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Contents

Membership	ii
Chair’s foreword	iii
Chapter One – Agency response to the COVID-19 pandemic	1
Information and Privacy Commission	1
Inspector of Custodial Services	2
NSW Crime Commission	4
NSW Ombudsman	5
Chapter Two – Strategic and operational issues	6
Information and Privacy Commission	6
Inspector of Custodial Services	6
NSW Crime Commission	7
Law Enforcement Conduct Commission	9
Inspector of the Law Enforcement Conduct Commission	11
NSW Ombudsman	12
NSW Child Death Review Team	16
Appendix One – Committee functions	18
Appendix Two – List of witnesses	19
Appendix Three – Extracts from minutes	20

Membership

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Chair's foreword

I am pleased to present the Committee's 2021 review of oversight agencies. A core function of this Committee is to scrutinise the performance of several important 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).

During this reporting period, the impact of the COVID-19 pandemic on NSW agencies was significant. Agencies needed to adapt the way they work and how they carry out their statutory functions. Outlined in the report are some of the issues faced by agencies during this period, including: increased workloads; impact of limited face to face contact; and the increased use of technology. I commend all agencies for continuing their important work through this challenging time.

The Committee also highlights a number of strategic and operational issues that it will monitor over the next reporting period. One such issue is the introduction of a mandatory notification of data breach scheme. In early 2021, a draft bill was announced proposing the introduction of a mandatory reporting scheme. The Committee will monitor the progress of this draft bill and the impact it may have on the Information and Privacy Commission.

Similarly, the Committee also comments in this report on the progress of a draft bill to amend the *Public Interest Disclosures Act 1994*. The Committee has a longstanding interest in this issue and will be monitoring its progress over the next annual review period.

In its last annual review the Committee referred to the immense period of change that the Law Enforcement Conduct Commission underwent in the early months of 2020. In that report the Committee made recommendations aimed at clarifying the status and roles of the Commissioners.

The Committee was pleased to hear that, since the Committee's last annual review, structural changes to the Law Enforcement Conduct Commission were implemented and are understood to be working well. The Committee will continue to monitor this area to ensure these changes continue to be viewed positively.

I would like to thank all of our oversight agencies for participating in this review and, more broadly, for their work over the reporting period. I also thank my fellow Committee members for their assistance and their ongoing dedication to the work of the Committee.



Dugald Saunders MP
Chair

Chapter One – Agency response to the COVID-19 pandemic

- 1.1 The Committee acknowledges the significant impact of the ongoing COVID-19 pandemic on NSW agencies. In particular, measures introduced to manage the pandemic have meant that agencies have had to rapidly adapt the way they carry out their statutory functions. For example, face to face contact has been limited; and agencies have been required to transition to remote working arrangements.
- 1.2 The Committee was pleased to see that agencies continued their important work and were able to effectively and quickly adapt to changed ways of working. Not all agencies referred to the impact of the pandemic on their work, but we recognise it was a significant issue faced by agencies during this reporting period.

Information and Privacy Commission

- 1.3 The Committee heard that the COVID-19 pandemic accelerated existing trends related to the increasing use of digital technology in NSW. The Privacy Commissioner commented that the pandemic 'highlighted the significant value of digital technology and data', but noted that this value also heightened risks around data use, privacy, and cybersecurity.¹
- 1.4 The Privacy Commissioner commented that government agencies can collect, store, use and disseminate vast quantities of information, meaning that privacy risks for citizens are much greater than they once were. Therefore, it is imperative that appropriate privacy protections are in place.²
- 1.5 The Privacy Commissioner further noted that, during the pandemic, cybersecurity risks have been 'elevated' by rapidly evolving technology and associated development of techniques employed by malicious actors.³
- 1.6 The Information and Privacy Commission (the IPC) informed the Committee that throughout the pandemic they have worked to identify risks and to develop strategies to mitigate them. They have also consulted with agencies to make sure that the benefits of using digital technology and data didn't come at the expense of compromising citizens' privacy.⁴
- 1.7 The Information Commissioner commented that 'this year, more than any other' saw a transformation in government service delivery and decision making – towards a digital government model; this has been the most significant change for both government and government agencies, as well as for the IPC.⁵ With this

¹ Ms Samantha Gavel, Privacy Commissioner, Information and Privacy Commission, [Transcript of evidence](#), 28 May 2021, p 2.

² Ms Gavel, [Transcript of evidence](#), 28 May 2021, p 2.

³ Ms Gavel, [Transcript of evidence](#), 28 May 2021, p 2.

⁴ Ms Gavel, [Transcript of evidence](#), 28 May 2021, p 2.

⁵ Ms Elizabeth Tydd, CEO and Information Commissioner, Information and Privacy Commission, [Transcript of evidence](#), 28 May 2021, p 3.

uptake of digital technology, particularly motivated by the pandemic, the workload of the IPC has increased and is likely to continue this trajectory.⁶

- 1.8 The Committee was pleased to hear that an independent operational review, released in May 2021, found that the IPC deals with increasing caseloads and more requests for advice effectively. During the reporting period there was a 30.8 per cent increase in requests for advice from agencies, including more than 100 applications made under the Digital Restart Fund. These were driven particularly by digital technology uptake. There was also a 27 per cent growth in tribunal matters. The review found that, even with these increases, the IPC resolves complaints and reviews in a 'substantially' shorter time than its peer group, demonstrating an 'unparalleled performance'.⁷ The Committee will continue to monitor the increasing workload of the IPC over the next reporting period.

Inspector of Custodial Services

- 1.9 The Inspector of Custodial Services (the Inspector of CS) informed the Committee that the COVID-19 pandemic presented a 'significant threat [...] to the custodial environment'.⁸ In response to this threat, the Inspector of CS implemented the [Inspector of Custodial Services COVID-19 plan](#) (the Plan). The Plan aims to ensure safety for Inspector of CS staff and stakeholders while maintaining continuity of the Inspector's oversight functions, particularly the Official Visitor Program.⁹ It will be in place for the duration of the pandemic, and the Committee notes that it has been updated since the reporting period to reflect developments in legislation and public health advice.¹⁰
- 1.10 Because unusual measures are implemented in a pandemic – quarantine and medical isolation, for example - it's 'particularly crucial' to monitor the ongoing treatment and conditions of inmates and detainees.¹¹ This oversight, however, shouldn't result in overburdening custodial centres, which would undermine their ability to respond appropriately to the pandemic.¹² In acknowledging this issue, the Inspector of CS indicated they adopted a "do no harm" approach during the reporting period.¹³
- 1.11 This resulted in the Inspector of CS conducting their first remote inspection, and postponing another. Other onsite visits were also postponed between March and May 2020.¹⁴ The Inspector acknowledged the importance of this decision, but indicated it was necessary to ensure staff safety. In-person visits were recommenced in mid-2020, once protocols to protect both Inspector of CS staff

⁶ Ms Tydd, [Transcript of evidence](#), 28 May 2021, p 3

⁷ Ms Gavel, [Transcript of evidence](#), 28 May 2021, p 2; Ms Tydd, [Transcript of evidence](#), 28 May 2021, p 3.

