
VICTORIAN **ombudsman**



ANNUAL 20 REPORT 20

Includes Annual Plan 2020-21

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Accessibility

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The Victorian Ombudsman pays respect to First Nations custodians of Country throughout Victoria. This respect is extended to their Elders past, present and emerging. We acknowledge their sovereignty was never ceded.

Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Dear Presiding Officers,

I am pleased to transmit, in accordance with sections 24 and 25 of the *Ombudsman Act 1973* (Vic):

- the Annual Report of the Victorian Ombudsman's office for the year ended 30 June 2020
- our Annual Plan for the 2020-21 year.

A handwritten signature in black ink, appearing to read 'Deborah Glass', with a stylized flourish extending from the end.

Deborah Glass

Ombudsman

2 December 2020

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Year at a glance

45,165

people contacted us

up 4%



16,072

complaints we
could deal with

down 7%



21,849

matters redirected
via phone or website

4,544

formal enquiries of
public organisations

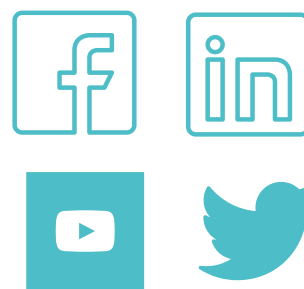


99%

of recommendations accepted
(in full or partially) by public organisations

54

formal
investigations
completed



33%
increase in
social media
followers

37

workshops held for public organisations
on Good Complaint Handling,
Conflict of Interest and Dealing
with Challenging Behaviour



increase in website visitors after
launching a new website
up 20%

Ombudsman's message



Photo credit: Daniel Mahon

The year under review is a tale of two parts: an increasingly busy nine months with complaints and cases rising to record levels and the excitement of preparing for new functions, followed by the wholly unexpected impact of COVID-19 in March 2020. Our physical office closed overnight, phones initially diverted to voicemail, while our staff adjusted to the multiple challenges of remote working.

But this is a reflection on the whole year, not merely its final months, when words like “unprecedented” and “new normal” turned into clichés from overuse.

Complaints rose overall, and though it is gratifying that more people than ever are contacting the Ombudsman, they presented more complaints where we could not help;

for example, the onset of the pandemic saw multiple complaints as a result of cancelled travel. The growing emergency tested the resilience of the entire community; certainly our own resilience was tested as never before.

Of the complaints we could deal with, prisons and local councils remain the most complained about agencies, although numbers were reduced, likely reflecting the impact of COVID. Other agencies came into the frame, with hundreds of complaints about the Government's Business Support Fund, certainly reflecting the impact of COVID and currently the subject of an ongoing investigation.

With the world around us in crisis my vision for the office remains unchanged – and indeed, more relevant than ever. The constancy of our values help us deal with the inconstancy of the emergency – the need to ensure fairness, enhance accountability, protect human rights and foster innovation and improvement is even greater.

The case studies in this report provide a snapshot of the outcomes we achieve in ensuring fairness – cases that are not high-profile but make a real difference to people – whether COVID-related, such as getting soap in public toilets to ensure hygiene, or not: getting someone's drainage fixed, a new washing machine in public housing, or unfair fines and fees revoked.

Exposing unfairness was a key driver for my WorkSafe 2 report and subsequently featured on Four Corners, which highlighted the human cost of an unfair system for complex workers' compensation claims.

The Ombudsman's role in ensuring accountability continued to make headlines, with reports highlighting such perennial issues as nepotism and conflicts of interest in government schools and local councils. This is an escalating part of my work, with matters referred by IBAC up 96% in three years; the reports I table in Parliament represent only a fraction of the work of my office.

Maladministration and misconduct can take many forms, and this report includes a sample of other cases, raising issues such as time theft by a manager whose unprocessed leave vastly exceeded their entitlements.

My role in ensuring accountability is also underlined by the fourth referral received from Parliament in my term, to investigate whether three Ministers had misused their entitlements for political purposes, as exposed by 60 Minutes and The Age in June. This also led to the first joint investigation I have conducted with IBAC, underscoring the strong collaborative relationship my office has with our anti-corruption agency and our ability to work together in the public interest.

Human rights is another perennial theme. While we consider human rights in every complaint we receive, it dominates some investigations: this year my OPCAT 2 report exposed unacceptable practices leading to the solitary confinement of children and young people. Human rights also feature strongly in the investigation I have begun into the hard lockdown of a public housing tower earlier this year.

All too often we see the same themes, such as poor complaints handling or failure to manage conflicts of interest. Although the office is best known for its critical public reports, I prefer not to have to criticise, for agencies to learn from their and others' mistakes to avoid or reduce complaints and poor practices. Our small education team continued to deliver well-received courses to public sector agencies, including moving some limited offerings online – an area we hope to build on now it is a new statutory function.

Our new website with improved accessibility went live in February, a timely blessing bearing in mind the move to remote working, but also highlighting where we need to do better to engage with the public. The results of our first full year complainant satisfaction survey told us how much people prefer a human interaction with the office. Providing an equally good response whether online or on the phone, while managing complainant expectations, is one of the tasks we have set ourselves in the current year.

Most of the new functions and powers recently bestowed by Parliament came into effect on 1 January, and budget independence on 1 July. The new functions include complaints review and education, as well as the ability to carry out alternative methods of dispute resolution such as conciliation – all important tools in the kit of a modern Ombudsman office.

Whether I can make meaningful use of them, however, and indeed to continue to respond effectively to the increasing demands on my office, remains doubtful. The independence of my budget, while welcome, does not ensure it, and once again my ongoing funding has fallen substantially short of what is needed to respond to public expectations of my office.

The funding of integrity agencies should be above the politics of the day – a principle even more important given our mandate to investigate the Government. Trust in Government risks being fundamentally diminished, as the Ombudsman's independence is widely known and respected, and new powers without funding are a meaningless gesture.

Victoria has, understandably, spent many millions on inquiries and Royal Commissions, with the accountability of government an ever-increasing public concern. Yet while its own Ombudsman has the powers of a Royal Commission and a proven ability to investigate matters of serious public concern in a highly cost-effective manner, the apparent reluctance to fund my office could risk looking like an attempt to undermine it.

This report includes my Annual Plan, developed in consultation with the Integrity and Oversight Committee of Parliament, who I thank for their assistance. Given the resource constraints it is modest, focussing on improving accessibility to the office including more productive engagement with our First Peoples, as well as laying the foundations for our new functions. I intend to operate a deficit, if necessary, to perform my core functions, but my capacity to innovate and plan is hampered by the lack of ongoing sustainable funding.

As I reflect on a year's work, I must also acknowledge the extraordinary team in my office who delivered it. Once again, I am grateful for the hard work and professionalism of my staff, including my Deputy, Chief Operating Officer, and managers. I acknowledge the personal challenges so many of my staff faced and overcame, and I thank them.

Deborah Glass
Ombudsman

Annual Plan 2020-21

Our Annual Plan 2020-21 details the work we will undertake this year to achieve our vision.

Our Intent	2020-24 Strategic Objective
ENSURE FAIRNESS <ul style="list-style-type: none"> Independent and impartial complaint resolution Encourage fair and reasonable decision making within the public sector 	More fairness for more Victorians
	A greater awareness and understanding of the office
ENHANCE INTEGRITY AND ACCOUNTABILITY <ul style="list-style-type: none"> Independently investigate serious matters Report on misconduct and poor administration 	Integrate <i>Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019</i> (Vic) legislative changes*
	Accountability from within: <ul style="list-style-type: none"> to the complainant to the public to public organisations to Parliament to the Victorian Ombudsman
SUPPORT INNOVATION AND IMPROVEMENT <ul style="list-style-type: none"> Assist agencies learn from complaints and investigations Investigate systemic issues and identify solutions 	Prevention
	Enhance our people capabilities
	Innovation and continuous improvement
PROTECT HUMAN RIGHTS <ul style="list-style-type: none"> Investigate whether an action or decision is incompatible with Human Rights Make it easier for vulnerable people to complain 	Enhanced Human Rights

Under section 24B of the revised *Ombudsman Act 1973* (Vic), this annual plan was developed in consultation with the Victorian Parliament's Integrity and Oversight Committee (IOC). We consulted with the IOC on at least two occasions in drafting of the annual plan. The finalised annual plan supersedes draft plans.

2020-21 Key Actions

Finalise *Reflect Reconciliation Action Plan* (RAP) and develop a new three-year *Innovate RAP*

Subject to COVID-19 restrictions, explore partnering with a Community Legal Centre to develop greater awareness of the complaints that can be referred to the Ombudsman*

Refine and simplify our online complaint form to ensure there is simple and convenient access to the office for complainants, 24/7

Provide Easy English accessible translations for all published reports

Video summaries of majority of published reports

Targeted brochures, particularly for Aboriginal and Torres Strait Islander communities, explaining our role and services

Quarterly online newsletter promoting best practice complaints handling and prevention of maladministration

Receive, assess and make enquiries of private bodies performing a public function*

Receive, assess and investigate all public interest disclosures and complaints*

Develop formal conciliation capabilities to conduct alternative dispute resolution*

Develop a framework for conducting complaint handling reviews of public organisations

Develop a *Complaint Handling Guide for Local Government*

Develop in-house strategic and financial expertise to support budget independence

Due to COVID-19 restrictions, invest in interactive online education and prevention workshop content*

Enhance the website so complainants can receive real-time online responses to common queries or speak with us via WebChat to initiate a complaint

Introduce SMS updates so complainants can be more readily informed on the progress of their complaint

Report on our performance and complainant satisfaction survey outcomes

Build on feedback from the complainant satisfaction survey to realise improvements in customer service

Clearer communication of outcomes of complaints to public sector organisations

Implement new quality assurance framework and operational key performance indicators to inform training, learning and development initiatives for Ombudsman staff

Implement new performance measures (BP3) to align with the Victorian Ombudsman's amended legislation and better demonstrate the breadth and impact of our work

Conduct a joint investigation with IBAC on maladministration and corruption in the public sector (*Investigation into allegations of branch stacking, misconduct and other matters*)*

Subject to COVID-19 restrictions, deliver training and workshops to support improvements in public sector administration

Subject to COVID-19 restrictions, conduct a public sector forum on maladministration*

Develop a staff capability framework emphasising skills of the future

Maintain strong staff engagement on People Matter Surveys

Invest in the case management system and workflows to improve reporting capability and drive efficiency*

Improve data analytics capability to identify systemic issues across the public sector and work with departments and agencies to resolve and prevent further occurrences*

Develop a Human Rights case compendium*

Prioritise COVID-19 related Human Rights complaints and investigations

New Accessibility Action Plan

*Realisation of the action is subject to funding over and above the currently allocated FY2020-21 budget.

About us

Establishment

Recognising the power imbalance between the individual and the State and the need for government transparency and accountability, the Victorian Parliament established the office of the Victorian Ombudsman on 30 October 1973. The Ombudsman is an independent officer of the Parliament under section 94E of the *Constitution Act 1975* (Vic).

Purpose

Ensure fairness for Victorians in their dealings with the public sector and improve public administration.

Operation

Our day-to-day work involves:

- taking complaints about administrative actions of State Government departments, bodies established by legislation (eg WorkSafe, VicRoads) and local councils (and some private organisations acting on behalf of those bodies)
- making enquiries and resolving complaints informally where possible
- investigating when needed and making recommendations for change
- receiving and investigating complaints under the *Public Interest Disclosures Act 2012* (Vic)
- examining systemic problems in public administration.

We do not advocate for members of the public or for authorities. We make decisions based on evidence and operate in accordance with the *Ombudsman Act 1973* (Vic).

We can also consider whether administrative action is compatible with Victoria's *Charter of Human Rights and Responsibilities Act 2006* (Vic) ('the Charter of Rights Act').

The *Terrorism (Community Protection) Act 2003* (Vic) requires us to be notified when a preventative detention order or prohibited contact order is made, and if a person is taken into custody. We can receive complaints and make representations to a nominated senior police officer about a person's treatment in connection with their detention.

Most of our work takes place in private in accordance with our legislation, but the Ombudsman can decide to make our work public in certain circumstances.

Human rights

The Charter of Rights Act sets out 20 rights and freedoms protected in Victoria. It recognises all people are born free and equal in dignity and rights, subject to reasonable limitations applied in accordance with the Charter.

Human rights principles have always been central to our work. The introduction of the Charter in 2006 amended the Ombudsman Act and empowered us to make explicit what had always been implicit in our work. By looking at public administration through the lens of human rights, we can investigate and encourage a culture of human rights compliance across the public sector.

For more information about our human rights work, see pages 54-57.

Our work

Our jurisdiction under the *Ombudsman Act 1973* (Vic) covers public organisations such as:

- State Government departments or administrative offices
- private or public prisons
- bodies established by legislation, such as the Transport Accident Commission
- local councils
- publicly-funded bodies.

Our main functions are:

- to resolve or investigate complaints about administrative actions or decisions taken in public organisations
- investigate systemic issues in these organisations
- investigate public interest or whistleblower complaints about improper conduct and detrimental action by public officers, which are referred to us by IBAC.

We often make remedial recommendations if we find the organisation appeared to act contrary to law, unreasonably or unfairly.

Our other functions include

- reviewing organisations' complaint-handling
- educating and engaging with communities to raise awareness of our work, drive improvement in the public sector and ensure fairness is at the heart of decision making in public organisations.

Who we can investigate



Vision

There are four principles that guide our work:

1. ensuring **fairness** through independent and impartial complaint resolution and encouraging fair and reasonable decision making within the public sector
2. enhancing **accountability** by independently investigating serious matters and reporting on improper conduct and poor administration
3. fostering **continuous improvement** by assisting public organisations to learn from complaints and investigations and by investigating systemic issues and identifying solutions
4. protecting **human rights** by investigating whether an action or decision is incompatible with human rights and making it easier for vulnerable people to complain.

Strategic Framework 2017-2020

Strategic Framework 2017-2020

Our intent

ensure Fairness

- independent and impartial complaint resolution
- encourage fair and reasonable decision making within the public sector

enhance Accountability

- independently investigate serious matters
- report on misconduct and poor administration

support Continuous Improvement

- assist agencies learn from complaints and investigations
- investigate systemic issues and identify solutions

protect Human Rights

- investigate whether an action or decision is incompatible with human rights
- make it easier for vulnerable people to complain

Our purpose

Ensure fairness for Victorians in their dealings with the public sector and improve public administration.

Our commitment

To provide accessible and responsive services that are:

- free, independent and impartial
- open, transparent and evidence based
- focused on practical and meaningful outcomes to address injustice
- sensitive to the circumstances of individuals and communities with specific needs
- delivered by skilled and committed professionals
- consistent with the same standards we expect of others.

To educate Victorians on the role of the Ombudsman, how to complain and what they should expect from their dealings with the public sector.

To be **courageous** in challenging poor public administration.

To **constructively assist** the public sector to continuously improve its standards and practices.

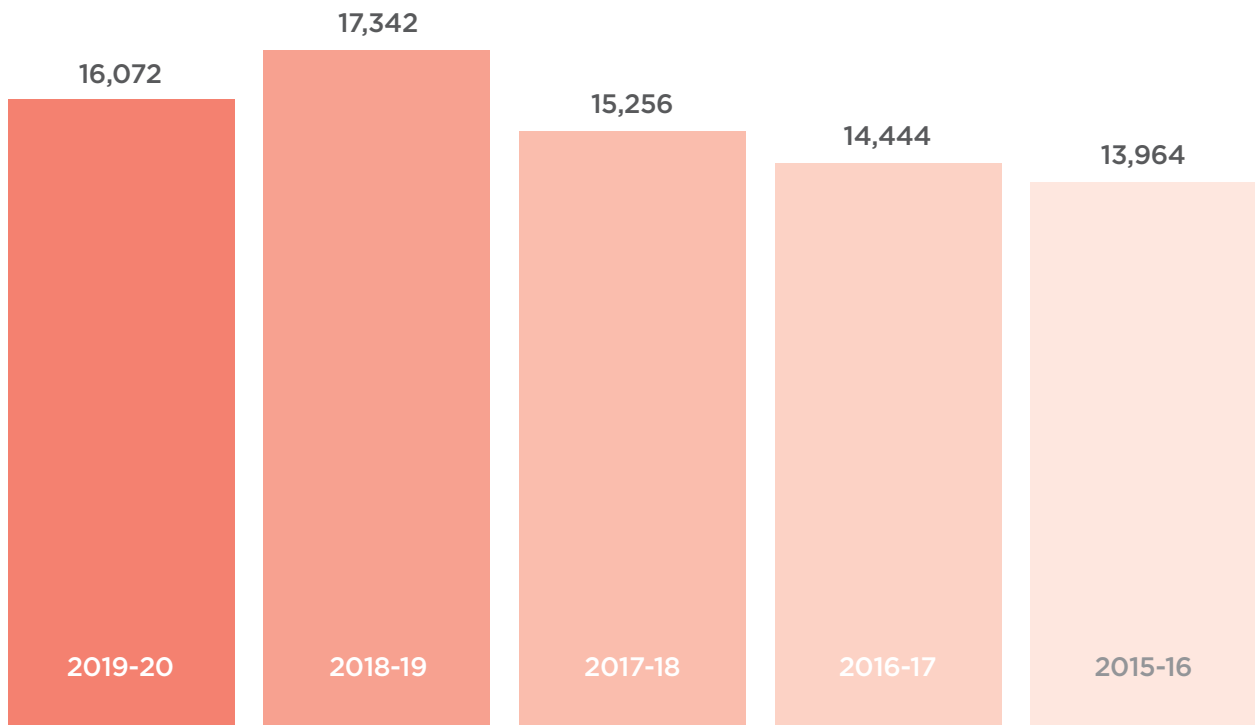
To provide authoritative and informative reports to the Victorian parliament.

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Contact with us

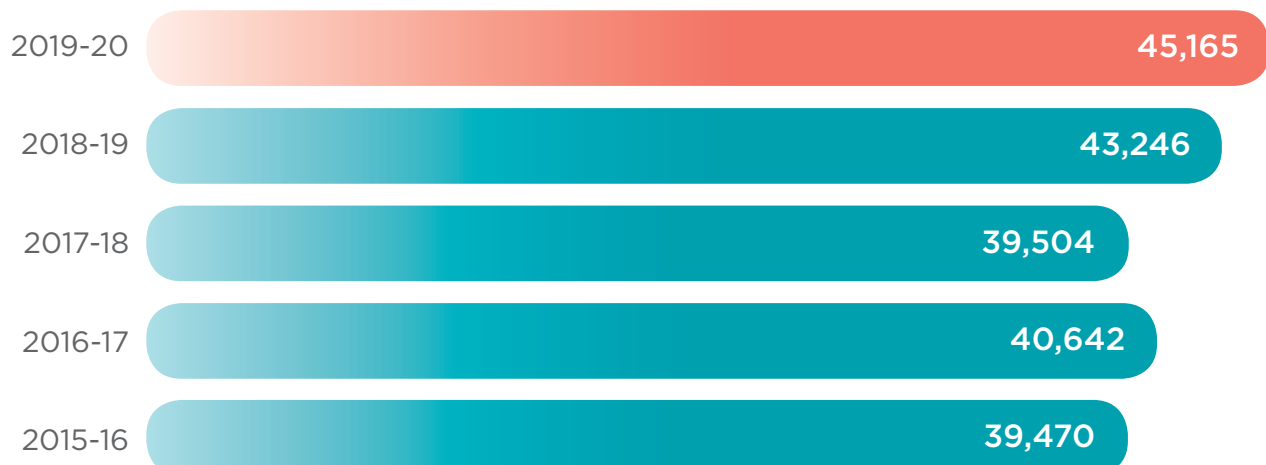
The number of complaints we received that were in our jurisdiction decreased by 7 per cent in 2019-20, compared with the previous year. Despite this, it was still the second highest number of jurisdictional complaints our office has ever received.

Number of matters we could deal with (within our jurisdiction)



Approaches to our office

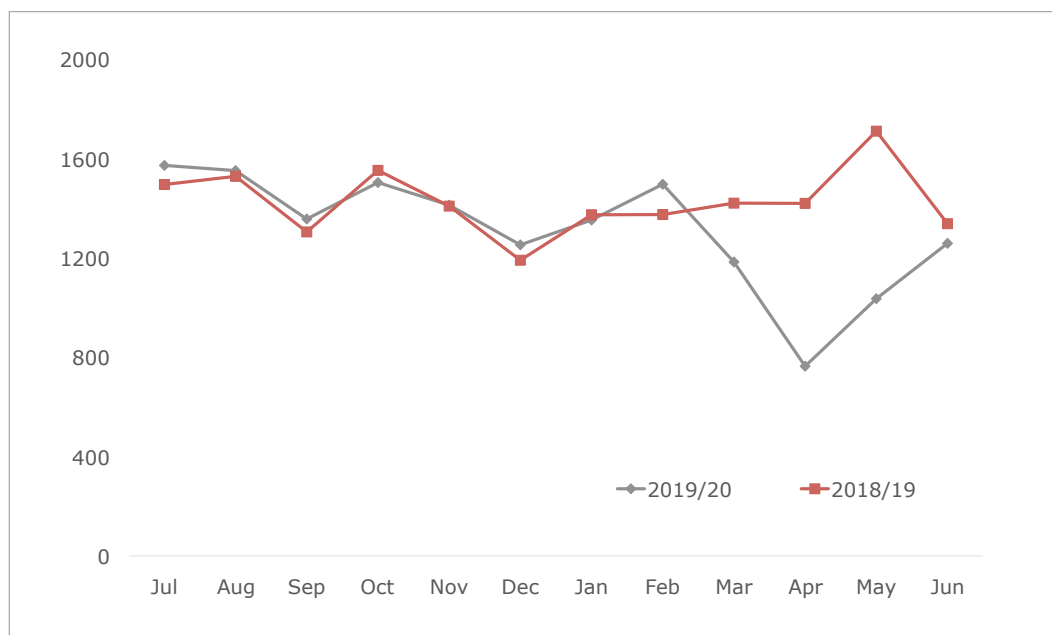
The number of approaches to our office increased by four per cent to 45,165 in 2019-20. This figure includes everyone who contacted our office, whether by phone, website, email, letter or other means. Our staff dealt directly with about 23,300 of these approaches. As part of our service to Victorians, we provide a redirection service via our phone and website. This means that when someone is unsure about which complaint body they should contact, they can use our phone line or online complaint form to be redirected straight through to the appropriate body, if we cannot help with their complaint. Our redirection services were used about 21,800 times in 2019-20.



Impact of COVID-19 pandemic

As shown in the graph (below), our complaint numbers were significantly lower in March, April and May, when Victoria was first impacted by the COVID-19 pandemic. At this time, Ombudsman staff started working remotely and our phone lines were temporarily closed for direct calls for two months. During this time, we accepted voice mails and returned phone calls within a few days. People could still also contact us via email and our online complaint form. Our phone lines re-opened in late May 2020, once measures were put in place to ensure staff felt safe to take phone calls while working remotely.

Number of jurisdictional complaints raised with us in 2019-20, compared with 2018-19



While the temporary closure of our phone services was a contributing factor in the reduction of complaints made to us, there were other factors including: Victorians focusing on more immediate concerns once unprecedented restrictions were announced, and government agencies/councils taking less enforcement action that would result in complaints to our office.

How people made contact with us in 2019-20



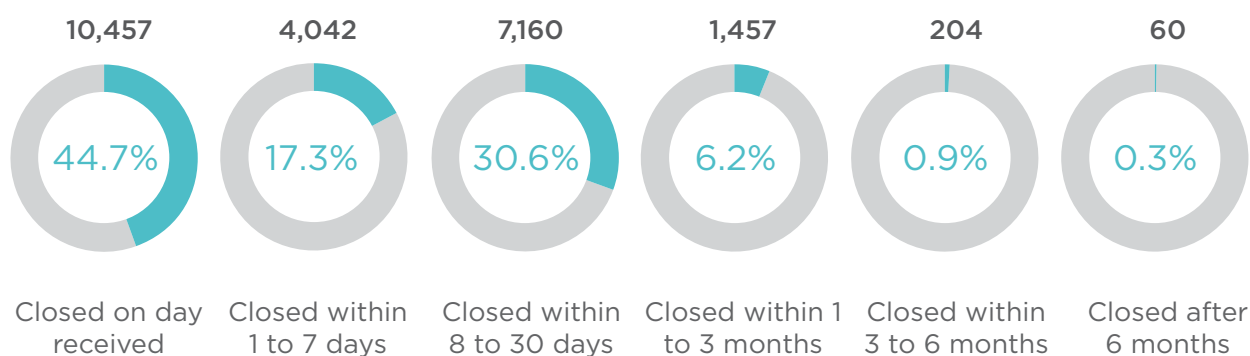
Matters dealt with

A 'matter' is any contact dealt with by an Ombudsman officer, not including redirected contact.

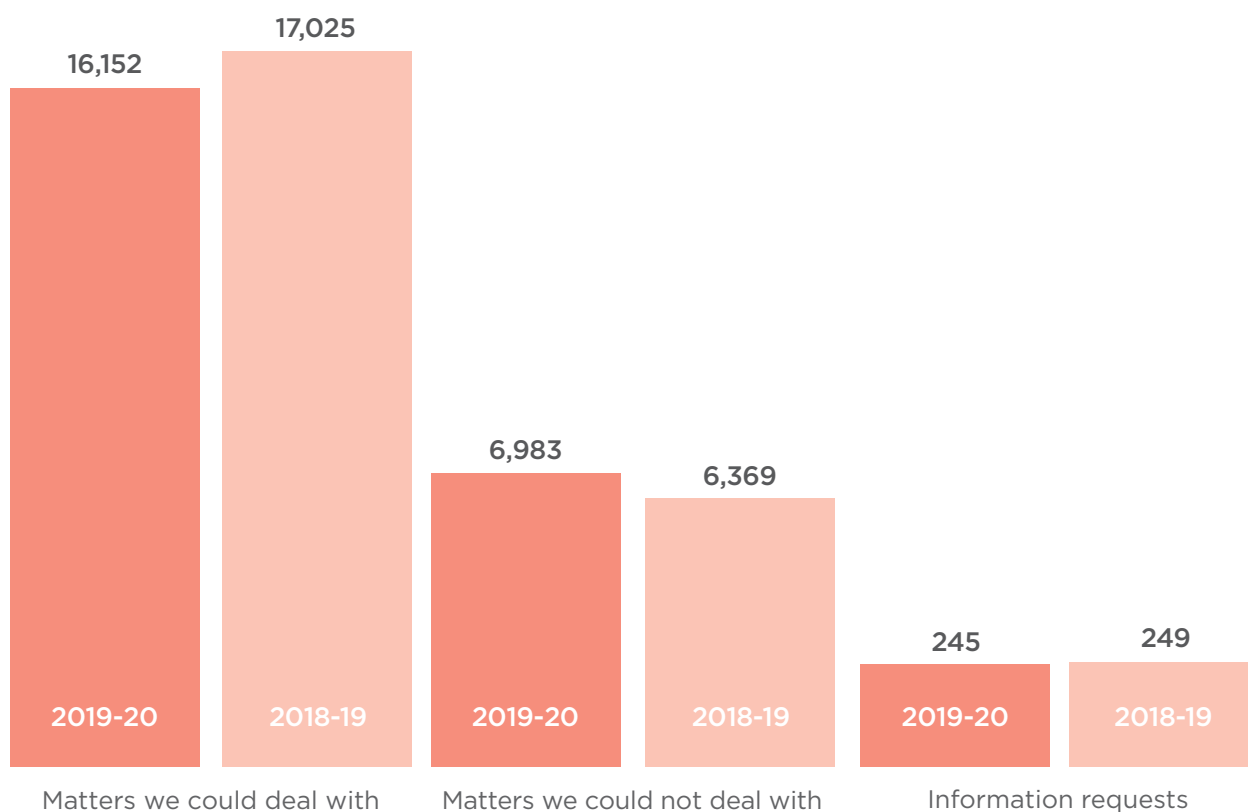
A 'complaint' is a matter within our scope that was dealt with by an Ombudsman officer.

This year we finalised 23,380 matters – about one per cent less than last year. This includes matters we could deal with (within our scope), ones we could not deal with (outside our scope) and information requests.

Time taken to close matters in 2019-20



Matters finalised



Enquiries and investigations

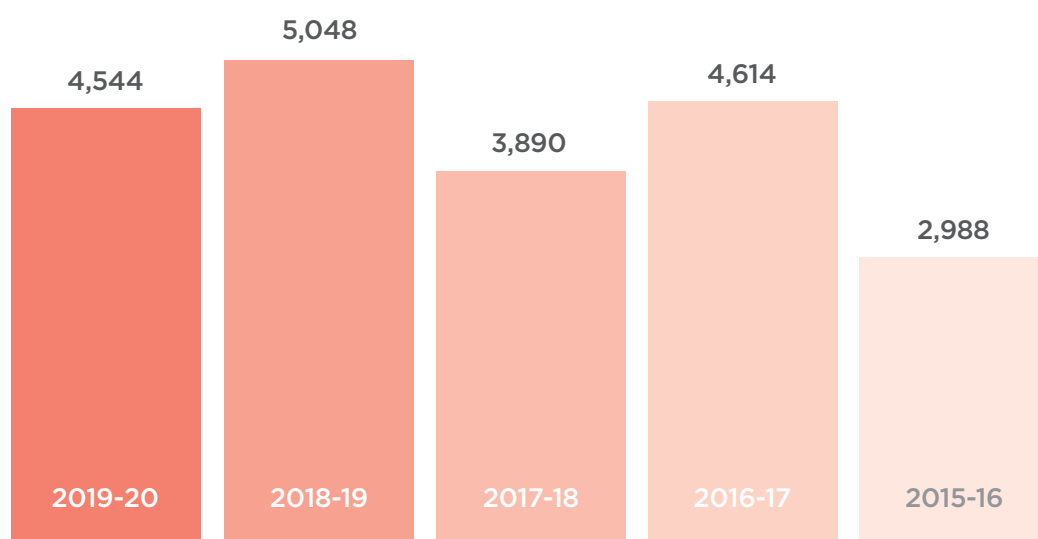
One of the first steps we take in an enquiry is to ask the public organisation to comment on the complaint that has been made about it and to explain its actions. Many complaints are able to be resolved at the enquiry stage.

