



Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission

1/57 – August 2020

2020 Review of the Annual Reports of oversight bodies



New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission.

2020 Review of the annual reports of oversight bodies / Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, Parliament NSW. [Sydney, N.S.W.] : the Committee, 2020. – 1 online resource (47 pages) (Report ; no. 1/57).

Chair: Dugald Saunders, MP.

ISBN: 9781921012921

1. Administrative agencies—New South Wales—Auditing.
2. Corporation reports—New South Wales.
3. Corruption investigation—New South Wales.
 - I. Title
 - II. Saunders, Dugald.
 - III. Series: New South Wales. Parliament. Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission. Report ; no. 1/57

352.88 (DDC)

The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

Contents

Membership _____	iii
Chair’s foreword _____	iv
Findings and recommendations _____	v
Chapter One – Law Enforcement Conduct Commission and Inspector of the Law Enforcement Conduct Commission _____	1
Law Enforcement Conduct Commission _____	1
Status of the Commissioner for Oversight _____	1
Role of the Chief Commissioner and other Commissioners _____	2
Changes introduced by the Acting Chief Commissioner _____	3
Resourcing the Law Enforcement Conduct Commission _____	5
Developing key relationships _____	7
Office of the Inspector of the Law Enforcement Conduct Commission _____	8
Oversight of the Law Enforcement Conduct Commission _____	8
Operations _____	9
Resourcing _____	10
Chapter Two – NSW Ombudsman and Child Death Review Team _____	11
NSW Ombudsman _____	11
Restructure of the NSW Ombudsman _____	11
Redraft of the <i>Public Interest Disclosures Act 1994</i> _____	11
Complaints handling _____	12
Child Death Review Team _____	13
Improved data capture and biennial reporting _____	13
Current research _____	13
Chapter Three – Information and Privacy Commission _____	15
Mandatory notification of data breaches by NSW public sector agencies _____	15
Review of the <i>Privacy and Personal Information Protection Act 1998</i> _____	16
Amendments to the <i>Government Information (Public Access) Act 2009</i> _____	17
Chapter Four – Inspector of Custodial Services _____	19
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) _____	19
Chapter Five – NSW Crime Commission _____	21
Appointment of permanent Crime Commissioner _____	21
Asset confiscation _____	22
Statutory review of the <i>Crime Commission Act 2012</i> _____	23

Appendix One – Report summaries _____	24
Appendix Two – Committee's functions _____	28
Appendix Three – Witnesses _____	29
Appendix Four – Extracts from minutes _____	31

Membership

Chair	Mr Dugald Saunders MP
Deputy Chair	The Hon. Trevor Khan MLC
Members	The Hon. Lou Amato MLC Mr Mark Coure MP Mr Paul Lynch MP Dr Hugh McDermott MP The Hon. Adam Searle MLC
Contact details	Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission Parliament House 6 Macquarie Street SYDNEY NSW 2000
E-mail	ombolecc@parliament.nsw.gov.au
Website	www.parliament.nsw.gov.au/ombolecc

Chair's foreword

This report embodies one of the core functions of this Committee: scrutinising the performance of several important but distinct agencies. Those agencies include:

- the NSW Ombudsman and the Child Death Review Team,
- the Law Enforcement Conduct Commission (the LECC) and its Inspector,
- the NSW Crime Commission,
- the Inspector of Custodial Services, and
- the Information and Privacy Commission (the IPC).

In this report, both the 2017 – 18 and 2018 – 19 annual reporting periods are covered. The Committee felt it was therefore an opportune time to update the Parliament on key aspects of the work of all its oversighted agencies, even if the Committee made no specific recommendations in relation to that agency.

That said, this year the Committee has made several recommendations in relation to the LECC, the Crime Commission and the IPC.

The LECC has undergone an immense period of change recently, with the departure of its inaugural Chief Commissioner and Commissioner for Oversight in January this year. Given that the role of Commissioner for Oversight remains vacant, the Committee has recommended that the relevant Ministers clarify the status of this position. We have also recommended that the legislation governing the LECC be amended to delineate the respective roles of the Commissioner for Integrity and Commissioner for Oversight. Lastly, the Committee has recommended that the Government consider whether the current level of funding to the LECC is adequate.

Noting that the *Privacy and Personal Information Protection Act 1998* has not undergone a formal review since its commencement, the Committee has also recommended that the Government consider a departmental review of the Act, especially in light of potential issues raised by the Privacy Commissioner.

Lastly, the Committee has recommended that the statutory review of the *Crime Commission Act 2012* be finalised as a matter of urgency.

The Committee first held hearings with oversighted agencies in relation to this review in the early phases of the COVID-19 pandemic. I would like to thank all the agencies not only for participating in this review, but also for continuing their important work in an increasingly challenging environment.

I also thank my fellow Committee members for their ongoing dedication and collaborative efforts as part of this review and the Committee's work generally.



Dugald Saunders MP
Chair

Findings and recommendations

Recommendation 1	1
That the Premier and the Special Minister of State clarify the position of the Commissioner for Oversight of the Law Enforcement Conduct Commission.	
Recommendation 2	2
That the <i>Law Enforcement Conduct Commission Act 2016</i> be amended to delineate the roles of the Chief Commissioner and other Commissioners.	
Recommendation 3	5
That the Premier and the Special Minister of State consider whether current funding to the Law Enforcement Conduct Commission is adequate for it to perform its functions effectively.	
Recommendation 4	16
That the Attorney General and Minister for Customer Service consider a departmental review of the <i>Privacy and Personal Information Protection Act 1998</i> .	
Recommendation 5	23
That the statutory review of the <i>Crime Commission Act 2012</i> be completed as a matter of urgency.	

Chapter One – Law Enforcement Conduct Commission and Inspector of the Law Enforcement Conduct Commission

- 1.1 This chapter will provide a brief overview of some recent developments and issues concerning the Law Enforcement Conduct Commission (the LECC) and the Office of the Inspector of the Law Enforcement Conduct Commission (the OILECC).

Law Enforcement Conduct Commission

- 1.2 Over the past six months, the LECC has undergone a period of immense change. It is currently presided over by an Acting Chief Commissioner, The Hon. Reginald Blanch QC, who has served since 1 February 2020. Since 15 January 2020, the LECC has had no Commissioner for Oversight or anyone acting in the role.

Status of the Commissioner for Oversight

Recommendation 1

That the Premier and the Special Minister of State clarify the position of the Commissioner for Oversight of the Law Enforcement Conduct Commission.

- 1.3 On 15 January 2020, shortly before the former Chief Commissioner’s term expired, the inaugural Commissioner for Oversight, Mr Patrick Saidi SC, was removed from his position.
- 1.4 There has been no Commissioner for Oversight appointed since this date and the Acting Chief Commissioner and existing Commissioner for Integrity, The Hon. Lea Drake, are jointly performing the role instead. The Acting Chief Commissioner observed at the hearing that he was unaware of the Government’s plans for the position.¹
- 1.5 The three Commissioner model is derived from Mr Andrew Tink’s 2015 review into police oversight in NSW (the Tink review).² The Tink review envisaged that the Commissioner for Oversight would be responsible for overseeing police handling of complaints – which was previously the role of the NSW Ombudsman – while the Commissioner for Integrity would be focused on investigating serious misconduct, which was the domain of the former Police Integrity Commission.³ Last Parliament, this Committee also recommended that the Commissioner for Oversight be given the power to conduct private examinations, noting that the

¹ Mr Blanch, [Transcript of evidence](#), p.6.

² Mr Andrew Tink AM, [Review of Police Oversight](#), 31 August 2015, viewed 24 June 2020 (Tink review).

³ Committee on the Ombudsman, Law Enforcement Conduct Commission and Crime Commission, [2018 Review of the annual reports of overlooked bodies](#), Report 4/56, Parliament of New South Wales, August 2018, p.7. Note that the Committee had the following members when the report was published: Mr Lee Evans MP (Chair), Mr Stephen Bromhead MP (Deputy Chair), The Hon. Wes Fang MLC, The Hon. Trevor Khan MLC, Mr Paul Lynch MP, Dr Hugh McDermott MP and The Hon. Adam Searle MLC.

Commissioner for Integrity has such a power under the *Law Enforcement Conduct Commission Act 2016* (LECC Act).⁴

- 1.6 The Tink review recommended that each half of the merged police oversight body be headed by what was referred to as a ‘Deputy Commissioner for Oversight’ and a ‘Deputy Commissioner for Integrity’. In Tink’s view, this recognised the importance of the dual spheres and created ‘high visibility’ of these functions.⁵ Tink specifically recommended that the two ‘Deputy Commissioners’ be appointed by the Governor, with the concurrence of the Commissioner.⁶
- 1.7 In describing the role of the (Deputy) Commissioner for Oversight, Tink believed that the power to undertake public interest investigations would be ‘activated more frequently’. In his view, this power was designed to enable more frequent investigations into the types and trends of complaints received than what occurred at the Ombudsman.⁷
- 1.8 However, the Committee also notes the evidence of the Acting Chief Commissioner that the current arrangement consisting of the Chief Commissioner and Commissioner for Integrity appears to be working ‘perfectly well’,⁸ and that there are other alternatives to the three commissioner model – such as only two commissioners, or two part time commissioners – which the Government may wish to consider adopting.⁹
- 1.9 Although the Acting Chief Commissioner suggested that the current state of affairs at the LECC was calm, productive, and staff were happy, he also stated that there had been a ‘perfect storm of problems’ and that the structure of the Commission needed to be resolved ‘sooner rather than later.’¹⁰
- 1.10 The Committee agrees that a lack of clarity regarding the position of the Commissioner for Oversight is undesirable and, if left unresolved, may undermine the ability of the LECC to properly perform its functions.
- 1.11 For these reasons, the Committee has recommended that the Premier and Special Minister of State clarify the status of the Commissioner for Oversight.

