

LECC

Law Enforcement
Conduct Commission

Law Enforcement Conduct Commission ANNUAL REPORT 2016-17



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

The Hon Shelley Hancock MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Mr President and Madam Speaker

In accordance with section 12 of the *Annual Reports (Departments) Act 1985* and section 139 of the *Law Enforcement Conduct Commission Act 2016*, the Commission hereby furnishes to you the Law Enforcement Conduct Commission Annual Report for the year ended 30 June 2017.

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

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

Yours faithfully



The Hon M F Adams QC
Chief Commissioner



Amber Williams
CEO

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CHIEF COMMISSIONER'S FOREWORD

I joined the Law Enforcement Conduct Commission in February this year from the Supreme Court of NSW, where I served as a judge for 18 years. We are fortunate to be joined by the Hon Lea Drake and Mr Patrick Saidi, respectively the Commissioners for Integrity and Oversight. They each bring many years of distinguished service as lawyers in fields very relevant to the work of the Commission, Ms Drake as a Deputy President of the Fair Work Commission, and Mr Saidi as a barrister specialising in work involving, in one way or another, the NSW Police Force.

The Commission was established following an extensive review of law enforcement oversight in NSW by the former NSW Shadow Attorney General, Mr Andrew Tink AM. Mr Tink's review recommended strengthening and streamlining law enforcement oversight in NSW by creating a single independent civilian oversight body for the NSW Police Force and the NSW Crime Commission. In particular, the review recommended that the new oversight body take on the functions carried out by the Police Integrity Commission and the Police Division of the Office of the Ombudsman. The Commission commenced to exercise its functions on 1 July 2017.

As did the Police Integrity Commission and the Ombudsman, the Commission operates completely independently of the NSWPF and the NSWCC and is not subject to the control or direction of the Minister in the exercise of its functions. At the same time, I have taken steps to engage with both the NSWPF and the NSWCC in the hope that a more collaborative approach would increase cooperation and mutual understanding, the Commission's working assumption being that both agencies also wish to deal effectively with misconduct and maladministration and expose wrongful and corrupt behaviour wherever it occurs. We also share an understanding of the fundamental importance of maintaining a high degree of public confidence in the integrity of law enforcement agencies.

The Commission's primary functions and statutory responsibilities include:

- detecting, overlooking, investigating and exposing misconduct and maladministration within the NSWPF and the NSWCC;
- providing independent oversight and real time monitoring of critical incident investigations undertaken by the NSWPF;
- undertaking prevention and education activities aimed at preventing NSWPF and NSWCC officer misconduct and maladministration; and
- auditing the records and systems of the NSWPF and the NSWCC for the purpose of ascertaining whether the requirements of the *Law Enforcement Conduct Commission Act 2016* are being complied with.

Mr Tink's *Review of Police Oversight* recommends, and the LECC Act provides, that the NSWPF and the NSWCC have primary responsibility for investigating and preventing officer misconduct and maladministration (subject to independent oversight), whilst the Commission is to focus on serious misconduct and serious maladministration that might have a significant adverse effect on the integrity of the agencies and public confidence in them.

The overwhelming majority of complaints about the police are not of a kind that justify the use by the Commission of its investigative powers and are appropriately investigated by the police, with the majority of

these complaints being overseen, and if necessary, monitored by the Commission. If the Commission is not satisfied with the way the complaint has been investigated or with the management action taken, the NSWPF will be informed of the concerns and the reason for them, and may:

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

The same rules apply to the NSWCC. As will be obvious, since the NSWCC has very limited contact with members of the public and a relatively small staff, the complaints made about misconduct are few.

The decision to undertake an investigation is made by all the Commissioners, or by the Chief Commissioner and one of the other Commissioners in the event of a dissent. The Commission attempts to achieve unanimity on these decisions and no majority decision has thus far been necessary.

The Commission's Integrity Division, under the supervision of the Commissioner for Integrity, is responsible for investigating allegations of serious misconduct and serious maladministration. In addition, the Commission has compulsory powers under Part 6 of the LECC Act to obtain information, issue search warrants and conduct examinations both publically and privately, amongst other things. It is expected that it will rarely be necessary to conduct public hearings but, where it is in the public interest to do so, they must be convened. The use of compulsory powers, including whether to conduct a public hearing, is governed by the same rule as that which applies to undertaking investigations.

The Commissioners are supported by a small but efficient, effective and committed staff which includes lawyers, investigators, intelligence analysts and technical officers, amongst others.

This inaugural Commission Annual Report will not be lengthy. It covers the establishment of the Commission including recruitment of staff, identification of secure premises and an overview of the organisation's structure, up to 30 June 2017. However, the Commissioners and the executive team have identified a number of key priorities for the Commission which will be outlined in this year's report. We have also included a short chapter on our operations from July to October 2017.

