

NSW Ombudsman

For fairness, integrity and improved public administration

THE POWER TO speak up TODAY

In her report the Ombudsman recommended:

beat

change

turnaround

hostile

Attitudes

talk

values

How

YOU FEEL...

resolve

solve

get in motion

The frustration between young people and government is a real issue in this office. Young people are often quite disadvantaged, especially those from Aboriginal and non-English speaking backgrounds. The problem of young people and a tendency by older people to look at them leads to a high level of conflict. Young people are often...

...a shining example

...distinguishing the charges, rules

RECONCILIATION

HERE'S THE DEAL

rights

Open

to

a thorough screening of power

all of

the young

women (Asian)

students (Koori)

friend of State

children gavs

TURN

TO

US

get the latest

tenants re...

protest

Opinion

looks at

complaints

About

Teachers

Rail workers POLICE

council

RTA

We often find errors

Say

Improving Standards

What you

feel

last chance

WITNESS

deals?

Aboriginal Complaints Unit

Design your town's expo

our office Investigates

Complaints ABOUT.

public servants

suspect

unfair treatment

Don't go to pieces

get organized

for openers

LETTERS may

Lead to a

review of

the affair

INVESTIGATION REVEALS BENEFITS

end conflict now

Stop waiting.

we want your

voice Now

Annual Report Summary 1996 - 1997

For more details and confidential

HISTORIC BEGINNINGS

The word Ombudsman dates back to 1809 when the Swedish Parliament created a new official known as the Justitie-Ombudsman. This loosely translates as 'citizen's defender' or 'representative of the people'.

Today, about 50 countries have adopted the Ombudsman concept. In some countries or provinces the position has been given other titles suggestive of its role such as Mediateur (France), Protecteur du Citoyen (Quebec), Inspector Central of Government (Uganda) and Parliamentary Commissioner for Administration (United Kingdom).

The first NSW Ombudsman was appointed in 1975 and the legislation became operative in May that year.

The NSW public sector today is a very different animal to that of 1975. In 22 years there have been many changes. Governments have come and gone, public authorities have merged and separated and there have been four very different individuals appointed as Ombudsman.

RIGHTING WRONGS

Since inception we have dealt with more than 200,000 complaints.

While in that time the Ombudsman has achieved much for individual complainants, there have also been significant achievements which benefit the public through improvements in public administration.

FRONT COVER

We used the image on the front cover to produce a full colour poster for young people. Distribution has been limited so far but the young people who have seen it tell us they love it. It will be distributed widely to refuges, schools, universities, juvenile justice centres and community information centres. The poster was designed by Jason Rogers, a young artist from Wollongong.

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OUR MISSION

To safeguard the public interest by providing for the redress of justified complaints and promoting fairness, integrity and practical reforms in public administration in NSW.

OUR SERVICE GUARANTEE

If you have a complaint about a NSW government authority or public servant we guarantee to give it our most careful attention.

If it is something we can and should investigate we will do this as quickly as possible, acting fairly and independently. If your complaint is justified we will recommend changes to fix the problem.

If we don't investigate your complaint we will explain why. If we can suggest another way to solve your problem, we will tell you.

There are limits to our powers and resources but within those limits we will do whatever we can to help you.

OUR VALUES

- To act with integrity.
- To vigorously pursue the truth.
- To set aside personal interests and views in the discharge of our functions.
- To discharge all duties and responsibilities conscientiously and competently.
- To treat our clients with courtesy and sensitivity.
- To implement fair procedures.
- To use our resources efficiently and effectively.

VITAL STATISTICS

Resources

<i>Recurrent funds provided by the government 1996-97</i>	\$5.3m
<i>Total funds allocated (approx.) since establishment in 1974-75</i>	\$52m

Complaints

<i>Formal written complaints received 1996-97</i>	8,111
<i>Police</i>	5,232
<i>Other</i>	2,879
<i>Informal oral complaints received 1996-97</i>	15,698
<i>Complaints received since establishment in 1974-75</i>	
<i>Formal</i>	110,811
<i>Informal</i>	129,000+

Reports

<i>Wrong conduct reports since establishment</i>	2,200+
<i>Special reports to Parliament since establishment (approx.)</i>	163

Staff

<i>Ombudsman, Deputy Ombudsman, two Assistant Ombudsman</i>	4
<i>Investigation staff</i>	56
<i>Assistants to investigative staff</i>	8
<i>Inquiries officers</i>	3
<i>Publications/media staff</i>	2
<i>Human Resources, accounts and information systems staff</i>	9
<i>Total</i>	82

Ombudsman's Foreword

INCREASING LEVELS OF COMPLAINTS: A CAUSE FOR CONCERN?

Once again, I report a continuation of the upward trend in complaints. We dealt with 8,111 formal written complaints, an increase of 5% on the previous year, and 15,698 informal oral complaints, an increase of 10%. Some notable increases occurred in formal written complaints about local councils - up 22% - prisons up 36% and FOI up almost 40%. Increasing numbers of complaints year after year seems to be a fact of life for the office. However, the message conveyed by this steady increase is unclear.

Citizens are complaining more. And there will always be problems associated with the practices, policies and procedures of many public authorities. The question arises as to whether this upward trend in the level of complaints indicates a serious decline in the quality of the overall service provided by public authorities or public officials, or is a sign that the public increasingly believes that making a complaint is a worthwhile exercise. It is my belief that public authorities are not getting dramatically worse. Rather, it is my impression that citizens are seeing this office as a practical and effective method to obtain redress.

One of the reasons why the office is receiving more complaints may be due to our improved capacity to resolve complaints quickly and informally, without the need for formal investigation. Investigations are very often lengthy affairs and resource intensive. If complaints can be informally resolved, sometimes over the telephone, redress is quick and low cost. This fits with the office's three-pronged focus to its work - to review, to resolve and to rectify.

An important factor in the speedy and informal resolution of complaints is the willingness of public authorities to respond positively and openly to our initial inquiries. Very often, a complaint can be rapidly resolved if the public authority objectively considers the concerns raised by the complainant, acknowledges the problems which exist and then quickly moves to resolve them. I am pleased to report that many public authorities have adopted a positive and cooperative attitude to our inquiries, resulting in many complaints being successfully resolved on an informal basis. More and more public authorities are using complaints as a management tool to act as an early warning system for problems and to improve levels of service or policies and practices.

Increased numbers of complaints may not necessarily be a cause for alarm. Rather, they may be a sign of greater responsiveness and a culture that sees complaints as an important source of information to enhance the performance and effectiveness of the public sector.

CHILDREN AND YOUTH ISSUES

The Royal Commission into the NSW Police Service has completed its investigation into the paedophile reference and presented its report to the government. The Royal Commission has made 140 recommendations designed to improve child protection. I welcome the report and endorse the principles which inform the recommendations. I am pleased that the recommendations envisage this office should play a role in the reformed system for child protection.

It is important that a steady and balanced approach be taken in terms of the hard work of putting the reforms in place. It is equally important that the discussion which surrounds the implementation of the recommendations avoids too much emotionalism and rhetoric. Decisions about child protection are inevitably and understandably going to generate a considerable amount of strong feeling. However, these feelings should not completely obscure the goal of creating a child protection system which is workable and fair to all.

In relation to the handling of complaints about the conduct of service providers, I believe that the following five principles should be taken into account in the implementation of the Royal Commission's recommendations:

1. compliance with the principles set out in both of the reports of the Royal Commission with respect to its police and paedophilia references;
2. separation of complaint handling and investigation roles from advocacy and disciplinary roles to avoid in built incompatibility of functions;
3. a seamless approach to investigations to avoid overlapping responsibility and duplication - multiple agencies handling complaints can lead to jurisdictional confusion and conflicts, matters falling between the cracks and so on;
4. avoidance of the proliferation of bodies with responsibility to investigate complaints about service providers - this avoids public confusion about where to go for help and maximises recognition; and

5. agencies to take ownership of their problems including primary responsibility for the conduct of their staff, subject to mandatory notification and effective external oversight.

Adherence to these principles will assist in the development of a complaint handling system which avoids multiple investigations by different bodies, most of whom have quite different powers. There have been cases where investigations have been undertaken by more than one watchdog, police and the public authority concerned. The duplication of effort and resources and the attendant confusion in the minds of the public as to who is responsible for handling complaints is clearly not in the public interest.

I highlighted children's and youth issues in my foreword to last year's annual report. During the year there has been a quite remarkable increase in complaints from or on behalf of young people. This increase reflects the success of our strategies for raising awareness of our office among young people and youth advocates and workers. It is pleasing that so many young people are contacting our office not only to make complaints but also to seek appropriate referral information. However, there is still much to be done.

We are continually reviewing our complaint handling practices and procedures as they apply to young people, as should all public authorities. I am aware that most public authorities which have contact with young people have a long way to go before they can claim that they have the confidence and trust of the young people they serve. I am always concerned to hear from my youth liaison officer stories about young people being afraid to make complaints. This is totally unacceptable. We will be closely monitoring any claims by young people that they have been harassed or victimised because they have made a complaint to the appropriate body.

Another major project of the office in this area was the publication of our special report to Parliament into juvenile justice detention centres. The report followed the office's year long investigation into the standards of care being provided to juveniles in detention. Issues examined included education and training, food, discipline and punishment, accommodation, family contact and rehabilitation services. We made 239 recommendations for improving conditions and treatment, having found many current practices barely adequate. The Department of Juvenile Justice is making steady progress towards the implementation of the recommendations. We shall, however, be closely monitoring future compliance and implementation of the recommendations.

POLICE: A PROFESSIONAL AND ETHICAL SERVICE

The Royal Commission into the NSW Police Service has now completed its work. In the area of police complaints, a reformed complaints system is being trialed. The office continues to deal with the vast bulk of police complaints through external oversight of internal police investigations into complaints. During the year, the office handled 5,232 formal written complaints, which includes those we directly investigated or monitored, and 2,706 informal oral complaints.

A police complaints system where the bulk of complaints against police are investigated by police, with those investigations subject to external scrutiny and oversight by this office, was the model recommended by the Royal Commission and accepted by the government. It is also a model supported by this office and consistent with modern management approaches which see benefit in forcing organisations to recognise and own their problems. However, giving responsibility to the Police Service to investigate complaints requires police to be objective and professional in undertaking those investigations. Regrettably, we still see too many cases where investigations are performed inadequately or investigators fail to draw appropriate conclusions from the evidence.

During the year, I made several special reports to Parliament which raised the issue of inadequate investigations: the Piat report of July 1996; a report on police and insurance investigators of August 1996; the Weston report of September 1996; and most recently a report on Alison Lewis and Lithgow Police. One common theme in all of these reports, and many other complaints we handled and investigations we oversaw, is the incidence of inadequate internal police investigations. This



*Irene Moss AO
NSW Ombudsman*

remains a key concern of this office. The Police Service has to improve the overall quality of its internal investigations and the objectivity with which it views matters. Police must discard any desire to exonerate their colleagues and must openly acknowledge mistakes.

Another key area of concern is the ongoing problem of police failing to properly deal with conflicts of interest. During the year I released two special reports to Parliament about conflicts of interest. One report was made public in March 1997 about a specific case of a conflict of interest involving a senior officer. This report also raised serious questions about the adequacy of the internal police investigation as well as the conclusions drawn from it. The other report of June 1997 highlighted several cases of conflict and discussed the issue as a Service-wide problem.

These special reports, and many other complaints, describe cases where police were unable to recognise the existence of clear conflicts let alone adequately deal with them. Identification of a potential conflict of interest is of course the first step in being able to either avoid or manage it appropriately. There are still too many complaints we receive where police, including some senior officers, seem blind to the existence of such conflicts. Needless to say, the failure to spot a conflict of interest leads inexorably to mismanagement of it.

The Commissioner has released a Code of Conduct which contains guidance to police on conflicts of interest. However, there is a clear need for police to improve their understanding about what is, or could potentially lead to, a conflict of interest. The ability to adequately identify and manage conflicts is one indicator of a professional Police Service. Regrettably, the Police Service appears to be some way from adequate performance in this area.

Another area of concern relates to unauthorised access by police to the police computer system. Police have a high degree of access to a number of computer data bases which contain a wide variety of information about citizens. This access is granted as it is in the public interest for such information to be available for the prevention and detection of crime. However, this power has to be exercised responsibly and professionally and for the purpose for which it is granted. Unauthorised access is not only a criminal offence and a serious breach of privacy, but also a gross betrayal of public trust. Nevertheless, we have discovered a number of cases where not only have there been the most extraordinary levels of unauthorised access but also where the penalties meted out for the unauthorised access have been wholly inadequate considering the gravity of the misconduct. While the Police Service has launched a quite extensive campaign

to educate officers about unauthorised access, it appears that its response to unauthorised access will have to get a lot tougher if the frequent abuse of computer systems is to be stamped out. The successful eradication of unauthorised access as a significant problem will be an indicator of the development of a professional and ethical Police Service and we shall be closely monitoring the situation.

On a more positive note, I am pleased to report the significant advances made by police in relation to internal witnesses. The Internal Witness Support Unit has been considerably enhanced by the development of a new policy, and research suggests that the Unit is making great strides towards improvements in the treatment of internal witnesses. The Unit has a dedicated and professional staff and stands to date as an example of what the Police Service can achieve.

LOCAL COUNCILS: SMALL POCKETS OF RESISTANCE

The legislation covering local councils has been in place for a considerable period of time. I am gratified about the growing level of acceptance of the accountability of councils, councillors and mayors. However, there are still some pockets of resistance in local government which have yet to completely accept that they are accountable to watchdog bodies such as this office. This is to be contrasted with other public authorities where there is general acceptance of the principles which underpin accountability and indeed willing cooperation with the watchdog bodies. In my view, it is more likely in local government than with state government authorities for there to be a tendency to shoot the messenger and avoid dealing with the message. I hope that in the next twelve months the office will be able to constructively engage these remaining pockets of resistance with a view to gaining wider acceptance of accountability.

CONFLICT BETWEEN GENERAL MANAGERS AND MAYORS

One issue which continues to be of significant concern is the level of conflict between general managers of local councils on the one hand and mayors and councillors on the other. The numbers of complaints we have received where this is a significant element remains disturbingly high.

The conflict between GMs and mayors/councillors stems, to a large degree, from a lack of knowledge about the intricacies of the 1993 *Local Government Act* and certain expectations of and by many elected officials which are in conflict with the scheme of the Act. The public expects that councillors and mayors will be re-

sponsive to the needs of constituents. Elected officials are under pressure to respond to community concerns, and elected officials are conferred with considerable legitimacy and moral authority by the electoral process. These factors, when combined with a lack of knowledge about the 1993 legislation, often seem to create a range of unrealistic expectations and pressures which cannot be satisfied under a system which gives executive power within councils exclusively to GMs.

In my view, there are some solutions available to the problems of conflict which do not require a radical re-shaping of the legislation.

