

# Annual Report 2011 – 2012

...quality...operation...commitment...administration...integrity...good conduct...development...independence...investigation...organisation...accountability...scrutiny...inspections...service...resolution...audit...training...oversight...fair decisions...



...ment...administration...good conduct...development...independence...investigation...organisation...accountability...scrutiny...inspections...service...resolution...audit...training...oversight...fair decisions...

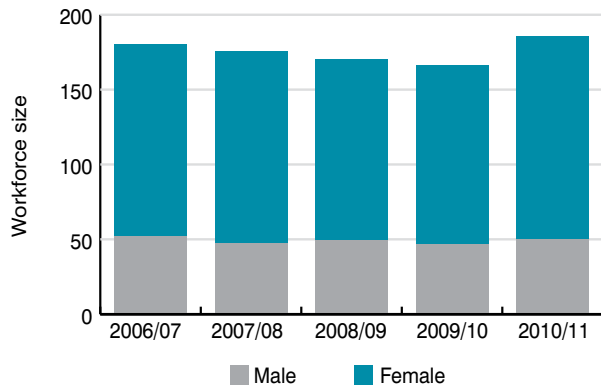


...n...accountability...scrutiny...inspections...service...resolution...audit...training...oversight...fair decisions...quality...operation...commitment...administration...

# A year at a glance

## Our people

### Staff composition

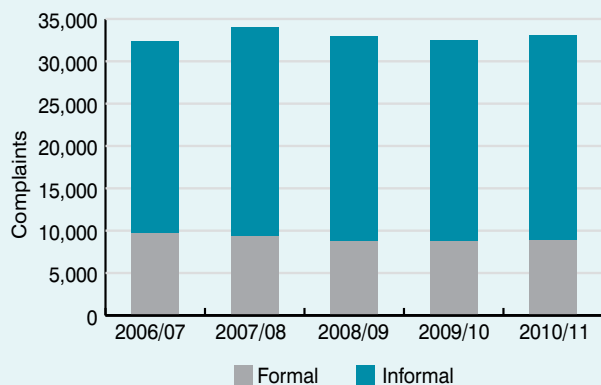


### Highlights for the year

- Invested in the professional development of our staff by providing on the job training, mentoring and access to training courses.
- Increased the representation of staff with a disability, Aboriginal and Torres Strait Islander people and people from cultural and linguistically diverse backgrounds.
- Reviewed our work health and safety program to comply with the new legislative requirements, seeing a reduction in our workers compensation incidence rate.
- Changed our employee assistance provider to ensure that our staff are better supported in balancing work and home.

## Our work

### Five year comparison of complaints

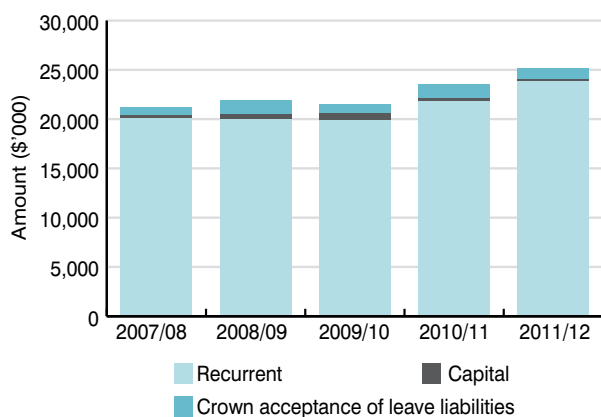


### Highlights for the year

- We completed a number of formal investigations into significant public interest issues, making recommendations for far reaching reform to public sector policy, practices and processes.
- We expanded our training program for both public sector agencies and non-government organisations to focus on improving their service delivery and complaint-handling systems.
- We responded to our clients by building a more accessible website, by holding consultation forums on a range of issues, by translating information about our role into community languages and providing interpreting and translations services when required.

## Our finances

### Funds from Government



### Highlights for the year

- We generated over \$700,000 in revenue largely by providing training to public sector and non-government agencies, which we use to support our complaint-handling and systemic project work.
- To improve internal accountability, we provided training to managers on reading and interpreting financial information.
- We had a decrease in our asset base as our assets are nearing the end of their useful life and we used some cash at bank to fund our work.
- Our liabilities increased more than we anticipated, mainly due to a 'make good provision' for our leased premises of \$444,000 we recognised for the first time.

## Trends in the representation of EEO groups

EEO Group	Percentage of total staff				
	07/08	08/09	09/10	10/11	11/12
Women	73	71	72	72.9	<b>73.7</b>
Aboriginal people and Torres Strait Islanders	2.5	3.6	3.6	2.4	<b>2.9</b>
People whose first language was not English	20	21	21	17.5	<b>18.2</b>
People with disabilities requiring work-related adjustment	2	2.6	2.6	2.4	<b>2.4</b>
People with disabilities	6	7	7	9.2	<b>10.0</b>

## Looking forward

- In partnership with Sydney Institute of TAFE, we will deliver Certificate IV in Government (Investigations) training to ensure staff are appropriately qualified to do our work.
- We will implement a wellbeing program for staff in our reviewable child and reviewable disability death teams, to make sure that they have effective strategies to deal with the matters they handle.
- We will conduct Work, Health and Safety training for all staff, raising awareness of the new legislative requirements.
- We will roll-out HR21, the employee self service system, freeing personnel staff to be more proactive in supporting the business.

## Our complaint work

Year	07/08	08/09	09/10	10/11	11/12
Formal complaints received	9,320	8,742	8,712	8,917	<b>9,504</b>
Formal complaints finalised	9,544	8,903	8,781	9,485	<b>9,326</b>
Formal investigation completed	47	44	26	35	<b>22</b>
Requests for review of our decision	267	242	215	246	<b>228</b>
Complaints about our office	27	26	28	14	<b>25</b>

## Looking forward

- We will review our strategic direction to ensure that we remain effective, focussed on key issues and adding value for the community.
- We will conduct a comprehensive review of our risks to ensure that we better identify and manage high profile issues and risks.
- We will deliver our report of our audit of the interagency plan to tackle Aboriginal child sexual assault as well as the final report for two of the reviews of the use of new police powers.
- We will table reports to Parliament on public interest issues making recommendations for change where appropriate.

## Financial summary over five years

Year	07/08 \$,000	08/09 \$,000	09/10 \$,000	10/11 \$,000	11/12 \$,000
Operating revenue	21,461	22,096	21,968	24,428	<b>25,898</b>
Operating expenses	22,053	22,605	21,135	24,297	<b>26,962</b>
Total assets	2,253	1,862	3,363	3,253	<b>3,040</b>
Total liabilities	1,893	2,006	2,675	2,423	<b>3,274</b>
Net result	(592)	(509)	832	142	<b>(1,064)</b>
Total equity	365	(144)	688	830	<b>(234)</b>

## Looking forward

- With the ongoing efficiency savings and other government savings strategies, we will need to review how we allocate our funds as well as reviewing our processes and practices for doing our work.
- We will continue to look for opportunities to expand our training revenue with new courses being developed.
- We will negotiate with NSW Treasury for increased funding to enhance or replace old or obsolete assets, using technology to improve our work and efficiency.
- We will use changes to our financial management system to enhance reporting and improve decision making.

### Our vision

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

### Our mission

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

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

### Our purpose

We aim to:

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

### Our values

We will act in accordance with the following values:

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

### Our guarantee of service

We will:

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



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### Letter to the Legislative Assembly and Legislative Council

To **The Honourable President of the Legislative Council** and **The Honourable Speaker of the Legislative Assembly**

I am pleased to present our 37th annual report to the NSW Parliament. This report contains an account of our work for the 12 months ending 30 June 2012 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 2012).

Yours sincerely

A handwritten signature in black ink, appearing to read "B. Barbour".

Bruce Barbour  
**Ombudsman**

15 October 2012

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# Ombudsman's message

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Thank you for reading my office's annual report for 2011-12. I am very pleased to report on what has been another busy, challenging and rewarding year. We continue to work hard to achieve the right and fair outcome when we become involved in issues, and to work in the public interest. I believe this report demonstrates this very clearly.



## This report

Our annual report is an opportunity to provide a comprehensive outline of our work for the year, but I also feel it is important to ensure it is an approachable and accessible document. That is why this year the report will not provide a great deal of detailed information on areas where we have released or will soon be releasing public reports. I have made this decision to avoid duplication, but also to ensure we are able to report on the work we do throughout the year that is not made public elsewhere.

This does not mean that these areas of work are not important. For example, we have released a number of special reports to Parliament, dealing with issues such as overcoming Aboriginal disadvantage, ensuring the Keep Them Safe reforms are delivering what they promised, the use of force in correctional centres, the support provided to those living in boarding houses, and the management of asbestos, lead and other hazardous materials in police buildings. We will also be issuing annual reports in the next few months outlining the important work we have done around public interest disclosures, as well as the work of the Child Death Review Team.

We are in the process of finalising two particularly significant public reports. The first will outline our findings and recommendations arising from our second review of the use of Tasers by the NSW Police Force. The second will be our report to the Minister for Aboriginal Affairs following our audit of the implementation of the interagency plan to tackle child sexual assault in Aboriginal communities. These have both been long-running and demanding pieces of work, but I feel both can make a very real difference. These and all of our other public reports are accessible at our website, and there are links throughout the electronic version of this report to allow for quick and easy access.

## Our new website

One of the most effective methods of providing information about our work is our website. This year we have developed and launched an entirely new site. It is designed to be more user-friendly and more accessible. The site was launched in July this year, and we are continuing to refine it. We will keep working on the site to identify future improvements and innovations. This will include using our website to connect more effectively and directly with agencies and the community.

**My office can make a difference across many situations and circumstances. This is the real value in an Ombudsman with a broad mandate and jurisdiction.**

## Challenges and opportunities

We continue to face financial challenges. This is not unique to our office, as similar productivity savings are being applied to all government agencies. These are, however, particularly challenging for small agencies with very little room for movement in how they allocate their budget. As the financials section of the report (page 110) shows, most of our funding goes to paying our staff. In order to meet these requirements, I have chosen not to fill certain positions as they become vacant. The Premier has spoken about the importance of innovative and new thinking in all public sector agencies, and my office is no exception. We will, as always, continue to strive to identify ways of working smarter, of doing more with less. But this will only go so far, and I am concerned that future years will see these budgetary measures have a real impact on the amount of work we are able to do.

We work hard to plan for the future, but it is not possible to predict everything we will be involved with each year. For example, as this report is being finalised we are closely monitoring two NSW Police Force critical incident investigations. Our involvement in this process has led me to seek a change to the way we are notified of these matters (see page 40), recommending all critical incident investigations are referred to my office for independent scrutiny.

While we will always have to respond to these types of issues as they arise, I believe we continue to have the opportunity to bring about real change. This can be large scale systemic reform, such as making recommendations for changes to the way in which people with a mental illness are supported (see page 91). It can also be smaller, more individual issues, such as a high bill or difficulty securing appropriate housing. My office can make a difference across many situations and circumstances. This is the real value in an Ombudsman with a broad mandate and jurisdiction.



## Working with others

One of the challenges of working in the current financial climate is maintaining our involvement in areas which may not appear at first glance to be at the core of what we do. One example of this is our work with Ombudsman and oversight bodies from across Australia and around the world. Far from being peripheral, I believe maintaining this contact is essential to our office continuing to improve the way we do our work. We learn from the experiences of others, but sharing our information also causes us to look critically at what we are doing and why.

This year, for example, we have been involved in a joint project with other Australian and New Zealand Parliamentary Ombudsman offices to develop a peer review process (see page 8). We have also continued our involvement in programs to provide advice and assistance to both newly-established and expanding Ombudsman in our region (see page 8). I was very pleased to be invited by the International Ombudsman Institute to conduct training sessions for Ombudsman and senior staff from around the world. This experience allowed me to share our office's experiences and understanding, but also to learn. It is opportunities such as this that can help us to look outside our own experience, and in turn provide a better service to the people of NSW.

## Our people

This report focuses on the good results we can achieve in the public interest. These would not be possible without the professionalism, hard work and dedication of all of my staff. I feel very privileged to work with these outstanding individuals and would like to thank them all for their hard work. I look forward to working with them in the coming year.

A handwritten signature in black ink, which appears to read 'B. A. Barbour'.

Bruce Barbour  
**Ombudsman**

# About us

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## Who we are and what we do

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

### Organisations delivering public services

#### Who we scrutinise

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

#### How we keep them accountable

We investigate and resolve:

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

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

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

### Organisations delivering services to children

#### Who we scrutinise

- over 7,000 organisations providing services to children – including schools, child care centres, family day care, 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 disabilities
- 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 disabilities who are in out-of-home care
- the deaths of certain children, young people and people with disabilities in care.

We also:

- visit certain services where children, young people and people with disabilities live
- support the Child Death Review Team



- coordinate the official community visitors scheme
- provide information and training to consumers of community services and organisations about complaint-handling and consumer rights
- promote improvements to community service systems and access to advocacy support for people who are receiving, or are eligible to receive, community services.

## Agencies conducting covert operations

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

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

## Responding to complaints and notifications

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

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

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

About a quarter of our inquiry work involves helping complainants to understand the complaints process and giving them the confidence to work with the relevant agency to resolve their complaint. We explain how to make a complaint and discuss what reasonable expectations are – including response times and possible outcomes.

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.

In about 10% of contacts, we advise the complainant to complain to us. We discuss reasonable outcomes and timeframes (as we do when referring complainants back to agencies) and what information we need to formally assess their complaint.

## Explaining the actions of agencies

People contact us about matters that on assessment we do not believe disclose wrong conduct. Sometimes they are not sure themselves, but in other cases they are convinced that what the agency has done or not done is completely wrong. Our focus is on whether the conduct was 'reasonable' – and in about one in four inquiries within our jurisdiction we spend time explaining to the complainant why we don't believe the agency is wrong.

Complaints can result from misperceptions or misunderstandings 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, inquiries 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.

Dealing with matters in this way can help agencies to reduce the number of complaints made about them, as well as allowing us to address problems where members of the public may have a legitimate grievance but, for whatever reason, do not or cannot take up the complaint themselves.

## Community education and training

Our work around community education, awareness and training is one of the best methods of bringing about real change in service delivery. We are able to provide agency staff with practical guidance in areas such as handling complaints, conducting investigations and managing unreasonable complainant conduct. Our training around effective complaint-handling benefits the agency involved, but it also helps us, as it can reduce the number of complaints we receive. We also travel across the state speaking with those who provide and receive community services, giving them advice and guidance around their rights and responsibilities. More information about this work can be found in the community education and training chapter of the report (see page 103).

## Communities visited in NSW in 2011–2012

Albury	Cessnock	Kiama	Nowra
Armidale	Coffs Harbour	Kingscliff	Orange
Ballina	Condobolin	Junee	Parkes
Batemans Bay	Crookwell	Lightning Ridge	Port Kembla
Bathurst	Dubbo	Lismore	Port Macquarie
Bermagui	Eraring	Lithgow	Queanbeyan
Berridale	Forster	Maitland	Quirindi
Bombala	Glen Innes	Moree	Shellharbour
Bourke	Goulburn	Moss Vale	Singleton
Bowral	Griffith	Moulamein	Stroud
Brewarrina	Hunter Valley	Muswellbrook	Tamworth
Bulahdelah	Kariong	Narrandera	Taree
Casino	Kempsey	Newcastle	Tea Gardens

## Our work with others

We aim to be a leading watchdog 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 watchdog 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:

- Held regular liaison meetings with the Division of Local Government and the ICAC to discuss issues about our work with local government.
- Met with the Audit Office 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 make a number of important recommendations for changes to the *Public Interest Disclosures Act 1994*.

- Continued our involvement in the Police Integrity Research Forum – looking at issues such as police use of force, how to measure police integrity at a behavioural rather than attitudinal level, early intervention systems, managing a research ethics process and policies within police integrity agencies.
- Taken part in Corruption Prevention Network (CPN) activities, including co-hosting a CPN breakfast event for senior staff in government agencies to provide information on changes to the PID Act.
- Worked with the ICAC and Institute of Public Administration Australia to prepare for the 9th National Investigations Symposium in November 2012.

### Across Australia

Although the various Ombudsman offices and watchdog 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.

This year, the Ombudsman took part in three meetings of the Australasian Ombudsman. The Deputy Ombudsman (Public Administration) also attended an annual meeting of Deputy Ombudsman. These events are an opportunity to better understand the challenges and opportunities facing Ombudsman from across the country.

As part of our public interest disclosures work, we hosted a one-day forum for offices with similar responsibilities

Tumut

Urana

Wagga Wagga

Walgett

Wallaga Lake

Warabrook

Wellington

Wollongong

Young



from across Australia. Attendees included staff from the Commonwealth Public Service Commission, Commonwealth Ombudsman, Victorian Ombudsman, Western Australian Public Sector Commission and the Northern Territory Office of the Commissioner for Public Interest Disclosures.

We have also been involved in a joint project with other Australian and New Zealand parliamentary Ombudsman to develop a review process. One of our staff spent a number of days in the Victorian Ombudsman's office reviewing their complaint-handling practices, and then the Victorian Ombudsman sent one of their staff to review the work of our public administration division. This process worked well because there is enough similarity between our work for the reviewers to quickly understand systems and processes – but the differences in the detail of how we do our work provides a valuable opportunity to learn from each other. This project will be expanded to include other offices in 2012–2013.

### Around the world

We have taken an active interest in the work of Ombudsman and watchdog 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). The Ombudsman is a member of the Board of the Pacific Ombudsman Alliance (POA), and some of our staff provide the POA with assistance and support.

We are also involved in the Indonesian Australian Ombudsman Linkages and Strengthening (IAOLAS) program, funded by AusAID. This program supports exchanges between the Australian and Indonesian organisations to share knowledge and strengthen core Ombudsman functions. The aim is to help the Ombudsmen of the Republic of Indonesia (ORI) promote good governance and fuller participation in the democratic process.

After the appointment of nine new Ombudsman, we hosted a delegation from ORI for two weeks which included three Ombudsman and two staff members. Their visit to Sydney was the first in a series of visits to Australian Ombudsman offices aimed at providing the group with information and insights on how Ombudsman offices in other jurisdictions operate. We also arranged for the delegation to meet with the IPC and the ICAC.

This was followed by another visit later in the year from six senior Indonesian parliamentary officials, as part of a study tour to learn more about Australia's public sector reform experience.

### Overseas training

In addition to providing training to agencies and members of the community across NSW and around Australia, we are also occasionally invited to run sessions on other countries.

This year, the International Ombudsman Institute invited the Ombudsman and Deputy Ombudsman (Public Administration) to deliver two workshops in Hong Kong and Macau as part of the International Ombudsman Institute regional training program.

These intensive sessions were held over a number of days, and were attended by more than 40 Ombudsman, heads of oversight bodies and their staff from around the Asia Pacific Region and further afield.

The Ombudsman and Deputy Ombudsman provided attendees with practical advice and guidance in conducting an administrative investigation, managing unreasonable complainant conduct and effective complaint management. They draw on both of their extensive experience, as well as the training and guidance developed by the office over many years.

The feedback from attendees was very positive, with several indicating an interest in either attending or hosting similar sessions for their staff in the future if there was an opportunity to do so.





# Managing our organisation

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## Our work

This chapter provides some information about our people, how we support our business and our corporate governance systems.

We work hard to provide our staff with an inclusive, supportive, safe and fulfilling workplace. We do this by having programs such as our employee assistance program, and by working to achieve a safe working environment. We also provide staff with opportunities to take part in training and development and attend relevant conferences and events.

The effectiveness and efficiency of any organisation is built on having strong systems in place to support its work. This is why it is important to have a good corporate governance framework. Our framework is built on our statement of corporate purpose and includes coordinated strategic planning based on our purposes, regular performance reviews, appropriate and up-to-date policies and procedures, and internal and external accountability mechanisms – such as internal audits and our Parliamentary Committee.





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## Highlights

- To make our services more accessible, we built and launched our new website using new technologies and improved design features (see page 26)
  - As part of our governance program, we reviewed a range of office policies providing direction and support to staff on how we work (see page 16)
  - We strengthened our accountability processes through our Audit and Risk Committee (see page 19), our work with the Parliamentary Committee (see page 18) and finalised our review of across-office key performance indicators (see page 26)
  - Our merit based recruitment practices increased the representation of women, Aboriginal and Torres Strait Islander people, people with a disability and people whose first language is not English (see page 30)
  - Supported our staff through the provision of counselling services (see page 32), staff development opportunities (see page 33) and a safe work environment (see page 32).
- 

## Stakeholder engagement

We work hard to ensure that we provide appropriate services to as many people as possible. This chapter includes information about some of our strategies to achieve this include:

- Ensuring our staff have the appropriate skills to respond to vulnerable groups by providing Aboriginal cultural appreciation and disability awareness training.
- Ensuring that the specific needs of vulnerable groups are considered in planning and resource allocation, and that we are accessible to anyone who needs us. Our disability action plan, multicultural policies and services program and our Aboriginal policy guide this work.

Our corporate governance framework relies on having strong relationships with a range of other groups, such as our Parliamentary Committee, other oversight bodies and interstate and international Ombudsman.

### Reaching out to young people

Our Youth issues group (YIG) is led by our youth liaison officer (YLO) and is made up of frontline complaint-handling staff and investigation officers from across the office. This year, the YIG developed a youth policy outlining our commitment to ensuring our services are accessible to young people and their advocates and are of a high quality. There is also a youth action plan – which outlines strategies for improving our stakeholder engagement activities and our awareness of issues affecting young people. This group reviewed our published resources to ensure the information was current and relevant.

The YIG also organised a number of events for Youth Week, such as a stall at the 'Bring it on Festival' at Fairfield Showground.

During the year, our youth liaison officer:

- Met regularly with young people, their advocates, peak youth bodies and agencies that provide services to young people – including the Youth Justice Coalition.
- Attended the National Homelessness Summit, HACC Community and Agency Forum, and the Youth Health Forum's Journey of Hope – supporting the wellbeing of young refugees.
- Gave presentations at the YFoundations End Youth Homelessness conference, the Youth Health Forum on Youth Participation, and to NSW Youth Services Managers at Mission Australia.

# Facts and figures

This is a summary of some of our work for the year. It does not represent everything we have done, but it does show the high number of matters we handle. Detailed information about the various areas of work is included in the other chapters of this report.

This year we received 33,353 complaints and notifications across our jurisdiction. As figure 1 shows, this included 9,504 formal matters and 23,849 informal matters.

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.

Informal matters are our telephone calls, visits to our office and inquiries our staff deal with when they 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 2011–2012. More information can be found throughout the report.

**Fig. 1: Complaints and notifications we received in 2011–2012**

Subject area	Formal	Informal	Total
Departments and authorities	1,737	3,942	5,679
Local government	925	1,954	2,879
Correctional centres and Justice Health	993	3,584	4,577
Juvenile justice	92	205	297
Child and family services	450	900	1,350
Disability services	158	193	351
Other community services	33	101	134
Employment-related child protection	1,221	543	1,764
Police	3,386	2,361	5,747
Outside our jurisdiction	509	6,991	7,500
Requests for information	0	3,075	3,075
<b>Total</b>	<b>9,504</b>	<b>23,849</b>	<b>33,353</b>

**Fig. 2: Formal complaints and notifications finalised**

Subject area	07/08	08/09	09/10	10/11	11/12
Departments and authorities	1,354	1,310	1,414	1,382	1,778
Local government	788	672	875	924	933
Custodial services and Justice Health	918	714	722	898	1,003
Juvenile justice	11	73	62	78	91
Human services agencies (Housing NSW, NSW Health)*	N/A	N/A	N/A	386	N/A
Freedom of Information**	197	224	136	89	N/A
Community services	737	704	720	716	641
Employment-related child protection	1,921	1,715	1,483	1,304	988
Police	3,254	3,094	3,093	3,278	3,390
Agency outside our jurisdiction	364	397	276	430	502
<b>Total</b>	<b>9,544</b>	<b>8,903</b>	<b>8,781</b>	<b>9,485</b>	<b>9,326</b>

\* We reported this number separately in 2010–2011 to reflect a structural change within the office. These matters are now included as part of the departments and authorities figure.

\*\* Our office is no longer responsible for freedom of information matters. These are now handled by the Information and Privacy Commissioner.

**Fig. 3: Formal complaints and notifications received and finalised**

Year	07/08	08/09	09/10	10/11	11/12
Received	9,320	8,742	8,712	8,917	<b>9,504</b>
Finalised	9,544	8,903	8,781	9,485	<b>9,326</b>

**Fig. 4: Number of formal investigations finalised**

Branch	Total
Human services	14
Police and compliance	2
Public administration	6
<b>Total</b>	<b>22</b>

**Fig. 5: Proactive and systemic work**

Category	Type of work	09/10	10/11	11/12
<b>Audits</b>	Police records audited	7,250	8,259	<b>2,708*</b>
	Controlled operation records audited	342	385	<b>372</b>
	Surveillance device warrants audited	449	770	<b>882</b>
	Covert search warrants audited	48	20	<b>24</b>
	Witness protection appeals	0	2	<b>0</b>
	Child protection 'agency' audits conducted	11	24	<b>4</b>
	Criminal organisation search warrant records audited	19	6	<b>0</b>
	Scrutinising NSWPF complaint-handling systems	n/a	1	<b>7</b>
<b>Police powers under review</b>	Reviews of legislation conferring new police powers completed	1	1	<b>0</b>
	Reviews of legislation conferring new police powers in progress	3	1	<b>4</b>
<b>Visits</b>	Hours spent on visiting services (OCV program)	5,941	5,824	<b>6,222</b>
	Visits to residential services (OCV program)	3,335	1,447	<b>2,215</b>
	Correctional and juvenile justice centre visits	65	54	<b>53</b>
	Regional and remote communities visited	61	57	<b>62</b>
<b>Reviews</b>	Complaint-handling systems	34	n/a	<b>2</b>
	Individual reviews of the circumstances of children and other people in care	50	63	<b>63</b>
	Reviews of the delivery of community services	0	8	<b>5</b>
<b>Consultations</b>	People consulted during systemic investigations and reviews	1,839	1,466	<b>875</b>

\* In previous years, this figure indicated the number of records examined during our audits and inspections to scrutinise police complaint-handling systems under s.160 of the *Police Act 1990*. This also included police officer records we examined to inform our understanding of trends across local area commands. The decreased figure reflects our decision to exclude police officer records examined for this purpose and to limit the category to records audited to scrutinise police complaint-handling systems only.

# Corporate governance

## Strategic planning

Our strategic plan supports our statement of corporate purpose, which provides high-level direction and guidance for our work. The plan also gives us flexibility to adapt to changes that occur in the areas we work in.

### Being flexible

Operating in a complex and changing environment brings a range of challenges. Our flexible structure allows us to respond to emerging priorities but still do our day-to-day work.

To make sure we deal effectively with whole-of-government or cross-government service delivery, we modified our structure and created some new positions. These included changing the reporting relationship of the strategic projects division, which now reports directly to the Ombudsman.

We changed the name of our corrections unit to the custodial services unit to better reflect the nature of our work in this area – with not only Corrective Services NSW, but also the GEO Group and Justice Health. As part of the change, the custodial services unit is also responsible for our work in juvenile justice. For more information about our Custodial Services Unit, see page 49.

We reviewed our public interest disclosures (PID) unit after its first 12 months of operation, including re-evaluating its structure and staff positions. Following the review, the manager position was deleted and changes were made to the policy, training and investigation officer positions – as we move away from education and policy development to focus more on managing and investigating disclosures. Information about our PID unit and its work will be included in our first PID annual report, which will be released later this year.

We reviewed the structure of our human services branch, creating a new branch manager position to provide senior support and direction across all portfolios in the branch, as well as a number of Principal Investigator positions to provide consistent, high-level guidance on investigations.

Where possible, we have also integrated the systems and processes of our community services and employment-related child protection divisions to encourage a more streamlined and cohesive approach to our work in the human services area.

### Taking a tailored approach to our stakeholders

We provide services and assistance to a diverse range of stakeholders. To help provide targeted and effective services to as many of them as possible, each of our divisions has developed and implemented its own stakeholder engagement strategy. Some of this work is highlighted in the brief stakeholder engagement sections at the start of each chapter in this report.

During the year we reviewed our access and equity policy to make sure it continues to effectively support our access and equity program. We also became aware of new legislative requirements relating to people who provide ongoing personal care, support and assistance to others. We will be working to make these changes through our access and equity programs this year (see page 27).

### Developing our staff

Our staff are our most valuable asset – and we provide regular opportunities for them to undertake training courses in a range of areas including mediation and conciliation, budget and financial management, and Aboriginal and cultural appreciation.

Our investigations staff have significant skills and experience and it is important that they are able to have this recognised with a formal qualification. This year, the Ombudsman decided to engage an accredited provider to provide training and certification for all investigations staff (see page 33).

Our staff performance management policy has been updated to coordinate staff performance assessment timetables across our divisions. We now have a single date when performance reviews need to be completed for all our staff.

For more information about our learning and development activities, see page 33.

### Improving business processes

This year our business improvement unit (BIU) has worked closely with various areas of our office to:

- finish work on our key performance indicators (KPIs) project – we now have a complete set of office KPIs, which can be reported against at any time (see page 26)
- implement changes in Resolve (our case management system) to provide solutions for managing information for our review of Taser usage
- conduct internal audits and assist divisions in implementing recommendations.

We have also:

- engaged Deloitte to conduct a needs and benefits analysis of the business requirements for integrating our three reviewable deaths functions – the Child Death Review Team, reviewable child deaths and disability deaths
- made further enhancements to OCV online to improve its usability for our visitors
- started a trial in our public administration division to transfer a number of our paper-based processes to electronic systems. This trial will continue in 2012-2013.

## Our structure



**Bruce Barbour**  
**Ombudsman**  
LLB

- 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)

- Appointed Deputy Ombudsman in 1994
- Over 25 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.



**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.



**Linda Waugh**  
**Deputy Ombudsman**  
BA Post Grad Dip Psych  
MBA

- 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.



**Anita Whitaker**  
**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.



**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.

**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.

**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*.

**Corporate**

The corporate branch provides support to the whole of our office.

They provide strategic planning, personnel, staffing, payroll, internal training, accounting, records, information technology, publications, media and public relations services.

The business improvement unit (BIU) is also part of the branch, and is responsible for reviewing our business systems and identifying areas for improvement.

**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.

## Managing our 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. They usually meet weekly to update each other on their work and discuss any significant issues. A formal management committee 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 at least once a month to discuss operational issues and any changes to our policies and procedures.

## Having effective policies and procedures

Our policies are a statement or instruction from the Ombudsman outlining 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. We review the procedures that guide our day-to-day work. This year, the community service division made significant revisions to its manual.

We aim to review our policies every three years. This year, we reviewed or created 12 policies – including policies relating to staff conduct, governance, records management, and information and communication technologies.

We reviewed our internal reporting policy to reflect changes to the *Public Interest Disclosures Act 1994* (PID Act). We have made it compulsory for new staff to read the policy and sign a declaration confirming they understand it before they start work in our office.

We also reviewed our code of conduct and updated it to include staff use of social media. We took the opportunity to remind staff of their responsibilities and standards of conduct by asking them to read the updated policy and sign a declaration saying they had done so. This declaration was placed on each staff member's personnel file.

## Measuring our performance

Our performance statement (see pages 20-23) provides some information about what we have achieved in 2011-2012, and what we will look to achieve in the coming year. This is not the only way in which we measure our success. We also collect information about the quality, timeliness and impact of our work.

We monitor our progress in dealing with individual complaints and investigations to make sure we deal with them in a timely and appropriate manner. We draw information from our complaints management system. We also keep track of our larger systemic and projects work to make sure that we meet time-frames either set by legislation or set by the Ombudsman. To improve our systems in this area in 2011-2012, we contracted external providers to audit our handling of complaints and notifications older than nine months and our complaint assessment procedures.

**Fig. 6: Performance measures**

Indicator	Target	Result
Initial assessment within 10 days of receiving a complaint	80%	97%
Initial advice and acknowledgement sent to complainant within ten working days of receiving a complaint	80%	88%
Preliminary enquiries completed within 16 weeks of receiving a complaint	–	89%
Average time taken to finalise complaints – number of weeks after complaint received	–	5
Complaints finalised within 12 months of receipt	95%	99%

Monitoring the time it takes us to deal with complaints is essential. We have to try and acknowledge, deal with and finalise complaints and investigations as promptly as we can. The numbers in figure 6 are some of the measures we use to make sure we achieve this.

## How we are held to account

We expect public sector agencies to be accountable for their actions and decisions. Our office is no different, and there are a number of internal and external ways we are held to account. These include handling complaints about our work, providing opportunities for reviews, and reporting to our PJC.

## Public interest disclosures

Following changes to the PID Act, all public authorities are required to have policies and procedures in place to allow their staff to report wrongdoing and know that they will be provided with protection and support. Heads of agencies are also responsible for ensuring these systems are working.

Each public authority has to report on what they have done to meet their obligations. This section of the report outlines what we have done, and provides information about any public interest disclosures made within our office.

Internal reports from staff provide agencies with an opportunity to identify something that is wrong or not working and to fix it. This accountability mechanism sits alongside others such as internal audit. Our office has had an internal reporting policy since 1999. This policy was updated in 2010 to reflect the changes to the PID Act, and the model internal reporting policy our office prepared to provide agencies with assistance in drafting their policy. The policy lists the staff who can receive a public interest disclosure. In addition to the Ombudsman, this includes all of the senior officers and division managers. This means there are 12 staff who can receive a disclosure.

Staff awareness and understanding is an important part of ensuring an internal reporting system works effectively. The Ombudsman has issued an office-wide email stating his commitment to the internal reporting system and updating staff on how the system works. He and the Deputy Ombudsman (Public Administration) have also spoken about the office's internal reporting systems at

several office-wide staff meetings. When the policy was updated, all staff signed an undertaking that they had read and understood the policy. These are stored on their personnel files. Training sessions have been provided to each division and have been well attended. Staff from the public interest disclosures unit have also spoken at division and team meetings. The internal reporting policy is accessible on the office intranet page, as well as our public website.

Under the PID Act, we are required to report certain information. This information is in figure 7. 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. 7: Public interest disclosures January 2012 – June 2012**

Public interest disclosures received	Number
Number of public officials who made public interest disclosures	0
Number of public interest disclosures received	0
Number of public interest disclosures finalised	0
<b>Disclosures received primarily about:</b>	
Corrupt conduct	0
Maladministration	0
Serious and substantial waste	0
Local government pecuniary interest contravention	0

## Handling complaints about us

As figure 9 shows, we receive a relatively small number of complaints about our work – but we take these complaints seriously as they give us an opportunity to identify areas where we can improve. When someone is unhappy with the way we have dealt with them or their

complaint, we tell them they can make a complaint to our office. We consider all complaints carefully and, if necessary, take some form of remedial action.

**Fig. 8: Outcome of complaints about our office in 2011–2012**

Outcome	Total
Unjustified	12
Justified or partly justified	3
Some substance and resolved by remedial action	10
<b>Total</b>	<b>25</b>

## Reviewing our 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 is referred to the Ombudsman along with their recommendation. The complainant will receive a letter from the Ombudsman outlining the outcome of the review. In some cases, this letter will also outline any restrictions on the complainant's future contact with our office.

This process provides members of the public with an avenue of review, but it also gives us an opportunity to improve the way we handle matters – particularly the way we communicate our decisions. Figures 10 and 11 provide information about the reviews we handled this year.

**Fig. 9: Complaints about our office**

Issue	07/08	08/09	09/10	10/11	11/12
Bias/unfair treatment/tone	6	5	8	0	4
Confidentiality/privacy related	1	1	3	4	1
Delays	5	3	6	1	2
Denial of natural justice	1	1	1	0	0
Failure to deal appropriately with complaint	11	9	8	5	6
Lack of feedback/response	5	3	5	3	2
Limits to jurisdiction	0	0	0	0	0
Faulty procedures	2	3	1	1	2
Inaccurate information/wrong decision	2	8	7	1	2
Poor customer service	5	5	7	5	14
Corruption/conflict of interest	2	0	3	0	2
Other	3	2	1	1	3
<b>Total issues</b>	<b>43</b>	<b>40</b>	<b>50</b>	<b>21</b>	<b>38</b>
<b>Total complaints</b>	<b>27</b>	<b>26</b>	<b>28</b>	<b>14</b>	<b>25</b>
Percentage of all formal matters finalised about our office	0.28	0.29	0.32	0.15	0.10

**Fig. 10: Requests for a review of our decision as a percentage of formal complaints finalised**

Subject area	Number of		Percentage				
	requests for review	formal complaints finalised	07/08	08/09	09/10	10/11	11/12
Employment-related child protection	2	57	7.1	8.3	12.2	5.7	3.5
Community services	7	638	0.4	0.9	0.6	1.1	1.1
Custodial services	5	1,094	1.5	1.1	1.7	1.3	0.5
Local government	64	933	11.8	7.7	8.0	8.4	6.9
Other public sector agencies	81	1,778	6.5	6.9	5.2	4.4	4.6
Police	69	3,390	1.7	2.0	1.4	2.2	2.0
Outside our jurisdiction	0	502	0.8	1.8	0.4	0.5	0.0
<b>Total</b>	<b>228</b>	<b>8,392</b>	<b>3.5</b>	<b>3.3</b>	<b>2.9</b>	<b>3.0</b>	<b>2.7</b>

**Fig. 11: Outcome of reviews conducted in 2010-2011**

Subject area	Original outcome affirmed after		Resolved	Reopened	Total
	reviewing the file	further inquiries			
Employment-related child protection	2	0	0	0	2
Community services	7	0	0	0	7
Custodial services	4	0	0	1	5
Local government	43	19	0	2	64
Other public sector agencies	55	19	3	4	81
Outside our jurisdiction	0	0	0	0	0
Police	62	2	1	4	69
<b>Total</b>	<b>173</b>	<b>40</b>	<b>4</b>	<b>11</b>	<b>228</b>

## Our Parliamentary Joint Committee

Our work is overseen by the Parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission (the PJC). The PJC 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 the PJC. Information about the role of the PJC and how to contact them can be found on our website.

Our 17th general meeting with the PJC was held on 18 June 2012. The Ombudsman and senior staff appeared before the committee to answer questions about our work. The committee asked a range of questions, following up on issues from our last two annual reports. They asked for further information about our oversight of critical incident investigations, the NSW Police Force's use of tasers, budgetary matters, concerns around the management

of asbestos, and our work in addressing Aboriginal disadvantage.

The Ombudsman also appeared before the PJC on the same day as Convenor of the Child Death Review Team (CDRT). He was questioned on a range of issues including data collection and reporting, the transfer of the CDRT to our office, improving information technology systems, suicide rates in young people, and sudden unexpected deaths in infancy (SUDI).

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

In addition to the PJC, we can also come under the scrutiny of the Auditor-General, the Independent Commission Against Corruption, the Information and Privacy Commission, the Anti-Discrimination Board, State Records and the NSW Treasury.

## 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.

The key risks we face are:

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

We use an information security management system model to identify potential risk factors relating to our work and put in place the necessary 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 on a monthly basis and is made up of representatives from each division.

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, our senior officers agreed to review our current risk profile. This review will be used to help us develop and implement a more robust risk management framework, taking into account increasing workloads and additional pressure on staff as a result of our shrinking budget. Work on this project will continue over the coming year.

## 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.

We appointed a new member to the committee, with Deputy Ombudsman Linda Waugh replacing Deputy Ombudsman Chris Wheeler. Jason Masters has continued as the independent chair and Carolyn Burlew as the independent member. The committee met on five occasions during 2011–2012.

To help the committee better understand the work we do, several staff attended committee meetings to discuss their work and the associated risks in their area. This has been very well received by the committee, and will continue over the coming year.

This year we also:

- Started the process of selecting an internal auditor – we undertook 'test' audits with several external providers and will decide on a provider shortly.
- Reviewed and updated our internal audit plan and charter and our Audit and Risk Committee charter, reviewed the committee's performance, conducted a number of internal audits in different areas, and began work on our enterprise risk management project to review and improve our risk management framework.

In 2012–2013 we will be selecting our internal audit provider, completing the review of our risks, and developing a new framework to help us effectively manage these risks. We will also review our risk register and develop our legislative compliance table.

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

### Internal Audit and Risk Management Attestation for the 2011–2012 Financial Year for NSW Ombudsman

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

I, 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 – Mr Jason Masters, start term date 3 March 2010, finish term date 2 March 2013
- Independent Member – Ms Carolyn Burlew start term date 19 March 2011, finish term date 18 March 2013
- Non-independent Member – Ms Linda Waugh, Deputy Ombudsman (Police and Compliance Branch) start term date 1 July 2011, finish term date 30 June 2015.



Bruce Barbour  
Ombudsman



## Our performance statement

### Purpose 1.

Help organisations meet their obligations and responsibilities and promote and assist the improvement of their service delivery

#### What we said we would do in 2011–2012:

Complete our audit of the implementation of the <i>NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities</i> .	see p.97	➔
Complete our second review of taser use by the NSWPF.	see p.42	➔
Start legislative reviews of new police powers.	see p.44	✓
Report to Parliament on reviewable child deaths and disability deaths and the underlying causes of those deaths.	see pp. 85, 92	✓
Finalise NSWPF procedures for handling employment related child abuse matters, audit the handling of reportable allegations and preventing reportable conduct in independent schools, and finalise our audit of how JJ centres and some JJ CSC's handle and prevent employment related child abuse allegations.	see p.83	✓
Report to Parliament on the significant challenges associated with the implementation of <i>Keep Them Safe</i> , boarding houses and the need for reform, and the findings from our Kariong investigation.	see pp. 74, 93, 51	✓
Finalise our investigation into the NSW Trustee and Guardian.	see p.66	✓
Implement training programs on public interest disclosures, and meet our statutory obligations by developing and publishing a series of guidelines.	see p.105	✓
Develop new packages to help agencies handle complaints and investigate allegations more effectively.	see p.106	✓

#### What else we did:

- Finalised investigations and reported to Parliament in July 2012 on the management of hazardous materials in police buildings (see p.65) and the use of force in correctional centres (see p.51).
- Reviewed the situation of a group of 90 young people who have left care (see p.77).
- Made recommendations to improve the Mandatory Reporter Guide (see p.82).
- Investigated the continuing problems around maintaining accurate and up-to-date information about bail conditions to ensure accurate enforcement (see p.43).
- Provided training to almost 9,000 people at 600 sessions (see p.105).
- Reviewed information held by multiple government agencies about a group of school-aged Aboriginal children to inform future developments around service delivery (see p.99).
- Started our review of the *Crimes (Criminal Organisations Control) Act 2012* (see p.46).
- Made recommendations to the NSW Trustee and Guardian to improve a number of administrative failings identified in our investigation (see p.66).

#### What we plan to do in 2012–2013:

- Report to the Minister for Aboriginal Affairs on our audit of the implementation of the NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities.
- Report to Parliament on our review of the level of access people with a mental illness have to disability support
- Finalise investigations/projects into asbestos in schools, the regulation of water, the application and management of fines and the handling of local government code of conduct complaints.
- Complete two legislative reviews of new police powers.
- Review work being done by agencies to meet their commitments to provide young Aboriginal offenders with effective legal referrals and appropriate access to diversions under the Young Offenders Act.
- Promote prevention strategies arising from reviews of deaths through production of accessible public information.
- Report to Parliament on our second review of Taser use by the NSWPF.

## Purpose 2.

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

#### What we said we would do in 2011–2012:

Work with the NSWPF to ensure their complaint system is enhanced to meet PID Act requirements, and audit their complainant consultation processes.

see p.41



Finalise a decision-making tool to help agencies determine what types of employment-related child protection allegations are exempted from notification.

see p.163



Develop a training package and annual complaints reporting tool for disability services, and start discussions on developing a national complaints reporting system for disability services.

see pp. 94, 107



Incorporate the strategies developed in stage 2 of the unreasonable complainant conduct project into our guidelines for agencies.

see p.105



Review and update our most commonly used administrative guidelines.

see p.163



Deliver an e-learning program to help agencies educate practitioners and inform staff about public interest disclosures, and audit agency compliance with the PID Act.

see p.105



#### What else we did:

- Handled 33,353 complaints and notifications, 9,504 formally and 23,849 informally (see p.11).
- Completed the second phase of our managing unreasonable complainant conduct project, releasing updated guidance, model policy and training (see p.105).
- Inspected the complaint records of four specialist police commands to ensure they are complying with the *Police Act 1990* and met with a number of local area commanders and they senior staff to discuss their complaint handling systems (see p.38).
- Developed two new training courses for disability service providers to improve their complaint handling systems and to help them handle complex investigations (see p.107).
- Resolved a dispute around access to all of the relevant police information we need to perform our statutory functions (see p.39).
- Provided advice, assistance and training to improve agency internal reporting systems and ensure they are meeting their obligations under the *Public Interest Disclosures Act 1994* (see pp.105, 163).
- Made detailed submissions to the Division of Local Government's review of the local government model code of conduct (see p.69).

#### What we plan to do in 2012–2013:

- Work with other Ombudsman offices across Australia to develop joint complaint handling guidelines for universities.
- Develop and roll out new training courses including administrative law for investigators and investigating misconduct in the public sector.
- Promote the development of a more uniform community service complaints system.
- Work with the NSWPF to ensure it implements our recommendations around workplace equity complaints, as previously agreed by the NSWPF.
- Complete our review of how the NSWPF are delivering and measuring complainant satisfaction.
- Conduct audits in line with our responsibilities under the *Public Interest Disclosures Act 1994*.
- Review our manual for investigators.
- Review complaint handling arrangements within departmental clusters.

Key:



Achieved



On-going



Not achieved

## Purpose 3.

### Be a leading watchdog agency

#### What we said we would do in 2011–2012:

Issue revised definitions of 'employment-related child protection reportable conduct' that are clearer and more narrowly prescribed.	see p.163	✓
Prepare revised guidelines for employers about handling employment-related child protection matters.	see p.163	✓
Communicate to agencies in the substitute residential care sector the types of matters that are exempted from notification to us and to the CCYP under the new class or kind agreement.	see p.85	✓
Conduct research nationally and internationally to gather intelligence on best practice programs for dealing with public interest disclosures (see the public interest disclosures report to be released later in the year).	see p.105	✓
Finalise review of procedure manuals.	see p.16	➔
Develop stage 2 key performance indicators.	see p.26	➔

#### What else we did:

- Took part in a successful peer review of some of our complaint handling systems and processes and looked to extend to the program to other Ombudsman offices (see p.8).
- Attended and hosted a number of events for watchdog bodies from across NSW and around Australia aimed at sharing our experiences and learning from others (see p.7).
- Hosted the first meeting of a nationwide grouping of bodies with oversight responsibilities for public interest disclosures (see pp.7, 8).
- Continued to provide assistance and support to Ombudsman offices from our region through a series of AusAID funded programs (see p.8).
- Provided training to a range of international Ombudsman and their staff as part of an intensive training program coordinated by the International Ombudsman Institute (see p.8).
- Hosted the second meeting of Disability Commissioners from across Australia and attended the third meeting in Darwin. (see p.72).

#### What we plan to do in 2012–2013:

- Develop and upgrade content of various guidelines to address the misuse of social media and the internet, including our effective complaint management guidelines and the management of unreasonable complainant conduct guidelines.
- Co-host the 9th National Investigations Symposium.
- Present two keynote papers and a workshop at the International Ombudsman Institute World Conference.
- Continue to work with the other members of the Public Interest Disclosures Steering Committee.
- Continue our involvement in the Indonesia Australian Ombudsman Linkages and Strengthening program.

## Purpose 4.

### Be an effective organisation

#### What we said we would do in 2011–2012:

Redesign and redevelop the reviewable child death, reviewable disability death and the Child Death Review Team databases.	see p.86	➔
Enhance Resolve, our case management system to more accurately record the 'value added' by our work.	see p.26	➔
Finalise our website redevelopment and launch our new logo.	see pp. 2, 26	✓
Introduce electronic self service (ESS) for certain personnel activities.	see p.28	➔
Rollout VM View (virtual desktop) to improve information system reliability and efficiency.	see p.26	➔
Review and update our file classification plan as well as our approved disposal authorities.	see p.16	➔
Undertake a comprehensive risk assessment, updating our risk profile and risk management policies and plans.	see p.19	➔
Finalise our chart of accounts.	see p.110	➔

#### What else we did:

- Made necessary changes to our structure to reflect public sector changes and work requirements (see p.13).
- Developed an online reporting tool to allow agencies to submit their six-monthly public interest disclosures reports to us online (see p.26 and the public interest disclosures report to be released later in the year).
- Reviewed our employee assistance program and choose to change our provider (see p.32).
- Refined our statistical and business reporting (see p.26).
- Updated our work health and safety systems to reflect changes introduced by the *Work Health and Safety Act 2012* (see p.32)
- Provided training and development opportunities for staff (see p.33).

#### What we plan to do in 2012–2013:

- Conduct a trial of electronic complaint management in our Public Administration Division.
- Work with the Inspector of Custodial Services to ensure a cooperative and effective working relationship.
- Seek to effectively implement changes to our business arising from the new *Child Protection (Working With Children) Act 2012*.
- Review our Statement of Corporate Purpose.
- Review our workplace health and safety program to comply with new legislative requirements.

<b>Key:</b>	✓ Achieved	➔ On-going	✗ Not achieved
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## Balancing our books

Most of our revenue comes from the NSW Government in the form of a consolidated fund appropriation. Our final consolidated fund allocation for 2011–2012 was \$23.796 million. The government also provided \$1.152 million for certain employee entitlements such as long service leave. We received \$248,000 for our capital program, which was spent on purchasing desktops and laptops as well as upgrading hardware and computer software.

Our funding from government was increased by \$390,000 during the year because we were given responsibility for reviewing the use of new police powers (see page 44). Funding of \$1.033 million has been provided in 2012–2013 to undertake these reviews.

We generated \$702,000 through the sales of publications, bank interest, fee-for-service training courses and consultancy work. Other than appropriation, our main source of revenue is from conducting fee-paying training courses (see page 105).

Most of our revenue is spent on employee-related expenses including salaries, superannuation entitlements, long service leave and payroll tax. We spent nearly \$21.5 million on these items in 2011–2012 and the day-to-day running of our office cost over \$4.7 million.

This year we continued our training program for senior managers and other staff on interpreting financial information, acknowledging the importance of being able to use financial information for business planning and decision-making. We also continued improvements to our accounting system, to ensure reliable and timely financial information is provided to cost centre managers and the Ombudsman.

**Fig. 12: Financial summary**

	10/11 \$'000	11/12 \$'000	Change %
Operating revenue including government contributions	24,428	25,898	6.02
Operating expenses	24,297	26,962	10.97
Total assets	3,253	3,040	-6.55
Total liabilities	2,423	3,274	35.12
Net result	142	(1,064)	-849.30
<b>Total equity</b>	<b>830</b>	<b>(234)</b>	<b>-128.19</b>

As shown in figure 12, our operating revenue increased by 6.02% in 2011–2012 and our operating expenses by 10.97%. The major area of change in our revenue base was the \$1.9 million increase in our recurrent appropriation. We had a slight increase in our training revenue, but other revenue-generating sources such as bank interest were lower than the previous year. There was

a \$242,000 decrease in the acceptance by the Crown of employee benefits and other liabilities.

We had a decrease in our asset base as our assets are nearing the end of their useful life. We also had a slight reduction in cash and cash equivalents. Our liabilities have increased more than we anticipated, mainly due to a 'make good provision' for our leased premises of \$444,000. Employee entitlements increased by over \$402,000 from the previous year, although we are proactively managing our leave entitlement. For more details about our financial position, see the 'Our financials' section of the report at page 109.

## Our environmental program

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

We continue to meet our green building rating of four stars, which we will re-assess in 2012–2013. We had positive outcomes for our environmental program after the improvements we made to our computer room in 2010–2011, as can be seen in figure 14.

We continue to purchase 6% green power and encourage our staff to adopt energy efficient practices. Our tenancy is fitted with light sensors and timers, we purchase energy efficient equipment, and have a small number of fuel efficient cars.

In 2011–2012 our environmental strategies included:

- Monitoring our energy usage through auditing, preventive maintenance, staff education programs and purchasing energy efficient equipment.
- Investigating ways to further improve our green building rating in preparation for an audit in 2012–2013.
- Monitoring the type of waste generated in our office and implementing strategies to reduce contamination of the waste stream and better educate staff.
- Improving our fleet performance through reduced petrol consumption, using fuel efficient vehicles, and achieving or exceeding the government fleet performance target for passenger vehicles.
- Recycling 100% of our toner cartridges and clean waste paper.
- Developing a new website to better present our online reports and resources.
- Supporting the environmental programs in our building.



## Managing our energy use

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

### Fleet management

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

- Purchasing more fuel efficient cars based on NSW clean care benchmarks (see figure 13).
- Undertaking vehicle maintenance according to the manufacturer's recommendations to help ensure optimum fuel efficiency and emission performance.
- Encouraging staff to use public transport where practicable.
- Buying vehicles that are compatible with E10 blends of fuel.
- Meeting the average environmental government fleet performance score target, which is sourced from the Green vehicle guide air pollution rating and greenhouse emissions rating for 2010-11.

We continually monitor the need to maintain a fleet and make sure our business areas have a genuine need before a new car is purchased. We ensure that any replacement car is fit for its purpose – in both size and fuel efficiency. During the year we reviewed statistical information about our car use and found that overall our vehicles were underutilised. We have therefore decided to reduce our fleet by one car in 2012-2013.

### Electricity consumption

We continued to see a reduction in our electricity consumption (see figure 14) after the changes we made to IT equipment and the computer room fitout in January 2011.