Role of the Chief Commissioner and other Commissioners

Recommendation 2

That the *Law Enforcement Conduct Commission Act 2016* be amended to delineate the roles of the Chief Commissioner and other Commissioners.

- 1.12 In suggesting that the structure of the LECC needed to be resolved ‘sooner rather than later’, the Acting Chief Commissioner also noted that the roles of Chief

⁴ [2018 Review of the annual reports of oversight bodies](#), p.6.

⁵ [Tink review](#), pp 110- 111, recommendation 8.

⁶ [Tink review](#), p.111.

⁷ [Tink review](#), p.111.

⁸ Mr Blanch, [Transcript of evidence](#), p.13.

⁹ Mr Blanch, [Transcript of evidence](#), p.6.

¹⁰ Mr Blanch, [Transcript of evidence](#), p.13.

Commissioner and other commissioners required clarification in the LECC Act. At the hearing, he said:

It may be that there is a need for some clarification in the Act about the respective roles. Coming in from the outside and looking at what has happened it seems to me that the problems arose because there is no clearly defined difference in the role between the Chief Commissioner and the other commissioners. Part of the problem arose because, if you did have three people who all wanted to run the place, then you are obviously going to get problems. To some extent that is what happened, I think. There needs to be a degree of clarity about that.¹¹

- 1.13 A recent report by the then Assistant LECC Inspector, Mr Bruce McClintock SC (the Special report) canvassed a number of areas that were in dispute between the former Chief Commissioner and former Commissioner for Oversight. One of these areas centred on governance of the LECC. This included a dispute about section 19 of the LECC Act and a Commissioner's Protocol issued by the former Chief Commissioner which attempted to clarify the roles and responsibilities of each of the three commissioners.¹²
- 1.14 After considering the dispute, the Assistant LECC Inspector formed the view that neither interpretation of the legislated governance arrangements was wholly correct. Accordingly, he sought and ultimately agreed with advice from the Crown Solicitor, which suggested that elements of both interpretations were correct.¹³ Without going into further detail, this history suggests that there has been confusion over the respective roles and responsibilities of the Commissioners which has contributed to internal conflicts and a period of instability at the LECC. It is possible that a lack of clarity in the legislation regarding governance arrangements at the LECC has exacerbated this conflict.
- 1.15 Against this backdrop, the Committee shares the Acting Chief Commissioner's view that the roles of the Commissioners should be clarified in the LECC Act to ensure that the responsibilities and powers of each Commissioner are clearly defined. This may assist in preventing future internal management disputes.
- 1.16 The Committee notes that the statutory review of the LECC Act is due to be completed by approximately November 2020.¹⁴ This would be an opportune time to consider such an amendment.

Changes introduced by the Acting Chief Commissioner

- 1.17 As mentioned above, in February 2020 Acting Chief Commissioner Reginald Blanch QC was appointed to the LECC. The Committee heard about changes to the operations and practices of the LECC during the first three months of his appointment. Such changes include:

¹¹ Mr Blanch, [Transcript of evidence](#), p.13.

¹² Office of the Inspector of the Law Enforcement Conduct Commission, [A report dealing with a complaint by the Commissioner for Oversight of the Law Enforcement Conduct Commission against the Chief Commissioner \(Special Report 20/01\)](#), 3 December 2019, viewed 24 June 2020 (Special report), pp.7 – 11.

¹³ [Special report](#), p.14.

¹⁴ See [LECC Act, s198](#), which requires a statutory review to be undertaken within 3 years of the date of assent of the Act, and tabled within 12 months of commencement of the review

- reducing the number of staff who work in the assessment committee from twelve to between four and six to reallocate the time of the remaining staff members to other areas;
- introducing a time standard for reporting to within one month; and
- no longer sending staff of the critical incident oversight team to the critical incidents themselves.¹⁵

1.18 Of interest to the Committee are the changes to the critical incident oversight team. In its 2018 review, the Committee found that the critical incident team did not have enough staff to properly perform its critical incident function. The Committee therefore recommended that additional funding be provided to the LECC to increase the number of staff in its critical incident team.¹⁶

1.19 Critical incidents are incidents involving police which result in the death or serious injury of a person. In its 2018 report the Committee commented on the importance of the proper investigation and oversight of critical incidents:

The public has an interest in knowing that police powers are used judiciously and within the limits of the law. It is also in the interest of police that their use of force, which may sometimes be quite confronting to the community, is found to be justified in the circumstances.¹⁷

1.20 The Committee heard at the hearing that staff of the critical incident oversight team attend critical incidents in pairs. When they do they receive a 22 per cent increase in salary. Mr Blanch explained that it may not be necessary to attend every critical incident in person. Rather, they can perform their oversight function after the critical incident is over:

The LECC representatives cannot tell the police what to do, they can only observe what the police are doing and, generally speaking, that can be done by review after the event.¹⁸

1.21 However, Mr Blanch acknowledged that there would still be special cases that would require LECC staff to be in attendance and those can be identified as they arise.¹⁹

1.22 Given the previous interest the Committee has had in this area the Committee will monitor this change to the LECC's operations.

¹⁵ Mr Blanch, [Transcript of evidence](#), p.7.

¹⁶ [2018 Review of the Annual Reports of oversighted bodies](#), p.v.

¹⁷ [2018 Review of the Annual Reports of oversighted bodies](#), p.5. Note: that the Committee had the following members when the report was published: Mr Lee Evans MP (Chair), Mr Stephen Bromhead MP (Deputy Chair), The Hon. Wes Fang, The Hon. Trevor Khan, Mr Paul Lynch MP, Dr Hugh McDermott MP and The Hon. Adam Searle.

¹⁸ Mr Blanch, [Transcript of evidence](#), p.7.

¹⁹ Mr Blanch, [Transcript of evidence](#), p.7.

Resourcing the Law Enforcement Conduct Commission

Recommendation 3

That the Premier and the Special Minister of State consider whether current funding to the Law Enforcement Conduct Commission is adequate for it to perform its functions effectively.

- 1.23 In its 2018 review, the Committee recommended that the NSW Government provide additional funding for the LECC to perform its functions effectively. Namely, for the remuneration of the new positions of Commissioner for Integrity, Commissioner for Oversight and a Chief Executive Officer. In addition, the funding would increase the number of staff in the critical incident team.²⁰
- 1.24 In its response to the Committee's report the Government noted the recommendations.²¹
- 1.25 The LECC stated in the 2018-2019 annual report that the expected efficiency dividend savings had changed from 3 per cent to closer to 5 per cent from 2019-2020. The following table illustrates the savings the LECC is expected to make from their existing recurrent budget of \$22,300,000 over the next four years:²²

	2019-20	2020-21	2021-22	2022-23
Total efficiency dividend	\$402,000	\$1,249,000	\$1,914,000	\$2,175,000

- 1.26 The Committee heard that the projected efficiency dividend will have a very significant impact on the operations of the LECC:
- ...in any organisation which consists largely of its staff there is no capacity to make the savings in any other way than reducing staff. I have come across this problem as the Director of Public Prosecutions, as Chief Judge of the District Court—they are all organisations that require people in order to carry out their functions. LECC is certainly in that situation in the same way that ICAC is. If you have to carry out something that will give you an efficiency dividend of 3 per cent or 5 per cent, then effectively it can only be by way of reducing staff levels.²³
- 1.27 The Committee learned that the efficiency dividends could result in the loss of at least 15 positions.²⁴
- 1.28 Ms Michelle O'Brien, Chief Executive Officer and General Counsel, stated at the hearing that the LECC has reduced its staff numbers to the bare minimum.

... the back office is already down to as lean as it can be.

²⁰ [2018 Review of the Annual Reports of overlooked bodies](#), p.v. Note that the Committee had the following members when the report was published: Mr Lee Evans MP (Chair), Mr Stephen Bromhead MP (Deputy Chair), The Hon. Wes Fang, The Hon. Trevor Khan, Mr Paul Lynch MP, Dr Hugh McDermott MP and The Hon. Adam Searle.

²¹ NSW Government, [Government response](#), 24 January 2019, p.1.

²² Law Enforcement Conduct Commission, [Annual Report 2018-2019](#), October 2019, p.5.

²³ Mr Blanch, [Transcript of evidence](#), p.9.

²⁴ Mr Blanch, [Transcript of evidence](#), p.9.

... there is really no more fat to trim in the corporate services area, so that means frontline positions, that means investigations or oversight.²⁵

- 1.29 Ms O'Brien also observed that such cost savings have impacted on staff morale, particularly lower level staff who do not have access to all the information that senior staff may have. They have concerns about the longevity of the organisation and fear about the security of their employment.²⁶
- 1.30 The LECC stated that the budget posed a challenge for the LECC in the 2018-2019 reporting period. The organisation assessed 2,547 complaints, of which only approximately 2 per cent were able to be fully investigated.²⁷
- 1.31 In the 2018-2019 period, the LECC monitored a total of 32 critical incident investigations by the NSW Police Force. Only three were finalised prior to 30 June 2019.²⁸
- 1.32 However, Mr Gary Kirkpatrick, Director of Investigations – Integrity, stated at the hearing that while the efficiency dividends from the 2018-2019 period had impacted on the volume and number of investigations undertaken, it did not affect the success of the investigation.²⁹
- 1.33 Mr Kirkpatrick further observed that if there is a decrease in funding, that equals a decrease in staffing and therefore a decrease in capacity to conduct the volume of investigations. The quality of the investigations will remain the same.³⁰

Review of amendments to consorting powers

- 1.34 On 28 February 2019, the LECC was given responsibility to review the operation of amendments to consorting laws under Part 3A Division 7 of the *Crimes Act 1900*. This review will be conducted over three years.³¹
- 1.35 The Acting Chief Commissioner stated that work had commenced on the review, and an application was submitted to NSW Treasury for funding for two positions in order to complete the review.³²
- 1.36 Mr Blanch indicated that he was optimistic that funding will be approved for the two positions.³³

²⁵ Ms Michelle O'Brien, Chief Executive Officer and General Counsel, Law Enforcement Conduct Commission, [Transcript of evidence](#), 17 February 2020, p.9.

