



OMBUDSMAN

TASMANIA

Annual Report 2011 - 2012

OMBUDSMAN TASMANIA

ANNUAL REPORT 2011-12

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ISSN 1441-4295

LETTER TO PARLIAMENT

To:


The Honourable President of the Legislative Council

and

The Speaker of the House of Assembly

Pursuant to section 30 of the *Ombudsman Act 1978*, I present to the Parliament the annual report of the Ombudsman for 2011-2012.

Yours sincerely



Leon Atkinson-MacEwen

OMBUDSMAN

November 2012

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HIGHLIGHTS

- Significant increases in the number of new complaints received, and in numbers of complaint files closed, in the Ombudsman, Health Complaints and Energy Ombudsman jurisdictions
- An increase in the number of applications for external review under the *Right to Information Act 2009*
- Reduction in Budget allocation for 2012-13 and out years
- Additional efficiencies to address reduced funding
- Seeking systemic improvements without prior formal investigation, where possible
- A number of major investigations completed

FROM THE OMBUDSMAN

APPOINTMENT

I was appointed as both Ombudsman and Health Complaints Commissioner on 26 March 2012 for a period of five years. I would like to acknowledge my predecessor Simon Allston for his dedicated service to the people of Tasmania as Ombudsman and Health Complaints Commissioner between 2005 and 2012. I would also like to extend my thanks to Richard Connock, who acted as Ombudsman and Health Complaints Commissioner between Simon's departure and my appointment and whose advice I have found invaluable.

MY PHILOSOPHY

I am a strong believer in working cooperatively to build understanding and capability within agencies to deliver functions and services lawfully, reasonably and fairly. To that end, I initiated discussion with Heads of Agencies around how my Office might be able to work openly and cooperatively with them to identify and remedy defects in administration. I do not see a cooperative approach impinging in any way on my ability to act and advise independently; rather, I see it as a means of strengthening my independence as an impartial "auditor" of agency actions.

With the audit function in mind, I have commenced mining the data available to me through the operations of the Office over its recent history to determine where there may be trends (or gaps) with which I may need to deal. Where trends or gaps are identified, I intend to conduct audits of agency performance of their administrative functions and then work with agencies to address any identified deficiencies. Most importantly, I intend to extend this approach across both the Ombudsman and Health Complaints Commissioner jurisdictions.

OFFICE OF THE OMBUDSMAN AND HEALTH COMPLAINTS COMMISSIONER

The Office of the Ombudsman and Health Complaints Commissioner covers a number of jurisdictions and roles. Apart from the Ombudsman and Health Complaints Commissioner functions, the Office deals with energy, water and gas complaints, as well as providing administrative support and oversight to the Mental Health Official Visitors Scheme and the Prison Official Visitors Scheme.

As a result of having all these different roles and functions, I maintain four separate websites and publish three annual reports (one for each of the Ombudsman, Health Complaints and Energy Ombudsman jurisdictions). As in previous years, this annual report gives a full picture of the Office, and contains a chapter on each of the major functions of the Office, including the Health Complaints and Energy Ombudsman jurisdictions. A separate, more detailed annual report as Health Complaints Commissioner can be seen at www.healthcomplaints.tas.gov.au. My annual report as

Energy Ombudsman, which is not tabled in Parliament, can be seen at - www.energyombudsman.tas.gov.au.

STAFFING

As noted in last year's report, because of budgetary restrictions the staffing levels in the Office dropped by 1.4 FTE during the current year. As a result, at year's end there were 25 members of staff (and one intern), representing 19.6 FTE. Among the 25 members of staff as at 30 June 2012, all but five were permanent employees and 12 worked part-time (with two of the positions in the Office involving job-share arrangements).

EFFICIENCIES

Over the last two years the Office has:

- made greater use of informal methods for resolving complaints – email, telephone, face-to-face meetings, etc;
- sought to resolve systemic problems by early consultation with agencies, without first proceeding to formal investigation of the issues;
- refused to deal with less substantial complaints; and
- used administrative staff to fulfil some minor tasks that have previously been performed by investigation officers.

Moreover, soon after my appointment I conducted a review of all our office processes - particularly the processes to assess and manage complaints. While some minor changes were made (and will continue to be made), I am satisfied that the processes in place are robust, efficient and cost effective.

RESOURCES

The key statistics outlined in this report clearly indicate that significant process improvements have been made in recent years, particularly in our complaints handling practices. Despite these improvements, however, timeframes to resolve matters are increasing. This is partly due to the fact that we are dealing with more complex matters.

The most significant impact on the Office, however, has come from budgetary constraints. As a result, as Figures 1-3 (below) demonstrate, we are barely able to maintain an acceptable complaint-handling service in the Ombudsman and Energy Ombudsman jurisdictions and are going backwards in the Health Complaints jurisdiction.

Of particular concern is that, as at 30 June 2012, we finished the year with a significant workload of open cases (361 cases spread across the three jurisdictions). Moving staff from jurisdiction to jurisdiction to deal with backlogs does not work; I have modelled the effects of shifting staff from one jurisdiction to another and the result is merely "robbing Peter to pay Paul". In addition, resource constraints mean

that I no longer have the ability to deal with a particularly critical issue (such as a significant own-motion investigation) without exhausting all my funds.

As funding is set by Parliament, I intend to work constructively with Members to determine priorities and expectations around outputs and turnaround times for the Office and to manage to those priorities and expectations accordingly.

COMPLAINT MANAGEMENT

The following graphs provide a five year comparison of complaint management across the three major jurisdictions.

Figure 1. Complaint activity – Ombudsman: 2007-08 to 2011-12

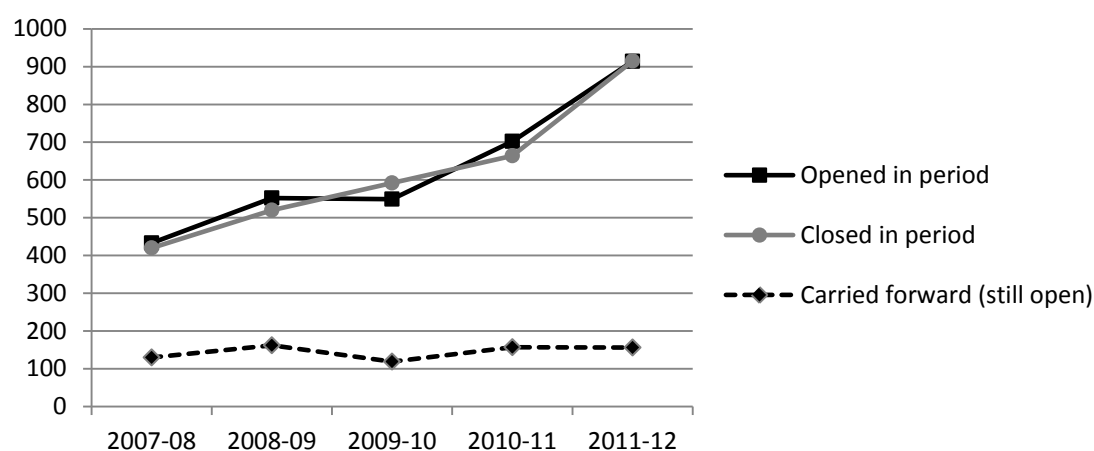


Figure 2. Complaint activity – Energy: 2007-08 to 2011-12

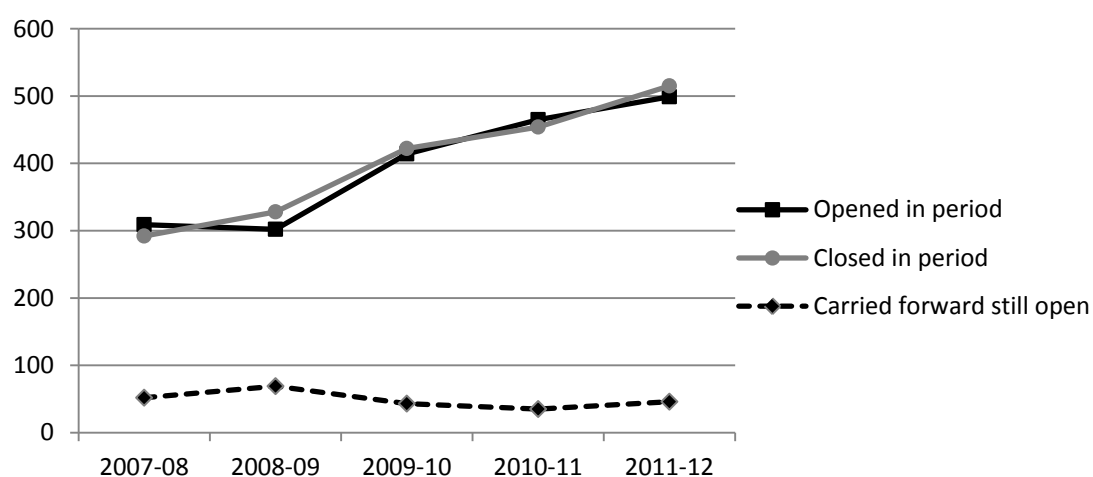
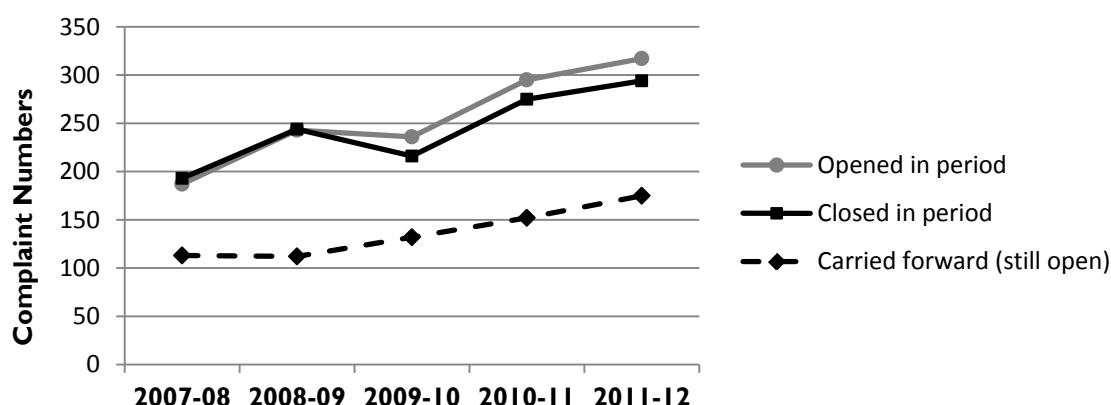


Figure 3. Complaint activity – Health Complaints: 2007-08 to 2011-12



MAJOR INVESTIGATIONS

Our capacity to conduct major investigations remains limited by resource pressures, which is one of the reasons why we seek to address systemic issues by discussions of the kind mentioned earlier.

The major own motion investigation in relation to the administration by the Department of Health and Human Services of a particular provision of the *Poisons Act 1971*, commenced in the last reporting year, has progressed to near completion. Another major investigation is also nearly completed. Both these investigations have been hampered by a lack of resources.

Several of the recommendations made in the June 2010 report into the management of the Tamar Unit at Risdon Prison have still to be adopted. As said in last year's annual report, however, some of those recommendations were somewhat overshadowed by those made by Mick Palmer AO APM in his subsequent report. One of the Palmer recommendations was that a Change Manager be appointed. A Change Manager has now been appointed, as has a new Director of Prisons, and there have been significant changes to the way the prison is administered as a result.

Regard has been had to both the Ombudsman and Palmer reports when implementing these changes and, while some of the specific recommendations have not been complied with, I am satisfied that they have, in combination with other factors, served to inform the process that has now been adopted.

OTHER MATTERS

As I have said, this report contains a chapter in relation to each of the major functions of the Office. In this part of this preface, I mention matters of interest which are not mentioned elsewhere in the preface or in any of those chapters:

- As Ombudsman, I am an ex officio member of the Board of the Integrity Commission. Both Simon and I attended all of the meetings of the Board during the reporting year, both formal and informal. Like Simon, I have obtained great benefit from regular engagement with the other accountability

officers on the Board, and from participation in the development of the Commission's governance structures.

- Simon met with the Joint Standing Committee on Integrity in October 2011, and a protocol was agreed upon to facilitate communication and coordination between the Office of the Ombudsman and the Committee.
- In looking at the source of complaints to the Office when I first commenced in my roles, I identified that we receive very few complaints in any of our jurisdictions from Tasmanians with a disability or from non-English speaking backgrounds. In order to meet this very obvious gap, I have started the process of putting a comprehensive communication strategy in place for the Office; reaching out to the disability sector and to Tasmanians from a non-English speaking background are priorities for me across all my jurisdictions.
- The roll out of the TRIM document management system nears completion, with all managers now having access to it, and having received training in its use. My assistant and business managers have attended "train the trainer" sessions so that they will be able to assist staff when the system is activated across the office, and when it is, I am sure that our information retention, storage and search capacities in relation to all information falling outside our complaint handling work will be greatly enhanced.
- Once again, one of my investigation officers attended the investigation training course, conducted by Ombudsman Victoria for officers from all Australian Ombudsman office and the Office of the New Zealand Ombudsman. Another of my officers will be attending another module of this training in February 2013. The support provided by the larger jurisdictions to the smaller is invaluable.

As key integrity entities in Tasmania, the Office of the Auditor-General and my Office have much in common. I would like to thank Mr Mike Blake, Tasmania's Auditor-General, for his advice, his generosity and his willingness to collaborate on matters of common interest.

It only remains to thank all the staff of the Office who worked with Simon and/or me in 2011-12. Without their enthusiasm, camaraderie and good spirits, the Office could not function. The high quality of their work and their extraordinary outputs in constrained circumstances, are a direct reflection and measure of their talent and dedication.



Leon Atkinson-MacEwen

OMBUDSMAN

November 2012

THE ROLE OF THE OMBUDSMAN

The Ombudsman has a wide range of functions and responsibilities. Our services are free and we act fairly and impartially at all times. Our primary objectives are to improve public administration and promote good administrative practice.

OMBUDSMAN

Anybody who is aggrieved by the administrative action of a public authority in Tasmania (and who has tried unsuccessfully to resolve their concerns with the authority itself) can complain to my office. If the complaint is within jurisdiction and the circumstances warrant it, it will be investigated. I can also investigate administrative action – particularly where systemic issues are involved - on my own motion.

At the conclusion of every investigation, we provide a report to the authority concerned which includes (if necessary) recommendations for addressing and rectifying any action which in my opinion:

- appears to have been taken contrary to law;
- was unreasonable, unjust, oppressive, or improperly discriminatory;
- was in accordance with a rule of law or a provision of an enactment or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory;
- was taken in the exercise of a power or discretion and was so taken for an improper purpose or on irrelevant grounds or on the basis of irrelevant considerations;
- was a decision that was made in the exercise of a power or discretion and the reasons for the decision were not, but should have been, given;
- was based wholly or partly on a mistake of law or fact; or
- was wrong.

These are the criteria set out in s 28(1) of the *Ombudsman Act 1978*.

I can also provide a report to the relevant Minister and/or Parliament. My office has no coercive power in relation to the adoption of recommendations; we rely on constructive negotiation and persuasive argument. Agencies generally accept our recommendations.

RIGHT TO INFORMATION REVIEWS

Anyone who is aggrieved by decisions taken by public authorities under the *Right to Information Act 2009* not to release information sought by way of applications for assessed disclosure can seek a review of that decision from my office. If at the conclusion of a review I am of the view that the authority's decision was incorrect, I can make a fresh determination, which the authority is obliged to implement.

PUBLIC INTEREST DISCLOSURES

My office has a significant role under the *Public Interest Disclosures Act 2002* to receive and investigate public interest (or “whistle-blower”) disclosures and oversee the manner in which public authorities deal with such disclosures.

PERSONAL INFORMATION PROTECTION

My office provides an avenue of redress for people who believe that their personal information has been misused by a public authority in breach of the *Personal Information Protection Act 2004*.

HEALTH COMPLAINTS COMMISSIONER

The Ombudsman is also the Health Complaints Commissioner under the *Health Complaints Act 1995* and receives complaints relating to the provision of a health service by a health service provider in either the public or the private sector. The Commissioner’s functions are outlined in s 6 of the Act and include:

- preparing and regularly reviewing a Charter of Health Rights;
- identifying and reviewing issues arising out of complaints and suggesting ways of improving health services and preserving and increasing health rights;
- providing information, education and advice in relation to the Charter, health rights and responsibilities, and the procedures for resolving complaints;
- receiving, assessing and resolving complaints; and
- enquiring into and reporting on any matter relating to health services at his or her discretion or on the direction of the Health Minister.

ENERGY OMBUDSMAN

Consumers are able to lodge complaints against energy entities with the Ombudsman for investigation and resolution under the *Energy Ombudsman Act 1998*. I have the power under the Act to make determinations and awards against the entities where appropriate.

WATER AND SEWERAGE

Pursuant to the *Water and Sewerage Industry Act 2009*, a customer of a water and sewerage corporation who has made a complaint to the corporation under its customer complaints process and who is not satisfied with the outcome of the complaint, may make a complaint about that outcome to the Ombudsman. It is a condition of a corporation’s licence that it will be bound by the Ombudsman’s determination in relation to the complaint. The broader administrative actions of the corporations also come within the general Ombudsman jurisdiction.

POLICE COMPLIANCE AUDITS

My office has the responsibility for ensuring compliance by Tasmania Police with the procedural requirements of the *Telecommunications (Interception) Tasmania Act 1999*, as well as the *Police Powers (Controlled Operations) Act 2006* and the *Police Powers (Surveillance Devices) Act 2008*.

OTHER STATUTORY FUNCTIONS

I am also able to review certain decisions of the Commissioner of Police under the *Witness Protection Act 2000* and decisions about the release of information under the *Adoption Act 1998*.

REFERRAL SERVICE

My office plays an important role in referring members of the public to the body best able to address their concerns when those concerns relate to matters that are out of our jurisdiction. In most cases, we are able to advise a complainant of the body they need to speak to. We regularly refer people to the Commonwealth Ombudsman, the Telecommunications Industry Ombudsman, the Financial Ombudsman Service, the Office of the Anti-Discrimination Commissioner and the Office of Consumer Affairs and Fair Trading.

OMBUDSMAN ACT 1978

REVIEW OF COMPLAINTS

Background - Out of Jurisdiction Enquiries

The number of out of jurisdiction enquiries in the 2011-12 reporting year has fallen by 30 per cent.

This is largely attributable to a significant reduction in the number of out of jurisdiction enquires made by prisoners on the Prison Service's Arunta telephone system line to my Office. As was reported last year, many of these calls were made by prisoners trying to "beat the system" and increase the number of outside calls they were able to make, and many were made out of business hours. Following discussions between my Office and Tasmania Prison Service late in 2010, and the introduction of measures by the latter to control the prank calls and the hours during which the line was made available to prisoners, their number began to reduce.

There was only a five per cent decrease in out of jurisdiction prisoner telephone enquiries in the last reporting year, as the measures only began to take effect in the last months of that year. The number of these calls, however, continued to decline steadily throughout this reporting year, during which the average number per month was 27, compared to 83 in the previous year (with 135 in December 2010 alone).

Continuing improvements to our web site, which now makes clear to users which matters are within my jurisdiction and which are not, might also have contributed to the reduction in out of jurisdiction enquiries.

Complaints

Complaint numbers continue to rise, with a 30 per cent increase in complaints in 2011-12 compared with 2010-11.

Complaints were divided between the various areas of government as follows:

General Agency (Government Departments)	47 per cent
Public Authorities	36 per cent
Local Government	9 per cent
Government Business Enterprises	1 per cent

In 51 per cent of cases, a finding was made that there had been no defective administration and 36 per cent were either declined or discontinued. Only 12 per cent of complaints were substantiated, either in whole or in part.

GENERAL AGENCY

Complaints against government departments accounted for nearly 50 per cent of all complaints received, and as in previous years, most complaints were against the Department of Justice and the Department of Health and Human Services. Together these Departments accounted for 79 per cent of all general agency complaints.

Complaints against the Department of Police and Emergency Services accounted for eight per cent of all general agency complaints - a reduction of 20 per cent from the previous year. At the other end of the scale, the Department of Premier and Cabinet and the Department of Treasury and Finance were the agencies least complained about, with both departments accounting for approximately half of one per cent each of total complaints received.

These ratios are to be expected, given the number of interactions that Tasmanians have with the Departments of Justice, Health and Human Services, and Police and Emergency Services, compared to the number of their interactions with either the Departments of Premier and Cabinet or Treasury and Finance.

THE DEPARTMENT OF JUSTICE

Once again, more complaints were received against the Department of Justice than any other agency (49 per cent of all general agency complaints) due to the fact that Corrective Services comes under the auspices of the Department. Overall, the number of complaints against the Department (less Corrections) dropped slightly, while the number of complaints by prisoners in the State's correctional facilities increased (and remained high).