## Waste reduction and purchasing program

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

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

Staff are made aware of our recycling and purchasing program at induction and are updated on new initiatives and progress reports through email. Waste audits are also undertaken to improve our recycling systems.

### Reducing waste

We promote email as the preferred internal communication tool and encourage staff to print double-sided. Our electronic records management system allows staff to access information such as policies, procedures and internal forms – reducing the need for paper copies.

During the year we participated in our building's program to establish an organic waste stream. This program converts food scraps into compost which significantly reduces landfill. The initial trial was successful and the program will be introduced to all our floors in 2012–2013.

### Resource recovery

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

### Using recycled material

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

**Fig. 13: Fuel consumption (E10)**

	07/08	08/09	09/10	10/11	11/12
Fuel (l)	4,145	3,250	2,835	2,521	<b>2,743</b>
Total (GJ)	142	111	97	86	<b>94</b>
Distance travelled (km)	32,963	38,064	33,818	29,849	<b>36,809</b>

**Fig. 14: Electricity consumption**

	07/08	08/09	09/10	10/11	11/12
Electricity (kWh)	348,358	302,172	367,273	320,053	<b>224,942</b>
Kilowatts converted to gigajoules	1,254	1,088	1,322	1,152	<b>882</b>
Occupancy (people)	187	193	197	195	<b>186</b>
Area (m2)	3,133	3,133	3,133	3,133	<b>3,133</b>

# Supporting the business

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We have a small corporate branch that 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 109). The access and equity work coordinated by the corporate branch is reported in this chapter as well as in appendix I at page 159.

This year our corporate staff have delivered on a range of significant projects that will transform how we do business in the future. These projects include designing new – or upgrading existing – databases to better inform business decisions, and updating our technology to improve how we respond to the public or how we perform our work. We have also continued to improve our own internal systems and processes to better focus our resources on our business activities.

As with all areas of the office, the work of our corporate team is informed by our corporate and other planning documents. During the year, we reviewed the office-wide IT strategic plan and developed plans to guide our human resource, IT, finance and business improvement work.

## Website review

As mentioned in last year's report, we decided to create a new website that conformed to mandatory government requirements, was easy to access, and could be effectively navigated and read by all – regardless of their location, disability or the type of technology they were using. We also needed to have a website that was easy to manage, maintain and update and which could support future internet technologies.

Our website redevelopment project has been an extensive project, and we engaged a web development company – SQUIZ – to work with us on the design and help us to improve navigation.

Although our new website was launched in July 2012, we still have work to do. We will continue to review the content to ensure it is in plain English and the style and language is consistent. We are also developing information in alternative formats as part of our program to improve accessibility.

## Desktop virtualisation

We had planned to roll-out desktop virtualisation throughout the office after a successful trial of the software in 2010-2011. There are obvious benefits of desktop virtualisation for our IT area.

Unfortunately, after the rollout to corporate and two of our business units, a number of underlying network issues were brought to light. We are progressively working through and rectifying these issues before we continue with the rollout.

## OCV Online

Almost immediately after launching OCV Online we saw opportunities to enhance the system and improve its functionality. During the year we have been working with the OCV unit as well as with our BIU staff to enable data integration between OCV Online and CHRIS, our payroll system. This will streamline the payment of OCV claims and reduce manual processing. We also worked to improve data integrity as well as enhancing functionality and the logical and data submission processes. The enhanced system became operational in August 2012.

## PID reporting tool

Since January 2012, all public authorities have been required to collect and report certain information about public interest disclosures to our office twice a year.

To assist both agencies and our public interest disclosures (PID) unit, we developed an online reporting tool which was rolled out in June 2012. This tool has been designed to allow cross-system reporting with Resolve, our case management system, and has inbuilt flexibility to accommodate future enhancements. We have designed the system with security features to ensure that our internal network is not compromised.

The system was developed in consultation with our PID unit and was tested by a number of agencies who provided positive feedback and suggestions for improvement.

## Key performance indicators

One of the BIU's projects has been introducing and implementing across-office key performance indicators (KPIs). This has been a long-term project – it has involved reviewing how we categorise and report on complaint information, changing procedures and actions to achieve consistency throughout the office, and redefining our outcome categories. The BIU consulted staff from each division as well as IT, and we can now report on consistent complaint and oversight-related indicators. We will continue to work on refinements, including reviewing the relevance of particular measures with senior managers, and working to reduce the margin for error in the underlying Resolve data.

Phase 2 of this project will be to develop consistent KPIs for other areas of our work, including projects and reviews.

## Annual report statistics

The BIU worked with our business divisions and IT to develop automated annual report statistics to overcome some of the challenges in collecting and collating this information. We wanted to minimise any manual manipulation of the statistics, which adds risk and can affect accuracy.

Our review led to several changes to Resolve and to the annual reporting program. The statistics for 2011–2012 have been produced since this review. We are now developing a reporting tool to enable the business to run these statistics throughout the year.

## Access and equity programs

We have a range of programs to ensure that the specific needs of vulnerable groups are considered in planning and resource allocation, and our office is accessible to anyone who needs us. These programs – which include our disability action plan (DAP), our multicultural policies and services program (MPSP) and our Aboriginal policy – all support EEO outcomes. This year we also became aware of our obligations under the *Carers (Recognition) Act 2010*. This Act places obligations on all public sector agencies in relation to carers – not only carers that use the services of the agency but also staff members who have carer responsibilities. We are currently reviewing our obligation and developing a plan to ensure compliance with this legislation. We will report against this plan in our annual report next year.

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

### Disability action plan (DAP)

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

For further details on our DAP, see appendix I at page 160.

### Multicultural policies and services program (MPSP)

Under MPSP, all NSW Government agencies must implement and report on their strategies to enhance and promote multiculturalism. Details of our program can be found in appendix I at page 159.

An annual reporting requirement for MPSP is to outline the strategies that we will implement in the next reporting year. Our plans include reviewing our program to ensure

that it is still targeted and relevant, raising staff awareness about issues affecting our culturally diverse community, and consulting with community groups about their needs to better inform our planning processes.

### Aboriginal policy

This policy outlines our commitment to improving our services to Aboriginal people as well as working with key agencies to improve the delivery of their services. It details strategies we have or will have in place to comply with our legislative obligations or policy responsibilities applicable to NSW Government agencies.

### Women's action plan

This year, we reviewed our women's policy in line with the NSW Government Women's Plan and developed a Women's action plan 2012-2015. The plan, which is still to be finalised, 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.

The detailed report on our women's program in appendix I at page 162 refers to our current action plan.

### Reaching out to senior citizens

This year we continued our partnership with other agencies such as the Aged Rights Services, the Commonwealth Ombudsman and the Energy and Water Ombudsman NSW to provide information about the roles of the office to senior citizens. We participated in a number of events targeting seniors including the annual three-day retirement and lifestyles expo in Rosehill as well as the two-day senior's event at the Royal Easter Show.

### Reaching out to young people

This year our youth issues group (YIG) developed a youth policy outlining our commitment to ensuring our services are accessible to young people and their advocates and are of a high quality.

### Staff profile: Caring for an elderly relative

*NSW Carers (Recognition) Act 2010* provides legal recognition of carers in NSW. The Act places obligations on public sector agencies in relation to carers and creates a NSW Carers Charter which contains 13 principles to guide agencies' interactions with carers and outlines how carers should be treated.

Rachel Moses, Executive Assistant, cares for her elderly uncle who lives on his own. 'He is quite independent and generally doing really well. I just need to make sure that he eats nutritious meals every day' Rachel said.

Sometimes, Rachel needs to take time away from work to care for her uncle.

'Recently, my uncle tripped and fell on the footpath and couldn't carry on with his daily routine' Rachel said. 'He is also getting more forgetful of everyday activities and we are going through a series of medical checkups'

'My manager is understanding and supportive. Having flexible working arrangements makes it a lot easier for me to care for my uncle'.



# Our people

We have 210 people working for our office on either a full or part-time basis. These people are an energetic and diverse mix of experience and skill and come from a range of backgrounds – including investigation, law enforcement, community and social work, legal, planning, child protection and teaching. Our collective experience gives us insight into the agencies we keep accountable and helps us to be a persuasive advocate for change.

## Human resources

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

In August 2011, the Crown Employees (Public Sector - Salaries 2008) Award was varied to increase salaries and salary-based allowances by 2.5%. All staff, excluding the Ombudsman and the three Deputy Ombudsmen, are paid under this award. The effective date of this increase was 8 July 2011.

A 2.5% increase was paid to our statutory officers including the Ombudsman from 1 October 2011, in line with the decision of the independent Statutory and Other Offices Remuneration Tribunal.

### Personnel policies and practices

Our staff are employed under the provisions of the *Public Sector Employment and Management Act 2002*. This Act, associated regulations and the Crown Employees (Public Service Conditions of Employment) Award 2009 set the working conditions of all public servants. We therefore have little scope to set working conditions and entitlements for staff.

This year we either reviewed or updated our performance management policy, internal reporting policy, family and community services leave policy, breastfeeding policy and recording of time worked policy. We initiated reviews of a number of other policies including work health and

safety (WHS) and sick leave, which are still to be finalised. All personnel-related policies created or reviewed are negotiated through our Joint Consultative Committee.

Our personnel team reviewed a range of our practices, particularly those relating to managing leave and processing payroll. This review was required to ensure that existing practices supported the introduction of KIOSK or HR21, the employee self service system that was mentioned in previous reports. HR21 has been rolled out to a limited number of staff for testing before a general roll-out throughout the office. The personnel team also reconciled the sick leave balances for all staff following concerns about the impact of award and system changes.

### Workplace giving

During the year we began scoping a workplace giving program (WGP). A WGP allows staff to make regular voluntary donations to selected charities, pre-tax through the payroll. It is a three-way partnership between employer, employee and selected charities – and gives staff the benefit of an immediate tax deduction, without having to keep receipts. It is also a preferred method of giving for charities because it significantly reduces fundraising, administration and receiving costs.

As a first step, we asked staff to complete a survey to gauge their interest, as well as identify a number of core charities to include in the program. The survey results are still being collated and analysed, but we expect to have a program in place in 2012-2013.

The WGP will complement the significant range of fundraising or voluntary work already undertaken by our staff.

**Fig. 15: Staff levels**

	07/08	08/09	09/10	10/11	11/12
Statutory officers	5.00	6.00	4.00	4.00	<b>4.00</b>
Investigative	65.90	74.13	70.18	73.26	<b>78.49</b>
Investigative support	35.65	25.60	21.00	24.50	<b>20.40</b>
Project and research	15.60	14.10	20.66	25.66	<b>25.56</b>
Training and community education	3.50	3.30	2.30	1.50	<b>3.00</b>
Inquiries	10.00	7.00	9.94	9.54	<b>8.74</b>
Community visitor support	2.80	2.80	2.80	2.80	<b>1.80</b>
Systemic review	13.40	12.81	10.10	16.16	<b>14.70</b>
Corporate	23.97	24.74	25.17	27.77	<b>29.67</b>
<b>Total*</b>	<b>175.82</b>	<b>170.48</b>	<b>166.15</b>	<b>185.19</b>	<b>186.36</b>

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

## Improving performance management

During the year we reviewed our performance management system, updating our policy as well as synchronising key activities throughout the office. All areas of the office are now developing agreements, reviewing progress, and reporting on staff performance at the same time. This change will see a more structured approach to performance management and will better link staff performance to the business planning cycle and the development of training plans.

## Working with our JCC

The Joint Consultative Committee (JCC) reviewed a range of our policies this year as well as discussing issues

affecting staff. For example, they had discussions on the roll-out of the revised performance management program and the impact of budget cuts on workload and the health and safety of staff. They also discussed the new WHS legislation, including the most effective way to consult with staff.

## Chief and senior executive service

Our office has four statutory positions – the Ombudsman and three Deputy Ombudsman. The deputy positions are senior executive service (SES) positions. Two are SES Level 5 and the other is SES Level 4.

The following is the performance statement for each of our senior officers receiving remuneration at SES 5 or above.

### Mr Bruce Barbour – NSW Ombudsman

Appointed: 2000

Remuneration: see figure 16

The Ombudsman's performance is reflected throughout this report.

### Mr Christopher Wheeler – Deputy Ombudsman – SES level 5

Appointed: 1994, and reappointed 29 June 2009.

Remuneration at 30 June 2012: \$285,300

In the period to 30 June 2012, Mr Wheeler:

- supported the Ombudsman in the implementation of our statement of corporate purpose and in the management of the office
- provided strategic leadership and direction particularly to the public administration division
- delivered agreed outcomes with the implementation of the Public Interest Disclosures Act – internally and throughout the public sector
- led a number of complex investigations by the public administration division, including investigations into Kariong Juvenile Correctional Centre, asbestos management, water management and the use of force in prisons
- made significant recommendations for far-reaching improvements to public sector policies, practices and service delivery and monitored agency implementation of those recommendations
- conducted a range of activities with the public administration division as outlined in the departments, authorities and local government chapter at page 59 and custodial services at page 49
- delivered phase 2 of the managing unreasonable complainant conduct project, which included the development and publication of the second edition of the *Management unreasonable complainant conduct practice manual* and the model unreasonable complainant conduct policy.

The Ombudsman has expressed satisfaction with Mr Wheeler's performance throughout the period of his employment with the NSW Ombudsman.

### Mr Stephen Kinmond – Deputy Ombudsman/Community and Disability Services Commissioner – SES level 5

Appointed: 2004, and reappointed 5 July 2009.

Remuneration at 30 June 2012: \$285,300

In the period to 30 June 2012, Mr Kinmond:

- supported the Ombudsman in the implementation of our statement of corporate purpose and in the management of the office
- provided strategic leadership and direction particularly to the human services branch
- continued our work in monitoring the implementation of reforms under *Keep them Safe*, including reporting to Parliament in September 2011 as well as consulting with key agencies about addressing our concerns
- led a number of significant investigations and inquiries, making recommendations for far-reaching changes to human services policies, practices and service delivery including the inquiry into people with mental illness and their access to disability support and investigations relating to social justice and child protection that identified systemic weaknesses
- delivered a comprehensive report into Aboriginal disadvantage, that emphasised the need for taking a bold approach to priority areas such as education, building economic capacity and protecting vulnerable children
- implemented more streamlined internal processes in the human services branch, improving how we deal with agencies
- conducted a range of activities with the human services branch as outlined in the human services chapter at page 71
- developed and delivered training packages on serious reportable conduct to improve the practice and understanding of agencies and organisations.

The Ombudsman has expressed satisfaction with Mr Kinmond's performance throughout the period of his employment with the NSW Ombudsman.



As at 30 June 2012, one of our statutory officer positions was filled by a woman. Please see figures 16 and 17 for details of the levels of our senior positions as well as the remuneration for the Ombudsman.

**Fig. 16: Executive remuneration**

Position	Ombudsman
Occupant	Bruce Barbour
Total remuneration package	\$455,563
\$ value of remuneration paid as a performance payment	nil
Criteria used for determining total performance payment	n/a

**Fig. 17: Chief and senior executive service**

	07/08	08/09	09/10	10/11	11/12
SES Level 5	0	0	0	2	<b>2</b>
SES Level 4	2	2	3	1	<b>1</b>
SES Level 2	2	3	0	0	<b>0</b>
CEO*	1	1	1	1	<b>1</b>
<b>Total</b>	<b>5</b>	<b>6</b>	<b>4</b>	<b>4</b>	<b>4</b>

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

In addition to the statutory positions, we employ a number of senior officers – this is a public sector classification with equivalent pay scales to the SES. Details of all our senior staff, both SES and senior officers, can be found in figure 18. As at 30 June 2012, five or 50% of our senior staff were women. This is a decrease from the previous year.

**Fig. 18: All staff with remuneration equal to or exceeding equivalent of senior officer level 1**

	07/08	08/09	09/10	10/11	11/12
Total number	8	9	7	12	<b>10</b>
Number of women	4	4	2	7	<b>5</b>
% of women	50	44	29	58	<b>50</b>

## Equal employment opportunity

Our equal employment opportunity (EEO) program aims to achieve fair practices and behaviour in our workplace. It includes:

- recruitment, selection and promotion practices which are open, competitive and based on merit
- access to training and development for all staff

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

The NSW Government has set targets for employing people from various EEO groups. Measurement against these targets is a good indication of how effective our EEO program has been. Figures 19 and 20 compare our performance against these government targets. We exceeded the target in all areas, increasing our representation of women, Aboriginal & Torres Strait Islander people and people whose first language is not English this year. Although there is no target for the employment of people with a disability, the representation of this EEO group has also increased. Although the number of people with a disability requiring adjustment remained the same, this figure still exceeds the government target of 1.5%.

## EEO and personnel policies

Our personnel policies support EEO by ensuring a diverse and skilled workforce, fair work practices and behaviours, and employment access and participation by EEO groups. Figure 21 show the gender and EEO target groups of staff by salary level.

Our policies clearly state that our workplace should be free of harassment and bullying and that we respect and value our colleagues. There were no formal grievances lodged during the reporting year.

We reported last year that we would explore ways to maximise our use of the public sector e-recruitment system. We have progressively adopted elements of this system including using it to advise applicants of the outcome of the recruitment process.

We continued our commitment to training, providing a range of professional development opportunities for staff – such as our programs to improve the skills of supervisors, as well as our in-house programs on Aboriginal cultural appreciation and disability awareness.

During 2012-2013 we will review our EEO program to update strategies to reflect our business direction and better support our corporate goals.

**Fig. 19: Trends in the representation of EEO groups**

EEO Group	Target	Percentage of total staff				
		07/08	08/09	09/10	10/11	11/12
Women	50	73	71	72	72.9	<b>73.7</b>
Aboriginal people and Torres Strait Islanders	2.6	2.5	3.6	3.6	2.4	<b>2.9</b>
People whose first language was not English	19	20	21	21	17.5	<b>18.2</b>
People with disabilities*	n/a	6	7	7	9.2	<b>10.0</b>
People with disabilities requiring work-related adjustment	1.5	2	2.6	2.6	2.4	<b>2.4</b>

\* Employment levels are reported but a benchmark has not been set.

**Fig. 20: Trends in the distribution of EEO groups**

EEO Group	Target	Result				
		07/08	08/09	09/10	10/11	11/12
Women	100	88	90	87	91	<b>92</b>
Aboriginal people and Torres Strait Islanders*	100	n/a	n/a	n/a	n/a	<b>n/a</b>
People whose first language was not English	100	86	85	83	86	<b>87</b>
People with disabilities	100	n/a	n/a	106	n/a	<b>102</b>
People with disabilities requiring work-related adjustment	100	n/a	n/a	n/a	n/a	<b>n/a</b>

\*Figure is not reported as numbers are small.

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. 21: Staff numbers by level**

Level	Total staff (no.)	Breakdown by EEO group						
		Men	Women	Aboriginal & Torres Strait Islander people	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with disabilities	People with disabilities requiring work-related adjustment
< \$40,662	0	0	0	0	0	0	0	0
\$40,662 - \$53,407	3	0	3	1	1	1	1	0
\$53,407 - \$59,705	16	1	15	0	8	8	0	0
\$59,705 - \$75,552	41	12	29	1	9	8	6	0
\$75,552 - \$97,702	91	19	72	3	24	17	7	4
\$97,702 - \$122,128	48	18	30	1	6	4	5	1
> \$122,128 (non SES)	7	3	4	0	0	0	1	0
> \$122,128 (SES)	3	2	1	0	0	0	1	0
<b>Total *</b>	<b>209</b>	<b>55</b>	<b>154</b>	<b>6</b>	<b>48</b>	<b>38</b>	<b>21</b>	<b>5</b>

\* This figure represents the actual number of full-time and part-time staff as at 30 June 2012 – not the full-time equivalent.

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## 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. We have 43 staff who work part-time.

We continue to have discussions on the management of our flexible working hours agreement at the JCC. We have committed to review this agreement, but put the review on hold as there were broader sector wide discussions on this issue. The JCC has agreed to revisit this agreement in 2012-2013.

## Preventing harassment and having respect for each other

Our policies clearly state that our workplace should be free of harassment and bullying and that we respect and value our colleagues. There were no formal grievances lodged during the reporting year.

To promote respect for the social and cultural backgrounds of staff and our clients, we continued our in-house training on Aboriginal cultural appreciation. It is our aim that all staff will attend this course. The feedback on the content and presentation of this course has been extremely positive, and our aim is to have all staff attend this course.

We also continued our disability awareness training which used attitudinal and practical sessions to illustrate issues facing people with a disability. This training also focused on improving our work practices, by giving practical suggestions on how to engage with people with a disability.

## Work health and safety

As an employer, we are required to provide a safe work environment for our staff. We are subject to the provisions and responsibilities outlined in legislation such as the *Work Health and Safety Act 2011* (WHS Act) as well as public sector work health and safety (WHS) policies. We have policies and supporting programs that provide guidance to both managers and staff and help us to identify and manage any WHS risks.

### Implementing the new WHS Act

As part of the Council of Australian Government negotiations, it was agreed to harmonise occupational health and safety laws – this effectively means having the same laws throughout Australia. To deliver harmonised laws, the NSW Parliament passed two pieces of legislation – the *Occupational Health and Safety Amendment Act 2011* and the WHS Act. The WHS Act came into force on 1 January 2012, replacing the *Occupational Health and Safety Act 2000*.

The old and new legislation are similar in many ways. The overriding principle is that to achieve effective WHS within organisations, there needs to be effective consultation. There are also some significant changes, including employers/principal officers being held individually liable for workplace safety breaches. The definition of ‘worker’ is broader than the former legislation and now includes volunteers and contractors. We need to work with relevant parties if our staff are working at temporary locations such as gaols to ensure that WHS has been considered and our staff are not put at unnecessary risk.

We are reviewing the impact of the new WHS Act and have been modifying our WHS program accordingly. We contracted Mutual Solutions, who manage our workers compensation for the Treasury Managed Fund, to review our existing policies – including those aspects of the working at home policy that apply to safety. We also engaged Mutual Solutions to conduct information sessions for all managers and staff on the requirements of the new policy. We have already provided sessions to the OCVs at their conference in June 2012, with the remaining staff attending sessions in August 2012.

The new laws strengthen the consultation requirements, so any changes we make will be after discussions with staff and our consultative forums.

### Making reasonable adjustments

During the year we modified a number of work areas or work processes to assist staff who have either ongoing medical conditions or other specific needs. These modifications included 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 participate in our building’s emergency evacuation training program and emergency evacuation drills, with all wardens required to attend training at least twice a year.

Changes to emergency response standards in late 2010 resulted in the implementation of personal emergency evacuation plans (PEEPs) for anyone deemed to be mobility impaired for a prolonged period of time. A PEEP ensures that the office, building management, and each staff member needing assistance during an emergency have all made an assessment of their circumstances and abilities before a situation occurs. During the year, we developed PEEPs for a number of staff and were able to test these plans during the emergency evacuation drills.

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

## Employee assistance program

We provide an employee assistance program (EAP) which includes a free 24 hour counselling service for staff and their families.

Following feedback from staff, we decided to review our EAP this year. We asked five providers to submit proposals about the services they offer. After interviews and referee checks, we decided to change our provider to Davidson Trahaire Corpsych (DTC) and our partnership with them started on 1 August 2012.

## Other programs to support WHS

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

- 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 – to be able to respond to minor workplace injuries we have appointed a number of staff as first aid officers to respond to minor workplace injuries. We cover the costs of any initial and any ongoing training and pay these staff a yearly allowance for undertaking this role.

## Workers compensation

We participate in the NSW Treasury Managed Fund, a self-insurance scheme for the NSW public sector. There was a decrease in the number of claims reported to our insurer this year compared to the previous year, with seven claims being reported – see figure 22. As at 30 June 2012, we had four open workers compensation claims.

We are reviewing the changes to the workers compensation legislation and how this may affect our claim experience. We have had journey claims in the past, but the new test of a 'real and substantial connection between the employment and the accident or incident' will most likely see a reduction in these types of claims.

Our workers compensation incidence rate is continuing to go down from its significant peak in 2009-2010. This is because of the small but continuing reduction in the number of claims, the increase in our staff numbers, and our continual focus on preventive strategies.

## Working together: Public sector workplace health and safety and injury management strategy

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

During the year we continued our proactive approach to claims management, working with our insurer to ensure that injured workers were receiving the necessary support – both medical and through a structured return to work program – to minimise time off work.

## Learning and development

One of the goals of our statement of corporate purpose is to attract, develop and encourage skilled and committed staff. One way of achieving this is to provide learning and development opportunities that enable staff to perform their current role more effectively and gain skills to help them to progress in their careers.

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

**Fig. 22: Workers compensation**

Claims entered in the year	07/08	08/09	09/10	10/11	11/12
Claims brought forward	9	6	2	4	5
New claims	6	5	9	8	7
Claims closed	9	9	7	7	8
<b>Open claims at 30 June 2012</b>	<b>6</b>	<b>2</b>	<b>4</b>	<b>5</b>	<b>4</b>

**Fig. 23: Workers compensation incidence rate**

	07/08	08/09	09/10	10/11	11/12
Number of injuries reported	6	5	9	8	7
EFT number of employees	175.82	170.48	166.15	185.19	186.36
Incidence rate (%)	3.41	2.93	5.42	4.32	3.76

## Certificate IV in Government (Investigations)

In early 2012, the Ombudsman decided that investigation and other relevant staff should possess recognised qualifications and our training program over the next few years should focus on this. After discussion by the senior officers, it was agreed that we would engage an accredited training provider to deliver Certificate IV in Government (Investigations) training to our staff.

After reviewing proposals, interviewing providers and conducting referee checks, we have engaged the Sydney Institute of TAFE to provide this training.

To gain the qualification staff will need to do 15 units – 10 of which are compulsory. The remaining five are electives and will be chosen by the office. We are planning to have the training underway before the end of 2012.

## Developing professional skills

Our staff attended a range of conferences during the year including the IPAA state conference, the ABSEC conference and the national Disability Advocacy conference. These conferences give our staff the opportunity to learn from industry experts, improve their understanding of contemporary issues affecting our work, and network with people who have similar roles, experience and skills.

Staff also completed a range of external training – including courses on statutory interpretation, records management, taxation, payroll and using Excel.

We also arranged for:

- external presenters to hold training sessions on a range of issues specific to our complaint-handling activities
- the Australian Bureau of Statistics to conduct two training sessions on analysing data and turning data into information
- staff to attend mediation and conciliation training, presentation skills and project management.

## Leadership development

All our senior staff are required to attend a set of training courses over a two-year period covering financial management, leadership and strategic planning. They are also expected to undertake 15 hours of independent professional education to improve/develop their leadership/management knowledge and skills. This program can include reading management publications, as well as attending briefing sessions and training courses. All senior staff must report to the Ombudsman annually on their compliance with these requirements.

To support this program we ran a number of training sessions in-house, using external training providers.

## Fig. 25: Training expenditure

Year	07/08	08/09	09/10	10/11	11/12
Expenditure	\$180,000	\$125,000	\$101,000	\$165,000	<b>\$155,000</b>

Sessions specifically targeting senior staff included budgeting and financial management, leading through change and improving workplace effectiveness.

## Raising awareness

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

## Managing staff

We continued our program of equipping supervisors and managers with necessary skills and knowledge to effectively carry out their responsibilities. This included training on managing for improved performance, merit selection, leading through change and work health safety.

## New staff induction

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

## Providing study leave

Staff development also means encouraging staff to undertake further study to enhance their skills. Ten of our staff used study leave provisions to do tertiary education courses.

## Fig. 24: Time spent on training

Number of	Total
Courses attended	98
Full-time equivalent staff	186.36
Total time spent – hours	4,440.3
Total time spent – days	634.32
Days training per staff member	3.40
Training \$ per staff member*	\$770.62

\* excluded from calculations are training costs for OCVs and other non direct training expenses.



# Law and justice

## Our work

This chapter outlines our work this year in relation to policing, ensuring government compliance requirements around witness protection and certain covert and controlled law enforcement operations, and custodial services.

The *Police Act 1990* gives the police the primary responsibility for investigating and resolving complaints. Our role is to oversee the way the police complaints system works – through reviewing investigations of individual complaints and checking that the processes police use to resolve complaints are fair and effective. This helps us to identify systemic problems and work closely with police to try and solve them.

Our custodial service work involves handling complaints and dealing with issues relating to Corrective Services NSW, Juvenile Justice, the GEO Group and the Justice Health & Forensic Mental Health Network. As this section of the report shows, we achieve very real and practical outcomes, solving problems and resolving issues that can have a real impact on the lives of those in correctional and juvenile justice centres.

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## Highlights

- Tabled reports to Parliament dealing with the behaviour management program at Kariong Juvenile Justice Centre and the use of force in correctional centres (see page 51)
- Resolved an ongoing disagreement with NSW Police Force to ensure we have the information we need to perform our statutory function (see page 39)
- Worked with NSW Police Force on changes to their public interest disclosures systems to ensure all police employees are provided with sufficient protection and support (see page 41)
- Continued our comprehensive review of the use of Tasers, including closely examining 631 Taser incidents (see page 42)
- Reviewed the use of segregation and separation in juvenile justice centres, raising issues of concern with centre managers and Juvenile Justice (see page 56).

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## Stakeholder engagement

The success of our work in both overseeing police complaints and dealing with custodial services complaints and issues is built on our strong knowledge and understanding of how each agency works. The most valuable information we get on current issues and concerns comes from speaking with staff. They know what is happening, and are often able to tell us what works and what doesn't.

In the custodial services area, we also rely on information from inmates in correctional centres and young people in juvenile justice centres to gain a broader perspective on how things are working. This practical perspective is a vital aspect of our work. This year we have:

- made 53 visits to correctional and juvenile justice centres, speaking with both inmates and staff (see pages 53 and 55)
- conducted four inspections of commands to assess their complaints management systems and practices (see page 38)
- gone to three local area commands to meet with the commander and the senior management team (see page 38).

The Ombudsman and Deputy Ombudsman (Police and Compliance) also meet regularly with the Police Commissioner and senior staff from the Professional Standards Command to discuss issues relating to the handling of police complaints and related matters.

### Learning from others

In July 2011, the Deputy Ombudsman (Police and Compliance) and another staff member travelled to Victoria and Queensland to meet with staff from the relevant oversight bodies, including the Queensland Crime and Misconduct Commission, the Victorian Office of Police Integrity, and the Queensland and Victorian Ombudsman. They also met with staff from Queensland and Victoria Police and the Queensland Department of Premier and Cabinet. These meetings allowed us to share our experiences, as well as providing us with an opportunity to identify future improvements to how we do our work.

# Police

## Trends in complaints about police

In 2011–2012, we received 3,386 formal or written complaints about police. These numbers represent a steady increase in complaints about police for the fourth consecutive year. We have also finalised a total of 3,390 complaints during this period.

In addition to the formal complaints, we also received 2,361 informal complaints and inquiries by telephone or in person. The types of issues being complained about have remained steady over the last two years.

Of the 3,390 complaints we finalised this year, 909 (27%) matters were assessed as not requiring any action to be taken. This can be for a number of reasons – including the availability of satisfactory and alternative redress at a court or tribunal, or because the subject matter of the complaint occurred too long ago to warrant investigation or has already been investigated.

There continues to be a steady rise in the use of resolution and outcome focused inquiries (39%) by police to manage complaints about serious misconduct. As the total of serious misconduct matters referred for a resolution outcome has increased, there has been a corresponding decrease in the use of evidence-based inquiries (25%). This is discussed in more detail at page 40.

Another 323 (10%) complaints were assessed as being about less serious, local management issues so we referred them back to the local area command to resolve.

## The NSW police complaint system

We work with the New South Wales Police Force (NSWPF) to make sure their complaints system is fair and achieves outcomes that are in the public interest. When police directly and genuinely engage with complainants and the complaints process, issues and problems can be identified early and rectified. It also means potential improvements can be made to the way the system operates.

At the same time, we are here to identify when this system is not functioning as it should. We do this by regularly checking how police are dealing with less serious complaints, assessing and reviewing more serious complaints that police notify us about, and handling complaints that we receive directly from members of the public.

Complaints about police come from both the public and police officers themselves. Police are required to report misconduct by other officers and these reports become complaints. These 'internal' complaints make up about 37% of the total number of complaints about police. This is an encouraging figure as it shows the internal reporting mechanism is working properly and continues to be an important part of corruption and misconduct prevention. Case study 1 is a typical example of how an internal police complaint works.

**Fig. 26: Formal complaints about police received and finalised**

Matters	07/08	08/09	09/10	10/11	11/12
Formal received	2,969	2,948	3,032	3,256	3,386
Formal finalised	3,254	3,094	3,093	3,278	3,390

**Fig. 27: Who complained about the police**

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

	07/08	08/09	09/10	10/11	11/12
Police	1,056	1,158	1,090	1,156	1,246
Public	1,913	1,790	1,942	2,100	2,140
<b>Total</b>	<b>2,969</b>	<b>2,948</b>	<b>3,032</b>	<b>3,256</b>	<b>3,386</b>

**Fig. 28: What people complained about**

This figure shows the allegations made in 2011–2012. This is higher than the complaint number, as some complaints have more than one allegation. See appendix A for more details about the action the NSW Police Force took in relation to each allegation.

Subject matter of allegations	No. of allegations
Arrest	144
Complaints	143
Corruption/misuse of office	284
Custody	134
Driving	87
Drugs	159
Excessive use of force	573
Information	526
Investigation	805
Misconduct	1,561
Other criminal	362
Property/exhibits/theft	212
Prosecution	339
Public justice offences	158
Search/entry	131
Service delivery	1,134
<b>Total</b>	<b>6,752</b>

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## Our role in keeping the system under scrutiny

An agreement between the Ombudsman and the Police Integrity Commission (PIC) sets out the types of complaints we have to be notified about. This 'class or kind agreement' allows for less serious complaints, such as rudeness or low-level performance issues, to be managed by the police without direct oversight by the Ombudsman.

The agreement states police must notify us of complaints that raise allegations of serious police misconduct, including conduct which is criminal, corrupt or unreasonable. We closely consider each complaint to make sure it has been investigated effectively and in a timely manner, and that any action taken is appropriate. As part of doing this, we can:

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

While much of our work is driven by the individual complaints we oversee, we are also responsible for keeping the entire system under scrutiny. This means regularly auditing and examining how police are handling the less serious complaints as well as their overall compliance with the class or kind agreement. We do this by inspecting individual complaint files and regularly reviewing the police complaints management database.

## Case studies

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### CS1: Officer charged after an internal complaint

Two police officers attended a shoplifting incident involving a 12 year old boy. At the scene, one of the officers grabbed the boy's shirt and threw him against a wall. The other officer reported the incident to a senior officer in accordance with police regulations.

A complaint was registered and we were notified.

A criminal investigation was conducted and the officer has since been charged with assault and suspended from duty.

### CS2: Sensitive matter investigated well

Police investigated two complaints relating to drugs and a possible improper association. The allegation involved members of the subject officer's family. These types of matters can often be very difficult to investigate. The investigator has to deal with all those involved sensitively, while also making sure they do a full and thorough investigation.

## Inspecting records

Every 12 months we go out to different commands, meet with senior officers involved in the complaints process, and inspect their complaints records. This inspection process enables us to assess whether the command has properly recorded and managed complaints they have received about their officers. It also gives us the opportunity to identify good practice and provide feedback and suggestions on how a command could improve their systems.

This year, we decided to focus on the records and systems at four specialist commands in the Sydney metropolitan area. The results were very good, with few exceptions being identified. There was strong compliance with requirements for registering complaints and the majority had been recorded, assessed and investigated appropriately.

Another way we keep the complaint system under scrutiny is through our regular liaison meetings with the Professional Standards Command (PSC) and local area commanders. This year we visited three commands and observed complaints management teams make assessment decisions about individual complaint matters.

## Providing feedback on investigations about serious police misconduct

Most of the complaint investigations we oversee are handled in accordance with legislative requirements and internal procedures. This is important, as it helps to increase the level of public confidence in both the police complaint system and those officers conducting complaint investigations. When we come across particularly well handled investigations, we contact the Local Area Commander and ask them to pass on our positive

When we reviewed the final investigation report, we were particularly impressed by the comprehensive and professional interview the two detectives had conducted with the subject officer. We wrote to their commander noting this, and asking that they both be told what we thought about the quality of their investigation.

### CS3: Inappropriate use of force

A police officer saw CCTV footage that showed a custody manager hit a prisoner on the head. The strike appeared to cause the prisoner's face to hit the wall. The officer reported the incident and it was investigated.

When interviewed, the victim indicated he had no recollection of the incident because of his level of intoxication. He also did not want to have the officer charged with assault and was satisfied for the matter to be handled as a non-criminal investigation. The investigation found the actions of the custody manager were reasonable – as he was trying to stop the victim



feedback to the investigating officers concerned. Case study 2 is a good example of this.

When we provide feedback, our aim is to improve the effectiveness of the investigation and achieve better outcomes for complainants, police officers and for commands. Case study 3 is an example of where our intervention led police to change their original decision, recognise a training need and take some form of management action. Our feedback in case study 4 helped police to recognise that an important legislative requirement was not being complied with and identify a potential education need for officers across the state. In case study 5, we raised serious questions about whether the officers had been afforded procedural fairness during the investigation. And in case study 6, we helped to identify a potential conflict of interest and the need to manage the significant risks associated with an individual officer's relationship with a member of the media.

## Resolving issues about interpreting legislation

### Access to certain information

The Ombudsman has a number of powers to access information held by police when assessing the handling of complaints about police officers. We use this information to help us to determine whether police have properly identified complaint issues, adequately investigated complaints, and taken appropriate action in response to any investigation findings.

In recent years, police have questioned the scope of these powers including whether:

- police can lawfully provide us with telephone intercept information relating to a complaint about a police officer

- we should be given the legal advice relied on by police during complaint investigations
- we have the power to request information about and assess action taken against officers as a result of complaint investigations.

Over the past year, we have challenged police about their interpretation of our powers to access this information. We sought legal advice to resolve what information should be provided to us to fulfil our various statutory functions.

As a result of this legal advice and a number of consultation meetings, police have now amended their internal policies and practices to make it clear that we are to be given all the relevant information we need.

For example, they have agreed to:

- provide all telephone intercept material relating to complaints
- consider providing legal advice to us on a case-by-case basis to ensure we understand the basis for any decisions made
- follow the NSW Solicitor General's advice concerning our powers to request certain information about the action taken against an officer as a result of a complaint investigation.

## Arrest for the purposes of imposing bail conditions

We oversaw a complaint investigation involving the arrest of a person who voluntarily attended a police station to be charged. The person was arrested for the sole purpose of imposing bail conditions. We raised concerns with police about the lawfulness of the arrest, noting that the *Bail Act 1978* allows for a person present at a police

urinating in the cell – and accepted the custody manager only intended to stop the offence continuing and did not seek to hurt the prisoner.

We agreed there was no prospect of a criminal conviction. However, at our suggestion, police overturned the findings agreeing there was no lawful authority for the custody manager to use force against the prisoner under the circumstances, even accepting the issues about contamination and health risks. The custody manager was issued with a commander's warning notice and directed to undertake further training in handling people in police custody.

### CS4: Unlawful strip searches

Police at a local area command had developed a practice of strip searching prisoners transferring from police custody to the custody of Corrective Services NSW (CSNSW). We became aware of this through a complaint from a prisoner who had objected to such a search.

As part of our initial assessment of the complaint, we asked police to provide reasons for the strip search – as the information available did not suggest there was a reasonable suspicion the accused was armed with illegal or dangerous articles. Police initially argued the search was lawful on the basis it was a right under common law and under the *Law Enforcement (Powers and Responsibility) Act 2002* (LEPRA). Our inquiries also revealed that CSNSW would not accept a prisoner unless they had been strip searched by police to protect prisoners and staff.

We asked police to investigate the circumstances of the search as we doubted it was lawful in the circumstances. For example, the safeguards under LEPRA include having reasonable grounds to suspect a search is necessary and the seriousness and urgency of the circumstances. It appeared the strip searching of prisoners before they were transferred had become routine and in our view police were often not complying with statutory requirements.



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station to be granted bail. Police told us they believed a person had to be arrested and placed in custody in order to be granted bail.

To try and resolve the issue, we sought legal advice from the Solicitor General – who advised that there is no requirement for a person attending a police station voluntarily to be arrested and placed in custody so they can be charged and bail conditions imposed.

We are working with police to determine what changes need to be made to bail processes.

## Measuring complainant satisfaction

Having a way to measure complainant satisfaction is very important as it can tell an agency where service improvements may be needed. In serious complaint matters police are required to consult with the complainant, wherever possible, before any final decision is made about their complaint. It is also a legislative requirement under the Police Act for police to provide advice to a complainant about the action taken as a result of their complaint, and then report to the Ombudsman whether the complainant was satisfied with this action.

We believe such a process can be a very useful way of identifying potential service improvements. This year we have been working to improve the way we record and measure complainant satisfaction.

## Police management of complaints

### Investigations into criminal conduct

We oversee individual complaints about serious misconduct to make sure they are handled properly. Wherever reasonable, we expect a complaint about criminal conduct to be the subject of rigorous evidence based inquiries.

During our work this year with the PSC on the revised police complaint-handling guidelines, we have continued to disagree with them on the guidance provided about when an evidence based investigation should be conducted. We have written to all Local Area Commanders across NSW to make them aware of this, and to inform them that our office will record the handling of complaints as being deficient if they involve criminal or serious misconduct allegations and are not the subject of an evidence-based investigation at the outset – unless a decision can be made on reasonable grounds that there is no prospect of criminal proceedings, dismissal or other significant action.

In last year's annual report we reported on a case where police failed to adequately investigate the alleged criminal conduct of a police officer. We were also concerned that police were not adhering to a protocol designed to ensure that certain decisions not to prosecute police officers are referred to the Director of Public Prosecutions for independent review.

We continued to closely monitor this issue this year and found further examples where police have not appropriately handled complaints involving alleged criminal conduct of police officers. We are currently working with police to ensure that amendments are made to internal guidelines and policies to address our concerns.

### Managing critical incident investigations

If a death or serious injury occurs during a police operation, the police will conduct what is called a critical incident investigation. These often involve important public interest issues and can attract significant media attention.

At the moment, our office only becomes involved in the scrutiny of critical incident investigations if a member of the public makes a complaint or a police officer makes an internal report that the police conduct being examined

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## Case studies

The command continued to disagree with our assessment of the lawfulness of the search, so we raised the issue with the police corporate spokesperson for custody issues. Further inquiries were conducted and the lawfulness of the practice was examined. Police have agreed there is no lawful justification for a strip search simply on the basis that a prisoner is being transferred to CSNSW custody. Officers have been reminded about the legislative obligations and the practice has now ceased.

### CS5: Findings overturned

An officer complained about a range of supervision issues, bullying and harassment. The allegations were investigated and sustained findings were made against five officers. Improvements were also proposed to

practices at the command as well as training and advice to staff on a range of management issues.

We identified a number of stages in the investigation where the subject officers appeared not to have been provided with sufficient details of the allegations against them. This had affected their ability to respond properly to the allegations. For example, a finding of harassment was made against one of the officers – but the allegation was not put to him during the investigation and he was not given an opportunity to respond to it. A number of the findings were also not based on sufficiently robust evidence or sound reasoning. For these reasons, we considered that the subject officers had not been afforded procedural fairness and as a result the police overturned the findings against each of them.

amounts to criminal and/or other misconduct. We only receive a small number of complaints about critical incidents each year.

The Ombudsman is currently discussing with the Commissioner of Police, Minister for Police and the Coroner a proposed scheme whereby all critical incidents would have to be notified to our office.

The proposed scheme would enable us to be notified of a critical incident investigation from the outset. We could therefore independently assess initial information to decide what, if any, involvement we should have in overseeing the investigation.

This would provide assurance to the families of victims and the public that police investigations into police conduct are independently and impartially scrutinised from the outset to ensure the integrity of the investigative process.

### Protecting internal police complainants through the PID Act

The Police Act makes it clear that it is an offence to take any form of action against a police officer in reprisal for them making a complaint. Similar protections are available to civilian police employees and police officers under the *Public Interest Disclosures Act 1994* (PID Act).

For a disclosure to be classified as a public interest disclosure and attract the protections of the PID Act, it has to be made to either:

- the principal officer of the agency
- a member of staff identified in the agency's policy as being able to receive a disclosure
- an investigating authority.

In our advice to agencies, we suggest that their internal reporting policy should provide for a number of different staff who can receive disclosures. The number, position

and location of these staff will depend on the agency's structure and the numbers and distribution of its staff.

The NSWPF is a large agency, employing approximately 20,000 people located across the state. Despite our suggestions, the police internal reporting policy includes only one person other than the Commissioner who can receive public interest disclosures – the manager of the Internal Witness Support Unit. We believe this is seriously inadequate and potentially unfair to police employees (both officers and civilians) who may be denied protections under the legislation. We have been working with police to try and change their position and increase the number of staff within the agency who can receive a disclosure.

More information about this issue will be included in our first public interest disclosures annual report, which will be released later this year.

### Handling allegations of plagiarism

In 2011–2012, we oversaw the handling of more than 90 complaints alleging plagiarism by probationary constables at the policing college at Charles Sturt University. We identified a range of systemic issues including:

- an inconsistent approach to dealing with allegations of plagiarism
- failure to notify our office of the academic misconduct complaints
- lack of procedural fairness for subject officers
- a reluctance to conduct further inquiries.

We recommended changes to how these types of complaints are handled, including changes to the procedures for managing academic misconduct. After meeting with senior officers to discuss our concerns, police accepted our recommendations and made the necessary changes.

## CS6: Relationships with the media

An internal police complaint alleged an officer had released information to a reporter about the arrest of a high-profile offender and had arranged a staged 'media walk' of the arrest from the police car to the station. The arrest was filmed and broadcast on television.

The initial police investigation learnt that the officer had a friendship with the reporter and openly acknowledged disclosing the details of the arrival at the station while transporting the offender to the police station. The officer admitted having made a mistake by agreeing to the reporter's request to walk the offender through the front door of the police station, but denied having told them about the arrest.

It was found that the officer had breached police media policy, but had not improperly disclosed information to the reporter. Although the police investigator had used appropriate strategies to try and address the inherently difficult issue of leaks to the media, we asked for further inquiries to be undertaken. We were concerned the officer's relationship with the reporter had not been fully canvassed.

In our view there are risks in any relationship between an officer and a member of the media and, in some cases, this may result in personal benefits to the officer. As a result of the further inquiries, it was found that the relationship was a conflict of interest and the command will take steps to manage it.

The procedures now address the systemic issues we identified – which will help to ensure future academic misconduct matters are handled consistently and appropriately.

## Slow response to workplace equity recommendations

Last year we reported on the creation of a new police unit in Human Resources and the development of new resolution procedures for handling work place equity complaints. The Workplace Equity Unit was developed in direct response to a significant report commissioned by the then Commissioner of Police in 2006 to look into sexual harassment and discrimination within the police.

In June 2011, the police accepted all the recommendations we made in our final audit report of the new system. Despite our attempts to engage police in the implementation process, there have been significant delays in implementing our recommendations. As a result, we have seen little progress towards achieving a consistent and rigorous approach to allegations of workplace misconduct. We consider this situation poses a considerable risk to police. We have since met with senior NSWPF officers and raised our concerns with the Commissioner. We have been told NSWPF now have a timeframe in place for implementing our recommendations. We will continue to work with them on implementation and handling individual work place equity complaints.

## Key areas of focus

All our work with police complaints is aimed at ensuring the integrity of the system and adding value where we can. We concentrate on those matters that raise issues that can or do impact upon a large number of people, or where the impact on a small number of people is serious or substantial. This year, we have particularly focused on:

- the use of Taser
- the policing of bail

- reporting children at risk
- responding to adverse judicial comments.

## Use of Taser

This year we continued our work on our second review of the use of Taser by police. This has been a large, very resource intensive and challenging project. It has involved collecting, collating and analysing information from a broad range of sources including:

- video taken from the camera built into each Taser
- information on injury claims by police officers
- all records and documents connected to each use – including COPS records, situation reports, internal documents, internal correspondence and minutes of meetings
- focus groups with operational police and professional standards managers.

During the investigation we obtained information about the 2,252 incidents involving Taser usage between 1 October 2008 and 30 November 2011. We selected a six month period from 1 June 2010 to 30 November 2010 and looked in detail at the more than 600 Taser incidents that occurred in that period. We have also reviewed experiences from other jurisdictions, as well as expanding on the literature review we did as part of our first review. The final report is due to be released soon and will be available on our website.

## Policing bail

Under the Bail Act, authorised police officers and courts can grant bail to alleged offenders so they do not have to remain in custody until their matter goes to court. Sometimes this bail will involve certain conditions – such as reporting to a police station within a certain time frame or keeping to a curfew. Police are also responsible for enforcing compliance with bail conditions, including arresting those who breach the conditions of their bail.



### Donating to the Clean Slate Without Prejudice program

For many years, our Aboriginal Unit has held an office raffle at Christmas to raise funds for an original charity or worthy cause nominated by our staff. Last year's recipient was Shane Phillips – an Aboriginal leader and pathfinder who developed the Clean Slate Without Prejudice mentoring program together with the Redfern Police Local Area Commander, Luke Freudenstein. This program aims to reduce youth offending by establishing positive relationships between young Aboriginal people and trained mentors.



## Bail compliance checks

Checking if people are complying with their bail conditions is an important part of everyday police work. A common bail condition that requires a police check is a 'curfew' condition. We have received a number of complaints this year – like case study 7 – about police conducting what the complainants believe are unreasonably frequent bail compliance checks, some of which have been done late at night or very early in the morning. This can be disruptive to other people in the home and neighbouring properties, particularly young children.

## JusticeLink, COPS and wrongful arrests

In our last annual report, we detailed problems with JusticeLink – which is administered by the Department of Attorney General and Justice (DAGJ) – and the Computerised Operational Policing System (COPS) automatically synchronising information about bail variations. We have recently found this problem is also affecting other court decisions such as variations to Apprehended Violence Orders (AVOs), child protection orders and warrants. We have continued to receive complaints from people who have been arrested for breaching bail conditions that no longer exist – having been varied or dispensed with. Many of those complainants were young people who had been held in custody and brought before a court before the error was identified.

We decided it was in the public interest to formally investigate the matter. The investigation began in September 2011, and we have since obtained a large amount of information from the NSWPF and DAGJ in relation to this matter.

The NSWPF has developed two business cases (one jointly with DAGJ) seeking funding to rectify the problem. In April 2012, Treasury approved funding for the joint business case – providing a significant amount of money over two financial years to rectify the problem. Improvements to the communication of bail variations are expected by June 2013, with the full technical and business solutions expected to be delivered within the 2013–2014 financial year.

To minimise the risk of further wrongful arrests, police officers have been directed not to arrest people who claim their bail has been varied or dispensed with until they have verified the correct bail conditions on JusticeLink. They can do this by contacting a 24 hour hotline in the NSWPF's Criminal Records Section.

There have been several occasions since this change was made where officers who were not aware of the direction have arrested people – acting on incorrect COPS information – in good faith but nonetheless wrongfully, and will therefore be subject to complaint and subsequent investigation.

## Reporting children at risk

When police officers receive reports of alleged conduct that could be abusive to children, they are required to submit a child/young person-at-risk (CAR) notification. Depending on the information entered, the CAR notification will produce one of three risk determinations:

- no risk of significant harm
- risk of significant harm
- imminent risk of significant harm.

## Case studies

### CS7: Checking bail conditions

We received a complaint from Legal Aid's Children's Legal Service about police conducting frequent bail compliance checks on a young person at unreasonable times. The young person was subject to a 'curfew' condition. Legal Aid had written to the relevant commander on behalf of the young person revoking the 'implied licence' or permission for police to enter the property and enclosed land – but police continued to go to the house and ask to see the young person.

In February 2012, the NSW Supreme Court found imposing a requirement to submit to an alcohol breath test as a condition of bail to be unlawful. We believed this decision could also mean authorised police officers could not set or enforce a bail condition requiring someone to present themselves to police for them to determine whether they were complying with a 'curfew' bail condition.

We wrote to the NSWPF and asked what action they were going to take to make sure that:

- authorised police officers do not impose unlawful bail conditions

- general duties officers do not continue to enforce unlawful bail conditions
- police consider what is reasonable when deciding what time to conduct bail compliance checks – and then apply this approach to all similar circumstances
- police are aware that entering enclosed lands once an implied licence has been revoked constitutes trespass, if no other lawful authority exists.

We received a very positive response, and a Law Note was issued to police officers in June 2012 to provide clear guidance on these issues. Authorised police officers have been instructed not to impose bail conditions requiring a person to present to police in relation to a 'curfew' condition, and general duties officers have been instructed not to enforce any existing bail conditions. Officers have also been told to be reasonable when monitoring compliance with lawfully-made bail conditions and – if they enter enclosed land once the implied licence has been revoked without some other legal power to do so – they will be trespassing.



This risk determination affects future actions taken by police.

We reviewed a complaint investigation where a woman had reported an alleged assault on her child by his father. We were concerned about the officer's CAR notification, particularly as the child had allegedly sustained a welt on his thigh after being struck with an object – which the officer had not considered a 'significant' injury. This meant the officer was not required to take further action. If the injury had been classed as significant, Community Services would have had to be notified immediately.

We were also concerned by the processes for providing feedback to officers who submit incorrect or inaccurate CAR notifications. If they continue to make similar errors, children can be placed at an unnecessary and avoidable risk of harm.

We decided it was in the public interest to directly investigate this complaint. We looked at how the police managed the complaint, as well as the broader systemic issues it raised. We also conducted a hearing using our Royal Commission powers and required officers to give evidence before the Ombudsman.

