read in conjunction with the rest of this report.

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).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a

basis for my audit opinion.

The Commission's annual report for the year ended 30 June 2020 includes other information in addition to the financial statements and my Independent Auditor's Report thereon. The Chief Commissioner is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by Chief Commissioner.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

The Chief Commissioner is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the PF&A Act and for such internal control as the Chief Commissioner 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 Commissioner 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.

My objectives are to:

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

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

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

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

- that the Commission or the consolidated entity carried out 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.



Somaiya Ahmed
Director, Financial Audit Services

Delegate of the Auditor-General for New South Wales 28

September 2020
SYDNEY

LAW ENFORCEMENT CONDUCT COMMISSION

Financial Statements 2019-20

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Law Enforcement Conduct Commission

Statement by Chief Commissioner

Pursuant to Section 45F of the *Public Finance and Audit Act 1983*, I have formed the opinion that:

- (a) the accompanying financial statements in respect of the year ended 30 June 2020 have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the *Public Finance and Audit Act 1983* (the Act) and *Public Finance and Audit Regulation 2015*, and the Treasurer's Directions issued under the Act
- (b) the financial statements exhibit a true and fair view of the financial position as at 30 June 2020 and financial performance for the year then ended of the Commission, and
- (c) there are no circumstances that would render any particulars included in the consolidated financial statements to be misleading or inaccurate.



The Hon R O Blanch AM QC
Chief Commissioner



M M O'Brien
Chief Executive Officer

Law Enforcement Conduct Commission

Statement of Comprehensive Income for the year ended

30 June 2020

	Notes	Parent Entity (Law Enforcement Conduct Commission)		Economic Entity (Consolidated)		
		Actual 2020 \$'000	Actual 2019 \$'000	Budget 2020 \$'000	Actual 2020 \$'000	Actual 2019 \$'000
Continuing Operations						
Expenses excluding losses						
Employee related expenses	2(a)	1,576	1,307	18,507	17,642	17,494
Operating expenses	2(b)	2,744	4,756	2,896	2,744	4,756
Personnel services	2(c)	16,052	16,171	--	--	--
Depreciation and amortisation	2(d)	3,070	990	3,176	3,070	990
Finance costs	2(e)	140	--	127	140	--
Total expenses excluding losses		23,582	23,224	24,706	23,596	23,240
Revenue						
Appropriation	3(a)	23,400	20,800	24,199	23,400	20,800
Sale of goods and services	3(b)	--	74	--	--	74
Sale of goods and services from contracts with customers	3(b)	20	--	99	20	--
Acceptance by the Crown Entity of employee benefits and other liabilities	3(c)	558	1,039	634	560	1,042
Other income	3(d)	--	31	--	12	44
Total revenue		23,978	21,944	24,932	23,992	21,960
Operating result		396	(1,280)	226	396	(1,280)
Gain/(loss) on disposal	4	37	40	15	37	40
Other gains/(loss) - Impairment losses	5	(663)	--	--	(663)	--
Net result		(230)	(1,240)	241	(230)	(1,240)
Other comprehensive income						
<i>Items that will not be reclassified to net result in subsequent periods</i>						
		--	--	--	--	--
Total other comprehensive income		--	--	--	--	--
TOTAL COMPREHENSIVE INCOME		(230)	(1,240)	241	(230)	(1,240)

The accompanying notes form part of these financial statements

Law Enforcement Conduct Commission

Statement of Financial Position as at 30 June 2020

	Notes	Parent Entity (Law Enforcement Conduct Commission)		Economic Entity (Consolidated)		
		Actual 2020 \$'000	Actual 2019 \$'000	Budget 2020 \$'000	Actual 2020 \$'000	Actual 2019 \$'000
ASSETS						
Current Assets						
Cash and cash equivalents	7	498	364	484	554	374
Receivables	8	1,386	717	1,127	1,386	755
Total Current Assets		1,884	1,081	1,611	1,940	1,129
Non-Current Assets						
Receivables	8	47	--		47	--
Property, plant and equipment	9					
- Land & buildings		915	1,065	892	915	1,065
- Plant & equipment		2,118	1,933	2,179	2,118	1,933
Total property, plant and equipment		3,033	2,998	3,071	3,033	2,998
Right-of-use assets	10	7,766	--	4,052	7,766	--
Intangible assets	11	853	799	732	853	799
Total Non-Current Assets		11,699	3,797	7,855	11,699	3,797
Total Assets		13,583	4,878	9,467	13,639	4,926
LIABILITIES						
Current Liabilities						
Payables	12	261	232	169	262	232
Borrowings	13	1,991	--	1,655	1,991	--
Provisions	14	1,929	1,701	1,249	1,935	1,705
Total Current Liabilities		4,181	1,933	3,073	4,188	1,937
Non-Current Liabilities						
Borrowings	13	6,679	--	2,553	6,679	--
Provisions	14	609	601	532	658	645
Total Non-Current Liabilities		7,288	601	3,085	7,337	645
Total Liabilities		11,469	2,534	6,158	11,525	2,582
Net Assets		2,114	2,344	3,309	2,114	2,344
EQUITY						
Accumulated funds		2,114	2,344	3,309	2,114	2,344
Total Equity		2,114	2,344	3,309	2,114	2,344

The accompanying notes form part of these financial statements

Law Enforcement Conduct Commission

Statement of Changes in Equity for the year ended 30 June 2020

	Parent Entity (Law Enforcement Conduct Commission)	Economic Entity (Consolidated)
Notes	Accumulated Funds \$'000	Accumulated Funds \$'000
Balance at 1 July 2019	2,344	2,344
Net result for the year	(230)	(230)
Other comprehensive income:		
	--	--
Total other comprehensive income	--	--
Total comprehensive income for the year	(230)	(230)
Transactions with owners in their capacity as owners		
	--	--
Balance at 30 June 2020	<u>2,114</u>	<u>2,114</u>
Balance at 1 July 2018	3,584	3,584
Net result for the year	(1,240)	(1,240)
Other comprehensive income:		
	--	--
Total other comprehensive income	--	--
Total comprehensive income for the year	(1,240)	(1,240)
Transactions with owners in their capacity as owners		
	--	--
Balance at 30 June 2019	<u>2,344</u>	<u>2,344</u>

