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2018**

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The Victorian Ombudsman respectfully acknowledges the Traditional Owners of the lands throughout Victoria and pays respect to them, their culture and their Elders past, present and future.

Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Dear Presiding Officers,

I am pleased to transmit, in accordance with section 25 of the *Ombudsman Act 1973*, the annual report of the Victorian Ombudsman's office for the year ended 30 June 2018 for presentation to Parliament.

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

Deborah Glass
Ombudsman

18 September 2018

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Ombudsman's message

It has become trite to say it has been another busy year in the Ombudsman's office. In addition to the major investigations and reports tabled in Parliament, the number of approaches to the office continues to hover around the 40,000 mark, and the number of complaints within our jurisdiction to increase.

Being an independent officer of Parliament does not mean I am neutral. I am not neutral about human rights and social justice, and many of my public reports continue this theme.

This year they included my investigations into school expulsions, unfair maintenance claims against public housing tenants, and the financial support provided to kinship carers. It is gratifying not only to see recommendations accepted, but tangible outcomes, including the payment of allowances or waiving of debts amounting to hundreds of thousands of dollars to kinship carers, some of the neediest and most deserving people in our state.

Mostly, I choose what I investigate, but some cases may be referred to my office. Two major investigations referred from other bodies attracted considerable public attention: my report into child sex offender Robert Whitehead's involvement with Puffing Billy and other railway bodies, referred by a department, and my report into the ALP's use of electorate officers before the last state election, referred by the Legislative Council. Both investigations utilised intensive resources and both, I believe, demonstrate the ability of my office to impartially and forensically investigate the most sensitive and complex matters.

It is pleasing that my office's impartiality and investigative skills continue to be recognised in further referrals from Parliament. As my founding legislation makes clear, I am Parliament's investigator, and I will continue to investigate and report without fear or favour. I hope to see referrals from Parliament about issues of concern across the public sector, other than the behaviour of our elected representatives, that may require my independence and Royal Commission powers.

Although the work of the office is frequently challenging, it is as frequently rewarding. While we cannot help everyone, staff in our Early Resolution Team are regularly thanked for their timely and constructive resolution of thousands of cases – each of which makes a difference to someone's life. And it was truly heart-warming for both me and the team to hear what a difference our Puffing Billy report made to the lives of some of Whitehead's victims.

Human rights continue to be a core focus for the office. We investigated the state's readiness to implement a key United Nations treaty – the Optional Protocol for the Convention against Torture, or OPCAT – which was ratified by the Federal Government in December 2017 and will require independent inspection of closed environments such as prisons and youth justice centres.

Our investigation highlighted not only what the Victorian Government needs to do to implement the treaty, but what an OPCAT-compliant inspection looks like, following our inspection of the state's main women's prison. Implementing OPCAT will remain a focus for the office.

While our complaints resolution, assessments and investigations functions remain the core of our operations, our modest education and outreach work continues to complement it. This year we launched a guide to dealing with challenging behaviour – a perennial Ombudsman topic on which we are regularly asked for advice – and it is good to see the increasing numbers of people attending our workshops on good complaints handling and dealing with conflicts of interest.

Although our lack of dedicated funding for this work limits our outreach ability, we focussed this year on engaging with Community Legal Centres, who provide free legal advice to many of the most disadvantaged in our community. They are well-placed to let us know of potential systemic issues, from which infringements became a major theme.

As a result, we investigated a local council's handling of internal reviews of infringements incurred by disability permit holders, and on a broader level we are engaging with Fines Victoria, who are the subject of an escalating number of complaints.

We introduced the office's first Accessibility Action Plan and continue to progress the work identified in our Reconciliation Action Plan. Better access to the office and communication with disadvantaged and marginalised communities remain a priority.

I have for some years been providing my wish-list for legislative reform, and am encouraged that many of those wishes – including the important principle of financial independence for my office – are now reflected in a Bill.

At the time of writing, this remains before Parliament. Should the Bill become law it will update many of the nearly 50-year-old provisions of the Ombudsman Act and provide a sound framework for a modern Ombudsman's office.

That will of course need to be supported by appropriate funding. I am grateful for the continued support of the Department of Premier and Cabinet in funding both my office and an independent review of the budget required to support a sustainable office. I look to the government in due course to provide it.

None of the work would be possible without my incredibly hardworking, dedicated and passionate staff and leadership team, to whom once again I owe my deepest gratitude.

Deborah Glass
Ombudsman

YEAR AT A GLANCE 2017-18

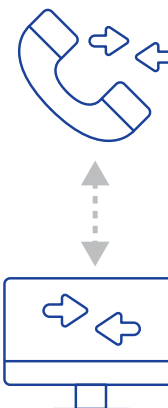
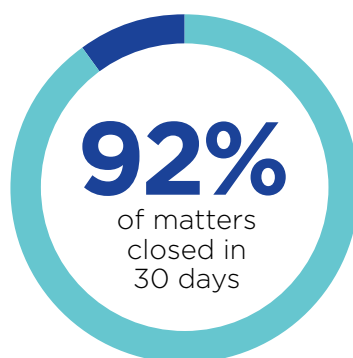


39,504

people
contacted us

22,390

matters finalised



17,120

people redirected
via phone or online



372 Facebook
followers



342 LinkedIn
followers



2,319

Twitter followers

up 18%

27

public sector education
programs run



Accessibility
Action Plan
launched



Good Practice Guide
to Dealing with
Challenging Behaviour
launched

15



presentations to
community legal
centres

15,240
matters
we can
deal with
up **6%**

3,890
formal
enquiries
completed

41
up **40%**
formal
investigations
completed

119
recommendations made
98%
accepted

12
reports tabled
in Parliament



Obituary: Charles Norman Geschke OBE

Passed away in Melbourne on 23 July 2018, aged 94.

We all strive to make a difference in life, but not too many people can look back on a life quite so well-lived, who helped so many thousands of people, as Charles Norman Geschke, popularly known as Norm.



Norman was Victoria's second Ombudsman, following a distinguished career with the RAAF and six years as Victoria's first Director of Consumer Affairs. A passion for fairness, and protecting

the rights of the vulnerable, were an early hallmark of his work and he occupied the role, dispensing wisdom and justice, for 14 years from 1980 to 1994. I have often reflected that one of the unofficial functions of the Ombudsman is to get under the skin of the government of the day, whoever that government is, and it is unlikely to be a coincidence that the government subsequently brought in legislation to limit the Ombudsman's term to ten years.

What comes across from his many official reports is how much he cared about people, the man or woman in the street, sometimes literally. In his last report to Parliament he described saving the wooden kiosk at Clifton Hill station, so that the lady kiosk operator did not have to sell her wares from a portable trolley at 6 am in the Melbourne winter. In an earlier report he gave advice about lost TAB tickets: "the golden rules of punting are check your tickets for correctness and don't lose them". No problem with the bureaucracy was too small, no bureaucrat too mighty, for the Ombudsman's attention.

My personal favourite from his long and illustrious tenure as Victoria's Ombudsman was his quest, documented over two annual reports, for the fair provision of toilets for women at theatres, concert halls, and sporting venues – which he described as "Sexual discrimination of an inconvenient kind".

He first describes how he told the Department of Planning and Urban Growth that he was considering a formal investigation into the issue, to which they responded that they had "decided to establish a research project to investigate the matter thoroughly."

His response to this was classic Norman. "Why it now needs a survey to determine a situation that has been apparent to at least half the population for so long, is beyond my comprehension... It is a well known fact that a man and woman's time behind the bushes is different.... Perhaps the researchers could take the simple way out and ask the thousands of women who attended the Australia Day fireworks at Albert Park about queuing times."

Norman stayed on the case and reported again the following year: "after some hundreds of thousands of years of human life on earth, some factual research as to gender toilet practice is to be undertaken and as a result an adequate number of toilets for females will be prescribed in the Building Code of Australia Act."

He also described some of the well-known frustrations of an Ombudsman. I can certainly relate to these, though don't have an example quite as outrageous as the MP who wrote to him in 1992 on behalf of a constituent who had been suffering stomach problems for many years which the constituent traced back to about the time he purchased a pie in a Brunswick shop in the early 1970s. He wanted the Ombudsman to investigate the matter. Sadly, Norman didn't publish his reply.

He had a wonderful way with words: "This case has become another cross on the battlefield of futility where compassion and right are subservient to bureaucratic or legislative technicalities."

He didn't have much time for lawyers and even less for legalese: "A barrister's opinion does not have the reliability of a Melbourne weather report". And after a long battle to get hold of some legal advice an agency didn't want to provide: "the request for advice could be simplified to 'The Ombudsman has us over a barrel, how do we get out of this?'"

When he retired in 1994 his successor noted that he was the longest serving Ombudsman in the world. He was also active on the world stage – as Executive Secretary and Director of the International Ombudsman Institute, who presented him with honorary life membership in recognition of his outstanding service to the international Ombudsman community.

I had the privilege of meeting Norman soon after my appointment, and he would call me regularly to comment on my reports. I once asked him what he was proudest of in his tenure, and he told me it was the country visits programme and his employment of the first female investigation officers. He was clearly an early pioneer for women's equality and I think he was genuinely delighted that a woman was finally doing his old job.

The essence of the role of Ombudsman is, in the words of its early proponents, to 'humanise the bureaucracy,' to address the imbalance of power between the individual and the State. Norman understood, and never lost sight of, people's everyday struggles. He truly had the common touch. With his powerful sense of humanity in all its foibles and occasional absurdity; his integrity and compassion, his courage and moral authority, he was the embodiment of the role.

Reflecting on his work I am reminded of the words of the philosopher Edmund Burke: It is not what a lawyer tells me I may do, but what humanity, reason and justice tell me I ought to do.

It is what Norman believed, and it is an honour to walk in his footsteps.

Deborah Glass

(5th) Victorian Ombudsman

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About us

Establishment

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

Purpose

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

Operation

Our day-to-day work involves:

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

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

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

We have a function to monitor compliance with Part 2A of the *Prevention of Cruelty to Animals Act 1986* (Vic) and sections 71A(1) and 72A(1) of the *Domestic Animals Act 1994* (Vic).

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

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

Human rights

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

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

Our Charter function

Under the Ombudsman Act, we can enquire into or investigate whether an administrative action is incompatible with a human right set out in the Charter. We do this whenever we consider the substance of a complaint.

In 2017–18 almost half of the complaints we received involving human rights related to the treatment of persons when deprived of their liberty. Understandably, people held in closed environments such as prisons, juvenile justice centres and mental health facilities were the most likely to raise these issues. Other common areas of concern related to the right to protection of families and children and recognition and equality before the law.

We use our enquiry powers to deal with most matters we consider involve human rights issues. We do this to determine whether a matter can be resolved informally and whether an action or decision is incompatible with the Charter.

This year we conducted five investigations involving human rights issues. We focused on the rights of families and children in our reports on the management of maintenance claims against public housing tenants; the protection of disability group home residents; and the financial support provided to kinship carers.

In addition to the Charter, we also looked to international human rights standards in our report on expulsions in Victorian government schools, where we considered the United Nations Convention on the Rights of the Child; and our inspection of the Dame Phyllis Frost Centre was conducted in accordance with the Optional Protocol to the Convention Against Torture.



Case study: making decisions in the child's best interest

Michael* and his wife complained about the decision of the Department of Health and Human Services (DHHS) to allow a 'Family Reunification Order' to lapse. They were kinship carers for their two granddaughters and sought to care for them on a permanent basis.

Section 17(2) of the Victorian Human Rights Charter and the *Children, Youth and Families Act 2005* (Vic) provide certain protections for children that are in their best interest.

Following our enquiries, and considering the best interests of the children, DHHS acknowledged that its decision to allow the Family Reunification Order to lapse was not consistent with the permanency objectives in the Children, Youth and Families Act. DHHS also acknowledged that:

- more consideration should have been given to the need for ongoing and permanent care
- the children had not been allocated a child protection practitioner for the majority of time that DHHS was involved, and that this led to poor communication with the family, service delivery and decision-making
- extended family and carers were not adequately engaged in the child protection process.

To resolve the matter, DHHS committed to engage with the grandparents and convene a 'Family Led Decision Making Meeting' to finalise the long-term living arrangements and guardianship concerns for the children. DHHS also undertook to assist the grandparents apply for a long-term Children's Court Order and ensure they were linked with supports.

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

Our work

Our core statutory work falls into three main categories:

- informally resolving and investigating complaints about administrative action
- investigating systemic issues
- investigating protected disclosure complaints about improper conduct.

The Ombudsman Act defines ‘administrative action’ broadly. It can include a decision to grant a permit, a failure to provide a service, the formulation of a proposal, and the making of a recommendation to a Minister. We consider whether these administrative actions are contrary to law, unreasonable or unfair.

Our main function under the Ombudsman Act is to investigate administrative actions taken by or in an authority in the public sector. That may be a state government department or administrative office or another body such as:

- a private or public prison
- a body established by legislation, such as the Transport Accident Commission
- a local council
- a body acting on behalf of local or state government bodies.

We also undertake a range of other work: collaborating, educating and engaging with communities to raise awareness of our work, drive improvement in the public sector and ensure fairness is at the heart of administrative decision-making.

Figure 1: Who we can investigate



Vision

There are four principles that guide our work:

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

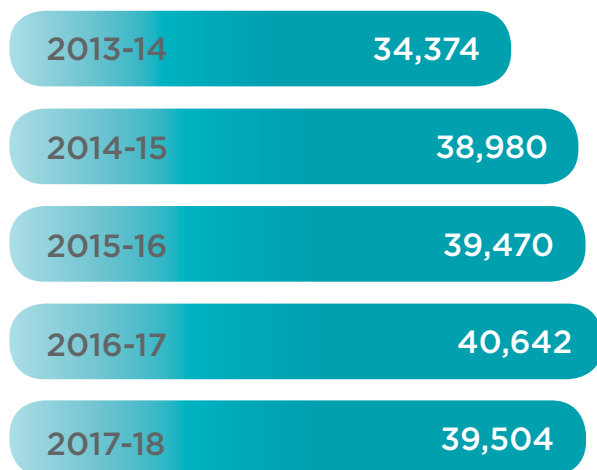
In 2017 we refreshed our strategic framework for the next three years.

Figure 2: Strategic framework 2017-2020



Contact with us

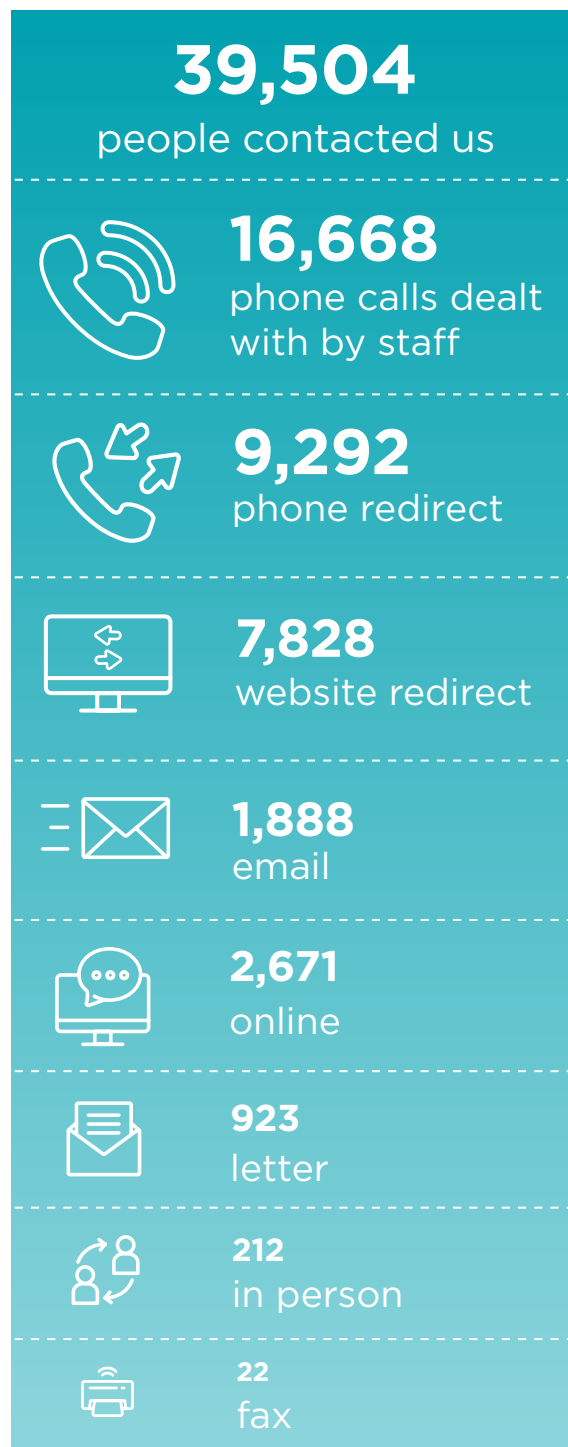
Graph 1: Contact with us over five years



When we are not the most appropriate body to handle a complaint, we direct people to somewhere that can. Since 2013 we have had a phone redirection service, and since 2014, both a phone and website redirection service. These have helped us get people to somewhere that can help without them having to speak to our staff. In 2017-18 our redirection services were used 17,120 times. Since 2014-15 about 45 per cent of total contact made has been redirected, meaning we can spend more of our effort on those matters we can deal with.

Excluding redirected contact, almost 75 per cent of contact was made by phone in 2017-18, an almost eight per cent increase since last year. Contact through our online form also increased by 24.5 per cent.

Figure 3: Contact with us in 2017-18



Matters dealt with

In this report:

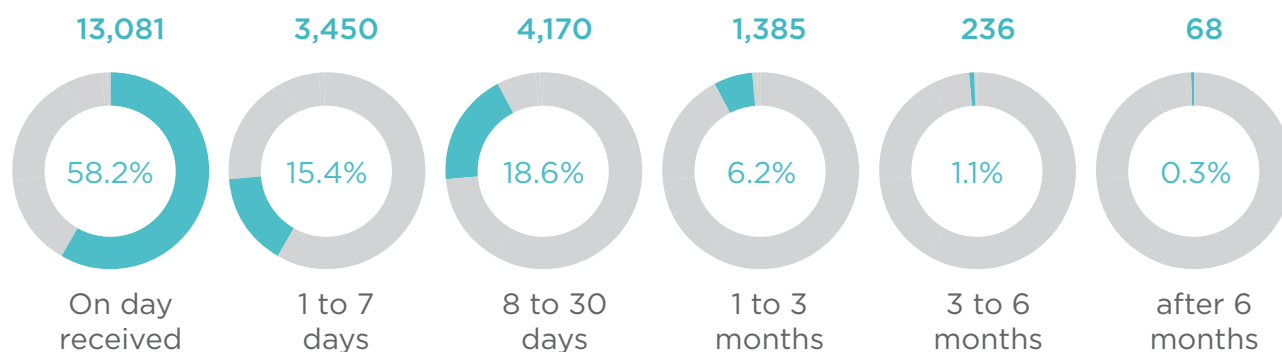
- a matter is any contact dealt with by an Ombudsman officer, not including redirected contact
- a complaint is a matter within our scope that was dealt with by an Ombudsman officer.

This year we finalised 22,390 matters – about the same as last year.

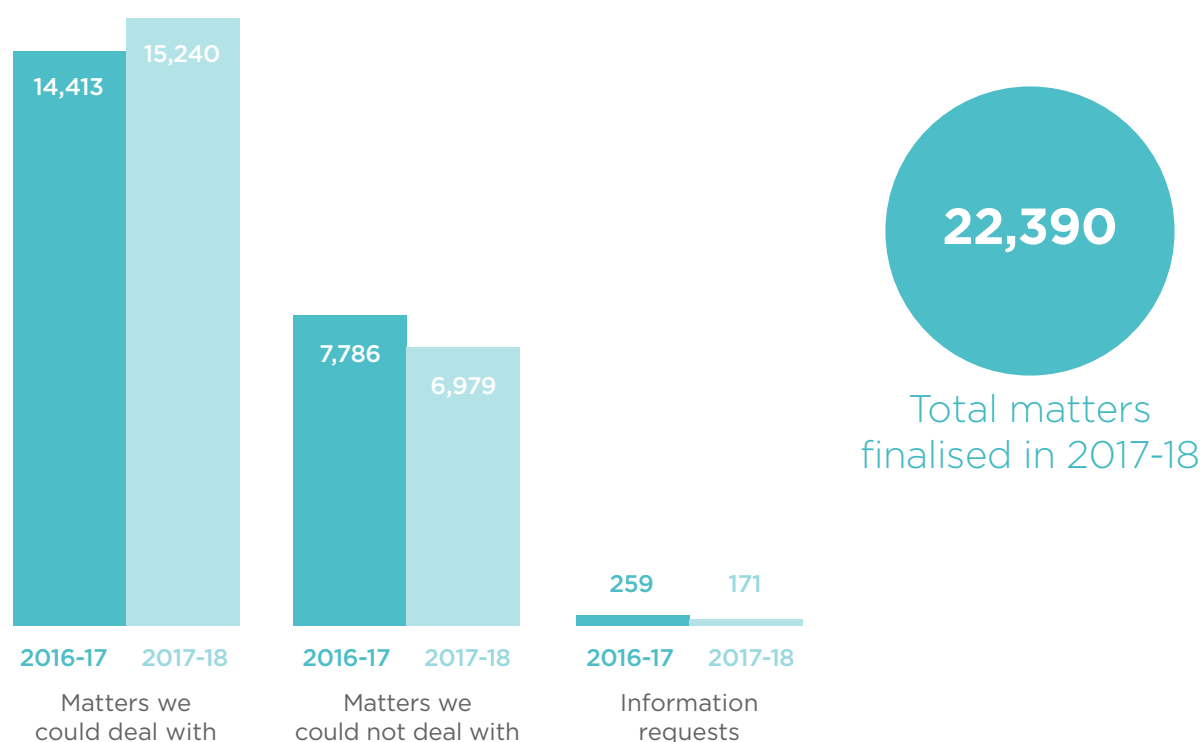
This includes matters we could deal with (within our scope), ones we could not deal with (outside our scope) and information requests. We are handling matters more quickly, finalising just over five per cent more on the day received than last year.

We also handled more matters that we can deal with this year, handling an additional six per cent.