One of our key priorities, as I have mentioned, is increased collaboration with the agencies we oversight. To achieve this, the Commission is working closely with the NSWPF to develop guidelines and agreements outlining how our organisations will work together that go beyond motherhood statements and boilerplate lists of statutory powers and duties, to produce documents of practical guidance as to our respective roles.

We have consulted with the Police Association of NSW in the course of drafting these documents. The Association's input has been most useful. I am hopeful the Commission can develop a positive relationship with the PANSW to assist in the due exercise of the Commission's functions. Bearing in mind that the role of the Commission is to exercise its statutory responsibilities in the public interest, whilst that of the PANSW is primarily to serve the interests of its members, there will nevertheless be many matters in respect of which cooperation will be both possible and desirable even if outcomes will not ultimately be agreed.

As a significant step towards understanding and respect, the Commissioners and other senior staff have attended a number of NSWPF and NSWCC forums including the Police Aboriginal Strategic Advisory Council, regional management meetings and Professional Standards Command meetings, amongst others. This commitment to mutual communication has been welcomed by the police and has been very useful to the Commissioners and the staff who attended. In the coming years, this interaction will be continued.

In addition, we have reached out to, and met with, other oversight organisations and jurisdictions to encourage the sharing of information and knowledge, including the Independent Commission Against Corruption, the Australian Commission for Law Enforcement Integrity, the Victorian Independent Broad-based Anti-corruption Commission, and the QLD Crime and Corruption Commission.

Senior staff have attended integrity and anti-corruption conferences around Australia including the National Integrity Conference, the 7th Annual National Public Sector Fraud and Corruption Congress and the IBAC Corruption Prevention and Integrity Conference.

Another key priority will be the identification of systemic misconduct and maladministration risks in the

NSWPF and NSWCC. The Commission's Prevention and Education team has identified a number of focus areas for 2017-18 which will provide opportunities for the Commission to propose policy and procedural solutions to prevent and reduce misconduct and maladministration in the NSWPF and the NSWCC.

The Commission considers that its work should involve engagement with the public through community organisations, to build trust in the Commission and ensure our services are widely known and accessible. It will identify areas of opportunity to increase reach, develop resources for culturally and linguistically diverse communities and make recommendations for improvements to service delivery in hard-to-reach communities. Our community engagement work will encourage people in hard-to-reach communities to report NSWPF and NSWCC misconduct or maladministration. Significant steps have already been taken by our Manager of Community Engagement to identify and meet with community organisations which are likely to have a particular interest in our work.

I would like to acknowledge the hard work of the PIC and Ombudsman staff who have been instrumental in the establishment of the Commission. It has been a turbulent year for many and I understand the uncertainty that staff may have felt during the decommissioning of their organisations. We are lucky to have retained a number of these staff at the Commission and we will benefit greatly from the breadth of their experience.

It is important to recognise the ground breaking work undertaken by the PIC for over two decades. It made a vital and valuable contribution to law enforcement oversight, to which its reports bear only partial testament. The Ombudsman's role in oversight was likewise valuable and significant.

Finally, I would like to acknowledge the Hon Bruce James QC, Commissioner of the PIC, who passed away on 16 November 2016. Mr James led the PIC from 2012-2016. Mr James was appointed a Crown Prosecutor for NSW in 1987 and appointed Queen's Counsel in 1989. In the same year, he was appointed Crown Advocate for NSW. Mr James was appointed a Judge of the Supreme Court of NSW on 8 May 1991. He presided over a number of important investigations at the PIC. His staff remember him as a quiet, measured man who was always approachable, and as a tireless advocate for law enforcement integrity. He made a significant contribution to police oversight in NSW and his passing was deeply felt.

A handwritten signature in black ink, appearing to read 'M F Adams', with a stylized, cursive script.

The Hon M F Adams QC
Chief Commissioner

CEO'S FOREWORD

At the time of writing, the Law Enforcement Conduct Commission has been operational since 1 July 2017, however this report relates to the establishment of the Commission's staff agency and the work done to bring together the functions of three law enforcement oversight agencies into one body.

On 1 July 2017, the Police Integrity Commission, the Police Division of the NSW Ombudsman's Office and the Office of the Inspector of the Crime Commission were abolished and the functions taken up by the Commission. I would like to acknowledge the hard work of the staff of these agencies, who have shown extraordinary patience throughout what has been, at times, a very difficult process.

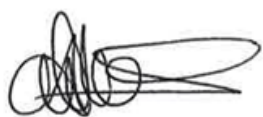
The Commission's transition team, consisting of my role as Chief Executive Officer and a range of HR and operational staff, was initially hosted by the Department of Justice. This small but highly effective team did the bulk of the groundwork to get the Commission up and running, including office fitouts, establishment of HR systems, branding, website development and the creation of a wide range of Commission policies and procedures.