Prisoner complaints accounted for 78 per cent of complaints against the Department in the reporting year. While this represented only a small increase over the number of complaints received in the previous year, the number of complaints from prisoners has been steadily increasing since 2008-09.

As in the previous reporting year, half of all complaints made by prisoners related to their security classification and placement within the prison system. Other areas of complaint included:

- visits, including the nature of visits (whether contact or non-contact), restrictions on visitors and the timing of visits;
- canteen, including prisoners' access to canteen items and the delivery of items once purchased;
- lost property, including issues of compensation when property had been lost;
- financial issues, including the scale of prison wages, and the depositing and processing of funds in prisoners' accounts; and
- alleged miscalculation of remission eligibility.

As well as managing the large number of individual complaints received, I continue to liaise regularly with senior management of the Prison Service to discuss issues of

concern to my Office, and to address any perceived system issues which warrant attention.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The number of complaints against the DHHS rose slightly from the last reporting year, and accounted for 29 per cent of total complaints received against agencies. Human Services once again accounted for the majority of complaints against the Department (55 per cent).

As in previous years, only a very small proportion of complaints against the Department were found to be substantiated either partly or in full. 52 per cent were either declined or discontinued, and in 42 per cent of cases, a finding was made that there had been no defective administration.

Nearly all divisions of the DHHS were referred to in complaints, and matters complained of included:

- issues related to the management of children in State care, included access to children, reunification and kinship assessments;
- access to the Spectacle Assistance Scheme; and
- charges levied by Housing Tasmania against outgoing tenants for repairs to property.

Complaints from residents of the Ashley Youth Detention Centre were dealt with by way of direct referral to the Centre's management. This resulted in complaints being addressed promptly and resolved informally where possible. Reports from Centre management on the outcome of complaints satisfied me that they had been dealt with fairly and appropriately.

DEPARTMENT OF POLICE AND EMERGENCY MANAGEMENT

My office and the Tasmanian Integrity Commission are the two independent bodies in the State with jurisdiction to review the activities of Tasmania Police and its members. Broadly speaking, the Integrity Commission has jurisdiction to investigate allegations of misconduct made against individual Police officers, whereas my jurisdiction is confined to the administrative actions of Tasmania Police and its officers.

Complaints against Police are forwarded directly to Police Professional Standards rather than the Commissioner's office, and officers from Professional Standards have also shown themselves willing to address enquiries made by telephone. Complaints that are forwarded are investigated either by Professional Standards or the Commander of the relevant Police District and the outcome of the investigation reported to us. Most complaints are resolved appropriately through this process.

As has always been the case, however, most complaints received during the reporting year were concerned with the way individual officers had conducted themselves in the field and involved operational rather than administrative actions.

They were therefore out of my jurisdiction. Actions complained about did not vary significantly from previous years and included:

- alleged inaction in response to noise and nuisance complaints,
- alleged failure to enforce and monitor restraining orders,
- alleged failure to investigate crimes and offences,
- alleged use of force during arrests, and
- firearms licensing.

LOCAL GOVERNMENT

After two years in a row of (slight) increases in the number of complaints received against municipal councils, there was a nine per cent reduction in complaints in the reporting year. Complaints were spread between almost all councils, with no complaints recorded against Burnie City Council, Circular Head Council, Dorset Council, Flinders Island Council, Meander Valley Council and West Coast Council. The councils most complained about in the reporting year were Hobart City Council and Launceston City Council (nine complaints each), followed by Glenorchy City Council (eight complaints).

Matters complained of included:

- maintenance of roads, drains and other infrastructure;
- planning issues, including the processing of applications for development and building approval and alleged failure to enforce planning schemes;
- rates, including the amount set for rates, the process of collection and the setting of penalties for late or non-payment;
- alleged failure to act on noise and nuisance complaints, including complaints in relation to barking dogs and industrial noise; and
- infringement notices for parking and other offences.

PUBLIC AUTHORITIES

Complaints against public authorities increased significantly. Complaints increased by 30 per cent in 2009-10 and by 18 per cent in 2010-11; in this reporting year complaints increased by over 300 per cent. This increase was due largely to complaints against the three water corporations.

Complaints against the corporations accounted for 82 per cent of all public authority complaints in the reporting year, with Southern Water accounting for 59 per cent of these (down from 70 per cent in 2010-11). There were 37 complaints made about the Retirement Benefits Fund (11 per cent of all complaints) and 13 complaints made about The Public Trustee (four per cent of all complaints).

WATER AND SEWERAGE CORPORATIONS

There was a significant increase of nearly 300 per cent in the number of complaints against the water and sewerage corporations, from 75 in 2010-11 to 249 in 2011-12. There was also an increase in the number of enquiries recorded (from 33 to 262).

We continued to receive a large number of billing complaints resulting from late and inaccurate accounts, most of which were dealt with using the “Refer to Higher Level” method introduced in early 2010. Added to these have been a considerable number of complaints arising from the roll out of water meters by Southern Water to customers in the south of the State. Most northern councils installed meters some time ago, but they are new to the residents of Hobart and other southern population centres.

Most metering complaints were received from the owners of strata title units. The issues that are common to these complaints are:

1. Southern Water’s *one-in-all-in* policy, which provides that *all dwellings on a strata title property must have sub-meters installed and all owners must agree to this*. If there is no agreement, then the responsible corporation will only install a master meter with the cost of water supplied to the property as a whole being divided between the individual unit holders. This has led to concerns that some unit holders may end up subsidising the water use of others.
2. A policy of charging strata title unit holders a fee for the installation of sub-meters, when meters to stand alone properties are installed free of charge.

Rather than investigate each complaint separately, I entered into discussions with Southern Water in relation to its sub-metering policies generally. Some meetings in this regard have already taken place, and further meetings are planned.

There have also been a number of complaints relating to water and sewerage service charges levied against un-serviced land; that is land that is not connected to any water or sewerage infrastructure but could be. Under the old *Local Government Act*, before the transfer of responsibility for water and sewerage from local councils to the corporations, if water or sewerage infrastructure ran within 30 metres of the boundary of a property, a service charge could be levied by councils against that property.

Corporations can continue to levy such charges against properties that were subject to them under the *Local Government Act*. There is a suggestion, however, that service charges are being raised against un-serviced lots in new developments and the legality of these charges is questionable. This is an issue that is under review.

My Office also received a significant number of what can only be described as *customer service complaints*. They relate to the manner in which the corporations deal with their customers. All the corporations are obliged to, and do, have internal

complaint handling policies which provide for complaints to be referred to senior officers for investigation, and for customers to be informed of the process and the outcome of any investigation, but this has not always been happening. Complaints are not being investigated properly or at all internally, responses to customers are often inadequate, and unhappy customers are being prematurely referred to the Ombudsman.

I have recently instigated a policy of providing unhappy customers who complain to me with a copy of the relevant corporation's complaint policy and asking them to make a formal complaint to the corporation in the first instance. My officers are directing complainants to put their complaint to the corporation in writing and ask that it be dealt with in accordance with the policy, and to allow the corporations a period of 14 days in which to do so. Only after that period has elapsed and the complainant remains dissatisfied, will my staff consider the complaint further.

I have also had discussions with the corporations with a view to improving their complaint handling processes.

CASE STUDIES

Case Study A

The complainant complained that a Council officer had entered onto his property without his consent or knowledge. Following the intervention of my Office, Council amended its procedures for the entry of authorised officers onto privately owned land to make them compliant with s 258 of the *Building Act 2000*, which operates to prevent an authorised person from entering upon land used for residential purposes in the absence of the occupier's consent or a warrant.

Case Study B

A complainant alleged that despite notifying Southern Water of his change of address, Southern Water continued to send accounts to his old address. The complainant was not aware of the accounts, and because they remained unpaid, Southern Water commenced collection action. The complainant became aware of the accounts when he was contacted by a collection agent. As a result of the complaint to my Office, Southern Water agreed to remove the accounts from the collection agent, provide copies of the accounts to the correct address, arrange a payment plan direct with the complainant and issue an apology.

Case Study C

The complainant lodged a complaint concerning the time taken by the Public Trustee to finalise his late mother's estate. She had died on 1 January 2009 and the estate had not been finalised at the time the complaint was lodged on 16 June 2011. The Public

Trustee acknowledged that the delay occasioned by attempting to and finally obtaining a reseal in Victoria of the probate of the complainant's mother's will had been unacceptable. An apology was provided to the complainant and his siblings along with an indication that consideration would be given to reducing the fees to be charged for administering the estate. It was also determined that there would be no costs levied against the estate in relation to an initial application for probate in Victoria.

Case Study D

The complainant was stopped by a police officer for a traffic offence, and had understood that a caution had been issued. More than 12 months later, however, he received a notice from the Monetary Penalties Enforcement Service seeking payment of an overdue fine for the traffic infringement. My Office made enquiries of Tasmania Police, who acknowledged that the discussion between the complainant and the police officer at the time the offence was committed could have given rise to an understanding on the part of the complainant that he had received a caution only, and the infringement notice was withdrawn.

Case Study E

The complainant's mother was a patient at the Royal Hobart Hospital, and he complained that her status had been changed from inpatient to that of a nursing home patient without her or his knowledge. The change in status meant that a fee was charged by the Hospital, which the complainant and his mother only became aware of after it had been levied. My Office made enquiries of the Hospital, which explained the basis for the charge. It acknowledged, however, that it had not informed the complainant or his mother prior to the fee being levied. The Hospital offered an apology and the fee was withdrawn.

FREEDOM OF INFORMATION ACT / RIGHT TO INFORMATION ACT

INTRODUCTION

The *Freedom of Information Act 1991* FOI Act was repealed by the *Right to Information Act 2009* with effect from 1 July 2010.

The role of the Ombudsman under the FOI Act was to review decisions by agencies and Ministers under the Act where access to requested information had been refused. The Ombudsman has a similar role under the RTI Act, but also has responsibility for:

- issuing and maintaining Guidelines to assist users of the Act,
- issuing and maintaining a Manual related to the operation of the Act, and
- providing oral or written advice to public authorities or Ministers on the operation of the Act.

The Ombudsman is required by s 53 of the RTI Act to include a report on the operation of the Act in the Ombudsman's annual report under the *Ombudsman Act*. This chapter represents that report.

FREEDOM OF INFORMATION ACT

My Office continued to perform work under the FOI Act for the whole of the reporting year.

This continued work, past the date when the FOI Act was repealed, is explained by s 5 of the *Right to Information (Consequential and Transitional) Act 2009*. This section preserved the right of a person to seek review by the Ombudsman under the FOI Act of a decision to refuse a request for information made under the Act prior to its repeal. It also required existing reviews to be completed.

To summarise and also amplify the statistics in Appendix B:

- 19 FOI review files were closed during the year; and
- eight of these resulted in formal review decisions, with four of these resulting in the original decision being varied.

The bulk of the FOI work is related to reviews sought by one particular applicant, pursuing matters relating to Aurora Energy. This applicant was particularly active with requests for information from the company in the last two months before the repeal of the FOI Act.

PUBLICATIONS

We published four guidelines in 2010-11:

- Guideline 1/2010 - in relation to the review of decisions by the Ombudsman;
- Guideline 2/2010 - in relation to the refusal of an application for disclosure under the RTI Act, s 20;
- Guideline 3/2010 - in relation to the process of disclosing information under each type of information disclosure (19 August 2010); and
- Guideline 4/2010 - in relation to searching and locating information (20 December 2010).

In response to feedback and further experience with the operation of the RTI Act, Guideline 1 was revised and reissued on 1 November 2011. In addition, a Guideline in relation to the imposition of fees and charges under the Act was issued in January 2012 (Guideline 1/2012), and reissued with minor revisions in April 2012.

Guidelines will continue to be revised and updated as required.

STATISTICS

As can be seen in greater detail in Appendix B:

- we received a total of 41 applications for review under the RTI Act in the reporting year (a 25 per cent increase on the number of applications for review received in 2010-11);
- 28 of the review files had been closed by year's end; and
- 14 of these resulted in a formal decision, with 13 of these resulting in the affirmation of the original decision and only one agency decision varied.

WORKSHOPS AND ADVICE

I regard the provision of workshops as an important aspect of the work done by my Office in this jurisdiction. This goes hand in hand with the provision of a Manual, and with the education and guidance of users of the Act through the issuing of Guidelines. Equally as important is the need for my workshops to dovetail with the training and information sessions conducted by the Tasmanian State Archivist. To that end, the State Archivist and I have agreed that, in future, we will conduct joint training sessions wherever possible on the responsibilities around the management of state records and RTI.

The provision of workshops is also important in practice because of the requirement in s 24 (2) of the Act that the principal officer of a public authority or a Minister must not delegate his or her functions or powers under the Act unless he or she is satisfied that the proposed delegate "has the skills and knowledge necessary to perform or exercise those functions or powers". This creates a need for education about how the Act operates.

My officers continue to provide regular RTI training to agency officers tasked with responding to applications for assessed disclosure. As agencies have become more familiar with the Act, however, the demand for the regular workshops referred to in last year's report has reduced. Agencies and their officers are now more interested in the specific aspects of the Act which are of direct relevance to them, such as the various exemption provisions and the application of the public interest test. Training workshops are, therefore, now largely provided on specific topics rather than the Act more generally, and those officers seeking training and guidance already have a deal of experience working in RTI.

Despite a growing familiarity with the Act, issues still arise from time to time, across nearly all agencies, which indicate that further training is required. These include:

- Information management

Frequently, applicants for information complain to my Office about the adequacy of searches made by an agency for information responsive to requests for disclosure, and there have been occasions when agencies have only located relevant information after my Office has become involved. Agencies should be aware of their obligations under the RTI Act to make sufficient searches for information, and the need to ensure that information is stored in such a way that it is easily searchable and accessible. I am confident that the proposed joint training sessions to be delivered by my Office and the State Archivist will lead to improvements in this regard.

- Adequacy of Reasons

It is not uncommon that decisions of agencies which are the subject of review by my Office are expressed in broad, global terms, and do not address the specific considerations required to be taken into account under the Act.

I have the power, under s 47(1)(n), to direct an agency to provide better reasons, but am of the view that the agency concerned should undertake a proper and thorough analysis of all relevant information when reaching its decision in the first instance, and communicate clearly to applicants the basis for reaching that decision by reference to the specific material that constitutes the relevant information.

- Ordering of Information

Again, it is not uncommon for agencies to refer in decisions on applications to *information* and to claim exemptions without condescending to detail. In such cases, when my Office asks to be provided with the information responsive to the application for the purposes of the review, it is often given in the form of a large bundle of documents – some of which might be exempt and some of which might not.

I also have the power under s 47(1)(n) to direct an agency to provide a schedule of information relevant to the application, but where the information responsive to an application is voluminous, such a schedule should be prepared by the agency as a matter of course. It is not reasonable to expect my Office, with its limited resources, to work through a large number of documents in order to determine which might contain exempt information when that is properly the job of the responding agency.

- Fees for Information, and Waiver of Fee

Unlike the FOI Act, where fees were discretionary and calculated on an hourly rate by reference to various factors (including the time taken to locate information and the costs of providing copies of it), an application for assessed disclosure under the RTI Act must be accompanied by the stipulated fixed fee, unless the agency waives it. An application is not accepted until the fee is paid or a decision is made to waive it. This means that time does not run for the delivery of a decision by the agency until the fee is paid or waived.

There have been instances where applicants for information have sought that the fee be waived but no decision in this regard has been made or communicated by the agency. Nor has the agency responded to the substantive application within the requisite time. Applicants then approach my Office asking for an external review on the basis of a deemed refusal by the agency to supply the information sought. By not requiring the fee to be paid or deciding to waive it, however, the application has not been accepted for the purposes of the Act and no right to review arises.

It is important therefore, that where a request is made for the charge to be waived, the agency makes a determination on that request in a timely fashion and advises the applicant accordingly.

Another aspect of fee waiver that seems to have caused some confusion has arisen when the applicant has sought waiver under s 16(2)(c) – on the basis that he or she *is able to show that he or she intends to use the information for a purpose that is of general public interest or benefit*. The phrase is taken to mean the intended use is *for a purpose that is of general interest or benefit to the public*. This is different to the public interest test to which some of the exemptions under the Act are subject; it is not the nature of the information that is at issue but the applicant's intended use of it, and the inclusion of the word *general* emphasises that the purpose is not of interest or benefit to a narrow or special interest group only.

Whether or not an applicant is able to demonstrate that the intended use is for a purpose that is of general interest or benefit to the public is a matter that the agency needs to determine objectively.

- Consultation with Applicants

It is often of assistance to both applicant and agency, that consultation occur at an early stage in order to determine what it is the applicant is actually seeking and what the agency is prepared to make available. This often results in applications being resolved without the need for any formal review process; unfortunately, it is not undertaken as often as it should be.

- Consultation with Third Parties

Where the information responsive to an application for disclosure includes information that is the personal information of a third party, or includes information relating to the business affairs of a third party, the agency is required (as part of its deliberative process) to consult with the third party if it is of the view that its release would be reasonably expected to be of concern to the third party. It is clear from applications for external review to my office, however, that agencies relying on the exemptions applicable to

personal information and/or the business affairs of a third party have not consulted adequately, or at all, with the third party concerned. My officers then direct that consultation occur, and the time taken to finalise the review is lengthened.

ASSOCIATION OF INFORMATION ACCESS COMMISSIONERS

The Association of Information Access Commissioners was formed in September 2010 and consists of the Australian, NSW, Queensland, NT and WA Information Commissioners and the Ombudsmen in South Australia, Tasmania and New Zealand.

The Association met in Canberra in November 2011 and in Adelaide in April 2012. The association provides an excellent forum for Information Commissioners and their statutory equivalents to discuss issues of mutual interest, to learn from each other's experiences and to develop, where possible, common approaches to similar issues.

PUBLIC INTEREST DISCLOSURES ACT 2002

INTRODUCTION

The responsibilities of the Ombudsman under the *Public Interest Disclosures Act 2002* (PID Act) include:

- determining whether disclosures received or referred to the Ombudsman qualify as public interest disclosures under the Act;
- investigating public interest disclosures, where appropriate;
- preparing and publishing guidelines and standards for the procedures to be followed by public bodies in implementing the requirements of the Act;
- approving such procedures, when developed by public bodies;
- preparing and publishing guidelines for the purpose of determining whether improper conduct (as defined by the Act) is serious or significant;
- monitoring the progress of investigations conducted under the Act by public bodies; and
- providing advice to public bodies on the Act.

GUIDELINES

Guidelines were issued on 1 October 2010 (Guideline 1/2010) to assist users of the Act to determine whether improper conduct, as defined by the Act, is serious or significant. Guidelines and Standards were also issued at the end of March 2011 for the procedures to be followed by public bodies (including Model Procedures for public authorities to adopt if they see fit).

Technically speaking, any public body within the terms of s 4 of the Act is obliged to establish its own procedures for the purposes of the Act, complying with the Guidelines and Standards when they do so. The number of bodies which fit within that definition is very large indeed, and it is unrealistic to get all of those bodies to comply with this requirement, particularly given the low usage of the Act.

Since the definition of “public body” includes any body, whether incorporated or not, whose members or a majority of whose members are appointed by a Minister, the requirement to establish procedures for the purposes of the Act technically falls on every Ministerial advisory committee of which the members, or the majority of the members, are so appointed. This is impractical. Moreover, since I must approve all such procedures before they are adopted, this would also place an undue burden on the limited resources of my Office.

I have, therefore, followed my predecessors’ practice and have obtained procedures from the largest public bodies (that is, the ones most likely to receive a disclosure under the Act).

REVIEW OF THE ACT

The Board of the Integrity Commission has asked me to join with Integrity Commission staff to review how the PID Act is meant to interact with the *Integrity Commission Act 2009* (particularly as the definition of “improper conduct” in the first is hard to marry with the definition of “misconduct” in the latter). This work has yet to be undertaken.

THE YEAR UNDER REVIEW

I am required by s 84 of the Act to report on various matters regarding the PID Act in my annual report. To satisfy the requirements of that section, I report:

- that copies of current guidelines and standards published by me under Part 6 of the Act may be obtained or accessed under the “Publications” tab on my Ombudsman website at www.ombudsman.tas.gov.au: s 84(a)
- that I received one approach during the year which might potentially be seen as a disclosure under the Act: s 84(b)
- the disclosure mentioned was determined not to be a public interest disclosure: s84(c)
- that I did not investigate any disclosed matter during the year: s84(d)
- that I did not formally refer any disclosed matter to any other entity or officer for investigation: s 84(e), and
- that, as indicated, I declined to investigate the disclosed matter referred to: s 84(f)(i), the approach involved an allegation of improper conduct with respect to an employment matter.
- that no disclosed matters were referred to me by a public body during the year, for investigation: s84(f)(ii)
- that no disclosures were referred to me under the Act by the President of the Legislative Council or by the Speaker of the House of Assembly during the year: s84(g)
- that I did not take over the investigation of any disclosed matter during the year: s84(h)
- that I did not make any recommendations during the year, consequent upon the investigation of a disclosed matter: s 84(i)
- that I did not make any recommendations during the year in relation to any disclosed matter: s 84(j)
- that I did not make any recommendations during the year in relation to the procedures established by a public body: s 84(k)
- that no action was taken during the year, consequent on a recommendation made by me under the Act – there having been no such recommendation: s 84(l).