We have made provisional findings and recommendations and are now waiting for responses from the Commissioner of Police and others before finalising the investigation.

## Responding to failed prosecutions

Police are required to notify us of certain internal reports about court matters which have failed due to the unreasonable action or a serious failing of a police officer. A number of factors are taken into account when determining what type of failed prosecution should be subject to investigation and our oversight. They include matters where:

- significant costs have been awarded against the prosecution
- there was adverse comment made by the court about the conduct of police officers involved in the prosecution

- the involved officer holds a senior rank
- there is a pattern of conduct involving a number of failed prosecutions.

A proper and comprehensive investigation into why a court matter was unsuccessful is an important opportunity for improvement. We therefore take a number of steps to make sure those failed prosecutions or instances of critical comments by a court about a police officer are properly recorded and registered by police and then notified to the Ombudsman. For example, we:

- inspect failed prosecution records held by commands
- closely monitor high-profile court proceedings
- assess complaints made by police or members of the public when a court has criticised the actions of a police officer.

Over the past 12 months we have noticed a slight increase in the number of complaints about failed prosecutions. We have also noticed unexplained delays in being notified of these complaints and some resistance by individual commands to register and investigate critical judicial comments about an officer's conduct. Case study 8 was one such matter. There are some matters like case study 9 where our inquiries about police action on failed prosecutions can have an impact beyond individual officers and reviewing procedures.

## Our legislative reviews

When Parliament introduces legislation that provides the NSWPF with new powers, we are often required to scrutinise how they exercise those powers. We started four legislative reviews in 2011–2012, covering periods ranging from one to four years. We were not required to complete any reviews during this period, but reports of past legislative reviews can be found on our website.

## Case studies

### CS8: Charges withdrawn or dismissed

During an audit of failed prosecution records at a command, we identified a matter where charges for failing to obey a police direction had been withdrawn and other charges had been dismissed. We asked police to investigate. After some negotiation, they gave us a copy of a report from the police prosecutor and a copy of the judgement.

The proceedings failed because the court was not satisfied that police suspected on reasonable grounds the arrest was necessary. This made the arrest unlawful. Police declined to investigate that allegation on the basis the solicitor would be able to raise his concerns during the criminal proceedings.

We required police to investigate the unlawful arrest of the complainant. We were also concerned at the command's failure to report the failed prosecution to us. The police investigation found the actions of the police were appropriate and lawful.

We strongly disagreed – noting both the magistrate's sound reasons and CCTV footage that was largely inconsistent with the police evidence. We did not believe there was strong or compelling evidence to make a finding contrary to the court's decision that the arrest was unlawful.

Police agreed and a finding was made against the officer for unlawful arrest. Following this matter, the command also reviewed their practices for failed prosecutions and prepared operational guidelines.



## Move-on powers relating to intoxicated people

NSWPF have had move-on powers for a number of years, but in 2011 these powers were extended and a new offence was created. Although the main objective of these changes was to address alcohol-related violence in entertainment districts, the potential effect of these new laws on vulnerable groups was raised during Parliamentary debate. Parliament required the Ombudsman to scrutinise how police exercise these new powers for 12 months from when they came into operation on 30 September 2011. Our review will include an analysis of any effects these new laws have on vulnerable groups, such as Aboriginal and homeless people.

The new move-on powers were introduced through amendments to two existing Acts – the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA) and the *Summary Offences Act 1988*. LEPRA already allowed police to issue a move-on direction to intoxicated people to prevent an offence or if there was a risk of injury or damage occurring. The new amendments to LEPRA allow police to also issue a move-on direction to an intoxicated person who is being 'disorderly'. Amendments to the Summary Offences Act also introduced a new offence for a person who has been given a move-on direction but is still intoxicated and disorderly in any public place for up to six hours after the direction is given.

During 2011–2012, we finalised an information agreement with the police about this review, had further discussions with police about the data we need to effectively review these new powers, and began to analyse the preliminary data they provided. We also began consultations with police – through focus groups with officers of different ranks at local area commands – and with advocacy groups representing young people and the homeless.

We will be releasing an issues paper in late 2012 and asking for submissions from any interested groups or

individuals. Details of the review and contact details for relevant staff in our office are available on our website.

After assessing all the information we obtain from police data, interviews and any written submissions, we will provide a report to the Attorney General and Police Commissioner in 2013.

## Removing face coverings for identification purposes

In 2011, Parliament enacted new laws allowing police to require the removal of face coverings for identification purposes. This was after a widely publicised court case in 2010. The person involved complained to police that a police officer had attempted to remove her face covering during a traffic operation. She was charged and convicted of making a false complaint against police, but this was overturned on appeal. The case prompted discussion about what authority police, Justices of the Peace (JPs) and other relevant government officers should have to check the identification of a person wearing a full face covering.

Parliament passed legislation setting out the circumstances where police, court security officers, juvenile justice officers, corrective services officers and JPs can make a person remove a face covering to verify their identification. We were also required to scrutinise how police officers exercise their new powers – as set out in amendments to LEPRA Part 3, Division 4 – for one year from 1 November 2011.

In 2011–2012 we finalised an information agreement with the NSWPF and began our consultations with relevant community and representative groups and police. Information about the review has been translated into seven languages and we will be releasing an issues paper for comment. We will provide our final report to the Attorney General, Minister for Police and the Police Commissioner in 2013. The Attorney General will then table it in Parliament.

## CS9: Incident not investigated properly

A man was arrested and charged with a shooting in 2006. In 2008, he took civil action against the State of NSW for wrongful arrest, assault and battery and wrongful prosecution. In July 2011, he was awarded more than \$300,000 in damages. The trial judge made adverse comments about the officers involved. The State appealed, and although the Court of Appeal reduced the amount of damages it did not overturn the initial judgement.

Police conducted a complaint investigation as a result of the civil action. We were concerned with a number of deficiencies with this investigation. These included delays in creating a new complaint as a result of the court outcome and notifying us, findings that were

not consistent with the decisions of the courts, and inadequate management action against the main officer involved. It also appeared that little had been done to pursue the real perpetrator and that COPS records were inaccurate regarding the identity of the perpetrator.

After we wrote to the police about these issues, the investigation of the shooting was re-opened and is continuing. The investigation findings were also overturned with police now accepting the arrest of the complainant was unlawful and the incident had not been investigated properly. There is also a record of the findings against the individual officers on the police complaint database.

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## Consorting with convicted offenders

The *Crimes Amendment (Consorting and Organised Crime) Act 2012* commenced operation on 9 April 2012. The Act amends the *Crimes Act 1900*, replacing and clarifying the offence of consorting.

The new offence of consorting requires the defendant to have consorted with at least two convicted offenders and to have consorted with each of those offenders on at least two occasions. In addition, the defendant is only guilty of an offence if he or she consorts with each offender after being warned by a police officer that consorting with those convicted offenders is an offence.

Consorting includes face-to-face contact and other means of communication such as electronic media.

The legislation outlines when consorting is permitted and contains a range of defences including consorting with family members, consorting in the course of lawful employment, training or education, consorting in the provision of a health service or legal advice, and consorting that occurs in lawful custody or while complying with a court order. In these circumstances the defendant must satisfy the court the consorting was reasonable.

The maximum penalty has been increased from six months imprisonment or four penalty units (\$440) to three years imprisonment or 150 penalty units (\$16,500) or both. Consorting is now an indictable offence.

The Ombudsman is required to review the consorting provisions for two years and prepare a report on their operation as soon as practicable after this period. We have commenced discussions with police about our information requirements for this review and have attended meetings of the NSWPF's Consorting Implementation Committee.

## New legislation covering criminal organisations

In 2009, new laws were introduced relating to unlawful association between members of declared organisations that are the subject of a control order or an interim control order. We reported on our review of these laws, as set out in the *Crimes (Criminal Organisations Control) Act 2009*, in our last annual report.

In June 2011, the High Court found that the 2009 legislation was invalid. The Parliament then passed a new *Crimes (Criminal Organisations Control) Act 2012*. This new Act came into effect on 21 March 2012 and we are required to keep the related police powers under scrutiny for four years from that date.

In 2011–2012 we consulted with police about our information requirements for this review and anticipate conducting stakeholder consultations over the coming year.

## Implementing our recommendations

We regularly monitor the progress being made on implementing the recommendations from our completed legislative reviews.

We have received a positive response from Corrective Services NSW (CSNSW) to the recommendations we made after our review of the *Crimes (Administration of Sentences) Amendment Act 2002* (CASA) and the *Summary Offences Amendment (Place of Detention) Act 2002* (SOA). Our 35 recommendations related to:

- the powers and responsibilities of correctional officers to stop, detain and search people (other than inmates)
- the right of victims of serious offences to make oral submissions at parole hearings
- the recapture of escaped inmates.

CSNSW has proposed that all the search powers of correctional officers should be consolidated into the CASA rather than the SOA – as we initially recommended in our review report. We do not disagree with this approach, and believe that consolidating all the search powers into a single piece of legislation will be beneficial.

As we reported last year, the Attorney General gave 'in principle' support to 22 of our 25 review recommendations about criminal infringement notices (CINs) and convened a working party to review their implementation. Although we are happy to report that the NSWPF has now implemented a majority of our review recommendations as part of the working party process, one recommendation that continues to be disputed relates to whether the police should be exempted from the internal review provisions in Part 3, Division 2A of the *Fines Act 1996*. Under these provisions, all agencies that issue penalty notices must have systems and procedures in place to allow recipients of penalty notices to seek internal reviews. The rationale behind these provisions is to divert vulnerable groups out of the fine and penalty notice system and make the fines system fairer.

The NSWPF has advised that they are currently not complying with the provisions of the Fines Act and are seeking an exemption from the Ministry for Police and Emergency Services. We remain concerned about the NSWPF's ongoing failure to comply with the legislation and the inadequacy of their internal review procedures for penalty notices.

We also continue to have concerns about the significant delays in receiving responses from the Attorney General and NSWPF about our LEPRA report, which appear to be the result of delays with a statutory review convened by Parliament. We believe that both the Attorney General and the NSWPF could provide responses to these reports, but both continue to defer their responses citing delays with the statutory review. There is a real risk with these delays that the data and our recommendations may lose relevance and important public interest issues may not be addressed.

# Compliance and inspections

## Witness protection

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

### Appeals

The NSW Commissioner of Police has the power to refuse a person entry to the witness protection program or to remove them from it. A person who is directly affected by such a decision can appeal to the Ombudsman who must 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 exercise that right when the Commissioner makes the decision about not including them in, or removing them from, the program.

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

### Complaints

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

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

All witnesses have a right to complain to the Ombudsman about the conduct of police in relation to any matters covered in the memorandum. This year we had six contacts from participants about a variety of program-related issues.

## Covert operations

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

'Undercover' – or controlled operations – can also be carried out under the *Law Enforcement (Controlled Operations) Act 1997* which allows for 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.

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

### Controlled operations

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

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

We must be notified by agencies within 21 days when an authority to conduct an operation is granted or varied, and again when a report is received by the agency's chief executive officer on the completion of the operation. Retrospective authorities for controlled operations must be notified to us within seven days of being granted.

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

During 2011–2012, we inspected the records of 372 controlled operations.

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

### Telecommunications interceptions

Our role in monitoring compliance with the requirements of the telecommunications interception legislation does not include scrutinising the approval process for telephone intercepts. This is because a judicial officer or member of the Administrative Appeals Tribunal grants the warrant for a telephone interception.

We check whether the agency carrying out the telecommunication interception has complied with record-keeping requirements. Records must document the issue of warrants and how the information gathered was used. All telephone intercept records have to be kept under secure conditions by the agency and destroyed once

specified conditions no longer apply. Some records must be provided to the Attorney General.

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

## Surveillance devices

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

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

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

This year, we inspected the records of 882 surveillance devices authorised under the SD Act. We reported on these inspections to the Attorney General for the periods ending 30 June 2011 and 31 December 2011. Both reports were tabled in Parliament and are now available on our [website](#).

## Inspecting records of search warrants

### Covert search warrants

Part 19 of LEPRA requires the Ombudsman to inspect the records of the NSWPF, the NSW Crime Commission and the PIC every 12 months to check that they are complying with the requirements of the Act for covert search warrants. We have to prepare a report of our work in this area for the Attorney General and Minister for Police.

This year we carried out two inspections of the records of the NSWPF and the NSW Crime Commission – inspecting a total of 24 files. The PIC did not apply for any covert search warrants during this year.

### Criminal organisation search warrants

Police can seek a criminal organisation search warrant from an eligible judge of the Supreme Court to search premises for things connected with an 'organised criminal

offence'. These are serious indictable offences linked to organised criminal activity.

The powers conferred in these warrants are the same as for usual search warrants, except that they operate for seven days instead of 72 hours and have a lower evidentiary threshold ('reasonable suspicion') compared to ordinary search warrants ('reasonable belief'). Applications to the eligible judge must be approved by a police officer of the rank of superintendent or above.

Under the legislation, we have to inspect and report on the records of the NSWPF every two years to ensure they are complying with the requirements of the Crimes (Criminal Organisations Control) Act.

Criminal organisation search warrants are not covert, but we inspect them as part of our general program for inspecting records of covert operations. This year we conducted inspections relating to 25 criminal organisation search warrants.

## Using emergency powers

Under section 87O(5) of LEPRA, the Ombudsman has to report annually on our work in keeping under scrutiny the exercise of powers conferred on police to prevent or control public disorder.

Part 6A of LEPRA provides police with emergency 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.

Under Part 6A, the Commissioner of Police must provide the Ombudsman with a report about any use of the powers within three months. They must also advise us at the time that any authorisation to use Part 6A powers is given, provide a biannual report that covers all uses of the Part 6A powers – and any instances where the powers were seriously considered but not used – as well as advice about training undertaken and amendments to policies and procedures.

Police did not use the emergency powers, and did not seriously consider using them, in the period 1 July 2011 to March 2012. As the biannual reporting time frames for Part 6A do not correspond with the financial year, they have not yet formally advised us whether the powers have been used or seriously considered between 1 April 2012 and 30 June 2012. We will report on this period in our next annual report.

The NSWPF has provided us with a copy of the new template for using Part 6A powers and advised that it will be included in the updated version of the *Public Order Law Manual* in July 2012. Part 6A legislation also continues to be included in the Public Order lecture as part of the incident command course attended by officers of the rank of superintendent and inspector.



# Custodial services

## Complaints and trends

This is the first year we have reported collectively on our work in both the adult and juvenile systems. We received 6% more contacts across all custodial services than in the previous year. Total contacts – which include Corrective Services NSW (CSNSW), GEO Group, Juvenile Justice and Justice Health matters – rose from 4,570 to 4,874. These increases occurred despite a drop in both the adult and juvenile custodial populations over the year and the closure of three correctional centres. The number of contacts where we took some investigative action increased 15%, from 941 matters in 2010-2011 to 1,085 this year.

Contacts we receive about Justice Health cover both adults and juveniles. This year there was an increase of only five contacts recorded about Justice Health, but a more significant increase of 26% in the number of matters classified as being a medical issue. This indicates that many of these related to access to health services, rather than the standard of medical care provided.

## Corrections

In the adult correctional system, there were significant increases in the number of complaints received about several issues this year. For example:

- buy-ups – up by 71
- issues relating to transfers between centres – up by 70
- matters classified as daily routine, including complaints about lockdowns or reduced time out of cells – up by 59.

There were also areas where we received fewer complaints than in previous years. These included classification, segregation and failure to ensure safety.

We experienced a significant increase in complaints about some correctional centres. Both the Metropolitan Special Programs Centre and the Metropolitan Remand and Reception Centre had between 80 and 100 more complaints made about them than in previous years. Both of these centres have experienced significant and regular lockdowns – confining inmates to their cells for all or part of a day. An increase in the contacts about South Coast Correctional Centre is recognised as being the result of the centre now accommodating more inmates than in the previous year.

## Juvenile Justice

The issues which receive the highest number of contacts from the juvenile justice system reflect the main concerns of the young people – their daily routine, what they eat, how they are punished, and what property they are allowed to have. As these issues were not specifically reported on in the past few years, direct comparisons cannot be made on issue or centre based contacts. Overall there has been an increase this year in the number of matters on which we have taken some action – up from 77 to 92 – and a reduction in the number of contacts where we didn't take action (down from 279 to 205) may be attributed to the inclusion of this work into our custodial

services unit where the staff have a specific focus on dealing with issues arising in custodial environments and identifying those matters most open to immediate resolution or that need further investigation.

**Fig. 29: Formal and informal matters received**

Matters	07/08	08/09	09/10	10/11	11/12
<b>Formal</b>					
Correctional centres, CSNSW and GEO	779	686	671	821	886
Justice Health	61	64	53	43	107
Juvenile Justice	99	70	72	77	92
<b>Subtotal</b>	<b>939</b>	<b>820</b>	<b>796</b>	<b>941</b>	<b>1,085</b>
<b>Informal</b>					
Correctional centres, CSNSW and GEO	2,902	2,825	3,096	3,088	3,371
Justice Health	241	237	303	262	213
Juvenile Justice	243	255	212	279	205
<b>Subtotal</b>	<b>3,386</b>	<b>3,317</b>	<b>3,611</b>	<b>3,629</b>	<b>3,789</b>
<b>Total</b>	<b>4,325</b>	<b>4,137</b>	<b>4,407</b>	<b>4,570</b>	<b>4,874</b>

## Our custodial services unit

This year we changed how we manage our work with the adult correctional and juvenile justice systems. Juvenile Justice joined Corrective Services NSW (CSNSW) as part of the Department of Attorney General and Justice, so we made a similar change to bring together our staff working in both these areas. We now have six staff in our specialist custodial services unit – all with a thorough understanding of the operational aspects of the correctional and juvenile justice systems, and experience working in these unique and complex environments. This enables us to provide a coordinated and responsive service across the whole custodial services sector.

People in custody, or offenders in the community, can contact us about problems with CSNSW, the privately run correctional centres at Junee and Parklea, Justice Health, NSW Police Force (NSWPF), Juvenile Justice or any other NSW government agency.

Our custodial services unit is assisted by other Ombudsman staff to provide our program of visits to correctional centres and juvenile justice centres. When we run large-scale investigations, such as the one involving Kariiong Juvenile Correctional Centre, they are also able to call on the expertise of specialist investigators from within our office.

Much of our contact with those in the custodial services systems comes over the phone or on our visits. Of the approximately 4,800 contacts we received during the year, around 3,700 were made by phone and about 830 during our visits. This means we have some form of personal contact with the majority of people whose matters we assess, as well as those on which we take further action.



**Fig. 30: What people complained about – corrections**

This figure shows the complaints we received in 2011–2012 about correctional centre concerns, broken down by the primary issue in each complaint. Each complaint may contain more than one issue, but this table only shows the primary issue.

Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
Buy-ups	34	162	196	Officer misconduct	82	151	233
Case management	24	87	111	Other	25	245	270
Classification	32	135	167	Periodic/home detention	0	1	1
Community programs	1	9	10	Probation/parole	42	137	179
Court cells	1	1	2	Property	102	355	457
Daily routine	129	602	731	Records/administration	48	121	169
Day/other leave/works release	21	45	66	Security	22	61	83
Fail ensure safety	11	24	35	Segregation	22	50	72
Food & diet	19	80	99	Transfers	53	212	265
Information	6	55	61	Unfair discipline	41	106	147
Legal problems	23	43	66	Visits	46	220	266
Mail	24	88	112	Work & education	25	98	123
Medical	152	460	612	Outside our jurisdiction	8	36	44
<b>Total</b>					<b>993</b>	<b>3,584</b>	<b>4,577</b>

**Fig. 31: What people complained about – juvenile justice**

This figure shows the complaints we received in 2011–2012 about juvenile justice centres, broken down by the primary issue that complainants complained about. Each complaint may contain more than one issue, but this table only shows the primary issue.

Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
Buy-ups	0	2	2	Object to decision	1	0	1
Case management	3	3	6	Officer misconduct	15	34	49
Classification	2	4	6	Other	9	16	25
Community programs	3	0	3	Probation/parole	1	1	2
Daily routine	22	55	77	Property	3	13	16
Day/other leave/works release	2	3	5	Records/administration	4	1	5
Fail ensure safety	3	0	3	Security	0	2	2
Food & diet	1	31	32	Transfers	2	3	5
Information	1	0	1	Unfair discipline	13	16	29
Legal problems	1	0	1	Visits	1	3	4
Mail	2	0	2	Work & education	1	4	5
Medical	1	9	10	Outside our jurisdiction	1	5	6
<b>Total</b>					<b>92</b>	<b>205</b>	<b>297</b>

Our work in both the adult correctional and juvenile justice systems is part of a broader administrative framework, and is focused on issues of dignity, safety and basic human rights. We respond to individual issues and proactively review systemic matters affecting larger numbers of inmates or detainees.

We cannot act on every matter brought to us. Sometimes the issue needs to be further reviewed within the correctional or juvenile justice system or it may be outside our jurisdiction. Some matters are resolved by simply giving the person some further advice or information. The complaints and inquiries we receive, and our interaction with both staff and inmates on our visits, help us to learn more about key issues in the custodial system and set priorities for further investigative work. .

## Key areas of focus

### Special reports to Parliament

In October 2011, we tabled a report about our investigation into the behaviour management program at Kariiong Juvenile Correctional Centre. Full details about this investigation can be found in the final report, *Kariiong Juvenile Correctional Centre: Meeting the Challenges*, which is available on our [website](#).

In July 2012, we tabled another report in Parliament that brought together the work done on two investigations involving the use of force in the correctional system. The first investigation was a systemic review during which we assessed:

- when force is used
- how those uses are monitored
- how officers are trained in using force
- the accountability system surrounding uses of force.

While we were monitoring the implementation of recommendations after this review, we received a complaint about an individual use of force at a correctional centre. The subsequent investigation demonstrated the ongoing need for both our earlier systemic recommendations – and those we made in this individual investigation – to be implemented as a priority. Our report to Parliament places on the public record the issues we covered in both investigations, the recommendations we made, and details of their implementation by CSNSW to date. The report, *Managing use of force in prisons: The need for better policy and practice*, is also available on our [website](#).

### Inspector of Custodial Services

A Bill to create an Inspector of Custodial Services in NSW was passed by Parliament on 15 August 2012. Once appointed, the Inspector will be responsible for inspecting, examining, reviewing and making recommendations on custodial services. The primary role will be to meet the legislated requirement to inspect each correctional centre every five years and each juvenile justice centre every three years – and report publicly on those inspections.

This new office will clearly deal with some of the same issues that we do. Importantly, the legislation also provides for our two offices to share relevant information and avoid duplication of services. We will work closely with the Inspector to ensure that there is no unnecessary duplication and we both have the information we need to perform our roles.

### Optional Protocol on the Convention Against Torture

The Federal Government is moving to ratify the United Nations Optional Protocol on the Convention Against Torture (OPCAT). This will require federal and state governments to identify or establish bodies known as 'national preventive mechanisms' to visit and inspect all places where people are detained by the state against their will. The most obvious of these are prisons and juvenile detention facilities – but it will also include secure psychiatric units, court cells, police holding cells and certain out-of-home care facilities. Many of these areas are already within our jurisdiction and are visited by our staff or by official community visitors. We have advised governments at both levels about the current level of knowledge and expertise we have about these facilities across several of the areas that will be subject to OPCAT inspection. There is little doubt that we have the required level of independence and – with appropriate resourcing – are well placed to provide OPCAT inspections in NSW.

### Separation and segregation

In 2009, the then government amended the *Crimes (Administration of Sentences) Act 1999* to insert section 78A. This section was introduced urgently because of a pending court decision involving an inmate's challenge around segregation issues. The then Minister for Corrective Services said in his second reading speech that the amendment:

*... confirms that inmates may be held separately from other inmates without the making of a segregated custody direction. There are two important concepts that need to be distinguished in modern correctional management. They are 'segregated custody' and 'separation of inmates'.*

The Minister's speech also set out examples of when segregated custody or separation may be used. He indicated that segregation was used for security and safety purposes, whereas separation was an acknowledgement that an inmate may have reduced amenities or privileges because of program and services needs, medical conditions or an intellectual or physical disability.

An important distinction between the two is that segregated custody is governed in legislation by time frames and a reporting framework. Of particular importance is that after 14 days a segregated custody direction may be reviewed independently by the Serious Offenders Review Council. There is no provision for the

independent review of a decision to separate an inmate – and they could remain separated from others indefinitely.

A complaint we received from an inmate indicated he was being removed from a segregated custody direction which had been raised due to his threats against staff and had been told he would instead be 'put on separation'. If an inmate is separated from other inmates simply to isolate them, and not for program participation or other valid reasons, it in fact becomes segregation – but without the right to seek independent review. We see this as a very important issue affecting inmate rights. We have written to the Commissioner stating that we consider this to be an inappropriate use of the separation provision and asking for advice about the ongoing management of the affected inmate. We await his response at the time of writing.

## Inmate rent

The works release program enables appropriate minimum security inmates to undertake either full or part-time work outside their correctional centre and return to the centre each night. Inmates participating on works release earn a regular pay and then make a contribution to CSNSW for their board and lodging. Shortly after being released from a minimum security centre, an inmate complained that CSNSW had overcharged his 'rent' while he participated in the works release program during 2010 and 2011.

We found that the works release contribution rates payable by inmates were listed in the CSNSW Operations Procedures Manual (OPM) of 2008. The rate to be paid was set according to a sliding scale calculated on the total weekly wage excluding overtime, up to a maximum of \$104 per week. We also found there had been a decision made in 2004 (when a new accounting system was introduced) to alter the contribution rates – marginally increasing the rate in certain circumstances – but this decision was not formalised in any publicly available policy. Even though the OPM was reviewed in 2008, the new contribution scale was not incorporated. Nevertheless the new rates were applied by CSNSW to inmate wages from 2004.

We believed the complainant's claim had merit because CSNSW did not properly formalise the 2004 amendments or tell those affected, particularly the inmates, about the changes. The information which was publicly available between 2004 and July 2011 (and which the inmates had access to) about the works release contribution rates meant some inmates may have believed their contributions were less than they actually were. As inmates are paid by their employer directly into their prison trust account and CSNSW automatically deducts the contribution, it is not a simple matter for them to track these amounts.

Both the *Freedom of Information Act 1989* (which was in force at the time of the variation to contribution rates) and the *Government Information (Public Access) Act 2009* (GIPA Act) are clear that people should not be detrimentally affected by things that are done (or not done) by a public agency if the relevant policy is not publicly available. The action taken to vary the scheme

for contribution rates without making that policy publicly available seemed to us to be inappropriate.

Based on the rates that were published in 2004 and 2008, we estimated the complainant should have paid a total of \$4,110 in works release contributions – not the \$6,182.95 deducted from his wages by CSNSW. We suggested CSNSW repay the complainant \$2,072.95 and were pleased when the Commissioner accepted our suggestion.

We understand there are many more inmates who participated in the works release program between 2004 and 2011 and it is likely many of them may have also been overcharged. Given the relevant provisions of the GIPA Act, we have suggested to CSNSW that all money retained by them in these circumstances should be paid back to those individuals. We are waiting for the Commissioner's advice on that suggestion.

## Disciplining inmates

The Crimes (Administration of Sentences) Act sets out a range of offences for which inmates may be charged and punished – these are known as correctional offences. Within the legislation there is some basic guidance on the way such offences are investigated, determined and the punishments that can be given. CSNSW also have both policy and procedure documents supporting the 'inmate discipline' system. Each year we receive many complaints from inmates about their treatment under this discipline system. Although it is not our role to determine guilt or otherwise, there are many occasions where we find that processes have not been properly followed – and this can make the final decision unreasonable, if not wrong. Case studies 10–13 illustrate some of the matters we have dealt with relating to inmate discipline and the outcomes we have achieved.

## Dignity, safety and basic rights

Basic levels of dignity and safety are minimum rights to which we are all entitled, including inmates. Sometimes, in the structured and closed environment of a correctional system, this is overlooked and these rights are overshadowed by maintaining 'good order and security'. We believe that sound planning and good management can mean both are maintained. Case studies CS 14–16 show some of the ways we have worked with the correctional system this year to encourage this approach.

### Extra bunks in cells

We continued our contact with the Commissioner this year about the additional bunks that had been put into existing cells over recent years. In some centres this involved cells with two bunks having a third built in, severely restricting the space available to sit, eat, watch television or move about. These cells also contain unscreened toilets and showers which the three adults have to share during the 18 hour lock in each day. We were advised by the Commissioner in March 2012 that an instruction had been issued to the centres with these extra bunks directing that they 'are not to

be used under any circumstances'. Our preference would be for the bunks to be removed so they cannot be used. CSNSW have told us this would be expensive and is not a priority in the current economic climate.

## Our visits to centres

Sometimes when we visit centres we identify significant issues that we might not have found out about through our complaint work. These visits also often involve our Aboriginal unit. This can give Aboriginal inmates an opportunity to speak with another Aboriginal person, and also allows us to ensure their cultural needs are being met.

In many cases, what we see as wrong has been happening for a long time and is accepted by both inmates and staff as 'custom and practice'. More often however our visits are where we see the day-to-day issues of prison life. These are often the things we have been told 'don't happen in this centre'. The following examples do not identify the centres where they were raised. They simply demonstrate the issues that come across the interview desk when we are out in the centres.

Inmates at one centre complained they were given their breakfast milk ration when they were locked into their cells at 3.30pm. This meant the milk was unrefrigerated for around 16 hours if they ate breakfast at 7am the following morning. After our intervention, the centre agreed to provide the milk at morning head-check.

Often one inmate will be delegated to present us with a list of problems for a particular wing or entire centre. One inmate gave us the following list:

- showers in one of the wings had no shower heads
- there were no facilities in the yard to wash their hands
- work shoes were old and worn
- only one set of plastic cutlery was provided to each inmate each week and there were no replacements if they broke
- inmates were not allowed to have socks and underwear sent in by their family
- cells housing two inmates had no ladders or chairs to get on to the top bunk.

We raised each issue with the centre's general manager who subsequently sent us this advice:

- The shower heads were installed but were removed by inmates to increase pressure – they will be reattached.
- A basin and water bubbler have been installed in the yard.
- Boots are cleaned, treated with anti-fungal and reissued and inmates may purchase their own – but they must be left in the work area.
- The ration packs now contain three sets of plastic cutlery.
- Once an x-ray machine is installed at the centre – which was due to happen – inmates will be allowed to have socks and underwear sent in.
- Additional chairs have been ordered so every cell will have a plastic chair.

What we see and hear on our visits dispels any community misconceptions about the comfort of correctional centres. In reality, centres follow a constant

## Case studies

### CS10: An unfair charge quashed

Only sentenced inmates can be required to attend work. When those inmates refuse to work, they can be charged with a correctional offence. A remand inmate at Mid North Coast complained he had been charged and found guilty for refusing to work. We contacted management at the centre who agreed they had acted improperly and the charge should not have proceeded. The charge was reviewed and quashed and records were amended. A local instruction was also issued to managers in the centre reminding them of the relevant provisions of the legislation.

### CS11: Inmate not allowed to defend himself

An inmate at Bathurst Correctional Centre was charged with a correctional offence and complained he had not been allowed to state his case during the subsequent hearing at which he was found guilty. For unrelated reasons the hearing had been video-recorded, so we viewed the footage and reviewed officer reports. We agreed with the complainant and suggested the guilty verdict be quashed because the inmate had not been allowed to defend himself. There also did not appear to

have been sufficient evidence to establish his guilt to the required level. The Commissioner agreed with this suggestion, but did not agree with our other suggestion that in future all discipline hearings should be video-recorded.

### CS12: Staff not available for reviews

Under current CSNSW policy, if there is a guilty finding at a disciplinary hearing an inmate may appeal to the general manager on either the finding or the recommended punishment. If the inmate does appeal, punishment should not therefore start until the general manager has done their review. When we received a complaint from a Wellington inmate that he had been confined to his cell before the review he requested occurred, we discussed with the general manager ways this could be avoided in future. The general manager can delegate this responsibility to certain other senior staff but – as Wellington is also responsible for several other centres in the far western region – there are times when no senior staff are available to do reviews. In those cases, they will try to hold a teleconference with the inmate before any punishment is enforced.

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cycle of maintaining basic necessities – especially given the large turnover of inmates in some locations. This is especially noticeable in some of the regional centres that are now housing inmates from the metropolitan area who are on remand. We have raised our concerns about how CSNSW manages the additional entitlements and privileges such inmates would normally have if they were located in a remand facility in the metropolitan area. A further problem we have flagged is the ‘wear and tear’ on those centres and their budgets in providing for a constant stream of inmates new to the system.

## Improving correctional administration

Often basic administrative errors affect only the person who contacts us and we can help to fix the problem. There are other issues that can affect many other – or even all – inmates. In cases such as case studies 17–20, we suggest wide-ranging changes to the way things are done.

## Some ongoing issues

### Property

Complaints about property being lost, damaged or not provided are a common issue for prison Ombudsmen around the world. Inmates are encouraged to resolve their property problems at their centre first, but this can prove difficult when the problems arise when they are moved to another centre and they don’t have direct contact with the original centre. In some cases we will attempt to resolve these issues, while in others we ask the Commissioner to investigate and report to the inmate and us. Case studies 21–23 are good examples of this work.

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## Case studies

### CS13: Proper checks didn’t happen

A Junee inmate called us after he was told he would be punished following a positive urinalysis test. The inmate claimed he had already been punished for this at his previous centre, which is where the test had been done. When we spoke with Junee staff they said an audit by CSNSW showed the punishment had not been imposed because electronic records had not been updated. A manager then ordered the inmate start the punishment again without making any further checks. After our contact, checks were made and it was discovered the electronic records were wrong and the punishment had previously been served. The general manager at Junee agreed to change their processes so this would not happen again.

Having reviewed the large number of complaints made to us about discipline, we have also started our own motion inquiries to review hearings finalised during the three month period of December 2011 to February 2012. Our review covers the hearings conducted at the three centres which generated the highest number of complaints during 2011. Any systemic deficiencies we identify will be followed up with CSNSW and GEO during the coming year.

### High Risk Management Correctional Centre

We continue to have regular contact with inmates in the High Risk Management Correctional Centre (HRMCC). While the centre contains the smallest number of inmates and the physical condition of the buildings is good, the regime operated there is the strictest in the state. Many of the issues raised with us relate to delays in inmates receiving advice about requests. The management of the centre often has to seek approval from head office before they can respond to what would be considered minor requests in other centres. Applications for people to visit HRMCC inmates must be processed by the Security and Intelligence Command in Sydney and sent to the Commissioner for approval. This can take several months. We continue to work with CSNSW to develop better processes and time frames for these applications.

An investigation we conducted this year involved a series of complaints from an inmate at the HRMCC with an Extreme High Risk Restricted classification. The inmate complained about problems with a range of issues affecting his ability to defend criminal charges brought against him while in custody. We made several recommendations for procedural change. Some relate to delays in processing applications, while others are more wide ranging and deal with matters such as the need to give reasons for decisions. At the time of writing this report, we had received advice from the then acting Commissioner that he agreed with us about the giving of reasons and he advised the practice would be adopted without the need for legislative amendment as we had recommended.

### CS14: The need for clarity on strip searching

Strip searching is one of the most invasive aspects of prison. It can be even more difficult for the large number of inmates – especially women – who have suffered abuse. In 2009, we found that CSNSW had no specific policies or procedures to guide staff when strip searching female inmates. Searching policies were subsequently reviewed and during 2011 we were sent copies of the new policy and procedure document. This has specific instructions for searching female and transgender inmates.

In the middle of 2011, a male inmate from Goulburn complained he had been directed to retract his foreskin during a strip search before a urine test. Our inquiries with the centre found no reason recorded for this request, and there appeared to be no instruction in the procedures to authorise such a direction. The Commissioner agreed to once again review the strip-searching procedures. The revised policy and procedures are now very clear about how officers should approach a strip search, including those where they believe an inmate may have contraband concealed in any skin folds, body cavity or other parts of their body.



## Community offender services

Our role with custodial services includes helping offenders who are not in custody, but who are in contact with any part of CSNSW's community operations. In last year's annual report we wrote about an investigation that had crossed over not only Community Offender Services, but also NSWPF and Community Services. That matter involved a woman who complained she had not been given proper information about the man she had been living with, who subsequently abused her daughter. While we found the woman had been given relevant information, we worked with each of the agencies involved to identify any barriers to proper information sharing and to develop ways to better manage similar situations in the future. We were pleased to receive information from CSNSW about the work of the Child Protection Register Working Group – as well as changes to policies about accommodation assessments for child sex offenders in the community, restrictions on child sex offender accommodation, and directions given to child sex offenders about accommodation. These are all very positive steps.

We have also had contact from offenders about issues to do with parole reports and conditions, their residence in Community Offender Support Program housing, and Intensive Correctional Orders (ICO). We were able to help one man to have the conditions of his ICO reviewed after he lost his licence as part of his punishment. This meant he could not attend the location for his community work without his wife and three small children driving him two

hours each way. We acknowledged this problem had arisen during the implementation of the ICO program and were pleased CSNSW found a way to assist the man to complete his order.

## Issues in juvenile justice

In the juvenile justice system, it is acknowledged that the people who are detained are young – often children – and so must be managed accordingly. Young people in custody can provide challenges for those managing their behaviour, and sometimes can be dangerous to themselves or others. Legislation provides for punishment of misbehaviour, segregation from others for safety reasons, and separation from others where the young person cannot participate in the usual regime at their centre – for example if they are sick, are very young or of the opposite gender to the rest of the detainees. We receive complaints from young people about various aspects of their daily life, but we also have specific responsibilities to oversee how the segregation and separation of young detainees is managed.

As well as our usual visits to juvenile justice centres, this year we have met with each of the centre managers across the state and discussed their work and our role. We have also met with senior management of Juvenile Justice about the issues we have set out below.

Case studies 24–26 show the types of issues young people raise with us when we visit their centres.

The procedures are designed to provide due dignity to the inmate and give officers options for retrieving contraband without the need to use force.

### CS15: Using dry cells

At the end of 2010, we used our own motion powers to ask CSNSW about their policy and procedures for using dry cells when an inmate is suspected of internally concealing contraband. A 'dry cell' has no toilet and is under constant camera observation by staff. If an inmate has concealed an item, they can be seen if they remove it. If they have swallowed the contraband, there is no readily available toilet for it to be flushed once the contraband is passed. The available policy about the use of dry cells only contained instructions for use during urinalysis sample collection. We were told that, although there was no policy or procedures for using dry cells to retrieve internally concealed contraband, the Commissioner agreed one should be written. After consulting with Justice Health – due to the potential risk secreting such items may pose to an inmate's health – CSNSW sent us their new policy in early 2012. This has now been adopted and implemented.

### CS16: Wearing a hijab

A woman recently released from Silverwater Women's Correctional Centre wrote to us about the difficulties she had when she had asked to wear her hijab while in custody. After the first two days she was given a hijab to wear, but a week later was told to either remove it or wear it tied back so her neck was exposed. After this instruction, she had remained in her cell as much as possible and did not attend visits. The woman told us that during the same time other women wore beanies and scarves obscuring their hair and neck from view by officers. We were aware the policy relating to headwear associated with specific religious groups stated they may only be worn during approved religious ceremonies/activities and in the inmate's own cell. While the security requirement that an inmate's face must be seen was acknowledged, the policy did not properly consider the need for female Muslim inmates to wear a hijab to cover their hair and neck – so we asked for it to be reviewed. The Commissioner subsequently advised us of a revised policy so female Muslim inmates may now request a hijab from the centre's chaplain and are allowed to wear it at all times in the correctional centre, as long as it only covers their hair and neck.

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## Long periods of segregation and separation

The Children (Detention Centres) Regulation makes provision for us to be notified when detainees are segregated from other detainees for any period over 24 hours. This provision recognises the significant impact being removed from associating with others can have on a young person. We receive these notifications from Juvenile Justice electronically, generally within a few hours of the start of the notification time frame.

Many of the young people who are segregated for more than 24 hours are also on detainee risk management plans. We are also notified when a young person is separated from others because they cannot participate in the usual regime at their centre. When we receive a notification, we assess the information set out about the management of the young person while they are being kept away from others and, if necessary, contact the centre to clarify or ask for further details.

If a young man who is over 16 years becomes unmanageable in the juvenile justice environment they may be reclassified to Kariong Juvenile Correctional Centre. When this happens they will usually be separated from other detainees until their transfer. As the transfer requires an approval process involving both Juvenile Justice and CSNSW, it can take several days. We are notified of these separations and, among other things, monitor the timelines of the process between the two systems.

We have reviewed the information in all notifications received since December 2011 to identify trends or consistent issues. We are constantly alert to the fact that each of the provisions allowing a young person to be kept on their own also requires a plan to be developed for their return to normal routines in the shortest, safest time possible. Segregation is not a punishment – it is used where there are concerns for the safety of a young person or anyone else they could potentially harm. If we see matters we think may be an overly punitive use of the segregation provisions, we raise these with centre management as well as with senior management at Juvenile Justice.

## Conditions in holding rooms

During our visits this year we have paid particular attention to the condition of the holding rooms at each centre. These rooms are used for a variety of purposes, including accommodating some of the young people who are being segregated, separated or confined. As well as being kept on their own when separated or in segregation, a young person can be confined to a room as punishment for misbehaviour. For those over 16 years, this can be for up to 24 hours. Most holding rooms are not designed for people to stay in for more than a few hours. When a young person is moved into one of these rooms they are often angry and pose a risk of harm to themselves or others.

Most of the rooms we have seen on our visits are not clean, need repainting and a few were unhygienic. These rooms should be cleaned each time a detainee is moved

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## Case studies

### CS17: Release date corrected

Accurate records about the earliest date on which an inmate can be released are extremely important. Among other more obvious things, the date is used to help work out when certain milestones need to be met in planning their return to the community. One inmate had been trying for some months to convince CSNSW that his earliest release date was in six and a half years, not the nine years showing on his records. We contacted the Sentence Administration staff at CSNSW who reviewed the relevant court documents. They agreed the inmate was right and amended the records to show the correct date.

### CS18: Records updated

When we visited the Metropolitan Special Programs Centre an inmate complained his records still showed an incorrect release date, even though he had successfully appealed the length of his sentence four months earlier. We contacted Sentence Administration who explained the problem had occurred because of a delay in notification from the court about the change to his sentence length. We were told the information had just been received and his records updated to show the proper release date.

### CS19: Need for inmate involvement recognised

Each inmate in the correctional system receives a classification for security purposes. This classification determines which centre they can be located at and which programs or work they may be able to participate in. The system for classifying inmates recognises they should be involved in the process – so they are aware of what decisions are being made and given guidance about their proposed program pathway. When an inmate at Juneee was asked to sign his annual classification review document he refused because he had not been allowed to participate in the review process. When we raised this with management at Juneee they agreed it would be better to involve the inmate. Juneee staff reconvened the classification team and gave the inmate the opportunity to have input into the process.

### CS20: Delay in notifying next of kin

When an inmate died in custody, an advocacy group contacted us on behalf of his family because of their concern about the delay in notifying them of his death. When a person who is in the care of the State dies, the agency involved is responsible for promptly notifying the person's family and giving them information about the

out of them and regular maintenance performed. As the rooms are generally used after a spontaneous incident, there is usually no time to clean them at the time the detainee is moved in.

We discussed these issues with centre managers and raised the general issue with Juvenile Justice.

### Basic amenities for at-risk detainees

Detainees who are identified as being at risk either to others or themselves, as well as those being punished for misbehaviour, are often moved to separate accommodation. These detainees are put into a bare room with a concrete slab to either sit or lie on and a toilet. A built in radio is available and they are under camera observation.

We acknowledge young people can be unpredictable – especially those who are experiencing a particularly violent or chaotic episode – and managing them is difficult and challenging. However, we believe each young person who is removed as punishment, placed in segregation or on a risk management plan should be individually assessed for the level of risk they pose to themselves and others. Then, what they are allowed to have in the holding room should be decided accordingly. Currently, this judgement is only made once they have ‘settled down’ – this usually means sitting or lying on the concrete slab. It may well be that an empty room is appropriate for a lot of these young people initially, but it is also possible that some basic amenities may help others to settle much more quickly.

A related issue is what is made available to the young person once they have settled. The Act and Regulation specify those who are segregated and confined must be given the means to usefully occupy themselves. In many cases this is in fact very limited. We were encouraged when one centre we raised this issue with moved a bookshelf close to the holding rooms and placed some games and other appropriate items on it so they could be easily handed out.

We have also suggested that each case-specific individual risk assessment consider whether young people on risk management plans and in confinement should be given plastic cutlery. In many centres these detainees are either given a separate meal not requiring cutlery or eat the meal with their fingers or on bread. We do not believe this is appropriate – except for those young people who pose the most extreme risk – and certainly not for any length of time.

## Issues with Justice Health & Forensic Mental Health Network

The Justice Health & Forensic Mental Health Network (Justice Health) plays an important role in custodial services. Most offenders have contact with Justice Health as they provide medical and mental health services in the adult correctional system (apart from Junee), the juvenile justice system and the courts. This contact starts from the time they arrive from court when everyone is screened for both medical and mental health issues.

circumstances of the death. After we became involved, CSNSW found there were some problems with the information that had been recorded about the inmate's next of kin when he first came into custody, and this ultimately contributed to the delay. We suggested CSNSW audit their inmate screening procedures to find out if they were adequate to capture and record details of an inmate's next of kin and their emergency contact details. They did this, and also issued a reminder to all managers and staff responsible for screening reception inmates about the importance of collecting accurate next of kin and emergency contact details.

### CS21: Inmate reimbursed before leaving custody

Despite lodging numerous inmate request forms and contacting the Corrective Services Support Line, an inmate called us because the property he had paid for at Dawn de Loas Correctional Centre had not arrived before he was moved to Long Bay Hospital. A total of \$356 had been taken from his account and he was concerned he would not get the property or a reimbursement as he was soon to be released. We made a series of inquiries and were eventually told he had been reimbursed before leaving custody.

### CS22: Property mislaid on journey north

One inmate left Cooma Correctional Centre in the far south of the state to transfer to another centre in the north west. Along the way he stopped at Goulburn, Parklea and Cessnock before arriving at Glen Innes Correctional Centre. On the first two legs of his journey he was allowed to have three tubs of property, but this changed to only two tubs between Parklea and Cessnock. His third tub never arrived at Glen Innes and we asked CSNSW to try and find it. When it could not be located, they gave the inmate new cold weather clothing items which he accepted as full compensation.

### CS23: A lost television

On a visit to Mid North Coast Correctional Centre, an inmate told us that before he left Parklea Correctional Centre his television had been confiscated for 28 days as punishment for lending it to another inmate. When he was transferred, his TV could not be found. Staff at Mid North Coast had attempted unsuccessfully to sort out the problem. Back in the office, we made a series of inquiries with both Mid North Coast and Parklea – and after many weeks we were eventually told the TV could not be found and the inmate would be offered either a replacement TV or compensation.

Every correctional centre and juvenile justice centre has a clinic and access to nursing staff. Doctors and specialist services (dentists, optometrists) visit on either a regular or as required basis, and appointments are made for inmates to go into the community for medical services that cannot be provided at the centre.

Most of the people who come into custody, regardless of their age, require a wide range of medical and/or mental health services. Many of them have lived in difficult circumstances in the community and have little access to regular health care. The resources of Justice Health are often stretched to the limit in meeting demand and delays in seeing nurses, doctors and attending specialist appointments is a major area of complaint to us. We do not take complaints about the type of medical service or medication a person is given. We refer those cases to either the nursing unit manager in their centre or to the Health Care Complaints Commission. Case studies 27–28 are examples of the kinds of complaints we receive about Justice Health.

### Staff profile: Giving time for multiple causes

Throughout the year, our building manager co-ordinates fund raising events for a range of charities including the Cancer Council, SIDs and Kids, RSPCA and Mission Australia.

These initiatives, usually selling merchandise for the charity, use volunteer fundraisers who work in the building. Bridgette Kell-Clarke, who works in our corporate branch, regularly volunteers. A number of other staff also give their time.

'Giving my time a couple of times a year is a good way to support these worthy charities' Bridgette said. 'It is also a good opportunity to mix with other tenants'.

Between \$1,500 and \$3,000 is raised at each of these events. 'It is good to see Ombudsman staff generously donate money to the different charities'.



## Case studies

### CS24: A compromise solution

At Acmena, some of the young men claimed they were made to participate in all the programs run during their recreation time, such as playing football. We spoke to the centre manager who said the idea was to make sure the boys did not just sit around their units during this time. They suggested a compromise would be that all boys would have to go to the recreation area, but would not always be required to join in the activities – they could sometimes just sit and watch.

### CS25: Second hand clothing

On a visit to Frank Baxter, a number of detainees complained they were given second hand (washed) socks and underwear when they came into custody. We appreciate it can be costly to continue to provide all new admissions with new underwear, but the centre manager agreed it was a basic issue of dignity. We were told later the centre had purchased a large supply of new underwear to give new admissions.

### CS26: Group punishment not fair

A young man at Riverina was punished for misbehaviour and then all the boys in his unit were told one of their amenities would be taken away because of him. After we spoke with the centre manager, the matter was discussed with the staff member involved – who acknowledged it was inappropriate to threaten 'group punishment' and would in future refer such cases to the proper manager.

### CS27: Delays in getting medication resolved

A 20 year old man in custody for the first time called us from the Metropolitan Remand and Reception Centre. He said he had mental health problems and had not been given medication since he had arrived at the centre. Our staff member who spoke with him believed he sounded very unwell and contacted Justice Health to find out when he was likely to be seen by a doctor. We were told he was on the list for that afternoon. We know the medical staff cannot always get through their entire patient list each day, so we asked if they could ensure he was one of those seen. The inmate called the following day to say he had been seen and was already feeling better.

### CS28: Waiting to see a psychiatrist

Sometimes it may take a while before people who come into custody are given the medications they were previously prescribed. The length of time may depend on a number of factors, including the ability of Justice Health staff to contact the inmate's doctor. A woman contacted us from Silverwater Women's Correctional Centre saying she had schizophrenia and post-traumatic stress disorder for which she usually took medication. She had been in custody for 12 days and had not had her usual medication. We contacted Justice Health to find out how long she might have to wait. Justice Health outlined their management of the woman in the specialist mental health screening unit at the centre and agreed she would need to see a psychiatrist before she could start taking the medication. Until this happened, she had daily contact with a mental health nurse who was responsible for her ongoing management.



# Departments, authorities and local government

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## Our work

Our office has a particularly broad jurisdiction. While the other chapters in the report focus on particular areas, such as the provision of human services and policing, this chapter deals with our work in relation to a large number of different government agencies and services. It outlines how we handled the matters we received as complaints under the *Ombudsman Act 1974*, and shows some of the issues that we have focussed on this year. In some cases, we are able to achieve an outcome in the public interest quickly and informally. In others, we have to use our formal investigation powers to find the facts and make practical recommendations for change.

The chapter also describes our work in relation to local government. Many of the everyday services that people rely on are provided by their local council. This section of the report shows that we can help to resolve problems usually caused by misunderstanding or delay, bringing about results that are good for the individual complainant, but also for the broader community.

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## Highlights

- Continued our work around asbestos, monitoring implementation of our recommendations for state-wide reform (page 63), conducting an investigation into the management of a contract for asbestos surveys in schools (see page 64), and reporting to Parliament following an investigation into how asbestos, lead paint and other hazardous materials are managed in NSW Police Force buildings (see page 65)
- Dealt with a number of matters relating to licensing and regulatory regimes (see page 62)
- Worked to improve communication between the State Debt Recovery Office and the NSW Trustee and Guardian and reviewed how representations about fines are handled (see page 62)
- Used our experience with local government to inform several submissions to the Division of Local Government's review of the Model Code of Conduct (see page 69).

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## Stakeholder engagement

We work hard to improve communication between government agencies and promote better service delivery and outcomes for members of the public. While we can often do this by responding to complaints and inquiries, we also look for other ways. These can include holding forums and seminars that bring staff with common interests from different organisations together and through our complaint and investigation work. The university complaint handlers forum is a good example of this work.

We also keep in regular contact with the agencies and staff we deal with. This means we are able to speak with the right person when we receive a complaint. It also means we are able to find out about improvements, reforms and changes as they happen.

Community events can be an excellent opportunity to provide information about our work, answer questions and help to resolve what can often be small but important problems quickly and informally. This year we have had information stalls at events such as:

- the Easter Show
- the Gay and Lesbian Fair Day
- Youth Week's Bring it on Festival
- the Retirees and Lifestyle expo
- Homeless Connect days in Sydney, the Hunter and the Central Coast.

### Forum for university complaint handlers

In February 2012 we hosted our fourth annual forum for university complaint handlers. This forum allows front-line complaint handlers to exchange ideas, discuss common challenges and share practical solutions.

Guest speakers from NSW and interstate gave presentations on:

- the impact of mental health issues on the complaints process
- strategies to address students handing in work that is not their own, or even impersonating one another in exams.

A staff member from the office of the Overseas Students Ombudsman, which handles complaints about private registered education providers, spoke about their first year of operation. The Victorian Ombudsman shared the findings of their investigation into how universities deal with international students.

# Departments and authorities

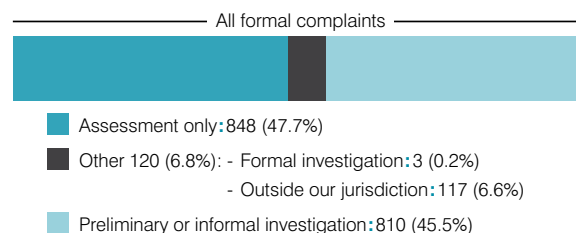
## Complaint trends and outcomes

This year we were contacted on over 5,600 occasions by people with concerns about departments and authorities. This includes housing and health – which we reported on separately last year – but not the NSW Police Force (NSWPF), Community Services, councils or custodial services.