⁸ Ms Fiona Rafter, Inspector of Custodial Services, [Transcript of evidence](#), 28 May 2021, p 7.

⁹ Inspector of Custodial Services, [COVID-19 plan](#), Version 4, June 2021, p 6, viewed 6 September 2021; Inspector of Custodial Services, [Annual Report 2019-20](#), p 30, viewed 6 September 2021; Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 7.

¹⁰ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 7; Inspector of Custodial Services, [COVID-19 \(coronavirus\)](#), last updated 3 September 2021, viewed 7 September 2021.

¹¹ Inspector of Custodial Services, [Annual Report 2019-20](#), pp 30-31, viewed 7 September 2021.

¹² Inspector of Custodial Services, [COVID-19 plan](#), Version 4, June 2021, p 6, viewed 9 September 2021.

¹³ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 7.

¹⁴ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 7.

and the staff, inmates, and detainees in correctional centres had been put in place.¹⁵ Inspections undertaken in relation to the Inspector of CS' current review of Inmate Transport, which commenced in 2019, continued during the reporting period.¹⁶

- 1.12 Another way the Inspector of CS ensures oversight of correctional facilities in NSW is through its Official Visitor Program (OVP). The OVP is discussed in more detail in Chapter 2. Because the OVP involves official visitors attending centres at least once a month, this was immediately impacted by adjustments to visitor access and associated protocols in Corrective Service NSW and Youth Justice NSW centres across the state.

The use of audio-visual links for visits

- 1.13 The Committee notes that one result of the pandemic was an increase in the use of audio-visual equipment to facilitate visits by audio-visual link (AVL). The Inspector of CS commented that she has made recommendations that the use of AVL be continued beyond the pandemic, not as a substitute for in-person visits, but as an alternative option for family contact and visits.¹⁷
- 1.14 The Inspector noted that because many correctional centres in New South Wales are regionally based, families based in Sydney or other regional centres must travel long distances for in-person visits. Children in particular can find the process of in-person visits traumatic.¹⁸ Because of these factors, AVL makes it easier to maintain contact with an incarcerated family member.
- 1.15 The Committee inquired if the introduction of AVL's had seen an increase in the number of visits in total. The Inspector stated that, rather than working to increase the number of visits, AVL had 'enabled continuity of visits', and that it may have enabled visits for people who didn't receive them previously.¹⁹
- 1.16 The Inspector indicated there are still limits on the scope for and conduct of AVL visits. Timeslots are restricted, generally to 30 or 45 minutes, because they still require supervision. Different centres also have different methods for AVL in place – some have adopted tablets, and some have wall-mounted screens.
- 1.17 One issue with AVL that was raised was the potential for misuse of the AV equipment. The Inspector indicated she was not aware of any issues related to the misuse of the equipment. This may be attributed largely to protocols around the introduction of any new IT systems in NSW centres. Additionally, she suggested that, because virtual visits are important to inmates, there has not been a push to 'undermine the use of [them],' as this would ultimately jeopardise access.²⁰ As discussed earlier, the Inspector of CS provided support for the

¹⁵ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 7.

¹⁶ Inspector of Custodial Services, [Annual Report 2019-20](#), p 30, viewed 7 September 2021.

¹⁷ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 8.

¹⁸ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 8.

¹⁹ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 9.

²⁰ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 9.

continuation of AVLs alongside in-person visits, when it's safe to do so.²¹ The Committee will monitor the Inspector of CS' reporting in this area.

NSW Crime Commission

- 1.18 The Crime Commissioner informed the Committee that, on account of the COVID shutdown, there were considerably fewer hearings during the reporting period.²²
- 1.19 The Crime Commissioner further commented that due to the interregnum between the previous Acting Commissioner and his appointment, there was only one person who could preside over hearings, the Assistant Commissioner (Legal), Mr Bodor QC. This compounded issues around holding hearings during the reporting period.²³
- 1.20 During evidence before the Committee in May 2021, the Crime Commissioner reported that from the Commission's perspective the pandemic's impact is 'largely over' and that the Commission has exceeded the previous year's number of hearings so far in the 2020-21 reporting period.²⁴

People Matter Employee Survey

- 1.21 The Crime Commissioner updated the Committee on improved results in the People Matter Employee Survey (PMES). The Commissioner noted this could be attributed to the Commission addressing staff needs during the pandemic. In particular, the Commissioner noted that the agency was effective in 'skilling up and provisioning their staff with the technology to work from home.'²⁵ The Commission made particular effort to address concerns raised in the PMES results from 2019, as well as concerns stemming from the impact of the pandemic.²⁶ The PMES is discussed in more detail in Chapter 2.

Trends in serious and organised crime

- 1.22 The Committee also heard that the COVID-19 pandemic has impacted on trends in serious and organised crime in New South Wales. One such area was money laundering networks. Money laundering may have been affected by the closure of casinos, hotels, and clubs, as well as by the sharp decline in international money transfers.²⁷ The Commissioner noted that, despite the easing of restrictions towards the end of the reporting period, the ban on international travel has continued. This has prevented 'shore parties', who manage money laundering operations for 'big operators'.²⁸ Import and sale of illegal drugs, likewise, was affected by border closures and restrictions on trade.²⁹

²¹ Inspector of Custodial Services, [Annual Report 2019-20](#), p 32, viewed 13 September 2021.

²² Mr Michael Barnes, Commissioner, NSW Crime Commission, [Transcript of evidence](#), 28 May 2021, p 14. Under Division 4 of the *Crime Commission Act 2012*, the Commission may hold private hearings as part of its investigations.

²³ Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 14.

²⁴ Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 14.

²⁵ Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 16.

²⁶ Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 16.

²⁷ NSW Crime Commission, [Annual Report 2019-20](#), October 2020, p 23, viewed 16 September 2021.

²⁸ Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 16.

²⁹ NSW Crime Commission, [Annual Report 2019-20](#), October 2020, p 23, viewed 16 September 2021.

NSW Ombudsman

- 1.23 The Ombudsman informed the Committee that the pandemic presented many challenges to the agency. In particular, a move to remote working at very short notice was made more difficult by outdated IT infrastructure and systems unable to support work outside of the office. The Ombudsman was able to overcome these challenges by combining workarounds, deploying new technologies and prioritising its frontline work. This meant that they ensured continuity of complaints handling, including in adult and youth justice correctional centres. The Committee was pleased to hear that the Ombudsman was able to continue its core business activities, while also able to work on strategic goals and activities during the reporting period.³⁰
- 1.24 The Ombudsman further detailed that, during the reporting period, they continued work to embed a new organisational structure, which followed on from a review completed in the previous reporting period.³¹ The Committee commends the ongoing work and flexibility of the Ombudsman in maintaining business continuity when faced with the challenges of the pandemic.

³⁰ Mr Paul Miller, NSW Ombudsman, [Transcript of evidence](#), 28 May 2021, p 29.

³¹ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 29.