The accompanying notes form part of these financial statements

Law Enforcement Conduct Commission

Statement of Cash Flows for the year ended 30 June 2020

	Parent Entity (Law Enforcement Conduct Commission)		Economic Entity (Consolidated)		
	Actual 2020 \$'000	Actual 2019 \$'000	Budget 2020 \$'000	Actual 2020 \$'000	Actual 2019 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES					
Payments					
Employee related	(1,576)	(1,307)	(17,873)	(16,736)	(16,075)
Suppliers for goods & services	(4,025)	(4,990)	(3,253)	(4,089)	(4,990)
Personnel services	(15,258)	(14,699)	--	--	--
Finance costs	(132)	--	(127)	(132)	--
Total Payments	(20,991)	(20,996)	(21,253)	(20,957)	(21,065)
Receipts					
Appropriation	23,400	20,800	24,199	23,400	20,800
Sale of goods and services					
Other	607	835	99	619	849
Total Receipts	24,007	21,635	24,298	24,019	21,649
NET CASH FLOWS FROM OPERATING ACTIVITIES	3,016	639	3,045	3,062	584
CASH FLOWS FROM INVESTING ACTIVITIES					
Proceeds from sale of plant & equipment	44	47	15	44	47
Purchases of plant & equipment	(1,006)	(723)	(1,100)	(1,006)	(723)
Purchases of intangible assets	(121)	(564)	(100)	(121)	(564)
NET CASH FLOWS FROM INVESTING ACTIVITIES	(1,083)	(1,240)	(1,185)	(1,083)	(1,240)
CASH FLOWS FROM FINANCING ACTIVITIES					
Payment of principal portion of lease liabilities	(1,799)	--	(1,874)	(1,799)	--
NET CASH FLOWS FROM FINANCING ACTIVITIES	(1,799)	--	(1,874)	(1,799)	--
NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS	134	(601)	(14)	180	(656)
Opening cash and cash equivalents	364	965	498	374	1,030
CLOSING CASH AND CASH EQUIVALENTS	498	364	484	554	374

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 2020

1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting entity

The Law Enforcement Conduct Commission (the Commission) is a statutory corporation established under the *Law Enforcement Conduct Commission Act 2016*.

The Commission is a NSW government entity and is controlled by the State of New South Wales, which is the ultimate parent. The Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units. The Commission, as a reporting entity, comprises all of the entities under its control, namely: Office of the Law Enforcement Conduct Commission (the Office). The Office provides the Commission with personnel services.

In the process of preparing the consolidated financial statements for the economic entity, consisting of the controlling and controlled entity, all inter-entity transactions and balances have been eliminated, and like transactions and other events are accounted for using uniform accounting policies.

These financial statements for the year ended 30 June 2020 have been authorised for issue by the Chief Commissioner and Chief Executive Officer for the Law Enforcement Conduct Commission on 17 September, 2020.

(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 Public Finance and Audit Act 1983 (the Act) and Public Finance and Audit Regulation 2015 and
- Treasurer's Directions issued under this Act.

Other than property, plant and equipment which is measured at fair value, the financial statements have been prepared in accordance with the historical cost convention.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is the entity's presentation and functional currency.

The Commission has only one program being Investigations, Research and Complaint Management and as such a program group statement is not included as figures would be the same as those disclosed in the Statements of Comprehensive Income and Financial Position.

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

(c) Statement of Compliance

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

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

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

- the amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of an asset's cost of acquisition or as part of an item of expense and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of Cash Flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

(e) Comparative information

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

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

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

(i) Effective for the first time in 2019-20

The Commission applied AASB 15 *Revenue from Contracts with Customers*, AASB 1058 *Income of Not-for-Profit Entities*, and AASB 16 *Leases* for the first time. The nature and effect of the changes as a result of adoption of these new accounting standards are described below.

Several other amendments and interpretations apply for the first time in FY2019-20, but do not have an impact on the financial statements of the Commission.

AASB 15 Revenue from Contracts with Customers

AASB 15 supersedes AASB 111 *Construction Contracts*; AASB 118 *Revenue* and related Interpretations and it applies, with limited exceptions, to all revenue arising from contracts with customers. AASB 15 establishes a five-step model to account for revenue arising from contracts with customers and requires that revenue be recognised at an amount that reflects the consideration to which an entity expects to be entitled in exchange for transferring goods or services to a customer.

AASB 15 requires entities to exercise judgement, taking into consideration all of the relevant facts and circumstances when applying each step of the model to contracts with their customers. The standard also specifies the accounting for the incremental costs of obtaining a contract and the costs directly related to fulfilling a contract. In addition, the standard requires relevant disclosures.

In accordance with the transition provisions in AASB 15, the entity has adopted AASB 15 retrospectively with the cumulative effect of initially applying the standard recognised at the date of initial application, i.e. 1 July 2019. The entity has used the transitional practical expedient permitted by the standard to reflect the aggregate effect of all of the modifications that occur before 1 July 2018 when:

- Identifying the satisfied and unsatisfied performance obligations
- Determining the transaction price
- Allocating the transaction price to the satisfied and unsatisfied performance obligations

The adoption of AASB 15 has not had a material impact on the Statement of Comprehensive Income and Financial Position. There was no impact on Other Comprehensive Income or the Statement of Cash Flows.

AASB 1058 Income of Not-for-Profit Entities

AASB 1058 replaces most of the existing requirements in AASB 1004 *Contributions*. The scope of AASB 1004 is now limited mainly to contributions by owners (including parliamentary appropriations that satisfy the definition of a contribution by owners), administrative arrangements and liabilities of government departments assumed by other entities.

AASB 1058 applies to income with a donation component, i.e. transactions where the consideration to acquire an asset is significantly less than fair value principally to enable a not-for-profit entity to further its objectives; and volunteer services. AASB 1058 adopts a residual approach, meaning that entities first apply other applicable Australian Accounting Standards (e.g. AASB 1004, AASB 15, AASB 16, AASB 9, AASB 137) to a transaction before recognising income.

Not-for-profit entities need to determine whether a transaction is/contains a donation (accounted for under AASB 1058) or a contract with a customer (accounted for under AASB 15).

AASB 1058 requires recognition of receipt of an asset, after the recognition of any related amounts in accordance with other Australian Accounting Standards, as income;

- When the obligations under the transfer is satisfied, for transfers to enable an entity to acquire or construct a recognisable non-financial asset that will be controlled by the entity.
- Immediately, for all other income within the scope of AASB 1058.

In accordance with the transition provisions in AASB 1058, the entity has adopted AASB 1058 retrospectively with the cumulative effect of initially applying the standard at the date of initial application, i.e. 1 July 2019. The entity has adopted the practical expedient in AASB 1058 whereby existing assets acquired for consideration significantly less than fair value principally to enable the entity to further its objectives, are not restated to their fair value.

The adoption of AASB 1058 has not had a material impact on the Statement of Comprehensive Income and Financial Position. There was no impact on Other Comprehensive Income or the Statement of Cash Flows.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

AASB 16 Leases

AASB 16 supersedes AASB 117 *Leases*, Interpretation 4 *Determining whether an Arrangement contains a Lease*, Interpretation 115 *Operating Leases – Incentives* and Interpretation 127 *Evaluating the Substance of Transactions Involving the Legal Form of a Lease*. The standard sets out the principles for the recognition, measurement, presentation and disclosure of leases and requires lessees to recognise most leases on the balance sheet.

Lessee accounting

AASB 16 requires the entity to account for all leases under a single on-balance sheet model similar to the accounting for finance leases under AASB 117. As the lessee, the entity recognises a lease liability and right-of-use asset at the inception of the lease. The lease liability is measured at the present value of the future lease payments, discounted using the interest rate implicit in the lease, or the lessee's incremental borrowing rate if the interest rate implicit in the lease cannot be readily determined. The corresponding right-of-use asset is measured at the value of the lease liability adjusted for lease payments before inception, lease incentives, initial direct costs and estimates of costs for dismantling and removing the asset or restoring the site on which it is located.