Of these contacts, 1,737 complaints were in writing – what we call formal complaints – and 3,938 were over the telephone or in person, or informal matters. In response to these concerns we conducted 810 preliminary or informal investigations and started three formal investigations using the Ombudsman's coercive powers – see figure 32. We are currently conducting formal investigations into 13 matters (see figure 33), a number of which are discussed in this chapter.

The main issue in 17% of the complaints we received (figure 35) can be categorised as arising out of poor customer service. This is the same as last year. This means customer service continues to be the most common issue complained about. In addition, the main issue raised in over 11% of complaints was problems with complaint-handling. Together this suggests there is room for improvement in the level of service members of the public are currently experiencing.

**Fig. 32: Formal complaints finalised**



**Fig. 33: Current investigations at 30 June 2012**

	No.
Under preliminary or informal investigation	54
Under formal investigation	13
<b>Total</b>	<b>67</b>

**Fig. 34: Formal and informal matters received and finalised**

Matters	07/08	08/09	09/10	10/11	11/12
Formal received	1,348	1,349	1,438	1,381	1,737
Formal finalised	1,354	1,310	1,414	1,382	1,778
Informal dealt with	3,962	3,949	3,777	2,903	3,938

**Fig. 35: What people complained about**

This figure shows the complaints we received in 2011–2012 about departments and authorities, broken down by the primary issue in each complaint. While each complaint may contain more than one issue, this table only shows the primary issue.

Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
Approvals	58	283	341	Management	86	101	187
Charges/fees	100	307	407	Misconduct	35	52	87
Complaint-handling	250	398	648	Natural justice	29	73	102
Contractual issues	118	213	331	Nominations and third party	9	10	19
Correspondence	16	42	58	Object to decision	215	627	842
Costs/charges	10	29	39	Object to decision/ application forms	118	104	222
Customer service	315	673	988	Other	20	181	201
Enforcement	74	98	172	Policy/law	78	125	203
Hardship	8	28	36	Records	8	14	22
Information	114	264	378	Outside our jurisdiction	76	320	396
<b>Subtotal</b>	<b>1,063</b>	<b>2,335</b>	<b>3,398</b>	<b>Subtotal</b>	<b>674</b>	<b>1,607</b>	<b>2,281</b>
<b>Total</b>					<b>1,737</b>	<b>3,942</b>	<b>5,679</b>

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## Key areas of focus

### Regulating and enforcing

Licensing and regulatory regimes need to be properly resourced and supported by appropriate policies and procedures to guide the decisions made – otherwise they can become ineffective and hinder both regulation and development. Case studies 29–32 are examples of matters we have dealt with this year that highlight the risks when things go wrong.

### Handling representations about fines

This year we have completed our review of the procedures and practices used to deal with representations and correspondence about penalty infringement notices. The State Debt Recovery Office (SDRO) has agreements with agencies, including councils, that issue penalty notices. This can mean people have to deal with both the SDRO and the issuing authority if they ask for a fine to be waived.

We found that the system in place to review these requests is overly complex and confusing and results in inconsistent outcomes depending on which avenue of review is chosen. We suggested the SDRO make some changes, including:

- changes to service-level agreements to include information about the requirements in the *Fines Act 1996* and the issuing authority's process for dealing with representations about fines
- a fact sheet for members of the public explaining the fines representation system
- changes to information exchange procedures so the SDRO can give reasons for decisions in all their correspondence, regardless of whether the SDRO or the issuing authority made the decision.

The SDRO has agreed to consider our suggestions.

Our review also raised questions about whether the current legislative scheme which allows for two avenues of review in relation to fines (the issuing authority and/or the SDRO), serves a sufficiently good purpose to justify the duplication, complexity and inconsistent responses that results. We released a discussion paper and invited submissions from organisations such as councils, the Department of Planning and Roads and Maritime Services that issue fines. We are analysing the submissions we have received.

### Improving communication between the SDRO and NSWTG

We have been aware for some time that communication between the SDRO and the NSW Trustee and Guardian (NSWTG) could be improved. Two complaints from earlier years – one in 2009 about the NSWTG and one in 2010 about the SDRO – were clear examples of why communication between the two organisations needed to improve.

In 2009, the parents of a NSWTG client with a mental illness complained to us that he had \$1,600 in outstanding fines and the NSWTG had not applied to the SDRO to have his fines waived. Instead he was paying \$10 a fortnight towards the fines. The fines were mainly from riding trains without a ticket when he was ill. The NSWTG told us that no application had been made as any waiver would be overturned if he

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## Case studies

### CS29: Agencies investigating each other

We received a complaint from five members of a local community group about the Environment Protection Authority (EPA). They complained about the EPA's decision not to take regulatory action against the North Head Sewage Plant, operated by the Sydney Water Corporation, for an offensive smell allegedly coming from the plant in February 2010. The EPA investigated their reports about the odour, but decided there was insufficient evidence to prosecute Sydney Water under the Protection of the *Environment Operations Act 1997*.

After making inquiries and reviewing documents, we were concerned about certain aspects of the EPA's decision-making process and their relationship with Sydney Water – another government agency. We considered it was in the public interest to examine how one government agency investigates and regulates another government agency. We began a formal investigation – using our Royal Commission powers to require the EPA to produce documents and information – and conducted a number of formal hearings. The investigation is continuing.

### CS30: Reducing the backlog

A farmer complained to us that it had taken seventeen years for the Office of Water to process his application for a water licence, only to be told his application had been refused. The Office of Water confirmed this was the case. They said reasons for the delay included administrative oversight, reallocation of resources, administrative freezes and inaction by former management and licensing staff.

Our inquiries established this was not an isolated case – there was a backlog of over 1,200 similar applications. We were very concerned the Office of Water did not appear to have a strategy to deal with the significant number of outstanding applications.

After we became involved, the Office of Water developed a plan to address the backlog. This plan included measures to process the backlog of outstanding claims and to better manage future applications to ensure they are assessed in a timely manner.

The Office of Water agreed to provide us with quarterly updates on their progress. Their target is to reduce the backlog of applications by 50% by 30 June 2012. We are

re-offended within five years. They were not aware of how the SDRO Review Guidelines might apply to his situation. We worked with both agencies, and the fines were waived on the grounds that he was incapacitated at the time they were issued. We also made a number of suggestions to the SDRO and NSW TG about better liaison and they agreed to have discussions to clarify their respective roles and how communication might be improved.

In August 2010, a NSW TG client owing \$12,000 in fines – mainly for riding on trains without a ticket – was told by the SDRO that the fines could not be waived. We found that the debt had gone to an area of the SDRO that had not applied the SDRO Review Guidelines properly. After our intervention, the fines were waived. We also asked what action had been taken to improve communication between the NSW TG and the SDRO. We were told they were continuing to talk to each other but no formal arrangement had been put in place.

Since we dealt with these and other similar matters we have been concerned at the time being taken to improve communication. NSW TG clients are under financial management because a tribunal or court has found they lack the capacity to manage their own financial affairs. Some clients are likely to come within the provisions of the *Fines Act 1996* which requires that a fine is to be withdrawn if certain conditions about the vulnerability of the person are satisfied. Others may be in financial hardship. We followed up regularly with both agencies to make sure they were continuing to work at improving the processes in place to give vulnerable NSW TG clients a fair and responsive service.

In June 2012, the SDRO and NSW TG entered into a memorandum of understanding which includes:

- A monthly data exchange between the two organisations. NSW TG clients under a financial management order who have fines to pay will have the fines suspended while the NSW TG provides the SDRO with information about their particular circumstances.
- A streamlined system to write off the fines of NSW TG clients.

## Managing asbestos

We continue to investigate how government agencies manage asbestos and have been closely monitoring compliance with the recommendations we made in our 2010 report to Parliament, *Responding to the asbestos problem: The need for significant reform in NSW*. We have also conducted formal investigations into how the Department of Finance and Services and the NSW Police Force (NSWPF) have managed asbestos.

## Progress on implementing our recommendations

In our report to Parliament, we recommended that the NSW Government should:

- establish and adequately fund an Asbestos Coordination Authority
- introduce asbestos-specific legislation
- develop a statewide plan for dealing with asbestos.

We also recommended the remediation of the abandoned Woods Reef asbestos mine, including the immediate closure of a public road through the middle of the site.

satisfied that they are now making reasonable efforts to address the problem, but will continue to closely monitor progress.

### CS31: A need for clearer guidance

We received a complaint from a landowner about the failure of the Department of Trade, Investment, Regional Infrastructure and Services to make a decision on an assessment lease application made by a mining company concerning his property. The application was made 13 years ago. An assessment lease application is a request for temporary title over an area where a significant mineral deposit has been identified. The licence allows the holder to conduct prospecting operations and recover minerals while assessing the viability of the area for commercial mining.

The department told us they have no time frames for dealing with assessment lease applications. Also, the relevant legislation does not have any provisions for the parties involved to apply to the courts for a decision to be made on an application after a certain period of time. These delays can have a significant impact on a landowner's livelihood.

We met with the department and discussed the need to set targets for processing applications. We also discussed the

benefit of amending the legislation to include a deemed refusal clause for applications that are not determined within a specified period of time. In addition, we made clear our view that all parties affected by the department's decisions should be given clear guidance about how decisions are made, how long they are likely to take and how they can appeal. We are waiting for advice from the department on the outcome of the delayed application.

### CS32: Improving policies and procedures

We received a complaint alleging the former NSW Maritime (now Roads and Maritime Services) had failed to take enforcement action in relation to structures and activity taking place at a waterfront property at Watsons Bay. Maritime determined that the structures at the property could be regularised through a development application process. Despite having received several complaints about the structures, Maritime did not send the notification letter to the complainant's correct address – but to an address he did not occupy. When the complainant asked for details about the development application, he was told to submit an application for information under the *Government Information (Public Access) Act 2009* (GIPA Act).

Since our report, the government has established the Heads of Asbestos Coordination Authorities (HACA) to ensure agencies and local councils effectively coordinate the safe management of asbestos across three areas – workplace health and safety, public health and environmental protection. We attend the HACA meetings as an observer. The HACA has produced a statewide asbestos plan for Cabinet approval, developed an asbestos policy for councils, and created an extensive public awareness campaign.

It is still difficult to get people to deal safely with materials containing asbestos outside of workplaces. For example – home renovations, developments and demolitions do not require approval. As we highlighted in our report, there is no legislation in NSW that deals with anything other than asbestos in the workplace. We believe this can lead to people being unnecessarily exposed to asbestos.

Unfortunately, no action has been taken at the Woods Reef site. The derelict buildings have not been removed and the public access road has not been closed. Again, this creates risks of individuals being exposed to asbestos. HACA have advised us that the threatened large-eared pied bat is roosting in one of the derelict buildings, and that additional survey work and a species impact statement will need to be completed before any demolition can take place. They anticipate demolition will begin in January 2013, subject to both commonwealth and state environmental approvals to ensure any activity does not disturb the colony. While we can understand the importance of protecting the habitat of endangered species, it would seem strange to delay remedial works to protect the community from potentially harmful exposure to asbestos.

The HACA's inability to intervene in situations such as the Woods reef mine rehabilitation show the need for asbestos specific legislation and a single autonomous authority to deal with asbestos issues.

### Asbestos in public schools

We have completed our investigation into the management of a contract for asbestos surveys in public schools by the now Department of Finance and Services (DFS). We found DFS failed to ensure contractors complied with a key contract condition – the engagement of properly qualified surveyors. They also failed to properly assess the ability of tenderers to effectively carry out the project within required time frames and gave unreasonable priority to the cost of undertaking the project. This may mean registers of asbestos in schools are not accurate.

DFS has agreed to our recommendation to have an independent review of the adequacy of their procedures for monitoring and ensuring compliance with contract conditions.

The Department of Education and Communities (DEC) has also started to take action to rectify issues identified in the report. In particular, they have told us they have:

- started a review of their existing Asbestos Management Plan (AMP) with NSW Public Works and an independent health hygienist
- undertaken additional sample collection and analysis at sites where there was excessive 'assumed asbestos' to reduce the amount of undefined building product
- arranged for the re-inspection of a sample of school sites
- formalised contact with WorkCover to ensure their AMP complies with workplace health and safety legislation

## Case studies

Maritime told us they had been unable to locate a number of files and documents relating to the complaint for a number of months. Some legal matters (including this one) had been outsourced to external solicitors and when the files were returned to Maritime they were archived without consideration of their status or content.

We made a number of suggestions to address the issues raised in the complaint. As a result, Maritime are:

- reviewing their policies and procedures for the notification and processing of development applications
- establishing a committee to facilitate decisions under the GIPA Act and developing a business plan for authorised proactive release of information
- updating their policies to include further details on record management procedures consistent with State Records requirements
- updating their complaints, compliments and feedback administrative instruction and providing complaint handling training to some 170 staff
- planning an audit of files referred for external legal advice.

### CS33: Unfair suspensions

A mother complained to us about her 15 year old daughter's multiple suspensions from a high school. She alleged the school had not followed DEC's procedures for suspending and expelling school students. She believed it was inappropriate to suspend her daughter, who has an intellectual disability.

After making preliminary inquiries, we decided to conduct an investigation. We found that, although adjustments had been made to enable the student to participate in the class room, there was no evidence of a cohesive strategy for managing her behaviour. She received ad hoc support from Ageing, Disability and Home Care (ADHC) which was initiated by her mother. Contact between school staff and ADHC was not regular or planned and there was no evidence school staff had considered alternatives to suspension. Staff at the regional office – although aware of the multiple suspensions – had not helped the school implement a comprehensive strategy for managing the student's behaviour and did not arrange for the school to receive support from a Disability Programs Consultant.



- begun developing a tender specification for providing hygienist services to DEC and NSW Public Works to support asbestos management in maintenance and capital works projects and the periodic update of asbestos registers to ensure compliance with legislative requirements.

We will be closely monitoring progress on these issues.

### Hazardous materials in NSW Police Force properties

In July 2012, we tabled a special report to Parliament about deficiencies in how asbestos and lead paint in NSWPF properties had been managed. The NSWPF has approximately 1,350 properties across NSW – including police stations, training facilities and residential properties. Police officers and their families are entitled to expect the premises they work and live in to be safe. We found that a dysfunctional property management model, in combination with an ageing and poorly maintained property portfolio, means this has not been the case. Our special report to Parliament can be accessed at our [website](#).

NSWPF indicated at the time of writing they will respond to our recommendations formally after the matter has been considered by Cabinet.

## Working with the education sector

### Using complaint data to improve practices in schools

Our periodic surveys of complaint-handling systems show few agencies use complaint data to guide their business practices. We have raised this issue with DEC this year. They have a good complaint-handling

system in place. When a parent or carer makes a formal complaint, it is generally well handled and outcomes are practical and sensible. We have suggested DEC take the next step and consider ways of collecting and using complaint data to drive systemic improvements. Case study 33, is a good example of complaints leading to systems changes. This will become more important after the introduction of the Local Schools, Local Decisions reforms as principals will have more responsibility for managing schools. Complaint data will be one of a number of essential accountability mechanisms, to test the success of these changes.

### Assessing the use of disability provisions for exams

The aim of disability provisions (previously known as special provisions) is to level the playing field for students with a disability so they can perform to the best of their ability in an HSC exam. The Board of Studies is responsible for approving provisions, which are assessed on a case-by-case basis. They can include things like extra time, physical aids, a separate room, a writer and/or a reader.

In 2011, the data suggested that the percentage of applications by the total number of students sitting HSC exams was disproportionately low for public schools (public schools 6%, catholic 8.1%, independent 11%). The Board of Studies commissioned two independent audits of its processes which found applications were assessed appropriately and fairly. However press reports appear each year implying that independent schools take unfair advantage of the system.

Staff from the school told us they found recommendations made by the student's behavioural therapist provided by ADHC practical and useful. The therapist had been working successfully with the student at an after school program and ADHC staff were confident the same success could be achieved at school.

The following actions are now being taken to address the issues we identified:

- The North Coast region of DEC is developing a case management approach for complex matters in consultation with Family and Community Services and ADHC, starting with students in out of home care and students with complex needs.
- DEC is drafting educational setting and support assessment guidelines which will be circulated to stakeholders including regional staff, the Secondary Principals Council and the Primary Principals Association.
- A legal issues bulletin will provide further guidance to schools about how the suspension procedures should be adjusted to better suit the needs of students with disabilities and students with challenging behaviours.

- About 80 senior regional and school personnel have completed training in managing relationships with parents and carers and 37 staff have completed front-line complaint management training.

### CS34: Positive actions plus an apology

An advocacy service complained that an approved client of Housing NSW had been treated insensitively by the officer who had assessed her application for housing assistance. The applicant was a victim of domestic violence and had been approved for priority housing. The advocacy service complained that – even though they had detailed the client's long history of domestic violence and provided police evidence – during the interview the assessing officer appeared unaware of the client's history and questioned her claim that she was a victim of domestic violence. The advocacy service had made a written complaint to Housing NSW, but had not received a response. They wanted Housing NSW to take positive actions to restore the client's trust in the agency and build a good working relationship.

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We decided to formally investigate this issue to get a better understanding of what the drivers and barriers might be for making appropriate applications and what best practice might look like. We met with the Board of Studies, requested more detailed data and interviewed school principals, teachers and senior staff from regional offices. We chose schools from across the sectors with high and low numbers of applications and different social backgrounds. Our investigation is ongoing, and we will report the outcome in our next annual report.

## Improvements at the NSW Trustee and Guardian

Staff at the NSW TG are responsible for managing the financial estates of people who lack the capacity to manage their own money. This is a significant responsibility. We have been monitoring the NSW TG's progress in implementing the recommendations we made in our investigation into the standard of their administrative decision-making.

Basic administrative practices were central to most of the major deficiencies we identified in the investigation. Many of the negative consequences for clients or key stakeholders were as a result of basic shortcomings – not returning telephone calls, putting correspondence on files without taking action, losing correspondence, failing to insure a property or secure assets to prevent personal effects going missing. Of themselves none of

these actions are hugely difficult things to do, but the consequences of not doing them are dramatic.

Our recommendations included:

- introducing mandatory supervision and regular team meetings
- introducing case reviews and quality assurance audits
- reviewing records management practices
- dealing with outstanding decisions on properties and developing processes to ensure decisions about the management of real estate are made in a timely manner
- providing training to staff in managing conflict.

The NSW TG are providing us with regular reports about their progress in implementing the required changes. We are closely monitoring their progress – as well as looking for evidence that the changes made are improving service delivery for their clients.

## Resolving problems

Although we focus our work on complaints about issues that affect a number of people, we also aim to get good outcomes for individuals. The wide range of government services and the large number of government departments means we deal with a diverse range of matters. Case studies 34–38 are examples of problems that were resolved satisfactorily after we got involved.

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## Case studies

After our inquiries, Housing NSW decided to provide refresher training for all staff in the teams, including the officer in question, to help them deal with clients in a domestic violence situation. They also arranged for the client to deal directly with the team leader while she was waiting for a property to become available. The team leader took a very active role in the case and developed a good relationship with the client. Housing NSW also gave the client a written apology for her distress.

### CS35: Documentation requirements re-assessed

A former inmate called our custodial services unit to ask for help. He had lost the identification documents he needed to obtain a photo identification card from the Roads and Maritime Services (RMS). He was released two months earlier and needed a NSW photo card to open a bank account so he could return to work.

To prevent identity fraud, the RMS has strict proof of identity requirements setting out what documents need to be provided to get a licence or NSW photo card. Motor Registry staff had told him he could not be issued with a NSW photo card because he could not meet these requirements. While our caller did not have the specific documents required, he did have a number of other identifying documents – including those issued by Corrective Services NSW.

We contacted the RMS and sent them copies of all the documents he had. The RMS Verification Unit reassessed

the matter and, as he had had a driver licence before, agreed to issue him with a NSW photo card.

### CS36: Lack of procedural fairness

NSW has over 30,000 Crown reserves and commons that are managed for the benefit of the community. A large number are managed by reserve trust boards made up of volunteers from the community. The former Land and Property Management Authority (LPMA), now part of the NSW Department of Primary Industries, oversees and supports these trusts.

Board members of a cemetery trust in Sydney – all of whom held respected roles within their religious communities – complained they had been told to resign from the trust board or face forced removal from their positions, which they had held for some years. The majority of the board had had no warning of the decision, were given no reasons for it, and had no chance to put forward any claims they may have had to have the decision reconsidered. The LPMA responded to our inquiries by rejecting 'any alleged breach of a supposed duty of procedural fairness'.

In the event, all members of the trust were removed. One trust member began legal action against the LPMA in relation to the removal.

We established that the decision to remove the members had been made by the then Executive Officer of the LPMA, based on the findings of an investigation into allegations

### Staff profile: Walking for a cause

Over the last two years, a number of our staff have participated in a walk to raise money for the Fred Hollows Foundation. The event is a challenging 50km walk down the Sydney coastline – along the beaches, headlands, cliff tops and bush tracks from Palm Beach to Balmoral.

Julie Withers from our Human Services Branch took part in the walk this year, completing the 50km course in 14 hours.

'It was a very challenging experience,' Julie said 'it's something you need to train for, but it's worth it'.

Julie participated in the Sydney Coastrek as part of a team of four friends, raising \$3,500 between them. This contributed to a total of over \$1 million raised by the event for the Fred Hollows Foundation.

Each year, the walk attracts about 1,200 people who have the option to complete either the 50km or 100km track. To add to the challenge, the trek goes ahead rain, hail or shine.

'The weather on the day was terrible,' Julie explained 'it was cold and blustery – everything was wet!'

Kate Smithers from our Strategic Projects Division also took part in the walk this year as part of another team, raising approximately \$2,000 for the Foundation.

'It was challenging, but amazing' Kate said. 'It was great to be part of something that big – I'd definitely do it again'.

When asked if she would do it again, Julie said she would consider it.

'I was inspired by the different abilities of the people on the walk', Julie said.

'When we arrived at the finish line I was exhausted but I felt a real sense of personal achievement'.

Julie and Kate are not the only Ombudsman staff to make it through the walk – the previous year, two of our Public Administration Division staff, Helen Ford and Frances Smyth participated as part of the same team.

'It was certainly a test of endurance, but we managed to finish it' Helen said.

'It was great doing it in a team,' Frances said 'you encourage each other to keep going and support each other along the way'.

Their team raised over \$5,500 for the Fred Hollows foundation. Helen said that while the walk itself was an achievement, she was also proud of the amount of money they raised.

'The Fred Hollows Foundation is an excellent cause,' Helen said. 'They do a lot of good work, not only overseas but also here in Australia, which is very important'.

about the management of the trust. The trust members had little knowledge of the matters under investigation and its outcome. Their involvement was not clear, given it largely related to staffing matters managed by a salaried officer.

Following our involvement, the LPMA told us that it now conceded that the trust members had not been given procedural fairness. The legal proceedings brought by the complainant had been settled satisfactorily by the LPMA. The LPMA advised us they have put in place a policy about procedural fairness and that this experience will inform their current review of governance arrangements.

### CS37: Finalising a compensation claim

A firm of solicitors complained to us in July 2011 about delays by Fair Trading. Their client was claiming compensation because a real estate agent failed to refund a deposit of \$120,000 paid for a home unit in March 2010.

The solicitors wrote to Fair Trading in September 2010 and were told they were still considering the claim. In November and December they wrote to Fair Trading again to inquire about progress, but received no reply. In January 2011 they wrote again, and were told no decision had been made because legal advice was being sought and would not be received until March 2011. When the solicitors contacted Fair Trading in March, they were told the advice had not been received. Fair Trading responded to their April inquiry in May, saying the claim was still being considered. In

June, Fair Trading responded to a further inquiry saying no decision could be made as yet, and no indication could be given of when a formal decision would be made.

Following our intervention, Fair Trading finalised the matter in September 2011 paying \$141,200 for the claim as well as interest and legal costs.

### CS38: A misunderstanding about unsatisfactory attendance

Under the Educational Services for Overseas Students Code, we review the appeals process for international students who are to be suspended or excluded from public education. This includes overseas school children studying in NSW who have appealed against being suspended or excluded from NSW schools for unsatisfactory attendance. A student from China, although he had been doing very well academically, was faced with being reported to the Department of Immigration for unsatisfactory attendance because he had attended slightly less than 80% of his classes. His failure to attend these classes was due to medical issues, but the student had relied on a form issued by his school and believed absences from school only needed to be supported by medical certificates if they were for three consecutive days. On our recommendation, the Department of Education and Communities reversed its decision to report the student for unsatisfactory attendance.

# Local government

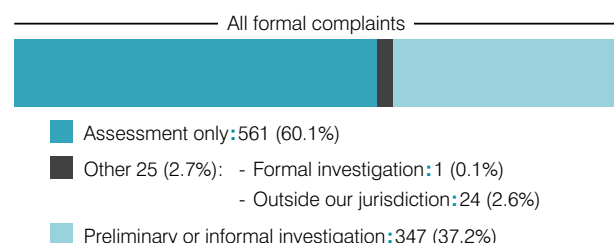
## Complaint trends and outcomes

The number of council complaints we have received and finalised has increased marginally this year. Despite this increase, we have also increased the numbers of complaints that we either formally or informally investigate – 37% of all matters received, up from 33% last year.

Complaints about development have dropped by almost 50% to expected numbers after last year's dramatic increase due to the Woolworths Newport development, while complaints about customer service and enforcement continue to be a dominating feature in the types of complaints we receive.

With the unseasonal rain over a substantial part of NSW in the last year, we have also seen an increase in complaints about drainage and flooding, as indicated in the figures for complaints about engineering services (up by 14%).

**Fig. 36: Formal complaints finalised**



**Fig. 37: Current investigations at 30 June 2012**

	No.
Under preliminary or informal investigation	17
Under formal investigation	1
<b>Total</b>	<b>18</b>

**Fig. 38: Formal and informal matters received and finalised**

Matters	07/08	08/09	09/10	10/11	11/12
Formal received	768	702	843	912	925
Formal finalised	788	672	875	924	933
Informal dealt with	1,965	1,795	1,720	1,979	1,962

**Fig. 39: What people complained about**

This figure shows the complaints we received in 2011–2012 about local government, broken down by the primary issue in each complaint. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
Community services	8	34	42	Misconduct	44	62	106
Corp/customer service	219	354	573	Object to decision	68	168	236
Development	96	276	372	Other	2	10	12
Enforcement	150	256	406	Rates, charges & fees	117	243	360
Engineering services	113	155	268	Strategic planning	10	28	38
Environmental services	79	200	279	Uncategorised	1	76	77
Management	4	25	29	Outside our jurisdiction	14	66	80
<b>Subtotal</b>	<b>669</b>	<b>1,300</b>	<b>1,969</b>	<b>Subtotal</b>	<b>256</b>	<b>653</b>	<b>909</b>
<b>Total</b>					<b>925</b>	<b>1,953</b>	<b>2,878</b>

## Key areas of focus

### The importance of using appropriate discretion when making decisions

All councils need to manage their resources in accordance with good administrative practices and relevant statutory requirements. When we receive complaints about councils, one of the factors we consider is whether they have used their discretion when deciding what action to take, or not to take, in a particular case.

Our focus is on making sure that councils have appropriate policies in place to ensure consistent decision-making, exercise their discretion where appropriate, and explain the reasons for their decisions. Case studies 39–40 show the difficulties that can be caused when this does not happen.

### Statutory powers and obligations

Complaints about councils using their statutory powers are often about them either failing to act or exceeding their powers. We recently had two similar cases (case studies 41 and 42) where separate councils claimed to be acting on an authority that they did not have.

### Shared statutory powers

In 2005–2006 we reported an increase in the number of complaints about situations where accredited private certifiers were appointed as the Principal Certifying Authority (PCA). There can be a confusing overlap in jurisdiction, as councils retain important statutory powers to ensure compliance with development consent. However, not unreasonably, the PCA is expected to first be given an opportunity to ensure compliance as that is the role they are appointed to do. Since then, we have routinely suggested to councils that they should develop a policy to clarify their role and the role that accredited private certifiers play when the PCA appointed is not the council. This ensures that complainants have access to transparent information about the processes available and can direct their complaints more efficiently and effectively, without unreasonable expectations of what they hope to



achieve. Case study 43 shows the confusion this overlap can cause for those dealing with both a council and a private certifier.

## Reporting obligations

Under the *Companion Animals Act 1998*, police share certain powers with councils for investigating serious matters, such as dog attacks. Councils are responsible for maintaining information on the companion animals register. When the police investigate a dog attack, it can be confusing, as to what role the council plays with the investigation and how they need to comply with their statutory reporting requirements. We recently had to remind a council (case study 44) about its statutory obligations, even when police are investigating a dog attack.

## The model code of conduct

The Division of Local Government (DLG) in the Department of Premier and Cabinet are reviewing the *Model Code of Conduct for Local Councils in NSW*. We have made several detailed submissions during the consultation process. These have focused on:

- improving complaint-handling practices
- ensuring consistent decision-making
- making sure resources are allocated appropriately.

Our most recent submission focused on giving councils the ability to manage all code of conduct complaints and control how they allocate their resources. Case study 45 shows what happens when code complaints are made for the wrong reasons.

## Case studies

### CS39: Pensioners receive discretionary adjustment

After an upgrade to its water infrastructure, Gloucester Shire Council ran an information campaign to make sure affected households inspected their water meters and property for any changes in, or unaccounted for, water usage – due to the increased pressure of the new system and the potential for leaks.

We received a complaint from an elderly couple about a leak that had led to an increase of over \$1,800 in their water bill. The complainants were in their late 80s and were both unable to do the physical inspections recommended by council. Very wet weather also meant that they had not seen any surface water from the leak. As pensioners, they could not afford the additional cost and asked MidCoast Water for a refund or a reduction in their bill.

Staff of MidCoast Water advised them that they did not have the discretion to reduce or waive a bill and that householders had been given adequate warning by council about the risk of leaks.

Although we agree council took every possible action to ensure the community was aware of the risk of leaks, we felt that MidCoast Water could have taken into account the particular circumstances of this case. We gave them a copy of Wingecarribee Shire Council's Water Determination Policy that we considered to be a reasonable practice and asked that they consider a similar policy.

MidCoast Water have now adopted a *Water Management Policy – Concealed Water Leaks* and invited the complainants to apply for a once-off adjustment to their water account.

### CS40: Taking responsibility for errors

When someone is deciding whether to buy a house, they can ask the local council to issue a certificate outlining any outstanding debts, notices and planning information about the property.

We received a complaint from a purchaser who found out the rates certificate they received from Gosford City Council was wrong, leaving a debt of about \$700. The purchaser did not want a debt against their property, so in good faith paid the amount to council and asked the vendor for a refund. When the vendor refused to pay, they asked council for assistance – but were unsuccessful.

We felt that the purchaser should not have had to pay the amount or pursue the vendor because council had made an error in their certification. We contacted council and they agreed to refund the amount to the purchaser and seek to recover the debt from the vendor directly. They assured us that any recovery action or dispute about payment would only be between council and the vendor.

### CS41: The need for written notice

We received a complaint that Blacktown City Council staff had gone to the complainant's property twice and, after they had been refused entry, called the police to force entry. The complainants felt bullied by the council's actions and questioned their right of entry.

We contacted council and asked them about their authority to enter. Council were acting on a complaint about the complainant keeping pigeons and admitted that they had only given the complainant notice of their intention to inspect their property by telephone. They had not given the written notice required by the Local Government Act. This means they cannot force entry without formal written notice or a warrant.



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## Case studies

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Council wrote to the complainants and apologised for not providing written notice and explained clearly that any future need to inspect their property would comply with the appropriate legislation.

### **CS42: Problems with inspecting onsite sewage systems**

We received a complaint that staff of Eurobodalla Shire Council had not complied with the requirements about powers of entry under the *Local Government Act 1993*. They had entered the complainant's property to inspect their onsite sewage management system (OSMS) and issued a notice to make certain improvements.

In this case, council had issued a notice of inspection – but the date was not specified and the proposed month referred to had passed. Due to the numbers of OSMSs in the area, council needed to be flexible with their schedule of inspections. They had done these inspections for several years without complaint or incident. It was only in this case – when a notice was issued to improve the OSMS – that the complainant sought to void the notice because council didn't comply with the requirements for entering their property.

Council responded to the complainants stating that if approval to enter and inspect the OSMS was refused, then approval to operate the OSMS would be revoked – and the complainant would be operating the OSMS illegally.

Council's statutory obligations to inspect and approve OSMSs increased dramatically several years ago after it was realised that these systems posed a serious threat to public health and the environment. Council will only approve an OSMS on the condition that Council can enter the property to inspect the system. The OSMS in question was installed before the legislation was introduced that requires councils to approve and inspect the systems, so did not have that standard condition of approval.

Council had taken every step to ensure compliance with the Local Government Act when entering the property, and we considered that their failure to fully comply was just a technicality and not done in bad faith. Council apologised to the complainants, reviewed their procedures for giving notice and inspecting OSMSs, and offered to meet the complainant to resolve the ongoing concern of a non-complying OSMS. We considered this to be an appropriate resolution of the complaint.

### **CS43: Confusion about roles**

We received a complaint about a property that was subject to flooding and other nuisance from a neighbouring development that was alleged to not comply with the development consent. An accredited private certifier was appointed as the PCA.

We made inquiries with Lane Cove council and the certifier to check the process that had been followed. Although we were satisfied with council's actions and communication with the certifier, we felt that the complainant was confused about what to expect from both council and the PCA. We asked council to consider developing a policy to cover this issue and gave them an example from another council that had developed a similar policy on our advice. They responded that they would review the material provided and report back to us.

### **CS44: Council responsibilities after a dog attack**

We received a complaint that Campbelltown City Council had failed to respond to certain aspects of a complaint – particularly about what action was taken after a dog had attacked a person, and whether the attack was reported on the Companion Animals Register.

We made a series of inquiries with council. After receiving advice that the incident was wholly investigated by the police, that council's assistance was not sought by the police, and there were no further instructions from the police about declaring the dog a nuisance or dangerous, council took no further part in the matter. They said that they would report the incident on the register once the police report was finalised.

Our interpretation of the legislation differed to council's, so we asked the Companion Animals Unit at the Division of Local Government for advice. We were able to clarify with council that their statutory obligation is to enter details of a dog attack on the register within 72 hours of becoming aware of the attack – even if there is very little information available. We also suggested that council should review their policies and memorandum of understanding with the police local area command to clarify their roles and responsibilities for reporting information.

### **CS45: Ineffective use of resources**

We have had concerns for some time about the misuse of codes of conduct to investigate allegations of minor breaches of the code. In our last annual report we noted that making code of conduct complaints appeared to have become another way of political point scoring for some councillors.

After a series of complaints about code of conduct matters at Warringah Council, we decided to find out if managing this high volume of complaints was in the public interest and an effective use of council's resources.

We are continuing to look into the issues at council, and aim to provide them with assistance towards appropriate administrative practices where the code of conduct is concerned. Our work with the council has also informed our submissions to the DLG about their review of the model code of conduct for councils.

# Human services

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## Our work

This chapter of the report outlines our work around the provision of a range of community services, with a focus on children and young people and people with a disability. Our responsibilities in these areas are outlined in the *Community Services (Complaints, Review and Monitoring) Act 2002* and Part 3A of the *Ombudsman Act 1974*.

As the chapter and its case studies show, our work in relation to human services helps some of the most vulnerable members of our community. This includes children and young people and people with a disability. Our involvement can help to ensure people receiving community services are properly supported and protected.

Our employment-related child protection work involves us scrutinising the systems that government and certain non-government agencies have for preventing reportable conduct and handling reportable allegations and convictions involving their employees. Reportable conduct includes any sexual offence or misconduct, assault, ill-treatment, neglect or any conduct that causes psychological harm to a child.

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## Highlights

- Tabled reports to Parliament analysing the implementation of *Keep Them Safe* (see page 74) and issues surrounding licensed boarding houses (see page 93)
- Completed a detailed inquiry into whether people living in mental health facilities are being adequately assessed in terms of their suitability to live in the community (see page 91)
- Reviewed the situation of a group of particularly vulnerable young people (see page 76)
- Started a group review of young people who have recently left care (see page 77)
- Worked towards developing a single child death register for NSW (see page 86)
- Recommended changes to the mandatory reporter guide (see page 82)
- Worked with Ageing, Disability and Home Care to improve a number of the disability services it funds (see page 89).

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## Stakeholder engagement

Some of the best results we achieve in our human services work rely on consultative forums involving repetition, peak agencies and those who receive services. This year, we have hosted:

- three roundtables with peak bodies from the disability and child, youth and family sectors (see page 78)
- an Ombudsman outreach forum in Condobolin to provide information about our role to community sector workers and those using community services
- a child protection investigation forum
- a carer screening forum for non-government organisations.

We have also taken part in a number of community events. These help to maintain strong existing ties, as well as increasing awareness and understanding of both our role and the rights of those receiving community services. The events we have had stalls at include:

- the Association of Children's Welfare Agencies Foster Care Week Carnival
- a Carers Day Out
- Disability expos in Tamworth and Campbelltown
- the National Disability Service's NSW Annual State Conference.

### Developing a strong national network of Disability Commissioners

In November 2011 we hosted the second meeting of Disability Commissioners from across Australia, and in May 2012 we attended the third meeting in Darwin. These meetings provide the opportunity to discuss key issues affecting people with disabilities in each jurisdiction, the current work and areas of focus in each agency, and potential avenues for cooperative action.

This year we discussed options for evaluating the effectiveness of our work in resolving complaints about disability services, best practice in involving people with disabilities in conciliations, and mechanisms for reporting and overseeing serious incidents in disability services.

The Disability Commissioners also received briefings from:

- ADHC – on implementing the National Disability Strategy.
- The South Australian Department of Families and Communities – on the work of the NDIS Quality and Safeguards working group.
- The National Disability Discrimination Commissioner, Graeme Innes – on the current priorities for his office.

# 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 dealing with oral and written complaints about certain agencies providing child and family services. These agencies include:

- Community Services – in relation to child protection, out-of-home care, prevention and early intervention services.
- Ageing, Disability and Home Care (ADHC) – in relation to disability accommodation and support services and Home Care Service activities.
- Organisations that are funded, licensed or authorised by the Minister for Family and Community Services and the Minister for Ageing and Disability Services.

Formal complaints are matters that have been assessed as requiring direct action by our office. We might call an agency to seek their initial response to a complaint or write to them asking for more detailed information. This

information helps us decide if a matter can be readily resolved or if it needs further investigation.

Informal complaints are matters that are received – generally over the phone – where we provide information and advice to help complainants deal with the complaint themselves. We do not take any further action about these complaints, but callers can bring the matters back to us if they are unable to resolve them independently.

This year, we received 1,350 complaints about child and family services – a 9% decrease compared to 2010-2011. Of these, 450 were formal complaints – a 7% decrease from last year – and 900 were informal complaints, a 10% decrease (see figure 40).

Complaints about out-of-home care (OOHC) services provided either by Community Services or non-government services funded by Community Services made up 52% of all complaints received (264 formal complaints and 438 informal complaints). These complaints primarily related to case management and casework practice and how services addressed the individual needs of children and young people in care.

**Fig. 40: Formal and informal matters received in 2011–2012 about agencies providing child and family services**

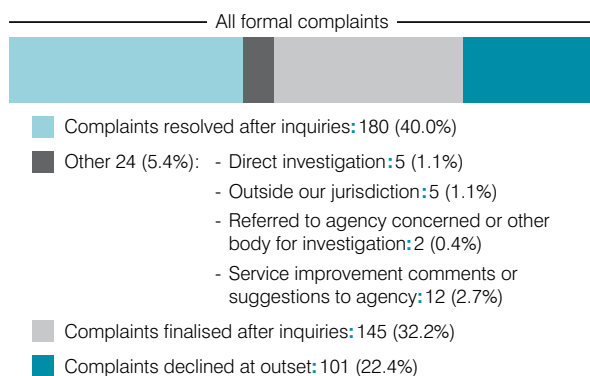
Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
<b>Community Services</b>				<b>ADHC</b>			
Child protection services	138	266	404	Child protection services	0	0	0
Children's services	10	39	49	Children's services	0	1	1
Family support services	5	12	17	Family support services	0	0	0
Out-of-home care services	223	385	608	Out-of-home care services	0	0	0
Adoption	1	1	2				
<b>Subtotal</b>	<b>377</b>	<b>703</b>	<b>1,080</b>	<b>Subtotal</b>	<b>0</b>	<b>1</b>	<b>1</b>
<b>Other government agencies</b>				<b>Non-government funded or licensed services</b>			
Child protection services	1	7	8	Child protection services	6	10	16
Children's services	1	3	4	Children's services	8	20	28
Family support services	1	0	1	Family support services	3	4	7
Out-of-home care services	0	4	4	Out-of-home care services	41	49	90
Adoption	0	0	0	Adoption	0	0	0
<b>Subtotal</b>	<b>3</b>	<b>14</b>	<b>17</b>	<b>Subtotal</b>	<b>58</b>	<b>83</b>	<b>141</b>
<b>Non-specific inquiries</b>				<b>Non-specific inquiries</b>			
Child protection services	0	1	1	Other (general inquiries)	0	8	8
Family support services	0	1	1	Agency unknown	12	82	94
				Outside our jurisdiction	0	7	7
<b>Subtotal</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>Subtotal</b>	<b>12</b>	<b>97</b>	<b>109</b>
<b>Total</b>					<b>450</b>	<b>900</b>	<b>1,350</b>



Complaints about child protection services decreased by 19% from last year – 145 formal complaints and 284 informal complaints. These complaints made up 32% of the total complaints we received, were primarily about Community Services, and mainly related to casework practice by child protection agencies – including the assessment of risk of harm reports and subsequent action in response to these reports.

To resolve a formal complaint we may make some initial inquiries, refer it directly to services for resolution, meet with agencies to discuss the options for resolution or, where appropriate, facilitate formal conciliations involving agencies and complainants. This last approach is particularly useful when the agency and the complainant need to have an ongoing relationship. Of the formal complaints received this year about child and family services, we helped resolve 40% of matters (180 formal complaints). This is a 10.3% increase on the number of formal complaints resolved last year.

**Fig. 41: Outcomes of formal complaints finalised in 2011–2012 about agencies providing child and family services**



## Key areas of focus

### Monitoring the outcomes of our *Keep Them Safe?* report

As part of the five-year reform plan known as *Keep Them Safe*, a new system for responding to children at risk of harm came into operation in NSW in January 2010.

In May 2011, we initiated an inquiry to examine whether the capacity of the child protection system to respond to children at risk of significant harm (ROSH) had improved as a result of *Keep Them Safe* – and tabled our report to Parliament in September 2011 (available on our [website](#)).

Our *Keep Them Safe?* report found that – despite a significant drop in demand as a result of changes to the threshold for making a child protection report to Community Services – fewer children were receiving face-to-face assessments under the new system.

Data we obtained from Community Services showed that, compared to the period before the Wood Inquiry in 2008, there was a 55% drop in the number of reports that resulted in a comprehensive face-to-face assessment – 19,826 compared to 46,757. Also, during the first 12 months of *Keep Them Safe*, one quarter of reports that Community Services assessed as requiring some form of intervention received no response at all. Given that child protection reports to local Community Service Centres (CSCs) have reduced under the new system by over 100,000 – or more than 50% – we were concerned that there seemed to have been a substantial decrease in direct work with families.

In responding to our report, Community Services acknowledged that the capacity of the statutory child protection system to respond to children at risk of significant harm is inadequate. Our report stressed that, to

## Case studies

### CS46: Correcting practice failings

This year we finalised our investigation into the actions of Community Services and the NSWPF in response to multiple ROSH reports about three children under the age of 10. The children had been living in appalling conditions, were at risk of sexual harm, and had witnessed serious incidents of domestic violence involving parental substance abuse. We found that Community Services failed to take appropriate action to assess the reported allegations and did not refer the reports to the Joint Investigation Response Team (JIRT) for investigation in a timely manner.

In response to our investigation, Community Services agreed that there were significant practice failings in their response to the family. They have since taken action to ensure the children's safety and we have been advised of a number of regional strategies that Community Services will implement to address the practice concerns.

NSWPF also failed to provide Community Services with additional information they had obtained about serious harm to the children. In response, NSWPF have told us that they will implement a technological solution, which will ensure that all field officers are given appropriate and comprehensive guidance about when and how to make a ROSH report to the Helpline. NSWPF also advised that they will provide appropriate training to field officers on this issue. In our view, a technological solution of the kind that has been suggested – when combined with the training initiatives proposed – will address the systemic issue identified by this investigation and help to improve NSWPF's child protection practices.

### CS47: Importance of interagency communication and planning

Last year, we reported on an investigation involving a child who had a life-threatening condition and whose parents –



increase this response rate, Community Services needed to both increase their productivity and more effectively target existing resources.

Since we released our report, we have met with senior representatives from key agencies to discuss their response to the issues we identified and monitor any actions taken to address our specific concerns.

One area we will be watching closely is the interim review of Keep Them Safe, which is due to be finalised in December 2012. We are also hoping to see progress being made in:

- Developing and implementing an 'intelligence-driven' approach to child protection work that would enable Community Services and partner agencies to systematically identify children most at risk of experiencing significant harm.
- Implementing Community Services's action plan to improve capacity in child protection – and related measures to improve productivity and substantially lift responses to ROSH reports.
- Filling staff vacancies – particularly in the under-resourced Western region of NSW – and employing strategies to retain experienced staff.

### Investigating child protection issues

In the past year, we finalised six investigations and we have started a further three new investigations. These investigations have considered the actions of Community Services, the Department of Education and Communities (DEC), NSW Health, the New South Wales Police Force (NSWPF), and non-government agencies. Case studies 46 and 47 are examples of our investigative work.

### Improving record-keeping and communication within JIRTs

In two recent investigations, we have identified poor record-keeping and errors in communication between Community Services caseworkers and police officers within the same Joint Investigation Response Team (JIRT). In one case of suspected medical neglect of a child, JIRT police officers held significant information about the criminal record of the mother's partner, the content of an interview with him, and the state of the family home as recorded in a crime scene video. However, Community Services caseworkers in the same JIRT believed police had obtained no relevant information from these sources. The child's sibling was returned home, and three weeks later suffered serious harm. We found that the records kept by both Community Services and the NSWPF in the JIRT in relation to all three sources of information were insufficient to determine what had been known and communicated.

In another case, a JIRT police officer and a JIRT caseworker interviewed a child about allegations of sexual abuse. The notes of interview from the caseworker indicated that the child had made a clear disclosure of sexual abuse. Subsequent briefing notes – including those signed by the caseworker – made no reference to this disclosure. The allegation was not investigated further either as a criminal or child protection matter. It is unclear from the records how this decision was reached. Allegations of sexual abuse of these children were later sustained.

In both cases, it appears that poor record keeping practices associated with the informal exchange of information between NSWPF and Community Services within JIRT units created a significant risk to the accuracy of information used to inform risk assessments and

who both had substance abuse and mental health issues – were not meeting the child's health needs.

In finalising the investigation, we highlighted the critical need for effective interagency communication and planning in high-risk cases like this. We recommended that the three agencies involved – NSW Health, Community Services and the DEC – consider:

- how high risk cases, including instances of medical neglect, can be handled more effectively in the future
- whether the case should be the subject of a broader multi-agency systemic review focused on why the collective practice shortcomings occurred
- what related lessons should be applied to child protection practice more generally.

We also made a number of recommendations about specific agency policies and guidelines, working groups and audit processes. All three agencies have advised us

that they have met and are implementing a number of actions to address the shortcomings we identified. We are monitoring this work.

### CS48: Escalating risks

This year, we completed our investigation into Community Services's response to a 14 year old girl with a significant child protection history, mental health vulnerability and a recently acquired brain injury. The girl had been the subject of many ROSH reports indicating increasing risk of sexual and other harm. Her mother was willing to engage with services, but lacked the capacity to protect her daughter. Other services were willing to provide support, but were unable to do this effectively because of the girl's frequent absconding. Reports were repeatedly closed due to 'competing priorities'.

In response to our investigation, Community Services allocated the girl a caseworker and convened an inter-

criminal investigations. We will be recommending changes to JIRT policy and practice in this area.

## Reviewing the circumstances of adolescents at risk

In 2011, we investigated the circumstances of a highly vulnerable 14 year old girl who was reported to be sleeping on the streets in the company of a 46 year old male who was known to police. Case study 48 provides further details on this investigation.

This case, along with our child death and other review and investigative work – including extensive work with Aboriginal communities (see case study 49) – highlighted the urgent need for an improved response to older children and adolescents in high risk and unsafe circumstances. Our *Keep Them Safe?* report also stressed the critical importance of developing a policy and practice framework for supporting vulnerable older children and adolescents. This is particularly important where there is evidence of serious physical or sexual abuse, significant risk of death from abuse, neglect or suicide, or a lack of the basic necessities of life. After the tabling of *Keep Them Safe?* in September 2011, we were informed that an Adolescent Working Group had been formed to look at how service systems and supports for ‘at risk’ adolescents and their families can be strengthened and improved.

There are a range of issues affecting service provision to vulnerable young people. They include:

- a lack of available accommodation options for older children and adolescents with complex and high needs
- a pattern amongst the young people of habitual non-attendance at school

- the early development of serious drug and alcohol problems and mental health issues
- the regular involvement of police in response to the children’s lack of safety and criminal activities.

Against this background, we decided to review the circumstances and service system responses to a group of seven particularly vulnerable young people who had come to our attention through various pathways, and refer the findings of this review to the Adolescent Working Group for their consideration.

Through these reviews, we aim to highlight the significant challenges involved in responding to young people who have experienced chronic sexual, physical and/or psychological abuse – as well as the practical supports and interventions needed to protect young people in high risk circumstances from experiencing further abuse.

## Recognising and responding to educational neglect

For several years, our monitoring and investigation work has included cases where significant risks to children and young people have included chronic non-attendance at school. Our experience, based on cases such as the death of Ebony in 2007, shows that habitual absenteeism is often associated with other risk factors.

That experience is consistent with our review of the circumstances of the seven vulnerable young people referred to earlier in this chapter. As a group, their histories include mental health problems, physical or sexual harm, neglect, transience and contact with various agencies including police and Community Services. At the time of our review, none of these children had been regularly attending school.

## Case studies

agency meeting to assess her needs. Unfortunately, the local Community Services Centre (CSC) continued to rely on the girl’s mother and other services to reduce risk – despite clear evidence that they were unable to do so. The caseworker acknowledged that they had no clear idea how to effectively intervene in the girl’s life. The CSC lacked the expertise to coordinate effective action and risks to the girl continued to escalate.

We emphasised the need for Community Services to better coordinate their response with mental health and other services. We also suggested that they explore legal options to prevent further sexual and other harm. In our view, the mother’s lack of capacity was a significant feature of the case and her willingness to support her daughter did not justify a lack of intervention by the CSC.

Finally, after an incident of very high risk to the girl and her mother, Community Services placed the girl under a temporary care agreement. Due to a lack of available and appropriate placement options she was accommodated

in a motel where she received individual round-the-clock care from two specialist adolescent support workers. Community Services have now secured an intensive placement for her which is available long term. Legal measures to respond to imminent risk of harm are being considered and psychiatric assessment continues. Community Services and mental health appear to be working more closely to meet the girl’s needs.

This case raised concerns about Community Services’s capacity to work effectively with adolescents, to respond appropriately where children or young people have a dual diagnosis – such as mental health problems and brain injury – and to work effectively with other services. We have requested updates on the girl’s situation, further details of improvements at the local CSC in their approach to high risk adolescents, and advice on Community Services’s contribution to the working group on responding to vulnerable adolescents.

In 2010, together with other reforms under Keep Them Safe, educational neglect was introduced as a specific statutory ground for making a child protection report. This meant that in certain cases schools could seek the assistance of Community Services in responding to chronic non-attendance.

In 2011, we obtained and reported publicly on data indicating that Community Services was providing a lower level of response to reports about educational neglect than to other reported risks. We also received information raising concerns about their policy and practice in this area. As a result, we decided to investigate how Community Services was dealing with this new area of statutory child protection work.

Our investigation identified concerns about whether Community Services's policy on educational neglect complied with the child protection legislation. In particular, we were concerned about policy that stipulated that Community Services would take no action on reports where educational neglect was the sole reported issue unless education authorities had already done everything in their power to resolve the case.

In our view, schools are not always in a position to identify and report on risks to a child. Indeed, teachers may not even be able to contact or find the family of an absentee student. We believe that what is required is a flexible and integrated policy based on an assessment of which agency – or agencies – may be best placed to obtain and assess critical information and respond accordingly.

We have finalised our investigation and recommended to Community Services that they report back to us about their plans and actions to amend their policy and improve their collaboration with agencies such as the DEC in responding to educational neglect.

Given that an interagency group of senior officers has been considering the issue of educational neglect, we have also sought advice about the progress of work by this group.

## Checking if leaving care planning has improved

In February 2012, we started a group review of a sample of young people who had recently left care to see if practices in supporting them to transition from statutory care had improved since we released our report in 2010.

Our earlier review found many young people were leaving care without an endorsed leaving care plan, administrative arrangements were cumbersome and protracted, and young people with high support needs were generally not well supported.

Community Services responded to the problems we identified by developing and implementing revised leaving care procedures, a new case planning framework, and resources for young people and carers. However, they were not able to tell us whether leaving care planning had in fact improved as a result of these initiatives.

We are currently looking at the situation of 90 young people who exited statutory care between October and December 2011, and focusing on the leaving care planning and support provided by designated agencies with supervisory responsibilities for these young people.

