

Annual Report

2010 - 2011

cision...quality...operation...commitment...administration...good conduct...development...independence...organisation...accountability...sc

Our vision

We want to see fair, accountable and responsive administrative practice and service delivery in NSW.

Our mission

In our own organisation and those we oversight, we work to promote:

- | good conduct
- | fair decision-making
- | protection of rights
- | provision of quality services.

Our purpose

We aim to:

- | help organisations meet their obligations and responsibilities and promote and assist the improvement of their service delivery
- | deal effectively and fairly with complaints and work with organisations to improve their complaint-handling systems
- | be a leading watchdog agency
- | be an effective organisation.

Our values

We will act in accordance with the following values:

- | **Integrity** – acting lawfully, honestly, ethically, with good judgement and high professional standards
- | **Impartiality** – acting in a non-political manner, as an advocate for the public interest independent of government
- | **Fair play** – focussing on fair and reasonable procedures, consistency and proportionality
- | **Adding value** – bringing clarity to problems and identifying practical solutions and improvements that benefit the community
- | **Respect** – treating complainants, people within our jurisdiction and colleagues with dignity and respect.

Our guarantee of service

We will:

- | consider each matter promptly, fairly and provide clear reasons for our decisions
- | where we are unable to deal with a matter ourselves, explain why, and identify any other appropriate organisations where we can
- | help those people who need assistance to make a complaint to the Ombudsman
- | add value through our work.



This annual report is the first document to be branded with our new logo.

Eleven years ago we introduced a logo that, we felt, represented our core objectives of an Ombudsman – that of providing focus and clarity. The elements that we used at that time were a blurry square and a magnifying glass. These elements, when put together, depict the Ombudsman looking at the facts with a magnifying glass. As the Ombudsman does this, the blurry square becomes sharply defined and a new colour of clarity is created.

As our office has undergone considerable growth and change, we decided that it was time to update our look and the way we present ourselves to the wider community. Our publications area worked with the Ombudsman to revise our logo. The new logo is a more contemporary interpretation of our old logo and continues to represent our core objectives of providing greater focus and clarity.

Instead of using the blurry square, we are using the 'O' of the Ombudsman as the visual graphic element to be scrutinised and magnified. We are still looking at the facts with a magnifying glass, but as the magnifying glass focuses on 'O' we see things in better focus and with greater clarity.

Letter to the Legislative Assembly and Council

26 October 2011

The Hon. Donald Harwin MLC
President Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

The Hon. Shelley Hancock MP
Speaker Legislative Assembly
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Mr President and Madam Speaker

I am pleased to present our 36th annual report to the NSW Parliament.

This report contains an account of our work for the 12 months ending 30 June 2011 and is made pursuant to ss.30 and 31 of the *Ombudsman Act 1974*.

The report also provides information about my office's functions under the *Police Act 1990* and information that is required pursuant to the *Annual Reports (Departments) Act 1985*, *Annual Reports (Departments) Regulation 2005*, *Government Information (Public Access) Act 2009*, *Law Enforcement (Powers and Responsibilities) Act 2002* and *Disability Services Act 1993*.

The report includes updated material on developments and issues current at the time of writing (July – September 2011).

Yours sincerely



Bruce Barbour

Ombudsman

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A year in review

Each year in our annual report I talk about our work and the way we do it continually changing. As this year shows, for us to be an effective organisation – and provide the community with the outcomes and quality work we have developed a reputation for – we must be flexible and innovative in the way we meet the challenges posed by change. We also have to achieve this in a time of increasing demands and a need for greater efficiency.

This observation is not intended to be a negative one, but a reflection on an organisation that is now well established, innovative, hard working and outcome-focused. We impose high standards on ourselves and work to meet the high expectations of those in the community. Our aim is to provide a quality service to the people of NSW – and to all the services, agencies and organisations we come into contact with.

New functions and responsibilities

In February this year we became responsible for supporting the work of the Child Death Review Team (CDRT). They were previously supported by the Commission for Children and Young People. I am now the Convenor of the CDRT and our office supports and assists the team to perform its functions. This new responsibility brings together the broad and important work of the CDRT with our more targeted reviewable child death work. Regrettably, an effective transition has been hampered by a range of unresolved issues that I have raised for some time with government.

In November 2010, we made a Special Report to Parliament on *Unresolved Issues in the Transfer of the NSW Child Death Review Team to the Office of the NSW Ombudsman*. Many of the issues raised in this report are still unresolved and this is clearly a significant concern. I am however hopeful that negotiations with the current government will ultimately lead to a successful resolution.

This year we also acquired an important new function arising from the amendment of the *Protected Disclosures Act 1994*. That legislation – now renamed the *Public Interest Disclosures Act 1994* – sets out new responsibilities for the whole public sector in relation to handling public interest disclosures (PIDs).

We are now responsible for monitoring the way agencies handle PIDs made by members of their staff, promoting public awareness of the new legislation, and helping public sector agencies and investigating authorities meet their obligations under the Act. This is an exciting new area of work, and we have a dedicated PID unit providing agencies with information about their new responsibilities and developing training packages, guidelines and model internal reporting policies.

The benefits of a broad mandate

We have a broad jurisdiction and range of responsibilities. Almost all public sector agencies, local councils and many non-government service providers now come within our jurisdiction. Increasingly, we find that systemic issues causing disadvantage to individuals or the broader community are not simply the deficiency of a single agency – but the failure of multiple agencies to work effectively together to ensure a more seamless service and response to the community.

Our broad mandate places us in a strong position to work with all those involved to ensure services are delivered efficiently and effectively and problems addressed as soon as they arise. We have continued to expand our cross jurisdictional work and this has enabled us to provide constructive assistance to agencies and share information to address important issues.

One of the best examples of this is our audit of the implementation of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*. This work goes across many government and non-government agencies. It requires us to understand the delivery of services to Aboriginal communities from all three levels of government and work in multiple communities – each with differing needs and levels of engagement with a range of service providers.

This audit work has resulted in a number of complementary projects, including a review of children at risk in two towns in western NSW. This involved assessing records from police, schools, health services, community services and other agencies working in those towns. We are also working with NSW Health and the NSW Police Force, Community Services and Aboriginal Affairs to improve the availability of forensic medical examiners for child victims of sexual assault in regional and remote communities; and with the Office of Education to improve school attendance by Aboriginal children.

Working with others

Often, some of the most valuable lessons we learn are from the experiences of others. Actively engaging with and listening to our stakeholders is crucial to the ongoing development and effectiveness of our office, as is strengthening our relationships with other Ombudsmen both here and overseas.

This year I visited several Ombudsman offices for meetings, including the Solomon Islands Ombudsman in Honiara and the Control Yuan of Taiwan. We have also been in regular contact with many other Ombudsman and oversight bodies throughout the world, and we enjoy – and benefit from – sharing information with them and helping them develop and improve the work that they do. I expect our international work will increase in the coming years, particularly in the Australasia and Pacific region.

This year I also hosted a meeting for all Australian Parliamentary Ombudsmen here in Sydney. This meeting – attended by the Commonwealth Ombudsman and the Ombudsmen from each state and territory – provided a rare opportunity for us as a group to discuss our work and the many and varied challenges we face. Based on the successful outcomes of the day, we have now agreed to meet every six months.

Our new logo

Eleven years ago we introduced a new logo to represent the Office of the NSW Ombudsman. Since then, our office has grown and undergone significant change – so we felt it was time to update our look and the way we present ourselves to the wider community.

This annual report is the first document that will be branded with our new logo. It is essentially a more contemporary interpretation of our old logo and continues to represent our core objectives of providing focus and clarity.

In addition to a new look, we are working to create a new website that will be more accessible, user friendly and easier to navigate. This work is based on feedback from both our internal and external stakeholders.

Our staff

Our office has continued to experience significant change. The one thing however that has remained constant is the high level of commitment and enthusiasm of our staff. Without doubt, our staff remain our greatest asset and their dedication is fundamental to our continued success as an oversight agency. I would like to thank all my staff for their hard work and professionalism over the past year.

In this context, I also want to mention my former Deputy Ombudsman, Greg Andrews. Greg exemplified this passion and dedication during his many years of service with our office, until he retired as Deputy Ombudsman of the Police and Compliance Branch in November 2010. I thank Greg for his significant contribution and lasting legacy to our work. A more detailed farewell message for Greg is on page 23.

The coming year will, I am sure, bring many new challenges. My staff and I look forward to working hard to continue to 'get the job done'.



Bruce Barbour
Ombudsman



“For us to be an effective organisation – and provide the community with the outcomes and quality work we have developed a reputation for – we must be flexible and innovative in the way we meet the challenges posed by change.”

Who we are and what we do

The NSW Ombudsman is an independent and impartial watchdog established by the *Ombudsman Act 1974*. We are independent of the government of the day and accountable to the public through Parliament itself. Our central goal is to keep government agencies and some non-government organisations accountable by promoting good administrative conduct, fair decision-making and high standards of service delivery, and protect the rights of people in NSW. We are responsible for keeping the following types of organisations under scrutiny:

- | agencies delivering public services – including police, correctional centres and state-owned corporations
- | organisations delivering services to children – including schools and child-care centres
- | organisations delivering community services – including services for people with disabilities, people who are homeless and elderly people
- | agencies conducting covert operations – including the Crime Commission and the Independent Commission Against Corruption.

We have other specific functions that relate to:

- | the causes and patterns of deaths of children and people with disabilities in care
- | decisions made by public sector agencies
- | public interest disclosures
- | the administration of the Official Community Visitors scheme
- | the administration of the witness protection program
- | the implementation of new pieces of legislation conferring additional powers on police.

We investigate and resolve complaints from members of the public and from people who work for the organisations we scrutinise. Our work is aimed at exposing and eliminating conduct that is illegal, unreasonable, unjust or oppressive, improperly discriminatory, based on improper or irrelevant grounds, based on a mistake of law or fact, or otherwise wrong.

We aim for outcomes that are in the public interest. We investigate some of the more serious complaints, but in many cases we encourage the organisation being complained about to handle the matter themselves. We monitor the progress of these matters and provide advice where necessary. Our focus is on helping organisations to satisfactorily resolve any problems identified.

We help organisations to prevent or reduce the level of complaints made about them by reviewing their systems. Our proactive work also allows us to address problems if members of the public have legitimate grievances but, for whatever reason, do not or cannot take up the complaint themselves. We aim to reduce the volume of complaints to our office by providing training and advice to the organisations we scrutinise about how to effectively resolve and manage complaints. We also provide assistance, guidance and training to other watchdog agencies.

Managing our organisation

Following our restructure the previous year, 2010-2011 was a period of consolidation and systemic review. We saw the benefits of the changes we made to our structure with better coordination of our training activities resulting in a substantial increase in revenue. As well, the amalgamation of the community service and the employment-related child protection divisions into the human services branch has seen improvements to work practices and a more coordinated approach to dealing with agencies and issues. We will continue to integrate the work of the branch in the coming year.

We aim to be a flexible and adaptive organisation, responsive to change. This was evident when we were given new responsibilities for public interest disclosures which required us to establish this function, recruit staff to provide guidance and support to agencies in a short period of time to meet legislative requirements.

Good governance is critical to an organisation such as ours. We continually review our processes, policies and procedures to ensure that we comply with legal requirements as well as our own standards. To support this, we developed and implemented a new set of across office key performance indicators (KPI). These KPIs will improve reporting and accountability.

We aim to be an employer of choice and are committed to the ongoing support and development of our staff. Our success is the result of their hard work and commitment.

As our work is about promoting good administration and effective accountability, we believe that we must work to the same standards that we promote. Our structure, governance systems, performance monitoring and development of our staff all contribute to making us an effective organisation. These matters are outlined in this chapter.



Highlights

- | Completed 24 audits of child protection agencies and audited 8,259 police records, 385 records of controlled operations and 770 surveillance device warrants. [SEE PAGE 9](#)
- | Generated increased revenue from our training courses and publications to help us manage our budget constraints. [SEE PAGE 19](#)
- | Expanded some of our divisions to manage the additional responsibilities and roles we have been given. [SEE PAGE 6](#)
- | Developed and implemented a new set of cross-office KPIs. [SEE PAGE 14](#)
- | Worked with our JCC to review administrative support in our business areas and develop a range of personnel policies. [SEE PAGE 24](#)
- | Started a review of our OH&S program, including the impact of the new WHS laws. [SEE PAGE 27](#)

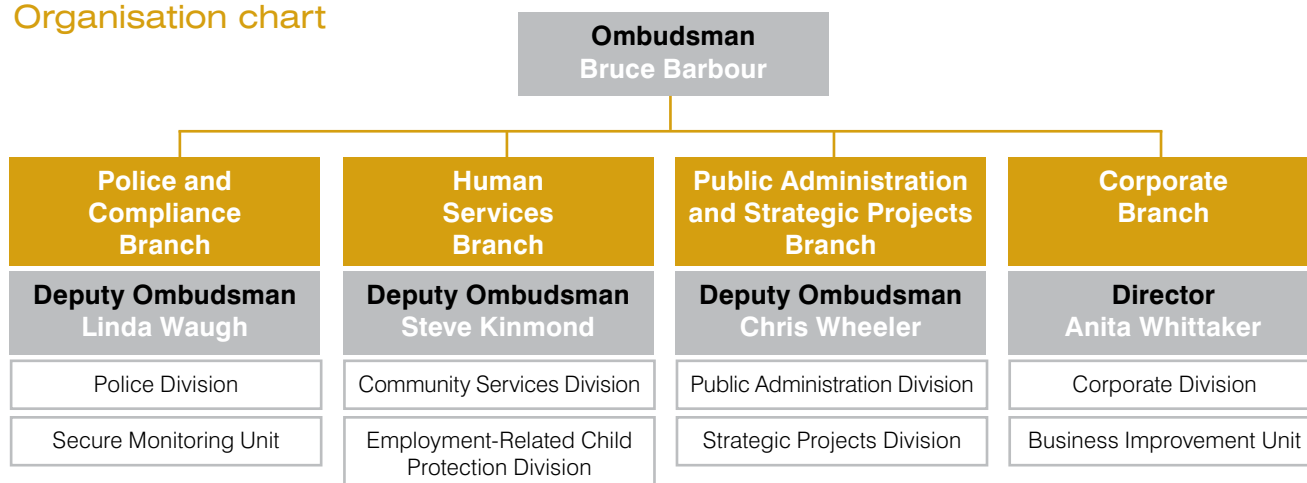
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Our structure

Following our major restructure in 2009, our new structure has provided an increased level of consistency and flexibility across the office and is effectively meeting our needs in a rapidly changing environment.

Organisation chart



Police and Compliance Branch

This branch consists of our police division and our secure monitoring unit (SMU).

The police division is responsible for ensuring the NSW Police Force handles complaints about police fairly and correctly. They also review new police powers as requested by the NSW Parliament.

The SMU handles appeals and complaints under the Witness Protection Act. They also inspect the records of eligible authorities and law enforcement agencies to assess and report on their compliance with certain legislation, such as the exceptional powers provided to police to detain people without charge to prevent suspected imminent terrorist acts under the *Terrorism (Police Powers) Act 2002*.

See pages 51-64 for more information about the work of the police and compliance branch.

Human Services Branch

The human services branch consists of our community services division and our employment-related child protection division.

The community services division handles complaints about, and monitors and reviews the delivery of, community services as well as reviewing their complaint-handling systems. They deal with a number of human services agencies, including Family and Community Services and Ageing, Disability and Home Care, as well as non-government community service providers. This division is also responsible for our work with Juvenile Justice, Housing NSW and NSW Health.

The employment-related child protection division oversees the investigation of certain agencies into allegations against their employees that involve inappropriate or abusive behaviour towards children. The heads of all government and some non-government agencies – including non-government schools, children's services and out-of-home care agencies – are required to notify us of any reportable allegations or convictions involving their employees within 30 days of becoming aware of them. The division also looks at the systems agencies have in place to prevent these types of reportable conduct occurring in the workplace and to respond to any allegations against their employees.

In February this year, the Child Death Review Team (CDRT) was transferred to our office. The CDRT reviews the deaths

of all children in NSW, with a view to preventing and reducing child deaths. Considering the nature of the work of the CDRT, it was logical that responsibilities for supporting the work of the team be located in the human services branch.

See pages 65-88 for more information about the work of the human services branch.

Public Administration and Strategic Projects Branch

The public administration division (PAD) deals with complaints about public authorities, local councils and correctional centres. It also includes our inquiries and resolution team – often the first point of contact for people who complain or inquire about government agencies.

This year, a new unit was established within the PAD to manage our responsibilities under the *Public Interest Disclosures Act 1994*. The public interest disclosures (PID) unit has an important role in supporting public agencies to meet their new obligations under the amended legislation. More information about the new PID unit can be found at page 47.

The strategic projects division (SPD) is responsible for leading major projects and investigations, particularly those that cross the jurisdictions of the Ombudsman's various operational areas. It has a focus on Aboriginal and youth issues, so includes our youth liaison officer and aboriginal unit. The SPD is also responsible for our community education and training unit.

See pages 29-50 for more information about the work of the public administration division and pages 89-112 for information about the work done by the SPD.

Corporate Branch

The corporate branch provides support to the whole of our office. They provide strategic planning, personnel, staffing, payroll, internal training, accounting, records, information technology, publications, media and public relations services.

As mentioned in last year's report, we established within the Police and Compliance Branch the business improvement unit (BIU) to examine our business systems and processes to identify areas for improvement. The BIU was transferred to the Corporate Branch in 2010.

Executive team



Bruce Barbour

Ombudsman
LLB

Bruce has been the NSW Ombudsman since June 2000. He has over 25 years experience in administrative law, investigations and management. Bruce has led the office through significant change and growth. Bruce was regional vice president of the International Ombudsman Institute for seven years, representing the Australasian and Pacific Region Ombudsman. Bruce is currently a member of the Board of the Pacific Ombudsman Alliance. Before his appointment as Ombudsman, Bruce was a senior member of the Commonwealth Administrative Appeals Tribunal and a member of the Casino Control Authority.



Chris Wheeler

Deputy Ombudsman
BTRP MTCP LLB (Hons)

Chris Wheeler has been a Deputy Ombudsman since 1994. He has over 25 years experience in complaint-handling and investigations, as well as extensive experience in management and public administration. Chris has responsibility for the public administration and strategic projects branch of the NSW Ombudsman. He has specific responsibility for public interest disclosures and Ombudsman publications, and is the sponsor of the Australasian Ombudsman management of the Unreasonable Complainant Conduct project.



Steve Kinmond

**Deputy Ombudsman and
Community and Disability Services
Commissioner**
BA LLB Dip Ed Dip Crim

Steve has been a Deputy Ombudsman and the Community and Disability Services Commissioner since 2004. Prior to this, Steve was the Assistant Ombudsman (Police) for eight years. Steve has close to 30 years of investigative experience, and extensive involvement in the community services field. Steve has also worked as a solicitor and ran his own consultancy practice.



Linda Waugh

Deputy Ombudsman
BA Post Grad Dip Psych MBA

Linda commenced as Deputy Ombudsman in April 2011 with responsibility for our police and compliance functions. Linda has previously worked at the Queensland Criminal Justice Commission, the Queensland Crime and Misconduct Commission, the NSW Independent Commission Against Corruption and as a fraud and corruption specialist in the professional services industry. During her career she has worked in a range of areas including investigations, research, crime prevention and education. Linda was also the chair of the conference organising committee for the inaugural Australian Public Sector Anti-Corruption Conference.



Anita Whitaker

Director
PSMO BCom MIIA (Aust)

Anita has been with the Office since 1985 and has over 30 years experience in the NSW public sector. She has headed the corporate area of the Office since 1995. Anita has extensive experience in public sector administration and in financial and human resource management. In her current role she has responsibility for personnel, finance, information technology, records, publications and general office administration. Anita was awarded the Public Service Medal in 2000 in recognition of her outstanding service and her ongoing contribution to the Ombudsman's Office.



Julianna Demetrius

Director
Dip Law (LPAB)

Julianna Demetrius has held several investigative and management positions during her 11 years at the NSW Ombudsman's office. Julianna managed the Ombudsman's Police Division for four years and established the Cross Agency Team in 2007 and is currently leading the Ombudsman's audit of the *Interagency Plan to Tackle Aboriginal Child Sexual Assault*. Julianna is now the Director of the Ombudsman's Strategic Projects Division. Julianna has extensive experience in conducting large-scale systemic investigations across the human services and justice sector.

How we keep organisations accountable

Agencies delivering public services

Who we scrutinise

- | several hundred NSW public sector agencies including departments, statutory authorities, boards, correctional centres, universities and area health services
- | the NSW Police Force
- | over 160 local and county councils
- | certain private sector organisations and individuals providing privatised public services.

How we keep them accountable

We investigate and resolve:

- | complaints about the work of public sector agencies
- | complaints about the merits of agency decisions
- | public interest disclosures from public sector staff and complaints about the way agencies have handled these disclosures.

We oversee the NSW Police Force's investigations into complaints about police officers and check their complaint-handling systems. We visit juvenile justice centres and correctional centres to observe their operations and resolve concerns of inmates. We also:

- | scrutinise legislation giving new powers to police
- | hear appeals against decisions by the Commissioner of Police about the witness protection program
- | provide training and guidance in investigations, complaint management and good administrative conduct.

Organisations delivering services to children

Who we scrutinise

- | over 7,000 organisations providing services to children – including schools, child care centres, family day care, juvenile justice centres and organisations providing substitute residential care and health programs
- | the conduct of paid staff, contractors and thousands of volunteers working for these organisations.

How we keep them accountable

Organisations are required to notify us of any reportable allegations about, or convictions for, conduct that could be abusive to children. We oversee how organisations handle these allegations about their staff, and keep under scrutiny their systems for dealing with such matters. Where appropriate, we directly investigate the handling of allegations. We also:

- | deal with complaints from parents and other interested parties about how organisations have investigated allegations
- | keep under scrutiny the systems organisations have to prevent employees from behaving in ways that could be abusive to children
- | provide training and guidance about how to handle these kinds of allegations and convictions.

Organisations delivering community services

Who we scrutinise

- | licensed boarding houses and fee-for-service organisations
- | child protection and family support services
- | out-of-home care services for children and young people
- | home and community care services
- | services for people with disabilities
- | supported accommodation and assistance program services.

Family and Community Services and Ageing, Disability and Home Care provide many of these services. Non-government organisations providing these services also fall within our jurisdiction if they are funded, licensed or authorised by the Minister for Family and Community Services or the Minister for Ageing and Disability Services.

How we keep them accountable

We investigate and resolve complaints about the provision, failure to provide, withdrawal, variation or administration of community services. We review:

- | standards for the delivery of community services
- | the systems organisations have in place to handle complaints about their services
- | the situation of children, young people and people with disabilities who are in out-of-home care
- | the deaths of certain children, young people and people with disabilities in care.

We also:

- | visit certain services where children, young people and people with disabilities live
- | support the Child Death Review Team
- | coordinate the official community visitors scheme
- | provide information and training to consumers of community services and organisations about complaint-handling and consumer rights
- | promote improvements to community service systems and access to advocacy support for people who are receiving, or are eligible to receive, community services.

Agencies conducting covert search warrants

Who we scrutinise

Law enforcement agencies such as the NSW Police Force, the Crime Commission, the Independent Commission Against Corruption and the Police Integrity Commission.

How we keep them accountable

We review agency compliance with accountability requirements for undercover operations, the use of telephone intercepts and surveillance devices, and covert and criminal organisation search warrants.

Facts and figures

This year we received a total of 33,064 complaints and notifications from a diverse range of people – including members of the public, families of people who are receiving community services, Members of Parliament and staff who work in the public sector. This included 8,917 formal complaints and notifications and 24,147 informal complaints and inquiries, a slight increase on last year.

Figure 1 shows a breakdown of the formal and informal complaints and notifications we received during the year by subject area.

Figure 1: Complaints and notifications we received in 2010–2011

Subject area	Formal	Informal	Total
Departments and authorities	1,381	2,903	4,284
Local government	912	1,979	2,891
Correctional centres and Justice Health	864	3,350	4,214
Juvenile justice	77	279	356
Human services agencies (Housing NSW, NSW Health)	393	1,228	1,621
Freedom of Information	52	127	179
Child and family services	488	1,000	1,488
Disability services	154	167	321
Other community services*	45	81	126
Employment-related child protection**	865	647	1,512
Police	3,256	2,596	5,852
Outside our jurisdiction	430	6,504	6,934
Requests for information	0	3,286	3,286
Total	8,917	24,147	33,064

* Includes complaints about Community Services, ADHC and non-government agencies.

** Formal includes 804 notifications and 61 complaints received.

Responding to complaints and notifications

Our jurisdiction covers a range of agencies and specific functions under a number of pieces of legislation, so we categorise matters to ensure that we provide the most appropriate response.

Sometimes we receive written complaints about public sector agencies that are within our jurisdiction, but the conduct complained about is outside our jurisdiction. These are initially classified as 'formal' complaints received about public sector agencies. Written complaints received about agencies outside our jurisdiction, and oral complaints about both agencies and issues outside our jurisdiction, are dealt with informally by referring the complainant to an appropriate agency or service. They are classified as 'outside our jurisdiction' from the outset.

Each year the number of complaints and notifications we receive varies. There were small decreases in some areas of our work this year, but no discernable pattern. However several of the complaints we received warranted close scrutiny and, in some cases, complex investigations. Our investigative work is outlined in the 'Business activities' section of this report, see pages 29-112. There were also increases in other areas of our work – such as complaints received about local government and police.

How we handle different types of matters

We categorise the complaints we receive as formal and informal matters. Generally, formal matters are defined as written complaints and notifications and informal matters as complaints that are made over the telephone or in person.

If a complainant is a vulnerable member of the community and it may be difficult for them to make a written complaint, we will take their complaint verbally and treat it as a formal complaint.

People who may be considered vulnerable include inmates of correctional centres, people with disabilities, young people and Aboriginal people – particularly those living in remote locations. We may also arrange Telephone Typewriter services and interpreting and translation services for people from culturally and linguistically diverse communities.

Informal matters

We categorise most telephone calls, visits to our office and inquiries made to our staff when they are working out in the field as informal. In these cases, we are usually able to help people by giving them information or an explanation, referring them to another agency or the agency they are inquiring about, or advising them to make a complaint to us in writing.

Formal matters

This year we finalised 9,485 formal matters (see figure 2). Our response may range from a clarifying phone call to the agency concerned to conducting a full-scale investigation – and may take anywhere from a few days to several months.

This is the fourth consecutive year that we have finalised more formal complaints and notifications than we received (see figure 3).

Figure 2: Formal complaints and notifications finalised

Subject Area	08/09	09/10	10/11
Departments and authorities	1,310	1,414	1,382
Local government	672	875	924
Correctional centres and Justice Health	714	722	898
Juvenile justice	73	62	78
Human services agencies (Housing NSW, NSW Health) *	n/a	n/a	386
Freedom of Information	224	136	89
Community services**	704	720	716
Employment-related child protection	1,715	1,483	1,304
Police	3,094	3,093	3,278
Agency outside our jurisdiction	397	276	430
Total	8,903	8,781	9,485

* Following internal changes for handling human services agencies (Juvenile Justice, Housing NSW and NSW Health) in 2009-2010, we are reporting complaints about human services separately in 2010-2011.

** Includes formal matters finalised in relation to child and family services, disability services and community services.

Figure 3: Formal complaints and notifications received and finalised

Year	06/07	07/08	08/09	09/10	10/11
Received	9,692	9,320	8,742	8,712	8,917
Finalised	9,576	9,544	8,903	8,781	9,485

The main pieces of legislation that govern this aspect of our work are the *Ombudsman Act 1974*, *Community Services (Complaints, Reviews and Monitoring) Act 1993* and the *Police Act 1990*.

Although we have coercive powers to require agencies to provide us with documents or answer our questions, we generally try to resolve individual complaints without using them. Most agencies that we contact are cooperative and understand that resolving a person's dissatisfaction with their organisation is usually beneficial for all concerned.

If we do use our coercive powers, we classify the complaint as being 'formally investigated'. The actions that we take to finalise complaints include:

- | persuading the agency concerned to take some action
- | providing detailed information or advice to the complainant
- | making inquiries and finding no wrong conduct
- | undertaking a formal investigation and making findings and recommendations – this year we finalised 35 matters this way, see figure 4.

Figure 4: Number of formal investigations finalised

Branch	Total
Human Services	19
Police and Compliance	4
Public Administration and Strategic Projects	12
Total	35

In addition to conducting formal investigations, we also carry out proactive and systemic work such as conducting reviews and audits – see figure 9.

Reviews of our decisions

When we finalise a complaint that we have been dealing with directly, we write to the complainant and give reasons for our decision. If they are not happy with the decision and ask us to reconsider, we:

- | explain our decision-making process in more detail – including the evidence and factors we took into account in making the decision
- | respond to any requests for a further review of our decision by having a senior officer – who was not involved with the original decision – review the file and provide advice to the Ombudsman.

The Ombudsman will then consider the matter and write to the complainant explaining the outcome.

Figure 5 shows the number of requests for reviews we received in 2010-2011. It also shows that, compared with the number of formal complaints we finalised during the year, the percentage of cases where we were asked to review our decision was very low.

The majority of our work in the child protection area is overseeing how agencies handle allegations of conduct by employees that could be abusive to children. Only a small part of that work is handling complaints made directly to our office about how those allegations have been handled or about agencies' child protection systems.

We deal with those complaints in much the same way as with complaints about NSW public sector agencies – we may decide to decline the complaint, make preliminary inquiries or investigate.

Figure 5 shows that, of the 53 complaints we finalised about employment-related child protection, three complainants asked us to review the decision we made on how to handle the complaint.

Although the system of handling complaints about police requires the NSW Police Force (NSWPF) to directly investigate each complaint and we play an oversight role, our police division considers all requests to review the way a notifiable complaint about a police officer was handled as a request to review our decision about the NSWPF outcome. Of the 3,278 complaints about police officers that we oversighted this year, 72 complainants asked for the outcome to be reviewed.

Figure 5: Requests for a review of our decision as a percentage of formal complaints finalised

Subject Area	Number of		Percentage				
	requests for review	formal complaints finalised	06/07	07/08	08/09	09/10	10/11
Employment-related child protection*	3	53	2.5	7.1	8.3	12.2	5.7
Community services**	8	716	1.4	0.4	0.9	0.6	1.1
Juvenile justice	0	78	n/a	n/a	n/a	n/a	0.0
Human services agencies (Housing NSW, NSW Health)***	8	386	n/a	n/a	n/a	1.5	2.1
Correctional centres and Justice Health	12	898	3.0	1.5	1.1	1.7	1.3
Freedom of information	2	89	3.4	3.0	4.5	4.4	2.2
Local government	78	924	10.2	11.8	7.7	8.0	8.4
Other public sector agencies	61	1,382	7.0	6.5	6.9	5.2	4.4
Police	72	3,278	1.7	1.7	2.0	1.4	2.2
Outside our jurisdiction	2	430	1.0	0.8	1.8	0.4	0.5
Total	246	8,234	3.6	3.5	3.3	2.9	3.0

* The total in this figure excludes the 1,251 child protection notifications we finalised this year.

** Includes requests for a review of our decision in relation to child and family services, disability services and community services. Juvenile justice was previously reported with corrections and Justice Health.

*** Following internal changes for handling human services agencies (Juvenile Justice, Housing NSW and NSW Health) in 2009-2010, we are reporting complaints about human services separately in 2010-2011.

Figure 6 shows that in 89% of cases the Ombudsman considered that the original decision made by the delegated officer was correct. As each review may take days or weeks to complete, some reviews may not be finalised in the same year that the request is received. This makes the total review finalised figure different from the total review request figure.

Figure 6: Outcome of reviews conducted in 2010-2011

Subject Area	Original outcome affirmed after		Resolved	Reopened	Total
	reviewing the file	further inquiries			
Employment-related child protection	3	0	0	0	3
Community services	5	0	0	1	6
Human services agencies (Housing NSW, NSW Health)	8	0	0	1	9
Corrections	10	1	0	1	12
Freedom of information	2	0	0	0	2
Local government	51	18	4	5	78
Other public sector agencies	38	13	2	8	61
Outside our jurisdiction	1	1	0	0	2
Police	64	4	1	3	72
Total	182	37	7	19	245
Percentage of total reviews	74	15	3	8	100

Compliments and complaints

Compliments and complaints help us to identify the aspects of our work that we do well, the areas of our service that need improvement, and expectations that exceed what we can reasonably deliver. We have an internal compliments and complaints policy, and we inform people who use our services about how to make a complaint about us.

This year we recorded 112 compliments about the quality of our advice, the assistance we gave to customers, and the information provided to agencies within our jurisdiction. While we do receive formal compliment letters from members of the public and agency representatives about how our work has benefited them, we also often receive informal feedback during our consultative work or after a training, information or briefing session.

Against the 33,632 formal and informal complaints and notifications we finalised this year, we received 14 complaints about our work (see figure 7). If a complaint is justified, we will generally take some form of action to resolve it.

Figure 7: Outcome of complaints about our office in 2010–2011

Outcome	Total
Unjustified	5
Justified or partly justified	0
Some substance and resolved by remedial action	9
Total	14

Figure 8: Complaints about our office

Issue	06/07	07/08	08/09	09/10	10/11
Bias/unfair treatment/tone	6	6	5	8	0
Confidentiality/privacy related	2	1	1	3	4
Delays	6	5	3	6	1
Denial of natural justice	1	1	1	1	0
Failure to deal appropriately with complaint	13	11	9	8	5
Lack of feedback/response	4	5	3	5	3
Limits to jurisdiction	0	0	0	0	0
Faulty procedures	4	2	3	1	1
Inaccurate information/wrong decision	8	2	8	7	1
Poor customer service	17	5	5	7	5
Corruption/conflict of interest	2	2	0	3	0
Other	6	3	2	1	1
Total issues	69	43	40	50	21
Total complaints	44	27	26	28	14
Percentage of all formal matters finalised about our office	0.46	0.28	0.29	0.32	0.15

Our proactive and systemic work

In addition to handling complaints and notifications, we undertake proactive and systemic work such as conducting audits and reviews – including legislative reviews – and visiting communities and regional centres throughout NSW.

Figure 9 outlines some of the proactive and systemic work we have done during 2010–2011. Details of this work are included in other chapters of this report.

Figure 9: Proactive and systemic work

Category	Type of work	08/09	09/10	10/11
Audits	Police records audited	10,400	7,250	8,259
	Controlled operation records audited	433	342	385
	Surveillance device warrants audited	374	449	770
	Covert search warrants audited	n/a	48	20
	Witness protection appeals	3	0	2
	Child protection 'agency' audits conducted	18	11	24
	Criminal organisation search warrant records audited	n/a	19	6
	Scrutinising NSWPF complaint-handling systems	n/a	n/a	1

Category	Type of work	08/09	09/10	10/11
Police powers under review	Reviews of legislation conferring new police powers completed	2	1	1
	Reviews of legislation conferring new police powers in progress	4	3	1
Visits	Hours spent on visiting services (OCV program)	8,867	5,941	5,927
	Visits to residential services (OCV program)	3,239	3,335	7,494
	Correctional and juvenile justice centre visits	60	65	54
	Regional and remote communities visited	73	61	59
Reviews	Complaint-handling systems	20	34	n/a
	Individual reviews (section 13) of the circumstances of children and other people in care	35	50	63
	Reviews of the delivery of community services	7	0	8
Consultations	People consulted during systemic investigations and reviews	1,328	1,839	1,466

Corporate governance

Developing, implementing and maintaining a robust system of corporate governance helps us to be an effective organisation – one of our key aims. Our governance system must support and keep pace with our responsibilities and the resources available to us.

In our last annual report, we announced the development of a new office-wide strategic planning framework designed to better support our Statement of Corporate Purpose and strategic direction. In 2010–2011 we have worked within this framework to better target our work and resources in responding to challenges within a changing environment – with our Statement of Corporate Purpose providing high level direction for our work.

Strategic planning

This year our office has experienced considerable change – and we have used our strategic planning framework to guide our actions in responding effectively to these changes.

Each division held a planning day, which provided all staff with the opportunity to contribute to our strategic plan and help to identify priorities. We will also use feedback from these planning days to inform our future strategies.

Being flexible

We operate in a complex and changing environment, so we have to be able to effectively respond to a range of challenges. Having a flexible structure allows us to respond to emerging priorities but, at the same time, continue to deal with the day-to-day work of the office.

During the year, we were assigned new roles and responsibilities and we needed to expand some of our divisions to manage the additional work. This included establishing a new unit within our public administration division to manage public interest disclosure activities.

The human services branch has also undergone structural change to meet our new responsibilities arising from the transfer of the Child Death Review Team to our office. This change resulted in two senior officer positions being created – one with responsibilities for systemic projects across our human services jurisdiction and the other with

responsibilities for systemic reviews, including reviewable child deaths and the Child Death Review Team.

Our strategic projects division recruited staff with specific technical skills to support their work in auditing the implementation of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*. Our activities in this area have also resulted in the initiation of a number of smaller strategic projects, identified as issues of importance during the course of the audit. The end product of these smaller strategic projects will be a suite of special reports to Parliament.

Taking a consistent approach to all stakeholders

We established an internal committee to look at how we engage with our stakeholders. This committee has worked to improve our processes to ensure we are more inclusive where possible, that we have a consistent approach to dealing with our stakeholders, and our information is targeted appropriately.

We implemented our disability and multicultural action plans. To help us to identify and address any gaps in our stakeholder engagement activities we developed internal tools to capture information that will inform our future approach to stakeholders. More information about our stakeholder engagement activities is included at page 91.

Developing our staff

Our staff are given regular opportunities to undertake training courses in a variety of areas including disability awareness, merit selection, cultural awareness, unreasonable complainant training, presentation training and strategic thinking. For more information about our learning and development activities, see page 27.

In our last annual report, we noted establishing a leadership development program to ensure our senior staff are able to effectively meet current and future management challenges. As part of this program, all senior staff participated in an Executive Development Program, which included 15 hours of compulsory continuing professional development to strengthen their management and leadership abilities. See page 28 for more information.

Improving business processes

Our business improvement unit (BIU) works to identify areas for improving our systems and processes.

This year, the BIU worked closely with divisions to:

- improve our case management system to make it more responsive to business needs
- develop business requirement briefs for better case management reporting
- enhance the electronic sharing of information between our office and the NSW Police Force
- scope the electronic transfer of information between our office and the Department of Education and Communities.

Using input from each division, the BIU developed and implemented a new set of cross-office key performance indicators (KPIs). This required changes to how we collect and record information in our case management system. We will be able to monitor and report our performance against these KPIs, with senior staff receiving reports monthly.

The KPI project is currently in stage two of the implementation phase, which involves the non-complaints area of our work. Several of our new KPIs are used in this annual report.

Managing our office

The management of our office is overseen and driven by the senior officers group (SOG) and the division managers group (DMG).

The SOG is made up of the Ombudsman, three Deputy Ombudsmen and the Directors of the corporate branch and strategic projects division. They usually meet weekly to update each other on their work and discuss any significant issues.

The DMG is made up of the managers of each division. They usually meet at least once a month to discuss operational issues and any changes to office policies and procedures.

Having effective policies

Any effective system of corporate governance has to be built around clear, effective and up-to-date policy documents. Our policies – which are a statement or instruction from the Ombudsman that sets the way particular issues are to be addressed or particular decisions are to be made – ensure consistency of work practices throughout the office. Staff are made aware of any new or changed policy, and complying with all office policies is a requirement of our code of conduct.

We aim to review all our office policies every two years. This year we have reviewed or created 15 policies – including policies relating to equal employment opportunity, grievance and dispute management, conflicts of interests and corporate governance.

We also plan to implement a new social media policy to provide our staff with clear direction on when, why and how to use different forms of social media as part of their work. This policy will provide advice and guidance on the potential risks involved in the personal use of social media, particularly when they can be identified as an employee of our office.

How we are held to account

We expect public sector agencies to be accountable for their actions and decisions. Our office is no different, and there are a number of ways in which we are held to account.

Reviews of decisions

We always provide complainants with reasons for the decisions we make. Some people will be unhappy with these reasons. If they believe our decision is wrong, they can ask for a review. Each matter will only be reviewed once.

When we receive a request for a review, we call the complainant first and try to resolve the matter quickly and informally. If this is not successful, the review is allocated to a member of staff who has had no previous involvement in the complaint. This staff member assesses the original complaint as well as any issues raised in the review request. When they have completed the review, they give the file to the Ombudsman along with their recommendation. The complainant will receive a letter from the Ombudsman outlining the outcome of the review. In some cases, this letter will also outline any restrictions on the complainant's future contact with our office.

This process provides members of the public with an avenue of review, but it also gives us an opportunity to improve the way we handle matters – particularly the way we communicate our decisions. Information about review requests from this year is included at page 10.

Our Parliamentary Joint Committee

Our work is overseen by the Parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission (the PJC). This ensures our independence as it means we are accountable to Parliament, rather than to the government of the day.

If someone is unhappy with the way we have dealt with them, they can take their complaint to the PJC. The PJC can consider the way in which we have handled their matter and will often contact us for additional information. However, the PJC cannot:

- investigate a matter relating to particular conduct
- reconsider a decision we have made to investigate, not to investigate or to stop investigating a particular complaint matter or conduct
- reconsider findings, recommendations or determinations the Ombudsman has made about a particular investigation or complaint.

The PJC is made up of representatives of both Houses of Parliament, including representatives from both major parties. They have not held a general meeting with our office since our last annual report. The PJC was re-established on 22 June 2011 as a result of the state election. A list of the new members of the PJC is available on the NSW Parliamentary website.

Other oversight bodies

The PJC is not the only external body that oversees our office. Like other public sector agencies, we come under the scrutiny of the Auditor-General, the Independent Commission Against Corruption, the Information Commissioner, the Privacy Commissioner, the Anti-Discrimination Board, State Records and the NSW Treasury.

We also produce a number of separate annual reports about our work and make information about what we do available on our website.

Managing risk

Like any organisation, it is important that we identify and effectively manage any risks relating to our work. Our fundamental asset is our reputation for independence and impartiality. The key tool we use in effectively performing our work is the information we gather. We must focus on protecting that information as agencies and members of the public need to be confident that the information they give us will be handled appropriately. Using an information security management system model, we identify any potential risk factors relating to our work and put in place the necessary controls to either eradicate or reduce those risks. This relates to our paper based systems as well as our computer network and databases.

Our information security management processes work alongside programs to manage risk in other areas such as occupational health and safety, business continuity planning, accounting, leave management and payroll.

The risks we face fall into the following categories:

- | unauthorised or inappropriate disclosure of information held by our office
- | unauthorised or inappropriate access to information in agency databases to which we have access
- | significantly inaccurate or incomplete information used in reports, correspondence or as the basis for findings, recommendations, suggestions or decisions
- | inadequate documentation or unintended destruction of business information or corporate knowledge
- | software and hardware problems resulting in major operating systems being out of action for significant periods
- | an inability to comply with statutory obligations.

Our security and information management steering committee has been re-named the risk, information and security committee (RISC) and continues to meet on a monthly basis. The RISC is made up of representatives from each division and is responsible for ensuring we have appropriate systems in place to identify and effectively manage any risks that may arise. This is particularly important when we make changes to our processes or start work in a new area. The committee works closely to identify these changes and plan our response to any potential risks.

We have an Audit and Risk Committee that provides us with another level of assurance about our risk management practices. Although both of these committees have different responsibilities, they work closely to ensure that our risk management framework meets our ongoing requirements.

This year we reviewed and updated our risk management policy, which includes a formal risk assessment framework for our office. The new policy and framework complies with the standard for risk management – AS/NZISO 31000:2009 – and has been endorsed by our Audit and Risk Committee.

To make sure we have the best possible information security systems in place, we have accreditation against international information security standards. This accreditation and our compliance with the standard is monitored through yearly audits. Our last audit was in 2010 and no major issues were identified.

Our Audit and Risk Committee

In our last annual report, we outlined the NSW Treasury internal audit and risk management policy – including establishing an Audit and Risk Committee with a majority of independent members.

The membership of our Audit and Risk Committee has remained the same with Mr Jason Masters as the independent chair, Ms Carolyn Burlew the independent member, and the Deputy Ombudsman Chris Wheeler as our office representative. The committee met on five occasions during 2010–2011.

During the year, we consolidated our internal audit activities, including developing an internal audit charter, manual, plan and register.

We also updated our risk management matrix, reviewed our policy and supporting tools, redesigned our risk register, and started a range of other projects – including reviewing our legislative compliance and updating our administrative delegations.

In 2011–2012, we will be reviewing our risk profile, engaging our internal audit provider, and reviewing the performance of our Audit and Risk Committee.

The Ombudsman – following advice from the Audit and Risk Committee – attests to compliance with the six core requirements of the NSW Treasury policy. The attestation statement follows.

Internal Audit and Risk Management Statement for the 2010–2011 Financial Year for NSW Ombudsman

I am of the opinion that the NSW Ombudsman's Office has internal audit and risk management processes in operation that are, in all material respects, compliant with the core requirements set out in Treasury Circular NSW TC 09/08 *Internal Audit and Risk Management Policy*. These processes provide a level of assurance that enables the senior management of the NSW Ombudsman's Office to understand, manage and satisfactorily control risk exposures.

I am of the opinion that the Audit and Risk Committee for the NSW Ombudsman is constituted and operates in accordance with the independence and governance requirements of Treasury Circular NSW TC 09/08. The Chair and Members of the Audit and Risk Committee are:

- | Chair – Mr Jason Masters (three year appointment).
- | Independent member – Ms Carolyn Burlew (three year appointment).
- | Non-independent member – Mr Chris Wheeler, Deputy Ombudsman (Public Administration and Strategic Projects Branch).

Yours sincerely



Bruce Barbour
Ombudsman

Our performance statement

Purpose and goals	Performance for 2010–2011
<p>1. Help organisations meet their obligations and responsibilities and promote and assist the improvement of their service delivery:</p> <ul style="list-style-type: none"> review and report on the service, systems and conduct of agencies monitor and report on compliance with legislative obligations and responsibilities make recommendations and suggestions for agency improvements and/or for improving the circumstances of individuals promote best practice standards for agency service delivery and good conduct provide training in delivery of service, good conduct and the rights of consumers to quality services. 	<ul style="list-style-type: none"> Tabled seven reports in Parliament about: our audit of police responses to domestic violence-related complaints; people with disabilities and the closure of residential centres; improving service delivery to Aboriginal people with a disability; improving probity standards for funded organisations; our inquiry into service provision to the Bourke and Brewarrina communities; the need for significant reform to the management of asbestos; and unresolved issues relating to the transfer of the child death review team. SEE PAGE 172 Completed major reviews into: the implementation of key aspects of <i>Keep Them Safe</i> including the capacity of the new system to respond to reports of significant risk of harm; progress made by the NSW Government in addressing Aboriginal disadvantage including significant issues relating to our function to audit the <i>NSW Interagency Plan to Tackle Aboriginal Child Sexual Assault</i>; the need for boarding house reform – each culminating in the preparation of reports for tabling in Parliament. SEE PAGES 66, 85, 105-106
<p>2. Deal effectively and fairly with complaints and work with organisations to improve their complaint-handling systems:</p> <ul style="list-style-type: none"> implement and promote best practice investigation and complaint-handling methodologies within the office use client feedback to improve our work implement and promote best practice investigation and complaint-handling methodologies in agencies we oversight help achieve redress for justified complaints identify systemic causes of complaints and propose solutions. 	<ul style="list-style-type: none"> Issued a practice update for employers to clarify the types of behaviours that fall within the definition of sexual misconduct; and worked with the NSWPF to improve their handling of employment-related child abuse allegations. SEE PAGES 78-79 Provided feedback on ADHC's revision of the disability services standards relating to complaints and disputes. Finalised a report on our review of the NSWPF's procedures for handling complaints about bullying, harassment and discrimination in the workplace and its guidelines for handling complaints more generally. SEE PAGE 60 Conducted a number of direct investigations into the NSWPF's handling of complaints about police conduct. SEE PAGES 57-58
<p>3. Be a leading watchdog agency:</p> <ul style="list-style-type: none"> create positive relationships and work collaboratively with other Ombudsman and watchdog organisations promote professional work practices with other Ombudsman and watchdog institutions continuously improve our work practices. 	<ul style="list-style-type: none"> Worked with the CCYP and the Office of the Children's Guardian to develop a framework for exempting certain employment-related child protection matters in the substitute residential care sector from notification to both agencies. SEE PAGE 80 Participated in the Complaint Handler's Information Sharing and Liaison Group and the Corruption Prevention Network meetings, and occasional seminars for complaint handlers and an annual conference. SEE PAGES 98, 104 Co-hosted with the ICAC and the Institute of Public Administration a two-day National Investigations Symposium. SEE PAGE 104 Worked with other Ombudsman offices across Australia on phase 2 of the Managing Unreasonable Complainant Conduct Project, and conducted our third forum for University complaint handlers. SEE PAGES 97, 102
<p>4. Be an effective organisation:</p> <ul style="list-style-type: none"> have appropriate structures, policies and systems to support and enhance our service delivery attract, develop, support and encourage skilled and committed staff capture, use and share information and knowledge to support and enhance our service delivery be an effective public sector agency that complies with applicable laws and policies and is accountable for our actions and decisions. 	<ul style="list-style-type: none"> Established a PID Unit within our Public Administration Division, recruited and inducted new staff, and developed internal policies and procedures. SEE PAGE 47 Endorsed a leadership development program for our senior staff, covering financial management, leadership and strategic planning. SEE PAGE 28 Reviewed our data capturing processes and reporting tools for our employment-related child protection work to more accurately report on our handling of high risk matters. SEE PAGE 22 Rolled out OCV online – a new database for the Official Community Visitors – undertook a comprehensive review and redesign of our IT network architecture, implemented network sub-netting VLAN to improve network security and efficiency, and standardised our software development platform. SEE PAGE 21

Future goals

- | | |
|--|---|
| <ul style="list-style-type: none"> Conducted investigations into: the behaviour management program at Kariiong Juvenile Correctional Centre; the way the NSW Trustee and Guardian makes financial decisions on behalf of vulnerable clients; and the use of in-car video footage by police. SEE PAGES 35, 37-38, 58 Conducted investigations into important areas of child protection including how agencies should respond to criminal allegations about their employees. SEE PAGE 78 Reviewed restoration support provided to 63 children on short-term care orders and made recommendations to inform Community Service's review of its restoration practices and associated training and guidelines. SEE PAGE 72 Delivered more than 296 education and training activities reaching over 10,091 people including a total of 156 training workshops on handling child-related employment allegations; frontline complaint-handling skills, effective complaint management; and workshops for consumers of community services. SEE PAGES 101-104 | <ul style="list-style-type: none"> Complete our audit of the implementation of the <i>NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities</i>. Complete our second review of Taser use by the NSWPF (see progress report). Start legislative reviews of new police powers introduced by the <i>Summary Offences Amendment (Intoxicated and Disorderly Conduct) Act 2011</i> and the <i>Identification Legislation Amendment Act 2011</i>. Report to Parliament on reviewable child deaths and disability deaths and the underlying causes of those deaths. Work with the NSWPF to finalise their procedures for handling employment-related child abuse matters, the audit handling of reportable allegations against employees and preventing reportable conduct in independent schools, and finalise our audit of how juvenile justice centres and a sample of juvenile justice community service centres handle and try to prevent employment-related child abuse allegations. Report to Parliament on the significant challenges associated with the implementation of <i>Keep Them Safe</i>, boarding houses and the need for reform; and the findings from our Kariiong investigation. Finalise our investigation into the NSW Trustee and Guardian. Implement training programs on public interest disclosures, and meet our statutory obligations by developing and publishing a series of guidelines. Develop new packages to help agencies handle complaints and investigate allegations more effectively. |
| <ul style="list-style-type: none"> Facilitated a successful conciliation between the NSWALC and LPMA. SEE PAGE 110 Worked with the Registry of Births, Deaths and Marriages to help them to be more responsive to the needs of their Aboriginal clients. SEE PAGE 109 Assisted the NSWPF, Legal Aid and the Aboriginal Legal Service to develop an action plan for improving the use of diversionary options under the Young Offenders Act. SEE PAGE 108 Produced model internal reporting policies for agencies and local councils, and five practice notes to promote the effective implementation of the PID Act. SEE PAGE 48 | <ul style="list-style-type: none"> Work with the NSWPF to ensure their complaint system is enhanced to meet PID Act requirements, and audit their complainant consultation processes. Finalise a decision-making tool to help agencies determine what types of employment-related child protection allegations are exempted from notification. Develop a training package and annual complaints reporting tool for disability services, and start discussions on developing a national complaints reporting system for disability services. Incorporate the strategies developed in stage 2 of the unreasonable complainant conduct project into our guidelines for agencies. Review and update our most commonly used administrative guidelines. Deliver an e-learning program to help agencies educate practitioners and inform staff about public interest disclosures, and audit agency compliance with the PID Act. |
| <ul style="list-style-type: none"> Provided specialist training placements and mentoring for Ombudsman staff from Vanuatu, Samoa, Papua New Guinea and the newly established Ombudsman of the Republic of Indonesia. SEE PAGE 99 Completed the transfer of the NSW Child Death Review Team to our office, and hosted a master class presented by Dr Marian Brandon, a UK expert in child death review. SEE PAGE 71-72 Reviewed our practices for managing high risk employment-related child protection matters, and implemented new work processes to ensure that we deal with these cases efficiently and effectively. SEE PAGE 80 | <ul style="list-style-type: none"> Issue revised definitions of 'employment-related child protection reportable conduct' that are clearer and more narrowly prescribed. Prepare revised guidelines for employers about handling employment-related child protection matters. Communicate to agencies in the substitute residential care sector the types of matters that are exempted from notification to us and to the CCYP under the new class or kind agreement. Work with other Ombudsman offices to develop and implement a methodology for peer reviews of complaint-handling processes. Conduct research nationally and internationally to gather intelligence on best practice programs for dealing with public interest disclosures. Finalise review of procedures manuals. Develop stage 2 key performance indicators. |
| <ul style="list-style-type: none"> Developed a new case type in our case management system to support information gathering and analysis for our project work. SEE PAGE 14, 22 Developed and implemented a new set of office-wide KPIs and enhanced other management reporting tools. SEE PAGE 14 Installed a new SAN — Storage Area Network — to help launch one of our largest IT projects — the desktop virtualisation. SEE PAGE 22 | <ul style="list-style-type: none"> Redesign and redevelop the reviewable child death, reviewable disability death and the Child Death Review Team databases. Enhance Resolve, our case management system to more accurately record the 'value added' by our work. Finalise our website redevelopment and launch our new logo. Introduce electronic self service (ESS) for certain personnel activities Rollout VM View (virtual desktop) to improve information system reliability and efficiency. Review and update our file classification plan as well as our approved disposal authorities. Undertake a comprehensive risk assessment, updating our risk profile and risk management policies and plans. Finalise our chart of accounts. |

Progress report on our future goals from 2009-2010

Each year we identify priorities or future goals for the next reporting period. The following table lists the goals we set for 2010-2011 and provides a short statement on our achievements – with references, where appropriate, to some more detailed information about this goal in our report.

Purpose	Goals for 2010-2011	Result	
Help organisations meet their obligations and responsibilities and promote and assist the improvement of their service delivery	Review police practice about the way complaints are informally resolved and how they measure complainant satisfaction.	We decided to postpone the review but it has been scheduled for 2011-2012.	—
	Work with the Commission for Children and Young People to review existing arrangements with agencies that exclude the notification of reportable allegations and relevant employment proceedings.	We have provided input into the review. This review has not yet been finalised.	—
	Provide NSW Health with a report summarising the recommendations from our two year audit project.	We will provide a report summarising the compliance of Local Health Networks (LHN) when we have received final compliance reports from LHN's.	—
	Complete our analysis of causes of death for people with disabilities in care, and report on our consultations with families of children with disabilities who live at home.	The analysis has been completed and a report was tabled in Parliament in September 2011. SEE PAGES 83, 84	✓
	Deliver complaint-handling and employment-related child protection training to Aboriginal out-of-home care services.	We have delivered training to Aboriginal out-of-home care services. SEE PAGE 107	✓
	Work with the NSWPF to draft standard operating procedures for use by LACs to prevent excessive delays in assessing matters referred to them that involve a person engaged in child-related employment.	Standard operating procedures for local area commands have now been finalised, in consultation with our office. SEE PAGE 78	✓
Deal effectively and fairly with complaints and work with organisations to improve their complaint-handling systems	Review our procedures manual and our compliments and complaints policy.	Compliments and complaints policy updated and individual procedures manuals currently under review.	—
	Review the way complaints have been assessed under the NSWPF's Complaint Handling Guidelines.	We completed our review. SEE PAGE 54	✓
	Collect information from the substitute residential care and independent school sectors to help us target our auditing and education projects.	A comprehensive database of independent schools has been developed and analysis undertaken of reporting rates in the sector.	✓
	Incorporate the findings from our research into our investigation procedures to enhance agency engagement, particularly in developing recommendations.	We updated our procedures manual and templates and developed a fact sheet for agencies on our investigation processes.	✓
	Develop a complaint-handling training program, in consultation with National Disability Services NSW, to meet the needs of the disability services sector.	Further scoping of the substitute residential care sector is underway.	—
Be a leading watchdog agency	Co-host the 8th National Investigation Symposium with the ICAC and the Institute of Public Administration in November 2010.	Co-hosted Symposium, delegates attended from 80 agencies across Australia, New Zealand, Papua New Guinea and other Pacific countries. SEE PAGE 98	✓
	Continue our work with other Ombudsman offices across Australia on phase 2 of the managing unreasonable complainant conduct project.	Incorporated the strategies developed in phase 2 of the project into our guidelines to be used by agencies. SEE PAGE 102	✓
Be an effective organisation	Review our chart of accounts to improve expenditure classification, monitoring and reporting.	Commenced our review, incorporating the recent adoption by all Australian governments of a single chart of accounts. Review will be finalised 2011-2012. SEE PAGE 114	—
	Implement our disability and multicultural action plans and upgrade our HR system.	Both plans were approved and implementation is on schedule. Our HR system was upgraded. SEE PAGE 21	✓
	Enhance Resolve, our case management system.	Resolve enhancement implemented.	✓
	Finalise improvements to our website.	We are currently developing the website architecture/wireframes. SEE PAGE 22	—
	Implement desktop virtualisation to streamline IT processes and reduce IT costs.	This project was delayed as we needed to review our network structure. SEE PAGE 22	—

Measuring our performance

To retain the independence of the Ombudsman, the position is not responsible to an individual Minister. Instead, the Ombudsman appears before the PJC to answer questions about the performance of our office.

Information about the quantity, quality, timeliness and impact of our work is essential to achieving our corporate goals. Performance benchmarks measuring these factors are established at the corporate, team and individual staff level and workflow statistics are used to inform procedural changes.

Our performance statement (see page 16-17) is a summary of our achievements during the year against the purposes outlined in our corporate plan.

Tracking performance

We track our performance at two levels – in relation to individual matters including complaints and projects, and in relation to our systems and structures for completing work.

Data from our case management system is used to monitor turnaround times and identify where there may be backlogs, delays or inefficiencies. For example, we periodically review all files that have been open for more than six months and develop strategies to address any issues that may be causing unnecessary delay.

The integrity and accuracy of the data we keep is crucial to the effectiveness of our work and our ability to monitor our performance. We regularly conduct internal audits of the recording of information on our case management system to check that it is accurate.

Ensuring quality decision-making

Our assessment of complaints and notifications needs to be sound and consistent. We have systems for consultation and discussion to ensure that the appropriate decision is made at the outset. We also make sure that if a complainant asks for a review of our decision, a more senior member of staff conducts the review.

We use supervision and file audits to review the quality and consistency of our work. This helps ensure that the decisions we make are sound and files are managed efficiently and effectively.

It is also important that any correspondence and reports we send out are factually accurate and properly reasoned. We have rigorous procedures for supervising, checking and authorising these documents.

Balancing our books

Most of our revenue comes from the government in the form of a consolidated fund appropriation. Our final consolidated fund allocation for 2010-2011 was \$21.804 million. The government also provided \$1.394 million for certain employee entitlements such as long service leave. We received \$369,000 for our capital program – this was spent on purchasing desktops and laptops, upgrading hardware, purchasing new office equipment, and updating and improving our fit out.

Our funding from government was increased by \$118,000 in 2010-2011 because we were not given sufficient funding for the Child Death Review Team (CDRT) (see page 71). We also received a funding supplementation of \$318,000 (although we only spent \$226,000) to establish a public interest disclosure unit (see page 47). Funding of \$1.14 million has been provided in 2011-2012 for our public interest disclosure role.

We generated \$861,000 through the sales of publications, bank interest, fee-for-service training courses and our consultancy work. Other than the appropriation, our main source of revenue is from conducting fee paying training courses (see pages 101 and 115).

Most of our revenue is spent on employee-related expenses including salaries, superannuation entitlements, long service leave and payroll tax. We spent more than \$19.2 million on these items in 2010-2011 and the day-to-day running of our office cost over \$4.6 million.

In 2010-2011 we were required to absorb unfunded pay increases of 1.5%. This has had a significant and ongoing impact on us as about 80% of our expenses are employee-related – and absorbing unfunded pay increases leads to staffing cuts.

This year we conducted training for senior managers on interpreting financial information, acknowledging the importance of our senior staff being able to use financial information in their business planning and decision-making. We also consolidated the role of our Audit and Risk Committee that was established last year. See page 15 in Corporate governance for more details about our Audit and Risk Committee.

Figure 10: Financial summary

	09/10 \$'000	10/11 \$'000	Change %
Operating revenue including government contributions	21,968	24,428	11.20
Operating expenses	21,135	24,297	14.96
Total assets	3,363	3,253	-3.27
Total liabilities	2,675	2,423	-9.42
Surplus/(Deficit)	832	142	-82.93
Total equity	688	830	20.64

As indicated in the financial summary table, our operating revenue increased by 11.20% in 2010-2011 and our operating expenses by 14.96%. The major area of change in our revenue base was the \$483,000 increase in our revenue generating activities such as training. There was a \$446,000 increase in the acceptance by the crown of employee benefits and other liabilities. We had estimated that there would be an increase in this revenue item, but not to the extent realised.

We had a decrease in our asset base, with a slight reduction in cash and cash equivalents. Our liabilities also decreased more than anticipated, however employee entitlements increased by over \$170,000 from the previous year. During the year we returned some unspent appropriation to the consolidated fund due to drawing down more funds than required in 2009-2010, as detailed in our statement of compliance with financial directives.

For more details about our financial position, see the 'Our financials' section of the report at page 113.

Environmental program

The NSW Government sustainability policy commits NSW public sector agencies to sustainable water and energy use, reducing greenhouse gas emissions and waste, improving fleet management and sustainable purchasing. Our environmental program focuses on implementing this policy as well as working to improve the environmental performance of the building in which we are located. We

are a member of the building management committee's environmental performance forum, which discusses current initiatives and future plans to enhance the environmental performance of the building.

We continue to meet our green building rating of four stars and we are investigating ways to improve this further. We purchase six per cent green power and encourage our staff to adopt energy efficient practices. Our tenancy is fitted with light sensors and timers, we buy energy efficient equipment, and only have a small number of fuel efficient cars.

In 2010-2011 our environment strategies included:

- | monitoring our energy usage through auditing, preventive maintenance, staff education programs and buying energy efficient equipment
- | investigating ways to further improve our green building rating
- | monitoring the type of waste generated in our office and implementing strategies to reduce contamination of the waste stream
- | improving our fleet performance through reduced petrol consumption, using fuel efficient vehicles, and achieving or exceeding the government fleet performance target for passenger vehicles
- | recycling 100% of our toner cartridges and waste paper
- | negotiating improved environmental commitments as part of our lease renegotiations
- | developing a new website to better present our online reports and resources.

Energy management

Our energy management strategies focus on reducing our greenhouse footprint – by improving our motor vehicle fleet performance and using less electricity.

Fleet management

Although we only have a small fleet of three cars, there are a number of strategies we use to improve our environmental performance. These include:

- | leasing more fuel efficient cars based on NSW clean care benchmarks – see performance indicator for fuel consumption below
- | undertaking vehicle maintenance according to the manufacturer's recommendations to help ensure optimum fuel efficiency and emission performance
- | leasing vehicles that are compatible with E10 blends of fuel
- | encouraging staff to use public transport where practicable.
- | meeting the average environmental government fleet performance score target, sourced from the Green Vehicle Guide Air Pollution rating and Greenhouse Emissions rating for 2010-2011

- | we proactively monitor the need to maintain a fleet and seek justification from our business areas before any new cars are purchased. We also make sure that any replacement car is fit for its purpose – in both size and fuel efficiency.

Electricity consumption

Our electricity consumption decreased during the reporting year – see performance indicator for electricity consumption on page 21. This was because we replaced our supplementary air conditioning unit and our uninterrupted power supply (UPS) in January 2011 with smaller more energy efficient models. We expect a further reduction in 2011-2012, after a full 12 months of operation of the new equipment.

Waste reduction and purchasing program

We have a range of strategies to reduce waste, increase recycling and purchase recycled content. We continue to reduce the number of guidelines, reports and fact sheets we print by making these resources available on our website or distributing them electronically via email. Some of our publications are now released in electronic format only.

We use Australian 80 per cent recycled paper with the remaining fibre sourced from sustainably managed forests. We encourage staff to check documents on screen to reduce print waste.

Staff are made aware of our recycling and purchasing program as part of their induction. They are updated on new initiatives and progress reports through email, and we do waste audits to improve our recycling systems.

Reducing the generation of waste

We promote email as the preferred internal communication tool and encourage staff to print double-sided. We have an electronic record management system that allows staff to access information such as policies, procedures and internal forms – reducing the need for paper copies. Our publications are available to download from our website so we only print small quantities.

Resource recovery

We have individual paper recycling bins at workstations and larger 240 litre bins throughout the office for secure paper destruction. All office wastepaper, cardboard, glass, plastic and aluminium is collected for recycling and we participate in a resource recovery program.

Using recycled material

Our stationery and publications are printed on either recycled, acid free or chlorine free paper with vegetable inks. We only use external printers who have a certified environmental management plan (ISO 14001).

Performance Indicator: Fuel consumption (E10)

	06/07	07/08	08/09	09/10	10/11
Fuel (l)	4,787	4,145	3,250	2,835	2,521
Total (GJ)	162	142	111	97	86
Distance travelled (km)	35,086	32,963	38,064	33,818	29,849

Performance Indicator: Electricity consumption

	06/07	07/08	08/09	09/10	10/11
Electricity (kWh)	311,713	348,358	302,172	367,273	320,053
Kilowatts converted to gigajoules	1,222	1,254	1,088	1,322	1,152
Occupancy (people)(full-time equivalent)	180	176	170	166	185
Area (m2)	3,133	3,133	3,133	3,133	3,133

Access and equity programs

Our access and equity programs focus on the needs of vulnerable groups. In the 2009-2010 year we undertook a comprehensive review of our access and equity programs as it is essential that our office is accessible to anyone who needs us. This review resulted in the development of our disability action plan (DAP), our multicultural and service program (MPSP) and our Aboriginal policy.

This annual report meets our annual reporting obligations under the *NSW Disability Services Act 1993* and the *Community Relations Commission and Principles of Multiculturalism Act 2000*.

Disability action plan (DAP)

This plan outlines our commitment to achieving the outcomes for people with disabilities set out in the NSW state plan and guidelines for disability action planning by NSW government agencies. Our DAP, which complies with Section 9 of the *NSW Disability Services Act* guides the delivery of programs and services to people with disabilities until the end of 2014.

For further details on our DAP see Appendix P.

Multicultural policies and services program (MPSP)

Under MPSP, all NSW government agencies must implement and report on their strategies to enhance and promote multiculturalism. Internally we call our program MAP - our multicultural action plan.

This year we undertook a comprehensive review of our language resources updating the text and expanding the number of community languages from 25 to 46. We also produced a multi-lingual pamphlet for use at multicultural events and to provide to migrant resource centres.

An annual reporting requirement for MPSP is to outline the strategies that we will implement in the next reporting year. We plan to consolidate the work that we have achieved this year, particularly embedding MPSP into all levels of our planning. We will also raise the awareness of staff about issues affecting our culturally diverse community. We also plan to consult with community groups about their needs to better inform our planning processes.

For further details on our MAP/MPSP see Appendix P.

Aboriginal policy

This policy outlines our commitment to improving our services to Aboriginal people as well as working with key agencies to improve the delivery of their services (see the Working with Aboriginal Communities section, page 105). It details strategies we have or will have in place to comply with our legislative obligations or policy responsibilities applicable to NSW government agencies.

Supporting the business

We have a small corporate team that supports our operational areas and is responsible for providing personnel, business improvement, accounting, information technology (IT), information management, publications design and layout and administrative and project support. The work of our personnel and the business improvement unit is discussed in this chapter and our accounting activities are discussed in Our financials, see page 113. Our access and equity work is reported in this chapter as well as in the Stakeholder engagement section, see page 91 and in Appendix P.

Our corporate staff have delivered on a range of significant projects that will transform how we do business into the future including designing or upgrading our databases to better inform business decisions or updating our technology to improve how we respond to the public or how we perform our work. We have also continued to improve our own internal systems and processes to better focus our resources on our business activities. Our key projects, not discussed elsewhere in the report, are mentioned below.

