



New South Wales
Crime Commission

Agency Information Guide

2022

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1. Introduction

The New South Wales Crime Commission ('the Commission') Agency Information Guide details the structure and functions of the Commission, the kinds of government information it holds and ways in which the public can access that information pursuant to the *Government Information (Public Access) Act 2009* (NSW) ('the GIPA Act').

2. Structure and functions of the Commission

2.1 Establishment

First established in 1986 as a statutory corporation pursuant to the *State Drug Crime Commission Act 1985* (NSW), the State Drug Crime Commission was renamed the New South Wales Crime Commission under the *New South Wales Crime Commission Act 1985* ('the NSWCC Act'). On 24 September 2012, the *Crime Commission Act 2012* ('the CC Act') replaced the NSWCC Act. The Commission is part of the NSW Stronger Communities Cluster.

2.2 Commissioner

The Commissioner is appointed by the Governor pursuant to subs-s 8(1) of the CC Act. The Governor may, with the concurrence of the Commissioner, appoint two or more Assistant Commissioners for the Commission pursuant to subs-s 9(1) of the CC Act, at least one of whom must have special legal qualifications.

2.3 Objective

The Commission has and may exercise the functions conferred or imposed on it by, or under, the CC Act. Pursuant to s 3 of the CC Act, the principal object of the Commission is to reduce the incidence of organised and other serious crime.

2.4 Principal functions

The principal functions of the Commission, as set out by subs-s 10(1) of the CC Act, are as follows:

- (1) to investigate matters relating to a relevant criminal activity or serious crime concern referred to the Commission by the Management Committee for investigation
- (2) to investigate matters relating to the criminal activities of criminal groups referred to the Commission by the Management Committee for investigation
- (3) to assemble evidence that would be admissible in the prosecution of a person for a relevant offence arising out of any such matters and to furnish any such evidence to the Director of Public Prosecutions
- (4) to furnish evidence obtained in the course of its investigations (being evidence that would be admissible in the prosecution of a person for an indictable offence against the law of the Commonwealth or another State or Territory) to the Attorney General or to the appropriate authority in the jurisdiction concerned
- (5) to reinvestigate matters relating to any criminal activity that were the subject of a police inquiry (being an inquiry referred for reinvestigation to the Commission by the Management Committee) and to furnish its findings to the Committee together with any recommendation as to action the Commission considers should be taken in relation to those findings

- (6) to furnish in accordance with the CC Act reports relating to organised and other crime, which include, where appropriate, recommendations for changes in the laws of the State
- (7) to provide investigatory, technological and analytical services to such persons or bodies as the Commission thinks fit
- (8) with the approval of the Management Committee, to work in co-operation with such persons or authorities of the Commonwealth, the State or another State or Territory (including any task force and any member of a task force) as the Commission considers appropriate.

The Commission also has the functions conferred or imposed on it by the *Criminal Assets Recovery Act 1990* ('the CAR Act'). The CAR Act provides for the confiscation of assets of those involved in serious criminal activity. The Commission may carry out investigations in aid of the exercise of its functions under the CAR Act and may, for the purposes of that Act, make such use as it thinks fit of any information obtained by it in the execution of the CC Act.

In addition to these general functions, the Commission also has incidental power pursuant to subs-s 14(1) of the CC Act to do all things necessary to be done for or in connection with, or reasonably incidental to, the exercise of its functions.

2.5 Management Committee

Under subs-s 49(1) of the CC Act, the New South Wales Crime Commission Management Committee ('the Management Committee') is constituted. Sub-section 50(1) prescribes that the Management Committee is to consist of the following five members:

- the Commissioner
- an independent Chairperson appointed by the Minister
- the Commissioner of the New South Wales Police Force (NSWPF)
- the Chair of the Board of the Australian Criminal Intelligence Commission (ACIC)
- the Secretary of the Department of Communities and Justice or a senior executive of that Department nominated by the Secretary.