The outcomes may include:

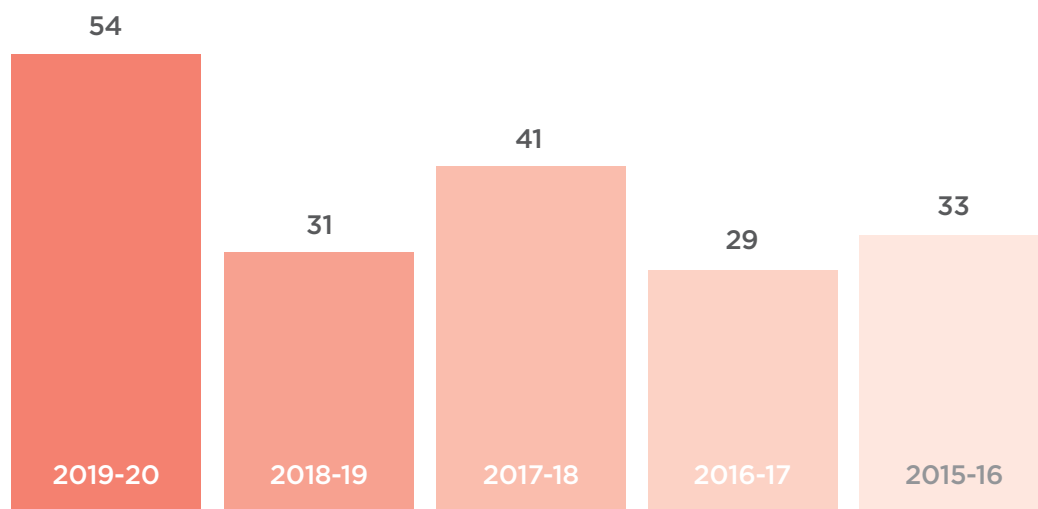
- the organisation demonstrates that it acted fairly, had sound reasons for the action or decision, and provides evidence to substantiate its position
- the organisation acknowledges an error and takes steps to remedy the matter
- the organisation is able to provide a solution to the person's concerns that is fair and reasonable.

If the matter is not resolved through enquiries, the Ombudsman may decide to investigate. The complexity of enquiries and investigations can vary greatly. They may simply involve a phone call or an email, or months of work and the tabling of a report in Parliament.

Enquiries finalised



Investigations finalised



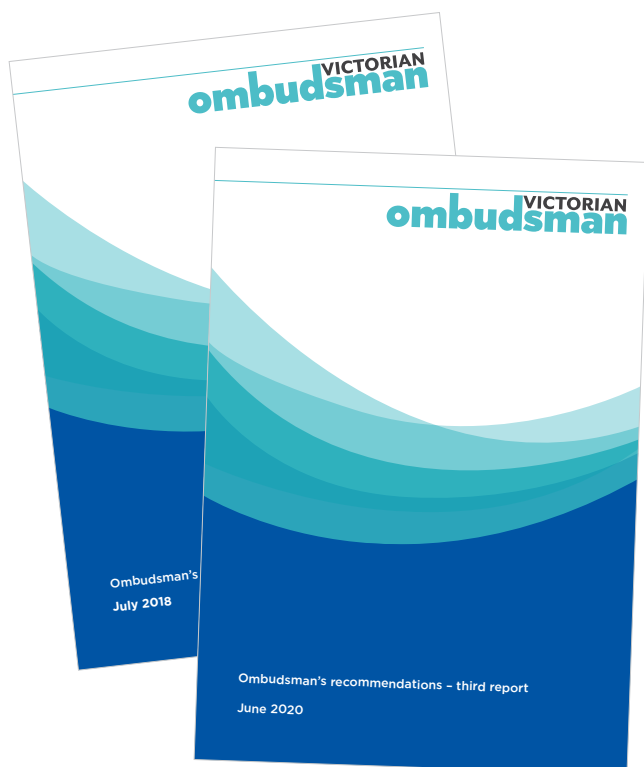
Recommendations

Our investigations highlight examples of failures in public administration and poor behaviour by public employees. They include recommendations aimed at preventing similar issues occurring in the future. In 2019-20, the Ombudsman made 83 recommendations to public organisations, 99 per cent of which were accepted in full or partially.

Every two years, the Ombudsman tables a public report on the implementation of her recommendations. This report follows up to see if public organisations have effected practical change to ensure the Victorian public sector and the community actually benefit from Ombudsman investigations. Reporting on this provides accountability for both our office and the organisations concerned.

In June 2020, we published a report about the implementation of 109 recommendations made by the Ombudsman between 1 April 2018 and 31 March 2020.

We reported on both positive progress and areas where there has been a lack of progress.



Some of the positive actions prompted by Ombudsman recommendations include:

Public apology to victims of child sex offender associated with Puffing Billy

As a result of our investigation into sex offender Robert Whitehead's involvement with Puffing Billy, the Victorian Government apologised in Parliament to victims and survivors of Whitehead's abuse. The Emerald Tourist Railway Board also issued a public apology acknowledging that senior staff of Puffing Billy Railway failed to stop or prevent the abuse.

Reform and increased funding at State Trustees

Following our finding that State Trustees was failing some of Victoria's most vulnerable people, structural and cultural reform is underway at the state-owned company. Those who deal with State Trustees regularly, such as the Ombudsman, Financial Counsellors Victoria and the Public Advocate, have noticed an improvement in State Trustees' services and interaction with its clients. The Government also announced a funding boost for State Trustees, which the organisation's CEO said would not have happened but for the Ombudsman's report.

Council reduces waste management charge

In 2018, the Ombudsman found Wodonga City Council had overcharged ratepayers about \$18 million over the previous decade in waste management levies. The money was spent on Council services which would ordinarily be funded from general rates. In response to the Ombudsman's report, the Council reduced the flat-rate waste management charge by \$112 per ratepayer (the equivalent of a 3 per cent reduction in rates for residents). It also introduced a new policy requiring the charge be levied on a cost neutral basis with any surplus generated available for waste-related activities only.

COVID-19 response

From March 2020 onwards, we have been assisting Victorians with many issues arising from the pandemic, the lockdowns and other associated matters.

Here is a snapshot of some issues we have worked on:



'Hard lockdown' of public housing towers

We are investigating the treatment of public housing residents at 33 Alfred Street, North Melbourne, who were placed into 'hard' lockdown for a fortnight in July 2020.

The investigation is considering:

- the conditions under which people were detained at 33 Alfred Street
- the nature and accessibility of official communications with residents and advocates
- the nature and appropriateness of restrictions upon people's access to fresh air, exercise, medical care and medical supplies while detained
- whether, in relation to the above, the Department of Health and Human Services and other relevant authorities have acted compatibly with, and given proper consideration to, the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

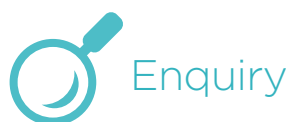
At the time of going to print with this Annual Report, the investigation is continuing.

Financial grants for small business

We have received more than 700 complaints about financial grants to support small business during the pandemic. These grants are managed by the Department of Jobs, Precincts and Regions.

The complaints have been about delays and poor communication with applicants, amongst other issues. Given the large number of complaints, the Ombudsman decided to investigate to more thoroughly check if the Department's approach was sound. We may also be able to assist the Department in improving its practices and procedures for receiving and managing applications for grants.

At the time of going to print with this Annual Report, the investigation is continuing.



Enquiry

Reducing the risk of COVID-19 spreading in prisons

In mid-2020, the Ombudsman and Victorian Equal Opportunity & Human Rights Commissioner wrote to the Attorney-General and the Minister for Corrections to enquire into the Government's response to the apparent risk of COVID-19 spreading in prisons and provide advice on relevant human rights. They encouraged the Government to consider options to reduce prison numbers without compromising public safety. Their letter read in part:

We acknowledge the steps Corrections Victoria has taken to successfully manage this risk to date.

Nonetheless, the recent experience of six prisons entering lockdown after a prison officer tested positive for COVID-19 at Ravenhall Correctional Centre demonstrates the current risks to health and safety of people in prison, including the workforce. This is of course exacerbated by the crowded and closed settings of prisons, the challenges of ensuring adherence to hygiene and physical distancing measures, and the difficulty of preventing transmission of COVID-19 once introduced.

In our view, it is timely to consider how the incidence of COVID-19 in prison alters the government's determination of the steps that are now necessary to preserve life and health. We know from overseas experience that once COVID-19 is introduced into the prison system, the risk of a prisoner or prison worker becoming infected is substantially higher than the risk in the general community.

For this reason, the World Health Organisation, the Office of the High Commissioner for Human Rights, UNAIDS and others have called for governments to look at release mechanisms for people at particular risk of COVID-19, such as older people and people with pre-existing health conditions, as well as other people who could be released without compromising public safety.

The Attorney-General and the Minister for Corrections responded to the Ombudsman and Commissioner. They said the Government shared their concerns about any potential risk posed to prisoners and the custodial workforce, and the Charter of Rights Act was an integral part of COVID-19 prevention and management plans in Victorian prisons. Their letter read in part:

As you are aware, determining policy is a matter for the Victorian Government and, as the Premier has said publicly, there are no current plans for the early release of prisoners.

Victoria's criminal laws are continuously reviewed to ensure that the correct balance is struck between due process and community safety, particularly given the current challenges that we are facing due to the COVID-19 pandemic.



Complaints



Apology given to carer who gave up care of infant

What was the case?

Michelle* was caring for Lucy, a young child placed in her care by Child Protection. Child Protection told Michelle that Lucy and her parents were soon to resume face to face visits. Michelle expressed concerns about exposure to COVID-19 due to these visits. She was cautious as she had two medically vulnerable children. Concerned to protect the health of her children, Michelle relinquished care of Lucy. A Child Protection officer told her the decision to relinquish care of Lucy was 'irreversible'.

Michelle complained to us, saying she felt she had no choice but to relinquish care of Lucy. She believed Child Protection had acted contrary to the Department of Health and Human Service's policy. Under that policy, Child Protection Practitioners had options during the pandemic. Contact between a child subject to a court order and their parents could occur via:

- a 'contact plan' where face to face contact was considered safe
- a 'connection plan' where it is not safe for face to face contact to occur.

Our enquiries

We asked Child Protection for file notes on Michelle's case. In those notes, there was no evidence that:

- Child Protection had considered the option of providing 'a connection plan'.
- Child Protection told Michelle this was an option.

Following our enquiries, we asked Child Protection to apologise to Michelle for:

- failing to consider other ways in which Lucy and her parents could have contact, as per the Department's policy
- telling her that relinquishment was irreversible when they told us it might not be.

Outcome

Child Protection apologised to Michelle. Part of the apology read:

I acknowledge that you were left with no choice but to relinquish the care of [Lucy] as you also needed to protect your children given their medical vulnerabilities, and that you felt your concerns were not being heard.

Child Protection agreed with Michelle that indirect contact between Lucy and her parents should have been sought. While its plan was to reunify Lucy and her parents, Child Protection told Michelle she could have confidence that if Lucy again needs out of home care, they will contact her to discuss, given: 'the close bond you and your family formed with her and your ongoing commitment to her wellbeing'.

When asked to review this case before it was published, DHHS said Child Protection had attempted to broker an arrangement that fulfilled court orders while observing COVID-19 safety protocols.

* As for all case studies in this report, names of people have been changed.



Family assured building workers will not enter home

What was the case?

Megan contacted us with concerns about building works affecting her sister Olivia. Olivia's neighbours were constructing a large house with an underground car park. The project required excavation works and inspections of Olivia's property. Megan was concerned about the health risks caused by people entering Olivia's property. Olivia was elderly and in an 'at risk' category for COVID-19.

Megan had been talking with the Victorian Building Authority (VBA) about other enquiries, just before VBA staff started working remotely due to the pandemic. In late March 2020, Megan emailed the VBA with some questions. She did not receive a response within three business days. She was concerned because the deadline for Olivia's response to the notice of works was approaching.

Our enquiries

We raised Megan's concerns with the VBA. We asked them what measures were in place to protect Olivia's health and well-being.

Outcome

On the afternoon we contacted the VBA, they had already contacted Megan that morning to discuss her concerns. They told Megan that Olivia did not need to allow anyone associated with the building works into her home. Under the *Building Act 1993* (Vic), Olivia was obliged to allow others access to her land to carry out a land survey or protection works. But her obligation did not extend to allowing access to her home.

We emailed Megan to confirm that Olivia had discretion to refuse permission for others to enter her home. Megan thanked us for 'the clear, concise letter ... and for your understanding and willing communication in this matter'.



Injured worker's entitlements restored and nearly \$8,000 backpaid

What was the case?

Arjun was unable to work and was receiving WorkCover payments. He was the sole income earner for his large family. From time to time, Arjun needed to provide a medical certificate of capacity to his WorkCover agent CGU. Due to COVID-19 travel restrictions, he was stuck overseas longer than expected. He found it difficult to see a doctor and to receive a certificate. As a result, CGU stopped his payments.

After some time, Arjun was able to see a doctor, get a certificate and have it scanned and sent. Arjun contacted us as he didn't know how long CGU's assessment would take. By the time he contacted our office, he had not received payments for two months.

Our enquiries

We contacted CGU and asked them to clarify the situation. They said they did not know about Arjun's situation until we contacted them.

Outcome

A day later, CGU told us they had processed Arjun's certificate of capacity. They arranged for Arjun to be promptly backpaid nearly \$8,000 and worked with Arjun's employer to re-start payments.



Prisoner seeking to change religion during pandemic

What was the case?

In March 2020, Abram applied to speak to the prison's Muslim Chaplain about converting to Islam. The Chaplain tried to speak with Abram the next day but Abram was unavailable. Due to the pandemic, the Chaplain then stopped visiting the prison. Abram contacted our office in April.

Our enquiries

We asked the prison if it could do anything to resolve Abram's complaint. They said Abram should be patient as the Chaplain was not visiting due to the pandemic. Given Ramadan was due to begin soon, we asked:

- if there was any way Abram could participate in Ramadan
- if they had thought about options such as Abram speaking to the Chaplain via video link
- if they had considered Abram's human rights, particularly his right to freedom of religion.

Outcome

The prison contacted its Muslim Chaplain and its Regional Liaison Chaplain. Both provided written support of Abram's application. The prison allowed Abram to take part in Ramadan activities and gave him a Ramadan food pack, while it processed his application to convert to Islam.



Council responds to request for soap dispensers in all public toilets

What was the case?

In early 2020, Hobsons Bay Council was not providing soap dispensers in some public toilets for environmental reasons. This is because the basins connect to storm water drains which run into the bay.

Local resident Cheryl told us she understood the need to protect the environment. But she believed hygiene should come first, particularly to prevent COVID-19 spreading. She had called the Council, but felt the officer she spoke to prioritised the environment above public hygiene. Cheryl then complained to us.

Our enquiries

We asked the Council if they would re-consider their decision, in light of COVID-19.

Outcome

The Council confirmed soap dispensers were not initially installed at the particular public toilets Cheryl was concerned about, for environmental reasons. They said that when the pandemic struck, they had decided to install soap dispensers in all public toilets across their municipality. They ordered the dispensers and said they would be installed as soon as they were delivered.



Complaints

While the Ombudsman is best known for investigations and public reports, the beating heart of our office is the thousands of complaints we receive from the public each year.

When we receive a complaint, we might make enquiries to try to resolve it informally, without needing to begin an investigation. This usually involves asking for an explanation about an organisation's actions. We may also ask for a proposed resolution. We might make proposals if we consider the organisation's actions appear to have been unfair or unreasonable and when there is a practical outcome that can be achieved.

Early Resolution

Early resolution is an approach to assessing complaints which prioritises identifying and resolving them at the first possible opportunity, preventing small issues from growing into larger ones. We work collaboratively with organisations – often on the phone – and make assessments about the prospects of resolving matters.

Our Early Resolution Team (ERT) handles about 90 per cent of contacts to our office, closing most within 30 days. The following case studies demonstrate some of the work ERT does.



\$13,000 ambulance bill withdrawn

What was the case?

Patrick's wife applied and paid for family membership of Ambulance Victoria in August 2019.

Later that same night, Patrick had a heart attack. An Ambulance Victoria helicopter flew him from a regional hospital to Geelong Hospital. He recovered and later received a \$13,000 bill from Ambulance Victoria.

Patrick asked Ambulance Victoria to withdraw the bill, as his wife had bought membership before the emergency. Ambulance Victoria refused. They told Patrick that according to their business rules, his coverage did not start until 5pm on the day after his wife bought their membership.

Our enquiries

We asked Ambulance Victoria if they had discretion to waive Patrick's invoice. We understood their rule existed to prevent people purchasing membership in the knowledge that they are going to need an ambulance imminently. In this case, it did not appear that Patrick's wife had purchased membership with the knowledge that her family would need ambulance services so soon.

Outcome

Ambulance Victoria agreed to withdraw Patrick's \$13,000 bill.



\$362 towing fee refunded

What was the case?

Peter was in a car accident one morning. He and the driver of the other car he hit pulled over into a bus lane. Peter was taken to hospital by ambulance. His car was moved to the other side of the street, so it didn't obstruct a bus lane. After 4pm, the spot where Peter's car was parked turns into a Clearway. His car was impounded and he had to pay \$362 to have it released.

Peter wrote to the Department of Transport to ask for a refund of the impound fee. He provided a doctor's certificate and his Ambulance Victoria invoice, as proof of the accident and that he was in hospital when his car was in the Clearway. He offered to provide additional information if required.

The Department denied Peter's request. They said he did not provide enough evidence to meet the criteria for a refund. They did not ask him whether he was able to give more detailed information.

Our enquiries

We suggested to Peter that he obtain more detailed information from the hospital. We provided this information to the Department, asking it to reconsider his request.

Outcome

The Department agreed to refund the \$362 fee. Their standard practice is to refund people who submit an Ambulance Victoria invoice. A contractor, filling in while the administrator was on leave, made a mistake in refusing Peter's initial request.

Assessments

If a complaint cannot be speedily resolved through early resolution, our Assessments team is responsible for managing these more complex complaints. This can involve:

- analysis of complex supporting material to the complaint
- researching legislation, policies and procedures
- making detailed enquiries with the organisation
- inspecting files, documents and systems or examining the processes or practices of an organisation
- meeting with the parties to the complaint
- site visits
- negotiating a resolution to address the complaint
- deciding whether the complaint warrants formal investigation.

The following case study demonstrates some of the work Assessments does.



Public housing tenant helped to fix flooding of her property

What was the case?

Barbara had been living in the same public housing property for more than 30 years. During that time, she said her property had flooded several times during large rainfall events. The floods damaged property, including Barbara's personal property. Since the first flood in 1993, Barbara had raised the problem with two government organisations:

- the Department of Health and Human Services (the property's owner)
- and her local Council - Manningham City Council, at least twice.

She asked them to identify and fix the underlying cause of the flooding. She said the Department and the Council each told her it was up to the other organisation to fix it.

Our enquiries

We contacted the Department and Manningham City Council. The Council told us they had responded to a complaint from Barbara in 2013. They had cleared nearby Council drains which might have contributed to the flooding. The Council had also visited the property in 2020 to inspect the cause of the later flooding issue. After we contacted the Council and the Department, a detailed inspection found the causes of the flooding were:

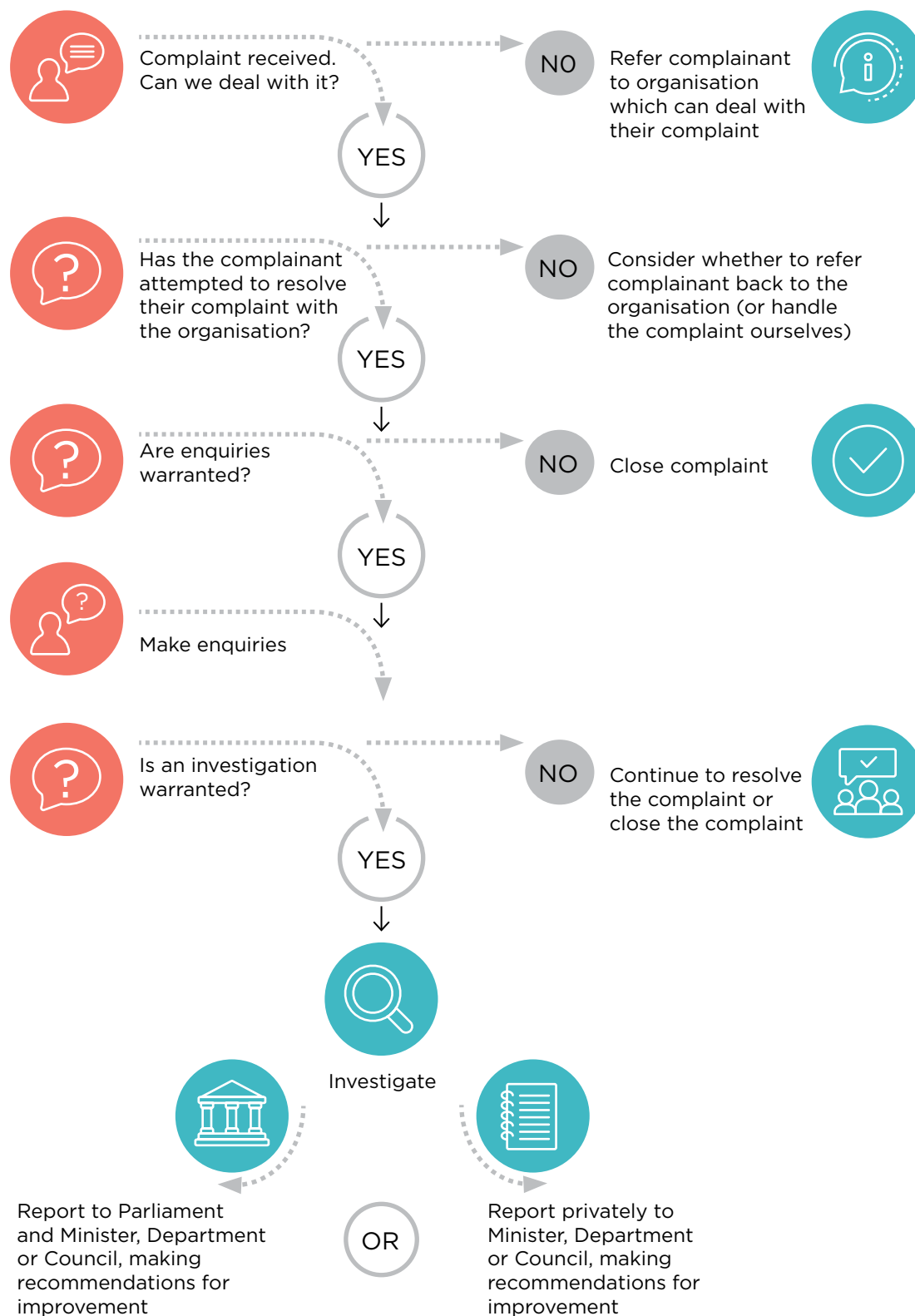
- a lack of connection between the property's drainage system and the Council's stormwater drain. This stemmed from when the property was constructed.
- the position of the property on an overland flow path.

The Council advised the Department of these issues.

Outcome

In consultation with the Council, the Department began works to connect the drains. The two organisations agreed that if this did not fix the problem, they would investigate other measures to reduce the problem. The Department compensated Barbara for damage caused to her personal property. They also offered to find an alternative house for Barbara if the flooding issue could not be resolved.

Complaints flowchart



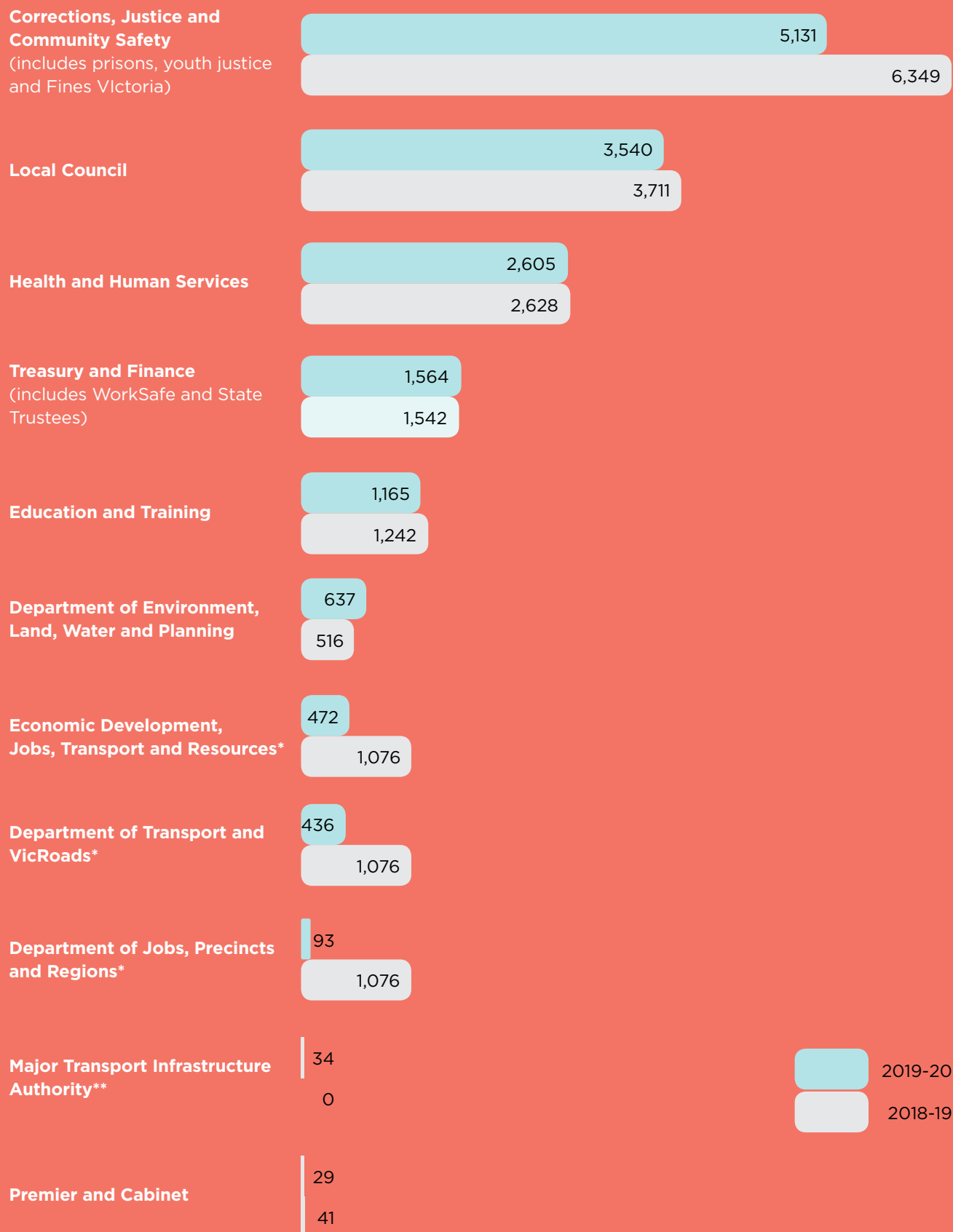
What people complained about

There are consistent themes to the top 10 issues complained about to our office over the last few years. These include: delays in organisations responding to matters and inadequate remedies being offered to resolve complaints.

Top 10 issues complained about to the Ombudsman in 2019-20



Complaints about departments (including their agencies)



*Prior to 1 January 2019, all of these fell under the Department of Economic Development, Jobs, Transport and Resources. After that time, the Government divided the functions of that Department into two new Departments: the Department of Jobs, Precincts & Regions and the Department of Transport (including VicRoads). Some complaints we received in 2019-20 were recorded under the previous Department's name.

**New Authority created on 1 January 2019.

Corrections, Justice and Regulation

Corrections, Justice and Regulation includes:

- Corrections Victoria, which manages Victoria's prisons
- Department of Justice and Community Safety, which manages youth justice
- Justice Health, which provides health services in public prisons
- Fines Victoria
- Registry of Births, Deaths and Marriages
- Consumer Affairs.



