TASMANIA POLICE
Office Of The Commissioner
GPO Box 308 HOBART TAS 7001
[redacted]

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17 May 2021

Mr Michael Easton
Chief Executive Officer
Integrity Commission
GPO Box 822
HOBART TAS 7001

Dear Mr Easton,

Letter of Understanding between Tasmania Police and the Integrity Commission

This Letter of Understanding (LoU) confirms arrangements between Tasmania Police and the Integrity Commission (the Parties) to achieve the common objectives of:

- Maintaining the Tasmania Police values of integrity, equity and accountability,
- Enhancing public confidence in Tasmania Police through independent Integrity Commission oversight of misconduct and misconduct risk areas,
- Enhancing the quality of, and commitment to, ethical conduct in Tasmania Police through the Integrity Commission's educative, preventative and advisory role, and
- Working cooperatively to enhance public confidence that misconduct by Public Officers is appropriately investigated and dealt with.

This LoU is inclusive of its Appendix. Nothing in this LoU:

- is intended to create, nor does it create, a legally binding relationship between the Parties; or
- is intended to, nor does it, alter legal obligations or requirements.

Definitions for terms used in this LoU are contained in the *Integrity Commission Act 2009* (Tas) ('IC Act'); the *Police Service Act 2003* (Tas) ('PS Act'); the Tasmania Police Manual (TPM); The Commissioner's Directions relating to conduct, complaint management and compliance review (ABACUS); and the Tasmania Police Award (The Award).

Notification to the Integrity Commission by Tasmania Police

The Parties agree that Tasmania Police will notify the Integrity Commission in writing, as soon as practicable in accordance with Abacus, whenever it is reasonably suspected that a member has engaged in serious misconduct or whenever a Commissioned Officer (that is, a person of, or above, the rank of Inspector, or a person undertaking authorised higher duties at the rank) is the subject of any complaint. In effect, this will include all Level 3 Complaints and Internally Raised Matters (IRM) about all non-commissioned officers, as well as all Level 2 Complaints and IRM's about Commissioned Officers (or those acting in that role).

The Parties agree that the notification will occur via the office of the Commander, Professional Standards.

Notification of compliance review matters to the Integrity Commission

The Parties agree that Tasmania Police will notify the Integrity Commission as soon as practicable of any of the following incidents:

- A death or life-threatening injury in police custody as defined in ABACUS, and the TPM.
- A police shooting where a police officer discharges a firearm at a person as defined in the TPM.

The Parties agree that, if no misconduct or serious misconduct has occurred, or is suspected, then the notification is for accountability and transparency purposes only, and that the Integrity Commission has no role in any subsequent compliance review process.

The Parties agree that the notification will occur via the office of the Commander, Professional Standards.

Referral of complaints to Tasmania Police

The Parties agree that referral of Integrity Commission matters will occur as follows:

- Referral of complaints regarding misconduct by police officers and (DPFEM or Tasmania Police) state service employees, and any associated correspondence regarding the referral, between the Integrity Commission and Tasmania Police, will occur via the office of the Commander, Professional Standards.
- Referral of complaints regarding misconduct by other public officers, and any associated correspondence regarding the referral between the Integrity Commission and Tasmania Police, will occur via the office of the Commissioner of Police (COP).
- All other matters will be referred via the office of the COP.

The Director, Operations, may liaise by whatever means practicable with the Deputy Commissioner of Police to:

- Seek advice on complaints potentially involving offences, and/or
- Obtain information relevant to matters being dealt with by the Integrity Commission.

Information management

The Parties agree that they will not use or disclose information obtained from each other under this LoU, except for the purpose for which the information was provided, or otherwise as required or authorised by law, or expressly authorised by the providing Party.

Access to information

The Parties recognise that there are legal impediments to allowing the Integrity Commission to have unfettered access to Tasmania Police information systems. The Parties will work cooperatively and pragmatically, within the confines of the law, to achieve the common objectives outlined in this LoU.

Education and training

The Parties will work cooperatively so that the Integrity Commission can perform its educative, preventative and advisory role, with an emphasis upon improving the culture of policing, and enhancing leadership, supervision and management within Tasmania Police.

Police secondments to the Integrity Commission

This LoU and its Appendix:

- addresses the provision of police officers seconded to the Integrity Commission in accordance with sections 21(4), (6)–(8) of the *IC Act*; but
- does not remove the obligation to enact a written agreement required under section 21(10) of the *IC Act*.

Oversight program

The Integrity Commission will, where practicable, consult or advise Tasmania Police about its planned police oversight program.

Technical assistance

Tasmania Police will endeavour to provide technical assistance to the Integrity Commission on request, where resources allow.

Governance and administration

Meetings about matters covered in this LoU will be held on an as needs basis, and will include any relevant officers and employees, including if necessary the COP and the CEO.

This LoU revokes all previous memoranda of understanding (in whatever form) between the Parties.

In order to ratify this LoU, please sign the two copies of this letter, forward one to Tasmania Police, and retain one for your records.