First, there is a need to better educate the electorate and those seeking election to councils to clarify the actual role, powers and responsibilities of elected councillors and mayors. This education could assist to dampen unrealistic expectations about the powers and responsibilities of councillors and mayors. While some education programs are currently available in NSW, a renewed emphasis needs to be placed on the matter in the lead up to the next round of local government elections due in 1999.

Second, councils should have mechanisms to identify problems before the parties become too polarised in their views and the conflicts intractable.

Third, early and appropriate intervention by neutral third parties can assist in conciliating or mediating disputes. Peak industry bodies in local government, the Department of Local Government and this office all currently offer alternative dispute resolution services. However, greater emphasis needs to be placed on their use and also upon their implementation.

Fourth, there are some relatively minor amendments to the act which could assist in defusing some potential for conflict. The most important would appear to be clarification of the actual powers and role of GMs, in particular clarification of what is meant by "day to day management". This is currently the responsibility of GMs and a topic about which there is a great deal of confusion, if not disagreement, across local government.

PROTECTED DISCLOSURES: IMPLEMENTATION IS INADEQUATE

During the course of the year we have audited virtually every state government agency's protected disclosures Internal Reporting Policy. Such policies are a key step in the implementation of the *Protected Disclosures Act*. The results of the audit are extremely disappointing. 72% of the 106 policies which were audited were found to be inadequate, often seriously so. Some of the policies contained misstatements about the Act and its interpretation. Many policies failed to contain statements which evidenced the agencies' opposition to maladministration,

corrupt conduct and serious and substantial waste. Another area of inadequacy was the lack of guidance and advice about key terms in the Act and the protections available to whistleblowers.

The Act commenced on 1 March 1995 and now, over two years later, many public authorities still do not appear to have grasped the nettle and put in place adequate policies and procedures to encourage whistleblowers and to ensure that their disclosures are properly dealt with. Without adequate policies and procedures in this area, it is highly unlikely that whistleblowers will feel confident about making disclosures. This would seem to defeat the point of the legislation.

Disclosures about serious and substantial waste, corrupt conduct and maladministration are clearly in the public interest. And so is their effective investigation and the implementation of changes which are necessary to prevent their recurrence. Many public authorities need to change their attitude to both whistleblowers and their disclosures and begin to regard them as a valuable management tool and source of information. To this end, all agencies whose policies were found to be inadequate have been written to by the Protected Disclosures Steering Committee with specific suggestions for how their policies can be improved. We shall be closely monitoring the uptake of these suggestions and shall report on the matter next year.

As I reported last year, the Joint Parliamentary Committee on the Office of the Ombudsman released its report on its review of the Act in September 1996. The Committee made a number of recommendations with respect to improving the legislation. The government is yet to respond to these recommendations and I would hope that some constructive action is taken within the current financial year.

CONCLUSION

There is little or no joy in uncovering misconduct by public officials. There is still far too much of it. However, there is immense satisfaction in being able to resolve complaints by citizens and achieving systemic improvements to public administration for the benefit of the public.

A significant objective of my office is to add value in the process of public administration and we will continue to focus on improving public administration in NSW.

I renew our commitment to these important objectives.



Irene Moss AO
NSW Ombudsman

Our Principal Officers

OMBUDSMAN



Irene Moss AO

BA (Syd), LLB (Syd), LLM (Harvard).

Irene became the first woman Ombudsman to be appointed in NSW in February 1995. Prior to that, she worked as a Magistrate for the NSW Government. For eight years Irene was the Federal Race Discrimination Commissioner at the Human Rights and Equal Opportunity Commission. Irene is currently on the Board of SBS and chairs the NH&MRC National Breast Cancer Centre. She was admitted as a solicitor to the Supreme Courts of NSW and ACT in 1974 and to the High Court of Australia in 1975. In 1995 she was appointed an officer of the Order of Australia.

DEPUTY OMBUDSMAN



Chris Wheeler

BTRP (Melb), MTCP (Syd),
LLB (Hons)(UTS).

Chris originally came to our office in 1981 but left seven years later to work for the NSW Department of Local Government. He later practised as a private solicitor specialising in administrative law and local government issues, before returning as Deputy Ombudsman in 1994.

MANAGER CORPORATE SUPPORT



Anita Whittaker

BCom.

Anita joined our office as Personnel Officer in 1985. Before joining the office she gained extensive public administration experience at the State Super Board and the Art Gallery of NSW. In 1995 Anita was promoted to Manager of Corporate Support, where she manages a diverse range of projects and staff.

ASSISTANT OMBUDSMAN (POLICE)



Stephen Kinmond

BA, LLB, Dip Ed, Dip Crim.

Steve worked for a number of years in the child protection area before joining our office and working as a senior investigator. He left the office to practice law in the private sector, specialising in commercial litigation and migration. After returning to our office he was appointed as Assistant Ombudsman (Police) in 1995.

MANAGER POLICE TEAM



Marianne Christmann

BSc, LLB.

Marianne joined our office in 1991 and has continued to build on her already strong background in the police area. She has worked on a number of our more complex and sensitive investigations. Before joining our office, Marianne was with the Law Reform Commission and conducted research for the Commission's Community Law Reform Program.

ASSISTANT OMBUDSMAN (GENERAL)



Greg Andrews

BA (Hons), G Cert P Sect Mgt.

As a senior investigator and manager with our office for some years, Greg has been responsible for producing many of the major reports and initiatives of the past three Ombudsmen. Greg manages a diverse range of the Ombudsman's activities supported by a talented and committed team.

MANAGER GENERAL TEAM

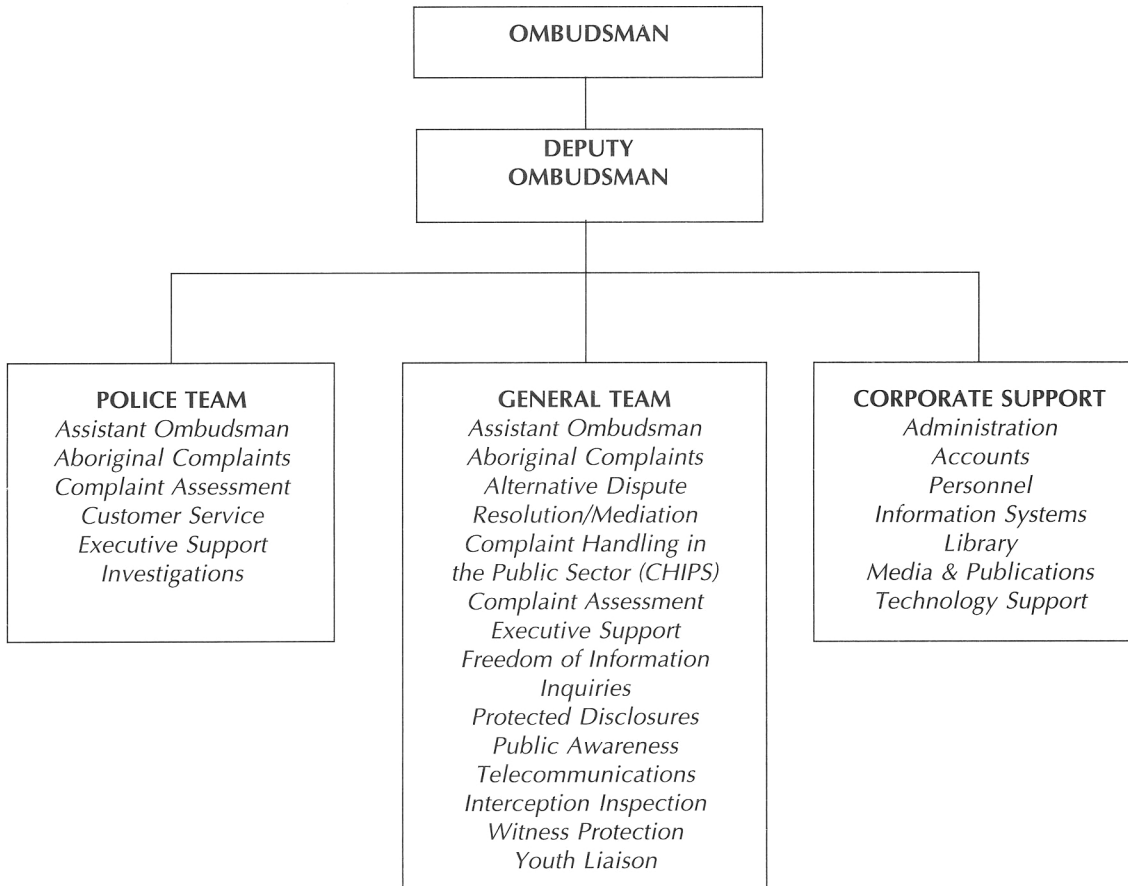


Anne Radford

BA, Grad Dip Lib, G Cert Mgt.

Anne has worked with us for eight years, initially working in the FOI Unit. She broadened her experience working as a general investigator and in 1993 was appointed Complaint Manager of the General Team. Prior to working with the office, Anne worked with the Department of Community Services.

Our Organisational Structure



SIGNIFICANT COMMITTEES - INTERNAL

Internally, the most significant office committee is the Management Committee. This committee manages the office dealing with matters relating to our functions, strategic planning, policies, budget priorities and overall administration. The committee meets fortnightly. Membership includes:

Irene Moss - Ombudsman, Chris Wheeler - Deputy Ombudsman, Greg Andrews - Assistant Ombudsman (General), Stephen Kinmond - Assistant Ombudsman (Police), Anne Radford - Complaints Manager (General), Marianne Christmann - Complaints Manager (Police), Kim Swan - Senior Investigation Officer (Legal), and Anita Whittaker - Manager Corporate Services.

SIGNIFICANT COMMITTEES - EXTERNAL

The Ombudsman is a member of the Community Services Review Committee by virtue of her office.

The Deputy Ombudsman and the Investigation Officer (Projects) are members of the Protected Disclosures Implementation Steering Committee.

The Assistant Ombudsman (General) or a representative is a non-voting member of the Prisoners Legal Service Advisory Sub Committee of the Legal Aid Commission.

The Assistant Ombudsman (General) is a member of the Public Service Panel for the Churchill Fellowship.

The Assistant Ombudsman (Police) is a member of the Internal Witness Advisory Council.

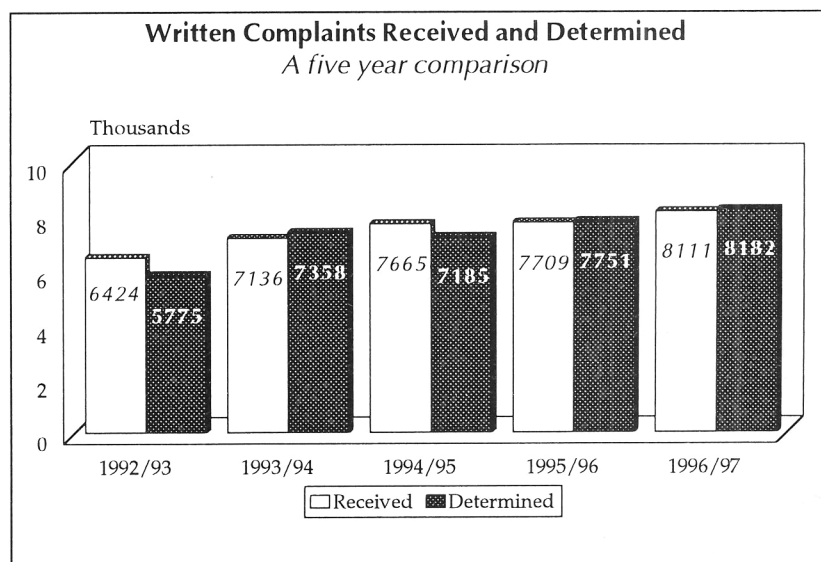
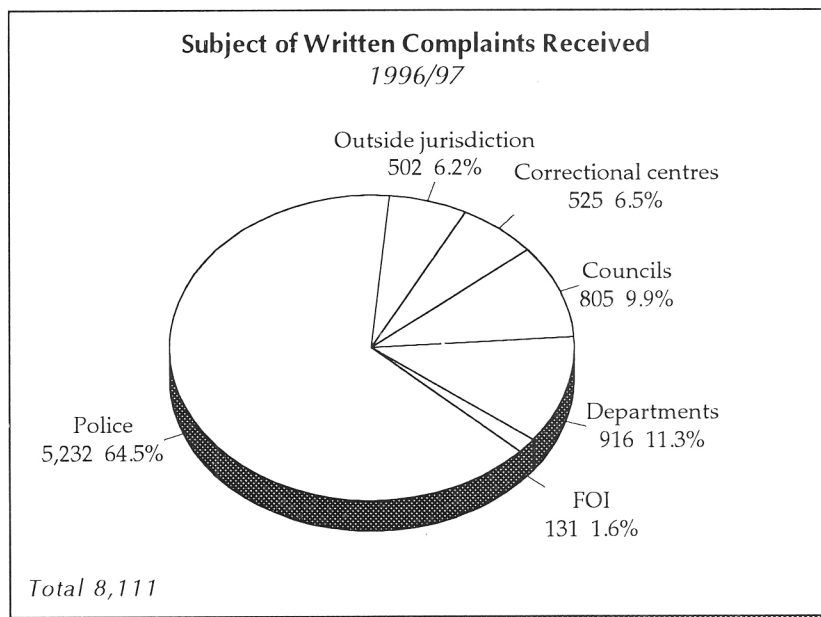
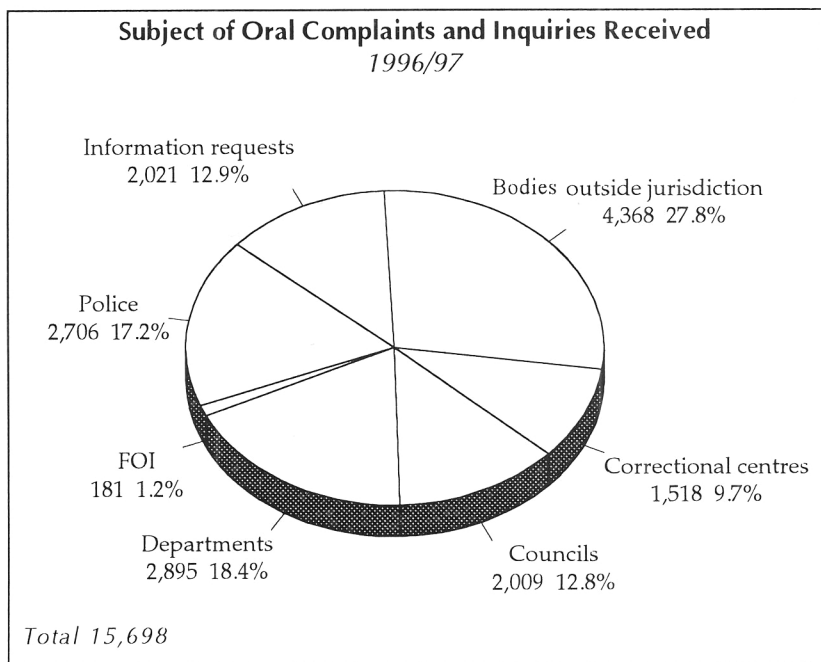
The Assistant Ombudsman (Police) and the Manager Technology are members of the Police Complaints Case Management System Steering Committee.