As with all areas of the office, the work of our corporate team is informed by our corporate and other planning documents. During the year we reviewed the IT strategic plan, and began developing a number of strategic plans to support our human resource, finance and business improvement work.

OCV Online... on line!

The long awaited OCV Online became active on 1 July 2010, replacing the previous paper-based system and simplifying the process for both us and the official community visitors (OCVs). Feedback from the OCVs is extremely positive and they are finding the new system easy to use. As with any IT system, as soon as it was rolled out, work commenced on enhancing it. A major enhancement of OCV Online was rolled out in late 2010 fixing a number of minor bugs and adding functionality that was not initially included in the project specifications.

SAN Upgrade

The SAN – Storage Area Network – is a vital component of the NSW Ombudsman data storage. It serves as the central data repository that feeds almost every server. The SAN has been playing a far greater role in supporting our IT systems and was particularly instrumental in enabling us to proceed with the virtualisation of 80% of our Servers in 2009-2010.

With the increased push for online storage the dependency on this device outgrew the capacity of the existing SAN. During the year we installed a new SAN which is a much faster, larger and flexible device. The SAN is the backbone for one of our largest IT projects – desktop virtualisation.

VLAN

Prior to rolling out desktop virtualisation we needed to review a number of IT systems and processes. We conducted a number of workshops with our IT staff and from those workshops developed an action plan.

With a growth in IT services over the last several years a significant outcome of this action plan was to enhance network performance and security to accommodate future growth and change, particularly in the areas of remote access, data storage and desktop virtualisation.

With virtually no capital outlay, virtual local area networks (VLAN) were designed and implemented using our existing switch infrastructure. The business is now enjoying faster network response times.

Desktop virtualisation

Last year a number of staff participated in our desktop virtualisation trial using VMware View. Despite a few hiccups the results from the pilot were largely positive, and following deliberations by the Risk, Information and Security Committee (RISC) the roll-out of desktop virtualisation was approved. There are obvious benefits of desktop virtualisation for our IT area. It will simplify software and platform upgrades, operating system and, application patching and will reduce the cost of licensing and on-going maintenance.

Our business units will benefit from improved stability of the network and smoother IT processes such as application upgrades and patching. The desktop virtualisation will also provide the platform for remote access to office applications.

Remote access

The Ombudsman approved a recommendation of the RISC to trial remote email access. As network security is critical, any remote access would have to ensure that we do not expose our network to additional risk or unauthorised access.

At the time of writing, the trial, which involves only selected staff, was in progress. The RISC will make the final decision as to the ongoing need for staff to access email remotely, following an assessment at the conclusion of the trial.

Resolve enhancements and on-going changes

In August 2010 we rolled out a significant enhancement to Resolve, our case management system, which converts issues, management actions and case outcomes into sub-cases. This has given us more flexibility in recording actions taken by agencies as well as being able to record multiple outcomes per case. These changes mostly affect the police division and employment-related child protection division.

There were also some changes to the standard case screen particularly relating to complainant information.

We commenced a project to change the agency hierarchy following the structural change to the public sector and the creation of the super-agency framework. We will need to review our agency hierarchy again following the recent reduction in the number of and the transfer of responsibilities between super-agencies.

Website review

In order to keep providing our stakeholders with quality programs and services we decided to create a new website that conforms to mandatory government requirements, is widely accessible and can be effectively navigated. In addition, we will create a simple website management system that can be easily maintained and updated, with a scalable platform for future internet technologies.

We researched alternate web options and how other agencies have determined their website builds, looked at government based templates, content management systems and various web programming and application development technologies. We also met with several web development companies.

We have consulted with senior management, our business areas and key external stakeholders to ensure needs and expectations are communicated. We are currently working on the information architecture for the new site and have begun the design process.

New logo

Our publications area has worked with the Ombudsman to revise our logo – as we felt that it was time to update our look and the way we present ourselves to the wider community. The new logo is a more contemporary interpretation of our old logo and continues to represent our core objectives of providing greater focus and clarity. Details of the meaning of the logo can be found on the inside front cover.

Our people

We have 207 people working for our office on either a full or part-time basis. These people are an energetic and diverse mix of experience and skill and come from a range of backgrounds – including investigative, law enforcement, community and social work, legal, planning, child protection and teaching. This collective experience gives us insight into the agencies we keep accountable and helps us to be a persuasive advocate for change.

Figure 11: Staff levels

	06/07	07/08	08/09	09/10	10/11
Statutory officers	6.00	5.00	6.00	4.00	4.00
Investigative	66.17	65.90	74.13	70.18	73.26
Investigative support	34.00	35.65	25.60	21.00	24.50
Project and research	16.60	15.60	14.10	20.66	25.66
Training and community education	3.58	3.50	3.30	2.30	1.50
Inquiries	9.00	10.00	7.00	9.94	9.54
Community visitor support	3.00	2.80	2.80	2.80	2.80
Systemic review	12.10	13.40	12.81	10.10	16.16
Corporate	29.43	23.97	24.74	25.17	27.77
Total*	179.88	175.82	170.48	166.15	185.19

* This figure represents the full-time equivalent, not the actual number of staff

Greg Andrews retires

One of our longest serving and most experienced investigators retired this year. As Deputy Ombudsman, Greg Andrews led the Police and Compliance Branch. Prior to that, as Assistant Ombudsman he led the Police Division for two years and the former General Team for over 15 years. Greg personally investigated some of the most complex, serious or politically sensitive matters, often exercising Royal Commission powers. He prepared numerous reports to Parliament on significant public interest as well as directing other major inquiries. These covered a wide variety of public administration issues from the running of juvenile detention centres and use of force in prisons to the system for land valuation. He also directed major reviews researching the operation and impact of controversial new laws relating to juvenile justice and extended powers of correctional officers and police officers. An experienced mediator, he was also responsible for incorporating alternative dispute resolution techniques into our case work.

As a statutory officer and key member of our executive management team, Greg made a lasting contribution to the strategic development of the office, devising many of our business processes. He wrote or was a major contributor to many of our guidelines and procedure manuals that have been adopted by other Ombudsman agencies around the world.

He was the architect of our first electronic complaints management system and oversaw many of its enhancements over the years as well as directing the successful implementation of our electronic document management system. He continued this interest by heading our office wide business improvement unit.

Greg initiated our external training program and made a significant contribution to the development of staff in other agencies as well as our own. He trained staff in Ombudsman Offices in Western Australia, Tasmania, Hong Kong, Thailand and Indonesia. As well, he developed skills in complaint system design, effective complaint-handling, investigation planning, and document and information management through training courses to staff from a wide range of other public sector agencies. He inaugurated, and with colleagues



“Through his professionalism, integrity and good judgement, Greg embodied the best attributes of Ombudmanship.”

from the ICAC, has planned since its inception in 1996 the biennial National Investigations Symposium which is the premier administrative investigations conference in Australia.

His wide experience has been used to mentor staff from integrity agencies in Indonesia, Papua New Guinea, and the Pacific Islands through institutional strengthening projects funded by the Commonwealth Government. With colleagues from the Commonwealth Ombudsman, he was instrumental in the establishment of the Pacific Ombudsman Alliance, a key outcome of an initiative under the Pacific Plan.

Through his professionalism, integrity and good judgement, Greg embodied the best attributes of Ombudmanship. We thank him for his significant contribution to our office and for the skilled and dedicated officers who remain with us whose growth and development owes much to Greg's direction and leadership.

Human resources

Any exceptional movement in wages, salaries or allowances

In September 2008, the Industrial Commission endorsed the agreement (the MOU) of the NSW Government and the Public Service Association (PSA) to award conditions and workforce reforms in a number of areas – including sick leave, excess staff and annual leave liability reduction. This agreement approved wage increases of 4% per annum over a three year period starting in July 2008, with an increase of 4% effective in July 2010. This decision affected all non-senior executive staff at our office.

Although increases of 4% were approved, funding of only 2.5% was provided in agency annual budget allocations. The expectation was that the MOU would result in savings to fund the unfunded component of the pay increases. If the MOU changes did not find sufficient savings, agencies were required to identify other strategies to meet their ongoing obligations to pay the awarded pay increases. The only strategy available to the Ombudsman was to reduce staff expenses, including reducing positions.

The Ombudsman has no role in negotiating pay increases for his staff as the Director General, Department of Premier and Cabinet (DPC) is the employer for industrial purposes.

From October 2010, a 4% increase was also paid to our statutory officers including the Ombudsman.

Personnel policies

Our staff are employed under the provisions of the *Public Sector Management and Employment Act 2002*. This Act, associated regulations and the Crown Employees (Public Service Conditions of Employment) Award 2009 set the working conditions of all public servants, including our staff. We therefore have little scope to set working conditions and entitlements for our staff. The Director General of DPC is the employer for this purpose and negotiates conditions and entitlements with the relevant unions.

This year we continued to systematically review our personnel-related policies and systems to ensure that they help achieve purpose 4 of our Statement of Corporate Purpose – to be an effective organisation. We created, reviewed and/or updated our purchased leave policy, grievance management policy, equal employment opportunity policy and reasonable adjustment policy. We started reviews of a number of other policies including occupational health and safety (OH&S), the recording of time worked, and the co-lateral flexible working hours agreement. These reviews are still to be finalised. All personnel-related policies created or reviewed are negotiated with our Joint Consultative Committee (JCC).

We mentioned last year that we would be implementing 'KIOSK', a self service facility enabling staff to directly access and change their personal information in our personnel database and apply for leave online. This project was initially delayed due to staffing changes in our personnel section, but it has now started – and we expect KIOSK to be available to staff by the end of 2011.

Working with our JCC

The most significant matter the JCC considered this year was the review of administrative support in our business areas. This review considered changes to work practices and processes over time as well as changes in office priorities. It recommended the deletion of some positions, resulting in a number of voluntary redundancies being offered to staff. The involvement of the JCC, and in particular the staff representatives, ensured that affected staff were supported throughout the review.

The JCC also considered a range of personnel policies including our purchased leave policy and equal employment opportunity policy.

Chief and senior executive service

Our office has four statutory positions – the Ombudsman and three Deputy Ombudsman. The number of statutory positions was reduced by two following our office restructure in October 2009.

The deputy positions are senior executive service (SES) positions. Due to significant changes in responsibilities after the restructure in 2009, the three deputy positions were externally re-evaluated during the year. Two of the positions were determined to be SES Level 5 and the other at SES Level 4.

As at 30 June 2011, one of our statutory officer positions was filled by a woman. Please see figures 12 and 13 for details of the levels of our senior positions and as well as the remuneration for the Ombudsman.

In addition to chief and senior executive service staff, we employ a number of senior officers. This is a public sector classification with equivalent pay scales to the SES. Details of all our executive team, both our statutory officers and senior officers, can be found in figure 14. As at 30 June 2011, 7 or 58% of our executive team were women. This is a significant increase from the previous year.

Figure 12: Chief and senior executive service

	06/07	07/08	08/09	09/10	10/11
SES Level 5	0	0	0	0	2
SES Level 4	2	2	2	3	1
SES Level 2	3	2	3	0	0
CEO*	1	1	1	1	1
Total	6	5	6	4	4

* CEO position listed under section 11A of the *Statutory and Other Offices Remuneration Act 1975*, not included in Schedule 2 for the *Public Sector Employment and Management Act 2002*.

Figure 13: Executive remuneration

Position	Ombudsman
Occupant	Bruce Barbour
Total remuneration package	\$444,449
\$ Value of remuneration paid as a performance payment	nil
Criteria used for determining total performance payment	n/a

Figure 14: Executive (senior) officers with remuneration equal to or exceeding equivalent of SES level 1

	06/07	07/08	08/09	09/10	10/11
Total number	9	8	9	7	12
Number of women	4	4	4	2	7
% of women	44	50	44	29	58

Equal employment opportunity

Our equal employment opportunity (EEO) program aims to achieve fair practices and behaviour in our workplace, including:

- | recruitment, selection and promotion practices that are open, competitive and based on merit
- | access for all staff to training and development
- | flexible work arrangements that meet the needs of all staff and create a productive work environment

- | grievance handling procedures that are accessible to all staff and deal with workplace complaints promptly, confidentially and fairly
- | sound communication channels that give staff access to information and allow their views to be heard
- | management decisions made without bias
- | no unlawful discrimination or harassment in the workplace
- | respect for the social and cultural backgrounds of all staff.

The NSW Government has established targets for employing people from various EEO groups. Measurement against these targets is a good indication of how effective our EEO program has been. The following performance indicators compare our performance against these government targets. As can be seen, we exceed the target for the employment of women and our representation of people with disabilities has increased. However, we have had a reduction in the representation of Aboriginal people and people whose first language was not English.

Performance indicator: Trends in the representation of EEO groups

EEO Group	Target	Percentage of total staff				
		06/07	07/08	08/09	09/10	10/11
Women	50	71	73	71	72	72.9
Aboriginal people and Torres Strait Islanders	2.6	2	2.5	3.6	3.6	2.4
People whose first language was not English	19	17	20	21	21	17.5
People with disabilities [#]	n/a	7	6	7	7	9.2
People with disabilities requiring work-related adjustment	1.5	2	2	2.6	2.6	2.4

[#] Percentage employment levels are reported but a benchmark has not been set.

Performance indicator: Trends in the distribution of EEO groups

EEO Group	Target	Result				
		06/07	07/08	08/09	09/10	10/11
Women	100	90	88	90	87	91
Aboriginal people and Torres Strait Islanders*	100	n/a	n/a	n/a	n/a	n/a
People whose first language was not English	100	89	86	85	83	86
People with disabilities	100	n/a	n/a	n/a	106	n/a
People with disabilities requiring work-related adjustment	100	n/a	n/a	n/a	n/a	n/a

Note: A distribution index of 100 indicates that the centre of the distribution of the EEO group across salary levels is equivalent to that of other staff. Values less than 100 mean that the EEO group tends to be more concentrated at lower salary levels than is the case for other staff. The more pronounced this tendency is, the lower the index will be. In some cases the index may be more than 100, indicating that the EEO group is less concentrated at the lower salary levels.

* Figure not reported as numbers are small.

Figure 15: Staff numbers by level

Level	Total staff (no.)	Breakdown by EEO group							
		Respondents	Men	Women	Aboriginal & Torres Strait Islander people	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with disabilities	People with disabilities requiring work-related adjustment
< \$39,670	0	0	0	0	0	0	0	0	0
\$39,670 - \$52,104	4	4	1	3	1	3	2	1	0
\$52,104 - \$58,249	14	14	1	13	0	7	6	0	0
\$58,249 - \$73,709	44	43	8	36	1	11	10	4	0
\$73,709 - \$95,319	87	87	22	65	2	21	14	7	4
\$95,319 - \$119,149	46	46	19	27	1	5	4	5	1
> \$119,149 (non SES)	9	9	3	6	0	0	0	1	0
> \$119,149 (SES)	3	3	2	1	0	0	0	1	0
Total *	207	206	56	151	5	47	36	19	5

* This figure represents the actual number of staff as at 30 June 2011 — not the full-time equivalent.

Our personnel practices

Our personnel practices support EEO by ensuring a diverse and skilled workforce, fair work practices and behaviours, and employment access and participation by EEO groups. Figure EM shows the gender and EEO target groups of staff by salary level. For more details about our personnel policies, see the Human resources on page 24.

We continued to develop our use of the e-recruitment system developed for the NSW public sector. This includes using the system for publishing all permanent vacancies and long term contract positions as well as for managing notifications to unsuccessful applicants. The e-recruitment system provides a range of opportunities and in 2011-2012 we will continue to explore how we can maximise our use of this system.

Preventing harassment and promoting respect

During the year we reviewed and updated our grievance handling and resolution policy. This policy provides a framework for managing grievances promptly, sensitively, impartially, justly and confidentially.

To promote respect for the social and cultural backgrounds of staff and our clients, we continued our in-house training on Aboriginal cultural appreciation. We also continued our disability awareness training which uses attitudinal and practical sessions to illustrate issues facing people with a disability. This training also focused on improving our work practices, by giving practical suggestions on how to engage people with disabilities.

Access and equity

Our access and equity programs focus on the needs of vulnerable groups. Our disability action plan (DAP), our multicultural policies and services program (MPSP), and our Aboriginal policy all support EEO outcomes. See Appendix P for more details about our DAP and MPSP.

Flexible work arrangements

We promote flexible work options to enable staff to balance their work and personal commitments. We offer part-time work, flexible working hours, working at home arrangements and a range of leave options. We have 52 staff who work part-time.

We progressed our review of our flexible working hours agreement through our JCC. This review was initially delayed due to broader sector wide discussions on the issue. A purchased leave policy was developed and approved by the Ombudsman.

The year ahead

Priority projects in 2011-2012 will include finalising the KIOSK, reviewing and streamlining our recruitment policies and practices, and completing the reviews of position descriptions and selection criteria.

Occupational health and safety

As an employer, we are required to provide a safe work environment for our staff. We are subject to the provisions and responsibilities outlined in legislation such as the *Occupational Health and Safety Act 2000* as well as public sector occupational health and safety (OH&S) policies. We take a risk management approach to our OH&S activities and have approved policies and supporting programs that provide guidance to both managers and staff in a range of areas.

These include OH&S strategies and procedures, a return to work program, a first aid plan and workplace inspections.

Reasonable adjustments

During the year we modified a number of work areas or work processes to assist staff who have either ongoing medical conditions or other specific needs. These included desk

adjustments, changing the placement of lights and installing special software. Some of these modifications were made after medical or other professional assessments. We also reviewed and updated our reasonable adjustment policy.

Emergency evacuation procedures

We continued to participate in our building's emergency evacuation training program with all wardens required to attend training at least twice a year. We also participated in the building's emergency evacuation drills.

As a result of changes to the Australian standard for planning emergencies in facilities (AS3745-2010), both the building emergency evacuation procedures as well as our own required amendments. The main change was the need to develop a personal evacuation plan for anyone deemed to be mobility impaired for a prolonged period of time.

We are a member of the building emergency planning committee, which meets on an annual basis to discuss the building evacuation preparedness and processes.

Other programs to support OH&S

We have a number of other programs that help us to meet our health and safety obligations. These include:

- | an employee assistance program (EAP) – with a free 24-hour counselling service for all staff and their families
- | hepatitis vaccinations — staff who visit correctional centres are vaccinated against Hepatitis A and B
- | flu shots — we organise flu shots for staff to prevent high levels of absenteeism during the flu season
- | basic first aid — we have a number of staff who are first aid officers and can respond to minor workplace injuries. We cover the costs of any initial and any ongoing training and pay them a yearly allowance for undertaking this role.

Workers compensation

We participate in the NSW Treasury Managed Fund, a self-insurance scheme for the NSW public sector. There was a decrease in the number of claims reported to our insurer in 2010-2011 compared to the previous year, with eight claims being reported – see table figure 16. As at 30 June 2011, we had five open workers compensation claims.

The Treasury Managed Fund contracted Employers Mutual to manage our workers compensation claims. The transition to Employers Mutual was smooth and we have a productive working relationship with them.

Figure 16: Workers compensation

Claims entered in the year	07/08	08/09	09/10	10/11
Claims brought forward	9	6	2	4
New claims	6	5	9	8
Claims closed	9	9	7	7
Open claims 30 June	6	2	4	5

In June 2010 the NSW Government released its new 'working together' strategy to reduce the incidence and severity of injury and illness to public sector workers, decrease the duration and cost of workers compensation claims, and improve return to work outcomes.

During 2010-2011 we began a review of our OH&S program to ensure we complied with this strategy. Specific strategies we addressed this year were training for managers and supervisors and taking a more proactive approach to managing workers compensation claims. This included working more closely with rehabilitation coordinators to facilitate an early return to work for injured staff.

New work health and safety laws

There are currently nine different work health and safety (WHS) laws across Australia. There is a commitment by all Australian governments to having uniform standards in place by January 2012. The new laws will:

- | reduce compliance costs and red tape for employers
- | maintain a strong work, health and safety framework
- | keep businesses accountable
- | make laws easier to understand while protecting workers.

We are currently reviewing the impact of the new WHS laws and will be modifying our OH&S program accordingly. The new laws strengthen the consultation requirements, so any changes we make will follow discussions with staff and our joint consultative committee.

Learning and development

One of the goals of our Statement of Corporate Purpose is to attract, develop and encourage skilled and committed staff. One way of achieving this is to provide learning and development opportunities that enable staff to effectively perform their current role and gain skills to assist them progress their careers within the office and the public sector.

This year we provided a range of training courses including coordinated induction sessions, job specific training and in-house workshops held by external training providers. Staff also attended a range of external courses to gain job specific skills.

Developing professional skills

Attending conferences – such as the IPAA state conference, the Australian Child Death Review conference, the ACWA conference, and the National Indigenous Domestic Violence conference – gives our staff the opportunity to learn from industry experts, improve their understanding of contemporary issues impacting on our work, and network with people with similar roles, experience and skills.

This year our staff also attended:

- | a range of external training – including courses on internal audit, word processing and job evaluation
- | the public focused training sessions run by our own training staff – including the art of negotiation and dealing with unreasonable complainant conduct
- | the National Investigations Symposium we organised with the ICAC and IPAA in November 2010.

We also provided our supervisors with training on supervisory skills, performance management, merit selection and OH&S.

Figure 17: Workers compensation incidence rate

	06/07	07/08	08/09	09/10	10/11
Number of injuries reported	5	6	5	9	8
EFT number of employees	179.88	175.82	170.48	166.15	185.19
Incidence rate (%)	2.78	3.41	2.93	5.42	4.32

Figure 18: Training expenditure

Year	06/07	07/08	08/09	09/10	10/11
Expenditure	\$220,000	\$180,000	\$125,000	\$101,000	\$165,000

Investing in leadership skills

We have made a commitment to investing in the development of our senior staff. As a group, our senior staff are less likely to attend training or other professional development activities. This can mean that they may not have the requisite skills to address contemporary management/strategic issues. However they need these skills to lead our office, particularly during periods of continual change.

Our leadership development program was endorsed in August 2010. This program requires all senior staff to attend a set of training courses over a two year period covering financial management, leadership and strategic planning. In addition, senior staff are expected to undertake 15 hours of independent professional education to improve/develop their leadership/management knowledge and skills. This program can include reading management publications as well as attending briefing sessions and training courses. All senior staff must report to the Ombudsman annually on their compliance with these requirements.

To support this program we ran a number of in-house training sessions using external training providers. This program will be developed further in 2011-2012.

Raising awareness

One focus of our training program is improving how we deal with the public. Attendance at both our disability awareness and Aboriginal cultural awareness in-house training courses is compulsory as we decided that all staff would benefit from a better understanding of the needs and issues affecting both groups.

Better equipping new staff

Our formal induction program ensures that all new staff receive consistent information about the office and our policies, processes and obligations. Within the first three months of joining us, new staff attend training on our electronic document management and case management systems, and an information session where representatives from across the office provide a brief overview of the role and structure of their area. We also run 'Ombudsman: What, When, Where and Why' training sessions to inform all new staff about the functions of our office, our jurisdiction and our responsibilities.

Supporting other study programs

Staff development also means encouraging staff to undertake further study to enhance their skills. In 2010-2011, thirteen of our staff used study leave provisions to undertake tertiary education courses.

The year ahead

In 2011-2012 we will continue with our leadership development and core training programs.

We will need to take a more strategic approach to training to ensure that we maximise our limited resources. For example, we are reviewing our in-house investigation training course and working with other Australian Ombudsman to develop a single investigation training course for all our offices.

Figure 19: Time spent on training

Number of	Total
Courses attended	81
Full-time equivalent staff	185.19
Total time spent - hours	3,075
Total time spent - days	439
Days training per staff member	2.37

Public administration

An essential part of the work of an Ombudsman is dealing with complaints from members of the public. The public administration division deals with complaints from individuals who feel they have been treated unfairly or unreasonably by state government agencies and local councils.

As well as resolving complaints whenever we can, we work with agencies to bring about improvements to their systems so that the same problems do not keep happening. We travel across the state to visit adult correctional centres to take complaints from inmates, speak with staff to resolve issues and observe conditions and routines.

We use information from complaints to identify and proactively investigate public interest issues. In this way we can benefit a large number of people, often those who are less likely to come forward and complain.

This year we continued our work about the management of asbestos (see page 33) and conducted a major investigation into the operation of Kariong Juvenile Correctional Centre, the only custodial facility for young people in NSW managed and operated by the adult correctional system (see page 37).

We established a specialised unit to carry out our new functions in relation to public interest disclosures. In addition to dealing with protected disclosures and complaints about how disclosures are handled by agencies, we have a role in providing advice, information and training public as well as monitoring and auditing public sector agencies' compliance with the new Public Interest Disclosures Act (see page 47).

Highlights

- | In response to our report to Parliament on asbestos the government agreed to appoint a Heads of Asbestos Coordination Authorities, develop a state-wide plan for asbestos, fund a public awareness campaign and provide funding to remediate the Woods Reef asbestos mine. [SEE PAGE 33](#)
- | Investigated how the NSW Trustee and Guardian makes financial decisions on behalf of vulnerable people. [SEE PAGE 35](#)
- | Encouraged the provision of better and more accessible information for parents with children at school, TAFE students, young people using legal aid, and people involved in motor vehicle accidents in NSW. [SEE PAGES 31, 34](#)
- | Conducted an investigation into the behaviour management program at Kariong Juvenile Correctional Centre, and recommended wide-ranging changes to improve the management and evaluation of the program. [SEE PAGE 37](#)
- | Monitored how inmates were disciplined at a range of centres, and negotiated a range of successful individual outcomes as well as improvements to overall policies and procedures. [SEE PAGE 38](#)
- | Achieved a number of positive outcomes for people who complained about delays in councils investigating and taking action about their complaints. [SEE PAGE 43](#)
- | Produced model internal reporting policies for state government agencies and local councils, and five practice notes to help agencies implement the new PID Act. [SEE PAGE 48](#)

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Departments and authorities

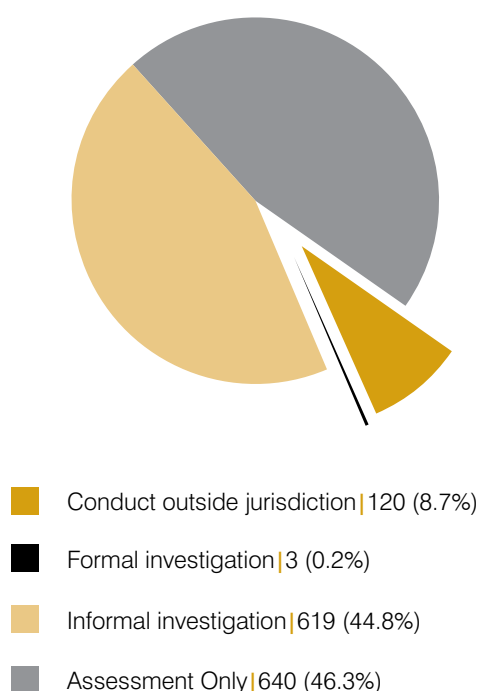
Complaint trends and outcomes

This year we were contacted on over 4,200 occasions by people with concerns about NSW departments and authorities, other than complaints concerning police, community services, councils, corrections and Freedom of Information, 1,381 complaints were made in writing (which we call formal complaints) and 2,903 were made over the telephone or in person (which we call informal complaints) – see figure 21. We conducted 619 preliminary or informal investigations and three formal investigations that involved using the Ombudsman's coercive investigation powers – see figure 20.

Disappointingly, the most common issue complained about was customer service. Over 17% of the complaints we received were primarily about poor customer service – see figure 22. With the new state government's focus on improved customer service across the public sector, we trust there will be a reduction in this figure in the coming year.

In 2009-2010, we reviewed and changed our internal arrangements for handling complaints about human services agencies – Housing, Health and Juvenile Justice. Previously complaints about Housing NSW and Health were included in our complaint figures for departments and authorities. From this year, we will report separately about complaints for these two agencies – see figure 24. Complaints about Juvenile Justice are reported in the human services section – see page 73.

Figure 20: Formal complaints finalised



Current investigations at 30 June 2011	No.
Under preliminary or informal investigation	74
Under formal investigation	3
Total	77

Figure 21: Formal and informal matters received and finalised

Matters	06/07	07/08	08/09	09/10	10/11
Formal received	1,158	1,348	1,349	1,438	1,381
Formal finalised	1,167	1,354	1,310	1,414	1,382
Informal dealt with	3,465	3,962	3,949	3,777	2,903

* This figure does not include complaints about public sector agencies that fall into the categories of police, community services, local government, corrections, human services or FOI.

Figure 22: What people complained about

This figure shows the complaints we received in 2010–2011 about NSW public sector agencies broken down by the primary issue in each complainant. Please note that while each complaint may contain more than one issue, this table only shows the primary issue.

Issue	Formal	Informal	Total
Approvals	38	149	187
Charges/fees	117	439	556
Child abuse-related	0	2	2
Complaint-handling	205	244	449
Contractual issues	24	43	67
Correspondence	15	36	51
Costs/charges	9	35	44
Customer service	198	543	741
Enforcement	59	87	146
Hardship	7	15	22
Information	71	173	244
Management	72	47	119
Misconduct	36	43	79
Natural justice	19	40	59
Issue outside our jurisdiction	48	195	243
Nominations and third party	7	11	18
Object to decision	195	446	641
Object to decision/ application forms	129	136	265
Other administrative issue	31	115	146
Policy/law	95	96	191
Records	6	8	14
Total	1,381	2,903	4,284

Figure 23: Performance indicators

2010-2011 criteria	Target	Result
Percentage of complaints assessed within two days	90	98
Average time taken to finalise complaints (not including complaints about FOI)	7 weeks	5 weeks
Complaints resolved by providing advice or through constructive action by the public sector agency (%)	65	69
Recommendations or suggestions for changes to law, policy or procedures in formal investigation reports (%)	90	100
Recommendations made in investigation reports that were implemented by public sector departments and authorities (%)	80	83

NB: These statistics include complaints about departments and authorities, corrections, local government and FOI.

Helping to improve performance

As well as resolving individual complaints, we help departments and authorities improve how they do their work. Wherever possible, we try to identify changes that will help an agency improve its service and avoid the same problems occurring again. This could involve the agency reviewing and changing a policy or procedure, providing training to staff, or improving their communication with members of the public – case studies 1 – 4 illustrate this.

Case study 1: A problem with noise

We received a complaint from a resident who lived next to a Sydney Water pumping station. They alleged the former Department of Environment, Climate Change and Water (now the Office of Environment and Heritage or OEH) had not dealt appropriately with their complaint against Sydney Water in a dispute about which location at the complainant's property was most affected by noise from the pumping station. OEH's industrial noise policy provides guidelines for measuring noise from industrial activities and determining the most affected point. After reviewing the complaint we determined that the policy was ambiguous on where noise impacts should be measured and how disputes could be resolved if there was a disagreement between the noise generator and the affected party.

We wrote to OEH suggesting they review whether their current procedures were adequate and in keeping with industry practice, and take steps to amend their policy if appropriate. We also suggested they consider whether dispute resolution mechanisms should be included in the policy and what the role of OEH should be in resolving any disputes. OEH advised that disputes of this nature are rare but agreed to review their policy, taking our concerns into account.

Case study 2: Better information for students

A student complained about the delay in receiving a certificate for a permaculture course she had completed. The course was auspiced by TAFE. She also raised concerns about the way the course was conducted, including the treatment of students by teachers and a lack of awareness of the complaint-handling process.

TAFE acknowledged there was a need to improve communication with students. They said they would send a survey to students each semester, and make sure that each student was given a TAFE student guide at the beginning of their course outlining how to make suggestions and complaints.

Case study 3: Who is liable for costs?

As a result of a complaint to us, the Roads & Traffic Authority (RTA) reviewed and rewrote their policy on determining liability for costs resulting from motor vehicle accidents – such as damage to RTA property, traffic control and clean-up costs.

A father had objected to the RTA's decision that his son was liable for the costs of an oil spill, but was given confusing advice about how to dispute liability. He was also made to submit a formal application for access to the information that the RTA had relied on as evidence of liability. When he finally received this information, he found it contained no evidence his son was liable for the costs.

Our inquiries highlighted the need for the RTA to review their processes for issuing invoices and recovering costs relating to accidents. They resolved the particular complaint and have significantly changed their procedures. People are now given clear advice about how to dispute liability when they receive an invoice for costs, and the RTA has developed internal procedures to guide staff when deciding if there is sufficient evidence to establish liability.

Case study 4: Paying school fees

We received a complaint that alerted us to possible problems with information given to parents about voluntary fees collected by schools. Contrary to Department of Education and Communities policy, we learnt that a school was invoicing parents and carers but not telling them that the fees were voluntary. A parent had complained to the Director General, but after receiving an inadequate response she contacted our office. Although the problem had been brought to the attention of the school, they were going to wait until the next school year to give out the correct information. After our intervention, the school was directed to put the correct information into a newsletter as soon as possible.

We decided to look at what other schools did about school fees and found many other examples of schools giving incorrect or confusing information about voluntary contributions and subject fees.

We raised our concerns with the department who told us they received very few complaints about this issue. Given that we found many cases where schools were not following the correct policy, we did not think that the number of complaints could be used as a measure of schools complying with the policy. The department agreed to our suggestions about including the policy about voluntary contributions as a standard item on individual school websites and reminding regional directors and principals of the voluntary nature of contributions.

Housing issues

In last year's annual report we discussed the expansion of the community housing sector under funding from the Commonwealth Government. Our office does not have jurisdiction to handle complaints about non-government community housing providers. The Registrar of Community Housing, appointed in 2009, has a regulatory responsibility for community housing providers. We regularly liaise with the Registrar and with the Community Housing Division (CHD) of Housing NSW to coordinate our respective responsibilities for complaints about public and community housing.

Helping people with a mental illness access and sustain housing

We have been monitoring the progress by agencies in implementing the recommendations we made in our special report to Parliament in 2009 about the *Joint Guarantee of Service (JGOS) for people with mental health problems and disorders living in Aboriginal, community and public housing*.

This year we asked Housing NSW about their progress with developing the new Housing and Mental Health Agreement – this agreement is intended to replace the JGOS and address the recommendations of our report. In response to concerns raised with us by non-government organisations in the homelessness and mental health sectors, we emphasised to Housing NSW the importance of communicating with these organisations about the steps taken to develop the agreement to date and consulting with them about future plans. We suggested that Housing NSW arrange to meet with the relevant peak bodies as soon as possible.

In December 2010, Housing NSW responded by giving us their schedule for planned consultations. In March 2011, they also gave us a draft copy of the Housing and Mental Health Agreement. We recommended that the draft be revised to have a stronger focus on governance arrangements – including how the implementation of the agreement will be demonstrated and monitored. We have since provided more detailed feedback on a later draft, and we understand that the agreement will soon be finalised. We will continue to monitor progress through our regular liaison meetings with Housing NSW.

Resolving complaints from public housing tenants

In 2010-2011, we finalised 309 formal complaints from or on behalf of public housing tenants – up by 39% from 2009-2010 (223 formal complaints).

The complaints we received were primarily about:

- | delays in processing and making decisions about applications for public housing, particularly applications for priority or emergency housing
- | arrangements for and delays in providing housing maintenance and repair services
- | disputes about rents and utility fees
- | customer service and complaint-handling.

This year we conducted preliminary or informal investigations into 60% of the formal complaints we received. We resolved or made suggestions for improved services in 74% of cases. Most of the remaining complaints were finalised by referring tenants to Housing NSW so they had an opportunity to resolve the complaint directly.

We regularly meet with representatives from Housing NSW to discuss issues arising from complaints, and their plans for addressing these issues and improving their frontline complaint-handling.

Figure 24: What people complained about

This figure shows the complaints we received in 2010–2011 about Housing NSW and Health. Please note that while each complaint may contain more than one issue, this table only shows the primary issue. Note from this year, we are reporting complaints for these separately.

Issue	Formal	Informal	Total
Approvals	63	125	188
Charges/fees	28	61	89
Complaint-handling	35	83	118
Contractual issues	72	184	256
Customer service	74	340	414
Enforcement	4	16	20
Information	16	68	84
Management	7	20	27
Misconduct	6	14	20
Natural justice	2	12	14
Issue outside our jurisdiction	23	58	81
Object to decision	37	178	215
Other	16	48	64
Policy/law	4	19	23
Property	1	1	2
Classification	1	0	1
Records/administration	4	1	5
Total	393	1,228	1,621

Case study 5: A positive outcome in the end

The mother of a 15 year old disabled boy and a seven year old girl complained about a delay of more than 12 months in Housing NSW's assessment of her application for housing. The woman explained that she had left her previous home because of domestic violence. She and her children initially lived with her parents, but as this was no longer an option they had been living in a succession of hotels, motels and caravan parks. This arrangement had been going on for nearly 13 months.

We contacted Housing NSW and they advised us that there was a high demand for housing in the area where the complainant lived, and her application was one of a large number awaiting assessment. At our suggestion, Housing NSW agreed to meet with the woman to discuss her circumstances and options. They subsequently assisted her and her family to obtain supported housing in a location close to the health and other services she needed.

Case study 6: Phone problems solved

After Housing NSW transferred an elderly woman and her husband to a new property, the woman complained that there was a problem with the phone connection. The couple depended on a working phone to access necessary health and medical supports.

Housing NSW referred the woman to the phone provider who charged for a technician to visit the property. The couple could not afford the charge and asked Housing NSW to meet with them to discuss an alternative solution. When Housing NSW did not do so, the woman complained to our office. After we referred the matter to Housing NSW, they quickly arranged for the necessary repairs to be completed with no cost to the couple.

Reforming asbestos management

Our report to Parliament

In November 2010, we tabled our report to Parliament on *Responding to the asbestos problem: The need for significant reform in NSW*. Given the significant problems we found in the way asbestos issues were being handled by government, we recommended that the NSW Government:

- | establish and adequately fund an Asbestos Coordination Authority
- | introduce an Asbestos Act to facilitate effective measures to appropriately address asbestos issues
- | develop a statewide plan for dealing with asbestos and allocate adequate funding to implement it.

We also recommended allocating funding for the remediation of the Woods Reef asbestos mine site near Barraba, developing a comprehensive public awareness program about asbestos for all sections of the community, the Division of Local Government issuing a model asbestos policy to all councils, and introducing vendor disclosure laws to provide mandatory certification of the presence of asbestos in residential buildings.

In August 2011, the Minister for Finance and Services tabled the government response to our report. We welcomed the government's positive response to our recommendations. It was clear that serious consideration had been given to the significant issue of asbestos in our community and the government's proposals are a good first step towards meeting the challenges of dealing effectively with the management of asbestos.

The government supported the findings in the report and in large part has agreed to the recommendations we made. Of the recommendations not accepted, the government put forward alternative measures and will establish a new Heads of Asbestos Coordination Authorities to coordinate the issues we identified.

We will continue to monitor this important issue and the work of the new coordination body to ensure effective and comprehensive reform is undertaken.

Asbestos surveys in NSW schools

We are currently investigating the management of a contract by the Department of Services, Technology and Administration for carrying out asbestos surveys in public schools. We are concerned that certain conditions of the contract may not have been complied with in relation to the qualifications and experience required of the people who did the on-site inspections and that, as a result, the accuracy of asbestos registers in schools may be in doubt. We expect to report on this investigation later this year.

Investigating the release of airborne dust containing asbestos

A complaint we received alleged that a contractor engaged by the RTA to remove materials containing asbestos from a road construction site near a housing estate in Queanbeyan had failed to take appropriate measures to prevent dust and asbestos fibres becoming airborne. We found that there were deficiencies in how the incident was investigated by the relevant government agencies – including a failure to interview workers at the site and other witnesses. We met with WorkCover to discuss our concerns about how they conduct investigations into workplace incidents. They agreed to examine best practice models for investigating workplace OH&S issues and review their policies, practices and procedures in this area.

We will continue to monitor how WorkCover addresses these important issues.



The Woods Reef asbestos mine was a focus of our recent investigation and report to Parliament.

Knowing how and where to complain

As well as having good complaint-handling systems, agencies need to tell members of the public about them. This is particularly important for large, dispersed government departments such as the Department of Education and Communities that has schools and offices all over the state. Parents and carers may not be aware of the structure of government or that the school their child attends is part of a large department. We encourage departments to do all they can to make people aware of how to complain – see case studies 7 and 8.

Agencies should also have mechanisms in place to collect information from complaints to improve their business processes. Complaints can give agencies valuable information about how well policies are being implemented at a local level, if procedures are being complied with across the organisation, and what changes may be needed to fix systemic problems.

Case study 7: Beneficial changes for all parents

A mother of two primary students complained about bullying and that the school did not contact her when one of her sons fractured his wrist. She was not happy with the school's response to her concerns, but she did not know who else to contact. When her husband phoned the regional office of the Department of Education and Communities, the staff member he spoke to told him that he found it hard to believe the allegations about the school. The woman then wrote to the Director General's office but did not get a response, so after six weeks she contacted us.

We were concerned about what happened in this case and that insufficient information may be available to parents about how to make complaints. We found that:

- | the department only had a general policy on its website that did not clearly explain the process for school complaints and the role of the regional office
- | the individual school did not tell parents how to escalate a complaint
- | the phone call to the regional office was not handled appropriately – the staff member did not appear to have dealt with the matter impartially and did not record or act on the complaint
- | there was a problem with communication between the Director General's office and the regional office about who should respond.

After speaking with the department, they agreed the information currently available might not be clear to parents and carers and needed to be changed. They updated their complaint guidelines to reflect the different types of complaints the department might receive and what to do. A new system was introduced to stop confusion between the Director General's office and regional offices, and complaint-handling issues were also discussed with Regional Directors.

The complainant was satisfied that her experience had helped to improve the system for all parents.

Case study 8: Making information accessible

A father complained that Legal Aid did not respond to a written complaint by his 13 year old daughter after she was interviewed by an Independent Children's Lawyer (ICL) as part of family court proceedings. Interviews with ICLs are conducted only with the young person – there is no third party present. We made inquiries and found that Legal Aid's complaint-handling policy was not followed in this case. It was not recorded as a complaint and the ICL contacted the young person after receiving the complaint to set up a meeting to discuss her concerns – without having another person present.

As a result of our inquiries, Legal Aid agreed to improve their website to make it clearer on how to make a complaint. They also changed their factsheet to include a new paragraph 'What if you are unhappy with your lawyer?'. The factsheet also has contact details for our office. Legal Aid intends to liaise with us about proposed changes to their website, including providing better information for young people about the complaints process.

Improvements in handling complaints by the Office of Liquor, Gaming and Racing

Complaints about a lack of action on complaints about noise from licensed premises in Sydney and the Newcastle area prompted us to visit the Office of Liquor, Gaming and Racing to review their files and interview staff responsible for dealing with noise disturbance complaints. We were extremely concerned at what we found.

Although we appreciate there have been significant changes to the legislation and to the agency, it appeared there was a lack of guidance to staff about how complaints should be handled – including the circumstances in which conferences would be held, the criteria for deciding when to hold a conference, time frames in which matters should be dealt with, and who the decision-makers were. Record-keeping was poor – with very few file notes of phone calls received or made by staff, emails to and from the agency were not on file, and key decisions were not documented.

The agency responded with commendable frankness. As well as taking action on the complaints, they provided detailed information about the changes being implemented in the agency. These included measures to deal with the backlog of noise disturbance complaints, new administrative procedures and key performance indicators, improvements to record-keeping, and the introduction of a case management system.

At a follow up site visit six months later, we found that considerable improvements had been made. These included:

- | significant improvements in record-keeping practices – with well-ordered files, file notes of telephone conversations, and copies of emails and other correspondence on file
- | prompt responses to emails and telephone calls
- | key decisions being documented with reasons
- | timely progress being made on files.

Decision-making at the NSW Trustee and Guardian

The NSW Trustee and Guardian manages the financial estates of people who lack the capacity to manage their own money, so their role is crucial to the wellbeing of a significant number of vulnerable people. This year we started a wide-ranging formal investigation into the standard of their administrative decision-making.

We are aware that the Trustee and Guardian has had a number of organisational challenges over recent years – including a major restructure of the former Office of the Protective Commissioner, relocating from the Sydney CBD to Parramatta, the merger of the Public Trustee and Office of the Protective Commissioner, and inadequate and incompatible IT systems. We appreciate that considerable time and resources have had to be allocated to managing these changes.

Although the Trustee and Guardian has demonstrated a commendable willingness to acknowledge that problems exist, to share information about measures being taken internally, and to accept suggestions about how to address deficiencies, we continue to receive complaints which suggest that administrative processes and procedures are not improving.

We are working collaboratively with them to investigate:

- | delays in decision-making
- | delays in implementing suggestions from our office that have been agreed to
- | lack of compliance by staff with changes when they have been actioned
- | failures to identify systemic issues in administrative practices
- | failures to respond to correspondence and phone calls.

Managing representations about fines

We have been looking at the administrative arrangements at councils for managing representations about fines. The service level agreements all councils have with the State Debt Recovery Office (SDRO) can result in members of the public having dealings with both the SDRO and their local council when making representations for a fine to be waived. Under these agreements, the SDRO provides administrative services for processing penalty notices issued by councils and for enforcing outstanding fines and penalty notice amounts.

We have invited a number of councils to participate in a project to improve our understanding of how this dual system works in practice – particularly how it affects members of the public making representations. The project involves reviewing a council's policies and procedures for dealing with representations about fines, auditing a number of representations made to that council, and interviewing staff about how they do their work in practice. We anticipate reporting back to councils and the SDRO on our findings later this year.

Are they part of government or not?

As the provision of government services becomes more complex, the relationships between the public, private and non-government sectors can be unclear. Case studies 9 and 10 highlight the issues that can arise and the need to carefully manage these relationships.

Case study 9: Referral service could be unfair

The owner of a plumbing company operating in the Newcastle area complained that Hunter Water had a referral service on their website that directed customers to one particular company which they called their 'partner'. Customers of Hunter Water could call the referral service and be connected with a 'trusted plumber' 24 hours a day.

The complainant thought this referral service and the endorsement of a single plumbing company was likely to dissuade people from using other plumbing companies in the area, such as his own.

Hunter Water told us they had set up the referral service to provide customers with a reliable plumber to contact for assistance, after receiving feedback from customers that they had difficulty locating a good plumber.

It seemed to us that Hunter Water was effectively promoting and advertising the services of a single, privately owned plumbing company in the area. We wrote to them expressing our concerns about the negative effect that this might have on other plumbers in the region. It seemed that the benefit of the referral service to the plumbing company was substantial, including the potential business from the 445 customers that were referred by Hunter Water and 194 referral cards left by Hunter Water in letter boxes.

We also expressed the view that by referring to the company as a 'trusted, licensed plumbing partner' Hunter Water was explicitly endorsing the company.

Hunter Water agreed that they would consider opening up the referral service to other plumbing companies in their upcoming re-evaluation of the scheme.

Case study 10: Monitoring accredited providers

We are currently investigating how Sydney Water accredits and monitors their accredited providers. When land is developed, approval must be obtained from Sydney Water to do work that might affect its assets – such as the sewer line. The developer must get a Sydney Water-accredited provider to perform what is called a 'peg-out' to verify the location of the sewer. The providers are accredited by Sydney Water, but not employed by them. The peg-out can only be done by either Sydney Water or one of its accredited providers.

We received a complaint from a developer who had contracted an accredited provider to perform a 'peg-out.' The provider incorrectly plotted the location of the sewer and, as a result, the builder hit the sewerage pipe. The complainant estimates that the combined cost of the damage to his property and his neighbour's property was around \$50,000.

At that time, Sydney Water did not require its providers to have insurance to cover such eventualities so the complainant was unable to recover any money from the provider. Sydney Water also denied any liability for the actions of the provider, so the complainant was unable to recover any of the cost of the damage from them.

Although Sydney Water might not be legally liable for the damage to the property, we felt that they had a responsibility to ensure that accredited providers – doing work that Sydney Water would have performed under other circumstances – were properly trained, monitored and insured, and that developers such as the complainant were not adversely affected by the contracting out of this work. The investigation is ongoing.

Corrections

The Prison Ombudsman

Providing comprehensive oversight of the correctional system requires a balanced approach – a mix of reacting to and trying to resolve the individual complaints we receive and proactively addressing matters that may potentially affect large numbers of inmates.

Our approach includes:

- responding to complaints – small improvements accumulate and add to overall accountability and transparency and help increase the human rights focus of the system. Several individual, even small complaints can lead to inquiries and resolutions that may affect more people, a whole centre or even be implemented system-wide
- conducting proactive inquiries and reviews – using our 'own motion' powers. The issues we look at come from a range of sources, like visits, evaluating complaints, reading reports or other information in the public arena about corrections. We are also able to review and hopefully rectify issues before they lead to complaints.

To help us implement this balanced approach, we have a specialist corrections unit with five staff. They each have a thorough understanding of the operational aspects of the correctional system, as well as experience in working within the unique and complex environment it presents. Our corrections unit is assisted by other Ombudsman staff to provide our extensive program of visits to correctional centres. When large-scale investigations are undertaken, such as the one involving Kariong, they are also able to call on specialist investigators from within our office.

Meeting the challenges

Our staff are available to people involved in the correctional system in a variety of ways – primarily by phone, but also by receiving letters, emails and online complaints and through our visits. Regardless of how we receive an inquiry or complaint, it is fully assessed to check that it is in our jurisdiction, what the person has already done to sort out the problem, and what would be the benefit – to the individual or to the community – if we take some action. This type of assessment is common to all areas of the Ombudsman's work, but in the correctional environment there are further hurdles. If an inmate decides to call us, then our initial assessment must be done within the time constraint of their 10 minute phone call – which becomes only seven minutes by the time it is answered by an investigation officer in our corrections unit or the inquiries team. Although the call to us is free of charge to the inmate – and not monitored by correctional staff – it is a very short period in which to gain a thorough understanding of the issues and decide if we should take any action, or even to just provide advice.

This year we have taken more than 3,000 calls in the corrections area which have involved this initial assessment, as well as many hundreds more in responding to already open complaint cases. We took some kind of investigative action in about 400 of those cases.

The challenges of working in the correctional environment go beyond the short phone calls – and the inability to call an inmate back if you miss their call or have something to discuss with them about their case. There are also the difficulties of sourcing evidence in a closed system,

overseeing complaint-handling within a culture that is unique because those being complained about generally are also responsible for every aspect of the complainant's daily life, and the limited opportunities for the complainant to be an equal partner in securing an outcome to their complaint.

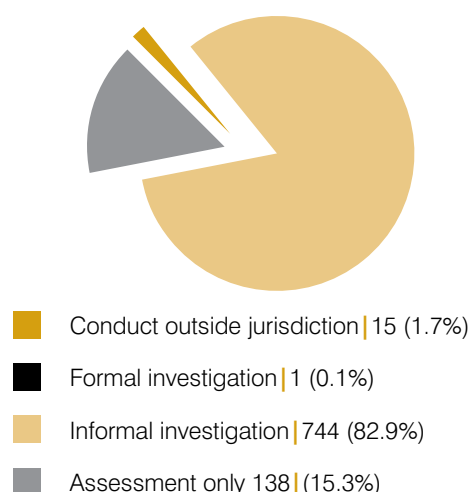
These challenges are one of the reasons our visits to correctional centres are so important. A primary focus of these visits has always been to help the inmates with complaints – providing an inquiry and referral service, but also actually helping them to make a complaint if necessary. Our visits give the inmates an opportunity to fully discuss their concerns and to present any relevant documents – all of which helps us to give them the best advice.

Complaints and trends

While the number of overall contacts received in the corrections area rose by only just over 2%, the number of these which were formal complaints increased by 22%, up from 671 in 2009-2010 to 821 this year (see figure 27). We were able to keep up with this increase, and in fact finalised 24% more complaints this year than we did in the previous year.

The breakdown of issues about which people complained show the largest areas of complaint remained consistent with previous years – being daily routine, access to health services and lost property (see figure 26). These are all endemic issues in correctional systems. While complaints alleging officer misconduct dropped, there were significant increases in those about classification and segregation, and complaints about food rose from 59 to 105. This dissatisfaction with the food is unsurprising when we see the large number of prison-provided meals which are thrown away uneaten by many inmates each time we visit correctional centres.

Figure 25: Formal complaints finalised



Current investigations at 30 June 2011		No.
Under informal investigation		36
Under formal investigation		4
Total		40

Figure 26: What people complained about

This figure shows the complaints we received in 2010–2011 about correctional centre concerns, broken down by the primary issue in each complaint. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Issue	Formal	Informal	Total
Buy-ups	19	106	125
Case management	17	88	105
Classification	31	179	210
Community programs	1	6	7
Court cells	1	6	7
Daily routine	183	489	672
Day/other leave/works release	15	37	52
Fail to ensure safety	22	55	77
Food and diet	28	77	105
Legal problems	10	57	67
Mail	14	72	86
Medical	49	435	484
Information	15	56	71
Issue outside our jurisdiction	13	41	54
Officer misconduct	74	169	243
Other	37	193	230
Periodic/home detention	1	12	13
Probation/parole	20	123	143
Property	100	313	413
Records/administration	59	119	178
Security	20	61	81
Segregation	30	84	114
Transfers	29	166	195
Unfair discipline	26	129	155
Visits	45	185	230
Work and education	5	92	97
Total	864	3,350	4,214

Figure 27: Formal and informal matters received

Matters	06/07	07/08	08/09	09/10	10/11
Formal					
Correctional centres, CSNSW and GEO	566	779	686	671	821
Justice Health*	69	61	64	53	43
Subtotal	635	840	750	724	864
Informal					
Correctional centres, CSNSW and GEO	3,010	2,902	2,825	3,096	3,088
Justice Health*	266	241	237	303	262
Subtotal	3,276	3,143	3,062	3,399	3,350
Total	3,911	3,983	3,812	4,123	4,214

*Justice Health provides services to correctional centres. For simplicity, all Justice Health matters are reported in this figure.

Issues in corrections

Although we focus on the NSW correctional system, our staff are in regular contact with other offices in Australia and overseas that provide similar roles for their correctional systems. It is often noted – especially in complaint-handling – that there are various issues which are common to correctional systems around the world. Some of these common issues include the:

- ▮ vulnerability of certain inmates – such as women, young people, people with disabilities and older inmates – each bringing their own challenges and needs
- ▮ use of force and restraints and how inmates are disciplined
- ▮ increasing number of inmates who have mental health illnesses
- ▮ increasing use of multi-bunk accommodation
- ▮ ageing facilities in which inmates are accommodated that no longer meet the needs of a modern correctional environment
- ▮ long term segregation/separation of some inmates
- ▮ large numbers of Aboriginal people in custody.

We have included several case studies showing how these issues have arisen in our correctional system and what we have tried to do to address them.

We may also become involved if a staff member at a correctional centre complains about 'non-industrial' type issues relating to employment. During the past year we received several complaints from staff about delays by Corrective Services in dealing with complaints that had been made about them. In those cases we did make contact about the delays – not dealing with a complaint in a timely manner is an administrative action (or inaction) and not related directly to the officer's employment. Generally, the matters raised with us were resolved after our inquiries.

Investigating the behaviour management program at Kariong Juvenile Correctional Centre

Kariong Juvenile Correctional Centre is unique in that it is neither a juvenile justice centre nor an adult correctional centre. It is operated by Corrective Services NSW and the inmates are young men aged between 16 and 21 years old. They are all maximum security inmates due to their offence or their poor behaviour – this is why they are placed at this centre rather than a juvenile justice centre.

In last year's annual report, we flagged our concerns about the behaviour management program at Kariong and this year we conducted an 'own motion' investigation to examine those issues. The program determines almost every aspect of an inmate's day-to-day life – from the property they can have in their cells, the number of phone calls they can make, their buy-ups, the length of time they can spend out of their cells and units, their attendance at school and their participation in recreational activities.

Our investigation included an analysis of information provided by Corrective Services about the program, an audit of inmate records to see how the program worked in practice, and interviews with operational and program staff at both Kariong and head office as well as staff from Justice Health.

We found deficiencies with:

- ▮ compliance with the requirements of the program
- ▮ the adequacy and extent of programs and activities
- ▮ the oversight of the program.

The staff at Kariong are managing a number of substantial challenges. Although they accommodate only a small number of adolescent inmates, some of them have significant behavioural issues and others have committed serious offences. There is considerable turnover in the inmate population, with some being on remand and others being sentenced. Some will become eligible to return to a juvenile justice centre or transfer to an adult correctional centre, but others will stay at Kariong for years.

We found that what is happening in practice at Kariong falls short of what is required by the documented program. The lack of any evaluation means there is no assurance that the program – even if it was implemented appropriately – would achieve its objectives. The lack of oversight, management reporting and evaluation means that Corrective Services cannot know how successful or unsuccessful the program is at modifying behaviour. As the program has been in place for over six years with only minor changes, this is of considerable concern.

Corrective Services responded positively to the deficiencies we identified in our investigation. After being notified of our provisional findings, the Commissioner authorised immediate changes to particular aspects of the program – such as limiting the amount of time a newly received inmate can remain on the assessment phase – and a comprehensive review of the entire program. We anticipate working constructively with Corrective Services to monitor the implementation of the further wide-ranging changes, which recognise the age and immaturity of the inmates in the centre, that need to be made.

Inmate discipline

Discipline in a correctional centre is important. Following rules contributes to rehabilitation, and is also an integral part of communal living. The Crimes (Administration of Sentences) Regulation sets out a disciplinary system including types of correctional offences and permitted punishments. This is supported by policies and procedures that guide staff and management in charging and punishing inmates. Last year we wrote of our intention to proactively monitor the disciplining of inmates as there are several areas where we believe the overall disciplinary process can be improved.

Case study 11: Inconsistent decisions

When an inmate at Wellington Correctional Centre refused to 'pick up rubbish' he was charged with a correctional offence for disobeying a direction. The charge was adjudicated by a principal officer of the centre who made a recommendation it be dismissed, but did not record his reasons. When the general manager of the centre reviewed the recommendation, he found the inmate guilty and punished him with 28 days loss of amenities. Again, there were no details about why the general manager had made this decision – except that he had been in the area when the inmate was told to pick up the rubbish. However, he had not provided any evidence of this to the original misconduct hearing. Corrective Services's operations procedures did not say what should happen if the general manager – who becomes the final decision-maker in the process – is involved in the offence the inmate is charged with. We suggested to Corrective Services this should be clarified. The Commissioner accepted this suggestion and issued further procedural information as a result.

Case study 12: A fair hearing

The disciplinary process is designed to include procedural fairness, so when an inmate is told the initial adjudicator is recommending they be found guilty they can ask to put their case to the general manager. An inmate at the Mid North Coast Correctional Centre complained when he was not given the opportunity to do this. When we made inquiries, the general manager told us he thought it was at his discretion whether or not to hear the inmate's case. After reviewing the procedures he contacted us again and agreed the inmate should be heard – and he was.

A problem associated with inmate discipline – and about which we have had many complaints over the years – seems to have finally been addressed by Corrective Services. A standard form of punishment is to remove an inmate's amenities or privileges – such as a television – but when they share a cell this also punishes their cellmate. The Official Visitors also saw this as a serious problem and when they raised it at their conference in June 2011, the Commissioner finally issued a direction to all staff that inmate punishments should not affect cellmates. We will be looking to ensure this direction is consistently implemented across all centres in the coming year.

Extra bunks in cells

Over the past few years we have been involved in extensive and ongoing inquiries with both Corrective Services and Justice Health about the health issues arising from introducing additional beds or bunks into cells in some of the more recently built correctional centres that were not designed for so many inmates. We made specific inquiries about Wellington and Mid North Coast Correctional Centres. After inspections and liaison between Corrective Services and Justice Health, we received advice in March 2011 that the additional bunks introduced retrospectively into those centres would no longer be used. This was because the numbers in the correctional system had dropped and a new centre at Nowra had opened, relieving some of the pressure.

This was a positive outcome. However we decided to monitor the physical removal of these beds because we were concerned that, despite the current assurances, any rapid increase in the inmate population would see them returned to use again. Before this could happen, we visited Wellington Correctional Centre and were once again confronted with inmates complaining of being in the affected cells with all bunks being used. This was quickly resolved with local management at the time of our visit, but it showed there was cause for our original concerns. We have recently written to the Commissioner once again about this matter and have now included similar issues in relation to Area 5 at Parklea Correctional Centre.

The South Coast Correctional Centre which opened this year at Nowra does have cells containing three bunks cells, but Corrective Services's request to NSW Health for permission to breach the Public Health Regulation to allow this to happen within the cells as they were originally designed was rejected during construction so additional space was added to the affected cells. This does give more space to the inmates who must use the cells.

Regardless of any extra space allocated to a cell, or exemptions provided by NSW Health, there are still significant privacy and decency issues when two or three inmates are forced to use a toilet and shower within the one cell, as well as eat and sleep there. The reduction in the inmate population during 2010 – which the Commissioner

noted in July 2011 had left many hundreds of 'empty beds' in the system – should mean these extra bunks are no longer needed, and could be removed.

Visiting correctional centres

Simply being in a correctional centre is an important part of our oversight. Our regular visits to centres provide opportunities for us to receive and resolve complaints and pass on advice. Visits also help us to keep up-to-date with what is happening in the centres, the people who work there, and how issues are managed. We talk with staff and managers and try to resolve any problems that are raised with us on the visit or that we have received in the office. These 'problems' range from issues about the very basic necessities, such as not having a pillow or enough clean clothes, to wider issues affecting the whole correctional system.

Case study 13: A simple request

An inmate at the Metropolitan Remand & Reception Centre (MRRC) told us he had not been given a pillow, so we arranged for him to receive one before we left the centre.

When we visited Bathurst Correctional Centre in May, six inmates came to complain they had no pillows. Again we raised this with local management who later told us stores had been ordered and pillows distributed to all inmates who needed them.

To anyone not in custody it is difficult to understand how someone could not be able to resolve a complaint themselves about not having a pillow. Correctional centres are funny places where even pillows can be a commodity, and of course sometimes people just do not take care of them. Often the problem occurs because the ordering system has not worked, because no one cared enough to put in the order, or there simply was not enough money in the budget at that time to order more linen.

Case study 14: Laundry facilities

On a visit to Parramatta Correctional Centre in March last year we found out that inmate clothing was only being laundered once a week. When we looked at the Corrective Services policy about clothes issued to inmates, we realised that having three t-shirts with laundry being done only once a week was not very hygienic. We also had access to a report Justice Health had prepared covering issues such as the laundering of inmate clothing and linen. We therefore suggested to Corrective Services that they review both the amount of clothing issued to each inmate and how frequently it is laundered. During the year we received regular advice from Corrective Services about their actions to follow up on our suggestions. Additional clothing is now being issued to inmates when they first come into custody and laundry facilities have been improved – including providing extra machines and laundry days at most centres.

Case study 15: Poor procedures

At John Morony Correctional Centre an inmate complained that when he was strip searched the officers had made him firstly lift his penis for inspection of his groin area and then use his fingers to hold his mouth open. He was rightly concerned that performing the search in that order was unhygienic and undignified. We agreed with him and raised it with the general manager who ensured all staff were made aware of the correct operational procedure.

Grafton Correctional Centre

In our annual reports we have sometimes noted concerns about the standard of accommodation at some correctional centres, such as Grafton. Parts of Grafton Correctional Centre are very old (it was originally built in 1893), so inmates are often living in conditions that are far from ideal. However, Corrective Services needs to use these old centres to be able to provide inmate accommodation across the entire state. In responding to our earlier concerns about the minimum security 'dormitory' conditions at Grafton, the Commissioner noted this was the only way sufficient numbers of beds could be provided for inmates from the region.

When we went to Grafton in February this year, a few inmates complained about the cells in the maximum security wing. Our first impression of the wing was the lack of air. In February it is hot and humid on the north coast and, in a not very effective attempt to address this, staff had provided an 'industrial' sized fan in the middle of the wing and the inmates had strategically placed cardboard in the windows of their cell door to try to direct some breeze into their cells. Our greater concern was when we went into the cells and saw the bunks, and noted the number of hanging points they provided. We are aware there were plans several years ago to build a new correctional centre in the Grafton area, but there has been no recent further news about those plans. We wrote and asked the Commissioner what action he could take to make the cells safer and he told us the bunks are considered to be suitable for use, and in fact are found in several other correctional centres. The Commissioner outlined strategies staff employ to monitor and prevent attempts at self-harm which we acknowledge. However we are still concerned the current beds provide a mechanism for self harm for those inmates who are not subject to special management or extra watches – and make a spontaneous decision when something goes wrong or they get bad news.

All deaths are not preventable but all steps should be taken to prevent those that can be averted. We will continue to pursue this issue with the Commissioner.

Wearing identification badges

Corrective Services staff are supposed to wear a badge which identifies them while they are on duty. The Commissioner has issued several memos to all staff reminding them of this, as it is both an accountability and customer service component of their staff conduct and ethics guide. As we visit correctional centres across the state, we have noticed a very low compliance rate – specifically among non-commissioned officers – so we have been communicating with the Commissioner about how this can be improved.

Wearing a form of personal identification is of great importance in maintaining accountability for the actions taken by staff. When most people are wearing a uniform, it is very difficult for a complaint to be followed up if the only identification is that it was 'the person with black hair who was wearing a blue uniform'. We have suggested to Corrective Services various ways of resolving this issue, such as using combinations of letters and numbers and will continue to discuss this with them until there is a resolution.

Safety, dignity and humanity

Much is lost by a person who goes into full-time custody – many rights and many more privileges. Each inmate however is a person and is entitled to be safe, have due dignity and be treated with humanity. These are fundamental to our society. Sometimes, along with the rights and privileges, these 'fundamentals' get overlooked. This can particularly be the case with inmates from especially

vulnerable groups such as those with disabilities, mental health illnesses, and those who are significantly older or younger than the average inmate. Often these are the types of issues that inmates will contact us about – and which we try to help them resolve.

Case study 16: Setting up a phone account

When an inmate arrives at a correctional centre it can take a couple of days for their phone account to be set up. One man who met us at the MRRC had both an identified intellectual disability and a physical disability. He told us he had been waiting for a long time to have his phone activated. He was sure he had given the right information to the officers about his phone numbers and that his mum had put money into his account. We asked the Area Manager about this and when he checked he found that although the account had been set up it had also been deactivated in error. The problem was immediately resolved.

Case study 17: Fearful of a hair cut

The Metropolitan Special Programs Centre (MSPC) includes several wings designated as providing additional support for inmates who need assistance because of either an intellectual or physical disability. One of the men from this area called us (assisted by his wing delegate) because an officer had allegedly told him if he did not remove his 'rats tail' hairstyle within 24 hours he would be held down by 'the squad' while it was cut off. We called the centre and the Manager of Security told us he had previously told staff to advise inmates not to have the rat's tail hairstyle because another inmate suffered serious head injuries when it was used against him in a fight. The manager spoke to the staff member in the area and made sure the officer returned and told the inmate he would not be held down and have his hair forcibly cut. The inmate called us later to say the officer had spoken with him again and apologised.

Many inmates must also deal with mental health problems, ranging from general anxiety about being in custody to significant mental health illnesses. This provides increasing challenges to both correctional and Justice Health staff in managing their behaviours and their illness needs. Some inmates have both mental health issues and intellectual and physical disabilities.

Case study 18: Not understanding why

If an inmate threatens either the good order of a correctional centre or the safety of officers they may be placed into administrative segregation, removing them from association with other inmates. A man who called us said he was in segregation and he didn't know why. He said he had a brain injury and epilepsy. We agreed to find out what had happened and ensure someone spoke with him. The officer we spoke with explained the inmate had sent letters to his mum threatening to kill correctional officers. Staff were aware the inmate had previously been identified as at risk of self harm, and although the threats were seen as childish they still had to ensure the safety of their officers. The Area Manager explained the inmate had been told what was happening to him, but agreed to speak with him again about why he was segregated – he also indicated this segregation would finish in the coming days.

Case study 19: Problems on 'watch'

When inmates are at risk of self-harm they are jointly managed by corrections and Justice Health staff. This may include being placed in a cell on their own with little access to their property. They will also be checked at regular intervals or even watched continually by CCTV. An inmate at Grafton had returned to custody under stressful circumstances and asked for a sleeping tablet, so he was placed on 'watch'. He complained to us this also meant he was under bright light 24 hours a day and had been told this would last for 14 days when he would be reviewed again. When we spoke with Justice Health they advised the inmate was reviewed each day and it had been recommended he now be located with another inmate as a form of safe housing. The need for the light to be on was a decision made by Corrective Services to ensure he could be easily observed at all times.

Many women who come into custody are also the primary caregivers for their children. Although there are some limited programs and locations that allow greater levels of contact and interaction between mothers and children, most have to rely on phone calls to keep in touch.

Case study 20: Keeping in touch

A woman at Silverwater Women's Correctional Centre had difficulty making phone contact with her family and her housing provider and needed to sort out an urgent problem. She had asked for assistance from staff at the centre and when they were unable to help she contacted us. We immediately advised her she could call the housing provider via a freecall number on her inmate phone, in a similar way to how she had called us. We also called the Manager of Security who told us there had been some issues with the phones, but the problem seemed to be the woman didn't have enough money in her account to call her family. The manager agreed if this was the case he would make sure staff made a 'welfare' call available to her, so she could sort out the urgent family problem.

