

# Complaints handling policy and procedures



# Complaints handling policy and procedures

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# POLICY

## 1. Purpose

The purpose of the *Complaints handling policy and procedures* is to provide guidance to all members of staff dealing with complaints received by the NSW Crime Commission (the Commission).

## 2. Objective

The objective of this policy and its procedures is to ensure that the Commission deals with each complaint it receives effectively, efficiently, fairly and in compliance with relevant legislation.

## 3. Application

This policy and procedures document applies to every officer of the Commission (Commission officer), defined in the *Crime Commission Act 2012* (NSW) as including the Commissioner, an Assistant Commissioner and a member of staff of the Commission, including a person engaged by the Commission as a consultant under subsection 74(2) and a police officer arranged under subsection 74(4).

## 4. Definitions

The following terms are defined in relation to this document.

**Complaint:** The *Law Enforcement Conduct Commission Act 2016* (NSW) (*LECC Act*) defines a complaint that relates to the NSW Crime Commission as an allegation of any conduct of:

- a Crime Commission officer that could constitute officer misconduct or officer maladministration
- the Crime Commission that could constitute agency maladministration.

Note: The following terms have legislative definitions that are relevant to complaints.

Term	Reference
Crime Commission Officer Misconduct	s 9 <i>LECC Act</i>
Serious Misconduct	s 10 <i>LECC Act</i>
Agency Maladministration	s 11(1) <i>LECC Act</i>
Officer Maladministration	s 11(2) <i>LECC Act</i>
Serious Maladministration	s 11(3) <i>LECC Act</i>
Notifiable Misconduct Matter	The guidelines struck under s14 <i>LECC Act</i>
Corrupt Conduct	Part 3 <i>ICAC Act</i> *
Misconduct matter	Section 4 <i>LECC Act</i>
Misconduct Information	Section 13 <i>LECC Act</i>
Mandatory report	Section 13 <i>LECC Act</i>

\**ICAC Act* = *Independent Commission Against Corruption Act 1988* (NSW)

## 5. Policy Statements

- The Commission will make readily available an effective means for making complaints about Commission officers, functions or actions whether such complaints are made by members of the public, members of other LEAs, members of the legal profession, or officers of the Commission.
- All complaints related to Commission officers, functions or actions will be receipted, assessed, investigated (where appropriate) and finalised in a timely manner in accordance with the procedures in this document.
- Every Commission officer who receives a complaint about a Commission officer, function, or action is required to bring it to the attention of the Commission.
- The Commission will investigate each complaint made against a Commission officer on its own merits in accordance with the principles of natural justice and procedural fairness. Where complaints relate to misconduct, they will be handled in accordance with the Commission's *Misconduct and unsatisfactory performance policy and procedures*. Complaints will be dealt with confidentially and the complainant's identity will be kept confidential wherever possible, unless the complainant agrees otherwise.
- Where considered practicable, the Commission will notify the complainant of the outcome of their complaint about Commission officers, functions or actions in a timely fashion.
- The Commissioner retains overall responsibility for the investigation of complaints made in relation to Commission officers, functions and actions and recognises the role of the Law Enforcement Conduct Commission (LECC) in overseeing the Commission's investigation of *notifiable misconduct matters*.

### 5.1 Related policies

The Commission has developed a number of related policies that deal with specific types of workplace and procurement complaints and grievances, investigating misconduct, and whistle-blower protections, i.e.:

- *Misconduct and unsatisfactory performance policy*
- *Internal reporting policy and procedures*
- *Grievance handling (work related) policy and procedures*
- *Bullying, harassment and discrimination policy and procedures*
- *Procurement complaints handling procedure*

Each complaint will be addressed in accordance with the requirements of the *Complaint handling policy and procedures* and/or these related policies and procedures as they apply to the circumstances of the individual complaint.

## 6 Oversight bodies

LECC is the Commission's primary oversight body in relation to complaints. LECC may receive complaints about Commission officers, functions or actions directly from complainants or indirectly via the Commission itself. LECC may also:

- Detect and investigate conduct that could be *serious misconduct* or *serious maladministration*
- Refer to the Commission for investigation any conduct that potentially constitutes *Crime Commission officer misconduct, officer maladministration, or agency maladministration*
- Refer misconduct matters for investigation or action by other appropriate authorities
- Oversee the investigation or handling of misconduct matters referred by it to the NSW Crime Commissioner or other appropriate authorities.

The Independent Commission Against Corruption may investigate allegations of *corrupt conduct* against Commission officers where such conduct also involves a public official from another agency.

The NSW Ombudsman has general functions with respect to New South Wales public sector maladministration and can conduct special investigations accordingly.

## 7. Responsibilities

### 7.1 Commissioner

The Commissioner is the decision maker in relation to the handling of complaints, including whether or not a complaint is reported and/or notified to LECC and whether LECC is asked to investigate a complaint.

