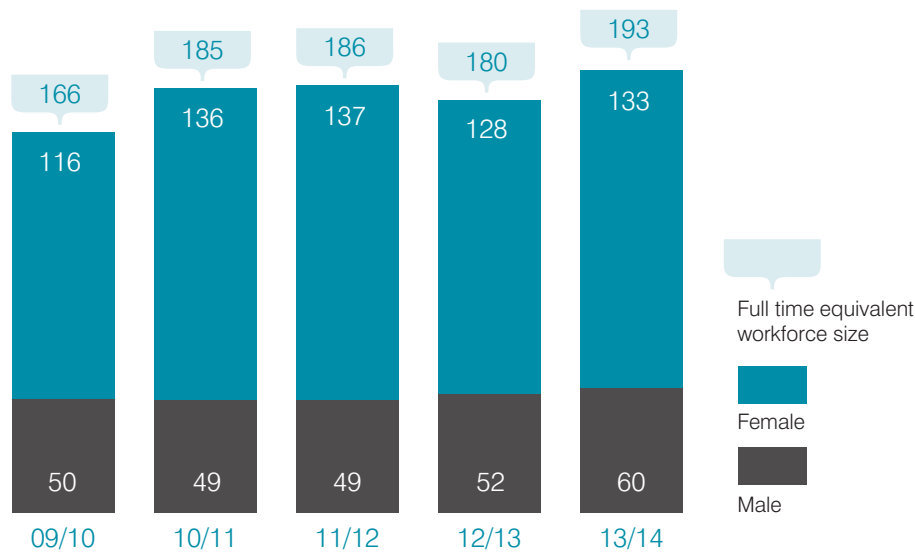




# 2013 – 2014 Annual Report

# People

## Staff composition



## Highlights for the year

- Continued to implement new work health and safety requirements, establishing a work health and safety (WHS) committee, undertaking a workplace inspection, reviewing policies and procedures and developing a WHS action plan.
- Engaged the Anti-Discrimination Board to conduct harassment and bullying prevention training with nearly 160 staff attending this training.
- Began implementing the Government Sector Employment Act (GSE Act) - reviewing recruitment processes, implementing the capability framework and developing role descriptions.
- Extended our WellCheck program to include staff in our employment-related child protection division.
- Increased our investment in staff training, providing a range of opportunities to staff to develop or enhance their skills.

## Trends in the representation of EEO groups

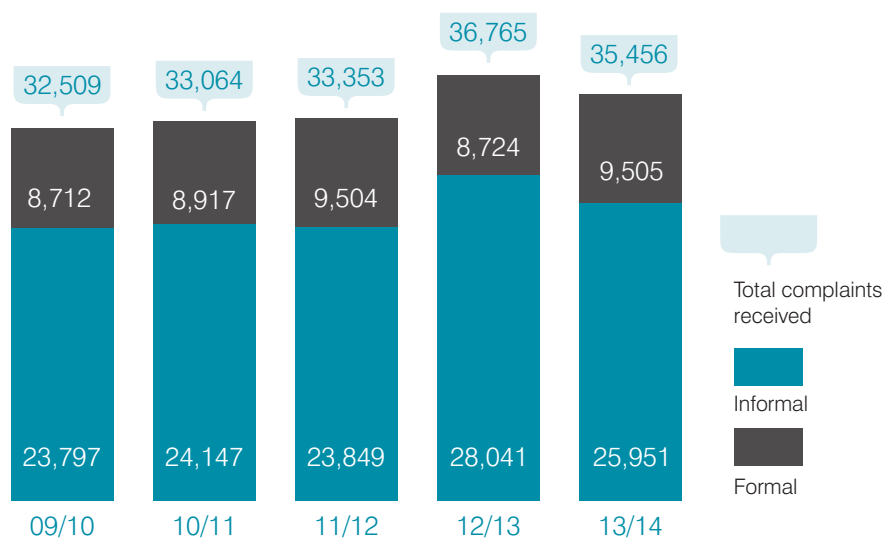
EEO group	Target (%)	Result (% of total staff)				
		09/10	10/11	11/12	12/13	13/14
Women	50	72	72.9	73.8	73.1	71.9
Aboriginal & Torres Strait Islander people	2.6	3.6	2.4	2.9	3	2.4
People whose language first spoken as a child was not English	19	21	17.5	18.1	16.1	20.1
People with disability	n/a	7	9.2	10	12.1	10.1
People with disability requiring work-related adjustment	1.5	2.6	2.4	2.4	2.5	2.4

## Looking forward

- We will continue our implementation of the GSE Act focusing on transiting our senior staff to the new executive structure and finalising role descriptions for all of our positions.
- We will continue to implement our WHS action plan including electing health and safety representatives to support our WHS committee.
- We will develop a workforce diversity plan replacing our existing Equal Employment Opportunity management plan.
- We will review our working at home policy to ensure that flexibility is provided to staff in the context of office needs and information security requirements.

# Work

## Complaints



## Highlights for the year

- Reported to Parliament on the continuing implementation of the Keep Them Safe reforms to child protection in NSW.
- Completed the second stage of our customer satisfaction audit, focusing on how we deal with formal complaints about departments and authorities.
- Made submissions to a range of inquiries, including reviews of the *Police Act 1990* and the way in which critical incident investigations are conducted.
- Audited the implementation of the NSW Police Force's Aboriginal Strategic Direction in the Barrier Local Area Command.

## Our performance

Performance indicators	%
Assessed complaint or notification within 10 working days	97
Acknowledged complaint or notification within 10 working days	86
Completed preliminary inquiries within 16 weeks	82
Suggestions to agency adopted or action taken consistent with suggestions <sup>#</sup>	73
Investigation recommendations adopted or action taken consistent with recommendations	94
Average time to finalise new complaints	5 weeks

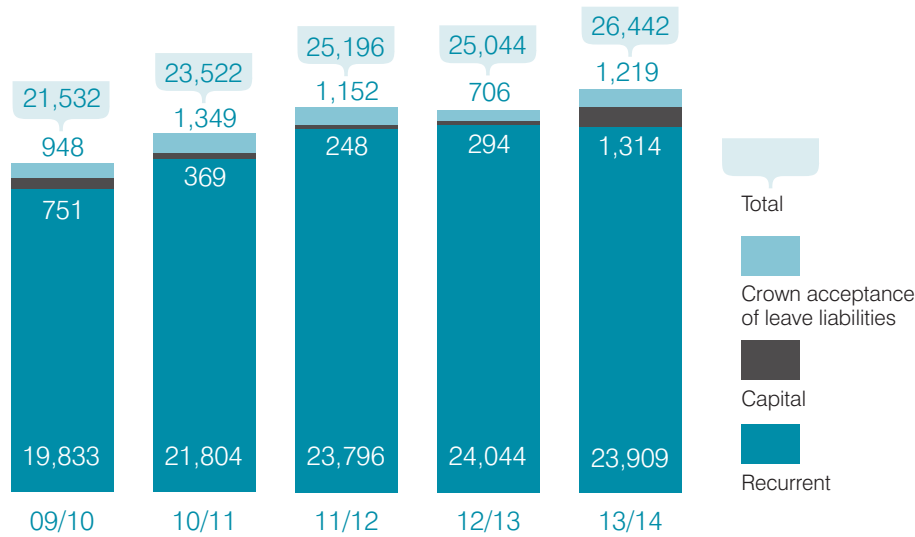
<sup>#</sup> these are suggestions made under section 31AC of the Ombudsman Act

## Looking forward

- We will start our new role overseeing allegations of reportable incidents in disability support accommodation.
- We will begin our new function monitoring the implementation of Aboriginal programs, beginning with OCHRE.
- We will complete and report on Operation Prospect.
- We will report to Parliament on public interest issues and make appropriate recommendations for change.

# Finances

## Funds from government (\$,000)



## Highlights for the year

- We generated \$774,000 in revenue mostly by providing training to public sector and non-government agencies, which we use to support our core work activities of complaint-handling and systemic project work.
- Undertook significant capital works including developing a single database for all our reviewable death functions, as well as replacing our desktop computers.
- Our operating expenses increased by 8.82%, mostly in employee-related items such as salaries, superannuation and long service leave.
- Streamlined our financial reporting processes and improved management of our fixed assets.

## Financial summary over five years

Year	09/10 \$,000	10/11 \$,000	11/12 \$,000	12/13 \$,000	13/14 \$,000
Operating revenue	21,968	24,428	25,898	27,981	29,995
Operating expenses	21,135	24,297	26,962	26,908	29,280
Total assets	3,363	3,253	3,040	3,839	5,347
Total liabilities	2,675	2,423	3,274	3,000	3,803
Net result	832	142	(1,064)	1,073	705
Total equity	688	830	(234)	839	1,544

## Looking forward

- We will negotiate with FACS for funding for our new disability reportable incident function.
- In line with our internal audit program, we will audit our accounts payable and accounts receivable areas to ensure that appropriate controls are in place.
- We will continue to proactively manage our employee-related leave liabilities in line with the government policy to reduce leave balances to below 30 days by June 2015.
- Our audit and risk committee will continue to provide assurance to the Ombudsman that our financial process complies with legislative and office requirements.

*Year at a glance*

Year at a glance fold out

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# Letter to the Legislative Assembly and Legislative Council

The Hon Donald T Harwin MLC  
President  
Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon Shelley E Hancock MP  
Speaker  
Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

Dear Mr President and Madam Speaker,

## NSW Ombudsman annual report 2013–2014

I am pleased to present our 39th annual report to the NSW Parliament. This report contains an account of our work for the 12 months ending 30 June 2014 and is made pursuant to ss.30 and 31 of the *Ombudsman Act 1974*.

The report also provides 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 2014).

Yours sincerely



Bruce Barbour  
Ombudsman

30 October 2014

## Our vision

Through our work we will improve the standard of accountability, integrity, fairness and service delivery to the citizens of NSW.

## Our key stakeholders

Our key stakeholders are the community, NSW Parliament, the government, government agencies, non-government organisations and peak bodies, as well as other oversight bodies.

## Our aim

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

- good conduct
- fair decision making
- protection of rights, and
- provision of quality services

in our own organisation and those we oversight.

## Our corporate purpose

Our purpose is to:

1. Help organisations to identify areas for improvement to service delivery, and ensure they are acting fairly, with integrity and in the public interest.
2. Deal effectively and fairly with complaints and work with organisations to improve their complaint-handling systems.
3. Be a leading integrity agency.
4. Be an effective organisation.

## Our values

The Ombudsman expects that all staff of the office will act with fairness, integrity and impartiality, respecting all those with whom we deal, to seek practical solutions and improvements that will benefit the community, including demonstrating the following values:

- Integrity – acting lawfully, honestly, ethically with good judgement and high professional standards.
- Impartiality – acting in a non-political manner, neither an advocate for complainants nor responding agencies but as an advocate for the public interest independent of government.
- Fair play – focusing internally and externally on fair and reasonable procedures, consistency and proportionality.
- Adding value – bringing clarity to problems and identifying practical solutions and improvements that benefit the community rather than simply apportioning blame.
- Respect – treating complainants, stakeholders and colleagues with dignity and respect.

## Our guarantee of service

We will:

- consider each matter promptly and 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 organisation
- treat anyone who contacts us with dignity and respect
- help those people who need assistance to make a complaint to the Ombudsman
- maintain confidentiality where appropriate and possible, and
- add value through our work.

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# Ombudsman's message

I am always pleased to introduce our annual report. This is the fifteenth time I have had the opportunity to look back over our work for the year. What we do has changed a great deal in those fifteen years – with an expanded jurisdiction, new responsibilities and increasing complexity in our work. Some of the changes have set us apart from other Parliamentary Ombudsmen. In other areas, changes to our responsibilities have been replicated in other jurisdictions.

The one constant feature has been our reputation. We aim to be independent, impartial and to work in the public interest. We are not seeking to advocate for any one group, but rather to work to achieve the best possible outcome for everyone involved. We are often able to achieve this informally, without resorting to lengthy and formal investigations. However in some cases informal resolution is not possible. When this happens, we use our powers – under the various pieces of legislation that guide our work – in a careful and appropriate way.

Our staff are essential to achieving these aims. I have been privileged to work with a broad range of people during my time as Ombudsman. All have their own skills and abilities and bring their own unique experiences to their work. The consistent element is their passion and commitment to achieving the right result and helping to improve the services provided to the people of NSW. I would like to thank all our current staff, as well as those I have been lucky enough to work with in the past, for their hard work and dedication.

Next year will mark the fortieth anniversary of our office. Its extraordinary growth and evolution in that time is a clear indication that numerous Parliaments and the community have had a great deal of confidence and trust in us to act in the public interest. We will continue to work hard to maintain this trust.

## Our work this year

This has been another busy year for us. We have monitored important policy areas (see pages 57 and 83), provided submissions and assistance to commissions and inquiries (see pages 45 and 89), investigated areas where we believe there may be systemic failings (see pages 46 and 70), reviewed the use of new and extraordinary police powers (see pages 50 and 53), and prepared for additional functions and responsibilities (see pages 95 and 101). We have also received 35,456 formal and informal complaints and notifications. In dealing with these, we have helped to overcome problems and misunderstandings that can have a very real impact on the lives of individuals and groups. I believe the case studies in this report are excellent examples of the important and positive impact we can have.

We reported to Parliament this year on the continuing implementation of the Keep Them Safe reforms to child protection in NSW (see page 82). This is an area that presents real challenges. We made a series of recommendations to improve the standard of information collected and reported, as well as ensure all those involved are sharing information effectively and working together to provide the best possible protection and support to all children and their families.

We have also continued our investigation into allegations of misconduct by staff from the NSW Police Force, the Police Integrity Commission and the NSW Crime Commission. Called Operation Prospect, this has been one of the largest



We strive to be independent, impartial and to work in the public interest. We are not seeking to advocate for any one group, but rather to work to achieve the best possible outcome for all involved.

investigations we have ever conducted. Specialist investigative staff have carefully analysed hundreds of thousands of records spanning a fifteen-year period. This exhaustive analysis has provided the foundation for a wide range of interviews and hearings this year. I am hopeful of completing these hearings by the end of 2014, and moving to finalise the investigation and report to Parliament in the first part of 2015.

## Changes to our office

After the release of our final report on auditing the NSW *Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*, the government developed a statewide plan for Aboriginal affairs in NSW – called OCHRE. This plan was also informed by the work of the Audit Office and guidance and direction from an expert advisory panel with a broad range of skills and experience. Parliament also passed amendments to the Ombudsman Act to enable us to appoint a Deputy Ombudsman (Aboriginal Programs). I am very pleased to now have Danny Lester as the first Deputy Ombudsman (Aboriginal Programs), and look forward to working closely with him to ensure we build on over a decade of work to improve services to Aboriginal communities (see pages 100 and 101).

The *Disability Inclusion Act 2014* was passed by Parliament in August this year. When it comes into operation, we will begin a new role in overseeing the handling of allegations of reportable incidents in disability support accommodation. This will be the first such scheme in Australia and,

understandably, there will be a great deal of interest in how it works. We have already started to prepare, with our first focus being to ensure there is sufficient understanding of the reporting requirements among disability accommodation providers (see page 95).

## An Ombudsman community

Our primary focus is – and always should be – ensuring the people of NSW receive appropriate services, and that agencies and service providers are being fair and reasonable. However, to be effective, I feel it is important for Parliamentary Ombudsman offices to occasionally look outside their own jurisdiction. We are a comparatively small national and international community, and it is important we learn from and share with one another. This helps us to review and refine our own processes, as well as assisting newly created offices and newly appointed Ombudsmen to build and improve.

This year, we have been working on a starter kit for newly appointed Ombudsmen and new Ombudsman offices. This project is funded by the International Ombudsman Institute. Initially designed for our region, the kit will provide a range of practically based advice and guidance on issues such as handling complaints and conducting investigations. It will also give other offices a quick point of reference on issues such as developing and maintaining independence, promoting effective relationships with government agencies, responding to media inquiries and much more.

Working effectively with other offices often requires a level of face-to-face contact. In July last year I travelled to Jakarta as part of the Indonesian Australian Ombudsman Linkages and Strengthening program, funded by AusAID. I was working alongside Commonwealth Ombudsman Colin Neave and Western Australian Ombudsman Chris Field. We spent three days delivering high level leadership training for the heads of 23 of the regional offices of the Ombudsman of the Republic of Indonesia. These sessions dealt with the ethical underpinnings of an Ombudsman, as well as some of the practical considerations for Ombudsman offices. I found speaking to the attendees outside the formal sessions provided a very real insight into the challenges they faced, and I feel the three of us were able to share our experiences in a practical, helpful and relevant way.

The results we can achieve through our international contacts were reflected at the general meeting with our Parliamentary Committee in February this year. The former Chair of the Committee, Ms Catherine Cusack MLC, commented that while completing studies in the United Kingdom she was:

*... stunned by the awareness there of the New South Wales Ombudsman. At each office it was indicated that the New South Wales Ombudsman's systems, customer approach and other areas of activity was the benchmark that they were following. I was completely unaware of the high international standing in which you and the office of the New South Wales Ombudsman are held.*

I hope that, even with the financial challenges our office faces, we continue to connect with offices across Australia and around the world. This contact not only contributes to the Ombudsman community, but also helps us to assess and improve how we work.

## Our future direction

We cannot stay still – and must continue to refine and improve the way we work to keep pace with community expectations and ensure we are making the best possible use of our resources. This can involve continued refinements to our use of technology, ensuring we collect and have direct access to relevant, up-to-date information to guide our work and working proactively to improve agency systems and services.

There will always be challenges in the work of an Ombudsman, but I continue to have a great deal of commitment to and passion for what we do. I feel that our work has always had the ability to bring about very real change to the lives of individuals, the lives of certain – and often vulnerable – groups, and the entire community. I look forward to seeing it continue to do so in the future.



Bruce Barbour  
Ombudsman

## Auditing customer satisfaction

We reported on the results of the first stage of our audit, focusing on general inquiries, last year. This year we finalised the second stage of our customer satisfaction audit, focusing on how we deal with formal complaints about government departments and authorities and bodies outside our jurisdiction.

- More than 80% of complainants who responded to our survey said the process for making a complaint was easy.
- The majority reported that the staff member who handled their complaint was polite and knowledgeable.
- Two-thirds of respondents whose complaint was dealt with reported that they were satisfied with the service we provided.

- Approximately half of those whose complaint was declined also responded positively.
- The majority of respondents said they would contact us again for assistance in the future.

The audit confirmed the public's high expectations of our complaint-handling role and the outcomes it can deliver. Managing these expectations and delivering outstanding service is an ongoing challenge, particularly in circumstances where complaint numbers are increasing and resources are limited. We will continue to examine our work practices to ensure we meet this challenge in the most effective way we can.



# About us

## Who we are and what we do

The NSW Ombudsman is independent and impartial. Established by the *Ombudsman Act 1974*, we are independent of the government of the day and accountable to the public through Parliament. 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

#### 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 officers
- 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, out of school hours services, 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 disability
- supported accommodation and assistance program services.

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 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 disability who are in out-of-home care
- the deaths of certain children, young people and people with disability in care.

We also:

- visit certain services where children, young people and people with disability 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.

## How we do our work

We work to 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.

## Responding to complaints and notifications

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 has difficulty making a written complaint, we will take their complaint verbally and treat it as a formal complaint.

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.

## Handling inquiries

Our inquiries and resolution team handle the majority of contacts with our office. People from across the state, the country and even internationally ask us to resolve their complaints. We try to help wherever we can to achieve an outcome that is in the public interest. However, it is not practical for us to follow up on every complaint, and not every complaint warrants further action.

### Assessing complaints

Every day the staff who field inquiries are questioned on a broad range of technical, legal and policy-based issues relating to the work of agencies across the NSW public sector. They use their extensive knowledge and resources to give advice or to take appropriate action. Some advice is procedural, some based on our experience with a particular issue or agency, and other advice we provide after researching the relevant legislation or policy.

### Advice about alternative options

Much 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.

Often complainants and agencies can resolve the problem directly. The agency benefits from receiving and handling complaints, encouraging openness in their staff to recognise that complaints help the agency improve the work that they do and, of course, to provide better service to the community. Complainants benefit from resolving the issue themselves and gain confidence that agencies take their complaints seriously. 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.

### Suggesting they complain to us

Agencies don't always get it right, and complainants contact us after trying to resolve their complaint directly with the agency. Agencies sometimes fail to communicate with complainants within a reasonable time, leading complainants to believe that either the agency has not dealt with their complaint, or has otherwise acted inappropriately. Other times complainants believe an agency has not taken reasonable steps to address their complaint. This may or may not be the case.

When advising complainants 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

## Communities visited in NSW in 2013–2014



- |                 |              |                    |
|-----------------|--------------|--------------------|
| 1 Ballina       | 10 Grafton   | 19 Oberon          |
| 2 Bourke        | 11 Goulburn  | 20 Raymond Terrace |
| 3 Brewarrina    | 12 Ivanhoe   | 21 Tamworth        |
| 4 Broken Hill   | 13 Junee     | 22 Taree           |
| 5 Cessnock      | 14 Kariong   | 23 Wagga Wagga     |
| 6 Cobar         | 15 Kempsey   | 24 Wellington      |
| 7 Coffs Harbour | 16 Menindee  | 25 Wilcannia       |
| 8 Cooma         | 17 Newcastle | 26 Wollongong      |
| 9 Dubbo         | 18 Nowra     |                    |

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 or even a failure to properly explain a decision or action. Mere disagreement with an agency 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.

### Acting on urgent complaints

There are regularly complaints or complainants that need immediate action or help. We accept complaints orally if we believe there is a possible problem with an agency's imminent action or inaction and there would be 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.

### Our proactive and systemic work

As well as handling complaints and notifications, we also do a great deal of proactive work. This includes conducting audits and reviews – both of systems and particular pieces of legislation. This work helps us to achieve very positive outcomes, and there are examples of it included throughout this report.

### Our work with others

We aim to be a leading integrity agency – and can only achieve this by working closely with others in New South Wales, around Australia and across the world. These are some of the opportunities we have had this year to meet with, talk to and learn from others doing similar work.

#### In New South Wales

Our office is not the only integrity agency in NSW. Each year we work closely with a range of organisations – including the Independent Commission Against Corruption (ICAC), the Police Integrity Commission (PIC), the Information and Privacy Commission (IPC) and the Audit Office – to avoid unnecessary duplication and improve the way we all do our work.

This year we have:

- been preparing for the 10th National Investigations Symposium in November 2014 with the ICAC and Institute of Public Administration Australia.
- met regularly with the ICAC, Audit Office and the Division of Local Government to exchange information on areas we are both working on.
- continued our involvement in the Complaint Handlers Information Sharing and Liaison meetings (CHISaL).
- worked with the members of the Public Interest Disclosures Steering Committee to continue to monitor the operation of the *Public Interest Disclosures Act 1994*. This has included making recommendations for legislative change to the Premier.

#### Across Australia

Although the various Ombudsman offices and integrity bodies across Australia have different jurisdictions and often very different ways of approaching their work, there are

some common elements. This is why it is so valuable for us to keep in contact with one another – sharing and learning from each other's experiences.

The Ombudsman speaks regularly with other Ombudsmen. In November 2013, our office hosted a meeting of the Australasian Ombudsman, scheduled to coincide with the Australasian and Pacific Anti-Corruption Conference. The Deputy Ombudsman (Public Administration) also attended two meetings of Deputy Ombudsmen. This contact gives each office an opportunity to better understand the challenges and opportunities facing others.

We have continued to contribute to Standards Australia's review of its complaint-handling standard. More information about this work is included at page 64. We have also continued to work with other Ombudsman offices to develop consistent guidelines on dealing with complaints about universities. These guidelines are now being used by all Australian Parliamentary Ombudsmen except for Queensland.

### Around the world

We have taken an active interest in the work of Ombudsmen and integrity bodies both in our region and around the world. For example, we are a member of the International Ombudsman Institute (IOI) and form part of the IOI's Australasian and Pacific Ombudsman Region (APOR).

This year we have worked on developing a starter kit for newly established Ombudsman offices, and also to assist Ombudsmen soon after their appointment. This project is funded by a grant from the IOI. The members of APOR have all provided links to and copies of publications dealing with practical issues such as records management, managing staff performance and strategic planning. The kit will also include practical advice, tips and guidance on topics such as how to build and maintain the independence and impartiality of an Ombudsman's office, how to work effectively with agencies to improve systems, and how to effectively handle complaints and conduct investigations. The kit will be finalised and available to APOR members early in 2015. The final kit will be an electronic resource, and will be hosted on the IOI website.

We have also continued our involvement with the Indonesian Australian Ombudsman Linkages and Strengthening (IAOLAS) program. In July 2013, the Ombudsman travelled to Jakarta with the Western Australian and Commonwealth Ombudsman Chris Field and Colin Neave. The three Ombudsmen facilitated several days of training and guidance for the heads of 23 of the Ombudsmen of the Republic of Indonesia's (ORI) regional offices. The sessions dealt with topics such as:

- the core components and foundations of Ombudsman
- ethics, accountability and transparency
- working effectively with other oversight and integrity bodies
- the challenges of a fast growing office
- leading and managing a national office.

There were also sessions facilitated by staff from the central office of ORI, including discussion of the organisation's strategic plan and direction, led by the Chief Ombudsman of ORI.

# Managing our organisation



This section of the report provides some information on what we do to make sure we operate efficiently and effectively. It includes information about our corporate governance framework which is built around our statement of corporate purpose. Our senior officer group has overall responsibility for managing our people, resources and work. Our staff are provided with useful, relevant and clear policies and procedures to guide them in their work and their employment with the Ombudsman.

To manage increasing workloads in all areas of the office, we have had to continually improve our systems and processes. We again looked to the better use of technology to support staff as well as enhancing our existing case and document management systems. This year we rolled out laptops to all staff, replacing desktop personal computers. We have linked our laptops with the delivery of a remote

access solution enabling staff working outside the office to access our network applications. It was critical that we were able to deliver this solution in a way that keeps our information secure.

The wellbeing of our staff continues to be important to us. This year we established a work health and safety (WHS) committee to represent staff interests in developing and implementing our WHS program. We expanded our WellCheck program to include staff in our employment-related child protection division and will be expanding this program to other staff in 2014-2015.

The introduction of the Government Sector Employment (GSE) Act has seen significant change in our employment/staffing arrangements. We have been proactive in providing information to staff on the impact of the GSE Act. Our GSE activities are outlined in this section.

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## Highlights

- **Continued a major review of our risk profile to develop and implement a more robust risk management framework (see page 18)**
- **Made enhancements and upgrades to support our work, implementing a secure remote access solution and replacing our desktop computers with laptops (see page 31)**
- **Worked to implement the *Government Sector Employment Act 2013*, reviewing a range of our personnel functions and applying the public sector capability framework (see page 32)**
- **Reviewed our work, health and safety program to make sure we complied with the *Work Health and Safety Act 2011* (see page 36)**

## Stakeholder engagement

One of our key stakeholder groups is our staff – a diverse group of dedicated, talented and passionate people who make a significant contribution to our success. To achieve what we do, we must be able to work effectively with our staff. Ongoing communication and consultation is an important feature of our office and we work hard to provide an inclusive, supportive, safe and fulfilling workplace.

We have two formal mechanisms to consult with staff – our joint consultative committee (JCC) and our newly established work health and safety (WHS) committee. Staff representatives of both these committees worked collaboratively with our managers to develop policies, review and refine practices and improve staff wellbeing.

In addition to the formal mechanisms, we have team and unit meetings where staff and managers discuss work areas or office-wide issues as well as matters affecting the office as a whole. Managers and staff also meet on a one-to-one basis to discuss overall performance and training requirements.

The Ombudsman regularly holds a whole-of-office staff meeting where he provides an update on his work and priorities. We take the opportunity at this meeting to have presentations on current topics of interest as a mechanism to keep staff informed.

We do not work in isolation. Supporting our staff are other key stakeholders including our audit and risk committee and organisations we engage to work with us to skill our staff, improve our working environment, help us reduce our environmental footprint or supply stationery or equipment.

This year we engaged with the Public Service Commission primarily because of the commencement of the GSE Act, which is discussed below.

### Government Sector Employment Act 2013

In February 2014, the *Government Sector Employment Act 2013* (GSE Act) came into operation. This Act provides the new legislative basis for government employment in NSW and implements the government's priorities to reform the structure and management of the NSW public sector.

Our office is a separate public service agency under the GSE Act, which means we are not linked to, or controlled by, a principal department.

The GSE Act requires us to review and/or change:

- the employment basis of staff
- how staff are recruited
- executive employment arrangements
- workforce diversity programs.

We will need to implement the NSW public sector capability framework that will underpin role descriptions, recruitment, performance management and staff development. As well, we need to have in place a workforce plan that will guide our staffing strategies into the future.

Transitional arrangements support the move to employment and management arrangements under the GSE Act. In the first year of its operation, we can use some previous legislative provisions while we transition to the GSE Act. This mostly affects temporary employment arrangements and recruitment activity.

We have been proactive in keeping staff informed on the impact of the GSE and how we are implementing the provisions. In particular, we have individually contacted temporary staff to advise them on their status and any restrictions on their employment beyond the GSE transition date.

For further details on the GSE Act see page 32.

# Facts and figures

This section provides a snapshot of some of our work for the year. It shows the sheer number of contacts we deal with across a broad range of services. Detailed information about everything we do – including our work to improve systems – is included in other chapters of this report.

This year we received 35,456 complaints and notifications across our jurisdiction. As figure 1 shows, this included 9,505 formal matters and 25,951 informal matters. Figure 3 provides a breakdown of the 9,107 formal complaints and notifications we have finalised this year.

Formal and informal are terms we use to categorise our work. Formal matters are usually written complaints and notifications. This can include written complaints about agencies or organisations that are within our jurisdiction, but the complaint is about conduct that is not.

In some cases, we conduct a formal investigation using the powers provided to the Ombudsman by various pieces of legislation. Figure 2 provides a breakdown of formal investigations conducted this year. The numbers are provided against the three branches of our office that conducted formal investigations this year.

Informal matters are our telephone calls, visits to our office and inquiries our staff deal with when they are working in the community. The informal number also includes those written complaints made to our office that are about organisations that are not within our jurisdiction. When we receive these contacts, we refer the person to the appropriate agency or body.

We are contacted by a diverse range of people, including members of the public, families of those who are receiving community services, Members of Parliament, staff from public sector agencies and certain private sector organisations and journalists.

Handling formal and informal matters is only part of our work. Figure 5 outlines some of our proactive and systemic work for 2013-2014. More information about this work is included in each of the chapters of the report.

**Fig. 1: Complaints and notifications we received in 2013-2014**

Subject	Formal	Informal	Total
Departments and authorities	1,794	4,411	6,205
Local government	873	1,697	2,570
Correctional centres and Justice Health	571	3,675	4,246
Juvenile justice	54	195	249
Child and family services	385	658	1,043
Disability services	204	176	380
Other community services	17	78	95
Employment-related child protection	1,295	701	1,996
Police	3,390	2,301	5,691
Outside our jurisdiction	922	12,059	12,981
<b>Total</b>	<b>9,505</b>	<b>25,951</b>	<b>35,456</b>

**Fig. 2: Number of formal investigations finalised in 2013-2014**

Branch	Total
Human services	2
Police and compliance	1
Public administration	11*
<b>Total</b>	<b>14</b>

\* Ten of the matters involved separate complaints that became one overall investigation. The eleventh matter was a separate investigation.

**Fig. 3: Formal complaints and notifications finalised in 2013-2014**

Subject	09/10	10/11	11/12	12/13	13/14
Departments and authorities	1,550	1,857	1,778	1,566	1,807
Local government	875	924	933	765	871
Custodial services and Justice Health	722	898	1,003	766	576
Juvenile justice	62	78	91	65	55
Community services	720	716	641	513	566
Employment-related child protection	1,483	1,304	988	998	1,063
Police	3,093	3,278	3,390	3,178	3,249
Agency outside our jurisdiction	276	430	502	704	920
<b>Total</b>	<b>8,781</b>	<b>9,485</b>	<b>9,326</b>	<b>8,555</b>	<b>9,107</b>

Fig. 4: Formal complaints and notifications received and finalised in 2013-2014

Year	09/10	10/11	11/12	12/13	13/14
Received	8,712	8,917	9,504	8,724	9,505
Finalised	8,781	9,485	9,326	8,555	9,108

Fig. 5: Proactive and systemic work in 2013-2014

Type of work	09/10	10/11	11/12	12/13	13/14
<b>Audits and inspections</b>					
Police records	7,250	8,259	2,708	1,657	2,963
Controlled operation files	342	385	372	388	406*
Surveillance device warrant files	449	770	882	1,418	1,224*
Covert search warrant files	48	20	24	35	38*
Witness protection appeals	0	2	0	0	0
Activities undertaken to scrutinise NSWPF complaint-handling systems	-	1	7	10	13
Criminal organisation search warrant files	19	6	0	0	73#
Child protection 'agency' audits conducted	11	24	4	7	11
<b>Police powers under review</b>					
Reviews of legislation conferring new police powers completed	1	1	0	0	1
Reviews of legislation conferring new police powers in progress	3	1	4	4	5
<b>Visits</b>					
Hours spent on visiting services (OCV program)	5,941	5,824	6,222	6,139	8,261
Visits to residential services (OCV program)	3,335	1,447	2,215	2,056	2,771
Correctional and juvenile justice centre visits	65	54	53	52	44
Regional and remote communities visited	61	57	62	42	27

\*records inspected may not equal actual number of warrants or authorities issued by agencies due to inspection procedures and varying statutory timeframes

#inspected every two years

# Corporate governance

## Strategic planning

Our statement of corporate purpose provides our office with high level direction and guidance. We use the four key purposes from the statement as the categories of our performance statement (see page 20). The statement also includes several key success factors. These help us to monitor our progress in achieving our purposes. The following sections provide some information about what we have done to meet these.

## Engaging effectively with partners and stakeholders

Our stakeholders are a diverse mix of people and agencies located in metropolitan, regional and rural areas across NSW. Working with them is fundamental to our ability to add value. We do this every day by telephone, email and in person. We meet regularly with agencies, talk to community groups, and take part in and facilitate meetings, roundtable discussions and other consultative forums. We also travel to rural and regional areas across NSW to consult with relevant people and community groups. For example, Deputy Ombudsman Chris Wheeler speaks at the ICAC Community Leaders Breakfast – which is held twice a year as part of the ICAC's Rural and Regional Outreach program. Our Aboriginal Unit travel across the state developing strong ties with communities, and our custodial services staff make regular visits to correctional and juvenile centres. This year, staff from our human services branch spent a great deal of time talking to residents, families and staff in the Hunter region – both about our role in relation to the National Disability Insurance Scheme (NDIS) trial site and the closure of the Stockton centre.

We continue to deliver a wide range of training on a variety of topics to agencies and community groups. We also developed new training on investigating misconduct in the public sector and administrative law in the public sector. For more information on our education and training activities, see page 108.

We completed the second stage of our customer satisfaction survey, which focused on how we deal with formal complaints about government departments and bodies outside our jurisdiction. For more details about this survey, see page 4.

More information about our stakeholder engagement activities can be found throughout this report.

## Being flexible and responsive

This year has demonstrated how important it is for us to be flexible in our approach and responsive in our work.

We have continued working on Operation Prospect this year (see page 46). Although this large-scale and complex investigation is funded, we still had to make staffing changes and reprioritise our resources to make sure it was achieving its aims.

In December 2013, the NSW Government announced a new Deputy Ombudsman position would be included in the *Ombudsman Act 1974*. This position will provide independent monitoring and reporting on the NSW

Government's delivery of Aboriginal initiatives – in line with a key commitment to accountability in OCHRE, the government's plan for Aboriginal affairs in NSW.

As a member of the Ombudsman's executive team, the Deputy Ombudsman (Aboriginal Programs) will play a critical role in setting the direction of our work with Aboriginal communities and improving Aboriginal people's access to our services. Our oversight function of the designated Aboriginal programs started on 1 July 2014. Daniel Lester has been appointed as the new Deputy Ombudsman (Aboriginal Programs), and his term started on 7 October 2014.

The *Disability Inclusion Act 2014* was passed by Parliament in August 2014. Along with a range of other important changes, it amended the Ombudsman Act to give us a serious incident oversight function. This means we will oversee the prevention, handling and response to reportable incidents by agencies providing support and services to people with disability living in supported group accommodation operated or funded by the Department of Family and Community Services (FACS). Our role involves monitoring and investigating such incidents and is the first of its kind in Australia. We have been working to prepare for this new function, including reviewing our current structure and processes to identify areas that can be strengthened to support our expanded role. This will be a significant new function for the office, and we have done a great deal of work this year to ensure we are ready to perform it properly.

We have a new function, under the Child Protection (Working with Children) Regulation, to issue a 'notification of concern' to the Office of the Children's Guardian. To prepare for this, we developed strategies and changed our internal processes to help us identify and respond quickly to information indicating that a child may be at risk. We restructured our employment-related child protection division (ERCPD), which included appointing a Director of Serious Reportable Conduct to drive ongoing practice improvements. We also increased the level of practical support we give agencies by developing and delivering training packages on how to respond to very serious and complex allegations.

We have continued to respond to and support the Royal Commission into Institutional Responses to Child Sexual Abuse. This has involved providing information about particular matters and organisations we have dealt with over the years, as well as submitting information on a range of systemic issues the commission is considering.

## Developing our workforce

We do our best to make sure our staff can participate in relevant and targeted training and development activities. In 2013-2014, our staff attended sessions on a range of topics – including supervisory skills, innovative thinking and problem solving, communication, interview techniques, Aboriginal cultural appreciation, disability awareness and mental health awareness.

For more information about our learning and development activities, see page 36.

# Our structure



## Bruce Barbour

Ombudsman

*LLB*

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Appointed Ombudsman in 2000. Over 25 years experience in administrative law, investigations and management. Former regional and vice president of the International Ombudsman Institute for seven years. Member of the Board of the Pacific Ombudsman Alliance. Former senior member of the Commonwealth Administrative Appeals Tribunal and Casino Control Authority.



## Chris Wheeler

Deputy Ombudsman

*BTRP MTCP  
LLB (Hons)*

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Appointed Deputy Ombudsman in 1994. Over 30 years experience in complaint-handling and investigations, as well as management and public administration. Sponsor of the Australasian Ombudsman Management of the Unreasonable Complainant Conduct project.

## Public administration

The public administration branch deals with complaints about a broad range of public authorities, as well as local councils.

Our custodial services unit is part of the branch, and is responsible for our work with correctional and juvenile justice centres. Our public interest disclosures unit is also part of the branch, providing advice and assistance to public authorities and public officials.

Our inquiries and resolution team – often the first point of contact for people who complain or inquire about government agencies – is another important part of the branch.



## Linda Waugh

Deputy Ombudsman

*BA Post Grad Dip Psych MBA*

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Appointed Deputy Ombudsman in 2011. Has worked at Queensland Criminal Justice Commission, Queensland Crime and Misconduct Commission, and NSW Independent Commission Against Corruption. Has worked in investigations, research, crime prevention and education.

## Police and compliance

The police and compliance 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 *Terrorism (Police Powers) Act 2002*.





### Steve Kinmond

Deputy Ombudsman/Community and Disability Services Commissioner

*BA LLB Dip Ed Dip Crim*

Appointed Deputy Ombudsman/Community and Disability Services Commissioner in 2004.

Close to 30 years investigative experience and extensive involvement in the community services field.

Worked as a solicitor and had his own consultancy practice.



### Anita Whittaker

Director

*PSMO BCom  
MIIA (Aust)*

Started with our office in 1985 and has over 30 years experience in the NSW public sector.

Extensive experience in public sector administration and financial and human resource management.

Awarded the Public Service Medal in 2000 in recognition of her outstanding service.



### Julianna Demetrius

Director

*Dip Law (LPAB)*

Has held several investigative and management positions during her 12 years with our office.

Established the office's cross-agency team in 2007.

Extensive experience in conducting large-scale systemic investigations across the human services and justice sector.

## Human services

The human services branch consists of our community services division and our employment-related child protection division. The human services branch is also responsible for supporting the Child Death Review Team.

The community services division handles complaints about, and monitors and reviews the delivery of, community services as well as reviewing provider's complaint-handling systems.

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. They also look at the systems agencies have to prevent reportable conduct occurring in the workplace and to respond to allegations appropriately.

## Corporate

The core work of the office is supported by a small, diverse corporate branch.

Personnel is responsible for payroll, leave administration, recruitment, performance management and WHS.

Business Improvement facilitates business process improvement.

Finance is responsible for accounting, budgeting and office services.

Information Technology develops and manages computer systems to deliver our core work and protect our data assets.

Records manage our physical records including creating, archiving and disposing of files.

Projects is responsible for office administration, executive support, security, policy review and development, corporate governance, internal audit, and media and public relations.

## Strategic projects

The strategic projects division is responsible for leading major projects and investigations, particularly those that cross the jurisdictions of the Ombudsman's various operational areas.

The division has a particular focus on Aboriginal and youth issues, and as a result includes our youth liaison officer and Aboriginal unit.

The community education and training unit is also part of the division. The unit is responsible for providing training and awareness sessions on a broad range of subjects, including the rights and responsibilities of those using community services and managing unreasonable complainant conduct.

## Developing best practice processes

We continually look for ways to improve how we do our work. These improvements, which are focused on more efficient and effective processes and systems, are initiated by our business areas reviewing their own practices or by our business improvement unit (BIU) taking a whole-of-office approach to ensuring best practice processes.

This year we:

- extended our electronic complaint-handling to include more complex matters, as well as processes for scanning complaints received in hard copy format
- improved the functionality of our electronic case management system to enhance integration with our document management system
- launched an internal electronic messaging system, 'Jabber', to improve internal communication between staff.

## Leading the office

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

The SOG is made up of the Ombudsman, three Deputy Ombudsmen and the directors of our corporate branch and strategic projects division. A formal management meeting is held every month to review workload, budget and staff matters.

The DMG is made up of the managers of each division. They usually meet monthly to discuss operational issues and any changes to our policies and procedures.

## Having effective policies

Our policies are approved by the Ombudsman and outline how particular issues are to be addressed or certain decisions should be made. These policies strengthen our corporate governance framework and ensure consistent work practices throughout the office.

Our code of conduct requires that staff comply with all office policies and we aim to review each policy every two to three years. This year, we reviewed or developed 15 policies – relating to areas such as fraud control, access and equity, office security, equal employment opportunity, business continuity and work health and safety.

## Measuring our performance

We track our performance across all areas of our work. This includes complaint-handling as well as monitoring how our systems and structures are working. Data from our case management system is used to monitor turnaround times and identify where there may be backlogs, delays or inefficiencies.

This information is an essential element of our governance structure and helps the SOG to make decisions on workload, priorities and allocating our resources.

We continue to measure our performance against our office-wide key performance indicators (KPIs) for our complaint-handling and oversight work.

Our performance statement (see pages 20-27) provides some information about what we have achieved in 2013-2014, and what we plan for the coming year.

## How we are held to account

There are a number of ways we are held to account. We respond to complaints about our work, provide opportunities for reviews, and report to the Parliamentary Committee on the Ombudsman, Police Integrity Commission and NSW Crime Commission. We also come under the scrutiny of the Auditor-General, the Independent Commission Against Corruption, the Information and Privacy Commission and the NSW Treasury.

### Public interest disclosures (PID) report

All public authorities are required to have policies and procedures in place to facilitate the reporting of wrongdoing by their staff. Heads of authorities are responsible for ensuring staff are aware of the *Public Interest Disclosures Act 1994* (PID Act) and that they will be provided with protection and support if they make a public interest disclosure.

Each public authority has to report on what they have done to meet their obligations. The following is our report. It provides information about public interest disclosures made within or about our office.

### Policy framework

We recognise the value and importance of staff raising concerns when they see something they believe is wrong and our internal reporting policy encourages staff to do this. It commits the Ombudsman and senior staff to handling these disclosures effectively and providing support to the staff making the disclosure.

New staff are required to acknowledge that they have read the internal reporting policy as part of their induction into the office. It is available on our intranet and in a central register of policies that all staff can access, as well as on our website.

### Staff awareness

Staff awareness and understanding is an important part of creating a climate of trust. All staff should be comfortable and confident to raise their concerns. After an update of our internal reporting policy this year, staff received an email notifying them of the update and asking them to review and understand the policy.

Information about how to make a report about wrongdoing is also included in staff bulletins and on posters. The importance of public interest disclosures were discussed at staff meetings and our PID Unit delivered training to staff. Our PID e-News – a quarterly newsletter for external subscribers outlining relevant recent developments and news – is also distributed widely within our office.

### Public interest disclosures statistical information

Under the PID Act, we are required to report certain information – see figure 6. In 2013-2014, no public officials made a public interest disclosure about us directly to our office and none of our staff made a public interest disclosure to us about another public authority. Information about the public interest disclosures we have dealt with as an investigating authority will be included in our public interest disclosures annual report, which will be released later this year.

Fig. 6: Public interest disclosures – July 2013 to June 2014

	Number by public officials performing their day-to-day functions	Number under a statutory or other legal obligation	Number of all others
Number of public officials who made public interest disclosures directly	0	0	0
Number of public interest disclosures received	0	0	0
Number of public interest disclosures finalised	0	0	0
<b>Disclosures received primarily about:</b>			
Corrupt conduct	0	0	0
Maladministration	0	0	0
Serious and substantial waste	0	0	0
Government information contravention	0	0	0
Local government pecuniary interest contravention	0	0	0

## Handling complaints about us

We take complaints about our work seriously. They help us identify areas we can improve. When someone is unhappy with the way we have dealt with them or their complaint, our staff make them aware they can make a complaint to us. We consider all complaints carefully and take any necessary action. See figure 7 for more information.

## Reviewing decisions

We always provide complainants with reasons for the decisions we make. Some people will be unhappy with these reasons. If a complainant believes 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 matter. This staff member assesses the original complaint as well as any issues raised in the review request.

When they have completed the review, the matter – including the reviewer's recommendations – is referred to the Ombudsman. 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 for review, but it also gives us an opportunity to improve the way we handle matters – particularly the way we communicate our decisions. Figures 8 and 9 provide information about the reviews we handled this year.

Fig. 7: Complaints about our office

Issue	Total
Bias/unfair treatment/tone	6
Confidentiality/privacy-related	2
Delays	5
Denial of natural justice	0
Failure to deal appropriately with complaint	7
Lack of feedback/response	1
Limits to jurisdiction	0
Faulty procedures	4
Inaccurate information/wrong decision	3
Poor customer service	13
Corruption/conflict of interest	2
Other	2
<b>Total issues</b>	<b>45</b>
Total complaints	33
<b>% of all matters formal complaints and notifications finalised</b>	<b>0.36%</b>

Fig. 8: Outcome of complaints about our office in 2013-2014

Outcome	Total
Unjustified	17
Justified or partly justified	7
Some substance and resolved by remedial action	9
<b>Total</b>	<b>33</b>

Fig. 9: Requests for a review of our decision as a percentage of formal complaints finalised

Subject	Number of		Percentage breakdown				
	requests for review	formal complaints finalised	09/10	10/11	11/12	12/13	13/14
Employment-related child protection	0	91	12.2	5.7	3.5	2.9	0
Community services	6	565	0.6	1.1	1.1	1.4	1.06
Custodial services/Justice Health	4	631	1.7	1.3	0.5	0.4	0.63
Local government	44	872	8.0	8.4	6.9	7.5	5.05
Other public sector agencies	65	1,807	5.2	4.4	4.6	3.7	3.60
Police	36	3,249	1.4	2.2	2.0	1.6	1.11
Outside our jurisdiction	0	920	0.4	0.5	0.0	0.1	0.00
<b>Total</b>	<b>155</b>	<b>8,135</b>	<b>2.9</b>	<b>3.0</b>	<b>2.7</b>	<b>2.4</b>	<b>1.91</b>

## Our Parliamentary Committee

Our work is overseen by the Parliamentary Committee on the Office of the Ombudsman, the Police Integrity Commission and the Crime Commission. The committee is made up of representatives from both Houses of Parliament, including representatives from both major parties. This ensures our independence as it means we are accountable to Parliament, rather than to the government of the day.

If a person is unhappy with our services, they can complain to our committee. Information about the role of the committee and how to contact them can be found on our website.

Our 19th general meeting with our committee was held on 24 February 2014. The Ombudsman and senior staff appeared before the committee to answer questions about our work, primarily around issues from our last annual report. The committee asked about Operation Prospect, critical incident investigations, corrective services complaints, safeguarding arrangements for the NDIS, and the new Deputy Ombudsman (Aboriginal Programs) position.

The Ombudsman also appeared before the Committee on the same day as Convenor of the Child Death Review Team (CDRT). He was questioned on a range of issues including the development of the reviewable death database, the prevention of youth suicide, child deaths in Aboriginal communities, off-road vehicles, and risk-taking behaviours.

The Committee's final report for this inquiry can be downloaded from the NSW Parliament website.

## Managing risk

Our fundamental asset is our reputation for independence and impartiality, and we work hard to identify and manage any risk that could damage it.

We have a risk management framework in place that complies with the core requirements of NSW Treasury's Internal Audit and Risk Management Policy for the NSW Public Sector (Policy and Guidelines Paper TPP09-05).

We use an information security management system model to identify potential risk factors relating to our work and put in place controls to either remove or reduce those risks. This applies to our paper-based systems as well as our computer network and databases.

Our risk, information and security committee (RISC) is responsible for ensuring we have appropriate systems in place to identify and effectively manage any risks that may arise. The RISC meets each month and is made up of representatives from across the office.

Our audit and risk committee provides us with additional 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 continued a major review of our risk profile to develop and implement a more robust risk management framework for our office. The aim of this review was to identify and assess the risks that could affect our ability to achieve our vision, aim and corporate purpose. We started by working with division managers to identify organisation-wide risks across key areas. We then documented the

existing controls for each risk. This was followed by a series of workshops where staff were asked to assess the residual likelihood and consequence of the risks. These workshops were conducted by an external provider and included a facilitated discussion about potential fraud risks for our organisation.

The review was completed in June 2014. We found that the majority of our risks are well controlled and that our existing mitigation strategies are generally effective. We identified a number of key risks:

- loss, publication or inappropriate release of confidential information held by our office
- weak supervision and performance management
- unauthorised or improper access to information
- failure to maintain effective cross-office communication
- staff exposed to injury, assault or critical incidents at work
- failure to prioritise and target resources.

We will use these results to identify opportunities to improve our overall management of risk and to inform our internal audit plan.

The Ombudsman, following advice from the audit and risk committee, attests to compliance with the six core requirements of the NSW Treasury internal audit and risk management. The attestation statement is provided below.

## Our audit and risk committee

Our audit and risk committee provides independent assistance to the Ombudsman by overseeing and monitoring our governance, risk and control frameworks as well as our external accountability requirements.

The committee membership remained unchanged this year – with Carolyn Burlew continuing as our independent chair, David Roden as an independent member, and Deputy Ombudsman Linda Waugh as non-independent member.

The committee met on five occasions during 2013-2014 and oversaw matters including:

- the finalisation and implementation of a new three-year internal audit plan
- the progress and completion of our office-wide risk assessment process, including risk assessment workshops across all our divisions
- the development and finalisation of our fraud control plan
- the progress of our legislative compliance program
- a review of our business continuity plan (BCP) and testing BCP scenarios
- consideration of risks associated with our growing jurisdiction and our strategies for dealing with this changing business environment.

The committee reviewed early close and end-of-year financial statements for our office and provided advice and assurance to the Ombudsman.

## Audit program

The following audit reports were tabled before the committee during 2013-2014 and commended, with management responses, to the Ombudsman for approval:

- compliance with current payroll policies and procedures
- administration of the official community visitor (OCV) scheme.

The following review was in progress at 30 June 2014:

- processes for capturing and reporting on agencies' implementation of our recommendations.

The results and outcomes of all audits are reported to our SOG. Our audit and risk committee also monitors our progress in implementing any recommendations.

### **Internal Audit and Risk Management Attestation for the 2013 – 2014 Financial Year for the NSW Ombudsman's Office**

I, Bruce Barbour, am of the opinion that the NSW Ombudsman's Office has internal audit and risk management processes in place 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.

I, Bruce Barbour, am of the opinion that the audit and risk committee for the NSW Ombudsman's Office 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:

- Independent Chair – Ms Carolyn Burlew, start term date 11 May 2013, finish term date 10 May 2017.
- Independent Member – Mr David Roden, start term date 28 June 2013, finish term date 27 June 2016.
- Non-independent Member – Ms Linda Waugh, Deputy Ombudsman (Police and Compliance Branch), start term date 1 July 2011, finish term date 30 June 2015.

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.



Bruce Barbour  
**Ombudsman**

### **Digital Information Security Annual Attestation Statement for the 2013 – 2014 Financial Year for the NSW Ombudsman's Office.**

I, Bruce Barbour, am of the opinion that the NSW Ombudsman's Office had an Information Security Management System in place during the financial year being reported on consistent with the Core Requirements set out in the Digital Information Security Policy for the NSW Public Sector.

I, Bruce Barbour, am of the opinion that the security controls in place to mitigate identified risks to the digital information and digital information systems of the NSW Ombudsman's Office are adequate for the foreseeable future.

I, Bruce Barbour, am of the opinion that the NSW Ombudsman's Office has developed an Information Security Management System in accordance with the Core Requirements of the Digital Information Security Policy for the NSW Public Sector.

I, Bruce Barbour, am of the opinion that, where necessary in accordance with the Digital Information Security Policy for the NSW Public Sector, certified compliance with AS/NZS ISO/IEC 27001 Information technology – Security techniques – Information security management systems – Requirements had been maintained by the NSW Ombudsman's Office.