Chapter Two – Strategic and operational issues

Information and Privacy Commission

Mandatory notification of data breach scheme

- 2.1 In May 2021 the [Privacy and Personal Information Protection Amendment Bill 2021](#), which proposes a mandatory notification of data breach scheme (MNDB), was announced by the Minister for Customer Service and the Attorney General.
- 2.2 Under the proposed MNDB scheme, public sector agencies that are bound by the *Privacy and Personal Information Act 1998* (the PPIP Act) must notify the NSW Privacy Commissioner and affected individuals if there is a data breach of personal or health information that is likely to result in serious harm. It also applies the PPIP Act to all NSW state-owned corporations that are not regulated by the *Commonwealth Privacy Act 1988*.³² The MNDB scheme also introduces other mandatory data management requirements for agencies, including maintaining an internal data breach incident register, and having a publicly accessible data breach policy.³³
- 2.3 The Privacy Commissioner commented that the IPC welcomes the introduction of the draft bill, stating that it will 'provide a significant contribution to privacy protection and cybersecurity management' in NSW. Strong cybersecurity measures are important for the protection of personal information under both the PPIP Act and the *Health Records and Information Privacy Act 2002*.³⁴
- 2.4 The Committee commented on the introduction of a mandatory reporting scheme in its last report.³⁵ Of interest to the Committee was the impact the scheme may have on the IPC's resources and capacity. The Information Commissioner noted that implementing the scheme will be 'associated with a reasonably significant increase in costings'.³⁶ The Privacy Commissioner also commented that adequate funding will be vital for the success of the MNDB scheme.³⁷ The Committee will monitor this issue during the next reporting period.

Inspector of Custodial Services

Official Visitors Program

- 2.5 The Committee was interested in the Official Visitor Program (OVP) during the reporting period, particularly in the profile of official visitors. The OVP is governed by section 228 of the *Crimes (Administration of Sentences) Act 1999* in

³² [Proposed changes to NSW privacy laws](#), Department of Communities and Justice, 2021, viewed 16 August 2021.

³³ Department of Communities and Justice, [Privacy and Personal Information Protection Amendment Bill 2021 – Factsheet](#), May 2021, viewed 16 August 2021, p 2.

³⁴ Ms Gavel, [Transcript of evidence](#), 28 May 2021, p 2.

³⁵ Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, Final Report, [2020 review of the annual and other reports of oversight bodies](#), viewed 16 August 2021, pp 15-16.

³⁶ Ms Tydd, [Transcript of evidence](#), 28 May 2021, p 5.

³⁷ Ms Gavel, [Transcript of evidence](#), 28 May 2021, p 6

Corrective Services NSW (CSNSW) centres, and section 8A of the *Children (Detention Centres) Act 1987* in Youth Justice NSW (YJNSW) centres, and administered by the Inspector of Custodial Services.³⁸

- 2.6 Official visitors are independent community members who visit custodial centres, primarily to talk with inmates and young people. This includes taking enquiries and complaints, which they work with centre staff to resolve where possible. Any issues that cannot be resolved are escalated. Official visitors also play an important role in monitoring conditions and treatment in CSNSW and YJNSW centres. They are required to submit reports at least once every six months to the Minister for Corrections and the Inspector, which are used to identify broader issues in the custodial environment.³⁹
- 2.7 The Inspector commented that the program is important, and noted that it is the largest of its kind in Australia.⁴⁰ There were 98 official visitor appointments during the reporting period – 86 in adult facilities and 12 in Youth Justice facilities.⁴¹ Just over half (53 per cent) of official visitor positions are held by women.⁴² The Inspector commented, that although women make up seven per cent of the total population in custody, she considers it is important to have a gender balance within the OVP as 'different genders bring different perspectives into the system.'⁴³
- 2.8 Targeted recruitment has led to a growing number of Aboriginal official visitors. The Committee was pleased to hear this and notes this implements a key recommendation from the program's most recent review.⁴⁴ There were 23 Aboriginal official visitors in adult facilities and eight in Youth Justice facilities during the reporting period – comprising 26 per cent and 67 per cent of their respective official visitor cohorts.⁴⁵
- 2.9 The Inspector acknowledged that there is, however, still a need to increase diversity in the OVP. She identified this as 'probably the next thing that [she] would like to do.'⁴⁶ The Committee will continue to monitor the delivery of the program, particularly during the ongoing pandemic.

NSW Crime Commission

Statutory Review of the *Crime Commission Act 2012*

- 2.10 A statutory review of the *Crime Commission Act 2012* (the CC Act) was completed in December 2020. The completion of this review was a key recommendation of

³⁸ [Crimes \(Administration of Sentences\) Act 1999 \(NSW\)](#), s 228; [Children \(Detention Centres\) Act 1987 \(NSW\)](#), s 8A.

³⁹ [Official Visitor Program](#), Inspector of Custodial Services, last updated 3 September 2021, viewed 7 September 2021

⁴⁰ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 11.

⁴¹ Inspector of Custodial Services, [Annual Report 2019-20](#), p 13, viewed 7 September 2021.

⁴² Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 11; Inspector of Custodial Services, [Annual Report 2019-20](#), p 13, viewed 7 September 2021.

⁴³ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 11.

⁴⁴ [Review of the Administration of the Official Visitor Program](#), Inspector of Custodial Services, 2020, pp 13-15, recommendations 4.1 and 4.2, viewed 7 September 2021.

⁴⁵ Inspector of Custodial Services, [Annual Report 2019-20](#), p 13, viewed 7 September 2021.

⁴⁶ Ms Rafter, [Transcript of evidence](#), 28 May 2021, p 11.

the Committee's last report.⁴⁷ The review found the policy objectives of the CC Act remain valid, and that the Act functions as intended.

- 2.11 Nine amendments were recommended, primarily aimed at clarifying wordings in the Act.⁴⁸ The Crime Commissioner indicated these were minor and uncontroversial amendments. The Commissioner drew the Committee's attention to recommendations 7-9, intended to make it easier for the Crime Commission to confiscate abandoned property as part of their work. Legislative amendments to effect these recommendations is currently underway.⁴⁹

Use of hearing powers and provision of public reports

- 2.12 In evidence before the Committee, the Commissioner commented that he intends to look at ways the Commission's hearing powers are used. He noted that there may be capacity to use these powers differently – for example, to debrief informants, or to 'explore possible confiscation activity'.⁵⁰ There is now increased capacity to hold hearings because there is a Commissioner and an Assistant Commissioner (Legal) who can preside. This flexibility could also present opportunities to explore different applications of the Commission's hearing powers.⁵¹
- 2.13 The Commissioner also indicated that the CC Act provides for public sittings and the provision of public reports 'to advise government on matters relevant to [the Commission's] scope', and this power has not been used. He noted that a current joint Commission project with the Australian Criminal Intelligence Commission and the Independent Liquor and Gaming Authority is likely to result in a public report that will include recommendations.⁵² More information will be included in the Commission's next annual report, and the Committee will be interested to follow its progress.

