

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



PARLIAMENT OF  
NEW SOUTH WALES

## 2022 review of the annual and other reports of oversight agencies



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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".

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# Membership

<b>Chair</b>	<p>The Hon Wes Fang MLC (Member from 24 February 2022, Chair from 24 March 2022)</p> <p>The Hon Dugald Saunders MP (Member from 19 June 2019 until 21 December 2021, Chair from 20 June 2019 until 21 December 2021)</p>
<b>Deputy Chair</b>	<p>Mr Dave Layzell MP (Member from 24 February 2022, Deputy Chair from 24 March 2022)</p> <p>The Hon Peter Poulos MLC (Member from 9 June 2021 until 22 December 2021, Deputy Chair from 27 July 2021 until 22 December 2021)</p>
<b>Members</b>	<p>Mr Paul Lynch MP (from 19 June 2019)</p> <p>Dr Hugh McDermott MP (from 19 June 2019)</p> <p>The Hon Aileen MacDonald MLC (from 21 September 2022)</p> <p>The Hon Adam Searle MLC (from 19 June 2019)</p> <p>The Hon Leslie Williams MLC (from 24 February 2022)</p> <p>The Hon Lou Amato MLC (from 19 June 2019, until 22 December 2021)</p> <p>The Hon Mark Coure MP (from 19 June 2019 until 21 December 2021)</p> <p>The Hon Catherine Cusack MLC (from 23 March 2022 until 9 August 2022)</p> <p>The Hon Scott Farlow MLC (from 11 August 2022 until 21 September 2022)</p> <p>The Hon Don Harwin MLC (from 24 February 2022 until 23 March 2022)</p>
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## Chair's foreword

I am pleased to present the Committee's 2022 review of the annual and other reports of oversight agencies. This report embodies one of the Committee's core functions, namely, to monitor and review the performance of the following agencies:

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

Firstly, I would like to acknowledge the following leadership changes that occurred during the reporting period:

- The terms of the Chief Commissioner of the LECC, the Hon Reginald Blanch AM QC, and the Commissioner of the LECC, the Hon Lea Drake, concluded. The Hon Peter Johnson SC and Anina Johnson were appointed as the new Chief Commissioner and Commissioner.
- The term of the inaugural LECC Inspector, the Hon Terry Buddin SC, concluded. Mr Bruce McClintock SC was appointed as the new Inspector.

Both the Committee and I are grateful to all outgoing office holders for their dedication and work, and would like to thank them for their valuable service to NSW. The Committee looks forward to working with the new officeholders into the future.

This report makes one recommendation regarding the implementation of the Optional Protocol to the Convention Against Torture (OPCAT). The Committee has been following OPCAT progress for many years. The Committee heard that the Government is yet to nominate National Preventative Measures (NPMs) in NSW ahead of the January 2023 deadline. As such, the Committee recommends that the NSW Government nominates an NPM as a matter of priority.

I would also like to note that this reporting period saw some significant legislative changes to the functions of oversight agencies. The Mandatory Disease Testing scheme began operating. In addition, the Mandatory Notification of Data Breach scheme and the new Public Interest Disclosures scheme were also introduced. A number of clarifying legislative amendments were also made, which are part of ongoing work to continually improve the legislative frameworks that support NSW agencies.

Finally, the Committee was particularly pleased to hear that positive changes are being made to agency funding arrangements. Funding and Budget processes has been an issue raised over

many reporting periods, but was particularly prominent given public discussion of integrity agency funding during 2021-22.

The Committee was encouraged to hear generally positive opinions from agencies in this regard, and hopes that this collaborative work to address issues in agency funding frameworks continues into future reporting periods.

I would like to thank all oversight agencies for their work over the past year, as well as for their work throughout this Parliament, especially during the COVID-19 pandemic. There have been many challenges for oversight agencies in NSW over recent years. I acknowledge and commend their ability to adapt to new and different ways of undertaking their legislated functions.

I would also like to thank my fellow members for their contributions to the work of the Committee, including former Committee members who have served on the Committee during this Parliament.

A handwritten signature in black ink, appearing to read 'Wes Fang', written in a cursive style.

**The Hon Wes Fang MLC**  
Chair

# Recommendations

Recommendation 1 \_\_\_\_\_ 20

The Committee recommends that, in accordance with the Optional Protocol to the Convention Against Torture, the NSW Government nominate a National Preventative Mechanism for New South Wales as a matter of priority.

# Chapter One – Agency overview

## NSW Ombudsman

### Funding

- 1.1 The adequacy of funding has been an ongoing concern for the Ombudsman's office, particularly with the introduction of new functions in recent reporting periods. The impact of underfunding issues was discussed in the Committee's 2021 annual review.<sup>1</sup>
- 1.2 The Ombudsman's 2020-2021 annual report again discussed issues with the funding allocation provided in the 2021-22 State Budget. It noted that funding requests to support additional and new functions and Digital Restart Fund requests had been rejected.<sup>2</sup>

### *2022-23 Budget funding*

- 1.3 The Committee was pleased to hear that Treasury was 'significantly more constructive and productive' in its reception of the Ombudsman's budget proposals for 2022-23. The Ombudsman told us that they had put forward several bids, which were all supported by Treasury and consequently approved by the Cabinet's Expenditure Review Committee.<sup>3</sup>
- 1.4 The Ombudsman explained that the additional requested funding formed three categories:
- funding for new and expanded functions, which the Government had generally publicly committed to providing,
  - temporary funding provided over two years for the purpose of modernisation projects focused on upgrading or replacing core systems, such as case management, human resources and payroll, and cloud-based record management systems,
  - enhanced funding for chronically underresourced existing functions, predominantly employee-related expenses.<sup>4</sup>
- 1.5 The Committee considers this a positive outcome, particularly given the importance of the Ombudsman's work. In the Committee's opinion, it is pleasing to see projects being formally funded within the Budget.

### *Changes to funding arrangements*

- 1.6 The Ombudsman said he was generally 'supportive' of the Government's proposed changes to funding processes. He noted that, although the Government

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<sup>1</sup> Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, [2021 review of annual and other reports of oversight agencies](#), report 2/57, October 2021, pp 15-16.

<sup>2</sup> NSW Ombudsman, [Annual Report 2020-2021](#), 26 October 2021, pp 7-8.

<sup>3</sup> Mr Paul Miller, NSW Ombudsman, [Transcript of evidence](#), 17 October 2022, p 16.

<sup>4</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, pp 16-17.



hadn't supported recommendations made in reports of the Auditor General or the NSW Legislative Council's Public Accountability Committee, the suggested changes were 'certainly an improvement on the current process.'<sup>5</sup>

- 1.7 The Committee notes that the changes to funding and Budget processes for integrity agencies will form part of a Charter of Independence. This Charter will be set out in a Treasurer's Direction.<sup>6</sup> The Committee was pleased to hear that the Government has also indicated to the Ombudsman that it intends to consult with integrity agencies in developing the Charter.<sup>7</sup>

### Changes to functions

- 1.8 A number of new functions were conferred on the Ombudsman's office during the reporting period. The Committee was glad to hear that funding for these new functions had been received. The Committee will continue to consult with the Ombudsman about the impact of these new functions as they become operational.

### *Mandatory Disease Testing Act 2021*

- 1.9 The *Mandatory Disease Testing Act 2021* (the MDT Act) commenced operating in July 2022.<sup>8</sup> The MDT Act establishes a scheme for mandatory blood testing of a person in circumstances where a health, emergency or public sector worker comes into contact with the person's bodily fluid as a result of the person's deliberate action, and where there is a risk of the worker contracting a blood-borne disease.<sup>9</sup>
- 1.10 Section 36 of the MDT Act confers oversight functions on the Ombudsman. This includes a requirement that the Ombudsman prepare a report on the scheme 12 months after its commencement, and every three years after that.<sup>10</sup> The Committee heard that the Ombudsman has already begun recruiting staff to lead preparation of the first assessment report.<sup>11</sup>
- 1.11 The Committee asked the Ombudsman about the issue of funding for this new function. The Ombudsman commented that the funding they had received for the MDT Act was 'modest, [but] appropriate'. He informed the Committee that it is 'very difficult' to predict how much resourcing the oversight of the MDT Act will require, noting that, as of October 2022, there had been only 14 notifications received.<sup>12</sup>

<sup>5</sup> Mr Paul Miller, NSW Ombudsman, [Transcript of evidence](#), 17 October 2022, p 16.

<sup>6</sup> The Hon Mark Speakman MP, Attorney General, [Further Government response to a report of the Public Accountability Committee](#), 9 May 2022; Mr Miller, [Transcript of evidence](#), 17 October 2022, p 16.

<sup>7</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 16.

<sup>8</sup> *Mandatory Disease Testing Act 2021*, s 2; NSW Government Gazette, [29 July 2022](#)

<sup>9</sup> NSW Ombudsman, [Annual Report 2020-2021](#), 26 October 2021, p 8; [Mandatory Disease Testing Act 2021](#) (NSW), s 3.

<sup>10</sup> [Mandatory Disease Testing Act 2021](#), s 36; NSW Ombudsman, [Annual Report 2020-2021](#), 26 October 2021, p 8.