Figure 4: How long it took us to finalise matters

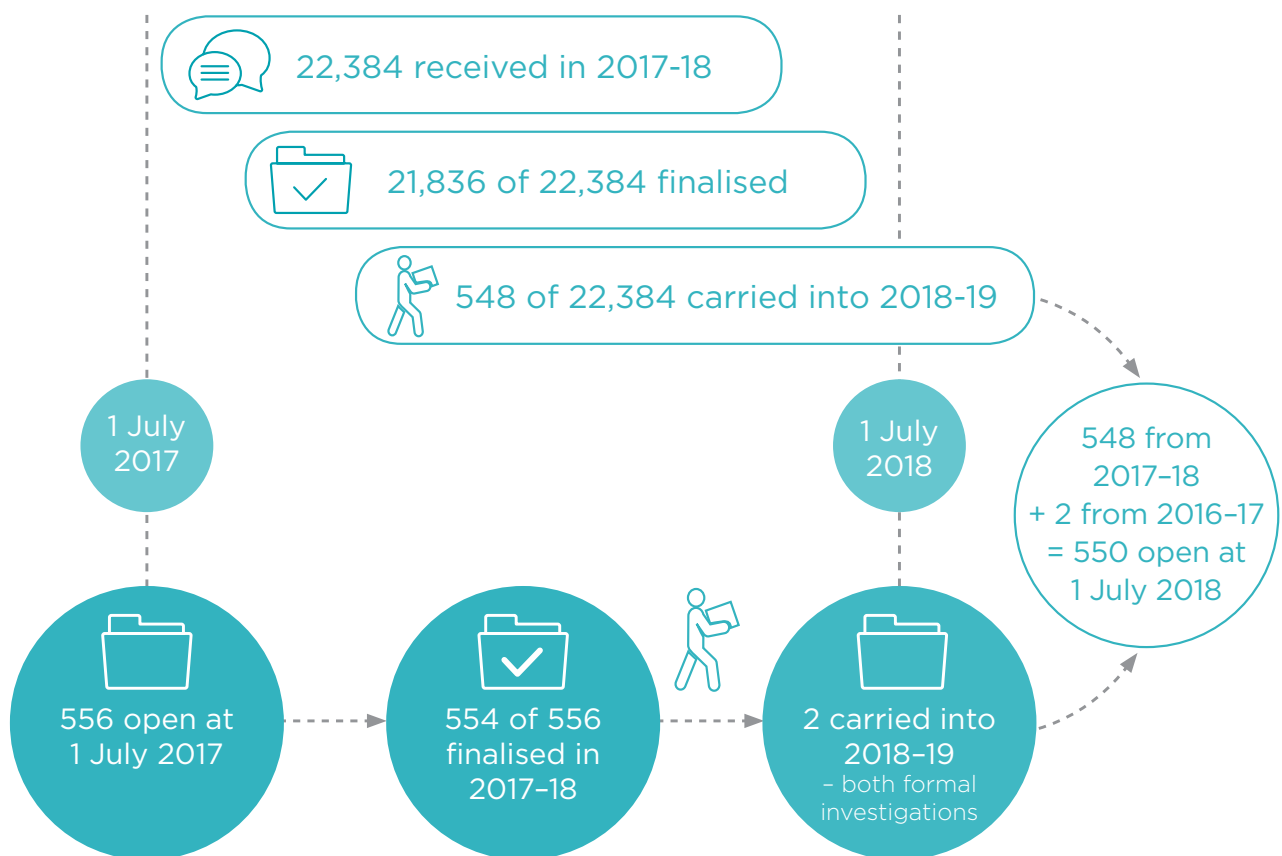


Graph 2: Matters handled in 2017-18



Matters carried over

Figure 5: Matters carried over



Formal enquiries and investigations

Last year we said that as we trial new ways of working, with our Early Resolution Team testing new approaches to resolve complaints, we were making more enquiries more often. We thought the percentage of enquiries we make may decrease over time as we embed these new practices, which is reflected this year.

The complexity of enquiries and investigations can vary greatly. They may simply involve a phone call or an email, or months of work and the tabling of a report in parliament.

Of the 41 investigations finalised in 2017-18:

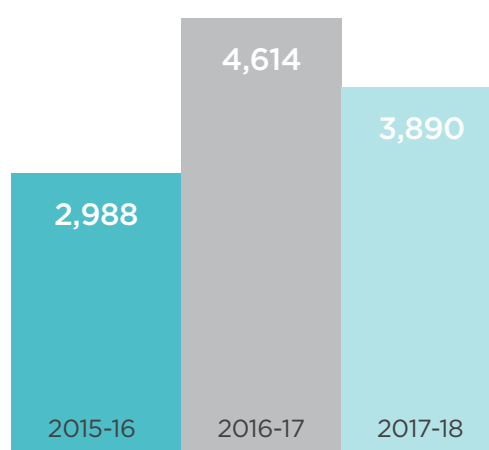
- twenty six were protected disclosure investigations
- seven arose from complaints made under the Ombudsman Act
- seven were own motion investigations
- one was referred to us by Parliament.

Recommendations

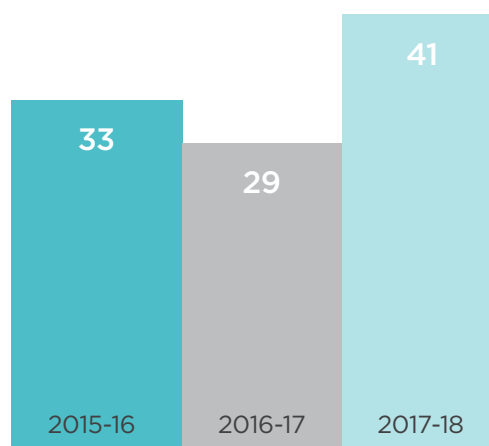
In 2017-18 we made 119 recommendations for change to state and local government, Ministers and authorities. Ninety-eight per cent were accepted. This includes recommendations in investigation reports not tabled in Parliament.

While we monitor the implementation of all recommendations, the Ombudsman reports publicly on the follow-up of recommendations made in public reports every two years. A report on the Ombudsman's recommendations made between 1 April 2016 and 31 March 2018 was tabled on 4 July 2018.

Graph 3: Enquiries finalised



Graph 4: Investigations finalised



Own motion enquiries and investigations

When we make an enquiry or begin an investigation without receiving a complaint, we are using our 'own motion' powers. Many of the reports we present to Parliament do not start with a complaint.

This year, we finalised 25 own motion enquiries and seven own motion investigations including an investigation referred to us by the Department of Economic Development, Jobs and Transport.



Report: Investigation into child sex offender Robert Whitehead's involvement with Puffing Billy and other railway bodies

This investigation was triggered by Wayne Clarke, a victim of child sex offender Robert Whitehead. Whitehead abused Mr Clarke in the 1970s after grooming him at a historical rail event. Whitehead was convicted of 24 child sexual offences in 2015 and died in prison later that year.

In 2016 Mr Clarke complained to the Victorian Government that Puffing Billy (a preserved steam railway popular with children) and other railway bodies had failed to remove Whitehead from their organisations despite being aware of his offending. The department asked the Ombudsman to investigate Mr Clarke's complaint.

During a 13-month investigation spanning five decades (see In focus box), the Ombudsman uncovered evidence of the Puffing Billy Board (the Emerald Tourist Railway Board) protecting its own reputation at the expense of children who were sexually abused. A Board Member warned his son, but not other boys, to stay away from Whitehead. In 1985 members of the Board knew that Whitehead was under police investigation for child sexual offences, yet he was not removed until 1991. Board members failed to act on complaints or even record contacts, in one case punishing the victim.

The Ombudsman found Puffing Billy had acted in a manner that was unreasonable, unjust and wrong, in failing to:

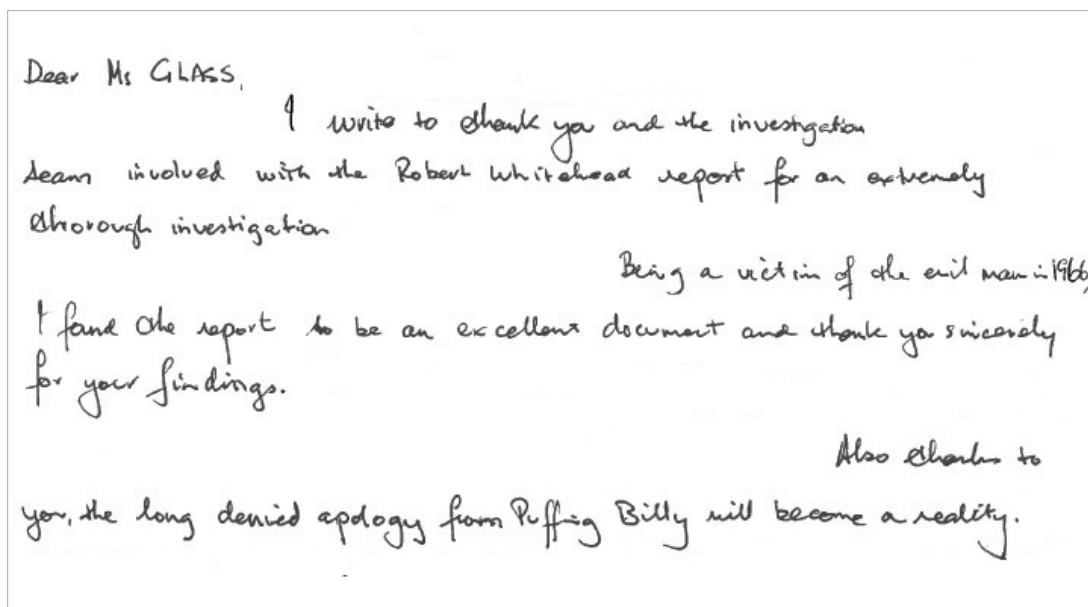
- consider the rumours and reports of Whitehead's offending against children in deciding to appoint him as Secretary of the Puffing Billy Preservation Society in 1980
- consider whether it was appropriate for Whitehead to remain involved with the Railway or whether he posed an ongoing risk to young volunteers following the police investigation in 1985
- put any mechanisms in place to monitor Whitehead's conduct or restrict his access to children
- take any action following a letter from a 17-year-old asking to return to Puffing Billy following a 'problem' with Whitehead and another offender, and instead upholding his ban from the Railway
- record any contact with victims who came forward, internally investigate any allegations or report the matter to police
- exclude Whitehead from the Railway until at least six years after its most senior members were approached by several victims who claimed they had been sexually abused by Whitehead.

The Ombudsman made nine recommendations including that Child Safe Standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse be implemented at Puffing Billy, to ensure the best interests of children are a primary consideration.

She also recommended the Board review the continued suitability of John Robinson, who was a Board Member continuously between 1977-99, as its CEO. Upon the release of the Ombudsman's report, the state government announced that Mr Robinson had resigned, as had all members of the Board. An interim Board was appointed, and the government is undertaking a comprehensive independent review of the governance and management of Puffing Billy.

The government also accepted the Ombudsman's recommendation that Mr Clarke, and any other victim of Whitehead, receive a public apology 'for the current and historical actions of government agencies who individually or collectively failed to protect children from sexual abuse'. The government said the public apology will occur after it has met and apologised to the victims in person.

We commend the courage and persistence of the survivors of the abuse, including Wayne Clarke.



Dear Ms GLASS,

I write to thank you and the investigation team involved with the Robert Whitehead report for an extremely thorough investigation.

Being a victim of the evil man in 1966, I find the report to be an excellent document and thank you sincerely for your findings.

Also thanks to you, the long denied apology from Puffing Billy will become a reality.

Image: Thank you letter to Victorian Ombudsman and investigation team.



In focus: what's involved in an investigation

The *Investigation into child sex offender Robert Whitehead's involvement with Puffing Billy and other railway bodies* took 13 months with a core team of two senior Ombudsman investigators and a Senior Project Officer from the Department of Economic Development, Jobs, Transport and Resources. The work involved included:

- Inspecting the Puffing Billy archives.
- The first full day involved two cars, four investigators, one IT specialist, two summonses exercising coercive powers for email and electronic data and an initial review of two Puffing Billy sites.
- Then, over 10 days in July 2017 seven Ombudsman investigators attended the archives, poring over tens of thousands of historical records, including minutes of meetings, policies and correspondence.
- Two Ombudsman investigators spending five days and over 100 hours at the Public Records Office of Victoria conducting historical research and reviewing archived state government documentary evidence.
- Obtaining and reviewing records from the 2014 Victoria Police criminal investigation into Whitehead, from the Office of Public Prosecutions Victoria and the County Court of Victoria regarding Whitehead and another convicted child sex offender, and a considerable number of other agencies (including the Departments of Education and Training and Justice and Regulation, four local councils, a historical society, VicTrack and open source intelligence) to obtain records concerning Whitehead or his involvement with historical railway groups.
- Publicly calling for evidence from members of the public with knowledge of the matters being investigated and taking evidence from the 18 people who contacted the office to provide information.
- Conducting 16 interviews with witnesses and subjects; some interviews held over two days.
- Offering an opportunity to the eight individuals and two authorities commented on in the report to respond to the material in the draft report.

Support services

Survivors of child sexual abuse committed in connection with Victorian railway organisations can access the Victorian Government's specialised support service on 03 9594 2289 (until at least December 2018). This free service is run by the Centres Against Sexual Assault (CASA) and provides confidential counselling for individuals, their families and other affected parties. If the Ombudsman's report raises any issues for you, please contact this service.

Support for victims of sexual abuse is available through the CASA and Sexual Assault Crisis Line on 1800 806 292.

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Driving improvement



Complaints

While the Ombudsman is best known for high profile investigations and public reports, the beating heart of our office is the tens of thousands of complaints we receive from the public each year. Complaints are our core business and the numbers we receive that we can deal with (in our jurisdiction) continue to grow.

When we receive a complaint, we might make enquiries to try to resolve it informally, without needing to begin an investigation. This usually involves asking for an explanation about an authority's actions. We may also ask for a proposed resolution.

We might make proposals if we consider the authority's actions have been unfair or unreasonable and when there is a practical outcome that can be achieved.

Early Resolution

In 2016 we reviewed our systems and processes to understand how we can resolve complaints faster and more effectively. In October that year, we created an Early Resolution Team (ERT).

Early resolution is an approach to assessing complaints which prioritises identifying and resolving them at the first possible opportunity, preventing small issues from growing into larger ones.

We work collaboratively with authorities – often on the phone – and make assessments about the prospects of resolving matters.

This team handles about 90 per cent of contacts to our office, closing most within 30 days.

The following case studies demonstrate some of the work ERT does.



Early resolution case study: Preventing an unwarranted licence suspension

Steven received three speeding fines from Victoria Police after his identity documents were stolen and his vehicle number plates copied. Because of these fines, Steven's driver licence was going to be suspended.

Steven applied to Fines Victoria to review the fines. Almost a month later, Fines Victoria told Steven it had lost his paperwork and he would need to start the process again. Steven re-sent the documents and was told he would have an outcome within 20 days. Steven was concerned he would not receive a response before his licence was suspended; among other things this would affect his ability to take his 97-year-old father to medical appointments and other services.

We contacted Fines Victoria and asked it to expedite the review process so a conclusion could be reached before the suspension was due to start.

The next day Fines Victoria let us know it had placed the fines on hold and it would withdraw them.



Early resolution case study: A genuine commitment to fix a mistake

Tanvi contacted the Ombudsman about Brimbank City Council's decision to refer his rates account to a debt collector for enforcement. Tanvi said he had paid these rates on time via a bank transfer. He said he disputed the matter with the debt collector, but when he was overseas, his son received a final notice and paid the rates again, along with a penalty.

Tanvi contacted the council about the double payment and the council asked him to send in evidence of the payments. He said that he did not think he should have to do this, that it was a breach of privacy and the situation was causing him 'extreme stress'. Tanvi refused to provide this evidence to the council as it was 'their fault... and they need to investigate'.

We decided not to make enquiries with the council. Rather, we encouraged Tanvi to engage with the council one more time, explaining that our focus is to resolve a problem informally and in a practical way. We told Tanvi that while it was clear there had been a mistake, the council's request for information showed a genuine commitment to resolve the issue. We said if the Ombudsman was to take on this matter, we would ask for the same information from him. We suggested that Tanvi could provide a redacted version of his bank statement to the council.

Tanvi accepted our advice and provided the evidence to the council. The council issued him a cheque for the additional rate payment and interest associated with the error.



Early resolution case study: Considering the circumstances

Sally's driver's licence required that she use an alcohol interlock device in any vehicle that she drove. These devices make random requests for breath samples and are fitted with a camera to record who is providing the sample.

When Sally's car was at a car wash, the device sounded twice and two violations were automatically recorded when she did not provide samples. The device's camera recorded a worker cleaning the boot of the car and a plastic cover over the driver's seat. After the car was given back to Sally, the device sounded again and she provided a clean sample.

Sally asked VicRoads to remove the violations because she was not in the car at the time. VicRoads said it would uphold the violations because, under the regulations, if it is unclear who is in possession of a vehicle when a device sounds, it can record a violation against the licence. This meant the device would stay on Sally's car for another six months, costing her at least \$1,110 in rental and administrative fees.

Under the regulations, VicRoads could issue the violations but it was not required to do so. We called VicRoads and spoke with the Interlock team. We said the decision did not seem to reflect the purpose of the regulations: to ensure people with a device fitted to their car are not driving with alcohol in their system.

VicRoads agreed to remove the violations as Sally had provided a clean sample when she returned to her car.



Early resolution case study: Resolving systemic issues informally – a TAFE’s nursing diploma

Students enrolled in a nursing diploma that was meant to finish in November 2016 were told their placements would not take place until March the following year. The students studied in metropolitan Melbourne through Bendigo Kangan Institute of TAFE and the placements had been arranged in regional Victoria.

Upon enrolment, the students had not been advised the placement dates and location were subject to change, and that this might impact their completion date.

Due to the deferred timing of the course and its location, some students missed out on employment and further study opportunities. One student had relocated interstate on the assumption the course would finish in November. The students were concerned about the additional expenses associated with accommodation and travel to the regional placements.

Seven students contacted us. We recognised the issue affected all 24 students enrolled in the diploma.

The TAFE agreed to participate in a video conference with us. We reflected on the students’ and TAFE’s points of view and recognised the efforts the TAFE had already made to resolve the issue. This included the TAFE changing course information to ensure it clearly set out that course completion was subject to change and placements could be in regional areas. It had also committed to place those students who had employment and educational offers first. We discussed potential outcomes which the TAFE said it would consider.

Ten days after the video conference, the problem was resolved. The TAFE decided to:

- Provide an ex-gratia payment of \$600 to all 24 students to contribute to the extra accommodation expenses that would be incurred by the students.
- Provide written confirmation that students had completed the course, pending formal accreditation for the students who needed that confirmation.
- Consider creating a Complaints Manager role to better manage student complaints.

Assessments

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

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

The following case studies demonstrate some of the work Assessments does



Case study: It's legal but not fair

James applied to the Victorian Building Authority (VBA) to become a registered draftsman. To support his application, he sent the VBA his (original) 408 page A1 and A3 photographic colour paper portfolio which represented years of his work, his Advanced Diploma Certificate and original transcripts. Later he decided he no longer wished to complete his application and requested the VBA return his documents. The VBA advised James its policy is that documents provided as part of an application should be copies and applications would not be returned as it forms part of the public record.

When James first contacted us about this, we called the VBA who said there had been a misunderstanding and James should write to them requesting the return of his documents, which he did. The VBA returned James' original A1 plans because they could not be stored on site and provided him with A4 copies of the other documents saying that 'unfortunately we cannot return your original application for registration as a draftsman as the documentation are now the property of the Victorian Building Authority'.

James told us he was naïve to send his original documentation and said the loss of his original work would have an ongoing detrimental effect to his future job applications.

While in accordance with the letter of the law, we did not consider it in accordance with its purpose for the VBA to hold onto the original documents in the circumstances. We called the VBA who agreed to return all original documents to James given the circumstances.

As James was concerned about the documents being damaged in the post, we arranged for him to pick them up from the VBA. He then came to our office to thank us for our help and tell us the case was now closed.



Case study: Noise complaint can make a racket

Michael reported noise complaints about late night music at a local pub over many months to Greater Bendigo City Council (the council), the Environment Protection Authority (EPA) and the Victorian Commission for Gambling and Liquor Regulation (VCGLR). He received responses from all three authorities:

- EPA referred him to the council noting it may have a role to work with the council to resolve the matter.
- The council referred him to VCGLR as the concerns involved music noise from public premises and were matters that could be in breach of the Liquor Licence.
- VCGLR advised it is investigating but that this is taking time.