PERSONAL INFORMATION PROTECTION ACT 2004

Schedule 1 of the *Personal Information Protection Act 2004* (the PIP Act) creates a set of personal information protection principles by which all public authorities holding the personal information of members of the community are bound. The principles and other provisions of the Act regulate the manner in which an authority can collect, maintain and use personal information and the limited circumstances in which such information can be disclosed.

If someone believes that the principles of the PIP Act have been breached by a public authority, and he or she has raised the matter with the agency and is not satisfied with the response, then a complaint can be made to my office. If it is decided that the complaint should be dealt with, any investigation conducted by my office is conducted in accordance with the powers conferred by the *Ombudsman Act 1978*.

The PIP Act was amended in July 2010 to coincide with the repeal of the *Freedom of Information Act 1991* and the introduction of the *Right to Information Act 2009*. The amendments have made the PIP Act now the prime piece of legislation dealing with the management of personal information in the possession of public authorities. The PIP Act was amended to incorporate and modify provisions concerning personal information which were previously found in the FOI Act, rather than having those provisions included in the RTI Act. The amendments relate to:

- the procedure by which a person may request access to their own personal information and the way in which a personal information custodian responds to such a request;
- requests for personal information of a medical or psychiatric nature concerning the person making the request; and
- applications for the amendment of personal information in the possession of a personal information custodian where that information is incorrect, incomplete, out of date or misleading.

The definition of a personal information custodian in s 3 of the PIP Act was also amended, with the result that the class of persons potentially subject to the PIP Act is now wider.

No complaints were received in the reporting year alleging breaches of the Act, but I did receive a number of applications to review refusals made by agencies of requests to access personal information.

INSPECTIONS UNDER POLICE LEGISLATION

The *Police Powers (Surveillance Devices) Act 2006* governs both the use that a law enforcement agency makes of surveillance devices and the records that it is obliged to keep in respect of each warrant for which it applies.

The *Police Powers (Controlled Operations) Act 2006* contains the procedures to be followed and the records to be maintained by a law enforcement agency when conducting controlled operations. A controlled operation is one that is conducted for the purpose of obtaining evidence that may lead to the prosecution of a person for a relevant offence and involves, or may involve, controlled conduct, which is conduct that might otherwise result in criminal responsibility.

Both Acts require the appointment of an inspection entity and the Ombudsman has been that entity since May 2008. Tasmania Police and the Australian Crime Commission are law enforcement agencies for the purposes of the Acts. The Commission has yet to apply for a warrant or conduct a controlled operation in Tasmania.

The Integrity Commission is also able to apply for a warrant, and is subject to the inspection requirements of the Act as if it were a law enforcement agency. The Integrity Commission did not make any such application in the reporting year.

My office is required by s 41 of the Surveillance Devices Act and s 32 of the Controlled Operations Act to inspect the records of a law enforcement agency at least once every 12 months in order to determine the extent of compliance with the legislation by the agency and its officers. Following the inspections, I am obliged by s 42 of the Surveillance Devices Act and s 32 of the Controlled Operations Act to report to the Minister on the comprehensiveness and adequacy of the records of the agency, and the cooperation given by the agency in facilitating my inspection. The Acts came into force in January 2009 and my office first inspected Tasmania Police's relevant records on 25 June 2009.

I have authorised a number of my officers to undertake inspections on my behalf, and two of those officers conducted an inspection of the relevant records of Tasmania Police on 25 June 2012. My staff inform me that Detective Inspector Cretu, the officer responsible for Investigation Support Services, offered assistance during the inspection process and cooperated fully at all times (as he has in past years).

In relation to surveillance device warrants, last year's inspection identified that despite the efforts of Investigation Support Services, operational officers were not providing reports as to the status of warrants for the central files. I am pleased to report that this year's inspection saw that each district had provided an updated report for each file. In addition, this year's inspection identified a number of files which could be formally closed, requiring no further attention.

At the date of inspection, there had only been a limited number of controlled operations, all of which had been finalised and all necessary information had been recorded in accordance with the Act.

My office is also the inspection entity under the *Telecommunications (Interception) Act 1999* and since December 2006 has been inspecting the records which that Act requires Tasmania Police to keep in relation to telecommunications intercepts. The records are required to be inspected at least once every six months to ensure compliance by Police with its obligations under Part 2 of the Act in relation to the keeping of records and in relation to the provision of advice to the Minister. Regular inspections are made twice a year, and those inspections took place on 8 December 2011 and 3 July 2012.

As noted in all previous reports, my officers have been impressed with the processes put in place by Tasmania Police to ensure compliance with the record keeping requirements of the Act and also to facilitate inspection of the records. During the December 2011 inspection, my officers noted 'Use and Communication Reports' and 'Destruction Reports' were not being provided in a timely manner. I am pleased to report that this had been rectified at the July 2012 inspection, and all records were up to date and complete.

No further issues of non-compliance arose and all aspects of the latest inspection indicated compliance by Police with the requirements of Part 2 of the Act and no issues of concern were identified.

ENERGY OMBUDSMAN ACT 1998

INTRODUCTION

As Ombudsman, I administer the *Energy Ombudsman Act 1998*, assisted by two staff - a Principal Officer and an Investigation Officer. Both are supported by the Office's administration team.

As can be seen from the statistics in Energy Table 4 in Appendix C, only four of the 515 complaints which were closed in this jurisdiction during the reporting year related to gas. Virtually all of the work in this jurisdiction relates to the supply of electricity by Aurora Energy Pty Ltd, and this is because of its monopoly position as the distributor of electricity and as the retailer of electricity to domestic and small business consumers. Hence, this report largely relates to complaints against Aurora Energy.

STATISTICS

Demand for our services in this jurisdiction continues to increase.

The complaint statistics are:

- a 25 per cent increase in enquiries opened and closed during the year (163 to 203);
- a 55 per cent increase in out-of-jurisdiction enquiries (40 to 62);
- a 31 per cent increase in enquiries generally (203 to 265);
- a seven per cent increase in new complaints received (465 to 499); and
- a 13 per cent increase in complaint files closed (454 to 515).

Across the year, an average of 47 per cent of the complaints received each month were addressed using our RHL process, whereby the complaint is referred to Aurora Energy to give the company an opportunity to quickly resolve the complaint without further involvement from us.

30 complaints were open at the end of the reporting year, a decrease from 46 in the previous year. It necessarily tends to be the case that the files that remain open more than 90 days are difficult ones.

SYSTEMIC ISSUES

Access to meters

There are two major systemic issues to mention. One relates to access to meters, and the other relates to customers being charged for electricity on the wrong tariff.

The issue of access to meters was addressed at some length in my predecessor's last annual report. Many complaints were received from late 2009 and into 2010 as a

result of the adoption by Aurora Energy of a policy under which a meter reader was not expected to enter a property where the reader had reason to believe that there might be an unrestrained dog. Under such circumstances, customers were receiving accounts based on an estimate of their electricity consumption, and this was unsatisfactory for many people.

Customers who wished to make sure that their meter was read were being told by Aurora Energy call centre staff that they would have to restrain their dog for a period of seven working days – the anticipated date of the read, as indicated on their last bill – and three working days each side of that date. Understandably, many dog owners found this requirement to be very onerous, and were concerned for the welfare of their animals when restrained over such a long period.

Following protracted discussions between my office and Aurora Energy the following changes were implemented:

- the reduction of the period within which a customer's meter may be read, from seven business days to three business days – the "Approximate Next Read Date", and one business day either side of that date;
- provision of a special reading of the meter at no cost to the customer if the meter is not read during this three-day period and the customer requires an actual read of the meter, as opposed to a bill based upon an estimate of consumption;
- the leaving of a calling card by the meter-reader, if requested by the customer; and
- the introduction of a trial under which customers may read their own meters if they wish, submitting the meter data to the company online.

I continue to receive complaints on this issue but I have found that the solutions put in place by Aurora Energy have provided most complainants with an acceptable outcome.

Wrong tariff issue

We continue to receive a number of complaints from customers who find that they have been paying for electricity on the wrong tariff.

There are two types of wrong tariff complaints. The first involves a customer who is living in a relatively new house, and who finds that they have been paying for their electricity on Tariff 22, rather than on the normal residential tariffs, Tariffs 31 (light and power), 41 (hot water) or 42 (HydroHeat). Tariff 22 is a general tariff that is applicable, in part, to a temporary electricity supply put in place to enable a house to be built. If the electrical contractor responsible for completing the electrical work done in the construction of the house does not submit an Electrical Works Request to Aurora Energy when the building has been completed, requesting a change of tariffs, the electricity consumption at the premises will continue to be charged on Tariff 22.

The second results from the installation of new heating, qualifying the occupier for HydroHeat. In this type of case also, the customer will continue to pay for their

electricity on the wrong tariff if the responsible contractor does not lodge an EWR with Aurora Energy to bring about a tariff change. While this issue is more an historical problem, as tariffs 41 and 42 now have the same rates and charges, we do receive some complaints where the wrong tariff issue goes back to the time when tariff 41 was a higher rate than tariff 42.

A frequent problem in these cases is that the electrical contractor who should have lodged the paperwork either cannot be identified, or is not prepared to assist the complainant to address the issue. When this occurs, it is often difficult for the customer to find an electrical contractor who is prepared to lodge the EWR, because the contractor is unable to adequately check the work that was done. Sometimes the property has changed hands, and the disadvantaged customer has no recourse against the electrical contractor who was at fault.

We have entered into discussions with Aurora Energy and with Workplace Standards Tasmania to try to address this issue. We have involved WST because it is responsible for the administration of laws relating to electrical contractors.

For new dwellings, Aurora Energy now installs meters on the residential tariffs (that is, not tariff 22) where the meters can be installed in their permanent location from the start. If a meter is installed on a pole or in a temporary location, it will be on tariff 22 until the installation in the permanent position. In this case, the electrical contractor must note the change of tariff on an EWR requesting installation of the meter in the permanent location.

OTHER MATTERS

The level of liaison between my Office and Aurora Energy continues to grow, but without affecting the independence and impartiality with which we discharge our functions. My staff meet with Aurora Energy staff on a routine basis to discuss outstanding files, and other occasional meetings occur, in which I participate.

I have continued my predecessor's involvement in the work of the Australia and New Zealand Energy and Water Ombudsman Association, and attended a meeting of the Association in Brisbane in June 2012.

HEALTH COMPLAINTS ACT 1995

INTRODUCTION

As I hold appointments both as Ombudsman and Health Complaints Commissioner, this Chapter is included so that this annual report gives a full picture of the work of the Office. As it covers material that is outside the scope of my report under the *Ombudsman Act*, it is deliberately brief. My annual report under the *Health Complaints Act 1995* has been published at the same time as this report, and can be seen at www.healthcomplaints.tas.gov.au.

STATISTICS

These are the key Health Complaints Commissioner statistics for the year:

- a seven per cent increase in complaints received (295 to 317);
- a seven per cent increase in complaints closed (275 to 294);
- a 15 per cent increase in complaints carried forward from 2011-12 into 2012-13;
- a two per cent increase in the number of matters being finalised while still in the assessment phase;
- two per cent of cases assessed outside the required 90-day period;
- eight per cent fewer complaints resolved within three months in 2011-12 than in 2010-11;
- seven per cent fewer complaints resolved within six months in 2011-12 than in 2010-11;
- seven per cent fewer complaints resolved within 12 months in 2011-12 than in 2010-11;
- a significant increase in the percentage of cases closed which were more than 12 months old – from 13 per cent to 19 per cent;
- 25 per cent increase in the number of matters closed in conciliation (55 to 69);
- a two per cent increase in the number of enquiries (418 to 426); and
- a 27 per cent decrease in the number of cases referred to conciliation (69 to 50).

COMPLAINT MANAGEMENT

We are working generally across the whole of the Office to reduce the number of files which are open for more than 300 days. This is particularly difficult to achieve in

the Health Complaints jurisdiction because of the time delays which naturally arise from:

- clarifying issues with complainants,
- obtaining adequate and relevant information from health service providers, and
- scheduling conciliation meetings with all relevant participants.

INVESTIGATION

Only one matter was referred to investigation during the reporting year. This relates to the use of restraint in an acute care setting on a patient suffering from dementia. The investigation was not finalised within the reporting year.

Two investigations were finalised during the year. One, relating to the use of chemical restraint in the mental health setting was reported in last year's annual report. Despite the recommendations made in that report, the practice persists. I have sought advice on the legality of chemical restraint and will review the recommendations of that report in the light of that advice.

The other investigation related to a delay in a follow up review of a patient with a cervical spine injury. The investigation determined that the review period was within acceptable standards and not inappropriate.

CONCILIATION

In the past a large number of complaints have proceeded to conciliation – where the parties can come together in a confidential environment, attempting to resolve the issues between them with the aid of a skilled facilitator. Part of the reason for moving cases into conciliation has been that, under the Health Complaints Act, a complaint must be assessed within 90 days, and beyond that point in time there is no scope to continue to explore resolution between the parties other than by referring it to conciliation.

While conciliation is important, there is also a strong focus in the Act on the early resolution of complaints. To that end, I have made structural and procedural changes that will, over time, see increasing emphasis placed on the resolution of complaints within the initial 90 day timeframe.

AUSTRALIAN HEALTH PRACTITIONER REGULATION AGENCY

The national scheme for the registration and accreditation of members of the principal health professions is administered by AHPRA, which works in conjunction with ten National Boards for the various professions covered by the scheme (a further four professions will join the national registration scheme as from 1 July 2012).

During 2010, a Memorandum of Understanding was agreed between AHPRA and the various health complaint entities to guide the interaction between each of them and AHPRA, particularly with respect to the operation of section 150 of the *Health Practitioner Regulation National Law Act*. This MoU was signed in October 2010, and has worked well in Tasmania.

In May 2012, Health Complaints Commissioners agreed to review the operation of the MoU to ensure that it continues to meet the needs of Commissioners and AHPRA.

DISABILITY SECTOR

I note that, in last year's Annual Report, my predecessor wanted to promote the work of the Health Complaints Commissioner to the disability sector but lacked the resources to do so. As mentioned in my introduction, I have started the process of putting a comprehensive communication strategy in place for the Office; reaching out to the disability sector (and to Tasmanians from a non-English speaking background) are priorities for me across all my jurisdictions.

OFFICIAL VISITORS

OVERVIEW

The Prison Official Visitors Scheme and the Mental Health Official Visitors Scheme are administered from my Office with the support of a part time manager and part time administrative officer. The administration of the Mental Health Official Visitors Scheme was transferred to my office on 1 July 2009.

PRISON OFFICIAL VISITORS

The Prison Official Visitors continue to play a vital role in monitoring and reporting on the treatment and conditions of prisoners and detainees in the State's prisons. They also assist prisoners and detainees to raise and resolve concerns and complaints.

Visitors are appointed by the Minister under the *Corrections Act 1997* for a fixed term of two years. One new Official Visitor was appointed during the year, and at the end of the reporting period there were eight Visitors who, between them, visited all the correctional facilities in the State. These facilities include the Reception Prisons in Hobart and Launceston as well as the facilities at the Risdon Prison Complex and the Hayes Prison Farm.

Visitors come from diverse backgrounds, with a range of experience, expertise and skills. They each bring their own perspective to the role. Their combined observations provide a detailed picture of the prison environment, its management and the prevailing concerns of prisoners and detainees.

Corrective Services and Correctional Officers recognise and respect the role of the Official Visitors, who regularly report a high level of cooperation from management and staff during their visits. They are allowed free access to prisoners and detainees, who are able to raise matters of concern to them in an informal and confidential way. If these concerns relate to matters of routine or day to day management, the Visitors are often able to resolve them on the spot.

The Visitors regularly debrief with custodial managers at the conclusion of their visits and are able to convey to management directly what they have seen or had brought to their attention, and needs to be addressed. Matters raised by prisoners and detainees with the Visitors during the reporting year included:

- access to medication and medical treatment,
- the cost of telephone calls using the Arunta telephone system,
- meals and food quality,
- access to educational opportunities and literacy programs, and
- access to recreational activities particularly in the Reception Prisons.

The Official Visitors regularly report their observations and concerns to me, and I refer more serious or systemic issues to Prison Management for its response, which is generally positive and constructive. I also provide a report to the Minister on a

quarterly basis on issues raised by Official Visitors and on the operation of the scheme in general. The Visitors' reports keep me informed about the state of the prison system, which is an otherwise largely closed environment.

Official Visitors also facilitate more formal complaints to me by providing inmates with complaint forms. These are provided to prisoners and detainees by prison officers and management upon request, but many prisoners are not comfortable asking for them and often need the process to be explained. Visitors also act as conduits for the small number of inmates who wish to communicate with my Office but who still distrust the Arunta telephone system and are not convinced that their letters are forwarded unopened.

As Visitors visit each facility and unit on a regular basis, they are able to monitor change and the manner in which prisoners' concerns are being dealt with. A total of 107 visits were made to correctional facilities during the year.

MENTAL HEALTH OFFICIAL VISITORS

Mental Health Official Visitors are appointed under the provisions of Part II of the *Mental Health Act 1996*.

Official Visitors have an oversight role in respect of the accommodation, assessment, treatment and care of persons with mental illness in approved hospitals and the secure mental health unit (the Wilfred Lopes Centre). They also examine the opportunities for recreation, education and training for persons with mental illness who are patients in approved hospitals.

Apart from visiting patients with these types of oversight in mind, Official Visitors also investigate suspected contraventions of the Act in the care or treatment of persons with mental illness, and investigate complaints made by persons receiving care or treatment for mental illness.

Official Visitors visit approved hospitals and the Wilfred Lopes Centre in accordance with s 77 of the Act, which requires visits to be made at least once a month. Visits were made each month to the Wilfred Lopes Centre and the following approved hospitals during the reporting year:

- the Royal Hobart Hospital, including the Department of Psychological Medicine, the Psychiatric Intensive Care Unit and the Emergency Department;
- the Roy Fagan Centre;
- the Millbrook Rise Centre;
- the Launceston General Hospital, including Northside Clinic and the Emergency Department; and
- the North West Regional Hospital, including the Spencer Clinic and the Emergency Department.

Additional visits were also made to these facilities to visit patients who had made complaints. A total of 170 visits were made by Visitors to approved hospitals in the reporting year.

In accordance with s 81 of the Act, I provide a report to the Secretary of the Department of Health and Human Services on or before 31 August each year on the visits and investigations made by the Official Visitors in the course of the previous financial year, and on the results of those visits and investigations.

During the course of the year I also report to Mental Health and Statewide Services following the routine monthly visits to approved hospitals. These reports outline issues of interest and concern that have been raised by patients with Official Visitors and issues brought to my attention by the panel.

COMPLAINTS

Under s 75(f) of the Act, Official Visitors investigate complaints made by persons receiving care or treatment for mental illness.

During 2011-12, a total of 115 complaints were received from patients in approved hospitals or the Wilfred Lopes Centre during routine monthly visits. The majority of these complaints were resolved following discussion with relevant clinical staff.

In addition, a total of 134 complaints were received from patients outside of the routine monthly visits. Once again, the majority of these complaints were resolved following discussion with relevant clinical staff. Overall, 75 per cent of patients who made a complaint were seen in person by an Official Visitor.

During the year I reported one suspected breach of the Act to the Mental Health Tribunal, as required by s 79 of the Act.

STAFFING ISSUES

During 2011-2012, four Visitors were reappointed for a further three year term.

As at 30 June 2012, and excluding the Manager Official Visitors, there were 14 Visitors. Six of these were in the North of the state and eight in the South.

In the reporting year, there was one State-wide meeting of Visitors. Short training exercises were also held with Visitors from both the North and South of the State when they met for their regular regional meetings.

OTHER MATTERS

During the year I took the opportunity to visit all the approved hospitals in the South of the State. This was a valuable exercise, which enabled me to see firsthand the facilities visited by Official Visitors each month and to meet with senior staff in those facilities. I am planning to visit the secure mental health unit and approved hospitals on the North and North West Coast as soon as it can be arranged.

In June 2011 the draft exposure *Mental Health Bill 2011* was released for public consultation. I was invited to participate in the work of the committee which is currently responsible for the review of the Act, the Mental Health Act Review Advisory Committee, and the Manager of the Official Visitors was my nominee for this purpose.

CONCLUSION

The two Official Visitors schemes have operated very effectively during the year under review.