<sup>11</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 17.

<sup>12</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 21.

### *Other amendments*

- 1.12 The Ombudsman also noted that the passing of the *Ombudsman Legislation Amendment Act 2022* made a number of 'relatively minor but important amendments' to its governing legislation.<sup>13</sup>
- 1.13 The most important of these changes was that it allows the Ombudsman to review complaint-handling systems (as well as investigating individual complaints), and to refer complaints made about a public authority to that authority for investigation, with the requirement that the authority must report to the Ombudsman on the outcome. The Ombudsman said these amendments were 'important tools in a modern ombudsman's toolkit'.<sup>14</sup>
- 1.14 The *Public Interest Disclosures Act 2022* was also a significant change, and is discussed in more detail below.

### **Public Interest Disclosures Act 2022**

- 1.15 The Committee has been interested in the development and progress of new Public Interest Disclosure (PID) legislation over the past few years. As such, the Committee is very pleased to note that the new *Public Interest Disclosures Act 2022* (the PID Act) was enacted earlier this year. We were also glad to hear from the Ombudsman that work has begun to prepare for its implementation.

### *Commencement date*

- 1.16 The PID Act must commence 18 months after the date of assent, but may commence earlier by proclamation.<sup>15</sup> To date, no proclamation has been issued, so the PID Act's current commencement date is 23 October 2023.
- 1.17 The Ombudsman is a member of the Public Interest Disclosures Steering Committee (the PIDS Committee). The Ombudsman told the Committee that the PIDS Committee will discuss the PID Act's commencement date, and recommended that Government issue a proclamation for the PID Act to commence on 1 October 2023.<sup>16</sup>
- 1.18 The Ombudsman explained that this will help with reporting obligations under the PID Act. The Committee also heard that it is important the Government issues the recommended proclamation 'as soon as possible', because this will provide certainty about when the scheme will begin. It will also assist the Ombudsman in its preparations for the implementation of the new PID scheme, including its preparation of guidance material, and training and support work to be provided to agencies.<sup>17</sup>

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<sup>13</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 17

<sup>14</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 17; [Ombudsman Legislation Amendment Act 2022](#) (NSW), sch 1 cls [5], [11].

<sup>15</sup> [Public Interest Disclosures Act 2022](#), s 2.

<sup>16</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 23.

<sup>17</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, pp 23-24.

*Preparing for implementation*

- 1.19 The Committee was also interested in the work being done to prepare for the introduction of the new PID scheme. The Ombudsman acknowledged that there will be a 'great deal of effort required from every public sector agency'.<sup>18</sup> He explained that this is due to the changes introduced by the PID Bill, especially changes to the way PIDs are received.
- 1.20 The Ombudsman noted that the new PID Act moves the onus onto agencies; whistleblowers do not have to correctly identify who within an agency can receive their PID. Under section 51 of the PID Act, managers across the public service will be able to receive a PID, which they are then required to communicate to a disclosure officer.<sup>19</sup> The Ombudsman also said that someone reporting wrongdoing doesn't 'even have to use the words PID at all' - the responsibility is again on the manager receiving the report to identify if it meets the PID threshold, and act accordingly.<sup>20</sup>
- 1.21 The Committee heard that the Ombudsman's office has had contact from smaller agencies 'expressing concern about the administrative burden' of the PID Bill. The Ombudsman stated that one of the challenges during the implementation of the Act will be 'to support and reassure' agencies. He remarked that:
- [The PID Act] significantly changes the landscape for whistleblowing, [but] in many respects represents a common-sense approach to whistleblowing, and is not something agencies need to be frightened of.<sup>21</sup>
- 1.22 As discussed, the new scheme will require that extensive training and support is provided for NSW agencies, the burden of which falls on the Ombudsman's office. The Ombudsman noted that this preparatory work had begun, including the appointment of an Assistant Ombudsman to lead work 'developing sector-wide guidance, communications, and training plans.'<sup>22</sup>
- 1.23 The Committee commends the Ombudsman for their ongoing work to support the introduction of this important scheme, and will begin reviewing the Ombudsman's oversight of the scheme in our next annual review.

**Merger of Inspector of Custodial Services**

- 1.24 The Ombudsman has suggested that the Inspector of Custodial Services (the ICS) be merged with the Ombudsman's office.<sup>23</sup> The Committee heard that this was suggested because of 'overlaps' between the work of both agencies.<sup>24</sup>

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<sup>18</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 24.

<sup>19</sup> [Public Interest Disclosures Act 2022](#), s 51; Mr Miller, [Transcript of evidence](#), 17 October 2022, p 24.

<sup>20</sup> [Public Interest Disclosures Act 2022](#), s 49(b); Mr Miller, [Transcript of evidence](#), 17 October 2022, p 24.

<sup>21</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 24.

<sup>22</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 17.

<sup>23</sup> NSW Ombudsman, [Annual Report 2020-2021](#), 26 October 2021, pp 9, 49; Legislative Council Select Committee on the High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody, [Submission 111](#), NSW Ombudsman, p 11.

<sup>24</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 22.

- 1.25 The Ombudsman explained that both agencies attend custodial and youth justice centres. The ICS conducts inspections, and the Ombudsman conducts visits (with the aim of informing complaint handling, and to receive complaints). The ICS can't receive individual complaints during an inspection, so inmates wishing to make a complaint may be referred to the Ombudsman's office.<sup>25</sup>
- 1.26 In the Ombudsman's opinion, coordinating both agencies' functions would be more efficient, and it would also improve clarity and accessibility for inmates wishing to make a complaint.<sup>26</sup>
- 1.27 Additionally, the Ombudsman suggested that, because of its small size, a merger would benefit the Inspector's office by giving them 'access to the broader resources of [the Ombudsman's] office, including access to training and support.'<sup>27</sup>

### Other tabled reports

- 1.28 The Committee notes that the Ombudsman tabled a large number of reports during the reporting period. We acknowledge the work of the Ombudsman's office in investigating and preparing these reports.

#### *The COVID-19 pandemic: second report*

- 1.29 Under section 31 of the *Ombudsman Act 1974* (the Ombudsman Act), the Ombudsman may make a special report to the Parliament on matters related to the discharge of the Ombudsman's functions.<sup>28</sup> The Ombudsman has tabled two such reports examining the COVID-19 pandemic. The first, *2020 hindsight: the first 12 months of the COVID-19 pandemic*, was tabled on 22 March 2021; the second, *The COVID-19 pandemic: second report*, was tabled on 7 September 2022.<sup>29</sup>
- 1.30 The Ombudsman explained to the Committee that the reports weren't an 'investigation of maladministration' but sought to acknowledge and reflect on the work of public sector agencies in responding to the pandemic. He reflected that 'in times of crisis [...] appropriate mechanisms of external complaint-handling and oversight become more, rather than less, important.'<sup>30</sup> Both reports discuss the response to the pandemic through issues that were highlighted in the profile of complaints received during the pandemic.<sup>31</sup> The Committee commends the Ombudsman on these reports, which provide important oversight of the work of government agencies during the pandemic.

<sup>25</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 22.

<sup>26</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 22; NSW Ombudsman, [Annual Report 2020-2021](#), 26 October 2021, p 49.

<sup>27</sup> NSW Ombudsman, [Annual Report 2020-2021](#), 26 October 2021, p 9.

<sup>28</sup> [Ombudsman Act 1974](#), s 31.

<sup>29</sup> NSW Ombudsman, [2020 hindsight: the first 12 months of the COVID-19 pandemic](#), 22 March 2021; NSW Ombudsman, [The COVID-19 pandemic: second report](#), 7 September 2022.

<sup>30</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 18.

<sup>31</sup> NSW Ombudsman, [Annual Report 2020-2021](#), 26 October 2021, p 32.

*Section 27 follow-up report - Strip searches in youth detention*

- 1.31 On 12 May 2022, the Ombudsman tabled a report under section 27 of the Ombudsman Act (a 'section 27 report').<sup>32</sup> This was of interest to the Committee, because section 27 reports are very infrequent. The Ombudsman Act provides that a section 27 report may be made 'where the Ombudsman is not satisfied that sufficient steps have been taken in due time in consequence of a report' made to Parliament. The responsible Minister must then make a statement of response in the House within 12 sitting days of the section 27 report being made.<sup>33</sup>
- 1.32 In this case, the section 27 report related to an earlier Ombudsman report on strip searches of young people in detention, tabled in April 2021. The Ombudsman explained that the section 27 report was made not just because the agencies had rejected its recommendations, but because they didn't provide a 'substantive explanation for that rejection'.<sup>34</sup> The Minister for Families and Communities made a statement of response on 11 August 2022.<sup>35</sup>
- 1.33 The Committee asked if there had been any further discussions with the Government in relation to the issue following the Minister's response. The Ombudsman noted that his office was 'still engaging with the [Department of Communities and Justice]' to monitor the implementation of the 2021 report's recommendations.<sup>36</sup>

**Child Death Review Team**

- 1.34 The Child Death Review Team (CDRT) is constituted under part 5A of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (the 1993 Act).<sup>37</sup> The CDRT works to prevent and reduce the likelihood of the deaths of children in NSW. In particular, they aim to 'eliminate preventable deaths in New South Wales by working collaboratively to drive systemic changes based on evidence'.<sup>38</sup> The Convenor of the CDRT is the NSW Ombudsman.