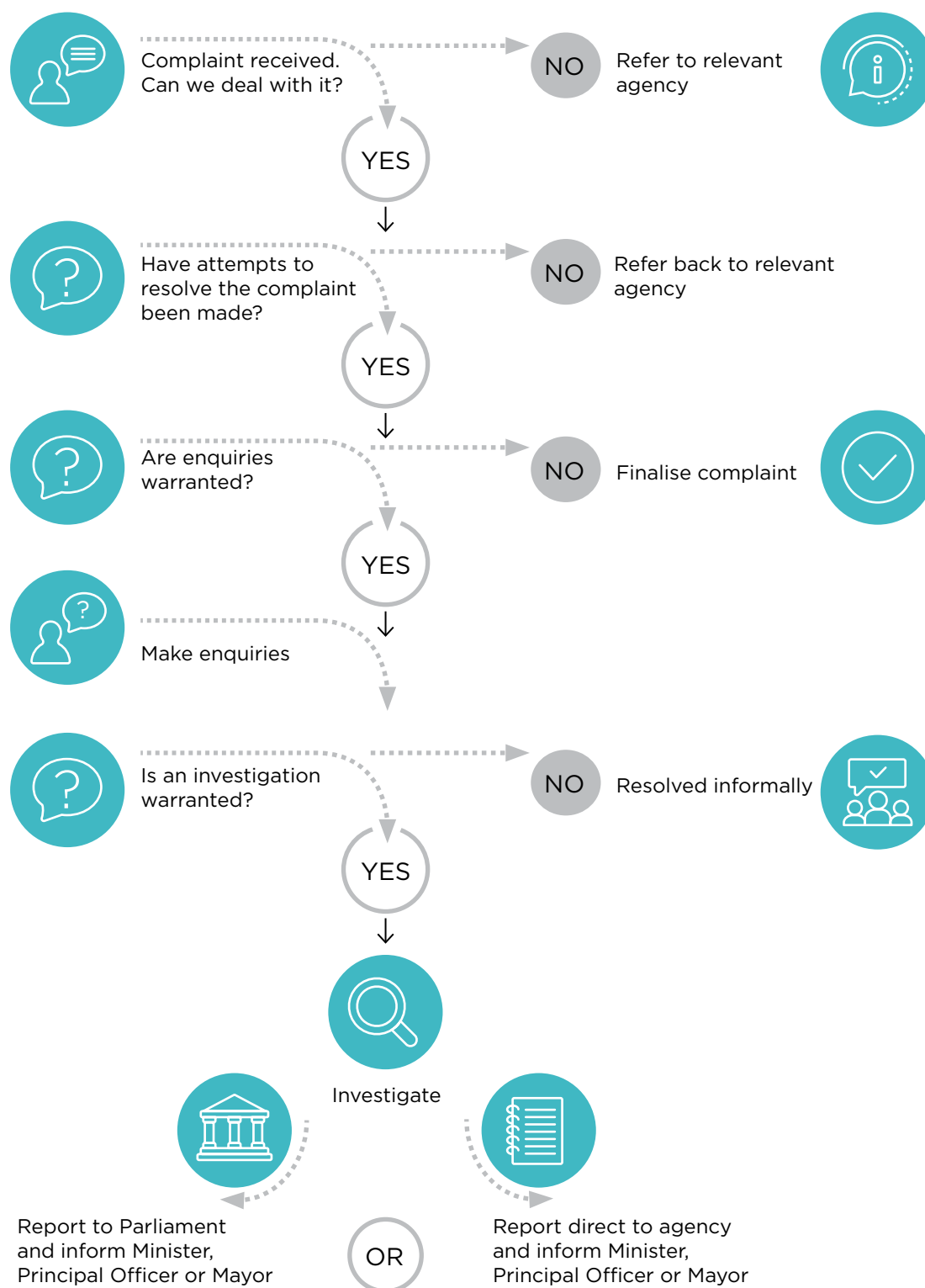
We reviewed the responses to Michael and researched relevant legislation including the *Victorian Commission for Gambling and Liquor Regulation Act 2011* (Vic), *Liquor Control Reform Act 1998* (Vic), *Public Health and Wellbeing Act 2008* (Vic) and the council's policy on its approach to noise complaints.

We made enquiries with the council and VCGLR and reviewed the numerous documents provided in response. We did not continue our enquiries with VCGLR as it had acted and was still looking at the matter. We met with the council to discuss our understanding of the Public Health and Wellbeing Act which places obligations on councils to investigate and resolve nuisance complaints and provides councils with a specific set of enforcement powers to assist it in addressing nuisance concerns raised with it. We were concerned the council's approach was not in line with the Act and the council's obligations.

The matter was resolved with the council advising it would resume its investigation into Michael's noise complaint and committing to review its noise complaint policy to ensure it is in line with the Public Health and Wellbeing Act. The council has now updated its policy and the information available to the public on its website.

Investigating complaints

Figure 6: Complaint flowchart



If we are unable to resolve a complaint, and if we consider it to be in the public interest, we investigate.

In one case this year we investigated Wodonga City Council's charging of its waste management levy which affected all of its ratepayers for over a decade.



Report: Investigation into Wodonga City Council's overcharging of a waste management levy

On 18 June 2016 the Ombudsman received a complaint that Wodonga City Council had been over-charging its ratepayers a waste management levy by about \$3.7 million per year since 2008. After investigators made initial enquiries with the council and met with the person who made the complaint, the Ombudsman decided to investigate.

The investigation involved:

- obtaining and reviewing the council's financial records, budget documents, and internal briefing notes and reports
- interviewing officers from the council, Local Government Victoria and the Essential Services Commission
- reviewing publicly available information about the council's waste management charge, including media articles.

The investigation found the council had collected at least \$18 million in extra revenue from its waste management charge over the previous decade. Nearly one third of the revenue raised through the charge had been spent on services other than waste, such as the maintenance of parks, gardens and other council activities. The Ombudsman found the council maintained the practice, among other things, to avoid 'unnecessary negative public reaction which may result from shifting the charges to (general rates)'.

We concluded the council had acted in a manner that was wrong.

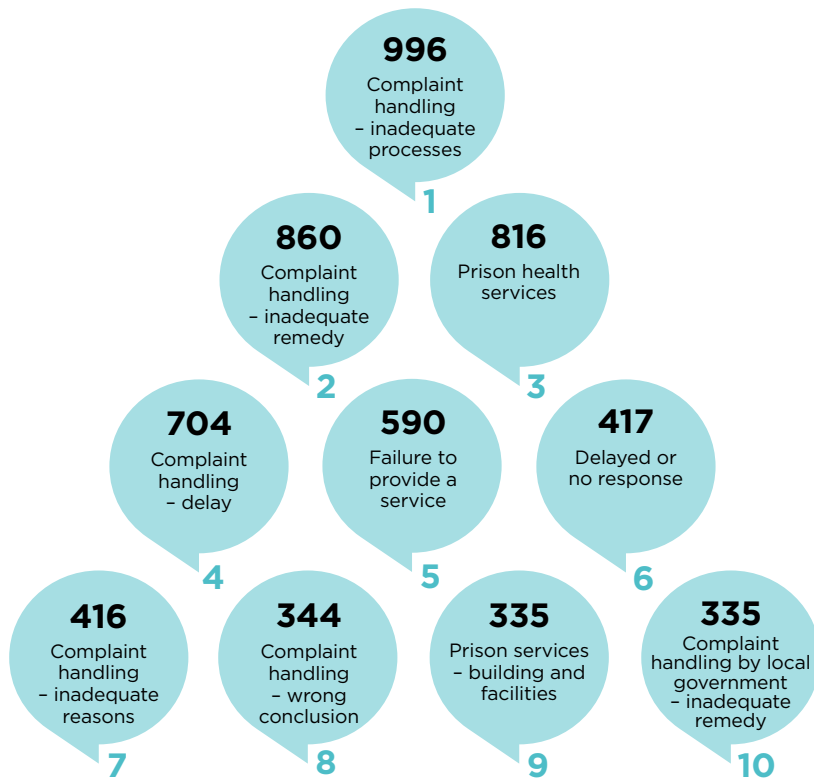
Wodonga Council accepted the Ombudsman's recommendation that it reduce its waste charge within three years, bringing it in line with the cost of providing waste-related services. In its 2018-19 budget document, the council says it decreased the waste charge by 20 per cent (or \$51.20) in the 2018-19 year.

Conscious that 72 out of 79 Victorian councils have a waste management charge, the Ombudsman recommended the Local Government Act be amended to require that charges for the collection and disposal of refuse reflect the reasonable costs of providing that service. The Local Government Bill 2018 currently before Parliament includes measures to ensure service charges levied by councils do not exceed the cost of those services.

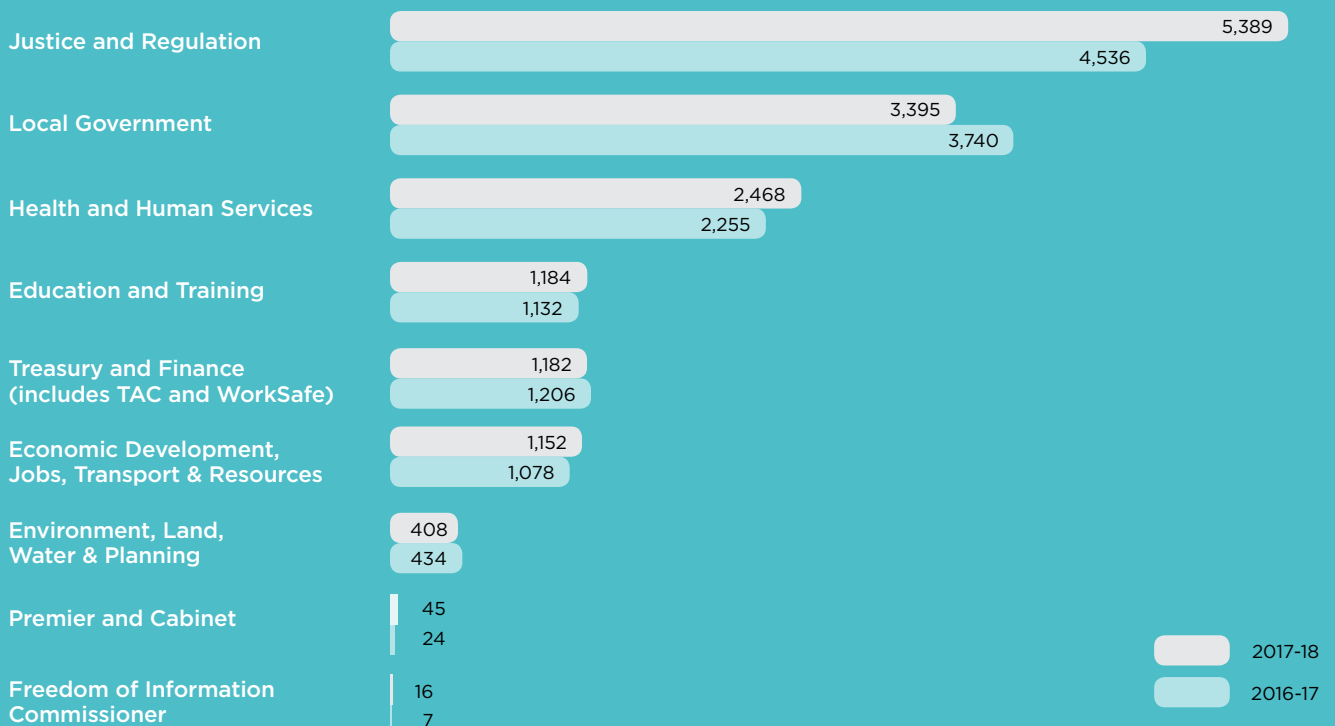
What people complained about

There are consistent themes to the top ten issues complained about to our office over the last few years. This includes complaint handling, failing to provide a service, prison health services and unreasonable parking enforcement (which this year just missed the top ten with it being raised 325 times).

Figure 7: Top 10 issues complained about to the Ombudsman in 2017-18



Graph 5: Complaints about departments (including their agencies)



Corrections, Justice and Regulation

Corrections, Justice and Regulation includes:

- Corrections Victoria, which manages Victoria's prisons
- the Department of Justice and Regulation which manages youth justice
- Justice Health, which provides health services in public prisons
- Civic Compliance Victoria, now Fines Victoria
- the Sheriff's Office
- the Victorian Commission for Gambling and Liquor Regulation.



Fast facts 2017-18



5,389
complaints



35%
of total
complaints

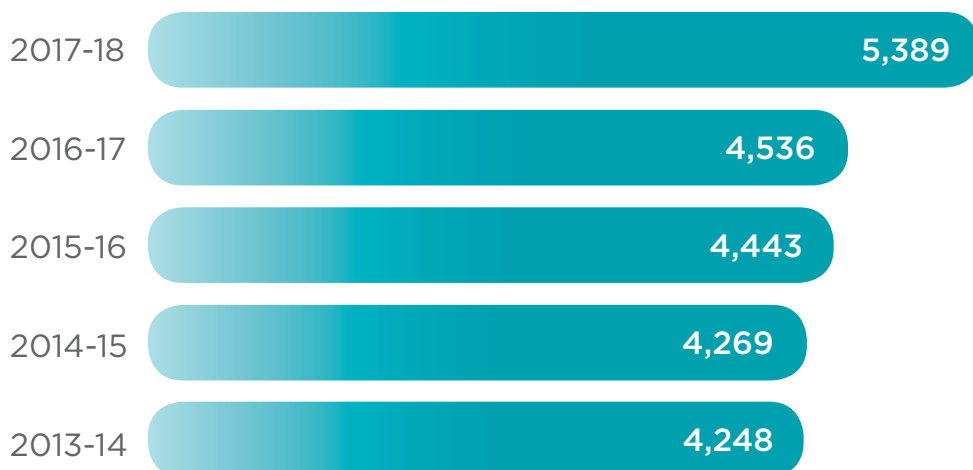


76%
about
prisons



92%
of complaints
about prisons
received by phone

Graph 6: Complaints about Corrections, Justice and Regulation over five years





Corrections, Justice and Regulation

This year there was a 19 per cent increase in complaints about Corrections, Justice and Regulation compared to 2016-17. This was due mostly to an increase in complaints about prisons, which is unsurprising given increasing prisoner numbers and the opening of the new Ravenhall prison.

Though the majority of complaints we receive about the department are a result of the toll-free phones that connect prisoners to our office, a considerable number are related to non-Corrections agencies. Fines Victoria – the authority responsible for the administration of traffic, unregistered vehicle and other infringements – is one of those agencies.



Case study: 'fine' work resolving an unfair infringement

Lukas contacted our office about two fines he had received for traffic offenses that he could not have committed because he had recently sold his car.

Lukas had asked Fines Victoria to review the infringements, and sought to nominate the relevant driver. He told us he had twice requested a written outcome from Fines Victoria but had yet to receive it. In the meantime, he had lost his licence and received four demerit points.

We made enquiries with the Department of Justice and Regulation, who contacted the Traffic Camera Office. The department let us know that one of the nominations was rejected by the Traffic Camera Office as Lukas had not provided all the required details. As the fine related to an excessive speed offence an automatic licence suspension occurred. The second nomination had yet to be determined.

Within ten days of our enquiries, the Traffic Camera Office contacted Lukas to obtain the additional information for his nomination application, and then withdrew the infringements and reinstated his license.

Prisons

We deal with a range of issues about prisons, raised both by prisoners and people outside prison. These may be about access to health services, concerns about the process for recovering property inside prison or a family member's access to their relative in prison.

In 2017-18, we dealt with:

- 816 prison health services issues
- 626 prison complaint handling issues
- 334 issues to do with prison facilities
- 296 prison property issues
- 272 issues to do with prison telephones
- 246 issues to do with access to visits
- 202 sentence management issues
- 146 issues with prisoner food
- 124 concerns about prisoner funds
- 119 management unit issues.

Of the human rights complaints made to our office in 2017-18, the most common issue raised was – and has consistently been – about treatment when deprived of liberty under the Victorian Human Rights Charter.



Case study: Protecting prisoners from degrading treatment

Donovan contacted our office because prison staff in his protection unit had stopped providing him with the incontinence aids he needed and he was worried about what might happen.

We identified that this impacted on Donovan's right to protection from degrading treatment under the Victorian Human Rights Charter and made enquiries with the prison who determined that Donovan required the aids for ongoing treatment of a medical condition. The prison spoke to senior unit and medical staff and the issue was promptly resolved.



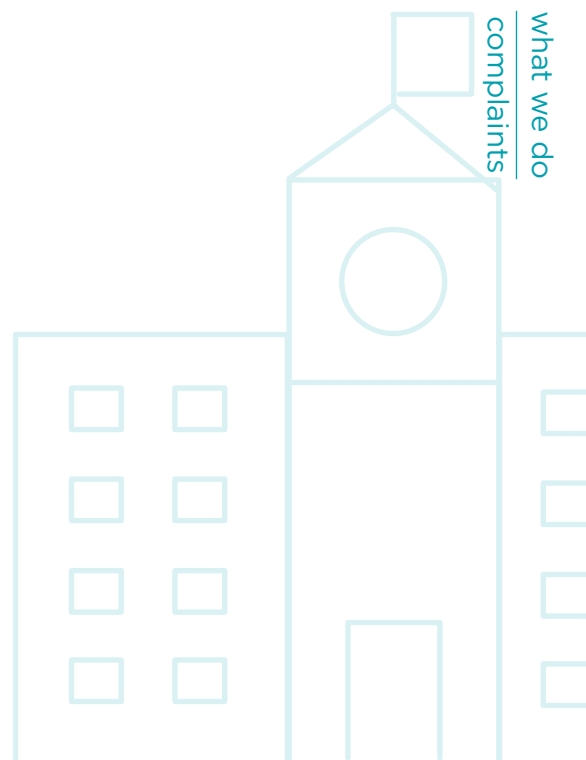
Case study: Arranging for daily medication to be supplied

Monty is an HIV-positive prisoner who requires daily anti-viral medication. He contacted our office because he had been transferred to a new prison three days earlier and the prison had run out of his medication.

Monty told us that previously his medication had been sent to the wrong prison when he was transferred to another prison and he went without it for five days.

We made enquiries with Justice Health who arranged to have the medication sent to the prison that day and asked the prison to ensure that scripts were reviewed at least a week before their expiry so there would be no break in providing medication.

Local government



Fast facts 2017-18



3,395
complaints



22%
of total
complaints



2
investigations

Graph 7: Complaints about local government over five years





Local government

Complaints about local government typically make up about a quarter of all those we can deal with; in 2017-18 they made up 22 per cent.

This year there was a nine per cent decrease in complaints about councils, although issues raised remained the same as previous years. The issues raised were across the range of council services including planning, nuisances, local laws, parking and rates. Complaints also concerned conflict of interest, improper conduct, poor governance and complaint handling. In 2017-18 complaints about the way councils are handling complaints accounted for four of the top ten issues raised about local government.

We continue to monitor how councils are putting into practice lessons from our 2015 *Councils and complaints – A report on current practice and issues*.



Case study: Considering reasonable adjustments

William parked his unregistered car outside his property. He was unable to move the car as his son had taken the keys with him overseas, and he was waiting for them to be posted back.

Some time later William's friend told him there was a sticker on the car to call a number. The sticker was orange and due to William's colour blindness he was unable to read it. He thought the sticker was from the police – who he had already spoken to and explained his situation about the keys.

The sticker however was from the council, which then towed William's car. William told us that the council had said his car would be sold if he did not pay \$200.

We made enquiries with the council and explained William's situation, including the impact of his colour blindness. To resolve the issue the council transported William to the council's vehicle impound facility and returned his car to him, waiving all associated costs. It also agreed to review the colour and format of the sticker considering the needs of people with a visual impairment.



Case study: Parking and proper process

Tony received an infringement for parking in a permit zone without a permit. He challenged this as there was no permit sign, giving the council a google image showing the sign had been there, and a photo he took on the day which showed the sign had been removed. The council however upheld the infringement.

We do not usually act on infringement matters as there is a general right of review in a court or tribunal, but given the evidence in this case, we made enquiries with the council.

The council reviewed the case, revoked the infringement and reimbursed Tony the money he had paid on the fine. The council said the officer who issued the infringement had reported at the time that the permit sign was missing. While the infringement was valid in accordance with the relevant road rules, council practice is to not issue an infringement if a sign is missing. It updated its parking operating procedures to make this clear. It also updated its internal review procedures for processing infringement appeals in cases of missing signs. It committed to reviewing other infringements issued in similar circumstances for that area and would arrange for them to be withdrawn and people reimbursed where appropriate.

Complaints about local councils

Table 1 lists the number of complaints received by the Ombudsman about each of Victoria's 79 councils. These must be viewed in context: each number reflects only the complaints made direct to the Ombudsman. This is not the same as the total number of complaints about each council, which includes complaints made direct to the council or other bodies where the Ombudsman's office is not involved.

It also does not reflect the number of substantiated complaints made about each council. As for other agencies, when the Ombudsman receives a complaint about a council, we advise the person to contact the council first to try and resolve the complaint, if they have not already done so. If we do enquire into the complaint,

in most cases we would seek to resolve it informally, rather than investigate. Where a complaint is informally resolved, we do not determine whether the complaint is substantiated. We may also receive complaints where a specific grievance illustrates a wider issue, and we make proposals for administrative improvement.

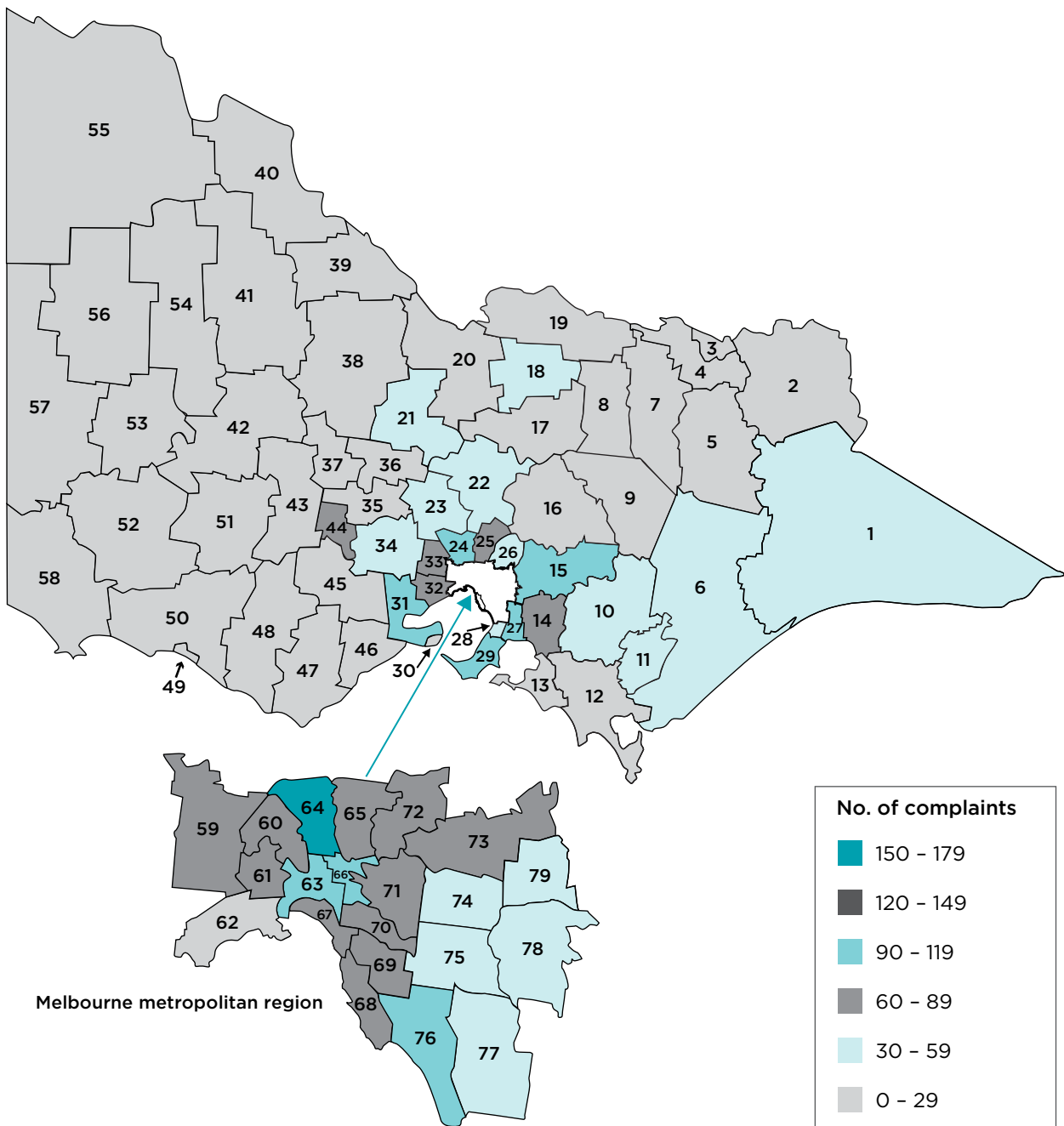
While the information above is not routinely captured in the Ombudsman's annual statistics, we are mindful of the public interest in local council complaints and considering the practicality of requesting further data to present a fuller picture.