Bruce Barbour  
**Ombudsman**



# Our performance statement

## PURPOSE ONE

Help organisations to identify areas for improvements to service delivery, and ensure they are acting fairly, with integrity and in the public interest

### What we said we would do in 2013 – 2014

Report to Parliament on issues relating to the continuing reforms to child protection



Continue to identify ways of making our employment-related child protection training more accessible to out of school hours and vacation care services



Closely monitor the implementation of the recommendations in our audit of the NSW Interagency Plan to Tackle Child Sexual Abuse in Aboriginal Communities, along with broader programs aimed at improving the circumstances of vulnerable Aboriginal children and their families



### What else we did in 2013 – 2014

Made submissions to a review of the *Police Act 1990* and the review of the investigation and oversight of critical incidents aimed at improving police oversight



Finalised an investigation into how the NSW Office of Water carries out its compliance responsibilities



Reviewed and closely monitored the impact of garnishee orders on people receiving Centrelink payments



### What we plan to do in 2014 – 2015

Implement a disability reportable incidents scheme under Part 3C of the *Ombudsman Act 1974*



Monitor and assess the implementation of OCHRE, the NSW Government's plan for Aboriginal affairs, consistent with our new function under Part 3B of the *Ombudsman Act*



Oversee the Department of Family and Community Services' review of the *Going Home, Staying Home* reforms to the homelessness service sector



Inquire into prenatal reporting and birth alerts



Key:  see page    Achieved     On-going     Not achieved 

Audit the NSW Police Force's implementation of its latest Aboriginal Strategic Direction



Finalise two reviews of new police powers



Continued Operation Prospect, conducting more than 100 hearings and interviews



Updated our consumer training package, *The Rights Stuff*, to be more directly relevant to young people



Delivered 23 *Handling serious incidents in the disability sector* training workshops to 462 staff across one Ageing Disability and Home Care regional grouping



Review how the transition to the National Disability Insurance Scheme is impacting on people with a disability in the Hunter Valley trial site



Monitor the implementation of recommendations in our 2014 report to Parliament on the child protection system



Offer training about handling serious incidents in the disability sector more widely in line with our new functions overseeing the handling of reportable disability incidents



Continue to work with groups involved in out-of-home care, Legal Aid, the NSW Police Force and others to develop a protocol for responding to at-risk young people



## Our performance statement

### PURPOSE TWO

Deal effectively and fairly with complaints and work with organisations to improve their complaint-handling systems

#### What we said we would do in 2013 – 2014

Launch a new training workshop on investigating misconduct in the public sector



Develop training materials for public interest disclosures coordinators working in agencies



Produce a fact sheet to guide agencies through responding to inquiries by our office

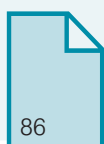


#### What else we did in 2013 – 2014

Handled 35,058 complaints and notifications, 9,107 formally and 25,951 informally



Sought advice from the Solicitor General about the scope of our employment-related child protection jurisdiction



Conducted inspections of complaint records at six police commands, and completed five audits to assess the timeliness of 868 complaint investigations



#### What we plan to do in 2014 – 2015

Finalise a disability complaint-handling review to ensure our practice is effective and person centred



Finalise a range of new and updated advice and guidance following the release of the Australian Standard on complaint-handling





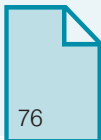






Refine quality control systems for community services complaints and employment-related child protection telephone inquiries and ensure appropriate and timely follow up for members of the public



Key:  see page

Achieved  On-going  Not achieved 

Develop a model complaint-handling policy for public sector agencies	Finalise the review and update of our enforcement guidelines	Explore options for performing our work relating to local government
 64 	 64 	 76 

Began a project under the National Disability Strategy NSW Implementation Plan to develop resources to assist government agencies to support people with disability to make a complaint	Used the information we collect to identify areas where local councils can improve their customer service and complaint-handling	Reviewed our complaints processes and practices to identify ways to maximise the involvement of people with disability in complaints about their services and supports
 108	 75	 93

Audit the complaint-handling procedures and practices in NSW councils	Provide a series of training workshops on the revised Australian Standard on complaint-handling
 	 

## PURPOSE THREE

Be a leading integrity agency

### What we said we would do in 2013 – 2014

Complete the second stage of our customer service audit, focusing on our responses to formal complaints



Continue to provide advice, information and assistance to the Royal Commission into Institutional Responses to Child Sexual Abuse



Work with the Western Australian Ombudsman to develop a 'starter kit' for new and developing Ombudsman offices on behalf of the Australasian and Pacific Region of the International Ombudsman Institute



### What else we did in 2013 – 2014

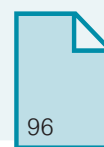
Liaised with a range of different agencies and organisations to improve the exchange of information relating to the safety, welfare or wellbeing of children



Continued to review and refine our processes and approaches to dealing with inquiries and complaints, focusing on effective communication



Raised awareness of our complaint-handling role in relation to disability services among participants, service providers and advocacy organisations in the Hunter launch site of the National Disability Insurance Scheme



### What we plan to do in 2014 – 2015

Continue to provide advice, information and assistance to the Royal Commission into Institutional Responses to Child Sexual Abuse, and to the Victorian Department of Human Services and Commission for Children and Young People to support the implementation of a reportable conduct scheme

Work with the Victorian Ombudsman's Office to undertake a joint review of the South Australian Ombudsman's complaint-handling procedures



Conduct a major revision of the unreasonable complainant conduct training materials





Key:  see page

Achieved  On-going  Not achieved 

Contribute to the completion of the review and implementation of Standards Australia's compliant-handling standard and make sure all of our publications and guidance reflect any changes to the standard



Update The Rights Stuff workshop and publications to be more useful for people with intellectual disabilities



Work with the disability sector to develop training programs and a train the trainer package to increase the number of trainers qualified to deliver our disability training



Worked with other Australian Parliamentary Ombudsman to finalise and implement national guidelines for university complaint-handling



Established and appointed the inaugural Deputy Ombudsman (Aboriginal Programs)



Conducted three days of AusAID-funded training in Jakarta for senior leaders from the Ombudsman of the Republic of Indonesia



Finalise a 'starter kit' for new and developing Ombudsman offices



Provide training to Ombudsman and their staff from across the world over three days in Thailand, funded by the International Ombudsman Institute and the Asian Ombudsman Association



Update our enforcement guidelines and good administrative practice guideline



## PURPOSE FOUR

Be an effective organisation

### What we said we would do in 2013 – 2014

Finalise a trail of limited electronic complaint-handling in our public administration division and move to roll out electronic complaint-handling more broadly



Conduct a trial of receiving notifications electronically in our employment-related child protection work



Review and enhance the official community visitor scheme electronic database and reporting framework



Replace our desktop computer equipment as part of our four-year computer replacement program



### What else we did in 2013 – 2014

Expanded our electronic complaint-handling trial to include more complex complaints



Conducted a whole-of-office risk assessment to identify and assess our most important risks



Rolled out instant messaging to staff













### What we plan to do in 2014 – 2015




Continue to roll out electronic complaint-handling and records management across the office, focusing on corporate and police and compliance branch records







Finalise our Senior Executive implementation plan, a requirement under the GSE Act

Finalise our implementation of the NSW Government information classification and labelling guidelines

Key:  see page    Achieved     On-going     Not achieved 

Change how we label our information to comply with the NSW Government digital information security policy	Seek certification under AS/NZS ISP/ IEC 27001	Continue to make improvements to the Child Death Review Team database	Implement the <i>Government Sector Employment Act 2013</i> (GSE Act)	Integrate our telephone system with our case management system
 31 	 31 	 30 	 32 	 30 

Extended our WellCheck program to staff in the employment-related child protection division	Established a work health and safety (WHS) committee and conducted a workplace inspection	Established our new Aboriginal programs role
 36	 36	 101

Continue our internal audit program, finalising our audit on our processes around the implementation of Ombudsman recommendations as well as financial systems and IT licensing	Refurbish the office following lease negotiations and an owner incentive for this purpose	Establish our new disability reportable conduct role within the office, creating positions and securing funding
 	 	 

## Balancing our books

Most of our revenue comes from the government in the form of a consolidated fund appropriation. Our consolidated fund allocation for 2013-2014 was \$23.909 million. The government also provided \$1.219 million for certain employee entitlements such as defined benefit superannuation and long service leave. We received \$1.314 million for our capital program which was spent on a range of items including computer hardware and the development of a consolidated database for our reviewable death functions.

In addition to our consolidated fund allocation, we received a number of specific purpose grants totalling \$2.779 million. The most significant grant was for conducting Operation Prospect (see page 46). We also received a grant for our new employment-related child protection role relating to the working with children check/notifications of concern (see page 88).

We generated \$774,000 through the sales of publications, bank interest, fee-for-service training courses and consultancy work. Other than our appropriation, our usual main source of revenue is training courses (see page 107).

Most of our revenue is spent on employee-related expenses including salaries, superannuation entitlements, long service leave and payroll tax. We spent over \$23.3 million on these items in 2013-2014 and the day-to-day running of our office cost about \$5.2 million.

In line with the NSW Government's commitment to improve financial management in the public sector, we continue to review our accounting practices. We have streamlined our reporting processes and improved our fixed asset procedures. We actively discuss issues with both internal and external auditors and, where necessary, with our audit and risk committee.

Fig. 10: Financial summary

	12/13 \$'000	13/14 \$'000	Change %
Operating revenue including government contributions	27,981	29,995	7.20
Operating expenses	26,908	29,280	8.82
Total assets	3,839	5,347	39.28
Total liabilities	3,000	3,803	26.77
Net result	1,073	715	-34.30
<b>Total equity</b>	<b>839</b>	<b>1,544</b>	<b>84.03</b>

As shown in the financial summary table, our operating revenue increased by 7.20% in 2013-2014 while our operating expenses increased by 8.82%. The major area of change in our revenue base was an increase in specific purpose grants, which totalled \$2.779 million. We had a 15% increase in our self-generating revenue, which includes fee-for-service training, bank interest and other miscellaneous revenue items. There was a \$513,000 increase in the acceptance by the crown of employee benefits and other liabilities, which was mostly an increase in long service leave after an actuarial assessment of this employee benefit.

We had an increase in our asset base as unspent grant money increased our cash at bank. We will use this money in 2014-2015. Our receivables decreased, but were higher than we had budgeted. Our non-current assets increased

as we did significant capital works this year – including developing a single database for all our reviewable death functions as well as replacing our desktop computers.

Our liabilities have also increased. This year we had an increase in accrued wages and on-costs, which were paid in early July 2014. Provision for annual leave also increased, primarily because our annual leave liability was increased by the 2.27% wage increase awarded to staff from early July 2014. We continue to proactively manage our leave entitlements.

For more details about our financial position, see the 'Our financials' section of the report at page 114.

## Reducing our environmental impact

In July 2014, the NSW Government published its government resource efficiency policy (GREP), which commits NSW public sector agencies to reducing operating costs as well as increasing the efficiency of the resources we use. All agencies have to comply with the GREP. It replaces the NSW government sustainability policy and supersedes the waste reduction and purchasing policy with new waste reporting requirements.

The policy contains strategies to improve energy, waste, water, and clean air performance and sets interim and long term targets. Although the policy was published after the reporting year, 2013-2014 data will set the benchmark for assessing our progress in implementing the GREP strategies.

### Energy

The GREP has a number of strategies to improve the use of energy including minimum NABERS Energy ratings, minimum standards for new electrical appliances and equipment, minimum fuel efficiency standards and purchasing 6% green power.

During the year we maintained our 4.5 star NABERS rating. We purchased energy efficient equipment, purchased 6% green power and encouraged our staff to adopt energy efficient practices.

Our office is fitted with light sensors and timers and, as part of our energy efficiency tenant upgrade, we will be installing T5 lighting which will help us achieve a 5 star NABERS rating.

We had an increase in our electricity usage due to significant out-of-hours work and supplementary air conditioning for Operation Prospect.

We use a number of strategies to improve the environmental performance of our motor vehicle fleet. These include:

- purchasing fuel efficient cars based on NSW clean care benchmarks that are compatible with E10 blends of fuel
- maintaining our cars according to the manufacturer's recommendations
- encouraging staff to use public transport where practicable.

We monitor the need to maintain a fleet and ensure there is a real need for a car before it is purchased. We make sure that any car is fit for its purpose – in both size and fuel efficiency.

Our other energy efficiency initiatives included:

- monitoring our energy usage through auditing, preventive maintenance, staff education programs and purchasing energy efficient equipment

- enabling power-management features when installing office equipment
- installing video conferencing facilities to provide an alternative to travel, helping us reduce our greenhouse gas emissions
- Supporting our building's environmental programs.

## Waste

The GREP requires us to report on our top three waste streams by volume and by total cost, with 2013-2014 data to be used as the baseline year. As we did not know about this until after the reporting period and as we participate in our building's recycling program, we cannot provide this information. We will work with building management to see if we can calculate this information for future reports.

Our top three waste streams are:

- clean waste paper and cardboard
- general waste
- toner cartridges, mobile phones and batteries.

During the year, we continued our program of reducing our reliance on paper-based products. This includes a significant reduction in the number of reports we print, including annual reports and special reports to Parliament. We make these reports available on our website along with our guidelines, brochures and fact sheets.

Our public administration division (PAD) trialled the electronic handling of less complex complaints and, following its success, expanded the trial to more complex areas of their work. We anticipate that more areas of our office will move to paperless systems and processes, which will help to reduce the amount of clean waste paper we produce.

We use Australian 80% recycled content paper in our printers and copiers and purchased 3,650 reams of copy paper. This averages 18.91 reams per staff member – over double the ICT Sustainability Plan's July 2015 target of nine reams per person. We had a substantial increase in paper use as part of Operation Prospect. This has included a large

number of briefs of evidence. As this investigation is continuing into 2014-2015, we may not reach the target. We will work towards reducing paper usage by promoting other strategies such as double-sided printing and better use of online forms.

We recycle all our clean waste paper through our secure paper recycling bins and collected 4.6 tonnes of paper. We recycle all of our toner cartridges through the HP Planet Partners Program.

Other waste reduction initiatives included:

- monitoring our segregated waste streams – including the general waste, comingled recycling, paper and cardboard generated in our office – and implementing strategies to reduce contamination of the waste stream, such as better education of staff
- promoting the use of online forms
- providing refresher training to staff on the use of our electronic document management system
- encouraging staff to print only when necessary and use double-sided printing
- diverting facsimiles to email.

## Water

We lease premises in a building that is fitted with a range of water-saving technologies including low-flow taps and showers, dual-flush cisterns and waterless or low-flow urinals and grey water systems. The building has a 3.5 star NABERS Water rating. We do not have any data on our tenancy's water usage.

## Clean air

There are two clean air targets under the GREP – the first is about air emission standards for mobile non-road diesel plant and equipment, which does not apply to our office. The second strategy is using low-volatile organic compound (VOC) surface coatings. We will make sure our upcoming refurbishment complies with this and the Australian paint approval scheme.

Fig. 11: Fuel consumption

	09/10	10/11	11/12	12/13	13/14
Fuel (l)	2,835	2,521	2,743	1,882	1,657
Distance travelled (km)	33,818	29,849	36,809	23,472	18,944

Fig. 12: Electricity consumption

Year	09/10	10/11	11/12	12/13	13/14
Electricity (kWh)	367,273	320,053	224,942	240,891	274,617
Kilowatts converted to gigajoules	1,322	1,152	810	867	988
Occupancy (people)*	197	195	186	180	193
Area (m <sup>2</sup> )	3,133	3,133	3,133	3,133	3,133
Gigajoules per person	6.71	5.91	4.35	4.82	5.11

\* rounded to nearest whole number



# Supporting our business

Our corporate branch supports our operational areas and provides personnel, business improvement, accounting, information technology (IT), information management, publications design and layout, and administrative and project support. The work of our personnel unit is discussed later in this chapter and our accounting activities are discussed in the financial section of this report (page 114).

As with all areas of the office, the work of our corporate branch is guided by our corporate and other planning documents. Some of our key corporate projects this year are outlined below as well as throughout the report.

## Implementing electronic complaint-handling

We have reported before on projects to implement electronic complaint-handling systems. Our business improvement unit (BIU) continues to work with our business areas and IT to increase the level of automation in our complaint-handling processes.

In September 2013, we rolled out a tool developed internally that automatically uploads complaints submitted via our online form into our case management system Resolve – taking away the need to manually enter complaint details. This tool was initially developed for the PAD but is now used across the office.

The PAD continued to expand their trial of the electronic handling of complaints after the success with managing less complex matters this way. The BIU and our records staff continued to work with the PAD to refine processes and to ensure the quality of the data captured in our information systems.

## Monitoring organisational performance

We continued to improve our KPIs and other management reporting. For example, we can now report on our complaint-handling KPIs at the individual officer level.

The next stage of our KPI project involves developing systems to measure non-complaint-handling areas of our work, including projects and reviews. We finalised specifications to bring our legislative review work and our CS-CRAMA projects into Resolve.

We also expanded the use of the Resolve dashboard to provide managers with real-time complaint-handling performance and workload monitoring.

## Improving our information systems and reporting

The quality of our information is vital to the Ombudsman's role in identifying systemic issues over time. We make every effort to effectively manage the large volumes of information we receive from agencies or that we access directly from their systems. This helps our staff to make connections and identify risks across a range of information and adds significant value to our work. We have continued to work to improve how we record this kind of work, and to facilitate links to data stored in Resolve.

We developed our information holdings to support our new working with children/notification of concern role. The continual development of the ERCPD's intelligence gathering function and intelligence database is essential for putting together detailed briefs about complex and high risk notifications.

Some other changes to our information systems include:

- Resolve to TRIM integration – we developed and launched a system that integrates our complaints and document management systems to make us more efficient and improve business practices. Staff can now create and edit documents in Resolve without using TRIM directly. Documents created in one system will be seen in both.
- OCV online system review – we are undertaking a complete data structure review of the OCV Online system to ensure data quality and future maintainability. After this review, we will develop a reporting module for this system.

## Enhancing communications

We reported last year that we had implemented a new telephony and contact centre management system. To further enhance this new technology, this year we integrated the call management system with Resolve – allowing complaint details to be automatically accessed when a call is received.

To improve communication throughout the office, we provided tools to allow staff to access telephone functions and instant messaging from their desktop – including making and managing telephone calls, viewing staff availability, accessing voicemail, and sending and receiving one-to-one and group instant messages (chat).

We also used our new telephony and contact management system to develop the capability to hold video conferences. With continual pressures on budgets and time, we saw video conferencing as one way to effectively manage stakeholder relationships across NSW.

## Developing our death review system database

After a successful funding bid, work started on the design and development of a database to support our reviewable child deaths and reviewable disability death roles as well as the work of the Child Death Review Team (CDRT). This new database, the death review system (DRS), needed to be implemented as a matter of urgency given the instability of the existing database.

We engaged an external project manager and set up a project team made up of representatives from the human services branch, the BIU and IT. After looking at various options, we decided that Resolve – the system we use for our complaints case management – would be used for the DRS.

We planned for the new system to be operational by June 2014 but some additional features needed to be added after comprehensive user testing. The system went live in August 2014 after these enhancements had been completed.

## Upgrading our infrastructure

Our infrastructure is important in making sure we are able to provide the highest quality services to our stakeholders in a timely and effective manner. This year, we made a range of enhancements and upgrades to provide better support to our staff, including:

- Remote access – we successfully implemented a secure remote access solution using strong data encryption and two-factor authentication.
- Desktop to laptop computer replacement program – we replaced our desktop computers with laptops, which will improve staff mobility and reduce our carbon footprint. This is central to our secure remote access implementation, as approved staff can only have remote access on our devices.
- Data backup infrastructure upgrade – we upgraded our data backup infrastructure to improve reliability and scalability. We also upgraded parts of our network infrastructure, including network switches and our firewall.

## Designing a mobile website

We have implemented a new responsive website design to make sure the site can be used effectively on mobile devices, such as smart phones and tablets. The new design means our website will now display properly on any mobile device. While we were making this change, we checked our website against a range of government and technical standards (W3C, WCAG) to ensure that it continued to meet accessibility standards and internet best practice.

## Digital information security

The NSW Digital Information Security Policy sets out five core requirements that public sector agencies must adopt. These requirements include having an information security management system that complies with the minimum controls from the information security standard (ISO 27001) and code of practice. Depending on an agency's risk profile, some must seek certification under the standard.

We were delayed in seeking certification by the ongoing review and release of a new standard (ISO 27001). We have reviewed our security controls and risk profile and conducted risk assessment workshops in June 2014. We reported our progress to our audit and risk committee, who recommended to the Ombudsman that he could attest to compliance with the policy. See page xx. We are working towards becoming certified under the standard in the next reporting year.

## NSW Government information classification and labelling guidelines

The NSW Government Information Classification and Labelling Guidelines require agencies to adopt an information classification and labelling system which is consistent with the Commonwealth government's system. Sensitive information labelled or classified on or after 1 January 2014 has to comply with the guidelines.

We have been working to comply with these guidelines, seeking feedback from across the office on our requirements. We mapped out existing arrangements against the guidelines, and have reviewed our security models in our case management and document management systems. We sourced and trialled software to support the introduction of guidelines and spoke at division meetings about the future change. Our implementation of these guidelines will continue in the next reporting year.

# Our people

At 30 June 2014, we had 208 people working for us on either a full or part-time basis. Our staff have diverse experience and skills and come from a range of different backgrounds – including investigative, law enforcement, community and social work, legal, planning, child protection and teaching.

## Human resources

### Government Sector Employment Act

In February 2014, the *Government Sector Employment Act 2013* (GSE Act) came into operation. This Act provides the new legislative basis for government employment in NSW and implements the government's priorities to reform the structure and management of the NSW public sector.

Our office is a separate public service agency under the GSE Act, which means we are not linked to or controlled by a principal department.

Transitional arrangements supported the move to employment and management arrangements under the GSE Act. In the first year of its operation, we can use some previous legislative provisions while we transition to the GSE Act. This mostly affects temporary employment arrangements and recruitment activity.

All provisions of the GSE Act relating to non-executive employees took effect immediately when the Act came into operation. The public service senior executive reforms can be implemented over three years.

The GSE Act has required us to review and change how we perform a range of personnel functions. We have had to apply the public sector capability framework to our positions and develop new role descriptions to make sure we comply with the recruitment provisions.

Recruitment assessment methods have also changed, requiring us to change our approach to how we recruit staff. Changes to temporary employment and higher duties arrangements have meant that we had to review the status of a number of individual staff, which included having a one-on-one discussion with those staff about their employment.

We developed a senior executive transition plan, which was submitted to the Public Service Commission in August 2014. This plan detailed how we are going to transition our executives to the new structure – including reviewing the ongoing business need for the executive positions, assigning work level standards to executive roles, assigning new remuneration bands, and determining the actual remuneration level of the role. We decided that all executive positions will be externally evaluated as part of our transition process.

We will also need to review our EEO policies and programs to ensure that the workforce diversity provisions in the GSE Act are appropriately addressed. As well, we will need to develop a workforce plan that will guide our staffing strategies into the future.

### Any exceptional movement in wages, salaries or allowances

The relevant industrial agreements were varied to increase salaries and salary-based allowances by 2.27%, effective 5 July 2013. All staff, excluding the Ombudsman and the three Deputy Ombudsmen, received this increase.

A 2.5% increase was paid to our Deputy Ombudsman who are remunerated under the CES/SES determination of the independent Statutory and Other Offices Remuneration Tribunal (SOORT). This increase was effective 1 October 2013.

SOORT approved a 2.5% increase to the Public Office Holder group, which includes the Ombudsman, from 1 October 2013 – but this increase was disallowed. In August 2014, this increase was approved for payment backdated to 1 October 2013.

### Personnel policies and practices

Our staff are employed under the provisions of the GSE Act which, along with associated regulations and the Crown Employees (Public Service Conditions of Employment) Award 2009, set the working conditions of public servants. This means we have little scope to set working conditions and entitlements for staff.

Fig. 13: Staff levels as at 30 June 2014

	09/10	10/11	11/12	12/13	13/14
Statutory officers	4.00	4.00	4.00	4.00	4.00
Investigative	70.18	73.26	78.49	80.47	91.56
Investigative support	21.00	24.50	20.40	19.60	18.6
Project and research	20.66	25.66	25.66	18.56	19.96
Training and community education	2.30	1.50	3.00	2.50	1
Inquiries	9.94	9.54	8.74	9.74	9.56
Community visitor support	2.80	2.80	1.80	1.80	1.8
Systemic review	10.10	16.16	14.70	16.34	14.14
Corporate	25.17	27.77	29.67	26.81	32.37
<b>Total*</b>	<b>166.15</b>	<b>185.19</b>	<b>186.36</b>	<b>179.82</b>	<b>192.99</b>

\* full-time equivalent

With the start of the GSE Act, we reviewed a range of personnel policies and practices as well as templates and other documents to update references to legislation and employment provisions.

We expanded our practice of sending letters and other information to staff by email rather than hard copy. We have now converted a range of personnel forms and templates to online forms and have started a project to convert all personnel-related records, if appropriate, to electronic-only records.

We expanded the capability of our HR21 system, allowing staff to cancel leave online. We will continue to develop HR21 as resources permit.

We reviewed our work health and safety (WHS) policies and established a work health and safety committee to ensure that we were meeting our consultation obligations under the new WHS legislation. See page 36 for more information about our WHS program.

Last year we mentioned that we were reviewing the impact of the changes to the Working with Children Check requirements, including reviewing those positions that require a check. We have now done this and the relevant staff have obtained the necessary clearance from the Office of the Children's Guardian.

In line with government policy, we proactively managed and reduced leave liabilities and are on target to have no staff with a leave balance of more than 30 days at 30 June 2015.

## Improving performance management

We have previously reported that we were synchronising our performance management activities throughout the office. This means we will develop agreements, review progress, and report on staff performance at the same time. This will help to promote the importance of performance management and align it with the business planning cycle.

Feedback from our 2012 People Matter Survey indicated that some staff were not having regular performance management reviews. Improving this became a priority for us, and all divisions were required to report to the Ombudsman on the implementation of performance management within their areas.

**Fig. 14: Performance management**

Number of total headcount	232
Number of total eligible staff	165
Number of staff with a performance agreement developed	142
% of eligible staff with a performance agreement developed	86.06
Number of staff with performance review completed	135
% of eligible staff with a performance review completed	81.82

In April 2014, we reported to the Public Service Commission (PSC) on our performance management program. This report captured all staff who had been employed by us from 1 July 2013 up to the reporting date, but excluded certain categories such as staff who had left the office or who were recently appointed to positions. We reported against the remaining or eligible staff, which indicated that 86.06% of eligible staff had a performance agreement and 81.82% had

completed a formal review within the previous 12-month period (see figure 14). These statistics will be the benchmark for future reporting.

After the start of the GSE Act, the PSC has advised that changes will be made to the performance management policy linking it to the capability framework. The PSC has also said it is developing evaluation criteria which will be used to assess the performance of staff. We will need to review our policy once these changes are made.

## Working with the JCC

The joint consultative committee (JCC) continued to work cooperatively during the year reviewing a range of policies as well as discussing issues affecting staff.

## Senior executives

The GSE Act provides for new executive arrangements for former senior executive service (SES), senior officer (SO) and equivalent positions. The GSE Act transitional provisions provide for the new executive arrangements to be adopted by all agencies within three years of the legislation's commencement.

In April 2014, the PSC wrote to us outlining the requirements for implementing the new senior executive arrangements. The PSC has also developed a number of resources to assist agencies review their arrangements – including work level standards and a remuneration management framework.

The provisions of the GSE Act relating to the employment of public service employees do not apply to the Ombudsman. The Ombudsman is a statutory appointee employed under the provisions of the *Ombudsman Act 1974*. Entitlements and other conditions are provided through the instrument of appointment. The SOORT determines the remuneration to be paid to the Ombudsman as a public office holder.

The Deputy Ombudsman are statutory appointees, employed under the provisions of the Ombudsman Act. The provisions of the GSE Act relating to the employment of public service employees do not apply to the Deputy Ombudsman except for provisions relating to:

- the band in which an executive is to be employed
- the contract of employment of an executive
- the remuneration, employment benefits and allowances of an executive
- the termination of employment of an executive.

Aspects of the transition process - such as application of work level standards, the remuneration framework and developing role descriptions - are relevant to the Deputy Ombudsman. Other elements such as the recruitment processes are not. All SO positions have been considered as part of our transitional arrangements.

As at 30 June 2014, we had 14 senior executive staff - half of whom were women. See figures 15 and 16 for details of the levels of our senior positions as well as their remuneration. Although the Ombudsman is not subject to the GSE Act, he is included to make the table complete. As we have not transitioned to the new executive structure, executive staff have been assigned to an appropriate band for reporting purposes.



Fig. 15: Senior executive level

Band	2013		2014	
	Female	Male	Female	Male
Band 4	0	1	0	1
Band 3	0	0	0	0
Band 2	1	2	1	3 <sup>#</sup>
Band 1	5 <sup>*</sup>	4	6 <sup>*</sup>	3
<b>Total</b>	6	7	7	7
<b>Total both male and female</b>	13		14	

\* includes a staff member on leave without pay

# includes a temporary position created while a Deputy Ombudsman is off-line leading a major investigation

Fig. 16: Senior executive remuneration

Band	Range	Average remuneration	
		2013	2014
Band 4	422,501 – 488,100	460,592	467,881
Band 3	299,751 – 422,500	0	0
Band 2	238,301 – 299,750	277,175	235,301
Band 1	167,100 – 238,300	121,000	155,412

13.3% of the Ombudsman's employee-related expenditure in 2014 was related to senior executives, compared with 12.8% in 2013.

## Workforce diversity

The GSE Act makes diversity a priority area for all public sector agencies. It focuses on existing groups (Aboriginal people, women, people from culturally and linguistically diverse backgrounds, and people with disability), but also provides flexibility to include other groups – including mature workers, young people and carers. A key goal is for all public sector agencies to reflect the diversity of the wider community.

At the start of the GSE Act, we had a current equal employment opportunity (EEO) management plan. Under GSE Act transitional arrangements we can continue to implement this plan until we are able to integrate diversity requirements into a broader workforce plan. Workforce plans are to be developed by early 2015.

Our 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 productive work environment
- grievance-handling procedures that are accessible to all employees and deal with workplace complaints promptly, confidentially and fairly
- sound communication channels that give employees 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 set targets for employing people from various EEO groups. These targets are a useful measure of the effectiveness of our EEO program (figures 17 and 18). We exceeded the target in the representation of women, people whose language first spoken as a child was

not English and people with disability requiring adjustment. We were slightly under the target for employing Aboriginal & Torres Strait Islander people. There is no target for people with disability. This year saw a reduction in the representation of people with disability in our staffing profile.

## Policies and practices

Our personnel activities must consider EEO/diversity policies, outcomes and priorities. We support EEO/diversity by ensuring a diverse and skilled workforce, fair work practices and behaviours, and employment access and participation by EEO/diversity groups. Figures 18 and 19 show the gender and EEO/diversity target groups of staff by salary level. See page 32 for more information about our personnel policies and practices.

We continued our commitment to training, providing a range of professional development opportunities for staff. We also continued our programs to improve the skills of supervisors, as well as our in-house programs on Aboriginal cultural appreciation and disability awareness. Further details are provided in our learning and development section on page 36.

## Harassment prevention and respect for each other

Following the 2012 People Matter survey, all public sector agencies were asked to review their harassment prevention and grievance policies to address concerns about bullying throughout the sector. We implemented a range of strategies to raise awareness of the issue and promote a workplace that was free of harassment and bullying and where staff respected and valued each other. Nearly 160 staff attended training conducted by the Anti-Discrimination Board (ADB). We also had the ADB review and comment on our policies. There were no formal grievances lodged during the reporting year.

To promote respect for the social and cultural backgrounds of others, we continued our in-house training on Aboriginal cultural appreciation. The feedback on the content and presentation of this course has been extremely positive.

We also continued our disability awareness training. This training uses attitudinal and practical sessions to illustrate issues facing people with disability, and provides practical suggestions on how to engage with people with disability.

## Access and equity programs

We continued to implement our access and equity programs which focus on the needs of vulnerable groups. Our disability action plan, multicultural policies and services program and Aboriginal policy support our workforce diversity outcomes.

During the year we reviewed our access and equity policy which sets the framework for a range of access and equity programs aimed at ensuring our office is accessible to all people who need our service. We also updated our disability and multicultural policies and started review of our multicultural and disability action plans.

See page 37 for more details about these programs.

## Flexible work arrangements

We promote flexible work options to enable staff to balance work and their personal commitments. We offer part-time work, flexible working hours, working at home arrangements and a range of leave options. Fifty one staff worked part-time during the year.



## The year ahead

In 2014-2015 we will finalise our workforce plan integrating diversity strategies. We will finalise changes to our recruitment process and performance management system

to comply with the requirements of the GSE Act. We will continue to provide training and development opportunities and flexible work arrangements.

Fig. 17: Trends in the representation of EEO groups

EEO Group	Target (%)	Result (%)				
		09/10	10/11	11/12	12/13	13/14
Women	50	72	72.9	73.8	73.1	71.9
Aboriginal & Torres Strait Islander people	2.6	3.6	2.4	2.9	3	2.4
People whose language first spoken as a child was not English	19	21	17.5	18.1	16.1	20.1
People with disability*	n/a	7	9.2	10	12.1	10.1
People with disability requiring work-related adjustment	1.5	2.6	2.4	2.4	2.5	2.4

# Employment levels are reported but a benchmark has not been set

Fig. 18: Trends in the distribution of EEO groups

EEO Group	Target (%)	Result				
		09/10	10/11	11/12	12/13	13/14
Women	100	87	91	92	92	93
Aboriginal & Torres Strait Islander people	100	n/a	n/a	n/a	n/a	n/a
People whose language first spoken as a child was not English	100	83	86	87	87	87
People with disability	100	106	104	102	100	99
People with disability requiring work-related adjustment	100	n/a	n/a	n/a	n/a	n/a

Note 1: 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 levels.

Note 2: The distribution index is not calculated where EEO group or non-EEO group numbers are less than 20. In these cases n/a appears.

Fig. 19: Percentage of total staff by level

Level	Total staff (no.)*	Respondents	Men	Women	Breakdown by EEO group				
					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 disability	People with disability requiring work-related adjustment
\$0 - \$42,625	0	0	0	0	0	0	0	0	0
\$42,625 - \$55,985	3	3	0	3	1	1	1	1	0
\$55,985 - \$62,587	10	9	2	8	0	4	4	0	0
\$62,587 - \$79,199	41	40	11	30	1	12	13	6	0
\$79,199 - \$102,418	85	83	18	67	2	17	18	6	4
\$102,418 - \$128,023	60	60	22	38	1	6	5	7	1
\$128,023 > (Non SES)	8	8	4	4	0	1	0	0	0
\$128,023 > (SES)	3	3	2	1	0	0	0	1	0
<b>Total</b>	<b>210</b>	<b>206</b>	<b>59</b>	<b>151</b>	<b>5</b>	<b>41</b>	<b>41</b>	<b>21</b>	<b>5</b>

\* This figure represents the actual number of full-time and part-time staff as a 30 June 2014 – not the full-time equivalent.

## Work health and safety (WHS)

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 the *Work Health and Safety Act 2011* (WHS Act) as well as public sector WHS policies. We take a risk management approach to our WHS activities, supported by policies and programs that provide guidance to both managers and staff.

### Implementing the Work Health and Safety Act

We engaged a contractor to work with us in reviewing our WHS program to make sure we complied with the new Act. To guide us, we developed a WHS action plan that outlines the key result areas, strategies and actions to make sure safe systems and processes support our day-to-day work and decision making. We regularly updated staff, management and our audit and risk committee on our progress.

We asked staff for their views on the best way to consult with them. The majority of staff agreed that a WHS committee would be best, and health and safety representatives (HSRs) for specific work groups would complement the committee's activities. Each branch/division selected their committee representative, and we have held a number of WHS meetings during the reporting year. The committee has already provided advice and feedback on policy reviews and development, conducted a whole-of-office inspection, and discussed issues of concern raised by staff. Committee members have also attended WHS committee training.

At the time of writing, nominations have been called for HSRs.

### 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 including desk adjustments, changing the placement of lights and installing special software. Some of these modifications were made following medical or other external professional assessments.

### Emergency evacuation procedures

We continued to participate in our building's emergency evacuation training program. All our nominated wardens are required to attend training at least twice a year. We also took part in the building's emergency evacuation drills. We developed personal emergency evacuation plans for a number of staff who were deemed to be mobility impaired for a prolonged period of time and we tested these plans during emergency evacuation drills.

We are a member of the building emergency planning committee, which meets once a year to discuss the building evacuation processes and preparedness.

### Employee assistance program

We continued to provide an employee assistance program (EAP), including a free 24-hour counselling service for staff and their families.

### WellCheck program

Last year we established a WellCheck program for staff working in our reviewable deaths area. In 2013-2014 we extended this program to staff in our employment-related child protection division. Under this program, we provide a

psychological 'wellcheck' to staff who are potentially at risk of being exposed to known risk factors that can lead to the development of traumatic stress and adjustment difficulties.

### Other programs to support WHS

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

- 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 cover the costs of our first aid officers attending initial and ongoing training and pay these staff a yearly allowance for undertaking this role.

### Workers compensation

We are part of 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 compared to the previous year, with two claims being reported – see figure 20. As at 30 June 2014, we had three open workers compensation claims.

Our workers compensation incidence rate was lower than the previous year because of the lower claim numbers and higher number of employees.

Fig. 20: Workers compensation

Claims entered in the year	09/10	10/11	11/12	12/13	13/14
Claims brought forward	2	4	5	4	3
New claims	9	8	7	8	2
Claims closed	7	7	8	9	2
Open claims 30 June	4	5	4	3	3

Fig. 21: Workers compensation incidence rate

	09/10	10/11	11/12	12/13	13/14
Number of claims submitted	9	8	7	8	2
EFT number of employees	166.15	185.19	186.36	179.82	192.99
Incidence rate (%)	5.42	4.32	3.76	4.45	1.04

## Learning and development

Providing learning and development opportunities for our staff makes sure we continue to attract and develop a skilled and committed workforce. Staff are actively encouraged to participate in a diverse range of training to help them to perform their current role more effectively and to gain skills to assist their personal and professional development.

### Developing professional skills

Our staff attended a range of conferences during the year, including the Association of Children's Welfare Agencies conference, the Institute of Internal Auditors South Pacific and Asia conference, Reasonable Cause conference, NDS Research to Action CADR conference, Having a Say conference, Disability Care Australia National conference and the Customer Service Solutions for the Public Sector

conference. These events are an opportunity to learn from industry experts, improve understanding of contemporary issues affecting our work, and network with people who have similar roles, experience and skills.

Staff also attended a range of training courses, some delivered internally:

- training sessions on the use of key Microsoft Word features, Excel and Outlook
- writing in plain English delivered by the Plain English Foundation
- innovative thinking and problem solving
- workplace health and safety, harassment and bullying prevention (for managers and staff) and rehabilitation coordination
- a range of training specific to our complaint-handling activities, including – interviewing children and young people, dealing with difficult people, turning data into information, workplace investigations and effective influencing and persuasion.

## Raising awareness

Providing training that is aimed at raising our staff awareness of contemporary issues in our society is an important part of our strategy to continually improve how we interact with the public. This year, we provided training on dealing with people with mental illness, disability awareness, cultural intelligence, Aboriginal cultural appreciation and young people at risk.

## Managing staff

We continued our training program to ensure supervisors and managers have the necessary skills and knowledge to effectively carry out their responsibilities. This included training on managing people effectively, fundamentals for supervisors, group coaching and having difficult conversations.

## Lunchtime seminars

This year we started monthly lunchtime seminars. These are an opportunity for staff to meet and discuss certain areas of interest. We have organised internal and external speakers to address staff on topics such as achieving peak performance, workplace mediation, getting a good night's sleep and agile project management.

## New staff induction

Our formal induction program provides all new staff with relevant, consistent and useful information about our office, our policies, process and obligations. Within the first three months of joining the office, new staff attend training on our electronic document management and case management system and security awareness. We also run 'Ombudsman: What, When, Where and Why' training sessions for new staff to help them understand our functions, jurisdiction and responsibilities.

## Providing study leave

Staff development also means encouraging staff to undertake further study to enhance their skills. Four staff used study leave provisions to attend tertiary education courses in 2013-2014.

Fig. 22: Time spent on training

Number	12/13	13/14
Courses attended	104	110
Full-time equivalent staff	179.82	192.99
Total time spent – hours	4,230	4,360
Total time spent – days	604.21	622.79
Days spent per staff member	3.36	3.23
Training \$ per staff member*	966	1,090

\* This excludes training costs for OCVs and other non-direct training expenses.

Fig. 23: Training expenditure

Year	09/10	10/11	11/12	12/13	13/14
Expenditure \$	101,000	165,000	155,000	174,000	213,000

## Access and equity programs

Our access and equity policy provides a framework for us to focus on the needs of vulnerable groups and to make sure their specific needs are considered in planning and resource allocation. The policy identifies the following widely recognised vulnerable communities as our target groups:

- Aboriginal and Torres Strait Islander (ATSI) communities
- carers
- children and young people
- culturally, linguistically and religiously diverse communities
- lesbian, gay, bisexual, transgender and intersex (LGBTI) communities
- people in custody including juveniles
- people in non-metropolitan and regional areas
- people with disability
- older people
- women.

During the year we reviewed and updated our disability and multicultural policies to reflect legislative and government policy change. We also started reviews of our disability and multicultural action plans, which are both nearing the end of their planning cycles.

## Disability action plan (DAP)

This plan outlines our commitment to achieving outcomes for people with disability 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 *Disability Services Act 1993* guides, the delivery of programs and services to people with disability until the end of 2014.

This year we continued to work with the Australian Network on Disability and participated in a number of programs including 'Stepping into...', a paid internship program designed for university students with disability and PACE, a mentoring program aimed to assist job seekers with disability. We participated in community events, conducted training on handling serious incidents and effective complaint management in the disability sector, and presented workshops on The Rights Stuff to people who receive community services. We also trained our staff in disability and mental health awareness issues and stress management. See appendix I, page 167 for more information about our disability action plan.

## Multicultural action plan (MAP)

Under the multicultural policies and services program (MPSP), all NSW government agencies must develop, implement and report on their multicultural action plan to enhance and promote multiculturalism. Our MAP, which was developed using the Community Relations Commission's multicultural planning framework, guides the delivery of programs and services to people from culturally, linguistically and religiously diverse backgrounds until the end of 2014.

This year our focus was on reviewing the effectiveness of our strategies. We also started developing a new five year action plan. Once approved by the Ombudsman, the new plan will guide our MPSP and activities during 2015-2019.

Details of the implementation of our MAP can be found in appendix I.

## Aboriginal policy

This policy outlines our commitment to improving our services to Aboriginal people, as well as working with key agencies to improve broader service delivery. We work closely with government and non-government service providers, Aboriginal community leaders and community workers in both metropolitan and regional areas to address issues of concern and to achieve the best possible outcomes for Aboriginal people.

Working with Aboriginal communities, on page 99, has more details about our work in this area.

## Women's action plan

Our women's action plan outlines strategies and planned outcomes to ensure that our services are accessible and appropriate for women in NSW. The outcomes include supporting women to live free from domestic and family violence, identifying and removing barriers to accessing services for women, and promoting a safe and equitable workplace for women. For further details on our women's action plan see appendix I.

## Carers recognition

Our carers recognition policy ensures we properly fulfil the requirements of the *Carers (Recognition) Act 2010* and promote the principles of the NSW Carers Charter. The Act places obligations on all public sector agencies in relation to carers, not only those carers that use the services of the agency but also staff members who have carer responsibilities.

We implement a range of flexible work arrangements such as job sharing, part-time work, and family and community service leave that support staff who have caring responsibilities. We value the input of carers in the provision of community services and provide awareness training to carers. For further details on our carers recognition policy, see appendix I.

## Reaching out to children and young people

Our youth policy outlines our commitment to improving our services to children, young people and their advocates. Our youth liaison officer and youth issues group continued to work on projects identified in our Youth Action Plan – including improving our system for recording and collecting

data on complaints from young people and their advocates, developing appropriate promotional material to promote our services to young people, and working to ensure a consistent and coordinated approach to handling and resolving youth complaints across our office. We promoted our office in the international student guidebook, and continued to provide information about our role in child protection in the NSW Police Legacy Child Safety Guidebook. This is updated once every six months and distributed to primary schools across NSW. For further details about our work with young people see page 81.

## Other outreach activities

We participate in a variety of outreach activities to ensure that our office is accessible to anyone who needs our services. These activities include participation at community events, forums and presenting to groups about our work.

This year we continued to work with the Aged Rights Service, the Energy and Water Ombudsman NSW and the Office of Fair Trading. We also participated in a two day seniors event at the Royal Easter Show. We provided information about the role of our office to thousands of people and gave face-to-face advice on issues of concern. For the fourth year we held an information stall at the Mardi Gras Fair Day in Victoria Park, Sydney. Our staff provided information and advice to hundreds of people who attended this annual event.

# Law and justice



This section of the report outlines the work we do in relation to law and justice agencies in NSW. Although focusing on our work relating to policing and custodial services, this section also includes our monitoring and inspection of records relating to controlled operations, telecommunications interceptions, surveillance devices, and covert and criminal organisations search warrants.

We oversee the way the police complaints system works – by reviewing investigations of individual complaints, conducting audits and checking that the processes police use to resolve complaints are fair and effective. This helps us identify systemic problems and work with police to resolve them. We also review the operation of legislation providing police with new and extraordinary powers.

Our custodial services work involves receiving and responding to complaints and dealing with issues relating to Corrective Services NSW, Juvenile Justice NSW, the GEO Group and the Justice & Forensic Mental Health Network. We also closely monitor and investigate systemic issues we identify through the complaints we receive and our visits to centres.

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## Highlights

- **Continued Operation Prospect, conducting more than 100 hearings and interviews (see page 46)**
- **Conducted five audits of police records to monitor the time taken to investigate complaints, reviewing 868 matters (see page 48)**
- **Completed and reported on a legislative review relating to the policing of intoxicated and disorderly conduct (see page 52)**
- **Finalised an investigation into the management of young people at Frank Baxter Juvenile Justice Centre (see page 59)**

## Stakeholder engagement

Our law and justice work relies on effective relationships with a wide range of people, groups and agencies. We meet regularly with senior staff from the NSW Police Force, Corrective Services NSW and Juvenile Justice NSW.

We also have day-to-day contact with frontline staff, working to solve problems and improve systems and service delivery. In our custodial services area, it is important that inmates have a good understanding of what we do and when to contact us. When they do, we can often contact correctional centre and juvenile justice centre managers and staff and get a good result or fix up misunderstanding and miscommunication very quickly.

The group of people we regularly interact with has expanded this year, with the appointment of the first Inspector of Custodial Services, Dr John Paget. We have met with Dr Paget and his staff and established a good working relationship. We also have an agreement to share specific and general information. We expect the trends and issues we identify from our complaints will also provide specific assistance to the Inspectorate in planning their inspections and reviews, and that the insights they gain will help inform our complaint-handling and systemic reviews. Any opportunities for collaborative work will also be regularly explored.

### Auditing the NSW Police Force's Aboriginal Strategic Direction

Helping to improve the relationships between agencies and community groups is one of our keys aims when we get involved in an area.

This year, we audited the implementation of the Aboriginal Strategic Direction (ASD) in the Barrier Local Area Command, which includes Broken Hill, Dareton, Wilcannia and Menindee in Western NSW, making recommendations for improvement.

The Commander acted swiftly to address a number of the issues our audit uncovered. He and his management team implemented practical measures, particularly in relation to staffing and community engagement, that have already had a significant positive impact. In providing our final audit report we observed that this response shows the real difference that strong leadership by police commanders can make in improving the relationship with Aboriginal communities and the ability to work constructively with them to resolve problems. For further details see page 104.



## The police complaints system

Under Part 8A of the *Police Act 1990*, anyone can make a complaint about a police officer. If police officers become aware of possible misconduct by their fellow officers, they must also report this to a more senior officer under the Police Regulation 2008. These reports are dealt with as part of the police complaints system.

The system is designed to respond to a broad range of complaints – ranging from allegations of serious misconduct such as corruption or criminality to complaints about rudeness or poor customer service. A complaint can be made about a police officer's actions or inaction and may relate to conduct that occurred on or off-duty. Complaints must be in writing, may be anonymous, and must be made to the NSW Police Force (NSWPF), the Ombudsman or the Police Integrity Commission (PIC).

The NSWPF has primary responsibility for managing complaints about police officers. This includes conducting investigations in a timely and effective manner, taking appropriate management action to address the officer's conduct, improving service delivery, and/or addressing and resolving the concerns of complainants. Under the Police Act, the NSWPF are required to notify the Ombudsman of certain complaints so that they can be independently oversighted. These complaints are listed in a guideline that is available on our website. They usually involve allegations of serious misconduct – such as corruption, criminal activity or a lack of integrity by police. The NSWPF also has to notify us about complaints of unlawful or unreasonable conduct resulting from the use of police powers such as arrest, search, detention in custody and unreasonable use of force. They handle complaints about less serious conduct without our oversight, but we do annual audits to check how well they were managed.

To carry out our oversight of the police complaints system we:

- review the NSWPF's assessment of a complaint when it is notified to us and their proposed action
- monitor in real time the progress of some investigations conducted by the NSWPF, including observing interviews
- review the investigation and action taken by the NSWPF in response to all complaints of serious misconduct
- ask for further information from police and request further action if issues have not been adequately addressed
- inspect NSWPF complaint records to check they comply with the requirements under Part 8A of the Police Act

- make recommendations for improving the complaints system
- work cooperatively with the Professional Standards Command (PSC) and region and local area commanders to ensure the complaint system continues to operate effectively.

We can require the NSWPF to investigate a complaint and request information about the progress and outcome of an investigation. We may also report findings and make recommendations to the Commissioner of Police and/or the Minister for Police about issues relating to police complaints or the police complaints system. If it is in the public interest to do so, we can use our Royal Commission powers to directly investigate complaints or the handling of complaints. We may also make special reports to Parliament with recommendations about significant issues. These reports are then made available to the public.

## Trends in complaints – who complained about what

This year we received 3,390 complaints about police officers. Figure 24 shows the numbers of complaints we have received over the past five years. There was a slight increase this year, but the numbers over the past five years appear to be relatively stable.

Complaints can be made directly to the Ombudsman as well as to police. This year we received 847 matters where the complainant wrote to us directly. The remainder of complaints were referred to us by the NSWPF or the PIC.

Figure 25 is a breakdown of who complained over the past year. Of the 3,390 complaints received, 1,250 (37%) were made by police officers. The number of internal police reporters (individual police officers who made a report to a senior officer about the possible misconduct of another officer) has remained steady over the past three years.

We collect details about complaint allegations in our complaints database. Recording this information helps us to identify trends and patterns in the types of allegations and complaints being made about police. Figure 26 lists the subject matter of the allegations received over the year. It is important to note that a complaint can include more than one allegation.

Please see Appendix A for more details about the investigative action that the NSWPF took in relation to each allegation.

Fig. 24: Formal complaints about police received and finalised

	09/10	10/11	11/12	12/13	13/14
Received	3,032	3,256	3,386	3,287	3,390
Finalised	3,093	3,278	3,390	3,178	3,249

Fig. 25: Who complained about police

	09/10	10/11	11/12	12/13	13/14
Police	1,090	1,156	1,246	1,206	1,250
Public	1,942	2,100	2,140	2,081	2,140
<b>Total</b>	<b>3,032</b>	<b>3,256</b>	<b>3,386</b>	<b>3,287</b>	<b>3,390</b>

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

Fig. 26: What people complained about

Subject matter of allegations	No. of allegations
Arrest	102
Complaint-handling	88
Corruption/misuse of office	290
Custody	109
Driving	91
Drugs	190
Excessive use of force	503
Information	643
Investigation	829
Misconduct	1,696
Other criminal conduct	347
Property/exhibits/theft	187
Prosecution	261
Public justice offences	169
Search/entry	113
Service delivery	1,145
<b>Total</b>	<b>6,763</b>

Figure 27 records the number of complaints we finalised this year. Of the 3,249 complaints finalised, we completed a detailed review of 1,742 (54%) that had been investigated or informally resolved by the NSWPF. We referred 413 matters (13%) to the NSWPF to be handled without the direct oversight of the Ombudsman. These matters are called 'local management issues' and are about less serious conduct such as a lack of customer service. In 1,093 matters (34%), we decided the allegation did not require any further action to be taken by police. Our decisions to take no action in response to a complaint take a number of factors into account – such as the time since the incident occurred and whether action has already been taken to address the issue.

## Management actions taken

Management action is a term used to describe the wide range of supervisory, managerial and disciplinary responses that are available to the NSWPF in response to complaints about police. There are two categories of management action under Part 9 of the Police Act. One is 'reviewable action' and the other is 'non-reviewable' action.

Some decisions by police to take action to address serious misconduct can be appealed to the Industrial Relations Commission and are therefore a 'reviewable action'. These include decisions by the Commissioner of Police to remove an officer or reduce their rank, seniority or salary. 'Non-reviewable action' includes a broad range of remedial options such as warning notices, conduct management and performance plans, and training, advice and guidance to improve performance.

Our oversight of the NSWPF complaint system includes reviewing whether the management action to be taken in response to a complaint is appropriate and commensurate with the investigation's findings and recommendations. We also carefully scrutinise whether the officer has been afforded procedural fairness during the investigation. Of the 1,742 complaint investigations and resolutions completed by the NSWPF during the year and notified to us, there were 977 occasions (56%) where some form of management action was taken.

This year the Commissioner of Police removed 13 police officers and took other reviewable action against 18 officers.

A formal written warning notice from the Commissioner of Police or his delegate can be given after sustained findings of significant misconduct. This year, there were 240 officers served with a warning notice formally advising them that continuing to engage in inappropriate conduct may result in them being removed or dismissed from the NSWPF.

Fig. 27: Action taken in response to formal complaints about police that have been finalised

Action taken	09/10	10/11	11/12	12/13	13/14
Investigated by police and oversighted by us	1,143	998	846	706	579
Resolved by police through informal resolution and oversighted by us	751	979	1,309	1,168	1,163
Assessed by us as local management issues and referred to local commands for direct action	340	398	323	307	413
Assessed by us as requiring no action (eg alternate redress available or too remote in time)	857	899	909	990	1,093
Ombudsman report to Commissioner and Minister	1	0	2	2	0
Investigated by Ombudsman	1	4	1	5	1
<b>Total complaints finalised</b>	<b>3,093</b>	<b>3,278</b>	<b>3,390</b>	<b>3,178</b>	<b>3,249</b>

Fig. 28: Actions taken by the NSWPF after complaint investigation/informal resolution

	09/10	10/11	11/12	12/13	13/14
No management action taken	781	874	961	844	765
Management action taken	1,112	1,107	1,197	1,034	977
<b>Total actions taken</b>	<b>1,893</b>	<b>1,981</b>	<b>2,158</b>	<b>1,878</b>	<b>1,742</b>

There were 192 police officers put on either a remedial performance program or conduct management plan. This type of management action aims to improve or correct performance and conduct issues identified during the complaints process. It can include mentoring, retraining, increased supervision, restricted duties and a non-disciplinary transfer to another command.

**Fig. 29: Management action taken against police officers as a result of investigating notifiable complaints finalised in 2013-2014**

	%
Management counselling	25.3
Coaching/mentoring/referral to specialist services	15.0
Official reprimand/warning notice	14.1
Additional training	11.5
Increased or change in supervision	10.6
Conduct management plan	7.4
Restricted duties	5.4
Performance program	5.1
Transfers	2.4
Change in policy/procedure	0.9
Reduction in rank/seniority	0.8
Removal under s.181D	0.6
Formal apology	0.5
Deferral of salary increment	0.4
<b>Total</b>	<b>100</b>

## Quality of investigations

Our review of police investigations into allegations of serious misconduct found that 82% were handled in a timely and effective manner. With the remaining 18%, the deficiencies identified included poor decision making or investigation strategies, inappropriate decisions about management action, and unreasonable and unexplained delays in completing the investigation. Delayed completion of an investigation was the sole reason for 9% of the deficient investigations.

When we identify a problem with how a complaint has been investigated, we raise those concerns directly with the NSWPF. We can ask the NSWPF to conduct further inquiries or take our views into consideration. This year the NSWPF remedied issues relating to the investigation process in 52% of matters. Our concerns about inadequate management action being taken by the NSWPF were remedied in 55% of cases.

## Overseeing complaints about serious misconduct

Overall, the police complaint system works effectively to ensure that police officers are held accountable for serious misconduct. This year we finalised our oversight of 56 complaints leading to 123 charges against police – see figure 30. Significantly, the charges against 54 of the officers were the result of complaints or reports made by other police officers. We continue to make recommendations to police to ensure allegations of serious misconduct are investigated in a timely and effective manner.

### Officers inappropriately accessing police information

Last year we reported on issues relating to unauthorised access by police officers to confidential police information. We were concerned that complaints were not always properly investigated to determine whether an offence had been committed under s.308H of the *Crimes Act 1900*.

This year we continued to identify inconsistent investigative approaches by local area commands. In some cases, appropriate evidence-based criminal investigations were conducted. In others, the command did not consider the potentially criminal aspect of the conduct. Case studies 1 and 2 demonstrate the differing approaches taken by police to handling complaints about unauthorised access to information. Both involve scenarios where police officers accessed information about themselves using COPS, which may be a criminal offence.

We sought further information from a number of commands to better understand why criminal investigations were not conducted in certain cases where it appeared this should have occurred. The NSWPF advised us of a range of factors they took into consideration. These included that:

- the information was not accessed for personal gain
- the officer did not have a malicious intent when they accessed the information and had an otherwise good complaints record
- there was no public interest in prosecuting the offence
- there were alternative disciplinary remedies available.

Although some of these factors were legitimate, others did not appear to be relevant when determining whether a complaint should be investigated. They also failed to recognise the obligation in the Police Act to determine whether sufficient evidence exists to warrant criminal

**Fig. 30: Police officers criminally charged in relation to finalised notifiable complaints**

Number	09/10	10/11	11/12	12/13	13/14
Complaints leading to charges	92	68	67	62	<b>56</b>
Officers charged	95	64	66	61	<b>59</b>
Officers charged after complaints by other officers	68	49	52	43	<b>54</b>
Percentage of officers charged after complaints by other officers	72%	77%	79%	70%	<b>92%</b>
<b>Total charges laid</b>	<b>300</b>	<b>215</b>	<b>149</b>	<b>150</b>	<b>123</b>

prosecution. We are awaiting advice from the NSWPF about the need for a review of policies and procedures so that local area commands are made aware of their obligations in dealing with complaints of this type.

### Officers speeding on duty

Sometimes officers need to exceed the speed limit when they are on duty. However, they must have a good reason for doing this, take reasonable care, and turn their sirens and warning lights on. In case study 3, an officer failed to take these steps and was charged after we asked for a review of the police investigation.

### Starting criminal proceedings against police

For the past three years we have reported on our concerns about police not adhering to a protocol that provides for independent review and advice by the Office of the Director of Public Prosecutions (ODPP) about whether criminal proceedings should be started against a police officer. In November last year, the PSC convened a meeting with the Deputy Ombudsman and representatives of the PIC and the ODPP to review the protocol. Since then, the consultation process has stalled and at the time of writing this report we are waiting for the Commissioner's Executive Team (NSWPF) to provide advice about their position on the protocol. Meanwhile we continue to monitor police compliance with the existing protocol when we assess cases involving allegations of criminal conduct by police officers.

### Duty of care towards vulnerable people

After police have completed their investigation of a complaint we review the evidence obtained, check if relevant procedures and the requirements of law have been followed, assess whether the conclusions made were appropriate, and check that the complainant, subject officers and witnesses have been treated appropriately.

Sometimes we consider that they have not made adequate inquiries and further investigation is necessary. In case study 4, we were concerned the police investigation did not address whether the officers had taken into account the vulnerability of a person they had decided to detain. After we raised our concerns with the command, they agreed the officers had not recognised or responded to the considerable risks associated with detaining and transporting an intoxicated person. As a result, additional remedial action was taken in the form of training and education for the officers.

### Keeping police records up to date

As part of their work, police officers have to access and amend official records. It is important that they record any new information accurately because it may be used for ongoing police work and for other purposes such as criminal record checks for employment. In one case an officer falsified police records and was dismissed, but the falsified records were left on the system. They were however deleted when we wrote requesting that this occur.