APPENDIX A: STATISTICS – OMBUDSMAN ACT

Table 1. Enquiry activity

	2010-11	2011-12	Variance
Enquiries opened and closed in the period	567	946	67%
Out of jurisdiction enquiries	2 386	1 675	-30%
Total Enquiries	2 953	2 621	-11%

	2010-11	2011-12	Variance
Enquiries	2 953	2 621	
less Arunta	993	335	
Total	1 960	2 286	17%

Table 2. Complaint activity

	2010-11	2011-12	Variance
Carried forward from previous period	119	157	31%
Opened in period	702	915	30%
Closed in period	664	916	38%
Carried forward (still open)	157	156	-1%

Note: Totals exclude FOI/RTI cases and PID closure reasons

Table 3. Complaint activity 2007-08 to 2011-12

	2007-08	2008-09	2009-10	2010-11	2011-12
Carried forward from previous period	117	130	162	119	157
Opened in period	433	552	549	702	914
Closed in period	420	520	592	664	915
Carried forward (still open)	130	162	119	157	156

Figure 1. Complaint activity 2007-08 to 2011-12

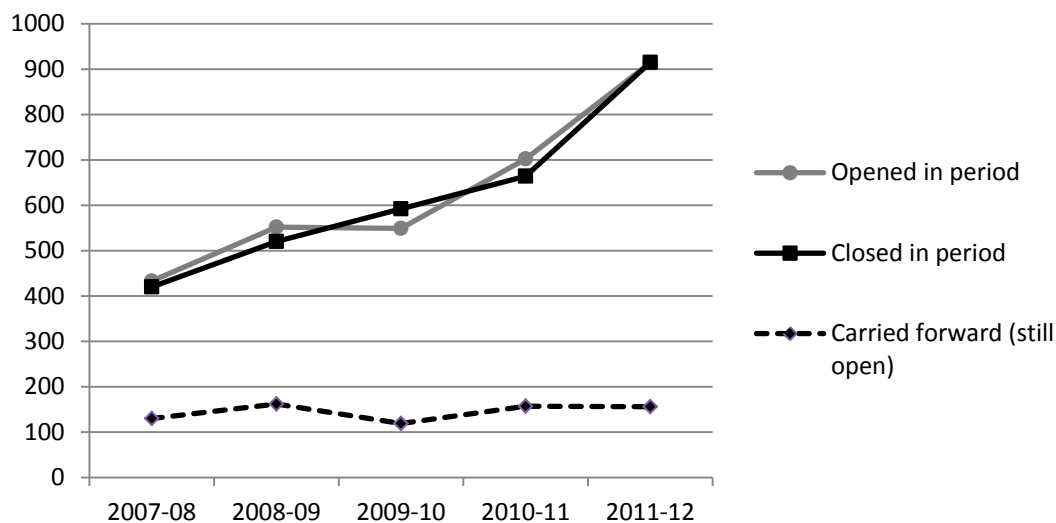


Table 4. Complaints against state government departments

Department	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Education							
Office of the Secretary	2	1	2	0	0	1	1
Tasmanian Archive and Heritage Office	2	1	1	1	0	0	0
Tasmanian Polytechnic	2	1	2	2	0	0	0
Departmental/ Not specified	10	10	8	1	2	5	0
Sub-total	16	13	13	4	2	6	1

Table 4. Complaints against state government departments, cont.

Department	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Health and Human Services							
Ashley Youth Detention Centre	9	21	21	5	5	11	0
Family Violence Counselling and Support Service North	0	1	1	1	0	0	0
Health Services	2	5	6	2	0	2	2
Human Services	62	72	69	30	3	30	6
Mental Health Services	2	4	3	1	0	2	0
Office of the Secretary	1	0	1	0	1	0	0
Patient Travel Launceston General Hospital	2	1	1	0	0	0	1
Population Health	13	5	8	1	3	4	0
Statewide Systems Development	6	4	5	0	2	3	0
Tasmanian Ambulance and Health Transport Services	0	2	2	1	1	0	0
Departmental/ Not specified	10	14	15	6	5	3	1
Sub-total	107	129	132	47	20	55	10

Table 4. Complaints against state government departments, cont.

Department	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Infrastructure Energy Resources							
Forest Practices Authority	2	0	0	0	0	0	0
Land Transport Safety	8	7	9	1	0	7	1
Mineral Resources Tasmania	0	1	2	2	0	0	0
Passenger Transport	1	1	1	0	0	0	1
Racing Services Tasmania	0	1	1	1	0	0	0
Roads and Traffic	0	3	3	1	0	2	0
Sullivan Cove Waterfront Authority	0	1	1	1	0	0	0
Departmental/ Not specified	5	2	5	1	1	2	1
Sub-total	16	16	22	7	1	11	3

Table 4. Complaints against state government departments, cont.

Department	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Justice							
Building Appeal Board	0	1	0	0	0	0	0
Community Corrections	0	2	2	0	0	1	1
Corrective Services	0	0	1	0	0	0	1
Guardianship and Administration Board	1	4	4	3	0	1	0
Integrity Commission	0	1	0	0	0	0	0
Legal Aid	6	4	4	1	2	1	0
Magistrates Courts	3	0	1	1	0	0	0
Mental Health Tribunal	0	1	0	0	0	0	0
Minister for Planning	0	1	1	1	0	0	0
Monetary Penalties Enforcement Service	13	15	15	3	1	11	0
Office of Consumer Affairs and Fair Trading	14	7	7	2	1	4	0
Office of the Anti-Discrimination Commissioner	1	0	1	0	0	0	1
Ombudsman	1	3	0	0	0	0	0
Parole Board	0	2	2	1	0	1	0
Prison Services	123	168	153	14	19	101	19
Public Guardian	2	2	3	3	0	0	0
Tasmanian Electoral Commission	1	0	0	0	0	0	0
Victims Support Services	1	0	0	0	0	0	0
Workplace Standards Tasmania	3	1	2	1	0	1	0
Departmental/ Not specified	5	2	2	0	1	1	0
Sub-total	174	214	198	30	24	122	22

Table 4. Complaints against state government departments, cont.

Department	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Police and Emergency Management							
Minister for Police and Emergency Management	1	0	0	0	0	0	0
Northern District	1	1	1	1	0	0	0
Tasmania Fire Service	1	0	0	0	0	0	0
Tasmania Police Service	24	33	32	22	2	6	2
Departmental/ Not specified	20	4	6	3	0	2	1
Sub-total	47	38	39	26	2	8	3

Department	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Premier and Cabinet							
Attorney-General	1	0	0	0	0	0	0
Local Government Division	1	0	1	1	0	0	0
Office of the State Service Commissioner	1	0	0	0	0	0	0
Service Tasmania Unit	0	3	3	0	0	2	1
Departmental/ Not specified	0	2	1	1	0	0	0
Sub-total	3	5	5	2	0	2	1

Table 4. Complaints against state government departments, cont.

Department	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Primary Industries, Parks, Water and Environment							
Biosecurity and Product Integrity	1	0	0	0	0	0	0
Environment Protection Authority	1	1	1	1	0	0	0
Information and Land Services	8	9	10	4	1	5	0
Inland Fisheries Services	0	0	1	0	0	1	0
Parks and Wildlife Service	2	0	0	0	0	0	0
Tasmanian Heritage Council	1	0	0	0	0	0	0
Departmental/ Not specified	13	4	13	1	2	10	0
Sub-total	26	14	25	6	3	16	0

Department	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Treasury and Finance							
Revenue, Gaming and Licensing Division	0	1	1	1	0	0	0
State Revenue Office	2	3	5	3	0	2	0
Departmental/ Not specified	1	1	2	1	0	1	0
Sub-total	3	5	8	5	0	3	0

Grand Total	392	434	442	127	52	223	40
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Table 5. Complaints against local government

Council	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Break O'Day Council	3	3	4	1	0	3	0
Brighton Council	3	2	4	0	1	1	2
Burnie City Council	2	0	1	1	0	0	0
Central Coast Council	0	2	1	0	0	0	1
Central Highlands Council	2	1	2	0	0	2	0
Circular Head Council	1	0	0	0	0	0	0
Clarence City Council	9	5	6	1	4	1	0
Derwent Valley	0	3	1	0	0	0	1
Devonport City Council	1	0	0	0	0	0	0
Dorset Council	4	0	1	0	0	1	0
George Town Council	5	5	3	1	0	2	0
Glamorgan/Spring Bay Council	2	3	3	0	0	2	1
Glenorchy City Council	1	8	9	2	0	5	2
Hobart City Council	5	9	9	5	0	3	1
Huon Valley Council	4	5	5	1	0	4	0
Kentish Council	4	1	1	1	0	0	0
Kingborough Council	4	6	4	1	1	2	0
Latrobe Council	1	2	3	0	0	3	0
Launceston City Council	11	9	13	0	2	9	2
Meander Valley Council	3	0	1	1	0	0	0
Northern Midlands Council	3	3	3	0	0	3	0
Sorell Council	5	9	10	2	3	5	0
Southern Midlands Council	5	1	1	0	0	1	0
Tasman Council	5	1	1	0	1	0	0

Table 5. Complaints against local government cont.

Council	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Waratah/Wynyard Council	2	3	2	2	0	0	0
West Coast Council	3	0	0	0	0	0	0
West Tamar Council	2	1	1	0	0	1	0
Total	90	82	89	19	12	48	10

Table 6. Complaints against public authorities

Public Authorities	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No defective Administration	Partly/Fully Substantiated
Ben Lomond Water	13	63	56	7	1	40	8
Cradle Mountain Water	10	48	45	6	0	33	6
Law Society of Tasmania	1	0	1	0	0	1	0
Local Government Association of Tasmania	0	1	1	1	0	0	0
Marine and Safety Tasmania	0	2	1	0	0	1	0
Metro Tasmania	2	0	1	0	0	0	1
Property Agents Board	1	0	0	0	0	0	0
Retirement Benefits Fund Board	5	37	39	1	1	18	19
Resource Management & Appeals Tribunal	1	0	0	0	0	0	0
Southern Water	52	158	147	32	2	89	24
Tasmanian Qualifications Authority	1	0	0	0	0	0	0
The Legal Profession Board of Tasmania	1	0	0	0	0	0	0
The Public Trustee	9	13	17	5	1	6	5
Tote Tasmania	1	0	0	0	0	0	0
Transend Networks	3	1	1	0	1	0	0
University of Tasmania	6	5	4	4	0	0	0
Total	106	328	313	56	6	188	63

Table 7. Enquiries & Complaints against Water Corporations 2011-12

Complaint/Enquiry	Primary Agency	Total Received
Complaint	Ben Lomond Water	58
	Cradle Mountain Water	41
	Southern Water	150
Complaint Total		249
Enquiry	Ben Lomond Water	22
	Cradle Mountain Water	21
	Southern Water	77
	Referred back	142
Enquiry Total		262
Grand Total		491

Table 8. Water complaints closed 2011-12 by issue

Issue	Total	Percentage
Access Service	6	2%
Adequate Service	30	10%
Change Procedure/Practice/Policy	29	10%
Compensation	11	4%
Disciplinary Action	1	0.5%
Explanation	64	21%
Financial Correction	131	44%
Obtain Apology	3	1%
Obtain Entitlement	1	0.5%
Obtain Information	2	1%
Other Objective	8	3%
Register Concern	13	4%

Table 9. Water complaints closed 2011-12 by agency and issue

Water Corporation	Issue	Total
Ben Lomond Water	Access Service	2
	Adequate Service	9
	Change Procedure/Practice/Policy	8
	Compensation	2
	Explanation	11
	Financial Correction	31
	Other Objective	1
	Register Concern	3
	Ben Lomond Water Total	67
Cradle Mountain Water	Adequate Service	3
	Change Procedure/Practice/Policy	3
	Compensation	1
	Explanation	11
	Financial Correction	26
	Other Objective	1
	Register Concern	3
	Cradle Mountain Water Total	48
Southern Water	Access Service	4
	Adequate Service	18
	Change Procedure/Practice/Policy	18
	Compensation	8
	Disciplinary Action	1
	Explanation	42
	Financial Correction	74
	Obtain Apology	3
	Obtain Entitlement	1
	Obtain Information	2
	Other Objective	6
	Register Concern	7
	Southern Water Total	184

Figure 2. Time taken to resolve water complaints

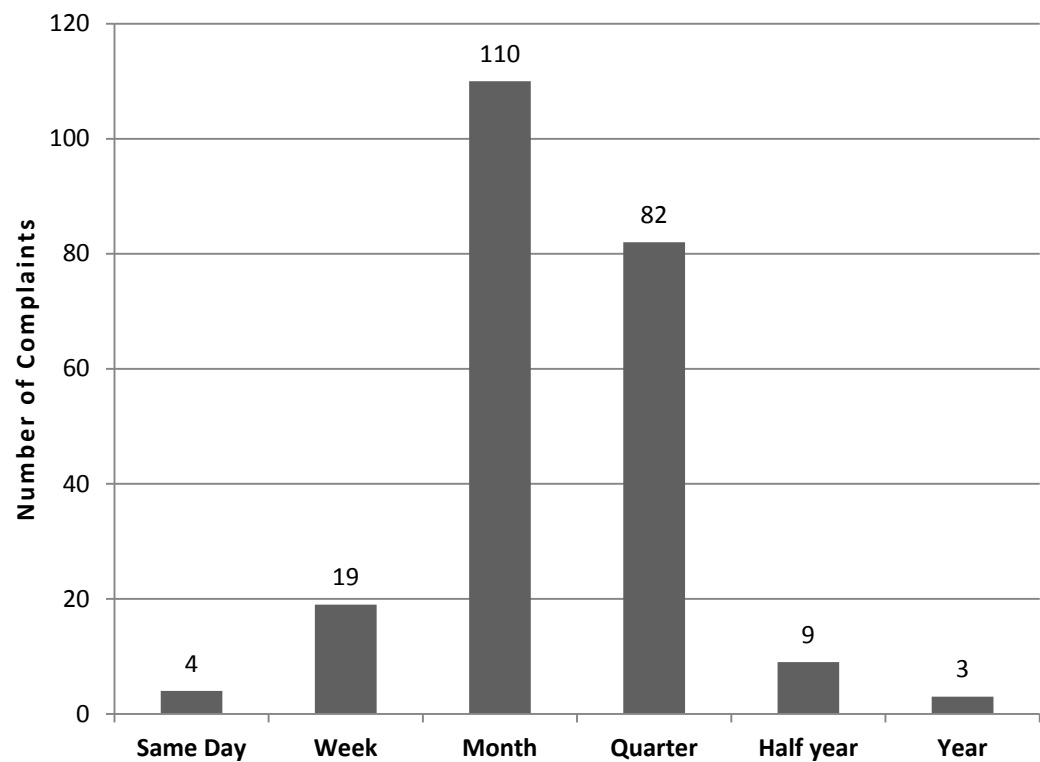


Figure 3. Water complaints resolved within 90 days

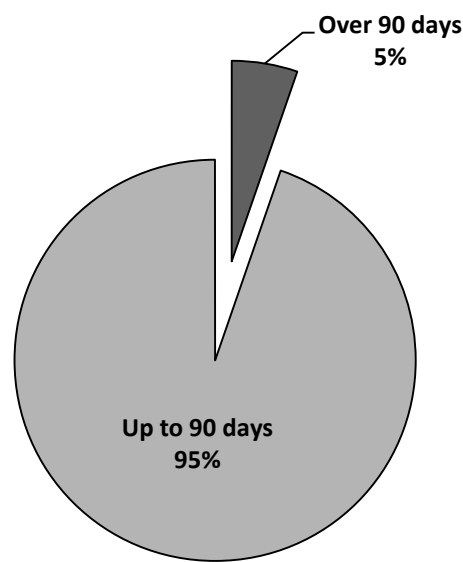


Table 10. Complaints against government business enterprises and other authorities

GBEs and Other Authorities	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No Defective Administration	Partly/Fully Substantiated
Aurora Energy	2	8	6	2	1	3	0
Forestry Tasmania	5	1	3	1	0	2	0
Motor Accidents Insurance Board	3	1	1	0	1	0	0
TT Line	1	2	2	1	0	1	0
Total	11	12	12	4	2	6	0

Table 11. Total cases opened, closed and substantiated

This table represents the compilation of tables 4, 5, 6 and 10.

	Received 2010-11	Received 2011-12	Closed 2011-12	Declined	Discontinued	No Defective Administration	Partly/Fully Substantiated
Out of Jurisdiction total	103	59	60	60	0	0	0
Grand Total	702	915	916	266	72	465	113

Figure 4. Who is being complained about?

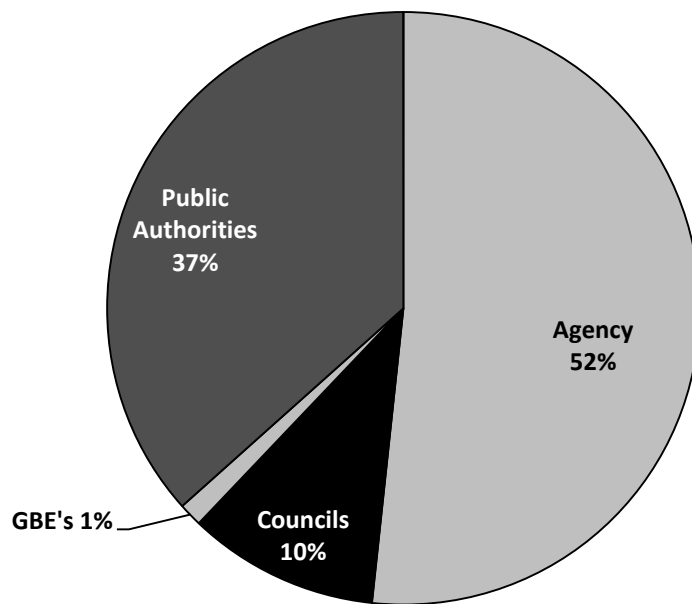


Figure 5. A breakdown of complaints against a selection of state government departments

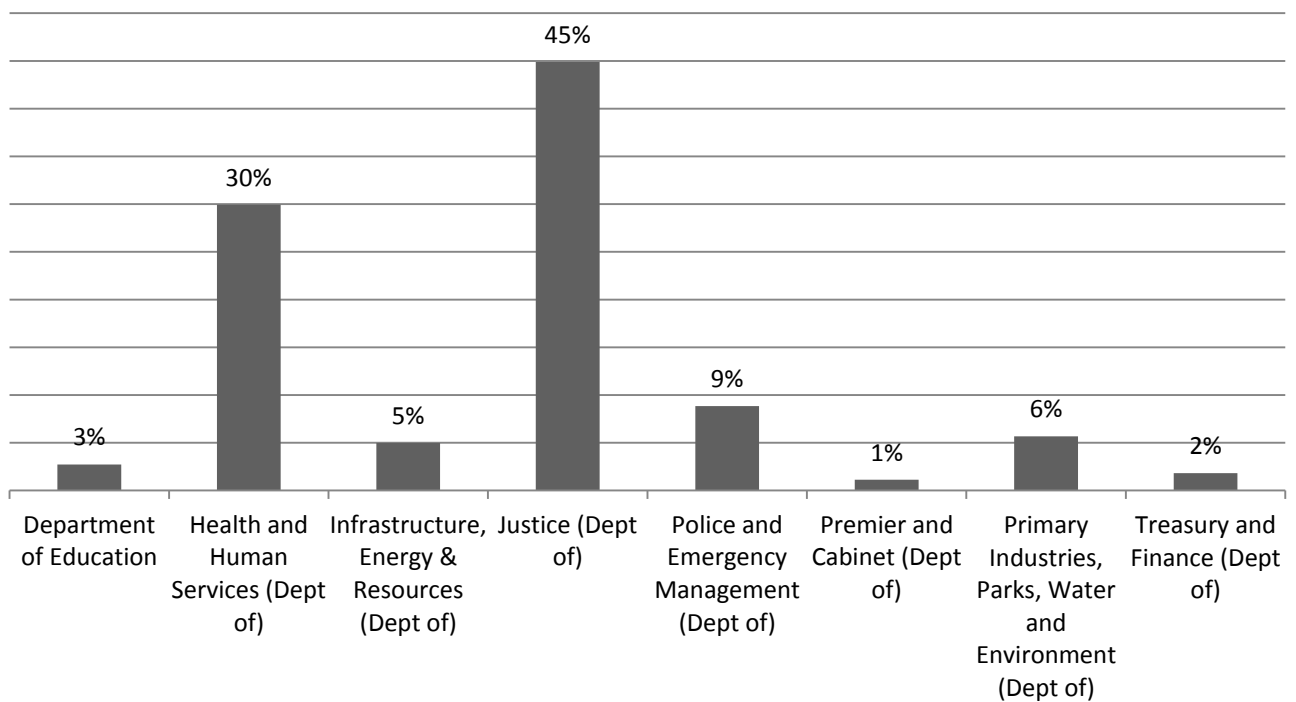


Figure 6. Reasons for closure (excluding FOI and RTI)

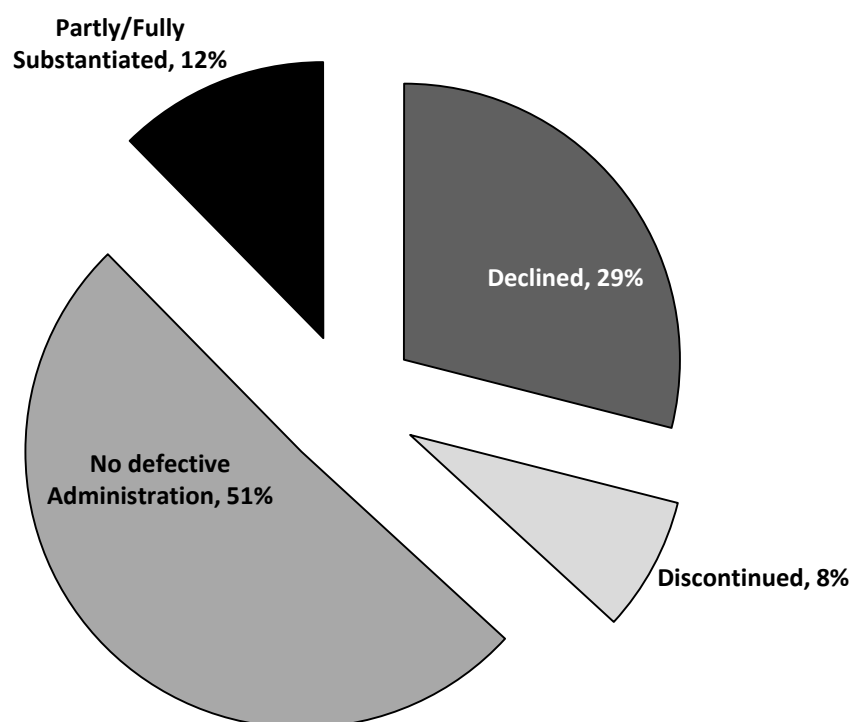


Table 12. Total cases opened, closed, declined, discontinued, etc, 2007-08 to 2011-12

	2007-08	2008-09	2009-10	2010-11	2011-12
Opened in period	433	488	549	702	914
Closed in period	358	459	592	660	915
Declined	94	195	242	275	265
Discontinued	64	72	70	70	72
No defective administration	160	143	224	259	465
Percentage of cases closed where no defective administration found	45%	31%	38%	39%	51%
Substantiated	37	49	56	66	113
Percentage of cases closed where defective administration found	10%	10%	9%	10%	12%

Figure 7. What were complainant's objectives?