People Matter Employee Survey

- 2.14 The Committee has an ongoing interest in the results of the People Matter Employee Survey (PMES) for oversight agencies. The PMES is an annual survey of all public sector employees about their experiences at work. It was pleasing to hear that there were 'significant improvements in key indicators' compared to the previous year's results.⁵³
- 2.15 The Commissioner noted that he had only been with the Commission for two months when the survey was undertaken, and acknowledged the work of Acting

⁴⁷ Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, [2020 Review of the Annual Reports of oversight bodies](#), Report 1/57, Parliament of New South Wales, August 2020, p 23 (Recommendation 5).

⁴⁸ NSW Department of Communities and Justice, [Statutory Review Report: Crime Commission Act 2012](#), December 2020, p 5, viewed 17 September 2021; Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 14.

⁴⁹ Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 14.

⁵⁰ Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 17.

⁵¹ Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 17.

⁵² Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 17.

⁵³ Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 14.

Commissioner Cotter and the Commission's executive team in achieving these improvements.⁵⁴

Law Enforcement Conduct Commission

Changes to structure of the LECC

- 2.16 The Law Enforcement Conduct Commission Amendment (Commissioners) Bill 2021 was passed in June of 2021. This Bill amended the Commission's structure under part 3 of the *Law Enforcement Conduct Commission Act 2016* (the LECC Act). It abolished the position of Commissioner for Oversight, and formally established a two Commissioner model.
- 2.17 Prior to this, the Law Enforcement Conduct Commission (the LECC) had a three Commissioner model, with one Chief Commissioner and two deputy Commissioners – a Commissioner for Oversight and a Commissioner for Integrity. This model was introduced in line with the fifth recommendation of the 2015 Tink Review.⁵⁵
- 2.18 There were ongoing issues with the operation of the three Commissioner model, such as with allocation of responsibilities and the relationship between the three Commissioners' roles. This culminated in the vacancy of the Commissioner for Oversight role. There had not been a Commissioner for Oversight, or anyone acting in the role, since January of 2020.
- 2.19 During the Committee's last annual report review, Mr Blanch, the then Acting Chief Commissioner, said that issues related to the LECC's structure needed to be 'sorted out sooner rather than later.'⁵⁶ The Committee was therefore pleased to see that the amendments proposed in the Bill addressed these ongoing concerns, and provided much needed clarity.
- 2.20 At the Committee's hearing for the current annual review, the Chief Commissioner indicated that the two Commissioner model 'works very well'.⁵⁷ Both Commissioners are involved in 'all aspects' of the Commission's work, which 'brings everyone together'. This was contrasted with the three Commissioner model, where the two deputy Commissioners worked apart, which resulted in silos and a lack of communication.⁵⁸
- 2.21 Commissioner Drake likewise commented that she is satisfied that the model is working. She noted that communication across business units, and cohesion

⁵⁴ Mr Barnes, [Transcript of evidence](#), 28 May 2021, p 14.

⁵⁵ Mr Andrew Tink AM, [Review of Police Oversight](#), NSW Department of Justice, 31 August 2015, pp 108 – 109, viewed 17 September 2021

⁵⁶ The Hon. Reginald Blanch AO QC, Acting Chief Commissioner, Law Enforcement Conduct Commission, [Transcript of evidence](#), 17 February 2020, p 13; see also [2020 Review of the Annual Reports of oversight bodies](#), Report 1/57, August 2020, pp 1-3

⁵⁷ The Hon. Reginald Blanch AO QC, Chief Commissioner, Law Enforcement Conduct Commission, [Transcript of evidence](#), 28 May 2021, p 19.

⁵⁸ Mr Blanch, [Transcript of evidence](#), 28 May 2021, p 20.

across the LECC as a whole, has improved, and this in turn has resulted in better staff engagement with the Commission's work.⁵⁹

2.22 The Committee heard from the Inspector of the LECC, Mr Buddin, that he also supports the move to having two Commissioners. He commented that the two Commissioners have demonstrated the capacity to handle their workload, and to 'work together harmoniously' as organisational leaders. Additionally, he remarked that the move will provide 'considerable ongoing financial savings'.⁶⁰

2.23 The Committee also notes that the government, in introducing the Law Enforcement Conduct Commission Amendment (Commissioners) Bill 2021, likewise acknowledged the 'successful operation of the LECC with only two Commissioners.'⁶¹ In the bill's second reading speech, the Attorney General commented that the two-commissioner model:

...ensures that the LECC remains a fit-for-purpose organisation with a structure that best enables it to deliver on its statutory mandate in overseeing law enforcement in New South Wales.⁶²

2.24 In addition to the changes at the Commissioner level, the position of Executive Director of Operations was created during the reporting period. The purpose of this position is to 'make sure that the Commission is together and not in silos,' because the position is in charge of the 'whole Commission' (both integrity and oversight teams). Commissioner Blanch said that this position has 'worked very well', and that the structural changes generally have resulted in the Commission as 'one Commission, and working properly'.⁶³

2.25 The Inspector of the LECC also supported the creation of the Executive Director of Operations role, and said it is a 'particularly positive move' that will reduce and prevent the occurrence of silos within the LECC. He also commented that solidifying the structure of the LECC executive provides 'a significant measure of stability' for the organisation.⁶⁴

2.26 The Committee was pleased to hear from both the LECC and the Inspector of the LECC that the changes to the structure of the LECC executive has had a positive impact and is understood to be working well. The Committee will continue to monitor this area to ensure the structural changes continue to be viewed in a positive light.

⁵⁹ The Hon. Lea Drake, Commissioner, Law Enforcement Conduct Commission, [Transcript of evidence](#), 28 May 2021, pp 19-20.

⁶⁰ The Hon. Terry Buddin SC, Inspector, Office of the Inspector of the Law Enforcement Conduct Commission, [Transcript of evidence](#), 28 May 2021, p 25.

⁶¹ New South Wales, Legislative Council, [Parliamentary Debates](#), 13 May 2021 (The Hon. Don Harwin, Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts).

⁶² New South Wales, Legislative Assembly, [Parliamentary Debates](#), 9 June 2021 (The Hon. Mark Speakman SC, Attorney General and Minister for Prevention of Domestic and Sexual Violence).

⁶³ Mr Blanch, [Transcript of evidence](#), 28 May 2021, p 19.

⁶⁴ Mr Buddin, [Transcript of evidence](#), 28 May 2021, p 25.