### 7.2 Complaints Assessment Officer

The Complaints Assessment Officer (the Assessment Officer) is responsible for the receipting of a complaint and the initial assessment of the complaint (as necessary).

The Assessment Officer's responsibilities include (depending on the circumstances):

- screening out complaints that do not relate to government officials, functions or actions
- redirecting complaints that relate to another agency to that agency or a relevant oversight agency
- communicating with the complainant (where appropriate)
- maintaining and updating the Complaints Register,
- completing and documenting the assessment for each complaint, using the Complaint Assessment Form;

- making recommendations to the Commissioner for the handling, investigation (where required), and resolution of complaints, including whether to recommend that LECC manages the investigation of a complaint;
- liaising with the Executive Director Corporate Services when formulating recommendations as to how any *Crime Commission officer misconduct* matters are to be handled, investigated and resolved; and
- periodically reporting the status of complaints to LECC.

The 'Complaints handling procedure flowchart', annexed to this policy marked Annexure "A" provides a broad overview of the role of the Assessment Officer when dealing with a complaint.

### **7.3 Executive Director Corporate Services and Human Resources Manager**

The Human Resources Manager will initiate the assessment of any *HR Matter* that has the potential to be considered a complaint. The Executive Director Corporate Services will perform the role of Assessment Officer in relation to such matters.

### **7.4 Internal Investigator**

The Internal Investigator is whichever Commission officer the Commissioner assigns responsibility for investigating a specific complaint. The Internal Investigator is responsible for investigating the complaint, keeping adequate records of the investigation, and keeping relevant parties informed of an investigation's progress. The Internal Investigator will keep relevant records in relation to their investigation and will provide these to either the Assessment Officer or Executive Director Corporate Services, as appropriate, for retention as official records.

In circumstances where an Internal Investigator cannot be appointed, the Commission may appoint an External Investigator to manage the investigation.

### **7.5 Executive Team**

Executive Team members are responsible for reporting any complaints they receive to the Assessment Officer and, as appropriate, also reporting these to the next Executive Team meeting. Complaints reported to Executive Team meetings are recorded in the minutes of the meeting.

### **7.6 Internal Audit and Risk Manager**

The Internal Audit & Risk Manager is responsible for reviewing the quarterly status report for completeness before it is submitted to LECC. The Internal Audit and Risk Manager will conduct compliance reviews of the complaints process at least once every calendar year in order to provide assurance that these procedures have been followed and the policy objectives are being met.

### **7.7 Commission Officers**

Commission officers are responsible for forwarding any complaints received from internal or external sources to the Assessment Officer and/or the Commissioner in a timely manner.

# PROCEDURES<sup>1</sup>

## 1. Lodging a Complaint

The Commission provides on its website directions for lodging a *complaint* about the Commission or its officers via either an on-line enquiry form, which sends an email to the complaints in-box, or by land mail. The Commission website also provides a link to the LECC website for those complainants who would prefer to make such complaints to LECC directly.

The complaints email in-box is monitored on a daily basis by the Assessment Officer. Any complaint received by means other than the complaints email in-box is also to be referred to the Assessment Officer for initial processing.

Complaints will not be considered for assessment unless they are in written form. Complainants attempting to make verbal complaints should be advised of this.

Anonymous written complaints will be assessed where there is sufficient information provided to do so.

Complainants should be encouraged to include in any complaint all relevant details where known, such as dates and times of relevant events, and the names of individuals involved, including potential witnesses.

Refer to section 7 of this procedure for special considerations regarding complaints that originate as HR matters, are connected to litigation, or are made about the Commissioner.

## 2. Initial Processing

- As soon as they are received, all complaints (other than complaints that do not relate to an Australian and/or NSW government agency) must be recorded by the Assessment Officer on the Complaints Register maintained by the Commission, and allocated a unique complaint reference number.
- If the complainant threatens violence, the Assessment Officer should inform the relevant LEA immediately in order to manage that threat.
- If deemed appropriate, the Assessment Officer should acknowledge receipt of the complaint, provide a timeframe for resolution and proposed action, and seek any further information required from the complainant.
- The Assessment Officer must create a new Complaints Assessment Form and populate Part A of the form with preliminary details of the complaint.

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<sup>1</sup> Please refer to the 'Complaints handling procedure flowchart', annexed to this policy marked Annexure "A" for a simplified outline of these procedures.



### 3. Assessment

#### 3.1 Triage of complaints

The Assessment Officer will triage complaints to determine whether the complaint is “non-assessable” or “assessable”, as follows:

Non-assessable complaints are:	Assessable complaints are:
<ul style="list-style-type: none"><li>• Complaints that do not relate to an Australian and/or NSW government agency</li><li>• Complaints that relate entirely to another government agency (other than the NSW Police or the Commission)</li></ul>	<ul style="list-style-type: none"><li>• Complaints about Commission officers, functions or actions</li><li>• Complaints about NSW Police Force officers, functions or actions</li></ul>

##### 3.1.1 Non-assessable complaints

###### ➤ *Non-government complaints*

The Commission will not respond to or investigate complaints received that do not relate to an Australian or NSW government agency.