Fast facts 2019-20



5,131
complaints

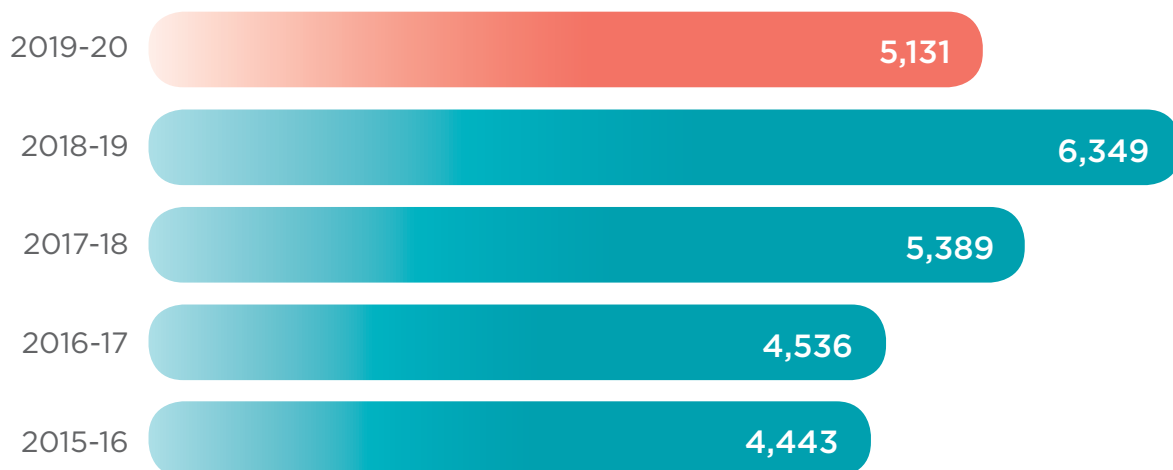


32.6%
of total
complaints



66%
about
prisons

Complaints about Corrections, Justice and Regulation over five years





Corrections, Justice and Regulation

This year there was a 19 per cent decrease in complaints about Corrections, Justice and Regulation, compared to 2018-19. This Department is, among other things, responsible for prisons, youth justice facilities and a number of statutory organisations including Fines Victoria, which is responsible for the administration of traffic, unregistered vehicle and other infringements. The 19 per cent reduction in complaints can be attributed to the following main factors:

- Complaints about prisons fell 23 per cent. This is at least in part due to the almost 12 per cent reduction in the prison population in the year under review, as well as the likely impact of the temporary diversion of the Ombudsman's prisoner line in the first two months of COVID-19 restrictions.
- Complaints about youth justice facilities fell 35 per cent. This may also be attributed in part to the 7.5 per cent reduction in the youth justice population and temporary reduced access to the Ombudsman as a result of COVID-19 restrictions.

The Registry of Births Deaths and Marriages, which was the subject of an Ombudsman report in 2017 also saw a significant reduction in complaints, while complaints about Fines Victoria, the subject of an Ombudsman report in 2019, remained steady.

In relation to prisons, the Ombudsman received over 150 complaints related to the implications of COVID-19 in prisons, including complaints about the inherent risks and challenges with hygiene and physical distancing measures. The Ombudsman and Human Rights Commissioner wrote to the Government about these risks and challenges (page 25).



Report: OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people

Why did the Ombudsman investigate?

In December 2017, the Federal Government signed up to the UN Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('OPCAT'). This committed the Commonwealth, States and Territories to regular independent inspections of places of detention, including by local inspection bodies called National Preventive Mechanisms ('NPMs').

While the original deadline for implementing these arrangements was understood to be December 2020, the Commonwealth Attorney-General's Department has since suggested it is now January 2022. As the deadline was drawing closer, the Victorian Ombudsman completed her second OPCAT-style investigation in two parts:

- examining different operating models for OPCAT and recommending an appropriate model for Victoria
- a thematic inspection of 'solitary confinement' of children and young people, ie those under the age of 25, in three institutions.

continued on next page ...



Report: OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people

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The Ombudsman focussed on the practice of solitary confinement of children and young people as it is inherently harmful.

The inspections looked at an adult prison, a youth justice centre and two secure welfare service facilities. The aim of these inspections, consistent with OPCAT's purpose, was to identify:

- risks that increase the potential for torture and other cruel, inhuman or degrading treatment, and
- protective safeguards that reduce those risks.

To ensure her investigation was informed by appropriate expertise, the Ombudsman established an Advisory Group consisting of key oversight agencies and representatives of civil society. The Group provided advice and guidance on the inspection methodology, as well as staff to the inspection team.

What did the Ombudsman find?

Part 1: Implementing OPCAT in Victoria

The investigation analysed different NPM models operating in other countries, including 'centralised' and 'decentralised' models.

Applying these models to a Victorian context, where there are multiple oversight bodies with an interest or expertise in matters an NPM might deal with, the Ombudsman concluded the State would benefit from having a single NPM with the support of a legislated Advisory Group. This would ensure a single, clear and consistent voice.

Part 2: Thematic inspection

While 'solitary confinement' is not officially used in Victorian detention facilities, it manifests in practices that isolate, separate, seclude or lock-down individuals – leaving them without meaningful human contact for extended periods.

Forms of isolation are sometimes necessary for the safety of staff, the young person affected, and other young people. But, in reviewing the use of these practices across three different facilities, the Ombudsman observed that the same behaviour in a young person had very different consequences in each facility.

Of the three facilities inspected, the Ombudsman found the adult prison was particularly ill-equipped to deal with the challenging behaviour of young people, who were disproportionately subject to isolation practices. The conditions of separation almost invariably amounted to solitary confinement, often for questionable or punitive reasons, and with no documented consideration of whether the mental health of the prisoner contributed to their behaviour or if isolation would aggravate an existing mental health condition.

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Report: OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people

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Within the youth justice facility, the investigation found a genuine commitment at many levels to the welfare of the young people and their rehabilitation. But, the Ombudsman noted a culture that appeared to prioritise security, as well as a chronic problem of lockdowns, which was often in response to staff shortages. The secure welfare facilities offered the most therapeutic approach, but this was somewhat undermined by outdated facilities.

The Ombudsman urged the Government to review how young people are managed in the adult prison system, with a view to moving them out of mainstream prisons into a closed environment capable of addressing their behaviour in a way that does not make it worse.

While much good work is being done to improve youth justice facilities, cultural shifts are still needed, along with a full suite of tools: therapeutic spaces, trauma-informed behavioural management, training in mental health and de-escalation techniques. The environment is undoubtedly challenging, but the community is not best served by practices that promote security over rehabilitation, and provide neither.

What has happened since the investigation?

The Ombudsman's report was widely welcomed by members of the human rights community in Victoria and internationally. However, the Victorian Government is yet to respond to the recommendation about designating an NPM.

The then Minister for Corrections and Youth Justice and the Department of Justice and Community Safety ('DJCS') accepted the Ombudsman's recommendations relating to adult prisons and youth justice centres. While progress has been made in relation to youth justice facilities, with work underway to prohibit the use of solitary confinement in dedicated youth justice legislation, it appears progress in the adult prison system has been slower.

By contrast, the Department of Health and Human Services ('DHHS'), which is responsible for the secure welfare facilities, has begun work on proposed amendments in the Children Youth and Families Amendment (Child Protection) Bill 2020 (Vic) to limit and regulate the use of isolation or seclusion in secure welfare and youth justice facilities. DHHS has also made material improvements to its two secure welfare facilities. Further consideration on the development of a purpose-built facility is underway, but was put on hold while DHHS responded to the COVID-19 pandemic.

DJCS has advised that a considerable amount of work has been done on the Government's implementation of its responsibilities under OPCAT, and that a lack of public statements about OPCAT is not an indicator that progress is not being made. The silence is nonetheless disappointing, particularly in light of the Ombudsman's two detailed reports intended to assist the State in fulfilling its responsibilities, including involving the key statutory officeholders in an Advisory Group.

Local Government



Fast facts 2019-20



3,540
complaints



22.5%
of total
complaints



515
cases we
made
enquiries
about

Complaints about Local Government over five years





Local Government

Complaints about Local Government typically make up about a quarter of all those we can deal with; in 2019-20 they made up 22.5 per cent.

There was a five per cent decrease in complaints about councils, which is consistent with the overall decrease in complaints made to the Ombudsman in 2019-20. The issues raised were across the range of council services including planning, local laws, parking and rates. Complaints also concerned conflict of interest, improper conduct, poor governance and complaint handling. Complaints about the way councils handled complaints accounted for 18 per cent of the complaints made about councils.

In 2020-21, we will be improving and updating our *Councils and complaints – A good practice guide* (2015), so it provides more useful guidance for councils on how to handle complaints. It will provide more case studies and examples, tips for selecting appropriate remedies for complaints, and more information about human rights and accessibility.



Council agrees to withdraw parking fine on compassionate grounds

What was the case?

A community lawyer contacted us about their client Ron, an elderly man who has disabilities. Ron had received a fine for failing to display a valid disability parking permit on his car. His permit had expired. Following the fine, Ron obtained a valid disability parking permit.

Ron's lawyer requested Maroondah City Council withdraw the fine. The Council responded that it had issued the fine correctly and would not be withdrawing it. The lawyer then provided more information to the Council. The lawyer said Ron was an 84-year-old pensioner with significant health issues, and there was a risk Ron would have a heart attack if he had to go to court to challenge the fine.

The Council refused to look into the matter further. It said drivers are only entitled to one review under the Infringements Act.

Our enquiries

We asked the Council to consider withdrawing the fine. It refused, on the basis the fine had been issued lawfully. As we were unable to resolve the matter informally, we closed the case. The lawyer requested an internal review of our decision to close the matter. Given Ron's circumstances, we decided his case warranted further action.

We contacted the Council again, asking it to reconsider the fine on compassionate grounds. In doing this, we acknowledged to the Council that it had not made a technical error in issuing the fine.

Outcome

Maroondah Council withdrew Ron's fine.



Council makes reasonable attempt to reduce flooding issues

What was the case?

Janine contacted us after her property flooded three times over two years. She had previously asked Moonee Valley Council to review the drainage systems near her home. Their review found the drainage did need upgrading and they told Janine this work was scheduled for 2021-22. In early 2020, heavy rains led to water flooding Janine's backyard and entering under the garage door. Janine contacted us, wanting the drainage upgrade as soon as possible.

Our enquiries

We contacted the Council. They acknowledged the drainage system was 'below its targeted level of service'. At the same time, they said the most recent flooding was beyond what would be expected to be handled by its drainage system. They said it was not possible to bring forward the works. They offered to pay for and install sandbags at the rear of Janine's property.

Outcome

Janine did not agree to the installation of the sandbags as she felt they would be too obtrusive. She and the Council agreed to continue with planning for the Council-funded drainage upgrade. While Janine's contact with our office did not result in an immediate fix, we were satisfied with the Council's response. They had listened to her concerns and had suggested a temporary protective measure.



Report: Investigation into Wellington Shire Council's handling of Ninety Mile Beach subdivisions

Why did the Ombudsman investigate?

In the 1950s and 60s, a pristine part of the East Gippsland coast and lakes region was subdivided into small lots. These lots were promoted by a developer as an opportunity to buy into Gold Coast-style resort living; and many were bought by new migrants investing in a dream holiday home and their future.

The land was mostly unsuitable for building, much of it being sand dunes or flood prone, which over the succeeding decades became subject to tight building restrictions and prohibitions. Many landowners were left unable to build on plots of land that were worth almost nothing.

Over several years, our office had received complaints from landowners about Wellington Shire Council, which became responsible for the Ninety Mile Beach subdivisions. In 2018, the number of complaints to the Ombudsman's office increased dramatically, accelerated by concerns the Council was continuing to levy rates and other charges on worthless land and that it was profiting from its buy-back program.

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Report: Investigation into Wellington Shire Council's handling of Ninety Mile Beach subdivisions

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Many of the concerns raised by landowners were historical – being ‘scammed’ by a developer, the lack of a planning scheme in the 1950s and 60s, or the actions of a Council that ceased to exist more than 20 years ago – and were not matters the Ombudsman could meaningfully deal with. However, she could, and did, look at what had happened recently and what was happening now.

What did the Ombudsman find?

First, it was necessary to look at the long and complicated history of the Ninety Mile Beach subdivisions. The lots were initially subdivided and sold in a largely unregulated environment from 1954. Successive State Government reviews into inappropriate subdivisions were undertaken, resulting in restrictions and prohibitions on building being applied to different areas at different times. Responsibility for planning shifted between the State and local council, which changed and was superseded by others over time. At various times, the former Shire of Rosedale and its successor, Wellington Shire Council, levied rates and other charges on the land, with some landowners paying while others accrued debts which were largely unenforced. Various voluntary acquisition schemes were introduced and, during the 1990s, the Council started buying up lots to facilitate low density development in permitted areas.

Rather than resolving landowners’ concerns, some of the Council’s initiatives exacerbated their grievances. People accused the Council of bullying them into giving up their land and profiteering from reselling it as consolidated lots. While the Council was not profiteering, it would have been wiser for the Council to have communicated better and to have limited its buy-back to land that cannot be developed at all. The Ombudsman found that some of the complaints arose from misunderstanding or poor communication – not surprising given the apparent language difficulties of some owners and the complexity of the problem. The Ombudsman concluded that rates and charges should not be levied on the Ninety Mile Beach subdivisions that cannot ever be developed. Ultimately, this land should be returned to state ownership for the benefit of all.

What has happened since the investigation?

Wellington Shire Council was quick to act on the Ombudsman’s three recommendations to the Council, resolving at a meeting on 20 August 2019 to support them. The recommendations were again discussed at a meeting on 3 December 2019 during which the Council agreed to:

- stop levying any charges on undevelopable land
- refund landowners rates paid from 2006 and the Waste Infrastructure Charge paid from 2011.

The Council gave landowners until 3 December 2020 to apply for the refund. The Department of Environment, Land, Water and Planning, to which the fourth recommendation was addressed, has started planning for a program to compulsorily acquire land from 1 July 2021 when the voluntary acquisition schemes end. While the Ombudsman recognises that her recommendations bring cold comfort to some landowners, she hopes they recognise her recommendations are ultimately to the benefit of the public as a whole.



Report: Revisiting councils and complaints

Why did the Ombudsman investigate?

Complaints about local councils are a significant proportion of the Victorian Ombudsman's office's work, not surprisingly, given the importance of their role in the community. Having identified in 2015 that one of the main causes of complaint against local councils was the way they dealt with complaints, the Ombudsman tabled a report into complaint handling by Victoria's 79 local councils, along with a Good Practice Guide to encourage them to do it better.

Four years later, it was time to see what had changed. The Ombudsman wanted to examine whether councils had improved their practices and what was still needed to ensure they:

- make it easy to complain
- respond to complaints effectively
- learn from complaints to improve services.

What did the Ombudsman find?

As with the 2015 enquiry, the Ombudsman surveyed all 79 councils. The survey asked councils to comment on how they receive, record and respond to complaints, what they do with complaint data, and for examples of good practice and areas they felt they could improve. She also asked about the usefulness of guidance material, such as her 2015 Good Practice Guide and information provided by Local Government Victoria.

The Ombudsman found that while some councils had made significant improvements to their complaint handling processes, other councils still viewed complaints in a negative light, concerned that they may be used as a basis for criticism. This resulted in some councils disguising their complaint figures – calling them 'service requests' or 'matters with statutory rights of appeal' – instead of counting them as complaints. The lack of a consistent definition of 'complaint' meant:

- data between councils could not be meaningfully compared
- councils were at risk of missing important information that could be used to improve services.

Other results were more encouraging. Compared with 2015, more councils now have complaint handling policies, including timeliness targets for responding to complaints and avenues for individuals to appeal decisions. Council staff are supported to deal with complaints through appropriate training, including on dealing with challenging behaviour. More public information is available, making it easier to make a complaint. But, there is still room to make this more accessible to people with specific communication needs.

As the Ombudsman concluded in her 2015 report, the State Government has an important role to play in driving improvements across all councils. In particular, there was an opportunity to encourage better practices through mandated obligations introduced by the Local Government Bill, and by enhancing reporting requirements for complaints in the Local Government Performance Reporting Framework.

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Report: Revisiting councils and complaints

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What has happened since the investigation?

The *Local Government Act 2020* (Vic) was enacted on 24 March 2020, replacing the 1989 Act. The 2020 Act effectively implements the recommendations the Ombudsman made to the Minister for Local Government.

This includes establishing a definition of a complaint:

For the purposes of the complaints policy, **complaint** includes the communication, whether orally or in writing, to the Council by a person of their dissatisfaction with –

- (a) the quality of an action taken, decision made or service provided by a member of Council staff or a contractor engaged by the Council; or
- (b) the delay by a member of Council staff or a contractor engaged by the Council in taking an action, making a decision or providing a service; or
- (c) a policy or decision made by a Council or a member of Council staff or a contractor.

The Act also includes a requirement for councils to establish a complaint handling policy and process, an internal review process that is independent of the original decision maker, and a discretion to deal with or decline a complaint which is otherwise subject to statutory review.

Work is underway to introduce an indicator for complaints in the Local Government Performance Reporting Framework. This work has been delayed, due to the need to prioritise support for councils to implement the 2020 Act and respond to the COVID-19 emergency. The State Government is also funding the use of a shared service provider for regional councils through a Rural Councils Transformation Program



Report: Investigation into three councils' outsourcing of parking fine internal reviews

Why did the Ombudsman investigate?

In March 2019, Monash City Council and Kingston City Council announced they would refund more than 46,000 infringements issued over a 10-year period, at an estimated cost of \$4.9 million. They said they had become aware of legal doubts about their arrangements to outsource the internal review process to a private company.

Three Councils – Glen Eira, Port Phillip and Stonnington – issued statements defending their arrangements. The Ombudsman decided to look into these three councils, to see if their systems were indeed different.

The issues in this investigation originated from changes to the law in 2006, when new infringements legislation, the *Infringements Act 2006* (Vic), set out processes for issuing, appealing and enforcing parking fines. It also included a right for people to seek an internal review from the council or other public organisation that issued the fine. In practice, the law allows for councils to use private contractors to provide administrative assistance, but not to make decisions on behalf of a council.

What did the Ombudsman find?

When the Ombudsman examined a sample of files from the three Councils, she found that one of the Councils had not only outsourced the administration of its internal review process, but it had also outsourced its decision-making responsibilities. The other two Councils had, in effect, 'rubber-stamped' the contractor's recommendations. None of the Councils had disclosed who had made the internal review decision, contrary to the principles of transparency and accountability rightly expected by the community.

The Ombudsman's interpretation of the law was that internal reviews must be decided by the organisation issuing the infringement. The evidence of the practices employed by all three Councils investigated was that the decisions were outsourced, and therefore appeared to be contrary to law.

The Councils disagreed with the Ombudsman's opinion and maintained they had acted lawfully, noting the *Infringements Act* was ambiguous and they had received conflicting advice on its application. However, each Council agreed to set up refund schemes for affected motorists.

What has happened since the investigation?

Glen Eira, Port Phillip and Stonnington Councils all agreed to refund fines for internal reviews decided between 2006–2016 as a 'gesture of goodwill'. Within days of the publication of the Ombudsman's report, all three Councils published information on their websites outlining who could apply for a refund and how to do it.

Several other councils and organisations, including Mildura Rural City Council, Greater Geelong City Council and Parks Victoria, have since announced refund schemes. More broadly, the Department of Justice and Community Safety, which includes Fines Victoria, will incorporate the Ombudsman's recommendations into work already underway to review internal review processes.

Complaints about local councils

Table 1 (on the following page) lists the number of complaints we received about each Victorian council in 2019-20.

When people make a complaint to us, they may raise more than one issue in their complaint.

In the table, we have provided percentages, per council, for how we dealt with the issues raised with us. We have categorised our actions according to whether we:

- considered the issue to be ‘premature’ as the person had not yet contacted the Council to give them an opportunity to resolve the matter. Such people were advised they could re-contact the Ombudsman if they remained dissatisfied with the Council’s response
- assessed the issue but did not make enquiries with the Council for one of several reasons, including but not limited to
 - we assessed the action or decision of the Council was not wrong
 - an error may have occurred but the Council had dealt with it appropriately
 - the person raising the issue could pursue the matter through a court or tribunal and it was not appropriate for the Ombudsman to exercise her discretion to look into the matter
- made enquires with the Council to assess and resolve the issue.

In some cases, we may refer an issue to another organisation. These referrals are not included in the following table, which is why some percentages do not add up to 100 per cent.

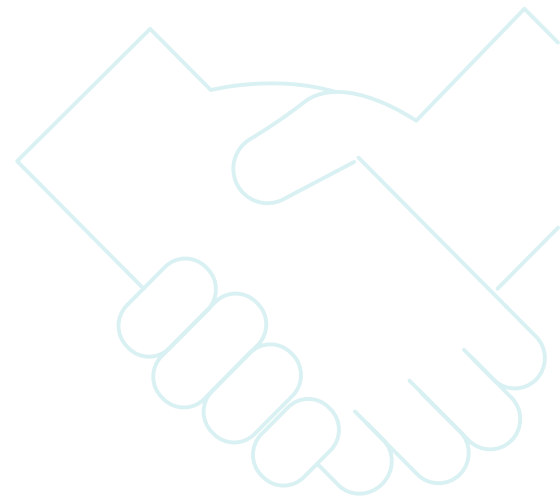
We have grouped the councils according to the five council types or ‘comparator groups’ adopted by Local Government Victoria for its Local Government Performance Reporting Framework. These five types are: Metropolitan, Interface, Regional city, Large shire and Small shire.

Table 1: Complaints to the Ombudsman about Victoria's 79 local councils

Council name	Total	Advised to contact Council	Assessed – no enquiries	Made enquiries
Metropolitan				
Banyule City Council	53	28%	47%	25%
Bayside City Council	51	25%	49%	25%
Boroondara City Council	87	25%	49%	26%
Brimbank City Council	92	38%	48%	13%
Darebin City Council	83	28%	54%	18%
Frankston City Council	93	28%	56%	16%
Glen Eira City Council	106	16%	63%	21%
Greater Dandenong City Council	40	23%	67%	9%
Hobsons Bay City Council	63	22%	62%	16%
Kingston City Council	68	25%	68%	7%
Knox City Council	46	24%	65%	10%
Manningham City Council	50	32%	50%	18%
Maribyrnong City Council	103	28%	54%	18%
Maroondah City Council	30	37%	50%	13%
Melbourne City Council	132	23%	60%	17%
Monash City Council	82	28%	65%	7%
Moonee Valley City Council	118	27%	48%	25%
Moreland City Council	126	34%	51%	14%
Port Phillip City Council	96	23%	62%	14%
Stonnington City Council	76	32%	62%	6%
Whitehorse City Council	70	30%	56%	14%
Yarra City Council	75	37%	45%	18%
Regional city				
Ballarat City Council	54	30%	63%	7%
Greater Bendigo City Council	53	30%	58%	11%
Greater Geelong City Council	112	27%	64%	9%
Greater Shepparton City Council	29	29%	48%	23%
Horsham Rural City Council	13	0%	77%	23%
Latrobe City Council	45	24%	62%	13%
Mildura Rural City Council	27	13%	61%	23%
Wangaratta Rural City Council	20	29%	52%	14%
Warrnambool City Council	19	18%	64%	14%
Wodonga City Council	16	37%	42%	21%
Large Shire				
Bass Coast Shire Council	36	16%	68%	16%
Baw Baw Shire Council	35	19%	60%	21%
Campaspe Shire Council	15	19%	56%	25%
Colac Otway Shire Council	12	8%	83%	8%
Corangamite Shire Council	7	13%	63%	13%
East Gippsland Shire Council	38	43%	43%	14%

Council name	Total	Advised to contact Council	Assessed – no enquiries	Made enquiries
Glenelg Shire Council	7	50%	33%	17%
Golden Plains Shire Council	16	38%	56%	6%
Macedon Ranges Shire Council	40	27%	57%	16%
Mitchell Shire Council	23	18%	53%	29%
Moira Shire Council	25	48%	48%	4%
Moorabool Shire Council	28	16%	52%	32%
Mount Alexander Shire Council	19	26%	52%	22%
Moyne Shire Council	19	45%	40%	15%
South Gippsland Shire Council	28	32%	58%	10%
Southern Grampians Shire Council	8	38%	62%	0%
Surf Coast Shire Council	24	12%	80%	8%
Swan Hill Rural Council	5	20%	80%	0%
Wellington Shire Council	32	15%	73%	12%
Small Shire				
Alpine Shire Council	7	22%	56%	22%
Ararat Rural City Council	10	40%	40%	20%
Benalla Rural City Council	12	18%	64%	18%
Buloke Shire Council	12	43%	43%	14%
Central Goldfields Shire Council	26	37%	59%	4%
Gannawarra Shire Council	4	50%	50%	0%
Hepburn Shire Council	25	34%	55%	10%
Hindmarsh Shire Council	15	39%	33%	28%
Indigo Shire Council	14	47%	33%	20%
Loddon Shire Council	5	20%	40%	40%
Mansfield Shire Council	4	40%	60%	0%
Murrindindi Shire Council	9	50%	30%	20%
Northern Grampians Shire Council	12	50%	50%	0%
Pyrenees Shire Council	14	40%	33%	27%
Queenscliffe (Borough of)	1	0%	100%	0%
Strathbogie Shire Council	8	38%	49%	13%
Towong Shire Council	6	25%	13%	62%
West Wimmera Shire Council	3	20%	80%	0%
Yarriambiack Shire Council	7	29%	71%	0%
Interface				
Cardinia Shire Council	47	41%	49%	10%
Casey City Council	134	28%	54%	17%
Hume City Council	106	25%	55%	20%
Melton City Council	83	36%	44%	20%
Mornington Peninsula Shire Council	97	32%	54%	14%
Nillumbik Shire Council	24	38%	41%	21%
Whittlesea City Council	106	18%	62%	19%
Wyndham City Council	84	26%	62%	11%
Yarra Ranges Shire Council	83	31%	50%	19%

Health and Human Services



Fast facts 2019-20



2,605
Number of
complaints



16.5%
of total
complaints

Complaints about Health and Human Services over five years





Health and Human Services

Public housing, child protection and a range of other services are included within the Department of Health and Human Services ('DHHS').

In 2019-20, the number of health and human services complaints we received was similar to the previous year.

We have included several case studies involving DHHS in other parts of this report, including a child protection case study (page 26), public housing case study (page 32), and kinship care case study (page 56). Below we provide another public housing case study:



Assisting public housing tenant with maintenance requests

What was the case?

Diane, an elderly woman, had been living in her home (a public housing property) for 19 years. Towards the start of her tenancy, the Office of Housing had provided a washing machine in her home.

In early 2020, the washing machine broke down. Diane contacted the Office of Housing's maintenance service to have the machine fixed. When she had not heard back from the Office of Housing for three weeks, she contacted us for assistance.

She had also asked the Office of Housing to replace the property's carpet with vinyl. She had developed sores on her body that may have been due to insects/pests in the carpet. She provided a letter of support from her doctor for this request.

Our enquiries

We contacted the Office of Housing. They said that in the past, they had provided washing machines to public housing tenants living in housing designated for older people, where there were no communal laundry facilities. They said it was no longer their practice to provide washing machines in these circumstances.

We asked them to consider if they would be able to fix the washing machine or source a second-hand washing machine, taking into consideration Diane's circumstances as an elderly resident with significant health issues.

Outcome

In March 2020, the Office of Housing replaced Diane's washing machine. They also removed the carpets and laid down vinyl, as per Diane and her doctor's requests.

Driving systemic improvement

Many of the resolutions reached as a result of our work have an impact on individuals, such as a fine being withdrawn or contact being facilitated between an organisation and a person. Alternatively, some of the matters we consider have wider reaching, systemic impact.

We don't need to receive a complaint about an issue to start an investigation; the Ombudsman can conduct an investigation on her 'own motion'. Own motion investigations are often informed by complaints we receive, as was the case with the following report we tabled in 2019-20:



Report: WorkSafe 2: Follow-up investigation into the management of complex workers compensation claims

Why did the Ombudsman investigate?

In 2016, the Victorian Ombudsman tabled a report into WorkSafe agents' handling of complex claims, concluding that although the whole system was not broken, the handling of complex claims – the most difficult and expensive – needed fundamental reform. The report was widely welcomed by many and WorkSafe accepted all 15 recommendations made to it, with the support of the responsible Minister.

Despite the apparent implementation of the Ombudsman's recommendations, complaints raising the following themes continued:

- unreasonable decision making by agents and
- inadequate oversight by WorkSafe.

In May 2018, the Ombudsman launched a second investigation on the back of an influx of complaints and anecdotal evidence that not enough had changed.

What did the Ombudsman find?

The investigation found that although there had been some improvement following the Ombudsman's 2016 report, it was short-lived and, if anything, had the effect of driving some practices 'underground'. Some agent staff were told to be careful of what they put in writing in case the Ombudsman saw it.

The unfair practices identified in the 2016 report were continuing, and new issues – such as agents' use of surveillance on workers without adequate justification and unreasonable return to work practices – were identified.

As the Ombudsman had found previously, there were multiple examples of agents unreasonably terminating claims. This included selectively using evidence, making decisions contrary to binding medical panel decisions and acting unreasonably during conciliation.

While WorkSafe's process for auditing the quality of agent decisions had improved, the investigation found concerning examples of WorkSafe passing questionable decisions and failing to properly exercise its powers.

continued on next page ...



Report: WorkSafe 2: Follow-up investigation into the management of complex workers compensation claims

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It was evident that the piecemeal changes made to the WorkCover scheme following the Ombudsman's 2016 report were unsuccessful, and more fundamental reform was needed. While the financial viability of the scheme is imperative, the balance between financial sustainability and fairness for injured workers has tilted too far away from the latter.