²⁶ Ms O'Brien, [Transcript of evidence](#), p.14.

²⁷ [Annual Report 2018-2019](#), p.5.

²⁸ [Annual Report 2018-2019](#), p.17.

²⁹ Mr Gary Kirkpatrick, Director of Investigations – Integrity, Law Enforcement Conduct Commission, [Transcript of evidence](#), 17 February 2020, p.10.

³⁰ Mr Kirkpatrick, [Transcript of evidence](#), p.10.

³¹ [Annual Report 2018-2019](#), p.52.

³² Mr Blanch, [Transcript of evidence](#), p.13.

³³ Mr Blanch, [Transcript of evidence](#), p.13.

Developing key relationships

- 1.37 The Committee strongly believes in the importance of developing and maintaining good relationships with the NSW Police Force and other stakeholders.
- 1.38 The Committee was pleased to hear that the LECC have continued to maintain cooperative relationships with the NSW Police Force at the commissioner and professional standards level and with operational police commanders.³⁴
- 1.39 The Acting Chief Commissioner stated at the hearing that he has met with the Police Commissioner and indicated that the NSW Police Force was appreciative of the work of the LECC due to its educative function:
- We have got an education section so when reports are put out, even if they are critical, we follow up with the education teams and they work with the police in order to change policing methods or introduce various things.³⁵
- 1.40 Mr Blanch added that the recent strip search investigations illustrated the collaborative relationship with the NSW Police Force:
- ... there has been a real question with strip searching. There has been ongoing coordination between the education people at LECC and the police with the result that the number of strip searches has very significantly decreased. Significantly one of the things that was found was that there were a whole range of different advices available for different sections of the police about various things and it was necessary to put in place a common guidance which was done, and that has resulted in a lot less of those searches.³⁶
- 1.41 Another example highlighted at the hearing was of the child abuse register:
- I am also aware that in relation to the child abuse register there is a complete mishmash of misunderstanding amongst the police. What we are finding or have found is that there are people who are put on the register who should not be. There are people who should be and who have not been. The education section of LECC is working with the police in order to see whether some sort of common system cannot be worked out.³⁷
- 1.42 However, the Committee was surprised to learn that the LECC had yet to meet with the NSW Police Association, particularly on issues such as strip searches.³⁸
- 1.43 The Acting Chief Commissioner stated that the LECC plan to meet with the NSW Police Association in the next phase of monitoring when the LECC look at the psychological effect of strip searches.³⁹

³⁴ Ms O'Brien, [Transcript of evidence](#), p.12.

³⁵ Mr Blanch, [Transcript of evidence](#), p.12.

³⁶ Mr Blanch, [Transcript of evidence](#), p.12.

³⁷ Mr Blanch, [Transcript of evidence](#), p.12.

³⁸ Mr Blanch, [Transcript of evidence](#), p.13

³⁹ Mr Blanch, [Transcript of evidence](#), p.13

- 1.44 In the 2018 review, the Committee commended the LECC for developing a positive and collaborative relationship with the NSW Police Association and maintaining regular consultation on issues of importance.⁴⁰
- 1.45 The Committee strongly encourages that the positive and collaborative relationship between the LECC and the NSW Police Association continue.

Office of the Inspector of the Law Enforcement Conduct Commission

Oversight of the Law Enforcement Conduct Commission

- 1.46 One of the functions of the Office of the Inspector of the Law Enforcement Conduct Commission (the OILECC) is to inspect the operations, policies and procedures of the LECC.
- 1.47 The Hon. Terry Buddin SC, Inspector of the LECC, acknowledged at the hearing on 17 February 2020 that the LECC faced many challenges during the 2017-2018 and 2018-2019 reporting periods. The Inspector commended the LECC for its continued work under challenging circumstances.⁴¹
- 1.48 The Inspector identified deficiencies in the LECC concerning its complaints handling process. These deficiencies include delays in responding to complaints, not acknowledging the receipt of complaints, and not keeping complainants informed as to the progress of their matter, particularly when the complaint has been referred back to the NSW Police Force.⁴²
- ... the deficiencies usually relate to issues of process rather than outcome. They concern issues surrounding the backlog in finalising complaints, timeliness of responses to complainants and the adequacy of reason provided for positions other than LECC has made.⁴³
- 1.49 Mr Buddin raised concerns that, on a couple of occasions, requests for updates made by the OILECC on matters being handled by the LECC have taken a considerable amount of time for a response.⁴⁴
- 1.50 However, Mr Buddin indicated that the LECC's workload has increased significantly over the 2018-2019 period.⁴⁵
- 1.51 The Committee heard that an audit report was conducted by Centium in July 2019 into the LECC's complaints handling process. The Inspector stated at the

⁴⁰ [2018 Review of the Annual Reports of overlooked bodies](#), p.11. Note that the Committee had the following members when the report was published: Mr Lee Evans MP (Chair), Mr Stephen Bromhead MP (Deputy Chair), The Hon. Wes Fang MLC, The Hon. Trevor Khan MLC, Mr Paul Lynch MP, Dr Hugh McDermott MP and The Hon. Adam Searle MLC.

⁴¹ The Hon. Terry Buddin SC, Inspector of the Law Enforcement Conduct Commission, Office of the Law Enforcement Conduct Commission, [Transcript of evidence](#), 17 February 2020, p.17.

⁴² Office of the Inspector of the Law Enforcement Conduct Commission, [Annual Report for the period ending 30 June 2019](#), October 2019, p.25

⁴³ Mr Buddin, [Transcript of evidence](#), p.18.

⁴⁴ [Annual Report for the period ending 30 June 2019](#), p.25.

⁴⁵ [Annual Report for the period ending 30 June 2019](#), p.25.

hearing that the deficiencies identified through the audit coincided with those identified by the OILECC.⁴⁶

- 1.52 The Committee was pleased to hear that the LECC accepted the recommendations made in the audit report and, while there is still room for improvement, have made some positive enhancements to its complaints handling function.⁴⁷

Operations

- 1.53 The OILECC was established on 1 July 2017 after the relevant functions of the Police Integrity Commission and the Ombudsman were amalgamated into the LECC.⁴⁸
- 1.54 The Committee learned that a considerable amount of time was taken for the Office to be established and become operational. During this transition period, the OILECC had minimal administrative support.⁴⁹
- 1.55 The Committee noted that the OILECC support staff consisted of a Principal Legal Advisor and a Business Coordinator, both of whom also work in the Office of the Inspector of the Independent Commission Against Corruption (OIICAC).⁵⁰ The Business Coordinator position was previously a part-time Personal Assistant position during the transition period.⁵¹
- 1.56 Two full-time staff from the Secure Monitoring Unit in the Office of the NSW Ombudsman were transferred to the OILECC in July 2017. The pre-existing functions of the positions to inspect covert warrants issued to authorised investigative agencies were transferred into the OILECC.⁵² Section 128A of the LECC Act, which came into effect on 25 September 2017, allowed the Inspector to delegate his inspection functions to nominated staff.⁵³
- 1.57 The Committee noted that the OILECC continues to share premises with the OIICAC, along with the Principal Legal Advisor and the Business Coordinator.⁵⁴
- 1.58 The Committee learned that the OILECC and the OIICAC relocated to a new premises in August 2018 to accommodate the existing staff and the two additional staff from Secure Monitoring Unit.⁵⁵

⁴⁶ Mr Buddin, [Transcript of evidence](#), p.18.

⁴⁷ Mr Buddin, [Transcript of evidence](#), p.18.

⁴⁸ Office of the Inspector of the Law Enforcement Conduct Commission, [Annual Report for the period ending 30 June 2018](#), October 2018, p.2.

⁴⁹ [Annual Report for the period ending 30 June 2018](#), p.2.

⁵⁰ [Annual Report for the period ending 30 June 2019](#), p.2.

⁵¹ [Annual Report for the period ending 30 June 2018](#), p.2.

⁵² [Annual Report for the period ending 30 June 2018](#), p.2.

⁵³ [Law Enforcement Conduct Commission Act 2016, s128A Delegation](#)

⁵⁴ [Annual Report for the period ending 30 June 2019](#), p.2.

⁵⁵ [Annual Report for the period ending 30 June 2019](#), p.3.

Resourcing

- 1.59 The Committee heard that the OILECC faced challenges with the limited resources available, particularly with its complaints handling.⁵⁶
- 1.60 The Inspector stated that anonymous complaints or complaints that are sensitive in nature, such as public interest disclosures or extremely serious allegations, require more time, consideration and very skilful handling.⁵⁷
- 1.61 Mr Buddin emphasised that such complaints are few, but nonetheless have occupied a significant amount of the OILECC's time and resources.⁵⁸
- 1.62 The OILECC's 2017-18 and 2018-19 annual reports highlighted that the actual expenditure from the period from 1 July 2017 to 30 June 2018 was \$695,244 against the projected budget for 2017-2018 of \$745,506;⁵⁹ and from the period from 1 July 2018 to 30 June 2019 was \$889,641 against the projected budget for 2018-2019 of \$909,903.⁶⁰
- 1.63 The Committee will monitor the occurrence of sensitive complaints to the OILECC and the impact these have on the resources of the office.

⁵⁶ Mr Buddin, [Transcript of evidence](#), p.18.

⁵⁷ Mr Buddin, [Transcript of evidence](#), p.18.