The Assessment Officer will file any non-government complaints in a subfolder in the **Complaints – Non-assessable** Objective folder.

In these circumstances, a Complaints Assessment Form is not required to be completed; however, details of the complaint should be recorded on the Register.

###### ➤ *Other agency complaints*

The Commission will not investigate complaints made about another government agency. However, the Commission may, depending on the nature of the complaint, respond to the complainant and/or redirect them to the appropriate body or bodies to which such a complaint might be made. Where possible, the Commission will refer the complaint directly to the relevant government agency. Refer to section 4.1.2 *Responding to complainants* for further guidance.

The Assessment Officer will file any government complaint (relating to an agency other than the NSW Police or the Commission) received and any return correspondence in a subfolder in the **Complaints – Non-assessable** Objective folder.

##### 3.1.2 Assessable complaints

###### **Commission complaints**

Where a complaint relates to a Commission officer, function, or action, the Assessment Officer will:

- a) create a new Complaint File within the **Complaints – Assessable** Objective folder, using the unique complaint reference number and save a copy of the complaint into it;
- b) undertake an assessment of the complaint, and in doing so, make a recommendation as to whether the complaint is required to be notified to the LECC pursuant to the section 14 guidelines issued by the LECC (annexed to this document, marked Annexure “**B**”<sup>2</sup>);
- c) complete the relevant portions of the Complaint Assessment Form
- d) record their name , the date of the assessment, and sign the form
- e) draft any related correspondence that may be required for LECC and/or the complainant and save it to the same location
- f) provide the Commissioner with the Complaint File for final determination.

### **3.1.3 NSW Police Force complaints**

Where a complaint relates to a NSW Police Force officer, function, or action, the Assessment Officer will:

- a) create a new Complaint File within the **Complaints – Assessable** Objective folder using the unique complaint reference number and save a copy of the complaint into it;
- b) undertake an assessment of the complaint, and in doing so, make a recommendation as to whether the duty to report the complaint to the LECC arises pursuant to the section 33(5) guidelines issued by the LECC (annexed to this document, marked Annexure “**C**”<sup>3</sup>);
- c) complete the relevant portions of the Complaint Assessment Form;
- d) record their name , the date of the assessment, and sign the form;
- e) draft any related correspondence that may be required for LECC, the NSW Police and/or the complainant and save it to the same location; and
- f) provide the Commissioner with the Complaint File for final determination.

### **3.2 Considerations for formulating recommendations**

- a) When formulating a recommendation, the Commission must consider:
  - In relation to a complaint made against a Commission Officer and/or the Commission, whether it is required to notify LECC of the complaint as ‘a Notifiable Misconduct Matter’ under the s 14 Guidelines issued by the LECC (see Annexure “**B**”).
  - In relation to a complaint made against a NSWPF officer and/or the NSWPF, whether a duty to report the matter to LECC arises under the s33(5) Guidelines issued by the LECC (see Annexure “**C**”).

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<sup>2</sup> Undated.

<sup>3</sup> Undated.

- b) The Commission will investigate all complaints that it has the capacity to perform with reasonable efficiency and effectiveness.

**Note:** If the Assessment Officer recommends that the Commission handles a complaint investigation, they should also nominate an appropriate Internal Investigator. If the complaint concerns *officer misconduct*, such a decision should be made in consultation with the Executive Director Corporate Services.

Considerations for selecting an Investigator include:

- Whether the Investigator is sufficiently independent from the persons or actions being investigated to avoid significant potential conflicts of interest
- The sensitivity and likely complexity of the investigation
- The training and experience of the Investigator
- Whether the intended Investigator has sufficient workload capacity to expeditiously complete the investigation
- The security clearance level of the intended Investigator

In circumstances where an Internal Investigator cannot be appointed, the Commission may appoint an External Investigator to manage the investigation.

- c) Where the Commission appoints an Investigator to manage the investigation, a letter of appointment outlining the terms of reference must be issued to the Investigator. A sample template letter is annexed to this policy, marked Annexure “D”.

### **3.1.2 Considerations for responding to complainants**

The Commission may respond to a complainant at its discretion, noting that responses to fixated or disturbed complainants can invite a veritable flood of irrelevant correspondence. All Commission correspondence with complainants should be saved into the relevant complaint file as an official record.

The following guidance on responding to complainants is provided:

- Generally speaking, the complaint should be acknowledged and the complainant advised of the action that is proposed to be taken in response to the complaint and an estimate timeframe for resolution (if possible). The Commission may also use the acknowledgement correspondence as an opportunity to request further information from the complainant.
- If the complaint relates to another agency, the complainant will be advised that the complaint has been referred to the relevant agency (if applicable).
- Do not respond to complaints that are clearly outlandish and/or the product of an unsound mind.
- Do not respond to repeat complaints where a response has been sent previously and the repeat complaint offers no significant additional information.