The Commission has adopted the partial retrospective option in AASB 16, where the cumulative effect of initially applying AASB 16 is recognised on 1 July 2019 and the comparatives for the year ended 30 June 2019 are not restated.

In relation to leases that had previously been classified as 'operating leases' under AASB 117, a lease liability is recognised at 1 July 2019 at the present value of the remaining lease payments, discounted using the lessee's incremental borrowing rate at the date of initial application. The weighted average lessee's incremental borrowing rate applied to the lease liabilities on 1 July 2019 was 1.42%.

The corresponding right-of-use asset is initially recorded on transition at an amount equal to the lease liability, adjusted by the amount of any prepaid or accrued lease payments relating to that lease recognised in the statement of financial position as at 30 June 2019. The exception is right-of-use assets that are subject to accelerated depreciation. These assets are measured at their fair value at 1 July 2019.

The Commission elected to use the practical expedient to expense lease payments for lease contracts that, at their commencement date, have a lease term of 12 months or less and that do not contain a purchase option (short-term leases), and the lease contracts for which the underlying asset is valued at \$10,000 or under when new (low-value assets).

In applying AASB 16 for the first time, the Commission has used the following practical expedients permitted by the standard:

- Not reassess whether a contract is, or contains, a lease at 1 July 2019, for those contracts previously assessed under AASB 17 and Interpretation 4.
- Applying a single discount rate to a portfolio of leases with reasonably similar characteristics
- Relying on its previous assessment on whether leases are onerous immediately before the date of initial application as an alternative to performing an impairment review
- Not recognise a lease liability and right-of-use asset for short-term leases that end within 12 months of the date of initial application
- Excluding the initial direct costs from the measurement of the right-of-use asset at the date of initial application
- Using hindsight to determine the lease term where the contract contained options to extend or terminate the lease.

The effect of adopting AASB 16 as at 1 July 2019 increase/(decrease) is, as follows:

	\$'000
Assets	
Right- of-use assets	9,623
Total assets	9,623
Liabilities	
Borrowings	9,623
Total liabilities	9,623
Equity	
Accumulated funds	--

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

The lease liabilities as at 1 July 2019 can be reconciled to the operating lease commitments as of 30 June 2019, as follows:

	\$'000
Operating commitments as at 30 June 2019 (GST included)	6,374
Less GST included in operating commitments	(579)
Operating commitments as at 30 June 2019 (GST excluded)	5,794
Weighted average incremental borrowing rate as at 1 July 2019	1.42%
Discounted operating lease commitments as at 1 July 2019	5,554
(Less): commitments relating to leases of low-value assets and leases not caught by AASB 16.	(22)
(Less): commitments relating to short term leases (less than 12 months)	
Add: lease payments relating to renewal periods not included in operating lease commitments as at 30 June 2019	(51)
	4,002
Add/(less): adjustments relating to changes in the index or rate affecting variable payments	140
Lease liabilities as at 1 July 2019	<u>9,623</u>

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards, unless Treasury determines otherwise. The Commission is of the opinion that the possible impact of these Standards in the period of initial application would be immaterial.

- AASB 2018-1 -- Regarding amendments to Australian Accounting Standards - Annual improvements 2015-1027 cycle
- AASB 2018-7 -- Regarding amendments to Australian Accounting Standards - Definition of Material
- AASB 2018-8 -- Regarding amendments to Australian Accounting Standards - Right-of-use of Assets of Not-for Profit Entities
- AASB 2019-1 -- Regarding amendments to Australian Accounting Standards - References to the conceptual framework

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

2. EXPENSES EXCLUDING LOSSES

	Law Enforcement Conduct Commission		Consolidated	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
(a) Employee related expenses				
Salaries and wages (including annual leave)*	1,438	1,163	14,650	13,830
Redundancies	--	--	122	235
Superannuation-defined benefit plans	--	--	50	56
Superannuation-defined contribution plans	50	65	1,224	1,216
Long service leave	--	--	509	984
Workers' compensation insurance	--	--	126	221
Payroll tax and fringe benefits tax	86	66	958	937
Other employee expenses	2	13	3	15
	1,576	1,307	17,642	17,494

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

(b) Other operating expenses include the following:				
Administration charges	57	38	57	38
Books and periodicals	66	82	66	82
Auditor's remuneration-audit of the financial statements	52	50	52	50
Consultancies	70	20	70	20
Contractors	256	329	256	329
External legal counsel	181	96	181	96
Minor computer expenses	267	254	267	254
Maintenance *	710	909	710	909
Make good unwinding discount	--	97	--	97
Insurance	21	18	21	18
Accommodation outgoings (utilities, cleaning)	196	--	196	--
Operating lease rental expense (including outgoings)	--	1,939	--	1,939
Expenses relating to short term leases	59	--	59	--
Variable lease payment, not included in lease liabilities	72	--	72	--
Minor equipment	119	122	119	122
Motor vehicle costs (including leasing charges)	92	105	92	105
Advertising	2	3	2	3
Printing and stationery	37	40	37	40
Staff development	91	144	91	144
Travelling expenses	109	183	109	183
Telephones	45	47	45	47
Fees and searches	67	37	67	37
Other**	175	243	175	243
	2,744	4,756	2,744	4,756

* Reconciliation - Total maintenance				
Maintenance expense - contracted labour and other (non-employee related), as above	710	909	710	909
Total maintenance expenses included in Note 2(b)	710	909	710	909

** 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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

RECOGNITION AND MEASUREMENT

Maintenance expense

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement or an enhancement of a part or component of an asset, in which case the costs are capitalised and depreciated.

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 (up to 30 June 2019)

Operating leases

Up to 30 June 2019, operating lease payments are recognised as an operating expense in the Statement of Comprehensive Income on a straight-line basis over the lease term. An operating lease is a lease other than a finance lease.

Lease expense (from 1 July 2019)

From 1 July 2019, the Commission recognises the lease payments associated with the following types of leases as an expense on a straight-line basis:

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

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

	Law Enforcement Conduct Commission		Consolidated	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
(c) Personnel Services expenses Office of the Law Enforcement Conduct Commission	16,052	16,171	--	--
(d) Depreciation and amortisation expense				
Depreciation				
Computer Equipment	466	460	466	460
Plant and Equipment	277	253	277	253
Right-of-Use Assets - Equipment	5	--	5	--
Amortisation				
Leasehold Improvements	220	230	220	230
Right-of-Use Assets - Leasehold	2,034	--	2,034	--
Intangibles	68	47	68	47
	3,070	990	3,070	990
Refer Note 9, 10 and 11 for recognition and measurement policies on depreciation and amortisation.				
(e) Finance costs				
Interest expense from lease liabilities	132	--	132	--
Total interest expense	132	--	132	--
Unwinding of discount and effect of changes in discount rate on provisions	8	--	8	--
	140	--	140	--

RECOGNITION AND MEASUREMENT

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

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

3. REVENUE

RECOGNITION AND MEASUREMENT

Until 30 June 2019, income is recognised in accordance with AASB 118 *Revenue* and AASB 1004 *Contributions*.

