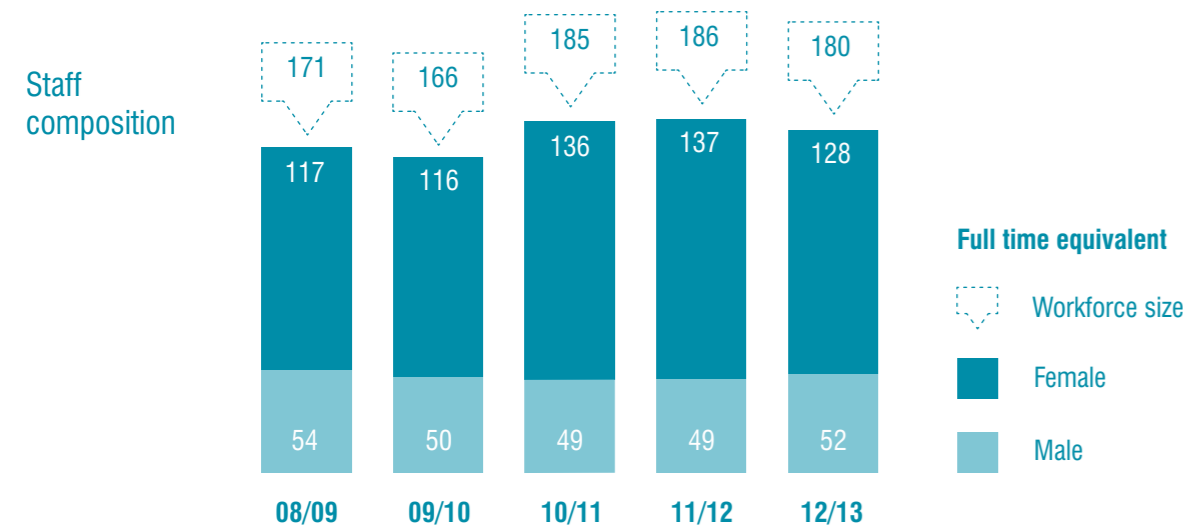




 **Ombudsman**
New South Wales

Annual report 2012–2013



Highlights for the year

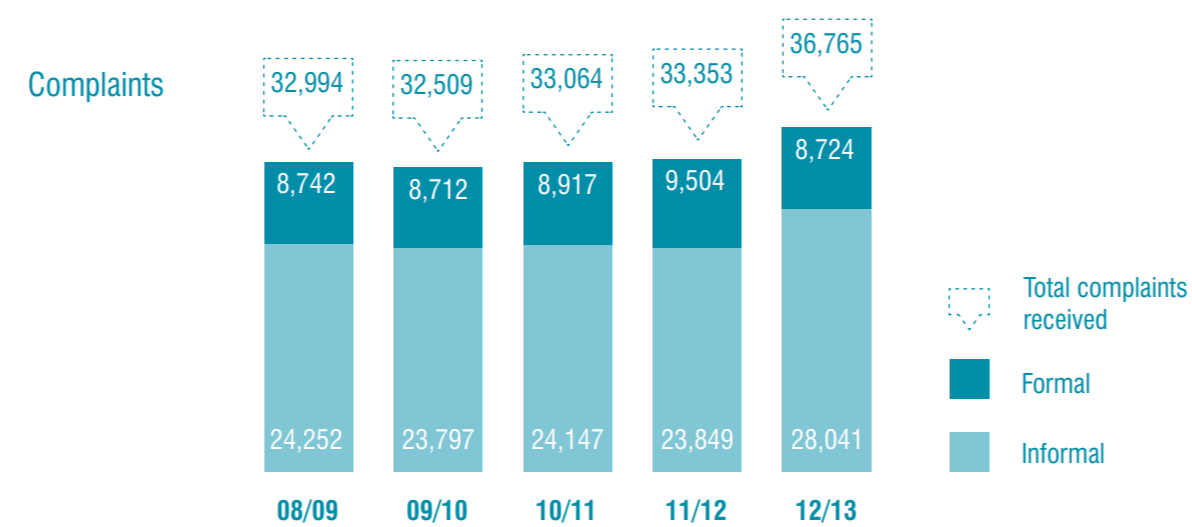
- Launched our workplace giving program to allow staff to make regular pre-tax donations to nominated charities.
- Participated in the Public Service Commission's People Matter Survey and received positive results that compare very well to the results for the broader public sector.
- Successfully rolled out our electronic human resources system, HR21 to allow staff to perform functions traditionally administered by our personnel team.
- Provided our staff with on the job training, mentoring and access to training courses.
- Ran training and information sessions for staff on the new workplace health and safety requirements as well as changes to the workers compensation regime.

Trends in the representation of EEO groups

EEO Group	Target (%)	Result (Percentage of total staff)				
		08/09	09/10	10/11	11/12	12/13
Women	50	71	72	72.9	73.8	73.1
Aboriginal & Torres Strait Islander people	2.6	3.6	3.6	2.4	2.9	3.0
People whose language first spoken as a child was not English	19	21	21	17.5	18.1	16.1
People with a disability	n/a	7	7	9.2	10	12.1
People with a disability requiring work-related adjustment	1.5	2.6	2.6	2.4	2.4	2.5

Looking forward

- We will work with the Anti-Discrimination Board to train our staff on harassment and bullying prevention to support the release of our updated policies.
- We will help our principal officers to fully understand and implement their obligations under new work health and safety legislation and focus on raising awareness of work health and safety principles.
- We will review and update our systems to support changes following the introduction of the new *Government Sector Employment Act 2013*.
- We will develop strategies to implement the new NSW Government Performance Development Framework and to update our position descriptions in line with the revised NSW Public Sector Capability Framework.



Highlights for the year

- Provided significant information about our work to state and federal inquiries, including the Royal Commission into institutional responses to child sexual abuse.
- Delivered a number of significant reports, including our final report as part of our three-year audit of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*, our comprehensive review of the use of Tasers by the NSW Police Force and our inquiry into the access of people in mental health facilities to disability services and support.
- Began 'Operation Prospect' – an investigation into the conduct of officers of the NSW Police Force, NSW Crime Commission and Police Integrity Commission. We secured additional funding, established new facilities and recruited specialist staff to support the Operation.
- Developed and updated our infrastructure to better support our staff and improve our work practices.

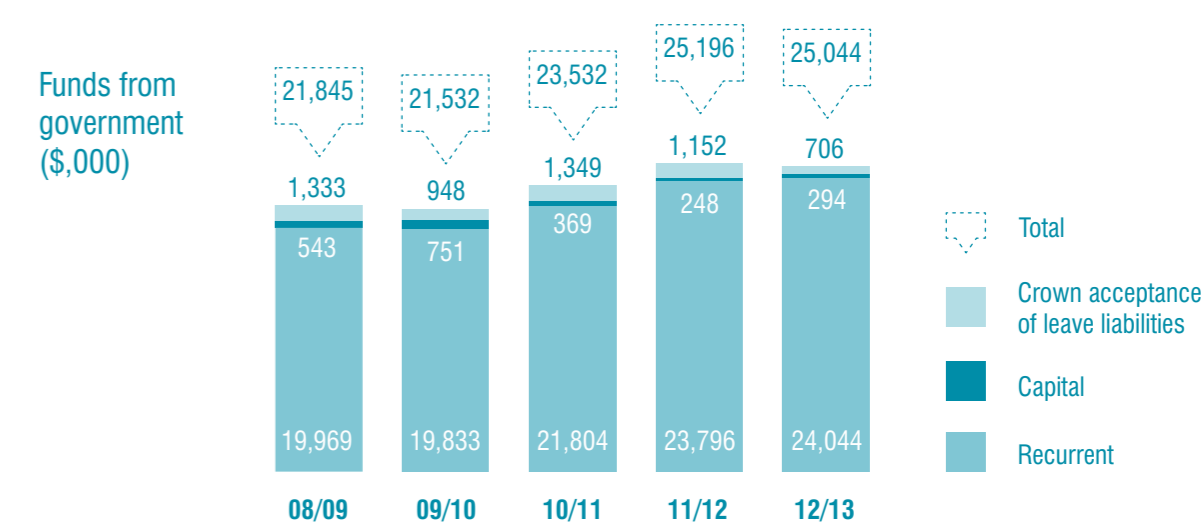
Our performance

Performance indicators	
Assessed complaint or notification within 10 working days	97%
Acknowledged complaint or notification within 10 working days	89%
Completed preliminary inquiries within 16 weeks	86%
Suggestions to agency adopted or action taken consistent with suggestions#	90%
Investigation recommendations adopted or action taken consistent with recommendations	91%
Average time to finalise new complaints	5 weeks

these are suggestions made under section 31AC of the Ombudsman Act

Looking forward

- We will continue to work with Disability Complaints Commissioners from around Australia and other key stakeholders to develop a consistent national approach to safeguards under the new NDIS. We will also work with the disability sector to develop training programs.
- We will deliver a new reviewable death database to support the work of the Child Death Review Team.
- We will table reports to Parliament on public interest issues making recommendations for change where appropriate.
- We will continue to actively support the Australian Standards technical committee in finalising the new Australian Standard on complaint handling.



Highlights for the year

- We generated \$673,000 in revenue mostly by providing training to public sector and non-government agencies, which we use to support our core work activities of complaint handling and systemic project work.
- We began a review of our accounting practices in line with the government's commitment to improved financial management in the public sector.
- We increased our asset base as unspent grant money increased our cash at bank.
- Our liabilities slightly decreased, due to proactively managing our employee leave entitlements.
- We met changed reporting timeframes for the preparation and sign off of financial statements including early close procedures.

Financial summary over five years

Year	08/09 \$,000	09/10 \$,000	10/11 \$,000	11/12 \$,000	12/13 \$,000
Operating revenue	22,096	21,968	24,428	25,898	27,981
Operating expenses	22,605	21,135	24,297	26,962	26,908
Total assets	1,862	3,363	3,253	3,040	3,839
Total liabilities	2,006	2,675	2,423	3,274	3,000
Net result	(509)	832	142	(1,064)	1,073
Total equity	(144)	688	830	(234)	839

Looking forward

- We will continue to look for opportunities to expand our training revenue with new courses being developed.
- We will replace old or obsolete computer and other equipment.
- We will continue to invest in technology and process improvement to support the delivery of our services in an environment of diminishing resources.



Our people



Our work



Our finances

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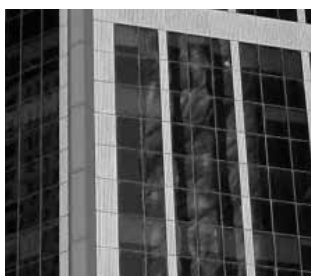
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Letter to the Legislative Assembly and Legislative Council

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

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

Dear Mr President and Madam Speaker,

NSW Ombudsman annual report 2012–2013

I am pleased to present our 38th annual report to the NSW Parliament. This report contains an account of our work for the 12 months ending 30 June 2013 and is made pursuant to ss.30 and 31 of the *Ombudsman Act 1974*.

The report also provides information that is required pursuant to the *Annual Reports (Departments) Act 1985*, *Annual Reports (Departments) Regulation 2010*, *Government Information (Public Access) Act 2009*, *Law Enforcement (Powers and Responsibilities) Act 2002* and *Disability Services Act 1993*.

The report includes updated material on developments and issues current at the time of writing (July–September 2013).

Yours sincerely



Bruce Barbour
Ombudsman

30 October 2013

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Our vision

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

Our key stakeholders

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

Our aim

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

- good conduct
- fair decision making
- protection of rights, and
- provision of quality services in our own organisation and those we oversight.

Our corporate purpose

Our purpose is to:

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

Our values

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

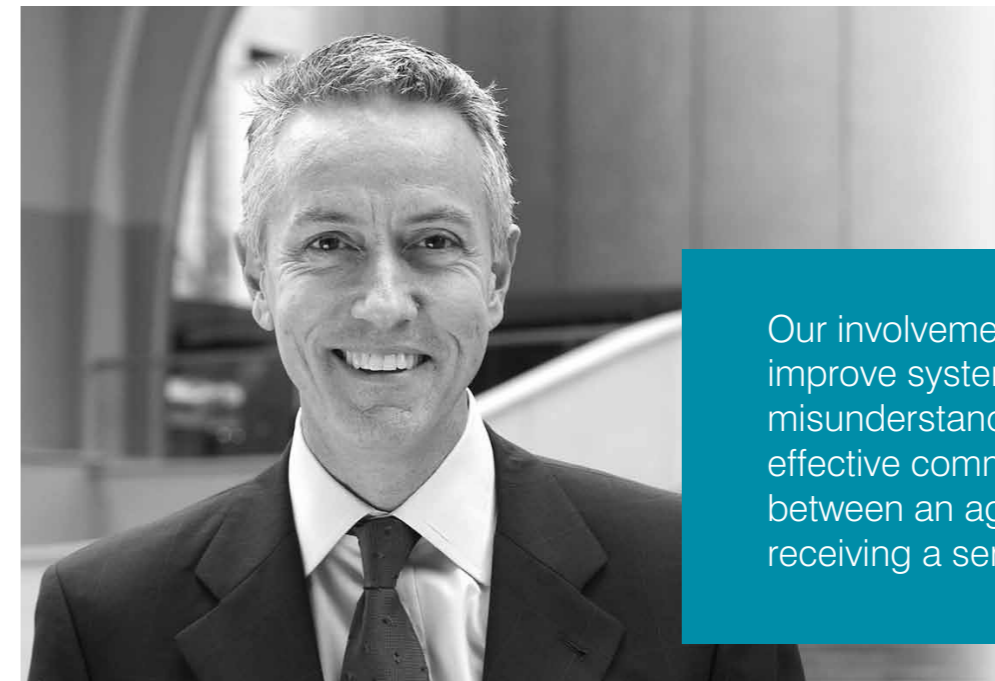
- Integrity – acting lawfully, honestly, ethically with good judgement and high professional standards.
- Impartiality – acting in a non-political manner, neither an advocate for complainants nor responding agencies but as an advocate for the public interest independent of government.
- Fair play – focusing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

Our guarantee of service

We will:

- consider each matter promptly and fairly, and provide clear reasons for our decisions
- where we are unable to deal with a matter ourselves, explain why, and identify any other appropriate organisation
- treat anyone who contacts us with dignity and respect
- help those people who need assistance to make a complaint to the Ombudsman
- maintain confidentiality where appropriate and possible
- add value through our work.

Ombudsman's message



Our involvement can help to improve systems, overcome misunderstanding and establish effective communication between an agency and those receiving a service.

I am always pleased to introduce this report. It is a significant way of communicating to the community, not only what we have done in the last twelve months, but also to share information and increase understanding about who we are and what we do.

Before turning to our work for the year, I would like to remember two friends and colleagues. Mary McCleary and Sheila O'Donovan both had a substantial impact on our work, and developed strong ties and close friendships across the office. Their deaths this year created much sadness in our office, and we miss them both a great deal. The ability of our staff to continue to work at what were very difficult times is a tribute to their resilience, professionalism and commitment. I would like to thank everyone for their hard work in the past twelve months and the strength of character and goodwill they bring to this office.

We have reported publicly on a number of matters since the last annual report. We completed our comprehensive review of the use of Tasers by the NSW Police Force (see page 52). We reported on an investigation into the administration of provisions to provide assistance to students with disabilities sitting their Higher School Certificate (see page 75). We reported our findings and recommendations following an inquiry into the access of people in mental health facilities to disability services and support (see page 100). We finalised our investigation into the critical incident investigation following the death of Brazilian student Roberto Laudisio-Curti (see page 48). And finally, we issued the final report as part of our three-year audit of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities* (see page 105).

These are all significant, important pieces of work, and they show the breadth and increasing complexity of our jurisdiction.

But these are just one part of our achievements this year. Once again this report shows the sheer volume and number of matters we continue to deal with, but more importantly

it shows the very real results we can, and do, achieve. Our involvement can help to improve systems, overcome misunderstanding and establish effective communication between an agency and those receiving a service.

This year has presented us with a number of new, unexpected and resource-intensive challenges. The first was the announcement of commissions of inquiry at both the state and federal level into various aspects of the investigation of, and response to, child abuse (see page 89). These are both very important commissions of inquiry with a great deal of community support and expectation, and I am committed to making sure we provide any assistance we can. My office has a unique role in that we are the only Ombudsman with responsibilities relating to employment-related child protection. At the same time, we have a broad range of responsibilities in relation to those providing community services. We have spent a great deal of time, effort and resources providing responses to the commissions so far, and given our various roles I am in no doubt we will continue to provide information, assistance and submissions to the federal Royal Commission in the years to come.

The second unexpected change came with the passage of a range of legislative amendments to allow my office to investigate certain allegations relating to officers of the NSW Police Force, Police Integrity Commission and NSW Crime Commission. This investigation, called Operation Prospect, is now well underway, with a staff of experienced investigators, secure premises and an extraordinarily large amount of information to analyse and consider (see page 53).

While there are some areas where we have had to respond to unexpected additional work, in other areas we continue to build on what we have done before. For example, we are continuing to closely monitor the implementation of reforms to community services as part of Keep Them Safe (see page 84). This is an area where, despite some positive developments, there is still clearly so much more to do.

We have already issued one public report looking at areas where more needed to be done, and I intend to report publicly on this issue again early in 2014.

The way we approach our work has to continue to change. We only have a finite level of staff and funding, and have to make decisions about where we are focusing our time and resources. To make sure we do this properly, we are concentrating on areas that present the greatest risk to the community and also to our organisation. This can be challenging, and we have continued to refine and improve our information systems and intelligence holdings to help us make these choices. We also continue to look to identify ways of making better use of technology to allow us to do more with less. This year, we have upgraded our telephone system, upgraded our document and case management systems, and conducted a trial of electronic complaint handling (see page 30).

We are also increasingly becoming involved in providing advice and assistance in the development of new systems and in developing new policies and approaches to complex issues involving multiple agencies. This can mean we help to avoid being involved at a later stage. One reason for this change to the way we work is the large amount of diverse information we have access to from a wide range of government and non-government service providers. In some cases, we have been able to identify problems and areas of concern that have been missed by others. This is one of the main reasons why the recent changes to the Working with Children Check process included providing for us to provide the Office of the Children's Guardian with information to inform their decision process (see page 90).

Auditing customer satisfaction

It makes good sense for us to review and improve the way we carry out our work, particularly in the context of increasing demand and limited resources. Reflecting critically on how we do business is also important, given that our role in investigating and overseeing other agencies involves identifying deficiencies and promoting good practice.

This year we began an audit to assess people's level of satisfaction with the service they receive when they contact us to make an inquiry or complaint. The results will help us to identify any improvements we can make to our service.

The first stage of the audit focused on how we handled telephone inquiries. This did not include inquiries about community services – we are currently doing a separate audit of complaint handling in that area. During April and May 2013, 183 people – just under 20 percent of all callers over a two-week period – agreed to participate in a brief survey.

Almost 40 percent of callers contacted us about a NSW government agency or authority. Around a quarter contacted us about an agency or organisation outside of our jurisdiction, just over 20 percent called about a local council, and 16 percent called about the police. The most common reasons for contacting us were to obtain general information or advice, to make a complaint, or to find out how to make a complaint.

There is no doubt we are busy, and we continue to face budgetary challenges from public sector-wide efficiency measures. However I still believe there is a need for Ombudsman offices and other integrity agencies to look outside of our traditional work. We must take opportunities to share our experience and add value, both within NSW and in other jurisdictions. Doing this not only helps other similar offices, it can also help us to reflect on how we do our work. This is why I have chosen to highlight some of our work with others throughout this year's report, including co-hosting the 9th National Investigations Symposium (page 115), providing assistance and support to developing offices in our region (pages 8, 59 and 76), developing relevant and useful training for a federal department (page 112) and working on a new national complaint-handling standard (page 68).

We will continue to change, evolve and improve, responding to unexpected changes and working hard to meet growing community expectations. As always, our office is driven by the need to be innovative, to achieve the best possible outcome for the community and to act in the public interest.



Bruce Barbour
Ombudsman

The survey findings were overwhelmingly positive:

- 90% of respondents did not experience any difficulty contacting our office and speaking to someone about their inquiry.
- 97% felt the person who handled their inquiry had the knowledge necessary to deal with their issue or concerns.
- 100% felt that the person who handled their inquiry was polite and dealt with their inquiry or concerns fairly, and 99% felt listened to and understood.
- 98% stated that the information or advice they received was easy to understand.
- 95% were satisfied with the service they received and 94% said they would contact us again.
- Of the respondents that we couldn't assist, 90% thought we clearly explained why – with almost the same number agreeing that the explanation we provided was reasonable.

Although these were good results, the audit confirmed that a small minority of people who contacted us were dissatisfied with either the limitations of our jurisdiction or some aspect of our processes for making a complaint. However, in most cases, there was a legislative basis for these perceived constraints.

We will complete the second stage of our audit by the end of 2013, focusing on how we deal with formal complaints about government departments and authorities and bodies outside our jurisdiction. We will include our findings in next year's annual report.

About us

Who we are and what we do

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

Agencies delivering public services

Who we scrutinise

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

How we keep them accountable

We investigate and resolve:

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

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

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

Organisations delivering services to children

Who we scrutinise

- over 7,000 organisations providing services to children – including schools, child care centres, family day care, out of school hours services, juvenile justice centres and organisations providing substitute residential care and health programs
- the conduct of paid staff, contractors and thousands of volunteers working for these organisations.

How we keep them accountable

Organisations are required to notify us of any reportable allegations about, or convictions for, conduct that could be abusive to children. We oversee how organisations handle these allegations about their staff, and keep under scrutiny their systems for dealing with such matters.

Where appropriate, we directly investigate the handling of allegations. We also:

- deal with complaints from parents and other interested parties about how organisations have investigated allegations
- keep under scrutiny the systems organisations have to prevent employees from behaving in ways that could be abusive to children
- provide training and guidance about how to handle these kinds of allegations and convictions.

Organisations delivering community services

Who we scrutinise

- licensed boarding houses and fee-for-service organisations
- child protection and family support services
- out-of-home care services for children and young people
- home and community care services
- services for people with disabilities
- supported accommodation and assistance program services.

Community Services and Ageing, Disability and Home Care provide many of these services. Non-government organisations providing these services also fall within our jurisdiction if they are funded, licensed or authorised by the Minister for Community Services or the Minister for Ageing and Disability Services.

How we keep them accountable

We investigate and resolve complaints about the provision, failure to provide, withdrawal, variation or administration of community services. We review:

- standards for the delivery of community services
- the systems organisations have in place to handle complaints about their services
- the situation of children, young people and people with disabilities who are in out-of-home care
- the deaths of certain children, young people and people with disabilities in care.

We also:

- visit certain services where children, young people and people with disabilities live
- support the Child Death Review Team
- coordinate the official community visitors scheme
- provide information and training to consumers of community services and organisations about complaint handling and consumer rights
- promote improvements to community service systems and access to advocacy support for people who are receiving, or are eligible to receive, community services.

Agencies conducting covert search warrants

Who we scrutinise

Law enforcement agencies such as the NSW Police Force, the NSW Crime Commission, the Independent Commission Against Corruption and the Police Integrity Commission.

How we keep them accountable

We review agency compliance with accountability requirements for undercover operations, the use of telephone intercepts and surveillance devices, and covert and criminal organisation search warrants.

How we do our work

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

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

We help organisations to prevent or reduce the level of complaints made about them by reviewing their systems. Our proactive work also allows us to address problems if members of the public have legitimate grievances but, for whatever reason do not or cannot take up the complaint themselves. We aim to reduce the volume of complaints to our office by providing training and advice to the

organisations we scrutinise about how to effectively resolve and manage complaints. We also provide assistance, guidance and training to other watchdog agencies.

Responding to complaints and notifications

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

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

Sometimes we receive written complaints about public sector agencies that are within our jurisdiction, but the conduct complained about is outside our jurisdiction. These are initially classified as 'formal' complaints received about public sector agencies. Written complaints received about agencies outside our jurisdiction, and oral complaints about both agencies and issues outside our jurisdiction, are dealt with informally by referring the complainant to an appropriate agency or service. They are classified as 'outside our jurisdiction' from the outset.

Handling inquiries

Our inquiries and resolution team handle the majority of contacts with our office. People from across the state, the country and even internationally ask us to resolve their

complaints. We try to help wherever we can to achieve an outcome that is in the public interest. However, it is not practical for us to follow up on every complaint, and not every complaint warrants further action.

Assessing complaints

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

Advice about alternative options

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

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

the issue themselves and gain confidence that agencies take their complaints seriously. The level of awareness of our office means that people often contact us about problems we do not have the jurisdiction to handle. In about a third of contacts, even though we have no jurisdiction, we make sure complainants are aware of the relevant statutory and industry Ombudsman, government enforcement and regulatory bodies, legal advice services and relevant peak and consumer bodies.

Suggesting they complain to us

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

When advising complainants to complain to us, we discuss reasonable outcomes and timeframes (as we do when referring complainants back to agencies) and what information we need to formally assess their complaint.

Explaining the actions of agencies

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

Complaints can result from misperceptions or misunderstandings or even a failure to properly explain a decision or action. Mere disagreement with an agency does not make it wrong. If we assess an agency's decision to be legal, supported by policy, soundly reasoned and there is no other evidence to indicate it is wrong, we have no grounds to investigate the decision further.

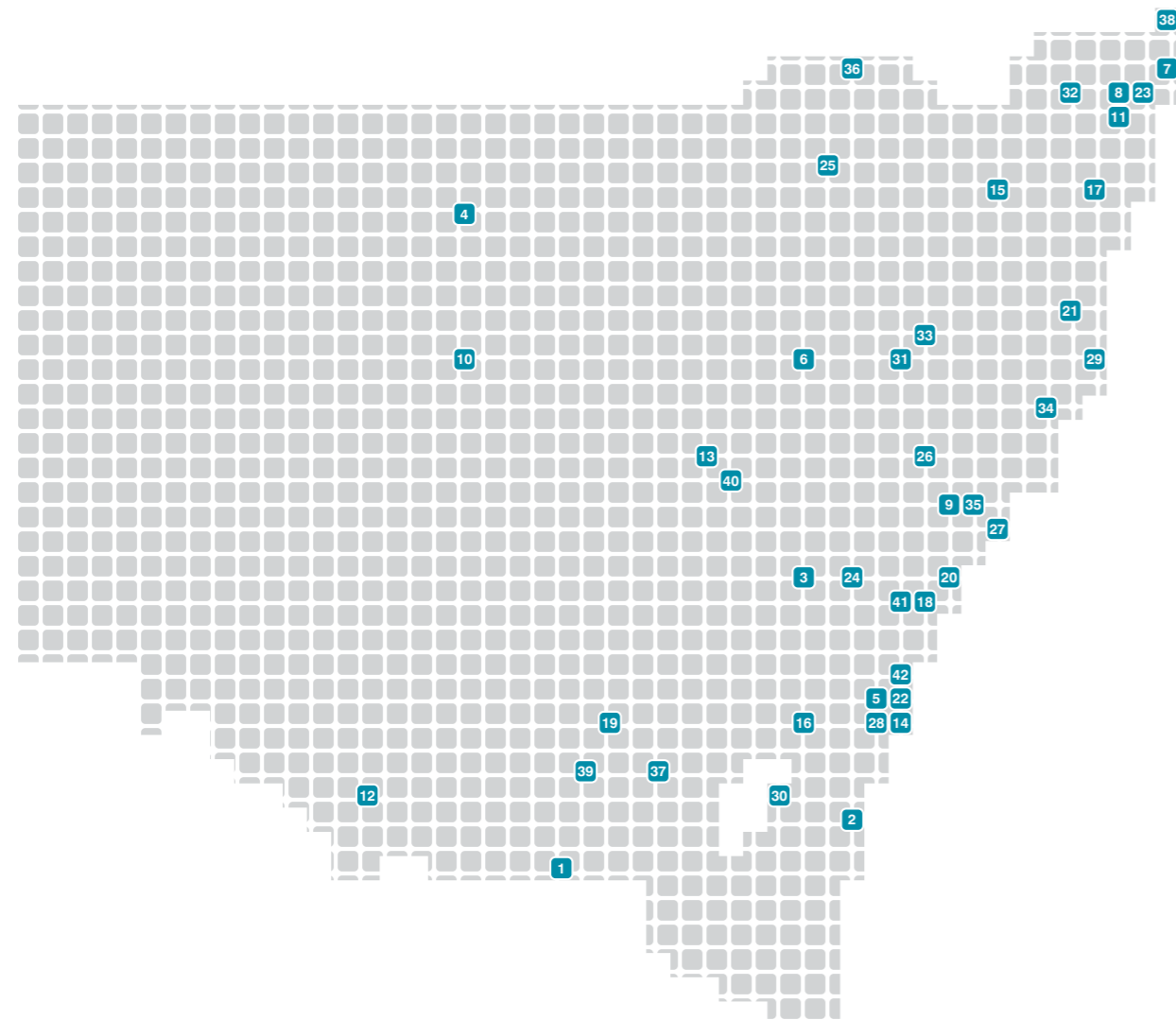
Acting on urgent complaints

There are regularly complaints or complainants that need immediate action or help. We accept complaints orally if we believe there is a possible problem with an agency's imminent action or inaction and there would be serious consequences. We also recognise certain members of the community need help to ensure their complaint is heard and appropriately addressed. In these cases, we immediately contact the agency concerned and try to resolve the complaint.

Our proactive and systemic work

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

Communities visited in NSW in 2012–2013



- | | |
|----------------|-------------------|
| 1 Albury | 22 Kiama |
| 2 Batemans Bay | 23 Lismore |
| 3 Bathurst | 24 Lithgow |
| 4 Bourke | 25 Moree |
| 5 Bowral | 26 Muswellbrook |
| 6 Box Ridge | 27 Newcastle |
| 7 Byron Bay | 28 Nowra |
| 8 Casino | 29 Port Macquarie |
| 9 Cessnock | 30 Queanbeyan |
| 10 Cobar | 31 Quirindi |
| 11 Coraki | 32 Tabulam |
| 12 Deniliquin | 33 Tamworth |
| 13 Dubbo | 34 Taree |
| 14 Gerroa | 35 Thornton |
| 15 Glen Innes | 36 Toomelah |
| 16 Goulburn | 37 Tumut |
| 17 Grafton | 38 Tweed Heads |
| 18 Hornsby | 39 Wagga Wagga |
| 19 Junee | 40 Wellington |
| 20 Kariong | 41 Windsor |
| 21 Kempsey | 42 Wollongong |

Our work with others

We aim to be a leading integrity agency – and can only achieve this by working closely with others in New South Wales, around Australia and across the world.

In New South Wales

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

This year we have:

- Co-hosted the 9th National Investigations Symposium in November 2012 with the ICAC and Institute of Public Administration Australia.
- Met regularly with the ICAC, Audit Office and the Division of Local Government to exchange information on areas we are both working on.
- Continued our involvement in the Complaint Handlers Information Sharing and Liaison meetings (CHISaL).
- Worked with the members of the Public Interest Disclosures Steering Committee to continue to monitor the operation of the *Public Interest Disclosures Act 1994*.

Across Australia

Although the various Ombudsman offices and integrity bodies across Australia have different jurisdictions and often very different ways of approaching their work, there are some common elements. This is why it is so valuable for us to keep in contact with one another – sharing and learning from each other's experiences.

The Ombudsman speaks regularly with other Ombudsmen, and attended a meeting of the Australasian Ombudsman in July 2012. The Deputy Ombudsman (Public Administration) also attended the annual meeting of Deputy Ombudsmen. This contact gives each office an opportunity to better understand the challenges and opportunities facing others.

We have continued to contribute to Standards Australia's review of its complaint-handling standard. More information about this work is included at page 68.

Around the world

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

We worked with the Western Australian Ombudsman this year on an APOR application for IOI project funding to develop a 'starter pack' for newly appointed Ombudsmen and developing offices. This will provide guidance on how to deal with some of the issues other regional members have faced, as well as useful materials. This project will continue in 2013–2014.

The Ombudsman attended and delivered two papers at the IOI World Conference in November 2012 in Wellington, New Zealand. The first paper discussed our office's history with access to information and the various different models of oversight for this important area. The second was delivered at the close of the conference, and looked to the future direction of the IOI. Both papers are available at our office's website. The Deputy Ombudsman (Public Administration) also delivered a workshop on managing unreasonable complainant conduct in the days leading up to the conference.

Our office is also a member of the Pacific Ombudsman Alliance (POA), with the Ombudsman serving on the POA Board. Our office has continued to provide practical advice and assistance to POA members, with staff taking part in placements with the Kiribati Public Service Office and the Vanuatu Ombudsman. We were also visited by the newly appointed Ombudsman for Vanuatu and the Cook Islands who met with staff from across the office to discuss various areas of our work. Both Ombudsmen also met with the Information Commissioner and representatives of the ICAC during their time in Sydney.

Finally, we have continued our involvement in the Indonesian Australian Ombudsman Linkages and Strengthening (IAOLAS) program, funded by AusAID. This program supports exchanges between the Australian and Indonesian organisations to share knowledge and strengthen core Ombudsman functions. The aim is to help the Ombudsman of the Republic of Indonesia (ORI) promote good governance and fuller participation in the democratic process.

Managing our organisation

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

We are increasingly reliant on our electronic systems to support our work. We continue to improve our case and document management systems through upgrades and ongoing development. We rely on our telephone system as a primary point of contact with many people seeking information and help. This year we upgraded the telephone system to allow us to integrate our management of incoming calls with our case management system, improving our responsiveness.

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Highlights

- Provided information to the Parliamentary Committee on the Ombudsman, Police Integrity Commission and NSW Crime Commission on our work, the work of the Child Death Review Team and the way we manage and report on our performance (see page 18)
- Launched our electronic self-service human resources system, HR21 (see page 31)
- Worked to implement the changes required under the Work, Health and Safety Act 2011 (see page 37)
- To strengthen our governance program, we appointed PwC as our independent internal audit provider (see page 19)

Stakeholder engagement

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

However, we do not work in isolation. Supporting our staff are other key stakeholders including our Audit and Risk Committee and organisations we engage to work with us to skill our staff, improve our working environment, help us reduce our environmental footprint or supply stationery or equipment. These groups all contribute to the office delivering an effective service to the public.

The results of the People Matter Survey, discussed below, reflect our commitment to our staff. We will continue developing and improving this relationship so we are able to meet the challenges ahead.

Facts and figures

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

This year we received 36,765 complaints and notifications across our jurisdiction. As figure 1 shows, this included 8,724 formal matters and 28,041 informal matters. Figure 2 provides a breakdown of the 8,555 formal complaints and notifications we have finalised this year.

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

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

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

Handling formal and informal matters is only part of our work. Figure 5 outlines some of our proactive and systemic work for 2012–2013.

Fig. 1: Complaints and notifications we received in 2012–2013

Subject	Formal	Informal	Total
Departments and authorities	1,566	4,303	5,869
Local government	764	1,788	2,552
Custodial services and Justice Health	756	4,027	4,783
Juvenile justice	65	222	287
Child and family services	362	781	1,143
Disability services	133	172	305
Other community services	31	97	128
Employment-related child protection	1,065	525	1,590
Police	3,287	2,365	5,652
Outside our jurisdiction	695	10,798	11,493
Requests for information	0	2,963	2,963
Total	8,724	28,041	36,765

Fig. 2: Formal complaints and notifications finalised

Subject area	08/09	09/10	10/11	11/12	12/13
Departments and authorities*	1,534	1,550	1,857	1,778	1,566
Local government	672	875	924	933	765
Custodial services and Justice Health	714	722	898	1,003	766
Juvenile justice	73	62	78	91	65
Community services	704	720	716	641	513
Employment-related child protection	1,715	1,483	1,304	988	998
Police	3,094	3,093	3,278	3,390	3,178
Agency outside our jurisdiction	397	276	430	502	704
Total	8,903	8,781	9,485	9,326	8,555

* We have included freedom of information matters in the Departments and authorities figure as it has been several years since our jurisdiction ended.

People Matter Survey

In July 2012, the Public Service Commission conducted the People Matter Survey, to capture employees' perceptions of how well the public sector values are applied across the sector, as well as employee views on – and experiences in – their workplaces.

The survey was open to all NSW public sector employees with more than 60,000 people (around 16% of the public sector workforce) participating. Our response rate was high, with half our staff responding to the survey. The results are extremely positive and compare well to the results for the entire public sector. Some findings included:

- 99% of staff felt that the office strives to achieve customer/client satisfaction.
- 96% of staff believe that they have the skills to do their job effectively.
- 86% of staff were satisfied with their job and 96% are proud to work for the NSW public sector, although only 63% felt that their job was secure.
- 61% of staff felt that the NSW public sector is innovative while 81% felt encouraged to be innovative in their work at the office.
- Most staff agreed that equal employment opportunity (EEO) exists in the workplace and that the office is committed to workforce diversity.
- Over 80% of staff have positive perceptions about communication from senior managers.

Breakdown of formal complaints received – five year trend

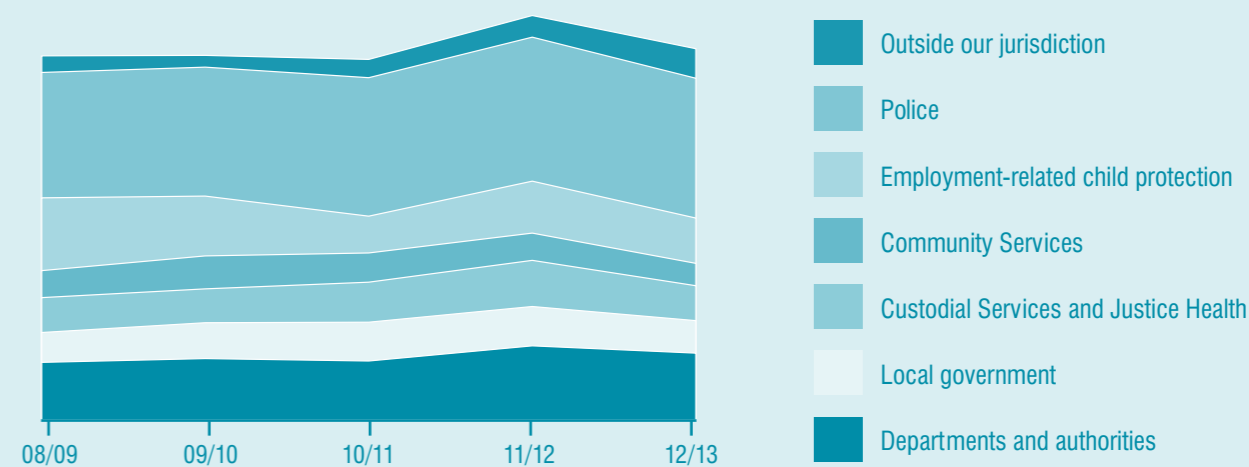


Fig. 3: Formal complaints and notifications received and finalised

Year	08/09	09/10	10/11	11/12	12/13
Received	8,742	8,712	8,917	9,504	8,724
Finalised	8,903	8,781	9,485	9,326	8,555

Fig. 4: Number of formal investigations finalised in 2012–2013

Branch	Total
Human services	1
Police and compliance	5
Public administration	16
Total	22

Fig. 5: Proactive and systemic work

Type of work	09/10	10/11	11/12	12/13
Audits and inspections				
Police records	7,250	8,259	2,708	1,658
Controlled operation files	342	385	372	388*
Surveillance device warrant files	449	770	882	1418*
Covert search warrant files	48	20	24	35*
Witness protection appeals	0	2	0	0
Activities undertaken to scrutinise NSWPF complaint-handling systems	-	1	7	10
Criminal organisation search warrant files	19	6	0	0#
Child protection 'agency' audits conducted	11	24	4	7
Police powers under review				
Reviews of legislation conferring new police powers completed	1	1	0	0
Reviews of legislation conferring new police powers in progress	3	1	4	4
Visits				
Hours spent on visiting services (OCV program)	5,941	5,824	6,222	6,139
Visits to residential services (OCV program)	3,335	1,447	2,215	2,056
Correctional and juvenile justice centre visits	65	54	53	52
Regional and remote communities visited	61	57	62	42
Consultations				
People consulted during systemic investigations and reviews	1,839	1,466	875	567

* These are the number of files inspected at the time of preparing this report.

These files are required to inspected every two years. The inspection for 2011–2012 and 2012–2013 was conducted in August 2013. This figure will be included in the annual report for 2013–2014.

'It's extremely refreshing to deal with a government agency with good customer service.'

'Thank you for listening and understanding my concerns.'

'I hope the Ombudsman is always there – you do good work.'

'Top of the list for all the government agencies I've spoken to over the past few weeks – very helpful.'

'Great service – very happy, even though I didn't get the answer I wanted.'

Responses from people who took part in our customer satisfaction audit

Strategic planning

Our statement of corporate purpose provides our office with high level direction and guidance. We have reviewed the statement this year, and the Ombudsman has approved the new statement for 2013-2018. The four key purposes for the office included in the statement are the categories of our performance statement (see page 20). The statement also includes several key success factors. These help us to monitor our progress in achieving our purposes. The following sections provide some information about what we have done to meet these.

Engaging effectively with partners and stakeholders

Our stakeholders are a diverse mix of people and agencies located in metropolitan, regional and rural areas across NSW. In order to meet the needs of all of our stakeholders, we often travel to different areas to consult with relevant people and community groups. For example, our audit of the NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities required significant consultation with community groups and Aboriginal leaders in the Sydney area as well as in regional and rural NSW. Page 105 has more details on this work.

We continue to deliver a wide range of training on a variety of topics to agencies and community groups. We also developed new training on handling serious incidents in the disability sector in response to an increasing awareness and demand in this area. For more information on our education and training activities, see page 113.

We conducted a satisfaction survey of people who contacted our office to make an inquiry. The feedback from this survey was very positive, and will help us improve our frontline services. Page 4 has more details on this survey.

The Deaf Society NSW helped us to develop an Auslan version of our Know Your Rights resource, which is aimed at those receiving community services. This brochure, as well as the general information we make available in 46 languages, can be accessed on our website. This year, we translated an issues paper, released as part of our review of legislation allowing police to require the removal of face coverings for identification, into Arabic, Bengali, Dari, Dinka, Indonesian, Somali and Urdu to accommodate the needs of our various stakeholders.

Being flexible and responsive

We have to be flexible and responsive so we can respond quickly and effectively to change and new priorities. This can mean changing our focus – as well as our structure and the way we use our budget – to meet emerging priorities.

In October 2012, we began an investigation into the conduct of officers of the NSW Police Force, the NSW Crime Commission and the Police Integrity Commission. We have called this investigation 'Operation Prospect'.

Establishing this operation presented a number of challenges, including securing additional funding, recruiting specialist staff, sourcing and implementing technology and facilities needed; all within a short

timeframe. Our senior staff worked to meet these requirements swiftly, while ensuring we were still performing our other important policing responsibilities. We acquired new technology and specialised equipment to support the investigation, and established highly secure facilities to house the operation staff. See page 53 for more information about Operation Prospect.

Since November 2012 our office has been responding to and assisting both the Special Commission of Inquiry into matters relating to the police investigation of certain sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle and the Royal Commission into institutional responses to child sexual abuse. As the main oversight agency for employment-related child protection in NSW, as well as the oversight agency for the provision of community services, we expected to contribute to both inquiries. The requests for information and advice have exceeded our expectation. Resources have been moved from our day-to-day 'core work' to enable us to respond. One aspect of our response has been to review and restructure how certain areas of the human services branch perform their work. We will also be seeking additional resources to assist us in meeting the demands for information. Page 89 has more information about both commissions of inquiry.

Last year we conducted a needs and benefits analysis of integrating our three reviewable death functions. We have continued this work, focusing on improving the reviewable deaths and child death review analytics processes. We also reviewed our staff structure and capabilities around our reviewable death work and identified some capability and skills gaps. We have developed a new structure that clarifies roles and integrates an 'information and research management centre' responsible for information management, data analytics and research.

Each of our business units holds annual planning days. Having time dedicated to planning for the future allows staff and management to discuss emerging challenges, review the way we do our work and identify how our processes can be improved. Our division managers held a similar one-day session this year to discuss 'across office' issues and develop strategies to deal with these issues.

Developing our workforce

Changes such as those outlined above mean we must have a flexible and skilled workforce. In 2012–2013 we allocated more funds to training than the previous year, providing staff with regular opportunities to expand and refine their skills and abilities. Staff attended sessions on a range of topics including communication, interview techniques, resilience and stress management, Aboriginal cultural appreciation, disability awareness and mental health awareness.

Last year we engaged an accredited training provider to develop and conduct Certificate IV (Investigations) training for our investigations staff. This year we continued working with the training provider to customise this training module. The course will be delivered in 2013–2014.

For more information about our learning and development activities see page 38.



Bruce Barbour

Ombudsman
LLB

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



Chris Wheeler

Deputy Ombudsman
*BTRP MTCP
LLB (Hons)*

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

Public administration

The public administration branch deals with complaints about a broad range of public authorities, as well as local councils. Our custodial services unit is part of the branch, and is responsible for our work with correctional and juvenile justice centres. Our public interest disclosures unit is also part of the branch, providing advice and assistance to public authorities and public officials. Our inquiries and resolution team – often the first point of contact for people who complain or inquire about government agencies – is another important part of the branch.



Steve Kinmond

Deputy Ombudsman/Community and Disability Services Commissioner
BA LLB Dip Ed Dip Crim

Appointed Deputy Ombudsman/Community and Disability Services Commissioner in 2004. Close to 30 years investigative experience and extensive involvement in the community services field. Worked as a solicitor and had his own consultancy practice.

Human services

The human services branch consists of our community services division and our employment-related child protection division. The human services branch is also responsible for supporting the child death review team. The community services division handles complaints about, and monitors and reviews the delivery of, community services as well as reviewing provider's complaint-handling systems. The employment-related child protection division oversees the investigation of certain agencies into allegations against their employees that involve inappropriate or abusive behaviour towards children. They also look at the systems agencies have to prevent reportable conduct occurring in the workplace and to respond to allegations appropriately.



Linda Waugh

Deputy Ombudsman
BA Post Grad Dip Psych MBA

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

Police and compliance

The police and compliance branch consists of our police division and our secure monitoring unit (SMU). The police division is responsible for ensuring the NSW Police Force handles complaints about police fairly and correctly. They also review new police powers as requested by the NSW Parliament. The SMU handles appeals and complaints under the Witness Protection Act. They also inspect the records of eligible authorities and law enforcement agencies to assess and report on their compliance with certain legislation, such as the *Terrorism (Police Powers) Act 2002*.



Anita Whittaker

Director
*PSMO BCom
MIIA (Aust)*

Started with our office in 1985 and has over 30 years experience in the NSW public sector. Extensive experience in public sector administration and financial and human resource management. Awarded the Public Service Medal in 2000 in recognition of her outstanding service.

Corporate

The core work of the office is supported by a small diverse corporate branch. Personnel is responsible for payroll, leave administration, recruitment, performance management and WHS. Business Improvement facilitates business process improvement. Finance is responsible for accounting, budgeting and office services. Information Technology develops and manages computer systems to deliver our core work and protect our data assets. Records manage our physical records including creating, archiving and disposing of files. Projects is responsible for office administration, executive support, security, policy review and development, corporate governance, internal audit, and media and public relations.



Julianna Demetrius

Director
Dip Law (LPAB)

Has held several investigative and management positions during her 12 years with our office. Established the office's cross-agency team in 2007. Extensive experience in conducting large-scale systemic investigations across the human services and justice sector.

Strategic projects

The strategic projects division is responsible for leading major projects and investigations, particularly those that cross the jurisdictions of the Ombudsman's various operational areas. The division has a particular focus on Aboriginal and youth issues, and as a result includes our youth liaison officer and Aboriginal unit. The community education and training unit is also part of the division. The unit is responsible for providing training and awareness sessions on a broad range of subjects, including the rights and responsibilities of those using community services and managing unreasonable complainant conduct.

Developing best practice processes

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

This year we:

- developed more streamlined reporting processes to senior management
- implemented a new telephone system for the whole office with recording capabilities and integration with our IT systems
- trialled the electronic management of complaints to support a broader move to handling more matters electronically.

For more information about how we improve our processes and support our business see page 30.

Managing our office

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

The SOG is made up of the Ombudsman, three Deputy Ombudsmen and the Directors of our corporate branch and strategic projects division. They usually meet weekly to update each other on their work and discuss any significant issues. A formal management committee meeting is held every month to review workload, budget and staff matters.

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

Fig. 6: Complaints about our office

Issue	08/09	09/10	10/11	11/12	12/13
Bias/unfair treatment/tone	5	8	0	4	6
Confidentiality/privacy-related	1	3	4	1	1
Delays	3	6	1	2	5
Denial of natural justice	1	1	0	0	0
Failure to deal appropriately with complainant	9	8	5	6	10
Lack of feedback/response	3	5	3	2	3
Faulty procedures	3	1	1	2	1
Inaccurate information/wrong decision	8	7	1	2	8
Poor customer service	5	7	5	14	17
Corruption/conflict of interest	0	3	0	2	0
Other	2	1	1	3	4
Total issues	40	50	21	38	55
Total complaints	26	28	14	25	37
Percentage of all formal matters finalised	0.29	0.32	0.15	0.27*	0.40

* This figure was incorrectly reported in 2011-2012.

Having effective policies

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

Our code of conduct requires that staff comply with all office policies and we aim to review each policy every two to three years. This year, we reviewed or developed 12 policies, relating to areas including staff conduct, governance, security, leave and workplace health and safety.

Measuring our performance

We track our performance in dealing with individual complaints, as well as monitoring how our systems and structures are working. Data from our case management system is used to monitor turnaround times and identify where there may be backlogs, delays or inefficiencies. This information is an essential element of our governance structure as it is used by the SOG to inform decisions on workload, priorities and resource allocation.

As reported last year, we revised our across-office key performance indicators (KPIs) for our complaint handling and oversight work. This year we began our review of KPIs for our systemic review, audit and project work.

Our performance statement (see pages 20–27) provides some information about what we have achieved in 2012–2013, and what we plan for the coming year.

How we are held to account

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

Public interest disclosures (PID) report

All public authorities are required to have policies and procedures in place to allow their staff to report wrongdoing. Heads of authorities are responsible for ensuring staff are aware of the PID Act and that they will be provided with protection and support if they make a public interest disclosure.

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

Policy framework

We recognise the value and importance of staff raising issues that they believe are wrong or where a process is not working properly and our internal reporting policy encourages staff to do this. Our policy commits the Ombudsman and senior staff to handling these disclosures effectively, providing support to the staff making the disclosure.

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

Staff awareness

Staff awareness and understanding is an important part of creating a climate of trust, where staff are comfortable and confident to raise their concerns. The Ombudsman issued an office-wide email this year reinforcing that any staff member raising concerns are doing the right thing and will have his support. The email also reminded staff of those staff in the office who can receive a public interest disclosure.

Information about how to make a report about wrongdoing was also included in staff bulletins and on posters. Public interest disclosures were discussed at staff meetings and our PID unit delivered training to staff. We also widely distribute the PID e-News – a quarterly newsletter to keep public authorities and other interested parties informed of relevant recent developments and news – internally.

Public interest disclosures statistical information

In 2012–2013, one public official made a public interest disclosure directly to our office. We referred this disclosure to a public authority that was better placed to action it. Information about the public interest disclosures we have dealt with as an investigating authority will be included in our public interest disclosures annual report, which will be released later this year.

Fig. 7: Public interest disclosures – July 2012 to June 2013

Public interest disclosures received	Number
Number of public officials who made public interest disclosures directly	1
Number of public interest disclosures received	0
Number of public interest disclosures finalised	0
Disclosures received primarily about:	0
Corrupt conduct	0
Maladministration	0
Serious and substantial waste	0
Government information contravention	0
Local government pecuniary interest contravention	0

Handling complaints about us

We take complaints about our work seriously, as they help us identify areas where we can improve. When someone is unhappy with the way we have dealt with them or their complaint, our staff make sure they know they can make a complaint to our office. We consider all complaints carefully and take any necessary action. See figures 6 and 8 for information about the outcome and issues raised in complaints this year.

Fig. 8: Outcome of complaints about our office in 2012–2013

Outcome	Total
Unjustified	24
Justified or partly justified	8
Some substance and resolved by remedial action	5
Total	37

Reviewing decisions

We always provide complainants with reasons for the decisions we make. Some people will be unhappy with these reasons. If a complainant believes our decision is wrong, they can ask for a review. Each matter will only be reviewed once.

When we receive a request for a review, we call the complainant first and try to resolve the matter quickly and informally. If this is not successful, the review is allocated to a member of staff who has had no previous involvement in the matter. This staff member assesses the original complaint as well as any issues raised in the review request.

When they have completed the review, the matter, including the reviewer's recommendations, is referred to the Ombudsman. The complainant will receive a letter from the Ombudsman outlining the outcome of the review. In some cases, this letter will also outline any restrictions on the complainant's future contact with our office.

This process provides members of the public with an avenue of review, but it also gives us an opportunity to improve the way we handle matters – particularly the way we communicate our decisions. Figures 9 and 10 provide information about the reviews we handled this year.

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

Subject	Number of		Percentage breakdown				
	requests for review	formal complaints finalised	08/09	09/10	10/11	11/12	12/13
Employment-related child protection	2	69	8.3	12.2	5.7	3.5	2.9
Community services	7	515	0.9	0.6	1.1	1.1	1.4
Custodial services/Justice Health	3	830	1.1	1.7	1.3	0.5	0.4
Local government	57	765	7.7	8.0	8.4	6.9	7.5
Other public sector agencies	58	1,568	6.9	5.2	4.4	4.6	3.7
Police	52	3,178	2.0	1.4	2.2	2.0	1.6
Outside our jurisdiction	1	704	1.8	0.4	0.5	0.0	0.1
Total	180	7,629	3.3	2.9	3.0	2.7	2.4

Fig. 10: Outcome of reviews conducted in 2012–2013

Issue	Original outcome affirmed after		Resolved	Reopened	Total
	reviewing the file	further inquiries			
Employment-related child protection	0	2	0	0	2
Community services	6	0	0	1	7
Custodial services	1	1	1	0	3
Local government	27	23	0	7	57
Other public sector agencies	46	8	1	3	58
Police	41	9	0	2	52
Outside our jurisdiction	0	1	0	0	1
Total	121	44	2	13	180
Percentage of total reviews	67	24	1	7	100

Our Parliamentary Committee

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

If someone is unhappy with our actions, they can complain to the Committee. Information about the role of the Committee and how to contact them can be found on our website.

The Committee held its 18th general meeting with the Ombudsman on 22 February 2013. The Ombudsman and senior staff appeared before the Committee to answer questions about our work, primarily around issues from our last annual report. The Committee asked the Ombudsman about Operation Prospect, budgetary matters, police use of Tasers, our work investigating the management of asbestos in certain areas, the use of police intelligence in the Working with Children Check process, and the use of surveillance devices.

The Ombudsman also appeared before the Committee on the same day as Convenor of the Child Death Review Team (CDRT). He was questioned on funding for the CDRT database, data collection, review of swimming pool legislation, implementation of certain CDRT recommendations, team membership and other administrative matters.

The Committee is conducting an inquiry into how performance is measured and reported by oversight agencies. We provided the Committee with a detailed submission outlining the accountability and reporting requirements the office has to meet, as well as other measures we use to monitor our performance. The Ombudsman appeared before the Committee on 11 April 2013 to answer questions about issues such as performance reporting and our customer satisfaction survey.

The reports following these three inquiries were not released at the time of writing this report.

Managing risk

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

The key risks we face are:

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

Our information security management system helps us to identify potential risks and put in place controls to either remove or reduce those risks. This applies to our paper-based systems as well as our computer network and databases.

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

Our audit and risk committee provides us with additional assurance about our risk management practices. Although both of these committees have different responsibilities, they work closely to ensure that our risk management framework meets our ongoing requirements.

Last year we mentioned that we would be reviewing our risk profile to help us to develop and implement a more robust risk management framework, which takes into account increasing workloads and additional pressure on staff as a result of our shrinking budget. We have done substantial work in identifying both organisational and individual business unit risks. We are currently reviewing the controls we use to better manage these risks before we conduct a number of risk assessment workshops. We engaged an external provider to assist us in this process and anticipate the review will be completed in 2013–2014.

Our Audit and Risk Committee

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

We reviewed our committee membership in 2012–2013. Jason Masters finished his term as our independent chair and Carolyn Burlew, who was previously the independent member, was appointed chair in May 2013. Deputy Ombudsman (Police and Compliance) Linda Waugh continued as the non-independent member and David Roden was appointed as an independent member in June 2013.

The committee met on four occasions during 2012–2013.

This year we:

- selected and engaged our new internal audit provider, PricewaterhouseCoopers (PwC)
- conducted several internal audits
- worked with the ARC in reviewing our risks
- reviewed our internal controls framework over contractors and external parties
- monitored implementation of recommendations from audits undertaken, particularly those audits that required system or process changes
- invited staff to ARC meetings to present on their areas of work to assist in the ARC's understanding of our office.

In 2013–2014, we will complete our review of our risks and will begin developing our framework to help us effectively manage these risks. We will also finalise and implement a new three year internal audit plan for our office. This plan will be informed by our statement of corporate purpose and our office-wide risk assessment.