⁵⁸ Mr Buddin, [Transcript of evidence](#), p.18.

⁵⁹ [Annual Report for the period ending 30 June 2018](#), p.4.

⁶⁰ [Annual Report for the period ending 30 June 2019](#), p.3.

Chapter Two – NSW Ombudsman and Child Death Review Team

- 2.1 This chapter will provide a brief overview of some recent developments in the NSW Ombudsman and the NSW Child Death Review Team (CDRT) over the last two annual reporting periods. The NSW Ombudsman, Mr Michael Barnes, is also the convenor of the CDRT.

NSW Ombudsman

Restructure of the NSW Ombudsman

- 2.2 The Ombudsman is an independent integrity body which oversees the work of NSW Government agencies and also some non-government organisations, including by investigating complaints, monitoring performance, providing advice, and undertaking strategic reviews.
- 2.3 In 2018-2019, the Ombudsman undertook an organisational review and subsequent restructure. In 2019, the Ombudsman published a new Statement of Corporate Purpose and consolidated its business units to better align with its strategic goals, reducing the total number of business units from 33 to 20 and the number of senior executives from 9 to 6.⁶¹ Although this has been a ‘difficult’ period for the Ombudsman, at the hearing Mr Barnes suggested that the new structure had improved unity and collegiality.⁶²
- 2.4 The Ombudsman is now in the process of drafting a formal strategic plan, the first of its kind for the organisation. Mr Barnes suggested that one of the focuses of the strategic plan may be the modernisation of the Ombudsman's processes.
- 2.5 The Committee is interested in the finalisation of the strategic plan and looks forward to its implementation.

Redraft of the *Public Interest Disclosures Act 1994*

- 2.6 At the hearing, Mr Barnes updated the Committee on the preparation of a bill to replace the *Public Interest Disclosures Act 1994* (PID Act).
- 2.7 In late 2017, the Committee published its statutory review of the PID Act.⁶³ The Committee recommended a number of changes to the PID Act including simplifying the disclosure process, enhancing protections around detrimental action, and improving the structure and drafting of the Act generally. The Government supported the Committee's recommendations in principle and

⁶¹ NSW Ombudsman, [Annual Report 2018-19](#), 31 October 2019, viewed 24 June 2020, p.4; Mr Michael Barnes, NSW Ombudsman, [Transcript of evidence](#), 18 February 2020, p.1.

⁶² Mr Barnes, [Transcript of evidence](#), p.1

⁶³ Committee on the Ombudsman, Law Enforcement Conduct Commission and Crime Commission, [Review of the Public Interest Disclosures Act 1994](#), Report no 3/56, Parliament of New South Wales, 23 October 2017, viewed 24 June 2020.

advised that it would oversee the drafting of a bill based on the Committee's recommendations.⁶⁴

- 2.8 In his capacity as Chair of the Public Interest Disclosures Steering Committee, Mr Barnes advised that the Government had recently produced an eleventh draft to the Steering Committee for its consideration. He advised that the draft bill represented a 'fairly significant rewrite' of the legislation which went beyond the Committee's 2017 recommendations.⁶⁵
- 2.9 The Committee looks forward to the outcome of the drafting process.

Complaints handling

- 2.10 Complaints handling is a key function of the Ombudsman. In recent years, it has also played a significant role in building the complaints handling capacity of the NSW public sector.
- 2.11 In 2017-2018, the Ombudsman undertook a review into the implementation of the six complaints-handling principles previously agreed to by public sector agencies (the Commitments Review),⁶⁶ which formed part of the NSW Government's Complaints Handling Improvement Program (CHIP). The Commitments Review involved 44 agencies and found that complaint handling had generally become more effective, with many agencies incorporating the six principles into their own complaints policies and procedures, providing better complaints training to staff and improving the availability of complaints information on agency websites.⁶⁷
- 2.12 At the hearing, the Committee heard that the Ombudsman had made a submission to the Government that it should have an ongoing role in scrutinising the complaint handling practices of public sector agencies. The Ombudsman expressed concern that the lack of an ongoing scrutiny function would mean that many of the improvements generated by CHIP would be lost.⁶⁸
- 2.13 Mr Barnes also spoke of the extensive training that the Ombudsman provides to agency staff, which aims to equip them with the skills necessary to assist or otherwise deal with the wide range of complainants that interact with government services.⁶⁹
- 2.14 Ms Nicole Lawless, Acting Deputy Ombudsman, also noted that the Ombudsman had developed an e-learning package in response to difficulties identified by the Commitments Review in delivering face-to-face complaints training to agency

⁶⁴ NSW Government, [Review of the Public Interest Disclosures Act - Government response](#), 19 April 2018, viewed 24 June 2020.

⁶⁵ Mr Barnes, [Transcript of evidence](#), p.2.

⁶⁶ NSW Ombudsman, [Complaint handling improvement program: Commitments review](#), 31 August 2018, viewed 24 June 2020.

⁶⁷ NSW Ombudsman, [Annual Report 2017-18](#), 22 October 2018, viewed 24 June 2020, p.11.

⁶⁸ Mr Barnes, [Transcript of evidence](#), p.4.

⁶⁹ Mr Barnes, [Transcript of evidence](#), p.4.

staff.⁷⁰ The Committee was pleased to hear that this e-learning package has since been adopted by many agencies.

Child Death Review Team

Improved data capture and biennial reporting

- 2.15 The CDRT reviews the deaths of all children in NSW, undertakes research, makes recommendations to agencies, and reports to Parliament on its findings, with the primary purpose of preventing child deaths.
- 2.16 As part of this work, the CDRT maintains a register of all child deaths. At the hearing, Ms Monica Wolf, Assistant Ombudsman, CDRT, advised that the register has recently been updated to improve its ability to systematically capture data relating to child deaths.⁷¹
- 2.17 Following legislative amendments, the CDRT has also undergone changes to its reporting processes. The CDRT is now only required to publish its review on the deaths of children biennially, rather than annually. Its first such review in relation to deaths occurring in 2016 and 2017 was published in June 2019.⁷² This report combined the CDRT's function of monitoring trends in the deaths of all children in NSW and the Ombudsman's role in undertaking reviews of the deaths of certain children, such as those in care, juvenile detention, or that may be due to abuse or neglect or which occur in suspicious circumstances.⁷³
- 2.18 Although the review is now only required biennially, the CDRT is now also publishing a separate annual report each year. According to Ms Wolf, the annual report is a positive development as it has better enabled the CDRT to monitor the implementation of its recommendations to agencies.⁷⁴
- 2.19 The Committee notes these recent improvements to the CDRT's data capture and reporting processes and will continue to monitor their progress.

Current research

- 2.20 At the hearing, the Committee also heard that the CDRT was planning research into the link between socioeconomic status and child deaths, to better understand why poverty may be a risk factor.⁷⁵
- 2.21 The Committee is pleased to hear of this research focus, as it appears to align with the CDRT's functions and is also likely to build on earlier research suggesting

⁷⁰ Ms Nicole Lawless, Acting Deputy Ombudsman, Reviews Investigations and Community Services Division, NSW Ombudsman, [Transcript of evidence](#), 18 February 2020, p.4.

⁷¹ Ms Monica Wolf, Assistant Ombudsman, Project and Systemic Review, NSW Child Death Review Team, [Transcript of evidence](#), 18 February 2020, p.6.

⁷² NSW Child Death Review Team, [Biennial report of the deaths of children in New South Wales: 2016 and 2017 - incorporating reviewable deaths of children](#), 25 June 2019, viewed 24 June 2020.

⁷³ [Community Services \(Complaints, Reviews and Monitoring\) Act 1993, Parts 5A and 6](#).

⁷⁴ Ms Wolf, [Transcript of evidence](#), p.6.

⁷⁵ Ms Wolf, [Transcript of evidence](#), pp7-8.

that the link between child deaths and geographic location may be related to socioeconomic status.⁷⁶

⁷⁶ Ms Wolf, [Transcript of evidence](#), p.8; see also NSW Child Death Review Team, [Spatial analysis of child deaths in New South Wales](#), April 2018, viewed 24 June 2020.

Chapter Three – Information and Privacy Commission

- 3.1 This chapter will provide a brief overview of some recent developments and issues concerning the Information and Privacy Commission (the IPC) over the last two annual reporting periods.

Mandatory notification of data breaches by NSW public sector agencies

- 3.2 There is currently no obligation for NSW public sector agencies to report data breaches under the *Privacy and Personal Information Protection Act 1998* (NSW) (the PPIP Act).
- 3.3 The IPC encourages and supports agencies to voluntarily report data breaches to the IPC. The IPC has developed guidance and resources to assist agencies report and respond to breaches.⁷⁷
- 3.4 The NSW Department of Communities and Justice (DCJ) has commenced a review of the voluntary data breach scheme. In July 2019 DCJ released a discussion paper inviting submissions on whether a mandatory reporting scheme for data breaches should be implemented in New South Wales.⁷⁸
- 3.5 The IPC has supported in principle the move to a mandatory reporting scheme. The IPC commented that such a scheme would assist in 'supporting and promoting public confidence and trust in the Government's use of technology.'⁷⁹
- 3.6 Ms Samantha Gavel, Privacy Commissioner, indicated that the IPC has been consulting with DCJ on how a mandatory scheme might operate and the scope of any scheme. It is important that the scheme is manageable for agencies and the IPC. The Privacy Commissioner indicated that one consideration would be the threshold set for reporting.
- ...the Australian Information Commissioner has had some issues with the threshold they have set for reporting, where they are actually having too many matters reported that are not necessarily significant matters.⁸⁰
- 3.7 The introduction of a mandatory reporting scheme would have implications on resources for the IPC. At the hearing Ms Elizabeth Tydd, Information Commissioner, indicated that the exact impact on resourcing is difficult to assess

⁷⁷ Information and Privacy Commission, [Annual Report 2018-19](#), October 2019, p.9.