From 1 July 2019, income is recognised in accordance with the requirements of AASB 15 *Revenue from Contracts with Customers* or AASB 1058 *Income of Not-for-Profit Entities*, dependent on whether there is a contract with a customer defined by AASB 15 *Revenue from Contracts with Customers*. Comments regarding the accounting policies for the recognition of income are discussed below.

(a) Appropriations

Summary of Compliance	2020 \$'000			2019 \$'000		
	Appropriation	Expenditure	Variance	Appropriation	Expenditure	Variance
Original Budget per Appropriation Act	24,199	23,400	799	23,554	20,800	2,754
Total annual Appropriations / Expenditure / Net Claim on Annual Appropriations	24,199	23,400	799	23,554	20,800	2,754
Amount drawn down against Annual Appropriations		23,400			20,800	
Comprising:						
Appropriations (per Statement of Comprehensive Income)		23,400			20,800	
Appropriations (per Statement of Comprehensive Income)		23,400			20,800	
Recurrent		22,273			19,513	
Capital		1,127			1,287	
		23,400			20,800	

Movement of Section 4.7 GSF Act - deemed appropriations:

	Law Enforcement Conduct Commission		Consolidated	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
Opening balance	--	--	--	--
Adjustment for appropriations deemed on commencement of section 4.7	364		374	
Adjusted opening balance	364		374	
Add: additions of deemed appropriations	651	1,483	663	1,552
Less: expenditure charged against deemed appropriations	(517)	(1,483)	(483)	(1,552)
Closing balance	498	--	554	--

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

The Commission receives its funding under appropriations from the Consolidated Fund. Appropriations for each financial year are set out in the Appropriation Bill that is prepared and tabled for that year. Due to COVID-19, the State Budget and related 2020-21 Appropriation Bill has been delayed until November/December 2020. However, pursuant to section 4.10 of the GSF Act, the Treasurer has authorised Ministers to spend specified amounts from Consolidated Fund. This authorisation is current from 1 July 2020 until the release of the 2020-21 Budget or Appropriation Bill.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

Recurrent Appropriation

The Commission did not drawdown the full recurrent appropriation of \$22.9 million primarily due to delays in recruitment. There has been a slight decline in expenditure following COVID19 restrictions.

Capital Appropriation

The Commission expended \$1.127m of the approved \$1.2 million capital appropriation. Major capital expenses included progress of the new case management system to meet the requirements of both investigations and oversight, building works and upgrades to the Commission's IT and technical equipment.

RECOGNITION AND MEASUREMENT

Parliamentary Appropriations

Until 30 June 2019, except as specified below, appropriations are recognised as income when the Commission obtains control over the assets comprising the appropriations. Control over appropriations is normally obtained upon the receipt of cash.

Appropriations are not recognised as income in the following circumstances:

- Lapsed appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount is not controlled by the Commission.
- The liability if any is disclosed as part of 'Current liabilities-Other'. The liability will be extinguished next financial year through the next annual Appropriations Act.

After AASB 15 and AASB 1058 became effective on 1 July 2019, the treatment of appropriations remains the same, because appropriations do not contain an enforceable sufficiently specific performance obligation as defined by AASB 15.

	Law Enforcement Conduct Commission		Consolidated	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
(b) Sale of goods and services from contracts with customers / Sale of goods and services				
Sale of goods and services	--	74	--	74
Rendering of service - other government entities	20	--	20	--
	20	74	20	74

RECOGNITION AND MEASUREMENT

Until 30 June 2019

Sale of goods

Revenue from sale of goods is recognised as revenue when the entity transfers the significant risks and rewards of ownership of the goods, usually on delivery of the goods.

Rendering of services

Revenue from rendering of services is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

From 1 July 2019

Sale of goods

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

Rendering of services

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

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

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

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

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

	Law Enforcement Conduct Commission		Consolidated	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
Superannuation - defined benefit	49	55	49	55
Long service leave provision	509	984	509	984
Payroll tax	--	--	2	3
	558	1,039	560	1,042

- (d) Other Income
Insurance claim receipts/hindsight adjustment
refund

--	31	12	44
--	31	12	44

4. GAIN/(LOSS) ON DISPOSAL

Proceeds from disposal	44	47	44	47
Written down value of assets disposed	(7)	(7)	(7)	(7)
Gain / (loss) on disposal	37	40	37	40

5. OTHER GAIN/(LOSS)

Impairment loss - Right-of-use assets (note 10)	(663)	--	(663)	--
	(663)	--	(663)	--

RECOGNITION AND MEASUREMENT

Impairment losses on non-financial assets

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

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

6. PROGRAM GROUP OF THE COMMISSION

The Commission comprises a single program group encompassing the transferred functions of the Police Integrity Commission and the Police and Compliance Branch of the NSW Ombudsman covering the detection, investigation and exposure of misconduct and maladministration in the NSW Police Force and NSW Crime Commission.

The Commission also oversees the independent monitoring and review of investigation by the NSW Police Force and NSW Crime Commission of complaints about the conduct of their Officers, and real time monitoring of NSW Police Force critical incidents.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

7. CURRENT ASSETS—CASH AND CASH EQUIVALENTS

	Law Enforcement Conduct Commission		Consolidated	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
Cash at bank	486	352	542	362
Cash on hand	12	12	12	12
	498	364	554	374

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)	498	364	554	374
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Refer Note 20 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.

8. CURRENT/NON-CURRENT ASSETS—RECEIVABLES

	Law Enforcement Conduct Commission		Consolidated	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
Prepayments	1,255	650	1,255	650
Other receivables	131	67	131	105
Total current receivables	1,386	717	1,386	755
Other non-current receivables	47	--	47	--
Total non-current receivables	47	--	47	--

Refer Note 20 for details regarding credit risk of trade receivables that are neither past due nor impaired.

RECOGNITION AND MEASUREMENT

All 'regular way' purchases or sales of financial assets are recognised and derecognised on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace.

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

Subsequent measurement

The Commission holds receivables with the objective to collect the contractual cash flows and therefore measures them as amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Impairment

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

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

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

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 \$'000s	Computer Equipment \$'000	Total \$'000
At 1 July 2019 - fair value				
Gross carrying amount	2,358	2,706	3,972	9,036
Accumulated depreciation and impairment	(1,293)	(1,909)	(2,836)	(6,038)
Net carrying amount	<u>1,065</u>	<u>797</u>	<u>1,136</u>	<u>2,998</u>

At 30 June 2020 - fair value				
Gross carrying amount	2,365	3,213	4,141	9,719
Accumulated depreciation and impairment	(1,450)	(2,016)	(3,220)	(6,686)
Net carrying amount	<u>915</u>	<u>1,197</u>	<u>921</u>	<u>3,033</u>

Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the current reporting period is set out below.