The Ombudsman, following advice from the ARC, attests to compliance with the six core requirements of the NSW Treasury policy. The attestation statement is provided below.

Internal Audit and Risk Management Attestation for the 2012–2013 Financial Year for the NSW Ombudsman's Office

I, Bruce Barbour, am of the opinion that the NSW Ombudsman's Office has internal audit and risk management processes in place that are, in all material respects, compliant with the core requirements set out in Treasury Circular NSW TC 09/08 Internal Audit and Risk Management Policy.

I, Bruce Barbour, am of the opinion that the Audit and Risk Committee for the NSW Ombudsman's Office is constituted and operates in accordance with the independence and governance requirements of Treasury Circular NSW TC 09/08. The Chair and Members of the Audit and Risk Committee are:

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

These processes provide a level of assurance that enables the senior management of the NSW Ombudsman's Office to understand, manage and satisfactorily control risk exposures.



Bruce Barbour
Ombudsman

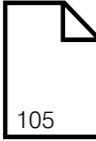



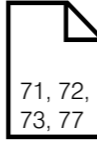



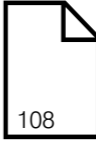





Our performance statement

Purpose 1

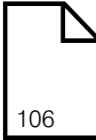



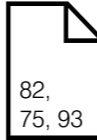







Help organisations meet their obligations and responsibilities and promote and assist the improvement of their service delivery

Key:  see page Achieved  On-going  Not achieved 

What we said we would do in 2012–2013:

Report to the Minister for Aboriginal Affairs on our audit of the implementation of the NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities	Report to Parliament on our review of the level of access people with a mental illness have to disability support	Finalise investigations/projects into asbestos in schools, the regulation of water, the application and management of fines and the handling of local government code of conduct complaints	Complete two legislative reviews of new police powers	Review work being done by agencies to meet their commitments to provide young Aboriginal offenders with effective legal referrals and appropriate access to diversions under the Young Offenders Act	Promote prevention strategies arising from reviews of deaths through production of accessible public information	Report to Parliament on our second review of Taser use by the NSW Police Force
 105 	 100 	 71, 72, 73, 77 	 54, 55 	 108 	 102 	 52 

What else we did in 2012–2013:

Continued to work with a number of Aboriginal communities, government and non-government organisations to help identify sustainable local solutions to service barriers	Reviewed the support provided to young people leaving care and to adolescents at risk	Convened roundtables on issues including disability services, children and young people, how reportable allegations are handled and investigating staff wrongdoing in universities	Reported to Parliament on our monitoring of the critical incident investigation into the death of Roberto Laudisio-Curti and the process surrounding Higher School Certificate disability provisions	Highlighted the need for more effective interstate information exchange to better protect children	Developed guidance for general practitioners, support staff and managers in accommodation services and those working with boarding house residents on the key risk factors that can contribute to the deaths of people with disabilities in care
 106 	 84, 85 	 82, 75, 93 	 48 	 90 	 102 

What we plan to do in 2013–2014:















Report to Parliament on issues relating to the continuing reforms to child protection	Continue to identify ways of making our employment-related child protection training more accessible to out of school hours and vacation care services	Closely monitor the implementation of the recommendations in our audit of the NSW Interagency Plan to Tackle Child Sexual Abuse in Aboriginal Communities, along with broader programs aimed at improving the circumstances of vulnerable Aboriginal children and their families	Audit the NSW Police Force's implementation of its latest Aboriginal Strategic Direction	Finalise two reviews of new police powers
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Purpose 2

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

Key:  Achieved  On-going  Not achieved 

What we said we would do in 2012–2013:

Work with other Ombudsman offices across Australia to develop joint complaint-handling guidelines for universities	Promote the development of a more uniform community service complaints system	Work with the NSW Police Force to ensure it implements our recommendations around workplace equity complaints, as previously agreed by the NSW Police Force	Complete our review of how the NSW Police Force are delivering and measuring complainant satisfaction	Conduct audits in line with our responsibilities under the <i>Public Interest Disclosures Act 1994</i>	Review our manual for investigators	Review complaint-handling arrangements within departmental clusters
 75 	 68, 83 	 49 	 50 	 See PID report 	 25 	 76 

What else we did in 2012–2013:

Handled 36,765 complaints and notifications, 8,724 formally and 28,041 informally	Worked with Ageing, Disability and Home Care to promote better handling and external scrutiny of serious incidents in disability services	Closely monitored the way in which the NSW Police Force deals with complaints in important areas such as making public comment about ongoing investigations, detaining people for their own protection and declining to investigate matters because of court proceedings	Conducted five audits of the NSW Police Force's handling of complaints alleging both serious misconduct and less serious conduct	Worked to try and improve the amount of information some public authorities provide about the outcome of complaints	Continued to monitor the transition of out of home care to the non-government sector, highlighting the importance of a uniform system of probity checking
 11 	 99 	 46, 47 	 50 	 74 	 92 

What we plan to do in 2013–2014:

Launch a new training workshop on investigating misconduct in the public sector	Develop training materials for public interest disclosures coordinators working in agencies	Produce a fact sheet to guide agencies through responding to inquiries by our office	Develop a model complaint-handling policy for public sector agencies	Finalise the review and update of our enforcement guidelines	Explore options for performing our work relating to local government
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Our performance statement

Purpose 3

Be a leading watchdog agency

Key:  see page Achieved  On-going  Not achieved 

What we said we would do in 2012–2013:

Develop and upgrade content of various guidelines to address the misuse of social media and the internet, including our effective complaint management guidelines and the management of unreasonable complainant conduct guidelines

 68 

Co-host the 9th National Investigations Symposium

 115 

Present two keynote papers and a workshop at the International Ombudsman Institute World Conference

 8 

Continue to work with the other members of the Public Interest Disclosures Steering Committee

 8 

Continue our involvement in the Indonesia Australian Ombudsman Linkages and Strengthening program

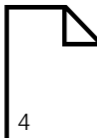

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What else we did in 2012–2013:

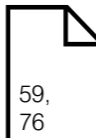
Provided information, assistance and submissions to state and federal inquiries into the response to child sexual abuse

 89 

Completed the first stage of our customer service audit, focusing on our response to telephone inquiries

 4 

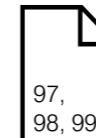

Continued our involvement in the Pacific Ombudsman Alliance, with senior staff completing placements in Kiribati and Vanuatu

 59, 76 

Contributed to a working party reviewing Standards Australia's complaint-handling standard

 68 

Made submissions on topics including the review of the Disability Services Act, the safeguards needed as part of the National Disability Insurance Scheme and changes to the regulation of boarding houses

 97, 98, 99 

Worked with the Commission for Children and Young People and the Office of the Children's Guardian to ensure the new Working with Children Check adequately considers risks to children and relies on all relevant information

 90 

What we plan to do in 2013–2014:

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

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

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

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

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








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

Our performance statement

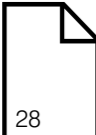







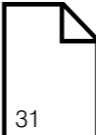

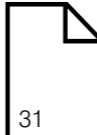





Purpose 4 Be an effective organisation

Key:  Achieved  On-going  Not achieved 

What we said we would do in 2012–2013:

Conduct a trial of electronic complaint management in our public administration division	Work with the Inspector of Custodial Services to ensure a cooperative and effective working relationship	Seek to effectively implement changes to our business arising from the new <i>Child Protection (Working With Children) Act 2012</i>	Review our Statement of Corporate Purpose	Review our workplace health and safety program to comply with new legislative requirements
 30 	 42 	 90 	 13 	 37 

What else we did in 2012–2013:

Achieved a 5 star NABERS rating for our environmental performance	Established Operation Prospect – infrastructure, personnel and systems	Introduced new telephony to enhance our call centre capability and capacity	Upgraded our infrastructure including our exchange server and our case management and document management systems	Launched HR21, our human resources self-service system	Conducted a plain English review of our website	Engaged PwC as our internal audit provider	Improved our use of the police complaints database, and can now identify delays, trends in complaints and officers of concern more quickly and effectively
 28 	 30 	 30 	 30, 31 	 31 	 31 	 19 	 30 

What we plan to do in 2013–2014:

Finalise a trial of limited electronic complaint handling in our public administration divisions and move to roll out electronic complaint handling more broadly	Conduct a trial of receiving notifications electronically in our employment-related child protection work	Review and enhance the official community visitor scheme electronic database and reporting framework	Replace our desktop and computer equipment as part of our four-year computer replacement program	Change how we label our information to comply with the NSW Government digital information security policy	Seek certification under AS/NZS ISO/IEC 27001	Continue to make improvements to the Child Death Review Team database	Implement the <i>Government Sector Employment Act 2013</i>	Integrate our telephone system with our case management system
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Balancing our books

Most of our revenue comes from the government in the form of a consolidated fund appropriation. Our consolidated fund allocation for 2012–2013 was \$24.044 million. The government also provided \$706,000 for certain employee entitlements such as defined benefit superannuation and long service leave. We received \$294,000 for our capital program which was spent on a range of items including hardware and computer software.

In addition to our consolidated fund allocation, we received a number of specific purpose grants; the most significant being for Operation Prospect (see page 30).

We generated \$673,000 through the sale of publications, bank interest, fee-for-service training courses and consultancy work. Other than our appropriation, our usual main source of revenue is from conducting fee-paying training courses (see page 113).

Most of our revenue is spent on employee-related expenses including salaries, superannuation entitlements, long service leave and payroll tax. We spent over \$21.2 million on these items in 2012–2013 and the day-to-day running of our office cost was over \$4.9 million.

In line with the NSW Government's commitment to improve financial management in the public sector, we began a review of our accounting practices including the classification of expenditure, the reconciliation of balance sheet accounts (including provision accounts), fixed assets and our ongoing internal and external reporting. Where necessary, we have discussed these issues with our ARC and with the Audit Office.

Fig. 11: Financial summary

	11/12 \$'000	12/13 \$'000	Change %
Operating revenue including government contributions	25,898	27,981	8.04
Operating expenses	26,962	26,908	-0.20
Total assets	3,040	3,839	26.28
Total liabilities	3,274	3,000	-8.37
Net result	-1064	1,073	200.85
Total equity	-234	839	458.55

As indicated in figure 11, our operating revenue increased by 8.04% in 2012–2013 while our operating expenses decreased by 0.2%. The major area of change in our revenue base was a number of specific-purpose grants totalling \$2.264 million being received during the reporting period. We had a slight reduction in our training revenue and bank interest, however our miscellaneous revenue increased. There was a \$446,000 decrease in the acceptance by the Crown of employee benefits and other liabilities, which was mostly a reduction in long service leave following an actuarial assessment of this employee benefit.

We had an increase in our asset base as unspent grant money increased our cash at bank. We will use this money in 2013–2014. Our receivables increased as did our non-current assets. We purchased equipment and software for Operation Prospect using the grant money we received for this investigation. Our liabilities have decreased – however not as much as we had forecast in our original budget. Employee entitlements decreased by over \$145,000 from the previous year as we continue to proactively manage our leave entitlements. For more details about our financial position, see the 'Our financials' section of the report at page 118.

Our environmental program

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

All government owned or tenanted office buildings over 1000m² are required to have a 4.5 star National Australian Built Environment Rating System (NABERS) rating. Following an energy audit, we achieved a 5 star NABERS rating in March 2013. This exceeded our expectations, recognising the significant improvements we made in reducing energy use over the last few years (see figure 13).

We continue to purchase six per cent green power and encourage our staff to adopt energy efficient practices. Our office is fitted with light sensors and timers, we purchase energy efficient equipment and have a small fleet of fuel efficient cars.

In 2012–2013 our environmental strategies included:

- monitoring our energy usage through auditing, preventive maintenance, staff education programs and purchasing energy efficient equipment
- monitoring the type of waste generated in our office and implementing strategies to reduce contamination of the waste stream, including better education of staff
- improving our fleet performance by reducing fuel consumption, using fuel efficient vehicles, and achieving or exceeding the government fleet performance target for passenger vehicles
- recycling all our used toner cartridges and clean waste paper
- supporting the building environmental programs.

Managing our energy use

Fleet management

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

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

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

Electricity consumption

Our electricity consumption increased after a disused air-conditioning unit was accidentally re-commissioned (see figure 13). Our consumption was also increased by the additional equipment required for Operation Prospect.

Waste reduction and purchasing program

We continue to reduce the number of guidelines, reports and fact sheets we print by making these resources available on our website or by distributing them electronically. Most of our publications are now released in electronic format only.

We use Australian 80 per cent recycled paper with the remaining fibre sourced from sustainably managed forests. We encourage staff to review and edit documents on screen to reduce print waste.

Staff are told about our recycling and purchasing program at induction, and are emailed information about new initiatives and progress reports. Waste audits are

undertaken to improve our recycling systems and feedback provided to staff on how we can improve our recycling.

Reducing waste

We encourage staff to use email as much as possible and to print double-sided. We have an electronic record management system that allows staff to access information such as policies, procedures and internal forms—reducing the need for paper copies. All our publications are available to download from our website.

Recycling

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

Using recycled material

Our stationery and publications are printed on recycled paper with vegetable inks. We only use external printers who have an environmental management plan certified under ISO 14001, the international environmental management standard.

Fig. 12: Fuel consumption (E10)

	08/09	09/10	10/11	11/12	12/13
Fuel (l)	3,250	2,835	2,521	2,743	1,882
Distance travelled (km)	38,064	33,818	29,849	36,809	23,472

Fig. 13: Electricity consumption

	08/09	09/10	10/11	11/12	12/13
Electricity (kWh)	302,172	367,273	320,053	224,942	240,891
Kilowatts converted to gigajoules	1,088	1,322	1,152	810	867
Occupancy (people)	193	197	195	186	180
Area (m ²)	3,133	3,133	3,133	3,133	3,133

Our corporate branch supports our operational areas and provides personnel, business improvement, accounting, information technology (IT), information management, publications design and layout and administrative and project support. The work of our personnel unit is discussed later in this chapter and our accounting activities are discussed in the financial section of this report (page 117).

This work is informed and guided by our corporate and other planning documents. During the year we reviewed the IT strategic plan, and worked on strategic plans to guide our human resource, IT, finance and business improvement work. Key projects are outlined below.

Establishing and supporting Operation Prospect

Operation Prospect is a significant and resource intensive investigation. The nature of the investigation and its security requirements presented a unique range of challenges.

Our office is already a secure space. We realised that we would need an additional secure space within our office for the operation. Part of our office space was reconfigured, with only operational staff and several senior staff able to access the area. We also established a stand-alone IT system and a dedicated investigation database, both of which operate separately from our 'normal' office systems to ensure the integrity and security of the information collected and generated as part of the investigation.

Electronic complaint handling

Electronic complaint handling increases the efficiency of our key business processes. Our BIU continues to work with our business areas and with IT to increase the level of automation in our complaint-handling processes. This year, after working with NSW Police Force, we went live with a new system that allows police complaint notifications to be automatically uploaded into our case management system, Resolve.

The BIU and IT worked with the public administration division (PAD) to automatically upload complaints submitted through our online form into Resolve. This will mean complaint details no longer need to be entered manually. Following a testing phase, this was rolled out in September 2013.

The BIU is also working with PAD on trialling electronic handling of certain less complex complaints. The first phase of this project saw streamlining of our processes, as well as reduced handling of matters. The second phase, which is still being trialled, expands the types of matters that we will handle without keeping hardcopy file or documents. We are reviewing the quality of the data recorded in Resolve as part of the trial. If this stage is successful, the PAD will explore electronic handling for more complex complaints including investigations.

Monitoring organisational performance

We have continued to refine our key performance indicators and other management reporting to ensure we are accurately measuring if we are achieving our

objectives. These improvements also help each business unit to monitor day-to-day workload performance and timeliness. The SOG has taken particular interest in developing this reporting tool following an internal audit of how we manage aged complaints. We have also started the second stage of our key performance indicator project, which will help us to measure our performance when conducting projects and reviews.

The BIU has also worked with our police division to develop a Resolve dashboard to help senior managers to monitor performance and workload quickly and easily within their units.

Enhanced communications

We received over 28,000 telephone inquiries this year. Managing these inquiries quickly and effectively is essential if we are going to meet the needs of the community. IT have worked with our inquiries team to introduce a new telephone and contact centre management system in June 2013. This will enhance our capacity to manage incoming calls. The new system will be integrated with Resolve in 2013–2014. This will allow staff to see the relevant complaint details automatically when they receive a call.

Information management and reporting

We receive large amounts of information from agencies every day, and we access even more directly from some agency systems. This information not only informs our work, but also allows our staff to make connections and identify risks. The BIU has worked closely with our employment-related child protection division this year to enhance our systems. This will help us to more effectively capture and report on risk-related child protection information and analysis.

Upgrading our infrastructure

Our infrastructure is important in making sure we are able to provide the highest quality services to our stakeholders in a timely and effective manner. This year, we enhanced or upgraded our infrastructure to provide better support to our staff.

Exchange server upgrade

We conducted a significant upgrade to our email exchange server. The upgrade improved many of our existing functions and enabled integration with our new phone system. Staff can now access voicemail through their email account as well as accessing their calendars or other information stored on Outlook remotely through their secure phone account.

Microsoft Exchange 2010 and Active Directory 2008 upgrade

We upgraded our network infrastructure this year to Microsoft Exchange 2010 and Active Directory 2008. This upgrade:

- allowed staff to securely synchronise their email accounts on smart phones and mobile devices
- improved remote email access through the use of Outlook Web Application

- allowed unified messaging which is the ability to receive email, voice and fax messages through the Outlook inbox.

Resolve and TRIM upgrades

In September 2012, we upgraded our case management system, Resolve. The system is now more reliable and gives us more flexibility to customise and align it with our work practices, reduce manual processes and make greater use of automation. This will include automatically uploading complaints received from NSW Police Force.

HP TRIM is our electronic document management system. We upgraded TRIM to enhance functionality and useability in the future. In 2013–2014 we will be redesigning our customised Resolve/TRIM link to improve the integration of these systems.

Desktop virtualisation

We reported last year that we planned to roll out desktop virtualisation throughout the office. Virtualisation will make software upgrades, platform upgrades, operating system patches and application patching much easier, as well as reducing the cost of ongoing maintenance.

We needed to reprioritise our IT work this year to focus on the systems and software needs for Operation Prospect, as well as upgrading our key business systems across the office. This meant that – although 45 percent of staff now have virtual desktops – we have delayed the full roll out. We still intend to have all our office operating on virtual desktops, and this will be one of our priority IT projects for 2013–2014.

Office Wiki

We worked with the PAD to create an internal office Wiki using Microsoft Sharepoint. The Wiki is used by staff to share information on issues and policies relevant to agencies they deal with. The benefits of the Wiki and its application more broadly within the office will be considered by the RISC.

HR21

This year, we launched HR21 – an electronic human resources system – which allows staff to perform functions traditionally administered by our personnel team. This includes applying for leave, viewing salary and deductions, amending and/or updating personal details, as well as monitoring the progress of submitted leave applications.

The launch was successful, and our personnel team expanded the use of HR21 to include leave cancellation. This additional function further reduces the direct involvement of personnel staff in leave processing. We plan to further expand the use of HR21 in the future.

Plain English website review

Our website is a central contact point with our office for many people, and it is important our website content is clear, concise, approachable and easy to understand.

We engaged the Plain English Foundation to review our website to make sure it is as easy to understand as possible. The review also checked how easy it was to move around the site.

The review identified areas where the language we use needs to be simplified, more engaging and easier to read. The Foundation also felt that some of the text we use needs to be less legalistic. We are currently implementing many of the changes and will update our website. This will include changing the structure to make the site easier to navigate, as well as making sure the headings we use are consistent.

We have 201 people working for us on either a full or part-time basis. Our staff have diverse experience and skills and come from a range of different backgrounds, including investigative, law enforcement, community and social work, legal, planning, child protection and teaching.

Fig. 14: Staff levels as at 30 June 2013

	08/09	09/10	10/11	11/12	12/13
Statutory officers	6.00	4.00	4.00	4.00	4.00
Investigative	82.13	70.18	73.26	78.49	80.47
Investigative support	25.60	21.00	24.50	20.40	19.60
Project and research	14.40	20.66	25.56	25.56	18.56
Training and community education	3.30	2.30	1.50	3.00	2.50
Inquiries	8.00	9.94	9.54	8.74	9.74
Community visitor support	2.80	2.80	2.80	1.80	1.80
Systemic review	12.81	10.10	16.16	14.70	16.34
Corporate	24.74	25.17	27.77	29.67	26.81
Total*	179.78	166.15	185.19	186.36	179.82

* full-time equivalent



Mary McCleary

This year we lost a much loved and valued member of our staff with the death of Mary McCleary.

Mary joined the office in 2001 and throughout her 12 year career was committed to the office's role as an independent complaint-handling body dealing with complaints from members of the public.

While she worked for a short time dealing with complaints about community service providers, utilising her background in child protection, the majority of her work was in our general public sector jurisdiction. Mary worked for a time dealing with complaints about a wide range of public sector agencies before becoming an investigation officer in our custodial services unit.

Mary worked on a number of significant investigations which brought about positive changes in the lives of many people. However, her passion was dealing with individual complaints. In her eight years in the custodial services unit she conducted numerous

visits to adult and juvenile facilities across the state taking complaints. She provided clear and, if necessary, firm advice if an inmate or detainee had unrealistic expectations and was resolute if she identified something that was unfair and needed fixing.

She had a particular interest in ensuring women in prison are recognised as having different needs to men, as well as particular concern for young inmates in the adult correctional system. It is a reflection of Mary's skill and professionalism that, on hearing of her death, both senior officers from Corrective Services and inmates contacted us with their condolences.

Mary was a highly regarded and respected colleague and had friends throughout the office. She acted as a mentor and wise sounding board to many. Her immense good sense and no nonsense approach informed her work as an investigator and made her a tenacious complaint handler. Her great sense of humour often helped us get through those more challenging work moments.

Her determination to ensure fair and reasonable treatment for some of the most vulnerable and disadvantaged members of our society was a hallmark of how she approached her work. She was held in deep affection across the office and we will miss her immensely.

Human resources

Workplace giving

We launched our workplace giving program (WGP) in June 2012 during Workplace Giving Month. This program allows staff to make regular pre-tax donations to nominated charities. They receive an immediate tax benefit and the charities receive 100% of the donation, saving on administration costs.

Our WGP program is modelled on the whole of NSW public sector WGP program which was developed through extensive review of existing giving behaviours by public sector employees, consultation with staff and sector-wide staff surveys.

The program is voluntary and offers staff the choice of 13 charities. Nine are offered by all public sector agencies and four charities have been added that are specific to causes identified in a workplace giving survey conducted in May 2012.

Any exceptional movement in wages, salaries or allowances

The relevant industrial agreements were varied to increase salaries and salary-based allowances by 2.5 per cent effective 6 July 2012. All staff, excluding the Ombudsman and the three Deputy Ombudsmen, received this increase.

A 2.5 per cent increase was paid to our statutory officers including the Ombudsman from 1 October 2012 in line with the decision of the independent Statutory and Other Offices Remuneration Tribunal.

Personnel policies and practices

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

Sheila O'Donovan

We were greatly saddened this year at the death of one of our longest serving and highly valued staff members, Sheila O'Donovan. As a senior trainer, Sheila was a leader in developing our education and training program for over 15 years.

Sheila joined the office in 1990 and developed her complaint-handling skills as our senior inquiries officer. She led the frontline team responsible for receiving inquiries from members of the community contacting us to complain or inquire about a wide range of agencies. This hands-on practical work helped Sheila recognise the value of training public sector agencies and community services to improve standards of service delivery, promote good administrative practice and fair decision making.

Sheila was a passionate trainer who demonstrated her strong commitment to the objectives of the office by developing a number training programs including two of our flagship workshops, *Complaint handling for frontline staff* and *Managing unreasonable complainant conduct*. These are highly interactive workshops that ensure participants are given practical strategies to improve their skills and knowledge of service delivery.

Throughout her career Sheila delivered hundreds of workshops, reaching thousands of people in metropolitan, rural and remote areas of NSW and also interstate and overseas. She trained state and federal agencies, non-government and private organisations and various oversight bodies across Australia and abroad. Her workshops were dynamic, cutting-edge forums that were a chief source of information on best practice initiatives in both the private and public sector on complaint management/handling and customer service.

The feedback received from her training sessions show her dedication, her enthusiasm and her ability to make every training session interesting and instructive. Participants consistently rated her training as excellent and regularly commented on her engaging and positive style and breadth of knowledge. As one workshop participant observed she presented 'simple messages with excellence'.

Sheila was an outstanding ambassador for our office and contributed significantly to our professional reputation and the development of a quality training program. We were proud to nominate her for the NSW Premier's Award for Individual Excellence and Achievement in 2012, where she was a finalist.

A great friend and mentor to many – gifted, courageous, ever humorous, with a unique generosity of spirit – Sheila has left us with an extraordinary legacy which will resonate for many years to come.



The introduction of HR21 meant we had to review our payroll process, as payroll processing locks staff out of the system. We have rearranged the process to minimise the length of time staff cannot access their HR21 profile.

We saw the changes that accompanied HR21 as a good opportunity to review the allocation of work in the personnel section. We have moved from specialist to more generalist roles for our personnel staff. We expect the change will improve skills and knowledge, making the section more responsive to the needs of the business. We will monitor this impact of the change during 2013–2014.

We reviewed our work, health and safety (WHS) policies and held a series of information sessions for staff to make sure we were meeting our obligations under the new WHS legislation. See page 37 for more information about our WHS program. We also reviewed the impact of the changes to the Working with Children Check requirements, including reviewing those positions that require a check. The Ombudsman aims to be a best practice employer and we will be requiring, over time, all staff to be checked.

We commenced a review of our grievance policy, our good working relationship policy and our salary packaging policy. These reviews will be completed in 2013–2014.

Improving performance management

Last year we reported that we were synchronising our performance management activities throughout the office. This means that all staff will be developing agreements, reviewing progress and reporting on staff performance at the same time. We expect this change will bring greater structure to performance management with better links to the business planning cycle.

Working with the JCC

The Joint Consultative Committee (JCC) continued to work cooperatively during the year reviewing a range of policies as well as discussing issues affecting staff. The JCC discussed WHS, policy reviews and the Christmas closure arrangements.

Chief and senior executive service

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

The performance statements for each of our senior officers receiving remuneration at SES 5 or above are included at the bottom of the page.

As at 30 June 2013, one of our statutory officer positions was filled by a woman. Please see figures 15 and 16 for details of the levels of our senior positions, as well as the remuneration for the Ombudsman.

In addition to the statutory positions, we employ a number of senior officers, which is a public sector classification with equivalent pay scales to the SES. Details of all our senior staff, both SES and senior officers, can be found in figure 17. As at 30 June 2013 five or 41.97 percent of our senior staff were women. This is a decrease from the previous year. The drop in female representation is due to the creation of a number of temporary senior officer positions for Operation Prospect, all of which have been filled by men.

Fig. 15: Executive remuneration

Position	Ombudsman
Occupant	Bruce Barbour
Total remuneration package	\$466,951
\$ value of remuneration paid as a performance payment	nil
Criteria used for determining total performance payment	n/a

Fig. 16: Chief and senior executive service

	08/09	09/10	10/11	11/12	12/13
SES Level 5	0	0	2	2	2
SES Level 4	2	3	1	1	1
SES Level 2	3	0	0	0	0
CEO*	1	1	1	1	1
Total	6	4	4	4	4

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

Fig. 17: All staff with remuneration equal to or exceeding equivalent of senior officer level 1

	08/09	09/10	10/11	11/12	12/13
Total number	9	7	12	10	12
Number of women	4	2	7	5	5
% of women	44	29	58	50	42

Equal employment opportunity

Our equal employment opportunity (EEO) program aims to achieve fair practices and behaviour in our workplace, including:

- recruitment, selection and promotion practices which are open, competitive and based on merit
- access for all staff to training and development
- flexible work arrangements that meet the needs of all staff and creates a productive work environment
- grievance-handling procedures that are accessible to all employees and deal with workplace complaints promptly, confidentially and fairly
- sound communication channels that give employees access to information and allow their views to be heard
- management decisions made without bias
- no unlawful discrimination or harassment in the work, and
- respect for the social and cultural backgrounds of all staff.

The NSW Government has set targets for employing of people from various EEO groups. These targets are a useful measure of how effective our EEO program has been (figures 18 and 19). We exceeded the target in the representation of women, Aboriginal & Torres Strait Islander people, and people with a disability requiring adjustment. Although there is no target for people with a disability, we continued the trend of increasing the representation of people with a disability in our staffing profile.

Policies and practices

Our personnel activities must have regard to EEO policies, outcomes and priorities. We support EEO by ensuring a diverse and skilled workforce, fair work practices and behaviours and employment access and participation by EEO groups. Figure 20 shows the gender and EEO target groups of staff by salary level.

SES Performance statement

Mr Bruce Barbour – NSW Ombudsman

Appointed: 2000
Remuneration: see figure 15

Mr Barbour's performance is reflected in this report.

Mr Christopher Wheeler – Deputy Ombudsman

Appointed: 1994, SES Level 5
Remuneration at 30 June 2013: \$292,450

Mr Wheeler commenced his current term in the position of Deputy Ombudsman on 29 June 2009.

In the period to 30 June 2013, Mr Wheeler:

- supported the Ombudsman in the implementation of our statement of corporate purpose
- managed the public administration division and provided strategic leadership and direction as part of the senior officer group
- worked on the review of the Australian Standard on Complaint Handling
- worked with other Ombudsman offices in Australia to develop complaint handling guidelines for universities

- reviewed complaint handling arrangements within departmental clusters in NSW
- presented at a number of forums, workshops, conferences and meetings, including the International Ombudsman Institute World Conference
- conducted a trial of electronic complaint management within the public administration division
- lead a number of significant investigations by the public administration division, including investigations into HSC disability provisions, asbestos in schools, the regulation of water, the application and management of fines and the handling of local government code of conduct complaints.

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

Mr Stephen Kinmond – Deputy Ombudsman & Community and Disability Services Commissioner

Appointed: 2004, SES Level 5
Remuneration at 30 June 2013: \$292,450

Mr Kinmond commenced his current term in the position of Deputy Ombudsman and Community and Disability Services Commissioner on 5 July 2009.

In the period to 30 June 2013, Mr Kinmond:

- supported the Ombudsman in the implementation of our statement of corporate purpose
- managed the human services branch and provided strategic leadership and direction as part of the senior officer group
- contributed to the development of new, stronger screening processes of people who work with children
- lead a number of significant investigations and reviews by the human services branch, including an investigation into the need to improve accommodation and support to people with a psychiatric disability and a review of a group of young people leaving care

- advised NSW Government on the proposed legislative reforms to the child protection system
- provided detailed briefings to the Royal Commission into institutional responses to child sexual abuse, the NSW Special Inquiry into child sexual abuse in the Catholic Diocese of Maitland-Newcastle and the Victorian Inquiry into the handling of child abuse by religious and other organisations
- developed and presented training on handling serious incidents in the disability sector
- made submissions to the review of the NSW Disability Services Act and the draft National Disability Insurance Scheme Bill focusing on stronger safeguards for people with disabilities.

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

We continued our commitment to training, providing a range of professional development opportunities for staff. We also continued our programs to improve the skills of supervisors, as well as our in-house programs on Aboriginal cultural appreciation and disability awareness. Further details are provided in our learning and development section on page 38.

Harassment prevention and respect for each other

We started reviews of our grievance and good working relationship policies. These policies clearly state our workplace must be free of harassment and bullying and that we respect and value our colleagues. There were no formal grievances lodged during the reporting year.

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

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

Access and equity programs

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

During the year we developed our carer's recognition policy, which recognises the contribution of carers to the community and the people they care for. The policy commits the office to taking reasonable steps to support our staff with carer responsibilities including the provision of flexible work arrangements.

See page 39 for more details about these programs.

Flexible work arrangements

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

The year ahead

In 2013–2014, to support the release of our updated grievance handling and good working relationship policies, we have engaged the Anti-Discrimination Board to conduct training sessions for all staff on harassment and bullying prevention.

Fig. 18: Trends in the representation of EEO groups

EEO Group	Target (%)	Result (Percentage of total staff)				
		08/09	09/10	10/11	11/12	12/13
Women	50	71	72	72.9	73.8	73.1
Aboriginal & Torres Strait Islander people	2.6	3.6	3.6	2.4	2.9	3
People whose language first spoken as a child was not English	19	21	21	17.5	18.1	16.1
People with a disability#	n/a	7	7	9.2	10	12.1
People with a disability requiring work-related adjustment	1.5	2.6	2.6	2.4	2.4	2.5

Employment levels are reported but a benchmark has not been set

Fig. 19: Trends in the distribution of EEO groups

EEO Group	Target (%)	Result (Percentage of total staff)				
		08/09	09/10	10/11	11/12	12/13
Women	100	90	87	91	92	92
Aboriginal & Torres Strait Islander people	100	n/a	n/a	n/a	n/a	n/a
People whose language first spoken as a child was not English	100	85	83	86	87	87
People with a disability	100	n/a	106	104	102	100
People with a disability requiring work-related adjustment	100	n/a	n/a	n/a	n/a	n/a

Note 1: A distribution index of 100 indicates that the centre of the distribution of the EEO group across salary levels is equivalent to that of other staff. Values less than 100 mean that the EEO group tends to be more concentrated at lower salary levels than is the case for other staff. The more pronounced this tendency is, the lower the index will be. In some cases the index may be more than 100, indicating that the EEO group is less concentrated at the lower levels.

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

Fig. 20: Percentage of total staff by level

EEO group	Total staff (no.)*	Respondents	Men	Women	Aboriginal & Torres Strait Islander people	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring work-related adjustment
\$0 – \$41,679	0	0	0	0	0	0	0	0	0
\$41,679 – \$54,742	3	3	0	3	1	1	1	1	0
\$54,742 – \$61,198	14	14	3	11	0	5	5	0	0
\$61,198 – \$77,441	42	41	11	31	2	9	9	8	0
\$77,441 – \$100,145	81	80	15	66	2	19	13	7	4
\$100,145 – \$125,181	49	49	18	31	1	6	4	6	1
\$125,181 > (Non-SES)	9	9	5	4	0	1	0	1	0
\$125,181 > (SES)	3	3	2	1	0	0	0	1	0
Total	201	199	54	147	6	41	32	24	5

* This figure represents the actual number of full-time and part-time staff as at 30 June 2013 – not the full-time equivalent.

Work Health and Safety (WHS)

As an employer we are required to provide a safe work environment for our staff. We are subject to the provisions and responsibilities outlined in the *Work, Health and Safety Act 2011* (WHS Act) as well as public sector WHS policies. We take a risk management approach to our WHS activities and have in place policies and supporting programs that provide guidance to both managers and staff.

Implementation of the *Work, Health and Safety Act 2011*

The WHS Act came into force on 1 January 2012, replacing the *Occupational Health and Safety Act 2000*. We contracted Mutual Solutions, who manage our workers compensation for the Treasury Managed Fund, to review our existing policies including those aspects of the working at home policy that applies to safety. Mutual Solutions also conducted information sessions for all managers and staff on the requirements of the new policy. These were held in August 2012.

Staff have attended training and information sessions on the new WHS requirements as well as on changes to the workers compensation regime in NSW. Following these sessions we have reviewed return to work arrangements, workers compensation benefits and first aid requirements. We have addressed staff at meetings on WHS issues and have had discussions at our Joint Consultative Committee.

We have identified the need to ensure that our principal officers fully understand their due diligence requirements under the legislation. This will be one area of focus in 2013–2014. Another is to further embed WHS in our day-to-day work and decision-making processes. Having effective consultation mechanisms is a way to achieve this.

Reasonable adjustments

During the year we modified a number of work areas or work processes to assist staff who have either ongoing medical conditions or other specific needs including desk adjustments, changing the placement of lights and installing special software. Some of these modifications were made following medical or other external professional assessments.

Emergency evacuation procedures

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

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

Employee Assistance Program

We continued to provide an employee assistance program (EAP) including a free 24-hour counselling service for staff and their families. We established a wellbeing program for staff working in our reviewable deaths area.

Other programs to support WHS

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

- Hepatitis vaccinations – staff who visit correctional centres are vaccinated against Hepatitis A and B.
- Flu shots – we organise flu shots for staff to prevent high levels of absenteeism during the flu season.
- Basic first aid – we cover the costs of our first aid officers attending initial and ongoing training and pay these staff a yearly allowance for undertaking this role.

Workers compensation

We participate in the NSW Treasury Managed Fund, a self-insurance scheme for the NSW public sector. There was an increase in the number of claims reported to our insurer compared to the previous year, with eight claims being reported – see figure 21. As at 30 June 2013, we had three open workers compensation claims.

Fig. 21: Workers compensation

Claims entered in the year	08/09	09/10	10/11	11/12	12/13
Claims brought forward	6	2	4	5	4
New claims	5	9	8	7	8
Claims closed	9	7	7	8	9
Open claims 30 June	2	4	5	4	3

Fig. 22: Workers compensation incidence rate

	08/09	09/10	10/11	11/12	12/13
Number of claims submitted	5	9	8	7	8
EFT number of employees	170.48	166.15	185.19	186.36	179.82
Incidence rate (%)	2.93	5.42	4.32	3.76	4.45

Our workers compensation incidence rate was higher than the previous year. The claims reported include one claim from an official community visitor (OCV) and one from an external contractor, however OCV and contractors are not included in our EFT staff number. If these two claims are excluded our incident rate would be 3.33% – slightly lower than the previous year.

Learning and development

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

Certificate IV in Government (Investigations)

Last year, we reported that we had agreed to engage an accredited training provider to deliver Certificate IV in Government (Investigations) training for our staff.

Unexpected challenges in developing material as well as resource limitations have unfortunately delayed the training. We will continue to develop the training material and work towards commencing training with our staff as soon as practicable.

Developing professional skills

Our staff attended a range of conferences during the year, including the IPAA state conference, the Association of Children's Welfare Agencies conference, the IPC Creating Open Government conference, the National Mediation conference, the National Disability Services (NDS) NSW Annual state conference, Applied Research in Crime and Justice conference and the National Investigations Symposium.

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

Staff also completed a range of external training – including courses on statutory interpretation, writing in plain English, taxation and payroll, as well as using Excel and PowerPoint.

We also arranged for:

- training sessions by external providers on a range of issues specific to our complaint-handling activities, including training in collecting, analysing and reporting complaint data as well as letter writing for complaint handling
- workshops in investigative interviewing to develop skills in structuring and conducting interviews as part of an investigation
- training in mediation, negotiation and motivational interviewing techniques as well as presentation skills and project management.

Raising awareness

Our staff training program is aimed toward improving how we deal with the public. Raising staff awareness about contemporary issues will help to assist us in dealing effectively with the public. This year, we engaged an external provider to provide training on dealing with people with mental illness, as well as managing their own mental health and resilience. This training has benefited our staff both professionally and personally and we have decided to make the training compulsory for all staff.

Managing staff

We continued our program of equipping supervisors and managers with necessary skills and knowledge to effectively carry out their responsibilities. This included training on leadership capabilities, resilience for supervisors, managing for improved performance and resilient leadership.

New staff induction

Our formal induction program aims to ensure that all new staff get relevant, consistent and useful information about our office, our policies, process and obligations. Within the first three months of joining the office, new staff attend training on our electronic document management and

case management system and security awareness. We also run 'Ombudsman: What, When, Where and Why' training sessions for new staff so they understand our functions, jurisdiction and responsibilities.

Providing study leave

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

Fig. 23: Time spent on training

Number of	Total
Courses attended	104
Full-time equivalent staff	179.82
Total time spent – hours	4,229.50
Total time spent – days	604.21
Days training per staff member	3.36
Training \$ per staff member*	966.35

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

Fig. 24: Training expenditure

08/09	09/10	10/11	11/12	12/13
\$125,000	\$101,000	\$165,000	\$155,000	\$174,000

Access and equity programs

Our access and equity programs focus on the needs of vulnerable groups and support our core work to make sure the specific needs of vulnerable groups are considered in planning and resource allocation. These programs include our:

- disability action plan (DAP)
- multicultural policies and services program (MPSP)
- Aboriginal policy
- carers recognition policy
- women's action plan
- youth initiatives.

Several of our action plans are due for review, and we have decided to update all of our access and equity programs in 2013–2014. This will ensure that our policies address changes in legislation or government policy, particularly in regard to the provision of services to people with disabilities.

Disability action plan (DAP)

This plan outlines our commitment to achieving the outcomes for people with disabilities set out in the NSW state plan and guidelines for disability action planning by NSW government agencies. Our DAP, which complies with Section 9 of the *Disability Services Act 1993* guides the delivery of programs and services to people with disabilities until the end of 2014.

This year we participated in the Australian Network on Disability program 'Stepping into', a paid internship program designed for university students with disability. We also provided a range of mental health awareness

and resilience training workshops for our frontline staff and supervisors, participated in community events, conducted complaint-handling training to community service providers, conducted workshops on *The Rights Stuff* to people who receive community services, and developed and made available on our website an Auslan version of our brochure *Know your rights as a consumer of community services*.

See appendix J at page 171 for more information about our disability action plan.

Multicultural policies and services program (MPSP)

Under the MPSP, all NSW government agencies must implement and report on their strategies to enhance and promote multiculturalism. Details of our program can be found in appendix J.

This year we participated in community events, consulted with community groups about core and project work, translated the fact sheet *Removal of face coverings for identification purposes* in six community languages, translated our face covering legislative review discussion paper into Arabic, and continued our participation in the CLAS scheme.

We plan to review our program in 2013–2014 to ensure it is still targeted and relevant. We will continue to raise the awareness of staff about issues affecting our culturally diverse community and consult with community groups about their needs to better inform our planning processes.

Aboriginal policy

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

Working with Aboriginal communities, on page 103, has more details of our work in this area.

Women's action plan

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

For further details on our women's action plan see appendix J at page 172.

Carers recognition

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

In addition to developing our policy and action plan, we provided information to staff about this initiative. We reviewed our flexible work arrangements and updated our family and community service leave policy. We promoted the use of part-time work and the use of personal carers leave.

For further details on our carers recognition policy see appendix J on page 173.

Reaching out to children and young people

This year we finalised our youth policy outlining our commitment to improving our services to children, young people and their advocates. Our youth issues group continued to work on projects identified in the Youth Action Plan, including developing a youth-focused training package. We worked with the International Student Ombudsman and provided information on complaint handling at several international student forums. We continued to provide information about our role in child protection in the NSW Police Legacy Child Safety Guidebook, which is updated once every six months and distributed to primary schools across NSW.

Other outreach activities

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

This year we continued to work with the Aged Rights Services, the Energy and Water Ombudsman NSW and Office of Fair Trading and participated in the two-day senior's event at the Royal Easter Show. We provided information about the role of the office to thousands of people and gave face-to-face advice on issues of concern.

This was the third year we held an information stall at the Mardi Gras Fair Day in Victoria Park, Sydney. Our staff provided information and advice to hundreds of people who attended this annual event.

Law and justice

Our office performs a range of important roles in relation to law and justice agencies in NSW.

The *Police Act 1990* gives the NSW Police Force the primary responsibility for investigating and resolving complaints. Our role is to oversee the way the police complaints system works – through reviewing investigations of individual complaints, conducting audits and checking that the processes police use to resolve complaints are fair and effective. This helps us to identify systemic problems and work with police to resolve them. We are also occasionally asked by Parliament to review new legislation providing police with additional and extraordinary powers.

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

This chapter also includes information about our work ensuring agencies comply with important requirements relating to certain covert and controlled law enforcement operations.

In this section

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Highlights

- Reported to Parliament on the use of Tasers by the NSW Police Force (see page 52) and the critical incident investigation into the death of a Brazilian student (see page 48)
- Visited correctional and juvenile justice centres 52 times (see page 62)
- Started Operation Prospect, a large scale investigation into allegations against officers from the NSW Police Force, NSW Police Integrity Commission and NSW Crime Commission (see page 53)
- Continued to closely monitor the use of segregation, separation and confinement in both adult correctional and juvenile justice centres (see page 63 and 65)
- Conducted five audits to monitor the timeliness of police complaint investigations. These involved reviewing the records of 741 investigations (see page 51).

Stakeholder engagement

The effectiveness of both our police oversight and custodial services work relies on accurate, timely and relevant information. The best sources of that information are those making complaints about police, inmates in correctional and juvenile justice centres, police officers and correctional and juvenile justice staff. Contact with these groups on the telephone, during audits and at centre visits helps us to identify problems and recommend practical solutions.

During 2012, Peter Severin was appointed as Commissioner of Corrective Services NSW (CSNSW). Mr Severin immediately started a program of review, restructure and reorganisation. New senior staff have been appointed and there have been significant changes made to the way CSNSW works. The Ombudsman and senior staff have met several times with Mr Severin, engaged in ongoing consultation with senior members of CSNSW as policies and procedures are reviewed and rewritten, and worked to ensure our recommendations and suggestions are implemented.

We also have regular contact with juvenile justice centre managers and staff on important day-to-day matters such as the confinement and segregation of young people. Our staff met with the Chief Executive of Juvenile Justice, Valda Ruisis, and discussed these and other issues.

Dr John Paget was appointed as the Inspector of Custodial Services at the end of September 2013. We look forward to working with Dr Paget to ensure we have a cooperative and effective relationship.



Talking to the community about police powers

We have continued our work this year on a number of reviews of legislation providing police with additional powers. These include reviews of move on powers, laws allowing police to require a person to remove face coverings to allow for identification and laws relating to consorting offences. All of these have the potential to have a very real impact on individual's lives and it is important we give people an opportunity to share their views and experiences.

New legislation relating to moving on intoxicated people raised concerns about a possible disproportional impact on certain groups by criminalising public drinking. This included Aboriginal, homeless and young people. We consulted a number of Aboriginal legal services as part of our review to seek their views about whether this has

occurred. We also released an issues paper and asked people to tell us if they had any experience with police using the powers. We ran advertisements on the FBI community radio station and in the Sydney paper, *MX*, asking for submissions.

When consorting provisions were included in the *Crimes Act 1900*, some members of Parliament were concerned that there was a potential for provisions to disproportionately affect Aboriginal people because of their higher rate of contact with the criminal justice system and therefore greater likelihood of having 'convicted offender' status. As part of our review, we talked with community members and police about the impact of the consorting provisions in two regional and one remote area of NSW.

It was important to seek community views as part of our review of laws allowing police to require face coverings to be removed for identification. We met with the United Muslim Women Association as well as a number of other representative groups and attended a forum organised by Daar Aisha Shariah College to get feedback on the new law. We released an issues paper to encourage people with an interest in the issue to make a submission. This was advertised on community radio, and the Ombudsman was interviewed on Muslim Radio 2FM.

Police

The police complaints system

Under Part 8A of the *Police Act 1990*, anyone can make a complaint about a police officer. The Police Regulation 2008 also requires police officers to report certain allegations of misconduct to a more senior officer. The system is designed to respond to a broad range of complaints – ranging from allegations of serious misconduct such as corruption or criminality to conduct such as rudeness or bad customer service. A complaint can be made about a police officer's actions or inaction and may relate to conduct that occurred on or off-duty. Complaints must be made in writing, may be made anonymously, and must be made to the NSW Police Force (NSWPF), the Ombudsman or the Police Integrity Commission (PIC).

The NSWPF has primary responsibility for managing complaints about police officers. This includes conducting investigations in a timely and effective manner, taking appropriate management action to address the conduct of a police officer, improving service delivery, and/or addressing and resolving the concerns of complainants.

The Police Act allows the NSW Ombudsman and the PIC to require the NSWPF to notify the Ombudsman of certain complaints so that these can be independently oversights. These complaints are listed in a guideline that is available upon request to our office. They usually involve serious misconduct – such as complaints that allege corruption, criminal offences or indicate a lack of integrity by police. The NSWPF also have to notify us about complaints of unlawful or unreasonable conduct resulting from the use of police powers such as arrest, search, detention in custody and unreasonable use of force. Complaints about less serious conduct are handled by the NSWPF without the oversight of the Ombudsman, but we must do annual audits to check how well they were managed.

Trends in complaints – who complained about what

This year we received 3,287 formal written complaints and finalised 3,178 complaints. The annual number of complaints we received about police remains stable (see Figure 25). We also received 2,365 informal complaints over the phone or in person.

Fig. 25: Formal complaints about police received and finalised

	08/09	09/10	10/11	11/12	12/13
Received	2,948	3,032	3,256	3,386	3,287
Finalised	3,094	3,093	3,278	3,390	3,178

Of the 3,287 complaints we received this year – the NSWPF notified us of 2,616 and we received 671 directly from complainants.

This year 2,081 complaints were made by members of the public and 1,206 by police officers (see Figure 26). Importantly, the number of complaints made by police officers also remains stable and demonstrates that police officers are continuing to complain about and report misconduct of other police officers.

Fig. 26: Who complained about police

	08/09	09/10	10/11	11/12	12/13
Police	1,158	1,090	1,156	1,246	1,206
Public	1,790	1,942	2,100	2,140	2,081
Total	2,948	3,032	3,256	3,386	3,287

Our oversight of the police complaints system includes:

- reviewing the NSWPF's assessment of the allegations and proposed action to deal with the complaint when we are notified of them
- conducting a detailed review of the investigations and actions taken by the NSWPF in response to all complaints of serious misconduct
- monitoring in real time the progress of some investigations conducted by the NSWPF, including observing interviews
- inspecting NSWPF complaint records to check if they are complying with the requirements under Part 8A of the Police Act
- keeping NSWPF complaint systems under scrutiny and making recommendations for continuous improvement
- working cooperatively with the Professional Standards Command (PSC) and region and local area commanders to ensure the complaint system continues to operate effectively.

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

Figure 27 shows a breakdown of the kinds of complaints we received this year. The number of allegations is greater than the number of complaints, as some complaints may contain more than one allegation.

Fig. 27: What people complained about

Subject matter of allegations by category	Number of allegations
Arrest	110
Complaint-handling	132
Corruption/misuse of office	274
Custody	98
Driving	90
Drugs	170
Excessive use of force	552
Information	591
Investigation	817
Misconduct	1,724
Other criminal conduct	351
Property/exhibits/theft	154
Prosecution	274
Public justice offences	176
Search/entry	116
Service delivery	1,156
Total	6,785

Note: Appendix A shows a detailed breakdown of complaint categories.

This year, 990 (31%) of the complaints we finalised were assessed at the outset as not requiring an investigation. We referred 307 (9%) to the NSWPF to be handled without our direct oversight as they involved allegations of less serious conduct such as rudeness or a lack of customer service. We also completed a detailed quality review of 1,874 (59%) complaints investigated or informally resolved by the NSWPF.

Fig. 28: Action taken in response to formal complaints about police that have been finalised

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

Management actions taken

The NSWPF can take a range of management actions in response to complaints about police. Some actions taken to address serious misconduct are reviewable in the Industrial Relations Commission, including a decision by the Commissioner of Police to remove an officer or reduce their rank, seniority or salary (called 'reviewable actions'). The NSWPF can also take remedial action to improve the conduct of police such as counselling, advice and guidance or training (called 'non-reviewable actions').

Of the 1,878 complaints finalised after investigation or informal resolution, the NSWPF took management action in 1,034 or 55 percent of complaints.

Fig. 29: Actions taken by the NSWPF after complaint investigation/informal resolution

	08/09	09/10	10/11	11/12	12/13
No management action taken	741	781	874	961	844
Management action taken	1,095	1,112	1,107	1,197	1,034
Total investigations completed	1,836	1,893	1,981	2,158	1,878*

* Total figure includes matters investigated or informally resolved by police and oversighted by us, plus two complaint matters we directly investigated and two matters that were the subject of a report by the Ombudsman to the Commissioner and Minister following a NSWPF investigation.

This year the Commissioner removed eight officers and 19 were the subject of reviewable actions. The range and proportion of management actions in relation to matters that we finalised are reflected in Figure 30.

This year we finalised our oversight of 62 complaints investigated by the NSWPF that resulted in criminal charges against police (see Figure 31).

Fig. 30: Management action taken against police officers as a result of investigating notifiable complaints finalised

Subject matter of allegations by category	Percentage
Management counselling	29.6
Official reprimand/warning notice	14.7
Coaching/mentoring/referral to specialist services	12.8
Additional training	11.9
Increased or change in supervision	10.5
Performance agreement	4.9
Conduct management plan	4.9
Restricted duties	3.9
Transfers	2.9
Formal apology	1.3
Change in policy/procedure	1.2
Reduction in rank/seniority	0.7
Removal under s.181D	0.6
Deferral of salary increment	0.1
Total	100.0

Fig. 31: Police officers criminally charged in relation to notifiable complaints finalised

	08/09	09/10	10/11	11/12	12/13
Complaints leading to charges	63	92	68	67	62
Total no. of officers charged (from complaints by other police or the public)	60	95	64	66	61
Total charges laid	259	300	215	149	150
No. of officers charged following complaints by other officers	45	68	49	52	43
Percentage of officers charged following complaints by other officers	75	72	77	79	70

Quality and timeliness

This year we found that 84 percent of complaint investigations finalised by the NSWPF were completed to a satisfactory standard. We identified deficiencies in 16 percent – including unreasonable delays, poor investigative processes and/or inappropriate management actions taken. In 9 percent of matters, timeliness was the sole reason for the matter being assessed as deficient.

When we raised these deficiencies with the NSWPF they were able to remedy 62 percent of those that related to the investigation process and 75 percent of those that related to the management action taken or the outcome.

The NSWPF aims to complete an investigation in less than 90 days and to have informally resolved a complaint within 45 days. Figure 32 measures the time taken by the NSWPF between the date they received the complaint and the date the investigation report is provided to our office. It shows that – over the past two years – there has been a notable decline in the number of matters being investigated or resolved within the NSWPF's timeframes. Our work to address these timeliness issues is discussed later in this chapter.

Fig. 32: Timeliness of investigations and informal resolutions by the NSWPF

Percentage of	08/09	09/10	10/11	11/12	12/13
Investigations (Evidence-based)	40	44	42	34	25
Informal investigations	41	47	39	36	29

Overseeing the management of complaints of serious misconduct

Reviewing individual complaints

The NSWPF makes a decision at the outset about how complaints are to be investigated. Formal or evidence-based investigation techniques are usually adopted by police in relation to allegations of serious misconduct so that evidence is collected in a form that can support criminal and/or other proceedings in a procedurally fair manner. Informal or outcome-focused investigation techniques are used for complaints involving less serious allegations. The NSWPF refers to these as 'resolutions'.

Case studies

1 Concerns about a strip search

A man complained to us about his arrest for breaching an apprehended violence order (AVO). The arrest was reasonable but – after reviewing the closed circuit television (CCTV) footage of the man's time in police custody and other evidence – we believed the man had been strip searched and we had a number of concerns with the lawfulness of this search.

The CCTV footage showed the man removing his clothing down to his underwear. Five officers were present during the time when his clothing was removed. The man appeared to be asked questions while he was in his underwear and he was then placed in a dock before being removed to a cell area. The CCTV footage showed an officer examining the man's pants approximately 40 minutes after he was initially searched. Police evidence stated the man's clothes were then returned to him. This indicated to us that the man had been without his clothes for over 40 minutes. We formed the view that the man had been strip

searched and the search appeared to contravene the safeguards in the *Law Enforcement (Powers and Responsibility) Act 2002* (LEPRA).

We requested advice from police about our concerns. The local area commander argued that the search did not constitute a 'strip search' under LEPRA because it was not done in a public place and the man did not have all his clothes removed. Therefore the commander concluded that the LEPRA safeguards in relation to strip searches did not apply, and advised that no further action would be taken.

We were dissatisfied with this response as it appeared to reflect a misunderstanding of LEPRA, so we referred the matter to the regional office. The region commander shared our concerns. Advice and guidance was provided to the local area commander about the LEPRA requirements and NSWPF policy relating to strip searches. The commander was also directed to remind all the officers involved of their obligations under LEPRA when searching people in custody.

A significant amount of our work is concerned with reviewing decisions about complaints at the beginning – for example, checking if all allegations have been accurately identified and if the action proposed by the NSWPF is appropriate – and at the end of a matter. Our assessment covers all aspects of the police handling of the matter. If an investigation has occurred, this will typically include reviewing evidence and other information obtained, examining whether decisions and conclusions made on the evidence and facts are appropriate, checking if procedures and requirements of law have been followed, and seeing that all parties have been treated appropriately – including the complainant, subject officers and witnesses.

In a number of cases, this process has meant we have identified issues that have not been raised by the complainant. In case study 1, when we reviewed the evidence collated by the NSWPF during their investigation of the complaint, we identified a significant issue with the conduct of a strip search that had not been raised by the complainant.

Directly monitoring police investigations

The Police Act allows us to directly monitor the progress of an investigation if it is in the public interest to do so. One of our staff can be present at any interviews conducted as part of the investigation, and we can liaise with police about the conduct and progress of the investigation.

This year we completed our monitoring of twelve police investigations, including police investigations of two ‘critical incidents’. These are incidents where there has been death or serious injury while police have been involved. One of these was the police investigation of the death of Mr Roberto Laudisio-Curti. This is discussed later in this chapter under ‘Scrutinising critical incident investigations’.

