

Annual Report
2016–17

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Letter to the Legislative Assembly and Legislative Council

The Hon John Ajaka MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

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

Dear Mr President and Madam Speaker


NSW Ombudsman annual report 2016–17

I am pleased to present our 42nd annual report to the NSW Parliament. This report contains an account of our work for the 12 months ended 30 June 2017 and is made pursuant to ss 30 and 31 of the *Ombudsman Act 1974*.

The report also provides information that is required pursuant to the *Annual Reports (Departments) Act 1985*, *Annual Reports (Departments) Regulation 2005*, *Government Information (Public Access) Act 2009*, *Law Enforcement (Powers and Responsibilities) Act 2002*, s 31 of the *Public Interest Disclosures Act 1994* and *Disability Inclusion Act 2014*. The report includes updated material on developments and issues current at the time of writing (July-October 2017).

Pursuant to s 31AA(2) of the Ombudsman Act, I recommend that this report be made public immediately.

Yours sincerely



Professor John McMillan AO
Acting Ombudsman

20 October 2017

Ombudsman's message

The NSW Ombudsman is one of nearly 200 Ombudsmen established by legislatures worldwide – most of them in the last 40 years. We share a common function of investigating complaints about maladministration in public sector agencies.

The traditional Ombudsman function is a strong focus of this annual report. In the last year we received 2,498 formal complaints about departments and authorities, 1,014 about local councils and 2,992 about police, and we received 5,239 matters from adults and young people in custody. The issues we dealt with ranged across public housing maintenance, legal aid administration, fair trading practices, water regulation, school student suspensions, debt recovery, fines, asbestos management, information handling, guardianship, whistleblower protection, building inspection, prisoner health services, jail overcrowding and firearms prohibition orders. We published 10 reports on the exercise of law enforcement powers.

However, our work overseeing government administration is only part of what we do. Other functions we discharge make the NSW Ombudsman one of the largest public sector Ombudsman offices internationally, with roughly 200 staff.

Many essential public services are now provided by both government and non-government bodies. The community rightly expects that the same principles of good administration and complaint redress will apply to whoever delivers the service. The Ombudsman's jurisdiction has expanded accordingly.

We monitor and investigate complaints about government and non-government providers of community services to children, families and people with disability. In this reporting year, we received 476 formal complaints about child and family services and 402 about disability services and supports.

Our complaint handling role is supplemented by other functions that better enable the office to safeguard individuals who are vulnerable to mistreatment by public and private sector officials. We administer two reportable conduct schemes that require more than 7,000 bodies to notify the Ombudsman of misconduct allegations against employees either working with children or with people with disability living in supported group accommodation. In this reporting year we received 2,783 reportable conduct and incident notifications from schools, churches, childcare centres, community groups, hospitals and supported accommodation services.

We also monitor service delivery to vulnerable individuals through our coordination of the Official Community Visitors scheme. In the 2015-16 reporting year, 36 part-time visitors appointed by the Minister reported 4,283 service issues after making 3,152 visits to 80% of the 1,625 visitable services that provide accommodation support to over 7,500 children and people with disability.

The complaints and notifications we receive often highlight practical and system issues faced by the government and non-government agencies that deliver these community services. We took those matters up by auditing agency systems for preventing and handling reportable conduct, meeting with agencies

to develop better practices and systems, providing practical guidance on responding to misconduct allegations, assisting the Working With Children Check scheme, and forging a joint agency protocol to reduce vulnerable people's contact with the criminal justice system. We also published aggregated data and promoted data-informed system reform, held public forums, investigated accommodation services and behaviour management in schools, reviewed a tri-agency program on responding to allegations of abuse and neglect of young people, made submissions to parliamentary inquiries and to the Royal Commission into Institutional Responses to Child Sexual Abuse, and assisted interstate agencies to develop their own reportable conduct schemes.

The office has a statutory responsibility to monitor and assess the NSW Government's plan for Aboriginal affairs – OCHRE (Opportunity, Choice, Healing, Responsibility, Empowerment). This year we visited Aboriginal communities throughout the state, visited schools participating in the Connected Communities strategy, followed up on our 2016 report on Fostering Economic Development for Aboriginal people in NSW, and liaised with government, Aboriginal leaders, regional bodies and complaint agencies.

We have two special functions relating to child deaths. One is to coordinate and support the Child Death Review Team that reports biennially on the causes, patterns and issues in child deaths in NSW: we reported on 504 deaths in 2015. The other is to individually review child deaths caused by abuse, neglect or in care or detention: we reported on 54 deaths in 2014-15. To aid this work we commissioned research or reported on issues such as child suicide, fatal neglect, vaccine preventable deaths and geospatial patterns in child deaths.

There is an allied need to provide guidance, training and assistance to the public and private sector bodies and officials that fall within our jurisdiction. This year we delivered 409 training workshops to 7,522 participants, published guidance on complaint handling, good administration and child protection, and hosted practitioner and community education forums.

This annual report completes my term as Acting NSW Ombudsman. I have held the position since August 2015 when my principal role was to continue the Operation Prospect investigation, that concluded with two reports to the Parliament in December 2016 and March 2017.

It has been a privilege to head a dynamic and innovative office that has been an international leader in demonstrating the adaptability and practical utility of the Ombudsman role. The success of the NSW Ombudsman office rests in its highly talented and committed staff. I extend my special thanks to them for their support and insights during my term.



Professor John McMillan AO
Acting Ombudsman

About us

Who we are

The NSW Ombudsman is an integrity agency that keeps government agencies and certain non-government organisations accountable. The Ombudsman is independent of the government of the day and answers directly to the community through the NSW Parliament.

We were established in 1975 as the State's Parliamentary Ombudsman. Like other Ombudsman offices, we were modelled on the Swedish Justitie-Ombudsman created in 1809 – whose primary objective was to investigate complaints about government administration.

Over the years, our jurisdiction has expanded to include responsibilities to oversee child protection matters, the delivery of community services by non-government agencies, the implementation of government Aboriginal programs and new police powers.

Our central goal is to promote high standards of administrative conduct in NSW. This includes the delivery of high quality services, fair decision-making, integrity and protecting people's rights. Our statement of corporate purpose reflects this objective.

Statement of corporate purpose

Our vision

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

Our key stakeholders

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

Our aim

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

- good conduct
- fair decision making
- protection of rights, and
- provision of quality services

in our own organisation and those we oversight.

Our corporate purpose

Our purpose is to:

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

Our values

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

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

Our guarantee of service

We will:

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

What we do

Through our work, we assist agencies within our jurisdiction to improve the integrity and effectiveness of their operations. We use our experience and knowledge to make sure agencies are aware of their responsibilities and act reasonably as well as lawfully.

Traditionally, we did this by responding to complaints and recommending improvements that agencies could make. We have the power to investigate conduct, laws or practices that are – for example – unreasonable, unjust, oppressive, based on improper motives, irrelevant grounds or considerations, or based on a mistake of law or fact.

For the past 15 years, we have also focused on identifying areas for improvement and developing policy solutions around a range of issues. We have done this through our work in keeping complaint systems under scrutiny, monitoring the way agencies handle complaints and allegations, reviewing the delivery of services and the effectiveness of government programs, providing agencies with guidance material and training, and facilitating community discussions on a range of complaint handling and service delivery issues.

Our jurisdiction

We have jurisdiction over:

- several hundred NSW government agencies – including departments, statutory authorities, correctional centres, public schools, hospitals, universities and police
- more than 120 local and county councils
- more than 7,000 agencies providing services to children – including schools, child care centres, family day care, out-of-school-hours services, substitute residential services, community youth services and health programs
- hundreds of agencies providing community services – including accommodation (for example, licensed boarding houses, supported accommodation for people with disability, substitute residential care for children and young people), child protection and family support services, home and community care services.

Our functions

Our functions are provided for in the *Ombudsman Act 1974* as well as the following legislation. See Appendix D for a full list of legislation relating to the Ombudsman's functions.

On 30 June 2017, our functions relating to police complaints, our role in inspecting records relating to the use of covert methods by law enforcement agencies and our role in hearing appeals relating to the witness protection scheme ceased. In future, police complaints and witness protection matters will be handled by the Law Enforcement Conduct Commission (LECC), and the inspection functions by the LECC Inspector.

Ombudsman Act 1974

Under the Ombudsman Act, we:

- handle complaints about government agencies and local councils
- investigate the conduct of government agencies and local councils, either in response to a complaint or of our own motion
- receive notifications of allegations of conduct by people working with children that could be abusive to children
- receive notifications of allegations of serious incidents involving people with disability living in supported group accommodation
- investigate these allegations and monitor the way agencies handle them
- keep under scrutiny the systems agencies have to prevent, handle and respond to these allegations
- monitor and assess prescribed government Aboriginal programs.

Public Interest Disclosures Act 1994

Under the PID Act, we:

- promote the object of the Act and public awareness and understanding
- provide information, advice, assistance, training and guidelines to help government agencies meet their responsibilities
- monitor and audit compliance by government agencies with their obligations
- report and make recommendations to government on improvements to the scheme.

Community Services (Complaints, Reviews and Monitoring) Act 1993

Under CS-CRAMA, we:

- handle complaints about agencies authorised or funded by government to provide community services, including to children and people with disability
- assist agencies to improve their complaints procedures
- provide information, education and training relating to making, handling and resolving complaints about community services
- review the causes and patterns of complaints to identify ways to remove those causes
- review standards for the delivery of community services
- monitor and review the delivery of community services and related programs
- inquire into major issues affecting people with disability and disability services
- review the situation of children and people with disability in care, or groups of people in care
- review the causes and patterns of deaths of children who were living in care or detention, or who died in circumstances of abuse or neglect
- review the causes and patterns of deaths of people with disability living in care
- convene the NSW Child Death Review Team, which is a multidisciplinary cross-agency group responsible for reviewing the deaths of all children under 18 years old in NSW
- coordinate the Official Community Visitors (OCV) scheme.

Police Act 1990

Under the Police Act, we:

- handled complaints about police
- inspected police complaint records to monitor compliance by the NSW Police Force (NSWPF) with the complaints system
- investigated the conduct of police, either in response to a complaint or of our own motion
- kept the police complaints system under scrutiny.

Law enforcement agencies: Covert operations and witness protection

Our work included:

- inspecting and reviewing the records of the NSWPF, the NSW Crime Commission (NSWCC), the Independent Commission Against Corruption (ICAC) and the Police Integrity Commission (PIC) to monitor their compliance with statutory requirements for using telecommunications intercepts, surveillance devices and controlled operations – *Law Enforcement (Controlled Operations) Act 1997*, *Telecommunications (Interception and Access) (New South Wales) Act 1987*, *Surveillance Devices Act 2007*, *Law Enforcement (Powers and Responsibilities) Act 2002 (LEPRA)*.
- hearing appeals against a decision of the Commissioner of Police refusing to admit someone to, or to remove someone from, the witness protection program – *Witness Protection Act 1995*.

Legislative reviews

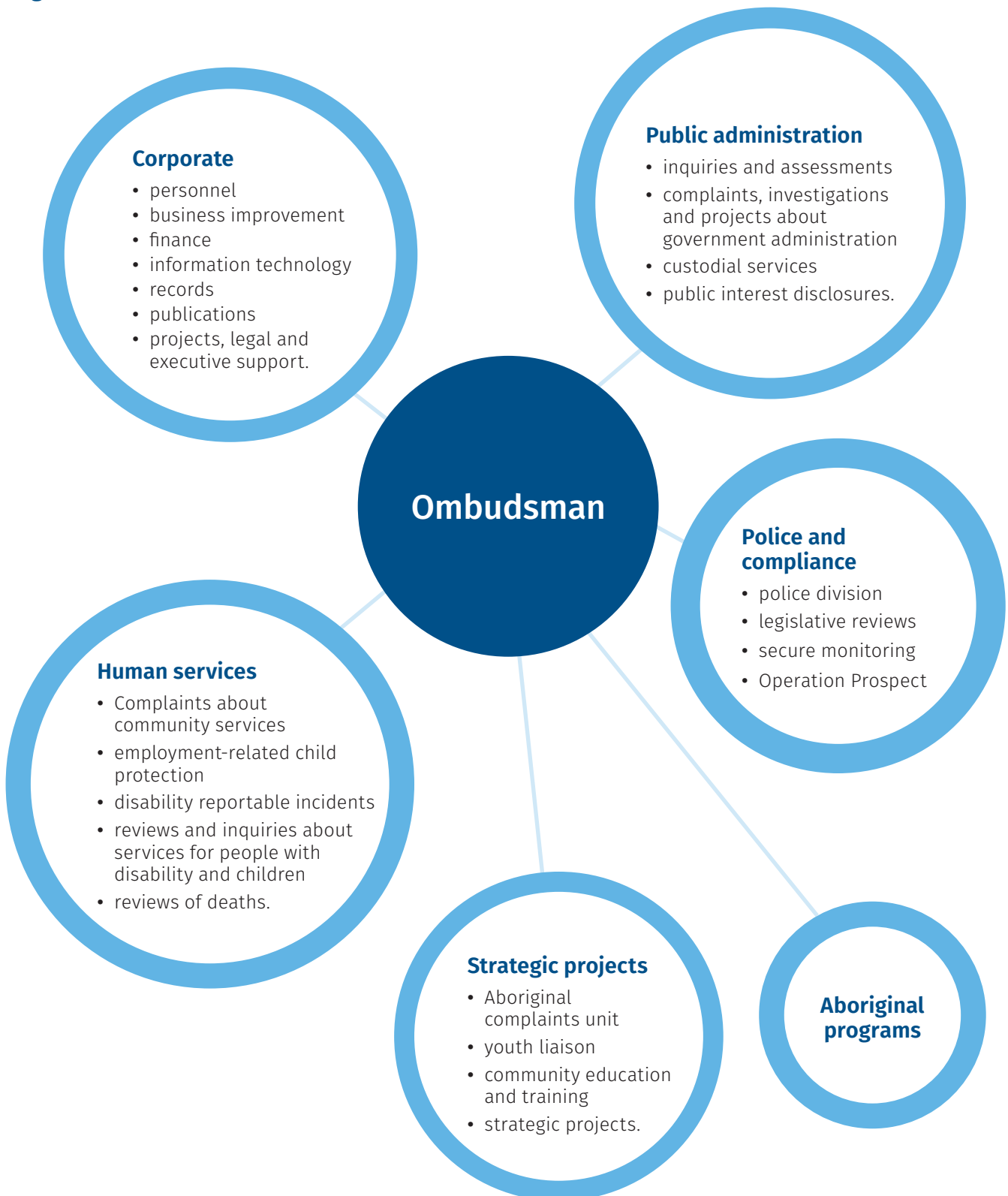
Our work included keeping under scrutiny:

- the exercise of new police powers under the *Firearms Act 1996*, the *Restricted Premises Act 1943*, the *Crimes (Criminal Organisations Control) Act 2012*, and police compliance with a statutory obligation under the *LEPRA* to provide their name and place of duty
- the preventative detention and covert search powers under the *Terrorism (Police Powers) Act 2002* and preparing a report every 3 years
- the exercise of public order police powers under Part 6A of the *LEPRA* and including a report of this work in the Ombudsman's annual report.

With the tabling of four legislative review reports during 2016-17, our responsibilities under those four Acts were discharged. The two ongoing reviews – of preventative detention and covert search powers, and of public order police powers – will be handled by the LECC in the future.

Our organisation

Organisational chart



Our statutory officers

Professor John McMillan AO

Acting Ombudsman

Professor McMillan was appointed Acting NSW Ombudsman in August 2015 for a two year term. He was previously the inaugural Australian Information Commissioner (2010-15), the Commonwealth Ombudsman (2003-10), and the Integrity Commissioner (Acting) for the Australian Commission for Law Enforcement Integrity (2007).

John is an Emeritus Professor at the Australian National University, where he taught administrative and constitutional law from 1983-2003. He has been a solicitor in private practice, a legal consultant to many parliamentary and governmental inquiries,

and was active in public interest advocacy promoting open government reform. He is a co-author of a leading student text, *Control of Government Action: Text, Cases and Commentary* (2015, 4th ed).

John is a National Fellow of the Institute of Public Administration Australia, a Fellow of the Australian Academy of Law, and an honorary life member of the Australian Institute of Administrative Law. He was made an Officer of the Order of Australia (AO) in the Australia Day Honours List 2010 for his work as Ombudsman, academic and in professional societies.



Statutory officers (L-R): Danny Lester, Anita Whittaker, John McMillan, Linda Waugh, Chris Wheeler, Julianna Demetrius, Steve Kinmond, Michael Gleeson.

Chris Wheeler

BTRP MTCP, LLB (Hons)
Deputy Ombudsman

Chris was appointed Deputy Ombudsman in 1994. He has 35 years of experience in complaint handling and investigations, as well as extensive experience in management and public administration. Chris is a town planner and lawyer who has previously worked in a variety of positions in state and local government in both NSW and Victoria and as a solicitor in the private sector.

Steve Kinmond

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

Steve was appointed Deputy Ombudsman/Community and Disability Services Commissioner in 2004. He has nearly 30 years of experience in investigations, with extensive involvement in the community services field. Steve has worked as a solicitor and had his own consultancy practice.

Danny Lester

BAdEd, Dip Bus

Deputy Ombudsman

A proud Wonnarua man and a descendant of the Lester family, Danny has held a range of frontline positions in state and federal departments, as well as leadership roles with the Aboriginal Employment Strategy and the Australian Employment Covenant. He has served on the board of the Sydney Local Health District, the TAFE NSW Sydney Advisory Council, and the Advisory Council for the Centre for Social Impact.

Danny was appointed Deputy Ombudsman (Aboriginal programs) in 2014, to help the Ombudsman monitor and assess prescribed Aboriginal programs – starting with the government’s OCHRE initiatives.

Linda Waugh

BA, Post Grad Dip Psych, MBA

Deputy Ombudsman

Deputy Ombudsman (until January 2017)

Linda was appointed Deputy Ombudsman in 2011 to lead the Ombudsman’s police and compliance branch. She has a wide range of experience, having worked in investigations, research, corruption prevention and education.

Linda has worked at the Queensland Criminal Justice Commission, the Queensland Crime and Misconduct Commission, and the NSW Independent Commission Against Corruption.

Michael Gleeson

BA, Dip Gov (Investigations)

Acting Deputy Ombudsman

Michael was appointed Acting Deputy Ombudsman in 2014 with responsibility for the police division. He joined the Ombudsman’s office in 1993. Michael has extensive complaint handling, investigations and project management experience – including as manager of the police and compliance branch.

Julianna Demetrius

Dip Law (LPAB)

Assistant Ombudsman

Julianna’s career with the Ombudsman spans 17 years. For the past 10 years she has led the strategic projects division. Previously, Julianna managed the police division. Julianna has worked as a solicitor and in the fields of urban design and social research.

Anita Whittaker

PSMO BCom, MIIA (Aust)

Assistant Ombudsman

Anita has nearly 40 years experience in the NSW public sector. She has a strong background in public administration and financial and human resource management.

Anita was awarded the Public Service Medal in 2000 in recognition of her outstanding service to the NSW public sector.

Our year in review

Improving complaint handling in the public sector

We continued our partnership with the Customer Service Commissioner and the NSW Department of Finance, Services and Innovation to improve standards of complaint handling across the NSW public sector. Stage 1 of the program involved government agencies adopting and implementing six 'Commitments to Effective Complaint Handling' through their policies, procedures and practices. See the Departments and authorities chapter.

Stage 2 involves developing and rolling out Feedback Assist, a web based portal that provides NSW citizens with a 'no wrong door' whole-of-government complaint system. Feedback Assist is an easily accessible and consistent contact point for people to lodge and track complaints, compliments and suggestions. It is supported by a Feedback Hub, managed by our office. See the Departments and authorities chapter.

In August and November 2016, we hosted our second and third complaint handler practitioner forums. Between 50 and 100 people attended each forum. Our annual forum for University complaint handlers, held in February 2017, was also well attended.

The 11th National Investigations Symposium was also held in November 2016. This is a biennial event we jointly host with the ICAC and the Institute of Public Administration Australia NSW, which brings together hundreds of investigators and complaint handlers from across the public sector.

Improving outcomes for vulnerable children

We conducted a comprehensive review of the JIRT program (delivered by FACS, the NSWPF and NSW Health) which responds to allegations of child abuse, making 67 recommendations for improvements.

We made submissions to a NSW Parliamentary Committee inquiry into child protection. Five of the 28 recommendations in the Committee's report related directly to our office. These included a recommendation that our office be provided with the power to investigate complaints relating to child protection matters even if a matter is before the courts.

We continued to contribute to the Royal Commission into Institutional Responses to Child Sexual Abuse by providing information about individual cases, taking part in hearings and meetings, and making submissions in response to a number of discussion papers.

See the Children and Young People chapter.

We also conducted an inquiry into behaviour management in schools, with a particular focus on students with complex needs and challenging behaviours. The report of our findings and recommendations was tabled in Parliament in August 2017. See the People with Disability chapter.

Improving the management of asbestos

We tabled a second report about the NSW Government's approach to handling asbestos issues – highlighting the dangers asbestos presents to the health of the NSW community. We repeated our earlier recommendation for a single agency to provide leadership and coordination in managing asbestos. See the Departments and authorities chapter.

Strengthening safeguards for people with disability

Our forum in November 2016 on 'Addressing the abuse, neglect and exploitation of people with disability' was attended by over 500 people and streamed live over the internet. Those who attended included people with disability, their families and carers, agencies providing services to people with disability, disability advocates, community representatives and government departments.

We continued to provide considerable input and feedback to NSW and Commonwealth agencies to guide the development of the National Disability Insurance Scheme (NDIS) Quality and Safeguarding Framework – including in relation to the role and functions of the NDIS Quality and Safeguards Commission.

We worked with service providers to build their capacity to prevent and effectively respond to disability reportable incidents and the abuse and neglect of people with disability more broadly. This included working with the Best Practice Working group – a group of over 40 disability leaders established to support and inform our work. We have also developed guidelines and fact sheets, delivered workshops, and held forums and round tables.

We brokered a joint protocol with disability service providers, peak bodies and the NSWPF to reduce the contact of people with disability in supported accommodation with the criminal justice system. The protocol's procedures aim to reduce the frequency of police involvement in responding to certain behaviours that would be better managed by the disability service itself, using trauma-informed and person-centred approaches.

See the People with Disability chapter.

Aboriginal Economic Prosperity Framework

Most of the recommendations in our 2016 report to Parliament, *Fostering economic development for Aboriginal people in NSW*, were reflected in the NSW Government's Aboriginal Economic Prosperity Framework – *Growing NSW's First Economy*, which was released in 2016-17. See the Working with Aboriginal Communities chapter.

Operation Prospect

We finalised the Operation Prospect investigation, which was the largest single investigation undertaken by our office. It involved handling more than 330 complaints, enquiries and public interest disclosures and conducting 107 hearings and 67 interviews with 131 witnesses. The 6 volume report totalled almost 1000 pages and made 93 findings and 38 recommendations, including recommending that apologies be issued to 15 individuals whose private conversations had been recorded as a result of unlawful and unreasonable administrative practices and decisions. In December 2016, we tabled the report of our Operation Prospect investigation into allegations about the conduct of officers of the NSWPF, the NSWCC and the PIC. We also tabled a second report on recent developments, which discussed the response of the NSWPF and the NSWCC to our finding and recommendations. See the Police chapter.

Losing our police jurisdiction

Our 2015-16 annual report discussed the NSW Government's decision to create a new agency to oversight complaints about police. This year, we continued to work with a range of agencies to ensure a smooth transition to the new oversight arrangements. On 30 June 2017, after 39 years of the Ombudsman's independent scrutiny of the handling of complaints about police, our jurisdiction ceased. See the Police chapter.

Monitoring conditions for boarding house residents

In 2011, we investigated the monitoring of a regional boarding house by the then Department of Ageing Disability and Home Care (ADHC). As a result of our adverse findings and broader issues raised by Official Community Visitors and others about the treatment of residents, ADHC withdrew the boarding house's licence to operate and moved over 50 residents into funded disability services. A class action, launched by some of the former residents against the State of NSW and the licensee, was settled for \$4.05 million in May 2017.

Legislative review reports

During 2016-17, we provided to the Attorney General and other relevant Ministers the following legislative review reports, which were then tabled in Parliament:

- Police use of the firearms prohibition order search powers under section 74A of the Firearms Act.
- Police use of firearms search powers and new offence provisions under the Restricted Premises Act.
- Police use of powers to seek a criminal organisation declaration and associated control orders under the Crimes (Criminal Organisations Control) Act.
- Police compliance with a requirement under the Law Enforcement (Powers and Responsibilities) Act to provide their name and place of duty when exercising certain powers, including search and arrest.
- Police use of preventative detention and covert search warrant powers in the Terrorism (Police Powers) Act – this was our fourth report.

We have performed this legislative review function since 1999. All but 2 of the 29 reviews related to the implementation of new laws by police.

Other reports

We are required by law to publish reports about our specialised functions. Most of these are published annually and relate to a preceding 12 month period. Some reports are given to the Premier or a Minister and they are responsible for the tabling.

The following reports were tabled during 2016-17:

- Oversight of the *Public Interest Disclosures Act 1994* annual report 2014-15.
- Report relating to the use of covert and other search powers by law enforcement agencies under the *Law Enforcement (Powers and Responsibilities) Act 2002* for the 12 months ending 28 May 2016.
- Report relating to the use of powers to conduct undercover operations by law enforcement agencies under the *Law Enforcement (Controlled Operations) Act 1997* for the 2015-16 year.
- Oversight of the *Public Interest Disclosures Act 1994* annual report 2015-16.
- Two reports relating to the use of powers by law enforcement agencies under the *Surveillance Devices Act 2007* – for the 6 months ending 30 June 2016 and for the 6 months ending 31 December 2016.
- *Report of reviewable child deaths in 2014 and 2015, Volume 1: Child Deaths* – together with a commissioned research paper, *Reporting of Fatal Neglect in NSW*.
- *Official Community Visitors annual report 2015-16*.

We also published reports on behalf of two inter-agency committees that we convene. These were the:

- *20th annual report of the Child Death Review Team for 2015.*
- *Public Interest Disclosure Committee annual report 2014-15, which was tabled in 2016-17.*
- *Public Interest Disclosure Committee annual report 2015-16 (February 2017), which is awaiting tabling.*

We also provided the government with a report about the use of powers to use phone call intercepts and listening devices by law enforcement agencies under the Telecommunications (Interception and Access) (New South Wales) Act for the 2015-16 year. That Act specifies that these annual reports are not permitted to be tabled or published.

Facts and figures

We use the terms ‘formal’ and ‘informal’ to talk about the work we do in responding to people who contact us. Complaints are received from a range of people – including members of the public, people who work in the public sector, those who work in non-government community services, families of people in care, advocates and members of Parliament. Notifications come from agencies within our jurisdiction that are under a statutory obligation to notify us of certain matters involving certain groups of vulnerable people.

Formal matters are commonly written and we have a statutory responsibility to respond in writing. However, we will consider contacts from vulnerable people in a formal way if they raise concerns of sufficient seriousness. We classify matters as ‘informal’ if we can answer the person’s questions, address their concerns, or give them information without needing to take any formal steps. We commonly categorise phone calls and visits to our office as informal. We are also often sent copies of complaint letters directed to other agencies, which we categorise as informal matters.

Complainants clearly prefer to use email and our online complaint form when making written complaints. This year we received over 6,000 contacts in this way. However, as figure 1 shows, the primary way people contact us is by telephone.

Figure 1: How did people contact our office?

How received	Total
Telephone	31,451
Email	3,130
Online complaint form	2,960
Letter	1,636
Complainant personally visited our office	208
Fax	129
Correctional centre visit	492
Juvenile justice centre visit	72
Community visit	36
Police - complaint to, notified or referred to Ombudsman	3,152
Child and Disability - matter notified or referred to Ombudsman	2,825
Public interest disclosure referred by other agency	1
Total	46,092

We have had an overall increase in the number of complaints and notifications we have received over the last ten years – see Figures 2 and 3. The total number of formal matters this year is just under 12,000, an increase of 28% over 10 years. The number of informal matters we have handled has also increased markedly over the past 10 years, with the total number this year 38% higher than a decade ago. This increase is despite the Ombudsman negotiating what are called ‘class or kind’ agreements with various agencies who have demonstrated their competency in handling reportable allegations. These agreements exempt those agencies from having to notify less serious forms of alleged reportable conduct. By using ‘class or kind’ agreements, we have been able to reduce the number of less serious matters being notified. Without having these agreements in place, the number of matters received would be higher.

Some of the increase in complaints and notifications is explained by our new or expanded functions – such as disability reportable incidents and the broadening of the employment-related child protection jurisdiction. Even taking this into account, the increase in complaints and notifications over time is significant.

We have raised workload increases with the NSW Government over a number of years and have reported funding issues in previous annual reports. Although we received an increase in funding in 2016-17, it was not as much as we had requested. See the Financials chapter. A further funding bid was submitted to the government for the 2017-18 financial year, which was successful.

Figure 4 shows the breakdown of the complaints and notifications we received this year by areas of work. We discuss these different areas of work in separate chapters of this report.

Figure 2: Formal complaints and notifications received and finalised

Year	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Received	9,320	8,742	8,712	8,917	9,504	8,724	9,505	11,109	11,358	11,915
Finalised	9,544	8,903	8,781	9,485	9,326	8,555	9,108	10,694	10,807	12,633

Figure 3: Informal matters handled: 10 year comparison

Year	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Received	24,701	24,252	23,797	24,147	23,849	28,041	25,951	29,297	30,177	34,177

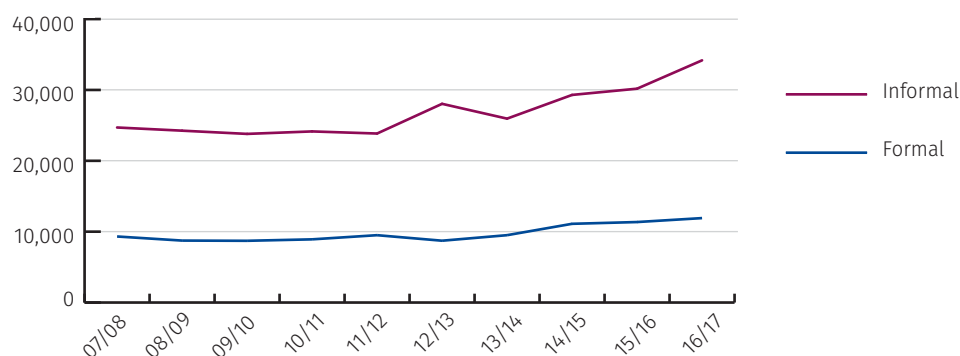


Figure 4: Complaints and notifications we received in 2016–17, breakdown by subject matter

Subject area	Formal	Informal	Total
Departments and authorities	2,498	5,041	7,539
Local government	1,014	2,077	3,091
Correctional centres and Justice Health	634	4,359	4,993
Juvenile justice	48	198	246
Child and family services	476	985	1,461
Disability services	402	436	838
Other community services	51	156	207
Employment-related child protection	1,966	1,155	3,121
Police	2,992	2,166	5,158
Disability reportable incidents	817	307	1,124
Outside our jurisdiction	1,017	12,206	13,223
Requests for information (general enquiries)	0	5,091	5,091
Total	11,915	34,177	46,092

Sharing our knowledge and expertise

Built over 40 years, our expertise on a range of subject matters is deep and longstanding. We actively share this knowledge and experience by running the largest education and training program of any Australian Parliamentary Ombudsman, and by releasing a range of publications – including guidelines and fact sheets – to support agencies perform their functions. Our aim is to give agencies the tools they need to identify areas for improvement in both their service delivery and their complaint handling systems – two of our corporate purposes.

We also contribute to public inquiries and reviews by making written and verbal submissions, participate in working groups, and build relationships with other Ombudsman and like organisations both at home and overseas.

Delivering training programs

An important area of our work is providing training and education to agencies to help them fulfil their responsibilities in relation to complaint handling, and identifying and preventing abuse of vulnerable children and adults in their care. We also educate the broader community to empower them to make more effective complaints.

Most of our training for agencies is for a fee, and this revenue stream has been growing over the past five years. This year, we delivered 409 training workshops – over 100 more than last year and double the number five years ago. See figure 6. A total of 7,522 people across Australia and internationally attended our workshops. Our most popular training program was complaint handling and negotiation skills, with over 2,200 people attending: see figure 5.

Our flagship training programs cover different forms and aspects of complaint handling – our traditional area of expertise. For example, we train agencies how to manage unreasonable complainant conduct, how

to handle public interest disclosures made by their staff, and how to respond to child protection allegations against their employees and allegations of abuse and neglect of people with disability in their care. Our workshops are designed to help participants increase their understanding of the complaint handling process and develop skills and strategies to effectively deal with complaints and resolve issues.

This year we updated our suite of complaint handling training workshops to include information about the commitments to deliver effective complaint handling embodied within the whole-of-government Complaint Handling Improvement Program (CHIP). We also delivered training about the CHIP commitments to over 400 TAFE NSW staff in the Western Sydney and Hunter regions.

'I cannot praise the presenter's skills in presentation, explanation and knowledge of services and relevant information enough. To fully engage our class is not an easy task and our attention was helped throughout the whole session. Thank you.'

As well as frontline complaint handling, we provide training in subjects that we have developed expertise in through our work – such as working with Aboriginal communities and administrative law in the public sector – and training for the general public, including young people and consumers of disability services, on how to make effective complaints. We lead the way in developing tailored, responsive training packages for both government and non-government sectors. Most significantly, our workshops are developed and delivered by senior staff and trainers with extensive hands-on experience in the topics they present.

The people attending our training workshops came from a range of areas, including community service providers and federal public sector agencies: see figure 7.

Figure 5: Number of training workshops delivered during 2016-17 by category of training

	Workshops	Participants
Complaint handling and negotiation skills	116	2,282
Public interest disclosures	81	1,625
Speak Up! (rights training for people with disability and their advocates)	68	893
Community and disability services	67	1,344
Supporting young people to make complaints	28	488
Employment-related child protection	24	484
Access and equity	16	264
Investigation skills	9	142
Total	409	7,522

Figure 6: Training workshops delivered: 5-year comparison

	12/13	13/14	14/15	15/16	16/17
Number of training workshops	194	219	317	307	409

Figure 7: Sectors we delivered training to in 2016-17

Sector	%
Non-government community service sector	43%
NSW public sector agencies	38%
Local government (councils)	7%
Federal public sector agencies	6%
Oversight agencies (including international Ombudsman)	5%
Private organisations	1%
Total	100%

Training for the disability services sector

Responding to abuse and neglect

This year we delivered 28 tailored workshops to ADHC staff and trained 16 non-government disability service providers in how to respond to and handle serious incidents in the disability sector.

We also released a new workshop about the initial and early response to incidents of abuse and neglect in a disability service setting. It aims to provide frontline workers with a practical understanding of their role in preventing and effectively responding to such incidents.

We plan to deliver the workshop to disability service providers across the state and agencies assisting people transitioning to the National Disability Insurance Scheme (NDIS).

Speak Up!

Our 'Speak Up' training program is a free workshop – delivered as part of our Disability Rights Project – for people with disability living in large residential centres. The training outlines ways for people with disability to identify when they want change in their lives (as well as when things are not right), and encourages them to speak to someone they trust about their concerns. The majority of people who participate are people with intellectual disability who live in supported accommodation, such as group homes or large residential centres.

After piloting the workshop last year, this year we delivered 68 workshops to 893 people – including people with disability, disability services support staff, advocates and family members. More than half of the workshops were delivered in regional and rural areas in NSW and we reached the clients of 26 different service providers.

Supporting young people

Our training workshop – 'Supporting young people to make complaints and advocate for systemic change' – is targeted at frontline staff from organisations that work directly with children and young people. This includes neighbourhood centres, out-of-home care (OOHC) and youth support services. The workshop has also been tailored for delivery to TAFE students studying community services and youth work, university staff and disability service providers.

This year, our Youth Liaison Officer delivered 28 workshops to 488 participants from a variety of youth-related services. Around 80% of the workshops were delivered in regional locations. In addition to building the capacity of frontline staff to support the young people who use their services, the workshop helps us to identify local and systemic issues affecting young people – informing our broader program of work.

Homelessness sector training

Through the Homelessness Industry Partnership – Sector Development Project, we were engaged to deliver training to staff working in the homelessness sector. During the year, we delivered 12 workshops on 'Implementing a quality complaint management system' to 171 people across NSW. Half of the workshops were held in regional locations. The tailored training covered the essential elements of quality complaint management systems, and cultural and organisational issues relating to complaints.

'Extremely engaging, passionate and knowledgeable trainer. Changed my attitude towards complaints.'

Providing community education

This year our community education program focused on improving agency awareness of their responsibilities under the child protection reportable conduct scheme, strengthening their capacity to identify and respond to allegations of reportable conduct, and explaining the role our office plays.

Our activities included:

- partnering with the Office of the Children's Guardian to deliver 16 forums across the state to over 250 people working in the voluntary OOHC sector

- delivering training workshops to more than 150 frontline caseworkers and managers at 11 Aboriginal OOHCA agencies
- giving 8 presentations to those applying to become early childhood service providers, 3 sessions to staff from the Department of Education's Early Childhood Directorate, and a free information session for 80 people
- producing a range of training and induction videos about the reportable conduct scheme, starting with a tailored version for the early childhood sector
- developing a guide for frontline staff and managers about the initial and early response to workplace child abuse or neglect.

We also released three fact sheets on:

- sharing information about reportable conduct
- providing advice about reportable conduct investigations to children, parents and carers
- defining assault for the purposes of the reportable conduct scheme.

Preparing guidelines and other resources

This year, we published the 3rd editions of two of our popular guidelines:

- *Good conduct and administrative practice – Guidelines for state and local government*
- *Effective complaint handling guidelines.*

We also released a resource guide for disability services – *Initial and early response to abuse or neglect in disability services*. It is supported by a quick guide and flowchart, as well as a team meeting pack designed to help managers share information with their staff.

In September 2016 – after extensive consultations with government and non-government agencies about the types of resources that would help them to improve the accessibility of their complaint handling processes – we produced a video and tip sheet.

- *My right to be heard* is a video featuring five people with disability who provide personal insights into their lives and the importance of being heard. The video includes a strong message from the Deputy Ombudsman & Disability Services Commissioner about the obligation of all agencies and their staff to take an inclusive and flexible approach to complaint handling. The message is supported by practical advice from one of our most experienced complaint handlers.
- *Tips for accessible complaint handling* provides practical guidance to complaint handlers about making it easier for people with disability to complain and receive a quality response. The tip sheet explains what is meant by adopting a

'person-centred' approach to complaint handling and genuinely seeking to understand and meet the individual needs of a person with disability.

The video and tip sheet are free resources and designed to be included in agency training and induction packages, and on intranets and/or websites. So far, we have distributed the tip sheet and video to over 200 disability service providers and supported accommodation providers, 129 local councils, 74 government agencies, 28 disability peak bodies, 25 oversight bodies and 10 universities.

Making submissions

We made submissions this year on a wide range of topics, including to the:

- Parliamentary Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission – on its review of the Public Interest Disclosures Act 1994 (see p. 74).
- Australian Law Reform Commission – on its inquiry into protecting the rights of older Australians from abuse.
- Legislative Council General Purpose Standing Committee No. 2 Inquiry into Child Protection – sharing our views about the capacity of the child protection system and reforms to the delivery of OOHCA services (see p. 105).
- Senate Committee inquiry into establishing a national integrity commission in Australia.
- NSW Law Reform Commission's review of statutory provisions dealing with alternative dispute resolution (see p. 61).
- Royal Commission into Institutional Responses to Child Sexual Abuse – about topics including blind reporting, disability service providers and information exchange (see p. 120).
- Queensland Government's discussion paper on reportable conduct schemes (see p. 117).
- Parliamentary Committee on the ICAC's inquiry into protections for people who make voluntary disclosures to the ICAC.

Participating in working groups

We participated in working parties and facilitated roundtable discussions about a range of issues. Some highlights of our work this year include:

- Providing input and feedback to NSW and Commonwealth representatives to guide the development of the NDIS quality and safeguarding framework (see p. 135).
- Collaborating with the Commonwealth Ombudsman to release a joint discussion paper about the impact of garnishee orders on Centrelink recipients, and participating in the inaugural Vulnerability

Roundtable – a national forum which brought together 130 representatives from government, business and the community sector to discuss financial vulnerability and poverty (see p. 69-70).

- Working with the Customer Service Commission and the NSW Department of Finance, Services and Innovation on a whole-of-government program to improve standards of complaint handling across the NSW public sector – the CHIP (see p. 58).
- Working with Roads and Maritime Services to establish a ‘Service Assurance Group’ for the implementation of the Aboriginal Participation in Construction (APiC) policy in Western Sydney, with partners from other government agencies, industry and the Aboriginal business sector (see p. 47).
- Participating in the expert reference group established for an independent review of Aboriginal children and young people entering OOHC, announced by the Minister for Family and Community Services (see p. 44).

Giving speeches and presentations

Our staff gave presentations to a wide range of community groups, professional conferences and agencies.

For example, the Acting Ombudsman delivered presentations about the following topics:

- *The challenges facing independent statutory officers* at the ANU Public Law Weekend.
- *Restoring trust in government – the priorities* at the National Integrity Summit.
- *The future of the Ombudsman – observations from Australia* at the Ombudsman and Administrative Justice: From Promise to Performance conference in Spain.
- *The imperative of good governance: What do our communities deserve and expect?* at the Local Government NSW forum on Good Governance.

Our statutory officers gave presentations about the work of our office at events such as the:

- Indigenous Economic Development Forum
- National Disability Services NSW Conference
- Association of Children’s Welfare Agencies Conference
- AbSec Anti-Poverty Week Event
- National Administrative Law Conference
- National Investigations Conference.

Working with other Ombudsman and watchdog agencies

As a leading watchdog agency, our training program continues to be sought after by other Ombudsman offices in our local region and across the world. For example in December 2016, the Commonwealth Ombudsman engaged us to deliver complaint handling training to a group of investigators from the Ombudsman Republik of Indonesia (ORI).

This year, we were invited to present two Managing unreasonable complainant conduct workshops at the United States Ombudsman Association’s annual gathering, which took place in Arlington, Virginia in October 2016. We have since been invited to present to the conference again in 2017, and were asked to present an additional seven workshops to other Ombudsman offices across the USA and Canada.

We also:

- Hosted a meeting of the Australian/New Zealand Disability Commissioners. This meeting included discussions about avoidable deaths of people with disability, and issues relating to the NDIS.
- Organised the Australian Deputy Ombudsman Forum.
- Provided advice and resources about the role of our youth liaison officer position to the Western Australian Ombudsman to help them develop a similar role in their Perth office.
- Hosted colleagues from the Victorian Commission for Children and Young People and the ACT Ombudsman for five days to share our knowledge and experience of the child protection reportable conduct scheme in NSW, which both Victoria and the ACT have recently established (see p. 117).
- Welcomed a number of delegations from other countries, including South Korea, Indonesia and China.

The Acting Ombudsman is on the Executive of the Australian and New Zealand Ombudsman Association (ANZOA).

‘From my point of view it has restored my faith that the system does protect the vulnerable in our society from institutionalised bad practice, and the individual does matter.’

Connecting with the community

It is important that we are accessible to all members of the NSW community, especially those who are disadvantaged and experiencing hardship. We are committed to raising awareness of our office by participating in community events, visiting community groups to talk about our work, and ensuring that information about our services is readily available to everyone in an accessible form.

We connected with thousands of people this year by attending community events such as the:

- Royal Easter Show Senior's day
- NSW Koori Rugby League Knockout
- Law Week Expo for the Liverpool Migrant Community
- Nepean Disability Expo
- Connecting the Dots Aboriginal community event
- Sydney Gay and Lesbian Mardi Gras Fair Day
- Energy and Water Ombudsman Anti-Poverty Forum
- Association of Children's Welfare Agencies conference.

Other chapters in this report – especially the Working with Aboriginal communities chapter and the Human Services chapter – discuss other work we have done in connecting with communities. This includes our role in administering the Official Community Visitors scheme.

Handling inquiries

As figure 1 on p.10 shows, this year we received 31,451 phone calls from members of the community who wanted to complain or ask questions about a problem they were having with government agencies and community services. That is an average of close to 600 calls every week. In addition, over 200 people visited our offices in the Sydney CBD.

This year over 4,300 calls came from people imprisoned in a correctional centre. We also received over 2,000 calls about councils and another 2,000 about police.

When people call or visit, our aim is to understand their concerns and see if we can help them in some way. To do this well, we make sure we give people the time and help to explain their problem and to let them know they have been heard. This is the role of our public contact staff. It is an important and often difficult role. Once we understand the reasons a person has contacted us, we can:

- give them information and explain the possible legitimate reasons that an agency might have made a decision or taken a particular action
- tell them what options they have to find a solution to their problem, which may or may not be to make a formal complaint

- explain how to lodge a formal complaint, either with the agency concerned or with our office, and what they can expect from that process
- refer them to another agency that can better help them with their problem.

Our knowledge of the functions and policies of the agencies within our jurisdiction enables us to give the most appropriate assistance to the people who contact us.

Sometimes we will accept a complaint orally from people who need help to make a complaint. This is usually because of the person's vulnerability – through poverty, homelessness, age, disability, imprisonment or a combination of these. Vulnerability can also be due to geographical factors, including differences in the level and nature of services available in city and rural areas. Vulnerable people commonly have complex lives and a greater need than other members of the public to access public and community services. Part of our responsibility is to empower them to make complaints when problems arise.

The day-to-day contact we have with the public also enables us to gauge when the community is experiencing particular issues with certain government decisions or a problem with services. For example, this year we identified two ongoing issues that have a significant impact on the poorer members of our community.

The first was that people in public housing experienced difficulties because of delays in having maintenance issues addressed in a timely way. We assisted people to address individual complaints, and also met with the agency concerned to discuss underlying issues.

The second issue related to the significant impact of the government taking enforcement action to recover fine debts. Please see the Departments and authorities chapter for further discussion of the work we did to address these issues at a systemic level.

Rural and regional communities

We do our best with our limited resources to reach people in rural and regional NSW. People can ring us using our 1800 toll-free number or lodge a complaint online.

This year we visited over 40 towns outside the Sydney metropolitan area – shown on the map below. Our main activities included:

- providing training for agencies delivering community services to children and people with disability
- consulting with community groups and government agencies, especially about programs under OCHRE – the NSW Government's plan for Aboriginal affairs

- visiting correctional and juvenile justice centres
- attending community events to promote the work of the Ombudsman.

Some highlights of our work this year include:

- Visiting the Clarence Valley to meet with the Baryulgil community and local Aboriginal Land Council to examine the impact of the former asbestos mine and the effectiveness of remediation.
- Attending the PossABLE expo at Albury Entertainment Centre, an event that provides a one stop shop of information about supports for people with a disability, their families and carers.
- Participating in the Dubbo Festival of Energy, an event focused on helping low-income residents in Dubbo, especially Aboriginal people, to reduce their utility bills.
- Presenting 22 sessions to young people living in regional NSW, including high school students.

Young people

We have a dedicated youth liaison officer to increase awareness of the role of the Ombudsman and how we can assist young people and their advocates. Talking to young people helps us to improve access to our services.

During the year, our youth liaison officer:

- Delivered 11 information sessions to youth interagency meetings across NSW.
- Held information stalls at the Cobham Juvenile Justice Services Expo, Fairfield High School Refugee Expo, and the OOHC Youth Empowerment Expo hosted by FACS.
- Partnered with FACS and the Department of Education to actively promote our office to young carers, members of the NSW Carers Advisory Council and school counsellors. Information about our services was also included in the 'YOU' booklet – a new OOHC resource produced by FACS.
- Began developing a new complaints resource for young people from refugee and migrant backgrounds.
- Worked on improving our systems for collecting data about complaints from culturally and linguistically diverse young people and their advocates.

This year we invited Deng Thiak Adut, 2017 Australian of the Year (NSW) to be the guest speaker at our annual office Youth Week event.

'All I can say is thank God for the Ombudsman ... You have no idea how it felt to have a professional, neutral organisation willing to assist me in this matter. I had felt overwhelmed and hopeless because the ... department are a huge organisation and what they say seems to go. I now felt whatever happened ... as long as the Ombudsman's Office was involved in the situation we would certainly get a fair go and would get justice. In my view the Ombudsman's Office is essential in our society as so many people can be treated very badly by big organisations and without the Ombudsman there would be no hope of justice ... I so much want you to understand what a difference the Ombudsman's Office can make in people's lives when we have nobody else to turn to.'

Regional communities visited in 2016-17



- | | | | |
|-------------------|-----------------|--------------------|-----------------|
| 1. Airds | 13. Condobolin | 25. Lismore | 37. Tweed Heads |
| 2. Armidale | 14. Coonamble | 26. Lithgow | 38. Unanderra |
| 3. Baryulgil | 15. Dubbo | 27. Mannus | 39. Wagga Wagga |
| 4. Batemans Bay | 16. Enngonia | 28. Moruya | 40. Walgett |
| 5. Bathurst | 17. Eurobodalla | 29. Murwillumbah | 41. Wellington |
| 6. Berrima | 18. Glen Innes | 30. Nowra | 42. Windsor |
| 7. Bourke | 19. Goulburn | 31. Oberon | |
| 8. Broken Hill | 20. Grafton | 32. Port Macquarie | |
| 9. Byron Bay | 21. Junee | 33. South Grafton | |
| 10. Central Coast | 22. Kariong | 34. St Marys | |
| 11. Cessnock | 23. Kempsey | 35. Sunny Corner | |
| 12. Cobar | 24. Kingscliffe | 36. Tamworth | |

Our performance statement

Purpose One

Help organisations to identify areas for improvements to service delivery, and ensure they are acting fairly, with integrity and in the public interest.

What we had planned for 2016-17

- Continue to monitor and assess the implementation of OCHRE - the NSW Government's plan for Aboriginal Affairs
- Develop guidelines for agencies providing services to children about the initial and early response to workplace child abuse
- Complete four legislative reviews relating to powers exercised by police and provide those reports to the Commissioner of Police and the relevant Minister for tabling in Parliament
- Finalise and issue resources to guide staff in disability services to appropriately respond to serious incidents involving people with disability
- Continue our project examining the practice of agencies using external investigators to conduct administrative investigations
- Continue to work on a guidance and training package to improve the way that complaint handlers and investigators communicate with people with cognitive impairment
- Issue a fact sheet and sample letters to help agencies providing services to children to appropriately make and implement decisions to publicly release information about reportable conduct matters.
- Examine and report on best practice in behaviour support for school students, with a particular focus on students with disability and additional support needs
- Continue our project to build the capacity of people with disability to resolve issues and raise concerns with service providers within the context of the transition to the NDIS

What else we did

Brokered a joint protocol with disability service providers, peak bodies and the NSW Police Force, to reduce the contact of people with disability in supported accommodation with the criminal justice system

Tabled a special report in Parliament about the way asbestos issues are being dealt with, making 20 recommendations for improvements

Conducted a comprehensive review of the JIRT program (delivered by FACS, the NSWPF and NSW Health) which responds to children and young people alleged to have suffered sexual abuse, serious physical abuse or extreme neglect, making 67 recommendations for improvements

Published the 3rd edition of our *Good conduct and administrative practice- Guidelines for state and local government*

Released two new fact sheets giving guidance to agencies providing services to children about sharing information with parties involved in child protection reportable conduct investigations, as well as parties not directly involved but who have a legitimate interest through their association with the agency

Visited numerous regional areas to monitor the implementation of the Connected Communities, Opportunity Hubs and Local Decision Making initiatives under OCHRE

Looking to the future

Finalise investigations into Transport for NSW, Legal Aid, Fair Trading

Report to Parliament on the progress of our investigation into the Department of Primary Industries (Water) and Water NSW

Undertake an inquiry into probity checking and safeguarding requirements for employees who work with vulnerable people

Publicly report about legal, policy and practice gaps in agencies' response to unaccompanied homeless children

Report to Parliament about our monitoring of the implementation of OCHRE: the NSW Government's plan for Aboriginal affairs

Purpose Two

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

What we had planned for 2016-17

- Continue our involvement in the implementation of the whole-of-government complaint handling improvement program
- Review agency compliance with the six complaint handling commitments endorsed by the NSW Secretaries Board in July 2016
- Work with the Department of Finance, Services and Innovation (DFSI) to develop a business proposal for a web-based complaint management system for public sector agencies.
- Finalise 'Operation Prospect' and table the report of our investigation in the NSW Parliament
- Publish the third edition of our *Effective Complaint Handling Guidelines*
- Improve our arrangements for receiving complaints and inquiries about community services, disability and child protection matters

Delivered 409 training workshops to over 7,500 people in the government and non-government sectors, on aspects of complaint-handling and good administration

Delivered 28 training workshops to 488 participants from a variety of youth-related services, to support young people to make complaints and advocate for systemic change

Looking to the future

Design a training course for investigation of allegations of serious incidents of abuse or neglect of people with disability

Design guidelines and a training course to assist complaint handlers and investigators obtain 'best evidence' from people with cognitive impairment (who may have experienced or witnessed alleged abuse)

Develop an 'early and initial response' guide to support frontline workers in agencies providing services to children to meet their responsibilities under the child protection reportable conduct scheme

What else we did

Developed guidance material (including three fact sheets and a training video) and delivered training sessions, presentations and workshops to educate agencies about their responsibilities under the child protection reportable conduct scheme, reaching 250 workers in the voluntary OOHC sector and more than 150 frontline caseworkers and managers employed by Aboriginal OOHC agencies

Released a video, My right to be heard, and Tips for Accessible Complaint Handling to assist government agencies and disability service providers to deliver an accessible complaint handling service to people with disability

Published a fact sheet about the issue of respect and dignity in communicating with complainants

Our performance statement

Purpose Three

Be a leading integrity agency

What we had planned for 2016-17

- Hold a public forum on addressing the abuse, neglect and exploitation of people with disability in disability and community settings
- Participate in the parliamentary inquiry on the provision of education to students with a disability or special needs in government and non-government schools in NSW
- Participate in the NSW Parliament's review of the *Public Interest Disclosures Act 1994*.
- Publish the third edition of our *Managing Unreasonable Complainant Conduct Practice Manual*
- Hold the 11th National Investigations Symposium in Sydney in November 2016, in conjunction with the NSW Independent Commission Against Corruption and IPAA NSW
- Work with the LECC implementation committee, and the LECC, to support and enable the transition of our statutory functions for oversight of the NSWPF
- Finalise procedures manuals for each of our business lines and publish them on our website

What else we did

Contributed to policy development in NSW and other jurisdictions by making submissions about a range of issues, including the abuse of older people, the public interest disclosures system, a national integrity commission, alternative dispute resolution, and the capacity of the NSW child protection system

Collaborated with the Commonwealth Ombudsman about national issues relating to financial vulnerability

Hosted representatives from the Victorian Commission for Children and Young People and the ACT Ombudsman to discuss practical issues relating to the establishment of child protection reportable conduct schemes in those jurisdictions

Supported the work of the Royal Commission into Institutional Responses to Child Sexual Abuse by providing information about individual cases, taking part in hearings and meetings, and making submissions in response to a number of discussion papers

Provided advice and support relating to the NDIS Quality and Safeguarding Framework and establishment of a Commission

Collaborated with other oversight agencies and researchers on *Whistling Wiki* and *Whistling While They Work 2*

Contributed to a Standards Australia technical committee in developing an Australian Standard for whistleblowing programs in agencies

Hosted 3 complaint handler practitioner forums for public sector agencies and universities

Hosted two disability service provider roundtable meetings

Hosted two disability expert forums focusing on the rights of people with intellectual disability

Future

Deliver training courses to the newly established oversight body, the Law Enforcement Conduct Commission

Provide advice to the expert reference group assisting the independent review of Aboriginal children and young people entering out-of-home care

Publish the third edition of our *Managing Unreasonable Complainant Conduct Practice Manual*

Purpose Four

Be an effective organisation

What we had planned for 2016-17

- Revise and finalise our fit-out project, to take account of our reduced staff numbers once the LECC commences operation
- Analyse our office's responses to the 2016 People Matter Employee Survey, and develop strategies to improve our workplace
- Achieve full compliance with information security standard ISO 27001
- Develop and implement actions to minimise the risk of psychological trauma to staff in our child death review team
- Replace our intranet
- Finalise our disability inclusion plan
- Review our performance management system and supervision arrangements
- ■ Embed our updated risk management framework, review the associated policies and supporting education strategies, and conduct an office-wide risk assessment to develop risk profiles for each division and for the office

What else we did

Implemented an enhanced data collection process in relation to our child protection reportable conduct functions

Hosted 2 meetings of a 40 member cross-agency working group to support and inform the work of our office in disability reportable incidents

Established agreements with several public sector agencies to refer complaints directly to their complaint handling unit with a complainant's consent

Developed an upload facility to automate the processing of child death notifications data from the Registry of Births, Deaths and Marriages

Supported 59 staff members to attain a certificate IV qualification, and 17 staff to attain a diploma, in government investigations

Replaced our external facing firewall and enhanced the security of our complaints management system

Implemented security labelling technology for documents and emails

Developed a security management add-in on top of the standard case management system security feature to align case management and document management document classification systems

Future

Transition our disability-related functions to the NDIS Quality and Safeguarding Commission

Continue work for significantly enhancing data capture systems for child deaths

Review and update information security related policies

Undertake a comprehensive review of role descriptions including accountabilities and capabilities to standardise roles where possible

Further refine performance management and supervision systems

Finalise the intranet project

Update our computer hardware and Microsoft office software

Review the benefits of a human capital management system

Our senior staff will participate in an executive development program

Managing our office

Corporate governance

Leading the office

The management of our office is overseen and driven by the senior officers group and the division managers group. The senior officers group is made up of all the statutory officers. This group meets regularly to discuss emerging issues and topics from across the office. It holds a formal management meeting every quarter to review workload, budget and staff matters. The division managers group meets monthly to discuss operational issues and any changes to our policies and procedures.

Having effective policies

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

A number of our policies were reviewed during the reporting year as part of our policy review program, including our risk management policy. Most of our policies are available on our website.

Measuring our performance

We track our performance across all areas of our work. This includes individual case management and how our systems and structures are working. Data from our case management system is used to monitor turnaround times and identify where there may be backlogs, delays or inefficiencies.

This information is an essential element of our governance system and helps the senior officers group make decisions on workload, priorities and the allocation of resources. We continue to measure our performance against our office-wide key performance indicators for our complaint handling and oversight work.

Implementing best practice processes

We continually look for ways to improve how we do our work. Some of these changes come from business areas reviewing their own practices, while others are initiated by our business improvement unit (BIU) or our information technology (IT) unit.

This year we:

- Reviewed and revised our risk register – to more efficiently identify the causes of risk and the effectiveness of the control environment to better prioritise assurance activities.

- Enhanced Resolve – by developing an in-house security solution to mirror the document management security model and comply with NSW Government policy.
- Rolled out our classification and labelling software solution to Word and Excel to comply with NSW Government policy.

Being accountable

As an independent statutory body, we are accountable to the people of NSW through the State Parliament – not to the government of the day. The exercise of the Ombudsman's functions is scrutinised by the Parliamentary Joint Committee on the Office of the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission. The Committee examines our annual report and other reports to Parliament, and may report to Parliament on any matter relating to the Ombudsman, including any changes it considers desirable to our functions, structures or procedures. However, the Committee cannot review our decisions about individual complaints.

We appeared before the Committee on 12 May 2017 and answered questions about our work. This year there was a particular focus on Operation Prospect.

Receiving complaints and compliments

As we are in the business of complaints, we take complaints about our own services and decisions seriously. Complaints give us an opportunity to look at the quality of our services and identify areas for improvement.

This year we received 10 complaints about our staff: see figure 8. Each complaint frequently raises more than one issue: see figure 9. We found that seven of these complaints were not justified, but three were. A staff member was counselled, apologies were given to the complainants, and in one case the matter was re-allocated to another staff member.

Figure 8: Outcome of complaints about our office in 2016-17

Outcome	No.
Unjustified	7
Justified or partly justified	3
Some substance and resolved by remedial action	0
Total	10

Figure 9: Complaints about our office received 2016-17: Issues

Issue	Total
Bias/unfair treatment/tone	5
Confidentiality/privacy related	2
Delays	2
Denial of natural justice	0
Failure to deal appropriately with complaint	6
Lack of feedback/response	0
Limits to jurisdiction	0
Faulty procedures	2
Inaccurate information/wrong decision	3
Poor customer service	3
Corruption/conflict of interest	0
Other	0
Total issues	23
Total complaints	10
% of all formal complaints and notifications finalised (12,633)	0.08%

Requests for review

If a complainant disagrees with our decision not to investigate their complaint, they can ask us to review that decision. Like complaints about us, requests for review can give us an opportunity to identify any issues with our decisions or how they have been communicated to a complainant. We provide written reasons for our decisions, and ask that people asking for a review also give reasons why they believe our decision was wrong. This is to ensure we do not spend disproportionate resources on complainants who are persistent, instead of complainants who can provide rational reasons why our decision might need to be changed.

Reviews are handled by a senior officer who was not involved with the original decision. They advise the Ombudsman, who considers the matter and decides how to proceed. Figure 10 shows that just over 1% of all the complaints we finalised this year were followed by a request for a review. This figure has been steadily decreasing since 2010-11. In over 90% of the reviews, the original outcome was affirmed after a file review or after making further inquiries: see figure 11.

Figure 10: Requests for a review of our decision as a percentage of formal complaints finalised

Subject	Number of:		Requests for review as a % of complaints 2016/17
	requests for review	formal complaints finalised	
Employment-related child protection*	2	194	1.0
Community services**	10	848	1.2
Custodial services/Justice Health	0	665	0.0
Local government	34	1,007	3.4
Other public sector agencies	55	2,459	2.2
Police	26	4,078	0.6
Disability reportable incidents	0	28	0.0
Outside our jurisdiction	0	1,010	0.0
Total	127	10,289	1.2

Notes: * The total in this figure excludes notifications finalised this year.

** Includes requests for a review of our decisions in relation to child and family services, disability services and community services.

Figure 11: Outcome of reviews conducted in 2016-17

Area	Original outcome affirmed after:		Resolved	Reopened	Total
	reviewing the file	further inquiries			
Employment-related child protection	1	0	1	0	2
Community services	9	1	0	0	10
Custodial services	0	0	0	0	0
Local government	19	13	0	2	34
Other public sector agencies	39	10	2	4	55
Outside our jurisdiction	0	0	0	0	0
Disability reportable incidents	0	0	0	0	0
Police	24	1	0	1	26
Total	92	25	3	7	127
Percentage of total reviews	72	20	2	6	100

Figure 12: Public interest disclosures received from Ombudsman staff 2016-17

	Public official performing their day-to-day functions	Under a statutory or other legal obligation	Others
Number of public officials who made public interest disclosures directly	0	0	0
Number of public interest disclosures received	0	0	0
Of public interest disclosures received, number primarily about:			
Corrupt conduct	0	0	0
Maladministration	0	0	0
Serious and substantial waste	0	0	0
Government information contravention	0	0	0
Local government pecuniary interest contravention	0	0	0
Number of public interest disclosures finalised	0	0	0

Public interest disclosures

Our staff can make a public interest disclosure about our organisation under the *Public Interest Disclosures Act 1994*. Our internal reporting policy encourages staff to raise their concerns directly to the Ombudsman or other designated senior officers if they witness or have suspicions about corruption, maladministration or other wrong conduct covered by the scheme. During 2016-17, we received no public interest disclosures from staff. Figure 12 is our formal report about this.

Managing risk

It is important that we identify and manage any potential events which could stop us achieving our objectives. Our risk management framework provides the principles for all risk management across our office, and complies with the core requirements of NSW Treasury's Internal Audit and Risk Management Policy for the NSW Public Sector.

This year, we focused on embedding these principles in all areas of our business. We held a series of risk workshops which sought input from staff about our identified risks, likelihoods and consequences. We revised identified risks and reviewed our existing controls to produce valid risk ratings across the business. Our risk register has now been updated to align risk ratings with the effectiveness of controls and identify any priority treatment activities.

Over the next 12 months, we will focus on the continued integration of the framework across the office, particularly in relation to our Information Security Management System, management reporting systems and the efficient implementation of treatment activities.

Our Risk, Information and Security Committee (RISC) is responsible for ensuring we have appropriate systems to identify and effectively manage risk. The RISC meets regularly and is made up of representatives from across the office.

Our Audit and Risk Committee (ARC) provides us with independent assurance about our risk management practices. Although both the RISC and ARC have different responsibilities, they work closely together to ensure that our risk management framework meets our ongoing requirements.