The Ombudsman's recommendations therefore focussed on systemic reform. She recommended the Government review whether the agent model remained appropriate for complex claims, and address a critical shortcoming in the dispute resolution system – that only a lengthy and costly court process can deliver a binding outcome where other efforts to resolve a dispute, such as conciliation, have already failed.

Acknowledging that major reform will take time to implement, the Ombudsman also recommended WorkSafe intervene directly in appropriate cases, setting up a dedicated unit to review disputed decisions where agreement cannot be reached at conciliation.

What has happened since the investigation?

The Ombudsman made two recommendations to the Government and 13 to WorkSafe, with the Government and WorkSafe each starting to implement the recommendations.

The Government has commissioned an independent review into whether the current model for claims management is meeting the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic). It will also introduce a new arbitration model for the Accident Conciliation and Compensation Service, which will enable binding decisions on disputes to be made and complement existing dispute resolution processes.

WorkSafe has made progress to implement each of the recommendations addressed to it and is on track to finalise implementation by the end of 2020. Most importantly, this includes establishing a unit to independently review a disputed decision following conciliation, with the power to make determinations.

Since the Ombudsman's report was tabled, her office has referred several matters to WorkSafe for review. On the whole, the Ombudsman's office has observed and been satisfied with the rigour of the reviews WorkSafe has undertaken to date – some of which have resulted in agent decisions being overturned or further action taken.



The financial scandal and human cost of Australia's failing workers compensation schemes
Reporter Adele Ferguson reveals the scandalous state of workers compensation schemes in Australia, in a joint Four Corners, The Age and Sydney Morning Herald investigation.
#Stemio194ac2
Mon 27 Jul 2020, 8:15pm

Ombudsman Deborah Glass talked about the findings of her investigation on ABC's Four Corners program, aired in July 2020.

Protecting human rights

We are Victoria's human rights investigators. We look to see if a public organisation has breached human rights or not considered them properly.

The 20 rights in the *Charter of Human Rights and Responsibilities Act 2006* (Vic) are:

- Right to recognition and equality before the law
- Right to life
- Right to protection from torture and cruel, inhuman or degrading treatment
- Right to freedom from forced work
- Right to freedom of movement
- Right to privacy and reputation
- Right to freedom of thought, conscience, religion and belief
- Right to freedom of expression
- Right to peaceful assembly and freedom of association
- Right to protection of families and children
- Right to take part in public life
- Right to enjoy your culture, practice your religion, and speak your language
- Right not to have your property taken away, unless the law says it can be taken
- Right to liberty and security of person
- Right to humane treatment when deprived of liberty
- Rights of children in the criminal process
- Right to a fair hearing
- Rights in criminal proceedings
- Right not to be tried or punished more than once for the same crime
- Right not to be found guilty of a crime if the behaviour was not against the law when it happened.

When we deal with any complaint made to us, we decide if:

- human rights are relevant
- the public organisation has limited a person's enjoyment of their human rights
- the limitation is unreasonable in the circumstances.

Human rights might be relevant in many complaints, including those about:

- child protection
- participating in public life
- access to services and supports
- the treatment of people in prison, youth justice or a health service
- speaking your language and practising your religion or culture.

The following three case studies provide a snapshot of how we consider human rights when dealing with complaints.

Human rights are a focus of many of our major investigations. In 2019-20, the Ombudsman looked into the solitary confinement of children and young people held in detention. She found practices that were incompatible with local and international human rights laws. For more about *OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people*, see page 37.

In mid-2020, the Ombudsman began investigating the treatment of public housing residents in Alfred Street, North Melbourne. During the COVID-19 pandemic, these residents were placed into 'hard lockdown' for a fortnight. She is investigating several issues including:

- the nature and appropriateness of restrictions upon people's access to fresh air, exercise, medical care and medical supplies while detained
- whether the Department of Health and Human Services and other authorities acted compatibly with, and gave proper consideration to, the Charter of Rights Act.

At the time of going to print, the investigation is continuing.



Prisoner locked in a cell contaminated with faeces

What was the case?

We investigated a complaint alleging that Lincoln, a prisoner, was deliberately locked in a cell contaminated with faeces overnight. It was alleged prison officers had done this to punish Lincoln for contaminating the cell.

Our enquiries

We found Lincoln was put in the cell at about 7:30pm one night because officers believed he was responsible for contaminating it. A supervisor said they put Lincoln in the cell so he could take responsibility for cleaning it. Despite this, Lincoln did not receive equipment to clean the cell until about 1pm the next day.

Lincoln has both an intellectual disability and an acquired brain injury. He felt degraded and humiliated by the incident. Other prisoners in the unit who saw the incident expressed concern for his welfare.

We did not find enough evidence to conclude that officers deliberately failed to provide Lincoln with cleaning equipment. However, there was evidence of several communications between Lincoln and officers. Several checks were purportedly made by officers on Lincoln through 'the trap'. These checks should have identified the contamination. Despite this, the contamination was not addressed.

Irrespective of intent, the actions of the prison were incompatible with Lincoln's:

- Right to protection from torture and cruel, inhuman or degrading treatment (section 10)
- Right to humane treatment when deprived of liberty (section 22).

Outcome

In line with our recommendations, the prison:

- apologised to Lincoln
- counselled the supervisor
- updated its procedures so prisoners on separation regimes have direct access to a supervisor once per day to raise concerns.



Siblings separated under kinship care

What was the case?

Johanna was a kinship carer for her two granddaughters. Despite this, Child Protection decided to place their brother Byron into foster care.

Johanna did not know why Byron wouldn't be placed with her but believed she had been:

- falsely accused of disregarding court orders
- seen by Child Protection as responsible for an incident that left Byron hypothermic.

Our enquiries

We considered the right to Protection of Families and Children (section 17). We asked Child Protection to meet with Johanna to discuss Byron's placement.

We also reviewed relevant records to understand why Child Protection had decided Johanna was not a suitable carer for Byron.

Outcome

We found Child Protection held inaccurate and conflicting information about Johanna in its case notes. This meant their decision to place Byron in foster care was unfounded.

To address this, Child Protection:

- corrected its records
- implemented training for workers on effective note taking
- counselled the worker who had made the errors
- apologised to Johanna.

Byron was placed with his siblings, in the care of his grandmother.



Man banned from attending local council meetings

What was the case?

The CEO of a local council banned Jonathan from attending all council meetings for 12 months. The CEO told Jonathan this was due to his behaviour towards Councillors, Council staff and community members.

Jonathan felt there was no justification for the ban. He thought the CEO had not followed proper process. He also said his human rights had been breached.

Our enquiries

We reviewed:

- correspondence between the CEO and Jonathan about the ban
- Council minutes
- online footage of relevant council meetings to observe Jonathan's conduct.

We considered whether the CEO had unreasonably limited Jonathan's right to:

- take part in public life (section 18)
- freedom of expression (section 15)
- peaceful assembly (section 16).

Outcome

We decided the CEO's decision was not unreasonable or incompatible with human rights.

We noted that human rights are not absolute and may be limited in certain circumstances. We found the CEO's decision was justified, proportionate, necessary and time-bound. We found the CEO had given proper consideration to Jonathan's rights before making the ban.

Parliamentary referrals

Under section 16 of the Ombudsman Act, the Victorian Parliament – through the Legislative Council, Legislative Assembly or a Parliamentary Committee – can refer any matter to the Ombudsman to investigate.

The power for the Victorian Parliament to refer a matter to the Ombudsman has been used much more frequently during the current Ombudsman's term than in the past.

In June 2020, the Ombudsman received the fourth Parliamentary Referral of her term. There were only three Parliamentary Referrals made to the Victorian Ombudsman in the 40 years prior to her term.

The fourth Parliamentary referral was made by the Legislative Council. It resolved that the Ombudsman investigate allegations aired on 60 Minutes and in The Age that the Honourable Adem Somyurek, MLC, and other Ministers misused members' staff and other budget entitlements for internal Australian Labor Party purposes, including 'branch stacking'.

IBAC had already begun investigating this matter. The Ombudsman and IBAC's Commissioner announced they would be pooling their expertise on the investigation, which is continuing at the time of going to print.

During 2019-20, the Ombudsman tabled in Parliament the findings of the third Parliamentary Referral made to her, as below:



Report: Investigation of matters referred from the Legislative Assembly on 8 August 2018

Why did the Ombudsman investigate?

In August 2018, the Legislative Assembly passed a resolution to refer a matter to the Ombudsman. This referral required her to investigate allegations that:

- 40 current or former Liberal Members of Parliament knew, or ought to have known, about invoicing fraud committed by a former Liberal Party State Director, and
- another Member had requested invoice dates be altered to circumvent Parliamentary rules.

The fraud involving its former State Director had been detected by the Liberal Party in 2015. The former State Director had pleaded guilty to obtaining financial advantage by deception for which he was sentenced in 2016. The Party also paid back the \$175,446 then identified as having been paid from Parliamentary funds.

continued on next page ...



Report: Investigation of matters referred from the Legislative Assembly on 8 August 2018

continued from previous page ...

What did Ombudsman find?

The investigation found no culpability on the part of any of the named Members of Parliament, who had paid for printed goods and distribution services which they received. Although detail was lacking in many invoices, the MPs could not reasonably have been expected to query the price of goods and services provided. The investigation into alleged invoice fraud found no evidence of any wrongdoing.

The Ombudsman did, however, observe that the number of allegations made in recent years about MPs' expenses suggested broader concerns about a system being open to abuse.

She found it difficult to see why the expenses of MPs should not be subject to the same robust scrutiny that applies to public servants and the broader public sector, who cannot simply self-certify their entitlements from the public purse. She therefore recommended a framework for the scrutiny of Member expenses in which Members do not self-certify their own expenses.

The Ombudsman addressed her recommendation to the Speaker of the Legislative Assembly and President of the Legislative Council as the Presiding Officers of Parliament, in consultation with the Clerks, the Department of Parliamentary Services and the recently established Victorian Independent Remuneration Tribunal. This was on the basis that policy in relation to Member expenses emanated from one or more of these sources.

What has happened since the investigation?

The Presiding Officers of Parliament advised that from 16 September 2019 a new framework, introduced by the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019* (Vic), came into effect which effectively removed the ability for Members to self-certify their own expenses. This framework replaced the Members Guide that was in place at the time of the Ombudsman's investigation.

Under the new framework, Members are required to submit invoices for expenses using a centralised system. Each expense claim is then independently assessed for compliance against relevant legislation and guidelines prior to approval, or rejected where compliance is not satisfied. Members can appeal a rejected claim through a legislated process.

Public interest disclosures

Victoria's public interest disclosure scheme encourages people to report improper conduct in the Victorian public sector and ensures those people are protected. Protections include:

- keeping the identity of the person who made the disclosure confidential
- protecting them, and those who cooperate with any subsequent investigation, from reprisals including bullying, harassment or legal action.

On 5 March 2019, the Victorian Parliament passed legislation making changes to Victoria's integrity laws, including to the *Protected Disclosure Act 2012* (Vic). The Act is now known as the *Public Interest Disclosures Act 2012* (Vic). These changes came into effect from 1 January 2020 and aim to:

- improve access for those making disclosures
- increase flexibility for agencies dealing with them.

The following key changes were made to the Public Interest Disclosures Act and the Ombudsman Act:

- The definition of 'improper conduct' was broadened to include serious professional misconduct. To be included under the scheme, conduct is also no longer required to be so serious as to constitute reasonable grounds for dismissal or a criminal offence.
- The Ombudsman became a 'general receiving entity'. This means we can now receive disclosures about most public organisations and bodies, as well as private individuals, with the exception of Members of Parliament.

- The Ombudsman's jurisdiction was extended to bodies 'performing a public function on behalf of the State or an authority'. This means the Ombudsman is able to investigate some private or non-Government bodies.

These changes will increase the number of disclosures made to the Ombudsman.

What is a disclosure?

People can make disclosures about:

- public organisations or public officers
- another person whose conduct adversely affects the honest performance of a public organisation's or public officer's official functions, or who intends to adversely affect their effective performance. For example, a person who tries to bribe a public officer.

A disclosure can be about conduct that has already taken place, is occurring now, or may happen in the future.

Most allegations we received in 2019-20 related to the conduct of public officers, rather than organisations. The nature of the improper conduct reported included:

- excessive use of force on prisoners by prison officers
- falsification of public records
- favouritism of friends or family in public sector recruitment or procurement
- fraudulent procurement processes, leading to the awarding of contracts to companies secretly owned or controlled by public officers

- misuse of confidential information or material to benefit the public officer or a third party
- misuse of a public officer's position or discretion to benefit friends and family
- misuse of public resources for private benefit, such as credit, fuel or gift cards; or through fraudulent or non-work-related reimbursement requests
- theft of public money and property
- time theft, where a public officer accepted pay for work they had not done or time they had not put into their work.

We also received complaints that people were subjected to detrimental action in reprisal for making a disclosure.

Our role

We have a role in assessing, enquiring into, and investigating public interest disclosures and complaints. We must refer disclosures to the Independent Broad-based Anti-corruption Commission ('IBAC') if we decide they may be a public interest disclosure. IBAC then assesses the disclosure and determines if it is 'a public interest complaint'. IBAC often refers those complaints back to us, and we decide if they warrant investigation.

The Ombudsman has the powers of a Royal Commission when investigating these matters, including the power to:

- compel a person to attend an interview on oath or affirmation
- compel a person to produce documents
- inspect a public organisation's premises.

The Ombudsman may also take statutory declarations.

At the end of an investigation, we report the findings to the principal officer of the public organisation (eg the Secretary of a department or the Chief Executive Officer), the responsible Minister and, in the case of an investigation involving a local council, the Mayor.

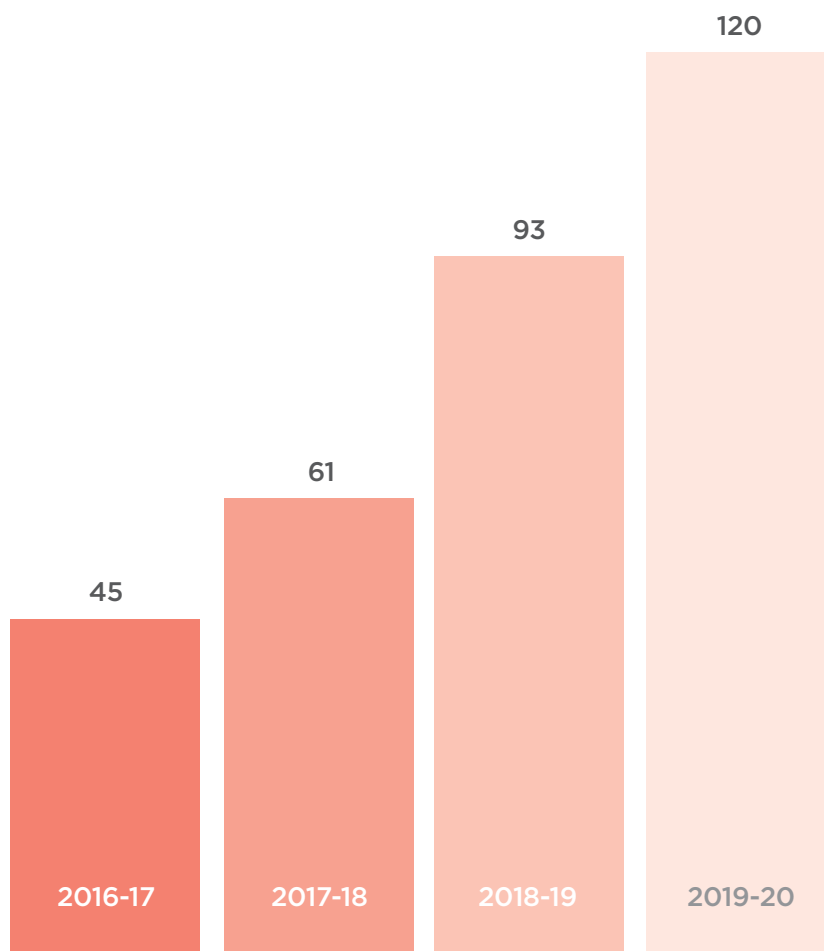
The Ombudsman may make recommendations about action that should be taken. The Ombudsman also informs the person who made the disclosure about the result of the investigation and any recommendations made.

How we deal with public interest disclosures and complaints

Growth in disclosures over recent years

The number of disclosures referred by IBAC to the Ombudsman for investigation has grown by 96 per cent over the past three years. The number is expected to continue to grow as awareness builds of changes to the Public Interest Disclosures Act.

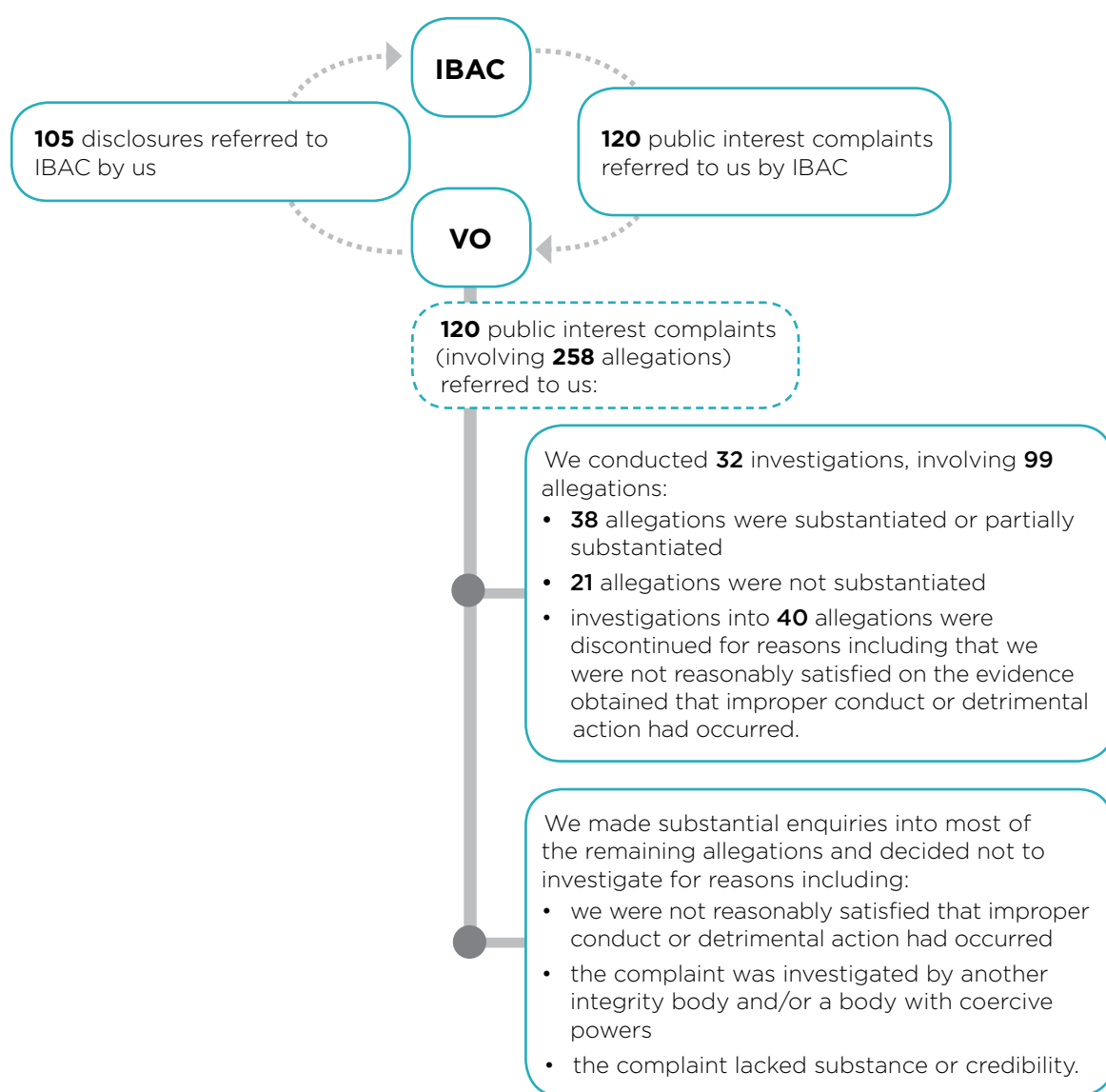
Number of public interest complaints referred by IBAC and finalised by the Victorian Ombudsman



Source: Victorian Ombudsman

Each public interest complaint referred to the Ombudsman for investigation may also contain a number of separate allegations. The number of allegations referred by IBAC and finalised by the Ombudsman has also increased - from 174 in 2017-2018 to 258 in 2019-20.

How we dealt with disclosures in 2019-20



Source: Victorian Ombudsman

In 2019-20, the Ombudsman tabled three reports resulting from whistleblower complaints in Parliament:



Report: Investigation of alleged improper conduct by Executive Officers at Ballarat City Council

Why did the Ombudsman investigate?

In early 2018, IBAC referred to the Ombudsman allegations made by whistleblowers about the Council's Director, Infrastructure and Environment. In summary, the allegations against the Director were that he:

- was improperly involved in recruiting three friends and former colleagues to positions at Council
- was improperly involved in splitting purchase orders to avoid a tender process regarding Council rectification works
- misused a Council 'purchasing card'.

Over the course of our investigation, allegations emerged about the Council's then Chief Executive Officer. The allegations were that the CEO was improperly involved in engaging or promoting six friends and/or former colleagues to senior roles at Ballarat Council.

What did the Ombudsman find?

The Ombudsman found the Director, Infrastructure and Environment had:

- been improperly involved in recruiting three former colleagues to senior roles at the Council
- changed a Position Description for a role to better suit one of his former colleagues after the Council's HR area raised concerns about their suitability for the original role.

She found that the Council's 'carve-up' of repair works for a City Oval redevelopment was a deliberate plan to avoid a public tender process. The Ombudsman found the CEO was involved in employment decisions regarding two staff, which were 'unwise at best, and may have been improper'. She noted that not all of the allegations against the CEO and Director were substantiated. 'But senior leaders must lead by example. They set a culture in which demonstration and acceptance of poor practice can become the norm'.

What has happened since the investigation?

Soon after the Ombudsman released her report in May 2020, the Director resigned and the Council terminated the CEO's employment contract.

The Council appointed an interim CEO, who:

- commissioned an independent review of the Council's organisational culture and its impact on governance, decision-making practices and workplace wellbeing
- introduced a new Procurement Policy which states: 'Councillors and members of staff (and all persons engaged in procurement on Council's behalf) must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny'
- announced a review of the Council's Director roles. The Directors were advised their positions would be advertised and they would be invited to reapply for roles within the organisation as part of a full recruitment process involving internal and external candidates.



Report: Investigation into improper conduct by a Council employee at the Mildura Cemetery Trust

Why did the Ombudsman investigate?

In mid-2018, we were referred two protected disclosure complaints from IBAC about the former Sexton/Cemetery Team Leader for the Mildura Cemetery Trust. The Sexton/Team Leader was employed by Mildura Rural City Council and contracted to the Trust which manages the Nichols Point and Murray Pines cemeteries.

The complaints involved allegations of illegal exhumations of deceased persons, conflicts of interests in promoting and selling memorial chairs for a personal benefit, misuse of position, improper receipts of payments for cemetery services and allegations of gross incompetence and neglect of professional standards.

What did the Ombudsman find?

This investigation uncovered a series of misdeeds, mistakes and incompetence by the Sexton/Team Leader during an almost 20-year period, including:

- Exhuming and/or causing an exhumation without a licence, and disregarding health and safety procedures.
- Promoting and installing memorial seats manufactured by a relative, without the knowledge of the Trust, during work hours. By 2018, there were 157 of these memorial seats installed across two cemeteries.
- Arranging to receive cash payments from funeral directors to lift ledgers, without the knowledge of the Trust.
- Mismanaging the operations of the cemeteries, including selling and digging grave sites that did not exist in areas beyond the designated grave plinths, failing to ensure grave plinths were properly numbered or marked, selling and interring into a grave sold previously to another person, and maintaining poor and inaccurate records which caused difficulties for visitors and cemetery staff in being able to identify graves and, in one case, resulting in the sale of an occupied grave.

The evidence indicated the Trust and the Council were aware of some of the Sexton/Team Leader's conduct. Nevertheless, the overriding response to any concerns raised appeared to be to 'ask no questions', leaving him to continue his inappropriate activities and allowing them to escalate.

What has happened since the investigation?

Before this investigation was completed, the Trust had already made significant improvements to its governance and operating procedures. After the Ombudsman's report, they were prompt in referring the Sexton/Team Leader's conduct relating to exhumation to Victoria Police. We subsequently provided information to Police.

In April 2020, the Council resolved to allocate ongoing additional resourcing to support cemetery operations, including a grounds person and administrative support to the Trust. The Trust is also consulting other cemetery trusts to share and learn from each other's experience. The Trust's policies continue to be reviewed and developed.



Report: Investigations into allegations of nepotism in Government schools

Why did the Ombudsman investigate?

Our office regularly receives complaints from whistleblowers about nepotism in Victorian Government schools.

Troublingly, many investigations continue to find that jobs and contracts are given to family members, associates or related businesses of principals or other senior school staff, without their conflicts of interest being declared or managed.

What did the Ombudsman find?

The Ombudsman looked into three cases referred to her by IBAC. The cases involved:

- a Principal who instigated the engagement of their partner for almost \$80,000 of maintenance work, without declaring a conflict of interest or advertising the position
- a Principal who suggested two of their adult children be employed in casual support roles, without initially declaring a conflict of interest to the Department
- a Principal who endorsed the appointment of one of their children to a fixed-term teaching role, without letting the Department know of their conflict until a year later.

All three Principals were unclear about their obligation to declare a conflict of interest to the Department of Education and Training when hiring family members. They also said it was often difficult to find people to fill these roles. The Ombudsman found the subjects of the allegations were not corrupt staff deliberately disregarding their obligations as public officers. They were well-intentioned, busy people trying to solve problems, who got it wrong.

The cost to these individuals was high. Their actions led people to question their integrity, and the suitability of their family members for the roles to which they were appointed was questioned. Confidence in merit-based decisions at their schools was compromised.

The Department has had a conflict of interest policy for 10 years, which it has continually expanded and updated. Although the Department's online resources have been described as excellent, building a strong integrity culture requires more than policies on a website.

What has happened since the investigation?

The Department told the Ombudsman it would be continuing to deliver conflict of interest workshops at Principal Network meetings. It advised that as of January 2020, it had presented this training program to 43 of 57 (75 per cent) Principal Networks. It originally planned to deliver training to all Networks by March 2020, but training in some regions was delayed because of the 2019-20 bushfires and the COVID-19 pandemic.

The Department Secretary outlined further work underway, including:

- developing resources and training for managers who receive conflict of interest declarations
- introducing a new online Policy Advisory Library
- updating its online integrity training modules
- evaluating its conflict of interest register and its effectiveness in improving employees' understanding of their obligations.

The following case study is another example of a public officer favouring a former colleague and friend in a recruitment process.



Manager limits competition for advertised role to advantage their former colleague and friend

We investigated a complaint that a manager at a small statutory authority did not follow proper recruitment practices. The complaint alleged the manager failed to declare and manage a conflict of interest, when recruiting a former colleague and friend who had worked in the role three months earlier. The investigation found the manager:

- Used a narrow and brief advertising strategy, planned to fall for five days over an Easter break. The strategy was different to that taken by the manager for similar roles and attracted only three candidates, including the manager's former colleague and friend. Other appointments run by the manager for similar roles at around the same time were advertised more extensively, for longer, and attracted 16 and 19 candidates.
- Chaired the selection panel, which comprised only one other more junior temporary member of staff, due to the late withdrawal of a third panel member.
- Failed to approach the required number of referees, instead speaking to one person who had known the applicant for three months.
- Waived the requirement for the successful applicant to have psychometric testing, relying instead on a test done five years prior, despite the referee identifying areas for development.
- Signed a declaration stating they had 'no undisclosed conflicts of interests' despite being a former colleague and friend of the candidate. The manager had invited the candidate to their wedding and they had dinner together with their partners during the recruitment process.

We found the manager had an undeclared and unmanaged conflict of interest. Further, we concluded that, on balance, it was more likely than not that the manager's actions were designed to advantage their former colleague and friend by:

- limiting competition for the role
- reducing the risk of unfavourable assessments from additional referees or psychometric testing.

This failure to adhere to the applicable conflict of interest policies constituted a breach of the Code of Conduct. The former colleague and friend of the manager was likely to have been a strong candidate for the advertised role in a transparently run process as they had worked in the role only three months earlier. Unfortunately, the manager's actions undermined the sense that the candidate obtained the role legitimately.

In response to the Ombudsman's recommendation, the authority required the manager complete training on integrity, recruitment and the Code of Conduct, and present to staff on these topics. The authority also recognised the matter raised important questions in relation to broader policies and practices. Accordingly, the authority:

- revised its policies and procedures to match those of the relevant Government department
- established a database of conflicts of interest overseen by the CEO
- introduced integrity training for new staff with regular refresher training held for all staff.

The following case study relates to a public officer whom the Ombudsman found misused almost \$4,000 of public money for personal benefit and to benefit a community club with which they were affiliated.



Almost \$4,000 of public funds misused by school business manager

We investigated a complaint that a business manager at a school misused over \$1,200 of public funds to purchase groceries for a community club with which they were affiliated.

Our investigation substantiated the allegation and found that the business manager:

- incorrectly recorded the invoice as a public expense on a general ledger at their workplace
- did not include the order number, name of supplier, or description of the purchase, as was their usual practice
- presented the invoice (along with other valid invoices) and their corresponding general ledger entries to the school's Principal for checking and approval for payment
- then arranged for the invoice to be paid from public funds.