In case study 5, the records of a complainant were accidentally linked with those of a second person with a similar name who had a criminal record.

### Ensuring that management actions are reasonable

Our oversight includes assessing whether the management action taken by the NSWPF to address improper or unreasonable conduct by police is appropriate. If we are not satisfied with the action to be taken by the NSWPF we may request further explanation of the decision or ask for it to be reconsidered. In case study 6 we were not satisfied that sufficient action had been taken to address the conduct of the officers involved, and in case study 7 we were concerned that the sustained finding was unfair to the subject officer.

## Case studies

### 1 Checking police records about off-duty assault

A police officer was assaulted while off duty. When he next went to work, he accessed COPS and read the report relating to the incident. This report contained information about the other parties involved. The following day he had a discussion with another police officer and expressed concerns about the details recorded on COPS. The officer's conduct was investigated criminally. Police found that he did not have a work-related purpose for accessing the report and charged him with unauthorised access under s.308H of the Crimes Act.

### 2 Officer checking own police records

The PIC referred information to the NSWPF, which included evidence that a police officer had accessed information about himself on COPS multiple times. The local area command conducted an informal

investigation, issued the officer with a warning notice, and advised him that his accesses to COPS would be audited. When we reviewed the matter it was not clear whether the local area command had given any consideration to the potential criminal aspect of the officer's conduct. We raised our concerns with the region professional standards manager, who acknowledged that the complaint should have been investigated to determine whether criminal conduct had occurred. Further investigation was no longer practical as prosecution of the offence was now statute barred. A reminder was sent to all local area commanders in the region to ensure that evidence-based investigations were conducted if evidence of criminal conduct was available at the outset.

### 3 Speeding without lights and sirens

An on-duty senior constable allegedly travelled in excess of the speed limit on three separate occasions. On two of these occasions he was allegedly driving at



## Responding positively to Mardi Gras complaints

The policing of the 2013 Mardi Gras celebrations was the subject of considerable media attention and public interest after the publication on YouTube of mobile phone footage of a physical interaction between an officer and a spectator at the parade. We also received complaints about the policing strategies used at Mardi Gras events, including improper and intrusive searches of people at the events.

There were reports of police officers unlawfully forcing open people's mouths to check if they had secreted drugs and strip-searching individuals attending events. The searches were allegedly done without any consideration of privacy or whether the searching officer was the appropriate gender. The complainants and the public were concerned that the policing of this significant annual event had been heavy-handed, potentially unlawful and poorly planned. Two of the incidents, involving police use of force, are still being investigated.

The police responded positively to the concerns expressed by the public and the gay and lesbian community – and to the complaints we received at our office. Before the 2014 festival, police consulted extensively with the Mardi Gras organisers and reached an agreement called the Mardi Gras Accord. The accord set out a commitment to improve relationships between all parties and included targeted training for police officers, event staff and volunteers as well as risk assessment initiatives – particularly for managing drug dog operations. The NSWPF developed educational materials which were disseminated to police within the Central Metropolitan Region. This material was a central feature of briefings to officers who were policing Mardi Gras 2014.

This year, we did not receive any complaints about the policing of the 2014 Sydney Mardi Gras events. It seems this positive result was due in part to the impressive and significant collaboration between the NSWPF and the Mardi Gras organisers.

## Key areas of focus

### Improving civilian oversight of police

This year we made submissions to relevant Ministers to strengthen our ability to independently oversight the police complaints system and allow us to oversee police investigations of critical incidents. We also continued to monitor the actions taken by the NSWPF to implement our previous recommendations to improve police conduct. In our view it is essential that these recommendations are implemented so that our oversight remains effective and public confidence in the police is maintained.

### Reviewing the Police Act

We recently finalised a submission to the Police Minister's current review of the Police Act, proposing amendments to Parts 8A and 9 of the Act. We recognise that the NSWPF, like any other public authority, has primary responsibility for investigating complaints about their personnel and systems – and that they have undertaken significant work to improve and streamline their complaint-handling procedures. Our recommendations aim to build on that work by improving the interaction between police and our office.

We have been concerned for a number of years that considerable resources are spent by both us and the police consulting and negotiating about whether certain matters should be recorded and/or managed as 'complaints'. Our submission included recommendations intended to improve the operation of the legislation by:

- including a mechanism to resolve disputes about whether a matter needs to be dealt with as a complaint
- providing a mechanism to ensure certain complaints made verbally by members of the public are recorded in a way that enables us to oversee how they are handled
- simplifying police obligations to report allegations of serious misconduct
- allowing the Ombudsman to discontinue oversight of a police complaint investigation.

more than 60km/h over the speed limit without authorisation or an obvious policing reason. In the previous two years there had been two similar complaints about him, where incidents were captured on in-car video (ICV) footage. ICV automatically starts recording when certain police vehicles have their warning lights and sirens activated. The ICV footage provided compelling evidence in the previous complaints and the officer received a warning notice. In the more recent incidents, the officer did not turn on the lights or sirens so the ICV was not activated.

The officer was charged over one incident in which he allegedly drove more than 70km/h over the speed limit. However, an allegation that he drove at more than 120km/h in a 60km/h zone without using any warning signals while overtaking two motorbikes on their left side was treated as a non-criminal issue. The third was also treated as non-criminal and the NSWPF requested the Commissioner of Fines Administration to withdraw the speed camera infringement notice. The NSWPF

## Case studies

found that the officer's driving in the second and third matters was, in effect, exempt under Regulation 305 of the Australian Road Rules. This allows officers to act outside the road rules if they use their warning signals, have a justifiable policing purpose and take reasonable care. All elements must apply before an officer's driving is exempt.

We asked the NSWPF to review the decision not to institute criminal proceedings in relation to the second and third incidents. We also asked for advice about the risk management strategies employed in relation to the senior constable's driving.

The senior constable was subsequently charged with the two more speeding offences. His NSWPF driving certification has been removed. The matters are currently before the court.

We have also recommended changes to improve the quality of information provided to complainants by NSWPF about the outcome of complaints and the information recorded by police about complainant satisfaction.

We will continue to work with the Minister to ensure that his review of the Police Act strengthens our ability to provide effective and independent oversight of the police complaints system.

## Overseeing critical incident investigations

In last year's annual report we referred to our recommendation that Parliament consider giving us additional powers to independently oversight critical incident investigations that involve the death or serious injury of people during police activities. Since then, the government commissioned the Hon. Robert McClelland to conduct a review into the investigation and oversight of police critical incidents. We made a detailed submission to Mr McClelland's review outlining a model for effective independent oversight of police critical incident investigations.

We welcomed the fact that Mr McClelland's report recommended the creation of a mandatory notification scheme with additional oversight powers for our office. However, in a further submission, we detailed our significant concerns with the model of oversight proposed in McClelland's report – as it falls well short of what we believe to be the minimum necessary requirements for a robust and effective model of external civilian oversight of police critical incident investigations. Our submissions are available on the NSW Parliament website. These issues are still being considered by the NSW Government.

## Improving Taser SOPs

This year we continued to monitor the implementation of the recommendations made in our 2012 special report to Parliament 'How are Taser weapons used by the NSW

## Operation Prospect

As we reported last year, Operation Prospect is a large scale investigation into allegations about the conduct of officers of the NSWPF, the NSW Crime Commission and the PIC in relation to a number of investigations that were conducted between 1998 and 2002. It is also examining allegations that confidential information from the NSWPF, NSW Crime Commission and/or PIC computer systems was leaked.

As mentioned in our last annual report, we have received a large number of complaints relating to the operation. Each of these has been considered and responded to alongside the broader investigation.

This has been one of the largest investigations our office has ever conducted, involving the detailed analysis and review of a vast amount of information and documents spanning a 14 year time period. It has involved the Ombudsman, Deputy Ombudsman, and both operational and other staff. We have carefully considered the documents and information collected, and continue to identify and request information relevant to the investigation.

Given the sensitivity of much of the subject matter of the investigation and the fact it is ongoing, we cannot provide a great deal of detailed information about what we are doing. We can say that the operation has moved into its next stage, with a large number of interviews and hearings being conducted. At the time of writing, more than 100 separate interviews and hearings using the Ombudsman's powers under sections 18 and 19 of the Ombudsman Act have been conducted.

We aim to finish the investigations and hearing phase by the end of 2014, and we are working hard to reach the intended completion date of the first half of 2015.

## Case studies

### 4 Incident of self harm while in police custody

A police officer on patrol saw a woman slumped on a park bench outside a shopping centre. When the officer spoke to the woman she appeared very affected by alcohol and was unsteady on her feet. She was holding two sealed bottles of wine in a plastic bag and dropped one of the bottles which smashed on the ground. Other police attended in a caged truck and decided to detain her as an intoxicated person and transport her to her motel. The woman was searched and placed into the back of the police truck with her possessions, which included the plastic bag and the remaining unopened wine bottle. While in transit, the police became aware that the woman had seriously lacerated her wrist with a shard of glass and immediately took her to the emergency department at a hospital. The laceration required surgery to close the wound.

The next day, a senior officer sent a reminder to all police at the local area command about the need for thorough searches when taking people into custody – to reduce the risk of injury and harm to both police and detainees. He also reminded police about the increased risk associated with detaining people as intoxicated persons or under the *Mental Health Act 2007*. An investigation was started into the conduct of the officers that detained the woman.

This investigation found that police had failed to comply with relevant procedures in allowing the woman to be placed in the police truck still in possession of the unopened bottle of wine. We were concerned about a number of issues that were not adequately addressed during the search. These included the failure of police to conduct a radio check that would have alerted them to warnings about her 'chronic alcoholism and suicidal tendencies' and their failure to take steps to secure evidence after the incident – as they disposed of the



Police Force?' The NSWPF have taken positive steps to address our recommendations to improve their standard operating procedures. These procedures have been revised and published on the NSWPF website. We are currently reviewing information provided by the NSWPF in response to our recommendations to improve police training on the use of Tasers.

Our report also included 18 recommendations to strengthen procedures for the internal review and monitoring of the use of Tasers by officers. We provided feedback about proposed amendments to the SOPs for the Region Taser Review Panel, but these have not yet been finalised. We are concerned about the lack of progress in implementing these recommendations.

## Keeping the police complaints system under scrutiny

Section 160 of the Police Act requires the Ombudsman to keep the police complaints-handling system under scrutiny. Our work over the last year has included visiting police commands to discuss trends in complaints and complaint-handling issues specific to each command, physically inspecting records and conducting audits. We also closely monitor specific aspects of the NSWPF's management of complaints across the state.

### Identifying issues that may have a system-wide impact

Keeping the police complaints system under scrutiny involves identifying and focusing on issues that potentially affect the handling of a significant number of complaints. An example of this is the impact of a recent Supreme Court decision, *Baff v New South Wales Commissioner of Police* [2013] NSWSC 1205, which could affect the information-gathering process during some complaint investigations.

When a complaint about a police officer is investigated, it is important that information is gathered from a range of people who may have been involved – including the complainant and any officers. This assists the investigator to compare accounts and come to a fair decision about the issues raised. In the past, a police officer could be directed by their senior officer to answer questions and/or provide a version of events as part of this investigation process. If they refused, this could be an offence under the Police Act.

Following the Supreme Court decision in 2013, it is no longer lawful to direct a NSW police officer to answer questions or provide a version of events if the officer believes they will provide evidence that will leave them open to criminal prosecution. This is known as the privilege against self-incrimination. Since the decision, a number of officers have refused to provide information to investigators handling a police complaint – claiming this privilege. We will continue to closely monitor the impact of the Supreme Court decision over the next year.

### Reviewing police handling of less serious complaints

Under the Police Act, the Ombudsman and the PIC have an agreement that requires the NSWPF to notify the Ombudsman of certain complaints.

This agreement also sets out the NSWPF's responsibilities in handling complaints that do not require our oversight. These matters are still required to be recorded in the police database and handled appropriately. If a complainant or subject officer is not satisfied with how police handled their complaint, they may write to us about their concerns.

Case study 9 is an example of a matter that initially was not notified to our office. The complainant contacted us concerned officers had been rude and aggressive. After our involvement, a senior officer accepted there had been a problem with communication and sought to address this with the complainant and all the officers in the command.

wine bottle, the plastic bag and shards of glass that caused the injury, and hosed and sanitised the truck. The investigator had also failed to make appropriate findings about the decision of the male officer to search the woman when a female officer was available to do the search, as required under police procedures.

After further consultation, the local area commander agreed that the search by the male officer was deficient and commented that the shard/s of glass was more than likely in the plastic bag that the officers allowed her to keep when placing her in the back of the truck. A finding was made that the search by the male officer was improper and all three officers were provided with further education and a reminder about their responsibilities in terms of the issues we had raised. The commander also sent this complaint to the PSC to be considered as a case study on educating officers about managing vulnerable people in custody.

## Case studies

### 5 Similar name, different criminal histories

A man complained that police were frequently confusing him with another person with a similar name who was wanted by police and had a significant criminal record. It appeared the complainant's name had been linked with the criminal record of the other person. This caused ongoing inconvenience for the complainant and affected his employment prospects. We asked the NSWPF what action could be taken to stop this happening.

In response, the NSWPF separated the record relating to the complainant from the record of the other person, confirmed that the complainant did not have a criminal record, and apologised to him for the inconvenience this error had caused.

## Inspecting records

We conducted six inspections of region commands and one specialist command this year. We reviewed complaint records – including electronic records, filing systems and any other form of complaint-related record keeping. After the inspection we provided a report to the command with our observations and recommendations for improvement. Our inspections this year found good compliance with the requirements of Part 8A of the Police Act.

## Assessing complainant satisfaction

The NSWPF is required, wherever possible, to consult with complainants and provide advice on what action is going to be taken in response to their complaint. They must also inform the Ombudsman on whether the complainant is satisfied with that action.

This year, the NSWPF enhanced their complaints database to better record information on complainant satisfaction. This is a positive step and we will continue to engage with the PSC on improving the information from complainants to measure satisfaction.

## Auditing timeliness

The NSWPF complaint-handling guidelines set a timeliness standard of 90 days for completing an evidence-based investigation and 45 days for completing an informal resolution. We conduct regular audits of open complaints to

ensure that police are conducting their investigations in a timely and effective manner and providing us with a copy of the investigation report. If police have not provided reasons for a complaint exceeding the timeliness standard, we request advice about its status.

Figure 31 shows the percentage of police complaints that have been completed within the police timeliness standard over a five-year period.

It appears that there has been a continued decrease in the percentage of complaint investigations and resolutions finalised within the NSWPF timeliness standards. We intend to have further consultations with the PSC to discuss strategies to address this trend.

The NSWPF can suspend an investigation in circumstances where there will be unavoidable and significant delays. This can include an officer the subject of a complaint being on sick leave, or where there are related court proceedings. We audit suspended investigations to determine whether the suspension is reasonable. The number of complaint investigations suspended each year is set out in figure 32 which records a small decrease in the number of cases suspended since last year.

If a complaint investigation results in findings of serious misconduct against a police officer, it can take a significant amount of time before police finalise the process and decide on the appropriate management action to take. We conduct audits of these matters to ensure that there are no unreasonable delays.

Fig. 31: Timeliness of the completion of investigations and informal resolutions by the NSWPF

Percentage of	09/10	10/11	11/12	12/13	13/14
Investigations less than 90 days	44	42	34	25	24
Informal resolutions less than 45 days	47	39	36	29	26

Fig. 32: Number of cases suspended

	09/10	10/11	11/12	12/13	13/14
Investigations suspended	68	129	174	160	146
Informal resolutions suspended	10	35	70	69	67

## Case studies

### 6 Responding to racism in the workplace

A police recruit reported being the target of racist comments from a group of colleagues at the command, including a senior officer. The recruit objected to being given an offensive nickname.

The police investigation found that the senior officer's conduct had breached the NSWPF's harassment, discrimination and bullying policy which requires senior officers and managers to be good role models of acceptable behaviour and conduct. The evidence obtained in the investigation indicated that the comments and nickname being used by some officers at the command were not intended to cause offence – they were made in jest and not with any malice. We

were concerned the lack of intention to cause offence was seen as a satisfactory explanation for the comments. While we agreed with the finding, we also considered that the investigation revealed a general lack of understanding of racial harassment across the command.

We asked the command to consider whether other officers identified in the complaint had failed to identify that the comments amounted to harassment and, if so, whether training on this issue was needed. In response to our concerns, the commander has taken positive steps to raise awareness at the command. This included training for key senior and junior staff. Team leaders, duty officers and sergeants were also reminded of their responsibility to provide a safe work environment free from discrimination, harassment or victimisation.

This year we conducted five audits to monitor the timeliness of complaint investigations:

- Two audits reviewed 573 delayed matters – we requested advice about the progress of 204 investigations.
- Two audits reviewed 265 suspended complaints – we requested advice about 30 matters and the suspension was lifted in 13 of these matters.
- An audit of 30 investigations where a final decision about management action had not been made. We did not find any unreasonable delays.

## Investigations not completed within key timeframes

Of the 573 investigations audited for timeliness, we requested information from police on 204 investigations. As a result, 133 investigation reports were provided to our office for review, in accordance with our oversight function. The remaining 71 investigations were ongoing and were moving towards being finalised.

Last year we reported on the work being done by the NSWPF to automate the notification of completed investigation reports to our office. The enhancements to the NSWPF complaint database were completed in June 2013 and appear to have resolved the issue of completed reports not reaching us for oversight.

## Keeping track of suspended investigations

The NSWPF can temporarily suspend an investigation if there are likely to be delays they can't control. This can include an officer being on sick leave or where there are related court proceedings or an inquest.

As Figure 32 shows, our audits of suspended investigations have shown a small reduction in the number of investigations suspended.

Improvements to the NSWPF complaint database now allow commands to upload status reports relevant to a case. This allows them to keep better track of suspended investigations.

## Report on police use of emergency powers to prevent or control public disorder

This report is provided in accordance with s.87O(5) of the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA). This section requires the Ombudsman to report annually on our work in keeping under scrutiny the exercise of powers conferred on police to prevent or control public disorder. These powers are found in Part 6A of LEPRA, and are known as the 'Part 6A powers' or '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 authorisations to use the powers within three months of the authorisation ceasing. The Ombudsman may also require the Commissioner of Police or any public authority to provide information about the exercise of the powers. Our information agreement with the NSWPF (March 2009) sets out the information that we require from the NSWPF in order to scrutinise any use of Part 6A powers. In accordance with this agreement, the NSWPF must advise us at the time that any authorisation is

## 7 Finding against officer overturned

A police investigation found that the systems in place at a police station to issue, store and secure duty books were deficient and not in accordance with NSWPF regulations, policy and procedure. The failure to appropriately record the returning of duty books by officers and storing such material in a disused cell complex resulted in a number of duty books going missing. It was acknowledged that the command's systems were flawed and not secure.

In this context, the command's management team made a finding against one officer who had missing duty books and was not able to prove he had ever handed in his completed books for registration and archiving. The officer was issued with a Commander's warning notice. Significantly for the officer, due to previous unrelated

## Case studies

complaints, the adverse finding in this matter would also have resulted in a mandatory referral to the Internal Review Panel for consideration of reviewable action.

We asked for the finding to be reviewed. We were concerned that it was based on an inability to locate a record in circumstances where there were poor administrative systems at the command. In our view, there needed to be evidence the officer had not complied with procedure or engaged in misconduct. The region command agreed and overturned the sustained finding against the officer. The warning notice was revoked and positive steps taken to improve the security of documents.

given for the use of Part 6A powers and must also report biannually about 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.

This report covers the period April 2013 to March 2014. Police did not use the Part 6A powers during this period. As the biannual reporting timeframes do not correspond with the financial year, any use of the powers between 1 April and 30 June 2014 will be included in our 2014-2015 annual report.

## Considered uses of the powers

In past years we have reported on occasions where police seriously considered using the Part 6A powers, but decided against using the powers. On these occasions police may have decided to use other powers to control a situation involving public disorder or the public disorder that was anticipated did not eventuate. Information regarding these types of occasions allowed us to consider how police made decisions about the use of Part 6A powers in the context of the other powers available to them.

When the Part 6A provisions were introduced, the then Premier gave assurances to the Parliament that 'these powers are not intended to be used in respect of peaceful protests, union demonstrations and the like'. In March 2013 we requested further information from the Commissioner about three occasions where the use of the Part 6A powers was seriously considered in response to incidents and political protests in connection with the film *Innocence of Muslims*. We requested information to examine whether police gave appropriate consideration to the intentions of the Parliament in determining whether the powers should be used to manage these political protests. The NSWPF advised that the information would not be provided as the scope of the Ombudsman's statutory authority to require the Commissioner to provide information under s.87O of LEPR is limited to the exercise of the powers by police and that this does not include giving serious consideration to using the powers. Subsequent advice from the Solicitor General supported the NSWPF's interpretation of the legislation.

We remain of the view that the Ombudsman should be provided with information regarding occasions where use of Part 6A is seriously considered as it would allow us to more comprehensively examine police decision making around exercise of the powers, as well as the effectiveness of the powers to assist police to address public disorder, as intended by Parliament. It is therefore our view that Parliament should give consideration to an amendment to s.87O that will allow the Ombudsman to require information that he determines is reasonably necessary to keep under scrutiny the exercise of powers under Part 6A of LEPR.

## Reviews of legislation

In addition to our complaint and investigation roles, we review the operation of certain new laws – usually laws that broaden the powers of police. Parliament decides which new laws the Ombudsman must review and the length of each review. Since this legislative review role began in 1997, we have conducted more than 20 reviews.

This year we are reporting on a change in the willingness of police to provide us with information which is affecting the newest of the reviews enacted by Parliament.

## Our three new reviews

During 2013-2014 Parliament gave the Ombudsman responsibility for three new legislative reviews. The first two resulted from amendments to the *Firearms Act 1996* and the *Restricted Premises Act 1943*. These came into effect on 1 November 2013 and gave police additional powers to 'combat gun crime'. The amendments included a requirement that we keep under scrutiny the police use of powers to search certain people and places (including a person's home) for firearms, ammunition and explosives without a warrant or the need for any reasonable suspicion. Search warrants provide judicial scrutiny of police searches, but there is no such scrutiny if police can search without a warrant. Parliament has required us to keep these powers under scrutiny over a two-year period.

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### 8 Officer charged after critical incident

In our previous special report to Parliament about the police investigation into the death of Roberto Laudisio-Curti, we recommended that the NSWPF amend their critical incident guidelines to make it clear that critical investigation teams identify and investigate criminal conduct by police officers before any coronial inquest. This recommendation has not yet been addressed and the practice of police deferring a criminal investigation continues to be an issue.

In May 2013, a NSWPF region commander notified us of a complaint about police use of force and the start of a critical incident investigation following the death of a civilian. We decided to monitor the investigation and assessed the information as it was collected by police investigators. Two weeks after the initial notification, we

told police we had formed the view that the conduct of one officer appeared to be unlawful and suggested that a criminal investigation should proceed.

We wrote to the region commander three times requesting that the investigation be conducted as a criminal matter until the NSWPF were able to establish a criminal offence had not occurred. The region commander responded that police were conducting a 'coronial investigation' not a criminal investigation, but future statements would be obtained in a format suitable for any criminal prosecution in case a criminal brief may be required. The region commander wrote that the question of whether there was evidence of criminality had been decided by experienced police investigators and the coroner. In our third letter we asked that the NSWPF seek legal advice and the region commander responded that at that stage it was unnecessary.



The third review was included as part of a range of amendments made to LEPRA in June 2014. When exercising certain powers (such as arresting, searching or giving a person a direction) police must provide evidence that they are police officers and give their name, place of duty, and a reason for using the power. A new provision was added to LEPRA to state that, with certain exceptions, a failure to communicate the officer's name and place of duty will not invalidate the exercise of that power. Parliament has required us to keep under scrutiny for 12 months compliance with the requirement to provide information about name and place of duty.

## Police reluctant to provide information

Each time Parliament decides a new police power should be scrutinised by the Ombudsman, it includes a legislative provision requiring police (and sometimes other agencies) to provide us with information to assist our review. These provisions have generally required agencies to provide information relating to the exercise of the powers under review.

We look at whether the new powers are implemented and exercised in a fair and effective way and achieve the outcomes intended by Parliament. This involves examining the impact of the new powers in the context of existing police powers and the framework of policies, procedures and systems established to support the exercise of these powers. We do this by using a range of research techniques to examine the new provisions in the context of broader policing responsibilities.

This will only be successful if the NSWPF provide us with a wide range of relevant information, ready access to the expertise of experienced commanders, and the cooperation of operational police. In the past, the Commissioner has provided information about the exercise of the powers under scrutiny and information about related powers, policies and procedures relevant to evaluating the impact and effectiveness of the powers under review. This high level of police cooperation and support has enabled us to conduct thorough reviews and provide police with timely feedback about key issues as they emerge.

Unfortunately, this has changed. Although the Commissioner of Police says he remains supportive of our review role, the NSWPF have made it clear that they will no longer provide information – other than that directly related to the exercise of powers that are being reviewed. They are no longer willing to negotiate requests for information that provide important background and context to the use of the powers we are required to keep under scrutiny.

Our attempts to obtain information for our recent review roles under the Firearms Act and Restricted Premises Act have been hindered by protracted discussions with police about whether certain information must be provided. They have been unwilling to consider whether information could be provided to assist the review – even though there might be no legal requirement for police to give us that information.

For example, our review under the Restricted Premises Act includes keeping under scrutiny the police use of new powers to search for weapons or explosives in certain premises (including those that have been declared as restricted premises) as well as monitoring the operation of new offence provisions (that make it an offence for an owner or occupier of restricted premises to allow a 'reputed criminal' to attend or manage the premises). The NSWPF have refused to provide us with advice about the start of any proceedings for a restricted premises declaration or if any appeal has been lodged after a person has been prosecuted for one of the new offences. There appears to be no good reason for police to refuse to provide this information on a voluntary basis as court proceedings are generally in open court. We are now unable to gather important information that in our view is relevant to understanding the operation of the legislation.

Although the NSWPF's decision to apply a narrow interpretation of the information they must provide for our new legislative reviews is based on technical legal advice about the specific legislative provisions and what they cover, we believe it is not in the public interest for police to adopt a restrictive approach that stands in stark contrast to the much more cooperative approach they previously adopted.

In December 2013, the deputy coroner who was now handling the matter suggested police seek legal advice and that an inquest date could be set after this legal advice was received. The NSWPF first sought internal advice, then sought advice from the ODPP. After the NSWPF received the ODPP advice, the officer was charged with serious offences.

We are pleased that the police have now taken action to address the issues of criminal conduct relating to this incident. In our view, the advice given to the police by the deputy coroner and the ODPP supports our recommendation that criminal conduct by police should be dealt with before a coronial inquest.

## 9 Communicating with a transgender person

A transgender person who identifies as a woman complained that an officer who had issued her with a traffic infringement notice had called her 'Sir' and screamed at her in a very aggressive and forceful

## Case studies

manner. When she raised this with a different officer at the police station, they made further inappropriate comments about her gender. The woman lodged a written complaint with police, but they declined to investigate as nine months had passed since the incident. We disagreed with this decision and were concerned that the matter might highlight a problem in communication between officers from that command and transgender people. We asked police to investigate the complaint. As a result, a senior officer went to the complainant's home and offered a verbal and written apology for any offence caused by the conduct of police. A reminder was also sent to all staff at the command about the NSWPF's policy on sexuality and gender diversity to help ensure that in future transgender people are treated with the respect and dignity they deserve.

In the case of our ongoing review of new police powers in relation to consorting offences, the NSWPF have adopted a more collegiate approach. The senior police commanders who are responsible for implementing these provisions discuss emerging issues with us and welcome feedback about any problems we identify through our research. When we identified that children had been wrongly charged with consorting offences, the commanders acted quickly to withdraw the charges and developed measures to reduce the risk of the same problem happening again.

The legislative provisions for our review of the consorting powers allow the Ombudsman, not the NSWPF, to determine what information is required to conduct the review. There is no indication that police have experienced difficulties in accommodating our requests for records or data related to this review. They have also not expressed any concerns about the breadth of the requirements or the research strategies we have adopted. We believe the general information provision for this review should be the model for all our legislative review functions.

Ultimately it is for Parliament to determine the information that should be provided for our legislative review role and whether the current legislative provisions should be amended to overcome the difficulties we are currently experiencing in obtaining access to relevant information. Although we have encountered considerable delays and frustration in obtaining relevant information from the NSWPF for two of our new reviews, it is not yet clear what other adverse impacts the police decision to limit the information available might have.

We remain committed to making effective use of the limited information that police are required to provide. If gaps in the available information are likely to seriously compromise our ability to perform our role, we will raise these issues with the NSWPF and ask them to reconsider providing that information on a voluntary basis.

## **Policing intoxicated and disorderly conduct**

This year we finalised our report into the operation of a new provision in section 9 of the *Summary Offences Act 1988* that made it an offence to continue to be intoxicated and disorderly in public if the person had already been given a move on direction by police. In early 2014, after media coverage of public incidents of alcohol-fuelled violence over summer, Parliament implemented a number of reforms to try to address anti-social behaviour in entertainment precincts in Sydney. This included increasing the fines that could be imposed for the offence we were reviewing. An on-the-spot fine is now \$1,100 instead of \$220, and the maximum fine a court can impose is now \$1,650 – up from \$660.

We provided our report to the Minister in August 2014, who tabled it in Parliament. The report is available on our website.

## **Terrorism powers – preventative detention and covert searches**

This year we prepared a third report on our ongoing review of Parts 2A and 3 of the *Terrorism (Police Powers) Act 2002*, covering the period from 1 January 2011 to 31 December 2013.

The Act authorises police to keep a person in preventative detention for up to 14 days if the Supreme Court decides there are reasonable grounds they will engage in a terrorist act during that period. The NSWPF and the NSW Crime Commission can also seek a covert search warrant from the Supreme Court to search premises without the immediate knowledge of the occupiers – if there are reasonable grounds to suspect that this type of search will help prevent or respond to a terrorist act. When they were first introduced in 2005, the preventative detention powers were described as 'extraordinary' and for use in very limited circumstances.

The key issues for our third report were the impending expiry of the preventative detention powers in December 2015, and whether all of the agencies involved – including Corrective Services NSW and Juvenile Justice NSW – are operationally ready if these powers are used. Our report to the Minister will be tabled in Parliament. Once the report is tabled it will be available on our website.

## **Consorting with convicted offenders**

We have been reviewing the operation of consorting laws since they came into operation in April 2012. In November 2013, Parliament extended the review period from two to three years in response to a joint request from the Ombudsman and Commissioner of Police. Our request noted there were significant data limitations about the use of the laws up to June 2013, and a constitutional challenge to the validity of the laws was having a dampening effect on their use.

The consorting laws make it an offence for anyone to habitually consort with at least two offenders on at least two occasions – as long as one occasion follows the receipt of an official police warning about each offender. An offender is anyone convicted of an indictable offence and consorting includes face-to-face contact and electronic communication. Habitual consorting is punishable by a large fine or up to three years imprisonment, even if the person has not been involved in planning or undertaking criminal activity at the time.

In November 2013, we published an issues paper outlining the main issues emerging from the use of the consorting laws by police in their first year of operation. A key issue was their use with vulnerable and disadvantaged groups. We received 30 submissions from a range of interested parties including community service providers, advocacy groups and legal centres. During the year, we have continued analysing the data and consulting with the NSWPF and community organisations.

The High Court was considering the constitutional validity of the consorting laws at the time of writing this report. The High Court's decision may have an impact on whether the laws continue in their current form as well as our responsibilities to review them. We expect the decision to be handed down later in 2014.

## **Control orders for members of criminal organisations**

The *Crimes (Criminal Organisation Control) Act 2012* enables the Commissioner of Police to apply to the Supreme Court to have an organisation declared a 'criminal organisation'. If declared, the organisation's members may be subject to control orders that restrict their associations and activities. The Commissioner may seek to have



information in the application declared by the Supreme Court to be 'criminal intelligence' and, as a result, be kept secret from the affected parties. One proposed safeguard in this process is to have a criminal intelligence monitor to assist the Supreme Court in closed hearings. On 16 May 2014, regulations were enacted to allow for the appointment of a monitor and to require them to report annually on their work. However, a monitor has not been appointed yet.

The NSWPF have advised that they are preparing an application for a declaration and we continue to consult with them about their work. We also negotiated a revised information agreement with the NSWPF to reflect the significant changes to the Act made in March 2013. We anticipate holding consultations with interested parties following any applications and declarations.

## Monitoring the implementation of our recommendations

We monitor how agencies implement recommendations from our previous reports. This year we are reporting on developments in response to our review of the criminal infringement notice (CIN) scheme and certain provisions of LEPR.

### CINs and Aboriginal communities

A key recommendation of our review of the impact of CINs on Aboriginal communities concerned police compliance with the *Fines Act 1996*.

In last year's annual report, we reported our concerns about the NSWPF's failure to comply with those provisions of the *Fines Act* that require agencies who issue penalty notices to have systems and procedures in place for internal reviews of fines and penalty notices. We are pleased that in March 2014 the NSWPF released their internal review guidelines for penalty notices under the *Fines Act 1996*. These guidelines set out their system for handling internal reviews and are available on the NSWPF website. We provided comments on the draft guidelines, many of which were incorporated.

### Personal searches, crime scenes and notices to produce

In May 2009 we reported on our review of provisions of LEPR relating to certain requirements police must follow when exercising powers to search individuals, establish crime scenes, and apply for a notice to produce documents from a financial institution. We made 75 recommendations in our report involving changes to legislation and policy.

Despite significant delays in receiving responses to our recommendations, we are pleased to note that – in the passing of the *Law Enforcement (Powers and Responsibilities) Amendment Act 2014* in June 2014 – 22 of the 29 legislative recommendations in our report have been adopted, either in whole or in part. These amendments include:

- consolidating the power to conduct 'ordinary searches' and 'frisk searches' into one general search power
- clarifying police powers for searches in custody
- clarifying that police officers are able to ask questions during a search that facilitate the search
- restricting the circumstances in which police officers can strip search young and intellectually impaired people without a support person.

We also made 42 recommendations in our review to improve NSWPF policies. The NSWPF have implemented or partially implemented nine of these recommendations, including providing guidance and training on aspects of the personal search powers. They have also agreed to implement a further 10 policy recommendations, including developing standard operating procedures (SOPs) for notices to produce. There are 13 recommendations that relate to developing SOPs for crime scenes that police have decided not to implement.

# Compliance and inspections

There are several pieces of legislation giving law enforcement agencies – when they are investigating criminal or corrupt activity – the power to undertake activities that involve a significant intrusion into people's lives.

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

The *Law Enforcement (Controlled Operations) Act 1997* allows controlled operations to be carried out and other activities that would otherwise involve breaches of the law, such as possessing 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.

Covert search warrants allow law enforcement officers to execute a search warrant and delay notifying the occupier about the search. Part 19 of LEPPRA requires the Ombudsman to inspect the records of the NSWPF, the NSW Crime Commission and the PIC to check that they are complying with the requirements of the Act when they use covert search warrants.

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 connected with organised criminal activity.

To use all these powers, the agencies must follow the approval procedures and accountability provisions in the relevant legislation. An important function for the Ombudsman is to review the compliance of the agencies with these provisions.

We prepare reports of our work under each piece of legislation and, in most cases, provide them to the Attorney General who then tables them in Parliament. Two exceptions are our report on controlled operations, which we table, and the telecommunications interception inspection report – which the Act prohibits us from tabling or commenting on further in this report.

All the reports that are tabled in Parliament are available on our website.

## Witness protection

The witness protection program protects the safety and welfare of Crown witnesses and others who give information to police about criminal activities. The Ombudsman is responsible for hearing appeals about the exercise of certain witness protection powers and handling complaints from people in the program.

## Appeals

The Commissioner of Police can refuse to allow a person to enter the witness protection program or decide to remove them from it. A person directly affected by such a decision can appeal to the Ombudsman who must then make a decision within seven days. The Ombudsman's decision is final and must be acted on by the Commissioner of Police.

People who have a right to appeal to the Ombudsman are given full information about how they can do this when the Commissioner decides they should not be included in, or should be removed from, the program.

There were no appeals made under the *Witness Protection Act 1995* to the Ombudsman this year.

## Complaints

Everyone taken onto the witness protection program signs a memorandum of understanding (MOU) with the Commissioner of Police, which sets out the basic obligations of both parties. The MOU also:

- prohibits the participant from doing certain things
- sets out arrangements for family maintenance, taxation, welfare and other social and domestic obligations and relationships
- outlines the consequences of not complying with its provisions.

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

In the past, when complaints have raised systemic issues, the NSWPF have generally responded positively and resolved the issues involved. Ongoing improvements in managing the program have in turn led to fewer complaints. This year we were contacted by one participant about program-related issues.

# Custodial services

## Complaint trends and issues

This year we received fewer complaints and contacts about issues in custodial services than in 2012-2013. The reduction was consistent across the adult correctional system, the juvenile justice system and in Justice Health, and covers both formal matters – which dropped from 821 to 625 – and informal matters which fell from 4,249 contacts to 3,870. There are no apparent reasons for this drop, but we note during the two previous years the number of contacts were higher than usual.

The adult inmate population experienced several months of significant and unexpected growth this year, while the juvenile system saw less young people in custody. The

increase in the number of adult inmates was sustained over the first few months of 2014, and led to issues such as overcrowding and the rapid reopening of a previously closed area of at least one centre. We responded quickly to concerns about these issues, which meant inmates did not need to contact us.

There has also been a significant reduction in complaints about inmate property, transfers, visits and buy-ups in the adult system. In the juvenile system, complaints about the daily routine fell, along with those about officer misconduct, while contacts on issues about food and unfair discipline remained almost the same as in previous years. The number of complaints about force being used, on both inmates and detainees, has also remained relatively steady.

Fig. 33: Formal and informal matters received

	09/10	10/11	11/12	12/13	13/14
<b>Formal</b>					
Correctional centres, CSNSW and GEO	671	821	886	660	483
Justice Health	53	43	107	96	88
Juvenile Justice NSW	72	77	92	65	54
<b>Subtotal</b>	<b>796</b>	<b>941</b>	<b>1,085</b>	<b>821</b>	<b>625</b>
<b>Informal</b>					
Correctional centres, CSNSW and GEO	3,096	3,088	3,371	3,670	3,286
Justice Health	303	262	213	357	389
Juvenile Justice NSW	212	279	205	222	195
<b>Subtotal</b>	<b>3,611</b>	<b>3,629</b>	<b>3,789</b>	<b>4,249</b>	<b>3,870</b>
<b>Total</b>	<b>4,407</b>	<b>4,570</b>	<b>4,874</b>	<b>5,070</b>	<b>4,495</b>

Fig. 34: Formal complaints finalised – correctional centres, CSNSW, GEO and Justice Health

	No.	%
Preliminary or informal investigation completed	490	85
Assessment only	73	13
Conduct outside our jurisdiction	13	2
Formal investigation completed	0	0
<b>Total</b>	<b>576</b>	<b>100</b>

Fig. 35: Current custodial services investigations

	No.
Under preliminary or informal investigation	15
Under formal investigation	0
<b>Total at 30 June 2014</b>	<b>15</b>

Fig. 36: Formal complaints finalised – juvenile justice centres

	No.	%
Preliminary or informal investigation completed	50	91
Assessment only	5	9
Formal investigation completed	0	0
Conduct outside our jurisdiction	0	0
<b>Total</b>	<b>55</b>	<b>100</b>

Fig. 37: Current juvenile justice investigations

	No.
Under preliminary or informal investigation	1
Under formal investigation	1
<b>Total at 30 June 2014</b>	<b>2</b>

**Fig. 38: What people complained about – juvenile justice centres**

Issue	Formal	Informal	Total
Case management	4	3	7
Classification	1	1	2
Community programs	0	2	2
Daily routine	8	67	75
Day/other leave/works release	4	2	6
Failure to ensure inmate safety	2	3	5
Food and diet	1	34	35
Information	1	1	2
Legal problems	1	0	1
Mail	1	1	2
Medical	3	8	11
Officer misconduct	10	26	36
Other issues	1	22	23
Outside our jurisdiction	1	0	1
Property	1	9	10
Records/administration	1	1	2
Security	3	0	3
Segregation	1	1	2
Transfers	2	1	3
Unfair discipline	6	7	13
Visits	1	5	6
Work and education	1	1	2
<b>Total</b>	<b>54</b>	<b>192</b>	<b>249</b>

Each complaint may contain more than one issue, but this table only shows the primary issue.

Most of the contacts (80%) we had from custodial centres were by phone. Callers will usually speak to a member of our custodial services unit who has extensive knowledge of the correctional system, legislation, policy and procedures. This means we can give immediate advice to the inmate or detainee, including suggesting what they should do to try and fix their problem or take up their issue over the phone if we think that is needed.

We have continued our program of regular visits to both correctional and juvenile justice centres where we speak with inmates about their issues. We meet with management and staff to discuss how their centre is running and are told about any changes that may have taken place, or are likely to occur. This helps us to respond to inmates if they have concerns about these changes. Inmates and detainees often find it difficult to explain their problems in a 10 minute phone call or in a letter. Speaking with them can sometimes help overcome this. Our visits also give us a better perspective on a centre's environment, as well as immediate access to staff or documents to help get problems resolved.

During the year we met with the Commissioner of Corrective Services NSW, the Chief Executive of Juvenile Justice NSW and the Secretary of the Department of Justice to discuss significant issues relating to custodial services across the state. These meetings help to inform our decisions about matters brought as complaints and the issues we think may need systemic review, as well as being a forum for discussing workable recommendations for change after an investigation or inquiry.

We aim to resolve individual and systemic problems, and to assist the agencies involved to improve their complaint-handling processes and administrative practices. Case studies 10-19 show the day-to-day issues that arise in a custodial environment and how we help to address them.

Figure 39 shows the complaints we received in 2013-2014 about correctional centres, 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.

## Case studies

### 10 Improving basic amenities

Grafton Transit Centre operates in part of the old Grafton Correctional Centre, providing limited accommodation for new inmates in the far northern region and for inmates from other centres who need to go to court in the area. The facilities for women are very basic. One woman complained about having trouble getting milk and toilet paper, no cockroach spray in the wings, and inconsistent changes of bed linen. She said staff were not responsive to inmate requests. We called the centre and the manager of security told us about action he'd recently taken on some of the issues – such as increasing the changeover days for bed linen and having the pest contractor return to respray. He also told us what he would do to fix the other issues for the

women. The main problem seemed to be that inmates sometimes spend longer at Grafton than the transit nature of the centre is designed for – for example, the woman who called us had been there for four weeks.

### 11 Searching cavities

Some officers incorrectly believe that a strip search can include searching an inmate's body cavities. This is an issue we have dealt with many times. This year, an inmate at the Long Bay Hospital was subject to regular strip searches because of an earlier escape. After one search, he called us to complain as he had been asked to retract his foreskin. This is not permitted under CSNSW policy. We spoke with the general manager who agreed with us and spoke to the officer concerned to remind him of the proper procedures.

Fig. 39: What people complained about – correctional centres

Issue	Formal	Informal	Total
Buy-ups	14	125	139
Case management	23	108	131
Classification	24	162	186
Community programs	1	3	4
Court cells	1	3	4
Daily routine	76	591	667
Day/other leave/works release	15	27	42
Fail to ensure safety	16	46	62
Food and diet	9	85	94
Information	4	53	57
Legal problems	8	35	43
Mail	8	60	68
Medical	83	549	632
Officer misconduct	43	213	256
Other issues	13	251	264
Outside our jurisdiction	10	27	37
Probation/parole	13	131	144
Property	66	318	384
Records/administration	26	121	147
Security	13	44	57
Segregation	16	75	91
Transfers	21	208	229
Unfair discipline	19	163	182
Visits	38	172	210
Work and education	11	105	116
<b>Total</b>	<b>571</b>	<b>3,675</b>	<b>4,246</b>

Each complaint may contain more than one issue, but this table only shows the primary issue.

## Key areas of focus

### Adult correctional system

#### The rapid and unexpected rise in the inmate population

In the first part of 2014, we focused on how Corrective Services NSW (CSNSW) was managing the increase in inmates. In March we made an unscheduled visit to the Metropolitan Special Programs Centre following telephone complaints from inmates transferred into the newly re-opened Area 1. The wings in this area are old and the facilities are poor, and we were pleased to see it closed several years ago. The sudden increase in the inmate population meant it was reopened after very basic refurbishment and with little of the infrastructure of other centres. Recently remanded inmates and those moving through the metropolitan area on their way to other centres were being held there. This meant there were many men who were new to the correctional system and needed basic assistance, as well as those who were keen to return to centres where they could work, take part in programs and be visited by family.

We were told what was going to be done to fix many of the problems at the centre, but later we received more complaints showing a lack of certain basic facilities and amenities. We approached the Commissioner as it seemed fixing these problems needed additional resources. The Commissioner told us about the action that had been taken to provide extra staff to the centre (both correctional officers and those who can provide welfare and alcohol and drug counselling), additional phones for inmates, access to TVs, and basic things like cleaning items, sports/activities, books and time for showers. Some parts of Area 1 will continue to be refurbished over the coming months to provide an additional specialist program area but we were assured this would not happen until the refurbishment was complete.

At the beginning of 2014 we also received a complaint from the prisoner advocacy group Justice Action, which included a petition signed by approximately 100 inmates at Parklea Correctional Centre. The inmates were worried about extra

## 12 Protection

Inmates sometimes need to be protected from other inmates. This usually involves them being housed in a separate unit and not associating with others in common areas. An inmate at the South Coast Correctional Centre, who only has limited contact with others, told us he had been assaulted. He said it happened when he was left in an area with mainstream inmates while he attended the clinic. We reviewed the CCTV footage showing the inmate had been in an area with mainstream inmates, but the footage did not show him being assaulted. The inmate was reviewed by nursing staff, and management at the centre made changes to clinic access procedures to make sure it didn't happen again.

## Case studies

### 13 Finding lost money

Most people in custody have money put into their inmate account by family and friends so they can make phone calls, buy food or pay for activity items. Sometimes the money comes from another agency – such as the NSW Trustee and Guardian (NSWT&G) – who have arrangements with CSNSW for these payments. One inmate called us because his regular payment didn't arrive. He tried to fix it himself but with no luck. We made inquiries and found his payments had been made by NSWT&G to the central account, but had been incorrectly withdrawn by another correctional centre. This was rectified and his account credited.



beds being installed in many of the cells in Area 5 of the centre, which mostly accommodates inmates on remand. This meant some cells built for two men would now hold three. These cells are not only where they sleep and spend any time they are locked into their cells – from around 3.30pm until early the next morning each day – but it is also where they shower, toilet and eat most of their meals. The Public Health Regulation 2012 sets out how much floor space a room must have if people are going to sleep in it for more than 28-days. The cells where the extra beds were installed do not meet this floor space ratio.

We visited Parklea to look at the cells and to speak with inmates who are housed in them. We also talked to Parklea's management and officers about how they manage the 28 day provision – which means they have to monitor and move inmates between cells on a rotating basis. At the time of writing we have made further inquiries with the Commissioner about extra beds at other centres as well as Parklea. We understand CSNSW has to provide a bed for every inmate, but we are concerned at the risk that using extra beds in cells that do not comply with basic public health standards could become standard practice.

### Improving the discipline process

In last year's report, we wrote about our review of the inmate disciplinary process and what CSNSW had done to address the administrative problems we identified. CSNSW have given us progress reports during the year, including showing us an e-learning course about the inmate discipline process that is now available to staff via the CSNSW Brush

Farm Academy website. The CSNSW inmate database will also be changed in 2014-2015 to help staff accurately record information about inmate discipline.

### Issues with inmate wages

All inmates receive a small weekly payment – known as 'yard money' – to help them pay for some general amenities. Most inmates can also work for Corrective Services Industries (CSI) that run a variety of industries within the correctional system, for which they are paid a basic wage.

One issue we asked CSNSW about this year was the administrative arrangements when inmates are dismissed from work, or unable to work for other reasons. CSNSW reviewed the CSI policy manual and have included a process for providing natural justice when dismissal from work occurs. We also asked them to review the practice of removing an inmate's yard money for 21 days after they have been dismissed from work. CSNSW are currently seeking further legal advice on this point.

Once an inmate is classified minimum security and is approaching the end of their sentence, they may be eligible to participate in the works release program. This means they go out to work during the day and return to the centre at night. They find a job in the community and are paid at the same rate as any other worker, saving their money for their release and sometimes helping their family to pay bills. They also pay a percentage to CSNSW for their 'board and lodging' because part of the program is learning to budget from a wage. As part of our ongoing inquiries with CSNSW it was realised that there was no specific provision in the

## Case studies

### 14 Getting clean clothes

An inmate was transferred from Lithgow to the Metropolitan Remand and Reception Centre (MRRC) with only the clothes he was wearing plus some basic toiletries and other items. After a few days at MRRC he and his cell mate still hadn't received any fresh clothes. He called us and said he'd raised it with wing officers, so we asked him to wait for them to take action. He called again the next day because they still had no clean clothes. Our call to the centre found that the inmates should have been given fresh clothes and linen on arrival from Lithgow. When this did not happen, they should have been given them as soon as they asked. There was no apparent reason why this hadn't happened but the situation was soon fixed for these two inmates.

### 15 Transferring money for calls

Inmates from Dawn de Loas called us because money had not been transferred to allow them to make phone calls. This usually happened the day before they called. Officers had told them the transfer wouldn't happen that day and they were not really sure when it would happen. We called the centre and found that the main problem was a shortage of administration staff. This was affecting the process for transferring the inmate's forms to another part of the complex. In response to our call, the money was transferred to the phone

accounts for the inmates that day. The manager of security told us they were seeing if there were ways they could automate the system to avoid ongoing problems.

### 16 Getting back to school

School is an important part of the routine for detainees in a juvenile justice centre. A young man called and complained he had been out of school for three weeks. He knew he had to go through a behavioural intervention program before he could start school. We contacted the centre and were told the behavioural intervention programs had started, and the detainee had been sick and attending court, delaying his return to school. He started school several days later.

### 17 Improving access to activities

Individual risk management plans are developed for some juvenile detainees, especially if they may be a threat to themselves or other people. A young woman at Juniperina was under a plan which kept her segregated from other detainees and only gave her limited access to activities – drawing and colouring. She wanted textas, but was only allowed pencils because staff claimed she had scratched graffiti on the door. She claimed the graffiti was clearly old. We discussed this with centre staff, and they agreed to review the situation. We were then told that CCTV footage of the room was inconclusive, so they had given the detainee the benefit of the doubt, and were now managing her without the risk plan. This meant she now had access to all the usual activities.



*Crimes (Administration of Sentences) Act 1999* to permit CSNSW to take money from inmates for rent. Most other jurisdictions have such a provision, so during the year CSNSW sought an amendment to the Act and this was introduced to authorise these payments.

Our work in this area also covered an issue where the percentage an inmate was charged as board and lodgings from their wages had been changed by CSNSW several years ago, without affected inmates being told. CSNSW fixed this problem for an inmate who complained to us by paying him back the difference between the rate he was charged and the rate written down in the agreement he had signed when he started the program.

## Staff identification badges

After several years of negotiation with CSNSW we are still waiting for all staff working with inmates and the public to wear a form of identification. We understand the Commissioner has proposed that badges with either a name or an identifying number would be appropriate, but to date this has not been introduced as a requirement. It is difficult to understand the resistance to wearing some form of identification, given other frontline staff such as the NSW Police Force already follow such a practice.

## High Risk Management Correctional Centre

In earlier annual reports we have highlighted issues about the High Risk Management Correctional Centre (HRMCC) and the inmates who are accommodated there. The HRMCC is often referred to as 'supermax' and the inmates are managed under a very restrictive regime. Our main concern has been about inmates placed in the HRMCC being told that complying with the behaviour management program would eventually lead to their reintegration into a mainstream maximum security centre. Some inmates who reached the highest level of the program several years ago are still in the centre. We were encouraged this year when several inmates were reviewed to see if they still needed to be in the HRMCC. Some have been moved to maximum security accommodation where they can associate with other inmates and enjoy some additional privileges. They are constantly monitored to ensure their new placement is appropriate. This is a welcome move by CSNSW and we have been told the review of the HRMCC and its program is continuing.

## Practices at Goulburn Correctional Centre

Aboriginal inmates have been managed differently to all other inmates at Goulburn Correctional Centre since a serious incident in 2002. They were put in a particular unit with more security features than other similar maximum security units. It was poorly furnished and inmates were not allowed to go anywhere in the centre outside of their unit or yard. No Aboriginal inmate was allowed to be employed as the unit maintenance worker, or 'sweeper'. One inmate had started action in the (then) Administrative Decisions Tribunal on the grounds of racial discrimination, but this did not proceed. We suggested after several years had passed that the extreme measures should be relaxed, but this had not happened. Some small changes were made a few years ago, including opening an industry area for Aboriginal inmates to do culturally based work and programs.

When we visited Goulburn this year we were pleased to note Aboriginal inmates are no longer only held in the one unit, and are now able to be placed in other appropriate units within Goulburn. We suggested to the General Manager that a similar approach could be taken to those inmates at Goulburn who are designated as high security. They could then leave their yards to access the education, programs and industries areas after an appropriate risk assessment. At the moment they spend their time out of their cells in yards with very little to do.

## Juvenile justice

### Managing young people in custody

A 17 year old at Kariong Juvenile Correctional Centre complained to us during a visit about his treatment when he was at Frank Baxter Juvenile Justice Centre several weeks earlier. He had been moved to Kariong from Frank Baxter because the staff could not manage his behaviour. He told us that before he was transferred he had been confined to a room as punishment, separated and segregated in holding rooms because of risks to either himself or others, and had force used on him by Juvenile Justice staff. He felt the force used was excessive and that he had been assaulted. He could not give us an exact date when this had happened, only that it was before he was transferred.

Juvenile Justice NSW (JJNSW) has to notify us when detainees are isolated from other detainees for longer than 24 hours. In the 12 months before we received this complaint we had been using these notifications to closely monitor the use of confinement, separation and segregation. This complaint seemed to raise all these issues, so we started an investigation.

We first tried to identify when the alleged incidents happened. We spoke with Frank Baxter staff, reviewed records and documents, and visited the centre to watch extensive CCTV footage. We were told the young person's behaviour was challenging and this had meant he had spent large amounts of time isolated from other detainees in holding rooms. We worked with Frank Baxter staff to identify a likely period of time when the incidents he complained about might have happened, as he was kept isolated for about 10 days immediately before he was transferred. While there was no use of force recorded for this period, the CCTV footage showed him being moved with what appeared to be the use of force.

After analysing the recorded discussions, documents and footage we were concerned not only about the use of force that had not been reported but also whether staff had complied with both legislation and JJNSW policy and procedure. Our concerns included the:

- adequacy of the plan to manage the risks associated with the detainee's behaviour while he was isolated
- justification for and method of using handcuffs
- standard of accommodation the detainee was kept in
- lack of means provided to occupy the detainee while he was isolated
- level of specialist care and supervision provided after he threatened to hurt himself
- standard of record-keeping
- use of 'Immediate Response Teams'.

When we watched the CCTV footage, we found five incidents where we believed force had been used and not reported. Later on, we reviewed CCTV footage for the month before the detainee's transfer to Kariong and found a use of force which had been reported and was possibly the incident the detainee had complained to us about.

JJNSW staff's view of what a use of force is differed considerably from ours, despite it being clearly described in legislation. Our view is consistent with accepted worldwide best practice that using force involves more than just touching someone to make them do something. For JJNSW, we believe it includes any time staff use personal protective equipment – which looks like riot police uniforms, including helmets and shields.

We made provisional findings and recommendations, and gave JJNSW an opportunity to respond. We also provided a draft report to the then Attorney General and Minister for Justice and the Ombudsman met with him to discuss our findings and recommendations. We made 21 recommendations dealing with issues such as how detainees are confined, separated and segregated, record-keeping practices and providing appropriate accommodation and amenities. We also made specific recommendations about using force on young people.

JJNSW told us they would accept and implement the majority of our recommendations and we have been consulted on proposed changes to policy, procedure and legislation. We have made six additional suggestions to JJNSW about the specific incident which was recorded as a use of force the month before the young person transferred to Kariong, especially around the interaction of staff and management with the young person. We also suggested JJNSW should tell the young person and their family that they regret any harm or stress caused by his treatment at Frank Baxter.

They agreed to accept five of our additional suggestions, but the Secretary of the Department of Justice wrote to us in September 2014 to tell us they felt an apology was not required because the detainee 'was aggressive and threatening to staff and wilfully destroyed property.' This decision and the reasons

for it are disappointing. All NSW government agencies are obliged to act legally, ethically and appropriately. For JJNSW this includes reacting proportionately and setting a good example for detainees. We believe staff of JJNSW failed to meet the standard of service which is reasonably expected of them. Regardless of whether the detainee's conduct was appropriate, JJNSW should still demonstrate best practice and apologise to the detainee for the way he was treated.

## Access to information

Record keeping and information storage is of course becoming increasingly electronic in custodial services. Both Corrective Services NSW and JJNSW have given certain members of our staff online access to relevant information. This helps us to answer some inquiries and prepare for visits, especially to juvenile justice centres.