	Leasehold Improvements \$'000	Plant & Equipment \$'000s	Computer Equipment \$'000	Total \$'000
Year ended 30 June 2020				
Net carrying amount at 1 July 2019	1,065	797	1,136	2,998
Purchases of assets	70	684	252	1,006
Disposals	--	(7)	--	(7)
Depreciation expense	(220)	(277)	(467)	(964)
Net carrying amount at end of year	<u>915</u>	<u>1,197</u>	<u>921</u>	<u>3,033</u>

	Leasehold improvements \$'000	Plant & Equipment \$'000	Computer Equipment \$'000	Total \$'000
At 1 July 2018 - fair value				
Gross carrying amount	2,142	3,065	4,060	9,267
Accumulated depreciation and impairment	(1,063)	(2,351)	(2,628)	(6,042)
Net carrying amount	<u>1,079</u>	<u>714</u>	<u>1,432</u>	<u>3,225</u>

	Leasehold improvements \$'000	Plant & Equipment \$'000s	Computer Equipment \$'000	Total \$'000
At 30 June 2019 - fair value				
Gross carrying amount	2,358	2,706	3,972	9,036
Accumulated depreciation and impairment	(1,293)	(1,909)	(2,836)	(6,038)
Net carrying amount	<u>1,065</u>	<u>797</u>	<u>1,136</u>	<u>2,998</u>

Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the current reporting period is set out below.

	Leasehold Improvements \$'000	Plant & Equipment \$'000	Computer Equipment \$'000	Total \$'000
Year ended 30 June 2019				
Net carrying amount at 1 July 2018	1,079	714	1,432	3,225
Additions	216	343	164	723
Disposals	--	(7)	--	(7)
Depreciation expense	(230)	(253)	(460)	(943)
Net carrying amount at end of year	<u>1,065</u>	<u>797</u>	<u>1,136</u>	<u>2,998</u>

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

RECOGNITION AND MEASUREMENT

Acquisition of plant and equipment

Plant and equipment are initially recognised at cost. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, i.e. deferred payment is effectively discounted over the period of credit.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Capitalisation thresholds

Plant and equipment and intangible assets costing \$5,000 and above individually, or forming part of a network costing more than \$5,000, are capitalised.

Restoration Costs

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.

Assets not able to be reliably measured

The Commission does not hold any assets that have not been recognised in the Statement of Financial Position.

Depreciation of plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission.

All material identifiable components of assets are depreciated separately over their useful lives.

The Commission has adopted the following depreciation rates for the reporting period:

Computer equipment	3 & 4 years
Intangible computer software	3 & 4 years
Plant and equipment	3, 4 & 7 years
Leasehold improvements	the initial period of the lease

Right-of-use Assets acquired by lessees (under AASB 16 from 1 July 2019)

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

Further information on leases is contained at Note 10.

Revaluation of plant and equipment

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP 14-01). This policy adopts fair value in accordance with AASB 13 *Fair Value Measurement* and AASB 116 *Property, Plant and Equipment*.

The majority of Commission assets are non-specialised assets with short useful lives and are therefore measured at depreciated historical cost, as an approximation of fair value. The Commission has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

The residual values, useful lives and methods of depreciation of property, plant and equipment are reviewed at each financial year end.

Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. As plant and equipment is carried at fair value or an amount that approximates fair value, impairment can only arise in the rare circumstances such as where the

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not for profit entities to the higher of fair value less costs of disposal and depreciated replacement cost, where depreciated replacement cost is also fair value.

The Commission assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the Commission estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

As a not-for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

All of the Commission's non-current assets are considered to be non-specialised assets with short useful lives measured using the depreciated historical cost as an approximation of fair value and as such do not require fair value hierarchy disclosures under AASB 13.

10. LEASES

Entity as a lessee

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

From 1 July 2019, AASB 16 Leases (AASB 16) requires a lessee to recognise a right-of-use asset and a corresponding lease liability for most leases.

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

Right-of-use assets under leases

The following table presents right-of-use assets.

	Leasehold Improvements	Plant & Equipment	Total
	\$'000	\$'000	\$'000
Balance as at 1 July 2019	9,608	15	9,623
Additions	845	--	845
Depreciation expense	(2,034)	(5)	(2,039)
Other movements - impairment loss	(663)	--	(663)
Balance at 30 June 2020	<u>7,756</u>	<u>10</u>	<u>7,766</u>

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

Lease liabilities

The following table presents liabilities under leases.

	Lease Liabilities \$'000
Balance as at 1 July 2019	9,623
Additions	845
Interest expense	132
Payments	(1,930)
Balance at 30 June 2020	8,670

The following amounts were recognised in the Statement of Comprehensive Income for the year ending 30 June 2020 in respect of leases where the Commission is the lessee:

Depreciation expense of right-of-use assets	2,039
Interest expense on lease liabilities	132
Expense relating to short-term leases	59
Variable lease payments, not included in the measurement of lease liabilities	72
Total amount recognised in the Statement of Comprehensive Income	2,302

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

Future minimum lease payments under non-cancellable leases as at 30 June 2019 are, as follows:

	Operating lease \$'000
Within one year	2,083
Later than one year and not later than five years	4,291
Later than five years	--
Total (including GST)	6,374
Less: GST recoverable from the Australian Tax Office	(579)
Total (excluding GST)	5,794

RECOGNITION AND MEASUREMENT (UNDER AASB 16 FROM 1 JULY 2019)

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

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

(i) RIGHT-OF-USE ASSETS

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

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

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

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

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

The right-of-use assets are also subject to impairment. The Commission assesses, at each reporting date whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the Commission estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount. After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in the net result.

(ii) LEASE LIABILITIES

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

Lease payments include:

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

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

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

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

The Commission's lease liabilities are included in borrowings.

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

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

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

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

RECOGNITION AND MEASUREMENT (UNDER AASB 117 UNTIL 30 JUNE 2019)

The determination of whether an arrangement is (or contains) a lease is based on the substance of the arrangement at the inception of the lease. The arrangement is, or contains, a lease if fulfilment of the arrangement is dependent on the use of a specific asset or assets and the arrangement

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

conveys a right to use the asset (or assets), even if that asset (or those assets) is not explicitly specified in an arrangement.

Until 30 June 2019, a lease was classified at the inception date as a finance lease or an operating lease. A lease that transferred substantially all the risks and rewards incidental to ownership to the entity was classified as a finance lease.

Where a non-current asset was acquired by means of a finance lease, at the commencement of the lease, the asset was recognised at its fair value or, if lower, at the present value of the minimum lease payments. The corresponding liability was established at the same amount. Lease payments were apportioned between finance charges and reduction of the lease liability so as to achieve a constant rate of interest on the remaining balance of the liability. Finance charges were recognised in finance costs in the Statement of Comprehensive Income.

Property, plant and equipment acquired under finance leases was depreciated over the useful life of the asset. However, if there is no reasonable certainty that the entity will obtain ownership by the end of the lease term, the asset was depreciated over the shorter of the estimated useful life of the asset and the lease term.

An operating lease is a lease other than a finance lease. Operating lease payments were recognised as an operating expense in the statement of comprehensive income on a straight-line basis over the lease term.