The business manager received money from the club to cover these expenses. After being interviewed by Ombudsman officers, they repaid this money to the school.

The business manager submitted that it was never their intention for the groceries to be paid for by the school. The investigation did not accept this evidence for a number of reasons:

- The business manager used their work email address to make the purchase.
- There were multiple opportunities for the business manager to both identify and rectify the error when processing the invoice.
- The business manager had an extra \$1,225.11 in their bank account from the club for expenses they did not pay for.

The business manager's submission that the transaction was a 'mistake' was also inconsistent with the identification of two later transactions showing they used public funds to pay for other items for the club, totalling \$2,738.30. These transactions again involved the business manager misrepresenting that purchases were for public purposes at several points in the process.

The business manager submitted that the supplier was responsible for incorrectly issuing the two 'personal invoices' to the school. However, the evidence proved otherwise, including evidence that the business manager:

- repaid \$2,238.30 to the school after being interviewed by the investigation but did not tell the Principal of the transactions for over three months (the repayment was \$500 less than the total transaction amount, which means the business manager may still owe the school \$500).
- attempted to conceal the two further transactions from the investigation, 'blacking out' the transaction showing their repayment of the further \$2,238.30.

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Almost \$4,000 of public funds misused by school business manager

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The investigation revealed that while the business manager abused the trust placed in them by the school to misuse up to \$4,000 of public money, the Principal also missed opportunities to identify the misconduct.

The school had a policy framework designed to provide financial accountability and robust internal controls. Under the framework, duties were to be segregated so no single individual was responsible for a complete transaction (eg creating and approving an order for goods, receiving the goods, authorising and submitting the invoice for payment approval, then making payment). There was no segregation of duties on this occasion.

As a result of the investigation, the Department of Education and Training:

- began a misconduct enquiry into the business manager
- provided support to the Principal to review financial controls and practices.

In another complaint investigated by the Ombudsman, she found that a manager in a Government Department engaged in ‘time theft’. This occurs when an individual accepts pay for work they had not done or time they had not put into their work.



‘Time theft’ by departmental manager

We investigated an allegation that a manager at a Government Department had failed to submit leave applications for days taken off work. It was also alleged that the manager worked flexible hours without any arrangements in place.

The investigation confirmed the manager was absent from work for 33 full days without a leave application and another 26 part-days, which amounted to approximately 70 hours. The manager’s unprocessed leave exceeded their combined annual and sick leave entitlements by almost 20 days.

Despite the manager stating at interview that they had always advised their supervisor of absences or late arrivals by email, the evidence showed this was not the case in most instances.

The investigation accepted the manager’s evidence that there were often personal reasons for their absence.

But the investigation did not accept their evidence that they did not intend to deliberately ‘mislead, misuse, [or] misappropriate’. We did not accept this for several reasons including:

- their length of service in the public sector
- the magnitude of the conduct
- their failure to inform their supervisor of their absence on many occasions.

The Department accepted the Ombudsman’s recommendations that it:

- audit the manager’s absences against their leave entitlements to quantify the total number of work hours owed
- consider whether the manager should be required to repay any money paid for hours not worked
- consider whether any further action was appropriate in the circumstances.

The Department’s Secretary referred the matter to the Department’s Employee Investigations team for it to assess the conduct to determine if further disciplinary action was warranted.

We sometimes receive public interest complaints alleging that public officers misused information obtained in their official capacity for personal reasons or benefit. The following case study provides an example of such a complaint.



Inspector misused position to access personal information about a third party

We investigated a complaint alleging that an inspector for a regulatory authority misused their position to access personal information about a third party.

The investigation found the inspector attended a property on behalf of the authority and inspected registers, documents and other information. During the inspection, the inspector looked up the address of a third party, in whom the inspector had a personal interest.

The investigation found that the inspector did not use the information to contact the third party. However, their action constituted a misuse of their position and breached the third party's privacy.

During the investigation, the inspector acknowledged the wrongdoing as a 'gross misjudgement'. In these circumstances, the Ombudsman decided not to make any recommendations about the inspector. The authority issued them with a written warning.

While the public officer's misuse of information did not appear to cause any harm in this case, it highlights the importance of:

- public officers using their powers responsibly and in the public interest
- accessing individuals' private information for legitimate purposes only.

Detrimental action

The Public Interest Disclosures Act makes it an offence for a person to take detrimental action against another person in reprisal for a public interest disclosure. Under the Act, detrimental action can include:

- action causing injury, loss or damage
- intimidation and harassment
- other discrimination, disadvantage or adverse treatment.

Most commonly, we receive complaints about adverse treatment related to the person's employment – their contract was not renewed; they missed out on a promotion; they were subjected to performance management; or they were made redundant.

Complaints about detrimental action are typically difficult to prove, particularly these types of treatment. This is because these actions occur frequently in the public service and may be explained by factors unrelated to the disclosure of improper conduct.

The below case study provides an example of where the Ombudsman was able to conclude that a person took detrimental action against a discloser in reprisal for them making a disclosure.



Detrimental action taken against a discloser who reported senior executive's improper conduct

We investigated a complaint alleging detrimental action had been taken against a discloser for reporting improper conduct by a senior executive at a Council. The discloser alleged they were treated unfavourably with respect to their employment as a result of making the complaint, leading to financial loss and stress.

To investigate whether detrimental action had occurred, we looked at whether the alleged perpetrators of the detrimental action knew, or suspected, the discloser had made a complaint about improper conduct within the Council. We found this was the case. The way the Council handled the discloser's complaint about the senior executive likely contributed to the suspicions about, or knowledge of, the discloser's identity.

The Council had engaged a third party to investigate the disclosure prior to referring it to IBAC. This resulted in multiple parties being informed of the disclosure, including the subject of the allegations. Multiple people were probed about the subject matter of the disclosure. This compromised the protections the discloser was meant to receive according to the Act, including protection of their identity. Also, it could have compromised any subsequent investigation by an integrity body. The Council should have discreetly assessed the disclosure to determine if it met the threshold for notification to IBAC; it should not have conducted its own investigation.

We ultimately proved that detrimental action was taken against the discloser in reprisal for their complaint. The discloser had initiated their own legal proceedings against the Council for its actions in the matter. We recommended to the Council that it consider the Ombudsman's findings in any further negotiations with the discloser. The Council accepted this recommendation.

The previous investigation was finalised under the old detrimental action provisions, whereby to establish detrimental action, 'knowledge or a belief' that the person made - or intends to make - a disclosure must be 'a substantial reason' for the person taking the detrimental action.

This changed from 1 January 2020. Now, if the fact that a person made a disclosure forms any part of the reason for which action is taken against that person, it constitutes detrimental action. This change strengthens the protections for disclosers.

Finalising complaints through enquiries

With referrals to this office increasing by 96 per cent over the past three years, determining which matters warrant an investigation has become particularly important. In 2019-20, most public interest complaints were finalised after substantial enquiries.

The purpose of enquiries is to ensure an investigation by us:

- would not prejudice another investigation or proceeding; and
- to determine if there is evidence to show, or tend to show, that improper conduct has occurred, thereby warranting an investigation.

Enquiries can be complex, often involving issues with confidentiality or anonymity.

Some of the work involved may include:

- meeting with disclosers and agencies
- reviewing employment, procurement or other contract documents
- conducting criminal record checks
- reviewing policies and procedures
- conducting site inspections
- securing and reviewing CCTV footage or other sensitive information.

Sometimes, our enquiries show an investigation is not warranted, but that examination of other issues is needed to improve public administration. This is demonstrated in the case study on the next page.



Failure to ensure strip searches are conducted in the least degrading manner possible

We received a complaint alleging that a prisoner was physically assaulted by a prison officer. After conducting substantial enquiries, we decided not to investigate as we were not satisfied there was sufficient evidence an assault had occurred.

However, during our enquiries, we identified the prisoner had been subjected to a full body strip search, which was not recorded in the relevant incident report or strip search register. This appeared inconsistent with Corrections Victoria's commitment to implement the Ombudsman's 2019 recommendations that:

- unless exceptional circumstances apply, all prisoners are to be offered a top/bottom strip search
- records will be kept to show such a search was offered or the reasons why the search was not offered.

These recommendations were made after we investigated a complaint from a female prison visitor who was subjected to a full body search in front of her young children. We wanted to ensure that strip searches are conducted in the least degrading manner possible, consistent with the Charter of Rights Act.

Following our enquiries, we wrote to the Commissioner of Corrections, who acknowledged the prisoner was not offered top/bottom strip searches on two occasions. The Commissioner had instructed all prison General Managers to implement top/bottom searches as the standard search. While this was not yet formal policy, a clear direction had been provided to all General Managers.

Corrections apologised to the prisoner. They spoke with the prison's General Manager about their requirement to provide top/bottom strip searches as the standard. Updates to the Commissioner's Requirements (the formal policy) have been drafted and are awaiting the Commissioner's endorsement.

Our policies and procedures

We have policies and procedures for dealing with disclosures, including disclosures made about Victorian Ombudsman staff. These are available at www.ombudsman.vic.gov.au/reporting-improper-conduct.

Engagement

Increasing awareness and understanding of our role is crucial to our success in helping Victorians.

The importance of engaging with the Victorian community and with public sector employees is reflected in our Strategic Framework where we set out commitments to:

- educate Victorians on the role of the Ombudsman, how to complain, and what they should expect from their dealings with the public sector
- make it easier for vulnerable people to complain
- constructively assist the public sector to continuously improve its standards and practices.

The Ombudsman and her staff regularly participate in presentations to, or discussions with, community organisations, students, and Government organisations. These include community legal centres, financial counsellors, and human rights organisations.

In the past, most of these engagements occurred in person. Due to the COVID-19 pandemic, from March 2020, most of our engagement activities could only occur online or over the phone. Some of our engagement initiatives in 2019-20 included:

Talkback on ABC Statewide Drive

Since early 2019, the Ombudsman has taken part in regular talkback sessions on ABC Statewide Drive. During these sessions, she takes calls from listeners on matters concerning them, such as Local Government integrity issues, youth justice and services such as waste and road maintenance. She does this every 6-8 weeks and by the end of June 2020, she had participated in 10 talkback sessions. She continues to appreciate the opportunity as it is a great way of communicating directly with people in regional Victoria, both to hear their concerns and to provide advice.

Law Week

This year, we again sponsored Law Week, an annual festival of events to help Victorians better understand the law. We provided \$5,000 in sponsorship to the festival's organiser, the Victoria Law Foundation. Once it was obvious that the COVID-19 pandemic meant Law Week events would be held online, the Ombudsman's office organised an online discussion on the theme 'Helping Victorians get Fair Outcomes'. The discussion involved the Victorian Ombudsman, the Telecommunications Ombudsman, the Energy and Water Ombudsman (Victoria) and a Lead Ombudsman from the Australian Financial Complaints Authority.

Pride March and Midsumma Festival

With human rights core to our work, we participate in Pride March each year, demonstrating our belief that everyone is entitled to equality before the law. In 2020 for the second time, we also held a stall at Midsumma Carnival, so we could provide information about our services to Victoria's LGBTQIA-friendly community.

Online engagement

We continue to expand our online presence, increasing the number of followers we have on social media by 33 per cent in 2019-2020. By the end of June 2020, we had 5,908 followers across Twitter, LinkedIn, Facebook and YouTube. We send out regular posts about the findings of our investigation reports and about the types of complaints we can help with. In 2019-20, for the first time, we created short videos sharing the findings of each of our investigation reports. In February 2020, we went live with a modern new website. Following this, visits to our website increased by 20 per cent between February – June 2020, when compared with the same period in 2019.



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1. *Financial Counselling Victoria Conference*, October 2019.
2. *Mornings with Virginia Trioli*, ABC Radio Melbourne, December 2019.
3. *'Helping Victorians Get Fair Outcomes'*, Ombudsman Virtual Panel Discussion for Law Week, May 2020.
4. *2020 International Women's Day Morning Tea with the Women's International Zionist Organisation*, March 2020.
5. *Midsumma Carnival*, January 2020.



Accessibility Action Plan



We continued to implement initiatives from our Accessibility Action Plan 2017-2020, which aimed to:

- build an accessible Ombudsman's office by reducing barriers for people with disability
- provide opportunities for people with disability to obtain employment at our office and to support our staff with disability to maintain employment at our office
- provide opportunities for people with disability to engage with our office.

In 2019-20, we:

- Redeveloped our website to meet Web Content Accessibility Guidelines Version 2.1 AA Standard. This involved converting PDFs into accessible documents, providing transcripts and captions for videos, and rewriting our content so it is at Year 8 reading level. Vision Australia has audited the website against AA accessibility standards. It is expected AA accessibility standards will be achieved by December 2020.
- Undertook further staff training to be accredited with Scope's Communication Access Symbol. Following a 'mystery shopper' evaluation in 2018-19, we made some improvements including:
 - designing a Communication Booklet to assist the public in communicating with us
 - making our online complaint form easier to use
 - purchasing an online disability awareness module to form part of our staff induction program.

Scope undertook a further 'mystery shopper' evaluation in 2020, which was delayed by the COVID-19 pandemic. We expect to receive official notification of whether we have attained the Communication Access Symbol by the end of 2020.

- We continued working with Scope to develop Easy English translations of our investigation reports. Easy English is a style of writing that provides understandable, concise information for people with low English literacy.

We are developing an Accessibility Action Plan 2021-2024, to build on the solid foundations we now have in place.





Reconciliation Action Plan

We want to be an organisation that Aboriginal and Torres Strait Islander peoples trust and are willing to approach. Our vision for reconciliation is to develop respectful and mutually beneficial relationships with Aboriginal and Torres Strait Islander peoples and organisations.

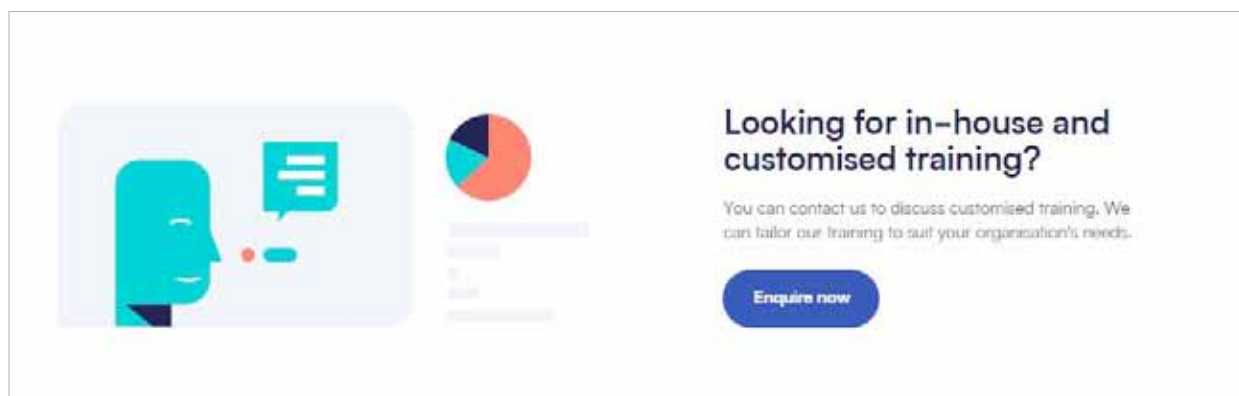
In 2019-20, we finalised actions in our *Reflect* Reconciliation Action Plan ('RAP'), adopted in 2017. We began developing our *Innovate* RAP which will focus on strengthening relationships with Aboriginal and Torres Strait Islander peoples, and engaging staff and stakeholders in reconciliation.

Towards that end, this year we:

- Established a Reconciliation Action Plan Working Group which includes representation from across the organisation and two external Indigenous representatives. Chaired by the Ombudsman, the group is developing actions for the *Innovate* RAP, including consulting with Reconciliation Australia as appropriate.
- Shared with staff guides for *Consultation with Aboriginal and Torres Strait Islander peoples* and for *Acknowledgement of Country and Custodians*, developed by one of our Indigenous Cadets.
- Collaborated with the Victorian Aboriginal Community Controlled Health Organisation to create accessible and culturally-safe brochures and posters encouraging Aboriginal and Torres Strait Islander peoples to use our complaint services.
- Continued our staff training and awareness program, including:
 - o organising an online talk by Gumbaynggirr educator and researcher, Lilly Brown on critical cultural competency and racial literacy
 - o providing additional cultural safety and awareness workshops
 - o investing in online *Core Cultural Learning: Aboriginal and Torres Strait Islander Australian Foundation* course, which all Ombudsman staff are encouraged to complete by June 2021
 - o making the SBS Inclusion program accessible to all staff online
 - o acknowledging Aboriginal and Torres Strait Islander dates of significance in our internal communications and through our social media platforms: Reconciliation Week, Sorry Day and NAIDOC Week.
- Organised signage to provide the pronunciation and English translation of each meeting room in our office. When we moved into our office at 570 Bourke Street, Melbourne in 2016, we sought and received permission from Boon Wurrung and Wemba Wemba Elder, Aunty Fay Stewart-Muir to give each room a name using the Boon Wurrung language. Now we are adding further information to each meeting room name. Examples of what will be provided in the signage include:
Wirate-buluk (Conference room), wirr-at-boo-look (shared vision)
N'uther mooyoop (Interview room), noota-moi-yoop (profess openly).



Public Sector Education



From 1 January 2020, education became a statutory function under the revised Ombudsman Act. This means that it is a function our office has a duty to provide, as decided by Parliament. While we have been providing education for several years, we are pleased that we are now officially recognised as having important learnings to share.

During 2019-20, our Public Sector Education team continued to run our core program:

- Good complaint handling
- Conflict of interest risks: lessons from the Victorian Ombudsman
- Dealing with challenging behaviour.

Workshops

In total, we ran 37 workshops for public sector employees: nine fewer than the previous year, reflecting the cancellation of face to face workshops due to the COVID-19 pandemic.

We held seven workshops at our Melbourne office, attended by participants from across numerous State Government organisations and local councils. Three workshops were held in regional areas – two in Horsham and one in Shepparton.

We adapted the *Conflict of interest risks: lessons from the Victorian Ombudsman* workshop for remote delivery and delivered one workshop in this format.

We also offer in-house training where our workshops are adapted to meet individual workplace needs. We delivered 26 of these workshops, visiting a range of workplaces including councils and statutory authorities in metropolitan and regional areas. Some of the workplaces we trained were: State Trustees, The University of Melbourne and Mount Alexander Shire Council.

Satisfaction with our courses

Participants' satisfaction with workshop content and facilitation remains high for face to face workshops and in-house training. Across the three programs at least 90 per cent of participants agreed or strongly agreed that the 'content is useful' and the 'facilitator is engaging'. Some feedback from participants:

'Great learning tool for a wide ranging audience.'

'... the examples of Conflicts of Interest (COIs) were v useful as were the examples about options to manage COIs. The content and the way it was presented (ie ongoing engagement required from attendees) was great and I'll be recommending it to other employees.'

'... the information is very relevant to me and the tools and techniques are what I was hoping to learn during this session.'

'The workshop was fantastic, and you provided so much useful information and tools within the session.'

Webinars

In response to the COVID-19 restrictions we developed free 30 minute webinars to maintain engagement with the public sector while we adapted our workshops for remote delivery.

We offered webinars on the three topics on which we provide workshops - highlighting key information and providing time for questions and answers. Seven webinars were delivered to the end of June 2020 - six to a general audience and one to a public organisation.

Participants' overall satisfaction with the webinars ranged between 75 per cent and 93 per cent. Feedback included:

'Great presentation. especially the level of detail when dealing with challenging behaviours.'

'A good clear outlook at how to manage and define a conflict of interest.'

'Is this webinar [Good complaint handling] being run again? ... as I'd like to offer this to staff in some of our customer facing roles.'

Programs run in 2019-20

Good complaint handling

This workshop explores the value of complaints to organisations and highlights the key elements of a robust complaint handling process. It focuses on developing effective and appropriate strategies for complaint handling. Participants also look at different types of complainant behaviour, and consider how to overcome personal and organisational barriers to making and resolving complaints.

Conflict of interest risks: Lessons from the Ombudsman

Everyone has private interests - it's part of living our lives. As public sector workers we're responsible for avoiding situations where these interests improperly influence our work. Decisions tainted by a conflict of interest - big or small - eat away at integrity, expose us to accusations of unfairness (or worse) and risk outcomes which are not in the public interest. Participants learn the right skills to avoid or manage conflicts, through discussion of real-life scenarios and good practice strategies.

Dealing with challenging behaviour

Behaviour doesn't have to be aggressive to be challenging to deal with and make problem-solving harder. This workshop for public sector complaint handlers and frontline staff explores practical strategies to identify, prevent and defuse a range of behaviours; and to manage, or limit, service provision when behaviour becomes unreasonable. Participants explore a model for dealing with challenging behaviour, including considering Victoria's human rights, equal opportunity and workplace safety laws.

Our people

We employ 104 staff with a diverse range of qualifications, experience and backgrounds. For instance, qualifications range from law and criminal justice to social sciences, media and communications, human rights and business.

Table 1: Staff profile by gender, age and classification 2020*							
2020							
	All employees		Ongoing			Fixed term and casual employees	
	Headcount	FTE	Full Time Headcount	Part Time Headcount	FTE	Headcount	FTE
Gender							
Male	30	28.8	17	3	19.4	10	9.4
Female	74	68.16	44	16	54.96	14	13.2
Self-described	0	0	0	0	0	0	0
Total	104	96.96	61	19	74.36	24	22.6
Age							
Under 25	2	1.4	1	0	1	1	0.4
25-34	35	33.4	21	4	24	10	9.4
35-44	34	30.7	20	9	25.9	5	4.8
45-54	26	24.46	14	6	18.46	6	6
55-64	5	5	4	0	4	1	1
Over 65	2	2	1	0	1	1	1
Total	104	96.96	61	19	74.36	24	22.6
Classification							
VPS 1	0	0	0	0	0	0	0
VPS 2	1	0.4	0	0	0	1	0.4
VPS 3	6	5.4	2	0	2	4	3.4
VPS 4	40	37.36	27	8	32.56	5	4.8
VPS 5	40	37.2	25	9	31.2	6	6
VPS 6	11	10.6	7	2	8.6	2	2
STS	1	1	0	0	0	1	1
Executive	5	5	0	0	0	5	5
Total	104	96.96	61	19	74.36	24	22.6

*Employees have been correctly classified in workforce data collections. Excludes staff on leave without pay, volunteers, contractors and consultants. Employees reported as 'seconded' are included in the fixed term counts.

Table 2: Staff profile by gender, age and classification 2019*							
2019							
	All employees		Ongoing			Fixed term and casual employees	
	Headcount	FTE	Full Time Headcount	Part Time Headcount	FTE	Headcount	FTE
Gender							
Male	34	33	27	2	28.6	5	4.4
Female	81	73.04	45	21	59.45	15	13.59
Self-described	0	0	0	0	0	0	0
Total	115	106.04	72	23	88.05	20	17.99
Age							
Under 25	2	1.4	0	0	0	2	1.4
25-34	40	38.23	29	4	32	7	6.23
35-44	4	37.15	24	14	33.55	4	3.6
45-54	20	18.46	12	4	14.7	4	3.76
55-64	10	9.8	7	1	7.8	2	2
Over 65	1	1	0	0	0	1	1
Total	115	106.04	72	23	88.05	20	17.99
Classification							
VPS 1	0	0	0	0	0	0	0
VPS 2	2	0.63	0	0	0	2	0.63
VPS 3	3	3	2	0	2	1	1
VPS 4	52	48.36	36	10	42.8	6	5.56
VPS 5	41	37.65	25	10	31.85	6	5.8
VPS 6	13	12.4	9	3	11.4	1	1
STS	0	0	0	0	0	0	4
Executive	4	4	0	0	0	4	0
Total	115	106.04	72	23	88.05	20	17.99

*Employees have been correctly classified in workforce data collections. Excludes staff on leave without pay, volunteers, contractors and consultants. Employees reported as 'secondees' are included in the fixed term counts.

Our organisational structure



Our performance

This section outlines our performance against our *Annual Plan 2019-20*, our *Strategic Framework 2017-20* and the Department of Treasury and Finance's *Budget Paper No. 3 Service Delivery* ('BP3') targets.

Our strategic framework (see page 15) sets out our purpose, intent and commitments.

We commit to :

- providing accessible and responsive services that are:
 - free, independent and impartial
 - open, transparent and evidence based
 - focused on practical and meaningful outcomes to address injustice
 - sensitive to the circumstances of individuals and communities with specific needs
 - delivered by skilled and committed professionals
 - consistent with the same standards we expect of others
- educating Victorians on the role of the Ombudsman, how to complain and what they should expect from their dealings with the public sector
- being courageous in challenging poor public administration
- constructively assisting the public sector to continuously improve its standards and practices
- providing authoritative and informative reports to the Victorian Parliament.

Our 2019-20 annual plan (see Appendix 2) details what we did to realise these commitments. Our focus areas were:

- a more accessible Ombudsman office for Victorians and the public sector
- demonstrating and driving the Ombudsman's impact, relevance and reputation
- being recognised as a leader in good administrative practice
- providing a modern and responsive Ombudsman office
- everyone at the Victorian Ombudsman understanding our strategic aims and our direction.

Table 3 (on the following page) records the reports we tabled in Parliament in 2019-20.

Table 3: Reports tabled in Parliament 2019–20

Title	Date tabled
Investigation into Wellington Shire Council's handling of Ninety Mile Beach subdivisions	8 July 2019
OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people	5 September 2019
Revisiting councils and complaints	7 October 2019
Investigation into improper conduct by a Council employee at the Mildura Cemetery Trust	12 November 2019
WorkSafe2: Follow-up investigation into the management of complex workers compensation claims	3 December 2019
Investigation of matters referred from the Legislative Assembly on 8 August 2018	12 December 2019
Investigation into three councils' outsourcing of parking fine internal reviews	25 February 2020
Investigation of alleged improper conduct by Executive Officers at Ballarat City Council	14 May 2020
Investigation into allegations of nepotism in Government schools	20 May 2020
Ombudsman's recommendations – third report	30 June 2020

Feedback about us

Complaints we received

When people complain to us about the merits of our decisions or our service delivery, we undertake a review. If the complaint alleges corrupt conduct or staff misconduct, we notify IBAC and the Victorian Inspectorate respectively and they deal with the complaint independently to us.

We reviewed 115 cases in 2019-20, where a senior officer not previously involved in the matter looked at how we had handled a matter. Of the 92 reviews into the merits of our decisions:

- In 84, we decided the original decision was satisfactory.
- In 8, we reconsidered the complaint or took further action.

Of the 23 complaints about our service delivery:

- In 15, we determined our service delivery was satisfactory.
- In 8, we attempted to resolve the concerns raised through providing an explanation, apologising or agreeing to take further action.

In 2019-20, we conducted 42 per cent more reviews into the merits of our decisions, compared to the previous year. This increase was mostly due to our efforts to raise awareness in our office and the community about the review process, together with higher dissatisfaction levels during the COVID-19 emergency.

Requests from the Victorian Inspectorate

In 2019-20, the Victorian Inspectorate asked us for information about 29 matters. These included allegations that our staff:

- did not investigate complaints, had not properly investigated them or improperly dismissed them
- did not provide procedural fairness
- had not provided an outcome in a timely manner.

We continued to provide information to the Inspectorate about two matters commenced in previous years which were concluded by the Inspectorate this financial year. We also responded to requests from the Inspectorate for information about our implementation of legislative amendments made to the Ombudsman Act and the Public Interest Disclosures Act and various operational procedures. In all cases, we provided the information the Inspectorate requested.

Satisfaction survey

In 2019-20, we commissioned our first independent survey to assess complainant satisfaction with the services provided by the Ombudsman. This is in line with our belief that Government organisations should seek feedback from people who have used their services to help them improve. The purpose of our survey is for the Victorian Ombudsman to:

- learn and improve the quality of services provided
- learn and improve the quality of communication with people who have lodged a complaint with us
- assess and evaluate the impact of the resolutions and decisions made.

It is important to note that the purpose of the survey is to seek feedback on the service provided by our staff, rather than the outcome of a complaint.

A total of 419 people who contacted us for assistance in 2019-20 participated in the survey, which was conducted independently by EY Sweeney. Key findings are provided overleaf.

Our response to the feedback

We have started a 'Better Complaints Experience' project which includes several initiatives to improve the timeliness, frequency, and effectiveness of our communications. These initiatives, which are to be completed by 30 June 2021, include:

- introducing SMS updates so we can update people more frequently on the progress of their complaint
- enhancing the functionality of our website so people can receive real-time online responses to common queries or speak with us via WebChat to initiate a complaint
- reviewing the way in which we communicate with people at all key steps in the assessment of their complaint, to ensure people feel heard and that they can see the steps we have taken to try to resolve their complaint.

Complaint survey snapshot 2019-20

In the first year of the complainants survey, a total of 419 complainants confirmed the importance of the Victorian Ombudsman to the community. The satisfaction of people who lodged complaints during the COVID-19 pandemic was lower than in the previous months. It is not known the extent to which the lower satisfaction rate was due to COVID-related issues, outside of the Victorian Ombudsman's control.