Inmates are vulnerable for the same reasons as the rest of the community – including being the victims of crime while they are in custody. It is not possible for them to pick their cellmate and so it is vitally important those who do allocate cellmates have all the relevant information to make a sound decision.

Case study 21: Sharing a cell

A 19 year old inmate was sexually assaulted by another inmate. The perpetrator was charged and convicted of the offence. At the time he committed this offence, he was in custody for committing a similar assault on another cellmate. Our inquiries indicated that there were not sufficient checks and alerts done before decisions were made about who should share a cell. We suggested some ways computer and other checks could be improved and Corrective Services NSW agreed to make changes.

Dignity and humanity also includes having access to basic needs, such as enough to eat.

Case study 22: Improving food supplies

Phone contact from an inmate late in the day often relates to a complaint about food. A call from Juneé was made by one inmate, but several more could be heard in the background supporting what he was saying. There were 37 inmates in the pod and they were claiming they had not received enough food for everyone that night. They described the meal and we agreed it didn't sound reasonable. Pod staff were unable to arrange for any additional food to be brought from the kitchen. After we contacted the general manager, he had the food checked the following evening after it left the kitchen and found it lacking. He outlined to us various steps he then put in place for improving the overall quantity and quality control of inmate food at the centre.

During the year we have also responded to complaints about the Commissioner's decision to bar all inmates from having photos taken to be sent to their families – because one inmate's photo had appeared on Facebook. For those who are serving a long sentence, and especially for women with children the total ban was a harsh reaction. We wrote to the Commissioner about this issue as photographs are an important way of maintaining an inmate's relationship with their family, increasing the likelihood of a positive return to their community. We were recently advised the Commissioner had reviewed this decision and would allow medium and minimum security inmates to have photos sent to their families. Our concern is that those inmates who have a maximum security rating are the ones who will usually spend longer periods in custody, and whose relationships are generally subject to greater strains than others.

In the High Risk Management Correctional Centre (HRMCC) the property an inmate can have in their cell is controlled and limited. An inmate asked for access to his 'legal documents' including the brief of evidence and judgement so he could begin work on an appeal. His request was denied and he was told only inmates who already had an appeal underway could have such documents. It was difficult to see how the inmate could decide about proceeding with an appeal without reading these documents and we also felt the policy may be improperly impeding their legal rights. Our inquiries prompted Corrective Services to seek advice from their legal branch and subsequently to send out a direction advising all staff that inmates are to be given access to their legal documents even if they do not have a current appeal.

Another inmate in the HRMCC complained about the new high security inmate transport vehicle used by Corrective Services to take him to court. We made arrangements with the Inmate Transport area to see these new vehicles, as well as a sample of all other types of vehicles used to move inmates. After inspecting the van complained about, we understood why the inmate might be uncomfortable as the area in which they sit does not allow a great range of movement. However Corrective Services provided certification to show that the vans comply with all relevant requirements. We were also told the entire fleet of trucks used to move inmates around the state will have responsive intercom systems installed by 2013. This will improve inmate safety if they become ill or are assaulted by other inmates.

Community offender services

The government and the community is increasingly looking for ways to divert offenders from full-time custody, as well as help those who are released to not return. Community

Offender Services is the area of Corrective Services with responsibility for this work.

We received a complaint from a woman who was concerned she had not been given proper information about the man she had been living with, who had subsequently abused her daughter. This raised issues about how decisions had been made about the woman and her children – and the offender – by a variety of agencies, including Community Offender Services, Community Services and the NSW Police Force. The inquiries we made covered all of these agencies and the outcomes are discussed further in the Stakeholder engagement chapter at page 95. To read about the circumstances of this matter see page 68 in the Children and young people chapter.

Case study 23: Problems with property

Community Offender Services Programs (COSP) centres are a relatively recent initiative of Corrective Services. These centres are available to help offenders who are leaving custody by providing short-term accommodation and support in adjusting to community life and any court or parole requirements. After we were contacted by some offenders who had been returned to custody after living in different COSPs, we found some deficiencies in the policy and procedures relating to their property and what should be done with it when they left suddenly. Corrective Services responded positively and the policy and procedures were clarified and reissued to ensure all property held by residents in the COSP complied initially with what they are allowed to have, was accurately recorded as in their possession, and then properly dispersed if that becomes necessary.

Aboriginal inmates at Goulburn

For several years Aboriginal inmates at Goulburn have complained they are not treated or accommodated in the same way as other inmates at that centre. Certain changes were made to the management of Aboriginal inmates at Goulburn after a very serious incident in 2002. Inmates at Goulburn are separated into wings and yards depending on their race, so it is possible for treatment of various groups to differ. We have spoken regularly on our visits with management at the centre about the concerns raised with us. For example, Aboriginal inmates are not allowed to have a 'sweeper' from among their own group, they have double security doors, and the windows in the cells are covered – causing a lack of air and encouraging mould and mildew. This year one inmate who complained to us also told us he had made a similar complaint to the Anti-Discrimination Board. We are waiting to hear the outcome of his matter which is now before the Administrative Decisions Tribunal before deciding what future action we may need to take.

Justice Health

Inmates in custody and offenders in court cells receive medical attention and treatment from Justice Health, which is part of NSW Health. Their objective is to provide health care in the correctional system of an equivalent standard to that available in community settings. Resources are limited and there are often problems in retaining sufficient medical and other professional staff to provide the level of services desired. Although most inmates can be triaged relatively quickly by nurses at their correctional centres, there are often long lists of inmates waiting to see a doctor, dentist, optometrist or other specialist provider. This, of course, leads to complaints.

Case study 24: Delays in getting medication

Coming into the correctional system as someone who is prescribed medication in the community does not necessarily mean you will receive that medication straight away. If an inmate can provide details of their community prescribing doctor and contact can be made, Justice Health staff will try to find out details of the prescription and arrange for it to be continued in custody. Sometimes this does not happen because, for example, the medication is not able to be used in a custodial setting. One inmate who called us complained he had not been prescribed his psychotropic medication after 12 days in custody. There are severe side effects when this type of medication is stopped suddenly and the inmate was very aggressive. When we spoke to the Mental Health Nurse at his centre we were told the inmate was unable to be given a prescription from a community-based doctor and so he needed to be seen by a psychiatrist to get a new prescription. There was also a concern he had not in fact been consistently taking his medication for several days before he came into custody. We were told he was on the list to be seen by a psychiatrist, but the list was long – and continues to grow daily because of the increasing number of people coming into custody with mental health needs.

Local government

Investigating and assisting councils

In recent years we have completed a number of significant investigations that have identified serious and systemic administrative failures in councils, and have made formal recommendations to help councils improve their services to the community.

However, the majority of our work with councils is carried out in a largely informal and consultative manner. We believe it is important for us to be able to assist councils – by, for example, giving them strategies for improvement and providing guidance publications – without the need for resource intensive formal investigations.

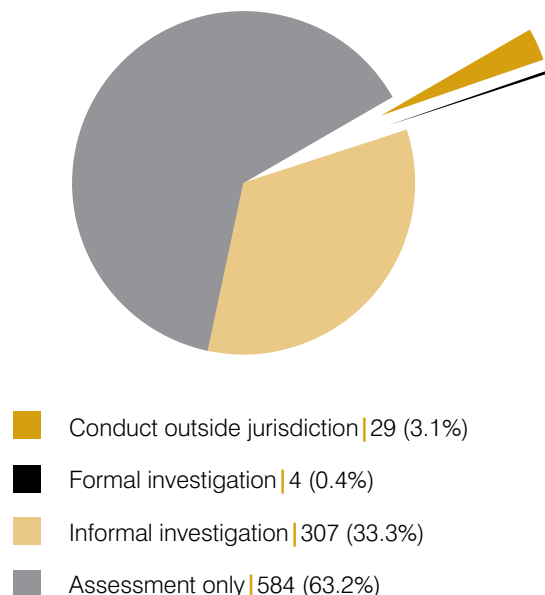
Although complaints about customer service are trending downward, customer service was still the focus of many of the complaints we received about councils this year. We have developed a number of guidelines to help councils improve their administrative practices and we reinforce the benefit of these publications wherever possible. From time to time, we also have to give guidance on the appropriate use of those guidelines if they have been misinterpreted.

Complaint trends and outcomes

There was further increase of 8% in the number of complaints we received about councils this year, on top of the 20% increase last year (see figure 29). This can be partly explained by the increase in complaints about Manly Council after our comprehensive investigation last year. Another substantial source of complaints was Pittwater Council, following a development proposal for a Woolworths store in Newport - 61 complaints compared to 17 last year.

There has been a marked increase in development complaints (53%), accounted for by the Pittwater Council complaints. Complaints about strategic planning also increased from 10 last year to 53 this year, as many councils are reviewing and bringing their statutory planning instruments up to current standards. A pleasing trend is a continuing drop in customer service complaints by 31% (see figure 30).

Figure 28: Formal complaints finalised



Current investigations at 30 June 2011		No.
Under informal investigation		26
Under formal investigation		1
Total		27

Figure 29: Formal matters received and finalised and inquiries

Matters	06/07	07/08	08/09	09/10	10/11
Formal received	841	768	702	843	912
Formal finalised	837	788	672	875	924
Inquiries dealt with	1,992	1,965	1,795	1,720	1,979

Figure 30: What people complained about

This figure shows the complaints we received in 2010–2011 about local government, broken down by the primary issue in each complaint. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Issue	Formal	Informal	Total
Community services	7	18	25
Corporate/customer service	159	454	613
Development	142	315	457
Enforcement	133	264	397
Engineering services	97	153	250
Environmental services	79	166	245
Management	3	9	12
Misconduct	38	96	134
Issue outside our jurisdiction	30	36	66
Objection to decision	89	176	265
Rates, charges and fees	81	196	277
Strategic planning	53	19	72
Uncategorised	1	77	78
Total	912	1,979	2,891

Case study 25: Some progress made

Last year we reported on a major investigation into Manly Council's poor administrative practices, making 24 recommendations for improvement.

Council has now established a Councillors Implementation Working Group to 'monitor and provide feedback to the Ombudsman on the implementation of his recommendations' and they have dedicated a page on their website to updating their progress.

Although council has taken steps to comply with a number of our recommendations, there have also been some outcomes that do not reflect our recommendations. For example, we recommended that council should apologise to certain complainants and make an ex-gratia payment for their legal costs, but they refused to do so.

We continue to monitor their responses to our recommendations, and look forward to seeing the results of the promoting better practice review that the Division of Local Government (DLG) are currently undertaking at Manly Council.

Helping councils to handle unreasonable complainant conduct

We expect both councils and complainants to act reasonably in relation to handling and making complaints. One of our most recent publications – the *Managing Unreasonable Complainant Conduct practice manual* – has been widely used by councils, but we are still struck by the number of complainants who we believe have acted inappropriately.

Case study 26: Making unreasonable demands

We recently took the extraordinary step of informing a complainant that we believed he had acted unreasonably and made unreasonable demands on a council. A comprehensive and exhaustive review of his complaint found that after some 15 years – in which he had made numerous voluminous complaints to his council and to us about a number of issues – we could see no evidence of any conduct that would warrant us investigating the council.

Another complainant, frustrated by an action taken against him by their council, sent a further email to us after the council had taken what we believed to be reasonable steps to resolve his issue. This 32 page email was also sent to some 23 Ministerial offices and almost 100 media individuals. We provided the complainant with guidance about more appropriate ways to make a complaint in the future.

Case study 27: Giving reasons for restrictions

A man complained that Upper Lachlan Shire Council had declared him vexatious and refused to deal with him any further – without giving him their reasons for this. After making inquiries with the council we reinforced with them that, although they were entitled to decide to restrict the access of complainants in defined circumstances, they should also inform the complainant about the reasons and circumstances surrounding their decisions. We also highlighted that complainants should not be personally labelled as vexatious, but their conduct could be identified as falling within areas of unreasonable behaviour. Council agreed with our suggestion to apologise to the complainant and explain their reasons for restricting his access.

Case study 28: Managing unreasonable conduct

A complainant objected to having her contact with council limited to the general manager only. He had cited occupational health and safety as his reason for preventing her from contacting staff in council's rates section. We contacted the general manager and were able to provide informal guidance on managing unreasonable conduct and satisfy ourselves that no further action on our part was required. The general manager in turn agreed to develop a policy on handling unreasonable complainant conduct that has been drafted for adoption by council.

Failing to act on complaints

Complainants frequently come to us when they feel that their council has ignored their complaints. Unfortunately, there are times when it is clear that some councils have no intention of resolving issues raised by complainants without our intervention, despite their responsibility to do so. We have achieved a number of positive outcomes for complainants, but we also focus on suggesting improvements to council to ensure they don't repeat poor service.

Case study 29: A long history of inaction

A man complained to us about Narrabri Shire Council not taking any action in response to his complaint about lack of access to his remote property and their failure to repair damage done to his property by council quarrying. He had been pursuing legal access to his property since soon after buying it in 2003. He said council had misrepresented the status of the only road to his property, listing it as a shire road when this was not the case. In 2005, council passed a resolution to remedy the situation but, for reasons which were unclear, had failed to act on the resolution. Over the years the road had become virtually impassable, restricting his use of the property. Council had also refused to rehabilitate land around a quarry on his property despite there being significant erosion, denying they had used the quarry as recently as the complainant claimed. Despite making a formal written complaint to the general manager in April 2010, the matters remained unresolved.

As a result of our inquiries, council agreed to remediate the quarry damage and ensure the dedication of the first 1.4km of the road to the complainant's property. This positive response to part of the complaint was welcomed. However, we were concerned it took council some five months to respond to our inquiries – and even then with a very limited response. They didn't adequately address significant issues raised by the complainant – including the status of the remainder of the road, their poor handling of the matter over many years, the incorrect information given by council staff to the complaint about their obligations to remediate property damage, their management of external legal advisors, and the adequacy of their record-keeping practices and complaint-handling system.

In addition to not adequately addressing all of the complainant's concerns, it appeared to us that council had not investigated the history of the matter to the extent necessary to identify administrative and procedural deficiencies in their processes and procedures. They needed to do this to prevent the same problems happening again.

We made a series of detailed suggestions about action to resolve the remaining issues, which council accepted. We will carefully monitor council's compliance.

Case study 30: Unexplained delays

A property owner complained about the way Blue Mountains City Council had handled her concerns about damage to her property caused by stormwater flowing from five neighbouring upslope properties. She felt that council had not take sufficient action to require her neighbours to undertake the necessary drainage works to lessen the amount of water flowing onto her property. She was also dissatisfied because when she first complained to council they did not respond and then, when they did respond, she felt bullied and intimidated by the council officer.

It is not our role to make a technical judgment on council's decision about what action was necessary to address the stormwater problem. However, we were concerned about how they had handled the complaint. When we first became involved, council acknowledged that they had not responded nor kept the property owner informed of the action they had taken to address her concerns. They offered an apology and assured us that,

when the further work due to be done in the next week was completed, they would let her know.

Close to two months later, the property owner advised us that she had still heard nothing from council. When we contacted council, they explained the reasons for the delay and completed the work within the week. However, in their letter to the property owner telling her the outcome of the work, they did not mention – much less apologise – for the delay.

We suggested that council could handle these situations better in the future if they were to formally adopt their complaints policy and provide training to staff. They have since advised us that they expect to put a reviewed policy before council in June 2011 and they will consider training for staff, depending on the resources available.



Councils failing to act on complaints is highlighted in case study 30 about stormwater damage.

Code of conduct issues

All councils are required to adopt a code of conduct which sets out the standards of conduct expected from council officials. Each council's code has to incorporate the terms of the model code of conduct (see section 440 of the *Local Government Act 1993*) prepared by the DLG. The code applies to councillors, the general manager and all council staff. As well as expected standards of conduct, the code also sets out obligations for managing conflicts of interests and provides a mechanism for dealing with allegations of breaches of the code.

Generally, we don't investigate complaints about breaches of a council's code of conduct. We encourage the complainant to raise their concerns directly with the council for them to deal with it in accordance with the provisions of the code. If a person claims that a council has not adequately dealt with such a complaint, we generally refer them to the DLG as they monitor councils' compliance with the code and review the model code and the guidelines.

We have discussed with the DLG the need for improvements to the current code and guidelines, and in June 2011 they released a discussion paper for councils in NSW for a review of the model code. We will continue to work with DLG to improve consistency and clarity in this important area of local government.

Case study 31: Wasting scarce resources

We have received approximately 30 complaints this year about the poor handling of alleged code of conduct breaches. Some of these complaints have been from councillors aggrieved about:

- | being the subject of a complaint
- | being investigated for possibly breaching the code
- | inadequate action being taken on their complaints about the conduct of others.

We have also received complaints and phone calls from exasperated general managers besieged by councillors making accusation and counter accusation against each other. These have then spilled over to accusations against the general manager and others appointed to review the alleged breaches. We are aware of some councils who now find it nearly impossible to appoint independent reviewers to investigate alleged breaches due to the difficulties and complaints previous reviewers have been subjected to while conducting their investigations.

It appears the code of conduct – although providing a needed set of minimum standards of conduct – has become yet another means for some councillors to engage in political point-scoring and mischief-making. In the process, considerable resources are being spent by councils already under financial pressure, on matters that do not justify such expense. Sadly, even when a council has attempted to deal with matters promptly and fairly, one party will sometimes pursue the matter externally to the Ombudsman, ICAC or the DLG in their pursuit of 'justice'. We can quickly decline to be involved in such matters, but councils can be embroiled in them for years. It is unfortunate that councils are unable to recoup the costs incurred from those people who misuse the complaints process for political ends.

Of course, we have also received complaints that raised genuine and serious concerns about the conduct of councillors and council staff – as well as about the poor handling of complaints by councils and independent reviewers. There can be considerable differences in the processes, timeframe and assessment criteria used by reviewers, so it is perhaps understandable that someone may feel aggrieved by being apparently treated differently from another person accused of similar conduct.

Freedom of information

A successful transition

Under the transitional provisions of the *Government Information (Public Access) Act 2009* (the GIPA Act), we received 49 Freedom of Information (FOI) complaints about applications that were lodged before the GIPA Act came into operation.

As expected, the number of complaints gradually reduced over the course of the year. We received 52 complaints with the last complaint recorded in February 2011. We finalised 89 FOI complaints in this period, clearing our backlog from the previous year (see figure 31). We formally investigated four complaints, while the rest were resolved or finalised through informal means.

Figure 31: Formal matters received and finalised and inquiries

Matters	06/07	07/08	08/09	09/10	10/11
Formal received	208	225	186	145	52
Formal finalised	205	197	224	136	89
Inquiries dealt with	316	422	407	263	127

Figure 32: What people complained about

This figure shows the complaints we received in 2010–2011 about Freedom of Information, broken down by the primary issue in each complaint. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Issue	Formal	Informal	Total
Access refused	26	14	40
Agency inquiry	0	13	13
Amendments	0	1	1
Charges	1	1	2
Documents not held	2	7	9
Documents concealed	0	4	4
General FOI inquiry	0	56	56
Issue outside our jurisdiction	2	2	4
Pre-application inquiry	1	14	15
Pre-internal review inquiry	2	10	12
Third party objection	4	2	6
Wrong procedure	14	3	17
Total	52	127	179

Figure 33: Significant outcomes achieved in relation to complaints about FOI finalised in 2010–2011

Issue	Total
Review of case/conduct/decision/finding by agency	2
Internal processes reviewed or to be reviewed by agency	3
FOI search made and documents found	2
Documents released or to be released by agency fully/partly	18
Policy/procedure to be changed by agency/Minister	5
Apology given by agency	1
Decision/finding changed by agency	6
Reasons provided by agency for decision/action/finding	4
Fees and charges to be reduced/waived/refunded by agency	3
Otherwise resolved to Ombudsman's satisfaction	2
Further information provided to clarify/explain issue or agency action	11
Referral of complainant to appropriate body	1
Total	58

The following case studies are a sample of our FOI work.

Case study 32: Ministerial advisor salaries

The Office of the former Leader of the Opposition applied under FOI for salary details of ministerial media advisers. The Department of Premier and Cabinet provided a document that set out the salary ranges, but decided to exempt the exact salaries and the names of the advisers.

We suggested the exact salaries be released without the names, but the department refused. This was due to concerns that the names of the media advisers could be easily worked out from other sources and this would lead to unreasonable disclosure of their personal affairs.

During our investigation of the complaint, one of the media advisers argued that the release of her salary details would have an adverse impact on her spouse's financial affairs. She maintained that if the details of her salary became known, it would hamper her spouse's ability to ask for increased rent from tenants at their investment properties. Another media advisor argued that because she directed senior staff of a government agency, the release of her salary would be embarrassing to her. We expressed concern to the department about ministerial media advisers directing agency staff.

The department complied with our recommendation to release salary bands and offered to release further details of expenditure on ministerial media advisers to the complainant.

Case study 33: Accessing taser videos

Last year we reported on the NSW Police Force's (NSWPF) initial refusal to comply with our suggestion that copies of videos of police officers using tasers be released, after the faces of the subjects had been obscured. We formally investigated the matter and recommended releasing copies of the videos. We also recommended that the NSWPF develop a policy – in consultation with the NSW Information Commissioner – for dealing with and determining any future applications under the GIPA Act for access to taser videos. NSWPF agreed with our recommendations, released the taser videos to the journalist, and began drafting the policy.



Case study 34: Redundancy payments for ministerial staffers

The Office of the former Leader of the Opposition complained about the Department of Premier and Cabinet's refusal to provide specific information about redundancies paid to staff previously employed in a ministerial office, who were then re-employed with either the same or a different Minister.

The department provided an aggregate figure of \$705,734 representing redundancies paid to 19 staff between 2005 and 2010, but refused to provide the amounts of individual redundancies, stating this would be an unreasonable disclosure of the staff's personal affairs. We made three formal suggestions to the department for the release of the individual figures. They refused to follow our suggestions, arguing that due to the small number of staff affected their identities could be worked out from other sources. We wrote to the department expressing our view that while it may have been possible to find out which ministerial employee received a particular redundancy payment, the information was not evident from the document itself. In our view there was an overriding public interest in the disclosure of the details of all individual payments of public funds, particularly in the several cases where a ministerial employee was re-employed by the same office or re-employed in another ministerial office not long after receiving a redundancy payment.

As a general principle, it seemed to us that information about the remuneration paid to a public official should not be treated as if it were a matter of complete secrecy. In late March, the department advised us they were reviewing their determination in accordance with our suggestions. However, before we received final advice from the department about whether the details would be released, the applicant had withdrawn the complaint following the NSW state election.

Case study 35: Poor practices at Manly Council

We received a complaint from a resident of Manly Council about its determination of his FOI application for documents about a long-standing barking dog complaint. We began a formal investigation into council's handling of the FOI matter as well as issues related to the substantive complaint.

During our investigation, we found a number of concerning practices in council's dealing with FOI applications, including:

- | making applicants attend council chambers to view documents when they requested copies
- | charging for photocopying
- | referring to so-called restricted documents and withholding them without giving reasons
- | improperly excluding material from the scope of applications without providing reasons.

Council agreed to implement most of our recommendations, but advised that they would not stop their practice of charging photocopying fees for access to documents, as they believed section 7(2) of the GIPA Act enabled councils to charge such fees. We wrote to council noting that section 7(2) of the GIPA Act relates to information that is proactively released by an agency and does not apply to access applications. We also referred the matter to the Office of the Information Commissioner as they are now the appropriate regulatory body for this issue.

The Information Commissioner agreed with us that an agency has no basis under the GIPA Act to apply photocopying charges distinct from any processing fees and advised they would follow up with council to confirm the requirements under the Act.

Documents that should have been released

In last year's annual report, we included a case study about Sydney Water's failure to release documents to a journalist under the FOI Act. The documents disclosed the names of the top 50 commercial water users and the amount of water they used in certain years. Sydney Water released information about aggregate data, but maintained that the documents disclosing the names of the companies were exempt as they concerned the business affairs of the companies and were therefore confidential. They argued that their customer contract obliged them to keep information about the water use of their commercial customers confidential, and – although information about water usage was not confidential in itself – in combination with the names of the users it 'could provide an opportunity to other competitors'.

At the time that last year's annual report was published, we had written to Sydney Water suggesting that they should release the documents as it was in the public interest. We considered that members of the public had a right to know which businesses were consuming the most water in NSW and whether or not those businesses were taking action to reduce their water consumption. We also asked the Information Commissioner about whether she believed the documents should be released, and she agreed with our conclusions.

We have now finalised our investigation into Sydney Water's conduct in this matter and have sent a copy of our final report to the journalist who made the original complaint, Sydney Water and the relevant Minister. In that report, we maintained our view that the documents should be released. Sydney Water subsequently told us it is redetermining the application.

Public interest disclosures

Implementing large-scale reform

There have been major changes to the protected disclosures system in NSW. In our last annual report, we spoke about the Parliamentary Committee for the Independent Commission Against Corruption's (the ICAC Committee) final report after their review of the *Protected Disclosures Act 1994*. In October, the government introduced legislation to amend the Act in line with the ICAC Committee's recommendations. The Bill passed through Parliament and came into operation in March this year. The changes to the Act will come into force in three stages.

The first stage

The first stage included a new name for the Act. We have argued for some time that the name needed to be changed to place greater emphasis on the purpose of the legislation – rather than on the mechanism for achieving that purpose. The new name of the Act – the *Public Interest Disclosures Act 1994* (PID Act) – now reflects its purpose. This change also brings the title of the Act into line with most other Australian jurisdictions.

The initial changes in March also included the establishment of the Public Interest Disclosures Steering Committee. This committee is responsible for providing advice to the Premier on the operation of the PID Act and recommending any necessary reforms, as well as providing advice to the

Premier on reports of our work under the Act. It is made up of the following members:

- | the Ombudsman, who is the chair of the committee
- | the Director General of the Department of Premier and Cabinet
- | the Auditor-General
- | the Commissioner for the Independent Commission Against Corruption
- | the Commissioner for the Police Integrity Commission
- | the Chief Executive of the Division of Local Government
- | the Commissioner of Police.

There were a number of issues the ICAC Committee noted, but did not recommend any changes. This was because they received insufficient evidence during their review to reach a firm view. They therefore recommended that the Steering Committee consider these matters such as:

- | how the PID Act applies to volunteers
- | including additional types of conduct within the PID Act
- | including the Health Care Complaints Commission as an investigating authority
- | whether third party service providers should be able to receive and deal with reports of wrongdoing on behalf of agencies.

The Steering Committee met for the first time on 3 August 2011. It is scheduled to meet four times a year, with additional meetings to be held if necessary.

The second stage

From 1 July 2011, our office has a range of additional functions under the PID Act. These are discussed in more detail in the following sections. Agencies will also have to start developing their own internal reporting policies and procedures, based on our guidance material and model policies. These policies and procedures must be in place by 1 October 2011.

The third stage

From 1 January 2012, agencies will have to start recording information about the disclosures they handle under the PID Act. Details about the information to be recorded and reported on will be set out in regulations to the Act. These regulations will be developed in consultation with the Steering Committee.

Making further legislative changes

One of the incoming government's commitments as part of its 100 Day Plan was to improve protections for those who report wrongdoing in NSW. These changes are set out in the Public Interest Disclosures Amendment Bill 2011, which at the time of writing is being considered by Parliament.

The Bill will make a number of important changes to the PID Act, including:

- changing all references to 'protected disclosure' to 'public interest disclosure'
- introducing legislative responsibilities for heads of agencies
- introducing a requirement for agencies to report to us regularly on the disclosures they deal with.

We will amend our guidance material to incorporate any changes this Bill makes to the PID Act.

An expanded role for the Ombudsman

The PID Act expands our role. We have always been responsible for receiving and dealing with protected disclosures about maladministration, as well as receiving complaints about the way disclosures are handled by agencies. We will continue to perform these roles, but will also be responsible for a number of other areas. Our role now includes:

- giving information, advice, assistance and training to public sector agencies and their staff on any matters relevant to the PID Act
- issuing guidelines and other publications to help public sector agencies fulfil their functions under the PID Act and draft their internal reporting policies and procedures, plus assist their staff to understand the protections available to them under the PID Act
- monitoring and auditing whether public sector agencies are complying with the Act and reporting to Parliament on both these functions
- preparing reports and recommendations for the Premier about legislative and administrative changes to achieve the objectives of the PID Act
- providing support to the new Public Interest Disclosures Steering Committee, including preparing an annual report on their work.

This is both a challenging and exciting new area of responsibility for us. For the system around public interest disclosures to work effectively, we have to work towards a

change in culture across the NSW public sector. This will see public sector staff recognising the value of reporting wrongdoing and accepting that making such reports is part of their everyday responsibilities.

We have four key objectives that we believe will help us to achieve this change. These are to:

- increase awareness of the procedures for making protected disclosures and the protections provided by the PID Act
- improve the handling of disclosures and the protection and support for people who make them
- improve the identification and remedying of problems and deficiencies revealed by disclosures
- ensure an effective statutory framework is in place for making and managing disclosures and protecting and supporting the people who make them.

The Ombudsman has established a public interest disclosures unit (PID unit) to achieve these objectives.

Consulting and providing information

We will be consulting widely with the people involved in dealing with public interest disclosures and the people who make them. This includes public authorities, their staff, other investigating agencies, unions, academics, journalists and commentators and interest groups such as Whistleblowers Australia. We have started this process with several information sessions.

The first session was held in May and was facilitated by Dr AJ Brown. It was an opportunity to bring together many of the people who have an interest or involvement in whistleblowing, including people who contributed to the Whistling While They Work research project. We provided the group with an outline of the changes, including our new role. We also gave them drafts of our objectives under the PID Act, as well as our model internal reporting policy for agencies. We received very useful comments both during the session and in the weeks afterwards.

We have held a number of information sessions since then for agency staff involved in handling disclosures. We provided information about the changes to the PID Act including the timeframe, as well as the roles and responsibilities of agencies and their staff. We will continue to hold these sessions as agencies change their systems.

Developing guidelines and model policies

Ever since the *Protected Disclosures Act 1994* came into operation in 1995, we have realised the importance of providing guidance material to agencies. This is why we produced our Protected Disclosures Guidelines, which were in their sixth edition when the changes to the Act started this year. In light of the changes to our role and the Act, we decided that a different approach was needed.

Our guidelines are now in the form of a series of individual practice notes, that can be read together or as individual topics. The first five topics were released on 1 July 2011. They covered management commitment, internal reporting policies and procedures on who can report wrongdoing, what should be reported, and the roles and responsibilities of key players. All of our guidance material is available on our website. We plan to have the remaining 25 practice notes finalised by the end of the year.

We have also produced two model internal reporting policies – one is for state government agencies and the other local councils. They provide guidance to agencies and their staff about dealing with reports of wrongdoing appropriately.

Separating a complaint from an industrial dispute

In May 2008, six staff members in Macquarie university's Centre for Policing, Intelligence and Counter Terrorism (PICT) wrote twice to the Vice-Chancellor and Deputy Vice-Chancellor expressing serious concerns about a number of issues. These issues included recruitment processes, workload issues, and decisions to assign traditionally academic work to administrative staff. They also alleged that there was general harassment and bullying of staff, which became worse in retaliation for individual staff raising concerns with PICT management.

The concerns were raised in the context of a broader industrial dispute about the working conditions of staff.

In June 2009, one of the staff members made a protected disclosure to our office. They claimed that the concerns of the staff members had never been taken seriously and each person had suffered some form of retribution for having complained. Some of them had resigned after being harassed and others had not had their contracts renewed.

Our primary concern was about the way the university had handled the complaints. They did not appear to have recognised that – in addition to a number of industrial issues that were being negotiated with the union – the complainants had also alleged that they had suffered retribution for having complained in the first place.

Following involvement from our office and the ICAC, the Internal Audit Bureau (IAB) investigated the allegations in 2010. They found that many of the allegations were substantiated and there were 'justifiable perceptions that the processes of recruitment and selection are corrupt' although none amounted to 'corruption.' The IAB made a number of recommendations for systemic improvements, most of which were accepted. The university had already made structural changes to the PICT which they believed addressed some of the issues.

The IAB also found that there was no evidence the university had investigated the May 2008 complaints, beyond providing a copy of one of the letters to the Director of the PICT for his response. This response informed the Deputy Vice-Chancellor's view that the complainants were a group of people making vexatious claims.

We found the university's attitude towards criticisms of the way they had handled the original 2008 complaints to be of some concern. In particular, they did not accept responsibility for failing to make any inquiries into the complaints. Instead, they claimed the complainants failed to provide particulars and also questioned the validity of a number of conclusions in the IAB report.

Allegations by staff that they are bullied and harassed in retaliation for complaints is a serious issue that should be looked into. If an organisation ignores such concerns, they risk staff not reporting serious wrongdoing for fear of reprisals. In our view, the university was responsible for asking the complainants for further details to support their allegations. The complainants should not have had to escalate the matter to two oversight bodies for an investigator to look into their concerns.

One of the IAB report's recommendations was that the university apologise to the complainants for mishandling their complaints. This had not occurred by March 2011, when the IAB report was leaked to *The Australian newspaper* and made the subject of three critical reports over a three week period.

The second newspaper article was written by one of the complainants and quoted an internal email that was sent by a dean at the university to all of his staff in response to the first newspaper article. The dean attempted to reassure staff that 'there was no evidence of wrongdoing [meaning criminal behaviour] found', that 'I find the article today a highly coloured version which puts everything in the worst light possible. But that is what newspapers will do ... and all this happened ages ago in a context which no longer exists ... [and] it has been fully dealt with within the university ... as soon as it was received.' In our view this message was clearly misleading.

On 22 March 2011 the six complainants wrote an open letter to the Vice-Chancellor, outlining their perception that the university's response to the IAB report was 'insufficient' and demanding an official apology from the university for failing to respond to their complaints.

After we sought clarification from the university, it became clear that they still had not recognised the problems with their approach. Staff willingness to report wrongdoing largely depends on how they perceive their organisation is going to handle their report. In this case, we were concerned that university staff would perceive that the university had dismissed the complainants' concerns as a media beat-up, and had refused to apologise because they took no responsibility for the ongoing dissatisfaction of the complainants. This might act as a disincentive for anyone thinking about making a protected disclosure in the future.

We believe the complainants reported honest concerns about the way PICT was operating. They wanted the problems to be fixed. The appropriate response would have been to support what they did, make further inquiries into their concerns and – if their concerns showed the university where positive systemic improvements could be made – tell them about those improvements and acknowledge the contribution they had made.

Instead, when the complainants first reported their concerns, they suffered retribution. When they complained about that, the university ignored them. Even when it was confirmed by an investigation, the university disputed the validity of the findings and blamed the complainants for not providing enough details when they made their initial complaints.

After discussing our views with the university, they have agreed to apologise to two of the complainants who escalated the matter to our office and the ICAC, 'in respect of any failure of due process in dealing with their complaints.' They have advised that they are reviewing their complaint-handling and investigation procedures and will continue to promote a culture in which staff feel confident that their genuine concerns will be handled appropriately.

Delivering training

We are starting to provide training to agencies and their staff to raise awareness of the PID Act. We will be developing more targeted training courses for staff dealing with disclosures, as well as senior staff and supervisors.

Even with targeted training, we will not be able to reach everyone covered by the Act. We are therefore developing e-learning tools to provide quick advice and guidance to staff about their rights and responsibilities.

Offering guidance

Agencies will have to build their internal reporting systems and deal with reports of wrongdoing appropriately. While we cannot do this work for them, we are available to provide advice and guidance. Our PID Unit is almost fully staffed, and we will provide whatever assistance we can to agencies and their staff. For more information, please contact our office and ask to speak to someone in the PID Unit.

Handling complaints

The number of protected disclosures we received in 2010-2011 remained largely the same as last year (see figure 34). We expect the number of public interest disclosures complaints to increase next year as a result of greater public sector awareness and understanding of the PID Act.

It is important that agencies deal with as many matters as they can themselves as, in our experience, this leads to a better outcome. We prefer to focus on dealing with complaints about disclosures being handled badly by an agency.

We will also deal with disclosures that are made about heads of agencies. Even in agencies with the best possible systems, those making disclosures might be worried that the head of an agency will influence how their matter is handled. Our model policy includes advice to staff to report suspected wrongdoing involving their agency head directly to one of the investigating bodies listed in the PID Act.

In future, our work will go beyond handling disclosures. We plan to give greater focus to the issues that arise after the subject matter of a disclosure has been largely dealt with. The Bill before Parliament will expand our capacity to perform a conciliation role. This will allow us to help solve some of the underlying problems, which can often do more damage to the reputation of an agency than the subject of the disclosure.

We have also noticed a recent trend for complainants, particularly councillors, to announce publicly they have made a protected disclosure. We assume they do this either to gain political advantage or to provide their complaint with a level of importance it may not have otherwise received. Reporting wrongdoing should not be used as a political tool. The objects of the PID Act are to provide protections against reprisals and remove barriers to reporting wrongdoing. We recognise there may be circumstances where a councillor may require protection against reprisals, but we would question whether they require the protection if they are willing to announce their disclosure.

Figure 34: Protected disclosures received

Matters	06/07	07/08	08/09	09/10	10/11
Informal	42	53	47	43	41
Formal	34	43	42	35	39
Total	76	96	89	78	80

Case study 36: Keeping people informed

A member of staff made a disclosure about a government agency to the ICAC and the agency at the same time. The disclosure was investigated and the allegation was not substantiated. Other allegations made against the person who was the subject of the disclosure were found to be true and the person was dismissed. The complainant then complained to us that they were not told what had been done.

We looked into the matter and found the agency had handled the disclosure properly. They had been in constant contact with the complainant as the matter had progressed because the complainant was assisting them with their inquiries. However, they had not written a letter advising the complainant of the final outcome as they thought this was the ICAC's responsibility.

We suggested the agency amend their procedures so there was more certainty if a similar matter arose in the future. They have now changed their procedures and will consult with the investigating body to check who is responsible for responding to the person who made the disclosure.

Police and compliance

We are committed to working with police to ensure their complaints system achieves fair and just outcomes for all concerned. We also aim to help police use the complaints system to identify how they can improve the way they operate.

Our work includes independently reviewing the way the NSW Police Force (NSWPF) handles complaints about serious misconduct and investigating particular areas of police practice, if it is in the public interest to do so. We check how police handle less serious complaints, and regularly audit the way their complaint-handling processes are working to ensure they are effective and comply with legislative requirements.

We use information from complaints to identify and proactively investigate public interest issues.

This year we started our second review of the use of tasers by police as we were concerned about the number of incidents involving tasers (see page 59). Our other public interest investigations include NSWPF's compliance with their guidelines for in-car video (see page 58) and the use of excessive force (see page 58). We also undertook an audit of complaints that raised domestic violence issues (see page 61), which led to a report to Parliament in May 2011.

Our police and compliance branch also has responsibility for dealing with witness protection appeals (see page 62) and complaints as well as reviewing law enforcement agency compliance with a range of legislation that gives them authority to undertake covert operations (see page 63).

Highlights

- | Finalised five direct investigations on a range of matters including use of excessive force. [SEE PAGE 57](#)
- | Reviewed the NSWPF's complaint handling guidelines making 25 recommendations to improve them. [SEE PAGE 54](#)
- | Finalised our report on the use of in-car video. [SEE PAGE 58](#)
- | Made recommendations to the Commissioner about NSWPF procedures for handling bullying, harassment and workplace discrimination. [SEE PAGE 60](#)
- | Reviewed the impact of CINs on Aboriginal and Torres Strait Islander communities and tabled a report in Parliament in July 2010. [SEE PAGE 62](#)
- | Audited the NSWPF's handling of domestic and family violence complaints, resulting in a report to Parliament. [SEE PAGE 61](#)
- | Re-negotiated a new agreement with PIC about the types of complaints to be notified. [SEE PAGE 52](#)

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Policing

Our role in the police complaints system

Every year, approximately 5,000 formal and informal complaints are made about police. These come from both the public and from police officers themselves. The complaints enable the NSWPF to identify systemic problems, as well as address individual instances of misconduct. We directly assess approximately 60% of complaints about police. The *Police Act 1990* gives the NSWPF the primary responsibility for investigating and resolving all complaints about police. Our role is to oversee the way the police complaints system works – both through reviewing investigations of individual complaints and checking that the processes police use to resolve complaints are working fairly and effectively.

The NSWPF must notify us about more serious complaints – such as those involving allegations of criminal, corrupt or improper conduct. We closely consider these complaints to ensure they have been investigated properly and in a timely manner and that the action taken is appropriate. As part of doing this, we may:

- | ask for additional information
- | monitor the police investigation as it is being conducted
- | prepare a report about the investigation if we think it is deficient
- | ask police to review the action if we consider it is inadequate
- | investigate the matter of our 'own motion'
- | report to Parliament if there are issues of significant public interest.

In February 2011, we entered a new agreement with the Police Integrity Commission (PIC) about the types of complaints that must be notified to the Ombudsman. Some less serious complaints – such as complaints about poor customer service, rudeness or minor workplace conduct issues – may be resolved by local area commanders without our direct oversight. Police are still required to register the details of these complaints on their complaints system, and we regularly audit the way these complaints are handled to ensure they are appropriately addressed.

Under the new agreement, police must also notify us about a range of additional complaints. This includes complaints about:

- | the unreasonable use of tasers, capsicum spray or batons
- | apprehended violence or stalking by police
- | police pursuits and responses to urgent duty resulting in death, injury or significant financial loss.

Trends in police complaints this year

This year we received 3,256 formal or written complaints about police for assessment and review – a slight increase compared to the previous three years. This includes complaints we receive directly as well as those notified to us by police or referred from the PIC. We finalised 3,278 complaints. In addition to these formal complaints, we received 2,596 informal complaints or enquiries by telephone or in person. We dealt with these by providing advice and referral information. Figure 35 shows the number of complaints we have received and finalised over the past five years.

Figure 35: Formal complaints about police received and finalised

	06/07	07/08	08/09	09/10	10/11
Received	3,466	2,969	2,948	3,032	3,256
Finalised	3,555	3,254	3,094	3,093	3,278

Of the complaints we received, figure 36 shows the proportion that were made by police officers and the public over the past five years.

Figure 36: Who complained about the police

This figure shows the proportion of formal complaints about police officers made this year by fellow police officers and from members of the general public, compared to the previous four years.

	06/07	07/08	08/09	09/10	10/11
Police	1,268	1,056	1,158	1,090	1,208
Public	2,198	1,913	1,790	1,942	2,070
Total	3,466	2,969	2,948	3,032	3,278

Figure 37 shows a breakdown of the kinds of complaints that were notified to us this year (some complaints may contain more than one allegation). Appendix A provides more detail about the types of complaints and the way they were handled.

Figure 37: What people complained about

Subject matter of allegations	No. of allegations
Arrest	149
Complaint-handling	215
Corruption/misuse of office	293
Custody/detention	134
Driving-related offences/misconduct	78
Drug-related offences/misconduct	172
Excessive use of force	596
Information	675
Inadequate/improper investigation	805
Misconduct	1,613
Other criminal conduct	474
Property/exhibits/theft	178
Prosecution-related inadequacies/misconduct	287
Public justice offences	190
Search/entry	116
Service delivery	1,103
Total	7,078

Note: Please see Appendix A for more details about the action that the NSW Police Force took in relation to each allegation.

This year, 899 (27%) of the complaints were assessed as not requiring investigation for reasons such as the availability of alternative and satisfactory means of redress, for example raising matters in court. Another 398 (12%) were assessed as local management issues and referred to commands for resolution without any oversight by this office.

We closely reviewed the quality of the way police investigated or resolved complaints, and found that 1,645 (83%) had been handled satisfactorily. However in 333 matters (17%) we considered the handling of the complaint to be deficient. Of these, 157 matters were deficient only because there were unreasonable delays in investigating or resolving them.

Unfortunately, the NSWPF is still not meeting their own timeliness standard for completing investigations and resolving complaints – and delays have increased from last year (see figure 38).

In 176 matters (9%), we believed the investigation or the proposed management action in response to the investigation findings was deficient. Following our advice, police remedied the deficient investigation or management actions in 64% of these cases. This is a 10% drop in matters remedied since last year.

We also provided commanders with written feedback in 93 matters where we considered the police investigation satisfactory – but identified opportunities for them to improve complaint-handling and investigation practices when dealing with similar matters in the future.

Managing complaints

The NSWPF can take a range of actions in response to complaints about police. Some of these 'management actions' are reviewable by the Industrial Relations Commission (IRC) – including a decision by the Commissioner to remove an officer or reduce their rank, seniority or salary. Other management actions are not reviewable by the IRC – such as officer counselling, training, restricting duties, issuing warnings and reprimands, transferring officers, mentoring and increased supervision. In response to complaints, police may also make changes to policies and practices or apologise to complainants.

Police took management action in 56% of complaints that we oversighted this year. This is a slight drop, back to 2006-2007 levels (see figure 39).

Last year we reported on Project Lancaster – the Professional Standards Command's (PSC) review of the disciplinary processes used by the NSWPF for proven officer misconduct.

As a result of the review, the PSC drafted a new reporting template for evidence-based investigations to improve

procedural fairness in complaint investigations. We provided feedback to the PSC on the draft. The reporting template has been in use since January 2011 and we will be monitoring the impact it has on the way investigations are conducted and reported.

The NSWPF has also changed their approach to management action as a result of Project Lancaster. They now emphasise taking non-reviewable action (such as issuing conduct management plans or warnings) in response to sustained findings of misconduct, rather than reviewable action. Our independent review of this work in assessing the adequacy of management action is particularly important given this changed approach.

In some serious misconduct matters, an officer may be charged with a criminal offence. In 2010-2011, 64 police were charged with a total of 215 offences. This is a significant fall in charges and officers charged compared with last year however, this figure is more consistent with the trend from 2006-2007 to 2008-2009 – see figure 40.

Many of these matters arise from complaints made in previous years, and these figures do not include charges against officers in this year that have not been finalised.

Some of the charges include:

- | summary criminal offences – such as engaging in conduct to obtain financial advantage from a Commonwealth entity or offensive language (71 charges were laid against 26 officers)
- | indictable criminal offences – such as larceny, forgery and using false documents (43 charges were laid against seven officers)
- | common assault (26 charges were laid against 17 officers)
- | sexual or indecent assault (20 charges were laid against three officers)
- | driving offences including drink driving, unnecessary speeding and dangerous driving (19 charges against 16 officers)
- | drug offences (seven charges against four officers)
- | unauthorised access to or disclosure of information (13 charges against four officers)
- | public justice offences such as perverting the course of justice or fabrication of evidence (10 charges against four officers).

Some officers received charges in more than one offence category.

This year a total of 14 police officers and probationary constables were removed from the NSWPF and another 11 resigned following the initiation of disciplinary procedures.

Figure 38: Timeliness of the completion of investigations and informal resolutions by the NSW Police Force

Percentage of	06/07	07/08	08/09	09/10	10/11
Investigations less than 90 days	28	34	40	44	42
Informal investigations less than 45 days	14	15	41	47	39

Figure 39: Action taken by the NSW Police Force following complaint investigations

	06/07	07/08	08/09	09/10	10/11
No management action taken	1,000	901	741	781	874
Management action taken	1,287	1,177	1,095	1,112	1,107
Total investigations completed	2,287	2,078	1,836	1,893	1,981

Figure 40: Police officers criminally charged in relation to notifiable complaints finalised

Number of	06/07	07/08	08/09	09/10	10/11
Complaints leading to charges	63	50	63	92	68
Officers charged	60	49	60	95	64
Total charges laid	184	136	259	300	215
Officers charged following complaints by other officers	48	32	45	68	49
Percentage of officers charged as a result of complaints by other officers	80%	65%	75%	72%	77%

Figure 41: Action taken in response to formal complaints about police that have been finalised

Action taken	08/09	09/10	10/11
Investigated by police and oversighted by us	1,395	1,145	1002
Resolved by police through informal resolution and oversighted by us	443	751	979
Assessed by us as local management issues and referred to local commands for direct action	468	340	398
Assessed by us as requiring no action (eg alternate redress available or too remote in time)	788	857	899
Total complaints finalised	3,094	3,093	3,278

Reviewing complaint-handling guidelines

This year we completed a review of the NSWPF's complaint-handling guidelines and made 25 recommendations to improve them.

Our report coincided with a review of the guidelines by the PSC. They have advised that they will implement 22 of our recommendations.

An important issue we identified during our review concerns the guidance given to commanders about using evidence-based investigation techniques and informal or outcome-focused investigation techniques. Our view is that evidence-based investigation techniques should always be used in the first instance to investigate complaints of serious misconduct. This ensures that investigations are rigorous and evidence is collected in a form that can be used to start criminal proceedings or take reviewable management action if the complaint is substantiated. The PSC does not share our view – they support a system where complaints about serious misconduct are the subject of informal inquiries unless or until incriminating evidence is identified. We will continue to monitor this issue closely.

There continues to be an increase in the use of informal resolution by police to address complaints, and a decrease in the use of evidence-based investigation (see figure 41).

Overseeing investigations into serious misconduct

As well as making sure that individual complaints are effectively handled, we contribute to the quality of complaint investigations and outcomes by providing feedback to police about potential problems in investigative approaches, and by highlighting operational issues that may not have been identified.

Investigating criminal allegations against police

The Police Act contains an anti-corruption provision that requires police officers to be charged if there is sufficient evidence of criminal conduct. However, the Commissioner or other senior police have the discretion not to authorise these proceedings.

When the discretion to not prosecute is used, a protocol established between the NSWPF, PIC and the Office of the Director of Public Prosecutions (ODPP) provides for the independent review of the decision by the ODPP to ensure accountability and transparency. The ODPP must also review matters if there may be a doubt about pursuing criminal prosecution due to complex legal issues or sufficiency of evidence. In the last year, we have come across a number of cases where the NSWPF neglected to refer decisions not to prosecute to the ODPP for independent review.

In case study 37, the NSWPF did not investigate alleged criminal conduct at the outset. It demonstrates how such decisions can potentially circumvent the processes aimed at ensuring that criminal conduct by police is not covered up.

Case study 37: Young person assaulted

Two officers patrolling the streets of a country town late on a Saturday night stopped and spoke to an intoxicated 15 year old male. The young man repeatedly swore at the officers while being questioned about the contents of his backpack.

One of the officers walked up behind the young man and slapped him to the head with an open palm, causing him to stumble forward. A short time later, the same officer grabbed the young man around the neck and pushed him up against the police vehicle, telling him to stop carrying on stupidly. At this point, the officer's partner intervened and the officer let go of the young man. At the end of the shift, the officer reported 'losing it' with the young man to the shift supervisor.

The commander spoke to the officer who admitted assaulting the young man. At the suggestion of the commander, the officer apologised to the young man in the presence of his mother. The young man signed the commander's notebook indicating that he was satisfied with the apology and that he did not want the officer charged.

The police investigation made a sustained finding for 'unreasonable use of force'. The commander referred the matter to the Internal Review Panel, recommending that the officer be placed on a conduct management plan 'to assist the officer to deal with emotions when reacting inappropriately'.

We raised concerns with the commander about the failure to conduct a criminal investigation into the alleged assault. We also noted that the management action proposed by the commander appeared lenient, given the officer's complaint history. Two years earlier, he had slapped another person to the head at a police station. On that occasion, the ODPP found sufficient evidence to prosecute the officer, but determined that he could be dealt with internally by police rather than being prosecuted. The Police Commissioner considered dismissing the officer but instead issued a warning notice stating that he would not tolerate any future failures to comply with acceptable standards. The officer's pay was also reduced for 18 months.

Although we appreciated that the young male accepted the officer's apology and did not want the officer charged - we believed it was appropriate for a report to be prepared to the Police Commissioner and Minister for Police on the need for a criminal investigation into this matter. Although the wishes of the victim are relevant to the question of whether there is sufficient evidence to prosecute, they did not justify the failure to conduct a criminal investigation into the alleged assault. We considered that it may have been appropriate to prosecute the officer - given that the action taken for the previous assault did not change his behaviour, and his partner would have been able to give credible and reliable evidence if he had been charged.

The NSWPF accepted these views and agreed to amend their complaint-handling guidelines to clarify that there is an obligation to ensure that alleged criminal conduct by police is appropriately investigated. They also agreed to increase awareness of the obligation to refer any exercise of the discretion not to prosecute to the ODPP for independent review.

The Commissioner considered whether to dismiss the officer. While observing that the officer's conduct had again fallen below the standards expected by the community and the NSWPF, the Commissioner decided that he still had confidence in the officer's suitability to be a police officer and issued another warning notice. The officer was also put on a six-month conduct management plan and could only perform restricted duties.

Monitoring investigations and requiring police to investigate

Sometimes we may disagree with a decision by the NSWPF that a complaint does not need to be investigated. We can require the NSWPF to investigate matters that they have initially declined to investigate, as we did in case study 38. We also monitored the investigation that we required police to undertake, as we did in case studies 39 and 47. Monitoring investigations allows us to observe interviews with

complainants, witnesses and officers, or review investigation records progressively during the course of the investigation. It also allows us to liaise with police investigators to ensure all relevant lines of inquiry are fully considered.

Often the complaints we choose to monitor involve complainants from vulnerable groups, or those who have communication difficulties. This year we used our monitoring powers to closely scrutinise 17 investigations.

Case study 38: Police decline to investigate

An officer alleged that he had been indecently assaulted by another officer who had touched him on the genitals with the back of his hand, and that he had seen the officer do the same thing to other police. These allegations were made to the officer's supervisor who failed to report the matter.

The inspector made enquiries and identified a second officer who said that he too had been touched on the genitals by the subject officer. However after he told the subject officer to stop, the assaults were not repeated. This officer did not report the assaults at the time, but was prepared to provide written evidence if needed.

The inspector took steps to minimise contact between the officers and to monitor the subject officer's behaviour. The NSWPF declined to investigate the complaint because the alleged conduct had happened some time ago, and the first alleged victim did not want to make a formal complaint or participate in a criminal investigation.

We disagreed with the police decision not to investigate, and asked for an evidence-based investigation with a view to addressing issues about a problematic workplace culture. We monitored the investigation, attending the interviews with the second alleged victim and with the subject officer.

We were also concerned that the inspector had not reported the initial complaint and asked that this also be investigated.

The subsequent investigation made sustained findings against the subject officer for indecent assaults on the two officers and he was transferred from the unit. The investigation also found that the inspector failed to report the misconduct and he was reminded of his responsibilities in these matters.

Case study 39: Building community relationships to better address complaints

We received four complaints in quick succession from the Aboriginal Legal Service (ALS), each alleging that police had used excessive force during separate arrests of Aboriginal young people. In relation to two of the matters, the ALS also alleged that police had questioned the young person without a support person present. The ages of the young people ranged from 13 to 15 years. The force alleged included incidents involving the inappropriate use of a taser weapon and OC spray, officers having their firearms drawn, and assault.

Because of the serious nature of the complaints, we decided to monitor all four inquiries and sent an investigator from our Aboriginal Unit to observe the police interviews of each of the four young people in relation to their complaints.

That investigator and a team leader from our police division also met with the local commander and other staff from the command to discuss the complaints and the command's work with local Aboriginal communities generally. We learned that the two Aboriginal Community Liaison Officer (ACLO) positions had been vacant for about 18 months, but that one of the positions had been recently filled. The new ACLO had been instructed to give priority to establishing a Local Area Command Aboriginal Consultative Committee (LACACC) with local Aboriginal community members.

There had also been a delay in police appointing a new Aboriginal portfolio holder to replace an officer who was awaiting a transfer. The portfolio holder is the senior officer who has responsibility for implementing the police force's Aboriginal Strategic Direction (ASD) initiatives at a local command level. An appointment is expected to be made shortly.

Following our meeting, the commander and his professional standards duty officer met with the ALS solicitor to discuss the complaints. They also agreed to meet regularly to discuss any concerns and how best to address them. The commander sent a LAC-wide memo to officers informing them that concerns had been raised about the use of excessive force during the arrests of some Aboriginal young people, and reminding officers to remain professional at all times.

We also met with staff from the ALS, the new police ACLO and the coordinators of the Circle Sentencing program, the Aboriginal Community Justice Group and an Aboriginal women's service, the Goorie Galban Aboriginal Corporation. Our staff agreed to maintain contact with these services and to provide information and training to the justice group and to Goorie Galban on the role of the Ombudsman's office.

We are currently waiting for police to finalise their complaint investigations and will continue to monitor the command's work in improving the police relationship with the local Aboriginal community.

Misuse of instant messaging

Last year we reported about the misuse of the NSWPF email system to distribute highly offensive material. Our main concern was that NSWPF systems did not ensure consistent assessment, investigation and management action for what was often identical misconduct. The NSWPF issued a practice note in January 2010 to achieve consistency in its handling of email complaints. An emerging and similar form of misconduct involves the misuse of NSWPF's instant messaging 'chat' function. These complaints raise similar issues about consistency in assessment, investigation and outcomes. See case study 40.

Case study 40: Inappropriate messages

In 2010, we received a number of complaints from police about the excessive use by other police of the instant message 'chat' system for gossiping and exchanging highly explicit messages. Users of the system appeared to be unaware that the messages were retained by the NSWPF, as evidenced by one officer who said 'I wonder if any members of the public realise we get paid \$80,000 each to talk dirty on an instant chat all week? Now that's funny'.

The complaints included allegations that officers spent hundreds of hours chatting about non-work-related topics. For example:

- | two sergeants exchanged over 2,000 non-work-related messages in one day
- | a very senior officer engaged in explicitly sexual chat sessions with at least two junior female officers.

We asked the NSWPF for information about the rationale for introducing instant messaging and how they intended to minimise the risk of misuse. They suspended the system within five days of our letter, pending a full review. That review identified what the NSWPF considers to be a number of valid uses for the instant messaging system. They propose to develop an information and communications strategy for the proper use of instant messaging before reactivating the system. We will continue to work with the PSC to ensure appropriate measures are in place to identify and respond appropriately to any misuse of the system.

Problems with information and record-keeping

Police use a database – the Computerised Operational Policing System (COPS) – to record their activities, including information about alleged criminal incidents and other occurrences attended by and reported to police. The COPS database also includes information used in policing, such as information about the bail conditions of accused people. Problems with recording information can adversely affect police and members of the public, as shown in case study 41.

Case study 41: JusticeLink, COPS and bail checks

When a magistrate or judge makes a decision to vary or dispense with bail, this decision will be recorded on the 'JusticeLink' case management system of the Department of Attorney General and Justice (DAGJ) by a member of the court staff. Data from JusticeLink should automatically be transferred to COPS, so that police will have up-to-date information about court decisions.

Police have reported that the interface between JusticeLink and COPS is not working properly, resulting in inaccuracies in the information on COPS – such as information about bail conditions not being up-to-date. Police are therefore having to manually update court decisions about bail conditions onto COPS to ensure they have accurate and up-to-date information for bail compliance checks.

Despite the manual process, police have been unable to keep COPS up-to-date and this has resulted in police officers wrongly arresting people for breaching bail conditions. In the past year, we received 16 complaints about police arresting young people for breach of bail when the bail conditions were no longer enforceable.

NSWPF and the DAGJ have prepared business cases seeking additional resources to improve the JusticeLink/COPS interface and resolve this problem.

In the interim, the police have developed practical strategies to reduce the delays in having COPS updated with new court outcomes about bail and reduce the risk of wrongful arrests. Now, if a person says their bail

conditions are no longer enforceable, police will check with the NSWPF criminal records unit and they will check JusticeLink before any further action is taken.

A class action has been commenced against the NSWPF in relation to the alleged wrongful detention of young people for breach of bail.

The *Criminal Records Act 1991* deems certain minor convictions as being 'spent' after a crime-free period or after a finding of guilt where a court orders that no conviction be recorded. A person does not usually have to disclose spent convictions when asked questions about their criminal history.

The legislation aims to overcome any long-term prejudicial or discriminatory effects that convictions for minor offences may have on someone. It is an offence for a person with access to records of convictions to disclose information about spent convictions without lawful authority.

The Criminal Records Section of the NSWPF responds to requests for information about criminal histories and is responsible for ensuring that information is released consistent with spent conviction provisions. See case study 42.

Case study 42: Disclosing spent convictions

We received a complaint about the disclosure of a South Australian cannabis offence on a National Police Certificate issued by the NSWPF. The offence related to a 2002 charge where the magistrate found the then 19 year old complainant guilty of cultivating two cannabis plants, fined him \$200, and directed that no conviction be recorded.

The complainant advised us that he had attempted without success to resolve the complaint with the NSWPF. He did not accept the NSWPF's view that the legislation only related to offences committed in NSW and therefore permitted the disclosure of the cannabis offence on the certificate. The complainant noted that the legislation states that offences committed in places other than NSW can be dealt with under the NSW legislation, and a conviction is spent immediately if a court orders that no conviction be recorded.

We wrote to the NSWPF asking for an explanation of their decision to disclose the cannabis offence. They responded by re-stating their position that the conviction was not spent under the NSW legislation. However they nevertheless issued the complainant with an amended certificate by adding the words 'without conviction' next to the cannabis offence.

We again wrote to the NSWPF suggesting that they obtain independent legal advice as our view was this was an incorrect interpretation of the law. The magistrate had directed that the cannabis offence not be recorded, but they were disclosing the offence as part of the complainant's criminal history.

As a result of legal advice provided by the Crown Solicitor, the NSWPF issued a further certificate to the complainant without the cannabis offence. They apologised to the complainant for the error and undertook to update their internal guidelines to reflect that convictions from other jurisdictions are capable of becoming 'spent' under the NSW legislation.

Although the final outcome for the complainant in this matter was positive, we have received a further two complaints involving the improper disclosure of spent

convictions by the NSWPF – including one where the complainant alleges that he did not gain employment as a result. We are following up the reasons for these disclosures with the NSWPF.

See pages 78-79 in *Children and young people in relation to problems associated with the creation of multiple Central Names Indexes (CNIs) for individuals on the COPS database in the context of applications for child-related employment*.

Investigations by the Ombudsman

As well as overseeing the way police have investigated complaints, we can choose to directly investigate matters of significant public interest. This year we finalised five investigations of alleged police misconduct. Case studies 43 and 44 are examples of our investigative work.

Case study 43: Perverting the course of justice

We reviewed a complaint by a police officer alleging another officer had not properly investigated a motor vehicle accident. The subject officer had failed to send the driver's blood samples for testing to check if he could be charged with driving under the influence of prohibited drugs. The officer later charged the driver with negligent driving on the day before the offence was to become statute barred. The complainant felt there was insufficient evidence to support this charge and recommended the charge be withdrawn.

The NSWPF's initial investigation sustained three issues against the subject officer. They were:

- | a failure to investigate
- | entering false information in COPS
- | failing to comply with a direction to withdraw the charge.

However, the evidence suggested that the subject officer had been untruthful about serving the Court Attendance Notice (CAN) on the driver. When filing the matter in court, the officer said the CAN was served personally on the driver at his home address, but the driver was in prison at that time.

We wrote to police about our concerns that the investigator had failed to question the subject officer about his apparent untruthfulness. We also noted that the proceedings for the charge were not commenced in accordance with legislative requirements. We asked the command to investigate further, and to consider applying for an annulment of the driver's conviction, as it appeared that the driver was convicted after an ex-parte hearing where he was not given reasonable notice of the charge against him.

The NSWPF failed to respond to our concerns for 10 months. When they did respond, they advised that additional inquiries had been unable to determine whether the officer had been untruthful, and they would further review the circumstances of the motor vehicle accident to decide whether to apply for an annulment of the driver's conviction.

Dissatisfied with this response, we started a direct investigation and concluded that the subject officer had been untruthful about serving the CAN on the driver, which we considered may have amounted to perverting the course of justice as the officer had falsely declared that he served the CAN on the driver.

Following our recommendation, the NSWPF had the driver's conviction annulled and apologised for starting proceedings against him without reasonable notice.

The conduct of the subject officer was referred to the ODPF. They determined that there was sufficient evidence to support a prosecution against him for perverting the course of justice and he has now been charged with this offence.

Case study 44: Using excessive force

We received a complaint from a police officer that a highway patrol officer had used excessive force on more than one occasion when dealing with a member of the public. The NSWPF conducted a non-criminal investigation which found the subject officer had used unreasonable force and inappropriate language on one occasion. The officer was rotated out of highway patrol for three months.

Our concerns about the handling of this investigation included the failure to:

- | investigate the matter criminally
- | consider the officer's use of force on another occasion
- | take adequate management action.

The officer's complaint history since 2003 included four previous matters involving unreasonable force.

We began a direct investigation, uncovering allegations of two further unreasonable uses of force by the subject officer, and information that one of the involved officers may have been untruthful in response to our inquiries.

We found that the subject officer had assaulted a member of the public on two occasions. We recommended that an additional 'unreasonable use of force' finding be added to the subject officer's history, and that police:

- | conduct a criminal investigation into the further allegations of assault and untruthfulness
- | review the management action taken against the subject officer
- | suspend his 'Leading Senior Constable' designation.

The NSWPF accepted all of our recommendations and we were satisfied with their subsequent investigation. The subject officer's Leading Senior Constable designation was removed and he was issued with a Commander's warning notice and placed on a six month conduct management plan.

Checking progress on our recommendations

After we finish an investigation or a report about the way the NSWPF have handled a complaint investigation, we check how they are implementing our recommendations. Case studies 45 and 46 are examples of our ongoing work in following up on our recommendations.

Case study 45: Delays in destroying records of fingerprints

In last year's annual report, we reported on our investigation of NSWPF practices for destroying the fingerprints of people who were found not guilty, were acquitted, or had the charges against them withdrawn or dismissed. As a result of our investigation, police agreed to re-assess the 414 applications for destruction that they had not acted on and to write to applicants advising them of the outcome of their previous applications.

This year, two applicants contacted us advising they had not heard anything from the NSWPF. When we followed this up, we discovered that police had:

- | failed to destroy their fingerprint records
- | decided that almost two-thirds (261 of 414) of the remaining applications did not meet the criteria for destruction.

As a result of us following up on this issue, police have now destroyed the fingerprint records of the two applicants and apologised to them for the 'regrettable administrative oversights' that led to the initial failure to destroy their records. They reviewed the remaining 261 applications and advised some applications were not actioned because the applicants had been convicted, no fingerprints had been taken, or the applications related to charge photographs or other records.

Case study 46: Using in-car video

In February 2011, we finalised our report on NSWPF compliance with legislation and police guidelines for using in-car video (ICV). ICV can provide valuable video and audio evidence of interactions between police and motorists, and police are required to use ICV for traffic policing if it is fitted to the police vehicle.

Our investigation found a number of instances of very effective use of ICV. We also found a number of unexplained failures to activate ICV, particularly ICV audio, and poor use of ICV as a source of evidence. This sometimes led to officers making important decisions based on information which, when later checked with the ICV, was clearly incorrect. We made 12 recommendations including that:

- | police better enforce the requirement that officers provide an explanation if ICV policy has not been followed
- | ICV audio be required to be activated during pursuits
- | police review their guidelines about removing people from ICV view
- | police view ICV footage before completing records of incidents – such as witness statements or criminal charge narratives
- | highway patrol supervisors regularly review ICV to identify and manage risks and reinforce good practice.

When we consulted police before issuing our report, they indicated support for all our recommendations. But when our final report was issued they changed their stance on a number of recommendations. We have since met with the Commissioner and he has indicated that police will support the recommendations. Police have now also advised us that they will seek a legislative amendment to require the activation of ICV audio during pursuits.

Ongoing concerns about the use of tasers

In November 2008, we reported on our investigation into the use of tasers by specialist commands. Although we found no evidence of the misuse of tasers, we identified serious risks with the decision to provide tasers to general duties police officers and made recommendations to strengthen the standard operating procedures (SOPs), training and accountability mechanisms for using tasers.

Last year we reported that the NSWPF had not implemented our recommendation to amend the SOPs to make clear that tasers should not be used as a compliance tool against individuals offering passive resistance. Following our report, the Minister for Police announced that the SOPs would be amended in accordance with our recommendation.

During the same month, a number of incidents involving taser use by police in NSW and other states of Australia attracted media attention and public interest. One incident involved a man, armed with two knives, who died soon after being tasered by police in NSW. In Queensland, a man died shortly after he was tasered up to 28 times by police. In October 2010, the Corruption and Crime Commission in WA reported on an incident where an Aboriginal man had been tasered 13 times by police in a watch-house.

Because of the risks associated with the use of tasers and the need for the NSWPF to have appropriate policies, procedures and accountability mechanisms, we decided to start a second review of taser use by police.

We have been reviewing a large volume of information provided by the NSWPF concerning the use of tasers by general duties police. We aim to determine whether tasers are being used in accordance with the NSWPF SOPs, whether the procedures are appropriate, and whether they are being implemented in an effective manner. We are examining the reasons recorded by police for the use of tasers over a six month period, viewing the tasercam footage of each incident, and the records made by senior police officers that reviewed each incident. This includes over 2,000 records relating to over 600 incidents in which the taser was used by police. We will conduct focus groups with operational police to gain a detailed understanding of the perspectives of rank-and-file police about the use of tasers. More broadly, we are conducting a literature review of issues relating to the use of taser across the world to assess developments in other jurisdictions and seeking to evaluate the impact of tasers including the level of injuries suffered by police and members of the public.

This review will be completed in 2012.