This year we received at least two complaints about every municipality. We also received 84 matters where the council was not identified.

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

Local council	Total	Map no.	Local council	Total	Map no.
Moreland City Council	151	64	Nillumbik Shire Council	32	26
Greater Geelong City Council	115	31	Moorabool Shire Council	32	34
Casey City Council	115	27	Hobsons Bay City Council	28	62
Melbourne City Council	112	63	Wodonga City Council	25	3
Hume City Council	110	24	Bass Coast Shire Council	24	13
Yarra City Council	99	66	Hepburn Shire Council	23	35
Mornington Peninsula Shire Council	97	29	Moyne Shire Council	22	50
Kingston City Council	90	76	Mount Alexander Shire Council	20	36
Yarra Ranges Shire Council	90	15	South Gippsland Shire Council	20	12
Maribyrnong City Council	85	61	Moirā Shire Council	18	19
Unidentified local Council	84	-	Surf Coast Shire Council	17	46
Boroondara City Council	83	71	Central Goldfields Shire Council	17	37
Glen Eira City Council	82	69	Murrindindi Shire Council	17	16
Whittlesea City Council	81	25	Colac-Otway Shire Council	16	47
Stonnington City Council	80	70	Golden Plains Shire Council	16	45
Brimbank City Council	80	59	Campaspe Shire Council	16	20
Port Phillip City Council	77	67	Pyrenees Shire Council	15	43
Wyndham City Council	74	32	Loddon Shire Council	15	38
Manningham City Council	73	73	Towong Shire Council	15	2
Darebin City Council	72	65	Northern Grampians Shire Council	14	42
Bayside City Council	69	68	Benalla Rural City Council	14	8
Banyule City Council	65	72	Wangaratta Rural City Council	14	7
Cardinia Shire Council	65	14	Warrnambool City Council	13	49
Ballarat City Council	63	44	Hindmarsh Shire Council	12	56
Moonee Valley City Council	63	60	Mildura Rural City Council	12	55
Melton City Council	60	33	Strathbogie Shire Council	12	17
Whitehorse City Council	58	74	Indigo Shire Council	11	4
Frankston City Council	55	28	Alpine Shire Council	10	41
Greater Dandenong City Council	51	77	Southern Grampians Shire Council	10	52
Monash City Council	50	75	Glenelg Shire Council	8	58
Wellington Shire Council	47	6	Horsham Rural City Council	7	53
Knox City Council	47	78	Queenscliffe (Borough of)	7	30
Greater Bendigo City Council	41	21	Swan Hill Rural Council	7	40
Macedon Ranges Shire Council	39	23	Mansfield Shire Council	6	9
Greater Shepparton City Council	37	18	Ararat Rural City Council	5	51
Latrobe City Council	37	11	Buloke Shire Council	4	5
Maroondah City Council	35	79	Yarriambiack Shire Council	2	54
Mitchell Shire Council	35	22	Corangamite Shire Council	2	48
East Gippsland Shire Council	33	1	Gannawarra Shire Council	2	39
Baw Baw Shire Council	33	10	West Wimmera Shire Council	2	57
Total				3,395	

Figure 8: Complaints about Victoria's 79 local councils in 2017-18



Department of Health and Human Services

Before January 2015, Health and Human Services were separate departments. To illustrate complaint trends over the last five years, Graph 10 shows a combination of complaints about both departments between 2013-14 and 2017-18.



Fast facts 2017-18



2,468
complaints



16%
of total
complaints



43%
about child
protection

Graph 8: Complaints about Health and Human Services over five years





Department of Health and Human Services

The Department of Health and Human Services' (DHHS) responsibilities include public housing, child protection services, disability and health services, and a range of other services across Victoria.

DHHS has consistently been the third most complained about department, and the human rights issue raised most after treatment when deprived of liberty is the right to protection of families and children. This reflects the many complaints we receive about Child Protection matters. In 2017-18 we finalised 1,065 Child Protection complaints.

Similar to previous years, the most common issues complained about related to complaint handling or the quality of or failure to provide a service. For example:

- a delay in responding to a complaint, or not responding at all
- a delay or failure to provide housing maintenance services.

The case studies and report illustrate some of the issues people raise about DHHS.



Case study: Securing a property

A prisoner with an acquired brain injury contacted our office seeking assistance to have the Office of Housing change locks at his property as he did not understand what he needed to do to have them changed.

He was concerned his property would be vandalised while he was in prison.

When his mother contacted the Office of Housing to have the locks changed she was told her son would need to request the lock change personally or provide authority for his mother to act on his behalf.

In response to our enquiries a local housing officer went to the property, identified it was unlocked with no available keys and arranged for the locks to be changed to secure the property.

The new keys were delivered to the local housing office which the prisoner could pick up once he was released.



Report: Investigation into the financial support provided to kinship carers

Kinship care is an increasingly important and relied upon form of out-of-home care for children who cannot live with their parents or immediate families. Although kinship carers are the backbone of out-of-home care, they are not afforded the same level of funding or support compared with foster carers.

We had received complaints from kinship carers about delays and errors in processing kinship care payments and requests for increased allowances.

Previous research had already revealed that kinship carers were often disadvantaged themselves. They are more likely to be older, female, single and experiencing their own challenges, such as poor health and financial hardship. The research also showed kinship care was critical to ensuring Aboriginal and Torres Strait Islander children in out-of-home care maintained a connection with their kin and culture. These children are significantly overrepresented in out-of-home care placements when compared to their non-Aboriginal and Torres Strait Islander counterparts.

Within this context, we investigated DHHS's oversight of the kinship care system, focussing on the financial support provided to kinship carers.

We found serious deficiencies in DHHS's administration of financial supports provided to kinship carers. These deficiencies repeatedly placed kinship carers under financial stress and were not in the interests of the children.

Kinship carers were automatically allocated the lowest level of allowance. This could be increased, however DHHS routinely failed to complete the assessments required to determine the needs and interests of the children and failed to initiate the application for a higher allowance, leaving children inadequately supported.

Additionally, kinship carers were burdened with having to repeatedly prove their entitlement to financial support. These issues were further compounded by DHHS's lengthy delays in processing applications and payments, and a general lack of information available to kinship carers about the application process and their eligibility for a higher care allowance.

The unnecessarily complicated processes involved in the administration of financial support for kinship carers not only caused financial hardship to kinship carers, but also potentially resulted in a poor outcome for the child where they were unable to stay in kinship care and removed to foster or residential care.

continued on next page...



Report: Investigation into the financial support provided to kinship carers

We concluded that the department's failure to take into account the best interests of the child when making decisions with respect to financial support for kinship carers was incompatible with their human rights under the Victorian Human Rights Charter. Overwhelmingly, we found the way in which kinship carers were treated in terms of their access to adequate financial support to be inequitable, unjust and wrong.

The findings of the investigation showed there was a clear case for DHHS to improve the financial support available to kinship carers. Our recommendations addressed the inequity in the system; the need to complete assessments to ensure that children in out-of-home care kinship placements have their needs and interests met; and the need to increase information and awareness of the financial support that is available to kinship carers, to both carers and the Child Protection Practitioners who are responsible for ensuring that a child placement is adequately resourced.



As part of the investigation, we attended three kinship carer support groups, met with kinship carers, funded service providers and other key stakeholder groups such as Kinship Care Victoria, the Victorian Aboriginal and Young People's Alliance, the Victorian Aboriginal Community Controlled Health Organisation, the Centre for Excellence in Child and Family Welfare Inc and Foster Care Victoria, and attended a kinship services forum. We continue to build on this engagement, attending two kinship carer forums since the report and meeting with the Victorian Aboriginal Legal Service to explain our role, what we do when we receive kinship complaints, and how to refer people to our office.

In addition to the cases examined during the investigation, the office has continued to receive complaints from kinship carers; we have included two examples as case studies. As a result of enquiries and investigations undertaken by the office since the report, a further \$201,224 of entitlements including back payments have been made to kinship carers. \$4,108 in debt claimed by DHHS has also been waived.



Case study: A back-payment of \$41,000

Alice is the grandmother of Luisa and Michelle. Luisa has been mostly in Alice's care since birth and Alice has provided ad hoc care for Michelle over the years. Alice contacted us about DHHS's failure to pay a kinship care allowance for both girls.

Our enquiries identified deficiencies in DHHS's assessment of protection concerns and case planning for the grandchildren and identified that Alice was entitled to a kinship care allowance.

To resolve the matter we proposed DHHS:

- undertake a kinship care assessment
- assess care allowance eligibility
- review the case plan
- provide feedback and development to the child protection practitioners involved.

DHHS accepted these proposals. It assessed Alice as a suitable kinship carer and Alice received a care allowance for Luisa and a back-payment of \$41,000. DHHS took action to ensure Michelle's welfare and also facilitated a reflective practice session with the child protection practitioners involved.

The Acting Director of the relevant Division also wrote to Alice stating:

Your commitment to the care of your grandchildren should have been acknowledged and supported by the department at the time of child protection involvement. I sincerely apologise for the department's delay in identifying your entitlement to the care allowance and the distress and difficulty this has caused you whilst caring for your grandchildren.



Case study: A back-payment of \$43,766

Deanna cares for her grandson Ethan and contacted us about DHHS's decision to not provide her a kinship care allowance from 2013.

Our enquiries resulted in DHHS identifying decisions made in 2013 were not consistent with their policies including not completing any kinship assessments and not informing Deanna of the financial support provided to kinship carers.

To fix this it completed the kinship care assessment and Deanna received a back-payment of \$43,766 and a fortnightly care allowance for Ethan.

Systemic investigations

Many of the resolutions reached as a result of our work have an impact on individuals, such as an infringement being revoked or contact being facilitated between an authority and a person, but some of the matters we consider have wider reaching, systemic impact. We don't need to receive a complaint about an issue to initiate an investigation; we can conduct an investigation on our 'own motion'. Own motion investigations are, often, informed by complaints we receive, as were three of the systemic investigations we undertook in 2017-18.



Report: Investigation into the administration of the Fairness Fund for taxi and hire car licence holders

In October and November 2017 the Ombudsman received 40 complaints from taxi and hire car licence holders about the Fairness Fund.

Administered by the Department of Economic Development, Jobs, Transport and Resources, the Fund was established to provide financial assistance to taxi and hire car licence holders suffering 'significant financial hardship' resulting from reforms to the industry announced in 2006.

The complaints were about:

- delays in the department's processing of applications to the Fund
- inadequate communication with applicants about the status of their applications, which many said exacerbated their anxiety around their financial situation
- lack of transparency around decision making on applications.

A further 24 complaints raising similar issues were made to the Ombudsman after we announced on 30 November 2017 that we were investigating the Fund's administration.

The investigation examined if there had been unreasonable delays in processing applications and whether the department had communicated sufficiently with people about their applications. It did not examine decisions regarding payment, given payments from the Fund were ex gratia, meaning they were discretionary and there was no obligation for the government to provide them.

The Ombudsman found that the department acted in a manner that was unreasonable by:

- failing to establish and resource the scheme sufficiently to meet the reasonable likelihood of demand
- failing to transparently communicate with licence holders about their application to the Fund, including reasons for delay.

Much better planning and communication, including managing expectations, would have avoided many of the complaints. We hope that government departments and agencies will consider the report – and the lessons learnt from the administration of the Fund – prior to the establishment of ex gratia payment schemes.



Report: Investigation into Victorian government school expulsions

On 1 September 2016 the Ombudsman announced her decision to investigate Victorian state government school expulsions. This was the result of:

- a number of complaints from parents and guardians about expulsions being a disproportionate disciplinary response, there not being the opportunity to be heard, and a lack of support for students to find another school
- a 2016 report released by the Youth Affairs Council Victoria which concluded expulsions led to students disengaging from education and found a correlation with the longer-term disadvantage
- complaints data from the Department of Education and Training (DET) which indicated a 25 per cent increase in expulsions between 2014 and 2015
- public concern about youth crime in Victoria, and the known correlation with disengagement from education.

While comparatively few students are formally expelled from Victorian government schools, the consequences for those students can be significant. Despite this, DET's collection of expulsion data was inadequate, with information collected haphazardly and records being incomplete and insufficient.

The inadequacy of DET's data collection limited its ability to effectively have oversight of expulsions and to make informed policy decisions, which contributed to DET's failure to:

- ensure schools complied with the Ministerial order that seeks to protect students from being unfairly expelled
- identify and address the prevalence of expulsions among vulnerable groups of students.

From the limited information available, the investigation found that a disproportionate number of expelled students were from vulnerable groups – children in out-of-home care, who have disability or are Aboriginal or Torres Strait Islander – and often had experienced childhood trauma.

We considered relevant human rights under the Victorian Human Rights Charter and United Nations Convention on the Rights of the Child and noted that a decision to expel or exclude a child from a state school that does not give proper consideration to the child's rights, may be unlawful.

There is no doubt that dedicated principals and teachers can find themselves in a difficult position, balancing the high needs of students with challenging behaviours against the needs of their less disruptive peers, and that expulsions can be necessary as a last resort. But in many of the cases we reviewed, had the school been better supported to deal with the behaviour, the expulsion may not have been necessary.

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Report: Investigation into Victorian government school expulsions

While 'informal expulsions' are not permitted, they were clearly occurring and DET was not taking sufficient action to prevent or monitor these instances.

Since the investigation report was tabled, the Minister for Education and DET have reformed the expulsion process. In January 2018, a new ministerial order was gazetted, which contains additional safeguards against the use of expulsion for very young or vulnerable students.

The reforms also include:

- investing \$5.9 million in programs aimed at preventing the behaviours that lead to expulsion
- introducing better supports and additional departmental staff to assist all who are involved in an expulsion through the process – principals, parents, guardians, students and department officers – with a focus on ensuring that students remain engaged in education
- enhancing the expulsion appeals process by appointing a new independent member to the expulsion review panel and introducing a new independent panel that can reconsider overturned expulsion decisions
- improving data collection processes, monitoring and reporting
- supporting school leaders to increase their capability in dealing with complex cases involving students and parents, including providing better access to alternative dispute resolution processes.



Report: Investigation into the management of maintenance claims against public housing tenants

In February 2016 the Tenants Union of Victoria contacted the office on behalf of one of its clients. It alleged that Housing Victoria, part of DHHS, unreasonably raised and pursued a maintenance debt in excess of \$20,000 against the client after she had vacated the property.

The client, a victim of family violence, had hastily left the property due to serious concerns for her safety. Despite DHHS being informed of her circumstances, there was no evidence of it having tried to contact her. Instead, DHHS escalated the disputed debt to the Victorian Civil Administrative Tribunal (VCAT). VCAT decided the client was liable for about five per cent of the original amount sought by DHHS.

As this complaint appeared to raise systemic issues, the Ombudsman decided to investigate DHHS's management of maintenance claims against its tenants. The investigation focussed on:

- the actions of DHHS at the end of tenancies
- whether DHHS was meeting its obligations as a model litigant when escalating disputed debts to VCAT.

The investigation found that while DHHS, in the context of high demand for limited tenancies, appeared to be sensitive to the vulnerabilities of its tenants when allocating housing, these critical factors were largely disregarded at the time the tenancy ended.

During the investigation, we found that DHHS routinely:

- raised and pursued repair and damage costs for unreasonable amounts, not taking steps to determine the cause of damage or deterioration nor considering the effect of reasonable wear and tear
- failed to send debt recovery notices to former tenants, instead unreasonably sending notices to the address that the tenant was known to have vacated
- breached its obligations as a model litigant by habitually escalating dispute debts to VCAT rather than determining liability for maintenance costs itself
- unreasonably prevented those with a debt from being able to access further housing, despite former tenants being unaware of the debt and being in circumstances that would mean they cannot afford to repay it without suffering further hardship
- relied on inexperienced staff to assess maintenance requirements and represent DHHS at VCAT, without providing them with adequate time, training or support.

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Report: Investigation into the management of maintenance claims against public housing tenants

We considered the right to the protection of families and children under the Victorian Human Rights Charter and the right to adequate housing under Article 11 of the International Covenant on Economic, Social and Cultural Rights, to which Australia is a signatory.

We also found that VCAT consistently awarded DHHS less than half of its original claim where the tenant attended to defend the claims, indicating that the amounts DHHS tried to claim from tenants were often exaggerated.

Overall, DHHS's end of tenancy practices showed that it was failing to be a fair social landlord. Its propensity to pursue significant amounts of money from people who were only eligible for public housing due to their circumstances, without checking whether they were truly liable, was unjust. DHHS needed to make comprehensive changes to the way it handled end of tenancy assessments and the recovery of maintenance debts.

Our recommendations targeted specific areas requiring attention – broad policy and operational changes, improving internal guidance for department staff and embedding this guidance as part of the culture within the department.

At the time the report was tabled, the department had already started taking steps to improve its practices. Work to implement the recommendations has continued, and DHHS has informed the office that it expects to complete implementation of all recommendations in 2019.

In some cases, the Ombudsman may choose to conduct a follow up investigation, on her 'own motion' to report on both the implementation of her recommendations and ensure effectiveness in achieving change.



In focus: Ombudsman to reinvestigate insurers' handling of workers compensation claims and WorkSafe oversight

In June 2018 we began a follow up investigation to our 2016 Investigation into the management of complex workers compensation claims and WorkSafe oversight.

In that investigation, we found that Victoria's workers compensation scheme had failed some particularly vulnerable people. We found cases in which WorkSafe agents were working the system to delay and deny seriously injured workers the financial compensation to which they were entitled.

We made 17 recommendations for change, including around financial incentives associated with the termination of claims and the use of Independent Medical Examiners in managing claims.

A key recommendation was for WorkSafe to take greater responsibility to ensure quality decision-making by its agents. The follow up investigation will examine whether WorkSafe's implementation of the recommendations has changed agent practices and decision making and improved the effectiveness of its oversight.

Our office continues to receive a large number of complaints from the public about WorkSafe and its agents, receiving 706 in 2017-18 and 687 in 2016-17.

Referral from Parliament

Under section 16 of the Ombudsman Act the Victorian Parliament - through the Legislative Council, Legislative Assembly or a parliamentary committee - can refer any matter to the Ombudsman to investigate.

The referral we received on 25 November 2015 was only the fourth referral from Parliament since the creation of the Ombudsman's office in 1973.



Report: Investigation of a matter referred from the Legislative Council on 25 November 2015

On 25 November 2015 the Parliamentary Legislative Council referred allegations for the Ombudsman to investigate that Australian Labor Party (ALP) members of the Victorian Parliament misused members' electorate entitlements for party and political activities, in breach of the Parliament of Victoria Members' Guide.

The Ombudsman is required by section 16 of the Ombudsman Act to investigate referrals from Parliament 'forthwith'. The investigation was delayed by legal proceedings, which finally concluded in April 2017.

We found that 21 current or former Members of Parliament breached the Members Guide.

As a result of the investigation report, the ALP repaid \$387,842 to the Department of Parliamentary Services.

In March 2018 the Parliament directed the Privileges Committee of the Legislative Council to conduct an inquiry into matters relating to the misuse of electorate office staffing entitlements. The committee published its report on 23 August 2018 finding that the conduct of the Members did not constitute a contempt of Parliament even though in some cases the conduct was not up to the standard expected.

We will seek an update on implementation of the recommendations six months after the tabling of the report.

Cost of investigating referral from Parliament

The Ombudsman noted in her last annual report that the office received separate funding from the Department of Premier and Cabinet to carry out this investigation, which the Ombudsman considered to be in addition to the core work of the office.

The department agreed to provide this funding without limitation. The investigation took place over two financial years, with much of the investigative work and all the report preparation being done in 2017-18.

Employee costs included four full-time investigators, while other costs included transcription services, enhanced security, additional hardware and fees paid to a professional editor and to the Hon Murray Kellam QC, who assisted the Ombudsman and her team as strategic advisor.

Table 2: Parliamentary referral Investigation costs

Parliamentary referral Investigation costs	2015-16	2016-17	2017-18	Total
Investigation costs (including staff and other professional costs)		\$327,963	\$416,899	\$744,862
External legal services	\$52,806	\$81,187		\$133,993
Total	\$52,806	\$409,150	\$416,899	\$878,855

Protected disclosures

The Protected Disclosure Act provides protection for people who make disclosures about improper conduct and detrimental action by public officers and public bodies.

What is a disclosure?

‘Disclosure’ is the term used in the Protected Disclosure Act to describe a report about:

- ‘improper conduct’ by a person, public officer or public body
- ‘detrimental action’ by a public officer or public body in reprisal for a disclosure.

Who can a disclosure be about?

People can make disclosures about:

- public bodies or public officers
- another person whose conduct adversely affects the honest performance of a public body’s or public officer’s official functions, or intends to adversely affect their effective performance e.g. a person who tries to bribe a public officer.

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

Our role

The Ombudsman has a role in assessing, enquiring into, and investigating protected disclosure complaints. We must refer complaints to IBAC if we decide they may be a protected disclosure; IBAC then assesses the disclosure and determines if it is a protected disclosure complaint. IBAC often refers those complaints back to us and we then decide if they warrant investigation.

Since 1 July 2016 we are able to make enquiries prior to initiating an investigation to ensure there is value in pursuing the matter.