## The Justice & Forensic Mental Health Network

The Justice & Forensic Mental Health Network – or 'Justice Health' – provides medical and dental services to both the correctional and juvenile justice systems, including services in some court cells and community settings. It aims to provide a service equivalent to that available in the wider community. However this is sometimes difficult as they do not control inmate routines, access to their clinics, or availability for external medical appointments and procedures. Justice Health partner CSNSW is operating the Long Bay Hospital, and have sole responsibility for The Forensic Hospital situated on the Long Bay complex.

It is not our role to deal with complaints about the quality of health services inmates and detainees receive and, if these come to our attention, we may refer them to the Health Care Complaints Commission. We do however deal with complaints about general service provision and access to health services. Most of the complaints we receive are about delays or misinformation.

## Case studies

### 18 Getting a haircut

Patients at The Forensic Hospital used to have their hair cut by allied health staff, but this stopped. Some patients were allowed to cut their own hair or have another patient cut it, but that was not the case for everyone. A patient called us because he needed a haircut before an appearance before the Mental Health Review Tribunal. We spoke with staff at the hospital and found they were in the process of contracting a hairdresser but that would take a few months. Hospital management acknowledged an interim process was needed and put one in place. The patient called us to say he was happy that he had been able to his haircut before appearing before the Tribunal.

### 19 Getting the right pads

A woman who needed incontinence pads had been in custody for seven months at Dillwynia. The pads were supplied by Justice Health for the first five months, but for two months she had been given sanitary pads. The complainant was told the incontinence pads had been ordered and she'd just have to wait. When we first made inquiries we were told incontinence pads were only supplied free for a limited time and then they had to be paid for by the inmate. We were later told that – in some circumstances – the pads are subsidised, and Justice Health would help with providing them to anyone else who needed them. A plan was developed so the complainant would get the right pads.

# Departments, authorities and local government



This section of the report outlines the work we do relating to a wide range of government agencies, as well as local councils across NSW. We handle complaints about issues that can have a very real impact on people's lives. These can be situations where someone objects to a decision made by government, the way in which government has taken enforcement action, or the way their complaint to an agency has been handled.

We work to resolve these matters in the public interest, and to do so as quickly and informally as possible. In many cases, our involvement can help to maintain important relationships between agencies and councils and those receiving services.

Our experience dealing with these kinds of complaints means we are ideally placed to provide practical advice and guidance to agencies. We have good relationships with key agencies, including regular contact by telephone and in person with both managers and operational staff. We also have direct access to an increasing number of agencies' intranets and databases so we can check their policies and procedures and other key information to help us do our work.

## In this section

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Local government .....	74

## Highlights

- **Worked with priority agencies to address complaints in areas including transport, housing, education and debt recovery (see page 64)**
- **Analysed the impact of garnishee orders on vulnerable people (see page 67)**
- **Completed large scale investigations into the Environmental Protection Agency and the NSW Office of Water (see page 70)**
- **Helped local councils to improve their systems (see page 75)**

## Stakeholder engagement

A key aspect of our work is bringing about improvements in public administration. We do this in a variety of ways. We resolve complaints from members of the public who feel they have been treated unfairly or unreasonably by a government agency. We also work with agencies and their staff to improve policies and procedures to try and make sure problems do not happen in the first place. For example, we:

- produce guidelines and fact sheets to help agencies better deal with complaints and customer service issues
- work on external projects, such as reviewing the Australian Standard on complaint-handling
- hold forums to bring staff in government departments together to share information and explore best practice tips
- hold roundtable meetings to explore issues with stakeholders, to better understand problems and explore possible solutions
- give agencies advice on their draft policies and procedures
- develop and provide training on complaint-handling and related topics including managing unreasonable complainant conduct and investigating misconduct in the public sector.

### Complaints NSW

The government's commitment to 'improving customer service' and the establishment of Service NSW has prompted us to revisit the concept of creating a single central gateway or contact point for members of the public with concerns that may be dealt with by the various NSW government complaint-handling and watchdog bodies. We have given this proposal the working title of 'Complaints NSW'. This current work follows on from our previous suggestions for improving access by the public to NSW complaint-handling and watchdog agencies.

In 2001 we proposed a 'one stop shop' for complaints, which enjoyed strong support from the NSW complaint-handling and watchdog agencies and the government. The idea was to create a central service to receive, assess and refer complaints and inquiries about NSW government agencies, some non-government services, officials, health and legal professionals. Significant work went into the design of the service – which would be accessible by telephone, email, post and the web. A draft bill was prepared, together with a detailed scoping document and budget. The then Office of Information Technology (OIT) and Treasury confirmed capital and recurrent funding would be provided. OIT approved the proposed IT expenditure and provided an additional grant with the service to be operational by December 2002. The proposal collapsed when we were advised that although the capital funds would be provided there would be no corresponding increase in our office's capital expenditure authorisation, so we would be unable to spend the funds. We were unable to accept the funding on this basis.

Given the current focus on bringing services together and reducing confusion for the public, the concept of a single portal or 'one stop shop' for complaints and inquiries seems even more relevant today than it was in 2001. The increasing use of technology and ongoing budgetary constraints would indicate benefits from a shared 'front end' – which would reduce double handling by agencies and provide appropriate and prompt referrals for member agencies and the public.

We are revisiting the 2001 proposal, with the intent to refine the proposed structure and operations to suit the current environment. At this stage we have written to the heads of likely member agencies seeking their views on our proposal. Once this is confirmed, we will write to the NSW Government seeking their in-principle interest in the project and initial funding to properly scope and develop a business case.



# Departments and authorities

## Complaint trends and outcomes

This year we received 1,794 complaints about departments and authorities, which is a 14.5% increase compared to last year. Due to our continuous improvement program we have finalised more complaints than received despite the increase. We have engaged in proactive work with agencies to address problems without the need to conduct formal investigations and have looked at our communication strategies with complainants.

There has been an increase in complaints about agencies' decisions. These can include objecting to merits of decisions or complaining about the process, such as lack

of procedural fairness, lack of transparency, or a failure to explain reasons for decisions. While we do not usually take up complaints that purely question the merits of a decision, where appropriate we will scrutinise the process behind decision-making to ensure it is fair and accountable.

As in previous years the majority of complaints have been about customer service, complaint-handling and enforcement. As discussed in this chapter, a number of agencies are developing better complaint-handling procedures and systems, some of which we have had the opportunity to comment on. This year has also seen an increase in complaints about substantial backlogs in the processing of applications by various agencies. In this chapter we discuss some of the things agencies can do to manage backlogs appropriately.

Fig. 40: Formal and informal matters received and finalised – departments and authorities

Matters	09/10	10/11	11/12	12/13	13/14
Received	1,438	1,381	1,737	1,566	1,794
Finalised	1,414	1,382	1,778	1,566	1,807
Informally dealt with	3,777	2,903	3,938	4,300	4,438

Fig. 41: What people complained about – departments and authorities

Issue	Formal	Informal	Total
Approvals	55	159	214
Charges/fees	31	74	105
Complaint-handling	181	366	547
Contractual issues	144	427	571
Correspondence	38	68	106
Costs/charges	16	24	40
Customer service	302	890	1,192
Debt recovery action	6	0	6
Enforcement	108	164	272
Handling of a public interest disclosures	2	4	6
Hardship	30	78	108
Information	70	299	369
Management	68	109	177
Misconduct	28	66	94
Natural justice	15	71	86
Nominations and third party	11	33	44
Object to decision	429	862	1,291
Other	41	213	254
Outside our jurisdiction	123	293	416
Policy/law	82	175	257
Public interest disclosures policies and procedures	2	1	3
Records	5	22	27
Related to a public interest disclosure	3	0	3
Reprisal for making a public interest disclosure	4	13	17
<b>Total</b>	<b>1,794</b>	<b>4,411</b>	<b>6,205</b>

Please note that while each complaint may contain more than one issue, this table only shows the primary issue.

Fig. 42: Outcomes of formal complaints finalised

Issue	No.	actual %
Assessment only	917	50.8
Preliminary or informal investigation completed	772	42.7
Conduct outside our jurisdiction	107	5.9
Formal investigation completed*	11	0.6
<b>Total</b>	<b>1,807</b>	<b>100</b>

\* Ten of the matters involved separate complaints that became one overall investigation. The eleventh matter was a separate investigation.

Fig. 43: Current investigations at 30 June 2014

Issue	No.
Under preliminary or informal investigation	69
Under formal investigation	1
<b>Total</b>	<b>70</b>

## Key areas of focus

### A framework for handling complaints

We have been working as a member of a cross-Tasman technical committee revising the Australian standard on complaint-handling (AS ISO 10002:2006). The revised standard is due for publication by the end of 2014 and will provide guidance to organisations in Australia and New Zealand on the key principles and concepts of an effective and dynamic complaint-handling system.

We are developing a generic complaint-handling framework and a model complaint-handling policy based on the revised standard and a review of international complaint-handling systems. The framework and policy are due for publication later in 2014 and will help organisations to establish and implement effective complaint-handling systems. We will also use them as a benchmark for auditing the complaint-handling systems of organisations within our jurisdiction. Our first proposed audit will be complaint-handling systems within local government. We hope to start this audit in late 2014.

### Working with priority agencies

We work closely with agencies we have identified as priority agencies due to the significant number of complaints we receive about them. In many cases, the large number of complaints we receive is a direct consequence of the volume of matters the agency deals with – rather than necessarily an indication of deficiencies within their systems.

We meet quarterly with agencies such as Roads and Maritime Services (RMS), Housing NSW, the Department of Education and Communities (DEC), the State Debt Recovery Office (SDRO) and the NSW Trustee and Guardian.

These meetings enable us to directly discuss with the agency any systemic issues we become aware of through complaints. Significant improvements can then often be made without the need for formal investigations. Working with key agencies in this way also gives us better insight into particular challenges an agency may be facing at any given time, which could affect their provision of services and how we handle complaints about them.

## Case studies

### 20 Complying with a legal duty

A complainant questioned the way the Environmental Protection Authority (EPA) was notifying the public of reviews they planned to carry out on environment protection licences due for review. Section 78 of the *Protection of the Environment Operations Act 1997* (POEO Act) requires the EPA to publish notices in a newspaper listing which licences are going to be reviewed.

The EPA had been publishing only a general notice informing the public that they can visit the EPA website to search for licences and make submissions on any licence at any time. These general notices did not provide any details of the licences due for review, as provided for in s.78.

We contacted the EPA and expressed concern over their interpretation of their duty under s.78. We were also concerned that they had not been giving sufficient information so members of the public could make informed decisions about which licences to make submissions about. We suggested the EPA get legal advice and reconsider their approach. They agreed with our suggestions and decided they needed to change their approach to be legally compliant with

s.78. They will now publish notices that contain details of the specific licences due for review and improve the information on their website. They will also change the way they log public concerns so they can better monitor responses.

### 21 A complaint or a compensation claim?

A complainant raised concerns about how Roads and Maritime Services (RMS) dealt with her complaint that large cracks were appearing in her unit because of road works being carried out nearby. The Great Lakes Council was contracted by RMS to complete the road work.

Although we do not normally take up complaints about denial of liability, in this case we were concerned about RMS's communication with the complainant. Her initial letter to the RMS was immediately treated as a claim for compensation and referred to the insurer. However the complainant was not told this. As she was unaware her complaint was being processed as a claim, she did not submit any supporting documentation.

We were also concerned with the level of community consultation that took place before the start of the road works. Council, who was responsible for consultation under the contract, advised us that they had engaged an individual to letter box drop a leaflet in the area to inform residents of the road works. The leaflet invited



As part of this proactive approach, we have been given access to an increasing number of agency intranets where we can look up policies, procedures and internal guidelines to help us assess complaints. This has reduced the need for us to make direct inquiries with agency staff, and enables us to respond more quickly to complainants with accurate information. It also reduces the burden our requests for information place on agencies. This year we have also provided ongoing feedback to Housing NSW who are developing a comprehensive complaints management system.

We have set criteria to guide us in deciding which of the many complaints we receive will be pursued. Our complaint assessment criteria (public administration jurisdiction) are available on our website. Key criteria are that the person has already tried to resolve their complaint with the agency concerned, there is something in their complaint that suggests the agency may have done something wrong, or in our view further information or an explanation is required.

Some of the work we have done with agencies this year – and the positive outcomes we have achieved for complainants – are outlined in the following sections. The case studies in this chapter are some practical examples of the results we can achieve in areas such as transport (case studies 21-25 and 27), housing (case studies 26 and 28-35), education (case studies 36-38) and debt recovery (case studies 39-40).

## Transport for NSW

In response to a complaint-handling survey we conducted in 2012, Transport for NSW identified gaps in their then complaint-handling system and made a commitment to a

reform program across the transport cluster to improve the management of customer complaints. This is being led by their customer experience division.

This year we commented on their draft complaints policy, their unreasonable complainant conduct policy, and their complaints management standard. We are pleased with the progress Transport for NSW have made so far in developing a comprehensive cluster-wide complaints framework. This will ensure that complaints are captured and learnt from across the cluster – but individual agencies still maintain accountability for their complaints procedures.

While dealing with a number of similar complaints about the RMS E-Tolling unit, we discovered the online system did not prompt users to double check whether they had entered the correct plate number for tolling purposes. This led to people receiving and being held liable for large toll invoices for other people's vehicles. RMS responded promptly, taking proactive measures to address the issue. They made a commitment to complete development work to add an entry validation field for the licence plate number to minimise data entry mistakes by users.

## Fines and the SDRO

This year, we drew the SDRO's attention to an issue with the service of notices under the *Fines Act 1996* when we noticed an increase in complaints claiming reminder notices were sent to a wrong address. This problem led to people incurring additional costs as they were unable to respond to a notice in time. It also increased the cost of collecting the fine debt. Fines Management, the business unit within the SDRO responsible for administering penalty notices, responded quickly by implementing a number of initiatives. These included measures to remind fine recipients to

residents to contact council if they wanted their property inspected before the work started. However, the complainant gave us statutory declarations from five of the six property owners/residents of the unit block saying that this leaflet had not been delivered to them.

The RMS acknowledged this matter was not dealt with efficiently and agreed to ask the insurer to reconsider the claim. They arranged for an independent structural engineer to inspect the complainant's property and sent his report to the insurer. The complainant has been allowed to submit supporting documentation, including the statutory declarations, to be considered when the claim is reviewed.

## 22 New fines withdrawn

Two truck drivers were issued with fines under s.137 of the former *Road Transport (General) Act 2005* for failing to move their trucks for an inspection at a heavy vehicle checking station. Both drivers asked RMS and/or the SDRO to review the fines, which were then withdrawn. The truck drivers received letters confirming the withdrawal, so they assumed the agency accepted their explanations. Both men were surprised to receive new fines for the same events at a later date. The new fines were issued under s.136 of the Act, which is for failure to stop a vehicle to enable an inspection. No explanation was given about why they were receiving new fines.

## Case studies

We learned that the RMS Enforcement Services unit had received legal advice nearly a year before that offences involving failure to enter a checking station should be prosecuted under s.136 of the Act, not s.137. This followed comments made in a Supreme Court case. Unfortunately this advice was not shared across other RMS business units, which meant fines were still being issued under s.137. When the complainants' original fines were reviewed and cancelled, new fines were issued under the correct section – but no explanation was given until several months later.

We felt that the delays in reissuing penalty notices and providing an explanation could have prevented the drivers from having their matters heard in court. We formally suggested the RMS should consider withdrawing the fines and review eleven similar complaints they had received. They accepted our suggestions.

We were pleased to learn the RMS have been integrating a new end-to-end management system for regulatory services. This will allow them to record and circulate information, including legal advice, more effectively to the necessary business units.

update their address with the RMS, suggesting legislative change to enable greater flexibility in the options for legally serving notices, and collecting and analysing a sample set of notices to find out the causes of non-receipt.

## Addressing backlogs

We have continued to receive a number of complaints about agencies with significant backlogs in processing applications for water, mineral, liquor and gaming licences and approvals. Our inquiries in each case showed that applications were not being processed in a timely fashion and large backlogs had been building up over time.

Timely processing and managing backlogs is an escalating challenge for many agencies as staff numbers decrease and customer expectations rise. Backlogs need to be avoided and managed appropriately as soon as they start forming. Left unresolved they lead to poor customer satisfaction, a higher number of complaints that must be dealt with, and staff burn out. Staff's ability to make appropriate decisions may also be compromised and this can lead to what one agency described as 'decision freeze'. In an environment of decreasing resources, agencies have to be creative and proactive in designing ways to avoid, manage and keep on top of backlogs.

We recommend the following strategies to agencies to help them manage backlogs in applications:

- form a short-term project team
- secure support from the agency's management
- appoint one person who is responsible for reducing or eliminating the backlog
- look at ways of redeploying staff across divisions to tackle the problem collaboratively
- ensure appropriate performance measures are agreed on and communicated to staff
- ensure applicants are given clear expectations about turnaround times and clear guidance about the type of information they need to provide
- categorise applications by type and difficulty and consider using different strategies for each
- implement initial triaging and assessment processes so incomplete applications can be rejected or dealt with early on
- be willing to make decisions.

## Case studies

### 23 Victorian woman's identity not recognised

We received a complaint about a RMS policy that required the complainant to prove they were a resident of New South Wales before they could be accepted as an authorised representative of another person. The complainant, a Victorian resident, wanted to be able to transfer the registration of a vehicle for her daughter who worked long hours.

After our inquiries, the RMS reviewed and changed their policy. People can now be authorised representatives even if they live interstate. Adequate identification must be provided, but an interstate driver's licence is now accepted.

### 24 Providing clearer information

Two vehicle owners complained that RMS renewal forms stated that a vehicle safety check was required even though they had had one done in the previous six months. Vehicle safety checks are only required every 12 months. In both cases, the RMS had sent the owners a 12 month registration renewal notice (for which a check was required) but the owners had only registered the vehicles for 6 months (for which no check was required). The RMS told us they had changed the renewal notices in September 2013 to provide more information. However at the time the renewal notices were sent to the complainants, no information was included to advise people that a vehicle safety check may not be required for short-term registrations. RMS agreed to refund the vehicle safety check costs to the complainants. They also now provide information on their website about short-term registrations and the need for such checks.

### 25 Late night travel problems

A woman complained that Sydney Trains had missed the point of her complaint about an incident where a train had to be replaced by a bus service. Two women missed the replacement bus, which left suddenly without time for them to board. The women were left stranded on a station platform in the Blue Mountains with no means of getting to their homes except by a taxi, which was paid for by the complainant. Sydney Trains had interpreted the complaint as being about the train service being cancelled and, under their policy, refused to refund the taxi fare. After our involvement and the clarification of what happened, they reimbursed the complainant.

### 26 Improving relationships

A tenant's advocacy service complained about repeated failures by Housing NSW to respond to and deal appropriately with correspondence from advocates. The service believed this had caused their staff to unnecessarily pursue matters to the then Consumer, Trader and Tenancy Tribunal (CTTT), now the NSW Civil and Administrative Tribunal (NCAT). In one case, the CTTT awarded a compensation payout of \$2,000 to a tenant because of Housing's delay in responding to a maintenance request.

We found Housing's failure to respond to correspondence was partly due to tenancy advocates not following the correct steps – and then not using the complaints process when a response was not forthcoming. Although in some cases administrative errors had led to phone messages not being returned, it also seemed there may have been a relationship breakdown between Housing and the advocates.

## Using external investigators

When we were monitoring and auditing how public interest disclosures are handled by agencies, we identified a number of concerns about how disclosures are being investigated by externally appointed investigators. It appears there are no clear procedural guidelines to help agencies when appointing and managing these external investigators.

We identified a range of issues when reviewing investigations that had been done by external investigators. These issues included:

- failing to adhere to the terms of reference
- misunderstandings of relevant legislative requirements
- failing to provide procedural fairness
- focusing investigations on preconceived outcomes
- making assumptions in investigation reports that are unsupported by the evidence
- failing to obtain all relevant evidence – for example, not interviewing all relevant witnesses or obtaining all relevant documents
- keeping inadequate records
- relying on evidence that does not meet the ‘on the balance of probabilities’ test

- having excessive unexplained delays in completing investigations
- using illogical and confusing report formats
- findings and recommendations in reports not being supported by the available evidence.

In the coming year we will be developing guidelines to help public sector staff with selecting, engaging, authorising, briefing, monitoring/supervising and controlling the quality of contractors doing administrative type investigations on behalf of agencies.

## The impact of garnishee orders on vulnerable people

Last year we reported we were getting an increased number of complaints about garnishee orders issued by the SDRO on bank accounts for unpaid fines. SDRO is the fines division of the Office of State Revenue (OSR). We reported that following our inquiries, SDRO had made information about garnishee orders publicly available and placed its policy for dealing with applications for full or partial refunds on its website.

We met with the advocacy service to provide information about Housing’s complaints process and how our office could help. We have encouraged the service to pursue the complaints process much sooner. Housing agreed to arrange a single contact point for advocates within the relevant districts and to hold regular meetings between tenant advocacy services and Housing team leaders to try to improve relationships.

### 27 A confusing itinerary

A woman complained that the web-generated itinerary for her journey from Sydney to Brisbane did not point out that she needed to change from a train to a bus partway through her journey. She had missed the bus and incurred an expensive taxi fare in getting to her destination. In our view, the itinerary (which simply said Sydney – Casino XPT, Casino – Brisbane CCH) did not clearly communicate to the average traveller that they needed to change to a bus at Casino. To add to the confusion, the bus part of the itinerary referred to a carriage number – a term normally associated with trains. Although the agency told us there were announcements at the train station to inform passengers of the need to change to a bus service, they agreed to make the information on the web-generated itineraries clearer. They also agreed to refund the woman the cost of her train ticket.

### 28 Back on the waiting list

A housing applicant claimed she had been removed from Housing NSW’s waiting list in October 2010 because she had not responded to a survey. The applicant claimed she did not receive the survey or any warning letter and had not changed her postal address. She also said that she had called Housing after October 2010 and had been told she was still on the list.

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It was difficult to work out what had occurred as documents were missing from the electronic file. However, there was a record that the complainant had attended the housing office in November 2010 to provide information about a change in her circumstances. Housing acknowledged that her application should have been reactivated at that point and backdated her application to its original date in 2002.

### 29 An ongoing problem

Over a period of years, we received a number of complaints from a private owner about Housing NSW’s failure to act on complaints about his neighbour – a Housing NSW tenant. The tenant was a hoarder and was in breach of his tenancy agreement for failing to maintain his yard. Mental health and physical disabilities made it difficult for him to maintain the property. Housing had sent many warnings about the yard and had cleared it on occasion in response to our inquiries, even though it was the tenant’s responsibility. Attempts were made to relocate the tenant to a more suitable smaller property but he was not cooperating or engaging with health services.

The local Housing NSW team would make some progress in resolving the issues whenever we became involved. However, each time we closed the complaint the matter would be put on hold. Having received yet another complaint from the neighbour we escalated the issue. As a result, Housing implemented ongoing monitoring and meetings between the staff members involved to ensure continued progress. The tenant has now been offered a more suitable property.

We have continued to receive complaints about garnishee orders and have been increasingly concerned about their impact on certain sections of the community, particularly Centrelink recipients and other low-income earners.

The current legislative framework means that when a garnishee order is issued on a bank account, a Centrelink recipient can be left with \$0 balance until their next payment. A wide range of people and families rely on Centrelink payments for income support, including people with disability and the homeless. Due to the very nature of the payments and income threshold tests applied in order to qualify, most Centrelink clients will have minimal resources in order to meet daily living expenses.

We have identified a need to protect the interests of those individuals who do not have the capacity, resources or support by an advocate or other person to pursue a refund

with SDRO. We also considered that SDRO's policy and internal guidance material for assessing requests for a refund require review. In particular, we raised concerns that the policy does not include financial hardship alone as grounds for requesting a refund of monies, and does not recognise the need to access funds to meet daily living expenses. The policy provides for an initial refund amount of \$100 to be granted at SDRO officers' discretion over the phone to alleviate urgent financial hardship. We suggested that \$100 may not be sufficient and that detailed criteria is required to assess an individual's need for a refund including factors such as combined household income, number of dependents, other debts owing and the need to maintain payments such as rent. Case studies 41 - 43 show the serious impact garnishee orders can have on vulnerable people.

## Case studies

### 30 Administrative errors resolved

A tenant, who was transferred in 2010, complained that she continued to receive threatening letters for bills of over \$2,000 for rent arrears and repairs to her previous property. She had disputed the charges since 2010 – on the grounds that she had returned the keys on time and the repairs were not needed. Housing had previously advised the repair costs would be waived because insufficient information had been recorded about them. Unfortunately this did not happen and the letters kept coming, despite her attempts to resolve the issue between her old and new Housing offices.

After our intervention, Housing removed the repair charges from the tenant's account and agreed to waive some of the arrears. While there was a gap between the tenant leaving the property and returning the keys, Housing recognised that staff should have followed up to remind her to give them back.

### 31 Acknowledging fears

A complainant contacted us after her application for a transfer was refused by Housing NSW. The complainant faced eviction because she refused to stay in the property she was leasing as she was in fear for her safety after the property was broken into. Our inquiries showed that Housing had not been made aware of the psychological trauma the complainant had experienced in the past, after she had been the victim of sexual violence. This had been made worse by the break in. After taking this information into account, Housing revisited their decision and approved the complainant for priority transfer.

### 32 Deciding who is responsible

We received a complaint that the Land and Housing Corporation (LAHC) were failing to address a serious water leak that, according to an engineer's report, was causing damage to a retaining wall and had softened the ground under a fence and the complainant's house.

The leak continued for some time because LAHC and Sydney Water could not agree whose responsibility it was to fix it. Our inquiries with LAHC quickly led to the issue being resolved. We also had discussions with senior LAHC and Sydney Water staff about ongoing communication between the two agencies when similar matters arose. We understand the two agencies now have a contact protocol for resolving similar issues in the future.

### 33 Smell finally gone

An elderly man from a non-English-speaking background with a hearing disability complained that his Housing NSW property had been affected by a terrible smell for eight months. The tenant advised that the smell, which may have been caused by a dead rat, was so bad at night that he could not stand to be there and often had to stay with friends. He tried to resolve the issue with Housing a number of times. They replaced the air conditioning system in the garbage room of the building to fix the broken ventilation system, but unfortunately the smell persisted. The tenant reported the issue to Housing again, but no inspection was done. We intervened after identifying communication difficulties between the complainant and Housing NSW. As a result of our inquiries and on the basis of the delay experienced by the tenant, Housing NSW escalated the work order already in place and an inspection was done. To the complainant's great relief, the maintenance completed by Housing NSW removed the smell and the complainant was again able to sleep in his apartment.

### 34 Successfully transferred

We took up a complaint made by a woman who had multiple medical issues that affected her ability to manage stairs. She had been trying for many years to obtain a transfer to a more suitable property. We were concerned about the complainant's capacity to pursue the issue with Housing NSW as she was quite distressed and had not been successful in securing a



We wrote to OSR and made a number of recommendations aimed at improving the way garnishee orders are administered. In addition to other suggestions, we recommended SDRO reviews and amends their policy on refunding monies deducted under a garnishee order, their assessment tools and training materials for dealing with garnishee orders.

OSR acknowledged the sensitivity of the issue and the effect that garnishee orders can have on Centrelink recipients and low income earners. They also agreed the case studies we gave them showed clear deficiencies in SDRO processes. The SDRO has started to review its refund policy, and we will be given a copy of the revised policy and other materials. The SDRO will also be meeting with the Commonwealth Department of Human Services

and the major financial institutions to resolve the issues we raised. We will monitor SDRO's compliance with the undertakings given.

This issue has been complex to pursue. This is largely because of interaction between the NSW legislation under which garnishee orders are issued and matters which are beyond the jurisdiction of this office including the Commonwealth legislation which applies to social security payments and the financial institutions which carry out the orders. In order to understand the issues and identify a resolution, we have worked with other agencies including the Commonwealth Ombudsman's Office and the Financial Ombudsman Service. The Commonwealth Ombudsman made inquiries with the Department of Social Services (DSS) as the policy agency responsible for the

transfer in the past. As a result of our involvement and their own further assessment of the tenant's needs, Housing escalated the complainant's transfer priority. A property was identified within a few weeks and the tenant was rehoused successfully.

### 35 Small administrative errors have huge implications

We were contacted by a Housing NSW tenant who had had to move out of her property in a city suburb a year before because of an assault and ongoing threats from her neighbours. Housing approved this course of action and undertook to find her a property in a regional area where she had family. When she contacted us ten months later she was still homeless.

The tenant told us she had gone to the regional office several times to secure a new tenancy without success. While waiting for the problem to be resolved, she was staying with friends, family and in a regional refuge. A case worker at the refuge identified errors in the tenant's application status. When the tenant moved out of her property in the city, a 'housing register application' was created by the metropolitan office staff instead of a 'housing priority tenancy reinstatement application'. This error meant that the tenant had been placed on the waiting list as if she were a new housing applicant. When she approached the regional staff again, she was referred back to the metropolitan office to fix the problem – further delaying her being rehoused.

As a result of our involvement:

- The tenant was given over \$1,400 for the trouble she experienced while waiting for the errors to be fixed.
- Training was given to staff to ensure they were able to identify different types of applications and escalate them appropriately.
- Regional staff received training about their customer service responsibilities and the fact that clients did not need to be sent to another office to be processed as they were dealing with the same agency.

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### 36 Revised thesis accepted

A student submitted his thesis hoping to be awarded a Doctor of Education (Ed.D) degree at the University of New England. The three examiners who looked at his work each believed the thesis could be passed, but they differed widely in how much revision would be needed. The thesis was therefore sent to an adjudicator who said the thesis was an outright fail.

Although there was no clear breach of the Ed.D rules, we thought the university could have taken better advantage of the discretion they had to ask the examiners to consult with one another on the changes required for the thesis to pass. The university agreed to set aside the adjudicator's report and accept a revised version of the thesis from the student.

### 37 Banned from study

We received a complaint from a young TAFE student who was unofficially banned from attending TAFE due to behavioural issues. While she was told verbally there were problems, she was not formally advised of the decision to not allow her to return to the campus. When the student tried to re-enrol the next term, she found out there was an issue and was given a copy of an email to meet with TAFE staff due to her past behaviour. After our inquiries, TAFE staff met with the student and agreed she could re-enrol with a behaviour management plan, which she accepted. If a decision is made by an agency to restrict a person's access, it is important that this decision is clearly communicated in writing and the reasons are explained.



Commonwealth legislation. The DSS will conduct a review of the operation of the current policy that will be monitored by the Commonwealth Ombudsman. This review will hopefully lead to broad changes that will have an impact beyond NSW.

We also made a submission to the Parliamentary inquiry into debt recovery in NSW about the impact of garnishee orders, among other relevant matters. We suggested legislative changes to help the SDRO to more effectively and reasonably carry out its statutory functions. This could include the ability to instruct banks to leave a minimum amount in a garnished account.

## Managing asbestos

We continue to keep a watching brief on the management of asbestos-related issues by various government agencies. We are pleased to see the ongoing work of the Heads of Asbestos Coordination Authorities (HACA) in implementing the statewide asbestos plan. HACA's public awareness initiative for asbestos has been particularly successful as has the significant work carried out by HACA and Local Government NSW in distributing and promoting the model asbestos policy for NSW councils.

One of the recommendations in our report to Parliament in 2010 – *Responding to the asbestos problem – the need for significant reform in NSW* – was to close a public access road that ran through the Woods Reef abandoned asbestos mine at Barraba. This road was finally closed during the year. However, the mine buildings and onsite asbestos are

yet to be remediated. We understand the continuing delays are still due to a colony of endangered bats on the site that require federal government approval to be relocated. We are hopeful that clearance to start the remediation work will be given in the coming year.

This year, we had a number of meetings with Housing NSW and the Land and Housing Corporation (LAHC) about how they account for and manage hazardous materials in their properties. They have done considerable work to develop registers that identify buildings likely to contain asbestos. Housing NSW also advised us that they intend to implement a tenant information campaign to ensure that hazardous items – such as asbestos and lead paint – are dealt with in ways that minimise the risks of exposure.

## Investigation into the NSW Office of Water

In November 2013 we finalised an investigation into how the NSW Office of Water (NOW) carries out its responsibilities in ensuring compliance with the *Water Management Act 2000* and the *Water Act 1912*. We found NOW had failed to implement policies, practices and procedures to ensure breaches of the water legislation were adequately and effectively enforced.

We recommended the Department of Trade and Investment, Regional Infrastructure and Services:

- review how NOW investigates breaches of water legislation
- develop policies for enhancing the processing of licence applications

## Case studies

### 38 Assaulted by another student at school

The mother of a young girl with a developmental and physical disability complained that her daughter had been indecently assaulted by an older child at the school and the matter was not dealt with appropriately by the school. As the alleged perpetrator was under 10 years of age, no criminal charges could be considered. The mother was concerned the school had failed to appreciate the seriousness of the matter, and believed this reflected broader failings in the school's practices. The incident occurred late in the school year. Although the mother had met with DEC staff before the end of the 2013 school year, she was becoming increasingly concerned about what was being done and if her daughter would be safe in the coming year. The mother contacted us in mid-January for help as she didn't know who else to contact during the school holidays.

We were soon able to arrange for the same staff to meet again with the mother during the holidays, and they agreed to support the mother's request for her daughter to be placed at another school. However the matter raised questions for us about the school's and the regional office's response to the incident. Given the incident happened shortly before the end of the school year, we were concerned that some aspects may not have been fully considered. We made inquiries about the steps taken to review the practices at the school

and the training given to staff around such incidents. We also asked what had been done to address the needs of the alleged student assailant and to protect other students from possible inappropriate contact. Staff in our Community Services Division also checked if Community Services had been appropriately notified. We asked for written evidence to support DEC's oral assurances that these matters were being addressed. We were eventually satisfied with DEC's reported actions taken after the school re-opened in 2014. These ranged from improved training around supervision, safety and incident management to improving communication between parents and staff. Staff from other schools had reviewed the unit's operations and made suggestions for improvements. Minutes of meetings indicated these issues had been raised frequently, and it had been stressed to staff in the minutes that the school's actions were under scrutiny. Additional funding had been made available to provide increased supervision and support. Family and Community Services had been notified of the conduct of the children involved, had discussions with the parents of the older child, and referred them for counselling and support.

In the time taken for DEC to provide us with written documentation, the issue of their response to student on student assaults was raised in the media. We will continue to monitor complaints received to determine if further inquiries are required on this significant issue.

- develop a memorandum of understanding with the Department of Planning for NOW's input into the assessment of the impact of development applications on water resources

We also recommended a number of other improvements to NOW's compliance and enforcement functions.

They agreed to implement most of our recommendations, and NOW is providing us with ongoing implementation reports. The recommendations are expected to be implemented by December 2014.

## Investigating the Environment Protection Authority

This year, we investigated a complaint about the Environment Protection Authority (EPA), the primary environmental regulator in NSW. The *Protection of the Environment Operations Act 1997* (POEO Act) gives the EPA the power to enter and inspect property and issue clean-up or prevention notices and on-the-spot fines when a pollution incident has or is occurring.

The complainant was one of four owners of a property that had been leased to a landscaping supplies business. The complainant maintained the EPA unfairly required the owners to undertake costly clean up action after a pollution incident caused by the landscaping business. Contaminated waste, soil and other landscaping supplies – some of which contained asbestos – had been unlawfully

stored by the business at the property. The complainant claimed the owners were unaware of the incident and should not be held responsible for it.

The EPA investigated the pollution incident and issued two clean-up notices while the landscaping business still occupied the property. Some remediation occurred at the time, but the clean-up notices were not fully complied with.

Two different law firms representing related companies linked with the landscaping business started corresponding with the EPA. They gave conflicting views about the correct legal entity that occupied the property at the time of the offence. This – coupled with protracted delays by the EPA – contributed to a situation where, in our view, the owners were unfairly held responsible for remediating the property.

The protracted delay up to the time the EPA stopped pursuing the entity responsible for the pollution incident, including the delay in checking the conflicting accounts about the precise legal identity of the polluter, had an unfair impact on the owners of the property. The costs to the owners for remediating the property were more than \$85,000.

We acknowledge that the EPA's decision to hold the owners responsible for clean-up action was lawful. Section 91 of the POEO Act provides that a clean-up notice may be issued to the owner or occupier of land from which a pollution incident is occurring. However, our view is that this section was not intended to be used to require owners to remediate in circumstances where the polluter was not the occupier and where the authority has already started action against that polluter/occupier at the time of the pollution.

### 39 When does enforcement start?

We had a complaint from a man who received a penalty enforcement order and a notice of vehicle registration cancellation despite the fact he had paid the original penalty amount in full. Our inquiries confirmed the payment was made in full before the enforcement order was generated, but after the date on the penalty reminder notice. It was our view that s.42(d) of the Fines Act only allowed an enforcement order to be made if the full amount payable under the penalty notice had not been paid before the order was made. The SDRO agreed and refunded the enforcement costs to the complainant.

### 40 Fines and demerits finally removed

We received a complaint from a man about over 40 camera detected driving offences and subsequent enforcement orders that he was not responsible for. Even though he did not own a car, the offences were on his driving record as his identity had been fraudulently used to transfer the registration of the offending vehicle into his name. He was not aware of the outstanding enforcement orders until he visited a RMS branch to update his licence. The complainant sent the SDRO supporting documentation to show that he was not responsible for the offences including statements, photographs and other records. They responded by

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advising him that he would need to submit an annulment application along with a fee of \$50 for each enforcement order (totalling over \$2,000) as he was out of time to request a review of the penalty notices. We made inquiries as it appeared that the SDRO did not conduct a proper review of the material provided. After our intervention, the SDRO withdrew all enforcement orders totalling \$14,723 and cancelled the related penalties. All demerit offences and demerit points were also removed from his driving record.

### 41 Nothing left to live on

The complainant was a 20-year-old single mother with three dependents, including a newborn, and Centrelink payments were her only income. After a garnishee order on her account, she was left with a balance of \$0 until her next payment. She asked the SDRO for a refund and was told that the money was not refundable and had been obtained under a legislated process. After our intervention, she was given a refund of \$100. However because she had other direct debits coming from her account for utilities, her account was overdrawn so the \$100 refund from SDRO never reached her.

We received written submissions to our provisional conclusions and met with the head of the EPA. We discontinued our investigation on the basis that the EPA acknowledged that, in retrospect, enforcement action against the known polluter could have been taken in a more timely and effective manner. The EPA agreed to make a number of administrative and procedural changes, including notifying the owners of a property immediately when clean-up notices are issued to tenants.

We also formally suggested the EPA consider making ex-gratia payments to the owners for their costs in remediating the property. The EPA has agreed to consider submissions by the owners, including evidence of quantifiable costs incurred in removing contaminated waste from the site and, if appropriate, recommend to the Minister that an ex-gratia payment be made.

## Working with universities

### University complaint handlers forum

In February, we hosted our sixth annual forum for university complaint handlers. These forums have become an important and popular event for university complaint handlers to exchange information and ideas about a range of issues within higher education. As well as participants from the public universities, the event now attracts representatives from private educational authorities and interstate universities. The agenda at this year's forum included confidentiality in investigating research misconduct, online complaint-handling, issues in university admissions, and the standing of family members and friends who want to make complaints on behalf of students.

## Problems with postgraduate supervision

In recent years we have received complaints from postgraduate students about difficulties in their relationships with their supervisors. Common themes in the complaints include lack of supervision, inadequate feedback, and/or alleged bias on the part of the supervisor. These matters often only become formal complaints late in the thesis process – when a student's academic future is on the line and years of government scholarship funds and university resources have already been expended. Complaints of this type can be complex and resource-intensive. We have started inquiries with each of the universities within our jurisdiction and asked what practices and processes they have in place for supervision and learning. We look forward to their responses and cooperation, which hopefully will form the basis of good practice guidance that can be shared among institutions.

## Reviewing guidelines

Last year we reported on our work in expanding our existing set of guidelines about best practice for university complaint-handling.

A draft of the proposed guidelines has now been adopted by each of the Australasian Parliamentary Ombudsman offices, with the exception of Queensland, and we have distributed copies of the draft to each of the universities in NSW. As the guidelines heavily cross-reference the new Australian and New Zealand Standard on complaint-handling, we will finalise the university guidelines and make them available on our website after the standard has been published.

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### 42 Distress and financial hardship

The complainant was on a disability support pension and had also received an advance payment from Centrelink for moving expenses, rent and bond. He had over \$950 deducted from his bank account after a garnishee order, and was left with a \$0 balance until his next payment from Centrelink in nine days time.

His future Centrelink payments were reduced to satisfy the Centrelink debt and he also had to enter a 'time to pay' arrangement to avoid further enforcement action. The complainant was very distressed about the immediate and short-term financial hardship that the garnishee order had placed him in. After a Ministerial inquiry, he was given a partial refund on compassionate grounds as the SDRO decided that he did not meet the criteria for a refund under their policy.

### 43 Notice sent to wrong address

A woman complained to us that her bank account had been garnished by the SDRO for an unpaid fine debt, even though she had not received a notice about an outstanding fine. We found out that the earlier notice telling her about the unpaid fine was issued to the address of her Work and Development Order (WDO) sponsor, because she had a WDO in the past for other fines. However, at the time of the new fine, the WDO had already been closed and the sponsor's address should not have been used.

After our inquiries, the SDRO implemented changes to their procedures so that sponsors do not select their mailing addresses for client correspondence from the SDRO unless they have the express consent of the client. Advice has also been added to WDO contracts and letters are sent to clients once a WDO is closed to inform them that they can at any time ask the SDRO to remove the sponsor's address from their mailing address.

## Enhancing our communication strategies

We regularly report on our work in developing resources, training and guidelines to help agencies better respond to complaints and concerns raised by members of the public. We also continue to review and refine our own processes and approaches to dealing with inquiries and complaints from the public.

In the past year, we have looked more closely at how we communicate with those seeking our assistance. For many years we have assessed whether the way we communicate helps those we deal with to understand and accept our decisions, and how might it be improved.

Some initiatives we have taken this year include:

Staff attending training in:

- Behavioural insights – to better understand how people make choices and what influences decision-making so we can use those insights to enhance the way we communicate with both complainants and public officials and empower our complaint-handling staff.
- Motivational interviewing – which has challenged staff to consider not only the facts of a complex complaint, but its impact upon the individual in their life.

Engaging contractors to:

- Review our standard letters and guidelines in dealing with complainants. They have suggested changes to our use of words and the type of information provided to better convey our intended message.

- Advise us on communication strategies suited to protracted disputes that appear unlikely to be resolved. In one mediation, the contractor interviewed the participants and the mediator separately before and after the mediation. This allowed the contractor to learn the history of the matter, how the dispute had developed and become protracted, and the communication styles of the parties involved.
- Provide advice on improving the guidance we give to agencies on how to investigate and manage public interest disclosures that present particular challenges because of conflict escalation in the workplace, which tends to become entrenched and difficult to resolve.

### 44 Does the identity of the complainant need to be disclosed?

A man complained that his Local Land Services (LLS) had not investigated his complaint about a ranger's conflict of interest because he would not agree to his identity being disclosed to the ranger. The agency was under the misapprehension that they could only investigate such complaints if they could tell the subject officer who the complainant was. We advised the LLS that rules of procedural fairness were important for formal investigations and disciplinary proceedings, but it was not always necessary to disclose the identity of a complainant during preliminary fact finding – especially if there was a risk of reprisal action. It is sufficient to put the allegations to the subject of complaint and provide enough information to enable them to respond. Once preliminary fact finding is completed, a decision can be made whether to investigate further. At this point it may be necessary to disclose the identity of the complainant for the investigation to proceed. After our inquiries, the LLS obtained information from the ranger about the

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alleged conflict and decided the matter did not warrant further action. This enabled them to reassure the complainant there was no conflict and advise both parties they would not be taking further action.

## Complaint trends and outcomes

This year we received 873 complaints about councils. This is a 14% increase compared to 2012-2013. We have managed to maintain our target of finalising as many complaints as we receive.

We respond to every complaint we receive with reasons for our decision. However, due to a number of reasons, including a lack of evidence, alternative means of addressing a complaint, conduct outside of our jurisdiction and limited resources, we are only able to take up about 30% of the complaints we receive.

As with previous years, the main issues that are raised with us relate to customer service and enforcement. A significant number of those complaints relate to a council's failure to respond, unreasonable outcomes, unreasonable enforcement action, and a lack of enforcement action.

Fig. 44: Action taken on formal complaints finalised – local government

Issue	No.	actual %
Assessment only	596	68.4
Preliminary or informal investigation completed	260	29.8
Conduct outside our jurisdiction	16	1.8
Formal investigation completed	0	0
<b>Total</b>	<b>872</b>	<b>100</b>

Fig. 45: Current investigations at 30 June 2014

Issue	No.
Under preliminary or informal investigation	25
Under formal investigation	0
<b>Total</b>	<b>25</b>

Fig. 46: Formal and informal matters received and finalised – local government

Matters	09/10	10/11	11/12	12/13	13/14
Received	843	912	925	764	<b>873</b>
Finalised	875	924	933	765	<b>871</b>
Informally dealt with	1,720	1,979	1,962	1,795	<b>1,698</b>

Fig. 47: What people complained about – local government

Issue	Formal	Informal	Total
Community services	9	9	<b>18</b>
Customer service	202	355	<b>557</b>
Development	87	227	<b>314</b>
Enforcement	160	249	<b>409</b>
Engineering services	113	171	<b>284</b>
Environmental services	45	139	<b>184</b>
Handling of a public interest disclosure	1	1	<b>2</b>
Investigation of a public interest disclosure	0	1	<b>1</b>
Management	2	10	<b>12</b>
Misconduct	47	52	<b>99</b>
Object to decision	70	146	<b>216</b>
Outside our jurisdiction	27	48	<b>75</b>
Policy/law	1	0	<b>1</b>
Public interest disclosure – confidentiality	0	1	<b>1</b>
Rates charges & fees	97	224	<b>321</b>
Reprisal action following a public interest disclosure	2	2	<b>4</b>
Strategic planning	8	28	<b>36</b>
Uncategorised	2	34	<b>36</b>
<b>Total</b>	<b>873</b>	<b>1,697</b>	<b>2,570</b>

Please note that each complaint may contain more than one issue, but this table only shows the primary issue.



## Key areas of focus

### Helping councils improve

We collect a great deal of information about councils, both through the complaints we handle and our broader contact with councils and the community. We can use this information to identify potential systemic issues in council policies, procedures or practices, and work with them to find ways of improving their systems.

For example, we noticed a pattern of complaints over several years about poor customer service and complaint-handling at Marrickville Council. Many of these complaints did not involve serious administrative failings, and so we did not conduct a formal investigation. But we were concerned about the pattern of consistently poor administrative practices. These included failing to respond to complaints, delays in responding, inadequate action on complaints and poor record keeping.

We contacted the council and invited their staff to meet with us to discuss these issues. We gave them all the complaint data we had collected to help them find out where failures could be identified. Council was receptive to our feedback and agreed to:

- prepare a new complaint-handling policy
- review existing systems that will support that policy
- develop an appropriate awareness campaign throughout council
- provide training to staff, with a focus on areas where there is a concentration of complaints.

During this process, we were able to agree on a way to deal with the complaints we had received. This allowed the council to effectively prioritise and allocate its complaint-handling resources.

Council has reported back to us on significant improvements – including reducing a backlog of service requests before the end of the financial year, drafting new policies and

### 45 Consent for car parking delayed

We received a complaint about Woollahra Municipal Council refusing to issue an approval under s.138 of the *Roads Act 1993*. The approval sought was to construct a driveway crossover to access the complainant's property.

The property owner had already gone through a rigorous process including applying for development consent and addressing technical and heritage matters. The council initially refused their application, so the property owner appealed to the Land and Environment Court.

At the court's conciliation conference, the property owner and council agreed to terms to enable the development consent to be issued, subject to conditions. One of those conditions was to obtain an approval under the Roads Act before beginning construction. This application was made to council, who then refused to provide this on the basis that car parking was not approved on the site.

We wrote to council and asked for evidence to support their responses – including why they held the view that car parking was not approved on site, and their understanding about the consent that had been issued.

We noted that the property owner's documents supporting their development application included numerous references to an existing car parking spot on their property.

The application described the work as 'Remove existing concrete gutter and bitumen footpath. Install driveway crossover'.

The council described the work as 'Remove existing gutter and footpath; install new driveway crossover creating on site car parking'.

The consent orders issued by the court (by agreement between the parties) were described as 'Removal of existing concrete gutter and bitumen footpath and

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installation of driveway crossover.' The council explained that they could not 'second-guess' the Land and Environment Court's reasoning for deciding not to approve an on-site car parking space.

We had very serious concerns about this position, because:

- The consent orders were not decided by the court, but agreed by the council and property owner and ratified by the court.
- The council did not provide any evidence that the conciliation process included removing the intention to provide off street car parking – as highlighted throughout the application plans and supporting documents.
- The council stated that they had no objections to the issue of the s.138 approval, apart from their view that the court had deleted car parking from the consent orders.
- The conciliation conference places a duty on all parties participating to do so in good faith.
- Without any evidence that the conciliation included the intended removal of the car parking space, we felt the council was withholding the s.138 approval on unreasonable grounds.

We suggested that they either issue the s.138 approval or provide evidence to us to show that the court conciliation agreed to remove the car parking entitlement.

The council told us the approval would be issued immediately, but that they still felt the planning consent for car parking was 'unclear'.

After this, there was a further delay with issuing the approval. We made contact again, which led to the council taking action to resolve the matter. However our concerns continued, particularly given the level of

procedures, making software upgrades to accommodate these new policies and procedures, and completing successful staff training.

We will continue to track these improvements and look forward to seeing the impact of these. The council should be congratulated for acting quickly and positively, making substantive improvements in a few months. A formal investigation can often take us a year or more to complete.

This is a good example of how we can help councils significantly improve their service delivery, without the need for resource intensive formal investigations and recommendations. Case studies 45 to 50 are some further examples of this.

## Redefining our role

As we reported last year, we believe we need to redefine our role with councils to make the best use of our limited resources. We are not proposing to expand the scope of our jurisdiction, just change the nature of our role.

The NSW Government has recognised the value of customer service and complaint-handling by creating a Customer Service Commissioner. We believe this is a role that we are well placed to help fill at the local government level.

It is now generally accepted across the public sector that agencies have the primary responsibility for handling complaints about their policies, procedures or practices – or

the conduct of their staff. In local government, councils should take ownership of complaints about their operations and not pass this responsibility on to some external person or body.

The appropriate 'direct complaint-handling' role for the Ombudsman should be to focus on matters where:

- a complaint raises systemic or significant public interest issues
- a complaint alleges a serious abuse of power
- the council concerned or their senior staff may have a conflict of interests or duties
- the complaint is a public interest disclosure – and either the reporter or the Ombudsman has concerns about how the matter and/or the reporter would be dealt with by the council
- a complainant appears to have good reason to be dissatisfied with the way the council has dealt with their complaint.

In this last case, the options available to the Ombudsman to address the issue are to either:

- take an 'office of last resort' role and investigate the complaint
- take a more 'supervisory' role and investigate how the council dealt with the complaint.

A number of jurisdictions within our office have a statutory role to keep complaint-handling systems under scrutiny. Last year we made a submission to the Local Government

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unreasonable inconvenience to the complainant and the escalating costs for legal and professional expenses arising from no fault of their own.

Our further inquiries resulted in council acknowledging that the consent does provide for on-site car parking and explaining how their processes broke down to lead to this incorrect advice. They have also agreed to apologise to the complainant and provide a full explanation.

### 46 Double debit costs refunded

The complainant attempted to pay their rates to Ryde City Council over the phone, but a glitch occurred that caused the payment to be rejected twice. When they called council about the payments, they were told there was an error with the system. After checking their account at a later date, they found that two payments had been taken from their account – so they called the council again.

Council agreed to draw a cheque for the additional payment in the next cheque run, in accordance with their standard policy. However this was not convenient for the complainant, so they contacted our office.

We contacted the council and, in response, they called the complainant to apologise. They also agreed to refund the merchant fees for the two payments as a gesture of goodwill. Council also told us that they are

going to review their procedures about payments to see if it is feasible to upgrade the software and provide instant electronic refunds.

### 47 Unreasonable costs reduced

A complainant contacted us claiming Leichhardt Municipal Council had taken excessive legal action over a dog bite by their pet. The complainant felt a warning, a fine or other dog behavioural modification was more appropriate than a summons to court.

We advised them to write to the general manager and ask for an explanation, as well as putting their concerns and evidence to the court directly for determination. They did this, and contacted us to tell us that the council was now seeking costs. The summary of costs included \$2,500 for responding to the complaints they had made on our advice. We were alarmed that the council would take action to penalise a person for making a complaint, in addition to taking them to court. We felt it could stop other people from complaining to council.

The council agreed with us, and felt that only a small portion of the costs (about \$200) were for responding to the complaint. After reviewing the matter, the council confirmed they had drastically overestimated the portion of costs relating to handling the complaint. Key staff had been on leave and a greater than usual reliance on council's external solicitor had caused the high costs. Council removed the \$2,500 amount from the claim.

Review Panel and the Local Government Acts Taskforce recommending a similar oversight role for us with the local government complaint-handling system. However our submission was not addressed in their report. We will continue to pursue this redefinition of our role.

## A service request or a complaint?

The draft of the revised Australian Standard on complaint-handling in organisations describes the following three levels of complaint-handling:

- Level 1 – frontline complaint-handling – early resolution.
- Level 2 – internal assessment, investigation, alternative dispute resolution or review.
- Level 3 – external assessment, investigation, alternative dispute resolution or review.

Council websites and complaint-handling policies commonly use the term 'service request'. A service request is when a person asks the council for something – this could be information, an investigation into concerns raised, repairs to council infrastructure or other similar requests. A service request is not a complaint.

If the council fails to deliver on the service request – such as by failing to reply to it, unreasonable delays, not providing the information asked for, not investigating properly or providing the wrong advice – and a complaint is then made, it should preferably receive a level 1 response.

We encourage all councils to make sure that frontline staff have the appropriate training to be able to recognise and deal with level 1 complaints and ensure early intervention and resolution.

If a level 1 complaint is not resolved or is of a serious nature, then the issue should be dealt with as a level 2 complaint. This is when the council should recognise the matter as a formal complaint. Generally, this will be addressed to the general manager or, in the case of a public interest disclosure, to the PID coordinator. Depending on the council structure or resources, they may deal with it directly or delegate it to an appropriately senior person to review. That person will either make a recommendation to the general manager about the outcome and what, if any, action to take – or they will have the delegation to respond directly.

It is important that those who have contact with councils understand this process. It is equally important that council staff understand and recognise when a complaint really is a complaint and should be escalated for assessment.

The third level relates to an external review. This may be a complaint to our office or to another external body such as the Office of Local Government.

When we receive complaints, we have clear guidelines for deciding whether the complaint to us is premature and should be referred back to the council as a level 2 complaint for internal review. We also focus on the council's systems

## 48 Additional fees not explained

We received a complaint about Botany Bay City Council pursuing costs of almost \$2,000 after the complainant applied for a road opening permit to conduct sewerage works. The form the complainant filled out, which was provided by the council's customer service officer, appeared to be old and did not match the form that could be downloaded online. The difference in the forms was substantial – the fees were very different, and there was a statement on the front of the new form explaining that the applicant would have to pay an additional fee after the works were completed.

The typical process is to apply for a permit, carry out the works to cut a trench into the road and then patch it back up. Council then returns and repatches the road to their specifications and ensures the trench is backfilled and compacted to prevent sinking or damage. This work by council is what the additional fee is for after the initial work has been done.

The complainant was shocked by the bill because the form they filled out had no information about there being an additional cost at the end of the works. Also, after a couple of months, council had sent the matter to a debt recovery agency – who gave the complainant less than seven days to pay the amount.

Council agreed to stop their debt recovery agents and also invited the complainant to write to them and ask for a reduction of fees, which they were prepared to reduce to cost. We would not typically intervene in matters of debt as these are legal issues, so we considered that the council's decision was a good outcome.

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### 49 Licence application finally approved

Six months before lodging a complaint with us, a complainant submitted an application to Ryde City Council seeking approval for a wholesale liquor licence application to the Office of Gaming, Liquor and Racing. The application merely required the council to sign the form to confirm that they had no objection to the type of operation proposed under the licence.

Multiple attempts to get a response from council – either for approval or refusal – were ignored, so the complainant contacted us. We contacted the council to find out whether approval could be achieved or, if not, what the applicant had to provide to enable the application to be decided. They resolved the complaint in a couple of hours by approving the application. They also contacted the complainant directly to apologise for the failure in service delivery.

Council also advised us that the internal referral process would be reallocated to an alternative business unit with both the necessary skill and resourcing available to be able to decide these types of applications as a priority. In addition, an appropriate record-keeping arrangement was to be set up to record, monitor and track these applications.

and whether their administrative processes are adequate for the circumstances. Unless a decision they make is so unreasonable that it is not supported by evidence or it is clear something wrong has occurred, we focus our assessment on overseeing the system— rather than telling the council what to decide about the issue.