**Biennial report 2018-2019**

- 1.35 Under section 34G of the 1993 Act, the CDRT is required to prepare a report on child deaths in NSW, to be tabled every two years (the 'biennial report'). In 2021 the CDRT tabled its biennial report for 2018-2019. The Committee heard that the 2018-19 biennial report examined the death of 989 infants and children aged 0 to 17. The Convenor explained that 73 per cent of deaths were due to natural causes. The majority of these were infants (aged less than 12 months), who

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<sup>32</sup> NSW Ombudsman, [Strip searches in youth detention: a follow-up report under section 27 of the Ombudsman Act 1974](#), 12 May 2022.

<sup>33</sup> [Ombudsman Act 1974](#), s 27.

<sup>34</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 17.

<sup>35</sup> New South Wales, Legislative Council, [Parliamentary Debates](#), 11 August 2022 (Natasha McLaren-Jones, Minister for Families and Communities, and Minister for Disability Services).

<sup>36</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 25.

<sup>37</sup> [Community Services \(Complaints, Reviews and Monitoring\) Act 1993](#), pt 5A.

<sup>38</sup> Mr Paul Miller, Convenor, Child Death Review Team, [Transcript of evidence](#), 17 October 2022, p 18.

generally died during the first 28 days of life due to causes associated with perinatal conditions.<sup>39</sup>

- 1.36 There has been an overall decline in mortality rates between 2005 and 2019. For infants, mortality has declined by 30 per cent; for children it has declined by 26 per cent. However, the Committee was concerned to hear that higher mortality rates are seen in areas of disadvantage in New South Wales – those living in regional and remote areas, in Aboriginal and Torres Strait Islander infants and children, and in families with a child protection history.<sup>40</sup>
- 1.37 As well as this, the rate of suicide deaths among children aged 10-17 years has significantly increased between 2005 and 2019.<sup>41</sup> Suicide was the leading cause of death for young people aged 15-17 in the 2018-19 period. There was also an increased gender gap in suicide deaths, with 75 per cent being young males. Children of Aboriginal and Torres Strait Islander background also had a much higher rate of suicide death.<sup>42</sup>
- 1.38 The Community Services Commissioner, Monica Wolf, noted that suicide is 'the only cause of death where the trend has been increasing'. The Convenor likewise commented that, although the number of suicide deaths haven't been 'significantly tracking up' from 2018-19, he considers that the number in 2018-19 was already 'alarming'.<sup>43</sup>
- 1.39 This is of particular concern to the Committee, but we are pleased to hear that the CDRT is 'actively working' to understand factors driving this trend, and consequently to identify prevention strategies.<sup>44</sup> The Committee will continue to monitor the important work of the CDRT in this area in future reporting periods.

### COVID-19 update

- 1.40 As of July 2022, the CDRT had noted six deaths of children registered in New South Wales where COVID-19 had been listed as a direct or indirect cause of death.<sup>45</sup> The Committee notes that these will be discussed in the CDRT's next biennial report.

### Research projects

- 1.41 The Convenor told the Committee that the CDRT is currently undertaking three research projects:
- the effects of birth conditions and socioeconomic status on early childhood mortality, using linked data,

<sup>39</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 18.

<sup>40</sup> Mr Paul Miller, Convenor, Child Death Review Team, [Transcript of evidence](#), 17 October 2022, p 19.

<sup>41</sup> Child Death Review Team, [Biennial report of the deaths of children in New South Wales: 2018 and 2019](#), p 73.

<sup>42</sup> Child Death Review Team, [Biennial report of the deaths of children in New South Wales: 2018 and 2019](#), p 74.

<sup>43</sup> Ms Monica Wolf, Community Services Commissioner, Child Death Review Team, [Transcript of evidence](#), 17 October 2022, p 27; Mr Miller, [Transcript of evidence](#), 17 October 2022, p 27.

<sup>44</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 19.

<sup>45</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 19.

- neonatal deaths associated with severe perinatal brain injury,
- suicide deaths of Aboriginal children.<sup>46</sup>

1.42 The Committee commends the CDRT for undertaking these important projects, and notes that reports for each are set to be tabled in the next year. We acknowledge and thank all CDRT members and supporting staff for their work to protect children across NSW.

### Remote meetings

1.43 The CDRT held four formal meetings in the reporting period, all of which were conducted online due to pandemic restrictions.<sup>47</sup> The Committee was concerned that this may have impacted the work of the CDRT. The Convenor said that, in his view, the effectiveness of those meetings wasn't diminished.<sup>48</sup>

1.44 Members of the CDRT are 'very busy experts with day jobs', so being able to call into a meeting from their workplace 'has been quite useful.'<sup>49</sup> The Community Services Commissioner said that face-to-face meetings are 'much better and much nicer', but acknowledged that 'it is a balance'.<sup>50</sup>

1.45 Both witnesses agreed that hybrid meeting arrangements had advantages which the CDRT would be 'looking to take advantage of' into the future. The Convenor noted, however, that he wouldn't want to hold every CDRT meeting remotely, because in-person meetings have 'benefits, in terms of discussion, that come from having people in the room.'<sup>51</sup>

### Follow-up on recommendations – Sudden unexpected death in infancy

1.46 Another important function the CDRT undertakes is to monitor the implementation of its recommendations. The Committee was interested in the work being done related to sudden unexpected death in infancy (SUDI). The CDRT published a *Child death review report* in November 2016 that made a number of SUDI recommendations.<sup>52</sup>

1.47 The Community Services Commissioner explained that implementing the SUDI recommendations occurred over a number of years, because they represented 'a really significant shift in the way [SUDI] deaths [are] investigated', and that progress so far has made 'quite a lot of gains'. These gains included enhanced post-mortem forensic reviews, and the development of a cross-government group to investigate SUDI deaths.<sup>53</sup>

1.48 A number of recommendations are still being monitored. The Committee heard that one of these relates to medical history interviews (conducted by NSW Health

<sup>46</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 19.

<sup>47</sup> NSW Child Death Review Team, [Annual Report 2020-21](#), p 7.

<sup>48</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 25.

<sup>49</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 25.

<sup>50</sup> Ms Wolf, [Transcript of evidence](#), 17 October 2022, p 25.

<sup>51</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 25.

<sup>52</sup> NSW Child Death Review Team, [Child death review report 2015](#), p 59.

<sup>53</sup> Ms Wolf, [Transcript of evidence](#), 17 October 2022, p 26.

after a SUDI death), because they're 'critical to everything that happens [in an investigation] after that'.<sup>54</sup> The CDRT noted that there has been recent policy change in NSW Health which formally implements this recommendation.<sup>55</sup> The Committee was pleased to hear of progress in further acting on these important recommendations.

## Law Enforcement Conduct Commission

### Leadership changes

- 1.49 There have recently been significant leadership changes in the Law Enforcement Conduct Commission (the LECC), with both the Chief Commissioner Reginald Blanch AM QC and Commissioner Lea Drake concluding their terms. The Committee acknowledges the extensive work of both Chief Commissioner Blanch and Commissioner Drake, and thanks them for their service to NSW. The new Commissioner, Anina Johnson, and Chief Commissioner, Peter Johnson SC, began their terms on 16 May and 4 July 2022 respectively.
- 1.50 The new Chief Commissioner acknowledged the 'outstanding leadership and service' of the former Chief Commissioner and Commissioner, and noted that he was impressed by the 'capacity, dedication, hard work, and expertise of the staff of the Commission'.<sup>56</sup>
- 1.51 In its previous annual review, the Committee noted concerns about the loss of expertise and instability because of Chief Commissioner Blanch and Commissioner Drake's terms ending 'within months of each other'.<sup>57</sup> The Committee was therefore pleased to hear that the change in leadership has not been disruptive for the LECC.

### Stakeholder meetings

- 1.52 The Committee was also pleased to hear that both the Chief Commissioner and the Commissioner undertook a program of consultative meetings with stakeholders after commencing in their roles. These stakeholders included representatives of other agencies, and legal stakeholders:
- the Commissioner of Police,
  - the NSW Crime Commissioner,
  - the Inspector of the Law Enforcement Conduct Commission (the LECC Inspector),
  - the NSW Director of Public Prosecutions (DPP),

<sup>54</sup> Ms Wolf, [Transcript of evidence](#), 17 October 2022, p 26.

<sup>55</sup> NSW Child Death Review Team, [Annual Report 2020-21](#), p 18; [Answers to questions taken on notice](#), NSW Ombudsman, p 1.

<sup>56</sup> Mr Peter Johnson SC, Chief Commissioner, Law Enforcement Conduct Commission, [Transcript of evidence](#), 28 September 2022, p 7.

<sup>57</sup> Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, [2021 review of annual and other reports of oversight agencies](#), report 2/57, October 2021, p 12.