We are finalising the individual reviews and – based on the information we have reviewed to date – it seems that a significant proportion of the young people still left care without an endorsed leaving care plan. We plan to consult with Community Services and key stakeholders before finalising our review and releasing the report.

## CS49: Supporting Children, Supporting Families

We received a complaint from the mother of a 15 year old Aboriginal girl about her daughter's treatment by the DEC. The girl's mother complained that the school had not provided adequate support to address her daughter's suspensions from school, and had delayed in re-enrolling her in school. We were able to resolve the specific concerns raised by the girl's mother with the DEC, but the complaint raised broader concerns about the girl's ongoing welfare and safety that required further examination.

We checked education, police and juvenile justice records which confirmed that – in addition to being at significant risk of educational neglect – the girl had already had substantial contact with police and juvenile justice. She was the subject of more than 300 police event records and had been charged with a variety of offences. Of significant concern, were recent records which showed that the girl and her friend were being supplied drugs in exchange for sexual favours. These matters were investigated by police.

Our inquiries with the DEC also revealed that, due to the girl's risky behaviour and problematic school history, she and her friend had been referred to the Supporting Children, Supporting Families program. This interagency case management program – the largest of its type in the state – is designed to coordinate and provide effective responses to young people identified to be at risk to themselves and others. During the course of our inquiry, we received information from agency representatives participating in the program that it was not operating well in that location and was not providing the type of support needed to manage the very complex risks faced by the girl.

As a result of these concerns, and similar problems raised with us by agency participants in the program in other parts of the state, we decided to initiate an inquiry into certain aspects of the operation of Supporting Children, Supporting Families. In particular, we will examine the actions taken by the program to support the girl in question and her friend.

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## Screening carers and carer households

We have recently investigated several matters where inadequate screening of carers – or adults closely associated with or living in carer households – has resulted in serious risk, and in some cases actual harm, to children.

In a number of these matters, we were concerned about the adequacy of risk assessments carried out in relation to the partners of carers or when household circumstances changed. In some cases, relevant police and Community Services information – which pointed to unacceptable levels of risk – was not passed on to designated agencies. Even when relevant information was available, it was not always properly considered in risk assessments. We also identified instances where the standard of assessment for kinship carers appears to have been inadequate.

It is vital there is a consistent and rigorous approach to screening and assessing carers and carer households. In September 2011, we hosted a roundtable discussion with Community Services, the Children's Guardian, the Commission for Children and Young People and OOHC peak organisations to work towards achieving such an approach.

The roundtable showed that Community Services and the non-government sector needed to develop a common policy and practice framework – and Community Services and the Association of Children's Welfare Agencies hosted further roundtables in March and May 2012. A significant number of non-government OOHC agencies were represented, along with peak bodies, the Children's Guardian and our office.

Agreement was reached on a number of critical policy areas, including:

- ensuring equivalent standards are applied when assessing kinship carers and general foster carers
- requiring all members of carer households to be included in the carer assessment process
- having consistent types of information considered when doing probity checks.

The outcomes from these meetings will inform Community Services's carer assessment policies and advice to the non-government sector. The Children's Guardian will also use the outcomes when they consider legislative change to mandate probity and other checks for screening authorised carers and other household members.

Developing a common practice framework is particularly important as OOHC placements move from Community Services to the non-government sector and we will continue to monitor progress in this area.

## Promoting information exchange

As part of an investigation finalised in June 2011, we highlighted the need for Community Services to take proactive steps to provide non-government OOHC agencies with information which is relevant to each

agency's assessments of potential foster carers. As a result of this investigation, Community Services wrote to the heads of designated agencies to promote awareness of their right to request relevant information from Community Services about prospective foster carers.

While we welcomed this initiative, we remained concerned that Community Services proposed to only provide information on substantiated ROSH reports. The majority of ROSH reports are not assessed because of current capacity issues, but these reports may contain highly relevant information. Our view is that all records should be considered on a case-by-case basis. If there is information that indicates potential significant risks, it should be provided for carer assessments.

After extensive negotiations with Community Services and debate on this issue at the carer screening roundtable, it was agreed that all carers should be subject to the same screening processes. Community Services have also agreed that they will provide non-government OOHC agencies with information about prospective carers if the information contains clear evidence of risk to children.

## Improving processes for managing registered child sex offenders

Managing registered child sex offenders in the community is a significant challenge, and it is critical that all government agencies have a clear understanding of their roles and responsibilities. We convened a meeting with Community Services, the NSWPF and CSNSW and they agreed to set out their respective roles, responsibilities, powers and limitations in a single document to make it easier for front-line staff from each agency to know how they should respond to child protection risks in the future.

CSNSW and Community Services are now working together to develop a standard information exchange request form which mirrors the form currently used by Community Services to obtain information from the NSWPF's Child Protection Register. The information in these forms will ensure that CSCs have a comprehensive set of facts about the person in question.

The three agencies are also working together to routinely provide advice from:

- Community Services to CSNSW before a sex offender is released into the community.
- Community Services to the NSWPF to support an application for a Child Protection Prohibition Order – if the risks posed to a child are considered to be unacceptable.

In addition, specialists within Community Services's Clinical Issues Unit are being trained to provide advice to CSCs when they are assessing ROSH reports involving a registrable person. CSNSW and the NSWPF have also agreed to participate in this process.



## Strengthening probity checks

Last year we reported on early signs of change in the health and human services sectors in response to concerns we raised in our December 2010 special report to Parliament – *Improving Probity Standards for Funded Organisations*. In our report, we highlighted the risks and inefficiencies associated with the confusing array of processes used to screen prospective employees, board members and others involved in planning or delivering government-funded services to vulnerable people.

There is now strong momentum for change – with the Department of Family and Community Services (FACS) moving to develop standardised, sector-wide requirements to improve the quality and consistency of probity checking.

Previously, just one of the FACS agencies – Ageing, Disability and Home Care (ADHC) – had acted decisively to strengthen and clarify probity standards in the organisations they fund. Although ADHC's approach was a step in the right direction, we were concerned that FACS's failure to require its other agencies to adopt common standards meant that the gaps and inconsistencies would persist. So, even if a non-government organisation (NGO) adopted the new standards to qualify for ADHC funding, different rules would continue to apply in programs funded by other sources – even by other agencies within the same department such as Community Services and Housing NSW. A related concern was the voluntary nature of the checks required, with no obvious sanctions for funded organisations that failed or refused to adopt probity checking requirements.

In April 2012, FACS addressed our outstanding concerns by confirming that:

- From 1 July 2012 the Community Services and ADHC divisions, two of the biggest providers of funds and subsidies to NGOs for the delivery of community-based services in NSW, 'will introduce new Service Agreements incorporating the requirement for a baseline approach to probity checking by funded organisations'. This means that NGO annual compliance and accountability reports must address probity requirements against agreed standards. Also Housing NSW, another major funding source, had taken steps to have the requirement included in the National Regulatory Code for Community Housing Providers – so that the same approach would apply to that sector after the start of the National Regulatory System.
- In partnership with National Disability Services, the Association of Children's Welfare Agencies and Aboriginal Child, Family and Community Services State Secretariat, FACS are funding targeted strategies to improve the ability of all funded organisations to deliver in accordance with agreed governance and risk management standards.

We also sought advice on whether the FACS commitment to providing 'targeted support and strengthening for some

NGOs' might be used to apply these broader probity strengthening measures to assist a particular organisation that we had concerns about. We were told that Community Services's actions to raise standards at this particular service included providing advice and training on board governance and responsibilities, a program to assist specialist homelessness services in meeting their service level specifications, guidance to the NGO on meeting its service level agreement and applying good practice guidelines, and regular meetings to monitor progress. Community Services reported that the NGO was making 'significant progress' in the audited annual financial and compliance reports they now provide.

## Employment-related child protection

The heads of all government and some non-government agencies – including non-government schools, approved children's services and agencies providing substitute residential care – are required to notify us of any reportable allegations or convictions involving their employees within 30 days of becoming aware of them. From 1 January 2012, designated children's services include out of school hours (OOSH) services.

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 that they have in place to prevent this type of conduct and to respond to allegations against their employees.

## Handling notifications

This year, we received 1,157 notifications of reportable conduct and finalised 931 (see figure 42). In 2010–2011, the number of notifications we received from Community Services, Juvenile Justice and the substitute residential care sector had noticeably decreased. This was largely because of the extended class or kind determinations with these sectors that exempted certain types of allegations from notification to the Ombudsman. At our suggestion, in 2011–2012 Community Services reviewed their decision-making in relation to matters that can be exempted under the determination. This has resulted in an increased number of notifications from them this year. Notifications from other sectors remained relatively consistent with previous years.

**Fig. 42: Formal notifications received and finalised**

Matters	07/08	08/09	09/10	10/11	11/12
Received	1,850	1,667	1,366	804	1,157
Finalised	1,921	1,672	1,442	1,251	931



**Fig. 43: Formal notifications received by agency – a two year comparison**

Agency	10/11	11/12
Approved children's services	81	80
Ageing, Disability and Home Care	8	17
Community Services	71	342
Corrective Services NSW	6	9
Department of Education and Communities	316	335
Health (including local health networks, the Ministry of Health and statutory health corporations)	20	25
Juvenile Justice	20	35
Sport and Recreation	0	1
Family Day Care	18	15
Agency outside our jurisdiction	4	1
Non-government school - catholic	39	52
Non-government school - independent	63	63
Out of school hours (OOSH)	–	2
Other public authority	22	18
Other public authority - local government	3	3
Substitute residential care	133	159
<b>Total</b>	<b>804</b>	<b>1,157</b>

A third of the notifications we received (33%) involved allegations of physical assault, and nearly a third (28%) involved sexual offences or sexual misconduct (see figure 45). Figure 46 breaks down the notifications received by the sex of the alleged offender.

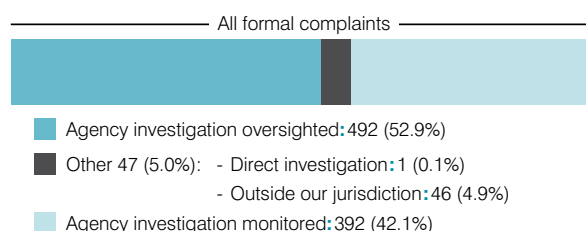
**When we receive a notification, we assess the level of scrutiny required and the agency's need for assistance. This assessment considers the seriousness of the allegation, the vulnerability of the alleged victim and other children, our knowledge of the agency's systems and the complexity of the situation. When we monitor an individual matter, we may offer advice about developing an investigation plan and guidance about the investigation process and appropriate findings.**

This year, we closely monitored 392 notifications, or 42% of all finalised matters.

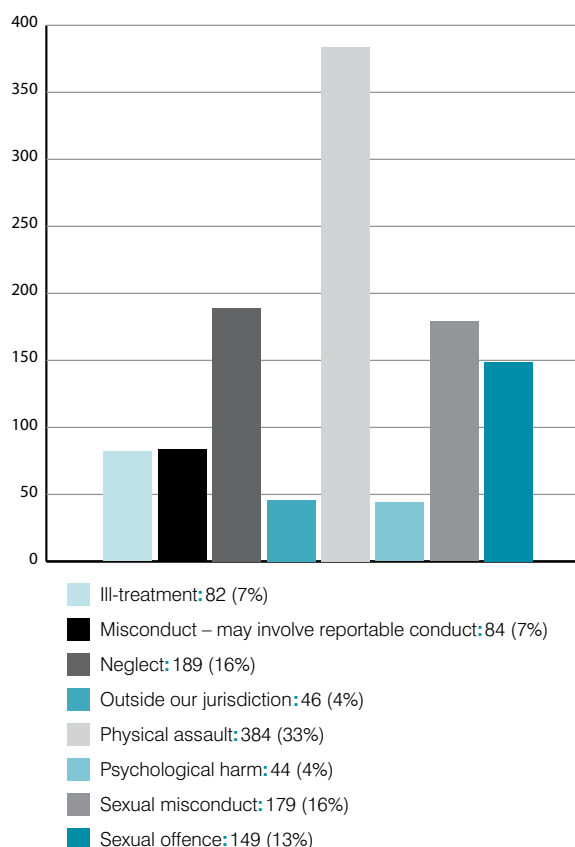
Figure 44 outlines the actions that we took on formal child protection notifications that were finalised. The majority of notifications were satisfactorily handled by the agency, although some required intervention from us before we were satisfied they could be finalised. This included requesting additional information, asking the agency to undertake further inquiries, or formally requesting a review of findings.

If we identify significant systemic issues arising from a notification, we may audit the agency's systems or start a direct investigation. When we identify particularly good investigative practice by an agency, we always acknowledge it.

**Fig. 44: Action taken on formal child protection notifications finalised in 2011–2012**



**Fig. 45: What the notifications were about — breakdown by allegation**



**Fig. 46: What the notifications were about – breakdown by sex of the alleged offender**

Issue	Female	Male	Unknown	Total
Ill-treatment	34	17	0	51
Misconduct - may involve reportable conduct	17	50	0	67
Neglect	77	22	0	99
Outside our jurisdiction	27	16	4	47
Physical assault	168	167	1	336
Psychological harm	24	18	0	42
Sexual misconduct	43	148	0	191
Sexual offence	16	81	1	98
<b>Total notifications received</b>	<b>406</b>	<b>519</b>	<b>6</b>	<b>931</b>

## Responding to inquiries and complaints

We received 543 inquiry calls this year, a slight decrease from the 647 received last year. Most inquiries were from agencies with queries about our jurisdiction or wanting advice about how to assess the level of risk or manage the investigation process. However, we also received inquiries from employees who were the subject of allegations and from alleged victims and their families. As in previous years, the concerns most commonly raised by employees were about a perceived lack of procedural fairness and the notification process to the Commission for Children and Young People. A quarter (25%) of all inquiries received related to children's services, including childcare centres and family day care services.

This year, we received 64 complaints and finalised 57. In many of these matters, we finalised the complaint after making inquiries with the agency or asking them to take certain action to respond to the concerns raised by the complainant. Although our complaint-handling continues to be a small component of our employment-related child protection work, it provides us with valuable information about the systems that agencies have for preventing reportable conduct and handling reportable allegations.

## Investigating systemic issues

We generally focus our resources on investigating matters that reflect systemic issues. Over the past year, we have finalised eight investigations and started three more. Case study 50 – which relates to our investigation of the carer

## Case studies

### CS50: The risks of poor assessments

Community Services notified us of a foster carer who was found to have failed to protect her teenage daughter from physical and sexual abuse by the carer's male partner and his adult son. The home was characterised by serious domestic violence, and evidence suggested that the carer had been aware of the alleged abuse her daughter experienced from both men – and had facilitated and been present during the abuse perpetrated by her partner.

Information available on the KiDS database indicated the carer had been the victim of persistent interfamilial and intergenerational child sexual abuse. We believed the carer assessment process had not considered the impact of the woman's history on her ability to look after and protect children in her care, or the role the woman's partner played in the home.

Community Services had also not checked the information they had on the woman's children. We found that they held a great deal of information to suggest she may not have been suitable to be a foster carer and that her partner posed a risk to any children placed in the home. This information would have been identified if Community Services had followed their own carer assessment policy.

There were also a number of broader policy and practice shortcomings. For example, the partner of an applicant to become a foster carer for Community Services is not required to be involved in any part of the assessment or be subject to any probity checking if they live in the home less than five nights per week.

Community Services has responded positively to our recommendations. Our comments on the policy for carer assessment and screening have informed discussions at the carer screening roundtable. (See page 78).

### CS51: Criminal activity at foster home

We received a notification about a foster carer whose home had been raided by police due to criminal activity. The foster children were immediately removed, but the carer said she didn't know what her adult sons had been doing at her home. The OOHC agency was led to believe that the criminal activity had been a one-off incident that the carer may reasonably have not been aware of, so the children were returned to her care.

We conducted own motion inquiries and collected information from the police database. This showed us that the carer's sons had been known to police for suspected

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assessment process used by Community Services – is an example of this work. In response to that investigation, the Minister for Community Services stated:

*I am grateful for your thorough and detailed investigation. This is a very significant report and provides an opportunity for learning and professional development. I believe your observations in this case can pave the way for improvements in policy, standards and practice.*

As the number of reportable conduct notifications to us has reduced and we redirect our resources to achieving the best results in higher risk matters, we have significantly increased the use of our own motion powers.

We often use these powers to obtain information directly from the Community Services database (KiDS) and the NSWPF database (COPS). Combined with our own data holdings, we are in a unique position to review relevant information across key agencies involved in child protection.

Case study 51, shows how the increase in own motion work has achieved significant outcomes for individual children as well as promoting child safety more broadly.

## Improving the mandatory reporter guide

The mandatory reporter guide (MRG) is an interactive online tool that helps people to decide whether to make a Helpline report. The user answers a series of questions designed to work out whether there is a current risk of significant harm to a child. Based on their answers, they

get advice on whether to make a Helpline report or to take some other action.

In 2010, as part of our investigation of Community Services's handling of a historical allegation against an employee, we raised concerns about the capacity of the MRG to accurately identify current risks to children when the allegations made relate to conduct that occurred some years ago. It did not provide any guidance about handling historical child abuse allegations or prompt the user to consider whether there could be a current risk to children other than the alleged victim.

In response to our investigation, Community Services reviewed their handling of the matter and related policy. They found that the screening tool for Helpline staff had been incorrectly applied. The alleged victim had been recorded as an adult and the report was closed on that basis – without any consideration of whether there might be an ongoing risk to other children.

Community Services took action to address the problems arising from this error, and acknowledged the need to develop the MRG and the internal Helpline screening tool to better accommodate historical allegations. They have recently advised us that:

- an explanatory paragraph about historical allegations has been added to the opening screen of the MRG
- a definition of 'historical allegation' has been added to the MRG manual
- a definition of 'class of children/ young people' has been added to the glossary in the MRG manual.

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## Case studies

and actual criminal activity – linked to the carer's address – for several years. This information, and the nature of the activity, made it appear less likely that the carer could have been unaware of her sons' actions and the risks they posed to her foster children. In addition, while two of the carer's sons had been charged and incarcerated over the offences, another son had not been implicated and continued to frequent the carer's home. Information that we obtained from the police database suggested that this third son could pose a further risk to the children in the home. The OOHCA agency was not aware of any of this information, which we considered was integral to an accurate assessment of the children's safety with the carer.

We contacted the police and provided an outline of the information we had obtained. We asked them to consider releasing the information to the OOHCA agency under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*. Police released the information and the agency was then able to conduct a fully informed assessment of the suitability of the placement for the children and implement risk management strategies to ensure their safety.

### CS52: A very belated response

A foster carer was accused of sexually assaulting a child in their care. The allegations were initially reported to the Helpline in February 2008, but at that time Community Services did not identify the carer and closed the matter.

In 2009, Community Services reviewed their intelligence holdings about this carer, found the initial report, and notified us of the allegation against the carer – but not the police. They then suspended the investigation because of concerns about its impact on one of the alleged victims, now an adult, including their unwillingness to cooperate with a criminal investigation. Throughout our monitoring of this matter, we were advised that Community Services was continuing to seek 'advice' about how to progress their investigation – but they were unable to tell us the specific nature of this advice or when they would restart their inquiries. We suggested the agencies involved met to obtain specific information about the concerns held for the alleged victim, to discuss the impact of the continuing delays on the carer, and to identify appropriate lines of inquiry to progress this matter.

Although these actions address some of our concerns, we have identified other areas of the MRG that may need further development. For example, while the opening screen now contains information about historical allegations, there is no reference within each MRG 'decision tree' to assessing historical allegations. Also, Community Services advised us that the final screen of each decision tree now prompts users to consider risks to 'additional children'. However when we tested the MRG ourselves, we noted this prompt has not yet been added to the final screen. We met with Community Services who made a commitment to amending the final screen in each decision tree, as previously advised. They also agreed to consider amending the MRG to more prominently display the information on historical allegations.

## Handling historical allegations

Agencies often face problems when investigating allegations relating to conduct that occurred some years ago. It can be difficult to locate witnesses, witnesses may have poor recall of events, and relevant records may have been lost or damaged. Witnesses, including alleged victims, may also be unwilling or unable to be interviewed and may not want to be involved in a criminal investigation. As these types of allegations are often made by alleged victims who are now adults, agencies also often identify them as a lower priority for investigation. Case study 52 is a good example of this.

## Actively managing risks to children

When we oversee the handling of matters, we review the risk assessment action taken by the agency both during and after the agency investigation. In case study 53, we believed the DEC managed the risk posed by a teacher appropriately during the investigation. We did not believe the risk management after the investigation was completed was satisfactory.

## Working with the NSWPF on child protection issues

### Sharing police information

In last year's annual report, we outlined our discussions with the NSWPF about the use of police intelligence as part of the working with children check process. Police intelligence is held separately from information about a person's criminal charges or convictions, but it can sometimes provide credible information about the risks the person might pose to children in a work environment. Although there are clear benefits in accessing police intelligence for this purpose, safeguards would need to be put in place if such a process were to be adopted.

Legislation was passed in June 2012 to introduce a new system for conducting working with children checks, which will be phased in by the end of 2012. Under this new system, people will be accredited to work with children for up to five years and will be continuously monitored for new incidents of serious criminal activity or workplace discipline. Although the new system will now ensure that a person's full criminal history will be considered, there

In 2011 we decided to formally investigate Community Services's handling of the allegations, given our concerns about the timeliness and adequacy of their response. As a result of our investigation, we recommended that Community Services:

- progress their own investigation and advise us of the results
- review their investigation practice in this matter
- provide us with a draft of their revised policy and practice guidelines for investigating reportable allegations.

In response, Community Services acknowledged the deficits in their investigation and made a commitment to address the practice issues raised by our investigation. We are currently monitoring their compliance with our recommendations.

### CS53: Downloading inappropriate material

In February 2011, the DEC notified us of allegations that a teacher had accessed and downloaded child pornography. DEC told us the teacher was being investigated by police. The notification referred to an earlier police investigation in 2008 – involving similar

allegations made against the same teacher – where no charges were laid. We were not notified of this earlier matter at the time.

DEC advised that the 2008 investigation revealed the teacher had paid for membership of child pornography websites and downloaded images, including those of girls under the age of 15. DEC reprimanded and cautioned the teacher and transferred him from a role involving one-to-one contact with children to a classroom teaching position. They advised us that we had not been notified at the time due to an 'oversight'.

We had significant concerns about DEC's handling of the 2008 complaint. We started an investigation and asked if any risk assessment had been done before and after the teacher's transfer to classroom duties. We also asked about the circumstances which led to DEC's failure to notify the Ombudsman, as required, and whether any other action was taken at the time – including whether the Commissioner for Children and Young People (CCYP) was notified.

DEC acknowledged that they had failed to notify us of the initial matter and had only notified the CCYP in June

will still be no standard evaluation of police intelligence holdings during a working with children check or during the monitoring of the person's criminal activity.

In March this year, we met with senior police personnel to discuss the proposed changes to working with children checks and the possibility of integrating police intelligence into the new process. They agreed that this type of information is highly valuable for workplace child protection, but noted that there could be a significant imposition on existing police resources to ensure a comprehensive review of intelligence holdings is done and appropriate quality assurance processes are put in place. The resourcing and risk implications of such an approach are currently being considered by the NSWPF and we will seek a formal response in the near future.

This year we were involved in a number of matters (case studies 54 and 55) where the sharing of information from police intelligence holdings has enabled agencies to better protect children.

### Implementing new procedures

Last year, we reported on our work with the NSWPF in developing and implementing standard operating procedures (SOPS) for handling employment-related child abuse allegations of a criminal nature. The SOPS aim to improve the quality and timeliness of communication between agencies about the investigation of criminal allegations that also constitute reportable allegations.

Since the implementation of the SOPS, we have noted an improvement in the liaison between agencies and the NSWPF when jointly dealing with reportable allegations.

## Case studies

2011. They had not placed any restrictions on the teacher's duties – even in relation to excursions and one-on-one contact with children – and his use of departmental computers was not restricted or monitored. We believe that additional action ought to have been taken to manage the risk the teacher may pose.

Initially, DEC advised that the cost to monitor the teacher's computer use would have been 'prohibitive' and that they did 'not have the technical capacity'. However we are pleased that, after further discussion with our office, DEC is now reviewing their current practice in relation to the use of departmental computers. We are currently working with DEC on the outcome of its review. DEC has told us that it has changed its procedures to ensure that risk assessments are conducted after investigations in serious matters.

### CS54: Police intelligence reveals a different story

We monitored an agency's investigation into an employee who was subject to allegations of sexual misconduct involving a young person. The employee had told the investigating agency that he had never engaged in similar conduct before and that the allegation under investigation

### Reducing multiple profiles

The nature of the NSWPF operational database means that multiple civilian profiles (called CNIs) can be created for a single person. This causes problems when agencies are doing a working with children check because information relevant to child protection may not be linked to all of the person's profiles on the database. Multiple CNIs can be created because people change their names or because they do not have proper identification when they come into contact with police. The most accurate way of identifying a person is through fingerprinting.

Last year we became aware of a number of cases where multiple CNIs led to a failure to identify risks to a child's safety. We raised the issue with the NSWPF, who informed us that they had established an Identification Working Group.

In March this year, we met with NSWPF for an update about progress made by the working group. We were told that a suite of measures aimed at reducing the incidence of multiple CNIs are being examined – including matching fingerprint records and technology-based solutions to improve field-based fingerprinting processes. Since then, we have systematically collected case examples of people who appear to have multiple CNIs who have come to our attention through our child-related employment oversight work. We established a protocol with the NSWPF to provide this information to the central unit responsible for managing identification issues, as well as the relevant local area command. Given the importance of this issue we will continue to share relevant information we identify and closely follow the progress of initiatives being led by the Identification Working Group.

was an aberration. However, information we had obtained using our own motion powers showed that the NSWPF had intelligence holdings about the employee allegedly having engaged in very similar conduct in the past. After consulting with the NSWPF, we advised the investigating agency that information held by NSWPF could be relevant to the current investigation. After a request from the agency, the NSWPF released details of their intelligence holdings to assist the agency in their investigation.

### CS55: Working together to identify risks

The NSWPF had gathered intelligence about a person acting suspiciously towards young people on a number of occasions. They interviewed the person and he said he worked with children as a teacher. NSWPF told his employer that they held information which suggested that he may represent a risk to children, and that this information could be released in response to a request made under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*. The employer sought the information and, having considered it, took significant steps to manage the risk that this person posed to children.



## Working with agencies to strengthen child protection

### Out-of-home care

The most serious reportable conduct allegations are often made in relation to children and young people in the setting of a foster carer's home. The non-government OOHC sector in NSW is currently undergoing rapid and significant growth, with the planned transfer of most OOHC placements from Community Services to the non-government sector. One of the risks associated with this transfer relates to the capacity of these agencies to manage the substantially increased number of reportable allegations that will inevitably result from the transfer.

Community Services currently has a Reportable Conduct Unit (RCU), which helps to ensure consistency in the handling of reportable allegations. It is a specialised professional unit that handles all reportable conduct matters relating to Community Services employees, including authorised foster carers.

There is merit in considering whether the non-government OOHC sector should have access to a similar centralised unit with the requisite knowledge and skills to help handle reportable conduct cases. We have recently had a number of discussions with the sector to encourage consideration of this critical issue and to find out about the current child protection practices of non-government OOHC agencies. This will also help us to target our training, support and audit work for 2012–2013.

### Life Without Barriers

In 2011, we investigated how Life Without Barriers (LWB) assessed and authorised three foster carers. We found evidence of inadequate risk assessments for these carers – which meant that all children placed with them had been exposed to significant risk. At the end of our investigation, we made recommendations to both resolve the situation for the children concerned and to address systems and practice issues in LWB's OOHC services.

In August 2011, LWB finalised their 'NSW Out of Home Care Review 2011' and developed a Quality Assurance and Improvement Plan which was subsequently endorsed by the Department of Family and Community Services and the Children's Guardian. We agreed with the Children's Guardian that they would monitor the implementation of the plan as part of their re-accreditation process.

We are also working with LWB to develop and implement revised policies and procedures for handling complaints. We have audited their handling of reportable allegations, particularly focusing on those allegations that have been exempted from notification to us under a 'class or kind' agreement. We also assessed their general child protection policies and procedures and found that they had done a comprehensive review of these during 2011. LWB have made real improvements in their investigation of reportable allegations and in training their employees about child protection issues generally.

### Approved children's services

As part of the move towards a more integrated system under the National Quality Framework, the licensing and approval of children's services moved from Community Services to the DEC in 2010. We are working with DEC's Education and Care Directorate to educate the children's services sector about their responsibilities to identify and notify us of reportable allegations. We also plan to work more closely with the directorate to monitor and assist individual childcare services to respond to allegations against employees, particularly where children are at risk of significant harm.

### Out of school hours services

Since 1 January 2012 and the start of the Children (Education and Care Services) National Law, all OOSH services in NSW are now required to notify us of any reportable allegations or convictions involving their employees within 30 days of becoming aware of them.

We have received two notifications from OOSH services since the start of our oversight role, which is less than would be expected from a sector consisting of over 1400 government and non-government service providers. We will work with OOSH services in the coming year to increase their awareness of our role in overseeing the handling of reportable allegations and convictions.

### Non-government schools

Last year, we began working with the Association of Independent Schools (AISNSW), the Christian Schools Association (CSA) and the Christian Education National (CEN) to promote consistency across the sector and identify new ways of supporting schools to make sure they fulfil their child protection responsibilities.

CSA and CEN have now developed proposals to provide comprehensive systems for outsourced child protection advice, training and support to their members. We believe these initiatives provide a solid basis for strengthening child protection practice in CSA and CEN member schools. In late 2011, we issued class or kind determinations to CSA and CEN exempting the need for less serious reportable allegations to be notified to our office. In March 2012, we also entered into a revised class or kind determination with AISNSW.

## Reviewing the deaths of children

### Streamlining what we do

Under CS-CRAMA, the Ombudsman is responsible for reviewing the deaths of children who die as a result of abuse or neglect or in suspicious circumstances, and the deaths of children who were in care or detention when they died. We monitor and review the deaths of these children and make recommendations to help reduce or remove associated risk factors.

The NSW Child Death Review Team (CDRT) was established as a separate body to prevent and reduce the

deaths of children in NSW. Their role is to identify trends in relation to child deaths, undertake research to help prevent or reduce the likelihood of child deaths, and make recommendations about legislation, policies, practices and services to prevent or reduce the likelihood of these deaths.

Since February 2011, the Ombudsman has been the team's Convenor and we have been responsible for supporting their work. In November 2011, the *Children Legislation Amendment (Child Death Review Team) Act 2011* transferred the legislation governing the CDRT to CS-CRAMA and accommodated almost all the changes we had sought to resolve legislative problems.

Both the CDRT and our reviewable deaths team are required to report to Parliament about their work. The CDRT reports annually and we report on reviewable deaths biennially. We are currently preparing reports for all child deaths that occurred in 2011, and reviewable child deaths that occurred in 2010 and 2011. The CDRT Annual Report 2011 will be tabled in October 2012, and the report of reviewable child deaths that occurred in 2010 and 2011 will be tabled early in 2013. These reports can be accessed at our website.

Over the past year, we have worked towards achieving one child death register for all child deaths and reviewable child deaths – with an integrated function that provides for contextual reviews. This was the main rationale for the Special Commission of Inquiry into Child Protection Services recommending that the CDRT be moved to our office. We have also streamlined CDRT and reviewable child death work to address any duplication and minimise the burden on external agencies.

In March this year, we started a major review of the child death register and completed a business analysis and data needs specification for an integrated register. The intended long-term outcome is a consistent, reliable and sustainable register that enables meaningful data to be extracted for prevention purposes.

### Our work on child death reviews

In 2011–2012, we started or finalised eight investigations and one preliminary inquiry relating to the deaths of six children. We also sent 15 reports to agencies under section 43(3) of CS-CRAMA, drawing attention to issues we identified in our reviews of eleven children.

Our work this year also included:

- Producing and tabling the CDRT Annual Report 2010, which reported on the deaths of 589 children in NSW. Cause of death was known for 542 children, and the majority (445, 82%) died as a result of natural causes. The deaths of 87 children (18%) were related to external injury.
- Reviewing the deaths of 40 children who drowned in private swimming pools over the five year period 2007 to 2011. This analysis informed a joint CDRT/Ombudsman submission to the Review of the *Swimming Pools Act 1992*, and was used to produce a CDRT Issues Paper called 'Child deaths – drowning deaths in private swimming pools in NSW', which was released in May 2012.
- Seeking expert advice on measuring socioeconomic status and geographic reporting of child deaths. The National Centre for Health Information Research and Training is also working with us to develop an effective framework for reporting on multiple causes of death, so the CDRT can look effectively at risks associated with combinations of underlying, contributory and direct causes of death.
- Monitoring recommendations made by the CDRT in relation to sudden and unexpected deaths in infancy.
- Making representations to the Department of Forensic Medicine, the Office of the Coroner and the Minister for Health about delays in forensic and coronial processes.
- Establishing connections with agencies that have complementary aims to the CDRT. In collaboration with Community Services, we organised an Australasian conference on child death reviews. Held in August 2012, the conference focused on professional development opportunities for review staff and death review teams from across Australia and Asia.

### Disclosing information

As Convenor of the CDRT, the Ombudsman may authorise the disclosure of information relating to child deaths if it is in connection with research to help prevent or reduce the likelihood of deaths of children in NSW.

For the year 1 July 2011 to 30 June 2012, one such disclosure was authorised. This related to the provision of aggregate data for a chapter on inter-jurisdictional child death review data (Australia and New Zealand), published in the *Annual Report: Deaths of Children and Young People, Queensland 2011-12*. The Queensland Commission for Children and Young People and Child Guardian presently chairs the Australia and New Zealand Child Death Review and Prevention Group and prepares the national data as part of this role.

### Official community visitors

Official community visitors (OCVs) are independent, statutory appointees of the Minister for Disability Services and Minister for Community Services. There are currently 24 OCVs. They visit a range of residential services for children and young people and adults with disabilities in NSW. Visitable services include disability accommodation, such as group homes and large residential centres, as well as OOHRC residential services for children and young people and licensed boarding houses.

Visitors monitor the care that is provided in services, speak with services about any concerns they have about the quality of that care, and help residents to resolve their concerns and complaints.

OCVs are not independent caseworkers or advocates for an individual in the usual sense, even though they are responsible for identifying and raising issues on behalf of individuals or groups within a service. They take a broader view about the conduct of the service generally and consider the interests of all residents.

The visiting role is one that requires excellent communication, negotiation and diplomatic skills as well as persistence. OCVs must be able to work independently and have good planning and time management skills.

They need to understand the needs of, and issues affecting, the vulnerable people being visited and be aware of the standards and expectations of the different sectors.

The nature of the role means that OCVs primarily work alone, although there are occasional joint visits. However there are opportunities to meet with other OCVs at meetings, conferences and training days as well as ongoing contact with the OCV team at the Ombudsman's office.

The OCV team produces an annual report which provides a detailed description of the work of OCVs each year and some of the outcomes they have achieved. This report can be accessed on our website.

### Staff profile: Spiritual homecoming for our Aboriginal servicemen

Jemma Pigott is a project officer with the Strategic Projects Division of our office. Part of her role involves supporting our Aboriginal Unit.

In April this year, Jemma travelled as part of a group to Papua New Guinea (PNG) to film a traditional Aboriginal ceremony to bring home the spirit of Private Frank Archibald, an Aboriginal soldier who was killed on the Kokoda Trail during World War II. The group was led by Richard Archibald - Private Archibald's cousin.

The expedition was supported by the Kokoda Aboriginal Serviceman's Committee (KASC), which was formed in 2010 to support Richard's efforts to go to PNG. Our office had also had previous contact with Richard Archibald and provided some advice and assistance to the group in supporting them to achieve their purpose. Richard also expressed an interest in having the ceremony documented on film.

'Two students from the University of Wollongong were trying to make a documentary but so far, attempts to attract a professional production crew had been

unsuccessful' Jemma said. 'I told Richard I would love to help, so he put me in touch with the KASC, who invited me to join the two university students as a volunteer filmmaker'.

As part of a ceremony at the Bomana War Cemetery on Anzac Day this year, Richard removed soil from the grave of his cousin, which he brought back to Australia to be sprinkled on the graves of Private Archibald's family in another special ceremony. The group also performed similar rituals at the graves of six other Aboriginal soldiers.

Jemma is now involved in editing the footage, which will be made into a documentary. It is due to be screened in November, at an event commemorating the 70th Anniversary of the end of the Kokoda campaign.

'I hope the film will raise public awareness about the contribution made by Aboriginal soldiers to Australia's defence' Jemma said.

Read more about this story in our working with Aboriginal communities chapter on page 97.



# People with disabilities

Under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA), the NSW Ombudsman plays a key role in relation to people with disabilities. This role includes:

- handling and investigating complaints about disability services
- inquiring into major issues affecting people with disabilities
- reviewing the care, circumstances and deaths of people with disabilities in care
- coordinating Official Community Visitors (OCVs) in their visits to licensed boarding houses and supported disability accommodation
- monitoring, reviewing and setting standards for the delivery of disability services.

For more information about our work with OCVs, please see page 86.

## Handling and investigating complaints

Our functions under CS-CRAMA include:

- handling and investigating complaints about disability services
- reviewing the causes and patterns of complaints
- reviewing the systems that disability services use to handle complaints
- helping services to improve their complaints procedures and practices
- providing information and training about making, handling and resolving complaints relating to the delivery of disability services.

For more information about our training work, please see page 107.

## Complaints about disability accommodation services

This year, we received 351 complaints about disability services – a 9% increase from last year. Of these, 157 (45%) were about disability accommodation providers – accommodation operated, funded or licensed by Ageing, Disability and Home Care (ADHC).

The main issues reported in these complaints were:

- Meeting individual needs – for example:
  - placements that did not meet the needs of the person due to lack of compatibility with other residents or inadequate support
  - the adequacy of the support provided to meet the person's health or medical needs, including responses to presenting health issues and management of medication
  - the way in which residents or family members were treated in terms of communication and respect.
- Assaults/abuse – these complaints were mainly about resident-to-resident assaults and concerned the adequacy of actions taken by the service to respond to and prevent these incidents, the support provided to the victim of the assaults, and the service's communication with families about the incidents and the action being taken.
- Service management – the adequacy of staffing levels and the supervision of residents.
- Complaint-handling – a lack of response to complaints, delays in handling complaints, and inadequate steps to resolve complaints.

Case studies 56 and 57 are some of the complaints we have dealt with about accommodation services.

**Fig. 47: Formal and informal matters received in 2011–2012 about agencies providing disability services**

Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
<b>Community Services</b>				<b>ADHC</b>			
Disability accommodation services	0	0	0	Disability accommodation services	29	37	66
Disability support services	1	1	2	Disability support services	35	46	81
<b>Subtotal</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>Subtotal</b>	<b>64</b>	<b>83</b>	<b>147</b>
<b>Other government agencies</b>				<b>Non-government funded or licensed services</b>			
Disability accommodation services	3	3	6	Disability accommodation services	49	36	85
Disability support services	12	10	22	Disability support services	27	42	69
<b>Subtotal</b>	<b>15</b>	<b>13</b>	<b>28</b>	Boarding houses	0	0	0
				<b>Subtotal</b>	<b>76</b>	<b>78</b>	<b>154</b>
				<b>Non-specific inquiries</b>			
				Other (general inquiries)	0	3	3
				Agency unknown	2	15	17
				<b>Subtotal</b>	<b>2</b>	<b>18</b>	<b>20</b>
<b>Total</b>					<b>158</b>	<b>193</b>	<b>351</b>



## Complaints about disability support services

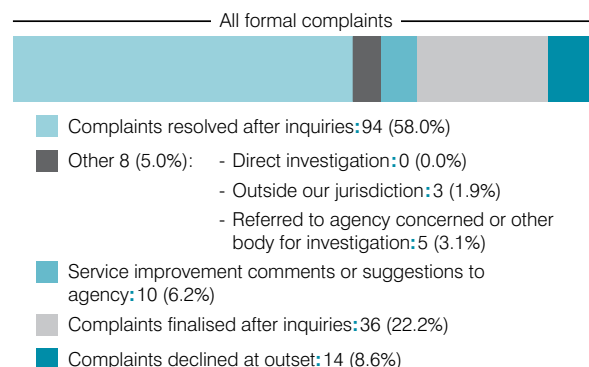
We received 174 complaints about disability support services – a 13% increase from last year. Disability support services are ADHC operated and funded services that provide community-based support for people with disabilities. They include Home and Community Care (HACC) services, post-school and day programs, respite care, case management services and drop-in accommodation support.

The main issues reported in these complaints were:

- Access to services – being unable to get access to respite, day programs, equipment and in-home support services.
- Customer service – services not being provided as agreed, failing to respond to telephone calls, frequent changes of carers and inconsistent arrival times.
- Meeting individual needs – the service not listening to what the client wanted, not involving the client in decisions that directly affected them, and not providing appropriate behaviour support.
- Assault/abuse – the complaints included both client-to-client assaults and staff-to-client assaults and concerned the failure of the services to adequately respond to the incidents. This included not investigating the assault, communicating with families, or providing appropriate support to the victims of the assaults.
- Fees and payments – delays in clients being reimbursed, service errors in fees charged, and clients being unable to afford support services.

Case studies 58 and 59 are examples of the types of complaints we deal with, and the outcomes we help to achieve.

**Fig. 48: Outcomes of formal complaints finalised in 2011–2012 about agencies providing disability services**



## Addressing systemic issues in ADHC-funded disability services

In 2011–2012 we received significant complaints about three ADHC-funded disability services. Two of the services provide accommodation and support services to people with disabilities, and one provides attendant care to people with disabilities living in their own homes.

Each of the services has been the subject of previous complaints to our office. Current and previous complaints relate to poor service provision, poor complaint-handling,

## Case studies

### CS56: Resolving compatibility problems

An OCV complained to us about the circumstances of three people living in a group home. We were told that the support needs, personality and interests of the residents were not compatible and this adversely affected their health and safety – resulting in frequent assaults, self-harming behaviour and ongoing anxiety. The OCV complained that the disability service had not taken adequate action to improve or resolve the situation. They had inadequate behaviour management strategies, had not taken action in response to a resident stating a wish to move to alternative accommodation, and had not helped the residents to access independent advocacy support.

We met with the residents at their group home to discuss the issues and the outcomes they were seeking. We had several discussions and made written inquiries with senior regional management of the service about the best options for resolving the situation and improving the circumstances of the residents. The service took a range of measures to resolve the problems. These included engaging expert clinicians to help develop specific strategies to support the female residents, implementing behaviour management strategies and reviewing their practice, and helping two of the residents to transition to alternative accommodation.

### CS57: Resolving conflict

The mother of a woman in a group home complained to us about the repeated assaults against her daughter by a co-resident. As a result of the assaults, she had removed her daughter from the group home and was supporting her at home until the service could ensure her safety. The complainant also raised concerns that the service was not communicating with her as the person responsible for providing medical and dental consent for her daughter, was not providing her daughter with adequate access to the community, and was using inadequately trained agency staff to support the residents. She had tried unsuccessfully to resolve the matter directly with the service.

After consulting with the complainant and the service, we referred the matter for local resolution between the parties and monitored the actions taken in response. The service met with the complainant and other key representatives – including advocates and the day program coordinator – and developed a transition plan for the woman to return to her group home. All parties agreed on strategies and guidelines to keep the woman safe and to minimise her anxiety, and staff received professional training in how to best support residents and minimise conflict. The service also told us that they had started a project aimed



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inadequate policies and procedures, failure to meet disability services standards and policy requirements, inadequate service management and governance issues. Our reviews of the deaths of people with disabilities in care and feedback from OCVs have also raised concerns about the adequacy and quality of the services provided.

The information we received raised considerable questions about the operation of these services, their compliance with legislative and policy requirements, and the adequacy of the mechanisms in place for service management to identify and respond to individual and service-wide issues. It also raised questions about how well ADHC was monitoring the services and their compliance with the terms of their funding agreements.

We sought advice from ADHC about their awareness of the reported issues, their monitoring of the services, and any actions they were taking about these matters. We found variations in the amount of monitoring activity. Two of the matters highlighted deficiencies in the work done by ADHC to address the identified problems and to adequately monitor the services to ensure the issues were resolved and service provision to clients was improved.

After our work with ADHC, each of the three services has had or will have detailed and wide-ranging service reviews conducted by ADHC or an independent party. We will continue to monitor this work until we are confident that all of the key service issues have been identified and will be addressed.

## Case studies

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at improving communication with parents and carers. An update four months after the initial complaint indicated that the woman was now happily living back in her group home.

### CS58: Improving in-home support

The wife of a man receiving in-home domestic and personal care services due to his physical disability complained to us about the adequacy of the support provided by the service and the conduct of the support workers. There had been extensive delays in getting an occupational therapy assessment and a new mattress, staff had damaged household appliances, they regularly had to orientate new staff, and the allocated hours were insufficient to meet the family's needs.

We referred the complaint to the service to resolve with the family and monitored their actions. The service provided a comprehensive report on the issues and actions taken to resolve the complaint. For example, the family had been supported by several practitioners and services to source and trial a new mattress and wheelchair, and the service had reviewed and subsequently increased the amount of support they provided. The service also indicated that they had had considerable difficulty finding staff that

## Strengthening safeguards

We have had discussions with ADHC this year about options for strengthening the management and oversight of complaints and serious incidents in disability services.

### Managing and reporting complaints

Over the last few years, our work has identified the need to improve sector-wide practices in complaint-handling and the associated systems for managing complaints. We have therefore developed a training package for the disability sector on implementing a quality complaints management system and we expect this will provide a useful framework for developing a core industry complaints model (see page 107).

However, we also consider there is a need to establish a sector-wide complaint reporting system in NSW. This would help to:

- provide comprehensive feedback to the sector on significant complaint issues, service performance and resulting outcomes
- identify serious issues of complaint that may need intervention or additional action
- improve the analysis and reporting of significant systemic issues from complaints and areas for service attention
- enhance consumer and sector confidence in the service system
- promote a responsive, person-centred service delivery focus.

would meet the family's specific criteria, and outlined the extensive steps they had taken to work with the family to fill positions and rectify any alleged damage to appliances.

### CS59: Reimbursing respite payments

A non-government service provider complained to us on behalf of a man with a disability and his family about delays in being reimbursed for flexible respite. The service complained that the family had been approved for a flexible respite package of up to \$5,000 and were reimbursed by ADHC for the receipts they submitted for the first half of the financial year. However, ADHC had not reimbursed the family for receipts submitted in the second half of the year, and the non-government service had been unable to successfully resolve the matter on their behalf.

We discussed the complaint with ADHC, who then reviewed the matter and advised that the family would be reimbursed for the outstanding amount within 14 days. The delay had been due to problems in ADHC's processes – including misplacing receipts and not having a respite plan with the family – and ADHC advised that they would take action to fix these problems.

The complaint-reporting system in place in Victoria under the Office of the Disability Services Commissioner provides a useful starting point for a potential framework for NSW. This year, we facilitated a meeting with ADHC and the Victorian Disability Services Commissioner to examine the scope and operation of their reporting system. The discussions helped to show the potential benefits of 'rolling out' a common reporting system across the disability and broader community service sector.

### Reporting serious incidents

We have also raised with ADHC the benefits of establishing a system for reporting serious incidents in disability services, as part of any broader complaints system. These incidents would include allegations of serious abuse, assaults and neglect, and other critical incidents.

Under Part 3A of the *Ombudsman Act 1974*, there are robust systems in place for reporting and overseeing the handling of serious incidents in the employment-related child protection area. However, there is no comparable system for particularly vulnerable individuals with disabilities who receive disability support.

We will develop a proposal for a reporting system for serious incidents in the disability sector that takes into account a person centred approach and the current application of Part 3A.

## Key areas of focus

### Access to SAAP services for people with physical disabilities

In 2011, we finalised our investigation into the access for people with physical disabilities to services provided under the Supported Accommodation Assistance Program (SAAP) – now known as Specialist Homelessness Services.

In response to our findings and recommendations, Community Services advised that they were working with Housing NSW to improve access. This included upgrading 10 properties in 2010-2011 to improve disability access, and a further 10 properties in the second year of the program.

In March this year, we were advised that:

- Housing NSW have completed the upgrades for the 10 crisis properties over 2010-2011. This included disability modifications, general upgrading, and payment for service relocations where required.
- Community Services and Housing NSW are selecting 10 further properties to upgrade in 2012, with priority being given to areas without accessible services.
- Work on two properties has begun and plans have been developed for the remaining eight properties.

We will seek a progress report from Community Services later in 2012.

### Helping people with mental illness access and sustain housing

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

In July 2011, we provided detailed feedback to Housing NSW on their draft Housing and Mental Health Agreement. This agreement has been designed to replace the JGOS.

In our feedback, we raised concerns about the apparent similarity between the proposed governance arrangements for the new agreement and the previous ineffective JGOS arrangements. We also emphasised the importance of developing operational guidelines for releasing and promoting the finalised agreement.

In November 2011, Housing NSW provided us with a copy of the final Housing and Mental Health Agreement. Some of our concerns were addressed in the final document and other issues will be addressed as part of the implementation process. We will continue to monitor the implementation of the agreement to check whether it is effective in assisting people with mental health issues living in social housing – or who are homeless or at risk of homelessness – to receive appropriate and timely mental health, accommodation support and social housing services.

### People with mental illness and their access to disability support

The Public Guardian and other stakeholders raised concerns with us about the number of people living in mental health facilities who no longer needed to be there.

In June 2011 we started an inquiry into this issue. Key elements of this inquiry included:

- reviewing the files of 95 people in 11 mental health facilities across NSW who had been identified as inappropriately accommodated
- consulting with almost 300 stakeholders – including government and non-government organisations, consumer and carer groups, advocates and peak agencies.

NSW mental health and disability legislation, as well as United Nations principles, emphasise the rights of people with mental illness and psychiatric disability to live in the community and receive support in the least restrictive environment possible. However, our inquiry found that many people are staying in mental health facilities beyond the point at which they need to be there.

The impact of this is significant. It not only adversely affects the individuals themselves – but also reduces the already limited capacity of mental health facilities to admit and retain people who are acutely unwell and need intensive clinical support and to provide effective rehabilitation.

The conservative estimate is that one-third of people currently living in mental health facilities in NSW could be discharged to the community if appropriate accommodation and supports were available. However, our inquiry found that appropriate community supports – including clinical support and long-term and highly supported accommodation – are in short supply, and this is preventing people being discharged from hospital.

Our inquiry indicated the need for an increased supply and range of supported housing options that provide on-site support for 16 to 24 hours per day, and services and support for people with psychiatric disability to be driven by flexible, person-centred and individualised approaches. The available long-term and highly supported housing options are very limited. Across NSW, there are only 114 beds in the community provided by the mental health sector that provide 24/7 support.

There is a much larger number of accommodation options in the disability sector. However, ADHC policy currently excludes people with a psychiatric disability who have a primary diagnosis of mental illness from most of this accommodation. The exclusion has been made on the basis that NSW Health is considered to have responsibility for providing this support. The effect of the policy – which appears to be ultra vires – is that these individuals are being excluded from their rights under the *Disability Services Act 1993* (DSA).

As a rights-based piece of legislation, the DSA aims to ensure that services are provided to people with disabilities to help them achieve their maximum potential as members of the community, and to promote increased independence and integration in the community. People who have a disability caused by a psychiatric impairment are included in the target group for services under the DSA.

It is clear from our inquiry that the existing arrangements between ADHC and NSW Health for providing services to people with psychiatric disability must be revised. People with a disability that meet the criteria of the DSA should be eligible for services and supports consistent with that legislation – irrespective of how that disability was acquired, what their primary diagnosis is, or where they are living. For people with a psychiatric disability who have a primary diagnosis of mental illness this is not currently the case.

There is a critical need for ADHC and NSW Health to work together to implement a joint strategy for meeting the needs of this vulnerable group.

## The closure of large residential centres

In August 2010, we tabled a special report in Parliament – *People with disabilities and the closure of residential centres* – which showed that the existing residential centre model restricts the rights and opportunities of the people with disabilities who live there. We emphasised the critical need to progress the closure of large residential centres and made recommendations to help achieve this outcome.

The subsequent announcement of the second phase of Stronger Together included the commitment to close all ADHC – operated and funded residential centres by 2017-2018. We are monitoring ADHC's actions to progress the closure of the remaining centres and will continue to do so until the work is completed.

ADHC provided us with a detailed progress report earlier this year, with information about the proposed plans and time frames for closing the residential centres operated by non-government services. We met with ADHC to discuss this work – including actions to ensure that the proposed replacement accommodation in the community meets the requirements of the Disability Services Act and the UN Convention on the Rights of Persons with Disabilities, and the devolution planning process emphasises person-centred and flexible approaches to support.

An important element we are monitoring concerns ADHC's actions to ensure that people with disabilities living in the residential centres, their families and other representatives have meaningful and direct involvement in planning for the closure of those centres. As part of this work this year, we provided independent scrutiny and analysis of surveys undertaken by ADHC and the Family and Friends Group associated with two of the ADHC residential centres on their accommodation and support options and preferences. In 2012-2013 we will monitor how people living in the residential centres are being meaningfully engaged and involved as partners in the planning process – including having access to communication support, assisted decision-making, and independent advocates.

## Reviewing the deaths of people with disabilities in care

Under CS-CRAMA, we are responsible for reviewing the deaths of people with disabilities who lived in residential care provided or funded under the Disability Services Act or in licensed 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 disabilities in care. Our aim is to recommend relevant changes or new strategies that may ultimately help to prevent these deaths.

