

HIGHLIGHTS

Tribunal backs our recommendations

The quality of our investigations means that most of our recommendations are accepted by the organisations we scrutinise. However, this is not always the case. This year, the Administrative Decisions Tribunal (ADT) ruled that if an agency refused to implement our recommendations about community services, the complainant can apply to the ADT for enforcement. The ADT's decision stated that: 'Investigations by the Ombudsman, although frequently not welcomed by government authorities, have been recognised as an aid to better government administration because they may point out policy vacuums or flaws or shortcomings in the provision of government services.'

Protecting consumer rights

In 2005-06 we investigated a complaint that the Office of Fair Trading (OFT) provided incorrect information about a licensed builder to a couple wishing to build their home. The builder had made significant errors not covered by insurance. We found the OFT had no criteria for assessing a builder's overall fitness to hold a building licence and there was insufficient sharing of information between different areas of the organisation.

Our investigation helped protect thousands of people who use licensed builder services to renovate or build their homes. This year the OFT have:

- updated the public register to include, where practicable, all insurance claims made against a licensee and any outstanding appeals
- included consumer warnings and comprehensive searching instructions on the register
- developed guidelines for staff about determining who is a 'fit and proper person' to hold a licence
- paid compensation to the complainants.

Improving land valuations

In late 2005 we tabled a special report to Parliament on *Improving the Accuracy of Land Valuations issued by the Valuer General*. The Land Valuation Advisory Group also reported a significant improvement in the accuracy of valuations produced for the Valuer General based on the results of the parallel valuations research project.

A number of our recommendations were implemented during this year:

- Nearly 20% of all valuations were inspected to reset the 'baseline' data used in the mass valuation process — as part of a five year land values and data review project.
- The *Land Tax Management Act* was amended to improve land tax predictability by using a rolling three year average instead of a single year calculation.
- Fourteen extra positions were created to oversee rating and taxing valuation contracts and conduct other auditing activities.
- A model objection and guidance note and relevant sales information was developed to help landowners prepare objections to valuations.

Reviewing deaths

This year, we reviewed the deaths of 221 people who died in 2006. This included 82 people with a disability who died in residential care, 16 people living in licensed boarding houses at the time of their death and 123 children. Our disability deaths report will cover systemic issues associated with the deaths of people with dementia, the need for risk management to minimise the risk of people falling and injuring themselves, and the outcomes of the medical and service review of people who died from respiratory illness in 2005. Our child deaths report will cover agency strategies for managing parental substance abuse and key challenges in the child protection system — such as the adequacy of risk assessments. We will also report on the research we commissioned about the underlying causes of children dying.

Responding to domestic violence

Last year we tabled a special report to Parliament about the policing of domestic violence. The NSW Police Force accepted most of our 44 recommendations and have established a steering committee to oversee their implementation. In March 2007, the Premier announced the government's response to domestic violence which reflected our recommendations. These include:

- funding to equip all front-line police cars and stations with evidence kits
- a new family and domestic violence unit within the NSW Police Force, with 35 officers working in high-risk areas and five officers targeting repeat offenders
- more training about domestic violence for police officers, judges and magistrates
- reform of the apprehended violence order (AVO) system to better protect children affected by domestic violence
- funding the expansion of the women's domestic violence court assistance program.

Strengthening child protection

We have worked hard over the last few years to build our relationship with the Catholic school system. Recently one diocese told us: 'Your advice is clear and you show consideration and thorough review of advice and information. Your letters are appreciated and are very educative.'

This year we:

- held regular forums on child protection issues
- organised relevant training for their staff
- advised on difficult investigations.

As a result there have been significant improvements to Catholic child protection systems.

Building relationships

Although a major child care provider initially sought to question our child protection jurisdiction, they ultimately recognised the value we add after we investigated their systems. They significantly increased resources for their child protection systems and the head of agency stated:

'We have made significant changes to our policies, procedures and training programs... Many of those changes were either a direct result of, or influenced by, [your] investigation and recommendations... I think the Ombudsman's work has helped us improve our child protection policies and procedures... and I want to thank you for that.'

Supporting people with a mental illness

In 2005, the Department of Housing terminated the lease of a long-term tenant with a chronic mental illness for rental arrears. They went to the premises to establish whether the tenant was still in occupancy, accompanied by police. A struggle ensued and the tenant's arms were broken. He was later transferred to a psychiatric facility where he remained for some months. As a result of the incident, the tenant was charged with assaulting police.