The *Law Enforcement Conduct Commission Act 2016* was assented to on 14 November 2016 and the Commission staff agency proclaimed via Administrative Arrangements Order on 8 March 2017. This allowed us to begin recruiting a range of specialist roles within the Commission, with an emphasis on roles required to transition cases from the PIC and PDOO prior to our operational commencement on 1 July 2017.

The Commission structure, as recommended by Mr Andrew Tink AM in his *Review of Police Oversight*, consists of three independent Commissioners appointed by the Governor to ensure robust decision making relating to the use of compulsory powers and reporting. My role as CEO, as head of the staff agency, is responsible for the management and governance of the agency's corporate functionality and public sector related obligations. My role will work closely with the Commissioners to ensure there is appropriate resourcing and support for Commission operations.

The Commission commenced operations on 1 July 2017, when the remaining parts of the LECC Act were enacted. Our chapter in this year's Annual Report will provide a brief overview of our history and the establishment of the agency. The Annual Report for 2017-18 will cover our first full year of operations.

Finally, I hope you find this report interesting and informative. Bringing together three oversight agencies into one body has, at times, been challenging, however our staff rose to the challenge. I look forward to working with the agencies we oversight to build integrity in law enforcement in NSW now and into the future.



Amber Williams
CEO

WHAT WE DO

Our history

By Letters Patent dated 20 May 2015, former NSW Shadow Attorney General Mr Andrew Tink AM was commissioned to examine ways in which oversight of the NSW Police Force and the NSW Crime Commission could be streamlined and strengthened.

Mr Tink submitted a report entitled *Review of Police Oversight* (the Tink Review) to Government on 31 August 2015. The Tink Review recommended the establishment of a single civilian oversight body for the NSWPF and the NSWCC.

On 26 November 2015, Minister for Police the Hon Troy Grant MP announced the establishment of a new oversight body called the Law Enforcement Conduct Commission, which exercises the functions previously carried out by the Police Integrity Commission and the Police Division of the Office of the Ombudsman. The Commission also has additional oversight powers concerning police investigations into critical incidents.

The PIC, the Inspector of the Crime Commission and the PDOO were abolished when the Commission commenced operations on 1 July 2017.

Our work

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

Detecting serious misconduct and maladministration

One of the Commission's primary functions is to detect, investigate and expose serious misconduct and serious maladministration in the NSWPF and NSWCC. The Commission may investigate Police or Crime Commission officers who have been, or are, involved in activities such as:

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

What is serious misconduct and serious maladministration?

Serious misconduct is conduct that could:

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

Serious maladministration is conduct of a serious nature that is:

- completely unreasonable;
- unjust;
- oppressive or improperly discriminatory; or
- arises wholly or in part from improper motives.

Monitoring critical incident investigations

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

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

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

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

Oversight of complaint handling

The Commission oversees NSWPF and NSWCC investigations of alleged misconduct by officers of those agencies. The Commission may monitor, in real time, the progress of serious or significant misconduct matters but usually considers the adequacy of the investigation once investigation reports are completed by the relevant law enforcement agency.

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

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

In response, the NSWPF and/or the NSWCC must provide the information or advice requested, and must notify the Commission of their decision in relation to a request for further inquiries or reconsideration of the findings or remedial action to be taken. In the event that the NSWPF and/or the NSWCC do not decide to conduct further inquiries, reconsider findings and/or reconsider management action to be taken, they must provide reasons for their decision. If the Commission is not satisfied with the decision, it may provide a report to the Minister or a special report to Parliament.

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

OUR PEOPLE

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

The Commission has a policy of not employing serving or former NSW Police Force or NSW Crime Commission officers. Any police investigators employed at the Commission are drawn from police services from other jurisdictions, both in Australia or overseas.

Our Senior Executive Team

Chief Commissioner the Hon M F Adams QC

The Chief Commissioner, the Hon M F Adams QC, graduated with a Bachelor of Laws from the University of Sydney in 1969. He practised as a barrister in NSW and occasionally in other states and territories. Appointed Queen's Counsel in 1988, Mr Adams was a part-time Chairperson of the NSW Law Reform Commission from 1996 to 2006. Before taking up the position of Chief Commissioner of the Law Enforcement Conduct Commission in February 2017, he had served as a judge of the Supreme Court of NSW since 1998.

Commissioner for Integrity the Hon Lea Drake

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

Commissioner for Oversight Mr Patrick Saidi

The Commissioner for Oversight, Mr Patrick Saidi joined the Commission in June 2017. Prior to his appointment, Mr Saidi was at the private bar where he appeared in many important and high profile inquests and Commissions of Inquiry. Mr Saidi is a graduate of the University of Sydney with a B.Ec and also a graduate of the University of New South Wales with a LL.B.