Performance indicators

2010-2011 criteria (%)	Target	Result
Formal reports about police conduct that made recommendations relating to law, policy or procedures	70	82
Recommendations in formal reports supported or implemented by the NSW Police Force	80	90

Keeping the complaints system under scrutiny

As well as reviewing investigations of individual complaints, we proactively review general complaint-handling practices and keep the complaints system under scrutiny. Section 160 of the Police Act requires us to do this and to inspect the NSWPF's records at least once every 12 months to see if they are appropriately recording and managing complaints.

Registering complaints

Last year we reported on our investigation into the NSWPF's practices for deciding whether to register complaints on their complaints database, 'c@tsi'. Proper registration of complaints, including details of investigations conducted and management actions taken, allows us to audit and assess complaint-handling. It also allows the NSWPF to track individual officer complaint histories and complaint trends across the state, encourages consistency in decision-making, and promotes transparency and accountability. This investigation suggested a widespread failure to comply with the process for registering complaints, identifying more than 250 complaints that had not been registered.

This year we entered a memorandum of understanding (MOU) with the PIC and the NSWPF about the registration of complaints. This MOU will be reviewed in two years and provides guidance about which complaints need not be registered on c@tsi.

Every year we inspect the records of a range of local area commands (LACs) to ensure that complaints are being properly identified and complaint-handling processes are being followed. This year we inspected records across six different LACs, identifying 35 matters that should have been notified to us but had not been. Steps have been taken to have these matters notified as complaints.

We also check whether police are notifying us about complaints of serious misconduct. This year we conducted two audits, finding 65 matters that should have been notified to us. These complaints have now been properly notified so we can review how they were handled.

Auditing PoliceLink

This year we audited the PoliceLink Command – one of the main avenues for members of the public to contact the NSWPF. PoliceLink primarily manages calls by members of the public to the '000' emergency line, the Police Assistance Line and Crime Stoppers. PoliceLink also receives calls about complaints via the Customer Assistance Unit and the Corruption Hotline.

Our audit considered those areas within PoliceLink that were tasked with or likely to receive complaints about police conduct. Before the audit, PoliceLink advised that in 2010 they had received approximately 700 complaints about police and 600 other contacts that were classified as 'concerns'. We found that there were shortcomings in the way in which PoliceLink was managing and recording complaints, and that many of the matters classified as 'concerns' were actually complaints. We provided our audit report to NSWPF in June 2011 and await their response.

Bullying, harassment and discrimination within NSWPF

In 2006, following evidence of sexual misconduct at the Goulburn Police Academy, the then Commissioner of Police commissioned Ms Chris Ronalds SC to prepare a report on sexual harassment and discrimination in the NSWPF.

The Ronalds Report found that:

- | inappropriate workplace conduct was occurring in pockets throughout the NSWPF
- | there was an absence of coordinated, comprehensive and ongoing training programs on discrimination and harassment in the workplace
- | there was a lack of experienced investigators with knowledge of discrimination and harassment issues
- | NSWPF had no central point of contact for providing accurate and reliable advice and assistance on workplace equity issues
- | inconsistent decision-making processes were resulting in perpetrators avoiding the consequences of their misconduct.

In response, the NSWPF created a Workplace Equity Unit (WEU) and in April 2009 produced resolution procedures for handling workplace equity complaints.

In late 2009, we began an audit to assess the implementation of these new procedures. We examined relevant complaints, reviewed the WEU's systems and records, and spoke with WEU staff and management.

Our audit found that key aspects of the procedures had not been implemented effectively. Our overall concern was that the WEU lacked sufficient input and responsibility for monitoring and improving the handling of workplace equity complaints. We found a lack of compliance with the procedures, and a lack of suitable administrative systems within the WEU – including the absence of any capability to measure complaint trends.

We also identified a number of complaints that did not appear to have been investigated in a timely and effective manner. In particular, the assessment and investigation of complaints about sexual harassment had been inconsistent and insufficiently rigorous.

We made 12 recommendations to strengthen the WEU's role in providing advice and quality assurance for key decisions made by commands – including initial assessments, investigation findings and management actions. We also recommended that NSWPF survey police officers to determine their level of awareness, satisfaction and confidence in the procedures for making and resolving workplace equity complaints.

In June 2011, the NSWPF accepted all the recommendations in our draft report. We look forward to further consultation with them about the implementation of our recommendations.

Policing domestic violence

Our 2006 investigation into the policing of domestic violence continues to generate improvements in this area. This year the NSWPF has focused particularly on enhancing the service received by victims who are required to attend court, a specific area of focus for our 2006 report. For example it has worked to identify and develop a cohort of prosecutors to become domestic violence 'specialists'. These are prosecutors who have a specific interest in this area of court work, and the capacity to 'lead' good practice.

The NSWPF also progressed the development of a specialist domestic violence training course for police prosecutors, a recommendation of our 2006 report. We provided advice to inform this process. The course will comprise both face-to-face and 'e-learning' components, and will have focus on practical court room skills. The roll-out of the course is due to begin in early 2012.

This year the NSWPF also commenced trialling two initiatives aimed at better engaging victims of domestic violence in the court process. 'Domestic violence clinics' have been introduced at Katoomba, Lithgow and Burwood courts. A partnership between police and local Women's Domestic Violence Court Assistance Schemes (WDVCAS), the clinics are aimed at preparing victims for court by educating them about the criminal justice process and what their participation in it will involve. Victims who have a court date approaching are invited to participate in a structured group discussion led by the police prosecutor and Domestic Violence Liaison Officer (DVLO), who familiarise themselves with the circumstances of each of the participating victims prior to the clinic. Where individual issues are identified during the clinic, the DVLO, prosecutor and WDVCAS are able to provide appropriate follow-up.

The second initiative is running at Campbelltown, Fairfield, Sutherland and Wollongong local courts and involves individual 'conferencing' for victims of domestic violence participating in defended hearings (both charges and Apprehended Violence Orders). The objective of the conferences is to provide a structured opportunity for police prosecutors to build rapport with the victim and to be better informed about all relevant aspects of their matter. The aim is to achieve increased prosecutions rates, particularly by decreasing the number of victims who 'withdraw' from the court process.

A hybrid model of both of the above initiatives will shortly be introduced on the North Shore. We understand that all of the initiatives will be evaluated to determine their potential state-wide application

Case study 47: Reinvestigation results in convictions

A criminal investigation conducted by the PSC recently resulted in a man being convicted in NSW District Court of 17 out of 20 charges relating to domestic violence offences over a 20 year period. This investigation stemmed from a complaint lodged by the victim that police in a number of commands had failed to act in response to her ongoing allegations of domestic violence. We monitored the handling of this complaint and referred it to the PSC for a coordinated response, as the complaint involved the actions of numerous local area commands over a number of years. PSC did a comprehensive and sensitive review of her complaint allegations and reinvestigated her allegations against the man resulting in the man's conviction of attempted manslaughter and other offences.

Police response to complaints about domestic violence

In May we tabled a special report to Parliament, *Audit of NSW Police Force handling of domestic and family violence complaints*. The report presented the findings and recommendations from our detailed audit of 289 complaints received by the NSWPF in 2008 that raised domestic violence issues. The audit was conducted as part of the requirement in our legislation that we 'keep under scrutiny' the NSWPF's systems for handling complaints. It also built on our 2006 investigation and report on the policing of domestic violence.

Complaints are an important source of information about key issues and concerns. Used properly, they can provide insights into areas that might need improvement, and evidence to test the validity of recurring criticisms of particular police practices. Responding effectively to complaints is vital to maintaining – or in some cases, restoring – the confidence of victims of domestic violence who have sought assistance from police but feel they have not received an appropriate response. It can also help police to build goodwill with community sector partners who advocate on behalf of domestic violence victims.

The audit enabled us to assess concerns and provide feedback to the NSWPF, support services in the domestic violence sector and the broader community about whether domestic violence-related complaints are being appropriately and effectively handled. Our aim was to contribute to efficient, high-quality police complaint-handling.

NSW Police recorded 25,528 domestic violence-related assault incidents in 2008. In a number of commands, responding to domestic violence incidents accounts for the majority of police officers' time. By comparison, the number of domestic violence-related complaints was low.

Our audit found that domestic violence-related complaints received in 2008 were generally well-handled by the NSWPF.

In most cases, police correctly assessed the issues raised by complaints, notified them to the Ombudsman when required and, when warranted, took appropriate action to address the issues raised. In addition, police generally initiated protective action on behalf of victims in response to complaints. Some form of management action was taken in relation to the majority of complaints referred for evidence-based investigation and we were satisfied with the nature of that action in most cases. There was a reasonable level of complainant satisfaction where our audit was able to determine this.

However, we did identify some instances where complaints were not well-handled by police. Although there were few such complaints, the audit highlighted the very serious consequences that can occur when police respond poorly to incidents of domestic violence. Although the report focused on the handling of domestic violence-related complaints, it also included some related observations about operational policing issues.

The NSWPF has responded positively and constructively to the audit results, endorsing the 19 recommendations made to improve how domestic violence complaints are handled and the way information from complaints can be used to enhance operational policing. The NSWPF commitment to implementing the recommendations and strengthening its response to domestic violence includes developing a Domestic and Family Violence Complaint Practice Note to address many of the issues raised. We have provided comments to the NSWPF on the draft of the Complaint Practice Note which will now be finalised and distributed shortly.

Overall, the positive findings of the audit should enable victims, their advocates and the wider public to be confident that, if they complain to the NSWPF about how police have responded to domestic violence, their concerns will be handled in an appropriate and responsive manner.

Reviewing the implementation of legislation

Since 1998, the NSW Parliament has required the Ombudsman to keep under scrutiny a range of additional powers conferred on police. We independently and impartially analyse the exercise of these new powers, taking into account the perspectives of police officers, agencies and the people affected by their use.

Appendix B lists our legislative review activities in 2010-2011.

Terrorism powers

In December 2010, the NSW Parliament gave us an ongoing role to review the exercise of powers conferred on police and other officers under Parts 2A and 3 of the *Terrorism (Police Powers) Act 2002*. Under Part 2A, a person can be detained by a court order for up to 14 days to prevent, or preserve evidence of, a terrorist act. Part 3 allows police and Crime Commission staff to obtain covert search warrants if this would help them respond to a suspected act of terrorism. These powers have not been used since we last reported. The preventative detention powers, which also exist in all other states and territories, have never been used in NSW or any other jurisdiction.

We are currently finalising a further report under the Act. In it, we consider the way recommendations from our previous report have been implemented, and whether there is any ongoing utility in the powers in light of their very limited use. We hope to provide our report to the Attorney General and Minister for Police early in 2011-2012.

Criminal organisations

The *Crimes (Criminal Organisations Control) Act 2009* gives police the power to apply to an eligible judge for an organisation to be declared a criminal organisation, and then to apply to the Supreme Court for control orders on members of that organisation. The Act also created a range of offences, such as association between controlled members and recruiting people to join criminal organisations.

Under the legislation, controlled members can be prevented from engaging in a range of prescribed activities – including working in the security industry, carrying on a business buying, selling or repairing motor vehicles, possessing firearms licences or licences to sell liquor, operating a casino, operating a tow truck and a range of activities in the racing industries.

In July 2010, the NSWPF lodged an application to have the Hells Angels Motorcycle Club declared a criminal organisation. However on 23 June 2011, in response to a case lodged by the Hells Angels, the High Court of Australia found the Crimes (Criminal Organisations Control) Act invalid as it was repugnant to, or incompatible with, the institutional integrity of the NSW Supreme Court. The Attorney General has announced he is reviewing the implications of the High Court's decision.

To date, our review has included observing the way police have implemented the legislation, reviewing the significant volumes of documentation lodged by the NSWPF in support of their application against the Hells Angels, and attending court proceedings.

Implementing recommendations from our reports

The response to recommendations from our review of the Terrorism (Police Powers) Act has been positive. Of the 37 recommendations in our September 2008 report, 28 have been implemented and five are supported but awaiting implementation. The four that were not implemented recommended changes to the Act which, while not made, have been addressed by police through their SOPs.

Our review of the impact of Criminal Infringement Notices (CINs) on Aboriginal and Torres Strait Islander Communities was tabled in July 2010. The Attorney General gave support in principle to 22 of our 25 recommendations, convening a working party to consider how changes to the CINs scheme could be implemented. At the time of writing, the working party has not finalised its activities.

We have still not received advice about the implementation of the 77 recommendations we made in our May 2009 report about the *Law Enforcement (Powers and Responsibilities) Act 2002*. This report looked at the exercise of powers to conduct personal searches on arrest and in custody, establish crime scenes, and require the production of documents. Police have declined to report on the implementation of our recommendations pending the finalisation of a policy review by the NSWPF and the DAGJ. That review has not yet been finalised. Many of our recommendations were about improvements to police procedures and training, and it is not clear why the policy review process should delay implementing this type of operational recommendation.

Witness protection

The witness protection program was established under the *Witness Protection Act 1995*. It is designed to protect the safety and welfare of crown witnesses and others who have given information to police about criminal activities. The Ombudsman is responsible for hearing appeals about the exercise of certain witness protection powers by police and handling complaints from people in the program.

Appeals

The NSW Commissioner of Police has the power to refuse a person entry to the witness protection program or to remove them from it. A person who is directly affected by such a decision can appeal to the Ombudsman who must make a decision within seven days. The Ombudsman's decision is final.

This year we received and determined two appeals under the Act.

Complaints

Every person taken onto the witness protection program has to sign a memorandum of understanding with the Commissioner of Police. This memorandum sets out the basic obligations of the participant and the police, and:

- | prohibits the participant from engaging in certain activities
- | governs arrangements for family maintenance, taxation, welfare, and other social and domestic obligations or relationships
- | sets out the consequences of not complying with the provisions of the memorandum.

All witnesses have a right to complain to the Ombudsman about the conduct of police in relation to any matters covered in the memorandum.

Historically, we have received very few complaints from participants in the witness protection program, and received only two this year. When complaints have raised systemic issues, the NSWPF have generally responded positively and resolved those issues. These ongoing improvements in the management of the program have in turn lead to fewer complaints.

Covert operations

Under the *Telecommunications (Interception and Access) (New South Wales) Act 1987* and the *Surveillance Devices Act 2007*, the NSWPF, the NSW Crime Commission, the Independent Commission Against Corruption and the PIC can intercept telephone conversations and plant devices to listen to, photograph or video conversations and track the position of objects.

Controlled or 'undercover' operations can also be carried out under the *Law Enforcement (Controlled Operations) Act 1997* which allows activities that would otherwise involve breaches of the law, such as the possession of illicit drugs. The Australian Crime Commission, the Australian Federal Police and the Australian Customs and Border Protection Service are also authorised to conduct controlled operations under the NSW legislation.

Operations of these kinds involve significant intrusions into people's private lives. Agencies must therefore follow the approval procedures and accountability provisions set out in the relevant legislation. Reviewing the compliance with these requirements is an important function of the Ombudsman.

Controlled operations

Controlled operations are an important investigation tool. They allow law enforcement agencies to infiltrate criminal groups – particularly those engaged in drug trafficking and organised crime – to obtain evidence to prosecute criminal offences or expose corrupt conduct.

The head of the law enforcement agency gives approval for controlled operations without reference to any external authority. To ensure accountability for these undercover operations, we have a significant role in monitoring the approval process.

Agencies must notify us within 21 days if an authority to conduct an operation has been granted or varied, or if a report has been received by the agency's chief executive officer on the completion of the operation. Retrospective authorities for controlled operations must be notified to us within seven days of being granted.

We inspect the records of each agency at least once every 12 months to ensure they are complying with the requirements of the legislation. We also have the power to inspect agencies' records at any time and make a special report to Parliament if we have concerns that should be brought to the attention of the public.

During 2010-2011, we inspected the records of 385 controlled operations.

We report in detail on our monitoring work under the *Law Enforcement (Controlled Operations) Act* in a separate annual report that is available on our website. We include details about the type of criminal conduct targeted in the operations and the number of people who were authorised to undertake controlled activities, as well as information about the results of the operations.

Telecommunications interceptions

The Ombudsman has been involved in monitoring compliance by law enforcement agencies with the requirements of the telecommunications interception legislation since 1987.

Our role does not include scrutinising the approval process for telephone intercepts because a judicial officer or member of the Administrative Appeals Tribunal grants a warrant for a telephone interception.

We check whether the agency carrying out the telecommunication interception has complied with record-keeping requirements. Records must document the issue of warrants and how the information gathered was used. All telephone intercept records have to be kept under secure conditions by the agency and destroyed once specified conditions no longer apply. Some records must be provided to the Attorney General.

We are required to inspect each agency's records at least twice a year and also have the power to inspect their records for compliance at any time. We report the results of our inspections to the Attorney General. The *Telecommunications (Interception and Access) (NSW) Act 1987* prevents us from providing any further information about what we do under that Act.

Surveillance devices

The *Surveillance Devices Act 2007* (the SD Act) sets out the requirements for the installation, use and maintenance of listening, optical, tracking and data surveillance devices. It restricts the communication and publication of private conversations, surveillance activities and information obtained from using these devices. NSW law enforcement agencies are given power under the SD Act to use surveillance devices to investigate crime and corrupt conduct.

Applications are made to eligible judges for warrants to authorise the use of most surveillance devices. In the case of tracking devices – or retrieval warrants for tracking devices – applications can be made to eligible magistrates.

The Act imposes a number of record-keeping, reporting, use and security responsibilities on law enforcement officers granted a warrant. It also requires us to inspect the records of each agency from time to time to determine the extent of compliance with the Act, and to report to the Attorney General at six monthly intervals on the results of those inspections.

This year, we carried out four inspections under the SD Act. On 1 October 2010 we reported to the Attorney General on our inspections of surveillance device records up to 30 June 2010, and on 1 April 2011 we reported on our inspections up to 31 December 2010. Both reports are available on our website.

Inspecting records of search warrants

Covert search warrants

Part 19 of the *Law Enforcement (Powers and Responsibilities) Act 2002* requires the Ombudsman to inspect the records of the NSWPF, the NSW Crime Commission and the PIC every 12 months to determine whether they are complying with the requirements of the Act in relation to covert search warrants. We have to prepare a report of our work in this area for the Attorney General and Minister for Police.

This year we carried out two inspections of the records of the NSWPF – where we inspected 21 files and the NSW Crime Commission, where we inspected three files. The PIC did not apply for any covert search warrants.

Criminal organisation search warrants

On 19 May 2009, the *Criminal Organisations Legislation Amendment Act 2009* introduced a new form of search warrant – a criminal organisation search warrant – which police can seek from an eligible judge of the Supreme Court. These warrants allow police to search premises for things connected with an 'organised criminal offence'. These are serious indictable offences arising from, or occurring as a result of, organised criminal activity.

The powers conferred in these warrants are the same as for usual search warrants, except that they operate for seven days instead of 72 hours and have a lower evidentiary threshold ('reasonable suspicion') compared to ordinary search warrants ('reasonable belief'). Applications to the eligible judge must be approved by a police officer of the rank of superintendent or above.

Under the legislation, we have to inspect and report on the records of the NSWPF every two years to ensure that the requirements of the Act are being complied with.

Criminal organisation search warrants are not covert, but we inspect them as part of our general program for inspecting records of covert operations. This year we conducted one inspection of criminal organisation search warrants.

Human Services

Our Human Services Branch handles inquiries and complaints about a range of human service agencies.

We review the delivery of community services and oversee the handling of allegations of child abuse made against employees in the child-related employment field. We also visit juvenile justice centres in NSW to speak with detainees and staff and inspect facilities and programs.

We use information from inquiries and complaints to identify and investigate public interest issues. As a result of changes to the child protection system we decided to investigate more matters about child protection issues – focusing on those agencies with the greatest responsibility for child welfare (see page 67). We also focused our resources on reviewing the progress of implementing *Keep*

Them Safe: a shared approach to child wellbeing (see page 66). Our review resulted in a report to Parliament.

Other significant work included examining restoration support for children on short term care orders (see page 72), and our work relating to the safety, health, welfare and rights of people living in licensed boarding houses that resulted in a report to Parliament in August 2011 (see page 85).

This year saw the transfer of the Child Death Review Team to the Office. The Ombudsman is the convenor of the team and we provide it with substantial research support (see page 71). We also support the Official Community Visitors which included the roll-out of a new reporting and claims database (see page 87).

Highlights

- | Reviewed key aspects of the implementation of *Keep Them Safe*. [SEE PAGE 66](#)
- | Increased the number of child protection investigations into important systemic issues. [SEE PAGE 67](#)
- | Worked with the NSWPF to finalise SOPs that will help reduce risks to children by improving police support to employers who are handling criminal child abuse allegations made against their staff. [SEE PAGE 78](#)
- | Issued a practice update to clarify for employers the types of behaviours that fall within the definition of sexual misconduct. [SEE PAGE 79](#)
- | Began an inquiry into the access of people with mental illness to accommodation and support under the *Disability Services Act 1993*. [SEE PAGE 83](#)
- | Prepared a report on our reviews of the deaths of people with disabilities in care, highlighting issues such as managing risks and access to health programs. [SEE PAGE 84](#)
- | Completed a report to Parliament calling for reform of the boarding house sector. [SEE PAGE 85](#)
- | Took on responsibility for supporting the Child Death Review Team. [SEE PAGE 71](#)
- | Consulted with over 300 families of children with disabilities. [SEE PAGE 83](#)

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Children and young people

Our work to protect children living in NSW covers a range of areas. It includes:

- | monitoring changes to the child protection system
- | investigating how agencies have handled child protection issues
- | handling complaints about community services for children
- | reviewing the deaths of children in care and children whose deaths are due to abuse or neglect or occur in suspicious circumstances
- | supporting the NSW Child Death Review Team
- | reviewing the circumstances of children in care
- | working with young people in detention
- | overseeing investigations into reportable employment-related child protection allegations and scrutinising systems for preventing this type of conduct.

Our responsibilities for protecting children are included in the *Community Services (Complaints, Reviews and Monitoring) Act 1993* and Part 3A of the *Ombudsman Act 1974*.

Monitoring changes to child protection

In January 2010, a new system for responding to children at risk of harm came into operation. This system is part of the five-year reform plan known as *Keep Them Safe: a shared approach to child wellbeing* – the then Labor government's response to the Wood Special Commission of Inquiry into Child Protection Services in NSW.

Keep Them Safe emphasises that protecting children is a shared responsibility and introduced a range of legislative and structural changes. These included new intake and referral pathways, narrowing the statutory role of Community Services, and placing greater responsibility on other human service and justice agencies to respond to child protection concerns. Among other things, these changes were intended to allow Community Services to concentrate their efforts on children and young people who are most at risk of experiencing serious harm.

Other key reforms included a legislative amendment to permit the exchange of relevant child protection information between organisations working with children, and making habitual non-attendance at school an additional legislated criteria for risk of significant harm.

In last year's annual report we noted some of the potential issues that may arise in this reform environment and the need for government to anticipate and manage these issues.

Over the past year we have met and consulted with government agencies, non-government peak associations, and staff from child wellbeing units about policy and operational issues affecting the implementation of the new system. In addition – through handling complaints, reviewing child deaths and investigating child protection matters – we have gained insight into how *Keep Them Safe* is functioning.

It is now almost two years since *Keep Them Safe* started. Therefore we believed it was timely to document and discuss the progress that had been made, as well as the challenges currently facing the service sector. An important starting point for this work involved us analysing data from Community Services about the agency's current operating environment.

In most high-risk cases, a visit from a child protection caseworker to the child's family is necessary to properly assess the child's circumstances. Comparing the period

before the Wood Inquiry started with the post-inquiry period between 24 January 2010 and 31 December 2010, there was a 55% drop in the number of responses to recorded reports that resulted in a comprehensive face-to-face assessment – 19,826 compared to 46,757.

Given that child protection reports to community services centres (CSCs) had reduced under the new system by over 100,000 – or more than 50%, we were concerned that the evidence suggests there had been a substantial decrease in the number of comprehensive assessments carried out.

While the data pointed to the need for more resources, it also demonstrated a need for greater productivity and efficiency. In addition, we found that there are other major challenges that have to be met before the Special Commission of Inquiry's vision for an improved child protection system can be realised.

All of these issues were canvassed in our recent report to Parliament, *Keep Them Safe?*. Together with a range of recommendations aimed at system reform, the report concludes by noting that – in light of the very substantial weaknesses in the current system – it is inconceivable that a strong and integrated child protection system will be able to be delivered in the near future. There is an urgent need to establish clear priorities for prompt action, including substantially improving the capacity of the system to respond to child protection reports indicating risk of significant harm.

We stressed that while this and a number of other areas must be responded to as a matter of urgency, there is also the need to properly consider 'where we are at' against the challenges that must be met to more effectively deliver on the whole of the Special Commission of Inquiry's vision. Our report is available on our website.

Transitioning out-of-home care to the non-government sector

Keep Them Safe provides for the gradual transition of most out-of-home care to the non-government sector. There are risks if this does not take place in a way that matches the capacity of the sector to undergo what will be a massive expansion in services and workforce.

Our views about this transition are informed, in part, by work we carried out last year in relation to Life Without Barriers (LWB). Since its inception, LWB has grown rapidly and is currently the largest non-government provider of out-of-home care services in NSW, as well as a significant provider of disability and other community services.

Since 2005 we have dealt with a range of concerns about LWB's services, including their out-of-home care services. In 2010, we identified a number of specific problems relating to the circumstances of 12 children in the care of LWB. These matters related to the children's welfare and also brought into question the effectiveness of LWB's actions over time to improve the delivery of their out-of-home care services.

We therefore initiated an investigation into these matters and, together with the Children's Guardian, also asked the LWB to examine the effectiveness of the actions they had taken to address key practice issues identified from their own previous management reviews.

Our investigation found that all 12 children were exposed to unacceptable levels of risk and, in many cases, actual harm. We also found very poor practice in carer assessment, authorisation and placement matching – that is, matching to

ensure a child is placed with a carer family best able to meet the child's needs.

Following our investigation of the circumstances of these 12 children, we made various recommendations to resolve the children's situations and to address related systems and practice issues.

In August this year, LWB finalised their *NSW Out of Home Care Review 2011*. In the context of the serious shortcomings in practice we identified, this review is an important step in acknowledging what needs to be done to address systems and practice issues in the delivery of out-of-home care services. Equally critical will be testing whether the agency can achieve ongoing improvements.

We welcome LWB's commitment to developing a comprehensive quality assurance and improvement plan, in consultation with the Office of the Children's Guardian and the Department of Family and Community Services. These agencies will also actively monitor the plan's implementation, including the Children's Guardian linking the implementation results with LWB's re-accreditation process.

Given the NSW Government's commitment to transfer responsibility for the delivery of out-of-home care services to the non-government sector, we believe it would be in the public interest for the department and the Children's Guardian to report publicly on the results of LWB's improvement plan.

Investigating carer assessment and authorisation practices

In late 2010, the Ombudsman received a number of complaints from employees of LWB. The complaints alleged poor practices in relation to foster carer recruitment and authorisation, and related outcomes for children placed in care.

The complainants were particularly concerned about the agency's model of carer recruitment which involved using contracted 'Supporters of Carers' (SOCs), paid on the basis of how many carers they recruited and how many children they placed with those carers. There were concerns that contracted SOCs were recruiting too many carers, some of whom were not suitable, and placing too many children in their care – many of whom had complex and competing needs. The very significant financial incentives for contracted SOCs were seen by the complainants to be operating at the expense of the safety and wellbeing of children in care.

The complainants drew our attention to the authorisation of three carers in particular, and the ongoing assessment of an applicant carer – the partner of one of the three carers – who seemed to pose a very high-risk to children, given his background.

As part of our investigation, we required LWB to produce their files for each of the carers, the applicant carer, and all the children placed with any of these carers.

After reviewing these files, we had significant concerns about their assessment and authorisation of these carers and the outcomes for the children in their care. We also had serious concerns about the contracted SOCs model of carer recruitment.

In one case, a carer was assessed and authorised on the basis that she and her husband were separated and living apart. Personal references, which indicated otherwise, were not queried by the agency so the husband was not subjected to a probity check.

The first child placed with the carer alleged that the carer's husband had indecently assaulted her, while the carer was asleep at another house. The child did not want to talk to police, and the agency accepted the carer's version of events. The Ombudsman was not notified of this indecent assault allegation when it was made in early 2008, because the husband was not an 'employee' at the time.

After the child was removed from the placement, four other children were placed with this carer. Not only did this exceed her authorisation in terms of numbers of children, but it took place in the context of the allegations concerning her husband's access to children in her care.

When it later became clear that the carers were a couple, living as a family across two households, the agency carried out a probity check. Police records indicated that the husband had a criminal conviction for assaulting a young person while he was working as a security guard.

Despite this, the agency authorised the husband as a carer in his own right. A child placed with him the following year later alleged that the carer had punched him and kicked him in the abdomen, knocking him to the ground.

We also found evidence on the children's files of serious neglect by their carers. Medical conditions were left untreated, glasses prescribed were not provided, and appointments with counsellors and speech therapists were missed. In one case, three young siblings left a placement significantly underweight with tooth decay, lice infestations, inadequate clothing and few possessions.

Investigating child protection issues

In the past year, we started 13 child protection investigations and finalised five. This significant increase over the previous year is in the context of the sweeping changes to child protection since *Keep Them Safe* was introduced.

We have current investigations into the actions of Community Services, the Department of Education and Communities (DEC), NSW Health and the NSW Police Force (NSWPF) – the agencies with the greatest responsibility for child welfare – all grappling with a new environment of shared responsibility for child protection.

Case study 48 provides an example of where a number of agencies failed to share information about a highly vulnerable child, resulting in escalating risks for the child that were not addressed.

Case study 48: Effective communication

We are currently investigating a matter involving a child who had a life-threatening condition and whose parents had substance abuse and mental health issues and were not meeting his health needs.

The child was admitted twice to hospital and treated in the intensive care unit. Both times, the child's treating team recognised that the parents behaved unusually and did not seem to understand the seriousness of their child's health condition.

After some months of failure by the parents to address the child's health needs, a doctor advised Community Services that the child was at risk of harm if his condition was not treated. However, the child's case was not allocated for ongoing casework. Health professionals did not make a further notification to Community Services when the parents did not bring the child for appointments over the following six months.

This child had a number of serious risk factors present in his life. Apart from his serious and life-threatening condition, his parents had a history of chronic drug dependence and had failed to ensure that he received the medical care he needed. The child was also absent from school for protracted periods of time with little intervention from education professionals.

This case highlights the critical need for effective interagency communication and planning in high-risk cases. We will be highlighting this, and a number of other important practice issues, in our final investigation report.

Case study 49 illustrates the importance of effective cooperation between agencies.

Case study 49: Risk not adequately assessed

This year we investigated a matter involving a person on the Child Protection Register (CPR). A girl disclosed that the person, who was her mother's partner, had been subjecting her to sexual abuse for the previous three years. He was subsequently arrested, charged with a number of offences, and has since been convicted.

The person had been on the CPR since 2004, having been convicted of a previous sexual offence against a child. As required under the *Child Protection (Offenders Registration) Act 2000*, he sought approval from Community Offender Services (COS) and the NSWPF to move in with the woman and her daughter in 2007.

Both agencies contacted Community Services to inform them of this and asked them to undertake an assessment and provide advice. The police, in particular, expressed strong concern about the potential risk posed to the girl. Community Services interviewed the woman, determining that she knew about her partner's offending history and was capable of protecting her daughter from harm. They informed the COS and police of this and advised that they would not be taking any further action.

We found that Community Services failed to adequately assess the risk to the child and initiate appropriate protective action. In turn, this impacted on the way COS and police perceived the level of risk posed to the girl by her mother's partner. COS approved the new living arrangements and the police took no further action.

We recognise that management of child sexual assault offenders in the community presents challenges to all the agencies involved. It is critical that agencies have a clear understanding of their respective roles and responsibilities in this area. To discuss ways of strengthening interagency cooperation in this area, we convened a meeting with Community Services, the NSWPF and COS. For further details of the outcomes of this meeting, see page 95 in Stakeholder engagement.

In the context of Community Services limiting its statutory responsibility to children at risk of significant harm (ROSH), our concern about cases continuing to be closed 'due to competing priorities' has become more acute. We are investigating cases where significant numbers of ROSH reports have been generated for certain children, but little or no casework has been done before the matter was closed. Often cases are repeatedly opened in response to new

ROSH reports and then closed again 'due to competing priorities' – with little recognition of the increasing evidence that demonstrates escalating risk. We are examining this issue in a case involving a very vulnerable adolescent (see case study 50) and a family where the children were repeatedly reported to be at risk of harm (see case study 51).

Case study 50: Lack of support

We received a complaint about Community Services's response to ROSH reports for a 14 year old girl with mental health vulnerability and an acquired brain injury.

In mid 2010, the girl suffered damage to her frontal lobe as a result of a car accident. Doctors indicated that she needed to be discharged to a stable and supportive environment where she could receive the considerable care she required.

Community Services determined that adequate supports were in place and the child was returned home. Since that time, more than ten ROSH reports have been made – by police, her school and medical professionals – raising serious and immediate concerns about her safety and extreme vulnerability. Supports in place following her discharge from hospital have proven ineffective. Community Services has undertaken minimal casework and the majority of reports have been closed due to competing priorities.

We are currently investigating Community Services's actions in relation to this matter. The information available raises concerns about their capacity to work effectively with adolescents, to respond appropriately where children or young people have a dual diagnosis – mental health and brain injury, and work effectively with other services to address issues of significant risk.

Case study 51: Multiple reports but no action

During 2009, there were multiple ROSH reports made to Community Services about three children under the age of 10 living in appalling conditions and witnessing serious incidents of domestic violence, involving parental substance abuse issues. One of the reports alleged risk of possible serious abuse to one of the children. The child was not interviewed and it appears Community Services did not take any action.

In the first half of 2010, there were three further ROSH reports of possible abuse to another child in the family. Community Services did not take any action until October 2010, when a caseworker interviewed both the child and a sibling. The sibling disclosed witnessing an incident where the other child was subjected to abuse by an adult. The record of this interview was not created until a month later and no action followed.

In March 2011, we reviewed the records of the family and decided to investigate Community Services's response to the reports of abuse and neglect.

In response to our investigation, Community Services agreed that there were significant practice failings in their response to this family – stating that 'competing priorities' were a contributing factor to their inadequate response. Community Services are now actively working with the family to address the risks to the children.

Non-attendance at school and risk of harm

Under NSW education law, parents are required to ensure that their children receive an education. Separate child protection laws recognise that chronic absenteeism may represent a risk of significant harm to a child or young person. Taken together, the legislation establishes a role for agencies – including schools and Community Services – to respond to cases of habitual absenteeism.

For several years, our work has included scrutiny of cases where habitual school absenteeism featured as one of a number of risks to a child. Our 2009 report into the death of Ebony is a prime example of this.

This year, we have started an investigation into Community Services's response to reports of habitual school absence. This work raises important questions – including when and how Community Services, schools and other agencies should work together to address these matters.

In our recent report to Parliament *Keep them Safe?*, we have discussed a range of issues relating to the need to tackle very significant school non-attendance by certain children. The report notes that data obtained from Community Services indicates that close to 50% of all reports made to the Helpline about educational neglect are assessed as not meeting the ROSH threshold. In addition, around 50% of those reports that are assessed as meeting the ROSH threshold are closed on the basis of 'competing priorities'. Less than 10% of all educational neglect reports that are assessed as meeting the reporting threshold result in a comprehensive face-to-face assessment, compared to 21% for all reports.

We believe that this serious social issue can only be addressed when the role that various agencies – such as DEC, the NSWPF, Community Services and the non-government organisations (NGO) sector – should play in tackling this problem has been determined. In this context, it is pleasing to note that Community Services recently advised us that they are developing, in collaboration with DEC, 'a joint business process to be followed when managing [educational neglect] matters [that] will address alternative approaches to responding to cases where educational neglect is a reported issue and the case will not be allocated by Community Services'.

Homeless children

In our last annual report, we noted that Community Services did not have a policy or protocols in place to support children in youth refuges – a problem they acknowledged over six years ago.

Early this year, Community Services released a draft policy for unaccompanied children in specialist homelessness services. In our comments on the draft, we raised concerns about whether the policy adequately responded to the individual needs and circumstances of children presenting to homelessness services. We also queried whether it adequately promoted the sharing of information to promote the safety, welfare and wellbeing of young people in line with Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.

Complaint trends and outcomes

In 2010-2011, we received a similar number of complaints about child and family services (1,488) as we did in 2009-2010 (1,493). However, there was a 12% decrease in the number of formal complaints and a 6% increase in the number of informal complaints. Most complaints (1,318) were about out-of-home care and child protection services (see figure 43).

Of all the complaints received, 53% (271 formal complaints and 517 informal complaints) were about out-of-home care services. These are services either provided by Community Services or provided by NGO funded by Community Services and accredited by the Office of the Children's Guardian. The most frequent complaints were about the quality of case management and casework, particularly concerns about how individual services planned for the specific – and often high and complex – individual needs of the children and young people in their care.

Complaints about child protection services made up 36% of the total complaints we received (172 formal complaints and 358 informal complaints). The most frequently raised concerns were about how responses to child protection reports were managed and the decisions made after these reports were investigated and assessed.

This year, we helped to resolve 30% of the formal complaints received about child and family services – down from 36% last year.

Figure 42: Outcomes of formal complaints finalised in 2010–2011 about agencies providing child and family services

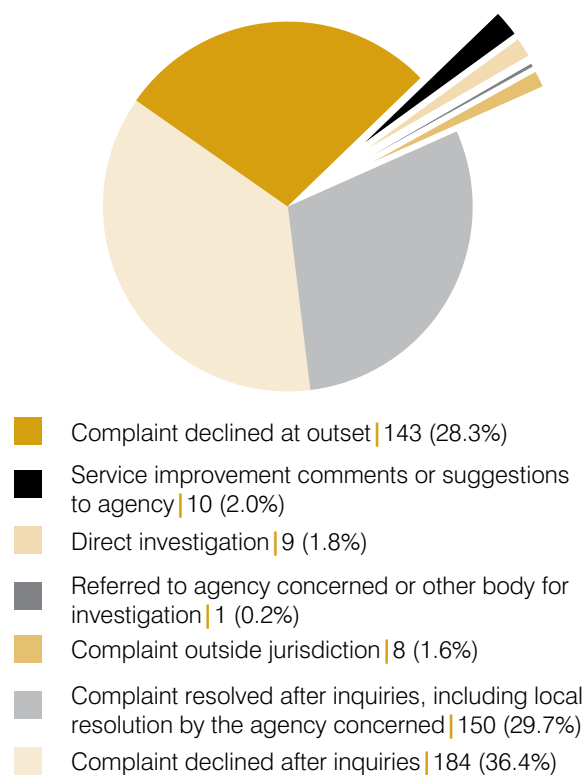


Figure 43: Formal and informal matters received in 2010–2011 about agencies providing child and family services

Issue	Formal	Informal	Total
Community Services			
Child protection services	167	347	514
Out-of-home care services	240	455	695
Children's services	5	20	25
Family support services	9	14	23
Adoption	2	2	4
Subtotal	423	838	1,261
ADHC			
Child protection services	0	1	1
Family support services	0	0	0
Out-of-home care services	0	1	1
Subtotal	0	2	2
Other government agencies			
Child protection services	1	1	2
Out-of-home care services	0	0	0
Children's services	0	0	0
Family support services	0	0	0
Adoption	0	0	0
Subtotal	1	1	2
Non-government funded or licensed services			
Child protection services	4	9	13
Out-of-home care services	31	62	93
Children's services	25	41	66
Family support services	1	3	4
Adoption	1	0	1
Subtotal	62	115	177
Non-specific inquiries			
Other (general inquiries)	0	25	25
Agency unknown	1	15	16
Outside our jurisdiction	1	4	5
Subtotal	2	44	46
Total	488	1,000	1,488

Case study 52: Positive outcome for foster carer

A foster carer contacted us stating that she could not afford to repair her car which had suffered extensive damage in an accident. She had applied to Community Services for help with repairing or replacing the vehicle. Although staff were sympathetic to her cause, they had indicated that paying for the repairs was beyond the normal scope of assistance provided by Community Services. However they said they would look into it. The complainant told us that the decision over whether support would be provided was taking too long and she could not meet the needs of the children in her care without her car.

We explained to the complainant that the information she received from Community Services staff was correct. However, we made contact with the agency on her behalf and they subsequently acknowledged the critical need she had for a car and made an 'out of guidelines' decision to pay for the repairs.

Case study 53: Delays in leaving care planning

We received a complaint from a pregnant 17 year old, who was under the parental responsibility of the Minister for Family and Community Services. Her complaint was that Community Services had not developed her leaving care plan. She wanted to have the plan finalised before giving birth, partly to ensure she had access to financial support. She also wanted help to resume contact with family members, to apply for victims' compensation, and to see her personal history.

Following our inquiries, the young woman's leaving care plan was endorsed and finalised. In closing the complaint, we commented to Community Services that the delays in developing and finalising the young woman's plan were not in line with timeframes outlined in both its own policies and Ministerial guidelines. This is an issue we identified in our 2009-2010 review of young people leaving statutory care.

Case study 54: Contact with families

The parents of a young man with an intellectual disability and mental illness complained to us about the funded group home he was living in. The parents alleged that the group home had not gained their consent to increase his dosage of anti-psychotic medication. They also alleged that the service provider had refused to let their son return to the group home after a hospital stay unless he was medicated at a higher dosage.

We conducted a thorough analysis of all the evidence and found that although the use of a higher dose of medication was permitted by the treating psychiatrist, the service provider had not properly communicated with the family about this. We contacted the service provider and identified some areas where there was scope for improvement in practice, particularly in regards to conducting regular case meetings and formal communication.

Following our involvement, ADHC organised more suitable supported accommodation for the young man.

Case study 55: Breach of privacy

A parent of two children in care complained to us that she saw her children's foster carer drive past her home on more than one occasion. The complainant and the carer lived ninety minutes apart. The complainant alleged that a Community Services's staff member had given her personal details to the carer, breaching the agency's privacy policy and NSW privacy laws.

After inquiries from our office, the agency reported that the carer received access to the complainant's personal records from a medical practitioner via immunisation records – and not from the agency itself. However, the agency apologised to the complainant for the distress caused by the incident and provided counselling and training to the carer.

Case study 56: Keeping in touch with family

We received a complaint from a grandmother about not having contact with her grandsons. The boys had been placed with a paternal aunt because of parental neglect and drug use. The aunt was refusing to allow contact because she feared that the grandmother might allow them to have contact with their parents.

Community Services had not met with the mother since final orders were made. Caseworkers had changed, the case had transferred from one office to another, and it was unallocated. Initially, the manager said she had never heard of the grandmother and she would need to put her complaint in writing. We reminded her that this was not in the spirit of CS-CRAMA and she agreed to meet with her.

After reviewing the case, Community Services acknowledged a number of shortcomings in practice. For example, there was no real explanation on file about why Community Services had not sought to maintain contact between the boys and their grandparents.

The boys were allocated a caseworker and they both expressed their desire for contact with their grandparents. The grandparents were asked to sign undertakings agreeing not to allow unsupervised contact with their daughter or her partner. The boys are now visiting their grandparents for three hours once a week and they are establishing relationships with maternal aunts, uncles and cousins. It is hoped that, at some stage in the future, the grandmother will be able to supervise contact between the boys and their mother. In the meantime, the frequency of contact visits between the boys and their mother have been increased and an independent agency will supervise these visits.

The purpose of our reviews is to identify trends and make recommendations to prevent or reduce the risk of similar deaths in the future.

The Ombudsman is required to present a report to the NSW Parliament about reviewable deaths every two years. This year, our work included preparing our sixth – and first biennial – report on reviewable child deaths. This report considers issues raised through our reviews of the deaths of 76 children that occurred in NSW in 2008 and 2009. It was tabled in August 2011 and is available on our website.

Transferring the Child Death Review Team to the Ombudsman's office

In February 2011, legislation was proclaimed to enable the NSW Child Death Review Team (CDRT) to transfer from the NSW Commission for Children and Young People (CCYP) to our office. The CDRT reviews the deaths of all children in NSW. The Ombudsman is now the convener of the team and we provide it with support and assistance.

The team's functions under the *Commission for Children and Young People (NSW) Act 1998* (CCYP Act) include maintaining a register of child deaths, analysing information about those deaths, undertaking research, making recommendations aimed at preventing or reducing the likelihood of child deaths, and reporting annually to Parliament on child deaths in NSW.

We welcomed the transfer of the CDRT to our office, but there have been a number of challenges in progressing the important work of this team.

Shortly after the decision to transfer the team, we tabled a special report to Parliament, *Unresolved issues in the transfer of the NSW Child Death Review Team to the Office of the NSW Ombudsman*. This report detailed anomalies and administrative complexities arising from legislative arrangements to transfer the team to our office, and outlined our concerns about the effect of retaining the legislation governing the operation of the CDRT within the CCYP Act.

In November 2010, the NSW Government made minor amendments to CS-CRAMA and the CCYP Act to address a number of the anomalies we identified. The amendments adjusted the reporting period for reviewable deaths to a calendar year, in line with the reporting period of the CDRT. A clear provision was also included in the CCYP Act to make certain the legality of an integrated approach to using relevant information across the CDRT and reviewable death functions. The CDRT convener was also empowered to set the rates of remuneration for 'expert advisers' to the team.

The retention of the legislation within the CCYP Act remains an ongoing concern. It effectively ties certain CDRT functions to the Commission and incorporates provisions relevant to the functions of that agency, even though the Commission no longer has a role in reviewing child deaths. Some of these requirements are not in keeping with the independence of the Office of the Ombudsman – including the requirement to seek approval for some functions from, and to report to, a Minister. It also means the Ombudsman must report to two Joint Parliamentary Committees in relation to different but complementary aspects of our work in child deaths.

In addition, shortly after we took on the role of supporting the CDRT, we identified that the team was not legally constituted. Team membership was below the minimum

Reviewing the deaths of children

Our review work in 2010

Under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA), we are responsible for reviewing the deaths of children in care, the deaths of children who died as a result of abuse or neglect or in suspicious circumstances, and the deaths of children who were in detention when they died.

number required by the legislation, and the terms of some members who were still serving on the team had expired. This meant that the team could not function effectively until formal appointments were made. In April 2011, we advised the Premier and the Minister of this problem. In early May 2011, we made urgent representations to responsible Ministers seeking their prompt nomination of agency representatives. The Ombudsman, as convenor, made appropriate nominations for the independent members of the team to the Minister for Citizenship and Communities.

Supporting the work of the CDRT

Although the CDRT was not properly constituted during the reporting year, the following activities were undertaken for the team in this period. This is in accordance with section 45P(2)(a) of the CCYP Act. Work was done by both the Commission and by our office.

Commission for Children and Young People

Before the transfer of the team to the Ombudsman's office in February 2011, the Commission held four CDRT meetings.

In October 2010, the Commission tabled the *Annual Child Death Review Report 2009* in Parliament. This report provided information on the deaths of 565 children, continued an examination of a discrete set of causes of death, and made three recommendations to NSW Health relating to youth suicide.

Also in October 2010, the Commission tabled *A Preliminary Investigation of Neonatal Sudden and Unexpected Death in Infancy 1996-2008: Opportunities for Prevention*. The aim of this report was to define the demography, risk factors and circumstances of neonatal sudden unexpected deaths in infancy and consider prevention strategies. The report identified that 90% of neonatal infants who died during the reporting period died in circumstances where at least one modifiable risk factor was present. Preventative strategies were needed to address the risks associated with unsafe sleeping, especially those associated with co-sleeping and bed sharing where the carer may accidentally fall asleep. The report made two recommendations to NSW Health and one to SIDS and Kids.

The findings of this report were presented by Professor Heather Jeffrey at the *Joint Conference of the International Stillbirth Alliance and the International Society for the Study and Prevention of Infant Death* in October 2010.

NSW Ombudsman's office

Throughout 2010 and 2011, we held a number of meetings with Commission staff to exchange information and discuss arrangements for transferring resources.

In February 2011, the Commission transferred the Child Death Register and administrative and child death files to our office. We also recruited the one staff member who had been employed by the Commission for CDRT work.

Since February 2011, we have:

- | conducted an informal meeting of team members
- | trained staff in the use of the Child Death Register, developed review tools, and started reviews of child deaths that were registered in NSW in 2010
- | employed additional review and research staff for CDRT and reviewable child death work

- | introduced streamlined processes to ensure there is no duplication of effort for agencies providing records and information for child death reviews
- | arranged for nominated CDRT members Dr Jonathan Gillis and Dr Bronwyn Gould to assist with the work of reviewing child deaths, in a capacity as 'expert advisers' under the Act
- | organised a visit by Dr Marian Brandon, an academic from the University of East Anglia in the UK and expert in child death review. We sought Dr Brandon's advice on our work and the integration of the CDRT. She also conducted a masterclass, which was attended by a number of staff and team members for equivalent child death inquiry and review bodies from other states.

We also successfully argued for an increase in funding - receiving \$539,000, which was \$318,000 more than had been provided to the CCYP.

Disclosing information

The convenor of the CDRT - now the Ombudsman - may authorise the disclosure of information relating to child deaths if it is in connection with research to help prevent or reduce the likelihood of deaths of children in NSW. For the year commencing 1 July 2010, no such disclosures were authorised.

Children in care

Restoration support for children on short-term care orders

The *Children and Young Persons (Care and Protection) Act 1998 (NSW)* places emphasis on permanency planning for children who are placed in out-of-home care. This requires timely decisions about whether there is a realistic possibility of restoration for a child or whether alternative long-term arrangements need to be found. If restoration is the permanency plan, the Children's Court will make short-term care orders - generally of two years duration.

The Special Commission of Inquiry into Child Protection Services in NSW identified some concerns about restoration casework practice, especially with assessments and the support for parents to meet requirements once the child is restored to their family. More recently, the Boston Consulting Group reported to the then Labor government on the increase in costs in out-of-home care. The report made a number of recommendations, including the need for a greater focus on restoration and family preservation when children first enter care.

In 2010, we reviewed a group of 63 children on short-term care orders. The purpose of the review was to examine the adequacy of restoration planning and support being provided to children and their families. Community Services helped us to identify 203 children on short-term care orders with a view to restoration. From this group we reviewed the circumstances of 63 children, approximately three to five months before their care order was due to expire. We found that:

- | mostly, Community Services's actions to start care proceedings were timely and final orders were made within, or close to, the time standards set by the Children's Court
- | restoration-focused care plans rarely detailed how improvements to parenting capacity and child safety would be assessed. Few care plans outlined what supports needed to be in place after the child had gone home

- there were inconsistencies in the level and quality of casework support provided by Community Services to children on short-term care orders
- for over half of the children (35), the services that parents needed to meet their obligations relating to restoration were arranged and provided. However for 28 children, the services were either not provided or were not fully provided
- some children were returned to their parents without adequate assessment. In other cases, even though restoration was no longer a viable option, there were significant delays in returning the case to the Children's Court.

In our report, we recommended that Community Services ensure that their staff have the key competencies needed to carry out restoration work. They agreed that a review of their policy, procedures and guidance to support restoration practice was needed, and they intend to update their out-of-home care policies and procedures.

Supporting young people leaving care

In our last annual report we described our findings from a group review of young people leaving statutory care, which we released in June 2010. We found that the guidelines on supporting care leavers were not being consistently implemented across NSW. For example, many young people were leaving care without an endorsed leaving care plan. Also, the administrative arrangements for approving and providing financial assistance – including arrangements to support young people still at school when they turn 18 – were cumbersome and protracted. Although we found that young people with disabilities who need ongoing assistance when they turn 18 were generally well supported after leaving care, other young people with high support needs were not.

In January 2011, Community Services reported that they had developed information resources for young people and their carers. These resources included a guide to help carers prepare young people for leaving care and an independent living skills checklist for young people. A new case plan template is being developed to support young people in statutory out-of-home care to make a successful transition to independence.

Victims' compensation for children and young people in care

In June 2010, we tabled a special report to Parliament on victims' compensation for children and young people in care. In response, Community Services have taken positive action including:

- ensuring that claims are lodged for all eligible children at the end of care proceedings
- providing training to legal officers and caseworkers
- reviewing all the files of children and young people currently under the parental responsibility of the Minister
- developing a memorandum of understanding (MOU) between Community Services, the Department of Attorney General and Justice, and Legal Aid NSW, which provides an avenue for people who have left care to pursue a claim against Community Services if a victims' compensation claim has not been lodged on their behalf.

Young people in detention

Complaint trends and outcomes

This year we received 356 complaints from or on behalf of young people in juvenile justice centres, up 25% from 2009-2010. There was a 7% increase in formal complaints and a 31% increase in informal complaints compared to last year.

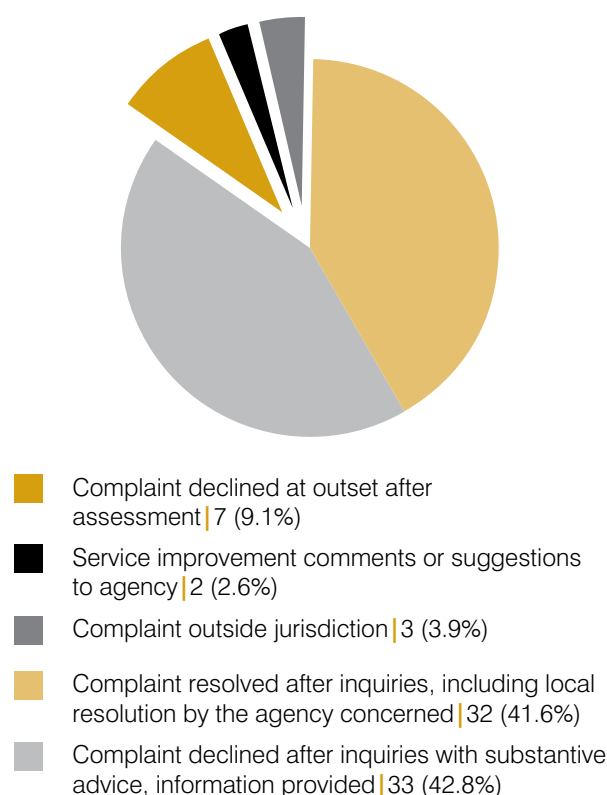
The majority of complaints were made by young people in detention – either during centre visits by Ombudsman staff or by telephone calls to our office. The key issues they were concerned about were conflicts with staff, unreasonable punishments, daily activities including schooling, and the quality and quantity of food.

We resolved many of these matters informally with the managers and staff of the centres, and sent a feedback form outlining the action we had taken. In particular, we resolved or made suggestions to improve services in 45% of the 78 formal complaints about juvenile justice that we finalised this year.

Figure 44: Formal and informal matters received and finalised

Matters	06/07	07/08	08/09	09/10	10/11
Formal received	49	99	70	72	77
Formal finalised	47	98	73	62	78
Informal dealt with	219	243	255	212	279

Figure 45: Outcomes of formal complaints finalised in 2010-2011 about juvenile justice



Case studies 57 and 58 illustrate the types of practical issues we dealt with.

Case study 57: Better remand support

An official visitor to a juvenile justice centre contacted our office to discuss the circumstances of a young man who had been on remand since December 2009. The visitor was concerned about the length of time he had been on remand, the number of court appearances, delays handling the criminal charges, and the quality of his legal representation. The young man was under the care of the Minister but had not been visited by caseworkers from Community Services or the non-government agency providing case management.

We made inquiries and were informed that new legal representation had been organised, Community Services and the NGO were going to organise a joint meeting with all key stakeholders, and caseworkers from the NGO would visit the young man in custody.

This matter raised questions about whether each agency understood their roles and responsibilities, whether these were adequately communicated, and what action each agency took. Of particular interest was whether the procedures in the MOU between Juvenile Justice and Community Services were followed. We have written to each of the three agencies involved seeking further information about their actions to address the needs of this young man.

The NGO has acknowledged its failings and committed to developing a policy to guide its staff on supporting children in detention as part of their case management responsibilities.

Case study 58: Risk management plan reviewed

A detainee phoned us to complain about the conditions of his risk management plan. Under the plan, he had to wear handcuffs when he exercised and not mix with other boys in the centre. The centre had felt that the young man posed a high-risk to staff and other detainees because he had a history of aggressive and violent behaviour.

We acknowledged that historically the young man had been violent to staff, but there had been no such incidents in the previous twelve months. We questioned whether this had been considered in relation to his risk management plan.

In addition, we noted that he did not appear to have the opportunity to demonstrate that he no longer posed the same level of risk to staff and other detainees. We wrote to Juvenile Justice with our concerns. Centre staff then reviewed and amended the detainee's risk management plan – this led to his handcuffs being removed and his gradual re-introduction into the centre's routines.

Visiting centres

We visited each of the eight juvenile justice centres in NSW twice this year. As well as addressing individual complaints, we take the opportunity during visits to talk with centre management and staff about issues affecting detainees. This year, Juvenile Justice and Justice Health released the results of their Young People in Custody Health Survey 2009. Its primary aim was to gain a picture of the health status of

young people in juvenile detention across NSW by surveying 361 young people in custody. The survey results highlighted the social disadvantage, poor physical and mental health, and prevalence of high-risk behaviours – such as alcohol and drug abuse – among young people in custody.

Given the results of the survey, we are keen to monitor the strategies of key agencies to better support these young people – particularly in the period leading up to and after their return to the community.

In a positive development, Juniperina Juvenile Justice Centre advised us that they had extended their accommodation support service for young women leaving custody, and successfully placed a number of young women in public housing who were at risk of entering custody. The young women will receive a minimum of 12 months case management and support.

Employment-related child protection

The heads of all government and some non-government agencies – including non-government schools, children's services and agencies providing substitute residential care – are required to notify us of any reportable allegations or convictions involving their employees within 30 days of becoming aware of them.

These reportable allegations include:

- | sexual offences and sexual misconduct
- | physical assault
- | ill-treatment and neglect
- | behaviour causing psychological harm.

We oversee how agencies investigate and respond to these allegations. We also scrutinise the systems that agencies have in place to prevent this type of conduct and to respond to allegations against their employees.

Giving greater priority to serious allegations

The employment-related child protection scheme has now been in operation for more than 12 years. Over that time, we have seen substantial improvements in the handling of reportable allegations against employees – particularly the handling of lower risk matters. Agencies have better systems in place to investigate allegations against employees, staff are more aware of the type of behaviour that is unacceptable, and investigators are better trained to manage investigations. This means that we are now increasingly able to focus our resources on areas where the system needs to be strengthened.

Over the past two years, we have developed a comprehensive picture of reporting trends and the quality of agency investigations. We have used this information to develop a more streamlined, outcome-focused approach to our oversight of investigations. We have also been able to exempt certain 'classes' of reportable allegations from being notified to us where agencies can demonstrate good child protection practices. For example, in 2010-2011, we extended 17 existing class or kind agreements resulting in a 42% decrease in the number of notifications received compared with the previous year.

This decrease has allowed us to deal more efficiently with the less serious allegations and give greater priority to the most serious allegations. One of the ways that we have done this is through an increase in our direct investigation work. Last year we started four child protection investigations – this year we initiated 10 investigations.

Our investigations have focused on important systemic issues – such as the screening of foster carers, agency responses to serious criminal allegations, and the adequacy of Community Services's Mandatory Reporter guide in responding to historical allegations of sexual abuse. We also started a complex investigation into Life Without Barriers, the largest non-government provider of out-of-home care services in NSW (see page 66-67).

Case studies 59 and 60 are examples of our investigative work.

Case study 59: Probity checking a new partner

Community Services notified us that a young foster child with a physical and intellectual disability had suffered a significant injury, allegedly while in the care of an unauthorised person.

In the year before the child's injury, Community Services received information that the foster carer's circumstances had substantially changed, including that she had entered into a new relationship. The reporter had reason to believe that the foster child was at risk of harm in the context of these changed circumstances.

A Community Services caseworker met with the carer to assess the risk to the child and concluded there was none.

Community Services then received information that the carer had failed to disclose the actual nature of her new relationship. Community Services telephoned her about this information, she downplayed the nature of the relationship and the Community Services caseworker saw no need to conduct any background check of the new 'partner'.

Our investigation found that Community Services had sufficient evidence in the year before the injury to warrant a probity check of the carer's 'partner'. In addition, we found that they failed properly to investigate specific concerns indicating that the child was at risk of harm. We also found that there was an unreasonable failure to conduct a thorough examination of the placement, particularly in light of the allegations that had been made, the level of vulnerability of the child and the significant changes that had occurred in the carer's household.

From a system perspective, we noted that Community Services's policy was not clear in relation to the issue of probity checking of people who have 'joined the household' of a carer. We recommended that Community Services revise this policy. In response, Community Services have agreed to work on the development of a policy that better identifies when background checks need to be done for adults who are, or become, part of a carer's household.

The child has since been placed with a new carer.

Case study 60: Historical allegations and the Mandatory Reporter Guide

An employer notified us that they had received allegations from a young man that one of their teachers had groomed and indecently assaulted him for several years in the 1990s, when he was a child. The teacher, the subject of the allegation, was still working with children at a school.

The employer asked Community Services for access to any relevant information about their employee. Community Services released a report of similar historical sexual abuse allegations against the teacher that they had received a few months before. This earlier

report had been made by a mandatory reporter whose client had been taught by the same teacher in the 1980s, at a different school.

We decided to investigate why Community Services had not told the employer about this report when it was made, and found that the matter had been closed by the Helpline with no further action.

Helpline is designed to take reports about current risks of significant harm to children or a 'class of children'. However, due to the historical nature of the allegation, it appears that the Helpline did not consider risk of harm to the 'class of children' with whom the teacher may have had current ongoing contact.

The Mandatory Reporter Guide (MRG) is designed to help mandatory reporters decide whether an allegation needs to be reported to the Helpline. The internal Helpline tool is designed to help Community Services's staff decide what to do with information they receive. We found that neither tool deals adequately with historical allegations where there may be a current risk of significant harm to a 'class of children', and Community Services have agreed to review both tools.

Receiving notifications

This year, we received 804 notifications of reportable conduct and finalised 1,251 (see figure 46). The most noticeable decreases this year relate to Community Services, Juvenile Justice and the substitute residential care sector (see figure 47).

Figure 46: Formal notifications received and finalised

Matters	06/07	07/08	08/09	09/10	10/11
Received	1,995	1,850	1,667	1,366	804
Finalised	1,749	1,921	1,672	1,442	1,251

Figure 47: Formal notifications received by agency – a two year comparison

Agency	09/10	10/11
Ageing, Disability and Home Care	13	8
Catholic systemic	54	39
Child care centres	74	81
Community Services	303	71
Corrective Services	13	6
Councils	6	3
Department of Education and Training	380	316
Department of Health	24	20
Family day care	15	18
Independent schools	65	63
Juvenile Justice	57	20
Other prescribed bodies	0	0
Other public authority — not local government	35	22
Sport and Recreation	2	0
Substitute residential care	321	133
Agency outside our jurisdiction	4	4
Total	1,366	804

Figure 48: What the notifications were about — breakdown by sex of the alleged offender

Issue	Female	Male	Unknown	Total
Ill-treatment	12	7	0	19
Misconduct — that may involve reportable conduct	25	53	0	78
Neglect	60	9	0	69
Outside our jurisdiction	31	29	0	60
Physical assault	164	135	2	301
Behaviour causing psychological harm	27	13	0	40
Reportable conviction	0	0	0	0
Sexual misconduct	20	93	0	113
Sexual offences	20	104	0	124
Total notifications received	359	443	2	804

Figure 49: What the notifications were about — breakdown by allegation

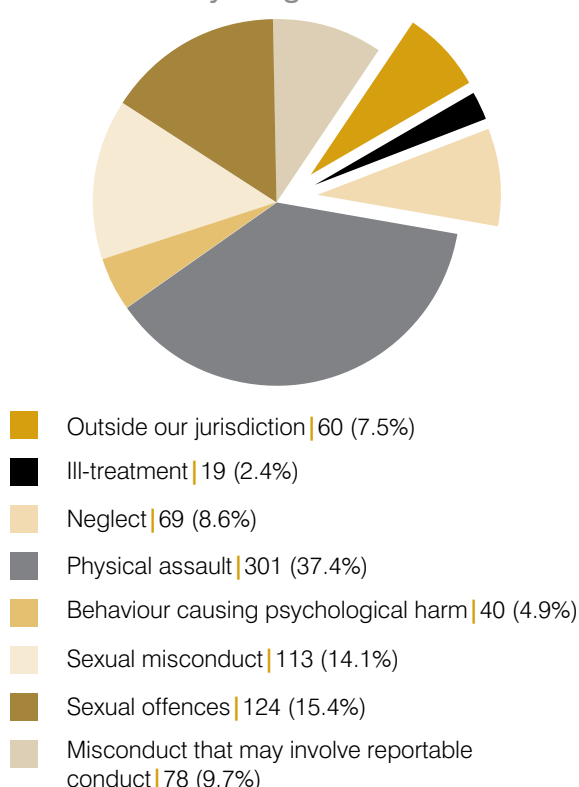
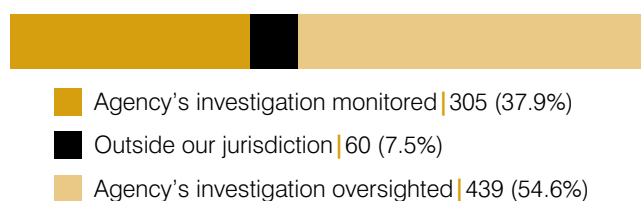


Figure 50: Action taken on formal child protection notifications finalised in 2010–2011



More than a third of the notifications we received (37%) involved allegations of physical assault, and nearly a third (29%) involved sexual offences or sexual misconduct (see figure 49). Figure 50 outlines the action taken on formal child protection notifications that were finalised and figure 48 breaks down the notifications received by the sex of the alleged offender.

The majority of notifications finalised were satisfactorily handled, although some required intervention from us before

being finalised. If there are deficiencies in an agency's investigation, we may provide feedback and suggestions for handling matters better in the future. If we consider it is in the public interest to address the issues identified more directly, we may request further information or ask the agency to pursue other lines of inquiry or formally request a review of their agency's findings.

If we identify significant systemic issues arising from a notification, we may audit the agency's systems or start a direct investigation. We also provide positive feedback when we identify particularly good investigative practice by an agency.

Monitoring agency investigations

When we receive a notification, we assess the level of scrutiny and assistance we need to provide to the agency. This assessment is based on the seriousness of the allegation, the vulnerability of the alleged victim, our knowledge of the agency's systems, and the complexity of the situation. When we monitor an individual matter, we may offer advice about developing the investigation plan and provide guidance about evidentiary issues and related findings (see case study 61).

This year we closely monitored 305 agency investigations, or 38% of all finalised matters.

Case study 61: Failing to identify neglect

Ageing, Disability and Home Care (ADHC) notified us of allegations that their youth workers had neglected a 12 year old child with a disability, resulting in him suffering severe scalding which required hospitalisation. One of the youth workers had been assisting with showering the child when he received burns to 9% of his body. The child had to be sedated due to the pain and was provided with morphine when he was discharged. The alleged incident, which was investigated internally and found to be accidental, occurred eight months before being reported to us.

We requested a review of the investigation. In response, ADHC appointed an external investigator to re-examine the case. The external review established that two people should have been in the shower with the child at all times. The scalding had resulted from both youth workers failing to follow established practice and procedure. ADHC found the allegation of neglect sustained against both employees. The employees have been moved to non-child-related employment and are subject to ongoing monitoring.

Handling inquiries and complaints

We received 647 inquiry calls this year, a slight increase from the 636 received last year. Most inquiries were from agencies with queries about our jurisdiction or wanting advice about how to manage an investigation. However, we also received inquiries from employees who were the subject of investigations and families of alleged victims. As in previous years, employees' most commonly raised concerns were about a perceived lack of procedural fairness and the notification process to the Commission for Children and Young People. A quarter (25%) of all inquiries received related to children's services, including child care centres and family day care services.

This year we received 61 complaints and finalised 53. In many of these matters, we finalised the complaint after making inquiries with the agency or asking them to take certain action to respond to the concerns raised by the complainant. Although our complaint-handling continues to be a small component of our employment-related child protection work, it provides us with valuable information about the systems agencies have for handling reportable allegations.

Sharing information

In October 2009, Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* came into effect. This chapter allows certain government and non-government agencies to share information that promotes the safety, welfare and wellbeing of a child or young person, and specifically overrides any other legislation (including privacy legislation) that conflicts with this objective. The provision significantly opened up the scope for relevant agencies to exchange information with each other. For a number of years, we have argued strongly in favour of legislative reform of this kind.

We have taken an active role in promoting the use of this provision and will often recommend information exchange between relevant agencies in the cases we oversight (see case studies 62 and 63). We also use section 34(1)(b1) of the Ombudsman Act to release information to agencies if it relates to the safety, welfare or wellbeing of a child or a class of children.

Case study 62: Criminal history not identified

A non-government out-of-home care agency notified us of allegations that one of their foster carers had neglected a child in her care. The notification mentioned that the carer's adult son was living in the foster home.

We became aware that the son had a serious criminal history which made him unsuitable to live with foster children. The agency informed us that the son had been probity screened, including a Working With Children Check (WWCC) and a criminal records check. We were concerned that the probity checking process had returned no results. After lengthy inquiries with multiple agencies, we established that the son had provided a false date of birth on his probity checking authorisation forms. As a result, the police did not identify his criminal history for either check and gave him an 'all clear'.