## Monitoring our recommendations

We are required to report to Parliament every two years on our reviewable deaths work. In September 2011, we tabled our report on the deaths of 193 people in 2008 and 2009. This report included 15 recommendations to ADHC and/or NSW Health aimed at improving the health outcomes of people with disabilities in care and reducing preventable deaths. These included the need to:

- improve the work of disability and health services in identifying and minimising the risks faced by individuals – including nutrition, swallowing and respiratory risks

- enable equitable access to community-based health programs, including chronic disease management and other out-of-hospital programs
- review the use of antipsychotic medications for people with disabilities in care
- improve the support for people with disabilities in hospital
- improve the assessment and provision of health care to residents of licensed boarding houses.

We are monitoring the progress of the work by both agencies to implement our recommendations. There has been progress in some key areas – including the further development of a health service framework for people with intellectual disability, implementation of an interagency agreement to improve the access to health services of people with dual diagnoses of intellectual disability and mental illness, and the consideration of options to improve access to out-of-hospital programs.

### Our reviews of deaths in 2010 and 2011

We are currently preparing our report on the 220 deaths of people with disabilities in care that occurred in 2010 and 2011. This report will be tabled in early 2013.

This year we started or finalised further action in relation to the deaths of 33 people. This included:

- Providing reports to agencies under s.43(3) of CS-CRAMA arising from our reviews of the deaths of 10 people. These reports were used to provide agencies with information to assist their work or to draw attention to issues that we identified in our review.
- Referrals for agency investigation under s.25(1) of the Act into matters arising from our reviews of the deaths of four people.
- Providing information to the Coroner under s.39 of the Act, referrals to the Health Care Complaints Commission and meetings with services in relation to the deaths of 19 people.

### Improving the reviewable deaths register

In March this year, we started a major review of the reviewable deaths register and completed a business analysis and data needs specification for an integrated register. The intended long-term outcome is a consistent, reliable and sustainable register that allows meaningful data to be easily extracted and used for prevention purposes.

### Preventing serious health incidents and deaths

Effectively communicating the important findings from our work is essential to reduce preventable deaths. This year, we have worked toward improving how we disseminate information to individuals and services who provide support to people with disabilities in care. In this regard, we are developing accessible and targeted fact sheets for direct care staff and managers of disability services

and licensed boarding houses, boarding house reform program staff and general practitioners (GPs). These fact sheets include information about:

- the critical findings from our reviews
- the main causes of death
- key risk factors for people with disabilities in care relating to those causes of death
- the steps staff and GPs should take to help individuals improve their health and reduce preventable deaths.

As we were developing these fact sheets, we consulted with key staff and other stakeholders on the best ways to communicate the information, engage the intended audience, and ensure they adopt the critical messages and required actions. We intend to release the fact sheets in August 2012.

We are also developing strategies for ensuring sector-wide education on this material and assessing the level of take-up of the key messages at the 'coal-face'.

## Monitoring, reviewing and setting standards

### Improving conditions for vulnerable people living in boarding houses

In August 2011, we tabled a special report to Parliament on the need for reform of the boarding house sector. Our report highlighted recurring problems with ADHC's licensing and monitoring activities as well as a range of issues relating to the safety, health, welfare and rights of people living in licensed boarding houses. Case study 60 is an example of the type of issues we raised. The report can be accessed on our [website](#).

In May 2012, the NSW Government announced reforms to the boarding house sector. These included:

- introducing a registration system for NSW boarding houses
- introducing principles-based occupancy rights for boarding house residents
- strengthening the *Youth and Community Services Act 1973* to better safeguard the rights of vulnerable people living in licensed boarding houses
- increasing the penalties for non-compliance.

At the end of June, the government released the exposure draft Boarding Houses Bill 2012 which incorporates these proposed changes. The Bill strengthens safeguards and enforcement, and requires that licensees and staff of licensed boarding houses must have periodic criminal record checks.

We are pleased to see progress towards addressing longstanding issues and improving the circumstances of boarding house residents. We will provide feedback on the exposure draft and continue to monitor the work of ADHC



and the Interdepartmental Committee on Reform of the Shared Private Residential Services Sector to advance the necessary reforms.

## Supporting children with disabilities and their families

In June 2011, we released a report – after consulting with over 300 families of children with disabilities – about their access to services and support. The report can be accessed on our website. We also made a submission in August 2011 to the Legislative Council Social Issues Committee's Inquiry into transition support for students with additional or complex needs and their families. This year we have monitored the work of ADHC, NSW Health, and the Department of Education and Communities (DEC) to address the issues raised by families.

The rollout of the second phase of Stronger Together (ST2) – and the reform initiatives associated with the National Disability Strategy – underpin many of the specific actions that ADHC is taking to address the concerns raised in our report. This includes:

- significant reforms to strengthen the capacity of mainstream services to support children with disabilities
- individualised and flexible funding arrangements to better meet the needs of service users.

ADHC's work to reform the disability services system is still in the planning or early implementation stage. We will closely monitor this reform work and assess whether the intended actions are likely to address the concerns raised by families.

In relation to improving access to aids and equipment, information provided by NSW Health indicates that reforms by EnableNSW have resulted in notable reductions in waiting times for most types of aids and equipment across all local health districts. We are liaising with key health and

disability sector representatives to find out to what extent these reforms have addressed the issues that families raised with us.

After receiving a range of complaints and concerns, we are also seeking advice from DEC about their work on reviewing the Assisted School Travel Program for children with disabilities.

See page 65 for more information about our work around supporting children with a disability in school.

## Implementing the National Disability Strategy

We are keen to see the disability reforms in both NSW and nationally being used as a catalyst to drive changes in the broader community. The National Disability Strategy provides a valuable opportunity to address fundamental inequities and barriers and achieve genuine social inclusion of people with disabilities. The strategy has important aspirations – the key will be in its implementation and the outcomes achieved.

In June 2012, we provided feedback to ADHC on their draft NSW Implementation Plan for the National Disability Strategy. A key issue is the need for all agencies to adopt the strategy as part of their core business and reflect this in their policies and practices.

Active monitoring of the National Disability Strategy and the NSW Implementation Plan will be crucial. We will meet with the Disability Council of NSW to discuss ways in which we may complement and add value to their monitoring activities. We have also held preliminary discussions with the Disability Commissioners in other jurisdictions about potential options for monitoring critical areas on a national basis.

## Case studies

### CS60: Addressing serious problems

Our reviews of the deaths in 2011 of four residents of a licensed boarding house raised questions about the support needs of residents in that facility, the adequacy of the support provided, and the physical environment of the accommodation. One of the residents who died was elderly with high-support needs and frail health – and there were concerns about mould and rising damp, inadequate food for residents and poor staffing levels.

At the same time, there were complaints from an ex-staff member and media articles alleging serious problems at the boarding house. These included alleged sexual coercion among residents, problems with administering medication, residents being neglected, and criminal record checks not being done on prospective staff.

We spoke with ADHC about these allegations and concerns. They advised that they would conduct a

comprehensive review of the boarding house against the licence conditions and regulations, were investigating the complaint issues raised by the ex-staff member, and were working to improve the health and aged care support provided to residents.

ADHC's comprehensive review of the boarding house identified multiple significant breaches of the licence conditions and regulations – that confirmed many of the allegations that had been made – as well as a failure to meet requirements relating to the skills of boarding house staff, complaint-handling, and the cleanliness and physical maintenance of the property. ADHC has provided advice about the actions they are taking in response to the review findings and we are continuing to monitor the progress of this work. We are also liaising on a regular basis with the OCV for the boarding house to find out their views about residents and staff and the day-to-day conditions in the facility.



# Working with Aboriginal communities

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## Our work

Our work with Aboriginal communities focuses on helping government and non-government agencies implement practical strategies to improve services to Aboriginal people – particularly in the areas of child protection, policing, out-of-home care, disability support and housing services.

We meet regularly with local service providers, agencies and communities across the state to identify ways to improve service outcomes for Aboriginal people. When members of the public raise concerns about unfair and unreasonable conduct, we work with agencies to ensure systems are in place to respond to these concerns and prevent the same problems happening again.

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## Highlights

- Continued to meet and work closely with local communities, government agencies and non-government service providers in Bourke and Brewarrina to identify and implement practical options for targeting priority issues (see page 101)
- Used our work on our audit of the NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities to inform other significant projects, including our report to Parliament on addressing Aboriginal disadvantage (see page 98)
- Demonstrated how government information holdings could be used more effectively to respond to children at risk by reviewing the situation of 48 children in two Western NSW towns (see page 99).

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## Stakeholder engagement

Our work with Aboriginal communities is built on maintaining strong and productive relationships. We also regularly engage with a range of key Aboriginal stakeholders who form part of the Coalition of Aboriginal Peak Bodies. These organisations provide us with important feedback and advice about the nature and direction of our work. We meet regularly with the senior executive of Aboriginal Affairs and the Aboriginal Child Sexual Assault Ministerial Advisory Panel to exchange ideas and update them on issues identified through our community visits and our audit of the NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities, 2006-2011.

This year we were asked to give presentations on our work at a range of meetings, conferences and forums. For example:

- The Ombudsman presented the findings from our Addressing Aboriginal Disadvantage report to the Social Determinants of Indigenous Health Conference in Sydney, attended by a range of representatives from community and health services.
- The Ombudsman addressed a meeting of the Ministerial Taskforce on Aboriginal Affairs.
- The Mayor of Bourke Shire Council invited us to address councillors and the federal and state members for the area on our observations from our visit to the four Cape York Partnership communities in 2011. They were particularly interested in discussing how the community leadership and economic development initiatives operating in the Cape might apply to the Bourke community.

- We delivered keynote speeches at the National Symposium of the Australia and New Zealand Association for the Treatment of Sexual Abuse, addressed delegates at AbSec's Annual Conference and the Aboriginal Family Law Conference on our Addressing Aboriginal Disadvantage report and the importance of Aboriginal leadership in bringing about change, and spoke at the Exchanging Ideas Conference for judicial officers and Aboriginal community members about our work with young Aboriginal offenders.
- We discussed our work on child sexual assault in Aboriginal communities at the Effects of Domestic Violence on Children Forum and at the Aboriginal Women's Child Sexual Assault Forum in Coraki.

In October 2011, we attended the 41st NSW Aboriginal Rugby League Knock Out Carnival in Bathurst. Despite adverse weather conditions, around 20,000 people attended the event from all parts of Australia. The carnival is a celebration of Aboriginal culture and we took the opportunity to promote positive messages at our stall.

We participated in three NAIDOC week events across Sydney this year, and four Aboriginal Community Information & Assistance road shows organised by the Department of Premier and Cabinet.

# Working with Aboriginal communities

## Handling complaints

Staff from our Aboriginal Unit meet frequently with local service providers, agencies and members of the community to talk about the quality of service provision to their communities. These visits complement our telephone inquiries role and allow us to connect with people who otherwise may not have made contact with our office. We regularly help Aboriginal people address a range of problems that affect them directly, as well as broader concerns that have an impact on their community. Case studies 61–66 illustrate the diversity and importance of the complaint-handling work carried out by our Aboriginal unit.

## Key areas of focus

### Auditing child sexual assault in Aboriginal communities

A major focus of our work with Aboriginal communities over the last three years has been our audit of the NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities 2006-2011 (Interagency Plan). We were given statutory responsibility to audit the Interagency Plan in late 2009, and will report our findings to the Minister for Aboriginal Affairs by 31 December 2012.

A significant challenge in carrying out a multifaceted and long term audit of this type is ensuring that we take account of the many changes that have occurred

during the life of the Interagency Plan. This includes the Keep Them Safe reforms, the rollout of Safe Families – a ‘place-based’ Aboriginal child sexual assault prevention program, and the work of the Ministerial Taskforce on Aboriginal Affairs. We also need to consider the impact of significant federal initiatives – such as the implementation of Aboriginal Child and Family Centres in certain communities and the targeted assistance to NSW’s two designated remote service delivery sites, Wilcannia and Walgett.

In addition to assessing agency efforts to implement the specific actions in the Interagency Plan, we have examined any significant work that supports the plan’s three high-level goals. These are to:

- reduce the incidence of child sexual abuse
- reduce disadvantage and dysfunction
- build up Aboriginal leadership and increase family and community safety and wellbeing.

These goals recognise that child sexual assault in Aboriginal communities cannot be tackled effectively without also addressing the underlying causes of disadvantage.

Over the last year, we have required comprehensive information from agencies responsible for implementing actions under the Interagency Plan to help us assess its impact and see if it has achieved real results for vulnerable Aboriginal children. This information has

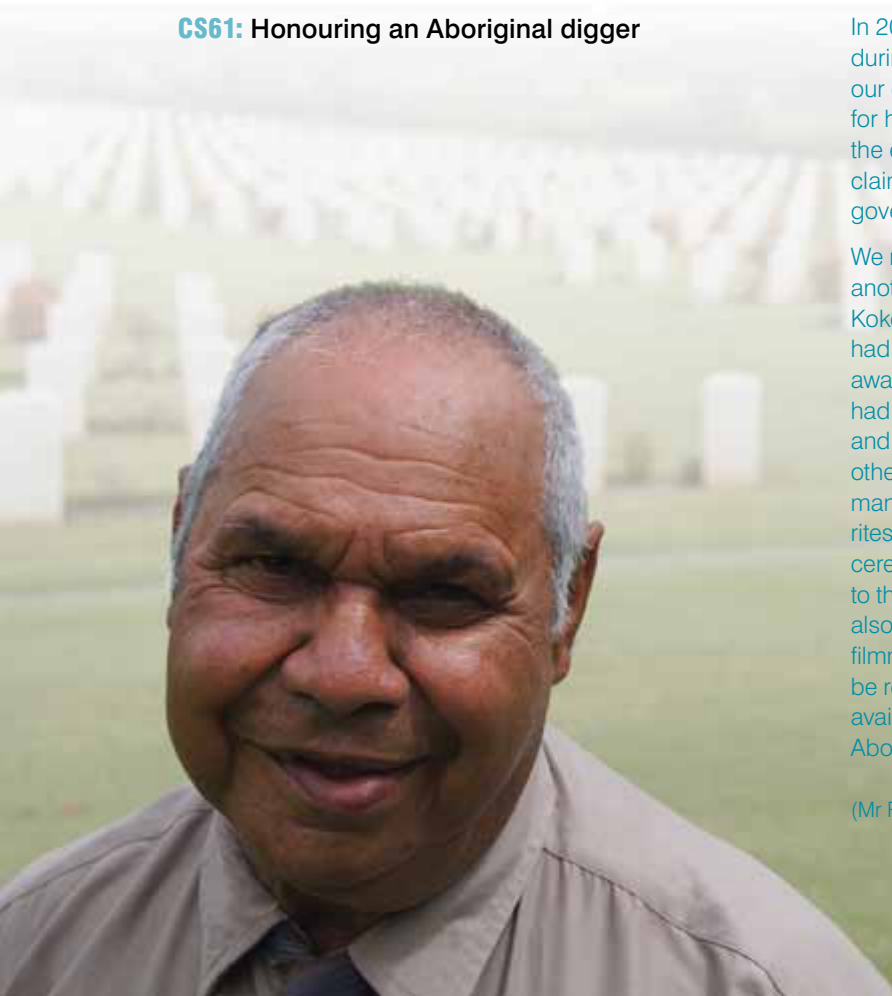
## Case Studies

### CS61: Honouring an Aboriginal digger

In 2011, the son of an Aboriginal serviceman who we met during community consultations in the Illawarra contacted our office seeking help to claim wages owed to his father for his work as a stockman, station hand and shearer in the early 1900s. We helped him successfully submit a claim for his father’s wages, which had been held by the government in trust for more than 60 years.

We recently heard from this man again. He is related to another Aboriginal serviceman who died in combat on the Kokoda Track during the Second World War. Although he had been buried with military honours, the burial site was away from his traditional country and his family had never had the opportunity to put his spirit to rest. With advice and assistance from our Aboriginal Unit, along with several other government agencies and community groups, this man successfully arranged to perform traditional burial rites on Anzac Day in 2012. The media coverage of the ceremony highlighted the contribution of Aboriginal people to the defence of Australia. An Ombudsman staff member also took leave to accompany the family as a volunteer filmmaker to document the ceremony. This film will shortly be released to the family and will then be made publicly available to help raise awareness about the contribution of Aboriginal servicemen.

(Mr Richard Archibald gave his permission for use of this image).





included operational data, detailed advice on the progress in implementing specific actions, and information about other significant related initiatives.

As well as examining state-wide and regional trends, we chose 12 specific locations to review in more detail. We visited each location and consulted with community leaders and government and non-government service providers to hear directly from them about what needs to improve. This approach has helped us to develop a more complete picture of the overall 'health' of particular communities and the impact of government programs at the community level. Our aim is to create an evidence base for future monitoring of agency progress towards promoting the safety and wellbeing of Aboriginal children and families.

Another vital part of our auditing strategy has been visiting other jurisdictions where innovative work is taking place. Our visits to the Kimberley and Cape York regions and several locations in the Northern Territory – including Alice Springs, Jabiru and Gunbalunya – have given us valuable insights into:

- improving school attendance and educational outcomes for Aboriginal children
- place-based service delivery models
- structures for involving Aboriginal leadership in decision-making processes to achieve much better social and economic outcomes for Aboriginal people.

Throughout our audit, we have used a series of companion inquiries to focus attention on issues that

agencies need to address if specific child protection strategies are to have an impact – especially in high-need locations. Two of these inquiries have culminated in reports to Parliament, both of which are available on our website. They are:

- *Inquiry into service provision to the Bourke and Brewarrina communities* (December 2010).
- *Addressing Aboriginal Disadvantage: the need to do things differently* (October 2011).

In July 2012, we provided lead agencies with a confidential report after completing our review of a group of 48 school-aged children in two Western NSW towns.

Each of our reports highlight what needs to be done to create an environment where child wellbeing is paramount and communities can thrive – paving the way for more effective measures to prevent child sexual abuse.

## Making progress in addressing Aboriginal disadvantage

Our October 2011 report – *Addressing Aboriginal disadvantage – the need to do things differently* – (available on our [website](#)) emphasised the importance of taking bold approaches to the priority areas of education, building economic capacity, and protecting vulnerable children in Aboriginal communities.

We called for major structural changes to address the current fragmentation and poor coordination of 'agency-centric' service delivery to Aboriginal communities, and to create robust and accountable local and regional

## Case Studies

### CS62: Removing a diseased tree

An Aboriginal elder from a regional town contacted us for help with a complaint he had made to Housing NSW. He wanted to remove a diseased tree from his property, but Housing NSW told him that it did not need to be removed. After our inquiries, Housing NSW reassessed the matter and found that the tree did pose an immediate threat, so arranged to have it removed.

### CS63: Helping a vulnerable family access housing

An Aboriginal community organisation contacted us on behalf of a large family who they claimed had been on the priority housing list for 10 years and, for the last six years, had been living in a tent. At the time of the complaint, the mother was heavily pregnant. Also, one of her six children had an intellectual disability but could not access the right school because she did not have permanent housing. We contacted Housing NSW who was apparently unaware of the family's circumstances. They reassessed the situation and offered the family a house close to a school that catered for students with a disability.

### CS64: Developing a school behaviour plan

During a community visit to a regional centre, an Aboriginal mother sought our help with her son. He was being bullied by other students at his primary school and had been suspended for poor classroom behaviour.

Following our inquiries, the school developed a student behaviour plan for the child that included specific verbal cues for inappropriate behaviour and rewards for positive interaction in the classroom. The plan includes an opportunity for the boy to receive short bursts of one-on-one support from a specialised teacher when he is struggling in the classroom – he is apparently responding well to this support.

A playground plan was also implemented in recognition that the child and some older students did not get along. The school principal has reported that this is working well and has resulted in a significant reduction in bullying incidents.

leadership and governance arrangements that give local communities a real say in the delivery of local services.

The timing of the report was in large part due to the NSW Government's decision to establish a Ministerial Taskforce on Aboriginal Affairs in August 2011. The Taskforce is examining ways to improve the overall wellbeing of Aboriginal people, starting with strategies to significantly improve educational and employment outcomes. They are also looking at the related issue of improving service delivery to Aboriginal communities and the accountability mechanisms needed to make this happen. We prepared the report outlining our findings and observations from our auditing work so far to help inform the Taskforce's deliberations.

A significant outcome from the Taskforce's work has been the release of the Department of Education and Communities' Connected Communities strategy. Created in consultation with the Aboriginal Education Consultative Group (AECG), principal's groups and the NSW Teachers Federation, this innovative strategy aims to improve educational outcomes for Aboriginal children and young people by delivering a suite of support services through 15 schools in some of NSW's most complex and disadvantaged communities.

Underlying Connected Communities is a growing acceptance of the central role that communities themselves must play in deciding how best to reach those who are most in need and ensure that services lead to tangible improvements. There is wide recognition of, and a desire to respond to, the frustration of communities with

'off the shelf' programs and service imposed on them, as well as inadequate consideration of how service delivery can be integrated in each community.

The Ministerial Taskforce's August 2012 report on progress acknowledged that our Addressing Aboriginal disadvantage report:

*... highlighted many ongoing problems including an apparent disconnection between government and Aboriginal communities, the failure to coordinate between government agencies and the failure to measure government performance. The NSW Ombudsman also identified education and employment as priorities in addressing disadvantage.*

The Ministerial Taskforce also highlighted that both our office and the Auditor-General had called for greater accountability and transparency within programs and services to Aboriginal people – a theme that was repeated throughout the Taskforce's consultations with communities across NSW. In response, the Taskforce has committed to developing specific recommendations for a new accountability approach to Aboriginal affairs across the 'whole-of-government' – including regular and independent performance auditing of Aboriginal affairs initiatives by government and funded non-government organisations, and public reporting on the outcomes.

### Identifying school-aged children at risk

This year, we prepared a confidential report on our review of a group of 48 school-aged children in two Western NSW towns. The review aimed to demonstrate how existing

### CS65: Saying goodbye

The son of an Aboriginal inmate had been hospitalised and was on life support. The inmate's family asked us to help arrange a bedside visit so that he could say goodbye to his son. We made inquiries with Corrective Services NSW (CSNSW), who approved the visit the next day. Arrangements were made to transfer the inmate to a prison near the hospital and ensure that family members could visit him. CSNSW also arranged chaplaincy services when the inmate's son passed away.

### CS66: Improving priority services

Last year we received a complaint, signed on behalf of more than 100 residents of an Aboriginal community, about the poor service outcomes in the town – despite significant government investment over many years. The complaint emphasised the community's increasing frustration at the failure of programs and services to adequately target or provide suitable services to vulnerable children and families and address escalating concerns around community safety. We sent the complaint to the relevant

government agencies and asked them to develop a plan of action. Since then, the agencies have worked with the community to identify their immediate and longer-term priorities. Earlier this year, we participated in a community and agency workshop which resulted in the development of a 'whole-of-community' plan.

Progress has been made across a range of areas including:

- repairs and maintenance to housing and sewerage
- improved street lighting
- new arrangements for the ongoing management of housing owned by the Local Aboriginal Land Council.

More recently, the NSWPF committed to stationing a Youth Liaison Officer in the local community. Aboriginal Affairs and FaHCSIA are also working with the community to build a leadership group and recently committed to providing funding to support a newly formed women's group. Although these steps are all positive, addressing longstanding issues around child abuse and community safety remain critical. We will continue to closely monitor developments within this community.



agency information holdings could be used to better identify and respond to children at risk.

We used police and education records to identify our review group. They were primarily children aged between eight to 11 years who were missing lengthy periods of school through unexplained absences or suspensions, and/or who were coming to frequent police attention. This was either because of their repeated exposure to violence and other risks at home or their own risk-taking behaviours. We then scrutinised New South Wales Police Force (NSWPF), Community Services and Department of Education and Communities (DEC) records about this group of children and others in their household to better understand how:

- agencies were identifying and responding to child protection risks
- a planned approach to sharing information about emerging risks could help agencies intervene before family dysfunction, offending behaviour and other problems became entrenched.

Our analysis of these agency records showed that:

- Most of the children were known to be at risk from an early age – half of the 48 children were one year old or younger when they were first reported to Community Services as being at risk, mostly by police through their responses to domestic violence.
- For the age group we reviewed, the children at greatest risk were readily identifiable through DEC and police records alone. As expected, they were also among the children who were most frequently reported to Community Services and to the Education and Police Child Wellbeing Units. There was also a high correlation between the children identified as being at risk due to school absences and/or suspensions and those identified as a 'priority' by police.
- The children who had parents who were the most prolific and serious offenders were among those who had the highest numbers of 'child at risk' reports. This group of children were also much more likely to be in statutory care or living in an informal care arrangement.
- All the children who were the alleged victims or perpetrators of sexual abuse had a range of other risk factors in play – including disengagement from school, exposure to domestic and family violence, parental substance abuse and comparatively high numbers of abuse and neglect reports. These associated risks were present in all of the sexual abuse cases, irrespective of whether the abuse allegations had been substantiated.

In towns where resources are scarce and there are comparatively high numbers of vulnerable children and families, agencies need efficient and effective ways to collectively identify those at greatest risk. Although incident-based reporting to the Child Protection Helpline

and Child Wellbeing Units remains the key to identifying specific and cumulative risks to children, this type of information on its own is not sufficient to develop a comprehensive picture of risk to individual children or a snapshot of the most 'high-risk group' in specific locations.

Information held by the NSWPF and DEC – which identifies high-risk domestic violence offenders and victims, repeat young offenders and children at risk – and the ongoing tracking of school attendance and suspensions carried out at school level are examples of readily available 'analysis' which not only informs the day-to-day business activities of these agencies, but is essential to building a common picture of risk. The ability of Community Services to run aggregated reports on 'frequently encountered families' is another example of a critical information source that is integral to profiling this high-risk group. When the analysis from these agencies is combined, an efficient snapshot can be gained of those families receiving the most attention from individual agencies, and why.

Despite the accessibility of this type of analysis at a local level, our review found that it was not being routinely used. We found significant potential for agencies to not only better use their own information sources to identify and prioritise child protection risks, but to use the resulting analysis far more strategically to inform collaborative risk profiling and joint case management with partner agencies.

The three Western region directors of Community Services, DEC and the NSWPF who participated in our project saw firsthand the benefits of this approach. Their own joint analysis of the 48 children in our review helped to clarify risks, and prompted them to work together to achieve a range of positive outcomes. They also:

- recognised the need for streamlined, effective and accountable governance structures
- emphasised the benefits of agencies coming together to share select information on priority families
- indicated that the existing local governance structures to facilitate this type of work needed to be rationalised to overcome duplication and fragmentation.

The findings from our review have confirmed the value of adopting an intelligence-driven approach to child protection. To be effective, this approach cannot be implemented by Community Services alone. It must also involve police, schools, health and other services each actively monitoring their own records for information about serious child protection risks, and then working together with Community Services on a shared approach to child protection. This is consistent with the Keep Them Safe reforms, which emphasise that protecting children is a shared responsibility.

Our intention is for the report to inform discussions currently taking place among agencies about developing

place-based service delivery models and what is required to deliver an intelligence-driven child protection system.

## Monitoring service improvements to Bourke and Brewarrina

In April this year we convened meetings with senior representatives of state and federal human service and justice agencies in Bourke and Brewarrina. We asked the agency representatives to report directly to those communities on the progress made since the release of our 2010 report on service provision in Bourke and Brewarrina.

The forums enabled residents and community leaders in each town to voice their concerns to key decision-makers, and get direct feedback on practical options for tackling priority issues. For example in Bourke, the forum gave community leaders an opportunity to seek support for the Bourke Aboriginal Community Working Party's Maranguka proposal. This proposal centres on creating a community-driven family case management and support team to work in partnership with government and non-government agencies to help vulnerable families.

An ongoing and major concern for community members and agency staff is that – despite the significant funds invested in programs for Bourke and Brewarrina – existing services often fail to reach the families who need them most. As speakers at the Bourke forum explained, government and non-government agencies are yet to deliver on promises repeatedly made during previous consultations, creating a sense of 'consultation fatigue' and despondency in the community. As one resident told the Bourke forum:

*'The time for consultation is over. It has all been said by the community and is now documented in the Ombudsman's reports – we need to see real action.'*

Both forums resolved that, as a first step, agencies should undertake a service mapping and 'whole-of-community' planning exercise for each town to address current service inefficiencies and poor integration, with the aim of developing a single governance framework for existing and new initiatives. This information can be used to start developing a clear plan of action on how state and federal government agencies could, in a coordinated way, address the priorities identified by each community.

At the Bourke meeting, the agencies agreed to consider supporting the working party's Maranguka proposal by starting to look for ways to create a multidisciplinary team that could give vulnerable families practical, hands-on help with basic but critically important issues such as:

- getting their children to school
- connecting younger children with infant health, early childhood education, preschool and other services from an early age rather than waiting until health or developmental issues become 'entrenched problems' requiring multi-agency interventions.

Under the proposal, local community people could form part of the team and provide the kind of 'roll up your sleeves' supports that many of the families in these and other high-need communities want. Community leaders strongly believe that if a place-based model is adopted – which reflects community priorities and needs – it is far more likely that a greater number of families will respond more positively to the type of supports being offered.

At the meeting in Brewarrina, there was agreement that any 'whole-of-community' planning and service integration must take account of long-awaited plans to establish an Aboriginal Child and Family Centre in the town, the availability of Safe Families program staff – who indicated their willingness to contribute to practical family case management work as part of the expected reconfiguration of that program – and preparations by the NSW Outback Division of General Practice to deliver the Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs's (FaHCSIA) Breaking the Cycle strategy.

The Brewarrina meeting agreed that, in developing a single governance framework for existing and new initiatives, lead agencies must first get their own governance arrangements in order – starting with relevant cross-agency 'buy-in' led by highly competent (and sufficiently empowered) departmental representatives. This overarching framework must also incorporate a consultation model that involves and engages all key community representative groups.

An outcome from the meeting was a commitment by the State Manager of FaHCSIA – and the heads of Family and Community Services (FACS) and Aboriginal Affairs – to schedule a half day forum with Western region agency directors and managers after FACS have completed their initial service mapping and related analysis for Bourke, and Community Services have finalised a service reconfiguration plan for Brewarrina. The completion of this work is expected to provide a platform for state and federal agencies to undertake a joint planning exercise around working out what is needed to implement the agreed actions from the consultations with both communities. We have already provided feedback on the initial service mapping that has been undertaken.

## Reviewing Aboriginal out-of-home care services

In 2010 we reviewed three of the eight Aboriginal out-of-home care services in NSW, focusing on their complaint-handling and on how they were meeting their legislative child protection obligations. After the audits, we made recommendations suggesting improvements each service should consider.

This year, two of the services reported that they had implemented all of our recommendations. Both of them had improved their documentation and record-

keeping, expanded training and induction programs, and developed and reviewed other policies and procedures related to child protection concerns. Both also said that the experience had been constructive, with our review leading to real improvements in service delivery to the Aboriginal children in their care. The third service had stopped providing out-of-home-care case services for reasons unrelated to our review.

In late 2011, the government started a major reform to transition the care of children in foster or kinship care from the government to the non-government sector. These changes will see the number of children in the care of Aboriginal out-of-home services increase from less than 500 in 2012 to more than 3,000 by 2022.

The government's transition plan includes a range of measures to ensure that this change happens smoothly and steadily. A key component is a strategy to build the capacity of non-government organisations, including Aboriginal out-of-home care services. We had intended to review the other five Aboriginal out-of-home care services in early 2012, but will now defer these reviews until after the transition process has sufficiently progressed. In the meantime, we will monitor the transition closely to ensure that the governance arrangements for complaint-handling and compliance with statutory obligations match the growth of the Aboriginal out-of-home care sector.

## Supporting Aboriginal people with disabilities

Last year, we reported on the progress made by Ageing, Disability and Home Care (ADHC) in implementing the recommendations from our 2010 report – *Improving service delivery to Aboriginal people with a disability* – which is available on our website. This included establishing an Aboriginal Advisory Committee, developing and launching their Aboriginal Cultural Inclusion Framework 2011-2015, increasing Aboriginal employment and improving access to flexible services.

In their 2010-2011 Annual Report, ADHC reported on Aboriginal service usage by type and region – in line with our recommendations about collecting and reporting regionalised data on the uptake of Aboriginal services. This will strengthen strategic oversight at a regional and organisation-wide level and improve accountability.

ADHC also committed to employing 27 Aboriginal Ability Links NSW Coordinators – to be housed within Aboriginal non-government organisations – who will identify and support Aboriginal people with a disability. This was a positive step given that, during our consultations, Aboriginal communities highlighted the valuable role these types of positions play in linking Aboriginal people with a disability and their families to essential services. We had recommended an expansion in the number of these types of positions.

As part of their Aboriginal policy framework, each ADHC region has developed an Aboriginal cultural inclusion strategy and an action plan to improve Aboriginal access to services. We recently looked at each of these regional cultural inclusion strategies and noted the commitment across the regions to improve service delivery and responses to Aboriginal people with a disability and their carers – and the key achievements to date.

In particular, the Western Region cultural inclusion strategy acknowledged the need for ADHC to work collaboratively with other federal and state government agencies, and its regional consultation and engagement plan focused on tapping into existing community and agency consultation processes to avoid 'consultation fatigue'. This is an important step towards reducing duplication in policy design and service delivery to Aboriginal communities.

ADHC have also initiated quarterly meetings with our staff. These meetings have proved to be a productive way to exchange information and ideas – particularly about delivering and integrating services and building the capacity of the non-government sector. We will also continue to liaise closely with the agency's Aboriginal Advisory Committee, the Aboriginal Disability Network and the Aboriginal Community Care Gathering to assess the practical impact of the agency's initiatives for Aboriginal communities.

## Helping Aboriginal people in the criminal justice system

### Young offenders

A key forum for raising and addressing policing policy issues in Aboriginal communities is the Police Aboriginal Strategic Advisory Committee. Our participation in this forum has led to a number of projects – including a review of whether young Aboriginal offenders are given appropriate access to diversions under the *Young Offenders Act 1997*, and whether procedures for referring young offenders to legal services are effective and are being used.

In April 2011, we convened a roundtable with Legal Aid NSW, the Aboriginal Legal Service and the NSWPF to assess the adequacy and effectiveness of the current referral protocols and share information about the operation of the Young Offenders Act.

All the organisations at the forum agreed to a plan to reinvigorate and improve the use of the cooling off period, increase the use of diversions under the Act, and support the involvement of respected community members in the formal cautioning of young people. We understand that the organisations involved are continuing this work. We plan to review the work being done by agencies to meet their commitments under the plan before discussing it at the Police Aboriginal Strategic Advisory Committee.



# Community education and training

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## Our work

Our community and education programs provide cost effective, professional development and training services to people and organisations we oversee or work with. This includes public sector agencies, non-government organisations, consumers of community services and a range of other community groups across NSW. We also provide training to federal government agencies, oversight bodies and other Ombudsman offices in Australia and overseas.

As this chapter shows, we focus on improving administrative conduct, facilitating fair decision-making, and ensuring high standards of service delivery. Our aim is to increase the capacity of organisations to better respond to community needs and avoid systemic weaknesses that expose them to the risk of administrative failure. Delivering training also helps us to raise awareness of the broad range of work that we do.



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## Highlights

- Improved public sector awareness and understanding of the public interest disclosures system by delivering over 250 public interest disclosures workshops (see page 105)
- Continue to develop innovative strategies for managing unreasonable complainant conduct and provided agencies with resources including training, a practice manual and model policy (see page 105)
- Provided 427 training workshops to 8,766 people (see page 105) as well as 170 community education activities
- Developed four public interest disclosures e-learning modules (see page 105)
- Doubled the number of workshops delivered to consumers of community services (see page 105)
- Developed two new workshops for disability service providers to help them provide better services to the community (see page 107).

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## Stakeholder engagement

Our training workshops bring us into regular contact with a broad range of practitioners. This gives us an opportunity to hear about the issues facing their organisations – and gives them the opportunity to provide us with feedback on our work.

We also conduct workshops for consumers of community services, their families, carers and advocates. These are practically based, and are aimed at raising awareness and understanding around the way various systems work, and particularly their rights.

In addition to training and awareness activities, we have dedicated units and positions that work directly with groups in the community – such as our Aboriginal Unit, youth liaison officer and community relations officer.

### Safeguarding children seminars

Last year, the Deputy Ombudsman/Community and Disability Services Commissioner and Dr Joe Tucci, CEO of the Australian Childhood Foundation, jointly delivered a one-day seminar in Perth on *Safeguarding Children*. This year we built on the success of this partnership by presenting the same seminar in Darwin and Alice Springs. The seminar was aimed at helping organisations to better protect children from abuse or exploitation perpetrated by staff or volunteers. It included information about:

- the key risk factors that reduce the capacity of an organisation to effectively protect children and young people
- the types of risky behaviours that staff and volunteers engage in
- how to manage allegations of conduct that could be abusive against children made about staff or volunteers
- the way such allegations are investigated by the authorities.

# Community education and training

## Our training programs

Our training program has continued to grow this year (see figure 49). The dramatic rise in training activities in 2011–2012 is due both to the popularity of the workshops and the start of our new public interest disclosures (PID) training function.

**Fig. 49: Training and education activities**

	07/08	08/09	09/10	10/11	11/12
Number of training workshops	80	117	144	156	427
Number of community education activities	201	200	127	140	170
<b>Total</b>	<b>281</b>	<b>317</b>	<b>271</b>	<b>296</b>	<b>597</b>

Our training packages are designed to help agencies make the best possible use of limited resources, improve their service delivery, and develop a better understanding of their legislative obligations. The workshops are interactive and provide practical tools and step-by-step models to help participants to, for example, handle complaints and plan investigations.

We also have statutory obligations to provide education and training to:

- Service providers, clients, carers and the community about standards for the delivery of community services in NSW under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.
- Public authorities, investigating authorities and public officials on reporting wrongdoing in the public sector under the *Public Interest Disclosures Act 1994*.

Over the last 12 months, we have increased the variety of our training by introducing a number of new courses. These include *Implementing a quality complaints system in the disability sector* and a training package on *Effective complaint management* specifically designed for the public sector.

This year we delivered 427 workshops reaching 8,766 people. See figure 50 for a breakdown of the types of workshops delivered.

**Fig. 50: Type of training workshops**

Type of training	workshops	attendees
Public interest disclosures	252	5,516
Complaint-handling and negotiation skills	92	1,845
Community and disability services	36	644
Access and equity	12	207
Workplace child protection	11	194
Consumers of community services	15	182
Other	9	178
<b>Total</b>	<b>427</b>	<b>8,766</b>

## Public interest disclosures

Last year, the Ombudsman was given a significant new role following amendments to the *Public Interest Disclosures Act 1994* (PID Act). We are now responsible for promoting public awareness and understanding of the PID Act and monitoring its operation. Among other things, we have to provide training to people working in the public sector – including those who will be receiving and/or investigating allegations of wrongdoing.

This year, we developed a range of new PID training packages and delivered over 250 workshops across NSW. We have two separate PID training workshops. One is for all staff within an agency, and is aimed at raising awareness of the new statutory framework. The other is for staff with specific responsibilities under the PID Act, and is aimed at helping them understand their obligations and handle public interest disclosures effectively.

To cater for public sector staff who cannot attend the workshops, we developed e-learning modules to deliver the same messages we are promoting through our workshops. We also prepared a range of fact sheets and guidelines. More information about our PID training will be included in our public interest disclosures annual report, which will be released later this year.

## Managing unreasonable complainant conduct

The demand for one of our flagship complaint-handling training workshops, *Managing unreasonable complainant conduct*, continues to grow. This workshop is based on our long running project into how best to manage unreasonable complainant conduct.

We completed this project in May 2012, with the publication of the second edition of the *Managing Unreasonable Complainant Conduct (UCC) Practice Manual*. It is available on our website along with our final project report.

This second edition includes a broader range of strategies to suit organisations that do not have the discretion to terminate their services to, or relationships with, complainants who display unreasonable behaviours. It also includes strategies for dealing with the problems posed by newer communication technologies, such as social media and social networking websites.

In Stage 2, we also developed a series of targeted guidelines to address essential aspects of the UCC problem and support the strategies in the practice manual. One of these guidelines is our *Unreasonable Complainant Conduct Model Policy*, which brings together the Ombudsman's previous policy recommendations for managing UCC. It is designed to help agencies develop their own policy and ensure they have robust and appropriate internal and administrative systems to ensure UCC is managed by staff at all levels in ways that are fair, consistent and effective.

Some other guidelines we developed in Stage 2 include:

- A 'rights and responsibilities' guideline that provides a set of rules of conduct for all parties to a complaint, including complainants and complaint handlers.
- A guideline on using trespass legislation to restrict certain complainants from an organisation's premises.
- A guideline on using legal orders – such as apprehended violence orders – to protect staff from personal violence, threats, intimidation and harassment by complainants.

Our UCC work has received international recognition and affirmation from other oversight and Ombudsman agencies. We have received requests to translate the UCC practice manual into French for the Forum of Canadian Ombudsmen and into Mandarin for the Taiwanese Ombudsman. In June 2012, we received a formal request from the Scottish School of Mental Health to use the strategies in our manual to devise their own management strategies, manual and training program for police complaint handlers.

**'I thought that it was an excellent package both in relation to the delivery and content. It was very well received by all who attended and really hit the mark.'**

**Queensland Deputy Ombudsman**

## Access and equity

We offer two training workshops which draw on our work with people with disabilities and Aboriginal communities in NSW. Our *Disability awareness* and *Aboriginal cultural appreciation* workshops are designed to help agencies to develop services that are more accessible and responsive to the needs of their clients.

This year, we saw an increased demand from several public sector agencies for these half-day workshops. They are tailored to suit the needs of individual organisations – which maximises the impact and relevance of the sessions for participants – and provide help with meeting access and equity commitments and related service planning.

## Employment-related child protection

We provide two employment-related child protection workshops to help agencies improve their responses to allegations made against their employees. We deliver a *Responding to child protection allegations against employees* training workshop, and an advanced course on handling serious allegations that involve criminal conduct. This is delivered by our Deputy Ombudsman/Community and Disability Services Commissioner.

We supplement these two workshops with training that is tailored to specific audiences, and by directly providing specialist advice on child protection in the workplace.

### Staff profile: Sydney to the Gong for MS

Every year, 10,000 people take to their bikes to participate in the annual Sydney to the Gong ride for Multiple Sclerosis (MS).

The event is a 90 kilometre cycle from Sydney to Wollongong, which raises funds for MS Australia to go towards supporting people living with MS. On 6 November 2011, Steve Domingues from our Publications team took on the challenge of the long ride.

'A family member has MS and this is a great event to support not only people living with MS but their families too', Steve said. He completed the ride in 3 hours and 45 minutes, raising \$1,251 for MS Australia.

'Most of the money I raised came from Ombudsman staff, which was fantastic', Steve said.

'The experience was breathtaking – in more ways than one! I would definitely do it again'.



For example, we were asked by the Board of Studies to deliver a session to their investigators on collecting and assessing evidence when they are auditing the performance of schools against the requirements of the *Education Act 1990*. The session gave participants a grounding in the obligations schools have under employment-related child protection legislation, outlined a range of auditing techniques, and discussed the standards of evidence required to support findings of non-compliance with requirements of the Act.

Following on from the child protection and complaint-handling training we provided to AusAID funded NGOs in 2010, we were engaged by AusAID this year to provide specialist advice to strengthen their capacity to respond to allegations of child abuse in the international aid programs they fund and deliver. AusAID's child protection policy applies to all their staff – including those based overseas, all non-government organisations funded by AusAID, and local implementing partners. Given the international reach of their workforce, the challenges they face are unique.

## Community and disability services

In addition to our workshops specifically tailored to the community services sector, this year we developed two new training workshops for disability service providers to help improve their delivery of disability services.

The first of these new workshops is *Implementing a quality complaints management system in the disability sector*, which focuses on the importance of delivering a person-centred model. This training package helps services to implement a quality complaints management system that complies with Australian complaint-handling standards and NSW disability services standards. The workshop focuses on developing a complaints management system that uses information from complaints as part of an overall quality assurance framework and provides practical strategies and techniques for handling complaints in the disability sector.

The second is the *Handling serious incidents in the disability sector* workshop. This is delivered by the Deputy Ombudsman/Community and Disability Services Commissioner, and provides disability services staff with a clear understanding of how to identify and deal with serious incidents, and the skills to more effectively promote a sophisticated interagency response to high-risk incidents. It also improves staff awareness of the responsibilities of other key agencies, including Community Services and the NSW Police Force, and the legal requirements and strategies for investigating particular types of serious employee misconduct.

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**‘Lots of relevant examples – encouraging seeing the Ombudsman understand the complexities and contradictions of the ethical and legal dilemmas faced by the industry.’**

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## Consumers of community services

This year we doubled the number of workshops we delivered to consumers of community services. The Rights Stuff is a free workshop that aims to help consumers of community services – as well as their families, carers and advocates – to understand their rights as service users. It provides practical information and tips to build confidence in raising issues with service providers and to work with them to resolve complaints.

This year workshops were delivered to a wide range of groups – including consumers supported by the Brain Injury Association and the Spinal Cord Injury Association, parents of children with disabilities, carer support groups, community centre volunteers, and young adults with disabilities participating in the Transition to Work program.

## New workshops for next year

A number of our training workshops – such as our employment-related child protection workshops – promote better quality investigations. We also deliver information sessions to officers of the NSW Police Force who are responsible for conducting internal investigations. These sessions provide an overview of the Ombudsman's role and our expectations about their investigations into police misconduct.

Next year we will be launching two new training workshops that will focus solely on investigation skills. The first will be a two-day session on investigating misconduct in the public sector, which aims to equip participants with the practical skills and knowledge to conduct administrative investigations. The second will be a half day administrative law workshop, designed to give participants an understanding of the essential components and statutory principles of administrative law and their relevance to the investigation process.

## Feedback about our training

People who attend our training say they leave with ideas and tools that they can immediately apply back at work. They also find the sessions to be a valuable opportunity to share experiences and network with others.

This year 2,250 people completed evaluations of our training workshops and we found that:

**96%** of participants would recommend the workshop to others

**97%** of participants rated our trainers as excellent/good

**94%** of participants rated the content of the workshop covered as excellent/good



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## Our community education activities

As well as delivering training in traditional learning environments, we look for opportunities to share our expertise and exchange information in other settings. We work hard to extend the reach and impact of our office, particularly to vulnerable groups who might have difficulty accessing our services.

We have dedicated outreach staff – such as our youth liaison officer, community relations officer, and the staff of our Aboriginal unit. The work of our Aboriginal unit is detailed in our working with Aboriginal communities chapter, and some of the work of our youth liaison officer is outlined at page 10.

We also provide information sessions for specific groups, give presentations at conferences, seminars and meetings on a broad range of topics, and provide information at community events. For example, this year:

- The Ombudsman gave a presentation to the Corruption Prevention Network breakfast on public interest disclosures, and presented on improper influence in the non-government sector and police use of Tasers at the Australian Public Sector Anti-Corruption Conference in Perth.
- The Deputy Ombudsman (Public Administration) gave a presentation to the Local Government Management Association Conference on our new PID function.

- The Deputy Ombudsman/Community and Disability Services Commissioner gave a presentation at the NSW Child Protection and Wellbeing Interagency Conference on the Ombudsman's perspective on key issues associated with the Keep Them Safe reforms – and on the Ombudsman's priorities for 2012 at the National Disability Services NSW Annual State Conference.

As well as conducting outreach activities, we produce a range of resources and publications – including factsheets and guidelines – for use by other organisations. See appendix J at page 163 for more information about our publications.

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**‘The response to your session was overwhelmingly positive and it certainly generated some great discussion and suggestions. Your understanding of our context and the comments you made were ‘spot on’ and really challenged some ‘traditional’ thinking in a gentle and helpful way. It provided a great platform for us to develop further our audit framework.’**

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# Financials

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## Our work

The financial statements provide an overview of our financial activities during 2011–2012. These statements, our supporting documentation, and our systems and processes have all been reviewed by the Audit Office. We received an unqualified audit.

We were provided with additional funding this year after being given responsibility for reviewing the use of a number of new police powers. We have been provided with continuing funding in 2012–2013 to undertake these reviews.

Almost 80% of our total expenses was spent on staff-related costs. This reflects the nature of our work, which is reliant on our people. The day-to-day operation of our office cost us over \$4.7 million. This includes costs such as rent, contractors, consultants, fees, travel, maintenance, training, printing and stores.

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# Our financials

The financial statements that follow provide an overview of our financial activities during 2011–2012. 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.

A number of factors have contributed to the Ombudsman having a negative equity at the end of the reporting year. These issues were discussed in detail with the auditors and our Audit and Risk Committee. We had a significantly higher negative net result than anticipated, mostly due to the increase in our depreciation expenses – which resulted from providing for the make good of our premises (see liabilities below) – and higher than budgeted Crown Entity accepted employee benefits. Our liabilities are also greater than our assets, mainly because our asset base is coming to the end of its useful life. We will need to look at replacing assets in the future and have a substantial capital allocation in 2013-2014 for this purpose.

We continue to have efficiency dividends and other saving initiatives deducted from our budget allocation. In 2011–2012 the total budget cut was \$367,000. With additional savings initiatives applied in 2012-2013, our base budget cut will increase to over \$1.2 million. As we have outlined in previous reports, we have a range of strategies in place to deal with these budget pressures – including reducing costs and generating revenue through fee-for-service training. Cutting staff costs in particular has an impact on the delivery of our services to the public.

As a result of our budgetary position, it is important that we have accurate and timely financial information to inform decision-making. We have been improving the quality of information provided to our senior managers, including better salary projection reporting and the early identification of expenditure commitments. We also continued our program to train staff in financial management and budgeting as well as providing staff with access to financial and budgeting related professional development activities.

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 19 for more details about this committee.

As mentioned last year, we began a review of our chart of accounts – this categorises our expenses and revenues as well as our assets and liabilities to help us report on and analyse our financial position. We need to make sure that the categories we use are relevant not only to us but also link to the external reporting requirements of NSW Treasury. Our review was nearly completed when we were advised that NSW Treasury was reviewing the chart of accounts for the sector, so we have put this project on hold until we receive further advice from them.

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,

strategic projects division and corporate. The NSW state budget reports expenses and allocations against service groups. In previous years we had four service groups, but from 2010-2011 NSW Treasury has decided that we will only be reporting on one combined service group – which is called 'Complaint Advice, Referral, Resolution or Investigation'.

## Revenue

Most of our revenue comes from the NSW 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 the government makes for certain employee entitlements such as long service leave.

Our initial 2011–2012 recurrent consolidated fund allocation was \$23.406 million and our final allocation was \$23.796 million. We received additional funding to undertake some reviews of new police powers.

In 2011–2012 we budgeted that the Crown Entity would accept \$748,000 of employee benefits and other entitlements. However, the actual acceptance was about \$1,152,000. This variance is primarily due to increased defined benefit superannuation costs as well as increases in the provisions for certain on-costs.

We were initially allocated \$219,000 for our capital program, but spent \$248,000 after a supplementation for the review of new police powers. Our capital program included buying desktops and laptops and upgrading hardware and software.

We generated \$702,000 through sales of our publications, bank interest, fee-for-service training courses and the consultancy services we provide to other Ombudsman offices through AusAid programs. We have taken 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 support other core work (see figure 51). There is a breakdown of our revenue, including capital funding and acceptance of employee entitlements, in figure 52.

**Fig. 51: Revenue from other sources**

Source	Revenue \$'000
Workshops and publication sales	608
Bank interest	40
Grants and contributions	33
Other revenue	21
<b>Total</b>	<b>702</b>

Fig. 52: Total revenue 2011–2012

Source	Revenue \$'000
Recurrent appropriation	23,796
Capital appropriation	248
Acceptance of certain employee entitlements	1,152
<b>Total government</b>	<b>25,196</b>
Revenue from other sources (see figure 51)	702
<b>Total</b>	<b>25,898</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 just under \$21.5 million – or 79.7% of our total expenses – on employee-related items.

Salary payments to staff were 13.5% higher than the previous year. As a result, our superannuation expenses also increased as did our payroll tax-related items. Our long service leave expenses decreased by \$130,000, but our workers compensation costs were \$96,000 – over 35% higher than the previous year. Our workers compensation premium is calculated on past claims as well as overall public sector workers compensation performance.

The day-to-day running of our office costs us over \$4.7 million. Our significant operating items are rent (\$2.08 million), contractors (\$649,000), consultants (\$113,000), fees (\$315,000), travel (\$429,000), maintenance (\$211,000), training (\$155,000), printing (\$173,000) and stores (\$125,000).

We engaged five consultants during 2011–2012 as shown in the following two tables. These amounts reported include GST, where the amount for consultants reported in our financial statements excludes GST.

Fig. 53: Consultancies valued at less than \$50,000

Category	Count	Cost*
Management services	2	\$7,253
<b>Total consultancies less than \$50,000</b>	<b>2</b>	<b>\$7,253</b>

Fig. 54: Consultancies valued at \$50,000 or more

Category & consultant	Nature	Cost*
<b>Management services</b>		
University of NSW (services over two financial years – total cost \$68,789)	Measuring socioeconomic status and geographic analysis and reporting child mortality	\$34,394
Queensland University of Technology (services over two financial years – total cost \$134,109)	Coding child and disability deaths, analytical services, data cleansing and expert review and recommendations about annual child death report	\$28,847
<b>Information technology</b>		
Deloitte	Preparing business specification document for capturing, analysing and reporting reviewable child death data, reviewable disability death data and child death review team information requirements	\$52,800
<b>Total consultancies \$50,000 or more</b>		<b>\$116,041</b>

\*figure rounded to whole dollars

The financial statements show that \$767,000 was expensed for depreciation and amortisation. As we spent \$248,000 on our capital program, we had a decrease in our non-current asset base. Our depreciation and amortisation expense was significantly higher as we made \$444,000 provision this year for make good on our premises at the end of the lease. To establish this provision, which is a liability, we had to create an asset which is then subject to depreciation. The depreciation on this make good asset was \$244,000.