The principal functions of the Management Committee, as set out in subs-s 51(1) of the CC Act, are:

- (1) to refer (by a written notice in accordance with s 54 of the CC Act) matters relating to relevant criminal activities to the Commission for investigation
- (2) to refer (by a written notice in accordance with s 54 of the CC Act) matters relating to serious crime concerns to the Commission for investigation
- (3) to refer (by a written notice in accordance with s 54 of the CC Act) matters relating to the criminal activities of a specified criminal group to the Commission for investigation
- (4) to refer (by a written notice in accordance with s 54 of the CC Act) to the Commission, for reinvestigation, police inquiries into matters relating to any criminal activities
- (5) to refer (by a written notice in accordance with s 54 of the CC Act) to the Commission for investigation matters (joint task matters) relating to the subject of co-operation approved under s 10(1)(g) of the Commission Act

(6) to make arrangements (in accordance with s 58 of the CC Act) for task forces to assist the Commission in carrying out its functions

(7) to review and monitor generally the work of the Commission

(8) to give approvals for the purposes of s 13 of the CC Act (liaison with other bodies).

In relation to the Management Committee functions listed above as paragraphs (1), (2), (3) and (4), pursuant to s 51(2) of the CC Act, the Management Committee is not to refer a matter to the Commission for investigation unless it is satisfied that:

- the use of the Commission's powers appear to be necessary to fully investigate the relevant criminal activity, serious crime concern or criminal activity of the criminal group
- the investigation of the relevant criminal activity, serious crime concern or criminal activity of the criminal group by the Commission is in the public interest
- the relevant criminal activity, serious crime concern or criminal activity of the criminal group is sufficiently serious or prevalent to warrant its investigation by the Commission.

In relation to the Management Committee function listed above as paragraph (5), pursuant to subs-s 51(3) of the CC Act, the Management Committee is not to refer a matter to the Commission for investigation unless it is satisfied that:

- the use of the Commission's powers appears to be necessary for the Commission to fully investigate the joint task matters
- it is in the public interest that the Commission investigate the joint task matters
- the joint task matters are matters that may be the subject of a referral under the functions listed above at paragraphs (1), (2) and (3), or that are connected with this State and are comparable in seriousness to matters that may be so referred
- the joint task matters are sufficiently serious or prevalent to warrant the investigation by the Commission.

2.6 Law Enforcement Conduct Commission

The Law Enforcement Conduct Commission ('the LECC') is empowered to investigate misconduct of officers of the Commission and pursuant to s 33 of the *Law Enforcement Conduct Commission Act 2016* ('the LECC Act') the Crime Commissioner is under a duty to report to the LECC any matter suspected on reasonable grounds to concern misconduct or serious maladministration by officers of the Commission and the NSWPF. The Crime Commissioner must notify the LECC of any matters in accordance with guidelines that have been agreed between the Commission and LECC pursuant to s 14 of the LECC Act.

Although the Crime Commissioner retains overall responsibility for the investigation of complaints made in relation to the Commission and/or Commission officers, the LECC can investigate complaints or oversight the Commission's investigation into suspected serious misconduct and/or serious maladministration involving the Commission.