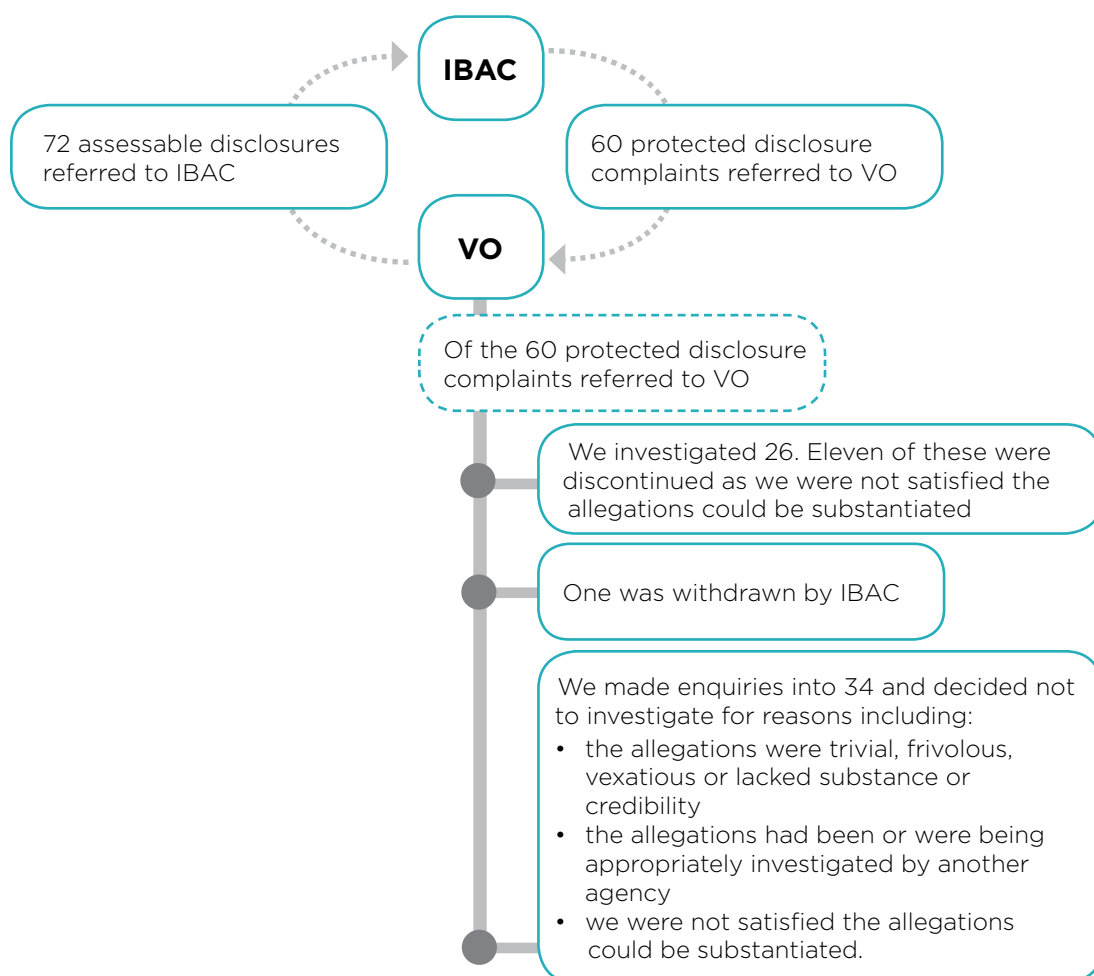
If we do decide to investigate, protected disclosure complaints are investigated in the same way as other complaints under the Ombudsman Act. Our investigations policy (available on our website) and procedure set out the processes we follow.

At the end of the investigation, we report the findings to the principal officer of the public body (e.g. the secretary of a department or the chief executive officer), the responsible minister and, in the case of an investigation involving a local council, the mayor. We may make recommendations about action that should be taken as a result of the investigation. The Ombudsman may also decide to table the report in Parliament.

We also inform the person who made the disclosure about the result of the investigation and any recommendations we made.

In 2017-18 we referred more than double the number of disclosures to IBAC than we did last year. In the last two years there has been a steady increase in the number of protected disclosure complaints IBAC has referred to us: 30 in 2015-16, 45 in 2016-17 and 60 in 2017-18. See the flowchart below for action taken on these.

Figure 9: Assessable disclosures referred to IBAC and protected disclosure complaints received from IBAC



Across the 60 protected disclosure complaints received from IBAC, we recorded 172 allegations.

We investigated 26 of the protected disclosure complaints. On these 26 investigations we recorded 79 allegations. Of these:

- 23 were investigated and substantiated
- 51 were investigated and not substantiated
- 5 were not investigated.

We made enquiries into 34 of the protected disclosure complaints. On these 34 enquiries we recorded 93 allegations. We decided not to investigate for reasons including:

- another agency such as Victoria Police was already investigating
- the allegation lacked substance or credibility
- we were not reasonably satisfied that improper conduct or detrimental action could be established.

Enquiries made into protected disclosure complaints can be complex, often involving issues with confidentiality or anonymity, and it can take some months to establish that a matter should or should not be investigated. Some of the work involved in these enquiries can include:

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

We have policies and procedures for dealing with disclosures, including disclosures made about Victorian Ombudsman staff. These are available on our website at

www.ombudsman.vic.gov.au/About/Policies and

www.ombudsman.vic.gov.au/Disclosures/Making-a-disclosure.



In focus: protected disclosure complaint enquiry

IBAC referred a protected disclosure complaint to our office on 13 December 2017. There were three allegations:

1. The former CEO of an agency did not adhere to the agency's recruitment procedures in appointing a Senior Manager to that agency.
2. The Senior Manager failed to declare a conflict of interest during the recruitment process for a member of staff.
3. Another Senior Manager failed to declare a conflict of interest during the tender process for a new IT system.

We assessed the information provided by the discloser to IBAC and requested a range of records from the agency to inform our decision whether to investigate. This included obtaining:

- personnel files for four agency staff members
- records of the recruitment and selection process for three agency staff members
- tender and procurement records relevant to the allegation
- conflict of interest declarations, internal reports and other information.

We did not identify any evidence of a conflict in the first two allegations. In both cases, the records obtained from the agency did not reveal that the recruitment process relevant to either allegation had deviated significantly from the agency's standard procedures, and no evidence of improper conduct was identified.

There was also no evidence of a conflict of interest in the third allegation, and the company that was ultimately selected through the tender process was unanimously chosen as the preferred supplier. The evidence showed that the agency staff alleged to have had a conflict and improperly influenced the outcome of the tender were not involved in the process.

We decided not to investigate as we were not reasonably satisfied on the evidence that improper conduct could be established.



Report: Investigation into the management and protection of disability group home residents by the Department of Health and Human Services and Autism Plus

In June 2015 IBAC referred to us a complaint which detailed failures by disability service provider Autism Plus to manage the behaviour of a disability resident, Edward*. It was alleged that these failures led to Edward sexually assaulting another disability resident, Robert, on multiple occasions as well as making threats of physical violence against Robert and his family.

In this case, both the perpetrator and the person allegedly assaulted had multiple disabilities. Both were resident in a group home operated by Autism Plus.

Autism Plus provided services to clients of DHHS on a 'fee for service basis', under a service agreement with DHHS. In 2014 15, Autism Plus received over \$5 million in funding from DHHS, including \$266,923.58 allocated for Edward's care. DHHS was responsible for both funding and regulating the services provided by Autism Plus.

The investigation found that Autism Plus and DHHS failed to respond to a series of incidents involving Edward, including several alleged sexual assaults against Robert. Both Autism Plus and DHHS were aware of, and had discussed concerns about, the incidents but neither contributed to any significant changes to improve the support and accommodation arrangements for Edward or Robert.

The deficiencies in DHHS's oversight of Edward's care and support suggested a systemic problem. Edward was a dual client of DHHS's Child Protection and Disability Services, however there was a lack of coordination between these areas and confusion about who had primary responsibility for Edward's case.

DHHS did not adequately assess Edward's treatment or placement requirements, did not ensure Autism Plus completed necessary tasks and did not properly consider alternative placement options. DHHS's record keeping was poor, with documents incomplete, inaccurate or missing. In terms of its role as a regulator, DHHS did not adequately monitor Autism Plus and failed to intervene when issues with Autism Plus were known.

The investigation showed that Autism Plus and DHHS repeatedly made decisions that were not in the best interests of those they were charged with protecting, thereby exposing Edward, other clients and Autism Plus staff to unacceptable risks, and that certain decisions were incompatible with Edward's right to protection as a child under section 17(2) of the Victorian Charter of Human Rights.

The investigation raised questions about the inherent conflict that arises from a private provider operating for profit, receiving government funding to perform a public function.

On 10 April 2018 following a review by DHHS and an order by the Minister for Disability, Autism Plus was placed under administration.

**The names of individuals referred to in this report were changed to protect their privacy.*

Driving improvement

Creative solutions

Each year we look for new ways to work with the public sector to drive improvement. Some of the things we did this year:

- We spoke with a number of TAFEs about the information on their website about how and where students can complain. Some websites incorrectly suggested students had to pay a fee to lodge an external complaint, others had no external complaint process clearly available or did not mention a student's ability to complain to our office. We are continuing our work with TAFEs in this area and are pleased that many of the issues raised have been remedied.
- We worked with the Department of Economic Development, Jobs, Transport and Resources to educate Victorian councils about common errors in complying with specific provisions of the Prevention of Cruelty to Animals Act and Domestic Animals Act.
- We met with the Environment Protection Authority (EPA) and proposed steps the EPA could take to strengthen its processes for issuing infringements and handling complaints.



Practice: Compliance with the Prevention of Cruelty to Animals Act and Domestic Animals Act

We have a function to monitor compliance with Part 2A of the Prevention of Cruelty to Animals Act and sections 71A(1) and 72A(1) of the Domestic Animals Act. In January 2018 we started an audit of all 79 Victorian councils, the RSPCA and the Department of Economic Development, Jobs, Transport and Resources about compliance with these provisions.

We completed these audits in March 2018, identifying some areas of non compliance with the obligations across 10 Victorian councils. Whilst these non-compliances were generally minor, many were similar to issues identified in our 2016-17 audit, although involving different councils.

Given the recurring nature of these non-compliances we decided that a broader educational approach was needed. Instead of just raising these issues with the individual councils, we wrote to all 79 councils highlighting the common errors and reinforcing the relevant legislative provisions and Secretary's directions. To maximise the reach and impact of this approach, we also sought assistance from the department, to both confirm the non compliances identified and to then draw attention to these in their monthly communications to all Victorian councils.

The audits identified that the department had not directly appointed any officers under either Act during the period. No issues were identified with the RSPCA's compliance with these provisions.



Case study: Litter lessons

In May 2014 we received a complaint about the Environment Protection Authority's (EPA) approach to issuing littering infringements. While the EPA had withdrawn infringements that the complainant said had been prompted by false and malicious reports of littering, he was dissatisfied the EPA had not acknowledged or addressed his broader concerns about the infringements being based on false reports.

Before deciding whether to investigate the complaint, we made enquiries with the EPA and met with its officers to discuss its internal processes. As a result, we identified and proposed steps the EPA could take to strengthen its processes for issuing infringements and handling complaints.

The EPA accepted the proposals. Between March 2015 and May 2018, the EPA kept the office informed of its progress in implementing steps to ensure it did not issue infringements as a result of false or malicious reports, and to remediate any infringements issued in error previously. The steps taken by the EPA included:

- updating its database so it can better identify and block malicious reporters
- improving guidance materials and providing additional training for staff on complaint handling
- reassessing 2,041 littering infringements that were disputed and upheld between November 2013 and December 2015.

The outcome of the EPA's reassessment of previously disputed infringements is that, as of May 2018, the EPA is attempting to refund 344 infringements to an estimated maximum value of \$171,571 including interest and Fines Victoria fees.

Community engagement

In 2017-18 we used our limited resources to engage as much as possible with public authorities, community groups, members of the public, media, university and high school students and peak bodies, presenting about our role and hosting and attending events to promote understanding of our work.

Between the Ombudsman, Deputy Ombudsmen and Assistant Ombudsmen, our senior leaders delivered 35 presentations to students, community groups and state and local government organisations.

Working with Community Legal Centres



Making Sense of Fines Reform forum.

This year we had a particular focus on engaging with community legal centres, who provide a free legal service to many of the most disadvantaged people in our community and are well-placed to identify issues affecting them. One of our Assistant Ombudsmen and members of the Early Resolution Team presented to 15 community legal centres in 2017-18 (in addition to the 35 presentations above) to let the staff at each centre know about our role, what we can deal with that affects their clients, the role of our early resolution team and how to make referrals to our office.

The Ombudsman spoke at the Making Sense of Fines Reform forum for financial counsellors and community lawyers and we contributed to the handbook for practitioners on this issue. As described below, we also received a complaint co-signed by four community legal services and Victoria Legal Aid about Maribyrnong City Council's internal review practices for parking infringements, which resulted in a public report.



Report: Investigation into Maribyrnong City Council's internal review practices for disability parking infringements

Community legal centres often raise complaints with the Ombudsman on behalf of people who have sought their assistance. In 2017 the Western Community Legal Centre (WEstjustice) made a complaint to the Ombudsman about Maribyrnong City Council's internal review practices for parking infringements. Their complaint was co-signed by Moonee Valley Legal Service, Inner Melbourne Community Legal, Brimbank Melton Community Legal Centre and Victoria Legal Aid.

Based on their experience, WEstjustice said 'Maribyrnong's system for administering internal review applications is unfair, arbitrary (and) overly rigid'.

In September 2017 the Ombudsman decided to investigate given the systemic nature of the issues raised. The investigation included:

- conducting interviews with Maribyrnong Council's Manager – Regulatory Services and WEstjustice
- reviewing relevant legislation and policies including the *Infringements Act 2006* (Vic), *Attorney-General's Guidelines to the Infringements Act 2006* and Maribyrnong Council's Internal Review – Withdrawal Guidelines (2013, 2014 and 2017 versions)
- undertaking file reviews of infringement case studies provided by WEstjustice
- analysing Maribyrnong Council's infringement internal review data
- seeking information from five comparable metropolitan local councils, including their internal review guidelines and internal review data.

The five case studies that were part of the investigation concerned people, most of them elderly, who had received an infringement for failing to display a disabled parking permit when parked in a disabled parking space. All of them had valid disability parking permits. However, they made a simple mistake in failing to display the permit properly in their vehicle, either because they had forgotten it, it had been misplaced, they had picked up an expired permit instead, or it had fallen from the dashboard.

The investigation found Maribyrnong Council had acted in a way that was unjust by refusing to cancel parking fines in cases where 'exceptional circumstances' justified cancellation. The internal reviews appeared to have focused on whether an offence was committed, which was not in dispute, while failing to consider the exceptional circumstances raised by the applicant. We found the council's practices were lacking in fairness and discretion when compared with five other metropolitan councils.

Maribyrnong Council accepted two of the Ombudsman's three recommendations: that it update its guidelines and provide training to staff involved in internal reviews. The third recommendation was for the council to make ex gratia payments to the five individuals from the case studies. By the time of the report's release, the council had reimbursed one person, but it did not agree to make ex gratia payments to cover the costs of the four other individuals.



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1. The Ombudsman speaking with Melbourne Law School students during a guest lecture.
2. Ombudsman Deborah Glass and Acting Assistant Ombudsman Dane Meiklejohn share learnings from the *Investigation into child sex offender Robert Whitehead's involvement with Puffing Billy and other railway bodies* with the Australian Institute of Professional Investigators.
3. Victorian Ombudsman staff taking part in the 2018 Midsumma pride march.
4. Victorian Ombudsman staff attend community day at Dandenong Centrelink office.



4



Practice: Law Week



The Victorian Ombudsman sponsored Law Week and staff volunteered at the 15th annual Legal Laneway Breakfast.

In 2017-18 we again supported the Victoria Law Foundation as an event sponsor for Law Week; an annual festival of events held across the state to help Victorians better understand the law.

The Ombudsman launched Law Week regionally in Wodonga, at the invitation of the Hume Riverina community legal service. She also spoke at a panel event during the week on the causes of crime.

The Ombudsman and some of our staff also spoke to high school students about our work and alternative legal careers.



Ombudsman Deborah Glass speaking at Law Week Launch 2018.



Practice: Community survey

In June 2018 we commissioned market researchers EY Sweeney to independently survey 2,000 Victorians about their awareness and perceptions of the Victorian Ombudsman's office. This was a follow-up to a similar survey we commissioned in 2015. As the success of our office relies upon everyday Victorians contacting us with their concerns, we need to check that people are aware of our services and feel comfortable to approach us.

Key survey results include:

- Two in three Victorians (65 per cent) would contact our office if they were not happy with a response from a government organisation.
- Among those who would contact the Victorian Ombudsman, the expectations that their complaint would be handled 'well' or 'very well' are strong (79 per cent).
- The proportion of Victorians who have contacted our office increased over the three years to 2018 (from eight to 11 per cent).
- Of those who have contacted our office, the percentage of people who said their experience was positive or satisfactory increased from 86 per cent in 2015 to 91 per cent in 2018.

According to the survey, 16 per cent of Victorians have little or no idea about the role of the Victorian Ombudsman, increasing to 21 per cent amongst the 18-24 age-group. In the absence of a dedicated function and resources we will continue our modest efforts to educate and engage with the community, so people know they can come to us if they ever need our assistance or advice.

For more information on the survey results, visit www.ombudsman.vic.gov.au/community-survey



Practice: Accessibility Action Plan



In October 2017 we launched our Accessibility Action Plan 2017-20 (AAP). The plan supports our vision for the office of having a timely and fair system that is accessible to and understood by all.

The three goals of our AAP are to:

1. Build an accessible Ombudsman's office by reducing barriers for people with a disability.
2. Provide opportunities for people with a disability to obtain employment at our office and to support our staff with a disability to maintain employment at our office.
3. Provide opportunities for people with a disability to engage with our office.

In meeting our goals, we strive to create change in attitudes and practices that discriminate against people with a disability.

In 2017-18 we identified barriers to accessing our office and engaged an independent external provider, Scope, to assist us do this. Scope facilitated:

- a survey to understand staff attitudes towards communicating with people with disabilities
- a mystery customer evaluation to understand and identify the barriers for people with disabilities in communicating with our office.

Scope provided recommendations for change to improve our communication accessibility. The recommendations have been accepted and we are now developing a budgeted plan to implement these improvements over the next two years. This year we:

- purchased an online disability awareness module to form part of our induction program
- designed a Communication Booklet to assist the public communicate with us.

We have considered the way service users can request adjustments to the way we deliver our service. We have:

- added an accessibility statement to our published reports letting people know to contact us if they would like the report in alternate form
- asked participants in our education workshops at registration and again in the email confirmations to tell us of any accessibility needs
- added a section to our website on the contact us page about how people can request adjustments if they need help making a complaint or accessing our service.



Practice: Accessibility Action Plan

We have looked at the way we capture data on the number of people with a disability. When people contact our office we ask them if they have any accessibility needs and capture the response in our complaints management system.

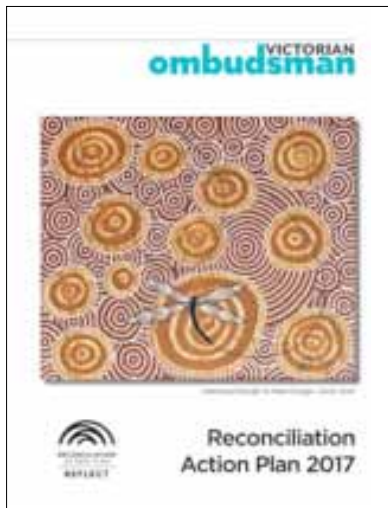
We have updated our recruitment and flexible work policy to include a process for providing reasonable adjustments for our staff.

We look forward to continuing this important work over the next two years where we aim to:

- continue to develop reasonable adjustments processes in our procedures
- increase awareness of our office in the community by working with the disability sector
- make our core business documents available in accessible forms
- work with Scope to obtain the Communication Access Symbol.



Practice: Reconciliation Action Plan



In 2017-18 we continued to build on the work set out in our first Reconciliation Action Plan (RAP) launched last year.

Our vision for reconciliation continues to be one that works towards respectful, lasting and mutually beneficial relationships with Aboriginal and Torres Strait Islander peoples.

This year we engaged with organisations undertaking similar reconciliation activities, peak bodies and a number of key leaders within the Aboriginal and Torres Strait Islander community to get a deeper understanding of issues facing Aboriginal and Torres Strait Islander people.

This included building relationships with peak bodies in our investigation into Kinship Care payments including the Victorian Aboriginal and Young People's Alliance, the Victorian Aboriginal Community Controlled Health Organisation and the Commissioner for Aboriginal Children and Young People, Andrew Jackomos, to better understand existing and emerging needs and to effectively communicate the functions of our office throughout the Victorian community.

Given that nearly 25 per cent of Victorian children in care are Aboriginal, inadequate financial support may contribute to a lack of Aboriginal and Torres Strait Islander carers. This compromises the system's ability to preserve Aboriginal and Torres Strait Islander children's cultural identity. As a result of the investigation, the government changed the kinship care model to provide greater support and better administrative practices.

Other community engagement has informed our office's plans to produce culturally appropriate documents informing the Aboriginal and Torres Strait Islander community of our services and implement cultural safety training for our staff, building on the cultural awareness training all new staff attend.

We continue to raise awareness amongst our staff by marking significant dates including National Reconciliation Week and NAIDOC Week and attending key reconciliation focussed events and activities. This included staff attending cultural heritage walks run by the Koorie Heritage Trust and Yarning Circles facilitated by the Victorian Red Cross.

We are committed to better understanding issues of concern to Aboriginal and Torres Strait Islander peoples and building meaningful relationships to support reconciliation and provide a better service to the entire Victorian community.

Improving the system

In meeting our commitments under our strategic framework, we make submissions to the government and Parliament about the importance of an effective integrity and complaint system to a modern democracy.

This year we made a submission to the Law Council of Australia's Access to Justice Review, highlighting the need for Victoria's complaint handling and investigative bodies to be seen as part of the broader justice system. We suggested mandated minimum complaint handling standards across the public sector would facilitate consistency in approach across authorities, fairness and increased access to justice.

We commented on the exposure draft of the Local Government Bill. We were pleased to see that the exposure draft reflected many of the recommendations made by the Ombudsman in her reports including:

- revising the grounds on which council meetings can be closed
- introducing clearer conflict of interest definitions and requirements, which extend to council staff and other non-councillor members of committees

- including a definition of 'complaint' and incorporating a requirement that all councils adopt complaint handling and internal review policies and procedures.