Significant Developments 1996-97

- An Aboriginal Complaints Unit was established in the Police Team in September 1996. The unit works with Aboriginal communities across NSW, particularly in rural and remote areas, and has begun to implement a number of practical measures to improve police relations with those communities. The unit's access and awareness program has led to a sharp rise in the reporting of Aboriginal complaints about police misconduct; the unit's pilot mediation program is testing ways to encourage communities to take concerns directly to local police commanders; and the Ombudsman - in conjunction with the Police Service - is about to commission an evaluation of the service's Aboriginal Strategic Plan.
- In the non-police area, extensive liaison work was undertaken by our Youth Liaison Officer and Aboriginal Complaints Officer which has resulted in greater access to the Office by indigenous people and young people. The representation of these groups in our complainant profile has increased as a result. Special access and awareness meetings were conducted with a range of peak bodies representing various ethnic groups to further knowledge and awareness of the Ombudsman's functions and to increase our understanding of problems encountered by these groups in their dealings with public authorities. Special briefing sessions were also conducted for electoral assistants of Members of Parliament.
- The Ombudsman's appointment of a youth liaison officer and the development of strategies to address recurring problems between young people and police, is making the Ombudsman's services more accessible to young people. Renewed Police Service interest in developing a cooperative approach to dealing with young people is adding to the momentum for constructive change.
- We targeted significant issues relating to recurring complaints about police which require a more strategic approach, including police relations with ethnic minorities, arrest and detention issues, illegal computer access, conflicts of interest and internal witnesses. By urging the Police Service to consider systemic patterns of misconduct, we have highlighted a number of service-wide issues.
- Recommendations in special reports to Parliament are an important part of our reform strategy. Three of the Ombudsman's reports in 1996-97 illustrated the Police Service's difficulties in recognising and dealing with conflicts of interest, a report in July 1996 criticised the police response to a bungled drug raid, and two reports in October highlighted serious issues associated with instances of unreasonable arrest and detention.
- Conciliations remain integral to resolving about one quarter of all complaints about police. In responding to a report to Parliament by the Ombudsman, the Police Service is currently engaged in training all local area commanders in more sophisticated dispute resolution strategies.
- We played an active role in assisting the Royal Commission into the NSW Police Service through submissions, advice and participation in a series of round table discussions. The commission's reports in February 1996, November 1996 and May 1997 heralded essential changes to the police complaints and discipline system and have aided our efforts to get the service to respond to complaints and to provide a better service.
- Under Part 8A of the *Police Service Act*, we initiated an agreement with the service for police managers to deal directly with minor day to day internal management issues without having to seek our advice. The agreement encourages the service to take greater responsibility for managing its staff, and enables us to allocate greater resources to overseeing more serious complaints.
- There was a 21% increase in formal non-police complaints and a 10% increase in oral complaints received by the Ombudsman which were all processed without any significant increase in our decline rate. We were able to increase both the number and ratio of preliminary investigations that ended in resolution of the complaint.
- December 1996 saw the release of a two volume report on the most comprehensive investigation of a public authority ever undertaken by the Ombudsman. The Inquiry into Juvenile Detention Centres examined every facet of the operation of detention centres

from the perspective of their compliance with international minimum standard rules. The report's 239 recommendations are being used as a blueprint for reform by the Department of Juvenile Justice.

- The office produced the *Public Sector Mediation Guidelines* jointly with the Attorney General's Department and The Audit Office. Released under a Premier's Memorandum in early July 1997, the guidelines provide a framework for the use of mediation as an alternative dispute resolution method by public agencies.
- A comprehensive audit was conducted of compliance by public authorities with their obligations under the *Freedom of Information Act*. The special report to Parliament released in July 1997 provided a snapshot of citizen use of the Act across all major public authorities in the state.
- Assisting public authorities develop better internal complaint handling policies and skills continued to be a priority. Eighteen individual workshops were presented during the year attracting several hundred participants from all over NSW.
- We have actively contributed in consultations on major legislative proposals that involve matters or authorities that produce high numbers of complaints to the Ombudsman. Submissions were made in response to discussion papers on proposed changes to the laws and processes controlling development and the streamlining of pollution legislation. The Ombudsman also made a major contribution to the Parliamentary Inquiry into the *Protected Disclosures Act* and participated in a number of meetings and made an extensive written submission in response to the ICAC investigation into Aboriginal Land Councils.
- In January 1997 we released two documents relating to administrative good conduct. The first of the two documents, *Principles of Administrative Good Conduct*, reproduced in Appendix 11, is a short summary of the principles of administrative good conduct applicable to public officials at all levels in the NSW public sector. The second document, *Administrative Good Conduct*, was specifically designed for managers, and expands on the principles referred to in the summary document. The feedback from authorities about the documents has been very positive and it appears most authorities have distributed the principles document to their staff.





The seriousness of alleged police misconduct remains a source of concern. There continue to be significant numbers of police officers criminally charged or the subject of disciplinary action.

Handling Complaints about Police

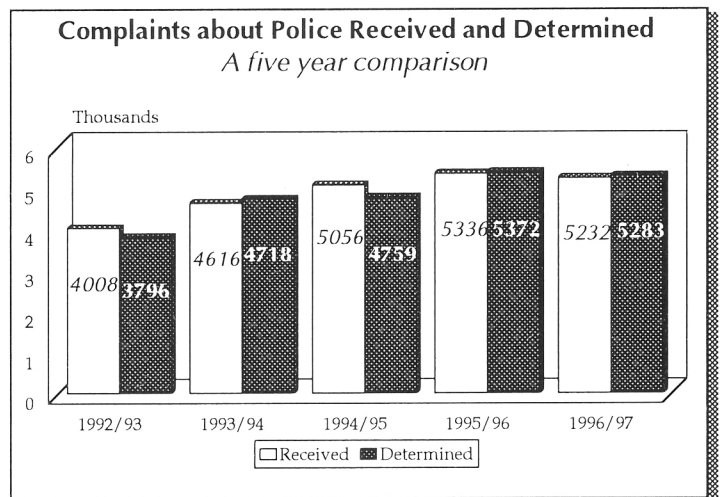
A rise in complaints about police by members of the public has offset a fall in complaints from within the NSW Police Service. Members of the public made 4226 written complaints about police in 1996-97, up from 3611 complaints in 1995-96 - an increase of 17%.

A further 1006 matters originated from within the Police Service, down from 1725 internal complaints the previous year. Much of this fall is attributable to an agreement between the Ombudsman and the Police Service for police managers to deal directly with minor day to day internal management issues without the need to refer those complaints to us. The management of those issues can be audited by us. The Police Service continues to refer all serious complaints, including all allegations of criminal conduct, serious neglect of duty and harassment.

The seriousness of alleged police misconduct remains a source of concern. In the past year more than 60 police officers were criminally charged following investigations into complaints and 230 had disciplinary action taken against them.

For many years we have highlighted the misconduct problems which exist in the Police Service. The Royal Commission into the NSW Police Service has forced the Police Service to acknowledge the extent of its problems.

In last year's annual report we noted that "*change will only come about if those managing 'at the coal face' are aware of, and have a commitment to, the Police Service's key values*". The Police Service has begun to look at its people and processes in an attempt to deal with the massive cultural change required to transform the way it operates. The Police Commissioner's Code of Conduct and Ethics sought to articulate the standards expected of Police Service personnel. All police officers have been urged to embrace and promote these key values of professionalism.



The Police Service recently revamped its local patrol structure and appointed new managers to each of its 80 local area commands. Under the service's proposed Employee Management Scheme, these managers will be given the principal responsibility for setting standards within their patrols. As noted in last year's annual report, we support the principle of holding police managers to account for the performance of their staff. Managers who are incapable or unwilling to do their job must be held accountable.

It would be wrong to suggest change will occur overnight. Complaint numbers should not be used as the only measure of progress.

An important indicator of success will be a greater preparedness by police at the front line to challenge colleagues who show a disregard for their responsibilities as police officers. It is encouraging to note that over recent years a much larger number of police have been prepared to defy the Police Service's entrenched code of silence and report serious misconduct by fellow officers. The outstanding work of the Police Service's Internal Witness Support Unit has played a critical role in encouraging many officers to come forward.

Ultimately, the key to lasting change lies with the police managers. If they set the example and have the skills to promote professionalism, there will be progress. We will continue to direct considerable energy to determine whether the Police Service is genuinely committed to an effective management model.

EMPLOYEE MANAGEMENT SCHEME

A critical test of the Police Service's reform agenda will be its commitment to promoting the principles of its proposed Employee Management Scheme (EMS). Under recommendations set out in the Royal Commission's Final Report, the Police Service is expected to develop mechanisms to address the many shortcomings of the current disciplinary system. Of particular concern, in relation to dealing with police misconduct or malpractice, is the need for the Police Service to identify the substance of complainants' concerns and to implement effective remedial action.

In streamlining its disciplinary system, the Police Service must clearly spell out the objectives of the EMS. The EMS is not intended to endorse 'soft options' for serious misconduct. In relation to many of the problems currently dealt with by way of 'counselling', the range of management measures under the proposed EMS should provide much greater scope for errant officers to confront the causes of their misconduct. Repeated failure by poor performers to improve their professional conduct may ultimately lead to their dismissal. This new approach will

require creative thinking on the part of police managers, sound guidance from a well-organised policy unit, and accurate recording of both negative and positive aspects of police officers' professional development.

In piloting the EMS in selected patrols this year, the Police Service aimed to encourage local commanders to take responsibility for the day to day management of their staff. Assessments of the initial phase of the EMS, known at that time as the Pilot Project, indicated that a lot needed to be done in order for the EMS to achieve its potential.

The EMS must also aim to: promote the highest levels of ethical conduct and professionalism among police; deal with all complaints in a fast, fair and effective manner; respond flexibly to particular circumstances; and provide mechanisms to address systemic problems, identify problem officers and make managers accountable.

Most importantly, there should be a commitment to involving complainants in the process and to achieving high levels of customer satisfaction.

Following critical assessments of the Police Service's poor management of initial stages of the Pilot Project, including our own detailed assessments, the service cut the number of patrols involved in the scheme, improved training and support to patrol commanders and better defined the scheme's objectives. The Police Service is yet to thoroughly evaluate the achievements of this second phase of the Pilot Project, which ended on 1 July 1997 when the restructure of the Police Service dispersed those patrol commanders piloting the EMS.

Some benefits to be gained through EMS, such as a closer involvement by local commanders in responding to concerns about officers under their control, are already emerging. However, few local commanders have participated in developing the EMS and a number of police managers purporting to act under the EMS have demonstrated a poor understanding of the scheme's aims and objectives.

The Police Service is planning a measured roll-out of the EMS philosophy and framework, starting with a small number of the newly formed Local Area Commands. A thorough assessment of the recently completed pilot of the EMS should help curtail many of the problems experienced in the second phase.

Clearly there is still a long way to go. A much greater level of skill and a broader understanding of appropriate management responses are required for the EMS to work effectively. Given the critical importance of the EMS to the reform process, our office will closely monitor the Police Service's implementation of the concept.

THE IMPACT OF NEW LEGISLATION

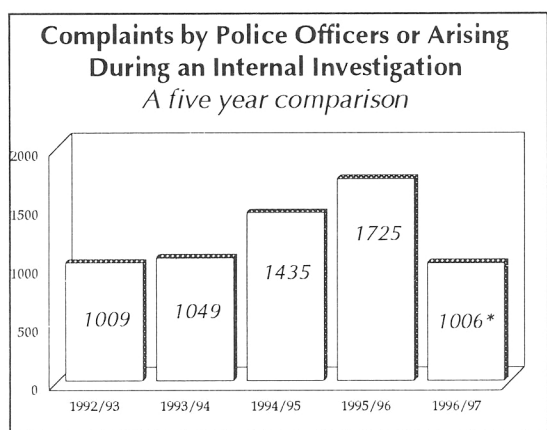
New legislation was introduced on 1 January 1997 which changed the police complaint outcome categories. Police complaint outcomes that were previously categorised as 'sustained' will now be categorised as 'adverse finding'. Complaints categorised as 'not sustained' and 'unable to be determined' will now be categorised as 'no adverse finding'. Previous years' results have been adjusted to reflect this change.

Determined Complaints about Police <i>1996-97</i>	
Not investigated	
Declined at outset	1,461
Conciliated	1,309
Partially investigated	
Preliminary or informal investigation	1,505
Discontinued	224
Formal investigation	
No adverse finding	311
Adverse finding	473
Total	5,283
Current matters (at 30 June)	
Being conciliated	268
Under preliminary/informal investigation	612
Under formal investigation	676

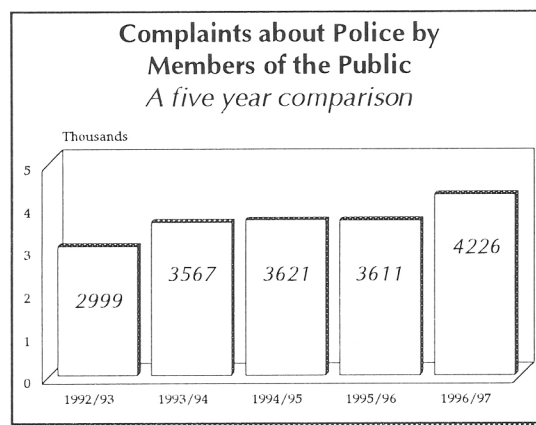
Complaints about Police Fully Investigated <i>A five year comparison</i>			
Year	Total investigated	Adverse finding	No adverse finding
1992-93	609	178	431
1993-94	818	418	400
1994-95	650	283	367
1995-96	849	495	354
1996-97	784	473	311

Action on Police Complaints <i>A five year comparison</i>				
Year	Complaints determined	Declined or partially investigated		Formally investigated
1992-93	3,796	3,182	84%	609 16%
1993-94	4,718	3,894	83%	818 17%
1994-95	4,759	4,109	86%	650 14%
1995-96	5,372	4,516	84%	849 16%
1996-97	5,283	4,499	85%	784 15%

Complaints about Police Declined or Partially Investigated <i>A five year comparison</i>					
Year	Total	Declined at outset	Preliminary or informal investigation	Investigation discontinued	Conciliated
1992-93	3,182	1,587	851	215	529
1993-94	3,894	1,698	1,005	364	827
1994-95	4,109	1,687	1,010	227	1,185
1995-96	4,516	1,800	1,362	231	1,123
1996-97	4,499	1,461	1,505	224	1,309



* This is a significant decrease from the number reported in 1995-96. The main reason for this drop is an agreement reached between the Ombudsman and the Police Service in terms of s.139A of the Police Service Act, where minor internal matters need no longer be reported to the Ombudsman.