## **4. Acting on the Initial Assessment**

### **4.1 Deciding and initiating action**

Upon receiving the complaint file from the Assessment Officer, the Commissioner will:

- a) Review:
  - the complaint
  - the *Complaint Assessment Form*
  - where applicable, any draft correspondence prepared to LECC and/or the complainant
- b) Complete Part D of the *Complaint Assessment Form*
  - recording whether he/she agrees with the recommendations of the Assessment Officer
  - adding any comments or additional instructions
  - printing, signing and dating the form
- c) (Where applicable) reviews and signs any draft correspondence prepared for LECC and/or the complainant
- d) Advises the Assessment Officer of the actions directed
- e) (Where applicable) together with the Executive Director Corporate Services, instructs the Internal Investigator about the complaint and the nature of the investigation to be undertaken
- f) Sends the completed *Complaint Assessment Form* and any signed correspondence to the Assessment Officer for processing, except for HR matters where all documentation is returned to the Human Resources Manager (refer procedure 7.1)

### **4.2 Recording the decision**

On receipt from the Commissioner of the completed Complaint Assessment Form and any associated correspondence, the Assessment Officer will:

- a) scan the documents and save them to the Complaint File
- b) send any correspondence to the addressee
- c) update the Complaints Register in relation to the complaint

## **5. Investigating Complaints**

### **5.1 Investigations conducted by NSWCC**

The Commissioner liaises with the Executive Director Corporate Services to ensure that an appropriately skilled internal investigator who does not have a material conflict of interest is appointed to investigate the complaint. Where such an investigator cannot be sourced from Commission staff, a contractor may be used where the Commission's security vetting requirements can be met.

Investigators should be appointed in writing and the terms of the investigation should be set out in the appointment letter (see Annexure “D” for a template letter).

Misconduct investigations are to be conducted in accordance with the Commission’s *Misconduct and unsatisfactory performance policy and procedures*.

The Investigator is required to:

- Conduct the investigation in a timely manner
- Arrange to conduct such interviews and inspections of records as he or she sees fit in the circumstances
- Keep records of conversations and documentation pertinent to the investigation
- Regularly apprise the Complaints Assessment Officer of the status of the complaint
- Provide the Commissioner with a formal memorandum or report of findings
- Make recommendations to the Commissioner on how the complaint should be resolved
- Participate in the resolution of the complaint
- Provide such information to the complainant as is deemed appropriate, which may include information such as the actions taken to investigate, the outcome of the investigation, and any remedial action taken or proposed
- Upon completion of the investigation and/or resolution of the complaint, provide all records and correspondence relating to the investigation to the Assessment Officer (or in the case of HR matters, the Executive Director Corporate Services) for inclusion in the relevant file in Objective (complaint and HR file).

Note that LECC has the right to oversight the Commission’s handling of any complaint investigation. The Investigator should cooperate with LECC in relation to any such oversight activity.

## **5.2 Matters notified to LECC<sup>4</sup>**

The Commissioner may, under s 11A of the *Crime Commission Act 2012* (NSW), refer a misconduct matter to LECC for consideration of LECC’s investigation of the matter. The Commissioner may also elect to investigate or otherwise deal with the matter (which may include taking no further action).

The guidelines struck between the Commission and LECC under s 14 of the LECC Act (Annexure “B”) provide guidance on the following:

- matters which the LECC will not investigate or oversight, and
- notifiable misconduct matters, which are required to be formally notified to the LECC.

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<sup>4</sup> Section 33 of the LECC Act imposes an overarching duty on the Commissioner to report to LECC any matter that the Commissioner suspects on reasonable grounds concerns or may concern NSWPF and/or NSWCC officer misconduct or serious maladministration. This duty arises irrespective of whether a formal written complaint is received and/or made.

Where a matter is a notifiable misconduct matter, the Commissioner in notifying the LECC of the matter, should make a recommendation as to whether the Commission or the LECC should investigate the matter.

LECC may choose to investigate a complaint about the Commission if it relates to potential serious *misconduct, serious officer maladministration* or *serious agency maladministration* or, in the case of the Commissioner or Assistant Commissioner, *officer misconduct* or *officer maladministration*.

Where the Commissioner determines that a complaint should be referred to LECC for investigation, the Commissioner writes a letter to the Chief Commissioner of LECC, attaching relevant documentation and requesting that LECC considers investigation of the complaint.

The Assessment Officer sends the letter and attachments to [complaints@lecc.nsw.gov.au](mailto:complaints@lecc.nsw.gov.au) . Where such material is deemed too sensitive to transmit via email, the Assessment Officer contacts LECC's Director Oversight Investigations and arranges for the documentation to be transmitted by an agreed secure method. LECC should acknowledge all referrals and advise the Commission as to whether it intends to investigate the complaint.

Where LECC advises that it does not intend to investigate a complaint, the Commissioner decides what steps are required to resolve the matter internally and issues appropriate instructions.