Our audit and risk committee

Our ARC provides independent assistance to the Ombudsman by monitoring, reviewing and providing advice about our governance, risk and control framework as well as our external accountability obligations.

Changes to the NSW Treasury's Internal Audit and Risk Management Policy meant that our ARC has to be fully independent. In November 2016, we replaced our non-independent member with a third independent member.

Carolyn Burlew, who had been with our committee since it was established in May 2010, finished her term as our independent chair and was not eligible to be reappointed. Carolyn has made a valuable contribution to improving governance and risk management practices in our office.

The ARC met five times during 2016-17 and considered issues including:

- The implementation of our three year internal audit plan and the development of our strategy for 2016-19, which outlines the audit schedule.
- Our risk management framework, which has undergone an extensive review to improve risk management practices across the office.
- The development of our legislative compliance framework, which consolidates different elements of our compliance program into an overarching framework.
- Risks associated with the changes to our jurisdiction and our strategies for dealing with our changing business environment.

The committee also reviewed our early close and end-of-year financial statements and provided advice and assurance to the Ombudsman.

Committee membership details appear in the internal audit and risk management attestation.

Internal audit program

The following audit reports were finalised during 2016-17 and provided (with management responses) to the Ombudsman for approval:

- Public Administration Division electronic records management – three low rated risks around the communication of our policies and procedures were identified as an area for improvement, and at the time of writing, are being addressed.

- Disability Reportable Incidents Division data quality control – three medium rated risks and one low rated risk around procedures and processes and their application were identified as areas for improvement, and, at the time of writing are being addressed.

The following audits were completed in 2016-17, with reports provided to the ARC for consideration in July 2017:

- Performance management – one medium rated risk around the staff performance management policy and its application was identified as an area for improvement, and is in the process of being addressed.
- Compliance with COPS and PODS access rules – two medium rated risks and one low rated risk around training and monitoring were identified as areas for improvement, and are in the process of being addressed.
- Work, Health and Safety – two low rated risks around staff awareness and practices were identified as areas for improvement, and are in the process of being addressed.

The results and outcomes of all audits are reported to our senior officers group. The ARC also monitors our progress in implementing any recommendations.

Attestation of compliance

Internal audit and risk management

The Acting Ombudsman, following advice from the audit and risk committee, attests to compliance with eight core requirements of the NSW Treasury Policy. The attestation statement is provided below.

Internal audit and risk management attestation for the 2016–17 financial year for the NSW Ombudsman's Office

I, John McMillan, am of the opinion that the Ombudsman's office has internal audit and risk management processes in operation that are compliant with the eight core requirements set out in the Internal Audit and Risk Management Policy for the NSW Public Sector, specifically:

Risk Management Framework core requirements - compliant

- 1.1 The agency head is ultimately responsible and accountable for risk management in the agency
- Compliant
- 1.2 A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/NZS ISO 31000:2009
- Compliant

Internal Audit Function core requirements - compliant

- 2.1 An internal audit function has been established and maintained
- Compliant
- 2.2 The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing
- Compliant
- 2.3 The agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.
- Compliant

Audit and Risk Committee core requirements - compliant

- 3.1 An independent audit and risk committee with appropriate expertise has been established
- Compliant
- 3.2 The audit and risk committee is an advisory committee providing assistance to the agency head on the agency's governance processes, risk management and control frameworks, and its external accountability obligations
- Compliant
- 3.3 The audit and risk committee has a Charter that is consistent with the content of the 'model charter'.
- Compliant

Membership

The chair and members of the ARC are:

- Independent chair – Ms Carolyn Burlew, start term date 11 May 2013, finish term date 10 May 2017.
- Independent member – Ms Christine Feldmanis, start term date 24 May 2017, finish term date 23 May 2022. Previously independent member from 23 November 2016 to 23 May 2017.
- Independent member – Mr David Roden, (re-appointed) start term date 27 June 2016, finish term date 26 June 2021.
- Non-independent member – Ms Linda Waugh, Deputy Ombudsman (Police and Compliance) (re-appointed) start term date 1 July 2015, finish term date 23 November 2016.



Professor John McMillan AO

Acting Ombudsman

Date 19 July 2017

NSW Government Digital Information Security

The Acting Ombudsman, following advice from the audit and risk committee, attests compliance with the NSW Government Digital Information Security Policy. The attestation statement is provided below.

Digital information security annual attestation statement for the 2016-17 financial year for the NSW Ombudsman's Office

I, John McMillan, am of the opinion that the Ombudsman's office had an information security management system in place during the 2016-17 financial year that is consistent with the core requirements set out in the NSW Government digital information security policy.

The controls in place to mitigate identified risks to digital information and digital information systems of the Ombudsman's office are adequate.

There is no agency under the control of the Ombudsman's office which is required to develop an independent ISMS in accordance with the NSW Government digital information security policy.



Professor John McMillan AO

Acting Ombudsman

Date 19 July 2017

Balancing our books

Most of our revenue comes from government in the form of an appropriation. This was \$28.885 million in 2016-17 and included funding for both recurrent and capital expenses. The government also provided \$377,000 for certain employee entitlements such as defined benefit superannuation and long service leave.

In addition to our appropriation, we received a number of specific purpose grants totalling \$4.024 million. These included funding for Operation Prospect (see p. 98), our disability reportable incidents function (see p. 128), our review of the Joint Investigation Response Team (see p. 106), and to fund redundancies – including police division redundancies relating to the loss of our police functions.

Other than our appropriation and grants, our usual main source of revenue is from conducting fee paying training courses. This year we generated \$1.133 million through our fee-for-service training courses and consultancy work.

Most of our revenue is spent on employee-related expenses including salaries, redundancies, superannuation entitlements, long service leave and payroll tax. We spent just over \$27.868 million on these items in 2016-17, and the day-to-day running of our office costs about \$5.818 million.

Figure 13: Financial summary

	15/16 \$'000	16/17 \$'000	Change %
Revenue including government contributions	33,511	34,419	2.71
Expenses	34,400	34,592	0.56
Assets	6,479	5,761	(11.08)
Liabilities	6,620	6,085	(8.08)
Net result	(930)	(183)	80.32
Total equity	(141)	(324)	(129.79)

Figure 14: Comparative staff levels as at 30 June 2017

	12/13	13/14	14/15	15/16	16/17
Statutory officers	5.00	5.00	7.00	8.00	7
Investigative, systemic review, project and research	120.37	120.46	117.62	132.96	112.43
Investigative and administrative support	26.07	35.77	42.23	41.56	30.97
Community engagement and training	4.44	4.00	4.50	4.00	4.10
Inquiries and assessments	9.94	9.76	12.00	11.00	12.14
Legal	2.00	2.00	1.00	3.00	1.80
Personnel, accounts, information technology, executive	13.00	16.00	14.00	14.14	15.20
Total full-time equivalent	180.82	192.99	198.35	214.66	183.64

Our operating revenue increased by 2.71% in 2016-17, and our operating expenses increased by 0.56%. Although we had an increase in our appropriations for workload increases among other things, we had about a 4.90% increase in our self-generating revenue – which includes fee-for-service training and other miscellaneous revenue items. There was a \$1.564 million decrease in the acceptance by the Crown of employee benefits and other liabilities after an actuarial assessment of this employee benefit.

Our asset base decreased largely because of a reduction in non-current assets as we deferred finalising our accommodation upgrade until after the transfer of our police function to the LECC.

Our liabilities have also reduced – due to a decrease in the lease incentive liability, and the impact on our on-cost after the Treasury's annual actuarial review of our long service leave liability. Provision for annual leave was similar to the previous year as we proactively manage our leave entitlements. Prepaid income from training also decreased.

Our appropriation was \$2.165 million less than budget. This was primarily a result of our capital program being deferred to 2017-18, the carry forward of unspent grant funding for the disability rights project to 2017-18, and the NSW Treasury's cash management reforms – which require all non-restricted cash and cash equivalents in excess of a readily assessable short term level to be held within the Treasury banking system. This meant that in the 2016-17 financial year we were required to use our 'own' cash before recurrent funding was provided by the government. Our negative 'net result' was a direct result of this change, as was the reduction in the level of recurrent appropriation received.

We have internal processes to estimate our forward cash inflow and outflow requirements so that we can meet our liabilities as and when they fall due.

In line with the NSW Government's commitment to improve financial management in the public sector, we continue to review our internal accounting practices and the quality of information we provide to the NSW Treasury. We also continue to actively engage with

NSW Treasury to provide feedback or obtain information on its financial management transformation initiatives, including its online reporting database PRIME.

We also actively discuss issues with both internal and external audit and, where necessary, with our ARC.

For more details about our financial position, see p. 138.

Our people

At 30 June 2017, we had 197 people working for us on either a full or part-time basis. Our staff have diverse skills and experience and come from a range of backgrounds – including investigative, law enforcement, community and social work, legal, planning, child protection and teaching.

Any exceptional movement in wages, salaries or allowances

The relevant industrial agreements were varied to increase salaries and salary based allowances for our staff by 2.5%, effective 1 July 2016.

Our statutory officers, as well as our other senior staff, are remunerated by or in accordance with determinations by the independent Statutory and Other Offices Remuneration Tribunal (SOORT).

From 1 July 2016, the Ombudsman’s remuneration was increased by 2.5% in line with SOORT’s Public Office Holders Group determination.

The remuneration levels for public service senior executives – to which our Deputy Ombudsman, Assistant Ombudsman and our other senior staff are aligned – were also increased by 2.5% from 1 July 2016, as shown in figure 16.

Personnel policies and practices

Our staff are employed under the provisions of the *Government Sector Employment Act 2013* (GSE Act), which along with associated rules and regulations and the Crown Employees (Public Service Conditions of Employment) Award 2009 set the working conditions and entitlement for staff.

The focus of our small personnel team for much of the reporting period was supporting our police division, who were affected by the transfer of our police function to the LECC. We provided support and advice about the impact of this change, including advice about the redundancy program. We also engaged financial planners to offer advice to police division staff, and organised training on job seeking and developing technical skills to help them gain employment elsewhere.

We continued to refine processes for HR21 (our employee self-service system) and we engaged an external company to conduct a health check on this system.

Working with the JCC

The Joint Consultative Committee (JCC) continued to work cooperatively during the year to discuss a range of issues affecting staff. The NSW Government’s announcement to create the LECC and transfer our policing role to this new agency was their main focus for much of the year.

People matter survey 2016

Last year, the Public Service Commission conducted the now annual People Matter Survey to capture employees’ perceptions of how well the public sector values are applied across the sector, as well as employee views on – and experiences in – their workplaces.

About 63% of our staff responded to the survey. We received the results in September 2016 and they showed that our staff are generally satisfied in working for our office – in fact we had one of the highest engagement indicators in the public sector. However, there were some issues highlighted, for example, relating to communication and performance management. We have developed strategies to address these.

Senior executives

As at 30 June 2017, we had 13 senior executives – 54% of whom were women. Seven of these senior executives were statutory officers. We had eight statutory officer roles for part of the reporting year. One role was deleted at the end of 2016, after the Operation Prospect investigation was completed.

See figure 15 for details of the levels of our senior positions and figure 16 for their remuneration. Although the Ombudsman is not subject to the GSE Act, he is included to make the table complete.

Figure 15: Senior executive level

Band	2016		2017	
	Female	Male	Female	Male
Band 4	0	1	0	1
Band 3	0	0	0	0
Band 2	1	3*	0	3
Band 1	7	2	7	2
Total	8	6	7	6
Total both male and female	14		13	

***Note:** includes a temporary position created while a Deputy Ombudsman was leading a major investigation.

Figure 16: Senior executive remuneration

Band	Range \$	Average range \$	
		15/16	16/17
Band 4	452,251 - 522,500	500,142	512,597
Band 3	320,901 - 452, 250	0	0
Band 2	255,051 - 320,900	281,600	297,377
Band 1	178,850 - 255,050	201,169	205,840

Note: 14.09% of the Ombudsman’s employee-related expenditure in 2017 was related to senior executives, compared with 13.01% in 2016.

Workforce diversity

The GSE Act makes diversity a priority area for all public sector agencies. It focuses on existing groups (Aboriginal people, women, people from culturally and linguistically diverse backgrounds, and people with disability), but also provides flexibility to include other groups – including mature workers, young people and carers. A key goal is for all public sector agencies to reflect the diversity of the wider community.

Our diversity program aims to ensure fair practices and behaviour in the workplace, including:

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

The NSW Government has set targets for employing people from various diversity groups. These targets are a useful measure of the effectiveness of our diversity program (Figures 17 and 18). In 2016-17 a number of the targets were changed. This has meant that for Aboriginal and Torres Strait Islander staff, and staff who are from a culturally and linguistically diverse background, we no longer meet or exceed these targets. We continued to exceed the target in the representation of women. There is no target for people with disability or people with disability requiring adjustment.

Policies and practices

All government agencies must consider diversity policies, outcomes and priorities when they are recruiting and supporting staff. We make sure that we have a diverse and skilled workforce, fair work practices and behaviours, and employment access and participation by diversity groups. Figure 19 shows the gender and diversity target groups of staff by salary level.

Preventing harassment and having respect for each other

We implement a range of strategies to make sure that our workplace is free of harassment and bullying and staff respect and value each other.

To promote respect for the social and cultural backgrounds of others, we continue to run our in-house training on Aboriginal cultural appreciation and disability awareness. We also encourage staff to attend training on cultural intelligence and mental health awareness.

There were no formal workplace grievances lodged during the reporting year.

Flexible work arrangements

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

The year ahead

In 2017-18 our priority will be to finalise our access and equity plans as well as the review of our induction processes, supervision arrangements and performance management system.

Figure 17: Trends in the representation of diversity groups (percentages)

Diversity group	Target %	Result (%)				
		12/13	13/14	14/15	15/16	16/17
Women	50	73.1	71.9	72.7	73.7	74.1
Aboriginal and Torres Strait Islander people	3.3	3.0	2.4	3.2	3.0	2.4
People whose language first spoken as a child was not English	23.2	16.1	20.1	19.5	19.3	19.6
People with disability	n/a	12.1	10.1	11.1	11.1	9.8
People with disability requiring work-related adjustment*	n/a	2.5	2.4	2.8	5.5	1.5

*Note: Employment levels are reported but a benchmark has not been set

Figure 18: Trends in the distribution of diversity groups (distribution index)

Diversity group	Target %	Result (%)				
		12/13	13/14	14/15	15/16	16/17
Women	100	92	93	95	97	100
Aboriginal and Torres Strait Islander people	100	n/a	n/a	n/a	n/a	n/a
People whose language first spoken as a child was not English	100	87	87	89	90	92
People with disability	100	100	99	100	104	100
People with disability requiring work-related adjustment	100	n/a	n/a	n/a	n/a	n/a

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

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

Figure 19: Number of total staff by level

Level	Total staff (no.)*	Respondents	Men	Women	Breakdown by diversity group				
					Aboriginal & Torres Strait Islander people	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with disability	People with disability requiring work-related adjustment
\$0 - \$45,800	0	0	0	0	0	0	0	0	0
\$45,800 - \$60,154	1	1	0	1	1	0	0	0	0
\$60,154 - \$67,248	16	16	1	15	0	5	5	3	1
\$67,248 - \$85,098	35	35	17	18	0	13	9	2	0
\$85,098 - \$110,046	78	77	17	61	1	15	17	7	2
\$110,046 - \$137,557	62	62	13	49	2	12	9	6	0
\$137,557 > (Non SES)	7	7	4	3	1	0	0	2	0
\$137,557 > (SES)	6	6	1	5	0	0	0	0	0
Total	205	204	53	152	5	45	40	20	3

*Note: This figure represents the actual number of full-time and part-time staff and staff on leave without pay as at 30 June 2017, not the full-time equivalent. The figure also includes a staff member on secondment but being paid by the office.

Work, Health and Safety (WHS)

We are required to provide a safe work environment for our staff. We are subject to the provisions and responsibilities outlined in the *Work, Health and Safety Act 2011* (WHS Act) as well as public sector WHS policies. We base our WHS activities on effectively identifying and managing our risk. This is supported by policies and programs that provide guidance to both managers and staff.

We have developed a framework to assist us in meeting our WHS responsibilities – including policies, strategies and procedures as well as first aid and return to work arrangements.

Our WHS committee

Our WHS framework is supported by the WHS committee, made up of representatives from all divisions who meet regularly to discuss issues relating to the health and safety of our staff. This year we focused on wellbeing initiatives.

Making reasonable adjustments

During the year, we modified a number of work areas or work processes to assist staff who have either ongoing medical conditions or other specific needs. These included – for example – desk adjustments, special equipment purchases such as sit/stand desks, and installing special software. Some of these modifications were made after medical or other external professional assessments.

Emergency evacuation procedures

We continue to participate in our building's emergency evacuation training program. All our nominated wardens are required to attend training at least twice a year. We also took part in the building's emergency evacuation drills. We developed personal

emergency evacuation plans for a number of staff who were deemed to be mobility impaired for a prolonged period of time and we tested these plans during the emergency evacuation drills.

Wellcheck program

Our wellcheck program was expanded to include staff from the police and compliance branch and the public administration division, in addition to staff in our human services branch. The wellcheck program provides a psychological 'wellcheck' to staff who are potentially at risk of being exposed to known risk factors that can lead to the development of traumatic stress and adjustment difficulties.

Two divisions that deal with sensitive and distressing information evaluated the wellcheck program and have decided to go in a different direction that would better support their staff. The new programs will be implemented in the next reporting year.

Other programs to support WHS

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

- flu shots – we organise flu shots for staff to minimise absenteeism during the flu season
- first aid – we pay qualified staff a first aid allowance to provide, when necessary, basic first aid to staff
- an employee assistance program – we provide an employee assistance program (EAP), including a free 24 hour counselling service for staff and their families.

Workers compensation

We are part of icare TMF, a self-insurance scheme for the NSW public sector. There were no claims reported to our insurer during the reporting period: see figure 20. As at 30 June 2017, we had no open workers compensation claims.

Figure 20: Workers compensation

Claims entered in the year	12/13	13/14	14/15	15/16	16/17
Claims brought forward	4	3	3	0	1
New claims	8	2	2	1	0
Claims closed	9	2	5	0	1
Open claims 30 June	3	3	0	1	0

Figure 21: Workers compensation incidence rate

	12/13	13/14	14/15	15/16	16/17
Number of submitted claims	8	2	2	1	0
EFT staff number	179.82	192.99	198.35	214.66	183.44
Incidence rate (%)	4.45	1.04	1.01	0.46	0

Learning and development

Providing staff with learning and development opportunities ensures we have a skilled, flexible, responsive and committed workforce. Our staff are encouraged to participate in a diverse range of training to help them work more effectively and to gain skills to assist their personal and professional development. See figures 22 and 23.

Supporting staff through organisational change

As part of a program to support staff affected by changes to our organisation, we provided a number of training opportunities – including job application and interviewing, certificate IV in government investigations, and investigative interviewing training. These courses were run exclusively for the staff affected by the organisational change in an effort to assist with their transition.

Professional qualifications for investigators

We engaged an accredited training provider to facilitate internally delivered certificate IV and diploma in government investigations training. We worked with the facilitator to develop a training program for our office, and 59 staff attended the certificate IV courses and 17 staff attended the diploma course. This nationally recognised qualification develops skills in conducting investigations in a public sector environment.

Developing professional skills

Our staff attended a number of conferences during the year. These included the 11th National Investigations Symposium (which we co-hosted), the Victims and Justice conference, the Australian Institute of Administrative Law conference, the NSW State of Inclusion conference, and the National Disability Service conference. These events are an opportunity to learn from industry experts, improve understanding of contemporary issues affecting our work, and network with people who have similar roles, experience and skills.

Staff also attended a range of internal and external training courses – including project management, mediation training and accreditation, and Microsoft programs.

Raising awareness

Providing training that is aimed at raising our staff awareness of contemporary issues in our society is an important part of our strategy to continually improve how we interact with the public. This year we provided information and education sessions on disability awareness, Aboriginal cultural awareness, mental health and cultural intelligence.

Managing staff

We continued our training program to ensure supervisors and managers have the necessary skills and knowledge to effectively carry out their responsibilities. This included training on managing people effectively, fundamentals for supervisors, and WHS responsibilities for supervisors.

New staff induction

Our induction program provides new staff with relevant, consistent and useful information about our office and our policies, processes and obligations. Within the first three months of joining our office, new staff attend training on our electronic document management and case management systems and security awareness. We also run 'Ombudsman: What, When, Where and Why' training sessions so new staff better understand our functions, jurisdictions and responsibilities.

Providing study leave

Staff development also means encouraging staff to undertake further study to enhance their skills. Five staff used study leave provisions to attend tertiary education courses in 2016-17.

Figure 22: Time spent on training

Number of	15/16	16/17
Courses attended	105	106
Full time equivalent staff	214.66	183.64
Total time spent - hours	4,801	6,575
Total time spent - days	685.86	939.29
Days spent per staff member	3.2	5.1
Training \$ per staff member*	776.84	2,091.05

*Note: This excludes training costs for OCVs and non-direct training expenses

Figure 23: Training expenditure

Year	12/13	13/14	14/15	15/16	16/17
Expenditure	\$174,000	\$213,000	\$158,000	\$163,000	\$325,000

Access and equity programs

We are committed to ensuring that our services are accessible to all members of the community. Our access and equity policy sets out the framework for a range of access and equity programs – including our Disability Inclusion Action plan, Multicultural Action plan, Aboriginal policy and Carers recognition policy.

Disability inclusion action plan

The *Disability Inclusion Act 2014* commits the NSW Government to removing systemic and attitudinal barriers so that people with disability have a better opportunity to live a meaningful life and enjoy the full benefits of being a member of the community. The Act provides direction and sets a framework for continued consultation and partnership with people with disability, key agencies and members of the community. The Act works alongside the National Disability Insurance Scheme (NDIS) by increasing the accessibility of mainstream services and community facilities in NSW.

Although we are not required to have a Disability Inclusion Action Plan (DIAP), we believe it is important that our office has a plan to ensure our services continue to achieve good outcomes for people with disability. Our DIAP for 2017-18 confirms our continuing commitment to improving the lives of people with disability, their families and carers. It contains practical steps to break down barriers and promote access to our services, information, employment opportunities, and support the rights of people with disability through our day-to-day work.

We work with key government and non-government agencies and provide training across the sector on the disability reportable conduct scheme, as well as specific training on handling and responding to serious incidents. During the year, we also:

- Distributed our Disability e-News update, providing information about our work in relation to people with disability and the broader disability sector.
- Worked on our project that promotes the rights of people with disability in the lead-up to the full roll out of the NDIS.
- Hosted a public forum on addressing the abuse, neglect and exploitation of people with disability.
- Participated in community events such as conferences, forums and expos to raise awareness of the role of the Ombudsman in community services and the rights of people receiving these services.

For more information, see p. 13, 14 and the People with Disability chapter.

Multicultural action plan

Under the Multicultural Policies and Services Program (MPSP), all NSW Government agencies are required to report on how they conduct their business within a culturally, linguistically and religiously diverse society. Our Multicultural Action Plan 2015-19 (MAP) assigns corporate responsibilities, sets priorities and time frames, and guides the delivery of programs and services to people from culturally, linguistically and religiously diverse backgrounds. See Appendix G.

Aboriginal policy

Our Aboriginal policy outlines our commitment to improving our services to Aboriginal people, as well as working with key agencies to improve broader service delivery. We have always focused on communication and consultation as the best way to achieve outcomes for Aboriginal people in NSW. This involves working closely with government and non-government service providers, Aboriginal community leaders and community workers in both metropolitan and regional areas.

This year we visited several remote and regional areas to meet face-to-face with communities, as part of our role in monitoring and assessing the delivery of the NSW government's OCHRE initiatives. Our Deputy Ombudsman (Aboriginal Programs) also meets regularly with remote and regional communities to facilitate local initiatives between government agencies and the community. Our office also celebrates National Reconciliation Week and NAIDOC. For more information, see the Working with Aboriginal Communities chapter.

Recognising carers

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

We have a range of flexible work arrangements such as job sharing, part-time work, and family and community service leave that support staff who have caring responsibilities. We also value the input of carers in providing community services and delivery awareness training to them. See Appendix G.

Supporting our business

Our corporate branch supports our operational areas and provides personnel, business improvement, accounting, information technology (IT), information management, publications design and layout, project and administrative support. In this section we discuss some of our key corporate projects from the year.

Improving network security

Our security infrastructure and platform is essential in keeping our information assets protected and secure. This year we replaced our external facing firewall and enhanced the security of our complaints management system (Resolve). A firewall is a rule-based security system, protecting our internal network and data from unauthorised access by creating a barrier separating the secured internal network and the internet. We deal with a significant amount of sensitive information, so we have developed a Resolve security management add-in on top of the standard Resolve security feature. This allows us to assign an appropriate level of classification to each Resolve record and further limit access to a specific group of users.

Upgrading our electronic document management system

A robust and efficient electronic document management system is important to our core business and fulfils our records management obligations. This year, we upgraded our electronic document management system to HPRM version 8. The benefits from this upgrade include a better user experience, improved security, and new and enhanced features.

Improving our information systems and reporting

We are committed to continually improving our information systems so that they efficiently process a high volume of matters, as well as supporting our ability to analyse data – including data from multiple sources. Both are vital to the effective workings of our office.

This year, we have made a number of enhancements to Resolve to increase the efficiency of our complaint handling processes. This has included introducing a number of measures to further automate workflow in our community services and disability reportable incidents complaint processes. We also enhanced our data rules in Resolve to support improved data quality in disability reportable incident matters.

Our work with our human services branch to enhance data capture continued this year with a focus on further refining the process and developing reporting and data extraction capability. We have implemented changes to the way we record information in anticipation of the devolution of disability services to the non-government sector.

We also started a project to gather the requirements for a significant enhancement to the data capture for child deaths in our Death Review System. We also developed an upload facility to automate the processing of child death notification data from the Registry of Births, Deaths and Marriages.

Digital information security

Our project to bring our information security management system in line with the latest International Standard (ISO 27001:2013) is ongoing. We are developing a new information security policy and plan to review other security related policies – including our access control policy – in the coming year.

Protecting sensitive information

We have developed a new information security classification policy to fully implement the NSW Government's classification, labelling and handling guidelines. We have also implemented security labelling technology for documents and emails.

Transition to the LECC

To assist the LECC in the initial period of its operation after the transfer of our police oversight function, we have agreed to give LECC users remote access to our complaints management system via the secure private network. To facilitate this, we have revised our system's security model to ensure record and data separation, created a new case type for LECC Act complaints, copied open Ombudsman police complaints to the new LECC case type, and extracted data from our electronic document management system to a format that is easy to analyse and import into LECC's IT environment.

Upgrading our intranet

Last year, we reported that we were upgrading our intranet. Our project was in its early stages when we were informed about an opportunity to use an intranet developed by the Commonwealth Department of Communication and the Arts. By using this product, we would be able to provide greater functionality and reduce cost. We considered the risks, costs and benefits and agreed that this option was the best strategy. However, by taking up this opportunity our intranet project deliverables and time frames have changed.

Reducing our environmental impact

In July 2014, the NSW Government published its government resource efficiency policy (GREP) which commits NSW public sector agencies to reducing operating costs as well as increasing the efficiency of the resources they use. The GREP contains strategies to improve energy, waste, water and clean air performance and sets interim and long term targets. The 2013-14 data set the benchmark for assessing progress in implementing the GREP strategies.

Our accommodation lease negotiations in late 2014 included an agreement by the building owner to a lease incentive to improve our fit-out. We took this opportunity to consider and adopt energy saving

initiatives that would see a reduction in our energy usage over time – and would also improve our work environment. We have completed the first two stages of our fit-out project, with most of our office now open plan. Our lights are fitted with energy saving motion sensors and we have paid particular attention to improving the air-conditioning performance. We will finalise the fit-out project in the second half of 2017.

Energy

The GREP has a number of strategies to improve the use of energy. These include minimum NABERS Energy ratings, minimum standards for new electrical appliances and equipment, minimum fuel efficiency standards and purchasing 6% green power. We have purchased energy efficient equipment, purchased 6% green power and encouraged our staff to adopt energy efficient practices. As our fit-out improvement project is only partially complete, we have not yet had our tenancy audited for NABERS compliance.

We use a number of strategies to improve the environmental performance of our motor vehicle fleet including:

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

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

Our other energy efficiency initiatives included:

- monitoring our energy usage through auditing, preventive, maintenance, staff education programs and purchasing energy efficient equipment
- enabling power-management features when installing office equipment
- installing video conferencing facilities to provide an alternative to travel, helping us reduce our greenhouse gas emissions
- supporting our building's environmental programs – our building has achieved a 4 star NABERS Energy Rating (5.5 Stars with Green Power Assist).

Waste

The GREP requires us to report on our top three waste streams by volume and by total cost, with 2013-14 data used as the baseline year. However we participate in the building's recycling program and collecting specific data for our office is difficult, if not impossible. Our top three waste streams are:

- clean waste paper and cardboard
- general waste
- toner cartridges.

During the year, we continued our program of reducing our reliance on paper based products. This includes a significant reduction in the number of reports we print – including annual reports and special reports to Parliament. We make these reports available on our website along with our guidelines, brochures and fact sheets.

We use Australian 100% recycled content paper in our printers and copiers and, in 2016-17, purchased 3,050 reams of copy paper. This averages 15.5 reams per staff member – over the ICT Sustainability Plan's July 2015 target of nine reams per person. We transitioned our corporate branch to an electronic environment and will work with the other business areas to move away from a reliance on paper-based information. We also promote double sided printing and better use of online forms.

We recycle all our clean waste paper through our secure paper recycling bins and collected 7.7 tonnes of paper. We recycle all our toner cartridges through the HP Planet Partners Program.

Some other waste reduction initiatives have included:

- monitoring our segregated waste streams – including general waste, comingled recycling, paper and cardboard generated in our office – and implementing strategies to reduce contamination of the waste stream, such as better education of staff
- continuing our project to move away from paper-based records to electronic ones
- providing refresher training to staff on the use of our electronic document management system
- encouraging staff to print only when necessary, use double sided printing, and divert facsimiles to email.

Water

We lease premises in a building that is fitted with a range of water saving technologies – including low flow taps and showers, dual flush cisterns and waterless or low flow urinals and grey water systems. The building has a 3 star NABERS Water rating. We do not have any data on our tenancy's water usage.

Clean air

There are two clean air targets under the GREP. The first is about air emission standards for mobile non-road diesel plant and equipment, which does not apply to our office. The second is using low-volatile organic compound (VOC) surface coatings. We will ensure our ongoing refurbishment complies with this and the Australian paint approval scheme.

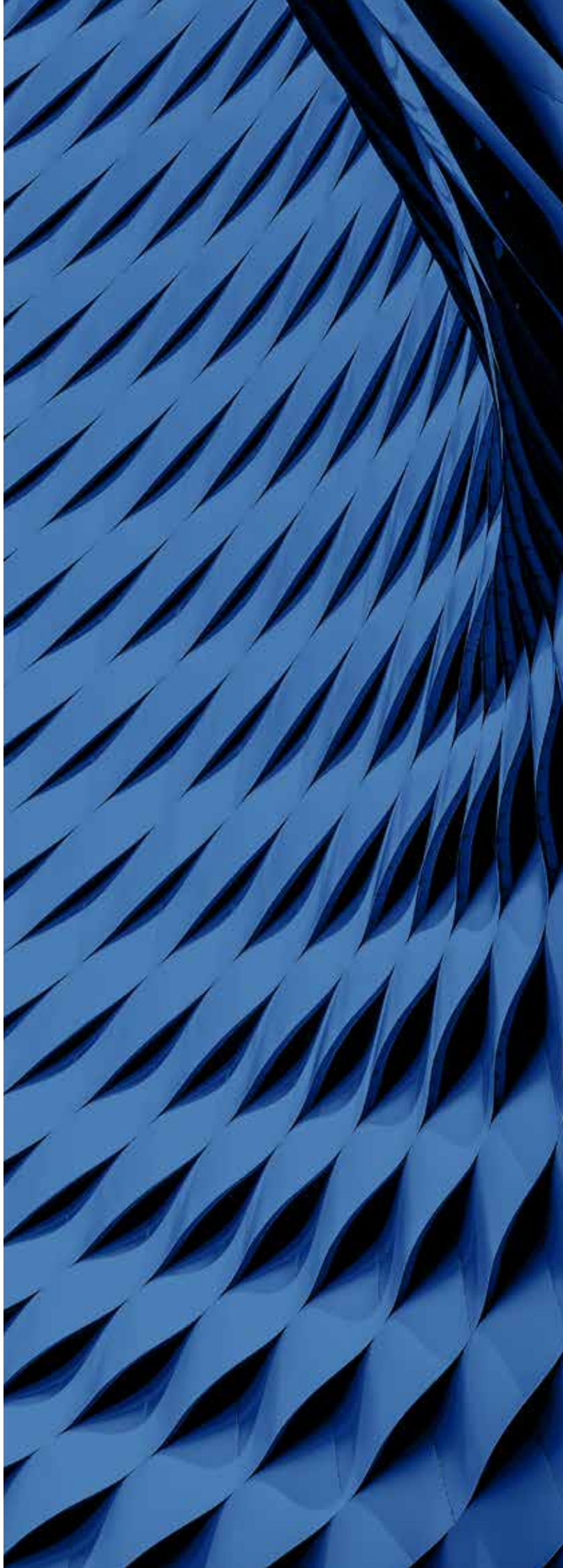
Figure 24: Fuel consumption

	12/13	13/14	14/15	15/16	16/17
Fuel (l)	1,882	1,657	2,333	1,328	867
Distance travelled (km)	23,472	18,944	28,026	21,111	16,769

Figure 25: Electricity consumption

	12/13	13/14	14/15	15/16	16/17
Electricity (kWh)	240,891	274,617	308,352	243,891	231,121
Kilowatts converted to gigajoules	867	988	1,110	878	832
Occupancy (people)*	180	193	199	215	205
Area (m ²)	3,133	3,133	3,133	3,133	3,133
Gigajoules per person	4.82	5.11	5.57	4.1	4.1

***Note:** rounded to nearest whole number.





Working with Aboriginal communities

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Introduction

We have a strong track record of working with Aboriginal communities to help identify and resolve both local and systemic issues. Now in our third year of independently monitoring and assessing OCHRE (Opportunity, Choice, Healing, Responsibility, Empowerment) – the NSW Government’s plan for Aboriginal affairs – we continue to direct considerable effort towards assisting the agencies that service Aboriginal communities to better meet their needs and deliver positive outcomes. We achieve this by visiting local communities, regularly engaging with government and non-government agencies and Aboriginal leaders, delivering training, and providing expert advice about significant local and systemic initiatives. Each year we also help Aboriginal people in a range of ways to resolve complaints about issues that affect their lives.

Engaging with stakeholders

During the year, we met with the new Minister for Aboriginal Affairs, Sarah Mitchell MLC, to brief her on our work to date as well as our future plans for monitoring and assessing OCHRE.

We participated as observers on the Cross Sector Leadership Group in Bourke and the Steering Committee for the Coonamble Integrated Service Delivery project. Both groups are driving important place-based service delivery reforms in Western NSW (further discussion later in this chapter). During the year we were also invited to be an observer on the Guiding Principles Yarning Circle – the statewide advisory group established to support the Guiding Principles for strengthening the participation of local Aboriginal communities in child protection decision-making (further discussion later in this chapter).

We held regular liaison meetings with the Aboriginal Child, Family and Community Care State Secretariat (AbSec) about issues affecting vulnerable Aboriginal children and young people and their communities. Some of the issues we discussed this year included:

- the implementation of the ‘Guiding Principles for strengthening the participation of local Aboriginal communities in child protection decision making’
- the independent review of Aboriginal children entering out-of-home care (OOHC) announced in December last year (discussed later in this chapter)
- the Aboriginal out-of-home care agency capacity building project, led by AbSec
- our inquiry into the operation of the Joint Investigation Response Team (JIRT) program (discussed in the children and young people section of the Human Services chapter).

We travelled across the state to deliver training workshops to more than 150 frontline caseworkers and managers at 11 Aboriginal OOHC agencies. These workshops, aimed at strengthening agency capacity to identify and respond to allegations of reportable conduct, also provided an opportunity for participants to learn more about the role of our office and for us to hear about important local issues. As part of our inquiry into the JIRT program, we consulted with the Aboriginal Communities Matter Advisory Group (ACMAG) of the NSW Health Education Centre Against Violence (ECAV) and Aboriginal health workers employed by ECAV. We also went to Bourke, which has a significant Aboriginal population and a high rate of child sexual abuse, to meet with JIRT staff servicing the area.

We continue to participate in the ‘Good Service Mob’ initiative – a partnership between complaint handling agencies aimed at providing joint community engagement activities and other resources to Aboriginal communities. Together with our partner agencies, we visited Wallaga Lake and Moruya in October 2017.

Some community activities we have been involved in this year include the following:

- We sponsored the PCYC Nations of Origin event at Port Stephens in July 2016, supplying 50 match balls for the event, which attracted thousands of people.
- In the same month, we held a stall at the NDIS *Are you Ready?* forum for Aboriginal people at Rooty Hill.
- We held our regular stall at the Koori Knockout during the October long weekend in 2016 – sponsoring the event by providing the match balls. The event, held in Leichhardt, was attended by around 7,000 people and provided an excellent opportunity for us to promote our work and help Aboriginal people to resolve their concerns about a range of issues.
- In April 2017, we held a stall at the Connecting the Dots Aboriginal community event in Campbelltown. The event provided information and advice to the Aboriginal community about the transition to the National Disability Insurance Scheme (NDIS).
- That month, we also participated in an information session for foster carers hosted by Jaanimili, an Aboriginal OOHC service, about resolving problems and the rights of carers. As a result, we assisted a number of carers with complaints.

In recognition of the significant work we have done to improve relationships between police and Aboriginal communities, we were pleased to accept an invitation this year to attend the NSW Police Force (NSWPF) ball to commemorate the 30th anniversary of the Aboriginal Community Liaison Officer program.

Helping to resolve complaints

Helping Aboriginal people to resolve complaints about a wide range of issues continues to be a central focus of our work. People ask us for help when we visit local communities, juvenile justice centres and correctional centres. The relationships we have built

over many years with Aboriginal communities and service providers have educated people about how we can help, and the things they can complain to us about. Case studies 1-5 are examples of some of the outcomes we have achieved for Aboriginal people through our complaint handling work.

Case studies

1. Apologising for not supporting a vulnerable student

An Aboriginal woman complained to us that her 16-year-old son had been removed from the school roll, and his attendance at the school restricted by an order under the *Inclosed Lands Protection Act 1901*. The woman complained that no reasons had been given for the order, and the school had posted the order to an out-of-date address. Her son had recently become a new parent and she was also concerned about the level of support the school had given him. Dissatisfied with the school's response to her complaint, the woman asked for it to be referred to the Department of Education. Six months passed before she received a response.

After the woman contacted us, we made inquiries with the department and they acknowledged several errors and deficiencies in the school's response. Significantly, they found that the woman's son should not have been removed from the school roll because he was still of compulsory school age. They also accepted that the school had inadequate record keeping practices and had not complied with departmental policies and guidance. The lengthy delay in responding to the woman's complaint was also acknowledged. Senior officers from the department met with the woman and her son, personally apologised and also agreed to provide a letter of apology.

The department offered to help the woman's son enrol at TAFE and connect with career advisors. It also advised that any necessary literacy or numeracy support could be provided at no cost to the family. The school principal was counselled about his actions and the department undertook to monitor more closely the school's application of relevant policies in future.

2. Improving a school's awareness of their child protection reporting obligations

We received a complaint about a school's response to a disclosure made by an Aboriginal student, who had an intellectual disability and was living in OOHC. The student reported that she had been inappropriately touched by another student during a school excursion. The school's deputy principal informed the local police youth liaison officer of the girl's disclosure, but did not report it to the Child Protection Helpline.

The girl's disclosure was independently reported to the Helpline by a third party. When the Department of Family and Community Services (FACS) investigated, it substantiated that the girl had been harmed.

We asked the Department of Education about the school's decision not to report the allegation to the Helpline. The department acknowledged that a Helpline report should have been made, both because of the nature of the disclosure (which may have amounted to an indecent assault) and also because the girl was in OOHC. Under the department's own policy, all disclosures from students in OOHC must be reported to FACS. The deputy principal indicated he had not known the child was in OOHC and inquiries found that her care status was not clear from her enrolment records.

The relevant Director of Public Schools subsequently met with senior staff at the school to ensure they fully understood their reporting responsibilities. The school also reviewed its enrolment records to make sure that they clearly show that a student is in OOHC.

We suggested to the department that they could also provide better guidance to schools about when to make a police report. Our view, which is supported by police, is that when an allegation indicates a risk of significant harm and is also criminal in nature, agencies should report the matter to police as well as the Helpline. The department has taken action to implement this suggestion and the relevant guidance is being reviewed.

3. Remedying poor casework practice

An Aboriginal woman complained to us about a range of issues relating to FACS's involvement with her foster children. This included an allegation that a caseworker had inappropriately released the woman's phone number and address to members of her foster daughter's extended paternal family. The family members, one of whom allegedly pretended to work for FACS, began calling the woman and demanding to have contact with the child.

The woman also complained that although her foster daughter's psychologist had recommended that she attend at the beginning of each contact visit with the girl's extended paternal family, the caseworker would not allow her to do so. The woman was concerned that her foster daughter was becoming increasingly anxious after contact visits, and sometimes engaged

in self-harming behaviour. She also complained that, although her foster son was not related to the family members, FACS insisted he attend the contact visits too. Finally, the woman said that FACS had significantly delayed responding to her applications for guardianship and a special needs allowance.

After we asked FACS to resolve the woman's complaint, it acknowledged there had been several significant practice issues.

FACS offered an apology to the woman for the inappropriate release of her personal information, took steps to find out if there had been a breach of privacy legislation, and cautioned and counselled the caseworker who had released the information. They also asked the extended family members to stop contacting the woman. FACS confirmed that the woman and her partner were welcome to attend her foster daughter's contact visits with the family members and that her foster son was not required to attend. FACS also provided advice to the woman about the status of her guardianship application, approved her application for a special needs allowance, and made a back payment for an amount owing to her.

4. Helping a woman visit her nieces and nephews in care

An Aboriginal woman complained that she had not seen her nieces and nephews for four years, despite making numerous requests to FACS for contact. Although our review of FACS information holdings found evidence of several contact requests by the woman, we could not tell how FACS had responded. We made several attempts to informally resolve the matter with the relevant Community Services Centre (CSC), but did not receive a satisfactory response.

After we escalated the matter, FACS apologised to the woman for the delays in responding to her contact requests and undertook to counsel a number of staff

about this. The woman was given direct contact details for the children's caseworker and her manager. She was also invited to attend future case planning meetings for her nieces and nephews so she could have input about the contact arrangements. The woman told us that – since our intervention – she has begun having contact visits with the children. FACS also apologised to us for the CSC's inaction in response to our efforts to informally resolve the matter.

5. Ensuring a young girl at risk receives appropriate support

A solicitor complained to us about FACS's case management of a 14-year-old Aboriginal girl with a background of trauma, complex health needs, and repeated incarceration in juvenile detention. The solicitor raised concerns about the adequacy of the FACS assessment of the girl's placement needs and delays in arranging critical health checks.

We wrote to FACS, noting that certain case management tasks for the girl remained outstanding. These included an assessment of whether the girl had foetal alcohol spectrum disorder, a comprehensive assessment of her mental health and community support needs, and making arrangements for her to have contact with her birth family.

After our intervention, appropriate mental health assessments were completed. FACS advised us that the girl's care and placement needs will now be informed by the results of these assessments and an understanding that many of her challenging behaviours stem from her experience of trauma. FACS acknowledged the need for a more intensively supported placement to reduce the girl's contact with the juvenile justice system and also took steps to strengthen her connection with her family and culture.

Increasing Aboriginal participation in child protection decision-making

Last year we profiled the partnership between the Grandmothers Against Removals (GMAR), FACS and our office to develop the Guiding Principles for strengthening the participation of local Aboriginal communities in child protection decision-making. The principles were launched by the former Minister for Family and Community Services in November 2015.

Implementing the principles

The governance arrangements for implementing the guiding principles were consolidated this year. A dedicated implementation working group – known as the Guiding Principles Yarning Circle (GPYC) – has been set up to serve as the 'statewide advisory group' envisaged in the principles. The GPYC has met regularly since September 2016 and includes representatives from GMAR, FACS, AbSec, the Aboriginal Legal Service, and an Aboriginal child and family service. We were also invited to participate as observers.

GMAR and FACS have worked together to plan and deliver initiatives to promote the guiding principles in local communities across the state. Together, they have:

- conducted joint visits to a number of communities across NSW to raise awareness about the guiding principles and encourage the establishment of Local Advisory Groups (LAGs) among community members, local CSCs and relevant service providers
- trialled a 'road show' for FACS caseworkers in the Hunter/New England District, providing information about the guiding principles and the practice changes required
- held a two-day LAG development workshop in Newcastle in April, attended by around 80 community representatives from across the state, to equip them to establish LAGs by fostering collaboration and providing advice and toolkits. Our Assistant Ombudsman (Strategic Projects) joined a panel discussion as part of this workshop.

Significantly, FACS has taken steps to elevate the level at which decisions are now made in relation to Aboriginal child placements, and is looking at additional strategies to ensure its complaints policy and processes are culturally responsive.

We hosted the December 2016 meeting of the GPYC, which was attended by the FACS Minister and Secretary, as well as the GYPC meeting in March 2017, attended by the FACS Secretary. These meetings provided an opportunity to discuss the policy and practice reforms needed to implement the principles (and the legislation underpinning them) and to showcase to the Minister and Secretary the positive partnership between GMAR and FACS in promoting awareness of the guiding principles in communities and CSCs.

The December meeting also considered proposed data indicators to measure and track the impact of the guiding principles. It is intended that these indicators will be made public once finalised. We provided further feedback after the meeting, noting that – in addition to collecting data about the rates of removals and restorations for Aboriginal children – it will be important for FACS to identify how it proposes to monitor and assess the quality of Aboriginal cultural care plans and casework practice. FACS will need to find out how well its staff know and are working constructively with their local Aboriginal community – including by supporting and participating in LAGs and consulting them about child protection decisions.

We have also suggested to the GPYC that it could be useful to develop a joint fact sheet about the respective roles of members – and that of the GPYC overall. This could include outlining the relevant 'escalation points' which community members, service providers and other stakeholders could use to raise concerns about practices that are inconsistent with the guiding principles. This feedback could then feed into the monitoring and assessment of the principles and related practice.

Review of Aboriginal children in out-of-home care

An independent review of Aboriginal children entering OOHC in 2015-16 was announced in December 2016 by the former FACS Minister. The announcement was made following the *Our Kids, Our Way: Hearing the Voice of Aboriginal People* forum about the high numbers of Aboriginal children and young people in OOHC. The review is chaired by Professor Megan Davis – the University of NSW's Pro Vice-Chancellor Indigenous – who is due to report to the Minister in the first half of 2018.

The review will examine the circumstances of the 1,152 Aboriginal children and young people who entered OOHC in 2015-16, and is aimed at:

- identifying the reasons for the high and increasing rates of Aboriginal children and young people in OOHC in NSW
- developing strategies to reduce the number of Aboriginal children and young people currently in or entering OOHC, including improving pathways to family reunification.

As well as making observations and recommendations on practices and systems, the review will include a contemporaneous review of case files to identify specific actions to improve outcomes for this group of children and young people – including restoring them to their families if appropriate.

A care review reference group – including our Deputy Ombudsman and Community and Disability Services Commissioner, and Assistant Ombudsman (Strategic Projects), and representatives from GMAR, AbSec, KARI (a large Aboriginal OOHC agency), Walgett Aboriginal Medical Service and the Australian National University – has been established. The reference group will help the review to determine the scope, direction and priority areas, provide quality assurance, and comment on draft proposals and recommendations for reform.

The review will help inform the practical implementation of the guiding principles, which provide a positive benchmark for the review. Given this potential for complementary actions, the work of the GPYC and the care review reference group will be closely aligned. In future, we intend to audit both the implementation of the guiding principles and FACS's response to the review findings.

We will continue to support and monitor the implementation of the guiding principles and the care review to promote consistent approaches that meet local community needs. If the principles and review findings are well implemented across communities, they have the potential to make a significant difference to the cultural appropriateness and quality of care and protection decisions involving Aboriginal children in this state.



Assistant Ombudsman Julianna Demetrius (R) and GMAR NSW founding member Suellyn Tighe on a panel at the LAG development workshop in Newcastle.

Monitoring Aboriginal programs (OCHRE)

Our oversight of OCHRE – the NSW Government’s plan for Aboriginal affairs – is led by the Deputy Ombudsman (Aboriginal Programs) and aims to provide greater accountability for the plan’s implementation and results.

Through Aboriginal Affairs (AA), the Department of Education is responsible for coordinating the overall implementation of OCHRE. AA also leads the Local Decision Making (LDM), healing and Aboriginal Economic Prosperity Framework (AEPF), and is responsible for publishing annual reports about the delivery and outcomes of OCHRE. Education directly leads the delivery of Connected Communities and the Aboriginal Language and Culture Nests – the latter in partnership with the Aboriginal Education Consultative Group (AECG). Training Services NSW within the Department of Industry administers the Opportunity Hubs in partnership with contracted service providers. Aboriginal communities are key partners for all the initiatives.

During 2016-17, we met frequently with the relevant agencies to hear about implementation progress and challenges. We also met regularly with the Secretary of Education and, where necessary, the Minister for Aboriginal Affairs to share our systemic observations. This year:

- We visited a number of communities – including Bourke, Broken Hill, Campbelltown, the Central Coast, Cobar, Coonamble, Dubbo, Enngonia, Port Macquarie, Tamworth and Walgett – to directly observe and obtain feedback about OCHRE initiatives. These visits focused on examining the progress and outcomes of Connected Communities and related place-based service reforms, Opportunity Hubs, economic development and LDM.
- We attended professional learning workshops in Sydney with staff and executives from Connected Communities schools and Aboriginal Language and Culture Nests, as well as roundtables on the proposed Aboriginal Languages Bill for NSW.
- We visited Condobolin to follow up on promising educational and economic development initiatives being driven by the local Aboriginal community beyond the framework of OCHRE.

In late 2015, AA engaged the Social Policy Research Centre (SPRC) to co-design the OCHRE evaluation in partnership with Aboriginal communities and implement it over 10 years. We commend AA for adopting a community-driven approach, which aims to include measures of success for OCHRE that are the most relevant and meaningful for its intended beneficiaries.

We have met with the SPRC and the Evaluation Steering Committee to ensure that our oversight is informed by and complements the evaluation. Given that some OCHRE sites and initiatives are not subject to the formal evaluation, our independent scrutiny will enable us to examine aspects that may not otherwise be able to be assessed. For example, AA has asked us to consider exploring the capacity of NSW public servants to transact differently with Aboriginal people, as an important enabler for all the OCHRE initiatives. The initial evaluation findings are due to be reported in mid-2018.

This year, we also notified the relevant agencies of our intention to report to Parliament in 2018 about the implementation of OCHRE. We have begun targeted consultations with relevant stakeholders and identified the key measures and other information we need from agencies for our report. We will also draw on observations from our ongoing meetings with agencies, our community visits and our stakeholder consultations.

Economic development

In May 2016 our special report to Parliament, *Fostering economic development for Aboriginal people in NSW*, set out what we believe to be the key areas of reform needed to deliver tangible and sustainable improvements to economic outcomes for Aboriginal people in NSW.

In September 2016, the NSW Legislative Council Standing Committee on State Development tabled in Parliament the final report of its inquiry into economic development in Aboriginal communities. The report began with the committee’s observation that:

“The NSW Ombudsman has condensed the views of many stakeholders in stating that increasing the economic prosperity of Aboriginal people is crucial to improving social outcomes, and sustaining and renewing Indigenous culture and languages.”

A number of the committee’s recommendations were consistent with those in our special report, including:

- establishing an advisory board on Aboriginal economic development
- having appropriate targets for including Aboriginal business in government supply chains
- ensuring place-based, community-driven approaches are embedded as a key component of the development and implementation of initiatives to drive Aboriginal economic development.

In December 2016, the government released *OCHRE: Growing NSW's First Economy*, the statewide AEPF, fulfilling a commitment made under the original OCHRE plan in response to recommendations contained in our previous reports to Parliament. The AEPF does not prescribe specific programs or initiatives, but instead aims to integrate Aboriginal economic participation into existing state government priorities which focus on jobs and employment, education and skills, and economic agency. Implementation plans for most of the AEPF commitments were finalised in early 2017. AA advises that it is currently working with the Department of Premier and Cabinet (DPC) to assess progress against the plans and will include updates in its OCHRE annual report.

Pleasingly the AEPF reflects most of the recommendations in our special report, including the need to:

- take a tiered approach – to provide opportunities for individuals, enterprises and communities/regions
- focus on areas including education, employment, home ownership, entrepreneurial capacity and government procurement
- leverage mainstream economic development strategies and efforts, and ensure commitments made in relevant government policies and initiatives are embedded within the AEPF and related governance mechanisms.

In May 2017, the government responded to the committee inquiry report – supporting the majority of the recommendations and indicating that they are broadly consistent with existing policy directions since the release of the AEPF.

There is not yet enough information to determine how our recommendations relating to governance and accountability, reducing the impact of incarceration, and eliminating financial exclusion will be addressed. We have sought advice from AA about the implementation of these recommendations as well as those made by the committee which the government indicated it would further consider.

Throughout the year, we continued to meet about Aboriginal economic development efforts with a range of relevant stakeholders – including the NSW Chief Procurement Officer, OCHRE Industry Based Agreement partners, the NSW Indigenous Chamber of Commerce, the Business Council of Australia (BCA) and Tier 1 contractors. We also focused on encouraging government efforts that resulted in practical economic outcomes, such as the Bourke employment prosperity strategy and the Aboriginal Participation in Construction strategy.

Supporting Bourke's Aboriginal employment efforts

After visiting Bourke in April 2017 to attend a meeting about Bourke's draft Aboriginal employment prosperity strategy, we arranged a roundtable in June 2017 between Aboriginal, Shire Council and business

leaders from the community and the Deputy Premier, the Minister for Financial Services and Innovation, and the Minister for Aboriginal Affairs.

At this meeting, the Deputy Premier and Ministers agreed on the need to consider opportunities to support regional and remote communities to develop flourishing local economies and deliver tangible results. They also acknowledged the importance of community-led decision-making and collaborative action, as well as robust data collection to support evidence-based decisions.

Following the meeting, the Deputy Premier announced \$320,000 in government funding for the Bourke Shire Council to hire an employment strategy officer to work in partnership with the Aboriginal community, including the Maranguka Community Hub. Key areas of focus for the role will be promoting vocational education, training and jobs, and exploring opportunities arising from the anticipated opening of a new small livestock abattoir in 2018, which is expected to create up to 200 local jobs.

In the medium to long term:

- The NSW Government Data Analytics Centre (DAC) will explore the feasibility of providing data about government services and programs in Bourke.
- Procurement contracting will be reviewed to 'unbundle' large asset and facility management contracts – enabling local suppliers to effectively bid for and deliver on smaller contracts.
- Measures will be put in place to enable greater local coordination of economic development initiatives between service providers, employers, schools and the Aboriginal community.
- An evaluation model will be established to report annually on Bourke's economic outcomes.



Deputy Ombudsman (Aboriginal Programs), Danny Lester [far right] with [L to R, front row] Minister Dominello, Deputy Premier Barilaro, Minister Mitchell, community leader Alistair Ferguson; and [back row] other members of the Bourke delegation.

Implementing APiC – the Aboriginal Participation in Construction policy

The APiC policy applies to certain government construction projects and recommends that at least 1.5% of the total estimated value of the contract be directed to Aboriginal participation – through jobs, supplier engagement or contributions to nominated foundations supporting education and employment. The policy became mandatory on 1 July 2016.

Under the AEPF, the NSW Government has committed to develop a new Aboriginal procurement policy in addition to APiC, which will include measures to grow employment and support the development of the Aboriginal business sector across other areas of state government expenditure beyond construction. We understand that our feedback on an early draft of the APiC that we provided to the Office of Finance and Services in 2014 will be considered in the development of the new Aboriginal procurement policy.

Last year we began meeting with key agencies most advanced in implementing the APiC policy – including Roads and Maritime Services NSW (RMS), Health Infrastructure NSW and Education – to understand how the policy is working in practice, and to highlight locations where stronger engagement with Aboriginal leaders and communities would enhance implementation.

This year we suggested to RMS that it take a place-based approach to supporting Aboriginal employment and business development in Western Sydney in implementing the APiC policy. In December 2016, we convened an initial strategy meeting with RMS and other potential partners from relevant government agencies, industry and the Aboriginal business sector. We have since helped RMS to establish the APiC Service Assurance Group in Western Sydney. This group will provide operational guidance to RMS staff and contractors to help achieve APiC's intended outcomes.

Its functions are to:

- act as a central point of contact for contractors required to comply with APiC
- coordinate relevant services and programs, such as skills training and business supports
- facilitate access to Aboriginal employees and Aboriginal suppliers to help meet the demand generated by the policy
- monitor the implementation of APiC through relevant RMS contracts in Western Sydney.

Membership of the group will vary depending on the 'unmet demand' for Aboriginal employees and suppliers emerging from relevant construction contracts. Current members include representatives from RMS, AA, Corrective Services, the Department of Industry (NSW Infrastructure Skills Legacy Program), TAFE NSW (the Parramatta Skills Exchange), the NSW Indigenous Chamber of Commerce and Supply Nation. Our office holds observer status.

We understand this model is the first of its kind for RMS and the APiC policy. We believe the approach taken and lessons learnt could be considered more broadly across other RMS regions (and by other agencies) in meeting the Aboriginal participation commitments under the APiC policy.

Connected Communities

The Connected Communities strategy aims to build genuine partnerships between schools and their local Aboriginal communities, providing executive

principals with unprecedented authority to tailor education responses to community needs. The 15 participating schools are intended to operate as 'service hubs', playing a lead role in facilitating services from external agencies to support the learning and wellbeing needs of students.

Since our oversight started, we have visited each of the schools participating in the strategy and observed firsthand how Connected Communities is operating in practice. We have held regular liaison meetings with Education, consulted with individual executive principals, and attended professional development workshops for school staff and Aboriginal community members.

We have also noted Education's actions in response to the findings of the initial evaluation of Connected Communities by the Centre for Education Statistics and Evaluation (CESE) released in early 2016 – many of which echoed our observations. Key among these findings is the need to support participating schools to operate more effectively as service hubs, and to urgently improve access to adequate child and adolescent mental health services in rural and remote locations. At our regular agency liaison meetings, Education updates its progress in addressing these and other practice areas.

Following a recommendation from CESE's interim report to broaden the scope of the 'schools as hubs' model, a framework for Connected Communities schools to facilitate service access for students has been developed and distributed to the schools. This framework includes local service agreements with key agencies at a local level. The goal is to formalise and promote local interagency cooperation and collaboration by using a place-based model of integrated service delivery that puts the student at the centre – implemented in partnership with parents and carers and the local Aboriginal community.

This goal for Connected Communities schools to act as service facilitators to provide an effective and integrated response for students – especially those with significant behavioural and support needs – presents similar challenges and opportunities to those confronting Network Specialist Centres and other similar interagency initiatives.

The Connected Communities strategy provides a strong model for collaborative practice and testing innovative approaches in different sites. It involves a regular coming together of executive principals with senior practitioners in Education, helping schools to collectively identify and solve problems as well as share ideas about good practice.

Since its inception, we have emphasised that – although it will be important for innovative approaches to be tested within the relatively small number of schools participating in Connected Communities – the challenge for the department will be in ensuring that lessons learnt and gains made are sustained and applied more broadly across the state.

Addressing mental health, healing and wellbeing needs

Executive principals at Connected Communities schools have repeatedly spoken about the urgent need to improve access to adequate child and adolescent mental health services in rural and remote locations. A significant proportion of students attending these schools have experienced significant trauma or have considerable mental health needs. Although some schools have had the benefit of access to mental health assessments for students, limited or no access to ongoing treatment services has been reported as a significant problem.

In 2015, we reported that it was abundantly clear the existing availability of school counselling services was inadequate to meet the needs of young people, particularly adolescents. The CESE's interim evaluation of Connected Communities also found unmet demand for counselling and stressed the importance of addressing the prevalence and severity of trauma-related mental health issues in Connected Communities schools. We have raised this issue with the NSW Mental Health Commissioner and the Children's Advocate.

Education is attempting to strengthen the ability of Connected Communities schools to support the wellbeing of students, staff and community members through the Healing and Wellbeing Model. This model provides additional funds to Connected Communities schools over four years to establish culturally responsive support for:

- student wellbeing – including through additional staff via targeted recruitment strategies
- staff wellbeing – through a tailored program to build staff resilience and skills in relation to trauma-related instances, including the piloting of a dedicated employee assistance telephone support service
- community wellbeing – building the skills and employability of community members through a tailored training program including the provision of a Certificate IV Youth Work course for Aboriginal community members in collaboration with TAFE NSW Western.

Education has advised us that all schools have used the funding for the student wellbeing component to employ staff with expertise to support the health and wellbeing of students – including teachers, social/youth workers, or student learning support officers. We understand that local recruitment strategies have resulted in increased support staff in all 15 schools. Targeted recruitment strategies and incentive packages for school counsellors and accredited school psychologists have resulted in the appointment of an extra two school psychologists and four school counsellors who are providing additional service to eight Connected Communities schools.

In a few cases, the funding allocation for school counsellors is being used to engage staff in other wellbeing positions until the requested school counselling positions can be filled. These positions work closely with the school counselling service, where one is available. While these roles can provide important support to students, they are unable to make mental health assessments and therefore need to contact the Senior Psychologist Education overseeing their school to plan for appropriate psychological intervention when required. NSW school counselling staff are trained in psychology and provide a broad range of psychological services and support to students in Connected Communities schools, including counselling and assessment. Nevertheless, given the extent of need identified, greater access to more counsellors as well as other mental health professionals – including psychiatrists and psychologists – is required to ensure appropriate diagnosis and treatment and assist ongoing educational engagement and achievement.

Education has tried to recruit school counsellors through a targeted process. However, we understand that there remains a significant shortage of available candidates and the geographic isolation of Connected Communities schools has proved to be a barrier. We have encouraged Education to explore innovative means to increase the supply of school counsellors (for example, by reviewing job classifications which require school counsellors to hold both teaching and psychology degrees). Education has introduced incentive packages for school counsellors and psychologists to work at Connected Communities schools and in 2015 the Department established an additional pathway to employ qualified school psychologists without teaching qualifications. These initiatives have had some success.

The Department is also exploring additional creative ways of providing and supporting school counselling services in remote NSW schools – for example, counselling staff from other rural and metropolitan schools have travelled to remote schools, including Connected Communities schools, to provide additional support. Education is also looking at sustainable models of linking Connected Communities schools with counselling staff from around NSW.

We understand that 21 community members are currently undertaking the Certificate IV Youth Work course for Aboriginal community members, designed to improve their skills, knowledge and employability. A staff wellbeing package is under development based on feedback from staff focus groups in late 2016. These are positive initiatives that, pending demonstrated outcomes, could enhance the capacity of Connected Communities schools and communities to better meet the mental health needs of Aboriginal students.

Setting up transition centres

In 2016, we reported that Education had resolved to develop and fund a flexible model for 'transition centres' in consultation with Connected Communities schools in Coonamble and Taree. These schools had identified challenges for students transitioning back into the classroom after long periods of absences, including students who have been in a juvenile justice centre. The transition centres, which were operational by the second half of 2016, have:

- a dedicated space, classroom teacher and Aboriginal school learning support officer
- different teaching and learning methods based on the syllabus key learning areas that draw on connection to community and culture
- access to wrap-around services for the students and their families.

Since then, Bourke High School has also been progressing a transition initiative – in response to a community-identified need – to provide additional support to a group of chronic non-attending students, most of who have been assessed as having specific needs.

We understand that the funding allocated to the transition centres will cover the initial 'start-up period', and their sustainability will depend on the schools committing to covering ongoing costs from their school's budget.

Connected Communities executive principals responsible for the transition centres have told us that engaging in a broad range of community activities and connecting with agencies and support services has benefited the students – particularly in receiving personalised support and where the traditional school setting has not been able to meet their specific needs. Reaching out and using community contacts and resources also better facilitates individualised programs within a flexible learning environment.

The ultimate aim of transition centres is to successfully transition students into formal education, work or training.

The following case studies, 6 and 7 provide further details about the transition centres in Coonamble and Manning Valley (which includes Taree), since an important aspect of our oversight includes identifying, supporting and highlighting good or

Case studies

6. Coonamble High School Transition Centre

The primary aim of the Coonamble High School transition centre is to provide intensive, targeted support to help students who have been absent for long periods to transition back into mainstream schooling. This includes chronic school non-attendees and students returning after being in a juvenile justice centre.