Inspector of the Law Enforcement Conduct Commission

Commonwealth Ombudsman oversight of Commonwealth electronic surveillance power

- 2.27 The Inspector of the LECC discussed matters related to the inspection functions of the Office of the Inspector of the Law Enforcement Commission (OILECC).
- 2.28 The federal Attorney General's office released the Report of the Comprehensive Review of the Legal Framework of the National Intelligence Community (the Richardson Review) in December 2020. The Department of Home Affairs has been tasked with implementing the Review's recommendations.
- 2.29 Recommendation 129 of the Richardson Review states that:
- The Commonwealth Ombudsman should have oversight responsibility for the use of Commonwealth electronic surveillance powers by all agencies other than ASIO.⁶⁵
- 2.30 Currently in NSW, the OILECC is required by legislation to oversight how the LECC uses various investigatory powers.⁶⁶ This is set out in part 9 of the *Law Enforcement Conduct Commission Act 2012*, and also by parts of the *Surveillance Devices Act 2007* (NSW), the *Telecommunications (Interception and Access) (New South Wales) Act 1987* (NSW), and the *Law Enforcement (Controlled Operations) Act 1997* (NSW).
- 2.31 The specific investigatory powers requiring oversight relate to:
- The operation of covert warrants
 - The collection of information through surveillance devices
 - Controlled operations
- 2.32 The Inspector said that the proposed changes stemming from the Richardson Review would have 'implications, so far as OILECC's inspection powers in relation to telecommunications intercept records are concerned.' The specific powers that would be affected are those in the *Telecommunications (Interception and Access) (New South Wales) Act 1987* (NSW), because they are powers delegated by the Commonwealth.
- 2.33 He also said that he is 'anxious' to make sure that the Department of Home Affairs consults directly with agencies who have and actually use the relevant inspection powers, instead of only with NSW departmental agencies.⁶⁷ The Inspector is monitoring the implementation of the Review's recommendations, and he will continue to update the Committee with any advancements in the future.⁶⁸

⁶⁵ D Richardson AC, Comprehensive Review of the Legal Framework of the National Intelligence Community, [Volume 2: Authorisations, Immunities and Electronic Surveillance](#), Department of the Attorney-General, December 2019, pp 432-33, viewed 20 September 2021.

⁶⁶ [Law Enforcement Conduct Commission Act 2012](#) (NSW), s124.

⁶⁷ Mr Buddin, [Transcript of evidence](#), 28 May 2021, p 24.

⁶⁸ Mr Buddin, [Transcript of evidence](#), 28 May 2021, p 24.

Staffing

- 2.34 The Inspector also drew the Committee's attention to an issue concerning staffing of the Secure Monitoring Unit (SMU) within the OILECC. The SMU contains two officers in 'highly specialised' roles. The current office holders have been in these roles for a long time, and both are approaching retirement. The Inspector also noted that his term will end in the middle of 2022. The loss of these experienced staff, coupled with the ending of the current Inspector's term, will likely impact the next Inspector.⁶⁹
- 2.35 Mr McCallum-Jamieson, Senior Compliance Officer within the SMU, commented that the work of the SMU requires 'hands on' experience, and new staff would need at least a six month lead in, 'for someone to be able to actually pick up' the role. Establishing relationships with other agencies also takes time.⁷⁰
- 2.36 The Inspector acknowledged that, whilst the Committee does not have a role to play in staff movements, he wanted to ensure that people are aware this is going to occur.⁷¹

Terms of office for LECC Commissioners

- 2.37 The Inspector also commented that he has concerns around the staggering of terms for both OILECC and the LECC itself. The Committee noted that both LECC Commissioners' terms will expire within months of each other in the first half of 2022. Mr Buddin commented that having all the expertise leave at the same time has risks attached to it.⁷²
- 2.38 The Committee notes that this issue was raised during debate on the Law Enforcement Conduct Commission Amendment (Commissioners) Bill 2021.⁷³ As passed, the Bill amended the LECC Act to extend the term limit from five years for the offices of Chief Commissioner and Commissioner combined, to five years for each individual office.⁷⁴

NSW Ombudsman

Strategic plan and restructure

- 2.39 Amongst managing the ongoing impacts of the pandemic, the NSW Ombudsman developed a five year strategic plan during the reporting period, and completed a whole-of office restructure in late 2019.⁷⁵ The Ombudsman told us that work continued in 2019-20 to embed the new organisational structure, alongside a

⁶⁹ Mr Buddin, [Transcript of evidence](#), 28 May 2021, p 24.

⁷⁰ Mr Ian McCallan-Jamieson, Senior Compliance Officer, Office of the Inspector of the Law Enforcement Conduct Commission, [Transcript of evidence](#), 28 May 2021, p 27.

⁷¹ Mr Buddin, [Transcript of evidence](#), 28 May 2021, p 27.

⁷² Mr Buddin, [Transcript of evidence](#), 28 May 2021, p 27.

⁷³ New South Wales, Legislative Council, [Parliamentary Debates](#), 8 June 2021; New South Wales, Legislative Assembly, [Parliamentary Debates](#), 9 June 2021.

⁷⁴ New South Wales, Legislative Assembly, [Parliamentary Debates](#), 9 June 2021 (The Hon. Mark Speakman SC, Attorney General and Minister for Prevention of Domestic and Sexual Violence).

⁷⁵ Mr Paul Miller, NSW Ombudsman, [Transcript of evidence](#), 28 May 2021, p 29; NSW Ombudsman, [Annual Report 2019-20](#), p 14, viewed 24 September 2021.

major focus on the Strategic Plan 2020-25 (the Plan), which was formally implemented in July 2020.⁷⁶

- 2.40 The Ombudsman said that the Plan is 'deliberately ambitious', and balances the need to remain relevant and effective with a recognition that they 'cannot do everything at once'.⁷⁷ The 'ecosystem' of oversight agencies in NSW has changed significantly, which in turn has impacted on the Ombudsman's functions.⁷⁸ Because of these changes, there was a need to 'refocus on [the Ombudsman's] core functions'.⁷⁹
- 2.41 As such, the Plan's strategic outcomes are grouped in five themes – services and impact, engagement and relationships, leadership and governance, people and culture, and systems and processes. Each theme has a number of initiatives identified to help deliver these outcomes.⁸⁰ In order to implement the Plan's broader goals, the Ombudsman will develop a series of more focused 12-month 'action plans'. Staff are involved in the creation of these plans, and in discussion of their results.⁸¹
- 2.42 The Ombudsman told the Committee that the reporting period focused on the identified strategic outcome of being an 'employer of choice', including a capable and engaged workforce with 'shared vision, values, purpose, and culture'.⁸² The Ombudsman highlighted 'significant improvements' in the People Matter Employee Survey (PMES) for 2020, and attributed these to initiatives stemming from the Plan's objectives.⁸³
- 2.43 Mr Miller explained that, in his role as Ombudsman, and previously as Acting Ombudsman, he has tried to focus on refreshing and modernising IT infrastructure, cybersecurity, and case management systems, as well as the Ombudsman's systems and governance more generally. He noted that this must be balanced with concentrating on achieving their statutory functions day by day.⁸⁴ This is complicated by funding issues, which are discussed in more detail below.

Investigations Unit

- 2.44 The Committee asked the Deputy Ombudsman, Ms Lawless, about the new Investigations Unit. The Unit was created during the corporate restructure, formally completed in late 2019. It is a 'dedicated investigations team' and includes specialised investigations staff, a manager, and a senior report writer.

⁷⁶ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 29.

⁷⁷ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 29.

⁷⁸ NSW Ombudsman, [Annual Report 2019-20](#), p 15, viewed 24 September 2021.

⁷⁹ NSW Ombudsman, [Strategic Plan 2020-25](#), p 1, viewed 24 September 2021.

⁸⁰ NSW Ombudsman, [Strategic Plan 2020-25](#), pp 21, 22-27, viewed 24 September 2021.