Comprehensive Access

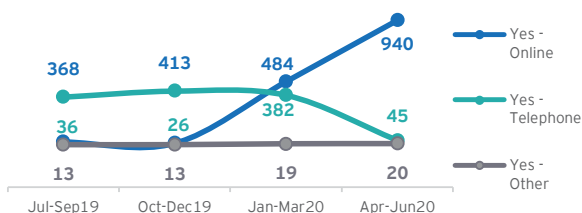
EASE OF CONTACT



73% Found it easy finding out how to contact the Victorian Ombudsman

CHANNEL USAGE

The COVID-19 pandemic saw the temporary closure of the Victorian Ombudsman's phone room and a spike in online channel use.

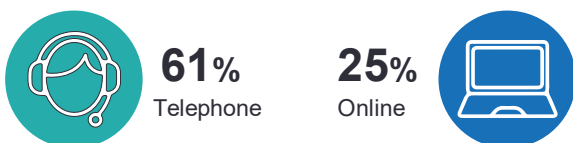


Base: People with jurisdictional complaints who indicated 'Yes' to their details being passed on to the survey researcher.

CHANNEL PREFERENCE

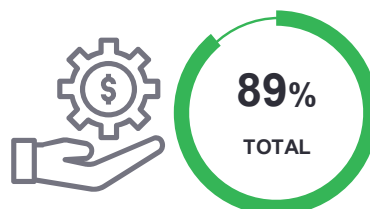


INITIAL CONTACT METHOD USED



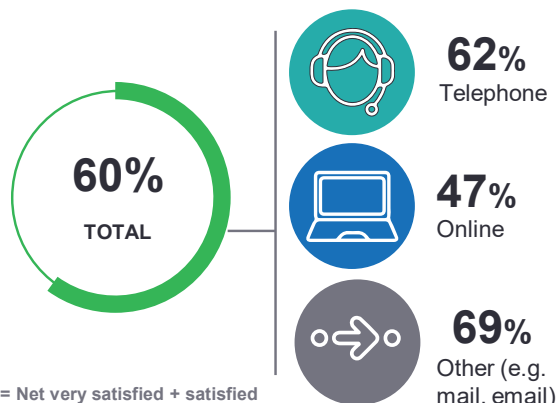
Addressing Needs

VALUE OF THE VICTORIAN OMBUDSMAN



% = Net extremely + very important

OVERALL SERVICE SATISFACTION



% = Net very satisfied + satisfied

“

They were eager to listen to my situation and asked questions to get a clearer understanding of what I was going through and what I needed from them.

They were able to clarify their role and any action I needed to follow through with to resolve.

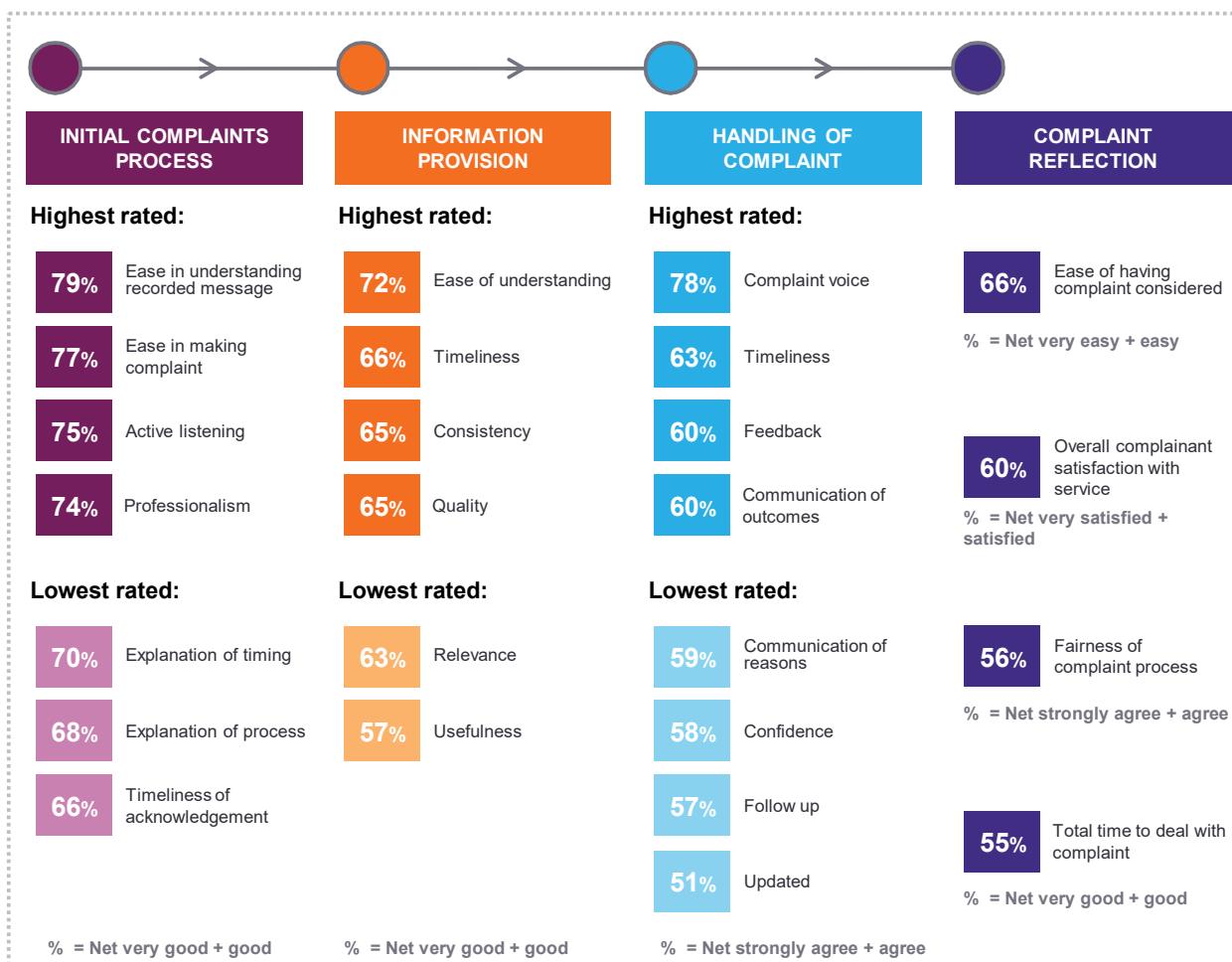
”

OVERALL FAIRNESS



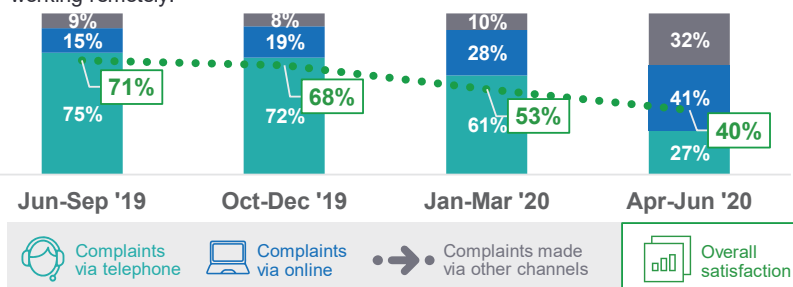
% strongly agree/agree

Detailed complainant ratings



COVID-19 impact on service satisfaction

Complainant satisfaction declined across the year. These results were affected by the COVID-19 pandemic. In late March 2020, Ombudsman staff started working remotely. The main phone line was closed to direct calls for two months. Voice mails were accepted and returned within a few days. People could still also make contact via email and an online complaint form. Direct calls re-opened in late May once measures were in place to ensure staff felt safe to take phone calls while working remotely.



“ [When submitting a complaint online] you just need to be given a bit of ongoing confidence that they’re looking into things, and that they’ll call if they don’t understand anything I’ve written. ”

Statutory disclosures

Under Standing Direction 5.2 Annual Reporting and the *Financial Management Act 1994* (Vic), we are required to disclose certain information. There is a disclosure index at Appendix 1.

Accountable officer's declaration

In accordance with the *Financial Management Act 1994* (Vic), I am pleased to present the Report of Operations for the Victorian Ombudsman's office for the year ended 30 June 2020.

A handwritten signature in black ink, appearing to read 'Deborah Glass', with a stylized, flowing script.

Deborah Glass
Ombudsman

2 December 2020

Output statement

The output statement for Ombudsman services is published in the Victorian Department of Treasury and Finance's *Budget Paper No. 3 Service Delivery* ('BP3') each financial year.

The format is standardised across public sector agencies, including the use of targets. Table 4 below outlines the outputs our office provided to the Government.

Table 4: Output statement 2019-20					
Output	Unit of measure	2019-20 actual	2019-20 target	Performance variation (%)	Result
Quantity measures					
Jurisdictional [within our scope] complaints finalised	number	16,152	14,000	15.4	✓
The number of complaints finalised is contingent on approaches to the office by members of the public, which is an external factor beyond our control. This leads to variance between the target and the outcome.					
Proportion of jurisdictional complaints independently investigated by the Victorian Ombudsman	per cent	28	25	12	✓
Where possible, we have introduced 'batching' as a method to efficiently deal with enquiries into a number of complaints about an individual systemic issue.					
Quality measures					
Proportion of jurisdictional complaints where the original outcome is set aside by a review undertaken in accordance with the Ombudsman's internal review policy	per cent	0.1	<1.5	N/A	✓
Recommendations accepted by agencies upon completion of investigations	per cent	99	95	4.2	✓
Timeliness measure					
Complaints resolved within 30 calendar days of receipt	per cent	89.6	95	5.7	■
While this year's result is broadly consistent with previous years, our performance has been impacted by the COVID-19 pandemic. Specifically, we have been cognisant of the pressure State Government agencies and departments are facing in their response to COVID-19 and as such, lengthened the response times required by agencies to respond to our enquiries. In a similar vein, we have prioritised COVID-19 related inquiries. The economic uncertainty as a result of COVID-19 has also led to an increase in demand on Government services that has further resulted in our office receiving a significant increase in non-jurisdictional approaches, unduly consuming resources. Lastly, we are committed to providing services to the broadest possible range of people and tailor our engagement to their unique and complex needs (eg vulnerable community cohorts). The trade-off for maintaining an accessible, responsive and unbureaucratic service means that some cases take longer to deal with.					

Note: ✓ Performance target achieved or exceeded.

■ Performance target not achieved – exceeds 5 per cent variance.

Employment and conduct principles

Our staff comply with the public sector values established under the *Public Administration Act 2004* (Vic). The values prescribe the behaviours expected of public officials: responsiveness, integrity, impartiality, accountability, respect, leadership and promoting human rights.

Public sector employment principles

We are committed to applying merit and equity principles when appointing staff. Our selection processes ensure applicants are assessed and evaluated fairly and equitably, based on key selection criteria and other accountabilities, without discrimination.

We embrace the public sector employment principles established under section 8 of the Public Administration Act. We ensure:

- employees are treated fairly
- employment decisions are based on merit
- equal employment opportunity is provided
- human rights as set out in the *Charter of Human Rights and Responsibilities Act 2006* (Vic) are upheld
- employees have a reasonable avenue of redress against unfair or unreasonable treatment
- a career in public service is fostered.

Consistent with the Victorian Public Sector Commission's employment standards, we advise our employees how to avoid conflicts of interest and manage conflicts where they cannot be avoided, and how to respond to offers of gifts and hospitality.

Workforce inclusion

We are committed to providing a working environment where equal opportunity and diversity are valued. Our workforce inclusion practices have resulted in us employing 70 per cent female and 30 per cent male ongoing or fixed term employees this year.

We have an Accessibility Action Plan, reflecting our commitment to creating an inclusive and accessible workplace for our staff and service to the public. For more information on how we implemented this plan in 2019-20, see page 78.

Occupational Health and Safety

Under section 25 of the *Occupational Health and Safety Act 2004* (Vic), employees must take reasonable care for their own and others' health and safety and cooperate with their employer in the workplace.

As part of our ongoing commitment to the health, safety and well-being of our employees and others, our workplace activities and resources included:

- reimbursement initiative for prescription glasses
- on-site influenza vaccinations
- ergonomic assessments
- First Aid Officer training
- 2019 R U Ok Day? activities
- Mental Health First Aid Officer training
- Mental Health Peer Support Officers
- Mental Health and Wellbeing employee workshops
- Mental Health Week activities
- access to a 24/7 confidential counselling service provided via external professionals
- Employee Assistance Program onsite service.

Our Occupational Health and Safety Committee continues to make recommendations to our Executive about all matters to do with the health, safety and wellbeing of employees.

Table 5: Occupational Health and Safety (OHS)				
Measure	Key Performance Indicator	2017-18	2018-19	2019-20
Incidents*	No. of reported incidents	3	2	8
	Rate per 100 FTE	3.3	1.8	1
	No. of incidents requiring first aid and/or further medical treatment	2	2	1
Claims	No. of standard claims **	1	1	1
	Rate per 100 FTE	0.9	1.06	1.035
	No. of lost time claims	1	1	1
	Rate per 100 FTE	0.9	1.06	1.035
	No. of claims exceeding 13 weeks	1	1	1
	Rate per 100 FTE	0.9	1.06	1.035
Fatalities	Fatality claims	0	0	0
Claim costs	Average cost per standard claim	\$692	\$707	\$735
Return to work	Percentage of claims with RTW plan <30 days	0	0	0
Management commitment	Evidence of OHS policy statement, OHS objectives, regular reporting to senior management of OHS, and OHS plans	Completed	In progress	In progress
	Evidence of OH&S criteria(s) in purchasing guidelines (including goods, services and personnel)	Completed	Completed	Completed
Consultation and participation	Evidence of agreed structure of designated workgroups, (DWGs), health and safety representatives (HSRs), and issue resolution procedures (IRPs)	In progress	Completed	Completed
	Compliance with agreed structure of DWGs, HSRs and IRPs	In progress	Completed	Completed
Risk management	Percentage of internal audits/inspections conducted as planned	100%	100%	100%
	No. of Improvement Notices issued across the organisation by WorkSafe Inspector	1	0	0
	Percentage of issues resolved arising from:			
	<ul style="list-style-type: none"> internal audits and inspections HSR Provisional Improvement Notices (PINs) WorkSafe Notices 	100% 100% 100%	100% 100% 100%	100% N/A N/A
Training	Percentage of staff that have received OHS training:			
	• induction	100%	100%	100%
	• management training	100%	100%	100%
	• contractors, temps, and visitors	100%	100%	100%
	Percentage of HSRs trained:			
	• on acceptance of role	100%	100%	100%
	• re-training (refresher)	100%	100%	100%
	• on reporting of incidents and injuries	100%	100%	100%

*Incidents includes injuries and near misses.

**Standard claims are those that have exceeded the employer excess (for medical and like expenses) threshold and/or liability for 10 working days of time lost.

Corporate governance

The Ombudsman is the:

- 'Accountable Officer' pursuant to section 42 of the *Financial Management Act 1994* (Vic).
- 'Responsible Body' under the *Standing Directions of the Minister for Finance*.
- 'Public Service Body Head' pursuant to sub-section 16(1)(h) of the *Public Administration Act* and section 3 of the *Privacy and Data Protection Act 2014* (Vic).
- 'Officer in Charge' pursuant to section 13 of the *Public Records Act 1973* (Vic).

The Ombudsman Act bestows all the powers and functions conferred on the Office of the Ombudsman on the Ombudsman personally. Employees or executive staff exercise only the powers and functions that the Ombudsman delegates to them via delegation instrument.

This year, the Ombudsman was supported by one internal committee – the Executive Committee – and one external committee – the Audit and Risk Management Committee. Each committee:

- has terms of reference approved by the Ombudsman stating:
 - the purpose and membership
 - meeting frequency*
 - record keeping obligations
 - reporting obligations.
- may co-opt expertise from across the office as required
- receives appropriate secretariat support.

*Which may be that the committee meets as frequently as it sees fit.

Internal committee	
Executive Committee	Function
Membership Ombudsman Deputy Ombudsman Chief Operating Officer	The Committee oversees the office's strategic focus, good governance, strategies and plans that commit significant resources and monitor overall performance. It regularly reviews the status of the office's budget, compliance obligations, strategic risks, business continuity planning and information management governance.

Audit and Risk Management Committee

The main responsibilities of the Audit and Risk Management Committee are to:

- Independently review and assess the effectiveness of VO's systems and controls for financial management, performance and sustainability, including risk management.
- Review and report independently to the Ombudsman on the annual financial statement and report of operations published by the office.
- Review and monitor compliance with the Financial Management Act including remedial actions.
- Oversee and review the effectiveness of the internal audit function including the approval of the internal audit charter, strategic internal audit plan and the annual audit work program.
- Maintain effective communication with external auditors.
- Consider recommendations made by internal and external auditors and review the implementation of actions to resolve issues raised.

Table 6: Audit and Risk Management Committee membership

Independent member and Chairperson	Adam Awty Chief Executive Officer Law Institute of Victoria
Independent member	Andrew Dell Global Chief Information Security Officer QBE Insurance Group Pty Ltd
Independent member	Patricia Christie Portfolio of board and committee positions and former CEO and acting Principal Registrar, Family Court of Australia
Independent member	Dennis Clark Chief Executive Officer Clark Corporate Consulting
Independent member	Damien Manuel Director, Cyber Security Research and Innovation Centre Deakin University
Victorian Ombudsman representative	Megan Philpot Deputy Ombudsman
Victorian Ombudsman representative	Marija Maher Chief Operating Officer

Victorian Ombudsman Financial Management Compliance Attestation Statement

I, Deborah Glass, in my capacity as the Responsible Body, certify that the Victorian Ombudsman has no Material Compliance Deficiency with respect to the applicable Standing Directions under the Financial Management Act 1994 and Instructions.

Signed:



Victorian Ombudsman

Date: 10 September 2020

Strategically focussed

Our corporate planning framework is based on the six core elements of the Victorian Government's Strategic Management Framework:

- analyse
- plan
- allocate resources
- implement and monitor
- evaluate
- report.

Key outputs from the corporate planning framework are:

- a multi-year strategic framework
- an annual plan
- regular reporting on progress against objectives.

Our risk management framework is aligned to our strategic framework, to give the Ombudsman confidence that our objectives can be delivered.

Transparent and accountable

We make our priorities known publicly through our Strategic Framework. Performance targets are set and published in the output statement included in our annual report (see page 95). The Integrity and Oversight Committee of Parliament reviews our annual report and can hold public hearings where the Ombudsman gives evidence.

We also ensure we are accountable by:

- tabling reports in Parliament
- having internal review and complaint processes
- establishing performance criteria for every member of staff
- having a service charter
- assessing our recommendations to public organisations against our own practices
- having a rigorous internal audit plan.

Committed to compliant practices

We are committed to complying with all relevant obligations, internal and external. We use quality assurance and internal audit programs to monitor compliance.

Ethical culture

Good governance practices are only effective when supported by an ethical culture, where the values of the office are lived and its institutional practices are respected. This is particularly critical for us, where an ethical culture not only supports good governance but supports our position as a leading public sector oversight organisation.

Our leaders are accountable for upholding and developing an ethical culture by:

- modelling ethical conduct
- expressly canvassing ethical issues as they arise
- recognising and reinforcing ethical conduct by staff
- intervening and addressing unethical conduct.

Ethical decision making is also supported by:

- our code of conduct
- the *Code of Conduct for Victorian Public Sector Employees of Special Bodies* issued by the Victorian Public Sector Commission
- internal policies and procedures, such as our Conflict of Interest policy and our Gifts, Benefits and Hospitality Policy.

Compliance with the Building Act 1993

We do not own or control any Government buildings, so are exempt from notifying our compliance with the building and maintenance provisions of the *Building Act 1993* (Vic).

National Competition Policy

The National Competition Policy requires that (among other things) where Government services compete with the private sector, any advantage arising solely from Government ownership be removed if the advantage is not in the public interest. We do not provide services in competition with the private sector.

Local Jobs First Act 2003

Local Jobs First aims to:

- promote employment and business growth by expanding market opportunities to local industry
- provide contractors with increased access to, and raised awareness of, local industry capability
- expose local industry to world's best practice in the workplace innovation, e-commerce and use of new technologies and materials
- develop local industry international competitiveness and flexibility in responding to changing global markets by giving local industry a fair opportunity to compete against foreign suppliers.

Departments and public sector bodies are required to apply the Local Jobs First policy in all projects valued at \$3 million or more in Metropolitan Melbourne or for statewide projects, or \$1 million or more for projects in regional Victoria.

The Local Jobs First Act requires public bodies to report on their compliance. In 2019-20, the Victorian Ombudsman had no procurements or projects to which the policy applied.

Procurement Related Complaints

A procurement related complaint is defined as an issue or concern expressed by a supplier in relation to the process and probity applied by an organisation when carrying out a procurement activity.

The Victorian Ombudsman has a procurement complaints management system, setting out the process for addressing complaints by suppliers. The Victorian Ombudsman's chief procurement officer (Chief Financial Officer) is responsible for the complaints management process. In 2019-20, the Victorian Ombudsman received no complaints from suppliers related to procurement activity.

Financial information

Table 7: Five year financial summary					
	2020	2019	2018	2017	2016
Total income from transactions	\$19,313,014	\$18,724,330	\$15,823,834	\$16,488,377	\$14,070,271
Total expenses from transactions	\$18,851,676	\$18,750,436	\$15,663,219	\$16,760,434	\$14,317,897
Net result from transactions	\$461,338	(\$26,106)	\$160,615	(\$272,057)	(\$247,626)
Other economic flows included in net result ^(a)	\$77,100	(79,385)	(687)	22,815	(36,838)
Net result from the period	\$538,438	(\$105,491)	\$159,928	(\$249,242)	(\$284,464)
Net cash flow from operating activities	\$606,679	\$40,667	\$385,579	\$304,989	(\$4,158,074)
Total assets	\$11,276,436	\$9,444,405	\$8,884,351	\$9,072,213	\$6,467,670
Total liabilities	\$6,387,047	\$5,983,806	\$5,318,261	\$5,666,051	\$2,628,444

Notes:

(a) Includes gains or losses from disposal of non-financial assets and revaluation of leave liabilities for changes in the government bond rate.

Current financial year review

The Victorian Government considers the net result from transactions to be the appropriate measure of financial management. This measure excludes the effects of gains and losses associated with the disposal of assets and the impact of the revaluation of leave liabilities due to changes in discount rates and market assumptions. Such gains and losses are outside the control of the Victorian Ombudsman.

In 2019-20, the Victorian Ombudsman achieved a net result from transactions of a surplus of \$0.461 million.

The growth in income and expenses from transactions in 2019-20 is mainly due to work carried out relating to the Victorian Ombudsman's budget independence readiness and the upgrade of systems.

Financial position – balance sheet

The Victorian Ombudsman's total assets have increased in 2020 by \$1.8 million. The increase is mainly due to the increases in intangible assets which includes the Ombudsman's website redevelopment work, Human Resources Management system implementation and Network Managed Services as discussed under capital projects on the next page. Also, there is an increase in receivables mainly due to timing of payments.

There was a marginal increase in liabilities in 2020 mainly due to the timing of payments.

Cash flows

The net cash inflows from operating activities was \$0.607 million. Compared to last year there is an increase in the operating cashflow due to timing of payments and higher funding for capital projects.

Significant changes in financial position

There were no significant matters which changed VO's financial position during the reporting period.

Capital projects

The Victorian Ombudsman's website redevelopment project was completed in 2019-20 and was capitalised as an Intangible Asset. Additionally, VO completed its Human Resources Management system implementation and Network Managed Services projects, both having been capitalised in 2019-20.

Disclosure of grants and transfer payments

The Victorian Ombudsman has not provided any grants or transfer payments to companies or organisations.

Subsequent events

With effect from 1 July 2020, in accordance with an amendment to the Ombudsman Act, the Office will become budget independent and funded directly through parliamentary appropriations.

Advertising expenditure

The Victorian Ombudsman did not conduct any activities that triggered the disclosure threshold of \$100,000 or greater on government advertising expenditure. We make a nil report statement against this requirement.

Consultancies

The Victorian Ombudsman made a final payment for consultants engaged in the previous financial year, as shown in Table 8 below.

Table 8: Consultancies valued over \$10,000					
Consultant	Purpose	Start date	End date	Expenditure 2019-20 (ex GST)	Future expenditure (ex GST)
Pitcher Partners Consulting Pty Ltd	Information Management Strategy and Roadmap	Dec 2018	Sep 2019	\$10,408	nil

ICT expenditure

Our ICT expenditure comprises:

- non-business as usual expenditure: extending or enhancing our current capabilities
- business as usual expenditure: all remaining ICT expenditure, which primarily relates to operating and maintaining our current capability.

This year, we had a total operational ICT expenditure of \$2.88 million.

Other information available on request

In compliance with the requirements of the Standing Directions under the *Financial Management Act 1994* (Vic), details of items listed below have been retained by the Ombudsman's office and are available on request, subject to the provisions of the Freedom of Information Act.

These items include:

- a statement that declarations of pecuniary interests have been duly completed by all relevant Ombudsman officers including the Ombudsman
- details of all consultancies and contractors.

Office-based environmental impact

The use of electrical power, paper and office vehicles over the past five years is outlined below and on the next page.

Electricity use

In 2019-20 electricity use was six per cent higher than in 2018-19. Greenhouse gas emissions per Full Time Equivalent (FTE) staff member were higher than the previous two years.

Waste

We continue to use recycling bins throughout the office for recyclable materials including paper, cardboard and plastics. The bins are emptied daily and deposited into communal recycling facilities serving all tenants in the building. Printer consumable wastes are separately collected. Recycling, general waste and food waste are collected separately.

Paper use

Paper use in 2019-20 per FTE staff member decreased by 36 per cent from 2018-19. Paper usage has halved over the past two years.

Water

There are no separate water metering facilities for individual tenancies in the building we occupy. We use water efficient appliances wherever possible.

Transportation

Where possible, we encourage our staff to use public transport for official business instead of the office car. The office has one hybrid electric/petrol vehicle available for staff.

Table 9: ICT expenditure			
All Operational ICT expenditure	ICT expenditure related to projects to create or enhance ICT capabilities		
Business As Usual (BAU) ICT expenditure	Non-Business As Usual (non-BAU) ICT expenditure	Operational expenditure	Capital expenditure
(Total)	(Total = Operational expenditure and Capital expenditure)		
\$2,887,838	\$1,149,268	\$289,994	\$859,274

Table 10: Electricity usage since 2015-16					
	2015-16	2016-17	2017-18	2018-19	2019-20
Total electricity used in the office (gigajoules)	430	505	447	469	502
Electricity used per FTE staff member (megajoules)	5,624	5,729	5,062	4,408	5,151
Electricity used per m ² office space (megajoules)	343	244	216	227	231
Net Greenhouse emissions (tonnes)	118	144	134	151	156
Net Greenhouse emissions per FTE staff member (tonnes)	1.55	1.63	1.52	1.42	1.60

Table 11: Paper use from 2015-16					
	2015-16	2016-17	2017-18	2018-19	2019-20
Total paper used in office (reams)	952	893	727	543	350
Paper used per FTE staff member (reams)	12.45	10.14	8.23	5.10	3.59

Table 12: Vehicle use from 2015-16					
	2015-16	2016-17	2017-18	2018-19	2019-20
Passenger vehicle trips					
Total kilometres driven	20,546	21,159	11,503	14,910	4,104
Kilometres driven per FTE staff member	269	240	130	140	42
Greenhouse gas emissions associated with vehicles					
Total tonnes CO ₂ -e emitted	2.92	3	1.53	1.92	0.55
Tonnes CO ₂ -e emitted per FTE staff member	0.04	0.03	0.02	0.02	0.01

Freedom of information

The *Freedom of Information Act 1982* (Vic) ('FOI Act') creates a right for the public to access certain documents held by public sector agencies, including the Victorian Ombudsman.

Section 29A of the Ombudsman Act means the FOI Act does not apply to documents that disclose information about:

- a complaint, a referred complaint, a referred matter or a matter referred to the Ombudsman by Parliament
- an enquiry or investigation under the Ombudsman Act
- a recommendation made by the Ombudsman under the Ombudsman Act
- a report or draft report made under the Ombudsman Act.

In 2019–20 we received 26 FOI requests. Due to the operation of section 29A of the Ombudsman Act, the FOI Act did not apply to 25 of the FOI requests. One FOI request was processed and access to the document sought was granted in full.

Categories of documents held

We hold several categories of documents:

- investigation reports tabled in Parliament and published on our website
- internal administrative and operational documents
- internal policy and procedural documents
- documents about developing or implementing policy and legislation
- human resources documents
- financial records
- documents obtained or created in the course of conducting investigations or making enquiries, including complaints, correspondence, file notes and reports
- documents relating to our functions under the Public Interest Disclosures Act
- background material, records of conversation, analysis and advice
- fact sheets, brochures and promotional material.

Certain documents are destroyed or transferred to the Public Record Office Victoria in accordance with the *Public Records Act 1973* (Vic).

Publicly available information

The following information is available on our website:

- statements about the Ombudsman's role, responsibilities, scope, governing law and reporting to Parliament
- information about the Public Interest Disclosures Act
- reports that have been tabled in Parliament
- our Service Delivery Charter and Code of Conduct
- good practice guides on handling complaints, dealing with challenging behaviour and managing complaints involving human rights
- our policies on Public Interest Disclosures, Human Rights, and Gifts, Benefits and Hospitality
- answers to common questions
- information about public sector workshops
- media releases.