Note: This table illustrates that there has been a sharp increase in complaints against police by members of the public, a 17% increase over 1995-96 and a 41% increase during the past five years. The total number of police complaints, that is complaints from all sections of the community, of 5232 masks this increase.

A SNAPSHOT OF STATISTICS

- Written complaints received from members of the public increased by 17%, from 3611 to 4226.
- Overall 5232 complaints were received about police, including 1006 from within the Police Service.
- Of the 784 complaints investigated, almost 60% resulted in adverse findings - about the same as last year's figure of 58%. The proportion of investigations leading to adverse findings in 1994-95 was 44%, and 29% in 1992-93.
- More than 60 police officers were criminally charged following investigations into complaints.
- More than 230 police officers were formally disciplined and more than 950 managerially counselled. All adverse findings are permanently noted on officers' records.
- The Police Service apologised to 390 complainants following inquiries or conciliations.
- There has been a significant shift in the general complaint profile.
- From these statistics it is clear:
 - a large number of police continue to act unprofessionally, including a disturbing number who engage in criminal conduct;
 - each year a large number of police who act unprofessionally are identified and dealt with;
 - it is pleasing to note that over the past five years the Police Service has been prepared to identify poor performance in a much larger number of cases. For example, the proportion of investigations leading to adverse findings has doubled since 1992-93.

Aboriginal complaints typically originate from relatively remote communities where access to our office is limited. The communities and townships in which complainants live also tend to be small and have a substantial police presence. To address these difficulties, our Aboriginal Complaints Unit conducted a community based access and awareness program, contributing to a 50% increase in complaints.



Handling complaints about Public Authorities

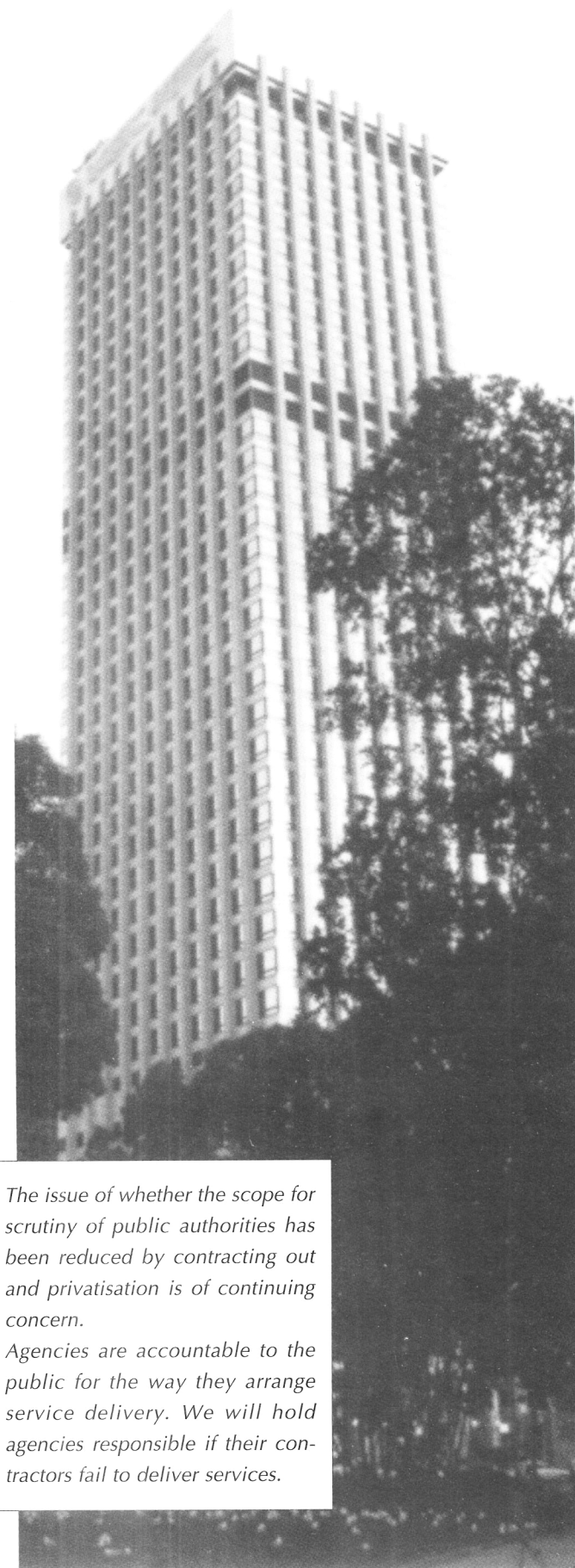
This chapter covers complaints about general government departments and statutory authorities other than police, prisons, local councils and freedom of information matters which are covered in other chapters.

This year we received 916 written complaints and 2,895 informal oral complaints about public authorities other than those listed above. We also received 82 requests to review our initial determinations. A further 502 written complaints, two review requests and 4,368 oral complaints were received about authorities, organisations or individuals not within our jurisdiction. Where a complaint falls outside the Ombudsman's jurisdiction we provide appropriate referral information whenever possible.

The level of written complaints about public authorities within our jurisdiction rose 11% this year after trending down over the previous five years. Written complaints about non-jurisdictional matters jumped 23% but review requests fell by 12%. There has been little change in the number of oral complaints received about general authorities within our jurisdiction but a 19% increase in oral complaints about bodies outside our jurisdiction.

During 1996/97, 952 written complaints and 84 reviews about general authorities were finalised. A further 508 non-jurisdictional matters, including six reviews, were also dealt with.

Preliminary or informal investigations, often extensive in scope, were conducted on 59% of the complaints received that were within our jurisdiction. Thirteen formal investigations were completed involving 17 separate complaints. Of these, four resulted in formal reports and the remainder were discontinued for various reasons.



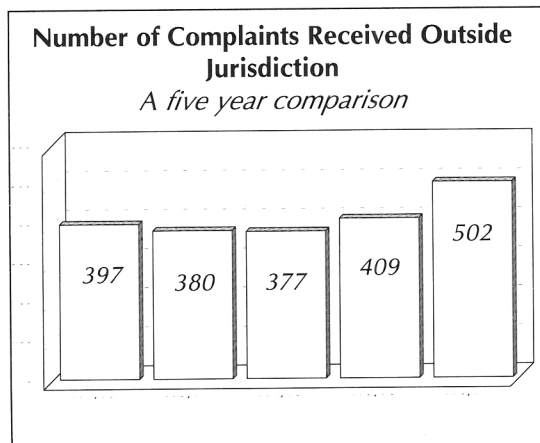
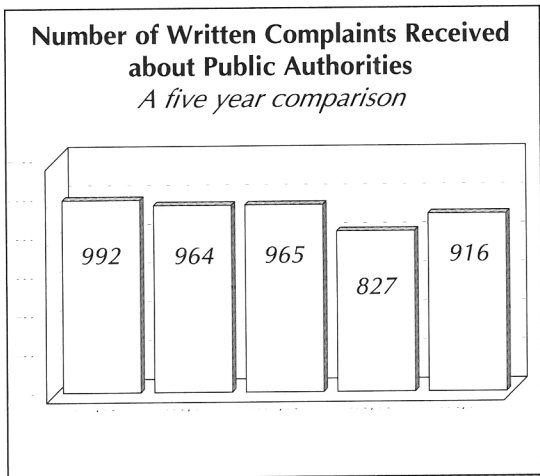
The issue of whether the scope for scrutiny of public authorities has been reduced by contracting out and privatisation is of continuing concern.

Agencies are accountable to the public for the way they arrange service delivery. We will hold agencies responsible if their contractors fail to deliver services.

Public Authority Complaints 1996-97

Received	
Written complaints	916
Oral complaints	2895
Reviews	82
Bodies outside jurisdiction	
<i>Written</i>	502
<i>Oral</i>	4368
Determined written complaints	
Formal investigation completed	17
Preliminary or informal investigation completed	502
Assessment only	332
Non jurisdiction issues	101
Total	952
Current investigations (at 30 June)	
Under preliminary or informal investigation	56
Under formal investigation	5

The area of greatest complaint is service delivery. Nearly one in three complaints are about service delivery, including complaints of delayed action or failure to act; failing to respond to correspondence or telephone calls; rudeness; or discrimination.



Nature of Written Complaints about Public Authorities <i>1996-97</i>	
Approvals Grants, licenses, permits, registrations, applications	82
Charges Level of charges, fees, penalties/refunds	71
Contractual issues Tenders, contracts, maintenance	53
Information Improper disclosure, refusal to alter/disclose, wrong advice	52
Management Supervision	13
Misconduct Corruption, conflict of interest	16
Natural justice Denial, procedural fairness/failure to give reasons, other procedural objections	32
Policy/law Objection to policy/law, faulty procedures	121
Regulation Discriminatory enforcement of regulations/law, failure to enforce/investigate, unreasonable/unjustified enforcement	54
Service Delayed action, failure to act, no replies, poor service, rudeness, discrimination	249
Wrong decisions Prejudice, malice or bias, based on wrong facts, other reasons	49
Other	43
Issue outside jurisdiction	81
Total	916

Handling Complaints about Local Councils

Complaints about local councils increased substantially in the past year. We received 805 formal written complaints about local councils in 1996-97. This is an increase of 22% over the number received in 1995-96. As with previous years, the most common type of complaints were complaints about development and building applications. There was a significant increase in the number of complaints about corporate and customer services, town planning, environmental services and building and development applications.

We finalised 796 complaints in the past year, an increase of 23% over the number finalised in 1995-96. We also received 2009 telephone enquiries and complaints about local councils. This is a decrease of 2% over the number received in the previous year.

About half of the complaints finalised in the past year resulted in the complainant being assisted or the complaint being satisfactorily resolved after preliminary investigation.

A total of 20 complaint files representing four main issues were formally investigated. Of these files, 17 resulted in adverse findings being made in a formal report. The remaining complaints resulted in no adverse findings being made in our formal report.

We received 71 requests for a review of our decision not to formally investigate complaints about local councils. We finalised 76 such review requests. We formally mediated three complaints about local councils. We also continued to successfully apply mediation techniques to informally resolve many other complaints about local councils.

WHICH COUNCILS ARE COMPLAINED ABOUT?

There are 177 local councils in NSW. This year we received complaints about 137 of them. Councils are classified for comparative purposes according to the Australian Classification of Local Governments on population densities. The 18 classifications are grouped into the

Local Council Complaints 1996-97

Received	
Written	805
Oral	2009
Reviews	71
Determined written complaints	
Formal investigation completed	20
Preliminary or informal investigation completed	462
Assessment only	298
Non jurisdiction issues	16
Total	796
Current investigations (at 30 June)	
Under preliminary or informal investigation	75
Under formal investigation	10

Complaints about local councils increased substantially. The most common complaints were about development and building applications. Complaints about corporate and customer services, town planning, environmental services and building and development applications increased significantly.

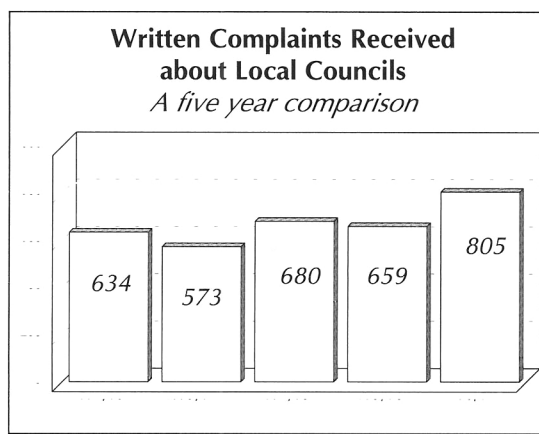
five broad categories as detailed in the table below. The table shows how the councils complained about this year were distributed across the categories and details the percentage of complaints they generated and how we dealt with those complaints. A comparison with complaints received about local councils by the Department of Local Government revealed a similar profile.

The table indicates that there is an under representation of rural agricultural councils and an over representation of councils in urban metropolitan areas and a slight over representation of councils from fringe areas and regional towns and cities in the councils made the subject of complaints. Furthermore, the urban, regional town and city councils and the councils from fringe developing areas generate higher proportions of complaints that the councils represented in the sample of councils complained about. On the other hand, while approximately 40% of councils complained about come from rural agricultural areas, they generate only 17% of the complaints.

The preponderance of complaints about planning, de-

velopment and building issues is likely to be the most obvious explanation for these trends.

The table reveals a relatively unbiased disposition of complaints in terms of the percentage declined or made the subject of preliminary informal investigations compared to the percentage of complaints received in each category. Further details of the complaints we received about individual councils and their disposition can be found in Appendix One.



Complaints about Councils by Population Category

Category	% of councils in category	% of the 137 councils subject of complaint	% of complaints received	% of complaints declined	% of preliminary or informal investigations conducted
Urban -metropolitan, developed	19%	25%	32%	30%	35%
Regional town/city	21%	24%	33%	33%	31%
Fringe developing urban or regional	6%	8%	16%	19%	14%
Rural - significant growth	3%	4%	2%	2%	2%
Rural - agricultural	49%	39%	17%	16%	18%
Rural -remote	1%	1%	0%	0%	0%

Nature of Written Complaints about Local Councils

1996-97

Building	51	Engineering services	77
Building inspections, objections to building applications, conditions/refusal of application, processing.		Failure to carry out work/inadequate work, road closures/access, parking, traffic, drainage/flooding, works.	
Community services	27	Environmental services	58
Parks and reserves, other facilities		Pollution, tree preservation, noise, health inspections, garbage collection, dog orders.	
Corporate/customer services	185	Misconduct	55
Meetings, elections, tendering, provision of information, contracts, resumptions, unfair treatment, liability, complaint handling.		Misconduct of councillors/staff, conflict of interest, pecuniary/non-pecuniary interest.	
Development	136	Rates and charges	70
Objection to development applications, conditions/refusals of applications, processing.		Town planning	35
Enforcement	69	Rezoning, S149 certificates, existing use/consent.	
Failure to enforce BA/DA conditions, orders, unauthorised works.		Other	32
		Non-jurisdictional issues	10
		Total	805

Handling Complaints about Correctional Centres

COMPLAINT PROFILE

As complaints rose in other areas of the Ombudsman's jurisdiction, so did those about the Department of Corrective Services.

We received 466 written complaints about the department, an increase of about 21% in comparison to last year, one of the highest levels in the past five years. Telephone complaints and complaints taken during visits to prisons increased by about 36%, to 1474.

We finalised 456 custodial complaints during the year, an increase of about 16% on the previous year. In about 70% of the complaints finalised, the complainant was assisted or the complaint resolved after preliminary investigation. One formal investigation, into Mulawa involving both the Department of Corrective Services and the Corrections Health Service, was finalised.

The number of complaints about particular institutions also varied in comparison with previous years. There were fewer complaints about the Remand and Training centres, Silverwater and, in particular, John Moroney (recording a single complaint). On the other hand, there was a marked increase in complaints about Grafton, Kirkconnell and Parramatta correctional centres. Of greatest concern are those institutions that received a comparatively high number of complaints and an increase in comparison to previous years. Of particular concern are Junee, Goulburn and Lithgow, all of which had increased complaints.