Case study 2 shows how our close monitoring of another police investigation of a critical incident allowed us to raise issues with police as the investigation progressed.

Issues in police complaint–handling

Declining to investigate a complaint because of court proceedings

Sometimes it may be appropriate for police to decline to investigate a complaint if, for example, a complainant can raise their concerns about police conduct at court. This is usually an alternative and satisfactory avenue to pursue their complaint and police can therefore decline to consider it further at that point. This avoids more than one body examining police conduct at any one time.

An important part of our role is to review these decisions to decline matters. If a matter is declined due to alternative redress through the court, we check that this decision is appropriate and that any issues that the court may then raise about police conduct are followed up.

In case study 3, we agreed with the initial police decision to decline a matter as the complaint issues could be raised in court. However, we also expected police to follow up when the magistrate then made comments that appeared to support the issues raised in the initial complaint.

In case study 4, we disagreed with a police decision to decline a complaint due to alternative redress available at court. As a decision was made under the *Mental Health (Forensic Provisions) Act 1990*, the court did not consider any issues of police conduct that were raised in the complaint.

Making public comments on complaint investigations

We have seen a few occasions this year and last year where senior police officers were approached by the media for comment on serious ongoing complaint

investigations. All media spokespeople for the NSWPF are guided by the NSWPF’s media policy when dealing with journalists. On a couple of occasions, comments made by the NSWPF media spokesperson could have incorrectly given the impression that the actions of the officer involved had already been determined or that the outcome of the investigation had been pre-judged.

Case study 5 highlights this issue and resulted in the NSWPF’s media policy being amended to put this issue beyond doubt. In this matter, we were monitoring two related investigations. One was a complaint about the use of force by an officer during an arrest, and the other was about public comments made by an assistant commissioner about this incident while the initial investigation was ongoing.

Interfering in a police investigation

A police officer responsible for investigating an alleged offence has the unfettered discretion to determine how the matter should be handled. This is known as the officer’s original authority. For example, an investigating officer has the sole responsibility for deciding whether or not the person they have been investigating should be charged with a criminal offence. Case study 6 demonstrates how a junior officer may be under some pressure if they propose to use their discretion to make a decision that a senior officer disagrees with. In this matter, the investigating officer’s initial complaint of interference by a senior officer was sustained – but the finding was reversed on review. After we prepared a report for the Commissioner, he reinstated the original finding and implemented our recommendations.

Detaining people for their own protection

This year we scrutinised how police applied some of the powers available to them when dealing with people who are intoxicated or drunk. We are also currently reviewing how police have applied new powers to ‘move on’ people who are intoxicated and disorderly.

In case study 7, we raised issues with police about the way two intoxicated men were detained – for their own protection – using the power in section 206 of LEPPRA. We were concerned that police did not, as required under the legislation, either release the men into the care of a responsible person or take them to an authorised place of detention.

Misleading a court

Statements prepared by officers for court must be an accurate and true account of their recollection of events. Police guidelines state that it is acceptable for officers preparing statements to read other materials, including the statements of other officers about the same matter, to aid their recollection. However the guidelines also state that they must include a reference to any of these other materials they have consulted in the text of their own statement.

In case study 8, junior officers failed to mention in their statements – and when questioned in court – that they had referred to a senior officer’s statement. The magistrate made strong concluding comments that police had colluded and that their evidence lacked integrity.

Promoting and encouraging good practices

As the primary responsibility for investigating most complaints falls to police, an important part of our role in scrutinising these investigations is identifying and acknowledging where investigations have been completed to a particularly high standard. This allows good practice to be recognised and hopefully extended. In case study 9, the police investigators undertook comprehensive research and planning to ensure an effective and informed investigation.

In case study 10, police initially declined to investigate a complaint about how officers treated a man with mental illness. We required them to investigate as in our view the matter raised serious issues that might not be fully

Case studies

2 A critical incident in Kings Cross

Police saw a vehicle travelling on the main street through Kings Cross with an underage driver and a number of passengers. They signalled to the driver to pull over. The vehicle mounted the footpath hitting pedestrians, and police pursued it on foot. Fearing for the safety of pedestrians, and in an attempt to stop the vehicle, police fired shots at the vehicle, hitting the 14 year old driver and a 17 year old front seat passenger. The car stopped and police removed the occupants. A number of bystanders filmed the incident. The footage showed one of the officers striking the front seat passenger in the course of arresting him.

The incident and the footage were later reported in the media and concerns were raised about the actions of police. The NSWPF began a critical incident investigation in relation to the police use of firearms and a departmental investigation into the actions of the officer who removed the front seat passenger. Concerns were reported in the media about whether the police investigation would be

impartial and independent. We also received a complaint from the family of one of the young people. Due to these public concerns and the serious nature of the incident, we monitored both the critical incident investigation and the departmental investigation.

As part of our monitoring role, we:

- made sure we were regularly updated on the status of the investigations and proposed lines of inquiry
- accessed and reviewed evidence as it was gathered
- provided input in relation to lines of inquiry
- raised issues or concerns during the investigations
- attended numerous interviews with witnesses and officers and provided input about questions asked.

Our input resulted in the investigators considering additional matters and conducting further lines of inquiry.

We were provided with copies of the investigation reports, for both the critical incident and departmental investigations. We reviewed these carefully and were satisfied with the conduct of the investigations and the findings made.

3 Magistrate comment that police ‘went too far’

A young man alleged police had used excessive force when arresting him outside a pub. As the matter was already going to be heard at court, we accepted the police decision to decline the complaint as the allegations ‘would be subject to judgement by the court’.

At court the magistrate viewed CCTV footage of the incident and formed the view that police ‘went too far’ during the arrest. The local area commander wrote to us to advise that the actions of police had, in their view, been reasonable and that the matter required no further action.

We wrote back to police, noting that their disagreement with the magistrate’s view was not sufficient reason to close the investigation. Given that the matter was originally declined because of the alternative redress through the court, we argued that the court’s findings should therefore be given significant weight when considering the young man’s allegations.

We required that they conduct further enquiries with the officers involved, which they agreed to do. These enquiries are still underway.

4 Court does not always provide an alternative avenue of redress

A complainant had been charged with resist arrest and assault police. Initially, it would have been appropriate to decline any complaint that directly related to the arrest as it was reasonable to believe the issues would have been explored during the court proceedings.

considered in court. The resulting investigation was thorough and the conclusions reached were well-considered.

Key areas of focus

Scrutinising critical incident investigations

A 'critical incident' is an incident where an individual is seriously injured or dies during policing activities. When such incidents occur, the NSWPF launches an investigation. We are only able to scrutinise the critical incident investigation if a member of the public makes a complaint or a police officer makes a report that the police conduct being examined could amount to criminal and/or other misconduct.

In February 2013, we tabled a special report in Parliament outlining our monitoring of the critical incident investigation into the death of Mr Roberto Laudisio-Curti. He died after being pursued by police, tasered on multiple occasions, and restrained by up to 11 officers. In the report, we outlined our concerns about the failure of investigators to identify and address issues relating to the conduct of the officers involved in the incident before the coronial inquest into Mr Laudisio-Curti's death. We also outlined a number of deficiencies with the police investigation including:

- the failure to comply with established procedures for conducting critical incident investigations
- the failure to effectively examine the lawfulness of the actions of the police officers involved
- the failure to properly analyse the various uses of force to determine whether they complied with the law and police operating procedures.

We made a number of recommendations aimed at strengthening police procedures for the timely and appropriate investigation of critical incidents. The NSWPF supported our recommendations and is currently in the process of amending their procedures.

We also recommended that Parliament consider a mandatory notification scheme requiring police to immediately notify us of all critical incidents involving the death or serious injury of any person during policing activities. This would enable us to independently oversight any critical incident investigations that may involve police misconduct and we believe that it is in the public interest for us to do so.

Investigating criminal allegations against police

It is important that police officers, like any other citizen, are treated equally before the law. For this to occur, any criminal allegations against officers must be properly identified in the first instance. Any decision not to charge an officer must also be carefully considered. Under an existing protocol, there are two circumstances where an issue or a decision must be informed by independent review and advice from the Office of the Director of Public Prosecutions (ODPP). The ODPP should be contacted for advice if:

- after a police investigation, a doubt arises or remains as to whether a criminal charge should be preferred because of complex legal issues and/or questions about the sufficiency or admissibility of the evidence
- there is sufficient evidence to prefer a charge, but there may be good reasons for the Commissioner's approval not to be given.

In our previous two annual reports we reported on concerns about police not adhering to this protocol. This year we identified more cases where this occurred – including case studies 11 and 12.

We raised the need to review the protocol during 2011–2012 and raised it again this year. We will progress this review with the NSWPF, the PIC and the ODPP as a matter of priority.

Clarifying police powers

Last year we reported that we were working with police on some changes that needed to be made to bail processes. This was to ensure that officers understood that, in certain circumstances, it may not be lawful to arrest a person and place them in custody for the purpose of charging and imposing bail conditions.

We worked with police to develop a law note that has since been published in the *Police Monthly*, a magazine that provides information and updates to officers. The law note makes it clear that police can charge a person and impose bail conditions without first having to arrest and place them in custody – if the person voluntarily agrees to attend a police station. It reinforces the need for officers to always consider alternatives to arrest and notes that, in appropriate circumstances, this may include giving a person an opportunity to voluntarily attend a police station.

Managing complaints about workplace conduct

Last year we reported on the slow progress by the NSWPF in implementing our recommendations about managing complaints by employees about workplace conduct – including sexual harassment, bullying and discrimination. The recommendations we made in our report in June 2011 were aimed at improving the NSWPF complaint systems for managing these matters.

This year, the NSWPF formed a joint working party between the Human Resources Command and the PSC to develop strategies to implement our recommendations. At the time of writing, the joint working party has prepared a report for the Commissioner's Senior Executive Team to consider. We are supportive of the steps taken by the working party, but remain concerned about the delay in strengthening systems in this area.

One of our concerns related to police failing to identify and record allegations of sexual harassment as complaints under the Police Act. In some cases, allegations are handled by the NSWPF as a personal

grievance and not recorded on the complaint information system c@ts.i. This prevents the NSWPF from effectively monitoring complaint trends and identifying officers who are the subject of multiple complaints.

This year we finalised our oversight of 85 complaints that included allegations of inappropriate workplace conduct. Although we were satisfied with the actions taken by the NSWPF in response to the majority of these complaints, we continue to find cases where allegations of sexual harassment are not properly identified and recorded.

In case study 13 the NSWPF found that a police officer had breached the code of conduct, but failed to record it as a complaint or make a finding of sexual harassment.

Inappropriately accessing police information

The NSWPF code of conduct and ethics requires that police must 'only access, use and/or disclose confidential information if required by their duties and allowed by NSWPF policy'.

We reviewed a number of complaints about improper access to COPS by police officers. Case study 14 is an example of these complaints. We raised concerns with the PSC about the NSWPF's information access policies, which did not appear to clearly articulate what information officers are permitted to access and when they could access it. NSWPF agreed that their information access policies needed to be reviewed.

Our review highlighted some confusion among officers as to when they were permitted to access information – in particular, information in 'station summaries' (which is a summary of information of recent events occurring in the local area command (LAC) or matters that have been identified as being a significant statewide event.

We also found inconsistencies in the strategies used by police when investigating these complaints. Unauthorised information access may amount to a criminal offence, but it was not always clear whether investigators had

Case studies

However, a magistrate dismissed the charges under section 32 of the *Mental Health (Forensic Provisions) Act 1990*, on the basis the complainant was suffering from a mental illness at the time of the offences. This meant the magistrate did not examine the conduct of the officers involved in the arrest.

The complainant subsequently lodged a complaint about the way he was arrested. The NSWPF declined the complaint on the basis he had been given alternative and satisfactory means of redress through the courts. We disagreed as the magistrate had not considered whether any police misconduct occurred and the complainant had not pled guilty thereby accepting liability. We believed it was not appropriate to decline the complaint and the issues required investigation. The NSWPF initially refused but, after seeking legal advice that supported our view, they reconsidered their decision and the issues were investigated. The investigator made no sustained findings and, after having reviewed the investigation report and evidence, we were satisfied with the outcome.

5 Public comments by a senior officer while a complaint was being investigated

During a media conference after the TV broadcast of footage showing an officer striking a person multiple times during an arrest, an assistant commissioner commented that the arresting officer's actions were deemed to be appropriate – even though a complaint investigation into his actions had just started. The assistant commissioner learned shortly after making the comments that the arresting officer was his son and declared a conflict of interest. The investigation was taken over by another assistant commissioner.

Police conducted an investigation into the assistant commissioner's comments because of concerns that the comments could be perceived as pre-judging the outcome of the complaint investigation into the arresting officer's conduct. The investigation found that the assistant commissioner did not breach the media policy as it had no guidance about how to respond to requests for comment from the media while a complaint was under investigation. A separate investigation established that the arresting officer acted appropriately during the arrest.

As a result of the police investigation, the media policy was amended to say that any statements made by police must not appear to pre-judge the outcome of any complaint investigation by expressing support or opinion about the conduct of the officers under investigation. These changes were communicated to all staff in the NSWPF monthly publication and using their intranet.

6 Pressure from senior officers

Police arrested an 11 year old Aboriginal boy for threatening another boy with a knife at school. The incident was widely reported in the local media. The officer in charge of the investigation interviewed the boy and formed the view that he was incapable of committing a criminal offence because he did not appreciate that his actions were seriously wrong. This is the legal test for determining whether a child between the age of 10 and 14 is able to form the intention to commit a criminal offence.

After the interview with the boy, the officer in charge had numerous conversations with her supervisor who advised her that – despite her view – more

senior officers thought that the boy should be charged with criminal offences. The officer charged the boy with common assault and being armed with the intent to commit an indictable offence. The charges were withdrawn one month later by police prosecutors as there was insufficient evidence to prove that the boy was capable of committing a criminal offence.

The officer in charge complained that senior officers had interfered in her investigation by pressuring her to charge the boy. The complaint investigator was satisfied that there was sufficient evidence to establish that the officer's commander had interfered in the investigation, so an adverse finding was recorded against the commander. The commander was not satisfied with this finding and requested a review. A senior officer reviewed the investigation and found that the commander did not interfere in the investigation. The adverse finding was reversed.

After reviewing the evidence, we prepared a report under section 155 of the Police Act – recommending that the adverse finding be reinstated and that the

considered this. We recommended that if an access appears to be unauthorised, consideration should be given as to whether a criminal offence has been committed and an evidence-based investigation started at the outset – unless there were good reasons for not doing so.

We recommended that the NSWPF make their information access policies clearer, as well as providing training to officers to promote consistency in the way these policies are interpreted and applied. The NSWPF responded positively and agreed that the policies needed to be improved. They have started work on a project that will canvass the issues we identified and they will advise us of the results.

Keeping the police complaints system under scrutiny

Section 160 of the Police Act requires the NSW Ombudsman to keep the police complaints system under scrutiny and inspect police records at least once every 12 months to check compliance with the Police Act.

During 2012–2013, we:

- made six visits to police commands to discuss trends in complaints and complaint-handling issues specific to each command
- inspected records at four specialist operational commands
- completed one audit on compliance with statutory requirements relating to complainant satisfaction
- did five audits on the timeliness of police handling of complaints.

Visiting commands

Every year we visit a number of commands and meet with the senior management team. Before each visit we produce an internal report on the command's complaint – handling practices. This report includes information

about complaint numbers and types, officer strength, the command's population and demographic, and other open sources such as media reports. This information helps us to identify systemic issues arising from the command's handling of individual complaints as well as areas for improvement to discuss with commanders. Two of these command visits are highlighted in case study 15.

Inspecting records

This year we inspected the records of four specialist operational commands. We went to the complaint-handling section of each command and reviewed all their complaint records – including electronic records, filing systems, and any other form of complaint-related record keeping. We then provided a report to the command with our observations and recommendations for improvement. Our inspections this year found a high level of compliance with the requirements of Part 8A of the Police Act and examples of good record keeping.

Auditing complainant satisfaction

A complainant's level of satisfaction with how their complaint has been dealt with is an important measure of the effectiveness of a complaint-handling system. Under the Police Act, the NSWPF is required to report to us about complainant satisfaction.

Complainant satisfaction is best measured across three areas:

- The investigation of the complaint – was the process timely and fair?
- The outcome – was it fair and balanced?
- Customer service – was communication respectful and timely?

In 2012–2013, we conducted a detailed analysis of 350 complaints that were notified to us between 1 July 2012 and 30 November 2012. We wanted to assess the way

that police obtained and recorded information about complainant satisfaction and how they then used that data.

We found that there were no clear guidelines to assist police investigators to consistently determine complainant satisfaction. Current records also do not allow police to distinguish between a complainant's level of satisfaction with the process, the outcome, and the level of customer service they received. We recommended that the NSWPF implement measures to ensure these elements can be identified and recorded separately. We also found that the information that was being collected was not routinely used by police to assess the effectiveness of the complaints system.

In June 2013, we provided the PSC with a draft consultation report. In the report, we made a number of recommendations to help the NSWPF improve the way they collect information about complainant satisfaction and use it to make improvements to the complaints system. We look forward to working with the NSWPF on these issues.

Auditing timeliness

There has been a decline in the last two years in the number of complaint investigations completed within the timeframes set by the NSWPF. For an investigation, their target is to complete it within 90 days. For a complaint dealt with through informal resolution, their target is to complete it within 45 days.

This year we conducted five audits to monitor the timeliness of complaint investigations at three different stages of completion. We did:

- two audits of investigations being conducted by police that have remained open for longer than the timeframes set by the NSWPF – 492 investigations audited.
- two audits of investigations that have been suspended by police in accordance with their own guidelines for suspending certain types of investigations – 236 investigations audited.

- one audit of investigations that have found serious police misconduct but a final decision about management action had yet to be determined – 13 investigations audited.

Investigations not completed within key timeframes

Of the 492 investigations we audited, we identified and requested information about 215 investigations which appeared significantly delayed without reason. The NSWPF provided our office with 129 investigation reports and we reviewed each in accordance with our oversight function. Of these, 57 investigations had been previously completed by the NSWPF but the final report had not been provided to the Ombudsman. The PSC has since advised that an enhancement to the complaints system will be made to automate the notification of investigation reports to this office when it is finalised. We received advice that the remaining 86 investigations were progressing towards finalisation.

Investigations suspended

Since January 2009, commands have been able to temporarily 'suspend' an investigation into police misconduct if unavoidable and significant delays are likely to occur that are out of a command's control. This could be, for example, if the involved officer is on long-term sick report and is not able to be interviewed or if an officer is defending related criminal charges in court. Figure 33 shows the number of matters suspended by NSWPF.

Fig. 33: Number of cases suspended

Number of cases	08/09	09/10	10/11	11/12	12/13
Investigations (evidence-based)	7	68	129	174	160
Informal investigations	0	10	35	70	69

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commander receive advice and guidance. The Commissioner of Police accepted and implemented all our recommendations.

7 Intoxicated men released at a railway station

Four officers arrested three men in relation to an assault. After speaking with the victim, officers determined that two of the men – the complainant and his friend – had not been involved in the assault. Officers discontinued the arrest of these two men, but then detained them for their own protection using the detention of intoxicated persons provisions in section 206 of LEPPRA. The complainant did not consent to being taken into custody and police used force to put the men in a police vehicle. They were taken to a railway station and told to go home.

We raised concerns with the commander that the officers had not complied with section 206 of LEPPRA and had not kept appropriate records about the exercise of their powers. It was of particular concern to us that the complainant was taken into custody as an intoxicated person and then left at a railway station.

8 Collusion in preparing statements

A magistrate made adverse comments about the evidence of four police officers in a matter involving the alleged driver of a vehicle in a police pursuit. The magistrate dismissed the charge and awarded costs against the police, finding that they had 'lost their integrity in this matter because of the collusion on a very important point' – the confession of the accused to being the driver.

The matter was investigated by police as a complaint and 'not sustained' findings were made against the officers regarding alleged collusion and lying during proceedings. The local area commander wrote to the magistrate and advised him of this outcome.

We raised concerns about the evidence given by each of the officers and expressed the view that they did mislead the court – whether intentionally or not – about the extent to which they had access to, or had looked at a senior officer's statement, or had spoken to the senior officer about his statement.

We requested a review of the findings to consider whether the officers misled the court and failed to acknowledge in their statements the use of another officer's statement when preparing their own. We also noted that one of the officers had a previous similar complaint sustained against him.

The review of the investigation resulted in sustained findings against three of the officers for 'either intentionally or recklessly' misleading the court in relation to the preparation of their statements, and failing to refer to the fact they had used the senior officer's statement when preparing their own – as required by NSWPF guidelines. All three officers were counselled and attended a 'mock court' training session conducted by prosecutors. The officer with a similar previous issue was also placed on a performance enhancement agreement.

The reviewing officer found the senior officer had not colluded or misled the court, but agreed that he should have given instructions to the junior officers about their use of his statement. He should also

have given them a copy of the NSWPF guidelines about preparing statements when he gave them a copy of his statement.

All staff at the command were reminded of their responsibilities about preparing police statements, and using other police statements when preparing their own. At our request, the commander wrote to the magistrate and advised that – as a result of a review requested by the Ombudsman – findings had been made 'that the officers did in fact mislead the court'.

9 An effective investigation

An officer involved in the sport of power lifting was investigated for using drugs and other misconduct. The investigators conducted thorough research into the effect of freely available sports supplements to establish if the officer's elevated drug levels could be attributed to supplement use or were the result of illegal drug use. This research enabled them to effectively analyse the results of targeted drug tests, ask the officer probing questions, and establish that he had been taking illegal drugs.

This year we conducted two audits of 'suspended' investigations to find out the reasons for the suspension and to see if the reason was current and in line with NSWPF's own internal procedures. We examined a total of 236 suspended investigations and requested updates about the status of 119 matters.

When an investigation is suspended, the command can no longer update the police information system with any new information about the status of the complaint. In practice, this can mean the reasons recorded on the database are no longer accurate or timely.

We have consulted with the PSC about making changes to the complaint database to allow commands to access suspended investigations to update the reasons for continued suspension and upload any new relevant documentation. We have also discussed the importance of making sure the internal procedures provided to commanders about how to manage suspended complaints include conducting regular reviews.

Management action not yet taken

If the NSWPF makes adverse findings against a police officer for misconduct, the Commissioner or his delegate must decide whether management action (ie disciplinary action) against the officer should be taken. In serious matters, consideration will be given to 'reviewable action' which includes a reduction in rank or dismissal – or in less serious matters to 'non-reviewable' action which may include counselling or a requirement to attend training. When serious management action is being considered, there are certain steps built into the process to give the officer the opportunity to object or respond to the recommended action. Often a decision about management action can take a considerable length of time to be finalised.

We audited the progress of matters where management action had been recommended but, for some reason, had not been taken within six months. We sought advice about

the status of 13 investigations (including one which was older than two years). In all of the matters we were satisfied with the reasons provided for the delays.

Our investigations and reports to the Minister and Commissioner

This year we finalised five investigations and made two reports to the Minister for Police and Commissioner of Police without conducting an investigation. One of the investigations – into the police use of Tasers – was followed by a special report to Parliament.

Police use of Tasers

In October 2012, we tabled a special report in Parliament called *How are Taser weapons used by the NSW Police Force?* The report followed a comprehensive investigation, started in 2010, in which we evaluated data relating to 2,252 Taser-use incidents together with a detailed examination of 556 individual Taser-use incidents. The investigation allowed us to examine the application of relevant police procedures, the training provided to officers, and how the police internal review and accountability system worked in each case.

Our findings were generally positive, including that the accountability framework worked well in most cases. We did, however, identify incidents where the Taser-use was inappropriate or the internal review process was inadequate or inconsistent. We made 44 recommendations to strengthen the police internal review system, to improve the clarity and guidance given to officers, and to minimise the risk of Taser misuse in the future.

In December 2012, the Commissioner of Police advised us that he supported 41 of the recommendations, supported one recommendation 'in principle', and supported two recommendations 'in part'.

Since then we have consulted with the Taser Executive Committee about the implementation of the recommendations, including 21 recommendations concerning amendments to the NSWPF Taser standard operating procedures (SOPs). We will be closely monitoring the progress of implementation in the coming year.

The special report to Parliament is available on our website.

Operation Prospect

In October 2012, the NSW Government announced that the Ombudsman would investigate allegations about the conduct of officers of the NSWPF, the NSW Crime Commission (NSWCC) and the PIC in relation to a number of investigations that occurred between 1998 and 2002. These investigations include Operations Mascot and Florida, and were mostly joint agency investigations. The allegations covered a wide range of serious misconduct occurring over a significant period of time.

After the announcement, we examined the issues and information available at that time and started scoping the investigation. We identified the resourcing and expertise needed to conduct the investigation, and spent time recruiting specialist staff. There are currently ten staff members working full-time on Operation Prospect, with the investigative staff having extensive operations experience in criminal and/or corruption investigations. In addition to the full-time staff, the Ombudsman, Deputy Ombudsman and legal officers are also involved, as required. It is expected that these positions will be required to spend more time on Operation Prospect in the coming year.

Complaints received

Operation Prospect started with a reference received from the Inspector of the PIC. The reference was broad and contained a wide range of issues to be addressed. Early

on, we established an Operation Prospect email address so that anyone could send complaints or information to us. In May 2013 we advertised in major newspapers calling for information from interested parties, and this resulted in a number of new complaints.

By the end of June 2013, Operation Prospect had 48 complaints containing 82 allegations that will inform the investigation.

Legislative changes

A number of amendments have been made to the *Ombudsman Act 1974*, *Police Integrity Commission Act 1996* and the *Crime Commission Act 2012* to assist Operation Prospect. These amendments include those relating to:

- referrals from the PIC or NSWCC Inspectors, and the ability to investigate the conduct of members of the NSWCC and the PIC
- restrictions on publishing or disclosing evidence from a hearing
- the setting aside of any duty of secrecy or other restrictions by a former public authority.

Progress to date

Operation Prospect has completed a significant amount of work since the inquiry was announced in October 2012. This work has included seeking and securing the funding required to conduct the investigation, establishing appropriate and secure premises to house the investigation team, and recruiting staff with the necessary skills and experience. During this same period, the existing small operational team focused on obtaining and securing information and records from multiple agencies.

During 2013, the focus of the investigation shifted to analysing, assessing and investigating the vast amounts of material we received. This material includes 146,000 documents containing what can only be estimated to be

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We wrote to the command and complimented them on their thorough investigation as well as the clear, logical way in which the investigator explained the complex research that led to a finding that the officer's elevated drug levels were a result of illegal drug use.

The officer resigned from the NSWPF after this investigation.

10 Arresting a man with a mental illness

At our request, an investigation was conducted into a complaint that police had mistreated a man with a history of mental illness after they had been asked to attend his home for welfare reasons.

The man's father contacted health services raising concerns about his son's mental health and wanting to obtain medical assistance for him. The father was told that the police might need to be involved in case the man was having a psychotic episode and needed to be restrained. Police contacted the father and advised they would attend the son's location and check on his welfare. The father asked police

not to approach his son without him being present and indicated he was on his way to his son's house. The police arrived before the father. The man became violent and the situation quickly escalated, resulting in the man being taken into police custody and charged with using offensive language, resisting arrest and assaulting police. The man's father arrived at the point where police were applying force to take his son into custody. In his complaint, the father asked why police had not waited for him to arrive and alleged that the arrest was unnecessary and the force used excessive.

Police initially declined to investigate the complaint – on the basis the man had an alternative means of redress at court – but we felt the courts would not address the broader concerns raised in the complaint. We requested an investigation into what information was conveyed to the police responding to the incident, whether any relevant procedures for dealing with people with a mental illness were followed, and whether any improvements to training or systems were required in this area. We accepted the force used may be dealt with at court but noted

there may be circumstances in which the matter was not heard, in which case we required some examination of this issue. Before the investigation was finalised, the man pled guilty to using offensive language and resisting arrest but the charge of assaulting police was withdrawn.

The investigation examined all of the issues we raised. They found the actions of police attending the incident had been appropriate under the circumstances and the force used was reasonable. However, the investigator identified that the information provided to responding police by radio operators lacked relevant details – such as the reason behind the request for police assistance, which was to get the man to hospital for treatment, and the father's request to be present. As a result of the findings, the Radio Operations Training Unit will use this scenario to improve staff training.

We accepted these findings and complimented the investigator on his considered and thorough response to the issues raised. In our view, the training issue identified was a positive outcome.

11 Protocol not followed in drink driving case

An off-duty police officer was pulled over as part of a random breath testing (RBT) operation. A breath test at the scene indicated a mid-range blood alcohol level. A further test after 15 minutes showed the officer was still over the limit and his blood alcohol reading was increasing. The senior officer in charge of the operation did not personally know the off-duty officer, but was aware that he was a police officer. The senior officer could have arrested the off-duty officer for the purpose of further breath analysis at the police station and, if warranted, charged him. Instead, the senior officer chastised the off-duty officer and let him leave. This meant the opportunity for criminal charges was lost.

Two and a half months later another officer who had been present at the RBT operation lodged a complaint about the conduct of the senior officer. Police investigated the complaint and made a finding that the senior officer had perverted the course of justice. Police prosecutions command and the

millions of pages of information. A range of other investigative steps were also started, including interviews and private hearings.

Reviews of legislation

From time to time, Parliament requires the Ombudsman to scrutinise how police use certain laws – particularly where concerns have been raised about the extent and potential impact of any new police powers.

Every year we review how police have used Part 6A of LEPRA, which provides police with emergency powers to control large-scale public disorder. Our report of our activities in 2012–2013 in relation to Part 6A LEPRA is in Appendix E.

This year we started examining how police have used new consorting laws in the first two years of their operation, and continued our review of how police applied two new powers in their first year of operation. These are:

- move on powers in relation to individuals who are intoxicated and disorderly
- powers that authorise police to require the removal of face coverings.

Our review of legislation regarding control orders for members of criminal organisations is also continuing.

Consorting with convicted offenders

In April 2012, we began reviewing the operation of the new consorting provisions in Division 7, Part 3A of the *Crimes Act 1900*. Schedule 11 of the *Crimes Act* requires us to review the NSWPF's use of these provisions for a period of two years before reporting to the Attorney General and Commissioner of Police on our findings. After receiving our report, the Attorney General will table it in Parliament.

To be guilty of an offence under section 93X of the *Crimes Act* a person must habitually consort with at least two 'convicted offenders' on at least two occasions. One of

these occasions must be after receiving an official police warning about each offender. That warning must inform the person that:

- their associate is a convicted offender
- consorting with a convicted offender is an offence.

A convicted offender is someone who has previously been convicted of an indictable offence. Consorting includes face-to-face contact and electronic communication.

Our analysis of statewide police records indicates that although the consorting provisions are being used by nearly 90 percent of all LACs across NSW, use is concentrated in a small number – with four LACs being responsible for just over 40 percent (277) of all uses by general duties police. The majority of use is focused on the Sydney metropolitan area.

To understand how the consorting provisions are being used and who is being subject to them, we have done a detailed analysis of the police records from 10 LACs and two specialist squads attached to the State Crime Command who appear to be the highest users of the provisions. We have consulted directly with senior and frontline police officers from each of these LACs and squads to explore their experience and rationale for using the provisions. We have also met with three LACs who are not using the provisions.

In addition, we have met with a number of non-police stakeholders in relevant areas and monitored all relevant court proceedings. In late 2013, we will be issuing a discussion paper seeking comment from the public and interested organisations on emerging issues identified in our review.

Move on powers

We have been reviewing changes to the law that made it an offence for a person to continue being intoxicated and disorderly in public after they had already been given an opportunity by police to stop the behaviour.

These changes were made to try to reduce alcohol-related violence in NSW, particularly incidents in entertainment districts where people congregate to party during certain nights of the week. The changes were introduced through amendments to two existing Acts – LEPRA and the *Summary Offences Act 1988*.

During the year, we consulted police and community groups about their experience with the new offence provision. This included visits to two metropolitan commands and two regional commands. In November 2012, we published an issues paper outlining topics for consideration, and in February 2013 we ran a media campaign targeted at young people and their social networks asking for their feedback about the operation of the new laws.

We received 24 submissions from a wide range of parties – including legal centres, local councils, the Australian Hotels Association, residents, the police and other government departments involved in the criminal justice system.

A major concern raised at the time the laws were being debated in Parliament was their potential disproportionate impact on vulnerable groups, particularly homeless people and people who identified as Aboriginal. We considered the penalties imposed on members of these vulnerable groups and analysed information about the amount of unpaid fines they owed to understand how an additional fine would affect their situation. We also looked at information about what happened to those matters where the offender was charged and had to face court.

We will report our findings to the Attorney General and the Commissioner of Police later in 2013. Once the Attorney General has tabled the report in Parliament, it will also be available on our website.

Removing face coverings

On 1 November 2011, a new Division 4, Part 3 of LEPRA was introduced, which authorised police to require that a person uncover their face when they are being identified. The Ombudsman was given the responsibility of scrutinising how police exercised their powers under this new law for the first year of its operation.

Police recorded using the new law on eight occasions between 1 November 2011 and 31 October 2012. On seven of those occasions police were verifying the identity of a female driver who was wearing a niqab, a face covering worn by some Muslim women.

We gathered information about these eight occasions, published an issues paper in December 2012, and called for submissions from any agencies, organisations or members of the public.

Our draft report was subsequently provided to the Minister for Police, the Attorney General and the Commissioner of Police and outlined our findings and recommendations on issues such as:

- how officers might provide privacy in circumstances involving a driver wearing a niqab
- how officers should respond to a request for a female officer to view a woman's face
- steps that can be taken to better educate and inform the community and police officers about the new law.

Our final report was finalised and tabled in the NSW Parliament by the Attorney General in August 2013. It is available on our website.

Control orders for members of criminal organisations

In April 2009, the *Crimes (Criminal Organisations Control) Act 2009* was introduced. It allowed police to apply to an eligible judge to have organisations declared as 'criminal'. Once an organisation is declared, police can apply to have interim control orders and control orders imposed

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ODPP both agreed there was sufficient evidence for the senior officer to be charged with the offence of acting with the intent to pervert the course of justice.

In this situation, the Police Act requires that an officer is charged unless the Commissioner (or their delegated officer) exercises their discretion and decides not to charge them. To ensure these decisions are transparent, any such decision by the Commissioner or their delegate must also be referred to the ODPP for advice.

The issue of whether to charge the senior officer with a criminal offence was referred to an assistant commissioner. The assistant commissioner exercised their discretion and decided not to charge the officer with acting with the intent to pervert the course of justice and did not refer his decision to the ODPP for independent review and advice – as required by the protocol. When we raised concerns about this issue, the Deputy Commissioner (Corporate Services) agreed that the ODPP protocol had not been followed and the assistant commissioner was reminded of his obligations.

The senior officer received a warning notice and had their leading senior constable designation removed, which represents a significant drop in salary of \$13,000 per annum. Two other officers present at the RBT operation received warning notices for their failure to report the misconduct of other officers. The off-duty officer received a departmental warning notice for driving while under the influence of alcohol.

12 Officer not charged for failing to move away from a bar

Police attended a bar late at night after the licensee reported that 'off-duty police' had been refused entry and were failing to leave the area. A person who 'fails to quit' commits an offence under section 77(8) of the *Liquor Act 2007*. The attending police spoke to witnesses and viewed CCTV footage that clearly showed an off-duty officer and a civilian friend remained outside the bar's entrance after being refused entry by a security guard who believed that they may have been intoxicated.

Attending police issued a penalty notice to the officer's civilian friend who later paid the fine but no criminal action was taken against the off-duty police officer. Attending police told the off-duty officer that action would be taken if approved by the region commander, as required under section 148 of the Police Act.

After forming the view that there was sufficient evidence to charge the off-duty officer with the offence of 'fail to quit', an acting inspector sought approval from the region commander to institute proceedings against the off-duty officer. The region commander declined to authorise criminal proceedings on the grounds of insufficient evidence, deciding that it was unnecessary to seek the advice of the ODPP as the region commander was in no doubt that there was insufficient evidence to charge the off-duty officer.

We were concerned because we agreed with the acting inspector that there was sufficient evidence to warrant the prosecution. We asked the region commander to review the decision about the

sufficiency of evidence and refer the matter to the ODPP for independent advice. The region commander declined to refer the matter to the ODPP, arguing that there was no doubt there was insufficient evidence of the offence of 'fail to quit'.

We then raised our concerns with a deputy commissioner who endorsed the region commander's decision without providing adequate reasons for this endorsement. The off-duty officer received a warning notice from his employer, the NSWPF, for failing to leave the bar after being refused entry but, because of the time that had passed, any offence by the off-duty officer was statute barred – and the alleged conduct could not be subject to criminal action.

We wrote a provisional report outlining our concerns about both the region commander's and the deputy commissioner's assessment of the sufficiency of evidence and the failure to adhere to a protocol that requires any doubt about the sufficiency of evidence to be referred to the ODPP for advice. The fact that the acting inspector, after reviewing all the evidence,

on members of the organisation to make association between controlled members a crime. Authorisation to engage in specified activities – such as work in certain high-risk industries – is suspended when an interim control order or a control order is in place.

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

The 2012 Act requires judges to give reasons when declaring an organisation 'criminal'. After a High Court decision about similar legislation from Queensland, the NSW Parliament further amended the 2012 Act. Proceedings for declarations and control orders will now take place in the Supreme Court, and a public interest monitor may be appointed to participate in the proceedings. The NSWPF may also apply to register interstate declarations and control orders so they can be enforced in NSW.

In 2012–2013 we consulted with police about our information requirements for this review and anticipate holding stakeholder consultations as the new provisions are implemented.

Monitoring the implementation of our recommendations

Every year we monitor the ongoing implementation of recommendations that we have made in our previous legislative reviews.

Impact of CINs on Aboriginal communities

We continue to be concerned about the NSWPF's ongoing failure to comply with the internal review requirements in Division 2A, Part 3 of the *Fines Act 1996*. Under these provisions, all agencies that issue penalty notices must have systems and procedures in place for

reviewing the notices and conducting any internal reviews within 42 days.

After much communication back and forth, the NSWPF has recently acknowledged that their current review process does not comply with the internal review requirements under the Act and that they are unlikely to be granted an exemption from these provisions. It remains unclear what action the NSWPF will take to ensure they now comply with the requirements of the Fines Act when reviewing penalty notices, including criminal infringement notices (CINs).

We understand the NSWPF is now seeking to have the Act amended to extend the timeframe for reviewing CINs from 42 days to 120 days. They argue this is necessary because CINs, unlike other penalty notices, are an alternative to formal criminal prosecution and must be reviewed in the same way as all criminal matters.

The working party commissioned by the government to assess the recommendations from our review of the impact of CINs was finalised in April 2012. Regrettably, we were not informed of this until more than twelve months after it had occurred. We are currently reviewing the government response to our report and considering a request by the Attorney General to review the effectiveness and implementation of the recommendations by our office.

Powers related to terrorism

In August 2011, we completed our second review of Parts 2A and 3 of the *Terrorism (Police Powers) Act 2002* which concerned preventative detention and covert search warrants. This year we sought formal advice from relevant agencies about the steps they have taken to implement our recommendations.

All but two of our procedural recommendations have been implemented by the NSWPF, Juvenile Justice NSW and Corrective Services NSW, in whole or in part.

For example, a memorandum of understanding has been agreed to and signed by all three agencies on the use of preventative detention powers. The NSWPF have also updated their standard operating procedures (SOPs) on preventative detention to specify that people aged 16–18 years who are detained under preventative detention orders must not be detained in adult correctional facilities. If Juvenile Justice NSW does not have suitable facilities to house these young people, the SOPs require that appropriate alternative arrangements are made.

We have also been advised that the government's formal response to our recommendations, including those suggesting legislative amendment, will be included in the statutory review of the *Terrorism (Police Powers) Act 2002* which is to be tabled in Parliament shortly.

Personal searches, crime scenes and notices to produce

After our 2009 review of police powers regarding personal searches, crime scenes and notices to produce under LEPPRA, the government also commissioned a statutory review of this Act. We have been advised that the report of the Statutory Review Committee is nearing completion and that it makes a number of recommendations for legislative amendment arising directly from our review. We look forward to receiving a copy of the committee's report once it is tabled in Parliament.

Witness protection

The *Witness Protection Act 1995* established a witness protection program to protect the safety and welfare of Crown witnesses and some others who give information to police about criminal activities. The Ombudsman is responsible for hearing appeals about the exercise of certain witness protection powers by police and handling complaints from people in the program.

Appeals

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

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

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

Complaints

Every person taken onto the witness protection program signs a memorandum of understanding with the Commissioner of Police. This memorandum sets out the basic obligations of all parties. It also:

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

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

Historically, when complaints have raised systemic issues, the NSWPF have generally responded positively and resolved those issues. These ongoing improvements in the management of the program have in turn led to fewer complaints. This year we were contacted by one participant about program-related issues.

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felt there was sufficient evidence for the offence of 'fail to quit' meant that the region commander's contrary views did not operate as a prevailing view and that there was doubt about the sufficiency of the evidence that should have led to the matter being referred to the ODPP for independent advice. We have considered the NSWPF response, and have now issued a final investigation report to the NSWPF.

13 Reluctance to record findings of sexual harassment

A female probationary constable made an allegation of sexual harassment against a male inspector. The matter was treated by her local command as an internal grievance and the inspector was spoken to by the commander. An internal police complainant later raised a concern that the matter should have been dealt with as a formal complaint, so the region command investigated the matter. They found that the complaint by the probationary constable should have been recorded as a formal complaint, and made a sustained finding against the commander for failing to deal with the complaint appropriately.

We wrote to the NSWPF because, despite the findings against the commander, the sexual harassment allegation by the probationary constable had still not been recorded as a complaint and findings had not been made against the inspector. Following our involvement, the complaint was recorded on c@ts.i and the inspector was given an opportunity to respond to the allegations before sustained findings of sexual harassment were recorded.

14 Accessing information about another officer

A senior constable accessed the station summary of her previous command, as well as a report of an assault by an off-duty police officer. Police argued that 'no wrongdoing can be gleaned from these actions' as it 'would not be unreasonable to access the station summary' of a previous command.

When we requested a review of this issue, police amended the finding and the senior constable received formal counselling and guidance.

The police investigator was also retrained on the NSWPF information and communications technology systems policy.

15 Visiting the Police Transport Command and the Traffic & Highway Patrol Command

In 2013, we made separate visits to the Sydney headquarters of the recently established Police Transport Command and the Traffic and Highway Patrol Command. The large size of these new commands – in terms of the number of officers and their geographical spread – presents logistical challenges for managing performance and complaints.

We developed profiles of the commands in preparation for the visits, including an analysis of the current and future issues that may affect each command. When we analysed past complaints about officers from both commands, we noticed that a significant number of complaints about officers

who had been transferred to the new commands were at differing stages of completion. We also identified individual officers who may pose a risk.

When we met with the senior managers of the new commands we discussed how to manage some foreseeable problems. These included how to manage officers from commands with poor complaint-handling procedures, the practical difficulties of managing complex complaints from a distance, and making sure information about individual officers (such as work and complaints history, conflicts of interest, declarable associations or other associated risks) was not lost in the transfer. We support the efforts of these commands to recruit positions that specialise in complaint administration and to invest in complaint-handling training for senior officers.

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

'Undercover' – or controlled operations – can also be carried out under the *Law Enforcement (Controlled Operations) Act 1997*. It allows activities that would otherwise involve breaches of the law, such as possessing illicit drugs, to be carried out. The Australian Crime Commission, the Australian Federal Police and the Australian Customs and Border Protection Service are also authorised to conduct controlled operations under the NSW legislation.

These kinds of operations involve significant intrusions into people's private lives and so agencies must follow the approval procedures and accountability provisions set out in the relevant legislation. Reviewing the compliance of the agencies with these requirements is an important function of the Ombudsman.

Controlled operations

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

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

We must be notified by agencies within 21 days when:

- an authority to conduct an operation is granted or varied
- a report is received by the agency's chief executive officer on the completion of the operation.

Retrospective authorities for controlled operations must be notified to us within seven days of being granted.

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

During 2012–2013, we inspected 388 files about controlled operations.

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

Telecommunications interceptions

Since 1987 we have been involved in monitoring compliance by law enforcement agencies with the requirements of the telecommunications interception legislation.

Our role does not include scrutinising the approval process for telephone intercepts because a judicial officer or member of the Administrative Appeals Tribunal grants a warrant for a telephone interception.

We check whether the agency carrying out the telecommunication interception has complied with record-keeping requirements. Records must document the issue of warrants and how the information gathered was used. All telephone intercept records have to be kept under secure conditions by the agency and destroyed once specified conditions no longer apply. Some records must be provided to the Attorney General.

We are required to inspect each agency's records at least twice a year and also have the power to inspect their records for compliance at any time. We report the results of our inspections to the Attorney General. The *Telecommunications (Interception and Access) (New South Wales) Act 1987* prevents us from providing any further information about what we do under that Act in this report.

Surveillance devices

The requirements for the installation, use and maintenance of listening, optical, tracking and data surveillance devices is set out in the *Surveillance Devices Act*. The communication and publication of private conversations, surveillance activities and information obtained from using these devices is restricted by the Act, but NSW law enforcement agencies are given specific powers to use surveillance devices to investigate crime and corrupt conduct.

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

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

In 2012–2013, we inspected 1,418 surveillance device files under the *Surveillance Devices Act*. We reported in detail on these inspections to the Attorney General for the periods ending 31 December 2012 and 30 June 2013. Both reports were tabled in Parliament and are now available on our website.

Inspecting records of search warrants

Covert search warrants

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

This year, we inspected the records of the NSWPF – inspecting a total of 35 files. Neither the NSWCC nor the PIC applied for any covert search warrants this year.

Criminal organisation search warrants

On 19 May 2009, the *Criminal Organisations Legislation Amendment Act 2009* introduced a new form of search warrant – a criminal organisation search warrant – which police can seek from an eligible judge of the Supreme Court. These warrants allow police to search premises for things connected with an 'organised criminal offence'. These are serious indictable offences arising from, or occurring as a result of, organised criminal activity.

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

Under the legislation, we have to inspect and report on the records of the NSWPF every two years to ensure that the requirements of the Act are being complied with.

Criminal organisation search warrants are not covert, but we inspect them as part of our general program for inspecting records of covert operations. As our reporting cycle for these warrants is two yearly and the numbers are small, our next inspections of criminal organisation search warrants will take place later in 2013. We will provide our report to the Attorney General later in 2013.



Our work with others – Vanuatu placement

Brendan Delahunty from our office took part in a placement with the Ombudsman of the Republic of Vanuatu for the Pacific Ombudsman Alliance (POA). The POA arranged the placement at the request of Ombudsman Kalkot Mataskelekele, who was appointed in November 2012. This is the third time Brendan has worked with the Vanuatu office. The office has faced a range of challenges in recent years, including resourcing constraints and large scale staffing shortages. During his time at the office, Brendan began and continued work in a range of areas, including:

- re-examining and progressing the proposed amendments to the Ombudsman Act and Leadership Code Act
- working with the Public Prosecutor and the Commissioner of Police on ways to improve Leadership Code investigations
- examining the case tracking system used by the Ombudsman's office
- examining and recommending improvements to the organisation's corporate functions
- reviewing the office's media, public relations strategy and outreach program.

Brendan will continue to work with the Vanuatu Ombudsman and his staff to help their office overcome the challenges it faces and continue to grow and develop.

Complaint trends and issues

The number of contacts from people in custody has increased for a fourth consecutive year. This year informal contacts rose by more than 400, while formal contacts fell by about 200. This change is consistent across both the adult correctional system and juvenile justice. There can be many reasons for such variations such as more people contacting us before they have tried to resolve their problems internally and being told by us to do this first, or due to our increasing ability to provide information when we are first contacted without the need to take up a complaint to find answers.

There was a significant increase in complaints in the adult system about buy ups which reflects the discontent among inmates about the removal of many products from the list of foods they can purchase, reducing the 'food stuffs' and increasing the sweets and other junk-type foods. Introducing a new computerised system for managing buy ups at some centres also caused complaints. Both case management and classification increased significantly, along with property complaints and complaints about segregation.

The most significant increase in juvenile justice complaints related to daily routine. This includes the obvious day-to-day matters affecting young people in an institutional setting, and also includes complaints about how they are managed when they are held separate from others for a variety of reasons.

Our primary responsibility in our custodial services work is to respond to complaints and inquiries from inmates and detainees. We also proactively review areas of administration in custodial services to reduce opportunities for unreasonable practices and decisions that may lead to complaints.

The people in our custodial services unit have a broad range of experience. Some have worked with inmates and young people in other custodial systems, while others have a background in welfare, public administration or investigations.

Fig. 36: Formal and informal matters received

	08/09	09/10	10/11	11/12	12/13
Formal					
Correctional centres, Corrective Services NSW (CSNSW) and GEO	686	671	821	886	660
Justice Health	64	53	43	107	96
Juvenile justice	70	72	77	92	65
Subtotal	820	796	941	1,085	821
Informal					
Correctional centres, CSNSW and GEO	2,825	3,096	3,088	3,371	3,670
Justice Health	237	303	262	213	357
Juvenile justice	255	212	279	205	222
Subtotal	3,317	3,611	3,629	3,789	4,249
Total	4,137	4,407	4,570	4,874	5,070

Inmates and detainees can write to us or call us on a freecall number from their centre. People who are involved in corrections or juvenile justice in the community can also contact us by phone, letter or online. We regularly visit correctional and juvenile justice centres to speak to inmates and detainees, as well as to staff who give us information about their centre and what happens there. Our visits to centres are important, not only because of the immediate contact with inmates, detainees and staff – but also because they enable us to understand how individual centres run. This helps us to make reasonable and practical suggestions and recommendations based on each centre's individual circumstances. Only a very basic understanding of a custodial environment can be gained from sitting in an office in central Sydney.

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

	No.	Actual %
Preliminary or informal investigation completed	674	88
Assessment only	78	10
Conduct outside our jurisdiction	9	1
Formal investigation completed	5	1
Total finalised	766	100

Fig. 35: Current custodial services investigations at 30 June 2013

	No.
Under preliminary or informal investigation	31
Under formal investigation	1
Total	32

This figure shows the complaints we received in 2012–2013 about correctional centre concerns, broken down by the primary issue in each complaint. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Fig. 37: What people complained about – correctional centres

Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
Buy ups	52	203	255	Officer misconduct	37	210	247
Case management	18	116	134	Other	13	349	362
Classification	31	184	215	Outside our jurisdiction	9	19	28
Community programs	1	3	4	Probation/parole	21	134	155
Court cells	0	4	4	Property	87	414	501
Daily routine	102	560	662	Records/administration	48	115	163
Day/other leave/works release	16	69	85	Security	11	47	58
Fail ensure safety	13	36	49	Segregation	28	72	100
Food & diet	17	73	90	Transfers	23	251	274
Information	10	63	73	Unfair discipline	22	137	159
Legal problems	13	40	53	Visits	29	221	250
Mail	11	78	89	Work & education	16	92	108
Medical	128	537	665				
Total					756	4,027	4,783

Fig. 38: Formal complaints finalised - juvenile justice centres

	No.	Actual %
Preliminary or informal investigation completed	59	91
Assessment only	5	8
Formal investigation completed	1	2
Conduct outside our jurisdiction	0	0
Total finalised	65	100

Case studies

16 Getting winter coats

The Koori delegate from Goulburn Correctional Centre called one of the staff in our Aboriginal Unit in June because the Aboriginal inmates had not been given their winter parkas. Inmates at Goulburn are segregated in their wings and yards based on race/cultural background and the other groups had all received their parkas in April. We spoke with the new general manager at Goulburn who was not aware of the situation – but made immediate inquiries, met with the Koori delegate, and gave parkas to the Aboriginal inmates that day.

17 Being able to buy honey

We received many complaints from male inmates because they could not buy honey on their buy up, while female inmates could. Inmates are given sweetener and not 'real' sugar so they can't brew up illicit alcohol. The men were keen to have honey to use on their cereal and in tea. We took up their issue with the Commissioner and from March this year honey was reintroduced to the male buy up list.

18 Getting a Halal meal

A young person from Frank Baxter called us as he was not allowed to have a Halal meal. This meant he sometimes went without food when pork was on the menu. He had applied to convert to Islam and it was agreed he should be allowed to explore the faith after consultation with his family and the chaplain. He was given a Koran and a prayer mat – but not proper food. We liaised with the centre manager who agreed the young person should be given a religious-friendly diet and he took prompt action so that happened on the day we called.

19 Having shoes that fit

A Goulburn inmate told us he had not been issued with shoes that fit him. He wears size 14 – but had been given a pair of size 13 shoes and had trodden the backs down so he could wear them. He claimed he was told by unit staff that since he hadn't informed staff at reception of his foot size, it was now too late. When we contacted the general manager he agreed it was unacceptable and by the end of the day the inmate was given size 14 shoes.

This figure shows the complaints we received in 2012–2013 about juvenile justice centres, broken down by the primary issue that complainants complained about. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Fig. 39: What people complained about – juvenile justice centres

Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
Buy ups	0	2	2	Medical	2	4	6
Case management	3	1	4	Officer misconduct	6	28	34
Classification	0	3	3	Other	2	26	28
Court cells	1	0	1	Outside our jurisdiction	0	2	2
Daily routine	27	92	119	Property	3	4	7
Day/other leave/works release	4	4	8	Records/administration	2	0	2
Fail ensure safety	1	0	1	Security	2	0	2
Food & diet	3	27	30	Transfers	1	4	5
Information	1	0	1	Unfair discipline	3	7	10
Legal problems	0	3	3	Visits	2	8	10
Mail	0	1	1	Work & education	2	6	8
Total					65	222	287

Solving everyday problems

Inmates or detainees do not have many of the things the rest of the community take for granted. They have limited opportunity to get everyday problems resolved because they cannot access the right information or the right people. This is why a lot of inmates come to us. They call and write to us, but often they raise everyday issues during our visits to centres. This year, our custodial service staff made 52 visits to correctional and juvenile justice centres. As with any system, there will always be mistakes, oversights or bad decisions made. In these cases, we try to get a matter sorted out as quickly as possible without laying blame. Case studies 16 to 35 are examples of some of the important results we have achieved this year.

Key areas of focus

Information from complaints, inquiries and our visits alerts us to issues of concern in the custodial services system and areas that may be in need of reform or improvement. The following are several of the focus areas we have identified over the past year in the adult correctional system.

Adult correctional centres

Reviewing disciplinary processes

Inmates can be charged and punished for breaching correctional centre rules. The offences and punishments that can be given are set out in legislation, which also states that any charges must be heard as quickly – and with as little formality and technicality – as possible.

Although we do not review the decision made in any individual disciplinary matter, we do review the process used to make a decision if a complaint indicates there may be a problem. Corrective Services NSW (CSNSW) have policy and procedural documents to guide staff in managing inmate discipline – and we review any actions taken against these and the legislation. In 2012, having received many complaints each year about the disciplinary process, we used our own motion powers to review several hundred packages of documents and records about disciplinary action taken over a three-month period at three correctional centres. The centres included one male maximum security, one female, and one privately managed centre. We chose these centres because of the relatively high number of complaints we received about inmate discipline from them.

Our review identified several issues around compliance with legislation and policy, as well as the general administration of inmate discipline in those centres. As our findings across these three centres were largely consistent, we thought it likely that similar problems would be identified in other centres. We advised the Commissioner of our findings and suggested a wider internal review or audit be done. The Commissioner acknowledged there were some deficiencies in the disciplinary processes, but advised he would not consider a further audit. However, he has established a working party to review the entire misconduct process – including the specific issues we had raised. CSNSW are providing us with regular updates on this review.

Segregation

Inmates can be stopped from associating with all other inmates, or restricted in the number of inmates they can associate with, for a range of reasons – including good order and security, and the safety of themselves or other people. Segregation is generally a harsh experience, with the inmate spending many hours alone in their cell and having very limited access to programs.

In 2010, we reviewed the administration of segregation at a range of correctional centres and identified several problems – as well as a lack of understanding of the need

to work with inmates to move them from a segregation environment as soon as possible. During the past year, we have continued to have input into an ongoing review by CSNSW of the operational policy and procedures guiding staff in the use of segregation. It is anticipated these new procedure and policy documents will be published by CSNSW in mid to late 2013 and will help to reduce some of the problems we identified.

Separation

The *Crimes (Administration of Sentences) Act 1999*, was amended in 2009, with the introduction of s.78A to allow for inmates to be kept separate from other inmates. The section was introduced to cover circumstances where inmates are unable to mix with others as part of their normal management – such as program requirements, medical reasons or gender. This is separation, not segregation.

During the past year, we have received complaints from inmates who had been held on segregated custody directions and had lodged a request for their direction to be reviewed by the Serious Offenders Review Council – as is allowed in the Act. They complained to us because, before their review took place, their segregation direction was revoked and they were given a slip of paper telling them they were now being held 'on a s.78A' and therefore had no right of review of the decision. We dealt with these individual complaints as they arose, and also wrote to the Commissioner outlining our view this provision should not be used to replace a segregated or protected custody direction in any situation, apart from those covered by the intention of the Act. Our input into the review of segregated custody policy and procedure has also covered the use of separation and we hope this issue is now being finally addressed.