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. 55: Total expenses 2011–2012

Expenses category	Total \$'000
Employee-related	21,491
Depreciation and amortisation	767
Other operating expenses	4,704
<b>Total</b>	<b>26,962</b>

We have an accounts payable policy that requires us to pay accounts promptly and within the terms specified on the invoice. Our aim is to pay all accounts within the specified time frame, which is 98% of the time. 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 time frame.

We reviewed our vendors to identify small businesses and ensure that payment timeframes were within the government's policy commitment. If agencies, including our office, fail to pay invoices to a small business on time they have to pay a penalty payment. Figure 52 provides details of our accounts paid on time. We had a small number of invoices to small businesses that were not paid on time – this was because we either needed to clarify charges or there was delay in us receiving the invoice.

During 2011–2012 we paid 99.84% of our accounts on time. This exceeded our target and is a slight decline in our performance from last year. We have not had to pay any penalty interest on outstanding accounts.



**Fig. 56: Accounts paid on time – all suppliers**

Measure	Sep 2011	Dec 2011	Mar 2012	Jun 2012	Total
<b>All suppliers</b>					
Number of accounts due for payment	717	674	533	738	2,662
Number of accounts paid on time	691	674	529	730	2,624
<b>Actual percentage of accounts paid on time (based on number of accounts)</b>	<b>96.37</b>	<b>100</b>	<b>99.23</b>	<b>98.92</b>	<b>98.57</b>
Dollar amount of accounts due for payment	2,848,538	2,484,399	2,811,491	2,713,560	10,857,988
Dollar amount of accounts paid on time	2,805,034	2,484,399	2,809,630	2,693,796	10,792,859
<b>Actual percentage of accounts paid on time (based on \$)</b>	<b>98.47</b>	<b>100</b>	<b>99.93</b>	<b>99.27</b>	<b>99.40</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	22	23	14	28	87
Number of accounts due to small businesses paid on time	19	23	14	27	83
<b>Actual percentage of small business accounts paid on time (based on number of accounts)</b>	<b>86.36</b>	<b>100</b>	<b>100</b>	<b>96.43</b>	<b>95.4</b>
Dollar amount of accounts due for payment to small businesses	49,429	18,374	9,798	15,790	93,391
Dollar amount of accounts due to small business paid on time	48,884	18,374	9,798	15,146	92,202
<b>Actual percentage of small business accounts paid on time (based on \$)</b>	<b>98.90</b>	<b>100</b>	<b>100</b>	<b>95.92</b>	<b>98.73</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 does include some employee-related payments such as payments to superannuation funds.

## Assets

Our statement of financial position shows that we had \$3.04 million in assets at 30 June 2012. The value of our current assets decreased by \$137,000 from the previous year, while the value of our non-current asset base decreased by \$76,000.

Just under 51% 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 \$385,000 in prepayments at 30 June 2012. The most significant prepayments were for rent and maintenance renewals for our office equipment and software support.

We used some of our cash reserves to support our complaint-handling and other core work, which decreased our cash at bank by \$86,000.

Our non-current assets, which are valued at \$1.490 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 \$219,000 in 2011–2012 for asset purchases and spent \$248,000 after a supplementation for the review of new police powers. This is reflected in our capital consolidated fund appropriation. We used our capital money to buy new computer hardware, office equipment and software.

## Liabilities

Our total liabilities at 30 June 2012 are \$3.274 million, an increase of \$851,000 over the previous year. Over 75% of our liabilities are the provisions 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 \$1.397 million. The Crown Entity accepts the liability for long service leave.

After discussions with the Audit Office, we made provision for the make good of our premises. A make good is

required under the terms of the lease and means we have to return the leased premises to the base building configuration when we leave. We had not made such a provision before and in doing so increased our provisions by \$444,000. Our assets were also affected as was depreciation.

We owe about \$301,000 for goods or services that we have received but have not yet been invoiced for. The value of accounts on hand at 30 June 2012 was \$93,042. Please see figure 53. We monitor the amounts that we owe on a regular basis to make sure that we are paying accounts within terms.

**Fig. 57: Analysis of accounts on hand at the end of each quarter**

	Sep-11	Dec-11	Mar-12	Jun-12
Current (ie within due date)	146,288	25,399	187,469	93,042
Less than 30 days overdue	-	2,778	-	-
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>146,288</b>	<b>28,177</b>	<b>187,469</b>	<b>93,042</b>
<b>Small Business</b>	-	-	-	-
Current (ie within due date)	49,429	18,374	9,798	15,790
Less than 30 days overdue	545	-	-	644
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>49,974</b>	<b>18,374</b>	<b>9,798</b>	<b>16,434</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 2012, the statement of comprehensive income, statement of changes in equity, 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 2012, 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 the 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 that are 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 that 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 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.



Peter Achterstraat  
Auditor-General

14 August 2012  
SYDNEY



13 August 2012

## 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 2012, and transactions for the year then ended; and
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Bruce Barbour  
**Ombudsman**

## Ombudsman's Office

### Statement of comprehensive income for the year ended 30 June 2012

	Notes	Actual 2012 \$'000	Budget 2012 \$'000	Actual 2011 \$'000
<b>Expenses excluding losses</b>				
Operating expenses				
Employee related	2(a)	21,491	20,233	19,222
Other operating expenses	2(b)	4,704	4,744	4,612
Depreciation and amortisation	2(c)	767	571	463
<b>Total Expenses excluding losses</b>		<b>26,962</b>	<b>25,548</b>	<b>24,297</b>
<b>Revenue</b>				
Recurrent appropriation	3(a)	23,796	23,406	21,804
Capital appropriation	3(a)	248	219	369
Sale of goods and services	3(b)	608	434	583
Investment revenue	3(c)	40	38	85
Grants and contributions	3(d)	33	–	46
Acceptance by the Crown Entity of employee benefits and other liabilities	3(e)	1,152	748	1,394
Other revenue	3(f)	21	17	147
<b>Total Revenue</b>		<b>25,898</b>	<b>24,862</b>	<b>24,428</b>
<b>Gain/(loss) on disposal</b>	4	<b>–</b>	<b>–</b>	<b>11</b>
<b>Net result</b>		<b>(1,064)</b>	<b>(686)</b>	<b>142</b>
<b>Other comprehensive income</b>				
Total other comprehensive income		–	–	–
<b>Total comprehensive income</b>	1(m)	<b>(1,064)</b>	<b>(686)</b>	<b>142</b>

The accompanying notes form part of these financial statements.

## Ombudsman's Office

### Statement of changes in equity for the year ended 30 June 2012

		Accumulated funds 2012 \$'000	Accumulated funds 2011 \$'000
	Notes		
Balance at 1 July		830	688
Net result for the year		(1,064)	142
Other comprehensive income		–	–
<b>Total other comprehensive income</b>		<b>–</b>	<b>–</b>
<b>Total comprehensive income for the year</b>	1(m)	<b>(1,064)</b>	<b>142</b>
<b>Balance at 30 June</b>		<b>(234)</b>	<b>830</b>

# Ombudsman's Office

## Statement of financial position as at 30 June 2012

	Notes	Actual 2012 \$'000	Budget 2012 \$'000	Actual 2011 \$'000
<b>Assets</b>				
<b>Current Assets</b>				
Cash and cash equivalents	6	987	944	1,073
Receivables	8	551	589	614
Other financial assets	9	12	–	–
<b>Total Current Assets</b>		<b>1,550</b>	<b>1,533</b>	<b>1,687</b>
<b>Non-Current Assets</b>				
Plant and equipment	10	994	841	1,145
Intangible assets	11	496	373	421
<b>Total Non-Current Assets</b>		<b>1,490</b>	<b>1,214</b>	<b>1,566</b>
<b>Total Assets</b>		<b>3,040</b>	<b>2,747</b>	<b>3,253</b>
<b>Liabilities</b>				
<b>Current Liabilities</b>				
Payables	12	833	714	697
Provisions	13	1,939	1,863	1,652
Other	14	29	–	54
<b>Total Current Liabilities</b>		<b>2,801</b>	<b>2,577</b>	<b>2,403</b>
<b>Non-Current Liabilities</b>				
Provisions	13	29	20	20
Other	14	444	–	–
<b>Total Non-Current Liabilities</b>		<b>473</b>	<b>20</b>	<b>20</b>
<b>Total Liabilities</b>		<b>3,274</b>	<b>2,597</b>	<b>2,423</b>
<b>Net Assets</b>		<b>(234)</b>	<b>150</b>	<b>830</b>
<b>Equity</b>				
Accumulated funds		(234)	150	830
<b>Total Equity</b>		<b>(234)</b>	<b>150</b>	<b>830</b>

The accompanying notes form part of these financial statements.



## Ombudsman's Office

### Statement of cash flows for the year ended 30 June 2012

	Notes	Actual 2012 \$'000	Budget 2012 \$'000	Actual 2011 \$'000
<b>Cash flows from operating activities</b>				
<b>Payments</b>				
Employee related		(19,936)	(19,268)	(17,524)
Other		(5,250)	(5,259)	(5,696)
<b>Total Payments</b>		<b>(25,186)</b>	<b>(24,527)</b>	<b>(23,220)</b>
<b>Receipts</b>				
Recurrent appropriation		23,796	23,406	21,804
Capital appropriation (excluding equity appropriations)		248	219	369
Sale of goods and services		654	434	665
Interest received		54	31	96
Grants and contributions		33	–	–
Other		563	527	642
<b>Total Receipts</b>		<b>25,348</b>	<b>24,617</b>	<b>23,576</b>
<b>Net cash flows from operating activities</b>	16	<b>162</b>	<b>90</b>	<b>356</b>
<b>Cash flows from investing activities</b>				
Proceeds from sale of plant and equipment		–	–	17
Purchases of Leasehold Improvements, plant and equipment		(248)	(219)	(384)
<b>Net cash flows from investing activities</b>		<b>(248)</b>	<b>(219)</b>	<b>(367)</b>
<b>Net increase/(decrease) in cash</b>		<b>(86)</b>	<b>(129)</b>	<b>(11)</b>
Opening cash and cash equivalents		1,073	1,073	1,084
<b>Closing cash and cash equivalents</b>	6	<b>987</b>	<b>944</b>	<b>1,073</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 2012

	2012			2011		
	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	23,406	23,406	219	219	21,460	314
	<b>23,406</b>	<b>23,406</b>	<b>219</b>	<b>219</b>	<b>21,460</b>	<b>314</b>
<b>Other appropriations/expenditure</b>						
• Treasurer's advance	445	390	12	12	516	55
• Additional appropriations – section 33	95	–	17	17	–	–
	<b>540</b>	<b>390</b>	<b>29</b>	<b>29</b>	<b>516</b>	<b>55</b>
<b>Total appropriations/expenditure/net claim on consolidated fund</b>	<b>23,946</b>	<b>23,796</b>	<b>248</b>	<b>248</b>	<b>21,976</b>	<b>369</b>
<b>Amount drawn down against appropriation</b>		<b>23,796</b>		<b>248</b>		<b>369</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 2012

### 1 Summary of Significant Accounting Policies

#### (a) Reporting entity

The Ombudsman's office is a NSW Government Department. Our role is to make sure that public and private sector agencies and employees within our jurisdiction fulfill their functions properly. We help agencies to be aware of their responsibilities to the public, to act reasonably and to comply with the law and best practice in administration.

The office is a not-for-profit entity (as profit is not its principal objective) and we have no 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 2012 has been authorised for issue by the NSW Ombudsman on 10 August 2012.

#### (b) Basis of preparation

Our financial statements are general purpose financial statement, which has been prepared in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations);
- the requirements of the *Public Finance and Audit Act 1983* and Regulations; and
- the financial reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.

The financial statements have been prepared in accordance with the historical cost convention.

Judgments, key assumptions and estimations made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

#### (c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

#### (d) Insurance

Our insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for Government agencies. The expense (premium) is determined by the Fund Manager, and is calculated by our past claims experience, overall public sector experience and ongoing actuarial advice.

#### (e) Accounting for the Goods and Services Tax (GST)

Incomes, expenses and assets are recognised net of GST, except that:

- the amount of GST incurred by us as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the acquisition of an asset or as part of an item of expense, and
- receivables and payables are stated with GST included.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

#### (f) Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of income are discussed below.

##### (i) Parliamentary appropriations and contributions

Parliamentary appropriations and contributions from other bodies (including grants) are generally recognised as income when we obtain control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

An exception to this is when appropriations remain unspent at year end. In this case, the authority to spend the money lapses and generally the unspent amount must be repaid to the Consolidated Fund in the following financial year. As a result, unspent appropriations are accounted for as liabilities rather than revenue. The liability, if any, is disclosed in Note 14 as part of 'Other Current Liabilities'.

##### (ii) Sale of goods

Revenue from the sale of goods such as publications are recognised as revenue when we transfer the significant risks and rewards of ownership of the assets.

##### (iii) Rendering of services

Revenue from the rendering of services such as conducting training programs, is recognised when the service is provided or by reference to the stage of completion, for instance based on labour hours incurred to date.

##### (iv) Investment revenue

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2012

#### (g) Assets

##### (i) Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by us.

Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Fair value is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

##### (ii) Capitalisation thresholds

Individual plant and equipment and intangible assets costing \$5,000 and above are capitalised. For those items that form part of our IT network, the threshold is \$1,000 individually.

##### (iii) Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, we are effectively exempted from AASB 136 *Impairment of Assets*. This is because AASB 136 modifies the recoverable amount test to the higher of fair value less costs to sell and depreciated replacement cost. This means that, for an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

##### (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%

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss. However, as a not-for-profit entity, the office is effectively exempted from impairment testing (refer to note 1(g)(iii)).

### Notes to the financial statements for the year ended 30 June 2012

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#### **(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.

#### **(h) Liabilities**

##### **(i) Payables**

These amounts represent liabilities for goods and services provided to us as well as other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

##### **(ii) Employee benefits and other provisions**

###### **(a) Salaries and wages, annual leave, sick leave and on-costs**

Liabilities for salaries and wages (including non-monetary benefits), and annual leave that fall due wholly within twelve months of the reporting date are recognised and measured in respect of employees' services up to the reporting date at undiscounted amounts based on the amounts expected to be paid when the liabilities are settled.

Long-term annual leave that is not expected to be taken within twelve months is measured at the present value in accordance with AASB119 *Employee Benefits*. Market yields on government bonds rates of 3.05% are used to discount long-term annual leave.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

The outstanding amounts of payroll tax, workers' compensation, insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

###### **(b) Long service leave and superannuation**

Our liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. We account for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSWTC 12/06) 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.

#### **(i) Equity**

##### **(i) Accumulated Funds**

The category accumulated funds includes all current and prior period retained funds.

##### **(ii) Reserve Accounts**

Separate reserve accounts are recognised in the financial statements only if such accounts are required by specific legislation or Australian Accounting Standards (e.g. asset revaluation reserve and foreign currency translation reserve).

#### **(j) Budgeted amounts**

The budgeted amounts are drawn from the budgets formulated at the beginning of the financial year.

The budgeted amounts in the statement of comprehensive income, the provision of statement of financial position and statement of cash flow are generally based on the amounts disclosed in the NSW Budget Papers.

#### **(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.



## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2012

**(l) New Australian Accounting Standards issued but not effective**

A number of new Accounting Standards have not been applied and are not yet effective. The impact of these Standards in the period of initial application is unlikely to be material.

**(m) Going concern**

The Ombudsman office is a 'going concern' public sector agency. We will receive Parliamentary appropriation as outlined in the NSW Budget Papers for 2012-2013 in fortnightly instalments from the Crown Entity.

As at 30 June 2012 our total liabilities exceeded our total assets by \$234,000 primarily due to the recognition of the makegood provision of \$444,000 and a number of assets being fully depreciated.

Current liabilities include provision for leave of \$1.9 million of which \$1,257,300 is expected to be payable within the next 12 months.

Also refer to Note 13.

**(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 below, in most instances this will approximate fair value.

All other equity transfers are recognised at fair value, except for intangibles. Where an intangible has been recognised at (amortised) cost by the transferor because there is no active market, the agency recognises the asset at the transferor's carrying amount. Where the transferor is prohibited from recognising internally generated intangibles, the agency does not recognise that asset.

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2012

	2012 \$'000	2011 \$'000
<b>2 Expenses excluding losses</b>		
<b>(a) Employee related expenses</b>		
Salaries and wages (including recreation leave)*	17,789	15,671
Superannuation - defined benefit plans	304	413
Superannuation - defined contribution plans	1,369	1,127
Long service leave	830	960
Workers' compensation insurance	96	71
Payroll tax and fringe benefit tax	1,103	980
	<b>21,491</b>	<b>19,222</b>
<b>(b) Other operating expenses include the following:</b>		
Auditor's remuneration - audit of the financial statements	28	27
Operating lease rental expense - minimum lease payments	2,083	1,930
Insurance	12	16
Fees	315	475
Telephones	102	100
Stores	125	111
Training	155	165
Printing	173	121
Travel	429	400
Consultants	113	–
Contractors	649	625
Maintenance - non-employee related*	211	272
Other	309	370
	<b>4,704</b>	<b>4,612</b>
* Reconciliation - Total maintenance		
Maintenance expenses - contracted labour and other	211	272
Employee related maintenance expense included in Note 2(a)	76	86
<b>Total maintenance expenses included in Notes 2(a) and 2(b)</b>	<b>287</b>	<b>358</b>
<b>(c) Depreciation and amortisation expense</b>		
<b>Depreciation</b>		
Plant and equipment	118	124
Leasehold Improvements	434	128
Furniture and Fittings	84	72
<b>Total depreciation expense</b>	<b>636</b>	<b>324</b>
<b>Amortisation</b>	131	139
<b>Total depreciation and amortisation expenses</b>	<b>767</b>	<b>463</b>

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2012

	2012 \$'000	2011 \$'000
<b>3 Revenue</b>		
<b>(a) Appropriations</b>		
Recurrent appropriation		
Total recurrent draw-downs from NSW Treasury (per Summary of compliance)	23,796	21,804
	<b>23,796</b>	<b>21,804</b>
Comprising:		
Recurrent appropriations (per Statement of comprehensive income)	23,796	21,804
	<b>23,796</b>	<b>21,804</b>
Capital appropriation		
Total capital draw-downs from Treasury (per Summary of compliance)	248	369
	<b>248</b>	<b>369</b>
Comprising:		
Capital appropriations (per Statement of comprehensive income)	248	369
	<b>248</b>	<b>369</b>
<b>(b) Sale of goods and services</b>		
Sale of publications	–	2
Rendering of services	608	581
	<b>608</b>	<b>583</b>
<b>(c) Investment revenue</b>		
Interest	40	85
	<b>40</b>	<b>85</b>
<b>(d) Grants and contributions</b>		
Unreasonable Complainants Conduct Project	33	46
	<b>33</b>	<b>46</b>
<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	304	413
• Long service leave	830	960
• Payroll tax on superannuation	18	21
	<b>1,152</b>	<b>1,394</b>
<b>(f) Other revenue</b>		
Miscellaneous	21	147
	<b>21</b>	<b>147</b>
<b>4 Gain/(loss) on disposal</b>		
Gain/(loss) on disposal	–	11
	<b>–</b>	<b>11</b>

### 5 Service groups of the entity

The NSW Ombudsman 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.

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2012

	2012 \$'000	2011 \$'000
<b>6 Current assets – cash and cash equivalents</b>		
Cash at bank and on hand	987	1,073
	<b>987</b>	<b>1,073</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)	987	1,073
• Closing cash and cash equivalents (per statement of cash flows).	<b>987</b>	<b>1,073</b>
Refer Note 18 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.		
<b>7 Restricted assets – cash</b>		
Unreasonable Complainants Conduct Project	–	33
	<b>–</b>	<b>33</b>
<b>8 Current assets – receivables</b>		
Transfer of leave and salary reimbursement	–	15
Workshops	67	45
Reimbursement of expenses	6	11
Bank interest	19	47
GST receivable	74	96
Legal fees	–	36
Less: Allowance for impairment	–	(36)
Prepayments	385	400
	<b>551</b>	<b>614</b>
Details regarding credit risk, liquidity risk and market risk, including financial assets that are either past due or impaired, are disclosed in Note 18.		
Movement in the allowance of impairment		
Balance at 1 July	36	–
Decrease in allowance recognised in loss	(36)	36
Balance at 30 June	<b>–</b>	<b>36</b>
Refer to Note 18 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	12	–
	<b>12</b>	<b>–</b>
Refer to Note 18 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 2012

#### 10 Non-current assets – plant and equipment

	Plant and equipment \$'000	Leasehold improvement \$'000	Furniture and fitting \$'000	Total \$'000
<b>At 1 July 2011 - fair value</b>				
Gross carrying amount	1,543	1,391	931	3,865
Accumulated depreciation	(1,220)	(1,056)	(444)	(2,720)
<b>Net carrying amount</b>	<b>323</b>	<b>335</b>	<b>487</b>	<b>1,145</b>
<b>At 30 June 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>

#### Reconciliation

A reconciliation of the carrying amount of each class of assets at the beginning of and end of financial years is set out below:

Year ended 30 June 2012	\$'000	\$'000	\$'000	\$'000
Net carrying amount at start of year	323	335	487	1,145
Additions	37	448	–	485
Disposals	–	–	–	–
Depreciation expense	(118)	(434)	(84)	(636)
<b>Net carrying amount at end of year</b>	<b>242</b>	<b>349</b>	<b>403</b>	<b>994</b>

#### At 1 July 2010 - fair value

Gross carrying amount	1,781	1,356	737	3,874
Accumulated depreciation	(1,401)	(928)	(372)	(2,701)
<b>Net carrying amount</b>	<b>380</b>	<b>428</b>	<b>365</b>	<b>1,173</b>

#### At 30 June 2011 - fair value

Gross carrying amount	1,543	1,391	931	3,865
Accumulated depreciation	(1,220)	(1,056)	(444)	(2,720)
<b>Net carrying amount</b>	<b>323</b>	<b>335</b>	<b>487</b>	<b>1,145</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:

#### Year ended 30 June 2011

Net carrying amount at start of year	380	428	365	1,173
Additions	70	39	194	303
Disposals	(3)	(4)	–	(7)
Depreciation expense	(124)	(128)	(72)	(324)
<b>Net carrying amount at end of year</b>	<b>323</b>	<b>335</b>	<b>487</b>	<b>1,145</b>

#### 11 Non-current assets – intangible assets

	1 July 2010 \$'000	30 June 2011 \$'000	1 July 2011 \$'000	30 June 2012 \$'000
<b>Software</b>				
Gross carrying amount	3,116	2,116	2,116	2,323
Accumulated amortisation	(2,638)	(1,695)	(1,695)	(1,827)
<b>Net carrying amount</b>	<b>478</b>	<b>421</b>	<b>421</b>	<b>496</b>



## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2012

	2012 \$'000	2011 \$'000
<b>Reconciliation</b>		
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	421	478
Disposals	–	–
Additions	206	82
Amortisation expense	(131)	(139)
<b>Net carrying amount at end of year</b>	<b>496</b>	<b>421</b>
<b>12 Current liabilities – payables</b>		
Accrued salaries, wages and on-costs	532	426
Creditors	301	271
	<b>833</b>	<b>697</b>
<b>13 Current/non-current liabilities – provisions</b>		
<b>Current employee benefits and related on-costs</b>		
Recreation leave	1,020	937
Annual leave loading	248	201
Provision for related on-costs on recreation leave	129	130
Provision for related on-costs on long service leave	542	384
	<b>1,939</b>	<b>1,652</b>
<b>Non-current employee benefits and related on-costs</b>		
Provision for related on-costs on long service leave	29	20
	<b>29</b>	<b>20</b>
<b>Aggregate employee benefits and related on-costs</b>		
Provisions - current	1,939	1,652
Provisions - non-current	29	20
Accrued salaries, wages and on-costs (Note 12)	532	426
	<b>2,500</b>	<b>2,098</b>
The value of annual leave and associated on-costs expected to be taken within 12 months is \$1,257,300. 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 \$57,000 and \$514,000 after 12 months.		
<b>14 Current/non-current liabilities – other</b>		
<b>Current</b>		
Unreasonable Complainants Conduct Project	–	33
Prepaid income	29	21
	<b>29</b>	<b>54</b>
<b>Non-current</b>	444	–
Provision for make good	<b>444</b>	<b>–</b>
	<b>Makegood</b>	
<b>2012</b>		
Carrying amount at the beginning of financial year	–	–
Additional provisions recognised	444	–
Carrying amount at the end of financial year	<b>444</b>	<b>–</b>

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2012

	2012 \$'000	2011 \$'000
<b>15 Commitments for expenditure</b>		
<b>Operating lease commitments</b>		
Future non-cancellable operating lease rentals not provided for and payable:		
Not later than one year	2,352	2,368
Later than one year and not later than five years	3,144	7,971
<b>Total (including GST)</b>	<b>5,496</b>	<b>10,339</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 \$499,601, (2011: \$939,792) which are expected to be recoverable from the Australian Taxation Office.

### 16 Reconciliation of cash flows from operating activities to net result

Net cash used on operating activities	162	356
Depreciation and amortisation	(767)	(463)
Decrease/(increase ) in provisions	(296)	(172)
Increase/(decrease) in prepayments	(15)	(27)
Decrease/(increase) in payables	(136)	(112)
Increase/(decrease) in receivables	(37)	13
Decrease/(increase) in other liabilities	25	536
Net gain/(loss) on sale of plant and equipment	–	11
<b>Net result</b>	<b>(1,064)</b>	<b>142</b>

### 17 Budget review

#### Net result

Total expenses were \$1.41 million more than budget, with additional costs incurred for new legislative reviews, as well as long service leave and defined contribution superannuation scheme expenses higher than anticipated. We received additional funding of \$390,000 from NSW Treasury for new legislative reviews and used money we generated to support our core work. We made provision for the make good of our tenancy at the end of our lease, which significantly increased our depreciation expenses. Due to the timing of pay increase announcements, we have had to recognise two 2.5% pay increases when calculating leave liabilities. We only budgeted for one increase.

Our revenue was \$1,036,000 higher than budget, with increase recurrent and capital appropriation (for new legislative reviews); higher training revenue; and a \$404,000 increase in the acceptance by the crown of employee benefits and other liabilities.

#### Assets and liabilities

Total liabilities are higher than our total assets by \$234,000. The primary reasons is the \$444,000 make good provision which although added as an asset has been depreciated by \$244,000. Our cash was slightly higher than what we had budgeted.

#### Cash flows

Net cash flows was \$72,000 higher than budget, with total payments higher by \$659,000 and total receipts higher by \$731,000. Government contributions were higher than budget by \$419,000 as we received funding for new legislative reviews.

# Ombudsman's Office

## Notes to the financial statements for the year ended 30 June 2012

### 18 Financial instruments

The office's principal financial instruments are outlined below. These financial instruments arise directly from the office's operations and are required to finance our operations. The office does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The office's main risks arising from financial instruments are outlined below, together with the office's objectives, policies and processes measuring and managing risk. Further quantitative 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	2012 \$'000	2011 \$'000
Financial assets				
Cash and cash equivalents	6	N/A	987	1,073
Receivables <sup>1</sup>	8	Receivables (at amortised cost)	92	77
Other financial assets	9	Loans and receivables (at amortised cost)	12	–
Financial Liabilities				
Payables <sup>2</sup>	12	Financial liabilities measured at amortised cost	833	697

#### 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 the Ombudsman's debtors defaulting on their contractual obligations, resulting in a financial loss to the Ombudsman's office. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment). Credit risk is managed through the selection of counterparties and establishing minimum credit rating standards. Credit risk arises from the financial assets of the Ombudsman's office, including cash, receivables and authority deposits. No collateral is held by the Ombudsman's office and the office has not granted any financial guarantees.

#### Cash

Cash comprises cash on hand and bank balances within the Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to Treasury.

#### Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that we will not be able to collect all amounts due. The credit risk is the carrying amount (net of any allowance for impairment, if there is any). No interest is earned on trade debtors. The carrying amount approximates fair value. Sales are made on 14-day terms. The Ombudsman's office is not exposed to concentration of credit risk to a single debtor or group of debtors.

## Ombudsman's Office

### Notes to the financial statements for the year ended 30 June 2012

	Total* \$'000	Past due but not impaired* \$'000	Considered impaired* \$'000
<b>2012</b>			
< 3 months overdue	55	55	–
3 months - 6 months overdue	29	29	–
> 6 months overdue	3	3	–
<b>2011</b>			
< 3 months overdue	55	55	–
3 months - 6 months overdue	2	2	–
> 6 months overdue	36	–	36

\* Each column in the table reports 'gross receivables'. The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7 and excludes receivables that are not past due and not impaired. Therefore, the 'total' will not reconcile to the receivables total recognised in the statement of financial position.

#### (c) Liquidity risk

Liquidity risk is the risk that the Ombudsman's office will be unable to meet its payment obligations when they fall due. The Ombudsman's office continuously manages risk through monitoring future cash flows to ensure adequate holding of high quality liquid assets.

##### Bank overdraft

The office does not have any bank overdraft facility. During the current and prior years, there were no defaults or breaches on any loans payable. No assets have been pledged as collateral. The office exposure to liquidity risk is deemed insignificant based on prior periods data and current assessment of risk.

##### 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, where 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 rate of interest applied during the year was 3.02% (2011 - 5.22%). However, we did not pay any penalty interest during the financial year.

The table below summarises the maturity profile of the Ombudsman's office financial liabilities.

Payables	Weighted average effective interest rate	Nominal amount# \$'000	Interest rate exposure			Maturity dates		
			Fixed interest rate	Variable interest rate	Non-interest bearing	< 1 yr	1–5 yrs	5 yrs
<b>2012</b>								
Accrued salaries, wages and on-costs	–	532	–	–	532	532	–	–
Creditors	–	301	–	–	301	301	–	–
	–	<b>833</b>	–	–	<b>833</b>	<b>833</b>	–	–
<b>2011</b>								
Accrued salaries, wages and on-costs	–	426	–	–	426	426	–	–
Creditors	–	271	–	–	271	271	–	–
	–	<b>697</b>	–	–	<b>697</b>	<b>697</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 2012

#### (d) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Ombudsman's office exposure to market risk 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 2012. The analysis assumes that all other variables remain constant.

		-1%		+1%	
	Carrying amount \$'000	Results \$'000	Equity \$'000	Results \$'000	Equity \$'000
2012					
Financial assets					
Cash and cash equivalents	987	(10)	(10)	10	10
Receivables	92	(1)	N/A	N/A	N/A
Other financial assets	12	(0)	N/A	N/A	N/A
Financial liabilities					
Payables	833	N/A	N/A	N/A	N/A
2011					
Financial assets					
Cash and cash equivalents	1073	(11)	(11)	11	11
Receivables	77	N/A	N/A	N/A	N/A
Other financial assets	0	N/A	N/A	N/A	N/A
Financial liabilities					
Payables	697	N/A	N/A	N/A	N/A

#### (e) Fair value

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.

	2012		2011	
	Carrying amount \$'000	Fair value \$'000	Carrying amount \$'000	Fair value \$'000
<b>Financial assets</b>				
Cash	987	987	1,073	1,073
Receivables	92	92	77	77
Other financial assets	12	12	–	–
<b>Financial liabilities</b>				
Account payables	833	833	697	697

## 19 Contingent liabilities

There are no contingent assets or liabilities for the period ended 30 June 2012 (2011: nil).

## 20 After balance date events

There were no events after the reporting period 30 June 2012 (2011: nil).

## End of the financial statements



# Appendices

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## Our work

The following appendices provide additional information on our activities and compliance reporting, compliant profiles, actions taken on formal complaints, updates on legislative reviews and other resource information.

# Appendix A

## Profile of notifiable police complaints 2011–2012

**Fig. 58: Action taken on finalised notifiable complaints about police officers in 2011–2012**

The number of allegations is larger than the number of complaints received because a complaint may contain more than one allegation about a single incident or involve a series of incidents.

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
<b>Arrest</b>				
Improper failure to arrest	3	3	4	10
Unlawful arrest	30	22	25	77
Unnecessary use of arrest	27	14	16	57
<b>Total</b>	<b>60</b>	<b>39</b>	<b>45</b>	<b>144</b>
<b>Complaint-handling</b>				
Deficient complaint investigation	6	3	1	10
Fail to report misconduct	0	51	14	65
Fail to take a complaint	6	3	2	11
Inadequacies in informal resolution	1	1	1	3
Provide false information in complaint investigation	5	43	6	54
<b>Total</b>	<b>18</b>	<b>101</b>	<b>24</b>	<b>143</b>
<b>Corruption/misuse of office</b>				
Explicit threats involving use of authority	7	6	4	17
Improper association	28	51	25	104
Misuse authority for personal benefit or benefit of an associate	39	67	30	136
Offer or receipt of bribe/corrupt payment	15	6	1	22
Protection of person(s) involved in criminal activity (other)	2	1	2	5
<b>Total</b>	<b>91</b>	<b>131</b>	<b>62</b>	<b>284</b>
<b>Custody/detention</b>				
Death/serious injury in custody	1	0	0	1
Detained in excess of authorised time	2	1	1	4
Escape from custody	0	1	10	11
Fail to allow communication	1	0	2	3
Fail to caution/give information	1	0	3	4
Fail to meet requirements for vulnerable persons	2	2	3	7
Improper refusal to grant bail	2	1	0	3
Improper treatment	30	19	29	78
Inadequate monitoring of persons in custody	0	1	2	3
Unauthorised detention	13	2	5	20
<b>Total</b>	<b>52</b>	<b>27</b>	<b>55</b>	<b>134</b>
<b>Driving-related offences/misconduct</b>				
Breach pursuit guidelines	2	3	7	12
Drink driving offence	0	29	1	30
Negligent/dangerous driving	3	13	11	27
Unnecessary speeding	3	11	4	18
<b>Total</b>	<b>8</b>	<b>56</b>	<b>23</b>	<b>87</b>
<b>Drug-related offences/misconduct</b>				
Cultivate/manufacture prohibited drug	4	2	1	7
Drinking/under the influence on duty	2	2	5	9
Protection of person(s) involved in drug activity	32	10	10	52
Supply prohibited drug	21	13	6	40
Use/possess restricted substance	0	2	1	3
Use/possession of prohibited drug	18	22	8	48
<b>Total</b>	<b>77</b>	<b>51</b>	<b>31</b>	<b>159</b>
<b>Excessive use of force</b>				
Assault	186	229	125	540
Firearm discharged	1	1	1	3
Firearm drawn	2	7	3	12
Improper use of handcuffs	5	5	8	18
<b>Total</b>	<b>194</b>	<b>242</b>	<b>137</b>	<b>573</b>

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
<b>Information</b>				
Fail to create/maintain records	9	50	41	100
Falsify official records	3	21	13	37
Misuse email/Internet	3	4	17	24
Provide incorrect or misleading information	12	50	19	81
Unauthorised access to information/data	9	51	38	98
Unauthorised alteration to information/data	0	1	0	1
Unauthorised disclosure of information/data	53	68	58	179
Unreasonable refusal to provide information	4	0	2	6
<b>Total</b>	<b>93</b>	<b>245</b>	<b>188</b>	<b>526</b>
<b>Inadequate/improper investigation</b>				
Delay in investigation	13	7	25	45
Fail to advise outcome of investigation	2	1	8	11
Fail to advise progress of investigation	6	1	6	13
Fail to investigate (customer service)	158	42	100	300
Improper/unauthorised forensic procedure	1	0	0	1
Improperly fail to investigate offence committed by another officer	1	0	0	1
Improperly interfere in investigation by another police officer	5	15	7	27
Inadequate Investigation	142	71	194	407
<b>Total</b>	<b>328</b>	<b>137</b>	<b>340</b>	<b>805</b>
<b>Misconduct</b>				
Allow unauthorised use of weapon	0	1	1	2
Conflict of interest	8	28	14	50
Detrimental action against a whistleblower	2	2	0	4
Dishonesty in recruitment/promotion	2	2	0	4
Disobey reasonable direction	2	18	10	30
Fail performance/conduct plan	0	3	1	4
Failure to comply with code of conduct (other)	98	278	176	552
Failure to comply with statutory obligation/procedure (other)	46	150	162	358
False claiming for duties/allowances	1	18	3	22
Inadequate management/maladministration	19	52	75	146
Inadequate security of weapon/appointments	0	20	34	54
Inappropriate intervention in civil dispute	3	2	5	10
Minor workplace-related misconduct	1	14	11	26
Other improper use of discretion	7	9	3	19
Unauthorised secondary employment	5	12	7	24
Unauthorised use of vehicle/facilities/equipment	14	36	22	72
Workplace harassment/victimisation/discrimination	23	114	48	185
<b>Total</b>	<b>231</b>	<b>759</b>	<b>572</b>	<b>1,562</b>
<b>Other criminal conduct</b>				
Fraud	0	4	0	4
Murder/manslaughter	3	0	0	3
Officer in breach of domestic violence order	3	9	1	13
Officer perpetrator of domestic violence	4	20	2	26
Officer subject of application for domestic violence order	4	16	2	22
Other Indictable offence	21	42	10	73
Other summary offence	18	140	16	174
Sexual assault/indecent assault	13	32	2	47
<b>Total</b>	<b>66</b>	<b>263</b>	<b>33</b>	<b>362</b>

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
<b>Property/exhibits/theft</b>				
Damage to	3	4	7	14
Fail to report loss	0	1	0	1
Failure or delay in returning to owner	25	7	14	46
Loss of	10	13	34	57
Theft	9	40	5	54
Unauthorised removal/destruction/use of	12	13	15	40
<b>Total</b>	<b>59</b>	<b>78</b>	<b>75</b>	<b>212</b>
<b>Prosecution-related inadequacies/misconduct</b>				
Adverse comment by Court/costs awarded	1	6	25	32
Fail to attend Court	0	8	37	45
Fail to check brief/inadequate preparation of brief	1	8	58	67
Fail to notify witness	1	5	43	49
Fail to serve brief of evidence	0	9	22	31
Failure to charge/prosecute	29	5	29	63
Improper prosecution	15	9	14	38
Legal representation for withdrawal of charge	1	0	0	1
Mislead the Court	5	2	0	7
Mislead the defence	0	1	0	1
PIN/TIN inappropriately/wrongly issued	3	1	1	5
<b>Total</b>	<b>56</b>	<b>54</b>	<b>229</b>	<b>339</b>
<b>Public justice offences</b>				
Fabrication of evidence (other than perjury)	17	5	10	32
Make false statement	12	16	6	34
Other pervert the course of justice	21	28	10	59
Perjury	3	11	1	15
Withholding or suppression of evidence	11	4	2	17
<b>Total</b>	<b>64</b>	<b>64</b>	<b>29</b>	<b>157</b>
<b>Search/entry</b>				
Failure to conduct search	1	2	4	7
Property missing after search	1	2	3	6
Unlawful entry	5	0	7	12
Unlawful search	26	16	28	70
Unreasonable/inappropriate conditions/damage	12	0	11	23
Wrongful seizure of property during search	8	2	3	13
<b>Total</b>	<b>53</b>	<b>22</b>	<b>56</b>	<b>131</b>
<b>Service delivery</b>				
Breach domestic violence SOPS	0	9	10	19
Fail to provide victim support	16	13	35	64
Fail/delay attendance to incident/'000'	8	8	13	29
Harassment/Intimidation	117	27	80	224
Improper failure to WIPE	3	6	13	22
Improper request for identity/proof of identity	1	0	0	1
Neglect of duty (not specified elsewhere)	18	28	31	77
Other (customer service)	184	32	153	369
Rudeness/verbal abuse	71	45	130	246
Threats	27	26	30	83
<b>Total</b>	<b>445</b>	<b>194</b>	<b>495</b>	<b>1,134</b>
<b>Total summary of allegations</b>	<b>1,895</b>	<b>2,463</b>	<b>2,394</b>	<b>6,752</b>

# Appendix B

## Custodial Services

**Fig. 59: Action taken on formal complaints about people in custody finalised in 2011–2012**

Council	Assessment only	Preliminary or informal investigation									Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M		
Corrective Services	98	37	418	8	287	28	11	5	0	0	0	2	0	894	
Justice Health	10	5	54	1	36	3	0	0	0	0	0	0	0	109	
Juvenile Justice	3	5	30	0	45	8	0	0	0	0	0	0	0	91	
Total	111	47	502	9	368	39	11	5	0	0	0	2	0	1,094	

### Description

#### Decline after assessment only, including:

**A** Conduct outside jurisdiction, trivial, remote, insufficient interest, commercial matter, right of appeal or redress, substantive explanation or advice provided, premature – referred to agency, concurrent representation, investigation declined on resource/priority grounds

#### Preliminary or informal investigation:

**B** Substantive advice, information provided without formal finding of wrong conduct

**C** Advice/explanation provided where no or insufficient evidence of wrong conduct

**D** Further investigation declined on grounds of resource/priority

**E** Resolved to Ombudsman's satisfaction

**F** Resolved by agency prior to our intervention

**G** Suggestions/comment made

**H** Consolidated into other complaint

**I** Conciliated/mediated

#### Formal investigation:

**J** Resolved during investigation

**K** Investigation discontinued

**L** No adverse finding

**M** Adverse finding

**Fig. 60: Number of formal and informal complaints about Juvenile Justice received in 2011–2012**

Some complaints may involve more than one centre.

Institution	Formal	Informal	Total
Acmena Juvenile Justice Centre	12	33	45
Cobham Juvenile Justice Centre	15	13	28
Emu Plains Juvenile Justice Centre	10	22	32
Frank Baxter Juvenile Justice Centre	34	71	105
Juniperina Juvenile Justice Centre	2	20	22
Juvenile Justice NSW	6	17	23
Orana Juvenile Justice Centre	7	18	25
Reiby Juvenile Justice Centre	2	1	3
Riverina Juvenile Justice Centre	4	10	14
<b>Total</b>	<b>92</b>	<b>205</b>	<b>297</b>



**Fig. 61: Number of formal and informal complaints about correctional centres, Corrective Services NSW and the GEO group received in 2011–2012**

Some complaints may involve more than one centre.

Institution	Formal	Informal	Total
Bathurst Correctional Centre	35	195	230
Berrima Correctional Centre	0	2	2
Broken Hill Correctional Centre	6	14	20
Cessnock Correctional Centre	22	74	96
Community Offender Services	30	64	94
Compulsory Drug Treatment Correctional Centre	3	1	4
Cooma Correctional Centre	11	26	37
Corrective Services Academy	0	2	2
Corrective Services NSW	77	239	316
Court Escort/Security Unit	3	4	7
Dawn De Loas Special Purpose Centre	29	76	105
Dillwynia Correctional Centre	25	69	94
Emu Plains Correctional Centre	10	86	96
Glen Innes Correctional Centre	1	9	10
Goulburn Correctional Centre	31	161	192
Grafton Correctional Centre	11	36	47
High Risk Management Correctional Centre	19	31	50
Ivanhoe 'Warakirri' Correctional Centre	1	5	6
John Morony Correctional Centre	6	43	49
Junee Correctional Centre	84	273	357
Justice Health	104	206	310
Kariong Juvenile Correctional Centre	25	45	70
Kirkconnell Correctional Centre	4	7	11
Lithgow Correctional Centre	24	95	119
Long Bay Hospital	10	98	108
Mannus Correctional Centre	4	11	15
Metropolitan Remand Reception Centre	75	283	358
Metropolitan Special Programs Centre	66	303	369
Mid North Coast Correctional Centre	55	195	250
Oberon Correctional Centre	2	6	8
Outer Metropolitan Multi Purpose Centre	11	20	31
Parklea Correctional Centre	62	259	321
Parramatta Correctional Centre	1	8	9
Periodic Detention Centres	0	2	2
Serious Offenders Review Council	0	2	2
Silverwater Correctional Centre	3	37	40
Silverwater Women's Correctional Centre	26	154	180
South Coast Correctional Centre	31	133	164
Special Purpose Prison Long Bay	23	31	54
St Heliers Correctional Centre	3	28	31
State Parole Authority	0	5	5
Tamworth Correctional Centre	4	29	33
The Forensic Hospital	3	7	10
Wellington Correctional Centre	53	209	262
Yetta Dhinnakkal (Brewarrina) Correctional Centre	0	1	1
<b>Total</b>	<b>993</b>	<b>3,584</b>	<b>4,577</b>

# Appendix C

## Departments, authorities and Local Government

### Public sector agencies

**Fig. 62: Action taken on formal complaints finalised in 2011–2012**

This does not include the NSW Police Force, Community Services and ADHC and those relating to child protection notifications. See appendices A, B and D for a further breakdown into specific agencies in those groups.

Complaint about	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Bodies outside jurisdiction	502	0	0	0	0	0	0	0	0	0	0	0	0	502
Departments & authorities	965	30	340	9	323	64	21	22	1	0	1	0	2	1,778
Local government	585	8	212	0	85	28	9	5	0	0	0	0	1	933
<b>Total</b>	<b>2,052</b>	<b>38</b>	<b>552</b>	<b>9</b>	<b>408</b>	<b>92</b>	<b>30</b>	<b>27</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>3,213</b>

### Description

#### Decline after assessment only, including:

**A** Conduct outside jurisdiction, trivial, remote, insufficient interest, commercial matter, right of appeal or redress, substantive explanation or advice provided, premature – referred to agency, concurrent representation, investigation declined on resource/priority grounds

#### Preliminary or informal investigation:

**B** Substantive advice, information provided without formal finding of wrong conduct

**C** Advice/explanation provided where no or insufficient evidence of wrong conduct

**D** Further investigation declined on grounds of resource/priority

**E** Resolved to Ombudsman's satisfaction

**F** Resolved by agency prior to our intervention

**G** Suggestions/comment made

**H** Consolidated into other complaint

**I** Conciliated/mediated

#### Formal investigation:

**J** Resolved during investigation

**K** Investigation discontinued

**L** No adverse finding

**M** Adverse finding

## Departments and authorities

**Fig. 63: Action taken on formal complaints about departments and authorities finalised in 2011–2012**

	Assessment only	Preliminary or informal investigation									Formal investigation				
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	Total	
Aboriginal Housing Office	1	0	1	0	1	0	0	0	0	0	0	0	0	3	
Administrative Decisions Tribunal	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Agency not named	6	0	0	0	0	0	0	2	0	0	0	0	0	8	
Ambulance Service of New South Wales	6	1	0	0	0	0	1	0	0	0	0	0	0	8	
Anti-Discrimination Board	0	0	0	0	1	0	0	1	0	0	0	0	0	2	
Attorney General	16	0	2	0	1	0	0	0	0	0	0	0	0	19	
Audit Office of New South Wales	0	0	0	1	0	0	0	0	0	0	0	0	0	1	
Ausgrid	4	0	0	0	0	0	0	0	0	0	0	0	0	4	
Board of Studies NSW	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Border Rivers Gwydir Catchment Management Authority	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Building Professionals Board	0	0	3	0	0	0	0	0	0	0	0	0	0	3	
Centennial Park & Moore Park Trust	0	0	0	0	0	1	0	0	0	0	0	0	0	1	
Central West Catchment Management Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Charles Sturt University	2	0	2	1	2	0	0	0	0	0	0	0	0	7	
Chiropractors Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Commission for Children and Young People	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Consumer, Trader & Tenancy Tribunal	19	0	0	0	0	1	0	0	0	0	0	0	0	20	
Cowra Local Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Crown Solicitors Office	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Dental Council of New South Wales	2	0	1	0	2	0	0	0	0	0	0	0	0	5	
Department of Education and Communities	36	0	8	0	0	4	1	0	0	0	0	0	0	49	
Department of Finance and Services	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Department of Planning and Infrastructure	5	0	3	0	1	0	0	0	0	0	0	0	0	9	
Department of Premier and Cabinet	4	0	0	0	2	0	0	0	0	0	0	0	0	6	
Department of Trade and Investment, Regional Infrastructure and Services	3	0	2	0	1	0	0	0	0	0	0	0	0	6	
Director of Public Prosecutions	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Election Funding Authority of New South Wales	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Electoral Commission NSW	3	0	0	0	1	0	0	1	0	0	0	0	0	5	
Endeavour Energy	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Environment Protection Authority	2	2	0	0	0	0	0	0	0	0	0	0	0	4	
Fair Trading	29	1	17	0	11	3	0	0	0	0	0	0	0	61	
Far West LHD	1	0	0	0	0	0	2	0	0	0	0	0	0	3	
Fire and Rescue NSW	3	0	2	0	2	0	0	0	0	0	0	0	0	7	
First State Super Scheme	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Forests NSW	1	0	1	1	1	0	0	0	0	0	0	0	0	4	
Geographical Names Board (Bathurst)	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Guardianship Tribunal	8	0	0	0	0	0	0	0	0	0	0	0	0	8	
Health Care Complaints Commission	13	0	2	0	1	0	1	0	0	0	0	0	0	17	
Housing Appeals Committee	3	0	0	0	0	0	0	0	0	0	0	0	0	3	
Housing NSW	132	8	52	0	136	20	2	5	0	0	0	0	0	355	
Hunter New England LHD	3	2	1	0	1	0	0	0	0	0	0	0	0	7	
Hunter Water Corporation Limited	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Illawarra Shoalhaven LHD	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	Total	
Independent Commission Against Corruption	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Industrial Relations	3	0	1	0	0	0	0	0	0	0	0	0	0	4	
Kempsey Local Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Land and Property Information	4	0	8	1	3	0	1	0	0	0	0	0	0	17	
LANDCOM	3	0	0	0	0	0	0	0	0	0	0	0	0	3	
Legal Aid Commission of New South Wales	22	2	3	0	1	1	0	1	0	0	0	0	0	30	
Livestock Health and Pest Authorities State Management Council	6	0	1	1	3	0	0	0	0	0	0	0	0	11	
Local Aboriginal Land Council (unnamed)	0	0	0	1	0	0	0	0	0	0	0	0	0	1	
Local Government Division	3	0	2	0	0	0	0	0	0	0	0	0	0	5	
Lord Howe Island Board	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Macquarie Generation (Electricity)	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Macquarie University	4	0	4	0	2	0	1	1	0	0	0	0	0	12	
Maritime Services	1	1	0	0	1	0	1	0	0	0	0	0	0	4	
Mental Health Review Tribunal (& Psychosurgery Review Board)	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Mid North Coast LHD	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Motor Accidents Authority	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
National Parks & Wildlife Service	6	0	1	0	0	0	0	1	0	0	0	0	0	8	
Nepean Blue Mountains LHD	1	0	0	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	1	
Northern NSW LHD	4	0	0	0	0	0	0	0	0	0	0	0	0	4	
Northern Region Joint Regional Planning Panel	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Northern Sydney LHD	5	0	1	0	1	1	0	1	0	0	0	0	0	9	
NSW Food Authority	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
NSW Institute of Psychiatry	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
NSW Ministry of Health	19	0	1	0	3	1	0	1	0	0	0	0	0	25	
NSW Office of Liquor, Gaming and Racing	3	0	1	0	0	0	0	0	0	0	0	0	0	4	
NSW Office of Water	5	0	2	0	1	1	0	0	0	0	0	0	0	9	
NSW Police Force	0	0	0	0	0	0	0	1	0	0	0	0	0	1	
NSW Public School Regions	35	1	10	0	10	5	1	1	1	0	0	0	0	64	
NSW Trustee and Guardian	50	0	18	0	15	3	2	1	0	0	0	0	1	90	
Nursing and Midwifery Council	2	0	0	0	1	1	0	0	0	0	0	0	0	4	
Office of Communities	3	0	0	0	1	0	0	0	0	0	0	0	0	4	
Office of Environment and Heritage	10	0	4	0	2	0	0	1	0	0	0	0	0	17	
Office of Public Guardian	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Office of State Revenue	13	0	4	0	3	0	0	0	0	0	0	0	0	20	
Office of the Information Commissioner New South Wales	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Office of the Legal Services Commissioner	9	0	0	0	0	0	0	0	0	0	0	0	0	9	
Office of the Registrar <i>Aboriginal Land Rights Act 1983</i>	0	0	1	0	2	0	0	0	0	0	0	0	0	3	
Office of Transport Safety Investigations	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Osteopaths Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Pharmacy Council of NSW	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Pillar Administration	2	0	0	0	2	0	0	0	0	0	0	0	0	4	
Primary Industries	9	1	1	0	0	0	0	0	0	0	0	0	0	11	