We facilitated multiple Chapter 16A information exchanges to ensure that the agency and police became aware of the correct date of birth and the agency received an accurate criminal history of the son. They subsequently assessed that the son's criminal profile meant he was not a suitable person to be living with foster children.

Case study 63: National approach to reporting

We were contacted by a school in another state investigating allegations against one of their teachers. The school was aware that the teacher had been the subject of investigation in NSW, but not the specific nature of the allegations. Our records revealed allegations of sexual misconduct reported to us by the NSW school where the teacher had previously worked. Some of these allegations had been sustained by the school and reported to the Commission for Children and Young People.

Given that the NSWPF and Community Services also had significant information about the teacher, we consulted with them about their respective holdings and what information needed to be shared with the school to enable them to conduct an appropriate risk assessment.

As a result of these discussions, the Ombudsman provided relevant information to Community Services who forwarded this, along with their own holdings, to the government child protection agency in the state where the school was located. The school was then advised to contact their state's child protection agency to obtain information to inform its response.

This case highlights the importance of effective cross-agency liaison in difficult matters of this kind. It also demonstrates the need for a rigorous and consistent national approach to the reporting, investigation and oversight of serious child abuse allegations made against employees in child-related employment. As there is currently no such system in place nationally, there is no guarantee that high-risk cases of this kind will be appropriately identified and managed.

Dr Joe Tucci, CEO of the Australian Childhood Foundation, has also called for a rigorous and consistent national approach to protecting children.

It is not enough to have a nominal national framework with ambitions to create child safe organisations. It is clear that legislative-based oversight and often direct action is the only way to ensure that bureaucratic and policy barriers are challenged and addressed. It is also not enough to focus on criminal convictions as a measure of an individual's risk to children. Just as police share 'intelligence' across borders, child protection systems need to share 'intelligence' about individuals who are identified time after time with concerning behaviour towards children. This can only occur if there is proactive coordination and review by statutory bodies, like the NSW Ombudsman, whose remit is to uphold the rights of children to live, play and learn in environments where individuals cannot abuse or exploit them. It is time for the Commonwealth to take the model of practice reflected in the role and approach adopted by the NSW Ombudsman and implement it nationally ...

Improving Working With Children Checks

Last year, we reported on our submission to the statutory review of the *Commission for Children and Young People Act 1998*. This review is ongoing and, over the past year, we have continued to identify and address concerns with the current system.

Any future child-related employment screening scheme must guarantee that the findings from significant relevant employment proceedings are taken into account as part of the screening process – so any serious risks to children are identified.

Using police intelligence holdings to help protect children

In a number of matters last year, we found evidence of credible police intelligence that indicated certain individuals were a high-risk to children – but that information did not come to light before these individuals were employed in child-related employment. (We are unable to report the details of these matters as they are the subject of ongoing criminal proceedings.)

We appreciate the reasons why the WWCC does not include an assessment of relevant police intelligence holdings. However, it may be appropriate for police to release information arising from credible and relevant intelligence holdings to prospective employers in certain circumstances – particularly where the potential risk to children is very high.

In fact, on occasions, police already inform existing employers of credible information they possess that indicates a current employee may pose a very significant risk to children. We acknowledge that this complex issue requires the need to balance the benefits of using significant police information to protect children against the infringement of civil liberties that arise if this information is wrongly and/or unfairly used.

To date, we have had some early discussions with police around some of the challenging issues associated with the use of police intelligence in this way. One area that we are keen to explore further is whether it is possible to establish a fair and rigorous system that ensures critical police intelligence of this type is identified and only used in circumstances that are both fair and justified.

Referring criminal matters to the police

Notifications about allegations of criminal conduct are among the most serious reportable conduct matters that we monitor. We give particular attention to these matters to ensure they are being promptly and properly handled.

The NSWPF are responsible for investigating criminal allegations in NSW. However, through our oversight of a number of cases, we found allegations of this type that had not been referred to police.

In several of these cases, we started investigations (see case study 64). Community Services are currently working on revised policy guidance to staff about what types of allegations must be referred to police.

Case study 64: Handling criminal allegations

An independent school notified us of allegations that a teacher had been inappropriately touching 12 and 13 year old students. Our assessment of the information was that it contained criminal allegations. We advised the school to contact the police. The school told us that they had reported the matter to Community Services and been advised that the allegations were not of a criminal nature and they could investigate the matter themselves.

After discussions with our office, the school reported the matter to the police and the Joint Investigative Response Team (JIRT) began a criminal investigation. Unfortunately, this investigation had been compromised by the school's own investigation. Also, the teacher – who had been reinstated after the school's investigation – was suspended for a second period, pending the outcome of the JIRT's inquiries.

We decided to conduct an investigation into the adequacy of Community Services's response to the Helpline report from the school. Community Services have now acknowledged that the Helpline should have referred the matter to the JIRT for further assessment in the first place. They are also taking steps to ensure that staff are made aware of the procedures for referring appropriate matters to JIRT and/or local police.

We also try to ensure that agencies are well supported when they do refer criminal allegations to the police. For example, we have worked with the police to develop standard operating procedures (SOPs) for handling employment-related child abuse allegations. These procedures have now been approved and adopted by the NSWPF.

In the past, we have found that if agencies referred criminal allegations to the police protracted periods of time might pass while police investigated the matter. The agency often had little information about what was happening while the police investigation ran its course. The new SOPs highlight to police at local area commands the industrial context faced by employers in such matters, and emphasise the escalated risks that are associated with the fact that the alleged offender has contact with children through their employment. The SOPs escalate these matters for priority within commands and should improve timeliness and accountability.

Over the past year we have developed closer networks with the police and regularly liaise with the Sex Crimes Squad about issues associated with our work. This has provided us with access to prompt information and advice and enabled us to give appropriate guidance to agencies in responding to reportable allegations of a criminal nature. We also attend the quarterly Sex Crimes Squad & Joint Investigation Response Squad Advisory Council meetings which have been an excellent opportunity for interagency liaison and case discussion about a range of child protection issues.

Problems with multiple profiles

In the course of our work, we have identified that multiple civilian profiles – called CNIs – can be created for single individuals in the police database. If these details don't contain adequate identifying data such as a date of birth, they may not be 'linked' on the database. This can result in a failure to identify risks when a WWCC is conducted. When carrying out a criminal record check on an individual, police

may fail to identify the multiple CNIs and therefore remain unaware of relevant holdings – leading them to provide incomplete information to the CCYP.

After being aware of a number of cases involving a failure to identify risks because of the existence of multiple CNIs, we raised the issue with the NSWPF. We suggested that the Command Management Framework (CMF) – the NSWPF's tool for auditing the performance of police local area commands – could be used to audit the police database to ensure that multiple CNIs are not being created, and that they are appropriately linked when identified. The NSWPF agreed with this suggestion. A number of additional steps have been taken to address the problem at an operational level. The NSWPF have also advised us that they have formed a working group which is progressing a number of issues about managing identifying information about individuals. We understand that the working group is in the final stages of preparing recommendations for the Police Commissioner to consider.

Case study 65: History of sexual assault missed

An out-of-home care agency notified us of allegations that a male foster carer had indecently assaulted a female child in his care. The reporter alleged that the carer had a history of sexually abusing family members and had previously been charged with the sexual assault of a young adult. The out-of-home care agency sought information from the police about any relevant charges against the carer. The police provided a criminal profile for him that did not include the sexual assault charge. Based on this information, the out-of-home care agency concluded that the reporter had provided inaccurate information.

We became aware that the carer had at least five civilian profiles in the police database, not all of which had been linked. The reporter's information about the sexual assault charge was correct. We contacted police to alert them to the possibility that they had inadvertently failed to provide full and accurate information to the agency. The police confirmed they hadn't identified one of the carer's profiles that contained the sexual assault charge. We requested that the police link the profiles and provide the agency with the information, which they promptly did.

Risks to children must take priority

From a number of matters that we have reviewed, we are concerned that there is a culture in some adult counselling services which is at odds with the current child protection legislation in NSW. Under the legislation, the safety, welfare and wellbeing of children is paramount and must take precedence over an individual's privacy. It is essential that these services ensure that they act to protect children in circumstances where they receive allegations that their client was seriously abused as a child by someone who still poses a very significant risk to children. As part of responding to this issue, these services need to have in place procedures that ensure that their adult clients are made aware of the service's responsibility to report matters of this kind – in contrast to the usual confidentiality requirements.

Following our investigation this year into a matter that raised these important practice issues, NSW Health have agreed to review and clarify their policies on privacy and information exchange in child protection matters of this kind. They have also made a commitment to educate staff about the related changes.

Being clear about what constitutes sexual misconduct

In August 2010, we issued a practice update to clarify for employers the types of behaviours that fall within the definition of sexual misconduct. Sexual misconduct includes sexually explicit comments and sexually overt behaviour towards, or in the presence of, a child or children. Conduct of this nature on the higher end of the scale of seriousness has tended to be readily identified by employers. The practice update makes it clear that inappropriate conversations with a child that are of a sexual nature, including one-off comments, can also constitute sexual misconduct.

From our analysis of cases over the years, we know that a high proportion of sexual offences that occur in employment contexts such as schools are preceded by the employee engaging in conduct with or towards a child that is in breach of professional standards. As the conduct does not always involve behaviour of an overtly sexual nature, it is crucial that employers are able to identify early signs of inappropriate conduct of this nature and take adequate action to address it (see case study 66).

Case study 66: Early signs ignored

In 2008, the DEC notified us of allegations that a teacher was allowing groups of students to go to his home, communicating with the students online, playing online games with them, and driving one student in his car on a regular basis.

The school concluded that the alleged behaviour had occurred, but that it did not constitute reportable conduct. We were concerned about this conclusion and wanted to ensure the situation was appropriately risk-managed.

The school did not accept our assessment of the risk. However, they did direct the teacher to stop engaging with students in an inappropriate way and they undertook to formally monitor his conduct. Three months later, we received notice of further allegations of a similar nature against the same teacher. A month after that, we were notified that he had allegedly engaged in a sexualised conversation with two year 6 students online while naked in a spa and had sent one of them a pornographic image.

After a criminal investigation in June 2010, the teacher pleaded guilty to a number of charges – including several counts of producing child pornography, aggravated indecent assault, and using the internet to groom a child for sex.

Our practice update clarifies that the behaviour identified in the first notification constituted sexual misconduct.

Against the background of cases of this kind, we made it clear in our practice update that sexual misconduct includes behaviour that can reasonably be construed as crossing professional boundaries. This may be through an employee's inappropriate and overly personal or intimate relationship with or conduct towards a child or young person, or a group of children or young people. While we have cautioned employers against too readily concluding sexual misconduct, we have noted that persistent less serious breaches of professional conduct in this area – or a single serious 'crossing of the boundaries' by an employee – may constitute sexual misconduct, particularly if the employee either knew, or ought to have known, that their behaviour was unacceptable.

Promoting better practice

Our aim is that every sector is able to demonstrate that they have the necessary core competencies for effectively handling employment-related child protection allegations, and that agencies within each sector work cooperatively to protect children.

We continue to focus on areas where child protection systems need to be strengthened – with significant work undertaken with the independent school, out-of-home care and children's services sectors. We have also worked with Community Services to strengthen their systems for investigating reportable allegations.

This year we completed 23 audits as part of our ongoing scrutiny of agency systems and processes for preventing and handling allegations of reportable conduct. The audit program included juvenile justice centres and juvenile justice community offices, which were reviewed as part of an ongoing statewide review of Juvenile Justice. An additional two Aboriginal out-of-home-care services were reviewed as part of a continuing complete sector audit.

We also identified a need to offer child protection training to agencies. In 2010-2011, we conducted 11 sessions of our 'Responding to allegations against employees' workshop and a further 13 sessions of our workshop, 'Handling serious allegations'. Some of the sessions were conducted regionally and for peak bodies, such as ABSEC and the Board of Studies. We also provide short information sessions to agencies and special interest groups free of charge.

The continuing positive feedback from workshop participants reaffirms the Ombudsman's investment of resources in keeping agencies skilled and up-to-date with their responsibilities to children and employees.

During 2010-2011 we also updated all our child protection fact sheets and published revised online notification forms to make it easier for agencies to notify us of reportable allegations. For further details, see our Community education and training chapter.

Strengthening child protection in schools

In 2010, the Association of Independent Schools (AISNSW) proposed limiting current 'class or kind' agreements to AISNSW member schools and providing more rigorous processes for supporting, training and accrediting member schools managing class or kind investigations. In response, we have drafted a revised agreement and proposed a 12 month project to gather evidence about the quality of employment-related child protection policies, procedures and systems across a range of AISNSW member schools. This project will provide a snapshot of current child protection practice and identify areas for improvement.

To ensure consistency across the sector, we also began discussions with the Christian Schools Association (CSA) and Christian Education Network (CEN) about developing a framework to support their member schools fulfil their child protection responsibilities. CSA and CEN have now developed proposals which, if implemented, will provide significant support to their schools in this area.

Through our work overseeing investigations into reportable allegations, we identified the potential benefits of having a consistent set of standards across the education sector for employee/student relationships in schools. The DEC has dealt with this issue in their code of conduct, but there are no consistent practice guidelines for Independent and Catholic schools. We have therefore asked their representative bodies to consider and advise us on whether there is scope for a model code to be developed that outlines appropriate standards for relationships between students and school employees.

Improving skills in children's services

On 1 January 2012, a new national regulatory framework for children's services will come into operation. It will cover all long day care, family day care, preschool and out-of-school hours services. This will have a considerable impact on us, as an additional 1200 out-of-school hours services will potentially fall within our jurisdiction. In addition, child protection training will be mandatory for all employees in children's services.

Last year, we reported that we had identified the childcare sector as an area of high priority because many services within the sector lack child protection expertise. Recent commentary in the media also cited a series of examples which point to poor practices in regard to child protection.

In light of our concerns and the upcoming changes in the sector, we have started negotiations with Community Services and the CCYP to explore ways to improve the knowledge and skills of the children's services sector in relation to key aspects of child protection practice – including identifying, managing and investigating reportable allegations.

Developing awareness in out-of-home care

Over the past year we have worked closely with the Association of Child Welfare Agencies (ACWA), the CCYP and the Children's Guardian to develop practical strategies to promote awareness of employment-related child protection responsibilities across the out-of-home (OOHC) care sector. This work will continue next year with the implementation and promotion of an extended class or kind agreement for OOHC agencies with five year accreditation. At the same time, the CCYP propose to implement a class or kind agreement with all OOHC agencies exempting low-risk matters from being notifiable under the WWCC scheme.

Working with the reportable conduct unit

In May 2010, Community Services centralised the investigation of allegations undertaken by their reportable conduct unit (RCU). To ensure that all outstanding reportable conduct matters notified by Community Services were managed appropriately, we worked closely with them to make sure all matters were finalised and reviewed. Twelve months on, we are now part of a project with Community Services to evaluate the success of centralisation and to measure the quantity and quality of investigations undertaken by the RCU.

People with disabilities

Our responsibilities under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA) include:

- | handling and investigating complaints about disability and other community services
- | inquiring into major issues affecting people with disabilities and disability service providers
- | reviewing the care, circumstances and deaths of people with disabilities in care
- | monitoring, reviewing, and setting standards for the delivery of disability services
- | coordinating official community visitors (OCVs) in their visits to licensed boarding houses and supported accommodation.

For more details about our work with OCVs, please see page 87.

Handling and investigating complaints

This year, we received 321 complaints about disability services. Of these, 167 (52%) were about disability accommodation providers; that is, accommodation operated, funded or licensed by Ageing, Disability and Home Care (ADHC). (See figure 52)

Complaints about disability accommodation services

The main issues reported in complaints about disability accommodation services concerned the adequacy of the planning undertaken to support an individual's entry into a service or transfer to different accommodation; the compatibility of residents; access to meaningful and fulfilling community activities; and the adequacy of action to ensure the safety of residents.

Figure 51: Outcomes of formal complaints finalised in 2010–2011 about agencies providing disability services

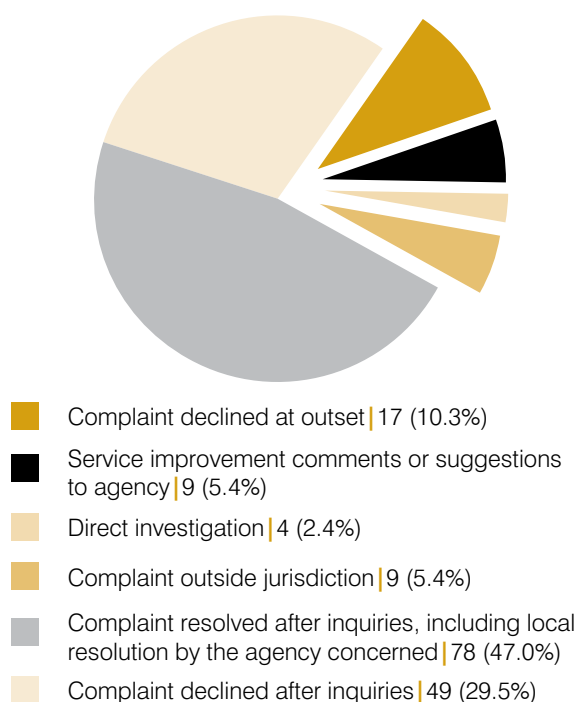


Figure 52: Formal and informal matters received in 2010–2011 about agencies providing disability services

Agency category	Formal	Informal	Total
Community Services			
Disability accommodation services	0	1	1
Disability support services	1	2	3
Subtotal	1	3	4
ADHC			
Disability accommodation services	27	41	68
Disability support services	42	38	80
Subtotal	69	79	148
Other government agencies			
Disability accommodation services	0	0	0
Disability support services	1	4	5
Subtotal	1	4	5
Non-government funded or licensed services			
Disability accommodation services	53	39	92
Disability support services	27	21	48
Boarding houses	2	3	5
Subtotal	82	63	145
Non-specific inquiries			
Other (general inquiries)	0	6	6
Agency unknown	1	10	11
Outside jurisdiction	0	2	2
Subtotal	1	18	19
Total	154	167	321

Case study 67: Communicating effectively with stakeholders

The parents of a woman living in a non-government group home complained to us that the service had failed to adequately investigate an incident in which their daughter had allegedly been humiliated by a staff member, and had not taken adequate steps to resolve complaints and respond to health issues. The service had recently undergone significant internal changes following a review.

We made inquiries with the service and then met with them to resolve the complaint. We found that many of the concerns raised with us stemmed from how the service had communicated with parents and other stakeholders about recent changes in the organisation. We made suggestions to the service about improving their complaint-handling and provided strategies to effectively communicate about changes that have a direct impact on residents and their families.

Case study 68: Improving behaviour management strategies

We received information from a service worker about circumstances in a non-government group home for adults with disabilities. The concerns raised with us were that:

- | one resident was displaying aggressive and violent behaviours towards staff and another resident
- | these behaviours were not being adequately addressed by the agency
- | the other resident was being placed at risk of continual aggression and violence and was becoming more withdrawn and frightened.

The staff member did not wish to be identified as the complainant. As the group home was a visitable service, we asked an OCV to visit and confirm the information we had received. The visitor lodged a report to the agency immediately, outlining the concerns and seeking a quick response, particularly around how the agency was ensuring the safety of both residents and staff.

We also made formal inquiries with the agency about long-term planning for both residents, including behaviour management, and asked for copies of their relevant policies and procedures to review.

The agency's prompt response outlined the suspected causes of the resident's aggressive and violent behaviours. They identified shortcomings in the way the behaviour strategies had been implemented and referred to steps they were taking to address this issue – including consulting with external behaviour specialists for input into their review of the resident's behaviour, incident response plans and routines at the group home. In addition, the agency was rostering additional staff when required, providing counselling for the other resident, and maintaining regular communication with the guardians and families of both residents.

The agency also had discussions with ADHC about alternative accommodation options and other support needed. As a result, the resident who had been targeted was moved to another group home and reported being 'much happier there.' Alternative accommodation places were also being sought for the remaining resident who wanted to be nearer her family.

Complaints about disability support services

We also received 154 complaints about disability support services; that is, services operated or funded by ADHC that provide community-based support for people with disabilities. This support includes Home and Community Care (HACC) services, post-school and day programs, respite, case management services and drop-in support. The main issues reported in complaints about disability support services this year concerned access to support; the conduct of staff; and the adequacy of support to meet the needs of the individual.

Case study 69: More help for kinship carer

During our consultations with parents and carers of children with disabilities, a kinship carer complained to us about the adequacy of support provided by agencies to her family. The woman told us that she was caring for five of her relative's children, including an eight year old child with cerebral palsy. She complained that:

- | Housing NSW had not addressed significant maintenance issues and the need for wheelchair access in her current accommodation
- | ADHC would not provide therapy for the child with a disability in the home due to occupational health and safety risks
- | Community Services was not helping to resolve the issues or obtain the necessary equipment for the child, including a hoist and a new wheelchair.

We made inquiries and met with Housing NSW, ADHC and Community Services to resolve the complaint. At the meeting, the agencies agreed to help the family to find a new place to live and provide increased support.

Three months later, we were concerned that little progress had been made by Housing NSW and Community Services to meet their agreed responsibilities. We asked each agency to review their actions in relation to the family. These internal reviews found that both agencies had failed to provide adequate care and support to the family, and identified systems failures that needed to be addressed.

The family have since moved into alternative Housing NSW accommodation that has been modified to meet the needs of the child with a disability and received improved casework and support services.

Investigating access to SAAP services for people with physical disabilities

This year we completed our investigation into the access that people with physical disabilities have to services provided under the Supported Accommodation Assistance Program (SAAP), now known as Specialist Homelessness Services.

We found that Community Services had not addressed the lack of access by people with physical disabilities to SAAP services, or met their stated commitments to do so. We also found that – since a report we did on this issue in 2004 – Community Services had provided misleading information about the extent of their work in this area and the likely improvements that would result.

In response to our provisional recommendations, Community Services told us that they were working with Housing NSW to improve access to homelessness services for people with physical disabilities. For example, 10 properties would be upgraded in 2010-2011 to improve disability access and a further 10 properties would be upgraded in the second year of the program.

We will monitor Community Services' actions through progress reports scheduled for December 2011 and 2012. They also apologised to us about provided misleading information about their work in this area.

Consulting with families of children with disabilities

Last year, we consulted over 300 parents and carers who have a child with a disability living at home about their experiences in obtaining information, services and support.

The key themes and messages from our consultations were included in our September 2010 submission to the Inquiry by the Legislative Council Standing Committee on Social Issues into services provided or funded by ADHC.

After meetings with ADHC, NSW Health and the Department of Education and Communities (DEC), we released a final report from the consultation project in June 2011. Our report noted that, while there have been significant changes in the disability service system since 2006, work still needs to be done to:

- | make it easier for families to obtain clear and helpful information about available services
- | reduce unnecessary bureaucracy and inefficiencies
- | give people with disability and their families greater choice and control over their supports

- | improve the coordination of services and support
- | improve the inclusion of children with disabilities in all services.

The report outlines actions that agencies are taking to address the issues raised by parents and carers during our consultations. These actions include reforming aids and equipment and respite programs, increasing the provision of early intervention packages, and planning for the delivery of self-directed support. Given the critical importance of adequate and timely support for children and young people with disabilities, we will pursue the issues raised by families, monitor the progress of relevant work by agencies, and seek to test whether the issues are effectively addressed in practice.

The report – *Consultations with families of children with disabilities on access to services and support* – is available on our website.

Inquiring into support for people with mental illness

In late 2010, the Public Guardian raised concerns with us about the number of people under their guardianship who were continuing to be accommodated in mental health facilities because of a lack of appropriate alternative accommodation and support in the community. At the same time, the Mental Health Review Tribunal raised concerns with us about people with mental illness being discharged prematurely from psychiatric facilities due to the demand for limited beds.

People with a disability due to a psychiatric impairment are eligible for services and support under the *Disability Services Act 1993*. However, people with a primary diagnosis of mental illness are currently excluded from supported accommodation provided or funded by ADHC – apart from the boarding house relocation program – because NSW Health is considered to be responsible for their support.

Against this background, we have started an inquiry into the availability and provision of accommodation and support for people with mental illness under the *Disability Services Act*. We will examine the roles and responsibilities of key agencies in providing community-based accommodation and support, and identify blockages and service gaps that contribute to people with mental illness remaining in mental health facilities beyond the point considered clinically necessary.

This work will take into account our 2009 investigation into the Joint Guarantee of Service for People with Mental Health Problems and Disorders Living in Aboriginal, Community and Public Housing. Information about the outcomes of this investigation is reported at page 32 in Departments and authorities.

Improving service delivery to Aboriginal people with disabilities

Last year we reported on our review of ADHC's implementation of their Aboriginal Policy Framework and Aboriginal Consultation Strategy, which aim to ensure that Aboriginal people with disabilities and their carers have equal access to ADHC's planning and decision-making.

For details about ADHC's progress in this area see page 109 in *Working with Aboriginal communities*.

Planning for young people with disabilities leaving care

Last year, we facilitated a meeting between the Public Guardian, the Guardianship Tribunal and Community Services to discuss concerns raised with us by the Public Guardian about planning and support for young people with disabilities leaving the care of the Minister for Community Services. A key concern was that the Public Guardian was often not involved in the leaving care planning until late in the process, to the detriment of the young person leaving care.

During the meeting, it was agreed that Community Services would identify young people in out-of-home care who have turned 16 and are likely to need at least some aspects of guardianship after leaving care. They would then start guardianship applications for these young people to appoint a guardian. This guardian would then advocate for the young person during the ages of 16 to 18 years to ensure their smooth transition to after care services and support.

This year, there has been considerable progress on this issue, including improved interagency coordination to support these young people. The Public Guardian, Community Services and ADHC have developed a memorandum of understanding to guide the interagency work, and will jointly deliver training to their staff on implementing the agreement.

Reporting to Parliament on people with disabilities living in large residential centres

In August 2010, we tabled a special report to Parliament about the needs of people with disabilities living in residential centres. This was in the context of the planned closure of these centres. The report drew on evidence from our 2009 review of individual planning in ADHC's large residential centres, and information from the joint Ombudsman/Disability Council Devolution Forum that was held in June 2010.

Our recommendations included that ADHC should report to us each year on their actions to:

- | progress the closure of the residential centres
- | ensure that people with a disability living in residential centres, their families and other representatives have meaningful and direct involvement in the planning for closing those centres.

Since the release of our report, the government issued *Stronger Together: the Second Phase*, which includes the commitment to close all of the large residential centres by 30 June 2018. We are actively monitoring the work in this area.

We plan to meet with families of residents in ADHC's large residential centres to discuss the report and the closure of the centres. While we did not consult with the families of the residents in our 2009 review, we recognise the critical importance of families being actively involved and consulted about the needs and wishes of their relatives in large residential centres, and in the planning for future accommodation and support. It is important that we hear directly from families and people living in the centres about their involvement in the planning process and consultation regarding individual needs.

We will also visit the new premises accommodating the former residents of ADHC's Grosvenor, Lachlan and Peat Island centres and examine whether the accommodation and support provided is in line with the *Disability Services Act 1993* and the UN Convention on the Rights of Persons with Disabilities.

Reviewing the deaths of people with disabilities in care

Our sixth report on the deaths of people with disabilities in care was tabled in Parliament in September 2011. The legislation was changed in 2009 requiring us to report every two years rather than every year. This was our first biennial report since the change in legislation.

The report concerns the deaths in 2008 and 2009 of 193 people with disabilities – 160 people who lived in disability services and 33 who lived in licensed boarding houses. The report also draws on key data and information relating to the 651 people who died between 2003 and 2009.

An important part of this work involves undertaking research or other systemic work to help identify strategies to reduce or remove preventable risk factors. The report contains an analysis of causes of death between 2003 and 2009, and a more detailed examination of the main causes of death for people who were living in disability services and licensed boarding houses. This work includes consideration of:

- | key data and other information about the people who died
- | the known risk factors for those causes of death
- | the existence of those risk factors in relation to the people who died and any actions taken to reduce or remove these risk factors

- | the major findings from our work in reviewing the deaths of those individuals.

Key issues identified through our reviews and highlighted in this report include:

- | Management of risks – we have noted continuing problems in the actions of some services to effectively identify risks faced by individuals and to support them to manage or minimise those risks. This has included:
 - the adequacy of actions to identify and address nutrition, swallowing, respiratory, and safety risks
 - actions to manage the medication risks of people in disability services and licensed boarding houses
 - support for licensed boarding house residents to address or minimise risks relating to heavy smoking, obesity and lack of exercise.
- | Access to health supports and programs – our reviews indicate low rates of access to specialists, chronic disease management programs, and other out-of-hospital programs. We found:
 - low rates of involvement of medical specialists despite individuals with complex and chronic health problems, such as chronic obstructive pulmonary disease
 - no involvement in chronic disease management or other out-of-hospital programs for people who had chronic diseases, despite meeting the benchmark of 'high-risk' or 'very high-risk' patients.

The report details the progress made by NSW Health and ADHC in meeting our previous recommendations, and includes new recommendations to address the key systemic issues. Following the release of this report, we will explore strategies for effectively communicating the main messages and areas for action, such as the development of simplified and targeted fact sheets.

Monitoring the work to support people with intellectual disability in contact with the criminal justice system

We have been monitoring the work of the Senior Officers' Group (SOG) on people with intellectual disability and the criminal justice system since 2004. In August 2008, we tabled a report to Parliament about the work of the SOG since 2004. We noted that, although a number of significant initiatives had started, overall progress had been slow and more needed to be done to strengthen cross-agency service delivery for people with intellectual disability in, or at risk of, contact with the criminal justice system.

Reports provided to us by the SOG in 2009 and 2010 indicate that considerable progress has been made in developing an interagency agreement to guide the work of the agencies and action plans for carrying out this work. We consider it to be critical that the impetus is sustained and that a multi-agency approach to improving the outcomes of people with intellectual disability in, or at risk of, contact with the criminal justice system becomes a routine and systemic part of the work of the SOG agencies.

This year we met with ADHC, OCVs, the NSW Council for Intellectual Disability, the Intellectual Disability Rights Service and the Public Guardian to discuss the Community Justice Program. This program provides accommodation and support services for people with intellectual disability leaving the criminal justice system. We also visited the units for inmates with intellectual disability at Long Bay.

Reporting to Parliament on people living in licensed boarding houses

Under the *Youth and Community Services Act 1974* (YACS Act), boarding houses must be licensed by ADHC if they accommodate two or more people with disabilities who require supervision or support. Licence conditions and regulations specify the requirements expected of the licensee, licensed manager and staff.

Licensed boarding houses were brought within the jurisdiction of our office in 2002. Over the past nine years, we have undertaken considerable work in relation to licensed boarding houses, including three investigations and an inquiry into ADHC's conduct in licensing and monitoring licensed boarding houses; and six reports on the deaths of licensed boarding house residents.

This work, in addition to complaints and information provided by OCVs, has highlighted a range of issues relating to the safety, health, welfare and rights of people living in licensed boarding houses. This includes a lack of occupancy rights; inadequate health care support and medication management; restrictions on individuals' access to the community, family, friends and support services; and inadequate protection against assaults and harassment by staff and other residents.

We have also identified and reported on recurring problems with ADHC's licensing and monitoring activities, including serious deficiencies in the agency's actions to promote the welfare of residents and fulfil its responsibilities under the YACS Act. This has included the failure to undertake monitoring activities in accordance with practice requirements, and to enforce the conditions of licence.

However, the problems are much larger than poor monitoring and enforcement. The current legislation governing licensed boarding houses and the standards expected in such facilities are inadequate to protect already vulnerable residents from harm and violations of their fundamental human rights. People living in unlicensed boarding houses have even fewer safeguards and protections.

Significant reform is required to provide adequate protections and appropriate support, and to uphold the rights of people

living in the boarding house sector. At a minimum, our work demonstrates that there is a critical need for legislative change to improve the circumstances of, and outcomes for, people living in licensed boarding houses.

In 2010, new YACS regulations were enacted that strengthened the minimum requirements in licensed boarding houses. All licence conditions are now legally enforceable and additional requirements have been introduced about first aid and administering regular prescribed medications. However, while these changes to the regulations are positive, they took place 11 years after ADHC first received legal advice that certain licence conditions may not be enforceable. In addition, the new regulations do not remedy the broader problems with the legislation.

This year, there has been some progress in relation to broader reform. In December 2010, Cabinet asked the Interdepartmental Committee on Reform of the Shared Private Residential Services Sector to undertake targeted consultations with key stakeholders to test options for reform, and to submit a report for the government to consider. The Committee submitted a report to government in June 2011.

We welcome the move towards boarding house reform. The recent legislative amendments concerning licensed boarding houses and the work of the Interdepartmental Committee are important and promising developments. However, the progress of work in this area has been very slow, and prior opportunities to undertake the necessary reforms have not resulted in any outcomes. Against this background, in August 2011 we tabled a special report to Parliament on boarding houses and the need for reform of the sector.

The report – *More than board and lodging: the need for boarding house reform* – details our work over the past nine years, outlines the history of reform initiatives, and stresses the need for concerted and sustained cross-government action to achieve real and improved outcomes for people in licensed and unlicensed boarding houses. The report is available for download on our website.



Our work involves official community visitors visiting licensed boarding houses. Issues raised are dealt with by the visitor or are forwarded to us for resolution or further investigation.

Providing education and training

We are in the process of expanding our range of training workshops targeted at the disability sector. Some of these workshops include:

- | revising *The Rights Stuff* workshop – we plan to work with advocacy groups to identify people with disabilities who would benefit from the training, and examine options for providing the training in alternative formats online
- | working with NDS and ADHC to devise a training program on developing an effective complaints management system designed to suit the needs of the disability sector
- | developing a Handling Serious Allegations training workshop for the disability sector
- | rolling out a new Disability Awareness training workshop.

Making submissions to key inquiries

This year, we made a number of submissions to key inquiries into issues affecting people with disabilities. For example, we made submissions to the NSW Legislative Council Inquiry into services provided or funded by ADHC and to the Productivity Commission Disability Care and Support Inquiry.

Our submissions to the Legislative Council inquiry highlighted the need to expand the supported accommodation options available to people with disabilities – including greater access to social and affordable housing, and greater flexibility in accommodation and support options to meet their diverse individual needs. We also drew attention to the need for reform of the boarding house sector, and detailed the initial information from our consultations with families of children with disabilities. This submission is available on our website.

Our submissions to the Productivity Commission inquiry emphasised our support for developing a national disability scheme to deliver simplified and reliable access to services and support for people with disabilities. Any national disability scheme needs to be closely aligned to the National Disability Strategy and consistent with the UN Convention on the Rights of Persons with Disabilities. There also needs to be clear and simple entry to the scheme, equity of access – irrespective of the type of disability, and support that is portable, flexible and responsive.

We also emphasised the need for a clear complaints and appeals process. People with disabilities must have the opportunity to appeal against key decisions, such as decisions about eligibility. They should have access to a rigorous internal complaints process as well as an external, independent agency that can handle complaints about the operation of the scheme.

The draft report from the Productivity Commission inquiry was released in February 2011, and proposed a National Disability

Insurance Scheme (NDIS) and a National Injury Insurance Scheme. We made a further submission in response to the draft report, noting significant strengths in the proposed model for an NDIS and associated National Disability Insurance Agency (NDIA). These strengths included:

- | a clear focus on supports being tailored to, and driven by, the person with a disability
- | simple and accessible means for people with disabilities and their families to find information and to access services and supports
- | consistent and portable support through a national disability system and national standards
- | maintaining support across key life stages, including the option for people with disabilities to maintain NDIS-funded supports after pension age.

Our comments on the draft report focused on the need to ensure that people with a mental illness are not excluded from NDIS-funded services and supports, and reiterated our views about the importance of having a rigorous complaints and appeals process. Given that the decisions of the NDIA are likely to have significant consequences for people with disabilities and their families, all efforts should be made to ensure that the NDIS complaints and appeals mechanisms are robust, transparent and procedurally fair.

Meeting with Disability Commissioners

In May 2011, we attended the inaugural meeting of Disability Commissioners from across Australia. These meetings provide the opportunity to exchange information about the key issues in each jurisdiction and discuss potential avenues for systemic work on a national level. The first meeting, held at the Office of the Disability Commissioner in Victoria, included discussions on proposed systems for recording disability complaints information across services.

We are currently exploring options for developing a system for capturing all complaints across disability services in NSW, including those that are handled internally by services. Access to information about the number and type of complaints services received and how they were resolved would enable sector-wide analysis and reporting of complaint issues and complaint-handling practice. This year, we will meet with the Office of the Disability Services Commissioner in Victoria to examine their annual complaints reporting tool, and with relevant stakeholders to inform our work in this area.

We are also having discussions with the other Disability Commissioners about the possibility of a national system for capturing complaints about disability services. This will be a key topic on the agenda when we host the next Disability Commissioners meeting in early November 2011.

Official community visitors

The Ombudsman is responsible for monitoring and administering the official community visitor (OCV) scheme, which has been operating for 16 years. OCVs are independent statutory appointees that help to ensure people living in residential care in NSW receive the highest standard of care possible. They are appointed by the Minister for Community Services and the Minister for Disability Services for a period of up to six years. There are currently 31 OCVs and approximately 1,550 visitable services across NSW.

What do OCVs do?

OCVs visit residents who live in services funded, licensed or authorised by either Community Services or Ageing, Disability and Home Care (ADHC). This includes services for people with disabilities, children and young people in out-of-home care (including those with disabilities), and people living in licensed boarding houses.

On their regular visits to services, OCVs:

- | observe the standard and adequacy of care being provided
- | talk to residents, staff and management
- | help to resolve any grievances and concerns residents may have
- | provide information and assistance about advocacy.

If OCVs are unable to resolve an issue or the issue is a serious one, they may decide to refer their concerns to the Ombudsman or the relevant Minister.

Administering the scheme

We administer the OCV scheme, set visit priorities and provide support to the OCVs. For example we:

- | monitor the operation of the scheme
- | recruit, induct and train OCVs
- | support OCVs at meetings with services and agencies – including conciliations aimed at resolving complaints between service providers and residents
- | provide administrative support, including help with travel and accommodation bookings
- | meet and consult with OCVs about the operation of the scheme.

Streamlining day-to-day work

On 1 July 2010, OCV Online – the scheme's electronic reporting and claims database – was rolled out. This new online database replaced a paper-based reporting system and complicated claiming requirements. The database has now been operating successfully for 12 months. The transition to the new OCV Online system progressed smoothly and OCVs have expressed their appreciation about how it has helped to streamline their day-to-day work.

OCV Online benchmarks service issues identified by OCVs against the Disability Service Standards and the Children's Guardian's out-of-home care (OOHC) standards and accreditation framework. Each time an OCV visits a service, they write a report raising issues of concern or providing positive feedback. This visit report is provided directly to the service provider via email through the OCV

Online system. Statistics are gathered on each service provider and these help to inform the systemic and complaint work of the Ombudsman.

Appointing new OCVs

Thirteen new OCVs were appointed this year. The new OCVs are drawn from areas throughout the state and visit services across all regions and sectors. They come from a variety of professional backgrounds and are recruited based on their negotiation and resolution skills and with their experience in the relevant sectors – such as out-of-home care (OOHC), disability-supported accommodation and licensed boarding houses.

Working together

In 2010, the Ombudsman, OCVs and the Office of the Children's Guardian negotiated a memorandum of understanding (MOU). This MOU sets out how we will work together to promote the best interests of children and young people in statutory/supported residential OOHC services. It aims to ensure that relevant information about these services is shared between the Ombudsman, OCVs and the Children's Guardian.

The *Community Services (Complaints, Reviews and Monitoring) Act 1993* was amended in January 2010 to support the MOU and enable OCVs to share information about residential OOHC services with the Children's Guardian.

Providing training

We also coordinate an annual conference for OCVs. The theme of this year's conference was substitute decision-making. The conference was opened by the Minister for Disability Services and addressed by key sector agencies discussing current issues and initiatives affecting residents of visitable services. We also organised and conducted complaint workshops and training on developing skills as a mentor.

Issues raised by OCVs

In 2010-2011 the budget for the OCV scheme was \$732,000. This supported 31 OCVs to go to 1,447 services, conducting visits to 7,494 residents. OCVs provided 5,927 hours of service to residents.

During 2010-2011, OCVs identified 1,907 issues of which 926 were finalised (48.5%). Services resolved 840 (91%) of the finalised issues, with the assistance and oversight of OCVs.

OCVs continue to monitor services' actions relating to 981 ongoing issues.

Some of the most common issues identified by OCVs this year, in order of frequency, related to:

- | individual, health care and behaviour management plans and strategies
- | the cleanliness, maintenance and suitability of premises, fittings and facilities
- | access to health assessments, screening, specialists and reviews.

Figure 53: Outcome of issues identified by official community visitors in 2010–2011*

Services	Total No. of issues raised	Finalised issues		Ongoing issues	
		No.	%	No.	%
Boarding houses	55	28	51	27	49
Out-of-home care	398	205	52	193	48
People with disabilities	1,454	693	48	761	52
Total	1,907	926	(49)	981	(51)

Figure 54: Outcome of finalised issues by official community visitors in 2010–2011*

Services	Finalised issues resolved		Finalised issues unresolved	
	No.	%	No.	%
Boarding houses	19	68	9	32
Out-of-home care	169	82	36	18
People with disabilities	652	94	41	6
Total	840	(91)	86	(9)

Figure 55: Visits by official community visitors in 2010–2011*

Service type	Services	Residents	Visit hours
Boarding houses	32	766	389
Out-of-home care	215	487	1,117
People with disabilities	1,200	6,241	4,421
Total	1,447	7,494	5,927

* The new OCV Online data system was implemented on 1 July 2010. As a result, reports about OCV activities, visits and issues will differ from previous annual reports.

Outcomes achieved by OCVs

Each year, we report to Parliament on the work of the OCVs and provide further details about the issues and outcomes that have been achieved for residents in care. Case studies 70 and 71 are examples of the outcomes our OCVs have achieved this year.

Case study 70: Problems solved

An OCV visited a woman living in a semi-independent unit next to a group home. She lived with another woman and they undertook their day-to-day activities with minimal support. Staff dropped by a few times a day to see them and help if necessary.

The OCV noticed that the woman seemed sad during her recent visit. The woman told the OCV she was unhappy with many aspects of her life. The OCV reviewed her file and found that the woman had a history of anxiety and depression and on a number of occasions had gone missing from the house. The service had previously helped her see a psychiatrist who prescribed medication.

Staff told the OCV they had significant concerns about the woman's wellbeing and felt that she was at risk of self harm. The OCV immediately contacted the service management and suggested that the woman might need support from specialist mental health workers. She explained her experience of them assisting people with a dual diagnosis of mental illness and disability. Although the manager initially thought the woman had enough support from staff, they agreed to make the referral.

On the next visit, the OCV found the woman had a mental health case worker and was being regularly reviewed by the local mental health team. An emergency plan was in place if she went missing again and staff had strategies to assist her if they noticed her anxiety levels rising. When she spoke to the woman, the OCV found that she was much calmer and happier.

Case study 71: Plans and reviews updated

OCVs have many options for assessing the quality of care for residents, including reviewing their individual plans and health care files. An OCV did this when visiting three male residents in a group home. On a previous visit, the OCV had reported a concern to the service management that the files of the residents were out of date – and had warned that he would follow this up on the next visit.

At the next scheduled visit the files were still not up-to-date and a number of serious health issues had not been followed up. The individual plans for each of the men were more than 12 months out of date. So too, were the behaviour management plans for two of them. Annual medical reviews had not occurred for more than two years. This was significant for the third male as he had a medical condition that required follow up and no action had been taken.

Concerned with the service's lack of action, the OCV reported the issues to management again and said he would review the matter in six weeks. The OCV indicated that if the matter wasn't resolved, it would be raised with the Ombudsman as a complaint.

On the OCV's return six weeks later, all of the behaviour management plans had been reviewed and updated, the medical reviews had been completed, and follow-up appointments organised – including ongoing appointments to monitor the third man's health conditions. Interim individual plans were in place with dates set for completion of the annual plans. The OCV was satisfied that the service had committed to resolving the matter and the residents' health issues were being addressed.

Cross jurisdiction

An important part of our role is to help members of the public and agencies to deal with complaints and related issues. We also actively reach out to various stakeholders to increase awareness of our role, identify critical issues, bring about positive changes, and look for ways to improve our service.

This section reports mainly on the work of our inquiries and resolution team and strategic projects division. For completeness however, work of other areas of the office around stakeholder engagement, training, publications and some project and complaint work is also reported here.

The strategic projects division leads major projects and investigations that go across the Ombudsman's various operational areas, including much of our work with Aboriginal communities and young people. It is also responsible for our community education and training work.

This year we focused our resources on growing our training program for agencies and the non-government sector (see page 101). This strategy

was a response to ongoing budget issues. The revenue that we have generated has been used for public interest projects and investigations.

We have continued our work on the audit of the Interagency Plan to Tackle Aboriginal Child Sexual Assault (see page 105) as well as finalising a inquiry into service provision to the Bourke and Brewarrina communities (see page 106). We brought together our work in addressing Aboriginal disadvantage in a report to Parliament in October 2011 (see page 106).

Developing our relationship with our stakeholders is important to us. We continued to participate in community events, consult widely with community members and develop resources to assist both the public and public sector agencies and organisations within our jurisdiction (see page 91).

We convened a number of forums and workshops that brought together relevant agencies and other stakeholders to discuss issues of concern and to develop action plans (see page 94). These forums are an effective way of addressing major concerns and will continued be used in the future.

Highlights

- | Received more than 24,000 inquiries and responded by helping people to make a complaint, explaining the actions of agencies, providing referrals and advice. [SEE PAGE 90](#)
- | Convened specialist forums with various agencies to identify strategies to improve outcomes for young offenders and victims of child sexual assault. [SEE PAGE 94](#)
- | Supported new and developing Ombudsman offices and other oversight bodies in our region through our membership of APOR and the POA. [SEE PAGE 99](#)
- | Gave ongoing feedback to ADHC on their Aboriginal Cultural Inclusion Framework and other strategies for supporting Aboriginal people with disabilities. [SEE PAGE 109](#)
- | Provided more than 296 information, education and training activities reaching over 10,091 people, including a total of 156 training workshops delivered to 3,091 participants. [SEE PAGE 101](#)
- | Held 27 focus groups across Australia as part of Stage 2 of the Managing Unreasonable Complainant Conduct Project. [SEE PAGE 102](#)
- | Completed extensive consultations and research in connection with our function to audit the Interagency Plan to Tackle Aboriginal Child Sexual Assault culminating in the preparation of a major report to Parliament. [SEE PAGE 105](#)

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Inquiries

Our inquiries and resolution team handle the highest number of contacts with our office. People from across the state, the country and even internationally ask us to resolve their complaints. On one level we wish we could, it can be personally very rewarding. However, it is not practical for us to follow up on every complaint, and not every complaint warrants further action.

Assessing complaints

Everyday, the inquiries and resolution team are questioned on a broad range of technical, legal and policy-based issues relating to the work of agencies across the NSW public sector. Our staff use their extensive knowledge and resources to give advice or to take appropriate action. Some advice is procedural, some is based on our experience with a particular issue or agency, and other advice is provided after we have researched relevant legislation or policy.

Providing referrals

Often complainants and agencies can resolve the complaint directly. The agency benefits from receiving and handling complaints as it encourages openness and helps their staff recognise that complaints help the agency improve the work that they do.

About a quarter of our inquiry work involves helping complainants to understand the complaints process and giving them the confidence to work with the relevant agency to resolve their complaint. We explain how to make a complaint and discuss what reasonable expectations are – including response times and possible outcomes.

The level of awareness of our office means that people often contact us about problems we do not have the jurisdiction to handle. In about a third of contacts, even though we have no jurisdiction, we make sure complainants are aware of the relevant statutory and industry Ombudsman, government enforcement and regulatory bodies, legal advice services and relevant peak and consumer bodies.

Advising complainants

An agency doesn't always get it right and complainants contact us after trying to resolve their complaint directly with the agency. Agencies sometimes fail to reply to correspondence or communicate with the complainant within a reasonable time, leading complainants to believe that either the agency has not dealt with their complaint, or has otherwise acted inappropriately. This may or may not be the case.

In about 10% of contacts, we advise the complainant to complain to us. We discuss reasonable outcomes and timeframes (as we do when referring complainants back to agencies) and what information we need to formally assess their complaint.

Explaining the actions of agencies

People contact us about matters that on assessment we do not believe disclose wrong conduct. Sometimes they are not sure themselves, but in other cases they are convinced that what the agency has done or not done is completely wrong. Our focus is on whether the conduct was 'reasonable' – and in about one in four inquiries within our jurisdiction we spend time explaining to the complainant why we don't believe the agency is wrong.

Complaints can result from misperceptions or misunderstandings. Mere disagreement with an agency's decision does not make it wrong. If we assess an agency's decision to be legal, supported by policy, soundly reasoned and there is no other evidence to indicate it is wrong, we have no grounds to investigate the decision further.

Inquiries staff tackle this issue daily and it can cause conflict with complainants. It is therefore rewarding when complainants sometimes tell us that – although they still disagree with an agency's decision – they understand and appreciate our explanation about why it seems valid and reasonable.

Acting on urgent complaints

There are regularly complaints or complainants that need immediate action or help. We accept complaints orally if our assessment indicates a possible problem with an agency's imminent action or inaction and there are serious consequences. We also recognise certain members of the community need help to ensure their complaint is heard and appropriately addressed. In these cases, we immediately contact the agency concerned and try to resolve the complaint.

The following case studies provide some examples of the complaints we handled this year.

Case study 72: Reducing fines to cautions

Our inquiries with the State Debt Recovery Office (SDRO) led to fifteen hundred dollars of fines issued to three young people for travelling without valid concession passes and offensive behaviour reduced to cautions and put on hold respectively. The parents of the three young people asked the SDRO to review all the fines. However, their reviews were rejected – even though their school provided evidence that they had not issued the correct concession passes, and CityRail was investigating their complaints about how the young people were treated in relation to the offensive behaviour matters. CityRail will decide on any further action about the offensive behaviour fines when they have finished their investigation.

Case study 73: Budget reviewed

A woman under a financial management order called complaining that the NSW Trustee and Guardian (NSWTG) was not providing her with sufficient income to afford the wheelchair accessible taxis she uses. We found that there was no note of her disability and the NSWTG undertook to review her budget, including applying for various allowances she may be eligible for.

Case study 74: Providing clearer information

Changes to the *Fines Act 1996* early last year resulted in a number of fine recipients receiving advice from the SDRO that their court election opportunity had expired, even though they were still at the penalty reminder notice stage of the fines process. Previously, this would not generally occur until the fine was at the enforcement stage. We received a number of complaints about these changes and, as a result of our work with the SDRO, the correspondence they issue and the information on their website is now much clearer.

Case study 75: Housing problem resolved

A complainant having financial difficulties contacted us after his private landlord did not receive the Rent Start payment that Housing NSW had approved weeks before. Housing NSW told us they had already issued two cheques, but it seems they both went to the wrong address. This was because the update of their new database HOME did not automatically update the finance database. As the result of our call a third cheque was issued to the correct address, the tenant maintained his tenancy and Housing NSW addressed their database issue.

Case study 76: Immediate action on maintenance

A tenant called us in late October complaining she could not get her serious maintenance issues resolved. Her unit had water streaming down the walls causing considerable damage. Housing NSW had been aware of these maintenance issues in August and had listed them for completion by December. The tenant tried for some weeks to speak with the right housing officer, but after failing to do so she called us. Housing NSW's subsequent inspection resulted in immediate action and work started within a week.

Case study 77: Helping inmates

Many inmates complain about correctional centre life, and they can have good reason. Their limited access and ability to resolve everyday problems often means they contact us for help.

Inmates at Tamworth and Bathurst called us this year complaining that they only had one set of clothing after two weeks in the correctional centre. Another inmate at Junee complained the unit washing machine had

for some weeks stunk of dead animals caught in the newly sealed base. All claimed they had tried to sort out these issues internally without success. Our calls to the centres resolved these issues very quickly.

We also receive calls about safety and welfare. A Junee inmate called distressed that a proposed internal move would put him at risk. He had spoken with correctional staff, but was not sure his concerns were being fully considered. We confirmed with centre staff that they were aware of his concerns and the need for discussion with him.

A Dillwynia inmate called on behalf of another inmate too upset to speak with us. The day before the woman had been told by the clinic at the centre that she may have miscarried her pregnancy. It was unclear what help she had asked for, or was receiving, so we contacted the clinic. They agreed to ensure the woman was given the opportunity to discuss her problems.

We also receive contact from the families of inmates. A man called complaining that he could not get a message to his brother at Junee. He needed to make sure he was sufficiently aware of the state of health of his mother after a serious operation. We contacted the centre who confirmed this should normally happen and undertook to speak with our caller to address his concern. An inmate at the Metropolitan Reception & Remand Centre complained about the limited time he was allowed out of his cell. The centre manages a wide variety of inmates and this creates a challenging environment. However, exercise and time out of cells is an important part of maintaining reasonable mental health and is covered by the correctional centre regulations. We contacted the centre who undertook to ensure staff were aware of their legal obligations.

Stakeholder engagement

Effectively engaging with key agencies, service providers and individuals on a wide range of issues is an important part of our work. Maintaining professional and cooperative relationships with a diverse group of stakeholders enables us to identify and respond to critical issues as they arise and look for ways to make further improvements.

We also need to make sure we are accessible to disadvantaged, vulnerable or hard to reach groups that might have a particular need for our services – including communities in regional and remote areas, Aboriginal people, young people, refugees and other recent migrants, and detainees in correctional and juvenile justice centres. This includes helping frontline agencies and services to address any difficulties in reaching out to these often 'high-need' communities.

Who are our stakeholders?

Our stakeholders include consumers of our services, local agency staff, community workers, peak bodies, advocacy groups, members of the public and other agencies. The consultations we do as part of our audits and investigations

are important to our work and allow us to engage different groups on priority issues. We try to be proactive in seeking the views of our stakeholders and convene forums and roundtables about specific issues, as well as participating in liaison meetings and community outreach activities to help inform our work.

We maintain close relationships with other agencies within our jurisdiction and with other oversight bodies both within Australia and overseas. This year we continued to support new and developing Ombudsman offices in our region by sharing our knowledge and experience.

Improving our processes

After our organisational restructure last year, we started developing a new stakeholder engagement plan. Key priority areas have been identified and these will be built in to the business plans for each of our divisions. We aim to be more responsive when stakeholders raise issues that are in the public interest, for our work to add value, and our services are accessible.

This year we have focused on streamlining the way we capture information about our stakeholder engagement and education activities. Our new processes are designed to:

- improve information sharing across our organisation
- more readily identify opportunities for joint work with other agencies and oversight bodies
- record the feedback from our stakeholders about how our work adds value.

These processes are also important for making sure that our operational work is reflected in our various corporate plans – such as our disability and multicultural action plans – as well as allowing us to more readily identify gaps and improve how we engage with all our stakeholders.

Reaching out to a diverse community

The largest group of people we have contact with are complainants. During the year we handled more than 24,000 complaints informally and more than 8,000 formally. The informal complaints are mostly dealt with by our inquiries staff over the telephone or in person at our office.

Our website provides information about the role of our office, including how to resolve matters without our help and how to make a complaint. There are a range of publications available – such as guidelines, fact sheets and brochures in other languages. This year we have reviewed our website and will be redesigning it in 2011-2012 to make it more accessible and easier to use.

Our Aboriginal Unit, youth liaison officer, community education and training unit and other specialist staff actively reach out to stakeholders – by attending community and cultural events, delivering workshops and training sessions, and helping complainants to resolve issues.

Our senior staff also take part in these events, and the resulting discussions are critical to informing our systemic review, auditing and investigative work.

Participating in community events

We organise and participate in a range of community events, festivals and conferences. We also work with other government agencies and service providers in events that provide a one-stop shop for communities – giving people the opportunity to raise a wide range of questions and concerns about government services. This year we delivered a total of 140 presentations, forums, information sessions and other educational activities reaching over 7,000 people in 32 different locations across NSW.

One new strategy that has greatly enhanced our outreach to regional areas is our regular participation in the Aboriginal Community Information & Assistance Road Shows, organised by the Department of Premier and Cabinet. These events typically run for three or four days in different towns within the one region, bringing representatives of between 50 and 60 government and non-government agencies together to present information about their work and provide services to members of the public. These road shows are very popular, attracting hundreds of people from surrounding areas.

Travelling to regional and remote communities

This year we visited at least 59 regional and remote communities in NSW. We visited correctional and juvenile justice centres, conducted consultations for our investigations and audits of services, participated in community events and information sessions, and delivered presentations, training sessions and forums. These visits provide our staff with the opportunity to address other concerns raised with our office – including meeting with local agencies, service providers or community representatives to assist with critical issues.

We delivered over 55 training workshops, presentations and information sessions in regional NSW this year. For more details, see page 101 in Community education and training.

For more information about our work in regional and remote communities, see page 105 in Working with Aboriginal communities.

Places visited 2010-2011

Albury	Lismore
Balranald	Lithgow
Batemans Bay	Menindee
Bathurst	Moree
Bega	Moruya
Bourke	Mudgee
Broken Hill	Muswellbrook
Canberra	Nambucca Heads
Coffs Harbour	Narooma
Cooma	Narrabri
Dubbo	Newcastle
Eden	Nowra
Forster	Oberon
Gosford	Orange
Goulburn	Port Macquarie
Grafton	Purfleet
Griffith	Quirindi
Gunnedah	Richmond
Guyra	Springwood
Hunter Valley	Tamworth
Illawarra	Taree
Junee	Terrigal
Kariong	Toomelah-Boggabilla
Karuah	Tuggerah
Katoomba	Tweed Heads
Kempsey	Wagga Wagga
Lightning Ridge	Walgett
	Wallaga Lake
	Wellington
	Wollongong
	Woy Woy
	Wyong



Visiting juvenile justice and correctional centres

We have systems in place to ensure that detainees have reasonable access to our services while they are in a juvenile justice or correctional centre. Our staff are available to detainees in a number of ways – primarily by phone, but also via secure post and through our visits to centres across NSW.

When we visit a centre, our role as an impartial observer enables us to ensure decisions made about detainees are fair and just. It also gives detainees the opportunity to raise issues directly with us. Where possible, staff from our Aboriginal Unit take part in these visits – ensuring that Aboriginal detainees have an opportunity to speak with another Aboriginal person about any concerns.

This year we conducted 38 correctional centre visits and 16 juvenile justice centre visits across the state. At least 15 of these visits were to regional and remote areas. For further details on our work see page 36 in Corrections and page 73 in Human Services.

Strengthening our relationships with young people

Engaging with young people, youth advocates and agencies that provide services to children and young people is a

central part of our efforts to ensure that our services are accessible, relevant and effective.

In June 2010, we appointed a new youth liaison officer (YLO). The YLO plays an important role in raising awareness about problems affecting young people and focusing our complaint-handling work on systemic issues. They also work directly with young people and their advocates to increase their awareness of the work we do with agencies that provide services to young people.

A new youth issues group

Our YLO has undertaken a major internal review of how we handle youth-related enquiries and complaints to assess how we help groups with particular needs. As an outcome of this review, we are considering a number of changes – especially the need to improve how we record and report on our work in this area. The YLO has established a youth issues group made up of frontline staff and investigators from across the office. This group aims to monitor and improve our capacity to address concerns raised by young people and their advocates, especially concerns about new or emerging systemic issues. By critically reviewing our practices we are able to help agencies be more strategic about the services they provide to children and young people.

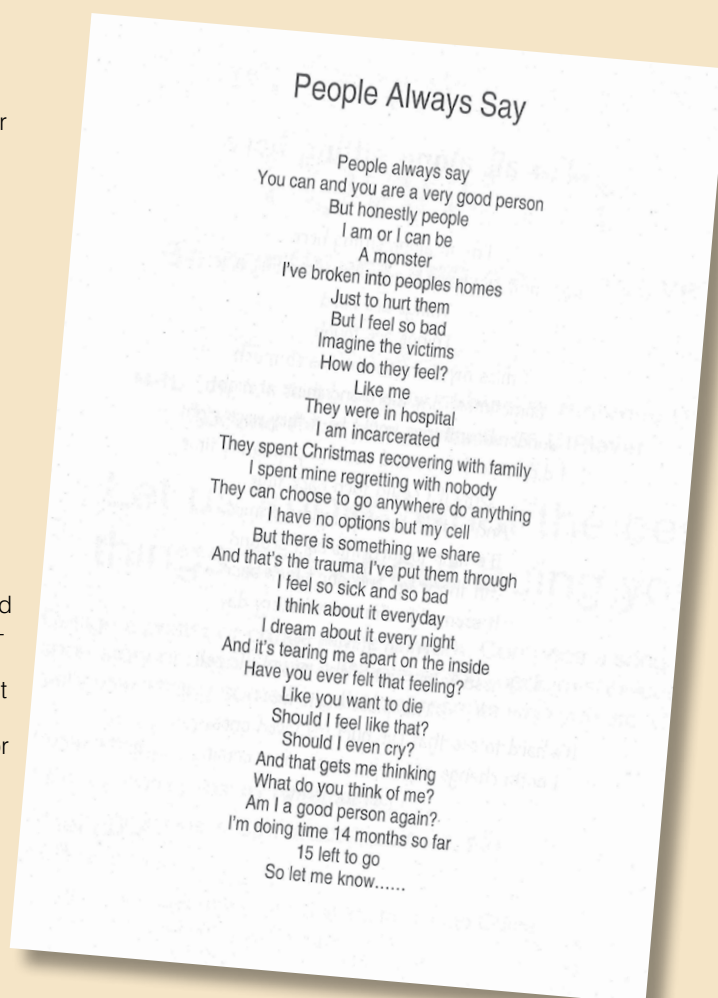
We have developed a youth web survey to distribute to services and agencies that work directly with young people.

Youth Week 2011

During Youth Week 1-10 April 2011, our YLO and other staff organised and participated in a range of activities. The week began with a staff morning tea featuring a guest speaker, an amazing young woman who shared her personal experiences about overcoming barriers in relation to being homeless. Throughout the week we sold balloons to staff in the office to raise funds for a youth-related charity nominated by our guest speaker. She requested that the money raised be donated to YPSpace, a service based in Kempsey.

Another highlight was our participation in the largest Youth Week event in NSW, the 'Bring it on Festival' at Fairfield Showground. We had an information stall and arranged for a giant jenga game as an ice-breaker to encourage young people to stop by, have some fun, and then speak with our staff. As an incentive to participate, we entered everyone who played the jenga into a draw to win an iPod nano portable music player. The winner was Natalie Zora of Fairfield.

To include young people in juvenile justice centres, we held a competition for them that used the Youth Week theme — 'Own It'. The competition invited young people to 'own it' by responding creatively to the question: What are the best things about being you? Young people were encouraged to design a poster, create some art work, or write a song or poem. We had a number of great entries. First prize went to a young man from Riverina Juvenile Justice Centre who submitted an outstanding poem called, *People Always Say*. He received a football jersey for his efforts. The runner-up prize of a portable DVD player was a joint entry from two brothers from Cobham Juvenile Justice Centre, who submitted a CD with an original song they had composed and performed.



The survey asks about their clients' needs, what issues they raise, and how our work with young people could be improved. The survey is intended to inform our outreach work with specific groups, particularly groups or youth services in areas that have little or no contact with our office.

Focusing on systemic issues

Our focus on systemic issues has led to a number of important initiatives in the youth area this year. For example, at the request of the Police Commissioner we recently brought together senior representatives of the NSW Police Force (NSWPF), Legal Aid NSW and the Aboriginal Legal Service (NSW/ACT) to identify changes needed to broaden and improve the use of diversionary options under the Young Offenders Act. We are also working with police to address ongoing concerns about bail compliance checks with young people and police acting on bail conditions that were no longer enforceable. For further details on this issue see page 108.

At the invitation of Legal Aid, we participated in a meeting with staff from the Children's Legal Service at a community agency in Western Sydney that provides outreach services to recent migrants. A group of young people alleged that they had been subjected to police harassment and racism. We took an oral complaint from one young person in relation to the use of OC spray and intend to monitor the complaint.

Recent feedback from youth services and informal complaints from other sources have highlighted difficulties that homeless young people encounter when trying to access different forms of emergency accommodation. Our YLO and our youth issues group will look at these access issues, as well as the support and services for young people at risk of homelessness, to assess the concerns raised and what can be done to address the problems.

We are also reviewing the information we provide to students about our services and encourage young people to visit our office. This includes a recent presentation to a group of legal studies students from Kempsey, with staff from each of our divisions providing overviews of what we do. We will continue our commitment to students by providing further opportunities for young people to visit our office.

Working with other agencies and groups

Our YLO plays a pivotal role in strengthening our relationships and communication with peak representative bodies and government agencies that work with young people. Throughout the year, she regularly met with groups such as the Youth Justice Coalition, YFoundations, and with staff from key agencies including the NSWPF, Juvenile Justice and Justice Health. Her work with these organisations helps broaden our links beyond our day-to-day complaint-handling, audit and oversight work. She also regularly attends and makes presentations at conferences, open days and youth events, and attends juvenile justice centre visits with other Ombudsman staff.

See pages 66-80 for more information about our work with children and young people.

Working cooperatively with agencies and key stakeholders

Holding regular liaison meetings with agencies, convening forums on specific issues, and participating in committees and advisory groups helps to keep us informed of current issues. This is an increasingly important part of our work.

Our audit, investigation and review work also enables us to work with a large number of agencies and service providers. For example, this year we have consulted broadly with the people involved in dealing with public interest disclosures and the people who make them – including public authorities, their staff, other investigating agencies, unions, academics, journalists and commentators, and interest groups such as Whistleblowers Australia. These sessions enabled us to provide information about our new role, as well as the roles and responsibilities of agencies.

This year we also provided briefings and information sessions to a range of services and community groups including Tranby Aboriginal College, the Aboriginal Community Gathering in Wollongong, Sydney Institute of Criminology's child sexual assault seminar, Southern Sydney Koori Interagency meeting, Western Region Professional Standards Duty Officer and Executive Officer Forum, and the Aboriginal Legal Service's annual conference in Terrigal.

Convening forums and workshops to identify and address concerns

A useful strategy for identifying and responding to complex problems is to convene forums that bring specialists, frontline staff and managers together to examine the issues and identify potential solutions. We have found that this approach is an efficient and especially useful way of dealing with systemic issues that require 'operational' input from a number of services and agencies. In many cases, frontline staff might be trying their best to respond to serious concerns – but issues such as a lack of coordination between agencies can prevent them from being able to achieve positive outcomes.

This year we hosted specialist forums and roundtables to seek the input of stakeholders from various agencies and services into investigating sexual assault, improving the police use of youth diversionary options under the Young Offenders Act and addressing poor school attendance at a remote school. We also organised roundtable meetings with disability, child, youth and family peak bodies to

canvass their views on current issues identified through our monitoring activities and to promote improved service delivery.

The value of this approach is demonstrated by the outcomes achieved by a roundtable forum that we convened in April 2010 to look for ways to improve probity standards in non-government organisations that are funded almost \$2 billion per year to deliver a range of community-based services on behalf of the NSW Government – see page 96.

Policing sexual assault

In April 2011, we invited a number of senior police officers to attend a roundtable to discuss issues related to the policing of sexual assault. The meeting – chaired by our Deputy Ombudsman (Human Services) who is also the

Community and Disability Services Commissioner – was well attended, with twelve officers from several operational and policy areas within the NSWPF participating.

The majority of the discussion was about our audit of the implementation of the NSW interagency plan to tackle child sexual assault in Aboriginal communities. We sought the views of attendees about a range of issues associated with the overall implementation of the interagency plan and related initiatives. In particular, we canvassed the particular challenges associated with policing child abuse in rural and remote locations, the availability of forensic medical examiners for victims of child sexual assault, and the management of offenders on the Child Protection Register. For more information about our audit of the Interagency Plan, see page 105 in *Working with Aboriginal communities*.

We also discussed two issues concerning employment-related child protection – problems arising from the existence of multiple CNIs, and the feasibility, benefits and risks of enabling relevant police intelligence holdings to be considered when a person applies for child-related employment. For further details about these issues, see page 78 in *Children and young people*.

As a result of the roundtable, it was agreed that we would convene a twice-yearly forum with the NSWPF to share information and provide feedback about systemic areas of common interest.

Promoting interagency communication

Sometimes individual complaints can alert us to serious or systemic concerns that necessitate bringing agencies together to resolve issues. For example, we were alerted to a matter where the agencies involved had not communicated effectively with each other so it was not clear whether any of them had taken the action needed to address urgent concerns about a child at serious risk of harm.

In case study 49 in the *Children and young people* section, we reported on our investigation into a matter involving a person on the Child Protection Register (CPR). A young girl disclosed that she had been sexually abused by this person, who was her mother's partner, over a period of three years. He was subsequently charged with a number of offences and has since been convicted. We found that Community Services had failed to take appropriate protective action on behalf of the girl when they were originally advised by Corrective Services and the NSWPF that the person intended to move in with the girl and her mother.