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 2019	
Cost (gross carrying amount)	4,037
Accumulated amortisation and impairment	(3,238)
Net carrying amount	<u>799</u>
At 30 June 2020	
Cost (gross carrying amount)	4,087
Accumulated amortisation and impairment	(3,234)
Net carrying amount	<u>853</u>
Year ended 30 June 2020	
Net carrying amount at 1 July, 2019	799
Additions	122
Amortisation (recognised in "depreciation and amortisation")	(68)
Net carrying amount at end of year	<u>853</u>
	Consolidated
	\$'000
At 1 July 2018	
Cost (gross carrying amount)	3,563
Accumulated amortisation and impairment	(3,281)
Net carrying amount	<u>282</u>
At 30 June 2019	
Cost (gross carrying amount)	4,037
Accumulated amortisation and impairment	(3,238)
Net carrying amount	<u>799</u>

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

	Consolidated
	\$'000
Year ended 30 June 2019	
Net carrying amount at 1 July, 2018	282
Additions	41
WIP - additions	523
Amortisation (recognised in "depreciation and amortisation")	(47)
Net carrying amount at end of year	<u>799</u>

RECOGNITION AND MEASUREMENT

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Commission's intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.

All research costs are expensed. Development costs are only capitalised when certain criteria are met.

The useful lives of intangible assets are assessed to be finite.

The Commission's intangible assets are amortised using the straight-line method over a period of 3 or 4 years.

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	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
Accrued salaries, wages and on-costs	--	--	171	61
Personnel services payable	171	61	--	--
Creditors	90	171	91	171
	261	232	262	232

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 2020

13. CURRENT / NON-CURRENT LIABILITIES—BORROWINGS

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

	Consolidated	
	2020 \$'000	2019 \$'000
Lease liabilities (see note 10)		
Current Lease liability	1,991	--
Non-Current liabilities	6,679	--
	8,670	--

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

RECOGNITION AND MEASUREMENT

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	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
Employee benefits and related on-costs				
Annual leave including on-costs	45	111	1,370	1,177
Long service leave on-costs	--	--	614	550
Payroll tax and FBT provision	--	--	--	22
Provision for personnel services	1,884	1,590	--	--
	1,929	1,701	1,984	1,749

The liability is based on leave entitlements at 30 June 2020 using remuneration rates payable post 30 June 2020. The value of leave and associated on-costs (including long service leave on-costs) expected to be taken within the next 12 months is \$1,664,100 and \$270,900 after 12 months (2019: \$1,467,950 and \$259,050 after 12 months).

Other Provisions

Restoration costs	609	601	609	601
Total other Provisions	609	601	609	601

	Consolidated	
	2020 \$'000	2019 \$'000
Aggregate employee benefits and related on-costs		
Provisions - current	1,935	1,705
Provisions - non-current	49	44
Accrued salaries, wages and on-costs (Note 12)	171	61
	2,155	1,810

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

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	
	2020 \$'000	2019 \$'000
Movements in provisions (other than employee benefits)		
Restoration costs		
Carrying amount at 1 July	601	505
Additional provision - new lease	--	96
Unwinding/change in discount rate	8	--
Carrying amount at 30 June	609	601

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 twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 *Employee Benefits*.

Actuarial advice obtained by Treasury has confirmed that the use of a nominal approach plus the annual leave on annual leave liability (using 7.9% 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 Entity. 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 Entity 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

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

virtually certain. The expense relating to a provision is presented net of any reimbursement in the Statement of Comprehensive Income.

Any provisions for restructuring are recognised only when the Commission has a detailed formal plan and the Commission has raised a valid expectation in those affected by the restructuring that it will carry out the restructuring by starting to implement the plan or announcing its main features to those affected.

The Commission recognises a make good provision for the anticipated costs of future restoration of leased premises as required under the terms of agreement. The provision includes future cost estimates associated with dismantling and reinstatement of the leased premises to original condition. The calculation is based on a square metre rate of \$185.00 as per the lease agreement.

15. EQUITY

RECOGNITION AND MEASUREMENT

Accumulated Funds

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

Reserves

Separate reserve accounts are recognised in the financial statements only if such accounts are required by specific legislation or Australian Accounting Standards (e.g. asset revaluation surplus and foreign currency translation reserve).

Equity Transfers – Recognition and Measurement

The transfer of net assets between entities as a result of an administrative restructure and transfers of programs / functions and parts thereof between NSW public sector entities are designated or required by Australian Accounting Standards to be treated as contributions by owners and recognised as an adjustment to 'Accumulated Funds'. This treatment is consistent with AASB 1004 *Contributions* and Australian Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities*.

Transfers arising from an administrative restructure involving not-for-profit and for-profit government entities are recognised at the amount at which the assets and liabilities were recognised by the transferor immediately prior to the restructure. Subject to below, in most instances this will approximate fair value.

All other equity transfers are recognised at fair value, except for intangibles. Where an intangible has been recognised at (amortised) cost by the transferor because there is no active market, the entity recognises the asset at the transferor's carrying amount. Where the transferor is prohibited from recognising internally generated intangibles, the entity does not recognise that asset.

16. COMMITMENTS

Capital Commitments

Aggregate capital expenditure for the acquisition of computer software and hardware, office equipment and leasehold improvements, contracted for at balance date and not provided for:

	Law Enforcement Conduct Commission		Consolidated	
	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000
Within one year	44	64	44	64
Total (including GST)	44	64	44	64

Capital commitments for 2020 include input tax credits of \$3,960 (2019: \$5,820) that are expected to be recoverable from the Australian Taxation Office.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

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 was lower than budget, primarily due to:

An impairment loss booked due to a reduction in market rentals for the Sydney CBD area which impacts the carrying amount of the ROU asset.

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

Employee related expenditure is below budget due to postponing recruitment and not back-filling positions for staff on leave or seconded to other agencies as the Commission determines the best way to meet required efficiency savings. There has been a small decline in expenses following COVID19 restrictions.

Revenue from sales of goods and services is lower than budget as income received from other Government entities was largely recouping of expenses, other revenue includes receipt of a workers compensation hindsight adjustment.

Assets and liabilities

Assets and liabilities are above budget due to an change in accommodation lease terms recognised for ROU assets and lease liabilities, reflecting current Property NSW plans that the Commission will not be exercising an early break clause in the current lease.