⁷⁸ NSW Department of Communities and Justice, [Mandatory notification of data breaches by NSW Public Sector agencies: Discussion paper](#), July 2019

⁷⁹ Information and Privacy Commission, [Submission in response to Mandatory notification of data breaches by NSW Public Sector agencies: Discussion paper](#), 19 August 2019, pp1-2.

⁸⁰ Ms Samantha Gavel, Privacy Commissioner, Information and Privacy Commission, [Transcripts of evidence](#), 18 February 2020, p.13.

without knowing what the scheme would look like. However, there would be resourcing implications at the highest level.⁸¹

- 3.8 The Committee heard that consultations on a mandatory reporting scheme are ongoing. The Committee will monitor this area and any impact a mandatory scheme will have on the resources of the IPC.

Review of the *Privacy and Personal Information Protection Act 1998*

Recommendation 4

That the Attorney General and Minister for Customer Service consider a departmental review of the *Privacy and Personal Information Protection Act 1998*.

- 3.9 The PPIP Act governs the protection of personal information and the privacy of individuals in New South Wales. It has been in operation for over 20 years. The age of the PPIP Act and the possible need for a review was raised at the hearing.
- 3.10 The Privacy Commissioner acknowledged the age of the PPIP Act but considered it continues to be fit for purpose. The Privacy Commissioner stated that a favourable aspect of the PPIP Act is that it is principles-based and technology-neutral.⁸² The principles provide a lawful basis for the collection, use and disclosure of information which apply equally to paper based technology and digital technology.⁸³
- 3.11 Despite commenting that the PPIP Act continues to be fit for purpose, the Privacy Commissioner indicated there is scope to consider enhancements to address more contemporary issues. Some areas for consideration include:
- inclusion of a mandatory data breach notification scheme – this is discussed above at paragraphs 3.2 – 3.7;
 - inclusion of State Owned Corporations – this would create consistency with the *Government Information (Public Access) Act 2009* (the GIPA Act) and provide a clear legislative right to members of the public;
 - amend the Privacy Commissioner's functions to include an explicit audit function – this would enable the Privacy Commissioner to exercise the audit function as a proactive measure to assess systemic issues and assist agencies with compliance;
 - amend the PPIP Act to grant a power to the Privacy Commissioner to enter premises and inspect anything;
 - introduce a provision that the Privacy Commissioner nor a member of staff is compellable as a witness;

⁸¹ Ms Elizabeth Tydd, Information Commissioner, Information and Privacy Commission, [Transcript of evidence](#), 18 February 2020, p.14.

⁸² Information and Privacy Commission, [Answers to questions taken on notice](#), 9 March 2020, p.1.

⁸³ Ms Gavel, [Transcript of evidence](#), p.13.

- create a function and power to enable the Privacy Commissioner to exchange information with Cyber Security NSW; and
 - make provision for when an applicant applies to the NSW Civil and Administrative Tribunal for internal review so that the Privacy Commissioner ceases to exercise an oversight function.⁸⁴
- 3.12 The Privacy Commissioner has raised the above considerations with DCJ and the Department of Customer Service.⁸⁵
- 3.13 The Committee acknowledges the benefits of the PPIP Act being principles-based and technology neutral. Such an approach is necessary in order to keep pace with technological change. However, the gaps in the current PPIP Act identified by the Privacy Commissioner leads us to consider that the Act in its entirety may benefit from a review.

Amendments to the *Government Information (Public Access) Act 2009*

- 3.14 During the reporting period the *Government Information (Public Access) Act 2009* (the GIPA Act) was amended to impose a 40 day time period for the completion of reviews conducted by the Information Commissioner.⁸⁶
- 3.15 The introduction of the 40 day time period led to a structural review of processes and workforce capabilities at the IPC. The Information Commissioner commented:
- The processes were developed from the ground up, with staff feeding very much into what they saw as ways to ensure that we could meet the 40-day time frame for both privacy and information access.⁸⁷
- 3.16 The amendment introducing the 40 day time period only applied to reviews conducted by the Information Commissioner. The Information Commissioner explained that, in consultation with the Privacy Commissioner, the IPC decided to apply the 40 day time frame to both the information and privacy streams. As the Information Commissioner commented, 'this would enable equitable service delivery outcomes to the people of New South Wales.'⁸⁸
- 3.17 The Information Commissioner advised that a modest level of additional staffing was and is required to support the structural changes to the IPC and ongoing delivery of the 40 day timeframe. The Committee was informed that since the introduction of the 40 day timeframe all review decisions have met that timeframe.⁸⁹

⁸⁴ [Answers to questions taken on notice](#), pp1-2

⁸⁵ [Answers to questions taken on notice](#), p.2.

⁸⁶ [Government Information \(Public Access\) Amendment Bill 2018](#), cl 27

⁸⁷ Ms Tydd, [Transcript of evidence](#), p.14.

⁸⁸ Ms Tydd, [Transcript of evidence](#), p.12.

⁸⁹ Ms Tydd, [Transcript of evidence](#), p.14.

- 3.18 The Committee commends the IPC for reaching this high level of service delivery. The Committee is also encouraged by the collegiate and integrated approach of the IPC in implementing the amendments to the GIPA Act.

Chapter Four – Inspector of Custodial Services

4.1 This chapter concerns issues relevant to the Inspector of Custodial Services.

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

4.2 The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is an international treaty designed to strengthen protections for people detained in situations where they are deprived of their liberty and potentially vulnerable to mistreatment and abuse. The Commonwealth Government ratified the OPCAT in December 2017.⁹⁰

4.3 The main obligations arising from ratification include establishing a system of regular preventive visits by independent bodies, known as National Preventive Mechanisms (NPMs) and accepting visits from the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT).⁹¹

4.4 At the time of ratification the Commonwealth Government announced the Commonwealth Ombudsman as both the NPM for commonwealth places of detention and the NPM Coordinator for Australia. New South Wales has yet to finalise the NPM for the places of detention in its jurisdiction.⁹² Places of detention in NSW covered by OPCAT include adult corrective facilities, youth justice centres, police cells and closed psychiatric facilities.

4.5 Under OPCAT, requirements of an NPM include:

- a preventive visiting mandate
- independence—financial and functional, including no perceived conflicts of interest
- composition—gender-balanced and representative
- unrestricted access to places of detention
- unfettered access to information
- unrestricted access to persons, including staff

⁹⁰ Commonwealth Ombudsman, [Implementation of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment and Punishment \(OPCAT\): Baseline Assessment of Australia's OPCAT Readiness](#), Report No 3, September 2019, p.1.

⁹¹ [Implementation of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment and Punishment \(OPCAT\): Baseline Assessment of Australia's OPCAT Readiness](#), p.1.

⁹² [Implementation of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment and Punishment \(OPCAT\): Baseline Assessment of Australia's OPCAT Readiness](#), p.7.

- the ability to make public reports and recommendations
- privileges, immunities and protections from reprisals; and
- the ability to communicate with the SPT.⁹³

4.6 In evidence before the Committee, Ms Fiona Rafter, Inspector of Custodial Services, indicated that she would be happy to undertake the role of NPM in NSW provided there were enough resources to discharge the functions.

I have previously provided to Government some information around additional resourcing that I would require to fulfil the OPCAT functions and I have been asked to provide further information in relation to that. I will be putting forward a submission about increasing the number of resources in the office.⁹⁴

4.7 The Inspector also indicated that she currently does not have jurisdiction over some places of detention that fall within the remit of OPCAT, for example police cells. If nominated as the NPM the Inspector would require jurisdiction and resources to visit those places of detention.⁹⁵

4.8 The Committee will monitor the Government's decision in relation to nominating the State's OPCAT NPM.

⁹³ [Implementation of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment and Punishment \(OPCAT\): Baseline Assessment of Australia's OPCAT Readiness](#), p.16.

⁹⁴ Ms Fiona Rafter, Inspector of Custodial Services, [Transcript of evidence](#), 18 February 2020, p.19.

⁹⁵ Ms Rafter, [Transcript of evidence](#), p.20.

Chapter Five – NSW Crime Commission

- 5.1 This chapter provides a brief overview of some recent developments and issues concerning the NSW Crime Commission (the Commission) over the last two annual reporting periods.

Appointment of permanent Crime Commissioner

- 5.2 Since November 2017, the Commission has been presided over by acting Commissioners. From November 2017 to November 2018, Mr Peter Bodor QC served as the Acting Crime Commissioner. He is now serving as Assistant Commissioner (Legal). The current Acting Crime Commissioner, Mr Peter Cotter APM, has served in the role from November 2018.⁹⁶ However, the Committee understands that a permanent Commissioner is in the final stages of being appointed.
- 5.3 The Commission has several important functions. Many of its principal functions relate to the investigation of serious crime and criminal groups, including gathering and furnishing evidence to the Director of Public Prosecutions or Attorney General for use in prosecutions.⁹⁷ The Commission is also equipped with very broad powers, with the Act specifically providing that it has power to do all things necessary for, or reasonably incidental to, its functions.⁹⁸ Express powers include search and seizure powers, powers of arrest, and the power to compel witnesses to give evidence in private.⁹⁹ At the hearing, Acting Commissioner Cotter stated that the Commission had held 103 such coercive hearings in the previous reporting year.¹⁰⁰
- 5.4 Noting the significant powers and important work of the Commission, the Committee has been concerned that for the last 2.5 years both Crime Commissioners have served in an acting capacity. While there are good reasons why acting appointments are sometimes necessary, the Committee is of the view that where possible these should be for short periods of time.
- 5.5 Having certain and stable leadership over the longer term is important to most organisations, and the Crime Commission is no exception. The Committee also notes that the *Crime Commission Act 2012* contains different provisions governing the removal of Commissioners appointed on an acting and permanent basis.¹⁰¹

⁹⁶ Mr Peter Cotter APM, Acting Crime Commissioner, NSW Crime Commission, [Transcript of evidence](#), 18 February 2020, p.23.