2.7 Parliamentary Joint Committee

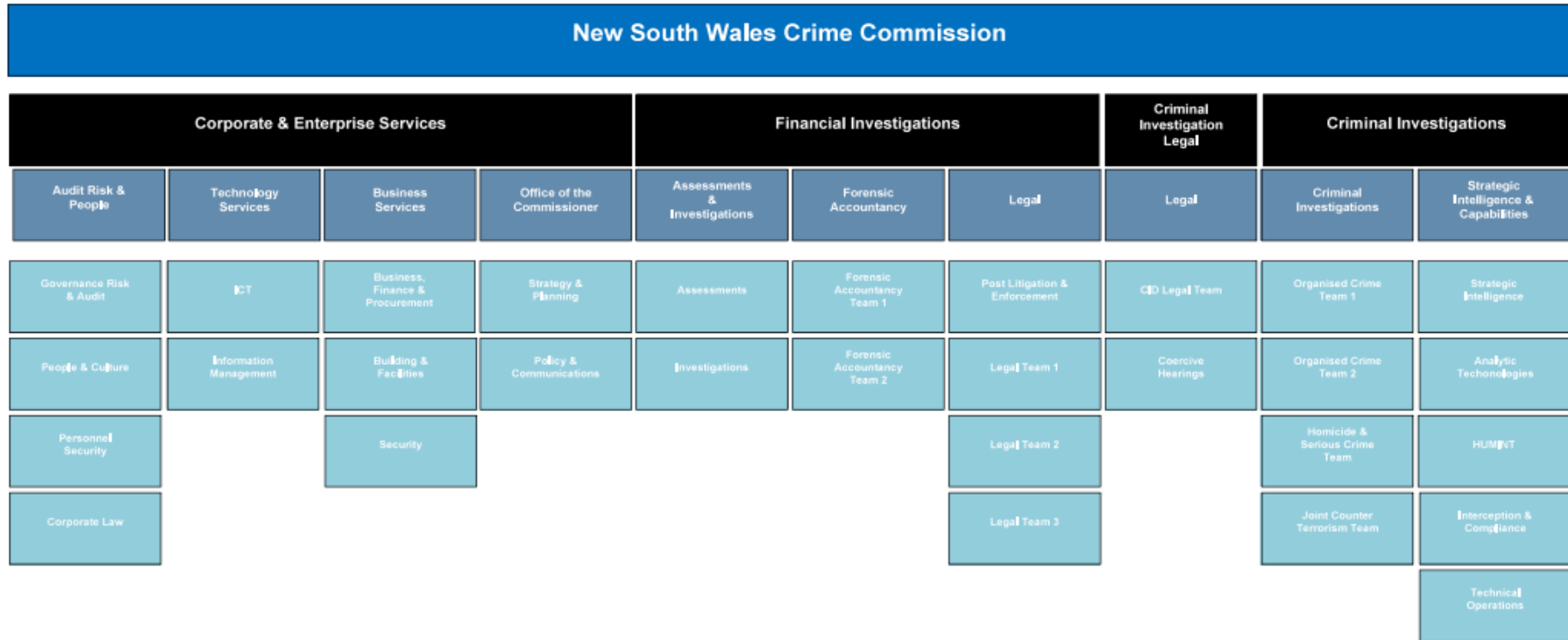
Section 70 of the *CC Act* defines 'Joint Committee' to mean the joint committee called the Committee on the Ombudsman, the LECC and the Crime Commission constituted under the *Ombudsman Act 1974*.

The Joint Committee has the following functions under s 71 of the *CC Act*:

- to monitor and review the exercise by the Commission and the Management Committee of their functions
- to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission and, the Management Committee or connected with the exercise of their functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed
- to examine each annual and other report of the Commission and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report
- to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.

2.8 Organisation chart

An organisation chart showing the functions and responsibilities of Commission staff is available on the Commission's website (www.crimecommission.nsw.gov.au) and is also provided on the following page.



Crime Commission Functional Structure January 2022

As outlined in s 74 of the CC Act, the staff of the Commission comprises those persons who are employed in the Public Service under the *Government Sector Employment Act 2013* (NSW) to enable the Commission to exercise its functions.

Additionally the Commission may:

- engage persons as consultants to the Commission or to perform services for it
- arrange for the use of the services of any staff or facilities of a government agency
- arrange for one or more police officers or for one or more members of the Police Force of the Commonwealth, or of a Territory or another State, to be made available (by way of secondment or otherwise) to perform services for the Commission.

2.9 Co-operation with other agencies and NSW Police task forces

The Commission conducts its operations in conjunction with a number of other agencies. These include the NSWPF, Australian Federal Police, ACIC, Australian Border Force, and other law enforcement agencies. The Commission also has close working relationships with its Management Committee, the Director of Public Prosecutions and other State and Commonwealth government agencies.