We suggested the government further consider a public interest test for closing council meetings and emphasised the importance of the Ombudsman's recommendation that a Uniform Code of Conduct be developed with accompanying training, which would go toward addressing matters crucial to good governance.

The Ombudsman also made a submission and gave evidence to Parliament's Accountability and Oversight Committee's *Inquiry into methodologies and outcomes from Victorian Ombudsman tabled reports*. The Ombudsman explained how she uses her own motion powers to consider and investigate whether a potential systemic issue exists and aims to identify solutions that will strengthen and improve public administration. She also explained how she monitors recommendations made to authorities.

Table 3: Submissions made in 2017-18	Date
Law Council of Australia's Access to Justice Review	2 October 2017
Local Government Bill – Exposure Draft	16 March 2018
Victorian Parliamentary Accountability and Oversight Committee's Inquiry into methodologies and outcomes from Victorian Ombudsman reports tabled in Parliament	23 April 2018

Table 4: Formal evidence given by the Ombudsman in 2017-18	Date
Victorian Parliamentary Accountability and Oversight Committee's Inquiry into Education, Training and Communications Initiatives of Victorian Oversight Agencies	7 August 2017
Victorian Parliamentary Accountability and Oversight Committee's Inquiry into methodologies and outcomes from Victorian Ombudsman reports tabled in Parliament	4 June 2018

We work closely with other integrity agencies to make the complaints system more accessible and to assist authorities learn from complaints and investigations.

This year we worked with IBAC and the Local Government Inspectorate to produce a joint information sheet on who to complain to about local council complaints.

Each year we participate in IBAC's Regional Integrity Insights forums for public sector leaders. This provides an opportunity for integrity agencies to explain their role and to talk about corruption risks and vulnerabilities, and how to mitigate them to prevent corruption.

This year we also presented at IBAC's Victorian Corruption Prevention and Integrity Conference in October 2017 on integrity risks - recurring themes, investigating corruption and misconduct - tips and advice, and good complaint handling.





Report: Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre

Given our role and experience in dealing with human rights, we have long held an interest in OPCAT. OPCAT aims to open environments of detention up to monitoring bodies, known as a 'National Preventative Mechanism' (NPM). The role of NPMs is to ensure that those held in detention are not subject to torture and other cruel, inhuman or degrading treatment. The settings that can be subject to monitoring include well recognised places of detention, such as police cells, immigration centres, psychiatric hospitals and prisons, but may also extend to other settings where liberty is in some way limited, such as aged care facilities.

In February 2017 the Commonwealth Government announced its intention to ratify OPCAT, and did so in December 2017.

To test Victoria's readiness for implementing OPCAT, we conducted a two-pronged investigation. This first part looked at the current oversight agencies, laws and processes in place for monitoring places of detention in Victoria. It also considered the feasibility and challenges involved in implementing OPCAT.

The second part involved a pilot OPCAT inspection using our existing investigation powers under the Ombudsman Act. The inspection took place over seven days monitoring activity at the Dame Phyllis Frost Centre (DPFC) – Victoria's largest women's prison – looking for risks that increased the potential for torture, and other cruel, inhuman or degrading treatment or punishment at the prison, and the safeguards that reduce these risks.

There were six focus areas during the inspection, as recommended by the Association for the Prevention of Torture in its *Monitoring of detention: a practical guide* (2004).

The inspection team identified a number of risks during the inspection, which we addressed through recommendations:

- the use of controls (force and restraint) and solitary confinement (separation)
- the use of strip searches
- providing better information to prisoners about their rights
- improving health planning and services
- protecting and improving facilities for families
- the condition of older units
- better identifying and supporting prisoners with a cognitive disability, and; increasing the number of women prison officers.

DPFC officers routinely observed women undressing and changing into overalls for prison visits. While DPFC said that this was not a strip search, we considered that the observed practice was consistent with the definition of a strip search according to the *Corrections Regulations 2009* (Vic) and recommended that this practice cease.

While this was the only recommendation not accepted, we were pleased to be advised more recently that new, non-invasive technology has been introduced in DPFC and the practice has now ceased.

Public sector education

We continued to run our public sector education program in 2017-18, demonstrating our commitment to collaboratively work with the public sector to improve public administration in Victoria. A small and dedicated team design, manage and facilitate the workshops about complaint handling and conflict of interest in line with adult education principles. Programs are run on a cost-recovery basis.

This year we held 9 workshops to 144 participants from across state and local government based in metropolitan Melbourne and regional Victoria.

We also offer in-house training sessions and delivered 18 workshops to a number of authorities including universities, councils and statutory authorities.



Dealing with Challenging Behaviour Masterclass.



Practice: Dealing with challenging behaviour guide and masterclass



In response to requests for guidance and skills-based training, the Ombudsman developed a Good Practice Guide to Dealing with Challenging Behaviour. The information in the guide is based on many sources: our own experience, guidance developed by Parliamentary Ombudsmen over ten years ago, and the expertise of psychologists and agencies who deal with people who have a disability or a mental health issue affecting their ability to communicate. Importantly, it takes into account the requirements of Victoria's human rights and anti-discrimination laws.

We launched the Guide at our June Masterclass – Dealing with Challenging Behaviour. Hosted by the Ombudsman, the event featured a cross sector panel composed of the Mental Health Complaints Commissioner, a senior representative from both local government and the Department of Health and Human Services and a forensic psychiatrist. The panel discussed why and what behaviour can be challenging for complaint handlers and gave tips and case examples on how to prevent behaviour becoming challenging, de-escalating and defusing emotional behaviour and when to manage or limit behaviour that becomes unreasonable. The panel also provided advice on authorities' responsibilities to provide a safe working environment for staff and how to care for yourself.

The Masterclass launched our new animation and the workshop developed to accompany the Guide. Our Dealing with Challenging Behaviour workshop explores the Guide's practical advice and strategies and provides opportunities to practise these in a training environment.

Programs run in 2017-18

Good complaint handling

This workshop focuses on developing effective skills and appropriate strategies for complaint handling. Participants are given a step-by-step model for dealing with complaints. They examine different types of behaviour those with a complaint exhibit, and also explore how to overcome personal and organisational barriers to making and resolving complaints..

Dealing with conflict of interest

It is common for public duties to conflict with private interests when working in the public sector and local government. This interactive workshop uses scenarios to illustrate the challenges in identifying and dealing with conflicts of interest and explores good practice approaches to recording and managing these conflicts.

Our people and performance

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Our people

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Our performance

Our people

We employ 96 staff with a diverse range of qualifications, experience and backgrounds. For instance, qualifications range from law

and criminal justice to social sciences, media and communications, human rights and business.

Table 5: Staff profile by gender, age and classification 2018*

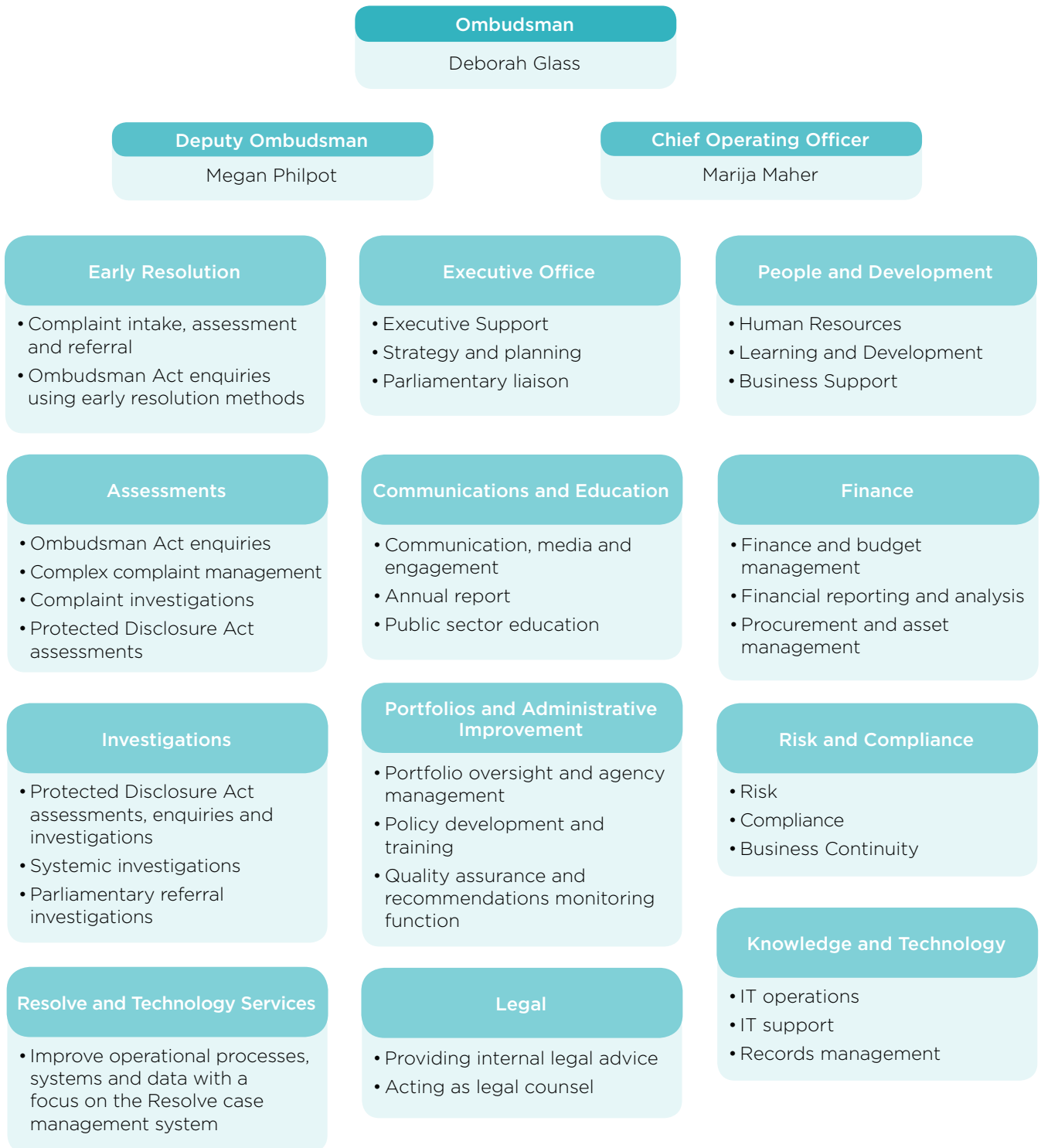
2018							
	All employees		Ongoing			Fixed term and casual employees	
	Head count	Full Time Equivalent (FTE)	Full Time Head Count	Part Time Head Count	Full Time Equivalent (FTE)	Head count	Full Time Equivalent (FTE)
Gender							
Male	30	29	25	4	28	1	1
Female	66	59.3	36	16	46.9	14	12.4
Self described	0	0	0	0	0	0	0
Age							
Under 25	0	0	0	0	0	0	0
25-34	34	31.1	23	6	27.1	5	4
35-44	39	35	23	11	30.6	5	4.4
45-54	16	15.5	10	2	11.5	4	4
55-64	7	6.8	5	1	5.8	1	1
Over 64	0	0	0	0	0	0	0
Classification							
VPS 1	0	0	0	0	0	0	0
VPS 2	1	0.4	0	0	0	1	0.4
VPS 3	2	1.6	1	0	1	1	0.6
VPS 4	40	36.4	25	10	31.6	5	4.8
VPS 5	38	35.8	26	7	31.2	5	4.6
VPS 6	13	12.1	9	3	11.1	1	1
STS	0	0	0	0	0	0	0
Executive	2	2	0	0	0	2	2
Total employees	96	88.3	61	20	75	15	13.4

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

Table 6: Staff profile by gender, age and classification 2017*							
2017							
	All employees		Ongoing			Fixed term and casual employees	
	Head count	Full Time Equivalent (FTE)	Full Time Head Count	Part Time Head Count	Full Time Equivalent (FTE)	Head count	Full Time Equivalent (FTE)
Gender							
Male	35	34	28	3	30.4	4	3.6
Female	58	54.1	36	12	44.7	10	9.4
Self described	0	0	0	0	0	0	0
Age							
Under 25	3	2.6	2	1	2.6	0	0
25-34	29	27.8	21	5	24.8	3	3
35-44	40	37.2	26	7	31.2	7	6
45-54	16	15.7	12	1	12.7	3	3
55-64	5	4.8	3	1	3.8	1	1
Over 64	0	0	0	0	0	0	0
Classification							
VPS 1	0	0	0	0	0	0	0
VPS 2	0	0	0	0	0	0	0
VPS 3	3	3	1	0	1	2	2
VPS 4	35	32.7	25	6	29.3	4	3.4
VPS 5	41	38.6	27	8	33	6	5.6
VPS 6	11	10.8	10	1	10.8	0	0
STS	1	1	1	0	1	0	0
Executive	2	2	0		0	2	2
Total employees	93	88.1	64	15	75.1	14	13.0

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

Our organisational structure



Our performance

This section outlines our performance against our *Annual Plan 2017-18*, our *Strategic Framework 2017-20* and the Department of Treasury and Finance's *Budget Paper No. 3 Service Delivery* (BP3) targets.

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

We commit to :

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

Our 2017-18 annual plan (see Appendix 2) details what we did to realise these commitments. Along with refreshing our strategic framework, we also refreshed our four focus areas:

- a more accessible Ombudsman office for Victorians and the public sector
- using and sharing information more effectively
- being recognised as a leader in investigations, human rights and improving public administration
- developing and supporting our people and providing a healthy and flexible work environment.

Tables 7 and 8 provide more information about how we performed against our commitments.

Table 7: How we met our commitments

Commitment from <i>Strategic Framework 2017-20</i>	Page reference
Providing accessible and responsive services that are: • free, independent and impartial • open, transparent and evidence based • focused on practical and meaningful outcomes to address injustice • sensitive to the circumstances of individuals and communities with specific needs • delivered by skilled and committed professionals • consistent with the same standards we expect of others.	4,5,12,13,16,17, 24-28,30,33,34, 36,37, 41-50, 56-62, 64-71, 130,131
Educating Victorians on the role of the Ombudsman, how to complain and what they should expect from their dealings with the public sector.	12,13,59,61,62
Being courageous in challenging poor public administration.	13,20,21,24-28, 30,33,34,36, 37, 41-51,56,60,69
Constructively assisting the public sector to continuously improve its standards and practices.	24,30,57,58, 67-69,70,71
Providing authoritative and informative reports to the Victorian Parliament.	78

Table 8: Reports tabled in Parliament 2017-18

Title	Date tabled
Investigation into Victorian government school expulsions	14 August 2017
Enquiry into the provision of alcohol and drug services following contact with the criminal justice system	7 September 2017
Investigation into the management and protection of disability group home residents by the Department of Health and Human Services and Autism Plus	25 September 2017
Investigation into the management of maintenance claims against public housing tenants	30 October 2017
Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre	30 November 2017
Investigation into the financial support provided to kinship carers	13 December 2017
Investigation of a matter referred from the Legislative Council on 25 November 2015	21 March 2018
Investigation into Wodonga City Council's overcharging of a waste management levy	24 April 2018
Investigation into Maribyrnong City council's internal review practices for disability parking infringements	30 April 2018
Good Practice Guide to Dealing with challenging behaviour: Report and Guide	23 May 2018
Investigation into the administration of the Fairness Fund for taxi and hire car licence holders	14 June 2018
Investigation into child sex offender Robert Whitehead's involvement with Puffing Billy and other railway bodies	25 June 2018

Complaints about us

Complaints about us are handled through an internal review process, or notified to and managed by IBAC for complaints about corrupt conduct or the Victorian Inspectorate for complaints about staff misconduct.

We undertake internal reviews of the merits of our decisions or our service delivery. This year we refined our processes for handling internal reviews which has resulted in our accepting more reviews than last year.

We closed 89 internal review files in 2017-18, where an independent senior officer reviews the matter.

Of the 79 merits reviews:

- In 66, the original decision was satisfactory.
- In 13, a decision was made to reinvestigate.

In 2017-18, we opened 76 merit review files. Of these:

- We closed 75.
- One remained open at 30 June 2018.

We opened and closed 10 service delivery review files for the same period.

Requests from the Victorian Inspectorate

In 2017-18 the Victorian Inspectorate asked us for information about 14 matters. These included allegations that our staff had not properly investigated complaints or improperly dismissed them, did not offer procedural fairness or that there had been a delay in providing an outcome.

In all cases, we provided the information the Inspectorate requested.

Statutory disclosures

Statutory disclosures

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

Accountable officer's declaration

In accordance with the *Financial Management Act 1994*, I am pleased to present the Report of Operations for the Victorian Ombudsman's office for the year ended 30 June 2018.

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

Deborah Glass
Ombudsman

18 September 2018

Output statement

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

The format is standardised across public sector agencies, including the use of targets. Table 9 outlines the outputs our office provided to the government.

Table 9: Output statement 2017-18					
Output	Unit of measure	2017-18 actual	2017-18 target	Performance variation (%)	Result
Quantity measures					
Jurisdictional [within our scope] complaints finalised	number	15,240	14,000	9%	✓
The number of complaints finalised depends on circumstances that arise during the year, including the number of approaches.					
Proportion of jurisdictional complaints independently investigated by the Victorian Ombudsman	per cent	26	25	3%	✓
Quality measures					
Proportion of jurisdictional complaints where the original outcome is set aside by a review undertaken in accordance with the Ombudsman's internal review policy	per cent	0.09	<1.5	N/A	✓
Recommendations accepted by agencies upon completion of investigations	per cent	98	95	3%	✓
Timeliness measure					
Complaints resolved within 30 calendar days of receipt	per cent	89	95	-6%	■
The 2017-18 outcome is less than the target due to the Ombudsman dealing with complaints in a way that ensures services are provided to the broadest possible range of people in an environment of increasing demand. This means some cases take longer. The Ombudsman introduced changes to how it triages and resolves complaints to help address this resulting in improved performance for this target from 85% in 2016-17 to 89% in 2017-18.					

Note: ✓ Performance target achieved or exceeded.

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

Employment and conduct principles

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

Public sector employment principles

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

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

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

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

Workforce inclusion

We are committed to providing a working environment where equal opportunity and diversity are valued. Our workforce inclusion practices have resulted in us employing 40 per cent male and 60 per cent female ongoing or fixed term employees this year.

Section 38 of the *Victorian Disability Act 2006* requires us to have a Disability Action Plan, which we have named an Accessibility Action Plan, reflecting our commitment to creating an inclusive and accessible workplace for our staff and service to the public. We launched our 2017-20 plan this year – see page 15 for more information.

Occupational Health and Safety

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

We continued our commitment to the health, safety and welfare of staff and others in the workplace. The QUIT smoking program, eye tests, subsidised spectacles, on-site influenza inoculations, ergonomic assessments and confidential counselling with external professionals remain available to staff.

Our Occupational Health and Safety Committee continues to make recommendations to our executive about all matters to do with the health, safety and welfare of employees and other people at work.

This year we began reviewing our structure of designated workgroups and called for new health and safety representatives. This will be completed early in the next financial year.

Table 10: Occupational Health and Safety (OHS)				
Measure	Key Performance Indicator	2015-16	2016-17	2017-18
Incidents*	No. of reported incidents	6	3	3
	Rate per 100 FTE	6.6	3.3	3.3
	No. of incidents requiring first aid and/or further medical treatment	4	1	2
Claims	No. of standard claims **	0	0	1
	Rate per 100 FTE	0	0	0.9
	No. of lost time claims	0	0	1
	Rate per 100 FTE	0	0	0.9
	No. of claims exceeding 13 weeks	0	0	1
	Rate per 100 FTE	0	0	0.9
Fatalities	Fatality claims	0	0	0
Claim costs	Average cost per standard claim	0	0	\$692
Return to work	Percentage of claims with RTW plan <30 days	N/A	N/A	0
Management commitment	Evidence of OHS policy statement, OHS objectives, regular reporting to senior management of OHS, and OHS plans	Completed	Completed	Completed
	Evidence of OH&S criteria(s) in purchasing guidelines (including goods, services and personnel)	Completed	Completed	Completed
Consultation and participation	Evidence of agreed structure of designated workgroups, (DWGs), health and safety, representatives (HSRs), and issue resolution procedures (IRPs)	Completed	Completed	In progress
	Compliance with agreed structure of DWGs, HSRs and IRPs	Completed	Completed	In progress
Risk management	Percentage of internal audits/inspections conducted as planned	100%	100%	100%
	No. of Improvement Notices issued across the organisation by WorkSafe Inspector	0	0	1
	Percentage of issues resolved arising from:			
	- internal audits and inspections - HSR Provisional Improvement Notices (PINs) - WorkSafe Notices	100% 100% 100%	100% 100% 100%	100% 100% 100%
Training	Percentage of staff that have received OHS training:			
	• induction	100%	100%	100%
	• management training	100%	100%	100%
	• contractors, temps, and visitors	100%	100%	100%
	Percentage of HSRs trained:			
	• on acceptance of role	100%	100%	100%
	• re-training (refresher)	100%	100%	100%
	• on reporting of incidents and injuries	100%	100%	100%

*Incidents includes injuries and near misses.

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

Corporate governance

The Ombudsman is the:

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

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

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

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

Table 11: Internal committees

Executive Committee	Senior Leadership Committee	Finance Committee
Membership Ombudsman Deputy Ombudsman Chief Operating Officer	Membership Ombudsman Deputy Ombudsman Chief Operating Officer Senior Managers	Membership Deputy Ombudsman Chief Operating Officer Head of People and Development Head of Finance
Function The committee oversees the office's strategic focus, good governance, strategies and plans that commit significant resources and overall performance. It regularly reviews the status of the office's budget, compliance obligations, strategic risks, business continuity planning and information management governance.	Function Prior to the Ombudsman's formal approval, the committee reviews organisational strategies, the annual plan, new or substantially revised policies. It regularly reviews the status of the office's key performance indicators, workforce metrics and quality assurance reports.	Function The committee ensures our annual budget is aligned with our Strategic Plan, reviews and recommends the annual budget to the Ombudsman for approval and monitors our monthly and annual financial performance to ensure it reflects our priorities and approved budget.

Audit and Risk Management Committee

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

- Independently review and assess the effectiveness of VO's systems and controls for financial management, performance and sustainability, including risk management and procurement.
- Review and report independently to the Ombudsman on the report of operations on financial management, performance and sustainability and all other financial information published by the office.
- Review and monitor compliance with the Financial Management Act including remedial actions.
- Determine the scope of the internal audit function and ensure its resources are adequate and used effectively, including coordination with the external auditors.
- Maintain effective communication with external auditors.
- Consider recommendations made by internal and external auditors and review the implementation of actions to resolve issues raised.