⁸¹ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 29.

⁸² Mr Miller, [Transcript of evidence](#), 28 May 2021, p 30.

⁸³ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 30.

⁸⁴ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 30.

There has also been investment in training to ensure best practice and consistency in investigations undertaken across the Unit.⁸⁵

- 2.45 Formal investigations are only used for complex and serious cases. The alleged conduct is required to meet a legislative threshold, as set out in section 26 of the *Ombudsman Act 1974*. Investigations predominantly relate to systemic issues.⁸⁶
- 2.46 The creation of the Investigations Unit has also meant some changes to the way investigations are approved and undertaken. Ms Lawless said that a 'pipeline' has been developed. Matters are usually first raised in the complaints branch. They are then sent to the investigation Major Projects Committee, which oversees and approves investigations, and ensures that there are appropriate resources available to undertake them. A matter approved for investigation is then sent to the Investigations Unit.
- 2.47 The Committee was pleased to hear that the establishment of the Unit and changes to the investigation processes has already begun to realise benefits.⁸⁷ There are also some further recommendations that are in the process of being implemented, and the Committee will follow their progress with interest.

Public Interest Disclosure Steering Committee

- 2.48 The Committee has had a longstanding interest in the progress of the draft bill to amend the *Public Interest Disclosures Act 1994* (the PID Act). In 2017, the Committee completed a statutory review of the PID Act, and in its response to that review, the NSW Government indicated they would prepare a draft Bill in accordance with the Committee's recommendations and other principles.⁸⁸
- 2.49 The Ombudsman serves as the Chair of the Public Interest Disclosures Steering Committee (PIDSC), which serves to consult with government on the draft PID bill. The PIDSC usually meets four times a year, and includes representatives from all NSW oversight bodies, the NSW Police, the Department of Premier and Cabinet, and the Public Service Commission.⁸⁹
- 2.50 The Committee asked Mr Miller, in his capacity as PIDSC Chair, for an update on the progress of the draft bill. He commented that, although progress on drafting seemed to have been delayed during the reporting period, he is 'hopeful that we are at a point where there is a close to a final draft of the bill,' particularly as the PIDSC has now seen a full draft.⁹⁰
- 2.51 Mr Miller also noted that there will need to be a period of six to twelve months, between the legislation passing Parliament and its implementation, where

⁸⁵ Ms Nicole Lawless, Acting Deputy Ombudsman and Assistant Ombudsman, Complaints and Investigations, NSW Ombudsman, [Transcript of evidence](#), 28 May 2021, p 34.

⁸⁶ NSW Ombudsman, [Annual Report 2019-20](#), p 55, viewed 24 September 2021; [Ombudsman Act 1974](#) (NSW), s 26

⁸⁷ Ms Lawless, [Transcript of evidence](#), 28 May 2021, p 34.

⁸⁸ NSW Government, [Review of the Public Interest Disclosures Act - Government response](#), 19 April 2018, viewed 24 September 2021; Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, [2020 Review of the Annual Reports of oversight bodies](#), Report 1/57, Parliament of New South Wales, August 2020, pp 11-12

⁸⁹ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 31.

⁹⁰ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 31.

significant changes will have to occur across NSW agencies. Most importantly, this will include training across the public sector, as guided by the Ombudsman. Additionally, he remarked that, as the bill has not been finalised, the Ombudsman has not yet been provided with resources to prepare for its implementation, which will be another consideration.⁹¹

Funding

- 2.52 It was clear to the Committee that one of the key issues for the Ombudsman during the reporting period was funding. Mr Miller commented that:
- One of the things that I have observed on coming in as Ombudsman is the challenges that the office has faced, both because it is a small agency—and there are certain different challenges that apply to small agencies—but particularly to a small agency that has struggled, particularly in recent years, with the level of funding that is being provided for our services.⁹²
- 2.53 This has created a 'legacy of underinvestment' in core infrastructure and systems. In particular, this presented a significant challenge when moving to working from home arrangements during the pandemic's onset.⁹³
- 2.54 The Committee asked whether upgrades completed as part of the organisational review and work to implement new strategic outcomes is expected to create long-term savings. The Ombudsman said that some of these investments are required in order to address existing risks, as opposed to achieving efficiencies. Others may lead to efficiencies, but these will be demonstrated in better and more impactful outcomes rather than bankable savings, such as staff capacities and process improvements.⁹⁴
- 2.55 The Ombudsman said there are three issues related to underfunding. The first is that the agency has 'baseline' underfunding. This means that gaps in functions will appear in areas where the Ombudsman has more discretion, because resources are prioritised for statutory functions that have 'no discretion'.⁹⁵ As an example, the Ombudsman is obliged to receive people's complaints, but it then has discretion with what they 'then do with the complaint'. Mr Miller commented that this is particularly pronounced in areas where the Ombudsman's function is to monitor, such as community services and public interest disclosures. Inadequate funding means that the Ombudsman cannot discharge what the Parliament and community expects, because it does not have the capacity to do so.⁹⁶
- 2.56 The second issue follows on from the first. There is pressure to 'push' funding to front line services, which in turn neglects secondary areas such as cybersecurity, IT systems, and staff training and development. The Ombudsman noted that this creates problems, because it undermines long-term capacity to deliver on

⁹¹ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 31.

⁹² Mr Miller, [Transcript of evidence](#), 28 May 2021, p 30.

⁹³ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 29.

⁹⁴ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 30.

⁹⁵ Mr Miller, [Transcript of evidence](#), 28 May 2021, pp 31-32.

⁹⁶ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 32.

statutory functions. Issues often come to a head at the same time, compounding funding allocation issues.⁹⁷

- 2.57 The third area is the conferral of new functions without associated funding changes. For example the Ombudsman referred to the PID Act as the new PID bill will confer new functions on the Ombudsman. Mandatory disease testing requirements will likewise confer new functions. We heard that conferring new functions on the Ombudsman is equivalent to 'a budget cut across the rest of [their] business.'⁹⁸
- 2.58 The Ombudsman indicated that since the 2019/20 annual report, the Ombudsman has received temporary additional funding, however, there is a question in the current budget process whether that funding will continue.⁹⁹
- 2.59 The Committee notes the Ombudsman's concerns regarding adequate funding to deliver their statutory obligations and also any new functions conferred upon them. For the Ombudsman to continue to perform its role it needs to be appropriately funded.
- 2.60 Of particular concern to the committee is the conferral of new functions on the Ombudsman without associated funding. The Committee is mindful of the recent passing of the *Mandatory Disease Testing Act 2021* and the oversight of that Act conferred on the Ombudsman.¹⁰⁰ There is also the potential for the conferral of new functions arising out of any changes to protected disclosure legislation.
- 2.61 The Committee considers that the Ombudsman must be adequately resourced to meet these new obligations.

NSW Child Death Review Team

Charter

- 2.62 In the reporting period, the NSW Child Death Review Team (the CDRT) undertook work to review and refresh its charter.¹⁰¹ In addition to stating the CDRT's purpose and vision, the new charter document includes four strategic objectives:
- to build on work to lead in prevention of child deaths
 - to undertake meaningful and well-targeted projects
 - to engage with stakeholders and promote CDRT's work and recommendations, and
 - to explore new opportunities.¹⁰²

⁹⁷ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 32.