	Assessment only	Preliminary or informal investigation									Formal investigation				
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	Total	
Rail Corporation New South Wales (RailCorp )	37	1	4	0	6	1	2	0	0	0	0	0	0	51	
Redfern-Waterloo Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Registry of Births, Deaths and Marriages	7	0	2	0	4	1	1	0	0	0	0	0	0	15	
Registry of Co-operatives and Associations	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Rental Bond Board	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Roads and Maritime Services	97	2	27	0	28	6	1	2	0	0	0	0	0	163	
Royal Botanic Gardens and Domain Trust	1	0	0	0	1	0	0	0	0	0	0	0	0	2	
Rural and Regional NSW Local Health Networks	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Rural Assistance Authority	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Rural Fire Service NSW	1	0	2	0	0	0	0	0	0	0	0	0	0	3	
Office of the Sheriff	3	0	0	0	1	0	0	0	0	0	0	0	0	4	
South Eastern Sydney LHD	6	0	0	0	1	0	0	0	0	0	0	0	0	7	
South Western Sydney LHD	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Southern Cross University	4	1	2	0	1	0	0	0	0	0	0	0	0	8	
Southern NSW LHD	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Southern Region Joint Regional Planning Panel	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
State Contracts Control Board	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
State Debt Recovery Office	96	1	58	2	41	10	2	2	0	0	0	0	0	212	
State Emergency Service	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
State Property Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
State Records Authority	0	0	2	0	0	0	0	0	0	0	0	0	0	2	
State Transit Authority of NSW	8	0	3	0	0	1	0	0	0	0	0	0	0	12	
Sydney Catchment Authority	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Sydney LHD	2	0	0	0	1	0	0	0	0	0	0	0	0	3	
Sydney Water Corporation	9	0	1	0	0	0	0	0	0	0	1	0	1	12	
TAFE and Community Education	36	3	9	1	1	0	0	0	0	0	0	0	0	50	
Taronga Conservation Society Australia	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
The Treasury	2	0	0	0	0	0	1	0	0	0	0	0	0	3	
Transgrid	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Transport Construction Authority	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Transport for NSW	9	1	6	0	2	2	0	0	0	0	0	0	0	20	
University of New England	0	0	0	0	2	0	0	0	0	0	0	0	0	2	
University of New South Wales	9	0	4	0	1	0	0	0	0	0	0	0	0	14	
University of Newcastle	4	0	4	0	4	0	0	0	0	0	0	0	0	12	
University of Sydney	14	0	9	0	1	0	0	0	0	0	0	0	0	24	
University of Technology Sydney	3	0	3	0	0	0	0	0	0	0	0	0	0	6	
University of Western Sydney	8	1	9	0	3	0	0	0	0	0	0	0	0	21	
University of Wollongong	1	0	3	0	1	0	1	0	0	0	0	0	0	6	
Valuer General	4	0	0	0	1	0	0	0	0	0	0	0	0	5	
Veterinary Practitioners Board of NSW	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Wee Waa Local Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Western Catchment Management Authority	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Western NSW LHD	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Western Sydney LHD	4	0	0	0	1	0	0	0	0	0	0	0	0	5	
WorkCover Authority	23	1	13	0	5	1	0	0	0	0	0	0	0	43	
Total	965	30	340	9	323	64	21	22	1	0	1	0	2	1,778	



## Local government

**Fig. 64: Action taken on formal complaints about local government finalised in 2011–2012**

	Assessment only	Preliminary or informal investigation									Formal investigation				
Council	A	B	C	D	E	F	G	H	I	J	K	L	M	Total	
Accredited Certifier	1	0	6	0	0	0	0	0	0	0	0	0	0	7	
Albury City Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Ashfield Municipal Council	2	0	2	0	0	1	0	0	0	0	0	0	0	5	
Auburn Council	4	0	1	0	0	0	0	0	0	0	0	0	0	5	
Ballina Shire Council	6	0	0	0	0	0	0	0	0	0	0	0	0	6	
Balranald Shire Council	1	0	0	0	1	0	0	0	0	0	0	0	0	2	
Bankstown City Council	10	0	1	0	2	0	0	0	0	0	0	0	0	13	
Bathurst Regional Council	4	0	1	0	0	0	0	0	0	0	0	0	0	5	
Bega Valley Shire Council	6	0	1	0	0	0	1	0	0	0	0	0	0	8	
Bellingen Shire Council	9	0	6	0	1	0	0	0	0	0	0	0	0	16	
Berrigan Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Blacktown City Council	8	0	3	0	2	1	0	0	0	0	0	0	0	14	
Blue Mountains City Council	15	0	3	0	2	0	0	0	0	0	0	0	0	20	
Bogan Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Botany Bay City Council	2	0	2	0	2	0	0	0	0	0	0	0	0	6	
Broken Hill City Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Burwood Council	1	0	3	0	1	0	0	0	0	0	0	0	0	5	
Byron Shire Council	9	0	4	0	1	2	1	0	0	0	0	0	0	17	
Camden Council	2	0	3	0	0	0	0	0	0	0	0	0	0	5	
Campbelltown City Council	5	0	3	0	0	0	1	1	0	0	0	0	0	10	
Canterbury City Council	8	0	2	0	0	0	0	0	0	0	0	0	0	10	
Central Darling Shire Council	0	0	2	0	0	0	0	0	0	0	0	0	0	2	
Central Tablelands Water	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Cessnock City Council	14	0	2	0	1	0	0	0	0	0	0	0	0	17	
City of Canada Bay Council	5	0	3	0	1	0	0	0	0	0	0	0	0	9	
Clarence Valley Council	2	0	1	0	2	0	0	0	0	0	0	0	0	5	
Coffs Harbour City Council	3	0	1	0	0	0	0	0	0	0	0	0	0	4	
Coolamon Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Cooma-Monaro Shire Council	1	1	1	0	0	0	0	0	0	0	0	0	0	3	
Cootamundra Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Corowa Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Council not named	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Cowra Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Dubbo City Council	3	0	1	0	0	0	0	0	0	0	0	0	0	4	
Dungog Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Eurobodalla Shire Council	7	1	4	0	0	0	0	0	0	0	0	0	0	12	
Fairfield City Council	6	0	0	0	1	0	0	0	0	0	0	0	0	7	
Forbes Shire Council	0	0	1	0	0	1	0	0	0	0	0	0	0	2	
Gilgandra Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Glen Innes Severn Council	1	0	0	0	1	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	2	
Goldenfields Water County Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Gosford City Council	10	1	3	0	2	1	0	0	0	0	0	0	0	17	
Goulburn Mulwaree Shire Council	2	0	2	0	1	0	0	0	0	0	0	0	0	5	
Great Lakes Council	5	0	0	0	0	0	0	0	0	0	0	0	0	5	
Greater Hume Shire Council	0	0	2	0	0	0	0	0	0	0	0	0	0	2	
Greater Taree City Council	6	0	3	0	2	0	0	0	0	0	0	0	0	11	
Griffith City Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	

	Assessment only	Preliminary or informal investigation									Formal investigation				
Council	A	B	C	D	E	F	G	H	I	J	K	L	M	Total	
Gunnedah Shire Council	3	0	2	0	0	0	0	0	0	0	0	0	0	5	
Guyra Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Gwydir Shire Council	1	0	3	0	0	0	0	0	0	0	0	0	0	4	
Hawkesbury City Council	6	0	1	0	2	0	0	0	0	0	0	0	0	9	
Holroyd City Council	9	0	1	0	0	0	0	0	0	0	0	0	0	10	
Hornsby Shire Council	8	0	2	0	0	0	0	0	0	0	0	0	0	10	
Hunters Hill Municipal Council	3	0	2	0	2	0	0	0	0	0	0	0	0	7	
Hurstville City Council	8	0	2	0	2	1	0	0	0	0	0	0	0	13	
Inverell Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Jerilderie Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Junee Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Kempsey Shire Council	3	1	0	0	2	0	0	0	0	0	0	0	0	6	
Kiama Municipal Council	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Kogarah Municipal Council	5	0	1	0	2	0	0	0	0	0	0	0	0	8	
Ku-ring-gai Municipal Council	10	0	5	0	1	0	0	0	0	0	0	0	0	16	
Kyogle Shire Council	1	0	0	0	1	0	0	0	0	0	0	0	0	2	
Lake Macquarie City Council	5	0	3	0	2	0	0	0	0	0	0	0	0	10	
Lane Cove Municipal Council	2	0	1	0	0	0	1	0	0	0	0	0	0	4	
Leichhardt Municipal Council	14	0	4	0	1	1	0	1	0	0	0	0	0	21	
Lismore City Council	5	0	3	0	1	0	0	0	0	0	0	0	0	9	
Lithgow City Council	3	0	1	0	0	0	1	0	0	0	0	0	0	5	
Liverpool City Council	9	0	3	0	1	1	0	0	0	0	0	0	0	14	
Liverpool Plains Shire Council	1	0	0	0	1	0	0	0	0	0	0	0	0	2	
Lockhart Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Maitland City Council	3	0	0	0	1	0	0	0	0	0	0	0	0	4	
Manly Council	7	0	2	0	0	1	0	0	0	0	0	0	1	11	
Marrickville Council	7	1	6	0	7	1	0	0	0	0	0	0	0	22	
Mid-Western Regional Council	4	0	0	0	0	0	0	0	0	0	0	0	0	4	
Midcoast Water	5	0	0	0	0	0	1	0	0	0	0	0	0	6	
Moree Plains Shire Council	2	0	1	0	0	1	0	0	0	0	0	0	0	4	
Mosman Municipal Council	1	0	3	0	1	0	0	0	0	0	0	0	0	5	
Murray Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Muswellbrook Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Nambucca Shire Council	4	0	0	0	0	1	0	0	0	0	0	0	0	5	
Narrabri Shire Council	2	0	2	0	0	0	1	0	0	0	0	0	0	5	
Narrandera Shire Council	2	0	2	0	0	0	0	0	0	0	0	0	0	4	
Narromine Shire Council	1	0	0	0	1	0	0	0	0	0	0	0	0	2	
Newcastle City Council	17	0	6	0	3	1	1	0	0	0	0	0	0	28	
North Sydney Council	3	0	1	0	1	0	0	0	0	0	0	0	0	5	
Oberon Shire Council	4	0	0	0	0	0	0	0	0	0	0	0	0	4	
Orange City Council	3	0	0	0	0	0	0	0	0	0	0	0	0	3	
Palerang Council	3	0	1	0	0	0	0	0	0	0	0	0	0	4	
Parramatta City Council	8	0	5	0	2	0	0	0	0	0	0	0	0	15	
Penrith City Council	4	0	3	0	1	1	0	1	0	0	0	0	0	10	
Pittwater Council	6	0	1	0	1	0	0	0	0	0	0	0	0	8	
Port Macquarie-Hastings Council	5	0	1	0	0	0	0	0	0	0	0	0	0	6	
Port Stephens Council	6	0	3	0	0	1	0	0	0	0	0	0	0	10	
Queanbeyan City Council	3	0	2	0	0	0	0	0	0	0	0	0	0	5	
Randwick City Council	11	0	3	0	1	1	0	0	0	0	0	0	0	16	
Richmond Valley Council	5	0	2	0	0	0	0	0	0	0	0	0	0	7	
Rockdale City Council	8	0	1	0	3	0	0	0	0	0	0	0	0	12	

	Assessment only	Preliminary or informal investigation									Formal investigation				
Council	A	B	C	D	E	F	G	H	I	J	K	L	M	Total	
Rous County Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Ryde City Council	6	0	1	0	1	2	0	0	0	0	0	0	0	10	
Shellharbour City Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Shoalhaven City Council	12	0	8	0	3	0	0	0	0	0	0	0	0	23	
Singleton Council	4	0	0	0	1	0	0	0	0	0	0	0	0	5	
Snowy River Shire Council	2	0	3	0	0	0	0	0	0	0	0	0	0	5	
Strathfield Municipal Council	2	0	1	0	0	1	0	0	0	0	0	0	0	4	
Sutherland Shire Council	17	1	6	0	0	0	0	0	0	0	0	0	0	24	
Sydney City Council	23	0	5	0	0	1	1	0	0	0	0	0	0	30	
Tamworth Regional Council	2	1	1	0	0	0	0	0	0	0	0	0	0	4	
Tenterfield Shire Council	4	0	1	0	1	0	0	0	0	0	0	0	0	6	
The Hills Shire Council	6	0	1	0	1	0	0	0	0	0	0	0	0	8	
Tumut Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Tweed Shire Council	12	0	1	0	1	0	0	0	0	0	0	0	0	14	
Upper Lachlan Shire Council	2	0	0	0	1	1	0	0	0	0	0	0	0	4	
Uralla Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Wagga Wagga City Council	6	0	1	0	0	0	0	0	0	0	0	0	0	7	
Walgett Shire Council	2	0	1	0	0	0	0	0	0	0	0	0	0	3	
Warringah Council	22	0	2	0	1	0	0	0	0	0	0	0	0	25	
Warrumbungle Shire Council	1	0	2	0	0	0	0	0	0	0	0	0	0	3	
Waverley Council	4	1	2	0	2	0	0	0	0	0	0	0	0	9	
Wellington Council	3	0	1	0	0	0	0	0	0	0	0	0	0	4	
Wentworth Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Willoughby City Council	3	0	2	0	1	1	0	0	0	0	0	0	0	7	
Wingecarribee Shire Council	4	0	2	0	1	0	0	0	0	0	0	0	0	7	
Wollondilly Shire Council	3	0	3	0	0	1	0	0	0	0	0	0	0	7	
Wollongong City Council	10	0	4	0	1	2	0	1	0	0	0	0	0	18	
Woollahra Municipal Council	5	0	3	0	1	0	0	1	0	0	0	0	0	10	
Wyong Shire Council	16	0	5	0	1	1	0	0	0	0	0	0	0	23	
Yass Valley Council	2	0	1	0	1	1	0	0	0	0	0	0	0	5	
Young Shire Council	5	0	3	0	2	0	0	0	0	0	0	0	0	10	
Total	585	8	212	0	85	28	9	5	0	0	0	0	1	933	

## Description

### Decline after assessment only, including:

- A** Conduct outside jurisdiction, trivial, remote, insufficient interest, commercial matter, right of appeal or redress, substantive explanation or advice provided, premature – referred to agency, concurrent representation, investigation declined on resource/priority grounds

### Preliminary or informal investigation:

- B** Substantive advice, information provided without formal finding of wrong conduct  
**C** Advice/explanation provided where no or insufficient evidence of wrong conduct  
**D** Further investigation declined on grounds of resource/priority  
**E** Resolved to Ombudsman's satisfaction  
**F** Resolved by agency prior to our intervention  
**G** Suggestions/comment made  
**H** Consolidated into other complaint  
**I** Conciliated/mediated

### Formal investigation:

- J** Resolved during investigation  
**K** Investigation discontinued  
**L** No adverse finding  
**M** Adverse finding

# Appendix D

## Human services

### Child and family services

**Fig. 65: Complaints issues for child and family services received in 2011–2012**

Note that each complaint we received may have more than one issue.

Program area	Child protection		Out-of-home care		Children's services		Family support		Adoption		General Inquiry		Total
Issue	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	
Access to service	1	2	0	1	2	4	2	1	0	0	0	0	13
Allowances/fees	0	3	31	26	5	35	0	3	0	0	0	0	103
Assault/abuse in care	8	5	17	22	1	6	0	0	0	0	0	0	59
Case management	10	16	20	30	2	1	0	3	0	0	0	0	82
Case planning	0	2	3	4	0	0	0	0	0	0	0	0	9
Casework	48	56	49	41	0	1	1	3	0	0	0	0	199
Client choice, dignity, participation	0	0	0	3	0	0	0	0	0	1	0	0	4
Client finances & property	0	0	0	1	0	0	0	0	0	0	0	0	1
Client rights	0	4	0	2	0	1	0	0	0	0	0	0	7
Complaints	9	23	11	31	1	12	1	1	0	0	0	0	89
Customer service	4	23	9	30	3	10	2	0	0	0	0	1	82
File/record management	0	1	0	2	0	0	0	0	0	0	0	0	3
Information	10	11	13	26	3	4	0	2	0	0	0	2	71
Investigation	5	12	2	1	0	0	0	0	0	0	0	0	20
Legal problems	3	2	1	4	0	1	0	0	0	0	0	0	11
Meeting individual needs	13	30	75	101	3	14	0	3	0	0	0	0	239
Not applicable	0	5	0	1	0	3	0	1	0	0	0	2	12
Not in jurisdiction	1	16	2	6	1	13	1	0	0	0	0	2	42
Object to decision	21	61	24	93	1	14	1	3	1	0	0	0	219
Policy/procedure/law	4	4	1	4	1	2	0	0	0	0	0	1	17
Professional conduct/misconduct	6	13	2	7	1	6	1	1	0	0	0	0	37
Safety	1	1	1	2	3	4	0	0	0	0	0	0	12
Service funding, licensing, monitoring	0	0	1	1	2	1	0	0	0	0	0	0	5
Service management	1	1	2	3	1	5	1	0	0	0	0	0	14
<b>Total</b>	<b>145</b>	<b>291</b>	<b>264</b>	<b>442</b>	<b>30</b>	<b>137</b>	<b>10</b>	<b>21</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>8</b>	<b>1,350</b>

**Fig. 66: Formal complaints finalised for child and family services in 2011–2012**

Program area	A	B	C	D	E	F	G	Total
Child protection services	24	59	48	2	1	2	1	137
Out-of-home care	64	70	123	10	1	3	2	273
Children's services	10	12	6	0	0	0	1	29
Family support services	2	4	3	0	0	0	1	10
Adoption	1	0	0	0	0	0	0	1
<b>Total</b>	<b>101</b>	<b>145</b>	<b>180</b>	<b>12</b>	<b>2</b>	<b>5</b>	<b>5</b>	<b>450</b>

## Disability services

**Fig. 67: Complaints issues for disability services received in 2011–2012**

Note that each complaint we received may have more than one issue.

Program area	Disability accommodation		Disability support		General Inquiry		Total
	Formal	Informal	Formal	Informal	Formal	Informal	
Access to service	4	5	6	20	0	0	35
Allowances/fees	2	1	6	3	0	0	12
Assault/abuse in care	18	10	6	1	0	0	35
Case management	3	7	7	4	0	0	21
Case Planning	2	1	0	1	0	0	4
Casework	0	4	5	1	0	0	10
Client choice, dignity, participation	3	2	0	3	0	0	8
Client finances & property	2	1	2	0	0	0	5
Client rights	1	1	0	2	0	1	5
Complaints	5	3	6	7	0	0	21
Customer service	2	6	11	20	0	0	39
File/record management	1	0	0	0	0	0	1
Information	0	2	1	1	0	0	4
Investigation	3	0	0	0	0	0	3
Meeting individual needs	16	21	9	18	0	0	64
Not applicable	1	1	0	4	0	0	6
Not in jurisdiction	1	5	2	6	0	1	15
Object to decision	2	2	6	7	0	1	18
Policy/procedure/law	0	1	0	1	0	0	2
Professional conduct/misconduct	4	5	2	3	0	0	14
Safety	1	0	0	2	0	0	3
Service funding, licensing, monitoring	4	0	5	3	0	0	12
Service management	7	2	2	3	0	0	14
<b>Total</b>	<b>82</b>	<b>80</b>	<b>76</b>	<b>110</b>	<b>0</b>	<b>3</b>	<b>351</b>

**Fig. 68: Formal complaints finalised for disability services in 2011–2012**

Program area	A	B	C	D	E	F	G	Total
Disability accommodation services	7	12	51	8	4	0	1	83
Disability support services	7	24	43	2	1	0	2	79
<b>Total</b>	<b>14</b>	<b>36</b>	<b>94</b>	<b>10</b>	<b>5</b>	<b>0</b>	<b>3</b>	<b>162</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



## Other community services

**Fig. 69: Number of formal and informal matters about other community services received in 2011–2012**

Some complaints about supported accommodation and general community services may involve complaints about child and family and disability services.

Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
<b>Community Services</b>				<b>ADHC</b>			
SAAP services*	1	1	2	SAAP services*	0	0	0
General community services	2	2	4	General community services	0	1	1
Aged services	0	0	0	Aged services	1	30	31
Disaster welfare services	0	0	0	Disaster welfare services	0	0	0
Other	3	11	14	Other	1	5	6
<b>Subtotal</b>	<b>6</b>	<b>14</b>	<b>20</b>	<b>Subtotal</b>	<b>2</b>	<b>36</b>	<b>38</b>
<b>Other government agencies</b>				<b>Non-government funded or licensed services</b>			
SAAP services*	0	0	0	SAAP services*	11	6	17
General community services	0	0	0	General community services	3	0	3
Aged services	1	7	8	Aged services	4	7	11
Other	0	6	6	Other	4	1	5
Disaster welfare services	0	0	0	Disaster welfare services	0	0	0
<b>Subtotal</b>	<b>1</b>	<b>13</b>	<b>14</b>	<b>Subtotal</b>	<b>22</b>	<b>14</b>	<b>36</b>
				<b>Non-specific inquiries</b>			
				Other (general inquiries)	0	6	6
				Agency unknown	1	15	16
				Outside our jurisdiction	1	3	4
				<b>Subtotal</b>	<b>2</b>	<b>24</b>	<b>26</b>
<b>Total</b>					<b>33</b>	<b>101</b>	<b>134</b>

\* Supported accommodation and assistance program services

**Fig. 70: Complaints issues for other community services received in 2011–2012**

Note that each complaint we received may have more than one issue.

<b>Program Area: Other community services</b>				<b>Program Area: Other community services</b>			
Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
Access to service	7	7	14	Information	1	7	8
Allowances/fees	2	4	6	Investigation	1	0	1
Assault/abuse in care	0	1	1	Meeting individual needs	3	5	8
Case management	0	2	2	Not applicable	0	8	8
Casework	1	1	2	Not in jurisdiction	3	19	22
Client choice, dignity, participation	1	1	2	Object to decision	0	10	10
Client finances & property	0	2	2	Professional conduct/ misconduct	5	6	11
Client rights	0	1	1	Service funding, licensing, monitoring	0	1	1
Complaints	1	4	5	Service management	1	0	1
Customer service	3	16	19	Disaster welfare services	0	0	0
<b>Subtotal</b>	<b>15</b>	<b>39</b>	<b>54</b>	<b>Subtotal</b>	<b>14</b>	<b>56</b>	<b>70</b>
<b>Total</b>					<b>29</b>	<b>95</b>	<b>124</b>

**Fig. 71: Formal complaints finalised for other community services in 2011–2012**

Program area	A	B	C	D	E	F	G	Total
Supported accommodation and assistance program services	2	5	3	0	0	1	1	12
General community services	2	1	1	0	0	0	0	4
Aged services	0	0	3	0	1	0	2	6
Disaster welfare	0	0	0	0	0	0	0	0
Other	0	4	0	0	0	0	3	7
<b>Total</b>	<b>4</b>	<b>10</b>	<b>7</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>6</b>	<b>29</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 members 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; Reviewable Disability Deaths Advisory Committee; Reviewable Child Deaths 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 Information Disclosure Steering Committee
Deputy Ombudsman/Community and Disability Services Commissioner <b>Steve Kinmond</b>	Police Aboriginal Strategic Advisory Committee (PASAC); Reviewable Disability Deaths Advisory Committee; Reviewable Child Deaths Advisory Committee
Deputy Ombudsman (Police and compliance branch) <b>Linda Waugh</b>	Early Intervention System Steering Committee
Director Corporate <b>Anita Whittaker</b>	Management board of the NSW Audit and Risk Practitioners Group
Director, Strategic projects division <b>Julianna Demetrius</b>	PASAC, NSW Police Force Domestic Violence Steering Committee
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 Handlers Information Sharing and Liaison Group
Division Manager (Police and compliance branch) <b>Michael Gleeson</b>	Interagency working party to organise the Police Integrity Research Forum in Brisbane 2012
Inquiries and Resolution Team Manager <b>Vince Blatch</b>	Complaint Handlers Information Sharing and Liaison Group
Senior Investigation Officer <b>Maxwell Britton</b>	Corruption Prevention Network
Division Manager (Strategic projects division) <b>Brendan Delahunty</b>	PASAC
Community Education & Training Coordinator <b>Anna Papanastasiou</b>	Network of Government Agencies: Gay, Lesbian, Bisexual and Transgender Issues; Joint Outreach Initiative Network

### Reviewable Disability Deaths Advisory Committee

<b>Mr Bruce Barbour</b>	Ombudsman (chair)
<b>Mr Steve Kinmond</b>	Deputy Ombudsman and Community and Disability Services Commissioner
<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

# Appendix F

## Compliance annual reporting requirements

Under the *Annual Reports (Departments) Act 1985*, the Annual Reports (Departments) Regulation 2010, 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	Pages 20-23
Charter	See opening pages
Consultants	Please see page 111
Consumer response	Pages 17-18
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
Disability plans	Appendix I
Disclosure of Subsidiaries	We do not have any subsidiaries
Economic or other factors	Pages 24 and 110-113
Equal employment opportunity	Page 30
Financial statements	Pages 114-134
Funds granted to non-government community organisations	No funds granted
<i>Government Information (Public Access) Act 2009</i>	See appendix H
Human resources	Pages 28-34
Identification of audited financial statements	Page 114
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 G – includes changes in acts and subordinate legislation, significant judicial decisions
Letter of submission	See opening pages
Management and activities	This report details our activities during the reporting period. Specific comments can be found in Managing our organisation chapter.
Management and structure: names and qualifications of principal officers, organisational chart indicating functional responsibilities	Pages 14-15
Multicultural Policies and Services Program (formerly EAPS)	Page 27 and appendix I
Complaints referred to us under Part 6 of the Ombudsman Act	No complaints were referred to us under Part 6 this year
Work health and safety	Page 32
Particulars of any matter arising since 1 July 2012 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 111-112
Performance and numbers of executive officers	Page 29-30
Promotion – overseas visits	Pages 3 and 7-8
Public interest disclosures	Pages 16- 17
Requirements arising from employment arrangements	We do not provide personnel services to any statutory body
Research and development	Pages 44-46
Risk management and insurance activities	Pages 19

Topic	Comment/location
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 received two requests for internal review under Part 5 of the Act; one request was received in September 2011 and finalised in October 2011, the second request was received in May 2012 and finalised in June 2012
Summary review of operations	Inside front cover and pages 4–8.
Time for payment of accounts	Pages 111–112
Total external costs incurred in the production of the report	\$27,284 including GST (this includes \$15,958 to print 700 copies)
Unaudited financial information to be distinguished by note	Not applicable.
Waste	Page 25



# Appendix G

## 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*

*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* (applied by the *Government Information (Public Access) Act 2009*)

*Law Enforcement (Controlled Operations) Act 1997*

*Telecommunications (Interception and Access) (New South Wales) Act 1987*

*Law Enforcement (Powers and Responsibilities) Act 2002*

*Surveillance Devices Act 2007*

*Summary Offences Act 1988*

Amendment to *Crimes Act 1900* by Schedule 1[11] to *Crimes Amendment (Consorting and Organised Crime) Act 2012*

*Crimes (Criminal Organisations Control) Act 2012*

*Terrorism (Police Powers) Act 2002*

### Litigation

In the reporting year we were a party to the following legal actions:

- *Micro Focus (US) Inc v NSW Police Force* – in the Federal Court – claim for orders under s.115(2) of the *Copyright Act 1968* (Cth) – proceedings against Ombudsman settled and discontinued on 8 September 2011.
- *QQ v NSW Ombudsman [2012] NSWADT 109* – in the Administrative Decisions Tribunal – decision on 5 June 2012 that no jurisdiction to entertain application by QQ for leave to proceed on discrimination complaint (that had been declined by Anti-Discrimination Board as lacking in substance) due to operation of s.35A of *Ombudsman Act 1974* where Ombudsman reviewed decision made under Part 8A of *Police Act 1990* – decision currently subject of appeal to ADT Appeal Panel.
- *Axiak v HCCC & ors* – in the Supreme Court – claim for damages for medical and related negligence – proceedings against Ombudsman withdrawn and dismissed on 6 February 2012.

### External legal advice sought

Mr MG Sexton SC, Solicitor General

- advice regarding the operation of Part 3 of the *Bail Act 1978*
- advice regarding the scope of s.151 of the *Police Act 1990*
- advice regarding the Child Death Review Team under the *Commission for Children and Young People Act 1998*
- advice regarding the ambit of 'public official' under the *Public Interest Disclosures Act 1994*.

## Legal changes

### National scheme for children education and care services

The *Children (Education and Care Services) National Law* (NSW) (National Law) and the *Children (Education and Care Services) Supplementary Provisions Act 2011* (Supplementary Provisions Act), which commenced on 1 January 2012, generally excludes the operation of the *Ombudsman Act 1974* in relation to regulatory authorities and children education and care services under the National Law but expressly preserves the functions of the Ombudsman under Part 3A of the *Ombudsman Act* (employment related child protection) to children education and care service providers under the National Law and the Supplementary Provisions Act. However, a consequence of the national scheme is a disjointed Ombudsman jurisdiction under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA) in relation to children education and care services:

- Children education and care service providers approved under the National Law do not fall within the CS-CRAMA definition of a service provider and the Ombudsman accordingly has no jurisdiction to deal with a complaint about a children education and care service provider under Part 4 of the CS-CRAMA. As the National Law is not community welfare legislation under the CS-CRAMA, the Ombudsman's own initiative inquiry power under s.11(1)(e) of the CS-CRAMA is not enlivened.
- State-regulated children education and care services under the Supplementary Provisions Act do not fall within the definition of a service provider for the purposes of the CS-CRAMA and the Ombudsman has no jurisdiction to deal with a complaint about a State regulated children education and care service provider under Part 4 of the CS-CRAMA.
- The Supplementary Provisions Act is community welfare legislation under the CS-CRAMA and a State regulated children education and care service is, accordingly, a community service for the purposes of the Ombudsman's own initiative inquiry power under s.11(1)(e) of the CS-CRAMA.

The Ombudsman is seeking an appropriate statutory amendment to provide a consistent jurisdiction under the CS-CRAMA in the area of children education and care services.

### Crimes (Criminal Organisations Control) Act 2012

This Act repealed the *Crimes (Criminal Organisations Control) Act 2009* (which was declared invalid by the High Court in *Wainohu v State of New South Wales [2011] HCA 24*) and provides for an eligible judge to, amongst other things, make and give reasons for making a declaration in respect of an organisation and a control order in respect of a member of a declared organisation. The Act provides the NSW Ombudsman with the function of keeping under scrutiny the exercise of powers under this Act for the period of four years from the Act's commencement and reporting at the end of this period to the Attorney General and the Commissioner of Police.

### Summary Offences Amendment (Intoxicated and Disorderly Conduct) Act 2011

This Act amended the *Summary Offences Act 1988* to extend police powers where intoxicated and disorderly conduct continues after the making of a 'move on' direction by police under the *Law Enforcement (Powers and Responsibilities) Act 2009*. The Act provides the NSW Ombudsman with the function of reporting on the exercise of the powers provided under the amending Act after twelve months from the commencement of the amending Act, to the Attorney General and the Commissioner of Police.

# Appendix H

## 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 2011 – 30 June 2012.

### Review of proactive release program – Clause 7(a)

Under section 7 of the GIPA Act, agencies must review their programs for the release of government information to identify the kinds of information that can be made publicly available. This review must be undertaken at least once every 12 months.

The secrecy provisions of the *Ombudsman Act 1974* limit the information we can make publicly available, and information relating to 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 the proactive release of information involves continually reviewing our information holdings. This includes reviewing any informal requests for information we receive where the information is provided 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 developed a plan for this program, including a record of information proactively released during the year. We also reviewed information already available on our website to ensure it was current and accurate.

Our right to information officers met to review our agency information guide. Following our review, we updated our guide, developing a dedicated page for it on our new website. This process enabled us to link information from our agency information guide to relevant sections of our website, making the guide more user-friendly and improving the accessibility of our information.

The new guide now includes more information on how to make a formal access application and contains links to the websites of both the Information and Privacy Commissioner and Administrative Decisions Tribunal.

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 training sessions we have conducted, presentations, visits to rural and regional centers as well as visits from delegations to our office and other information that may be of broader public interest.

### Number of access applications received – Clause 7(b)

During the reporting period, our agency received a total of four formal access applications (including withdrawn applications but not invalid applications). We received a total of nine invalid applications for excluded information.

### Number of refused applications for Schedule 1 information – Clause 7(c)

During the reporting period, our agency refused a total of 0 formal access applications because the information requested was information referred to in Schedule 1 to the GIPA Act. Of those applications, no applications were refused in full, and no applications were refused in part.

### Statistical information about access applications – Clause 7(d) and Schedule 2

**Table A: Number of applications by type of applicant and outcome**

More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	–	–	–	–	–	–	–	–
Members of Parliament	–	–	–	–	–	–	–	–
Private sector business	–	–	–	–	–	–	–	–
Not-for-profit organisations or community groups	–	–	–	–	–	–	–	–
Members of the public (application by legal representative)	–	–	–	–	–	–	–	–
Members of the public (other)	1	–	–	1	–	2	–	–

**Table B: Number of applications by type of application and outcome**

The total number of decisions in Table B should be the same as Table A.

	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*	–	–	–	–	–	–	–	–
Access applications (other than personal information applications)	1	–	–	1	–	2	–	–
Access applications that are partly personal information applications and partly other	–	–	–	–	–	–	–	–

\* 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).

**Table C: Invalid applications**

Reason for invalidity	No of applications
Application does not comply with formal requirements (section 41 of the Act)	–
Application is for excluded information of the agency (section 43 of the Act)	9
Application contravenes restraint order (section 110 of the Act)	–
<b>Total number of invalid applications received</b>	<b>9</b>
Invalid applications that subsequently became valid applications	–

**Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act**

More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

	Number of times consideration used
Overriding secrecy laws	–
Cabinet information	–
Executive Council information	–
Contempt	–
Legal professional privilege	–
Excluded information	–
Documents affecting law enforcement and public safety	–
Transport safety	–
Adoption	–
Care and protection of children	–
Ministerial code of conduct	–
Aboriginal and environmental heritage	–

**Table E: Other public interest considerations against disclosure: matters listed in table to section 14 of Act**

	Number of occasions when application not successful
Responsible and effective government	–
Law enforcement and security	–
Individual rights, judicial processes and natural justice	–
Business interests of agencies and other persons	–
Environment, culture, economy and general matters	–
Secrecy provisions	–
Exempt documents under interstate Freedom of Information legislation	–

**Table F: Timeliness**

	Number of applications
Decided within the statutory time frame (20 days plus any extensions)	3
Decided after 35 days (by agreement with applicant)	–
Not decided within time (deemed refusal)	1
<b>Total</b>	<b>4</b>

**Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)**

	Decision varied	Decision upheld	Total
Internal review	1	–	<b>1</b>
Review by Information Commissioner*	–	1	<b>1</b>
Internal review following recommendation under section 93 of Act	–	–	–
Review by ADT	–	–	–
<b>Total</b>	<b>1</b>	<b>1</b>	<b>2</b>

\* The Information Commissioner does not have the authority to vary decisions, but can make a 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.

**Table H: Applications for review under Part 5 of the Act (by type of applicant)**

	Number of applications for review
Applications by access applicants	2
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	–

# Appendix I

## Access and equity programs

### Multicultural action plan

Key priority area	Planned outcome	Strategies	Progress report
Planning and evaluation	Integrate multicultural policy goals into our corporate and business planning and review mechanisms.	Develop a multicultural action plan which includes performance measures, strategies to assess progress, and indicators for improved performance.	<ul style="list-style-type: none"> <li>We have in place an outcome-focused multicultural action plan (MAP) which details strategies and actions to ensure that our services are accessible and appropriate for culturally and linguistically diverse (CALD) people.</li> </ul>
		Ensure that strategies to address issues relating to CALD people are reflected in or linked to our corporate plan and relevant business plans.	<ul style="list-style-type: none"> <li>Strategies to address issues relating to CALD people are linked to our corporate plan and relevant business plans.</li> <li>We report regularly to senior management on the implementation of our MAP.</li> </ul>
		Gather and analyse information about issues affecting CALD people and inform business planning processes.	<ul style="list-style-type: none"> <li>We commenced a review of our practice on the collection and use of demographic data including needs analysis and our capacity to capture and extract data. This review is being monitored by our Risk, Information and Security Committee.</li> <li>Improving the way we collect client data and feedback has been incorporated in a broader strategy being developed to improve customer satisfaction.</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.	<p>Establish a cross-office MAP advisory committee to ensure that all business areas participate in the multicultural planning process.</p> <p>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.</p> <p>Take all reasonable steps to encourage CALD people to participate in relevant committees, roundtable discussions and public forums.</p>	<ul style="list-style-type: none"> <li>Our MAP advisory committee, headed by the Director Corporate and represented by all branches and divisions, meets regularly to provide advice, support and monitor the implementation of our MAP.</li> <li>We liaise with key CALD organisations to promote our services to CALD communities, and to identify gaps in our awareness strategies and service deliveries.</li> <li>We participate in the Multicultural Coordinators Forum, coordinated by the Community Relations Commission.</li> <li>We consulted with key CALD organisations such as the Multicultural Disability Advocacy Association on a range of issues relevant to CALD people with disabilities.</li> <li>We included CALD people, where appropriate, in any consultations for our project and other core business work</li> </ul>
Capacity building and resourcing	Senior management actively promote and are accountable for the implementation of the principles of multiculturalism within the office and wider community.	<p>Multicultural plan endorsed and promoted to staff by Ombudsman.</p> <p>Ensure that our MAP assigns clear responsibilities to key staff and division management for its implementation, and review their performance agreements to ensure accountabilities for multicultural affairs are clearly assigned.</p>	<ul style="list-style-type: none"> <li>Our MAP was approved as office policy by the Ombudsman and made available to all staff.</li> <li>The Director Corporate is the appointed lead officer for our multicultural policies and programs planning process, and holds overall responsibility for developing and implementing our MAP.</li> <li>Our MAP assigns clear responsibilities to all relevant staff.</li> </ul>
	Our capacity is enhanced by the employment and training of people with linguistic and cultural expertise.	Use Community Language Allowance Scheme (CLAS), monitor its implementation, and develop a register of staff who have bilingual skills and cultural and community knowledge to assist in our communications with our clients.	<ul style="list-style-type: none"> <li>We have actively promoted and used the CLAS program within our office.</li> <li>Four staff members who receive the CLAS allowance jointly cover five community languages.</li> <li>Staff providing language assistance record the instances in a central register and the information helps inform planning process.</li> </ul>



Key priority area	Planned outcome	Strategies	Progress report
Program and services	Identify barriers to access to our services for CALD communities, and develop programs and services to address issues identified.	<p>Review our guidelines on the use of interpreters and translators and provide training to all staff.</p> <p>Ensure that our budget for interpreter services and interpreter use is monitored and reviewed.</p>	<ul style="list-style-type: none"> <li>All our front-line staff are trained in the use of interpreters and translators.</li> <li>We have allocated funds for providing interpreting and translation services.</li> <li>A register of our use of interpreting and translation services is kept to inform our decision-making in developing community language information.</li> </ul>
	Use a range of communication formats and channels to inform CALD communities about our programs, services and activities.	<p>Review our information in community languages and develop accessible and appropriate information material in a range of formats (written, audio, online, etc) to meet the specific needs of CALD communities following consultation with key community organisations.</p> <p>Explore and recommend where appropriate the use of a range of technology in targeted community languages to facilitate communication with CALD people and improve access to our services.</p> <p>Develop initiatives to raise awareness of, and celebrate the contribution of, CALD people.</p>	<ul style="list-style-type: none"> <li>Our multilingual brochure includes 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>To support one of our legislative reviews, we translated our fact sheet 'Removal of face coverings for identification purposes' into six relevant community languages.</li> <li>All information in community languages has been checked by community 'readers' for language and cultural appropriateness.</li> <li>All of our community language information is available on our new website via a prominent link on the home page.</li> <li>We will continue to explore ways to include on our website accessible information in alternative format, such as audio.</li> <li>We participated in multicultural events such as the Community Information Expo in Eastwood to raise awareness of our services.</li> <li>We promoted our services to newly arrived migrants through migrant services such as the Sydwest Multicultural Services.</li> </ul>

## Disability action plan

Outcomes	Strategies	Report
Identify and remove barriers to services for people with disabilities	Incorporate disability access issues in the planning process to reflect the needs of people with disabilities.	<ul style="list-style-type: none"> <li>We linked our disability action plan (DAP) strategies to our corporate plan and relevant business plans.</li> <li>Our DAP advisory committee monitored the implementation of our DAP strategies.</li> <li>We provided senior management with quarterly reports on the implementation of our DAP.</li> </ul>
	Improve data and data collection in relation to disability issues.	<ul style="list-style-type: none"> <li>We have commenced a review of our practice on the collection and use of demographic data including needs analysis and our capacity to capture and extract data. This review is being monitored by our Risk, Information and Security Committee.</li> <li>Improving the way we collect client data and feedback has been incorporated in a broader strategy being developed to improve customer satisfaction.</li> </ul>
	Improve disability awareness among all staff.	<ul style="list-style-type: none"> <li>We use a range of strategies to improve disability awareness among all staff, including monitoring staff attendance in the compulsory disability awareness training program, and using platforms such as staff meetings and the intranet to update staff on issues affecting people with disabilities.</li> <li>We continued to support the Don't Dis My Ability campaign and used the opportunity to raise awareness of disability issues and celebrate the achievements of people with disabilities.</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 took part in a number of community events to raise awareness and understanding of the role of the Ombudsman in community services and the rights of those receiving such services. These include the Carers Day Out, the Disability Expos in Tamworth and Campbelltown, and the National Disability Service's NSW Annual State Conference.</li> <li>We provided training sessions on complaint-handling to community service providers, and workshops on the Rights Stuff to people who receive community services.</li> </ul>

Outcomes	Strategies	Report
Provide information in a range of formats that are accessible to people with disabilities	<p>Improve the accessibility of key information about our services.</p> <p>Improve the overall usability and accessibility of our website.</p>	<ul style="list-style-type: none"> <li>• Our general information brochure is available in a range of accessible formats – including large print, Braille, audio and accessible CD.</li> <li>• Our toolkit for consumers of community services in NSW is available in audio.</li> <li>• Our new accessible website is operational.</li> <li>• We have been exploring ways to include accessible information on our website, we produced our brochure 'Know your rights as a consumer of community services' as an Auslan video.</li> </ul>
Make government buildings and facilities physically accessible to people with disabilities	Identify physical and infrastructural barriers to access for people with disabilities.	<ul style="list-style-type: none"> <li>• We continued to implement our office access improvement plan to ensure our building and facilities are accessible to both staff and clients with disabilities.</li> <li>• We used a range of assistive tools such as the TTY and the National Relay Service to assist communication with people with disabilities.</li> </ul>
Assist people with disabilities to participate in public consultations and to apply for and participate in government advisory boards and committees	<p>Liaise with disability groups to ensure the needs of people with disabilities are reflected in relevant decision-making process.</p> <p>Encourage people with disabilities to take part in our consultative process.</p>	<ul style="list-style-type: none"> <li>• We worked with service providers and consumers to achieve best outcome for people with disabilities in accessing community services, some examples include holding roundtable discussions with peak disability bodies; and holding an Ombudsman outreach forum in Condobolin to provide information about our role to community sector workers and those using community services.</li> <li>• We monitored the work of ADHC, NSW Health and Department of Education in addressing the issues raised in our June 2011 report – <i>Consultations with families of children with disabilities on access to services and support</i> – based on extensive consultations with over 300 parents and carers of children with disabilities across NSW about their experience in seeking and obtaining specialist disability and mainstream services and support.</li> </ul>
Increase employment participation of people with disabilities in the NSW public sector	<p>Ensure our recruitment practices for all positions are accessible and non-discriminatory.</p> <p>Promote employment opportunities to people with disabilities.</p> <p>Take all reasonable steps to increase employment participation for people with disabilities.</p>	<ul style="list-style-type: none"> <li>• We reviewed our job pack to ensure that information about promoting a non-discriminatory workplace, including reasonable adjustment policies, is provided to all job applicants.</li> <li>• We participated in the Raising the Bar Conference 2012 to improve our understanding of employment issues faced by people with disabilities, learn from other agencies' practices and experiences, and network with members of the Australian Employers Network on Disabilities.</li> <li>• We ensure that our job advertisements clearly state that people with disability are encouraged to apply.</li> <li>• We have a reasonable adjustment policy that provides equitable employment opportunity to staff with disabilities and we are committed to making reasonable adjustments on request.</li> <li>• We ensure that staff who require assistance in the event of an emergency complete and submit relevant forms and are aware of the evacuation process, know what to expect and the options available in an emergency evacuation.</li> <li>• We promoted Australian Employers Network on Disability's internship program for university students with disabilities within the office encouraging divisions to consider participation when such opportunity arises.</li> </ul>
Facilitate agencies to identify and remove barriers to access by people with disabilities	<p>Improve agency ability in identifying issues relating to people with disabilities</p> <p>Facilitate agencies to address issues relevant to people with disabilities</p>	<ul style="list-style-type: none"> <li>• We ran disability awareness training workshops for government and non-government agencies and service providers to improve their skills to work effectively and confidently with people with disabilities.</li> <li>• We reported on the need for reform of the boarding house sector, highlighting recurring problems with ADHC's licensing and monitoring activities as well as a range of issues relating to the safety, health, welfare and rights of people living in licensed boarding houses.</li> <li>• We commenced an inquiry into the availability and provision of supported accommodation to people with mental illness, examining the roles and responsibilities of ADHC and NSW Health in the provision of community-based support and accommodation to people who are currently mental health inpatients</li> </ul>

## Action plan for women

Objective	Outcomes for 2010-2011
Reduce violence against women	<ul style="list-style-type: none"> <li>We continued to actively monitor implementation of our recommendations following the audit of police handling of domestic violence and family violence complaints, including the finalisation of a NSWPF Domestic Violence and Family Violence Complaint Practice Note reflecting our findings and recommendations.</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 help female staff balance work and care responsibilities by ensuring access to flexible working conditions – including flexible working hours, part-time and job share arrangements, and leave for family responsibilities.</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>We focused on the review of our women's policy in line with the NSW Government Women's Plan. We developed a draft Women's Action Plan 2012-2015 outlining our strategies and planned outcomes to ensure that our services are accessible and appropriate for women in NSW.</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 EEO, and 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 featuring a very high representation of women at all levels. Women make up 73.7% of total staff and 71.8% of staff grade six and above. Fifty percent of our senior staff (statutory officers and senior officers) are women.</li> </ul>

# Appendix J

## Publications list

We produce a range of publications including general information for the public, guidelines for agencies and organisations we oversee, discussion papers seeking information from the public, final reports at the conclusion of legislative reviews, annual reports outlining the work we have done during the financial year and special reports to Parliament about public interest issues. All publications are made publicly available in Acrobat PDF on our website: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au). Alternative formats can be provided by contacting us.

### Special reports to Parliament

- More than board and lodging: the need for boarding house reform
- Addressing Aboriginal disadvantage: the need to do things differently
- Kariong Juvenile Correctional Centre: meeting the challenges
- Keep them safe?

### Annual reports

- NSW Ombudsman Annual Report 2011–2012
- Official Community Visitors Annual Report 2010–2011
- NSW Child Death Review Team – Annual Report 2010
- *Law Enforcement (Controlled Operations) Act 1997* Annual Report 2010–2011

### Reports and submissions

- Report under section 49(1) of the *Surveillance Devices Act 2007* for the six months ending 30 June 2011
- Report under section 49(1) of the *Surveillance Devices Act 2007* for the six months ending 31 December 2011
- Review of Parts 2A and 3 of the *Terrorism (Police Powers) Act 2002* for the review period 2008–2010
- Report under section 242(3) of the *Law Enforcement (Powers and Responsibilities) Act 2002* – Covert search warrants
- Report under section 242(3C) of the *Law Enforcement (Powers and Responsibilities) Act 2002* for the period ending 7 August 2011 – Criminal organisations search warrants
- Report of Reviewable Deaths in 2008–09 Volume 1: Child Deaths
- Report of Reviewable Deaths in 2008–09 Volume 2: Deaths of people with disabilities in care
- Submission to the *Swimming Pools Act 1992* Review, February 2012
- Review commissioned by the Ombudsman and prepared by the Social Policy Research Centre: 'Why Don't Multi-Agency Child Welfare Initiatives Deliver? A counterpoint to best practice literature'

### Guidelines

- Managing unreasonable complainant conduct practice manual 2nd Edition
- Managing unreasonable complainant conduct project report (Stage 2)
- Public interest disclosures guidelines: A3, B3, B4, B5, B6, C1, C2, C3, C4, C5, C7, D1, D2, D3, D4, E1

### Brochures

- Got a complaint? Multilingual brochure
- General Information: Making a complaint to the Ombudsman – translated in 46 languages

### Fact sheets

- Consultation Info Sheet - Review of the *Summary Offences Amendment (Intoxicated and Disorderly Conduct) Act 2011*
- Consultation Paper: Removal of face coverings for identification also translated in seven languages
- Child protection: How we assess an Investigation
- Child protection: Child protection Legislation: What employers and employees need to know
- Child protection: Planning and conducting an investigation
- Child Protection Practice Update 2011/1: Defining reportable conduct
- NSW CDRT Issues Paper: Child deaths: drowning deaths in private swimming pools in NSW
- PID: Obligations and responsibilities of general managers (local government)
- PID: Obligations and responsibilities of general managers (state government)
- PID: Confidentiality and its practical alternatives
- Official Community Visitors access to documents in visitable services
- Information sheet: Our work with Aboriginal communities 2011

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# Glossary

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<b>ADHC</b> – Ageing, Disability and Home Care	<b>JCC</b> – Joint Consultative Committee
<b>AECG</b> – Aboriginal Education Consultative Group	<b>JGOS</b> – Joint Guarantee of Service
<b>AISNSW</b> – Association of Independent Schools of NSW	<b>JIRT</b> – Joint investigation response team
<b>AMP</b> – Asbestos management plan	<b>JP</b> – Justice of the Peace
<b>APOR</b> – Australasian and Pacific Ombudsman Region	<b>KASC</b> – Kokoda Aboriginal Serviceman's Committee
<b>AVO</b> – Apprehended violence order	<b>KPI</b> – Key performance indicator
<b>BIU</b> – Business improvement unit	<b>LEPRA</b> – <i>Law Enforcement (Powers and Responsibilities) Act 2002</i>
<b>CALD</b> – Culturally and linguistically diverse	<b>LPMA</b> – Land and Property Management Authority
<b>CAR</b> – Child/young person at risk	<b>LWB</b> – Life Without Barriers
<b>CASA</b> – <i>Crimes (Administration of Sentences) Act 2002</i>	<b>MOU</b> – Memorandum of understanding
<b>CCTV</b> – Closed circuit television	<b>MPSP</b> – Multicultural policies and services program
<b>CCYP</b> – Commissioner for Children and Young People	<b>MRG</b> – Mandatory reporter guide
<b>CDRT</b> – Child Death Review Team	<b>NGO</b> – Non-government organisation
<b>CEN</b> – Christian Education National	<b>NSWPF</b> – NSW Police Force
<b>CEO</b> – Chief Executive Officer	<b>NSWTG</b> – NSW Trustee and Guardian
<b>CIN</b> – Criminal infringement notice	<b>OCV</b> – Official community visitor
<b>COPS</b> – Computerised Operational Policing System	<b>OOHC</b> – Out-of-home care
<b>CPN</b> – Corruption Prevention Network	<b>OPCAT</b> – Optional Protocol on the Convention Against Torture
<b>CSA</b> – Christian Schools Association	<b>ORI</b> – Ombudsman of the Republic of Indonesia
<b>CS-CRAMA</b> – <i>Community Service (Complaints, Review and Monitoring) Act 2002</i>	<b>OSMS</b> – Onsite sewer management system
<b>CSC</b> – Community Services Centre	<b>PASAC</b> – Police Aboriginal Strategic Advisory Committee
<b>CSNSW</b> – Corrective Services NSW	<b>PCA</b> – Principal Certifying Authority
<b>DAGJ</b> – Department of Attorney General and Justice	<b>PEEP</b> – Personal emergency evacuation plan
<b>DAP</b> – Disability action plan	<b>PIC</b> – Police Integrity Commission
<b>DEC</b> – Department of Education and Communities	<b>PID</b> – Public interest disclosure
<b>DFS</b> – Department of Finance and Services	<b>PJC</b> – Parliamentary Joint Committee on the Office of the Ombudsman and Police Integrity Commission
<b>DLG</b> – Division of Local Government	<b>POA</b> – Pacific Ombudsman Alliance
<b>DMG</b> – Division managers group	<b>PSC</b> – Professional Standards Command
<b>DSA</b> – Disability Services Act	<b>RCU</b> – reportable conduct unit
<b>DTC</b> – Davidson Trahaire Corpsych	<b>RISC</b> – Risk and information security committee
<b>EAP</b> – Employee assistance program	<b>RMS</b> – Roads and Maritime Services
<b>EEO</b> – Equal employment opportunity	<b>ROSH</b> – Risk of significant harm
<b>EPA</b> – Environmental Protection Authority	<b>SAAP</b> – Supported Accommodation Assistance Program
<b>FACS</b> – Department of Family and Community Services	<b>SD Act</b> – <i>Surveillance Devices Act 2007</i>
<b>FaHCSIA</b> – Department of Families, Housing, Community Services and Indigenous Affairs	<b>SDRO</b> – State Debt Recovery Office
<b>GIPA Act</b> – <i>Government Information (Public Access) Act 2009</i>	<b>SES</b> – Senior Executive Service
<b>GP</b> – General practitioner	<b>SOA</b> – <i>Summary Offences Amendment (Place of Detention) Act 2002</i>
<b>HACA</b> – Heads of Asbestos Coordination Authorities	<b>SOG</b> – Senior officers group
<b>HACC</b> – Home and Community Care	<b>SOPs</b> – Standard operating procedures
<b>HRMCC</b> – High Risk Management Correctional Centre	<b>ST2</b> – Stronger Together 2
<b>HSC</b> – Higher School Certificate	<b>SUDI</b> – Sudden unexpected deaths in infancy
<b>IAOLAS</b> – Indonesian Australian Ombudsman Linkages and Strengthening program	<b>UCC</b> – Unreasonable Complainant Conduct
<b>ICAC</b> – Independent Commission Against Corruption	<b>WGP</b> – Workplace giving program
<b>ICO</b> – Intensive Correction Order	<b>WHS</b> – Work health and safety
<b>IOI</b> – International Ombudsman Institute	<b>YIG</b> – Youth issues group
<b>IPC</b> – Information and Privacy Commissioner	<b>YLO</b> – Youth liaison officer



### Contacting NSW Ombudsman

Our business hours are:  
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