- the Office of the General Counsel in the NSW Police Force,
- Redfern Legal Centre,
- the Public Interest Advocacy Centre,
- the Youth Justice Coalition, including an Aboriginal Legal Service representative.<sup>58</sup>

1.53 The Chief Commissioner also said that meetings are scheduled with Legal Aid NSW, the Aboriginal Legal Service, the ICAC Chief Commissioner and Commissioners, the NSW Ombudsman, and the State Coroner. He also said that periodic meetings are planned with the Inspector of the LECC, the Commissioner of Police, the NSWCC, and the NSW DPP.<sup>59</sup>

1.54 Additionally, the Chief Commissioner noted plans to have 'regular user group meetings' between LECC officers and legal stakeholders. The aim of these meetings is to assist both the LECC and lawyers who interact with the LECC in representing complainants and addressing areas of possible reform.<sup>60</sup>

1.55 The Commissioner told the Committee that many stakeholder relationships which existed with previous Commissioners were 'sideswiped by COVID', and are being rebuilt. She also commented that the LECC is:

...looking to refocus some of those engagements to see if we can get some strategic advice, and a strategic overview of the kinds of things that people are seeing on the ground, to make sure that the Commission is aware of upcoming issues and can focus our complaints assessment process and our investigations with that in mind.<sup>61</sup>

1.56 The Chief Commissioner also said that these engagements were previously more 'ad hoc', but that he is hoping to make them 'a little bit more regular'. He noted that 'those who have a close interest in matters related to policing' may have 'valuable suggestions to make, with respect to policy reform'.<sup>62</sup>

1.57 The Committee commends the new LECC leadership team for working to rebuild, develop, and maintain relationships with its stakeholders. We consider that this is important to the LECC's discharge of its functions. The Committee will monitor the progress and outcomes of this meeting program, including the proposed user group meetings program, as part of its next annual review.

### **New funding arrangements**

1.58 The Committee asked the LECC about their experience of new funding arrangements (as discussed at paragraphs 1.6 and 1.7). The Chief Commissioner responded that 'there is no difficulty being experienced in those arrangements',

<sup>58</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 7.

<sup>59</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 7.

<sup>60</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 7.

<sup>61</sup> Ms Anina Johnson, Commissioner, Law Enforcement Conduct Commission, [Transcript of evidence](#), 28 September 2022, p 10.

<sup>62</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 10.

which the Committee was pleased to hear. In fact, the LECC has had actual expenditure below budget 'in every year of its operation'.<sup>63</sup>

- 1.59 Additionally, the Chief Commissioner noted that funding had been received for five new positions and for an increase in operating expenses. The latter includes the costs of consultants to undertake a re-baselining exercise. The Committee heard this exercise is required by the new integrity agency funding model, and was scheduled to be completed by the end of October 2022. The Commissioner commented that this exercise 'hopefully will be productive and provide updated information' for 2023-24 Budget submissions.<sup>64</sup>
- 1.60 The Committee will continue to monitor the impact of changes to Budget and funding arrangements for integrity agencies in the next reporting period.

### **Memoranda of Understanding**

- 1.61 The Chief Commissioner discussed the process of reviewing the LECC's Memoranda of Understanding (MoUs) with various agencies. Views were sought from 'everyone in the Commission' as to what an effective MoU would look like, noting that they are 'not statutory documents, [they're] a working document'. He said that they will evolve over time to continue to meet the needs of the LECC and the agencies involved.<sup>65</sup>

#### *With the LECC Inspector*

- 1.62 The Committee was interested to hear that the Chief Commissioner had entered into a revised Memorandum of Understanding (MoU) with the LECC Inspector. Both himself and the LECC Inspector are new to their roles. The Chief Commissioner explained that they agreed it was 'appropriate' to have an MoU signed 'by the two current occupants of the positions'.<sup>66</sup>
- 1.63 The MoU also had some 'areas of fine-tuning'. The Committee heard that these were primarily related to informal points of contact between the LECC Inspector and Commission staff. The revised MoU states that the contact relates to general topics and information-seeking, and identifies particular offices within the LECC by title (not staff name) as points of contact. It also made some 'tidying up' changes.<sup>67</sup>

#### *With the NSW Police Force*

- 1.64 The Committee heard that the LECC is 'close' to finalising a review of its 'Section 14 Agreement' with the NSW Police Force, which identifies the categories of

<sup>63</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 9.

<sup>64</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 9.

<sup>65</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, pp 10-11.

<sup>66</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 7.

<sup>67</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, pp 8-9.

conduct that can be investigated by the LECC.<sup>68</sup> It is provided for by section 14 of the *Law Enforcement Conduct Commission Act 2016* (the LECC Act).<sup>69</sup>

- 1.65 The Chief Commissioner said that this document has been under review 'for some time', and that 'it's very close to being settled'.<sup>70</sup> Given the importance of this agreement to the LECC's oversight functions, the Committee was pleased to hear this, and will continue to monitor its progress as part of our next annual review.

#### *With other agencies*

- 1.66 The Chief Commissioner also said that the LECC was still in the process of reviewing other MoUs it is party to. This is to determine if they were still 'fit for purpose', up to date, and to ensure 'that there [is] a written memo between the current [agency heads]'. He noted that it also provides 'an opportunity for some reassessment of what should be in such documents'.<sup>71</sup>

#### **Monitoring of critical incidents**

- 1.67 The Committee has an ongoing interest in the LECC's monitoring of critical incident investigations.<sup>72</sup> The Chief Commissioner acknowledged that this is an 'important [part] of the work of the Commission'.<sup>73</sup> Critical incidents are incidents involving a NSW Police Force (NSWPF) officer that result in the death or serious injury of a person (including of another NSWPF officer), and must be declared as a critical incident by the Commissioner of Police.<sup>74</sup>

- 1.68 In the 2020-21 Annual Report, the LECC commented that:

In every critical incident investigation to date, involved police officers have refused to consent for the Commission investigator to be present or to remotely observe their interviews.<sup>75</sup>

- 1.69 The LECC state that this 'appears to be a consistent and state-wide position' taken by NSWPF officers, and that 'the power to observe interviews of involved officers in critical incident investigations, as it currently stands in the LECC Act, appears to be an illusory power'.<sup>76</sup>

<sup>68</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 9; NSW Police Force, [Agreement between the Law Enforcement Conduct Commission and the Commissioner of Police Pursuant to s 14 of the Law Enforcement Conduct Commission Act 2016](#), December 2017, viewed 15 November 2022.

<sup>69</sup> [Law Enforcement Conduct Commission Act 2016 \(NSW\)](#), s 14.

<sup>70</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 9.

<sup>71</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 9.

<sup>72</sup> 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, August 2020, p 4; Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, [2018 review of the annual reports of oversight bodies](#), report 4/56, August 2018, pp 5-6

<sup>73</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 7.

<sup>74</sup> [Law Enforcement Conduct Commission Act 2016 \(NSW\)](#), s 110; Law Enforcement Conduct Commission, [Annual Report 2020/2021](#), 26 October 2021, p 63.

<sup>75</sup> Law Enforcement Conduct Commission, [Annual Report 2020/2021](#), 26 October 2021, p 65.

<sup>76</sup> Law Enforcement Conduct Commission, [Annual Report 2020/2021](#), 26 October 2021, p 65.

1.70 The Committee asked the Chief Commissioner if he would like to see legislative changes to address this issue. The Chief Commissioner responded that:

...there is something to be said for measures which would require responses, and having LECC officers present [at interviews]. If that was to be the position, there would have to be appropriate statutory safeguards built in as well.<sup>77</sup>

1.71 The Chief Commissioner also noted that a special report is due to be tabled by the end of this year that examines five years of critical incident investigations (2017-2021).<sup>78</sup> The Committee will consider this report as part of its ongoing attention to this issue in the next reporting period.

### Accessing body-worn video

1.72 The LECC has noted the difficulty of timely access to body-worn video footage, primarily because the NSWPF have not granted access to the system that stores this material.<sup>79</sup>

1.73 This footage includes body-worn cameras, in-car video, and CCTV footage from police stations.<sup>80</sup> Currently, the LECC must submit a request in order to access footage (as permitted by section 102 of the LECC Act).<sup>81</sup> On average, it is 29 days before the requested footage is received. Mr Kirkpatrick, Executive Director Operations, said that it is 'at least some days, and it may take some weeks' to obtain footage.<sup>82</sup>

1.74 The Committee asked if progress had been made on reaching an agreement with the NSWPF. We were pleased to hear that there is 'ongoing discussion concerning this issue'<sup>83</sup> and will continue to monitor it in the next reporting period.

### Anonymising names in reports

1.75 The Committee was interested in the LECC's practice of deidentifying police officers and witnesses in its reports. The Chief Commissioner remarked that this practice 'struck him' as unusual when he commenced at the LECC. The power to deidentify, in his opinion, is 'a type of implied power flowing from restriction on publication'. He commented that:

<sup>77</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 8.

<sup>78</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, pp 8-9; Law Enforcement Conduct Commission, [Annual Report 2020/2021](#), 26 October 2021, p 63.