Living in the HRMCC

The High Risk Management Correctional Centre (HRMCC) at Goulburn is the most extreme form of custody in the NSW correctional system. It holds a relatively small number of inmates but generates a significant number of contacts

Case studies

20 Replacing worn out shoes

New style shoes provided by CSNSW to all inmates on reception were introduced this year and inmates generally can no longer purchase their own shoes via buy ups. The new CSNSW shoes have featured in many complaints to us. One Wellington Correctional Centre inmate told us his shoes had worn out after only three weeks and he was told he would have to pay \$15 for a new pair. After contacting the centre, we established that inmates whose shoes simply fell apart would not have to pay for a new pair – but if they were purposely damaged they would be charged for a replacement. Our caller had his shoes replaced for free.

21 Invasive strip searches

An inmate at Kariong Juvenile Correctional Centre complained the inmates there were routinely, and wrongly, being asked to lift their genitals and squat during strip searches. Although we could not substantiate the allegation, the manager of security agreed to ensure all staff were reminded of proper procedures.

22 Meeting an inmate's request during Lent

On a visit to the Metropolitan Special Programs Centre (MSPC) an inmate complained his request for a vegetarian diet during the period of Lent had been denied. When we spoke to a senior manager at the centre they incorrectly told us the change in diet would need approval from Justice Health. We referred them to the policy about inmate diets, noting this is not the case, and the following day the inmate called to say the request had now been approved.

23 Getting a TV back

After receiving a correctional centre charge, a Junee inmate was taken off all privileges. He appealed to the general manager asking if he could have access to a TV. The general manager agreed to vary the punishment, but the TV was still removed from his cell. Our inquiries found that although the actual paperwork signed by the general manager showed the change in decision, the computer records had not been updated. The inmate was given back his TV.

24 Finding a missing TV

An inmate had been chasing his TV since being transferred from the MSPC to Wellington several months earlier. We usually refer all lost property or compensation claims to the Commissioner, but this time we made our own inquiries. The TV was located at the MRRC property stores – where it had been taken off the truck the inmate was travelling in to make way for other inmates and their property. The TV was reunited with its owner at Wellington.

25 A toilet that wouldn't flush

One inmate from Silverwater Women's Correctional Centre contacted us because the toilet in her cell had not been flushing for three days. She told us she had spoken to wing staff and sweepers and, although they had said they'd report it, nothing had happened. We contacted the centre and the manager of security went to the cell, and then arranged for a plumber to come and fix the toilet. We were also told that if it couldn't be fixed immediately, the woman would be moved to another cell.

26 A refund for housing not used

At the end of their sentence, some offenders move to community-based accommodation provided by CSNSW – known as COSPs. Residents pay rent, including an upfront payment for two weeks accommodation. One man who contacted us had moved to private rental accommodation after five days at a COSP, and had asked for a refund for the nine days he would not be there as he had left prison with only a small amount of money. He was told this would take two weeks to process and would only be paid into a bank account. This meant a potentially vulnerable person would be in the community with little money until his next Centrelink payment about 10 days later. When we spoke with the COSP they agreed to refund the man's money immediately and also to review the information they give to new residents about refunds.

with our office. Every aspect of the HRMCC inmate's life is supervised and scrutinised. We visit the centre at least twice each year and have advised the Commissioner of the issues that concern us. These include the length of time some inmates spend in the centre, the lack of purposeful activity, and the impact of this ongoing form of management on the inmates. The Commissioner has advised us he plans to review certain aspects of the HRMCC, including the pathways for suitable inmates to be re-integrated back into the mainstream system.

Managing female inmates

Although women only make up less than 10 percent of the inmate population in NSW, it is vital CSNSW recognises the need for differences on the basis of gender in inmate management. Our work has shown this is not always a priority.

During our visits to Silverwater Women's Correctional Centre (SWCC) this year we were encouraged to see some dramatic improvements in the management of the centre and the women there. SWCC has a number of different roles – including receiving new inmates and providing secure accommodation for long-term serious offenders and those on drug court sanctions. They also undertake the care and control of some women who are mentally unwell and regularly self-harm. Their behaviour can be particularly challenging for staff to manage.

The SWCC staff used to rely on force, segregated custody and other restrictive measures to control these women. This has changed significantly in recent times and the general manager and manager of security – who recently moved on to other centres – have worked hard with their staff to ensure careful control is balanced with sound therapeutic measures. This has led to a dramatic reduction in the use of force to gain compliance. Segregation has also dropped to such an extent that the segregation cells are regularly used for normal accommodation. A positive – but not unsurprising – outcome of this is that the number of complaints we received from SWCC was much lower than in previous years.

General living conditions

We regularly identify problems with the conditions in centres on our visits. Many of the centres in NSW are old, particularly Bathurst, Goulburn, Tamworth and parts of Long Bay. These centres have wings that date back to Victorian times. They have:

- windows covered by mesh and bars, but no perspex or glass
- dark and dank cells
- beds with hanging points
- shower blocks that are cold and lack privacy.

Our concerns around conditions are not limited to facilities. For example, we believe giving inmates their hot meal for the day at 2.30 or 3pm – when they get a lunch of sandwiches at 11.30am – is inappropriate and inhumane. It is just designed to reduce costs by reducing the number of centre staff required later in the day.

Time locked in cells

It has been promising to see centres rotating lock ins so that an entire centre is no longer regularly locked down. However, there are still regular part or whole day lock ins. Records may show a half day lock in from 11am, with the centre returning to normal running at 3pm. In some centres this means inmates stay locked in their cells until the following morning, as 'normal running' at 3pm is the evening lock in. It is important that the true impact of lock ins and lock downs are properly recorded and taken into consideration in terms of measuring a centre's performance.

A lack of case management

Our work suggests very few inmates have an active relationship with a specific case officer. Even if a case officer is allocated, inmates often do not know who they are. There is little evidence of case management involving an individual officer working with an individual inmate taking place. Instead, case management relies increasingly on case notes logged into the database by all staff interacting with an inmate – and those notes being

used to assess their security classification and possible program needs. This does not give the inmate an individual person to discuss their program or other needs with on an ongoing or regular basis – apart from their annual classification review – or give them specific positive role modelling.

Juvenile Justice

Segregating, separating and confining young people

There is a statutory requirement for our office to be notified any time a young person is held in segregation, separation or confinement for more than 24 hours. In these circumstances, the young person is not allowed to associate with anyone other than the staff who come to their door. We perform an important oversight role on the use of such powers and help to prevent their abuse. We receive these notifications electronically from staff in juvenile justice centres, and seek further information as soon as possible when we have questions or concerns. This information also helps us plan for our visits to juvenile justice centres.

Our concerns about the removal and separation of young people – particularly the use of confinement as a punishment – relate to the:

- frequency with which confinement is used as a punishment
- condition of the rooms used for confining/separating/segregating young people
- management of young people while they are confined/separated/segregated.

We have had significant contact with individual centre managers on these issues during the year, and we will be undertaking further work with Juvenile Justice to improve conditions, record keeping and reviews.

Child protection

Juvenile Justice are also included within our employment-related child protection jurisdiction – see page 87 for more information. When custodial services staff receive

allegations about juvenile justice staff, we ensure Juvenile Justice has taken proper steps to notify the matter to the Professional Conduct Unit (PCU). The PCU then assess the allegation and decide if a notification has to be made to the employment-related child protection division of our office. For example, a young man called us from a centre this year alleging he had been threatened by an officer. We contacted the centre and the centre manager looked into the allegation. He later told us there were witnesses to the threat and the incident was being referred to the PCU for investigation, plus other local action was being taken.

Some positive outcomes from our investigations

Improvements at Kariong

Early in the reporting year, we visited Kariong for an update on the implementation of the recommendations we made in our investigation report about the behaviour management program run at the centre. We were very pleased with what we were told during our visit – with both the overall progress in implementing our recommendations and the appointment of a therapeutic manager. Soon after the meeting, we received a copy of the final management plan for the centre. We were pleased to see it drew on current research in the area, was based on 'core correctional practices', and was developed with input from the Personality and Behaviour Disorders Unit at CSNSW. The plan also encourages staff to interact more with young offenders to promote pro-social modelling.

Our visits this year have found the centre to be generally functioning well and adopting the plan and program. Complaints from Kariong have fallen substantially over the period of our investigation. This year we received half as many complaints as we did the year before – 70 down to 44, from a high of 122 in 2009–2010.

Promoting changes in the use of force

In July 2012 we issued a public report on *Managing use of force in prisons: The need for better policy and practice*, which drew together a series of recommendations we had

Case studies

27 Getting to parole accommodation on time

An inmate who was a week away from his release called us from Bathurst. His approved accommodation for parole was in southern NSW and he had been given train timetable information to ensure he reached the town in time to sign in. His problem was the train information had been given to him two weeks earlier when he was in a Sydney metropolitan correctional centre. Now he was in Bathurst, he would not make the train from Central Station heading south. We contacted the centre and the manager of security made sure the inmate was interviewed and arrangements made for his release from that centre to meet his parole commitments.

28 Dishwashing product, not disinfectant

We received complaints when Cooma Correctional Centre decided to cut costs by replacing all cleaning products with one generic product, a high grade disinfectant. Inmates were concerned that using the product to clean everything, including their plates and cutlery, was not appropriate. We contacted the

centre to raise the potential safety issues. The centre management disagreed because both the disinfectant and the previous dishwashing liquid had instructions not to drink them. Further inquiries with Corrective Services Industries resulted in an email being sent to Cooma instructing them to source a suitable dishwashing product.

29 Slow move from maximum to minimum security

While they are on remand, many inmates are given a high or maximum security classification. This is reviewed once they are sentenced. An inmate at the MSPC contacted us in October because he had been sentenced in August and was still being held on a maximum classification in a maximum security centre. He claimed he should be minimum security. His efforts to sort the problem out had resulted in him being told the computer hadn't been updated, but no action had been taken. We found out that the inmate needed an immigration check completed before his reclassification – and this was causing the delay. We made sure an officer told the inmate the reason for the delay and ensured the records were updated.

30 Returning the wrong buy up

We had complaints from an inmate at Cessnock Correctional Centre that he was not allowed to return products he had received – but not ordered – on his buy up. To remedy this, the centre issued new guidelines for staff and inmates and – as part of the problem was the electronic order form reader used to scan buy up orders – agreed to improve the maintenance of that equipment.

31 Curtains and windows

Returning window curtains to young people at Cobham Juvenile Correctional Centre was given high priority after we raised concerns about privacy and dignity during one of our visits to the centre. During the same visit, we saw a holding room with no window which is used to confine young people who are being punished. The windows in holding rooms in newly built units were opaque. After we raised this issue, the centre manager agreed the windowless room should not be used to confine young people, and the decision to make other windows opaque should be reviewed.

32 Finding the right paperwork

When an inmate at the Metropolitan Remand and Reception Centre was granted bail, he was frustrated at not being able to contact his grandmother who was nominated to sign him out. It was already late afternoon and there was a problem with officers not being able to find the paperwork to allow him to call his grandmother. We contacted the centre and the officer in charge made sure the paperwork was found, the inmate called his grandmother, and he was released that evening.

33 Covering the cost of repairing dentures

After a second tooth broke on an inmate's dentures, he was worried he would have further problems if they weren't repaired. The clinic at his centre told him it would cost \$164 to make the repairs, but they could not cover the cost. When we inquired with Justice Health we found out they had in the meantime received approval from another area of NSW Health, Oral Health, to pay for the repair – and this would be arranged through the clinic at the inmate's correctional centre.

made in two investigations. Over the past year, we have worked extensively with CSNSW as their project to implement these recommendations has progressed. The scope of work is extensive – it has involved CSNSW reviewing policies, procedures and training as well as bringing about significant cultural change. We are pleased with the progress and will continue our involvement in this process. A copy of the report is available on our website.

Designating inmates as extreme high risk

Only one inmate in NSW is designated as Extreme High Risk Restricted (EHRR) and he is currently accommodated in the HRMCC at Goulburn. This inmate had fresh charges laid against him by police while in custody and, over a period of time, he had complained to us because a combination of the regime of the HRMCC and the sanctions on him as an EHRR inmate had affected his ability to have sufficient and regular access to his legal representatives. Following our investigation, we made several recommendations about policy and procedural matters relating to applications for visits and phone calls – as well as two recommendations for legislative amendment. These were to:

- remove the EHRR designation from the Crimes (Administration of Sentences) Regulation 2008 (the Regulation). The designation was introduced in response to one inmate and – as no one else from within the remaining 10,000 inmates in the state had been considered for designation as EHRR – it appeared to be unnecessary, oppressive and unreasonable.
- change both the Crimes (Administration of Sentences) Act and the Regulation to require the giving of reasons if any decision has an adverse or detrimental effect on the person. We also recommended that this requirement should include the recording of decisions – where those decisions cannot, for security reasons, be directly given to the affected person.

The Commissioner accepted and implemented our recommendations relating to procedural matters, but not the recommendations for legislative change. His view was that the EHRR designation should remain as part of the Regulation, but an inmate subject to the designation should be reviewed at regular periods. We were also advised that CSNSW believe the intent of the recommendation about giving reasons can be met without making it a legislative requirement. However, in both cases, we remain committed to our original recommendations. Although those within CSNSW at present are willing to act within the intention of the recommendation about giving reasons, this could change in the future. We have asked for this to be considered in any further reviews of the legislation.

Justice & Forensic Mental Health Network

The Justice & Forensic Mental Health Network – still widely referred to as Justice Health – play a large and important role in custodial services. Providing health care services to all the adult and juvenile custodial centres, except for Junee, means they see many thousands of patients each year. Each centre has a clinic with nursing staff and provides other specialist services (including visiting doctors) on a regular basis – depending on the size of the centre and the type of service. We do not deal with complaints about the standard of medical care provided as those complaints are referred to the Health Care Complaints Commission. However, we do try to help resolve problems if access to services or communication or information provision seems to be the cause.

Complaints about Justice Health this year have largely focused on access to the methadone program including when inmates are being released back into the community. They have also been about the length of time to see a dentist in some centres, access to optical care, and delays in seeing a GP about basic medical issues.

Case studies

34 Taking a consistent approach to legal documents

After making inquiries into a complaint, we found that CSNSW's policy and procedure for managing legal and privileged correspondence and parcels was inconsistent. The policy said correspondence and parcels from legal representatives or other privileged agencies should not be opened or inspected by CSNSW staff when received at a centre. However, once opened, they became subject to inmate property policy and could be searched when in a cell or when transferred with other property. We suggested the procedure and policy should be amended to make it clear that privileged correspondence should not be read by staff – and they must stop reading such correspondence as soon as they realise it relates to legal or otherwise privileged matters. The Commissioner accepted our suggestion.

35 Under the wrong classification

Having been moved from a minimum security (C2) classification on a prison farm at Muswellbrook to Goulburn Correctional Centre as a C1 classification, an inmate called us because he was being held in maximum security conditions. He had not been told why – despite speaking with officers and the Official Visitor. We spoke with the manager of security (MOS) who told us he was waiting for reports from the farm about the reasons for the inmate's transfer and change in classification. We were concerned this had taken a month and the Goulburn MOS said he would follow it up immediately. He did this and the inmate was moved to the minimum security area at Goulburn the next day. We explored the reasons for the delay with the MOS and were satisfied the cause had been rectified.

Departments, authorities and local government

We work to improve public administration in NSW in a wide variety of ways. We handle complaints about all NSW government agencies both at state and local government level. This means we work with senior staff of the large principal departments – such as the Department of Trade and Investment, Regional Infrastructure and Services and Department of Transport – as well as smaller entities such as the Dental Council and Architects Registration Board. We also deal with a range of issues – such as home schooling, hazardous materials in government buildings, the allocation of water resources, emergency repairs for housing tenants, HSC disability provisions and complaint-handling in universities.

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

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Highlights

- Reported to Parliament on our investigation into HSC disability provisions (see page 75), as well as investigating the way in which home schooling is administered in NSW (see page 70)
- Completed investigations into how the NSW Office of Water carries out various functions and how the Environmental Protection Agency dealt with a complaint about a strong sewer odour (see page 73)
- Continued our work reviewing the practices and procedures used to deal with representations about penalty infringement notices (see page 72)
- Hosted our fifth university complaint handlers forum, and hosted a roundtable discussion about the challenges in dealing with allegations of staff misconduct in universities (see page 75)

Stakeholder engagement

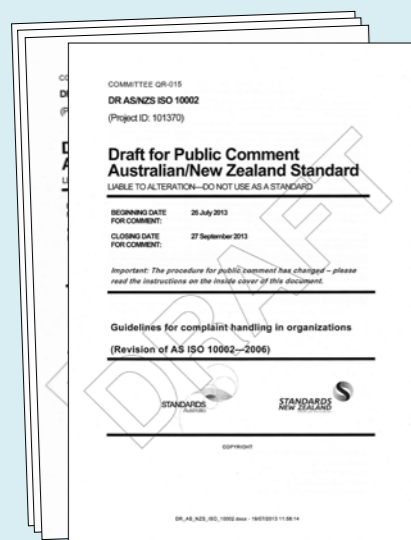
A key aspect of our work is bringing about improvements in public administration. We do this in a variety of ways. We resolve complaints from members of the public who feel they have been treated unfairly or unreasonably by a government agency. We also work with agencies and their staff to improve policies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

For example, we:

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

Reviewing the Australian Standard on complaint-handling

We have been working as a member of the technical committee revising the Australian Standard on complaint handling. The standard is one of the most popular guidelines produced by Standards Australia. Committee members are required to ensure the contents are up to date, relevant and reflect community expectations. In particular, the committee's aim is to produce a standard that provides guidance to organisations in both Australia and New Zealand on the key principles and concepts of an effective, dynamic complaint-handling system. As well as being on the technical committee, we are also represented on specific working parties dealing with social media, unreasonable complainant conduct, apologies, dispute prevention, vulnerable people and people with a disability. A discussion draft of the revised standard has been widely circulated for feedback.



Departments and authorities

Complaint trends and outcomes

This year we received 5,869 contacts from people expressing concerns about departments and authorities. This is an overall increase of 3.4 percent over last year's figures. The majority of people still prefer to contact us by telephone (73%), with only about a quarter of all complaints being in writing. Reflecting this preference is an increase in telephone contacts and a corresponding decrease in written complaints (see Figure 42). A similar trend exists in other Australian Ombudsman offices.

Fig. 40: Formal complaints finalised

	No.	Actual %
Assessment only	760	48.5
Preliminary or informal investigation completed	706	45.0
Conduct outside our jurisdiction	91	5.8
Formal investigation completed	9	0.6
Total	1,566	100.0

Fig. 41: Current investigations at 30 June 2013

	No.
Under preliminary or informal investigation	76
Under formal investigation	11
Total	87

Fig. 43: What people complained about

Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
Approvals	55	192	247	Nominations and third party	8	19	27
Charges/fees	109	336	445	Object to decision	303	835	1,138
Complaint-handling	221	325	546	Other	32	197	229
Contractual issues	110	293	403	Outside our jurisdiction	60	360	420
Correspondence	19	69	88	Public interest disclosure (PID) – communication	4	8	12
Costs/charges	11	32	43	PID – confidentiality	0	1	1
Customer service	266	779	1,045	PID – handling of PID	0	9	9
Enforcement	68	121	189	PID – investigation of PID	0	1	1
Hardship	12	81	93	PID – policy and procedures	1	2	3
Information	89	291	380	PID – reprisal	9	5	14
Management	84	89	173	Policy/law	62	130	192
Misconduct	22	57	79	Records	1	16	17
Natural justice	22	56	78				
Total					1,566	4,303	5,869

Fig. 42: Formal and informal matters received and finalised

Matters	08/09	09/10	10/11	11/12	12/13
Formal received	1,349	1,438	1,381	1,737	1,566
Formal finalised	1,310	1,414	1,382	1,778	1,566
Informal dealt with	3,949	3,777	2,903	3,938	4,303

Figure 43 shows the complaints we received in 2012–2013 about NSW public sector agencies other than those complaints concerning police, community services, councils, custodial services dealt with in other sections of the report, broken down by the primary issue in each complainant. Please note that while each complaint may contain more than one issue, this table only shows the primary issue.

The most commonly complained about issues have remained consistent over the last three years, with customer service still being the main concern (18 percent or 1,045 complaints), closely followed by concerns about decisions made by government agencies. Concerns about complaint-handling practices have also remained steady (546 compared to 648 last year). While there has been a slight decrease, the figures suggest complaint-handling remains an area where agencies need to continue to improve. This chapter includes information about the range of work we have done this year to help agencies improve how they deal with complaints.

Key areas of focus

Investigating home schooling

This year we investigated how home schooling is administered in NSW by the Board of Studies (BoS). Students of compulsory school age have to receive an education – they can attend a public or private school or be educated at home.

The *Education Act 1990* makes the mode of education delivery a choice for parents. It is not the BoS's role to assess whether or not attending school is a preferable option to home schooling. Our focus was on whether the mechanisms to ensure the requirements of registration for home schooling are complied with were adequate, throughout the period of registration. During the investigation, we:

- obtained details from the BoS
- examined the information they produce explaining the home schooling registration process
- spoke with the Home Education Association
- held a number of meetings with staff who administer the program.

We were initially concerned about whether the arrangements to monitor ongoing compliance with certain requirements were adequate. The requirements were that:

- the educational program must be taught in accordance with BoS's syllabuses
- the material being taught is suited to the learning needs of the child.

The BoS responded positively. They agreed to make a number of changes to the registration form including:

- recording information about the evidence considered when making an assessment
- making it clear that the child or children must be present during an assessment visit.

They also agreed to take a range of other actions. These included:

- reviewing how they could better ensure the requirements of registration are complied with throughout the period of registration – including possibly introducing ongoing monitoring and home visits.
- starting to collect data on whether children who apply to be home schooled are Aboriginal or Torres Strait Islander.
- working with the Department of Education and Communities to see how to better identify and resolve dissatisfaction with a school – to avoid a child's removal in circumstances where home schooling is not a positive choice but a response to unresolved difficulties.
- researching the academic attainment of home-schooled students compared to children who attend public or private schools.
- assessing whether there is any link between children known to Community Services and those being home schooled.

As the BoS agreed to all of our suggestions, we decided to discontinue our formal investigation. We will continue to monitor the changes and assess whether any further work is needed.

Managing asbestos

Responding to the asbestos problem

Following our report in November 2010 called *Responding to the asbestos problem: The need for significant reform in NSW*, the NSW Government established the Heads of Asbestos Coordination Authorities (HACA). The aim of HACA is to ensure government agencies and councils in NSW effectively coordinate the safe management of asbestos at all stages of the asbestos lifecycle.

In our report, we recommended the development of a statewide asbestos plan, a model asbestos policy for councils, and a public awareness campaign. The HACA has acted on our recommendations and has produced the NSW Statewide Asbestos Plan, which was approved by Cabinet and released in April 2013. The plan aims to safely manage asbestos and reduce the incidence of asbestos-related diseases in NSW. HACA has also developed a model asbestos policy for NSW councils and created an extensive public awareness campaign that includes electronic media applications.

We also recommended that the government remediate the abandoned Woods Reef asbestos mine site in Barraba. It is almost three years since we released our report and no remediation action has been taken. The NSW Government has set aside funds, but work has been delayed by the need for Federal Government guidance and approval in relation to a colony of threatened large-eared pied bats which live in the derelict mine buildings. We understand that the closure of the mine access road is currently being considered by the relevant NSW Minister.

Managing asbestos in police buildings

In July 2012, we tabled a report to Parliament about deficiencies in how asbestos and lead paint in New South Wales Police Force (NSWPF) properties was managed. We found that a dysfunctional property management model, in combination with an ageing and poorly maintained property portfolio, had led to significant deficiencies in how hazardous materials had been managed in approximately 1,350 police properties across NSW.

The NSWPF have responded positively to our recommendations and have introduced a new property management model. Twenty one million dollars in capital and recurrent funding was announced in the 2012–2013 state budget to address hazardous materials, compliance and safety – as part of a \$103 million project to upgrade police properties.

We also made two recommendations about how all government properties are managed. Government Properties NSW (GPNSW) have committed to reviewing all NSW government properties they are responsible for to ensure hazardous materials are being appropriately managed. They are now:

- working with Public Works to develop a hazardous materials management plan, which will lead to all government-owned properties being resurveyed over time
- requesting hazardous materials management plans from the owners of properties leased by the government.

A final and important recommendation was that the government review all agencies with a significant portfolio to ensure the arrangements for managing those properties were appropriate, the assets preserved and occupiers kept safe. So far, there has been no action taken on this recommendation. We are considering whether we will take further action on this important issue.

Asbestos in public schools

Last year we reported on our investigation into how the Department of Finance and Services managed a contract for asbestos surveys in schools. We found they had failed to ensure the conditions of the contract were fully met, particularly for engaging properly qualified assessors. They also failed to properly assess the ability of tendering organisations to effectively carry out the project within required time-frames, and gave unreasonable priority to the cost of undertaking the project.

The Department of Education and Communities (DEC) have now updated their Asbestos Management Plan (AMP), with advice from WorkCover. Details of an approved panel of pre-qualified hygienists will be included in the AMP which will then be distributed to DEC facility managers and school principals and made publically available on DEC's website.

Case studies

36 Garnishee orders

We have received an increase in complaints from people who have had money taken from their bank accounts under a garnishee order for outstanding fine debt. Complainants told us they were left with little money to support themselves and, in some cases, their dependants. We suggested the SDRO made information about garnishee orders publically available, including the options available for people experiencing financial hardship as a result of an order.

The SDRO has now published their policy for dealing with applications for a full or partial refund of money deducted under a garnishee order. They have also produced a fact sheet which explains how the orders work and the options for stopping enforcement action and applying for a refund. One option is for an initial refund to be granted over the telephone to alleviate urgent financial hardship.

37 Outstanding maintenance done

A Housing NSW tenant complained to the Minister about a lack of maintenance. As a result, the LHC inspected the property and undertook to wash the walls, which were affected by mould. However, the necessary work order was not raised and the work was not carried out. Following our inquiries, an urgent work order was raised and the work was done within two days.

38 Support provided after water damage

We received a complaint on behalf of a 92 year old Housing NSW tenant about flood damage to his unit from a leak. A contractor had attended to stop the leak, but no repairs were carried out. After our inquiries, a technical officer inspected the unit and found that a new kitchen, carpet and repaint were needed. However the property would need to be de-cluttered for the work to start. To resolve the complaint, Housing engaged support services to help clean the apartment and arranged respite care for the tenant while the work was being done.

39 Urgent work finally completed

A single father living with his two autistic sons complained of difficulty getting significant maintenance issues fixed in his Housing NSW property. The floor throughout was rotted from water damage and weakened by white ants. The only bathroom in the house also needed significant and urgent work. He was particularly worried about the floor – as one of his sons could not understand that they should tread carefully on the weakened parts of the floor.

An LHC contractor started the repair work approximately two months before the father contacted us, but never came back. Calls to the Housing NSW maintenance line did not resolve the issue. We contacted LHC and an area director inspected the property within 48 hours. As a result, he raised additional orders to the already approved works as the bathroom was found to be in very poor condition. All works to the property were completed five weeks after the father first contacted our office.

40 Two years to make two very different decisions

In February 2010, the Dental Council received a complaint that a dentist did cosmetic work without telling the patient that he had gum disease and the impact this would have on the work. The dental work failed and the patient wanted a \$10,600 refund. In April 2011, the Dental Council found the dentist's work unsatisfactory and ordered a refund. In August 2011 the dentist asked for a review and the council discovered that the independent assessor had a conflict of interest which was not previously known. Another assessment was done – and in February 2012 the Dental Council dismissed the complaint.

We identified a number of problems with the Dental Council's handling of the complaint and we asked them to make a number of changes. These included writing guidelines for independent assessors, adopting a standard report format, and providing training for committee members on their powers, obligations, due process and good administrative

The DEC have engaged NSW Public Works to set up a Hygienists Panel Contract for schools. The contract specifically requires that all hygienists undertaking hazardous materials surveys meet the regulatory requirements, including the Work Health and Safety Regulation 2011, with details of hygienists' qualifications and experience being provided before the start of any asbestos surveys.

Finding better enforcement options

We have been investigating how the EPA dealt with a complaint about a strong sewage odour alleged to have been caused by the North Head Wastewater Treatment Plant operated by Sydney Water. The former Department of Environment, Climate Change and Water (the predecessor agency to the EPA) investigated the complaints and advised that there was insufficient evidence to establish the cause of the odour or prosecute Sydney Water. We have finalised our investigation, and at the time of writing a draft report has been provided to the Minister.

Our investigation has considered the issue of one government agency investigating and regulating another, and whether there are other more effective compliance tools than prosecution. Government should prosecute government in appropriate circumstances. However, in the context of compliance by government agencies with environmental legislation, there is a need to return to first principles and ask 'What is the objective to be achieved?'. If prosecution is the only effective mechanism to achieve compliance by a government agency, this would suggest there is something seriously wrong with the control and management of that agency.

A review of current enforcement options could consider other alternatives – including ministerial direction, mandatory publication of information about breaches and how they have been addressed, administrative orders and other legislative instruments. Such a system would need to be accompanied by increased requirements for

transparency and public reporting on breaches and rectification measures. When a decision is made by a regulator not to take enforcement action after the investigation of a breach, the reasons for this should also be made public.

Options such as these may prove easier, quicker, more effective and less expensive than prosecution. We are in the process of finalising our investigation and will be making recommendations to the relevant Minister.

Handling representations about fines

Last year we reported on our work reviewing the procedures and practices used to deal with representations and correspondence about penalty infringement notices. Our review raised questions about whether the current legislative scheme – which allows for two avenues of review (the issuing authority and /or the State Debt Recovery Office (SDRO) – serves a sufficiently good purpose to justify the duplication, complexity and inconsistent responses that result.

After analysing submissions to a discussion paper, we have now identified a number of potential improvements to how representations are managed. These suggested changes – outlined in the following paragraphs – also align with the government's priorities to increase satisfaction with government services by simplifying customer access and better designing services to meet customer needs.

Having a single avenue of review

We believe the system for dealing with representations about fines would be more efficient and consistent if there was a single avenue of review. The SDRO could deal with straightforward categories of penalty notices and issuing authorities could deal with more complex offences.

Streamlining the system

There is support, even among some of the specialist issuing authorities, for having a single statewide process for lodging all representations and correspondence about penalty notices. Under such a streamlined process, all representations/correspondence would be sent to the SDRO. They would either deal with the representation themselves or send it to the issuing authority. Receipt of the representation/correspondence would be acknowledged by the SDRO, along with advice about which entity would be dealing with the matter – either the SDRO or the specialist issuing authority. If this option was adopted, both the SDRO and issuing authorities that determine their own representations should provide clear reasons for the decision in closing correspondence. Specialist issuing authorities determining representations about their own fines would give the SDRO their closing letters of advice and the SDRO would send out these letters – making it clear that the issuing authority had been the decision maker, but the SDRO was dispatching the letter as part of a coordinated process.

Providing better information

Regardless of whether changes are made to the current system, there is a need for members of the public to be given better information about how fines representations are dealt with. The SDRO responded positively to our suggestions and has agreed to consider them further. We will continue to discuss how improvements can be made to the review process during the coming year.

Improving functions at the NSW Office of Water

Investigating alleged breaches

We recently completed an investigation into how the NSW Office of Water (NOW) carries out its functions under the *Water Management Act 2000* and the *Water Management Act 1912*. Our investigation began in response to a number of complaints from individuals and several public interest disclosures.

We examined how NOW had dealt with specific cases of alleged breaches, including unlicensed structures and unlawfully taking water. We also investigated claims that:

- applications for water-related licences, approvals and permits had been delayed – in some cases for many years
- NOW had repeatedly failed to take adequate enforcement action against individuals and corporations for legislative breaches
- there had been delays in investigations and prosecution action
- a number of compliance and enforcement staff were not competent in conducting investigations
- briefs of evidence submitted by compliance staff were below the standards required for prosecution purposes
- no records were made of meetings held between NOW officers and proponents of major projects seeking development approval from the Department of Planning and Infrastructure.

We met with senior officers of the Department of Trade and Investment, Regional Infrastructure and Services (DTIRIS) – the principal department responsible for NOW – several times during our investigation. At the end of our investigation, we made recommendations relating to the training of investigation staff, allocation of resources, formulation of policies, and reviews of water-related compliance legislation.

The majority of our recommendations have been accepted, and both DTIRIS and NOW are in the process of implementing a significant number of management driven initiatives to address the issues identified in our investigation.

Some of these changes include:

- a robust program that is effectively dealing with backlogs of applications
- restructuring the compliance function to enhance enforcement capability
- ongoing reviews and policy development in key areas.

Case studies

practice. The Dental Council has since made changes – including introducing a six-month review, a new handbook, induction training and professional development for Dental Council members.

41 Caution note unfairly placed

Police had attended a property – after the complainant called 000 for an ambulance – due to a police caution note that had incorrectly been linked to the complainant's address. Following her complaint to the Ambulance Service, the complainant was told about the error. However, a new caution note was then placed on the address.

As a result of our inquiries, we identified that the Ambulance Service had failed to address an error in its system which meant police caution notes could become attached to the wrong property. We also felt there was insubstantial evidence from police to justify the second caution note. The Ambulance Service advised us the technical error was now being investigated and gave an undertaking to review all caution notes on their database to ensure they are

current and justifiable. They also introduced new procedures for creating caution notes and handling complaints.

42 Licence reinstated, but only after a run around

When a hire car is damaged, the plates are handed to the Ministry of Transport (MoT). They issue a permit allowing a normal car to be used as a hire car. The permit, displayed on the car's dashboard, allows the car to be driven in bus lanes, park in taxi zones and so on. The MoT is supposed to advise Roads and Maritime Services (RMS) that the permit has been issued. A hire car business owner called us in frustration after this was not done and he lost six demerit points from his licence.

The man had contacted the MoT and was told they would sort the problem out with SDRO. However, a check with RMS showed his driver's licence had been cancelled. The MoT said they had already advised SDRO about the permit, but would send an urgent email telling SDRO to lift the licence

restriction. The SDRO told him they had received the email and his licence would be reinstated, but he should check with RMS before he drove. RMS said the SDRO had not contacted them and he could not drive. He went back to the SDRO, who now said they had not received the MoT advice and he had to fill in an annulment form – and this process would take four to six weeks.

After our intervention, the SDRO investigated the man's situation and the penalty notices were withdrawn and RMS reinstated his licence.

43 Unexpected citizenship problems

A woman who was travelling overseas contacted the Registry of Births, Deaths and Marriages to ask how to change her name. She was alarmed to receive a response that appeared to indicate that her birthplace and Australian citizenship were under question and she should contact the Department of Immigration and Citizenship.

Our inquiries led to a review which showed there had been some confusion. This had led an officer of Births, Deaths and Marriages to believe there was a problem, even though the woman was an Australian-born citizen. The registry offered her an apology for the confusion and senior officers worked with her to resolve the problem.

44 A fairer system for disciplinary matters

At the end of 2012, a registered architect complained to us that a minor disciplinary matter from 2007 was still being published on the Architects Registration Board website. He said he had suffered financial detriment and damage to his professional reputation as a result. He told us a Google search of his name resulted in his disciplinary register entry being displayed as the second 'hit'.

Having examined the register on the Board's website, we were concerned that a seemingly minor disciplinary matter was included on the register for an indefinite period. Although we acknowledged the

Reducing the backlog

We reported last year on our work concerning a backlog of 1,200 water licence applications at NOW. Since our involvement, NOW have developed a plan to address this backlog. We have continued to meet each quarter with senior officers at NOW to monitor progress – and the backlog has been reduced by 80 percent since January 2012. Although the matters still to be determined include some of the most complex applications, NOW appears to have appropriate strategies in place to deal with the remaining outstanding applications and to prevent future backlogs developing.

Releasing information about complaint outcomes

We wrote to the NSW Privacy Commissioner asking for an amendment to the current Privacy Direction about investigations to expressly authorise public sector agencies to disclose the outcome of investigations to complainants.

Our concern arose due to the limited information Housing NSW provided to people when handling complaints about tenants. In our view, the low level of information provided was not sufficient to ensure accountability and was frustrating for complainants. We took a number of steps to try and resolve the issue – including arranging a meeting between our office, Housing NSW and the NSW Privacy Commissioner to discuss our concerns. The discussion resulted in Housing NSW reviewing their current policy and template letters to give staff more flexibility in responding to complaints.

This new approach was a step forward, but we still believed it fell short of adequately addressing our concerns. The Chief Executive of Housing endorsed our view that research confirms that providing adequate information to complainants is an essential element of effective complaint-handling, but gave us the advice Housing had received from the Crown Solicitor which suggested there were legal constraints on Housing disclosing information to a complainant.

We sought the opinion of the Solicitor General about the ambit of the Direction made by the Privacy Commissioner – under section 41 of the *Privacy and Personal Information Protection Act 1998* – dealing with personal information in relation to the investigative functions of public sector agencies. We argued that advising complainants about the outcome of their complaints was an integral part of the investigation of a complaint and therefore permitted under the Direction. The Solicitor General recognised the importance of reporting on the outcome of a complaint to a complainant, but thought it doubtful that a court would find disclosing personal information in such a report would be reasonably necessary for the conduct of an investigation.

The Ombudsman has written to the Privacy Commissioner asking that consideration be given to an amendment to the Direction to expressly permit reporting of the outcome of a complaint to the complainant. The Privacy Commissioner has written back to say that she will consider the issue we have raised as part of the Privacy Commission's consideration of its overall approach to public interest directions under section 41. We will keep this issue under review.

Speeding up maintenance work

The Land and Housing Corporation (LHC) owns and is responsible for managing the state's portfolio of 144,000 social housing properties. We were concerned about the backlog of technical inspections, responsive work orders and planned maintenance. Case studies 37, 38 and 39 are some examples of the problems these backlogs can cause.

After a number of complaints from a tenants' advice and advocacy service about the LHC's non-compliance with Consumer Trader and Tenancy Tribunal (CTTT) orders, we provided feedback to LHC on their new procedure for actioning CTTT orders within the timeframe.

The LHC has made considerable progress but there are still delays, with tenants returning to the CTTT to obtain enforcement orders. We will monitor the situation through our ongoing complaint work.

Providing feedback on policies

Housing NSW

At our regular liaison meetings, we have raised concerns with Housing NSW about their system for handling complaints. There does not appear to be any centralised recording or monitoring of complaints, and information from complaints does not seem to be used to improve systems. We have found local offices' handling of complaints is variable, with inconsistent approaches to identifying complaints and responding to complainants.

This year, we provided feedback on Housing's revised Client Service Delivery and Appeals policy. Although some improvements have been made, the policy could be clearer and should include the word complaint in the title. Housing are currently undertaking a significant project to review their complaints system and we will continue to provide feedback and assistance in this area.

NSW Fair Trading

NSW Fair Trading (NSWFT) invited us to provide feedback on their compliance and enforcement policy. We gave them substantial written feedback and met with key NSWFT staff. We were able to provide comments and suggestions based on our extensive complaint-handling experience and our understanding of how NSWFT works.

Ensuring a level playing field

In May 2013, we tabled a special report to Parliament following our investigation into HSC disability provisions. We wanted to know why the data consistently showed a significant difference between the take up of provisions between the school sectors. We looked at how the BoS approved provisions and we visited a range of public, Catholic and independent schools to understand the system from their perspective.

We found that the BoS process and approach was fair, but the system itself could be a barrier for disadvantaged students to access provisions. Some schools found it too time consuming, confusing and difficult for students to always get the supporting medical information. Some schools were also not tuned in to the needs of individual students, and the principal's attitude and understanding of how to manage students with a disability was crucial.

We made practical recommendations to the BoS and the DEC about how to address these issues. These are now being worked on by both agencies. A copy of the report is available on our website.

Working with universities

University complaint handlers forum

In February 2013, we hosted our fifth annual university complaint handlers forum. The event attracted senior complaint handlers from all the public universities in NSW and, as usual, there was a good deal of forthright and stimulating discussion on complaint-handling issues in the higher education sector.

For the first time this year we invited private universities with NSW campuses as well as the Commonwealth Tertiary Education Quality Standards Agency. The representatives from these organisations told us they found the day very worthwhile.

Some of the highlights of the forum included:

- Presentations by the Australian Human Rights Commission and the Anti-Discrimination Board – discussing how they handle complaints from university students and staff.
- A session on administrative reviews led by the senior complaint handler from Charles Sturt University.
- A discussion – led by a representative of the Overseas Student Ombudsman – on the proposed uniform Australasian university complaint-handling guidelines.
- Sessions by our Deputy Ombudsman on the use of independent investigators, and some of the changes foreshadowed to the Australian Standard on complaint-handling.

Roundtable discussion

In April 2013, we hosted a roundtable meeting involving representatives from several unions, student representative bodies and the Australian Higher Education Industrial Association. The purpose of the roundtable was to gain a clearer understanding of the challenges in dealing with allegations of serious staff misconduct in universities. These challenges included:

- how allegations of serious misconduct are currently dealt with
- whether the participants agreed there are problems
- if so, what those problems are and what may be some possible solutions.

Over the years, we have received advice from some universities that their enterprise agreements require matters of serious misconduct to be first dealt with at a faculty level. In some cases, this has seemed to us to not be the best way to investigate these matters efficiently – and with full recognition of the relevant procedural fairness requirements. In at least some cases, there needs to be sufficient flexibility to enable allegations about serious misconduct to be investigated by competent and experienced investigators who are external to the school.

The intention of the meeting was not to resolve these questions, but to hear and exchange a range of views on whether this was a problem or a reform worth considering. The conversation which ensued was stimulating and provided us with a diverse range of opinions and perspectives on the issues.

Developing Australasian university complaint-handling guidelines

Between 2004 and 2006, we did a great deal of work about best practice in university complaint-handling systems. This work led to the development and publication of complaint-handling guidelines for universities in NSW, which in turn led to significant reforms in the way most universities managed complaints.

A meeting of Australasian Deputy Ombudsman supported the idea of expanding these guidelines to meet the needs of universities in Australia and New Zealand. A working party – involving representatives from the Overseas Student Ombudsman, the Victorian Ombudsman and our office – was formed to draft guidelines to assist executives, managers and complaint-handling staff in universities. The principles from the existing NSW guidelines have been incorporated into the draft document and the guidelines have been extensively re-examined in a national and

Case studies

Board had a statutory obligation to publicise disciplinary actions, the personal and professional detriment that may be suffered could outweigh the severity of a breach. We considered indefinite publications of this nature could be unreasonable and oppressive.

We met with the Board and discussed how the requirement of the *Architects Act 2003* is only that discipline matters be recorded in a disciplinary register available at the Board's offices.

We suggested the Board consider modifying how it publishes disciplinary matters on their website. A more reasonable approach appeared to us to be to publish all disciplinary matters in the disciplinary register held at the Board's offices and to restrict publication on the website to serious matters – or possibly all matters, but with time-limited publication of minor matters as specified by the Board.

After obtaining legal advice, the Board agreed to our suggestions and advised that they had changed the way architect disciplinary proceedings are published on their website. If an architect is found guilty of unsatisfactory professional conduct, the decision will now be published in the consumer section of the Board's website for a period of two years unless otherwise determined. If an architect is found guilty of professional misconduct, the decision will be published for five years unless otherwise determined.

international context – given the participation of the New Zealand Ombudsman in the project. The guidelines have also been reorganised and updated to reflect the present realities of university complaint-handling. Once finalised, the new guidelines should represent a valuable resource for all Australasian universities.

Reviewing complaint-handling arrangements in departmental clusters

We periodically conduct surveys of complaint-handling systems across NSW government departments and public authorities. These help us to build up a comprehensive picture of government complaint systems.

The public sector has been dealing with a great deal of structural change in the last few years –with the creation of nine principal departments responsible for ‘clusters’ of other departments and agencies. We decided to write to the heads of each of the nine principal departments to ask what arrangements they have in place to deal with complaints.

We asked a number of questions, including:

- Is responsibility for complaints management centralised, devolved or a combination of both?
- Do you have a single complaint-handling policy across the cluster or multiple policies?

- What arrangements do you have to record the numbers of complaints received?
- How many complaints have you received in the 2011–2012 financial year?
- What reporting arrangements do you have about complaints?
- Do you use information from complaints to identify systemic issues?

We received a number of requests for extensions of time to reply to our questions. This suggested many departments were unaware of the complaint-handling arrangements in their organisations and had been prompted by our questions to find out. Many were still in a period of change, using complaint policies from earlier organisational structures that were being informally adapted to suit new operational arrangements.

We decided that conducting an in-depth survey at this stage was not worthwhile. Instead, we are working on producing a model complaint-handling policy to help agencies develop their own best practice complaint-handling systems.



Our work with others – Kiribati placement

Helen Ford from our office took part in a four week placement in Kiribati for the Pacific Ombudsman Alliance (POA). Kiribati does not have an Ombudsman, so Helen was based in the Public Service Office (PSO). She visited a range of government agencies to find out how they deal with complaints.

This helped her to:

- produce a tailored complaint-handlers toolkit
- develop a service charter for the PSO
- design a suggestion form and register for complaints
- provide a detailed briefing about the essential elements of an Ombudsman
- put together a summary of the non-Ombudsman complaint-handling models in other Pacific Island countries
- deliver training in frontline customer service and complaint-handling.

‘I was very pleased to have the opportunity to work in Kiribati and share my and the NSW Ombudsman’s experience’ Helen said. ‘I believe contact like this is the starting point in building strong, long lasting complaint-handling systems, which will benefit the people of Kiribati.’ At the end of the placement Helen and the Deputy Secretary of the PSO met with the Cabinet Secretary, who is also the head of the public service to discuss the work done during the placement, as well as the importance of effective complaint-handling systems.

Local government

Complaint trends and outcomes

Complaint numbers dropped quite significantly this year (17 percent). We feel this is attributed to the local government elections in September 2012, as councils and councillors are given the opportunity by their communities to settle into their roles and perform their duties.

There has also been a significant review of the Model Code of Conduct for local government in NSW by the Division of Local Government. We previously held concerns about the misuse of the code of conduct for political gain as complaints in this area were escalating. The new code makes such misuse a breach and there seems to have been a downturn of such complaints to our office in the early stages of its adoption.

We have maintained a commitment to take up at least 30 percent of the complaints we receive. As has been the case previously, customer service and enforcement are the major issues that we receive complaints about, although there has been a drop of 24 percent and 26 percent respectively.

As could be expected, the larger councils are typically those that receive the most complaints due to their large number of customer contacts.

Fig. 44: Formal complaints finalised

		actual %
Assessment only	517	67.6
Preliminary or informal investigation completed	230	30.1
Conduct outside our jurisdiction	17	2.2
Formal investigation completed	1	0.1
Total finalised	765	100.0

Fig. 45: Current investigations at 30 June 2013

	No.
Under preliminary or informal investigation	23
Under formal investigation	0
Total	23

Fig. 46: Formal and informal matters received and finalised and inquiries

Matters	08/09	09/10	10/11	11/12	12/13
Formal received	702	843	912	925	764
Formal finalised	672	875	924	933	765
Informal dealt with	1,795	1,720	1,979	1,962	1,795

Case studies

45 Communication problems

We received three similar complaints about the way Parramatta City Council handled complaints. Two were about the same complaint. We had earlier resolved this matter and council had made undertakings to communicate the outcome of their investigation directly with the complainant – but this did not occur.

We met with senior council staff to discuss our concerns. It became clear that, although the council was acting upon the complaints and action had progressed, there was a system issue that had caused a communication breakdown. Council staff lodged a request with their computer experts to fix the problem, apologised to the complainant, and explained what had been done.

We also identified that a number of customer requests that were logged were potentially complaints about a failure to act on the customer request, and these were not appropriately escalated.

A further complaint raised a similar issue about inaction. We visited council to see their electronic document management system and customer request management system, and were satisfied they were taking appropriate action.

We will continue to monitor complaints of this nature and council’s handling of them. We will particularly focus on updating complainants about decisions and identifying when a request for service has escalated into a complaint about handling such requests.

46 Sewerage charges refunded

We received a complaint that Lithgow City Council was charging sewerage rates for a residential property that had a septic tank. The complainants had been raising this issue with council since they bought the property in 2006. The council had made promises to resolve the matter and, where necessary, adjust the rates – but this had not happened.

Figure 47 shows the complaints we received in 2012–2013 about local government, broken down by the primary issue in each complaint. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Fig. 47: What people complained about – local government

Issue	Formal	Informal	Total	Issue	Formal	Informal	Total
Community services	9	15	24	Object to decision	51	208	259
Customer service	166	340	506	Other	0	1	1
Development	78	241	319	Outside our jurisdiction	18	40	58
Enforcement	111	209	320	PID* – confidentiality	0	3	3
Engineering services	106	161	267	PID – investigation of PID	0	1	1
Environmental services	74	158	232	PID – reprisal	0	2	2
Management	6	11	17	Rates, charges & fees	92	253	345
Misconduct	35	54	89	Strategic planning	18	20	38
				Uncategorised	0	71	71
Total					764	1,788	2,552

*Public interest disclosure.

Handling diverse issues

Complaints about the way in which councils respond to complaints and enforcement action account for a significant number of the matters we deal with. However, we also receive a number of complaints about council policies, communications and notifications, rates and many other types of council decisions.

Complaints that relate to guidelines, practice notes and directions issued by the Division of Local Government – such as code of conduct processes, meetings procedures or tendering practices – are generally referred to them for assessment. We deal with complaints where the evidence suggests that the council may have made a wrong or unreasonable decision. Case studies 45 to 51 provide examples of our work this year.

Key areas of focus

Reviewing our enforcement guidelines for councils

The current Enforcement Guidelines for Councils were published by the Ombudsman in June 2002. They aim to help councils act promptly, consistently and effectively in response to allegations of unlawful activity. Although the guidelines are primarily directed at regulating development activity, they also apply to other regulatory activities – such as pollution control, parking and keeping animals.

The guidelines provide advice for council staff when using their discretion whether or not to take enforcement action, and provide a 'good practice' outline of the enforcement process. They also include a model policy and tips on conducting investigations and managing complainants.

Complaints about enforcement decisions and practices have always made up a significant proportion of the complaints we receive about councils and other public authorities. The enforcement guidelines have helped us to respond to such complaints and educate council compliance and enforcement staff on good administrative decision making and practice.

This year we decided to review the current guidelines for councils and expand their scope to cover all public authorities with enforcement responsibilities.

We believe that the revised guidelines should:

- provide more case studies to help explain best practice in the different stages of the enforcement process
- have a greater focus on good decision making
- include practical advice on implementing risk-based enforcement strategies
- give better advice about the relationship between investigation and enforcement processes
- suggest methods/strategies for learning from enforcement outcomes and developing more consistent practices
- provide guidance on current government strategies on enforcement and regulation
- include more detailed guidance on developing local enforcement policies
- give more detailed advice on closing investigations, responding to complainants, and providing reasons for decisions
- help agencies to select the most appropriate enforcement tool for specific situations and achieve alternative enforcement outcomes.

We are also considering how we can help provide more education and training to NSW public authorities who have enforcement responsibilities.

Overseeing council complaint-handling systems

This year there have been significant reviews in local government – with both an Independent Local Government Review Panel and a Local Government Acts Taskforce being established. We therefore considered it timely for us to review our role in handling complaints about councils.

We are currently responsible for keeping a number of complaint-handling systems – such as for police complaints and employment-related child protection allegations – under scrutiny. We made submissions to both the panel and taskforce recommending we have a similar oversight role for the local government complaint-handling system. We believe this would be an effective way to ensure complaints about councils are properly dealt with, given the limited resources we have to handle these complaints directly ourselves.

This approach would add value to our role, with the public being assured of a fully independent accountability body keeping the system under scrutiny and working to ensure quality customer service and complaint handling at the local government level. It would not stop us from dealing directly with individual complaints when it is appropriate, such as when:

- a complaint raises systemic or significant public interest issues
- a complaint alleges a serious abuse of power
- the council concerned or its senior staff may have a conflict of interests or a conflict of duties
- the complaint is a public interest disclosure – and either the reporter or the Ombudsman has concerns about how the matter and/or the reporter would be dealt with by the council
- a complainant appears to have good reason to be dissatisfied with the way the council has dealt with or responded to their complaint.

Case studies

It appeared from the documents that the property was created by a subdivision, which was subject to a condition of consent that the property was to be connected to the sewer at their own cost. The council was relying on that condition to charge the sewerage rates. However, council had issued final certificates for the property without the sewerage connection.

As the complainant was not the applicant or the developer, and council had approved the final certificates for the property, the connection to the sewer was not a fair requirement.

We made inquiries with council to find out what was happening to cause such delays and what they intended to do about it. It appeared that council could not track down the developer to issue orders to have the properties connected to the sewer. As a result, council assumed responsibility for the connections. They had budgeted for the project in 2012–2013 and were drafting construction plans to complete the project.

Sections 501 and 502 of the *Local Government Act 1993* permit councils to charge for both access to sewerage and use of sewerage. Access to sewerage can be charged if the property is within 250m of the sewer main and not connected. However, usage cannot be charged until the use is actually established.

We wrote to council to find out how their charges are apportioned and how they comply with access versus usage issues.

In their response, council advised that their access/use charges were combined according to the NSW Best Practice Management of Water Supply and Sewerage Guidelines 2007. They therefore could not distinguish between an access charge and a usage charge. On this basis, and the basis that council had approved and finalised the development without the sewerage connection, they agreed to send a letter of apology to the complainants along with a cheque for \$3,500 to meet the cost of the sewerage rates since 2006.

47 Basing decisions on all the relevant facts

We received a complaint about lack of access to a land-locked property. Liverpool City Council reports and resolutions in 2005 had given the complainant an expectation that they would be granted an access licence over council land for entering and leaving their property.

Council subsequently decided to classify the adjoining public land as 'community land' – after receiving legal advice that an access licence could be granted to the complainant under this classification.

Some years later, the complainant complained to the General Manager that council had failed to provide the access licence as previously resolved. Council advised the complainant that they could not lawfully implement the 2005 resolutions because granting an access licence over community land would constitute a breach of the *Local Government Act 1993*. Council was also concerned that granting

access could have a significant impact on protected wetland and riverside ecosystems existing on the land.

In 2012, a report was made to council that the 2005 resolutions could not be lawfully implemented by the General Manager and it was recommended that council rescind these resolutions.

After two rounds of detailed inquiries with council, we were not satisfied with their responses. This was because:

- the legal advice considered by council in 2005 – when deciding to classify the land as community land – had been lost.
- council's response to the complaint failed to acknowledge that the 2005 resolutions had created an expectation that an access licence would be granted.
- the 2012 report to council recommending that the 2005 resolutions be rescinded did not adequately disclose the historical facts of the matter or allow council to appropriately consider the environmental issues involved.

Case studies

We felt that, although council had the discretion to make a decision about the use of this land, they should do so based on all the relevant facts.

We suggested that a new report be made to council which fully disclosed all these facts. After receiving this new report, council decided to defer their decision pending a site inspection. We felt that this was the best possible outcome we could achieve, and that the complainant and his legal representative now had a reasonable avenue to lobby the councillors for support.

Whatever decision the council now made it would be done with full disclosure and consideration of the complainant's circumstances and the environmental factors involved.

48 Managing expectations

We received a complaint about Rockdale City Council failing to act on complaints about unauthorised activity. The central issue was the council's failure to comply with their guarantee of service (GOS) to reply within a specified time.

Our inquiries showed that, although council was taking action, they had set themselves some tight timeframes in the GOS which were difficult to meet. This created an unrealistic expectation for residents waiting for a reply.

We felt council had acted appropriately, but asked them to review the correspondence and GOS to see if there was any action that should be taken to improve their policies. Council confirmed they would do so, and advised they discovered further unauthorised activity that required their action.

49 Not knowing who to complain to

We received a complaint about Waverley Council allegedly failing to ensure development was carried out in accordance with a consent. A private certifier – not the council – was the Principal Certifying Authority (PCA). The complainant had been complaining to council and they had been referring the complaints to the PCA.

Although it is appropriate for the PCA to receive such complaints and take whatever action is in their power as the certifier, there can also be situations where the council should consider getting involved. These can include:

- urgent matters – such as a danger to the public or a significant breach of the development consent, the *Environmental Planning and Assessment Act 1979* or the *Protection of the Environment Operations Act 1997*.
- matters that are not preconditions to issuing the occupation/subdivision certificate – such as sediment control, traffic management, hours of operation and noise restrictions.

We did not think the council's response was unreasonable, but it was clear the complainant was not sure who to complain to. They told us that if they had had clear guidance they would have been less likely to complain to us.

We suggested that council develop a formal policy outlining the respective roles and responsibilities of council and privately appointed PCAs and the matters council will not act on, and publish detailed information about this new policy on their website. The council accepted our suggestions.

50 Not giving enough notice

We received two related complaints that Cooma-Monaro Shire Council had failed to notify residents of a bridge closure that would affect them. The bridge was due to be closed for two months for significant works. A letter was posted by council to affected residents three working days before the work was to start. The residents agreed that the bridge needed significant work, but felt that council had not given them adequate advance notice. The detour was 110 kilometres – and they also felt council had not explored contingency plans with emergency services.