⁹⁷ [Crime Commission Act 2012 \(CC Act\), s10](#).

⁹⁸ [CC Act, s14](#).

⁹⁹ [CC Act, Pt 2](#), Divs [3](#), [4](#) and [7](#).

¹⁰⁰ Mr Cotter, [Transcript of evidence](#), p.21.

¹⁰¹ For instance, the CC Act provides that an acting Commissioner can be removed at any time by the Governor: [sch 1, cl 2\(1\), \(3\) and \(4\)](#). In contrast, a 'permanent' Commissioner could be appointed for a fixed term of up to 10 years, and can only be removed in a narrow set of circumstances such as incapacity, incompetence, misbehaviour, or a breach of pecuniary interest provisions: [sch 1, cl 6](#).

- 5.6 For these reasons, the Committee is pleased to hear that, at the time of writing, a permanent Crime Commissioner is in the final stages of being appointed.

Asset confiscation

- 5.7 A significant part of the Commission's work is to confiscate assets that are likely to be linked to serious criminal activity. In line with its functions under the *Criminal Assets Recovery Act 1990*, the Commission has a team dedicated to initiating proceedings in the Supreme Court to obtain asset confiscation orders.

- 5.8 At the hearing, Acting Commissioner Cotter indicated that in the last reporting year the Commission had recovered \$30 million on behalf of the State of New South Wales by enforcing confiscation orders. A similar amount had been recovered for each of the past five years. He further explained that the Commission had prepared a business case to almost double the funding to its assets confiscation team in order to dramatically increase its recovery capacity:

That \$4 million enterprise returns year in, year out \$30 million to the State, which aids principally in other law enforcement strategies – some of them covert – and equally aiding victims of crime, most importantly. We have put a business case together which is humble but sensible and appropriate. In it we have asked to tap into over 10 years – about \$3.6 million a year, so \$36 million over 10 years, which will deliver, we say, for every dollar invested, \$5.70 in return. There is a whole tier of criminals out there we believe we are missing with asset confiscation. There are about 1,000 referrals to us a year and we action about 130 to 140 a year.

...That is attracting significant interest at the moment and we will wait and see how that lands and we hope it is received positively.¹⁰²

- 5.9 The Commission's proposal would also likely involve an expansion of its asset confiscation team, consisting of lawyers and financial analysts, from 20 to 40 people.
- 5.10 In discussing the overall strategy of the Commission, Mr Cotter observed that it was shifting from the previous emphasis on cybercrime to focusing on the Commission's 'three pillars': its investigation and analytical capability, its coercive hearing powers, and its asset confiscation arm.¹⁰³ He observed that the previous emphasis on cybercrime was not compatible with the skills and resources of the Commission, especially considering that the NSW Police Force has a dedicated cybercrime squad of over 100 people.¹⁰⁴ In contrast, expanding the assets confiscation capacity of the Commission – one of the 'three pillars' – would leverage one of the 'strengths' and 'niche' capabilities of the Commission.¹⁰⁵
- 5.11 The Committee agrees that assets confiscation appears to be one of the current strengths of the Commission and looks forward to hearing the outcome of the business case.

¹⁰² Mr Cotter, [Transcript of evidence](#), p.22.

¹⁰³ Mr Cotter, [Transcript of evidence](#), p.21.

¹⁰⁴ Mr Cotter, [Transcript of evidence](#), p.23.

¹⁰⁵ Mr Cotter, [Transcript of evidence](#), p.22.

Statutory review of the *Crime Commission Act 2012*

Recommendation 5

That the statutory review of the *Crime Commission Act 2012* be completed as a matter of urgency.

- 5.12 The Minister for Police must review the CC Act as soon as possible five years after its commencement, to assess whether the policy objectives of the Act remain valid and its terms appropriate for securing those objectives. The statutory review is to be tabled in Parliament within 12 months of the end of the period of five years.¹⁰⁶ Although the majority of the CC Act commenced on 5 October 2012, the statutory review has not yet been tabled.
- 5.13 The Committee notes that the statutory review appears to be in the process of being finalised.¹⁰⁷ A discussion paper on the review has also been published, but submissions to that discussion paper closed in August 2018.¹⁰⁸
- 5.14 The Committee considers that regular statutory reviews are important, particularly for legislation relating to statutory organisations like the Crime Commission which wield significant powers.
- 5.15 For these reasons, and noting that it has been underway for some time, the Committee has recommended that the statutory review of the CC Act be tabled as soon as possible.

¹⁰⁶ [CC Act, s88](#).

¹⁰⁷ New South Wales, Legislative Assembly, [Questions and Answers](#), no 48, 25 February 2020, question 2372 (The Hon. Paul Lynch MP, Shadow Attorney General).

¹⁰⁸ NSW Department of Communities and Justice, [Review of the Crime Commission Act 2012](#), 15 July 2018, viewed 18 June 2020

Appendix One – Report summaries

This report covers two years of work for the oversight agencies. During this period the agencies conducted a number of investigations and prepared several reports involving considerable work that highlighted systemic issues and gained public attention. Some of these are summarised below.

NSW Ombudsman and Child Death Review Team

[OCHRE review report \(NSW Ombudsman\)](#)

OCHRE (Opportunity, Choice, Healing, Responsibility, Empowerment) is the NSW Government's plan for delivering programs and services to the Aboriginal community in NSW. It commenced in April of 2013, and the Ombudsman was given oversight in May 2014.

This report of October 2019 details the Ombudsman's ongoing assessment of the implementation of OCHRE. It examines the following initiatives that comprise OCHRE:

- Healing
- Aboriginal Language and Culture Nests
- Local Decision Making
- Aboriginal Economic Prosperity Framework
- Solution Brokerage
- Opportunity Hubs
- Connected Communities

The report provides an analysis of each initiative, including the range of activities and programs comprising it, and identifies effective areas/areas for improvement in implementation or design. It also provides comprehensive findings related to the ongoing work of these programs.

As well as providing recommendations for each of these initiatives and their supporting governance frameworks, it also discusses the achievements and challenges faced since the inception of OCHRE, and highlights areas for improvement.

[Role of child restraints \(CDRT\)](#)

The Child Death Review Team (CDRT) tabled a report in June of 2019 that resulted from a research project into the role of child restraints and seatbelts in passenger deaths of children (0-12 years). It was undertaken by Dr Julie Brown from Neuroscience Research Australia, and analysed CDRT data from 2007-2016. As well as data analysis, the report outlines a review of both legislative requirements and literature related to the use of child restraints and seatbelts for children.

The report outlines the results of Dr Brown's research, including the impacts of restraint factors (i.e. the child not being properly restrained), socio-economic status, remoteness, statistical over-representation of Indigenous children, and factors related to the driver of the vehicle's role. It proposed several areas for development and attention. These included additional requirements for monitoring, and the implementation of policies and programs to

promote correct fitting and use of child restraints. It also suggests several areas where there needs to be better access for vulnerable population groups.

Law Enforcement Conduct Commission

The LECC completed several investigations during the reporting period.

Operation Tusk

This operation focused on reviewing the Child Protection Register, which was established in 2001 under the NSW *Child Protection (Offenders Registration) Act 2000*. The Register requires offenders who have been convicted and sentenced for certain offences involving children or child abuse material to register and report to police when they re-enter the community.

The LECC found that there were significant errors in both applying the legislation and administering the Register dating back to 2002, and that the NSW Police Force were aware of issues with the Register for several years. The LECC's operation report was tabled in October of 2019.

The report outlines the Commission's investigation and an in-depth consideration of the errors in the Register and their impacts. It includes 12 case studies and makes 11 recommendations. These include a review of the Act governing the Register, how to best make reparations to individuals impacted by mis-management of the Register, and the strengthening of governance and enforcement frameworks, including the resourcing of the NSW Police Force Child Protection Registry itself.

Operation Trieste

This investigation was commenced into potential serious misconduct of two police officers during a traffic stop in April of 2019.

The report sets out the legislative allowances for their investigation, outlines the event, submissions from involved parties, and examines the evidence given by the two police officers to the Commission in July of 2019.

The Commission found that two officers had engaged in serious misconduct, and made two recommendations related to legal proceedings against the two officers. The report was tabled in October of 2019.

Review of NSW Police Force Standard Operating Procedures for strip searches in custody

The LECC began an ongoing review of the conduct of strip searches under the NSW Police Force's Standard Operating Procedures (SOPs) in 2018. This review includes investigations into individual strip search incidents (Operations Brugge, Gennaker, Karuka, Mainz, and Sandbridge respectively), as well as an overarching monitoring of NSW Police Force investigation and management of potential misconduct related to strip searches.

The LECC's review examines the gaps and issues in legislation and policy governing police powers to conduct strip searches. These include the use of Closed Circuit Television (CCTV), use of force, and conducting strip searches on children and young people, or people with impaired intellectual function. The initial review made 5 recommendations related to improving the clarity and application of operating procedures that relate to strip searches.

As the review is ongoing, the report includes not only the LECC's initial review, but the police response to the LECC's review of September 2019, and some issues the Commission is continuing to investigate and review. Although there are noted ongoing issues, this report considers the NSW Police Force policy and SOPs up to August of 2019. The report was tabled in January of 2020.

Operation Tepito

The Commission has also tabled an interim report into its ongoing Operation Tepito, which considers the use of the NSW Police Force Suspect Targeting Management Plan (STMP) on children and young people. This investigation begun in June of 2018 and the interim report was tabled in January of 2020.