We made several recommendations as a result of our investigation into the conduct of the department and the police. The department accepted that the staff involved should be counselled and receive further training, and all staff properly trained in implementing policies and procedures for tenants with a mental health condition. They also agreed to apologise to the tenant and provide compensation.

We found that the police had acted lawfully, but suggested the NSW Police Force review their procedures for charging people with a mental illness to ensure appropriate use of police discretion.

Compensation for incorrect information

Sutherland Shire Council knew that heat radiation effects from potential fires at the Kurnell oil refinery could extend into nearby residential areas. Despite this, they did not inform all their planning staff or develop a strategy for dealing with development applications. We received a complaint that council was making inconsistent decisions about whether it was safe to erect a dwelling near the refinery.

Before purchasing two allotments at Kurnell, the complainants were told by council that they were entitled to build on the land. To the complainants' significant cost, council later refused their development application based on the safety risk they had failed to disclose. Council agreed with our recommendation to compensate the complainants and have resolved to prohibit further residential subdivision in the area due to ongoing safety risks.

Unreasonable complainant conduct

Widespread anecdotal evidence from complaint handlers indicates that difficult and unreasonable behaviour by complainants is a growing problem. Our efforts to develop better management strategies for unreasonable complainant conduct have led to a national project involving all Australian Parliamentary Ombudsman offices. The project aims to maximise the fair distribution of resources between complainants, to ensure a consistent approach across Ombudsman offices, lower staff and complainant stress and reduce the level of resources required to handle this type of conduct.

So far, we have developed an interim practice manual, trained over 300 staff across all Australian Ombudsman offices and started a 12 month trial of the new approach.

Downloads of guidelines

It is important for us to provide agencies with access to information that helps them develop guidelines and practices that promote good complaint management and administrative conduct. Each year we produce a range of reports, fact sheets and guidelines, and one way for us to measure the value of this work is to track the number of downloads of material from our website. In an average month, approximately 40,000 documents are downloaded, including over 10,000 downloads of the top ten documents [on average there are over 2 million hits on the Ombudsman website each month]. Some of our most popular publications include:

Guidelines	Approx. Average Downloads per month
<i>Apologies: A Practical Guide</i>	2,200
<i>Policing Public Safety Report</i>	2,100
<i>Child Protection in the Workplace Guidelines</i>	1,500
<i>Criminal Infringement Notices Report</i>	1,400
<i>Terrorism Issues Paper</i>	1,000
<i>Good Conduct and Administrative Practice Guidelines</i>	1,000
<i>University Complaint Handling Guidelines</i>	800
<i>Dealing with Difficult Complainants</i>	700
<i>Effective Complaint Handling Guidelines</i>	650
<i>Protected Disclosures Guidelines</i>	600
<i>Investigating Complaints Guidelines</i>	550
<i>Child Protection Register Report</i>	500

Police work with Aboriginal communities

This year we finalised a four year program of detailed audits to check how well local police were complying with NSW Police Force's *Aboriginal Strategic Direction* (ASD) initiatives in their day-to-day work with Aboriginal communities. An essential part of the program was to return to areas previously audited to talk with police, other agencies and communities themselves about any changes that police had implemented since our earlier review. So far, we have completed 36 audits — 14 of these have been repeat visits. We found marked improvements in almost all the areas we returned to, and first time visits showed that good work developed in other areas had been extended to these commands. Over the last four years, there has been a significant improvement in the provision of cultural awareness training to police, the use of Aboriginal community liaison officer positions and the delivery of programs to provide better support for victims of domestic violence and reduce youth offending. For more information, see Chapter 3: Our relationships.

Mystery shopper audits

Over the past eight years we have conducted a series of 'mystery' audits of customer service standards in the NSW public sector. Our audit of the Department of Ageing, Disability and Home Care (DADHC) earlier this year found that DADHC staff performed well against criteria that assessed the provision of referrals and information, as well as the accuracy and completeness of their telephone advice.

However, the audit found that mystery customers experienced delays and confusion when making initial contact with DADHC. We have suggested to DADHC that they should urgently review their processes for allocating telephone and email enquiries.

DADHC have now made a number of changes — including updating information on their website, providing training in certain areas and improving how they register and track correspondence.