[redacted]

D L Hine
Commissioner of Police
Tasmania Police

Dated: 17/05/2021

[redacted]

Mr Michael Easton
Chief Executive Officer
Integrity Commission

Dated: 19/5/2021

Enc. Appendix

Appendix – Tasmania Police secondments to the Integrity Commission

Any agreement between the Integrity Commission and Tasmania Police in respect of the provision of secondees to the Integrity Commission MUST be recorded in a formal written agreement in accordance with section 21(10) of the *IC Act*.

The number of police officers, and the duration of each secondment will be agreed between the COP and CEO, on each occasion. The provision of such assistance will be based on the requirements of Tasmania Police and the Integrity Commission at the time of the request.

Seconded police officers may be selected as a result of an expression of interest published on the Tasmania Police Intranet, Gazette, or by direct selection, on agreement between the COP and CEO. Should the Integrity Commission have no active investigations or inquiries, seconded police officers will return to Tasmania Police.

Recommencement or continuation of secondments will be by agreement of all parties with consideration to the ongoing operational needs of Tasmania Police and the Integrity Commission.

In addition to any specific requirements agreed between the Parties, the Integrity Commission expects that seconded police officers will be capable of:

- Conducting and assisting with investigations and inquiries in accordance the *IC Act*,
- Planning, coordinating and executing strategies to achieve investigative outcomes,
- Ensuring procedural fairness in all matters,
- Maintaining effective communication and relationships without close supervision,
- Maintaining strict confidentiality,
- Complying with strict policies relating to security, and
- Meeting any security vetting requirements.

Information access

Police officers seconded to the Integrity Commission are only entitled to access Tasmania Police information holdings for work-related reasons. Police officers must be able to justify their work-related reason for accessing information and list/record sufficient information in the 'Reason for Access' (where required) to satisfy the criteria of a legitimate work-related purpose for accessing the information or information system. Information must only be disclosed for the genuine work-related reason and in accordance with legislation, policy and procedures. If a police officer has any doubt as to the appropriateness of their intended access or disclosure of information, they must seek advice from a supervisor.

Reporting arrangements and legislative authority

Reporting arrangements and legislative authority are to apply as per sections 21(4), (6)–(8) of the *IC Act*.

Except where contrary to the preceding paragraph, police officers who are seconded to the Integrity Commission will remain subject to the requirements of the *PS Act* in regard to conduct. Where allegations of misconduct, or a suspicion of misconduct, relating to a seconded police officer arises, consultation on the appropriate action will occur between the COP and CEO. The COP will be responsible for taking appropriate action in relation to criminal matters.

Conditions of employment

A police officer seconded to the Integrity Commission will continue to be employed consistent with the entitlements of police conditions and the Awards. Tasmania Police agrees to pay base salary, including the basic level shift allowance and superannuation and any leave entitlements.

The Integrity Commission will be responsible for police condition and award entitlements that are not being met by Tasmania Police during the secondment, including but not necessarily limited to:

- Detectives Allowance (per the Award) and Plain Clothes Expense Allowance (per the Award), to be paid pro rata;
- Overnight Expense Allowance (per the Award), Meal Expense Allowance (per the Award), Incidental Expenses (per the Award) to be paid on occurrence; and
- Approved overtime (per the Award) to be paid on occurrence.

Approval of expenses will be by a nominated representative of the Integrity Commission and submitted to Tasmania Police.

Payment to secondees will occur through the Tasmania Police pay office, with monthly invoices provided to the Integrity Commission for reimbursement.

Any expense associated with the relocation of a seconded police officer, either short or long term, to undertake Integrity Commission duties will be met by the Integrity Commission. Payments in accordance with either permanent relocation or temporary relocation and, if appropriate, return to the original area, will be in accordance with the Award (Transfer Expenses).

Any police officer seconded for a minimum period of 12 months must take six weeks annual leave within that period or prior to returning to Tasmania Police. A pro-rata structure for longer periods is to be applied. Leave taken during the secondment will take into account operational requirements and is to be negotiated with the Integrity Commission.

All equipment, including motor vehicles, phones, computers and other investigative equipment, will be provided by the Integrity Commission. Secondees will remain police officers for the purpose of worker's compensation.

All rosters for members of Tasmania Police will comply with the Award and will be adjusted upon any amendment to this. A variation to this roster can be made if agreed to by all parties.

Processes for authorisation of overtime will be established and communicated to members by the Director, Operations, Integrity Commission. Participation by seconded police officers at/in events and activities outside rostered shift times must be authorised by the Director, Operations, Integrity Commission, or delegate.

Suspension, termination or withdrawal of secondment

In extraordinary circumstances impacting upon the State, or a region of the State, police officers may be recalled by Tasmania Police to perform duties associated with any emergency, disaster or unforeseen circumstance. In these circumstances, the secondment will be suspended and all associated costs (including above mentioned allowances) will be borne by Tasmania Police.

The withdrawal or termination of a secondment will only occur with mutual agreement or consultation between the COP and CEO.

Any decision to vary secondment arrangements will consider the impact on Tasmania Police operations, the functions and operational requirements of the Integrity Commission, and the impact on the seconded police officer and will be agreed upon by all parties.