We contacted council about not providing adequate notification to residents. Council acknowledged that they had failed to notify residents in a timely manner. They told us they had postponed the works and were talking with residents to try and find ways to minimise the impact on them.

51 Residents entitled to their own bin

We received a complaint about Warringah Council making four Torrens title properties share communal bins. The new owner of one property had researched their entitlement to a private bin before purchasing, but council's waste section insisted that the properties had to share.

During our inquiries, we found out that council's internal ombudsman (IO) was investigating the complaint. We decided to monitor this investigation, rather than duplicate the process. The IO found that the waste policy was being inappropriately applied to these properties as they were entitled to their own private bins. Council provided the residents with bins and apologised to the complainant.

Human services

Our office performs a broad range of functions relating to human services in NSW. These are outlined in the *Community Services (Complaints Reviews and Monitoring) Act 1993* and Part 3A of the *Ombudsman Act 1974*. This work helps to bring about good results for children and young people and people with a disability. In some cases, this can benefit one person, while our broader systemic work can help to improve services provided to large groups.

Our employment-related child protection work involves scrutinising the systems that government agencies and non-government organisations responsible for the care of children have in place to respond to allegations of reportable conduct against a staff member. This can include any sexual offence or sexual misconduct, assault, ill-treatment, neglect or any conduct that can cause psychological harm to a child.

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Highlights

- Promoted stronger safeguards for people with disabilities in our submissions to the review of the NSW Disability Services Act and the draft National Disability Insurance Scheme bill (see page 97)
- Tabled a special report to Parliament on the need to improve accommodation and support for people with psychiatric disability (see page 100)
- Tabled our biennial reports on deaths of people with disabilities in care and reviewable child deaths (see pages 101 and 93)
- Completed a group review of young people who were leaving care (see page 85)
- Contributed to the development of a stronger screening system for people who work with children (see page 86)
- Made a submission to the NSW Government on proposed legislative reforms of the child protection system (see page 84)
- Gave detailed briefings to the Royal Commission into institutional responses to child sexual abuse and the NSW inquiry concerning child sexual abuse in the Catholic Diocese of Maitland-Newcastle (see page 89)

Stakeholder engagement

In 2012–2013, much of our human services work has been focused on addressing systemic issues that we have identified in previous years. One way we have done this is through consultative forums involving service providers, peak agencies and those who receive services. For example, this year we have hosted:

- five roundtables on issues relating to disability
- a roundtable discussion with representatives from government and non-government school sectors on providing information to alleged victims and their parents/carers after investigations into reportable conduct
- a roundtable discussion with peak agencies proposed legislative reforms of the child protection system
- an employment-related child protection forum on the current practices and challenges for risk managing employees in complex employment-related child protection matters.

We have also taken part in a number of community events including:

- holding stalls at the annual conference of the Association of Children’s Welfare Agencies, at a Carers Day Out, and at the PossABLE IDEAS expo
- attending National Disability Strategy regional support worker forums in Parramatta, Gosford, Goulburn and Newcastle.

Conference on child death inquiries and reviews

Our office and the Department of Family and Community Services co-hosted the third Australasian conference on child death inquiries and reviews over two days in August 2012. The conference provided an opportunity for those responsible for reviewing the deaths of children to share their knowledge and experience in a broad range of practice areas, as well as learning from international academics and experts. The keynote speakers were:

- Dr Sharon Vincent, Reader in Social Welfare at the University of Wolverhampton, who spoke about ‘Preventing child deaths: learning from review’ and ‘Learning from child death review in the United States’,
- Dr Marian Brandon, Reader in Social Work at the University of East Anglia, who spoke about ‘Learning from child death and serious injury review in England and Wales’ and ‘Using child death review to change practice: where do recommendations fit?’

The conference also involved a series of workshops targeted at specific areas in child death review, including good practice, linking stories to preventative action, involving families in the review and reporting on child deaths.

Handling complaints about child and family services

Under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA), we are responsible for handling complaints about certain agencies providing child and family services. These agencies include:

- Community Services – in relation to child protection, out-of-home care, prevention and early intervention services
- Ageing, Disability and Home Care (ADHC) – in relation to disability accommodation and support services and home care services
- other organisations that are licensed or funded by the Minister for Family and Community Services or the Minister for Ageing and Disability Services.

Our main focus when resolving complaints is to improve outcomes. There are a range of options we use to do this. For example, we may:

- make inquiries to obtain more information about the complaint and the conduct of the agency
- meet with agencies to collect relevant information and negotiate outcomes
- formally refer complaints to agencies to resolve or investigate themselves
- provide information and advice to help complainants deal with their own complaint.

This year, we received 1,143 complaints about child and family services – a slight decrease compared to the 1,350 received in 2011–2012. Of these, 362 were formal complaints, a 19 percent decrease from 450 last year, and 781 were informal complaints – a 13 percent increase from 900 last year (see figure 48).

Complaints about out-of-home care (OOHC) services made up 53 percent of all complaints we received in 2012–2013 (218 formal complaints and 385 informal complaints). The most frequent issues raised with us related to the quality of casework and problems with how services were meeting the needs of children and young people in care.

Complaints about child protection services remained at a similar level to last year (439 compared to 429 last year). These complaints made up 38 percent of the total complaints we received and were primarily about Community Services. The most frequent complaint issues were poor risk assessments and lack of action in response to ‘risk of significant harm’ or risk of significant harm (ROSH) reports. Figure 48 provides a breakdown of the complaints received by agency and service type.

Fig. 48: Formal and informal matters received in 2012–2013 about agencies providing child and family services

Agency category	Formal	Informal	Total	Agency category	Formal	Informal	Total
Community Services				ADHC			
Adoption	0	1	1	Child protection	0	0	0
Child protection	128	274	402	Children’s services	0	0	0
Children’s services	4	41	45	Family support	0	0	0
Family support	2	6	8	Out-of-home care	1	1	2
Out-of-home care	170	332	502				
Subtotal	304	654	958	Subtotal	1	1	2
Other government agencies				Non-government funded or licensed services			
Child protection	3	19	22	Adoption	0	1	1
Children’s services	0	2	2	Child protection	3	5	8
Family support	0	1	1	Children’s services	0	5	5
Out-of-home care	0	4	4	Family support	1	2	3
				Out-of-home care	47	48	95
Subtotal	3	26	29	Subtotal	51	61	112
General enquiries				Other general inquiries			
Child protection	0	4	4	Other	1	6	7
				Agency unknown	2	28	30
				Outside our jurisdiction	0	1	1
Subtotal	0	4	4	Subtotal	3	35	38
Total					362	781	1,143

Fig. 49: Outcomes of formal complaints finalised in 2012–2013 about agencies providing child and family services

Outcome	No.
Complaints resolved after inquiries, including local resolution by the agency concerned	171
Complaints declined after inquiries	78
Complaints declined at outset	77
Service improvement comments or suggestions to agency	16
Complaints outside jurisdiction	9
Referred to agency concerned or other body for investigation	5
Direct investigation	1
Total	357

Key areas of focus

Assessing the impact of child protection reforms

We have been closely monitoring the implementation of the Keep Them Safe reforms since they were introduced in 2009. Our report to Parliament in 2011 – *Keep Them Safe?* – found that despite a significant drop in demand as a result of changes to the threshold for making a child protection report to Community Services, fewer children received face-to-face assessments. The report highlighted the need to substantially improve the capacity of the child protection system and made a range of recommendations aimed at system reform.

Over the last two years, the Departments of Premier and Cabinet (DPC) and Family and Community Services (FACS) have been giving us progress reports on their implementation of the recommendations we made in our *Keep Them Safe?* report. We have also contributed to the DPC interim review of Keep Them Safe.

In November 2012, the Minister for Family and Community Services released a discussion paper detailing a range of proposed legislative changes to the child protection system. We made a submission in response to the discussion paper which is available on our website.

In their latest progress update, Community Services noted that – as a result of initiatives they have introduced such as a new casework approach known as Practice First – there has been a 27 percent increase in the number of children at risk of significant harm (ROSH) who received a face-to-face assessment, and a 13 percent drop in the number of reports closed without assessment since 2010–2011. While these results indicate some progress, it is clear that much more needs to be done. When we reported on this issue last year, there were a number of areas where we wanted to see action taken. Some areas where we want to see progress include:

- Ongoing implementation of Community Services' Action Plan to Improve Capacity in Child Protection and related measures to improve productivity, including the introduction of caseload benchmarks and more robust systems for monitoring performance.
- Better systems for tracking and filling casework positions – particularly in the chronically under-resourced Western region of NSW – as well as developing and implementing strategies to retain experienced staff.

- Developing and implementing an 'intelligence-driven' approach to child protection work to allow Community Services and partner agencies to identify children at most risk of experiencing significant harm.
- Continued improvements to information exchange practice between partner agencies.
- The need for further cross-agency innovative work that explores which agencies are best placed to reach out to, and effectively engage with, vulnerable children and their families.
- The development and implementation of an overarching service planning, funding and delivery framework tailored to the needs of individual communities, supported by robust and effective governance arrangements to ensure it is a genuinely integrated and efficient service system.
- Improving data collection and more meaningful public reporting on the outcome of child protection reports and staffing numbers.

We are planning to consider these and other related issues in a report to Parliament early in 2014.

Helping adolescents at risk

Our work across a range of areas has highlighted the urgent need for an improved response to older children and adolescents in high-risk and unsafe circumstances – including those experiencing homelessness, habitual non-attendance at school, drug and alcohol problems, mental ill-health, and/ or regular contact with the criminal justice system.

In 2012, we finalised two confidential reports on our reviews of:

- a group of school-aged children from two towns in Western NSW
- the circumstances and service responses to seven particularly vulnerable young people who primarily came to our attention through our complaints work.

In response to these reports, the government tasked FACS to review service provision to vulnerable teenagers and identify strategies to reduce the number of young people who require OOH, experience long-term accommodation instability, and/ or become caught up in the criminal justice system.

This year, we provided feedback to FACS on their review report and related action plan. We stressed that any initiatives must be planned and implemented as part of a cohesive statewide framework for identifying and responding to children and young people with complex needs. All relevant agencies must be committed and involved – including Community Services, Education, Health, Juvenile Justice and non-government service providers.

Recently, FACS told us they had endorsed their review of services to vulnerable teenagers and the associated recommendations. As well as working on proposed medium to long-term reforms, they are going to start negotiating with other agencies to develop NSW's first coordinated government and community strategy for services to at-risk older children and young people.

Managing complex clients

Last year, we started an inquiry into the Supporting Children, Supporting Families program (SCSF). This is a program designed to coordinate and provide effective interagency responses to young people identified to be

a risk to themselves and others. This inquiry arose from a complaint made by the mother of a 15 year old Aboriginal girl about the Department of Education and Communities' failure to provide adequate support to her daughter and their delays in re-enrolling the girl in school following her suspensions. In handling this complaint, we established that the girl and her friend had been referred to the SCSF program. We received a response from FACS in November 2012, which included a copy of an evaluation done by a firm of consultants in June 2012. This evaluation highlighted many of the same concerns that we held about the program's weak governance processes and poor accountability.

FACS also acknowledged the need to rationalise their integrated case management programs and advised us of their plans to merge SCSF with other programs under a single framework known as 'Coordinated approaches for complex clients'. This proposed complex clients framework is not confined to the families of children and young people in contact with the child protection system. It will extend to adult clients of all FACS agencies and will achieve integration through 'local collaboration based on shared local data'. At FACS's request, we provided feedback on this draft framework late last year and are waiting to receive a copy of the finalised document.

We also made a number of recommendations about the provision of integrated case management support to vulnerable children and young people in both Aboriginal and non-Aboriginal communities in our recent report *Auditing the implementation of the NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*. Our recommendations included that FACS's proposed complex clients framework and their vulnerable teenagers review are integrated with existing and planned initiatives, and proposed integrated case management programs are supported by appropriate governance and accountability arrangements.

In light of the complex clients reforms, and advice from FACS that the two girls are now being appropriately supported, we decided to finalise our inquiry. We will continue to monitor responses to vulnerable young people by FACS and other agencies.

A continued focus on record keeping and communication with JIRTs

Last year, we reported on two investigations that identified poor record keeping and communication between Community Services caseworkers and police officers within the same Joint Investigation Response Team (JIRT).

Since then, the JIRT member agencies have reviewed their work in these cases and the Deputy Ombudsman Community and Disability Services Commissioner attended an interagency meeting to discuss issues arising from one of the cases, which involved the death of a child from abuse.

In March 2013, Community Services told us that JIRT policies and procedures were being reviewed and updated, and strategies developed to improve information sharing and joint work practices.

Our ongoing scrutiny of JIRTs – and the critical role they play in the child protection system – has also been informed by our audit of the implementation of the Interagency Plan to Tackle Aboriginal Child Sexual Assault in Aboriginal Communities. See page 105 for more information.

Recognising and responding to educational neglect

A parent's failure to ensure that a child receives an education was added to the statutory grounds for a ROSH report in 2010. In 2012, we investigated Community Services's handling of reports about educational neglect after some schools raised concerns about their lack of response to matters involving chronic absenteeism.

Our investigation identified a number of concerns about Community Services' policy on educational neglect and their compliance with the child protection legislation. We recommended that they amend the policy and improve collaboration with other agencies, including DEC. We have received advice about the activities of both agencies and the Keep Them Safe Senior Officers subgroup on educational neglect. In particular, the two agencies have started separate field projects this year to test different collaborative approaches to reports about educational neglect.

We believe that a flexible, integrated policy is required in this area, based on an assessment of which agency – or agencies – may be best placed to acquire and analyse relevant information and act accordingly. Given Community Services's advice to us that educational neglect matters usually involve other risks to children and young people, our future monitoring of responses to educational neglect will also consider improved policy and practice responses to vulnerable adolescents more generally.

Supporting young people leaving care

In 2012, we completed a review of the circumstances of 90 young people who left care in 2011. We wanted to see if practices in supporting them to transition from statutory care had improved since 2009, when we had done a similar review.

Unfortunately, our recent review found no significant improvement since 2009 in the proportion of young people who left care with a completed leaving care plan. Irrespective of which agency has direct responsibility for a young person exiting care, it is vital that Community Services and the non-government sector comply with their statutory obligations. It is also critical that they develop the capacity to demonstrate their compliance – by collating and reporting data on the preparation and implementation of leaving plans in accordance with legislation, policy and practice.

We received Community Services's response to our draft report in early May 2013. We have now finalised our review and made a number of recommendations to strengthen leaving care processes. Importantly, we recommended that Community Services consult with non-government OOH providers and the Children's Guardian on developing systems to produce substantial and demonstrable improvements for young people leaving care.

Claiming compensation for victims of crime

In 2010, we tabled a report in Parliament detailing serious deficiencies in how Community Services identify and handle claims for victims compensation.

Since 2010, we have been monitoring Community Services's work to improve their practice in this area – and looked for evidence in our 2011 leaving care review that improvements had taken place. We again found

significant delays in assessing and lodging claims for victims compensation. In some cases, this meant that young people were being told after they left statutory care that they were now responsible for pursuing a claim.

In 2012, Community Services conducted an audit of the new procedures they had introduced for handling victim compensation matters. In May 2013, they advised us that the new procedures had not been operating effectively, so a new monitoring and reporting framework would be established to address the problems.

Community Services have since told us they have stopped this work because of statewide changes to victim support under the *Victims Rights and Support Act 2013*. They are going to develop new practices to fulfil their responsibilities under the new legislation.

The government has described the focus of the new approach as counselling and immediate support – including financial support – for victims of crime. Given this, it is more critical than ever that Community Services develops the capacity to fulfil their obligations on victims support promptly. We have asked them to tell us how they will monitor and report on the effectiveness of the planned new procedures.

Developing a carers register

We have seen a number of matters in our reviewable death and employment-related child protection work where inadequate screening of carers or adults living in, or closely associated with, carer households has resulted in serious risk and, in some cases actual harm, to children. Following roundtable discussions in 2011 and 2012, Community Services, the Association of Children's Welfare Agencies and other attendees agreed on a number of critical priorities:

- ensuring equivalent standards are applied when assessing kinship carers and general foster carers
- requiring that all members of carer households are included in the carer assessment process
- having consistent types of information considered when doing probity checks
- Community Services providing information about prospective carers to non-government out-of-home care agencies if they have clear evidence of risk to children.

These outcomes are being used by the Children's Guardian to help develop a carers register. This will provide agencies with information about a potential carer's previous care history and guide them through the carer assessment process.

We will continue to collaborate with the Children's Guardian and the OOHC sector on work to strengthen screening and probity checking of carers and others in their households.

Managing registered child sex offenders

Last year, we reported on our work to strengthen collaboration between agencies on managing registered child sex offenders in the community.

Community Services plays a vital role in assessing the risk posed to children when they come into contact with known child sex offenders. This generally occurs when parents or carers form relationships with registered

offenders. It is critical Community Services, the NSW Police Force and Corrective Services NSW actively share information about, and fully assess the risks posed by, registered offenders who form relationships that pose a risk to children.

Over the past few years, these agencies have developed new policies and procedures to improve information exchange – particularly providing an immediate and comprehensive set of facts about a person to the relevant Community Services Centre (CSC). In our report on our audit of the interagency plan to tackle child sexual assault in Aboriginal communities, we recommended that the use of child protection prohibition should be monitored to measure the impact of these policy and procedural changes.

During the same period of improved collaboration, the agencies also agreed to set out their respective roles, responsibilities, powers and limitations in a single document. This would make it easier for frontline staff from each agency to know how they should identify and respond to child protection risks involving registered offenders.

However, almost two years later, the roles and responsibilities document is yet to be completed. We have raised this with Community Services on a number of occasions. They acknowledged that this important work should have progressed more quickly and told us that they planned to complete the document by early 2013. We followed up on this issue in April 2013, and we were told there would be a further delay due to resourcing issues within the Investigations and Review Branch.

Reporting criminal allegations to police

Since 2009, we have conducted a number of investigations into the handling of matters where the alleged conduct reached the threshold for a criminal offence – but Community Services failed to notify the NSWPF. In June 2010, after an investigation into particularly serious allegations against a teacher, we recommended that Community Services review their policy and practice for notifying criminal matters to the police.

We have been very concerned about Community Services's inadequate and slow response to such a significant issue. Despite their acceptance of our recommendation in October 2010 – and their advice in December 2011 that a trial of their revised policy had been endorsed – Community Services did not agree on a finalised definition and policy statement until January 2012.

In March 2013, Community Services told us they had trialled the revised policy at three CSCs. During the trial, all reports that met the established criteria – including allegations of historical child sexual abuse – were referred to police. We are yet to receive a copy of the report on the trial or advice about Community Services's proposed direction on this important issue, but we will continue to seek this information.

Implementing changes to the MRG

The mandatory reporter guide (MRG) is an interactive online tool that helps people to decide whether to make a ROSH report to the Child Protection Helpline. Since early 2010, we have been working with Community Services to address our concerns about the capacity of the MRG to accommodate historical allegations and to help users identify risks to a child or class of children other than the alleged victim.

Although changes have been made, there is still a need for further amendments to prompt users to consider risks to 'additional children' and to help in identifying and assessing historical allegations.

In early 2013, Community Services proposed further changes to their Helpline screening tool for reports relating to risks to a 'class of children/young people'. We are yet to receive a response to our suggested changes to this draft or confirmation that the MRG changes have been implemented.

Employment-related child protection

Our employment-related child protection jurisdiction began in May 1999, with the Ombudsman being given the responsibility to oversee the handling of 'reportable' allegations against employees. There are now more than 7,000 agencies that are within our jurisdiction.

Reportable allegations include:

- sexual offences and sexual misconduct
- physical assault
- neglect and ill-treatment
- behaviour causing psychological harm to a child.

We oversee how agencies investigate and respond to these allegations. We also scrutinise the systems they have for preventing this type of conduct and responding to allegations against their employees.

Under the scheme, the heads of all government and some non-government agencies – including non-government schools, approved children's services, agencies providing substitute residential care and out of school hours (OOSH) services – are required to notify us of any reportable allegations or convictions involving their employees within 30 days of becoming aware of them. The scheme was – and remains – a unique and precedent jurisdiction, because of the oversight it brings to both government and non-government

organisations in their handling of child protection concerns and in the conduct of their employees and volunteers.

Handling notifications

This year, we received 995 notifications of reportable conduct and finalised 929 (see figure 50). Notifications from most sectors have remained relatively consistent with previous years. The most noticeable decreases this year relate to Community Services and the Department of Education and Communities.

Fig. 50: Formal notifications received and finalised

Matter	08/09	09/10	10/11	11/12	12/13
Received	1,667	1,366	804	1,157	995
Finalised	1,672	1,442	1,251	931	929

The notifications received from Community Services have fluctuated over time – decreasing from 303 in 2009–2010 to 71 in 2010–2011, increasing to 342 in 2011–2012 and then decreasing again to 226 in 2012–2013. These changes can largely be attributed to changes in the way that Community Services has administered the class or kind determination that exempts certain matters from being notified to us. We have had ongoing discussions with Community Services about the work they are doing to improve their decision making and systems for handling reportable allegations – see our discussion of this issue later in this chapter.

When we receive a notification, we assess the level of scrutiny required and the agency's need for assistance. This assessment considers the seriousness of the allegation, the vulnerability of the alleged victim and other children, our knowledge of the agency's systems and the complexity of the situation. When we monitor an individual matter, we may offer advice about developing an investigation plan and provide guidance about the investigation process and appropriate findings. Often, the

Case studies

52 Protecting other children in the family

During our handling of a reportable conduct matter involving a young child under the parental responsibility of the Minister, we became aware of information that suggested a second child may have been at risk of sexual abuse from a relative. We raised our concerns with Community Services, who advised us that they were aware of this information but – due to competing priorities – had closed the matter without making any inquiries about the circumstances of the second child. In response to our concerns, Community Services re-opened the matter and identified a number of risks to the second child and his sibling, including significant concerns about the ability of the children's mother to effectively protect and care for them. As a result, Community Services have taken steps to ensure the children have no contact with their relative and the family is receiving intensive support.

53 The need for a national approach to information sharing

A school received information that a teacher had engaged in a sexual relationship with a student when he had taught at another school interstate. We liaised with the school and Community Services, and Community Services agreed to request information about the allegations from the relevant interstate child protection agency. However, this request was refused because its interstate partner did not 'hold' any information relating to the allegations, and it believed that it did not have legal authority to even request relevant information about the allegations from the involved school within its own state. In correspondence between Community Services and its interstate counterpart, the latter noted: 'A more national approach in this area of information sharing would be useful and valuable but unfortunately we do not have it at present'. We are concerned that critical child protection information could not be obtained by the school who had a responsibility to investigate reportable allegations against its employees.

issues that we identify in relation to individual matters are illustrative of broader concerns that we then follow up to achieve systemic change. Figure 51 shows a breakdown of notifications received by agency.

Fig. 51: Formal notifications received by agency — a two year comparison

Agency	11/12	12/13
Ageing, Disability and Home Care	17	11
Child care centre	80	72
Community Services	342	226
Corrective Services	9	5
Department of Education and Communities	335	311
Family day care	15	14
Health	25	16
Juvenile Justice	35	27
Non-Government school - Catholic	52	56
Non-Government school - Independent	63	56
Out of School Hours service (OOSH)	2	8
Other health service	0	1
Other public authority	18	14
Other public authority - Local government	3	6
Outside our jurisdiction	1	1
Sport and Recreation	1	0
Substitute residential care	159	171
Total	1,157	995

This year, we closely monitored 408 notifications, or 44 percent of all finalised matters. See case study 52 for details of an agency investigation that we monitored.

Figure 52 outlines the action that we took on formal child protection notifications that were finalised. The majority of notifications were satisfactorily handled by the agency, although some required some intervention from us before we were satisfied that they could be finalised. This included requesting additional information, asking the agency to undertake further inquiries, or formally requesting a review of findings. In some cases, we identified issues with the way that an agency handled an investigation and provided feedback and suggestions for handling matters better in the future.

Fig. 52: Action taken on formal child protection notifications finalised in 2012–13

Action	No.	%
Agency investigation monitored	408	44
Agency investigation oversighted	453	49
Outside our jurisdiction	68	7
Total written notifications finalised	929	100

Nearly a third of the notifications we received (31%) involved allegations of physical assault, and just over a third (36%) involved sexual offences or sexual misconduct (see Figure 53). Figure 54 breaks down the notifications received by the sex of the alleged offender.

If we identify significant systemic issues arising from a notification, we may audit the agency's systems, start a direct investigation or initiate discussions with relevant stakeholders. We also provide positive feedback when we identify particularly good investigative practice by an agency.

Fig. 53: What the notifications were about — breakdown by allegation

Issue	No.	%
Ill treatment	54	5
Misconduct - may involve reportable conduct	36	4
Neglect	142	14
Physical assault	311	31
Psychological harm	28	3
Sexual misconduct	215	22
Sexual offence	142	14
Outside our jurisdiction	67	7
Total	995	100

Fig. 54: What the notifications were about — breakdown by sex of the alleged offender

Issue	Female	Male	Unknown	Total
Ill treatment	30	25	0	55
Misconduct - may involve reportable conduct	10	40	3	53
Neglect	87	43	1	131
Physical assault	152	125	5	282
Psychological harm	17	16	1	34
Sexual misconduct	49	164	2	215
Sexual offence	11	77	3	91
Outside our jurisdiction	34	32	2	68
Total notifications closed	390	522	17	929

Responding to inquiries and complaints

This year, we received 525 inquiry calls – a slight decrease from the 543 we received last year. Most inquiries were from agencies with queries about our jurisdiction or wanting advice about how to assess the level of risk or manage the investigation process. However, we also received inquiries from employees who were the subject of allegations and from alleged victims and their families. The most commonly raised concerns for employees were about a perceived lack of procedural fairness and the notification of relevant employment proceedings to the Commission for Children and Young People (CCYP). Over a third (36%) of all inquiries received related to children's services, including child care centres, family day care services and OOSH services.

This year, we received 70 complaints and finalised 69. In many of these matters, we finalised the complaint after making inquiries with the agency or asking them to take certain action to respond to the concerns raised by the complainant. Although our complaint handling continues to be a small component of our employment-related child protection work, it provides us with valuable information about the systems that agencies have for preventing reportable conduct and handling reportable allegations.

Key areas of focus

Commissions of inquiry into the handling of child sexual assault

In November 2012, two major commissions of inquiry into the handling of child sexual assault by institutions were announced. These were the:

- Royal Commission into Institutional Responses to Child Sexual Abuse – a national inquiry.
- NSW Special Commission of Inquiry into matters relating to police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle.

Case studies

54 Effective information exchange leads to charges

An agency notified us of sexual misconduct allegations involving an employee that were made in 2005 and 2009. The 2009 allegations resulted in a sustained finding of sexual misconduct, the employee was dismissed and a relevant employment proceeding was notified to the Commission for Children and Young People. The NSW Police Force and Community Services also conducted related inquiries into the employee's conduct that confirmed he posed a significant risk to children.

In 2011, the former employer received an information request from an interstate employer who had employed the man in child-related work and had become aware that there had been serious allegations made in NSW. The NSW employer was unclear as to whether it could legally provide the information requested.

We coordinated a review of all relevant holdings relating to the man and arranged to have Community Services provide a summary of these holdings to their interstate child protection counterpart. The provision of this information prompted a police investigation, which led to police promptly laying a number of charges against him in relation to the sexual abuse of children from within that state. He subsequently pleaded guilty and was convicted of these offences. We also encouraged the NSWPF to review its holdings, which led to subsequent charges in NSW.

This effective information exchange enabled the interstate agency to conduct an early and comprehensive risk assessment, and ultimately led to the person being charged.

55 Working with an early childhood education and care service to investigate reportable allegations

We received information regarding reportable allegations against an authorised supervisor of an early childhood education and care service. It was alleged that the authorised supervisor had ill-treated and physically assaulted babies and young children at the service. Community Services, the licensing body at the time, investigated the allegations and made a finding of 'sustained risk of significant harm'. The authorised supervisor was recorded as a 'person causing harm' and the authorised supervisor was suspended from duties with pay pending the outcome of the service's investigation of this matter.

We were concerned about the service's ability to investigate this matter in an impartial way, given the potential and actual conflicts of interests should a staff member conduct the investigation from an employment perspective. We were also concerned that neither the service nor Community Services had

reported the allegations to the NSW Police Force, despite reaching the criminal threshold for physical assaults against children.

We met with the agency to discuss its obligations, ensured this matter was notified to police and worked closely with Community Services and the service throughout the process. As a result of our intervention, the police investigated the initial allegations and identified additional allegations of physical assault concerning children. The authorised supervisor was subsequently charged with a number of counts of physical assault and in 2013 was convicted of five out of nine charges.

56 Monitoring Community Services's investigations

We were notified of an allegation that an authorised carer had sexually assaulted a step-child. JIRT investigated and substantiated the allegation and Community Services moved to de-authorise the person. As a result of this decision, children remained with the de-authorised carer's ex-partner,

These inquiries were initiated after widespread media reports and increasing community concern about the deficiencies in agency responses to allegations of a sexual nature against people employed or engaged to work with children.

We have provided detailed briefings to both the Royal Commission and the Special Commission of Inquiry. This has involved a substantial amount of work for the staff working in this area, as well as others from across the office. Much of our work relates to agencies and other organisations providing services to children in an institutional setting. Since the Royal Commission's establishment, we have:

- prepared submissions on issues papers and submissions on specific issues at the request of the Royal Commission.
- provided trend data relating to allegations of child sexual abuse and related investigation outcomes across various institutions, sectors and role types.
- assisted organisations tasked with carrying out research for the Royal Commission.
- responded to referrals from the Royal Commission in relation to complaints about the handling of both historical and more recent child sexual abuse allegations – this can involve liaising with victims, police, employing agencies and Community Services to ensure effective and coordinated action is taken.
- reviewed the handling of individual cases and providing relevant documentation.
- provided support to agencies to identify relevant records to answer summonses.

We expect to continue providing similar information and assistance in 2013–2014.

The new Working with Children Check

In June 2013, NSW's new Working with Children Check (WWCC) scheme came into operation under the jurisdiction of the Office of the Children's Guardian (OCG). The new legislative framework was the result of a 2010 review into the effectiveness of the previous working with children check, then administered by the CCYP.

An important feature of the new scheme is that it includes a provision that triggers a risk assessment by the OCG. This risk assessment happens after we notify the OCG that we have received information about someone who may pose a risk to the safety of children. As part of this new role, we are strengthening our intelligence system to help us gather and analyse evidence to effectively identify individuals who may pose a risk to children.

Exchanging information with interstate agencies

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* allows government and 'prescribed' non-government agencies within NSW to exchange information that relates to the safety, welfare or wellbeing of a child or young person. The introduction of this legislation in 2009 arose from recommendations by Justice Wood regarding the urgent need to expand the capacity for relevant agencies to exchange information with each other in order to promote the interests of vulnerable children and young people.

The four key principles of Chapter 16A are:

- Organisations responsible for children or young people should be able to provide and receive information that promotes the safety, welfare or wellbeing of children and young people.
- Organisations should work collaboratively and respect each other's functions and expertise.
- Organisations should be able to communicate with each other to facilitate the provision of services to children and young people and their families.

- The needs and interests of children and young people, and of their families in receiving services relating to the care and protection of children and young people, takes precedence over the protection of confidentiality or an individual's privacy.

Government and non-government agencies are able to directly request relevant information from each other – as well as be proactive about providing it. This has meant that information from a variety of sources can be easily gathered to better inform assessments of vulnerable children and better tailor appropriate responses.

Despite these positive reforms, it can still be difficult when there is a need to exchange information with other states. Given the ease with which alleged perpetrators can travel between states and territories, any weakness in the regime for exchanging information between states can pose significant risks to children.

In NSW, allegations of reportable conduct about current employees of designated agencies must be notified to us and investigated. This requirement applies if the allegations occurred in the recent or distant past, they concern conduct at work or outside work, or the alleged conduct occurred within or outside NSW. However if the alleged conduct has occurred outside NSW, it can be difficult to obtain relevant information held by an interstate authority.

Community Services, as the statutory child protection authority, uses the 'protocol for the transfer of care and protection orders and proceedings and interstate assistance' to obtain information from other states. The protocol is aimed at promoting cooperation and information sharing between state child protection authorities. However, the provisions relating to information sharing only refer to relevant child protection agencies providing their interstate counterparts with information they 'hold'.

There are a number of problems with this arrangement. Firstly, consistent with the protocol, Community Services have taken the view that they should not make a request to their counterpart in another state unless they are acting in accordance with their own legislative responsibilities. Often, this will require them to first form an opinion that the relevant issue has already met the statutory risk of significant harm threshold, which can be problematic if Community Services does not have access to all relevant information. Secondly, facilitating cross border exchange of information via statutory child protection authorities may not be effective if the critical information being sought is not actually 'held' by the statutory child protection authority in that state.

We are aware that some interstate child protection authorities believe that they do not have the legal authority to even request critical information being sought by another state if that information is held by a third party agency within their jurisdiction. Case studies 53 and 54 show how important this issue is.

This year we asked for information about progress implementing the Interagency Plan, which includes strategies for increasing interstate cooperation in information sharing for child protection. The Department of Premier and Cabinet advised us agency staff working in border areas have met to try and improve service delivery in border towns. The Federal Government is also working with the states to assess the need for changes to legislation to extend the national protocol for sharing information on children at risk. We have made recommendation in our *Responding to Child Sexual Assault in Aboriginal Communities* report and highlighted this issue in our initial submission to the Royal Commission.

We believe legislative change is needed to guarantee any future national protocol for interstate exchange of information both facilitates and promotes cross-border information exchange, particularly when children's safety is at risk.

Case studies

who was also an authorised carer. However, we remained concerned about risks; in particular, about the remaining carer's capacity to protect the victim and another child from contact with this person.

The carer made an agreement, promising that there would be no contact between the de-authorised carer and the children. However, we were concerned that the carer would not comply with the agreement and that Community Services was not adequately monitoring compliance.

We took action to prompt Community Services to monitor the placement more carefully. Community Services found that the carer was not protecting the children adequately, and as a result Community Services commenced the process of removing the children.

Unfortunately, the notifications about the carers were not allocated for an investigation by the reportable conduct unit for more than a year. This situation highlights the potential risks posed by the reportable conduct unit's continued delays. If we had not been closely monitoring Community Service's actions in

this matter, these children would have remained in this placement, and been faced with ongoing risks through contact with the de-authorised person.

57 Actively monitoring undertakings to protect children

We identified that a kinship carer's adult son was recorded in Community Services's case management system (KiDS) as a person associated with risk of sexual harm to a child. We intervened to ensure that Community Services prohibited the carer's son from residing in the home and having unsupervised contact with the children in the placement. However, we still held concerns about the carer's commitment to adhering to this direction, and obtained records from KiDS that demonstrated that he continued to have regular contact with the children in the placement – with little apparent risk management by Community Services. After we raised additional concerns, Community Services reviewed the placement situation – and related risks – and decided to place the child into an alternative care setting with appropriate supports.

58 Correcting practice failings

In 2010, we received a notification about an authorised relative carer, who had been looking after two children from a young age. It was alleged that the carer had neglected the children, by allowing them to have unsupervised and overnight contact with a relative who was a convicted child sex offender. The children's mother had repeatedly raised concerns about this contact.

Although the allegations were raised a number of years earlier, Community Services had failed to notify us until two years after it had learnt of the concerns. The documentation provided to us at that time suggested the risks that the offender posed to a number of children had not been adequately identified, or acted on, by Community Services in the intervening period.

In 2011 we received a further notification about the carer, which heightened our concerns about Community Services's handling of the first allegation. Information on the KiDS system suggested Community Services knew that a number of children

had contact with the offender, and that Community Services had not taken adequate action in response. In addition, two of these children disclosed sexual abuse by the offender.

As a result, in 2011 we commenced an investigation into Community Services's action. Our investigation found that Community Services took four years to investigate allegations of sexual harm arising in circumstances of carer neglect; for two of these years there was no activity by the reportable conduct unit. Of significant concern is that more children were abused by the offender, even after Community Services ought to have been aware of, and had responded to, the risks that were evident.

Community Services has acknowledged the significant service failure and the serious consequences for the children, and expressed their commitment to learn from this matter to improve systems and practices. We will continue to monitor compliance with our recommendations arising from this investigation.

Working with non-government agencies providing OOHC

In 2012, Community Services started to transfer statutory OOHC responsibilities to the non-government sector. By the end of the 10-year transition period, the majority of carers looking after children in statutory care will be managed by a non-government organisation.

One of the risks associated with this transition is the capacity of non-government agencies to manage the substantially increased number of reportable allegations that will inevitably arise as these agencies take on responsibility for greater numbers of children in care. In 2012, the Association of Children's Welfare Agencies (ACWA) convened a roundtable discussion with non-government providers and other key stakeholders to consider how to ensure that reportable allegations are properly investigated and risks to children are appropriately managed. As preparatory work for the roundtable, ACWA surveyed OOHC agencies about the current reportable conduct system. It was pleasing to note that the survey results showed that the sector widely acknowledges the training and support we provide.

This year, we contacted more than 50 agencies that had some level of accreditation with the OCG to provide foster or residential care to children and young people. We asked for information about how each agency works with children – and checked if they had a current child protection policy that included advice about reportable conduct and the role of our office, and whether they had other policies and procedures that contributed to the protection of children. We were also interested in how the transition of foster children and their carers was impacting on each of the agencies. We have used the information we received to:

- help us decide which agency would benefit from a review of their systems and processes
- better understand the current services being offered to children and young people across the OOHC sector

- better appreciate the issues and concerns arising from the historical transition of foster children from state to community care.

Briefing OOSH and vacation care services

OOSH and vacation care services came under our employment-related child protection jurisdiction on 1 January 2012, as a result of the start of the Education and Care Services National Law. Before these changes, this sector had not been formally regulated by the state. As a result, we have found that they often have a limited understanding of their responsibilities in relation to employment-related child protection.

Over the past year, we have worked with the Department of Education and Communities Early Childhood Education and Care Directorate (the regulatory authority in NSW) to prepare a joint plan to educate this sector about their legislative responsibilities. We worked together to present one-hour briefings on reportable conduct and the new regulations to approved providers, nominated supervisors and some departmental field staff across five regions in NSW:

- Wollongong (194 participants)
- Penrith (400 participants)
- Sydney (400 participants)
- Newcastle (200 participants)
- Sutherland (200 participants).

We also recently convened a roundtable discussion with peak OOSH providers and invited the department to join these discussions. We focused on promoting awareness of their legislative responsibilities and best practice in handling allegations against staff within OOSH services.

Reducing risks in kinship care placements

We have investigated a number of matters in the last two years where OOHC agencies have failed to appropriately assess and manage risks to a child in a kinship care

placement if there have been allegations of sexual abuse. These cases highlight the need for agencies to actively monitor placements after allegations of sexual abuse – particularly if the alleged perpetrator is a friend or family member of the carer.

There are a number of possible reasons why a carer may not be protective in these circumstances. They may genuinely disbelieve the allegations, they may have been groomed by the perpetrator themselves and be unaware of the extent of the abuse, or they may be complicit in the abuse. To preserve their relationship with the OOHC agency and the alleged perpetrator, they may also knowingly or unwittingly mislead the agency about the actions they are taking to protect the children in their care. OOHC agencies must develop sufficiently rigorous risk assessment and management strategies to ensure that these situations are identified and appropriate action is taken. In case study 56 we monitored such an investigation.

We have also identified cases where the standard of assessment for kinship carers has been particularly inadequate – see case study 57. In kinship care placements – because of the preference for placing children with family members – there can be a tendency for assessments to focus on the positives about the placement, but give insufficient weight to risk factors. In some cases, inadequate inquiries mean that significant risks are not identified in the first place. These risks have in the past been compounded by the fact that kinship care placements often receive minimal casework support once the children have moved to the placement. See page 86 for more information about our work in developing a common practice framework for carer screening and assessment.

Addressing chronic delays in the RCU

Community Services's central investigative unit – the reportable conduct unit (RCU) – has for some time experienced significant and ongoing delays in allocating and completing investigations of reportable conduct allegations. Community Services advised us that, at the end of June 2013, there were 209 reportable conduct notifications that had not been allocated for investigation. At the end of August, there were 162, and at the end of September there were 153. In addition to the matters known to our office, there are also a large number of unallocated reportable conduct matters that were exempted from notification to the Ombudsman under our class or kind determination with Community Services.

Our records show that the length of time taken by the RCU to investigate the most serious reportable conduct allegations this year has more than doubled, compared with their average over the 2007–2008 financial year. This figure relates to the matters that we have formally monitored under s.25E of the Ombudsman Act, and is based on the length of time between an agency notifying a reportable allegation to the Ombudsman and providing us with their investigation report.

By contrast, since 2007–2008, other OOHC agencies as a group have almost halved the time it takes them to investigate serious reportable allegations. This year, the RCU took more than three and a half times longer to finalise the investigation of the most serious reportable allegations against their employees than other OOHC agencies over the same period.

Children in OOHC are among the most vulnerable children in this state, and we are concerned that these delays can leave children at risk and have a significant impact on both the children and their carers. One of the features of our investigation outlined in case study 58 is that the delay in the RCU starting their investigation allowed a convicted sex offender to have continued access to, and further abuse, children.

Over the past year, we have worked with Community Services to measure the quantity and quality of investigations undertaken by the RCU. However, they continue to experience chronic delays in allocating and investigating allegations of reportable conduct.

Promoting the rights of victims to information

For some time, our work has highlighted particular challenges in relation to the nature and extent of the information that is given to alleged victims and their families or advocates throughout the course of agency investigations into reportable allegations. There are also varied practices across the different agencies with responsibilities under Part 3A of the Ombudsman Act in terms of what information is provided, when it is provided, and who it is provided to.

In May 2013, we convened a roundtable discussion with key stakeholders from the education sector to examine:

- current practices – including the practical challenges involved in balancing the rights of individuals who are the subject of allegations, alleged victims, witnesses and other key stakeholders and still ensuring that any disciplinary or criminal processes are not compromised
- compliance with relevant privacy legislation
- opportunities for developing a more consistent approach to keeping alleged victims and, where appropriate, other key stakeholders, up to date with the progress and outcome of investigations.

Reviewing the deaths of children

Reviewable child deaths

Under CS-CRAMA, the Ombudsman is responsible for reviewing the deaths of children who die as a result of abuse or neglect or in suspicious circumstances, and the deaths of children who were in care or detention when they died. We monitor and review the deaths of these children and make recommendations to help reduce or remove associated risk factors.

In March 2013, we tabled our biennial report in Parliament on reviewable child deaths. The report covered the deaths of 77 children in 2010 and 2011, including:

- 27 children who died as a result of abuse or in circumstances suspicious of abuse
- 21 children who died as a result of neglect or in circumstances suspicious of neglect
- 29 children who died while in care.

The report also included a 10-year review of 19 teenagers who had died after incidents of violence with their peers.

We made two recommendations to the Ministry of Health. One was for mental health services to better recognise the support needs of their patients who are parents and the possible impact of parental mental health concerns on children. The other was to undertake an internal review

Case studies

59 Improving systems for protecting children

We learnt that an independent school employee had been charged with the indecent assault of a child. We contacted the school and sought a notification from them, and then monitored their investigation. The employee was convicted of the charges and is currently appealing the conviction.

Our subsequent inquiries revealed that concerns about this employee should have been flagged in a WWCC. It emerged that a number of the staff at the school had not had a WWCC. We liaised with both the Commission for Children and Young People and the Board of Studies about the school's failure to comply with the requirement to conduct employment screening. The Board of Studies decided to investigate the school's compliance with a range of issues, including its child protection responsibilities. We are continuing to monitor the progress of this investigation.

– and make practice improvements – if a child has died or is seriously injured in suspicious circumstances within one year of receiving care or treatment from a NSW public health facility.

Supporting the NSW Child Death Review Team

Since 2011, the Ombudsman has also been responsible for supporting the work of the NSW Child Death Review Team (CDRT). The role of the CDRT is to identify trends in relation to the deaths of children, undertake research to help prevent or reduce the likelihood of child deaths, and make recommendations about legislation, policies, practices and services to prevent or reduce the likelihood of these deaths.

In October 2012, we tabled the CDRT's annual report for 2011 – which reported on the deaths of 581 children in NSW in 2011. As well as examining the circumstances of these children and why they died, the report included 10-year reviews of the deaths of 24 children in low speed vehicle run-over incidents, and the drowning deaths of 40 children in private swimming pools. The CDRT annual report can be accessed at our website.

The report included 17 recommendations to agencies to reduce sudden unexpected death in infancy (SUDI), and the deaths of children from low speed vehicle run-over incidents, drowning, poisoning and suicide.

This year, the work of the CDRT also included:

- releasing an issues paper in February 2013 on low speed vehicle run-over fatalities of young children in 2002–2011
- undertaking a planning day in March 2013 to reflect on the current operation of the team and identify key areas of work and systems improvement for the next three years
- contracting the Australian Institute of Health and Welfare to analyse the causes of death of children with a child protection history over a 10-year period, and to provide advice on identifying and reporting Aboriginal and Torres Strait Islander status
- progressing improvements to the data systems that support their work.

Official community visitors

Official community visitors (OCVs) are independent, statutory appointees of the Minister for Disability Services and the Minister for Family and Community Services. There are currently 35 OCVs in NSW who visit a range of residential services for children, young people, and adults with disabilities. They visit disability accommodation such as group homes and large residential centres, as well as OOHC residential services for children and young people and licensed boarding houses.

OCVs monitor the care that is provided in services, raise with services any concerns they have about the quality of that care, and help residents to resolve their complaints. They are not advocates for an individual in the usual sense – even though they are responsible for identifying and raising issues on behalf of an individual or group within a service – nor do they work as independent caseworkers. Their role is to have a broader view about the conduct of the service generally and to consider the interests of all residents.

OCVs need excellent communication, negotiation and diplomatic skills as well as persistence. They must be able to work independently and have good planning and time management skills. They also need to understand the needs of, and issues affecting, the vulnerable people they are visiting and be aware of the standards and expectations of the different sectors.

The nature of the role means that OCVs primarily work alone, although there are occasional joint visits. There are also opportunities for them to meet with other OCVs at meetings, conferences and training days and to have ongoing contact with the OCV team at the Ombudsman's office.

Our OCV team produces an annual report. This provides a detailed description of the work of OCVs during 2011–2012 and some of the positive outcomes they have achieved. The OCV annual report can be accessed at our website.

People with disabilities

Under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA), the NSW Ombudsman has a number of important functions in relation to people with disabilities. These include:

- handling and investigating complaints about disability services
- inquiring into major issues affecting people with disabilities
- reviewing the care, circumstances and deaths of people with disabilities in care
- monitoring, reviewing, and setting standards for the delivery of disability services
- coordinating Official Community Visitors (OCVs) in their visits to supported accommodation and assisted boarding houses.

This chapter outlines the key work of the Ombudsman in relation to these functions during the past year. For more information about our work with OCVs, please see page 94.

Handling and investigating complaints

Under CS-CRAMA, we have a range of responsibilities in relation to complaints involving disability services. For example we investigate complaints, review the causes and patterns of complaints, and provide information and training to improve complaint-handling practices.

For more information about our training work, please see page 114.

Fig. 55: Outcomes of formal complaints finalised in 2012–2013 about agencies providing disability services

Outcome	No.
Complaints resolved after inquiries, including local resolution by the agency concerned	80
Complaints declined after inquiries	24
Complaints declined at outset	14
Referred to agency concerned or other body for investigation	4
Service improvement comments or suggestions to agency	3
Complaints outside jurisdiction	1
Direct investigation	0
Total	126

Fig. 56: Formal and informal matters received in 2012–2013 about agencies providing disability services

Agency category	Formal	Informal	Total	Agency category	Formal	Informal	Total
Community Services				ADHC			
Disability accommodation services	0	1	1	Disability accommodation services	23	27	50
Disability support services	0	2	2	Disability support services	26	44	70
Subtotal	0	3	3	Subtotal	49	71	120
Other government agencies				Non-government funded or licensed services			
Disability accommodation services	1	0	1	Disability accommodation services	49	49	98
Disability support services	3	5	8	Disability support services	24	23	47
Subtotal	4	5	9	Subtotal	73	72	145
General enquiries				Other general enquiries			
Disability support	0	3	3	Other	0	1	1
				Agency unknown	6	14	20
				Outside jurisdiction	1	3	4
				Subtotal	7	18	25
Total					133	172	305

Complaints about disability accommodation services

This year, we received 305 complaints about disability services.

One hundred and fifty of the 305 complaints were about disability accommodation providers – that is, accommodation operated, funded, or licensed by Ageing Disability and Home Care (ADHC).

The main issues reported in these complaints related to:

- Meeting individual needs, including:
 - inadequate progress in identifying and securing permanent accommodation for people with disabilities, particularly those living in mental health facilities
 - the adequacy of support provided to meet individual health care needs – such as support to attend medical appointments, administer medication, and implement the recommendations of health care providers
 - the way in which accommodation placement decisions were made, including the adequacy of consultation with individuals and their families and consideration of resident compatibility.
- Assaults/abuse, including:
 - the actions taken by services to respond to and prevent resident-to-resident assaults, including the adequacy of behaviour management support and steps to address resident incompatibility
 - the unauthorised use of restricted practices
 - the adequacy of services' investigations following serious incidents.
- Service management – mainly the adequacy of staffing levels to ensure appropriate resident care.

Case studies 60, 61, 62 and 63 are examples of some of the complaints we have dealt with about disability accommodation services.

Complaints about disability support services

Disability support services are ADHC-operated and funded services that provide community-based support for people with disabilities. They include Home and Community Care (HACC) services, community participation and day programs, respite care, case management services and drop-in accommodation support.

This year, we received 130 complaints about disability support services. The main issues reported in these complaints were:

- access to services – primarily people being unable to access services due to a lack of available vacancies.
- exiting – disagreements or a lack of clarity about decisions to exit clients from services.
- case management – including case managers not referring people for specialist support and not adequately consulting with clients or family members.
- resourcing issues – services not being able to provide sufficient hours of support to meet individuals' needs.
- communication – mainly related to poor communication about key changes to service provision.

Case studies 64 and 65 are examples of some of the complaints about disability support services that we handled this year.

Improving complaint handling for people with disabilities

We are currently reviewing the way we handle complaints involving people with disabilities. We are keen to explore how we can maximise the involvement of people with disabilities in complaints about their services and supports at all stages of the process. We are also looking at how we can use alternative dispute resolution practices to resolve complaints and improve outcomes for people with disabilities.

This year, we visited the Office of the Disability Services Commissioner (ODSC) in Victoria to learn about their complaints processes and their engagement with people with disabilities and their families. The ODSC has developed best practice methodology and materials in handling complaints about disability services, and has done considerable work examining the involvement of people with disabilities in conciliations. We are keen to learn from their experience and explore options for improving our practices.

We have reviewed a selection of previous complaints involving disability services and assessed the adequacy of our engagement with the person receiving the service, the complaints process and outcomes. We have also developed satisfaction surveys for complainants and service providers to gain valuable feedback on our processes and potential areas for improvement.

Our review will also help us to meet our commitment under the NSW Implementation Plan for the National Disability Strategy to develop and distribute resources for government agencies to improve access to complaint handling for people with disabilities.

Key areas of focus

Strengthening safeguards for people with disabilities

In the past year, there has been considerable progress towards reforming the support available for, and provided to, people with disabilities in NSW and across Australia. In particular, there has been substantial legislative change in relation to the National Disability Insurance Scheme (NDIS), and the NSW boarding house sector, as well as proposed reform of NSW disability legislation.

We have made comprehensive submissions to the NSW and Federal Governments on these proposed legislative and regulatory changes focused primarily on strengthening the safeguards available for people with disabilities who require support.

Reviewing NSW disability legislation

In January this year, the NSW Government began a review of the *Disability Services Act 1993* (DSA). This was to facilitate disability sector reforms – including the shift to person-centred and individualised funding approaches to support people with disabilities in NSW and the introduction of the NDIS.

We saw the review as an opportunity to:

- strengthen the safeguards available for people with disabilities in the new disability support system
- set up a framework for enabling genuine inclusion and full participation in society by people with disability on an equal basis with others.

We emphasised that people with disabilities need to have access to a range of effective safeguards as part of the NSW and national disability sector reforms. People with disabilities ought to be able to access informal and formal safeguards according to their individual needs and circumstances. These should complement, not restrict, their right to control their own lives. We highlighted the need to include provisions in the new NSW disability legislation to:

- introduce a uniform system for reporting complaints
- require complaint resolution to be based on the principles in the new legislation and relevant standards
- institute a strong framework for preventing and effectively responding to abuse, serious neglect and exploitation of people with disabilities – including introducing a system for reporting and overseeing the handling of serious incidents and establishing an exploitation offence
- introduce improved systems for screening people engaged to support people with disabilities
- regulate and effectively oversee the use of restrictive interventions
- enable the use of 'independent persons' to assist and support people with disabilities.

Case studies

60 Providing help to stay in group home

The sister of a 50 year old man in a group home complained to us about the disability service's decision to move him to an aged care facility. The service alleged that her brother was increasingly demonstrating aggressive behaviour due to early onset dementia, and could no longer be adequately looked after in the group home.

The complainant told us that she did not consider an aged care facility to be an appropriate placement for her brother, given his age and level of functioning. She also complained that the service was pressuring her to sign the placement forms, and had told her she could not visit the aged care facility before signing.

We met with the key parties to discuss the complaint issues, and made further inquiries of the disability service and ADHC about the support that had been provided to the complainant's brother to meet his needs. We also organised for an Official Community Visitor to be allocated to visit the group home.

Following our inquiries, ADHC reviewed the group home and the support needs of each of the residents and – as a result – the complainant's brother was able to stay in the group home with additional support.

61 Improving behaviour support

The mother of a man living in a group home complained that staff were using a restricted practice to manage her son's behaviour, without consent or authorisation. We made inquiries with the service and found that staff had sought advice from a behaviour support specialist about the use of the practice, but had been misinformed that the practice was not 'restricted'.

We referred the complaint to the service to resolve directly with the family and report back to us on the outcome. As part of the referral, we suggested that they consider providing additional training to staff on behaviour support and restricted practices.

In response to the complaint, the service reviewed the support provided to people with disabilities at the group home and developed a comprehensive action plan to improve practice. They provided training to group home staff on positive behaviour support, restricted practices, and person-centred planning and assigned a practice support coordinator to provide on-the-job support. They also improved the supervision provided to the behaviour support clinician who had given the initial advice to staff, and is continuing to monitor the practice improvements.

62 Accessing disability accommodation

The sister of a man with a psychiatric disability and acquired brain injury complained to us about the adequacy of ADHC's actions to support her brother. The complainant told us her brother had been living in the mental health unit of his local hospital for six months, despite not having an acute mental illness. She raised concerns about the adequacy of ADHC's actions to secure supported accommodation for her brother and his access to appropriate disability and clinical support – including behaviour intervention

and brain injury services. The complainant advised that her brother had been allocated a funding package, but alleged that it was unsuitable for his needs and was consequently unable to be used.

We facilitated a meeting between ADHC and the complainant to try to resolve the complaint. During the meeting, ADHC agreed to provide appropriate recurrent funding to the complainant's brother and to source interim accommodation for him while searching for a long-term placement. They also agreed to comprehensively assess the man's needs and develop a communication protocol to make sure he had a contact person available when needed.

The complainant recently contacted us again to complain that a number of the agreed actions had not been realised, and her brother was again living in a mental health unit. We are continuing to work with the complainant and ADHC to resolve this complaint.

See page 100 for information about our inquiry and special report to Parliament on the need to improve accommodation and support for people with a psychiatric disability.

The importance of mainstream services and genuine inclusion of people with disabilities

The review of the DSA provides a valuable opportunity to reposition the legislation from its current focus on disability service delivery – which will gradually shift to the NDIS – to providing a framework for promoting the genuine inclusion of people with disability in mainstream services and the broader community. The proposed new legislation also has the potential to help ensure that NSW fulfils its obligations under the UN Convention on the Rights of Persons with Disabilities.

We also noted the important role that the Disability Council of NSW plays in providing critical advice to the government on issues affecting people with disabilities and their families. The review of the DSA provides a useful opportunity to consider whether legislative changes could be made to strengthen and support their role.

Our submission on the review of the DSA is available on our website.

National Disability Insurance Scheme

We made a submission to the Commonwealth Senate Standing Committee on the draft NDIS Bill in January this year. We recommended an increased focus in the legislation on the rights of people with disabilities and enhanced requirements relating to safeguards for participants. In particular, we indicated that the Act would be strengthened by adding clear complaints provisions – including requirements for DisabilityCare (the NDIS agency) and service providers to have complaint processes and protections for people with disabilities who complain. NDIS participants should also have access to an independent oversight body that would deal with complaints and conduct ongoing reviews into the effectiveness of aspects of the NDIS. In our view, it will be important to establish a consistent national approach to safeguards, including complaints.

During the year, we met with representatives of DisabilityCare and ADHC to discuss safeguards for the launch site in the Hunter region and the full national rollout of the scheme. To inform the Federal Government's work in developing an appropriate and rigorous national safeguards framework for the NDIS, we worked with Disability Complaints Commissioners from around Australia to develop a joint position on the minimum safeguards that ought to be in place. The Commissioners considered that, as a minimum, the safeguards under the NDIS should be at least as robust, transparent and procedurally fair as those available in the current disability system.