To discuss ways of strengthening interagency cooperation for managing individuals on the CPR and the potential risk they pose to children, we convened a meeting with all three agencies. As a result of the meeting, the agencies agreed to jointly draft an interagency document clearly setting out the respective roles, responsibilities, powers and limitations of each agency for managing child sex offenders. Community Services also reported that systems are now in place to alert senior staff when a report is made that involves someone registered or suspected to be registered on the CPR. They also agreed to improve expertise within their organisation for handling matters involving CPR registrants – including the need for timely and effective communication with Corrective Services and the NSWPF.

A range of additional initiatives aimed at addressing the deficiencies identified by our investigation were also agreed to by the agencies. For example, Corrective Services are revising their policies for managing child sex offenders. We will continue to closely monitor these agencies' progress against their commitments in this area.

See page 41 in *Corrections* for further details on community offender services.

Helping young offenders

At the request of the Police Commissioner, we held a roundtable meeting with Legal Aid NSW (the Children's Legal Service), the Aboriginal Legal Service (NSW/ACT) and the NSWPF in April 2011 to assess the adequacy and effectiveness of the current referral protocols and share information about the operation of the *Young Offenders Act 1997*. This followed a similar review in mid-2005 that succeeded in addressing key concerns raised by each of the agencies and led to improved outcomes for young people for some time afterwards.

The forum concluded with broad agreement on several key actions to reinvigorate and improve the use of the cooling off period through the young offender legal referral scheme, and support the involvement of respected community members in the cautioning of young people under the *Young Offenders Act*. See page 108 in *Working with Aboriginal communities* for more details.

Children, young people and families

In April 2011 the Community and Disability Services Commissioner, convened a roundtable of child and family peak organisations. This forum enabled us to update the child and family sector on key areas of our current work in the child protection area. This included:

- | our review of Aboriginal child sexual assault
- | our work in connection with service delivery to rural and remote communities in Western NSW
- | the transfer of the Child Death Review Team to our office
- | our monitoring of *Keep Them Safe?*
- | early intervention initiatives.

Supporting improved school attendance in Western NSW

Aboriginal students have consistently lower rates of school attendance than non-Aboriginal students, and many Aboriginal communities see improving school attendance rates as a priority.

A number of different school liaison positions are funded by the Office of Education to support school practices that promote regular attendance. However in regional and remote NSW these positions are hampered by the extensive geographical area they cover and the large numbers of schools they support.

In Wilcannia, school attendance and retention rates are a persistent concern. Disquiet among local community members about school suspension practices reached a peak in July 2010. As a result, we convened meetings with the then Director-General of the Department of Education, the CEO of Aboriginal Affairs and the NSWPF to discuss ways to address this issue. A number of principals that we have consulted over the past year have told us that a school

liaison police position can often exert greater influence over families than Education's home school liaison officers because of the authority that comes with being a police officer. For this reason, we raised the possibility of trialling a dedicated school liaison police position at Wilcannia to work with the school and parents to provide the necessary supports to get children to school each day. In March 2011, the Ombudsman and Deputy Ombudsman met with these agency heads to help consolidate their efforts towards trialling this position. We now understand that approval has been granted to establish the trial in Wilcannia. Discussions are currently taking place between the NSWPF and Aboriginal Affairs NSW about implementation details.

Disability issues

In February 2011, our Community and Disability Services Commissioner convened a roundtable of peak disability organisations. These meetings provide a useful forum for exchanging information about issues of concern affecting people with a disability, and the current work and priorities of our office and the organisations attending.

The issues we discussed included:

- l the closure of large residential centres and the compliance of replacement accommodation with the Disability Services Act
- l the rights of people with a disability in licensed boarding houses
- l access of people with a disability to social housing
- l self-directed funding and the need for planning about safeguards, probity and training
- l people with mental illness and their access to appropriate accommodation and support
- l current actions for early childhood intervention.

DFACS commits to strengthening probity standards – progress made

In December 2010, we tabled a special report to Parliament, Improving probity standards for funded organisations, explaining the need for government to help funded organisations improve their screening of prospective employees, board members and others involved in the planning or delivery of government-funded services to vulnerable people.

The report highlighted the growing importance of the estimated 3,000 non-government organisations (NGOs) that receive almost \$2 billion in funds and subsidies annually to deliver a range of community-based services on behalf of the NSW Government. We highlighted the apparently piecemeal array of probity checks currently used by NGOs in the health and human services sectors and recommended that the (then) Department of Human Services, in consultation with the NGO sector and NSW Health, take steps to create a streamlined probity checking framework that strengthened standards, addressed inconsistencies and reduced duplication and waste.

Our report centred on concerns raised by a roundtable forum that we convened in April 2010 to bring together NSW government agencies with responsibilities for health and human services (funding agencies), peak bodies that represent many of the thousands of NGOs funded to deliver

services (funded organisations) and oversight and regulatory bodies with responsibilities in this area. In summarising the concerns raised by forum participants, we argued that the system should include consistent baseline checks of all paid employees and others with key responsibilities in planning and delivering services (such as board members), take into account the vulnerability of clients who use these services, and have the flexibility to strengthen or relax checking requirements in appropriate circumstances.

We received a preliminary response to our report in June this year, when Ageing, Disability and Home Care (ADHC) asked for feedback on a chapter entitled 'Probity in Employment' and a 'policy settings matrix' that the agency had drafted for inclusion in a governance manual, It's Your Business. ADHC drafted the materials in conjunction with National Disability Services (NDS), a national industry association that represents 700 NGOs in the disability sector. The draft materials had a number of impressive elements, including sound advice on various 'best practice' strategies that NGOs could use to develop stronger, more consistent probity checking standards. In addition, ADHC and NDS were promoting the materials to funded services in the disability sector through a statewide program of training and workshops.

Although ADHC's draft guide recommended that funded organisations adopt stronger processes and standards, we were concerned that there were still no direct requirements for them to do so. Our feedback to the Department of Family and Community Services NSW (DFACS) praised the many positive elements of the draft materials. Nonetheless, we concluded that unless the guidance was also accompanied by stronger, clearly articulated minimum standards, then their contribution to the development of more consistent, efficient and rigorous probity checking across the health and human services sectors would remain limited.

In August we received a formal response from the Acting Director General of DFACS, endorsing the direction taken in our report and supporting many of our recommendations. DFACS indicated that the probity advice drafted for ADHC's It's Your Business manual would become the standard for all DFACS agencies, including ADHC, Community Services, Housing NSW and the Aboriginal Housing Office.

Significantly, DFACS noted its ability to use funding agreements to 'embed, request and monitor' adherence with probity policy. 'ADHC are planning to reflect this in funding agreements for next year, and this will be applied across the rest of the department as part of our broader work to reduce red tape'. This is a significant step forward. In addition, the inclusion of general probity requirements in funding agreements will be supplemented by 'targeted support and strengthening for some NGOs'.

As noted in our report to Parliament, a key challenge will be to streamline checking and strengthen standards, while minimising the associated costs or red-tape imposed on funded NGOs. DFACS promised to 'work closely with peaks, non-government organisations and NSW Health to address the issues outline by the report, with a focus on consistency of information, training and guidelines for funded services'.

DFACS committed to providing a progress report in December this year. By then, it expects to have a better understanding of 'the scope and possible impact of proposed National Regulator of Not-for-Profits, due to be implemented in July 2012'.

Ombudsman Outreach program

As part of our growing Ombudsman Outreach program, we visited Taree in March and Orange in May this year. These forums are aimed at community sector workers and consumers in regional and rural centres. At the forums, the Community Services and Disability Commissioner and senior staff from our community services division provide an overview of the role of our office, particularly the work we do in the community services sector. Although these events focus mainly on providing information to local services and individuals, they provide us with valuable feedback about issues and concerns affecting the regions we visit. We plan to hold four more forums in other regional centres in the second half of 2011. See page 103 in Community education and training for more details.

University complaint-handlers

In February this year we hosted our third annual forum for university complaint-handlers. These forums have been popular events for exchanging information and ideas about a range of issues concerning complaints in higher education.

In the past decade there has been a significant rise both in the number and complexity of complaints about universities. Following the release of our *Complaint-Handling at Universities: Best Practice Guidelines* in 2006, every university in NSW has introduced reforms to their complaint-handling structures. The forum in February offered an opportunity to find out how these changes have worked in practice. Guest speakers from a number of universities both in NSW and interstate also gave presentations on topics such as the implication of changes to the legislation for public interest disclosures in the university environment, procedural fairness in disciplinary decision-making and complaint-handling, the media and new social media.

Participants were keen to attend another forum next year, confirming the event remains a relevant and practical way for university complaint-handlers to share experiences and gain ideas.

Public interest disclosures consultation forums

Our newly formed Public Interest Disclosures (PID) unit hosted a consultation forum in May that was attended by a range of representatives from NSW government agencies, oversight bodies and whistleblower interest groups. It provided a useful opportunity to discuss the new *Public Interest Disclosures Act 1994* and the proposed role of the NSW Ombudsman. Participants also provided us with useful feedback on our draft model policy and guidelines.

Official community visitors

Each year we organise an annual conference for people involved in the official community visitors (OCV) scheme. The theme of this year's conference was substitute decision-making. The conference was opened by the Minister for Disability Services and addressed by key sector agencies on current issues and initiatives affecting residents of visitable services. We also ran complaint-handling workshops and training on developing skills as a mentor. For more information about this work, see the discussion on OCVs at page 87.

Deputy Ombudsman forum

In May this year we hosted the twice yearly Deputy Ombudsman Forum, which brings together deputies from Ombudsman offices across Australia and New Zealand. The meetings enable participants to showcase the work and achievements of their respective jurisdiction. It also provides an opportunity to discuss common concerns, as well as projects such as investigation training and managing unreasonable complainant conduct.



Deputy Ombudsman's Forum

Ombudsman investigators

In November 2010, in conjunction with our biannual National Investigation Symposium, we hosted a half day forum that brought together senior investigation officers from the Victorian, Queensland and West Australian Ombudsman offices. This meeting enabled investigators to share expertise and information about current work including:

- | investigative methodologies
- | significant investigative work being done
- | issues associated with managing complaints.

Maintaining good relationships

It is important for us to foster good working relationships with the agencies we oversee and investigate. Maintaining strong links and professional relationships with agencies helps give staff in those agencies the confidence to be more forthcoming with information and receptive to our recommendations. It also helps speed up preliminary inquiries and investigations, and enables us to reduce waste and reach better outcomes.

Holding meetings and discussions

We regularly meet with, give presentations to and convene discussions with a range of organisations that advocate on behalf of members of the public and advise government on policy issues. We also meet regularly with government agencies such as Community Services, Housing NSW, NSW Health, Juvenile Justice, Ageing, Disability and Home Care, the NSWPF, Aboriginal Affairs NSW (AANSW), and the Department of Education and Communities (DEC).

For example, this year we:

- | held a number of meetings with staff from the Commission for Children and Young People to exchange information and discuss arrangements to transfer resources to our office. The Commission transferred the Child Death Register and some administrative and child death files to us in February this year
- | attended quarterly meetings with the Independent Commission Against Corruption (ICAC) and the Division of Local Government to discuss local government issues and exchange information about complaints

- held quarterly meetings with senior officers from the NSWPF to discuss strategies for improving police complaint-handling systems, share information about current projects and initiatives, and resolve mutual concerns
- visited 10 NSWPF local area commands in metropolitan and regional locations to observe complaint management team meetings and to invite feedback about complaint trends and complaint issues generally
- attended the inaugural meeting of Disability Commissioners from across Australia to exchange information and identify systemic issues. These meetings also allow us to explore potential avenues for systemic work on a national level. We will be hosting the next Disability Commissioners meeting in November 2011
- attended quarterly meetings with representatives from the DEC's Employee Performance and Conduct Unit (EPAC) to discuss emerging issues and how they can be addressed
- met with representatives of agencies involved in protected disclosures and the implementation of the new Public Interest Disclosures Systems – such as the ICAC, DLG, Office of the Director of Public Prosecutions and the NSWPF – to discuss their various approaches to the new *Protected Interest Disclosures Act 1994*. These meetings will inform our work in the future, including recommendations for legislative changes
- consulted the NSWPF Sex Crimes Squad in relation to our child protection work. This has given us access to prompt information and advice and enabled us to give appropriate guidance to agencies responding to reportable allegations of a criminal nature. We also attend the quarterly Sex Crimes Squad & Joint Investigation Response Squad Advisory Council meetings which provide an opportunity for interagency liaison and case discussion about a range of child protection issues
- consulted with government agencies, non-government peak associations, and staff from child wellbeing units about policy and operational issues affecting the implementation of the new system for responding to children at risk of harm
- held three information sessions on protected disclosures for more than 65 public sector staff, briefing them on the changes to the Public Interest Disclosures Act and the changes to their agencies' responsibilities under the Act. This is the start of a much broader campaign to inform and educate agencies on their new responsibilities under the Act.



PID Forum

We gave regular presentations about our role to various stakeholders and staff from a range of agencies, peak bodies and community organisations including groups of police officers. We also provided information sessions and briefings for a range of other groups including schools, foster care support groups, area health services and a range of

inter-agency groups. See page 101 in Community education and training for more details of our work in this area.

Participating in committees and advisory groups

Our staff are also members of a number of advisory groups and committees. These groups help us keep informed of current issues and give us the opportunity to update agency staff on specialist areas of our work. For example, we have an expert advisory committee to help us perform our disability death review function. The committee provides the Ombudsman with valuable advice on complex disability death matters, policy issues and health practice issues.

We have been a member of the Police Aboriginal Strategic Advisory Committee (PASAC) for several years. PASAC is chaired by the Police Commissioner and includes representatives from Aboriginal peak bodies as well as Aboriginal Affairs NSW and the Attorney-General's Aboriginal Justice Advisory Committee.

Examples of the other forums and information sessions we have participated in this year include the Child Protection and Sex Crimes Squad Steering Committee, Out-of-Home-Care Interagency Forum, Youth Homelessness Forum, Tenants Advocacy Forum, Asbestos Co-Regulators Working Group, Corruption Prevention Network, and the Complaint-Handlers' Information Sharing and Liaison Committee – this is a network of complaint-handling schemes covering a range of jurisdictions that meet to share information, resources and opportunities for joint activities. See Appendix X for more details.

Working with other oversight agencies

As well as seeking feedback from the agencies we oversee, we also liaise with other oversight bodies to share good practice and exchange information. This year we:

- assisted the Australian Crime Commission's National Indigenous Intelligence Task Force to bring together Commonwealth stakeholders – such as the Coordinator General for Remote Services Delivery and the Commonwealth Ombudsman – with state oversight bodies such as the NSW Auditor General. They examined issues that require state and federal coordination – particularly better coordination around service planning and funding and accountability mechanisms for monitoring service outcomes
- co-hosted with the ICAC and the Institute of Public Administration a two day National Investigations Symposium. This attracted delegates from more than 80 agencies across Australia, plus some from New Zealand, Papua New Guinea and other Pacific countries
- participated in discussions with the Office for Children and Portfolio Coordination, Victoria to discuss the National Bill about children's services. Victoria is the lead jurisdiction with responsibility for drafting the Education and Care Services National Law Bill
- worked with Australian Ombudsman investigation officers to coordinate responses to legislation introducing increased oversight of private colleges for overseas students. This allowed us to share information, provide an update on legislation, and agree on a coordinated response

worked with the ICAC to deliver training on better management of protected disclosures for 91 people from a range of public agencies, including local councils. These workshops provided information about protecting whistleblowers – people who report improper, corrupt or unlawful behaviour in the public sector – and managing their disclosures

together with the Commonwealth Ombudsman visited the Metropolitan Remand Reception Centre (MRRC) to assess the management of immigration detainees who had been moved into corrections custody as a result of an incident at the Immigration Detention Centre.



National Investigations Symposium

From left to right: Nick Kaldas Deputy Commissioner NSW Police Force; Bruce Barbour; The Hon David Ipp AO QC Commissioner, Independent Commission Against Corruption; Richard Macrory, Professor of Environmental Law, University College London

met with OCVs and the Office of the Children's Guardian to negotiate a memorandum of understanding that sets out how we will work together to promote the best interests of children and young people in statutory/supported residential out-of-home care services

worked with the Association of Children's Welfare Agencies, the Commission for Children and Young People and the Children's Guardian to promote awareness of child protection responsibilities in the out-of-home care sector

met with the Queensland Commission for Children and Young People and exchanged information about child protection practices and the role of the Child Death Review Team

suggested improvements to the model code of conduct for councils and will continue to work with DLG to improve clarity in this important area

provided advice to Queensland's Crime and Misconduct Commission about our work in auditing police local area commands – this examined how well police implemented their NSW Police Aboriginal Strategic Direction. Our work in this area enables us to provide guidance to police about the key issues they need to address to ensure ongoing improvements in Aboriginal-police relations

provided advice to the West Australian Ombudsman's office about our work with Aboriginal communities and information from our visit to the Kimberley region last year in relation to the outcomes of the WA Police Force's child sexual assault policing operations

established a regular liaison meeting with the NSW Auditor General's performance auditing division to ensure that our work is complementary.

Engaging with our international partners

This year we maintained and strengthened our support for new and developing Ombudsman offices and other oversight bodies in our region by sharing our knowledge and experience on ways to promote effective and accountable public administration.

Much of our work in this area is through our membership of the International Ombudsman Institute (IOI), which includes membership of the Australasian and Pacific Ombudsman Region (APOR) chapter of the IOI, and through the Pacific Ombudsman Alliance (POA) and its member organisations.

Meeting with APOR members

On 23 March 2011 the Ombudsman attended the annual APOR members meeting at the Control Yuan in Taipei, Taiwan. At this meeting, members discussed the internal and external training modules they provided, the potential benefits of exchanging training materials, and the possibility of developing training initiatives for the Australasia and Pacific region.

All APOR members agreed to provide information about their current training so we can consolidate this information and assess the similarities and differences that exist between training programs. Our office agreed to coordinate the process and report back to the group on the information provided.

The APOR meeting was followed by a two day conference hosted by the Control Yuan, which focused on the international development of Ombudsman and human rights. At this conference, the NSW Ombudsman presented a paper on *Ombudsman and Human Rights: Working with vulnerable communities*.

Supporting the Pacific Ombudsman Alliance

The POA is made up of Ombudsman offices and allied institutions from countries that are part of the Pacific Islands Forum, and is funded by AusAID and the New Zealand Government.

We provide specialist training placements for our colleagues from overseas. This year this included providing in-house training and mentoring to Ombudsman staff from Vanuatu, Samoa, Papua New Guinea and from the newly established Ombudsman of the Republic of Indonesia.

In November 2010 we hosted a successful one day workshop for senior staff who were visiting Sydney to attend the National Investigations Symposium (NIS) in Manly. The visitors were from Papua New Guinea (Mr Daniel Taka, Mr Phillip Morris), the Solomon Islands Ombudsman (Mr James Maneforu, Mr Aaron Kodo), the Solomon Island Leadership Code Commission (Mr George Leslie Oli), the Cook Islands Ombudsman (Ms Jeannine Daniel), the Samoan Ombudsman (Mr Vaiao Eteuati, Mauala Pepe Seiuli), and the Vanuatu Ombudsman (Ms Patricia Kalpokas, Ms Charlotte Kellen).

Presentations by our Ombudsman, former Deputy Ombudsman Greg Andrews, the Commonwealth Ombudsman Allan Asher, the Commonwealth's former Deputy Ombudsman Ron Brent, and NSW Ombudsman staff focused on systemic investigation case studies and detailed the approach, analysis and outcome of each investigation. The feedback for the day was very positive as it allowed senior investigators the opportunity to learn from each other's experiences in a collegiate environment. The NIS conference that followed was also well received and provided attendees with exposure to a considerable range

of topics as well as the opportunity to meet and network with other investigators from across the region.

In December 2010 one of our senior managers, Brendan Delahunty, participated in a forum hosted by the Vanuatu Ombudsman to discuss proposed legislative reforms to the Vanuatu Leadership Code Act and the Ombudsman Act. Other specialist advice was provided by Mr Vergil Narakobi, Counsel, Ombudsman Commission of Papua New Guinea (OCPNG), and Ms Lynley Ducker, Director International, Commonwealth Ombudsman.

The Vanuatu Ombudsman convened a pre-forum workshop to discuss the matters that would be raised at the forum and to set the final agenda. Mr Narakobi gave a detailed presentation to staff of the Vanuatu Ombudsman's office on the OCPNG, its structure, operating methods, and its role under the organic law on the duties and responsibilities of leadership. Then, over the two days, representatives from relevant agencies, such as the police and the public prosecutor, discussed issues with community representatives and Ombudsman staff. Past difficulties were aired and solutions proposed. The forum provided a way for the reform to move forward, leading to a detailed set of proposed legislative amendments being put to Vanuatu's Council of Ministers.

In June we participated in the 2011 Annual Meeting of the POA in Honiara, the third annual meeting of the alliance since it was formed in October 2008. The two day meeting

was held in Honiara to coincide with the Solomon Islands Ombudsman's 30 year anniversary, the opening of their new office, their restructure and other key changes.

A key outcome of the meeting was an agreement to develop five-year action plans, tailored to the needs of each member country but based upon regionally identified challenges. Members also endorsed a regional approach to dealing with common issues, and developed an action plan for legislative reform, investigation skills training and information sharing. This involves working with the Pacific Island Forum to support Pacific leaders in promoting better governance, transparency and accountability throughout the region.

The two day meeting was opened by the Prime Minister for the Solomon Islands and was chaired by the Commonwealth Ombudsman. Representatives from NSW, New Zealand, Solomon Islands, Papua New Guinea, Samoa, Vanuatu, Tonga, Niue, Nauru, Palau and Timor Leste also attended – sharing information about the challenges facing new and emerging member organisations and discussing strategies to address those challenges. They also thanked our Deputy Ombudsman Greg Andrews, who retired this year. Greg was a part-time member of the Secretariat that supports the POA's work and also assisted in providing a range of expert advice on POA projects and training placements.

All of the delegates stayed on for a day long public event to celebrate the Solomon Islands Ombudsman's 30 year anniversary.



From left to right: Maiava Toma, Ombudsman, Samoa; Spret Dabwido MP, Nauru; Lucio Ngirawet, Ombudsman, Palau; Justin Kamupala, Head of the Department of Justice, Lands and Survey, Niue; and NSW Ombudsman Bruce Barbour following the Pacific Ombudsman Alliance's third annual meeting in Honiara, Solomon Islands. The meeting coincided with an event to celebrate the 30th anniversary of the Solomon Islands Ombudsman's Office.

Community education and training

Our community education and training program provides workshops and other activities for public sector agencies, non-government organisations, consumers of community services, and a range of other community groups across NSW. It allows us to share information and expertise, build capacity, and increase community awareness of our work. It also gives us opportunities to get feedback from our stakeholders and identify critical issues of concern for members of the public.

The training we offer for public sector agencies and community services focuses on promoting good administrative conduct, fair decision-making and high standards of service delivery. We also provide briefings and information sessions, give presentations, and develop resources and publications. The audits and reviews we conduct with agencies and services, such as our complaint-handling reviews, are also an important part of our ongoing responsibility to educate our stakeholders. For more details about our work in this area, see page 94 in Stakeholder engagement.

In addition to these activities and the liaison and consultation work our staff do during projects and investigations, we have dedicated units and positions within our office that focus on working directly with the community. These include our Aboriginal Unit, our youth liaison officer and our community relations officer.

The feedback I received about your training was excellent, and I hope to roll it out to other staff. A quality training session is hard to find, and yours is one.

Our training program – who, what and where

Delivering training is a way for us to help the agencies we oversee maximise the efficient use of their resources. We provide training to state and federal government agencies, oversight bodies and other Ombudsman offices in Australia and overseas.

We also have a specific function under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA) to educate service providers, clients, carers and the community about standards for the delivery of community services in NSW.

Our workshops are designed to be highly interactive. They give participants clear guidance and practical strategies to improve both their own skills and knowledge and the service delivery standards of their organisations.

During 2010-2011 we offered more than 10 different types of training workshops. These workshops were offered on an 'open' basis on our public training calendar and on an 'in-house' basis tailored to suit the needs of a variety of organisations.

We delivered more than 150 workshops, reaching over 3,000 people. Of these workshops, 86 were delivered in Sydney, 44 in regional centres in NSW and 24 were delivered in other Australian states.

We continually review our training packages to ensure our materials are up-to-date, relevant and useful for participants.

During 2010-2011 we reviewed our employment-related child protection training packages, the toolkit we provide to consumers of community services, and our training package on the art of negotiation.

Feedback about our training

Of the 2,016 people that completed evaluations after participating in our training workshops in 2010-2011:

- | 98% (1,981) would recommend the workshop to others
- | 97% (1,964) rated our trainers as excellent/good
- | 97% (1,955) rated the content of the workshop covered as excellent/good
- | 95% (1,917) rated the resources provided as excellent/good.

Our training focuses on providing easy-to-use frameworks and tools that can assist participants, including step-by-step models on how to handle a complaint or plan an investigation. Feedback also indicates that participants find workshops to be a useful opportunity to share experiences and network with other staff from their own and other sectors. Comments from participants show that they take away practical strategies they can apply when they return to their workplace, and even in their personal lives.

The sessions were fantastic yesterday, everyone thought they were great and it has been an absolute pleasure to organise it with you.

Figure 56: Training workshops delivered 2010-2011

Type of training	No. of workshops	No. of participants
General complaint-handling training workshops	91	1,954
Community services training workshops	41	747
Employment-related child protection training workshops	24	390
Total	156	3,091

Complaint-handling training workshops

Two of our flagship workshops are *Complaint-handling for frontline staff* and *Managing unreasonable complainant conduct*. Both workshops aim to help participants increase their understanding of the complaint-handling process and develop skills and strategies to effectively deal with complaints and resolve issues. Specific complaint-handling and complaint management workshops have been developed for the community services sector (see below). We also offer workshops on negotiation skills, Aboriginal cultural appreciation and disability awareness.

In the past year we delivered a total of 91 complaint-handling training workshops to 1,954 participants (not including the community-service specific complaint-handling workshops). We delivered 72 of these workshops 'in-house' and 19 workshops as part of our calendar of training. Of these 91 workshops, 45 were delivered in the Sydney metro region, 22 in regional NSW, 23 in other states (including ACT, Qld, SA, Vic), and one workshop was delivered in Canada. Some of the NSW regional centres we visited to deliver general training include Albury, Armidale, Bathurst, Coffs Harbour, Gosford, Newcastle, Nowra, Queanbeyan, Tamworth and Wollongong.

Managing unreasonable complainant conduct

Since 2006, the Australian Parliamentary Ombudsman Offices have been collectively working on the Managing Unreasonable Complainant Conduct Project.

The project's first stage produced a project report and the first edition of the practice manual. Although the strategies in this first edition cover most of the circumstances that can arise when dealing with unreasonable complainant conduct, some strategies can only be used by agencies that have the discretion to end their relationship with a complainant. Also, because some smaller service providers and those involved in remote service delivery have limited resources, they may have difficulties implementing some of the strategies suggested in the manual. As a result, the nine Australasian Parliamentary Ombudsman embarked upon Stage 2 of the project in early 2010.

As part of Stage 2, in conjunction with other Ombudsman offices, we held 27 focus groups across Australia and sent over 50 questionnaires to rural and remote agencies across NSW. The focus groups were attended by a total of 95 agencies, represented by 179 staff members.

As Stage 2 has progressed, we have also identified a need to help agencies develop policies and procedures for managing unreasonable complainant conduct. We have therefore developed an implementation framework and model policy to help agencies ensure that their policies and procedures are fair and consistent and comply with the approach advocated in our practice manual. These documents will be available in the upcoming months with the publication of the second edition of the practice manual.

Managing protected disclosures

Training with the ICAC

This year, together with the ICAC, the Deputy Ombudsman for public administration delivered five workshops on managing protected disclosures. Ninety one people from a range of public agencies, including local councils, attended these workshops. The information provided included how to protect whistleblowers – people who report improper, corrupt or unlawful behaviour in the public sector – and how to effectively manage their disclosures.

Our new public interest disclosures oversight role

From 1 July 2011, the NSW Ombudsman has a new oversight role for public interest disclosures. In June 2011, our Public Interest Disclosures (PID) Unit ran three information sessions to introduce the changes to the *Public Interest Disclosures Act 1994* and explain what public sector agencies need to do and when. These sessions were aimed at staff working in state and local government agencies.

We will continue to offer these information sessions in 2011-2012, including targeted sessions for specialist groups. The first of our new PID training packages will be available later this year.

The PID Unit have issued a number of guidelines and fact sheets, and more will be progressively released during 2011-2012. For more details about our work in this area, see page 48 in Public interest disclosures.

Community services training workshops

We provide a range of training workshops, awareness activities and resources for the community services sector to help service providers more effectively handle and manage complaints. These workshops also cover their complaint-handling obligations under CS-CRAMA.

Our workshops for consumers of community services and their families, carers and advocates cover information about community services in NSW, the role of the Ombudsman, and the rights of people who use community services. They also provide practical information and tips to build confidence in raising issues and resolving complaints with service providers.

In 2010–2011 we delivered 41 training workshops specifically tailored for community service providers, consumers and advocates, reaching more than 747 people. Of these workshops, 28 were delivered in-house to service providers, and seven were consumer-specific workshops. We delivered 19 of these workshops in regional centres, including Albury, Coffs Harbour, Dubbo, Kiama, Lismore, Newcastle, Orange, Queanbeyan, Tamworth, and Wagga Wagga.

During 2010-2011 we delivered 21 *Frontline skills for complaint-handling* workshops. This workshop helps community services staff that come into regular contact with clients to develop effective skills and appropriate strategies for complaint-handling.

Staff from the community services sector also regularly attend our other complaint-handling training and employment-related child protection training workshops, bringing the total number of people we trained from the sector during 2010-2011 to 1,078.

This year we once again participated in National Disability Services Regional Support Worker forums. We gave a presentation on frontline skills for complaint-handling to disability support workers in Tamworth and Wagga Wagga, and will present another workshop in Blacktown later this year.

During the past year, we also delivered a number of workshops to government agencies from the human services cluster. We delivered six general training in-house workshops reaching 124 staff, and a number of individual staff from Ageing, Disability and Home Care (ADHC), Community Services, Housing NSW and Juvenile Justice attended our 'open' workshops. For more information about our work in the community services sector, see page 80 and 86 in Human services section.

During 2010-2011 we also delivered the last of our domestic violence advocacy training workshops as part of the 'Reaching out for rights' Project – delivered in partnership

with Women's Legal Services NSW. This advocacy training aimed to provide workers in the community, health and legal sectors with the skills they need to help women experiencing family violence to successfully navigate the justice system. For more details about our work in the area of domestic violence, please see page 61 in Policing.

“ The most useful thing about this workshop was becoming aware that it is ok to complain. ”

Training for consumers of community services and their advocates

Our *The Rights Stuff* workshop is designed for people who use community services and their families, carers and advocates and explains an individual's rights as a service user. It also provides practical information and tips to build confidence in raising issues with service providers, assist people to build positive relationships with their service providers, and work with them to resolve complaints.

We are also regularly invited to deliver general information sessions to consumer and advocacy groups. This year we gave presentations to various community groups – including an Arabic Mothers group run by the Canterbury Child and Family Health team, newly arrived migrants at the Fairfield ACL, carer support groups in Albury and Dee Why, Central Advocacy Western Sydney (CAWS) Advocates, and the Tenants Advocacy Forum .

Employment-related child protection training workshops

Our employment-related child protection training is designed for people who undertake and review investigations of reportable conduct allegations involving employees. Together with our briefing sessions, resources and audits, our training workshops aim to help agencies to strengthen their responses to child protection allegations made against their employees. For more information about our work in this area, see page 74-79 in Children and young people.

We delivered 11 *Responding to allegations against employees workshops* during 2010-2011, reaching 117 people. Two of the workshops were delivered in regional NSW, and nine in the Sydney Metro region.

We also delivered 13 *Handling serious allegations workshops* to 219 participants.

“ This workshop is significant in all aspects of initial response, planning, managing and conducting investigations and the complexities of findings and interpretations. ”

“ On the day and informally, the workshop was voted by managers to be the best workshop ‘they have ever attended’! On behalf of our managers, thank you for providing us with such a fabulous learning opportunity and experience. ”

Safeguarding children seminar

In May 2011, we participated in a joint seminar with the Australian Childhood Foundation. The seminar was held in Perth and was aimed at strengthening organisational responses to the suspected abuse and exploitation of children and young people by staff or volunteers.

Community education activities

Our community education activities aim to lower barriers to access our services, make sure people understand the work we do, and help us identify issues that are important to the public.

These community activities include:

- | conducting forums
- | providing information sessions for specific groups
- | giving presentations at conferences, seminars and meetings
- | attending community events
- | hosting international delegations.

This year we delivered a total of 140 presentations, forums, information sessions and other educational activities reaching over 7,000 people in 32 different locations across NSW.

Ombudsman Outreach Forums

We held two of Ombudsman outreach forums this year – we visited Taree in March and Orange in May. Both forums were well attended, with over 150 participants in Taree and 70 in Orange. We plan to hold more forums during the second half of 2011 in Moree, Goulburn and Ballina.

“ I wish to express my appreciation for the opportunity to attend this forum. I found the information very informative, especially as I had no idea of how the Ombudsman's Office worked and the subjects they covered. I will certainly attend future discussions. Again, thank you. ”

For more information about other forums and roundtables we hosted for our stakeholders during 2010–2011, including roundtables for the disability services and child and family services sectors, see page 94 in Stakeholder engagement.

Information sessions for students

During 2010-2011 we delivered five information sessions to over 150 students and teachers in Orange, Taree, Meadowbank, Bankstown and Ultimo.

In 2010 the Ombudsman visited Mudgee High School to talk about the work of our office and present a prize to the student who won our 2009 Law Week competition. Our youth liaison officer and other staff from our office also regularly give presentations to legal studies and other students at high schools.

We also provide a range of resources for students on our website.

Information sessions for the NSWPF

Our staff regularly provide information sessions as part of the NSW Police Force's (NSWPF) training for executive officers, internal investigators and student police officers. During 2010-2011 we delivered 13 of these sessions

to approximately 1,500 police officers in Parramatta, Hurstville, Goulburn and Newcastle. These sessions covered our functions and role in the police complaints process as well as current issues affecting the police complaints system.

Presentations at conferences, seminars and meetings

In 2010-2011, we delivered over 75 presentations at events such as the following:

- | Australian and New Zealand Law and Education Association Conference – the Ombudsman gave a presentation to 200 delegates on our role in the child protection and education sectors
- | Corruption Prevention Network Conference – the Ombudsman gave a presentation to 300 delegates on public sector ethical standards
- | National Investigations Symposium – together with the ICAC and the Institute of Public Affairs Australia we hosted this symposium for public sector investigators and complaint-handlers in Sydney. We also delivered a managing unreasonable complainant conduct training workshop for delegates
- | National Local Government Customer Service Network Conference, Canberra – presentation on complaint-handling
- | Justice Health Consumer Group meeting – presentation with the Health Care Complaints Commission on the roles of our agencies in inmate health complaints
- | NSWPF Investigations Symposium in Parramatta – presentation to 80 delegates on the role of our Secure Monitoring unit
- | NSWPF Executive Officer's Forum in Dubbo – presentation by our Deputy Ombudsman (Police and Compliance) on complaint trends and current projects
- | National Disability Services Annual Conference – the Community Services and Disability Commissioner gave a presentation on our work in the community services sector
- | Association of Children's Welfare Agencies' Leaving Care Forum – presentation on the findings of our review of young people leaving care
- | provided briefing sessions on our employment-related child protection role delivered to the independent schools sector, and various education seminars including the Australian Teacher Registration Authorities Annual Network Meeting
- | Australasian Conference on Child Death Inquiries and Reviews, Brisbane – presentation on our child death review function
- | Aboriginal Community Transport Forum – presentation by the Director of our Strategic Projects Division to 70 delegates on our work to improve service delivery to Aboriginal people with a disability
- | Regional Youth Development Officer Network Conference – presentation by our youth liaison officer on the role of our office and our work with young people.

The Community Services and Disability Commissioner also spoke at meetings of various peak bodies – including the Aboriginal Child, Family & Community Care State Secretariat, Association of Children's Welfare Agencies and the Education Centre Against Violence – on our work in the community services sector, and to various local health networks (area health services) on the implementation of *Keep Them Safe*.

The Deputy Ombudsman (Public Administration) also made a number of presentations about complaint management and public disclosures at conferences, symposiums and forums organised by the Local Government Association, CEO's Breakfast, Commonwealth Alternative Dispute Resolution Inter-Agency Group, Administrative Law, Private Health Insurance Ombudsman, Government Lawyers Association, and Judicial Commission of NSW.

Attending community events

During 2010-2011 we participated at over 15 community events including:

- | The Association of Children's Welfare Agencies Conference 2010, the NSW Chapter of In Control Australia's BiG Event, Broken Hill's Disability Service Provider Expo, and the Inner West Disability Services Expo. We also provided information for distribution at the Home and Community Care NSW Aged Care Conference, and the Carers NSW 2011 Biennial Conference
- | Aboriginal Information Road Shows organised by the Department of Premier and Cabinet, and Good Service Forums in a number of regional locations
- | community events such as the Mardi Gras Fair Day 2011, 2011 Refugee Symposium and Refugee Week's Putting the pieces together forum, NAIDOC Week events, Sydney's Homeless Connect, Central Coast Community Legal Services Expo, and the Harmony Day Expo in Parramatta
- | shared information stalls with other oversight agencies at International Women's Day, Senior's Day at the Royal Easter Show, Eastwood Community Information Expo 2011, and the African Summer Festival.

Hosting international delegations

We regularly host visits from international delegations from a range of government agencies and oversight bodies and provide them with briefings on our jurisdiction and the work we do. During 2010-2011 we delivered 11 of these briefings to 215 delegates. Eight of these visits were by groups from the People's Republic of China – from agencies such as the Ministry of Justice, Ministry of Supervision and various courts. We also hosted a group of executive level Vietnamese public servants as part of their AusAID-funded Public Sector Management course, and another delegation from the Kenyan Anti-Corruption Commission. For more information about our international work, see page 99.

Producing publications and resources

Our community education activities also include producing a range of accessible resources, guidelines and newsletters. For example, this year we issued or updated fact sheets, guidelines, electronic newsletters, submissions, annual reports and special reports to Parliament. We also distributed subject-specific summaries of our 2010–2011 annual report to a range of peak bodies and organisations in the child welfare, disability, justice and Aboriginal community sectors.

This year we also contributed to the 2011 'Child Safety Handbook'. This is a resource distributed free of charge to primary school children throughout NSW and helps to increase community awareness of our role in the area of child protection.

Accessible resources

General information about our office is available in a range of accessible formats – including large print, braille, audio and accessible CD. These resources were distributed this year to key disability advocacy services through Vision Australia. Our toolkit for consumers of community services is also available in an audio format.

This year we also reviewed our community language information resources. We developed a multilingual brochure with basic information about our services in 26 community languages, and a fact sheet 'Making a complaint to the Ombudsman' translated into 46 community languages. These resources will be released later in 2011.

Fact sheets

During 2010-2011 we updated and issued new fact sheets for the Community Services sector on reviewable deaths, licensed boarding houses, and our work with Juvenile Justice and official community visitors. We also updated our public sector and council fact sheets, and our information sheets for women and for young people and the police. We issued an employment-related child protection practice update as well as a new factsheet to help agencies with Ombudsman inquiries and investigations.

Guidelines

The second edition of our *Effective complaint-handling guidelines* was released in 2010, as was our updated toolkit for consumers of community services in NSW – *The Rights Stuff: Tips for making complaints and solving problems*.

We also released the first set of our public interest disclosure (PID) guidelines and factsheets for public agencies. A series of additional PID resources will be released in stages throughout 2011-2012.

For the full list of the publications we updated or released during 2010-2011, see Appendix Q.

Ombo Info – our electronic newsletter

Our electronic newsletter *Ombo Info* is published at least twice a year and aims to increase public awareness about the work that we do. The newsletter features information on our current work, recent reports, new and updated resources, and news about our community education and training program and events. The newsletters we released in 2010-2011 covered topics ranging from improving probity standards for funded organisations, service provision to the Bourke and Brewarrina communities, responding to the asbestos problem: the need for significant reform in NSW, and police handling of domestic and family violence complaints.

Our PID unit also released their first electronic newsletter in 2011 with information to help public sector agencies implement the changes to their responsibilities under the amended *Public Interest Disclosures Act 1994*.

To subscribe to receive *Ombo Info* or the Public Interest Disclosures e-news, please visit our website at www.ombo.nsw.gov.au.

Working with Aboriginal communities

Increasingly, our work with Aboriginal communities involves looking for practical strategies to tackle major issues that impact on the health and wellbeing of Aboriginal people, particularly in relation to child protection, policing, out-of-home care, access to disability support and other critical services. We review the efficiency and effectiveness of service delivery to some of the most disadvantaged locations in NSW, and recommend ways that government can work with communities on the reforms needed to deliver real improvements.

Our Aboriginal Unit is part of our strategic projects division, a multidisciplinary team responsible for reviewing whole-of-government service delivery. The work of this unit, supported by our senior staff, has enabled us to establish and strengthen close links with Aboriginal communities, their leaders and with the frontline agencies and services that work with them.

Many of our current efforts to assist Aboriginal communities stem from our responsibility to audit the implementation of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities 2006-2011* (Interagency Plan), which we outlined in last year's annual report.



This year we visited the Cape York partnership communities to inform our own work with Aboriginal communities in NSW.

Addressing Aboriginal disadvantage

The broad goals of the Interagency Plan – which include reducing disadvantage and dysfunction in Aboriginal communities, building up Aboriginal leadership and increasing family and community safety and wellbeing – recognise that child sexual assault cannot be tackled in isolation from addressing broader issues of Aboriginal disadvantage.

While we are not required to report on the findings of our audit of the Interagency Plan until the end of 2012, we had intended to publish an interim report examining progress against the plan's three key areas – law enforcement and justice, early intervention and prevention, and strengthening Aboriginal communities – by mid 2011. However, as a result of our ongoing work in relation to the audit and our other related functions, we decided there was a need to urgently examine and report on a number of specific issues relating to Aboriginal disadvantage more broadly which, unless effectively addressed, will continue to undermine efforts to tackle child sexual assault.

In December 2010, we made a special report to Parliament detailing the findings and recommendations of our *Inquiry into service provision to the Bourke and Brewarrina communities*. The inquiry was instigated in response to longstanding concerns held by Aboriginal leaders about the quality of service delivery to vulnerable children and their families in both communities. While our report focused on addressing the critical challenges in Bourke and Brewarrina, its recommendations are directly relevant to other high-need rural and remote communities in NSW.

Making significant inroads into tackling Aboriginal disadvantage is dependent on better meeting the needs of these types of communities. While most Aboriginal people in NSW live in urban locations, compared with the population as a whole they are more likely to live in regional or remote areas. For a range of reasons – including vast geographical distances and more limited access to services, infrastructure and employment – rural and remote communities tend to experience increased disadvantage.

As our inquiry clearly demonstrated, simply directing additional funds to more Aboriginal programs is not the solution. Rather, what is needed is to rebuild the broader service system to achieve a more targeted response to those individuals and communities most in need of assistance and support.

Our report recommended that the Department of Premier and Cabinet, together with the (then) Department of Human Services, develop an action plan to:

- | rebuild the way services are planned and delivered to disadvantaged Aboriginal communities, including addressing chronic staffing shortages in Western NSW and building the capacity of the Aboriginal service sector
- | develop an 'intelligence-driven' child protection practice to identify the children and families at most risk
- | undertake a comprehensive needs assessment in these communities and a related integrated service planning and delivery approach which involves centralised planning and funding processes that bring together local, state and federal agencies to reduce duplication and improve efficiency
- | implement strong and effective leadership and governance arrangements, including accountability mechanisms for ensuring ongoing monitoring of service outcomes.

At the time of writing, we had not received a formal response to our recommendations.

Since issuing our Bourke and Brewarrina report, there have been a number of significant developments, including the election of a new government in NSW, which recently announced the establishment of a Ministerial Taskforce on Aboriginal Affairs. This announcement coincided with the preparation of our further report to Parliament, *Addressing Aboriginal disadvantage: the need to do things differently*.

The report was informed by our many years of work in relation to improving service delivery to Aboriginal people, who – despite significant investments by state and federal governments and modest improvements in some areas – continue to experience poorer outcomes than non-Aboriginal people across almost every economic, health and environmental measure. It also drew on our more recent consultations with Aboriginal communities, and the agencies that provide services to them, as part of our audit of the Interagency Plan and our Bourke and Brewarrina inquiry.

The report provided us with an opportunity to highlight a number of issues that have been repeatedly raised with us during these consultations, including poor school attendance by Aboriginal students, and severely limited access to forensic medical examinations for children who have been sexually assaulted living in remote parts of the state.

The report outlined the need for a critical 'rethink' about the way that government works with Aboriginal communities, and for reforms to the 'infrastructure' governing Aboriginal affairs in NSW more generally. In particular, the report discussed the need to:

- | recognise and practically support the important role of Aboriginal leaders in bringing about change
- | develop a clear plan to strengthen the Aboriginal service sector
- | Improve the capacity to respond to vulnerable children and adolescents, particularly in western NSW
- | facilitate innovative local approaches to education, with a particular focus on improving school attendance
- | develop an integrated, statewide strategy to build the economic capacity of Aboriginal communities.

The over-riding theme of the report was the urgent need to establish a stronger accountability framework for addressing Aboriginal disadvantage at a statewide level. The essential components of this framework are:

1. Strong leadership and governance arrangements to drive action and measure results, including establishing positions with sufficient authority to coordinate government action in regions and in identified priority locations.
2. Integrated decision-making at all levels of government about local service planning, funding and delivery, including streamlining the administration of funding arrangements with the non-government sector.
3. More rigorous and meaningful data collection, analysis and public reporting on progress made against key indicators at a local community and statewide level.
4. A statutory agency to provide independent scrutiny of the steps taken to implement the government's approach to addressing Aboriginal disadvantage and the outcomes achieved.

We will outline our examination of the government's response to our findings and recommendations in next year's annual report.

Reviewing a group of children and young people at risk

In last year's annual report we announced our intention to examine information holdings relating to all children (Aboriginal and non-Aboriginal) from two nominated locations in western NSW. This work follows on from previous work in western NSW and is part of our audit of the Interagency Plan.

We are currently reviewing the circumstances of 48 'at risk' children between the ages of nine and 12 from these two communities, who meet one or more of the following criteria:

- | a high level of non-school attendance
- | a high number of days absent due to suspension
- | a high rate of police contact
- | police included the child on their 'priority list'
- | police records indicated that the child was at risk of sexual harm or abuse/neglect
- | education records indicated that the child was at risk of sexual harm or abuse/neglect.

Our aim is to assist agencies develop a clear picture of information holdings and the number of families and children involved, and to determine the extent and nature of the existing need in these locations. This work should help agencies to identify what can and cannot realistically be done for the children and families identified.

After receiving key data from the NSWPF and the Office of Education about the identified risk factors, we undertook a detailed examination of each child's situation. This included their police and child protection history (via Community Services's KiDS system and the NSWPF's COPS database) and other information from police, education, health and the (then) Department of Human Services's Child Wellbeing Unit's WellNet database. We also reviewed the policing history of the parents or carers of these children.

Our reviews also included an analysis of how each child's case had been handled and an assessment of any immediate risks for the child or their siblings. Any cases that indicated imminent risks were immediately raised with Community Services.

We are now examining what the data reveals about whether and how the most vulnerable children and their families in the two locations are being identified, and the nature of collaborative work being undertaken by agencies at a local level to ensure adequate supports are provided to these families. This review will also allow us to test the effectiveness of some of the key reforms to the child protection system.

Our review has already underscored the extremely limited capacity of Community Services to provide a basic child protection service to high-need families in remote communities. In part, this is due to critical staffing shortages in the western region. Information provided to us recently by Community Services about current staffing capacity and caseloads across a number of western region community service centres, has confirmed that staff shortages are a critical problem.

In addition, our work to date has reinforced that police and education information holdings are pivotal in identifying and assessing risks to children. What we have seen so far has also confirmed our view that there is an urgent need for an 'intelligence-driven' child protection approach to be adopted.

Once our data analysis has been completed we plan to consult human service and justice agency representatives about our findings including any systemic issues identified.

Strengthening Aboriginal out-of-home care services

As at June 2010, Aboriginal children comprised one-third of the more than 17,000 children in out-of-home care (OOHC) in NSW.

Last year we began a comprehensive review of Aboriginal OOHC services. The purpose of our review was to examine the systems Aboriginal OOHC agencies have for handling complaints and how well they are fulfilling their child protection responsibilities under Part 3A of the *Ombudsman Act 1974*. Our goal is to strengthen these agencies by helping them to improve their systems and practices.

Our initial reviews of three of these services identified some excellent practice, but also revealed a need for agencies to improve their understanding of their legislative child protection responsibilities and their complaint-handling systems. There was a clear need for agencies to develop procedures based on the NSW legislative framework for the protection of children. Particular improvements were also needed to recording practices, and the information and training provided to employees of the services. Also identified was a need to develop separate procedures to handle complaints and staff grievances.

Given the many common issues raised by our audits, we provided training to Aboriginal OOHC agencies in December last year on handling employment-related child protection allegations, including allegations that involve criminal conduct. The training was funded by AbSec, the peak NSW Aboriginal body providing child protection and OOHC policy advice to the government and non-government sector.

In addition, the Deputy Ombudsman and the Children's Guardian met with the AbSec Board in April this year to discuss the need to better align the accreditation requirements of the Children's Guardian with the Ombudsman's notification requirements for employment-related child protection allegations. It was agreed that we would support AbSec's senior accreditation officer by providing training and resources to work with each out-of-home care service to ensure their policies and systems meet both sets of requirements. This individual assistance aimed to help minimise duplicated effort by oversight and regulatory bodies in creating policies about similar issues.

To allow agencies time to develop and implement the revised policies and procedures, we have delayed auditing the remaining five Aboriginal out-of-home care services until early 2012.

Aboriginal young people and the criminal justice system

Aboriginal people, including young people, are significantly over-represented in all levels of the criminal justice system – and this is directly related to the broader social and economic disadvantage faced by many Aboriginal communities. For example, young people who are Aboriginal and have come to the attention of police are more likely to be transferred to court and less likely to receive a warning than young people in similar circumstances who are not Aboriginal. Aboriginal defendants are also more likely to face a bail determination and the possibility of being unable to meet bail conditions, breach bail conditions or be refused bail.

Reviewing young offender legal referrals and Aboriginal cautioning

The *Young Offenders Act 1997* encourages police to divert young offenders – who meet certain conditions set out in the Act – from the criminal justice system. Young offenders who satisfy these conditions may be cautioned or participate in a youth justice conference, rather than face charges at court. One of the conditions is a requirement that the child admits the offence.

Since its introduction, the Young Offenders Act has included provision for a 'cooling off' period of between 10 and 21 days. This allows a young person time to seek legal advice and/or change their mind about whether they wish to admit to an offence and therefore potentially be eligible to be cautioned.

The Act also allows police to ask a 'respected member of the community' to caution young offenders under the Act. It specifically provides that 'a caution may be given by a respected member of the Aboriginal community if the child is a member of that community'.

We previously completed an investigation in 2005 into the police use of interventions under the Young Offenders Act. We were pleased with the way the NSWPF responded at that time to our recommendations aimed at addressing a number of issues identified through the investigation.

At the PASAC meeting in May 2010, information was presented comparing the numbers of Aboriginal and non-Aboriginal young people charged in recent years and the recorded reasons for these charges. PASAC considered how many of these young people might have been eligible for cautions under the Young Offenders Act if two key police protocols – the young offenders legal referral (YOLR) protocol and the cautioning young people (CYP) protocol – were more widely and effectively used.

The YOLR protocol provides practical guidance to police on ways to use the 'cooling off' period in 'after hours' arrest situations where it may not be practicable for a young person to consult a legal representative. It aims to facilitate the use of the 'cooling off' provision and increase the number of young people, especially Aboriginal young people, who are eligible for caution or conference – and therefore reduce the number of young offenders appearing before the courts.

The CYP protocol provides a framework for police – through youth liaison officers – to promote, recruit and train respected Aboriginal community members to take a role in cautioning.

After a request from the Commissioner of Police at another PASAC meeting later in 2010, we agreed to convene a

meeting with the NSWPF, Legal Aid NSW (the Children's Legal Service) and the Aboriginal Legal Service (NSW/ACT). The meeting, in April 2011, provided an opportunity for agencies to review the adequacy and effectiveness of the YOLR protocol and the CYP protocol and share information about the operation of the Young Offenders Act.

The meeting was very constructive, with robust consideration of key issues including:

- | the effectiveness of current referral processes
- | practical constraints on the capacity of Legal Aid and Aboriginal Legal Service (ALS) solicitors to provide quality legal advice by telephone after hours
- | ways to improve outcomes for young people with better use of the diversionary processes under the Act.

At the end of the meeting there was broad agreement on an action plan to reinvigorate and improve the use of the cooling off period through the YOLR, and support the involvement of respected community members in cautioning young people.

Specific agreement was reached to:

- | review the Legal Aid Youth Hotline protocol between the NSWPF and Legal Aid
- | better align the separate NSWPF agreements – with Legal Aid about the use of the Youth Hotline and with the ALS about use of the ALS Hotline
- | trial the revised YOLR and 'community cautioner' protocols in two busy local area commands in western Sydney.

In late May, we circulated an action plan to all parties and were pleased to see that everyone involved had responded by taking steps to implement the actions listed within the agreed timeframes. We can already report that significant progress on updating the Youth Hotline protocol has been made.

We received advice recently that Campbelltown and Macquarie Field's local area commands have relaunched the YOLR scheme with one young person accessing the scheme in the week after its launch. Information and statistical data will be gathered from these two commands to assist in reviewing the operation of the scheme. Discussions between NSWPF and the ALS are also well underway to develop a protocol for the use of the ALS hotline.

We will continue to monitor outcomes in coming months and provide support where appropriate.

Inquiry into Indigenous youth in the criminal justice system

Early intervention in the lives of children is critical to breaking the cycle of Aboriginal disadvantage and reducing the contact these vulnerable young people have with the criminal justice system. We have consistently argued – most recently in our report to Parliament, *Addressing Aboriginal disadvantage: the need to do things differently* – that addressing the high level of Aboriginal young people's involvement with the criminal justice system ultimately depends on improving agency strategies to identify and manage those young people and their families at greatest risk and provide well-integrated services to them. Unless young

people receive the care, support and services they need when they are very young, their involvement in the criminal justice system can begin early and escalate significantly.

On 21 June 2011, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs released *Doing Time – Time for Doing*, the report of its inquiry into Indigenous youth in the criminal justice system. Our submission to the inquiry was extensively quoted in the report. For example, our argument that human services agencies should take an 'intelligence driven' approach to the early identification of vulnerable children and young people who are at risk, and undertake integrated case management to support them and their families, was specifically noted.

Among other things, the inquiry highlighted the need for a broad suite of safe accommodation options to be available to young Aboriginal people, something we also emphasised in our recent report to Parliament about addressing Aboriginal disadvantage.

Visiting juvenile justice and correctional centres

Staff from our Aboriginal Unit accompanied staff from our corrections unit and human services staff on 12 visits to juvenile justice and correctional centres this year. This helps to ensure that Aboriginal detainees have the opportunity to speak with another Aboriginal person about any concerns they may have. During our visits we also see if centres are making adequate efforts to meet the cultural needs of Aboriginal detainees and inmates.

Supporting Aboriginal people with disabilities

It has been almost a year since the release of our special report to Parliament, *Improving service delivery to Aboriginal people with a disability*, in which we reported on our review of the implementation of Ageing Disability and Home Care's (ADHC's) Aboriginal Policy Framework and Aboriginal Consultation Strategy. ADHC responded very positively to the report, providing a formal response in April this year, and a further update more recently.

ADHC has taken action to implement a number of significant initiatives in response to our recommendations. These include establishing an Aboriginal Advisory Committee, developing and launching a comprehensive accountability framework for its work to improve service delivery to Aboriginal people, and implementing programs to employ more Aboriginal staff.

Membership of the Aboriginal Advisory Committee includes ADHC's Chief Executive, the Deputy Directors-General and representatives of the Ministerial Advisory Committee on Ageing, the NSW Disability Council, the NSW Carers Council, the Home Care Advisory Board and the chair of the HACC Gathering Committee. According to the Aboriginal Cultural Inclusion Framework, the committee 'will inform a strategic and coordinated approach to ensure culturally inclusive service delivery'.

The Aboriginal Cultural Inclusion Framework 2011-2015 was developed in direct response to our recommendation that ADHC develop an accountability framework incorporating a range of key result areas, including raising awareness among and consulting effectively with Aboriginal communities; increasing Aboriginal employment; improving access to services and providing more flexible services. The framework consolidates ADHC's overall approach to providing services to Aboriginal people with a disability, their families and carers. Importantly, it articulates a strong commitment to improved monitoring and reporting in this area.

ADHC has also developed 'Aboriginal Jobs Together' – a workforce development initiative to build organisational capacity and increase Aboriginal employment – in response to our report. ADHC has indicated that it will work with Aboriginal Affairs NSW to increase Aboriginal employment in the NGO sector, contributing \$700,000 over two years as part of its Aboriginal Employment Capability and Development Innovations Fund. We are aware that expressions of interest for NGOs to partner with the National Disability Service have been received. Successful applicants

will be able to negotiate a tailored package of integrated services to support the ongoing placement of an Aboriginal trainee/cadet. We have requested further information about the range of incentives, tools and support for Aboriginal employment initiatives as well as the status of the employment trial and how many cadet traineeships positions have been filled.

As the above initiatives demonstrate, the progress that ADHC has made in response to our report has been positive. We will continue to monitor ADHC's implementation of these initiatives to assess their practical impact.

Handling complaints

Staff from our Aboriginal Unit regularly meet with local service providers, agencies and community members to talk about ways to improve outcomes for Aboriginal people. Handling complaints about policing remains an important part of our work, but Aboriginal communities and services also raise a range of other concerns with us.

Case study 78: Births, deaths and marriages

An Aboriginal woman contacted our office to complain that she was asked to pay for a change of name certificate by the Registry of Births, Deaths and Marriages. She is one of the Stolen Generation and only recently became aware of her birth name.

We advised the complainant that although the Registry was entitled to charge her for any service they provided, she could apply to them for special consideration to have the fees waived. We arranged for her to be contacted by an Aboriginal staff member from the Registry to discuss her concerns.

Although it appeared that this individual complaint was resolved, it drew our attention to how the Registry deals with clients from the Stolen Generation and how this is reflected in the public information available on their website and at individual registries.

We found that the Registry website had very little information for Aboriginal clients. There was no other information on the website specifically for them and no indication that their enquiry could be handled by an Aboriginal staff member on request.

Our Aboriginal Unit suggested a number of changes to improve accessibility for Aboriginal clients and to be more responsive and inclusive of their needs.

Following our suggestions, the Registry developed a fact sheet and changes to their webpage to inform Aboriginal clients of the services they provide – including the Registry's Indigenous Access Program and particular information relevant to those of the Stolen Generation.

Case study 79: Urgent need to find a new home

We try to address a complainant's concerns quickly and informally – especially when the issues are urgent.

A Sydney family contacted us a week before Christmas after a young nephew who was visiting from out of town was critically wounded outside the family's home. Their nephew had been talking with some young people who were not known to the family, when a fight broke out. Three shots were fired, hitting the nephew in his leg and hip.

Shots were also fired at the family's home. According to the family, the same young men returned later that night, shouting threats and attempting to gain entry. The family said they feared for their safety, and claimed that Housing NSW would not help them to find safe alternative accommodation. The men responsible for the shooting were at large and it seemed that police also held fears for the family's safety.

We contacted Housing NSW to discuss the family's situation and explain that, in our view, their fears were genuine. They then gave the family – including extended family members who were visiting for Christmas – access to emergency accommodation for a few days and arranged to meet with them to discuss a priority transfer.

In the days that followed we received several calls from the family. We explained Housing NSW's process for assessing priority transfers, the information they would need from the family, and how to request a review if the family was unhappy with the outcome.

Two days before Christmas the family called again, thanking us for our help. They advised that Housing NSW had approved the transfer and that they were about to pick up keys to their new home.

Case study 80: A proud family history

A man contacted our Aboriginal Unit about seeking a descendant claim for lost wages through the Aboriginal Trust Fund Repayment Scheme. He confirmed that he had difficulty with reading and understanding legal terms and asked for our assistance.

The man advised that his father, who was now deceased, had worked throughout his working life in the New England and North Coast of NSW as a labourer, stockman, station hand and shearer. This was before he enlisted in 1940 during World War II.

The man also asserted that – to the best of his knowledge – his father was not paid the wages due to him for this entire period. He explained that, through Aboriginal oral history and discussions with family members, he believed that his father's money – like so many Aboriginal people involved in similar jobs – was either paid into a trust fund administered by the Aboriginal Protection Board or by the Aboriginal Welfare Board.

After a number of phone calls, we were able to explain the process involved and assist the man in his journey with the Aboriginal Trust Fund Repayment Scheme Panel.

Case study 81: A successful conciliation

We received a complaint from the NSWALC about significant delays in processing land claims by the then Land and Property Management Authority (LPMA). A previous complaint on this issue had been resolved after additional funding had been made available to the LPMA's Aboriginal land claims unit. NSWALC complained to us again when it became clear that funding in and of itself would not resolve the concerns they had – which now also included communication difficulties between the two agencies.

We identified factors suggesting that conciliation might be a more appropriate solution than written

inquiries. This was because the two agencies have an ongoing relationship, the matter included issues of communication and trust better dealt with through face-to-face discussions, and they each have vested interests in resolving the problem. Both agencies agreed to take part in the conciliation and were willing to put to one side larger legal questions that were awaiting legal advice or a determination by a court.

The conciliation was successful, enabling both the NSWALC and LPMA representatives to 'clear the air' and lay the groundwork for a more constructive working relationship. They endorsed a 15-point agreement which included improved sharing of information, measures aimed at speeding up processing, giving priority generally to the oldest claims and other practical improvements. Both parties have since advised us that they were satisfied with the process.

The participants commented that the conciliation process had been effective and efficient, providing a chance to openly discuss previously contentious issues on 'neutral ground'.

Working with other agencies, organisations and community groups

Our partnerships with other agencies and organisations in NSW are critically important to our work in relation to Aboriginal communities. This year we facilitated several high level meetings with agencies to progress specific issues.

For example, in March this year the Ombudsman and Deputy Ombudsman met with the Director-General of Education, the Commissioner of Police and the CEO of Aboriginal Affairs NSW to discuss the need for innovative approaches to address the concerns of one particularly vulnerable Aboriginal community about poor school attendance and suspension practices. An outcome of this meeting was an agreement by the agencies to establish a trial of a dedicated School Liaison Police Officer in the community. See page 95 in Stakeholder engagement for more details.

Last year, we also convened a meeting with the Deputy-Director General of NSW Health, the Commissioner of Police, and the CEOs of Aboriginal Affairs NSW and Community Services, to explore a range of options for improving access to forensic medical examinations for victims of sexual assault in rural and remote locations, where many of the most disadvantaged Aboriginal communities are located. As a result of this meeting, a pilot forensic assessment triage service, which involves Aboriginal health workers carrying out an initial assessment of sexual assault victims to ascertain the need for a forensic examination to be performed by a paediatrician, was established in Walgett. This service has since commenced, and NSW Health is now considering establishing additional triage/assessment services in a number of western NSW communities.

This year we have also established close links with the Australian Crime Commission (ACC). With our assistance, the ACC recently convened a meeting in Canberra to discuss how best to progress the findings of their National Indigenous Intelligence Taskforce around abuse of power and fraud in Aboriginal communities. The ACC led discussions about the difficulties encountered in proving fraud when a service's financial documentation is very poor. This also raises questions about the adequacy of

existing agency requirements on funded organisations to report on funding expenditure and service outcomes, and the robustness of agencies' monitoring of compliance. In this regard, our recent report on addressing Aboriginal disadvantage highlighted the need to streamline the administration of the NGO sector and strengthen probity standards.

There was support from meeting participants for the adoption of a consistent approach by all state and federal agencies in relation to funding reporting requirements and related accountability measures. As a result, we convened a meeting with NSW oversight agencies and Aboriginal Affairs NSW to ensure that we all work collaboratively on this issue.

Other federal government agencies are also increasingly taking an interest in our work with Aboriginal communities. For example, during the year we met with the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) and the Coordinator General for Remote Indigenous Services – who oversees the performance of Australian government agencies in meeting their commitments to implement the National Partnership Agreement on Remote Service Delivery (RSD).

During the year we also met several times with the Audit Office to discuss our audit of the implementation of the Interagency Plan and how our offices can better work together in relation to issues affecting Aboriginal people. The Audit Office discussed the proposed scope of their performance audit of the Two Ways Together plan and advised us that our report about service delivery to Bourke and Brewarrina report would be a key source of information for their audit. A regular liaison arrangement was agreed so that both of our agencies can take into account each other's planned activities when developing work programs for the coming year.

We also share information about our work with Aboriginal communities with other Ombudsman offices and oversight bodies through regular forums and targeted visits.

During 2010–2011, we also:

- | met regularly with Aboriginal representative organisations, Aboriginal service providers and Aboriginal staff in key agency roles to discuss service delivery issues and gather information to inform our audit work
- | liaised with Aboriginal Affairs NSW – at both a corporate and local level – to discuss our audit programs, provide feedback and exchange information about service delivery in the regions we visit
- | provided briefings to the Aboriginal Child Sexual Assault Ministerial Advisory Panel (MAP), an expert advisory panel set up to advise the Minister for Aboriginal Affairs on implementing the Interagency Plan
- | met with the National Indigenous Intelligence Taskforce (NIITF) to discuss their role in examining child sexual assault and abuse of power in Aboriginal communities, and how we can best discharge our responsibilities to share information with the NIITF when required

| attended the Education National Aboriginal Attendance Forum – this forum brought together seven representatives from each state's education department as well as the Department of Education, Employment and Workplace Relations (DEEWR) and the NSW Aboriginal Education Consultative Group (AECG). Since our participation in this forum, the NSW Department of Education and Communities has indicated that they are keen to discuss the issues that have arisen from our consultations with Aboriginal communities and education staff about school attendance.

Community groups

Much of our current work in Aboriginal communities is focused on practical ways to improve child protection and wellbeing. We also reach out to communities through a number of established programs, such as the Good Service forums. These forums give us the opportunity to inform Aboriginal communities about our role and their right to complain about difficulties with government or non-government agencies. This year, staff from our Aboriginal Unit attended Good Service forums in Tamworth, Gunnedah, Guyra, Muswellbrook, Karuah, Taree, Nambucca Heads, Narrabri, Toomelah and Boggabilla.

This year we began participating in the Aboriginal Community Information & Assistance Road Shows organised by the Department of Premier and Cabinet. We visited several centres in the Far South Coast region, enabling us to promote awareness of our role and reach many community members. A key outcome of the Far South Coast event was an informal roundtable discussion with key stakeholders including Aboriginal Affairs NSW, the NSWPF Aboriginal Community Liaison Officers and Community Justice Centre mediators from Sydney.

During 2010–2011, we also:

- | participated in five NAIDOC week events, informing hundreds of community members of our role
- | gave a presentation to 80 people about our work with Aboriginal communities to a statewide gathering of Aboriginal Home and Community Care workers in Wollongong
- | participated in a workshop of 80 people at the Quirindi Women's Aboriginal Forum, presenting information about our role in auditing the Interagency Plan and leading a discussion on related issues. Participants at the forum included the Education Centre Against Violence, Attorney General's Department staff, Wirringa Baiya Aboriginal Women's Legal Centre and community members
- | gave a presentation to a group of 20 students at the Tranby Aboriginal College, an organisation delivering education to Aboriginal students from across Australia, about the role of the Ombudsman and our Aboriginal Unit.
- | responded to an invitation from IDEAS NSW, a disability peak organisation, to deliver a presentation to their staff on the role of our office and in particular, our work in auditing ADHC's service provision to Aboriginal people with a disability
- | gave a presentation at the Mount Druitt Aboriginal Community Forum, on behalf of the Western Region Aboriginal Education Team, about the role of our Aboriginal Unit and our work in relation to examining education outcomes for Aboriginal students and ways to improve school attendance.

- | gave a presentation about the findings of our review of the implementation of ADHC's Aboriginal Policy Framework to 20 staff members from ADHC at their Aboriginal Employee Network Forum
- | attended the Foster Carer's Carnival, organised by the Association of Children's Welfare Agencies, and met with and distributed promotional materials including fact sheets and brochures to over 200 community members
- | gave a presentation at the AusAid Child Protection Forum in Melbourne on the key principles of complaint-handling and practical strategies for identifying and responding to the needs of children and families in small, remote communities that have limited access to services. This was based on our experience working with Aboriginal communities
- | provided a briefing on the work of our Aboriginal Unit at the Aboriginal Education Consultative Group Information session held in Katoomba
- | gave a presentation to the NSWPF's Western Region Professional Standards Duty Officer and Executive Officer Forum in Dubbo to discuss the role of our Aboriginal Unit and how we handle complaints. The session was opened by Assistant Commissioner Peter Gallagher – the Western Region Commander and Aboriginal Corporate Spokesperson – and included NSWPF inspectors and executive officers
- | gave a presentation to 90 people at the Aboriginal Legal Service Conference held in Terrigal about our role in handling police complaints and matters involving the care and protection of children.