Chief Executive Officer Ms Amber Williams

The Chief Executive Officer, Ms Amber Williams, formulates and implements the Commission's vision, workforce capability and overall strategic direction.

As the Commission agency head, the CEO carries out the employer functions of the NSW Government in relation to public service senior executives and non-executive employees, and provides the leadership direction and governance necessary to ensure successful delivery of the Commission's operational functions against Commission and financial goals.

Ms Williams was previously Executive Director, Strategic Human Resources for the Department of Justice, with a workforce of approximately 14,000. At the Department of Justice, Ms Williams was responsible for leading and setting the strategic direction of the HR Division whilst ensuring operational delivery of business projects and key workplace reforms.

Solicitor to the Commission Ms Michelle O'Brien

The Solicitor to the Commission, Ms Michelle O'Brien acts as the Chief Legal Advisor for the Commission, delivering high level strategic legal advice to support the Chief Commissioner, Commissioners and CEO with respect to the legal operations of the agency.

The Solicitor to the Commission develops and oversees the provision of legal services and identifies and manages legal risks and projects.

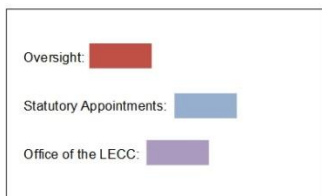
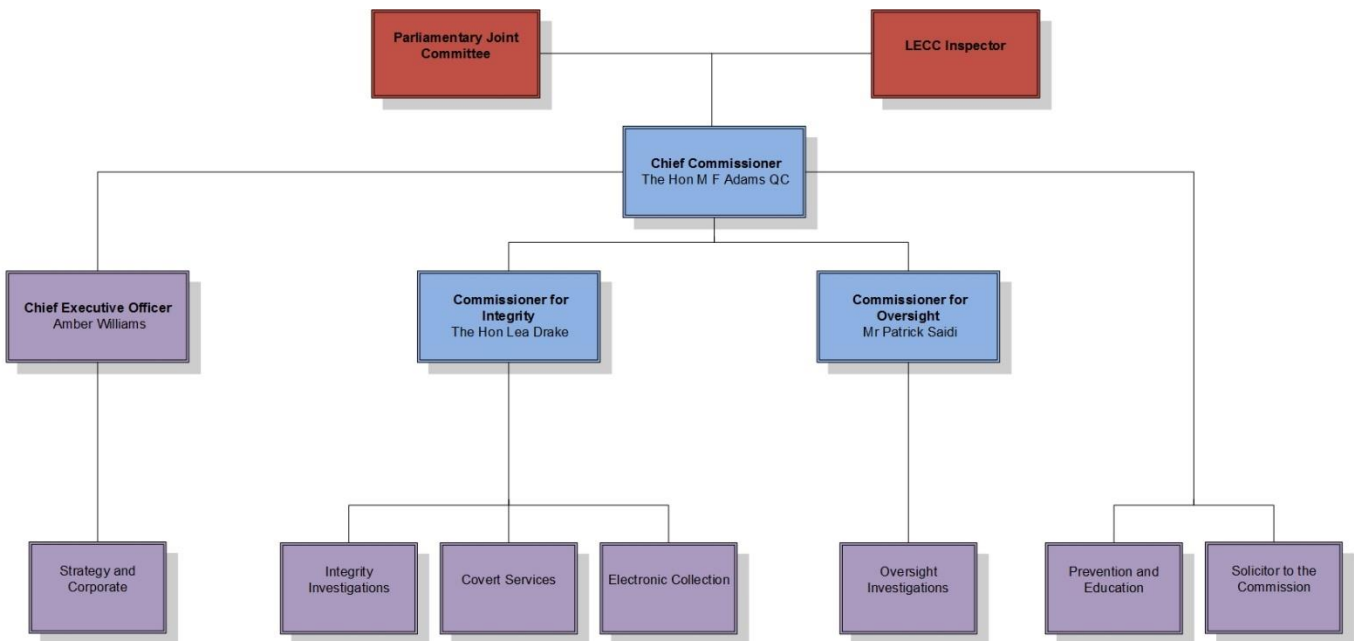
The Solicitor to the Commission is a member of the Commission's Executive Committee and is responsible for leading the Commission's Legal Services team.