STMP was introduced in 2000 and revised in 2005, and is designed to prevent repeat offenders from committing ongoing crimes in their communities. Currently, the same STMP process applies to adults and children. Chapter 2 of the report notes that the NSW Police Force has begun a re-design of STMP. This re-design begun after the investigation had commenced.

The report also considers NSW Police Force approaches to young offenders and youth policing, and outlines plans to review the revised STMP model within 12 months of its implementation. Overall, the report makes 15 recommendations regarding the appropriateness and application of STMP on young offenders, and presents 14 case studies.

Inspector of Custodial Services

Women on Remand

This report details the process and outcome of an inspection into the conditions, treatment, and outcomes for women on remand in NSW. It was commenced in 2017 following an observation in the 2015-16 annual report that the female remand population was the fastest growing part of NSW's prison population, despite being an overall minority within the NSW correctional system.

The inspection included four correctional centres that house female remand inmates – Silverwater Women's Correctional Centre, Dilwynia Correctional Centre, Grafton Intake and Transient Centre, and Wellington Correctional Centre.

The report creates a profile of women on remand using Corrective Services NSW (CSNSW) data from 2016-17 and 2017-18, including the opinion of staff working with female inmates, and suggests changes to the current strategy for managing women in custody. Recommendations are also made regarding current processes, strategies, and frameworks for classifying and placing female inmates, including those that deal with problems of drug use, family relationships, and the processes involved with releasing women held on remand.

It also details a range of issues arising from the inspections, including access to health, legal, and other services and programs while on remand, and the implementation of diversionary programs designed to reduce the number of women on remand.

Overall, the report makes 39 recommendations regarding a number of issues that the inspection raised. It was tabled in February of 2020.

[Use of force, separation, segregation and confinement in NSW juvenile justice centres](#)

This report details the process and outcomes of an inspection carried out into the use of force, separation, segregation, and confinement in juvenile justice centres (JJs) across NSW. There are 6 JJs across NSW that house children and young people (aged 10 – 21 years), and all were inspected in 2016, with follow-up inspections in 2017 and 2018.

As part of its review, the report discusses the conduct and closure of the Chisholm Behaviour Program, and the use of Detainee Risk Management Plans (DRMPs), including the work done to strengthen the processes, frameworks, and outcomes of the DRMP process.

The report makes 60 recommendations regarding the outcomes of the ICS review, related to legislation and policy; culture, practice, recruitment, and training of Juvenile Justice staff; and the monitoring, reporting, and accountability of Juvenile Justice staff and centres. These are aimed at ensuring the safety and security of young people and staff in JJs, upskilling staff working with young people, particularly in incident response and handling, and enhancing monitoring and reporting of restrictive practices. The report notes many of these recommendations have begun to be implemented during the course of the initial and follow up inspections.

Appendix Two – Committee's functions

The Committee's functions relate to the NSW Ombudsman, Law Enforcement Conduct Commission, NSW Crime Commission (including the Commission's Management Committee), Information Commissioner, Privacy Commissioner, Child Death Review Team, Inspector of the Law Enforcement Conduct Commission, and Inspector of Custodial Services.

The Committee's main functions involve:

- monitoring and reviewing the exercise of each office's functions
- examining each office's annual and other reports
- reporting to NSW Parliament on matters relating to each office's functions and annual and other reports
- inquiring into matters referred to the Committee by NSW Parliament.

The specific functions are set out in section 31B of the *Ombudsman Act*, section 131 of the *Law Enforcement Conduct Commission Act*, section 44 of the *Government Information (Information Commissioner) Act*, section 44A of the *Privacy and Personal Information Protection Act*, section 71 of the *Crime Commission Act* and section 17 of the *Inspector of Custodial Services Act*. Section 34J(1) of the *Community Services (Complaints, Reviews and Monitoring) Act* is also relevant to the work of the Committee.

Appendix Three – Witnesses

Monday 17 February 2020
Macquarie Room, Parliament House

Witness	Organisation
The Hon. Reginald Blanch AM QC Acting Chief Commissioner	
Ms Michelle O’Brien Chief Executive Officer	Law Enforcement Conduct Commission
Mr Aaron Bantoft Director of Investigations – Oversight	
Mr Gary Kirkpatrick Director of Investigations – Integrity	
The Hon. Terry Buddin SC Inspector	
Ms Angela Zekanovic Principal Legal Advisor	Inspector of the Law Enforcement Conduct Commission
Mr Ian McCallan-Jamieson Senior Investigation and Compliance Officer	

Tuesday 18 February 2020
Macquarie Room, Parliament House

Witness	Organisation
Mr Michael Barnes NSW Ombudsman	
Mr Danny Lister Deputy Ombudsman, Engagement and Aboriginal Programs	NSW Ombudsman
Ms Nicole Lawless Acting Deputy Ombudsman, Reviews Investigations and Community Services Division	
Mr Michael Barnes Convenor	
Ms Monica Wolf Assistant Ombudsman, Project and Systemic Reviews	NSW Child Death Review Team
Ms Elizabeth Tydd CEO and Information Commissioner	
Ms Samantha Gavel Privacy Commissioner	Information and Privacy Commission
Ms Fiona Rafter Inspector	Inspector of Custodial Services
Mr Peter Cotter APM Acting Commissioner	
Mr Michael Wilde Executive Director, Corporate Services	NSW Crime Commission

Appendix Four – Extracts from minutes

MINUTES OF MEETING No 2

1.32pm, Thursday 19 September 2019

Room 1254

Members present

Mr Dugald Saunders MP (Chair), the Hon Niall Blair MLC (Deputy Chair), the Hon Lou Amato MLC, Dr Hugh McDermott MP, the Hon Adam Searle MP, Mr Paul Lynch MP.

Officers in attendance

Clara Hawker, Emma Wood, Madeleine Dowd, Abegail Turingan, Mohini Mehta

1. Apologies

Mr Mark Coure MP

2. Confirmation of minutes

Resolved, on the motion of Mr Amato, seconded by Dr McDermott: That the minutes of the meeting of 20 June 2019 be confirmed.

3. Correspondence

3.1 ***

4. Future work of the Committee

The Committee agreed to:

- begin its review of the 2017/18 and 2018/19 annual and other reports of oversighted agencies after the 2018/19 reports have been tabled; and
- hold hearings with the relevant agencies in late February/early March 2020 (depending on the sitting schedule).

5. ***

6. ***

7. Next meeting

The Committee adjourned at 1.45pm until a date to be determined.

MINUTES OF MEETING No 4

9.01am, Thursday 14 November 2019

Room 813C

Members present

Mr Dugald Saunders MP (Chair), the Hon Trevor Khan (Deputy Chair), the Hon Lou Amato MLC, Dr Hugh McDermott MP, the Hon Adam Searle.

Officers in attendance

Clara Hawker, Emma Wood, Madeleine Dowd.

1. Apologies

Mr Mark Coure MP, Mr Paul Lynch MP.

2. Confirmation of minutes

Resolved, on the motion of Dr McDermott, seconded by Mr Amato: That the minutes of the meeting of 5 November 2019 be confirmed.

3. ***

4. 2020 Review of the Annual Reports of oversighted bodies

Resolved, on the motion of Mr Searle, seconded by Dr McDermott: That the Committee commence its 2020 examination of annual and other reports of oversighted bodies and invite representatives from the relevant agencies to give evidence at public hearings on dates to be determined.

5. Next meeting

The Committee adjourned at 9.18am until a date to be determined.

MINUTES OF MEETING No 5

9.32am Thursday 6 February 2020

Room 1136

Members present

Mr Dugald Saunders MP (Chair), the Hon Trevor Khan (Deputy Chair), the Hon Lou Amato MLC, Mr Mark Coure MP, Dr Hugh McDermott MP.

Officers in attendance

Clara Hawker, Emma Wood, Stephanie Mulvey, Abigail Turingan.

1. Apologies

Mr Paul Lynch MP, the Hon Adam Searle MLC

2. Confirmation of minutes

Resolved, on the motion of Mr Khan, seconded Dr McDermott, that the minutes of meeting no 4 be confirmed.

3. ***

4. 2020 Review of the Annual Reports of oversighted bodies

Committee has been provided with a proposed hearing schedule for Tuesday 18 February.

Resolved, on the motion of Mr Coure, seconded Mr Khan: That the Committee hold a public hearing on Tuesday 18 February 2020 to hear from the witnesses outlined in the attached hearing schedule.

Committee then considered when to hear from the LECC and LECC Inspector.

Discussion ensued.

Committee agreed that it is preferable to hear from the LECC and LECC Inspector on Monday 17 February 2020, and that the secretariat should make the necessary enquiries to confirm their availability.

5. ***

6. Next meeting

The Chair adjourned the meeting at 9.54am until a date to be determined.

MINUTES OF MEETING No 6

2.07pm, Monday 17 February 2020

Macquarie Room

Members present

Mr Dugald Saunders (Chair), Mr Amato, Mr Coure, Mr Khan, Mr Lynch, Dr McDermott and Mr Searle

Officers in attendance

Clara Hawker, Emma Wood, Stephanie Mulvey, Abigail Turingan, Mohini Mehta

1. Deliberative meeting

1.1 Confirmation of minutes

Resolved, on the motion of Mr Coure, seconded by Mr Amato: that the minutes of the meeting of 6 February 2020 be confirmed.

Resolved on motion of Mr Amato, seconded by Mr Coure: That the Committee hold a public hearing on Monday 17 February 2020 to hear from the witnesses outlined in the attached hearing schedule.

1.2 Media orders

Resolved, on the motion of Mr Amato, seconded by Mr Coure: That the Committee authorises the audio-visual recording and photography and broadcasting of the public hearing on 17 February 2020, in accordance with the Legislative Assembly's guidelines for the coverage of proceedings for committees administered by the Legislative Assembly.