## Climate change and coastal protection

The past twenty years have seen considerable change in coastal planning legislation, planning instruments and policies. This has coincided with an increased understanding of and focus on coastal erosion issues and measures to adapt to climate change.

Landowners complained to us that Byron Shire Council was preventing them from protecting their beachfront properties from erosion. The owners claimed they had already lost metres of land due to storm events and tidal surges, resulting in the loss of beach access and almost halving property values. One landowner who had tried to repair a collapsing wall of sandbags with rock was served with an injunction preventing him from doing so. The owners claimed they should not be stopped from acting when council had failed to maintain the sandbag structure – placed there some time before as interim protection for the beach.

Another landowner complained that council failed to properly consult with affected landowners and take appropriate steps in preparing their policies and plans relating to council's approach to coastal protection, adaptation to climate change, and emergency action in storm events.

A number of the issues involved differing legal interpretation and conflicting professional advice could only be determined by the courts. We made it clear that our inquiries would not try to pre-empt the court decisions. We noted that even if a court finds an agency's advice was wrong, this does not automatically mean that the agency was unreasonable in relying on advice before the court decision.

There were some aspects of the complaints that would not be dealt with in court, so we decided to investigate them. We made inquiries to determine whether the council had acted reasonably and if they were able to provide a reasonable explanation for their actions. We also examined council's conduct over several years in relation to their policies and plans for coastal protection and climate change.

The complainants and Byron Shire Council are facing problems that require coordinated action and direction at a government level. A 2012 draft report by the Productivity Commission recognised 'planned retreat' as a valid policy, but acknowledged it will generate controversy. One of the problems identified was the legal liability issues that arise, which can pose significant concerns for councils.

Changes to the *Coastal Protection Act 1979* and guidance issued by the Office of Environment and Heritage (OEH) in 2013 addressed some of the issues highlighted by the complainants' situation. The OEH's guidance clarifies what landowners who want to erect temporary structures can do – which are largely limited to geobag constructions. The guide makes it clear that more permanent structures such as rock walls require development applications.

It became clear that Byron Shire Council had been trying to determine planning instruments for some years. The contentious nature of proposed approaches, most notably 'planned retreat' – together with changing legislative requirements – extended the time taken for them to develop and amend their plans and policies. Although some aspects of council's conduct could have been improved, we considered that overall they had made genuine and sustained efforts to develop the various plans and policies required to cover these issues. We will continue to monitor this issue, which has the potential to have an impact on other coastal communities.

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### 50 Mobility permit returned

An Albury City Council resident contacted us after the council took away a mobility permit, alleging it had been used improperly. The permit was issued to the complainant's son who has a disability, and was punished through no act of his own. The process of reapplying for a new permit would be very difficult for him to go through.

We contacted the council who confirmed that a permit is confiscated if used incorrectly. We explained our concerns about the disadvantage to the permit owner, and council subsequently returned the permit.



# Human services



This section of the report outlines a broad range of functions we perform relating to human services in NSW. These are outlined in the *Community Services (Complaints, Reviews and Monitoring) Act 1993* and Part 3A of the *Ombudsman Act 1974*. We work to bring about good results for children and young people and people with disability. In some cases, this can help one person, or it could deal with a systemic issue that improves services to large groups.

Our employment-related child protection work involves scrutinising the systems government agencies and non-government organisations responsible for the care of children have in place to respond to allegations of reportable conduct. This can include any sexual offence or sexual misconduct, assault, ill-treatment, neglect or any conduct that can cause psychological harm to a child.

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## Highlights

- **Tabled a special report to Parliament on the effectiveness of the child protection system (see page 82)**
- **Established our new Working With Children Check functions and provided briefings to the Office of the Children's Guardian and other agencies on individuals who may pose a risk to children (see page 88)**
- **Facilitated the exchange of information between our office, police and other agencies leading to the prosecution of individuals for alleged child abuse (see page 88)**
- **Helped to establish the Community Living Consultation Group to consider best practice in relation to the closure of disability institutions (see page 97)**

## Stakeholder engagement

We have a broad range of functions in relation to community and disability services. These functions provide us with considerable information about policy and practice issues across the sectors that we monitor. As a result, we are frequently involved in consultation with government and non-government service providers, peak associations and representatives of people who receive services.

In 2013-2014, we met and consulted with:

- agencies and *Keep Them Safe* evaluators to inform our Special Report on the child protection system
- independent schools about child protection issues
- disability peak bodies in a series of wide-ranging sector roundtables
- out-of-home care (OOHC) agencies about leaving care and residential services
- the NSW Police Force and Community Services about options for new child safety assessments.



### Official community visitors

Official community visitors (OCVs) are statutory appointees of the Minister for Disability Services and the Minister for Community Services. OCVs have often been described as a 'voice for people in care' throughout NSW. They visit

accommodation services for children, young people, people with disability and people living in assisted boarding houses. Through their contacts with residents and staff, OCVs monitor the care being provided, and help residents to resolve complaints and concerns. Although the focus is on local resolution, OCVs can also report serious and significant issues to the Ombudsman or to the relevant Minister.

This year OCVs undertook 2,771 visits. This was 715 more visits than in the previous year.

For 2014-2015, the OCV team has allocated a visitor to 87% of visitable locations – whereas in 2012-2013 only 60 % of eligible services were visited. These additional visits are a result of the government providing an additional \$200,000 to the OCV scheme.

Our OCV team produces an annual report. The report for 2012-2013 provides a detailed description of the work of OCVs and some of their positive achievements. It is available on our website.

# Children and young people

## Handling complaints about child and family services

Under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA), we are responsible for handling complaints about certain agencies that provide community services. These include:

- Community Services – in relation to child protection, out-of-home care (OOHC), prevention and early intervention services
- Ageing, Disability and Home Care (ADHC) – in relation to disability accommodation and support services and home care services
- other organisations that are licensed or funded by the Minister for Family and Community Services or the Minister for Ageing and Disability Services.

Our main focus when resolving complaints is to improve outcomes. We do this in a range of ways, including:

- making inquiries to obtain more information about the complaint and the conduct of the agency
- meeting with agencies to collect relevant information and negotiate outcomes
- formally referring complaints to agencies to resolve or investigate themselves
- providing information and advice to help complainants deal with their own complaint.

Figure 48 shows how we have dealt with the formal complaints we have received this year.

**Fig. 48: Outcomes of formal complaints finalised about agencies providing child and family services**

Outcome	No.
Complaints resolved after inquiries, including local resolution by the agency concerned	153
Complaints declined after inquiries	122
Complaints declined at outset	106
Service improvement comments or suggestions to agency	9
Complaints outside jurisdiction	2
Referred to agency concerned or other body for investigation	3
Direct investigation	1
<b>Total</b>	<b>396</b>

This year, we received 1,043 complaints about child and family services – a decrease compared to the 1,143 received in 2012-2013. Of these, 385 were formal complaints, a 6% increase from 362 last year, and 658 were informal complaints – a 16% decrease from 781 last year (see figure 49). This year we finalised 396 complaints about child and family services, an increase of 11% from 357 finalised in 2012-2013.

Complaints about OOHC services made up 43% of all complaints we received (164 formal complaints and 283 informal complaints). The most frequent issues raised related to the quality of casework and problems with how services were meeting the needs of children and young people in care.

Complaints about child protection services made up 32% of the total complaints. As with last year, the most frequent complaint issues were poor risk assessments and lack of action in response to 'risk of significant harm' or risk of significant harm (ROSH) reports.

Figure 49 provides a breakdown of the complaints received by agency and service type. Case studies 51-54 are some examples of the complaints we have dealt with this year.

Complaints about non-government-funded or licensed services OOHC made up 11% of the total number of complaints received.

**Fig. 49: Matters received about agencies providing child and family services**

Agency category	Formal	Informal	Total
<b>Community Services</b>			
Adoption	3	1	4
Child protection	142	192	334
Children's services	1	39	40
Family Support	3	10	13
Out-of-home care	164	283	447
<b>Subtotal</b>	<b>313</b>	<b>525</b>	<b>838</b>
<b>ADHC</b>			
Child protection	0	0	0
Children's services	0	2	2
Family Support	0	0	0
Out-of-home care	0	1	1
<b>Subtotal</b>	<b>0</b>	<b>3</b>	<b>3</b>
<b>Other government agencies</b>			
Child protection	3	17	20
Children's services	0	3	3
Family Support	0	0	0
Out-of-home care	0	3	3
<b>Subtotal</b>	<b>3</b>	<b>23</b>	<b>26</b>
<b>Non-government funded or licensed services</b>			
Adoption	2	0	2
Child protection	8	13	21
Children's services	0	2	2
Family Support	1	5	6
Out-of-home care	56	64	120
<b>Subtotal</b>	<b>67</b>	<b>84</b>	<b>151</b>
<b>General enquiries</b>			
Child protection	0	2	2
Children's services	0	1	1
Family Support	0	1	1
<b>Sub-total</b>	<b>0</b>	<b>4</b>	<b>4</b>
Other (general inquiries)	0	5	5
Agency unknown	2	6	8
Outside our jurisdiction	0	8	8
<b>Subtotal</b>	<b>2</b>	<b>19</b>	<b>21</b>
<b>Total</b>	<b>385</b>	<b>658</b>	<b>1,043</b>

## Key areas of focus

### Monitoring child protection

This year we tabled our second report to Parliament on the *Keep Them Safe* reforms that were introduced in 2009. Our report, *Review of the NSW Child Protection System: Are Things Improving?* and its 2011 predecessor, *Keep Them Safe?* are available on our website.

The report was released when the NSW Government was considering significant budget enhancements to extend *Keep Them Safe*, implement new child protection legislative reforms and provide additional investment in areas including frontline casework support.

In 2011, we reported that 21% of all ROSH reports were receiving a face-to-face response. Two and a half years later, Community Services had lifted its rate of face-to-face response to 28%.

Community Services has also increased caseworker numbers in some areas and improved practice and public reporting on responses to child protection notifications. However, they still need to collect and publicly report more meaningful information about actual responses to all ROSH reports, particularly the response provided by the non-government sector.

We also found that better performance by Community Services alone is unlikely to meet child protection reporting demand. We noted the increasingly important role of non-government service providers, the NSW Police Force, the Department of Education and Communities (DEC) and

NSW Health in sharing the responsibility to meet the needs of vulnerable children and families. It is vital that key agencies continue to improve their capacity to identify those who need support and when they should share information with other agencies as part of providing an integrated multi-agency response.

At the local level, we emphasised the need for more efficient and aligned service systems. This is particularly important in high-needs communities.

In our report, we discussed other specific areas of child protection where performance remains inadequate, as well as where progress has been made, including the response to vulnerable teens, assistance to homeless children and young people, educational neglect and victims compensation for children in care.

### Vulnerable teens

In 2011 we pointed to the low level of response to adolescents in high risk and unsafe circumstances. This year's report to Parliament discussed the need for ongoing practice improvement in this area. On average, 31% of children under 12 received a face-to-face assessment in 2012-2013, compared with only 22% of adolescents. In 2012, The Department of Family and Community Services (FACS) responded to our work on vulnerable adolescents by establishing a review that recommended strategies to reduce their entry to Juvenile Justice, OOHC and homelessness.

Last year, Community Services told us that in-principle support has been provided across government for work on a coordinated strategy for vulnerable young people.

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### 51 Providing relevant information to carers

When children enter out-of-home care, their new carers should receive adequate information about their circumstances and needs. In one case, a carer complained to us that an agency had failed to pass on significant information about a child's history and sexualised behaviour. During the placement, the child sexually abused another child. We referred the complainant's concerns to the agency for resolution. The agency apologised to the carer and acknowledged that their practices for sharing information with carers were inadequate. We also recommended that the agency review their practice and pass on the lessons learned through training for all local staff. The agency took our advice and developed and delivered a relevant training program.

### 52 How information obtained by the office can lead to positive child protection action

We received information through a complaint about child protection concerns for a family with young children. There were concerns about parental drug use, homelessness, risk of sexual harm, school non-attendance and inadequate supervision. The family had a long history with Community Services, the NSWPF

and non-government support services. The children had been removed from the parents before and restored on certain conditions. Community Services told us the family had agreed to move to another location and enter a drug rehabilitation program. We continued to monitor the case, including how Community Services was checking on the safety and wellbeing of the children in the new location. We were concerned that the children were still at risk and escalated our concerns to the district director. As a result, Community Services identified that one of the parents was breaching the agreed undertakings and the children were at risk of significant harm. Community Services subsequently removed the children and commenced care proceedings.

### 53 How information obtained by the office can lead to positive policy changes

We received a police complaint alleging police officers and joint investigation response team (JIRT) staff had not pursued allegations of sexual abuse made against a man who was caring for children in a kin placement. Despite a number of disclosures by the children, Community Services had not taken adequate steps to protect them. In another matter, we were alerted to child protection concerns through our child death review work. In this case, a child had died and significant child protection concerns were raised about the child's siblings.

However, there is still no overarching framework to deliver services to this group. In its absence, service delivery will continue to be piecemeal and young people will continue to be lost in the system.

## Homeless children and young people

Shortly after we published our second report on the Keep Them Safe reforms, FACS approved a policy for meeting the needs of unaccompanied children living in homelessness services. This is an overdue initiative given that the agency started this work in 2004 and subsequently released several versions of a draft policy that were not endorsed. We have stressed the importance of a clear finalised policy position in a number of reports to FACS since then.

The new policy outlines the roles and responsibilities of Community Services and specialist homelessness services to assist unaccompanied homeless children. It requires the development of local protocols between other service providers. It will be important to consider how these new arrangements are implemented and how well they are integrated with other initiatives aimed at improving the response to at-risk young people.

## Educational neglect

For more than five years, our work has identified the strong link between educational neglect and other child protection risks. Although schools have an important role in identifying and reporting cases of habitual non-attendance, we have argued that the risks in this area will only be properly addressed through a more complete understanding of the role that various agencies and the non-government sector should play.

DEC have improved their collection and reporting of data on school attendance and suspensions. In 2013, the department responded to our work by launching a pilot to test new collaborative early interventions with students at risk of educational neglect. Community Services has been doing separate but similar pilot work on ROSH reports involving educational neglect.

## Reducing the criminalisation of children and young people

Legal Aid approached us earlier this year concerned that children living in residential OOHC and specialist homelessness services may be more likely than other young people to receive a criminal record for relatively minor offences.

They raised issues including:

- the need for group homes to effectively manage and de-escalate conflict between residents, as well as between residents and workers to avoid police intervention
- the absence of clear guidelines for workers about the circumstances in which police should be called to premises
- the inconsistent use by police of the diversionary provisions available under the Young Offenders Act.

There is a high level of support among stakeholders for developing a statewide protocol to address these issues. This could build on the good work already being done by a group of service providers, Community Services staff and police commands in Western Sydney – including developing a protocol governing how police and residential

We referred both cases to Community Services to undertake an investigation into the child protection concerns for both families. Community Services responded to these cases by implementing a number of practice improvement initiatives, including training for staff based on research about common errors in child protection practice and the impact of neglect, and a greater emphasis on interagency cooperation and information sharing. Community Services JIRT Operations also made changes, including improving collaboration between local Community Service Centres (CSCs) and JIRT in sibling group matters. The referral for investigation of these matters also triggered a review by Community Services into arrangements governing their communication with our office. We will continue to work with Community Services to ensure that matters we raise with them are pursued in a timely and appropriate manner.

### 54 Providing information about foster carers

In 2009, an eight year old girl and her younger sister were placed with husband and wife foster carers authorised by a non-government agency. It was a short-term placement and case management of the children remained with Community Services. At the time, there were a number of reports on the Community Services' data base from a few years earlier in relation to the male foster carer. These reports indicated that a

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step-daughter of the foster carer had disclosed that her father had attempted to sexually assault her. These reports had not been investigated due to 'competing priorities'. Community Services did not advise the non-government agency of any concerns about the male foster carer and did not take any other action to address the risks. The children were only removed when the male foster carer was the subject of further allegations of sexual assault involving another young girl.

### 55 Seeking information as part of carer assessments

In late 2012, a husband and wife were authorised as foster carers with an experienced non-government agency. If the agency had contacted Community Services for information, they would have found out that the NSWPF and Community Services had previously investigated allegations that the husband had sexually assaulted one of his step-daughters and had punched another step-daughter in the face. In mid to late 2013, the agency was advised of the allegations and began to investigate them. They have now changed their practices, and their probity checks include seeking information from Community Services.



services manage young people who are absent without permission and an agreement to take a 'case management' approach to dealing with certain challenging behaviour.

We are working with Legal Aid and a stakeholder working group to find solutions to a range of challenges and develop a consultation draft of the protocol. We have also asked for feedback from the relevant peak bodies – ACWA, YFoundations, Youth Action and AbSec. We are aiming to hold a roundtable forum later this year to finalise the protocol and the process for implementing and evaluating it.

## Responding to historical allegations

We have raised concerns with Community Services since 2010 about their failure to consistently identify whether there may be current risks to any child or a 'class of children' when considering historical reports of child abuse made by victims who are now adults. This is particularly important when the alleged offender is engaged in child-related work or has direct contact with children in some other capacity.

The guide to help people decide whether to notify a child to Community Services – the Mandatory Reporter Guide (MRG), and Community Services' Helpline Tool – used by Community Services staff in assessing whether reports meet the ROSH threshold – did not provide any guidance on this issue. The MRG and Helpline Tool now include definitions and guidance in relation to responding to historical allegations and risks to a 'class of children' in accordance with our advice.

We also highlighted our concerns about Community Services' delay in developing an adequate interagency protocol for managing child protection risks involving registered child sex offenders – see page 102 – Working with Aboriginal Communities for further details.

## Managing and sharing information

Agencies working with children need to be able to access and share information that relates to children's safety. In the past, there were legislative hurdles to providing information, but since October 2009, agencies in NSW have been able to share information that relates to the 'safety, welfare and well-being' of children.

We have seen a range of improvements in the way in which agencies manage and share information. However, there are areas of practice and policy that need to be improved. Our office has recently undertaken a project that highlights a number of these areas. As the lead child protection agency, Community Services holds significant information that relates to risks to children. That is why much of the project work has involved examining how Community Services manages, assesses and shares information related to risks to children. Some of the particular areas we are focusing on are discussed below.

### Screening carers

We have been concerned for some time about variable standards of probity screening for foster carers, including the information foster care agencies obtain to inform this assessment. This year, we have continued to work with the Children's Guardian on legislative proposals to develop a robust and consistent policy framework for carer screening and the implementation of a carers register. The register will provide agencies with information about a potential carer's previous care history and guide agencies through the carer assessment process. In future, carer applicants will not be able to be authorised unless they pass the required checks in the carers register.

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### 56 Considering all relevant information

In 2011, Community Services assessed and approved two foster carers who were partners. Over five months, eight children were placed with the carers. Each placement was terminated prematurely, with the last remaining child asking to leave. Two months later, that child disclosed sexual abuse by one of the carers. A review of information on the Community Services' database showed that the foster carer had been investigated for sexual abuse of a much younger child while he was a teenager and had been identified as a person causing harm, although no criminal charges were laid. It appears this information had not been adequately considered as part of the foster carer assessment.

### 57 Promoting systemic change

We received a notification containing disturbing allegations about a foster carer's conduct towards a child in her care. This led us to scrutinise the agency's practice in assessing the suitability of the placement. During formal inquiries, we found that the agency had no clear processes in place for documenting placement suitability and related decisions. The agency has now reviewed its current practices and policies and we are monitoring their compliance.

We also highlighted unsuitable placement decisions in our Royal Commission submission dealing with preventing sexual abuse of children in out-of-home care.



## Advising police about criminal allegations

Since 2009, we have raised concerns about matters where Community Services had not reported criminal child abuse allegations to police. In response to a matter we recently raised with them about a teacher alleged to have sent a sexually explicit text message to a child, Community Services has now acknowledged that their policies for reporting these allegations to police are inadequate. They have told us they are developing improved policies and procedures to guide frontline staff on when and how to refer matters to police. We are pleased that Community Services has made this commitment and believe it is essential that practice in this critical area improves as soon as possible.

## Advising other agencies about serious allegations

Community Services has recently acknowledged the need to improve policy and procedural guidance to their staff on advising other agencies about serious allegations made against their foster carers. We are aware of a number of matters where there have been failings in this area. Case studies 54-56 are examples of the risks posed by not acting quickly and effectively.

## Legislative reforms

In March this year, the NSW Parliament passed changes to child protection legislation aimed at reducing the number of children entering statutory care and increasing permanent placements for those who do enter care. One of the changes is an order of preference for placement that starts with family preservation or restoration. It is followed by guardianship by a 'relative, kin or other suitable person', open adoption and, finally, allocation of parental responsibility to the Minister and placement in foster care. The reforms also include a new power to require parents to participate in programs or treatment to reduce the risk of significant harm to a child, and changes to existing voluntary parental responsibility contracts, including their extension to expectant parents.

## Prenatal reporting

For a number of years, we have identified and reported on concerns about child protection responses to prenatal reports. Since we began this work:

- legislation has been introduced providing for the making of risk of harm reports in relation to unborn children
- Community Services has established a related policy for dealing with prenatal reports
- NSW Health has strengthened its policy and practice relating to women using drugs in pregnancy, and
- both agencies implemented a statewide birth alert system linked to prenatal reporting.

This year we have started examining prenatal reporting and birth alert systems. This is timely, as the new legislation involves an increased focus on early intervention with families, including expectant parents.

## Sharing information between states

Alleged perpetrators can move easily between states. This means any weaknesses in the system for exchanging information between jurisdictions can pose significant risks to children.

In our 2012 report *Responding To Child Sexual Assault in Aboriginal Communities*, we noted that these problems include Community Services relying on the Protocol for the Transfer of Care and Protection Orders and Proceedings and Interstate Assistance (the protocol) to obtain information from other states. The protocol provides for (among other things), 'information sharing' between state child protection authorities. However, the provisions in the protocol related to information sharing only refer to relevant child protection agencies providing their interstate counterparts with information that they 'hold'.

There are a number of problems with this. Firstly, consistent with the protocol, Community Services has taken the view that they should not make a request to their counterpart in another state unless they are exercising their own legislative responsibilities. This requires them to first form an opinion that the relevant issue has already met, or may meet, the ROSH threshold. Secondly, in some cases the critical information being sought is not actually 'held' by the statutory child protection authority but by police, health departments and other agencies. Some interstate child protection authorities also believe that they do not have the legal authority to request critical information from a third party agency within their jurisdiction when the information is not requested for the purpose of protecting a child from within their own state.

When we were finalising our 2012 report, we were advised by the Department of Premier and Cabinet (DPC) that, as part of the work plan to implement the *National Framework for Protecting Australia's Children*, the Commonwealth, in partnership with the states, is 'investigating the need for changes to legislation, most likely Commonwealth legislation, to extend the national protocol for sharing information on children at risk'.

We indicated our support for urgent legislative change to guarantee that any future national protocol for interstate exchange of information is able to both facilitate and promote cross-border information exchange, particularly when children's safety is at risk. We recommended that the NSW Government work with their counterparts and the federal government on legislative and policy changes that would address these issues. The NSW Government accepted our recommendation and the DPC is in the process of preparing a comprehensive update about progress made in implementing this (and other) recommendations from our 2012 report.

## Employment-related child protection

Our employment-related child protection jurisdiction involves overseeing the handling of 'reportable' allegations against employees. Reportable allegations include:

- sexual offences and sexual misconduct
- physical assault
- neglect and ill-treatment
- behaviour causing psychological harm to a child.

We oversee how agencies investigate and respond to these allegations. We also scrutinise the systems they have for preventing this type of conduct and responding to allegations against their employees.

The heads of all government and some non-government agencies – including non-government schools, approved children's services providing substitute residential care and out of school hours (OOSH) services – are required to notify us of any reportable allegations or convictions involving their employees within 30 days of becoming aware of them.

The scheme remains a unique jurisdiction because of the oversight it brings to both government and non-government organisations in their handling of child protection concerns and the conduct of their employees and volunteers.

The Solicitor General recently clarified the reach of our jurisdiction and advised the Ombudsman that agencies providing substitute residential care included all organisations that provide camps. The Solicitor General advised that '[O]n its face the notion of "substitute residential care" in the care of children would appear to extend to any arrangement where an organisation has the care and control of children of a kind that would otherwise be provided by parents or caregivers, were a child in his or her place of residence.' In addition, the Solicitor General advised that '[W]hether or not an agency provides such care will depend on a comparison of the attributes of the care provided with the attributes of a residence.' This advice has greatly increased the number of agencies and individuals deemed to fall within our employment-related jurisdiction.

## Handling notifications

This year we received 1,189 notifications of reportable allegations and finalised 972.

Fig. 50: Formal notifications received and finalised

Matter	09/10	10/11	11/12	12/13	13/14
Received	1,366	804	1,157	995	1,189
Finalised	1,442	1,251	931	929	972

When we receive a notification, we assess the level of scrutiny required and whether the agency needs our help. We consider:

- the seriousness of the allegation
- the vulnerability of the alleged victim and other children
- our knowledge of the agency's systems
- the complexity of the case.

When we monitor an individual matter, we may offer advice about developing an investigation plan and provide guidance about the investigation process. Often concerns about individual matters are indicators of broader system shortcomings. Case study 57 provides an example of our approach in regularly pursuing broader system change. Figure 51 shows a breakdown of notifications received by agency.

Fig. 51: Formal notifications received by agency – a two year comparison

Agency	12/13	13/14
Approved children's service	72	76
Ageing, Disability and Home Care	11	8
Community Services	226	276
Corrective Services	5	3
Education and Communities	311	330
Health	16	6
Juvenile Justice	27	24
Sport and Recreation	0	2
Family Day Care	14	13
NJ agency (Part 3A)	1	4
Non-government school – Catholic	56	63
Non-government school – Independent	56	97
OOSH	8	11
Other health service	1	0
Other public authority	14	21
Other public authority – Local government	6	0
Substitute residential care	171	255
<b>Total</b>	<b>995</b>	<b>1,189</b>

Figure 53 outlines the action we took on formal child protection notifications that were finalised. Most of these notifications were ultimately satisfactorily handled, although some required intervention from us before we were satisfied that they could be finalised. The types of action we took included requesting additional information (111 matters), asking the agency to make further inquiries (25 matters) and formally requesting the agency to review their findings (19 matters). In many cases, we identified problems with the way an agency handled an investigation and provided feedback and made suggestions for handling similar matters better in the future.

Fig. 52: What the notifications were about – breakdown by allegation

Issue	No.	%
Ill-treatment	75	6
Misconduct – may involve reportable conduct	56	5
Neglect	224	19
Outside our jurisdiction	50	4
Physical assault	354	30
Psychological harm	21	2
Sexual misconduct	326	27
Sexual offence	83	7
<b>Total</b>	<b>1,189</b>	<b>100</b>

Nearly a third of the notifications we received involved allegations of physical assault and almost another third involved alleged sexual offences or sexual misconduct. Figure 54 breaks down notifications by the sex of the offender.

When we identify significant systemic issues arising from a notification, we may decide to audit the agency's systems, start a direct investigation or talk to those involved. We also tell agencies when we see particularly good investigative practice.

**Fig. 53: Action taken on formal child protection notifications finalised in 2013-2014**

Action	No.	%
Agency investigation monitored	347	36
Outside our jurisdiction	46	5
Agency investigation oversighted	579	59
<b>Total</b>	<b>972</b>	<b>100</b>

**Fig. 54: What the notifications were about – breakdown by sex of the alleged offender**

Issue	Female	Male	Unknown	Total
Ill-treatment	42	16	3	61
Neglect	125	54	0	179
Physical assault	211	126	1	338
Psychological harm	16	9	0	25
Sexual misconduct	57	194	3	254
Sexual offence	3	63	1	67
Outside our jurisdiction	21	26	1	48
<b>Total notifications closed</b>	<b>475</b>	<b>488</b>	<b>9</b>	<b>972</b>

## 58 Working with police

In 2009 and 2010 we received notifications alleging that in the late 1970s and 1980s a teacher had supplied illicit substances to two students and then sexually assaulted them. Similar allegations were made in 1999 but police were unable to obtain enough evidence to prosecute and the teacher continued to work in the classroom. Police investigating the 2009 and 2010 matters faced similar problems, and in early 2011 their investigation had stalled. However at around the same time, another alleged victim came forward with information dating from the same historical period. We then informed the local area commander involved about both the historical and the more recent notifications, together with details of possible witnesses. Police re-opened their investigation and in early 2012, the teacher was arrested and charged with administering an intoxicating substance to commit an indictable offence, indecent assault, and supplying a prohibited drug. In April 2014, he was found guilty on a number of the charges and is now serving a custodial sentence.

## 59 Information, intelligence and exchange

In early 2014, a school notified us that a volunteer had allegedly engaged in inappropriate behaviour towards students. The school reported this to police. The man told police that he also did volunteer work with a religious organisation but said that he had no contact with children in that role. However, we identified that the religious organisation provided services to children and established that the man had extensive contact with children through his work for that organisation. We ensured information about these matters was

## Case studies

exchanged between police and the organisations employing him. We also found out the man had previously been investigated by police in relation to other sexual allegations. We provided information about this matter to the Children's Guardian. We are also examining systemic issues in relation to probity checking of the volunteer by the religious organisation.

## 60 Notifying the OCG of concerns about a foster carer

A foster care couple resigned from their OOHC agency over disputes about their care of children. They indicated that they intended to transfer to another OOHC agency. At around that time, a child formerly in the couple's care disclosed that the male carer had been sexually abusing him. Because the man was no longer an 'employee', the disclosure was not notified to us under our employment-related child protection jurisdiction. However, we became aware of the disclosure through a complaint.

Using our own-motion powers, we identified that the child's disclosures had been investigated. We also learnt that the man had been the subject of another investigation into child sexual assault, several years earlier. The disclosures by the unrelated victims were very similar. The OOHC agency had not identified the earlier matter during the carer assessment process because their review of records had been inadequate. Because neither investigation resulted in criminal charges, key agencies would not be aware of these matters – so we acted to provide appropriate advice.

## Responding to inquiries and complaints

This year we received 701 inquiry calls – a 33% increase on the number we received last year. Most inquiries were from agencies asking for advice about our jurisdiction; how to assess or respond appropriately to risk; and how to manage investigations. The highest proportion of inquiries from a single sector came from child care centres (23%). However, notifications from this sector make up less than 5% of the matters we monitor. We also received a number of inquiries that were related in some way to the Royal Commission.

In addition, we received inquiries from employees who were the subject of allegations and from alleged victims and their families. Employees most commonly asked questions about procedural fairness. In the past year we have worked on improving the quality of our advice to complainants and other stakeholders and the support we provide to our inquiries staff. This is particularly important in view of the complex issues arising from some of our inquiries. See case studies 63 and 64.

## Complaints about the Working with Children Check

During the year we received a total of 47 inquiries and complaints from 36 people about the administration of the WWCC – a relatively low number given that the Office of the Children's Guardian (OCG) has processed around 500,000 applications since the new WWCC function started in June last year. In addition to liaising with the OCG about individual complaints, we recently provided feedback about the most common issues raised by complainants. These include the length of time taken to process applications, the language used in correspondence sent to some applicants, and the availability of information given to applicants by the OCG about how to make a complaint.

We will continue to provide feedback to the OCG to help them refine their WWCC business practices and general complaint-handling policies and procedures.

## Changing the way we work

A number of factors have led to recent changes to how we do our employment-related child protection work:

- A steady increase in notifications – up by more than 20% in the last year alone – has caused us to focus on cases where we can make the most significant contributions, either by improving children's circumstances or child protection systems generally. At the same time, our commitment to continually improving the rigour and sophistication of our practices has meant we have shifted our resources to focus on gathering and using information more effectively.
- Exempting less serious allegations from having to be notified to us means most of the notifications we receive involve serious, complex and high-risk circumstances. In fact, many of the cases we now oversight warrant our immediate intervention. Matters involving serious criminal allegations make up a significant proportion of our work. For example, at the end of June 2014, we were monitoring 111 notifications about people who had been charged with criminal offences relating to children.

- In June 2013, we were required to start a new legislative function related to the new WWCC. Under this function, the information we supply to the OCG about individuals who may pose a risk to children triggers formal risk assessment by the OCG of that person's suitability to work with children. In the first year of this function, we have helped to identify individuals of concern whose histories would not have been scrutinised under the WWCC processes if not for the information we have supplied.

These changes have made us strengthen our initial response to incoming inquiries and notifications and focus more resources on either directly liaising with parties – including employers, police, Community Services and the OCG – or facilitating liaison between them.

We have established a serious reportable conduct unit, dedicating our most experienced staff to the highest-risk notifications. An intelligence group within the unit compiles comprehensive profiles on individuals who may pose a risk to children, and provides risk-related information to other authorities with child protection responsibilities. This group has established a robust intelligence system and associated processes. Accessing a range of external information databases gives us a unique ability to inform interagency responses to children at risk.

We have continued to build on our strong collaborative relationship with the NSW Police Force, and our shared commitment to ensuring child sex offenders are identified and prosecuted. We have continued working with Community Services to make sure that they make appropriate referrals of criminal allegations to the NSWPF. We also work closely with employers who have not recognised their responsibility to refer matters to the police, guiding them through this process and ensuring that their workplace response to matters does not compromise any police investigation. Increasingly, we fulfil this critical role at an early stage of our oversight of matters – because of the imperative to act promptly when children are at risk. Case study 58 provides an example of this work.

Our intelligence group has referred detailed analyses of information we collect to police for consideration of a criminal brief, resulting in police investigations and criminal charges. Due to the ongoing nature of criminal processes, we cannot report on particular matters we have referred to police in the past year, but case study 58 is a good example of this process.

## Information exchange and the new Working With Children Check

Over the past year, an increasingly important part of our work has been facilitating information exchange between agencies. Case study 59 is an example of this. We also exchange information as part of our new WWCC responsibilities.

We can make a 'Notification of Concern' to the OCG about a person who may, on assessment by the OCG, pose a risk to the safety of children. Like a 'finding of misconduct' notified by a reporting body, a notification of concern triggers an evaluation of an individual's eligibility for child-related work. This may result in either a clearance to work with children or a bar against doing so.



## Royal Commission into Institutional Responses to Child Sexual Abuse

The federal Royal Commission into Institutional Responses to Child Sexual Abuse (the Commission) was established in January 2013. As the independent body in NSW responsible for overseeing the handling of workplace child abuse allegations (reportable conduct) and the delivery of child protection services, we hold critical information about a range of systemic issues and individual matters being examined by the Commission. Our three-year audit of the implementation of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities* also identified, and made recommendations about, a number of weaknesses in the systems for responding to child sexual abuse that are relevant to the Commission's consideration of victim support.

We have already provided a significant amount of information to the Commission since it started. Last year, at the request of the Commission, we provided an outline of our reportable conduct function and a confidential submission about significant systemic issues, which included related case studies.

Throughout the year we have:

- provided the Commission with trend data about allegations of child sexual abuse and investigation outcomes across various institutions and sectors
- given advice and data to a number of research bodies assisting the Commission
- provided information at the request of the Commission to directly inform particular hearings
- given evidence at the Commission's public hearing into the handling by the Salvation Army (Eastern Territory) of claims of child sexual abuse between 1993 and 2014
- responded to referrals from the Commission of complaints about the handling of historical and recent child sexual abuse allegations.

This year, we have made comprehensive submissions to the Commission in response to its issues papers about:

- the Working With Children Check
- the Catholic Church's 'Towards Healing' policy
- 'child safe' institutions, and
- preventing the sexual abuse of children in out-of-home care (OOHC).

The Commission also invited the Deputy Ombudsman/Community and Disability Services Commissioner to participate in their roundtable on preventing the sexual abuse of children in OOHC and in a meeting with other stakeholders to discuss providing information to victims.

We recently provided our sixth submission to the Commission highlighting the benefits of the reportable conduct scheme in NSW, and the unique role we play in identifying child protection risks, including informing and prompting criminal investigations and facilitating information exchange and collaborative practice between agencies. All of our submissions are available on our website.

Up until a similar scheme was introduced in Victoria, NSW was the only state with a comprehensive reportable conduct oversight scheme. In light of their new responsibility, we have had several discussions with the Victorian Department of Human Services and the Commission for Children and Young People about the operation of the NSW scheme and the lessons we have learned.

The Royal Commission has started discussions about the merits of national consistency in relation to child protection. We have spoken to the NSW OCG and the Victorian Children's Commissioner about the benefits of our agencies meeting on a regular basis – together with other key stakeholder agencies in NSW and representatives from other jurisdictions – to discuss key issues and practice challenges relating to child sexual abuse in an institutional setting.

This year there was a 20% increase in the number of employment-related child protection notifications we received from agencies. We believe this increase is a by-product, at least in part, of the greater awareness of child sexual abuse generated by the Commission. The considerable increase in notifications, together with the extent of information and advice we have provided to the Commission, has had a significant impact on our resources. We anticipate that the Commission will continue to need our assistance and information about a range of matters throughout its duration. We are committed to ensuring that we continue to support the work of the Commission while also maintaining a high standard in carrying out our own child protection functions.

To enable us to meet this commitment, we have recently requested that the NSW Government provide additional funding.



Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* also allows us to provide information to the OCG if the information relates to the safety, welfare or wellbeing of a child or class of children. We use this provision when we hold information about an individual that, when taken together with any other relevant holdings about the individual, may be cause for the OCG to conduct a risk assessment. Since the start of the new WWCC, we have made 24 notifications of concern and have released relevant information to the OCG on a further 161 occasions. See case studies 60 and 61.

The OCG may also ask us for information to inform their assessment of whether a person poses a risk to the safety of children. In the past year, we have provided detailed briefings to the OCG on our information holdings about 55 individuals.

## Strengthening child protection capacity

### Out-of-home care

Before 2012-2013, the rate of reportable conduct notifications from the non-government OOHC sector was consistently higher than that from Community Services. Since 2012, when OOHC services began transferring from Community Services to non-government providers, the rate of notifications from the sector has been decreasing. Although there are now more children in the non-government OOHC

sector than in the care of Community Services, the rate of notifications has dropped from 51 notifications per 1,000 children in 2011-2012 to 30 per 1,000 children, in 2013-2014. It is important to ensure non-government OOHC providers have the capacity to prevent, identify and investigate child abuse allegations. This decrease in notification rates is concerning. We will continue to monitor notification rates and will actively engage with the sector through training and education, targeted audits and regular liaison. A forum for newly accredited agencies was held in August 2014.

### Independent schools

In 2011, we began working with the Association of Independent Schools, the Christian Schools Association and Christian Education National to promote a consistent approach to child protection and identify new ways to ensure they and their member schools fulfil their child protection responsibilities. Together, these associations support more than 400 independent schools across NSW.

This year, we started audits of the independent school sector to review their systems for preventing and responding to child abuse allegations. These audits have involved surveys of schools, school visits and a review of investigation files and child protection policies. The audits are continuing, but we have seen improvements in how independent schools manage child protection issues.

## Case studies

### 61 Getting vital information to the OCG

A designated agency alerted us to information they had uncovered through a review of old files. A man engaged by the agency some time ago had been investigated by police for indecent assaults on young boys in the agency's care. The agency's records indicated that the boys' parents had chosen not to pursue criminal action after the agency ensured that they would never again engage the man to work with children. The agency contacted us because they had heard that the man was working in schools. We confirmed that he was doing so, without a WWCC. We also had significant information relating to the man's reportable conduct history. We compiled a brief of our holdings on the man and provided it to the OCG.

### 62 Using intelligence to facilitate information exchange

We received a notification about historical allegations of sexual abuse by a religious leader. His denomination could not pursue the allegations because the victim was anonymous. However, we became aware of historical allegations police were aware of, but apparently church leaders did not know about. This matter involved a police investigation into allegations that the man possessed child pornography. We made

sure that police and religious authorities exchanged information to enable the latter to investigate these allegations and to conduct a risk assessment. The man was subsequently blocked from all child-related ministry.

### 63 Acting promptly to address immediate risks

We received information through our inquiries line that indicated inappropriate sexualised behaviour between a child and carer. The child had no reported history of this type of behaviour. The carer's employer had accepted his claim that he bore no responsibility for the sexualised behaviours. In reviewing the matter, we had significant concerns that the child may be at risk of sexual harm. We referred the matter to police and the man was charged with a child sexual offence.

### 64 Responding to complex inquiries

A school contacted us to ask about how to notify us of a reportable allegation. A student had disclosed that a teacher had indecently assaulted her several times. The school had arranged to interview the teacher the same day. We advised the school to cancel the interview and take no other action until they had received clearance from Community Services or police, as interviewing the teacher could compromise any criminal investigation of the allegations. We talked to the school throughout the day to ensure they had complied with our advice. They did – and two days later, police interviewed the child and arrested and charged the teacher.

## Out of school hours care

The out of school hours care (OOSH) sector came under the jurisdiction of the NSW Ombudsman in January 2012. We have found that this sector has a limited understanding of their responsibilities in relation to employment-related child protection.

In 2013 we convened a roundtable discussion with large OOSH providers, DEC and the OOSH peak to discuss strategies for improving the child protection knowledge and capability of the sector. Roundtable participants agreed to form a working group to draft model child protection policies – including a code of conduct – for the OOSH sector. This work has been completed and roundtable participants met recently to develop a communication strategy to ensure the model policy and code are adopted and used.

## Providing information for employers

In January 2014 we reviewed our child protection factsheets and practice updates to reflect the new *Child Protection (Working with Children) Act 2012* and changes to the role of the OCG. The factsheets now provide up-to-date and accessible information for employers on their child protection responsibilities.

In addition to providing training, we provide briefings to relevant forums on employment-related child protection issues. For example, this year we spoke to attendees at the NSW Family Day Care 2013 professional networking and development forum and briefed OOHC staff of Settlement Services International about preventing and managing reportable conduct.

During the year we identified that agencies do not always understand whether or not they need to notify us when they become aware of allegations of reportable conduct that happened in the past. To help improve practice in this area, we developed a factsheet for agencies. This factsheet, which is available on our website, highlights the need for agencies to report historical allegations if the person who is alleged to have committed the abuse is currently employed in child-related employment – even if they have moved to another organisation. It also reminds agencies of their obligations to report relevant matters to police and Community Services, even if they are not required to notify us. We will distribute the factsheet to agencies and will continue to promote awareness of this issue.

## Reviewing the deaths of children

### Supporting the NSW Child Death Review Team

The NSW Child Death Review Team (CDRT) reviews and reports on the deaths of all children in NSW, with the aim of preventing and reducing the likelihood of child deaths. Since 2011, the Ombudsman has been responsible for supporting the work of the CDRT.

In October 2013, we tabled the CDRT's *Annual Report 2012*, which reported on the deaths of 493 children in NSW in 2012. In addition to examining the circumstances of these

children and why they died, the report included a review of the deaths of 25 children in off-road vehicle fatalities over a 10-year period.

The report included 12 recommendations to agencies to reduce sudden unexpected death in infancy (SUDI), and deaths caused by off-road vehicle fatalities, drowning in private swimming pools, and suicide.

This year, the work of the CDRT also included:

- obtaining expert advice from the Australian Institute of Health and Welfare on identifying and reporting Aboriginal and Torres Strait Islander status
- developing a CDRT strategic plan to guide its work in 2013-2016
- developing an integrated death register that enables accurate and timely extraction of data and other information to help analyse trends and patterns
- tabling a report to Parliament in April 2014 on the analysis of the causes of death of children with a child protection history in 2002-2011.

The CDRT reports can be accessed on our website.

## Reviewable child deaths

Under CS-CRAMA, the Ombudsman reviews the deaths of children who die as a result of abuse or neglect or in suspicious circumstances, and children who were in care or detention when they died. We monitor and review the deaths of these children and recommend strategies to help reduce or remove associated risk factors.

We are currently preparing our biennial report to Parliament on reviewable child deaths. The report covers the deaths of 41 children in 2012 and 2013, and includes:

- 9 children who died as a result of abuse or in circumstances suspicious of abuse
- 18 children who died as a result of neglect or in circumstances suspicious of neglect
- 14 children who died while in care.

We have been monitoring the progress of agencies in implementing the recommendations in our *Report of Reviewable Deaths in 2010 and 2011* (March 2013). The report included two recommendations to NSW Health, aimed at:

- Improving the recognition in mental health services of the support needs of their patients who are parents, and the possible impact of parental mental health concerns on children.
- Facilitating an internal review and practice improvements in relation to children who have died or been seriously injured in suspicious circumstances within one year of receiving care or treatment from a NSW public health facility.

We will detail progress in meeting these recommendations in our next biennial report, expected to be tabled in Parliament in late 2014.

Our reviewable child deaths reports are available on our website.

# People with disability

Under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA), the NSW Ombudsman's functions in relation to people with disability include:

- handling and investigating complaints about disability services
- inquiring into major issues affecting people with disability
- reviewing the care, circumstances and deaths of people with disability in care
- monitoring, reviewing and setting standards for the delivery of disability services
- coordinating the official community visitors (OCVs) in their visits to supported accommodation and assisted boarding houses.

This chapter details the key work of our office in relation to these functions during the past year. For more information about our work with OCVs, please see page 80.

## Handling and investigating complaints

We have a range of responsibilities in relation to complaints involving disability services, including investigating complaints, reviewing the causes and patterns of complaints, and providing information and training to improve complaint-handling practices.

CS-CRAMA also has a strong focus on resolving complaints locally and informally. An important part of our work involves assisting people with disability and service providers to work together to resolve issues at an early stage. Over the past year, we have worked to make it easier for people with disability to make a complaint and achieve effective resolution of their concerns.

This year, we received 380 complaints about disability services – a 25% increase on last year (305). Most of the increase was in formal complaints – while the number of informal complaints marginally increased (172 to 176), the number of formal complaints increased by 53% (133 to 204). We finalised 152 formal complaints about disability services, an increase of 21% compared with last year (126).

**Fig. 55: Outcomes of formal complaints finalised about agencies providing disability services**

Outcome	No.
Complaints resolved after inquiries, including local resolution by the agency concerned	91
Complaints declined after inquiries	25
Complaints declined at outset	27
Referred to agency concerned or other body for investigation	1
Service improvement comments or suggestions to agency	6
Complaints outside jurisdiction	2
Direct investigation	0
<b>Total</b>	<b>152</b>

**Fig. 56: Formal and informal matters received about agencies providing disability services**

Agency category	Formal	Informal	Total
<b>Community Services</b>			
Disability accommodation services	1	1	2
Disability support services	0	2	2
<b>Subtotal</b>	<b>1</b>	<b>3</b>	<b>4</b>
<b>ADHC</b>			
Disability accommodation services	40	28	68
Disability support services	28	32	60
<b>Subtotal</b>	<b>68</b>	<b>60</b>	<b>128</b>
<b>Other government agencies</b>			
Disability accommodation services	1	5	6
Disability support services	17	10	27
<b>Subtotal</b>	<b>18</b>	<b>15</b>	<b>33</b>
<b>Non-government funded or licensed services</b>			
Disability accommodation services	66	47	113
Disability support services	49	36	85
<b>Subtotal</b>	<b>115</b>	<b>83</b>	<b>198</b>
<b>General inquiries</b>			
Disability support services	0	3	3
Other (general inquiries)	0	2	2
Agency unknown	1	9	10
Outside jurisdiction	1	1	2
<b>Subtotal</b>	<b>2</b>	<b>15</b>	<b>17</b>
<b>Total</b>	<b>204</b>	<b>176</b>	<b>380</b>

The following information outlines the key aspects of our complaints-related work with people with disability this year. For more information about our training for the disability sector, see page 111.

## Complaints about disability accommodation services

Almost half (189) of the 380 complaints we received were about disability accommodation providers – that is, accommodation operated, funded, or licensed by Ageing, Disability and Home Care (ADHC). The main issues reported in these complaints related to allegations of abuse in care, and individual needs of people with disability in care, such as:

- inadequate assessments of an individual's support needs and risks to inform accommodation placement decisions
- not providing sufficient groceries or support to meet meal preparation and nutrition needs
- restricting the access of family and friends to visit people with disability in supported accommodation placements
- inadequate access to the community.

Case studies 65, 66, and 67 are examples of some of the complaints we have handled about disability accommodation services this year.

## Complaints about disability support services

Disability support services are ADHC-operated and funded services that provide community-based support for people with disability. They include Home and Community Care (HACC) services, community participation and day programs, respite care, case management services and drop-in accommodation support.

This year, we received 177 complaints about disability support services. The main concerns reported were a failure to meet individual needs, such as the adequacy of support to meet the health care needs, and concerns about customer service – including inadequate communication with people with disability and their families about decisions, not responding to complaints and rudeness.

Case study 68 provides an example of the complaints about disability support services that we handled this year.

## Key areas of focus

### Improving complaint-handling for people with disability

We completed a review of our complaints processes and practices to identify ways to maximise the involvement of people with disability in complaints about their services and supports at all stages of the process. We are now implementing strategies to increase our direct engagement with people with disability in complaints, and exploring how alternative dispute resolution practices can be best employed to achieve improved outcomes for these complainants.

We are encouraging agencies to improve their own approach to managing complaints. Case study 69 provides an example of how we were able to encourage an agency to make their own processes more accessible, and how an independent advocate can support a complainant.

Our experience in supporting people with disability to make complaints and actively participate in the resolution process has informed a number of office-wide projects to improve complaint-handling practices more broadly, including:

- contributing to the development of the national Complaint -Handling Standards (see page 64 for more information)
- developing good conduct and administrative practice guidelines
- preparing resources to help government agencies improve the access of people with disability to complaint-handling processes (see page 108 for more information).

## Identifying and responding to serious incidents

### Complaints about serious incidents

Complaints to our office in the past year have emphasised the importance of establishing a comprehensive and sector-wide approach to identifying, preventing and effectively responding to abuse, neglect and exploitation of people with disability in NSW.

Of the 204 formal complaints received this year, just over 20% (43) concerned allegations of serious incidents involving people with disability in supported accommodation or accessing disability support, including allegations of staff-to-resident and resident-to-resident physical and sexual assault.

## 65 Improving support to meet individual needs

A person with a physical disability living in supported accommodation complained to us that staff were not taking adequate steps to ensure her safety and privacy. She was concerned that another resident had entered her room on several occasions against her wishes. The complainant also told us that staff did not respond in a timely way to her requests for help with personal care.

We referred the complaint to the accommodation service to resolve directly with the complainant, and suggested that she be put in touch with an advocate. We also asked the service to provide advice to us about providing clinical support to the other resident, and any training for staff in behaviour support.

The service and the complainant agreed on the frequency and timing of support to meet her daily care needs. The service also introduced a range of practical strategies to be more responsive to the complainant's individual needs, improve communication and enhance the quality of care. This included staff regularly checking with her during the day to see if she needed support.

They also put in place appropriate clinical supports for the other resident, and arranged additional behaviour support training for staff.

## Case studies

### 66 Living everyday lives

An OCV complained to us that staff at an assisted boarding house were giving the residents their evening meals and evening medication in the afternoon to suit staff rostering, and were preventing residents from independently accessing food by locking the fridge outside of set mealtimes. The OCV made the complaint to us after trying unsuccessfully to resolve the issues directly with the proprietor.

We referred the complaint to ADHC, and they conducted a full service review of the boarding house to assess current care and compliance with requirements. This review confirmed the OCV's complaint issues and identified other breaches of the legislation.

ADHC prepared an action plan detailing the changes the proprietor of the boarding house would need to make to comply with the required standards. We will continue to monitor progress in implementing these changes.



The matters involve concerns about the adequacy of actions by services to prevent a serious incident occurring, respond appropriately immediately after an incident has occurred, and improve practices to prevent a similar incident occurring in the future.

Overall, complaints this year have highlighted key issues across the disability sector in preventing and responding to serious incidents, including the critical need to:

- ensure that accommodation placement decisions and transition planning are sound and informed by comprehensive information about individuals
- develop a workplace culture that actively promotes and supports the prevention of violence and abuse
- make sure that staff are able to recognise abuse and other serious incidents in order to provide an appropriate and effective response
- ensure the immediate and ongoing safety and welfare of individuals, and access to timely medical assistance
- improve staff practice in reporting serious incidents

- monitor and review compliance with key policies – including those relating to rights, complaints, abuse and neglect, and behaviour support.

We have also identified the need for clearer guidance across the sector to ensure that services have a sound understanding of the investigative process and their role, appropriate steps are taken to find out the capacity of individuals to make informed decisions about sexual relationships, and that support is provided to people with disability to maximise their capacity to provide a statement and give evidence.

Against the background of these complaints involving allegations of abuse and neglect, and noting the complexity of the issues involved, we have taken steps this year to establish a best practice working group – with key stakeholders from ADHC, the NSW Police Force, National Disability Services (NDS), clinical experts and advocacy organisations – to develop a rigorous, sector-wide approach to serious incidents. The expertise and advice of this group will help to inform our work in overseeing allegations of reportable incidents under the *Disability Inclusion Act 2014*.

## Case studies

### 67 Referral for investigation

We received complaints from numerous sources about the care and support provided to residents living in a non-government support accommodation service. The complaints included allegations of physical abuse, use of restricted and prohibited practices, and improper management of residents' funds.

The service's response to our inquiries raised concerns about their procedures and practices for the safety and care of clients, so we referred the issues to ADHC for investigation. As part of their review, ADHC examined the accommodation service's policies, procedures, and provision of support. The review substantiated the complaint allegations, and identified a range of issues – such as the availability of clinical support for residents, and the adequacy of staff training, record keeping, and the service's policies and procedures. ADHC worked with the service to develop an action plan to address each area of concern.

We have provided feedback on the action plan, and continue to monitor its implementation.

### 68 Facilitating better communication

We received a complaint from the family of a woman with an intellectual disability about unexplained bruising that she had acquired at her community participation program. The family told us that this had been a regular occurrence over a three-month period.

The family said that the service had not told them about any incidents that would explain the bruising, and they believed the injuries may have been caused by another person with disability at the service. We were advised that the family was so upset at the lack of response that they did not want to meet with the service to resolve the issues.

We worked separately with the service and the family to reach an agreement for the service to apologise to the family. The family accepted the apology, and agreed to meet with the service to resolve the complaint. At this point, we referred the matter to the service to resolve directly with the woman and her family. As a result of the complaint, the parties agreed that the service would increase its supervision and inform the family of any further incidents. They also took steps to improve their broader communication, including providing daily handover and shift reports to the group home.

We provided additional feedback to the service about amending their incident reporting policy to provide more detailed advice to staff about how to communicate with families after incidents.

### 69 Supporting service users to make a complaint

We received a complaint from a man with an intellectual disability and mental illness living in a supported accommodation service. The man told us that he had complained to the service about a number of matters – including that staff did not receive adequate training, residents were not given the opportunity to provide feedback, and he was not being involved in day-to-day decisions about his support arrangements. The service had not responded to his concerns.

We contacted the accommodation service and were told that an advocate was supporting the complainant to address his concerns. We referred the complaint to the service to resolve directly with the complainant and his advocate. We asked the service to tell us how they planned to address the issues and provide specific advice about its complaint-handling policy.

The service held several meetings with the man to resolve his complaint and he is satisfied with the actions that have now been taken. He told us that resident meetings are occurring on a regular basis, and he is happy with his new key worker who has been trained in mental health support.



## Reporting and overseeing the handling of serious incidents

After a comprehensive review of the *Disability Services Act 1993*, the NSW Government introduced the Disability Inclusion Bill to Parliament in May 2014. Included a new role for the Ombudsman in overseeing allegations of reportable incidents in disability support accommodation in NSW.

These 'reportable' incidents include:

- alleged staff to resident sexual offences and misconduct, assault, fraud, ill-treatment and neglect.
- alleged resident-to-resident incidents involving assault that is a sexual offence, causes serious injury, involves the use of a weapon, or is part of a pattern of abuse.
- a contravention of an apprehended violence order (AVO) taken out to protect a person with disability in disability supported accommodation.
- serious unexplained injuries sustained by a resident in disability supported accommodation.

The requirement to report these incidents would also apply to supported group accommodation providers in the National Disability Insurance Scheme (NDIS) Hunter site who are paid using funds from an NDIS participant's support plan.

This will be the first such scheme to be established in Australia, and is of significant interest to other jurisdictions, particularly in light of the development of a national safeguards framework.

## Improving sector practice in handling serious incidents

To assist service providers to understand how to respond to serious incidents of abuse and neglect, we are continuing to provide training on handling serious incidents in the disability sector. This training provides practical advice to help service providers deal with some of the more complex challenges associated with handling serious incidents, including allegations that may involve a criminal element. For more information about our training in the disability sector, see page 111.

As a result of the complaint, the service made changes to their complaint-handling policy and developed a plain English complaint form. We also made suggestions to the service about implementing strategies to help residents to understand their rights, including what to expect when making a complaint and how to ask for support with this if they need it.

### 70 Transition planning and placement practices

An OCV made a complaint to us about the quality of transition planning and other work to support a person with disability moving into a group home. The OCV was concerned that the person would be at substantial risk in the group home due to the nature of their disability, and the challenging behaviours and violence demonstrated by other residents in the house.