ORGANISATIONAL STRUCTURE

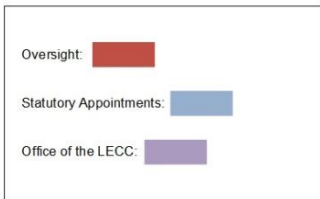
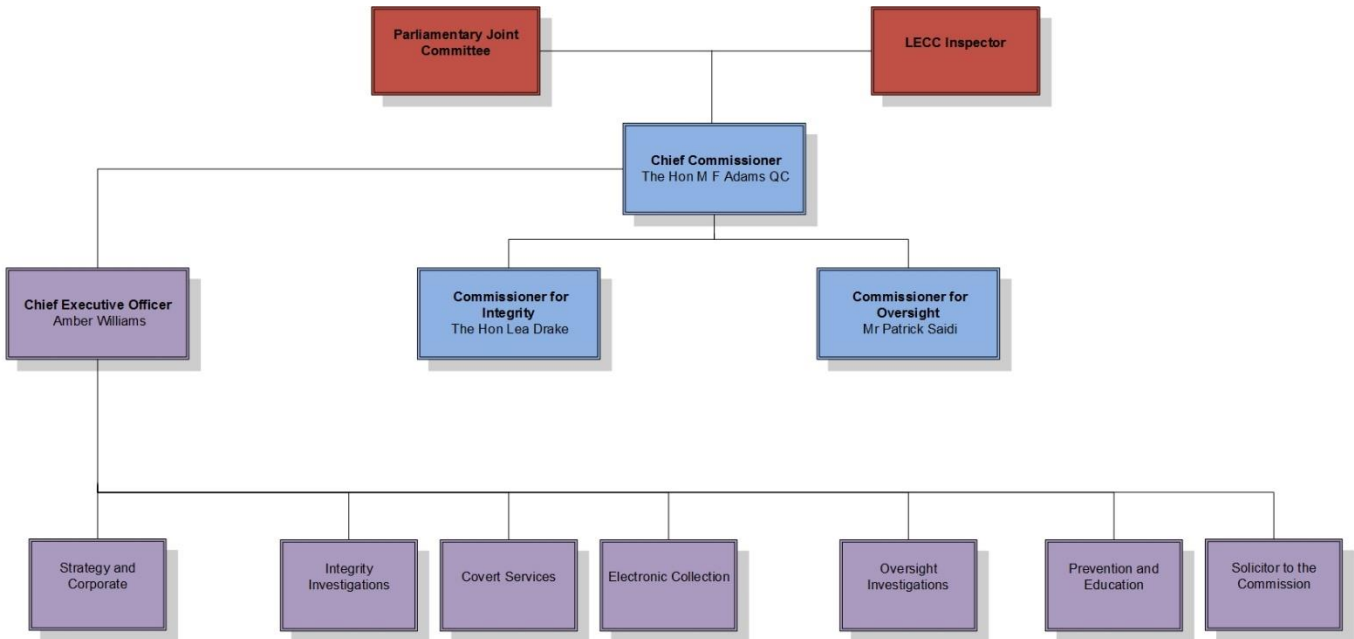
The Commission structure, as recommended in the Tink Review, consists of three independent Commissioners appointed by the Governor. This structure ensures robust decision making processes relating to the use of the Commission's compulsory examination powers and reporting requirements. As the holders of an independent public office, the Chief Commissioner and Commissioners are responsible to Parliament in the performance of the functions of the Commission, in respect of which they are not subject to political interference.

The CEO of the Commission is the head of the staff agency and is responsible for the management and governance of the Commission and other public sector related obligations. The CEO works with the Commissioners to ensure there is appropriate resourcing and support for Commission operations.

Functional structure



Employment structure



2016-17 OPERATIONAL OVERVIEW

The Commission has been operational since 1 July 2017 when the final parts of the LECC Act were enacted.

However, a significant amount of work was done in 2016-17 to prepare the Commission to commence operations.

Establishment of the Commission transition team

Following the announcement of the establishment of the Commission by Minister for Police, the Hon Troy Grant MP, Ms Amber Williams was appointed acting CEO to oversee the development and implementation of the Commission.

The CEO led the transition team which included the following staff:

- Recruitment Lead
- HR Specialist
- IR Specialist
- Executive Assistant
- Project Officer

In December 2016, further recruitment was conducted to fill a range of roles within the transition team that would assist with preparing the Commission for commencement. These roles included Director IT, Team Leader Surveillance, Manager Assessments and Audit, Team Leader Assessments, Manager Registry, Manager Risk & Security, Security Officer, Principal Advisor and Communications Specialist.

The Commission transition team had responsibility for preparing a range of documents and processes necessary for operational commencement on 1 July 2017, including internal policies and procedures. Setting up the physical, secure infrastructure of the Commission premises was also a key task.

Recruitment to the Commission

Recruitment to the Commission was completed in two phases.

Phase one included a full suitability assessment, as per the *Government Sector Employment Act 2013*, for all eligible employees employed by the PIC or the PDOO.

Roles not filled in phase one recruitment were advertised externally and were recruited in accordance with the GSE Act, and *Government Sector Rules 2014*. All recruitment to the Commission was merit based.