1.3 Answers to questions taken on notice

Resolved, on the motion of Mr Khan, seconded by Mr McDermott: That witnesses be requested to return answers to questions taken on notice and supplementary questions within 10 days of the date on which the questions are forwarded to witnesses.

2. Public hearing – 2020 Review of the Annual Reports of oversighted bodies

Witnesses and the public were admitted. The Chair opened the public hearing at 2.13pm and after welcoming the witnesses made a short opening statement.

The Hon Reginald Blanch AM QC, Acting Chief Commissioner of the Law Enforcement Conduct Commission (LECC) was sworn.

Ms Michelle O'Brien, CEO and General Counsel of the LECC was affirmed.

Mr Aaron Bantoft, Director of Investigations, Oversight, was affirmed.

Mr Gary Kirkpatrick, Director of Investigations, Integrity, was sworn.

The Committee commenced questioning the witnesses. Evidence concluded, the witnesses withdrew.

The Hon Terry Buddin SC, Inspector of the Law Enforcement Conduct Commission (LECC Inspector), Ms Angela Zekanovic, Principal Legal Advisor, Office of the LECC Inspector, and Mr Ian McCallan-Jameison, Senior Investigation and Compliance Officer, Secure Monitoring Unit were sworn.

The LECC Inspector made an opening statement.

The Committee commenced questioning the witnesses. Evidence concluded, the witnesses withdrew.

The public hearing concluded at 3.57pm. The public withdrew.

3. Post-hearing deliberative

The Committee commenced a deliberative meeting at 4.15pm.

3.1 Publication orders

Resolved, on the motion of Mr Coure, seconded by Mr Amato: That the corrected transcript of public evidence given today be authorised for publication and uploaded on the Committee's website.

3.2 ***

The meeting concluded at 4.07pm until 10.20am on Tuesday, 18 February 2020.

MINUTES OF MEETING No 7

10.23am, Tuesday 18 February 2020

Macquarie Room

Members present

Mr Saunders (Chair), Mr Amato, Mr Coure, Mr Khan, Mr Lynch, Dr McDermott and Mr Searle

Officers in attendance

Clara Hawker, Emma Wood, Stephanie Mulvey, Abegail Turingan, Mohini Mehta

1. Confirmation of minutes

Resolved, on the motion of Mr Coure, seconded Mr Amato: that the minutes of the meeting of 17 February 2020 be confirmed.

2. ***

3. 2020 review of the annual and other reports of oversighted agencies

3.1 Media orders

Resolved, on the motion of Mr Searle, seconded Mr Coure: That the Committee authorises the audio-visual recording and photography and broadcasting of the public hearing on 18 February 2020, in accordance with the Legislative Assembly's guidelines

for the coverage of proceedings for committees administered by the Legislative Assembly.

3.2 Answers to questions taken on notice

Resolved, on the motion of Dr McDermott, seconded Mr Amato: That witnesses be requested to return answers to questions taken on notice and additional questions within 10 days of the date on which the questions are forwarded to witnesses.

3.3 Evidence from NSW Ombudsman and Inspector of Custodial Services

The Committee discussed hearing a portion of the evidence from the NSW Ombudsman and the Inspector of Custodial Services in camera

Discussion ensued.

Resolved, on the motion of Mr Searle, seconded Mr Khan: That the Committee hear a portion of the evidence from the NSW Ombudsman and the Inspector of Custodial Services in camera.

Resolved, on the motion of Mr Searle, seconded Mr Khan: That the Committee partially publish the NSW Ombudsman's submission to the statutory review of the *Inspector of Custodial Services Act 2012* to the Inspector of Custodial Services on a confidential basis.

Resolved, on the motion of Mr Khan, seconded Mr Searle: That NSW Ombudsman staff can remain in the room when the Committee goes in camera.

3.4 Public hearing – 2020 Review of the Annual Reports of overlooked bodies

Witnesses and the public were admitted.

The Chair opened the public hearing at 10.35am and after welcoming the witnesses made a short opening statement.

Mr Michael Barnes, NSW Ombudsman and Ms Nicole Lawless, Acting Deputy Ombudsman, Reviews Investigations and Community Services Division, NSW Ombudsman, were affirmed.

Mr Danny Lester, Deputy Ombudsman, Engagement and Aboriginal Programs, NSW Ombudsman, was sworn.

The Committee agreed to take evidence from the witnesses in camera at 10.37am. The public gallery was cleared but the NSW Ombudsman's staff remained.

The Ombudsman made an opening statement.

The Committee commenced questioning the witnesses. Evidence concluded.

The Committee resumed the public hearing at 10.52am.

The Committee commenced questioning the witnesses. Evidence concluded, the witnesses withdrew.

Mr Michael Barnes, Convenor, NSW Child Death Review Team, and Ms Monica Wolf, Assistant Ombudsman, Project and Systemic Reviews, NSW Child Death Review Team, were affirmed.

The Convenor made an opening statement.

Evidenced concluded, the witnesses withdrew.

The hearing adjourned at 11.34am and resumed at 12.59pm.

Ms Elizabeth Tydd, Information Commissioner and CEO of the Information and Privacy Commission, and Ms Samantha Gavel, Privacy Commissioner were sworn.

The Information Commissioner made an opening statement.

The Committee commenced questioning the witnesses. Evidence concluded, the witnesses withdrew.

The hearing adjourned at 1.38pm and resumed at 2.00pm.
Ms Fiona Rafter, Inspector of Custodial Services, was affirmed.

The Inspector made an opening statement.

The Committee agreed to take evidence from the witness in camera at 2.04pm.

Resolved on the motion of Mr Searle, seconded Mr Coure that the staff of the Inspector of Custodial Services can remain during the in camera proceedings.

The public gallery was cleared but the Inspector's staff member remained.

The Committee commenced questioning the witness.

The Committee resumed the public hearing at 2.17pm.

The Committee commenced questioning the witness. Evidence concluded, the witness withdrew.

The hearing adjourned at 2.23pm until 3pm.

Mr Peter Cotter APM, Acting Commissioner, NSW Crime Commission, and Mr Michael Wilde, Executive Director, Corporate Services, NSW Crime Commission, were sworn.

The Acting Commissioner made an opening statement.

The Committee commenced questioning the witnesses. Evidence concluded, the witnesses withdrew.

The public hearing concluded at 4.05pm. The public withdrew.

3.5 Publication orders

Resolved, on the motion of Mr Coure, seconded Mr Searle: That the corrected transcript of public evidence given today be authorised for publication and uploaded on the Committee's website.

Resolved, on the motion of Mr Searle, seconded Mr Coure: That members provide any proposed supplementary questions to the Committee secretariat by Friday, 21 February 2020.

3.6 ***

The meeting concluded at 4.19pm until a date to be determined.

MINUTES OF MEETING No 8

1.36pm Thursday 2 April 2020

Room 1136 or via teleconference

Members present via teleconference

Mr Dugald Saunders MP (Chair), the Hon Trevor Khan MLC (Deputy Chair), the Hon Lou Amato MLC, Mr Paul Lynch MP, Dr Hugh McDermott MP

Members present in room 1136

The Hon Adam Searle MLC

Officers in attendance

Clara Hawker, Emma Wood, Stephanie Mulvey, Abegail Turingan.

1. Apologies

Mr Mark Coure MP

2. Confirmation of minutes

Resolved, on the motion of Mr Saunders, seconded Mr Amato: That the minutes of the meeting of 18 February 2020 be confirmed.

3. ***

4. 2020 review of the annual and other reports of oversight agencies

Resolved, on the motion of Mr Saunders, seconded Mr Searle: That the answers to questions taken on notice from the following agencies be published on the Committee's website:

- LECC – response received 24 February 2020 from Michelle O'Brien
- LECC – response received 4 March 2020 from Aaron Bantoft
- Inspector of the LECC – response received 27 February 2020 from the Inspector
- NSW Ombudsman – response dated 9 March 2020 from the NSW Ombudsman

- Child Death Review Team – response dated 9 March 2020 from the Child Death Review Team
- Information and Privacy Commission – response dated 9 March 2020 from the Privacy Commissioner
- Information and Privacy Commission – response dated 9 March 2020 from the Information Commissioner

Resolved, on the motion of Mr Saunders, seconded Mr Lynch: That the answers to additional questions from the following agencies be published on the Committee's website:

- NSW Crime Commission – response received 11 March 2020

5. ***

6. **Next meeting**

The Chair adjourned the meeting at 1.43pm until a date to be determined.

UNCONFIRMED MINUTES OF MEETING No 11

1.02pm, 30 July 2020

Room 814/815 or via Webex

Members present

Mr Dugald Saunders MP (Chair), The Hon. Trevor Khan MLC (Deputy Chair), The Hon. Lou Amato MLC, Mr Mark Coure MP, Dr Hugh McDermott MP, The Hon. Adam Searle MLC

Officers in attendance

Clara Hawker, Emma Wood, Stephanie Mulvey (via Webex), Abigail Turingan, Ilana Chaffey

1. **Apologies**

Mr Paul Lynch MP

2. **Confirmation of minutes**

Resolved, on the motion of Mr Coure, seconded Dr McDermott: That the minutes of the meeting of 7 July 2020 be confirmed.

3. ***

4. **2020 review of the annual reports of oversighted agencies**

Resolved on the motion of Mr Khan, seconded Dr McDermott:

1. That the draft report be the report of the Committee, and that it be signed by the Chair and presented to the House.
2. That the Chair and committee staff be permitted to correct stylistic, typographical and grammatical errors.
3. That once tabled, the report be posted on the Committee's website.

5. Next meeting

The Chair adjourned the meeting at 1.24pm until a date to be determined.