Cash flows

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

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

	Law Enforcement Conduct Commission		Consolidated	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
Net cash used on operating activities	3,016	639	3,062	584
Depreciation and amortisation	(3,070)	(990)	(3,070)	(990)
Allowance for impairment ROUA	(663)	--	(663)	--
Decrease/(increase) in provisions	(237)	(522)	(244)	(466)
Increase/(decrease) in prepayments and other assets	716	(328)	678	(329)
Decrease/(increase) in payables	(29)	(79)	(30)	(79)
Net gain/(loss) on assets disposed	37	40	37	40
Net result	(230)	(1,240)	(230)	(1,240)

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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

The Commission's main risks arising from financial instruments are outlined below, together with the Commission's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these financial statements. The Chief Commissioner has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Commission, to set risk limits and controls and to monitor risk. Compliance with policies is reviewed by the Commission on a continuous basis.

a) Financial instrument categories

Parent				
Financial Assets	Note	Category	Carrying Amount	Carrying Amount
Class:			2020	2019
			\$'000	\$'000
Cash and cash equivalents	7	Amortised cost	498	364
Receivables ¹	8	Amortised cost	47	--
Financial Liabilities	Note	Category	Carrying Amount	Carrying Amount
Class:				
Payables ²	12	Financial liabilities measured at amortised cost	261	232
Borrowings	13	Financial liabilities measured at amortised cost	8,670	--
Consolidated				
Financial Assets	Note	Category	Carrying Amount	Carrying Amount
Class:				
Cash and cash equivalents	7	Amortised cost	554	374
Receivables ¹	8	Amortised cost	47	38
Financial Liabilities	Note	Category	Carrying Amount	Carrying Amount
Class:				
Payables ²	12	Financial liabilities measured at amortised cost	260	229
Borrowings	13	Financial liabilities measured at amortised cost	8,670	--

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 this at each financial year end.

b) Derecognition of financial assets and financial liabilities

A financial asset is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the Commission transfers its right to receive cash flows from the asset or has assumed an obligation to pay the received cash flows in full without material delay to a third party under a pass-through arrangement; and either:

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

When the Commission has transferred its rights to receive cash flows from an asset or has entered into a pass-through arrangement, it evaluates if, and to what extent, it has retained the risks and rewards of ownership. Where the Commission has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the Commission's continuing involvement in the asset. In that case, the Commission also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the Commission has retained.

Continuing involvement that takes the form of a guarantee over the transferred asset is measured at the lower of the original carrying amount of the asset and the maximum amount of consideration that the Commission could be required to repay.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

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.

Cash and cash equivalents

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System.

Accounting policy for impairment of trade debtors and other financial assets

Receivables – trade receivables

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

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

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

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

(ii) LIQUIDITY RISK

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continuously manages risk through monitoring future cash flows and planning to ensure adequate holdings of liquid assets. The Commission does not have a bank overdraft facility.

During the current year, there were no defaults of loans payable. No assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the Commissioner (or person appointed by the Commissioner) may automatically pay the supplier simple interest. No interest was applied during the year.

The table below summarises the maturity profile of the Commission's financial liabilities, together with the interest rate exposure.

Maturity analysis and interest rate exposure of financial liabilities

	Weighted average effective int. rate	\$'000 Interest Rate Exposure			Maturity Dates		
		Nominal amount	Fixed interest rate	Variable interest rate	Non-interest bearing	<1 year	1 - 5 years
Parent							
2020							
Personnel services payable		171			171		
Creditors		90			90		
Lease liabilities		8,670			8,670	1,991	6,679
		<u>8,931</u>			<u>8,931</u>	<u>2,252</u>	<u>6,679</u>
2019							
Personnel services payable		61			61		
Creditors		171			171		
		<u>232</u>			<u>232</u>	<u>232</u>	

	Weighted average effective int. rate	\$'000 Interest Rate Exposure			Maturity Dates		
		Nominal amount	Fixed interest rate	Variable interest rate	Non-interest bearing	<1 year	1 - 5 years
Consolidated							
2020							
Accrued salaries and wages and on-costs		171			171		
Creditors		91			91		
Lease liabilities		8,670			8,670	1,991	6,679
		<u>8,932</u>			<u>8,932</u>	<u>2,253</u>	<u>6,679</u>
2019							
Accrued salaries and wages and on-costs		61			61		
Creditors		171			171		
		<u>232</u>			<u>232</u>	<u>232</u>	

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

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

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

Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. Exposure to interest rate risk would primarily arise through interest bearing liabilities. The Commission does not account for any fixed rate financial instruments at fair value through profit or loss or as available-for-sale. Therefore, for these financial instruments, a change in interest rates would not affect profit or loss or equity.

The Commission does not have interest bearing liabilities and does not receive interest on cash assets held as such there is no exposure to interest rate risk.

e) Fair value measurement

(i) FAIR VALUE COMPARED TO CARRYING AMOUNT

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

(ii) FAIR VALUE RECOGNISED IN THE STATEMENT OF FINANCIAL POSITION

When measuring fair value, the valuation technique used maximises the use of relevant observable inputs and minimises the use of unobservable inputs. Under AASB 13, the Commission categorises, for disclosure purposes, the valuation techniques based on the inputs used in the valuation techniques as follows:

- Level 1 - quoted (unadjusted) prices in active markets for identical assets/liabilities that the Commission can access at the measurement date.
- Level 2 - inputs other than quoted prices included within level 1 that are observable, either directly or indirectly.
- Level 3 - inputs that are not based on observable market data (unobservable inputs).

The amortised cost of financial instruments recognised in the Statement of Financial Position approximates the fair value, because of the short-term nature of many of the financial instruments.

21. RELATED PARTY DISCLOSURES

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

	Consolidated	
	2020	2019
	\$'000	\$'000
Short term employee benefits:		
Salaries	1,844	1,626
Non-monetary benefits	--	--
Total remuneration	1,844	1,626

Key management personnel are limited to the key decision makers who have authority and responsibility for planning, directing and controlling the activities of the Commission. 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.

Law Enforcement Conduct Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2020

Major transactions with other entities that are controlled/jointly controlled/ significantly influenced by NSW Government during 2019-20 were:

	Consolidated	
	2020 \$'000	2019 \$'000
NSW Government Property (accommodation at 111 Elizabeth Street, Sydney)	2,097	2,034
	2,097	2,034

Other transactions include:

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

22. EVENTS AFTER THE REPORTING DATE

The Commission does not expect COVID19 to have a significant impact on its finances or ability to operate as usual. A number of initiatives to address welfare concerns have been implemented, including remote working arrangements for staff, social distancing protocols within public areas and shared spaces, increased cleaning and disinfection of all areas, placement of hand sanitation stations and guidance on personal hygiene and infection control.

The Government is currently seeking IRC approval to apply a wage freeze from 1 July 2020. As the final decision will not be known for some time the recreation leave provision has been increased by \$27,238 (2.5%).