Complaints about case management, physical safety and segregation have increased noticeably. We are aware of the complex and difficult task of making the system work efficiently in the midst of great change. We will assist wherever possible.

Correctional Centres and Department of Corrective Services Complaints

1996-97

Received

Written	466
Oral	1474
Reviews	20

Determined written complaints

Formal investigation completed	1
Formal investigation discontinued	1
Preliminary or informal investigation completed	313
Assessment only	133
Non jurisdiction issues	8
Total	456

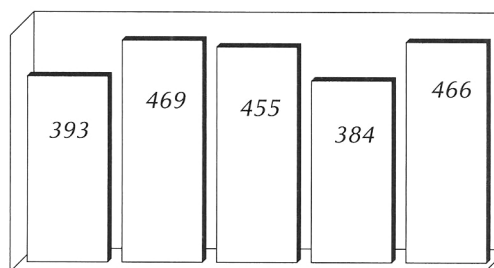
Current investigations (at 30 June)

Under preliminary or informal investigation	81
Under formal investigation	3

Nature of written prison complaints
1996-97

	Total
Property	66
Loss, delay in transferring, confiscation, failure to compensate	
Officer misconduct	58
Threats/harassment, assaults, racist abuse	
Classification/placement	51
Transfers	41
Unreasonable/refusal to, form of transport, interstate, delay	
Daily routine	30
access to amenities/activities, access to telephones, general treatment	
Visits	27
Treatment of visitors, visitor bans, access to visitors, searches	
Failure to ensure physical safety	22
Record keeping & administration	21
Inaccurate records, private cash control, sentence calculation, warrants, failure to reply/supply information	
Segregation	13
Unreasonable, failure to give reasons	
Medical	13
Access to services, methadone, dental, standards of care	
Legal	11
Mail	11
Delays, interception	
Security	10
Urine analysis, cell and strip searches	
Unfair discipline	10
Day and other leave	8
Physical conditions	6
Unhygienic conditions, lack of basic conditions	
Work and education	6
Access to, removal of	
Food & diet	6
Probation and parole	5
Buy-ups	4
Periodic detention	3
Other	44
Total	466

Written complaints received about Department of Corrective Services*
A five year comparison



* Excludes Corrections Health but includes complaints for the privately-run Junee Correctional Centre

Prison written complaints received by institution
1996-97

Department of Corrective Services	128
Junee	52
Goulburn	48
Lithgow	38
Mulawa/Norma Parker/Emu Plains	18
Kirkconnell	17
Parramatta	17
Maitland	16
Cessnock	16
Grafton	15
Reception Industrial Centre	13
Remand Centre	12
Cooma	10
Parklea	10
Training Centre	8
Bathurst	8
Prison Hospital	7
Silverwater	6
Berrima	5
St Heliers	3
Tamworth	3
Special Purposes Prison	3
Periodic Detention Centres	2
Broken Hill	2
John Morony	1
Others	8
Total	466

Last year's annual report noted with some hope that the lower complaint numbers of that year were perhaps a reflection of the impact of case and area management. We hope the return to previous high levels is not a reflection of the same impact. It is certainly of concern that complaints about classification and placement, fundamental issues for case management, have risen markedly.

Complaints in the categories of "fail to ensure physical safety" and "segregation" also increased noticeably.

The last annual report also flagged the former commissioner's determination to address the ongoing problem of inmate lost property, and the central monitoring of the way individual correctional centres deal with lost property claims. While complaints about lost property were resolved more quickly, complaints still increased by about 18%. It seems likely that the numbers will continue to rise in the coming year as more than 2500 inmates are transferred around the system in order to fill the new Metropolitan Reception and Remand Centre.

A NEW LOOK FOR THE DEPARTMENT OF CORRECTIVE SERVICES

The Department of Corrective Services has undergone significant administrative structural change and opened two unique institutions - the Metropolitan Reception and Remand Centre (MRRC) which at 900 beds is the biggest custodial institution in Australasia, and the tiny, but invaluable, Parramatta Transitional Centre. In some ways these two institutions are indicative of the vision of corrective services in the late 20th century.

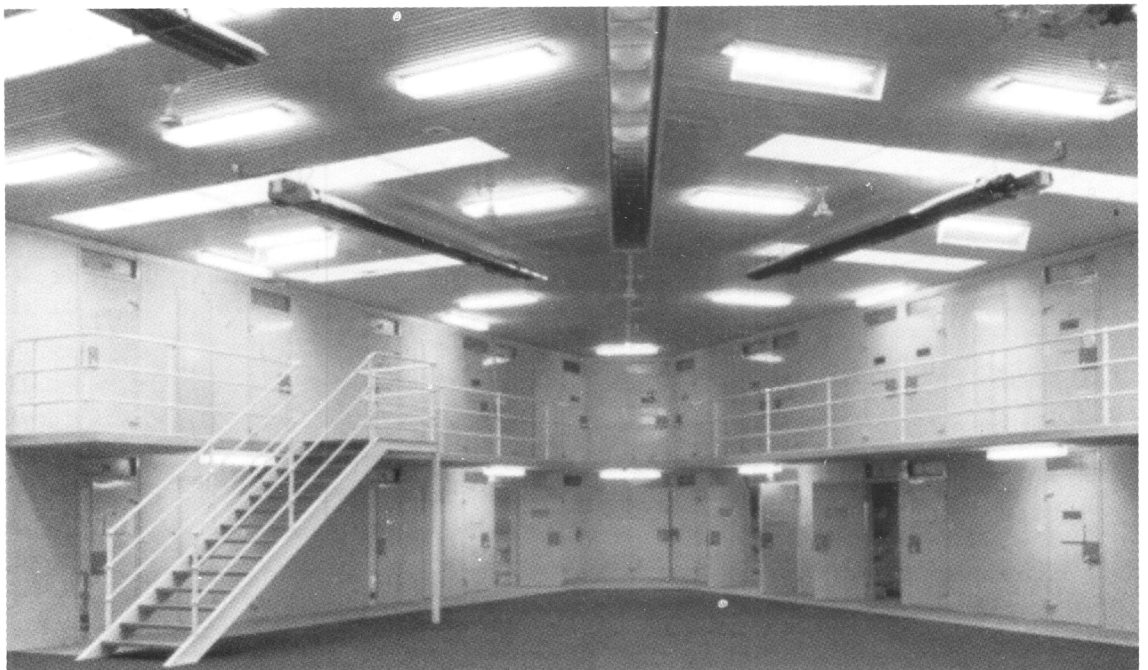
New administrative structures saw the regional commands of the department reduced from four to three. The central region office at Blacktown was closed and the department advertised for three rather than four regional commanders. The newly created central region includes the two new institutions.

The new Commissioner, Dr Keliher, also created an executive unit to coordinate contact at the highest levels of his department. The results of an executive management review and the eventual structure of the department are not yet known. Nonetheless, it is clear there will be fundamental changes flowing from these moves. With a strategic planning team working on a project "Towards 2000", we hope the structure will reflect the changing picture of corrective services.

The new, larger regional areas will put pressure on the commanders to better coordinate responses to emergencies and to better plan how to use the available space. At Long Bay, particularly, the extensive renovation and reorientation of most of the facilities is an enormous challenge. The much vaunted sex offenders programs in what was the old Reception Induction Centre need to be up and running to fill the gap created by the absence of programs at Cooma in recent years.

We are aware of the complex and difficult task of making the system work efficiently in the midst of great change. We will watch with interest, and assist wherever possible.

The new Metropolitan Reception and Remand Centre is the biggest custodial institution in Australasia. For many years its opening has been seen as the cure all for a wide range of problems within the prison system.



FUTURE DIRECTIONS

The Department of Corrective Services needs to improve its responsiveness to our inquiries about complaints, and to solutions we propose. While we would have to acknowledge that some delays in the finalisation of complaints are inescapably our responsibility, this year has seen an unfortunate decline in the speed with which the department has responded, to written inquiries in particular. In some cases, fairly simple questions have become complex simply because of the time taken by the department to provide information, let alone address the problem. At a time when complaint numbers are rising, this is a matter which will continue to create problems if not attended to.

The MRRC, for no other reason than because of its size, will undoubtedly provide a significant focus for our work in the coming year.

We will be closely monitoring the movement of women through the system as a result of the new women's classification system. Other areas of special interest will be: the department's use of "intelligence" and information gathered as a result of investigation; the department's own investigative processes; and case management and its impact on the lives of inmates.

In the coming year we are also planning to visit a number of periodic detention centres to inspect facilities and meet with inmates and staff.

CORRECTIONS HEALTH SERVICE

Formal complaints about the Corrections Health Service remained at 28 for 1996-97. Oral complaints on the other hand dropped from 54 to 31, continuing the trend for the last couple of years.

Also continuing the trend of the past few years, most complaints were about access to medical services and standards of care. Standards of care is a category of complaint which includes problems with attitudes of clinic staff. This was a matter extensively canvassed in our report into Mulawa.

The way clients are treated has an overwhelming influence on their appreciation of the service as a whole. Even when medical care is said to be as good as a community standard, when patients believe they have been treated with disdain, they are dissatisfied with the medical care. This is clearly an issue which must be addressed by the service as it is one which continues to be raised.

Corrections Health Service Complaints	
<i>1996-97</i>	
Received	
Written	28
Oral	31
Determined written complaints	
Formal investigation completed	1
Preliminary/informal investigation completed	16
Assessment only	7
Total	24

Nature of written complaints about the Corrections Health Service	
<i>1996-97</i>	
Access to medical services	14
Standards of care	9
Dental services	2
Failure to ensure physical safety	1
Methadone	1
Officer misconduct	1
threats/harassment, assaults, racist abuse	
Total	28



Handling Complaints about Juvenile Justice Centres

We continue to focus on the Department of Juvenile Justice's nine full time detention centres. We visited all nine centres during the year, making good use of our new youth liaison officer and Aboriginal complaints officer by including them as much as possible in our routine visits to the centres. This often meant three people attended some centres rather than the usual two. Additional visits were made to two centres specifically in response to complaints received.

NATURE OF COMPLAINTS

A total of 31 written complaints were received, which is a 50% increase on those received for 1995-96. This can in part be attributed to the publicity surrounding the release of the Ombudsman's report of her inquiry into juvenile detention centres in NSW. This has made more people within the centres and the wider community aware they can complain to us about these issues.

Because juvenile detainees can find it difficult to make written complaints, we also monitor the number and type of oral complaints received by telephone and from interviews with detainees during our visits to the centres. The most frequently raised issues during the year were:

- staff misconduct, predominantly assaults and harassment;
- daily routine, which includes access to phones and facilities, general treatment (of which most relate to the ban on smoking), lack of basic conditions, staffing levels/lockdowns, time out of their rooms and unhygienic conditions; and
- unfair discipline.

These generally corresponded with the major issues identified in previous years' complaints to this office, although complaints about food and transfers appear to have dropped. No doubt this is due, in part, to improvements within centres, but also may reflect the increased visits to the centres by Official Visitors. It is clear that these visitors, who are appointed by and responsible to the Minister for Community Services, have established an increased profile with detainees and centre staff. We

The most frequently raised issues in complaints about Juvenile Justice Centres were: staff misconduct, predominantly assaults and harassment; daily routine; and unfair discipline.

Department of Juvenile Justice Complaints 1996-97

Received	
Written	31
Oral	185
Determined written complaints	
Formal investigation completed	2
Preliminary or informal investigation completed	24
Assessment only	9
Non jurisdiction issues	1
Total	36

generally enjoy a positive relationship with all Official Visitors, and we have, on occasion, depending upon the nature of the matter, referred complaints from detainees to each other. We look forward to continued cooperation with them in the coming year.

The Ombudsman's report, *Inquiry into Juvenile Detention Centres*, tabled in Parliament in December 1996, laid down the gauntlet for the Department of Juvenile Justice. It challenged the department to improve its operations, and detailed numerous changes that can and should be made for juvenile detainees to receive care and treatment of an international standard. To date we are generally pleased with the department's response to this challenge.

The Ombudsman continues to be concerned with the number of allegations of staff misconduct. In most instances these allegations were made by detainees, although two or three were made by fellow staff. All staff and a number of detainees who made these complaints also expressed concerns of reprisal from other staff.

Our inquiry into the centres focused considerable attention on the need for better internal complaint resolution and departmental action in response to allegations of assault by staff. Rather than initiate our own investigations, we have decided to refer most allegations to the department for its own investigation (where the department had not previously been aware of the allegations) and report back to us. Where the department has already dealt with the matter, we have usually requested all documents collected and created for the investigation. As indicated in some of the case studies which follow, we have found the department's response to such matters to be increasingly thorough and timely.

**Outcome of Oral Complaints/
Inquiries Received**
1996-97

Explanation, advice or referral given	79
Advised to submit written complaint	20
Preliminary or informal investigations made	109
Total	208

Note: Some inquiries raised more than one issue, which may have different outcomes. Therefore a greater number of issues than total number of oral complaints/inquiries received were dealt with.

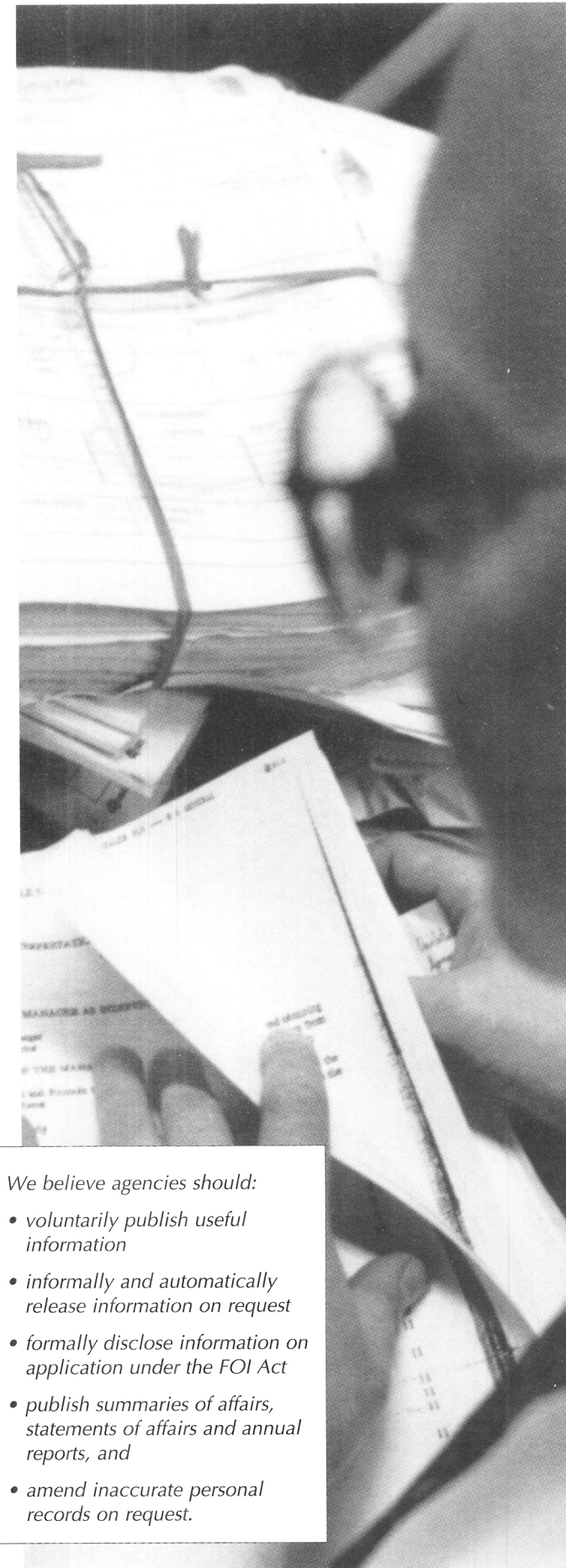
**Nature of Written Complaints about the
Department of Juvenile Justice**
1996-97

Officer misconduct	17
Daily routine	2
Failure to ensure physical safety	2
Property	1
Record keeping and administration	1
Bans on visitor	1
Day and other leave	1
Other	6
Total	31

Handling Complaints about Freedom of Information

The most significant achievements of our Freedom Of Information Unit were a 43% resolution rate and an increase, for the eighth successive year, in the number of complaints completed during the year. The increase was almost 11%.