Table 12: Audit and Risk Management Committee membership

Independent member and Chairperson	Mr Adam Awty Acting Chief Executive Officer Law Institute of Victoria
Independent member	Mr Andrew Dell Chief Information Security Officer QBE
Victorian Ombudsman representative	Ms Megan Philpot Deputy Ombudsman
Victorian Ombudsman representative	Dr Marija Maher Chief Operating Officer

Victorian Ombudsman Financial Management Compliance Attestation Statement

I, Deborah Glass, in my capacity as the Responsible Body, certify that the Victorian Ombudsman has complied with the applicable Standing Directions of the Minister for Finance under the *Financial Management Act 1994* and instructions.

Signed:



Ombudsman

Date: 29 August 2018

Strategically focussed

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

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

Key outputs from the corporate planning framework are:

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

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

Transparent and accountable

We make our priorities known publicly through our Strategic Framework. Performance targets are set and published in the performance statement included in our annual report (see page 15). The Accountability and Oversight Committee of Parliament reviews our annual report and can hold public hearings where the Ombudsman gives evidence.

We also ensure we are accountable by:

- publishing our policies on our website
- tabling reports in Parliament
- having internal review and complaint processes
- establishing performance criteria for every member of staff
- having a service charter
- assessing our recommendations against our own practices.

Committed to compliant practices

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

Ethical culture

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

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

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

Ethical decision-making is also supported by:

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

Compliance with the *Building Act 1993*

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

National Competition Policy

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

We do not provide services in competition with the private sector.

Victorian Industry Participation Policy

The Victorian Industry Participation Policy, in operation since 2001, aims to boost employment and business growth in Victoria by encouraging contractors for major projects to maximise use of local suppliers, while still delivering value for money.

The policy applies to all state government procurements and projects where values exceed \$3 million and have their primary impact in metropolitan Melbourne, and those over \$1 million that have their primary impact in regional Victoria.

The *Victorian Industry Participation Policy Act 2003* requires public bodies to report on their compliance. In 2017-18 our office had no procurements or projects to which the policy applied.

Financial information

Table 13: Five year financial summary					
	2018	2017	2016	2015	2014
Income from Government ^(a)	\$15,823,834	\$16,416,415	\$14,070,271	\$11,993,618	\$11,199,391
Total income from transactions	\$15,823,834	\$16,488,377	\$14,070,271	\$11,993,618	\$11,199,391
Total expenses from transactions	\$15,663,219	\$16,760,434	\$14,317,897	\$12,026,830	\$11,141,857
Net result from transactions ^(b)	\$160,615	(\$272,057)	(\$247,626)	(\$33,212)	\$57,534
Net result from the period ^(c)	\$159,928	(\$249,242)	(\$284,464)	(\$47,909)	\$57,624
Net cash flow from operating activities	\$385,579	\$304,989	(\$4,158,074)	\$62,208	\$145,267
Total assets	\$8,884,351	\$9,072,213	\$6,467,670	\$1,672,421	\$1,992,752
Total liabilities	\$5,318,261	\$5,666,051	\$2,628,444	\$2,008,748	\$2,281,170
Net assets	\$3,566,090	\$3,406,162	\$3,839,226	(\$336,327)	(\$288,418)

Notes:

- (a) Income from government includes both output and special appropriations.
- (b) The 'net result from transactions' is identical to the 'net operating balance' for the general government sector.
- (c) Includes net result from discontinued operations.

Current financial year review

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

In 2017-18 the Victorian Ombudsman achieved a net result from transactions of \$0.16 million, \$0.43 million higher than 2016-17. The prior year deficit was predominantly attributed to the unfunded depreciation charges related to fit-outs for the new office location.

The improved result has been achieved in the current year primarily due to:

- Department of Premier and Cabinet (DPC) allocating additional funds for depreciation in alignment with the Ombudsman's increased asset base.
- DPC securing a Section 29 arrangement with the Treasurer to enable the office to collect and retain its Public Sector Education Program (fee for service) revenue.

Financial position – balance sheet

The Victorian Ombudsman's net asset base as at 30 June 2018 is \$3.6 million, which is a \$0.16 million increase from the previous year.

Significant changes or factors affecting performance

The overall net result of \$0.16 million in 2017-18 is the highest in the five-year period because of cost management initiatives undertaken during the year.

Cash flows

The net cash inflows from operating activities was \$0.39 million, and \$0.08 million higher than in 2016-17 due to higher cash funding generated from Public Sector Education program training sales.

Significant changes in financial position

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

Capital projects

There were no capital projects during the reporting period.

Disclosure of grants and transfer payments

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

Subsequent events

There are no subsequent events to report.

Structural changes to the office in 2017-18

There were no changes made to the Ombudsman's output structure.

Advertising expenditure

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

Consultancies

A consultant is a contractor engaged primarily to perform a discrete task that facilitates decision-making through providing expert analysis and advice or developing intellectual output. There was one consultancy valued over \$10,000 and no consultancies with a fee below \$10,000.

Table 14: Consultancies valued over \$10,000

Consultant	Purpose	Start date	End date	Total approved project fee (ex GST)	Expenditure 2017-18 (ex GST)	Future expenditure (ex GST)
Spencer McDonald Consulting	Financial management and procurement review	Jun 2017	Jul 2017	\$11,500	\$11,500	nil

ICT expenditure

Our ICT expenditure comprises:

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

This year, we had a total operational ICT expenditure of \$1,868,499.

Other information available on request

In compliance with the requirements of the Standing Directions of the Minister for Finance, details of items listed below have been retained by the Ombudsman's office and are available on request, subject to the provisions of the Freedom of Information Act. These items include:

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

Office-based environmental impact

The use of electrical power, paper and office vehicles over the five years since 2013-14 is outlined below.

Electricity use

In 2017-18 electricity use was 11 per cent lower than in 2016-17. Greenhouse gas emissions per FTE staff member was lower than the last two years. Usage per square metre is the lowest in five years.

Waste

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

Paper use

Paper use in 2017-18 per FTE staff member decreased by 19 percent from 2016-17.

Water

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

Transportation

Where possible, we encourage our staff to use public transport for official business instead of office cars. The office has two vehicles available for staff; both are hybrid electric/petrol cars. Based on our use, we will be reducing to one car next year.

Table 15: ICT expenditure			
Business As Usual (BAU) ICT expenditure	Non-Business As Usual (non-BAU) ICT expenditure	Operational expenditure	Capital expenditure
(Total)	(Total = Operational expenditure and Capital Expenditure)		
\$1,868,499	\$554,135	\$554,135	\$0

Table 16: Electricity usage since 2013-14					
	2013-14	2014-15	2015-16	2016-17	2017-18
Total electricity used in the office (gigajoules)	362	394	430	505	447
Electricity used per FTE staff member (megajoules)	5,003	4,917	5,624	5,729	5,062
Electricity used per m ² office space (megajoules)	288	314	343	244	216
Net Greenhouse emissions (tonnes)	101	109	118	144	134
Net Greenhouse emissions per FTE staff member (tonnes)	1.40	1.37	1.55	1.63	1.52

Table 17: Paper use from 2013-14					
	2013-14	2014-15	2015-16	2016-17	2017-18
Total paper used in office (reams)	1,121	893	952	893	727
Paper used per FTE staff member (reams)	15.50	11.15	12.45	10.14	8.23

Table 18: Vehicle usage since 2013-14					
	2013-14	2014-15	2015-16	2016-17	2017-18
Passenger vehicle trips					
Total kilometres driven	31,390	36,397	20,546	21,159	11,503
Kilometres driven per FTE staff member	434	454	269	240	130
Greenhouse gas emissions associated with vehicles					
Total tonnes CO ₂ -e emitted	4.46	5.17	2.92	3	1.53
Tonnes CO ₂ -e emitted per FTE staff member	0.06	0.06	0.04	0.03	0.02

Freedom of information

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

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

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

In 2017-18 we received ten freedom of information (FOI) requests. Due to the operation of section 29A of the Ombudsman Act, the FOI Act did not apply to nine of the FOI requests. One FOI request was processed and access to documents provided in full.

Organisations and Functions¹

The Victorian Parliament established the office of the Victorian Ombudsman on 30 October 1973. The Ombudsman is an independent officer of the Parliament, enshrined in section 94E of the *Constitution Act 1975*. The Victorian Ombudsman's purpose is to ensure fairness for Victorians in their dealings with the public sector and improve administration.

The principal function of the Ombudsman is to enquire into or investigate any administrative action taken by or in an authority, other than administrative action:

- (a) that appears to involve corrupt conduct; or
- (b) that is taken under the FOI Act.

In exercising those functions, the day to day work of the Ombudsman involves:

- taking complaints about administrative actions of state government departments, bodies established by legislation (WorkSafe or VicRoads for example) and local councils (and private organisations acting on behalf of those bodies)
- making enquiries and resolving complaints informally where possible
- investigating when needed and making recommendations for change
- receiving and investigating complaints under the Protected Disclosure Act 2012
- examining systemic problems in public administration.

Further information is found in the 'About Us' section of this Annual Report.

Categories of documents held

We hold several categories of documents:

- investigation reports, tabled in Parliament and posted on our website
- internal administrative and operational documents
- internal policy and procedural documents
- documents about developing or implementing policy and legislation
- human resources documents
- financial records

¹ Section 7(1)(a)(i)

- documents obtained or created in the course of conducting investigations or making enquiries, including complaints, correspondence, file notes and reports
- documents relating to our functions under the Protected Disclosure Act
- background material, records of conversation, analysis and advice
- documents related to our monitoring function under the Domestic Animals Act and the Prevention of Cruelty to Animals Act
- fact sheets, brochures and promotional material.

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

Publicly available information²

The following information is available on our website:

- statements about the Ombudsman's role, responsibilities, scope, governing law and reporting to Parliament
- information about the Protected Disclosure Act
- tabled Parliamentary reports
- reports
- fact sheets
- guidelines
- complaint handling good practice guides
- policy and practice documents
- frequently asked questions
- information about community education and public sector workshops
- media releases.

This material can also be requested by writing to us or calling us.

Level 2, 570 Bourke Street
Melbourne VIC 3000
(03) 9613 6222
1800 806 314 (toll free for regional callers)

Media releases are also available by subscription, via the 'News' section of our website.³

Making an FOI request⁴

The FOI Act requires that requests for documents be in writing. An FOI request can be made to the Victorian Ombudsman by:

- completing an online form and paying the application fee at www.foicommissioner.vic.gov.au/ or
- sending a letter and enclosing a cheque for the application fee to:

FOI Officer⁵
Victorian Ombudsman
Level 2, 570 Bourke Street
Melbourne VIC 3000

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

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

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

People with questions about making an application can speak to an authorised officer by calling (03) 9613 6222 or 1800 806 314 (toll free number for regional callers).

³ Section 7(1)(a)(iv)

⁴ Section 7(1)(a)(v)

⁵ Section 7(1)(a)(vi)

² Section 7(1)(a)(iii)

Fees

An application fee of \$28.40 is required unless an authorised officer, satisfied that the payment of the fee would cause hardship, waives or reduces that fee.

Reviews

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

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

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

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

Complaints

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

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

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

For more information on seeking a review or complaining to the Information Commissioner, visit:
www.foicommissioner.vic.gov.au/reviews-and-complaints/

Further information about the FOI Act is available online at
www.foicommissioner.vic.gov.au/

DataVic Access Policy

The intent of the government's DataVic Access Policy is to enhance public access to the vast range of information held by Victorian government agencies. Comprehensive information about our office is available on our website:
www.ombudsman.vic.gov.au. Publicly available information is listed at page 95 of this report.

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

Financial statements

Financial statements



Independent Auditor's Report

To the Ombudsman of the Victorian Ombudsman

Opinion	I have audited the financial report of the Victorian Ombudsman which comprises the: • balance sheet as at 30 June 2018 • comprehensive operating statement for the year then ended • statement of changes in equity for the year then ended • cash flow statement for the year then ended • notes to the financial statements, including significant accounting policies • Accountable Officer's and Chief Financial Officer's declaration. In my opinion the financial report presents fairly, in all material respects, the financial position of the Victorian Ombudsman as at 30 June 2018 and their financial performance and cash flows for the year then ended in accordance with the financial reporting requirements of the <i>Financial Management Act 1994</i> and applicable Australian Accounting Standards.
Basis for Opinion	I have conducted my audit in accordance with the <i>Audit Act 1994</i> which incorporates the Australian Auditing Standards. I further describe my responsibilities under that Act and those standards in the <i>Auditor's responsibilities for the audit of the financial report</i> section of my report. My independence is established by the <i>Constitution Act 1975</i>. My staff and I are independent of the Victorian Ombudsman in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 <i>Code of Ethics for Professional Accountants</i> (the Code) that are relevant to my audit of the financial report in Victoria. My staff and I have also fulfilled our other ethical responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.
Ombudsman's responsibilities for the financial report	The Ombudsman is responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards and the <i>Financial Management Act 1994</i>, and for such internal control as the Ombudsman determines is necessary to enable the preparation and fair presentation of a financial report that is free from material misstatement, whether due to fraud or error. In preparing the financial report, the Ombudsman is responsible for assessing the Victorian Ombudsman's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless it is inappropriate to do so.

Auditor's responsibilities for the audit of the financial report

As required by the *Audit Act 1994*, my responsibility is to express an opinion on the financial report based on the audit. My objectives for the audit are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial report.

As part of an audit in accordance with the Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Victorian Ombudsman's internal control.
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Ombudsman.
- conclude on the appropriateness of the Ombudsman's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Victorian Ombudsman's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Victorian Ombudsman to cease to continue as a going concern.
- evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Ombudsman regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

MELBOURNE
10 September 2018


Andrew Greaves
Auditor-General

OFFICE OF THE OMBUDSMAN

Comprehensive operating statement For the financial year ended 30 June 2018

	Notes	2018 \$	2017 \$
Continuing operations			
Income from transactions			
Grants	2.1	15,823,834	16,416,415
Provision of services		-	71,962
Total income from transactions		15,823,834	16,488,377
Expenses from transactions			
Employee benefits	3.2.1	10,275,092	11,529,977
Depreciation	4.2	572,907	517,751
Capital asset charge	3.3	187,860	187,864
Interest expense		1,645	-
Other operating expenses	3.4	4,625,715	4,524,842
Total expenses from transactions		15,663,219	16,760,434
Net result from transactions (net operating balance)		160,615	(272,057)
Other economic flows included in net result			
Net gain/(loss) on disposal of property, plant and equipment		(2,575)	(11,498)
Net gain/(loss) arising from revaluation of leave liabilities		1,888	34,313
Total other economic flows included in net result		(687)	22,815
Net result		159,928	(249,242)
Comprehensive result		159,928	(249,242)

The accompanying notes form part of these financial statements.

OFFICE OF THE OMBUDSMAN

Balance sheet
As at 30 June 2018

	Notes	2018 \$	2017 \$
Assets			
Financial assets			
Receivables	5.1	4,514,763	4,434,578
Total financial assets		4,514,763	4,434,578
Non-financial assets			
Property, plant and equipment	4.1	4,135,007	4,407,521
Intangible assets		-	4,556
Prepayments	5.4	234,581	225,558
Total non-financial assets		4,369,588	4,637,635
Total assets		8,884,351	9,072,213
Liabilities			
Payables	5.2	543,752	407,375
Employee benefits	3.2.2	1,991,383	2,003,580
Other provisions	5.5	361,900	413,600
Borrowings	6.1	26,579	62,047
Deferred lease incentive	5.3	2,394,647	2,779,449
Total liabilities		5,318,261	5,666,051
Net Assets		3,566,090	3,406,162
Equity			
Accumulated deficit		(1,223,481)	(1,383,409)
Contributed capital		4,789,571	4,789,571
Net worth		3,566,090	3,406,162

The accompanying notes form part of these financial statements.

OFFICE OF THE OMBUDSMAN

Cash flow statement For the financial year ended 30 June 2018

	Notes	2018 \$	2017 \$
Cash flows from operating activities			
Receipts			
Receipts from government		15,772,062	13,691,484
Lease incentive		-	2,932,126
Total receipts		15,772,062	16,623,610
Payments			
Payments to suppliers and employees		(15,196,977)	(16,130,757)
Capital asset charge payments		(187,860)	(187,864)
Interest and other costs of finance paid		(1,646)	-
Total payments		(15,386,483)	(16,318,621)
Net cash flows from/(used in) operating activities	6.2	385,579	304,989
Cash flows from investing activities			
Payments for property, plant and equipment		(371,969)	(114,248)
Proceeds from disposal of property, plant and equipment		-	37,909
Proceeds from disposal of intangible assets		2,575	5,238
Net cash flows used in investing activities		(369,394)	(71,101)
Cash flows from financing activities			
Return of owner contributions to Department of Premier and Cabinet		-	(183,822)
Repayment of finance leases		(16,185)	(50,466)
Net cash flows from/(used in) financing activities		(16,185)	(234,288)
Net increase/decrease in cash and cash equivalents		-	(400)
Cash and cash equivalents at the beginning of the financial year		-	400
Cash and cash equivalents at the end of the financial year		-	-

The accompanying notes form part of these financial statements.

OFFICE OF THE OMBUDSMAN

Statement of changes in equity
For the financial year ended 30 June 2018

	Contributed capital \$	Accumulated deficit \$	Total \$
Balance at 1 July 2016	4,973,393	(1,134,167)	3,839,226
Return of Owner contributions from Department of Premier and Cabinet	(183,822)		(183,822)
Net result for the year		(249,242)	(249,242)
Balance at 30 June 2017	4,789,571	(1,383,409)	3,406,162
Net result for the year		159,928	159,928
Balance at 30 June 2018	4,789,571	(1,223,481)	3,566,090

The accompanying notes form part of these financial statements.

1. About this report

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

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

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

Basis of preparation

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

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

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

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

Revisions to accounting estimates are recognised in the period in which the estimate is revised and in future periods that are affected by the revision.

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

Compliance information

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

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

Other accounting policies

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

Notes to financial statements 30 June 2018

2. Funding of our services

Introduction

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

Structure

2.1 Income that funds the delivery of our services

2.1 Income that funds the delivery of our services

	2018 \$	2017 \$
Grants from the Department of Premier and Cabinet	15,823,834	16,416,415
Public sector education program ⁽ⁱ⁾	-	71,962
Total income	15,823,834	16,488,377

Note:

(i) For 2017/18 financial year, the Office has established a Section 29 agreement for the Public Sector Education Program (PSEP). The PSEP revenue has been added to Department of Premier and Cabinet's appropriation and on passed to the Office as annual grants.

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

Income from the public sector education program is recognised with reference to the stage of completion of the services by the Office. The income is recognised when:

- the amount of the income and associated transaction costs incurred and to be incurred, can be reliably measured; and
- it is probable that the economic benefits associated with the transaction will flow to the Office.

3. Cost of delivering our services

Introduction

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

Structure

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

3.1 Expenses incurred in the delivery of services

	Notes	2018 \$	2017 \$
Employee benefits	3.2.1	10,275,092	11,529,977
Capital asset charge	3.3	187,860	187,864
Other operating expenses	3.4	4,625,715	4,524,842
Total expenses incurred in the delivery of services		15,088,667	16,242,683

3.2 Employee benefits

3.2.1 Employee benefits in comprehensive operating statement

	2018 \$	2017 \$
Salaries and wages, annual leave and long service leave Superannuation	9,485,508	10,661,243
- Defined contribution superannuation expense	748,960	823,837
- Defined benefits superannuation expense	40,624	44,897
Total employee benefits	10,275,092	11,529,977

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

3.2.2 Employee benefits in the balance sheet

Provision is made for benefits accruing to employees in respect of annual leave and long service leave for services rendered up to the reporting date.

	2018 \$	2017 \$
Current provisions:		
Annual leave	781,320	798,080
Long service leave	741,687	793,056
Total current provisions	1,523,007	1,591,136
Non-current provisions:		
Long service leave	468,376	412,444
Total non-current provisions	468,376	412,444
Total employee benefits	1,991,383	2,003,580

Notes to financial statements

30 June 2018

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

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

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

Employment on-costs such as payroll tax, workers compensation and superannuation are not employee benefits. They are disclosed as a component of the provision for employee benefits where the employment to which they relate has occurred.

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

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

The Department of Treasury and Finance (DTF) centrally recognises, on behalf of the State of Victoria as the sponsoring employer, the defined benefit liability for Victorian government employees in such funds.

3.3 Capital asset charge

	2018 \$	2017 \$
Capital asset charge	187,860	187,864
Total capital asset charge	187,860	187,864

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

3.4 Other operating expenses

	2018 \$	2017 \$
Purchase of services	1,596,666	1,508,176
Information technology	1,280,749	1,355,708
Supplies and services	671,049	636,253
Operating lease rentals	600,238	545,274
Occupancy costs	477,013	479,431
Total other operating expenses	4,625,715	4,524,842

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

Other operating expenses except for operating lease rentals are recognised as an expense in the reporting period in which they are incurred.

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

4. Key assets available to support output delivery

Introduction

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

Structure

- 4.1 Property, plant and equipment
- 4.2 Depreciation and amortisation

4.1 Property, plant and equipment

	2018 \$	2017 \$
Leasehold improvements	4,709,918	4,408,644
Less: accumulated depreciation	(847,023)	(368,759)
Net carrying amount	3,862,895	4,039,885
Office furniture and equipment at fair value	475,272	445,353
Less: accumulated depreciation	(229,935)	(152,964)
Net carrying amount	245,337	292,389
Motor vehicles under finance lease	54,024	83,659
Less: accumulated depreciation	(27,249)	(21,911)
Net carrying amount	26,775	61,748
Construction in progress at cost	-	13,499
Total net carrying amount	4,135,007	4,407,521

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

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

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

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

The cost of non-financial physical assets constructed by the Office relates to the leasehold improvements.