<sup>79</sup> Law Enforcement Conduct Commission, [Annual Report 2020/2021](#), 26 October 2021, p 25; Law Enforcement Conduct Commission, [Annual Report 2019-20](#), 29 October 2020, p 20;

<sup>80</sup> Law Enforcement Conduct Commission, [Annual Report 2020/2021](#), 26 October 2021, p 25; Mr Gary Kirkpatrick, Executive Director Operations, Law Enforcement Conduct Commission, [Transcript of evidence](#), 28 September 2022, p 11.

<sup>81</sup> [Law Enforcement Conduct Commission Act 2016 \(NSW\)](#), s 102.

<sup>82</sup> Law Enforcement Conduct Commission, [Annual Report 2020/2021](#), 26 October 2021, p 25; Mr Kirkpatrick, [Transcript of evidence](#), 28 September 2022, p 12.

<sup>83</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 11; Mr Kirkpatrick, [Transcript of evidence](#), 28 September 2022, p 12.

...a blanket approach is not the appropriate approach, but a case-by-case approach [is.] There may be circumstances in particular cases why it's done, but there should be an assessment of what those circumstances are.<sup>84</sup>

- 1.76 The Chief Commissioner did note that there may be circumstances where deidentification would be appropriate, such as referring to members of the public and complainants, especially young people, but that he generally considers publishing 'what has happened, including identities' to be useful.<sup>85</sup>

## Inspector of the Law Enforcement Conduct Commission

### Leadership change

- 1.77 Similar to the LECC, there was a change in the leadership of the Office of the Inspector of the Law Enforcement Conduct Commission (the LECC Inspector). The term of the inaugural LECC Inspector, the Hon Terry Buddin SC, ended in 2022. Mr Bruce McClintock SC commenced his term as Inspector in July 2022.
- 1.78 The Committee acknowledges the work of the former Inspector and thanks him for his service to NSW.
- 1.79 In discussing his first few months in the role, the Inspector commented that it has been more work than his previous role as Inspector of the Independent Commission Against Corruption. He suggested this may be due to the nature of the work being connected with the agency that supervises the NSW Police Force.<sup>86</sup>
- 1.80 The Inspector also noted the revised MoU with the new Chief Commissioner of the LECC and highlighted the significance and value of such documents as they 'impose an informal obligation of reporting, indeed on both sides, and consulting.'<sup>87</sup>

### Anonymising names in reports

- 1.81 In his appearance before the Committee, the Inspector also referred to the practice of deidentifying names in LECC reports. He noted that he personally thinks it is inappropriate and that the position should be that 'prima facie everyone is named, unless there is a good reason not to name them.'<sup>88</sup>
- 1.82 The Inspector did note that he has not expressed this view with the Chief Commissioner yet but indicated he does propose to keep checking on this area.<sup>89</sup>

<sup>84</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 12.

<sup>85</sup> Mr Johnson SC, [Transcript of evidence](#), 28 September 2022, p 12.

<sup>86</sup> Mr Bruce McClintock SC, Inspector of the Law Enforcement Conduct Commission, [Transcript of evidence](#), 28 September 2022, p 13.

<sup>87</sup> Mr McClintock SC, [Transcript of evidence](#), 28 September 2022, p 13.

<sup>88</sup> Mr McClintock SC, [Transcript of evidence](#), 28 September 2022, p 13.

<sup>89</sup> Mr McClintock SC, [Transcript of evidence](#), 28 September 2022, p 13.

### Special Report on the use of assumed identities and the system of oversight of covert investigative powers in NSW

- 1.83 In May 2022, the former Inspector tabled a Special Report to Parliament on an audit of the LECC's acquisition and use of assumed identities and other matters relating to the system of oversight of covert investigative powers in New South Wales.<sup>90</sup>
- 1.84 The former Inspector's report made three recommendations, including that the NSW Government consider a review of the legal framework concerning the use and oversight of covert powers, and that a dedicated agency be established to provide oversight of the use of assumed identities by law enforcement agencies.<sup>91</sup>
- 1.85 When questioned about this report, the current Inspector supported the recommendations of the former Inspector and indicated that he does not believe any action has been taken as yet in response to the recommendations.<sup>92</sup> The Committee will monitor this area and any response to the recommendations of the former Inspector.

### NSW Crime Commission

#### Statutory review of the *Crime Commission Act 2012*

- 1.86 In December 2020, a statutory review of the *Crime Commission Act 2012* (the CC Act) was completed, containing nine recommendations.<sup>93</sup>
- 1.87 When appearing before the Committee for its last annual review, Commissioner Michael Barnes commented that neither the review nor the stakeholder submissions concluded that major amendments were required and that the nine recommendations were not controversial.<sup>94</sup>
- 1.88 In October 2022, the *Confiscation of Proceeds of Crime Legislation Amendment Act 2022* was enacted, which implements the recommendations from the statutory review.<sup>95</sup>

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<sup>90</sup> Inspector of the Law Enforcement Conduct Commission, [Special Report on an audit of the LECC's acquisition and use of assumed identities and other matters relating to the system of oversight of covert investigative powers in New South Wales](#), May 2022.

<sup>91</sup> Inspector of the Law Enforcement Conduct Commission, [Special Report on an audit of the LECC's acquisition and use of assumed identities and other matters relating to the system of oversight of covert investigative powers in New South Wales](#), May 2022, p 65.

<sup>92</sup> Mr McClintock SC, [Transcript of evidence](#), 28 September 2022, p 14.

<sup>93</sup> NSW Department of Communities and Justice, [Statutory Review Report: Crime Commission Act 2012](#), December 2020, p 5.

<sup>94</sup> Mr Michael Barnes, Commissioner, NSW Crime Commission, [Transcript of evidence](#), 28 May 2021, p 14.

<sup>95</sup> New South Wales, Legislative Assembly, [Parliamentary Debates](#), 12 October 2022 (Paul Toole, Deputy Premier and Minister for Regional NSW, and Minister for Police). The Act amends the: [Confiscation of Proceeds of Crime Act 1989](#), the [Criminal Assets Recovery Act 1990](#), the [Crime Commission Act 2012](#), the [Criminal Assets Recovery Regulation 2017](#), the [Criminal Procedure Act 1986](#) and the [Unexplained Wealth \(Commonwealth Powers\) Act 2018](#).

*Administrative forfeiture scheme*

1.89 Included in the amendments was the introduction of an administrative forfeiture scheme. In the second reading speech, the Minister stated that these amendments:

... enable the automatic forfeiture of property that is subject of a restraining order or a confirmed freezing notice after the person is convicted of a serious offence. This removes the need for law enforcement authorities to apply to the court for a forfeiture order for restrained or frozen property following conviction of a serious offence. It follows suit with the Commonwealth and many other Australian jurisdictions which already have similar provisions.<sup>96</sup>

1.90 At the hearing for the current annual review, Commissioner Barnes commented that this should make it easier to accelerate the forfeiture of criminal assets. Commissioner Barnes explained:

... that if property that appears to the Commission to be improperly gained wealth, obviously the ones I have—the example I would give, would be cash; box full of cash on the floor, we can seize that, give a notice to whoever we think might legitimately have a claim for it - obviously, the home owner, people seen entering and leaving the premises - and say, unless you convince the court that this is legitimately obtained cash, or you want to have a contest about it, it will automatically be forfeited. The vast majority of people run a million miles and say, "I did not know it was there. It had nothing to do with me." So you can understand how much more expeditious is the forfeiture regime under that system.<sup>97</sup>

1.91 The Committee notes the potential benefits for the NSW Crime Commission from streamlining the forfeiture process. The Committee also acknowledges the significance of these new powers. As noted in the Minister's second reading speech:

... such powers are significant impositions on private property, and the bill includes a number of strict processes, thresholds and safeguards to ensure that administrative forfeiture is only available in appropriately limited circumstances.<sup>98</sup>

1.92 The amendments are due to commence in February 2023,<sup>99</sup> and the Committee will be interested in following their implementation.

**Project Islington – Inquiry into money laundering through electronic gaming machines in pubs and clubs**

1.93 During the reporting year, the NSW Crime Commission commenced an inquiry into money laundering in pubs and clubs.<sup>100</sup> As part of the inquiry, the Crime

<sup>96</sup> New South Wales, Legislative Assembly, [Parliamentary Debates](#), 12 October 2022 (Paul Toole, Deputy Premier and Minister for Regional NSW, and Minister for Police).

<sup>97</sup> Mr Barnes, Commissioner, [Transcript of evidence](#), 17 October 2022, pp 11-12.

<sup>98</sup> New South Wales, Legislative Assembly, [Parliamentary Debates](#), 12 October 2022 (Paul Toole, Deputy Premier and Minister for Regional NSW, and Minister for Police).

<sup>99</sup> [Confiscation of Proceeds of Crime Legislation Amendment Act 2022](#), s 2.