Pursuant to s 58 of the CC Act, the Management Committee may make arrangements with the head of one or more investigative agencies for a body of persons from that or those agencies (a task force) to assist the Commission in carrying out an investigation into matters relating to a relevant criminal activity, serious crime concern or criminal activity of a criminal group or any of its other functions. In assisting the Commission to carry out its functions, the task force is under the control and direction of the head of the investigative agency or agencies concerned, subject to directions and guidelines given by the Management Committee for the purpose of co-ordinating the activities of the task force.

2.10 Corporate plan

The Commission's Corporate Plan can be accessed on the website under 'Corporate Plan'.

3. Effects of the Commission's functions on the public

The principal effect of the Commission's functions is to reduce the harm to, and the threat posed to, the community by serious crime. The Commission does not provide 'services' directly to the public. However, its activities have direct implications for members of the public under investigation or involved in investigations (e.g. witnesses), and for members of the public who are the subject of confiscation litigation.

Members of staff of the Commission may apply for warrants or other authorities under statutes, including:

- the CC Act
- the CAR Act
- the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW)
- the *Law Enforcement (Controlled Operations) Act 1997* (NSW)
- the *Law Enforcement and National Security (Assumed Identities) Act 2010* (NSW)
- the *Surveillance Devices Act 2007* (NSW)
- the *Surveillance Devices Act 2004* (Cth)
- the *Telecommunications (Interception and Access) Act 1979* (Cth).

In relation to matters that have been referred to it by the Commission's Management Committee, the Commission may summons people before it and to require them to answer questions. There is also a power to require persons, corporations and government agencies to produce documents and other things.

4. Arrangements for public participation in policy formation and the Commission's functions

4.1 Contacting the Commission

Should members of the public wish to provide feedback on policy matters, policy feedback can be provided using the postal address or enquiry form identified below.

The Commission's contact details are as follows:

Address / Postal address: 453-463 Kent Street, Sydney NSW 2000

Email: Enquiries should be submitted online via the Commission's enquiry [form](#) on its website

Website: www.crimecommission.nsw.gov.au

Telephone: +61 2 9269 3888

Facsimile: +61 2 9269 3809

Business Hours: Reception – 8:00 am to 5:00 pm, Monday to Friday

4.2 Contacting the LECC

The LECC encourages members of the public and public officials to report suspected serious misconduct or serious maladministration involving the NSWPF or Commission. Anyone may report allegations of misconduct or maladministration to the LECC anonymously. Members of the public may contact the LECC if they have information about Police or Commission misconduct. The LECC has a secure online complaint form to report serious misconduct or maladministration. Using this form ensures members of the public have provided the LECC with the necessary information to assess an allegation. The contact details of the LECC are:

Postal: GPO Box 3880, Sydney NSW 2001

Email: contactus@lecc.nsw.gov.au

Website: www.lecc.nsw.gov.au

Telephone: +61 2 9321 6700 or 1800 657 079 (toll-free)

5. Government information held by the Commission

5.1 Kinds of government information

The Commission is primarily an investigatory and litigating body. As a result, the majority of the government information held by the Commission relates to past or ongoing investigations, or to past or current litigation.

The following kinds of government information are held by the Commission:

- agendas for, submissions to, and minutes of Management Committee meetings and staff meetings
- records of hearings conducted under s 19 of the CC Act
- records obtained under other sections of the CC Act, CAR Act, etc.

- reports furnished in accordance with the CC Act and other legislation
- correspondence between the Commission and other persons or bodies, including law enforcement agencies
- intelligence and other information received from other persons or bodies, including law enforcement agencies
- intelligence and other information relating to past or ongoing Commission investigations, including investigation reports
- records obtained pursuant to warrants issued to members of staff of the Commission
- records maintained for the purpose of complying with the reporting requirements for the warrants and authorities obtained by the Commission
- information relating to past or ongoing Commission litigation
- correspondence between members of staff at the Commission and external task-force members
- administrative and management files, including accounts and staff records
- procedural and operational guidelines
- records held by other government agencies (as referred to in the GIPA Act), including Commonwealth government agencies.

