



This fact sheet summarises the Ask LOIS webinar on this topic presented on 22 August 2019 by Louisa Dear, Manager Community Engagement, LECC. To view this webinar for free, or to access other resources, visit www.asklois.org.au

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What is the Law Enforcement Conduction Commission?

The Law Enforcement Conduct Commission (LECC) replaced the Police Integrity Commission, the Police and Compliance Branch of the NSW Ombudsman's office and the Inspector of the Crime Commission on 1 July 2017. The Commission is an independent body exercising royal commission powers to detect, investigate and expose misconduct and maladministration within the NSW Police Force (NSWPF) and the NSW Crime Commission (NSWCC).

It has two distinct divisions: **Oversight** and **Integrity**

- The **oversight division** independently monitors and reviews the investigation of complaints by the NSW Police Force and the NSW Crime Commission about the conduct of their officers and administrative employees. The oversight division has a new function - the independent, real time monitoring of critical incident investigations conducted by the NSWPF.
- The **integrity division** investigates serious misconduct and serious maladministration by officers and civilian staff of the NSWPF and NSWCC (Part 6 of the LECC Act, Investigation Powers).

Legislative basis for LECC

The LECC is governed by the *Law Enforcement Conduct Commission Act 2016*.

The LECC Act is prescriptive in terms of the structure of the Commission's executive – the LECC Act states the Chief Commissioner must be a former or current judge and must be supported by two Commissioners who are also legally qualified.

Under the LECC Act, the Commission focuses on preventing and responding to misconduct and maladministration by officers and administrative staff of the NSW Police Force and the NSW Crime Commission.

s 14 of the LECC Act provides for an agreement and guidelines between the NSWPF and the LECC relating to the handling of misconduct matters (available on the LECC website).

Misconduct includes breaches of established policies, procedures and codes of behaviour or ethics. Engaging in criminal activities or improper relationships with criminals also amounts to misconduct.

Maladministration is a broad term that includes unlawful or corrupt conduct, and conduct that may not be unlawful but is considered to be unreasonable or unjust in some way. For example, conduct that is:

- oppressive or improperly discriminatory in its effect, or
- arises from improper motives, or
- arises from a decision that has taken irrelevant matters into consideration

Notifiable Complaints

Notifiable complaints (see s 14 guidelines) include but are not limited to:

- Criminal conduct
- Corrupt conduct
- Failure by an officer or administrative employee to report misconduct
- Allegations of improper associations
- Unauthorised use, misuse or failure to comply with safe keeping of police firearms, or any unauthorised use of any other police appointments, namely tasers, OC spray, batons or handcuffs
- Falsifying of official records

- Unauthorised release of confidential police information
- Allegations of misconduct arising from the exercise of police powers under the LEPRA Act including search, arrest and detention powers.

Integrity Division

- Currently over 100 inquiries and investigations.
- Allegations include drug use and dealing, improper relationships with criminals, releasing confidential police information, excessive use of force, and fraud.

High profile investigations

Byron Bay: public hearings, submissions in Byron, private examinations and significant community concerns have taken place.

Report furnished to Parliament in September 2018. Charges recommended.

2 x Excessive use of force at NSW police stations:

private examinations, public submissions. CCTV footage pixelated and released as public exhibit.

Options available to the Commission include:

- Interviewing witnesses and police involved;
- Exercising powers to serve notices to produce a statement, document or other thing;
- Hold public or private examinations;
- Consider referring a matter to the DPP for criminal charges.

Oversight Division

The majority of complaints to the LECC will be the subject of oversight.

The oversight team may:

- Undertake reviews of Part 8A (Police Act 1990) misconduct matter investigations conducted by NSW police
- Actively monitor Part 8A complaint investigations
- Assess decisions by NSW Police to decline to investigate Part 8A complaints and issue notices requiring investigation pursuant to s 99 of the LECC Act

Oversight division supports the Commission's objective of identifying opportunities to address systemic issues in complaint handling by NSW Police and in the exercise of police powers. Oversight complaints come to LECC's attention through external complaints, notifiable complaints

or through regular meetings with the NSWPF Professional Standards Command.

Oversight monitoring of complaints

Discretionary decision based on whether it is in the public interest, seriousness of the allegations and whether it might indicate systemic issues.

Some of the factors which would indicate a matter should be monitored are:

- The alleged conduct is of a serious or criminal nature;
- The rank of the subject officer is Superintendent or above;
- The Commission has substantiated concerns about whether the investigation will be thorough and conducted at the appropriate level;
- There is substantial media or Ministerial attention into the matter.

Authorised officers of the Commission may be present as observers during interviews, confer with police officers conducting the investigation and request progress reports in real time.

Making a Complaint

Complaints can be made online, legal rep form and court referral form.

Commission staff may assist to reduce complaint to writing. The more supporting evidence, the better. Could include CCTV, medical records etc. Consider length of time CCTV is held.

Commission will seek permission before passing on details to NSWPF **if complainant requests this**.

Complainant can remain anonymous.

Even if no findings made, complaint can be beneficial (identification of systemic issues, building profile of areas/officers).

Information may be provided as an 'information report' through the LECC website.

Current research projects

STMP

Application for children and young people.

Bullying and sexual harassment

Related to specific PAC, whilst considering NSWPF policies and procedures.

Operation Tusket

- A systems-focused investigation relating to the resourcing and management of a specialist

command of the NSWPF, compliance with specific legislation and the policing of certain offenders

- DV trends
- Focus on collating data regarding policing of domestic and family violence, given complaints in this area have increased four-fold since July 2017.
- Analysis of critical incidents
- There were 81 open critical incident investigations at 1 July 2017. The Commission assessed 29 of these to be high-risk according to a number of criteria, including the nature of the incident and the vulnerability of persons involved and will analyse the NSWPF handling of these incidents

Current priorities

- Strip searching
- Move on directions
- Use of force
- Mobile phones