<sup>100</sup> NSW Crime Commission, [Media release: Poker machine money laundering inquiry](#), 17 December 2021. The Independent Liquor and Gaming Authority, the Australian Criminal Intelligence Commission; the Australian Transaction Reports and Analysis Centre and the New South Wales Police Force agreed to partner with or to assist

Commission called for submissions and published three issues papers. In October 2022, the Commission published the final report containing 8 recommendations and 12 findings.<sup>101</sup>

- 1.94 This was the first time the Crime Commission has undertaken an inquiry of this nature where the objective was the release of a public report including recommendations for law reform. Commissioner Barnes commented it is distinct from other types of work the Commission does, such as prosecutions and proceeds work.<sup>102</sup>
- 1.95 Commissioner Barnes also stated that, in his view, reports of this nature are a valid function of the Commission. When questioned on whether the Crime Commission has adequate powers to conduct inquiries of this nature, the Commissioner indicated that they make seek amendments to the CC Act to assist with inquiries such as these.<sup>103</sup>
- 1.96 The Commissioner highlighted that the process had to be carefully managed because processes are usually aimed at a prosecution. For more general policy focussed inquiries such as this one, there are different considerations which could be assisted by some amendments.<sup>104</sup>

## Information and Privacy Commission

### Overview of operations

- 1.97 Both the Information and Privacy Commissioners highlighted the achievements of the Information and Privacy Commission (the IPC) during the reporting period.
- 1.98 The Information Commissioner, Ms Elizabeth Tydd noted that the IPC's positive performance outcomes are demonstrated by their ability to deal with increased case volumes but also maintain timeliness and quality outcomes. Commissioner Tydd indicated that in the 2020/21 period, the IPC received 'an increase of 10 per cent in our case work. Against this, the IPC closed 4.4 per cent more reviews and complaints than in our last reporting period.'<sup>105</sup>
- 1.99 Similarly, Privacy Commissioner, Ms Samantha Gavel noted that in the privacy stream, 'there was a 12 per cent increase in privacy internal reviews, following a 36 per cent increase the previous year, with all reviews completed within the target date of 40 days.'<sup>106</sup>

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the Crime Commission with the inquiry: [NSW Crime Commission, Project Islington – Inquiry into Money Laundering via Electronic Gaming Machines in Hotels and Clubs](#), October 2022, p iii.

<sup>101</sup> NSW crime Commission, [Project Islington – Inquiry into Money Laundering via Electronic Gaming Machines in Hotels and Clubs](#), October 2022, p viii-xi.

<sup>102</sup> Mr Barnes, [Transcript of evidence](#), 17 October 2022, p 10.

<sup>103</sup> Mr Barnes, [Transcript of evidence](#), 17 October 2022, p 10.

<sup>104</sup> Mr Barnes, [Transcript of evidence](#), 17 October 2022, p 10.

<sup>105</sup> Ms Elizabeth Tydd, Information Commissioner and CEO, Information and Privacy Commission, [Transcript of evidence](#), Monday 17 October 2022, p 2.

<sup>106</sup> Ms Samantha Gavel, Privacy Commissioner, Information and Privacy Commission, [Transcript of evidence](#), Monday 17 October 2022, p 3.



- 1.100 The Committee commends the IPC on these positive performance outcomes, especially in an increasingly digital environment.

***Privacy and Personal Information Protection Amendment Bill 2022***

- 1.101 The Committee has had an ongoing interest in the progress of amendments to the *Privacy and Personal Information Protection Act 1998* (the PPIP Act). In particular the introduction of a mandatory notification of data breach scheme.<sup>107</sup>
- 1.102 In November 2022, the *Privacy and Personal Information Protection Amendment Bill 2022* (the PPIP Amendment Bill) was introduced and passed by Parliament.<sup>108</sup>
- 1.103 The PPIP Amendment Bill introduces a mandatory notification of data breach scheme and also extends the PPIP Act's application to State owned corporations not subject to the *Privacy Act 1988* of the Commonwealth.
- 1.104 Commissioner Gavel indicated that the IPC has had significant engagement with the Department of Communities and Justice, the lead agency for the Bill. Commissioner Gavel also noted that the IPC has received funding to implement the legislation once it comes into force. Commissioner Gavel stated:
- ... the IPC has received funding to enable us to implement the legislation once it comes in, and so we have done significant work – to the extent that we can, as the bill has not been legislated yet – to prepare to be able to implement the scheme. That includes producing a very detailed plan, and then starting work on those elements that we can actually address at this point.<sup>109</sup>
- 1.105 The Committee will monitor the commencement and implementation of the PPIP Amendment Bill with interest.

***Government Information (Public Access) Act 2009 compliance***

- 1.106 An issue discussed during the hearing was compliance with open access requirements of the *Government Information (Public Access) Act 2009* (GIPA Act), in particular by local councils.
- 1.107 In the IPC's *Report on the Operation of the Government (Public Access) Act 2009 2020-2021*, reference was made to low levels of compliance with specific pro-integrity disclosure requirements in the Council sector. In a targeted compliance audit, the IPC found that approximately 30 per cent of audited councils were non-compliant.<sup>110</sup>
- 1.108 Commissioner Tydd commented that despite investment in education and guidance to ensure that local councils reporting requirements were in place, the

<sup>107</sup> Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, [2020 review of the annual reports of oversight agencies](#), Report 1/57, pp 15-16; Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, [2021 review of the annual reports of oversight agencies](#), Report 2/57, p 6.

<sup>108</sup> The *Privacy and Personal Information Protection Amendment Bill* received assent on Monday 28 November 2022.

<sup>109</sup> Ms Samantha Gavel, Privacy Commissioner, Information and Privacy Commission, [Transcript of evidence](#), Monday 17 October, p 7.

<sup>110</sup> Information and Privacy Commission, [Report on the Operation of the Government \(Public Access\) Act 2009 2020-2021](#), p 4.

level of non-compliance was a disappointing outcome. In response to these results, the IPC will undertake a further review.<sup>111</sup>

## Inspector of Custodial Services

### Impact of COVID-19 on inspections

- 1.109 Similar to the last reporting period, a significant focus for the ICS for 2021 and 2022 was responding to the threat posed by COVID-19 to the custodial environment.<sup>112</sup>
- 1.110 In 2020 the ICS implemented the *Inspector of Custodial Services COVID-19 plan* (the Plan). The Plan has been updated throughout the pandemic and adopts a 'do no-harm' approach which 'at times [has] involved postponing inspections or utilising technology to complement onsite inspections.'<sup>113</sup>
- 1.111 The Inspector, Ms Fiona Rafter commented that the use of technology in custodial facilities has significantly improved during the course of the pandemic. The Inspector highlighted the use of tablets and audio-visual link equipment (AVL equipment) as examples.<sup>114</sup>
- 1.112 The use of tablets have allowed requests to be logged and for complaints and also, importantly, the ability for people in custody to stay in contact with their families.<sup>115</sup>
- 1.113 In the Inspector's view, the increased use of AVL equipment has been very important. The Inspector encourages and recommends the increased use of AVL equipment as it reduces the amount of movement in the system.<sup>116</sup>

### Official Visitors program

- 1.114 In the Committee's previous annual review, the Committee was interested in efforts to increase diversity within the Official Visitors program.<sup>117</sup>
- 1.115 The Committee was provided with updated figures from the Inspector and was pleased to hear that of the 12 Youth Justice Official Visitors, four are women and seven are Aboriginal Official Visitors. The Inspector indicated this was a significant change from 2016 when there were no Aboriginal Official Visitors in Youth Justice.<sup>118</sup>

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<sup>111</sup> Ms Tydd, [Transcript of evidence](#), Monday 17 October 2022, p 5.

<sup>112</sup> Ms Fiona Rafter, Inspector, Inspector of Custodial Services, [Transcript of evidence](#), Wednesday 28 September, p 3.

<sup>113</sup> Ms Rafter, [Transcript of evidence](#), Wednesday 28 September, p 3.

<sup>114</sup> Ms Rafter, [Transcript of evidence](#), Wednesday 28 September, p 3.

<sup>115</sup> Ms Rafter, [Transcript of evidence](#), Wednesday 28 September, p 4.

<sup>116</sup> Ms Rafter, [Transcript of evidence](#), Wednesday 28 September, p 4.

<sup>117</sup> Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, [2021 annual review of oversight agencies](#), report 2/57, p 7.

<sup>118</sup> Ms Rafter, [Transcript of evidence](#), Wednesday 28 September, p 5.

- 1.116 In adult correctional centres there are 80 Official Visitor appointments, with 21 of these filled by Aboriginal Official Visitors. Inspector Rafter stated that the ICS is continuing to do targeted recruitment to attract people to these roles.<sup>119</sup>
- 1.117 In adult correctional centres, there are 30 women and 23 men involved in the Official Visitor program. Inspector Rafter acknowledged there were fewer people involved in the program than there are appointments and this is particularly the case in regional areas. The Inspector indicated that there are people appointed to visit multiple centres who are happy to take on those roles.<sup>120</sup>

### Inspection standards for Aboriginal people in custody

- 1.118 At the hearing, the Committee received an update on the development of Inspection Standards for Aboriginal people in custody. The Inspector indicated they are not published as yet and her Office are awaiting final feedback from stakeholders.<sup>121</sup>
- 1.119 The Inspector noted the Aboriginal Inspection and Liaison position in the office which has been critical to the development of the Inspection Standards.<sup>122</sup>
- 1.120 The Inspector also noted the consultation the office has undertaken as part of developing the Inspection Standards. Feedback has been sought from the primary stakeholders, being Youth Justice, Justice Health and Corrective Services. Consultation has also occurred with the Aboriginal Legal Service, Aboriginal staff within Corrections and the Deputy Secretary, Transforming Aboriginal Outcomes, in the Department of Communities and Justice.<sup>123</sup>
- 1.121 The Committee is interested in this work of the ICS and will monitor the publication of the Inspection Standards.