It was recognised when designing the centre that cultural advice would be critical, as a majority of students referred are Aboriginal. The local Aboriginal community was engaged via the School Reference Group and local Elders to help shape the centre's program. Staffed by a classroom teacher and school learning support officer (both of whom are Aboriginal with local connections) and strongly supported by the school's deputy principal/head teacher learning and support, the centre strives to build student connections to community and country while also providing a safe and nurturing environment with a strong focus on healthy daily routines.

The centre was initially temporarily based at the local TAFE (with students enrolled in courses), but the school executive is currently seeking a permanent home for the centre in an old training building next to the school.

The transition centre currently caters for 10 students. It operates from 8am to 2pm, as the school had observed that frustrations built and violent incidents tended to happen after lunch. The group dynamic at the centre is carefully assessed and monitored by staff each day. The consistent location and staff, in contrast to multiple teachers and classrooms in the school, provides stability which the students seem to appreciate.

Staff try to build networks of support around the students by positively engaging with local services (including Mission Australia, the Aboriginal Medical Service and the Murdi Paaki Regional Enterprise Corporation). The aim is to help students see these services as safe places to seek assistance if needed in the future. The centre has also worked hard to rebuild bridges with local services and organisations where these have been weakened by allegations of previous antisocial or criminal behaviour by students. Local police and council youth workers have also been invited to engage with the students at the centre to increase mutual understanding and break down barriers that can otherwise have an enormous impact on the lives of young people in a small town setting.

promising practices emerging from OCHRE or elsewhere. During the year Ombudsman staff engaged with the responsible executive principals to learn more about the potential of these initiatives.

Although Connected Communities was announced as a five-year strategy in 2012, it was not fully implemented until the end of 2013. Education has also advised us that it has taken many participating schools – which are generally located in high-need communities facing significant challenges – at least two years to build sufficient trust with local Aboriginal families and carers to work with them as partners in their children's education. Some schools are still working towards this goal.

At this stage, it is unlikely that longer term outcomes (such as improved academic achievement by students) will be evident. Greater impact will only be realised through building on and strengthening the foundations established by Connected Communities to date. Although schools have a critical role in addressing entrenched disadvantage in vulnerable communities, they (and the Connected Communities strategy) alone cannot successfully resolve a range of complex issues. Further work is required across government agencies and funded services to reform

how services are planned, funded and delivered to embed a genuine 'place-based' service delivery strategy in high need communities.

Place-based service delivery

The NSW Government committed to implementing place-based service delivery reforms in Aboriginal communities in response to our 2012 report on addressing Aboriginal child sexual assault, including through the Connected Communities strategy. Leading sites include Bourke, Coonamble, the Far Western region and the Central Coast.

We are observers of both the Cross Sector Leadership Group in Bourke and the Steering Committee for the Coonamble Integrated Service Delivery project. Both groups are driving important place-based service delivery reforms in Western NSW.

The following updates outline the progress made this year in the four sites.

Bourke

This year, the Bourke Cross Sector Leadership Group (which includes our Deputy and Assistant Ombudsman as observers) agreed that a new local strategic

Case studies

7. Manning Valley Learning Centre

In 2014, the principals of Taree (a Connected Communities school), Wingham and Chatham high schools came together to discuss how they could best support students at risk of disengaging from school in the area. The discussion arose because some students were exhibiting very challenging behaviours which were interfering with their ability to attend school – including violence, extreme anxiety and 'school-phobia'. A number of students had received multiple suspensions and were at risk of expulsion. Others were failing to attend school because of a fear of peer ridicule of their personal circumstances, such as poverty or pregnancy. The three schools typically had around six students in juvenile justice detention at any one time, and supporting them to return to school after detention was also a concern.

The principals decided to collaborate and pool resources to establish the Manning Valley Learning Centre, a facility aimed at providing a safe and nurturing space to address the individual support and educational needs of identified students. The centre currently caters for 18 students, most of whom are Aboriginal. Through a partnership with Camden Valley Distance Education, tailored learning packages are provided to suit the interests and needs of each student. While the centre's teaching and learning support staff help students with their studies, the approach goes beyond focusing on their

schoolwork. Learning centre staff try to create a supportive 'network of care' around each student. They maintain close communication with parents/carers, OOH services and juvenile justice liaison officers. The centre also invites local services to provide talks and short courses for the students on topics such as drugs and alcohol (Biripi Aboriginal Medical Service), financial literacy (Smith Family), cyber safety (Police), careers and further education pathways (TAFE).

Although an identified goal of the centre is to transition students back into a mainstream school environment, the principals and centre staff recognise that this may not be a suitable option for every student. Where appropriate, once students are 15 or 16 years of age, the centre assists them to consider post-school options such as TAFE, a traineeship or disability industry placement, or employment. Staff actively help to broker the various opportunities available for students in their local area.

As one of the three participating schools is a Connected Communities school, the Department of Education provided funding in 2017 for a head teacher and Aboriginal-designated school learning support officer – which has been a welcome increase to the centre's staffing capacity. However, we understand that the increased staffing may not be sustainable beyond the current year without additional funding from the school.

coordinator position should be created to drive place-based service delivery in Bourke. The group decided that the role should be based in DPC to facilitate the high level liaison between key government agencies, community and philanthropic partners needed to deliver expected outcomes. The role will also be expected to form effective linkages with local council and federal government representatives and report back to the cross sector leadership group.

We advised DPC that a strong focus of the role should also be working with and being responsive to the views and vision of Aboriginal community leaders. It will also be critical that the coordinator is authorised and empowered to get the job done, and accountable to both government agencies and local community leadership. Such a role could also lead service coordination in another high-need community in Western NSW, such as Coonamble.

The Cross Sector Leadership Group also resolved to commission an analysis of the service system before the coordinator started work. Consistent with what we have advocated for some time, we suggested that this work should go beyond service mapping to include reviewing service efficiency and effectiveness both within and across agencies.

Coonamble

In April 2016, FACS launched a co-design project in Coonamble – a Murdi Paaki community taking part in LDM and the site of two Connected Communities schools. We are a member of the project steering committee – which also includes the Aboriginal community working party chair, Connected Communities executive principals, senior leaders in government and NGO representatives. The project aims to give clients the help they need, regardless of how they may have accessed the service system, by better integrating the service response and increasing local service provision.

After consultations during the year, the governance arrangements and implementation plan for the project – ‘Together Burrul Bina Partnership: Working Together for the Future’ – were settled. This included a commitment that Coonamble services would be considered in all future service contracts or renewals. The plan also outlines a ‘blueprint’ for a community-led approach to co-designing service delivery reform, described as a scalable model able to be adopted by other rural and remote Western NSW communities.

Far West Initiative

The Far West Initiative (FWI) is the main vehicle DPC is using to examine a new whole-of-government model for place-based service delivery and governance in Far West NSW. In 2016, responsibility for the initiative moved from the DPC to the Office of Local Government (OLG), which held consultations on a proposed regional statutory body.

In March 2017 we attended a state agency workshop convened by OLG and subsequently advised that – in our view – DPC is best placed to drive the comprehensive reform of state government services required to enact genuine service integration and respond to community priorities in the Far West. We consider that DPC should play a lead role – in consultation with Aboriginal leaders and other key community stakeholders – in facilitating the coordination of planning, funding and service delivery between state, local and federal governments.

We also suggested that a data collection and reporting strategy, tied to a clear governance process for reforming service delivery in the Far West, should be included in any model adopted for the FWI. We noted that government stakeholders strongly agreed with the need for measurable outcomes supported by data, evidence and reporting.

Central Coast

The FACS Central Coast District has been trialling a multi-agency local intake and service point centre – staffed by FACS, Education and Health with input from Police. The Central Coast Multi-Agency Response Centre (CC-MARC) aims to provide better service responses, including more comprehensive and timely joint assessments of child protection reports that are diverted from the central child protection helpline. The results so far are promising.

We stated in our submission to the NSW Legislative Council General Committee No. 2 inquiry into child protection that it will be critical that the key elements of these approaches are adapted for rollout elsewhere if they prove to be successful. In March 2017, the child protection inquiry report recommended that FACS should fully fund CC-MARC and implement the model in other areas of the state with greatest need. In its response, the government agreed the model is promising and committed to evaluate the pilot when it ends in November 2017.

Local Decision Making

The LDM initiative aims to empower Aboriginal regional governance bodies (regional alliances) to make informed decisions about funding and service delivery for the region and local communities they represent. The aim is to progressively delegate powers to the seven regional alliances, through staged phases and accords agreed with government – as capacity is proven and once pre-determined conditions are met. One accord – between the NSW Government and the Murdi Paaki Regional Assembly (MPRA) – is in place, and the remaining six regional alliances are at different points in the LDM phases.

This year we were invited to attend three meetings of the NSW Coalition of Aboriginal Regional Alliances (NCARA), the peak body for the regional alliances. We also travelled to the Central Coast and upper Mid North Coast to visit the Barang Regional Alliance and Tribal Wave Regional Alliance.

Last year we reported that constraints on the capacity of regional alliances had hindered their work in preparing for, negotiating and implementing accords. This year, after we brought this situation to the attention of two law firms – Gilbert + Tobin and Ashurst – they agreed to provide pro bono independent legal advice to the regional alliances. The firms have since developed a proposal for a legal ‘community of practice’ to be established with other interested law firms to make free legal assistance available to individual regional alliances as needed. NCARA indicated that this assistance would be highly valuable and has endorsed the concept, providing feedback on the draft terms of reference. The community of practice is expected to be in place from 2017-18.

In August, we convened a meeting with Treasury, DPC, the Department of Finance, Services and Innovation and the DAC to discuss how regional alliances can be supported with a systematic approach to mapping the services in their region. Service mapping informs decisions about funding and service delivery for the communities that regional alliances represent, as decision-making is progressively devolved from government. Treasury indicated that it had undertaken high level service mapping for alliances, and was in the process of providing that information to them to inform pre-accord discussions. Treasury also agreed to assist alliances in sourcing more detailed financial information and data where further information needs were identified, and agreed to act as an honest broker between alliances and government agencies in sourcing this data and dealing with technical challenges (such as navigating privacy restrictions or commercial-in-confidence issues).

We also recently met with the chair of BCA’s Indigenous Engagement Taskforce to discuss ways that corporate Australia might play a more active role in working with regional alliances to strengthen their capacity. Separately, we have also started a conversation with the NSW Public Service Commission on how existing processes enabling public sector secondments could be used to assist regional alliances and their members.

Last year we reiterated the need for effective interaction between regional and local Aboriginal governance structures, such as Aboriginal community working parties. This year, we convened a meeting with the Deputy Secretary for Regional Development at DPC and AA representatives to clarify the avenues available for community working parties to articulate their priorities and needs – particularly if these fall outside the focus areas or timing of an accord – and for government to respond. Participants agreed on the need for clearer processes and improved communication between government, regional alliances and their members. We continue to stress with both government and regional alliances that the LDM process needs to remain focused on achieving local as well as regional progress.

We noted last year that AA intended to review its Good Governance Guidelines (GGGs), which set out the prerequisites for regional alliances and the NSW Government to start accord negotiations, and the aspects of good governance which regional alliances must demonstrate to progress through the LDM phases. After handling two related complaints, we had previously advised Education, AA and NCARA that regional alliances should be given guidance about the government’s expectations regarding probity standards for individual representatives. This year we reiterated this view – as well as the need for guidance to be provided about effective interaction between regional and local Aboriginal governance structures – during a meeting with Cox Inall Ridgeway (the consultants carrying out the GGGs review). We also noted the importance of clear governance and accountability arrangements continuing beyond the negotiation of accords, and the critical need for capacity building support to enable regional alliances to fulfil governance requirements.

Finally, in November, we attended the inaugural conference on the LDM initiative – together with regional alliance and government representatives. Regional alliances called for long-term, bipartisan political support for the LDM initiative, increased resourcing and future legislation. AA has advised that it intends to develop a business case for LDM enhancement and legislation. We will continue to observe the initiative closely to help the NSW Government and regional alliances implement the LDM vision.

Aboriginal Language and Culture Nests

Aboriginal Language and Culture Nests (Nests) provide Aboriginal communities with opportunities to maintain, reclaim and revitalise their Aboriginal languages through linkages with schools, TAFE NSW, universities and other community language programs or groups.

A significant development this year was the announcement by the Minister for Aboriginal Affairs that consultations would be held on draft legislation to recognise and support NSW Aboriginal languages. If passed, the legislation will be an Australian first. The proposed Bill will include:

- statements of recognition about the importance of Aboriginal languages, and the importance of preventing their loss
- measures to support the revival of NSW Aboriginal languages – including a proposed NSW Aboriginal Languages Centre, a strategic plan and an accountability framework.

As key stakeholders, representatives from the five Nests have been involved in consultations about the proposed Bill. We also attended an early community consultation and roundtable about developing the Bill to understand how it will support and interact with the Nest initiative.

This year, in addition to our regular liaison meetings with the key stakeholders of the Nest initiatives, we facilitated a meeting between the Department of Education's Aboriginal Education and Communities Directorate (AEC), the NSW Aboriginal Education Consultative Group (AECG) and the NSW Education Standards Authority (NESA). The meeting resulted in a renewed commitment to improve information sharing and other aspects of collaboration. The AEC is leading the Nest initiatives within schools; the AECG has been contracted to support and formalise community engagement with each of the Nests; and NESA is tasked with the completion of a range of curriculum support initiatives. Having developed the Stage 6 Aboriginal Languages Content Endorsed Course syllabus in 2015, NESA will publish the completed Scope and Sequences K-10 in Bundjalung, Gamilaraay-Yawaalaraay-Yawaalayaay, Gumbaynggirr, Paakantji and Wiradjuri on a new NSW Aboriginal Languages website, and resources will be released for each Nest. NESA continues to collaborate with the Nest communities in the development of each of these initiatives.

We have previously raised concerns about the long delay in appointing coordinators to support the implementation of the Nests, noting that these roles should ideally have been appointed at the outset. The AECG is now responsible for recruiting Nest coordinators (now called project officers) and has established a local reference group for each Nest to help formalise local governance and community involvement. It will be important that the localised role statements developed by each Nest reference group for these long-awaited project officer positions – which will be located within regional Aboriginal organisations rather than at participating Nest schools – are clearly understood. The positions should work closely with teachers, school principals and community members to enhance support for the Nests.

This year the AEC brought Nest teachers and base school principals together in Sydney for a two-day professional learning forum in June, which we attended. The forum provided a valuable opportunity for Nest leaders to:

- share best practice
- discuss issues and challenges
- identify the monitoring data that could be collected to measure outcomes effectively
- seek advice from the AEC on operational decisions that require guidance.

We have been concerned for some time about the lack of comprehensive guidelines for Nest staff and schools, outlining their responsibilities, lines of accountability and appropriate expenditure of funds. Last year, Education agreed with our suggestion and was in the process of consulting key stakeholders to provide an up-to-date set of guidelines later in the year. Some clarification of roles and responsibilities

for the different Nest stakeholders were published on the Education website in late 2016 but we note that Nest teachers and base school principals expressed a need for more detailed advice during the June professional learning forum.

Despite these issues, it is clear that a significant personal commitment has been made by Nest teachers, tutors, school principals and community representatives in pioneering this initiative and establishing strong foundations for Aboriginal language and culture to be revitalised through schools. The reported growth in the number of students learning Aboriginal languages in Nest schools and the development of language resources have been key achievements to date; and Nest teachers are working hard to mentor and support the growth of new and existing language tutors to ensure a sustainable workforce for the Nests.

Given the delays in implementation we consider that the potential of the Nests' initiative is yet to be realised. We note, however, the recent promising steps and that the initiative is likely to form an important foundation for the Aboriginal languages legislation. On that basis, there would be clear benefits in this initiative continuing beyond the current time frame of December 2017.

Solution brokerage

Under a specific Premier's Memorandum, NSW Government agencies are expected to work flexibly with AA and to collaborate with Aboriginal communities, non-government organisations and other tiers of government to find practical solutions to issues that are declared by the Head of AA to be suitable for 'solution brokerage'.

To date, four issues have been declared:

- developing an integrated early childhood service model for the Murdi Paaki region, as reflected under the MPRA LDM Accord (April 2015)
- resolving land and economic participation issues for the Eden Local Aboriginal Land Council (LALC) (April 2015)
- coordinating land use planning and municipal infrastructure in approximately 60 discrete Aboriginal communities, and addressing barriers to economic development on Aboriginal-owned lands – referred to as the Aboriginal Community Land and Infrastructure Project or ACLIP (September 2015)
- building community resilience in Bowraville (September 2016).

As well as monitoring the progress of each of the declarations, we provided particular assistance with the ACLIP declaration. Our advice to the Department of Planning and Environment (DPE) covered:

- identifying priority communities for early implementation

- community concerns about infrastructure raised with us during community visits
- the opportunity for links with pro bono industrial design work by University of Technology Sydney students.

We also explored with DPE scope for the ACLIP to address community concerns raised with us by the Walgett Gamilaraay Aboriginal Community Working Party (WGACWP). In August, we facilitated meetings between the WGACWP and Walgett Shire Council and between Walgett Local Aboriginal Land Council and Walgett Shire Council to discuss these concerns and to help establish working partnerships between the stakeholders into the future.

We understand that progress is most advanced for the declaration on resolving land and economic participation issues for the Eden LALC. Relevant work undertaken has led to a draft local accord between the NSW Government and the land council. Once Ministerial approval is given for this local accord, the related solution brokerage declaration will cease. Significant headway has also been made in the declaration on building community resilience in Bowraville, in large part due to the authority and mandate of the Secretary of DPE – which enables government to be more responsive to Aboriginal community priorities. This illustrates the potential of place-based approaches when coupled with the involvement of senior representatives who can marshal resources across government, directly engage with community and other stakeholders, and make binding decisions in response to agreed objectives. However, we note some concerns shared by government stakeholders that future solution brokerage declarations will not be sustainable if dependent on the involvement of a departmental Secretary to marshal the necessary resources and actions. The capacity of the broader public service to be guided by, and work effectively with, Aboriginal communities needs to be strengthened.

AA intends to evaluate solution brokerage in the future to strengthen its operation. The evaluation should further examine the elements of success and any changes that are needed to best equip AA to drive an effective, outcomes-focused interagency response to issues that require solution brokerage.

Healing

Our 2012 report to Parliament on responding to child sexual assault in Aboriginal communities and the Ministerial Taskforce on Aboriginal Affairs both identified a strong desire on the part of Aboriginal people for healing to be formally recognised as a therapeutic response to specific traumatic events – including child sexual assault and the trans-generational trauma brought about by colonisation and racism. NSW is the first state to explicitly incorporate healing into its policy for Aboriginal affairs.

OCHRE commits the NSW Government to advance the dialogue with Aboriginal communities, policy practitioners and service providers about healing and to develop responses informed by evidence of good practice.

In December 2016, the following groups were selected through an expression-of-interest process to host OCHRE Healing Forums, co-designed by the community, the National Healing Foundation and AA:

- Burrun Dalai Aboriginal Corporation (Mid North Coast)
- Clarence Valley Aboriginal Healing & Support Service (Mid North Coast)
- Three Rivers Regional Assembly (Central Western NSW)
- Baabayn Aboriginal Corporation (Greater Western Sydney)
- Barang Regional Alliance (Central Coast)
- Riverina Murray Regional Alliance (Riverina/Murray).

The forums are expected to be held next financial year, with the exact time frame for the delivery of each forum dependent on each entity's readiness and the decisions of the local planning committee in each location.

The co-design approach for the OCHRE healing forums is a positive step. It is nevertheless critical that the government actively supports – and directly contributes to – the forum partnerships in responding to the needs and actions identified through the forums.

A continued theme during our consultations has been that the current practice of ad-hoc and short-term funding of healing programs undermines their overall effectiveness and limits their accessibility. We recommended in our 2012 report that there be further consideration of NSW Health's proposal, to create a funding pool across government agencies to enable a more consistent approach to supporting healing programs. We understand that NSW Health continues to support this proposal.

It is also important that the outcomes from the forums are tracked, as healing is not included within the scope of the OCHRE evaluation, and the evidence base for understanding the impact of different healing approaches is still being developed. To achieve intergenerational healing and change, longer term funding of successful models is needed.

The fourth solution brokerage declaration – building community resilience in Bowraville – is another key action taken by AA to promote healing. The declaration aims to bring together relevant NSW Government agencies, other tiers of government, non-government providers and community leaders to address issues adversely affecting community cohesion, healing and the quality of life in Bowraville.

In early December 2016, the NSW Government responded to the Legislative Council General Purpose Standing Committee No. 3 report on its inquiry into reparations to the Stolen Generations. The response, developed in consultation with Stolen Generations Organisations (SGOs), accepted the majority of the committee's recommendations, including:

- Establishing a Stolen Generations reparations scheme – providing ex gratia payments of up to \$75,000 to all surviving children removed by the Aborigines Welfare Board, in recognition of their loss of connection to their family and culture.
- Establishing a grant-based Stolen Generations healing fund to support priority healing initiatives – such as healing centres, keeping places and memorials.
- Providing financial support to SGOs over a 10-year period to enable ongoing advocacy for the needs of survivors and descendants and inform/lead the development of healing initiatives.

Last year, we noted the need for government stakeholders to understand healing and adopt trauma-informed approaches in their areas of responsibility. Pleasingly, the government's response to the committee inquiry includes a commitment to build a 'trauma-informed' public sector by developing a learning package which will include information about the impacts of past forcible removal policies and practices on Aboriginal communities. The package is being developed by the NSW Public Service Commission, in partnership with AA and representatives of the Stolen Generations.

Opportunity Hubs

The Opportunity Hubs (Hubs) initiative funds service providers in four locations to provide Aboriginal students in years 5 to 12 with:

- programs to develop their aspirations for opportunities after school
- individualised career planning and mentoring
- connections to training, tertiary education and employment opportunities.

In September 2016, we met with Training Services NSW to discuss the key systemic issues and good practices we identified from our consultations with Hub service providers and stakeholders during the previous year. Training Services NSW agreed that the Hubs should not duplicate or replace existing initiatives working to connect Aboriginal students to further study, training and work. It also acknowledged that the Hubs could be encouraged to identify and target high needs and/or hard-to-reach students in a particular school network, as well as consider any gaps and value-adding they can deliver above what eligible schools are already providing to their Aboriginal students.

Training Services NSW has indicated that it is seeking to better integrate its Aboriginal programs as well as encourage its contractors to work together effectively and focus more strongly on monitoring outcomes. This includes building up the internal capacity of Training Services NSW to engage with Aboriginal communities and improve skill and job outcomes. In line with this, it intends to examine the capacity for the four Hubs to leverage the employment opportunities being generated through the unprecedented infrastructure investment supported by the APiC policy and the Infrastructure Skills Legacy Program launched by the Premier in September 2016. We understand the four Hub contracts have been renewed until 31 March 2019.



Government agencies

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Departments and authorities

We handle complaints about NSW government departments and authorities, investigate allegations of serious and systemic failings, and try to identify areas for improvement. We also help agencies to improve their complaint handling systems and practices by organising forums and networking opportunities for complaint handlers, publishing guidance material, and providing advice on individual matters. This year we have been involved in a significant government initiative to improve complaint handling across the public sector.

We also have lead responsibility for administering the public sector whistleblowing scheme, established under the *Public Interest Disclosures Act 1994* (PID Act). Important aspects of this role include encouraging public officials to report serious wrongdoing in the public sector, strengthening agency reporting systems to ensure that disclosures can be made safely, and auditing agency compliance with their obligation to provide this safe environment.

Complaint trends and outcomes

In the past decade, we have had a significant increase in the number of formal complaints about departments and authorities. They have more than doubled – from 1,158 in 2006–07 to 2,498 this year. See figure 26. This represents an increase of 116% over 10 years.

Complaints about poor customer service continue to be the primary concern – they represent a little over 31% of the total complaints we received. Complaints about deficiencies in agency complaint handling and

investigation almost doubled from last year, from 403 to 748. We also received a large number of complaints from people who were objecting to the merits of decisions made by public sector agencies and the decision-making process, including complaints about the failure of agencies to explain reasons for decisions. See figure 28.

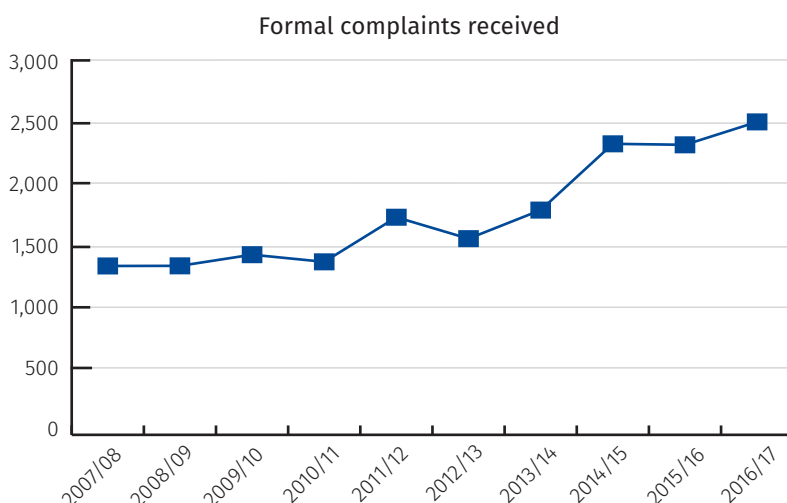
We work proactively with agencies, particularly those identified as priority agencies due to the significant number of complaints we receive about them. For example, we have updated our *Good conduct and administrative practice guidelines*, which help public sector staff understand the standards of administrative good conduct that are expected of them. We also work with agencies to implement improvements that will reduce the number of complaints they receive about their services, particularly systemic issues that give rise to frequent complaints.

Although we declined (after assessing) approximately 55% of the formal complaints we received, we made preliminary enquiries with agencies about 1,021 matters – see figure 27. As a result of our involvement, we achieved over 1,500 positive outcomes. These included agencies correcting errors, improving policies and procedures, and reviewing or changing their decisions. Some of these outcomes are highlighted in the case studies in this chapter. See figure 64 in Appendix A for a list of outcomes for complaints we finalised, grouped by principal department.

We completed one formal investigation into Family and Community Services (FACS), using our coercive investigation powers under the *Ombudsman Act 1976*. We are conducting five formal investigations at present, which we discuss later in this chapter.

Figure 26: Formal complaints received about departments and authorities: 10-year comparison

Year	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Received	1,348	1,349	1,438	1,381	1,737	1,566	1,794	2,323	2,315	2,498



Making a commitment to improved complaint handling

Background

In his first annual report in 2001, Bruce Barbour – the former Ombudsman – called on the NSW Government to set up a comprehensive framework to encourage the public sector to provide a high standard of customer service. There was no direct response to this proposal at the time, but we were pleased when the government established the office of the Customer Service Commissioner in 2012. This initiative placed customer service at the heart of decision-making and ensured that customer-centred service was a strategic priority across government.

In 2015, we partnered with the Customer Service Commissioner and the NSW Department of Finance, Services and Innovation (DFSI) to develop a whole-of-government complaint handling improvement program (CHIP). This was one of four initiatives under Premier's Priority 12 to improve community satisfaction with government services, and was strongly supported by the Customer Service Council – made up of senior public officials from each principal department, including the Ombudsman.

Surveys of customer experiences with government services had highlighted some key areas for improvement. For example, customers indicated that they preferred:

- a dedicated person or team to manage their complaint and someone they could easily contact
- relevant information about the complaint process and what they can expect from it before they lodge a complaint
- to be updated on the status of their complaint more regularly
- for their complaint to be handled within a reasonable time frame
- to know how long the process would take when their complaint was acknowledged.

Figure 27: Formal complaints finalised in 2016-17: departments and authorities

Action	No.	%
Assessment only	1,361	55
Preliminary or informal investigation completed	1,021	42
Conduct outside our jurisdiction	76	3
Formal investigation completed	1	0
Total	2,459	100

Figure 28: What people complained about in 2016-17: departments and authorities

Issue	Formal	Informal	Total	% of Total
Customer service	771	1,591	2,362	31.3
Object to merits of decision	394	796	1,190	15.8
Complaint handling/investigation process	240	508	748	9.9
Charges and fees	201	320	521	6.9
Object to decision-making process	118	292	410	5.4
Complaint/investigation outcome	152	237	389	5.2
Enforcement action	125	227	352	4.7
Not in our jurisdiction	85	202	287	3.8
Policy/law	75	153	228	3.0
Duty of care	103	121	224	3.0
Record keeping	64	144	208	2.8
Other	16	145	161	2.1
Contractual issues	45	69	114	1.5
Debt recovery action	36	71	107	1.4
Misconduct	36	60	96	1.3
Management	27	49	76	1.0
PID related	10	50	60	0.8
Legal problems	0	6	6	0.1
Total	2,498	5,041	7,539	100

Note: This table shows the complaints we received in 2016–17 about NSW public sector agencies – other than complaints about police, community services, councils and custodial services. The table only reflects the primary issue for each complainant, not other issues that may have been in the complaint.

There was also a need to empower frontline staff to resolve routine complaints without escalation, to improve accessibility, and for agencies to learn from complaints data.

Based on the information obtained from the surveys, as well as our longstanding experience in complaint handling, a two-staged program was developed and endorsed by the Secretaries of all 10 principal departments (or clusters) in July 2016.

Stage one of the program involved government agencies adopting and implementing six Commitments to Effective Complaint Handling through their policies, procedures and practices. The six commitments are to:

- respectful treatment
- information and accessibility
- good communication
- taking ownership
- timeliness
- transparency.

Applying the commitments

The commitments require agencies to implement a complaints management system that is consistent with best practice, is fair and is seen to be fair.

Applying the commitments will help agencies to foster an organisational culture that values complaints. This is a culture that does not see complaints as a mark against the organisation, but as valuable feedback and an opportunity to improve services.

An organisational culture that values complaints is reflected in the:

- attitudes and decisions of senior management
- policies and processes used by the agency
- resources provided for complaint handling training and staffing
- internal recording and reporting of complaint data
- public availability of information about complaint processes and outcomes.

Monitoring their implementation

NSW Government agencies were required to implement the commitments by the end of 2016. We have been monitoring this ongoing implementation by asking agencies to submit a progress report, including the agency's analysis of the steps they need to take to fully implement the commitments.

Given the importance of organisational culture in complaint handling, we are pleased to see that many Cluster Secretaries have issued communications to their staff supporting the commitments. Many agencies – including those with well-established complaint systems – have embraced the opportunity for change and further enhanced their complaint handling systems.

Some highlights from actions taken to implement the commitments include:

- cluster wide consultations – including internal working groups that review what is required to implement the CHIP components across the whole cluster
- numerous agency policies and procedures being reviewed and amended to incorporate the commitments
- hundreds of staff being trained in customer service and complaint handling
- several agency websites being reviewed and updated to ensure complaint handling information is accessible
- critical work being done to map out the complaint handling landscape within clusters and link/centralise complaint handling
- surveys of customer facing staff about aspects of the commitments to get their input and inform the training plan
- a survey methodology being developed to measure customer satisfaction and publish the results and analysis to increase transparency
- support materials being prepared for complaint handlers.

Later this year, we will be conducting a formal review of the implementation of the commitments to gauge how agencies have embedded them in their complaint handling practices. This will provide a comprehensive picture of complaint handling across the public sector, identify best practice, enable information to be shared across the sector, and promote accountability and transparency in complaint handling.

The planned methodology includes a desktop analysis of websites and policies against the commitments to identify whether information about how to make a complaint is available and easily accessible by the community. Samples of complaint files will be reviewed – using criteria based on the commitments – to assess actual complaint handling practices in agencies. Complaint handling staff will be surveyed and invited to attend a focus group to draw out themes around workplace culture and complaint handling.

Amending legislation to keep complaint handling systems under scrutiny

We anticipate high levels of cooperation from agencies as part of our review of the implementation of the commitments. However, we have concerns about whether the Ombudsman Act currently provides an adequate foundation for this enhanced scrutiny role.

In areas of our jurisdiction under other laws, we have a statutory function to keep agency complaint handling systems under scrutiny and review agency compliance with relevant policies and legislative

requirements. For example, we monitor and audit agency compliance with their statutory responsibilities under the PID Act, we review the systems of community service providers for handling complaints, and we keep under scrutiny the complaint systems of agencies providing services to people with disability and children. We also have discrete functions to monitor and assess prescribed Aboriginal programs.

All these functions have an explicit statutory basis that puts beyond doubt that we can discharge this monitoring/scrutiny function, that we can require agencies to provide the information we need, that agencies can independently provide relevant information to us, and that we can report our findings. In our experience, this explicit statutory basis underscores our ability to provide the level of scrutiny the public expects.

However, we do not have a similar explicit function for the complaint handling systems of state and local government agencies. We could rely on our formal investigation powers to undertake monitoring and scrutiny, but this is an indirect tool.

We sought assistance from the Department of Premier and Cabinet to develop a proposal for government support for legislative change. In brief, our proposal is that formal statutory recognition be given to our role in reviewing compliance with the six complaint handling commitments and keeping agency complaint handling systems under scrutiny. Embedding elements of the CHIP in legislation would also be another demonstration of the government's ongoing commitment to improving complaint handling and customer satisfaction.

Feedback Assist

Stage two of the CHIP involved the development of Feedback Assist by DFSI – a web-based portal that would provide a 'no wrong door' whole-of-government complaints system. Feedback Assist is intended to be an easily accessible and consistent contact point for people to lodge and track complaints, compliments and suggestions. This initiative has been endorsed by the Customer Service Council. It is currently in the process of being rolled out. All clusters are expected to implement it on their primary public-facing websites, with full implementation across the sector to be completed by June 2018. It is expected to improve the public's experience and confidence in government services, as well as enable whole-of-government systemic issues to be identified and complaint handling processes improved through the better use of technology.

It is supported by a Feedback Hub, managed by our office, which is a central allocation service that ensures misdirected complaints, compliments and feedback are promptly directed to the appropriate agency. Any feedback received incorrectly by an

agency can be reallocated to a more appropriate agency through the common complaint handling platform. If the correct agency is not known, the feedback can be allocated to the hub for assessment and then redirection. The hub provides the community with certainty that their feedback will be directed to the correct agency without delay, and that they will not have to provide their details or an explanation of their matter more than once.

Updating our publications

Good conduct guidelines

In April 2017, we released the third edition of one of our key publications: *Good conduct and administrative practice – Guidelines for state and local government*.

These guidelines are intended to help:

- public sector staff understand the standards of good conduct and administrative practice that are expected of them
- managers supervise and train their staff
- agencies develop and review their policies and procedures.

The new edition reflects significant developments since the last edition. These include:

- The introduction of the *Government Sector Employment Act 2013* – which established the Public Service Commissioner (whose principal objectives are to promote and maintain the highest levels of integrity, impartiality, accountability and leadership across the public sector) and an Ethical Framework for the NSW public sector, that requires all public officials to uphold the four core values of integrity, trust, service and accountability.
- Changes to the public sector whistleblowing scheme established under the PID Act.

The importance of respect in effective complaint handling

This year we published a new fact sheet dealing with the issue of respect and dignity in communicating with complainants, particularly when communicating an outcome that is unfavourable.

Many entrenched disputes and unresolved conflicts can be traced back to an initial real or perceived violation of a person's dignity or sense of identity. A person who feels they have been disrespected may feel their complaint was not believed or taken seriously, or their competence and ethics were questioned. This in turn can trigger a range of powerful reactions including anger, shame and even violence and lead to a quest for vindication, retribution or revenge – all motivated by the need to restore self-respect.

A complaint can escalate when there is a failure to respond appropriately at the outset and the relationship between the parties breaks down. Consistently showing respect is therefore fundamental to good complaint handling and dispute resolution. The new fact sheet deals with this issue in a principled and practical manner.

Complaint handling forums and restoring relationships

In 2016-17, we hosted three complaint handling forums for public sector complaint handlers and an annual forum for university complaint handlers. One of the highlights of this year was a presentation by the head of the Education Complaints Unit from the South Australian Department of Education and Child Development. The unit's overarching objective when dealing with complaints is to protect and restore the relationships between families and schools. To achieve this, the unit has developed a number of innovative communication strategies – such as using positive framing and language, recognising the role of rhythm and tone in speech, and creating compelling stories to change behaviours.

We are collaborating with a representative from this South Australian department to develop further resources for complaint handlers on restoring relationships.

Streamlining the way we work

We believe that agencies in our jurisdiction should have an adequate opportunity to deal with complaints before we become involved. We therefore expect people to raise their concerns directly with the agency first, before contacting our office.

It has been our practice in the past – when we received a complaint that had not been through an internal process – to provide the complainant with written information about how to make a complaint directly to the agency. We tell the complainant they can come back to us if they are not satisfied with the agency's response.

Recently, we established agreements with several agencies in our jurisdiction to refer a complaint directly to their complaint handling unit when the complainant gives us consent to do so. For example, we have directly referred complaints to the Office of State Revenue, Transport, Trustee and Guardian, TAFE, FACS Housing and Service NSW.

This arrangement streamlines the complaint process and saves people from having to submit a second complaint to the agency. It also ensures the agency promptly receives the feedback about its processes and decisions and has the opportunity to improve its services to the public.

We have received positive feedback from complainants about this new process. We have been adding new agencies to the referral process and we anticipate that direct referral protocols will expand in the next financial year to include more agencies within our jurisdiction.

Ombudsman model of alternative dispute resolution

This year, we made a submission in response to the NSW Law Reform Commission's Consultation Paper 18, *Dispute resolution: model provisions*. This was part of the Commission's review into statutory provisions dealing with alternative dispute resolution (ADR). Our submission explained that the Ombudsman model can provide an effective form of ADR that covers many of the useful aspects of traditional mediation, conciliation, neutral evaluation and arbitration. Every day we resolve complaints by helping complainants and agencies pinpoint the underlying issues and negotiating a solution acceptable to all parties.

We submitted that the Ombudsman can actively safeguard the interests of vulnerable people, who may be disadvantaged in other ADR settings – see case study 9 (p.65) for an example of a successful conciliation about the education of a young person with a disability. Our ability to proactively investigate and monitor systemic problems raised by a particular complaint can also help prevent similar problems arising again in the future.

The success of the Ombudsman model was emphasised by the Commonwealth Productivity Commission in its 2014 Access to Justice Arrangements Inquiry Report No. 72. The Productivity Commission reported that:

'Ombudsmen are highly accessible, compared to other methods of dispute resolution such as tribunals and courts, because they are free, can be accessed remotely by phone or internet, provide interpreter services and guide complainants through the process without the need for professional advocates'.

The Commission recommended that, where appropriate, Australian governments should subsume new roles for dispute resolution within existing Ombudsman offices rather than create new schemes.

Ongoing concerns about asbestos

In April 2017, we tabled a special report to Parliament called *'Asbestos: How NSW government agencies deal with the problem'*. This report follows an earlier special report to Parliament in 2010, called *'Responding to the Asbestos problem – the need for significant reform in NSW'*.

In 2010, we reported that government approaches were disjointed, ad hoc, confusing and largely ineffective. Tens of thousands of buildings containing asbestos continued to be renovated or demolished with no controls or adequate guidance to caution

home renovators who did the work themselves. Asbestos was being illegally dumped on public and private land and community awareness of the dangers of asbestos was minimal.

The NSW Government agreed with most of the recommendations in our 2010 report, which included adopting a statewide asbestos plan and establishing a committee to coordinate the activities of various agencies that had roles relating to the management of asbestos – referred to as the Heads of Asbestos Coordination Authorities (HACA).

However, the government did not accept the recommendations we made about:

- establishing a single asbestos agency to provide leadership and coordination
- introducing an Asbestos Act to appropriately address asbestos issues in NSW.

In assessing progress that has been made since 2010, we found that – despite the significant and commendable efforts of a number of government agencies – significant gaps remain in the law and there are ongoing issues of concern. In our latest report, we repeated the need to have an Asbestos Act and establish a single asbestos agency to ensure a coordinated and properly funded approach to keeping the NSW community safe from the dangers of asbestos.

We also made a number of recommendations, including that:

- People who lawfully dispose of materials containing asbestos should be exempt from the asbestos waste levy if the material has been separated from other waste material. This was because we found that prohibitively high disposal costs are a contributing factor leading to illegal dumping.
- Residential sites located on former James Hardie asbestos disposal sites, that are found to contain appreciable quantities of friable asbestos, should be acquired and/or remediated at the NSW Government's expense.
- A law should be introduced to require people who sell buildings to disclose the presence of asbestos.

We also reviewed the concerning issue of the widespread existence of asbestos in land occupied by rural Aboriginal communities, with many residential buildings still containing asbestos. We endorsed the Aboriginal asbestos awareness program initiated by HACA and recommended that the program should be continued and given further funding.

Conducting formal investigations

This year, we have continued our formal investigations into Legal Aid NSW and the Office of State Revenue but discontinued our investigation into FACS Housing. We have also started formal investigations into Fair

Trading's Home Building Service and the enforcement of water regulations by the Department of Primary Industries (Water) and Water NSW.

Legal Aid NSW

In 2015, we started a formal investigation into the conduct of Legal Aid in relation to a grant of legal aid to litigate a tenancy dispute.

The complaint was submitted by the director of a company that owned a block of residential units. The case concerned a dispute between the landlord company and the long-term tenants of one of the units. The company served a 'Notice of Termination of Residential Tenancy Agreement' on the tenants in 2005, but the tenants disputed this on the principal basis that they had allegedly been granted a life tenancy in the premises. The tenant was granted legal aid for these court proceedings.

The Supreme Court handed down its decision in 2011, finding in favour of the landlord. The tenant received a further grant of legal aid to apply for leave to appeal the decision to the NSW Court of Appeal. In 2012, the Court of Appeal dismissed the application for leave to appeal and the matter was finalised on the basis of a judgement and order for costs in favour of the landlord.

The complainant argued that the case should not have been funded by Legal Aid as it lacked merit. He also alleged that the Supreme Court matter, which started in late 2005 and was not heard until August 2010, was unreasonably delayed and that this was partly due to deficiencies in Legal Aid's processes. He claimed that the case caused him significant financial detriment. Although the court had made a costs order in his favour, only a small portion could be recovered from Legal Aid due to the statutory limit on the amount payable for adverse costs in legally aided proceedings.

To investigate these allegations and properly assess Legal Aid's decisions, we needed to look at documents recording Legal Aid's views on the merits of the tenant's case and the reasons for its decision to grant assistance. Legal Aid disputed our requirement – claiming client legal privilege over several documents listed in our notice of investigation, and expressing concern that releasing the information would contravene the *Legal Aid Commission Act 1979*.

Since the Ombudsman Act was changed in 2010, agencies can no longer refuse a requirement to provide our office with information by claiming client legal privilege. After obtaining its own legal advice, Legal Aid agreed to provide the documents. We are experienced in handling sensitive information and undertook to maintain the confidentiality of those documents.

Having completed our assessment of the evidence, we have now sent our preliminary views to Legal Aid and are waiting for their response.

FACS Housing

In 2015, we started a formal investigation into FACS' practices and processes for terminating the tenancies of vulnerable tenants. Our usual practice is to raise and work through the issues of concern with the agency under investigation, and – during this investigation – we made a number of preliminary recommendations to FACS Housing. It complied with the majority of those recommendations. For example, a formal apology was given to the complainant in one of the matters we examined and she was paid compensation for the loss of her belongings and the distress she suffered as a result of her tenancy being terminated. FACS Housing also amended a number of forms to make sure eviction procedures were followed, reviewed all policies and procedures relating to terminations, and provided training for staff.

A number of our other recommendations were no longer practical to pursue, mainly because of significant changes to FACS' practices with the introduction of the 'three strike' process and the anti-social behaviour management scheme. We therefore decided to discontinue the investigation, but wrote to the Secretary of FACS suggesting further consideration be given to three of our preliminary recommendations that had not been fully accepted. These related to the need for:

- better data collection about reasons for tenancy terminations and any associated tenant vulnerability
- monitoring tenancy outcomes for tenants receiving support, and generating management reports on this to enable analysis
- conducting reviews and audits so that management could be satisfied that timely requests for support services are occurring.

FACS Housing has now advised that an agreement has been reached between FACS and local Specialist Homelessness Services to provide support to FACS tenants at risk. With the introduction of the National Disability Insurance Scheme (NDIS), FACS told us it is amending forms and its tenancy database to identify and better manage clients who have support under the NDIS.

Given applicants for public housing are increasingly in the 'high priority' category, we consider it is paramount to have well-developed support systems in place. We identified that there are a number of vulnerable tenant groups that may not be proactively monitored or managed in a consistent way. We suggested there was an opportunity to consider strengthening FACS's ability to record data on both the types of support offered to tenants and the categories of vulnerable tenants in a consistent way that can be analysed – both to measure the success of initiatives to sustain tenancies and to plan future intervention strategies.

Without this data, it is difficult to understand the extent of the support needs in the tenant population, the types of support required, whether the current systems are sufficient to meet that need, and whether the support services that are being provided are making a measurable difference in terms of sustaining tenancies.

Fair Trading's Home Building Service

A person who had entered into a contract with a building company to build a new home complained to us that Fair Trading did not take appropriate action on his complaint about defective work by the builder (who was the sole director of the building company).

The complainant explained that he had chosen the builder after reviewing information about his licence on a public register that can be accessed online through the Fair Trading and Service NSW websites. The complainant found no reference on the public register to any history of disciplinary or compliance action against the builder or his company.

A dispute developed between the home owner and the builder about the quality of the work, which the Home Building Service within Fair Trading attempted to resolve through mediation – in accordance with its standard process. This was not successful and the home owner terminated the contract with the builder.

After ending the contract, the home owner researched the builder's background and found out that the builder had a history of failed companies, owed outstanding amounts to subcontractors, had previously been fined for a range of offences and had been the subject of over 10 complaints to Fair Trading. He questioned why some of this information was not visible on the public register as required by the relevant law.

After a further complaint to Fair Trading resulted in another offer to mediate the dispute, the home owner wrote to us. He raised the following three main points:

- There was inadequate information on the public register about the builder and the companies he had associations with.
- Fair Trading should not have given the builder a licence or a supervisor certificate as he was not a fit and proper person to hold these authorities under the *Home Building Act 1989*.
- Considering the builder's past, Fair Trading should have taken disciplinary action against him rather than trying to mediate.

During the course of our involvement with the matter, the complainant identified and referred to our office a number of other people who had been customers of the same builder. They told us about large losses they had incurred and the detrimental effect the defective building work had had on their lives.

We requested information and documents from Fair Trading, met with the Assistant Commissioner, and visited Fair Trading offices to talk to staff and view the computer systems used by the Home Building Service. The information we collected led us to form a number of concerns about:

- the maintenance and reliability of the public register
- Fair Trading's complaint handling practices
- Fair Trading's compliance and disciplinary processes
- the home building licence assessment process.

We decided to start a formal investigation. The issues canvassed in the investigation are similar to the ones we previously investigated and made recommendations about in 2006. It appeared to us that the actions Fair Trading took in response to that report were insufficient to fix the problems we had brought to their attention. Our current investigation was informed by the 2007 Parliamentary inquiry into the Home Building Service and reforms to the Home Building Act and related regulation, which came into effect on 15 January 2015.

We have provided our preliminary findings and recommendations to Fair Trading to give them an opportunity to make a submission in reply.

Enforcing water regulations

We received a number of public interest disclosures as well as a complaint from a member of the public alleging that the Department of Primary Industries Water (DPI Water) was failing to take appropriate action on breaches of water legislation. The allegations were about matters such as illegal dam construction, taking water without a licence, and water theft through meter tampering.

Given the seriousness of the allegations, we started a formal investigation into DPI Water and Water NSW. We are in the process of gathering and analysing evidence. This has included conducting formal hearings using our Royal Commission powers, and requiring the production of documents from a range of sources.

Case study 8 provides an example of a complaint we received about another (and unrelated) aspect of DPI's water regulation.

Case studies

8. Lack of information about billing option

We received a complaint from a peak body representing irrigators alleging that DPI Water and its predecessors had failed to clearly and sufficiently communicate to water users the availability of the two-part billing tariff for unregulated groundwater.

The Independent Pricing and Regulatory Tribunal (IPART) first made a determination in 2006 that allowed irrigators to apply to be billed on the basis of the water they extracted, rather than on the basis of their entitlement to draw from the unregulated water source. This could be more favourable for some irrigators – for example, if an irrigator had minimal access to unregulated water due to drought conditions or other factors. The irrigators complained that they were unable to take advantage of this billing option due to lack of information provided by DPI Water, which meant they could have been overcharged on the basis of their entitlements. They also complained about lack of clarity around the measurement methods acceptable to DPI Water to measure the quantity of water taken.

After making inquiries, we put our preliminary view to DPI Water that information about the two-part billing tariff was not sufficiently and clearly communicated to water users, particularly in the earlier years. Although there is currently a

standalone two-part billing tariff webpage explaining the application process, it appeared from the information available to us that the website did not have any information before late 2009. Only a small number of licence holders appear to have taken advantage of the two-part tariff option, further indicating a lack of awareness.

We suggested that DPI Water should consider any applications from the irrigators for a retrospective adjustment of their tariff. DPI Water agreed to accept any applications already prepared for the preceding two years, but did not agree to consider any new retrospective applications. The reason given was a potentially large workload impact on the agency.

Resolving complaints

Educational issues

We have an ongoing interest in how the Department of Education manages:

- student discipline – especially the use of suspensions to manage students with additional needs and/or recognised vulnerabilities
- the unreasonable behaviour of parents and others – including the use of the *Inclosed Lands Protection Act 1901* to restrict the access of individuals to school grounds
- HSC disability provisions
- monitoring complaints across thousands of schools and compliance by schools with departmental policies.

In previous years we conducted a number of own motion investigations and audits into these issues, including an audit of suspensions by a particular high school.

This year we finalised our inquiry into the behaviour management of students in schools (further details in the People with Disability chapter). Our final report was published in August 2017. The Deputy Ombudsman/Community Services Commissioner also gave evidence before the Legislative Council Inquiry into the provision of education to students with a disability or special needs in both government and non-government schools in NSW.

Case studies 9 and 10 illustrate our work this year on two related matters. One was the ongoing suspension of a primary school student with a disability. The other was strengthening the guidance given to schools on the use of the *Inclosed Lands Protection Act* in managing unreasonable behaviour.

Supporting children in their education relies not only on education authorities, but other services as well. For example, case study 11 is a matter involving a student who relies on the only available bus service to get to school, 70kms away from home.

Case studies

9. Using conciliation to resolve concerns

A parent contacted us with serious concerns about how his local primary school was treating his son, who had a disability. The father was particularly concerned that the school may have been suspending his son to manage his behaviour, despite the fact that some of it was caused by his disability. The family felt under pressure from the principal to transfer their son to another school.

It was evident from our inquiries that there was a significant breakdown in the relationship between the school and the boy's family. This had led to:

- the boy losing confidence and joy in the school setting
- the school contemplating using the *Inclosed Lands Protection Act* to manage its interactions with the family
- the department feeling its resources were being stretched in response to the family's various inquiries and suspension appeals
- the family becoming increasingly distrustful of almost all action taken by the school in relation to their son.

To help all parties settle their concerns, we suggested a conciliation between the department and the family. Conciliation is a voluntary and confidential process in which parties come together and, with the help of a conciliator, discuss and explore the issues in dispute – with the aim of arriving at some form of agreement for the future.

A senior investigation officer and accredited mediator from our office conducted the conciliation, which was attended by the child's family, the Department of Education's Network Director and a number of staff from the department's Learning and Engagement Unit. The conciliation focused on ways to provide the best environment for the child's future education and support. An agreement on this was achieved and it was implemented shortly after the conciliation. The family expressed their satisfaction with the agreed outcome.

As a result of our discussions with the department, it was also agreed that a team would be appointed to review how the school had been managing students with high needs, including this boy, over the last four years. The aim of the review was to develop recommendations to support and guide the school and its staff. It was also agreed that the boy's family would be given an opportunity to contribute to the review. We are currently assessing the outcomes of the review.

10. Providing better guidelines

Last year, we reported on our survey about the use of the *Inclosed Lands Protection Act* by schools. The Act allows a person's access to school grounds to be restricted because of violent, abusive, offensive or similarly inappropriate behaviour. The Act applies to people who otherwise have a legitimate reason to visit a school, such as parents and other relatives of students, as well as trespassers.

In June 2016, we met with the Department of Education to discuss our survey findings as well as issues raised by recent complaints about schools using the Act. The department acknowledged that more could be done to ensure the Act is applied appropriately and consistently, and agreed to improve the guidance it provides to schools. We subsequently provided feedback about enhancing the relevant guidelines.

The Secretary of Education conveyed his thanks for our assistance and advised that additional training will now be given to principals and directors of public schools to improve their understanding and use of the Act. The department has since given us a draft copy of the revised guidelines, which largely incorporate our suggestions.

Importantly, the guidelines now include specific advice to principals to consult with the relevant director of public schools before banning or placing conditions on the entry of a person with a legitimate reason to be at the school. During this consultation, principals will be required to discuss the strategies they have already put in place to manage a person's problematic behaviour. This safeguard should help to ensure that the Act is used appropriately and rarely as a 'first response'.

The guidelines now also include:

- additional information on the steps principals should take before issuing a warning or an order under the Act
- links to resources to help principals manage unreasonable conduct by complainants
- advice about the use of apprehended violence orders, where appropriate
- measures to increase transparency, such as enhanced recording and documentation arrangements, and procedures to ensure detailed reasons are given when schools make use of the Act.

We will continue to monitor how schools use the Act and provide feedback to the department.

11. Suspending a child's bus service to school

We received a complaint from a family that lived 70 kms from the school their child attended. The child had disabilities and learning difficulties that affected the child's behaviour. There was only one bus service between the family home and the school, run by a private bus operator and overseen by Transport for

NSW (Transport). This bus was the only way for the child to get to school, unless one of the child's parents took time off work to drive the 140 km round trip.

An incident allegedly occurred on the bus, and the bus operator decided to suspend the child from travelling on the bus for 10 weeks. The parents only became aware of the matter when the bus operator sent a text message advising that there had been another 'episode' and that the child would not be allowed to take the bus to school for the next 10 weeks, starting the next day. There was little information in the text message about the behaviour that was the basis for the suspension or how the parents could appeal the decision. The parents contacted Transport the next day to appeal the decision as unreasonable, and make a complaint about the conduct of the bus driver. Transport reviewed the actions of the bus operator and upheld the suspension. The parents then complained to us.

Bus operators must comply with Transport's guidelines for managing school student misbehaviour on buses. Those guidelines clearly state that where a student breaches the code of conduct, operators will advise parents, the school principal and Transport in writing before suspending a student from travel, so that alternative travel arrangements can be made, and include advice on how to appeal against the decision.

We were concerned that the bus operator did not appear to have complied with these guidelines. In particular, because the advice was not provided before the suspension was imposed, the parents had no time to make satisfactory alternative arrangements to transport their child to school. As a consequence, the child was only able to attend school twice a week during the 10-week period. The parents were concerned that this would further delay the child's development and learning.

After making inquiries with both Transport and the school, it appeared that there may have been a misunderstanding about who was responsible for giving the parents written notification about the allegations about their child's behaviour, and how to appeal a suspension decision. It appeared that after previous incidents, the bus operator had emailed the school, and the school notified the parents in writing. In this case, the bus operator thought the school would formally notify the parents, but the school had advice that it was the bus operator's responsibility to do this.

The result was that the parents did not receive detailed information about their child's alleged behaviour. This impeded their ability to provide

Case studies

Transport with an informed submission when they appealed the decision. In our view, Transport had not afforded the parents procedural fairness when reviewing the bus operator's decision. We were also concerned about Transport's failure to acknowledge that the parents never received this information, or recognise how this could impact on Transport's own ability to conduct a fair and informed review.

We suggested that Transport remind all bus operators of their obligations under the guidelines, in particular, that it is their responsibility, and not a school's, to notify the parents in writing of decisions to suspend students from travel. To improve guidance material for bus operators, we suggested that Transport develop a template letter that could be used to ensure all relevant information is clearly communicated to the relevant parties.

We also suggested that Transport remind staff who are reviewing decisions of bus operators, of how to conduct a review that is procedurally fair. We believed an apology to the complainants for the failure to provide adequate information about their child's behaviour was also appropriate.

The Transport guidelines include a provision that recognises that it may not be appropriate for the code of conduct to apply to students with disabilities. Instead, bus operators, schools and parents should liaise in individual cases. Transport advised that handling incidents of misbehaviour by students with disability was the responsibility of bus operators. However, as a result of our involvement with this complaint, Transport instigated a meeting between the parties to discuss the issues that had been raised and to agree on a strategy for the future.

Universities

In 2017, we marked the 10th anniversary of our University Complaint Handlers Forum. This is an annual event we host that brings together complaint handlers from across the university sector, including private universities and some from other states. Topics discussed included handling complaints about

controversial topics, techniques for overcoming barriers to communication, and the impact of the Complaint Handling Improvement Program, discussed earlier in this chapter, on public universities.

Case studies 12, 13 and 14 illustrate some of the different university issues that have led to complaints to us.

Case studies

12. The importance of evidence-based investigations

We received a complaint from a male student who had been excluded from a residential college after a series of allegations about his conduct towards a female student. One allegation was that he had sent offensive text messages. When the university investigator put this allegation to him, the complainant admitted he had sent offensive messages. However, subsequently, the complainant came across a cache of messages he had swapped with the young woman on Facebook Messenger. He submitted these to the university and explained they were the messages he had believed were offensive. Having reviewed the content of these messages, he no longer felt they were offensive – although he acknowledged they were profane. Despite the complainant's retraction, the university found that the allegation was sustained on the basis of his earlier admission. The Facebook Messenger correspondence was not taken into account.

Our inquiries centred on the importance of having an evidence-based finding. The complainant and the female student had swapped text messages in addition to those preserved on Facebook Messenger. Both of them had since deleted these messages from their telephones, although it may have been possible at the time the accusations were made for the university to obtain a copy of them from the telecommunications company and clarify if they were offensive. Another option was to question the students about their memory of the content of the messages. This was not done.

As a result, the only compelling evidence to support the allegation that offensive texts had been sent was the student's admission – which he had retracted. After extensive inquiries, the university agreed with us that it was unreasonable on the available evidence to find this allegation sustained.

13. Problems with emails

We received a complaint from a woman whose daughter had enrolled in a vocational course. The daughter had attended an orientation day run by Southern Cross University and subsequently enrolled. Before the course started, she emailed a staff member advising she wanted to withdraw. The staff member had left the university and the email was not acted on. The young woman did not begin the course but was charged the course fees. An appeal and review process within the university did not succeed. When we took the matter up with the university, it decided to refund her enrolment fee and not charge the course fees. Steps were also taken by the university to have an out-of-office message and referral details placed on staff emails from the date they left until their email accounts were closed.

14. Not providing the support promised

A student was given an undertaking she would receive supporting resources to help her complete a case study for a course she was doing at Charles Sturt University for the second time. The undertaking was not met. The explanation given to the student was that she should have kept previous resources or should not need additional resources because she had addressed these skills previously and should have retained that knowledge. When the student complained, a misunderstanding about how the matter was being treated within the faculty led to a delay of several months in dealing with the complaint.

After our involvement, the university acknowledged the problems with this situation. It apologised for failing to meet its undertakings, for transferring the blame onto the student and for the length of time taken to resolve her complaint.

Maintenance of public housing

The Land and Housing Corporation (LaHC) provides maintenance services to public housing tenants. The way these services are delivered changed in 2016. Call centres operated by a contractor now receive requests for maintenance from tenants and directly manage many of the inspection and quality assurance aspects of repairs that were once done by LaHC.

In the past year, we have dealt with a number of complaints from tenants about the delivery of these maintenance services. Recurring themes include dissatisfaction with the responsiveness of the call centres to arrange repairs and failures to make substantial repairs to buildings. For example, see case studies 15-20.

The LaHC has responded helpfully to our inquiries into individual complaints, but we are concerned about the level of service provided to tenants overall. In particular, there seem to be:

- Problems affecting the ability of call centre staff to accurately identify the repairs a tenant needs and the urgency of these repairs.
- Problems affecting the ability of call centre staff to give accurate advice to tenants about the progress of repairs following an inspection of a property by contractor staff.
- Problems in coordination between FACS Housing staff, LaHC and contractors about maintenance issues. For example, tenants regularly tell us they have reported maintenance issues to the FACS Housing client feedback service or a client service officer, but no action has been taken.

We met with senior LaHC staff and provided our preliminary views about possible systemic issues drawn from complaints. During this discussion, LaHC staff provided us with a series of strategies the agency is working on to improve the operation and communication of call centres and contractors. We continue to work with LaHC to provide insights from the complaints we deal with to help improve the overall performance of the maintenance scheme.

Fines and enforcement

Garnishee orders and financial vulnerability

In previous annual reports, we have highlighted our concerns about the garnishee practices of the Office of State Revenue (OSR). These practices have resulted in complaints to our office about people being left with insufficient funds for daily living expenses after a garnishee order reduced their bank account to a nil balance.

Last year, we reported that the OSR would introduce a protected amount from a bank garnishee order – a significant social policy decision. As a result of the OSR's change in policy, our complaints about garnishee orders have reduced considerably. We continue to monitor these complaints and will review the OSR's decision-making under the new policy.

Our formal investigation into the OSR's use of garnishee orders is progressing. Our insights from the investigation have informed our broader work about these issues. In particular, this year we collaborated with the Commonwealth Ombudsman's office to produce a joint discussion paper about the impact of garnishee orders on Centrelink recipients. This was sent to the Department of Human Services, the Financial Ombudsman Service and the electronic Statutory Information and Garnishee Notices (eSIGN) Committee. The aim was to find a solution to the issues identified in previous reports around Commonwealth legislation failing to protect the income of Centrelink recipients from garnishee orders issued by the OSR and similar authorities. The eSIGN Management Committee is made up of stakeholders from government agencies and financial institutions. The eSIGN specification sets out the electronic exchange of statutory information and garnishee

Case studies

15. Leaking roof replaced

We were contacted by a public housing tenant about a roof that had been leaking since 2001, with mould causing health problems for the tenant and her three children. Various minor repairs by contractors had failed to stop the leaks. As a result of our inquiries, the tenant's roof was replaced and repairs were completed to the internal structure of the house that had been damaged by water.

16. Bathroom finally repaired

A tenant complained her new unit had no shower recess, which caused flooding in the bathroom. She had first raised her concerns through the FACS Housing client feedback service, but – despite her complaints – repairs to install a shower recess did not occur. After our involvement, the tenant received extensive repairs to her bathroom and other structures in the unit damaged by flooding.

17. New kitchen tiles

A woman complained that a tradesperson removed damaged tiles in her unit's kitchen, but never returned to lay new ones. As a result, the kitchen was too dangerous to be used. Despite repeated complaints by the tenant to the contractor call centre, new tiles were not laid until after we had become involved.

18. Fixing holes in the walls

We received a complaint from a tenant that large holes in his bathroom and kitchen walls had not been properly repaired, despite the fact he first reported the damage in 2015. The hole in the bathroom had been taped over and left. Contractors who inspected the property in response to further complaints from

the tenant identified that both the bathroom and the kitchen needed to be replaced. The repairs only started after the tenant complained to us.

19. Compensating a tenant for poor service

A tenant complained to us about water leaking from her upstairs shower, making the roof sag and allowing mould to develop. She said that she rang on a weekly basis for over a year but the problem remained unresolved. LaHC acknowledged that the contractor had failed to do a number of things – including repairing the problem in a timely way, providing the complainant with accurate information, and escalating the delay to LaHC's attention. The problem was repaired after our involvement and the complainant was also given a rent reduction of over \$600 for her loss of amenity and the poor service she had received.

20. New carpet laid at last

A woman with three young children contacted us as there was exposed flooring in her public housing property. The old carpet had been pulled up the week before due to flooding from a burst bathroom pipe, leaving exposed nails and staples. The woman had contacted Housing maintenance before contacting us and was advised there was no approval yet to lay new carpet. The woman also mentioned there were ongoing maintenance issues she had been reporting for over a year that had not been addressed. The issues included leaking in her laundry whenever there was rain, tiles falling off in her bathroom, and a side fence that was falling apart – allowing a dangerous dog in the neighbourhood to come into her backyard. The complaint was resolved after we made inquiries with LaHC. New carpet was laid and planned works were scheduled for the remaining maintenance issues.

notices issued by government agencies to financial institutions. The committee is co-chaired by one government agency representative and one financial institution representative.

Together, our offices are working with the Australian and New Zealand Ombudsman Association and eSIGN on a nationally consistent maximum garnishee safeguard framework.