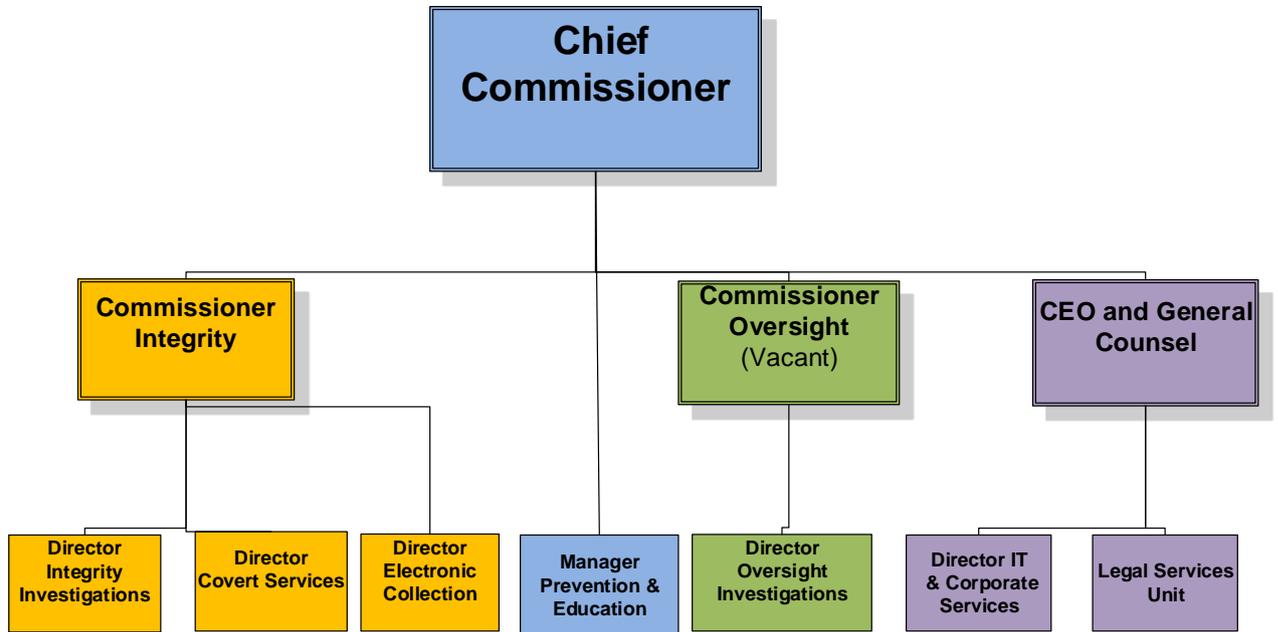
No other events have occurred between the financial reporting date and the date of these financial statements that require adjustment to, or disclosure in these financial statements.

End of audited financial statements

8.

APPENDIX 8

Law Enforcement Conduct Commission



9.

APPENDIX 9

9.1 APPENDIX 9: LAW ENFORCEMENT CONDUCT COMMISSION PUBLICATIONS

The Commission's publications fall into the following categories:

- Reports to Parliament following an investigation in relation to any matter that has been or is the subject of investigation under Part 6 (s 132 of the *Law Enforcement Conduct Commission Act 2016*)
- Special reports to Parliament (s138)
- Annual Reports
- Research and Issues Papers
- Brochures concerning the making of a complaint in regard to serious police misconduct.

All LECC publicly available reports are available on OpenGov NSW at www.opengov.nsw.gov.au and on the Commission website at www.lecc.nsw.gov.au

The following publications were released by the Commission during 2019-20:

	Name of Publication	Brief Description	Date of Publication
1	Operation Trieste - Final Report	An investigation into whether two NSWPF officers engaged in serious misconduct during a traffic stop of two women on 20 April 2019.	31/10/19
2	Operation Trieste Video	Video from an investigation into whether two NSWPF officers engaged in serious misconduct during a traffic stop of two women on 20 April 2019.	31/10/19
3	Operation Mindo - Final Report	An investigation into whether a NSWPF officer was involved in migration fraud through his migration business and whether he was falsifying residency and visa records.	31/10/19
4	Operation Taupo - Final Report	An investigation into whether a NSWPF officer was providing confidential information, including criminal history checks, to the president of an outlaw motorcycle gang (OMCG) and was receiving payments for providing such information.	31/10/19
5	Operation Asinara - Final Report	An investigation by the PIC into the conduct of a Sergeant at a country police station regarding an alleged 'tip off' to a suspect before the execution of a search warrant, and allegations of possible historical involvement in drug supply by the officer. LECC took over this investigation when the PIC was abolished in July 2017.	31/10/19
6	The NSW Child Protection Register:	An investigation into the application of the NSW Child Protection Register.	31/10/19

	Name of Publication	Brief Description	Date of Publication
	Operation Tusket Final Report		
7	Operation Tusket Fact Sheet 1: Summary of the final report		31/10/19
8	Operation Tusket Fact Sheet 2: Findings and recommendations in the final report		31/10/19
9	Operation Tusket Fact Sheet 3: What is the NSW Child Protection Register		31/10/19
10	Review of NSWPF Standard Operating Procedures for strip searches in custody	This report forms part of the Commission's ongoing inquiry into police strip search practices, reviewing the NSWPF's Stand Operating Procedures for strip searches conducted in custody.	13/02/20
11	Operation Dukono Report	An investigation into unlawful person and vehicle searches conducted by NSWPF officers in the car park of the Mannus Correctional Centre between September 2016 and February 2018.	18/03/20
12	Operation Cusco Report	An investigation into the conduct of multiple bail checks on an accused person in the Newcastle City Local Area Command between May and August 2014.	28/04/20
13	Operation Brugge Report	An investigation into the police strip search of a 16 year old girl at a Byron Bay music festival in August 2018.	08/05/20
14	Operation Gennaker Report	An investigation into the police strip search of three teenage boys at an under 18's music festival in February 2019.	08/05/20
15	Operation Sandbridge Report	An investigation into the arrest and strip search of a 53 year old male in inner Sydney in March 2015 and subsequent unsuccessful prosecution of him for hindering police in the execution of their duty.	08/05/20
16	Operation Karuka Report	An investigation into two strip searches of a handcuffed Aboriginal male in a Sydney Police Station in June 2017.	08/05/20
17	Operation Tabarca Report	An investigation into allegations made by a number of complainants against a NSWPF Commander of bullying, harassment and discrimination in the workplace between 2013 and 2019.	08/05/20
18	Operation Mainz Report	An investigation into the police strip search of a 16 year old Aboriginal boy in the street of a large regional town and later in the vehicle dock of the local police station in November 2018.	08/05/20
19	Operation Mainz Video	Video from an investigation into the police strip search of a 16 year old Aboriginal boy in the street of a large regional town and	08/05/20

Name of Publication	Brief Description	Date of Publication
	later in the vehicle dock of the local police station in November 2018.	

10.

APPENDIX 10

10.1 APPENDIX 10: DIRECTORY AND DEFINITIONS

10.1.1 DIRECTORY

Address	Postal Address	Telephone Website
Level 3, 111 Elizabeth Street SYDNEY NSW 2000 Office hours: 8.30am-4.30pm (excluding weekends and public holidays)	GPO Box 3880 SYDNEY NSW 2000 Telephone: (61 2) 9321 6700 Freecall: 1800 657 079 Facsimile: (61 2) 9321 6799	www.lecc.nsw.gov.au

10.1.2 DEFINITIONS

Acronym	Definition
CALD	Culturally and linguistically diverse
GSE Act	<i>Government Sector Employment Act 2013</i>
LECC	Law Enforcement Conduct Commission
LECC Act	<i>Law Enforcement Conduct Commission Act 2016</i>
NSWPF	New South Wales Police Force
NSWCC	New South Wales Crime Commission
OICC	Office of the Inspector of the Crime Commission
PANSW	Police Association of NSW
PCB	Police and Compliance Branch of the Ombudsman's Office
PIC	Police Integrity Commission
SOC	Strategic Operations Committee
WHS	Work Health and Safety

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