Industrial Relations

Officers of the Commission are employed under the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* and the *Crown Employees (Law Enforcement Conduct Commission) Award 2017*.

Table 14: Number of officers and employees by category

	2016-17
Statutory appointments	3
Executive appointments	3
Female executive appointments	1
Operational staff	7
Support staff	18.9
Total	31.9

Table 15: Senior Executives-Remuneration band determination, number of officers and gender breakdown comparison

Band	2016-17	
	Female	Male
Band 4 (Secretary)	0	0
Band 3 (Deputy Secretary)	0	0
Band 2 (Executive Director)	1	0
Band 1 (Director)	0	2

Table 16: Senior Executives-Remuneration range comparison

Band	Remuneration range
Band 4 (Secretary)	\$441,201pa to \$509,750pa
Band 3 (Deputy Secretary)	\$313,051pa to \$441,200pa
Band 2 (Executive Director)	\$248,851pa to \$313,050pa
Band 1 (Director)	\$174,500pa to \$248,850pa

Executive remuneration

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

The Hon Michael F Adams QC was appointed Chief Commissioner effective from 8 February 2017. His remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Commissioner's remuneration was \$475,000pa.

The Hon Lea Drake was appointed as Commissioner for Integrity effective from 12 April 2017. Her remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Commissioner's remuneration was \$356,250pa.

Mr Patrick Saidi was appointed as Commissioner for Oversight effective from 7 June 2017. His remuneration is set annually by the Statutory and Other Officers Remuneration Tribunal. For this reporting period the Commissioner's remuneration was \$356,250pa.

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

All members of the Commission's executive team are employed under individual Public Sector Senior Executive employment contracts, the terms of which provide for regular performance assessment.

Award negotiations

The *Crown Employees (Law Enforcement Conduct Commission) Award 2017* was developed through consultation with existing PIC and Ombudsman staff and the Public Service Association, in line with the Premier's Consultative Guidelines of July 1997 and will be in place for 18 months.

The Award will be reviewed by 30 June 2018. The Award documents the conditions of employment and the rights and obligations of management and employees.

A composite allowance is attributed to surveillance, critical incident, electronic surveillance monitor and investigator (integrity) roles, given that these roles are required at times to work outside of business hours.

The Award outlines the Commission's flexible work arrangements, hours of work, overtime, recall to duty, on-call, allowances, and Grievance and Dispute Settling Procedures, amongst other things.

The conditions of employment as set out in the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* or any award replacing it shall apply to employees covered by the LECC Award.

Personnel policies

A number of human resources related policies, guidelines and procedures were created during the reporting period. These include:

- Code of Ethics and Conduct
- Public Interest Disclosures policy
- Reporting Public Interest Disclosures policy
- Flexible Working Hours policy
- Gifts and Benefits policy
- HR Delegations
- Employee Induction procedure
- Managing Unsatisfactory Performance procedure
- Misconduct procedure
- Other paid and unpaid employment policy
- Probation procedure
- Return to Work policy
- Work Health and Safety policy
- Flexible Working Arrangements guidelines
- Performance and Development guidelines
- Fatigue Management guidelines
- Learning and Development policy
- Managing Workplace Issues procedure
- Consultative Arrangements policy

Training and development

The Commission provided a range of Training and Development opportunities to staff during the reporting period. Training covered specialist areas including:

- First Aid training and recertification
- Leadership development
- National Integrity Conference
- Law Society Criminal Law Seminar
- Risk Management
- Writing Effective Briefs

Workplace Health and Safety

During the reporting period, there were no workplace incidents reported.

The Commission has effective procedures in place to ensure adherence to the requirements of Workplace Health and Safety legislation. The senior executives of the Commission are informed of all relevant WHS matters through the receipt of a detailed report every six months. Management continues to work closely with the WHS Committee to ensure the health and safety of all staff and visitors in the workplace. There were no workplace health and safety related prosecutions under the *Work Health and Safety Act 2011* during this reporting period.

Budget

Funding was allocated by the NSW Government to establish the Commission and transition the existing functions of the PIC and the PDOO into the new agency.

This funding was held within the PIC budget and included operational and capital expenditure funding. The PIC's financial statements, which include the Commission's expenses, have been subject to audit. As such, there are no financial statements included in this year's Annual Report.

Disability Action Plan

The Disability Action Plan for the Commission will be created in 2017-18 and published on the Commission's website.

Multicultural Policies

The Commission is committed to working in partnership with multicultural communities to develop resources targeted at culturally and linguistically diverse (CALD) audiences. The Commission has created a dedicated community engagement role that will work directly with multicultural communities to improve service delivery and support our diverse workforce.

Women at the Commission

Premier's Priority 9: Driving Public Sector Diversity works to increase the proportion of women in senior leadership roles in the NSW government sector from 33 to 50 per cent by 2025.