## The Optional Protocol to the Convention Against Torture

### Recommendation 1

**The Committee recommends that, in accordance with the Optional Protocol to the Convention Against Torture, the NSW Government nominate a National Preventative Mechanism for New South Wales as a matter of priority.**

- 1.122 The Optional Protocol to the Convention Against Torture (OPCAT) is an international human rights treaty that aims to prevent the mistreatment of people in detention by preventing torture and cruel, inhuman, or degrading treatment and punishments. It was adopted by the General Assembly of the United Nations in December 2002 and entered into force in 2006.<sup>124</sup>

<sup>119</sup> Ms Rafter, [Transcript of evidence](#), Wednesday 28 September, p 5.

<sup>120</sup> Ms Rafter, [Transcript of evidence](#), Wednesday 28 September, p 5.

<sup>121</sup> Ms Rafter, [Transcript of evidence](#), Wednesday 28 September, pp 5-6

<sup>122</sup> Ms Rafter, [Transcript of evidence](#), Wednesday 28 September, p 5.

<sup>123</sup> Ms Rafter, [Transcript of evidence](#), Wednesday 28 September, p 5.

<sup>124</sup> Office of the High Commissioner for Human Rights, United Nations, [Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#), entered into force 22 June 2006, viewed online 15 November 2022.

- 1.123 Countries that ratify OPCAT agree to establish independent National Preventative Mechanisms (NPMs), which must conduct inspections of all places of detention.<sup>125</sup> In order for Australia to be compliant with OPCAT, each state and territory government would be required to nominate or establish at least one NPM in their jurisdiction.<sup>126</sup>
- 1.124 Australia ratified OPCAT in 2017, and has an extended deadline for implementation of 20 January 2023.<sup>127</sup> The Committee considers that it is not ideal if this deadline is extended further. The Committee notes that the Australian Human Rights Commission has been critical of Australia's implementation of OPCAT, stating that progress has been 'too slow'.<sup>128</sup>
- 1.125 This is of concern to the Committee. Both the ICS and the Ombudsman shared the Committee's concern, and both stated they were 'hopeful' that implementation would be by the 2023 deadline.<sup>129</sup>
- 1.126 Because of this, the Committee is recommending that the NSW Government nominates an NPM as a matter of priority.
- 1.127 This would give proposed NPMs the most time practicable to prepare. The Ombudsman commented that if his office was to be nominated as an NPM:
- My preference would be that we be informed of that [...] before January 2023, rather than during January 2023, so that we [can] meet the expectations that come with that function.<sup>130</sup>
- 1.128 The Committee will continue to monitor this issue and the further implementation of OPCAT in NSW.

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<sup>125</sup> [Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#), Article 17.

<sup>126</sup> Australian Human Rights Commission, [Implementing OPCAT in Australia](#), June 2020, viewed online 15 November 2022, pp 33-34.

<sup>127</sup> Australian Human Rights Commission, [OPCAT: Optional Protocol to the Convention Against Torture](#), 29 June 2021, viewed online 15 November 2022.

<sup>128</sup> Australian Human Rights Commission, [Implementing OPCAT in Australia: Introduction](#), June 2020, viewed online 15 November 2022.

<sup>129</sup> Ms Fiona Rafter, Inspector of Custodial Services, [Transcript of evidence](#), 28 September, p 6; Mr Miller, [Transcript of evidence](#), 17 October 2022, p 21.

<sup>130</sup> Mr Miller, [Transcript of evidence](#), 17 October 2022, p 22.

## 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 – Witnesses

### Public Hearing on 28 September 2022 Macquarie Room, Parliament House, Sydney

<b>Witness</b>	<b>Position and Organisation</b>
Fiona Rafter	Inspector, Office of the Inspector of Custodial Services
Peter Johnson SC	Chief Commissioner, Law Enforcement Conduct Commission
Anina Johnson	Commissioner, Law Enforcement Conduct Commission
Christina Anderson	CEO, Law Enforcement Conduct Commission
Gary Kirkpatrick	Executive Director Operation, Law Enforcement Conduct Commission
Bruce McClintock SC	Inspector, Office of the Inspector of Law Enforcement Conduct Commission

### Public Hearing on 17 October 2022 Jubilee Room, Parliament House, Sydney

<b>Witness</b>	<b>Position and Organisation</b>
Elizabeth Tydd	Information Commissioner and Chief Executive Officer, Information and Privacy Commission
Samantha Gavel	Privacy Commissioner, Information and Privacy Commission
Michael Barnes	Commissioner, NSW Crime Commission
Michael Wilde	Chief Operating Officer, NSW Crime Commission
Paul Miller	Ombudsman, NSW Ombudsman and Child Death Review Team
Monica Wolf	Chief Deputy Ombudsman, NSW Ombudsman and Child Death Review Team
Chris Clayton	Chief Operating Officer, NSW Ombudsman and Child Death Review Team

## Appendix Three – Extracts of minutes

### **MINUTES OF MEETING No 18**

1.03 pm, Monday 20 December 2021

WebEx videoconference

#### **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

#### **Officers in attendance**

Leon Last, Ilana Chaffey

#### **Apologies**

Dr McDermott

#### **1. Confirmation of minutes**

Resolved, on the motion of Mr Searle, seconded Mr Poulos: That the minutes of the meeting of 15 October 2021 be confirmed.

#### **2. \*\*\***

#### **3. \*\*\***

#### **4. 2022 review of the annual and other reports of oversight agencies**

The Committee discussed commencing the 2022 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 2022 examination of annual and other reports of oversight agencies, and invite representatives from the relevant agencies to give evidence at a public hearing on a date to be confirmed.

#### **5. Next meeting**

The Chair adjourned the meeting at 1.07 pm until a date to be determined.

### **MINUTES OF MEETING No 19**

1.46 pm, 24 March 2022

Macquarie room, WebEx videoconference

#### **Members present**

The Hon. Adam Searle MLC, the Hon. Wes Fang MLC, the Hon. Catherine Cusack MLC, the Hon. Leslie Williams MP, Mr Dave Layzell MP (via videoconference)

#### **Officers Present**

Carly Maxwell (Deputy Clerk of the Legislative Assembly), Sam Griffith, Emma Wood, Ilana Chaffey.

#### **Apologies**

Dr Hugh McDermott MP, Mr Paul Lynch MP

## 1. Committee membership

The Deputy Clerk opened the meeting and advised the Committee of the change in membership, as recorded in:

- the Legislative Assembly votes and Proceedings of Thursday 24 February 2022, No. 15, Item 1(d), where the Hon. Leslie Williams MP and Mr David Layzell MP were appointed to the Committee, in place of Mr Mark Coure MP and Mr Dugald Saunders MP;
- the Legislative Council Minutes, Thursday 24 February 2022, No 4, Item 1(d), where the Hon. Don Harwin MLC and the Hon. Wes Fang MLC were appointed to the Committee, in place of the Hon. Peter Poulos MLC and the Hon. Lou Amato MLC;
- the Legislative Council Minutes, Wednesday 23 March 2022, No 29, where the Hon. Catherine Cusack MLC was appointed to the Committee in place of the Hon. Don Harwin MLC

## 2. Election of Chair

There being a vacancy in the office of Chair of the Committee, the Deputy Clerk called for nominations for the office of Chair.

Ms Cusack proposed Mr Fang to be Chair, seconded by Mr Layzell. No further nominations were received. There being only one nomination, the Deputy Clerk declared Mr Fang to be the Chair.

Mr Fang took the Chair.

## 3. Election of Deputy Chair

There being a vacancy in the office of the Deputy Chair of the Committee, the Chair called for nominations for the office of Deputy Chair.

Ms Cusack proposed Mr Layzell to be the Deputy Chair, seconded by Mrs Williams. No further nominations were received. There being only one nomination, the Chair declared Mr Layzell to be the Deputy Chair.

## 4. \*\*\*

### Next Meeting

The meeting adjourned at 1.49 pm until a date and time to be confirmed.

### MINUTES OF MEETING No 20

4.33 pm, 6 April 2022

Room 1136, WebEx videoconference

### Members present

The Hon. Wes Fang MLC (**Chair**) (by videoconference), Mr Dave Layzell MP (**Deputy Chair**) (by videoconference), the Hon. Catherine Cusack MLC (by videoconference), Dr Hugh McDermott MP (by videoconference), Mr Paul Lynch MP (by videoconference), the Hon. Adam Searle MLC, the Hon. Leslie Williams MP (by videoconference)



**Officers present**

Sam Griffith, Emma Wood, Ilana Chaffey

**1. Confirmation of minutes**

- Resolved, on the motion of Mr Searle: That the minutes of the meeting of 20 December 2021 be confirmed.
- Resolved, on the motion of Mr Layzell: That the minutes of the meeting of 24 March 2022 be confirmed.