Financial vulnerability is a broader societal issue, affecting millions of people in a range of circumstances. In addition to engaging with stakeholders across various jurisdictions and participating in nationwide discussions in an effort to contribute to wider system reform, we have been conducting research to better understand the needs of people experiencing financial vulnerability. Our interest is in how NSW Government agencies identify and respond to claims of financial distress. In October, we

participated in the first Vulnerability Roundtable in Melbourne – which brought together 130 representatives from business, government agencies and the community sector to discuss financial vulnerability and poverty. Some of the key outcomes from the forum were around cross-sector collaboration and reaching agreement on and implementing common policies and practices. We will continue to contribute to and learn from this important network.

Case studies 21-25 illustrate some of the administrative issues that can arise in the fines enforcement system. Case study 26 is an example of a case where we helped a fine recipient who was vulnerable because of his mental health. Case studies 27 and 28 arose from the OSR's practice of reviving old fines, previously written off, when it receives information that makes it viable to pursue the fine.

Case studies

21. Providing information in more than one way

We received a complaint from a woman who had a provisional driver licence, but had been disqualified from driving for six months for drink driving. The woman contacted us because she had just been advised by Service NSW that she also had a three-month demerit point suspension to serve, which was to start at the end of her licence disqualification period. She had not been told of this before and needed to drive to take her children to school.

The advice from Service NSW was correct. However, we advised the woman that she had the option of appealing the demerit point suspension to the court and referred her to legal advice services. This complaint raised a concern about communication with disqualified drivers about this additional consequence. We asked Roads and Maritime Service (RMS) for information about how disqualified drivers are notified about demerit point suspensions.

The RMS advised us that its usual practice is that – after the court notifies RMS of a disqualification – it sends out a courtesy letter to the person. This letter provides general advice about how to obtain a driver licence after the disqualification period ends as well as information about licence sanctions and demerit points. Due to a technical glitch, just over 14,000 customers – including the complainant – had not been issued these courtesy letters in 2015. Once the problem was identified, RMS sent this advice to the customers who were still disqualified from driving.

In our view, there were weaknesses in only communicating this information to disqualified drivers in this way. We suggested that RMS consider providing information about the demerit point

scheme to people attending the local court for driving offences – to improve the accessibility of information for drivers in NSW. RMS agreed to display a brochure on demerit points at local courts in NSW.

22. Amending a policy

A woman was pulled over while towing a boat on a boat trailer. The police officer fined her for not having a valid permit.

The boat trailer was unregistered. However, the law gives the RMS the power to issue a permit for someone to tow an unregistered boat trailer for a specific purpose during a specified time (for example, to take the trailer to a mechanic for repairs). The woman had been issued with a permit from Service NSW authorising her to tow the boat trailer on the day she was pulled over. The permit specified the date she was permitted to tow the trailer, but did not explicitly specify that the trailer could also carry a boat. The police officer therefore took the view that the permit did not also authorise the woman to carry a boat on the boat trailer.

The woman complained to us because she had been advised by Service NSW staff that the permit did give her permission to do this.

When we made inquiries, we were advised that RMS policy assumed that permits issued for boat trailers allowed the trailer to carry a boat because the trailer was designed for that purpose. However, the law required that such a condition should be explicitly stated on the permit.

As a result of our inquiries, RMS amended its policy to stipulate that permits issued for boat trailers specify the permit holder may carry a boat. The woman's fine was subsequently cancelled.

23. Protecting personal information

A woman was seriously concerned that her ex-husband had been able to access online the details of a boat and trailer registration and amend it from being held in her name to his own. This happened during a property dispute and in the context of the woman's past experience of domestic violence. After we raised the issue with Service NSW, it removed the ability to view and amend personal contact details for RMS's online transactions. The agency also imposed the requirement that future transactions must pass through an authentication process using a code sent to the user by SMS or email.

24. Waiving additional costs

An interstate resident complained to us that the OSR unreasonably refused to waive enforcement costs added to a fine in her name. The complainant had not received the initial penalty notice, which was left on the windscreen of her car, and she had moved interstate by the time subsequent notices were issued.

The OSR declined the woman's request to waive the enforcement costs on the basis that the RMS database still recorded her NSW address as current at the time the notices were sent. The OSR regularly issues fine notices using address information in the RMS database, as NSW drivers have a responsibility to maintain their address with the RMS.

When the complainant explained to the OSR that she changed her address when she applied for her new licence in the Northern Territory, the OSR officer advised that the NT government does not inform NSW when an application for a new licence is made. The implication was that the complainant was at fault for not updating her address with the RMS. However, drivers are only required to maintain up-to-date address information with the driver licensing agency in the jurisdiction in which they live.

We decided to make inquiries because it was our understanding that, when a customer moves interstate and transfers their driver licence to the new jurisdiction, the driver licensing agency in the new jurisdiction updates the National Exchange of Vehicle and Driver Information System (NEVDIS), which in turn relays a message to the RMS database that the NSW licence has been surrendered. We therefore felt that the OSR should have been able to see when the woman's NSW licence was surrendered and find her correct address. The OSR told us that this was only possible with manual intervention and not through automated data matching.

After reviewing the information we provided to it, the OSR agreed to waive the enforcement costs on the basis that the complainant did not receive the fine notices because she had moved interstate.

The OSR also agreed to provide feedback to staff to improve service to customers who have not received fine notices after moving interstate. This feedback will include instructions to staff about how to identify from the RMS database whether a licence has been surrendered. The OSR is considering changes to procedures so that staff will waive additional costs applied to enforcement orders if the RMS database confirms the NSW licence was surrendered within the required time frame.

25. Photos not received

A man – who did not have a driver licence and had been recently released from prison – complained to us that he was falsely nominated as the person responsible for two driving offences. Although the RMS had withdrawn one of the fines from his name, the man complained that the OSR had not given him adequate opportunity to prove that he was not the driver responsible for the second offence. The OSR closed the matter and proceeded to enforcement action – on the basis that the man did not respond to a letter within the required time frame.

Our preliminary inquiries showed that the complainant had tried to send photographs to the OSR to demonstrate that he was not the person captured on the red light camera image as the driver of the vehicle involved in the offence. An email from the complainant referring to attached photographs was received, but there were no photographs attached. The OSR did not advise the complainant that the photographs had not been received. In those circumstances, the OSR's letter to the complainant requiring action by a certain time frame was unclear.

We advised the OSR that it seemed unreasonable for the complainant to be denied the opportunity to provide further documentation or elect to go to court, given that he was not told that his photos had not been received. As a result of our inquiries, the OSR agreed to consider any other evidence the complainant provided or annul the enforcement order to give him the opportunity to make representations to court about the offence.

26. Withdrawing a fine

We received a complaint from a doctor on behalf of a patient who had been issued two fines for travelling on public transport without a valid ticket.

The doctor asked the OSR to review the fines. He explained that, at the time of the offences, his patient had only recently been discharged from hospital suffering from major depression and anxiety and had forgotten how much money was on his Opal card. The doctor requested that the OSR withdraw the fine and

issue a caution – on the basis that his patient suffers from cognitive impairment and short-term memory loss associated with his depressive illness.

The doctor complained to our office when the OSR refused his request. The OSR advised that, for mental health issues to be considered as a reason for leniency, it must be demonstrated that the individual does not understand why the penalty notice was issued. The issuing officer's reports indicated that the doctor's patient was aware of his actions. The doctor complained that this was too narrow a ground for leniency.

The law states that the OSR must withdraw a penalty notice if it finds that the person is unable to control the offending conduct by reason of an intellectual disability, a mental illness, a cognitive impairment or being homeless (s 24E(2)(d)(ii) of the *Fines Act 1996*). It appeared that the OSR may not have given proper regard to this provision.

As a result of our inquiries, the OSR conducted a second review of the fine and agreed that the information given by the doctor demonstrated that his patient was unable to control the offending conduct because of his mental illness. The OSR withdrew the fines and issued cautions. It also provided feedback to the reviewing officer about the decision and the relevant circumstances for leniency.

27. Reactivating old fines

We received a complaint from a man about an enforcement order issued to his son in 2011. The complainant's son had no contact from the OSR between 2011 and 2017 when he received a letter advising him that a review of the OSR's records showed that he had an unpaid debt which had to be paid immediately. The complainant wanted to know why there had been such a significant delay.

The OSR told us that the enforcement order was written off in 2013 as part of a bulk write-off exercise for fines where viable recovery options available at the time had been exhausted. The write-off was approved subject to the condition that it was to be reversed if any payments, updated information or new enforcement orders were received. A person's

liability to repay a fine debt is not extinguished until five years after a debt is written off. All matters that have been written off in situations where further action is not viable are subject to regular review for a period of five years.

The enforcement order was reactivated in 2017 after a successful data match that provided the OSR with additional information about the complainant's son. This prompted the letter being sent to the son advising he had an unpaid debt. However, the letter did not advise that the enforcement order had been written off and then reactivated.

We receive many complaints of this nature. To improve communication with fine recipients, we suggested that the OSR develop a fact sheet about the reactivation process and include this in correspondence sent to clients after a written-off enforcement order is reactivated. We also suggested that the fact sheet be published on its website. We await the OSR's response.

28. Pursuing 24-year-old fines

A man had his driver licence suspended by the OSR for failing to pay fines that dated back to 1993. The OSR had previously decided to write off the fines, because they were too old and uneconomical to pursue. However, in 2016 the OSR asked the man to pay the fines.

The OSR's policy allows it to pursue payment of fines previously written off, but this can only be done if the OSR informs the person within seven years of the issue date that it intends to pursue the debt. The OSR regularly reviews written-off fines through an automated process – which identifies fines eligible for reinstatement and sends an advisory letter to the person concerned.

In this case, the OSR had not taken into account the seven-year time limit set out in their policy when looking for fines that were eligible for reactivation. This explained why the fine from 1993 was included.

As a result of our involvement, the OSR decided not to pursue payment of the fines and also adjusted their automated process to ensure only fines with an issue date within the time limit set out in their policy would be reactivated.

NSW Trustee and Guardian

The role of the NSW Trustee and Guardian (T&G) is to be an independent and impartial executor, administrator, attorney and trustee for the people of NSW. The T&G can be appointed by a court or a tribunal to provide direct financial management services for people with disability that affects their ability to make decisions. This may be

due to mental illness, brain injury, intellectual disability, dementia or other disability. T&G's clients are therefore some of the most vulnerable people in the community.

Families of clients and potential beneficiaries of wills also have an interest in T&G's administration and decisions. Case studies 29 and 30 are examples of complaints from people in those related groups.

29. Investigating allegations properly

We received a complaint about Trustee and Guardian (T&G) in relation to an elderly lady with an acquired brain injury, who was a T&G client under financial management. The lady's son alleged that his brother had misappropriated funds from their mother and subsequently used that money to purchase her property when she moved into a nursing home. He complained that T&G failed to properly investigate the allegations, delayed taking action and subsequently decided not to take legal action against his brother. He also complained that T&G failed to respond to his correspondence and telephone calls.

We identified issues with the conduct of the investigation by the panel solicitors appointed by T&G, who appeared to have a conflict of interests in relation to the complainant's mother. We also identified issues with T&G's communication and complaint handling. As a result of our inquiries, T&G decided to:

- instruct a new solicitor to properly investigate the allegations against the complainant's brother
- provide feedback to staff to improve their handling of correspondence and complaints
- review its conflict of interests policy.

30. Addressing communication difficulties

A man complained that T&G did not respond to his complaint, which he had mailed along with a large number of documents four months previously. He told us he had followed up by telephone several times, but had not had a substantive response to his complaint.

The man's complaint related to the estate of a friend who passed away without a will. Estate administration is complex for most people to understand. The man told us he found it especially difficult as English was not his first language and a hearing impairment made telephone communication difficult.

When we contacted T&G, it became apparent that staff thought the telephone conversations with the complainant were a sufficient response. When the manager was told about the complainant's communication difficulties, he agreed to write to him. He also organised for an investigation officer to meet the man and explain the information and the relevant estate management laws. Although the complainant did not achieve his goal of obtaining a portion of the estate, as a result of our involvement he did have a written response he could refer back to and a better understanding of the laws and processes.

31. Apologising for a poor process

An architect complained that the NSW Architects Registration Board made adverse comments about her conduct in an email to a former client, without giving her the opportunity to explain her side of the matter. The email stated that the architect's conduct regarding the nature of an agreement entered into with the client fell substantially short of the threshold expected by the NSW Architects Code of Professional Conduct, and that it was likely the board would find the architect's professional conduct was unsatisfactory. The client had initiated tribunal proceedings against the architect and provided a copy of the board's email to the tribunal. The architect told us that the comments made by the board's staff in the email had a detrimental effect on the outcome of the case against her and her reputation.

The *Architects Act 2003* sets out the process that must be followed if someone wants to complain to the board about an architect. A complaint must be in writing and verified by a statutory declaration. The board is required to write to the architect and give them notice of the nature of the complaint. The architect is then asked to provide a written response and any other information the board considers relevant to the allegation. The board conducts an investigation in accordance with the principles of procedural fairness.

Procedural fairness requires a decision-maker to inform a person of the case against them and give them an opportunity to respond – before a decision is made that could affect the person's rights or interests. Reputation and professional standing is a recognised interest.

Our preliminary inquiries found that the board had not received a written complaint against the architect. The comments emailed to the architect's client were made by staff in response to a telephone inquiry, without checking the facts with the architect or following the statutory complaints process. We thought this was unsatisfactory – and suggested that the board apologise to the architect for the way that advice was given to her client and for not according her procedural fairness before that advice was given.

The board wrote to the architect to apologise, stating that it 'accepts that the mode of communication and the form of the words used [in the email] were interpreted in a manner which has caused you to be distressed and aggrieved and the board apologises for this'. The board also apologised for the length of time the matter took to resolve.

Public interest disclosures

The PID Act sets in place a system to encourage public sector staff to report serious wrongdoing, by providing them with certain legal protections if they do so. The Act also deters detrimental action in reprisal for a person making a public interest disclosure (PID), by providing that such action is a criminal offence, a ground for disciplinary action and a ground for seeking compensation for damages.

In 2011, significant reforms were made to the PID scheme. This included giving our office lead responsibility for overseeing its implementation by the public sector, and monitoring how well agencies complied with their obligations to support staff who reported their concerns.

Our Public Interest Disclosures Unit coordinates the implementation of our functions under the PID Act. These functions include:

- promoting public awareness and understanding of the Act
- handling PIDs made to our office about maladministration
- providing information, advice, guidelines and training to public authorities, and investigating authorities and public sector staff on any matters relevant to the Act
- auditing and monitoring the exercise of functions under, and compliance with, the Act by public authorities
- preparing reports and recommendations about proposals for legislative and administrative changes to further the objectives of the Act.

The Parliamentary Joint Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission started a statutory review of the PID Act in June 2016. We prepared a background paper to assist the committee, and also made a formal submission to the review. We start this section with a discussion of this work.

Parliamentary review of the scheme

The PID Act provides that, after the reforms had been in place for five years, a statutory review should be conducted to:

- determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for meeting those objectives
- consider the effectiveness of the amendments that commenced in 2011
- consider whether the structures in place to support the operation of the scheme remain appropriate
- consider the need for further review of the Act.

To assist the committee's deliberations, we prepared a background paper identifying some of the major challenges faced by public sector staff who want to report wrongdoing and by public authorities in implementing the PID Act. We based this on a review

of the PID-related complaints and enquiries we had received, the findings and recommendations of our audits of public authorities, the views of public authorities (including at two consultation forums we convened focusing on the review of the legislation), a comparison of PID-related legislation across Australia and the experience of similar oversight agencies, and a review of relevant research.

Our paper discussed four key issues to be considered in strengthening the operation of the current regime:

- Simplifying the Act – many of the provisions are unduly complex and technical, and create barriers to the Act achieving its objective to encourage and facilitate disclosures of public interest wrongdoing and provide broad protection to those who make them.
- Encouraging prevention – the primary focus of the current legislation is on providing legal mechanisms to remedy reprisal, rather than on preventing adverse outcomes by ensuring authorities have strong, proactive systems in place.
- Reducing administrative burdens – the legislation should not place unnecessary burdens on public authorities, and any amendments should be able to be implemented in practice.
- Ensuring accountability – it is important that information is collected about the use of the PID Act, implementation is monitored, and there is coordination between investigating and other key authorities.

We also provided a formal submission to the review, expressing our views on particular issues and recommending legislative reform that we believed was likely to enjoy wide support across the NSW public sector and the community.

These recommendations were to:

- Remove barriers around who can receive a report – by ensuring that agencies nominate an adequate number of staff to receive PIDs, and that staff receive protection if they unintentionally make a PID to the incorrect public authority or officer.
- Focus on proactive prevention and management, rather than relying on legal protections after the fact – by requiring agencies to take reasonable steps to prevent reprisals, and appropriate action to address any reprisals if they occur. This should require agencies to notify the Ombudsman of any allegations of reprisal.
- Manage the perceptions of reporters – by explicitly providing that the Act does not prevent reasonable management action from being taken against reporters (provided it is not taken in reprisal), and specifically excluding disclosures based solely or substantially on an individual employment-related grievance.
- Require agencies to provide more useful information to evaluate how the system is working – including about PIDs received and purported PIDs – while streamlining the reporting requirements.

- Ensure protection for those public sector staff who report serious wrongdoing as part of their day-to-day functions, and removing administrative burdens for agencies in handling these matters.

Handling complaints

Of the 33 complaints we received this year about PIDs:

- 15 were assessed as meeting the criteria to be a PID – we are investigating 2, inquired about 8, and 5 are being handled by another, more appropriate, investigating authority
- 7 complaints were about the handling of a PID by a public authority – we inquired about 3, but took no action in the others as we were of the view that the original complaint did not meet the criteria to be a PID
- 11 were assessed as not meeting at least one of the mandatory criteria set out in the PID Act.

The implementation phases of the *Government Sector Employment Act* have led to a number of restructures in public authorities. One theme in the PID complaints that we received this year has been claims of reprisal made in the context of these restructures, particularly at the Senior Executive Service (SES) level. Senior executives – who had made serious reports of wrongdoing that had been assessed as meeting the criteria to be PIDs – had their positions either made redundant or were otherwise adversely affected by restructures. Those senior executives complained to us that the restructures were a form of reprisal for them making the PIDs.

For example, see case studies 32 and 33. Although we were not able to find evidence that the changes to their roles were reprisals as defined in the PID Act, in all of the cases that we dealt with it was clear that the public authority had not considered whether these changes could be perceived as reprisals.

Case studies

32. Clarifying a redundancy process

A senior public official made a PID alleging that false information had been presented to Cabinet by senior executives within the public authority, including the Deputy Secretary. The public authority accepted the report as a PID and investigated the allegations. No wrongdoing was found. Instead, the complaint arose due to a professional disagreement about the way technical information should have been presented in a document.

The public official contacted us approximately one year after making the PID, as he had been advised that his role was being made redundant in a restructure of responsibilities. He said that this was in reprisal for him making the PID. He also claimed that other action taken by the public authority could also be construed as detrimental action.

We made enquiries with the public authority about how it had handled and investigated the PID, including whether the risk of reprisal against the public official had been assessed. The authority gave us a copy of the risk assessment it had completed upon receiving the PID, and explained that the disclosures coordinator had met at regular intervals with the public official to discuss any issues as they arose.

The authority advised that the redundancy was part of the Senior Executive Implementation process, a process that affected a number of executives across the public sector. The authority used a ‘calibration process’ to rank employees and determine who would be successful in obtaining a new position. This process was done by senior executives who did not

have any knowledge of the PID. A number of other individuals were also affected by the restructure, lost their jobs and were unsuccessful in obtaining a new position. It did not appear to us that reprisal action had occurred in this case.

33. Monitoring an investigation

A senior executive made a PID internally and to the Independent Commission Against Corruption about corruption by another senior executive, including failure to declare a conflict of interests when engaging a company. The allegations were investigated internally and – although the agency found that there was no evidence of corruption – it was clear that a conflict of interests had not been declared when it should have been. The complaint included allegations about a Deputy Secretary.

The complainant said that she subsequently suffered reprisals in that decisions had been made to downgrade her role from SES, and make structural changes so that she would have no direct reports. In addition, she would no longer report directly to the Secretary but rather to the Deputy Secretary who had been the subject of her allegations.

The complainant complained about the reprisals internally, and the agency appointed an external investigator to examine them, and report back to the Secretary. The complainant objected to the involvement of the Secretary, because the allegations of reprisal had included concerns about their conduct.

To address these issues, we decided to monitor the investigation, with the external investigator reporting directly to our office during the investigation.

The investigator did not find any evidence of reprisal as defined in the PID Act. However, it was not surprising that the complainant had perceived that her PID was related to the action taken to change her role, given the timing of the restructure and the involvement of people implicated in circumstances

leading to her allegations. There had also been some procedural irregularities in the way that the changes were made to her role.

After receiving some external advice, the agency decided not to proceed with downgrading of the role, and she continued to have a reporting line to the Secretary.

Raising awareness and building capacity across the public sector

Engaging with PID practitioners within agencies is an important part of the work we do to meet our statutory requirements. Developing and maintaining good professional relationships enables us to promote awareness of the PID Act, provide support and guidance, identify any problems and respond appropriately.

For example, this year we have:

- audited compliance with the PID Act by 2 public authorities, making 17 recommendations for improving their internal systems
- delivered training to 1,625 public sector staff at 44 PID awareness sessions and 37 PID management sessions
- provided advice in response to 213 PID-related enquiries – 79 from staff who had reported wrongdoing or were thinking about doing so, 50 from public authorities about managing a report, and 84 from public authorities with a policy query
- held 2 PID practitioner forums – which allow us to hear directly from public authorities about the operational difficulties they face, as well as share examples of good practice across the sector
- distributed 4 issues of the PID e-News to over 1,000 subscribers
- hosted information stands at the Corruption Prevention Network Forum and the National Investigations Symposium
- spoken at a range of events, both internally within public authorities and at conferences and seminars
- reviewed the internal reporting or PID policies and procedures of 6 public authorities at their request.

Working with others

During the year, we collaborated with other oversight agencies – both within and outside our jurisdiction – and researchers on a number of projects. For example, we are working with our colleagues at the Queensland and Commonwealth Ombudsman's offices to drive the *Whistling Wiki* – a closed online

community that provides a repository of resources, media articles and other information to support PID practitioners across Australia.

We have partnered with researchers and 22 other integrity and governance organisations in *Whistling While They Work 2: Improving managerial responses to whistleblowing in public and private sector organisations*, led by Griffith University. Spanning Australia and New Zealand, this is the world's largest research project into whistleblowing to date. On 8 November 2016, we hosted the launch of the project's first report, *Whistleblowing processes and procedures – An Australian and New Zealand snapshot*. The latest report from the project, *Strength of organisational whistleblowing processes – Analysis from Australia*, was launched on 3 May 2017 and provides the first benchmarks across 18 industry groups and public sectors. NSW public authorities recorded comparatively strong processes on average – ranking third, below only the Commonwealth and Queensland public sectors.

We are also members of a Standards Australia technical committee on organisational governance that is responsible for developing an Australian standard for whistleblowing programs in organisations. The intention is for this standard to mirror the first international management system standard in this field. This standard is in the process of being developed, and will include minimum requirements for a comprehensive whistleblowing program. It will apply across sectors, regardless of organisational size.

Within NSW, the Ombudsman chairs the PID Steering Committee. This committee is made up of the heads of investigating authorities in the PID Act, as well as the Department of Premier and Cabinet, the Public Service Commissioner and the NSW Police Force. The committee met twice during the year.

Complaint trends and outcomes

For the past 10 years, the number of formal complaints we have received each year has been increasing. In 4 of the last 7 years, we received over 900 complaints, and this year the number passed 1,000 for the first time: see figure 29. During that time, we have handled somewhere between 1,600 and 2,000 informal matters. This year, that number passed 2,000 for the first time. Throughout this period, we have had only 3 local government specialist staff.

Customer service continues to be the issue most people complain about (23.2%) followed by development (14.2%), which includes decisions on development applications and other development related decisions. Hundreds of people also complained about enforcement (13.7%), rates, charges and fees (13.4%) and engineering services (9.3%), which includes complaints about traffic and parking infringements. See figure 30.

This year we made preliminary inquiries in relation to around a quarter of the formal complaints we received, and declined three-quarters after assessment only. Many of these matters were considered to be premature, as the complainant had not complained directly to the council before approaching our office. However, in deciding whether a complaint is premature, we take all the circumstances of the complaint into account.

Sometimes if the issue is serious and action is needed urgently, we will nonetheless make inquiries. We referred many of the complaints we considered as premature directly to councils to deal with. We discuss this referral process in more detail in the next section.

Figure 65 in Appendix A provides a breakdown of the action we took on the local government complaints that we finalised in 2016-17, grouped according to individual councils.

Clarifying our complaint handling processes

Our Complaint Handling Framework and Model Policy is aligned with the Australian and New Zealand Standard *Guidelines for complaint management in organizations* (AS/NZS 10002:2014). This standard advocates three levels of complaint handling:

- Level 1 – frontline complaint handling for immediate resolution.
- Level 2 – internal review for escalated complaints or serious matters not resolved at level 1.
- Level 3 – external review, such as by the Ombudsman or Office of Local Government (OLG).

In local government, you can request an internal review of your complaint by writing to the general manager or using council’s online feedback process.

Figure 29: Formal and informal complaints received about councils: 10 year comparison

Year	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Formal complaints received	768	702	843	912	925	764	873	948	946	1,014
Formal finalised	788	672	875	924	933	765	872	959	936	1,007
Informal dealt with	1,965	1,795	1,720	1,979	1,962	1,795	1,698	1,962	1,761	2,063

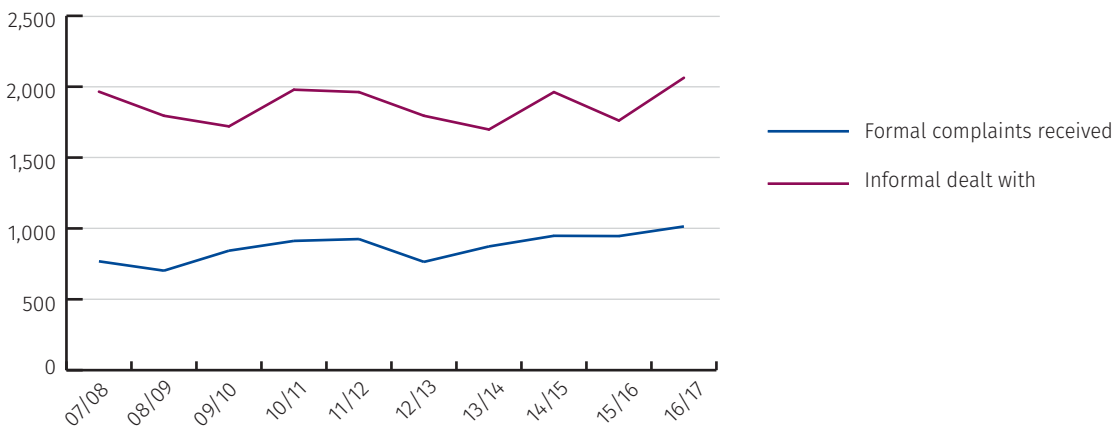


Figure 30: What people complained about in 2016-17: local government

Issues	Formal	Informal	Total	% of Total
Corporate/customer service	200	517	717	23.2
Development	132	308	440	14.2
Enforcement	161	262	423	13.7
Rates, charges and fees	139	275	414	13.4
Environmental services	108	192	300	9.7
Engineering services	115	171	286	9.3
Object to decision	69	165	234	7.6
Misconduct	38	54	92	3.0
Uncategorised	10	42	52	1.7
Not in our jurisdiction	17	32	49	1.6
Community services	11	37	48	1.6
Strategic planning	10	11	21	0.7
Related to a public interest disclosure	4	5	9	0.3
Management	0	6	6	0.2
Total	1,014	2,077	3,091	100

Note: This figure shows the complaints we received in 2016-17 about local government, broken down by the primary issue in each complaint. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

We generally advise people that it is best to raise their concerns with the council before complaining to our office. This gives the council an opportunity to review the complaint and take the action asked for – or explain why they will not – before we consider becoming involved. Exceptions to this would include public interest disclosures and complaints about general managers or mayors.

Some complainants do not seem to appreciate the difference between making a service request (for example, booking a council clean-up) and making a complaint about the response (or lack of response) to the service request. When we explain that they must make their complaint to council before coming to our office, some people tell us they have already contacted council. Similarly, some complainants who have submitted an objection to a development application believe they have made a complaint to council – not understanding that a complaint must be about council's own conduct and should state that it is a complaint.

Until recently, our practice had been to give complainants a referral letter they could send to the council's general manager with their complaint. Late last year we decided to directly refer more matters to councils ourselves. We understand that it can be disappointing for complainants to receive a reply from our office which directs them back to council.

We hope that, in sending complaints directly to the council, we will save complainants one extra step, and also put council on notice that we may have an interest in the matter. However, we only refer complaints with the complainant's consent.

When we refer complaints to councils, we clearly identify the matter as a complaint. We address it either to the general manager or the officer designated by the council as being responsible for receiving complaints. This enables the correspondence to be actioned as a complaint, and helps to streamline the process for both the complainant and the council involved.

Achieving better results

Councils have a wide range of responsibilities and the following case studies illustrate some of the issues that people complain to us about. Clear communication with the public is critically important. Sometimes, when handling a complaint, we find that the issue is not that a council has failed to act – but simply that the actions taken have not been communicated to the complainant.

34. Solving problems with an occupation certificate

We received a complaint from a woman who had built a house as an owner-builder, but could not get an occupation certificate from council because she did not have an owner-builder's permit. Fair Trading had not issued her with a permit because she had not met the requirements. As a result, the woman was not allowed to live in the house.

When she complained to our office, both the council and Fair Trading had told her there was nothing they could do to help her – and had each referred her to the other.

After making inquiries, we decided that there was no wrong conduct by either Fair Trading or the council. Instead, the problems arose from the woman's genuine lack of understanding of the various requirements she needed to meet when undertaking construction as an owner-builder.

Even though neither government agency was at fault, we felt that there could be a practical solution to the woman's dilemma. After we raised these issues with the council's general manager, he resolved the matter by exercising his discretion and agreeing to issue the occupation certificate. This was because:

- the woman demonstrated to the council that she had met all the necessary prerequisites for obtaining an owner-builder's permit
- council inspected the completed works and found they complied with the Building Code of Australia
- all the work had been done by licensed tradespeople
- council acknowledged the woman's genuine attempts to comply with the legislation.

Council also advised that their review of this matter highlighted some improvements council could make to its processes so it may be able to identify earlier when other people experience similar confusion – and could therefore take remedial steps.

35. Explaining and mediating an issue

A business owner complained to us that council did not consult with them before allowing the builders of a neighbouring learn-to-swim centre to remove a pre-existing retaining wall on the boundary and replace it with the unsightly back wall of the centre. After our inquiries, council provided a detailed explanation to help the complainant understand how notification was in fact given to neighbours, under the applicable development control plan. Council also explained that it did not specifically approve the removal of the retaining wall, but its removal occurred as part of the construction plans. These plans were approved under the construction certificate issued by a private certifier, acting as the Principal Certifying Authority.

Although council had no power to order the builders to reinstate the retaining wall, it agreed with the concerns we raised and offered to mediate an alternative solution between the complainant and developer to reduce the visual impact of the new wall.

36. Correcting poor practices

A complaint we received showed a council had a practice of responding to unlawful development by either issuing an order to remove the development or requiring the owner to submit a development application.

The complainant had submitted a development application. However, after processing the application, council advised him that retrospective approval could not be given – and issued a 'no action' letter that stated council would take no action if he complied with a set of conditions.

When councils investigate unlawful development, there are two actions they can take. They can:

- issue an order to remove or demolish the unlawful development
- require the property owner to seek to regularise the unauthorised structure by applying for a building certificate.

There is no statutory basis for a council to give development consent retrospectively, nor to require compliance with a set of conditions as a basis for taking no action. The complainant had no appeal rights against these conditions and was not provided with procedural fairness.

In response to our inquiries, the council confirmed that this was their standard practice.

We asked them to stop this practice, follow the statutory processes provided, review any previous applications that were requested and dealt with in the same way, and refund any fees. Council accepted our suggestions.

37. Keeping complainants informed

A complainant told us he had written to council for about six months to report an ongoing noise issue from barking dogs in the neighbourhood. Although the council's rangers had acted on each of the complaints – by contacting the owners of the dogs, visiting the location, and conducting noise surveys in the neighbourhood – council did not formally respond to the complainant and explain the actions that were taken. This caused the complainant to feel ignored by the council. After our involvement, a manager hand-delivered a letter of apology to the complainant and assured him that all of his complaints have been and will continue to be taken seriously.

38. Addressing resourcing issues

A man complained to council that his neighbours had not complied with a notice of proposed order to complete works, which had been issued by the private certifier for the development seven weeks before. Council is responsible for the next step in the enforcement process, which is to issue the order.

In council's response, it advised that – due to the large number of customer requests it was handling at present – it may take 'some months' before it could assign the man's request to a staff member. Council apologised for this situation.

This potentially raised a systemic issue, so we made inquiries about whether council had appropriate systems to ensure complaints were finalised in a reasonable time frame.

Following these inquiries, we met with the Manager Regulation and Enforcement to discuss resourcing issues. We were advised that, as a result of our contact, the manager had been given approval to appoint a new full-time, permanent compliance officer to help with the backlog of complaints.

In its formal response to our inquiries, council advised it was conducting an internal audit of its Regulation and Enforcement Division. Its focus was on the existing backlog, as well as current systems and processes. The aim was to increase efficiencies and to work through the backlog as soon as possible.

Council also advised that the man's complaint would be investigated within 21 days.

39. Making correspondence clearer

We received a complaint about a council, responsible for water supply, writing to a customer to advise that unless she settled her arrears or entered into an approved payment plan within the next two days her water would be restricted. The complainant had a substantial debt dating back more than 18 months, which had continued to grow despite her paying fortnightly instalments.

While we acknowledged council's entitlement to recover the debt, we contacted them to raise concerns about the reasonableness of their correspondence – particularly the time frame imposed. We suggested a two-day response time did not allow a margin for postal delays, nor did it allow the complainant much of an opportunity to review her finances.

Council explained that the intention of their letter was to prompt the complainant to contact them within the next couple of days. If the complainant did that and showed a genuine intention to take steps to address the debt, it would not restrict her water while a new payment plan was being considered. However, Midcoast Water acknowledged that this could have been made clearer in their letter. It agreed to review their debt recovery correspondence to make sure its purpose was clear and the time frames provided were reasonable.

Improving debt recovery actions

We continue to have concerns about the apparent tendency for many councils to take debt recovery action in the local courts without first having given the person an opportunity to resolve the debt. The Law and Justice Foundation of NSW recently published a report which indicates that councils are taking court action at much higher rates than State and Commonwealth agencies. The foundation also found that many of these matters do not proceed to judgement – which suggests that they are ultimately being resolved through time-to-pay or other arrangements. An issue of concern is whether these arrangements could have been entered into earlier, before starting legal proceedings in court.

Managing council amalgamations

Case studies 40 and 41 are examples of some of the complaints we have received as a result of councils going through the process of amalgamation. Although the government announced in July 2017 that this process would stop, we anticipate that the period of transition for councils that have already been amalgamated will continue for some time.

40. Reviewing processes

We received two complaints from caravan owners who were in arrears for site fees at a council-owned holiday park. In November 2016, they received an initial notice of the fees with 28 days to pay. One complainant received a second notice on the same day providing only 14 days to pay, and the other complainant received the same notice three days later. Both paid the arrears within the week. Despite this, they received a notice of termination in the post – which was dated the day the initial notice was received. Council's holiday park controller was not taking calls or returning messages or emails from the complainants.

We contacted council, who agreed procedural fairness had not been provided and the decision to issue the termination notice was inconsistent with advice council had provided the complainant. Council rescinded the termination notices. It also explained that the amalgamation of the council had led to ambiguity in the applicable policy and procedures, which may have contributed to the termination notice being issued. It advised that although the holiday park is privately managed, it is council's role to take enforcement action on non-payment.

As a result of these complaints, council:

- reviewed their processes for issuing termination notices to avoid this situation happening again
- provided training for the holiday park controller
- referred responsibility for all termination notices to the legal team.

41. Getting a quicker response

A complainant told us that letters she had sent over a year ago to the General Manager and Administrator of a council were ignored. Her letters were about council staff not taking compliance action against a neighbour, whose poor guttering and drainage system regularly caused flooding on her property.

After we contacted council, it acknowledged that the failure to respond was a serious oversight on council's part which resulted from staff vacancies created by the council amalgamation process. Council apologised, committed to investigating the woman's concerns, and nominated the customer service coordinator to monitor her case.

People in custody

We provide a frontline telephone service for adult inmates of correctional centres and detainees in juvenile justice centres. Through this work, we receive and act on individual complaints or provide advice about how and where a complaint would be better made. Offenders managed by Community Corrections may also contact us with their complaints.

Our visits to correctional and juvenile centres give inmates and detainees the opportunity to speak with us directly about issues of concern. These visits also help us to become familiar with the physical environment of these centres and the programs available. Our complaint work and visits give us an insight into issues and trends that may highlight systemic matters requiring intervention or investigation.

This year, we handled an increase of more than 5% in the number of contacts from inmates – up from 5,276 to 5,561. We also visited 25 correctional centres and made 11 visits to 6 juvenile justice centres, speaking to 425 inmates and 72 young people in custody.

In 2016-17 the adult inmate population in NSW continued to increase. While the rate of growth slowed by mid-2017, in June there were over 13,200 people in 37 correctional centres. To accommodate the increased population, Corrective Services NSW (CSNSW) has relied on existing infrastructure – including reopening previously closed centres. New developments are now underway and eventually there will be an overall increase of around 5,000 beds

in the system. Against this background, an increase of 5% in contacts with our office about the adult correctional system is unsurprising.

In 2017-18, an additional investigation officer position will be added to our custodial services unit to ensure the ongoing effectiveness of our work.

Complaint trends and issues

Over the past 5 years we have seen a consistent upward trend in the number of matters we have received, with the total number exceeding 5,000 in 3 of those years. This year, our complaint numbers were the highest they have ever been, reaching a total of 5,239: see figure 31.

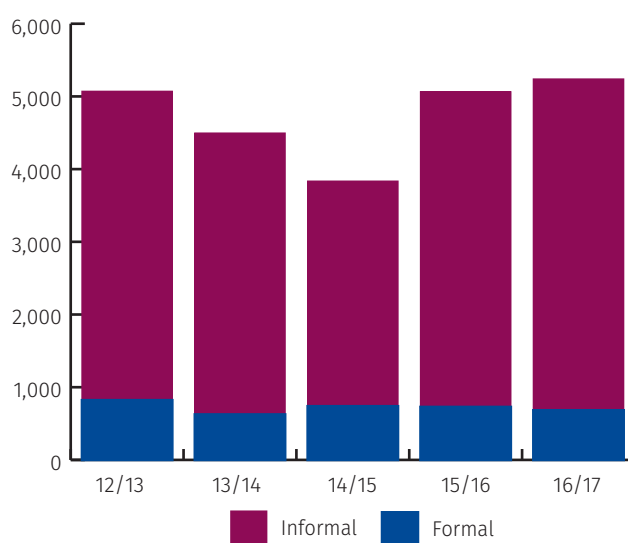


Figure 31: Formal and informal matters received about custodial services: 5 year comparison

	12/13	13/14	14/15	15/16	16/17
Formal					
Correctional centres, CSNSW and GEO	660	483	572	571	552
Justice Health	96	88	112	117	82
Juvenile Justice	65	54	54	40	48
Subtotal	821	625	738	728	682
Informal					
Correctional centres, CSNSW and GEO	3,670	3,286	2,636	3,662	3,797
Justice Health	357	389	274	510	562
Juvenile Justice	222	195	186	163	198
Subtotal	4,249	3,870	3,096	4,335	4,557
Total	5,070	4,495	3,834	5,063	5,239

The primary issues for the formal and informal matters that we dealt with in 2016-17 are shown in figures 32 (correctional centres and Justice Health) and 33 (juvenile justice centres). Apart from health related complaints – which impact on a significant number of adult inmates in the correctional system – a high proportion of complaints relate to issues around the daily routine for inmates. Complaints in these two categories make up over a third of all complaints received about adult correctional centres. Daily routine captures a broad range of matters affecting the day-to-day management of inmates, such as the number of lock-ins in a centre (when inmates are confined to their cells for operational reasons), the regularity with which they get access to recreation areas or libraries, and problems with participating in education or programs due to insufficient staff. Lost and damaged property is also a regular – and high frequency – complaint. With high numbers of inmates in the system there is also a lot of movement between centres. Each time an inmate moves from one centre to another there is the potential for their property to be either delayed in reaching the new centre, or lost.

Over a quarter of the young people who contacted us from juvenile justice centres also complained about their daily routine. While the number of children in custody remains comparatively low, many things can impact on their daily management. As with adults, it can be about access to certain amenities and programs – gym equipment, toiletries and other ‘normal’ things. Young people also regularly complain about food and diet (10% of complaints received). Institutional food and menus, and having no choice in what they eat, can cause dissatisfaction. We encourage young people to be active in their detainee meetings with centre management to talk about these kinds of issues.

Almost 17% of complaints about juvenile justice centres, and almost 7% of complaints about adult correctional centres alleged ‘officer misconduct’. This is a broad category that includes misconduct ranging in severity from assault to rudeness.

Complaints identifying Justice Health as the primary agency are received from all centres across the system apart from Junee CC. Justice Health is also dealing with a much larger inmate population, many of whom have significant health issues when they come into the system. Many of those issues are also chronic. This places strains on their resources and increases waiting times to be seen by doctors and other medical specialists and to receive prescriptions for medication. Inmates in custody do not have direct access to drugs that are readily available to the public, such as paracetamol. This means that inmates who require minor assistance can sometimes experience long wait times, because inmates considered to have more urgent or serious needs are generally prioritised. We receive complaints from inmates who are frustrated as a result.

Figure 32: What people complained about in 2016-17: adult correctional centres and Justice Health

Issue	Formal	Informal	Total
Medical	102	794	896
Daily routine	124	736	860
Property	71	356	427
Officer misconduct	43	302	345
Visits	42	238	280
Transfers	14	243	257
Other	15	223	238
Unfair discipline	23	187	210
Case management	17	160	177
Classification	12	142	154
Records/administration	20	125	145
Segregation	16	117	133
Probation/parole	11	108	119
Fail to ensure safety	15	82	97
Food and diet	18	74	92
Buy ups	7	81	88
Security	17	70	87
Work and education	6	81	87
Legal problems	16	57	73
Mail	5	61	66
Information	14	51	65
Not in our jurisdiction	12	27	39
Day/other leave/works release	9	22	31
Charges/fees	0	11	11
Court cells	1	6	7
Community programs	3	3	6
Misconduct	0	2	2
Complaint handling/ investigation process	1	0	1
Total	634	4,359	4,993

Note: This figure shows the complaints we received in 2016-17 about correctional centres and Justice Health, broken down by the primary issue in each complaint. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

The High Risk Management Correctional Centre (HRMCC) (or 'supermax') is once again the centre from which we received a proportionally higher number of contacts. The percentage of complaints received as a total of the average capacity of the centre is 382%. This was, however, a drop from an average of 500% last year despite a slight increase in the number of inmates held in the centre. See figure 67 in Appendix A.

As in previous years, the vast majority of the formal complaints we received were resolved either because the agency took some form of action that satisfied our concerns or we provided the complainant with advice or an explanation. Figure 66 in Appendix A provides more details about the different actions taken in response to complaints. We took some form of preliminary inquiry in 76% of complaints about the adult corrections system, compared with 98% of complaints about juvenile justice. This reflects our commitment to supporting young people in detention, who are especially vulnerable and in need of assistance. See figures 34 and 35.

Figure 33: What people complained about in 2016-17: juvenile justice centres

Issue	Formal	Informal	Total
Daily routine	13	57	70
Officer misconduct	12	29	41
Other	5	25	30
Food and diet	3	22	25
Unfair discipline	2	10	12
Medical	2	9	11
Case management	1	8	9
Property	2	7	9
Work and education	1	7	8
Transfers	2	5	7
Records/administration	1	5	6
Fail to ensure safety	2	2	4
Information	0	4	4
Visits	0	3	3
Mail	1	1	2
Security	1	1	2
Buy ups	0	1	1
Legal problems	0	1	1
Not in our jurisdiction	0	1	1
Total	48	198	246

Note: This figure shows the complaints we received in 2016-17 about juvenile justice centres, broken down by the primary issue in each complaint. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Figure 34: Formal complaints finalised in 2016-17: adult correctional centres, including CSNSW, GEO and Justice Health

Action	No.	%
Preliminary or informal investigation completed	473	76
Assessment only	145	23
Conduct outside our jurisdiction	5	1
Formal investigation completed	0	0
Total finalised	623	100

Figure 35: Formal complaints finalised in 2016-17: juvenile justice

Action	No.	%
Preliminary or informal investigation completed	41	98
Assessment only	1	2
Conduct outside our jurisdiction	0	0
Formal investigation completed	0	0
Total finalised	42	100

Adult correctional system

Living in crowded conditions

With over 13,200 people in custody, many of the accepted standards in adult corrections in NSW can no longer be met. It is now rare for an inmate to have a single cell. While the practice of having two inmates per cell has been increasing over several years, it is now accepted that three or occasionally more inmates may share a cell. To quickly address the need for additional beds, CSNSW began construction during the year of 'rapid build prisons' (RBPs) at both the Wellington and Cessnock correctional complex sites. The RBP design does not provide for any accommodation in cells or rooms – apart from segregation. The accommodation is in 'pod' type spaces, much like that seen in an open-plan office. We were initially consulted on the design concepts for the RBPs and then toured the Macquarie site at Wellington as it neared completion. These centres are to provide accommodation for maximum security inmates. We noted the lack of privacy, and expressed our view that both the inmates and staff who occupy these new centres will need to be carefully selected if the proposal is to be successful and safe.

The level of crowding in the system has also led to an increased number of contacts from inmates who tell us they are scared or unhappy with their current location. Any inmate who is fearful is told they must report their concerns to staff in their centre. While attempts may be made to move such inmates, with

the pressure on beds across the state, increasingly they may be housed temporarily in a 'multi-purpose area' of their centre – where conditions may mirror segregation – until an appropriate location can be found. As there is no longer an expectation that an inmate will be placed in a centre that is close to family or legal representatives, this can also cause anxiety and/or poor behaviour. Keeping inmates connected with their family is widely acknowledged as being vitally important in their reintegration into the community. As well as being placed away from their family, the large numbers of inmates in some centres can affect the ability of family and friends to be able to book a visit on a regular basis.

Our experience, based on our regular contact with inmates and those working in the system, is that a very high number of them have mental health issues, personality disorders and disabilities – exhibiting a range of symptoms and illnesses. In a crowded system, such inmates are even more vulnerable and can present additional challenges for staff. Often inmates will contact us because they cannot understand why certain things have happened to them – for example, they have been kept away from other inmates, are not able to participate in a full range of activities, have been charged with doing things they did not realise were prohibited, or find it challenging to comply with daily routines. Sometimes we help by identifying that there has been a communication breakdown between correctional officers and inmates. Other times an inmate's concerns will be alleviated after we explain the reasons why certain things may have happened – for example, because they are part of the daily correctional centre routine.

The rise in the inmate population has increased pressure on a range of areas such as health care, programs, work opportunities and access to phones. We have observed that this has led to increased boredom, fights and reliance on various forms of contraband – including illicit drugs, tobacco and mobile phones. Lack of access to phones is a constant complaint on many of our visits, particularly in centres where inmates may only have a short period in the day when they can make calls or when their families are available to receive them. We have been told about fights in phone queues and the increased temptation to use an illegal mobile phone to talk with family members.

People who contact us for help frequently have problems that we cannot resolve. For example, they may be distressed because they are on remand – waiting for a court hearing that has been delayed. However, we can still help by giving them an opportunity to vent and debrief, and explain things they may not fully understand. Sometimes, during this process, we identify an issue where we may be able to suggest a solution – such as issues to do with the conditions inside the correctional centre. The case studies in this report show the types of matters we have dealt with this year and the range of outcomes.

Classifying and managing high risk inmates

CSNSW has a classification system which determines the type of accommodation in which an inmate must be held. For example, A1 classification is the category of inmate that must be confined in special facilities within a secure physical barrier, which includes towers or electronic surveillance equipment. A C3 classified inmate need not be confined by a physical barrier at all times and need not be supervised. AA classification is reserved for inmates who represent a special risk to national security and should at all times be confined in special facilities similar to A1 inmates. The female classifications include Category 5 for females who represent a special risk to national security. Alongside these classifications are security designations the Commissioner may give to inmates to apply additional measures in their management. These are Extreme High Risk Restricted (EHRR) and National Security Inmate (NSI). Both designations restrict who these inmates can communicate with and how that communication may occur, both inside and outside the system.

For several years after the introduction of AA and Category 5 classifications, there were less than a dozen inmates holding this classification. For many years, only one inmate was classified as EHRR. Since 2015, the number of AA classified inmates has increased to more than 30 – with each of them also designated EHRR. Several inmates are also now designated NSI.

CSNSW's policy is that inmates with the AA and EHRR classifications are housed in the HRMCC. The rise in inmates being placed in the HRMCC with these classifications over the past two years has seen the number of contacts made to us from that centre more than double. For many of these inmates it is their first time in custody, and the severe limitations on their communications – and the lengthy processes to approve those they can communicate with, including their legal representatives – is one area that frustrates them. Many of them have not yet been convicted, but are placed in custody on remand. They are facing serious charges with the potential for lengthy sentences. If all of them are eventually convicted and sentenced, we anticipate current arrangements for managing them may need to be reviewed.

We have raised several issues with CSNSW in response to complaints from these 'high risk' inmates. These issues include timely access to legal advisors and briefs of evidence, and transfers to metropolitan locations for court appearances. In one case, it was also about ensuring that an inmate had access to appropriate clothing for his court appearance.

After a decision made in 2015, EHRR inmates were allowed to have a limited amount of money to be sent in by their families to use for phone calls and the purchase of 'buy ups' – including toiletries and food to supplement the meals provided. The amount has remained at \$75 per week since that time, while all other inmates in NSW can receive up to \$600 per month. This year, we asked the Commissioner to review

the amount to bring it in line with the rest of the system. It appeared to us that this would be a more reasonable arrangement, particularly as most of these inmates are located in Goulburn and phone calls (including those to some of their defence lawyers) are expensive. The Commissioner agreed with our suggestion, and EHRR inmates are now eligible to receive the same amount of money as other inmates.

Searching for contraband

We acknowledge the importance of eradicating contraband and the need to search inmates. However, two particular methods of searching for contraband have given rise to complaints this year. These are strip searches and the management of inmates who give a positive indication to the body orifice security scanner, known as the BOSS chair.

Strip searching

Strip searching an inmate is authorised by the Crimes (Administration of Sentences) Regulation 2014. These searches are intrusive and many inmates – both male and female – have reported a trauma response as survivors of physical or sexual abuse. The Regulation specifies that a strip search may include an examination of the person's body, but not of their body cavities. It also states the search must be done with due regard to dignity and self-respect and in as seemingly a way as is consistent with conducting an effective search. The complaints made this year largely alleged that inmates were routinely being asked to bend over and part their buttock cheeks, to visually inspect the anal area. They contended, and we agreed, this constituted a search of their body cavity – in a way that did not allow them either dignity or self-respect.

We contacted CSNSW and suggested that officers should not conduct searches in this way. We believe that asking an inmate to part their buttock cheeks while standing upright would be effective in revealing any contraband concealed there. CSNSW did not agree with this as they consider it is how contraband secreted in that area can be detected or will be forced to fall out. However, they also stated that such a direction should only be given when an officer has formed a reasonable suspicion that contraband is in fact secreted there.

While making our inquiries, we identified inconsistencies in the procedures manual which CSNSW has agreed to review. We were also told an Assistant Commissioner's Memorandum was to be sent to all staff about the need to have a reasonable suspicion before doing searches in this way. The current procedures for strip searching do not require officers to make a record of why or how they formed their reasonable suspicion that the inmate had contraband secreted in this part of their body before they use this method of search. We recently wrote again to the Commissioner and suggested that officers be required to record their reasonable suspicions. This would increase accountability and assist the investigation of any future complaints about directions of this kind.

Using the BOSS chair

The other form of searching which caused complaint was the BOSS chair and the management of inmates who give a positive indication. The BOSS chair is a non-invasive method of searching body cavities for the presence of detectable contraband, including mobile phones. A complaint was made when an inmate who gave a positive indication told staff there was metal (shrapnel) in his body. From our many years of experience talking with inmates, it appears likely that there are other inmates with some form of non-contraband metal in their bodies (such as bullets).

We consider this demonstrates a weakness in the effectiveness of using the BOSS chair to reliably detect contraband metal objects hidden inside an inmate's body. In our view, CSNSW should ensure that existing metal is not used to mask actual contraband, or that inmates who give a positive indication because of non-contraband metal are not routinely or regularly managed under a restricted regime (such as a dry cell) or required to be repeatedly x-rayed. CSNSW told us that an update to the relevant sections of the procedures manual to include more detailed information on accommodating and managing inmates giving a positive indication would be referred to the policy subcommittee for consideration. We are waiting on further advice.

Separation of inmates

Correctional centre officers have the power to hold and manage certain inmates differently from the rest of the prison population if they consider this is necessary to maintain good order and security or to protect the inmates concerned.

Sections 10 and 11 of the *Crimes (Administration of Sentences) Act 1999* authorise segregation and protection orders to be made. A different power was enacted (s 78A) in 2009, which authorises inmates to be 'separated' from other inmates. In practical terms, these powers are similar in that they authorise officers to accommodate and manage an inmate under different conditions to others. However, they differ significantly in terms of an inmate's ability to challenge such a decision.

Inmates who have been issued with a segregation order have a legal right to appeal that order to the Serious Offenders Review Council, which is made up of members from outside the correctional system. The law also sets out administrative checks and balances to ensure segregation orders are reviewed regularly. Inmates who have been separated using the s 78A power do not have access to these review and appeal mechanisms. This year we have continued to raise with CSNSW our serious concerns that separating individual inmates using s 78A is neither transparent nor accountable, given the lack of detailed procedures and record keeping requirements.

In response, the Commissioner agreed there was a need for enhanced accountability and transparency. He advised that a new section of the operations procedures manual will be written to provide clearer guidance. Until that work is completed, a direction has been given to Governors to seek approval from their respective Director to use s 78A on each occasion they separate an inmate. The application needs to include the reasons for the separation, when reviews will be done and where the inmate will be housed. On our visits to centres, we now routinely check if any inmates are currently separated and ask to see the relevant approvals from the Director.

Catering for the cultural calendar

Several Muslim inmates contacted us about the decision of the Commissioner not to allow the authorised visiting Imam to bring in sweets for them to celebrate Eid al-Fitr, the end of Ramadan. The complaints noted that other groups had been authorised to provide celebratory food or gifts. For example, at Christmas the Salvation Army give gifts to inmates, and JewishCare provide packs for Jewish inmates for religious celebrations. Muslim inmates, however, only receive two sweets each – provided by Corrective Service Industries (CSI).

In response to our inquiries, CSNSW confirmed that the Salvation Army provided Christmas gifts to all inmates regardless of their religion, and JewishCare had been authorised to provide special foods for religious celebrations. There was no information given

about why an Islamic group had not been authorised to provide celebratory foods to Muslim inmates. We wrote again to CSNSW and have now been advised that the policy about culturally and linguistically diverse (CALD) inmates is being reviewed. At the same time, there has been contact between the Islamic Council of NSW and CSNSW about obtaining approval for items to be provided to Muslim inmates at the end of Ramadan 2018.

Writing better case notes

Fundamental to good case management are the case notes made by staff about their interaction with, or observation of, inmates. These are recorded in the offender inmate management system (OIMS) and are used for many purposes – including reviewing an inmate for classification, transfer and parole. We often refer to case notes when we make inquiries about a complaint, and have noticed that case notes more frequently contained subjective – rather than objective – descriptions of their interactions with inmates or observations about their behaviour. Many case notes simply contained a personal opinion about the inmate’s personality or other irrelevant comments.

We wrote to the Commissioner and provided several examples. The Commissioner agreed and issued a memorandum to all staff about recording appropriate information in OIMS case notes. CSNSW also introduced guidelines about structured case note writing to be incorporated into case management training for custodial officers.

Case studies

42. Refunding an unfair fine

When he was found guilty of damaging a chair, an inmate was fined \$15 – to be paid by deductions from his inmate account. He did not dispute the offence, but money was still being deducted from his account even when he believed he had paid the full amount. We requested records about the disciplinary action from Lithgow Correctional Centre and found a further \$175 had been charged against his account. The extra amount was added for further damage to his cell. We considered that the addition of \$175 to his ‘bill’ was unreasonable because it had been made outside of the inmate disciplinary process. After discussions, the Governor agreed and made arrangements for the inmate to be refunded.

43. Reviewing a group punishment

Two inmates at St Helier’s Correctional Centre called us complaining about a group punishment. After a window was damaged in one of the units, the 19 inmates living there were told they would have to pay \$23 compensation each. There were no witnesses to what or who caused the damage and no disciplinary charges were laid. We contacted the centre and discussed the need for a charge to be laid against an inmate – and proven – before compensation could be taken. We asked management to review the decision, which they did, and then laid charges against all 19 inmates. Once again, we spoke with the centre about our significant concerns at laying charges without any evidence and the application of ‘communal punishment’.

To resolve the matter, we wrote to the Commissioner and suggested that all 19 inmates be refunded the money taken from their accounts and the local practice at the centre of applying ‘communal payments’ be reviewed. The Commissioner agreed with both of our suggestions.

44. Restoring the power

After spending a weekend in his cell at Goulburn Correctional Centre without any power or lights, an inmate called us after his efforts to get a response locally had failed. We contacted the centre and found staff to be equally dismissive of our attempts to find out what was happening with the power in his cell. We then contacted the Governor's office and within a few days received a call from the inmate advising the power had been restored.

45. Providing access to legal papers

When preparing for trial, inmates usually have access to the brief of evidence against them – as well as other documents and information provided by their lawyer. One inmate who was facing national security related charges was transferred from the supermax in Goulburn to the Metropolitan Remand and Reception Centre (MRRRC) in Sydney a week before his trial. He had had access to his legal papers before his transfer, but they were not given to him in Sydney. He asked officers and they had told him they would 'look into it'. He called us and we spoke with centre management who indicated that he should not have access due to different security sanctions being applied to these inmates. We suggested they immediately made whatever checks they considered were necessary to be assured the inmate could have his legal papers.

Later that day we received a call advising the inmate would receive his legal material that afternoon and all relevant staff would be told this had been approved. This case highlights the need for better communication between centres about managing high classification inmates when they are transferred for court or other reasons.

46. Receiving compensation for lost valuables

A former inmate wrote to us and complained about the way her complaint with CSNSW was being handled. Two months earlier her valuables property bag was mistakenly given to another inmate on the day they were both released from custody. The bag contained jewellery, bank cards and mobile phones – one of which she could track to a Sydney suburb using the location app. She had complained to CSNSW but felt that no action was being taken.

We contacted CSNSW and found they had accepted liability, but did not have the current contact information for the complainant. We made sure the parties were put in contact and were later advised that compensation had been paid. The Governor told

us the problem arose due to human error as the two women who left custody that day had similar names and similar items in their property.

47. Giving reassurance

A pregnant young woman called us very distressed after being arrested and placed in custody. She was upset because this meant she could not attend an appointment she had made for her pregnancy to be terminated. She also said she received injuries at the time of her arrest and she was not getting along with many of the other inmates. She contacted us because she felt she was not receiving support in relation to any of these issues.

We contacted the centre to establish if appropriate referrals had been made for her to see a psychologist and other supports. This had been done, but each of the areas she needed to see were in high demand and had waiting lists. Inmates are triaged according to need, but in such a full system it can be some time before people are seen. The officer we spoke with said she would talk to the inmate and give her an update and assurance she had not been forgotten. That discussion took place later that day, and the inmate also had a change of cell mate – which helped her adjust to her environment.

Juvenile Justice

There are six juvenile justice centres (JJs) in NSW currently accommodating around 275 children and young people, including about 20 young women and girls. Of enormous concern is that about 50% of these children and young people are Aboriginal/Torres Strait Islanders and more than half of them are on remand. There are now also several young people in custody who are charged with national security related matters, potentially presenting new challenges for management. We generally refer to detainees as 'young people' but the majority are under 18 and are children.

We encourage all young people in custody to talk to us about their complaints, and – recognising their increased vulnerability – we actively contact staff at their centre about the concerns they raise. We also visit each centre at least twice a year, more often if there is a perceived need. This gives us the opportunity to talk directly with the children and young people about their issues, speak with staff, and learn about centre management and routines. This helps us to deal more quickly with the many inquiries we receive back in the office.

Assessing notifications about segregation and separation

There are two ways in which young people in custody can be stopped from associating with other detainees. They can be either separated or segregated.

Separation may occur because:

- of their age, gender or medical reasons
- they are vulnerable if left in the main population
- their classification has changed and they need to move to a different centre.

Segregation is used when it is necessary to keep one young person away from others to protect their personal safety or the safety of another person.

The Children (Detention Centre) Regulation 2010 requires that the Ombudsman be notified when any detainee is segregated for more than 24 hours. Several years ago Juvenile Justice agreed to also notify us if a detainee is separated for more than 24 hours. These notifications are generated directly from the client information management system (CIMS). Each notification is interrogated by our staff and records are kept in our database. Any queries we have about the notified action is followed up with the centre directly. In reviewing the notifications we want to ensure the right approvals are in place and the conditions for the young person mean they are being appropriately managed.

As suggested in our 2015-16 report, there has been an overall increase in the notifications made to our office about segregation and separation following the cessation of the Chisholm Behaviour Program. In

2016-17, we received a total of 151 notifications of segregation (compared to 123 last year) and 156 notifications of separation (almost double the 87 notifications last year). Figure 36 shows the centres that made these notifications.

Figure 36: Segregation and separation notifications 2016-17

Centre	Segregation	Separation	Total
Acmena	19	45	64
Cobham	71	30	101
Frank Baxter	41	20	61
Orana	6	32	38
Reiby	6	5	11
Riverina	8	24	32
Total	151	156	307

Monitoring detainee risk management plans

When a young person in custody behaves in a way that presents a risk to either themselves or others, a multidisciplinary team of centre staff prepare a detainee risk management plan (DRMP) to provide steps and strategies for minimising or removing the risk. Most DRMPs involve either ongoing or intermittent segregation. When we review the notifications for segregations that last over 24 hours, the DRMP is one of our main areas of focus. Sometimes young people who are on DRMPs call us, especially if they feel the conditions are too restrictive or their return to normal management is not happening fast enough. When that happens, we talk with the centre manager about their concerns and find out what is happening.

Sometimes young people feel that DRMPs are put in place as a punishment, especially if the DRMP follows a security incident. It is easy to see why they might sometimes feel this way. If they call us, we make inquiries to ensure it is a risk that is being managed and not a punishment for bad behaviour.

A DRMP is the main tool available to Juvenile Justice to manage the more challenging behaviours presented by some of the young people. During the year, we became aware that Public Service Association (PSA) union delegates were participating in the regular DRMP review meetings being held at some centres. We wrote to the Executive Director about this because we were concerned that the union was actively involved in a forum making decisions about the appropriate management of young people. We were told that the delegates had been invited to ensure all staff views were represented at these meetings. We were also assured that only delegates from within the centre, who were also workers actively involved in the young person's day-to-day management, would participate in these meetings. Two of our staff attended a DRMP

meeting that was also attended by a PSA delegate, and were reassured to observe that their participation was clearly focused on plans for managing the young person's progress back to mainstream accommodation. We were satisfied that the delegates were not playing an inappropriate role in these meetings.

This year the media has reported concerns from staff in some centres about working with young people who present challenging, and sometimes violent,

behaviour. Unfortunately, much of that reporting has focused on suggesting interventions, such as staff making greater use of force, including munitions, and designating a 'supermax' style facility for some young people. In our view, properly trained staff – who are given a range of appropriate options and strategies for working with these young people – will be able to achieve best practice without adding further trauma to the young people or the staff.

Case studies

48. Getting the dishes properly washed

When the dishwasher in a unit at Frank Baxter JJC broke down, a young person complained the dishes, cups and cutlery had not been properly washed up since it happened. We made inquiries and the centre manager acknowledged the concerns and organised for the washing up to be done in another unit until their dishwasher could be fixed.