The commissioners' joint position on the minimum safeguards is broadly consistent with those outlined in our submissions on the review of the DSA and the NDIS Bill. This includes:

- independent oversight – a body or bodies with complaint handling and investigative powers to resolve and investigate complaints, legislative responsibilities to conduct ongoing reviews into the effectiveness of aspects of the NDIS, and responsibility for promoting access to advocacy and supported decision-making.
- safeguards to prevent and effectively respond to abuse, neglect and exploitation of people with disabilities – including development of a comprehensive national framework, requirements to report critical incidents, a consistent national system for screening people engaged to support people with disabilities under the NDIS, and regulation and effective oversight of the use of restrictive interventions.
- Community Visitors – at a minimum Community Visitors should be available to people with disabilities living in residential care funded under the NDIS, given their level of vulnerability.
- public guardian/public advocate – we would also expect that the national system would incorporate the best aspects of the public guardian/public advocate roles, in the context of a person-centred approach.
- disability advisory council(s) – to represent people with disabilities.

We will continue to work with the Commissioners and other key stakeholders to develop a consistent national approach to safeguards under the NDIS.

Under the terms of the intergovernmental agreement for the NDIS launch, the states' existing quality standards and safeguards will continue in the launch sites until replaced by a national framework. The NSW Government has amended CS-CRAMA to enable the NSW Ombudsman's jurisdiction to include the NDIS launch site in the Hunter area including our role in:

- handling and resolving complaints
- monitoring and reviewing the delivery of disability supports
- inquiring into major issues affecting people with disabilities
- reviewing the care, circumstances and deaths of people with disabilities in care, and
- coordinating the Official Community Visitors in their visits to people living in boarding houses and supported accommodation.

Improved support for boarding house residents

For many years, we have highlighted the need for improved support for people in licensed (now known as 'assisted') boarding houses. We have highlighted the significant health concerns of many boarding house residents, and have consistently raised concerns about the adequacy of the conditions and requirements relating to safeguarding residents. In August 2011, we tabled a special report to Parliament on the need for reform of the boarding house sector.

Over the past 12 months, the NSW Government has undertaken significant legislative reform of the boarding house sector, and has introduced the *Boarding Houses Act 2012* and the *Boarding Houses Regulation 2013*. We made comprehensive submissions to ADHC on the drafts of both of these documents. The submissions are available on our website.

We support the proposed improvements to the regulation of the boarding house sector, including the introduction of:

- mandatory registration of all registrable boarding houses
- occupancy rights for all boarding house residents
- provisions that make it easier for the Director-General to remove providers that are exploitative or do not meet minimum standards
- changes to enable residents to obtain help when they need it, including greater staffing requirements, and
- increased requirements to report a broader range of incidents involving residents, including assaults and serious accidents.

Our submission on the draft regulations emphasised the need for ADHC to assist boarding house operators to understand and comply with the requirements, to improve the safeguards relating to the exiting of residents, and to include provisions for probity checks on boarding house staff. Our submission is available on ADHC's boarding house reform webpage.

We welcome the introduction of improved standards and safeguards for boarding house residents, and look forward to seeing the full roll out of the changes across the boarding house sector over the coming months.

Identifying and responding to abuse, neglect and exploitation

We believe there is a pressing need to introduce a system for identifying and responding to abuse, neglect and exploitation of people with disabilities. In March and August 2012, we wrote to ADHC and proposed a system for reporting and overseeing the handling of serious incidents involving people with disabilities.

In September 2012, and in response to allegations of abuse in Victoria, the Minister for Disability Services announced that he had asked the ADHC Chief Executive to consult with our office 'over the adequacy of

Case studies

63 Responding to a serious incident

A mother complained to us about an alleged sexual assault against her adult daughter by a male client of the day program that her daughter was attending. The mother was concerned about the service's response to the allegations. The police did not pursue criminal charges due to a lack of evidence.

We made preliminary inquiries with the service provider and ADHC, and subsequently referred the complaint to the service provider for investigation. However, we were not satisfied with their investigation and had concerns about the support for the alleged victim – as well as the management of the alleged perpetrator. We referred our concerns about the support of the alleged victim to ADHC for local resolution, and our concerns about the support and management of the alleged perpetrator to ADHC for investigation.

Following this, the alleged victim received counselling and appropriate medical care and began to attend a new day program operated by a different provider. ADHC started case management support, reviewed her existing plans and support needs, and provided assistance in locating a new accommodation placement following her move out of the group home.

ADHC also did a comprehensive review of the support needs of the alleged offender – risk management strategies have now been put in place to minimise risks to other clients – and are implementing a number of key actions to resolve systemic issues identified in relation to the service provider. We are continuing to monitor ADHC's actions in relation to this matter.

See page 99 for information about our work to improve the response to serious incidents involving people with disabilities, including police interaction with people with cognitive impairment.

64 Improving disability support for people with psychiatric disability

The mother of a man with intellectual and psychiatric disabilities complained to us that her son had been denied access to ADHC support services on the basis that he did not meet the eligibility criteria. We were told the man had previously received in-home support from Home Care, but that the service had been withdrawn in response to his increasing behaviour needs. The complainant advised that, as a result, her son's social isolation and vulnerability had increased and the state of his home deteriorated to the point of squalor. At the time of the complaint, he was living in a mental health facility.

We made inquiries of ADHC about the complaint, including why the man was no longer considered to be eligible for disability support. We then referred the matter to ADHC for direct resolution with the complainant, and asked them to provide advice to us about the outcome.

ADHC reviewed their decision and determined that the man was eligible for disability support services. They referred him for case management, included him on the register for supported accommodation, and began liaising with mental health staff about transition planning. ADHC also identified that there had been inadequate communication between Home Care and the local ADHC community support team about the termination of the man's in-home support service and his subsequent vulnerability. As a result, ADHC convened a meeting between Home Care and community support team managers to discuss how communication and information sharing could be improved for both current and future clients.

background checks and the procedures to investigate allegations of sexual and physical abuse of people with disability by carers in NSW.' The Minister also acknowledged the calls of the Disability Discrimination Commissioner for a national approach on the issue, particularly in light of the NDIS.

ADHC subsequently commissioned KPMG to review the processes in place to prevent and respond to abuse and neglect of people with disabilities. We met with ADHC and KPMG to provide input to the review, including our proposals for a serious incident reporting and oversight system.

In January, ADHC released the review report. It recommended the development of a comprehensive safeguarding framework across all disability support services by the end of 2013. The report also identified key issues that ought to be considered as part of the review of the DSA – including establishing mechanisms for reporting, independent review and monitoring of serious incidents.

We are continuing to discuss this issue with ADHC, including the agency's progress towards implementing the report's recommendations.

Improving police responses to people with cognitive impairment

The National Disability Strategy 2010–2020 aims to ensure that people with disabilities have equal participation in all areas of life, including access to justice. A key action identified in the strategy for 2012–2014 is developing guidelines for officers of the NSW Police Force (NSWPF) when working with suspects or offenders with a cognitive impairment.

This year we met with the NSWPF about improving police interactions with and responses to victims, witnesses and alleged offenders with a cognitive impairment. We had initial discussions with police and the Disability Discrimination Commissioner about the potential benefits of establishing a disability response unit within the

NSWPF that would provide ongoing education and practical advice to officers engaging with people with cognitive impairment.

We have also talked to the Intellectual Disability Rights Service and other key stakeholders about constructive options for achieving improvements in this area.

Improving accommodation and support for people with psychiatric disability

In November 2012, we tabled a special report to Parliament on *Denial of Rights: the need to improve accommodation and support for people with psychiatric disability*. The report followed our inquiry into the access of people in mental health facilities to disability services and support under the DSA.

Our inquiry showed that many people are staying in mental health facilities beyond the point at which they need to be there. This is due to a lack of appropriate accommodation and support in the community. This adversely affects those in this situation, as well as reducing the capacity of mental health facilities to admit and retain people who are acutely unwell and require intensive clinical and rehabilitation services.

We identified the need for an increased supply and variety of supported accommodation options that could offer between 16 to 24 hours of support per day, and found that a significant barrier to people with mental illness accessing disability supported accommodation was an ADHC policy that excluded people with a primary diagnosis of mental illness from the majority of supported accommodation options funded under the DSA. The policy, in effect, excluded people from their rights under NSW disability legislation.

Health and ADHC need to work together to resolve this issue and provide appropriate support for people with psychiatric disability. The disability sector reforms in NSW

and the planning for the NDIS provide an ideal opportunity for this interagency collaboration to occur as part of a more person-centred approach.

As well as stressing the importance of ADHC and Health developing a joint strategy to provide appropriate support to people with psychiatric disability, the recommendations in our report were also targeted at ensuring that:

- people with a primary diagnosis of mental illness and a disability will no longer be excluded from disability accommodation and support
- decisions about eligibility for disability accommodation and support will be based on assessment of functional need, not primary diagnosis
- people in mental health facilities who could be discharged with appropriate community accommodation and support are identified, and a staged plan developed to transition them out of hospital
- people with psychiatric disability and their representatives are included in disability sector consultations and planning under Stronger Together (particularly person-centred and individualised funding approaches)
- discharge–planning practice in mental health facilities is in line with relevant policy and legislation, and supported by appropriate training and guidance for staff

- beds in rehabilitation and community residential services for mental health patients are used for their intended purpose and achieve their intended objectives.

The Department of Premier and Cabinet is coordinating a joint response to our recommendations. We will continue to monitor progress in overcoming the longstanding issues we have identified.

Preventing deaths of people with disabilities in care

Under CS–CRAMA, we are responsible for reviewing the deaths of people in, or temporarily absent from, disability accommodation services and assisted boarding houses. We focus on identifying procedural, practice and systems issues that may contribute to deaths, or that may affect the safety and wellbeing of people with disabilities in care. Our aim is to recommend relevant changes or strategies to reduce preventable deaths.

Biennial report on our reviews of deaths

In May 2013, we tabled our seventh report in Parliament on the deaths of people with disabilities in care. It concerned the deaths of 220 people in 2010 and 2011, including 195 people in ADHC-operated and funded disability accommodation services and 25 people in licensed boarding houses.

Involvement in the Stepping Into program

Our office took part in the Stepping Into program for the first time this year. This is a national initiative coordinated by the Australian Network on Disability, which is an intern program for university students with disability.

We received a number of applications for the Stepping Into position with our office. The successful student was with us for four weeks, and worked in our public administration division.

The student completed some work for our public interest disclosures unit and brought a great amount of enthusiasm, passion, intelligence and skill to his work.

We feel this is a very worthwhile project, and will look to taking part again in the future.

'From my first day I was warmly welcomed into the team and was given engaging and challenging projects to work on straight away. My supervisors were very encouraging and were open with their feedback, which allowed me to develop myself and also feel valued when I had produced good work.'

Stepping Into program student

'One of the best parts about interning with the NSW Ombudsman was the friendly and supportive culture that is present throughout the organisation. Everyone, regardless of their position, was accessible and available to me if I needed advice or support. It was great to be able to be in such close contact with the Deputy Ombudsman of PAD as it allowed me to feel connected with the bigger picture of what I was working on.'

Stepping Into program student

Case studies

65 Changing services without consultation

A woman with a physical disability complained that Home Care had changed the time of her service without consulting her. She advised that her night service, which assisted her to go to bed, had previously been provided at 9.30–10pm each night – but the time had been changed to 9pm. We were told that this unfairly restricted her ability to socialise with friends. She also reported that the time change had an adverse effect on her physical health as she was now in bed for 11 hours every night, was unable to reposition herself, and this placed her at risk of developing pressure sores.

We asked Home Care about the reasons for the decision to change the time and how this aligned with relevant policies, and then referred the matter for local resolution.

The service met with the complainant and apologised for the lack of consultation before the change in service. As the service did not have available staff to meet the times that suited the complainant, both parties agreed the service would be subcontracted to an agency that could fulfil the request. The complainant was pleased with this outcome.

Our reviews highlighted the importance of:

- services responding adequately to an incident or 'close call' to prevent or reduce the chances of that event happening again – including choking on food and pedestrian incidents
- staff being alert to health changes and seeking medical assistance without delay
- comprehensive and multidisciplinary reviews of people with complex or increasing support needs
- improved care coordination between health and disability services to support people with disabilities in their contact with health services, both in hospital and the community
- people with disabilities in care being linked in to preventative health support to reduce multiple health risks related to smoking, obesity, poor diet and insufficient physical activity.

The report included recommendations to ADHC, Health and the Department of Education and Communities aimed at addressing these issues, improving the health outcomes of people with disabilities in care, and reducing preventable deaths.

Communicating the findings from our reviews

Our reviews have shown that direct-care staff, their managers and general practitioners (GPs) play a crucial role in helping people with disabilities to improve their health and prevent avoidable deaths. However, the information in our biennial reports does not always reach the people in these vital support roles.

This year, we have produced a set of fact sheets for support staff and managers in disability accommodation services (fact sheet 1), staff working with boarding house residents (fact sheet 2), and GPs (fact sheet 3). We have also produced factsheets on key risk factors for people with disabilities – including breathing, swallowing and choking risks (fact sheet 4), and smoking, obesity and other lifestyle risks (fact sheet 5).

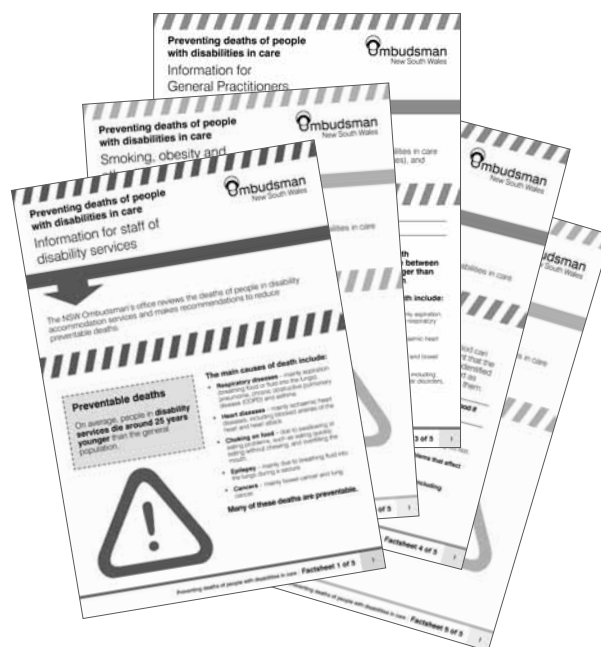
The fact sheets include information about the main causes of death, the key risk factors for people with disabilities in care, and the steps staff and GPs should take to help individuals improve their health and reduce preventable deaths.

We are working with ADHC, National Disability Services (NDS) and other key stakeholders to disseminate, promote and reinforce this information and develop strategies to assess the take-up of the key messages at the 'coal-face'. All the fact sheets are available on our website.

Improving health outcomes for people with disabilities

Our work has shown us it is vital for disability and health services to work effectively together to support the access of people with disabilities to health services and programs and reduce key health risks that are associated with preventable deaths.

In our last report we indicated we would seek to meet with ADHC and Health to discuss these issues – including the disability sector reforms and the NSW Service Framework. We are also in the process of organising a roundtable meeting with ADHC, Health and key stakeholders – focused on improving health outcomes for people with disabilities.



Working with Aboriginal communities

Our work with Aboriginal communities involves identifying practical strategies to tackle major issues that affect the health and wellbeing of Aboriginal people – particularly in areas such as child protection, policing, out-of-home care, access to disability support and other critical services. We review the efficiency and effectiveness of service delivery to some of the most disadvantaged locations in NSW, and recommend ways that government can work with communities on the reforms needed to deliver real improvements. We also handle direct inquiries and complaints to our office about a diverse range of issues affecting individual Aboriginal people and their communities.

In this section

Working with Aboriginal communities 105



Highlights

- Reported on the findings of our three-year audit of the NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities, and provided substantial follow up advice to government about implementing our recommendations (see page 105)
- Worked with Aboriginal communities across the state to help them develop sustainable local solutions to service barriers in partnership with government and non-government organisations, and to monitor the implementation of initiatives (see page 106)
- Provided ongoing support to the Aboriginal out-of-home care (OOHC) sector as it assumes significantly greater responsibilities as a result of the transfer of most OOHC placements from Community Services to the non-government sector (see page 109)

Stakeholder engagement

Building and maintaining strong, positive relationships with Aboriginal communities, leaders and peak bodies is essential to our work. We visit communities regularly and have a detailed, practical knowledge of local issues and challenges. We are approached by community members and leaders for assistance with resolving concerns. Agencies providing services to Aboriginal communities also ask for our advice on local and systemic issues. This year we visited 15 locations across the state to meet with Aboriginal community members, local agencies and service providers.

Members of our Aboriginal Unit joined staff from our custodial services unit to make 11 visits to juvenile justice centres in NSW this year (see page 60 – Custodial services). Having staff from our Aboriginal Unit on these visits is particularly valuable given that, on an average day, around half of the young people in detention in NSW are Aboriginal. For the first time this year, we also participated in the annual expo held at Cobham Juvenile Justice Centre – attended by a range of government agencies and service providers. The expo gave us the opportunity to talk with 85 young people about our role and their rights.

In 2012–2013, we:

- participated in a stakeholder roundtable on the development of a new regulatory framework for the *Aboriginal Land Rights Act 1983*.
- briefed members of the Secretariat for the Independent Local Government Review Panel about our work, particularly in relation to improving service delivery in rural and remote communities.
- met with former Corrective Services commissioner, Mr Ron Woodham as part of his current review of early prevention and intervention approaches to stop Aboriginal young people from becoming involved in the criminal justice system.
- provided advice to the Healing Foundation, an independent Indigenous organisation that funds and supports Indigenous healing programs, education and research around Australia.

Getting out and talking about our work

This year, we were invited to speak about our work with Aboriginal communities in a variety of settings. For example, we:

- gave presentations to Women's Legal Services NSW, students at the Badanami Centre for Indigenous Education (University of Western Sydney), and the annual conference of the NSW Aboriginal Legal Service.
- spoke about our work on addressing Aboriginal disadvantage, and our audit of the Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities, to a number of groups – including a National Yarn Up about young people and sexual abuse convened by NSW Health, the Inner West Aboriginal Child and Family Network, Catholic Care, and the NSW Police Force's Northern Regional Aboriginal Advisory Committee.
- visited Box Ridge Aboriginal Reserve and attended a series of child protection workshops – organised by the Ngunya Jarjum Aboriginal and Child Family Network for Aboriginal community members in Coraki – to speak about our work to improve outcomes for Aboriginal children, young people and their families.
- met with representatives of Walgett AMS, the Walgett Community Working Party and the Dharriwaa Elders Group to discuss concerns about the implementation of the Remote Service Delivery program, and escalated these to the federal Department of Families, Housing, Community Services and Indigenous Affairs.

For the third consecutive year, we also attended the NSW Aboriginal Rugby League Knock Out Carnival and provided match balls for the event for the second year running.

Working with Aboriginal communities

Handling complaints

We receive inquiries and complaints from Aboriginal people about a diverse range of issues affecting both individuals and their communities. Some people contact our office directly, but our visits to meet with community members, agencies and service providers across the state provide an important avenue for others to come forward with their concerns. Our presence in these communities over a number of years has helped to build the trust and rapport needed for people to confidently approach us, particularly about very sensitive issues such as child protection. Case studies 66 to 73 are examples of some of the complaints we have dealt with in 2012–2013.

Key areas of focus

Our key focus this year was completing our audit of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities* – a significant undertaking over the past three years – and continuing to work with a number of rural and remote Aboriginal communities to identify and implement solutions to structural and systemic problems that they had identified as undermining their capacity to overcome disadvantage.

Responding to child sexual assault in Aboriginal communities

On 31 January 2013, we tabled our fourth and final report in Parliament on our three year audit of the implementation of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*.

Our final report found that, while the reporting of child sexual abuse in Aboriginal communities rose strongly over the five years of the Interagency Plan – suggesting an increased willingness to disclose child sexual abuse overall – there was little evidence of improvements in the social and economic conditions needed for Aboriginal

communities to effectively respond to child sexual abuse and its underlying causes.

Critically, we found that the capacity and effectiveness of frontline services to respond to child sexual abuse, particularly in rural and remote locations with significant Aboriginal populations, remains limited. Compared to the rest of the state, these locations have high vacancy rates for child protection positions and much lower response rates to reported child sexual abuse.

In addition to ongoing shortages within Community Services, NSW Health's sexual assault services are unable to meet the current demand for counselling for all child victims in high-need locations. Child victims in rural and remote communities are also still being required to travel unacceptable distances to be examined by a paediatrician, despite the expenditure of \$5 million to solve this problem. The Joint Investigative Response Team (JIRT) – the multi-agency unit for responding to child sexual abuse – also faces serious statewide resourcing challenges. We carried out a detailed review of the JIRT and launched a separate inquiry into the Child Abuse Squad – the policing arm of the JIRT – at the same time as our audit (see case study 74).

Our recommendations

The 93 recommendations in our report focused on what is needed to improve systems and services to respond to Aboriginal child sexual abuse specifically (and child sexual abuse more generally), as well as to address the broad disadvantage that characterises Aboriginal communities. Addressing this disadvantage in an effective and sustainable way is critical to achieving progress in addressing child sexual abuse.

While identifying the need for targeted spending in priority areas, we emphasised that strong governance and accountability – rather than the injection of additional

Case studies

66 Facilitating Aboriginal control of cultural and historical records

The Dhiyaan collection was established in 1995 as part of the Moree Plains Shire Council Library. It has grown to become one of the largest Aboriginal culture and history collections in Australia.

Dhiyaan helps Aboriginal people learn about their family history and reconnects them with family members who are still alive. In doing so, it makes a significant contribution to the physical, mental and spiritual wellbeing of local Aboriginal people and the wider Aboriginal community.

In light of the cultural significance of the collection, a group of local Aboriginal people proposed that the Dhiyaan Aboriginal Centre should become a separate entity – independent of the council library. Arts NSW funded consultations to determine the best way to achieve this. The report from those consultations recommended a staged transition whereby Dhiyaan would become an independently constituted organisation, governed by an Aboriginal-controlled board.

Sometime later, Aboriginal people behind the proposal approached us with concerns that the process had stalled. They were worried the transition might not proceed. In October 2012, we convened a meeting between members of the Moree Aboriginal Elders Group, Moree Aboriginal Land Council, Walgett Aboriginal Community Working Party and Dharriwaa Elders Group, Moree Plains Shire Council, Arts NSW and the State Library of NSW.

At the meeting, the State Library and the Moree Plains Shire Council agreed to facilitate the staged transition. An interim steering committee with Aboriginal community representation was established to oversee the process, and the State Library and local council committed to preparing a transition agreement outlining key tasks and clear timeframes. Since then, the NSW Government has announced a \$200,000 Arts NSW grant to fund the appointment of a director to guide Dhiyaan through the transition and develop future collections. The State Library agreed to administer the grant and to

funds alone – are crucial to the future delivery of efficient and responsive services. Some of our recommendations aimed at achieving this included implementing a strategy for delivering effective place-based service delivery within a number of high-need communities, establishing an Aboriginal advisory council to provide independent, evidence-based advice to government on the results of major Aboriginal initiatives, and improving reporting on a range of Aboriginal health/wellbeing and related service provision indicators – including school attendance and suspension rates.

The government's response

The response by government to our audit and its recommendations so far has been positive. A group of senior executives from across the public service have been brought together to examine the issues raised in the audit. The group is working with a separate team of Aboriginal and non-Aboriginal people with expertise across a range of areas including community work, economic development and business, governance and management, service delivery and clinical issues. The work of both groups will inform the government's response to our recommendations and the broader systemic issues raised in the audit and preceding interim reports.

We have met with relevant ministers and agency senior executives to provide additional advice and, since we completed our audit, the NSW Government has released *OCHRE* – its new plan for Aboriginal affairs. The plan commits to greater transparency and accountability in how programs and services to Aboriginal people are designed and delivered, with specific reference to the observations and recommendations in our interim and final audit reports on the Interagency Plan.

OCHRE's initiatives include a stronger decision-making and oversight role for Aboriginal communities, the appointment of independent advisors to government, and the creation of a high level role within government to broker cross-agency solutions. The government has

committed to preparing an Aboriginal economic development framework for NSW and rolling out Connected Communities – a new approach to improving educational outcomes for Aboriginal students – in 15 high-need locations. Both of these initiatives reflect recommendations in our 2011 report *Addressing Aboriginal disadvantage: the need to do things differently*.

While OCHRE's strong focus on improved accountability is encouraging, its success will depend on the effectiveness of its implementation. In our discussions with agencies, we have emphasised the importance of linking the various initiatives and accountability structures in the plan with other key human services and justice initiatives relevant to addressing Aboriginal disadvantage and improving services in Aboriginal communities. It is not yet clear how OCHRE'S initiatives will be implemented in the context of any broader place-based service delivery and funding strategy implemented by government – we have been publicly recommending the adoption of such a strategy for some time.

Acting on community concerns

Last year we reported on several agreed outcomes of meetings we facilitated in April 2012 with senior representatives of state and federal human service and justice agencies in Bourke and Brewarrina to discuss progress since the release of our 2010 report on service provision to these communities.

Agencies agreed to undertake a service mapping and 'whole of community' planning exercise for each town to:

- address service inefficiencies
- develop a single governance framework for existing and new initiatives
- implement a coordinated plan of action for addressing priorities identified by each community.

The Department of Family and Community Services (FACS) also agreed to consider supporting the Bourke community working party's (CWP) Maranguka proposal for creating a community-driven family case management and support team, once it had been more fully developed. Aboriginal Affairs offered to help the CWP with this further development.

There has been a considerable delay involved in agencies meeting the commitments they made, particularly in relation to progressing the Maranguka proposal. However, Aboriginal Affairs has now funded a consultant to work with the Bourke CWP to develop a proposal that is currently being considered. We met with community leaders in Bourke in July this year and they were pleased to report that a draft proposal has now been prepared which is currently being considered by members of the Bourke CWP. The proposal will be provided to FACS and other agencies, such as the Department of Premier and Cabinet, for their consideration shortly.

In April, FACS convened an all-day workshop in Bourke to discuss the work done on service mapping, prepare an annual 'community report card' on service provision by FACS, and develop a service level agreement between FACS and the Bourke CWP. The meeting was chaired by the Chief Executive of Housing NSW – who holds the service improvement portfolio for FACS – and attended by the Chairs of the Bourke CWP and Murdi Paaki Regional Assembly, the Human Rights Social Justice Commissioner, and senior FACS representatives.

At the workshop, we provided feedback on the draft service level agreement between FACS and the CWP. This agreement sets out the respective roles and responsibilities of both parties in improving service delivery and outcomes for Aboriginal people living in Bourke. It is supported by an annual 'community report card' – a living document aimed at achieving better transparency and accountability by providing detailed information about the demand and supply of services funded or directly provided by FACS (including housing

and tenancy support, early intervention and child protection services and disability support and home care services) to the local community. FACS' District Director (Western NSW) will be responsible for attending quarterly meetings of the Bourke CWP to report on progress against the quantitative and qualitative outcomes set out in the report card.

We also provided feedback about the report card – including that further details needed to be added about the take-up and outcomes of services provided in the township and the associated expenditure for specific programs and initiatives. In addition, we indicated that community leaders should be given information about the response rates to child protection reports – as the limited capacity to respond to children at risk has been a longstanding concern for the Bourke (and Brewarrina) communities.

Strengthening relationships between police and Aboriginal communities

This year we were asked by the NSWPF to provide feedback on their new Aboriginal Strategic Direction (ASD), which was released towards the end of 2012. The ASD is a detailed plan over five years that provides the strategic framework for a partnership approach to working and improving relationships with Aboriginal communities.

In 2005, we reported to Parliament on the findings of our two-year audit of the NSWPF's first Aboriginal Strategic Direction (ASD). Since then, we have continued to monitor the way police work with Aboriginal communities and to participate as a member of the Police Aboriginal Strategic Advisory Committee (PASAC) chaired by the Commissioner of Police.

We suggested to the NSWPF that the ASD could be strengthened by linking its implementation to the Command Performance Accountability System (COMPASS) – the application used by police commands to report on key performance indicators. We will monitor the implementation of the new ASD through the PASAC

Case studies

provide other supports to Dhiyaan during the transition, including specialised assistance in maintaining the collection.

Recruitment for the director position is now underway – and we will continue to monitor the progress of the transition and work with the Aboriginal community and other stakeholders to ensure it is successful.

67 Acting on concerns about a service provider

We received a complaint raising a number of concerns about an Aboriginal organisation providing community services – including that the organisation had misused and misapplied funds, not disclosed conflicts of interest, and threatened detrimental action against employees. We referred the complaint to Community Services, the funding agency, for investigation. As a first step, Community Services have engaged an independent third party to conduct an audit of the organisation. We are closely monitoring their investigation.

68 Responding to concerns about child safety

We were contacted by family and community members concerned about the risk of sexual harm to a number of local Aboriginal children. We brought the matter to the attention of Community Services – and they participated in a joint operation with the NSWPF and NSW Health in relation to the allegations. A number of children were identified as requiring counselling and other support and this was arranged. The NSWPF also charged an alleged offender with sexual offences as a result of a separate but related disclosure to the Child Abuse Squad. Community Services are continuing to work with the children and their families, and the operation is ongoing.

We have highlighted to Community Services the importance of:

- having established processes by which child safety concerns reported by family and community members are considered as part of decision making about children's care arrangements
- providing appropriate feedback to reporters about how their concerns have been responded to.

69 Strengthening relationships between an Aboriginal community and police

An Aboriginal legal service (ALS) made multiple complaints about police harassment, inappropriate searches, and excessive use of force in a regional town. We met with the ALS to discuss their complaints. They put forward a number of practical suggestions about how police could improve their relationship with the local Aboriginal community. These included re-establishing local arrangements for ensuring young people are appropriately referred to legal advice, providing police with more training about cultural awareness and mental health, and rescheduling the quarterly Police Aboriginal Consultative Committee meetings to enable more community members and ALS representatives to attend. We spoke to the police local area commander who agreed that the recommendations were reasonable and practical and committed to implementing them.

70 Assisting a young person to continue his education

An Aboriginal mother asked us for help after her son was expelled from school for bad behaviour. She was concerned that no suitable alternatives had been proposed and, as a result, he was at home and disengaged from learning. Following our inquiries, the Department of Education and Communities arranged supports for the student – including enrolling him in a pre-apprenticeship course at the local TAFE. The boy has responded well and is now making good progress in his studies.

71 Helping a family find urgently needed housing

An Aboriginal family health worker contacted us on behalf of a mother and her four children who were living in a single room above a hotel. At the time, one of the children had been suspended from school for bad behaviour, and another had been hospitalised for self-harm. The family health worker believed that

and our ongoing work on strengthening community safety and wellbeing in Aboriginal communities. Case study 75 is a good example of this work.

Providing access to legal advice

As soon as an Aboriginal person is taken into custody for police to use their investigation and questioning powers under Part 9 of the *Law Enforcement (Powers and Responsibilities) Act* (LEPRA), police are legislatively required to notify the Aboriginal Legal Service (ALS).

Over the past two years, the ALS have complained to us about the alleged failure of police at five separate police local area commands to notify them after bringing an Aboriginal person into custody.

In response to the complaints, only two of the local area commands made sustained findings against the police officers concerned. The remaining commands declined to make sustained findings on the basis that police were only legally obligated to notify the ALS when taking Aboriginal people into custody to exercise investigation and questioning powers. In the cases raised by the ALS, each Aboriginal person had been brought into custody for reasons not covered by Part 9 of LEPRA – such as executing a warrant, making an arrest for breach of bail, and serving an apprehended violence order.

While we accepted that police have a limited legal obligation, we noted the NSWPF's Education and Training Command instructs custody managers that it is good practice for police to notify ALS whenever an Aboriginal person is taken into custody – even if the reason for doing so is not covered by Part 9 of LEPRA. This practice is also consistent with the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

In response, one of the local area commanders advised us that he had re-considered his position and would be directing his officers accordingly. Another local area command also re-considered their position and advised us

that they would 'strongly consider' changing their notification practice. However, they appeared reluctant to act without clear corporate direction from the NSWPF on the issue.

The ALS has raised this issue at a corporate level through PASAC, and we have separately advised the NSWPF of our view that a clear and consistent policy needs to be communicated to police across the state. We will continue to monitor this issue through our role on PASAC.

Helping young offenders

Last year we reported that the NSWPF, Legal Aid NSW and the ALS were in the process of implementing the outcomes of an April 2011 roundtable that we hosted to discuss whether young Aboriginal offenders are given appropriate access to diversions under the *Young Offenders Act 1997*, and whether procedures for referring young offenders to legal services are effective and being used. Although some positive initial steps were taken, progress has since stalled. We met with the NSWPF to outline our concerns, emphasising the importance of resolving several outstanding issues. One way forward may be to link the use of diversionary options/referrals to the implementation of COMPASS. We will continue to work with the NSWPF on this issue.

Improving service delivery to Aboriginal people with a disability

Over the past two years, Ageing, Disability and Home Care (ADHC) have made significant progress in implementing the recommendations of our 2010 report *Improving service delivery to Aboriginal people with a disability*. This has included:

- establishing an Aboriginal Advisory Committee
- developing and launching the Aboriginal Cultural Inclusion Framework 2011–2015
- increasing the number of Aboriginal employees
- improving access to flexible services
- publicly reporting on Aboriginal service usage.

This is the second year each ADHC region in NSW has developed an Aboriginal cultural inclusion strategy, and an action plan to improve access to services for Aboriginal people. ADHC's Aboriginal Advisory Committee has provided feedback to each region, and noted an improvement in the quality of the regional plans from the previous year. During the year, we were also asked to provide four Aboriginal cultural competency training sessions to more than 100 ADHC employees, including members of the senior executive, and provide feedback to ADHC on their Consultation and Engagement Toolkit.

In our meetings with ADHC's Aboriginal Advisory Committee, we have been particularly interested to discuss how ADHC plans to continue meeting the individual and distinct needs of their Aboriginal clients in the context of the broad-ranging reforms – resulting from the implementation of ADHC's person-centred system of service delivery and the roll out of DisabilityCare Australia. The committee has told us that they will continue to play an important role in providing advice about the design and implementation of service models for Aboriginal people.

During the year, we participated in the National Disability Insurance Scheme consultations facilitated by KPMG to help inform how DisabilityCare Australia can best support Aboriginal people with a disability and their communities. We will continue to actively monitor ADHC's work to improve service delivery to Aboriginal communities throughout this period of major reform.

Supporting Aboriginal out-of-home care services

Last year, we decided to temporarily defer completing our review of Aboriginal out-of-home care (OOHC) services until the planned transition of responsibility for the care of children in foster or authorised kinship care from the government to non-government sector had been sufficiently progressed. In June 2012 we restarted our review. Our aim is to support services to improve the way they handle complaints and meet their legislative child protection obligations.

We have now reviewed five services, with two reviews completed in 2012–2013. Case study 76 shows the positive outcomes achieved through our audit of one service.

During the year we have continued to work with AbSec – the peak body for providing child protection and OOHC policy advice to the government and non-government sector on issues affecting Aboriginal families – to support their member agencies to develop better systems and processes to prevent and investigate child-related allegations against employees. We are also working with AbSec to implement a broader training program for Aboriginal OOHC agencies.

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the family had been on the Housing NSW priority list for some years, but were yet to be offered a home. We contacted Housing NSW who told us they were unaware of the family's current circumstances. The family was reassessed as needing urgent priority housing and offered a new home close to their extended family.

72 Supporting a vulnerable family

An Aboriginal grandmother contacted us concerned that her grandchildren were living with their father in a garage. She was worried that the living arrangements, along with the capacity of their father to look after them, posed a risk to the children. One of the children was not attending school, and was known to police and other agencies as a result of her criminal offending. After our inquiries with Community Services, the family was referred to an Intensive Family Support Service for assistance. The service has provided a range of supports to the family – including arranging a parenting course for

the father and relocating the family to a new home. The family is now settled in their new home and the children are regularly attending school.

73 Dealing with a debt

During a visit to a regional town, an Aboriginal woman approached us about a debt that her nephew had incurred with the State Debt Recovery Office (SDRO). He was in gaol and was not expected to be released for several months. The woman had been making payments on her nephew's behalf, but was unable to continue to do so and had been advised that the debt had been referred to a collection agency. We contacted the SDRO and they agreed to suspend the fine until the nephew's expected release date. The SDRO also removed a block that would have prevented him from applying for a licence or vehicle registration after his discharge.

74 Reviewing the JIRT

The Joint Investigative Response Team (JIRT) aims to provide an interagency response to allegations of child sexual assault and serious cases of child abuse and neglect. Cases are jointly investigated by the NSW Police Force (NSWPF) and Community Services, with support from NSW Health. We closely examined the operation of the JIRT as part of our audit of the Interagency Plan. In response to a separate complaint, we also initiated an inquiry into the NSWPF's Child Abuse Squad.

We identified a range of issues that have hampered the effectiveness of the JIRT. Most stem from chronic staffing shortages across the JIRT partnership and the need to strengthen accountability, data collection and case management systems for monitoring and reporting on JIRT outcomes.

The trial of the JIRT Referral Unit (JRU) – started in 2008 – and a protocol aimed at enhancing JIRT services to Aboriginal children and young people introduced in May 2010 have led to a significant increase in accepted referrals, particularly involving Aboriginal children.

However, there has been no corresponding increase in resources. Resourcing problems have impacted on core practice issues which go to the heart of the JIRT partnership – for example, the ability of NSWPF and Community Services workers to meet their commitment to jointly interview children and to conduct local planning and response briefing and debriefing meetings for individual cases.

Our audit highlighted significant performance variance across the JIRTs in areas, such as child interview and arrest rates. The NSWPF has acknowledged the significant performance challenges it faces, and a review of the operation of the Child Abuse Squad is underway. Since any improvements to the productivity and resourcing of the Child Abuse Squad will inevitably place a greater resource burden on JIRT interagency partners, we also recommended a comprehensive review of the entire JIRT program. In addition, we recommended that the NSW Government commit to permanently fund the JRU and the temporary JIRT located in Bourke – one of the most remote and disadvantaged Aboriginal communities in the state.

Case studies

We have met on a number of occasions with the JIRT statewide management group, and senior members of the Child Abuse Squad, to discuss the practice issues we identified through our JIRT review and to ensure these are considered as part of the review of the Child Abuse Squad. We are continuing to work with the NSWPF and the other JIRT partners and will closely monitor the implementation of our recommendations.

75 Supporting a partnership approach to community safety

A police local area command in a regional area contacted us to discuss how they could better support the local Aboriginal community to prevent and respond to criminal and antisocial behaviour. We emphasised that for people to feel confident about taking a leadership stand in their communities and reporting their concerns they needed to:

- have positive relationships with police and other key service providers
- know that they will receive an adequate response when they speak up.

We highlighted the importance of a coordinated, interagency approach to relationship building in addressing community safety issues.

We went with police to meet with the Local Aboriginal Land Council and other community members to discuss the current concerns and priorities for the community. A key issue identified was how best to ensure that children and young people are regularly attending school, including looking at alternatives to suspension. The community reported that there was a strong link between antisocial behaviour and young people's disengagement from school and employment.

We facilitated a second meeting which was also attended by representatives from the Department of Education and Communities (DEC) and Community Services. The NSWPF, DEC and Community Services have committed to jointly examine their information holdings about high-risk families in the community, and to consider how they can better work together to support these families. The police local area command is also organising a community day and have secured funding to run PCYC programs during the school holidays.

76 Helping an OOHC agency to improve service delivery

Our audit of an OOHC service in regional NSW identified that – although their policies and procedures were generally well structured and thorough – most were well overdue for review. In response to our recommendations, the service has since updated a number of critical documents.

As a follow up to the audit, we also helped the service to improve their capacity to respond to child protection allegations by providing training for their staff. The Deputy Ombudsman/Community Services and Disability Services Commissioner, and staff from our Aboriginal Unit delivered a tailored two-day workshop – which included presentations by local police and Community Services staff.

After the workshop, we arranged a meeting between the service, local police, and police attached to the area's JIRT. We committed to approach police about developing an agreement that outlines how the two agencies will work together when an employment-related child protection allegation is made about one of their staff, and where disclosures of child sexual abuse are made to carers by children in their care which need to be referred to police for investigation.

We have also assisted the service to handle a complex set of allegations – which involve concurrent tribunal proceedings and the need to manage the risks associated with the current placement.

Community education and training

Our role in monitoring, overseeing and receiving complaints about a diverse range of government and non-government service providers gives us a unique insight into the challenges they face, as well as a strong understanding of how they can better meet their responsibilities. Our education and training program aims to help agencies and organisations to improve their administrative conduct, decision-making and standards of service delivery. It also provides consumers of community services, their families, carers and advocates with information and strategies about their rights and how to resolve problems when they occur.

We run the largest education and training program of any Australian parliamentary Ombudsman and lead the way in developing tailored, responsive training packages for both government and non-government sectors.

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Highlights

- Successfully delivered 194 training workshops to 4,251 people (see page 113)
- Developed three new workshops – *Working with Aboriginal communities*, *Administrative law in the public sector* and *Effective complaint management in the public sector* (see pages 114, 113-114)
- Presented our *Managing unreasonable complainant conduct training* in Canada, the United States and New Zealand (see page 113)
- Began a project to update our consumer training package, *The Rights Stuff*, to be more directly relevant to people with intellectual disability (see page 116)

Stakeholder engagement

Designing and delivering our education and training program sees us interact with a wide range of organisations and people – including public sector agencies at the local, state and federal levels, non-government organisations, private companies that provide education and care services, community groups and other oversight bodies in Australia and overseas. We also come into contact with many members of the public who receive services from these organisations.

Our ongoing liaison with a range of stakeholders enables us to develop and provide relevant, topical and up-to-date education and training materials. Participants in our training workshops also often provide us with information about ongoing and emerging issues facing their organisations, as well as their experience of interacting with our office. We aim to ensure that, whenever appropriate, the feedback we receive is used to enhance our own systems and processes – as well as to inform our education and training program.

Our work with others - Developing tailored training solutions

In response to a request from the Department of Veterans Affairs (DVA), we developed a tailored frontline complaint-handling workshop. Our workshop was designed to fit into a broader service improvement initiative of DVA NSW/ACT to provide enhanced services for veterans and their families.

We worked with the Deputy Commissioner, DVA NSW/ACT and other key staff involved in complaint-handling to understand service issues and complaints raised by veterans and the processes in place for responding to them. We used this information to design the workshop – incorporating DVA's policies, procedures and practices and developing role play exercises based on DVA case studies.

Fifty eight Sydney-based DVA staff participated in the training. They rated our workshop as outstanding, commenting that it provided a very sound basis for improving their communication and relationships with veterans and enhanced their ability to handle difficult situations. All participants agreed that they could implement what they learnt in the workplace, and 97 percent said they would recommend the training to others.

The Deputy Commissioner, DVA NSW/ACT has since advised us that DVA is considering rolling out the workshop to all DVA offices throughout Australia: '... I write to commend your staff (who) have been excellent ... their ability to adopt and adapt material has resulted in the delivery of a highly successful product. I will recommend to our Learning & Development Reference Group that this strategy be rolled-out nationally during 2013–2014 and, as such, now request your consideration of a possible expanded and continuing relationship in the new financial year.'

Community education and training

Our training workshops

Our training workshops aim to provide participants with up-to-date and accurate knowledge about laws, systems, policies and procedures, inform them about new initiatives and key issues, and explain their rights and responsibilities.

We have a statutory obligation to provide education and training to:

- service providers, clients, carers and the community – about standards for the delivery of community services in NSW under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.
- public authorities, investigating authorities and public officials – on reporting wrongdoing in the public sector under the *Public Interest Disclosures Act 1994*.

Significant effort goes into ensuring our workshops are relevant and cost effective. Our trainers have both a theoretical understanding of their material and practical experience in the relevant field. Training is tailored to suit the particular audience, with certain workshops conducted by our statutory officers.

Our workshops are interactive and trainers use a range of methods to ensure sessions are interesting as well as informative. Training is supplemented with written materials and, where relevant, participants are given tools to help them put the lessons learnt into practice.

This year we delivered 194 training workshops reaching 4,251 people (Figure 57 and 58). Figure 58 provides a breakdown of the types of workshops delivered. One hundred and sixteen of these workshops were delivered in the Sydney metropolitan region, 41 in regional locations across NSW, and 22 in other parts of Australia – including Brisbane, Cairns, Perth, Adelaide, Melbourne and Hobart. Our Deputy Ombudsman also presented our *Managing unreasonable complainant conduct* training workshop at three international locations – Canada, the United States and New Zealand.

Fig. 57: Training and education activities

	08/09	09/10	10/11	11/12	12/13
Number of training workshops	117	114	156	427	194
Number of community education activities	200	127	140	170	118
Total	317	241	296	597	312

We delivered fewer education and training workshops this year than last year (Figure 57). The much higher numbers in 2011–2012 were due to our new responsibility for promoting awareness and understanding of the changes to the *Public Interest Disclosures Act 1994*. After this initial, intensive education program, our *public interest disclosures* (PID) training this year focused on open workshops that enabled individuals from various authorities to attend the training, rather than specific in-house sessions.

Fig. 58: Type of training workshop

Type of training	Workshops	Participants
Complaint-handling and negotiation skills	67	1,546
Public interest disclosures	51	1,095
Community and disability services	37	899
Access and equity	12	285
Workplace child protection	9	178
Consumers of community services	9	102
Investigation skills	4	66
Other	5	80
Total	194	4,251

Feedback about our training

People who attend our training say they leave with ideas and tools that they can immediately apply to their own situations. They highlight the practical expertise of our trainers as invaluable, and report that our workshops provide great opportunities to share experiences and network with others. Out of the 1,830 people who completed evaluations of our training workshops this year:

- 98% strongly agreed/agreed they could implement what they had learnt at our workshops in the workplace
- 98% rated our trainers as excellent/good
- 97% rated our workshops overall as excellent/good
- 96% would recommend our training to others

Complaint-handling and negotiation skills

Our *Frontline complaint-handling and Managing unreasonable complainant conduct* workshops have always been popular with NSW agencies. However, other organisations and oversight bodies are increasingly asking us to provide training to their staff about the most effective ways to handle and manage complaints. There was also higher demand this year for licensing agreements for our *Managing unreasonable complainant conduct* workshop from a number of international Ombudsmen.

This year we launched a new training workshop – *Effective complaint management in the public sector* – which is tailored to the specific needs of public sector agencies. We expect the workshop to be particularly popular given the renewed focus under NSW 2021 (the state plan) on identifying and improving levels of customer service. Responding effectively to complaints is an important determinant of public satisfaction with government agencies.

Investigation skills

A number of our training workshops – such as our employment-related child protection workshops (see p.114) – promote better quality investigations. We also deliver information sessions to officers of the NSW Police Force who are responsible for conducting investigations into police misconduct. These sessions provide an overview of the Ombudsman's role and our expectations about what their investigations should cover.

This year we developed a new, half-day *Administrative law in the public sector* workshop. It is designed to give participants an understanding of the essential components and statutory principles of administrative law and the relevance of these to the investigation process. In 2014 we will be launching a new training workshop, *Investigating misconduct in the public sector*, which will focus on equipping participants with the practical skills and knowledge to conduct administrative investigations.

Aboriginal cultural appreciation and working with communities

'The most meaningful cultural awareness training I have been to.'

Aboriginal cultural appreciation training participant.

Our training workshops on Aboriginal cultural appreciation draw on our practical knowledge and experience of issues facing Aboriginal communities in NSW. The workshops are designed to help agencies make their services more accessible and responsive to community needs. During the year, we delivered a number of workshops to employees of both state and federal government agencies – including Ageing, Disability and Home Care who engaged us to deliver four *Aboriginal cultural appreciation* workshops to over 100 of their staff.

We have also developed a tailored *Aboriginal cultural appreciation* training package for local councils to give council staff a better understanding and appreciation of Aboriginal issues. This will help them carry out their roles, as well as promote greater community understanding and appreciation of Aboriginal cultural and heritage issues in their local area.

Our office has a strong record of working to improve service delivery for Aboriginal communities in NSW and we are increasingly approached by a range of agencies seeking to draw on our expertise. To meet this demand, this year we developed a *Working with Aboriginal communities* training workshop that focuses on the key elements of good consultation and practical strategies to help organisations to more effectively engage and consult with Aboriginal people.

'Thank you so much for your personal histories, they added great depth. I would like to see you both take this course to schools, local groups and wherever else you can! When you share stories you break down barriers and I think this is so important for reconciliation.'

Aboriginal cultural appreciation training participant.

Employment-related child protection training

We provide two employment-related child protection workshops to help agencies improve the way they respond to allegations made against their employees – including an advanced workshop on handling serious allegations that involve criminal conduct delivered by our Deputy Ombudsman/Community and Disability Services Commissioner. The current focus on institutional responses to child protection allegations arising from the federal and state commissions of inquiry has generated increased interest in these workshops.

This year, the Deputy Ombudsman/Community and Disability Services Commissioner teamed up with staff from our Aboriginal Unit to deliver a tailored two-day workshop for an Aboriginal out-of-home care (OOHC) organisation in regional NSW – see case study 76 in the previous chapter: Working with Aboriginal communities for further details. We have since been approached by the Aboriginal Child, Family & Community Care State Secretariat (AbSec) to deliver a number of additional workshops for other Aboriginal OOHC organisations in 2013. We are also liaising with AbSec about possibly developing a tailored workshop for foster carers.

In 2012, out-of-school hours (OOSH) and vacation care services came under our employment-related child protection jurisdiction after changes made under the *Education and Care Services National Law Act 2010*. Our employment-related child protection team has worked with the Department of Education and Communities' Early Childhood Education and Care Directorate to prepare a joint plan to make this sector aware of their legislative responsibilities. In 2013–2014, we will be working to make our programs more accessible to OOSH and vacation care services.

'This workshop (and the two I attended here over the past two weeks) have been far better than many workshops I have attended over the past decade.'

Responding to child protection allegation against employees training participant

Working with out-of-home care agencies to strengthen child protection

One of the risks associated with the transfer of most OOHC placements from Community Services to the non-government sector is the capacity of these organisations to manage the substantially increased number of reportable allegations that will inevitably result from the transfer.

During the year, Community Services convened a roundtable to consider how to ensure the appropriate management and investigation of reportable allegations across the sector. A survey of OOHC providers undertaken before the roundtable indicated that the reportable conduct training, support and information provided by our office was widely recognised and valued by the sector.

This year we have been conducting a review of OOHC services across NSW. Through obtaining current service profiles, advice about policies and procedures, and feedback about the impact of the transition program, we will be able to better target our training activities to meet the needs of the sector. For more information about the OOHC review, see Human services, p.81.

Community and disability services sector training

In 2012–2013 we continued to provide training workshops to staff of government and funded non-government community and disability service providers throughout NSW. We delivered 57 workshops to the community services sector, 37 of which were specifically designed to address the complaint-handling obligations of service providers under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

Our work with others – National Investigation Symposium

In November 2012, the Independent Commission Against Corruption, the NSW chapter of the Institute for Public Administration Australia and our office co-hosted the 9th National Investigations Symposium (NIS). Held in Manly, this two-day event is run every two years, and draws together government and non-government investigators from across Australia and around the world. The keynote speaker at the 9th NIS was Albert Vrij, a professor of applied psychology at the University of Portsmouth. Among the broad topics covered were:

- effective whistleblower management
- the impact of emerging technologies on investigations
- avoiding investigation flaws and inefficiencies
- data and forensics, and
- a panel session discussing the interaction between the media and government investigations.

Attendees were asked to provide us with some feedback on the event. Most (81%) rated the program as excellent or above average. Seventy two percent said the NIS had definitely helped them in performing their day-to-day work. We have started working with the other host agencies to prepare for the next NIS in 2014.

'This is without doubt the best value for money conference I have attended. I have been able to provide information to a number of areas in my organisation about the issues discussed at the conference. This is one of the reasons why my attendance at this conference is always approved.'

NIS attendee



We also started to deliver two new workshops – *Effective complaint management in the disability sector* and *Handling serious incidents in the disability sector*. These workshops help service providers to become aware of their obligations and more skilled and effective in responding to complaints and serious incidents. Workshop participants provided very positive feedback about the new workshops, commenting on their direct relevance to the significant changes affecting the disability services sector as a result of current national and state reforms.

During the year, an increasing number of community and disability services also accessed our general complaint training workshops, particularly our *Managing unreasonable complainant conduct* workshop. This shows a positive commitment to managing complaints and complainants as part of their overall effort to deliver quality services.

‘A very positive, realistic approach to complaints handling. Great presenters with a thorough knowledge of the sector.’

Effective complaint management in the disability sector training participant.

Disability support worker conferences

We continue to support the National Disability Services’ (NDS) Regional Support Workers Conferences by presenting a workshop on complaint-handling strategies. These conferences aim to develop the skills and knowledge of frontline disability workers in the context of the significant changes underway in service provision to people with disabilities. NDS is convening four conferences each year between 2013 and 2015, targeted at direct care staff from disability support, residential and employment services throughout NSW.

Our complaint-handling workshop provides important information about the rights of people with disabilities, as well as the obligations of disability services to handle complaints and ensure other service provision safeguards are in place. It also teaches strategies to help disability support workers to better respond to and handle complaints.

In 2012–2013 we presented workshops to over 300 disability support workers who attended the conferences in Parramatta, Gosford, Goulburn and Newcastle. We will present at two more of these conferences in Dubbo and south-western Sydney later in 2013.

Consumer rights

Our *The Rights Stuff* workshop assists people accessing disability and community services – and their families, carers and advocates – to better understand and exercise their rights as service users. The workshop provides information about the rights of people using services, the obligations of service providers, and skills and strategies for making and resolving complaints.

People with disabilities will increasingly take direct responsibility for managing and directing their own services and service funding with the launch of DisabilityCare in 2013, Ageing, Disability and Home Care’s person-centred planning initiatives, and other significant changes affecting the disability services sector. In light of this, we initiated a project this year to redevelop our *The Rights Stuff* workshop and publications to be more directly relevant to people with intellectual disability.

We are consulting with peak disability advocacy agencies and other relevant groups to develop an appropriate training package – as well as a train-the-trainer program for the disability sector to increase the number of trainers qualified to deliver the program across the state.

‘Absolutely the best written resource of this kind I’ve come across – very useful for parents and carers.’

The Rights Stuff training participant, referring to our The Rights Stuff toolkit.

Community education

We work hard to ensure vulnerable people are aware of their rights, can access the services and supports that are – or should be – available to them. Our community education and training program is key to achieving this, as well as ensuring that agencies understand the issues facing those who may be vulnerable due to factors such as their age, care arrangements, cultural background or disability.

We actively seek to share our expertise and promote our role in a range of settings. For example, this year we:

- gave presentations and provided information at a number of community and disability sector events – including the ACWA Conference, Family Day Care Conference, Carers Day Out, NDS NSW State Conference, PossABLE IDEAS Expo, and Homeless Connect.
- produced an Auslan (Australian sign language) video version of our *Know your rights as a consumer of community services* brochure, with the assistance of the Deaf Society NSW. More Auslan resources will be released on our website in the near future.
- hosted a Joint Outreach Initiatives Network meeting. The network brings together community education staff from a range of independent complaint-handling and oversight bodies, and is a useful forum for identifying opportunities to share resources and collaborate on awareness initiatives.

Our senior staff are also regularly invited to share their experience and expertise on a broad range of topics. For example, this year the Ombudsman and Deputy Ombudsman gave presentations at a number of high-profile conferences – including the Creating Open Government Conference, the 2nd Annual Ethical Leadership and Governance Conference, the International Ombudsman Institute World Conference, the National Disability Services CEO Conference, the Australasian Child Death Inquiry and Review Conference, and the NSWPF Professional Standards Duty Officers Conference.

This year our different business units also hosted a number of consultative forums and conferences, including:

- University complaint handlers forum
- Public interest disclosures practitioners forum
- National investigations symposium – in partnership with the Independent Commission Against Corruption and the NSW Institute of Public Administration Australia)
- Disability and child and family roundtables
- Australasian child death inquiry and review conference
- Child protection forum on the risk management of employees.

Financials

The financial statements provide an overview of our financial activities during 2012–2013. These statements, our supporting documentation, and our systems and processes have all been reviewed by the Audit Office. We received an unmodified audit report.

In line with the NSW Government's commitment to improve financial management in the public sector, we reviewed and refined some of our accounting procedures and processes. Our Audit and Risk Committee continued to provide advice and direction as did the Audit Office. We will continue this process of review and improvement in 2013–2014.

Over 78 percent of our total expenses were staff related costs. This reflects the nature of our work, which is reliant on our people. The day-to-day operation of our office cost us just under \$5 million. This includes costs such as rent, contractors, consultants, fees, travel, maintenance and training.

We received \$2.264 million in special purpose grants – for Operation Prospect, to support the OCV program and to pay some staff redundancies. Grant funding will be provided in 2013–2014 for Operation Prospect.

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Our financials

The financial statements that follow provide an overview of our financial activities during 2012–2013. These statements, our supporting documentation, and our systems and processes have all been reviewed by the NSW Audit Office. We received an unmodified audit report.