Where LECC advises that it intends to investigate a complaint or to oversight a Commission complaint investigation, the Commission should provide all reasonable assistance to LECC in support of these activities.

Where LECC investigates a complaint, the Commission does not conduct a concurrent investigation, but awaits the completion of LECC's investigation.

### **5.3 Investigations referred to other oversight bodies**

In very rare circumstances, the Commissioner may choose, or be required, to refer a complaint about a Commission officer, function or action to an Ombudsman or the ICAC. Such referrals will be handled as similarly as possible to the handling of LECC referrals (refer 5.2 above).

## **6. Sanctions Resulting from Investigations**

Refer to the *Misconduct and unsatisfactory performance policy and procedures* for guidance in relation to potential sanctions resulting from the investigation of complaints.

## 7. Special Types of Complaints

### 7.1 *Complaints originating as HR matters*

Intervention in a Human Resources (HR) matter, such as a conflict between co-workers, may sometimes reveal potential *officer misconduct* or *maladministration*. Where this occurs, the HR matter is to be treated as a complaint but internal responsibility for handling such complaints will remain with HR.

The following complaints handling procedure is prescribed to deal with such HR matters.

- The Human Resources Manager:
  - completes Part A of the *Complaint Assessment Form*, which is then stored in a HR Complaint file (located in the Human Resources Objective file plan) together with any other documentation relating to the complaint.
  - emails to the Executive Director Corporate Services the Objective Reference to the relevant HR Complaint File.
- The Executive Director Corporate Services takes on the role of Complaints Assessor by reviewing the complaint, completing Part B of the Complaint Assessment Form, drafting relevant correspondence, and sending all to the Commissioner for review and decision.
- As per procedure 4.1 above, the Commissioner reviews the materials forwarded, records his decision, comments and instructions on the Complaint Assessment Form, advises the Executive Director Corporate Services of the decision, instructs the Internal Investigator (where applicable) and returns all documentation to the Human Resources Manager. .
- The Human Resources Manager issues any correspondence to LECC and forwards the completed Complaint Assessment Form to the Assessment Officer.
- The Assessment Officer records the details of the Complaint Assessment Form in the Complaints Register.
- At the conclusion of the investigation, the Human Resources Manager is to brief the Assessment Officer on the results of the investigation so that these results can be recorded in the Complaints Register.
- All paperwork relating to a HR matter, including any investigation report and associated workpapers, is to be retained in the complaint file maintained by HR.

### 7.2 *Complaints connected to litigation*

Complaints about Commission officers, functions or actions may also be made to a Court or other parties in relation to litigation in which the Commission is involved. Where a Commission officer becomes aware of such a complaint they should report it to the

Assessment Officer as soon as practicable in order to initiate an assessment of the complaint.

The Commission's handling of a complaint that is made in the course of litigation before a court or quasi-judicial tribunal will vary depending on the nature of the complaint. Factors that should be taken into account include the following:

- **Has the complaint been made to the Commission or to a court?** If the complaint is addressed to the Commission, it will normally be investigated as per the *Complaints handling policy and procedure*. If the complaint is made to a court, the Commission may respond to the complaint and await the court's ruling.
- **How likely is it that the court will make a ruling on the complaint?**
- **When is the court likely to make a ruling on the complaint?** Some complaints may need to be investigated or resolved more quickly than the judicial system can resolve them.
- **How likely is it that the court will have all information relevant to the complaint?** If all the material relevant to resolving a complaint will be before the court it may be prudent to await the court's ruling.
- **Could an investigation by the Commission prejudice proceedings in a court?** The Commission should avoid such prejudice to the extent reasonably possible.
- **Is the Commission's source of information about the court proceedings independent of anyone who has an interest in the outcome of the complaint?** If not, it may be prudent to await the court's ruling.

### **7.3 Complaints about the Commissioner or an Assistant Commissioner**

Special arrangements apply to the management of complaints against the Commissioner or an Assistant Commissioner.

Section 11A (5) of the *Crime Commission Act 2012* (NSW) requires the Commissioner to refer to LECC all misconduct matters about the Commissioner or an Assistant Commissioner.

Complaints alleging misconduct on the part of the Commissioner may be made to an Assistant Commissioner, who is authorised to immediately refer the complaint to LECC and keep the complaint confidential from the Commissioner. Any such referral should be made immediately in writing.

Where LECC refers a misconduct matter about the Commissioner back to the Commission for investigation, an Assistant Commissioner should, in that investigation, assume the role that would normally be undertaken by the Commissioner. The complaint should otherwise be dealt with in accordance with this policy and procedure.

Apart from the mandatory referral to LECC, all misconduct matters made about an Assistant Commissioner will be dealt with in accordance with this policy and procedure.



## 8. Record-keeping

All notifiable misconduct matters pertaining to a Commission officer, function or action are required to be notified to the LECC, in accordance with the s14 Guidelines.