49. Attending prayers

Several detainees at Cobham JJC contacted us because they were not able to attend group prayers and pray in communal areas. We found that access to group prayers was problematic because some of the inmates who wanted to attend could not associate with each other, plus the centre did not have a full-time Muslim chaplain. We were also told, after a review of local practices, that a direction was given that praying in open areas would no longer be permitted. This brought Cobham into line with all the other JJCs. Muslim detainees are able to pray in their own rooms at any time and staff will make sure this is facilitated. We have also been advised that Juvenile Justice NSW is taking steps to recruit a full-time Muslim chaplain and/or a Muslim pastoral assistant.

50. Removing the handcuffs

A young man at Cobham JJC was subject to a DRMP after a serious incident. The plan meant he was handcuffed for all movements between different parts of the centre – the school, the clinic and the oval. The handcuffs were removed at the destination, but he felt he had made progress over the past couple of months and the handcuffs were now not necessary. The Official Visitor also contacted us to discuss his case. We made inquiries and were told the detainee had made good progress, but it was possible there was still a risk he could attempt to climb a fence or building. However, we were told the handcuffing was to be reviewed that week. The centre manager later told us that – after reviewing the DRMP – both the handcuffing and the plan would cease and the young man could resume his normal routines.

51. Inconsistent approach between centres

Because detainees transfer between centres, inconsistent practices can cause confusion and be a source of complaints. An example of an inconsistent approach that we observed this year related to gloves.

We spoke with a detainee at Cobham JJC who called to say it was getting colder and he had put in a request to be allowed to wear gloves, which was declined. After we contacted the centre, we were told the request had been reviewed by the client service manager and gloves would be available on the stage 1 incentive buy-up product list. A new incentive buy-up list was prepared and a copy given to us.

However, after our visit to Frank Baxter JJC, we were advised that 'gloves are not supplied due to safety and security issues in regards to the secreting of items inside gloves'.

We raised the issue of inconsistent approaches in managing young people with the Executive Director of Juvenile Justice, using these cases as an example.

Justice Health

Health services for most inmates and all young people in custody are provided by the Justice Health and Forensic Mental Health Network (still commonly called Justice Health). Inmates at Junee Correctional Centre have their health services provided by the centre's operator, GEO. Justice Health also provides non-custodial services, such as diversionary programs in the community and transition programs for offenders leaving custody.

With the large number of people in custody, there is also added pressure on Justice Health to meet demand. Many inmates experience significant poor health, often arising from their life circumstances before coming into custody. This is especially so for the large remand population who are often experiencing forced rapid detoxification from drugs, alcohol and tobacco and the associated health problems these bring.

We receive many contacts from inmates about health-related matters. Most of these we refer either to the nursing unit manager at the clinic in their centre, or direct the inmate to the Health Care Complaints Commission. We are not in a position to review the medical care being provided to an inmate – including what type or dose of medication they should have, or how regularly they should be seen by a clinician. However, if it appears to us that the inmate's own efforts to have these sorts of questions answered have not been successful, we may contact Justice Health and make sure they receive the information they need.

Waiting lists to see medical staff in some centres – or to have an appointment with a specialist medical service – can be very long. Despite what many inmates also think, calling us will not get them moved to the head of the waiting list. One regular area of concern to many inmates is the waiting time to see a dentist. While pain can be managed to some extent by Justice Health nurses, it can be a long time before the underlying cause – such as an abscess or a rotten tooth – can be addressed.

Working with the Inspector of Custodial Services

We have a collaborative working relationship with the Inspector of Custodial Services. We meet bi-monthly to discuss issues arising in both the adult and juvenile systems, and also meet regularly with inspecting staff as they prepare for and conduct their inspections. Our memorandum of understanding enables us to share all relevant information. The information in our complaints database – and our active involvement in the custodial environment for over 40 years – enables us to present information to the Inspector and her staff that can help them prepare for and report on their inspections on a range of related issues. This year we have provided information for the Inspector's work on managing radicalised inmates, use of force in the juvenile system, 24-hour court cells and women on remand.

Case studies

52. Accessing special medical items

Justice Health must advise and liaise with CSNSW when an inmate requires special medical items in their cell. We received a complaint from an inmate who needed to wear custom compression garments because of a medical condition. He was concerned the arrangement for washing these garments was not being followed by Justice Health staff and this could affect his hygiene and his medical condition. He was also meant to have splints to wear when he slept, but these were still in his stored property. We contacted Justice Health and, along with CSNSW, they put in place arrangements for the garments to be regularly washed and made sure the inmate received his splints.

53. Getting an allergy-free diet

Justice Health is required to give to CSNSW any information it has about an inmate's food allergy and CSNSW must ensure the inmate's diet is altered accordingly. An inmate at Cooma said he had a severe nut allergy but was given meals with peanuts in them, including peanut butter sandwiches. He told us the clinic was aware of his allergy but CSNSW did not seem to be doing anything to ensure he received the right diet. We contacted the clinic and they confirmed the allergy, but it seemed they had not notified the CSNSW kitchen. They agreed to do so immediately. We also contacted the manager in charge of the kitchen to make sure they were aware of the inmate's allergy.

Our role

At the heart of the design of the police complaints system in NSW, there is a managerial model of complaint handling. The NSW Police Force (NSWPF), like all other government agencies, is responsible for ensuring that its employees comply with appropriate standards of conduct. An integral part of this responsibility includes investigating and resolving complaints about employees, both sworn police officers and other employees.

In practice, local area commanders are responsible for receiving, assessing, investigating and managing complaints about officers within their command. Complaints are a useful source of information – they may reveal serious misconduct, but may also show that an officer is under stress, is poorly managed, needs more training or has made an error of judgement. Having this complaint handling responsibility enables commanders to better manage their officers and more closely understand the concerns of the community.

The Ombudsman has provided independent civilian scrutiny of the handling of police complaints for 39 years. Over 300 people worked in this area during that time. Over 30 of them were in the team for longer than 10 years. We are proud of our achievements, in holding police accountable for their decisions, and making the complaint system they administered more robust. We identified weaknesses in policing practices and operations, and contributed to improvements relating to a range of issues, including domestic violence, the use of tasers, the handling and investigation of 'critical incidents', managing police officers under stress, and the use of controversial 'stop and search' powers, sniffer dogs, DNA sampling, on-the-spot criminal infringement notices, and consorting laws.

Our day-to-day work involved scrutinising all the significant decisions – from the initial decision about whether or not the complaint is to be investigated, through to any management action taken if misconduct is found. This scrutiny improved the quality and transparency of individual decision-making, by holding complaint handlers accountable for their decisions.

From 1 July 2017, this role will be performed by the Law Enforcement Conduct Commission (LECC).

Transition to LECC

In our last annual report, we explained that the NSW Government had announced its intention that the LECC would come into operation on 1 January 2017. During the latter half of 2016, we made considerable efforts to help the government in meeting this goal – providing assistance and advice to ensure the transition and passing over of work was as smooth as possible. More than half of our permanent police branch staff left the office in anticipation of this start date.

However, subsequently, this date was moved to 1 July 2017. As a result, this annual report reflects the work we did during a full year – but with significantly reduced resources. For example, this year we were not able to do some of the work we had previously done to keep the police complaint system under scrutiny. This included our regular audits of different aspects of NSWPF's processes for handling complaints of a less serious nature. Despite these challenges, we continued to hold police to account for their decisions about individual complaints.

Handling complaints

This year we spoke to over 2,000 people who contacted us for advice, information or an explanation about how to complain about police. Sometimes, if the situation is reasonably straightforward, we can resolve the complainant's concerns after contacting the local area command (LAC) – without the need for them to make a formal complaint.

This year we received and assessed 2,992 formal or written complaints about police officers. These include complaints made directly to our office and those made to the NSW Police Force, which then notify us of the complaint. We finalised a total of 4,078 complaints. The numbers of complaints made or notified to our office about police have consistently trended over 3,000 each year for the past 10 years. As figure 37 shows, this year the number of complaints received dropped just below 3,000 for the first time. This was due to a slight drop in complaints from members of the public, but a 20% drop in complaints from police officers about their colleagues: see figure 38.

Figure 37: Formal complaints about police received and finalised in 2016-17

	12/13	13/14	14/15	15/16	16/17
Received	3,287	3,390	3,434	3,309	2,992
Finalised	3,178	3,249	3,635	3,240	4,078

Figure 38: Who complained about the police?

	12/13	13/14	14/15	15/16	16/17
Police	1,206	1,250	1,203	1,194	941
Public	2,081	2,140	2,231	2,115	2,051
Total	3,287	3,390	3,434	3,309	2,992

Figure 39: What people complained about

Subject matter of allegations	No. of allegations
Misconduct	2,232
Service delivery	1,525
Investigation	979
Other criminal conduct	922
Misuse of information	876
Excessive use of force	590
Corruption/misuse of office	343
Prosecution	298
Property/exhibits/theft	201
Search/entry	192
Public justice offences	190
Drugs	175
Complaint handling	161
Driving	121
Custody	119
Arrest	117
Total	9,041

Note: Many complaints will commonly include more than one allegation and be about more than one officer.

Figure 39 shows the issues that people complained about. As in previous years, the highest number of complaints related to the general categories of ‘misconduct’ and ‘service delivery’. After that, the most common things people complained about were investigations, other criminal conduct, misuse of information and excessive use of force.

Assessing decisions made

When an allegation is made, police decide whether to decline the complaint, investigate it or otherwise resolve it. Appendix B explains the actions that the NSWPF took in relation to each allegation recorded this year.

The decision about whether or not a complaint requires investigation is an important one. At the assessment stage, police also decide which allegations within a complaint should be investigated and what lines of inquiry should be followed. Our scrutiny improves the quality of those decisions. If we disagree with the NSWPF’s decision not to investigate a complaint, we can require an investigation to be conducted. We also regularly make suggestions about appropriate lines of inquiry for police to follow and advise them on allegations they have not included – but we consider should be investigated.

Figure 40: Action taken in response to formal complaints about police finalised in 2016-17

Action taken	12/13	13/14	14/15	15/16	16/17
Investigated by police and oversighted by us	706	579	702	650	836
Resolved by police through informal resolution and oversighted by us	1,168	1,163	1,213	1,017	765
Assessed by us as local management issues and referred to local commands for direct action	307	413	511	526	869
Assessed by us as requiring no action (eg alternate redress available or too remote in time)	990	1,093	1,207	1,046	1,021
Ombudsman report to Commissioner and Minister	2	0	0	0	0
Investigated by Ombudsman	5	1	2	1	1
Transferred to LECC	N/A	N/A	N/A	N/A	586
Total complaints finalised	3,178	3,249	3,635	3,240	4,078

Reviewing the quality of complaint investigations and actions taken

In 2016-17 we reviewed the handling of 1,600 complaints that were investigated by the NSWPF. About 830 involved allegations of a more serious nature, including criminal conduct and misconduct that would warrant significant management action.

Figure 41: NSWPF management outcomes in complaints about police

Type of management action taken against police officers as a result of investigation of notifiable complaints finalised in 2015-16	%
Coaching/mentoring/referral to specialist services	17.9
Management counselling	16.9
Official reprimand/warning notice	14.7
Increased or change in supervision	11.9
Performance agreement	9.3
Restricted duties	9.3
Additional training	8.5
Conduct management plan	6.5
Transfers	3.0
Change in policy/procedure	0.9
Removal under s 181D	0.6
Reduction in rank/seniority	0.4
Deferral of salary increment	0.1
Total	100

Another 765 were informally resolved. As figure 40 shows, this number has dropped by 25% (from 1,017 to 765) compared to last year.

We also assessed over 1,000 complaints as not requiring NSWPF to take any action, and another 869 involving allegations of a minor nature that did not require closer scrutiny. Figure 40 also shows that this number was 65% higher than the figure last year. A complaint investigation or resolution can reveal conduct that requires management action to be taken. Of the 1,601 more serious complaints investigated, some form of management action was taken in response to 972: see figure 42. The trend over the past 10 years has been that the percentage of matters in which management action has been taken has stayed consistently close to 60%.

As figure 41 shows, some of the most common management actions taken this year included official warning notices, increased supervision, coaching, counselling and restricted duties. Of the matters we oversighted, we considered 81% to have been satisfactorily handled by police: see figure 43. This includes matters where the allegations were found to be sustained and appropriate management action was taken. This rate has stayed relatively constant over the past decade.

As shown in figure 44, 114 complaints led to 267 criminal charges being laid against 107 officers in 2016-17. This figure is showing an increasing trend over the last 5 years. Most of these charges were for summary offences, but 45 were for indictable offences and 22 were for drink driving. Over half of the officers charged were senior constables.

Figure 42: Action taken by the NSW Police Force following complaint investigation/informal resolution

Action taken	12/13	13/14	14/15	15/16	16/17
No management action taken	844	765	824	678	629
Management action taken	1,034	977	1,091	989	972
Total investigations completed	1,878	1,742	1,915	1,667	1,601

Figure 43: Our view of complaint handling by the NSWPF: 10-year comparison

Our assessment of police complaint handling	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Satisfactory (%)	84	87	85	83	90	84	82	85	85	81
Deficient (%)	16	13	15	17	10	16	18	15	15	19

Figure 44: Police officers criminally charged in relation to notifiable complaints finalised: 5-year comparison

	11/12	12/13	13/14	14/15	15/16	16/17
Number of complaints leading to charges	67	62	56	63	74	114
Officers charged	66	61	59	63	70	107
Officers charged after complaints by other officers	52	43	54	49	47	93
Officers charged after complaints by other officers (%)	79%	70%	92%	78%	67%	87%
Total charges laid	149	150	123	139	216	267

Improving outcomes

Complaints can be about a range of things – from behaviour during police interactions with the public, to the judgement shown by officers in making decisions and dealing with integrity issues. Case studies 54 and 55 are examples of matters that

we handled during the year where we disagreed with the outcome of the complaint investigation and persuaded police to change their mind. Sometimes a complaint will reveal a broader systemic issue. Case study 56 is one example. We have referred this matter to the LECC to follow up.

Case studies

54. Overreacting during a traffic stop

A man complained to our office about the way he was treated during a traffic stop. He alleged that the police officer who stopped him to issue a speeding ticket behaved unprofessionally, used excessive force when arresting him, handcuffed him unnecessarily and applied the handcuffs too tightly – causing an injury to his wrist.

The NSWPF investigated this incident and found that the officer’s overall manner and his decision to handcuff the driver were appropriate in the circumstances. After viewing the in-car video of the incident, we considered this investigation to be unsatisfactory. We requested a further investigation into the lawfulness of the arrest, whether the officer’s decisions to handcuff the man and threaten to use oleoresin capsicum (OC) spray complied with policy, and whether the officer unnecessarily escalated the situation. We also identified inappropriate and baseless warnings about the driver that the officer had created on the COPS database and asked that they be removed.

The video footage showed that initially the officer calmly approached the driver and explained that he had been speeding and would be fined. The driver apparently swore at the officer, because the officer then told the driver not to swear at him and to give him the respect he deserved because it was not his fault the driver was driving like an idiot. The driver expressed his unhappiness again, and the officer threw the tickets through the window. As he walked back to the police car, the driver yelled ‘Right, f*%\$ off!’

The officer immediately wheeled around, returned to the vehicle and demanded that the driver ‘get out of the car!’ When the driver didn’t, the officer opened the car door, saying ‘Get out!’ and reached towards the driver – who then came out and sat on the kerbside as directed. The officer then said, ‘You want to give me s*%\$? You’re now under arrest for offensive language’. The officer gave the driver the standard caution and said ‘Do you understand that?’ Each time the officer asked this question, the driver protested saying, ‘Mate, seriously’ and ‘Please. We don’t have to do this’. After asking the question eight times, the officer said, ‘Ok, last chance or I’m gonna put you in handcuffs’. The driver continued to plead with the officer. The officer reached for handcuffs and moved closer to the driver. As the driver protested, the officer yelled at him to ‘Get on the ground!’ When the driver did not comply, the officer told him he would ‘spray’ him. The officer placed the driver in a wristlock and handcuffed him after a short struggle. The driver continued to protest, saying ‘This is bulls*%\$, mate!’, to which the officer responded ‘Calm it down’. Leaving the driver on the ground, the officer returned to the police vehicle for about five minutes and then took the handcuffs off – telling the driver he would receive a fine for offensive language.

In our view, the arrest may not have been lawful or necessary. As police guidance material clearly explains, insulting police is not in itself a crime – and police should be careful not to take action against someone for offensive language just because they have sworn at them. The purpose of the ‘offensive language’ offence is to protect members of the public (not police) from being assaulted by the sound of offensive language. Police also must have a lawful

reason to arrest someone. The police investigator thought the legal basis of the arrest was to stop the continuation of the offensive language offence. We did not agree. In our view, the driver yelled the expletive as a parting insult and the interaction was over. It seemed unlikely he was going to swear again in a public place.

We also thought the decisions to handcuff the driver and threaten to use OC spray were contrary to police policy. The video footage showed that the officer's warning that he would handcuff the driver was in frustration with the driver's failure to answer the question, 'Do you understand your rights?' The video does not show any violence, threat of violence or attempt at escape – which may justify handcuffing someone. Similarly, police policy restricts the use of OC spray to three purposes – to protect human life, to control people where there is violent resistance, and for protection against animals.

The NSWPF re-investigation of the complaint found that the arrest, handcuffing, threat to use OC spray and overall handling of the situation were all appropriate. One of the COPS warnings was considered inappropriate. The officer was counselled – and an undertaking made to remove that warning and amend the other warnings.

In our view, this was not the appropriate response to the complaint. We raised our concerns with the Assistant Commissioner in charge of the officer's command, seeking a further review.

Although the Assistant Commissioner did not agree with our concerns about the decision to handcuff or the threat to use OC spray, he did agree that the arrest was unnecessary in the circumstances – as the officer had other options available to deal with the offensive language, and arrest should be considered the last resort. He also did not agree that the officer unnecessarily escalated the situation, pointing out that the complainant was aggressive and belligerent. However, the review confirmed that two of the COPS warnings were inappropriate and would be removed. The officer was also given a Commander's warning notice, with guidance on best practice handling of similar situations in the future.

55. Disclosing confidential information

In the course of investigating an unrelated matter, a police investigator came across a NSWPF training video produced by a police manager that was displayed on a public internet site. After further inquiries, it was found that six policing-related videos had been published on this website. In the videos the officer identified himself by name, rank and position. The videos contained NSWPF insignia and information not publicly released – such as rostering practices,

crime statistics, case management information, and senior management team presentations. One of the videos showed another officer's driver licence details.

The officer concerned also had a Twitter account. His avatar was a photo of himself in police uniform. He had posted numerous photos, including police in training rooms and inside police buildings, and the scene of a motor vehicle accident. He had also posted comments expressing his personal opinions on some issues.

The Professional Standards Command (PSC) investigated the allegations and found that, in displaying these materials on a public internet site, the officer had improperly disclosed information and breached a number of internal NSWPF policies about the appropriate use of social media, including the code of conduct.

When interviewed, the officer stated that he was unaware that the website was public and he had not intentionally put those videos into the public domain. The LAC Commander took this into account in deciding not to accept two of the four PSC findings of the investigation. His view was that the officer had posted the videos as part of his duties as a senior manager to educate junior officers, and that there was therefore no cause to make those two sustained findings.

It was our view that the PSC investigation had been sound. An improper disclosure of confidential information does not require intention, and the information published on the website clearly disclosed confidential information. One of the breaches affected a fellow officer, who had not consented to having details of her driver licence published on the website. The lack of intention would only be relevant to the Commander's decision on what, if any, management action to take in response to the findings. Our research also showed that it was clear from the website itself that it was intended to be an 'open online learning community' and that the default settings were that information was public. This was also not the first time this particular officer had been the subject of allegations of breaching policies relating to the disclosure of information.

We raised our views with the Commander, but he would not agree to accept all of the PSC findings. He said that the videos had been taken down and he was satisfied with his decision. However, when we explained our concerns to the Regional Commander and he discussed the matter with the LAC Commander, the PSC findings were reinstated and appropriate management action was taken.

56. Driving for 25 years without a licence

During a random breath test stop, an off-duty police officer (Officer D) was detected driving with a blood alcohol reading three times the legal limit. The RBT officer checked Officer D's licence and found that it had expired 25 years ago. He was charged with a drink driving offence and for driving without a licence.

The PSC investigated and found the following allegations sustained:

- Since 1990, Officer D had been driving motor vehicles without a valid driver licence.
- By doing this, Officer D breached a condition of his employment.
- Officer D behaved dishonestly by purporting to have a valid licence during quarterly checks of each officer's appointments, thereby causing official records to be inaccurate.

During the time Officer D was unlicensed, he was involved in four separate crashes while driving a police car.

Police procedures require supervisors to check the arms and appointments of every officer – including their driver licence – every three months. We were concerned that there may be a serious failure with this system, if an officer was able to drive without a licence for 25 years without this being detected.

The police complaint investigator expressed his view that the systems issue had been addressed by the recent introduction of an electronic system for inspecting arms and appointments. In his report, he stated that – under the new system – there is a mandatory field for supervisor comments, and the supervisor must certify the fact that they have actually sighted the officer's driver licence. The supervisor must record the licence number and expiry date.

We were not satisfied that this was the case. Our closer inspection of the fields in the electronic system caused us concern that the new system did not, in fact, require a supervisor to personally sight the driver licence. It appeared to us that supervisors merely had to declare that the officer had verbally confirmed that their driver licence was current and valid. This is no different to the system that was in place before, except it is in electronic form.

We have written to the NSWPF expressing our concerns that the problem with the system remains unresolved. At the time of writing, we are still waiting for a response. We have passed this matter on to the LECC to follow up.

Reviewing legislation

Since 1997, the Ombudsman has been responsible for monitoring selected – and frequently controversial – new laws, and reporting the results of this monitoring directly to Parliament. Our goal is to inform the public about how police have implemented the new laws in practice, whether the laws are operating the way Parliament intended, whether there have been any operational difficulties, and whether any unintended inequity or injustices have resulted. Our scrutiny lasts between one to five years. Over the years, the Ombudsman has completed a total of 28 of these reports. We had one ongoing review function relating to police powers to control public disorder, which we discuss below.

During 2016-17, we provided the following reports to the Attorney General – who then tabled them in Parliament:

- *Review of police use of the firearms prohibition order search powers* – August 2016.
- *Restricted Premises Act: Review of police use of firearms search powers and new offence provisions* – November 2016.

- *Review of police use of powers under the Crimes (Criminal Organisations Control) Act 2012* – November 2016.
- *Did police provide their name and place of duty?* – June 2017.
- *Preventative detention and covert search warrants: Review of Parts 2A and 3 of the Terrorism (Police Powers) Act 2002, Review period 2014-16* – June 2017.

We make recommendations in all our reports. Many relate to practical implementation issues that our research uncovers. For example when reviewing the use of the firearms prohibition order search powers, we found that – in the two-year review period – police searched over 200 people as a result of an erroneous application of the powers, and therefore the searches may have been unlawful. We recommended police be given further education about the limits to their powers.

In one of our reports, we recommended that the powers under review be repealed. Our research found that, in practice, police were unable to use the new powers for dealing with organised criminal gangs by declaring them to be a 'criminal organisation' and placing control orders to restrict the activities of gang members.

Because police use alternative powers to disrupt the activities of such organisations to greater effect, we recommended that the unused powers be repealed.

Until 1 July 2017, we had ongoing responsibility for scrutinising the use of powers under the *Terrorism (Police Powers) Act 2002* every three years. In June 2017, the Attorney General tabled our fourth report. In that report, we observed that police faced a number of practical operational challenges in using preventative detention powers. The powers, which were introduced in 2005 to enable police to detain a person for the purposes of preventing a terrorist act or preserving evidence relating to a terrorist act, were used only once in 10 years – in September 2014. As they have now been effectively superseded by new pre-investigation detention powers that give police broader powers to detain people, we have recommended they be allowed to expire in accordance with their sunset clause.

We also observed that, in introducing the new pre-investigation detention powers, Parliament did not make any provision for those powers to be made subject to our oversight. In contrast, when the preventative detention and covert search warrant powers were given to police in 2005, Parliament recognised that these powers were extraordinary and explicitly provided for independent civilian oversight. This was a way of assuring the community that such powers would be used in a responsible and transparent way. We recommend that the government consider giving the LECC an ongoing review function to scrutinise the use of the new pre-investigation detention powers, and ensure that the LECC has the powers and resources it needs to perform this function effectively.

Part 6A of LEPR

This report is provided in accordance with s 87O(5) of the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPR). The Ombudsman is required to report each year on our work in keeping under scrutiny the exercise of powers conferred on police to prevent or control public disorder in Part 6A of that Act. These powers include measures such as establishing roadblocks around a target area, stopping and searching vehicles and pedestrians within that area, and imposing emergency alcohol-free zones.

From April 2016 to March 2017, the NSWPF did not use these powers.

This oversight function will be performed by the LECC from 1 July 2017.

Operation Prospect

Our report on Operation Prospect was tabled in Parliament in December 2016. This was an Ombudsman investigation into ‘Mascot’ – the police corruption investigations between 1999 and 2001.

Operation Prospect has been the largest single investigation undertaken by an Ombudsman in Australia. It involved the handling of more than 330 complaints, enquiries and public interest disclosures and the conduct of 107 hearings and 67 interviews with 131 witnesses. The 6 volume report totalled almost 1,000 pages.

The Mascot investigations were undertaken by the NSW Crime Commission (NSWCC), with the assistance of NSWPF officers sworn into the NSWCC for that purpose. They were covert investigations, involving the extensive use of listening devices, telephone interceptions and integrity tests.

Numerous complaints were made about various aspects of the Mascot investigations. In the years following, highly confidential documents relating to the investigations were disseminated without authorisation – resulting in additional complaints. Investigations and reviews by the NSWPF and the Inspector of the Police Integrity Commission failed to quell the controversy surrounding the Mascot investigations and the subsequent dissemination of material.

In 2012 – using the powers conferred by the *Ombudsman Act 1974* and the *Police Act 1990* – the Ombudsman began an investigation into complaints and allegations made about the Mascot investigations. This included the conduct of those investigations and the dealings with and disclosure of confidential information about those investigations. The Ombudsman also investigated matters relating to those events on an ‘own motion’ basis.

The Ombudsman’s report on Operation Prospect recorded 93 findings against the NSWPF, NSWCC and individual officers of both agencies, and made 38 recommendations. The recommendations included making apologies to certain individuals affected by the Mascot investigations and associated events.

In March 2017, we also tabled in Parliament a special report (*Operation Prospect – A report on developments*) under section 31 of the Ombudsman Act. This report outlined developments since the Operation Prospect report was tabled in December 2016.

In the weeks before the release of the Operation Prospect report, a person who was investigated in the course of Operation Prospect applied to the Supreme Court to restrain the Ombudsman from making public any findings against him. The court declined to grant the injunction: *Kaldas v Barbour* [2016] NSWSC 1880. The litigation continued in 2017, raising issues about the Ombudsman’s powers and the scope and conduct of the Operation Prospect investigation. This litigation, which was still ongoing at the time of writing, is being defended by the Ombudsman.

Inspecting records about use of covert law enforcement tools

This was the last financial year in which we inspected the records of state law enforcement agencies – the NSWPF, NSWCC, ICAC and PIC – relating to their use of covert tools to investigate crime and corruption.

The powers that these agencies can exercise are as follows:

- The *Law Enforcement (Controlled Operations) Act 1997* enables the agencies to conduct undercover operations with authorisation from a senior police officer rather than a judicial officer – permitting officers to engage in actions that would otherwise be unlawful, such as possessing illicit drugs.
- The *Surveillance Devices Act 2007* enables the agencies to apply for a warrant to use devices to listen to, photograph, video and track people, objects and information.
- The *Law Enforcement (Powers and Responsibilities) Act 2002* enables the agencies (except the ICAC) to execute covert search warrants. This means that a search can take place without the occupier's knowledge, and notification to the occupier that the search has taken place is delayed.
- The *Law Enforcement (Powers and Responsibilities) Act 2002* also empowers police to apply for a criminal organisation search warrant. These warrants allow police to search premises for things connected with an 'organised criminal offence'. The warrant also stays in force for 7 days, rather than the usual 72 hours.
- The *Telecommunications (Interception and Access) (New South Wales) Act 1987* enables the agencies to apply for warrants to intercept telephone conversations (commonly referred to as phone taps) and to access information about telecommunication activity.

To ensure the judicious and responsible use of these kinds of intrusive powers, each of the laws sets out a number of accountability measures that the agencies must follow. These include requirements about:

- only using powers if certain criteria are met
- obtaining approval to use any particular covert power
- discontinuing the use of a power
- storing and using data and information
- reporting certain information
- the timeframes for notifying an occupier of a covert search.

To provide the community with an assurance that these requirements are being met, the Ombudsman has been responsible for reviewing the agencies'

compliance with these requirements since each law was adopted. Our oversight of telecommunications intercepts started 28 years ago (1989), of controlled operations 19 years ago (1998), of surveillance devices 10 years ago (2007) and of covert and criminal organisation control search warrants 8 years ago (2009). After 1 July 2017, these functions will be performed by the Inspector of the LECC.

We report our performance of each of these functions in annual, bi-annual or biennial reports separate to this report. In 2016-17, we:

- tabled our report relating to the use of powers under the *Law Enforcement (Controlled Operations) Act* for the 2015-16 year
- gave the Attorney General 2 reports relating to the use of powers under the *Surveillance Devices Act* – for the 6 months ending 30 June 2016, and the 6 months ending 31 December 2016
- gave the Attorney General our report relating to the use of covert search powers under the *Law Enforcement (Powers and Responsibilities) Act* for the 12 months ending 28 May 2016
- gave the Attorney General our report relating to the use of powers under the *Telecommunications (Interception and Access) (New South Wales) Act* for the 2015-16 year. The Act specifies that these reports are not permitted to be tabled or published.

Witness protection

The NSWPF administers the witness protection program, established under the *Witness Protection Act 1995*. The aim of the program is to protect the safety and welfare of crown witnesses and others who give information to police about criminal activities.

This was the last financial year in which we heard appeals against decisions of the Commissioner of Police to refuse to admit someone to the program or to suspend or remove them. The Ombudsman's decision is final and must be acted on by the Commissioner.

We received no appeals in 2016-17.

People participating in the program also have a right to complain to our office about any matter covered in the memorandum of understanding that they sign with the Commissioner at the start of the program. This document sets out the basic obligations of all parties.

This year we received no formal complaints from participants, although we did answer inquiries from some participants.

From 1 July 2017, this function will be undertaken by the LECC.



Human Services

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Under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA), we are responsible for handling complaints about certain agencies that provide community services. These include:

- Community Services, which is part of the Department of Family and Community Services (FACS) – in relation to child protection, out-of-home care (OOHC), prevention and early intervention services
- Ageing, Disability and Home Care (ADHC), also part of FACS – in relation to disability accommodation and support services and home care services
- Other organisations that are licensed or funded by the Minister for Family and Community Services or the Minister for Ageing and Disability Services.

Our main focus when resolving complaints is to reach a satisfactory outcome. We do this in a range of ways, including:

- making inquiries to obtain more information about the complaint and the conduct of the agency
- meeting with agencies to collect relevant information and negotiate outcomes
- formally referring complaints to agencies to either resolve or investigate
- providing information and advice to help complainants deal with their own complaint.

While the majority of our complaints are about children and families, and people with disability, we also receive complaints about other categories of community services, including aged services and services for homeless people. In Appendix C, figure 71 shows which categories of agency and services these complaints were about, and figure 70 shows the issues that these complaints were about.

In this chapter, we discuss in greater detail the work we do in relation to the human services sector, including our work:

- handling complaints made under CS-CRAMA
- monitoring the child protection system
- handling notifications of disability reportable incidents involving people with disability living in supported group accommodation
- handling notifications of allegations of reportable conduct made against people working in agencies providing services to children
- responding to alleged abuse and neglect of adults with disability in community settings
- reviewing the circumstances in which certain people with disability, and children, have died
- on projects to promote the rights of people with disability to complain about the services they are provided, to strengthen systems for handling complaints, and to improve agency systems for preventing and responding to abuse and neglect of people with disability.

The chapter is divided into the work we do for children and young people, and for people with disability.

Children and young people

Handling complaints about child and family services

This year we received 1,461 complaints about child and family services – more than a 20% increase from the 1,169 complaints received in 2015-16. The largest increase was for informal complaints, which increased by 32% from 748 in 2015-16 to 985 in 2016-17. Formal complaints increased by 13% from 421 in 2015-16 to 476 in 2016-17. See figure 45.

Complaints about OOHC made up over half of all complaints received (51%); 18% of these were about non-government providers and 29% were about FACS. Complaints relating to FACS child protection services made up a third (33%) of the total complaints received. See figure 46.

The issues we received most complaints about were as follows:

- Case management and casework (372 complaints and enquiries) – these included issues about leaving care planning, restoration planning, and access to specialist staff or programs.
- Customer service/complaint handling (299 complaints and enquiries) – these included issues such as delay or inaction in response to complaints and poor and/or inadequate customer service.
- Not meeting individual needs (200 complaints and enquiries) – these included issues relating to access to education and health care, inadequate accommodation or care placement and contact with family and friends.

See figure 72 in Appendix C, which provides a breakdown of the program areas about which people complained.

This year we finalised 463 formal complaints about child and family services, which was an increase of 9% from the 424 complaints finalised in 2015-16. See figure 73 in Appendix C.

Figure 45: Complaints received about child and family services: 5-year comparison

Year	12/13	13/14	14/15	15/16	16/17
Formal complaints	362	385	458	421	476
Informal complaints	781	658	689	748	985
Total	1,143	1,043	1,147	1,169	1,461

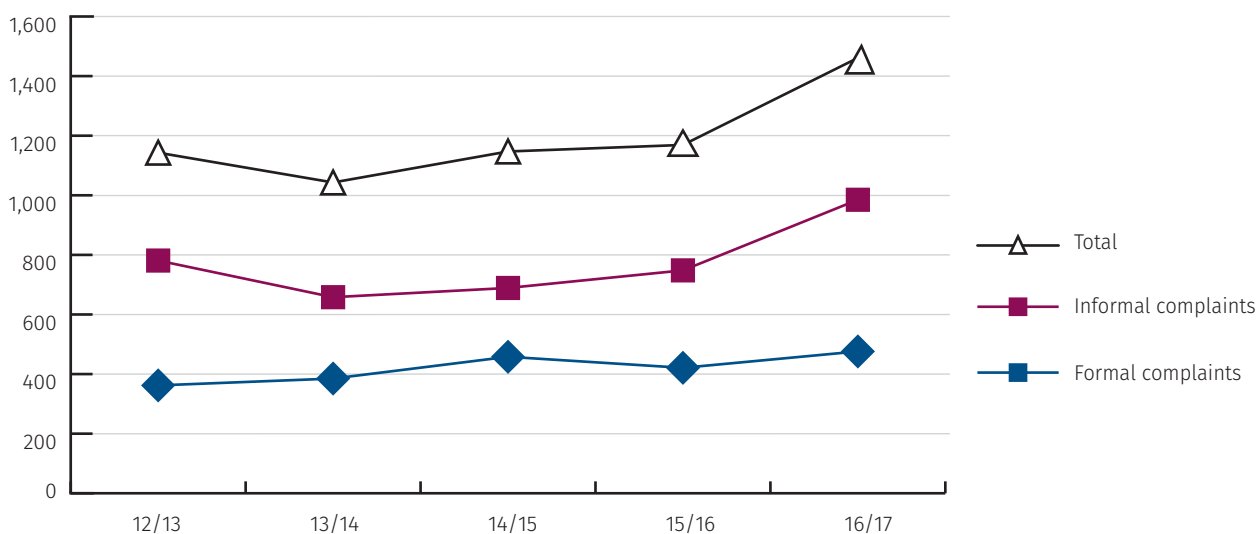


Figure 46: Formal and informal matters received in 2016-17 about agencies providing child and family services

Agency category	Formal	Informal	Total
Community services			
Child protection	131	357	488
Family support	3	12	15
Out-of-home care	141	288	429
Subtotal	275	657	932
ADHC			
Family support	2	1	3
Out-of-home care	0	2	2
Subtotal	2	3	5
Other government agencies			
Child protection	28	73	101
Family support	1	3	4
Out-of-home care	33	19	52
Subtotal	62	95	157
Non-government funded or licensed services			
Adoption	1	3	4
Child protection	13	50	63
Family support	4	8	12
Out-of-home care	114	150	264
Subtotal	132	211	343
General Enquiries			
Child protection	1	0	1
Out-of-home care	0	1	1
Subtotal	1	1	2
Other (general inquiries)	0	3	3
Agency unknown	1	13	14
Outside our jurisdiction	3	2	5
Subtotal	4	18	22
Total	476	985	1,461

Monitoring the child protection system

We monitor the child protection system by exercising a range of functions. These include reviewing the delivery of community services, conducting inquiries, and reviewing the circumstances of children in OOHC. We also identify concerns and systemic issues through our reportable conduct scheme, complaints and reviewable child deaths functions.

Engaging with stakeholders

As part of monitoring the child protection system, we liaise regularly with a broad range of stakeholders. Our engagement with government and non-government agencies and peak bodies helps us to identify and respond to emerging issues.

During the year, we met regularly with the Secretary of FACS to exchange relevant information and monitor the integrated governance framework (IGF). We also played an observer role on the safety and permanency advisory group – this group sets the strategic directions for FACS and its funded services to improve outcomes for vulnerable children, young people and families. It meets quarterly and includes

senior representatives from FACS, Department of Education (including Aboriginal Affairs), Justice, Health, NSWPF, the Office of the Children's Guardian (OCG), the Association of Children's Welfare Agencies (ACWA), the Aboriginal Child, Family and Community Care State Secretariat (AbSec), NSW Family Services, and CREATE.

We also work collaboratively with peak bodies in the sector. This year we liaised with ACWA about issues affecting the non-government sector – particularly reforms to the OOHC system – and participated in and contributed to sector training and conferences. In August 2016, the Assistant Ombudsman (Strategic Projects) gave a presentation to the ACWA conference about the *Joint protocol to reduce the contact of young people in residential OOHC with the criminal justice system*. We also met with Homelessness NSW, Domestic Violence NSW and YFoundations to hear from them about relevant issues and obtain feedback to inform our work. A topic of particular interest was how agencies respond to unaccompanied children aged 12 to 15 accessing specialist homelessness services.

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57. Supporting a family after allegations of sexual abuse

The parents of a young person complained to us about the actions of FACS and a number of other agencies after their daughter's disclosures that she had been sexually abused. At the time of her disclosures, the girl had serious mental health issues and her family were working hard to obtain appropriate support for her.

FACS's involvement with the family culminated in a decision to remove the girl and place her in residential care. However, some months later, FACS withdrew the proceedings and the girl returned to the care of her parents. Our initial inquiries identified a range of concerns about the way in which FACS engaged with the family prior to commencing care proceedings.

After reviewing a significant amount of documentation, we initiated an inquiry into FACS's handling of the matter. We outlined our assessment of the evidence and suggested that the most appropriate way to resolve the complainants' concerns (and other issues we identified) was via a conciliation facilitated by our office.

We arranged a meeting with senior FACS representatives to provide the girl's parents with an opportunity to discuss their concerns. During the meeting, FACS acknowledged that there was a lack of casework with the family and that FACS had not

exercised due diligence in the lead up to their decision to remove the girl from her parents' care. FACS provided the parents with advice about a range of practice changes which, if they had been in place at the time of the family's involvement with FACS, would have been likely to have made a difference to the quality of FACS's response.

As a result of our intervention, FACS has taken a number of positive steps to work constructively with the family. This has included helping the girl's parents to identify additional supports for their daughter (including a significant disability support package), and given the exceptional circumstances, providing an ex-gratia payment in recognition of the parents' significant legal expenses related to the care proceedings.

58. Screening young people at risk of significant harm

Since early 2015, a young person who was living with her parents had been engaging in risk-taking behaviour. This included using marijuana, ice and alcohol, frequently running away from home, and having relationships with older boys and men. She had made previous disclosures of sexual abuse, including alleged historical sexual abuse.

The young woman was in a relationship with another young person who was formerly in the long-term care of the Minister for Community Services. He had

During the year, we focused on strengthening our engagement with OOHC providers to better understand the implications of *Their Futures Matter reforms* – the Government’s response to the Tune review of the OOHC system.

We also convened our own roundtable in March to obtain feedback from residential OOHC service providers to inform our inquiry into behaviour support in schools (see People with Disability chapter). This included a focus on the educational circumstances of children and young people living in residential care.

Making submissions

In August 2016, we prepared a detailed submission to the inquiry into child protection established by the Legislative Council General Purpose Standing Committee No 2.

Our submission, which is available on our website, provided a comprehensive summary of our extensive work over the last decade in reviewing the capacity of the child protection system – including the adequacy of the system’s response to particular groups of vulnerable children and young people.

These groups included:

- children in OOHC
- Aboriginal children and families
- children experiencing domestic and family violence
- children and young people at risk of educational neglect
- older children and adolescents ‘at risk’, including children who are homeless
- children and young people with disability.

In September 2016, the Deputy Ombudsman & Community and Disability Services Commissioner appeared at a public hearing of the inquiry to provide further information about our work. We subsequently responded to a number of detailed supplementary questions from the committee, providing additional observations and data about OOHC and Aboriginal children in care.

The committee released its inquiry report in March 2017. Five of the committee’s 28 recommendations relate directly to our office. In particular, the inquiry recommended that FACS should consult with the

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an intellectual disability, was sexually abused as a child, and had a history of violent assaults and break and enter for which he had been incarcerated. The leaving care plan for this young man noted that he used drugs and alcohol and was known to engage in high-risk behaviours, including concerning sexualised behaviour. He was under a supervision order with Corrections NSW.

We made verbal inquiries with the Joint Investigation Response Team (JIRT), Corrections NSW and ADHC in relation to both young people. We also wrote to FACS about their screening of reports about the young people and whether the information in these reports had been referred to the NSW Police Force (NSWPF).

FACS told us that reports to the Helpline about this matter had been incorrectly screened as ‘non-ROSH’ (not at risk of significant harm). The screening of the reports had been reviewed and each report had been re-screened as ROSH, with a response priority of less than 24 hours. These reports were sent to the Community Services Centre (CSC) for further assessment. FACS also identified that the reports had not been referred to the NSWPF at the time they were made, so a FACS crime report was made.

In their review of the reports to the Helpline, FACS also noted that the structured decision-making tool did not have an option for assessing risk in relation

to children and young people who were victims of domestic violence. FACS told us that there was a current review underway of screening practices at the Helpline and that consideration would be given to how reports about children who experience domestic violence as victims are screened. It also told us that the staff involved in the original incorrect screening of the ROSH reports would be given feedback and advice.

59. Watching out for young people at risk

A child was removed from her parents’ care due to concerns about physical abuse, psychological abuse and neglect. The child was initially placed on a short-term basis with foster carers. She then experienced three further short-term placements until she was placed with another carer. The child disclosed to this foster carer that she had been sexually abused by another child at her initial placement.

The child’s foster carer contacted our office to express concerns about the child and other young people in OOHC placements frequenting an abandoned house, taking drugs and associating with older men.

In response to our inquiries, FACS arranged for a formal psychological and mental health assessment. The child moved into a residential placement and

Ombudsman and other stakeholders about 'developing a framework that focuses on the needs of vulnerable young people to ensure they are not overlooked within the child protection system'.

The committee also recommended that:

- the *Ombudsman Act 1974* be amended to provide our office with the power to investigate complaints relating to child protection matters, where appropriate, even if a matter is before the courts
- the government establish a cross-sector body, including the Ombudsman and other key stakeholders, to direct the injection of additional funding for evidence-based prevention and early intervention services
- the Ombudsman undertake an annual audit of FACS's compliance with its obligations to provide strength-based evidence to the court
- the Ombudsman undertake regular audits of FACS's compliance with its legal obligations to provide leaving care plans and supports to young people transitioning out of care.

We are consulting with FACS and other relevant stakeholders about the relevant recommendations.

Reviewing the JIRT program

This year we conducted a comprehensive review of the JIRT program delivered by FACS, the NSWPF and NSW Health. This tri-agency arrangement provides a comprehensive and coordinated safety, criminal justice and health response to children and young people alleged to have suffered sexual abuse, serious physical abuse or extreme neglect.

Our December 2012 report – *Responding to child sexual abuse in Aboriginal communities* – highlighted the fundamental challenges facing the JIRT program at that time. Our recommendations included strengthening accountability, data collection and case management systems to better monitor and report on JIRT outcomes. We also recommended enhanced resourcing and conducting a comprehensive review of the JIRT program. The need for an independent review has been strengthened by the ongoing consideration of the JIRT program and similar Australian models by the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission).

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FACS implemented a therapeutic plan aimed at helping her to feel safe enough to work through her trauma and care experiences.

In response to our specific inquiries about young people frequenting the abandoned house, FACS set up a meeting with representatives from a number of OOHC agencies, the Children's Court, Juvenile Justice, and the NSWPF. The agencies agreed on the following intervention strategy:

- OOHC providers would send FACS a profile of the children they believed were engaging in high-risk behaviours.
- FACS would collate this information and distribute it to the relevant NSWPF Local Area Commands (LAC) and other relevant care providers.
- The NSWPF would perform regular patrols around the abandoned houses that young people had been frequenting.
- This information would also be made available to the Child Protection Watch Team.

The 'Watch Team' – who are responsible for monitoring people on the child protection register – said they would take action against any adults on the register found to be in contact with the young people involved.

60. Providing better support

An NGO OOHC caseworker raised concerns that FACS had not supported a young person who was about to leave care, in order to formalise her citizenship before turning 18. Her citizenship would affect her access to supports after leaving care.

We made inquiries with FACS about the young person's lack of leaving care planning, immigration issues and after-care support. FACS agreed to amend the young person's financial plan to include psychologist fees, education, pharmaceutical costs, an application for a New Zealand birth certificate, driving lessons and a driver licence.

FACS also agreed to:

- reallocate the young person to a caseworker with a lower caseload
- continue to pay a \$220 fortnightly allowance with 12 weekly reviews
- fund the cost of an independent immigration law specialist
- fund the cost of referral to legal representation for victim's compensation
- cover the cost of any debt the young person had incurred with Centrelink.

Against this background, the JIRT agencies requested that we conduct an independent review of the operation of the JIRT program. We used our inquiry powers under CS-CRAMA to examine:

- key areas of interagency success and challenges for the JIRT partnership
- the performance of each partner agency in executing its role and responsibilities in the JIRT program
- whether the JIRT program is optimal or alternative arrangements would be more effective.

At the time we started our inquiry, the JIRT program was undergoing significant change and the future direction of several components was the subject of ongoing negotiation. The agencies recognised the value of having an independent agency – with knowledge of the JIRT model and the systems underpinning it – to conciliate a range of issues which had become contentious for the partnership. These discussions primarily focused on the degree of compliance with the local planning and response (LPR) process, the conduct of recorded criminal interviews of children, arrangements for co-location, and the delivery of

joint training. We were able to work with the partner agencies to develop agreed positions that were ultimately reflected in a joint communication by the JIRT Senior Management Group (SMG) in December 2016. A focus of our inquiry was therefore on ensuring future compliance with the important commitments in the SMG communication and strengthening the overall governance of the program.

As part of this work, we commissioned the Australian Centre for Child Protection (ACCP) to do a comprehensive and up-to-date review of similar specialist and multidisciplinary models for investigating and responding to child abuse in Australia and overseas. We also consulted with a wide range of external stakeholders and experts in the field.

In addition to targeted recommendations aimed at consolidating and enhancing each agency's performance, we have recommended that the JIRT partner agencies:

- enhance funding for the JIRT referral unit to establish a second interagency decision-making team and extend its operating hours to better meet current demand

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61. Receiving a back payment

A foster carer complained that she had been left financially out-of-pocket when children in her care were restored to their family earlier than planned.

We made inquiries with the OOHC agency and it agreed to make a back payment of the carer's allowance to the foster carer. The agency also agreed to improve communication with other foster carers in relation to case plans.

62. Getting a passport in time

A foster carer asked for permission to take their foster child on an overseas holiday. FACS granted permission, but there was a delay by the OOHC agency in arranging for the child to obtain a passport.

We made inquiries about the delay. In response, the agency completed the passport application – and the passport for the child was issued in time for her to join her foster carer on the overseas holiday. The agency apologised to the foster carer.

63. Explaining the importance of privacy

A woman contacted our office to advise that – as part of care proceedings in connection with her brother's children – she had given information to FACS about the children's circumstances and was subsequently named in Children's Court proceedings. When her brother discovered this, he had made threats to her life.

As a result of an unintentional oversight, which has been acknowledged by FACS, the complainant's identity was disclosed. We were concerned that her situation had implications for the safety and privacy of people who provide child protection information as third parties and we suggested to FACS that it review the adequacy of its guidance to staff on issues relating to collecting and disclosing information from third parties.

In response, FACS agreed to:

- review, endorse and publish a privacy management plan
- develop an implementation and communication strategy to provide comprehensive statewide training and guidance on this privacy management plan
- review the existing learning and development packages available for caseworkers
- prepare short presentations on privacy management to be made available on the FACS website.

64. Communicating better about restorations

A case manager employed by an OOHC agency raised concerns with us about the agency's delay in restoring two children to the care of their parents.

We made inquiries with both the OOHC agency and FACS and they agreed that there was miscommunication and misunderstanding about approving the restoration plan for the two children.

- amend the JIRT physical abuse criteria to allow all reports to the Helpline involving the alleged strangulation of a child or young person to be automatically referred to the JIRT referral unit – until the results of a skilled forensically-oriented medical evaluation are known
- expand the JIRT referral criteria to require children and young people with cognitive impairment and/or other communication support needs and those placed in residential OOHC to be referred if there is no clear disclosure of sexual abuse – but reason to believe that there may be barriers to the child or young person making a disclosure – or if there is information that suggests behavioural changes or other indicators of abuse
- trial the establishment of a Child and Family Advocate role within the JIRT program to provide immediate support to children and their families during the criminal interview and criminal justice processes, act as a contact point for the child and their family to receive information about the JIRT process and the status of their case, and enable stronger follow up and coordination of services
- work with key stakeholders to develop an integrated therapeutic service response framework for children and young people with harmful sexual behaviours
- update the LPR procedures to provide greater clarity and accountability – including by improving practical guidance to frontline JIRT staff in areas such as the role of each agency in interview planning, mobilising tri-agency responses or urgent and/or after-hours responses, and to take account of the circumstances where a more flexible approach to implementing the LPR will be required
- improve data capture to record key outcomes of the JIRT program – in a way that allows the relationship between the outcomes achieved for children and young people and the responses they received from one or more of the components of the JIRT program to be measured
- strengthen leadership and accountability for the overall JIRT program, including by reinstating a JIRT tri-agency executive leadership group at Deputy Secretary/Commissioner level and regularly analysing key performance data.

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FACS clarified with representatives of the agency that the plan had been approved for restoration to start. FACS undertook to ensure clear communication with the agency about future restoration approvals – as the agency maintained that they had not received FACS's request to complete a comprehensive assessment in relation to the children's restoration.

65. Understanding children's sexual behaviours

We received information from a former employee of an OOHC residential service about sexual abuse occurring between young people at the service. We were concerned that the young people were not receiving adequate therapeutic support to address their behaviours. We met with the agency and found that – although staff discussed placements and the compatibility of residents – there were no records made of these discussions, and the agency had no other placement matching documentation or policies.

We wrote to the agency and suggested that the young people be referred for specialist assessment. The agency also reviewed a number of its relevant policies and practice requirements. These included practice requirements for investigations and complaints, clinical tools and reporting systems, positive behavioural support plans and processes, and critical incident reporting systems. Staff at the agency were also given training about harmful and problematic sexual behaviours of children.

66. Making guardianship applications

Two young people with intellectual disability had been removed from the care of their parents when they were children due to abuse and neglect. As the result of a complaint to us about the adequacy of leaving care planning, we identified that the OOHC agency responsible for case managing the young people intended to support them to again live with their parents.

In response, we held an interagency meeting with the disability accommodation provider, FACS/ADHC, the NSWPF and the Public Guardian. Applications were made to the Guardianship Division of the NSW Civil and Administrative Tribunal (NCAT) for both young people. One young person was transitioned into disability accommodation and a Public Guardian was appointed with an 'access function' – to monitor the young person's contact with her parents. For the other young person, a Public Guardian was appointed for 'health care, accommodation and access' and arrangements were made to transition him into a supported accommodation placement.

We also suggested to the OOHC agency that they update their leaving care procedure to guide staff about whether they need to consider making a guardianship application for young people with disabilities leaving care.

Our report also includes a range of observations about the scope and operation of the Child Sexual Offence Evidence Pilot, which includes the use of witness intermediaries to help police and the courts to communicate effectively with child victims. As an independent evaluation of the pilot is currently underway, we recommended that the JIRT partner agencies provide a copy of our report to the Department of Justice so that it can consider our observations alongside the evaluation. We also gave the Royal Commission a draft copy of our report and the review we commissioned from the ACCP to inform the Commission's final Criminal Justice Report.

Our final report to the JIRT partner agencies contains a total of 67 recommendations and a number of related practice suggestions, and outlines what we believe is needed to equip the JIRT program to function effectively into the future. The agencies have committed to release our report publicly after the release of the Royal Commission's final Criminal Justice Report in August 2017. We have recommended that the JIRT agencies publish their response to the recommendations in our report within 12 months of its release.

Providing educational support for children in residential care

As part of our inquiry into behaviour support for students in schools (see People with Disability chapter), we examined the educational circumstances of children and young people living in residential care. This part of the statutory OOHC system is made up of a relatively small number of children and young people, but they often have very high and complex needs arising from abuse and trauma that cannot be accommodated in other care environments.

We asked a number of non-government residential care providers to give us information about the school attendance and support needs of children and young people who had been in their care for at least three months during 2016. Data was provided for a total of 295 children and young people.

Of this group, we selected 128 children – all of whom had missed 20 or more school days during the year for reasons other than illness. Our analysis of the circumstances of this group of children showed that:

- 42 (33%) were Aboriginal
- 91 (71%) had identified additional support needs
- 70 (55%) had one or more disabilities
- 114 (89%) were enrolled in the public education sector
- 67 (52%) attended a public sector special school or mainstream support class
- 76 (59%) had been suspended one or more times in 2016

- suspended students lost an average 29 school days to suspensions
- 16 (13%) were expelled, losing an average of 44 school days to expulsion.

These children's very high level of disengagement with school was concerning. On average, they missed 88 school days (about 45% of the school year) due to factors including suspension, expulsion and delayed enrolments. As part of our inquiry, we held a roundtable discussion with the residential care providers to discuss our findings, as well as their efforts to engage with schools on behalf of the children in their care.

We also provided the Department of Education with the names of 229 children in OOHC who were enrolled in public schools in 2016, and asked them to confirm that their own information holdings identified these children's care status. The department's response indicated that their records correctly identified only 26 of these children as being in OOHC.

Since 2011, the department has had a specific policy to help children in OOHC – including requiring the development and use of individual education plans. Accurate identification of a student's OOHC status is clearly essential to implementing this policy effectively.

Recording an individual as a 'person of interest' or a 'person causing harm'

As part of its responsibilities to receive, assess and respond to reports that children are at risk of significant harm, FACS keeps a record of individuals who are alleged to have caused significant harm to a child (person of interest or 'POI' records) or who have been substantiated by FACS as having caused actual harm (person causing harm or 'PCH' records). This information is critical for assessing risk in a range of circumstances, including:

- assessing possible risk to other children who may be associated with a POI or PCH in the future
- assessing authorised carer applications
- informing assessments done by the OCG in relation to working with children check (WWCC) applications.

We have been liaising with FACS for a number of years about various issues – including ensuring that clear and appropriate records of decisions are kept to inform future assessments of risk, ensuring that relevant procedures are applied consistently, and affording procedural fairness to individuals who may be adversely affected by a PCH record.

As a result, between 2013 and 2016, FACS made a range of improvements to its practice and procedures. This included enhancing its database to be able to identify POI and PCH records more quickly and accurately, and to improve the guidance for staff on the standard of proof required to decide that an individual is a PCH and the importance of procedural fairness.

This year we continued to monitor FACS's practice in this important area. During our inquiry into the operation of the JIRT program, the NSWPF identified the need for FACS's current processes for determining PCH to be reviewed – given the extent to which they intersect with and have an impact on concurrent criminal investigations. We therefore reviewed FACS's current procedures and provided feedback about how they could be strengthened.

As a result of our feedback, FACS has acknowledged the need to establish better processes for liaising with police when its role in determining whether an individual has caused harm to a child intersects with a current police investigation – particularly if the individual has been charged with a relevant criminal offence. FACS also indicated that it will now rely on the police decision to charge an individual with a child abuse offence as a sufficient basis for a PCH determination. In the majority of circumstances, FACS will no longer conduct detailed interviews with individuals when there is a current police investigation or a pending trial. If FACS does need to interview a person who is the subject of a police investigation for a specific child protection purpose, they will consult with police to see if police have any objections to this – for example, if the interview by FACS could jeopardise the police investigation.

We also provided FACS with some additional feedback about the benefits of:

- implementing the proposed changes in a way that ensures, where relevant, that individuals are afforded procedural fairness for a PCH determination once criminal proceedings are finalised
- providing an escalation mechanism to the FACS legal unit if FACS and the police cannot reach agreement about a FACS decision to interview a person of interest
- updating the guidance provided to staff around the standard of proof required to determine that an individual is a PCH so that a determination reflects current case law
- considering additional safeguards in relation to naming children as PCH – including requiring a higher level of approval, and requiring that PCH records that relate to young people or children be reviewed after a period of time.

We have recommended that FACS further review its current procedures taking our feedback into account, and that it consults with our office and the NSWPF in doing so.

Keeping young people out of the criminal justice system

Last year, we reported on our work to help reduce the contact of young people in residential OOHC with the criminal justice system by brokering a 'joint protocol' between the NSWPF, FACS, ACWA and AbSec.

Over the last 12 months, implementation of the protocol has significantly progressed – due largely to the commitment and effort of the protocol's multi-agency steering committee led by FACS. Agencies have collaborated to develop and present training to staff responsible for implementing the protocol. Certified online training for all staff working with young people in residential homes is planned for release in 2017. This mandatory training was co-developed by ACWA's training arm, the Lighthouse Foundation, Legal Aid and FACS and consists of eight 90-minute modules.

Additional training and information provided about the joint protocol includes:

- face-to-face training sessions in Sydney, Newcastle and Dubbo – attended by senior staff from all 27 residential service providers and local police
- 'Six minute intensive training' sessions – developed by the NSWPF and presented to police officers at musters
- joint training provided by FACS and Legal Aid – to FACS's Intensive Support Service and Child and Family District Unit staff, as well as the Law Society Regional Presidents Conference
- training provided by Legal Aid for Children's Court Assistance Scheme staff
- training provided by FACS and Ombudsman staff to Official Community Visitors (OCVs).

The OCG is providing information about the protocol to new OOHC service providers seeking accreditation, and continues to question services about adherence to the protocol during service audits. The Children's Advocate is also leading work to ensure children and young people in residential care are consulted as part of the protocol's implementation and its evaluation.

The protocol's steering committee has now settled an evaluation strategy and engaged (using funding provided by our office) an independent consultant to review the implementation of the protocol and establish baseline data. This is expected to provide a strong platform for a later audit of the outcomes of the protocol. FACS and the NSWPF will provide data for the review and OCV scheme data systems have also been enhanced to facilitate the contribution of OCV scheme data and insights to the evaluation.

Reporting on systemic reforms

Over the past two years we have been working with FACS to develop and refine an effective IGF to track FACS's progress towards implementing systemic reforms we have identified through our oversight work. This framework informs quarterly meetings between the FACS Secretary, the Deputy Ombudsman & Community and Disability Services Commissioner, and the Assistant Ombudsman (Strategic Projects).

FACS recently confirmed that it will report publicly on its progress in addressing the issues that are being monitored via the IGF, and is in the process of preparing a document for this purpose.

Planning for leaving care

Many young people leaving OOHC lack the social, emotional and financial supports that are usually available to young people who have grown up with their families. Also, the majority of young people nowadays continue living at home past the age of 18. Recognising the particular vulnerability of this group and the state's duty of care, all young people in OOHC have a statutory right to receive assistance when they leave care.

OOHC agencies are required to develop and implement plans to help young people who are leaving care to transition to independent living. The extent of this assistance will vary according to the young person's needs. For example, a young person with disability may need more extensive supports when leaving care.

To ensure their transition to independence is as smooth and well supported as possible, FACS's policy is that leaving care planning should start once a young person turns 15. Case study 67 illustrates the problems that can arise in implementing this process.

Improving child protection practices in the transport area

Last year we reported on the work done by Transport for NSW (TfNSW) and Roads and Maritime Services (RMS) in response to the commencement of our investigation into its responses to child protection issues on passenger transport services.

In June 2017, TfNSW accepted our preliminary recommendations, aimed at improving the transport cluster's policies and procedures, and has made substantial progress towards implementing them. This includes:

- requiring people applying for new driving instructor licences and renewing existing licences to provide confirmation to the RMS that they hold a valid WWCC

- establishing a formal process for the RMS to report to the OCG any relevant misconduct findings that arise in the context of its role as a licensing authority
- identifying potential amendments to the *Driving Instructors Act 1992* to improve risk management options for licensed driving instructors
- progressively amending its standard bus contracts to require bus operators to provide annual confirmation to TfNSW of compliance with the requirements of the *Child Protection (Working with Children) Act 2012*
- developing a central child protection policy for all agencies in the transport cluster.

The steps taken are very positive. We expect to finalise our investigation soon.

Employment-related child protection

The Ombudsman has a role under Part 3A of the Ombudsman Act to monitor and oversee the way agencies that provide services to children handle allegations of reportable conduct against their staff. Reportable conduct includes any sexual offence or sexual misconduct committed against a child, any assault, ill-treatment or neglect of a child, or any behaviour that causes a child psychological harm.

Agencies from both the government and non-government sectors are required to notify us of any allegations of reportable conduct, and of instances where their staff have been convicted of an offence that comprises reportable conduct. The agencies this covers include schools, childcare centres, children's residential care services, and agencies that run camps for children.

Case studies

67. Planning for a young person with disability

An Aboriginal woman complained to us on behalf of her 17-year-old niece, who has an intellectual disability and was living in respite care at the time that the complaint was made. The complaint was made after her niece experienced a number of OOHC placements. The woman wanted her niece to live with her. During our inquiries, we became concerned about the adequacy of leaving care planning for the girl. Although leaving care planning is supposed to begin when a young person turns 15, there was no evidence that this had occurred.

FACS told us that the relevant CSC had only referred the young person for leaving care planning four months earlier. FACS acknowledged that this did not meet its leaving care planning practice standards, and advised that remedial action was underway to address the broader issues uncovered by the case.

When we asked for an update several months later, FACS had substantially progressed various actions relating to the girl's departure from care – including arranging medical appointments, applications for financial assistance, education planning, and a National Disability Insurance Scheme (NDIS) assessment.

These agencies must notify our office of any reportable allegations as soon as practicable – at least within 30 days of becoming aware of them. Our primary responsibilities are to:

- oversee and monitor the agency’s investigation of the allegations
- investigate the allegations ourselves, if necessary
- scrutinise the systems agencies have for preventing reportable conduct and handling allegations of reportable conduct
- handle complaints about the way agencies deal with these allegations.

We also support agencies by providing guidance and advice on how they should handle these matters.

Supporting the WWCC scheme

The OCG is responsible for conducting WWCCs, which people are required to have if they want to work with children. The law requires, in certain circumstances, the OCG to conduct a risk assessment of an applicant for a WWCC clearance to decide if the applicant poses a risk to the safety of children. The OCG’s assessment includes considering:

- information about any proceedings that have been started against the person for a criminal offence involving harm to a child
- information that a non-criminal investigation has found that the person committed sexual misconduct or a serious physical assault of a child
- information received from the Ombudsman in the form of a ‘notification of concern’. Under the *Child Protection (Working with Children) Act 2012*, a notification of concern relates to people the OCG may – after a risk assessment – be satisfied pose a risk to the safety of children

- other information provided to the OCG under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* relating to the ‘safety, welfare and wellbeing of children’.

Case study 68 shows the way that the notifications we receive can be used by the OCG to inform its WWCC assessments.

This year, we received 94 enquiries and complaints about the administration of the WWCC scheme – a similar number to last year. A majority of the complaints related to the time taken to process applications that require a risk assessment. During the year, we continued to work constructively with the OCG to resolve individual complaints, and provide feedback on themes emerging from complaints to support the OCG’s own complaint handling practices.

We also provided feedback to the OCG to inform its statutory review of the Child Protection (Working with Children) Act. As well as noting the effectiveness of the ‘notification of concern’ provision, we suggested that a wider range of organisations should be required to report findings of relevant employee misconduct to the OCG. We also supported the inclusion of apprehended violence orders (AVOs) granted for the protection of children as a ‘risk assessment trigger’ for the OCG in exercising its WWCC functions.