To a large extent, such documentation is confidential and excluded under the GIPA Act.

5.2 Publicly available information

The following government information is published on the Commission's website unless there is an overriding public interest against disclosure:

- Annual Reports from 2014 onwards
- Strategic Plan
- Corporate Plan
- Current Agency Information Guide
- Information about the Commission contained in any document tabled in Parliament by or on behalf of the agency, other than any document tabled by order of either House of Parliament
- Policy documents
- Disclosure log of access applications
- Register of government contracts

- Commission's Code of Conduct
- Management Committee Direction and Guidelines
- Organised Crime Disruption Strategy
- Media releases and statements.

The above documents are made publicly available on the Commission's website free of charge. In addition, the Commission's Strategic Plan, Corporate Plan and Annual Reports from previous years are also available at data.nsw.gov.au.

5.3 Excluded information

Under Schedule 1 of the GIPA Act, it is to be conclusively presumed that there is an overriding public interest against disclosure of 'excluded information' of an agency (unless the agency consents to disclosure). Section 43 of the GIPA Act prevents an access application from being made to an agency for access to 'excluded information' of the agency.

Schedule 2 of the GIPA Act provides that the 'excluded information' of the Commission is information that relates to its 'investigative and reporting functions'.

Much of the information held by Commission is 'excluded information'. This information is not published on the Commission's website and it is unlikely that it would be made available for inspection. Sub-section 43(2) of the GIPA Act provides that an application for 'excluded information' of the agency is not a valid access application.

5.4 Authorised proactive release of information

The Commission is authorised, pursuant to s 7 of the GIPA Act, to make government information available unless there is an overriding public interest against disclosure of the information. The Commission does not make available information which is either 'excluded information' or information for which there is an overriding public interest against disclosure. The Commission's Audit, Risk, and People Team maintain the Commission's website, and regularly reviews its program for the proactive release of government information, and does so by:

- Assessing all relevant Commission policies and procedures, making necessary redactions, and, having regard to s 7 of the GIPA Act, determining whether such documents (as appropriate) should be made publicly available on the Commission's website
- Reviewing and maintaining the Commission's website
- Maintaining accurate records to reflect what government information has been made available on the Commission's website.

5.5 Informal release

The Commission is authorised to release government information in response to an informal request pursuant to s 8 of the GIPA Act at its discretion, unless there is an overriding public interest against disclosure of the information. The Commission, having regard to the nature of the information, may make such information available by whichever means it considers appropriate and it may be subject to conditions. An informal request for access to information can be made by contacting the Commission's Government Information Officer.

5.6 Access applications

After considering whether an informal request for information should be made, a formal access application under the GIPA Act can be made in writing to the Government Information Officer and sent to:

Government Information Officer
NSW Crime Commission
453-463 Kent Street
Sydney NSW 2000
AUSTRALIA

An access application must:

- be in writing (an access application form is available for printing on the Commission's website)
- clearly indicate that it is an access application made under the GIPA Act
- be accompanied by a fee of \$30
- state the name of the applicant and provide a postal address or an email address as the address for correspondence in connection with the application
- include such information as is reasonably necessary to enable the government information applied for to be identified.

An applicant must disclose on their access application whether they have applied to another agency, at any time, for substantially the same information and if so, they must identify the agency. However, an application will not be invalid if an applicant fails to make this disclosure.

The application fee for making an access application is \$30. Processing charges for a formal access application may also be imposed by the Commission at the rate of \$30 per hour if the application is determined to be valid. Certain discounts may apply, including on the basis of financial hardship and public interest grounds.