All matters pertaining to a NSWPF officer, function or action, where a duty to report arises, must be reported to the LECC in accordance with the s33(5) guidelines.

Complaint files for complaints that relate to a Commission and/or NSWPF officer, function or action are stored in the **Complaints – Assessable** folder (with the exception of HR Matters that become complaints - these are stored in **HR Complaints** files within the Human Resources file plan.)

Every complaint that does not relate to a Commission and/or NSWPF officer, function or action is filed within the **Complaints – Non-Assessable** folder.

The Commission reports the status of current complaints to LECC on a quarterly basis. The Complaints Register is used as the basis for such reporting.

The Complaints Register is maintained by the Assessment Officer and is located in its own Objective file within the **Complaints – Administration** Objective folder.

The Assessment Officer is responsible for maintaining the Complaints Register for each complaint and is required to update the information in the Complaints Register contemporaneously until each complaint is finalised.

Note: Although non-assessable complaints are not included in the quarterly reporting to LECC, all associated records are to be retained and made available to LECC inspectors on request.

### ***8.1 The structure of the Complaints Register***

The Complaints Register includes the following information for each assessable complaint:

- Complaint reference number
- Receipt date
- Name of the complainant
- Originating source of the complaint
- Medium by which complaint received
- Complaint subject
- Complainant threatening violence (Y/N)
- Related to the Commission (Y/N)
- Related to other government agency (Y/N)
- Related to non-government agency (Y/N)
- Assessment Officer
- Date of Assessment
- Assessment Decision

- Action taken in response to Assessment Decision
- Complainant notified of decision (Y/N)
- Reportable under s 33 LECC Act (Y/N)
- Notifiable/referable under s 14 guidelines (Y/N)
- Investigating agency (NSWCC/LECC/NSWPF/Other)
- NSWCC Investigating Officer (if applicable)
- NSWCC Investigating Officer – Conflict of Interest (if applicable)
- Investigation findings
- Actions taken in response to investigation findings
- Investigation completed (Y/N)
- Current status

## **8.2 Reporting using the Complaints Register**

The Complaints Register is used to provide quarterly status reports to LECC. The Register is currently saved in the folder *Objective > Commission Management > Complaints – Administration*, and a copy of the Register is to be provided to the LECC in its entirety.

The Internal Audit & Risk Manager reviews the quarterly status report for completeness before it is submitted to LECC. This review will also involve a check of the complaints mailbox and complaint files in order to provide assurance that all complaints received are included in the report.

## **9. Compliance**

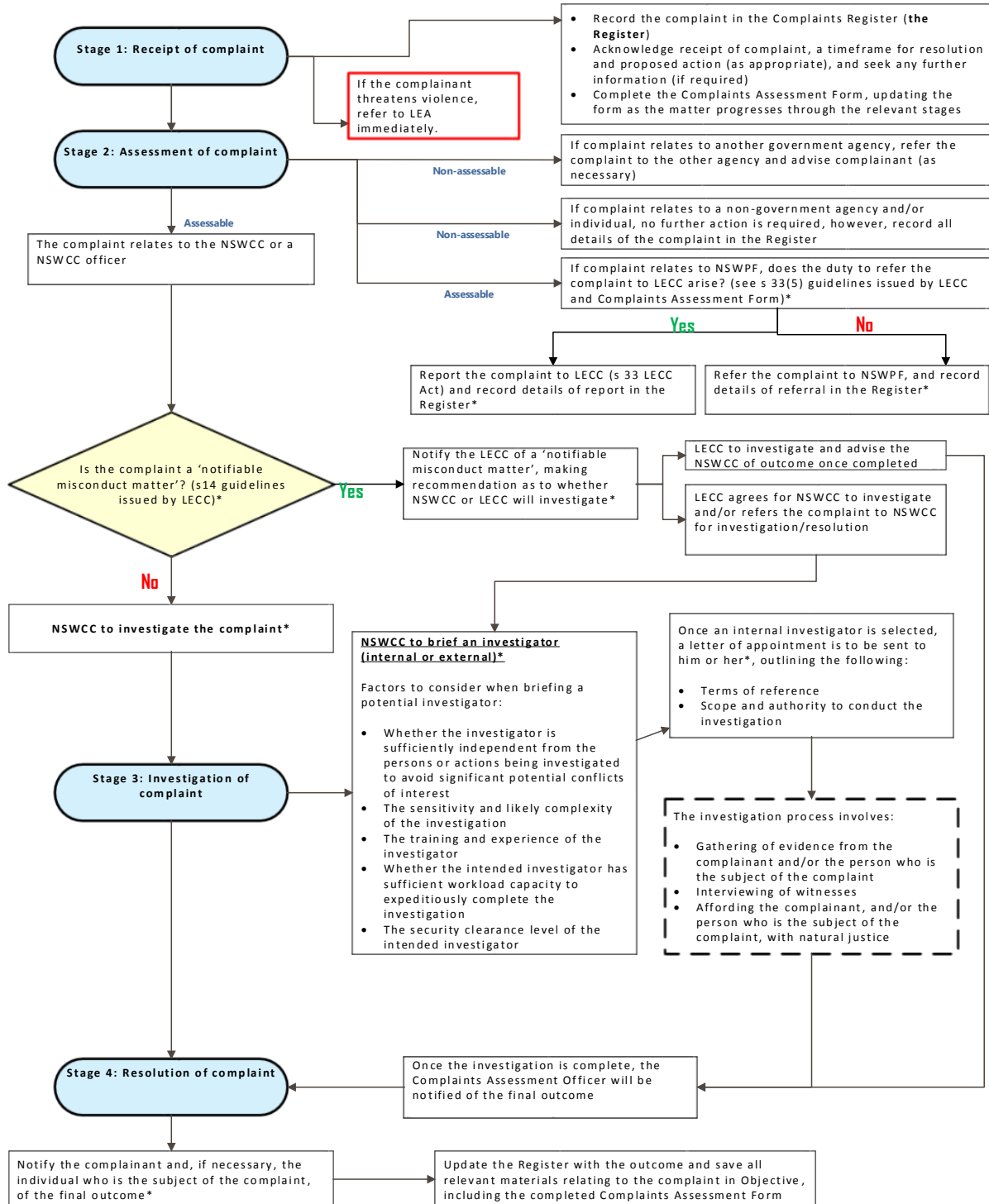
The Internal Audit & Risk Manager will conduct compliance reviews of the complaints process at least once every calendar year in order to provide assurance that these procedures have been followed and the policy objectives are being met.