Receiving notifications of allegations, complaints, and requests from the OCG

This year we received 3,121 matters:

- 1,966 formal matters – made up of 1,754 notifications and 212 complaints (including own motion complaints)
- 1,155 informal matters (enquiries).

Case studies

68. Considering more information in WWCC assessments

A notification involving a foster carer included information about a sexual assault allegation that the child in her care had made against a man known to the carer. The man was not an ‘employee’ under the reportable conduct scheme, but we identified that he held a WWCC and had contact with vulnerable children.

Under our broader powers, we examined NSWPF and FACS holdings about the man. These revealed that a number of different children and adults had made sexual assault allegations against him over a period

of decades. None of this information had resulted in charges, so it did not form part of the man’s criminal history and was therefore not considered as part of his WWCC assessment.

We felt that the information was critical to an assessment of the man’s suitability to work with children. We referred the information to the OCG – this prompted a risk assessment and a bar being placed on the man’s WWCC clearance. This bar was later upheld by NCAT.

This was an increase of 30% for formal matters and 27% for informal matters, compared to the previous year – in keeping with an increase of 75% in total matters received over the past 5 years.

The increase in reportable conduct notifications, as shown in figure 47, is attributable to a range of factors. These include an increased awareness of child abuse more generally and the reportable conduct scheme in particular, and the increased number of agencies now considered to be within our jurisdiction.

As figure 48 shows, we monitored or oversighted 73% of reportable conduct notifications made to us. To ensure we allocate adequate resources to the highest risk and

most complex notifications, we decided not to conduct ongoing oversight of 20% of matters notified to us in 2016-2017. However, even for those matters in which we determine that there is no need for ongoing oversight, we assess relevant police and FACS holdings and review the final outcome in the matter, including considering any proposed risk or other management action.

This year we also received 55% more requests from the OCG for information to inform its WWCC assessments, compared with last year. This increase in work over the past year is partly due to the education sector being phased into the new WWCC scheme. Due to the size of the sector, we have vast holdings relevant to assessing the suitability of education employees to work with children.

Figure 47: Formal reportable conduct notifications received and finalised in 2016-17

Matter	12/13	13/14	14/15	15/16	16/17
Received	995	1,189	1,305	1,385	1,754
Finalised	929	972	1,183	1,273	1,633

Figure 48: Action taken on formal reportable conduct notifications finalised in 2016-17

Action	No	%
Agency investigation monitored	638	39
Agency investigation oversighted	552	34
No ongoing oversight	330	20
Outside our jurisdiction	98	6
Agency notification exempted	15	1
Total written notifications finalised	1,633	100

Figure 49: What the reportable conduct notifications in 2016-17 were about – breakdown by allegation (notifications received)

Issue	No	%
Physical assault	553	32
Neglect	334	19
Sexual misconduct	330	19
Sexual offence	262	15
Ill-treatment	128	7
Outside our jurisdiction	94	5
Psychological harm	52	3
Reportable conviction	1	0
Total	1,754	100

Figure 50: Formal notifications received - breakdown by agency

Agency	No
Ageing, Disability and Home Care	11
Agency providing substitute residential care	44
Approved children's service	128
Community services	274
Corrective Services	6
Designated agency under the Children and Young Persons (Care and Protection) Act	588
Education and communities	450
Family day care	10
Health	18
Juvenile Justice	50
Non-government school - Catholic	66
Non-government school - Independent	80
Out-of-school-hours care (OOSH)	12
Other public authority	5
Other public authority - local government	4
Sport and Recreation	1
TAFE	3
Outside our jurisdiction	4
Total	1,754

What the reportable conduct data tells us

Consistent with trends in notifications over the past 3 years, the majority of notifications involved reportable allegations of a sexual nature (34%), followed by physical assault (32%) and neglect (19%). See figure 49.

Notifications of a sexual nature increased by 22% on last year, physical matters by 29% and neglect notifications by 24%. Notifications involving ill-treatment increased by 20%. Allegations of conduct causing psychological harm more than doubled from last year (19 to 52), but were still the least notified type of reportable allegation.

Notification rates vary by sector, as shown in figure 50. The breakdown of notification types is similar to last year:

- 66% of physical force notifications were from the OOHC sector, and constituted 41% of that sector's notifications.
- 69% of neglect notifications were from the OOHC sector, and constituted 26% of that sector's notifications.
- 50% of sexual offence notifications involved employees from the schools sector, and those notifications constituted 22% of that sector's notifications.
- 68% of sexual misconduct notifications involved employees from the schools sector, and these notifications constituted 37% of that sector's notifications.
- Sexual offences and sexual misconduct taken together constituted 67% of all notifications from the health sector, 59% from the schools sector, 19% from OOHC and 16% from Children's Services.

The importance of prompt notifications is supported by our data. It shows that delayed notification had a negative impact in 15% of matters generally, and in 21% of matters that involved more serious

allegations. The types of negative impacts included compromised criminal investigations, ongoing harm to children, missed opportunities to obtain critical evidence, and otherwise deficient investigations.

Figure 51 shows a breakdown of the notifications we closed, by the type of reportable conduct, and the sex of the alleged offender.

Notifications involving criminal offences

Of the matters closed over the year:

- 41% were reported to police
- 27% were the subject of some level of inquiry by police (66% of matters reported to police)
- 20% were the subject of formal criminal investigation (48% of matters reported to police)

Figure 51: What the reportable conduct notifications in 2016-17 were about – breakdown by sex of the alleged offender (notifications closed)

Issue	Female	Male	Unknown	Total
Physical assault	263	238	0	501
Neglect	251	109	0	360
Sexual misconduct	62	236	0	298
Sexual offence	31	151	1	183
Ill-treatment	111	37	1	149
Outside our jurisdiction	48	47	3	98
Psychological harm	18	23	0	41
Reportable conviction	0	3	0	3
Total notifications closed	784	844	5	1,633

Case studies

69. Taking prompt coordinated action

We received a notification that an employee of a designated agency had allegedly physically, psychologically and sexually abused his daughter. FACS had completed a ROSH response to the concerns, but the alleged victim did not disclose anything and her mother denied the allegations.

The agency raised concerns with us about the detrimental impact on the children in the home of any reportable conduct investigation, particularly given its inability to protect the children from any repercussions that might arise. We shared the agency's concerns. We had information that the

daughter had been severely physically abused at home after disclosing similar allegations in the past. There was also information that:

- the employee may be physically abusive, coercive, manipulative and controlling
- the child's mother may not be protective
- the child's adult sibling had also alleged that she was abused when she lived at home.

We compiled a brief of information about the allegations and the history and circumstances of the child and adult sibling. We outlined the need for a coordinated response from FACS, the police and the employer to address criminal and ROSH concerns.

- 7% were the subject of criminal charges (26% of matters criminally investigated)
- a further 2% (12% of the matters criminally investigated) did not proceed to charge after the victim or the victim's parent/s chose not to pursue charges.

In many of the matters attracting police involvement, we liaised with the NSWPF, FACS and other stakeholders to address child protection risks associated with these cases. For example, see case study 69.

In 12% of the matters criminally investigated but not proceeding to a charge, the vulnerability of the victim (including age, disability and mental health) was a factor in charges not being laid. If a criminal investigation does not proceed to charges, we will often seek the assistance of the NSWPF to ensure that the reportable conduct investigation can act as an additional safeguard in addressing risks to children – as well as providing the subject employee with a right to respond to the allegation. For example, see case study 70.

In 43% of all matters where allegations of criminal conduct were investigated by police but did not proceed to a charge being laid, the employee was removed from the workplace – dismissed, de-authorised or not re-employed – at the end of

the investigation. In another 50% of these cases, a risk management assessment and related action was implemented. This illustrates the role that the reportable conduct scheme plays in filling the gap between the very high threshold for proving a criminal offence and the need to ensure that people engaged in child-related employment are suitable.

Findings/action

Of the reportable conduct notifications that we oversaw and closed this year, 30% were sustained.

Some form of disciplinary or remedial action to manage the risks the employee may pose to children was also taken at the conclusion of 73% of matters. This shows the value of the reportable conduct scheme in protecting children.

Working with a range of stakeholders

We meet regularly with representatives and practitioners from the various sectors that fall under our reportable conduct jurisdiction. Hosting sector-based liaison meetings helps us to build effective working relationships with agencies and across sectors, keep abreast of emerging issues affecting stakeholders, and obtain valuable feedback on our oversight.

Case studies

The coordinated response by the police and FACS was prompt and effective. Within one month of our referral, the police arrested and charged the employee with numerous physical and child sexual assault offences. An AVO was put in place protecting the children and the employee was subsequently convicted of a number of offences. As a result, he is now disqualified from working with children.

70. Providing access to all the information

A school notified us of allegations that one of its parent volunteers had been charged with child pornography offences and had sexually abused a young boy approximately 20 years earlier. The school had received the allegation from a community source and then applied for information from the NSWPF under Chapter 16A.

Our access to the NSWPF and FACS databases allowed us to find out that the volunteer had been charged with multiple child abuse material offences and that – although police records contained limited detail – FACS held significant information about the alleged child sexual abuse.

We spoke with the Local Area Command that had responded to the school's original Chapter 16A request and liaised with the LAC that had investigated the child

abuse allegations. The NSWPF supported the need for the school to have access to all relevant information and agreed to provide this information to them.

We also suggested that the school contact FACS for information. We liaised with FACS about the school's request to ensure a speedy release of the information and, as a result, FACS provided the school with detailed information about the allegations.

On the basis of the additional information they had obtained, the school sustained a number of reportable allegations and notified the OCG of their findings. In response, the OCG conducted a risk assessment and barred the person from working with children

71. Improving supports for a group of siblings

Under the reportable conduct scheme, we had received a number of notifications involving various foster carers of a sibling group of Aboriginal children – which provided concerning insight into the children's circumstances. We therefore initiated an 'own motion' review of the children's placement history and experience in OOHC.

Our review found that:

- The children had experienced multiple placements over time and none was in a stable placement.

The key liaison themes this year were data-driven practice and effective information-sharing. We have developed protocols around information-sharing that strengthen the probity-checking mechanisms used by schools to help provide safe environments for children. In response to questions raised from the sectors, we have also refined our fact sheets to provide greater clarity in defining and identifying reportable conduct, applying the law in relation to assault, and making findings about reportable allegations.

Education sector

This year we have implemented an enhanced data collection process internally and have been working with the education sector in a shared commitment to data-informed system and practice reform. We facilitated a number of data-focused meetings attended by the Department of Education, the NSW Education Standards Authority, the various Catholic Schools Offices, the Association of Independent Schools, Christian Schools Australia and Christian Education National.

Approved children's services sector

The approved children's services sector is diverse, incorporating centre-based childcare providers, OOSH services and family day care. One of the challenges for this sector has been the high numbers of early career educators entering the profession and the need to provide them with clear guidance about their responsibilities under the reportable conduct scheme. We have therefore developed a short film explaining the scheme, which agencies can use during their induction programs.

During the year, we have also forged a strong partnership with the Department of Education's Early Childhood Directorate, which regulates and approves providers in this sector. This has involved providing training to Directorate staff and those applying to become providers of an approved children's service.

Voluntary out-of-home care sector

After the transition of OOHC to the non-government sector, we initially focused our engagement efforts on statutory OOHC agencies. This year, we have broadened our focus to the voluntary OOHC sector (VOOHC), which has recently been deemed to be within our jurisdiction following the Solicitor General's

Case studies

- Two of the children had been exhibiting sexually harmful behaviours, and it did not appear that this had been responded to adequately.
- There were reports made to FACS over the course of the children's time in OOHC suggesting that all of them may have been sexually abused.
- There were inadequate leaving care plans in place, even though the children were in their teens.

As a result of their fractured OOHC experience, the children faced significant challenges in their education, mental health, and contact with the criminal justice system.

We met with FACS's Office of the Senior Practitioner (OSP). FACS agreed that there were significant issues that needed to be addressed relating to the children's placements and leaving care planning. As a result of the OSP's involvement, the children have received intensive casework support by the Intensive Support Service (ISS) team, they have experienced greater engagement with support services, and there is more stability in their placement. Although one of the siblings is now 18, the ISS is continuing to work with him and help him find his own accommodation. Another sibling is being supported to address his sexually harmful behaviours and his educational needs.

72. Ensuring the safety of a child

A non-government OOHC agency notified us of reportable allegations that a foster carer had assaulted, ill-treated and neglected the children in her care – including failing to protect them from repeated sexual abuse by her friend. After a risk assessment, the agency removed the foster children from the placement but the carer's biological daughter remained in her care.

We made a number of inquiries to better understand the potential risks to the daughter. In response, FACS reviewed the matter, reopened the child's plan and did an assessment of her safety. The child was subsequently removed from the home and placed with her father. Records indicate that she is thriving in her father's care.

advice on agencies providing substitute residential care. More information about the implications of the Solicitor General's advice can be found in our 2016 Special Report to Parliament, *Strengthening the oversight of workplace child abuse allegations*.

From March to May 2017, we teamed up with staff from the accreditation arm of the OCG to put together a roadshow for VOOHC agencies. We delivered 16 training sessions to approximately 250 service providers in a variety of locations across Sydney and regional NSW. Topics covered included child safe organisations, the revised statutory VOOHC procedures and monitoring the program, the reportable conduct and reportable incident schemes, behaviour management, information sharing under Chapter 16A, and VOOHC in the context of the NDIS rollout.

Agencies providing substitute residential care

Many agencies running camps for children have now been brought into the reportable conduct jurisdiction. This year, we have worked closely with a number of churches and held meetings with various organisations within the sporting sector about the reportable conduct scheme. However, we are waiting to see the Royal Commission's recommendations on future directions in this area before committing to a more comprehensive course of action with these sectors.

Health

To improve awareness of reporting obligations under the reportable conduct scheme, we have started to engage more broadly with the health sector. This has included meeting with representatives from the Ministry of Health, giving a presentation on the scheme to human resources staff and Directors of Nursing at the South Western Sydney Local Health District, and providing training to staff from Pathology NSW.

We have also continued to work closely with the health sector on individual matters and have collaborated with them to achieve positive outcomes. This has included regularly facilitating communication between Health and the NSWPF and attending case discussions with their representatives.

Frontline workers

Our data this year confirms the need to work closely with frontline staff. Excluding allegations of historical child abuse, for reportable allegations in which the source of the allegation can be identified – the alleged victim was the direct source of the allegation in only 14% of matters.

However:

- in 12% of matters (40% in the approved children's services sector) – the subject employee's colleague was the source of the report

- in 27% of matters, the alleged victim disclosed to a frontline worker – who then went on to formally report the allegation. Of these frontline workers – 38% were caseworkers, 37% were teachers, 14% were counsellors and 11% were other professionals.

During the year we started to roll out reportable conduct briefing sessions for frontline staff, with the first session attracting more than 90 participants. We are also in the process of completing a comprehensive 'early and initial response' guide to support frontline workers meet their responsibilities in this area.

Collaborating with interstate organisations

As part of its work, the Royal Commission is examining the operation of the reportable conduct scheme in NSW and whether it should be rolled out more broadly across Australia. In April 2016, the Council of Australian Governments (COAG) announced in-principle agreement to develop nationally harmonised reportable conduct schemes – similar to our existing scheme in NSW. In July 2017, the ACT and Victoria began their own reportable conduct schemes.

On several occasions over the past year, we have met with key representatives from both jurisdictions to share our knowledge and experience of the reportable conduct scheme in NSW. In February 2017, the Deputy Ombudsman and Community and Disability Services Commissioner, and the Assistant Ombudsman (Strategic Projects) – together with the acting Commander of the NSWPF's Child Abuse Squad – met with representatives from Victoria Police to discuss the practical implications of establishing a reportable conduct scheme in Victoria. We were able to highlight how the NSWPF and our office work together effectively to support the operation of the scheme in NSW.

In May 2017, we hosted several staff members from the Victorian Commission for Children and Young People and the ACT Ombudsman over a period of five days. The visit provided them with practical insights into how we manage our reportable conduct functions and our day-to-day operating environment. We also delivered presentations in both Victoria and the ACT about our data collection processes, emphasising the need for consistent data collection across jurisdictions. All participants agreed that there will be mutual benefit in establishing regular reportable conduct practice forums in the future – involving representatives from NSW, Victoria and the ACT.

In May, we also made a submission in response to the Queensland Government's discussion paper on reportable conduct schemes.

Providing information about reportable conduct investigations

In March 2017, we released a new fact sheet: *Providing advice about reportable conduct investigations to children, parents and carers*. This fact sheet is available on our website and provides guidance about applying s 25GA of the Ombudsman Act. This section allows the head of a designated agency and/or the Ombudsman to release certain kinds of information to people involved in a reportable conduct investigation – including the child who is the alleged victim, the child’s parents and (if the child is in OOHC) his or her authorised carers.

Information can be disclosed about the progress and findings of an investigation, as well as any action taken in response to the findings. Other than setting out these information categories, s 25GA does not provide more specific guidance on exactly what information can or cannot be disclosed. This means that decision-makers ultimately need to use their discretion in each case.

Section 25GA correctly recognises that parties involved in an investigation may have a direct personal interest in being kept informed about the matter. Our fact sheet provides guidance to agencies about balancing this legitimate interest against any countervailing factors that may weigh against releasing certain information – such as the risk of prejudicing a related criminal investigation.

We have also released a separate fact sheet about releasing information in circumstances that are not covered by s 25GA. In particular, this fact sheet provides advice to agencies about sharing information with parties who are not directly involved in a reportable conduct matter – but who still have an interest in the matter through their association with the agency involved. In certain circumstances, there can be strong public interest grounds to release certain information to parties such as agency staff and volunteer workers, parents or carers of other children receiving services from the agency, and – in the case of historical allegations – former students or children in care. The fact sheet has been welcomed by stakeholders. One stakeholder from the education sector noted:

This has been identified as a critical issue in practice, as well as through the work of the Royal Commission into Institutional Responses to Child Sexual Abuse. We do welcome this new factsheet from the NSW Ombudsman, given the seriousness and complexity of the issue, as a valued support when child related institutions are facing these dilemmas and trying to do what is right.

Providing a guarantee of service for victims of historical abuse

The Ombudsman's 2015-16 annual report explained the steps we had initiated to improve the quality and consistency of information given to adult victims of alleged child sexual abuse – and other forms of serious abuse – about what will happen if they make a report to police. An important initiative has been the development, in conjunction with agencies, of a proposed ‘guarantee of service’. The guarantee aims to provide victims and their supporters with information about how police will respond to reports of historical child sexual abuse, as well as making a commitment to victims that they will be treated with courtesy, compassion, cultural sensitivity and respect. As well as being an important resource for police, the guarantee of service helps other agencies that receive disclosures of historical child sexual abuse (such as religious bodies and educational institutions) to encourage victims to make a report to police. It also helps agencies – if a victim has indicated that they do not want to pursue criminal action – to explain why the agency is obliged to report the disclosure to police, while giving certain assurances about the approach police will take if a victim does not want to be part of a police investigation.

In its final Criminal Justice Report, the Royal Commission found that there appears to be ‘considerable merit’ in a ‘guarantee of service’ approach:

... it is clear to us that many adult survivors of child sexual abuse in an institutional context have particular needs for information, reassurance and support in relation to police responses. It seems likely that many adult survivors of child sexual abuse in other contexts may share some or all of these needs. A document specifically addressed to victims and survivors reporting historical allegations of child sexual abuse can help to encourage and support those victims and survivors to make decisions about whether to report to police and whether to remain in the criminal justice process. Importantly, it can also serve as a reminder to the police officers who are involved in providing the police response about the particular needs of these victims and survivors.

The Commission has recommended that each Australian government ensure that, if its policing agency does not provide a specialist response to victims and survivors reporting historical child sexual abuse, its policing agency should develop and implement a document which sets out for the benefit of victims and survivors – and as a reminder to the police involved – what victims and survivors are entitled to expect from police in response to a report of child sexual abuse.

We will continue to liaise with the NSWPF and other key agencies about finalising a guarantee of service for NSW.

Monitoring OOHC placements and reportable conduct notifications

Last year we asked FACS to provide us with regular updated data – organised by provider and FACS district – about the number of children in OOHC placements. This information enables us to better analyse the number of reportable conduct notifications that we receive from agencies.

In response, FACS agreed to provide us with quarterly placement data. In turn, we undertook to provide FACS and the OCG with certain information from our analysis of this data and our own reportable conduct data to inform their respective contracting and accreditation functions.

Towards the end of this year, we initiated discussions with both FACS and the OCG about exchanging regular information about the number of children who are placed in motels – to ensure that there is ongoing oversight of the trend to use this form of accommodation as an emergency placement for children in OOHC.

The increase in proactively exchanging information of this type is positive, particularly given the complementary functions of the OCG and our office in overseeing the provision of OOHC. Over the coming year, we will continue to explore options for working collaboratively with FACS and the OCG in this area.

Examining reportable conduct matters involving public school students with disability

As part of our inquiry into behaviour support for students in schools (see People with Disability chapter), we examined how the Department of Education handles child protection-related allegations against its employees that involve students with disability.

Child protection allegations against employees of the department, or individuals engaged by the department to work with students in schools, must be notified to the department's Employee Performance and Conduct (EPAC) Directorate. EPAC assesses the matter and, if appropriate, investigates allegations against employees. EPAC also ensures that relevant allegations are referred to the appropriate agencies, including the Ombudsman, FACS and the NSWPF. In addition to examining the reportable conduct matters notified to our office by EPAC, we also reviewed a sample of reportable conduct matters that the department was not required to notify to our office – consistent with our class or kind agreement.

We also assessed EPAC's handling of other inquiries it receives from schools about child protection matters involving students with disability that, while not meeting the threshold of reportable conduct, still require effective resolution. A significant proportion of the matters that are brought to EPAC's attention

are capable of being resolved in the workplace using complaint management and performance improvement processes. However, EPAC encourages schools to make contact with them if they have any questions about a matter or if they need further advice on the best way to handle it.

In May 2017, we asked EPAC for information to help us develop a suitable audit sample of matters involving students with disability that were received and finalised by EPAC in 2016. Based on agreed parameters, 147 matters were selected – made up of 121 enquiries and 26 'class or kind' matters. EPAC gave us the case note reports for all 147 matters recorded on its database, as well as a copy of the observations it made as a result of its own internal review of enquiries handled during 2016 (up to the end of August).

Our criteria for assessing EPAC's handling of matters focused on the following:

- Should any of the matters categorised as 'enquiries' or 'class or kind' have been notified to our office under Part 3A?
- For those matters that should have been notified to our office but were not, did the handling appear to otherwise be satisfactory and, if not, why?
- Did all other matters appear to have been handled satisfactorily by EPAC – bearing in mind that the substantive response to the matter where there was no ongoing EPAC oversight could only be assessed if we also reviewed the records held by the school?

At the end of our audit, we gave EPAC a copy of our assessment of the matters we regarded as unsatisfactory and our reasons for this. The Executive Director of EPAC confirmed that she agreed with our findings in each case. We also met with the Executive Director to explore options for strengthening the department's response to matters involving children with disability.

Our recommendations for improvement

In light of the significant volume of matters being handled by EPAC, the results of our audit demonstrate that it is performing well in relation to identifying matters that should be notified to our office, and EPAC appears to be making sound decisions about which matters should be managed at the local level. However, we recommended that EPAC's investigators should record the reasons for their decisions more clearly and consistently.

We also recommended that there would be value in providing further guidance and training for EPAC staff on interpreting 'use of force that, in all of the circumstances, is trivial or negligible' (and therefore not 'reportable conduct') when such matters should instead be regarded as allegations of ill-treatment – as well as related advice about what might constitute ill-treatment or physical assault.

The number of ill-treatment allegations in our audit sample, together with our broader consultations and reviews, has shown that significant concerns exist in relation to the actual and/or potential ill-treatment of students with disability in schools – particularly in the absence of external oversight. Although we have not exempted ill-treatment allegations from notification to our office by the non-government school sector, in light of the concerns that have been expressed about the need for all allegations of ill-treatment to be externally reviewed, we have amended our ‘class or kind’ determination with the department to bring all those ill-treatment allegations it handles under our direct oversight.

This amendment will provide an important safeguard for students with disability, as well as students more generally. However, requiring all ill-treatment allegations to be notified to our office does not guarantee an effective response to various types of ill-treatment. Appropriate training needs to be provided at the school level about the various types of reportable conduct, including how to interpret the definition of ill-treatment. Clear instructions also need to be given on when allegations of the use of force against students should (and should not) be regarded as ‘trivial’ or ‘negligible’.

For matters that do not fall within the reportable conduct scheme but are still required to be notified to EPAC because they are ‘child-protection related’, it is equally important for the department to provide clear guidance and related training to enable its employees to consistently and appropriately interpret this term.

While it is critical that serious reportable conduct allegations are the subject of ‘evidence-based investigative’ action, our feedback to EPAC also emphasised that this does not mean matters cannot also be partly addressed using sophisticated ‘resolution-focused’ strategies. This is particularly relevant when a parent or carer expresses significant concern about a matter. If cases are not well handled early on, problems can quickly escalate and result in a fundamental breakdown in the relationship between the school and the parents and students involved.

The audit not only gave us important insights into the role played by EPAC in directly handling and providing advice to schools on child protection-related allegations, it also highlighted the significant volume of enquiries EPAC is handling from schools. We welcome the department’s advice that EPAC will receive additional funding to ensure that it can assess and investigate matters in a timely and thorough manner.

Supporting the work of the Royal Commission into Institutional Responses to Child Sexual Abuse

Since January 2013, the Royal Commission has been examining individual cases from a range of institutions as well as analysing systemic issues. We have contributed to the work of the Commission by providing information about individual cases, taking part in hearings and meetings, and making submissions in response to a number of discussion papers.

We have met with the Commission to provide information about several institutions that have been the subject of earlier hearings, and discussed our observations about how these institutions have improved their child protection practices since the Commission’s scrutiny of their response to child sexual abuse. We have also continued to keep the Commission up-to-date with developments in relation to the impact of the NSW Solicitor General’s advice that certain types of camps fall within our reportable conduct scheme – thereby bringing certain church and other community organisations within our jurisdiction. We reported to Parliament about this issue in February last year – and have been advised that the government will respond to our report after the release of the Commission’s final report later this year.

The adequacy of practices for exchanging child protection-related information between relevant agencies has been of ongoing concern to us for several years, and of significant interest to the Commission. We gave the Commission our observations about a range of relevant issues on this topic, including the need for stronger cross-jurisdictional information sharing provisions. We have also discussed with the Commission the NSW experience since the introduction of the Chapter 16A provisions. We explored issues such as the use of mechanisms within certain sectors that support information exchange, such as the Carers Register – which facilitates the exchange of information about carers between OOHc providers.

In April, we met with the Commission to discuss evidence provided in recent hearings about the operation of the reportable conduct scheme. Key issues discussed included the harmonisation of state and territory reportable conduct schemes and the inclusion of religious institutions within nationally harmonised schemes.

In July, we wrote to the Commission about matters that had been canvassed at the Criminal Justice Roundtable into Reporting Offences. These included:

- whether legislative reform is required in NSW in relation to reporting offences
- the need to improve the information provided to alleged victims about what may happen if a report is made to police about their allegations – see discussion under guarantee of service for victims of historical abuse on p.118

- the need for the NSWPF and other agencies to have comprehensive internal processes for responding to reports of sexual abuse.

In the same month, we provided information to assist the Commission's public hearing on disability service providers. The Commission published both submissions on its website.

We also provided information to the Commission about a number of individual cases it has examined, including 27 volumes of material relevant to one matter alone. We also outlined our long-term advocacy about the need for a whole-of-government framework for strengthening responses to vulnerable older children and adolescents, as well as our observations about the current reforms to the residential care system.

Child death reviews

The NSW Child Death Review Team (CDRT) was established under Part 5A of CS-CRAMA to prevent and reduce the deaths of children in NSW. The NSW Ombudsman is convenor of the CDRT and Ombudsman staff provide administration and support to the team, including conducting research and reviews. See Appendix C for a list of CDRT members. The CDRT is required to report to Parliament annually on its activities and the extent to which its previous recommendations have been accepted.

Separately, under Part 6 of CS-CRAMA, the Ombudsman is responsible for reviewing the deaths of children who die as a result of abuse or neglect or in suspicious circumstances, and children who die in care or detention. In 2016-17, we assessed the deaths

of 26 children and young people who met the criteria of a 'reviewable' child death. At the end of the period, we are waiting for additional information to determine the status of the deaths of 22 other children and young people. After our reviews of child deaths, we may take further action in individual cases. This year, we made reports to service providers or other relevant bodies on a number of matters, undertook preliminary inquiries and investigated agency conduct.

Biennial report of reviewable deaths in 2014 and 2015

In June 2017, the Ombudsman tabled in Parliament the *Report of Reviewable Deaths in 2014 and 2015, Volume 1: Child Deaths*. This report examined the deaths of 54 children who died in 2014 and 2015 in circumstances of abuse or neglect or while in care. The report also focused on a vulnerable group of young people in care who died by suicide or in risk-taking circumstances. Since 2004 when our role in reviewing child deaths started, we have reviewed the deaths of 117 children in care. Of these, 13% – 15 young people – died by suicide or risk-taking. These young people all had high and complex needs. Our review of their deaths highlights the critical importance of intensive case management, a consistently supportive and therapeutic care environment, and close monitoring and support of placements.

A second focus of the report was a review of 124 neglect-related deaths of children that occurred between 2006 and 2015. Our review found that deaths as a direct result of chronic neglect were rare. Most of the children died in the context of a failure by carers to provide adequate supervision, or

Case studies

73. The importance of working together

In 2015, we investigated the actions of three agencies in response to concerns about the safety and welfare of a child who died in circumstances of abuse. The child and family had complex needs, resulting in the provision of a high level of support across a range of government and non-government agencies. In this context, it was important that the actions of all involved agencies were coordinated and informed by the interventions, strategies, identified issues and outcomes of each other's work with the family. Our investigation found that this was not always the case. Despite the family's significant contact with services, none of the involved agencies sought to bring all relevant parties together to:

- clarify roles and responsibilities

- identify risks to the child and reach agreement on how these would be monitored and escalated, if required
- identify what and when information needed to be shared between the agencies
- agree on a plan for coordinating the provision of services.

There was also inadequate communication between relevant services about the progress and outcome of respective service interventions. As a result, it appears that the agencies often made assumptions about the nature, effectiveness and protective effect of work by other agencies.

After our investigation report was issued, we convened an interagency case discussion between the agencies involved to identify barriers to good practice and strategies for change.

actions by carers that endangered a child. The report identified that these deaths often occurred in an environment of neglect and a prominent feature was carer alcohol and other drug abuse. The role of alcohol and other drugs will be a targeted area for our research over the next year.

The report made three recommendations. These were that:

- FACS consider strategies related to the suicide and risk-taking deaths of children in care
- NSW Health, with the Clinical Excellence Commission, set up a process for internally reviewing the suspicious deaths of children when there had been a previous hospital presentation for injury
- NSW Health provide advice on the outcome of a policy review related to children of parents with mental illness.

Reporting fatal neglect in NSW

Separately to our biennial report, the Ombudsman also tabled in Parliament the report, *Reporting of Fatal Neglect in NSW*. This report is the result of the work we commissioned from Dr Deborah Scott at the Australian Institute of Family Studies. The report includes a literature review with a focus on fatal neglect definitions, and a review of our reporting of fatal neglect. While Dr Scott found that reporting in NSW is in line with international best practice, she suggested changes that could be made to achieve closer alignment in the reporting of neglect-related deaths in the CDRT and reviewable death reports. In the coming year, we will consult with government and other stakeholders on the proposals made by Dr Scott.

Improving interagency responses to children at risk

Child protection is a shared responsibility and our reviews of deaths in 2014 and 2015 found that agencies often responded appropriately to child protection risks in families. In some cases, however, we identified practice issues and opportunities for improvement. See case study 73.

CDRT's final annual child death review report

The CDRT's final 'annual' report of child deaths was tabled in November 2016. After legislative amendment to CS-CRAMA, the CDRT will report to Parliament on the deaths of children in NSW every 2 years from 2018. The CDRT is separately required to publish an annual report focused on the team's activities and the extent to which its recommendations have been accepted by agencies.

The CDRT's Child Death Review Report 2015 examined the deaths of 504 children that occurred in NSW in 2015. These 504 deaths reflected a mortality rate of 29.61 deaths per 100,000 children. This is the lowest

annual rate recorded by the CDRT since it was established in 1996. Although the overall decline in mortality rates has been significant and continual, it has not been uniform.

Some key observations include that:

- The significant decline in the injury-related mortality rate over the 15 years to 2015 relates to males rather than females and, while the rate for males is still higher than for females, the gap has narrowed since 2001.
- Aboriginal and Torres Strait Islander children were still over-represented in child deaths in 2015, with a mortality rate 2.3 times that of non-Indigenous children. Injury-related causes for Aboriginal and Torres Strait Islander children occurred at a rate almost 5 times higher than that of non-Indigenous children.
- Suicide was the leading cause of death for 15-17 year olds in 2015, and the suicide mortality rate for this age group in 2015 was the second highest since 1997.
- The infant mortality rate for sudden unexpected death in infancy has shown an overall decline since 2001, but has not changed significantly since 2008.

The report made a number of recommendations relating to sudden unexpected death in infancy, suicide, quad bikes and swimming pools.

Researching child deaths from infectious diseases

In October 2016, the Ombudsman tabled a report *Child Deaths from Vaccine Preventable Infectious Diseases, NSW 2005-2014*. The report was the outcome of research we commissioned from the National Centre for Immunisation Research and Surveillance. The research analysed data held in the NSW Child Death Register in relation to the deaths of children resulting from infectious disease in NSW over the 10-year period.

The researchers identified 54 cases where the confirmed or probable cause of death was a disease for which a vaccine is currently provided by the National Immunisation Program. The report concluded that 23 deaths over the 10 years were preventable or potentially preventable by vaccination – with influenza and meningococcal the most common causes of death in these cases.

The report noted that immunisation has been successful in dramatically reducing the number of childhood deaths from infectious diseases in Australia. However, deaths in children from potentially preventable infectious diseases continue to occur in NSW, particularly in young infants. This work underscores the importance of maintaining a high rate of vaccination.

Reducing the risk of psychological injury to our staff

Last year, we engaged a consultant to do a psychological trauma risk review for staff in our child death review team. The purpose of this review was to identify the levels and types of exposure to psychological trauma – both direct and vicarious – among staff reviewing child deaths.

We have since implemented a range of recommendations made by the consultants to minimise the risks to our review staff, including quarterly facilitated group-based clinical supervision and professional development sessions.

People with disability

The NSW Ombudsman has specific functions under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA) relating to people with disability and disability services. These functions include:

- handling and investigating complaints about disability services, including any supports funded under a National Disability Insurance Scheme (NDIS) participant’s plan
- inquiring into major issues affecting people with disability and disability services
- reviewing the care, circumstances and deaths of people with disability in residential care
- monitoring, reviewing and setting standards for the delivery of disability services
- coordinating the Official Community Visitors (OCVs) in their visits to people with disability in supported accommodation and assisted boarding houses.

Under Part 3C of the *Ombudsman Act 1974*, we also oversight the actions of disability services to prevent, and effectively respond to, serious incidents – including abuse and neglect – involving people with disability living in supported group accommodation in NSW.

This chapter outlines our work in relation to these functions during the past year.

Handling complaints about disability services and supports

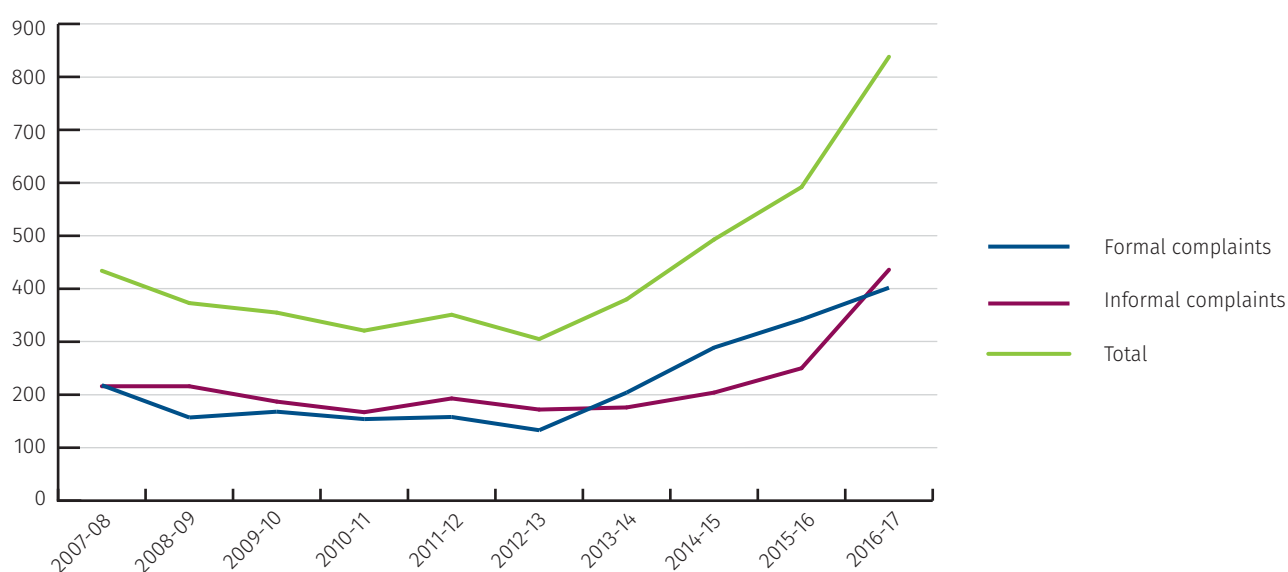
We investigate and resolve complaints about disability services and supports, review the causes and patterns of complaints, and provide information and training to improve how services handle complaints.

A key focus in CS-CRAMA is on resolving complaints locally and informally. An important part of our work is helping people with disability, their supporters, and disability services to work together to resolve issues as early as possible.

This year, we received 838 complaints (formal and informal) about disability services, a 42% increase on the previous year (592). Over the past five years, the number of complaints about disability services has more than doubled: see figure 52. Figures 74 and 75 in Appendix C provide more information about the complaints we received this year.

Figure 52: Complaints received about disability services and supports: 10-year comparison

Year	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
Formal complaints	218	157	168	154	158	133	204	289	342	402
Informal complaints	216	216	187	167	193	172	176	204	250	436
Total	434	373	355	321	351	305	380	493	592	838



Complaints about disability accommodation services

This year, we received 339 complaints about disability accommodation providers – that is, accommodation operated, funded or licensed by the Department of Family and Community Services (FACS), or funded as part of an NDIS participant's plan. The 339 complaints represent a 31% increase on the number of complaints about disability accommodation providers in 2015-16 (258).

Figure 76 in Appendix C shows the issues in the complaints we received about disability services in 2016-17. The top five issues raised in complaints about disability accommodation providers in 2016-17 were:

- actions to meet individual needs (82) – including not providing adequate accommodation, not providing adequate access to health or medical care, and not meeting nutritional needs

- service management (29) – including poor governance arrangements and management practices, inadequate internal controls, inexperienced management and inadequate staffing
- alleged staff to client abuse (27) – including ill-treatment, neglect, physical assaults and inadequately responding to incidents of abuse
- alleged client to client abuse (22) – including patterns of abuse, placing incompatible residents together and taking inadequate steps to prevent and respond to incidents of abuse
- response to complaints (21) – including inadequately responding to complaints, and taking insufficient steps to address the issues of complaint.

Case studies 74-77 are examples of some of the complaints we have handled about disability accommodation services this year.

Case studies

74. Responding to a change in behaviour

We were contacted by employees of a pharmacy, who raised concerns about the welfare of a resident in a group home. The staff told us that the resident regularly visited the pharmacy looking for water, and in recent weeks his behaviour had escalated and he had attempted to jump the counter.

In response to our inquiries, the accommodation provider held a practice review meeting with clinical and other staff to address the concerns. Its response included a range of strategies – such as re-assessing the resident's needs, making relevant service referrals, engaging the resident in plans about his life, and improving his contact with the broader community and his former carer. The provider addressed the safety and risk issues and identified the continuing actions it would take, including clinicians providing more training for direct care staff at staff meetings.

75. Responding to a crisis situation for an NDIS participant

A mental health social worker contacted us to raise concerns about the circumstances of an NDIS participant who was at risk of homelessness. The social worker told us that the young man with intellectual and physical disabilities and mental health concerns was due to be discharged from hospital after a mental health assessment, but could not return to live with his family because of his complex support needs – including violence towards his carer. We were advised that, although the young man did not clinically

need to be in hospital, he had stayed there while the health service tried to liaise with disability services to identify alternative accommodation and support arrangements for him. At the time we were contacted, the social worker raised concerns with us that the hospital had not received an adequate response from the National Disability Insurance Agency (NDIA) and disability services, and had indicated that they would be putting him on a train at the end of the week – despite there being no alternative accommodation or supports in place for him.

We made inquiries of the NDIA, his existing NDIS support provider (funded for community participation only), and the health service. We found that the young man's NDIS plan had recently been reviewed and had been amended to reflect the need for alternative accommodation and support. However, the plan was still going through the approval process, and the health service had not received sufficient information to indicate what actions were being taken to address the situation. In response to our inquiries and discussions, the NDIA took action to directly appoint a support coordinator to start immediate work with the young man – in consultation with his family. In light of the actions being taken, the young man was able to stay in hospital for an additional fortnight while arrangements were made to move him to respite accommodation before transitioning him to supported accommodation.

Complaints about disability support services

Disability support services provide community-based support for people with disability. In NSW, these can be FACS operated and funded services or NDIS funded supports and services – including community participation and day programs, respite care, case management services, and drop-in accommodation support.

This year, we received 498 complaints about disability support services. In 2016-17, complaints about disability support services increased by 50%, and made up 59% of all complaints about disability services.

As figure 76 in Appendix C shows, the top 5 issues raised in complaints about disability support services in 2016-17 were:

- customer service (71) – including poor communication, failure to adequately consult with the client, and not providing the agreed service

- actions to meet individual needs (46) – including not providing adequate support for the person to access the community, and not meeting social, nutritional or health care needs
- access to services (36) – including not providing a service, or unfairly exiting clients from the service
- alleged abuse in the community (34) – including ill-treatment, neglect, physical abuse, sexual abuse and psychological abuse
- case management (28) – including inadequate actions to coordinate supports, not involving clients in planning and decisions, not developing adequate support plans, and not providing access to specialist services and supports
- response to complaints (28) – including not providing an adequate or timely response to complaints, responding negatively to complaints, and having poor complaint handling processes.

Case studies 78, 79 and 80 provide examples of complaints we received about disability support services.

Case studies

76. Improving investigative practices

A parent contacted us to complain that a staff member of a disability accommodation service had left their adult daughter with an intellectual disability and epilepsy unattended in the shower for an extended period of time while she was staying with the service on respite. The parent raised concerns that this had occurred despite their daughter's care plan specifying that she is not to be left alone around water due to her epilepsy. Also, when the parent contacted a senior manager of the service to make a complaint about the matter, the manager denied the incident and cited the staff member's length of employment as evidence that she would not make such a mistake. The parent also raised concerns that the service provider had not involved the daughter in their investigation, and had not provided information about the outcome of the investigation.

We made inquiries with the accommodation service and provided advice and guidance on improving its investigative practice. This included the need to interview the alleged victim with disability, and to keep them and their family informed about the progress and findings of the investigation and subsequent actions. In response, the provider made a range of changes to its practice, including amending its policy and procedures on investigations in accordance with our published guidance. In relation to the broader service delivery issues, and after information from our office, the service provider engaged an independent mediator. At the end of the process, the client had transitioned to the NDIS and she and her family opted to change to a different support provider.

77. Accessing information about risks to residents

A staff member of a disability accommodation service contacted us to raise concerns that the service provider proposed to move a resident to a new group home that was located close to their family members – who had been investigated by police in relation to alleged physical and sexual abuse of the resident. The staff member was concerned that the resident would be traumatised by seeing these family members in their local community.

As part of our inquiries with the service provider, we wanted to clarify how much service management knew about the resident's history and whether it had taken this information into account in the proposed accommodation changes. We found that, although longstanding staff knew about the previous abuse and the information had been recorded on the service's information systems, management were not aware of this information at the time that they were making decisions about suitable accommodation options.

In response to our inquiries, service management discussed options with the resident and supported them to go on a holiday while a more suitable accommodation option was found. While on holiday, the resident decided that they did not wish to live with their previous housemates and moved to another house in a different area.

78. Sticking with the agreement

A person with a physical disability made a complaint to us about significant delays in doing home modifications that had previously been agreed by FACS and the funded home modification service. The complainant also raised concerns that the home modification service had proposed to change the materials it was using and the way in which the work would be done. The complainant contacted us after they were dissatisfied with the response they had received to their complaint to FACS, including advice that a \$150,000 to \$200,000 security on the complainant's property would be required due to the high cost of the modifications.

We made inquiries with FACS and the home modification service, and found that FACS had not adequately communicated to the complainant the range of actions it had taken in response to the original complaint. In response to our inquiries:

- The CEO and project manager of the home modifications service met with the complainant, reached agreement on the way forward, and put in place processes for escalating future concerns.
- FACS withdrew the requirement to sign a security on the property, which meant that the home modifications could progress.

79. Strengthening probity checking

A labour hire agency raised concerns with us about the conduct of a former employee, including the closeness of his relationship with a client since gaining employment with a disability service. We made inquiries with the disability service, which advised that performance management action had been taken against the employee and his contract had not been renewed.

However, we then found that the person had subsequently been employed as a support worker by another disability service. This service's policy relating to probity checking was inadequate and had enabled the employee to nominate a referee who had never directly supervised him. We made a number of suggestions to the disability service, including that it should contact the previous disability service to obtain a reference for the employee.

We also suggested that its probity checking of prospective employees should include:

- asking them whether they have been the subject of workplace investigations, employment proceedings or allegations of misconduct
- indicating to them that their nominated referees should include people who had supervisory responsibility for them (including their previous supervisor)
- checking with referees whether they had supervisory responsibility for the prospective employee
- asking referees whether there had been any instances of alleged misconduct, workplace investigations or employment proceedings for the prospective employee.

The disability service accepted our suggestions and agreed to review and change its policies and to undertake probity checks with the previous employer.

80. Improving skills in managing and resolving conflicts

In response to information we had received in handling a separate complaint, we made our own motion inquiries of a case management service provider about the circumstances of a man with disability whose health had declined and whose accommodation placement had broken down. The information identified conflicting views between the man's family, an advocate and the service provider about the accommodation and support arrangements that were needed.

Our inquiries showed that the service provider had found the conflicting views difficult to manage, and had sought to transfer some of its case management responsibilities to an advocate. We raised concerns with the service provider, and it agreed with our suggestion that it should obtain an independent review of its decision to transfer responsibility for securing the man's accommodation to his advocate. The review found that an independent facilitator should have been used to manage a meeting of the stakeholders, and the service should have ensured that the different roles and responsibilities of stakeholders were clearly understood. In response to the review findings, the service indicated that it would work to improve the skills of its staff in negotiation, mediation, conflict resolution and joint care planning.

Complaints and the NDIS

The data and other information provided in the earlier sections on complaints about disability services include NDIS registered and unregistered providers. Many of the complaint issues are consistent across disability services, irrespective of whether they are NDIS registered and/or FACS-funded.

However, a range of complaints about NDIS providers in 2016-17 have raised particular issues and challenges including:

- **Employment of family members by providers** – in some new registered providers, including accommodation services, management and staff are related. This can present difficulties for clients and families in making complaints and receiving a fair hearing. It also adversely affects the risk management decisions of the provider, such as not identifying the need to address risks associated with a related staff member who has a history of criminal offences.
- **Concerns about the operation and quality of supports of new accommodation providers** – some of the complaints in 2016-17 have involved concerns about the adequacy of the systems and guidance that new registered providers of accommodation have in place to meet the needs of residents. This includes processes relating to administering and storing medication, receiving and resolving complaints, and reporting and effectively responding to incidents. We have been doing significant work with providers to help them to understand and comply with the requirements. In some cases, the matters have highlighted the limitations of the existing third party verification process.
- **Failure to provide information relating to the use of NDIS funds** – in a range of complaints, family members have raised concerns about registered providers reducing supports to clients (such as reduced staffing or reduced access to the community) on the basis that there is a shortfall in the NDIS funding or limited remaining funds, but not providing information on the expenditure or the actions the provider has taken to raise the issue with the NDIA.
- **Decisions made to exit clients because the family is seen as unreasonable** – some of the complaints we received this year relate to decisions by registered providers to exit or stop providing services to particular clients because the provider considers the family members to be unreasonable or difficult to please. In handling these matters, it has not been evident to us that the providers have taken adequate action to try to improve the relationship with the families before making a decision to withdraw supports.

Our handling of complaints relating to the NDIS in 2016-17 also highlighted the critical need for NDIS participants to have access to advocacy and decision-making supports. There have been a range of matters

in which the person with disability would have benefited from the early involvement of decision supports or an advocate to:

- assist them to raise and resolve matters directly with the provider
- provide practical help to understand their options in relation to supports
- help them to recognise when those around them may not be acting in their best interests.

We work collaboratively, and have 'warm referral' arrangements, with other complaint handling bodies about NDIS issues – including the Commonwealth Ombudsman and NSW Fair Trading. Frequently, the issues that we receive about the NDIS are not limited to the conduct of NDIS providers, but also concern the conduct of the NDIA or the broader operation of the scheme. In addition, issues that relate to the NDIA, such as delays in obtaining reviews of NDIS plans, have an impact on the supports provided and decisions made by the providers. We meet regularly with the other complaint handling bodies to discuss common issues and opportunities for cooperative work and to hold joint community education activities.

Disability reportable incidents

Since 3 December 2014, our office has been responsible for operating the NSW disability reportable incidents scheme. Under Part 3C of the Ombudsman Act, FACS and funded disability services are required to notify us of any allegations of serious incidents involving people with disability living in supported group accommodation. NDIS-funded providers must also notify us of such allegations under the NSW transitional safeguards working arrangements.

We oversee the actions and systems of FACS and funded providers to prevent, handle and respond to specified reportable incidents involving people with disability living in supported group accommodation across four areas:

- employee to client incidents – involving any sexual offence, sexual misconduct, assault, fraud, ill-treatment or neglect
- client to client incidents – involving assault that is a sexual offence, causes serious injury, involves the use of a weapon, or is part of a pattern of abuse of the person with disability by the other person living in the same accommodation
- contravention of an apprehended violence order (AVO) taken out to protect a person with disability
- unexplained serious injury.

More information about the incidents that have to be notified to us can be found in our *Guide for services: Reportable incidents in disability supported group accommodation* on our website.

Notifications of incidents

In 2016-17, we received 785 notifications of reportable incidents – an increase of 14% on the previous year (686): see figure 77 in Appendix C. During the past year, notifications of employee to client incidents increased by 30%, and notifications of unexplained serious injuries increased by 19%. However, there was a 7% decrease in the notifications of client to client incidents. Figure 53 shows the types of notifications we received in 2016-17. Figure 78 in Appendix C shows how many of these notifications were from FACS and the non-government sector.

Figure 53: Notifications of reportable incidents in 2016-17

	Notifications
Employee to client incidents	404
Client to client incidents	242
Unexplained serious injury	135
Breach of an AVO	4
Total	785

Notifications about employee to client matters

Of the 404 notifications we received about employee to client incidents, the majority involved allegations of neglect, physical assault and ill-treatment: see figure 54. In 2016-17, most of the increase in notifications about employee conduct related to alleged neglect – they increased by 175%.

Figure 54: Employee to client reportable incidents in 2016-17: primary issue

Issue	Number
Neglect	154
Physical assault	125
Ill-treatment	54
Sexual offence	26
Sexual misconduct	11
Fraud	6
Not in jurisdiction	28
Total	404

Notifications about client to client matters

Of the 242 notifications we received about client to client reportable incidents, most involved allegations of a pattern of abuse by one client against another – followed by allegations of sexual offences, and

physical assault causing serious injury. Most of the decrease in these notifications was associated with fewer notifications by non-government disability services of incidents involving a pattern of abuse (down 29%) and abuse causing serious injury (down 38%). See figure 55.

Figure 55: Client to client reportable incidents in 2016-17: primary issue

Issue	Number
Pattern of abuse	115
Sexual offence	56
Assault causing serious injury	38
Assault involving the use of a weapon	21
Reportable conviction	1
Not in jurisdiction	11
Total	242

Notifications about unexplained serious injuries

Case study 81 illustrates some of our work in responding to notifications of reportable incidents involving unexplained serious injuries.

Providing data on reportable incidents

We recognise that there is scant data available on the abuse and neglect of people with disability, and appreciate the importance of making the data from the reportable incidents scheme regularly and publicly available. We continue to provide detailed data on reportable incident notifications in our disability e-newsletters, which we publish on our website. We issued the e-newsletter twice this year.

In 2016-17, we also analysed the information provided to us about finalised investigations so we could report aggregated data about outcomes – including the action taken in response to findings. We started publishing this data in our disability e-newsletters in October 2016.

Complaints about disability reportable incidents

This year, we received 307 inquiries and 32 complaints relating to disability reportable incidents. The main issues raised in the 32 complaints concerned:

- inadequate action by service providers to prevent, and effectively respond to, reportable incidents
- inadequate action by service providers to identify and manage risks to clients
- poor service management – including inadequate staffing and supervision arrangements

- not meeting the individual needs of clients – including medication, health care and behaviour support needs
- poor communication with families and guardians – including not providing timely information about incidents, and not providing advice on the outcome of investigations.

Strengthening the knowledge and practices of service providers

We invest a considerable amount of our time in activities that aim to build the capacity of service providers to prevent and effectively respond to disability reportable incidents – and the abuse and

neglect of people with disability more broadly. We encourage providers to contact us at an early point for advice on responding to serious incidents and taking appropriate actions to identify and manage risks to clients and others. In this way, we try to:

- influence the direct management of incidents as they unfold
- enable the timely involvement of police
- make sure medical assistance and other supports are provided for alleged victims
- ensure there is appropriate communication with families/carers and guardians.

Case studies

81. Preventing and effectively investigating unexplained serious injuries

We received a notification in relation to a man with a severe intellectual disability and epilepsy who sustained a dislocated shoulder from unknown causes. The man does not communicate verbally, has behaviour support needs, has a history of falls, and wears a protective helmet. He had recently moved from a large residential centre into community accommodation, and it was unclear whether the service had been given adequate information about the man at the time of his transition to the group home.

The service told us that it believed the man had dislocated his shoulder during an unwitnessed fall. However, we had concerns about the adequacy of the service's investigation of the cause of the injury, as well as its response to the injury. We also had concerns about the adequacy of the actions that had been taken by the service to prevent falls, provide appropriate manual handling, manage the man's pain, and organise appropriate clinical and medical supports.

Our inquiries found that there had been 66 incidents involving the man in the previous year, including:

- a significant number of unwitnessed incidents
- staff finding the man on the ground, struggling to raise himself
- the man sustaining injuries including bleeding, bruising, cuts requiring suturing, and the ingestion of a plastic bag which required surgical intervention
- the man falling from his bike in the park approximately five months earlier, and not appearing to have been adequately assessed for injuries.

In addition, one week before the dislocation, a staff member had witnessed another employee pull the man up from the floor by his arm after he had fallen and had documented concerns that the man was at risk of having his shoulder dislocated.

The man had reduced capacity to communicate his pain levels, staff did not always adequately recognise and respond to his pain, and there was often a delay in the man receiving a medical assessment after fall-related incidents.

We also found that the service had not adequately considered other possible causes of the man's dislocated shoulder and related issues. It did not seem to have considered previous incidents or falls, staff actions, environmental factors and hazards, or the possible behaviours of other clients.

We provided feedback to the service about these matters, made some suggestions for improvement, and monitored the subsequent actions taken by the service. Following our feedback, the service told us that it had put a number of new support initiatives in place to address the man's safety and wellbeing. These actions included increased staff training, increased 1:1 staff support during high risk times in his daily routine, a comprehensive review of the man's support plans, consultation with the man's neurologist and other medical specialists, and referral for allied health intervention to improve actions to prevent falls and to identify and respond to his pain.

Since this matter, we have seen improved practices on the part of the service to promote the health and wellbeing of clients – including better access to medical and clinical services and supports, improved pain assessment and management, and more comprehensive staff training.

We also work to identify and address any systemic issues that emerge through the disability reportable incidents scheme. The following sections outline our work during the past year to address systemic issues and assist service providers.

Providing guidance on responding to serious incidents

In November 2016, we released a comprehensive resource guide for the disability sector on providing an appropriate initial and early response to allegations of abuse and neglect in disability services. Among other things, the guide provides practical advice and tips for disability services staff about responding to client disclosures, protecting evidence, reporting suspected/alleged abuse or neglect, supporting clients, and working with police. To make it as easy as possible for direct care staff to understand and apply the guidance, we developed a 'quick guide', a one-page flowchart, plus a training guide for managers to use in team meetings to reinforce the key messages and test staff's understanding.

We also produced a series of fact sheets on key practice areas for reportable incidents. In 2016-17, we issued practical guidance on:

- how we assess an investigation into client to client incidents
- risk management following an allegation against an employee
- identifying and responding to an unexplained serious injury
- defining assault for the purposes of the disability reportable incidents scheme.

Reducing contact with the criminal justice system

To reduce the unnecessary contact of people with disability in supported accommodation with the criminal justice system, in June 2017 we finalised and released a Joint Protocol for disability services and police. Among other things, the protocol aims to:

- reduce the frequency of police involvement in responding to behaviour that would be better managed solely within the disability accommodation service
- improve relationships, communication and information sharing between local police and disability services
- ensure that appropriate responses are provided to people with disability living in supported accommodation who are victims.

To support and monitor the implementation of the protocol over a 12-month period, we have established a statewide steering committee with representatives from 27 agencies – including police, FACS, non-government disability accommodation providers, the NDIA, and other key government and non-government

agencies. Some of the activities agreed by the committee include holding regional forums to facilitate communication and local relationships between police and disability services, and developing training materials to communicate the key messages to direct care staff and frontline officers. To support this work, we have released a fact sheet on the protocol.

Best Practice Working Group

Five months before the start of the disability reportable incidents scheme, we established a Best Practice Working Group to support and inform the work of our office and the broader disability sector in relation to the scheme, as well as consider critical issues relating to the abuse and neglect of people with disability. The group has over 40 disability leaders and key subject matter experts within and outside the disability sector – including representatives from FACS, the NSW Police Force (NSWPF), National Disability Services (NDS), non-government disability accommodation providers, NSW Legal Aid, expert clinicians, advocates and leading academics.

The group met twice this year and covered a range of important issues – including investigations into unexplained serious injuries, and critical practice issues that have arisen through our oversight of client to client incidents.

We engaged a member of the working group – Associate Professor Leanne Dowse (Chair in Intellectual Disability Behaviour Support at the University of NSW) – to do a review of reportable client to client incidents that had been notified to our office, to assess the quality and appropriateness of the behaviour support interventions that were being provided in response. In 2016-17, we released a paper by Associate Professor Dowse on the findings and recommendations from her review, relating to issues in recognising, reporting and responding to client to client incidents.

Hosting disability service provider roundtable meetings

During the year, we hosted two disability service provider roundtable meetings to bring together a small number of service providers to share experiences, initiatives, resources and ideas to prevent and effectively respond to reportable incidents and other serious incidents. These meetings have included discussions on organisational culture, incident reporting, investigative practice, staff management issues, relationships with police, and supporting clients to speak up and to understand their rights.

Delivering education and training

We run workshops for disability services staff on responding to serious incidents in disability service settings. In addition to our course on handling serious incidents in the disability sector, this year we have released a new workshop on the initial and early response to abuse and neglect in disability services.

This workshop complements the comprehensive resource guide and related resources we have released on this topic, and supports direct care staff to develop a practical understanding of the subject matter and their role in responding to such incidents.

This year, we delivered 44 workshops to approximately 887 staff of disability services. For more information about our education and training work with disability services, please see the Sharing our knowledge and expertise chapter.

Responding to alleged abuse and neglect of adults with disability in community settings

As well as receiving notifications of reportable incidents in disability services, we are frequently contacted by people raising concerns about the abuse and neglect of adults with disability in community settings such as the family home. In 2016-17, we received concerns about 102 matters. In the majority of these matters (79), the allegations did not relate to service providers – the alleged abuse and neglect involved family

members or other people in the community. In the other 23 cases, there were also concerns about the conduct of a disability service provider – such as a failure to adequately respond to signs of abuse.

We take a range of actions in response to these matters, including:

- checking child protection and police intelligence systems
- making inquiries with any current or recent services involved with the person with disability and/or their family
- liaising with the Public Guardian about matters that may require that office to make a guardianship application
- convening interagency meetings to discuss the information known about the person's current care, circumstances and risks – and to coordinate a safeguarding approach and oversight agreed actions.

Case studies 82 and 83 illustrate some of the matters concerning alleged abuse and neglect of adults with disability in community settings that we dealt with this year.

Case studies

82. Supporting a family member to protect her sisters

The sister of two adult women with intellectual disability living at home with their mother alleged that her mother had physically and emotionally abused her sisters, withheld money from them, and refused to allow services to enter the home to provide support.

Our checks of child protection and police intelligence systems found that there was a history of child protection reports, relating to concerns of physical abuse and neglect. We made inquiries with FACS and identified that the mother had a history of refusing services for the siblings. The sister made a guardianship application in relation to her sisters, but was unable to provide medical assessments as she lived overseas. We brought the matter to the attention of the Public Guardian, who worked with the sister to have the matter heard before the Guardianship Division of the NSW Civil and Administrative Tribunal (NCAT).

NCAT appointed a separate representative for the siblings, ordered that specialist assessments be done, and ordered the mother to allow the representative access to the house to find out their preferences about accommodation, community access and supports. During the final hearing, NCAT appointed a Public Guardian for both sisters for decisions relating to accommodation, health care, medical and dental consent, and services.

83. Strengthening protections to uphold human rights

A member of the public contacted us to raise concerns about the circumstances of a young man with intellectual disability who lived next door. The young man lived in a granny flat at the back of his family's house, and the neighbour reported that the young man was left at home unsupervised and distressed for most of the day. The granny flat was dirty and unhygienic, he was not allowed into the family home, and his family would leave food outside on a table for him where the dog would touch it.

We checked the child protection and police intelligence systems and found a long history of concerns – including multiple reports of domestic violence, and child protection reports relating to concerns of neglect. We received information that both parents had made separate guardianship applications to NCAT. We convened an interagency meeting with FACS, police and the Public Guardian. During the meeting, and after discussing the current circumstances and risks in play for the young man, it was agreed that FACS would submit a report to NCAT detailing the concerns. NCAT subsequently appointed the Public Guardian for the young man for 12 months for decisions about accommodation, health care, and medical and dental consent.

Holding a forum on the abuse, neglect and exploitation of people with disability

In November 2016, we held a public forum on *Addressing the abuse, neglect and exploitation of people with disability*. The forum was attended by over 500 people with disability and their supporters, service providers, government agencies and others and was streamed live to outside viewers. The forum focused on the abuse of people with disability in two key settings – disability service settings and community settings. Information about the forum, including summaries of the forum sessions and the feedback and questions of attendees, is available on our website.

While the morning session of the forum noted the reportable incidents scheme that has been established in NSW for dealing with abuse that takes place in disability accommodation settings, the afternoon session noted the critical need for an effective framework to respond to this issue for those who are vulnerable and living in the community. In response, we gave a commitment to do what we could to advocate for a more robust framework for this particularly vulnerable cohort.

Our handling of the many matters that have been raised with us relating to the alleged abuse and neglect of adults with disability in community settings has highlighted that providing an effective interagency response to this issue can be relatively straightforward – provided that the agency taking the lead role has access to the right information, adequate powers, and the cooperation and support of key government and non-government stakeholders. This year we provided a briefing paper to the Department of Premier and Cabinet and FACS on the work we have been doing in this area and proposed the establishment of a NSW Public Advocate. We have emphasised the important need for a Public Advocate to investigate allegations of abuse, neglect and exploitation of vulnerable adults, and to take the lead in facilitating and coordinating the response to safeguard individuals. Establishing a Public Advocate is also consistent with recommendations from recent inquiries into elder abuse.

Rights project for people with disability

Our *Rights project for people with disability* is funded by FACS until the end of 2017-18. It focuses on:

- helping people with disability to understand and exercise their rights in the transition to the NDIS
- promoting accessible complaint systems and practices among NSW Government agencies and disability service providers
- strengthening systems to prevent, identify and respond to the abuse, neglect and exploitation of people with disability.