In continuing to emphasise resolution of complaints we also saw an 11% rise over last year in the number of complaints which we completed specifically by informally resolving them. This rise was probably in large part due to our use of section 52A in almost 22% of all completed complaints, half of all matters which we considered satisfactorily resolved. Section 52A was inserted in the *FOI Act* in late 1995 and provides agencies with the opportunity to redetermine an FOI application which has been sent to us for review. The redetermination must be in accordance with a suggestion or recommendation of the Ombudsman, or as a result of a written undertaking given in a conciliation conducted by the Ombudsman. Our successful use of this provision is largely because redetermination under s52A carries with it all the protections which the Act affords any agency in relation to the original FOI determinations. Without that protection we believe we would see, as we did before the introduction of the s52A provision, a significant number of agencies unwilling to alter incorrect or unreasonable decisions. With the protection provided by s52A, however, agencies have been prepared without exception to give access to documentation on the basis of our suggestions that documents be released, based on our preliminary views that the documents were not exempt. None of these matters required formal investigation. Turnaround times for matters resolved on this basis appear to be improving as we gain more experience in the application of s52A. All matters resolved under s52A involved the release of documents previously considered exempt by the agencies concerned.



We believe agencies should:

- voluntarily publish useful information
- informally and automatically release information on request
- formally disclose information on application under the FOI Act
- publish summaries of affairs, statements of affairs and annual reports, and
- amend inaccurate personal records on request.

Freedom of Information Complaints

1996-97

Received

Written	131
Oral	181
Reviews	5

Determined written complaints

Formal investigation completed	3
Formal investigation discontinued	3
Preliminary or informal investigation completed	105
Assessment only	2
Non jurisdiction issue	20
Total	133

Current investigations (at 30 June)

Under preliminary or informal investigation	43
Under investigation	1

While only half of the complaints were resolved under s52A, the other half were resolved in ways considered satisfactory by other means, many still by the release of some or all documents claimed as exempt. Almost one quarter of all resolved complaints involved issues such as processing delays, withheld or lost documents, failures to respond and excessive charges. These were resolved by agencies following our suggestions. For example, we successfully encouraged immediate action on a number of delayed applications, in various cases we suggested agencies give explanations to applicants, and in others we suggested that refunds be given.

Three wrong conduct reports were completed in the year, all of which are detailed later in this chapter. Due to the steady increase over the past five years in the number of matters completed per year, the proportion of wrong conduct reports completed each year to total complaints completed is at its second lowest for that period. We believe this is a direct result of the number of matters which have been informally resolved over the same period, an increase from 20% to 43%.

The increased emphasis on informal resolution has lessened the need to formally investigate matters. This conclusion is strengthened when one considers the number of formal investigations which were discontinued on the basis that they had been resolved to the Ombudsman's satisfaction - four in 95/96 and three in the last year.

COMPLAINTS RECEIVED

As can be seen from the accompanying graph there was a sharp rise in the number of complaints received in comparison to the previous year. The reasons for the more than 39% increase are not known.

Of the complaints received the great majority related to refusal of access to documents. Most of the rest were classified in three categories, namely:

- requests for review from third parties;
- allegations that agencies were refusing to acknowledge the existence of documentation (ie withholding documents);
- allegations that the processing of applications was delayed.

Nature of Written Complaints about FOI 1996-97

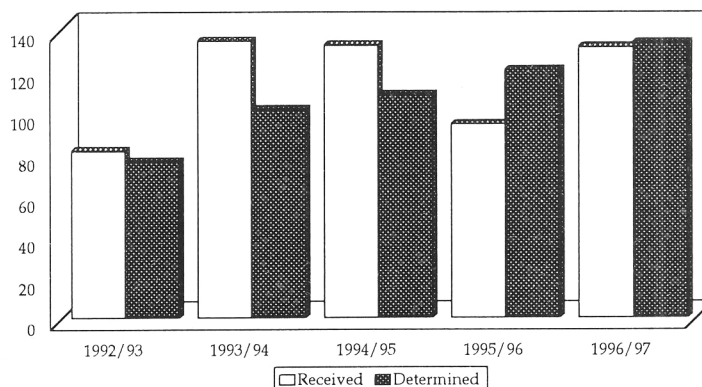
Access Refused	81
Charges	8
Lost Documents	2
Processing Delays	12
Third Party Objections	14
Withholding Documents	14
Total	131

Note: Twenty of the above complaints were determined after analysis and in some cases inquiries, to be complaints which were outside our jurisdiction (primarily, for example, where the applicant had not yet sought an internal review).

Resolved Complaints as a Percentage of All Completed Matters 1995-96 & 1996-97

	95-96	96-97
All documents released	10%	16%
Some or most documents released	7%	16%
Resolved for other reasons	15%	11%
Total resolved	32%	43%

FOI Complaints Received and Determined A five year comparison





The focus of our work has been to help ensure disclosures are handled effectively, ensure agencies have adopted effective internal reporting systems and, assist and encourage public sector managers to assume greater responsibility for the protection of whistleblowers and the effective implementation of the *Protected Disclosures Act*.

Protected Disclosures

The focus of our work in this area has been threefold: to handle complaints about protected disclosures; to assist and encourage public sector managers to assume greater responsibility for the effective implementation of the *Protected Disclosures Act*; and to review all internal reporting policies adapted by public sector organisations for the purpose of the Act to ensure they are adequate and not misleading.

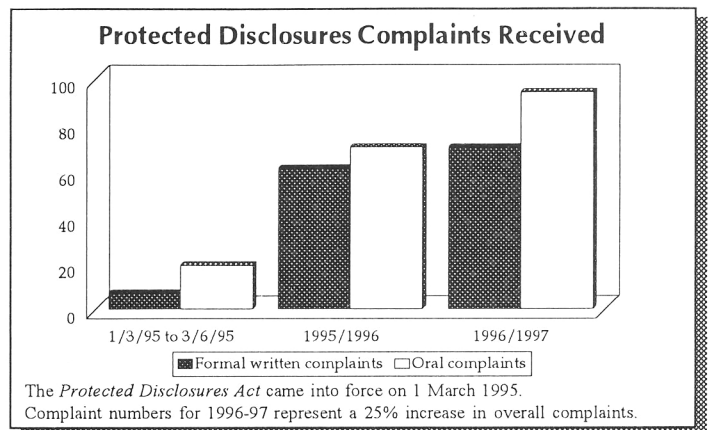
In the past year complaints rose by slightly over 25%.

Under arrangements which exist between the Ombudsman, the ICAC, the Auditor-General, the Police Integrity Commission and the Police Integrity Commission Inspector (all of whom are nominated investigating authorities under the Act), the Ombudsman acts as the first port of call for general inquiries by potential whistleblowers and persons charged with implementing the Act. This function is performed by senior staff who have specialist knowledge of the Act and its implications.

We do not include all whistleblowers from within the Police Service in our protected disclosure statistics, even though such disclosures numbered 1006 because:

- there are complexities involved in identifying whether a matter falls under the obligation in clause 30 of the *Police Service Regulation* or under the *Protected Disclosures Act*;
- complaints from police officers are dealt with by the Police Service and our office in the same way whether or not they are protected disclosures under the *Protected Disclosures Act* (in terms of confidentiality and notification requirements); and
- the Police Service operates a comprehensive and effective policy with respect to their internal whistleblowers in the form of the Internal Witness Support Program.

Whistleblower disclosures from within the Police Service which we do include in our statistics are those made directly to our office and/or are made anonymously from within the Police Service. The reason for including these two types of complaints in our statistics is that neither category of complaint falls under the obligation in clause 30 of the *Police Service Regulation* and therefore the limitation in section 9 of the *Protected Disclosures Act*.



Promoting Alternative Dispute Resolution

During the year our mediation program continued to mature. Our in house staff mediators were able to consolidate their skills, through practical experience and by attending advanced training courses. Looking back over the year, it appears we are in a transition period in relation to the public sector's use of alternative dispute resolution methods, such as conciliation and mediation. While some authorities have embraced the benefits of mediation, others still do not know much about the topic.

We were therefore pleased to be involved in the publication of the *Public Sector Mediation Guidelines*, which were prepared in conjunction with our office, the Attorney General's Department and the Office of the Auditor General. These guidelines are specifically written for public sector managers who are considering using mediation or an alternative dispute resolution process to resolve a dispute. Copies of these guidelines were sent under cover of a Premier's memorandum, encouraging the use of mediation by public sector managers, in July 1997.

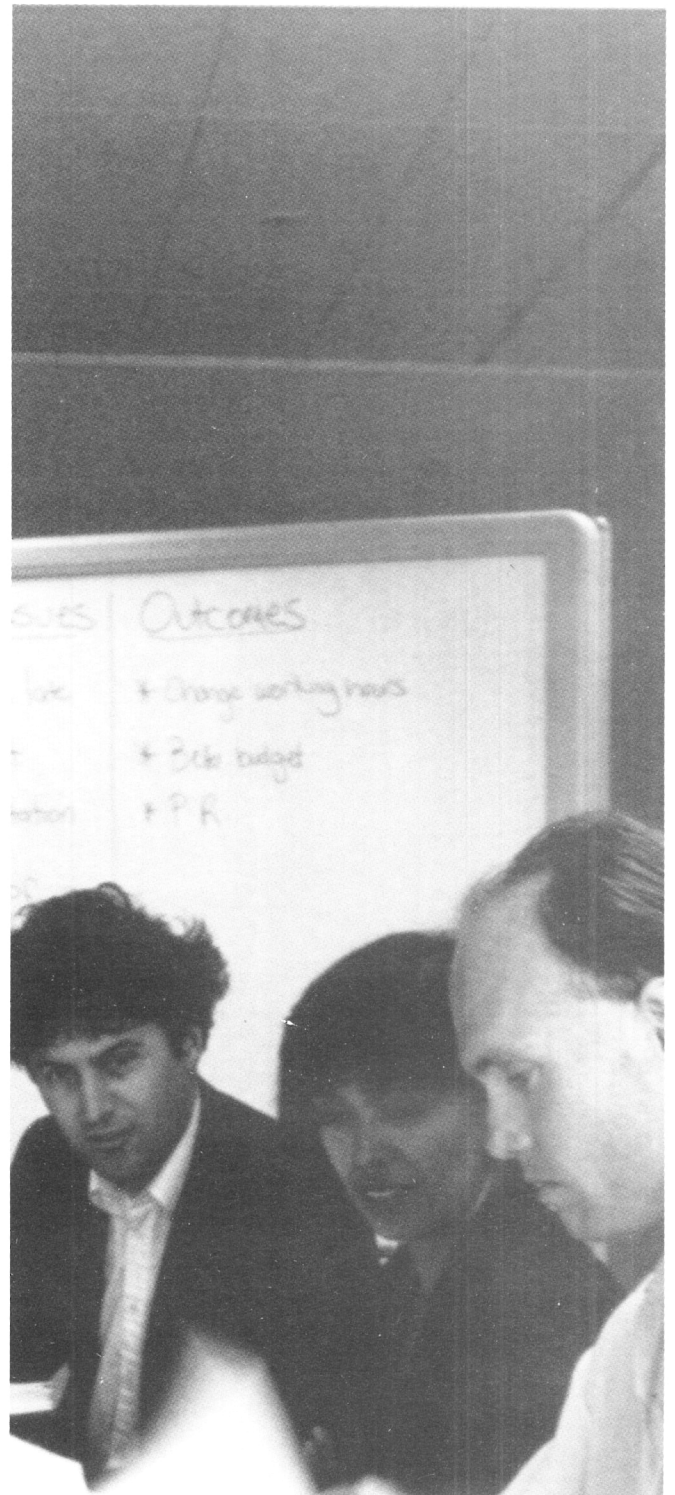
During the year we undertook 11 mediations, almost half of which were at the request of the department or agency concerned. These figures indicate that some agencies are more active in their desire to use the process to resolve problems between themselves and complainants. We are seen by both sides as being able to take a neutral standpoint while at the same time having the experience to understand issues which arise in the public sector in its dealings with its clients.

Where a mediation involves a complainant who has already contacted this office, no charge is made for our mediation service.

OUTCOMES

Many people ask about the outcomes of our mediations, or our "success rate". When people talk about success, they usually mean whether or not an agreement has been reached and signed at the mediation. Of the 34 mediations we have completed to date, agreement has been reached in 30. Usually this is a full resolution of all the issues, but in some cases it has been an agreement in principle, with further work to be done. In one or two cases, agreement was reached on some issues, with others left in abeyance. (We have been advised that in one of the 30 cases, the agreement broke down after the mediation and that the dispute is ongoing.)

In the four cases where agreement was not reached, there was still an 'outcome' in that all parties had a better understanding of each others' needs, interests and positions. In two cases, the parties 'agreed to disagree' and decided to have the matter determined through the court system. In the other two cases, one of the parties decided to 'walk away' from the dispute and leave the responsibility for the result in the hands of the other party. It is important to understand that this is always an option during mediation. Reaching an agreement, or putting an agreement in writing, is entirely a matter for the parties and their judgement at the time of the mediation. Whatever the outcomes reached at the mediation, it appears that generally all parties to date have been satisfied with our manner of conducting the mediations.



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Improving Complaint Handling in the Public Sector

There is continuing interest within all levels of government towards agencies creating full customer service systems which include making the best use of customer feedback and professional handling of customer complaints. Demand for our program of encouraging best practice complaint handling in the public sector, both at state and local government levels, escalated dramatically during the past 12 months. This program included training, consultancies, and our popular *Effective Complaint Handling Guidelines*.