This material can also be requested by emailing or calling us:

enquiries@ombudsman.vic.gov.au
(03) 9613 6222
1800 806 314 (for regional callers)

Making an FOI request

If you are considering making an FOI request to the Victorian Ombudsman, contact us for a discussion first.

We do not want you to pay an up-front fee for:

- documents that are already publicly available
- documents that you will not receive due to our confidentiality provisions.

Contact us for a discussion at:

FOI Officer
Victorian Ombudsman
legal@ombudsman.vic.gov.au
(03) 9613 6222
1800 806 314 (regional callers)

An FOI request can be made to the Victorian Ombudsman directly or you can complete an online form at www.ovic.vic.gov.au

If you are applying to us directly, your FOI request should clearly describe the document/s sought, specify that the application is a request made under the FOI Act and should not form part of a letter or email on another subject. The applicant should provide the following information:

- name
- address
- phone number
- details of document(s) requested
- form of access required; for example, copy of documents, inspection of file or other.

If seeking to have the application fee waived or reduced due to hardship, the applicant should include this request in the application.

Fees

An application fee of \$29.60 is required unless an authorised officer, satisfied that the payment of the fee would cause hardship, waives or reduces that fee.

Reviews

Applicants may seek an external review of a decision made about:

- requests for access to documents or amendment of records
- the cost levied for allowing access to documents.

Depending on the decision made in the first instance, the Information Commissioner or the Victorian Civil and Administrative Tribunal can conduct the review. The letter to the applicant advising our FOI decision will include information on the appropriate avenue of review, if any. Applicants are advised to consult Part VI of the FOI Act for more information about appeal rights.

For those FOI applications to which section 29A of the Ombudsman Act applies, there is no avenue of appeal to the Information Commissioner for a review of the decision. An applicant may seek a review by the Victorian Civil and Administrative Tribunal under its review jurisdiction (see Part 3 of the *Victorian Civil and Administrative Tribunal Act 1989* (Vic)).

Complaints

A person may complain to the Information Commissioner about certain matters relating to an FOI request, including about:

- an agency's decision that a requested document does not exist or cannot be located
- a delay by the agency in processing an FOI request
- any other action taken or failed to be taken by an agency in performing its functions and obligations under the FOI Act.

For those FOI applications to which section 29A of the Ombudsman Act applies, there is no avenue of complaint to the Information Commissioner.

For more information on seeking a review or complaining to the Information Commissioner, visit:
ovic.vic.gov.au/freedom-of-information/for-the-public/apply-for-a-review/

Further information about the FOI Act is available online at:
www.ovic.vic.gov.au

DataVic Access Policy

The intent of the Government's DataVic Access Policy is to enhance public access to the vast range of information held by Victorian Government agencies. Comprehensive information about our office is available on our website:
www.ombudsman.vic.gov.au. Publicly available information is listed on the previous page.

Consistent with the DataVic Access Policy issued by the Victorian Government in 2012, data for all tables and charts included in this Annual Report will be available in electronic readable format at www.data.vic.gov.au.

Financial statements



Independent Auditor's Report

To the Ombudsman of the Victorian Ombudsman

Opinion	<p>I have audited the financial report of the Victorian Ombudsman (the Ombudsman) which comprises the:</p> <ul style="list-style-type: none">• balance sheet as at 30 June 2020• comprehensive operating statement for the year then ended• statement of changes in equity for the year then ended• cash flow statement for the year then ended• notes to the financial statements, including significant accounting policies• Accountable Officer's and Acting Chief Financial Officer's declaration. <p>In my opinion the financial report presents fairly, in all material respects, the financial position of the Ombudsman as at 30 June 2020 and their financial performance and cash flows for the year then ended in accordance with the financial reporting requirements of the <i>Financial Management Act 1994</i> and applicable Australian Accounting Standards.</p>
Basis for Opinion	<p>I have conducted my audit in accordance with the <i>Audit Act 1994</i> which incorporates the Australian Auditing Standards. I further describe my responsibilities under that Act and those standards in the <i>Auditor's Responsibilities for the Audit of the Financial Report</i> section of my report.</p> <p>My independence is established by the <i>Constitution Act 1975</i>. My staff and I are independent of the Ombudsman in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 <i>Code of Ethics for Professional Accountants</i> (the Code) that are relevant to my audit of the financial report in Victoria. My staff and I have also fulfilled our other ethical responsibilities in accordance with the Code.</p> <p>I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.</p>
Ombudsman's responsibilities for the financial report	<p>The Ombudsman is responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards and the <i>Financial Management Act 1994</i>, and for such internal control as the Ombudsman determines is necessary to enable the preparation and fair presentation of a financial report that is free from material misstatement, whether due to fraud or error.</p> <p>In preparing the financial report, the Ombudsman is responsible for assessing the Ombudsman's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless it is inappropriate to do so.</p>

Auditor's responsibilities for the audit of the financial report	<p>As required by the <i>Audit Act 1994</i>, my responsibility is to express an opinion on the financial report based on the audit. My objectives for the audit are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.</p> <p>As part of an audit in accordance with the Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:</p> <ul style="list-style-type: none"> • identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. • obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Ombudsman's internal control • evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Ombudsman • conclude on the appropriateness of the Ombudsman's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Ombudsman's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Ombudsman to cease to continue as a going concern. • evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation. <p>I communicate with the Ombudsman regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.</p>
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MELBOURNE
11 September 2020


 Andrew Greaves
 Auditor-General

OFFICE OF THE OMBUDSMAN

Comprehensive operating statement For the financial year ended 30 June 2020

	Notes	2020 \$	2019 \$
Continuing operations			
Income from transactions			
Grants	2.1	19,313,014	18,724,330
Total income from transactions		19,313,014	18,724,330
Expenses from transactions			
Employee benefits	3.2.1	13,048,125	12,460,361
Depreciation and amortisation	4.3	886,421	589,953
Capital asset charge	3.3	287,100	288,000
Interest expense		86,678	-
Other operating expenses	3.4	4,543,352	5,412,122
Total expenses from transactions		18,851,676	18,750,436
Net result from transactions (net operating balance)		461,338	(26,106)
Other economic flows included in net result			
Net gain/(loss) on disposal of property, plant and equipment		(16,631)	6,513
Net gain/(loss) arising from revaluation of leave liabilities		93,731	(85,898)
Total other economic flows included in net result		77,100	(79,385)
Net result		538,438	(105,491)
Comprehensive result		538,438	(105,491)

The accompanying notes form part of these financial statements.

OFFICE OF THE OMBUDSMAN

Balance sheet
As at 30 June 2020

	Notes	2020 \$	2019 \$
Assets			
Financial assets			
Receivables	5.1	6,899,189	5,562,692
Total financial assets		6,899,189	5,562,692
Non-financial assets			
Property, plant and equipment	4.1	3,121,061	3,536,295
Intangible assets	4.2	1,114,401	42,763
Prepayments	5.4	141,785	302,655
Total non-financial assets		4,377,247	3,881,713
Total assets		11,276,436	9,444,405
Liabilities			
Payables	5.2	3,760,813	1,145,557
Employee benefits	3.2.2	2,140,174	2,370,297
Other provisions	5.5	413,600	361,900
Borrowings	6.1	24,127	13,402
Deferred lease incentive	5.3	48,333	2,092,650
Total liabilities		6,387,047	5,983,806
Net assets		4,889,389	3,460,599
Equity			
Accumulated deficit		(790,534)	(1,328,972)
Contributed capital		5,679,923	4,789,571
Net worth		4,889,389	3,460,599

The accompanying notes form part of these financial statements.

OFFICE OF THE OMBUDSMAN

Cash flow statement

For the financial year ended 30 June 2020

	Notes	2020 \$	2019 \$
Cash flows from operating activities			
Receipts			
Receipts from government		18,841,390	17,943,859
Total receipts		18,841,390	17,943,859
Payments			
Payments to suppliers and employees		(17,860,933)	(17,615,192)
Capital asset charge payments		(287,100)	(288,000)
Interest and other costs of finance paid		(86,678)	-
Total payments		(18,234,711)	(17,903,192)
Net cash flows from operating activities	6.4	606,679	40,667
Cash flows from investing activities			
Payments for property, plant and equipment		(296,999)	-
Proceeds from disposal of property, plant and equipment		18,864	15,273
Payments for intangible assets		(1,096,709)	(42,763)
Net cash flows used in investing activities		(1,374,844)	(27,490)
Cash flows from financing activities			
Proceeds from Capital Contribution		921,633	-
Repayment of leases		(153,468)	(13,177)
Net cash flows used in financing activities		768,165	(13,177)
Net increase/(decrease) in cash and cash equivalents		-	-
Cash and cash equivalents at the beginning of the financial year		-	-
Cash and cash equivalents at the end of the financial year		-	-

The accompanying notes form part of these financial statements.

OFFICE OF THE OMBUDSMAN

Statement of changes in equity For the financial year ended 30 June 2020

	Contributed capital \$	Accumulated deficit \$	Total \$
Balance at 1 July 2018	4,789,571	(1,223,481)	3,566,090
Net result for the year	-	(105,491)	(105,491)
Balance at 30 June 2019	4,789,571	(1,328,972)	3,460,599
Administrative Restructure- Net assets transferred	(31,281)	-	(31,281)
Capital contribution from government	921,633	-	921,633
Net result for the year	-	538,438	538,438
Balance at 30 June 2020	5,679,923	(790,534)	4,889,389

The accompanying notes form part of these financial statements.

1. About this report

The Office of the Ombudsman (the Office) is a government agency of the State of Victoria, established under the *Ombudsman Act 1973*.

The principal address is:
Level 2, 570 Bourke Street
Melbourne Victoria 3000

A description of the nature of the principal services of the Ombudsman is included in the “Report of operations” of the Annual Report which does not form part of these financial statements.

Basis of preparation

These financial statements are prepared in Australian dollars and the historical cost convention is used unless a different measurement basis is specifically disclosed in the note associated with the item measured on a different basis.

The accrual basis of accounting has been applied in the preparation of these financial statements whereby assets, liabilities, equity, income and expenses are recognised in the reporting period to which they relate, regardless of when cash is received or paid.

Consistent with the requirements of AASB 1004 *Contributions*, contributions by owners (that is, contributed capital and its repayment) are treated as equity transactions and, therefore, do not form part of the income and expenses of the Office.

Judgements, estimates and assumptions are required to be made about the carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on professional judgements derived from historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

Revisions to accounting estimates are recognised in the period in which the estimate is revised and in future periods that are affected by the revision. Judgements and assumptions made by management in applying Australian Accounting Standards (AASs) that have significant effects on the financial statements and estimates are disclosed in the notes to which they relate.

These financial statements cover the Office of the Ombudsman as an individual reporting entity and include all the controlled activities of the Office.

Compliance information

These general-purpose financial statements have been prepared on a going concern basis in accordance with the *Financial Management Act 1994* and applicable Australian Accounting Standards (AASs) which include Interpretations, issued by the Australian Accounting Standards Board (AASB). In particular, they are presented in a manner consistent with the requirements of AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

Where appropriate, those AASs paragraphs applicable to not-for-profit entities have been applied. Accounting policies selected and applied in these financial statements ensure that the resulting financial information satisfies the concepts of relevance and reliability, thereby ensuring that the substance of the underlying transactions or other events is reported.

Other accounting policies

Significant and other accounting policies that summarise the recognition and measurement basis used and are relevant to an understanding of the financial statements are provided throughout the notes to the financial statements.

Notes to financial statements 30 June 2020

2. Funding of our services

Introduction

The Office is predominantly funded by accrual based Parliamentary appropriations for the provision of outputs. These appropriations are received by the Department of Premier and Cabinet and the Department of Justice and Community Safety and on-forwarded to the Office in the form of grants.

Structure

2.1 Income that funds the delivery of our services

2.1. Income that funds the delivery of our services

	2020 \$	2019 \$
Grants from the Department of Premier and Cabinet ^(a)	14,671,998	18,724,330
Grants from the Department of Justice and Community Safety ^(a)	4,641,016	-
Total income ^(b)	19,313,014	18,724,330

Notes:

(a) The Office was part of the Department of Premier and Cabinet's portfolio until 30 April 2020. Post 1 May, up until 30 June 2020 in accordance with Machinery of Government changes, the Office was classified as part of the Department of Justice and Community Safety's portfolio.

(b) The total income includes the Office's Annual and Special appropriations, and other supplementary funding such as Treasurer's Advance, fee for service revenue collected and retained through a Section 29 arrangement. All these funds have been on passed as a consolidated grant to the Office by the Portfolio departments.

The Office does not have any grants other than parliamentary appropriation transferred as grants from the Department of Premier and Cabinet (DPC) and the Department of Justice and Community Safety (DJCS). These are recognised under the accounting standard AASB 1004 Contributions when the Office has delivered the services and DPC and DJCS has transferred the grant.

Previous accounting policy for 30 June 2019

Income from grants (other than contribution by owners) is recognised when the Office obtains control over the contribution. Where grants are reciprocal (i.e. equal value is given back by the Office to the provider), the Office is deemed to have assumed control when performance obligations under the terms of the grant are met. Non-reciprocal grants are recognised as income when the grant is received or receivable. Conditional grants may be reciprocal or non-reciprocal depending on the terms of the grant.

3. Cost of delivering our services

Introduction

This section provides an account of the expenses incurred by the Office in delivering services and outputs.

The funds that enable the provision of the services were disclosed in Note 2.

Structure

- 3.1 Expenses incurred in the delivery of services
- 3.2 Employee benefits
- 3.3 Capital asset charge
- 3.4 Other operating expenses

3.1. Expenses incurred in the delivery of services

	Notes	2020 \$	2019 \$
Employee benefits	3.2.1	13,048,125	12,460,361
Capital asset charge	3.3	287,100	288,000
Other operating expenses	3.4	4,543,352	5,412,122
Total expenses incurred in the delivery of services		17,878,577	18,160,483

3.2. Employee benefits

3.2.1. Employee benefits in the comprehensive operating statement

	2020 \$	2019 \$
Salaries and wages, annual leave and long service leave	12,094,202	11,495,566
Superannuation		
- Defined contribution superannuation expense	953,704	928,251
- Defined benefits superannuation expense	219	36,544
Total employee benefits	13,048,125	12,460,361

Employee benefits comprise all costs related to employment including salaries and wages, superannuation, leave entitlements, redundancy payments, fringe benefits tax and Workcover premiums paid and payable.

3.2.2. Employee benefits in the balance sheet

Provision is made for benefits accruing to employees in respect of annual leave and long service leave for services rendered up to the reporting date and recorded as an expense during the period the services are delivered.

	2020 \$	2019 \$
Current provisions:		
Annual leave	939,471	873,218
Long service leave	981,274	934,805
Total current provisions	1,920,745	1,808,023
Non-current provisions:		
Long service leave	219,429	562,274
Total non-current provisions	219,429	562,274
Total employee benefits	2,140,174	2,370,297

Current provisions: The annual leave liability is classified as a current liability and measured at the undiscounted amount expected to be paid, as the Office does not have an unconditional right to defer settlement of the liability for at least 12 months after the end of the reporting period.

Notes to financial statements

30 June 2020

Unconditional long service leave (LSL) is disclosed as a current liability even where the Office does not expect to settle the liability within 12 months because it will not have the unconditional right to defer the settlement of the entitlement should an employee take leave within 12 months.

No provision has been made for sick leave as all sick leave is non-vesting and it is not considered probable that the average sick leave taken in the future will be greater than the benefits accrued in the future. As sick leave is non-vesting, an expense is recognised in the Comprehensive Operating Statement as it is taken.

Employment on-costs such as payroll tax, workers compensation and superannuation are included as a component of the provision for employee benefits.

Non-current provisions: Conditional LSL is disclosed as a non-current liability. There is an unconditional right to defer the settlement of the entitlement until the employee has completed the requisite years of service. This non-current LSL is measured at present value.

Any gain or loss following revaluation of the present value of non-current LSL liability is recognised as a transaction, except to the extent that a gain or loss arises due to changes in bond interest rates for which it is then recognised as an 'other economic flow' in the net result.

The Office does not recognise any defined benefit liabilities because it has no legal or constructive obligation to pay future benefits relating to its employees. Instead, the Department of Treasury and Finance (DTF) discloses in its annual financial statements the net defined benefit cost related to the members of these plans as an administered liability (on behalf of the State as the sponsoring employer).

3.3. Capital asset charge

	2020 \$	2019 \$
Capital asset charge	287,100	288,000
Total capital asset charge	287,100	288,000

A capital asset charge is a charge levied by the Department of Treasury and Finance (DTF) on the budgeted written down value of non-current physical assets in the Office's balance sheet which aims to attribute to the opportunity cost of capital used in service delivery and provide incentives to the Office to identify and dispose of underutilised or surplus assets in a timely manner. The capital asset charge is calculated on the budgeted carrying amount of applicable non-current physical assets.

3.4. Other operating expenses

	2020 \$	2019 \$
Purchase of services	2,264,946	2,054,365
Information technology	1,062,951	1,405,545
Supplies and services	480,550	850,332
Operating lease rentals ^(a)	-	616,230
Occupancy costs	734,905	485,650
Total other operating expenses	4,543,352	5,412,122

Notes:

(a) With transition to AASB16 Leases, accommodation leases are accounted for as a "right of use asset/lease liability" in the balance sheet and are no longer expensed as lease rentals in the Operating Statement. However, as part of a Government initiative from 1 November 2019 the Office's accommodation leases are managed centrally by DTF. Since then, the Office receives an occupancy charge invoice from DTF for the cost of using the facilities and will be reported under occupancy costs from 2020.

Other operating expenses represent the day-to-day running costs incurred in delivering services of the Office.

Operating lease payments up until 30 June 2019 (including contingent rentals) are recognised on a straight-line basis over the lease term, except where another systematic basis is more representative of the time pattern of the benefits derived from the use of the leased asset.

Notes to financial statements

30 June 2020

Since 1 July 2019 all leases are accounted under AASB 16 Lease Accounting Standard in the Office's balance sheet. However, with the implementation of Centralised Accommodation Management all Office's leases were transferred to DTF with effect from 1 November 2019. From November 2019 the Office has been charged an accommodation service fee under an occupancy agreement with DTF. These fees are recognised based on the period the services relate to under occupancy costs.

Notes to financial statements

30 June 2020

4. Key assets available to support output delivery

Introduction

The Office controls property, plant and equipment in fulfilling its objectives and conducting its activities. These assets represent the key resources that the Office uses for the delivery of those activities.

Structure

- 4.1 Property, plant and equipment
- 4.2 Intangible assets
- 4.3 Depreciation and amortisation

4.1. Property, plant and equipment

	2020 \$	2019 \$
Leasehold improvements	4,761,618	4,709,918
Less: accumulated depreciation	(1,882,778)	(1,358,053)
Net carrying amount	2,878,840	3,351,865
Office furniture and equipment at fair value	609,403	475,272
Less: accumulated depreciation	(391,197)	(304,228)
Net carrying amount	218,206	171,044
Lease Motor vehicles	26,906	25,897
Less: accumulated depreciation	(2,891)	(12,511)
Net carrying amount	24,015	13,386
Total property, plant and equipment	3,121,061	3,536,295

Property, plant and equipment other than right of use assets

Initial recognition: Items of property, plant and equipment are recognised initially at cost. Where an asset is acquired for no or nominal consideration, the cost is its fair value at the date of acquisition.

The cost of leasehold improvements is capitalised as an asset and depreciated over the remaining term of the lease or the estimated useful life of the improvements, whichever is the shorter.

The cost of the office furniture and equipment is the purchase price and any other additional cost incurred in bring the asset to the place and condition it is available for use.

The cost of the leased motor vehicles are measured at amounts equal to the fair value of the leased asset or, if lower, the present value of the minimum lease payments, each determined at the inception of the lease.

Subsequent measurement: Property, plant and equipment is subsequently measured at fair value less accumulated depreciation and impairment. Fair value is determined with regard to the asset's highest and best use (considering legal or physical restrictions imposed on the asset, public announcements or commitments made in relation to the intended use of the asset).

Right-of-use asset acquired by lessees (Under AASB 16 Leases from 1 July 2019) – Initial recognition

The Office recognises a right-of-use asset and a lease liability at the lease commencement date. The right-of-use asset is initially measured at cost which comprises the initial amount of the lease liability adjusted for:

- any lease payments made at or before the commencement date less any lease incentive received; plus
- any initial direct costs incurred; and
- an estimate of costs to dismantle and remove the underlying asset or to restore the underlying asset or the site on which it is located.

Right-of-use asset – Subsequent measurement

The Office depreciates the right-of-use assets on a straight-line basis from the lease commencement date to the earlier of the end of the useful life of the right-of-use asset or the end of the lease term. The right-of-use assets are also subject to revaluation.

Impairment: Property, plant and equipment, is tested for impairment whenever there is an indication that an asset may be impaired.

The assets concerned are tested as to whether their carrying value exceeds their recoverable amount. Where an asset's carrying value exceeds its recoverable amount, the difference is considered to be an impairment and is written off as an 'other economic flow', except to the extent that it can be offset to an asset revaluation surplus amount applicable to that class of asset.

The recoverable amount for most assets is measured at the higher of current replacement cost and fair value less costs to sell. Recoverable amount for assets held primarily to generate net cash inflows is measured at the higher of the present value of future cash flows expected to be obtained from the asset and fair value less costs to sell

Notes to financial statements
30 June 2020

4.1.1. Reconciliation of movements in carrying amount of property, plant and equipment

	Leasehold improvements		Office furniture and equipment		Leased motor vehicles		Total	
	2020 \$	2019 \$	2020 \$	2019 \$	2020 \$	2019 \$	2020 \$	2019 \$
Carrying amount at start of year	3,351,865	3,862,895	171,044	245,337	13,386	26,775	3,536,295	4,135,007
Additions	51,700	-	134,131	-	26,906	-	212,737	-
Disposals	-	-	-	-	(11,494)	(8,759)	(11,494)	(8,759)
Re-measurements	-	-	-	-	-	-	-	-
Transfers between classes	-	50	-	(50)	-	-	-	-
Depreciation expense	(524,725)	(511,080)	(86,969)	(74,243)	(4,783)	(4,630)	(616,477)	(589,953)
Carrying amount at end of the year	2,878,840	3,351,865	218,206	171,044	24,015	13,386	3,121,061	3,536,295

OFFICE OF THE OMBUDSMAN

The following tables are subsets of property, plant and equipment included in Note 4.1 showing the right-of-use assets.

4.1(a) Total right-of-use assets: Property, plant and equipment

	Gross carrying amount 2020 \$	Accumulated depreciation 2020 \$	Net carrying amount 2020 \$
Leased motor vehicles	26,906	(2,891)	24,015
Net carrying amount	26,906	(2,891)	24,015

4.1(b) Reconciliation of movements in carrying amount of right-of-use assets

	<i>Right of Use Buildings 2020 \$</i>	<i>Leased motor vehicles 2020 \$</i>
Opening balance- 1 July 2019	8,940,384	13,386
Additions	-	26,906
Transfers ^(a)	(8,695,510)	-
Disposals	-	(11,494)
Depreciation ^(b)	(244,874)	(4,783)
Closing balance- 30 June 2020	-	24,015

Notes:

(a) The Office's Right of Use Buildings were derecognised & transferred to DTF in accordance with Government direction i.e. Centralised Accommodation Management initiative.

(b) The Right of use buildings depreciation charges relates to the Office's accommodation lease which has been accounted for, under AASB16 up until 31 October 2019.

4.2. Intangible assets

	2020 \$	2019 \$
Intangible assets - work in progress	-	42,763
Net carrying amount	-	42,763
Capitalised software	1,139,471	-
Less: accumulated amortisation	(25,070)	-
Net carrying amount	1,114,401	42,763
Total intangible assets	1,114,401	42,763
Reconciliation of movements in carrying amount:		
Carrying amount at start of year	42,763	-
Additions - work in progress	1,096,708	42,763
Disposals	-	-
Amortisation expense	(25,070)	-
Carrying amount at end of year	1,114,401	42,763

Intangible assets represent identifiable non-monetary assets without physical substance.

OFFICE OF THE OMBUDSMAN

Initial recognition: Purchased intangible assets are measured at cost less accumulated amortisation and impairment. Costs incurred subsequent to initial acquisition are capitalised when it is expected that additional future economic benefits will flow to the Office. Amortisation begins when the asset is available for use, that is, when it is in the location and condition necessary for it to be capable of operating in the manner intended by management.

Subsequent measurement: Intangible assets with finite useful lives are amortised as an 'expense from transactions' on a straight-line basis over their useful lives. Purchased intangible assets have useful lives of between 3 and 7 years.

Impairment: Intangible assets with finite useful lives are tested for impairment annually and whenever an indication of impairment is identified.

4.3. Depreciation and amortisation

	2020 \$	2019 \$
Leasehold improvements	524,725	511,080
Right of use buildings ^(a)	244,874	-
Office furniture and equipment	86,969	74,243
Leased motor vehicles	4,783	4,630
Capitalised software	25,070	-
Total depreciation and amortisation	886,421	589,953

Notes:

(a) The Right of use buildings depreciation charges relates to the Office's accommodation lease which has been accounted for, under AASB16 up until 31 October 2019. Post 1 November 2019, the Office's operating lease is centrally managed by DTF.

Depreciation and amortisation are calculated on a straight-line basis, at rates that allocate the asset's value, less any estimated residual value, to its useful lives. Depreciation and amortisation begins when the asset is first available for use in the location and condition necessary for it to be capable of operating in the manner intended by the Office.

The estimated useful lives, residual values and depreciation method are reviewed at least annually. Typical estimated useful lives applicable for the different asset classes are included in the table below:

Useful life of assets

	Useful life (years)
Leasehold improvements	5-40
Office furniture and equipment	3-20
Leased motor vehicles	2-3
Capitalised software	3-5

Right-of-use assets are generally depreciated over the shorter of the asset's useful life and the lease term.

Leasehold improvements are depreciated over the shorter of the lease term and their useful lives.

OFFICE OF THE OMBUDSMAN

5. Other assets and liabilities

Introduction

This section sets out those assets and liabilities that arise from the Office's operations.

Structure

- 5.1 Receivables
- 5.2 Payables
- 5.3 Deferred lease incentive
- 5.4 Prepayments
- 5.5 Other provisions

5.1. Receivables

	2020 \$	2019 \$
Contractual		
Receivables	-	922
Statutory		
GST recoverable	-	60,087
Amounts owing from Victorian Government ^(a)	6,899,189	5,501,683
Total receivables	6,899,189	5,562,692
Represented by:		
Current receivables	6,710,408	5,120,116
Non-current receivables	188,781	442,576

Notes:

(a) Amounts owing from Victorian Government represent funding for all commitments incurred by the Office, which are drawn from the Consolidated fund (Government's primary financial account) as the commitments fall due.

Contractual receivables are classified as financial instruments and measured as amortised cost. They are initially recognised at fair value plus any directly attributable transaction costs. Subsequent to initial recognition they are measured at amortised cost using the effective interest method, less any impairment.

There are no financial assets that have had their terms renegotiated so as to prevent them from being past due or impaired, and they are stated at the carrying amounts as indicated.

Statutory receivables do not arise from contracts and are recognised and measured similarly to contractual receivables (except for impairment) but are not classified as financial instruments.

5.2. Payables

	2020 \$	2019 \$
Contractual		
Amounts owing to Victorian Government ^(a)	1,926,984	-
Creditors and accruals	1,833,829	1,145,557
Total payables	3,760,813	1,145,557

Notes:

(a) Amounts owing to Victorian Government represent the lease cash incentive payable to DTF with implementation of the Centralised Accommodation Management.

Payables represent liabilities for goods and services provided to the Office that are unpaid at the end of the financial year. Payables are initially measured at fair value, being the cost of the goods and services, and then subsequently measured at amortised cost.

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5.3. Deferred lease incentive

	2020 \$	2019 \$
Current	48,333	291,998
Non-current	-	1,800,652
Total deferred lease incentive	48,333	2,092,650

The lease incentive, which includes Cash and Contribution to fitouts, relates to the Office's premises at Level 2, 570 Bourke Street, Melbourne. Post implementation of the Centralised Accommodation Management, the Cash lease incentive balance was reclassified as a payable to DTF as per Government direction. The Office will continue to amortise the incentive received as Contribution towards fit outs, over remainder of the lease term.

5.4. Prepayments

	2020 \$	2019 \$
Prepayments	141,785	302,655
Total prepayments	141,785	302,655

Prepayments represent payments in advance of receipt of goods or services or payment for expenditure relating to future periods.

5.5. Other provisions

	2020 \$	2019 \$
Make-good provision	413,600	361,900
Total other provisions	413,600	361,900

The make-good provision is recognised in accordance with the agreement over the leased premises. The Office is required to remove any leasehold improvements from the leased premises and restore the premises to its original condition at the end of the lease term.

5.5.1. Reconciliation of movements in make-good provision

	2020 \$	2019 \$
Opening balance	361,900	361,900
Additional provision recognised	51,700	-
Closing balance	413,600	361,900

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6. Financing our operations

Introduction

This section provides information on the sources of finance utilised by the Office during its operations, along with interest expenses (the cost of borrowings) and other information related to financing activities of the Office.

This section also includes disclosures on commitments for expenditure.