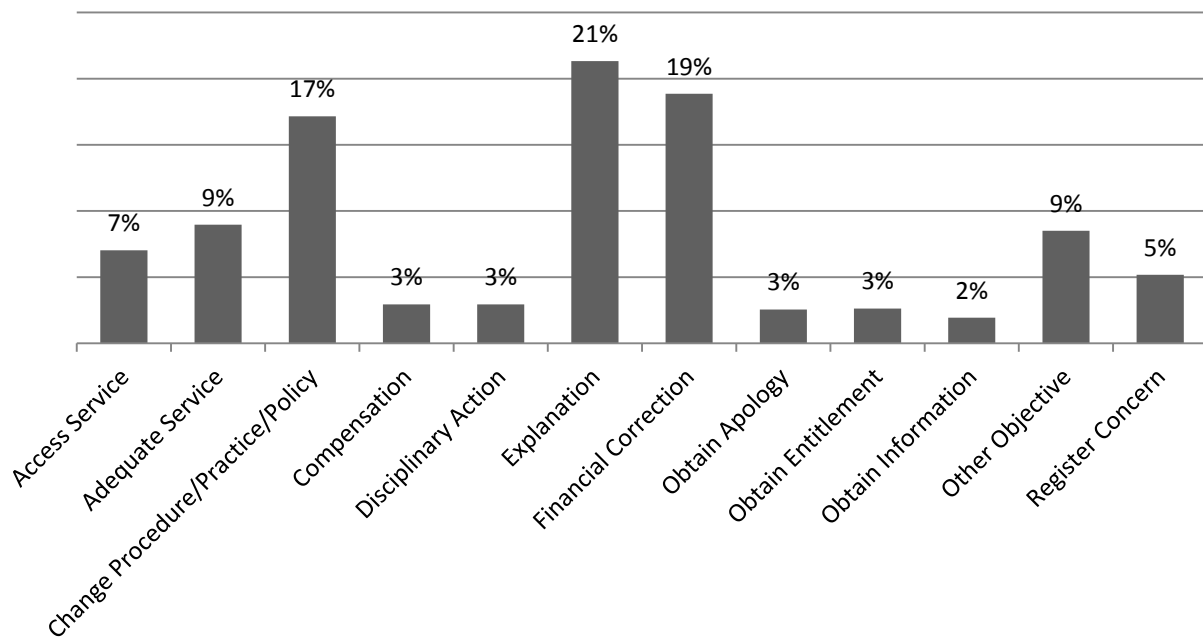


Figure 8. Time taken to resolve complaints (excluding FOI & RTI)

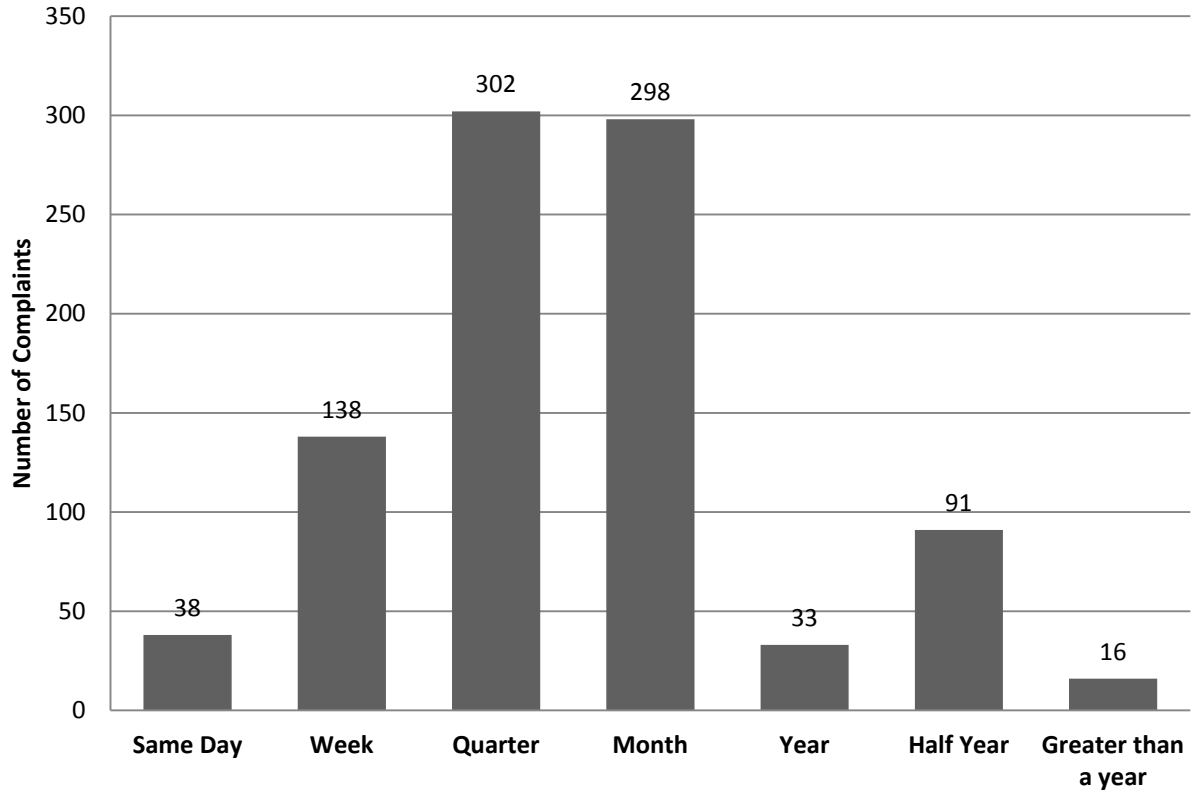


Figure 9. Complaints resolved within 90 days

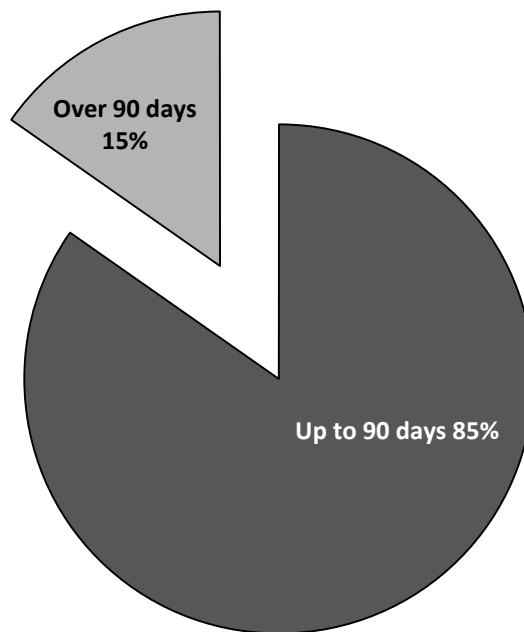


Table 13. Percentage of complaints resolved within three, six and 12 months (excluding FOI & RTI) 2007-08 to 2011-12

	2007-08	2008-09	2009-10	2010-11	2011-12
Complaints resolved within three months	72%	76%	77%	82%	85%
Complaints resolved within six months	92%	87%	90%	94%	88%
Complaints resolved within 12 months	98%	98%	95%	98%	98%

Table 14. Time taken to finalise complaints 2007-08 to 2011-12

	2007-08	2008-09	2009-10	2010-11	2011-12
Week	16%	21%	17%	23%	19%
Month	37%	45%	44%	46%	52%
Quarter	72%	76%	77%	82%	85%
Six Months	92%	87%	90%	94%	88%
12 months	98%	98%	95%	98%	98%
More than 12 months	2%	2%	5%	2%	2%

Figure 10. What were the main issues of complaint against police and emergency management?

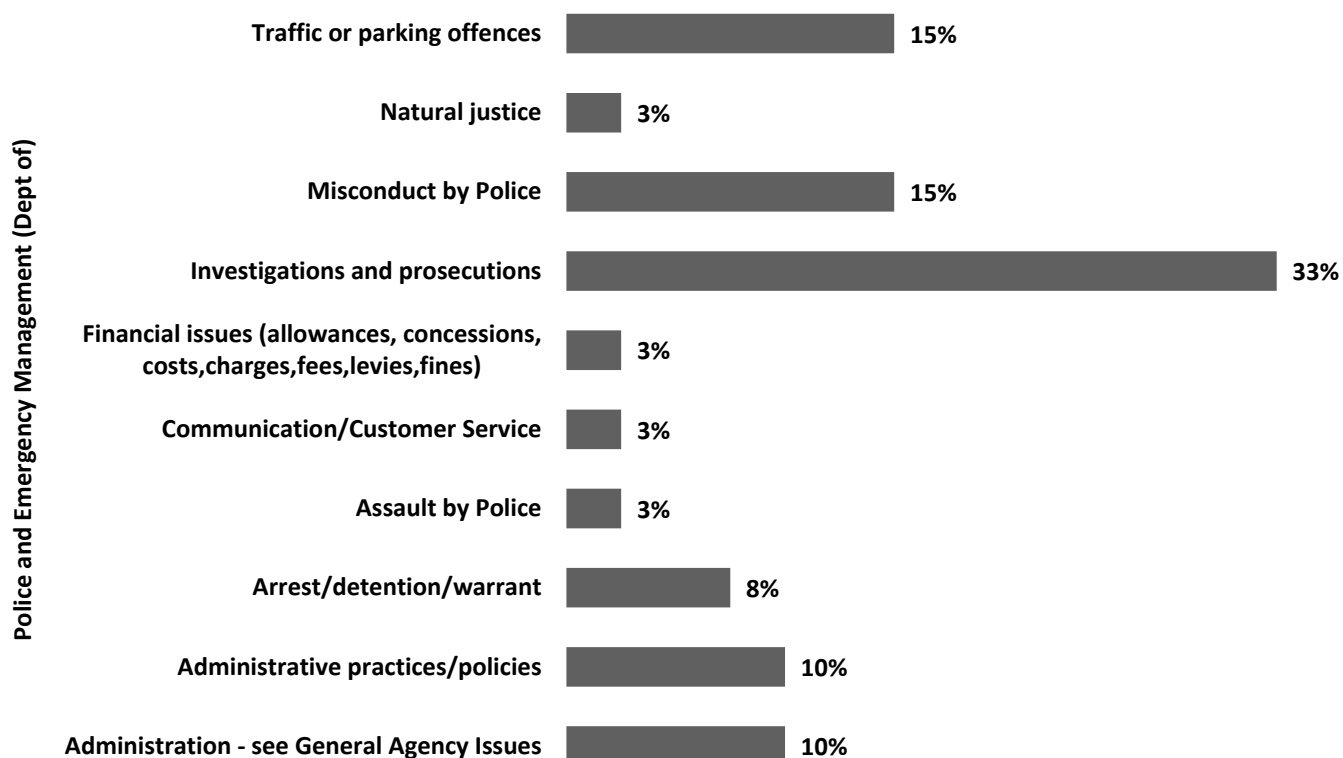


Figure 11. What were the main issues against state government departments?

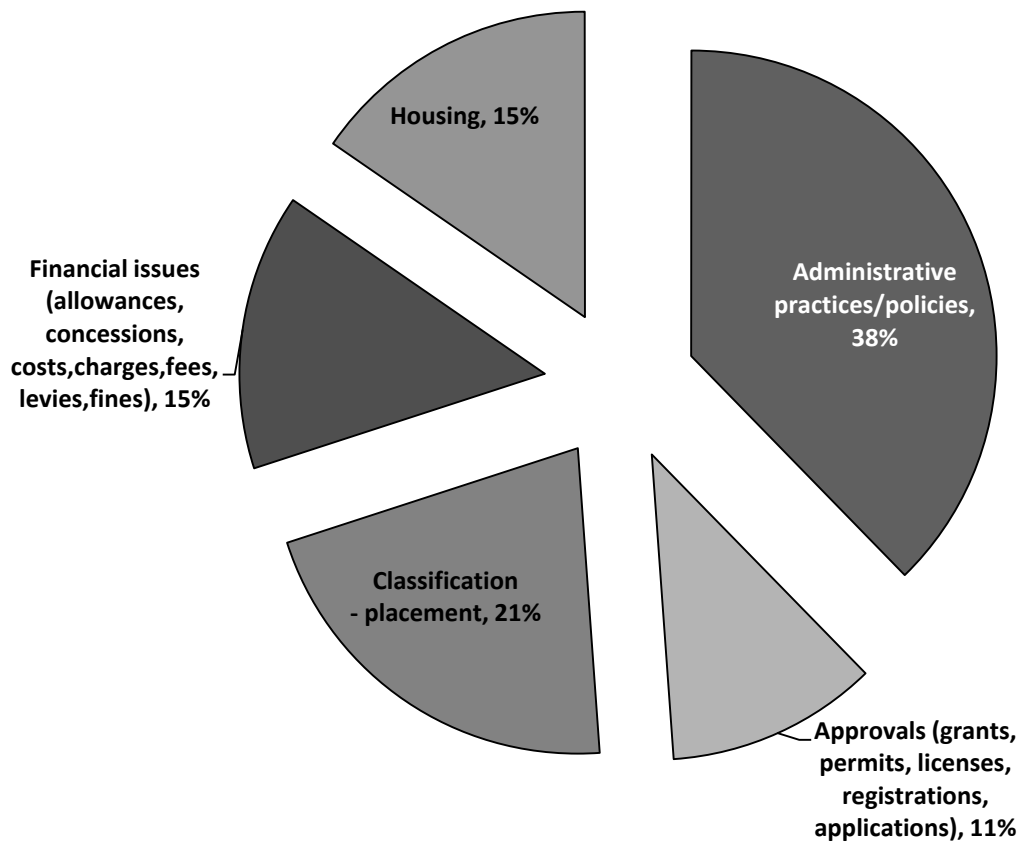


Figure 12. What were the main issues against corrective services?

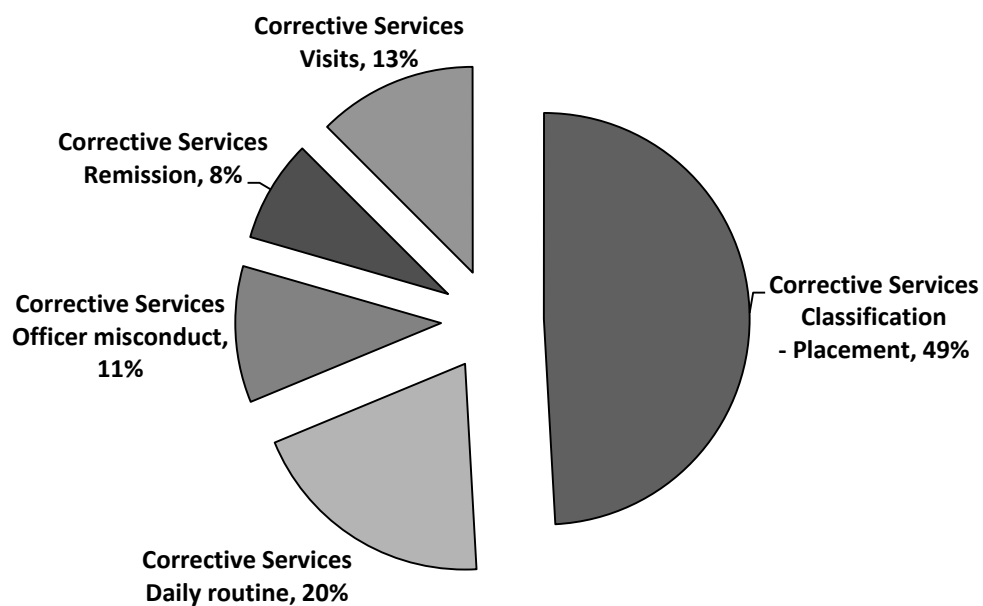


Figure 13. What were the main issues against local government?