For some years, we have been committed to providing whatever assistance we can to local and state governments who wish to set up their own internal complaints management or customer feedback systems. A common scenario is for representatives of an agency to attend one of our workshops designed for managers, such as *Understanding Complaint Management*. This systems based workshop looks at best practice complaints systems and gives managers sufficient information to decide the type of system which would be most appropriate for their organisation. During the past financial year we presented 10 courses in Sydney for managers, five of which were open to any public sector employees, and five which were specifically customised for managers within the State Rail Authority.

We also presented two courses for managers outside Sydney, one open course in Perth for the Public Sector Management Office and a customised course for Moree Plains Shire Council which was attended by both staff and councillors. More courses for managers have been scheduled for 1997-98.

Following attendance at one of our management courses, it is common for the agency to begin development or review of its own complaint handling policy and guidelines. On request, we have reviewed agency guidelines and offered suggestions as to how they can be improved. We regularly demonstrate our computer system for the management of high volume complaint and customer feedback caseloads.

Over the past four years, we have been asked by participants about further courses; courses which would be more appropriate for staff who need skills training in how best to deal with complainants. As a result we have developed 'frontline' complaint handling courses both externally on a customised basis and in house for our own staff members. Last year, we prepared a specific skills based course for the State Rail Authority, and presented eight workshops to station and ticketing staff on best practice complaint handling.

Due to a growing demand for this type of workshop, which is skills rather than systems based, we will be offering open courses for public sector staff during 1997-98. Income generated by these courses contributes to the cost of carrying out our investigation work.



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Planning for Access and Awareness

In February 1997, the Ombudsman approved a three year access and awareness plan which focuses on improving the representation of minority groups among our complainant profile.

Funding was provided last year for a number of new positions, namely three staff for the Aboriginal Complaints Unit in the Police Team and a Youth Liaison Officer in the General Team. These additional staff members have developed and implemented numerous strategies to raise awareness of the office among both young people and Aboriginal communities and to better monitor complaints received by these groups.

While the work of these positions focuses on two specific areas, their presence has helped to invigorate access and equity in our office. As such, significant developments have also been initiated in relation to ethnic communities and people in rural areas.

An access and awareness committee has been formed which reports directly to the management committee on a regular basis and provides a forum for information sharing and coordination between the people responsible for implementing the various strategies. The access and awareness committee was also responsible for the drafting the current plan.

The access and awareness plan is structured as a series of work plans, each specifically designed for various groups including Aboriginal communities, ethnic communities, young people, people with a disability, people in detention, people in rural areas and women.

WORKING WITH ETHNIC COMMUNITIES

Late last year we began an intensive period of consultations with peak ethnic community organisations with a view to improving our profile and ensuring ethnic communities have a clear understanding of our role and function.

Around 15 peak community organisations were involved in the consultation process and as a result, subsequent information sessions have been held for more than 100 workers and members of these organisations. We are looking at long term strategies for continuing our work in this area.

The Ombudsman hosted larger scale community consultations with the Chinese and Vietnamese communities during the year. The consultations included presentations by senior staff and team members. The consultations provided community members with an opportunity to raise issues of concerns or queries. This proved extremely useful for both the community and our office, with some matters resolved on the spot.

Ethnic media now receive all media releases distributed by the office. General information on the Ombudsman's office was also prepared as a community announcement for 2RRR for various programs including Hindi, East Timorese, Hungarian, Yugoslav and African.

Plans are underway for a media information session on the Freedom of Information legislation which will take place later this year.



We have developed an Access and Awareness Plan which focuses on improving the representation of minority groups among our complainant profile. It is structured as a series of work plans, each designed for specific groups including Aboriginal and ethnic communities, young people, people with a disability, people in detention, people in regional NSW and women.

REGIONAL OUTREACH

In a continuing effort to ensure our accessibility to people outside the metropolitan area we make trips to regional areas every year. During 1996-97 three separate trips encompassed the North Coast, Far West and Riverina districts of the state.

During the week long visit to each area, investigation officers performed a range of tasks. Presentations were given to various groups including Aboriginal, youth, welfare workers and state government employees as well as the general public in open meetings.

The officers also take complaints from individuals, providing community members with the opportunity to personally discuss problems with our investigation staff.

A continued program of bimonthly complaint taking sessions in Newcastle remained a priority and officers were regularly fully booked.

INFORMATION AND PUBLICATIONS

An extensive distribution of brochures occurred during the first two months of this financial year. Information is regularly resupplied to government, non-government and community organisations on request, and consequently we distributed approximately 116,000 brochures during the year. Our most popular brochure is *Tips for making complaints* of which 39,000 copies have been distributed. The brochure provides a step by step guide to making a complaint and lists watchdog agencies and complaint taking bodies. The brochure is regularly updated and demand remains high.

A new brochure *Mediation* was produced during the year. Two new publications for state government employees *Principles for Administrative Good Conduct*, and a summary of our guidelines on *Administrative Good Conduct*, were distributed free to public authorities and local councils across NSW. The response to these publications was overwhelming, with several thousand copies provided to organisations as hard copy and on disk.

We expanded our guidelines series yet again with the publication of the second edition of the *Ombudsman's Protected Disclosures Guidelines*. A complimentary copy was sent to all departments and further copies continue to be sold.

The second edition of the *Ombudsman's FOI Policies and Guidelines* was also released.

Community and media interest in our reports to parliament remained high throughout the year. Eight reports were tabled, two more than the previous year. The release of our report *Inquiry into Juvenile Detention Centres* report in December received a particularly high level of attention.

PEOPLE IN DETENTION

Visits to juvenile detention centres and correctional centres remain an important part of the accessibility of our office. Twenty-two visits to correctional centres were conducted over the twelve month period. Investigation officers accompanied by the Aboriginal Complaints Officer met with gaol governors, conducted inspections of the centres and discussed complaints with inmates.

Similarly, the Youth Liaison Officer accompanied investigation officers when visiting the state's nine juvenile justice centres.

WOMEN

Promotion of the rights of women is an important issue for our office and throughout the year we were involved in a variety of activities. We had stalls at the Sydney Women's Festival and International Women's Day (IWD) march, and some staff attended the IWD picnic. We aim to be involved in these events again next year.

MEDIA LIAISON

Over 45 media releases were distributed relating to various issues including the public release of reports and regional outreach visits. Personal interest in the Ombudsman continued during the year with profiles appearing in a range of publications including the Australian Magazine and Sydney Morning Herald.

PEOPLE WITH A DISABILITY

We worked with the Royal Blind Society to prepare an audio recording of our information brochures. The 200 tapes have been distributed to people who are sight impaired, libraries and a wide range of community groups. Updated copies of the tapes will be produced in the next twelve months.

Use of our TTY (Telephone Typewriter) telephone has been disappointing and we will be assessing the community's awareness of this service, especially with the growth of electronic communication.

In the coming year we will review the results of our complainant survey in relation to respondents who have a disability. We will use the results of this review to prepare strategies to ensure people who have a disability, are aware of our office and have access to our services.

Working with Young People

Young people do not make many complaints to the Ombudsman. To help overcome this the Ombudsman appointed a youth liaison officer (YLO), Stephen Waite, in October 1996. Stephen has made contact with many young people and groups that work with young people.

MEETINGS WITH GROUPS OF YOUNG PEOPLE

During the year we conducted presentations and workshops for young people throughout NSW. We spoke to groups from schools, TAFEs, universities and community groups.

We have made a special effort to encourage peer advocacy. For example a member of the Youth Advisory Council, invited our YLO to speak to the Youth Advocacy Project on the Central Coast. Government schools have Student Representative Councils (SRCs) which provide a voice for students and there is also a state SRC. We have run workshops and information sessions for the state SRC and for eight district SRCs, representing over 30 secondary schools. Our YLO will meet with other SRCs in the coming year. The state SRC has nominated a contact person for the NSW Ombudsman, Rebecca May from Greystanes High School.

We have been grateful to the district SRCs for their feedback on the written materials we are developing for young people. At the suggestion of Gosford SRC we will be working with our SRC contact to establish a training kit for SRC members. The training kit will help SRC members inform other school students about complaint making procedures.

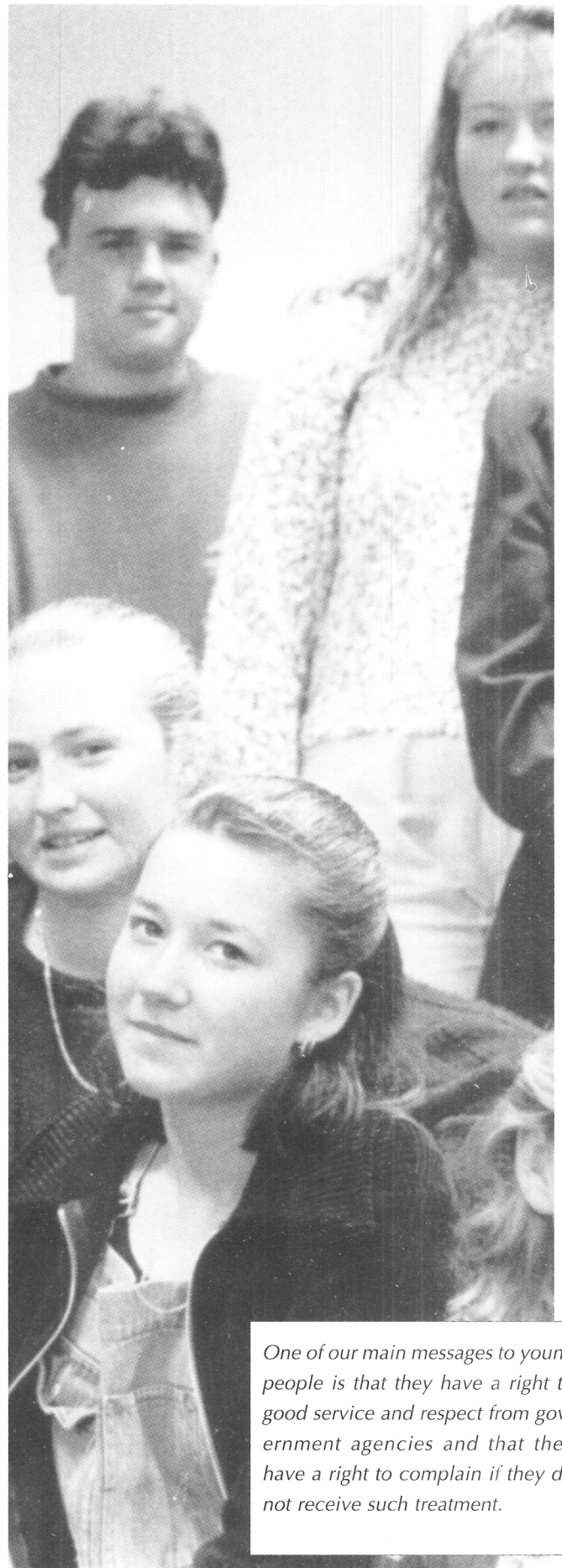
We take a special interest in detainees in juvenile justice centres. Many of our complaints from young people are made on their behalf by their parents. This is not usually the case for detainees and they require extra support. With the appointment of our YLO we have been able to increase the frequency of our visits to the juvenile justice centres throughout the 1997 calendar year. The YLO has also visited and taken complaints from the prisoners on the Young Offenders Program at Parklea Correction Centre.

MEETINGS WITH PEAK YOUTH ORGANISATIONS

Peak youth groups are in a good position to make complaints on behalf of young people. They provide us with an overview of the main issues regarding young people and suggestions about how to approach young people. We have met with five peak youth organisations and will maintain ongoing contact.

CONSULTATIONS WITH SERVICE PROVIDERS

Government and non-government service providers are the people in day-to-day contact with young people. We believe they provide a valuable means of informing young people about their rights, including the right to make complaints. We met with many of these groups across NSW during the year. More than 400 youth workers have attended meetings to find out about our work and procedures, and to discuss major issues for young people. These meetings provide a great opportunity to distribute our posters and brochures.



One of our main messages to young people is that they have a right to good service and respect from government agencies and that they have a right to complain if they do not receive such treatment.

SUPPORTING YOUTH INITIATIVES

We have actively supported initiatives we believe will benefit young people, especially those addressing issues which may otherwise become complaints.

We have had many positive interactions with the Police Service including meetings with the Community Safety Development Branch about police YLOs, presentations at the police YLOs' annual forum and submissions regarding course development for the police YLOs.

Our YLO participated in the Premier's youth policy forum and we contributed comments to the Cabinet Office on their draft youth policy statement. We developed a response to the cautioning aspects of the Young Offenders' Bill and this response was presented to the forum organised by the Attorney General's Department.

We believe the emerging curriculum *Civics and Citizenship* is important for young people. We have a representative on the Board of Studies Reference Group which is involved in the development of curriculum content.

The Department of Housing consulted with us to improve the quality of their written material for youth.

WRITTEN MATERIALS

A youth poster was published and is currently being distributed throughout the state. A youth specific brochure will be distributed later this year.

We published contact cards for young people and distributed them throughout NSW. The popular cards carry the message "Don't Whinge - Complain!", as well as our telephone number.

EASE OF ACCESS

We are making it easier to complain and working to increase the confidence and trust of young people. We believe it is important for young people to see and meet the people who work in our office and this was our main tactic during the year.

The YLO is currently reviewing our complaint handling procedures for young people. Some of the main changes are:

- staff now make regular phone contact with young complainants to provide information if there are delays in the process and explain procedures;
- our letters have been simplified; and
- a straightforward complaint form has been developed (to satisfy the legal requirement that our complaints are in writing and not turn off people who don't feel confident writing).

WHAT ARE WE HEARING ?

- Young people fear making complaints. Some fear nobody will believe them. Others are frightened of being mistreated if they complain.
- Many young people are confused about who they complain to and have low expectations of government agencies.
- Young people are interested in the big picture and are not necessarily self centred in their desire for fair, reasonable and legal treatment. They understand that by making a complaint to the Ombudsman they can make a difference for others.
- There are issues for all departments and authorities regarding young people.
- It will take time and encouragement before young people as a group become confident about making complaints, especially written complaints.
- Our best chance of getting contact from young people is by phone and to encourage this will require more phone inquiries staff.
- It is important for supportive adults and young people to complain on behalf of less confident young people otherwise issues remain hidden.
- Young people believe that most adults who work for government departments assume complaints from young people are vexatious. Our experience is that they are not.

COMPLAINTS RECEIVED

We have received a steady and significant increase of written and telephone complaints over the year. Our YLO started in mid October 1996 and the increase in complaints mirrors our increased contact with young people and representatives from youth organisations. Written complaints increased 165% and telephone inquiries increased 392% over the year.

The large increase in the number of inquiries and complaints about juvenile issues need to be viewed with some caution. Firstly, they in some ways reflect an improvement in our data collection. Even so this is a positive outcome because it means that we are better situated to examine trends. Secondly the increases come from a low base and it will take continued effort to maintain them. Finally many of these complaints are made on behalf of young people. These allow us to address issues about government agencies and their service to young people, however, we would like to further increase complaints coming directly from young people.