In 2015, we established a Joint Advisory Committee (JAC) with three other related FACS-funded projects that were also focused on promoting the rights of people with disability in NSW. The purpose of the JAC was to ensure that all four FACS-funded rights-based projects were complementary and well-targeted, and that opportunities for collaboration were identified and pursued.

This year, the JAC met on four occasions. As the three other funded projects are nearing completion, the final JAC meeting took place in May 2017. However, project officers have continued to share information on an informal basis.

Delivering Speak Up workshops

In 2016-17 we continued to roll out our free Speak Up workshops for people with disability, delivering 68 workshops to almost 900 people – including clients of 26 different service providers across NSW.

Speak Up workshops are designed to encourage people with disability to speak up when they would like a change in their lives or when something is not right. The majority of people who participate are people with intellectual disability who live in supported accommodation, such as group homes or large residential centres.

We have contracted people with intellectual disability who are well-known self-advocates to co-deliver the workshops. We try to deliver these workshops in venues that are comfortable and familiar to people with disability, such as day program facilities or private homes. Staff, families and other supporters and advocates are encouraged to attend. The training is free, takes approximately 2.5 hours, and includes short videos aimed at preventing the abuse and neglect of people with disability.

This year, we partnered with the Community Disability Alliance Hunter (CDAH) to deliver sessions at the Stockton, Tomaree and Kanangra residential centres to facilitate ongoing peer mentoring relationships between residents and CDAH representatives.

Making it easier for people with disability to make complaints

In September 2016, we published a video and tip sheet after extensive consultations with government and non-government agencies about the type of resources that would help them improve the accessibility of their complaint handling systems:

- *My right to be heard* is a video featuring five people with disability who provide personal insights into their lives and the importance of being heard. The video includes a strong message from the Deputy Ombudsman and Community and Disability Services Commissioner about the obligation of all agencies and their staff to take an inclusive and

flexible approach to complaint handling. The message is supported by practical advice from one of our most experienced complaint handlers.

- *Tips for accessible complaint handling* provides practical guidance to complaint handlers about making it easier for people with disability to complain and receive a quality response. The tip sheet explains what is meant by adopting a 'person-centred' approach to complaint handling and genuinely seeking to understand and meet the individual needs of a person with disability.

The video and tip sheet are free resources and are designed to be included in agency training and induction packages, on intranets and/or websites. So far, we have distributed the tip sheet and video to over 200 disability service providers and supported accommodation providers, 129 local councils, 74 government agencies, 28 disability peak bodies, 25 oversight bodies and 10 universities. The resources have been widely welcomed, with one government agency reporting:

... We have now had 135 of our customer service staff view the video and discuss it at their regional staff meetings. All have been provided with copies of the fact sheet too. We have received really positive feedback about the video and staff have really appreciated its guidance and found it helpfulWe will continue to use your resources during our induction for all new staff.

Improving investigative interviewing of people with cognitive disability

There are substantial barriers to people with disability engaging equitably with the justice system. Through our work, we have identified the need to enhance police expertise in interviewing people with disability who have communication support needs and intellectual disability. This issue has also been brought to the attention of the Royal Commission into Institutional Responses to Child Sexual Abuse.

Last year, we engaged Professor Penny Cooper from the UK to develop – in collaboration with our office – a guide and related training package for complaint handling staff and investigators in disability services on obtaining 'best evidence' from people with cognitive impairment, particularly those who are the subject of, or witnesses to, alleged abuse. Professor Cooper devised and delivers the national training and procedural guidance for registered intermediaries in the UK, and also trained the first cohort of intermediaries employed by the witness intermediary pilot scheme in NSW. A version of the guide and training package will also be tailored specifically for use by the NSWPF in their detective training course and their training for other police officers.

The guide will include advice about:

- how to remove barriers to the interviewee's participation in the interview, including by making reasonable adjustments

- interview planning and preparation and questioning techniques
- the impact of trauma on communication
- the role of witness intermediaries when planning and conducting interviews.

We plan to obtain feedback on the final draft of the guide from key stakeholders in both the disability and criminal justice sectors.

Hosting expert forums

During the year, we hosted another two Disability Expert Forums – building on the success of our first forum earlier in 2016. The August 2016 forum – focusing on the rights of people with intellectual disability – involved 11 people with intellectual disability. We invited participants to reflect on the most important rights and barriers preventing them from exercising or enjoying those rights. All participants contributed to the discussion and agreed on the fundamental proposition that people with intellectual disability should be treated as 'people first'.

Our third forum in June 2017 focused on the rights of people with psychosocial disability. We explored key issues of concern for people with psychosocial disability in relation to exercising their rights under the NDIS, and more generally in the community. The forum was attended by 10 people with psychosocial disability, and will inform the ongoing development of our training and resources delivered through the Rights Project for People with Disability.

Partnering with National Disability Services

In September 2016, we arranged for NDS – the peak national body for non-government disability service providers – to present an overview of its recently launched Zero Tolerance training to representatives from the Disability Council, the Commonwealth Ombudsman, service providers, the NSWPF and our office. Over 40 people attended and committed to promoting the training package to service providers to help frontline staff identify possible abuse and neglect of people with disability using support services.

We also collaborated with NDS, the Victorian Advocacy League for Individuals with Disability (VALID), and the NSW Council for Intellectual Disability to co-host a forum in November 2016 about preventing abuse and neglect of people with disability. This successful forum, which was aimed at supporting people with disability and service staff to speak up when something is not right, was attended by more than 60 people.

Safeguards and the NDIS

Developing a national framework

In 2016-17, we have continued to provide considerable input and feedback to NSW and Commonwealth representatives to guide the development of the NDIS Quality and Safeguarding Framework – including in relation to the role and functions of the NDIS Quality and Safeguards Commission.

Some key issues we have emphasised are:

- the important role of the Commission as a significant investigative agency – and the associated need for the Commissioner to have substantial powers to obtain information to effectively carry out this role, and to have maximum flexibility in how the work is done
- the need for providers to be able to exchange information where it relates to the safety of people with disability.

Sharing information

We have information sharing arrangements in place between our office and the NDIA for the appropriate referral and handling of complaints and other issues involving NDIS participants and service providers. In 2016-17, we developed similar information sharing arrangements with the Commonwealth Department of Health in relation to the Continuity of Support (CoS) Program.

The CoS program is designed to ensure that older people with disability who are not eligible for the NDIS – for example, because they are 65 years of age or older – will still be supported as the NDIS is rolled out. It means that older people who have been receiving specialist disability services in NSW, such as shared accommodation, will continue to receive those services. Consistent with our arrangements with the NDIA, the information sharing arrangements with the Commonwealth Department of Health include guidance on the incidents that the department will refer to us and in what circumstances, and the time frame for acknowledging the receipt of these referrals.

Reducing deaths of people with disability in residential care

Under CS-CRAMA, we review the death of any person living in, or temporarily absent from, residential care provided by a service provider or an assisted boarding house. This includes the deaths of NDIS participants living in residential care. We focus on identifying issues that may contribute to deaths or that may affect the safety and wellbeing of people with disability in residential care, and make recommendations aimed at helping to reduce preventable deaths.

In 2016-17 we started work on our next biennial report to Parliament on the reviewable deaths of people with disability in residential care. This will cover the deaths of 237 people with disability in 2014 and 2015. We have continued to monitor the actions of agencies in response to the 10 recommendations in our previous report.

We are one of very few agencies in Australia and internationally responsible for reviewing the deaths of people with disability. This year, we had discussions with key parties who are involved in this work to share information and explore opportunities for cooperative activities. In August 2016 we met with Dr Pauline Heslop from the Learning Disabilities Mortality Review Program in the UK, together with researchers and practitioners from the University of NSW, to discuss how we do our respective work and the common issues we have identified. In March 2017, we met with the Office of the Disability Services Commissioner in Victoria to provide information about our systems and processes to inform the Commission's preparations for its new death review functions.

Improving support to people with disability in hospital

The adequacy of the support and quality of care provided to people with disability in hospital has been a consistent area of concern identified in our reviews. Despite the release of key policy and other guidance aimed at improving the coordination and provision of support to people with disability in hospital, we have continued to identify instances in which the health outcomes of people with disability have been adversely affected by:

- hospital staff not adequately understanding the person's support needs
- hospital staff not heeding critical information provided about the person by disability staff
- poor communication between hospital and disability services staff.

We are continuing to monitor the actions of agencies in response to recommendations in our last biennial report that are relevant to this issue. However, after a number of reviews that identified problems with the support for individuals in hospital, in 2016-17 we also met with four local health districts and disability service providers to discuss the issues and the actions that were underway or planned to address them. Some of the agreed actions have included health providers hosting afternoon teas with disability services to improve communication and local relationships, reviewing the use of the *Top5 Tool* with patients with disability to ensure hospital staff understand the person's critical support needs, and strengthening disability action plans to monitor implementation of the relevant guidelines.

Accessing preventive health programs

We have often highlighted the poor access of people with disability to preventive health programs – despite many having multiple health risks associated with lifestyle factors. In response to this issue, and after our meetings with the Centre for Population Health and Office of Preventive Health, both parties started work this year with the NSW Council for Intellectual Disability (NSW CID) to improve the accessibility of the resources and program messages of *Make Healthy Normal*. This is a NSW Health initiative aimed at reducing overweight and obesity rates through healthy eating and active living.

As part of this work, NSW CID facilitated focus groups to test the accessibility of *Make Healthy Normal* resources for people with intellectual disability. A key suggestion of the focus groups was that disability support staff need education and training about healthy eating and active living so that they can support people with disability to make healthy choices. The Office of Preventive Health has subsequently met with disability services to promote its *Get Healthy at Work* program as a strategy to improve the health literacy of disability support workers. We will continue to monitor the progress of this work.

Inquiry into behaviour management in schools

Behaviour management in schools has featured in many matters brought to our office – including concerns about the use of restrictive practices, staff knowledge, practices, and access to expertise in relation to behaviour support, the management of complaints and communication with parents/carers.

In December 2016, we started an inquiry into behaviour management in government and non-government schools in NSW. It focused on:

- best practice in behaviour management in school settings
- the adequacy of the policy and practice frameworks across the school sectors for the development, implementation, monitoring and review of evidence-based behaviour management
- the adequacy of current complaint management arrangements for behaviour management in schools.

Our inquiry examined behaviour management in schools overall, but with a particular focus on students with complex needs and challenging behaviours. Within that broad cohort, we also focused more specifically on students with disability or additional support needs, Aboriginal students and students in residential out-of-home care.

In August 2017, we tabled a special report to Parliament on our inquiry. In our report, we highlighted (among other things):

- the need for school staff to be better supported by greater access to relevant expertise, including personnel with the skills to conduct functional behaviour assessments and develop evidence-based behaviour support strategies
- the immense impact principals have on school culture and values, and the need to introduce mandatory learning requirements for principals – at a minimum on the Disability Standards for Education
- the continuing use of restrictive practices in schools – including seclusion and restraint – contrary to policy and expected practice
- the importance of having the right governance arrangements in place to drive interagency case management initiatives – particularly at the local and regional levels – and to closely monitor if the desired outcomes are being achieved
- the need to strengthen the existing arrangements for monitoring compliance with policy and practice requirements, including enhancing the data that is captured and analysed
- the need to strengthen early and local resolution of complaint issues, and to recognise when specialist dispute resolution skills are required.

As our report was published at the same time as the NSW Parliament was conducting an inquiry into the provision of education to students with disability or special needs in schools in NSW, the findings in our report were framed as ‘proposals for reform’ rather than final recommendations.

In September 2017, the Parliamentary Committee issued its final report, and recommended that the NSW Government urgently implement our 39 proposals. We will monitor the progress of agencies' actions in response.

Coordinating the OCV scheme

The Ombudsman has a general oversight and coordination role for the OCV scheme and we support OCVs on a day-to-day basis. Our work includes operating and administering the scheme, providing information and advice to OCVs, allocating services and prioritising visits to meet the needs of residents, supporting OCVs to respond to concerns about residents, and identifying and addressing issues of concern that require a complaint or other action.

This year, our OCV team's activities included:

- inducting 14 new OCVs
- organising and running a two day OCV annual conference – with presentations on guardianship and 'person responsible', monitoring compliance in assisted boarding houses, dietary support, the work of the Office of the Children's Guardian and ChildStory
- facilitating regular meetings between OCVs and the Ministers responsible for the scheme, our office and other OCVs.

In June 2017, the OCV annual report for 2015-16 was tabled in Parliament. It included detailed information about the work of OCVs, personal accounts by residents and OCVs, and practical case examples of issues and outcomes.



Financials

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Our financials

Our financial statements provide an overview of our financial activities during 2016-17. These statements, our supporting documentation, and our systems and processes have been reviewed by the Audit Office of NSW. We received an unqualified report.

Most of our revenue comes from the government in the form of a consolidated fund appropriation. Our appropriation for 2016-17 was \$28.885 million which included funding for both recurrent and capital expenses. The government also provided \$377,000 for certain employee entitlements such as defined benefit superannuation and long service leave.

In addition to our appropriation, we received a number of specific purpose grants totalling \$4.024 million.

The implementation of Treasury's cash management reforms, which require all non-restricted cash and cash equivalents in excess of a readily assessable short-term level to be held within the Treasury Banking System, impacted our financial position. As previously reported, we were required to use our own cash before funding was provided by the government. With the influx of grant funding and self-generating revenue, our 2016-17 appropriation was \$2.165 million less than budget. Some of our grant funding was for projects that extended over financial years. We were required to seek approval from Treasury to carry forward funds to 2017-18. This approval will be shown in our appropriation in 2017-18. Another consequence of the cash management reforms is our negative 'net result'.

We continue to have 'saving' initiatives deducted from our budget allocation and have in place a range of strategies to deal with our budget pressures including cutting staff costs and generating revenue through fee-for-service training. The cutting of staff costs in particular has an impact on the delivery of our services to the public.

Our audit and risk committee (ARC) continued its role of providing assurance to the Ombudsman that our financial processes comply with legislative and office requirements. For more details about our ARC, see the About Us chapter.

In line with the NSW Government's commitment to improve financial management in the public sector, we continue to review our internal accounting practices as well as the quality of information we provide to NSW Treasury. We continued to engage with NSW Treasury to provide feedback and obtain information on its financial management transformation initiatives and the online reporting database PRIME. We were required to report in two systems (PRIME and the previous system TOES), for most of 2016-17. The impact of this, as well as the need to do an extensive mapping of our chart of accounts, implement a counterparties classification

system, and process our budget bids and financial position, all through the new online system, had a significant impact on our small accounts team.

The Ombudsman receives funding from the NSW Government. Although we account for these funds on an office-wide basis – as reflected in our financials – internally we allocate them between our different divisions and business units. The NSW state budget reports expenses and allocations against service groups. We operate under one service group – the independent resolution, investigation or oversight of complaints made by the public about agencies within the jurisdiction of the Ombudsman and the scrutiny of complaint handling and other systems of those agencies.

Revenue

Most of our revenue comes from the government in the form of an appropriation. This is used to meet both recurrent and capital expenditure. Appropriations are accounted for on the statement of comprehensive income as revenue along with the provision that the government makes for certain employee entitlements such as long service leave.

Our 2016-17 final appropriation was \$28.885 million of which \$312,000 was used for capital purchases. We were successful in securing ongoing and temporary funding in the NSW Government budget which saw an increase in our 2016-17 budget compared to the previous year. At year end, however, we received \$2.165 million less than expected as we deferred our fit-out program, requested approval to carry forward some unspent funds to 2017-18 and quarantined unspent funding for our police complaint function transfer to the Law Enforcement Conduct Commission (LECC).

In 2016-17 we budgeted that the Crown Entity would accept \$968,000 of employee benefits and other entitlements. However, the actual acceptance was \$377,000. This variance is primarily due to an actuarial adjustment for the net present value of our long service leave liability.

We were allocated \$1.425 million in 2016-17 for our capital program, but only spent \$312,000. We had scheduled to complete our office fit-out but with the delay in transferring the police function to LECC, we deferred our fit-out to 2017-18.

This year we received \$4.024 million in grants including funding for Operation Prospect (see Police chapter), our disability reportable incidents function (see People with Disability chapter), our review of the Joint Investigative Review Team (see Children and Young People chapter), and to fund redundancies, including our police division redundancies.

We generated \$1.133 million of revenue from other sources, primarily through our fee-for-service workshops: see figure 56. We needed to adopt a proactive approach to generating revenue to help us with ongoing budget pressures. By co-ordinating our activities and identifying training needs in agencies and the non-government sector, we have increased our revenue base and used these funds to support our core work as well as enabling us to undertake more proactive project work. Figure 57 is a breakdown of our revenue, including capital funding and acceptance of certain employee entitlements.

Figure 56: Revenue from other sources

	\$'000
Workshops and publication sales	1,036
Grants and contributions	4,024
Other revenue	97
Total	5,157

Figure 57: Total revenue 2016-17

	\$'000
Appropriation	28,885
Acceptance of certain employee entitlements	377
Total government	29,262
From other sources	5,157
Total	34,419

Figure 58: Consultancies valued at less than \$50,000

Category	Count	Cost \$*
Management services	5	59,108
Total		59,108

*figure rounded to whole dollars

Figure 59: Consultancies valued at \$50,000 or more

Category	Consultant	Nature	Cost \$*
Management services	Australian Institute of Health & Welfare	Geospatial research and analysis (services over two financial years – total cost \$98,553)	24,638
Management services	Tiger's Eye Consulting Limited (UK) – Professor Penny Cooper	Interviewing people with cognitive disabilities	55,890
Management services	Monash University	The role of alcohol and other drugs in abuse and neglect related child deaths in NSW (services over two financial years - total cost \$54,820)	27,410
Management services	University of South Australia	Research support for the NSW Ombudsman's review of the Joint Investigative Response Team	69,630
Total			177,568

*figure rounded to whole dollars

Expenses

Most of our revenue is spent on employee-related expenses such as salaries, superannuation entitlements, long service leave and payroll tax. Our statement of comprehensive income shows that last year we spent about \$27.9 million – or 80.56% of our total expenses – on employee-related items.

Salary payments to staff were 1% lower than the previous year, primarily due to staffing levels in our police division reducing by about two-thirds in anticipation of the transfer of our police function to the LECC. We had an increase in redundancy payments totalling \$1.673 million, most of which was because of the transfer of the police function. We also transferred some of our salary budget to other operating expenses.

Our long service leave expenses decreased by \$1.5 million compared to the previous year. The annual actuarial review of our long service leave liability re-evaluated the net present value which required us to reduce this liability.

The day-to-day running of our office costs us about \$5.8 million which was 27.5% higher than what we had budgeted. Our significant operating items are rent (\$2.221 million), fees (\$1.063 million), contractors (\$489,000), travel (\$488,000), training (\$325,000) and non-employee related maintenance (\$308,000). To fund these increases, we transferred some of our employee-related budget to other operating expenses as well as using revenue provided for this purpose.

There were nine consultants engaged during 2016-17 as detailed in figures 58 and 59. There were four consultancies over \$50,000. The amounts reported include GST, but the amounts for consultants reported in our financial statements exclude GST.

The financial statements show that \$906,000 was expensed for depreciation and amortisation, which was lower than expected as we deferred our fit-out program to 2017-18. Although capital funding is shown on the operating statement, capital expenditure is not treated as an expense – it is reflected on the balance sheet as Non-Current Assets.

Figure 60: Total expenses 2016-17

Expenses category	\$'000
Employee-related	27,868
Depreciation and amortisation	906
Other operating expenses	5,818
Total	34,592

We have an accounts payable policy that requires us to pay accounts promptly and within the terms specified on the invoice. There are some instances, however, where this may not be possible – for example, if we dispute an invoice or do not receive it with enough time to pay within the specified time frames. We therefore aim to pay all our accounts within the specified time frame 98% of the time.

We identify small business vendors to ensure that payment time frames are within the government's policy commitment. If agencies, including the office, fail to pay invoices to small businesses on time, a penalty fee is paid. Figure 61 provides details of our accounts paid on time. As can be seen, we had five invoices to a small business that were not paid on time. Short turnaround times of invoices can impact on our performance.

During 2016-17 we paid 98.25% of our accounts on time. We did not pay any penalty interest on outstanding accounts.

Assets

Our statement of financial position shows that we had \$5.761 million in assets at 30 June 2017. The value of our current assets decreased by \$114,000 from the previous year, while non-current assets decreased by \$604,000.

Just over 57% of our assets are current assets, which are categorised as cash or receivables. Receivables are amounts owing to us, and include fees for services that we have provided on a cost recovery basis and GST to be recovered from the Australian Taxation Office. Our receivables also include a lease incentive receivable of \$1.286 million and amounts that we have prepaid. We had \$645,000 in prepayments at 30 June 2017. The most significant prepayments were for rent and maintenance renewals for our office equipment and software support.

Figure 61: Performance indicator: Accounts paid on time – all suppliers

Measure	Sep 2016	Dec 2016	Mar 2017	Jun 2017	Total
All suppliers					
Number of accounts due for payment	451	493	463	650	2,057
Number of accounts paid on time	448	482	452	639	2,021
Actual % of accounts paid on time (based on number of accounts)	99.33%	97.77%	97.62%	98.31%	98.25%
Dollar amount of accounts due for payment	1,953,245	1,944,436	1,917,117	3,505,568	9,320,366
Dollar amount of accounts paid on time	1,952,615	1,937,377	1,882,265	3,488,734	9,260,952
Actual % of accounts paid on time (based on \$)	99.97%	99.63%	98.18%	99.52%	99.36%
Number of payments for interest on overdue accounts	-	-	-	-	-
Interest paid on overdue accounts	-	-	-	-	-
Small business suppliers					
Number of accounts due for payment to small businesses	30	53	23	59	165
Number of accounts due to small businesses paid on time	28	52	23	57	160
Actual % of small business accounts paid on time (based on number of accounts)	93.33%	98.11%	100.00%	96.61%	96.97%
Dollar amount of accounts due for payment to small businesses	22,339	81,437	61,136	127,662	292,575
Dollar amount of accounts due to small business paid on time	21,755	81,289	61,136	123,281	287,462
Actual % of small business accounts paid on time (based on \$)	97.39%	99.82%	100.00%	96.57%	98.25%
Number of payments to small businesses for interest on overdue accounts	-	-	-	-	-
Interest paid to small business on overdue accounts	-	-	-	-	-

Note: Note – this table does not include direct salary payments and other benefits paid through payroll.

Our cash assets decreased by \$164,000 due to the implementation of Treasury's cash management reforms which require all non-restricted cash and cash equivalents in excess of a readily assessable short-term level to be held within the Treasury Banking System. Even with this requirement, our influx of grant funding for projects extending over financial years increased our cash at bank but resulted in us receiving less recurrent funding than budget. We sought approval to carry forward funds, which will be shown in our appropriation in 2017-18.

Our non-current assets, which are valued at \$2.449 million are categorised as:

- plant and equipment – this includes our network infrastructure, computers and laptops, fit-out and office equipment
- intangible assets – these include our network operating and case management software.

We were allocated \$1.425 million in 2016-17 for asset purchases but only spent \$312,000. We had expected to finish our fit-out refurbishment using both capital funding and our lease incentive, but put this project on hold due to the delay in the transfer of our police function to the LECC. We received approval to transfer the \$1.125 million in capital funds to the 2017-18 financial year.

Figure 62: Analysis of accounts on hand at the end of each quarter

Measure	Sep 2016 (\$)	Dec 2016 (\$)	Mar 2017 (\$)	Jun 2017 (\$)
All suppliers				
Current (ie within due date)	62,412	354,922	102,120	249,292
Less than 30 days overdue	-	-	1,693	-
Between 30 days and 60 days overdue	-	-	-	-
Between 60 days and 90 days overdue	-	-	-	-
More than 90 days overdue	-	-	-	-
Total accounts on hand	62,412	354,922	103,812	249,292
Small businesses				
Current (ie within due date)	-	40,481	-	5,806
Less than 30 days overdue	-	-	-	-
Between 30 days and 60 days overdue	-	-	-	-
Between 60 days and 90 days overdue	-	-	-	-
More than 90 days overdue	-	-	-	-
Total accounts on hand	-	40,481	-	5,806

Note: This table does not include credit notes.

Liabilities

Our total liabilities at 30 June 2017 are \$6.085 million, a decrease of \$535,000 over the previous year. A decrease in the leave incentive liability and the impact on our on-costs following the annual actuarial review by Treasury of our long service leave liability were the primary cause of decreasing movement. We have made provision of about \$2.5 million for employee benefits and related on-costs, including un-taken recreation (annual) leave. The Crown Entity accepts the liability for long service leave.

We owe about \$443,000 for goods and services that we have received but have not yet paid. The value of accounts on hand (which excludes amounts we accrue) at 30 June 2017 was \$249,292: see figure 62. We monitor the amounts owing on a regular basis to make sure we are paying accounts within terms.

Financial statements

Our financial statements are prepared in accordance with legislative provisions and accounting standards. They are audited by the NSW Auditor General, who is required to express an opinion as to whether the statements fairly represent the financial position of our office. The audit report and our financial statements follow.



INDEPENDENT AUDITOR'S REPORT

Ombudsman's Office

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of the Ombudsman's Office, which comprise the statement of financial position as at 30 June 2017, the statement of comprehensive income, statement of changes in equity, and statement of cash flows for the year ended, notes comprising a summary of significant accounting policies and other explanatory information.

In my opinion the financial statements:

- give a true and fair view of the financial position of the Ombudsman's Office as at 30 June 2017, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015.

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Ombudsman's Office in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Acting Ombudsman's Responsibility for the Financial Statements

The Acting Ombudsman is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Acting Ombudsman determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Acting Ombudsman must assess the Ombudsman's Office's ability to continue as a going concern except where the Ombudsman's Office's operations will cease as a result of an administrative restructure. The assessment must disclose, as applicable, matters related to going concern and the appropriateness of using the going concern basis of accounting.

Auditor's Responsibility for the Audit of the Financial Statements

My objectives are to:


- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

My opinion does not provide assurance:

- that the Ombudsman's Office carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Chris Clayton
Director, Financial Audit Services

25 August 2017
SYDNEY

23 August 2017

Statement by the Acting Ombudsman

Pursuant to section 45F of the *Public Finance and Audit Act 1983* and to the best of my knowledge and belief I state that:

- (a) the accompanying financial statements have been prepared in accordance with the provisions of the Australian Accounting Standards (which include Australian Accounting Interpretations), the *Public Finance and Audit Act 1983*, the Financial Reporting Code for NSW General Government Sector Entities, the applicable clauses of the Public Finance and Audit Regulation 2015 and the Treasurer's Directions;
- (b) the statements exhibit a true and fair view of the financial position of the Ombudsman's Office as at 30 June 2017, and the financial performance for the year then ended; and
- (c) there are no known circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Professor John McMillan AO
Acting Ombudsman

Ombudsman's Office

Statement of comprehensive income for the year ended 30 June 2017

	Notes	Actual 2017 \$'000	Budget 2017 \$'000	Actual 2016 \$'000
Expenses				
Operating expenses				
Employee related	2(a)	27,868	28,401	28,565
Other operating expenses	2(b)	5,818	4,563	4,903
Depreciation and amortisation	2(c)	906	1,173	932
Total Expenses		34,592	34,137	34,400
Revenue				
Appropriations				
Sale of goods and services	3(a)	28,885	31,050	24,322
Investment revenue	3(b)	1,036	1,036	1,063
Grants and contributions	3(c)	–	–	1
Acceptance by the Crown Entity of employee benefits and other liabilities	3(d)	4,024	1,399	6,167
Other revenue	3(e), 15	377	968	1,941
	3(f)	97	17	17
Total Revenue		34,419	34,470	33,511
Gain/(loss) on disposal	4	(10)	–	(41)
Net result		(183)	333	(930)
Other comprehensive income				
Total other comprehensive income				
		–	–	–
Total comprehensive income		(183)	333	(930)

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of financial position as at 30 June 2017

	Notes	Actual 2017 \$'000	Budget 2017 \$'000	Actual 2016 \$'000
Assets				
Current Assets				
Cash and cash equivalents	6	1,187	681	1,351
Receivables	7	2,125	709	2,075
Total Current Assets		3,312	1,390	3,426
Non-Current Assets				
Plant and equipment	8	1,595	3,747	2,084
Intangible assets	9	854	820	969
Total Non-Current Assets		2,449	4,567	3,053
Total Assets		5,761	5,957	6,479
Liabilities				
Current Liabilities				
Payables	10	533	577	357
Provisions	11	2,466	2,241	2,584
Other	12	2,359	2,203	2,942
Total Current Liabilities		5,358	5,021	5,883
Non-Current Liabilities				
Provisions	11	727	662	737
Total Non-Current Liabilities		727	662	737
Total Liabilities		6,085	5,683	6,620
Net Assets/(Liabilities)		(324)	274	(141)
Equity				
Accumulated funds		(324)	274	(141)
Total Equity	1(m)	(324)	274	(141)

The accompanying notes form part of these financial statements

Ombudsman's Office

Statement of changes in equity for the year ended 30 June 2017

	Accumulated funds 2017 \$'000	Accumulated funds 2016 \$'000
Balance at 1 July	(141)	789
Net result for the year	(183)	(930)
Total comprehensive income for the year	(183)	(930)
Balance at 30 June	(324)	(141)

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of cash flows for the year ended 30 June 2017

	Notes	Actual 2017 \$'000	Budget 2017 \$'000	Actual 2016 \$'000
Cash flows from operating activities				
Payments				
Employee related		(27,532)	(27,096)	(27,203)
Other		(7,384)	(5,584)	(7,083)
Total Payments		(34,916)	(32,680)	(34,286)
Receipts				
Appropriations		28,885	31,050	24,322
Sale of goods and services		1,036	1,036	1,063
Interest received		–	2	14
Grants and contributions		4,024	1,399	6,167
Other		1,119	1,586	3,276
Total Receipts		35,064	35,073	34,842
Net cash flows from operating activities	14	148	2,393	556
Cash flows from investing activities				
Purchases of plant and equipment		(202)	(2,578)	(220)
Purchase of intangible assets		(110)	(90)	(88)
Advance repayment received		–	6	7
Net cash flows from investing activities		(312)	(2,662)	(301)
Net increase/(decrease) in cash		(164)	(269)	255
Opening cash and cash equivalents		1,351	950	1,096
Closing cash and cash equivalents	6	1,187	681	1,351

The accompanying notes form part of these financial statements.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

1 Summary of Significant Accounting Policies

(a) Reporting entity

The Ombudsman's Office is a NSW government entity. Our role is to make sure that public and private sector agencies and employees within our jurisdiction fulfill their functions properly. We help agencies to be aware of their responsibilities to the public, to act reasonably and to comply with the law and best practice in administration.

The Office is a not-for-profit entity (as profit is not its principal objective) and we have no major cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts. The financial statements for the year ended 30 June 2017 have been authorised for issue by the Acting Ombudsman on 25 August 2017.

(b) Basis of preparation

Our financial statements are general purpose financial statements, which have been prepared on an accrual basis in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations);
- the requirements of the *Public Finance and Audit Act 1983* and the Public Finance and Audit Regulation 2015; and
- the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.

Property, plant and equipment are measured at fair value. Other financial statements items are prepared in accordance with the historical cost convention.

Judgements, key assumptions and estimations that management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

(c) Insurance

Our insurance activities are conducted through the iCare TMF Scheme of self insurance for Government agencies. The expense (premium) is determined by the Fund manager, and is calculated by our past claims experience, overall public sector experience and ongoing actuarial advice.

(d) Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of GST, except that:

- the amount of GST incurred by us as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the acquisition of an asset or as part of an item of expense, and
- receivables and payables are stated with GST included.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

(e) Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of income are discussed below.

(i) Parliamentary appropriations and contributions

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants) are recognised as income when the entity obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash. Appropriations are not recognised as income in the following circumstance:

- Unspent appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount must be repaid to the Consolidated Fund. The liability is disclosed in Note 12 as part of 'Current liabilities - other'. The amount will be repaid and the liability will be extinguished next financial year.

(ii) Sale of goods

Revenue from the sale of goods such as publications are recognised as revenue when we transfer the significant risks and rewards of ownership of the assets.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

(iii) Rendering of services

Revenue from the rendering of services such as conducting training programs, is recognised when the service is provided or by reference to the stage of completion, for instance based on labour hours incurred to date.

(iv) Investment revenue

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

(f) Assets

(i) Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by us. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards. Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent; i.e. deferred payment amount is effectively discounted over the period of credit.

(ii) Capitalisation thresholds

Individual plant and equipment and intangible assets costing \$5,000 and above are capitalised. All items that form part of our IT network, such as software and hardware, are capitalised regardless of the cost.

(iii) Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 Impairment of Assets is unlikely to arise. As property, plant and equipment is carried at fair value, impairment can only arise in the rare circumstances where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not-for-profit entities to the higher of fair value less costs of disposal and depreciated replacement cost, where depreciated replacement cost is also fair value.

(iv) Depreciation of plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life.

All material separately identifiable components of assets are depreciated over their shorter useful lives.

Depreciation rates used:

- Plant and equipment 20%-25% (2017) and 20%-25% (2016)
- Furniture & fittings 10% (2017) and 10% (2016)
- Leasehold improvements Useful life of 10 years or to the end of the lease, if shorter.

(v) Restoration costs

Whenever applicable, the estimated cost of dismantling and removing an asset and restoring the site is included in the cost of an asset, to the extent it is recognised as a liability.

(vi) Maintenance

The costs of day-to-day servicing or maintenance are charged as expenses as incurred, except where they relate to the replacement of a part or component of an asset, in which case the costs are capitalised and depreciated.

(vii) Leased assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor does not transfer substantially all the risks and rewards. Operating lease payments are recognised as an expense on a straight-line basis over the lease term.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

(viii) Intangible assets

We recognise intangible assets only if it is probable that future economic benefits will flow to the Office and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

The useful life of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for our intangible assets, they are carried at cost less any accumulated amortisation.

Our intangible assets are amortised using the straight-line method over a period of five to ten years. The amortisation rates used for computer software is 10% to 20%.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

(ix) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost or face value.

Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(x) Revaluation of property, plant and equipment

We value our physical non-current assets in accordance with the *Valuation of Physical Non-Current Assets at Fair Value* Policy and Guidelines Paper (TPP 14-01). This policy adopts fair value in accordance with AASB13 Fair Value Measurement, AASB 116 *Property, Plant and Equipment* and AASB 140 *Investment Property*.

Non-specialised assets with short useful lives are measured at depreciated historical cost as an approximation of fair value. The entity has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

(g) Liabilities

(i) Payables

These amounts represent liabilities for goods and services provided to us as well as other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(ii) Employee benefits and other provisions

(a) Salaries and wages, annual leave, sick leave and on-costs

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave that is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service is required to be measured at present value in accordance with AASB 119 *Employee Benefits* (although short-cut methods are permitted). Actuarial advice obtained by Treasury has confirmed that the use of a nominal approach plus the annual leave on annual leave liability (using 7.9% of the nominal value of annual leave (7.9% 2016) can be used to approximate the present value of the annual leave liability. We have assessed the actuarial advice based on our circumstances and have determined that the effect of discounting is immaterial to annual leave liability.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

(b) Long service leave and superannuation

Our liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. We account for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Long service leave is measured at present value in accordance with AASB 119 Employee Benefits. This is based on the application of certain factors (specified by Treasury) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for defined contribution superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employee's salary. For defined benefit superannuation schemes (State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employee's superannuation contributions.

(c) Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

(iii) Other Provisions

Other provisions exist when: the entity has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation. If the effect of the time value of money is material, provisions are discounted at 2.75%, which is a pre-tax rate that reflects the current market assessments of the time value of money and the risks specific to the liability.

(h) Fair value hierarchy

A number of the entity's accounting policies and disclosures require the measurement of fair values, for both financial and non-financial assets and liabilities. When measuring fair value, the valuation technique used maximises the use of relevant observable inputs and minimises the use of unobservable inputs. Under AASB 13, the entity categorises, for disclosure purposes, the valuation techniques based on the inputs used in the valuation techniques as follows:

- Level 1 – quoted prices in active markets for identical assets/liabilities that the entity can access at the measurement date.
- Level 2 – inputs other than quoted prices included within Level 1 that are observable, either directly or indirectly.
- Level 3 – inputs that are not based on observable market data (unobservable inputs).

The entity recognises transfers between levels of the fair value hierarchy at the end of the reporting period during which the change has occurred.

The Office is using depreciated historical cost to measure plant and equipment as it presents an approximation of fair value of plant and equipment.

(i) Equity

The category accumulated funds includes all current and prior period retained funds.

(j) Budgeted amounts

The budgeted amounts are drawn from the original budgeted financial statement presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangement Orders) are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the primary financial statements is explained in Note 15.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

(k) Comparative information

Except when an Accounting Standard permits or requires otherwise, comparative information is disclosed in respect of the previous period for all amounts reported in the financial statements.

(l) Changes in accounting policy, including new or revised Australian Accounting Standards

(i) Effective for the first time in 2016-2017

AASB 124 Related Party Disclosures extends to not-for-profit public sector entities. The application of this standard has resulted in increased disclosures in the financial statements relating to related party transactions and key management personnel compensation. A qualitative description of transactions with government-related entities that are collectively, but not individually, significant are disclosed in financial statements.

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards unless NSW Treasury determines otherwise. The following new Accounting Standards which are applicable to the office, have not yet been applied and are not yet effective.

- AASB 9 Financial Instruments
- AASB 15, AASB 2014-5, AASB 2015-8 and 2016-3, AASB 2016-7 and AASB 2016-8 regarding Revenue from Contracts with Customers
- AASB 16 Leases
- AASB 1058 Income of Not-for-profit Entities
- AASB 2016-2 Amendments to Australian Accounting Standards – Disclosure Initiative: Amendments to AASB 107

We do not anticipate any material impact of these accounting standards on the financial statements of the Office.

(m) Going concern

The Office is a 'going concern' public sector entity. We will receive a Parliamentary appropriation as outlined in the NSW Budget Papers for 2017-2018 on an 'as needs' basis from the Crown Entity.

As at 30 June 2017 our total liabilities exceeded our total assets by \$324,000 primarily due to the impact of NSW Treasury's cash management reforms.

(n) Equity Transfers

The transfer of net assets between agencies as a result of an administrative restructure, transfers of programs/functions and parts thereof between NSW public sector agencies and 'equity appropriations' are to be treated as contributions by owners and recognised as an adjustment to 'Accumulated Funds'. This treatment is consistent with AASB 1004 *Contributions and Australian Interpretation 1038 Contributions by Owners Made to Wholly-Owned Public Sector Entities*.

Transfers arising from an administrative restructure involving not-for-profit entities and for-profit government departments are recognised at the amount at which the assets and liabilities were recognised by the transferor or immediately prior to the restructure. Subject to the following paragraph, in most instances this will approximate fair value.

All other equity transfers are recognised at fair value, except for intangibles. Where an intangible has been recognised at (amortised) cost by the transferor because there is no active market, the agency recognises the asset at the transferor's carrying amount. Where the transferor is prohibited from recognising internally generated intangibles, the agency does not recognise that asset.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

	2017 \$'000	2016 \$'000
2 Expenses		
(a) Employee related expenses		
Salaries and wages (including annual leave)*	22,667	22,895
Superannuation - defined benefit plans	280	334
Superannuation - defined contribution plans	1,695	1,769
Long service leave	81	1,589
Workers' compensation insurance	77	69
Payroll tax and fringe benefit tax	1,395	1,476
Redundancy	1,673	433
	27,868	28,565
(b) Other operating expenses include the following:		
Auditor's remuneration - audit of the financial statements	33	35
Operating lease rental expense - minimum lease payments	2,221	2,098
Insurance	23	16
Fees	1,063	904
Telephones	102	73
Stores	170	150
Training	325	163
Printing	61	41
Travel	488	447
Consultants	215	125
Contractors	489	243
Maintenance - non-employee related*	308	259
Other	320	349
	5,818	4,903
* Reconciliation - Total maintenance		
Maintenance expenses - contracted labour and other	308	259
Employee related maintenance expense included in Note 2(a)	78	75
Total maintenance expenses included in Notes 2(a) and 2(b)	386	334
(c) Depreciation and amortisation expense		
Depreciation		
Plant and equipment	143	171
Leasehold Improvements	518	494
Furniture and Fittings	20	21
Total depreciation expense	681	686
Amortisation		
Software	225	246
Total amortisation expense	225	246
Total depreciation and amortisation expenses	906	932

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

3 Revenue

	2017 \$'000		2016 \$'000	
	Appropriation	Expenditure	Appropriation	Expenditure
(a) Appropriations and Transfers to the Crown Entity				
Original Budget per Appropriation Act	31,050	28,885	27,382	24,322
Total Appropriations Expenditure/ Net Claim on Consolidated Fund	31,050	28,885	27,382	24,322
Appropriation drawn down		28,885		24,322
Liability to Consolidated Fund		-		-
Appropriations				
Recurrent	29,625	28,573	26,082	24,147
Capital	1,425	312	1,300	175
	31,050	28,885	27,382	24,322
(b) Sale of goods and services				
Rendering of services			1,036	1,063
			1,036	1,063
(c) Investment revenue				
Interest			-	1
			-	1
(d) Grants and contributions				
Crown Entity funded redundancies			114	271
Operation Prospect - Grant from the Department of Premier and Cabinet			302	2,157
Disability Reportable Incidents - Grant from Department of Family & Community Services			1,648	2,000
Aboriginal Programs - Grant from Aboriginal Affairs NSW			-	739
Joint Investigation Response Team (JIRT) Review - Grant from JIRT agencies			192	-
Disability Rights Project - Grant from Department of Family & Community Services			-	1,000
Police Division Redundancies - Grant from the Department of Premier and Cabinet			1,768	-
			4,024	6,167
(e) Acceptance by the Crown Entity of employee benefits and other liabilities				
The following liabilities and/or expenses have been assumed by the Crown Entity:				
• Superannuation - defined benefit			280	334
• Long service leave			81	1,589
• Payroll tax on superannuation			16	18
			377	1,941

The significant movement in long service leave is the result of an actuarial review as detailed in Note 15.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

	2017 \$'000	2016 \$'000
(f) Other revenue		
Miscellaneous	97	17
	97	17
4 Gain/(loss) on disposal		
Gain/(loss) on disposal of plant and equipment	(10)	(23)
Gain/(loss) on disposal of software	-	(18)
	(10)	(41)
5 Service groups of the entity		
<p>The Ombudsman's Office operates under one service group - the independent resolution, investigation or oversight of complaints made by the public about agencies within the jurisdiction of the Ombudsman and the scrutiny of complaint handling and other systems of those agencies.</p>		
6 Current assets – cash and cash equivalents		
Cash at bank and on hand	1,187	1,351
	1,187	1,351
<p>For the purposes of the statement of cash flows, cash and cash equivalents include cash at bank and on hand.</p> <p>Cash and cash equivalent assets recognised in the statement of financial position are reconciled at the end of the year to the statement of cash flows as follows:</p>		
• Cash and cash equivalents (per statement of financial position)	1,187	1,351
• Closing cash and cash equivalents (per statement of cash flows)	1,187	1,351
<p>Refer Note 17 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.</p>		
7 Current assets – receivables		
Long service leave refundable	25	25
Workshops and other	66	120
GST receivable	103	81
Prepayments	645	516
Lease incentive receivable	1,286	1,333
	2,125	2,075
<p>Refer to Note 17 for further information regarding credit risk, liquidity risk and market risk arising from financial instruments.</p>		

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

8 Non-current assets – plant and equipment	Plant and equipment \$'000	Leasehold improvements \$'000	Furniture and fittings \$'000	Total \$'000
At 1 July 2016 - fair value				
Gross carrying amount	1,103	3,515	320	4,938
Accumulated depreciation	(780)	(1,856)	(218)	(2,854)
Net carrying amount	323	1,659	102	2,084
At 30 June 2017 - fair value				
Gross carrying amount	1,030	3,634	315	4,979
Accumulated depreciation	(846)	(2,305)	(233)	(3,384)
Net carrying amount	184	1,329	82	1,595

Reconciliation

A reconciliation of the carrying amount of each class of assets at the beginning of and end of financial years is set out below:

Year ended 30 June 2017				
Net carrying amount at start of year	323	1,659	102	2,084
Additions	14	188	–	202
Write-off on disposal	(10)	–	–	(10)
Depreciation expense	(143)	(518)	(20)	(681)
Net carrying amount at end of year	184	1,329	82	1,595
At 1 July 2015 - fair value				
Gross carrying amount	1,143	3,745	376	5,264
Accumulated depreciation	(695)	(1,755)	(241)	(2,691)
Net carrying amount	448	1,990	135	2,573
At 30 June 2016 - fair value				
Gross carrying amount	1,103	3,515	320	4,938
Accumulated depreciation	(780)	(1,856)	(218)	(2,854)
Net carrying amount	323	1,659	102	2,084
Year ended 30 June 2016				
Net carrying amount at start of year	448	1,990	135	2,573
Additions	49	163	8	220
Write-off on disposal	(3)	–	(20)	(23)
Depreciation expense	(171)	(494)	(21)	(686)
Net carrying amount at end of year	323	1,659	102	2,084

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

9 Non-current assets – intangible assets	1 July 2015 \$'000	30 June 2016 \$'000	1 July 2016 \$'000	30 June 2017 \$'000
Software				
Gross carrying amount	2,334	2,292	2,292	2,393
Accumulated amortisation	(1,189)	(1,323)	(1,323)	(1,539)
Net carrying amount	1,145	969	969	854

Reconciliation

A reconciliation of the carrying amount of software at the beginning of and end of financial years is set out below:

	2017 \$'000	2016 \$'000
Net carrying amount at start of year	969	1,145
Write-off on disposal	–	(18)
Additions	110	88
Amortisation expense	(225)	(246)
Net carrying amount at end of year	854	969

All intangibles were acquired separately and there are no internally developed intangible assets.

10 Current liabilities – payables

Accrued salaries, wages and on-costs	90	3
Creditors	443	354
	533	357

Refer Note 17 for details regarding credit risk, liquidity risk and market risk arising from financial instruments

11 Current/non-current liabilities – provisions

Current provisions

Annual leave	1,361	1,345
Annual leave loading	241	267
Provision for related on-costs on annual leave	192	188
Provision for related on-costs on long service leave	672	784
Total current provisions	2,466	2,584

Non-current provisions

Provision for related on-costs on long service leave	58	68
Provision for make-good	669	669
Total non-current provisions	727	737

Reconciliation – make good

Carrying amount at the beginning of financial year	669	622
Additional provision	–	47
Carrying amount at the end of financial year	669	669

The provision for make good is non-current liabilities and was recognised for the estimate of future payments for make good upon termination of the current accommodation lease. The five year lease started in October 2014. We reviewed the amount we had set aside for our make good and based on updated advice increased this provision.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

	2017 \$'000	2016 \$'000
Aggregate employee benefits and related on-costs		
Provisions - current	2,466	2,584
Provisions - non-current	58	68
Accrued salaries, wages and on-costs (Note 10)	90	3
	2,614	2,655

The value of annual leave and associated on-costs expected to be taken within 12 months is \$1.794 million (2016: \$1.702 million). The Office has a proactive annual leave management program, whereby all staff are encouraged to take their full entitlement each year.

The value of long service leave on-costs expected to be settled within 12 months is \$73,000 (2016: \$85,000) and \$657,000 (2016: \$767,000) after 12 months.

12 Current liabilities – other

Current

Prepaid income	13	83
Lease Incentive Liability	2,346	2,859
	2,359	2,942

The lease incentive liability is amortised using the straight-line method over the period of the useful life of leasehold improvement assets acquired through the lease incentives.

In 2016-2017, the lease incentive liability was reduced by \$0.51 million due to depreciation on lease incentive assets and a GST adjustment on the recoupment of fit-out expenses.

13 Commitments for expenditure

Operating lease commitments

Future non-cancellable operating lease rentals not provided for and payable:

Not later than one year	3,335	3,016
Later than one year and not later than five years	4,155	7,222
Total (including GST)	7,490	10,238

The total operating lease commitments include GST input tax credits of \$0.681 million (2016: \$0.931 million) which are expected to be recoverable from the Australian Taxation Office.

The current five year accommodation lease, which was negotiated and signed by the then Government Property NSW commenced in October 2014.

14 Reconciliation of cash flows from operating activities to net result

Net cash used on operating activities	148	556
Depreciation and amortisation	(906)	(932)
Decrease/(increase) in provisions	128	(324)
Increase/(decrease) in prepayments	129	76
Decrease/(increase) in payables	(176)	1,484
Increase/(decrease) in receivables	(79)	(2,246)
Decrease/(increase) in other liabilities	583	497
Net gain/(loss) on disposal of assets	(10)	(41)
Net result	(183)	(930)

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

15 Budget review

Net result

With the Government's decision to transfer the Ombudsman's police function to the newly created Law Enforcement Conduct Commission (LECC), we began a program of redundancies for those staff not securing a role in the new agency. Payment of these redundancies, which totalled \$1.558 million in 2016-2017 was both unbudgeted and unfunded however we were able to secure Grant funding from the Department of Premier and Cabinet for this purpose.

This year saw funding for recurrent and capital expenses provided as a single appropriation from Parliament. At year end, we had underspent our appropriation by \$2.165 million primarily because we deferred our capital program until the 2017-2018 financial year. There were other variances to revenue items such as receiving an additional \$2.626 million in Grant funding, including \$1.882 million for redundancies (\$114,000 of which was not police function related) and \$302,000 for Operation Prospect. Although we budgeted \$968,000 for employee entitlements accepted by the Crown Entity, which is a non-cash revenue item, the annual actuarial review by Treasury of our long service leave liability required us to reduce this liability. We therefore had \$591,000 less revenue recorded for our Crown Entity acceptance item than what we had budgeted. Overall, our total revenue was \$51,000 less than budget.

Our total expenses were \$455,000 higher than budget for a range of reasons. Although we paid \$1.673 million in redundancies, which is reflected in our employee related expenses, the transition to a new police oversight arrangement resulted in some savings to the Ombudsman which we were able to carry forward to the 2017-2018 financial year for transfer to the LECC, along with the Ombudsman's annual police function budget. The \$591,000 reduction in revenue for employee entitlements accepted by the Crown Entity also reduced our employee related expenses when compared to budget.

We transferred some of our employee related budget to other operating expenses which allowed us to engage contractors and consultants to support our core work. For example, we engaged external experts to undertake specialised research to underpin the work of the office including the work for the Child Death Review Team and to support our disability rights project and our review of the Joint Investigative Review Team (JIRT).

Depreciation expenses were lower than budget as we deferred our capital program until 2017-2018.

We made a number of requests to carry forward unspent funds to 2017-2018 – all of which were approved.

Assets and liabilities

Overall, our net assets were \$598,000 less than budget. We had \$506,000 more cash than expected as some Grants were not fully spent. We will carry forward unspent Grant funding to the 2017-2018 financial year.

Although our current assets were higher than budget, our non-current assets were lower as we deferred the finalisation of our accommodation upgrade until after the transfer of our police function to the LECC. Total liabilities were \$402,000 higher than budget and includes a higher provision for employee entitlements and the impact on the lease incentive liability as the lease incentive asset was not depreciated as expected.

Cash flows

Our net cash flow from operating activities was \$2.245 million less than budget. Payments were \$2.236 million higher than expected while receipts were \$9,000 lower. The reasons for the changes are discussed in the Net Result section above. Our net cash flow from investing activities was \$2.35 million less than budget as we deferred our capital program to the 2017-2018 financial year.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

16 AASB 124 Related Party Disclosure

There was one key management personnel (KMP) in the Office during the year. Compensation for this KMP is as follows:

	2017 \$'000
Short-term employee benefits:	
Salaries	461
Other monetary allowances	4
Non-monetary allowances	4
Long-term employee benefits:	
Post-employment benefits	-
Other long term benefits	-
Termination benefits	-
Total	469

We did not enter into transactions with close family members or entities controlled or jointly controlled by our KMP.

During the year, we entered into transactions on arm's length terms and conditions with other entities controlled by NSW Government. These transactions include:

- Payments into the icare TMF Scheme
- Long Service Leave and Defined Benefit Superannuation assumed by the Crown
- Appropriations (and subsequent adjustments to appropriations)
- Transactions relating to the Treasury Banking System
- Payment for the audit of our financial statements
- Receipts from the provision of training and related services
- Grants and contributions related to funding specific programs and projects.

17 Financial instruments

The Office's principal financial instruments are outlined below. These financial instruments arise directly from the Office's operations and are required to finance our operations. The Office does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

Our main risks arising from financial instruments are outlined below, together with the Office's objectives, policies and processes measuring and managing risk. Further quantitative disclosures are included throughout these financial statements. The Ombudsman has overall responsibility for the establishment and oversight of risk management and reviews and approves policies for managing these risks. The Audit and Risk Committee (ARC) has been established to provide advice to the Ombudsman. The ARC does not have executive powers. Risk management policies are established to identify and analyse the risks faced by the Office, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Audit and Risk Committee on a regular basis.

(a) Financial instrument categories

Class	Note	Category	Carrying Amount	
			2017 \$'000	2016 \$'000
Financial assets				
Cash and cash equivalents	6	N/A	1,187	1,351
Receivables ¹	7	Receivables (at amortised cost)	1,377	1,478
Financial Liabilities				
Payables ²	11	Financial liabilities measured at amortised cost	533	357

¹ Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

² Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

(b) Credit risk

Credit risk arises when there is the possibility of our debtors defaulting on their contractual obligations, resulting in a financial loss to the Office. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment). Credit risk is managed through the selection of counterparties and establishing minimum credit rating standards. Credit risk arises from the financial assets of the Office, including cash, receivables and authority deposits. No collateral is held by the Office and the Office has not granted any financial guarantees.

Cash

Cash comprises cash on hand and bank balances within the Treasury Banking System.

Receivables – trade debtors

The only financial assets that are past due or impaired are 'sales of goods and services' in the 'receivables' category of the statement of financial position. All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that we will not be able to collect all amounts due. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. The credit risk is the carrying amount (net of any allowance for impairment, if there is any). No interest is earned on trade debtors. The carrying amount approximates fair value. Sales are made on 14-day terms. The Office is not exposed to concentration of credit risk to a single debtor or group of debtors.

	Total* \$'000	Past due but not impaired* \$'000	Considered impaired* \$'000
2017			
< 3 months overdue	52	52	–
3 months - 6 months overdue	6	6	–
> 6 months overdue	–	–	–
2016			
< 3 months overdue	120	120	–
3 months - 6 months overdue	–	–	–
> 6 months overdue	–	–	–

* Each column in the table reports 'gross receivables'. The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7 and excludes receivables that are not past due and not impaired. Therefore, the 'total' will not reconcile to the receivables total recognised in the statement of financial position.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

(c) Liquidity risk

Liquidity risk is the risk that the Office will be unable to meet its payment obligations when they fall due. We continuously manage risk through monitoring future cash flows to ensure adequate holding of high quality liquid assets. During the current and prior year, there were no defaults of loans payable. No assets have been pledged as collateral. The entity's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

Bank overdraft

The Office does not have any bank overdraft facility. During the current and prior years, there were no defaults or breaches on any loans payable.

Trade creditors and accruals

The liabilities are recognised for amounts due to be paid in the future for goods and services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW Treasury Circular 11/12. For small business suppliers, if trade terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payments to other suppliers, the Head of an authority (or a person appointed by the Head of an authority) may automatically pay the supplier simple interest. The Office did not pay any penalty interest during the financial year.

The table below summarises the maturity profile of our financial liabilities.

Payables	Weighted average effective interest rate	Nominal amount# \$'000	Interest rate exposure			Maturity dates		
			Fixed interest rate	Variable interest rate	Non-interest bearing	< 1 yr	1-5 yrs	5 yrs
2017								
Accrued salaries, wages and on-costs	-	90	-	-	90	90	-	-
Creditors	-	443	-	-	443	443	-	-
Total	-	533	-	-	533	533	-	-
2016								
Accrued salaries, wages and on-costs	-	3	-	-	3	3	-	-
Creditors	-	354	-	-	354	354	-	-
Total	-	357	-	-	357	357	-	-

The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earlier date on which the Office can be required to pay. The tables include both interest and principal cash flows and therefore will not reconcile to the statement of financial position.

(d) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Our exposure to market risk are primarily through interest rate risk. The Office has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on the result and equity due to a reasonably possible change in risk variable is outlined in the information below for interest rate risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the Office operates and the time frame for the assessment (i.e. until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the statement of financial position date. The analysis is performed on the same basis for 2017. The analysis assumes that all other variables remain constant.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2017

	Carrying amount \$'000	-1%		+1%	
		Results \$'000	Equity \$'000	Results \$'000	Equity \$'000
2017					
Financial assets					
Cash and cash equivalents	1,187	-	-	-	-
Receivables	1,377	-	-	-	-
Other financial assets	-	-	-	-	-
Financial liabilities					
Payables	533	-	-	-	-
2016					
Financial assets					
Cash and cash equivalents	1,351	(14)	(14)	14	14
Receivables	1,478	-	-	-	-
Other financial assets	-	-	-	-	-
Financial liabilities					
Payables	357	-	-	-	-

(e) Fair value measurement

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of many of the financial instruments.

18 Contingent liabilities and Contingent assets

There are no contingent assets or liabilities for the year ended 30 June 2017 (2016: nil).

19 Events after the Reporting Period

In 2015 the government announced its intention to establish a single civilian oversight agency for the NSW Police Force and NSW Crime Commission. This new agency, the Law Enforcement Conduct Commission or LECC, will replace the Police Integrity Commission (PIC) and will also have responsibility for the oversight of police complaints which was a role undertaken by the Ombudsman. Initially the LECC was to commence on 1 January 2017 but, due to a series of delays, the date was changed to 1 July 2017.

A further reform announced by the government was its decision that the Ombudsman's law enforcement related compliance work be transferred to the Office of the Inspector of the LECC. This transfer is also from 1 July 2017.

The Ombudsman's financial statements include expenses for both the police complaints and compliance work. There will be some residual costs associated with these functions in 2017-2018, although the budget and work will transfer to the LECC or to the Inspector.

End of the audited financial statements



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Appendix A

Public administration

Public sector agencies

Description

The following key is used through out Appendix A.

Decline after assessment only, including:

- A** Conduct outside jurisdiction
- B** Trivial; remote; insufficient interest; commercial matter; right of appeal or redress; substantive explanation or advice provided; premature – referred to agency; concurrent representation; investigation declined on resource/priority grounds

Preliminary or informal investigation:

- C** Substantive advice, information provided without formal finding of wrong conduct
- D** Advice/explanation provided where no or insufficient evidence of wrong conduct
- E** Further investigation declined on grounds of resource/priority
- F** Resolved to Ombudsman’s satisfaction
- G** Resolved by agency prior to our intervention
- H** Suggestions/comment made
- I** Consolidated into other complaint
- J** Conciliated/mediated
- K** PID preliminary inquiries

Formal investigation:

- L** Resolved during investigation
- M** Investigation discontinued
- N** No adverse finding
- O** Adverse finding
- P** PID investigation

Figure 63: Public sector agencies - Action taken on formal complaints finalised in 2016–17

Complaint about	Assessment only		Preliminary or informal investigation									Formal investigation				Total	
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		P
Departments & authorities	76	1,361	13	396	3	419	102	9	74	1	4	0	1	0	0	0	2,459
Local government	11	766	2	122	1	75	18	3	9	0	0	0	0	0	0	0	1,007
Custodial services (including Juvenile Justice)	5	146	25	183	10	268	9	6	13	0	0	0	0	0	0	0	665
Bodies outside jurisdiction	1,110	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,110
Total	1,202	2,273	40	701	14	762	129	18	96	1	4	0	1	0	0	0	5,241

Figure 64: Action taken on formal complaints about departments and authorities finalised in 2016–17

Agency	Assessment only		Preliminary or informal investigation									Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	
Department of Finance, Services and Innovation																	
Board of Surveying and Spatial Information of NSW	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Building Professionals Board	0	4	0	2	0	0	0	0	0	0	0	0	0	0	0	0	6
Department of Finance, Services and Innovation	1	1	0	1	0	1	0	0	0	0	0	0	0	0	0	0	4
Fair Trading	1	48	0	9	0	10	4	0	1	0	0	0	0	0	0	0	73
Government Property NSW	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Industrial Relations	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Insurance and Care NSW (icare)	1	3	0	2	0	1	0	0	0	0	0	0	0	0	0	0	7
Land and Property Information	0	1	0	4	0	0	0	0	0	0	0	0	0	0	0	0	5
Mine Subsidence Board	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2
Office of State Revenue	1	197	2	46	0	60	15	2	8	0	0	0	0	0	0	0	331
Pillar Administration	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Rental Bond Board	0	2	0	1	0	1	0	0	0	0	0	0	0	0	0	0	4
Safe Work NSW	0	11	0	1	0	1	0	0	0	0	0	0	0	0	0	0	13
Service NSW	0	33	0	4	0	12	2	1	2	0	0	0	0	0	0	0	54
State Archives and Records NSW	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
State Insurance Regulatory Authority	0	9	0	5	0	1	1	0	0	0	0	0	0	0	0	0	16
Teacher Housing Authority	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Subtotal	4	315	2	77	0	88	22	3	11	0	0	0	0	0	0	0	522
Department of Family and Community Services																	
Aboriginal Housing Office	1	4	0	2	0	2	0	0	0	0	0	0	0	0	0	0	9
Community Services NSW	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Department of Family and Community Services	0	2	0	1	0	1	0	0	0	0	0	0	0	0	0	0	4
Housing NSW	0	123	2	58	0	114	20	0	10	0	0	0	1	0	0	0	328
Land & Housing Corporation	1	43	0	13	0	85	12	0	6	0	0	0	0	0	0	0	160
Multicultural NSW	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2
Subtotal	2	174	2	74	0	203	32	0	16	0	0	0	1	0	0	0	504
Department of Justice																	
Anti-Discrimination Board	0	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4
Attorney General	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Department of Justice	3	12	0	0	0	1	1	1	0	0	0	0	0	0	0	0	18
Fire and Rescue NSW	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Independent Liquor and Gaming Authority	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2
Judicial Commission of NSW	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1

	Assessment only		Preliminary or informal investigation									Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Total
Legal Aid Commission of New South Wales	1	19	0	3	0	1	0	0	0	0	0	0	0	0	0	0	24
Legal Profession Admissions Board	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Liquor and Gaming NSW	0	6	0	0	0	4	0	0	0	0	0	0	0	0	0	0	10
Museum of Applied Arts & Sciences (Powerhouse)	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
NSW Trustee and Guardian	4	82	1	17	0	24	6	0	4	0	0	0	0	0	0	0	138
Registry of Births, Deaths and Marriages	0	19	1	5	0	5	4	0	1	0	0	0	0	0	0	0	35
Rural Fire Service NSW	1	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Sheriffs Office	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
State Library of NSW	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Sydney Opera House	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Victims Services	1	5	0	8	0	1	1	0	0	0	0	0	0	0	0	0	16
Subtotal	11	161	2	37	0	36	12	1	5	0	0	0	0	0	0	0	265
Department of Education																	
Department of Education	19	59	1	31	0	15	5	2	9	1	0	0	0	0	0	0	142
NSW Education Standards Authority	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2
Subtotal	19	60	1	32	0	15	5	2	9	1	0	0	0	0	0	0	144
Department of Industry																	
Ausgrid	0	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3
Department of Industry	3	4	0	2	0	0	0	0	1	0	0	0	0	0	0	0	10
Endeavour Energy	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Essential Energy	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Hunter Water Corporation Limited	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
NSW Local Land Services	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2
Primary Industries	0	17	3	4	0	1	0	0	0	0	1	0	0	0	0	0	26
Sydney Water Corporation	0	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4
TAFE NSW	1	43	0	9	0	7	5	0	4	0	0	0	0	0	0	0	69
Water NSW	0	1	0	1	0	1	1	0	0	0	0	0	0	0	0	0	4
Subtotal	4	75	3	19	0	9	6	0	5	0	1	0	0	0	0	0	122
Department of Planning and Environment																	
Department of Planning and Environment	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Environment Protection Authority	1	3	0	2	0	0	0	0	0	0	0	0	0	0	0	0	6
Hunter and Central Coast Joint Regional Planning Panel	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Northern Region Joint Regional Planning Panel	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Office of Environment and Heritage	1	10	0	2	0	0	0	0	0	0	0	0	0	0	0	0	13

	Assessment only		Preliminary or informal investigation									Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Total
Office of Local Government	0	3	0	2	0	3	1	0	0	0	0	0	0	0	0	0	9
Planning Assessment Commission	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Sydney East Joint Regional Planning Panel	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
UrbanGrowth NSW	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Subtotal	2	27	0	7	0	3	1	0	0	0	0	0	0	0	0	0	40
Department of Premier and Cabinet																	
Centennial Park & Moore Park Trust	0	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3
Department of Parliamentary Services	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Department of Premier and Cabinet	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Destination NSW	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Office of Sport	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Public Service Commission	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Western Sydney Parklands Trust	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Subtotal	1	7	0	1	0	0	0	0	0	0	0	0	0	0	0	0	9
Ministry of Health																	
Ambulance Service of New South Wales	1	6	0	2	0	0	0	0	0	0	0	0	0	0	0	0	9
Cancer Institute NSW	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	2
Health Professional Councils Authority	0	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3
HealthShareNSW	0	3	0	2	0	2	1	0	1	0	0	0	0	0	0	0	9
Medical Council of NSW	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Metropolitan NSW Local Health Districts	2	32	0	1	1	2	0	1	0	0	0	0	0	0	0	0	39
Ministry of Health	0	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6
Rural and Regional NSW Local Health Districts	1	19	0	3	0	0	0	0	1	0	0	0	0	0	0	0	24
Specialty Networks	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
St Vincent's Health Network	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Subtotal	4	72	0	8	1	5	1	1	2	0	1	0	0	0	0	0	95
New South Wales Aboriginal Land Council																	
Armidale Local Aboriginal Land Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Birpai Local Aboriginal Land Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Bodalla Local Aboriginal Land Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
New South Wales Aboriginal Land Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Nowra Local Aboriginal Land Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Nulla Nulla Local Aboriginal Land Council	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1

	Assessment only		Preliminary or informal investigation									Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Total
Office of the Registrar <i>Aboriginal Land Rights Act 1983</i>	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Red Chief Aboriginal Land Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Tharawal Local Aboriginal Land Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Walgett Local Aboriginal Land Council	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Subtotal	0	7	0	0	0	1	0	0	2	0	0	0	0	0	0	0	10
The Treasury																	
Long Service Corporation	0	1	0	1	0	0	1	0	0	0	0	0	0	0	0	0	3
SAS Trustee Corporation	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
The Treasury	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2
Subtotal	0	4	0	2	0	0	1	0	0	0	0	0	0	0	0	0	7
Transport for NSW																	
NSW Trains	0	8	0	2	0	0	0	0	0	0	0	0	0	0	0	0	10
Roads and Maritime Services	3	183	1	36	1	30	11	2	8	0	1	0	0	0	0	0	276
State Transit Authority of NSW	0	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3
Sydney Trains	2	17	0	8	0	1	0	0	3	0	0	0	0	0	0	0	31
Transport for NSW	2	119	0	21	0	12	3	0	5	0	1	0	0	0	0	0	163
Subtotal	7	329	1	67	1	44	14	2	16	0	2	0	0	0	0	0	483
Universities																	
Charles Sturt University	0	9	2	6	0	3	0	0	1	0	0	0	0	0	0	0	21
Macquarie University	0	2	0	2	0	1	0	0	1	0	0	0	0	0	0	0	6
Southern Cross University	0	5	0	4	0	2	0	0	1	0	0	0	0	0	0	0	12
University of New England	0	13	0	6	0	0	1	0	0	0	0	0	0	0	0	0	20
University of New South Wales	0	6	0	4	0	0	1	0	0	0	0	0	0	0	0	0	11
University of Newcastle	0	4	0	5	0	1	0	0	0	0	0	0	0	0	0	0	10
University of Sydney	0	14	0	15	0	1	2	0	2	0	0	0	0	0	0	0	34
University of Technology Sydney	1	12	0	3	0	0	0	0	0	0	0	0	0	0	0	0	16
University of Wollongong	0	4	0	5	0	0	0	0	0	0	0	0	0	0	0	0	9
UTS Insearch	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2
Western Sydney University	1	8	0	5	0	2	0	0	1	0	0	0	0	0	0	0	17
Subtotal	2	78	2	55	0	11	4	0	6	0	0	0	0	0	0	0	158
Independent bodies																	
Director of Public Prosecutions	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Electoral Commission NSW	0	3	0	1	0	1	0	0	0	0	0	0	0	0	0	0	5
Health Care Complaints Commission	1	12	0	4	1	1	1	0	1	0	0	0	0	0	0	0	21
Housing Appeals Committee	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2

	Assessment only		Preliminary or informal investigation									Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Total
Independent Commission Against Corruption	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Independent Pricing and Regulatory Tribunal	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Information and Privacy Commission	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Land and Environment Court	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Mental Health Review Tribunal (and Psychosurgery Review Board)	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
NSW Civil and Administrative Tribunal	14	9	0	2	0	0	0	0	0	0	0	0	0	0	0	0	25
Office of the Children's Guardian	1	17	0	7	0	2	3	0	1	0	0	0	0	0	0	0	31
Office of the Legal Services Commissioner	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Public Service Commission	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Small Business Commissioner NSW	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Veterinary Practitioners Board of NSW	0	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4
Workers Compensation Commission	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Subtotal	20	52	0	17	1	4	4	0	2	0	0	0	0	0	0	0	100
Total	76	1,361	13	396	3	419	102	9	74	1	4	0	1	0	0	0	2,459

Note 1: Refer to key on page 168.