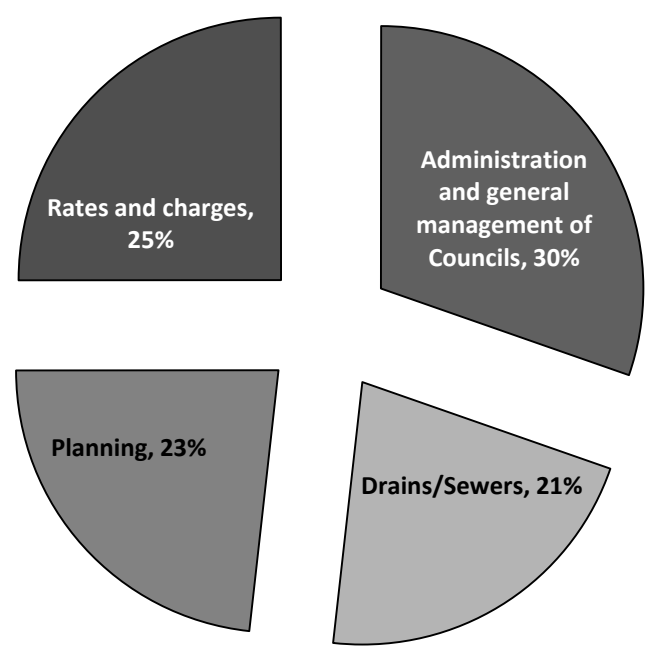
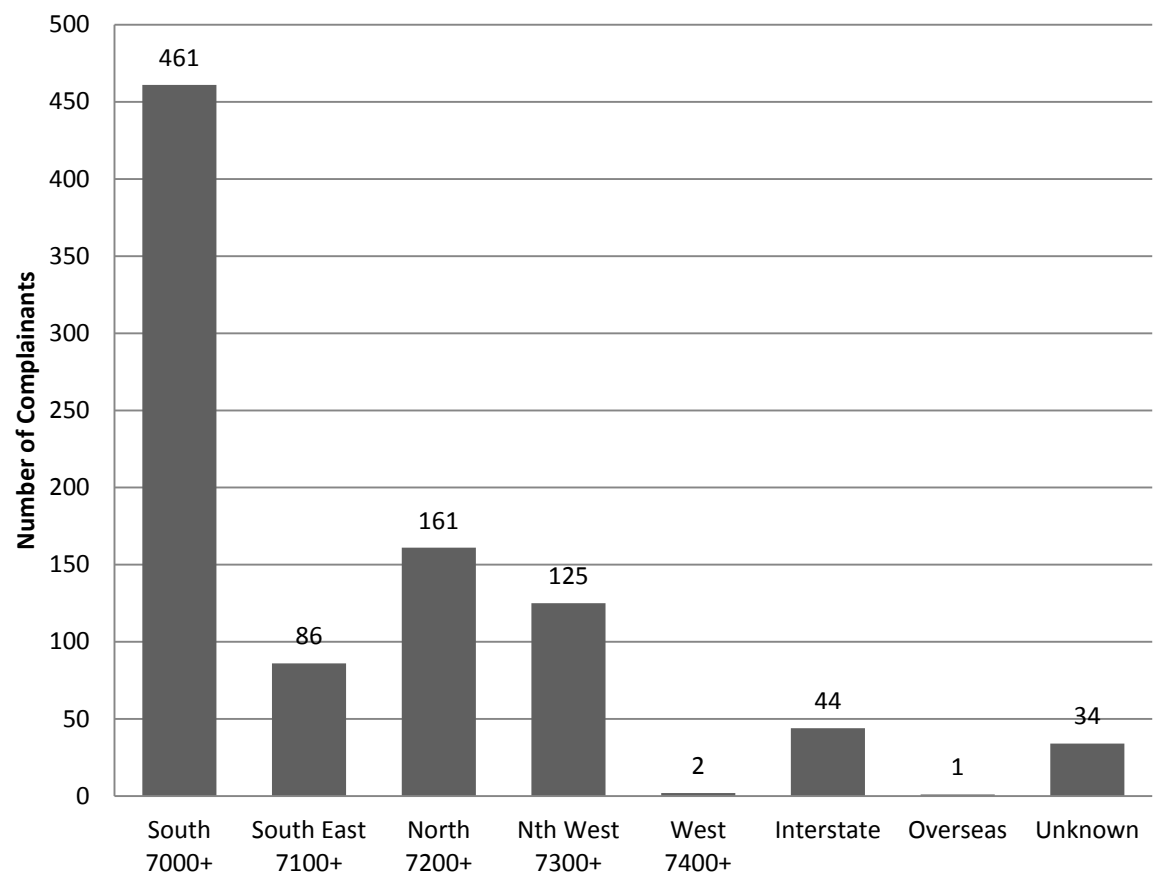


Figure 14. Geographical location of complainants



APPENDIX B: STATISTICS - FREEDOM OF INFORMATION ACT AND RIGHT TO INFORMATION ACT

FOI Table 1. Results of finalised cases

Decision	2010-11	2011-12
Agency Decision Affirmed	3	4
Agency Decision Varied	6	4
Agency Decision Set Aside	2	0
Other	25	11
Total	36	19

FOI Table 2. Reviews against state government departments

Departments	Applications Received 2010-11	Applications Received 2011-12	Closed 2011-12	Reviews undertaken	Agency Decision Varied
Department of Premier & Cabinet	3	0	0	0	0
Department of Police & Emergency Management	7	0	0	0	0
Sub-total	10	0	0	0	0

FOI Table 3. Reviews against local government

Councils	Applications Received 2010-11	Applications Received 2011-12	Closed 2011-12	Reviews undertaken	Agency Decision Varied
Sub-total	0	0	0	0	0

FOI Table 4. Reviews against statutory authorities and other bodies

Statutory Authorities and Other Bodies	Applications Received 2010-11	Applications Received 2011-12	Closed 2011-12	Reviews undertaken	Agency Decision Varied
Aurora Energy	12	0	19	8	4
Forestry Tasmania	1	0	0	0	0
Law Society of Tasmania	1	0	0	0	0
Legal Profession Board of Tasmania	1	0	0	0	0
Property Agents Board	1	0	0	0	0
Sub-total	16	0	19	8	4

FOI Table 5. Reviews against Ministers

Ministers	Applications Received 2010-11	Applications Received 2011-12	Closed 2011-12	Reviews undertaken	Agency Decision Varied
Minister for Education & Skills	1	0	0	0	0
Sub-total	1	0	0	0	0

Grand Total (FOI Tables 2-5)	27	0	19	8	4
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RTI Table 1. Results of finalised cases

Decision	2010-11	2011-12
Agency Decision Affirmed	6	13
Agency Decision Varied	0	1
Agency Decision Set Aside	1	0
Other	8	14
Total	15	28

RTI Table 2. Reviews against state government departments

Departments	Applications Received 2010-11	Applications Received 2011-12	Closed 2011-12	Reviews undertaken	Agency Decision Varied
Economic Development, Tourism & the Arts	0	1	0	0	0
Education	1	2	1	1	1
Health & Human Services	3	5	3	1	0
Infrastructure, Energy & Resources	1	1	2	1	0
Justice	1	2	0	0	0
Primary Industries & Water	1	2	0	0	0
Police & Emergency Management	7	14	10	6	0
Sub-total	14	27	16	9	1

RTI Table 3. Reviews against local government

Councils	Applications Received 2010-11	Applications Received 2011-12	Closed 2011-12	Reviews undertaken	Agency Decision Varied
Dorset Council	1	0	0	0	0
George Town Council	8	1	0	0	0
Launceston City Council	2	2	2	2	0
Sorell Council	0	1	1	1	0
Waratah/Wynyard Council	0	1	1	0	0
Sub-total	11	5	4	3	0

RTI Table 4. Reviews against statutory authorities and other bodies

Statutory Authorities and Other Bodies	Applications Received 2010-11	Applications Received 2011-12	Closed 2011-12	Reviews undertaken	Agency Decision Varied
Aurora Energy	1	3	3	1	0
Forestry Tasmania	0	1	0	0	0
Health Complaints Commissioner	0	1	1	0	0
Metro Tasmania	0	2	2	1	0
Motor Accidents Insurance Board	2	0	0	0	0
Southern Water	1	0	0	0	0
The Public Trustee	0	1	1	0	0
Tote Tasmania	1	0	0	0	0
Sub-total	5	8	7	2	0

RTI Table 5. Reviews against Ministers

Ministers	Applications Received 2010-11	Applications Received 2011-12	Closed 2011-12	Reviews undertaken	Agency Decision Varied
Minister for Education & Skills	1	0	0	0	0
Minister for Infrastructure	0	1	1	0	0
Sub-total	1	1	1	0	0
Grand Total (RTI Tables 2-4)	31	41	28	14	1

APPENDIX C: STATISTICS - ENERGY OMBUDSMAN ACT

Energy Table 1. Enquiry Activity

	2010-11	2011-12	Variance
Enquiries opened and closed in the period	163	203	25%
Out of jurisdiction enquiries	40	62	55%
Total Enquiries	203	265	31%

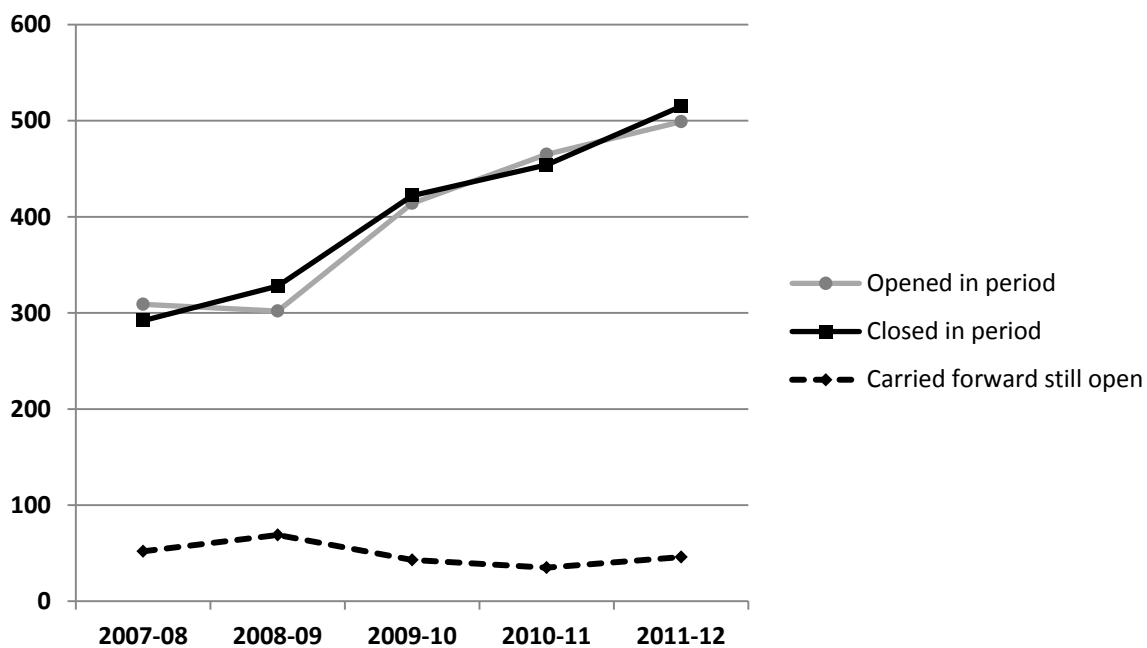
Energy Table 2. Complaint Activity

	2010-11	2011-12	Variance
Carried forward from previous period	35	46	31%
Opened in Period	465	499	7%
Closed in Period	454	515	13%
Carried Forward (still open)	46	30	-35%

Energy Table 3. Complaint activity 2007-08 to 2011-12

	2007-08	2008-09	2009-10	2010-11	2011-12
Carried forward from previous period	52	69	43	35	46
Opened in Period	309	302	414	465	499
Closed in Period	292	328	422	454	515
Carried Forward (still open)	69	43	35	46	30

Energy Figure 1. Complaint activity 2007-08 to 2011-12



Energy Table 4. Closure reasons by entity

Closure Reason	Aurora Network	Aurora Retail	Out of Jurisdiction	Tas Gas Retail	Transend Networks	Grand Total
Complaints (no action, OOJ, register only)	2	2	0	0	0	4
Complaints referred to higher level	34	209	0	0	0	243
No further inv - fair/reasonable offer	0	2	0	0	0	2
No further inv - insufficient grounds/not warranted	7	22	0	1	0	30
No further inv - no further contact from customer	7	29	0	1	0	37
No further inv - withdrawn by customer	4	10	0	0	0	14
Out of Jurisdiction	2	4	1	0	0	7
Resolved - facilitated resolution	40	69	0	2	3	114
Resolved - negotiated resolution	23	41	0	0	0	64
Grand Total	119	388	1	4	3	515

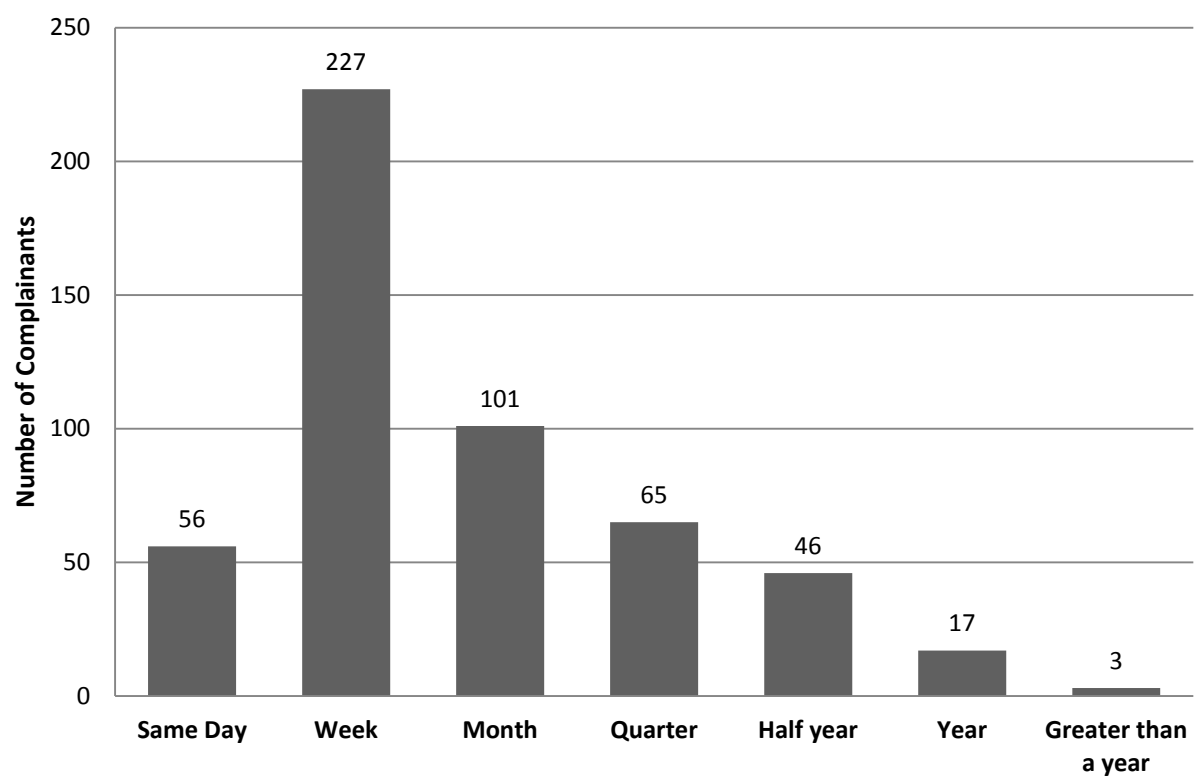
Energy Table 5. Closure reasons by category

Category	Issue	2010-11	2011-12
Billing	Backbill	0	1
	Delay	4	10
	Error	19	27
	Estimation	36	45
	Fees & charges	23	24
	High	71	135
	Meter	27	20
	Other	15	15
	Rebate / concession	29	10
	Refund	2	1
	Tariff	22	29
	Billing total	248	317
Credit	Collection	6	8
	Disconnection / restriction	28	33
	Payment difficulties	44	47
	Credit total	78	88
Customer service	Failure to consult / inform	4	3
	Failure to respond	14	11
	Incorrect advice / information	9	18
	Poor / unprofessional attitude	5	7
	Poor service	19	31
	Privacy	3	1
	Customer service Total	54	71
General	Energy / water	1	0
	General Total	1	0

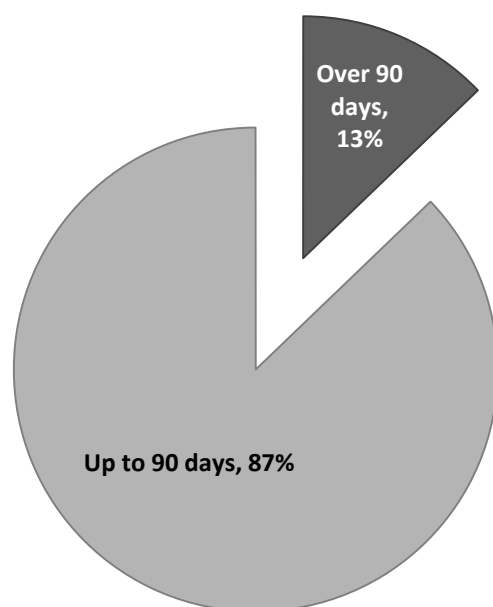
Energy Table 5. Closure reasons by category cont.

Category	Issue	2010-11	2011-12
Land	Easement	0	3
	Network assets	14	11
	Other	4	1
	Street lighting	0	1
	Vegetation management	4	2
	Land total	22	18
Provision	Disconnection / restriction	3	2
	Existing connection	20	13
	New connection	26	30
	Provision total	49	45
Supply	Off supply (planned)	10	8
	Off supply (unplanned)	22	20
	Quality	1	2
	Sustainability initiatives	1	0
	Variation	1	2
	Supply total	35	32
Transfer	Objection / rejected by retailer	0	1
	Transfer total	0	1
	Grand Total	487	572

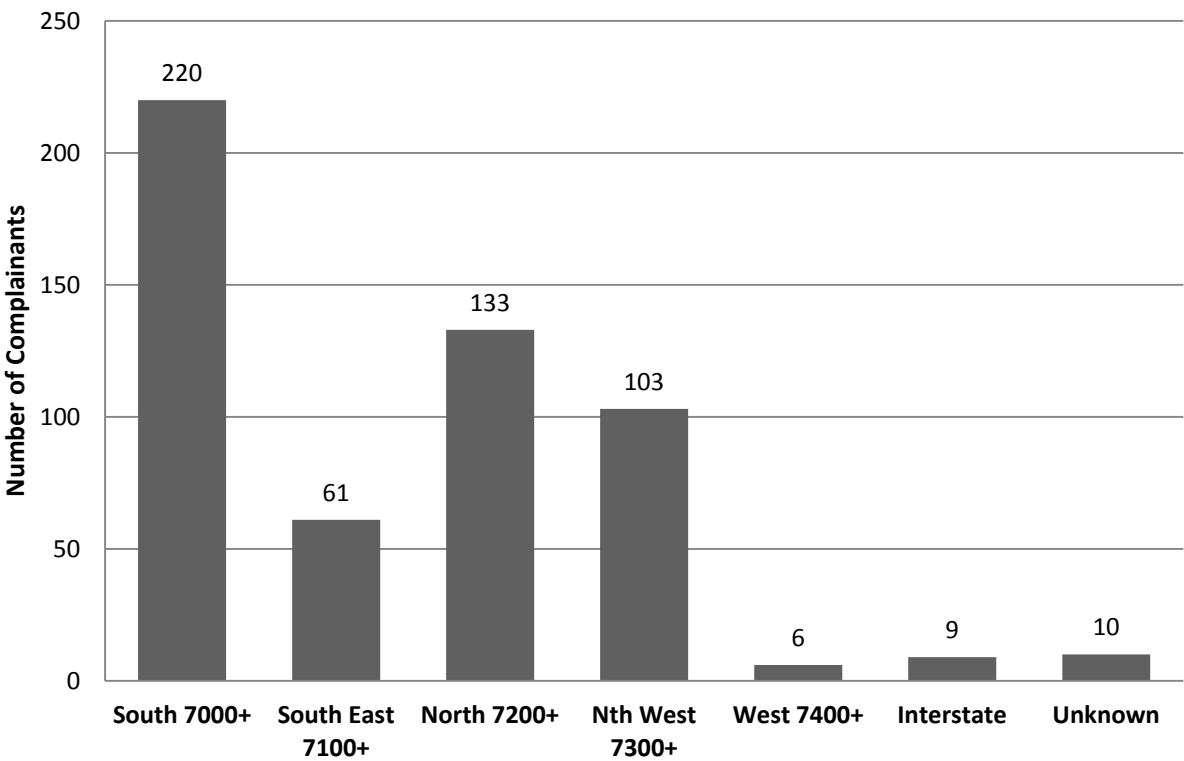
Energy Figure 2. Time taken to resolve complaints



Energy Figure 3. Complaints resolved within 90 days



Energy Figure 4. Geographical location of complainants





APPENDIX D: FINANCIAL STATEMENTS 2011-12

Office of the Ombudsman and
Health Complaints Commissioner

Financial Statements 2011-12

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Office of the Ombudsman and Health Complaints Commissioner

Statement of Comprehensive Income for the year ended 30 June 2012

	Notes	2012 Budget \$'000	2012 Actual \$'000	2011 Actual \$'000
Continuing operations				
Revenue and other income from transactions				
Revenue from Government				
Appropriation revenue - recurrent	1.6(a), 3.1	2 108	2 167	2 095
Revenue from Energy Entities	1.6(b), 3.2	511	469	479
Other revenue	1.6(c), 3.3	-	19	21
Total revenue and other income from transactions		2 619	2 655	2 595
Expenses from transactions				
Employee benefits	1.7(a), 4.1	1 903	2 134	1 826
Depreciation and amortisation	1.7(b), 4.2	40	55	44
Supplies and consumables	4.3	521	532	492
Other expenses	1.7(c), 4.4	183	162	166
Total expenses from transactions		2 647	2 883	2 528
Net result from transactions (net operating balance)		(28)	(228)	67
Comprehensive result		(28)	(228)	67

This Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

Budget information refers to original estimates and has not been subject to audit.

Explanations of material variances between budget and actual outcomes are provided in Note 2 of the accompanying notes.

Office of the Ombudsman and Health Complaints Commissioner

Statement of Financial Position as at 30 June 2012

	Notes	2012 Budget \$'000	2012 Actual \$'000	2011 Actual \$'000
Assets				
<i>Financial assets</i>				
Cash and deposits	1.8(a), 8.1	70	98	171
Receivables	1.8(b), 5.1	83	68	69
Other financial assets	1.8(e)	-	-	7
<i>Non-financial assets</i>				
Property, plant and equipment	1.8(c), 5.2	-	60	67
Intangibles	1.8(d), 5.3	65	95	143
Total assets		218	321	457
Liabilities				
Payables	1.9(a), 6.1	38	24	36
Employee benefits	1.9(b), 6.2	315	397	317
Other liabilities	1.9(d), 6.3	18	42	18
Total liabilities		371	463	371
Net assets (liabilities)		(153)	(142)	86
Equity				
Accumulated funds		(153)	(142)	86
Total equity		(153)	(142)	86

This Statement of Financial Position should be read in conjunction with the accompanying notes.

Budget information refers to original estimates and has not been subject to audit.

Explanations of material variances between budget and actual outcomes are provided in Note 2 of the accompanying notes.