We continue to have a number of deductions to our budget allocation including ongoing efficiency dividends, program savings and labour cost expense cuts. As we have outlined in previous reports, we have in place a range of strategies to deal with our budget pressures including cutting costs and generating revenue through fee-for-service training. The cutting of staff costs in particular has an impact on the delivery of services to the public.

Our Audit and Risk Committee continues to provide assurance to the Ombudsman that our financial processes comply with legislative and office requirements. See page 19 for information about our Audit and Risk Committee.

In line with the NSW Government's commitment to improve financial management in the public sector, we began a review of our accounting practices including the classification of expenditure, the reconciliation of balance sheet accounts (including provision accounts), fixed assets and our ongoing internal and external reporting. Where necessary, we have discussed issues identified in this review with our Audit and Risk Committee and with the Audit Office.

The Ombudsman receives funding from the NSW Government. Although we account for these funds on an office-wide basis – as reflected in our financials – internally we allocate them between our three business branches, strategic projects division and corporate branch. The NSW state budget reports expenses and allocations against service groups. We have one service group – 'Complaint Advice, Referral, Resolution or Investigation'.

Revenue

Most of our revenue comes from the government in the form of a consolidated fund appropriation. This is used to meet both recurrent and capital expenditure. Consolidated funds are accounted for on the statement of comprehensive income as revenue along with the provision that the government makes for certain employee entitlements such as long service leave.

Our 2012–2013 recurrent consolidated fund allocation was \$24.044 million. In 2012–2013 we budgeted that the Crown Entity would accept \$874,000 of employee benefits and other entitlements. However, the actual acceptance was about \$706,000. This variance is primarily due to actuarial adjustments for the net present value of our long service leave liability.

We were allocated \$294,000 for our capital program. We spent \$700,000 using revenue that we received for Operation Prospect. This included buying specific-purpose hardware and software to support Operation Prospect as well as fit-out and security improvements to the Operation's premises.

This year we received \$2.264 million in grants. The Department of Premier and Cabinet provided \$1.842 million for Operation Prospect. We received \$200,000 from the Minister for Disability Services to support the official community visitor program and \$222,000 from the Crown Entity to fund redundancies.

We generated \$673,000 primarily through sales of our publications, bank interest, and fee-for-service training courses (see figure 59). Our proactive approach to generating revenue has helped us with ongoing budget pressures. By coordinating our activities and identifying training needs in agencies and the non-government sector, we have been able to increase our revenue. This additional revenue has enabled us to undertake more proactive project work as well as supporting other core work. Figure 60 provides a breakdown of our revenue, including capital funding and acceptance of employee entitlements.

Fig. 59: Revenue from other sources

Revenue from other sources	Revenue
Workshops and publication sales	\$597,000
Bank interest	\$31,000
Grants and contributions	\$2,264,000
Other revenue	\$45,000
Total	\$2,937,000

Fig. 60: Total revenue 2012–2013

Source	Revenue
Recurrent appropriation	\$24,044,000
Capital appropriation	\$294,000
Acceptance of certain employee entitlements	\$706,000
Total government	\$25,044,000
Revenue from other sources (see figure 59)	\$2,937,000
Total	\$27,981,000

Expenses

Most of our revenue is spent on employee-related expenses including salaries, superannuation entitlements, long service leave and payroll tax. Our statement of comprehensive income shows that this year we spent \$21.218 million – or 78.85 percent of our total expenses – on employee-related items.

Salary payments to staff were just over 1 percent higher than the previous year. Our long service leave expenses decreased by \$434,000 while our workers compensation costs were \$146,000 or over 52 percent higher than the previous year.

The day-to-day running of our office costs us just under \$5 million. Our significant operating items are rent (\$2.15 million), contractors (\$405,000), consultants (\$299,000), fees (\$562,000), travel (\$341,000), maintenance (\$283,000), training (\$174,000), printing (\$122,000) and stores (\$118,000).

There were eight consultants engaged during 2012–2013 as detailed on the following two tables. The amounts reported include GST. The amount reported in our financial statements for consultants excludes GST.

The financial statements show that \$736,000 was expensed for depreciation and amortisation. As we spent \$700,000 on our capital program, we had a \$36,000 decrease in our non-current asset base. Last year we reported that that we were required to make provision for the make good of our premises at the end of our lease. Although this provision is a liability, we also had to create a make good asset which is then subject to depreciation. Our 2012–2013 depreciation and amortisation expense was significantly higher than budget because of the depreciation of the make good asset. As well, the depreciation of Operation Prospect-related assets contributed to the higher than expected depreciation and amortisation costs.

Although capital funding is shown on the operating statement, capital expenditure is not treated as an expense – it is reflected on the balance sheet as Non-Current Assets.

Fig. 61: Consultancies valued at less than \$50,000

Category	Count	Cost*
Management services	3	\$50,864
Information technology	1	\$ 17,659
Total consultancies less than \$50,000	4	\$68,523

*figure rounded to whole dollars

Fig. 63: Consultancies valued at \$50,000 or more

Category & consultant	Nature	Cost*
Management services		
University of NSW (services over two financial years – total cost \$68,789)	Measuring socio economic status and geographic analysis and reporting child mortality	\$34,394
Queensland University of Technology (services over two financial years – total cost \$104,372)	Coding child and disability deaths, analytical services, data cleansing and expert review and recommendations concerning annual child death report	\$63,583
Australian Institute of Health and Welfare	Expert analysis specifically in relation to causes of death for children with a child protection history 2002–2011	\$75,525
Deloitte	Providing advice on the Reviewable Deaths and Child Death Review analytics processes. Reviewed team structure, roles and capabilities. Provided advice on information systems needed to support reviewable deaths and child death review work	\$87,521
Total consultancies \$50,000 or more		\$261,023

*figure rounded to whole dollars

Our accounts payable policy requires us to pay accounts promptly and within the terms specified on the invoice. There are some instances where this may not be possible – for example, if we dispute an invoice or don't receive it with enough time to pay within the specified timeframe. We aim to pay all our accounts within the specified timeframe, which is 98 percent of the time.

We identify small business vendors to ensure that payment timeframes were within the government's policy commitment. If agencies, including our office, fail to pay invoices to small businesses on time, a penalty payment is to be paid. Table 64 provides details of our accounts paid on time. As can be seen, we had one invoice to a small business that was not paid on time. Short turnaround times of invoices can impact on our performance. With this invoice, an administrative error was compounded with a delay in the office receiving the invoice, which meant it was five days late.

During 2012–2013 we paid 97.41 percent of our accounts on time. This is below our target and is a decline in our performance from last year. We have not had to pay any penalty interest on outstanding accounts.

Fig. 62: Total expenses 2012–2013

Expenses category	Total '\$000
Employee-related	\$21,218
Depreciation and amortisation	\$736
Other operating expenses	\$4,954
Total	\$26,908

Fig. 64: Performance indicator: Accounts paid on time – all suppliers

Measure	Sep 2012	Dec 2012	Mar 2013	Jun 2013	Total
All suppliers					
Number of accounts due for payment	550	611	478	759	2,398
Number of accounts paid on time	534	595	460	747	2,336
Actual percentage of accounts paid on time (based on number of accounts)	97.09	97.38	96.23	98.42	97.41
Dollar amount of accounts due for payment	1,682,250	1,864,837	1,639,460	2,710,251	7,896,798
Dollar amount of accounts paid on time	1,657,069	1,848,740	1,613,300	2,683,972	7,803,081
Actual percentage of accounts paid on time (based on \$)	98.5	99.14	98.40	99.03	98.81
Number of payments for interest on overdue accounts	0	0	0	0	0
Interest paid on overdue accounts	0	0	0	0	0
Small business suppliers					
Number of accounts due for payment to small businesses	7	17	10	16	50
Number of accounts due to small businesses paid on time	7	17	9	16	49
Actual percentage of small business accounts paid on time (based on number of accounts)	100	100	90	100	98
Dollar amount of accounts due for payment to small businesses	2,161	24,159	10,319	1,545	38,184
Dollar amount of accounts due to small business paid on time	2,161	24,159	9,994	1,545	37,859
Actual percentage of small business accounts paid on time (based on \$)	100	100	96.85	100	99.15
Number of payments to small businesses for interest on overdue accounts	0	0	0	0	0
Interest paid to small business on overdue accounts	0	0	0	0	0

* Note: this table does not include direct salary payments to staff – but includes some employee-related payments such as payments to superannuation funds.

Assets

Our statement of financial position shows that we had \$3.839 million in assets at 30 June 2013. The value of our current assets increased by \$835,000 from the previous year, while the value of our non-current asset base decreased by \$36,000.

Just over 62 percent of our assets are current assets, which are categorised as cash or receivables. Receivables are amounts owing to us and include bank interest that has accrued but not been received, fees for services that we have provided on a cost recovery basis, and GST to be recovered from the Australian Taxation Office. Also included in receivables are amounts that we have prepaid. We had \$554,000 in prepayments at 30 June 2013. The most significant prepayments were for rent and maintenance renewals for our office equipment and software support.

Our cash assets increased by \$624,000. Although we used some of our cash reserves to support our complaint handling and other core work, we had unspent 'grant' money for Operation Prospect and the OCV program at year end. Our financial statement reflects \$796,000 unspent 'grant' as restricted assets. These funds will be used in 2013–2014.

Our non-current assets, which are valued at \$1.454 million are categorised as:

- plant and equipment – this includes our network infrastructure, computers and laptops, fit-out and office equipment
- intangible assets – these include our network operating and case management software.

We were allocated \$294,000 in 2012–2013 for asset purchases and spent an additional \$406,000 from the grant money we received to purchase equipment and software for Operation Prospect. Our total asset purchases totalled \$700,000.

Liabilities

Our total liabilities at 30 June 2013 are \$3 million, a decrease of \$274,000 over the previous year. Over 76 percent of our liabilities are the provisions that we make for unpaid salaries and wages as well as employee benefits and related on-costs, including accounting for untaken recreation (annual) leave plus on-costs which is valued at \$1.281 million. The Crown Entity accepts the liability for long service leave.

We owe about \$222,000 for goods or services that we have received but have not yet been invoiced. The value of accounts on hand at 30 June 2013 was \$1,572 (see figure 65). We monitor the amounts that we owe on a regular basis to make sure that we are paying accounts within terms.

Fig. 65: Analysis of accounts on hand at the end of each quarter

	Sep 2012	Dec 2012	Mar 2013	Jun 2013
All suppliers				
Current (ie within due date)	\$ 175,183.98	\$ 2,151.96	\$ 84,376.27	-
Less than 30 days overdue	-	-	\$ 1,366.78	\$ 1,571.50
Between 30 days and 60 days overdue	-	-	-	-
Between 60 days and 90 days overdue	-	-	-	-
More than 90 days overdue	-	-	-	-
Total accounts on hand	\$175,183.98	\$2,151.96	\$ 85,743.05	\$ 1,571.50
Small businesses				
Current (ie within due date)	\$ 9,412.45	-	-	-
Less than 30 days overdue	-	-	-	-
Between 30 days and 60 days overdue	-	-	-	-
Between 60 days and 90 days overdue	-	-	-	-
More than 90 days overdue	-	-	-	-
Total accounts on hand	\$ 9,412.45	-	-	-

* This table does not include credit notes

Financial statements

Our financial statements are prepared in accordance with legislative provisions and accounting standards. They are audited by the NSW Auditor-General, who is required to express an opinion as to whether the statements fairly represent the financial position of our office. The audit report and our financial statements follow.



INDEPENDENT AUDITOR'S REPORT

Ombudsman's Office

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of the Ombudsman's Office, which comprise the statement of financial position as at 30 June 2013, the statement of comprehensive income, statement of changes in equity, statement of cash flows and a summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

Opinion

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Ombudsman's Office as at 30 June 2013, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2010.

My opinion should be read in conjunction with the rest of this report.

The Ombudsman's Responsibility for the Financial Statements

The Ombudsman is responsible for the preparation of the financial statements that give a true and fair view in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Ombudsman determines is necessary to enable the preparation of financial statements that give a true and fair view and that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

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

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Ombudsman's Office preparation of the financial statements that give a true and fair view in order to design audit procedures appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Ombudsman's Office internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Ombudsman, as well as evaluating the overall presentation of the financial statements.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

My opinion does *not* provide assurance:

- about the future viability of the Ombudsman's Office
- that it has carried out its activities effectively, efficiently and economically
- about the effectiveness of its internal control
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about other information which may have been hyperlinked to/from the financial statements.

Independence

In conducting my audit, I have complied with the independence requirements of the Australian Auditing Standards and other relevant ethical pronouncements. The PF&A Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies, but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by the possibility of losing clients or income.

Peter Achterstraat
Auditor-General

26 August 2013
SYDNEY

22 August 2013

Statement by the Ombudsman

Pursuant to section 45F of the *Public Finance and Audit Act 1983* and to the best of my knowledge and belief I state that:

- (a) the accompanying financial statements have been prepared in accordance with the provisions of the Australian Accounting Standards (which include Australian Accounting Interpretations), the *Public Finance and Audit Act 1983*, the Financial Reporting Code for NSW General Government Sector Entities, the applicable clauses of the Public Finance and Audit Regulation 2010 and the Treasurer's Directions;
- (b) the statements exhibit a true and fair view of the financial position of the Ombudsman's Office as at 30 June 2013, and our financial performance for the year then ended; and
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Bruce Barbour
Ombudsman

Ombudsman's Office

Statement of comprehensive income for the year ended 30 June 2013

	Notes	Actual 2013 \$'000	Budget 2013 \$'000	Actual 2012 \$'000
Expenses excluding losses				
Operating expenses				
Employee related	2(a)	21,218	21,435	21,491
Other operating expenses	2(b)	4,954	4,362	4,704
Depreciation and amortisation	2(c)	736	473	767
Total Expenses excluding losses		26,908	26,270	26,962
Revenue				
Recurrent appropriation	3(a)	24,044	24,044	23,796
Capital appropriation	3(a)	294	294	248
Sale of goods and services	3(b)	597	501	608
Investment revenue	3(c)	31	35	40
Grants and contributions	3(d)	2,264	–	33
Acceptance by the Crown Entity of employee benefits and other liabilities	3(e)	706	874	1,152
Other revenue	3(f)	45	16	21
Total Revenue		27,981	25,764	25,898
Gain/(loss) on disposal	4	–	–	–
Net result		1,073	(506)	(1,064)
Other comprehensive income				
Total other comprehensive income		–	–	–
Total comprehensive income		1,073	(506)	(1,064)

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of changes in equity for the year ended 30 June 2013

	Accumulated funds 2013 \$'000	Accumulated funds 2012 \$'000
Notes		
Balance at 1 July	(234)	830
Net result for the year	1,073	(1,064)
Total comprehensive income for the year	1,073	(1,064)
Balance at 30 June	839	(234)

Ombudsman's Office

Statement of financial position as at 30 June 2013

	Notes	Actual 2013 \$'000	Budget 2013 \$'000	Actual 2012 \$'000
Assets				
Current Assets				
Cash and cash equivalents	6	1,611	783	987
Receivables	8	763	315	551
Other financial assets	9	11	–	12
Total Current Assets		2,385	1,098	1,550
Non-Current Assets				
Plant and equipment	10	791	642	994
Intangible assets	11	663	471	496
Total Non-Current Assets		1,454	1,113	1,490
Total Assets		3,839	2,211	3,040
Liabilities				
Current Liabilities				
Payables	12	686	638	833
Provisions	13	1,796	1,654	1,939
Other	14	15	–	29
Total Current Liabilities		2,497	2,292	2,801
Non-Current Liabilities				
Provisions	13	503	32	473
Total Non-Current Liabilities		503	32	473
Total Liabilities		3,000	2,324	3,274
Net Assets		839	(113)	(234)
Equity				
Accumulated funds	1(m)	839	(113)	(234)
Total Equity		839	(113)	(234)

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of cash flows for the year ended 30 June 2013

	Notes	Actual 2013 \$'000	Budget 2013 \$'000	Actual 2012 \$'000
Cash flows from operating activities				
Payments				
Employee related		(20,728)	(20,445)	(19,936)
Other		(5,871)	(4,372)	(5,250)
Total Payments		(26,599)	(24,817)	(25,186)
Receipts				
Recurrent appropriation		24,044	24,044	23,796
Capital appropriation (excluding equity appropriations)		294	294	248
Sale of goods and services		599	501	654
Interest received		35	50	54
Grants and contributions		2,264	-	33
Other		687	61	563
Total Receipts		27,923	24,950	25,348
Net cash flows from operating activities	16	1,324	133	162
Cash flows from investing activities				
Purchases of Leasehold Improvements, plant and equipment		(700)	(294)	(248)
Net cash flows from investing activities		(700)	(294)	(248)
Net increase/(decrease) in cash		624	(161)	(86)
Opening cash and cash equivalents		987	944	1,073
Closing cash and cash equivalents	6	1,611	783	987

The accompanying notes form part of these financial statements.

Ombudsman's Office

Summary of compliance with financial directives for the year ended 30 June 2013

	2013		2012	
	Recurrent app'n \$'000	Expenditure/ net claim on consolidated fund \$'000	Recurrent app'n \$'000	Expenditure/ net claim on consolidated fund \$'000
Original budget appropriation/expenditure				
• Appropriation Act	24,044	294	23,406	219
	24,044	294	23,406	219
Other appropriations/expenditure				
• Treasurer's advance			445	12
• Additional appropriations – section 33			95	17
			540	29
Total appropriations/expenditure/net claim on consolidated fund	24,044	24,044	23,946	248
Amount drawn down against appropriation	24,044	294	23,796	248
Liability to consolidated fund*		-	-	-

The Summary of compliance is based on the assumption that consolidated fund monies are spent first (except where otherwise identified or prescribed).

* If there is a 'Liability to consolidated fund', this represents the difference between the 'amount drawn down against appropriation' and the 'total expenditure/net claim on consolidated fund'.

1 Summary of Significant Accounting Policies**(a) Reporting entity**

The Ombudsman's Office is a NSW government entity. Our role is to make sure that public and private sector agencies and employees within our jurisdiction fulfill their functions properly. We help agencies to be aware of their responsibilities to the public, to act reasonably and to comply with the law and best practice in administration.

The Office is a not-for-profit entity (as profit is not its principal objective) and we have no major cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

The financial statements for the year ended 30 June 2013 has been authorised for issue by the Ombudsman on 22 August 2013.

(b) Basis of preparation

Our financial statements are general purpose financial statement, which has been prepared in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations);
- the requirements of the *Public Finance and Audit Act 1983* and Regulations; and
- the financial reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.

Property, plant and equipment are measured at fair value. Other financial statements items are prepared in accordance with the historical cost convention.

Judgments, key assumptions and estimations made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

(c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Insurance

Our insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for Government agencies. The expense (premium) is determined by the Fund Manager, and is calculated by our past claims experience, overall public sector experience and ongoing actuarial advice.

(e) Accounting for the Goods and Services Tax (GST)

Incomes, expenses and assets are recognised net of GST, except that:

- the amount of GST incurred by us as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the acquisition of an asset or as part of an item of expense, and
- receivables and payables are stated with GST included.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

(f) Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of income are discussed below.

(i) Parliamentary appropriations and contributions

Parliamentary appropriations and contributions from other bodies (including grants) are generally recognised as income when we obtain control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

An exception to this is when appropriations remain unspent at year end. In this case, the authority to spend the money lapses and generally the unspent amount must be repaid to the Consolidated Fund in the following financial year. As a result, unspent appropriations are accounted for as liabilities rather than revenue. The liability, if any, is disclosed in Note 14 as part of 'Other Current Liabilities'.

(ii) Sale of goods

Revenue from the sale of goods such as publications are recognised as revenue when we transfer the significant risks and rewards of ownership of the assets.

(iii) Rendering of services

Revenue from the rendering of services such as conducting training programs, is recognised when the service is provided or by reference to the stage of completion, for instance based on labour hours incurred to date.

(iv) Investment revenue

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

(g) Assets**(i) Acquisitions of assets**

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by us.

Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Fair value is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

(ii) Capitalisation thresholds

Individual plant and equipment and intangible assets costing \$5,000 and above are capitalised. All items that form part of our IT network, such as software and hardware, are capitalised regardless of the cost.

(iii) Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, we are effectively exempted from AASB 136 *Impairment of Assets*. This is because AASB 136 modifies the recoverable amount test to the higher of fair value less costs to sell and depreciated replacement cost. This means that, for an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

(iv) Depreciation of plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life.

All material separately identifiable components of assets are depreciated over their shorter useful lives.

Depreciation rates used:

- Computer hardware 25%
- Office equipment 20%
- Furniture & fittings 10%

Amortisation rates used:

- Leasehold improvements Useful life of 10 years or to the end of the lease, if shorter.

(v) Restoration costs

Whenever applicable, the estimated cost of dismantling and removing an asset and restoring the site is included in the cost of an asset, to the extent it is recognised as a liability.

(vi) Maintenance

The costs of day-to-day servicing or maintenance are charged as expenses as incurred, except where they relate to the replacement of a part or component of an asset, in which case the costs are capitalised and depreciated.

(vii) Leased assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risks and benefits.

Operating lease payments are charged to the statement of comprehensive income in the periods in which they are incurred.

(viii) Intangible assets

We recognise intangible assets only if it is probable that future economic benefits will flow to the Office and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

The useful lives of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for our intangible assets, they are carried at cost less any accumulated amortisation.

Our intangible assets are amortised using the straight-line method over a period of five years.

The amortisation rates used are:

- Computer software 20%

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

(ix) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost or face value.

Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(x) Assets revaluation

We value our physical non-current assets in accordance with the *Valuation of Physical Non-Current Assets at Fair Value* Policy and Guidelines Paper (TPP 07-01) (as amended by NSWTC 12/05 and NSWTC 10/07). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment*.

Because non-specialised assets have short useful lives, we use depreciated historical cost as a surrogate for fair value.

(h) Liabilities**(i) Payables**

These amounts represent liabilities for goods and services provided to us as well as other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(ii) Employee benefits and other provisions**(a) Salaries and wages, annual leave, sick leave and on-costs**

Liabilities for salaries and wages (including non-monetary benefits) and annual leave that fall due wholly within twelve months of the reporting date are recognised and measured in respect of employees' services up to the reporting date at undiscounted amounts based on the amounts expected to be paid when the liabilities are settled.

Long-term annual leave that is not expected to be taken within twelve months is measured at the present value in accordance with AASB119 *Employee Benefits*. Market yields on government bonds rates of 3.76% are used to discount long-term annual leave.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

The outstanding amounts of payroll tax, workers' compensation, insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

(b) Long service leave and superannuation

Our liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. We account for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSWTC 12/06) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for defined contribution superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For defined benefit superannuation schemes (State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

(i) Equity

The category accumulated funds includes all current and prior period retained funds.

(j) Budgeted amounts

The budgeted amounts are drawn from the original budgeted financial statement presented to Parliament in respect of the reporting period. Amendments made to the budget are not reflected in the budgeted amounts.

(k) Comparative information

Except when an Accounting Standard permits or requires otherwise, comparative information is disclosed in respect of the previous period for all amounts reported in the financial statements.

(l) New Australian Accounting Standards issued but not effective

The following new Accounting standards have not yet been applied as NSW public sector entities are not permitted to early adopt new Australian Accounting Standards unless NSW Treasury determines otherwise.

- AASB 9, AASB 2010-7 and AASB 2012-6 regarding financial instruments
- AASB 13, AASB 2011-8 and AASB 2012-1 regarding fair value measurement
- AASB 119, AASB 2011-10 and AASB 2011-11 regarding employee benefits
- AASB 2012-2 regarding disclosures – offsetting financial assets and financial liabilities
- AASB 2012-3 regarding offsetting financial assets and financial liabilities
- AASB 2012-5 regarding annual improvements 2009-2-11 cycle
- AASB 2012-10 regarding transition guidance and other amendments

We do not anticipate any material impact of these accounting standards on the financial statements of the Ombudsman's Office.

(m) Going concern

The Ombudsman's Office is a 'going concern' public sector entity. We will receive Parliamentary appropriation as outlined in the NSW Budget Papers for 2013–2014 in fortnightly instalments from the Crown Entity.

(n) Equity Transfers

The transfer of net assets between agencies as a result of an administrative restructure, transfers of programs/ functions and parts thereof between NSW public sector agencies and 'equity appropriations' and be treated as contributions by owners and recognised as, an adjustment to 'Accumulated Funds'. This treatment is consistent with AASB 1004 *Contributions* and Australian Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities*.

Transfers arising from an administrative restructure involving not-for-profit entities and for-profit government departments are recognised at the amount at which the assets and liabilities were recognised by the transfer or immediately prior to the restructure. Subject to the following paragraph, in most instances this will approximate fair value.

All other equity transfers are recognised at fair value, except for intangibles. Where an intangible has been recognised at (amortised) cost by the transferor because there is no active market, the agency recognises the asset at the transferor's carrying amount. Where the transferor is prohibited from recognising internally generated intangibles, the agency does not recognise that asset.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2013

	2013 \$'000	2012 \$'000
2 Expenses excluding losses		
(a) Employee related expenses		
Salaries and wages (including recreation leave)*	17,969	17,789
Superannuation - defined benefit plans	294	304
Superannuation - defined contribution plans	1,332	1,369
Long service leave	396	830
Workers' compensation insurance	146	96
Payroll tax and fringe benefit tax	1,081	1,103
	21,218	21,491
(b) Other operating expenses include the following:		
Auditor's remuneration - audit of the financial statements	29	28
Operating lease rental expense - minimum lease payments	2,151	2,083
Insurance	13	12
Fees	562	315
Telephones	91	102
Stores	118	125
Training	174	155
Printing	122	173
Travel	341	429
Consultants	299	113
Contractors	405	649
Maintenance - non-employee related*	283	211
Other	366	309
	4,954	4,704
* Reconciliation - Total maintenance		
Maintenance expenses - contracted labour and other	283	211
Employee related maintenance expense included in Note 2(a)	85	76
Total maintenance expenses included in Notes 2(a) and 2(b)	368	287
(c) Depreciation and amortisation expense		
Depreciation		
Plant and equipment	122	118
Leasehold Improvements	260	434
Furniture and Fittings	180	84
Total depreciation expense	562	636
Amortisation		
Software	174	131
Total amortisation expense	174	131
Total depreciation and amortisation expenses	736	767

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2013

	2013 \$'000	2012 \$'000
3 Revenue		
(a) Appropriations		
Recurrent appropriation		
Total recurrent draw-downs from NSW Treasury (per Summary of compliance)	24,044	23,796
	24,044	23,796
Comprising:		
Recurrent appropriations (per Statement of comprehensive income)	24,044	23,796
	24,044	23,796
Capital appropriation		
Total capital draw-downs from Treasury (per Summary of compliance)	294	248
	294	248
Comprising:		
Capital appropriations (per Statement of comprehensive income)	294	248
	294	248
(b) Sale of goods and services		
Rendering of services	597	608
	597	608
(c) Investment revenue		
Interest	31	40
	31	40
(d) Grants and contributions		
Unreasonable Complainants Conduct Project	-	33
Crown Entity funded redundancies	222	-
Operation Prospect	1,842	-
Official community visitors program	200	-
	2,264	33
(e) Acceptance by the Crown Entity of employee benefits and other liabilities		
The following liabilities and/or expenses have been assumed by the Crown Entity:		
• Superannuation - defined benefit	294	304
• Long service leave	396	830
• Payroll tax on superannuation	16	18
	706	1,152
(f) Other revenue		
Miscellaneous	45	21
	45	21
4 Gain/(loss) on disposal		
Gain/(loss) on disposal	-	-
	-	-
5 Service groups of the entity		
The Ombudsman's Office operates under one service group - the independent resolution, investigation or oversight of complaints made by the public about agencies within the jurisdiction of the Ombudsman and the scrutiny of complaint handling and other systems of those agencies.		

Notes to the financial statements for the year ended 30 June 2013

	2013 \$'000	2012 \$'000
6 Current assets – cash and cash equivalents		
Cash at bank and on hand	1,611	987
	1,611	987
For the purposes of the statement of cash flows, cash and cash equivalents include cash at bank and on hand.		
Cash and cash equivalent assets recognised in the statement of financial position are reconciled at the end of the year to the statement of cash flows as follows:		
• Cash and cash equivalents (per statement of financial position)	1,611	987
• Closing cash and cash equivalents (per statement of cash flows).	1,611	987
Refer Note 18 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.		
7 Restricted assets		
Operation Prospect	696	–
Official Community Visitors	100	–
	796	–
We have restricted cash which will be used in 2013–14 for specific projects. These assets are not available for any other purposes.		
8 Current assets – receivables		
Transfer of leave and salary reimbursement	39	–
Workshops	44	67
Reimbursement of expenses	–	6
Bank interest	6	19
GST receivable	120	74
Legal fees	–	–
Less: Allowance for impairment	–	–
Prepayments	554	385
	763	551
Movement in the allowance of impairment		
Balance at 1 July	–	36
Decrease in allowance recognised in profit or loss	–	(36)
Balance at 30 June	–	–
Refer to Note 18 for further information regarding credit risk, liquidity risk and market risk arising from financial instruments.		
9 Current assets - other financial assets		
Other loans and deposits	11	12
	11	12
Refer to Note 18 for further information regarding credit risk, liquidity risk and market risk arising from financial instruments.		

Notes to the financial statements for the year ended 30 June 2013

10 Non-current assets – plant and equipment	Plant and equipment \$'000	Leasehold improvement \$'000	Furniture and fitting \$'000	Total \$'000
At 1 July 2012 - fair value				
Gross carrying amount	1,536	1,839	932	4,307
Accumulated depreciation	(1,294)	(1,490)	(529)	(3,313)
Net carrying amount	242	349	403	994
At 30 June 2013 - fair value				
Gross carrying amount	1,505	2,018	650	4,173
Accumulated depreciation	(1,176)	(1,695)	(511)	(3,382)
Net carrying amount	329	323	139	791
Reconciliation				
A reconciliation of the carrying amount of each class of assets at the beginning of and end of financial years is set out below:				
Year ended 30 June 2013	\$'000	\$'000	\$'000	\$'000
Net carrying amount at start of year	242	349	403	994
Additions	209	134	16	359
Disposals	(241)	–	(7)	(248)
Depreciation write back on disposal	241	–	7	248
Asset transfer between class	–	100	(100)	–
Depreciation expense	(122)	(260)	(180)	(562)
Net carrying amount at end of year	329	323	139	791
At 1 July 2011 - fair value				
Gross carrying amount	1,543	1,391	931	3,865
Accumulated depreciation	(1,220)	(1,056)	(444)	(2,720)
Net carrying amount	323	335	487	1,145
At 30 June 2012 - fair value				
Gross carrying amount	1,536	1,839	932	4,307
Accumulated depreciation	(1,294)	(1,490)	(529)	(3,313)
Net carrying amount	242	349	403	994
Reconciliation				
A reconciliation of the carrying amount of each class of assets at the beginning of and end of financial years is set out below:				
Year ended 30 June 2012				
Net carrying amount at start of year	323	335	487	1,145
Additions	37	448	–	485
Disposals	–	–	–	–
Depreciation expense	(118)	(434)	(84)	(636)
Net carrying amount at end of year	242	349	403	994
11 Non-current assets – intangible assets	1 July 2011 \$'000	30 June 2012 \$'000	1 July 2012 \$'000	30 June 2013 \$'000
Software				
Gross carrying amount	2,116	2,323	2,323	1,502
Accumulated amortisation	(1,695)	(1,827)	(1,827)	(839)
Net carrying amount	421	496	496	663

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2013

	2013 \$'000	2012 \$'000
Reconciliation		
A reconciliation of the carrying amount of software at the beginning of and end of financial years is set out below:		
Net carrying amount at start of year	496	421
Disposals	(1,161)	–
Amortisation write back on disposal	1,161	–
Additions	341	206
Amortisation expense	(174)	(131)
Net carrying amount at end of year	663	496
12 Current liabilities – payables		
Accrued salaries, wages and on-costs	464	532
Creditors	222	301
	686	833
Refer Note 18 for details regarding credit risk, liquidity risk and market risk arising from financial instruments		
13 Current/non-current liabilities – provisions		
Employee benefits and related on-costs		
Annual leave	981	1,020
Annual leave loading	172	248
Provision for related on-costs on recreation leave	128	129
Provision for related on-costs on long service leave	542	571
	1,823	1,968
Other provisions		
Provision for make good	476	444
Total provisions	2,299	2,412
Reconciliation – make good		
Carrying amount at the beginning of financial year	444	–
Additional provisions recognised	32	444
Carrying amount at the end of financial year	476	444
Provision for make good is recognised for the estimate of future payments for make good upon termination of the lease of current office premises. The lease will end in October 2014 and make good provisions is expected to be settled after 12 months.		
Aggregate employee benefits and related on-costs		
Provisions - current	1,796	1,939
Provisions - non-current	27	29
Accrued salaries, wages and on-costs (Note 12)	464	532
	2,287	2,500

The value of annual leave and associated on-costs expected to be taken within 12 months is \$1,152,900 (2012: \$1,257,300). The Office has a proactive annual leave management program, whereby all staff are encouraged to take their full entitlement each year.

The value of long service leave on-costs expected to be settled within 12 months is \$54,200 (2012: \$57,000) and \$487,800 (2012: \$514,000) after 12 months.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2013

	2013 \$'000	2012 \$'000
14 Current/non-current liabilities – other		
Current		
Prepaid income	15	29
	15	29
15 Commitments for expenditure		
Operating lease commitments		
Future non-cancellable operating lease rentals not provided for and payable:		
Not later than one year	2,352	2,352
Later than one year and not later than five years	792	3,144
Total (including GST)	3,144	5,496
The leasing arrangements are generally for leasing of property, which expires in October 2014. The total operating lease commitments include GST input tax credits of \$285,795 (2012: \$499,601) which are expected to be recoverable from the Australian Taxation Office.		
16 Reconciliation of cash flows from operating activities to net result		
Net cash used on operating activities	1,324	162
Depreciation and amortisation	(736)	(767)
Decrease/(increase) in provisions	113	(296)
Increase/(decrease) in prepayments	169	(15)
Decrease/(increase) in payables	147	(136)
Increase/(decrease) in receivables	42	(37)
Decrease/(increase) in other liabilities	14	25
Net result	1,073	(1,064)
17 Budget review		
Net result		
Total expenses were \$0.64 million more than budget with additional costs incurred for Operation Prospect, a public interest investigation funded from a grant from the Department of Premier and Cabinet. As well, we received additional support for the Official Community Visitor Program and offered some redundancies.		
Our revenue was \$2.22 million higher than budget, with a number of grants being received for the following specific purposes - Operation Prospect (\$1.842 million); Official Community Visitor Program (\$200,000); Crown Entity funded redundancies (\$222,000). Some of this funding will be used in 2013–2014 the balance to be spent recorded in these financials as restricted assets (see note 7).		
Assets and liabilities		
Total assets are higher than liabilities by \$0.839 million. The primary reason is the increase in our cash assets provided for Operation Prospect and the Community Visitor Program. These funds will be spent in 2013–2014.		
Our prepayments were \$354,000 higher than budget.		
Cash flows		
Our net cash flow from operating activities was \$1.19 million higher than budget, with total payments higher by \$1.78 million and total receipts higher by \$2.97 million. We received \$2.264 million in grants for projects commenced in 2012–2013 and which will continue in 2013–2014.		

18 Financial instruments

The Ombudsman's Office principal financial instruments are outlined below. These financial instruments arise directly from the Office's operations and are required to finance our operations. The Office does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

Our main risks arising from financial instruments are outlined below, together with the Office's objectives, policies and processes measuring and managing risk. Further quantitative disclosures are included throughout these financial statements. The Ombudsman has overall responsibility for the establishment and oversight of risk management and reviews and approves policies for managing these risks. The Audit and Risk Committee (ARC) has been established to provide advice to the Ombudsman. The ARC does not have executive powers. Risk management policies are established to identify and analyse the risks faced by the Office, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Audit and Risk Committee on a regular basis.

(a) Financial instrument categories

Class	Note	Category	Carrying Amount	
			2013 \$'000	2012 \$'000
Financial assets				
Cash and cash equivalents	6	N/A	1,611	987
Receivables ¹	8	Receivables (at amortised cost)	89	92
Other financial assets	9	Loans and receivables (at amortised cost)	11	12
Financial Liabilities				
Payables ²	12	Financial liabilities measured at amortised cost	686	833

Notes

¹ Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

² Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

(b) Credit risk

Credit risk arises when there is the possibility of our debtors defaulting on their contractual obligations, resulting in a financial loss to the Ombudsman's Office. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment). Credit risk is managed through the selection of counterparties and establishing minimum credit rating standards. Credit risk arises from the financial assets of the Ombudsman's Office, including cash, receivables and authority deposits. No collateral is held by the Ombudsman's Office and the Office has not granted any financial guarantees.

Cash

Cash comprises cash on hand and bank balances within the Treasury Banking System.

Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that we will not be able to collect all amounts due. The credit risk is the carrying amount (net of any allowance for impairment, if there is any). No interest is earned on trade debtors. The carrying amount approximates fair value. Sales are made on 14-day terms. The Ombudsman's Office is not exposed to concentration of credit risk to a single debtor or group of debtors.

	Total* \$'000	Past due but not impaired* \$'000	Considered impaired* \$'000
2013			
< 3 months overdue	89	38	–
3 months - 6 months overdue	–	–	–
> 6 months overdue	–	–	–
2012			
< 3 months overdue	55	55	–
3 months - 6 months overdue	29	29	–
> 6 months overdue	3	3	–

* Each column in the table reports 'gross receivables'. The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7 and excludes receivables that are not past due and not impaired. Therefore, the 'total' will not reconcile to the receivables total recognised in the statement of financial position.

(c) Liquidity risk

Liquidity risk is the risk that the Ombudsman's Office will be unable to meet its payment obligations when they fall due. We continuously manage risk through monitoring future cash flows to ensure adequate holding of high quality liquid assets.

Bank overdraft

The Office does not have any bank overdraft facility. During the current and prior years, there were no defaults or breaches on any loans payable.

Trade creditors and accruals

The liabilities are recognised for amounts due to be paid in the future for goods and services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, if trade terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payments to other suppliers, the Head of an authority (or a person appointed by the Head of an authority) may automatically pay the supplier simple interest. The Ombudsman's Office did not pay any penalty interest during the financial year.

The table below summarises the maturity profile of our financial liabilities.

Payables	Weighted average effective interest rate	Nominal amount# \$'000	Interest rate exposure			Maturity dates		
			Fixed interest rate	Variable interest rate	Non-interest bearing	< 1 yr	1-5 yrs	5 yrs
2013								
Accrued salaries, wages and on-costs	–	464	–	–	464	464	–	–
Creditors	–	222	–	–	222	222	–	–
	–	686	–	–	686	686	–	–
2012								
Accrued salaries, wages and on-costs	–	532	–	–	532	532	–	–
Creditors	–	301	–	–	301	301	–	–
	–	833	–	–	833	833	–	–

The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earlier date on which the Office can be required to pay.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2013

(d) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Our exposure to market risk are primarily through interest rate risk. The Ombudsman's Office has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on the result and equity due to a reasonably possible change in risk variable is outlined in the information below for interest rate risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the Ombudsman's Office operates and the time frame for the assessment (i.e. until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the statement of financial position date. The analysis is performed on the same basis for 2013. The analysis assumes that all other variables remain constant.

	Carrying amount \$'000	-1%		+1%	
		Results \$'000	Equity \$'000	Results \$'000	Equity \$'000
2013					
Financial assets					
Cash and cash equivalents	1,611	(16)	(16)	16	16
Receivables	89	–	–	–	–
Other financial assets	11	–	–	–	–
Financial liabilities					
Payables	686	–	–	–	–
2012					
Financial assets					
Cash and cash equivalents	987	(10)	(10)	10	10
Receivables	92	–	–	–	–
Other financial assets	12	–	–	–	–
Financial liabilities					
Payables	833	–	–	–	–

(e) Fair value

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of many of the financial instruments.

19 Contingent liabilities

There are no contingent assets or liabilities for the period ended 30 June 2013 (2012: nil).

20 After balance date events

There were no events after the reporting period 30 June 2013 (2012: nil).

End of the financial statements

Appendices

The following appendices provide additional information on our activities and compliance reporting, compliant profiles, actions taken on formal complaints, updates on legislative reviews and other resource information.

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Profile of notifiable police complaints 2012–2013

Fig. 66: Action taken on finalised notifiable complaints about police officers in 2012–2013

The number of allegations is larger than the number of complaints finalised because a complaint may contain more than one allegation about a single incident or involve a series of incidents.

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Arrest				
Improper failure to arrest	2	2	2	6
Unlawful arrest	28	13	23	64
Unnecessary use of arrest	20	7	13	40
Total	50	22	38	110
Complaint handling				
Deficient complaint investigation	5	1	3	9
Fail to report misconduct	5	56	11	72
Fail to take a complaint	2	0	2	4
Inadequacies in informal resolution	0	0	3	3
Provide false information in complaint investigation	1	40	3	44
Total	13	97	22	132
Corruption/misuse of office				
Explicit threats involving use of authority	5	10	6	21
Improper association	42	45	12	99
Misuse authority for personal benefit or benefit of an associate	58	43	32	133
Offer or receipt of bribe/corrupt payment	13	4	1	18
Protection of person(s) involved in criminal activity (other)	3	0	0	3
Total	121	102	51	274
Custody/detention				
Death/serious injury in custody	1	0	0	1
Detained in excess of authorised time	0	1	1	2
Escape from custody	1	3	7	11
Fail to allow communication	1	0	0	1
Fail to caution/give information	2	0	2	4
Fail to meet requirements for vulnerable persons	2	0	3	5
Improper treatment	18	6	29	53
Inadequate monitoring of persons in custody	0	3	3	6
Unauthorised detention	6	2	7	15
Total	31	15	52	98
Driving-related offences/misconduct				
Breach pursuit guidelines	4	10	7	21
Dangerous driving causing GBH/death	0	1	0	1
Drink driving offence	0	11	4	15
Negligent/dangerous driving	6	15	11	32
Unnecessary speeding	5	8	8	21
Total	15	45	30	90
Drug-related offences/misconduct				
Cultivate/manufacture prohibited drug	2	3	0	5
Drinking/under the influence on duty	1	0	4	5
Protection of person(s) involved in drug activity	46	9	7	62
Supply prohibited drug	24	8	1	33
Use/possess restricted substance	3	8	0	11
Use/possession of prohibited drug	14	34	6	54
Total	90	62	18	170

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Excessive use of force				
Assault	215	153	142	510
Firearm discharged	0	1	1	2
Firearm drawn	4	5	5	14
Improper use of handcuffs	8	4	14	26
Total	227	163	162	552
Information				
Fail to create/maintain records	7	57	50	114
Falsify official records	7	32	11	50
Misuse email/internet	2	7	7	16
Provide incorrect or misleading information	10	76	29	115
Unauthorised access to information/data	7	78	22	107
Unauthorised disclosure of information/data	67	63	57	187
Unreasonable refusal to provide information	1	0	1	2
Total	101	313	177	591
Inadequate/improper investigation				
Delay in investigation	12	8	27	47
Fail to advise outcome of investigation	5	1	3	9
Fail to advise progress of investigation	2	0	3	5
Fail to investigate (customer service)	147	48	92	287
Improper use of crime scene powers	0	0	1	1
Improper/unauthorised forensic procedure	0	0	2	2
Improperly fail to investigate offence committed by another officer	3	3	0	6
Improperly interfere in investigation by another police officer	9	18	13	40
Inadequate investigation	156	54	210	420
Total	334	132	351	817
Misconduct				
Allow unauthorised use of weapon	1	1	0	2
Conflict of interest	14	14	16	44
Detrimental action against a whistleblower	2	2	0	4
Dishonesty in recruitment/promotion	1	1	0	2
Disobey reasonable direction	0	50	25	75
Fail performance/conduct plan	0	1	0	1
Failure to comply with code of conduct (other)	106	357	252	715
Failure to comply with statutory obligation/procedure (other)	56	126	199	381
False claiming for duties/allowances	0	3	3	6
Inadequate management/maladministration	23	48	58	129
Inadequate security of weapon/appointments	2	21	26	49
Inappropriate intervention in civil dispute	2	2	6	10
Minor workplace-related misconduct	0	15	10	25
Other improper use of discretion	2	16	5	23
Unauthorised secondary employment	5	14	8	27
Unauthorised use of vehicle/facilities/equipment	7	33	13	53
Workplace harassment/victimisation/discrimination	34	102	42	178
Total	255	806	663	1,724
Other criminal conduct				
Fraud	1	7	0	8
Murder/manslaughter	1	0	1	2
Officer in breach of domestic violence order	1	11	0	12
Officer perpetrator of domestic violence	5	17	2	24
Officer subject of application for domestic violence order	1	23	6	30
Other Indictable offence	14	75	2	91
Other summary offence	14	122	14	150
Sexual assault/indecent assault	12	21	1	34
Total	49	276	26	351

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Property/exhibits/theft				
Damage	8	2	7	17
Fail to report loss	0	1	2	3
Failure or delay in returning to owner	18	3	8	29
Loss	10	11	33	54
Theft	7	14	10	31
Unauthorised removal/destruction/use of	2	6	12	20
Total	45	37	72	154
Prosecution-related inadequacies/misconduct				
Adverse comment by court/costs awarded	3	7	11	21
Fail to attend court	2	1	20	23
Fail to check brief/inadequate preparation of brief	2	12	29	43
Fail to notify witness	2	5	16	23
Fail to serve brief of evidence	2	5	14	21
Failure to charge/prosecute	24	8	31	63
Failure to use Young Offenders Act	1	0	1	2
Improper prosecution	39	7	17	63
Mislead the court	5	1	2	8
Mislead the defence	1	0	1	2
PIN/TIN inappropriately/wrongly issued	3	1	1	5
Total	84	47	143	274
Public justice offences				
Fabrication of evidence (other than perjury)	30	10	6	46
Involuntary confession by accused	0	1	1	2
Make false statement	27	11	5	43
Other pervert the course of justice	21	24	5	50
Perjury	9	6	0	15
Withholding or suppression of evidence	10	6	4	20
Total	97	58	21	176
Search/entry				
Failure to conduct search	0	1	5	6
Property missing after search	3	2	4	9
Unlawful entry	2	1	1	4
Unlawful questioning during a search	0	0	1	1
Unlawful search	19	9	28	56
Unreasonable/inappropriate conditions/damage	7	4	17	28
Wrongful seizure of property during search	4	2	6	12
Total	35	19	62	116
Service delivery				
Breach domestic violence SOPS	3	11	16	30
Fail to provide victim support	15	14	31	60
Fail/delay attendance to incident/'000'	7	4	9	20
Harassment/intimidation	114	19	68	201
Improper failure to WIPE	9	3	19	31
Improper use of move on powers	2	0	1	3
Neglect of duty (not specified elsewhere)	13	42	16	71
Other (customer service)	210	30	184	424
Rudeness/verbal abuse	83	35	132	250
Threats	25	10	31	66
Total	481	168	507	1,156
Total summary of allegations	2,028	2,362	2,395	6,785

Custodial services

Fig. 67: Action taken on formal complaints about people in custody finalised in 2012–2013

Council	Assessment only		Preliminary or informal investigation								Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Corrective Services	74	44	279	3	228	20	6	6	1	1	0	0	3	2	0	667
Justice Health	13	0	61	0	22	3	0	0	0	0	0	0	0	0	0	99
Juvenile Justice	5	7	31	0	21	0	0	0	0	0	0	0	1	0	0	65
Total	92	51	371	3	271	23	6	6	1	1	0	0	4	2	0	831

Description

Decline after assessment only, including:

A Conduct outside jurisdiction, Trivial, Remote, Insufficient interest, Commercial matter, Right of appeal or redress, Substantive explanation or advice provided, Premature – referred to agency, Concurrent representation, Investigation declined on resource/priority grounds

Preliminary or informal investigation:

- B** Substantive advice, information provided without formal finding of wrong conduct
- C** Advice/explanation provided where no or insufficient evidence of wrong conduct
- D** Further investigation declined on grounds of resource/priority
- E** Resolved to Ombudsman's satisfaction
- F** Resolved by agency prior to our intervention
- G** Suggestions/comment made
- H** Consolidated into other complaint
- I** Conciliated/mediated

Formal investigation:

- J** Resolved during investigation
- K** Investigation discontinued
- L** No adverse finding
- M** Adverse finding
- N** PID preliminary enquiries
- O** PID investigation

Fig. 68: Number of formal and informal complaints about Juvenile Justice received in 2012–2013

Some complaints may involve more than one centre.

Institution	Formal	Informal	Total
Acmena Juvenile Justice Centre	11	26	37
Cobham Juvenile Justice Centre	8	43	51
Emu Plains Juvenile Justice Centre	2	9	11
Frank Baxter Juvenile Justice Centre	24	67	91
Juniperina Juvenile Justice Centre	4	22	26
Juvenile Justice NSW	0	9	9
Orana Juvenile Justice Centre	16	30	46
Reiby Juvenile Justice Centre	0	12	12
Riverina Juvenile Justice Centre	0	4	4
Total	65	222	287

Fig. 69: Number of formal and informal complaints about correctional centres, Corrective Services NSW and the GEO group received in 2012–2013.

Some complaints may involve more than one centre.

Institution	Formal	Informal	Total	Operational Capacity	Total complaints as % of operational capacity
Maximum security					
Cessnock Correctional Centre	17	126	143	762	19%
Goulburn Correctional Centre	49	202	251	578	43%
High Risk Management Correctional Centre	15	61	76	75	101%
Lithgow Correctional Centre	29	161	190	337	56%
Long Bay Hospital	7	88	95	398	24%
Metropolitan Remand Reception Centre	47	287	334	934	36%
Parklea Correctional Centre	71	297	368	823	45%
Silverwater Women's Correctional Centre	10	116	126	230	55%
South Coast Correctional Centre	17	140	157	554	28%
Special Purpose Prison Long Bay	8	32	40	60	66%
Wellington Correctional Centre	19	184	203	486	42%
Medium security					
Bathurst Correctional Centre	18	144	162	627	26%
Broken Hill Correctional Centre	1	10	11	89	12%
Cooma Correctional Centre	6	26	32	160	20%
Dillwynia Correctional Centre	12	66	78	200	39%
Grafton Correctional Centre	11	45	56	64	87%
John Morony Correctional Centre	2	62	64	288	22%
Junee Correctional Centre	59	281	340	790	43%
Kariong Juvenile Correctional Centre	14	34	48	44	109%
Mid North Coast Correctional Centre	19	172	191	528	36%
Tamworth Correctional Centre	4	40	44	89	49%
Minimum security					
Compulsory Drug Treatment Centre	0	1	1	72	1%
Dawn De Loas Special Purpose Centre	22	123	145	580	25%
Emu Plains Correctional Centre	5	39	44	198	22%
Glen Innes Correctional Centre	2	12	14	168	8%
Ivanhoe "Warakirri" Correctional Centre	0	1	1	55	2%
Mannus Correctional Centre	6	12	18	164	11%
Metropolitan Special Programs Centre	60	283	343	618	55%
Oberon Correctional Centre	0	12	12	130	9%
Outer Metropolitan Multi Purpose Centre	3	26	29	250	12%
St Heliers Correctional Centre	3	14	17	286	6%
Yetta Dhinnakkal (Brewarrina) Centre	0	2	2	44	4%
Subtotal	536	3,099	3,635	10,681	
Other					
Community Offender Services	14	53	67		
Corrective Services Academy	0	1	1		
Corrective Services NSW	102	486	588		
Court escort/security unit	6	2	8		
Department Of Attorney General and Justice	0	1	1		
Justice Health	92	347	439		
Serious Offenders Review Council	0	1	1		
State Parole Authority	2	27	29		
The Forensic Hospital	4	10	14		
Subtotal	220	928	1,148		
Total	756	4,027	4,783	10,681	

Departments, authorities and local government

Public sector agencies

Fig. 70: Action taken on formal complaints finalised in 2012–2013

This does not include the NSW Police Force, Community Services and ADHC and those relating to child protection notifications. See appendices A, B and D for a further breakdown into specific agencies in those groups.