SNAPSHOT

Responding to complaints

Matters we received

A variety of people — members of the public, families of people who are receiving community services, Members of Parliament, and staff who work in the public sector — contact us with a broad range of concerns.

This year a total of 32,390 matters were brought to our attention. Of these, 9,692 were formal complaints and notifications and 22,698 were informal complaints and inquiries.

As we have jurisdiction over a range of agencies and specific functions under a number of pieces of legislation, we categorise matters to make sure we provide the most appropriate response. Figure 2 (over page) shows a breakdown of the matters we received this year.

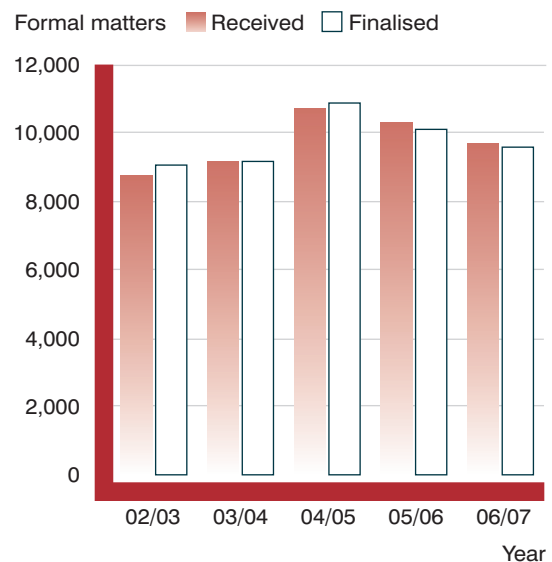
As with previous years, we were still able to finalise around the same number of matters as we received. See figure 1.

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Formal matters received and finalised by our office — five year comparison

fig 1

Year	02/03	03/04	04/05	05/06	06/07
Received	8,739	9,167	10,714	10,304	9,692
Finalised	9,052	9,159	10,866	10,096	9,569



Matters we received in 2006–07 **fig 2**
— by subject area

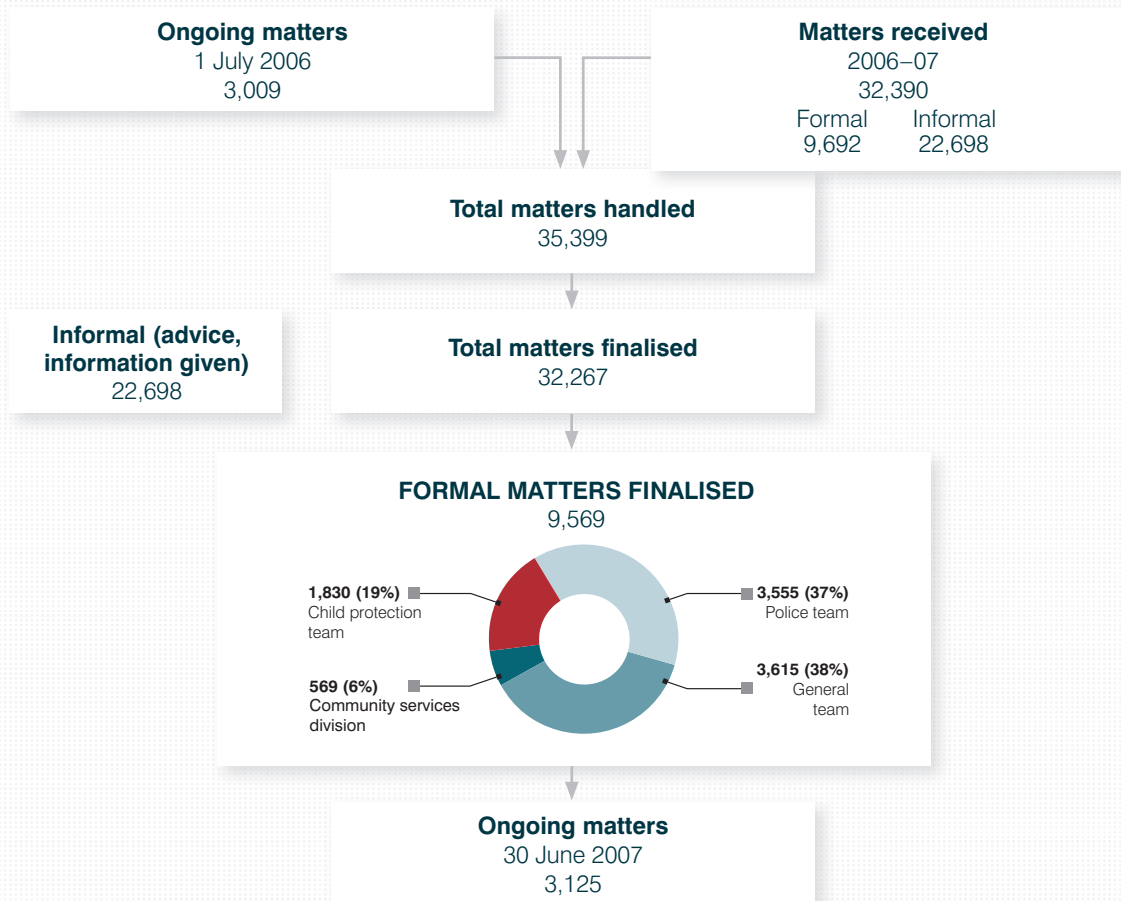
Subject area	Formal	Informal	Total
Departments and authorities*	1,158	3,465	4,623
Local government	841	1,992	2,833
Correctional centres and Justice Health	635	3,276	3,911
Juvenile justice	49	219	268
FOI	208	316	524
Community services**	560	1,200	1,760
Workplace child protection***	2,078	838	2,916
Police	3,466	3,172	6,638
Witness protection appeals and complaints, and controlled operations authorities audited	305	1	306
Outside our jurisdiction*	392	5,543	5,935
Requests for information	0	2,676	2,676
Total	9,692	22,698	32,390