Office of the Ombudsman and Health Complaints Commissioner

Statement of Cash Flows for the year ended 30 June 2012

	Notes	2012 Budget \$'000	2012 Actual \$'000	2011 Actual \$'000
		Inflows (Outflows)	Inflows (Outflows)	Inflows (Outflows)
Cash flows from operating activities				
Cash inflows				
Appropriation receipts – recurrent		2 108	2 206	2 095
GST receipts		-	53	73
Other cash receipts		511	488	500
Total cash inflows		2 619	2 747	2 668
Cash outflows				
Employee benefits		(1 701)	(1 882)	(1 607)
Superannuation		(186)	(185)	(180)
GST payments		-	(53)	(61)
Supplies and consumables		(521)	(515)	(503)
Other cash payments		(183)	(185)	(164)
Total cash outflows		(2 591)	(2 820)	(2 515)
Net cash from (used by) operating activities	8.2	28	(73)	153
Cash flows from investing activities				
Cash outflows				
Cash payments for leasehold improvement		-	-	(69)
Cash payments for intangible asset		-	-	(40)
Total cash outflows		-	-	(109)
Net cash from (used by) investing activities		-	-	(109)
Net increase (decrease) in cash held and cash equivalents		28	(73)	44
Cash and deposits at the beginning of the reporting period		42	171	127
Cash and deposits at the end of the reporting period	8.1	70	98	171

This Statement of Cash Flows should be read in conjunction with the accompanying notes.

Budget information refers to original estimates and has not been subject to audit.

Explanations of material variances between budget and actual outcomes are provided in Note 2 of the accompanying notes.

Office of the Ombudsman and Health Complaints Commissioner

Statement of Changes in Equity for the year ended 30 June 2012

	Accumulated surplus / deficit \$'000	Total equity \$'000
Balance as at 1 July 2011	86	86
Total comprehensive result	(229)	(228)
Total	(229)	(228)
Balance as at 30 June 2012	(142)	(142)

	Accumulated surplus / deficit \$'000	Total equity \$'000
Balance as at 1 July 2010	19	19
Total comprehensive result	67	67
Total	67	67
Balance as at 30 June 2011	86	86

This Statement of Changes in Equity should be read in conjunction with the accompanying notes.

Notes to and forming part of the Financial Statements for the year ended 30 June 2012

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Note 1 Significant Accounting Policies

1.1 Objectives and Funding

The Office of the Ombudsman and Health Complaints Commissioner (the Office) operates under the *Ombudsman Act 1978* and is responsible for the enquiry and investigation into complaints regarding the administrative actions of Tasmanian government agencies, local councils and a broad range of other public authorities. The Ombudsman also has a number of other responsibilities including being the Health Complaints Commissioner under the *Health Complaints Act 1995*, and the Energy Ombudsman under the *Energy Ombudsman Act 1998*. The Office therefore also investigates complaints under these Acts.

By providing impartial investigations and seeking to resolve individual grievances, the Office aims to:

- promote fairness and equity;
- improve the quality of public administration; and
- improve health and energy services provided to the Tasmanian community.

The Office activities are classified as controlled as they involve the use of assets, liabilities, revenues and expenses controlled or incurred by the Office in its own right.

The Office is predominantly funded through Parliamentary appropriations. The financial report encompasses all funds through which the Office controls resources to carry on its functions.

1.2 Basis of Accounting

The Financial Statements are a general purpose financial report and have been prepared in accordance with:

- Australian Accounting Standards (AAS) issued by the Australian Accounting Standards Board (AASB) and Interpretations; and
- The Treasurer's Instructions issued under the provisions of the Financial Management and Audit Act 1990.

The Financial Statements were signed by the Head of Agency and Business Manager on 14 August 2012.

Compliance with the AAS may not result in compliance with International Financial Reporting Standards (IFRS), as the AAS include requirements and options available to not-for-profit organisations that are inconsistent with IFRS. The Office is considered to be not-for-profit and has adopted some accounting policies under the AAS that do not comply with IFRS.

The Financial Statements have been prepared on an accrual basis and, except where stated, are in accordance with the historical cost convention. The accounting policies are generally consistent with the previous year except for those changes outlined in Note 0.

The Financial Statements have been prepared as a going concern. The continued existence of the Office in its present form, undertaking its current activities, is dependent on Government policy and on continuing appropriations by Parliament for the Office's administration and activities.

1.3 Reporting Entity

The Financial Statements include all the controlled activities of the Office. The Financial Statements consolidate material transactions and balances of the Office.

1.4 Functional and Presentation Currency

These Financial Statements are presented in Australian dollars, which is the Office's functional currency.

1.5 Changes in Accounting Policies

(a) Impact of new and revised Accounting Standards

In the current year, the Office has adopted all of the new and revised Standards and Interpretations issued by the Australian Accounting Standards Board that are relevant to its operations and effective for the current annual reporting period. These include:

- AASB 1054 *Australian Additional Disclosures* – This Standard in conjunction with AASB 2011-1 Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project, removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards. There is no financial impact.
- AASB 2009-12 *Amendments to Australian Accounting Standards* [AASBs 5, 8, 108, 110, 112, 119, 133, 137, 139, 1023 & 1031 and Interpretations 2, 4, 16, 1039 & 1052] – This Standard makes editorial amendments to a range of Australian Accounting Standards and Interpretations. There is no financial impact.
- AASB 2010-4 *Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project* [AASBs 1, 7, 101, & 134 and Interpretation 13] – This Standard amends a range of Australian Accounting Standards and Interpretations as a consequence of the annual improvements project. There is no financial impact.
- AASB 2010-5 *Amendments to Australian Accounting Standards* [AASBs 1, 3, 4, 5, 101, 107, 112, 118, 119, 121, 132, 133, 134, 137, 139, 140, 1023 & 1038 and Interpretations 112, 115, 127, 132 & 1042] – This Standard makes editorial amendments to a range of Australian Accounting Standards. There is no financial impact.
- AASB 2010-6 *Amendments to Australian Accounting Standards – Disclosures on Transfers of Financial Assets* [AASBs 1 & 7] – This Standard introduces additional disclosure relating to transfers of financial assets in AASB 7. An entity shall disclose all transferred financial assets that are not derecognised and any continuing involvement in a transferred asset, existing at the reporting date, irrespective of when the related transfer transaction occurred. There is no financial impact.
- AASB 2011-1 *Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project* [AASBs 1, 5, 101, 107, 108, 121, 128, 132 & 134 and Interpretations 2, 112 & 113] – this Standard, in conjunction with AASB 1054, removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards. There is no financial impact.
- AASB 2011-15 *Amendments to Australian Accounting Standards – Extending Relief from Consolidation, the Equity Method and Proportionate Consolidation* [AASBs 127, 128 & 131] – this Standard extends the relief from consolidation, the equity method and proportionate consolidation by removing the requirement for the consolidated financial statements prepared by the ultimate or any intermediate parent entity to be IFRS compliant, provided that the parent entity, investor or venturer and the ultimate or intermediate parent entity are not-for-profit non-reporting entities that comply with Australian Accounting Standards. There is no financial impact.

(b) Impact of new and revised Accounting Standards yet to be applied

The following applicable Standards have been issued by the AASB and are yet to be applied:

- AASB 9 *Financial Instruments* – This Standard supersedes AASB 139 Financial Instruments: recognition and Measurement, introducing a number of changes to accounting treatments. The Standard was reissued in December 2010. The Office has not yet determined the potential financial impact of the standard.
- AASB 10 *Consolidated Financial Statements* – This Standard supersedes requirements under AASB 127 Consolidated and Separate Financial Statements and Interpretation 112 Consolidation – Special Purpose Entities, introducing a number of changes to accounting treatments. The standard was issued in August 2011. The Office has not yet determined the application or the potential impact of the Standard.

- AASB 11 *Joint arrangements* – this Standard supersedes AASB 131 Interest in Joint Ventures, introducing a number of changes to accounting treatments. The Standard was issued in August 2011. The Office has not yet determined the application or the potential impact of the Standard.
- AASB 12 *Disclosure of Interests in Other Entities* – This Standard supersedes disclosure requirements under AASB 127 Consolidated and Separate Financial Statements and AASB 131 Interests in Joint Ventures. The Standard was issued in August 2011. The Office has not yet determined the application or the potential impact of the Standard.
- AASB 13 *Fair Value Measurement* – This Standard defines fair value, sets out a framework for measuring fair value and requires disclosures about fair value measurements.
- AASB 119 *Employee Benefits* – This Standard supersedes AASB 119 Employee Benefits, introducing a number of changes to accounting treatments. The Standard was issued in September 2011. The Office has not yet determined the application or the potential impact of the Standard.
- AASB 127 *Separate Financial Statements* – This standard supersedes requirements under AASB 127 Consolidated and Separate Financial Statements, introducing a number of changes to accounting treatments. The Standard was issued in August 2011. The Office has not yet determined the application or the potential impact of the Standard.
- AASB 128 *Investments in Associates and Joint Ventures* – This Standard supersedes AASB 128 Investments in Associates and introduces a number of changes to accounting treatments. The Standard was issued in August 2011. The Office has not yet determined the application or the potential impact of the Standard.
- AASB 1053 *Application of Tiers of Australian Accounting Standards* – This Standard establishes a differential financial reporting framework consisting of two tiers of reporting requirements for preparing general purpose financial statements. The Standard does not have any financial impact on the Office. However, it may affect disclosures if reduced disclosure requirements apply.
- AASB 2010-2 *Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements* [AASBs 1, 2, 3, 5, 7, 8, 101, 102, 107, 108, 110, 111, 112, 116, 117, 119, 121, 123, 124, 127, 128, 131, 133, 134, 136, 137, 138, 140, 141, 1050, & 1052 and Interpretations 2, 4, 5, 15, 17, 127, 129, & 1052] – This Standard makes amendments to Australian accounting Standards and Interpretations to introduce reduced disclosure requirements for certain types of entities.
- AASB 2010-7 *Amendments to Australian Accounting Standards arising from AASB 9* (December 2010) [AASBs 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 132, 136, 137, 139, 1023 & 1038 and Interpretations 2, 5, 10, 12, 19, & 127] – This Standard makes consequential amendments to other Australian Accounting Standards and Interpretations as a result of issuing AASB 9 in December 2010.
- AASB 2011-2 *Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project – Reduced Disclosure Requirements* [AASBs 101 & 1054] – This Standard makes amendments to introduce reduced disclosure requirements for certain types of entities. There is no expected financial impact of applying these changes, as the Office is a Tier 1 entity.
- AASB 2011-6 *Amendments to Australian Accounting Standards – Extending Relief from Consolidation, the Equity Method and Proportionate Consolidation – Reduced Disclosure Requirements* [AASBs 127, 128 & 131] – This Standard extends relief from consolidation, the equity method and proportionate consolidation by removing the requirement for the consolidated financial statements prepared by the ultimate or any intermediate parent entity to be IFRS compliant, provided that the parent entity, investor or venturer and the ultimate or intermediate parent entity comply with Australian Accounting Standards or Australian Accounting Standards – Reduced Disclosure Requirements.
- AASB 2011-7 *Amendments to Australian Accounting Standards arising from the Consolidation and Joint Arrangements Standards* [AASBs 1, 2, 3, 5, 7, 9, 2009-11, 101, 107, 112, 118, 121, 124, 132, 133, 136, 138, 139, 1023 & 1038 and Interpretations 5, 9, 16 and 17] – This Standard replaces the existing definition and fair value guidance in other Australian Accounting Standards and Interpretations as the result of issuing AASB 13 in September 2011.
- AASB 2011-8 *Amendments to Australian Accounting Standards arising from AASB 13* [AASBs 1, 2, 3, 4, 5, 7, 9, 2009-11, 2010-7, 101, 102, 108, 110, 116, 117, 118, 119, 120, 121, 128, 131, 132, 133, 134, 136,

138, 139, 140, 141, 1004, 1023 & 1038 and Interpretations 2, 4, 12, 13, 14, 17, 19, 131 & 132] – This Standard replaces the existing definition of fair value guidance in other Australian Accounting Standards and Interpretations as the result of issuing AASB 13 in September 2011.

- AASB 2011-9 *Amendments to Australian Accounting Standards – Presentation of Items of Other Comprehensive Income* [AASBs 1, 5, 7, 101, 112, 120, 121, 132, 133, 134, 1039 & 1049] – This Standard requires to group items presented in other comprehensive income on the basis of whether they are potentially reclassifiable to profit or loss subsequently (reclassification adjustments).
- AASB 2011-10 *Amendments to Australian Accounting Standards arising from AASB 119 (September 2011)* [AASBs 1, 8, 101, 124, 134, 1049 & 2011-8 and Interpretations 14] – This Standard makes amendments to other Australian Accounting Standards and Interpretation as a result of issuing AASB 119 *Employee Benefits* in September 2011.
- AASB 2011-11 *Amendments to AASB 119 (September 2011) arising from Reduced Disclosure Requirements* – This Standard gives effect to Australian Accounting Standards – Reduced Disclosure Requirements for AASB 119 (September 2011).

The future adoption of these standards is not expected to have a material impact on the financial statements of the Office.

1.6 Income from Transactions

Income is recognised in the Statement of Comprehensive Income when an increase in future economic benefits related to an increase in an asset or a decrease of a liability has arisen that can be measured reliably.

(a) Revenue from Government

Appropriations, whether recurrent or capital, are recognised as revenues in the period in which the Office gains control of the appropriated funds.

(b) Revenue from Energy Entities

Revenue from energy entities is recognised in the period in which the Office gains control of the funds. A membership fee is payable by each energy entity, within the meaning of the *Energy Ombudsman Act 1998*. A complaint levy is payable based on the number of complaints and enquiries received by the Ombudsman against an entity during the previous calendar year, as a proportion of the total number of complaints and enquiries received by the Ombudsman during that period.

(c) Other revenue

Revenue from sources other than those identified above are recognised in the Statement of Comprehensive Income when an increase in future economic benefits related to an increase in an asset or a decrease of a liability has arisen that can be measured reliably.

1.7 Expenses from Transactions

Expenses are recognised in the Statement of Comprehensive Income when a decrease in future economic benefits related to a decrease in asset or an increase of a liability has arisen that can be measured reliably.

(a) Employee benefits

Employee benefits include, where applicable, entitlements to wages and salaries, annual leave, sick leave, long service leave, superannuation and any other post-employment benefits.

(b) Depreciation and amortisation

All applicable Non-financial assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of their service potential. Depreciation is provided for on a straight line basis, using rates which are reviewed annually. Major depreciation periods are:

Leasehold Improvements	10 years
------------------------	----------

All intangible assets having a limited useful life are systematically amortised over their useful lives reflecting the pattern in which the asset's future economic benefits are expected to be consumed by the Office. Resolve, the Case Management System software, TRIM, the document and records management system, and the Office websites are amortised on a straight-line basis over 5 years.

(c) Other expenses

Expenses from activities other than those identified above are recognised in the Statement of Comprehensive Income when a decrease in future economic benefits related to a decrease in asset or an increase of a liability has arisen that can be measured reliably.

1.8 Assets

Assets are recognised in the Statement of Financial Position when it is probable that the future economic benefits will flow to the Office and the asset has a cost or value that can be measured reliably.

(a) Cash and deposits

Cash means notes, coins, any deposits held at call with a bank or financial institution, as well as funds held in the Special Deposits and Trust Fund. Deposits are recognised at amortised cost, being their face value.

(b) Receivables

Receivables are recognised at amortised cost, less any impairment losses, however, due to the short settlement period, receivables are not discounted back to their present value.

(c) Property, plant and equipment

(i) Valuation basis

All Non-current physical assets are recorded at historic cost less accumulated depreciation.

Cost includes expenditure that is directly attributable to the acquisition of the asset. The costs of self-constructed assets includes the cost of materials and direct labour, any other costs directly attributable to bringing the asset to a working condition for its intended use, and the costs of dismantling and removing the items and restoring the site on which they are located.

When parts of an item of property, plant and equipment have different useful lives, they are accounted for as separate items (major components) of property, plant and equipment.

(ii) Subsequent costs

The cost of replacing part of an item of property, plant and equipment is recognised in the carrying amount of the item if it is probable that the future economic benefits embodied within the part will flow to the Office and its costs can be measured reliably. The carrying amount of the replaced part is derecognised. The costs of day-to-day servicing of property, plant and equipment are recognised in profit or loss as incurred.

(iii) Asset recognition threshold

The asset capitalisation threshold adopted by the Office is \$10,000. Assets valued at less than \$10,000 are charged to the Statement of Comprehensive Income in the year of purchase (other than where they form part of a group of similar items which are material in total).

(d) Intangibles

An intangible asset is recognised where:

- it is probable that an expected future benefit attributable to the asset will flow to the Office; and
- the cost of the asset can be reliably measured.

The development costs towards the installation of RESOLVE (the Office's case management system) are recognised as an intangible asset and are currently valued at cost. The system went live and the asset was commissioned in mid October 2008 at which point amortisation commenced.

The implementation costs of the Office websites are recognised as an intangible asset and are currently valued at cost. The websites were launched and the asset commissioned on 1 July 2010 at which point amortisation commenced.

The implementation costs of TRIM (the Office's document and records management system) are recognised as an intangible asset and are currently valued at cost. The Office went live with TRIM and the asset was commissioned in April 2011 at which point amortisation commenced.

(e) Other financial assets

Other financial assets comprise prepayments. Prepayments relate to actual transactions that are recorded at cost with the asset at balance date representing the un-utilised component of the prepayment.

1.9 Liabilities

Liabilities are recognised in the Statement of Financial Position when it is probable that an outflow of resources embodying economic benefits will result from the settlement of a present obligation and the amount at which the settlement will take place can be measured reliably.

(a) Payables

Payables, including goods received and services incurred but not yet invoiced, are recognised at amortised cost, which due to the short settlement period, equates to face value, when the Office becomes obliged to make future payments as a result of a purchase of assets or services.

(b) Employee benefits

Liabilities for wages and salaries and annual leave are recognised when an employee becomes entitled to receive a benefit. Those liabilities expected to be realised within 12 months are measured as the amount expected to be paid. Other employee entitlements are measured as the present value of the benefit at 30 June 2012, where the impact of discounting is material, and at the amount expected to be paid if discounting is not material.

A liability for long service leave is recognised, and is measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date.

(c) Superannuation

Defined contribution plans

A defined contribution plan is a post-employment benefit plan under which an entity pays fixed contributions into a separate entity and will have no legal or constructive obligation to pay further amounts. Obligations for contributions to defined contribution plans are recognised as an expense when they fall due.

Defined benefit plans

A defined benefit plan is a post-employment benefit plan other than a defined contribution plan.

The Office does not recognise a liability for the accruing superannuation benefits of Office employees. This liability is held centrally and is recognised within the Finance-General Division of the Department of Treasury and Finance.

(d) Other liabilities

The Office has separately recognised a liability for the payroll tax on accrued salaries calculated at 6.1% of accrued salaries as at 30 June 2012. As the Office will not be required to pay payroll tax from 1 October 2012, it has elected not to calculate a provision for employee on-costs associated with the provisions for annual and long service leave.

1.10 Leases

The Office has entered into a number of operating lease agreements for property, plant and equipment, where the lessors effectively retain all the risks and benefits incidental to ownership of the items leased. Equal

instalments of lease payments are charged to the Statement of Comprehensive Income over the lease term, as this is representative of the pattern of benefits to be derived from the leased property.

The Office is prohibited by Treasurer's Instruction 502 *Leases* from holding finance leases.

1.11 Judgements and Assumptions

In the application of Australian Accounting Standards, the Office is required to make judgements, estimates and assumptions about carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances, the results of which form the basis of making the judgements. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period or in the period of the revision and future periods if the revision affects both current and future periods.

The areas where estimates of any material amount are made regularly relate to the carrying amount of receivables, refer note 1.8(b), work in progress, refer note 1.8(c), depreciation and amortisation, refer note 1.7(b) and the provision for employee benefits, refer notes 1.9(b) and 1.9(d)

The Office has made no assumptions concerning the future that may cause a material adjustment to the carrying amounts of assets and liabilities within the next reporting period.

1.12 Comparative Figures

Comparative figures have been adjusted to reflect any changes in accounting policy or the adoption of new standards. Details of the impact of changes in accounting policy on comparative figures are at Note 0.

Where amounts have been reclassified within the Financial Statements, the comparative statements have been restated.

1.13 Budget Information

Budget information refers to original estimates as disclosed in the 2011-12 Budget Papers and is not subject to audit.

1.14 Rounding

All amounts in the Financial Statements have been rounded to the nearest thousand dollars, unless otherwise stated. Where the result of expressing amounts to the nearest thousand dollars would result in an amount of zero, the financial statement will contain a note expressing the amount to the nearest whole dollar.