Council	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Bodies outside jurisdiction	704	0	0	0	0	0	0	0	0	0	0	0	0	0	0	704	
Departments & authorities	851	30	295	6	280	38	19	36	1	1	0	2	1	5	1	1,566	
Local government	534	4	119	0	69	22	9	6	0	1	0	1	0	0	0	765	
Total	2,089	34	414	6	349	60	28	42	1	2	0	3	1	5	1	3,035	

Description

Decline after assessment only, including:

A Conduct outside jurisdiction, Trivial, Remote, Insufficient interest, Commercial matter, Right of appeal or redress, Substantive explanation or advice provided, Premature – referred to agency, Concurrent representation, Investigation, declined on resource/priority grounds

Preliminary or informal investigation:

B Substantive advice, information provided without formal finding of wrong conduct
C Advice/explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource/priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions/comment made
H Consolidated into other complaint
I Conciliated/mediated
J PID preliminary enquiries

Formal investigation:

K Resolved during investigation
L Investigation discontinued
M No adverse finding
N Adverse finding
O PID investigation

Departments and authorities

Fig. 71: Action taken on formal complaints about departments and authorities finalised in 2012–2013

Agency	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Agency not named	1	1	0	0	0	0	0	1	0	0	0	0	0	0	0	3	
Ambulance Service of New South Wales	7	0	1	2	2	0	0	0	0	0	0	0	0	0	0	12	
Anti-Discrimination Board	0	0	0	0	0	1	0	2	0	0	0	0	0	0	0	3	
Attorney General	14	0	5	0	0	0	0	0	0	0	0	0	0	0	0	19	
Ausgrid	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Awabakal Newcastle Aboriginal Co-operative Ltd	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Board of Studies NSW	1	0	0	0	0	0	0	0	0	0	1	0	1	0	0	3	
Catchments & Lands	2	0	0	0	0	0	0	1	0	0	0	0	0	0	0	3	
Centennial Park and Moore Park Trust	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Central Coast Local Health District	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Charles Sturt University	6	1	4	0	2	0	0	2	0	0	0	0	0	0	0	15	
Children's Hospital at Westmead	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Community Relations Commission	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Consumer, Trader & Tenancy Tribunal	21	0	0	0	0	1	0	0	0	0	0	0	0	0	0	22	
Countrylink	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Dental Council of New South Wales	0	1	1	0	0	0	1	0	0	0	0	0	0	0	0	3	
Department of Attorney General and Justice	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	
Department of Education and Communities	34	1	11	0	1	2	0	0	0	0	0	0	3	0	0	52	
Department of Finance and Services	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	
Department of Lands	2	1	1	0	2	0	0	0	0	0	0	0	0	0	0	6	
Department of Planning and Infrastructure	5	0	3	0	0	1	0	0	0	0	0	0	0	0	0	9	
Department of Premier and Cabinet	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	
Department of Trade and Investment, Regional Infrastructure and Services	7	0	1	0	4	0	0	0	0	0	0	0	0	0	0	12	
Director of Public Prosecutions	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	
Electoral Commission NSW	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6	
EnableNSW	1	0	0	0	2	0	0	0	0	0	0	0	0	0	0	3	
Endeavour Energy	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Environment Protection Authority	3	0	2	0	0	0	0	0	0	0	0	0	0	0	0	5	
Essential Energy	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Fair Trading	31	0	11	0	3	2	1	1	0	0	0	0	0	0	0	49	
Fire and Rescue NSW	6	0	3	0	1	0	0	0	1	0	0	0	0	0	0	11	
Game Council NSW	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Guardianship Tribunal	7	0	1	0	0	2	0	0	0	0	0	0	0	0	0	10	

Agency	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Health Care Complaints Commission	18	1	3	0	0	1	0	0	0	0	0	0	0	0	0	23	
Heritage Council of NSW	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Housing NSW	96	6	39	0	81	9	5	1	0	0	0	0	0	0	0	237	
Hunter New England Local Health District	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Hunter Water Corporation Limited	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Independent Commission Against Corruption	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Information and Privacy Commissioner	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Internal Audit Bureau of NSW	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Jerrinja Local Aboriginal Land Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Land and Housing Corporation	3	3	4	0	40	1	1	0	0	0	0	0	0	0	0	52	
Land and Property Information	8	0	0	0	2	0	0	1	0	0	0	0	0	0	0	11	
Land and Property Management Authority	4	0	2	0	1	0	0	0	0	0	0	0	0	0	0	7	
Legal Aid Commission of New South Wales	16	0	3	0	3	1	0	1	0	0	0	0	0	0	0	24	
Link-Up NSW	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Livestock Health and Pest Authorities State Management Council	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Local Government Division	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	2	
Macquarie University	2	0	4	1	0	0	0	0	0	0	0	0	0	0	0	7	
Medical Council of New South Wales	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3	
Metropolitan NSW Local Health Districts	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Mid North Coast Local Health District	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Mine Subsidence Board	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
Motor Accidents Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
National Parks & Wildlife Service	4	0	0	0	1	0	0	0	0	0	0	0	0	0	0	5	
Nepean Hospital	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
New South Wales Aboriginal Land Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
North Coast Livestock, Pest and Health Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Northern NSW Local Health District	3	0	1	0	1	0	0	0	0	0	0	0	0	0	0	5	
Northern Region Joint Regional Planning Panel	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1	
Northern Sydney Local Health District	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3	
NSW Architects Registration Board	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
NSW Businesslink Pty Ltd	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
NSW Food Authority	2	0	2	0	0	0	0	0	0	0	0	0	0	0	0	4	
NSW Ministry of Health	15	1	3	0	0	0	0	0	0	0	0	0	0	0	0	19	
NSW Office of Liquor, Gaming and Racing	4	0	1	0	2	0	0	0	0	0	0	0	0	0	0	7	

Agency	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
NSW Office of Water	3	1	0	0	1	0	0	0	0	0	0	0	0	0	0	5	
NSW Police Force	0	1	0	0	0	0	0	0	0	0	0	0	0	1	0	2	
NSW Procurement	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
NSW Public School Regions	20	1	13	0	10	1	1	2	0	0	0	0	0	0	0	48	
NSW Trustee and Guardian	37	0	22	0	16	1	2	2	0	0	0	0	0	0	0	80	
Office of Communities	1	1	1	0	1	0	0	1	0	0	0	0	0	0	0	5	
Office of Environment and Heritage	1	0	1	0	1	0	0	0	0	1	0	0	0	0	0	4	
Office of Public Guardian	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Office of State Revenue	10	0	1	0	3	0	0	0	0	0	0	0	0	0	0	14	
Office of the Information Commissioner New South Wales	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	2	
Office of the Legal Services Commissioner	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Office of the Registrar Aboriginal Land Rights Act 1983	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	2	
Office of the Sheriff	4	0	0	0	1	0	0	1	0	0	0	0	0	0	0	6	
Pillar Administration	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Primary Industries	5	0	0	0	1	0	0	0	0	0	0	0	0	0	0	6	
Rail Corporation New South Wales (RailCorp)	41	0	9	0	5	0	0	3	0	0	0	0	0	0	0	58	
Registry of Births, Deaths and Marriages	3	0	4	0	5	0	0	0	0	0	0	0	0	0	0	12	
Roads and Maritime Services	94	3	32	1	27	5	1	1	0	0	0	0	0	0	1	165	
Royal Botanic Gardens and Domain Trust	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Rural and Regional NSW Local Health Districts	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Rural Assistance Authority	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Rural Fire Service NSW	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3	
South Eastern Sydney Local Health District	2	0	2	0	0	0	0	0	0	0	0	0	0	0	0	4	
South Western Sydney Local Health District	3	0	0	0	0	0	1	1	0	0	0	0	0	0	0	5	
Southern Cross University	6	0	3	0	2	1	0	0	0	0	0	0	0	0	0	12	
Southern NSW Local Health District	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Southern Rivers Catchment Management Authority	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
State Debt Recovery Office	107	4	44	0	32	5	2	6	0	0	0	0	0	0	0	200	
State Emergency Service	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
State Library of NSW	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
State Super	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
State Transit Authority of NSW	4	0	2	0	0	0	0	0	0	0	0	0	0	0	0	6	
Sydney Children's Hospital – Randwick	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Sydney East Joint Regional Planning Panel	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Sydney Harbour Foreshore Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	

Agency	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Sydney Local Health District	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Sydney Water Corporation	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Sydney West Joint Regional Planning Panel	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1	
TAFE and Community Education	26	0	2	0	2	0	0	0	0	0	0	0	0	0	0	30	
Taronga Conservation Society Australia	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Transport for NSW	17	1	5	0	3	1	1	1	0	0	0	0	0	0	0	29	
University of New England	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	
University of New South Wales	7	0	4	0	3	0	0	0	0	0	0	1	0	0	0	15	
University of Newcastle	4	0	3	0	0	0	0	0	0	0	0	0	0	0	0	7	
University of Sydney	14	1	7	2	2	0	0	1	0	0	0	0	0	0	0	27	
University of Technology Sydney	2	0	4	0	1	0	0	0	0	0	0	0	0	0	0	7	
University of Western Sydney	10	0	5	0	1	1	0	1	0	0	0	0	0	0	0	18	
University of Wollongong	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
UrbanGrowth NSW (formerly LANDCOM)	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Valuer General	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Victims Compensation Tribunal	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Western NSW Local Health District	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Western Sydney Local Health District	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
WorkCover Authority	18	0	8	0	2	0	2	3	0	0	0	0	0	0	0	33	
Workers Compensation Commission	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Total	851	30	295	6	280	38	19	36	1	1	0	2	1	5	1	1,566	

Local government

Fig. 72: Action taken on formal complaints about local government finalised in 2012–2013

Council	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Accredited certifier	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Albury City Council	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Armidale Dumaresq Council	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Ashfield Municipal Council	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6	
Auburn Council	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	
Ballina Shire Council	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Balranald Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Bankstown City Council	7	0	1	0	0	2	0	0	0	0	0	0	0	0	0	10	
Bathurst Regional Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Bega Valley Shire Council	5	0	0	0	2	0	0	0	0	0	0	0	0	0	0	7	
Bellingen Shire Council	1	0	2	0	1	0	0	0	0	0	0	0	0	0	0	4	
Blacktown City Council	19	0	2	0	1	1	0	0	0	1	0	0	0	0	0	24	
Bland Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Blayney Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	

Council	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Blue Mountains City Council	1	0	6	0	0	1	0	0	0	0	0	0	0	0	0	8	
Bombala Council	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Botany Bay City Council	1	0	2	0	1	0	0	1	0	0	0	0	0	0	0	5	
Broken Hill City Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Burwood Council	4	0	1	0	0	0	0	0	0	0	0	0	0	0	0	5	
Byron Shire Council	3	1	1	0	0	1	0	0	0	0	0	0	0	0	0	6	
Cabonne Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Camden Council	5	0	1	0	1	0	0	0	0	0	0	0	0	0	0	7	
Campbelltown City Council	6	0	0	0	1	0	0	0	0	0	0	0	0	0	0	7	
Canterbury City Council	15	1	2	0	0	1	0	0	0	0	0	0	0	0	0	19	
Cessnock City Council	2	0	1	0	4	0	0	0	0	0	0	0	0	0	0	7	
City of Canada Bay Council	2	0	2	0	1	0	0	0	0	0	0	0	0	0	0	5	
Clarence Valley Council	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	2	
Cobar Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Coffs Harbour City Council	6	0	4	0	0	0	0	0	0	0	0	0	0	0	0	10	
Cooma-Monaro Shire Council	3	0	0	0	2	0	0	0	0	0	0	0	0	0	0	5	
Coonamble Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Corowa Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Cowra Shire Council	1	0	1	0	1	0	0	0	0	0	0	0	0	0	0	3	
Dubbo City Council	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	
Dungog Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Eurobodalla Shire Council	7	0	2	0	1	1	0	0	0	0	0	0	0	0	0	11	
Fairfield City Council	7	1	1	0	1	0	0	0	0	0	0	0	0	0	0	10	
Far North Coast County Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Forbes Shire Council	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	2	
Gilgandra Shire Council	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Glen Innes Severn Shire Council	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Gosford City Council	15	0	4	0	2	0	0	0	0	0	0	0	0	0	0	21	
Goulburn Mulwaree Shire Council	2	0	0	0	1	0	0	1	0	0	0	0	0	0	0	4	
Great Lakes Council	5	0	2	0	1	0	0	0	0	0	0	0	0	0	0	8	
Greater Hume Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Greater Taree City Council	7	0	2	0	1	1	0	0	0	0	0	0	0	0	0	11	
Griffith City Council	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	
Gunnedah Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Guyra Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Gwydir Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Hawkesbury City Council	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Holroyd City Council	4	0	0	0	1	1	0	0	0	0	0	0	0	0	0	6	
Hornsby Shire Council	11	0	3	0	0	0	0	0	0	0	0	0	0	0	0	14	
Hunters Hill Municipal Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Hurstville City Council	5	0	0	0	2	0	0	0	0	0	0	0	0	0	0	7	
Jerilderie Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Kempsey Shire Council	5	0	5	0	0	1	0	0	0	0	0	0	0	0	0	11	
Kogarah City Council	9	0	0	0	1	0	0	0	0	0	0	0	0	0	0	10	
Ku-ring-gai Municipal Council	4	0	3	0	4	0	0	0	0	0	0	0	0	0	0	11	

Council	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Kyogle Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Lake Macquarie City Council	9	0	8	0	0	0	0	0	0	0	0	0	0	0	0	17	
Lane Cove Municipal Council	10	0	1	0	0	0	0	0	0	0	0	0	0	0	0	11	
Leichhardt Municipal Council	6	0	1	0	1	0	0	0	0	0	0	0	0	0	0	8	
Lismore City Council	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Lithgow City Council	1	0	1	0	1	0	0	0	0	0	0	0	0	0	0	3	
Liverpool City Council	7	0	2	0	2	0	1	0	0	0	0	0	0	0	0	12	
Liverpool Plains Shire Council	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3	
Maitland City Council	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Manly Council	7	0	3	0	0	0	0	1	0	0	0	0	0	0	0	11	
Marrickville Council	7	0	0	0	1	0	0	0	0	0	0	0	0	0	0	8	
Midcoast Water	5	0	1	0	1	0	0	0	0	0	0	0	0	0	0	7	
Mid-Western Regional Council	4	0	1	0	0	1	0	0	0	0	0	0	0	0	0	6	
Moree Plains Shire Council	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Mosman Municipal Council	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Murray Shire Council	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	3	
Muswellbrook Shire Council	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Nambucca Shire Council	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Narrabri Shire Council	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	3	
Newcastle City Council	7	0	2	0	1	0	0	0	0	0	0	0	0	0	0	10	
North Sydney Council	7	1	0	0	1	0	0	0	0	0	0	0	0	0	0	9	
Orange City Council	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6	
Palerang Council	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Parkes Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Parramatta City Council	11	0	0	0	2	2	0	0	0	0	0	0	0	0	0	15	
Penrith City Council	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6	
Pittwater Council	15	0	2	0	4	0	0	0	0	0	0	0	0	0	0	21	
Port Macquarie-Hastings Council	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6	
Port Stephens Shire Council	7	0	1	0	2	1	0	0	0	0	0	0	0	0	0	11	
Queanbeyan City Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Randwick City Council	9	0	1	0	1	1	0	1	0	0	0	0	0	0	0	13	
Riverina Water County Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Rockdale City Council	4	0	0	0	3	1	1	0	0	0	0	0	0	0	0	9	
Ryde City Council	5	0	2	0	0	0	0	0	0	0	0	0	0	0	0	7	
Shellharbour City Council	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Shoalhaven City Council	14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14	
Singleton Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Snowy River Shire Council	3	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4	
Southern Sydney Regional Organisation of Councils (SSROC)	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Strathfield Municipal Council	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	
Sutherland Shire Council	11	0	1	0	0	0	0	0	0	0	0	0	0	0	0	12	
Sydney City Council	22	0	6	0	0	0	1	0	0	0	0	0	0	0	0	29	
Tamworth Regional Council	3	0	3	0	1	0	0	0	0	0	0	0	0	0	0	7	
Tenterfield Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
The Hills Shire Council	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3	

Council	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Tumbarumba Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Tumut Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Tweed Shire Council	6	0	0	0	1	0	0	0	0	0	0	0	0	0	0	7	
Upper Hunter Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Upper Lachlan Shire Council	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Uralla Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Wagga Wagga City Council	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Wakool, Council of the Shire of	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Warringah Council	6	0	2	0	2	1	0	1	0	0	0	1	0	0	0	13	
Waverley Council	7	0	1	0	0	0	1	1	0	0	0	0	0	0	0	10	
Willoughby City Council	3	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4	
Wingecarribee Shire Council	9	0	3	0	0	2	1	0	0	0	0	0	0	0	0	15	
Wollondilly Shire Council	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	
Wollongong City Council	15	0	4	0	1	1	0	0	0	0	0	0	0	0	0	21	
Woollahra Municipal Council	5	0	2	0	1	0	0	0	0	0	0	0	0	0	0	8	
Wyong Shire Council	11	0	4	0	2	0	1	0	0	0	0	0	0	0	0	18	
Yass Valley Council	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	2	
Council not named	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Total	531	4	119	0	69	22	9	6	0	1	0	1	0	0	0	762	

Description

Decline after assessment only, including:

A Conduct outside jurisdiction, Trivial, Remote, Insufficient interest, Commercial matter, Right of appeal or redress, Substantive explanation or advice provided, Premature – referred to agency, Concurrent representation, Investigation, declined on resource/priority grounds

Preliminary or informal investigation:

- B** Substantive advice, information provided without formal finding of wrong conduct
C Advice/explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource/priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions/comment made
H Consolidated into other complaint
I Conciliated/mediated
J PID preliminary enquiries

Formal investigation:

- K** Resolved during investigation
L Investigation discontinued
M No adverse finding
N Adverse finding
O PID investigation

Human services

Child and family services

Fig. 73: Complaints issues for child and family services received in 2012–2013

Note that each complaint we received may have more than one issue.

Program area	Child protection		Out-of-home care		Children's services		Family support		Adoption		General inquiry		Total
	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	
Access to service	4	0	0	2	0	1	0	0	0	0	0	0	7
Allowances/fees	2	7	19	14	1	7	1	2	0	0	0	0	53
Assault/abuse in care	4	3	7	13	0	1	0	0	0	0	0	0	28
Case management	12	19	12	22	0	7	0	0	0	0	0	0	72
Case planning	1	0	6	5	0	0	0	0	0	0	0	0	12
Casework	52	69	48	58	1	9	0	2	0	0	0	1	240
Client choice, dignity, participation	1	1	1	2	0	1	0	0	0	0	0	0	6
Client finances & property	0	0	0	1	0	1	0	0	0	0	0	0	2
Client rights	0	2	0	2	0	0	0	0	0	0	0	0	4
Complaints	8	40	14	29	1	6	0	0	0	0	0	2	100
Customer service	6	30	9	26	0	3	0	2	0	0	0	0	76
File/record management	0	1	1	1	0	0	0	0	0	0	0	0	3
Information	5	18	4	18	0	2	0	0	0	0	0	0	47
Investigation	11	10	1	5	0	0	0	0	0	0	0	0	27
Legal problems	4	12	2	2	0	2	0	0	0	2	0	0	24
Meeting individual needs	7	18	68	78	1	12	1	1	0	0	0	0	186
Not applicable	0	11	0	8	0	2	0	1	0	0	0	2	24
Not in jurisdiction	3	19	3	11	0	14	1	0	0	0	0	1	52
Object to decision	7	32	18	73	0	2	0	1	0	0	0	0	133
Policy/procedure/law	2	0	1	0	0	0	0	0	0	0	1	0	4
Professional conduct/misconduct	5	11	1	11	0	1	0	0	0	0	0	0	29
Safety	0	0	1	1	0	0	0	0	0	0	0	0	2
Service funding, licensing, monitoring	1	0	0	1	0	1	0	1	0	0	0	0	4
Service management	1	1	2	2	0	2	0	0	0	0	0	0	8
Total	136	304	218	385	4	74	3	10	0	2	1	6	1,143

Fig. 74: Formal complaints finalised for child and family services in 2012–2013

Program area	A	B	C	D	E	F	G	Total
Child protection services	30	41	49	8	0	1	3	132
Children's services	3	1	0	0	0	0	1	5
Family support services	0	0	2	0	0	0	1	3
Out-of-home care	44	36	120	8	5	0	4	217
Total	77	78	171	16	5	1	9	357

Disability services

Fig. 75: Complaints issues for disability services received in 2012–2013

Note that each complaint we received may have more than one issue.

Program area	Disability accommodation		Disability support		General inquiry		Total
	Formal	Informal	Formal	Informal	Formal	Informal	
Access to service	2	1	11	10	0	0	24
Allowances/fees	2	2	5	2	0	0	11
Assault/abuse in care	20	13	0	4	0	0	37
Case management	4	1	7	6	0	0	18
Case planning	1	1	0	0	0	0	2
Casework	1	3	1	7	0	0	12
Client choice, dignity, participation	1	1	1	0	0	0	3
Client finances & property	1	0	2	1	0	0	4
Client rights	0	3	0	2	0	0	5
Complaints	1	4	1	5	0	0	11
Customer service	1	4	7	16	0	0	28
Information	2	4	2	3	0	0	11
Investigation	2	0	0	0	0	0	2
Legal problems	0	0	0	1	0	0	1
Meeting individual needs	26	21	9	11	0	0	67
Not applicable	0	4	2	3	0	0	9
Not in jurisdiction	0	9	5	5	0	1	20
Object to decision	1	4	2	11	0	0	18
Policy/procedure/law	2	1	0	1	0	0	4
Professional conduct/misconduct	2	0	2	0	0	0	4
Safety	1	3	0	0	0	0	4
Service funding, licensing, monitoring	1	0	0	0	0	0	1
Service management	3	1	2	3	0	0	9
Total	74	80	59	91	0	1	305

Fig. 76: Formal complaints finalised for disability services in 2012–2013

Program area	A	B	C	D	E	F	G	Total
Disability accommodation services	6	11	45	1	3	0	0	66
Disability support services	8	13	35	2	1	0	1	60
Total	14	24	74	3	4	0	1	126

Description

- A** Complaint declined at outset
- B** Complaint finalised after inquiries
- C** Complaint resolved after inquiries, including local resolution by the agency concerned
- D** Service improvement comments or suggestions to agency
- E** Referred to agency concerned or other body for investigation
- F** Direct investigation
- G** Complaint outside jurisdiction

Other community services

Fig. 77: Number of formal and informal matters about other community services received in 2012–2013

Some complaints about supported accommodation and general community services may involve complaints about child and family and disability services.

Agency category	Formal	Informal	Total
Community Services			
Specialist homelessness services	1	1	2
General community services	0	1	1
Aged services	0	1	1
Disaster welfare services	0	0	0
Other	3	15	18
Subtotal	4	18	22
ADHC			
Specialist homelessness services	0	0	0
General community services	0	1	1
Aged services	4	14	18
Disaster welfare services	0	0	0
Other	1	2	3
Subtotal	5	17	22
Other government agencies			
Specialist homelessness services	0	0	0
General community services	0	0	0
Aged services	1	5	6
Disaster welfare services	0	0	0
Other	1	1	2
Subtotal	2	6	8
Non-government funded or licensed services			
Specialist homelessness services	2	2	4
General community services	2	3	5
Aged services	5	9	14
Disaster welfare services	0	0	0
Other	6	7	13
Subtotal	15	21	36
Other			
Other (general inquiries)	0	13	13
Agency unknown	2	14	16
Outside our jurisdiction	3	8	11
Subtotal	5	35	40
Total	31	97	128

Fig. 78: Complaints issues for other community services received in 2012–2013

Figure 78 shows the issues that were complained about in 2012–2013 in relation to general community services. Note that each complaint we received may have more than one issue.

Issue	Formal	Informal	Total
Access to service	1	13	14
Allowances/fees	0	3	3
Assault/abuse in care	0	2	2
Casework	0	3	3
Client choice, dignity, participation	0	1	1
Client finances & property	0	2	2
Complaints	3	4	7
Customer service	6	8	14
Information	0	2	2
Meeting individual needs	1	2	3
Not applicable	2	13	15
Not in jurisdiction	9	29	38
NSW Police Force	0	1	1
Object to decision	4	8	12
Policy/procedure/law	1	0	1
Professional conduct/misconduct	1	3	4
Service funding, licensing, monitoring	0	1	1
Service management	3	2	5
Total	31	97	128

Fig. 79: Formal complaints finalised for other community services in 2012–2013

Figure 79 shows the outcomes of formal complaints finalised about general community services this year.

Program area	A	B	C	D	E	F	G	Total
SAAP services*	2	2	0	0	0	0	1	5
General community services	0	0	1	0	0	0	0	1
Aged services	5	0	3	2	0	0	0	10
Disaster welfare	0	0	0	0	0	0	0	0
Other	7	2	4	0	0	0	1	14
Total	14	4	8	2	0	0	2	30

* Supported accommodation and assistance program services

Description

- A** Complaint declined at outset
- B** Complaint finalised after inquiries
- C** Complaint resolved after inquiries, including local resolution by the agency concerned
- D** Service improvement comments or suggestions to agency
- E** Referred to agency concerned or other body for investigation
- F** Direct investigation
- G** Complaint outside jurisdiction

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

This report is provided in accordance with section 87O(5) of the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA). This section requires the Ombudsman to report annually on our work in keeping under scrutiny the exercise of powers conferred on police to prevent or control public disorder. These powers are found in Part 6A LEPRA and are known as the 'Part 6A powers' or 'emergency powers'.

Part 6A provides police with extraordinary powers if the authorising officer reasonably believes large scale public disorder is occurring or is threatened to occur in the near future, and they are satisfied that the emergency powers are reasonably necessary to control that public disorder. The powers include establishing a cordon or roadblock around a target area or road, stopping and searching vehicles or pedestrians in the target area, requiring identification details of people in the target area, seizing and detaining things including mobile phones and vehicles, and directing groups to disperse. Police can also impose emergency alcohol free zones and prohibitions on the sale or supply of liquor.

Under Part 6A, the Commissioner of Police must provide the Ombudsman with a report about any authorisations to use the powers within three months of the authorisation ceasing. The Ombudsman may also require the Commissioner or any public authority to provide information about the exercise of the powers. We signed an information agreement with the NSWPF in March 2009 that sets out the information that we require from police to scrutinise any use of Part 6A powers. In accordance with this agreement, the NSWPF must advise us at the time that any authorisation is given for the use of Part 6A powers and must also report biannually about all uses of the powers, details of any instances where the powers were seriously considered but not used, and advice about training undertaken and amendments to policies and procedures.

This report covers the period April 2012 to March 2013. Police did not use the Part 6A powers during the reporting period. As the biannual reporting timeframes do not correspond with the financial year, any use of the powers between 1 April and 30 June 2013 will be included in our next report.

Considered uses of the powers

While the NSWPF did not use the powers, they advised us in October 2012 that they seriously considered using the Part 6A powers on three occasions in September 2012.

- The first occasion related to a protest against the film 'Innocence of the Muslims' in the Sydney CBD area. There were some violent confrontations between protesters and police, but the NSWPF said they were able to respond to the incident 'using powers ordinarily available to police'.
- The second instance related to a planned protest by the Palestinian Action Group (PAG). Police were concerned about the risk of violence after the earlier protest, but entered an agreement with the PAG about the conduct of the protest – which went ahead without incident.
- The third instance related to formal notifications received by the NSWPF of intended public assemblies in the Sydney CBD and Bankstown areas. Part of the police planning for potential public disorder at these events included identifying target areas for use of the Part 6A powers. Ultimately no protests took place and the powers were not used.

The NSWPF confirmed that no applications for authorisation to use Part 6A LEPRA powers were made in these three instances.

Committees

Significant committees

Our staff members are members of the following inter-organisational committees:

Staff member	Committee name
Ombudsman Bruce Barbour	Board Member Pacific Ombudsman Alliance; Institute of Criminology Advisory Committee; Reviewable Disability Deaths Advisory Panel; Public Interest Disclosures Steering Committee; Convenor, NSW Child Death Review Team
Deputy Ombudsman (Public Administration Branch) Chris Wheeler	Local Government Liaison Group; Public Interest Disclosures Steering Committee
Deputy Ombudsman/Community and Disability Services Commissioner Steve Kinmond	Police Aboriginal Strategic Advisory Committee (PASAC); Reviewable Disability Deaths Advisory Panel; NSW Child Death Review Team
Deputy Ombudsman (Police and Compliance Branch) Linda Waugh	Early Intervention System Steering Committee
Director, Corporate Anita Whittaker	Management board of the NSW Audit and Risk Practitioners Group
Director, Strategic Projects Division Julianna Demetrius	PASAC
Principal Investigator Sue Phelan	Child Protection and Sex Crimes Squad Advisory Council
Manager, Aboriginal Unit Laurel Russ	PASAC
Division Manager (Public Administration Division) Anne Radford	Complaint Handler's Information Sharing and Liaison Group
Inquiries and Resolution Team Manager Vince Blatch	Complaint Handler's Information Sharing and Liaison Group
Senior Investigation Officer Maxwell Britton	Corruption Prevention Network
Community Education and Training Coordinator Anna Papanastasiou	Joint Outreach Initiative Network

Reviewable Disability Deaths Advisory Panel

Mr Bruce Barbour	Ombudsman (chair)
Mr Steve Kinmond	Deputy Ombudsman and Community and Disability Services Commissioner
Ms Margaret Bail	Human services consultant
Professor Helen Beange AM	Clinical Professor, Faculty of Medicine, University of Sydney
Ms Linda Goddard	Acting Undergraduate Courses Director, Senior Lecturer: Intellectual Disability, Chronic Care and Mental Health, School of Nursing, Midwifery & Indigenous Health, Charles Sturt University
Assoc Prof Alvin Ing	Senior Staff Specialist, Respiratory Medicine, Bankstown-Lidcombe Hospital and Senior Visiting Respiratory Physician, Concord Hospital
Dr Cheryl McIntyre	General practitioner, Obstetrician (Inverell)
Dr Ted O'Loughlin	Senior staff specialist, Gastroenterology, The Children's Hospital at Westmead
Dr Rosemary Sheehy	Geriatrician/Endocrinologist, Sydney Local Health District
Assoc Prof Ernest Somerville	Director, Comprehensive Epilepsy Service, Prince of Wales Hospital
Assoc Prof Julian Trollor	Chair, Intellectual Disability Mental Health, School of Psychiatry, Head, Department of Developmental Disability Neuropsychiatry, University of New South Wales

Compliance annual reporting requirements

Under the *Annual Reports (Departments) Act 1985*, the Annual Reports (Departments) Regulation 2010, various Treasury circulars and the *Ombudsman Act 1974* our office is required to include certain information in this report. The following is a list of information we are required to include in accordance with NSW Treasury's Annual Report Compliance Checklist and the Ombudsman Act:

Topic	Comment/location
Access	Back cover
Agreements with the Community Relations Commission	We do not have any agreements
Aims and objectives	Pages 20-27
Charter	See opening pages of report
Consultants	Please see page 119
Consumer response	Pages 4 and 16-17
Controlled entities	We have no controlled entities
Credit card certification	The Ombudsman certifies that credit card use in the office has met best practice guidelines in accordance with Premier's memoranda and Treasury directions.
Disability plans	Appendix J
Disclosure of controlled entities	We do not have any controlled entities
Disclosure of subsidiaries	We do not have any subsidiaries
Economic or other factors	Pages 28 and 118-121
Equal employment opportunity	Page 35
Financial statements	Pages 122-142
Funds granted to non-government community organisations	No funds granted
<i>Government Information (Public Access) Act 2009</i>	See Appendix I
Human resources	Pages 32-40
Identification of audited financial statements	Page 122
Inclusion of unaudited financial statements	We do not have any unaudited financial statements
Internal audit and risk management policy attestation	See page 19
Is the report available in non-printed formats?	Yes
Is the report available on the internet?	Yes, at www.ombo.nsw.gov.au
Land disposal	We did not dispose of any land
Legal change	Appendix H – includes changes in acts and subordinate legislation, significant judicial decisions
Letter of submission	See opening pages
Management and activities	This report details our activities during the reporting period. Specific comments can be found on in our Managing our organisation chapter
Management and structure: names and qualifications of principal officers, organisational chart indicating functional responsibilities	Pages 14-15
Multicultural Policies and Services Program (formerly EAPS)	Appendix J
Complaints referred to us under Part 6 of the Ombudsman Act	No complaints were referred to us under Part 6 this year
Particulars of any matter arising since 1 July 2013 that could have a significant effect on our operations or a section of the community we serve	Not applicable
Particulars of extensions of time	No extension applied for
Payment of accounts	Page 119-120
Performance and numbers of executive officers	Page 34-35
Promotion – overseas visits	Pages 8 and 113
Public interest disclosures	See page 17
Requirements arising from employment arrangements	We do not provide personnel services to any statutory body
Research and development	Pages 54-56
Risk management and insurance activities	Page 19

Topic	Comment/location
Statement of action taken to comply with the <i>Privacy and Personal Information Protection Act 1998</i>	We have a privacy management plan as required by s.33(3) of the <i>Privacy and Personal Information Protection Act 1998</i> and includes our obligations under the <i>Health Records and Information Privacy Act 2002</i> . This reporting year we did not receive any requests for internal review under the Act.
Summary review of operations	Inside front cover and pages 5-8
Time for payment of accounts	Pages 119-120
Total external costs incurred in the production of the report	\$6,899.75
Unaudited financial information to be distinguished by note	Not applicable
Waste	Pages 28-29
Work Health and Safety	Page 37

Legislation and legal matters

Legislation relating to Ombudsman functions

- *Ombudsman Act 1974*
- *Community Services (Complaints, Reviews and Monitoring) Act 1993*
- *Police Act 1990*
- *Commission for Children and Young People Act 1998*
- *Public Interest Disclosures Act 1994*
- *Witness Protection Act 1995*
- *Children and Young Persons (Care and Protection) Act 1998*
- NSW universities' enabling Acts as amended by the *Universities Legislation Amendment (Financial and Other Powers) Act 2001*
- *Government Information (Public Access) Act 2009*
- *Government Information (Information Commissioner) Act 2009*
- *Freedom of Information Act 1989* (as applied by the *Government Information (Public Access) Act 2009*)
- *Law Enforcement (Controlled Operations) Act 1997*
- *Telecommunications (Interception and Access) (New South Wales) Act 1987*
- *Surveillance Devices Act 2007*
- *Law Enforcement (Powers and Responsibilities) Act 2002*
- *Terrorism (Police Powers) Act 2002*
- *Summary Offences Act 1988*
- Amendment to *Crimes Act 1900* by Schedule 1[11] to *Crimes Amendment (Consorting and Organised Crime) Act 2012*
- *Crimes (Criminal Organisations Control) Act 2012*

Litigation

In the reporting year we were a party to the following legal action:

- *QQ v Ombudsman* [2012] NSWADTAP 34 – appeal by QQ against decision in *QQ v NSW Ombudsman* [2012] NSWADT 109 that Tribunal had no jurisdiction to entertain application for leave to proceed on discrimination complaint – appeal dismissed.

External legal advice sought

Mr MG Sexton SC, Solicitor General:

- advice regarding scope of Ombudsman's powers under Part 3A of the Ombudsman Act
- advice regarding direction made under s.41 of the Privacy and Personal Information Act
- advice regarding scope of Ombudsman's powers under Part 3 of the Ombudsman Act
- advice regarding scope of Ombudsman's power under Part 6A of the Law Enforcement (Powers and Responsibilities) Act

Legal changes

Ombudsman Amendment Act 2012

This Act amended the Ombudsman Act to enable the Ombudsman to appoint an Australian legal practitioner to assist the Ombudsman for the purposes of an inquiry held under s.19 of the Ombudsman Act and to provide authority to the Ombudsman to make a confidentiality direction connected with the publication of evidence given in or documents produced to an inquiry, and to prohibit a person summoned before an inquiry from making a disclosure likely to prejudice the related investigation.

This Act also amended the *Crime Commission Act 2012* to, amongst other things, enable the Ombudsman to compel the Commissioner and an officer of the NSW Crime Commission to give evidence or produce a document in an inquiry held under s.19 of the Ombudsman Act relevant to a matter referred for investigation to the Ombudsman by the Inspector of the Crime Commission or the Inspector of the Police Integrity Commission [note: the *Ombudsman Amendment (Crime Commission) Proclamation 2012* amended item 19 of schedule 1 to the Ombudsman Act to include within the Ombudsman's jurisdiction any conduct of a Commissioner or Assistant Commissioner of the NSW Crime Commission that relates to a matter referred by the Inspector of the NSW Crime Commission or by the Inspector of the Police Integrity Commission].

Boarding Houses Act 2012

This Act amended the Community Services (Complaints, Reviews and Monitoring) Act to bring assisted boarding houses under the *Boarding Houses Act 2012* within the Ombudsman's complaint-handling, inquiry and review functions under the Community Services (Complaints, Reviews and Monitoring) Act and to provide that an assisted boarding house is a 'visitable service' for official community visitors under Part 2 of the Community Services (Complaints, Reviews and Monitoring) Act.

Independent Commission Against Corruption and Other Legislation Amendment Act 2013

This Act amended the Ombudsman Act to permit a public authority or a service provider to disclose to the Ombudsman, and to enable the Ombudsman to use in the exercise of his functions, personal and health information in response to a preliminary inquiry under s.13AA of the Ombudsman Act notwithstanding the provisions of the Privacy and Personal Information Protection Act and the *Health Records and Information Privacy Act 2002*.

The Act also extended the power of the Ombudsman under s.19C of the Ombudsman Act to include prohibiting the making a disclosure that is likely to prejudice an investigation by a public authority subject to a requirement under s.18 of the Ombudsman Act.

NSW Ombudsman GIPA Report

The following information is provided under section 125 of the *Government Information (Public Access) Act 2009* and clause 7 of the *Government Information (Public Access) Regulation 2009* for the reporting period 1 July 2012 – 30 June 2013.

Review of proactive release program – Clause 7(a)

Under section 7 of the GIPA Act, agencies must review their programs for the release of government information to identify the kinds of information that can be made publicly available. This review must be undertaken at least once every 12 months.

The secrecy provisions of the *Ombudsman Act 1974* limit the information we can make publicly available and information relating to our complaint-handling, investigative and reporting functions is excluded information under Schedule 2 of the GIPA Act. We still try to make as much information as possible publicly available. This year, we continued to make speeches, special reports to Parliament, fact sheets, guidelines and other material available on our website.

Our program for the proactive release of information involves continually reviewing our information holdings. This includes reviewing any informal requests for information we receive where the information is provided to the person making the request. Our right to information officers, along with other staff, identify any other information that can be made available on our website.

During the reporting period, some of our right to information officers met to review the program and to discuss how we can better promote proactive release information in our office. We also raised proactive release for consideration at our corporate branch planning days. We acknowledged that it is difficult for us to release information due to our legislative provisions and discussed strategies to work with this, recognising our website is one the primary tools we use to make our information available. We looked at ways to assist staff in making sure information on our website is current and accurate, including regular reminders for division managers to check

the information available on the relevant sections of the website and consider whether there is any additional information they can make available.

We often receive informal requests for agreements that we have with other agencies. Although we make a number of these agreements available on our website, we decided to review our current interagency agreements to determine any others that could be uploaded to our website. We are in the process of conducting this review and plan to update the 'interagency agreements' section of our website in 2013–2014.

One of the most effective ways of sharing information about our work is the latest news section of our website. This section is continually updated with details about training sessions we have conducted, presentations, visits to rural and regional centres, as well as visits from delegations to our office and other information that may be of broader public interest.

We send out an e-newsletter twice a year – *Ombo-info* – that features updates and information on a range of functions and activities undertaken by our office and that also provides information about our community education and training unit. *Ombo-info* has a subscription of 2,229 and anyone can subscribe to this e-newsletter via our website.

We also produce a quarterly newsletter on our functions under the *Public Interest Disclosures Act 1994*. *PID e-news* provides updates on news, changes to legislation and regulations, training sessions, events, publications, guidance material and educational resources. *PID e-news* has a subscription of 853 and anyone can subscribe to this e-newsletter via our website.

Number of access applications received – Clause 7(b)

During the reporting period, our agency did not receive any formal access applications (including withdrawn applications but not invalid applications). We received a total of 21 invalid applications for our excluded information.

Statistical information about access applications – Clause 7(d) and Schedule 2

Fig. 80: Table A: Number of applications by type of applicant and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not for profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	0	0	0	0	0	0	0
Members of the public (other)	0	0	0	0	0	0	0	0

*More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

Fig. 81: Table B: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

*A **personal information application** is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

The total number of decisions in Table B should be the same as Table A.

Fig. 82: Table C: Invalid applications

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the Act)	0
Application is for excluded information of the agency (section 43 of the Act)	21
Application contravenes restraint order (section 110 of the Act)	0
Total number of invalid applications received	21
Invalid applications that subsequently became valid applications	0

Fig. 83: Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the Act

	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0

*More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

Fig. 84: Table E: Other public interest considerations against disclosure: matters listed in table to section 14 of the Act

	Number of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate freedom of information legislation	0

Fig. 85: Table F: Timeliness

	Number of applications
Decided within the statutory time frame (20 days plus any extensions)	0
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
Total	0

Fig. 86: Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total
Internal review	0	1	1
Review by Information Commissioner*	0	1	1
Internal review following recommendation under section 93 of Act	0	0	0
Review by ADT	0	0	0
Total	0	2	2

*The Information Commissioner does not have the authority to vary decisions, but can make a recommendation to the original decision maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made.

Fig. 87: Table H: Applications for review under Part 5 of the Act (by type of applicant)

	Number of applications
Applications by access applicants	0
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	0

Access and equity programs

Fig. 88: Multicultural action plan (MAP)

Planned outcome	Strategies	Progress report
Key priority area: Planning and evaluation		
Integrate multicultural policy goals into our corporate and business planning and review mechanisms	Conduct a comprehensive review of our MAP to ensure that our plan reflects current changes to government policies concerning migrants and asylum seekers, and that our office is accessible to the CALD communities, both established and new and emerging	<ul style="list-style-type: none"> We have an outcome-focused MAP with strategies and actions to ensure our services are accessible and appropriate for culturally and linguistically diverse (CALD) people. We are planning a comprehensive review of our MAP in 2013–2014 to ensure that it remains relevant.
	Ensure that strategies to address issues relating to CALD people are reflected in, or linked to, business plans	<ul style="list-style-type: none"> Strategies to address issues relevant to CALD people are linked to our corporate plan and relevant business plans. The senior officer group receives reports on the implementation of our MAP.
Policy development and service delivery is informed by our expertise, client feedback and complaints, and participation on advisory boards, significant committees and consultations	Gather and analyse information about issues affecting CALD people and inform business-planning processes	<ul style="list-style-type: none"> We developed and conducted customer satisfaction surveys to gain insights about the quality of our services. Questions about country of birth and language spoken at home were asked to help us better understand specific needs of our clients from a CALD background.
	Establish a cross-office MAP advisory committee to ensure that all business areas participate in the multicultural planning process	<ul style="list-style-type: none"> Our MAP advisory committee is headed by the Director, Corporate and includes representatives from all branches and divisions. The committee meets regularly to provide advice, support and to monitor the implementation of our MAP. The committee is the main internal advisory and consultative forum for our MAP review process.
	Consult regularly with key multicultural groups to identify gaps in our awareness strategies and service delivery and ensure that issues identified are reflected in our planning process	<ul style="list-style-type: none"> We liaise with key CALD organisations to promote our services to CALD communities, and to identify gaps in our awareness strategies and service delivery. We worked with other complaint-handling bodies to develop and implement communication strategies for Pacific Island communities.
Take all reasonable steps to encourage CALD people to participate in relevant committees, roundtable discussions and public forums		<ul style="list-style-type: none"> We consulted with key organisations including the Multicultural Disability Advocacy Association on a range of issues relevant to CALD people with disabilities.
		<ul style="list-style-type: none"> We included CALD people in consultation forums for our project and other core business work. We consulted Arabic groups and community members as part of our review of the removal of face covering legislation. We used a variety of communication/consultation strategies including providing information in community languages, meeting with community members, and accessing community radio.

Planned outcome	Strategies	Progress report
Key priority area: Capacity building and resourcing		
Senior management actively promote and are accountable for the implementation of the principles of multiculturalism within the office and wider community	<p>Multicultural plan endorsed and promoted to staff by Ombudsman</p> <p>Ensure that our MAP assigns clear responsibilities to key staff and division management for its implementation. Review staff performance agreements to ensure accountabilities for multicultural affairs are clearly assigned</p>	<ul style="list-style-type: none"> Our MAP was approved by the Ombudsman and is office policy. It is available to all staff and is on our website. The Director Corporate is the lead officer for our MAP and holds overall responsibility for developing and implementing our plan. Our MAP assigns clear responsibilities to all relevant staff.
Our capacity is enhanced by the employment and training of people with linguistic and cultural expertise	Use Community Language Allowance Scheme (CLAS), monitor its implementation, and develop a register of staff who have bilingual skills as well as cultural and community knowledge	<ul style="list-style-type: none"> We actively promoted and used the CLAS program within our office. Four of our staff receive the CLAS allowance. Jointly they cover five community languages. We keep a central record when language assistance is provided. This information helps inform our planning process.
Key priority area: Program and services		
Identify barriers to access to our services for CALD communities, and develop programs and services to address issues identified	<p>Review our guidelines on the use of interpreters and translators and provide training to all staff</p> <p>Ensure that our budget for interpreter services and interpreter use is monitored and reviewed</p>	<ul style="list-style-type: none"> All frontline inquiry staff are trained to use interpreting and translating services. We allocate funds for providing interpreting and translation services. We keep a register of our use of interpreting and translation services to inform our decision making in developing community language information. We provided language assistance 92 times in 15 different languages.
Use a range of communication formats and channels to inform CALD communities about our programs, services and activities	<p>Review our information in community languages and develop accessible and appropriate material in a range of formats (written, audio, online) to meet the specific needs of CALD communities following consultation with key community organisations</p> <p>Explore and recommend where appropriate the use of a range of technology in targeted community languages to facilitate communication with CALD people and improve access to our services</p> <p>Develop initiatives to raise awareness of, and celebrate the contribution of, CALD people</p>	<ul style="list-style-type: none"> Our multilingual brochure provides key information about our services in 26 community languages. Our fact sheet 'Making a complaint to the Ombudsman' is available in 46 community languages. We produced and distributed a fact sheet 'Removal of face coverings for identification purposes' in seven community languages and we had our discussion paper available in both English and Arabic. Everything we produce in community languages is checked by community 'readers' for language and cultural appropriateness. All community language information is available on our website through a prominent link on the home page. We are working with the Multicultural Area Health Service on a community radio program providing information to working women who speak Chinese, Dari, Hindu, Arabic, Krio and Kurdish at home. We continue to explore ways to include accessible information in alternative formats, such as audio, on our website. We participated in multicultural events including the Community Information Expo in Eastwood and refugee week in Parramatta to raise awareness of our services to both established and emerging CALD communities. We partnered with other complaint-handling bodies and presented a forum to Pacific Island community leaders and workers in the Campbelltown area.

Fig. 89: Disability action plan (DAP)

Outcomes	Strategies	Report
Identify and remove barriers to services for people with disabilities	Incorporate disability access issues in the planning process to reflect the needs of people with disabilities	<ul style="list-style-type: none"> Our DAP strategies are linked to our business plans. We have a DAP advisory committee that monitors the implementation of our DAP strategies. We provided senior management with quarterly reports on the implementation of our DAP In view of the introduction of the NDIS and the review of the national disability framework, we are planning to conduct a comprehensive review of our DAP to ensure that our strategies remain relevant and targeted.
	Improve data and data collection in relation to disability issues	<ul style="list-style-type: none"> We developed and conducted customer satisfaction surveys to gain insights from our client about the quality of our services. We included questions about disability and communication needs to help us better understand specific needs of our clients with disability.
	Improve disability awareness among all staff	<ul style="list-style-type: none"> We use a range of strategies to improve disability awareness among all staff, including a compulsory disability awareness training program, and using platforms such as staff meetings and the intranet to provide updates on issues affecting people with disabilities. We continued to support the Don't Dis My Ability campaign, which raises staff awareness of disability issues and celebrate the achievements of people with disabilities. We provided a range of mental health awareness and resilience training workshops for our frontline staff and supervisors. We offered a half-day mental health awareness and stress management workshop as part of our compulsory training for all staff.
	Ensure our community education program includes informing people with disability about our complaint-handling process	<ul style="list-style-type: none"> We took part in a number of community events, such as disability expos, conferences and forums to raise awareness of the role of the Ombudsman in community services and the rights of those receiving such services. We provided training on complaint handling to community service providers, and <i>The Rights Stuff</i> workshops to people who receive community services.
Provide information in a range of formats that are accessible to people with disabilities	<p>Improve the accessibility of key information about our services</p> <p>Improve the overall usability and accessibility of our website</p>	<ul style="list-style-type: none"> Our general information brochure is available in Braille and distributed to legal deposits libraries around NSW. We are currently updating our accessible publications including our large print brochure, OCV problem-solving brochure and <i>The Rights Stuff</i> workbook. Our toolkit for consumers of community services in NSW is available in audio. We are conducting a plain English review of the contents of our website to ensure that it is accessible. We have an Auslan version of our 'Know your rights as a consumer of community services' brochure on our website.
Make government buildings and facilities physically accessible to people with disabilities	Identify physical and infrastructural barriers to access for people with disabilities	<ul style="list-style-type: none"> We work with the building owners to make our building and facilities are accessible to people with disabilities. We used a range of assistive tools such as the TTY and the National Relay Service (NRS) to help to communicate with people with disabilities. We are auditing how staff use the NRS to ensure that we are NRS-friendly.

Outcomes	Strategies	Report
Assist people with disabilities to participate in public consultations and to apply for and participate in government advisory boards and committees	Liaise with disability groups to ensure the needs of people with disabilities are reflected in relevant decision-making processes	<ul style="list-style-type: none"> We worked with service providers and consumers to achieve best outcomes for people with disabilities in accessing community services. This included holding roundtable discussions with peak disability bodies to discuss issues relating to the National Disability Strategy and Stronger Together reforms.
Increase employment participation of people with disabilities in the NSW public sector	Ensure our recruitment practices for all positions are accessible and non-discriminatory	<ul style="list-style-type: none"> We reviewed our job pack to ensure it included information about promoting a non-discriminatory workplace, including our reasonable adjustment policies.
	Promote employment opportunities to people with disabilities	<ul style="list-style-type: none"> We attended the Raising the Bar Conference 2013 to improve our understanding of employment issues faced by people with disabilities, learn from other agencies' practices and experiences, and network with members of the Australian Network on Disability (AND). Issues relating to employment of people with a disability remains a standing agenda item for our DAP Advisory Committee meetings.
	Take all reasonable steps to increase employment participation for people with disabilities	<ul style="list-style-type: none"> We participated in the Stepping Into program, an AND initiative to provide paid internship opportunities to university students with disabilities. One student was offered a four week placement with our public administration branch We have a reasonable adjustment policy that aims to provide equitable employment opportunity to staff with disabilities and we are committed to making reasonable adjustments to the workplace on request. We ensure that staff who require assistance in an emergency complete and submit relevant forms and are aware of the evacuation process and the options available during an evacuation.
Facilitate agencies to identify and remove barriers to access by people with disabilities	Improve agency ability in identifying issues relating to people with disabilities	<ul style="list-style-type: none"> We ran disability awareness training workshops for government and non-government agencies and service providers to improve their skills to work effectively and confidently with people with disabilities.
	Facilitate agencies to address issues relevant to people with disabilities	<ul style="list-style-type: none"> We reported on the need to improve accommodation and support for people with a psychiatric disability. We reported on the current system for making HSC disability provision applications.

Fig. 90: Action plan for women

Objective	Outcomes for 2012–2013
Reduce violence against women	<ul style="list-style-type: none"> We are continuing to actively monitor implementation of our recommendations following the audit of police handling of domestic violence and family violence complaints, including the finalisation of a NSWPF Domestic Violence and Family Violence Complaint Practice Note reflecting our findings and recommendations.
Promote safe and equitable workplaces that are responsive to all aspects of women's lives	<ul style="list-style-type: none"> We developed our carer's recognition policy which outlines our commitment to implementing the Carer's (Recognition) Act and promoting the principles of the NSW Carer's Charter. This policy is particularly significant for female staff as they are often the primary carer. We help female staff balance work and care responsibilities by ensuring access to flexible working conditions – including flexible working hours, part-time and job share arrangements, working from home arrangements, and leave for family responsibilities. We are committed to achieving and maintaining a harassment-free workplace, and have policies and procedures for dealing with workplace grievance and harassment complaints.

Objective	Outcomes for 2012–2013
Maximise the interests of women	<ul style="list-style-type: none"> We have a women's fact sheet that focuses on raising awareness about our work in addressing issues relevant to women, such as policing of domestic violence and sexual assault against women. We are working with the Multicultural Area Health Service on a community radio program providing information to working women who speak Chinese, Dari, Hindu, Arabic, Krio and Kurdish at home.
Improve the access of women to educational and training opportunities	<ul style="list-style-type: none"> We provide equal training and development opportunities for all of our staff. We implement government policies on equal opportunity employment. We select and promote staff on merit.
Promote the position of women	<ul style="list-style-type: none"> We have a diverse workforce featuring a very high representation of women at all levels. Women make up 73.1% of total staff and 71.8% of staff grade six and above. Women make 41.7% of our staff at or above senior officer level one.

Fig. 91: Compliance with the NSW Carers (Recognition) Act 2010

Strategies	Implementation of Carers Recognition Action Plan
Educational strategies	<ul style="list-style-type: none"> We promoted our carers recognition policy to all staff through emails and our intranet. We provided information to staff about the Act and our relevant policies by placing promotional posters around the office, and distributing information to all staff. We featured the story of a staff member who is a carer in our last annual report to highlight the importance of having a supportive workplace in helping staff to manage their work and care responsibilities.
Consultation and liaison with carers	<ul style="list-style-type: none"> We developed our carers recognition policy which includes a policy statement and an outcome-focused action plan with assigned responsibilities and timeframes. The Director Corporate is responsible for the development and implementation of the policy. We consulted with staff through platforms such as our division managers group and our disability action plan advisory committee, which has representatives from all business areas. We have included strategies to consult with carers groups and clients who are carers in our action plan. We will endeavour to identify and improve outcomes in our core work for clients who are carers or have a carer.
Staff who are carers	<ul style="list-style-type: none"> We have a range of human resources policies that support our staff who are carers, including flexible working hours, working from home arrangements, family and community services leave policies. We have included strategies in our action plan to review all relevant policies to ensure that staff with caring responsibilities are valued and appropriately supported.

Publications list

We produce a range of publications including general information for the public, guidelines for agencies and organisations we oversee, discussion papers seeking information from the public, final reports at the conclusion of legislative reviews, annual reports outlining the work we have done during the financial year and special reports to Parliament about public interest issues. All publications are made publicly available in Acrobat PDF on our website: www.ombo.nsw.gov.au. Alternative formats can be provided by contacting us.

Special reports to Parliament

A level playing field? HSC disability provisions

Denial of rights: the need to improve accommodation and support for people with psychiatric disability

How are Taser weapons used by the NSW Police Force?

Managing use of force in prisons: the need for better policy and practice

Ombudsman monitoring of the police investigation into the death of Roberto Laudisio-Curti

Safe as houses? Management of asbestos in police buildings

Annual reports

NSW Ombudsman Annual Report 2011–2012

NSW Child Death Review Team Annual Report 2011

Law Enforcement (Controlled Operations) Act 1997 Annual Report 2011–2012

Official Community Visitors Annual Report 2011–2012

Oversight of the *Public Interest Disclosures Act 1994* Annual Report 2011–2012

Public Interest Disclosures Steering Committee Annual Report 2011–2012

Report of Reviewable Deaths in 2010 and 2011
Volume 1: Child deaths

Report of Reviewable Deaths in 2010 and 2011
Volume 2: Deaths of people with disabilities in care

Reports and submissions

Issues paper: Child deaths: low speed vehicle run-over fatalities of young children 2002–2011

Issues Paper: *Law Enforcement (Powers and Responsibilities) Act 2002* Part 3, Division 4: Removal of face coverings for identification purposes

Issues Paper: *Summary Offences Act 1988* Section 9: Continuation of intoxicated and disorderly behaviour following move on direction

Managing Unreasonable Complainant Conduct Project Report (Stage 2)

Report under Section 242(3) of the *Law Enforcement (Powers and Responsibilities) Act 2002*: Covert Search Warrants

Report under Section 49(1) of the Surveillance Devices Act for the period ending 3 June 2012

Report under Section 49(1) of the Surveillance Devices Act for the period ending 31 December 2012

Responding to Child Sexual Assault in Aboriginal Communities: A report under Part 6A of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*

Submission: Funding NGO delivery of human services in NSW: A period of transition

Submission: National Disability Insurance Scheme Bill 2012

Submission: Review of the *Disability Services Act 1993*

Fact sheets and guidelines

Operation Prospect fact sheet

Our work with Aboriginal people information sheet

PID guideline A4: Evaluation of policy, processes and practices

PID guideline C2: Reporting to the NSW Ombudsman

PID guideline C6: Managing interactions with investigating authorities

PID guideline D6: Finalisation and follow-up

Preventing deaths of people with disabilities in care: Breathing, swallowing and choking risks

Preventing deaths of people with disabilities in care: Information for General Practitioners

Preventing deaths of people with disabilities in care: Information for licensed boarding house staff and services

Preventing deaths of people with disabilities in care: Information for staff of disability services

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AbSec – Aboriginal Child, Family and Community Care State Secretariat

ADHC – Ageing, Disability and Home Care

ADT – Administrative Decisions Tribunal

ACWA – Association of Children’s Welfare Agencies

ALS – Aboriginal Legal Service

AMP – Asbestos management plan

AND – Australian Network on Disabilities

APOR – Australasian and Pacific Ombudsman Region

ARC – Audit and Risk Committee

ASD – Aboriginal Strategic Direction

Auslan – Australian Sign Language

AVO – Apprehended violence order

BIU – Business improvement unit

BOS – Board of Studies

CALD – Culturally and linguistically diverse

CCTV – Closed circuit television

CCYP – Commission for Children and Young People

CDRT – Child Death Review Team

CEO – Chief Executive Officer

CHISaL – Complaint Handlers Information Sharing and Liaison

CIN – Criminal infringement notice

CLAS – Community Language Allowance Scheme

COPS – Computerised Operational Policing System

CPPO – Child protection prohibition order

COMPASS – Command Performance Accountability System

COSP – Community offender support program (centre)

CS-CRAMA – *Community Services (Complaints, Review and Monitoring) Act 1993*

CSC – Community Services Centre

CSNSW – Corrective Services NSW

CTTT – Consumer, Trade and Tenancy Tribunal

CWP – Community working party

DAP – Disability action plan

DEC – Department of Education and Communities

DMG – Division managers group

DPC – Department of Premier and Cabinet

DSA – *Disability Services Act 1993*

DTIRIS – Department of Trade and Investment, Regional Infrastructure and Services

DVA – Department of Veterans Affairs

EAP – Employee assistance program

EEO – Equal employment opportunity

EHRR – Extreme high risk restricted

EPA – Environmental Protection Authority

FACS – Department of Family and Community Services

GBH – Grievous bodily harm

GIPA Act – *Government Information (Public Access) Act 2009*

GOS – Guarantee of service

GP – General Practitioner

GPNSW – Government Properties NSW

HACA – Heads of Asbestos Coordination Authorities

HACC – Home and Community Care

HRMCC – High Risk Management Correctional Centre

HSC – Higher School Certificate

IAOLAS – Indonesian Australian Ombudsman Linkages and Strengthening program

ICAC – Independent Commission Against Corruption

IO – Internal Ombudsman

IOI – International Ombudsman Institute

IPAA – Institute of Public Administration Australia

IRP – NSWPF Internal Review Panel

IPC – Information and Privacy Commissioner

IT – Information technology

JCC – Joint Consultative Committee

JIRT – Joint investigation response team

JRU – JIRT Referral Unit

KiDS – Community Services case management system

KPI – Key performance indicator

LAC – Local Area Command

LEPRA – *Law Enforcement (Powers and Responsibilities) Act 2002*

LHC – Land and Housing Corporation

MAP – Multicultural action plan

MOS – Manager of security

MoT – Ministry of Transport

MPSP – Multicultural policies and services program

MRG – Mandatory reporter guide

MSPC – Metropolitan Special Programs Centre

MRRC – Metropolitan Remand and Reception Centre

NABERS – National Australian Built Environmental Rating System

NDIS – National Disability Insurance Scheme

NDS – National Disability Services

NIS – National Investigations Symposium

NOW – NSW Office of Water

NRS – National Relay Service

NSWCC – NSW Crime Commission

NSWFT – NSW Fair Trading

NSWPF – NSW Police Force

OCG – Office of the Children’s Guardian

OCV – Official community visitor

ODPP – Office of the Director of Public Prosecutions

ODSC – Office of the Disability Services Commissioner

OOHC – Out-of-home care

OOSH – Out-of-school hours

ORI – Ombudsman of the Republic of Indonesia

PAD – Public Administration Division

PAG – Palestinian Action Group

PASAC – Police Aboriginal Strategic Advisory Committee

PCA – Principal Certifying Authority

PCU – Professional Conduct Unit

PIC – Police Integrity Commission

PID – Public interest disclosure

POA – Pacific Ombudsman Alliance

PSC – Professional Standards Command

RBT – Random breath testing

RCU – reportable conduct unit

RISC – Risk and information security committee

RMS – Roads and Maritime Services

ROSH – Risk of significant harm

SAAP – Supported Accommodation Assistance Program

SDRO – State Debt Recovery Office

SES – Senior Executive Service

SMU – Secure Monitoring Unit

SOG – Senior officers group

SOPs – Standard operating procedures

SCSF – Supporting Children, Supporting Families Program

SUDI – Sudden unexpected deaths in infancy

SWCC – Silverwater Women’s Correctional Centre

WGP – Workplace giving program

WHS – Work health and safety

WWCC – Working with children check

YIG – Youth issues group

Contacting the NSW Ombudsman

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