In response to our inquiries, the service said that they would undertake work to minimise the risks. This included:

- developing lifestyle plans with each of the residents
- providing clear guidance on individual risks and the support required to manage them
- implementing comprehensive behaviour management strategies
- obtaining expert advice on person-centred activities.

We monitored the service's actions and subsequently received advice that the number of incidents in the house had dropped significantly. Staff had also developed a better understanding of residents' behaviours and how best to support them.

### 71 Meeting individual needs and providing a safe home environment

We received a complaint about the circumstances of a young woman with an intellectual disability, mental illness and behavioural issues living in supported accommodation, and the effect of her behaviour on the other residents.

## Case studies

The complainant told us that there had been frequent assaults between residents, and the support provided by the accommodation service was not meeting the young woman's complex needs. We were also told that other residents had complained that they did not feel safe. The complainant alleged that the model of support that had been funded by ADHC was inadequate to meet the young woman's high support needs.

We asked ADHC for information about the transition planning at the time the young woman moved into the service, including any risk assessments and safeguards the service had put in place to support and protect all of the residents.

Following the complaint, ADHC funded additional staff to enable the service to provide extra support to the young woman at home and in the community. They also approved home modifications to create a more private space for the young woman, as a lack of privacy had been identified as a contributing factor to her anxiety and behaviour. These modifications also improved the safety and freedom of movement of the other residents.

The service also made changes to better support the young woman to work towards achieving her goal of independent living, and to increase her ability to participate in the community.

We are monitoring the service's progress in resolving the complaint issues. The information they have provided so far indicates a reduction in the number of assaults, and continuing work to improve the consistency of support arrangements and provide a safer home environment for all of the residents.

## Safeguards and the NDIS

The launch of the National Disability Insurance Scheme (NDIS) in key sites across Australia on 1 July 2013 marked the beginning of a dramatic shift in disability service delivery. This affects people with disability and their families, service providers and governments.

As part of a formal agreement between the NSW and Commonwealth governments, the existing range of safeguards for people with disability in NSW continues to apply in the Hunter NDIS launch site, including the role and functions of the NSW Ombudsman. In the past year, the respective Ministers have also agreed that, for the purposes of CS-CRAMA in the Hunter launch site, a service provider is 'a person or organisation who provides supports to a NSW NDIS launch participant where that person or organisation is authorised or funded as part of a participant's plan'.

This definition of a 'service provider' extends the Ombudsman's jurisdiction to include mainstream services and supports when they are purchased as part of a participant's plan, such as a gym membership or gardening services. This broadened jurisdiction provides an important protection while new service delivery arrangements and supports are being developed and tested by participants, and new support providers are entering the market.

### Our work in relation to the NDIS in NSW

In the past year, we have been promoting our complaint-handling role to participants, service providers and advocacy organisations in the Hunter launch site. We have developed an information sheet that will be distributed to participants by NDIS planners, and more broadly disseminated via service providers, advocacy organisations and other channels. We are updating our website to include an NDIS information page, and are continuing to regularly attend conferences, public and stakeholder information sessions and other meetings in Sydney and the Hunter to explain our role in the implementation of the NDIS, and to build our understanding of the issues people with disability, services providers and Department of Family and Community Services (FACS) are facing during the transition to the full scheme.

Complaints and liaison with the disability sector have highlighted the complex nature of transition, including issues relating to:

- the role and responsibilities of FACS in preparing and supporting clients to move across to the NDIS
- the role of planners and assessors when working with participants
- the appropriateness or adequacy of a participant's supports compared to their support arrangements before transition to the NDIS
- the impact of an individualised funding approach on previously block-funded services, and
- the interface between the NDIS and other service systems.

This year, we have been working with the National Disability Insurance Agency (NDIA) in the Hunter to develop appropriate business processes to facilitate information-sharing about key matters, and to establish a cooperative approach to resolving any issues. We have also met with

FACS staff in relation to their priorities and processes for transitioning clients to the NDIS; and agencies involved with NDIS participants in the Hunter, including National Disability Services (NDS), the Mental Health Coordinating Council, and representatives of disability service providers, community mental health services and advocacy bodies.

We have also been liaising with other complaint-handling bodies, including the Commonwealth Ombudsman, Fair Trading NSW and the NSW Health Care Complaints Commission, to ensure we develop consistent approaches to referring NDIS-related complaints between agencies, and to share information, where appropriate, about emerging issues.

While the confirmation of our jurisdiction over service providers in the Hunter is an important safeguard for NDIS participants, our monitoring and inquiry functions also enable us to examine and report, where appropriate, on broader systemic issues associated with the transition to the NDIS. In this regard, we have started scoping work to:

- effectively monitor the effect of transition to the NDIS in the Hunter on people receiving, or eligible to receive, community services, and
- examine how community service providers are responding to the changed business environment under the NDIS and ensuring they are providing high quality, person-centred services to meet the needs of people with disability.

To ensure that we are best placed to identify and respond to emerging issues, we commissioned PricewaterhouseCoopers to undertake a review of our current disability work program and organisational structure in the context of the disability reforms, including the implementation of the NDIS, and the new disability legislation and associated disability reportable incidents scheme.

### Developing a national safeguards framework

We are continuing to contribute to the development of a national safeguards framework through liaison and collaboration with other Disability Complaints Commissioners, and engagement with state and federal government representatives and other key stakeholders, including NDS.

In conjunction with the other Disability Complaints Commissioners, we are advocating for the adoption of certain key functions as the minimum requirements of a national framework. These are outlined in our *Safeguards and the NDIS* document, which is available on our website. These functions include a body to provide independent oversight of the NDIS and the disability sector; safeguards to prevent and respond to abuse, neglect and exploitation of people with disability; a community visitors program; a public guardian or advocate; and a disability advisory council to represent people with disability.

The powers of the NSW Ombudsman in relation to disability services are the most comprehensive available to any disability oversight body in Australia, and will be strengthened by the new serious incident reporting function. We will continue to work to ensure that a national framework builds on the best elements of the current safeguarding arrangements, and does not dilute any of the available protections and safeguards available to people with disability in NSW.

## Strengthening community services legislation

In May 2014, the NSW Parliament supported important changes to CS-CRAMA to enable the Ombudsman to:

- publicly report on, and make recommendations about, any systemic issues relating to the provision of community services by service providers as he thinks fit, and
- more effectively undertake research to prevent or reduce the likelihood of the deaths of children and people with disability in care, through provisions to:
  - work in partnership with others on research or other projects to find ways to reduce or remove risk factors associated with preventable deaths, and
  - provide information to others, where appropriate, to facilitate such research.

Submissions by the disability sector and the Ombudsman to the statutory review of the CS-CRAMA in 2008 emphasised the need to amend the legislation to give greater scope to our office to report publicly on systemic issues arising from a review or an inquiry. The changes to CS-CRAMA make it easier for us to ensure that the public is informed about critical issues affecting the delivery of community services.

## The devolution of large residential centres

In 2010, the NSW Ombudsman submitted a special report to Parliament on people with disability and the closure of residential centres. The report emphasised the need for significant action to be taken to close the residential centres to ensure that people with disability are able to exercise their rights and entitlements, including the opportunity to live full lives and to reach their potential. The report directed key recommendations to ADHC, including requiring the agency to report to us annually on its actions to:

- progress the closure of the remaining residential centres, and
- ensure that people with disability living in the residential centres, their families and other representatives have meaningful and direct involvement in the planning for the closure of those centres.

We are continuing to monitor the agency's progress in implementing our recommendations.

In February 2014 we convened a roundtable meeting on the closure of the Stockton Centre. The roundtable meeting brought together representatives from FACS and the NDIA, as well as representatives from the non-government sector, including NDS. The meeting also included academic experts with relevant research experience in the closure of residential centres, and members of the NSW Disability Network Forum.

At the meeting, participants agreed on the need to establish a Community Living Consultation Group, made up of representatives from key agencies, academia and advocacy bodies. The group held its inaugural meeting in May 2014, and will focus on the promotion of person-centred approaches and meaningful engagement of residents in decision-making associated with devolution processes, particularly residents with complex communication needs.

We provide some secretariat assistance to the Community Living Consultation Group, and attend the meetings as an observer.

## Improving accommodation and support for people with psychiatric disability

In November 2012, we tabled a special report to Parliament on *Denial of rights: the need to improve accommodation and support for people with psychiatric disability*. The report followed our inquiry into the access of people with psychiatric disability in mental health facilities to disability services and support under the Disability Services Act. Importantly, our inquiry found that many people are staying in mental health facilities beyond the point at which they need to be there, due largely to a lack of appropriate accommodation and support in the community. The report made 14 recommendations to FACS and Health to improve access to appropriate accommodation for people with psychiatric disability.

We are continuing to monitor the actions of the agencies to implement our recommendations. As part of our inquiry, we reviewed the circumstances of 95 people with psychiatric disability in 11 mental health facilities across NSW. The joint FACS and Health response in March 2014 indicated that just over half (54) of the 95 people in our inquiry had moved to more suitable accommodation, and a further 18 people were in the process of moving. While we welcome this advice, we are keen to see further progress towards addressing the critical issues in our report, and improving the circumstances of the broader population of people with psychiatric disability.

This year, we have met with representatives of the disability and mental health sectors to ascertain the progress and practical impact of FACS and Health's work, and to identify any current or continuing issues. In coming months, and in the context of the NSW Mental Health Commission's Strategic Plan for Mental Health in NSW, we will meet with FACS, Health and the Mental Health Commission to discuss current and planned work to address the issues in our report and improve outcomes for people with psychiatric disability.

## Preventing deaths of people with disability in care

Under CS-CRAMA, we are responsible for reviewing the deaths of people with disability who lived in residential care provided or funded under the Disability Services Act or in assisted boarding houses. In our reviews, we focus on identifying procedural, practice and systems issues that may contribute to deaths or that may affect the safety and wellbeing of people with disability in care. Our aim is to recommend relevant changes or new strategies that may ultimately help to prevent these deaths.

## Biennial report on our reviews of deaths

We are currently preparing our biennial report on the 239 deaths of people with disability in care that occurred in 2012 and 2013, including the deaths of:

- 121 people who resided in ADHC accommodation
- 104 people in non-government accommodation, and
- 14 people in assisted boarding houses.

We have been monitoring the progress of agencies in implementing the recommendations in our *Report of Reviewable Deaths in 2010 and 2011* (May 2013). The report included 18 recommendations directed to the Department of Family and Community Services: Ageing, Disability and Home Care, NSW Health and the Department of Education and Communities, aimed at improving the health outcomes of people with disability in care and reducing preventable deaths. These included the need to:

- improve the quality of support for people with disability in accommodation services, and guidance for staff in identifying and managing health risks
- review the use of antipsychotic medication for people with disability in care
- improve support in the community for people with disability and chronic illnesses
- provide comprehensive support to people with disability in their contact with health services
- improve access to mainstream health services and programs, including preventative health programs, and
- enhance support for people with mental illness residing in assisted boarding houses.

We will detail agency progress in meeting the recommendations in our next biennial report, expected to be tabled in Parliament in late 2014.

## Improving health outcomes for people with disability

Our reviews have identified critical factors that continue to stop people with disability accessing appropriate health care, and adversely affect their health outcomes. In particular, we have consistently reported the need for:

- improved coordination of health care and support, including a collaborative and person-centred approach to supporting people with disability in their contact with health services (in hospital and the community), and
- appropriate access to community-based health care and programs, such as chronic disease management and preventative health programs.

Against the background of our consistent findings, and in the context of the current disability and health reforms that are placing an increased focus on ensuring that mainstream services are accessible to, and able to meet the needs of, people with disability, this year we:

- met individually with Health, ADHC, NDS, GP NSW, the NSW Medicare Local Alliance, and other stakeholders to discuss the findings from our reviews and the progress of the reforms, and
- convened a roundtable meeting with key agency, disability and health representatives to discuss what needs to be put in place to enable people with disability to access appropriate health supports ahead of the full NDIS roll out in July 2018.

The roundtable meeting provided a valuable opportunity to hear about current work that is underway to prepare for the broader roll out of the NDIS, and to improve access to mainstream services. However, some roundtable participants (and others in the disability sector) were

concerned about the health-related services and supports for people with disability currently funded by ADHC that are not expected to continue under the NDIS. Examples include ADHC's community-based Clinical Nurse Specialists; the physical disability health clinic at Westmead Hospital, and the existing health clinics in the remaining ADHC residential centres.

Improving the capacity of mainstream health services to effectively meet the needs of people with disability is critical to improving their health outcomes and reducing preventable deaths. Over the next year, this issue will be a major area of focus for our office. We will reconvene the disability health roundtable meeting in late 2014 to discuss progress and leading areas of work.

## Facilitating research to reduce preventable deaths of people with disability

As noted earlier, amendments to CS-CRAMA allow us to more effectively undertake research to prevent or reduce the likelihood of the deaths of people with disability in care. We can now provide relevant data and other information to individuals or organisations to facilitate research that is aimed at reducing reviewable deaths, if we consider it appropriate to do so. The changes also make it easier for us to work in partnership with others on research or other projects to find ways to reduce or remove risk factors associated with preventable deaths.

In relation to research relevant to reducing preventable deaths of people with disability, this year we have:

- commenced involvement as a partner in a National Health and Medical Research Council Partnership Project on improving the mental health of people with intellectual disability, led by the University of NSW, and
- had discussions with the University of Newcastle about its prospective National Health and Medical Research Council project on dysphagia and mealtime safety for people with disability in the community.

## Strengthening our analysis and reporting on reviewable disability deaths

A major area of focus over the past year has been the development of an integrated, reliable and sustainable death register that provides for efficient extraction of meaningful data for prevention purposes. The new data system brings together the data and other information from our child deaths and reviewable deaths functions. Following extensive development and user testing, the integrated death register commenced operation in August 2014.



# Working with Aboriginal communities



This section of the report outlines our work with Aboriginal communities to tackle major issues that affect the health and wellbeing of Aboriginal people. This often involves focusing on areas such as child protection, policing, out-of-home care, and disability services. We handle direct inquiries and complaints from communities, often during visits and meetings. We also review the efficiency and effectiveness of service delivery to some of the most disadvantaged locations in NSW, and recommend ways government and service providers can work with communities on reforms to deliver real improvements.

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## Highlights

- **Appointed a Deputy Ombudsman to monitor and assess designated Aboriginal programs (see page 101)**
- **Progressed priority issues identified through our audit of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities* (see page 101)**
- **Continued to focus on the place-based service delivery strategy in high-need communities in Western NSW (see page 102)**
- **Audited Barrier Local Area Command's implementation of the NSW Police Force's revised *Aboriginal Strategic Direction* (see page 104)**

## Stakeholder engagement

Our Aboriginal Unit has developed strong and positive relationships with Aboriginal communities, leaders, and organisations – and supports the work of agencies to improve service delivery to Aboriginal people. We travel to communities to help them address a range of concerns about service provision. We maintain ongoing contact with Aboriginal leaders to ensure we can work proactively to address systemic issues and priorities.

During the year we:

- Attended the Education Centre Against Violence (ECAV) graduation ceremony for students who completed the Certificate IV in Aboriginal Family Violence and the Advanced Diploma in Aboriginal Specialist Trauma Counselling.
- Provided feedback and advice to the Office of the Director of Public Prosecutions (ODPP) relating to their recruitment strategies for Aboriginal Witness Assistance Service Officers.
- Facilitated a meeting with Aboriginal leaders and government representatives to discuss an Aboriginal education and employment project being developed in Balranald.
- Attended the Heads of Asbestos Coordination Committee Working Group meeting to discuss working with Aboriginal communities to promote the safe management of asbestos.



### New Deputy Ombudsman – Danny Lester

Danny started his career working in frontline positions within Commonwealth and NSW government departments.

He moved into the non-government sector, working with both the Aboriginal Employment Strategy (AES) and the Australian Employment Covenant. His most recent position

before being appointed as Deputy Ombudsman was as Chief Executive Officer of the AES, a position he commenced in August 2009.

Danny's focus has been on improving the educational outcomes, employment opportunities and economic sustainability available for Aboriginal people.

His experience and understanding of the issues facing communities was reflected in his inclusion on the Aboriginal Ministerial Taskforce in 2011. The recommendations of the taskforce were the basis for the NSW Government's plan for Aboriginal Affairs, *Opportunity, Choice, Healing, Responsibility, Empowerment* (OCHRE).

Danny has served on the board of the Sydney Local Health District, has been a member of the TAFE NSW Advisory Council, and was a member of the advisory council for the Centre for Social Impact.

Danny holds a Bachelor of Adult Education from the University of Technology, majoring in Aboriginal Studies and Community Education. He was also awarded a Diploma in Business in 2009 by University of New England.

# Working with Aboriginal communities

## Raising awareness of our work

During 2013-2014 we received a number of invitations to talk about our work with Aboriginal communities. We shared the findings in our report about responding to child sexual assault in Aboriginal communities at several conferences – including the joint investigation response teams (JIRT) managers conference, the conference of the Australia New Zealand Association for the Treatment of Sexual Abuse, the AbSec conference, the Australasian Conference on Child Abuse and Neglect; and the ODPP's annual training and development conference. We also discussed our audit findings with ECAV's Aboriginal Communities Matter Advisory Group and the NSW Police Force Aboriginal Strategic Advisory Council (PASAC).

We delivered presentations about the broad role of our office and our work with Aboriginal communities, including to:

- the NSW Aboriginal Legal Service conference
- the Home Assistance and Community Care conference
- the metro cultural care planning forum
- the Metro Youth Services Forum
- students from the Eora College
- members of the AbSec board of directors
- attendees at a Strong Aboriginal Women program facilitated by ECAV.

This year we met with Aboriginal community members, leaders and other stakeholders in Nyngan, Bourke, Wilcannia, Toomelah, Dubbo, Werris Creek, Taree, Broken Hill, Menindee, Newcastle, Wilcannia, Moree, Kempsey, Brewarrina, Cowra, Lismore and Tabulam.

We have consulted community members, service providers, and peak bodies on a range of issues related to our jurisdiction, including: the Aboriginal Education Consultative Group, the Aboriginal Disability Network, the Aboriginal Employment Strategy, the Secretariat of National Aboriginal and Islander Child Care, the Aboriginal Child, Family & Community Care State Secretariat (AbSec), and the NSW Aboriginal Land Council.

We had an information stall at the NSW Aboriginal Rugby League Knock-out carnival for the fourth year in a row.

We were also invited by the Gurruma Women's Group from the Quirindi/Walhallow community to attend a debutante ball for disadvantaged young local girls, and proud to be presented with a painting in appreciation for the support we have provided to the group.

## Responding to complaints and improving services

### Handling complaints

We receive inquiries and complaints from Aboriginal people about a broad range of issues. We receive many of these complaints during or after visits to local communities, juvenile justice and correctional centres, as well as our regular liaison with Aboriginal organisations and peak bodies. The relationships we have built, together with our reputation for getting practical results, are vital to people's

willingness to approach us and have led to a strong awareness of our role in Aboriginal communities. Case studies 72 to 76 illustrate some of the complaints we handled during the year.

Aboriginal people, particularly those who are young, continue to be significantly over-represented in the criminal justice system – and this is directly related to the broader social and economic disadvantage faced by many Aboriginal communities. To ensure Aboriginal young people have the opportunity to talk to an Aboriginal staff member, staff from our Aboriginal Unit join staff from the Custodial Services Unit on their regular visits to juvenile justice centres (see page 56 – custodial services). This year our Aboriginal staff took part in 10 visits.

## Key areas of focus

### New Deputy Ombudsman to monitor Aboriginal programs

In December 2013, the NSW Government announced their intention to introduce legislation to enable the appointment of a Deputy Ombudsman to independently monitor and assess designated Aboriginal programs. This new function is aimed at providing better transparency and accountability for the provision of services to Aboriginal communities and the outcomes they achieve. It will complement and build on the work we have been doing for many years in this area.

When the Minister for Aboriginal Affairs introduced the Ombudsman Amendment (Aboriginal Programs) Bill 2014 into Parliament, he recognised that the decision to incorporate the oversight function into our office was influenced by our excellent reputation among Aboriginal people in NSW. The Bill was passed in May 2014 and our new responsibility under Part 3B of the Ombudsman Act to monitor and assess certain Aboriginal programs took effect on 1 July 2014. The first program to be prescribed under the Act is OCHRE – including Connected Communities, Local Decision Making, Opportunity Hubs and Aboriginal Language and Culture Nests.

As part of our preparation for the new function we consulted several key stakeholders involved in implementing OCHRE. We also began developing a framework for monitoring and assessing the delivery of the plan. Following an extensive recruitment process, Mr Danny Lester was selected to be the first Deputy Ombudsman (Aboriginal Programs). He started in the position on 7 October 2014. Some additional information about Mr Lester's background is included on page 100.

### Improving service delivery to Aboriginal communities

This year we shifted our focus towards monitoring the implementation of the recommendations from our three-year audit of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*. We have been working with agencies to consolidate progress in a number of priority areas, and preparing for our new function to monitor and assess designated Aboriginal programs.

## Responding to child sexual assault in Aboriginal communities

In last year's annual report we noted the findings of our audit of the Interagency Plan, and the initial response by government to our recommendations. In December 2013, the government formally responded to our final report, confirming their initial acceptance of 91 of the 93 recommendations and committing to work in partnership with a number of individual communities to design and implement a response to the underlying problems that give rise to child sexual abuse and under-reporting. We were advised that actions in relation to nine recommendations had already been completed, and work had started to implement a further six.

We have asked the Department of Premier and Cabinet for more information about the specific actions that have been completed and are planned in response to our recommendations, and have been advised that a comprehensive implementation plan is being progressed. The government is also due to publicly report on their progress by January 2015, and we anticipate that this report will provide more detailed information about what is being done.

While we are yet to be provided with full details of the government's actions to date, we are aware of progress in a number of critical areas, including:

- Improved guidance for mandatory reporters about the circumstances in which they are required to report children who present with sexually transmitted infections.
- Better exchange of information between the JIRT and the ODPP to assist the ODPP to engage more quickly with victims.
- The announcement of two additional New Street services – the principal program in NSW for providing treatment to young people who sexually abuse other children – as well as the start of a statewide analysis of demand for the service.
- Action taken by JIRT partners has led to:
  - significantly increased arrest rates in relation to child sexual assault offences as a result of an additional 30 police officers being appointed to the Child Abuse Squad
  - enhanced accountability across individual squads
  - a review being undertaken of the adequacy of FACS' JIRT staffing and supervisory structures
  - the implementation of a cross-agency database to improve data collection and performance monitoring across the JIRT partnership.

Through our continued emphasis on the need to improve interagency cooperation in responding to risks posed to children by registered child sex offenders, FACS – as the lead agency – has now acknowledged the unacceptable delay in completing guidance for frontline staff from Corrective Services, the NSW Police Force (NSWPF) and Community Services about their respective roles and responsibilities, and has proposed legislative amendments to enhance the role of child protection workers in this area.

In August 2013 we drew on the findings from our audit, as well as our earlier review of the *Child Protection (Offenders Registration) Act 2000* in 2003 in providing a submission to the statutory review of that Act. Our submission stressed the need to consider the most appropriate mechanisms for

responding to young people who sexually abuse others, and addressing current challenges for police in administering the child protection register.

In November 2013, we were also asked to participate in a background briefing by a Joint Parliamentary Select Committee appointed to inquire into and report on sentencing options for perpetrators of child sexual assault. We provided a formal submission to the committee in March this year. We stressed the need for the committee to consider the possibility that a mandatory minimum sentencing scheme for offenders could have the unintended effect of deterring defendants from pleading guilty, resulting in a decrease in the number of child sexual assault convictions. Convictions in child sexual assault matters often rely on a guilty plea by the offender, which is sometimes secured as a result of charge negotiation. Our submission also emphasised the need to consider a therapeutic response for children and young people who sexually offend against other children and young people; and the importance of effectively managing sex offenders living in the community.

A strong theme in our final audit report – as well as a number of our earlier reports on service delivery to Aboriginal communities – was the need to improve governance and accountability in the area of Aboriginal affairs. As we reported last year, OCHRE – the government's new plan for Aboriginal affairs – has a strong focus on accountability, and it included a commitment by the government to develop a model for independent oversight of Aboriginal programs.

## Preventing child sexual assault

The Got Ya Back Midiga program is a unique child sexual assault prevention and awareness program that was developed in consultation with the Aboriginal elders in the Mt Druitt community. We highlighted the impact of the program in our 2013 interagency plan audit report.

After we became aware that the program was no longer operating due to a lack of ongoing funding – and some copyright issues – we arranged for senior representatives of the Aboriginal Education Consultative Group, the Department of Education and Communities (DEC), and the Child Abuse Squad to meet to explore how the program could be maintained.

We have recently been advised that NSW Health is now funding the development of an adapted version of the program, and will work with Aboriginal Affairs, the NSWPF, and DEC to deliver the program in schools.

## Supporting place-based service delivery

We have repeatedly stressed the importance of implementing effective place-based models of service planning, funding and delivery in high-need communities around NSW, many of which have large Aboriginal populations. In responding to the final report of our audit of the Interagency Plan, the government advised us that they are committed to working with Aboriginal leaders to design, develop and implement place-based service delivery reforms in Aboriginal communities.

Connected Communities – the strategy within OCHRE that makes schools local service delivery hubs in 10 communities – provides an excellent opportunity to pursue these reforms and target a range of priority areas identified

in our report. These areas include investing in education, building economic capacity, strengthening community development and facilitating the equal participation of Aboriginal leaders in decision making. We will be closely examining the success of Connected Communities in implementing the principles of place-based service delivery in practical and effective ways.

### **Improving service delivery in Bourke – monitoring progress**

We have continued to support work being led by the Aboriginal community working party (CWP) to improve service provision in Bourke. Last year we reported that, after a delay in agencies meeting commitments made in 2012 to support the development of the Bourke CWP's Maranguka proposal, Aboriginal Affairs (AA) had funded a consultant to work with the CWP to document the proposal. Since then, AA has also dedicated a full-time staff member to work with the CWP to further refine the proposal. The local police have also allowed local Aboriginal Sergeant Mick Williams – one of the leaders behind the development of Maranguka – to devote his time to community development work for 12 months. These agency commitments are commendable.

In 2013, Bourke was also selected as one of the sites for the Just Reinvest campaign – which is seeking to reduce the number of Aboriginal people caught up in the criminal justice system. Through Just Reinvest, the Bourke CWP has been able to attract support from several philanthropic and business organisations to help them deliver on the Maranguka vision and the development of a community 'report card'. It is important the work being done by government agencies to improve service delivery in Bourke is being carried out in collaboration with the work of Just Reinvest. In May this year, we helped the CWP facilitate a community meeting involving representatives from government and non-government agencies, as well as the philanthropic and business sectors.

The meeting also provided an opportunity for the CWP to outline their Maranguka proposal – which among other things – proposes establishing a community-driven, multi-disciplinary team to work alongside government and non-government agencies in Bourke to provide practical assistance to vulnerable children and families. Several government agency representatives indicated their support for the Maranguka initiative and a commitment to the principles of local decision making. Since May, we have facilitated several discussions between agencies such as FACS and NSW Kids and Families (NSW Health), to look at options for delivering a family referral service to Bourke which builds in the service connector and family support components of Maranguka.

While we are encouraged by the support from several government agencies and the business and philanthropic sectors for Maranguka, there is a risk the landscape will become even more complex without strong governance arrangements. These will help provide an effective, ongoing and sustainable framework for making and implementing critical decisions as 'one collective group'. Broader governance arrangements are required to build an effective partnership between federal, state and local government stakeholders; and key non-government organisations and community leaders.

Bourke is the site for two Connected Communities schools and government efforts to implement local decision making through their support of Maranguka. This means we will continue to focus on the community as part of our OCHRE monitoring and assessment role. We believe that if government, working in real partnership with the community, the NGO and private sectors, can 'get it right' in Bourke, they have a real chance of doing so in other high need Aboriginal communities across the state.

## **72 Helping a family find suitable housing**

An Aboriginal family with two young children were living in a one bedroom apartment. The father and one of the children had health problems, and the parents had concerns for their children's safety following an incident where a neighbour was threatened with a firearm. The family had been on Housing NSW's priority transfer list for almost a year. Following our inquiries with the agency, the family secured tenancy of a three bedroom townhouse in their preferred area.

## **73 Assisting a family to claim funeral expenses**

The family of an Aboriginal man with intellectual disability had arranged a funeral fund for him several years ago. Following the man's death, the family contacted the NSW Trustee and Guardian, who were managing his finances, to access the funds for the funeral. They were told that the funeral policy had been cancelled some months previously, so the Trustee and Guardian offered to pay for half of the funeral. After we made inquiries with the Trustee and Guardian, they acknowledged that the funeral policy had been

## **Case studies**

cancelled without consultation with the family. They reviewed their decision and agreed to compensate the family for the full cost of the funeral.

## **74 Accessing financial support**

An Aboriginal woman had been caring for two of her grandchildren for four years under an informal arrangement. During this period, she had not received regular financial support from Community Services. After final court orders were made for the children to live with her, the woman made an unsuccessful application to receive a supported care allowance. She complained to us that she did not understand why her application had not been approved. Following our inquiries with Community Services, they agreed that the court orders amounted to a significant change in circumstances, and that the woman could resubmit an application. She has since been reassessed and is now receiving the allowance.



## Working with police to implement the Aboriginal Strategic Direction

Last year we reported that we had provided feedback to the NSWPF about its new *Aboriginal Strategic Direction* (ASD). This year we audited the implementation of the ASD in Barrier Local Area Command, which includes Broken Hill, Dareton, Wilcannia and Menindee in Western NSW. When we issued our draft audit report in February, a new commander had recently started in Barrier. In responding, he commented that: 'The review is very thorough and presents in my view as an accurate assessment of the progress at the time it was undertaken. I accept the majority of the recommendations and find them realistic, relevant, achievable and a necessity not only to progress the ASD but as strategies that should be in place in any contemporary policing environment in New South Wales.'

The new Commander has acted swiftly to address a number of the issues our audit uncovered. He and his management team have implemented practical measures, particularly in relation to staffing and community engagement, that have already had a significant positive impact. In providing our final audit report to the Police Commissioner, we observed that this response shows the real difference that strong leadership by police commanders can make in improving the relationship with Aboriginal communities and the ability to work constructively with them to resolve problems.

For many years now, we have emphasised the need for police efforts in Aboriginal communities to be part of a broader whole-of-government approach to place-based service delivery. We are particularly interested in the involvement of local police in Connected Communities, which is operating in Bourke, Brewarrina, Coonamble, Menindee, Boggabilla/Toomelah, Moree, Tamworth, Taree, Walgett and Wilcannia. Our new function to monitor and assess Aboriginal programs provides an opportunity to coordinate our future audits of the ASD's implementation in local area commands with our monitoring of Connected Communities. We will be in a position to visit Barrier to obtain an update about their progress in implementing the

ASD when we next visit Wilcannia and Menindee for our monitoring function. Our monitoring of Connected Communities in Boggabilla, Toomelah and Moree will also provide an opportunity to audit the implementation of the ASD in Barwon Local Area Command.

## Diverting young offenders

For the last few years we have reported on our efforts to ensure that young Aboriginal offenders are given appropriate access to diversion programs under the *Young Offenders Act 1997*. We have been concerned by delays in implementing the outcomes agreed to by the NSWPF, Legal Aid NSW and the Aboriginal Legal Service at a roundtable we hosted in 2011. We were pleased to receive advice earlier this year from the NSWPF that they had agreed with the other partners to implement a new Protected Admissions Scheme (PAS).

Under the scheme, which replaces the previous Young Offenders Legal Referral scheme, police can now give a written assurance to the young person and their parent/guardian that any admission they make in relation to the offence for which they are eligible to be cautioned will not be used in any criminal proceedings against them. Previously, many young offenders were reluctant to make an admission on the basis of legal advice. At the moment, 60% of children in the Children's Court plead guilty and many of those end up being cautioned or sent to a youth justice conference. It is hoped that the PAS will increase the number of young people who receive cautions at the outset and reduce the number of matters coming before the Children's Court, alleviating the burden on courts, police and legal representatives.

The PAS started in April 2014 and is supported by procedural guidance and resources to assist frontline police to implement it appropriately. We have provided advice to the NSWPF about ways they could strengthen accountability for using the scheme and measure its impact. We will continue to monitor its roll out.

## Case studies

### 75 Improving communication between police and a complainant

An Aboriginal man with a profound visual impairment complained about the conduct of police when they approached him on the street for allegedly leaving a shop without paying for an item. The man explained that there had been a misunderstanding by the shop assistant, who had presumed he would pay for an item taken from the shop by another customer.

After explaining to police what had happened, the man tried to walk away but was prevented from doing so. An argument ensued, during which a police officer allegedly accused the man of intimidation and threatening behaviour. While this was happening, another officer spoke to the shop assistant and then told the man he could leave. The man complained that the first officer continued to be confrontational and aggressive and pushed his chest and throat.

The complaint was investigated and the police officer was counselled about a number of issues, including the amount of force he had used. However, police did not tell the complainant this had happened. We approached the local area commander, who then contacted the man to explain his expectations of all police officers in his command, as well as the action that was taken to counsel the individual officer involved. The man contacted us to thank us for our help. He also spoke very highly of the commander.

### 76 Developing a complaint handling policy

We identified that the Aboriginal Housing Office (AHO) did not have a policy or related procedures for handling complaints. We contacted the newly appointed acting CEO to discuss our concerns. By the time we met with her, the AHO had taken quick action to develop a draft policy, which they asked us to review. We have provided feedback on ways to strengthen the policy and have also suggested that complaint-handling training be provided to frontline staff.



## Progressing the transition of the Dhiyaan collection

Last year we reported on the role we had played in helping to support the transition of the Dhiyaan collection – one of the largest Aboriginal culture and history collections in Australia – to an independent, Aboriginal-controlled organisation. The collection was established in 1995 as part of the Moree Plains Shire Council (MPSC) Library.

In February this year, the State Library's Indigenous Services Librarian spent a week in Moree to address the Dhiyaan's collection and preservation needs. This was followed by two days of intensive training for Dhiyaan staff in April. Staff from the State Library's Indigenous Unit also visited Moree in May to meet with the MPSC and local community members. They have also worked with Dhiyaan to review the collection's policies and procedures. The MPSC has undertaken a stocktake of books held in the collection and is looking at accommodation options.

A meeting is planned in Moree later this year to allow the State Library and the MPSC to communicate progress to the local Aboriginal community and elders, and to give community members a forum to ask questions about managing the collection and have input into establishing a governance board. It is likely that there will be a 'soft-opening' of the centre later this year with a formal opening early in 2015.

## Supporting Aboriginal out-of-home care agencies

In recent years we have undertaken a range of activities to support Aboriginal out-of-home care (OOHC) agencies to meet their legislative obligations in relation to child protection and to improve the way they respond to complaints. The number of Aboriginal OOHC agencies has more than doubled during the transition of responsibility for the care of children in foster or authorised kinship care from the government to non-government sector. In the context of this rapid expansion, strengthening the overall governance and ability of Aboriginal agencies to identify and adequately respond to allegations of child abuse will remain a priority for us over coming years.

This year we have focused our efforts on supporting the important role played by AbSec (the peak body representing Aboriginal OOHC services) in building the capacity of agencies, including developing a tailored governance framework for Aboriginal OOHC agencies. Along with FACS and the OCG, we have provided feedback to AbSec to inform its work in developing the framework, and early this year, gave feedback to Cox Inall Ridgeway in relation to its evaluation of AbSec's capacity building role.

We have also raised with AbSec and the OCG, our concerns about the relatively low number of employment-related child abuse allegations notified to our office by the non-government OOHC sector, given the substantial increase in children whose OOHC arrangements are now being managed by this sector (see page 90 – children and young people).

We have visited a number of Aboriginal OOHC agencies this year to promote awareness of the reportable conduct scheme, our role and agencies' responsibilities. We also delivered four tailored employment-related child protection workshops for Aboriginal OOHC providers. As part of this training, we arranged for local police crime managers to attend the workshop to discuss how the service can work with police when handling serious allegations. In one community, we also facilitated a meeting between an Aboriginal OOHC agency and staff from the Child Abuse Squad to outline the role of the squad and provide advice to staff about handling sexual abuse disclosures by children.

## Systemic issues raised by inquiry into an Aboriginal OOHC agency

In July 2013, the CEO of an Aboriginal multiservice organisation incorporating an OOHC agency asked us to conduct an independent inquiry into several issues, including whether, and in what circumstances, staff are able to care for children in their own homes. A key issue we examined was the role of the 'Principal Officer' – the position responsible for the overall supervision of the care provided by a designated OOHC agency.

The *Children and Young Persons (Care and Protection) Act 1998* prohibits a person who is not an authorised carer from providing OOHC. Under the Act, a Principal Officer is deemed to be an authorised carer, and is exempted from the same type of probity and assessment processes as carers who are authorised by a designated OOHC agency. However, the Act reflects an assumption that on a practical level, a Principal Officer would not care for children in his or her own home, but would instead arrange for the placement of a child with a carer authorised by the agency. This assumption does not address circumstances in which an agency is unable to secure emergency carers for a child, for example, when an existing placement suddenly breaks down.

We found that the agency did not have a clear policy about whether, and in what circumstances, it may be appropriate for children to be cared for by the Principal Officer and/or other employees of the agency in their own homes. Our inquiries with Community Services revealed that this reflects the absence of sector-wide guidance addressing the issue. The inquiry also highlighted a shortage of emergency care placements in the region. We identified a lack of guidance within the agency and across the OOHC sector about the available options when an emergency placement for a child cannot be located.

We worked closely with the OCG throughout our inquiry given their OOHC accreditation and monitoring role. They indicated that a policy should be developed for the whole sector clearly outlining when agency employees are able to care for children and that this should be reflected in the OOHC accreditation standards. We felt that the policy should also outline the processes for identifying carers at short notice and the range of options available for agency workers in these situations. The OCG has since advised us of proposed legislative amendments to clarify the role of the Principal Officer and introduce stronger safeguards in relation to their provision of home-based care. The OCG will also work with other relevant agencies, including Community Services and AbSec, to develop a sector-wide policy addressing the systemic issues arising from our inquiry.

Our inquiry also identified a range of governance and training issues for the agency involved. A number of these issues also present challenges for other Aboriginal OOHC agencies and are relevant to AbSec's ongoing capacity building work with agencies.

The agency indicated that it agreed with our 13 recommendations, which included:

- reviewing their organisational policies
- developing a policy for managing emergency placements when suitable carers cannot be located
- delivering policy training for its board and staff members
- addressing concerns about regional carer shortages and the need to improve referral pathways with Community Services and other agency partners.

Several of the recommendations involve working collaboratively with the Children's Guardian, Community Services and AbSec.

The OCG is working with us to monitor the implementation of our recommendations as part of their ongoing agency visit program.

## **Improving service delivery to Aboriginal people with disability**

Since our 2010 report on improving service delivery to Aboriginal people with disability, we have actively monitored Ageing, Disability and Home Care's (ADHC) progress in implementing our recommendations. In previous years we have reported on a number of significant reforms by ADHC in response to our report, including the establishment of an Aboriginal Service Delivery Directorate (ASDD) and Aboriginal Advisory Council, the launch of the Aboriginal Cultural Inclusion Framework 2011-2015 and an increase in the number of Aboriginal employees.

Some recent positive developments include a commitment under *Ready Together* (the NSW disability plan) to establish an additional eight Aboriginal diagnosis support worker positions as part of the National Partnership Agreement on Indigenous Early Childhood Development; and the creation of more than 20 Aboriginal 'Ability Linkers' positions statewide to provide local area coordination to support Aboriginal people with a disability and their families. This year the government also provided \$1.5 million to AbSec to build the capacity of the disability sector to deliver better services to Aboriginal people.

These reforms have provided tangible results. According to ADHC's report *Aboriginal people: access to disability services in NSW 2011-2012*, the number of Aboriginal people receiving specialist disability services increased by 28.3% over the preceding three-year period.

We recognise that ADHC's approach to implementing our recommendations has needed to change in light of several significant reforms – including the localisation of FACS into 15 districts, the transfer of Home and Community Care services to the Commonwealth, and the introduction of the National Disability Insurance Scheme (see page 95 – people with disabilities). However, we have stressed the importance of ensuring that Aboriginal people's access to quality disability services continues to be prioritised despite this changing landscape – particularly in light of the unprecedented expansion of the NGO sector's role.

We understand that the ASDD has now taken on a FACS-wide role and welcome the broadening of its responsibilities. However, in light of this change, it will be important for ADHC to ensure they retain their focus on ensuring that the needs of Aboriginal people with disability are heard and included in the process of transition to individualised funding support. We welcome ADHC's advice that they are committed to continuing to engage with Aboriginal communities and other key stakeholders; and that the Aboriginal Advisory Council will be maintained. We are also pleased that *Ready Together* includes an expansion of individualised support and funding agreements that will continue to allow flexibility and choice for Aboriginal people with disability – particularly those living in rural and remote areas.

We have recently confirmed that FACS intends to expand the accountability and monitoring framework established by ADHC in response to our 2010 report across their 15 local districts. It will be important that the expanded framework incorporates all service areas falling under the responsibility of FACS. We look forward to working with FACS over the coming year as they progress this work. We will continue to liaise with ADHC, the Aboriginal Disability Network and AbSec to address impacts on the delivery of disability services to Aboriginal people and the related capacity building of the Aboriginal service sector.

# Community education and training



This section of the report outlines our community education and training work. Our experience with monitoring, overseeing and receiving complaints about a broad range of government and non-government services gives us insight into the challenges service providers can face, as well as how they can better meet their responsibilities to the community.

Our training is designed to help agencies and other service providers to improve their administrative conduct, decision making and standards of service delivery. We also provide training and awareness courses for consumers of community services, their families, carers and advocates. This helps them to have the information and strategies they need to ensure they know their rights, are receiving appropriate services, and can resolve problems when they occur.

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## Highlights

- **Delivered 219 training workshops to 4,207 people (see page 109)**
- **Released our new *Investigating misconduct in the public sector* training package (see page 110)**
- **Delivered 23 *Handling serious incidents in the disability sector* training workshops to 462 staff from one ADHC region (see page 111)**
- **Updated our consumer training package, *The Rights Stuff*, to be more directly relevant to young people (see page 112)**

## Stakeholder engagement

Designing and delivering our education and training program sees us interact with a wide range of organisations and people – including public sector agencies at the local, state and federal levels, non-government organisations, private companies that provide education and care services, community groups and other oversight bodies in Australia and overseas.

We also come into contact with many members of the public who receive services from these organisations. Our ongoing liaison with a range of stakeholders enables us to develop and provide relevant, topical and up-to-date education and training materials. Participants in our training workshops also often provide us with information about ongoing and emerging issues facing their organisations, as well as their experience of interacting with our office. We aim to ensure that, whenever appropriate, the feedback we receive is used to enhance our own systems and processes – as well as to inform our education and training program.

### Developing resources to support the National Disability Strategy

Under the *NSW Implementation Plan for the National Disability Strategy 2012-2014* (NDS Plan), we are responsible for developing and distributing resources to assist government agencies in improving access to complaint-handling for people with disability, and responding appropriately to complaints.

Complaints help government agencies to learn about barriers to accessing frontline services and how these might be removed or reduced, as well as providing insights into the quality of customer service and service provision more generally. The commitment under the NDS Plan to ensure agencies' complaint-handling processes are accessible to people with disability is consistent with the shift towards a person-centred approach to services and support.

This year we reviewed relevant literature, analysed NSW public sector agency complaints policies, attended industry forums and began consulting with public sector agencies and peak disability organisations to help us develop these resources. For information about the related work we have done to improve how our own office handles complaints from people with disability, see page 92.

# Community education and training

## Our training workshops

Our workshops provide up-to-date information about relevant legislation, policies and procedures, and rights and responsibilities. Each is designed to provide clear guidance and strategies to improve knowledge, skills and confidence. Our trainers have extensive practical experience in their relevant fields and the ability to tailor workshops to suit the needs of particular participants. All workshops are supplemented with comprehensive resources for participants.

In addition to our broad responsibility to promote good public administration, we have a statutory obligation under the *Community Services (Complaints, Reviews and Monitoring)*

*Act 1993* to provide education to service providers, clients, carers and the community about standards for the delivery of community services in NSW. We also have an obligation under the *Public Interest Disclosures Act 1994* to train public authorities, investigating authorities and public officials on reporting wrongdoing in the public sector.

This year we delivered 219 training workshops to 4,207 people (Figure 58). We delivered 148 workshops in the Sydney metropolitan region, 53 in regional locations across NSW, and 18 in other parts of Australia including Melbourne, Canberra, Perth, Adelaide and Brisbane.

Fig. 57: Training and education activities

	09/10	10/11	11/12	12/13	13/14
Training workshops	114	156	427*	194	219
Community education activities	127	140	170	118	93
<b>Total</b>	<b>241</b>	<b>296</b>	<b>597</b>	<b>312</b>	<b>312</b>

\* The significant rise in 2011-2012 training figures was due to our new responsibility that year for promoting awareness and understanding of the changes to the Public Interest Disclosures Act.

Fig. 58: Type of training workshops

Workshops	Courses held	Number of Participants
Complaint-handling and negotiation skills	72	1,489
Public interest disclosures	61	1,089
Community and disability services	44	835
Access and equity	15	339
Workplace child protection	13	243
Consumers of community services	8	109
Investigation skills	6	103
<b>Total</b>	<b>219</b>	<b>4,207</b>

## Feedback about our training

Participants consistently rate our training workshops very highly, highlighting our trainers' expertise and the relevance of the content. Of the 2,030 participants who completed evaluations of our training workshops this year:

**97%**

rated our training as excellent/good.

**98%**

strongly agreed/agreed they could implement what they had learnt at our training in their workplace.

**98%**

would recommend our training to others.

**97%**

rated our trainers as excellent/good.

### COMMENTS INCLUDED:

- *The best-informed course I've attended in 24 years!*
- *Finally, a workshop that was very easy to understand and follow, with useful information to take away and use at work.*
- *Course delivered by someone who actually works in the field, rather than just a trainer who draws on examples.*
- *Excellent content and invaluable information for any government agency.*



## Complaint-handling and negotiation skills

Our role in monitoring, overseeing and receiving complaints about the administrative conduct of public sector agencies – as well as thousands of non-government community service providers – means we are well placed to provide practical guidance about effective complaint management. We deliver a suite of complaint-handling workshops, including three that are specifically tailored to suit the community and disability services sector.

As these workshops have become more popular, demand for our 'train-the-trainer' programs has increased. This year both government and non-government agencies entered into licensing agreements with our office to enable them to train their own staff in delivering tailored complaint-handling training across their agency.

Our *Managing unreasonable complainant conduct* resources and training program continues to be internationally recognised. This year the Forum of Canadian Ombudsmen published our managing unreasonable complainant conduct practice manual and model policy on their website, and North American ombudsman associations expressed interest in our train-the-trainer programs. The Deputy Ombudsman (Public Administration) was also invited by the Global Privacy Enforcement Network to give a presentation to the Pacific network teleconference – which includes representatives from New Zealand, Australia, Macau, Korea, Canada, and Colombia.

We also entered into a partnership with the Society of Consumer Affairs Professionals Australia to offer our *Managing unreasonable complainant conduct* training to complaint handlers and customer service staff from the private sector. We have already delivered four workshops across Australia.

The updated Australian and New Zealand Standard on Complaint Handling is due to be released in 2014. We will make sure that all our workshops reflect the revised guidance in the standard. Next year our complaint management workshops will also feature the new complaint-handling framework and model complaint-handling policy we are developing. More information about the framework and policy is at page 64.

## Investigating misconduct in the public sector

It is important that an agency takes appropriate action when it receives information which suggests that an employee may have engaged in misconduct. Some cases will require investigation – and these investigations must be conducted in line with relevant legislation and policies and the principles of procedural fairness.

To assist NSW public sector agencies to investigate misconduct, we developed a new two-day workshop that explores the essential elements for responding to allegations of misconduct. The workshop provides participants with a sound understanding of the fundamental principles of conducting a misconduct investigation, as well as practical knowledge to help deal with situations as they arise.

Participants are given the opportunity to learn about the elements of a good investigation, discuss common pitfalls and risk management strategies, and examine case studies based on significant investigations and court cases.

The workshop also covers recent legislative amendments, including the key provisions of the *Government Sector Employment Act 2013*.

## Aboriginal cultural appreciation

Our *Aboriginal cultural appreciation* workshop is delivered by senior staff from our Aboriginal Unit. It is designed to give participants foundational knowledge of the history of Aboriginal and Torres Strait Islander people, and the effects of colonisation and government policies and practices. Our trainers aim to provide practical strategies for more effectively assisting Aboriginal and Torres Strait Islander people. We also offer a follow-up workshop on working with Aboriginal communities.

Our *Aboriginal cultural appreciation* training has always been extremely well-received, and demand for the workshop continues to grow. During the year we provided the training to a diverse range of public sector agencies, health providers, non-government service providers, and other oversight bodies. We also reviewed our *Aboriginal cultural appreciation* workshop training manual to ensure it contains relevant, up-to-date information.

## Feedback

### COMPLAINT-HANDLING AND NEGOTIATION SKILLS

- *I now have a much better understanding of the complaints process. I will be able to get better results for clients now.*
- *It raised awareness of the importance of complaints and made me realise that complaints are positive in order to grow as an organisation.*
- *Great tools were provided to take away and implement in the workplace. One of the best workshops I've attended.*
- *I had some training from the Ombudsman a few years ago and both experiences were the best training I've ever had whilst working in complaints.*

## Employment-related child protection

We provide two workshops to help agencies improve the way they respond to child abuse allegations made against their employees – including an advanced workshop delivered by the Deputy Ombudsman/Community and Disability Services Commissioner about handling serious allegations that involve criminal conduct.

There has been increased interest this year in the workshops as a result of the Royal Commission into Institutional Responses to Child Sexual Abuse and the NSW Special Commission of Inquiry into allegations about the police handling of child sex abuse by Catholic clergy in the Hunter region.

We have also continued to develop and deliver specialised, practical training for non-government service providers. For example, the Deputy Ombudsman/Community and Disability Services Commissioner delivered our *Handling serious child protection allegations against employees* training workshop for staff of CatholicCare Broken Bay. The CatholicCare Residential Care Manager told us after the event that 'having Steve Kinmond conduct this training was enormously valuable. Steve's logical insights and interpretation of the NSW child protection system really served to clarify key issues.'

CatholicCare's Coordinator Investigation and Training also said of the session: 'To be able to tap into Steve's in-depth knowledge of child protection investigations was very valuable. I went away with a much better understanding of child protection allegations but, more importantly, a sense of being part of a much bigger picture that was encouraging inclusiveness of all agencies to work together to improve child protection in NSW.'

## Community and disability services sector training

In 2013-2014 we delivered 44 workshops to staff of government and funded non-government community and disability service providers throughout NSW. Twenty one of the workshops specifically focused on the complaint-handling obligations of service providers under the Community Services (Complaints, Reviews and Monitoring) Act.

The workshops we deliver to disability service providers provide up-to-date information about:

- The safeguards that should be in place to meet the requirements of the National Disability Insurance Scheme (NDIS).
- Ageing, Disability and Home Care's (ADHC) person-centred planning initiatives.
- Any other significant changes affecting the community and disability services sector.

We gave presentations about complaint-handling at the National Disability Services' Regional Support Worker conferences in Coffs Harbour, Dubbo and Sydney, reaching more than 350 disability support workers.

## Handling serious incidents in the disability sector

ADHC engaged us to deliver 23 *Handling serious incidents in the disability sector* training workshops to 462 staff across the ADHC Metro North (now Northern) region.

This training workshop is delivered by senior Ombudsman staff with extensive experience in conducting and overseeing investigations in the community and disability services sector. The training aims to equip participants with the skills to respond effectively to incidents of abuse and neglect that may arise in a disability service setting. It provides participants with practical advice to help them deal with some of the more complex challenges associated with handling serious incidents, including allegations that may involve a criminal element.

Feedback about the workshops has been overwhelmingly positive, with 99% of participants rating the training as 'good/excellent' and the same proportion agreeing that they could apply what they learnt in their workplace.

As a result of Parliament passing the *Disability Inclusion Act 2014* earlier this year, services operated by ADHC and non-government organisations will soon be required to report incidents of serious sexual or physical abuse, neglect or ill-treatment in government-provided or government-funded accommodation services and centre-based respite to the Ombudsman. This new oversight function will help us to identify systemic issues and opportunities for practice improvement and will inform our training program.

## Feedback

### ABORIGINAL CULTURAL APPRECIATION

- *A refreshing mix of information, stories, humour, tears and many pearls of wisdom. Thanks so much!*
- *Both presenters were able to blend history, policy and current practice with stories that drew the audience in and made the session lively.*

- *I learnt things I never knew, things to apply to my work and personal life.*
- *It was an education – I have a far better understanding of Aboriginal history and people. I feel that I learnt more today than I did at school.*

## The Rights Stuff - for young people

Our *Rights Stuff* training program is designed to provide consumers of community services – and their families, carers and advocates – with practical information and tips to build their confidence in raising issues and resolving complaints with service providers. This year, our youth liaison officer reviewed the program to better meet the needs of young people. Next year we will be launching two training programs – one designed for people who advocate for young people, and another for young people themselves.

## Community education

Our community education work focuses on extending the reach of our office and addressing barriers that may prevent vulnerable members of the community from accessing appropriate services and supports. For example, this year:

- we gave presentations and provided information at a number of conferences and events.
- our senior staff were invited to share their expertise at a range of conferences and forums.
- we hosted a number of forums to consult on specific subject areas.

## Our factsheets

This year we released or updated several factsheets, including:

- *Safeguards and the National Disability Insurance Scheme* – this outlines the minimum safeguards under the NDIS for people with disability agreed to in April 2013 by Disability Complaints Commissioners from around Australia.
- A new factsheet outlining our role in handling complaints about social housing, and another for agencies answering frequently asked questions about Ombudsman inquiries.
- Our public interest disclosures factsheets, guidelines and model policies.
- A factsheet on our review of the new consorting provisions.
- We also updated a number of our employment-related child protection factsheets to reflect recent legislative changes.

For further information about all our publications developed this year see Appendix J.

## Feedback

### INVESTIGATING MISCONDUCT IN THE PUBLIC SECTOR

- *Good practice ideas given, with the expertise shared being particularly useful. The scenarios and what can be done (you never get this at some courses).*

### EMPLOYMENT-RELATED CHILD PROTECTION

- *Every aspect of the workshop was useful and presented extremely well.*
- *The most insightful presentation, and was great scenario-based learning.*

### COMMUNITY AND DISABILITY SERVICES SECTOR TRAINING

- *Interactive, informative, engaging, experienced and knowledgeable. One of the best presenters I have trained with!*

# Financials



The financial statements provide an overview of our financial activities during 2013-2014. These statements, our supporting documentation and our systems and processes have been reviewed by the Audit Office. We received an unmodified audit report.

We continued improving our financial management systems and reporting, in line with the NSW Government's commitment to improve overall financial management practices in the public sector.

We again adopted an early close reporting cycle, preparing a full set of financial statements and supporting documents as at 30 April 2014. The Audit Office, along with our audit and risk committee, were able to review and comment on these financials and we were able to discuss and resolve any issues before submitting the financial statement for the period ending 30 June 2014 to the Auditor General. The early close process has worked well for us and has given a greater level of confidence in our financial systems and controls.

About 80 percent of our total expenses were staff-related costs. This reflects the nature of our work, which is reliant on our people. The day-to-day operation of our office costs just over \$5 million. This includes costs such as rent, fees, travel, telephones, maintenance and training.

We received \$2.779 million in special purpose grants – for Operation Prospect, for our new working with children/notification of concern and Aboriginal programs roles as well as to pay some redundancies. We will receive further grant funding in 2014-2015.

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# Our financials

The financial statements that follow provide an overview of our financial activities during 2013-2014. These statements, our supporting documentation, and our systems and processes have all been reviewed by the NSW Audit Office. We received an unqualified audit report.

Most of our revenue comes from the government in the form of a consolidated fund appropriation. Our consolidated fund allocation for 2013-2014 was \$23.909 million. The government also provided \$1.219 million for certain employee entitlements such as defined benefit superannuation and long service leave. We received \$1.314 million for our capital program which was spent on a range of items including computer hardware and the development of a consolidated database for our reviewable death functions.

In addition to our consolidated fund allocation, we received a number of specific purpose grants totalling \$2.779 million; the most significant being for conducting a public interest investigation into allegations relating to Operation Prospect (see page 46). We also received a grant for our new employment related child protection role relating to the Working with Children Check/notifications of concern (see page 88).

We continue to have 'saving' initiatives deducted from our budget allocation including ongoing efficiency dividends, program savings and labour cost expense cuts. As we have outlined in previous reports, we have in place a range of strategies to deal with our budget pressures including cutting costs and generating revenue through fee-for-service training. The cutting of staff costs in particular has an impact on the delivery of services to the public.