* We sometimes receive written complaints about public sector agencies that are within our jurisdiction but the conduct complained about, on assessment, is found to be outside our jurisdiction. We initially classify these as 'formal' complaints received about public sector agencies. Written complaints received about agencies outside our jurisdiction and oral complaints about both agencies and issues outside our jurisdiction, are dealt with informally by referring the complainant elsewhere, and are classified as 'outside our jurisdiction' from the outset.

** This includes complaints about DoCS, DADHC and non-government agencies that are funded by one of those departments.

*** This includes notifications and complaints received.

Matters we received and finalised **fig 3**
in 2006–07



How we handle different types of matters

We divide the matters we receive into formal and informal matters, and this determines the process we use to handle them. Generally, we define formal matters as written complaints and notifications and informal matters as complaints that are made over the telephone or in person.

We handle complaints from vulnerable members of the community differently. If it would be unreasonable to ask them to make a written complaint, we can treat a verbal complaint as a formal complaint.

Informal matters

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

Formal matters

This year we finalised 9,569 formal matters. These can take anywhere from a few days to several months to finalise. It may mean a clarifying phone call to the agency concerned or a full-scale investigation.

The main pieces of legislation that govern this aspect of our work are the *Ombudsman Act 1974* and the *Community Services (Complaints, Reviews and Monitoring) Act 1993*. Although we have coercive powers to require agencies to provide us with documents or answer our questions, we generally try to resolve complaints without using them. We find this approach is cost effective and helps to build positive relationships. Most agencies that we contact are cooperative and understand that resolving a person's concerns usually has benefits for them, too.

If we do use our coercive powers, we classify the complaint as being 'formally investigated'.

The actions that we take to finalise complaints include:

- resolving a complaint by persuading the agency concerned to take some action
- resolving a complaint by undertaking a formal investigation and making findings and recommendations — this year we finalised 56 matters this way (see figure 4)
- providing detailed information or advice to the complainant
- making inquiries and finding no wrong conduct.

Number of formal investigations finalised — five year comparison fig 4

Year	02/03	03/04	04/05	05/06	06/07
Total	54	42	67	66	56

Formal matters finalised — breakdown by subject group, two year comparison fig 5

Subject	05/06	06/07
Departments and authorities	1,317	1,167
Local government	720	837
Corrections and Justice Health	839	662
Juvenile justice	44	47
FOI	198	205
Community services	586	569
Workplace child protection	1,620	1,830
Police	3,833	3,555
Witness protection appeals and complaints, and controlled operations authorities audited	512	305
Agencies outside our jurisdiction	427	392
Total	10,096	9,569