On behalf of the Working Group for the Aboriginal Women's Forum against Child Sexual Assault, we would like to thank you for your involvement in the forum ... without your support the forum would not have been as successful as it was, and again we thank you

— The working group of the Aboriginal Women's Forum Against Child Sexual Assault, Quirindi.

Financials

The financial statements provide an overview of our financial activities during 2010-2011. These statements, our supporting documentation, and our systems and processes have all been reviewed by the Audit Office. We received an unqualified audit report.

As a response to legislative changes, we received additional funding from the Government for our new public interest disclosure responsibilities as well as for the transfer of the Child Death Review Team to our office. In the reporting year, these funds were used primarily to establish these roles, which included the recruitment of staff.

Our staff expenses such as salaries, payroll tax and superannuation continued to account for just under 80% of all our expenses. The running of the office cost us about \$4.6 million.

We focused on increasing the level of revenue we generate – a strategy to assist us deal with the ongoing budget pressures we face. Through better co-ordination, we were able to increase revenue from our training and education activities by 83% over the previous year.

This year we continued to refine our internal budget management processes, devolving more responsibility to cost centre managers. We also consolidated our audit and risk activities, with the Audit and Risk Committee providing an increased level of assurance to the Ombudsman that our processes comply with legislative requirements and accounting standards.

Highlights

- | Strengthened our financial governance framework through the work of our Audit and Risk Committee. [SEE PAGE 114](#)
- | Secured additional funding for our new responsibilities with respect to public interest disclosures and supporting the work of the Child Death Review Team. [SEE PAGE 114](#)
- | Generated \$861,000 in revenue, up from \$436,000 the previous year, enabling us to extend our community outreach and project work and other core activities. [SEE PAGE 115](#)
- | Received an unqualified audit report from the NSW Audit Office for our financial records and systems. [SEE PAGE 116](#)
- | Paid 99.84% of our accounts on time, exceeding our performance indicator. [SEE PAGE 115](#)
- | Included financial management as a compulsory training course in our leadership development program. [SEE PAGE 115](#)
- | Through better management of our claims, reduced our workers compensation expenses by 11%. [SEE PAGE 115](#)



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Our financials

We have previously reported about the effects of ongoing efficiency dividends as well as the impact of unfunded pay increases. This year was the first full year of our major structural change, which we implemented to cut costs to relieve our ongoing funding issues. A successful strategy of the restructure was the better coordination of our training and education activities, and the development of fee based training courses. Our revenue generated by training has allowed the office to undertake significant proactive project work as well as supporting other core work.

We have continued to refine our internal budget management processes and have devolved responsibility for financial management to all cost centre managers. To support our managers we organised financial management and budgeting training.

Our Audit and Risk Committee continued its role in providing assurance that our financial processes comply with legislative and office requirements. See Corporate governance on page 15 for more details on our Audit and Risk Committee.

This year we began a review of our chart of accounts as well as our accounting manual. Our chart of accounts categorises our expenses and revenues as well assets and liabilities to assist with the reporting and analysis of our financial position. We need to make sure that the categories we use are relevant not only to us but link to how we need to report to NSW Treasury. Our accounting manual outlines our accounting policies as well as internal processes. It guides our accounting staff in their day to day work and provides a guide for our auditors. We will finish our review of both these documents in 2011-2012.

The Ombudsman receives funding from the NSW Government. Although we account for these funds on an office wide basis - as reflected in our financials - internally we allocate them between our three business branches and corporate. The NSW state budget reports expenses and allocations against service groups. In previous years we had four service groups. From 2010-2011 NSW Treasury has determined that we will only be reporting against one group - 'Complaint Advice, Referral, Resolution or Investigation'. Figure 59 shows the net cost of services by service group for the last five years.

Figure 57: Net cost of services by service group

Service groups	06/07 \$'000	07/08 \$'000	08/09 \$'000	09/10 \$'000	10/11 \$'000
Complaint advice, referral, resolution or investigation	n/a	n/a	n/a	n/a	23,425
Complaint advice, referral, resolution or investigation	9,263	9,755	10,405	9,447	n/a
Oversight of agency investigation of complaints	4,124	4,344	4,633	4,206	n/a
Scrutiny of complaint-handling systems	6,272	6,604	7,043	6,814	n/a
Review of the implementation of legislation	1,194	1,087	273	233	n/a
Total	20,853	21,790	22,354	20,700	23,425

Revenue

Most of our revenue comes from the government in the form of a consolidated fund appropriation. This is used to meet both recurrent and capital expenditure. Consolidated funds are accounted for on the statement of comprehensive income, after the net cost of service is calculated to allow for the movement in accumulated funds to be determined for the year. The government also makes provision for certain employee entitlements such as long service leave.

Our initial 2010-2011 recurrent consolidated fund allocation was \$21.460 million and our final allocation was \$21.804 million. We received additional funding to establish the public interest disclosures (PID) unit and to support the child death review team following its transfer to our office.

Included in our allocation is funding for our review of the implementation of new police powers. Details of these reviews can be found in the Policing chapter. \$275,000 was provided for our legislative review work in 2010-2011, which represents 1.26% of the Ombudsman's total recurrent allocation.

In 2010-2011 we budgeted that the Crown Entity would accept \$964,000 of employee benefits and other entitlements. However, the actual acceptance was about \$1,394,000. This variance is primarily due to adjustments to our long service leave liability after actuarial advice in June 2011.

We were initially allocated \$314,000 for our capital program but spent \$369,000 following a supplementation to establish the PID function at the office. Our capital program included buying desktop and laptop computers, upgrading hardware, purchasing new office equipment, and updating and improving our fit-out.

We generated \$861,000 through sales of our publications, bank interest, fee for service training courses and the consultancy services we provide to other ombudsman offices through AusAid programs. We needed to adopt a proactive approach to generating revenue to help with ongoing budget pressures. By coordinating our activities and identifying training needs in agencies and the non-government sector, we have been able to significantly increase our revenue. This additional revenue has enabled us to undertake more proactive project work as well as supporting other core work. See figure 60.

Figure 58: Revenue from other sources

Revenue from other sources	Revenue \$'000
Workshops and publication sales	583
Bank interest	85
Grants and contributions	46
Other revenue	147
Total	861

There is a breakdown of our revenue, including capital funding and acceptance of employee entitlements, in figure 61.

Figure 59: Total revenue 2010-2011

Government	Revenue \$'000
Recurrent appropriation	21,804
Capital appropriation	369
Acceptance of certain employee entitlements	1,394
Total government	23,567
From other sources	861
Total	24,428

Expenses

Most of our revenue is spent on employee-related expenses such as salaries, superannuation entitlements, long service leave and payroll tax. Our statement of comprehensive income shows that last year we spent more than \$19.2 million - or 79.1% of our total expenses - on employee-related items.

Salary payments to staff were 11.6% higher than the previous year. As a result, our superannuation expenses also increased as did our payroll tax related items. Our long service leave expenses increased by \$460,000 - this was partly due to adjustments requested after an actuarial review. Our workers compensation costs were \$71,000, over 11% lower than the previous year.

The day-to-day running of our office costs us over \$4.6 million. Our significant operating items are rent, fees such as contractor costs, travel, maintenance, training, printing and stores. There were no consultants engaged during 2010-2011.

The financial statements show that \$463,000 was expended for depreciation and amortisation. As we spent \$369,000 on our capital program, we had an decrease in our non-current asset base.

Although capital funding is shown on the operating statement, capital expenditure is not treated as an expense - it is reflected on the balance sheet.

Figure 60: Total expenses 2010-2011

Expenses category	Total \$'000
Employee-related	19,222
Depreciation and amortisation	463
Other operating expenses	4,612
Total	24,297

Performance indicator: Accounts paid on time

Quarter	Target %	Paid on time %	Paid on time \$'000	Paid \$'000
September 2010	98	100	2,305	2,305
December 2010	98	99.75	2,011	2,016
March 2011	98	99.61	2,529	2,539
June 2011	98	100	1,151	1,151
Total	98	99.84	7,996	8,011

Note: this table does not include direct salary payments to staff – but includes some employee-related payments such as payments to superannuation funds.

We have an accounts payable policy that requires us to pay accounts promptly and within the terms specified on the invoice. However, there are some instances where this may not be possible - for example, if we dispute an invoice or don't receive it with enough time to pay within the specified timeframe. We therefore aim to pay all our accounts within the specified timeframe 98% of the time. During 2010-2011 we paid 99.84% of our accounts on time. This exceeded our target and is a slight decline in our performance from last year. We have not had to pay any penalty interest on outstanding accounts.

Assets

Our statement of financial position shows that we had \$3.25 million in assets at 30 June 2011. The value of our current assets decreased by \$25,000 from the previous year, while the value of our non-current asset base decreased by \$85,000.

Just under 52% of our assets are current assets, which are categorised as cash or receivables. Receivables are amounts owing to us and include bank interest that has accrued but not been received, fees for services that we have provided on a cost recovery basis, and GST to be recovered from the Australian Taxation Office. Also included in receivables are amounts that we have prepaid. We had \$400,000 in prepayments at 30 June 2011. The most significant prepayments were for rent and maintenance renewals for our office equipment and software support.

Our cash balance includes a \$33,000 advance payment from the New Zealand, Commonwealth and other state Ombudsman to cover costs for developing guidelines and training Ombudsman staff in dealing with unreasonable complainant conduct. We cannot use these funds for any other purpose so it is classified as a 'restricted asset'.

Our non-current assets, which are valued at \$1,566 million are categorised as:

- | plant and equipment - our network infrastructure, computers and laptops, fit-out, office equipment and
- | intangible assets - network operating and case management software.

We were allocated \$314,000 in 2010-2011 for asset purchases and spent \$369,000 following a supplementation for the establishment of the PID unit. This is reflected in our capital consolidated fund appropriation. We used this money to buy computer hardware and office equipment as well as undertaking some fit-out modifications. We also upgraded our network infrastructure to position us for implementing a virtual desktop environment.

Liabilities

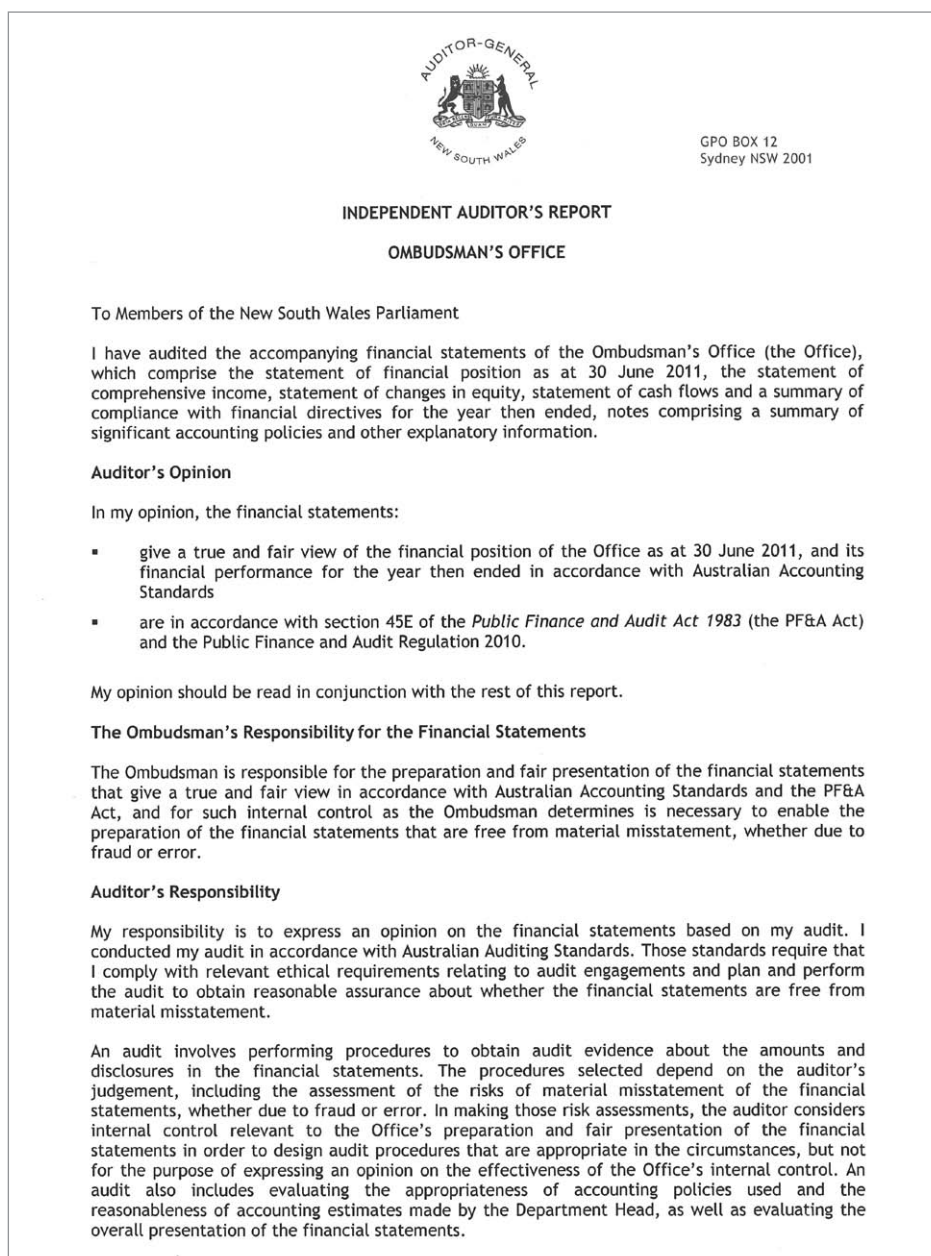
Our total liabilities at 30 June 2010 are \$2.423 million, a decrease of \$252,000 over the previous year. Over 86% of this is the provision that we make for employee benefits and related on-costs, including untaken recreation (annual) leave plus on-costs. The Crown Entity accepts the liability for long service leave. We owe about \$271,000 for goods or services that we have received but have not yet been invoiced. The value of accounts on hand at 30 June 2010 was \$127,551. Please see figure 63. We monitor the amounts that we owe on a regular basis to make sure that we are paying accounts within terms.

Figure 61: Analysis of accounts on hand at the end of each quarter

	Sep-10	Dec-10	Mar-11	Jun-11
Current (ie within due date)	188,589	27,140	301,811	127,551
Less than 30 days overdue	-	3,675	-	-
Between 30 days and 60 days overdue	-	-	-	-
Between 60 days and 90 days overdue	-	-	-	-
More than 90 days overdue	-	-	-	-
Total accounts on hand	188,589	30,815	301,811	127,551

Financial statements

Our financial statements are prepared in accordance with legislative provisions and accounting standards. They are audited by the NSW Auditor General, who is required to express an opinion as to whether the statements fairly represent the financial position of our office. We received an unqualified audit report. The audit report as well as the financials follow.



I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

My opinion does *not* provide assurance:

- about the future viability of the Office
- that it has carried out its activities effectively, efficiently and economically
- about the effectiveness of its internal control
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.

Independence

In conducting my audit, I have complied with the independence requirements of the Australian Auditing Standards and other relevant ethical pronouncements. The PF&A Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their role by the possibility of losing clients or income.



Peter Achterstraat
Auditor-General

21 September 2011
SYDNEY

20 September 2011

Statement by the Ombudsman

Pursuant to section 45F of the *Public Finance and Audit Act 1983* and to the best of my knowledge and belief I state that:

- (a) the accompanying financial statements have been prepared in accordance with the provisions of the Australian Accounting Standards (which include Australian Accounting Interpretations), the *Public Finance and Audit Act 1983*, the Financial Reporting Code for Budget Dependent General Government Sector Agencies, the applicable clauses of the Public Finance and Audit Regulation 2010 and the Treasurer's Directions;
- (b) the statements exhibit a true and fair view of the financial position of the Ombudsman's Office as at 30 June 2011, and transactions for the year then ended; and
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Bruce Barbour
Ombudsman

Start of the audited financial statements

Ombudsman's Office

Statement of comprehensive income for the year ended 30 June 2011

	Notes	Actual 2011 \$'000	Budget 2011 \$'000	Actual 2010 \$'000
Expenses excluding losses				
Operating expenses				
Employee-related	2(a)	19,222	18,724	16,997
Other operating expenses	2(b)	4,612	4,044	3,808
Depreciation and amortisation	2(c)	463	453	330
Total Expenses excluding losses		24,297	23,221	21,135
Revenue				
Sale of goods and services	3(a)	583	100	317
Investment revenue	3(b)	85	36	50
Grants and contributions	3(c)	46	-	-
Other revenue	3(d)	147	-	69
Total Revenue		861	136	436
(Gain)/loss on disposal	4	(11)	-	1
Net Cost of Services	17	23,425	23,085	20,700
Government Contributions				
Recurrent appropriation	5(a)	21,804	21,460	19,833
Capital appropriation	5(b)	369	314	751
Acceptance by the Crown Entity of employee benefits and other liabilities	6	1,394	964	948
Total Government Contributions		23,567	22,738	21,532
Surplus/(deficit) for the year		142	(347)	832
Other comprehensive income				
Other comprehensive income for the year		-	-	-
Total comprehensive income for the year		142	(347)	832

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of changes in equity for the year ended 30 June 2011

	Notes	Accumulated funds 2011 \$'000	Accumulated funds 2010 \$'000
Balance at 1 July		688	(144)
Surplus/(deficit) for the year		142	832
Other comprehensive income			
Total other comprehensive income		—	—
Total comprehensive income for the year		142	832
Balance at 30 June		830	688

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of financial position as at 30 June 2011

	Notes	Actual 2011 \$'000	Budget 2011 \$'000	Actual 2010 \$'000
Assets				
Current Assets				
Cash and cash equivalents	8	1,073	1,189	1,084
Receivables	10	614	651	628
Total Current Assets		1,687	1,840	1,712
Non-Current Assets				
Plant and equipment	11	1,145	1,123	1,173
Intangible assets	12	421	389	478
Total Non-Current Assets		1,566	1,512	1,651
Total Assets		3,253	3,352	3,363
Liabilities				
Current Liabilities				
Payables	13	697	695	585
Provisions	14	1,652	1,650	1,482
Other	15	54	590	590
Total Current Liabilities		2,403	2,935	2,657
Non-Current Liabilities				
Provisions	14	20	20	18
Total Non-Current Liabilities		20	20	18
Total Liabilities		2,423	2,955	2,675
Net Assets/(Net Liabilities)		830	397	688
Equity				
Accumulated funds		830	397	688
Total Equity		830	397	688

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of cash flows for the year ended 30 June 2011

	Notes	Actual 2011 \$'000	Budget 2011 \$'000	Actual 2010 \$'000
Cash flows from operating activities				
Payments				
Employee-related		(17,524)	(17,485)	(15,950)
Other		(5,696)	(4,488)	(4,368)
Total Payments		(23,220)	(21,973)	(20,318)
Receipts				
Sale of goods and services		665	100	358
Interest received		96	23	23
Other		642	505	474
Total Receipts		1,403	628	855
Cash Flows from Government				
Recurrent appropriation		21,804	21,460	20,352
Capital appropriation (excluding equity appropriations)		369	314	751
Net Cash Flows from Government	17	22,173	21,774	21,103
Net cash flows from operating activities		356	429	1,640
CASH FLOWS FROM INVESTING ACTIVITIES				
Proceeds from sale of plant and equipment		17	–	1
Purchases of leasehold improvements, plant and equipment and infrastructure systems		(384)	(324)	(751)
Net cash flows from investing activities		(367)	(324)	(750)
Net increase/(decrease) in cash		(11)	105	890
Opening cash and cash equivalents		1,084	1,084	194
Closing cash and cash equivalents	8	1,073	1,189	1,084

The accompanying notes form part of these financial statements.

Ombudsman's Office

Summary of compliance with financial directives for the year ended 30 June 2011

	2011				2010			
	Recurrent app'n \$'000	Expenditure/ net claim on fund \$'000	Capital app'n \$'000	Expenditure/ net claim on consolidated fund \$'000	Recurrent app'n \$'000	Expenditure/ net claim on consolidated fund \$'000	Capital app'n \$'000	Expenditure/ net claim on consolidated fund \$'000
Original budget appropriation/expenditure								
Appropriation Act	21,460	21,460	314	314	19,827	19,827	785	751
Additional appropriations	–	–	–	–	–	–	–	–
Section 21A PF&AA – special appropriation	–	–	–	–	–	–	–	–
Section 24 PF&AA – transfers of functions between departments	–	–	–	–	–	–	–	–
Section 26 PF&AA – Commonwealth specific purpose payments	–	–	–	–	–	–	–	–
	21,460	21,460	314	314	19,827	19,827	785	751
Other appropriations/expenditure								
Treasurer's advance	516	344	59	55	763	525	–	–
Section 22 – expenditure for certain works and services	–	–	–	–	–	–	–	–
Transfers to/from another agency (s.31 of the Appropriation Act)	–	–	–	–	–	–	–	–
Other (payroll tax adjustments)	–	–	–	–	–	–	–	–
	516	344	59	55	763	525	–	–
Total appropriations/expenditure/net claim on consolidated fund	21,976	21,804	373	369	20,590	19,833	785	751
Amount drawn down against appropriation		21,804		369		20,352		751
Liability to consolidated fund*		–		–		519		–

The Summary of compliance is based on the assumption that Consolidated fund monies are spent first (except where otherwise identified or prescribed).

* If there is a 'Liability to consolidated fund', this represents the difference between the 'Amount drawn down against appropriation' and the 'Total expenditure/net claim on consolidated fund'.

Notes to the financial statements for the year ended 30 June 2011

1 Summary of significant accounting policies

(a) Reporting entity

The Ombudsman's Office is a NSW Government Department. Our role is to make sure that public and private sector agencies and employees within our jurisdiction fulfill their functions properly. We help agencies to be aware of their responsibilities to the public, to act reasonably and to comply with the law and best practice in administration.

The office is a not-for-profit entity (as profit is not its principal objective) and we have no cash generating units, although we have some revenue generating activities which provide relief with ongoing budget pressures. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

The financial statements for the year ended 30 June 2011 has been authorised for issue by the NSW Ombudsman on 20 September 2011.

(b) Basis of preparation

Our financial statements are general purpose financial statements, which has been prepared in accordance with:

- | applicable Australian Accounting Standards (which include Australian Accounting Interpretations);
- | the requirements of the *Public Finance and Audit Act 1983* and Regulations; and
- | the financial reporting Directions published in the Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer.

The financial statements have been prepared in accordance with the historical cost convention.

Judgments, key assumptions and estimations made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

The accrual basis of accounting and applicable accounting standards have been adopted.

(c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Insurance

Our insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for Government agencies. The expense (premium) is determined by the Fund Manager, and is calculated by our past claims experience, overall public sector experience and ongoing actuarial advice.

(e) Accounting for the Goods and Services Tax (GST)

Incomes, expenses and assets are recognised net of GST, except that:

- | the amount of GST incurred by us as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the acquisition of an asset or as part of an item of expense, and
- | receivables and payables are stated with GST included.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

(f) Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of income are discussed below.

(i) Parliamentary appropriations and contributions

Parliamentary appropriations and contributions from other bodies (including grants) are generally recognised as income when we obtain control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

An exception to this is when appropriations remain unspent at year end. In this case, the authority to spend the money lapses and generally the unspent amount must be repaid to the Consolidated Fund in the following financial year. As a result, unspent appropriations are accounted for as liabilities rather than revenue. The liability is disclosed in Note 15 as part of 'Other current liabilities'.

(ii) Sale of goods

Revenue from the sale of goods such as publications are recognised as revenue when we transfer the significant risks and rewards of ownership of the assets.

(iii) Rendering of services

Revenue from the rendering of services such as conducting training programs, is recognised when the service is provided or by reference to the stage of completion, for instance based on labour hours incurred to date.

(iv) Investment revenue

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

(g) Assets

(i) Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by us.

Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Fair value is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

(ii) Capitalisation thresholds

Individual plant and equipment and intangible assets costing \$5,000 and above are capitalised. For those items that form part of our IT network, the threshold is \$1,000 individually.

(iii) Revaluation of plant and equipment

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP 07-1). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment*.

Plant and equipment is measured on an existing use basis, where there are no feasible alternative uses in the existing natural, legal, financial and socio-political environment. However, in the limited circumstances where there are feasible alternative uses, assets are valued at their highest and best use.

Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value.

Our assets are short-lived and their costs approximate their fair values.

(iv) Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, we are effectively exempted from AASB 136 *Impairment of Assets* and impairment testing. This is because AASB 136 modifies the recoverable amount test to the higher of fair value less costs to sell and depreciated replacement cost. This means that, for an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

(v) Depreciation of plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life.

All material separately identifiable components of assets are depreciated over their shorter useful lives.

Depreciation rates used:

Computer hardware	25%
Office equipment	20%
Furniture & fittings	10%

Amortisation rates used:

Leasehold improvements	Useful life of 10 years or to the end of the lease, if shorter.
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(vi) Restoration costs

Whenever applicable, the estimated cost of dismantling and removing an asset and restoring the site is included in the cost of an asset, to the extent it is recognised as a liability.

(vii) Maintenance

The costs of day-to-day servicing or maintenance are charged as expenses as incurred, except where they relate to the replacement of a part or component of an asset, in which case the costs are capitalised and depreciated.

(viii) Leased assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risks and benefits.

Operating lease payments are charged to the statement of comprehensive income in the periods in which they are incurred.

Lease incentives received on entering non-cancellable operating leases are recognised as a lease liability. This liability is reduced on a straight line basis over the lease term.

(ix) Intangible assets

We recognise intangible assets only if it is probable that future economic benefits will flow to the office and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

The useful lives of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for our intangible assets, they are carried at cost less any accumulated amortisation.

Notes to the financial statements for the year ended 30 June 2011

Our intangible assets are amortised using the straight-line method over a period of five years.

The amortisation rates used:

- I Computer software 20%.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss. However, as a not-for-profit entity, the office is effectively exempted from impairment testing (refer to Note 1(g)(iv)).

(x) Receivables

Receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost or face value.

Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are recognised in the surplus/(deficit) for the year when impaired, derecognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(h) Liabilities

(i) Payables

These amounts represent liabilities for goods and services provided to us as well as other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(ii) Employee benefits and other provisions

(a) Salaries and wages, annual leave, sick leave and on-costs

Liabilities for salaries and wages (including non-monetary benefits), and annual leave that fall due wholly within 12 months of the reporting date are recognised and measured in respect of employees' services up to the reporting date at undiscounted amounts based on the amounts expected to be paid when the liabilities are settled.

Long-term annual leave that is not expected to be taken within 12 months is measured at the present value in accordance with AASB 119 *Employee Benefits*. Market yields on government bonds rates of 5.21% are used to discount long-term annual leave.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

The outstanding amounts of payroll tax, workers' compensation, insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

(b) Long service leave and superannuation

Our liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. We account for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSWTC 09/04) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for defined contribution superannuation schemes (Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For defined benefit superannuation schemes (State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

(i) Equity

(i) Accumulated Funds

The category accumulated funds includes all current and prior period retained funds.

(ii) Reserve Accounts

Separate reserve accounts are recognised in the financial statements only if such accounts are required by specific legislation or Australian Accounting Standards (e.g. asset revaluation reserve and foreign currency translation reserve).

(j) Budgeted amounts

The budgeted amounts are drawn from the budgets formulated at the beginning of the financial year with any adjustments for the effects of additional appropriations approved under s.21A, s.24 and s.26 of the *Public Finance and Audit Act 1983*.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

The budgeted amounts in the statement of comprehensive income and statement of cash flow are generally based on the amounts disclosed in the NSW Budget Papers (as adjusted above). However, in the statement of financial position, the amounts vary from the Budget Papers, as the opening balances of the budgeted amounts are based on carried forward actual amounts; that is per audited financial report (rather than carried forward estimates).

(k) Comparative information

Except when an Accounting Standard permits or requires otherwise, comparative information is disclosed in respect of the previous period for all amounts reported in the financial statements.

(l) New Australian Accounting Standards issued but not effective

At the reporting date, the following new Accounting Standards (which include Australian Accounting Interpretations) have not been applied and are not yet effective as per Treasury mandate:

- | AASB 9 (December 2010) and AASB 2010-7 *Financial Instruments: Disclosure*;
- | AASB 124 and AASB 2009-12 *Related Party Transaction*;
- | AASB 2009-14 regarding amendments to Interpretation - *Prepayments of a Minimum Funding Requirement*;
- | AASB 1053 and AASB 2010-2 regarding differential reporting;
- | AASB 2010-4 regarding annual improvements;
- | AASB 2010-5 regarding editorial corrections;
- | AASB 2010-6 regarding disclosures on transfers of financial assets;
- | AASB 2010-8 regarding deferred tax : recovery of underlying assets;
- | AASB 2010-9 regarding severe hyperinflation and removal of fixed dates for first time adopters;
- | AASB 2010-10 regarding removal of fixed dates for first time adopters;
- | AASB 1054 *Australian Additional Disclosures*;
- | 2011-1 Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project;
- | 2011-2 Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project - Reduced Disclosures requirements;
- | 2011-3 Amendments to Australian Accounting Standards - Orderly Adoption of Changes to the ABS GFS Manual and Related Amendments;
- | Interpretation 4 - Determining whether an arrangement contains a lease;
- | Interpretation 115 - Operating leases - incentives -October 2010 (Compilation);
- | Interpretation 127 - evaluating the substance of Transactions involving the Legal Form of a lease - October 2010.

The office had adopted AASB 2009–6 amendments to Australian Accounting Standards which make changes to financial statements terminology to better align with IFRS requirements. Our primary financial statements have been replaced with 'statement of comprehensive income', 'statement of financial position' and 'statement of changes in equity'.

(m) Going concern

The Ombudsman's Office is a 'going concern' public sector agency. We will receive Parliamentary appropriation as outlined in the NSW Budget Papers for 2011–2012 in fortnightly instalments from the Crown Entity.

As at 30 June 2011 our total assets exceeded our total liabilities, although our current liabilities were more than our current assets. Current liabilities include provision for leave of \$1.6 million of which \$1.3 million is expected to be payable within the next 12 months. Also refer to Note 14.

(n) Equity Transfers

The transfer between NSW public sector agencies of net assets as a result of an administrative restructure, transfers of all or part of programs/functions and 'equity appropriations' are treated as contributions by owners and recognised as an adjustment to "Accumulated Funds". This treatment is consistent with AASB 1004 *Contributions* and Australian Interpretation 1038 *Contributions by Owners made to Wholly-Owned Public Sector Entities*.

Transfers arising from an administrative restructure involving not-for-profit entities and for-profit government departments are recognised at the amount at which the assets and liabilities were recognised by the transfer or immediately prior to the restructure. Subject to below, in most instances this will approximate fair value. All other equity transfers are recognised at fair value, except for intangibles. Where an intangible has been recognised at (amortised) cost by the transferor because there is no active market, the agency recognises the asset at the transferor's carrying amount. Where the transferor is prohibited from recognising internally generated intangibles, the agency does not recognise that asset.

During the reporting year the Child Death Review Team was transferred from the Commission for Children and Young People to the Ombudsman's Office. Most of the funding for this activity was provided in the Budget appropriation for 2010-2011, however some additional funding was provided by way of supplementation. No assets or liabilities were transferred. No comparative data has been included in these financial statements due to impracticality or immateriality as it would be impracticable to obtain accurate balances for the Child Death Review Team in light of these being immaterial in value.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

	2011 \$'000	2010 \$'000
2 Expenses excluding losses		
(a) Employee-related expenses		
Salaries and wages (including recreation leave)	15,671	14,043
Superannuation – defined benefit plans	413	425
Superannuation – defined contribution plans	1,127	1,042
Long service leave	960	500
Workers' compensation insurance	71	80
Payroll tax and fringe benefit tax	980	907
	19,222	16,997
(b) Other operating expenses include the following:		
Auditor's remuneration – audit of the financial statements	27	25
Operating lease rental expense – minimum lease payments	1,930	1,873
Insurance	16	12
Fees	1,100	654
Telephones	100	97
Stores	111	113
Training	165	101
Printing	121	107
Travel	400	415
Books, periodicals & subscriptions	47	49
Advertising	72	3
Energy	48	53
Motor vehicle	24	25
Postal and courier	26	26
Maintenance – non-Employee-related*	272	173
Other	153	82
	4,612	3,808
* Reconciliation – Total maintenance		
Maintenance expenses – contracted labour and other	272	173
Employee-related maintenance expense included in Note 2(a)	86	82
Total maintenance expenses included in Notes 2(a) and 2(b)	358	255
(c) Depreciation and amortisation expense		
Depreciation		
Plant, equipment and leasehold improvements	324	209
Total depreciation expense	324	209
Amortisation		
Intangible assets	139	121
Total amortisation expense	139	121
Total depreciation and amortisation expenses	463	330

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

	2011 \$'000	2010 \$'000
3 Revenue		
(a) Sale of goods and services		
Sale of publications	2	1
Rendering of services	581	316
	583	317
(b) Investment revenue		
Interest	85	50
	85	50
(c) Grants and contributions		
Unreasonable Complainants Conduct Project	46	–
	46	–
(d) Other revenue		
Miscellaneous	147	69
	147	69
4 Gain/(loss) on disposal		
Gain/(loss) on disposal	11	(1)
	11	(1)
5 Appropriations		
(a) Recurrent appropriation		
Total recurrent draw-downs from Treasury (per Summary of compliance)	21,804	20,352
Less: Liability to Consolidated Fund (per Summary of compliance)	–	519
	21,804	19,833
Comprising: Recurrent appropriations (per Statement of comprehensive income)	21,804	19,833
	21,804	19,833
(b) Capital appropriation		
Total capital draw-downs from Treasury (per Summary of compliance)	369	751
	369	751
Comprising: Capital appropriations (per Statement of comprehensive income)	369	751
	369	751
6 Acceptance by the Crown Entity of employee benefits and other liabilities		
The following liabilities and/or expenses have been assumed by the Crown Entity or other government agencies:		
Superannuation – defined benefit	413	425
Long service leave	960	500
Payroll tax on superannuation	21	23
	1,394	948
7 Service groups of the agency		
The Ombudsman's Office has one service group – the independent resolution, investigation or oversight of complaints made by the public about agencies within the jurisdiction of the Ombudsman and the scrutiny of complaint handling and other systems of those agencies.		

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

	2011 \$'000	2010 \$'000
8 Current assets – cash and cash equivalents		
Cash at bank and on hand	1,073	1,084
	1,073	1,084
For the purposes of the statement of cash flows, cash and cash equivalents include cash at bank and on hand.		
Cash and cash equivalent assets recognised in the statement of financial position are reconciled at the end of the year to the statement of cash flows as follows:		
┆ Cash and cash equivalents (per statement of financial position)	1,073	1,084
┆ Closing cash and cash equivalents (per statement of cash flows).	1,073	1,084
Refer Note 19 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.		
9 Restricted assets – cash		
Unreasonable Complainants Conduct Project	33	43
Liability to Consolidated Fund	–	519
	33	562
Since 2007-08 the Ombudsman has received funding from the Commonwealth and other State Ombudsman offices as well as the New Zealand Ombudsman for the Unreasonable Complainant Conduct project. Phase 2 of this project commenced in 2011. Amounts not expensed at 30 June 2011 are treated as a restricted asset for use in future year.		
10 Current assets – receivables		
Transfer of leave and wages	15	–
Workshops	45	34
Reimbursement of expenses	11	–
Bank interest	47	34
GST receivable	96	97
Legal fees	36	36
Less: Allowance for impairment	(36)	–
Prepayments	400	427
	614	628
Details regarding credit risk, liquidity risk and market risk, including financial assets that are either past due or impaired, are disclosed in Note 19.		
Prepayments		
Salaries and wages	–	18
Maintenance	94	96
Prepaid rent	162	157
Worker's compensation insurance	–	81
Subscription/membership	22	12
Training	38	19
Employee assistance program	6	6
Insurance - general and motor vehicles	–	17
Cleaning	8	8
Travel	7	3
Other	63	10
	400	427

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

11 Non-current assets – plant and equipment

	Plant and equipment \$'000	Leasehold improvement \$'000	Furniture and fitting \$'000	Total \$'000
At 1 July 2010 – fair value				
Gross carrying amount	1,781	1,356	737	3,874
Accumulated depreciation	(1,401)	(928)	(372)	(2,701)
Net carrying amount	380	428	365	1,173

At 30 June 2011 – fair value

Gross carrying amount	1,543	1,391	931	3,865
Accumulated depreciation	(1,220)	(1,056)	(444)	(2,720)
Net carrying amount	323	335	487	1,145

Reconciliation

A reconciliation of the carrying amount of each class of assets at the beginning of and end of financial years is set out below:

Year ended 30 June 2011

Net carrying amount at start of year	380	428	365	1,173
Additions	70	39	194	303
Disposals – gross cost	(308)	(4)	–	(312)
Depreciation write back on disposal	305	–	–	305
Depreciation expense	(124)	(128)	(72)	(324)
Net carrying amount at end of year	323	335	487	1,145

At 1 July 2009 – fair value

Gross carrying amount	1,572	1,285	554	3,411
Accumulated depreciation	(1,339)	(881)	(318)	(2,538)
Net carrying amount	233	404	236	873

At 30 June 2010 – fair value

Gross carrying amount	1,781	1,356	737	3,874
Accumulated depreciation	(1,401)	(928)	(372)	(2,701)
Net carrying amount	380	428	365	1,173

Reconciliation

A reconciliation of the carrying amount of each class of assets at the beginning of and end of financial years is set out below:

Year ended 30 June 2010

Net carrying amount at start of year	233	404	236	873
Additions	258	71	183	512
Disposals – gross cost	(49)	–	–	(49)
Depreciation write back on disposal	46	–	–	46
Depreciation expense	(108)	(47)	(54)	(209)
Net carrying amount at end of year	380	428	365	1,173

12 Non-current assets – intangible assets

	1 July 2010 \$'000	1 July 2009 \$'000	30 June 2011 \$'000	30 June 2010 \$'000
Software				
Gross carrying amount	3,116	3,080	2,116	3,116
Accumulated amortisation	(2,638)	(2,720)	(1,695)	(2,638)
Net carrying amount	478	360	421	478

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

	2011 \$'000	2010 \$'000
Reconciliation		
A reconciliation of the carrying amount of software at the beginning of and end of financial years is set out below:		
Net carrying amount at start of year	478	360
Disposals – gross cost	(1,082)	(203)
Depreciation write back on disposal	1,082	203
Additions	82	239
Amortisation expense	(139)	(121)
Net carrying amount at end of year	421	478
13 Current liabilities – payables		
Accrued salaries, wages and on-costs	426	294
Creditors	271	291
	697	585
14 Current/non-current liabilities – provisions		
Current employee benefits and related on-costs		
Recreation leave	937	836
Annual leave loading	201	170
Provision for related on-costs on recreation leave	130	116
Provision for related on-costs on long service leave	384	360
	1,652	1,482
Non-current employee benefits and related on-costs		
Provision for related on-costs on long service leave	20	18
	20	18
Aggregate employee benefits and related on-costs		
Provisions – current	1,652	1,482
Provisions – non-current	20	18
Accrued salaries, wages and on-costs (Note 13)	426	294
	2,098	1,794
The value of annual leave and associated on-costs expected to be taken within 12 months is \$1,268,000. The office has a proactive annual leave management program, whereby all staff are encouraged to take their full entitlement each year.		
The value of long service leave on-costs expected to be settled within 12 months is \$64,000 and \$340,000 after 12 months.		
15 Current/non-current liabilities – other		
Current		
Unreasonable Complainants Conduct Project	33	43
Prepaid income	21	28
Liability to Consolidated Fund	–	519
	54	590
16 Commitments for expenditure		
(a) Operating lease commitments		
Future non-cancellable operating lease rentals not provided for and payable:		
Not later than one year	2,368	2,636
Later than one year and not later than five years	7,971	8,812
Total (including GST)	10,339	11,448

The leasing arrangements are generally for leasing of property, which is a non-cancellable operating lease with rent payable monthly in advance. During 2009-10, we exercised our option to extend our accommodation lease for a further 5-year term. The total operating lease commitments including GST input tax credits of \$939,792, (2010: \$1,040,789) which are expected to be recoverable from the Australian Taxation Office.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

	2011 \$'000	2010 \$'000
16 Commitments for expenditure cont'd.		
(b) Commitments for Other Expenditure		
Future expenses not provided for and payable:		
Not later than one year	31	82
Total (including GST)	31	82

We have purchase commitments of \$31,000, included GST input tax credits of \$2,909 (2010: \$6,941) which are expected to be recoverable from the Australian Taxation Office.

17 Reconciliation of cash flows from operating activities to net cost of services

Net cash from operating activities	356	1,641
Cash flows from Government/Appropriations	(22,173)	(21,103)
Acceptance by the Crown Entity of employee benefits and other liabilities	(1,394)	(948)
Depreciation and amortisation	(463)	(330)
Decrease/(increase) in provisions	(172)	(15)
Increase/(decrease) in prepayments	(27)	127
Increase/(decrease) in payables	(112)	(128)
Increase/(decrease) in receivables	13	66
Decrease/(increase) in other liabilities	536	(8)
Net gain/(loss) on sale of plant and equipment	11	(2)
Net cost of services	(23,425)	(20,700)

18 Budget review

Net Cost of Services

The actual net cost of services is higher than budget by \$340,000 due to a number of factors. We took a proactive approach to revenue generation during the year by expanding our external training program. This resulted in a \$483,000 increase in our revenue, over budget. Our overall employee related expenses were \$498,000 more than budget which included payments to three staff accepting a voluntary redundancy. Our other operating expenses increased by \$568,000 when compared to our budget mainly due to the increases in insurance, fees, training, advertising and maintenance expenses. The Office also received \$516,000 additional funding from NSW Treasury for our expanded public interest disclosure role (\$398,000) and to support the child death review team (\$118,000).

Assets and Liabilities

Current assets are lower than budget by \$153,000 due to higher than anticipated expenses which saw a lower cash at bank and lower receivables than expected. Our total liabilities were \$532,000 lower than budget due to a combination of proactive leave management and repayment of funds back to Treasury.

Cash flows

Net cash flows from operating activities were lower than budget by \$73,000. Total payments were higher than budget by \$1.2 million and total receipts by \$775,000. Government contributions were higher than budget by \$399,000, as the office received \$516,000 for new and/or expanded roles.

19 Financial instruments

The Office's principal financial instruments are outlined below. These financial instruments arise directly from the Office's operations and are required to finance our operations. The Office does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The Office's main risks arising from financial instruments are outlined below, together with the Office's objectives, policies and processes measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these financial statements. The Audit and Risk Committee has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Office, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Audit and Risk Committee on a continuous basis.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

(a) Financial instrument categories

Financial instrument categories			Carrying Amount	
Class	Note	Category	2011 \$'000	2010 \$'000
Financial assets				
Cash and cash equivalents	8	N/A	1,073	1,084
Receivables ¹	10	Receivables (at amortised cost)	77	104
Financial liabilities				
Payables ²	13	Financial liabilities measured at amortised cost	697	585

Notes

¹ Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

² Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

(b) Credit risk

Credit risk arises when there is the possibility of the Ombudsman's debtors defaulting on their contractual obligations, resulting in a financial loss to the Ombudsman's Office. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment). Credit risk is managed through the selection of counterparties and establishing minimum credit rating standards. Credit risk arises from the financial assets of the Ombudsman's Office, including cash, receivables and authority deposits. No collateral is held by the Ombudsman's Office and the Office has not granted any financial guarantees.

Cash

Cash comprises cash on hand and bank balances within the Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to Treasury.

Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that we will not be able to collect all amounts due. The credit risk is the carrying amount (net of any allowance for impairment, if there is any). No interest is earned on trade debtors. The carrying amount approximates fair value. Sales are made on 14-day terms. The Ombudsman's Office is not exposed to concentration of credit risk to a single debtor or group of debtors.

	Total* \$'000	Past due but not impaired* \$'000	Considered impaired* \$'000
2011			
< 3 months overdue	55	55	–
3 months – 6 months overdue	2	2	–
> 6 months overdue	36	–	36
2010			
< 3 months overdue	26	26	–
3 months – 6 months overdue	–	–	–
> 6 months overdue	36	36	–

* Each column in the table reports 'gross receivables'. The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7 and excludes receivables that are not past due and not impaired. Therefore, the 'total' will not reconcile to the receivables total recognised in the statement of financial position.

(c) Liquidity risk

Liquidity risk is the risk that the Ombudsman's Office will be unable to meet its payment obligations when they fall due. The Ombudsman's Office continuously manages risk through monitoring future cash flows to ensure adequate holding of high quality liquid assets.

Bank overdraft

The office does not have any bank overdraft facility. During the current and prior years, there were no defaults or breaches on any loans payable. No assets have been pledged as collateral. The office exposure to liquidity risk is deemed insignificant based on prior periods data and current assessment of risk.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

Trade creditors and accruals

The liabilities are recognised for amounts due to be paid in the future for goods and services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in Treasurer's Direction 219.01. If trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. Treasurer's Direction 219.01 allows the Minister to award interest for late payment. We did not pay any penalty interest during the year. The table below summarises the maturity profile of the Ombudsman's Office financial liabilities.

Payables	Weighted average effective interest rate	Nominal amount [#] \$'000	Interest rate exposure			Maturity dates		
			Fixed interest rate	Variable interest rate	Non-interest bearing	< 1 yr	1-5 yrs	5 yrs
2011								
Accrued salaries, wages and on-costs	–	426	–	–	426	426	–	–
Creditors	–	271	–	–	271	271	–	–
	–	697	–	–	697	697	–	–
2010								
Accrued salaries, wages and on-costs	–	294	–	–	294	294	–	–
Creditors	–	291	–	–	291	291	–	–
	–	585	–	–	585	585	–	–

[#] The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earlier date on which the office can be required to pay.

(d) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Ombudsman's Office exposure to market risk is primarily through interest rate risk. The Ombudsman's Office has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on the result and equity due to a reasonably possible change in risk variable is outlined in the information below for interest rate risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the Ombudsman's Office operates and the timeframe for the assessment (i.e. until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the statement of financial position date. The analysis is performed on the same basis for 2011. The analysis assumes that all other variables remain constant.

	Carrying amount \$'000	–1%		+1%	
		Results \$'000	Equity \$'000	Results \$'000	Equity \$'000
2011					
Financial assets					
Cash and cash equivalents	1,073	(11)	(11)	11	11
Receivables	77	77	N/A	N/A	N/A
Financial liabilities					
Payables	697	N/A	N/A	N/A	N/A
2010					
Financial assets					
Cash and cash equivalents	1,084	(11)	(11)	11	11
Receivables	104	N/A	N/A	N/A	N/A
Financial liabilities					
Payables	585	N/A	N/A	N/A	N/A

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2011

(e) Fair value

Financial instruments are carried at cost. The fair value of all financial instruments approximates their carrying value.

	2011		2010	
	Carrying amount \$'000	Fair value \$'000	Carrying amount \$'000	Fair value \$'000
Financial assets				
Cash	1,073	1,073	1,084	1,084
Account receivables	77	77	104	104
Financial liabilities				
Account payables	697	697	585	585

20 Contingent liabilities

There are no contingent assets or liabilities for the period ended 30 June 2011 (2010: nil).

21 After balance date events

There were no after balance date events (2010: nil).

End of the financial statements

Appendices

We are required under legislation or policy to provide information in our annual report on a range of government programs or on specific issues such as credit card use. For ease of reporting, we group a number of these requirements in the Appendices. Details of annual reporting compliance can be found in Appendix M.

We are required to provide statistical information on access applications under the *Government information (Public Access) Act 2009* (see Appendix O), provide a progress report on our implementation of a range of access and equity programs (see Appendix P) and to list the legislation under which we operate (see Appendix N).

We also use the appendices to provide some statistical information on the work that we do – giving detailed breakdown of complaints received in our public administration division by agency or by council (see Appendix F – J); by program areas in our community services jurisdiction (see Appendix C - E) or by the category of police complaints (see Appendix A).

We also take the opportunity to provide an update on our current legislative reviews (see Appendix B) and to comply with our reporting obligations under the *Law Enforcement (Powers and Responsibilities) Act 2002* (see Appendix K).

Details of the publications that we produced during the year can be found in Appendix Q.



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Appendix A

Profile of notifiable police complaints 2010-2011

Figure 62: Action taken on finalised notifiable complaints about police officers in 2010-2011

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Arrest				
Improper failure to arrest	2	4	4	10
Unlawful arrest	34	25	13	72
Unnecessary use of arrest	30	19	18	67
Total	66	48	35	149
Complaint-handling				
Deficient complaint investigation	6	7	1	14
Fail to report misconduct	2	86	9	97
Fail to take a complaint	4	2	8	14
Inadequacies in informal resolution	0	1	1	2
Provide false information in complaint investigation	4	71	13	88
Total	16	167	32	215
Corruption/misuse of office				
Explicit threats involving use of authority	3	4	4	11
Improper association	45	59	21	125
Misuse authority for personal benefit or benefit of an associate	39	62	26	127
Offer or receipt of bribe/corrupt payment	17	10	2	29
Protection of person(s) involved in criminal activity (other)	1	0	0	1
Total	105	135	53	293
Custody/detention				
Detained in excess of authorised time	0	6	1	7
Escape from custody	1	1	4	6
Fail to allow communication	1	0	2	3
Fail to caution/give information	1	1	4	6
Fail to meet requirements for vulnerable persons	3	2	2	7
Improper treatment	11	24	38	73
Inadequate monitoring of persons in custody	1	5	2	8
Unauthorised detention	9	11	4	24
Total	27	50	57	134
Driving-related offences/misconduct				
Breach pursuit guidelines	1	15	1	17
Dangerous driving causing grievous bodily harm/death	1	3	0	4
Drink-driving offence	2	23	0	25
Fail to conduct breath test/analysis	0	0	1	1
Negligent/dangerous driving	1	9	7	17
Unnecessary speeding	2	8	4	14
Total	7	58	13	78
Drug-related offences/misconduct				
Cultivate/manufacture prohibited drug	4	1	0	5
Drinking/under the influence on duty	1	6	4	11
Protection of person(s) involved in drug activity	30	14	13	57
Supply prohibited drug	22	15	8	45
Use/possess restricted substance	3	5	0	8
Use/possession of prohibited drug	18	23	5	46
Total	78	64	30	172

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Excessive use of force				
Assault	206	239	116	561
Firearm discharged	1	1	0	2
Firearm drawn	3	4	4	11
Improper use of handcuffs	3	17	2	22
Total	213	261	122	596
Information				
Fail to create/maintain records	14	56	33	103
Falsify official records	9	68	11	88
Misuse email/internet	0	15	8	23
Provide incorrect or misleading information	16	67	19	102
Unauthorised access to information/data	10	120	28	158
Unauthorised access/disclosure/alteration of information/data	1	10	0	11
Unauthorised disclosure of information/data	54	79	54	187
Unreasonable refusal to provide information	2	0	1	3
Total	106	415	154	675
Inadequate/improper investigation				
Delay in investigation	8	11	21	40
Fail to advise outcome of investigation	0	1	3	4
Fail to advise progress of investigation	7	2	4	13
Fail to investigate (customer service)	182	79	99	360
Improper use of crime scene powers	1	0	0	1
Improper/unauthorised forensic procedure	0	0	1	1
Improperly fail to investigate offence committed by another officer	2	2	0	4
Improperly interfere in investigation by another police officer	8	14	6	28
Inadequate investigation	138	108	108	354
Total	346	217	242	805
Misconduct				
Allow unauthorised use of weapon	0	3	0	3
Conflict of interest	13	43	20	76
Detrimental action against a whistleblower	0	7	1	8
Dishonesty in recruitment/promotion	1	0	1	2
Disobey reasonable direction	3	41	7	51
Failure to comply with code of conduct (other)	87	292	177	556
Failure to comply with statutory obligation/procedure (other)	22	175	82	279
False claiming for duties/allowances	0	10	3	13
Inadequate management/maladministration	31	84	61	176
Inadequate security of weapon/appointments	2	30	30	62
Inappropriate intervention in civil dispute	2	3	1	6
Minor workplace-related misconduct	2	33	14	49
Other improper use of discretion	4	13	7	24
Unauthorised secondary employment	9	17	6	32
Unauthorised use of vehicle/facilities/equipment	16	82	13	111
Workplace harassment/victimisation/discrimination	35	90	40	165
Total	227	923	463	1,613
Other criminal conduct				
Fraud	0	9	0	9
Murder/manslaughter	2	0	0	2
Officer in breach of domestic violence order	1	17	0	18
Officer perpetrator of domestic violence	4	12	0	16
Officer subject of application for domestic violence order	5	17	2	24
Other indictable offence	26	103	7	136
Other summary offence	28	175	11	214
Sexual assault/indecent assault	10	42	3	55
Total	76	375	23	474

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Property/exhibits/theft				
Damage to	6	5	5	16
Fail to report loss	0	2	2	4
Failure or delay in returning to owner	19	13	5	37
Loss of	6	9	22	37
Theft	8	37	12	57
Unauthorised removal/destruction/use of	2	12	13	27
Total	41	78	59	178
Prosecution-related inadequacies/misconduct				
Adverse comment by Court/costs awarded	1	4	22	27
Fail to attend Court	2	10	19	31
Fail to check brief/inadequate preparation of brief	2	20	22	44
Fail to notify witness	1	11	13	25
Fail to serve brief of evidence	0	8	13	21
Failure to charge/prosecute	19	14	30	63
Failure to use Young Offenders Act	0	0	1	1
Improper prosecution	34	9	9	52
Mislead the Court	5	6	1	12
PIN/TIN inappropriately/wrongly issued	7	1	3	11
Total	71	83	133	287
Public justice offences				
Fabrication of evidence (other than perjury)	23	18	3	44
Involuntary confession by accused	2	0	1	3
Make false statement	30	13	1	44
Other pervert the course of justice	25	35	4	64
Perjury	7	9	1	17
Withholding or suppression of evidence	9	6	3	18
Total	96	81	13	190
Search/entry				
Failure to conduct search	0	0	4	4
Property missing after search	2	4	3	9
Unlawful entry	4	4	3	11
Unlawful questioning during a search	0	0	1	1
Unlawful search	25	23	21	69
Unreasonable/Inappropriate conditions/damage	1	12	2	15
Wrongful seizure of property during search	1	5	1	7
Total	33	48	35	116
Service delivery				
Breach domestic violence SOPs	7	7	7	21
Fail to provide victim support	23	24	19	66
Fail/delay attendance to incident/'000'	14	10	16	40
Harassment/intimidation	107	33	74	214
Improper failure to WIPE	11	7	11	29
Improper use of move on powers	3	0	1	4
Neglect of duty (not specified elsewhere)	15	38	15	68
Other (customer service)	138	68	112	318
Rudeness/verbal abuse	96	55	102	253
Threats	26	27	37	90
Total	440	269	394	1,103
Total summary of allegations	1,948	3,272	1,858	7,078

The number of allegations is larger than the number of complaints received because a complaint may contain more than one allegation about a single incident or involve a series of incidents.

Appendix B

Current legislative reviews

Legislation	Brief description
<i>Terrorism (Police Powers) Act 2002</i> - Parts 2A and 3	<p>Part 2A allows police to hold people suspected of involvement in terrorist-related activities in preventative detention. Part 3 allows police and Crime Commission officers to execute covert search warrants to respond to suspected terrorist acts. We now have an ongoing role to keep the exercise of these powers under scrutiny, and report to the Attorney General and Minister for Police every three years.</p> <p>The Attorney General tabled our second report under this Act on 24 August 2011. This report covers the period 2008-2010. The report is available on our website</p>
<i>Law Enforcement (Powers and Responsibilities) Act 2002</i> - Part 6A	<p>Introduced in the <i>Law Enforcement Legislation Amendment (Public Safety) Act 2005</i>, this legislation gives police additional powers to prevent or control large-scale public disorder.</p> <p>We have an ongoing role to review any use of this legislation. The NSW Police Force is required to report to us every six months about the use of the powers.</p>
<i>Crimes (Criminal Organisations Control) Act 2009</i>	<p>This legislation allowed the Commissioner of Police to seek a declaration from a judge that a gang or organisation be declared a 'criminal organisation'. It allowed police to apply to the Supreme Court for control orders against members of a declared organisation to prevent them from associating and restrict their activities.</p> <p>The High Court determined that this legislation was constitutionally invalid on 23 June 2011.</p> <p>The Attorney General has announced he is reviewing the legislation in light of the High Court's decision.</p>

Appendix C

Child and family services

Figure 63: Complaints issues for child and family services received in 2010-2011

Figure 63 shows the issues that were complained about in 2010-2011 in relation to child and family services. Please note that each complaint we received may have more than one issue.

Program area	Child protection		Out-of-home care		Children's services		Family support		Adoption		Total
Issue	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	
Casework	70	91	50	74	0	2	1	1	0	0	289
Meeting individual needs	5	22	66	122	3	2	1	0	0	1	222
Object to decision	16	65	34	81	2	3	0	1	1	0	203
Case management	4	12	33	40	0	1	0	1	0	1	92
Customer service	6	31	8	38	3	7	1	1	0	0	95
Complaints	14	30	13	22	5	4	1	1	0	0	90
Information	11	29	14	40	0	4	0	2	1	0	101
Assault/abuse in care	6	16	4	20	1	4	0	1	0	0	52
Investigation	11	15	5	9	0	0	1	2	0	0	43
Professional conduct	9	22	8	14	1	1	0	0	0	0	55
Allowances/fees	2	1	16	25	9	18	3	5	0	0	79
Clients rights/choice/participation	1	4	6	6	0	1	0	0	0	0	18
Policy/procedure/law	4	6	0	5	2	2	0	0	0	0	19
Legal problems	7	8	0	4	0	0	0	0	0	0	19
Service management	1	3	3	9	2	1	0	0	0	0	19
Access to service	0	0	2	1	2	5	1	1	0	0	12
File/record management	0	0	2	0	0	0	0	0	0	0	2
Safety	0	1	0	3	0	3	0	0	0	0	7
Client finances and property	0	0	3	1	0	1	1	0	0	0	6
Service funding/licensing/monitoring	0	0	0	0	0	2	0	0	1	0	3
Outside our jurisdiction	6	20	3	13	0	6	0	0	0	0	48
Not applicable	1	5	1	6	0	0	0	1	0	0	14
Total	174	381	271	533	30	67	10	17	3	2	1,488

Figure 64: Formal complaints finalised for child and family services in 2010-2011

Figure 64 shows the outcomes of formal complaints finalised about child and family services this year.

Program area	A	B	C	D	E	F	G	Total
Child protection services	55	68	36	4	1	5	3	172
Out-of-home care	70	99	101	6	0	4	4	284
Children's services	15	11	6	0	0	0	1	33
Family support services	1	5	5	0	0	0	0	11
Adoption	2	1	2	0	0	0	0	5
Total	143	184	150	10	1	9	8	505

Description

- A** Complaint declined at outset
- B** Complaint declined after inquiries
- C** Complaint resolved after inquiries, including local resolution by the agency concerned
- D** Service improvement comments or suggestions to agency
- E** Referred to agency concerned or other body for investigation
- F** Direct investigation
- G** Complaint outside jurisdiction

Appendix D

Disability services

Figure 65: Complaints issues for disability services received in 2010-2011

Figure 65 shows the issues that were complained about in 2010-2011 in relation to disability services. Please note that each complaint we received may have more than one issue.

Program area	Disability accommodation		Disability support		Total
	Formal	Informal	Formal	Informal	
Meeting individual needs	24	18	8	10	60
Case management	16	18	9	7	50
Assault/abuse in care	16	7	1	5	29
Service management	2	4	3	3	12
Customer service	2	3	12	19	36
Professional conduct	3	4	2	1	10
Access to service	3	1	6	4	14
Complaints	2	4	8	4	18
Client rights/choice/participation	1	5	2	2	10
Object to decision	4	5	9	11	29
Safety	2	2	0	1	5
Casework	0	1	1	1	3
Information	1	4	2	2	9
Investigation	0	0	1	0	1
Service funding/licensing/monitoring	1	2	0	2	5
Client finances and property	0	1	1	0	2
Policy/procedure/law	1	1	0	0	2
File/record management	0	0	0	0	0
Allowances/fees	0	0	4	6	10
Legal problems	0	0	0	1	1
Outside our jurisdiction	5	4	2	2	13
Not applicable	0	0	0	2	2
Total	83	84	71	83	321

Figure 66: Formal complaints finalised for disability services in 2010-2011

Figure 66 shows the outcomes of formal complaints we received about disability services this year.

Program area	A	B	C	D	E	F	G	Total
Disability accommodation services	5	23	44	8	0	4	5	89
Disability support services	12	26	34	1	0	0	4	77
Total	17	49	78	9	0	4	9	166

Description

- A** Complaint declined at outset
- B** Complaint declined after inquiries
- C** Complaint resolved after inquiries, including local resolution by the agency concerned
- D** Service improvement comments or suggestions to agency
- E** Referred to agency concerned or other body for investigation
- F** Direct investigation
- G** Complaint outside jurisdiction

Appendix E

Other community services

Figure 67: Number of formal and informal matters about other community services received in 2010–2011

Agency category	Formal	Informal	Total
Community Services			
Supported accommodation and assistance program services	1	3	4
General community services	4	1	5
Aged services	0	0	0
Disaster welfare services	0	0	0
Other	9	0	9
Subtotal	14	4	18
ADHC			
Supported accommodation and assistance program services	0	0	0
General community services	0	2	2
Aged services	5	32	37
Disaster welfare services	0	0	0
Other	2	0	2
Subtotal	7	34	41
Other government agencies			
Supported accommodation and assistance program services	0	0	0
General community services	0	0	0
Aged services	0	0	0
Other	2	2	4
Disaster welfare services	0	0	0
Subtotal	2	2	4
Non-government funded or licensed services			
Supported accommodation and assistance program services	11	12	23
General community services	2	4	6
Aged services	5	6	11
Other	3	2	5
Disaster welfare services	0	0	0
Subtotal	21	24	45
Other (general inquiries)	0	6	6
Agency unknown	1	7	8
Outside our jurisdiction	0	4	4
Subtotal	1	17	18
Total	45	81	126

Some complaints about supported accommodation and general community services may involve complaints about child and family and disability services.

Figure 68: Complaints issues for other community services received in 2010-2011

Figure 68 shows the issues that were complained about in 2010-2011 in relation to general community services. Please note that each complaint we received may have more than one issue.

Program area	Other community services		Total
	Formal	Informal	
Access to service	5	8	13
Customer service	4	13	17
Professional conduct	3	4	7
Complaints	1	6	7
Meeting individual needs	4	4	8
Object to decision	5	8	13
Allowances/fees	3	5	8
Information	3	5	8
Clients rights/choice/participation	2	2	4
Case management	1	1	2
Service funding/licensing/monitoring	1	2	3
Files/record management	0	0	0
Assault/abuse in care	2	0	2
Casework	1	3	4
Service management	1	0	1
Policy/procedure/law	0	0	0
Investigation	0	2	2
Safety	0	0	0
Legal problems	0	0	0
Client finances and property	0	3	3
Outside our jurisdiction	9	4	13
Not applicable	0	11	11
Total	45	81	126

Figure 69: Formal complaints finalised for other community services in 2010-2011

Figure 69 shows the outcomes of formal complaints finalised about general community services this year.

Program area	A	B	C	D	E	F	G	Total
Supported accommodation and assistance program services	3	8	1	1	0	0	0	13
General community services	4	1	0	1	0	0	0	6
Aged services	2	3	4	0	0	0	2	11
Other	5	1	1	0	0	0	8	15
Total	14	13	6	2	0	0	10	45

Description

- A** Complaint declined at outset
- B** Complaint declined after inquiries
- C** Complaint resolved after inquiries, including local resolution by the agency concerned
- D** Service improvement comments or suggestions to agency
- E** Referred to agency concerned or other body for investigation
- F** Direct investigation
- G** Complaint outside jurisdiction

Appendix F

Public sector agencies

Figure 70: Action taken on formal complaints finalised in 2010-2011

Figure 70 shows the action we took on each of the written complaints that we finalised this year about public sector agencies (except the NSW Police Force, Community Services and ADHC and those relating to child protection notifications), broken down into agency groups. See Appendices G, H, I and J for a further breakdown into specific agencies in those groups.