⁹⁸ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 32.

⁹⁹ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 31.

¹⁰⁰ Mandatory Disease Testing Act 2021, s 36

¹⁰¹ Mr Paul Miller, Convenor, Child Death Review Team, [Transcript of evidence](#), 28 May 2021, p 36.

¹⁰² NSW Child Death Review Team, [CDRT Charter](#), 8 December 2020, p 4, viewed 24 September 2021.

2.63 These objectives frame the CDRT's approaches to its work, particularly its research projects.

Research projects

2.64 Representatives of the CDRT told us that the main area of focus during the reporting period was the preparation of its biennial report on the deaths of children in NSW, which is slated to be tabled in late 2021.¹⁰³ Work was also done to progress three research projects:

- The effect of socio-economic status, antenatal care, and birth conditions on early childhood mortality in NSW. This is undertaken in partnership with the Australian Institute of Health and Welfare. This project is using linked data to model underlying risk factors for early childhood mortality, and is expected to table a report in 2022.¹⁰⁴
- Perinatal asphyxia, resulting in death from severe perinatal brain injury. This project is a review of deaths over a four year period (2016-2019). It aims to identify both the extent to which these deaths were preventable, and strategies that could reduce the likelihood of these deaths in the future. We heard that the CDRT aims to complete this work by the end of 2021.¹⁰⁵
- Suicide deaths of Aboriginal children, who are over-represented in this cohort of deaths. This project is being led by Aboriginal members of the CDRT and aims to improve understanding of factors that contribute to the risk of suicide, and protective factors within communities that act to mitigate these risks. The next part of this project will identify programs, agencies, and organisations that work to improve the wellbeing of Aboriginal children, therefore helping to prevent suicide deaths.¹⁰⁶

2.65 The Committee recognises the importance of the CDRT's work and the significant contribution it makes to ensuring the safety of children across NSW.

¹⁰³ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 36.

¹⁰⁴ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 36.

¹⁰⁵ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 37.

¹⁰⁶ Mr Miller, [Transcript of evidence](#), 28 May 2021, p 37.

Appendix One – Committee 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 Two – List of witnesses

28 May 2021 Parliament House, Jubilee Room, Sydney	
Ms Elizabeth Tydd	Information Commissioner, Information and Privacy Commission
Ms Samantha Gavel	Privacy Commissioner, Information and Privacy Commission
Ms Fiona Rafter	Inspector of Custodial Services
Mr Michael Barnes	NSW Crime Commissioner, NSW Crime Commission
Mr Michael Wilde	Executive Director, Corporate Services, NSW Crime Commission
The Hon. Reginald Blanch AM QC	Chief Commissioner, Law Enforcement, Conduct Commission
The Hon. Lea Drake	Commissioner, Law Enforcement Conduct Commission
Ms Christina Anderson	Chief Executive Officer, Law Enforcement Conduct Commission
Mr Gary Kirkpatrick	Executive Director, Operations, Law Enforcement Conduct Commission
The Hon. Terry Buddin SC	Inspector, Inspector of the Law Enforcement Conduct Commission
Ms Chelsea Delahunty	Acting Principal Legal Advisor, Office of the Inspector of the Law Enforcement Conduct Commission
Mr Ian McCallan-Jamieson	Senior Compliance Officer, Office of the Inspector of the Law Enforcement Conduct Commission
Mr Paul Miller	NSW Ombudsman and Convenor, NSW Child Death Review Team
Mr Danny Lester	Deputy Ombudsman, Engagement and Aboriginal Programs, NSW Ombudsman
Ms Nicole Lawless	Acting Deputy Ombudsman and Assistant Ombudsman, Complaints and Investigations, NSW Ombudsman
Ms Monica Wolf	Acting Deputy Ombudsman and Assistant Ombudsman, Project and Systemic Reviews, NSW Ombudsman
Ms Ainslee Scott	Director, Corporate, NSW Ombudsman

Appendix Three – Extracts from minutes

MINUTES OF MEETING No 14

1.30pm, Wednesday 24 March 2021

Room 814/815

Members present

Mr Dugald Saunders MP (Chair), The Hon. Trevor Khan MLC (Deputy Chair), The Hon. Lou Amato MLC, Mr Paul Lynch MP, Mr Mark Coure MP, The Hon. Adam Searle MLC (joined 1.38pm).

Officers in attendance

Clara Hawker, Emma Wood, Ilana Chaffey, Vanessa Gasiewski

1. Apologies

Dr Hugh McDermott MP

2. Confirmation of minutes

Mr Lynch noted that he appeared in person as opposed to videoconference.

Resolved, on the notion of Mr Amato, seconded Mr Lynch: That the minutes of the meeting of 9 December 2020 be confirmed.

3. ***

4. 2021 review of the annual and other reports of oversight agencies

Resolved, on the motion of Mr Searle, seconded Mr Coure: That the Committee commence its 2021 examination of annual and other reports of oversight bodies, and invite representatives from the relevant agencies to give evidence at public hearings on dates to be determined.

5. Next meeting

The Chair adjourned the meeting at 1.51pm until a date to be determined.

MEETING No 15

10.29 am, Friday 28 May 2021

Jubilee Room

Members present

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

Officers in attendance

Clara Hawker, Emma Wood, Ilana Chaffey, Vanessa Gasiewski

1. Apologies

Mr Mark Coure MP

2. Confirmation of minutes

Resolved, on the motion of Mr Khan, seconded Mr Lynch: That the minutes of 24 March 2021 be confirmed.

3. ***

4. 2021 review of the annual and other reports of oversight agencies

4.1. Media orders for public hearing

Resolved, on the motion of Mr Lynch, seconded Dr McDermott: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 28 May 2021, in accordance with the Legislative Assembly's guidelines for the coverage of proceedings for committees administered by the Legislative Assembly.

4.2. Answers to questions taken on notice and additional questions

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

Resolved, on the motion of Mr Khan, seconded Mr Lynch: That the procedure for additional questions be as follows:

- Members to submit any additional questions to the secretariat within two days of the date on which the transcript is forwarded to the members.
- The secretariat will circulate all additional questions received to Committee members.

4.3. Public hearing

The public were admitted in person and via the Parliament's webcast. The Chair opened the public hearing at 10.36 am and made a short opening statement.

At 10.36 am the following witnesses were admitted:

Ms Elizabeth Tydd, CEO, Information Commissioner, Information and Privacy Commission was sworn and examined.

Ms Samantha Gavel, Privacy Commissioner, Information and Privacy Commission was sworn and examined.

Ms Tydd and Ms Gavel made opening statements.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

At 11.08 am the following witness was admitted:

Ms Fiona Rafter, Inspector of Custodial Services, was affirmed and examined.

Ms Rafter made an opening statement.

The Committee questioned the witness. Evidence concluded and the witnesses withdrew.