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# **Annexure “A”**

# COMPLAINTS HANDLING PROCEDURE FLOWCHART

(This flowchart is to be read by the Complaints Assessment Officer in conjunction with the 'Complaints handling policy and procedures' and the 'Complaints Assessment Form')



\*Denotes a decision and/or process requiring consultation with, and/or approval of, the NSW Crime Commissioner.

Note: This Flowchart does not apply to HR-related grievances. The procedures for these matters are outlined in further detail in the 'Complaints handling policy and procedures' document.

# **Annexure “B”**

**Guidelines between the  
Law Enforcement Conduct Commission  
and  
the New South Wales Crime Commission  
Pursuant to s14 of the  
*Law Enforcement Conduct Commission Act 2016***

## 1. Guidelines

### ***Notifiable misconduct matters***

Pursuant to s14(1)(b) of the LECC Act, the following are the kinds of misconduct matters required to be notified to the LECC ('*notifiable misconduct matters*') by the NSWCC:

- a) criminal conduct,
- b) corrupt conduct<sup>5</sup>,
- c) detrimental action or reprisal (including any possible payback complaint) against a Crime Commission officer or other person making a protected disclosure or allegation about an officer,
- d) allegations of improper association,
- e) unauthorised release of Crime Commission information or improper disclosure of information,
- f) any allegations of unreasonable use of the Crime Commission's powers under the *Crime Commission Act 2012*,
- g) any failure to comply with policies and procedures in regards to declarable associations, conflicts of interest or secondary employment,
- h) any significant failure to comply with policies and procedures,
- i) conduct which is or might be serious maladministration by an officer or the NSWCC,
- j) Letters of demand, Statements of Claim, originating process or other pleadings or particulars where the State of New South Wales, Crime Commissioner, or a Crime Commission officer is named as a defendant or proposed defendant within the body of the document, and that alleges, expressly or impliedly, an act or omission capable of constituting serious misconduct on the part of any Crime Commission officer.

The circumstances and the facts surrounding a notifiable matter will determine whether the matter will be investigated or oversighted by the LECC or referred back to the NSWCC for appropriate action.

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<sup>5</sup> As defined in s 7 of the *Independent Commission Against Corruption Act 1988*



***Matters which the LECC will not investigate or oversight***

Pursuant to s14(1)(a) and (d) of the LECC Act, the LECC and the NSWCC may enter in to Agreements concerning NSWCC matters that the LECC will not investigate or oversight.

To that end, the LECC will not investigate or oversight matters that involve conduct or behaviour that is inconsistent with or prohibited by the terms of an officer's employment, including the Crime Commissioner's instructions or constitutes a breach of discipline or unworthy conduct that might reasonably be regarded as embarrassing the reputation of the NSWCC but which does not involve serious dishonesty or serious incompetence. Such conduct or behaviour includes but is not limited to:

- (a) allegations that a Crime Commission officer was not ill while claiming sick leave,
- (b) allegations of minor misuse of NSWCC assets,
- (c) traffic offences, unless the offence raises other notifiable issues concerning a lack of integrity,
- (d) allegations of minor misuse of email, such as forwarding emails with non-work related content and documents that take advantage of a Crime Commission officer's membership of the NSWCC but does not otherwise amount to misconduct,
- (e) complaints about Crime Commission officer incompetence that are otherwise not notifiable,
- (f) performance management matters that have not resulted in a notifiable misconduct matter, for example, lack of punctuality, unsatisfactory completion of a performance agreement or poor work output, or
- (g) any allegations of a trivial nature.