A person who is aggrieved by a reviewable decision (as defined in the GIPA Act) of the Commission can seek a review of the decision. In particular, s 82 of the GIPA Act provides for an internal review by the Commission (see s 83 of the GIPA Act regarding the review being lodged within 20 working days after notice of the decision or deemed refusal is given to the applicant); s 89 of the GIPA Act provides for a review by the Information Commissioner (see s 90 of the GIPA Act regarding the review being lodged within 40 working days after the notice of decision is given to the applicant); and s 100 of the GIPA Act provides for an administrative review under the *Administrative Decisions Review Act 1977* by the NSW Civil and Administrative Tribunal (see s 101 of the GIPA Act regarding the review being lodged within 40 working days after notice of the decision is given to the applicant).

For assistance with an access application, the Commission's Government Information Officer can be contacted by emailing governmentinformationofficer@crimecommission.nsw.gov.au.

5.7 Information and Privacy Commission

Further information regarding the GIPA Act and agencies' obligations under this Act may be obtained from the Information and Privacy Commission (the IPC). The contact details for the IPC are:

Postal: GPO Box 7011, Sydney NSW 2001

Location: Level 17, 201 Elizabeth Street Sydney 2000

Email: ipcinfo@ipc.nsw.gov.au

Website: www.ipc.nsw.gov.au

Telephone: 1800 472 679

5.8 Other inquiries

Other inquiries may be made during regular business hours in person at the address provided in this document or by telephoning the Commission’s Government Information Officer on (02) 9269 3888.

6. Review

The Commission reviews its Agency Information Guide and adopts a new guide at intervals of not more than 12 months in accordance with s 21 of the GIPA Act.

Version control

Version	Effective date	Update comments	Author
1.0	30 September 2010	First version drafted and finalised.	Government Information Officer ('GIO')
2.0	1 November 2010	Inclusion of the following: adoption date, Commission staff summary, organisational chart, how information can be accessed and details of the IPC (now OIC).	GIO
2.01	5 July 2011	Updated content and organisational chart.	GIO
2.02	1 August 2012	Updated content and organisational chart.	GIO
2.03	10 October 2012	Updated organisational chart and content to reflect the Commission Act after coming into force.	GIO
2.04	15 October 2012	Updated organisation chart.	GIO
2.05	7 January 2013	Updated organisation chart.	GIO
2.06	25 February 2013	Updated organisation chart.	GIO
2.07	13 March 2013	Updated organisation chart.	GIO
2.08	29 April 2013	Updated organisation chart.	GIO
2.09	29 July 2013	Updated organisation chart.	GIO
2.10	28 February 2014	Updated organisation chart.	GIO
3.00	1 July 2014	Updated content, formatting, organisation chart and document classification, inclusion of Review, Content Control and Publication Information headings/information.	GIO

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3.01	22 July 2014	Updated organisation chart.	GIO
3.02	8 January 2015	Updated organisation chart.	GIO
3.03	1 May 2015	Updated organisation chart and logo.	Policy Officer
3.04	2 October 2015	Updated organisation chart.	Corporate Services Officer
3.05	30 September 2016	Updated organisation chart and content to reflect changes in names of agencies and contact details.	GIO
3.06	25 September 2017	Updated details to reflect the changes to the Commission Act, primarily in respect of the establishment of the LECC and the organisation chart.	GIO
3.07	30 August 2018	Update postal address for GIPA Applications, removal of 'Director Legal Services' in organisation chart.	Policy and Governance Officer
3.08	30 June 2019	Minor formatting changes, amendments to the organisation chart, update to Department of Justice details and review date, insertion of LECC and IPC website address.	Policy and Governance Officer
4.0	26 June 2020	Amendments to address IPC's comments in relation to 2019 AIG.	GIO
5.0	15 June 2021	Minor amendments, formatting and changes to the organisation chart.	Policy and Governance Officer
6.0	24 August 2022	Update organisation chart, role titles, website links and access to data.nsw.	Audit, Risk & People Team

Publication information

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