Structure

- 6.1 Borrowings
- 6.2 Leases
- 6.3 Commitments for expenditure
- 6.4 Reconciliation of net result for the period to cash flow from operating activities

6.1. Borrowings

	2020 \$	2019 \$
Secured		
Current lease liabilities	4,888	13,402
Non-current lease liabilities	19,239	-
Total Borrowings	24,127	13,402

Leases are recognised as assets and liabilities of the Office at amounts equal to the fair value of the lease property or, if lower, at the present value of the minimum lease payments, each determined at the inception of the lease. The leased asset is depreciated over the shorter of the estimated useful life of the asset or the term of the lease.

Minimum lease payments are apportioned between reduction of the lease liability and periodic finance charges which are calculated using the interest rate implicit in the lease and charged directly to the comprehensive operating statement.

Leases are secured borrowings as the right to the leased assets will revert to the lessor in the event of a default.

There were no defaults and breaches of any lease conditions during the current or previous financial years.

OFFICE OF THE OMBUDSMAN

6.2. Leases

Information about leases for which the Office is a lessee is presented below.

The Office's leasing activities

The Office leases various IT equipment and motor vehicles. The lease contracts are typically made for a fixed period of 1-10 years with an option to renew the lease after that date.

Leases of IT equipment with shorter contract terms of up to 12 months or low-value items of \$10k or less are not recognised as right-of-use assets and lease liabilities. These lease expenses are recognised when they become payable by the Office.

6.2 (a) Right-of-use Assets

Right-of-use assets are presented in note 4.1.

6.2 (b) Amounts recognised in the Statement of Comprehensive Statement

The following amounts are recognised in the Statement of Comprehensive Operating Statement relating to leases:

	2020 \$
Interest expense on lease liabilities	86,678

6.2 (c) Amounts recognised in the Statement of Cashflows

The following amounts are recognised in the Statement of Cashflows for the year ending 30 June 2020 relating to leases.

	2020 \$
Total cash outflow for leases	(240,146)

For any new contracts entered into on or after 1 July 2019, the Office considers whether a contract is, or contains a lease. A lease is defined as 'a contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration'. To apply this definition the Office assesses whether the contract meets three key evaluations:

- Whether the contract contains an identified asset, which is either explicitly identified in the contract or implicitly specified by being identified at the time the asset is made available to the Office and for which the supplier does not have substantive substitution rights;
- Whether the Office has the right to obtain substantially all of the economic benefits from use of the identified asset throughout the period of use, considering its rights within the defined scope of the contract and the Office has the right to direct the use of the identified asset throughout the period of use; and
- Whether the Office has the right to take decisions in respect of 'how and for what purpose' the asset is used throughout the period of use.

This policy is applied to all contracts from 1 July 2019.

Separation of lease and non-lease components

At inception or on reassessment of a contract that contains a lease component, the lessee is required to separate out and account separately for non-lease components within a lease contract and exclude these amounts when determining the lease liability and right-of-use asset amount.

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Recognition and measurement of leases under AASB 16 from 1 July 2019

Lease Liability – initial measurement

The lease liability is initially measured at the present value of the lease payments unpaid at the commencement date, discounted using the interest rate implicit in the lease if that rate is readily determinable or the Office's incremental borrowing rate.

Lease payments included in the measurement of the lease liability comprise the following:

- fixed payments (including in-substance fixed payments) less any lease incentive receivable;
- variable payments based on an index or rate, initially measured using the index or rate as at the commencement date;
- amounts expected to be payable under a residual value guarantee; and
- payments arising from purchase and termination options reasonably certain to be exercised.

Lease Liability – subsequent measurement

Subsequent to initial measurement, the liability will be reduced for payments made and increased for interest. It is remeasured to reflect any reassessment or modification, or if there are changes in-substance fixed payments.

When the lease liability is remeasured, the corresponding adjustment is reflected in the right-of-use asset, or profit and loss if the right-of-use asset is already reduced to zero.

Short-term leases and leases of low-value assets

The Office has elected to account for short-term leases and leases of low-value assets using the practical expedients. Instead of recognising a right-of-use asset and lease liability, the payments in relation to these are recognised as an expense in profit or loss when the expenditure is incurred.

Presentation of right-of-use assets and lease liabilities

The Office presents right-of-use assets as 'property plant equipment' unless they meet the definition of investment property, in which case they are disclosed as 'investment property' in the balance sheet. Lease liabilities are presented as 'borrowings' in the balance sheet.

Recognition and measurement of leases (under AASB 117 until 30 June 2019)

In the comparative period, leases of property, plant and equipment were classified as either finance lease or operating leases.

The Office determined whether an arrangement was or contained a lease based on the substance of the arrangement and required an assessment of whether fulfilment of the arrangement is dependent on the use of the specific asset(s); and the arrangement conveyed a right to use the asset(s).

Leases of property, plant and equipment where the Office as a lessee had substantially all of the risks and rewards of ownership were classified as finance leases. Finance leases were initially recognised as assets and liabilities at amounts equal to the fair value of the leased property or, if lower, the present value of the minimum lease payment, each determined at the inception of the lease. The leased asset is accounted for as a non-financial physical asset and depreciated over the shorter of the estimated useful life of the asset or the term of the lease.

Minimum finance lease payments were apportioned between the reduction of the outstanding lease liability and the periodic finance expense, which is calculated using the interest rate implicit in the lease and charged directly to the consolidated comprehensive operating statement. Contingent rentals associated with finance leases were recognised as an expense in the period in which they are incurred.

Assets held under other leases were classified as operating leases and were not recognised in the Office's balance sheet. Operating lease payments were recognised as an operating expense in the Statement of Comprehensive Income on a straight-line basis over the lease term.

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6.3. Commitments for expenditure

Commitments for future expenditure include operating and capital commitments arising from contracts. These commitments are recorded below at their nominal value and inclusive of GST. Where it is considered appropriate and provides additional relevant information to users, the net present values of significant individual projects are stated. These future expenditures cease to be disclosed as commitments once the related liabilities are recognised in the balance sheet.

	2020 \$	2019 \$
Operating commitments		
Commitments contracted for at the end of the reporting period but not recognised as liabilities, are payable as follows:		
Within one year	968,586	-
Later than one year but not later than five years	2,754,116	-
Total commitments (inclusive of GST)	3,722,702	-
Less GST recoverable	338,427	-
Total commitments (exclusive of GST)	3,384,274	-
Capital commitments		
Commitments for capital projects payable as follows:		
Within one year	155,405	-
Total commitments (inclusive of GST)	155,405	-
Less GST recoverable	14,128	-
Total commitments (exclusive of GST)	141,278	-
Operating lease commitments ^(a)		
Commitments for minimum lease payments in relation to non-cancellable operating leases, not recognised as liabilities, are payable as follows:		
Within one year	-	944,579
Later than one year but not later than five years	-	4,070,319
Later than five years	-	2,506,939
Total commitments (inclusive of GST)	-	7,521,837
Less GST recoverable	-	683,803
Total commitments (exclusive of GST)	-	6,838,034
Centralised Accommodation Management (CAM) commitments ^(b)		
Commitments for management of accommodation leases by Department of Treasury and Finance (DTF) as follows:		
Within one year	1,395,896	-
Later than one year but not later than five years	5,583,581	-
Total commitments (inclusive of GST)	6,979,477	-
Less GST recoverable	634,498	-
Total commitments (exclusive of GST)	6,344,979	-

Note:

(a) Up to 30 June 2019, the Office's Operating leases were accounted for under the then effective leasing standard, AASB 117.

(b) In accordance with a Government initiative, from 1 November 2019 most of the Government accommodation leases are centrally managed by DTF. These commitments represent amounts payable to DTF to meet costs associated with the Office's use of these accommodation facilities that are included in an occupancy agreement between the Office and DTF.

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6.4. Reconciliation of net result for the period to cash flow from operating activities

	2020 \$	2019 \$
Net result for the period	538,438	(105,491)
Non-cash movements		
Depreciation	886,421	589,953
(Gain)/loss on disposal of non-current assets	16,631	(6,513)
Movements in assets and liabilities		
(Increase)/decrease in receivables	(1,336,497)	(1,047,929)
(Increase)/decrease in prepayments	160,870	(68,074)
Increase/(decrease) in payables	2,615,256	601,804
Increase/(decrease) in provisions	(230,123)	378,914
Increase/(decrease) in other liabilities	(2,044,317)	(301,997)
Net cash flows from operating activities	606,679	40,667

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7. Risks, contingencies and valuation judgements

Introduction

The Office is exposed to risk from its activities and outside factors. In addition, it is often necessary to make judgements and estimates associated with recognition and measurement of items in the financial statements. This section sets out financial instrument specific information, (including exposures to financial risks) as well as those items that are contingent in nature or require a higher level of judgement to be applied.

Structure

- 7.1 Financial instruments specific disclosures
- 7.2 Contingent assets and contingent liabilities

7.1. Financial instruments specific disclosures

Introduction

Financial instruments arise out of contractual agreements between entities that give rise to a financial asset of one entity and a financial liability or equity instrument of another entity. Due to the nature of the Office's activities, certain financial assets and financial liabilities arise under statute rather than a contract. Such financial assets and financial liabilities do not meet the definition of financial instruments in AASB 132 *Financial Instruments: Presentation*. For example, statutory receivables do not meet the definition of financial instruments as they do not arise under contract. The Office's statutory receivables are disclosed in note 5.1.

Categories of financial assets

Financial assets at amortised cost

Financial assets are measured at amortised costs. These assets are initially recognised at fair value plus any directly attributable transaction costs and subsequently measured at amortised cost using the effective interest method less any impairment.

Financial assets at amortised cost include the Office's trade receivables, but not statutory receivables.

Categories of financial liabilities

Financial liabilities at amortised cost

Financial liabilities are initially recognised on the date they are originated. They are initially measured at fair value plus any directly attributable transaction costs. Subsequent to initial measurement, these financial instruments are measured at amortised cost using the effective interest method.

Financial liabilities measured at amortised cost include all of the Office's contractual payables and lease liabilities (borrowings).

Derecognition of financial assets

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is derecognised when the rights to receive cash flows from the asset have expired.

Derecognition of financial liabilities

A financial liability is derecognised when the obligation under the liability is discharged, cancelled or expires.

Offsetting financial instruments

Financial instrument assets and liabilities are offset and the net amount presented in the balance sheet when, and only when, the Office concerned has a legal right to offset the amounts and intend either to settle on a net basis or to realise the asset and settle the liability simultaneously.

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7.1.1. Categorisation of financial instruments

			Carrying amount	
			2020	2019
			\$	\$
Receivables	5.1	Financial assets at amortised cost	-	922
Total financial assets			-	922
Financial liabilities				
Payables	5.2	Financial liabilities at amortised cost	3,760,813	1,145,557
Borrowings	6.1	Financial liabilities at amortised cost	24,127	13,402
Total financial liabilities			3,784,940	1,158,959

7.1.2. Financial risk management objectives and policies

As a whole, the Office's financial risk management program seeks to manage the risks arising from volatility in financial instruments.

The Office's main financial risks include credit risk, liquidity risk and market risk. The Office manages these financial risks in accordance with its financial risk management policy.

Credit risk

Credit risk arises from the financial assets of the Office, which comprise trade and other receivables. The Office's exposure to credit risk arises from the potential default of counterparties on their contractual obligations resulting in financial loss to the Office. Credit risk is measured at fair value and is monitored on a regular basis.

Credit risk associated with the Office's financial assets is minimal because the main debtor is the Victorian Government.

Liquidity risk

Liquidity risk arises when the Office is unable to meet its financial obligations as they fall due. The Office operates under the Victorian Government's fair payments policy of settling financial obligations within 30 days and in the event of a dispute, making payments within 30 days from the date of resolution.

The Office's exposure to liquidity risk is deemed insignificant based on a current assessment of risk. Maximum exposure to liquidity risk is the carrying amounts of financial liabilities. The Office manages its liquidity risk by maintaining an adequate level of uncommitted funds that can be used at short notice to meet its short-term obligations.

Market risk

The Office has no exposure to interest rate, foreign currency or other price risks. Interest rates on the Office's lease liabilities are fixed.

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7.2. Contingent liabilities and contingent assets

Contingent assets and contingent liabilities are not recognised in the balance sheet but are disclosed and, if quantifiable, are measured at nominal value.

Contingent assets and liabilities are presented inclusive of GST receivable or payable respectively.

Contingent assets

Contingent assets are possible assets that arise from past events, whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity.

These are classified as either quantifiable, where the potential economic benefit is known, or non-quantifiable.

There were no contingent assets based on the above definitions relating to the Office at 30 June 2020 (30 June 2019: Nil).

Contingent liabilities

Contingent liabilities are:

- possible obligations that arise from past events, whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or
- present obligations that arise from past events but are not recognised because:
 - it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligations; or
 - the amount of the obligations cannot be measured with sufficient reliability.

Contingent liabilities are also classified as either quantifiable or non-quantifiable.

There were no contingent liabilities based on the above definitions relating to the Office at 30 June 2020 (30 June 2019: Nil).

8. Other disclosures

Introduction

This section includes additional material disclosures required by accounting standards or otherwise, for the understanding of this financial report.

Structure

- 8.1 Economic impacts of the Coronavirus pandemic (COVID-19)
- 8.2 Subsequent events
- 8.3 Responsible persons
- 8.4 Remuneration of executives
- 8.5 Related parties
- 8.6 Remuneration of auditors
- 8.7 Administered items
- 8.8 Change in accounting policies
- 8.9 Australian Accounting Standards issued that are not yet effective

8.1 Economic impacts of the Coronavirus pandemic (COVID-19)

The Coronavirus pandemic (COVID-19) has resulted in a state of global economic uncertainty. The Office has assessed potential impacts of COVID-19 on future state of its activities. At the reporting date, there are no fundamental changes anticipated to business operations, as well as no material financial impacts due to COVID-19 foreseen for the Office.

8.2 Subsequent events

With effect from 1 July 2020, in accordance with an amendment to the Ombudsman Act 1973, the Office will become budget independent and funded directly through parliamentary appropriations.

Also, from 1 July 2020 the Office will leave the Centralised Accommodation (CAM) initiative and self-manage its accommodation facilities. With this change the accommodation lease that is held by DTF will be transferred to the Office. Upon transfer, this lease and its related incentive will be accounted under the AASB16 lease accounting standard by creating a right of use asset and a lease liability in the 2021 financial year. More details about the CAM initiative are provided in the footnotes of note 3.4 and 6.3.

8.3. Responsible persons

The persons who held the positions of Minister and Accountable Officer in the Office (from 1 July 2019 to 30 June 2020) were:

Responsible Minister ⁽ⁱ⁾	The Hon Daniel Andrews MP, Premier The Hon Gavin Jennings MLC, Special Minister of State (1 July 2019 to 23 March 2020) The Hon Jill Hennessy MP, Attorney-General (23 March to 30 June 2020)
Accountable Officer	Deborah Glass OBE, Ombudsman

Note:

(i) Responsible Minister for the Office includes those Ministers who administer various sections of the Ombudsman Act 1973.

Remuneration

The total remuneration package of the person holding the office of Ombudsman, in connection with the management of the Office during the reporting period, was in the range: \$530,000 – \$539,999 (\$520,000 – \$529,999 in 2018-19).

Amounts relating to Ministers are reported in the financial statements of the Department of Parliamentary Services.

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8.4 Remuneration of executives

The number of executive officers, other than Ministers and Accountable Officers, and their total remuneration during the reporting period are shown in the table below. Total annualised employee equivalents provide a measure of full time equivalent executive officers over the reporting period.

Remuneration comprises employee benefits in all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered, and is disclosed in the following categories.

Short-term employee benefits include amounts such as wages, salaries, annual leave or sick leave that are usually paid or payable on a regular basis, as well as non-monetary benefits such as allowances and free or subsidised goods or services.

Post-employment benefits include employer contributions for members of both defined benefit and defined contribution superannuation plans.

Other long-term benefits include long service leave, other long-service benefits or deferred compensation.

Termination benefits include termination of employment payments, such as severance packages.

Remuneration of executives

	2020 \$	2019 \$
Remuneration of executive officers		
Short-term employee benefits	1,017,093	816,267
Post-employment benefits	77,124	63,046
Other long-term benefits	12,879	25,480
Total remuneration	1,107,096	904,793
Total number of executives	5	4
Total annualised employee equivalents ⁽ⁱ⁾	4.5	4.00

Note:

(i) Annualised employee equivalent is based on paid working hours of 38 ordinary hours per week over the 52 weeks for the reporting period.

8.5 Related parties

The Office is a wholly owned and controlled entity of the State of Victoria. Related parties of the Office include:

- all key management personnel and their close family members;
- all cabinet Ministers and their close family members; and
- all departments and public sector entities that are controlled and consolidated into the whole of State consolidated financial statements.

Significant transactions with government-related entities

The Office received grant funding from, the Department of Premier and Cabinet of \$14.67 million (2019: \$18.7 million) and the Department of Justice and Community Safety of \$4.64 million for the post Machinery of Government (MoG) period (1 May to 30 June 2020).

Key management personnel (KMP) of the Office included the Portfolio Minister being The Hon Daniel Andrews MP, The Hon Gavin Jennings MLC, Special Minister of State (1 July 2019 to 22 March 2020), The Hon Jill Hennessy MP (from 23 March 2020) and the Ombudsman being Deborah Glass OBE. The compensation detailed below excludes the salaries and benefits the Portfolio Minister receives. The Minister's remuneration and allowances are set by the *Parliamentary Salaries and Superannuation Act 1968* and is reported in the financial report of Department of Parliamentary Services.

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	2020	2019
Remuneration of KMPs	\$	\$
Short-term employee benefits	488,151	484,462
Post-employment benefits	20,931	20,452
Other long-term benefits	28,519	20,433
Total	537,602	525,347

Transactions with KMPs and other related parties

Given the breadth and depth of State government activities, related parties transact with the Victorian public sector in a manner consistent with other members of the public. Further employment of processes within the Victorian public sector occur on terms and conditions consistent with the *Public Administration Act 2004* and Codes of Conduct and Standards issued by the Victorian Public Sector Commission. Procurement processes occur on terms and conditions consistent with the Victorian Government Procurement Board requirements.

Outside of normal citizen type transactions with the Office, there were no related party transactions that involved KMPs and their close family members. No provision has been required, nor any expense recognised, for impairment of receivables from related parties.

8.6 Remuneration of auditors

	2020	2019
	\$	\$
Audit fees paid or payable to the Victorian Auditor-General's Office		
Audit of the annual financial statements	16,900	16,400
Total remuneration of auditors	16,900	16,400

No other direct services were provided by the Victorian Auditor-General's Office.

8.7 Administered items

In addition to the specific operations of the Office which are included in the balance sheet, comprehensive operating statement and cash flow statement, the Office administers or manages activities on behalf of the State. The transactions relating to these activities are reported as administered in this note. Administered transactions reflect the operations of the Commuter Club. During the year ended 30 June 2020, net administered assets amounted to \$12,327 (2019- \$12,327).

8.8 Change in accounting policies

8.8.1 Leases

This note explains the impact of the adoption of AASB 16 Leases on the Office's financial statements.

The Office has applied AASB 16 with a date of initial application of 1 July 2019.

The Office has elected to apply AASB 16 using the modified retrospective approach, as per the transitional provisions of AASB 16 for all leases for which it is a lessee. The cumulative effect of initial application is recognised in retained earnings as at 1 July 2019. Accordingly, the comparative information presented is not restated and is reported under AASB 117 and related interpretations.

Previously, the Office determined at contract inception whether an arrangement is or contains a lease under AASB 117 and Interpretation 4 Determining whether an arrangement contains a Lease. Under AASB 16, the Office assesses whether a contract is or contains a lease based on the definition of a lease as explained in note 7.2.

As a lessee, the Office previously classified leases as operating, or finance leases based on its assessment of whether the lease transferred significantly all of the risks and rewards incidental to ownership of the underlying asset to the Office. Under AASB 16, the Office recognises right-of-use

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assets and lease liabilities for all leases except where exemption is availed in respect of short-term and low-value leases.

On adoption of AASB 16, the Office recognised lease liabilities in relation to leases which had previously been classified as operating leases under the principles of AASB 117. These liabilities were measured at the present value of the remaining lease payments, discounted using the Office's incremental borrowing rate as of 1 July 2019. On transition, right-of-use assets are measured at the amount equal to the lease liability, adjusted by the amount of any prepaid or accrued lease payments relating to that lease recognised in the balance sheet as at 30 June 2019.

The Office has elected to apply the following practical expedients when applying AASB 16 to leases previously classified as operating leases under AASB 117:

- Applied a single discount rate to a portfolio of leases with similar characteristics;
- Adjusted the right-of-use assets by the amount of AASB 137 onerous contracts provision immediately before the date of initial application, as an alternative to an impairment review;
- Applied the exemption not to recognise right-of-use assets and liabilities for leases with less than 12 months of lease term;
- Excluded initial direct costs from measuring the right-of-use asset at the date of initial application; and
- Used hindsight when determining the lease term if the contract contains options to extend or terminate the lease.

For leases that were classified as finance leases under AASB 117, the carrying amount of the right-of-use asset and lease liability at 1 July 2019 are determined as the carrying amount of the lease asset and lease liability under AASB 117 immediately before that date.

Impacts on financial statements

On transition to AASB 16, the Office recognised \$8.94 million of right-of-use assets and \$8.94 million of lease liabilities. Due to Centralised Accommodation Management, the Right of Use asset and liability were derecognised and transferred to DTF.

When measuring lease liabilities, the Office discounted lease payments using its incremental borrowing rate at 1 July 2019. The weighted average rate applied is 3 per cent.

8.8.2 Transition impact on financial statements

This note explains the impact of the adoption AASB16 Lease accounting standards for the first time, from 1 July 2019:

Impact on balance sheet due to the adoption of AASB 1058 and AASB 16 is illustrated with the following reconciliation between the restated carrying amounts at 30 June 2019 and the balances reported under the new accounting standards at 1 July 2019:

Balance sheet	Notes	Before new accounting standards Opening 1 July 2019	Impact of new accounting standards – AASB 16 and 1058	After new accounting standards Opening 1 July 2019
Total non-financial assets	4.1.1	3,536,295	8,940,384	12,476,679
Total assets		3,536,295	8,940,384	12,476,679
Borrowings	6.1	13,402	8,940,384	8,953,786
Total liabilities		13,402	8,940,384	8,953,786

Note:

(a) AASB 1058 Income of Not for Profit entities did not have any impact on the Opening balances.

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8.9 Australian Accounting Standards issued that are not yet effective which are applicable to the Victorian Ombudsman

Certain new and revised accounting standards have been issued but are not effective for the 2019-20 reporting period. These accounting standards have not been applied to this Financial Statements. The Office is reviewing its existing policies and assessing the potential implications of these accounting standards which includes:

- AASB 2018-7 Amendments to Australian Accounting Standards – Definition of Material

This Standard principally amends AASB 101 Presentation of Financial Statements and AASB 108 Accounting Policies, Changes in Accounting Estimates and Errors. It applies to reporting periods beginning on or after 1 January 2020 with earlier application permitted. The Office has not earlier adopted the Standard.

The amendments refine and clarify the definition of material in AASB 101 and its application by improving the wording and aligning the definition across AASB Standards and other publications. The amendments also include some supporting requirements in AASB 101 in the definition to give it more prominence and clarify the explanation accompanying the definition of material.

The Office is in the process of analysing the impacts of this Standard. However, it is not anticipated to have a material impact.

- AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-Current

This Standard amends AASB 101 to clarify requirements for the presentation of liabilities in the statement of financial position as current or non-current. It initially applied to annual reporting periods beginning on or after 1 January 2022 with earlier application permitted however the AASB has recently issued ED 301 Classification of Liabilities as Current or Non-Current – Deferral of Effective Date with the intention to defer the application by one year to periods beginning on or after 1 January 2023. The Office will not early adopt the Standard.

The Office is in the process of analysing the impacts of this Standard. However, it is not anticipated to have a material impact.

Several other amending standards and AASB interpretations have been issued that apply to future reporting periods but are considered to have limited impact on the Office's reporting.

- AASB 17 Insurance Contracts.
- AASB 1060 General Purpose Financial Statements – Simplified Disclosures for For-Profit and Not-for-Profit Tier 2 Entities (Appendix C).
- AASB 2018-6 Amendments to Australian Accounting Standards – Definition of a Business.
- AASB 2019-1 Amendments to Australian Accounting Standards – References to the Conceptual Framework.
- AASB 2019-3 Amendments to Australian Accounting Standards – Interest Rate Benchmark Reform.
- AASB 2019-5 Amendments to Australian Accounting Standards – Disclosure of the Effect of New IFRS Standards Not Yet Issued in Australia.

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ACCOUNTABLE OFFICER'S AND CHIEF FINANCIAL OFFICER'S DECLARATION

The attached financial statements for the Office of the Ombudsman have been prepared in accordance with Direction 5.2 of the Standing Directions of the Assistant Treasurer under the *Financial Management Act 1994*, applicable Financial Reporting Directions, Australian Accounting Standards including interpretations, and other mandatory professional reporting requirements.

We further state that, in our opinion, the information set out in the comprehensive operating statement, balance sheet, statement of changes in equity, cash flow statement and accompanying notes, presents fairly the financial transactions during the year ended 30 June 2020 and financial position of the Office of the Ombudsman at 30 June 2020.

At the time of signing, we are not aware of any circumstance which would render any particulars included in the financial statements to be misleading or inaccurate.

We authorise the attached financial statements for issue on 9 September 2020.




.....
Andrew Davis
 Chief Financial Officer, Department of Premier
 and Cabinet

.....
Deborah Glass OBE
 Ombudsman

Melbourne
 9 September 2020

Melbourne
 9 September 2020

Appendix 1: Disclosure index

Table 13: Disclosure index		
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Other disclosures as required by FRDs in notes to the financial statements (a)		
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<i>Note: (a): References to FRDs have been removed from the Disclosure Index if the specific FRDs do not contain requirements that are of the nature of disclosure.</i>		

Appendix 2: Annual Plan 2019-20

Table 14: Annual Plan 2019-20			
Focus area	Activity	Progress	Notes
A more accessible Ombudsman office for Victorians and the public sector	Launch the Ombudsman's new, modern and accessible website	Completed	The Victorian Ombudsman's new mobile-friendly website went live in mid-February 2020. The website includes a user-friendly online complaint form, simple navigation and plain English content. Year on year, website visitor numbers increased by 20 per cent between Feb-June 2020. Vision Australia has audited the website against AA accessibility standards and it is expected that the Ombudsman will achieve AA accessibility standards by the end of 2020.
	Strategic communications and engagement plan	Ongoing	A quarterly e-newsletter promoting best practice in public administration was developed and the first e-newsletter distributed in September 2020.
A modern and responsive Ombudsman office	Prepare for budget independence changes in the new Act	Completed	Preparatory activities to support budget independence from 1 July 2020 were completed with a focus on implementing changes to technology, software, governance, financial governance and risk management processes, including the establishment of: <ul style="list-style-type: none"> new outsourced managed services for Payroll and Human Resource Management software the updating of key policy and procedure frameworks for Asset Management and Procurement.
	Prepare for new legislative functions	Completed	Preparatory activities to support new legislative functions from 1 January 2020 were completed. The focus was on the revision of the Ombudsman's policies, procedures, templates, systems, guidance materials, staff support materials and internal training. During the process, several errors and deficiencies in the amended legislation were identified and raised with the Department of Premier and Cabinet. Although some of these have been temporarily and partially rectified by amendments applied by the <i>COVID-19 Omnibus (Emergency Measures) (Integrity Entities) Regulations 2020</i> (Vic), further amendments to the integrity regime are required.
	Strategic engagement with Parliamentary Committees	Ongoing	The Victorian Ombudsman has ongoing engagement with its oversight committee - the Integrity and Oversight Committee. This engagement extended to a public hearing in relation to the Ombudsman's two previous annual reports, our submission to the Committee's Education and Prevention Inquiry, and collaboration about a new requirement to produce an Annual Plan.
	Digital Transformation Plan 2019-21	Ongoing	During the year we delivered on foundation pieces to provide capabilities for digitisation of information, automation of processes, and business efficiency improvements. This included: <ul style="list-style-type: none"> moving to a new managed service provider revamping the website rolling out a new human resources system, inclusive of payroll numerous changes to the case management system to accommodate legislative amendments introducing a secure large file transfer system and a staff emergency notification system.

Table 14: Annual Plan 2019-20 – continued

Focus area	Activity	Progress	Notes
Demonstrate and drive the Ombudsman's impact, relevance and reputation	Redevelop the Ombudsman's BP3 performance measures	Ongoing	We worked with the Department of Treasury and Finance throughout 2019-20 to redevelop the Ombudsman's external performance measures ('BP3 measures'). The previous measures no longer adequately represent the Ombudsman's impact beyond our outputs, nor account for our improved data capability or the additional functions provided to the office in the revised Ombudsman Act. Subject to the Assistant Treasurer's approval, the revised BP3 measures are due to be applied in 2020-21.
Everyone at the Victorian Ombudsman understands our strategic aims and our direction	Develop the Ombudsman's 2020-24 Strategic Framework	Completed	We reviewed the Ombudsman's 2017-20 Strategic Framework, updating it for 2020-24. The high-level framework provides staff with an understanding of where we are going, driving organisational commitment and alignment.
The Victorian Ombudsman is recognised as a leader in good administrative practice	Strategic public sector education	Ongoing	We developed a five-year business plan for 2019-23 to plan the growth of our education and prevention function. Due to COVID-19, face-to-face delivery of our workshops has been suspended since March 2020. Limited, short online best-practice updates have been rolled out as an interim measure.

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