**2. \*\*\***

**3. \*\*\***

**4. 2022 review of the annual and other reports of oversight agencies**

The Committee discussed potential dates for a public hearing as part of its current inquiry.

**5. Next meeting**

The meeting adjourned at 5.07pm until a date and time to be confirmed.

**MINUTES OF MEETING No 22**

9.30 am, 9 June 2022

Room 1136

**Members present**

The Hon Wes Fang MLC, (**Chair**), Mr Dave Layzell MP (**Deputy Chair**), the Hon Catherine Cusack MLC, Mr Paul Lynch MP, Dr Hugh McDermott MP, the Hon Adam Searle MLC.

**Officers present**

Sam Griffith, Emma Wood, Ilana Chaffey, Mohini Mehta.

**Apologies**

Mrs Leslie Williams MP

**1. Confirmation of minutes**

Resolved, on the motion of Mr Searle, seconded Dr McDermott: That the minutes of the meeting of 14 April 2022 be confirmed.

**2. \*\*\***

**3. \*\*\***

**4. 2022 review of annual and other reports of oversight agencies**

**4.1 Public hearing**

The Committee considered a draft hearing schedule for 8 August 2022.

**5. Next meeting**

The meeting adjourned at 9.41 am until a date to be determined.

**MINUTES OF MEETING No 23**

3.02pm, 28 September 2022

Macquarie Room, WebEx videoconference

**Members present**

The Hon Wes Fang MLC (**Chair**), Mr Dave Layzell MP (**Deputy Chair**), Mr Paul Lynch MP, the Hon Aileen MacDonald OAM MLC, Dr Hugh McDermott MP (videoconference), the Hon Adam Searle MLC, Mrs Leslie Williams MP (videoconference).

**Officers present**

Sam Griffith, Emma Wood, Ilana Chaffey, Mohini Mehta.

**1. Confirmation of minutes**

Resolved, on the motion of Mr Lynch: That the minutes of the meeting of 9 June 2022 be confirmed.

**2. \*\*\***

**3. 2022 review of annual and other reports of oversight agencies**

**3.1. Media orders for public hearing**

Resolved, on the motion of Mr Layzell: That the Committee authorise the audio-visual recording photography and broadcasting of the public hearing on 28 September 2022, in accordance with the NSW Legislative Assembly's guidelines for the coverage of proceedings for committees administered by the NSW Legislative Assembly.

**3.2. Answers to questions taken on notice**

Resolved, on the motion of Mr Layzell: That witnesses be requested to return answers to questions take on notice within 10 business days of the date on which the questions are forwarded to witnesses.

**3.3. Recording of proceedings**

Resolved, on the motion of Mr Layzell: That the public hearing be recorded via Webex for the purposes of external transcription.

The Chair adjourned the meeting at 3.06 pm.

**4. Public hearing**

Witnesses were admitted. The Chair opened the hearing at 3.15 pm and made a short opening statement.

The following witness was admitted:

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

Evidence concluded; the witness withdrew.

The following witnesses were admitted:

- The Hon Peter Johnson, Chief Commissioner, Law Enforcement Conduct Commission, sworn and examined.

- Ms Anina Johnson, Commissioner, Law Enforcement Conduct Commission, affirmed and examined.
- Mr Gary Kirkpatrick, Executive Director, Operations, Law Enforcement Conduct Commission, sworn and examined.
- Ms Christina Anderson, Chief Executive Officer, Law Enforcement Conduct Commission, affirmed and examined.

Evidence concluded; the witnesses withdrew.

The following witness was admitted:

- Mr Bruce McClintock SC, Inspector of the Law Enforcement Conduct Commission, affirmed and examined.

Evidence concluded; the witness withdrew.

The public hearing concluded at 5.06 pm.

## **5. 2022 review of annual and other reports of oversight agencies (cont.)**

The Chair resumed the meeting at 5.08 pm.

### **5.1. Publication orders**

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

## **6. Next meeting**

The meeting adjourned at 5.09 pm until 9.20 am on Monday 17 October 2022.

## **MINUTES OF MEETING No 24**

9.25am, 17 October 2022

Jubilee Room, WebEx videoconference

### **Members present**

The Hon Wes Fang MLC (**Chair**), Mr Dave Layzell MP (**Deputy Chair**), Mr Paul Lynch MP, the Hon Aileen MacDonald MLC, Dr Hugh McDermott MP (videoconference), the Hon Adam Searle MLC, Mrs Leslie Williams MP.

### **Officers present**

Sam Griffith, Emma Wood, Ilana Chaffey, Mohini Mehta.

## **1. Confirmation of minutes**

Resolved, on the motion of Mr Layzell: That the minutes of the meeting of 28 September 2022 be confirmed.

## **2. \*\*\***

## **3. 2022 review of annual and other reports of oversight agencies**

### **3.1. Answers to questions taken on notice**

The Committee noted the response received to questions taken on notice at the public hearing on Wednesday 28 September 2022 from the Inspector of the LECC

dated 10 October 2022, and including a copy of the signed memorandum of understanding between the LECC and the Office of the Inspector of the LECC.

Resolved, on the motion of Mr Layzell: That the Committee publish the answers to questions taken on notice received from the Inspector of the Law Enforcement Conduct Commission, including the copy of the signed memorandum of understanding.

### **3.2. Media orders for public hearing**

Resolved, on the motion of Mr Layzell: That the Committee authorise the audio-visual recording photography and broadcasting of the public hearing on 17 October 2022, in accordance with the NSW Legislative Assembly's guidelines for the coverage of proceedings for committees administered by the NSW Legislative Assembly.

### **3.3. Answers to questions taken on notice**

Resolved, on the motion of Mrs Williams: That witnesses be requested to return answers to questions taken on notice within 10 business days of the date on which the questions are forwarded to witnesses.

The Chair adjourned the meeting at 9.31 am.

## **6. Public hearing - 2022 review of annual and other reports of oversight agencies**

Witnesses were admitted. The Chair opened the hearing at 9.31 am and made a short opening statement.

The following witnesses were admitted:

- Elizabeth Tydd, Information Commissioner and Chief Executive Officer, Information and Privacy Commission, sworn and examined.
- Samantha Gavel, Privacy Commissioner, Information and Privacy Commission, sworn and examined.

Mr Fang left the chair at 9.50am. Mr Layzell assumed the chair.

Mr Lynch joined the hearing at 9.54 am.

Evidence concluded and the witnesses withdrew.

The following witnesses were admitted:

- Michael Barnes, Commissioner, NSW Crime Commission, affirmed and examined.
- Michael Wilde, Chief Operating Officer, NSW Crime Commission, affirmed and examined.

Evidence concluded and the witnesses withdrew.

The Deputy Chair adjourned the hearing at 10.57 am.

The Deputy Chair resumed the hearing at 11.13 am.

The following witnesses were admitted:

- Paul Miller, Ombudsman, NSW Ombudsman and Child Death Review Team, affirmed and examined.

- Monica Wolf, Chief Deputy Ombudsman, NSW Ombudsman and Child Death Review Team, affirmed and examined.
- Chris Clayton, Chief Operating Officer, NSW Ombudsman and Child Death Review Team, affirmed and examined.

Mr Searle left the hearing at 12.10 pm.

Evidence concluded and the witnesses withdrew.

The public hearing concluded at 12.30 pm.

## **7. 2022 review of annual and other reports of oversight agencies (cont.)**

The Deputy Chair resumed the meeting at 12.32 pm.

### **7.1. Publication orders**

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

### **7.2. Acceptance and publication of tendered documents**

Resolved, on the motion of Mr Lynch: That the Committee accept the following tendered document:

- [Strategic Plan 2021-2025](#), NSW Crime Commission

Resolved, on the motion of Mrs MacDonald: That the Committee publish the following document tendered during the public hearing:

- [Strategic Plan 2021-2025](#), NSW Crime Commission

## **8. Next meeting**

The meeting adjourned at 12.34 pm until 30 November 2022.

## **UNCONFIRMED MINUTES OF MEETING No 25**

11.04am, 30 November 2022

Videoconference

### **Members present**

The Hon Wes Fang MLC (**Chair**), Mr Dave Layzell MP (**Deputy Chair**), Mr Paul Lynch MP, the Hon Aileen MacDonald MLC, Dr Hugh McDermott MP, the Hon Adam Searle MLC, Mrs Leslie Williams MP.

### **Officers present**

Sam Griffith, Emma Wood, Ilana Chaffey.

### **1. Confirmation of minutes**

Resolved, on the motion of Mr Layzell: That the minutes of the meeting of 17 October 2022 be confirmed.

### **2. \*\*\***

## **3. 2022 review of annual and other reports of oversight agencies**

### **3.1. Answers received to questions taken on notice**

Resolved, on the motion of Mrs MacDonald: That the Committee authorise the publication of the following answers received to questions taken on notice on the Committee's webpage:

- NSW Ombudsman, dated 28 October 2022
- NSW Crime Commission, dated 2 November 2022

**3.2. Consideration of Chair's draft report**

Resolved, on the motion of Mr Searle: That the Committee consider the report in globo.

Resolved, on the motion of Mrs MacDonald:

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.

**4. Next meeting**

The Committee next meets on a date and time to be determined, if required.