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

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

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

	Leasehold improvements		Office furniture and equipment		Motor vehicles under finance lease		Construction in progress		Total	
	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Carrying amount at start of year	4,039,885	57,425	292,389	41,783	61,748	56,390	13,499	227,453	4,407,521	383,051
Additions	306,017	4,408,644	29,920	369,620	-	55,532	33,458	(213,954)	369,395	4,619,842
Disposals				(48,495)	(19,283)	(33,074)	-	-	(19,283)	(81,569)
Re-measurements	(51,700)	-	-	-	-	-	-	-	(51,700)	-
Transfers between classes	46,957	(946)	-	946	-	-	(46,957)	-	-	-
Depreciation expense	(478,264)	(425,238)	(76,972)	(71,465)	(15,690)	(17,100)	-	-	(570,926)	(513,803)
Net carrying amount at end of the year	3,862,895	4,039,885	245,337	292,389	26,775	61,748	-	13,499	4,135,007	4,407,521

Notes to financial statements
30 June 2018

4.2 Depreciation and amortisation

	2018 \$	2017 \$
Leasehold improvements	478,264	425,238
Office furniture and equipment	76,972	71,465
Motor vehicles under finance lease	15,690	17,100
Capitalised software	1,981	3,948
Total depreciation and amortisation	572,907	517,751

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

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

Useful life of assets

	Useful life (years)
Leasehold improvements	10
Office furniture and equipment	3-5
Motor vehicles under finance lease	3
Capitalised software	3-7

Notes to financial statements 30 June 2018

5. Other assets and liabilities

Introduction

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

Structure

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

5.1 Receivables

	2018 \$	2017 \$
Contractual		
Receivables	-	440
Statutory		
GST recoverable	15,999	15,404
Amounts owing from Victorian Government	4,498,764	4,418,734
Total receivables	4,514,763	4,434,578
Represented by:		
Current receivables	4,141,016	4,054,786
Non-current receivables	373,747	379,792

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

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

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

5.2 Payables

	2018 \$	2017 \$
Contractual		
Creditors and accruals	543,752	407,375
Total payables	543,752	407,375

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

Notes to financial statements
30 June 2018

5.3 Deferred lease incentive

	2018 \$	2017 \$
Current	293,222	384,879
Non-current	2,101,425	2,394,570
Total deferred lease incentive	2,394,647	2,779,449

The lease incentive pertains to the Office's premises at Level 2, 570 Bourke Street, Melbourne, which has been leased for an initial tenure of ten years, ceasing as at 31 August 2026. Under the terms of the lease, the Office has the option to extend for a further five years.

The lease incentive benefit is being apportioned over the lease term.

5.4 Prepayments

	2018 \$	2017 \$
Prepayments	234,581	225,558
Total prepayments	234,581	225,558

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

5.5 Other provisions

	2018 \$	2017 \$
Make-good provision	361,900	413,600
Total other provisions	361,900	413,600

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

5.5.1 Reconciliation of movements in other provisions

	2018 \$	2017 \$
Opening balance	413,600	310,000
Additional provisions recognised	-	413,600
Reductions arising from payments/re-measurements	(51,700)	(310,000)
Closing balance	361,900	413,600

Notes to financial statements

30 June 2018

6. Financing our operations

Introduction

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

This section also includes disclosures on commitments for expenditure.

Structure

- 6.1 Finance lease liabilities (Borrowings)
- 6.2 Reconciliation of net result for the period to cash flow from operating activities
- 6.3 Commitments for expenditure

6.1 Finance lease liabilities (Borrowings)

	2018 \$	2017 \$
Secured		
Current lease liabilities	13,177	25,451
Non-current lease liabilities	13,402	36,596
Total finance lease liabilities	26,579	62,047

Borrowings of the Office relate to finance lease liabilities on motor vehicles.

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

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

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

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

	2018 \$	2017 \$
Net result for the period	159,928	(249,242)
Non-cash movements		
Depreciation	572,907	517,751
(Gain)/loss on disposal of non-current assets	2,575	11,498
Movements in assets and liabilities		
(Increase)/decrease in receivables	(80,185)	(3,050,589)
(Increase)/decrease in prepayments	(9,023)	146,630
Increase/(decrease) in payables	136,377	(25,981)
Increase/(decrease) in provisions	(12,198)	175,473
Increase/(decrease) in other liabilities	(384,802)	2,779,449
Net cash flows from/(used in) operating activities	385,579	304,989

Notes to financial statements
30 June 2018

6.3 Commitments for expenditure

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

	2018 \$	2017 \$
Operating lease commitments		
Commitments for minimum lease payments in relation to non-cancellable operating leases, not recognised as liabilities, are payable as follows:		
Within one year	1,010,048	633,397
Later than one year but not later than five years	4,433,430	2,905,725
Later than five years	3,999,981	3,742,290
Total commitments (inclusive of GST)	9,443,459	7,281,412
Less GST recoverable	858,496	661,947
Total commitments (exclusive of GST)	8,584,963	6,619,465
Outsourcing commitments⁽ⁱ⁾		
Commitments under outsourcing contracts for human resources payable:		
Within one year		113,921
Later than one year but not later than five years		-
Total commitments (inclusive of GST)		113,921
Less GST recoverable		10,356
Total commitments (exclusive of GST)		103,565

Note:

(i) The Office's payroll function has been outsourced to the Department of Parliamentary Services. This contract expired on 30 June 2018 and contract negotiations are ongoing at the time of these financial statements.

Notes to financial statements

30 June 2018

7. Risks, contingencies and valuation judgements

Introduction

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

Structure

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

7.1 Financial instruments specific disclosures

Introduction

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

Categories of financial instruments

Financial assets (Receivables)

Receivables are financial instrument assets with fixed and determinable payments that are not quoted on an active market. These assets are initially recognised at fair value plus any directly attributable transaction costs. Subsequent to initial measurement, receivables are measured at amortised cost using the effective interest method, less any impairment.

Receivables includes trade receivables, but not statutory receivables.

Financial liabilities at amortised cost

Financial instrument liabilities are initially recognised on the date they are originated. They are initially measured at fair value plus any directly attributable transaction costs.

Financial instrument liabilities measured at amortised cost include all of the Office's contractual payables.

Derecognition of financial assets

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

Derecognition of financial liabilities

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

Offsetting financial instruments

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

Notes to financial statements

30 June 2018

7.1.1 Categorisation of financial instruments

			Carrying amount	
			2018	2017
			\$	\$
Receivables	5.1	Receivables	-	440
Total financial assets			-	440
Financial liabilities				
Payables	5.2	Financial liabilities at amortised cost	543,752	407,375
Borrowings	6.1	Financial liabilities at amortised cost	26,579	62,047
Total financial liabilities			570,331	469,422

7.1.2 Financial risk management objectives and policies

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

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

Financial instruments: Credit risk

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

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

Financial instruments: Liquidity risk

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

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

Financial instruments: Market risk

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

Notes to financial statements 30 June 2018

7.2. Contingent liabilities and contingent assets

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

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

Contingent assets

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

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

There were no contingent assets based on the above definitions relating to the Office at 30 June 2018 (30 June 2017: Nil).

Contingent liabilities

Contingent liabilities are:

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

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

There were no contingent liabilities based on the above definitions relating to the Office at 30 June 2018 (30 June 2017: Nil).

8. Other disclosures

Introduction

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

Structure

- 8.1 Subsequent events
- 8.2 Responsible persons
- 8.3 Remuneration of executives
- 8.4 Related parties
- 8.5 Remuneration of auditors
- 8.6 Administered items
- 8.7 Australian Accounting Standards issued that are not yet effective

8.1 Subsequent events

There were no subsequent events that had the potential to significantly affect the ongoing structure and financial activities of the Office.

8.2 Responsible persons

The persons who held the positions of Minister and Accountable Officer in the Office (from 1 July 2017 to 30 June 2018) were:

Responsible Minister	The Hon Daniel Andrews, MP, Premier
Accountable Officer	Deborah Glass OBE, Ombudsman

Remuneration

The total remuneration package of the person holding the office of Ombudsman, in connection with the management of the Office during the reporting period, was in the range: \$550,000 – \$559,999 (\$550,000 – \$559,999 in 2016-17).

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

8.3 Remuneration of executives

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

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

Short-term employee benefits include amounts such as wages, salaries, annual leave or sick leave that are usually paid or payable on a regular basis, as well as non-monetary benefits such as allowances and free or subsidised goods or services.

Post-employment benefits include employer contributions for members of both defined benefit and defined contribution superannuation plans.

Other long-term benefits include long service leave, other long-service benefits or deferred compensation.

Termination benefits include termination of employment payments, such as severance packages.

Notes to financial statements

30 June 2018

Remuneration of executive officers

	2018 \$	2017 \$
Short-term employee benefits	537,487	566,557
Post-employment benefits	34,815	32,000
Other long-term benefits	13,937	27,356
Total remuneration	586,239	625,913
Total number of executives	3	2
Total annualised employee equivalents⁽ⁱ⁾	1.88	2

Note:

(i) Annualised employee equivalent is based on paid working hours of 38 ordinary hours per week over the 52 weeks for the reporting period.

8.4 Related parties

The Office is a wholly owned and controlled entity of the State of Victoria. Related parties of the Office include:

- all key management personnel and their close family members;
- all cabinet Ministers and their close family members; and
- all departments and public sector entities that are controlled and consolidated into the whole of State consolidated financial statements.

Significant transactions with government-related entities

The Office received grant funding from the Department of Premier and Cabinet of \$15.8 million (2017: \$16.4 million).

Key management personnel (KMP) of the Office include the Portfolio Minister being The Hon Daniel Andrews MP and the Ombudsman being Deborah Glass OBE. The compensation detailed below excludes the salaries and benefits the Portfolio Minister receives. The Minister's remuneration and allowances are set by the *Parliamentary Salaries and Superannuation Act 1968* and is reported in the financial report of Department of Parliamentary Services.

Compensation of KMPs ⁽ⁱ⁾	2018 \$	2017 \$
Short-term employee benefits	522,434	515,257
Post-employment benefits	19,972	23,250
Other long-term benefits	13,430	14,126
Total	555,836	552,633

Note:

(i) The amount shown in both financial years is the Ombudsman's total remuneration package.

Transactions with KMPs and other related parties

Given the breadth and depth of State government activities, related parties transact with the Victorian public sector in a manner consistent with other members of the public. Further employment of processes within the Victorian public sector occur on terms and conditions consistent with the *Public Administration Act 2004* and Codes of Conduct and Standards issued by the Victorian Public Sector Commission. Procurement processes occur on terms and conditions consistent with the Victorian Government Procurement Board requirements.

Outside of normal citizen type transactions with the Office, there were no related party transactions that involved KMPs and their close family members. No provision has been required, nor any expense recognised, for impairment of receivables from related parties.

Notes to financial statements
30 June 2018

8.5 Remuneration of auditors

	2018 \$	2017 \$
Audit fees paid or payable to the Victorian Auditor-General's Office		
Audit of the annual financial statements	16,000	15,600
Total remuneration of auditors	16,000	15,600

No other services were provided by the Victorian Auditor-General's Office.

8.6 Administered items

In addition to the specific operations of the Office which are included in the balance sheet, comprehensive operating statement and cash flow statement, the Office administers or manages activities on behalf of the State. The transactions relating to these activities are reported as administered in this note. Administered transactions reflect the operations of the Commuter Club. During the year ended 30 June 2018, net administered assets amounted to \$11,049 (2017- \$8,461).

Notes to financial statements

30 June 2018

8.7 Australian Accounting Standards issued that are not yet effective

As at 30 June 2018, the following standards and interpretations (applicable to the Office) had been issued but were not mandatory for the 30 June 2018 reporting period. The Department of Treasury and Finance assesses the impact of these new standards and advises the Office of their applicability and early adoption where applicable.

Standard/Interpretation	Summary	Applicable for annual reporting periods beginning on	Impact on the Office's financial statements
AASB 9 <i>Financial Instruments</i>	The key changes include the simplified requirements for the classification and measurement of financial assets, a new hedge accounting model and a revised impairment loss model to recognise expected impairment losses earlier, as opposed to the current approach that recognises impairment only when incurred.	1 Jan 2018	The assessment has identified that the amendments are likely to result in earlier recognition of impairment losses and at more regular intervals. The initial application of AASB 9 is not expected to significantly impact the financial position however there will be a change to the way financial instruments are classified and new disclosure requirements.
AASB 2014-1 <i>Amendments to Australian Accounting Standards [Part E Financial Instruments]</i>	Amends various AASs to reflect the AASB's decision to defer the mandatory application date of AASB 9 to annual reporting periods beginning on or after 1 January 2018, and to amend reduced disclosure requirements.	1 Jan 2018	This amending standard will defer the application period of AASB 9 to the 2018-19 reporting period in accordance with the transition requirements.
AASB 2014-7 <i>Amendments to Australian Accounting Standards arising from AASB 9</i>	Amends various AASs to incorporate the consequential amendments arising from the issuance of AASB 9.	1 Jan 2018	The assessment has indicated that there will be no significant impact for the Office.

Notes to financial statements
30 June 2018

Standard/Interpretation	Summary	Applicable for annual reporting periods beginning on	Impact on the Office's financial statements
AASB 15 <i>Revenue from Contracts with Customers</i>	The core principle of AASB 15 requires an entity to recognise revenue when the entity satisfies a performance obligation by transferring a promised good or service to a customer. Note that amending standard AASB 2015-8 Amendments to Australian Accounting Standards – Effective Date of AASB 15 has deferred the effective date of AASB 15 to annual reporting periods beginning on or after 1 January 2018, instead of 1 January 2017.	1 Jan 2018	The changes in revenue recognition requirements in AASB 15 may result in changes to the timing and amount of revenue recorded in the financial statements. The Standard will also require additional disclosures on service revenue and contract modifications.
AASB 2014-5 <i>Amendments to Australian Accounting Standards arising from AASB 15</i>	Amends the measurement of trade receivables as follows: Trade receivables that do not have a significant financing component, are to be measured at their transaction price, at initial recognition.	1 Jan 2018, except amendments to AASB 9 (Dec 2009) and AASB 9 (Dec 2010) apply from 1 Jan 2018	The assessment has indicated that there will be no significant impact for the Office.
AASB 2015-8 <i>Amendments to Australian Accounting Standards – Effective Date of AASB 15</i>	This Standard defers the mandatory effective date of AASB 15 from 1 January 2017 to 1 January 2018.	1 Jan 2018	This amending standard will defer the application period of AASB 15 for for-profit entities to the 2018-19 reporting period in accordance with the transition requirements.
AASB 2016-3 <i>Amendments to Australian Accounting Standards – Clarifications to AASB 15</i>	This Standard amends AASB 15 to clarify the requirements on identifying performance obligations. The amendments require: A promise to transfer to a customer a good or service that is 'distinct' to be recognised as a separate performance obligation.	1 Jan 2018	The assessment has indicated that there will be no significant impact for the Office, other than the impact identified for AASB 15 above.
AASB 2016-7 <i>Amendments to Australian Accounting Standards – Deferral of AASB 15 for Not-for-Profit Entities</i>	This Standard defers the mandatory effective date of AASB 15 for not-for-profit entities from 1 January 2018 to 1 January 2019.	1 Jan 2019	This amending standard will defer the application period of AASB 15 for not-for-profit entities to the 2019-20 reporting period.

Notes to financial statements

30 June 2018

Standard/Interpretation	Summary	Applicable for annual reporting periods beginning on	Impact on the Office's financial statements
AASB 2016-8 <i>Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities</i>	AASB 2016-8 inserts Australian requirements and authoritative implementation guidance for not-for-profit-entities into AASB 9 and AASB 15. This Standard amends AASB 9 and AASB 15 to include requirements to assist not-for-profit entities in applying the respective standards to particular transactions and events.	1 Jan 2019	This standard clarifies the application of AASB 15 and AASB 9 in a not-for-profit context. The areas within these standards that are amended for not-for-profit application include: AASB 9 - Statutory receivables are recognised and measured similarly to financial assets AASB 15 - The “customer” does not need to be the recipient of goods and/or services; - The “contract” could include an arrangement entered into under the direction of another party; - Contracts are enforceable if they are enforceable by legal or “equivalent means”; - Contracts do not have to have commercial substance, only economic substance; and - Performance obligations need to be “sufficiently specific” to be able to apply AASB 15 to these transactions.

Notes to financial statements
30 June 2018

Standard/Interpretation	Summary	Applicable for annual reporting periods beginning on	Impact on the Office's financial statements
AASB 16 <i>Leases</i>	The key changes introduced by AASB 16 include the recognition of operating leases (which are currently not recognised) on balance sheet.	1 Jan 2019	The assessment has indicated that most operating leases, with the exception of short term and low value leases will come on to the balance sheet and will be recognised as right of use assets with a corresponding lease liability. In the operating statement, the operating lease expense will be replaced by depreciation expense of the asset and an interest charge. There will be no change for lessors as the classification of operating and finance leases remains unchanged.

Notes to financial statements

30 June 2018

Standard/Interpretation	Summary	Applicable for annual reporting periods beginning on	Impact on the Office's financial statements
AASB 1058 <i>Income of Not-for-Profit Entities</i>	AASB 1058 standard will replace the majority of income recognition in relation to government grants and other types of contributions requirements relating to public sector not-for-profit entities, previously in AASB 1004 Contributions. The restructure of administrative arrangement will remain under AASB 1004 and will be restricted to government entities and contributions by owners in a public sector context, AASB 1058 establishes principles for transactions that are not within the scope of AASB 15, where the consideration to acquire an asset is significantly less than fair value to enable not-for-profit entities to further their objective.	1 Jan 2019	The current revenue recognition for grants is to recognise revenue up front upon receipt of the funds. This may change under AASB 1058, as capital grants for the construction of assets will need to be deferred. Income will be recognised over time, upon completion and satisfaction of performance obligations for assets being constructed, or income will be recognised at a point in time for acquisition of assets. The revenue recognition for operating grants will need to be analysed to establish whether the requirements under other applicable standards need to be considered for recognition of liabilities (which will have the effect of deferring the income associated with these grants). Only after that analysis would it be possible to conclude whether there are any changes to operating grants. The impact on current revenue recognition of the changes is the phasing and timing of revenue recorded in the profit and loss statement.

OFFICE OF THE OMBUDSMAN

ACCOUNTABLE OFFICER'S AND CHIEF FINANCIAL OFFICER'S DECLARATION

The attached financial statements for the Office of the Ombudsman have been prepared in accordance with Direction 5.2 of the Standing Directions of the Minister for Finance under the *Financial Management Act 1994*, applicable Financial Reporting Directions, Australian Accounting Standards, including interpretations, and other mandatory professional reporting requirements.

We further state that, in our opinion, the information set out in the comprehensive operating statement, balance sheet, cash flow statement, statement of changes in equity and notes to the financial statements, presents fairly the financial transactions during the year ended 30 June 2018 and financial position of the Office of the Ombudsman as at 30 June 2018.

At the time of signing, we are not aware of any circumstance, which would render any particulars included in the financial statements to be misleading or inaccurate.

We authorise the attached financial statements for issue on 7 September 2018.



.....
Joseph Yeung
Chief Financial Officer

Melbourne
7 September 2018



.....
Deborah Glass OBE
Ombudsman

Melbourne
7 September 2018

Appendix 1: Disclosure index

Table 17: Disclosure index		
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FRD 103G [pending]	Non-Financial Physical Assets	108-110
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FRD 112D	Defined Benefit Superannuation Obligations	106-107
Note: (a): References to FRDs have been removed from the Disclosure Index if the specific FRDs do not contain requirements that are of the nature of disclosure.		

Legislation	Page Ref
<i>Ombudsman Act 1973</i>	12
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<i>Freedom of Information Act 1982</i>	94
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<i>Carers Recognition Act 2012</i>	N/A
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Appendix 2: Annual Plan 2017-18

Table 18: Annual Plan 2017-18			
Focus area	Activity	Progress	Notes
A more accessible Ombudsman office for Victorians and the public sector	Seek new ways to take complaints in metropolitan, regional and rural Victoria	Completed	We presented to 15 community legal centres to let the staff at each centre know about our role, what we can deal with that affects their clients, the role of our early resolution team and how to make referrals to our office.
	Implement the Ombudsman's Accessibility Action Plan 2017-20	Completed for actions in 2017-18	We engaged Scope to help us identify barriers to accessing our office, purchased an online disability awareness module to form part of our induction program and designed a communication booklet to assist the public communicate with us. We let people know how they can request adjustments to how we deliver our service and started to capture data on the number of people with a disability who contact us. We also developed a reasonable adjustments policy for our staff.
Use and share information more effectively	Develop a performance measurement system (KPIs) and start incremental implementation	Completed	We developed new performance development plans for our statutory functions staff which incorporated KPIs and created reports for our staff to track their performance against those measures. We will refine and improve the process for next year based on staff feedback.
	Look at how people work and the tools and processes needed to do the work more effectively	Completed	We set up a project team to look at how we use our case management system. They implemented changes so we could work more effectively including improving search capability, introducing workflows and enhancing our data capture. This team will continue to make improvements to our system next year.
Recognised as a leader in investigations, human rights and improving public administration	Implement a quality assurance policy and procedure for our statutory functions	In progress	We developed a quality assurance framework and appointed a quality assurance officer to work across statutory functions to design audit tools. Procedures will be developed by December 2018 and this will become business as usual work.
	Introduce an Internal Audit function and compliance management system	Partly completed	We appointed internal auditors and agreed a four year internal audit plan. We intend to purchase software next year to assist us implement a compliance management system.
	Negotiate a new shared services agreement with the Department of Premier and Cabinet	Completed	A shared services agreement was developed and agreed.
	Develop operational guidelines for investigations/identify sources to support investigations	In progress	We developed operational guidelines for investigations about procurement and tendering matters. We will now develop other guidelines as part of our business as usual work.

Focus area	Activity	In progress	Notes
Develop and support our people and provide a healthy and flexible working environment	Develop a new PDP for SIO and IO roles that incorporates KPIs	Completed	We developed new performance development plans for our statutory functions staff which incorporated KPIs and created reports for our staff to track their performance against those measures. We will refine and improve the process for next year based on staff feedback.
	Review and redevelop position descriptions for SIO and IO roles based on core skills and behaviours	Not started	Project did not take place due to resourcing constraints.
	Redesign the individual L&D plan for SIO and IO roles to include a practical action plan	Completed	Individual L&D plans across VO redesigned.
	Develop and deliver a Leadership Development Program	Completed	We developed a three module program for our senior managers: Leading self, Leading Others and Leading the Organisation. We delivered the first two modules and will deliver the third module in August and September 2018.
	Redesign and launch a new wellbeing program	Completed	New wellbeing program launched January 2018 including refresh of the first aid room.
	Review ERT and IPD induction training	Not started	Project did not take place due to resourcing constraints.

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