The Commission is committed to the advancement of women into leadership roles within the Commission and to providing flexible working arrangements for all employees.

Public sector leaders have committed to six key strategies used in best-practice organisations:

1. changing culture and structures to advance women
2. setting gender equity targets
3. prioritising flexible work options
4. raising awareness of gender equity
5. fostering collaboration and information sharing
6. gathering and analysing data.

The following table sets out objectives employed by the Commission to increase the number of women in leadership roles.

Objective	Results/Plans
<p>An equitable and balanced workplace</p>	<p>A total of 18.18% of the Commission's female employees are currently employed on approved part-time and other special working arrangements as a means of balancing work and home life responsibilities.</p> <p>In addition, 9.09% of the Commission's female employees were granted extended periods of leave including leave without pay throughout the reporting period for various reasons relating to their personal circumstances.</p> <p>Policies and procedures are in place at the Commission to ensure that women who are seeking a better work/life balance are given the opportunity to do so by accessing a variety of flexible work practices.</p>
<p>Promote the position of women</p>	<p>Women currently make up a total of 64.71% of the Commission's workforce. A total of 20.59% of the Commission's management level positions are held by women and 72.72% of the Commission's female staff are remunerated above the equivalent of NSW Public Sector Administrative and Clerical Officers Grade 5.</p>

LOOKING FORWARD

The following chapter outlines the work of the Commission since commencing operations on 1 July 2017. A full overview of operations will be included in the 2017-18 Annual Report.

Oversight Division

Complaints received and assessed

As of Friday 13 October 2017, there have been 413 direct complaints received by the Commission since commencement on 1 July 2017. In addition, the Commission has assessed 204 notified complaints on the Police complaints database.

In his *Review of Police Oversight*, Mr Andrew Tink AM recommended the NSW Police Force and NSW Crime Commission maintain primary responsibility for managing complaints about their officers, whilst being subject to independent oversight. This class of complaint comprises the overwhelming majority and, therefore, most complaints about police are investigated by the NSWPF, whilst most will be oversighted by the Commission.

If the Commission is not satisfied with the way a complaint has been dealt with, it will advise the NSWPF and/or the NSWCC of the concerns and the reason for these concerns, and may:

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

In response, the NSWPF and/or the NSWCC must provide the information or advice requested, and must notify the Commission of their decision in relation to a request for further inquiries or reconsideration of the findings or remedial action to be taken.

In the event that the NSWPF and/or the NSWCC do not decide to take any further action, they must provide reasons for their decision. If the Commission is not satisfied with the decision, it may provide a report to the Minister or a special report to Parliament.

As well, the Commission may decide to investigate serious misconduct or serious maladministration itself.

Critical incident monitoring

Since 1 July 2017 and as of Friday 13 October 2017, the NSWPF has declared and commenced investigations into nine critical incidents. These critical incidents have involved:

- death resulting from the discharge of a firearm by a member of the NSWPF (3);
- death and/or serious injury arising from a police operation (3)
- serious injury due to the application of physical force (1)
- death and/or serious injury arising from a vehicle pursuit (2)

All nine NSWPF critical incident investigations are currently being monitored by the Commission.

Integrity Division

Investigations

As of Friday 13 October 2017, the Commission has commenced sixteen preliminary investigations and four full investigations since 1 July 2017. The investigations relate to a range of allegations, including assault, improper associations, drug supply, improper disclosure of sensitive police information, corruption, maladministration, and perjury, amongst other things.

Assistance to other agencies

In conjunction with their other duties, several teams within the Integrity Division have provided assistance to other state and federal oversight agencies. Assistance provided included covert services officers, investigators and electronic collections monitors, along with the use of Commission facilities to conduct examinations and interviews.

The Commission is committed to working collaboratively with our oversight counterparts and memorandums of understanding are being developed to formalise these arrangements.

Key priorities

The Commission has identified a number of key priorities that will shape the first year of operations.

Collaboration

The LECC Act places an emphasis on collaboration with the agencies we oversight. To achieve this, the Commission is working closely with the NSW Police Force and the NSW Crime Commission to develop guidelines and memorandums of understanding outlining how our organisations will work together.

In 2016-17, the Commissioners and the CEO also attended a range of NSWPF and NSWCC forums including the Police Aboriginal Strategic Advisory Council, regional management meetings and Professional Standards Command meetings, amongst others. In May 2017, Chief Commissioner Adams addressed NSWCC staff on the role of the Commission and the Commissioner for Oversight will sit on the NSWCC's Audit and Risk Committee.

Prevention and Education

The Commission's Prevention and Education team play an important role in investigating systemic misconduct and maladministration risks in the NSWPF and NSWCC. The Commission will place a greater emphasis on prevention of corruption risks and will work closely with the agencies we oversight to educate officers to identify and report misconduct and maladministration.