Our audit and risk committee continued its role of providing assurance to the Ombudsman that our financial processes comply with legislative and office requirements. See corporate governance on page 13 for more details on our audit and risk committee.

In line with the NSW Government's commitment to improve financial management in the public sector, we continue to review our accounting practices. We have streamlined our reporting processes and continue to improve our fixed asset procedures. We actively discuss issues with both internal and external audit and where necessary, we have discussed issues with our audit and risk committee.

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, the strategic projects division and corporate. The NSW state budget reports expenses and allocations against service groups. We have one service group – 'Complaint Advice, Referral, Resolution or Investigation'.

## 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 as revenue along with the provision that the government makes for certain employee entitlements such as long service leave.

Our 2013-2014 final recurrent consolidated fund allocation was \$23.909 million. Included in this allocation was \$1.336 million for our review of the implementation of new police powers (see page 50). Figure 60 shows the amount provided for our legislative reviews over the last four years. Funding for legislative reviews represents about 5.5% of the Ombudsman's 2013-2014 recurrent allocation.

In 2013-2014 we budgeted that the Crown Entity would accept \$889,000 of employee benefits and other entitlements. However, the actual acceptance was \$1.219 million. This variance is primarily due to actuarial adjustments for the net present value of our long service leave liability.

We were allocated \$1.364 million for our capital program but spent \$1.314 million. We requested that Treasury transfer \$50,000 to the 2014-2015 financial year to cover the final payment for our newly developed reviewable deaths database. Our capital program also included the replacement of our desktops as part of our scheduled computer replacement cycle.

This year we received \$2.779 million in grants. \$2.203 million was provided by the Department of Premier and Cabinet for Operation Prospect. We received \$329,000 from the Children's Guardian to support the Ombudsman's new employment-related child protection function relating to working with children/notifications of concern. We also received \$150,000 for the new Aboriginal Programs function and \$97,000 from the Crown Entity to fund some redundancies.

We generated \$774,000 primarily through sales of our publications, bank interest and through our fee-for-service training courses. As mentioned in previous reports, we needed to adopt a proactive approach to generating revenue to help us with ongoing budget pressures. By coordinating our activities and identifying training needs in agencies and the non-government sector, we have been able to increase our revenue. This additional revenue has enabled us to undertake more proactive project work as well as supporting other core work. (see figure 59) There is a breakdown of our revenue, including capital funding and acceptance of employee entitlements, in figure 61.

Fig. 59: Revenue from other sources

	\$'000
Workshops and publication sales	677
Bank interest	77
Grants and contributions	2,779
Other revenue	20
<b>Total</b>	<b>\$3,553</b>

Fig. 60: Legislative reviews

	\$'000
10/11	1,038
11/12	843
12/13	1,457
13/14	1,336



Fig. 61: Total revenue 2013-2014

Sources	Revenue
<b>Government</b>	
Recurrent appropriation	\$23,909
Capital appropriation	\$1,314
Acceptance of certain employee entitlements	\$1,219
<b>Total government</b>	<b>\$26,442</b>
From other sources	\$3,553
<b>Total</b>	<b>\$29,995</b>

## 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 \$23.376 million – or 79.83% of our total expenses – on employee-related items.

Salary payments to staff were just over 7% higher than the previous year due to a combination of factors including the public sector wage increase, and full year salary costs for Operation Prospect. Additional staff were employed as a results of our working with children/notifications of concern role and for new legislative reviews. Our long service leave expenses increased by \$525,000 while our workers compensation costs were \$56,000 or over 38% higher than the previous year due to a hindsight adjustment calculated on past claims experience.

The day-to-day running of our office costs us just over \$5 million. Our significant operating items are rent (\$2.313 million), contractors (\$461,000), fees (\$817,000), travel (\$401,000), maintenance (\$231,000), training (\$213,000) and stores (\$227,000).

There were three consultants engaged during 2013-2014 as detailed on the following two tables. There were no consultancies over \$50,000. The amounts reported include GST, where the amount for consultants reported in our financial statements excludes GST.

The financial statements show that \$705,000 was expensed for depreciation and amortisation. As we spent \$1.324 million on our capital program and recorded a \$10,000 loss on the disposal of some assets, we had a \$609,000 increase 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 as Non-Current Assets.

Fig. 62: Consultancies valued at less than \$50,000

Category	Count	Cost
Management services	3	35,460
<b>Total consultancies less than \$50,000</b>	<b>3</b>	<b>35,460</b>

Fig. 63: Consultancies valued at \$50,000 or more

Category & consultant	Nature	Cost
Nil		0
<b>Total consultancies \$50,000 or more</b>		<b>\$0</b>

Fig. 64: Total expenses 2013–2014

Expenses category	Total \$'000
Employee-related	\$21,218
Depreciation and amortisation	\$736
Other operating expenses	\$4,954
<b>Total</b>	<b>\$26,908</b>

We have an accounts payable policy that requires us to pay accounts promptly and within the terms specified on the invoice. There are some instances however 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, which is 98% of the time.

We identify small business vendors to ensure that payment timeframes are within the government's policy commitment. If agencies, including the office, fail to pay invoices to small businesses on time, a penalty fee is paid. Figure 65 provides details of our accounts paid on time. As can be seen, we had three invoices to a small business that were not paid on time. Short turnaround times of invoices can impact on our performance.

During 2013-2014 we paid 97.04% of our accounts on time. This is slightly below our target but is consistent with our performance last year. We have not had to pay any penalty interest on outstanding accounts.

## Assets

Our statement of financial position shows that we had \$5.347 million in assets at 30 June 2014. The value of our current assets increased by \$899,000 from the previous year, while the value of our asset base increased by \$1.508 million.

Just over 61% 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 \$509,000 in prepayments at 30 June 2014. The most significant prepayments were for rent and maintenance renewals for our office equipment and software support.

Our cash assets increased by \$934,000. Although we used some of our cash reserves to support our complaint handling and other core work, we had unspent 'grant' money for Operation Prospect and the new Aboriginal Programs role at year end. Our financials reflect \$1.081 million unspent 'grant' as restricted assets. These funds will be used in 2014-2015.

Our non-current assets, which are valued at \$2.063 million are categorised as:

- plant and equipment – this includes our network infrastructure, computers and laptops, fit-out and office equipment
- intangible assets – these include our network operating and case management software.

We were allocated \$1.364 million in 2013-2014 for asset purchases and spent \$1.324 million. We had requested that \$50,000 of our 2013-2014 capital allocation be transferred by NSW Treasury to our 2014-2015 capital program, which was approved. Due to an unexpected expense, we used \$10,000 of our cash at bank for a capital purchase.

## Liabilities

Our total liabilities at 30 June 2014 are \$3.803 million, an increase of \$803,000 over the previous year. Over 77% of our liabilities are the provisions that we make for unpaid salaries and wages as well as employee benefits and

related on-costs, including accounting for untaken recreation (annual) leave plus on-costs which is valued at \$1.627 million. The Crown Entity accepts the liability for long service leave.

We owe about \$360,000 for goods or services that we have received but have not yet been invoiced. The value of accounts on hand at 30 June 2014 was \$128,609 (see figure 66). We monitor the amounts owing on a regular basis to make sure we are paying accounts within terms.

Fig. 65: Performance indicator: Accounts paid on time – all suppliers

Measure	Sep 2013	Dec 2013	Mar 2014	Jun 2014	Total
<b>All suppliers</b>					
Number of accounts due for payment	613	577	493	796	2,479
Number of accounts paid on time	601	558	473	780	2,412
<b>Actual percentage of accounts paid on time (based on number of accounts)</b>	<b>97.09</b>	<b>97.38</b>	<b>96.23</b>	<b>98.42</b>	<b>97.41</b>
Dollar amount of accounts due for payment	1,682,250	1,864,837	1,639,460	2,710,251	7,896,798
Dollar amount of accounts paid on time	1,563,644	1,832,893	1,970,666	2,818,528	8,185,731
<b>Actual percentage of accounts paid on time (based on \$)</b>	<b>98.95</b>	<b>95.96</b>	<b>98.70</b>	<b>95.59</b>	<b>97.04</b>
Number of payments for interest on overdue accounts	0	0	0	0	0
Interest paid on overdue accounts	0	0	0	0	0
<b>Small business suppliers</b>					
Number of accounts due for payment to small businesses	6	14	9	24	53
Number of accounts due to small businesses paid on time	6	14	8	22	50
<b>Actual percentage of small business accounts paid on time (based on number of accounts)</b>	<b>100</b>	<b>100</b>	<b>88.89</b>	<b>91.67</b>	<b>94.34</b>
Dollar amount of accounts due for payment to small businesses	6,931	6,579	7,636	12,264	33,410
Dollar amount of accounts due to small business paid on time	6,931	6,579	7,210	11,762	32,482
<b>Actual percentage of small business accounts paid on time (based on \$)</b>	<b>100</b>	<b>100</b>	<b>94.42</b>	<b>95.91</b>	<b>97.22</b>
Number of payments to small businesses for interest on overdue accounts	0	0	0	0	0
Interest paid to small business on overdue accounts	0	0	0	0	0

\* Note: this table does not include direct salary payments to staff – but includes some employee-related payments such as payments to superannuation funds.

Fig. 66: Analysis of accounts on hand at the end of each quarter

	Sep 2013	Dec 2013	Mar 2014	Jun 2014
<b>All suppliers</b>				
Current (ie within due date)	133,955	90,950	173,159	128,609
Less than 30 days overdue	-	-	-	-
Between 30 days and 60 days overdue	-	-	-	-
Between 60 days and 90 days overdue	-	-	-	-
More than 90 days overdue	-	-	-	-
<b>Total accounts on hand</b>	<b>133,955</b>	<b>90,950</b>	<b>173,159</b>	<b>128,609</b>
<b>Small businesses</b>				
Current (ie within due date)	-	-	-	-
Less than 30 days overdue	-	-	-	-
Between 30 days and 60 days overdue	-	-	-	-
Between 60 days and 90 days overdue	-	-	-	-
More than 90 days overdue	-	-	-	-
<b>Total accounts on hand</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

\* This table does not include credit notes.

## 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. The audit report and our financial statements follow.



## INDEPENDENT AUDITOR'S REPORT

### Ombudsman's Office

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of the Ombudsman's Office, which comprise the statement of financial position as at 30 June 2014, the statement of comprehensive income, statement of changes in equity and statement of cash flows, and a summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

### Opinion

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Ombudsman's Office as at 30 June 2014, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2010.

My opinion should be read in conjunction with the rest of this report.

### The Ombudsman's Responsibility for the Financial Statements

The Ombudsman is responsible for the preparation of the financial statements that give a true and fair view in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Ombudsman determines is necessary to enable the preparation of financial statements that give a true and fair view and that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I conducted my audit in accordance with Australian Auditing Standards. Those Standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Ombudsman's Office preparation of the financial statements that give a true and fair view in order to design audit procedures appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Ombudsman's Office internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Ombudsman, as well as evaluating the overall presentation of the financial statements.

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 Ombudsman's 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 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 roles by the possibility of losing clients or income.



Steven Martin  
Assistant Auditor-General

22 August 2014  
SYDNEY



21 August 2014

## 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 NSW General Government Sector Entities, 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 2014, and our financial performance 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**

## Ombudsman's Office

### Statement of comprehensive income for the year ended 30 June 2014

	Notes	Actual 2014 \$'000	Budget 2014 \$'000	Actual 2013 \$'000
<b>Expenses excluding losses</b>				
Operating expenses				
Employee related	2(a)	23,376	20,705	21,218
Other operating expenses	2(b)	5,199	4,601	4,954
Depreciation and amortisation	2(c)	705	573	736
<b>Total Expenses excluding losses</b>		<b>29,280</b>	<b>25,879</b>	<b>26,908</b>
<b>Revenue</b>				
Recurrent appropriation	3(a)	23,909	23,669	24,044
Capital appropriation	3(a)	1,314	1,364	294
Sale of goods and services	3(b)	677	533	597
Investment revenue	3(c)	77	35	31
Grants and contributions	3(d)	2,779	–	2,264
Acceptance by the Crown Entity of employee benefits and other liabilities	3(e)	1,219	889	706
Other revenue	3(f)	20	–	45
<b>Total Revenue</b>		<b>29,995</b>	<b>26,490</b>	<b>27,981</b>
<b>Gain/(loss) on disposal</b>	4	<b>(10)</b>	<b>–</b>	<b>–</b>
<b>Net result</b>		<b>705</b>	<b>611</b>	<b>1,073</b>
<b>Other comprehensive income</b>				
Total other comprehensive income		–	–	–
<b>Total comprehensive income</b>		<b>705</b>	<b>611</b>	<b>1,073</b>

The accompanying notes form part of these financial statements.

## Ombudsman's Office

### Statement of financial position as at 30 June 2014

	Notes	Actual 2014 \$'000	Budget 2014 \$'000	Actual 2013 \$'000
<b>Assets</b>				
<b>Current Assets</b>				
Cash and cash equivalents	6	2,545	1,862	1,611
Receivables	8	730	656	763
Other financial assets	9	9	–	11
<b>Total Current Assets</b>		<b>3,284</b>	<b>2,518</b>	<b>2,385</b>
<b>Non-Current Assets</b>				
Plant and equipment	10	791	1,141	791
Intangible assets	11	1,272	1,035	663
<b>Total Non-Current Assets</b>		<b>2,063</b>	<b>2,176</b>	<b>1,454</b>
<b>Total Assets</b>		<b>5,347</b>	<b>4,694</b>	<b>3,839</b>
<b>Liabilities</b>				
<b>Current Liabilities</b>				
Payables	13	1,024	870	686
Provisions	14	2,235	2,067	1,796
Other	15	19	21	15
<b>Total Current Liabilities</b>		<b>3,278</b>	<b>2,958</b>	<b>2,497</b>
<b>Non-Current Liabilities</b>				
Provisions	14	525	474	503
<b>Total Non-Current Liabilities</b>		<b>525</b>	<b>474</b>	<b>503</b>
<b>Total Liabilities</b>		<b>3,803</b>	<b>3,432</b>	<b>3,000</b>
<b>Net Assets</b>		<b>1,544</b>	<b>1,262</b>	<b>839</b>
<b>Equity</b>				
Accumulated funds		1,544	1,262	839
<b>Total Equity</b>		<b>1,544</b>	<b>1,262</b>	<b>839</b>

The accompanying notes form part of these financial statements.

## Ombudsman's Office

### Statement of changes in equity for the year ended 30 June 2014

	Accumulated funds 2014 \$'000	Accumulated funds 2013 \$'000
Balance at 1 July	839	(234)
Net result for the year	705	1,073
<b>Total comprehensive income for the year</b>	<b>705</b>	<b>1,073</b>
<b>Balance at 30 June</b>	<b>1,544</b>	<b>839</b>

## Ombudsman's Office

### Statement of cash flows for the year ended 30 June 2014

	Notes	Actual 2014 \$'000	Budget 2014 \$'000	Actual 2013 \$'000
<b>Cash flows from operating activities</b>				
<b>Payments</b>				
Employee related		(21,512)	(19,686)	(20,728)
Other		(5,855)	(5,145)	(5,871)
<b>Total Payments</b>		<b>(27,367)</b>	<b>(24,831)</b>	<b>(26,599)</b>
<b>Receipts</b>				
Recurrent appropriation		23,909	23,669	24,044
Capital appropriation (excluding equity appropriations)		1,314	1,364	294
Sale of goods and services		677	533	599
Interest received		63	35	35
Grants and contributions		2,779	–	2,264
Other		883	543	687
<b>Total Receipts</b>		<b>29,625</b>	<b>26,144</b>	<b>27,923</b>
<b>Net cash flows from operating activities</b>	17	<b>2,258</b>	<b>1,313</b>	<b>1,324</b>
<b>Cash flows from investing activities</b>				
Purchases of Leasehold Improvements, plant and equipment		(1,324)	(1,364)	(700)
<b>Net cash flows from investing activities</b>		<b>(1,324)</b>	<b>(1,364)</b>	<b>(700)</b>
<b>Net increase/(decrease) in cash</b>		<b>934</b>	<b>(51)</b>	<b>624</b>
Opening cash and cash equivalents		1,611	1,913	987
<b>Closing cash and cash equivalents</b>	6	<b>2,545</b>	<b>1,862</b>	<b>1,611</b>

The accompanying notes form part of these financial statements.



## Ombudsman's Office

Summary of compliance with financial directives for the year ended 30 June 2014

	2014			2013		
	Recurrent app'n \$'000	Expenditure/ net claim on consolidated fund \$'000	Capital app'n \$'000	Expenditure/ net claim on consolidated fund \$'000	Recurrent app'n \$'000	Expenditure/ net claim on consolidated fund \$'000
<b>Original budget appropriation/expenditure</b>						
• Appropriation Act	23,669	23,669	1,364	24,044	24,044	294
	<b>23,669</b>	<b>23,669</b>	<b>1,364</b>	<b>24,044</b>	<b>24,044</b>	<b>294</b>
<b>Other appropriations/expenditure</b>						
• Transfers to/from another entity (per section 32 of the Appropriation Act)	590	240	—	—	—	—
	590	240	—	—	—	—
<b>Total appropriations/expenditure/net claim on consolidated fund</b>	<b>24,259</b>	<b>23,909</b>	<b>1,364</b>	<b>24,044</b>	<b>24,044</b>	<b>294</b>
<b>Amount drawn down against appropriation</b>		<b>23,909</b>		<b>24,044</b>		<b>294</b>
<b>Liability to consolidated fund*</b>		<b>—</b>		<b>—</b>		<b>—</b>

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'.

# Ombudsman's Office

## Notes to the financial statements for the year ended 30 June 2014

### 1 Summary of Significant Accounting Policies

#### (a) Reporting entity

The Ombudsman's Office is a NSW government entity. 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 major cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

The financial statements for the year ended 30 June 2014 has been authorised for issue by the Ombudsman on 21 August 2014.

#### (b) Basis of preparation

Our financial statements are a general purpose financial statement, which has been prepared on an accrual basis in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations);
- the requirements of the *Public Finance and Audit Act 1983* and the Public Finance and Audit Regulation 2010; and
- the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.

Property, plant and equipment are measured at fair value. Other financial statements items are prepared in accordance with the historical cost convention.

Judgements, 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.

#### (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 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, if any, 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*.

## Notes to the financial statements for the year ended 30 June 2014

### (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 price that would be received to sell an asset in an orderly transaction between market participants and measurement date.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

#### (ii) Capitalisation thresholds

Individual plant and equipment and intangible assets costing \$5,000 and above are capitalised. All items that form part of our IT network, such as software and hardware, are capitalised regardless of the cost.

#### (iii) Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 Impairment of Assets is unlikely to arise. As property, plant and equipment is carried at fair value, impairment can only arise in the rare circumstances where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not-for-profit entities to the higher of fair value less costs of disposal and depreciated replacement cost, where depreciated replacement cost is also fair value.

#### (iv) 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.

#### (v) 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.

#### (vi) 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.

#### (vii) 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.

#### (viii) 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.

Our intangible assets are amortised using the straight-line method over a period of five years.

The amortisation rates used are:

- Computer software 20%

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2014

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.

#### **(ix) Loans and receivables**

Loans and 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 net result 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.

#### **(x) Assets revaluation**

We value our physical non-current assets in accordance with the *Valuation of Physical Non-Current Assets at Fair Value* Policy and Guidelines Paper (TPP 14-01). This policy adopts fair value in accordance with AASB13 Fair Value Measurement, AASB 116 *Property, Plant and Equipment* and AASB 140 Investment Property.

Because non-specialised assets have short useful lives, we use depreciated historical cost as a surrogate for fair value.

### **(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**

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave that is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service is required to be measured at present value in accordance with AASB 119 Employee Benefits (although short-cut methods are permitted). Actuarial advice obtained by Treasury has confirmed that the use of a nominal approach plus the annual leave on annual leave liability (using 7.9% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. We have assessed the actuarial advice based on our circumstances and have determined that the effect of discounting is immaterial to annual leave liability.

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 14/04) 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 (i.e. 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.

##### **(c) Other Provisions**

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2014

Other provisions exist when: the entity has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

#### (d) Fair value hierarchy

A number of the entity's accounting policies and disclosures require the measurement of fair values, for both financial and non-financial assets and liabilities. When measuring fair value, the valuation technique used maximises the use of relevant observable inputs and minimises the use of unobservable inputs. Under AASB 13, the entity categorises, for disclosure purposes, the valuation techniques based on the inputs used in the valuation techniques as follows:

- Level 1 – quoted prices in active markets for identical assets / liabilities that the entity can access at the measurement date.
- Level 2 – inputs other than quoted prices included within Level 1 that are observable, either directly or indirectly.
- Level 3 – inputs that are not based on observable market data (unobservable inputs).

The entity recognises transfers between levels of the fair value hierarchy at the end of the reporting period during which the change has occurred.

Refer Note 12 and Note 19 for further disclosures regarding fair value measurements of financial and non-financial assets.

#### (i) Equity

The category accumulated funds includes all current and prior period retained funds.

#### (j) Budgeted amounts

The budgeted amounts are drawn from the original budgeted financial statement presented to Parliament in respect of the reporting period. Amendments made to the budget are not reflected in the budgeted amounts.

#### (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

The following new Accounting Standards have not yet been applied as NSW public sector entities are not permitted to early adopt new Australian Accounting Standards unless NSW Treasury determines otherwise.

- AASB 9, AASB 2010-7 and AASB 2012-6 regarding financial instruments
- AASB 2012-3 regarding offsetting financial assets and financial liabilities
- AASB 2012-10 regarding transition guidance and other amendments
- AASB 1031 Materiality
- AASB 1055 and AASB 2013-1 regarding budget reporting
- AASB 2013-6 regarding reduced disclosure requirements
- AASB 2013-8 regarding Australian Implementation Guidance for Not-for-Profit-Entities-Control and Structured Entities

We do not anticipate any material impact of these accounting standards on the financial statements of the Ombudsman's Office.

#### (m) Going concern

The Ombudsman's Office is a 'going concern' public sector entity. We will receive Parliamentary appropriation as outlined in the NSW Budget Papers for 2014–2015 in fortnightly instalments from the Crown Entity.

#### (n) Equity Transfers

The transfer of net assets between agencies as a result of an administrative restructure, transfers of programs/ functions and parts thereof between NSW public sector agencies and 'equity appropriations' and be 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 the following paragraph, 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.



## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2014

	2014 \$'000	2013 \$'000
<b>2 Expenses excluding losses</b>		
<b>(a) Employee related expenses</b>		
Salaries and wages (including annual leave)*	19,258	17,969
Superannuation - defined benefit plans	283	294
Superannuation - defined contribution plans	1,532	1,332
Long service leave	921	396
Workers' compensation insurance	202	146
Payroll tax and fringe benefit tax	1,180	1,081
	<b>23,376</b>	<b>21,218</b>
<b>(b) Other operating expenses include the following:</b>		
Auditor's remuneration - audit of the financial statements	30	29
Operating lease rental expense - minimum lease payments	2,313	2,151
Insurance	16	13
Fees	817	562
Telephones	106	91
Stores	227	118
Training	213	174
Printing	18	122
Travel	401	341
Consultants	32	299
Contractors	461	405
Maintenance - non-employee related*	231	283
Other	334	366
	<b>5,199</b>	<b>4,954</b>
* Reconciliation - Total maintenance		
Maintenance expenses - contracted labour and other	231	283
Employee related maintenance expense included in Note 2(a)	80	85
<b>Total maintenance expenses included in Notes 2(a) and 2(b)</b>	<b>311</b>	<b>368</b>
<b>(c) Depreciation and amortisation expense</b>		
<b>Depreciation</b>		
Plant and equipment	167	122
Leasehold Improvements	287	260
Furniture and Fittings	27	180
<b>Total depreciation expense</b>	<b>481</b>	<b>562</b>
<b>Amortisation</b>		
Software	224	174
<b>Total amortisation expense</b>	<b>224</b>	<b>174</b>
<b>Total depreciation and amortisation expenses</b>	<b>705</b>	<b>736</b>

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2014

	2014 \$'000	2013 \$'000
<b>3 Revenue</b>		
<b>(a) Appropriations</b>		
Recurrent appropriation		
Total recurrent draw-downs from NSW Treasury (per Summary of compliance)	23,909	24,044
	<b>23,909</b>	<b>24,044</b>
Comprising:		
Recurrent appropriations (per Statement of comprehensive income)	23,909	24,044
	<b>23,909</b>	<b>24,044</b>
Capital appropriation		
Total capital draw-downs from Treasury (per Summary of compliance)	1,314	294
	<b>1,314</b>	<b>294</b>
Comprising:		
Capital appropriations (per Statement of comprehensive income)	1,314	294
	<b>1,314</b>	<b>294</b>
<b>(b) Sale of goods and services</b>		
Rendering of services	677	597
	<b>677</b>	<b>597</b>
<b>(c) Investment revenue</b>		
Interest	77	31
	<b>77</b>	<b>31</b>
<b>(d) Grants and contributions</b>		
Crown Entity funded redundancies	97	222
Operation Prospect - Grant from the Department of Premier and Cabinet	2,203	1,842
Official Community Visitors program - Grant from Ageing, Disability and Home Care	–	200
Working with Children Check/Notifications of Concern - Grant from the Children's Guardian	329	–
Aboriginal Programs - Grant from the Office of Communities	150	–
	<b>2,779</b>	<b>2,264</b>
From 2014 the grant for the Official Community Visitors program is included in the Ombudsman's recurrent appropriation.		
<b>(e) Acceptance by the Crown Entity of employee benefits and other liabilities</b>		
The following liabilities and/or expenses have been assumed by the Crown Entity:		
• Superannuation - defined benefit	288	294
• Long service leave	916	396
• Payroll tax on superannuation	15	16
	<b>1,219</b>	<b>706</b>
<b>(f) Other revenue</b>		
Miscellaneous	20	45
	<b>20</b>	<b>45</b>
<b>4 Gain/(loss) on disposal</b>		
Gain/(loss) on disposal of plant and equipment	(10)	–
	<b>(10)</b>	<b>–</b>

# Ombudsman's Office

## Notes to the financial statements for the year ended 30 June 2014

	2014 \$'000	2013 \$'000
<b>5 Service groups of the entity</b>		
The Ombudsman's Office operates under 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.		
<b>6 Current assets – cash and cash equivalents</b>		
Cash at bank and on hand	2,545	1,611
	<b>2,545</b>	<b>1,611</b>
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)	2,545	1,611
• Closing cash and cash equivalents (per statement of cash flows).	<b>2,545</b>	<b>1,611</b>
Refer Note 19 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.		
<b>7 Restricted assets</b>		
Operation Prospect	931	696
Official Community Visitors	–	100
Aboriginal Programs	150	–
	<b>1,081</b>	<b>796</b>
We have restricted cash which will be used in 2014–15 for specific projects. These assets are not available for any other purposes.		
<b>8 Current assets – receivables</b>		
Transfer of leave and salary reimbursement	23	39
Workshops	41	44
Bank interest	21	6
GST receivable	136	120
Prepayments	509	554
	<b>730</b>	<b>763</b>
Refer to Note 19 for further information regarding credit risk, liquidity risk and market risk arising from financial instruments.		
<b>9 Current assets - other financial assets</b>		
Other loans and deposits	9	11
	<b>9</b>	<b>11</b>
Refer to Note 19 for further information regarding credit risk, liquidity risk and market risk arising from financial instruments.		

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2014

#### 10 Non-current assets – plant and equipment

	Plant and equipment \$'000	Leasehold improvement \$'000	Furniture and fitting \$'000	Total \$'000
<b>At 1 July 2013 - fair value</b>				
Gross carrying amount	1,505	2,018	650	4,173
Accumulated depreciation	(1,176)	(1,695)	(511)	(3,382)
<b>Net carrying amount</b>	<b>329</b>	<b>323</b>	<b>139</b>	<b>791</b>
<b>At 30 June 2014 - fair value</b>				
Gross carrying amount	1,178	2,045	651	3,874
Accumulated depreciation	(563)	(1,982)	(538)	(3,083)
<b>Net carrying amount</b>	<b>615</b>	<b>63</b>	<b>113</b>	<b>791</b>

#### 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:

<b>Year ended 30 June 2014</b>				
Net carrying amount at start of year	329	323	139	791
Additions	464	27	–	491
Disposals	(790)	–	–	(790)
Depreciation write back on disposal	780	–	–	780
Depreciation expense	(168)	(287)	(26)	(481)
<b>Net carrying amount at end of year</b>	<b>615</b>	<b>63</b>	<b>113</b>	<b>791</b>
<b>At 1 July 2012 - fair value</b>				
Gross carrying amount	1,536	1,839	932	4,307
Accumulated depreciation	(1,294)	(1,490)	(529)	(3,313)
<b>Net carrying amount</b>	<b>242</b>	<b>349</b>	<b>403</b>	<b>994</b>
<b>At 30 June 2013 - fair value</b>				
Gross carrying amount	1,505	2,018	650	4,173
Accumulated depreciation	(1,176)	(1,695)	(511)	(3,382)
<b>Net carrying amount</b>	<b>329</b>	<b>323</b>	<b>139</b>	<b>791</b>
<b>Year ended 30 June 2013</b>				
Net carrying amount at start of year	242	349	403	994
Additions	209	134	16	359
Disposals	(241)	–	(7)	(248)
Depreciation write back on disposal	241	–	7	248
Asset transfer between class	–	100	(100)	–
Depreciation expense	(122)	(260)	(180)	(562)
<b>Net carrying amount at end of year</b>	<b>329</b>	<b>323</b>	<b>139</b>	<b>791</b>

# Ombudsman's Office

## Notes to the financial statements for the year ended 30 June 2014

### 11 Non-current assets – intangible assets

	1 July 2012 \$'000	30 June 2013 \$'000	1 July 2013 \$'000	30 June 2014 \$'000
<b>Software</b>				
Gross carrying amount	2,323	1,502	1,502	2,335
Accumulated amortisation	(1,827)	(839)	(839)	(1,063)
<b>Net carrying amount</b>	<b>496</b>	<b>663</b>	<b>663</b>	<b>1,272</b>

#### 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	663	496
Disposals	–	(1,161)
Amortisation write back on disposal	–	1,161
Additions	833	341
Amortisation expense	(224)	(174)
<b>Net carrying amount at end of year</b>	<b>1,272</b>	<b>663</b>

All intangibles were acquired separately and there are no internally developed intangible assets.

### 12 Fair Value measurement of non-financial assets

#### (a) Fair Value hierarchy 2014

	Level 1 \$'000	Level 2 \$'000	Level 3 \$'000	Total fair value \$'000
Property, plant and equipment (Note 10)				
Plant and equipment	–	791	–	791
	–	791	–	791

There were no transfers between level 1 and 2 during the period.

#### (b) Valuation techniques, inputs and processes

Our plant and equipment is initially recognised at cost. The fair values of plant and equipment is considered to be at level 2. It is measured using the depreciated historical cost approach.

### 13 Current liabilities – payables

	2014 \$'000	2013 \$'000
Accrued salaries, wages and on-costs	664	464
Creditors	360	222
	<b>1,024</b>	<b>686</b>

Refer Note 19 for details regarding credit risk, liquidity risk and market risk arising from financial instruments

### 14 Current/non-current liabilities – provisions

#### Employee benefits and related on-costs

Annual leave	1,200	981
Annual leave loading	258	172
Provision for related on-costs on annual leave	169	128
Provision for related on-costs on long service leave	639	542
	<b>2,266</b>	<b>1,823</b>

#### Other provisions

Provision for make good	494	476
<b>Total provisions</b>	<b>2,760</b>	<b>2,299</b>



# Ombudsman's Office

## Notes to the financial statements for the year ended 30 June 2014

	2014 \$'000	2013 \$'000
<b>Reconciliation – make good</b>		
Carrying amount at the beginning of financial year	476	444
Unwinding of the discount rate	18	32
<b>Carrying amount at the end of financial year</b>	<b>494</b>	<b>476</b>

Provision for make good is recognised for the estimate of future payments for make good upon termination of the lease of current office premises. The lease will end in October 2014 however make good provisions is expected to be settled after 12 months.

<b>Aggregate employee benefits and related on-costs</b>		
Provisions - current	2,235	1,796
Provisions - non-current	31	27
Accrued salaries, wages and on-costs (Note 13)	664	464
	<b>2,930</b>	<b>2,287</b>

The value of annual leave and associated on-costs expected to be taken within 12 months is \$1.458 million (2013: \$1.153 million). 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 \$0.063 million (2013: \$0.054 million) and \$0.575 million (2013: \$0.488 million) after 12 months.

### 15 Current/non-current liabilities – other

<b>Current</b>		
Prepaid income	19	15
	<b>19</b>	<b>15</b>

### 16 Commitments for expenditure

<b>Operating lease commitments</b>		
Future non-cancellable operating lease rentals not provided for and payable:		
Not later than one year	732	2,352
Later than one year and not later than five years	1	792
<b>Total (including GST)</b>	<b>733</b>	<b>3,144</b>

The leasing arrangements are generally for leasing of property, which expires in October 2014. The total operating lease commitments include GST input tax credits of \$0.067 million (2013: \$0.286 million) which are expected to be recoverable from the Australian Taxation Office.

At 30 June 2014, the Ombudsman's ongoing accommodation needs were being considered by Government Property NSW and no formal lease had been finalised although terms were being negotiated. Accordingly, no commitments beyond the current lease have been included in the above figures.

### 17 Reconciliation of cash flows from operating activities to net result

Net cash used on operating activities	2,258	1,324
Depreciation and amortisation	(705)	(736)
Decrease/(increase) in provisions	(461)	113
Increase/(decrease) in prepayments	(45)	169
Decrease/(increase) in payables	(338)	147
Increase/(decrease) in receivables	10	42
Decrease/(increase) in other liabilities	(4)	14
Net gain/(loss) on disposal of assets	(10)	–
<b>Net result</b>	<b>705</b>	<b>1,073</b>

# Ombudsman's Office

## Notes to the financial statements for the year ended 30 June 2014

### 18 Budget review

#### Net result

Total expenses were \$3.4 million more than budget with additional costs incurred for Operation Prospect, a public interest investigation funded from a grant from the Department of Premier and Cabinet. As well, we received additional support for our new Working with Children Check/Notification of Concern role and offered some redundancies.

Our revenue was \$3.5 million higher than budget, with a number of grants being received for the following specific purposes - Operation Prospect (\$2.203 million); Working with Children Check/Notification of Concern (\$329,000); Aboriginal Programs (\$150,000) and Crown Entity funded redundancies (\$97,000). Some of this funding will be used in 2014–2015, recorded in these financials as restricted assets (see note 7).

#### Assets and liabilities

Total assets are higher than liabilities by \$1.55 million. The primary reason is the increase in our cash assets provided for Operation Prospect and the Aboriginal Programs role. These funds will be spent in 2014–2015.

#### Cash flows

Our net cash flow from operating activities was \$0.945 million higher than budget, with total payments higher by \$2.536 million and total receipts higher by \$3.481 million. We received \$2.779 million in grants to continue a public interest investigation and for new roles.

### 19 Financial instruments

The Ombudsman's Office 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.

Our main risks arising from financial instruments are outlined below, together with the Office's objectives, policies and processes measuring and managing risk. Further quantitative disclosures are included throughout these financial statements. The Ombudsman has overall responsibility for the establishment and oversight of risk management and reviews and approves policies for managing these risks. The Audit and Risk Committee (ARC) has been established to provide advice to the Ombudsman. The ARC does not have executive powers. 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 regular basis.

#### (a) Financial instrument categories

Financial instrument categories			Carrying Amount	
Class	Note	Category	2014 \$'000	2013 \$'000
Financial assets				
Cash and cash equivalents	6	N/A	2,545	1,611
Receivables <sup>1</sup>	8	Receivables (at amortised cost)	85	89
Other financial assets	9	Loans and receivables (at amortised cost)	9	11
Financial Liabilities				
Payables <sup>2</sup>	13	Financial liabilities measured at amortised cost	1,024	686

#### Notes

<sup>1</sup> Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

<sup>2</sup> 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 our 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.

# Ombudsman's Office

## Notes to the financial statements for the year ended 30 June 2014

### Receivables – trade debtors

The only financial assets that are past due or impaired are 'sales of goods and services' in the 'receivables' category of the statement of financial position. 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
<b>2014</b>			
< 3 months overdue	42	42	–
3 months - 6 months overdue	–	–	–
> 6 months overdue	–	–	–
<b>2013</b>			
< 3 months overdue	89	38	–
3 months - 6 months overdue	–	–	–
> 6 months overdue	–	–	–

\* 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. We continuously manage risk through monitoring future cash flows to ensure adequate holding of high quality liquid assets. During the current and prior year, there were no defaults of loans payable. No assets have been pledged as collateral. The entity's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

#### 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.

#### 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 NSW TC 11/12. For small business suppliers, if trade terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, 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. For small business suppliers, where payments to other suppliers, the Head of an authority (or a person appointed by the Head of an authority) may automatically pay the supplier simple interest. The Ombudsman's Office did not pay any penalty interest during the financial year.

The table below summarises the maturity profile of our 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
<b>2014</b>								
Accrued salaries, wages and on-costs	–	664	–	–	664	664	–	–
Creditors	–	360	–	–	360	360	–	–
	–	<b>1,024</b>	–	–	<b>1,024</b>	<b>1,024</b>	–	–
<b>2013</b>								
Accrued salaries, wages and on-costs	–	464	–	–	464	464	–	–
Creditors	–	222	–	–	222	222	–	–
	–	<b>686</b>	–	–	<b>686</b>	<b>686</b>	–	–

# 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.

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2014

#### (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. Our exposure to market risk are 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 time frame 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 2013. The analysis assumes that all other variables remain constant.

		-1%		+1%	
	Carrying amount \$'000	Results \$'000	Equity \$'000	Results \$'000	Equity \$'000
<b>2014</b>					
<b>Financial assets</b>					
Cash and cash equivalents	2,545	(25)	(25)	25	25
Receivables	85	—	—	—	—
Other financial assets	9	—	—	—	—
<b>Financial liabilities</b>					
Payables	1,024	—	—	—	—
<b>2013</b>					
<b>Financial assets</b>					
Cash and cash equivalents	1,611	(16)	(16)	16	16
Receivables	89	—	—	—	—
Other financial assets	11	—	—	—	—
<b>Financial liabilities</b>					
Payables	686	—	—	—	—

#### (e) Fair value measurement

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of many of the financial instruments.

## 20 Contingent liabilities

There are no contingent assets or liabilities for the period ended 30 June 2014 (2013: nil).

## 21 Events after the Reporting Period

There were no events after the reporting period 30 June 2014 (2013: nil).

## End of the financial statements

# Appendices



The following appendices provide additional information on our activities and compliance reporting, complaint profiles, action taken on formal complaints, and other resource information.

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## Profile of notifiable police complaints 2013–2014

Fig. 67: Action taken on finalised notifiable complaints about police officers in 2013–2014

A complaint may contain more than one allegation about a single incident or involve a series of incidents.

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
<b>Arrest</b>				
Improper failure to arrest	4	0	5	9
Unlawful arrest	20	11	24	55
Unnecessary use of arrest	16	5	17	38
<b>Total</b>	<b>40</b>	<b>16</b>	<b>46</b>	<b>102</b>
<b>Complaint handling</b>				
Deficient complaint investigation	8	3	2	13
Fail to report misconduct	2	19	7	28
Fail to take a complaint	0	0	1	1
Inadequacies in informal resolution	1	0	3	4
Provide false information in complaint investigation	3	32	7	42
<b>Total</b>	<b>14</b>	<b>54</b>	<b>20</b>	<b>88</b>
<b>Corruption/misuse of office</b>				
Explicit threats involving use of authority	5	3	6	14
Improper association	33	42	16	91
Misuse authority for personal benefit or benefit of an associate	65	58	39	162
Offer or receipt of bribe/corrupt payment	13	8	1	22
Protection of person(s) involved in criminal activity (other)	1	0	0	1
<b>Total</b>	<b>117</b>	<b>111</b>	<b>62</b>	<b>290</b>
<b>Custody/detention</b>				
Death/serious injury in custody	0	0	1	1
Detained in excess of authorised time	0	0	3	3
Escape from custody	0	5	12	17
Fail to allow communication	0	0	1	1
Fail to caution/give information	1	0	0	1
Fail to meet requirements for vulnerable persons	0	1	4	5
Improper refusal to grant bail	2	0	2	4
Improper treatment	17	3	28	48
Inadequate monitoring of persons in custody	0	0	8	8
Unauthorised detention	9	6	6	21
<b>Total</b>	<b>29</b>	<b>15</b>	<b>65</b>	<b>109</b>
<b>Driving-related offences/misconduct</b>				
Breach pursuit guidelines	1	4	8	13
Dangerous driving causing grievous bodily harm/death	0	5	1	6
Drink driving offence	2	21	2	25
Negligent/dangerous driving	8	12	13	33
Unnecessary speeding	6	3	5	14
<b>Total</b>	<b>17</b>	<b>45</b>	<b>29</b>	<b>91</b>
<b>Drug-related offences/misconduct</b>				
Cultivate/manufacture prohibited drug	2	1	1	4
Drinking/under the influence on duty	3	2	5	10

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Protection of person(s) involved in drug activity	61	4	11	76
Supply prohibited drug	20	10	4	34
Use/possess restricted substance	0	5	1	6
Use/possession of prohibited drug	25	30	5	60
<b>Total</b>	<b>111</b>	<b>52</b>	<b>27</b>	<b>190</b>
<b>Excessive use of force</b>				
Assault	183	135	148	466
Firearm discharged	1	1	2	4
Firearm drawn	2	1	6	9
Improper use of handcuffs	7	4	13	24
<b>Total</b>	<b>193</b>	<b>141</b>	<b>169</b>	<b>503</b>
<b>Information</b>				
Fail to create/maintain records	13	30	63	106
Falsify official records	12	32	25	69
Misuse email/Internet	1	11	9	21
Provide incorrect or misleading information	18	58	34	110
Unauthorised access to information/data	11	90	45	146
Unauthorised disclosure of information/data	71	50	67	188
Unreasonable refusal to provide information	1	2	0	3
<b>Total</b>	<b>127</b>	<b>273</b>	<b>243</b>	<b>643</b>
<b>Inadequate/improper investigation</b>				
Delay in investigation	25	7	22	54
Fail to advise outcome of investigation	11	0	3	14
Fail to advise progress of investigation	0	0	4	4
Fail to investigate (customer service)	172	30	113	315
Improper/unauthorised forensic procedure	2	0	0	2
Improperly fail to investigate offence committed by another officer	4	10	3	17
Improperly interfere in investigation by another police officer	12	18	2	32
Inadequate investigation	205	35	151	391
<b>Total</b>	<b>431</b>	<b>100</b>	<b>298</b>	<b>829</b>
<b>Misconduct</b>				
Allow unauthorised use of weapon	1	0	1	2
Conflict of interest	23	25	20	68
Detrimental action against a whistleblower	3	5	0	8
Dishonesty in recruitment/promotion	0	2	0	2
Disobey reasonable direction	4	32	14	50
Fail performance/conduct plan	0	1	2	3
Failure to comply with code of conduct (other)	145	292	303	740
Failure to comply with statutory obligation/procedure (other)	59	128	154	341
False claiming for duties/allowances	3	4	4	11
Inadequate management/maladministration	36	26	67	129
Inadequate security of weapon/appointments	1	10	29	40
Inappropriate intervention in civil dispute	0	3	4	7
Minor workplace-related misconduct	2	6	13	21
Other improper use of discretion	2	4	6	12
Unauthorised secondary employment	3	22	5	30
Unauthorised use of vehicle/facilities/equipment	5	14	19	38
Workplace harassment/victimisation/discrimination	35	94	65	194
<b>Total</b>	<b>322</b>	<b>668</b>	<b>706</b>	<b>1,696</b>

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
<b>Other criminal conduct</b>				
Fraud	0	1	0	1
Murder/manslaughter	2	1	2	5
Officer in breach of domestic violence order	1	4	0	5
Officer perpetrator of domestic violence	3	15	10	28
Officer subject of application for domestic violence order	3	11	1	15
Other indictable offence	28	32	5	65
Other summary offence	26	149	16	191
Sexual assault/indecent assault	15	21	1	37
<b>Total</b>	<b>78</b>	<b>234</b>	<b>35</b>	<b>347</b>
<b>Property/exhibits/theft</b>				
Damage	6	3	7	16
Fail to report loss	0	2	3	5
Failure or delay in returning to owner	31	2	13	46
Loss	4	14	31	49
Theft	15	15	3	33
Unauthorised removal/destruction/use of	15	13	10	38
<b>Total</b>	<b>71</b>	<b>49</b>	<b>67</b>	<b>187</b>
<b>Prosecution-related inadequacies/misconduct</b>				
Adverse comment by court/costs awarded	4	8	10	22
Fail to attend court	1	3	24	28
Fail to check brief/inadequate preparation of brief	2	11	27	40
Fail to notify witness	2	2	14	18
Fail to serve brief of evidence	1	5	11	17
Failure to charge/prosecute	23	2	30	55
Failure to use Young Offenders Act	0	1	0	1
Improper prosecution	31	19	15	65
Mislead the court	5	1	0	6
PIN/TIN inappropriately/wrongly issued	9	0	0	9
<b>Total</b>	<b>78</b>	<b>52</b>	<b>131</b>	<b>261</b>
<b>Public justice offences</b>				
Fabrication of evidence (other than perjury)	28	5	8	41
Involuntary confession by accused	1	0	0	1
Make false statement	37	14	5	56
Other pervert the course of justice	27	12	7	46
Perjury	7	2	2	11
Withholding or suppression of evidence	7	4	3	14
<b>Total</b>	<b>107</b>	<b>37</b>	<b>25</b>	<b>169</b>
<b>Search/entry</b>				
Failure to conduct search	0	1	0	1
Property missing after search	1	1	6	8
Unlawful entry	4	0	0	4
Unlawful search	29	13	44	86
Unreasonable/inappropriate conditions/damage	6	2	3	11
Wrongful seizure of property during search	1	2	0	3
<b>Total</b>	<b>431</b>	<b>100</b>	<b>298</b>	<b>113</b>

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
<b>Service delivery</b>				
Breach domestic violence SOPs	10	9	9	28
Fail to provide victim support	22	10	26	58
Fail/delay attendance to incident/'000'	13	1	18	32
Harassment/intimidation	100	18	55	173
Improper failure to WIPE	4	5	15	24
Improper use of move on powers	0	0	1	1
Neglect of duty (not specified elsewhere)	22	23	40	85
Other (customer service)	280	21	123	424
Rudeness/verbal abuse	106	20	108	234
Threats	37	6	43	86
<b>Total</b>	<b>594</b>	<b>113</b>	<b>438</b>	<b>1,145</b>
<b>Total summary of allegations</b>				
	<b>2,370</b>	<b>1,979</b>	<b>2,414</b>	<b>6,763</b>

# Appendix B

## Custodial services

Fig. 68: Action taken on formal complaints about people in custody finalised in 2013-2014

	Assessment only	Preliminary or informal investigation										Formal investigation					
Council	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
Corrective Services	78	17	232	6	125	28	4	3	0	0	0	0	0	0	0	493	
Justice Health	8	2	47	0	24	2	0	0	0	0	0	0	0	0	0	83	
Juvenile Justice	5	5	23	0	18	0	0	4	0	0	0	0	0	0	0	55	
Total	91	24	302	6	167	30	4	7	0	0	0	0	0	0	0	631	

### 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  
**N** PID preliminary inquiries

#### Formal investigation:

**J** Resolved during investigation  
**K** Investigation discontinued  
**L** No adverse finding  
**M** Adverse finding  
**O** PID investigation

Fig. 69: Number of formal and informal complaints about Juvenile Justice received in 2013-2014

Institution	Formal	Informal	Total
Acmena Juvenile Justice Centre	4	18	22
Cobham Juvenile Justice Centre	11	43	54
Frank Baxter Juvenile Justice Centre	14	46	60
Juniperina Juvenile Justice Centre	7	25	32
Juvenile Justice NSW	9	10	19
Orana Juvenile Justice Centre	2	17	19
Reiby Juvenile Justice Centre	5	27	32
Riverina Juvenile Justice Centre	2	9	11
<b>Total</b>	<b>54</b>	<b>195</b>	<b>249</b>



Fig. 70: Number of formal and informal complaints about correctional centres, DCS and GEO received in 2013-2014.

Institution	Formal	Informal	Total	Operational capacity	Total complaints as % of operational capacity
<b>Maximum security</b>					
Cessnock Correctional Centre*	24	181	205	762	27
Goulburn Correctional Centre*	26	155	181	578	31
High Risk Management Correctional Centre	16	33	49	75	65
Lithgow Correctional Centre	17	114	131	430	30
Long Bay Hospital	10	70	80	401	20
Metropolitan Remand Reception Centre	31	280	311	961	32
Metropolitan Special Programs Centre*	30	223	253	975	26
Mid North Coast Correctional Centre**	17	142	159	532	30
Parklea Correctional Centre*	61	287	348	880	40
Silverwater Women's Correctional Centre	12	114	126	241	52
South Coast Correctional Centre**	6	142	148	596	25
Special Purpose Prison Long Bay	2	13	15	60	25
Wellington Correctional Centre*	18	141	159	594	27
<b>Medium security</b>					
Bathurst Correctional Centre#	7	90	97	659	15
Broken Hill Correctional Centre#	2	11	13	89	15
Cooma Correctional Centre	3	25	28	160	16
Dillwynia Correctional Centre#	6	63	69	219	32
Grafton Correctional Centre	3	24	27	72	38
John Morony Correctional Centre	6	52	58	288	20
Junee Correctional Centre#	39	232	271	853	32
Kariong Juvenile Correctional Centre	5	17	22	44	50
Tamworth Correctional Centre#	2	23	25	89	28
<b>Minimum security</b>					
Compulsory Drug Treatment Centre	2	1	3	55	5
Dawn de Loas Special Purpose Centre	17	112	129	580	22
Emu Plains Correctional Centre	2	46	48	201	24
Glen Innes Correctional Centre	1	16	17	168	10
Ivanhoe (Warakirri) Correctional Centre	0	4	4	35	11
Mannus Correctional Centre	2	14	16	164	10
Oberon Correctional Centre	1	17	18	130	14
Outer Metropolitan Multi-Purpose Centre	2	19	21	300	7
St Heliers Correctional Centre	5	19	24	286	8
Yetta Dhinnakkal (Brewarrina) Centre	0	1	1	30	3
Subtotal	375	2,681	3,056	11,507	27
<b>Other</b>					
Amber Laurel Correctional Centre	1	1	2		
Balund a (Tabulam)	2	0	2		
Community Offender Services	9	65	74		
Corrective Services NSW	85	523	608		
Court Escort/Security Unit	6	0	6		
Justice Health	81	376	457		
Serious Offenders Review Council	1	0	1		
State Parole Authority	3	16	19		
The Forensic Hospital	7	13	20		
Woman's Transitional Centres	1	0	1		
<b>Total</b>	<b>571</b>	<b>3,675</b>	<b>4,246</b>	<b>11,507</b>	

\* Maximum and Minimum total \*\* Maximum/Medium/Minimum total # Medium and Minimum total

# Appendix C

## Departments, authorities and local government

### Public sector agencies

Fig. 71: Action taken on formal complaints finalised in 2013-2014

	Assessment only	Preliminary or informal investigation										Formal investigation*					
Complaint about	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
Bodies outside jurisdiction	920	0	0	0	0	0	0	0	0	0	0	0	0	0	0	920	
Custodial Services	91	24	302	6	167	30	4	7	0	0	0	0	0	0	0	631	
Departments & authorities	1,024	34	323	6	315	57	22	13	0	2	0	0	0	11	0	1,807	
Local government	612	13	144	1	70	20	6	3	0	2	0	0	0	0	0	871	
Total	2,647	71	770	13	552	107	32	23	0	4	0	0	0	11	0	4,230	

\* Ten of the matters involved separate complaints that became one overall investigation. The eleventh complaint was a separate investigation.