Given the above considerations, we are very happy with the trend shown in these figures and see them as a positive indicator of the progress of the access and awareness program for young people.

Working with Aboriginal People

For many decades Aboriginal people have had many aspects of their lives dominated by government policies, departments and agencies. Such involvement has not always been welcomed by Aboriginal people. Further, as history has evidenced, such involvement has not always been beneficial for Aboriginal peoples and communities.

In recent years governments have made some efforts to reduce the impact of the application of over two centuries of non-culturally appropriate policies and practices to Aboriginal peoples and communities. Despite these efforts, many Aboriginal people and communities are still subject to systemic discrimination and institutionalised racism when dealing with government departments, agencies, and public officials.

Another unfortunate legacy of previous government policy and mainstream social attitudes of the past is the poor levels of literacy and numeracy amongst many Aboriginal people and communities, especially communities in country or more remote areas. A lack of such skills affects the ability of Aboriginal people to effectively communicate their grievances to many government departments and agencies.

In recognition of the above, and in light of the number of complaints received by the Ombudsman from Aboriginal people, the Ombudsman employs an Aboriginal Complaints Officer. Nathan Tyson, the latest occupant of this position, joined the office in early January, 1997. We also have a dedicated Aboriginal Complaints Unit in our team that handles complaints about police. The work of the unit is detailed in the section *Handling Complaints About Police*.

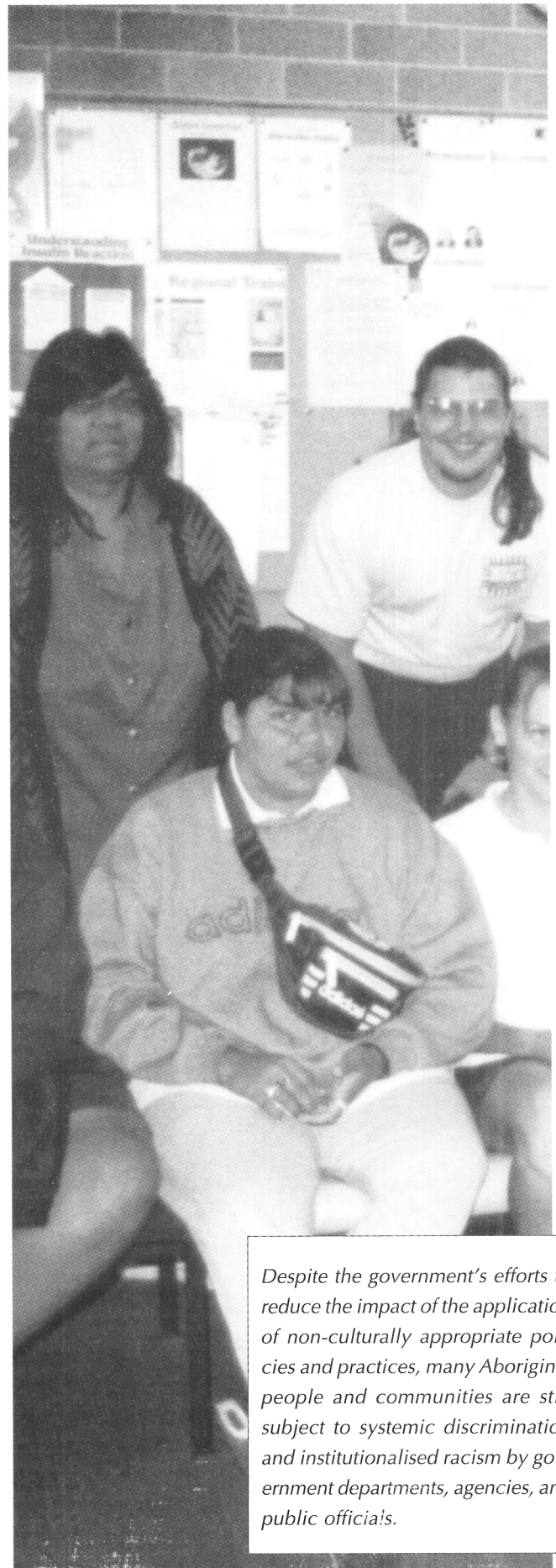
ABORIGINAL COMPLAINTS OFFICER - ROLE AND RESPONSIBILITIES

The role of the Aboriginal complaints officer (ACO) can be broken roughly into three key areas of responsibility. The first of these areas is the participation in visits to correctional centres and juvenile justice centres across NSW, to take complaints and monitor the concerns of Aboriginal inmates and detainees.

The second area of responsibility of the ACO consists of visits to Aboriginal communities, groups and organisations throughout NSW. The aim of these visits is to increase the awareness amongst Aboriginal people of the role and responsibilities of the NSW Ombudsman.

The third area of responsibility of the Aboriginal Complaints Officer is to make preliminary inquiries on many of the written complaints received by this office from Aboriginal people and to refer and/or decline matters of complaint when necessary.

Unfortunately, the complex nature of many of these complaints mean that they are unable to be dealt with by just one body. Reviewing the issues that come into the office each year also shows that many of the problems seem to be unsolvable under the current *Aboriginal Land Rights Act*. This is especially the case with the complaints we receive relating to the land council system and is discussed further below.



Despite the government's efforts to reduce the impact of the application of non-culturally appropriate policies and practices, many Aboriginal people and communities are still subject to systemic discrimination and institutionalised racism by government departments, agencies, and public officials.

While the ACO's primary focus is on complaints received from and issues raised by Aboriginal people, the ACO also handles some complaints from people of non-English speaking backgrounds (NESB) and people with disabilities. The ACO also assists in handling mainstream complaints as deemed necessary by consideration of workloads of other staff.

VISITS TO CORRECTIONAL CENTRES AND JUVENILE DETENTION CENTRES

In recognition of the disproportionately high rates of incarceration of Aboriginal people in NSW, and the problems that these inmates and detainees face, the ACO attends most visits by our staff to correctional centres and juvenile justice centres. During these visit advice is given to inmates and detainees about our role and how they may be able to use our services.

Issues commonly dealt with include lost/missing property, alleged racial discrimination and harassment of Aboriginal and NESB inmates by prison officers, and failure to follow recommendations of the Royal Commission into Aboriginal Deaths in Custody. Many of these issues are resolved during these visits via consultation with the governor or deputy governor of the institution.

The ACO also liaises with the Aboriginal Deaths in Custody Watch Committee, the Indigenous Social Justice Association, and the Indigenous Services Unit of the Department of Corrective Services in relation to both specific and systemic issues.

ACCESS AND AWARENESS

Part of the ACO's role is to raise the level of awareness of the role and responsibilities of the NSW Ombudsman amongst Aboriginal people and communities. In turn it is hoped that more Aboriginal people will avail themselves of the services provided by our office.

A number of meetings have been conducted with Aboriginal community representatives and organisations, for example the ACO attended and spoke at a debriefing day for Aboriginal Mentors employed by the Department of Juvenile Justice. It is hoped that these mentors will pass on information about the Ombudsman to young people under their guidance. The ACO has also attended meetings with groups such as the Aboriginal Advisory Committee for the Anti-Discrimination Board, the Aboriginal Inter-Agency Committee of Randwick Council, the Aboriginal Deaths in Custody Watch Committee, and the Indigenous Services Unit of the Department of Corrective Services.

THE NSW ABORIGINAL LAND COUNCIL SYSTEM

At present a large number of complaints handled by the ACO involve aspects of the NSW Aboriginal Land Council system. Matters raised in these complaints include the actions of members and/or office-bearers of some Local Aboriginal Land Councils (LALCs), and the actions or inaction by the NSW Aboriginal Land Council (NSWALC) in relation to such complaints.

At present there is no effective internal complaint resolution mechanism available to members of Local Aboriginal Land Councils. The NSWALC has a function, under s.23(g) of the *Aboriginal Land Rights Act*, to conciliate disputes between other land councils and members of these land councils, but will only exercise that jurisdiction if invited by all parties. Most complainants find this unsatisfactory. We are working with a number of organisations, including the ICAC, NSWALC and the Department of Aboriginal Affairs, to remedy the problems currently existing within the land council system.

ICAC PROJECT - CORRUPTION PREVENTION IN ABORIGINAL LAND COUNCILS

The ICAC, after receiving a number of complaints about fraud, corrupt conduct and maladministration in NSW Aboriginal Land Councils, began an inquiry in 1995 to help them identify corrupt conduct and find practical and culturally appropriate solutions to prevent such conduct occurring.

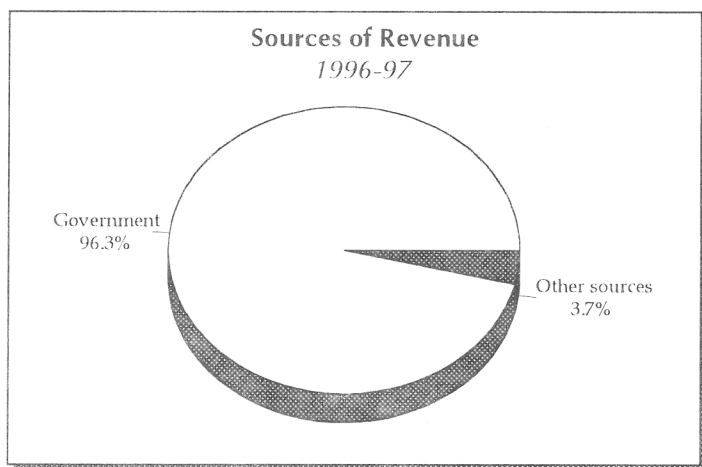
The ICAC released a discussion paper and organised a number of consultation meetings with Aboriginal communities across the state to discuss their needs and concerns in relation to the land council system. Our ACO attended consultations in Batemans Bay, Maitland, Wagga Wagga, Dubbo and Parramatta. Attending these meetings provided our ACO with invaluable insight into the concerns of various Aboriginal communities and individuals across NSW and also provided an opportunity to inform people about the Ombudsman's functions.

We made a detailed submission in response to the discussion paper released by the ICAC. This submission involved a recognition and discussion of current issues affecting the land council system and Aboriginal communities, as well as 50 recommendations for changes that will improve the system and reduce the opportunities for corrupt conduct. The submission drew on past complaints received by this office, and a major investigation of the NSWALC and a number of specific land councils conducted over the past years. The submission also considered feedback received by the ACO during his attendance of the community consultations conducted by the ICAC.

Financial Summary

REVENUE

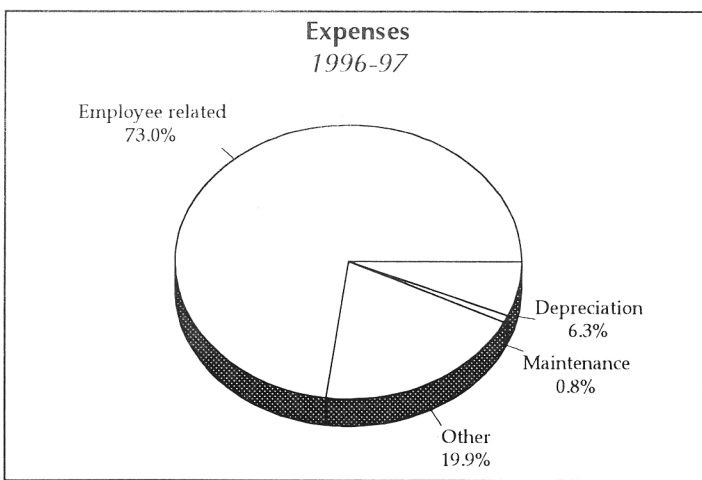
Most of our revenue comes from the government in the form of a consolidated fund appropriation. In addition, the government makes provision for our superannuation and long service leave liabilities. We also generate revenue through the sale of publications, bank interest, undertaking special inquiries on a user pay basis and conducting training courses for public sector agencies.



EXPENSES

Most of our revenue is spent on employee expenses, including salaries, superannuation entitlements, long service leave, payroll tax. During the year we spent more than \$4.6 million on employee expenses.

The day to day running of the office, including rent, postage, telephone, stores, training, printing and travel cost over \$1.3 million. Depreciation of computer equipment, furniture and fittings and other office equipment cost \$397,965.



Most of our revenue is spent on employee expenses including salaries, superannuation, long service leave and payroll tax. Most of our revenue comes from the government, however, we generate some revenue through the sale of publications, and conducting special inquiries and training on a fee for service basis.

THIS SUMMARY

This summary annual report was produced by the staff of the Office of the NSW Ombudsman.

The information from this report will be included in our web site which is expected to be running in December 1997.

The full version of the annual report is available for \$15 and can be ordered through the Office of the NSW Ombudsman, telephone 9286 1000 or 1800 451524 if outside the Sydney metropolitan region..

PHOTOGRAPHY CREDITS

Genevieve Broomham: Pages 3, 6, 10, 13, 22, 24, 26, 27, 28, 29, 31, 35.

Department of Corrective Services: Pages 18, 20.

Office of the NSW Ombudsman: Pages 14, 16, 33.

NEED HELP?

If you think a NSW public authority, public servant or police officer has acted in a wrong, unfair or unreasonable way you can tell the NSW Ombudsman.

WHEN TO COMPLAIN

Unless it is a serious police matter try and resolve the problem yourself. If this fails, contact us for help.

HOW TO MAKE A COMPLAINT

Making a complaint is simple. Start by calling in or telephoning for advice.

If you decide to make a formal complaint, it must be in writing. You can write the letter in your own language. If you find composing the letter difficult, we can help. We can also arrange for translation and interpreter services.

WHO CAN COMPLAIN?

Any individual, company, organisation, association or public authority with an interest in the problem has a right to complain.

HOW MUCH DOES IT COST?

Nothing. The NSW Ombudsman does not charge any fees to resolve a complaint.

HOW LONG DOES IT TAKE?

The resolution of a complaint may involve just a few phone calls or may take several months, depending on its complexity and the evidence to be gathered.

HOW IS MY COMPLAINT DEALT WITH?

As a first step, we will usually ask the authority for an explanation of what happened. Most matters are resolved at this stage.

If the Ombudsman decides to investigate, it is done confidentially. We will ask the authority to comment on your complaint and to explain its actions. Then we tell you what the authority has said and what we think of its explanation. We may also give you the chance to send more details or to raise other issues. When we have finished gathering all the facts, we will contact you to explain our conclusions. If we do not investigate, we will explain why.

HOW CAN I CONTACT THE OFFICE?

You can contact our office from 9am - 5pm weekdays or at other times by appointment. We are located at:

Level 3, Coopers and Lybrand Building

580 George Street, Sydney, 2000.

Telephone: (02) 9286 1000

Toll free call outside Sydney area: 1800 451 524

TTY: (02) 9264 8050

Fax: (02) 9283 2911.

Email: nswombo@nswombudsman.nsw.gov.au