1.15 Office Taxation

The Office is exempt from all forms of taxation except Fringe Benefits Tax, Payroll Tax and is not registered for the Goods and Services Tax. All taxation issues are managed by the Department of Justice on the Office's behalf.

1.16 Goods and Services Tax

Revenue, expenses and assets are recognised net of the amount of Goods and Services Tax, except where the GST incurred is not recoverable from the Australian Taxation Office. Receivables and payables are stated inclusive of GST. The net amount recoverable, or payable, to the ATO is recognised as an asset or liability within the Statement of Financial Position.

In the Statement of Cash Flows, the GST component of cash flows arising from operating, investing or financing activities which is recoverable from, or payable to, the Australian Taxation Office is, in accordance with the Australian Accounting Standards, classified as operating cash flows.

Note 2 Explanations of Material Variances between Budget and Actual Outcomes

The following are brief explanations of material variances between Budget estimates and actual outcomes. Variances are considered material where the variance exceeds the greater of 10 per cent of Budget estimate and \$25,000.

2.1 Statement of Comprehensive Income

	Note	Budget \$'000	Actual \$'000	Variance \$'000	Variance %
Employee benefits	(a)	1 903	2 134	231	13

Notes to Statement of Comprehensive Income variances

- (a) The unexpected Employee Benefits expenses relate to a lump sum termination payment and a redundancy payment, neither of which were foreknown nor budgeted for.

2.2 Statement of Financial Position

	Note	Budget \$'000	Actual \$'000	Variance \$'000	Variance %
Property, plant and equipment	(a)	-	60	60	100
Intangibles	(b)	65	95	35	54
Employee benefits	(c)	315	397	82	26

Notes to Statement of Financial Position variances

- (a) To be able to expand, the Office took over the rent of the back part of its office and upgraded this space. The office fit-out was not included in the original budget.
- (b) The implementation of TRIM was not included in the original budget, hence the increase in Intangibles.
- (c) During 2011-12, the Office employed two staff members that transferred from elsewhere in the State Service, inheriting significant accrued leave balances that had not been budgeted.

2.3 Statement of Cash Flows

	Note	Budget \$'000	Actual \$'000	Variance \$'000	Variance %
GST receipts	(a)	-	53	53	100
Employee benefits	(b)	(1 701)	(1 882)	181	11
GST payments	(a)	-	(53)	53	(100)

Notes to Statement of Cash Flows variances

- (a) All taxation issues are managed by the Department of Justice on the Office's behalf. No budget for GST receipts or GST payments was included in the original budget.

Note 3 Income from transactions

3.1 Revenue from Government

Revenue from Government includes revenue from appropriations, appropriations carried forward under section 8A(2) of the *Public Account Act 1986* and Items Reserved by Law.

The Budget information is based on original estimates and has not been subject to audit.

	2012 Budget \$'000	2012 Actual \$'000	2011 Actual \$'000
Appropriation revenue - recurrent			
Current year	2 108	2 167	2 095
Total revenue from Government	2 108	2 167	2 095

3.2 Revenue from Energy Entities

	2012 \$'000	2011 \$'000
Energy Entities Membership and Complaint Levy Fees	469	479
Total	469	479

3.3 Other Revenue

	2012 \$'000	2011 \$'000
Commonwealth Ombudsman Funding	18	17
Other revenue	1	4
Total	19	21

Note 4 Expenses from transactions

4.1 Employee Benefits

	2012	2011
	\$'000	\$'000
Wages and salaries	1 928	1 616
Superannuation – defined contribution scheme	122	108
Superannuation – defined benefit scheme	64	74
Other employee expenses	20	28
Total	2 134	1 826

Superannuation expenses relating to defined benefits schemes relate to payments into the Superannuation Provision Account held centrally and recognised within the Finance-General Division of the Department of Treasury and Finance. The amount of the payment is based on an employer contribution rate determined by the Treasurer, on the advice of the State Actuary. The current employer contribution is 12.3 per cent of salary.

Superannuation expenses relating to contribution schemes are paid directly to the superannuation fund at a rate of nine per cent of salary. In addition, departments are also required to pay into the SPA a “gap” payment equivalent to 3.3 per cent of salary in respect of employees who are members of the contribution schemes.

4.2 Depreciation and Amortisation

(a) Depreciation

	2012	2011
	\$'000	\$'000
Leasehold improvements	7	2
Total	7	2

(b) Amortisation

	2012	2011
	\$'000	\$'000
Intangibles	48	42
Total	48	42
Total depreciation and amortisation	55	44

4.3 Supplies and Consumables

	2012	2011
	\$'000	\$'000
Audit fees – financial audit	4	9
Operating lease costs	291	265
Consultants	11	10
Property services	12	12
Maintenance	-	1
Communications	34	36
Information technology	81	65
Travel and transport	43	38
Advertising and promotion	10	3
Printing	8	7
Other supplies and consumables	38	46
Total	532	492

4.4 Other Expenses

	2012	2011
	\$'000	\$'000
Salary on-costs	109	107
Other expenses	53	59
Total	162	166

Note 5 Assets

5.1 Receivables

	2012 \$'000	2011 \$'000
Receivables	68	69
Less: Provision for impairment	-	-
Total	68	69
Settled within 12 months	68	69
Total	68	69

	2012 \$'000	2011 \$'000
Reconciliation of movement in provision for impairment of receivables		
Carrying amount at 1 July	-	106
Amounts written off during the year	-	106
Carrying amount at 30 June	-	-

5.2 Property, Plant and Equipment

(a) Carrying amount

	2012 \$'000	2011 \$'000
Leasehold Improvements		
At cost	69	69
Less: Accumulated depreciation	(9)	(2)
Total	60	67
Total property, plant and equipment	60	67

(b) Reconciliation of movements

	2012 \$'000	2011 \$'000
Carrying amount at 1 July	67	-
Additions	-	69
Depreciation	(7)	(2)
Carrying amount at 30 June	60	67

5.3 Intangibles

(a) Carrying amount

	2012 \$'000	2011 \$'000
Intangibles with a finite useful life		
At cost (Resolve Case Management System)	182	182
At cost (Office Websites)	41	41
At cost (TRIM – Document and Records Management System)	17	17
Less: Accumulated amortisation	(145)	(97)
Total intangibles	95	143

(b) Reconciliation of movements

	2012 \$'000	2011 \$'000
Carrying amount at 1 July	143	145
Additions – internal development	-	81
Work in progress capitalised	-	(41)
Amortisation expense	(48)	(42)
Carrying amount at 30 June	95	143

Note 6 Liabilities

6.1 Payables

	2012	2011
	\$'000	\$'000
Creditors	14	23
Accrued expenses	10	13
Total	24	36
Settled within 12 months	24	36
Total	24	36

Settlement is usually made within 30 days.

6.2 Employee Benefits

	2012	2011
	\$'000	\$'000
Accrued salaries	58	40
Annual leave	97	106
Long service leave	242	171
Total	397	317
Settled within 12 months	160	145
Settled in more than 12 months	237	172
Total	397	317

6.3 Other Liabilities

	2012	2011
	\$'000	\$'000
Revenue received in advance		
Appropriation carried forward from current and previous years under section 8A of the <i>Public Account Act 1986</i>	39	-
Other liabilities		
Employee benefits – on-costs	3	18
Total	42	18
Settled within 12 months	42	8
Settled in more than 12 months	-	10
Total	42	18

Note 7 Commitments and Contingencies

7.1 Schedule of Commitments

	2012 \$'000	2011 \$'000
By type		
<i>Lease Commitments</i>		
Operating leases	940	1 217
<i>Total lease commitments</i>	940	1 217
<i>Other commitments</i>		
Resolve Case Management System Maintenance	8	7
Service Level Agreement	47	-
<i>Total other commitments</i>	55	7
By maturity		
<i>Operating lease commitments</i>		
One year or less	323	275
From one to five years	617	942
<i>Total operating lease commitments</i>	940	1 217
<i>Other commitments</i>		
One year or less	8	7
From one to five years	47	-
<i>Total other commitments</i>	55	7
Total	995	1 224

The Operating Lease commitments include buildings, motor vehicles and information technology equipment leases. All amounts shown are exclusive of GST.

7.2 Contingent Assets and Liabilities

Contingent assets and liabilities are not recognised in the Statement of Financial Position due to uncertainty regarding the amount or timing of the underlying claim or obligation.

(a) Quantifiable contingencies

A quantifiable contingent asset is a possible asset that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity.

A quantifiable contingent liability is a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or a present obligation that arises from past events but is not recognised because it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation.

At 30 June 2012 the Office had no contingent assets or liabilities.

Note 8 Cash Flow Reconciliation

8.1 Cash and Deposits

Cash and deposits includes the balance of the Special Deposits and Trust Fund Accounts held by the Office, and other cash held, excluding those accounts which are administered or held in a trustee capacity or agency arrangement.

	2012 \$'000	2011 \$'000
Special Deposits and Trust Fund balance		
T528 Office of the Ombudsman Operating Account	98	171
Total cash and deposits	98	171

8.2 Reconciliation of Net Result to Net Cash from Operating Activities

	2012 \$'000	2011 \$'000
Net result	(228)	67
Depreciation and Amortisation	55	44
Decrease (increase) in Receivables	1	14
Decrease (increase) in Prepayments	-	(7)
Increase (decrease) in Employee entitlements	80	36
Increase (decrease) in Payables	(5)	(2)
Increase (decrease) in Other liabilities	24	1
Net cash from (used by) operating activities	(73)	153

Note 9 Financial Instruments

9.1 Risk Exposures

(a) Risk management policies

The Office has exposure to the following risks from its use of financial instruments:

- credit risk; and
- liquidity risk.

The Head of Agency has overall responsibility for the establishment and oversight of the Office's risk management framework. Risk management policies are established to identify and analyse risks faced by the Office, to set appropriate risk limits and controls, and to monitor risks and adherence to limits.

(b) Credit risk exposures

Credit risk is the risk of financial loss to the Office if a customer or counterparty to a financial instrument fails to meet its contractual obligations.

Financial Instrument	Accounting and strategic policies (including recognition criteria and measurement basis)	Nature of underlying instrument (including significant terms and conditions affecting the amount. Timing and certainty of cash flows)
Financial Assets		
Receivables	Receivables are recognised at amortised cost, less any impairment losses, however, due to the short settlement period, receivables are not discounted back to their present value.	It is Office policy to issue invoices with 30 day terms of trade.
Cash and deposits	Deposits are recognised at amortised cost, being their face value.	Cash means notes, coins, any deposits held at call with a bank or financial institution, as well as funds held in the Special Deposits and Trust Fund.

The following tables analyse financial assets that are past due but not impaired

Analysis of financial assets that are past due at 30 June 2012 but not impaired

	Past due 30 days	Total
	\$'000	\$'000
Receivables	68	68

Analysis of financial assets that are past due at 30 June 2011 but not impaired

	Past due 30 days	Total
	\$'000	\$'000
Receivables	69	69

Liquidity risk

Liquidity risk is the risk that the Office will not be able to meet its financial obligations as they fall due. The Office's approach to managing liquidity is to ensure that it will always have sufficient liquidity to meet its liabilities when they fall due.

Financial Instrument	Accounting and strategic policies (including recognition criteria and measurement basis)	Nature of underlying instrument (including significant terms and conditions affecting the amount. Timing and certainty of cash flows)
Financial Liabilities		
Payables	Payables are recognised at amortised cost, which due to the short settlement period, equates to face value, when the Office becomes obliged to make future payments as a result of a purchase of assets or services.	Payables, including goods received and services incurred but not yet invoiced arise when the Office becomes obliged to make future payments as a result of a purchase of assets or services. The Office's terms of trade are 30 days.

Monitoring of revenue and expenditure forecasts and current cash balances is undertaken by the Office on a monthly basis.

The following tables detail the undiscounted cash flows payable by the Office by remaining contractual maturity for its financial liabilities. It should be noted that as these are undiscounted, totals may not reconcile to the carrying amounts presented in the Statement of Financial Position:

2012

Maturity analysis for financial liabilities			
	1 Year \$'000	Undiscounted Total \$'000	Carrying Amount \$'000
Financial liabilities			
Payables	24	24	24
Total	24	24	24

2011

Maturity analysis for financial liabilities			
	1 Year \$'000	Undiscounted Total \$'000	Carrying Amount \$'000
Financial liabilities			
Payables	36	36	36
Total	36	36	36

9.2 Categories of Financial Assets and Liabilities

	2012 \$'000	2011 \$'000
Financial assets		
Cash and cash equivalents	98	171
Receivables	68	69
Total	166	240
Financial Liabilities		
Financial liabilities measured at amortised cost	24	36
Total	24	36

9.3 Comparison between Carrying Amount and Net Fair Values of Financial Assets and Liabilities

	Carrying Amount 2012 \$'000	Net Fair Value 2012 \$'000	Carrying Amount 2011 \$'000	Net Fair Value 2011 \$'000
Financial assets				
Cash in Special Deposits and Trust Fund	98	98	171	171
Receivables	68	68	69	69
Total financial assets	166	166	240	240
Financial liabilities				
Trade creditors	24	24	36	36
Total financial liabilities	24	24	36	36

The Office does not have any financial assets or financial liabilities carried at fair value through the profit and loss or any available for sale financial assets.

Financial Assets

The net fair values of cash and non-interest bearing monetary financial assets approximate their carrying amounts.

The net fair value of receivables are recognised at amortised cost, less any impairment losses, however, due to the short settlement period, receivables are not discounted back to their present value.

Financial Liabilities

The net fair values for trade creditors are approximated by their carrying amounts.

Note 10 Output Group Information

The Office of the Ombudsman and Health Complaints Commissioner is a single Output which is the fulfilment of the statutory responsibilities of the Ombudsman and Health Complaints Commissioner. The summary budgeted and actual revenues and expenses for this Output are the same as in the Statement of Comprehensive Income and the net assets are the same as the Statement of Financial Position. As a result the inclusion of a separate Output Schedule is not necessary.

Note 11 Events Occurring After Balance Date

There have been no events subsequent to balance date which would have a material effect on the Office's Financial Statements as at 30 June 2012.

Statement by Head of Agency and Principal Accounting Officer

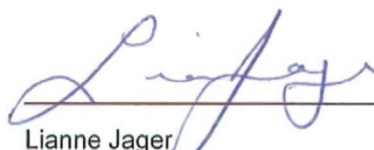
The accompanying Financial Statements of the Office of the Ombudsman and Health Complaints Commissioner are in agreement with the relevant accounts and records and have been prepared in compliance with Treasurer's Instructions issued under the provision of the *Financial Management and Audit Act 1990* to present fairly the financial transactions for the year ended 30 June 2012 and the financial position as at the end of the year.

At the date of signing, we are not aware of any circumstances which would render the particulars included in the financial statements misleading or inaccurate.

A handwritten signature in blue ink, reading "Leon Atkinson-MacEwen", written over a horizontal line.

Leon Atkinson-MacEwen

HEAD OF AGENCY

A handwritten signature in blue ink, reading "Lianne Jager", written over a horizontal line.

Lianne Jager

BUSINESS MANAGER

APPENDIX E: INDEPENDENT AUDITORS REPORT

Independent Auditor's Report

To Members of the Parliament of Tasmania

Office of the Ombudsman and Health Complaints Commissioner

Financial Statements for the Year Ended 30 June 2012

I have audited the accompanying financial statements of the Office of the Ombudsman and Health Complaints Commissioner (the Office), which comprises the statement of financial position as at 30 June 2012, the statements of comprehensive income, changes in equity and cash flows for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the joint statement by the Head of Agency and the Business Manager.

Auditor's Opinion

In my opinion the Office's financial statements:

- (a) present fairly, in all material respects, its financial position as at 30 June 2012, and its financial performance, cash flows and changes in equity for the year then ended; and
- (b) are in accordance with the *Financial Management and Audit Act 1990* and Australian Accounting Standards (including the Australian Accounting Interpretations).

The Responsibility of the Ombudsman for the Financial Statements

The Ombudsman is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and Section 27 (1) of the *Financial Management and Audit Act 1990*. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based upon my audit. My audit was conducted in accordance with Australian Auditing Standards. These Auditing Standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance as to whether the financial statements are free of material misstatement.

...1 of 1

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 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 preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate to the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office's 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 that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting this audit, I have complied with the independence requirements of Australian Auditing Standards and other relevant ethical requirements. The *Audit Act 2008* further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General, and
- mandating the Auditor-General as auditor of State Entities but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Tasmanian Audit Office are not compromised in their role by the possibility of losing clients or income.

Tasmanian Audit Office



E R De Santi

Deputy Auditor-General

Delegate of the Auditor-General

HOBART

12 September 2012

...2 of 2

APPENDIX F: CONTRACTS AND CONSULTANCIES AWARDED

The Office of the Ombudsman and Health Complaints Commissioner ensures that Tasmanian businesses are given every opportunity to compete for Agency business. It is the Office's policy to support Tasmanian businesses whenever they offer best value for money for the Government.

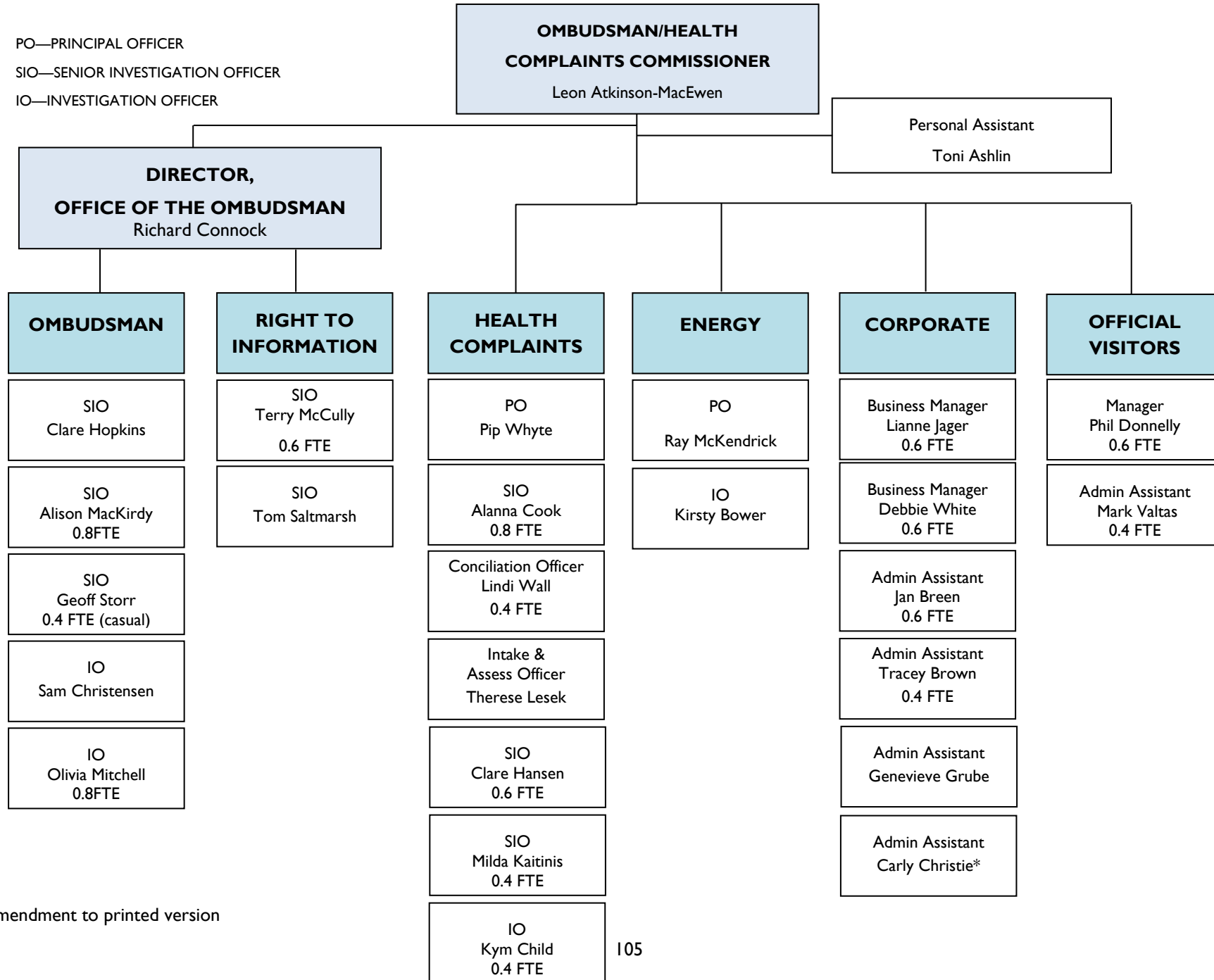
In 2011-12 no contracts and consultancies were awarded.

APPENDIX G: ORGANISATIONAL CHART AS AT 30 JUNE 2012

PO—PRINCIPAL OFFICER

SIO—SENIOR INVESTIGATION OFFICER

IO—INVESTIGATION OFFICER



*Amendment to printed version