### 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  
**N** PID preliminary inquiries

#### Formal investigation:

**J** Resolved during investigation  
**K** Investigation discontinued  
**L** No adverse finding  
**M** Adverse finding  
**O** PID investigation

## Departments and authorities

Fig. 72: Action taken on formal complaints about departments and authorities finalised in 2013-2014

	Assessment only	Preliminary or informal investigation										Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
Aboriginal Housing Office	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	2	
Agency not named	1	0	0	0	2	0	0	0	0	0	0	0	0	0	0	3	
Ambulance Service of New South Wales	5	0	0	0	0	0	1	0	0	0	0	0	0	0	0	6	
Anti-Discrimination Board	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Attorney General	3	0	1	0	1	0	0	0	0	0	0	0	0	0	0	5	
Ausgrid	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Awabakal Newcastle Aboriginal Co-operative Ltd	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Board of Architects of NSW	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Building Professionals Board	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Central Coast Local Health District	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Central West Livestock, Pest and Health Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Charles Sturt University	3	0	2	0	2	0	0	0	0	0	0	0	0	0	0	7	
Children's Hospital at Westmead	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Consumer, Trader & Tenancy Tribunal	25	0	0	0	0	0	0	0	0	0	0	0	0	0	0	25	
Cowra Local Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Dental Council of New South Wales	1	0	1	0	1	0	0	0	0	0	0	0	0	0	0	3	
Dental Hospital – Sydney	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Department of Ageing, Disability and Home Care – Home Care Service of NSW	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Department of Education and Communities	108	1	34	1	19	8	3	0	0	0	0	0	0	0	0	174	
Department of Family and Community Services	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	3	
Department of Justice	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Department of Lands	1	0	4	0	0	0	0	0	0	0	0	0	0	0	0	5	
Department of Planning and Environment	9	0	4	1	0	0	0	0	0	0	0	0	0	0	0	14	
Department of Trade and Investment, Regional Infrastructure and Services	11	0	2	0	0	0	0	0	0	0	0	0	0	1	0	14	
Director of Public Prosecutions	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	2	
EnableNSW	3	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4	
Environment Protection Authority	10	0	3	0	2	0	0	0	0	0	0	0	0	1	0	16	
Fair Trading	29	2	16	0	8	1	0	0	0	0	0	0	0	0	0	56	
Fire and Rescue NSW	6	0	1	0	0	0	0	0	0	0	0	0	0	0	0	7	
Forestry Corporation of NSW	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Galambila Aboriginal Health Service Incorporated	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Guardianship Tribunal	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Health Care Complaints Commission	18	1	2	0	0	0	0	0	0	0	0	0	0	0	0	21	
Health Education and Training Institute NSW	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	

	Assessment only	Preliminary or informal investigation										Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
Heritage Council of NSW	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Housing Appeals Committee	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Housing NSW	115	3	33	0	70	11	1	2	0	0	0	0	0	0	0	235	
Hunter Development Corporation	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Hunter New England Local Health District	3	0	1	0	0	1	0	0	0	0	0	0	0	0	0	5	
Hunter Water Corporation Limited	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Illawarra Shoalhaven Local Health District	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Independent Commission Against Corruption	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Independent Liquor and Gaming Authority	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Industrial Relations	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Internal Audit Bureau of NSW	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Jali Local Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Land & Housing Corporation	16	1	7	0	46	5	0	1	0	0	0	0	0	0	0	76	
Land and Property Information	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Land and Property Management Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Legal Aid Commission of New South Wales	21	1	3	0	2	0	0	0	0	0	0	0	0	0	0	27	
Legal Profession Admissions Board	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Lifetime Care and Support Authority	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	2	
Livestock Health and Pest Authorities State Management Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Local Aboriginal Land Council (unnamed)	4	0	0	0	1	0	0	0	0	0	0	0	0	0	0	5	
Long Service Corporation	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Lord Howe Island Board	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Macquarie University	5	0	3	0	0	0	1	0	0	0	0	0	0	0	0	9	
Medical Council of New South Wales	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	3	
Mid North Coast Local Health District	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Motor Accidents Authority	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
National Parks & Wildlife Service	8	0	3	1	2	0	2	0	0	0	0	0	0	0	0	16	
Nepean Blue Mountains Local Health District	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
New South Wales Aboriginal Land Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
New South Wales Crime Commission	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
North Coast Livestock, Pest and Health Authority	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Northern NSW Local Health District	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Northern Sydney Local Health District	5	0	1	0	0	0	1	0	0	0	0	0	0	0	0	7	
NSW Civil and Adminstrative Tribunal	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	

	Assessment only	Preliminary or informal investigation										Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
NSW Food Authority	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
NSW Ministry of Health	7	0	1	1	2	1	0	0	0	0	0	0	0	0	0	12	
NSW Office of Liquor, Gaming and Racing	5	0	4	0	2	1	1	0	0	0	0	0	0	0	0	13	
NSW Office of Water	2	0	4	1	1	0	1	1	0	0	0	0	0	7	0	17	
NSW TrainLink	11	0	1	0	1	0	0	0	0	0	0	0	0	0	0	13	
NSW Trustee and Guardian – Financial Services	22	0	6	0	11	2	1	1	0	0	0	0	0	0	0	43	
NSW Trustee and Guardian – Trustee Services	14	0	7	0	9	0	0	0	0	0	0	0	0	0	0	30	
Nurses and Midwifery Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Office of Environment and Heritage	1	0	1	0	0	0	0	0	0	0	0	0	0	1	0	3	
Office of Finance and Services	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Office of Local Government	2	1	3	0	0	0	0	0	0	0	0	0	0	0	0	6	
Office of Public Guardian	4	0	3	0	1	0	1	0	0	0	0	0	0	0	0	9	
Office of State Revenue	21	0	1	0	2	0	0	0	0	0	0	0	0	0	0	24	
Office of the Legal Services Commissioner	6	0	2	0	1	0	0	0	0	0	0	0	0	0	0	9	
Office of the Registrar Aboriginal Land Rights Act 1983	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Pillar Administration	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Planning Assessment Commission	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Primary Industries	6	0	1	0	0	0	0	0	0	0	0	0	0	1	0	8	
Public Service Commission	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Registry of Births, Deaths and Marriages	2	0	2	0	3	1	0	0	0	0	0	0	0	0	0	8	
Rental Bond Board	1	0	0	0	2	0	0	0	0	0	0	0	0	0	0	3	
Riverina Livestock, Pest and Health Authority	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Roads and Maritime Services	90	5	27	0	47	9	3	0	0	0	0	0	0	0	0	181	
Rural Fire Service NSW	2	0	0	0	1	0	1	0	0	0	0	0	0	0	0	4	
Service NSW	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	2	
Sheriffs Office	10	0	1	0	0	0	0	0	0	0	0	0	0	0	0	11	
South Eastern Sydney Local Health District	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
South Western Sydney Local Health District	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Southern Cross University	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Southern NSW Local Health District	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
State Debt Recovery Office	135	2	56	0	41	11	1	2	0	0	0	0	0	0	0	248	
State Emergency Service	3	1	0	0	0	0	0	3	0	1	0	0	0	0	0	8	
State Records Authority	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
State Transit Authority of NSW	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
State Water Corporation	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Sydney Harbour Foreshore Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Sydney Local Health District	5	0	0	0	0	1	0	0	0	0	0	0	0	0	0	6	
Sydney Opera House	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	



	Assessment only	Preliminary or informal investigation										Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
Sydney Trains	33	0	9	0	8	1	0	0	0	0	0	0	0	0	0	51	
Sydney Water Corporation	8	0	0	0	1	0	0	0	0	0	0	0	0	0	0	9	
Tharawal Local Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Transport for NSW	33	1	7	0	6	0	0	0	0	0	0	0	0	0	0	47	
University of New England	3	0	3	0	2	0	2	0	0	1	0	0	0	0	0	11	
University of New South Wales	10	0	3	1	0	0	0	0	0	0	0	0	0	0	0	14	
University of Newcastle	5	1	3	0	0	0	0	0	0	0	0	0	0	0	0	9	
University of Sydney	18	2	9	0	2	1	0	0	0	0	0	0	0	0	0	32	
University of Technology Sydney	6	2	9	0	0	0	0	0	0	0	0	0	0	0	0	17	
University of Western Sydney	8	2	9	0	0	0	0	1	0	0	0	0	0	0	0	20	
University of Wollongong	5	1	4	0	2	0	0	0	0	0	0	0	0	0	0	12	
UrbanGrowth NSW	2	0	2	0	2	0	0	0	0	0	0	0	0	0	0	6	
Veterinary Practitioners Board of NSW	4	0	0	0	1	0	0	0	0	0	0	0	0	0	0	5	
Victims Compensation Tribunal	4	0	1	0	3	1	0	0	0	0	0	0	0	0	0	9	
Western NSW Local Health District	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Western Sydney Local Health District	7	0	1	0	0	0	0	0	0	0	0	0	0	0	0	8	
WorkCover Authority	19	1	6	0	0	0	0	2	0	0	0	0	0	0	0	28	
WorkCover Independent Review Office	3	2	1	0	1	0	0	0	0	0	0	0	0	0	0	7	
Workers Compensation Commission	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Total	1,024	34	323	6	315	57	22	13	0	2	0	0	0	11	0	1,807	

## Local government

Fig. 73: Action taken on formal complaints about local government finalised in 2013-2014

	Assessment only	Preliminary or informal investigation										Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
Accredited certifier	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Albury City Council	3	0	0	0	2	0	0	0	0	0	0	0	0	0	0	5	
Ashfield Municipal Council	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Auburn Council	5	1	2	0	0	0	0	0	0	0	0	0	0	0	0	8	
Ballina Shire Council	3	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4	
Bankstown City Council	12	0	0	0	4	0	1	0	0	0	0	0	0	0	0	17	
Bathurst Regional Council	4	0	1	0	0	0	0	0	0	0	0	0	0	0	0	5	
Bega Valley Shire Council	3	0	2	0	2	0	0	0	0	0	0	0	0	0	0	7	
Bellingen Shire Council	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Blacktown City Council	8	2	2	0	1	0	0	0	0	0	0	0	0	0	0	13	
Blayney Shire Council	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	
Blue Mountains City Council	6	0	1	0	0	0	0	0	0	0	0	0	0	0	0	7	
Bogan Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Botany Bay City Council	2	0	2	0	4	0	0	0	0	0	0	0	0	0	0	8	
Broken Hill City Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	

	Assessment only	Preliminary or informal investigation										Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
Burwood Council	6	0	3	0	1	0	0	0	0	0	0	0	0	0	0	10	
Byron Shire Council	2	0	6	0	0	0	0	0	0	0	0	0	0	0	0	8	
Cabonne Council	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Camden Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Campbelltown City Council	6	0	1	0	0	0	0	0	0	0	0	0	0	0	0	7	
Canterbury City Council	11	0	1	0	0	0	0	0	0	0	0	0	0	0	0	12	
Central Darling Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Cessnock City Council	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
City of Canada Bay Council	11	0	1	0	2	0	0	0	0	0	0	0	0	0	0	14	
Clarence Valley Council	5	0	1	0	1	0	0	0	0	0	0	0	0	0	0	7	
Cobar Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Coffs Harbour City Council	6	0	0	0	1	1	0	0	0	0	0	0	0	0	0	8	
Cooma-Monaro Shire Council	3	0	1	0	1	0	0	0	0	0	0	0	0	0	0	5	
Coonamble Shire Council	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3	
Corowa Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Cowra Shire Council	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Deniliquin Council	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Dubbo City Council	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Dungog Shire Council	1	0	1	0	1	0	0	0	0	0	0	0	0	0	0	3	
Eurobodalla Shire Council	7	0	2	0	0	0	0	0	0	0	0	0	0	0	0	9	
Fairfield City Council	8	0	1	0	2	0	0	1	0	0	0	0	0	0	0	12	
Glen Innes Severn Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Gloucester Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Goldenfields Water County Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Gosford City Council	7	1	3	0	0	0	0	0	0	0	0	0	0	0	0	11	
Goulburn Mulwaree Council	3	0	1	0	0	1	0	0	0	0	0	0	0	0	0	5	
Great Lakes Council	3	0	3	0	0	1	0	0	0	0	0	0	0	0	0	7	
Greater Hume Shire Council	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	
Greater Taree City Council	4	0	1	0	0	1	0	0	0	0	0	0	0	0	0	6	
Griffith City Council	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3	
Gunnedah Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Gwydir Shire Council	3	0	1	0	0	1	0	0	0	0	0	0	0	0	0	5	
Hawkesbury City Council	22	1	0	0	1	1	0	0	0	0	0	0	0	0	0	25	
Holroyd City Council	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6	
Hornsby Shire Council	4	0	4	0	2	1	0	0	0	0	0	0	0	0	0	11	
Hunters Hill Municipal Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Hurstville City Council	7	0	0	0	1	1	0	0	0	0	0	0	0	0	0	9	
Inverell Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Junee Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Kempsey Shire Council	3	0	2	0	1	0	1	0	0	0	0	0	0	0	0	7	
Kiama Municipal Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Kogarah City Council	3	0	2	0	1	1	0	0	0	0	0	0	0	0	0	7	
Ku-ring-gai Municipal Council	10	0	2	0	0	0	0	0	0	0	0	0	0	0	0	12	
Kyogle Shire Council	4	0	1	0	0	0	0	0	0	0	0	0	0	0	0	5	
Lachlan Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Lake Macquarie City Council	6	0	3	0	0	0	0	0	0	0	0	0	0	0	0	9	

	Assessment only	Preliminary or informal investigation										Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
Lane Cove Municipal Council	4	0	3	0	1	0	0	0	0	0	0	0	0	0	0	8	
Leeton Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Leichhardt Municipal Council	8	1	2	0	4	1	0	0	0	0	0	0	0	0	0	16	
Lismore City Council	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Lithgow City Council	1	1	2	0	0	0	0	0	0	0	0	0	0	0	0	4	
Liverpool City Council	9	0	3	0	1	0	0	0	0	0	0	0	0	0	0	13	
Lockhart Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Maitland City Council	5	0	2	0	0	0	0	0	0	0	0	0	0	0	0	7	
Manly Council	12	0	1	0	1	0	0	0	0	0	0	0	0	0	0	14	
Marrickville Council	11	0	2	0	5	0	1	0	0	0	0	0	0	0	0	19	
Midcoast Water	6	0	0	0	0	0	1	0	0	0	0	0	0	0	0	7	
Mid-Western Regional Council	4	0	1	0	0	0	0	0	0	0	0	0	0	0	0	5	
Moree Plains Shire Council	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3	
Mosman Municipal Council	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Muswellbrook Shire Council	3	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4	
Nambucca Shire Council	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Narromine Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Newcastle City Council	10	0	2	0	0	0	0	0	0	0	0	0	0	0	0	12	
North Sydney Council	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	2	
Orange City Council	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Palerang Council	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Parkes Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Parramatta City Council	6	0	3	0	2	0	0	0	0	0	0	0	0	0	0	11	
Penrith City Council	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7	
Pittwater Council	17	0	1	0	1	1	0	0	0	0	0	0	0	0	0	20	
Port Macquarie-Hastings Council	12	0	0	0	2	1	0	0	0	0	0	0	0	0	0	15	
Port Stephens Council	9	0	4	0	1	0	0	0	0	0	0	0	0	0	0	14	
Queanbeyan City Council	3	0	3	0	1	0	0	0	0	0	0	0	0	0	0	7	
Randwick City Council	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8	
Richmond Valley Council	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	2	
Riverina Water County Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Rockdale City Council	14	0	0	0	1	0	0	0	0	0	0	0	0	0	0	15	
Ryde City Council	11	0	2	0	2	0	0	0	0	0	0	0	0	0	0	15	
Shellharbour City Council	1	0	1	0	1	1	0	0	0	0	0	0	0	0	0	4	
Shoalhaven City Council	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6	
Singleton Shire Council	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	2	
Snowy River Shire Council	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Strathfield Municipal Council	7	0	1	0	0	0	0	0	0	0	0	0	0	0	0	8	
Sutherland Shire Council	20	1	5	0	3	0	1	0	0	0	0	0	0	0	0	30	
Sydney City Council	25	0	8	0	0	0	0	0	0	0	0	0	0	0	0	33	
Tamworth Regional Council	6	0	1	0	1	0	0	0	0	0	0	0	0	0	0	8	
Tenterfield Shire Council	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
The Hills Shire Council	7	0	1	0	0	0	0	0	0	0	0	0	0	0	0	8	
Tumut Shire Council	2	1	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Tweed Shire Council	12	0	2	0	0	0	0	0	0	1	0	0	0	0	0	15	
Upper Hunter Shire Council	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	2	

	Assessment only	Preliminary or informal investigation										Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
Upper Lachlan Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Uralla Shire Council	2	0	1	0	0	1	0	0	0	0	0	0	0	0	0	4	
Wagga Wagga City Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Walgett Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Warringah Council	20	1	6	0	0	1	0	0	0	0	0	0	0	0	0	28	
Warrumbungle Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Waverley Council	1	0	3	0	1	0	0	0	0	0	0	0	0	0	0	5	
Weddin Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Wellington Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Wentworth Shire Council	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6	
Willoughby City Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Wingecarribee Shire Council	11	0	1	1	2	0	0	0	0	1	0	0	0	0	0	16	
Wollondilly Shire Council	4	0	3	0	0	0	0	0	0	0	0	0	0	0	0	7	
Wollongong City Council	11	0	3	0	2	1	0	1	0	0	0	0	0	0	0	18	
Woollahra Municipal Council	13	1	0	0	0	1	1	0	0	0	0	0	0	0	0	16	
Wyong Shire Council	18	2	3	0	1	0	0	0	0	0	0	0	0	0	0	24	
Yass Valley Council	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Council not named	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Total	612	13	144	1	70	20	6	3	0	2	0	0	0	0	0	871	

# Appendix D

## Human services

### Child and family services

Fig. 74: Complaints issues for child and family services received in 2013-2014

A complaint may have more than one issue.

Program area	Child protection		Out-of-home care		Children's services		Family support		Adoption		General inquiry		
Issue	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Total
Access to service	0	0	0	1	0	1	0	0	0	0	0	0	2
Allowances/fees	1	4	15	23	0	2	0	1	0	0	0	1	47
Assault/abuse in care	4	3	9	10	0	0	0	0	0	0	0	0	26
Case management	6	9	14	18	0	3	0	1	0	0	0	0	51
Case planning	0	0	1	2	0	0	0	0	0	0	0	0	3
Casework	74	63	46	56	0	2	1	1	0	0	0	0	243
Client choice, dignity, participation	0	1	0	0	0	1	0	0	0	0	0	0	2
Client finances & property	0	1	0	0	0	0	0	0	0	0	0	0	1
Client rights	1	2	2	4	0	0	0	1	0	0	0	0	10
Complaints	7	24	10	17	0	9	0	2	2	0	0	1	72
Customer service	11	22	12	27	0	6	1	1	2	0	0	0	82
File/record management	0	2	0	0	0	0	0	0	0	0	0	0	2
Information	8	16	6	19	0	3	0	4	0	1	0	0	57
Investigation	10	4	1	5	0	1	0	0	0	0	0	0	21
Legal problems	1	4	0	4	0	0	0	0	0	0	0	0	9
Meeting individual needs	12	25	73	104	0	10	0	1	0	0	0	0	225
Not applicable	0	2	0	7	0	1	0	0	0	0	0	2	12
Not in jurisdiction	3	11	1	6	1	8	1	1	1	0	0	0	33
Object to decision	10	28	19	48	0	2	0	3	0	0	0	0	110
Policy/procedure/law	2	1	0	0	0	1	0	0	0	0	0	1	5
Professional conduct/misconduct	4	4	4	2	0	1	0	0	0	0	0	0	15
Safety	1	1	5	3	0	0	0	0	0	0	0	0	10
Service funding, licensing, monitoring	0	0	1	0	0	0	0	1	0	0	0	0	2
Service management	0	0	1	0	0	1	1	0	0	0	0	0	3
<b>Total</b>	<b>155</b>	<b>227</b>	<b>220</b>	<b>356</b>	<b>1</b>	<b>52</b>	<b>4</b>	<b>17</b>	<b>5</b>	<b>1</b>	<b>0</b>	<b>5</b>	<b>1,043</b>



Fig. 75: Formal complaints finalised for child and family services in 2013-2014

Program area	A	B	C	D	E	F	G	Total
Adoption	3	2	0	0	0	0	0	5
Child protection services	34	59	63	3	2	1	2	164
Children's services	0	1	0	0	0	0	0	1
Family support services	0	2	1	1	0	0	0	4
Out-of-home care	69	58	89	5	1	0	0	222
<b>Total</b>	<b>106</b>	<b>122</b>	<b>153</b>	<b>9</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>396</b>

## 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

# Disability services

Fig. 76: Complaints issues for disability services received in 2013-2014

A complaint may have more than one issue.

Program area	Disability accommodation		Disability support		General inquiry	
	Formal	Informal	Formal	Informal	Informal	Total
Access to service	2	2	10	4	0	18
Allowances/fees	1	2	4	5	0	12
Assault/abuse in care	31	11	12	4	0	58
Case management	9	4	3	2	0	18
Case planning	2	3	0	1	0	6
Casework	0	0	2	1	0	3
Client choice, dignity, participation	0	0	3	2	0	5
Client finances & property	4	2	2	0	0	8
Client rights	2	2	1	1	0	6
Complaints	6	5	4	10	0	25
Customer service	0	5	18	24	0	47
Information	1	2	1	4	0	8
Investigation	1	0	0	1	0	2
Meeting individual needs	30	23	20	13	0	86
Not applicable	0	2	0	4	1	7
Not in jurisdiction	1	9	6	12	1	29
Object to decision	0	2	2	2	0	6
Policy/procedure/law	1	0	1	0	0	2
Professional conduct/misconduct	7	0	2	0	0	9
Safety	4	2	0	0	0	6
Service funding, licensing, monitoring	0	0	3	0	0	3
Service management	6	6	2	2	0	16
<b>Total</b>	<b>108</b>	<b>82</b>	<b>96</b>	<b>92</b>	<b>2</b>	<b>380</b>

Fig. 77: Formal complaints finalised for disability services in 2013-2014

Program area	A	B	C	D	E	F	G	Total
Disability accommodation services	14	10	45	4	0	0	0	73
Disability support services	13	15	46	2	1	0	2	79
<b>Total</b>	<b>27</b>	<b>25</b>	<b>91</b>	<b>6</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>152</b>

## 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

## Other community services

Fig. 78: Number of formal and informal matters about other community services received in 2013-2014

Some complaints about specialist homelessness services and general community services may involve complaints about child and family and disability services.

Agency category	Formal	Informal
<b>Community Services</b>		
Specialist homelessness services	2	2
General community services	0	2
Aged services	0	0
Disaster welfare services	0	0
Other	3	13
<b>Subtotal</b>	<b>5</b>	<b>17</b>
<b>ADHC</b>		
Specialist homelessness services	0	0
General community services	0	0
Aged services	0	6
Disaster welfare services	0	0
Other	1	0
<b>Subtotal</b>	<b>1</b>	<b>6</b>
<b>Other government agencies</b>		
Specialist homelessness services	0	0
General community services	0	0
Aged services	0	7
Disaster welfare services	0	2
Other	0	0
<b>Subtotal</b>	<b>0</b>	<b>9</b>
<b>Non-government-funded or licensed services</b>		
Specialist homelessness services	3	3
General community services	1	1
Aged services	0	4
Disaster welfare services	1	5
Other	0	0
<b>Subtotal</b>	<b>5</b>	<b>13</b>
<b>Other</b>		
Other (general inquiries)	0	9
Agency unknown	3	15
Outside our jurisdiction	3	9
<b>Subtotal</b>	<b>6</b>	<b>33</b>
<b>Total</b>	<b>17</b>	<b>78</b>

Fig. 79: Complaints issues for other community services received in 2013-2014

A complaint may have more than one issue.

Issue	Formal	Informal	Total
Access to service	0	4	4
Allowances/fees	0	2	2
Assault/abuse in care	0	1	1
Case management	0	2	2
Casework	0	2	2
Complaints	2	4	6
Customer service	0	10	10
Information	2	3	5
Meeting individual needs	2	5	7
Not applicable	0	9	9
Not in jurisdiction	7	21	28
Object to decision	1	5	6
Policy/procedure/law	0	1	1
Professional conduct/misconduct	2	1	3
Safety	1	0	1
<b>Total</b>	<b>17</b>	<b>70</b>	<b>87</b>

Fig. 80: Formal complaints finalised for other community services in 2013-2014

Program area	A	B	C	D	E	F	G	Total
Aged services	1	0	0	0	0	0	1	2
Disaster welfare	0	0	0	0	0	0	0	0
General community services	0	0	1	0	0	0	0	1
Other	4	0	1	0	0	0	4	9
Specialist homelessness services	4	1	1	0	0	0	0	6
<b>Total</b>	<b>9</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>18</b>

## Description

- A** Complaint declined at outset
- B** Complaint finalised 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

## Committees

### Significant committees

Our staff are members of the following inter-organisational committees.

Staff member	Committee name
Ombudsman <b>Bruce Barbour</b>	Board Member Pacific Ombudsman Alliance; Institute of Criminology Advisory Committee; Public Interest Disclosures Steering Committee; Convenor, NSW Child Death Review Team
Deputy Ombudsman (Public Administration & Strategic Projects Branch) <b>Chris Wheeler</b>	Local Government Liaison Group; Public Interest Disclosures Steering Committee
Deputy Ombudsman/Community and Disability Services Commissioner <b>Steve Kinmond</b>	Police Aboriginal Strategic Advisory Committee (PASAC); NSW Child Death Review Team
Director, Strategic Projects Division <b>Julianna Demetrius</b>	PASAC
Principal Investigator <b>Sue Phelan</b>	Child Protection and Sex Crimes Squad Advisory Council
Manager, Aboriginal Unit <b>Laurel Russ</b>	PASAC
Division Manager (Public Administration Division) <b>Anne Radford</b>	Complaint Handler's Information Sharing and Liaison Group
Inquiries and Resolution Team Manager <b>Vince Blatch</b>	Complaint Handler's Information Sharing and Liaison Group
Senior Investigation Officer <b>Maxwell Britton</b>	Corruption Prevention Network, Heads of Asbestos Coordination Authorities - Working Group
Community Education and Training Coordinator <b>Anna Papanastasiou</b>	Joint Outreach Initiative Network

### Reviewable Disability Deaths Advisory Panel

Staff member	Committee name
<b>Ms Margaret Bail</b>	Human services consultant
<b>Professor Helen Beange AM</b>	Clinical Professor, Faculty of Medicine, University of Sydney
<b>Ms Linda Goddard</b>	Acting Undergraduate Courses Director, Senior Lecturer: Intellectual Disability, Chronic Care and Mental Health, School of Nursing, Midwifery & Indigenous Health, Charles Sturt University
<b>Assoc Prof Alvin Ing</b>	Senior Staff Specialist, Respiratory Medicine, Bankstown-Lidcombe Hospital and Senior Visiting Respiratory Physician, Concord Hospital
<b>Dr Cheryl McIntyre</b>	General practitioner, Obstetrician (Inverell)
<b>Dr Ted O'Loughlin</b>	Senior staff specialist, Gastroenterology, The Children's Hospital at Westmead
<b>Dr Rosemary Sheehy</b>	Geriatrician/Endocrinologist, Sydney Local Health District
<b>Assoc Prof Ernest Somerville</b>	Director, Comprehensive Epilepsy Service, Prince of Wales Hospital
<b>Assoc Prof Julian Trollor</b>	Chair, Intellectual Disability Mental Health, School of Psychiatry, Head, Department of Developmental Disability Neuropsychiatry, University of New South Wales



## Legislation and legal matters

### Legislation relating to Ombudsman functions

- *Ombudsman Act 1974*
- *Community Services (Complaints Reviews and Monitoring) Act 1993*
- *Police Act 1990*
- *Commission for Children and Young People Act 1998*
- *Inspector of Custodial Services Act 2012*
- *Public Interest Disclosures Act 1994*
- *Witness Protection Act 1995*
- *Children and Young Persons (Care and Protection) Act 1998*
- NSW universities' enabling Acts as amended by the *Universities Legislation Amendment (Financial and Other Powers) Act 2001*
- *Government Information (Public Access) Act 2009*
- *Government Information (Information Commissioner) Act 2009*
- *Freedom of Information Act 1989* (as applied by the *Government Information (Public Access) Act 2009*)
- *Law Enforcement (Controlled Operations) Act 1997*
- *Telecommunications (Interception and Access) (New South Wales) Act 1987*
- *Surveillance Devices Act 2007*
- *Law Enforcement (Powers and Responsibilities) Act 2002*
- *Terrorism (Police Powers) Act 2002*
- *Summary Offences Act 1988*
- *Crimes Act 1900* (as amended by Schedule 1[11] to the *Crimes Amendment (Consorting and Organised Crime) Act 2012*)
- *Crimes (Criminal Organisations Control) Act 2012*
- *Firearms Act 1996* (as amended by Schedule 1[39] to the *Firearms and Criminal Groups Legislation Amendment Act 2013*)
- *Restricted Premises Act 1943* (as amended by Schedule 2[12] to the *Firearms and Criminal Groups Legislation Amendment Act 2013*)

### Litigation

In the reporting year we were involved in the following legal action:

*Joseph de Varda v State of New South Wales (NSW Police Force)* – in the Supreme Court – claim for damages for injury allegedly sustained by the plaintiff while under arrest – claim included allegations against NSW Ombudsman related to functions under Part 8A of the *Police Act 1990* – court ordered that allegations against Ombudsman be struck out as raising no reasonable cause of action.

## Legal changes

### **Statute Law (Miscellaneous Provisions) Act 2013**

Schedule 1.8 to this Act amended the Community Services (Complaints, Reviews and Monitoring) Act to extend the authority of the Ombudsman to conduct reviews of deaths of children in care and certain other children and persons with disabilities in care, to a person who was living in, or temporarily absent from, residential care provided by any service provider. The amendments also extend the definition of 'service provider' to include, amongst others, service providers under the intergovernmental agreement for the National Disability Insurance Scheme made between the NSW Premier and the Prime Minister.

### **Royal Commissions and Ombudsman Legislation Amendment Act 2013**

This Act amended the Ombudsman Act to extend the exceptions to the general non-competence and non-compellability of the Ombudsman and officers of the Ombudsman to give evidence or produce documents in legal proceedings under s.35 of the Ombudsman Act, to criminal proceedings related to the investigation of a matter referred to the Ombudsman by the Inspectors of the Police Integrity Commission or the Crime Commission, and to injunction and prosecution proceedings brought under the Public Interest Disclosures Act.

### **National Disability Insurance Scheme (NSW Enabling) Act 2013**

Schedule 4 to this Act amended the Community Services (Complaints, Reviews and Monitoring) Act to extend the definition of 'service provider' to include an implementation company under the *National Disability Insurance Scheme (NSW Enabling) Act 2013* while the company is a public sector agency of the state under that Act.

### **Civil and Administrative Legislation (Appeal and Amendment) Act 2013**

This Act amended the Ombudsman Act to, amongst other things, enable the Ombudsman and the President of the Civil and Administrative Tribunal to enter into arrangements to facilitate the cooperative exercise of their respective functions.

### **Members of Parliament Staff Act 2013**

This Act amended the Ombudsman Act to, amongst other things, bring within the Ombudsman's jurisdiction as a 'public authority', staff employed under Part 2 of the *Members of Parliament Staff Act 2013* by a Minister, the Leader of the Opposition in the Legislative Assembly and the holder of a Parliamentary office in respect of which a determination made under that Act is in force.

### **Community Services (Complaints, Reviews and Monitoring) Amendment Act 2014**

This Act amended the Community Services (Complaints, Reviews and Monitoring) Act to, amongst other things, enhance reporting by the Ombudsman to include reports on systemic issues relating to the provision of community services by service providers, to extend the categories of persons who may make a community services complaint and to enhance to Ombudsman's powers in relation to reviewing the deaths of children in care and certain other children and persons with disabilities in care.

### **Ombudsman Amendment (Aboriginal Programs) Act 2014**

This Act amended the Ombudsman Act to require the appointment of a Deputy Ombudsman to monitor and assess prescribed Aboriginal programs. This significant amendment will enable the office of the Ombudsman to better promote improvements to the performance, accountability and compliance of government agencies delivering relevant services and programs to Aboriginal communities.

### **Statute Law (Miscellaneous Provisions) Act 2014**

Schedule 3.21 to this Act amended the Ombudsman Act to align the provisions relating to the appointment of statutory officers and staff of the office of the Ombudsman with the provisions of the *Government Sector Employment Act 2013*.

## External legal advice sought

- Ms Kristina Stern SC – advice regarding the scope of s.35(1) of the Ombudsman Act.

## Compliance with annual reporting requirements

Under the *Annual Reports (Departments) Act 1985*, the *Annual Reports (Departments) Regulation 2010* and various Treasury circulars and the *Ombudsman Act 1974* our office is required to include certain information in this report. The following is a list of information we are required to include in accordance with NSW Treasury's Annual Report Compliance Checklist and the Ombudsman Act.

Topic	Comment/location
Access	Back cover
Agreements with the Community Relations Commission	We do not have any agreements
Aims and objectives	Page 2 and pages 20 – 27
Charter	See opening pages of report
Consultants	Page 115
Consumer response	Page 17 and pages 109 – 112
Controlled entities	We have no controlled entities
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.
Digital Information Security policy for the Public Sector annual attestation	Page 19
Disability plans	Appendix I
Disclosure of controlled entities	We do not have any controlled entities
Disclosure of subsidiaries	We do not have any subsidiaries
Economic or other factors	Page 28 and 114 – 138
Equal Employment Opportunity	Page 34
Financial statements	Pages 118 - 138
Funds granted to non-government community organisations	No funds granted
<i>Government Information (Public Access) Act 2009</i>	See Appendix H
Human resources	Pages 32 – 38
Identification of audited financial statements	Page 120
Inclusion of unaudited financial statements	We do not have any unaudited financial statements
Internal audit and risk management policy attestation	See page 19
Is the report available in non-printed formats?	Yes
Is the report available on the internet?	Yes, at <a href="http://www.ombo.nsw.gov.au">www.ombo.nsw.gov.au</a>
Land disposal	We did not dispose of any land
Legal change	Appendix F
Letter of submission	Page 2
Management and activities	This report details our activities during the reporting period. Specific comments can be found in our Managing our organisation chapter at pages 9 – 38.
Management and structure: names and qualifications of principal officers, organisational chart indicating functional responsibilities	Pages 14 – 15
Multicultural Policies and Services Program (formerly EAPS)	Appendix I
Complaints referred to us under Part 6 of the Ombudsman Act	Three complaints were referred to us under Part 6 this year
Particulars of any matter arising since 1 July 2013 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 116 – 117
Performance and numbers of executive officers	Page 33 – 34
Promotion – overseas visits	Pages 4
Public interest disclosures	See pages 16 – 17
Requirements arising from employment arrangements	We do not provide personnel services to any statutory body
Research and development	Pages 30 - 31
Risk management and insurance activities	Pages 18 – 19
Statement of action taken to comply with the <i>Privacy and Personal Information Protection Act 1998</i>	We have a privacy management plan as required by s.33(3) of the <i>Privacy and Personal Information Protection Act 1998</i> and includes our obligations under the <i>Health Records and Information Privacy Act 2002</i> . This reporting year we did not receive any requests for internal review under the Act.
Summary review of operations	Inside front cover and page 5 – 8
Time for payment of accounts	Page 116 – 117
Total external costs incurred in the production of the report	\$ 7,597.70
Unaudited financial information to be distinguished by note	Not applicable
Waste	Page 29
Work health and safety	Page 36 – 37

# Appendix H

## NSW Ombudsman 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 for the reporting period 1 July 2013 – 30 June 2014.

### Review of proactive release program – Clause 7(a)

Under section 7 of the GIPA Act, agencies must review their programs for releasing government information to identify the kinds of information that can be made publicly available. This review must be done at least once every 12 months.

The secrecy provisions of the *Ombudsman Act 1974* limit the information we can make publicly available and information about our complaint-handling, investigative and reporting functions is excluded information under Schedule 2 of the GIPA Act. We still try to make as much information as possible publicly available. This year we continued to make speeches, special reports to Parliament, fact sheets, guidelines and other material available on our website.

Our program for proactively releasing information involves continually reviewing our information holdings. This includes reviewing any informal requests for information we receive where the information is given to the person making the request. Our right to information officers, along with other staff, identify any other information that can be made available on our website.

During the reporting period, we reviewed our current interagency agreements to see if there were any that could be added to the list on our website. This review resulted in

two additional agreements being made publicly available. We will continue to review our interagency agreements to determine their suitability for release.

We granted full access to information after a formal access application by a member of the public. This was published as the first entry in our disclosure log, which is available on our website.

We also entered into two contracts valued at over \$150,000 with the private sector, which led to us publishing a register of government contracts on our website.

One of the most effective ways of sharing information about our work is the latest news section of our website. This section is continually updated with details about the training sessions we have conducted, presentations, visits to rural and regional centres, as well as visits from delegations to our office and other information that may be of broader public interest.

Twice a year, we send out an e-newsletter – *Ombo-info*. This features updates and information on a range of our functions and activities as well as information about our community education and training unit. *Ombo-info* has a subscription of 2,404 and anyone can subscribe to it via our website.

We also produce a quarterly newsletter on our functions under the *Public Interest Disclosures Act 1994*. *PID e-news* provides updates on news, changes to legislation and regulations, training sessions, events, publications, guidance material and educational resources. *PID e-news* has a subscription of 863 and anyone can subscribe to it via our website.

### Number of access applications received – Clause 7(b)

During the reporting period, we received one formal access application (including withdrawn, but not invalid, applications).

### Statistical information about access applications – Clause 7(d) and Schedule 2

Fig. 81: 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	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not for profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	0	0	0	0	0	0	0
Members of the public (other)	1	0	0	0	0	0	0	0

\* More than one decision can be made about a particular access application. If so, a recording must be made in relation to each decision. This also applies to Table B.

Fig. 82: 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*	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	1	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

\* A **personal information application** is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

Fig. 83: Invalid applications

Reason for invalidity	No. of applications
Application does not comply with formal requirements (section 41 of the Act)	0
Application is for excluded information of the agency (section 43 of the Act)	11
Application contravenes restraint order (section 110 of the Act)	0
Total number of invalid applications received	0
Invalid applications that subsequently became valid applications	0

Fig. 84: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the Act

	No. of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0

\* More than one public interest consideration may apply to a particular access application and, if so, each consideration is to be recorded (but only once per application). This also applies in relation to Table E.

Fig. 85: Other public interest considerations against disclosure: matters listed in table to section 14 of the Act

	No. of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0

Fig. 86: Timeliness

	No. of applications
Decided within the statutory timeframe (20 days plus any extensions)	1
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
<b>Total</b>	<b>1</b>



Fig. 87: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total
Internal review	0	0	0
Review by Information Commissioner*	0	0	0
Internal review following recommendation under section 93 of Act	0	0	0
Review by NCAT	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

\* The Information Commissioner does not have the authority to vary decisions, but can make recommendation to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made.

Fig. 88: Applications for review under Part 5 of the Act (by type of applicant)

	No. of applications for review
Applications by access applicants	0
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	0

# Appendix I

## Access and equity programs

Fig. 89: Multicultural action plan (MAP)

Planned outcome	Strategies	Progress report
<b>Key priority area: Planning and evaluation</b>		
Integrate multicultural policy goals into our corporate and business planning and review mechanisms	Conduct a comprehensive review of our MAP to ensure that our plan reflects current policies concerning migrants and humanitarian entrants, and that our office is accessible to culturally, linguistically and religiously diverse people.	<ul style="list-style-type: none"> <li>We have an outcome-focused MAP with strategies and actions to ensure our services are accessible and appropriate for culturally, linguistically and religiously diverse people.</li> <li>We reviewed and updated our multicultural policy as part of our access and equity policy review.</li> <li>We reviewed our MAP and developed a draft five year MAP (2015-2019). We will consult both internally and externally before finalising the plan.</li> </ul>
	Ensure that our MAP strategies are reflected in or linked to business plans.	<ul style="list-style-type: none"> <li>Strategies to address issues relevant to culturally, linguistically and religiously diverse people are linked to our corporate plan and relevant business plans.</li> <li>The senior officer group receives reports on the implementation of our MAP.</li> </ul>
	Gather and analyse information about issues affecting culturally, linguistically and religiously diverse people and use this to inform business planning processes.	<ul style="list-style-type: none"> <li>We conducted a customer satisfaction audit of the handling of general telephone inquiries and complaints within our public administration division. The percentages of respondents who state that they regularly speak a language other than English at home have gone up considerably since our previous audits in 2007. These encouraging statistics inform our MAP and business planning processes.</li> </ul>
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"> <li>Our MAP advisory committee, headed by the Director Corporate and represented by all branches and divisions, met regularly to provide advice and support and to monitor the implementation of our MAP. This committee is the main internal advisory and consultative forum for our MAP review process.</li> </ul>
	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"> <li>We liaised with key multicultural groups such as Settlement Services International and migrant resource centres to promote our services to people from culturally, linguistically and religiously diverse backgrounds, and to identify gaps in our awareness strategies and service delivery.</li> <li>We continued our joint project working with other complaint-handling bodies to implement communication strategies for the Pacific Island communities.</li> </ul>
	Take all reasonable steps to encourage CALD people to participate in relevant committees, roundtable discussions and public forums	<ul style="list-style-type: none"> <li>We consulted with key organisations, including the Multicultural Disability Advocacy Association, on a range of issues relevant to culturally, linguistically and religiously diverse people with disabilities.</li> </ul>

Planned outcome	Strategies	Progress report
<b>Key priority area: Planning and evaluation</b>		
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"> <li>We consulted with key organisations, including the Multicultural Disability Advocacy Association, on a range of issues relevant to culturally, linguistically and religiously diverse people with disabilities.</li> </ul>
	Ensure that our MAP assigns clear responsibilities to key staff and division management for its implementation. Review staff performance agreements to ensure accountabilities for multicultural affairs are clearly assigned.	<ul style="list-style-type: none"> <li>The Director Corporate is the lead officer for our MAP and holds overall responsibility for developing and implementing our plan.</li> <li>Our MAP assigns responsibilities to relevant staff.</li> <li>We reported on the implementation of MAP strategies to our senior officers group quarterly.</li> </ul>
<b>Key priority area: Capacity building and resourcing</b>		
Our capacity is enhanced by the employment and training of people with linguistic and cultural expertise.	Use the Community Language Allowance Scheme (CLAS), monitor its implementation, and develop a register of staff who have bilingual skills as well as cultural and community knowledge.	<ul style="list-style-type: none"> <li>We actively promoted and used the CLAS program within our office.</li> <li>Four of our staff received the CLAS allowance and together they covered five community languages.</li> <li>We kept a central record when language assistance was provided and this information helped inform our planning process.</li> </ul>
	Provide cross-cultural awareness and cultural competence training to our staff.	<ul style="list-style-type: none"> <li>We are developing a compulsory cultural competence training program for all staff, and have started this training with our frontline staff.</li> </ul>
<b>Key priority area: Program and services</b>		
Identify barriers to access to our services for culturally and linguistically diverse (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"> <li>We reviewed and updated our procedure for the use of translation and interpreting services.</li> <li>All frontline inquiry staff are trained to use interpreting and translating services.</li> </ul>
	Ensure that our budget for interpreter services and interpreter use is monitored and reviewed.	<ul style="list-style-type: none"> <li>We allocated funds for providing interpreting and translation services.</li> <li>We kept a register of our use of interpreting and translation services to inform our decision-making in developing community language information.</li> <li>We provided language assistance to our clients on 135 occasions in 23 community languages.</li> </ul>
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 material in a range of formats (written, audio, online) to meet the specific needs of culturally, linguistically and religiously diverse people following consultation with key community organisations.	<ul style="list-style-type: none"> <li>Our multilingual brochure provides key information about our services in 26 community languages.</li> <li>Our fact sheet 'Making a complaint to the Ombudsman' is available in 46 community languages.</li> <li>Everything we produce in community languages is checked by community 'readers' for language and cultural appropriateness.</li> </ul>

Planned outcome	Strategies	Progress report
	Explore and recommend where appropriate the use of a range of technology in targeted community languages to facilitate communication with culturally, linguistically and religiously diverse people and improve access to our services.	<ul style="list-style-type: none"> <li>All our community language information is available on our website through a prominent link on the home page. The information material can be downloaded in accessible PDF format, and be ordered using our online publication order form.</li> </ul>
	Develop initiatives to raise awareness of, and celebrate the contribution of, culturally, linguistically and religiously diverse people.	<ul style="list-style-type: none"> <li>We participated in multicultural events – including the 'Many cultures one nation' festival in Campbelltown, the community information expo in Eastwood, the Refugee week in Parramatta, and the Law Week community information expo in Fairfield – to raise awareness of our services to both established and emerging CALD communities.</li> <li>We promoted our office and services to community workers through multicultural worker networks, and partnered with other complaint-handling bodies to present a second forum to Pacific Island community leaders and workers in the Mt Druitt area.</li> </ul>

Fig. 90: Disability action plan

Planned outcome	Strategies	Progress report for 2013-2014
Identify and remove barriers to services to people with disability	Incorporate disability access issues in the planning process to reflect the needs of people with disability.	<ul style="list-style-type: none"> <li>Our disability action plan (DAP) strategies are linked to our business plans.</li> <li>We have a DAP advisory committee that monitors the implementation of our DAP strategies. We provided senior management with quarterly reports on the implementation of our DAP.</li> <li>We reviewed and updated our disability policy.</li> <li>We started a comprehensive review of our DAP to ensure that it reflects current legislative and policy changes in the disability sector.</li> </ul>
	Improve disability awareness among all staff.	<ul style="list-style-type: none"> <li>We offered two compulsory half-day disability training programs for all staff – one on disability awareness and the other on mental health and stress management. We actively monitored staff attendance at these training workshops.</li> <li>We continued to support the Don't Dis My Ability campaign, which raises staff awareness of disability issues and celebrates the achievements of people with disability.</li> <li>We used platforms such as staff meetings and the intranet to update staff on current issues relating to people with disability.</li> </ul>
	Ensure our community education program includes informing people with disability about our complaint-handling process.	<ul style="list-style-type: none"> <li>We participated in community events such as conferences, forums and expos to raise awareness of the role of the Ombudsman in community services and the rights of people receiving these services.</li> <li>We provided training on complaint handling to community service providers, and The Rights Stuff workshops to people who receive community services</li> </ul>

Planned outcome	Strategies	Progress report for 2013-2014
Provide information in a range of formats that are accessible to people with disability	Improve the accessibility of key information about our services.	<ul style="list-style-type: none"> <li>• Our general information brochure is available in Braille and distributed to legal deposits libraries around NSW.</li> <li>• We continued to review and update our accessible publications including our large print, OCV and The Rights Stuff brochures. We have consulted with an external expert to help us develop easy English information material.</li> <li>• Our toolkit for consumers of community services in NSW is available in audio.</li> </ul>
	Improve the overall usability and accessibility of our website.	<ul style="list-style-type: none"> <li>• We take steps to ensure that information on our website is in plain English and accessible to people with disability.</li> <li>• We have placed an Auslan version of our 'know your rights as a consumer of community services' brochure on our website.</li> </ul>
Make government buildings and facilities physically accessible to people with disability	Identify physical barriers to access for people with disability.	<ul style="list-style-type: none"> <li>• We continued to follow our office access improvement plan, which makes our building and facilities accessible to people with disability.</li> <li>• We used a range of assistive tools such as the TTY and the National Relay Service (NRS) to help us communicate with people with disability.</li> </ul>
Assist people with disability to participate in public consultations and to apply for and participate in government advisory boards and committees	Liaise with disability groups to ensure the needs of people with disability are reflected in relevant decision-making processes.	<ul style="list-style-type: none"> <li>• We worked with service providers and consumers to achieve best outcomes for people with disability in accessing community services. This included holding regular roundtable discussions with peak disability bodies to discuss issues relevant to people with disability.</li> <li>• We provided complaint-handling training to carers groups, empowering them to participate in decision making and dispute resolution.</li> </ul>
Increase employment participation of people with disability in the NSW public sector	Promote employment opportunities to people with disability.	<ul style="list-style-type: none"> <li>• We attended the Leading the Way Conference 2014 to learn about current key employment issues faced by people with disability, learn from other agencies' practices and experiences, and network with members of the Australian Employers Network on Disabilities (AND).</li> </ul>
	Take all reasonable steps to increase employment participation for people with disability.	<ul style="list-style-type: none"> <li>• We continued to participate in the Stepping Into program and offered one student a four-week paid internship with our human services branch.</li> <li>• We participated in the PACE mentoring program coordinated by AND and provided support to one jobseeker with disability.</li> <li>• We have a reasonable adjustment policy that aims to provide equitable employment opportunities to staff with disability and we are committed to making reasonable adjustments to the workplace on request.</li> <li>• We are exploring ways to create employment opportunities for people with intellectual disability.</li> </ul>
Facilitate agencies to identify and remove barriers to access by people with disability	Improve agency ability in identifying and dealing with issues relating to people with disability.	<ul style="list-style-type: none"> <li>• We developed and delivered a new training workshop <i>Handling serious incidents in the disability sector</i>, providing practical advice to help agencies and service providers deal with more complex complaints.</li> <li>• We made a submission on the Disability Inclusion Bill and focused on changes we consider necessary to strengthen safeguards and give full effect to the intent of the new legislation.</li> <li>• We reported to Parliament on the continuing need to better support young people with disability leaving care.</li> </ul>

Fig. 91: Action plan for women

Objective	Outcomes for 2013–2014
Reduce violence against women	<ul style="list-style-type: none"> <li>We provided advice to FACS and the NSWPF about their collaborative work to improve the identification and sharing of information about serious violence offenders, particularly high risk domestic violence offenders.</li> </ul>
Promote safe and equitable workplaces that are responsive to all aspects of women's lives	<ul style="list-style-type: none"> <li>We have a carer's recognition policy which outlines our commitment to implementing the <i>Carer's Recognition Act 2010</i> and promoting the principles of the NSW Carer's Charter. This policy is particularly significant for female staff as they are often the primary carers.</li> <li>We help female staff balance work and care responsibilities by ensuring access to flexible working conditions – including flexible hours, part-time and job share arrangements, working from home, and leave for family responsibilities.</li> <li>We are committed to achieving and maintaining a harassment-free workplace, and have policies and procedures for dealing with workplace grievance and harassment complaints.</li> </ul>
Maximise the interests of women	<ul style="list-style-type: none"> <li>Our women's factsheet focuses on raising awareness about our work in addressing issues relevant to women, such as the policing of domestic violence and sexual assault against women.</li> <li>We made presentation to women's groups such as the Gurruma Women's Group for at-risk young women from the Quirindi and Walhallow areas.</li> <li>We participated in events such as the Stronger Aboriginal Women's program and spoke to women about our role and key recommendations from our report into Aboriginal child sexual assault.</li> </ul>
Improve the access of women to educational and training opportunities	<ul style="list-style-type: none"> <li>We provide equal training and development opportunities for all our staff.</li> <li>We implement government policies on equal opportunity employment and we select and promote staff on merit.</li> </ul>
Promote the position of women	<ul style="list-style-type: none"> <li>We have a diverse workforce, with a very high representation of women at all levels. Women make up 71.9% of total staff and 70.5% of staff grade six and above. Women make up 50% of our senior executive.</li> </ul>

Fig. 92: Compliance with the NSW *Carers (Recognition) Act 2010*

Strategies	Implementation of our carers recognition action plan
Educational strategies	<ul style="list-style-type: none"> <li>We promoted our carers recognition policy to all staff through emails.</li> <li>We placed promotional posters about the Act and the Charter in strategic places around the office.</li> <li>We distributed information to staff about state initiatives recognising and supporting carers, and encouraged our staff to have their say by participating in the online survey <i>Better Support for Carers</i>.</li> </ul>
Consultation and liaison with carers	<ul style="list-style-type: none"> <li>We have our carers recognition policy, which includes a policy statement and an outcome-focused action plan with assigned responsibilities and timeframes.</li> <li>Our disability action plan advisory committee and our division managers group are our internal consultative mechanisms for developing our carers policy.</li> <li>We maintain regular contacts with peak carers organisations via our existing consultative platform – the disability roundtable – which meets twice a year.</li> <li>We worked with Connecting Carers and provided a training workshop to carers on <i>The rights stuff: tips for resolving problems and making complaints</i>.</li> </ul>
Staff who are carers	<ul style="list-style-type: none"> <li>We have a range of policies that support staff who are carers – including flexible hours, working from home, and family and community services leave.</li> <li>We will continue to review policies to ensure that staff with caring responsibilities are valued and appropriately supported.</li> </ul>



## Publications list

We produce a range of publications including general information for the public, guidelines for agencies and organisations we oversight, 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 reporting year and special reports to Parliament about public interest issues.

A list of the publications we issued during 2013-2014 follows. Our publications are available in Acrobat PDF online at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au). Hard copies of some of our publications are available by contacting us or submitting an online publications request on our website.

### Special reports to Parliament

Causes of death of children with a child protection history 2002-2011

Review of the NSW child protection system - Are things improving?

The continuing need to better support young people leaving care

### Annual reports

NSW Ombudsman Annual Report 2012-2013

Law Enforcement (Controlled Operations) Act Annual Report 2012-2013

NSW Child Death Review Team Annual Report 2012

Official Community Visitors Annual Report 2012-2013

*Oversight of Public Interest Disclosures Act 1994* Annual Report 2012-2013

### Reports and submissions

Consorting Issues Paper – Review of the use of the consorting provisions by the NSW Police Force - Division 7 Part 3A of the *Crimes Act 1900* - November 2013

Report under section 242(3C) of the *Law Enforcement (Powers and Responsibilities) Act 2002*: Criminal Organisations Search Warrants for the period ending 7 August 2013

Report under Section 49(1) of the *Surveillance Devices Act 2007* for the period ending 30 June 2013

Review of Division 4, Part 3 of *Law Enforcement (Powers and Responsibilities) Act 2002*: Face coverings and identification report August 2013

Submission on the Disability Inclusion Bill 2014

Submission on Inquiry into driver licence disqualification reform July 2013

Submission on Child Safe Institutions – Issues Paper 15 October 2013

Submission on preventing sexual abuse of children in out-of-home care – Issues Paper 8 January 2014

Submission on Review of *Child Protection (Offenders Registration) Act 2000* August 2013

Submission on strengthening advocacy for children and young people in NSW August 2013

Submission on the Disability Inclusion Bill 2014

Submission on Towards Healing September 2013

Submission on Working with Children Check – Issues Paper August 2013

Submission to Joint Select Committee on Sentencing of Child Sexual Assault Offenders 5 March 2014

### Fact sheets and guidelines

Addressing child protection issues in codes of conduct

Complaints about social housing

Interaction between Public Interest Disclosures Act and Government Information (Public Access) Act

How the Ombudsman audits agencies that provide services to children

Keeping records – Child Protection Fact Sheet 1

Legislation: what employers and employees need to know – Child Protection Fact Sheet 3

Making a finding - practice update

Model internal reporting policy – Local and State Government – updated

Planning and conducting an investigation – Child Protection Fact Sheet 4

Responsibilities of heads of agencies – Child Protection

Review of the new consorting provisions

Reviewing child protection policies: an agency self-assessment checklist – Child Protection Fact Sheet 8

Safeguards and the NDIS

PID checklist for recipient of internal report – public authorities – updated

PID initial assessment of internal report – public authorities – updated

PID internal reporting form - public authorities – updated

PID acknowledgment letter - public authorities – updated

PID assessment of internal report - public authorities – updated

Ombudsman Inquiries Frequently asked questions

### Brochures

Talk-to-us-Aboriginal – updated

Complaint handling – research, resources and training

### Newsletters

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# Glossary

<b>AA</b>	– Aboriginal Affairs	<b>EPA</b>	– Environmental Protection Authority
<b>AbSec</b>	– Aboriginal Child, Family and Community Care State Secretariat	<b>ERCPD</b>	– Employment-related child protection division
<b>ACWA</b>	– Association of Children's Welfare Agencies	<b>FACS</b>	– Department of Family and Community Services
<b>ADB</b>	– Anti-Discrimination Board	<b>GIPA Act</b>	– <i>Government Information (Public Access) Act 2009</i>
<b>ADHC</b>	– Ageing, Disability and Home Care	<b>GP</b>	– General practitioner
<b>AES</b>	– Aboriginal Employment Strategy	<b>GREP</b>	– Government resource efficiency policy
<b>AHO</b>	– Aboriginal Housing Office	<b>GSE Act</b>	– <i>Government Sector Employment Act 2013</i>
<b>ALS</b>	– Aboriginal Legal Service	<b>HACA</b>	– Heads of Asbestos Coordination Authorities
<b>APOR</b>	– Australasian and Pacific Ombudsman Region	<b>HACC</b>	– Home and Community Care
<b>ARC</b>	– Audit and risk committee	<b>HRMCC</b>	– High Risk Management Correctional Centre
<b>ASD</b>	– Aboriginal Strategic Direction	<b>IAOLAS</b>	– Indonesian Australian Ombudsman Linkages and Strengthening program
<b>Auslan</b>	– Australian Sign Language	<b>ICAC</b>	– Independent Commission Against Corruption
<b>AVO</b>	– Apprehended violence order	<b>ICV</b>	– In-car video
<b>BIU</b>	– Business improvement unit	<b>IOI</b>	– International Ombudsman Institute
<b>CALD</b>	– Culturally and linguistically diverse	<b>IPAA</b>	– Institute of Public Administration Australia
<b>CCTV</b>	– Closed-circuit television	<b>IPC</b>	– Information and Privacy Commission
<b>CDRT</b>	– Child Death Review Team	<b>IT</b>	– Information technology
<b>CEO</b>	– Chief Executive Officer	<b>JCC</b>	– Joint consultative committee
<b>CHISaL</b>	– Complaint Handlers Information Sharing and Liaison	<b>JIRT</b>	– Joint investigation response team
<b>CIN</b>	– Criminal infringement notice	<b>JJNSW</b>	– Juvenile Justice NSW
<b>CLAS</b>	– Community Language Allowance Scheme	<b>KIDS</b>	– Community Services case management system
<b>COPS</b>	– Computerised Operational Policing System	<b>KPI</b>	– Key performance indicator
<b>CPPO</b>	– Child protection prohibition order	<b>LAC</b>	– Local area command
<b>COMPASS</b>	– Command Performance Accountability System	<b>LEPRA</b>	– <i>Law Enforcement (Powers and Responsibilities) Act 2002</i>
<b>COSP</b>	– Community offender support program (centre)	<b>LHC</b>	– Land and Housing Corporation
<b>CS-CRAMA</b>	– <i>Community Services (Complaints, Review and Monitoring) Act 1993</i>	<b>LLS</b>	– Local Land Services
<b>CSC</b>	– Community Services Centre	<b>MAP</b>	– Multicultural action plan
<b>CSNSW</b>	– Corrective Services NSW	<b>MOU</b>	– Memorandum of understanding
<b>CTTT</b>	– Consumer, Trade and Tenancy Tribunal	<b>MPSC</b>	– Moree Plains Shire Council
<b>CWP</b>	– Community working party	<b>MPSP</b>	– Multicultural policies and services program
<b>DAP</b>	– Disability action plan	<b>MRG</b>	– Mandatory reporter guide
<b>DEC</b>	– Department of Education and Communities	<b>MRRC</b>	– Metropolitan Remand and Reception Centre
<b>DMG</b>	– Division managers group	<b>NABERS</b>	– National Australian Built Environmental Rating System
<b>DPC</b>	– Department of Premier and Cabinet	<b>NCAT</b>	– NSW Civil and Administrative Tribunal
<b>DRS</b>	– Death review system	<b>NDIA</b>	– National Disability Insurance Agency
<b>DSA</b>	– <i>Disability Services Act 1993</i>	<b>NDIS</b>	– National Disability Insurance Scheme
<b>DTIRIS</b>	– Department of Trade and Investment, Regional Infrastructure and Services	<b>NDS</b>	– National Disability Services
<b>EAP</b>	– Employee assistance program	<b>NDS Plan</b>	– NSW implementation plan for the National Disability Strategy 2012-2014
<b>Ed.D</b>	– Doctor of Education	<b>NGO</b>	– Non-government organisation
<b>ECaV</b>	– Education Centre Against Violence	<b>NIS</b>	– National Investigations Symposium
<b>EEO</b>	– Equal employment opportunity	<b>NOW</b>	– NSW Office of Water

<b>NRS</b>	– National Relay Service
<b>NSWPF</b>	– NSW Police Force
<b>NSW T&amp;G</b>	– NSW Trustee and Guardian
<b>OCG</b>	– Office of the Children's Guardian
<b>OCV</b>	– Official community visitor
<b>ODPP</b>	– Office of the Director of Public Prosecutions
<b>OEH</b>	– Office of Environment and Heritage
<b>OIT</b>	– Office of Information Technology
<b>OOHC</b>	– Out-of-home care
<b>OOSH</b>	– Out of school hours
<b>ORI</b>	– Ombudsman of the Republic of Indonesia
<b>OSR</b>	– Office of State Revenue
<b>PAD</b>	– Public administration division
<b>PAS</b>	– Protected Admissions Scheme
<b>PASAC</b>	– Police Aboriginal Strategic Advisory committee
<b>PIC</b>	– Police Integrity Commission
<b>PID</b>	– Public interest disclosure
<b>POA</b>	– Pacific Ombudsman Alliance
<b>POEO Act</b>	– <i>Protection of the Environment Operations Act 1997</i>
<b>PSC</b>	– Professional Standards Command
<b>PSC</b>	– Public Service Commission
<b>RISC</b>	– Risk, information security committee
<b>RMS</b>	– Roads and Maritime Services
<b>ROSH</b>	– Risk of significant harm
<b>SAAP</b>	– Supported Accommodation Assistance Program
<b>SDRO</b>	– State Debt Recovery Office
<b>SES</b>	– Senior executive service
<b>SOG</b>	– Senior officers group
<b>SOORT</b>	– Statutory and Other Offices Remuneration Tribunal
<b>WHS</b>	– Work health and safety
<b>WWCC</b>	– Working with Children Check
<b>YIG</b>	– Youth issues group