Complaint about	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Human services agencies (Housing NSW, Health)	199	8	30	8	108	21	5	2	4	0	1	0	0	386
Bodies outside jurisdiction	429	0	0	0	0	0	0	1	0	0	0	0	0	430
Local government	613	6	216	2	47	29	7	0	0	0	2	0	2	924
Departments and authorities	760	26	325	10	190	43	23	1	1	0	2	0	1	1,382
Freedom of information	17	1	26	2	33	5	1	0	0	2	2	0	0	89
Corrections and Justice Health	153	53	348	8	275	36	10	14	0	0	1	0	0	898
Total	2,171	94	945	30	653	134	46	18	5	2	8	0	3	4,109

Description

Decline after assessment only, including:

- A** Conduct outside jurisdiction, trivial, remote, insufficient interest, commercial matter, right of appeal or redress, substantive explanation or advice provided, premature — referred to agency, concurrent representation, investigation declined on resource/priority grounds

Preliminary or informal investigation:

- B** Substantive advice, information provided without formal finding of wrong conduct
C Advice/explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource/priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions/comment made
H Consolidated into other complaint
I Conciliated/mediated

Formal investigation:

- J** Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

Appendix G

Departments and authorities

Figure 71: Action taken on formal complaints about departments and authorities finalised in 2010–2011

Agency	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
Aboriginal Affairs NSW	5	0	0	0	0	0	0	0	0	0	0	0	0	5	
Administrative Decisions Tribunal	0	1	0	0	0	0	0	0	0	0	0	0	0	1	
Agency not named	3	1	0	0	0	0	0	0	0	0	0	0	0	4	
Ambulance Service of NSW	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Attorney General	6	0	3	0	3	0	0	0	0	0	0	0	0	12	
Board of Studies NSW	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Border Rivers Catchment Management Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Building & Construction Industry Long Service Payments Corporation	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Building Professionals Board	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Casino, Liquor and Gaming Control Authority	2	0	2	0	0	0	0	0	0	0	0	0	0	4	
Central government	0	0	0	0	0	0	0	0	0	0	0	0	1	1	
Charles Sturt University	1	0	3	0	1	1	0	0	0	0	0	0	0	6	
Communities NSW	1	0	1	0	1	0	0	0	0	0	0	0	0	3	
Community Relations Commission	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Consumer, Trader & Tenancy Tribunal	22	0	0	0	0	0	0	0	0	0	0	0	0	22	
Country Energy	6	0	0	0	0	0	0	0	0	0	0	0	0	6	
CountryLink	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Crown Solicitor's Office	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Darkinjung Local Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Deniliquin Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Dental Council of New South Wales	2	0	5	0	1	0	0	0	0	0	0	0	0	8	
Department of Education and Communities	72	1	19	0	10	5	5	0	0	0	0	0	0	112	
Department of Energy, Utilities and Sustainability	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Department of Environment, Climate Change and Water	5	0	8	1	2	2	2	0	0	0	1	0	0	21	
Department of Health	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Department of Industry and Investment	5	1	1	0	1	0	1	0	0	0	0	0	0	9	
Department of Attorney General and Justice	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Department of Lands	7	1	5	0	1	0	0	0	1	0	0	0	0	15	
Department of Planning	5	1	1	1	0	0	0	0	0	0	0	0	0	8	
Department of Premier and Cabinet	5	0	1	0	1	0	0	0	0	0	0	0	0	7	
Department of Services, Technology and Administration	1	0	3	0	0	0	0	0	0	0	0	0	0	4	
Department of Water and Energy	2	0	1	0	0	0	1	0	0	0	0	0	0	4	
Director of Public Prosecutions	6	0	0	0	0	0	0	0	0	0	0	0	0	6	
Electoral Commission NSW	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Energy Australia	6	0	0	0	0	0	0	0	0	0	0	0	0	6	
Fair Trading	36	0	12	2	6	1	0	0	0	0	0	0	0	57	

Agency	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
First State Superannuation Trustee Corporation	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Forests NSW	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Greyhound and Harness Racing Regulatory Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Guardianship Tribunal	3	0	1	0	0	0	0	0	0	0	0	0	0	4	
Heath Care Complaints Commission	12	0	3	1	1	0	0	0	0	0	0	0	0	17	
Hunter Water Corporation Limited	0	0	0	0	0	0	1	0	0	0	0	0	0	1	
Independent Pricing and Regulatory Tribunal	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Integral Energy	5	0	0	0	0	0	0	0	0	0	0	0	0	5	
Jenolan Caves Reserve Trust	5	0	0	0	0	0	0	0	0	0	0	0	0	5	
Land and Property Management Authority	8	0	8	0	2	0	0	0	0	0	0	0	0	18	
LANDCOM (NSW Land and Housing Corporation)	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Lands Board	1	0	0	0	0	0	1	0	0	0	0	0	0	2	
Legal Aid Commission of New South Wales	23	2	3	0	2	0	1	0	0	0	0	0	0	31	
Lifetime Care and Support Authority	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Livestock Health and Pest Authority	2	0	3	0	2	0	0	0	0	0	0	0	0	7	
Local Aboriginal Land Council (unnamed)	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Local government	1	0	1	0	0	0	0	1	0	0	0	0	0	3	
Macquarie University	9	0	7	0	1	0	0	0	0	0	0	0	0	17	
Medical Council of New South Wales	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Motor Accidents Authority	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Murrumbidgee Catchment Management Authority	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
National Parks & Wildlife Service	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
New South Wales Aboriginal Land Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
NSW Businesslink Pty Ltd	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
NSW Fire Brigades	1	0	2	0	0	0	0	0	0	0	0	0	0	3	
NSW Food Authority	1	0	2	0	0	0	0	0	0	0	0	0	0	3	
NSW Maritime Authority	6	0	3	0	2	1	0	0	0	0	0	0	0	12	
NSW Office of Liquor, Gaming and Racing	4	2	1	0	2	0	0	0	0	0	0	0	0	9	
NSW Office of Water	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
NSW Trustee and Guardian	36	1	22	0	25	1	2	0	0	0	0	0	0	87	
Nurses and Midwifery Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Office of Public Guardian	2	0	0	0	1	0	0	0	0	0	0	0	0	3	
Office of State Revenue	19	1	6	1	3	0	0	0	0	0	0	0	0	30	
Office of the Information Commissioner New South Wales	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Office of the Legal Services Commissioner	6	0	0	0	0	0	0	0	0	0	0	0	0	6	
Parramatta Park Trust	0	0	2	0	0	0	0	0	0	0	0	0	0	2	
Primary Industries	6	0	2	0	2	0	0	0	0	0	1	0	0	11	
PRIVACY NSW	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Psychologists Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Rail Corporation New South Wales (RailCorp)	35	1	7	0	5	3	1	0	0	0	0	0	0	52	
Registrar of Aboriginal Land Rights Act	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Registry of Births, Deaths and Marriages	12	0	2	0	1	2	1	0	0	0	0	0	0	18	

Agency	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
Roads and Traffic Authority	108	4	49	0	43	10	2	0	0	0	0	0	0	216	
Rural Assistance Authority	1	1	1	0	1	0	0	0	0	0	0	0	0	4	
Rural Fire Service NSW	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Sheriff's Office	7	0	0	0	0	0	1	0	0	0	0	0	0	8	
South Eastern Sydney and Illawarra Area Health Service	0	0	0	0	0	0	2	0	0	0	0	0	0	2	
Southern Cross University	3	0	0	0	2	1	0	0	0	0	0	0	0	6	
State Authorities Superannuation Trustee Corporation	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
State Debt Recovery Office	90	3	70	1	54	6	1	0	0	0	0	0	0	225	
State Emergency Service	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
State Transit Authority of NSW	15	1	2	0	2	1	0	0	0	0	0	0	0	21	
State Water Corporation	1	0	0	0	1	0	0	0	0	0	0	0	0	2	
Sydney Ferries Corporation	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Sydney Harbour Foreshore Authority	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Sydney Water Corporation	5	0	0	0	0	0	0	0	0	0	0	0	0	5	
TAFE	14	0	9	0	1	2	0	0	0	0	0	0	0	26	
Tharawal Local Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Transport Infrastructure Development Corporation	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Transport NSW	14	0	4	0	0	0	0	0	0	0	0	0	0	18	
University of New England	3	0	3	0	0	0	0	0	0	0	0	0	0	6	
University of New South Wales	10	0	5	0	0	0	0	0	0	0	0	0	0	15	
University of Newcastle	4	0	1	0	2	1	0	0	0	0	0	0	0	8	
University of Sydney	5	0	1	2	0	0	0	0	0	0	0	0	0	8	
University of Technology	5	1	1	0	0	0	0	0	0	0	0	0	0	7	
University of Western Sydney	7	1	12	1	1	2	0	0	0	0	0	0	0	24	
University of Wollongong	4	0	2	0	0	1	0	0	0	0	0	0	0	7	
Valuer General	5	0	1	0	1	2	0	0	0	0	0	0	0	9	
Victims Compensation Tribunal	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
WorkCover Authority	20	2	10	0	5	1	1	0	0	0	0	0	0	39	
WSN Environmental Solutions	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Total	760	26	325	10	190	43	23	1	1	0	2	0	1	1,382	

Description

Decline after assessment only, including:

- A** Conduct outside jurisdiction, trivial, remote, insufficient interest, commercial matter, right of appeal or redress, substantive explanation or advice provided, premature — referred to agency, concurrent representation, investigation declined on resource/priority grounds

Preliminary or informal investigation:

- B** Substantive advice, information provided without formal finding of wrong conduct
C Advice/explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource/priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions/comment made
H Consolidated into other complaint
I Conciliated/mediated

Formal investigation:

- J** Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

Figure 72: Action taken on formal complaints about Human services agencies (Housing NSW and Health) in 2010–2011

Agency	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
Department of Health	61	0	4	4	3	2	2	0	0	0	1	0	0	77	
Housing Appeals Committee	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Housing NSW	137	8	25	4	105	19	3	2	4	0	0	0	0	307	
Total	199	8	30	8	108	21	5	2	4	0	1	0	0	386	

Description

Decline after assessment only, including:

- A** Conduct outside jurisdiction, trivial, remote, insufficient interest, commercial matter, right of appeal or redress, substantive explanation or advice provided, premature — referred to agency, concurrent representation, investigation declined on resource/priority grounds

Preliminary or informal investigation:

- B** Substantive advice, information provided without formal finding of wrong conduct
C Advice/explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource/priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions/comment made
H Consolidated into other complaint
I Conciliated/mediated

Formal investigation:

- J** Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

Appendix H

Local government

Figure 73: Action taken on formal complaints about local government finalised in 2010–2011

Figure 73 shows the action we took on each of the written complaints finalised this year about individual councils.

Council	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
Accredited certifier	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Armidale Dumaresq Council	1	0	2	0	0	0	0	0	0	0	0	0	0	3	
Auburn Council	1	0	2	0	1	0	0	0	0	0	0	0	0	4	
Ballina Shire Council	4	0	2	0	1	1	0	0	0	0	0	0	0	8	
Bankstown City Council	8	0	2	0	1	0	0	0	0	0	0	0	0	11	
Bega Valley Shire Council	4	0	5	0	0	1	0	0	0	0	0	0	0	10	
Bellingen Shire Council	9	0	1	0	1	0	0	0	0	0	0	0	0	11	
Berrigan Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Blacktown City Council	13	0	3	0	1	2	0	0	0	0	0	0	0	19	
Bland Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	1	
Blayney Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Blue Mountains City Council	12	0	2	0	0	0	0	0	0	0	0	0	0	14	
Bombala Council	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Botany Bay City Council	4	0	3	0	0	0	0	0	0	0	0	0	0	7	
Broken Hill City Council	1	0	2	0	1	0	0	0	0	0	0	0	0	4	
Burwood Council	5	0	3	0	0	0	0	0	0	0	0	0	0	8	
Byron Shire Council	3	1	4	0	2	0	0	0	0	0	0	0	0	10	
Cabonne Council	1	0	2	0	0	0	0	0	0	0	0	0	0	3	
Camden Council	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Campbelltown City Council	3	0	0	0	0	0	0	0	0	0	0	0	0	3	
Canterbury City Council	11	0	0	0	2	0	0	0	0	0	0	0	0	13	
Cessnock City Council	8	0	2	0	3	1	0	0	0	0	0	0	0	14	
City of Canada Bay Council	7	0	4	0	1	0	0	0	0	0	0	0	0	12	
Clarence Valley Council	5	0	0	0	1	1	0	0	0	0	0	0	0	7	
Cobar Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Coffs Harbour City Council	5	0	0	0	0	0	0	0	0	0	0	0	0	5	
Coolamon Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Cooma-Monaro Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Cootamundra Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Council not named	4	0	0	0	0	0	0	0	0	0	0	0	0	4	
Cowra Shire Council	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Deniliquin Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Dubbo City Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Dungog Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Eurobodalla Shire Council	5	0	3	0	2	1	0	0	0	0	1	0	0	12	
Fairfield City Council	5	0	2	0	0	0	0	0	0	0	0	0	0	7	
Forbes Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Gilgandra Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Glen Innes Severn Shire Council	0	0	0	0	0	1	0	0	0	0	0	0	0	1	
Gloucester Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Goldenfields Water County Council	0	0	0	0	0	1	0	0	0	0	0	0	0	1	
Gosford City Council	10	1	5	0	1	1	0	0	0	0	0	0	0	18	
Goulburn Mulwaree Shire Council	4	0	2	0	0	0	0	0	0	0	0	0	0	6	
Great Lakes Council	5	0	3	0	0	0	0	0	0	0	0	0	0	8	
Greater Hume Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Greater Taree City Council	4	0	2	0	0	0	0	0	0	0	0	0	0	6	
Griffith City Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	

Council	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
Gundagai Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Gwydir Shire Council	1	0	0	0	1	0	0	0	0	0	0	0	0	2	
Harden Shire Council	0	0	2	0	0	0	1	0	0	0	0	0	0	3	
Hawkesbury City Council	5	0	4	0	1	0	0	0	0	0	0	0	0	10	
Holroyd City Council	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Hornsby Shire Council	13	0	4	0	0	0	0	0	0	0	0	0	0	17	
Hunters Hill Municipal Council	0	0	0	0	0	1	1	0	0	0	0	0	0	2	
Hurstville City Council	14	0	3	0	0	1	0	0	0	0	0	0	0	18	
Kempsey Shire Council	3	0	1	0	2	0	0	0	0	0	0	0	0	6	
Kiama Municipal Council	3	0	0	0	0	0	0	0	0	0	0	0	0	3	
Kogarah Municipal Council	2	0	4	0	0	0	0	0	0	0	0	0	0	6	
Ku-Ring-Gai Municipal Council	9	0	3	0	1	0	0	0	0	0	0	0	0	13	
Kyogle Shire Council	2	0	1	0	2	0	0	0	0	0	0	0	0	5	
Lake Macquarie City Council	13	0	5	0	1	1	0	0	0	0	0	0	0	20	
Lane Cove Municipal Council	3	0	1	0	1	0	0	0	0	0	0	0	0	5	
Leeton Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Leichhardt Municipal Council	3	0	3	0	0	0	0	0	0	0	0	0	0	6	
Lismore City Council	5	0	2	0	0	0	0	0	0	0	0	0	0	7	
Lithgow City Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Liverpool City Council	16	0	1	0	0	0	0	0	0	0	0	0	0	17	
Liverpool Plains Shire Council	1	0	1	0	0	1	0	0	0	0	0	0	0	3	
Maitland City Council	3	0	0	0	0	0	0	0	0	0	0	0	0	3	
Manly Council	19	0	6	1	1	0	0	0	0	0	0	0	2	29	
Marrickville Council	7	0	4	0	2	0	0	0	0	0	0	0	0	13	
Mid-Western Regional Council	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Midcoast Water	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Moree Plains Shire Council	3	0	2	0	0	0	0	0	0	0	0	0	0	5	
Mosman Municipal Council	4	0	1	0	0	0	0	0	0	0	0	0	0	5	
Murray Shire Council	0	0	0	0	0	1	0	0	0	0	0	0	0	1	
Muswellbrook Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Nambucca Shire Council	3	0	1	0	0	1	0	0	0	0	0	0	0	5	
Narrabri Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Narrandera Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Narromine Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Newcastle City Council	14	0	8	0	2	0	0	0	0	0	0	0	0	24	
North Coast Water	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
North Sydney Council	2	0	3	0	0	1	0	0	0	0	0	0	0	6	
Oberon Shire Council	0	0	0	0	0	0	1	0	0	0	0	0	0	1	
Orange City Council	1	0	2	0	0	0	0	0	0	0	0	0	0	3	
Palerang Council	3	0	0	0	0	0	1	0	0	0	0	0	0	4	
Parramatta City Council	12	0	3	0	0	0	0	0	0	0	0	0	0	15	
Penrith City Council	4	0	0	0	0	1	0	0	0	0	0	0	0	5	
Pittwater Council	56	0	5	0	0	0	0	0	0	0	0	0	0	61	
Planning Assessment Commission	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Port Macquarie-Hastings Council	12	0	5	0	0	0	1	0	0	0	0	0	0	18	
Port Stephens Shire Council	13	0	5	0	0	1	0	0	0	0	0	0	0	19	
Queanbeyan City Council	1	0	3	0	0	0	0	0	0	0	0	0	0	4	
Randwick City Council	6	0	4	0	1	1	0	0	0	0	0	0	0	12	
Richmond Valley Council	3	0	2	0	0	0	0	0	0	0	0	0	0	5	
Rockdale City Council	7	0	2	0	0	1	0	0	0	0	0	0	0	10	
Rous County Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Ryde City Council	5	0	0	0	0	1	0	0	0	0	0	0	0	6	
Shellharbour City Council	4	0	3	0	1	0	1	0	0	0	0	0	0	9	
Shoalhaven City Council	7	1	5	0	1	2	0	0	0	0	1	0	0	17	

Council	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
Singleton Shire Council	3	0	5	0	1	0	0	0	0	0	0	0	0	9	
Snowy River Shire Council	5	0	0	0	0	0	0	0	0	0	0	0	0	5	
Strathfield Municipal Council	3	0	1	0	0	0	0	0	0	0	0	0	0	4	
Sutherland Shire Council	16	1	7	0	0	1	0	0	0	0	0	0	0	25	
Sydney City Council	13	0	1	0	2	0	0	0	0	0	0	0	0	16	
Tamworth Regional Council	2	0	0	0	1	0	0	0	0	0	0	0	0	3	
Temora Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Tenterfield Shire Council	3	0	0	0	0	2	0	0	0	0	0	0	0	5	
The Hills Shire Council	10	0	1	0	1	0	0	0	0	0	0	0	0	12	
Tumut Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Tweed Shire Council	11	1	3	0	0	0	0	0	0	0	0	0	0	15	
Upper Hunter Shire Council	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Upper Lachlan Shire Council	3	0	1	0	0	1	1	0	0	0	0	0	0	6	
Wagga Wagga City Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Walgett Shire Council	1	0	0	0	2	0	0	0	0	0	0	0	0	3	
Warren Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Warringah Council	19	0	9	0	1	0	0	0	0	0	0	0	0	29	
Waverley Council	7	0	1	0	0	0	0	0	0	0	0	0	0	8	
Weddin Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Wellington Council	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Willoughby City Council	5	0	0	0	1	0	0	0	0	0	0	0	0	6	
Wingecarribee Shire Council	9	0	5	0	0	0	0	0	0	0	0	0	0	14	
Wollondilly Shire Council	6	0	2	0	0	0	0	0	0	0	0	0	0	8	
Wollongong City Council	15	0	5	1	0	1	0	0	0	0	0	0	0	22	
Woollahra Municipal Council	4	0	1	0	0	0	0	0	0	0	0	0	0	5	
Wyong Shire Council	11	0	2	0	1	0	0	0	0	0	0	0	0	14	
Yass Valley Council	3	0	2	0	1	0	0	0	0	0	0	0	0	6	
Young Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Total	613	6	216	2	47	29	7	0	0	0	2	0	2	924	

Description

Decline after assessment only, including:

- A** Conduct outside jurisdiction, trivial, remote, insufficient interest, commercial matter, right of appeal or redress, substantive explanation or advice provided, premature — referred to agency, concurrent representation, investigation declined on resource/priority grounds

Preliminary or informal investigation:

- B** Substantive advice, information provided without formal finding of wrong conduct
C Advice/explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource/priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions/comment made
H Consolidated into other complaint
I Conciliated/mediated

Formal investigation:

- J** Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

Appendix I

Corrections

Figure 74: Action taken on formal complaints about people in custody finalised in 2010–2011

Figure 74 shows the action we took on each of the formal complaints finalised this year concerning people in custody.

Council	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
Corrective Services NSW	127	49	256	6	190	24	8	12	0	0	1	0	0	673	
GEO Australia	16	3	75	2	70	9	2	0	0	0	0	0	0	177	
Justice Health	9	1	17	0	15	3	0	2	0	0	0	0	0	47	
Serious Offenders Review Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Total	153	53	348	8	275	36	10	14	0	0	1	0	0	898	

Description

Decline after assessment only, including:

- A** Conduct outside jurisdiction, trivial, remote, insufficient interest, commercial matter, right of appeal or redress, substantive explanation or advice provided, premature — referred to agency, concurrent representation, investigation declined on resource/priority grounds

Preliminary or informal investigation:

- B** Substantive advice, information provided without formal finding of wrong conduct
C Advice/explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource/priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions/comment made
H Consolidated into other complaint
I Conciliated/mediated

Formal investigation:

- J** Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

Figure 75: Number of formal and informal complaints about correctional centres, DCS and GEO received in 2010–2011

Institution	Formal	Informal	Total
Bathurst Correctional Centre	36	132	168
Berrima Correctional Centre	2	14	16
Broken Hill Correctional Centre	1	4	5
Cessnock Correctional Centre	12	40	52
Community Offender Services	22	64	86
Compulsory Drug Treatment Correctional Centre	1	4	5
Cooma Correctional Centre	13	25	38
Corrective Services	106	289	395
Court Escort/Security Unit	13	6	19
Dawn De Loas Special Purpose Centre	13	60	73
Dillwynia Correctional Centre	11	50	61
Emu Plains Correctional Centre	5	47	52
Glen Innes Correctional Centre	1	4	5
Goulburn Correctional Centre	55	160	215
Grafton Correctional Centre	12	65	77
Head Office, Department Corrective Services	0	1	1
High Risk Management Correctional Centre	41	45	86
Ivanhoe (Warakirri) Correctional Centre	2	5	7
John Morony Correctional Centre	4	47	51
Junee Correctional Centre	103	312	415
Justice Health	43	262	305
Kariong Juvenile Correctional Centre	29	45	74
Kirkconnell Correctional Centre	4	51	55
Lithgow Correctional Centre	7	70	77
Long Bay Hospital	5	60	65
Mannus Correctional Centre	1	7	8
Metropolitan Remand and Reception Centre	45	213	258
Metropolitan Special Programs Centre	38	251	289
Mid North Coast Correctional Centre	28	190	218
Oberon Correctional Centre	0	2	2
Outer Metropolitan Multi Purpose Centre	5	9	14
Parklea Correctional Centre	68	256	324
Parramatta Correctional Centre	6	19	25
Periodic Detention Centres	0	4	4
Serious Offenders Review Council	1	3	4
Silverwater Correctional Centre	7	59	66
Silverwater Women's Correctional Centre	15	110	125
South Coast Correctional Centre	12	52	64
Special Purpose Prison Long Bay	39	21	60
St Heliers Correctional Centre	4	18	22
State Parole Authority	0	16	16
Tamworth Correctional Centre	4	18	22
The Forensic Hospital	3	5	8
Wellington Correctional Centre	45	232	277
Women's Transitional Centres	1	2	3
Yetta Dhinnakkal (Brewarrina) Correctional Centre	1	1	2
Total	864	3,350	4,214

Some complaints may involve more than one centre.

Appendix J

Freedom of information

Figure 76: Action taken on formal complaints about FOI finalised in 2010–2011

Figure 76 shows the action we took on each of the written complaints finalised this year about individual public sector agencies relating to freedom of information.

Council	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
Ambulance Service of NSW	0	0	1	0	1	0	0	0	0	0	0	0	0	2	
Attorney General	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Ballina Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Coffs Harbour City Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Communities NSW	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Community Services NSW	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Corrective Services NSW	1	0	3	0	0	0	0	0	0	0	0	0	0	4	
Department of Education and Training	2	0	2	0	2	1	0	0	0	0	0	0	0	7	
Department of Environment, Climate Change and Water	0	0	0	1	1	0	0	0	0	0	0	0	0	2	
Department of Lands	1	0	0	0	1	0	0	0	0	0	0	0	0	2	
Department of Planning	0	0	1	0	2	0	0	0	0	0	0	0	0	3	
Department of Premier and Cabinet	0	0	3	1	0	1	0	0	0	1	1	0	0	7	
Department of Services, Technology and Administration	0	0	0	0	0	1	0	0	0	0	0	0	0	1	
Department of Water and Energy	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Gosford City Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Greyhound and Harness Racing Regulatory Authority	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Hunter and New England Area Health Service	1	0	0	0	1	0	0	0	0	0	0	0	0	2	
Independent Pricing and Regulatory Tribunal	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Justice Health	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Manly Council	0	0	0	0	0	0	1	0	0	0	0	0	0	1	
Newcastle City Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
NSW Maritime Authority	1	0	0	0	1	0	0	0	0	0	0	0	0	2	
NSW Police Force	5	1	7	0	13	1	0	0	0	1	0	0	0	28	
Outside our jurisdiction - Ministers/MPs/Governor/Parliament	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Penrith City Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Rail Corporation New South Wales (RailCorp)	0	0	1	0	1	0	0	0	0	0	1	0	0	3	
Roads and Traffic Authority	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Ryde City Council	0	0	0	0	0	1	0	0	0	0	0	0	0	1	
Shellharbour City Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	

Council	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
State Transit Authority of NSW	0	0	0	0	2	0	0	0	0	0	0	0	0	2	
Sydney Ferries Corporation	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Sydney West Area Health Service	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Transport NSW	2	0	0	0	1	0	0	0	0	0	0	0	0	3	
Tweed Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Upper Lachlan Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Total	17	1	26	2	33	5	1	0	0	2	2	0	0	89	

Description

Decline after assessment only, including:

- A** Conduct outside jurisdiction, trivial, remote, insufficient interest, commercial matter, right of appeal or redress, substantive explanation or advice provided, premature — referred to agency, concurrent representation, investigation declined on resource/priority grounds

Preliminary or informal investigation:

- B** Substantive advice, information provided without formal finding of wrong conduct
C Advice/explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource/priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions/comment made
H Consolidated into other complaint
I Conciliated/mediated

Formal investigation:

- J** Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

Appendix K

Report on police use of emergency powers to prevent or control public disorder

This report is provided in accordance with section 87O(5) of the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA). Under LEPRA, the Ombudsman must report annually on our work in keeping under scrutiny the exercise of powers conferred on police to prevent or control public disorder.

Emergency powers were given to police to deal with actual or threatened large-scale public disorder. The initial powers were temporary, but in December 2007 the NSW Parliament decided to continue the powers – known as Part 6A LEPRA or the emergency powers. It also extended the Ombudsman's role to keep under scrutiny the use of the emergency powers.

Part 6A provides police with extraordinary powers in circumstances where the authorising officer reasonably believes large-scale public disorder is occurring or is threatened to occur in the near future, and they are satisfied that the emergency powers are reasonably necessary to control that public disorder. The powers include establishing a cordon or roadblock around a target area or road, stopping and searching vehicles or pedestrians in the target area, requiring identification details of people in the target area, seizing and detaining things including mobile phones and vehicles, and directing groups to disperse. Police can also impose emergency alcohol free zones and prohibitions on the sale or supply of liquor.

Under Part 6A, the Commissioner of Police must provide the Ombudsman with a report about any uses of the powers within three months. The Ombudsman may also require the Commissioner or any public authority to provide information about the exercise of those powers. Under a memorandum of understanding, the NSWPF has agreed to provide us with biannual reports that cover all uses of the Part 6A powers, details of any instances where the powers were seriously considered but not used, and advice about training undertaken and amendments to policies and procedures.

Police used the emergency powers on one occasion in 2010–2011 at Wallaga Lake Koori Village. They seriously considered using the powers on three other occasions, but decided to control the situation by other means.

Using the powers at Wallaga Lake Koori Village

On 3 March 2011, Assistant Commissioner Michael Fuller authorised use of the emergency powers for a period of 48 hours to respond to public disorder in Wallaga Lake Koori Village. This is a small community on the south coast of NSW, falling within the boundaries of the Far South Coast Local Area Command (LAC).

Background to the use of the powers

Police have documented a history of tension in the community going back over a number of years, particularly involving disputes between certain family groups living in the village. Conflict between these groups escalated in December 2010 and January 2011. There were fights involving significant numbers of people and injuries to some of those involved. The conflict continued throughout February, and in late February police received information

that some parties were using social networking media to rally support for an open conflict between the factions. Supporting documentation shows that people from other locations intended to come to Wallaga Lake Koori Village to join the conflict.

On 2 March 2011, two violent confrontations took place between the feuding groups involving approximately 20 people. Police reported that people were armed with 'boondi sticks', iron bars and axe handles. They reported that two vehicles being driven menacingly collided. Five people were hospitalised as a result of the fracas.

The application for authorisation to use the emergency powers paints a picture of the public disorder in the village. Police patrolled Wallaga Lake throughout 3 March 2011, and received information that extended family members were travelling from other locations to take part in the conflict. The local pre-school closed due to fears of violence in the community. By mid afternoon, police observed large groups of people congregating and consuming alcohol. They also received information that some community members had started gathering ammunition, petrol bombs had been made for an anticipated confrontation that evening, and firearms may be present in the community. That afternoon, police patrols noted fires that appeared to have been lit by community members. One group had blocked the single access roadway to the village and set fire to a vehicle. Groups of non-residents affiliated with the feuding community members started to arrive and police negotiated with some of them to leave the area due to safety concerns. Additional police, including officers from outside the area and the Region Operational Support Group and the Public Order Riot Squad, were called to assist in patrols and in responding to the anticipated violence.

Before the authorisation to use the emergency powers, police established a roadblock to deter people from entering the village to participate in the conflict. Police advise they used 'breach of the peace powers' and section 186 of LEPRA to do this, and then negotiated with people to persuade them to leave the area. Section 186 LEPRA, which is not an emergency power but one of the ordinary powers available to police, enables them to temporarily close a road or road-related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.

Police records are unclear about how many people arrived and tried to gain entry to Wallaga Lake Koori Village on the afternoon of 3 March 2011. One record indicates that police turned away three car loads, another suggests that police were outnumbered by 80 people trying to gain access to the village to fight. During the afternoon, police evacuated 39 people – of which 15 were community members from one side of the conflict – due to safety concerns, and arranged temporary emergency accommodation for them.

It appears that police were successful in keeping non-residents from entering the village and joining in any public disorder before the authorisation to use the emergency powers. However the Far South Coast Commander applied for authorisation to use the Part 6A powers on the evening of 3 March 2011, because of the presence of alcohol, information about firearms and weapons, and threats made by both the groups. The application stated that police had a strong belief the public disorder would 'continue and pose serious risk to the public safety of the residents of Wallaga Lake Koori Village'.

Authorisation to use the emergency powers

On the evening of 3 March 2011, the Acting Superintendent of Far South Coast LAC applied to Assistant Commissioner Michael Fuller for authorisation to use the emergency powers set out in Part 6A of LEPRA. Authorisation was granted at 9.45pm that evening to use the emergency powers for 48 hours.

The authorisation permitted police to establish a cordon or roadblock around a target area or road, stop and search vehicles or pedestrians in the target area, require identification details of people in the target area, seize and detain things, and direct groups to disperse.

Part 6A of LEPRA sets out that authorisation may be given to prohibit the sale or supply of liquor and establish emergency alcohol-free zones. On this occasion, the Assistant Commissioner determined that these powers were not immediately necessary and no authorisation was given to use them.

The target area for the use of the powers covered areas where public disorder was expected to occur, including the entrances and exits for the village. Officers assisting with this incident were given maps and briefed about the extent of the target area.

The commander's intent for the use of the emergency powers was:

To facilitate a safe and secure environment within the Wallaga Lake Koori Village through the use of Local, Region and Specialist resources to ensure the safety of residents of the village, the security of residents property and to prevent the escalation of Public Disorder.

How police used the powers

Police used high visibility patrols to try to monitor the situation and maintain order before, after and during the emergency authorisation period. During the operation, they used roadblocks to prevent people entering the village. It is unclear how many vehicles or people were turned away while the powers were in use as no records were kept at the roadblock sites. Other documents created during and after the operation estimate the numbers turned away from the village. One estimate was that 80 people were turned away, another estimated 35 people. Yet another estimate was that 15 vehicles were stopped at the two roadblocks that police established at the access points to the village – and only two of these were allowed entry after providing valid reasons. Under the authorisation, police could stop and search vehicles within the target area and search people and anything in their possession or control. Police created COPS records about stopping and searching two vehicles on 4 March 2011, obtaining details of the occupants as permitted by the emergency powers. The occupants of the vehicles were directed away from the area and police indicate they complied without incident. The available police records do not detail any other searches or indicate that any items were seized by police. Another vehicle was stopped on 4 March 2011 inside the target area. Police checks revealed the driver was disqualified and the vehicle was unregistered and uninsured, so they issued the driver with a court attendance notice for these offences.

An operation log notes on the afternoon of Sunday 5 March 2011 that six vehicles containing non-residents were prevented from entering the village. Presumably police used the emergency powers to obtain details of the occupants of the vehicles to find out if they were residents, but use of this power was not documented.

A range of available powers were ultimately not used by police – including the power to seize and detain things, disperse groups (police indicated that groups of people were turned away by negotiation rather than by being ordered to leave), and power to stop vehicles that are outside the target area if police suspect on reasonable grounds that the occupants intend to participate in the public disorder.

The emergency powers remained in force for the full 48 hours. Periodic police reports throughout the operation indicate a de-escalation of tensions and no further incidents of public disorder occurred either within or outside the village during the operation.

No arrests were made as a result of the use of the emergency powers. However, seven people were arrested and charged with offensive conduct and one was charged with breach of bail as a result of the violent confrontations on 2 March 2011.

It appears that police did try to work with community members to de-escalate community tensions. During the incident they liaised with social workers, Aboriginal Legal Service and Aboriginal Land Council and Aboriginal housing providers to help understand the situation and work towards some solutions. After the incident, officers from the NSWPF participated in a multi-agency meeting chaired by the Department of Premier and Cabinet to discuss longer term solutions to the community tensions.

Police reported positive feedback was received from Aboriginal elders about the police response helping to de-escalate the situation.

NSWPF review of the use of emergency powers

Following the operation, the Southern Region and Far South Coast LAC conducted debriefs. These noted the use of the Part 6A powers had been effective and generally the operation ran smoothly.

Two primary issues were identified about the Part 6A powers:

- The local area commander suggested that NSWPF needed a template to make applications for Part 6A powers. Although there is a template for the authorisation, there is no template application form.
- A number of uses of the powers during the 48 hour authorisation period were not recorded. An Inspector from the Far South Coast LAC commented 'it appears only a proportion of the activity conducted by police in terms of preventing vehicles from entry at the roadblocks to Wallaga Lake was captured'.

A further internal review of the use of the emergency powers conducted by the Commander of the Major Events and Incidents Group noted both these issues.

The Public Order Law Manual states that 'it is desirable to record the name of persons refused permission to enter or leave a checkpoint and brief reasons for that refusal. The information could be recorded on a running sheet or in an official notebook'. The reviewing commander indicated that had information about people refused entry into the village been recorded in this way, it could have later been transferred to the COPS database.

The reviewing commander considered the threat of large scale public disorder 'certainly existed' and the use of the powers was appropriate in these circumstances. He stated:

The provision of these additional powers greatly assisted police in preventing persons entering the village for the purpose of engaging in violence and property damage. The evidence indicates that numerous non-residents were refused entry to the target area. Had these persons gained entry and engaged in criminal activity I have no doubt that both police and the general public would have incurred serious injuries.

The reviewing commander noted that police did not unnecessarily invoke alcohol restrictions and did not restrict the entry of residents and others who had a legitimate need to enter the village. He noted that the key strategy of establishing roadblocks and controlling access to the village was effective in preventing the anticipated disorder and patrols within the target area maintained peace. The NSWPF review made no recommendations for changes in legislation, policy or internal procedures. They undertook to work towards preparing a template application form for use of the powers to be included in the *Public Order Law manual*, and noted this incident will now serve as a case study in the Incident Commanders Course.

Ombudsman's comments

We reviewed the available documentation about the incident, including the debriefing and internal review documents. Police appeared to be managing the situation reasonably well before the authorisation to use emergency powers. They had established a roadblock and were effectively using high-visibility patrols and negotiation to deter people from entering the village and avoid further incidents of affray. There is no definition of 'large scale' in the Act. However available documentation clearly suggests that incidents of violence and disorder had taken place, resulting in injury to people and damage to property. Police subsequently advised us that the additional powers available under Part 6A (such as searching people and vehicles and seizing things) may have been necessary if their other strategies failed to maintain order.

In general, it appears that the powers were used selectively and with restraint – restrictions on the use or sale of alcohol were not imposed and police appear to have negotiated with community members to de-escalate tensions.

Our central concern with this operation is the lack of records about the people refused entry to the village under the emergency powers. Although running logs from the forward command post provide an overview of the operation, there appears to be no records from the roadblock sites. Also, the only other records of exercising powers under Part 6A relate to three vehicles stopped within the target area on 4 March 2011. This clearly does not account for the larger numbers refused entry. It is also unclear whether police conducted searches of vehicles at the roadblock sites.

It appears the orders to officers at the roadblock may have changed during the course of the authorisation period. A reference in a police timeline of events occurring on 3 March indicates 'roadblock and vehicle searches being conducted on vehicles as they arrive no persons able to enter however able to leave – nil issues'. An operational log dated 5 March 2011 indicates staff were given verbal orders 'confirming residents allowed in/out upon confirmation they are actually residents ... non-residents not permitted to enter Wallaga Lake Village'.

The lack of documentation about those refused access makes it difficult to determine if any residents were inappropriately refused entry to the village and their homes. An absence of such records would also make it difficult to

address any complaints that may be received from people who feel they have been unreasonably excluded from their home or workplace.

The law about establishing a roadblock under the emergency powers states that police may prevent people entering or leaving the target area. They must not refuse permission for a person to leave the area unless it is reasonably necessary to do so to avoid a risk to public safety or the person's own safety. Although the legislation is silent on the issue of refusing individuals access to their homes if they are within the target area, the *Public Order Law manual* indicates that people who have a legitimate reason to enter an area – such as work or residence – should generally not be prevented from entering unless the circumstances pose a real risk to their safety.

We received one inquiry call during the authorisation period from a resident who indicated he had been prevented entry to the village, but no formal complaint was made.

We have commented in previous reports about keeping appropriate records about the exercise of the emergency powers. In this case, although it may not have been possible to record each individual refused entry due to the volume of people at the roadblock, it may have been possible for officers to record the vehicle registration details.

The measures proposed by the commander reviewing the use of the emergency powers appear appropriate. We note that police debriefs identified record-keeping as a matter of concern. We will continue to monitor the way police record their use of the emergency powers.

Considered uses of the powers

We were advised in November 2010 that the NSWPF seriously considered using the Part 6A powers on three occasions during the reporting period.

All three occasions were in early April 2010, and related to police concerns about possible violence between rival motorcycle gangs in the Kings Cross and Bankstown areas. On one occasion informal risk assessments determined the risk of large-scale public disorder was low and the local area command decided not to apply for a Part 6A authorisation.

On the second and third occasions that the powers were considered, police monitored the presence of rival gang members and decided that ordinary police powers were sufficient to manage the situation – and the threat of public disorder did not eventuate. No applications were made for authorisation of the powers for these incidents.

This advice tends to show that the NSWPF continues to assess whether the powers may be necessary to respond to threats of large-scale public disorder or whether ordinary police powers may be sufficient. This kind of assessment is important given the impact the emergency powers may have on members of the public, including those not involved in any public disorder.

Appendix L

Committees

Significant committees

Our staff members are members of the following inter-organisational committees:

Staff member	Committee name
Ombudsman Bruce Barbour	Board member, Pacific Ombudsman Alliance; Institute of Criminology Advisory Committee; Reviewable Disability Deaths Advisory Committee; Reviewable Child Deaths Advisory Committee; Public Interest Disclosures Steering Committee (part year); Convenor, NSW Child Death Review Team
Deputy Ombudsman (Public Administration & Strategic Projects Branch) Chris Wheeler	Local Government Liaison Group; Public Information Disclosure Steering Committee
Deputy Ombudsman/Community and Disability Services Commissioner Steve Kinmond	Police Aboriginal Strategic Advisory Committee (PASAC); Reviewable Disability Deaths Advisory Committee; Reviewable Child Deaths Advisory Committee
Former Deputy Ombudsman (Police & Compliance) Greg Andrews	International Network for the Independent Oversight of Police; Early Intervention System Steering Committee
Director Corporate Anita Whittaker	Management board of the NSW Audit and Risk Practitioners Group
Principal Investigator Sue Phelan	Child Protection and Sex Crimes Squad Advisory Council
Director, Strategic Projects Division Julianna Demetrius	PASAC, NSW Police Force Domestic Violence Steering Committee
Manager, Aboriginal Unit Laurel Russ	PASAC
Division Manager (Public Administration Division) Anne Radford	Complaint Handlers Information Sharing and Liaison Group (formerly JIG)
Inquiries and Resolution Team Manager Vince Blatch	Complaint Handlers Information Sharing and Liaison Group
Senior Investigation Officer Maxwell Britton	Corruption Prevention Network
Division Manager (Strategic Projects Division) Brendan Delahunty	PASAC
Community Education & Training Coordinator Anna Papanastasiou	Network of Government Agencies: Gay, Lesbian, Bisexual and Transgender Issues

Reviewable Disability Deaths Advisory Committee

Mr Bruce Barbour	Ombudsman (chair)
Mr Steve Kinmond	Deputy Ombudsman and Community and Disability Services Commissioner
Ms Margaret Bail	Human services consultant
Professor Helen Beange AM	Clinical Professor, Faculty of Medicine, University of Sydney
Ms Linda Goddard	Acting Undergraduate Courses Director, Senior Lecturer: Intellectual Disability, Chronic Care and Mental Health, School of Nursing, Midwifery & Indigenous Health, Charles Sturt University
Assoc Prof Alvin Ing	Senior Staff Specialist, Respiratory Medicine, Bankstown-Lidcombe Hospital and Senior Visiting Respiratory Physician, Concord Hospital
Dr Cheryl McIntyre	General practitioner, Obstetrician (Inverell)
Dr Ted O'Loughlin	Senior staff specialist, Gastroenterology, The Children's Hospital at Westmead
Dr Rosemary Sheehy	Geriatrician/Endocrinologist, Sydney Local Health Network
Ms Anne Slater	Physiotherapist, Allowah Children's Hospital (resigned March 2011)
Assoc Prof Ernest Somerville	Director, Comprehensive Epilepsy Service, Prince of Wales Hospital
Assoc Prof Julian Trollor	Chair, Intellectual Disability Mental Health, School of Psychiatry, Head, Department of Developmental Disability Neuropsychiatry, University of New South Wales

Appendix M

Compliance annual reporting requirements

Under the *Annual Reports (Departments) Act 1985*, the Annual Reports (Departments) Regulation 2010 and various Treasury circulars, our office is required to include in this report information on the following topics:

Topic	Comment/location
Access	Back cover
Aims and objectives	Pages 16-17
Charter	Inside front cover
Consultants	We used no consultants this year
Consumer response	Pages 12
Controlled entities	We have no controlled entities
Code of conduct amendments	Code of conduct was reviewed and there were no substantial changes made and is available on our website at www.ombo.nsw.gov.au
Credit card certification	The Ombudsman certifies that credit card use in the office has met best practice guidelines in accordance with Premier's memoranda and Treasury directions.
Departures from <i>Subordinate Legislation Act 1989</i>	This year we did not depart from the requirements of the Subordinate Legislation Act.
Disability plans	Appendix P
Economic or other factors	Pages 19, 114-116
Electronic service delivery	We have an electronic service delivery program to meet the government's commitment that all appropriate government services be available electronically. We provide an online complaints form, an online publications order form and a range of information brochures on our website.
Energy management	Pages 20-21
Equal Employment Opportunity	Pages 25-26
Evaluation of programs worth at least 10% of expenses and the results	We reviewed our work processes and how we capture and report on data across all our programs.
Executive positions	Pages 24-25
Financial statements and identification	Pages 116-136
Funds granted to non-government community organisations	We did not grant any funds of this sort
<i>Government Information (Public Access) Act 2009</i>	Appendix O
Guarantee of service	Inside front cover
Human resources	Pages 24-25
Is the report available in non-printed formats?	Yes
Is the report available on the internet?	Yes, at www.ombo.nsw.gov.au
Legal change	Appendix N
Letter of submission	Page 1
Major works in progress	There were no such works
Management and activities	This report details our activities during the reporting period. Specific comments can be found on pages 2-13.
Management and structure: names of principal officers, appropriate qualifications; organisational chart indicating functional responsibilities	Pages 6-7
Multicultural policies and services program (formerly Ethnic Affairs Priority Statement)	Appendix P and page 21
Must distinguish between complaints made directly to our office and those referred to us	There were seven complaints referred to us from other agencies.
NSW Government Action Plan for Women	Appendix P
Occupational health and safety	Page 26-27

Topic	Comment/location
Particulars of any matter arising since 1 July 2011 that could have a significant effect on our operations or a section of the community we serve	Not applicable
Particulars of extensions of time	No extension applied for
Payment of accounts	Page 115
Privacy management plan	We have a privacy management plan as required by s.33(3) of the <i>Privacy and Personal Information Protection Act 1988</i> and includes our obligations under the <i>Health Records and Information Privacy Act 2002</i> . This year we received in April 2011 and finalised in June 2011 one request for an internal review under Part 5 of the Act. We also finalised in August 2010 a request for an internal review received in June 2010.
Promotion – overseas visits	Pages 99–100
Research and development	Pages 61–62, 105–107 and Appendices B and K
Risk management and insurance activities	Pages 15
Summary review of operations	Pages 4 and 6
Time for payment of accounts	Page 116
Total external costs incurred in the production of the report	\$35,000 (including GST)
Unaudited financial information to be distinguished by note	Not applicable
Waste	Page 20

Appendix N

Legislation and legal matters

Legislation relating to Ombudsman functions

- | *Ombudsman Act 1974*
- | *Community Services (Complaints, Reviews and Monitoring) Act 1993*
- | *Police Act 1990*
- | *Government Information (Public Access) Act 2009*
- | *Government Information (Information Commissioner) Act 2009*
- | *Freedom of Information Act 1989* – applied by the *Government Information (Public Access) Act 2009*
- | *Public Interest Disclosures Act 1994*
- | *Witness Protection Act 1995*
- | Enabling legislation for NSW universities – as amended by the *Universities Legislation Amendment (Financial and Other Powers) Act 2001*
- | *Children and Young Persons (Care and Protection) Act 1998*
- | *Commission for Children and Young People Act 1998*
- | *Law Enforcement (Controlled Operations) Act 1997*
- | *Telecommunications (Interception and Access) (New South Wales) Act 1987*
- | *Law Enforcement (Powers and Responsibilities) Act 2002*
- | *Surveillance Devices Act 2007*
- | *Terrorism (Police Powers) Act 2002*
- | *Criminal Procedure Act 1986*

Litigation

In 2010-2011, we were a party (as third respondent) to the following legal action:

- | *Micro Focus (US) Inc & Ors v NSW Police Force, Police Integrity Commission & NSW Ombudsman* - in the Federal Court of Australia seeking orders under s.115(2) of the *Copyright Act 1968* (Cth).

Legal changes

Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009

This Act amended, among other Acts, the *Commission for Children and Young People Act 1998* to give effect to recommendations of the Special Commission of Inquiry into Child Protection Services in NSW (the Wood Inquiry) that the NSW Ombudsman convenes the Child Death Review Team and takes responsibility for the team's secretariat and research functions. This amendment came into operation on 11 February 2011.

Crimes (Criminal Organisations Control) Act 2009

This Act provided for an eligible judge to make a declaration for an organisation and a control order for a member of a declared organisation. It gave the NSW Ombudsman the function of monitoring the exercise of powers under this Act and reporting to the Attorney General and the Commissioner of Police. On 23 June 2011, this Act was declared invalid by the High Court in *Wainohu v State of New South Wales* [2011] HCA 24.

Protected Disclosures Amendment (Public Interest Disclosures) Act 2010

This Act amended the *Protected Disclosures Act 1994* to:

- | extend its protections to include compensation for reprisals and injunctions to prevent reprisals
- | reduce the threshold for protection to include whistleblowers who honestly believe on reasonable grounds that their disclosure shows or tends to show wrongdoing by a public authority – including a failure to exercise functions in accordance with the *Government Information (Public Access) Act 2009*
- | change its name to the *Public Interest Disclosures Act 1994*.

The amending Act also gave the Ombudsman oversight functions that include monitoring and auditing the compliance of public authorities with the requirements of the Public Interest Disclosures Act, and established a Public Interest Disclosures Steering Committee – chaired by the Ombudsman – to provide advice and report to the Minister. These amendments came into operation on 1 July 2011.

External legal advice sought

- | Mr MG Sexton SC, Solicitor General, with Dr JG Renwick – advice about the exercise of the Ombudsman's functions under the *Surveillance Devices Act 2007*.
- | Mr MG Sexton SC, Solicitor General - advice about the *Telecommunications (Interception and Access) Act 1979* (Cth).
- | Mr A Robertson SC (now The Honourable Justice Robertson of the Federal Court of Australia) with Ms K Stern – advice about the scope of the Ombudsman's powers under Part 8A of the *Police Act 1990*.

Appendix O

GIPA Report

The following information is provided under section 125 of the *Government Information (Public Access) Act 2009* and clause 7 of the Government Information (Public Access) Regulation 2009.

We have continually reviewed the open access information we make available to the public. The secrecy provisions of the Ombudsman Act prevent us from making information about much of our work publicly available, but despite this we have:

- | made our policy documents available in pdf format on our website, and we are continuing to update these as changes are made
- | placed information about our work on the latest news section of our website. This provides details about visits to rural and regional centres, training sessions conducted and other information that may be of broader public interest. This section of the website is usually updated twice a month
- | prepared a number of e-newsletters that provide information about our work. These include *Ombo-info*, which has a subscription list of 1,500, and the public interest disclosures e-news that has a distribution list of 450
- | provided speeches made by the Ombudsman and Deputy Ombudsman in pdf format on our website.

We received one valid access application during 2010-2011 and seven invalid applications. We gave full access to the information sought in the valid access application. The invalid applications mainly sought access to documents relating to our complaint handling, investigative and reporting functions – this is excluded information under Schedule 2 to the Act.

Schedule 2: Statistical information about access applications

(Clause 7)

Table A: Number of applications by type of applicant and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	–	–	–	–	–	–	–	–
Members of Parliament	–	–	–	–	–	–	–	–
Private sector business	–	–	–	–	–	–	–	–
Not-for-profit organisations or community groups	–	–	–	–	–	–	–	–
Members of the public (application by legal representative)	–	–	–	–	–	–	–	–
Members of the public (other)	1	–	–	–	–	–	–	–

Table B: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications	1	–	–	–	–	–	–	–
Access applications (other than personal information applications)	–	–	–	–	–	–	–	–
Access applications that are partly personal information applications and partly other	–	–	–	–	–	–	–	–

Table C: Invalid applications

Reason for invalidity	No of applications
Application does not comply with formal requirements (section 41 of the Act)	2
Application is for excluded information of the agency (section 43 of the Act)	5
Application contravenes restraint order (section 110 of the Act)	–
Total number of invalid applications received	7
Invalid applications that subsequently became valid applications	–

Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

	Number of times consideration used*
Overriding secrecy laws	–
Cabinet information	–
Executive Council information	–
Contempt	–
Legal professional privilege	–
Excluded information	–
Documents affecting law enforcement and public safety	–
Transport safety	–
Adoption	–
Care and protection of children	–
Ministerial code of conduct	–
Aboriginal and environmental heritage	–

Table E: Other public interest considerations against disclosure: matters listed in table to section 14 of Act

	Number of occasions when application not successful
Responsible and effective government	–
Law enforcement and security	–
Individual rights, judicial processes and natural justice	–
Business interests of agencies and other persons	–
Environment, culture, economy and general matters	–
Secrecy provisions	–
Exempt documents under interstate Freedom of Information legislation	–

Table F: Timeliness

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	1
Decided after 35 days (by agreement with applicant)	–
Not decided within time (deemed refusal)	–
Total	1

Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total
Internal review	–	–	–
Review by Information Commissioner	–	1	1
Internal review following recommendation under section 93 of Act	–	–	–
Review by ADT	–	–	–
Total	–	1	1

Table H: Applications for review under Part 5 of the Act (by type of applicant)

	Number of applications for review
Applications by access applicants	1
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	–

Appendix P

Access and equity programs

Multicultural action plan

Key priority area	Planned outcome	Strategies	Progress report
Planning and evaluation	Integrate multicultural policy goals into our corporate and business planning and review mechanisms.	Develop a multicultural action plan which includes performance measures, strategies to assess progress, and indicators for improved performance.	<ul style="list-style-type: none"> We developed our multicultural action plan (MAP), detailing strategies and actions to improve our services to culturally and linguistically diverse (CALD) people, and it has been approved by the Ombudsman. Our MAP is outcome-ocused with assigned responsibilities. It is a living document with a built-in monitoring and reporting mechanism.
		Ensure that strategies to address issues relating to CALD people are reflected in or linked to our corporate plan and relevant business plans.	<ul style="list-style-type: none"> Strategies to address issues relating to CALD people are linked to our corporate plan and relevant business plans. We have developed an office-wide reporting mechanism that helps our business units to capture, report on and monitor all outreach activities – including those that may affect CALD people. Senior management is given quarterly reports on the implementation of our MAP.
		Gather and analyse information about issues affecting CALD people and inform business planning processes.	<ul style="list-style-type: none"> We are reviewing the way we collect and use demographic data to better inform our business planning process and to improve service provision to all vulnerable groups, including CALD people.
	Policy development and service delivery is informed by our expertise, client feedback and complaints, and participation on advisory boards, significant committees and consultations.	Establish a cross-office MAP advisory committee to ensure that all business areas participate in the multicultural planning process.	<ul style="list-style-type: none"> Our MAP advisory committee, headed by a senior officer and with representatives from all business areas, meets regularly to provide advice and support and to monitor the implementation of our MAP.
		Ensure that the needs of CALD people are reflected in our stakeholder engagement strategy.	<ul style="list-style-type: none"> The needs of CALD people are reflected in the office stakeholder engagement plan that will be incorporated into all relevant business plans.
		Consult regularly with key multicultural groups to identify gaps in our awareness strategies and service delivery and ensure that issues identified are reflected in our planning process.	<ul style="list-style-type: none"> We consult with key CALD organisations such as migrant resource centres, migrant workers networks and ethno specific community organisations to promote our services to CALD communities, and to identify gaps in our awareness strategies and service deliveries.
		Take all reasonable steps to encourage CALD people to participate in relevant committees, roundtable discussions and public forums.	<ul style="list-style-type: none"> We consulted with key CALD organisations such as the Multicultural Disability Advocacy Association on a range of issues relevant to CALD people with disabilities. We have included CALD people, where appropriate, in any consultations for our project and other core business work.

Key priority area	Planned outcome	Strategies	Progress report
Capacity building and resourcing	Senior management actively promote and are accountable for the implementation of the principles of multiculturalism within the office and wider community.	Multicultural plan endorsed and promoted to staff by Ombudsman.	<ul style="list-style-type: none"> Our MAP was approved as office policy by the Ombudsman and made available to all staff.
		Ensure that our MAP assigns clear responsibilities to key staff and division management for its implementation, and review their performance agreements to ensure accountabilities for multicultural affairs are clearly assigned.	<ul style="list-style-type: none"> The Director Corporate is the appointed lead officer for our multicultural policies and programs planning process, and holds overall responsibility for developing and implementing our MAP. Our MAP assigns clear responsibilities to all relevant staff.
	Our capacity is enhanced by the employment and training of people with linguistic and cultural expertise.	Use Community Language Allowance Scheme (CLAS), monitor its implementation, and develop a register of staff who have bilingual skills and cultural and community knowledge to assist in our communications with our clients.	<ul style="list-style-type: none"> We have actively promoted and used the CLAS program within our office. Four staff members who receive the CLAS allowance jointly cover five community languages. Our CLAS register is available on our intranet for all staff to use.
Program and services	Identify barriers to access to our services for CALD communities, and develop programs and services to address issues identified.	Review our guidelines on the use of interpreters and translators and provide training to all staff.	<ul style="list-style-type: none"> All our frontline staff are trained in the use of interpreters and translators.
		Ensure that our budget for interpreter services and interpreter use is monitored and reviewed.	<ul style="list-style-type: none"> We have allocated funds for providing interpreting and translation services. A register of our use of interpreting and translation services is kept to inform our decision-making in developing community language information.
	Use a range of communication formats and channels to inform CALD communities about our programs, services and activities.	Review our information in community languages and develop accessible and appropriate information material in a range of formats (written, audio, online, etc) to meet the specific needs of CALD communities following consultation with key community organisations.	<ul style="list-style-type: none"> We have conducted a comprehensive review of our community language information resources. We developed a multilingual brochure with basic information about our services in 26 community languages. We developed a fact sheet 'Making a complaint to the Ombudsman' and had it translated into 46 community languages. Our information in community languages has been checked by community 'readers' for language and cultural appropriateness.
		Explore and recommend where appropriate the use of a range of technology in targeted community languages to facilitate communication with CALD people and improve access to our services.	<ul style="list-style-type: none"> We are addressing the information needs of CALD communities in our website review and rebuilding project.
		Develop initiatives to raise awareness of, and celebrate the contribution of, CALD people.	<ul style="list-style-type: none"> We participated in various multicultural events to raise awareness of our services among CALD communities, particularly the new and emerging communities. We held information stalls at the African Summer Festival in Parramatta, the Community Information Expo in Eastwood, the Putting the Pieces Together Forum in Parramatta, and the 2011 Refugee Symposium in Fairfield. We promoted our services to newly arrived migrants through adult migrant education services, such as Fairfield ACL.

Disability action plan

Outcomes	Strategies	Report
Identify and remove barriers to services for people with disabilities	Identify barriers to services for people with disabilities including physical, infrastructural, procedural and social barriers.	<ul style="list-style-type: none"> We conducted an internal survey to identify staff skills and knowledge needs in service delivery to people with disabilities. We are conducting further staff consultation to help us develop relevant resources and training programs. Gave ongoing feedback to ADHC on their Aboriginal Cultural Inclusion Framework and other strategies for supporting Aboriginal people with disabilities.
	Incorporate disability access issues in the planning process to reflect the needs of people with disabilities.	<ul style="list-style-type: none"> We linked strategies to address issues relating to people with disabilities to our corporate plan and relevant business plans. Our disability action plan (DAP) advisory committee monitored the implementation of our DAP strategies. We provided senior management with quarterly reports on the implementation of our DAP.
	Review our complaint-handling practices to remove barriers for people with disabilities.	<ul style="list-style-type: none"> We reviewed our complaint-handling practices to identify any gaps in service provision for people with disabilities. We are developing a guideline for dealing with complaints from people with disabilities.
	Improve data and data collection in relation to disability issues.	<ul style="list-style-type: none"> We are reviewing the way we collect and use demographic data to better inform our business planning process and to improve service provision to all vulnerable groups, including people with disabilities.
	Improve disability awareness among all staff.	<ul style="list-style-type: none"> Our disability awareness training program is compulsory for all staff and staff attendance is monitored. We continued to support the Don't Dis My Ability campaign and used the opportunity to raise awareness of disability issues and celebrate the achievements of people with disabilities. We promoted disability awareness and provided resources on issues relating to people with disabilities via emails or on our disability resources intranet page. We used forums such as staff meetings to update all staff on the systemic issues affecting people with disabilities and our investigation and project work on improving access to services for people with disabilities and their carers.
Provide information in a range of formats that are accessible to people with disabilities	Improve the accessibility of key information about our services.	<ul style="list-style-type: none"> We updated our easy English pamphlet for people with language difficulties. We produced our general information brochure in a range of accessible formats – including large print, braille, audio and accessible CD – and distributed these resources to all key disability advocacy services through Vision Australia. Our toolkit for consumers of community services in NSW is available in audio.
	Improve the overall usability and accessibility of our website.	<ul style="list-style-type: none"> We are reviewing and rebuilding our website and ensuring it meets the accessibility standards set out in the web content accessibility guidelines.
Make government buildings and facilities physically accessible to people with disabilities	Identify physical and infrastructural barriers to access for people with disabilities.	<ul style="list-style-type: none"> We completed a range of building fit out work – including installing clear and legible braille and tactile signage at our reception area, altering doors and doorways, installing accessible door handles on external doors on all floors, and ensuring unobstructed access to workstations. We used a range of assistive tools such as the TTY and the National Relay Service to improve access for people with disabilities.
	Develop and implement an improvement plan to reduce the barriers identified	<ul style="list-style-type: none"> We developed an office access improvement plan with a priority list based on a comprehensive audit conducted by a certified building inspector, and we are working through the list to improve physical access to our office.
Assist people with disabilities to participate in public consultations and to apply for and participate in government advisory boards and committees	Encourage people with disabilities to take part in our consultative process.	<ul style="list-style-type: none"> We consulted over 300 parents and carers of children with disabilities across NSW about their experience in seeking and obtaining specialist disability and mainstream services and support. We issued a report that highlights the key issues raised in these consultations, outlines recent developments, and indicates the areas that we are pursuing with government agencies.
	Ensure that our venues for public consultations are accessible to people with disabilities.	<ul style="list-style-type: none"> We have an outreach venue checklist and an accessible venue register to assist staff in booking venues for outreach activities.

Outcomes	Strategies	Report
Increase employment participation of people with disabilities in the NSW public sector	Ensure our recruitment practices for all positions are accessible and non-discriminatory.	<ul style="list-style-type: none"> We reviewed our recruitment process to identify and remove barriers for people with disabilities at every stage of recruitment. We are reviewing our job pack to ensure that information about promoting a non-discriminatory workplace, including reasonable adjustment policies, is provided to all job applicants.
	Promote employment opportunities to people with disabilities.	<ul style="list-style-type: none"> As a member of the Australian Employers Network on Disabilities, we participated in training to raise awareness of employment issues faced by people with disabilities.
	Take all reasonable steps to increase employment participation for people with disabilities.	<ul style="list-style-type: none"> We are committed to making reasonable adjustments on request. We reviewed our reasonable adjustment policy and developed a guideline to assist staff processing reasonable adjustment applications.

Action plan for women

Objective	Outcomes for 2010-2011
Reduce violence against women	<ul style="list-style-type: none"> Two members of staff attended the Australian Domestic and Family Violence Clearinghouse (ADFVC) forum and workshop in May 2011, which examined risk factors associated with domestic violence deaths and institutional responses that can help prevent such tragedies. The forum focused on systemic gaps in policies, training and resources. Forum speakers included representatives from the Coroners Prevention Unit, Victoria, ADFVC and the University of Manitoba in Canada. Also in May 2011, staff attended the DV Prosecutor's Course Focus Group at Parramatta Police HQ. Over the past 18 months, the specialist legal consultant within the NSWPF's Domestic and Family Violence Team has been identifying and mentoring prosecutors with the experience and aptitude to be recognised as specialist domestic violence prosecutors. This meeting brought together these specialist prosecutors to brainstorm the structure and content of the two day face-to-face component of the specialist domestic violence course for prosecutors, which will also include a three day e-learning component. We were invited to the meeting as part of our ongoing role in monitoring systemic issues in relation to the policing of domestic violence following our 2006 report to Parliament. The NSWPF are planning to roll out the e-learning component in the last quarter of 2011, with the first session of the face to face component of the training scheduled for February 2012. Tabled a report to Parliament on our audit of the NSWPF's handling of domestic and family violence complaints. At the request of Dr Rita Shackel from the Sydney University Institute of Criminology, we gave a presentation on Aboriginal Child Sexual Assault (ACSA) to a group of Sri-Lankan Fellowes involved in increasing the capacity of Sri-Lankan professionals to deal with child sexual abuse. Attendees included representatives from the Safe Families Program, AANSW and NSW Health. This seminar allowed us to share important information about how to work with communities who are reluctant to report sexual assault, mistrust government agencies and fear retribution. It also helped to build research capacity/learnings with international partners and promote our ACSA research with the Sydney Institute of Criminology.
Promote safe and equitable workplaces that are responsive to all aspects of women's lives	<ul style="list-style-type: none"> We help female staff balance work and care responsibilities by ensuring access to flexible working conditions – including flexible working hours, part-time and job-share arrangements, and leave for family responsibilities. We are committed to achieving and maintaining a harassment free workplace, and have policies and procedures for dealing with workplace grievance and harassment complaints.
Maximise the interests of women	<ul style="list-style-type: none"> We reviewed and updated our women's fact sheet which provides information about our work concerning women, such as overseeing complaints about police failure to deal appropriately with reports of domestic violence and sexual assault. We joined the 2011 International Women's Day celebration by having an information stall at Martin Place. Our staff distributed information about our work and services to hundreds of women attending the event, and provided advice to women who had problems with specific government and non-government agencies.
Improve the access of women to educational and training opportunities	<ul style="list-style-type: none"> We provide equal training and development opportunities for all our staff. We implement government policies on EEO and select and promote staff on merit.
Promote the position of women	<ul style="list-style-type: none"> We are committed to achieving equality and justice for women and have started a review and redevelopment of our Women's Action Plan. We have a diverse workforce featuring a very high representation of women at all levels. Women make up 72.9% of total staff and 68.3% of staff grade six and above. 58% of executive staff, that is our statutory and senior officers are women. 50% of our division managers are women.

Appendix Q

Publications list

We produce a range of publications including general information for the public, guidelines for agencies and organisations we oversee, discussion papers seeking information from the public, final reports at the conclusion of legislative reviews, annual reports outlining the work we have done during the financial year and special reports to Parliament about public interest issues. A full list of our publications we issued during 2010–2011 is available online at www.ombo.nsw.gov.au in Acrobat PDF. Alternative formats can be provided by contacting us.

Special reports to Parliament

- | Responding to the asbestos problem: the need for significant reform in NSW
- | People with disabilities and the closure of residential centres
- | Improving service delivery to Aboriginal people with a disability
- | Unresolved issues in the transfer of the NSW Child Death Review Team to the Office of the NSW Ombudsman
- | Audit of NSW Police Force handling of Domestic and Family Violence complaints
- | Improving probity standards for funded organisations
- | Inquiry into service provision to the Bourke and Brewarrina communities

Annual reports

- | NSW Ombudsman Annual Report 2009-2010
- | Law Enforcement (Controlled Operations) Act Annual Report 2009-2010
- | Official Community Visitors Annual Report 2009-2010

Reports and submissions

- | Report on review of children on statutory care orders with a view to restoration
- | Report on review of the impact of Criminal Infringement Notices on Aboriginal communities
- | Report under Section 49(1) of the *Surveillance Devices Act 2007* for the six months ending 30 June 2010
- | Report under Section 49(1) of the *Surveillance Devices Act 2007* for the six months ending 31 December 2010
- | Report under Section 242(3) of the *Law Enforcement (Powers and Responsibilities) Act 2002* for the period ending 28 May 2010
- | Submission: Inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system
- | Submission by the NSW Ombudsman Office to the NSW Law Reform Commission Inquiry into Penalty Notices December 2010
- | Submission: Inquiry into services provided or funded by ADHC for children with disabilities (hard copies not available)
- | Submission: Inquiry into services provided or funded by ADHC

Fact sheets and guidelines

- | Child protection fact sheet - Practice Update 2/2010: Reportable Conduct: sexual offences and sexual misconduct
- | Community Services fact sheets 3 to 4 (updated)
- | Cooperative arrangements between the Children's Guardian, Ombudsman and Official Community Visitors
- | Council fact sheets 1 to 3 (updated)
- | Overview of Ombudsman Investigation Process
- | Public Sector Agencies fact sheets 2 to 25 (updated)

- | Official Community Visitors fact sheet 2: Responding to OCV visit reports for service providers
- | What do changes to the public interest disclosures system mean for your public authority?
- | Public Interest Disclosure guidelines A1, A2, B1, B2, E2
- | Model internal reporting policies for public authorities and local government
- | Effective complaint-handling guidelines – 2nd edition

Brochures

- | General information (updated)
- | A voice for people in care (updated)

Newsletters

- | *OmboInfo* Volume 3 Issue 2 (electronic only)
- | *OmboInfo* Volume 1 Issue 4 (electronic only)
- | PID e-news Issues 1 to 4

Glossary

AbSec	Aboriginal Community Care State Secretariat	RTA	Roads and Traffic Authority
ACWA	Association of Children's Welfare Agencies	RYDON	Regional Youth Development Officers Network
ACWP	Aboriginal Community Working Party	SDRO	State Debt Recovery Office
ADHC	Ageing, Disability and Home Care	YLO	Youth liaison officer
AIS	Association of Independent Schools	WDVCAS	Women's Domestic Violence Court Assistance Scheme
ASD	<i>Aboriginal Strategic Direction</i>	WWCC	Working With Children Check
APOR	Australasian and Pacific Ombudsman Region		
CALD	Culturally and linguistically diverse		
CCYP	Commission for Children and Young People		
CEN	Christian Education Network		
CHD	Community Housing Division		
CINs	Criminal infringement notices		
CPR	Child Protection Register		
CSA	Christian Schools Association		
CS-CRAMA	<i>Community Services (Complaints, Reviews and Monitoring) Act 1993</i>		
DAP	Disability Action Plan		
DLG	Division of Local Government		
DVLO	Domestic violence liaison officer		
DEC	Department of Education and Communities		
DFACS	Department of Family and Community Services NSW		
EEO	Equal employment opportunity		
FOI	Freedom of Information		
GIPA Act	<i>Government Information (Public Access) Act 2009</i>		
HACC	Home and community care		
ICAC	Independent Commission Against Corruption		
ICV	In-car video		
IOI	International Ombudsman Institute		
JCC	Joint Consultative Committee		
JGOS	<i>Joint Guarantee of Service for people with mental health problems and disorders living in Aboriginal, community and public housing</i>		
JIRT	Joint Investigation Response Team		
KIDS	Key Information Directory System		
LEPRA	<i>Law Enforcement (Powers and Responsibilities) Act 2002</i>		
LWB	Life Without Barriers		
MAP	Multicultural Action Plan		
MOU	Memorandum of understanding		
MSPC	Metropolitan Special Programs Centre		
MRG	Mandatory Reporter Guide		
NSWALC	NSW Aboriginal Land Council		
NSWPF	NSW Police Force		
OLGR	Office of Liquor, Gaming and Racing		
OCVs	Official community visitors		
OH&S	Occupational health and safety		
OOHC	Out-of-home care		
PASAC	Police Aboriginal Strategic Advisory Committee		
PID Act	<i>Public Interest Disclosures Act 1994</i>		
PIC	Police Integrity Commission		
PJC	Parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission		
POA	Pacific Ombudsman Alliance		
PIIP Act	<i>Privacy and Personal Information Act 1998</i>		
PSA	Public Service Association		
PSC	Professional Standards Command		
RCU	Reportable conduct unit		
ROSH	Risk of significant harm		

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Complaining to the Ombudsman

Anyone can make a complaint to the Ombudsman. If you do not want to complain yourself, you can ask anyone – a relative, a friend, advocate, lawyer, your local Member of Parliament – to complain for you.

How do I make a complaint?

Start by complaining to the organisation involved. Contact us if you need advice about this. If you are unhappy with the way an organisation has handled your complaint, you can complain to us, preferably in writing. Your complaint can be in any language. If you have difficulty writing a letter, we can help. We can also arrange for translations, interpreters and other services. Our online complaints form also makes it easier for people to lodge a complaint with our office.

What should I include with my complaint?

Briefly explain your concerns in your own words. Include enough information for us to assess your complaint and decide what we will do. For example, describe what happened, who was involved, when and where the events took place. Remember to tell us what action you have already taken and what you would like to see happen. Include copies of all relevant correspondence between you and the organisation concerned.

What happens to my complaint?

A senior investigator will assess your complaint. We may phone the organisation concerned to make inquiries. Many complaints are resolved at this stage. If we are not satisfied with the organisation's response, we may investigate.

We do not have the resources to investigate every complaint, so priority is given to serious matters, especially if it is an issue that is likely to affect other people. If we cannot take up your complaint we will tell you why.

If your complaint is about a police officer, we will refer your complaint to the NSW Police Force for resolution or investigation. They will contact you about any action they have taken as a result of your complaint. We will oversee how they deal with your complaint.

What happens in an investigation?

First we ask the organisation to comment on your complaint and explain their actions. Generally, we will tell you what the organisation has said and what we think about their response. Some matters are resolved at this stage and the investigation is discontinued.

If the investigation continues, it can take several months until a formal report is issued. We will tell you what is likely to happen.

If we find your complaint is justified, the findings are reported to the organisation concerned and the relevant minister. You will be told about our findings. The Ombudsman may make recommendations in the investigation report. We cannot force an organisation to comply with our recommendation; however, most usually do. If the organisation does not comply, the Ombudsman can make a special report to Parliament.

What if I am unhappy with the Ombudsman's actions?

If you are unhappy with our decision you can ask for your complaint to be reviewed. However, a decision will only be reviewed once. A senior staff member who did not originally work on your complaint will conduct the review. To request a review, telephone or write to us.

If you are unhappy with any of our procedures write to:

Clerk to the Committee
Committee on the Office of the Ombudsman and the Police
Integrity Commission
Parliament House,
Macquarie Street
SYDNEY NSW 2000.

The committee monitors and reviews our functions. It cannot review our decisions about individual complaints

Acknowledgements

Our annual report is a public record of our work and through it we are accountable to the people of NSW. Our report is prepared against criteria set out by NSW Treasury and the Annual Report Awards. It is available from our office or our website at www.ombo.nsw.gov.au.

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