Although the matters described above are not *notifiable misconduct matters*, such complaints must be recorded by the NSWCC in the appropriate records management system and made available to the LECC on request.

# **Annexure “C”**

Guidelines for the  
the New South Wales Crime Commission  
Pursuant to s33(5) of the  
*Law Enforcement Conduct Commission Act 2016*  
(NSW)

## 1. Guidelines

### *Duty to notify officer misconduct and serious maladministration.*

Pursuant to s 33 of the *Law Enforcement Conduct Commission Act 2016* (NSW), the Crime Commissioner has a duty to report any matter or conduct the Crime Commissioner suspects on reasonable grounds concerns or may concern officer misconduct or serious maladministration. Guidelines may be issued by the LECC as to what matters need or not need be reported.

The duty to report covers conduct by a Crime Commission officer, police officer, and administrative employee as well as agency maladministration by the NSW Police Force and the Crime Commission.

These guidelines, issued pursuant to s 33(5) of the *Law Enforcement Conduct Commission Act 2016* set out the kinds of matters, involving allegations against employees of the NSW Police Force, which are required to be reported to the LECC.

Conduct or allegations of a serious nature that include:

- a) criminal conduct,
- b) corrupt conduct<sup>1</sup>,
- c) unlawful conduct,
- d) allegations of improper association,
- e) conduct of a serious nature that is:
  - (i) unreasonable, unjust, oppressive or improperly discriminatory in its effect, or
  - (ii) arises, wholly or in part, from improper motives
- f) officer or agency misconduct or maladministration carried out on more than one occasion, or that involves more than one participant, that is indicative of systemic issues that could reflect on the integrity and good repute of the NSW Police Force.

All other allegations against a police officer are not required to be reported to the LECC, unless the Crime Commissioner considers it necessary or to be in the public interest.

The circumstances and the facts surrounding a reportable matter will determine whether the matter will be investigated or oversighted by the LECC or referred to the NSW Police for appropriate action.

Guidelines issued pursuant to s 14 of the LECC Act already provide guidance as to which matters relating to alleged misconduct by a Crime Commission employee, need or need not to be reported to the LECC.

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<sup>1</sup> As defined in s 7 of the *Independent Commission Against Corruption Act 1988*

# **Annexure “D”**

## STRICTLY PRIVATE AND CONFIDENTIAL

Complaint ref: [insert]

[Date]

[insert name]

[Insert address]

Sent by: [insert details]

Dear [insert name],

### **Appointment for investigation and terms of reference**

Thank you for agreeing to undertake the investigation on behalf of the New South Wales Crime Commission (the Commission) of the [allegations/complaint] made by [insert name of complainant] regarding [the person/s the subject of the complaint].

You are hereby appointed to investigate this matter in accordance with the Terms of Reference **attached** to this letter. In doing so, you are required to comply with the following:

- abide by all obligations under Commission-related legislation, policies [including the Commission's <add or delete as required>: Misconduct and unsatisfactory performance policy, Internal Reporting policy and procedures, Grievance handling (work related) policy and procedures; Bullying, harassment and discrimination policy and procedures], contracts, and conditions and requirements stated in documents the Commission supplies to you, and immediately report any breaches;
- disclose any actual or perceived conflicts of interest that may arise during the process of the investigation immediately to me;
- maintain accurate records of any interviews that you hold with any witnesses and provide copies of those records as part of your investigatory documents; and
- ensure that all of the information obtained by you as part of the investigation remains confidential and is not disclosed to anyone except me, or someone authorised by me to receive the information.

If you are concerned about any aspect of your investigation and/or any procedural steps in your capacity as an investigator, you are required to contact me as soon as possible.

Please provide your written report together with all documents, statements and other evidence gathered as part of your investigation by no later than [date]. If you require more time, please contact me before [date] to advise how much further time you need. In the interim, please keep me apprised of any major developments in relation to this matter.

Yours sincerely

[signature]

Peter Cotter APM

New South Wales Crime Commissioner

cc. Complaints Assessment Officer, NSW Crime Commission

[insert details of additional NSWCC officers who may require a copy of this letter]

Terms of Reference – Complaint ref: **[insert]**

Investigator details	
Name of investigator	
Organisation/Department	
Telephone	
Email	

Employer details (if relevant)	
Organisation's name	
Contact name (title)	
Telephone	
Email	

Details of complainant	
Name of complainant	
Date complaint received	
Complainant's contact details	

Allegations contained in the complaint

Scope of the investigation

List of relevant documents attached
1. Copy of the complaint and supporting materials provided by the complainant
2.
3.

Additional evidence to be collected; eg relevant contracts of employment, details of any disciplinary/warning letters or complaints.
1.
2.
3.