The Committee took a short adjournment at 11.39 am and resumed the public hearing at 1.04 pm.

At 1.04 pm the following witnesses were admitted:

Mr Michael Barnes, Commissioner, NSW Crime Commission, was affirmed and examined.

Mr Michael Wilde, Executive Director, Corporate Services, NSW Crime Commission, was affirmed and examined.

Mr Barnes made an opening statement.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

At 1.55 pm the following witnesses were admitted:

The Hon Reginald Blanch QC, Chief Commissioner, Law Enforcement Conduct Commission, was sworn and examined.

Ms Lea Drake, Commissioner, Law Enforcement Conduct Commission, was sworn and examined.

Ms Christina Anderson, CEO, Law Enforcement Conduct Commission, was sworn and examined.

Mr Gary Kirkpatrick, Executive Director of Operations, Law Enforcement Conduct Commission, was sworn and examined.

Mr Blanch made an opening statement.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

At 2.29 pm the following witnesses were admitted:

The Hon Terry Buddin SC, Inspector of the Law Enforcement Conduct Commission, was sworn and examined.

Ms Chelsea Delahunty, Acting Principal Legal Advisor, Inspector of the Law Enforcement Conduct Commission, was affirmed and examined.

Mr Ian McCallan-Jamieson, Senior Compliance Officer, was affirmed and examined.

Mr Buddin made an opening statement.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

The Committee took a short adjournment at 2.55 pm and resumed the public hearing at 3.29 pm.

At 3.29 pm the following witnesses were admitted:

Mr Paul Miller, NSW Ombudsman, was affirmed and examined.

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

Ms Nicole Lawless, Acting Deputy Ombudsman and Assistant Ombudsman, Complaints and Investigations, NSW Ombudsman, was affirmed and examined.

Ms Monica Wolf, Acting Deputy Ombudsman and Assistant Ombudsman, Projects and Systemic Reviews, NSW Ombudsman, was affirmed and examined.

Ms Ainslee Scott, Director Corporate, NSW Ombudsman, was affirmed and examined.

Mr Miller made an opening statement.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

At 4.16 pm the following witnesses were admitted
Mr Paul Miller, NSW Ombudsman and Convenor, Child Death Review Team was affirmed and examined.
Ms Monica Wolf, Acting Deputy Ombudsman and Assistant Ombudsman, Projects and Systemic Reviews, Child Death Review Team, was affirmed and examined.
Mr Miller made an opening statement.
The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

At 4:30 pm the Chair concluded the public hearing and resumed the deliberative meeting.

Post hearing deliberative meeting

Members present

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

4. 2021 review of the annual and other reports of oversight agencies (cont.)

4.4. Publication orders

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

5. ***

6. Next meeting

The meeting adjourned at 4.35 pm until a date and time to be determined.

MINUTES OF MEETING No 16

2.33pm, Tuesday 27 July 2021

Webex videoconference

Members present via Webex

Mr Dugald Saunders MP (Chair), the Hon. Peter Poulos MLC (Deputy Chair), the Hon. Lou Amato MLC, the Hon. Adam Searle MLC, Mr Paul Lynch MP, Mr Mark Coure MP, Dr Hugh McDermott MP

Officers in attendance via Webex

Clara Hawker, Emma Wood, Ilana Chaffey

1. Apologies

None.

2. Membership and election of Deputy Chair

The Committee noted that, on Wednesday 9 June 2021, the Hon Trevor Khan MLC was discharged from the Committee and the Hon Peter Poulos MLC was appointed.

As a consequence of the membership changes, the Chair noted the vacancy in the office of Deputy Chair for the Committee and called for nominations.

Resolved, on the motion of Mr Coure, seconded Mr Amato: That Mr Poulos be elected Deputy Chair of the Committee.

3. Confirmation of minutes

Resolved, on the motion of Mr Searle, seconded Mr Amato: That the minutes of the meeting of 28 May 2021 be confirmed.

4. ***

5. ***

6. 2021 review of the annual and other reports of oversight agencies

6.1 Correspondence

The Committee noted the following correspondence received:

- Letter received from the Information Commissioner, dated 4 June 2021, concerning a correction to part of her evidence provided on 28 May 2021
- Document received from Mr Michael Wilde, dated 15 June 2021, concerning a correction to part of his evidence provided on 28 May 2021

Resolved, on the motion of Mr Amato, seconded Mr Coure, that the Committee:

- a) publish the letter, dated 4 June 2021, received from the Information Commissioner concerning a correction to part of her evidence provided at the public hearing on 28 May 2021,
- b) publish the document, dated 15 June 2021, from Mr Wilde concerning a correction to his evidence provided at the public hearing on 28 May 2021, and
- c) provide a link to each of the published documents at the relevant sections of the transcript.

6.2 Responses to questions taken on notice

The Committee noted the following responses to questions on notice received:

- NSW Crime Commission, dated 15 June 2021
- Privacy Commissioner, dated 17 June 2021

Resolved, on the motion of Mr Poulos, seconded Mr Lynch: That the Committee publish the following responses received to questions taken on notice at the hearing on 28 May 2021:

- NSW Crime Commission, dated 15 June 2021
- Privacy Commissioner, dated 17 June 2021 ***

7. Next meeting

The Chair adjourned the meeting at 2.50 pm until a date to be determined.

UNCONFIRMED MINUTES OF MEETING No 17

9.38am, Friday 15 October 2021

WebEx videoconference and teleconference

Members present

Mr Dugald Saunders MP (Chair), the Hon. Peter Poulos MLC (Deputy Chair), the Hon. Lou Amato MLC, the Hon. Adam Searle MLC, Mr Paul Lynch MP, Mr Mark Coure MP, Dr Hugh McDermott MP

Officers in attendance

Sam Griffith, Emma Wood, Ilana Chaffey, Abigail Turingan

1. Apologies

None.

2. Confirmation of minutes

Resolved, on the motion of Mr Poulos, seconded Mr Amato: That the minutes of the meeting of 27 July 2021 be confirmed.

3. ***

4. 2021 review of the annual and other reports of oversight agencies

4.1 Correspondence

The Committee noted the following item of correspondence received:

- Letter received from the Crime Commissioner, dated 2 September 2021, concerning a correction to part of his evidence provided on 28 May 2021

Resolved, on the motion of Mr Poulos, seconded Mr Coure: That the Committee:

- a) publish the letter, dated 2 September 2021, from the Crime Commissioner concerning a correction to part of his evidence provided on 28 May 2021, and
- b) insert a footnote and link to the published letter at the relevant section of the transcript.

4.2 Consideration of Chair's draft report

Resolved, on the motion of Mr Searle, seconded Mr Coure: That the Committee consider the report chapter by chapter.

Resolved, on the motion of Mr Amato, seconded Dr McDermott: That Chapter One stand part of the report.

Resolved, on the motion of Dr McDermott, seconded Mr Coure: That Chapter Two stand part of the report.

Resolved, on the motion of Mr Poulos, seconded Mr Searle: That:

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

5. ***

6. **Next meeting**

The Chair adjourned the meeting at 9.46am until a date to be determined.