In 2017-18, the Prevention and Education team will focus on projects that inquire into systems or issues and identify opportunities for innovative policy and procedural solutions to prevent and reduce misconduct and maladministration in the NSWPF and the NSWCC.

Community engagement

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

The Manager, Community Engagement will work with key community legal centres, the Aboriginal Legal Service and other community organisations to raise awareness of the Commission and create targeted resources for hard-to-reach communities.

Timeliness

The Commission will place an emphasis on the timeliness of the complaint triage process to ensure

complainants have regular contact with Commission staff and are kept up-to-date with the status of their complaint.

The Commission's Assessment and Audit team assesses all complaints divided between those which could involve serious misconduct or serious maladministration and those which do not. The former class is then examined by a new matters committee which includes the Commissioners and senior staff. The Commissioners then decide which matters will be referred to police for investigation, subject to oversight and those which will be the subject of a preliminary inquiry, preliminary investigation or investigation proper. The latter class are referred back to the police when they have been assessed without further examination. Complainants are informed of the decisions made.

Procedural fairness

The Commission acknowledges the challenging nature of NSWPF and NSWCC officer roles and will ensure all officers under investigation are fairly dealt with. This may include the timely submission of briefs of evidence, public hearings only when in the public interest to do so and the availability of welfare officers for all officers under investigation. The Commission will generally issue a public statement when an officer is found innocent of public allegations of misconduct or maladministration.

Upgraded technological capability

The Commission will implement modern business systems that enable staff to efficiently conduct surveillance, investigations and manage complaints, as well as provide a reliable and secure information technology infrastructure to underpin those systems.

People focussed organisation

The Commission is committed to building a learning organisation that focuses on employee engagement and identifying opportunities for professional development. A range of specialised and generalist training opportunities will be offered throughout the year and all staff have been engaged in the Commission's strategic planning process to ensure the plan is a reflection of the broad skillset at the Commission.

OUR GOVERNANCE

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

The Inspector of the Law Enforcement Conduct Commission

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

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

The principal functions of the Inspector are to:

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

The Parliamentary Joint Committee

The functions of the Parliamentary Joint Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission (the Committee), as they relate to the Commission, are set out in section 131 of the *Law Enforcement Conduct Commission Act 2016*.

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

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

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

- Mr Lee Evans, MP (Chair)
- Mr Stephen Bromhead, MP (Deputy Chair)
- The Hon Trevor Khan, MLC
- Mr Paul Lynch, MP
- The Hon Taylor Martin, MLC
- Dr Hugh McDermott, MP
- The Hon Adam Searle, MLC

Internal governance

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

Executive Committee

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

Members of the Committee include:

- Chief Commissioner
- Commissioner for Integrity
- Commissioner for Oversight
- CEO
- Solicitor to the Commission
- Director, Investigations (Integrity)
- Director, Investigations (Oversight)
- Director, Electronic Collections
- Director, Covert Services

CEO & Commissioners Committee

The CEO & Commissioners Committee meets fortnightly to ensure the effective administration of operational resources, approval of Commission reports, review and management of risks across the Commission and approval of the annual Commission budget and capital expenditure.

Strategic Operations Committee

The Strategic Operations Committee (SOC) meets monthly to ensure the effective administration of operational resources, provides strategic direction to investigations, and acts as a consultative forum for investigative research and prevention reports, as well as auditing proposals. The SOC meets at least monthly.

Audit and Risk Committee

As required by NSW Treasury policy 09-05 *Internal Audit and Risk Management Policy for the NSW Public Sector*, and with the independence and governance requirements of Treasury Circular 09/08, the Commission's Audit and Risk Committee provides independent assistance to the CEO by monitoring, reviewing and advising on the Commission's governance processes, risk management and control frameworks, and its external accountability obligations. The Audit and Risk Committee meet quarterly.

LEGAL MATTERS

The *Law Enforcement Conduct Commission Act 2016* was assented to on 14 November 2016 and the Commission's staff agency proclaimed via Administrative Arrangements Order on 8 March 2017. This allowed the Commission to begin recruiting a range of specialist roles, with an emphasis on roles required to transition existing cases from the PIC and PDOO prior to the Commission's operational commencement on 1 July 2017.

The final parts of the LECC Act were enacted on 1 July 2017, at which point the LECC commenced operations and the PIC was abolished.

The LECC Act is prescriptive in terms of the structure of the Commission's executive, and states the Chief Commissioner must be a former or current judge and must be supported by two Commissioners who are also legally qualified. The LECC Act also provides the Commission with extensive oversight powers concerning investigations and examinations which can only be exercised in accordance within the strict confines of the Act.

FURTHER INFORMATION

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Definitions

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

Annual Report Costs

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