Note 2: Where possible we have recorded complaints against functional units of the principal departments to make the information more meaningful for readers.

Complaints recorded against principal departments themselves relate to head office functions of the principal departments, not functional units. Agency cluster changes of 1 April 2017 will be reflected in 2017/18 statistics.

Figure 65: Action taken on formal complaints about local government finalised in 2016–17

Refer to key on page 168.

Agency	Assessment only		Preliminary or informal investigation									Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	
Accredited Certifier	0	2	0	1	0	1	0	0	0	0	0	0	0	0	0	0	4
Albury City Council	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Armidale Regional Council	0	4	0	1	0	0	0	0	0	0	0	0	0	0	0	0	5
Ballina Shire Council	0	6	0	0	0	2	0	0	0	0	0	0	0	0	0	0	8
Bankstown City Council	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Bathurst Regional Council	1	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4
Bayside Council	0	27	0	3	0	1	2	0	0	0	0	0	0	0	0	0	33
Bega Valley Shire Council	0	10	0	3	0	1	0	0	0	0	0	0	0	0	0	0	14
Bellingen Shire Council	0	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7
Berrigan Shire Council	0	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3
Blacktown City Council	0	19	0	1	0	1	0	0	0	0	0	0	0	0	0	0	21
Bland Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Blayney Shire Council	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Blue Mountains City Council	0	11	0	1	0	0	0	0	0	0	0	0	0	0	0	0	12
Brewarrina Shire Council	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2
Broken Hill City Council	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Burwood Council	0	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3
Byron Shire Council	1	14	0	3	0	2	0	0	0	0	0	0	0	0	0	0	20
Cabonne Council	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Camden Council	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Campbelltown City Council	0	11	0	3	0	2	0	0	0	0	0	0	0	0	0	0	16
Canterbury-Bankstown Council	1	40	0	6	0	1	0	0	0	0	0	0	0	0	0	0	48
Central Coast Council	1	41	0	8	0	3	1	0	2	0	0	0	0	0	0	0	56
Cessnock City Council	1	6	0	2	0	1	0	0	0	0	0	0	0	0	0	0	10
City of Canada Bay Council	0	10	0	1	0	0	1	0	0	0	0	0	0	0	0	0	12
City of Parramatta Council	0	19	0	2	0	3	0	0	0	0	0	0	0	0	0	0	24
City of Sydney Council	1	24	0	2	0	2	1	0	0	0	0	0	0	0	0	0	30
Clarence Valley Council	0	14	0	3	0	2	0	0	0	0	0	0	0	0	0	0	19
Cobar Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Coffs Harbour City Council	0	3	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4
Coonamble Shire Council	0	2	1	1	0	0	0	0	0	0	0	0	0	0	0	0	4
Cootamundra-Gundagai Regional Council	0	2	0	1	0	0	1	0	0	0	0	0	0	0	0	0	4
Cowra Shire Council	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Cumberland Council	0	11	0	2	0	2	1	0	0	0	0	0	0	0	0	0	16

	Assessment only		Preliminary or informal investigation									Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Total
Dubbo Regional Council	0	4	0	1	0	1	0	0	0	0	0	0	0	0	0	0	6
Eurobodalla Shire Council	0	6	0	1	0	1	0	0	0	0	0	0	0	0	0	0	8
Fairfield City Council	0	9	0	1	0	1	0	0	0	0	0	0	0	0	0	0	11
Federation Council	0	3	0	2	0	0	1	0	0	0	0	0	0	0	0	0	6
Georges River Council	0	18	0	2	0	0	2	0	1	0	0	0	0	0	0	0	23
Gilgandra Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Glen Innes Severn Shire Council	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Goulburn Mulwaree Council	0	4	0	1	0	1	0	1	1	0	0	0	0	0	0	0	8
Greater Hume Shire Council	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Griffith City Council	0	2	0	0	0	0	0	0	1	0	0	0	0	0	0	0	3
Gunnedah Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Gwydir Shire Council	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2
Hawkesbury City Council	0	5	0	2	0	2	1	0	0	0	0	0	0	0	0	0	10
Hawkesbury River County Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Hilltops Council	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8
Hornsby Shire Council	0	13	0	2	0	3	0	0	0	0	0	0	0	0	0	0	18
Hunters Hill Municipal Council	0	3	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4
Inner West Council	1	25	0	4	0	2	1	1	1	0	0	0	0	0	0	0	35
Inverell Shire Council	1	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Kempsey Shire Council	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Kiama Municipal Council	0	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6
Ku-ring-gai Municipal Council	0	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6
Kyogle Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Lachlan Shire Council	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Lake Macquarie City Council	0	16	0	3	0	1	0	0	1	0	0	0	0	0	0	0	21
Lane Cove Municipal Council	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Leeton Shire Council	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Lismore City Council	0	6	0	2	0	2	0	0	0	0	0	0	0	0	0	0	10
Lithgow City Council	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8
Liverpool City Council	0	15	0	3	0	5	0	0	0	0	0	0	0	0	0	0	23
Liverpool Plains Shire Council	0	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3
Maitland City Council	0	6	0	2	0	0	0	0	0	0	0	0	0	0	0	0	8
Mid-Coast Council	0	15	0	0	0	2	0	0	0	0	0	0	0	0	0	0	17
Midcoast Water	0	1	0	1	0	1	0	0	0	0	0	0	0	0	0	0	3
Mid-Western Regional Council	0	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3

	Assessment only		Preliminary or informal investigation									Formal investigation					
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Total
Moree Plains Shire Council	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2
Mosman Municipal Council	0	6	0	0	0	0	1	0	0	0	0	0	0	0	0	0	7
Murray River Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Murrumbidgee Council	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Muswellbrook Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Nambucca Shire Council	0	1	0	1	0	1	0	0	0	0	0	0	0	0	0	0	3
Narrabri Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Narromine Shire Council	0	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	3
Newcastle City Council	1	17	0	1	0	0	0	0	0	0	0	0	0	0	0	0	19
North Sydney Council	0	9	0	1	0	0	1	0	0	0	0	0	0	0	0	0	11
Northern Beaches Council	0	32	0	7	0	2	1	0	0	0	0	0	0	0	0	0	42
Orange City Council	0	3	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4
Parkes Shire Council	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2
Penrith City Council	1	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6
Port Macquarie-Hastings Council	0	8	0	3	0	3	0	0	1	0	0	0	0	0	0	0	15
Port Stephens Council	0	6	0	0	0	0	1	0	0	0	0	0	0	0	0	0	7
Queanbeyan-Palerang Regional Council	0	1	0	0	0	1	1	0	0	0	0	0	0	0	0	0	3
Randwick City Council	0	6	0	2	0	0	0	0	0	0	0	0	0	0	0	0	8
Richmond Valley Council	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Ryde City Council	0	6	0	1	0	0	0	0	0	0	0	0	0	0	0	0	7
Shellharbour City Council	0	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6
Shoalhaven City Council	0	12	0	0	0	2	0	0	0	0	0	0	0	0	0	0	14
Singleton Shire Council	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Snowy Monaro Regional Council	0	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6
Strathfield Municipal Council	0	5	0	0	0	1	0	0	0	0	0	0	0	0	0	0	6
Sutherland Shire Council	0	11	0	2	0	1	0	0	0	0	0	0	0	0	0	0	14
Tamworth Regional Council	0	2	0	2	0	1	0	0	0	0	0	0	0	0	0	0	5
Temora Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Tenterfield Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
The Hills Shire Council	0	9	0	1	0	0	0	0	1	0	0	0	0	0	0	0	11
Tweed Shire Council	0	13	0	4	1	0	0	0	0	0	0	0	0	0	0	0	18
Upper Lachlan Shire Council	0	4	0	1	0	0	0	0	0	0	0	0	0	0	0	0	5
Uralla Shire Council	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Wagga Wagga City Council	0	2	0	1	0	1	0	0	0	0	0	0	0	0	0	0	4
Walgett Shire Council	0	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3
Waverley Council	1	14	0	0	0	1	0	1	0	0	0	0	0	0	0	0	17
Weddin Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1

Agency	Assessment only		Preliminary or informal investigation									Formal investigation					Total	
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P		
Wentworth Shire Council	0	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	3
Willoughby City Council	0	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Wingecarribee Shire Council	0	17	0	2	0	3	0	0	0	0	0	0	0	0	0	0	0	22
Wollondilly Shire Council	0	6	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	8
Wollongong City Council	0	22	1	4	0	2	0	0	0	0	0	0	0	0	0	0	0	29
Woollahra Municipal Council	0	8	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	9
Yass Valley Council	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Total	11	766	2	122	1	75	18	3	9	0	0	0	0	0	0	0	0	1,007

People in custody

Figure 66: Action taken on formal complaints about custodial services finalised in 2016-17

Complaint about	Assessment only		Preliminary or informal investigation									Formal investigation					Total	
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P		
Corrective Services	5	130	19	145	10	216	9	6	9	0	0	0	0	0	0	0	0	549
Justice Health	0	15	4	15	0	37	0	0	3	0	0	0	0	0	0	0	0	74
Juvenile Justice	0	1	2	23	0	15	0	0	1	0	0	0	0	0	0	0	0	42
Total	5	146	25	183	10	268	9	6	13	0	0	0	0	0	0	0	0	665

Note: Note: Refer to key on page 168. Some complaints may involve more than one centre.

Figure 67: Number of formal and informal complaints about correctional centres, DCS and GEO received in 2016-17

Centre	Formal	Informal	Total	Average daily capacity	Total complaints as % of average capacity
Maximum security					
Cessnock Correctional Centre	39	235	274	878	31%
Goulburn Correctional Centre	17	134	151	580	26%
High Risk Management Correctional Centre	35	137	172	45	382%
Lithgow Correctional Centre	25	126	151	415	36%
Long Bay Hospital	10	64	74	478	15%
Metropolitan Remand Reception Centre	56	327	383	1107	34%
Metropolitan Special Programs Centre	24	221	245	1139	21%
Parklea Correctional Centre	39	260	299	970	30%
Silverwater Women's Correctional Centre	30	188	218	293	74%
South Coast Correctional Centre	19	188	207	639	32%
Special Purpose Prison Long Bay	5	33	38	46	82%
Wellington Correctional Centre	27	246	273	705	39%

Centre	Formal	Informal	Total	Average daily capacity	Total complaints as % of average capacity
Medium security					
Bathurst Correctional Centre	22	107	129	611	21%
Broken Hill Correctional Centre	2	12	14	73	19%
Cooma Correctional Centre	6	18	24	191	12%
Dillwynia Correctional Centre	5	61	66	280	23%
Grafton Correctional Centre	7	118	125	260	48%
John Morony Correctional Centre	9	75	84	429	19%
Junee Correctional Centre	22	183	205	839	24%
Kariong Correctional Centre	3	22	25	94	26%
Mid North Coast Correctional Centre	18	192	210	639	33%
Tamworth Correctional Centre	1	23	24	85	28%
Minimum security					
Berrima Correctional Centre	1	5	6	66	9%
Dawn De Loas Special Purpose Centre	6	53	59	488	12%
Emu Plains Correctional Centre	10	41	51	170	30%
Glen Innes Correctional Centre	2	3	5	162	3%
Illawarra Reintegration Centre	0	4	4	32	12%
Ivanhoe "Warakirri" Correctional Centre	0	2	2	26	7%
Kirkconnell Correctional Centre	3	25	28	254	11%
Mannus Correctional Centre	2	5	7	152	5%
Oberon Correctional Centre	1	5	6	118	5%
Outer Metropolitan Multi Purpose Centre	2	24	26	329	8%
St Heliers Correctional Centre	4	16	20	272	7%
Yetta Dhinnakkal (Brewarrina) Centre	0	1	1	27	3%
Total	452	3,154	3,606	12,892	
Other					
Amber Laurel Correctional Centre	4	2	6		
Balund-A (Tabulam)	0	2	2		
Community Offender Services	19	61	80		
Compulsory Drug Treatment Centre	0	0	0		
Corrective Services Academy	0	1	1		
Corrective Services NSW	87	576	663		
Court Escort/Security Unit	2	6	8		
Justice Health	117	501	618		
Serious Offenders Review Council	1	2	3		
State Parole Authority	4	28	32		
The Forensic Hospital	1	9	10		
Women's Transitional Centres	1	1	2		
Total	634	4,372	5,006		

Figure 68: Number of formal and informal complaints about Juvenile Justice received in 2016–17

Institution	Formal	Informal	Total
Acmena Juvenile Justice Centre	1	24	25
Cobham Juvenile Justice Centre	34	76	110
Frank Baxter Juvenile Justice Centre	4	47	51
Juvenile Justice NSW	5	10	15
Orana Juvenile Justice Centre	2	8	10
Reiby Juvenile Justice Centre	2	28	30
Riverina Juvenile Justice Centre	0	5	5
Total	48	198	246

Appendix B

Profile of notifiable police complaints 2016–17

Figure 69: Action taken on finalised notifiable complaints about police officers in 2016–17

The number of allegations is greater than the number of complaints finalised because each complaint may contain more than one allegation about a single incident or involve a series of incidents.

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Transferred to LECC	Total
Arrest					
Improper failure to arrest	2	5	4	0	11
Unlawful arrest	30	10	7	12	59
Unnecessary use of arrest	18	8	12	9	47
Subtotal	50	23	23	21	117
Complaints					
Deficient complaint investigation	10	3	3	2	18
Fail to report misconduct	4	33	13	24	74
Fail to take a complaint	2	1	2	0	5
Inadequacies in informal resolution	1	2	0	1	4
Provide false information in complaint investigation	3	29	19	9	60
Subtotal	20	68	37	36	161
Corruption/misuse of office					
Explicit threats involving use of authority	3	8	1	4	16
Improper association	18	42	18	24	102
Misuse authority for personal benefit or benefit of an associate	44	48	24	23	139
Offer or receipt of bribe/corrupt payment	12	9	4	1	26
Protection of person(s) involved in criminal activity (other)	42	4	5	9	60
Subtotal	119	111	52	61	343
Custody/detention					
Death/serious injury in custody	0	1	0	0	1
Detained in excess of authorised time	2	0	2	1	5
Escape from custody	0	2	3	1	6
Fail to allow communication	1	0	2	0	3
Fail to caution/give information	5	0	3	1	9
Fail to meet requirements for vulnerable persons	3	0	2	2	7
Improper refusal to grant bail	1	0	1	1	3
Improper treatment	30	2	17	6	55
Inadequate monitoring of persons in custody	1	1	3	8	13
Unauthorised detention	9	2	2	4	17
Subtotal	52	8	35	24	119

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Transferred to LECC	Total
Direct Investigation					
Deficient Investigation	0	0	0	3	3
Deficient Management Action	1	0	0	0	1
Subtotal	1	0	0	3	4
Driving					
Breach pursuit guidelines	2	4	9	2	17
Dangerous driving causing GBH/death	1	0	0	0	1
Drink driving offence	1	30	1	11	43
Negligent/dangerous driving	9	13	2	15	39
Unnecessary speeding	3	7	9	2	21
Subtotal	16	54	21	30	121
Drug-related					
Cultivate/manufacture prohibited drug	2	2	0	0	4
Drinking/under the influence on duty	0	6	4	4	14
Protection of person(s) involved in drug activity	23	6	1	0	30
Supply prohibited drug	24	9	0	6	39
Use/possess restricted substance	2	2	1	3	8
Use/possession of prohibited drug	14	48	4	14	80
Subtotal	65	73	10	27	175
Excessive use of force					
Assault	213	114	80	140	547
Firearm discharged	4	0	1	2	7
Firearm drawn	8	2	2	7	19
Improper use of handcuffs	3	2	6	6	17
Subtotal	228	118	89	155	590
Information					
Fail to create/maintain records	20	38	42	27	127
Falsify official records	7	70	20	32	129
Misuse email/internet	3	21	4	5	33
Provide incorrect or misleading information	33	69	38	25	165
Unauthorised access to information/data	16	114	14	46	190
Unauthorised alteration to information/data	0	20	0	0	20
Unauthorised disclosure of information/data	60	74	44	32	210
Unreasonable refusal to provide information	2	0	0	0	2
Subtotal	141	406	162	167	876

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Transferred to LECC	Total
Investigation					
Delay in investigation	23	2	22	9	56
Fail to advise outcome of investigation	7	0	0	0	7
Fail to advise progress of investigation	11	0	1	0	12
Fail to investigate (customer service)	319	43	84	41	487
Improper/unauthorised forensic procedure	1	0	0	1	2
Improperly fail to investigate offence committed by another officer	10	2	0	1	13
Improperly interfere in investigation by another police officer	8	12	7	10	37
Inadequate investigation	191	47	84	39	361
Subtotal	570	106	198	101	975
Misconduct					
Allow unauthorised use of weapon	0	1	0	0	1
Conflict of interest	17	30	12	15	74
Detrimental action against a whistleblower	0	9	0	0	9
Dishonesty in recruitment/promotion	0	1	0	1	2
Disobey reasonable direction	1	29	18	13	61
Fail performance/conduct plan	1	1	0	2	4
Failure to comply with code of conduct (other)	134	459	260	212	1,065
Failure to comply with statutory obligation/procedure (other)	47	104	71	63	285
False claiming for duties/allowances	1	6	5	3	15
Inadequate management/maladministration	32	32	36	18	118
Inadequate security of weapon/appointments	8	20	12	19	59
Inappropriate intervention in civil dispute	4	2	2	1	9
Minor workplace-related misconduct	5	27	22	7	61
Other improper use of discretion	13	6	3	4	26
Unauthorised secondary employment	3	12	10	11	36
Unauthorised use of vehicle/facilities/equipment	3	40	9	15	67
Workplace harassment/victimisation/discrimination	47	113	63	117	340
Subtotal	316	892	523	501	2,232
Other criminal					
Fraud	3	2	0	6	11
Murder/manslaughter	3	0	0	0	3
Officer in breach of domestic violence order	0	14	1	2	17
Officer perpetrator of domestic violence	1	25	3	11	40

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Transferred to LECC	Total
Officer subject of application for domestic violence order	1	23	5	11	40
Other indictable offence	28	152	10	87	277
Other summary offence	26	332	15	90	463
Sexual assault/ indecent assault	18	27	2	24	71
Subtotal	80	575	36	231	922
Property/exhibits/theft					
Damage to	7	4	6	7	24
Fail to report loss	1	0	4	0	5
Failure or delay in returning to owner	33	5	12	4	54
Loss	14	9	11	7	41
Theft	5	12	3	10	30
Unauthorised removal/destruction/use of	12	18	7	10	47
Subtotal	72	48	43	38	201
Prosecution					
Adverse comment by court/costs awarded	4	10	8	3	25
Fail to attend court	3	12	17	8	40
Fail to check brief/ inadequate preparation of brief	8	9	16	8	41
Fail to notify witness	5	7	15	4	31
Fail to serve brief of evidence	6	7	11	6	30
Failure to charge/prosecute	15	5	8	4	32
Failure to use Young Offenders Act	0	0	1	0	1
Improper prosecution	50	10	16	3	79
Mislead the court	7	2	1	3	13
PIN/TIN inappropriately/wrongly issued	6	0	0	0	6
Subtotal	104	62	93	39	298
Public justice offences					
Fabrication of evidence (other than perjury)	16	4	4	6	30
Involuntary confession by accused	2	0	0	0	2
Make false statement	16	17	4	3	40
Other pervert the course of justice	13	28	8	19	68
Perjury	9	8	1	3	21
Withholding or suppression of evidence	12	6	2	9	29
Subtotal	68	63	19	40	190

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Transferred to LECC	Total
Search/entry					
Failure to conduct search	0	0	1	0	1
Property missing after search	3	5	1	2	11
Unlawful entry	4	0	8	2	14
Unlawful search	59	13	52	18	142
Unreasonable/inappropriate conditions/damage	5	1	5	4	15
Wrongful seizure of property during search	5	0	2	2	9
Subtotal	76	19	69	28	192
Service delivery					
Breach Domestic Violence SOPS	117	52	106	26	301
Fail to provide victim support	22	10	13	6	51
Fail/delay attendance to incident/'000'	7	2	8	0	17
Harassment/intimidation	122	17	16	7	162
Improper failure to WIPE	11	2	4	2	19
Improper use of move on powers	3	1	3	1	8
Neglect of duty (not specified elsewhere)	18	46	19	30	113
Other (customer service)	370	28	93	35	526
Rudeness/verbal abuse	152	27	75	29	283
Threats	13	9	20	3	45
Subtotal	835	194	357	139	1,525
Total summary of allegations	2,813	2,820	1,767	1,641	9,041

Appendix C

Human services

Other community services

Figure 70: Issues in complaints about other community services received in 2016-17

Note: Each complaint we receive may have more than one issue.

Program area	Other community service		Total
	Formal	Informal	
Customer service	9	21	30
Object to decision	4	6	10
Access to service	4	5	9
Complaints	1	8	9
Information	0	8	8
Allowances/fees	3	3	6
Adult PWD abuse/neglect in community (home)	0	5	5
Casework	2	3	5
Meeting individual needs	1	4	5
Service management	0	5	5
Policy/procedure/law	0	3	3
Charges/fees	1	1	2
Client to client abuse/assault	1	1	2
Legal problems	0	2	2
Professional conduct/misconduct	2	0	2
Safety	1	1	2
Adult person with disability abuse/neglect in supported accommodation subject of allegation not employee or client	0	1	1
Client rights	0	1	1
Investigation	1	0	1
Service funding, licensing, monitoring	1	0	1
Staff to client abuse/neglect	0	1	1
Not in jurisdiction	19	44	63
Not applicable	1	33	34
Total	31	79	110

Figure 71: Complaints about other community services received in 2016-17

Note: Some complaints about supported accommodation and general community services may involve complaints about child and family, and disability services.

Agency category	Formal	Informal
Community services		
Supported accommodation and assistance program (SAAP) services	0	0
General community services	1	21
Aged services	0	0
Disaster welfare services	0	0
Other	5	8
Subtotal	6	29
ADHC		
Supported accommodation and assistance program (SAAP) services	0	0
General community services	0	0
Aged services	0	0
Disaster welfare services	0	0
Other	0	0
Subtotal	0	0
Other government agencies		
Supported accommodation and assistance program (SAAP) services	0	0
General community services	0	0
Aged services	2	0
Other	7	4
Disaster welfare services	0	0
Subtotal	9	4
Non-government funded or licensed services		
Supported accommodation and assistance program (SAAP) services	8	1
General community services	4	11
Aged services	0	3
Other	10	11
Disaster welfare services	0	1
Subtotal	22	27
General enquiries		
Disaster welfare services	0	1
General community services	0	1
Subtotal	0	2
Other (general inquiries)	1	20
Agency unknown	2	49
Outside our jurisdiction	11	25
Subtotal	14	94
Total	51	156

Child and family services

Figure 72: Complaints issues for child and family services received in 2016-17

Program area	Adoption		Child protection		Family support		General inquiry		Out-of-home care		Total
	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	
Casework	0	0	73	88	1	4	0	0	52	49	267
Case management	0	1	5	25	1	0	0	0	46	27	105
Customer service	0	0	8	67	0	5	0	0	13	67	160
Complaints	0	0	11	54	1	0	0	0	22	51	139
Object to decision	1	1	21	78	0	2	0	0	30	72	205
Meeting individual needs	0	0	9	37	2	3	0	0	54	95	200
Information	0	1	7	28	0	7	0	0	6	23	72
Investigation	0	0	8	33	0	0	0	0	2	9	52
Professional conduct/misconduct	0	0	11	16	0	0	0	0	13	7	47
Allowances/fees	0	0	0	7	0	4	0	0	9	20	40
Not in jurisdiction	0	0	10	6	2	0	0	1	8	5	32
Not applicable	0	0	1	5	0	1	0	1	3	7	18
Policy/procedure/law	0	0	5	8	0	0	0	0	1	4	18
Service management	0	0	1	0	0	0	0	0	8	9	18
Legal problems	0	0	1	11	0	0	0	1	2	2	17
Staff to client abuse/neglect	0	0	1	4	0	0	0	0	7	3	15
Safety	0	0	1	6	1	0	0	0	2	1	11
Access to service	0	0	3	0	0	1	0	0	2	1	7
Client rights	0	0	0	4	0	0	0	0	0	3	7
Client to client abuse/assault	0	0	0	1	0	0	0	0	3	2	6
Client choice, dignity, participation	0	0	0	2	1	1	0	0	0	1	5
Service funding, licensing, monitoring	0	0	0	0	0	0	0	0	2	3	5
Case Planning	0	0	0	1	0	0	0	0	2	1	4
Charges/fees	0	0	0	1	0	0	0	0	1	1	3
File/record management	0	0	0	3	0	0	0	0	0	0	3
Adult person with disability abuse/neglect in community (home)	0	0	1	0	0	1	0	0	0	0	2
Unexplained serious injury of service receiver	0	0	0	1	0	0	0	0	0	1	2
PID-related	0	0	1	0	0	0	0	0	0	0	1
Total	1	3	178	486	9	29	0	3	288	464	1,461

Figure 73: Outcomes of formal complaints finalised in 2016-17 about agencies providing child and family services

Outcome	No.	%
Complaints declined at outset	239	51.6%
Complaints resolved after enquiries	142	30.7%
Complaints resolved by Agency prior to contact	57	12.3%
Complaints consolidated into another complaint	8	1.7%
Complaints referred to Agency for local resolution	8	1.7%
Service improvement comments or suggestions to agency	7	1.5%
Referred to agency concerned or other body for investigation	1	0.2%
Direct investigation	1	0.2%
Complaints conciliated/mediated	0	0.0%
Total	463	100%

Disability services

Figure 74: Formal and informal matters received in 2016-17 about agencies providing disability services

Agency category	Formal	Informal	Total
Community services			
Disability accommodation	1	2	3
Disability support	6	7	13
Subtotal	7	9	16
ADHC			
Disability accommodation	42	41	83
Disability support	14	19	33
Subtotal	56	60	116
Other government agencies			
Disability accommodation	5	6	11
Disability support	35	21	56
Subtotal	40	27	67
Non-government funded or licensed services			
Disability accommodation	131	96	227
Disability support	152	179	331
Subtotal	283	275	558
General enquiries			
Disability accommodation	0	1	1
Disability support	0	1	1
Subtotal	0	2	2
Other (general inquiries)	0	1	1
Agency unknown	10	48	58
Outside our jurisdiction	6	14	20
Subtotal	16	63	79
Total	402	436	838

Figure 75: Action taken on formal complaints about disability services finalised in 2016-17

Program area	A	B	C	D	E	F	G	H	I	Total
Disability accommodation services	34	11	0	0	61	29	4	5	0	144
Disability support services	80	8	0	0	68	23	7	0	1	187
Total	114	19	0	0	129	52	11	5	1	331

Key

- A** Complaints declined at outset
- B** Service improvement comments or suggestions to agency
- C** Referred to agency concerned or other body for investigation
- D** Direct investigation
- E** Complaints resolved after enquiries
- F** Complaints resolved by agency prior to contact
- G** Complaints consolidated into another complaint
- H** Complaints referred to agency for local resolution
- I** Complaints conciliated/mediated

Figure 76: Issues in complaints about disability services received in 2016-17

Note: Each complaint we receive may have more than one issue.

Program area	Disability accommodation		Disability support		General enquiry	Total
	Formal	Informal	Formal	Informal	Informal	
Meeting individual needs	46	36	24	22	0	128
Customer service	2	9	24	47	0	82
Complaints	9	12	9	19	0	49
Staff to client abuse/neglect	16	8	12	9	0	45
Service management	17	12	8	7	0	44
Case management	8	7	12	16	0	43
Abuse/neglect in community (home)	1	6	9	25	0	41
Access to service	3	0	21	15	0	39
Professional conduct/misconduct	10	4	14	10	0	38
Client to client abuse/assault	14	8	3	4	0	29
Allowances/fees	0	0	9	13	0	22
Object to decision	1	9	2	9	0	21
Information	4	5	4	7	0	20
Abuse/neglect in supported accommodation, subject of allegation not employee or client	6	5	4	4	0	19
Client rights	6	2	3	8	0	19
Service funding, licensing, monitoring	0	2	6	11	0	19
Charges/fees	3	2	5	8	0	18
Investigation	4	3	5	2	0	14
Client choice, dignity, participation	6	4	1	1	0	12
Safety	5	3	1	3	0	12
Unexplained serious injury of service receiver	3	0	6	3	0	12
Client finances and property	3	1	2	5	0	11
Policy/procedure/law	1	0	3	3	0	7
Case planning	3	2	0	1	0	6
File/record management	2	1	1	2	0	6
Casework	1	0	0	4	0	5
Sexual offence	1	1	2	0	0	4
Ill-treatment	1	0	0	0	0	1
Neglect	0	0	1	0	0	1
Public interest disclosure-related	0	1	0	0	0	1
Not in jurisdiction	5	3	28	14	0	50
Not applicable	1	11	1	6	1	20
Total	176	143	191	258	0	768

Disability reportable incidents

Figure 77: Formal complaints and notifications of disability reportable incidents received and finalised: 3 year comparison

Matter	14/15	15/16	16/17
Notifications received	350	686	785
Complaints received	21	46	32
Notifications finalised	36	397	711
Complaints finalised	3	40	28

Figure 78: Notifications of disability reportable incidents received in 2016-17 (by primary issue, FACS/non-government)

Issue	FACS	Non-government agency	Total
Employee to client			
Neglect	60	94	154
Physical Assault	51	74	125
Ill-Treatment	28	26	54
Sexual Offence	8	18	26
Sexual Misconduct	4	7	11
Fraud	0	6	6
Not in Jurisdiction	4	24	28
Subtotal	155	249	404
Client to client			
Pattern of abuse	55	60	115
Sexual offence	22	34	56
Assault causing serious injury	13	25	38
Assault involving the use of a weapon	9	12	21
Reportable Conviction	0	1	1
Not in Jurisdiction	2	9	11
Subtotal	101	141	242
Unexplained Serious Injury			
Unexplained serious injury	99	23	122
Not in Jurisdiction	3	10	13
Subtotal	102	33	135
AVO breach by third Party			
Contravention of AVO	0	3	3
Not in Jurisdiction	0	1	1
Subtotal	0	4	4
Total	358	427	785

Child Death Review Team members 2016-17

Statutory members

Professor John McMillan AO
Convenor
Acting NSW Ombudsman

Mr Steve Kinmond
Community and Disability Services Commissioner
Deputy Ombudsman

Mr Andrew Johnson
NSW Advocate for Children and Young People

Agency representatives

Ms Kate Alexander
Executive Director, Office of the Senior Practitioner
Department of Family and Community Services

Ms Robyn Bale
Director, Student Engagement and Interagency
Partnerships
Department of Education

Ms Clare Donnellan
District Director, South Western Sydney
Department of Family and Community Services

Ms Jane Gladman
Coordinator of the Coronial Information and Support
Program
State Coroner's Office

Associate Professor Elisabeth Murphy
Senior Clinical Adviser, Child and Family Health
NSW Health

Mr Daniel Noll (from May 2017)
Director Criminal Law Specialist
Department of Attorney General and Justice

Professor Les White (to July 2016)
NSW Chief Paediatrician
NSW Health

Detective Superintendent Michael Willing
Commander Homicide
NSW Police Force

Independent experts

Professor Ngiare Brown
Executive Manager, Research
National Aboriginal Community Controlled Health
Organisation

Professor Kathleen Clapham
Australian Health Services Research Institute
University of Wollongong

Dr Susan Adams
Director, Division of Surgery and Senior Staff
Specialist
Paediatric General Surgeon, Sydney Children's
Hospital

Dr Susan Arbuckle
Paediatric/Perinatal pathologist
The Children's Hospital at Westmead

Dr Luciano Dalla-Pozza
Head of Department and Senior Staff Specialist
(Oncology)
The Children's Hospital at Westmead

Dr Jonathan Gillis
Deputy Convenor
Paediatrician

Dr Bronwyn Gould
General Practitioner

Professor Philip Hazell
Director Child and Adolescent Mental Health Services,
Sydney Local Health District; Conjoint Professor of
Child and Adolescent Psychiatry, Sydney Medical
School

Professor Heather Jeffery
International Maternal and Child Health
University of Sydney/Royal Prince Alfred Hospital

Professor Ilan Katz
Director, Social Policy Research Centre
University of NSW

Dr Helen Somerville
Visiting Medical Officer, Department of
Gastroenterology
The Children's Hospital at Westmead

Appendix D

Legislation and legal matters

Legislation relating to Ombudsman functions:

Ombudsman Act 1974

Child Protection (Working with Children) Act 2012

Children and Young Persons (Care and Protection) Act 1998

Community Services (Complaints, Reviews and Monitoring) Act 1993

Crimes Act 1900

Crimes (Criminal Organisations Control) Act 2012

Firearms Act 1996

Government Information (Public Access) Act 2009

Government Information (Information Commissioner) Act 2009

Inspector of Custodial Services Act 2012

Law Enforcement (Controlled Operations) Act 1997

Law Enforcement (Powers and Responsibilities) Act 2002

Police Act 1990

Public Interest Disclosures Act 1994

Restricted Premises Act 1943

Summary Offences Act 1988

Surveillance Devices Act 2007

Telecommunications (Interception and Access) (New South Wales) Act 1987

Terrorism (Police Powers) Act 2002

Witness Protection Act 1995

The Ombudsman also has functions under legislation establishing the following universities:

Charles Sturt University

Macquarie University

Southern Cross University

University of Technology Sydney

University of New England

University of New South Wales

University of Newcastle

University of Sydney

University of Western Sydney

University of Wollongong

Legal changes

The *Law Enforcement Conduct Commission Act 2016* was passed by Parliament and received assent in November 2016. This Act created the Law Enforcement Conduct Commission, which assumed the Ombudsman's police oversight functions under the *Police Act 1990* and functions in relation to the witness protection scheme (*Witness Protection Act 1995*) from 1 July 2017.

The *Law Enforcement Conduct Commission Act 2016* also created the office of Inspector of the Law Enforcement Conduct Commission, which assumed the Ombudsman's monitoring and reporting functions under various covert powers legislation from 1 July 2017. That legislation is:

- *Law Enforcement (Controlled Operations) Act 1997*
- *Law Enforcement (Powers and Responsibilities) Act 2002*
- *Surveillance Devices Act 2007*
- *Telecommunications (Interception and Access) (New South Wales) Act 1987*.

Litigation

The Ombudsman has been party to the following litigation in the reporting year:

Azshion v Ombudsman NSW [2016] NSWCATAD 249

Kaldas v Barbour [2016] NSWSC 1880 (ongoing)

Appendix E

Compliance with annual reporting requirements

The *Annual Reports (Departments) Act 1985*, the *Annual Reports (Departments) Regulation 2010*, various Treasury circulars and the *Ombudsman Act 1974* require us to include certain information in this report. The table below lists the required information and where it is located in this report.

Requirement	Comment/location
Letter of submission	Page before page 1
Application for extension of time	We did not request an extension of time to table this report.
Charter	Pages 2-4, Appendix D
Aims and objectives	Pages 2-3
Access to our office/services	Back page
Management and structure	Pages 5-7
Summary review of operations	Pages 8-11, 19-22, 29-30
Funds granted to non-government community organisations	No funds granted
Legal change	Appendix D
Economic or other factors	Pages 29, 138-142
Management and activities	This report details our activities in the reporting period.
Research and development	Pages 35-36
Human resources	Pages 30-34
Consultants	Page 140, figures 58 and 59
Workforce diversity	Page 31-32
Disability Inclusion Action Plans	Page 35
Land disposal	We did not dispose of any land
Promotion – overseas visits	Page 15
Consumer response	Page 23-24
Payment of accounts	Pages 141-142, figures 61 and 62
Time for payment of accounts	Pages 141-142, figures 61 and 62. We did not have to pay any interest due to late payments.
Risk management and insurance activities	Page 25-28
Internal audit and risk management police attestation	Page 27
Disclosure of controlled entities	We do not have any controlled entities
Disclosure of subsidiaries	We do not have any subsidiaries
Multicultural polices and services program	Appendix G (Access and equity programs)
Agreements with Multicultural NSW	We do not have any agreements

Work health and safety	Page 33
Financial statements	Pages 146-165
Identification of audited financial statements	Page 142 and 165
Inclusion of unaudited financial statements	We do not have any unaudited financial statements
Statement of action taken to comply with the <i>Privacy and Personal Information Protection Act 1998 (PPIPA)</i> and statistical details of any review conducted by the NSW Ombudsman under Part 5 of the PPIPA	<p>We have a privacy management plan as required by s 33(3) of PPIPA, which includes our obligations under the <i>Health Records and Information Privacy Act 2002</i>.</p> <p>We received two requests for review under PPIPA during the reporting period. In each case, the review found that there had been no breach of the Information Protection Principles in PPIPA, and so no action was taken.</p>
After balance date events having a significant effect in succeeding year on: - financial operations - other operations - clientele/community served	Not applicable
Total external costs (such as fees for consultants and printing costs) incurred in the production of the report	\$15,392.45
Exemptions from the reporting provisions	<p>As a small department, the Ombudsman is exempted from the requirement to report annually, and may instead report each three years, on the following matters:</p> <ul style="list-style-type: none"> - workforce diversity - disability inclusion action plans - multicultural polices and service program - work health and safety. <p>However, we have chosen to include those matters in this report.</p>
Numbers and remuneration of senior executives	Pages 30-31, figures 15 and 16
Implementation of Price Determination	This agency is not subject to determination or recommendation of the Independent Pricing and Regulatory Tribunal.
Credit card certification	The Ombudsman certifies that credit card use in the office has met best practice guidelines in accordance with Premier's memoranda and Treasury directions.
<i>Government Information (Public Access) Act 2009</i>	Appendix F
Digital information security policy attestation	Page 28
Public interest disclosures	Page 25
Requirements arising from employment arrangements	We do not provide personnel services to any statutory body.
Public availability of annual reports	Available on the Ombudsman website www.ombo.nsw.gov.au
Complaints referred to the Ombudsman	<p>44 matters were referred to us by other agencies: 6 complaints were referred under s 42 of the Ombudsman Act 38 complaints were referred under Division 4, Part 8A of the <i>Police Act 1990</i>.</p>

Appendix F

NSW Ombudsman GIPA report

This is the Ombudsman's report for 2016–17, as required by s 125 of the *Government Information (Public Access) Act 2009* (GIPA Act) and clause 7 of the *Government Information (Public Access) Regulation 2009* (GIPA Regulation).

The secrecy provisions of the *Ombudsman Act 1974* limit the information we can make publicly available. Information about our complaint handling, investigative and reporting functions is excluded information under Schedule 2 of the GIPA Act. Nevertheless, we still try to make as much information as possible publicly available.

This year we continued to make a range of information available on our website – including special reports to Parliament, guidelines and submissions. Appendix H lists the publications we issued in the reporting period.

Review of the Ombudsman's proactive release program

Each agency must review its program for releasing government information at least once every 12 months to identify the kinds of government information it holds that can be made publicly available, without imposing unreasonable additional costs on the agency (s 7(3) of the GIPA Act). Details of that review and the information made available as a result of it must be included in the agency's annual report (cl 7(a) of the GIPA Regulation).

Our program for proactively releasing information involves reviewing our information holdings. This includes reviewing any informal requests for information we receive where the information is given to the person making the request. Our right to information officers, along with other staff, identify any other information that can be made available on our website.

We continue to use Twitter as a way to engage with stakeholders – such as members of the public, community groups, professionals, government and non-government agencies. Our Twitter account (@NSWombo) has 543 followers. We have tweeted about the release of our annual reports, media appearances, reports tabled in Parliament, the training we offer and our involvement in community events. Our Twitter terms of use are published on our website.

We published our Disability e-News update twice during the year, which provides information about our work in the disability area, updates about the Official Community Visitors and Disability Reportable

Incidents schemes and our community education and training offerings. The newsletter is distributed to a subscriber mailing list and made available on our website. Subscription is open to anyone via our website. We currently have 519 subscribers.

We published the PID e-News as part of our role under the *Public Interest Disclosures Act 1994* to promote public awareness and understanding of the Act. In 2016-17 we distributed four issues to subscribers. PID e-News provides updates about changes to legislation and regulations, training sessions, events, publications, guidance materials and educational resources. It has 1,001 subscribers with subscription available to anyone via email to pid@ombo.nsw.gov.au.

One of the most effective ways of sharing our information about our work is the latest news section of our website. Up-to-date information is provided about our training programs, presentations, visits to rural and regional centres, visits from delegations to our office and other information that may be of public interest.

A range of our fact sheets and policies are available on our website. The fact sheets feature topics such as Operation Prospect, the Ombudsman and the NDIS, reportable conduct and our complaint assessment criteria for complaints about government agencies. Key policies are available which include our statement of corporate purpose, code of conduct and conflicts of interest policy.

During 2016-17, we continued to review our interagency agreements to determine their suitability for release. We entered into one new agreement – a memorandum of understanding with the Law Enforcement Conduct Commission – and reviewed our agreement with the Energy and Water Ombudsman NSW. Both agreements are publicly available on our website.

No changes have been made to our register of government contracts as we did not enter into any contracts with the private sector valued at over \$150,000.

Statistical information about access applications – clause 7(d) and Schedule 2

Clauses 7(b), (c) and (d) of the GIPA Regulation require an agency to report certain information each year about access applications received under the GIPA Act.

We received no formal access applications during the reporting year. We received 10 access applications that were invalid because they sought access to excluded information.

Figure 79: Number of applications by type of applicant and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not for profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (by legal representative)	0	0	0	0	0	0	0	0
Members of the public (other)	0	0	0	0	0	0	0	0

Figure 80: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

Note: * A personal information application is an access application for personal information (as defined in clause 4 of Schedule 4 to the GIPA Act) about the applicant (the applicant being an individual).

Figure 81: Invalid applications

Reason for invalidity	No. of applications
Application does not comply with formal requirements (s 41 of the GIPA Act)	0
Application is for excluded information of the agency (s 43 of the GIPA Act)	10
Application contravenes restraint order (s 110 of the GIPA Act)	0
Total number of invalid applications received	10
Invalid applications that subsequently became valid applications	0

Figure 82: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to the GIPA Act

	No of times consideration used
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0

Figure 83: Other public interest considerations against disclosure: matters listed in table to s 14 of the GIPA Act

Reason for invalidity	No of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0
Total	0

Figure 84: Timeliness

	No. of applications*
Decided within the statutory timeframe (20 days plus any extensions)	0
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
Total	0

Note: * These statutory timeframes are in relation to valid applications only and we received no valid applications this year.

Figure 85: Number of applications reviewed under Part 5 of the GIPA Act (by type of review and outcome)

	Decision varied	Decision upheld	Total
Internal review	0	1	1
Review by Information Commissioner*	0	0	0
Internal review following recommendation under section 93 of Act	0	0	0
Review by NCAT	0	0	0
Total	0	1	1

Note: *The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Figure 86: Applications for review under Part 5 of the GIPA Act (by type of applicant)

	No. of applications for review
Applications by access applicants	1
Applications by persons to whom information the subject of access application relates (see s 54 of the GIPA Act)	0
Total	1

Figure 87: Applications transferred to other agencies under Division 2 of Part 4 of the GIPA Act (by type of transfer)

	No. of applications transferred
Agency-initiated transfers	0
Applicant-initiated transfers	0
Total	0

Appendix G

Access and equity programs

Multicultural action plan (MAP)

Planned outcome	Strategies	Progress report for 2016–17
<p>• Key priority area: Planning and evaluation</p>		
<p>Integrate multicultural policy goals into our corporate and business planning and review mechanisms.</p>	<p>Ensure our MAP reflects current legislation and policies concerning migrants and humanitarian entrants, and that our office is accessible to culturally, linguistically and religiously diverse people.</p> <hr/> <p>Ensure that our MAP strategies are reflected in or linked to business plans.</p> <hr/> <p>Gather and analyse information about issues affecting culturally, linguistically and religiously diverse people and use this to inform business planning processes.</p>	<ul style="list-style-type: none"> • Our MAP 2015-2019 reflects changes in relevant legislation and government policies, and is outcome focused with strategies and actions to ensure our services are accessible and appropriate for culturally, linguistically and religiously diverse people. <hr/> • Strategies to address issues relevant to culturally, linguistically and religiously diverse people are linked to our corporate plan and relevant business plans. • The senior officers group receives reports on the implementation of our MAP. <hr/> • We use statistical information obtained from our contacts with clients – such as the use of interpreters and translator registers and results of our periodic customer satisfaction audits – to inform our MAP and business planning processes.
<p>Policy development and service delivery are informed by our expertise, client feedback and complaints, and participation on advisory boards, significant committees and consultations</p>	<p>Establish a cross-office MAP advisory committee to ensure that all business areas participate in the multicultural planning process.</p> <hr/> <p>Consult regularly with key multicultural groups to identify gaps in our awareness strategies and service delivery and ensure that issues identified are reflected in our planning process.</p> <hr/> <p>Take all reasonable steps to encourage culturally, linguistically and religiously diverse people to participate in relevant committees, roundtable discussions and public forums.</p>	<ul style="list-style-type: none"> • Our MAP advisory committee, headed by the Assistant Ombudsman (Corporate) and represented by all branches and divisions, met regularly to provide advice and support and to monitor the implementation of our MAP. This committee is the main internal advisory and consultative forum for our MAP review process. <hr/> • We liaised with key multicultural groups to promote our services to people from culturally, linguistically and religiously diverse backgrounds, and to identify gaps in our awareness strategies and service delivery. <hr/> • We held regular disability roundtables to consult with key disability organisations, including the Multicultural Disability Advocacy Association, on a range of issues relevant to people with disability, including those from a culturally, linguistically and religiously diverse background.

Planned outcome	Strategies	Progress report for 2016–17
• Key priority area: Capacity building and resourcing		
Senior management actively promote and are accountable for the implementation of the principles of multiculturalism within the office and wider community.	<p>MAP endorsed and promoted to staff by Ombudsman.</p> <hr/> <p>Ensure that our MAP assigns clear responsibilities to key staff and division management for its implementation. Review staff performance agreements to ensure accountabilities for multicultural affairs are clearly assigned.</p>	<ul style="list-style-type: none"> • Our MAP was approved by the Ombudsman and is office policy. It is available to all staff. <hr/> • <i>The Assistant Ombudsman (Corporate) is the lead officer for our MAP and holds overall responsibility for developing and implementing our plan.</i> • <i>Our MAP assigns responsibilities to relevant staff.</i> • <i>We reported on the implementation of MAP strategies to our senior officers group quarterly.</i>
Our capacity is enhanced by the employment and training of people with linguistic and cultural expertise.	<p>Use the Community Language Allowance Scheme (CLAS), monitor implementation, and develop a register of staff who have bilingual skills as well as cultural and community knowledge.</p> <hr/> <p>Provide cross cultural awareness and cultural competence training to our staff.</p>	<ul style="list-style-type: none"> • We actively promoted and used the CLAS within our office. • Five of our staff received the CLAS allowance, and collectively they provided language assistance in six community languages. • We kept a central record when language assistance was provided, and this information helped to inform our planning process. <hr/> • We continued our cross cultural awareness and competence training program as part of our formal induction training for all new staff.
• Key priority area: Program and services		
Identify barriers to access to our services for culturally, linguistically and religiously diverse people, and develop programs and services to address issues identified.	<p>Review our guidelines on the use of interpreters and translators and provide training to all staff.</p> <hr/> <p>Ensure that our budget for interpreter services and interpreter use is monitored and reviewed.</p>	<ul style="list-style-type: none"> • We have up-to-date procedures in place for using translation and interpreting services. • All frontline inquiry staff are trained to use interpreting and translation services. <hr/> • We allocated funds for providing interpreting and translation services. • We kept a register of our use of interpreting and translation services to inform our decision-making in developing community language information. • We provided language assistance to our clients on 125 occasions in 23 community languages.
Use a range of communication formats and channels to inform culturally, linguistically and religiously diverse people about our programs, services and activities.	<p>Review our information in community languages and develop accessible and appropriate material in a range of formats (written, audio, online) to meet the specific needs of culturally, linguistically and religiously diverse people after consultation with key community organisations.</p>	<ul style="list-style-type: none"> • We updated our multilingual brochure which provides key information about our services in 26 community languages. • We updated our fact sheet, 'making a complaint to the Ombudsman' which is available in 48 community languages. • Everything we produce in community languages is checked by community 'readers' for language and cultural appropriateness. • We have developed easy English information material to explain our role in community services, the NDIS and complaint handling for people whose first language is not English.

Planned outcome	Strategies	Progress report for 2016–17
	<p>Explore and recommend where appropriate the use of a range of technology in targeted community languages to facilitate communication with culturally, linguistically and religiously diverse people and improve access to our services.</p>	<ul style="list-style-type: none"> • Our community language information is in accessible PDF format and available for downloading on our website.
	<p>Develop initiatives to raise awareness of, and celebrate the contribution of, culturally, linguistically and religiously diverse people.</p>	<ul style="list-style-type: none"> • We distributed information and spoke to community members at community events including the Fairfield Refugee Expo, Ryde Community Information Expo, Law Week Expo, Mardi Gras Fair Day and the Sydney Royal Easter Show.

Compliance with the *NSW Carers (Recognition) Act 2010*

Strategies	Progress report for 2015–16
<p>Educational strategies.</p>	<ul style="list-style-type: none"> • Our carers recognition policy has been promoted to all staff and is available on our website. • We provided information about the Carers (Recognition) Act and the NSW Carers Charter to staff via email and promotional material in the office. • We participated in community events such as Carers Day Out to promote the rights of people with disability and their carers and increase awareness about how to make a complaint.
<p>Consultation and liaison with carers.</p>	<ul style="list-style-type: none"> • Our disability action plan advisory committee and our division managers group are our internal consultative mechanisms for developing our carers policy. • We maintained regular contact with peak carers organisations via our existing consultative platform and through our core business work in overseeing the provision of community services. • We provided our free tailored workshop The rights stuff - tips for solving problems and making complaints to users of community services and their carers.
<p>Staff who are carers.</p>	<ul style="list-style-type: none"> • We promoted and made available to staff a range of policies that support employees who are carers – including flexible working hours, working from home, and family and community services leave policies. • We continued to review relevant human resources policies to ensure that staff with caring responsibilities are valued and appropriately supported.

Appendix H

Publications list

We produce a range of publications including general information for the public, guidelines for agencies and organisations we oversee, discussion papers seeking information from the public, final reports at the conclusion of legislative reviews, annual reports outlining the work we have done during the financial year and special reports to Parliament about public interest issues.

A list of publications we issued during 2016-17 follows. Our publications are available in Acrobat PDF online at www.ombo.nsw.gov.au. Hard copies are available by contacting us or submitting an online publications request on our website.

Annual reports

NSW Child Death Review Team Annual Report 2015

NSW Ombudsman Annual Report 2015-16

Official Community Visitors Annual Report 2015-16

Oversight of the *Public Interest Disclosures Act 1994* Annual Report 2015-16

Public Interest Disclosures Steering Committee Annual Report 2015-16

Law Enforcement (Controlled Operations) Act 1997 Annual Report 2015-16

Report of Reviewable Deaths in 2014 and 2015, Volume 1: Child deaths - June 2017

Reports and submissions

Asbestos - How NSW Government agencies deal with the problem - a special report to Parliament under section 31 of the *Ombudsman Act 1974* - April 2017

Did police provide their name and place of duty? - Review of compliance with section 202(1)(b) of the *Law Enforcement (Powers and Responsibilities) Act 2002* - December 2016

Joint protocol to reduce the contact of people with disability in supported accommodation with the criminal justice system - June 2017

Operation Prospect - A special report to Parliament - December 2016

Operation Prospect : A report on developments - A special report to Parliament - May 2017

Preventative detention and covert search warrants, review of Parts 2A and 3 of the *Terrorism (Police Powers) Act 2002* - Review period 2014-16 - March 2017

The use of external investigators by NSW Government agencies - Discussion paper - July 2016

Response to Royal Commission OOHC Consultation paper - July 2016

Submission to Royal Commission regarding NDIS and Safeguards - July 2016

Review of police use of powers under the *Crimes (Criminal Organisations Control) Act 2012* - Section 39(1) of the *Crimes (Criminal Organisations Control) Act 2012* - November 2016

Review of police use of the firearms prohibition order search powers - Report under Section 74A of the *Firearms Act 1996* - 2 August 2016

Report under Section 242(3) of the *Law Enforcement (Powers and Responsibilities) Act 2002* for the period ending 28 May 2016

Review of police use of firearms search powers and new offence provisions - Sections 8(2A), 9(3), 10(f) and 13(3)(b) of the *Restricted Premises Act 1943* - November 2016

Report under section 49(1) of the *Surveillance Devices Act 2007* for the period ending 30 June 2016 - 27 September 2016

Report under section 49(1) of the *Surveillance Devices Act 2007* for the period ending 31 December 2016 - March 2017

Submission to Australian Law Reform Commission inquiry into Elder Abuse - March 2017

Submission to Legislative Council General Purpose Standing Committee No 2 Inquiry into Child Protection - August 2016

Submission to the Select Committee on a National Integrity Commission - April 2017

The effect of garnishee orders on Centrelink recipients - Discussion paper - November 2016

Report of fatal neglect in NSW - June 2017

Fact sheets and guidelines

CDRT Reviewable deaths of children in NSW – information for agencies

CDRT Deaths of children in NSW in 2015: key facts

CDRT Deaths of children in NSW in 2015: drowning

CDRT Deaths of children in NSW in 2015 – transport fatalities

CDRT Deaths of children in NSW in 2015: sudden and unexpected death in infancy

CDRT Deaths of children in NSW in 2015: injury

CDRT Deaths of children in NSW in 2015:
natural causes

Disability reportable incidents - How we assess an
investigation - employee to client incidents

Disability reportable incidents - How we assess an
investigation - client to client incidents

Defining assault for the purposes of the disability
reportable incidents scheme

Disability reportable incidents - Risk management
following an allegation against an employee

NSW Ombudsman Expert Forum - Rights Project for
People with Disability resources

The NSW Ombudsman and children and young people

Child Protection - Defining assault for the purposes
of the reportable conduct scheme

Child Protection - Notifying and identifying reportable
conduct

Child Protection - Providing advice about reportable
conduct investigations to children, parents and carers

Child Protection - Risk management following an
allegation against an employee

Child Protection - Recognising and managing conflict
of interests

Child Protection legislation: what employers and
employees need to know

Child Protection - Making a finding of Reportable
Conduct

Resource guide for disability services - Initial and
early response to abuse or neglect in disability
services

A quick guide - Early response to abuse and neglect
in disability services

Responding to alleged abuse and neglect in disability
services – flowchart

Team Meeting - Early response to abuse or neglect in
disability services - Sessions 1 and 2

Effective complaint handling guidelines - 3rd edition

Good conduct and administrative practice: Guidelines
for state and local government - 3rd edition

Newsletters

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Glossary

AA	Aboriginal Affairs	DFSI	Department of Finance, Services and Innovation
AbSec	Aboriginal Child, Family and Community Care State Secretariat	DIAP	Disability inclusion action plan
ACCP	Australian Centre for Child Protection	DPC	Department of Premier and Cabinet
ACLIP	Aboriginal Community Land and Infrastructure Project	DPE	Department of Planning and Environment
ACMAG	Aboriginal Communities Matter Advisory Group	DPI Water	Department of Primary Industries Water
ACWA	Association of Children’s Welfare Agencies	DRMP	Detainee risk management plan
ADHC	Department of Ageing, Disability and Home Care	ECAV	Education Centre Against Violence
ADR	Alternative dispute resolution	EHRR	Extreme high risk restricted
AEC	Aboriginal Education and Communities Directorate	EPAC	Employee performance and conduct
AECG	Aboriginal Education Consultative Group	eSIGN	electronic Statutory Information and Garnishee Notices
AEPF	Aboriginal Economic Prosperity Framework	FACS	Department of Family and Community Services
ANZOA	Australian and New Zealand Ombudsman Association	FWI	Far West Initiative
APiC	Aboriginal Participation in Construction	GEO	The GEO Group Australia Pty Ltd
ARC	Audit and risk committee	GGG	Good Governance Guidelines
AVO	Apprehended violence order	GIPA	Government Information Public Access
BCA	Business Council of Australia	GIPA Act	Government Information (Public Access) Act 2009
BIU	Business improvement unit	GMAR	Grandmothers Against Removals
BOSS	Body orifice security scanner	GPYC	Guiding Principles Yarning Circle
CALD	Culturally and linguistically diverse	GREP	Government resource efficiency policy
CC-MARC	Central Coast Multi-Agency Response Centre	GSE Act	Government Sector Employment Act 2013
CDAH	Community Disability Alliance Hunter	HACA	Heads of Asbestos Coordination Authorities
CDRT	Child Death Review Team	HRMCC	High Risk Management Correctional Centre
CESE	Centre for Education Statistics and Evaluation	ICAC	Independent Commission Against Corruption
CHIP	Complaint handling improvement program	IGF	Integrated governance framework
CIMS	Client information management system	IPART	Independent Pricing and Regulatory Tribunal
CLAS	Community Language Allowance Scheme	ISMS	Information security management system
COAG	Council of Australian Governments	ISO	International Organization for Standardization
COPS	Computerised operational policing system	ISS	Intensive support service
CoS	Continuity of Support	IT	Information technology
CSC	FACS Community Services Centre	JAC	Joint Advisory Committee
CS-CRAMA	Community Services (Complaints, Reviews and Monitoring) Act 1993	JCC	Joint Consultative Committee
CSI	Corrective Service Industries	JIRT	Joint Investigation Response Team
CSNSW	Corrective Services New South Wales	JJC	Juvenile justice centre
DAC	Data Analytics Centre	LAC	Local area command (NSW Police Force)
		LAG	Local advisory group
		LaHC	Land and Housing Corporation
		LALC	Local Aboriginal Land Council

LDM	Local decision making	RMS	Roads and Maritime Services
LECC	Law Enforcement Conduct Commission	ROSH	Risk of significant harm
LEPRA	Law Enforcement (Powers and Responsibilities) Act 2002	SES	Senior Executive Service
LPR	Local planning and response	SGO	Stolen Generations Organisation
MAP	Multicultural action plan	SMG	Senior management group
MPRA	Murdi Paaki Regional Assembly	SOORT	Statutory and Other Offices Remuneration Tribunal
MPSP	Multicultural policies and services program	SOPs	Standard Operating Procedures
MRRC	Metropolitan Remand and Reception Centre	SPRC	Social Policy Research Centre
NCARA	NSW Coalition of Aboriginal Regional Alliances	T&G	Trustee and Guardian
NCAT	NSW Civil and Administrative Tribunal	TAFE	New South Wales Technical and Further Education Commission, trading as TAFE NSW
NDIA	National Disability Insurance Agency	TfNSW	Transport for NSW
NDIS	National Disability Insurance Scheme	VALID	Victorian Advocacy League for Individuals with Disability
NDS	National Disability Services	VOOHC	Voluntary OOHc
NESA	NSW Education Standards Authority	WGACWP	Walgett Gamilaraay Aboriginal Community Working Party
NEVDIS	National Exchange of Vehicle and Driver Information System	WHS	Work Health and Safety
NGO	Non-government organisation	WHS Act	Work Health and Safety Act 2011
NSI	National security inmate	WWCC	Working with children check
NSW CID	NSW Council for Intellectual Disability		
NSWCC	New South Wales Crime Commission		
NSWPF	New South Wales Police Force		
OC	Oleoresin capsicum		
OCG	Office of the Children's Guardian		
OCHRE	Opportunity, Choice, Healing, Responsibility, Empowerment		
OCV	Official Community Visitors		
OIMS	Offender inmate management system		
OLG	Office of Local Government		
OOHC	Out-of-home care		
OOSH	Out-of-school hours		
OSP	Office of the Senior Practitioner		
OSR	Office of State Revenue		
PCH	Person causing harm		
PCYC	Police Community Youth Club		
PIC	Police Integrity Commission		
PID	Public interest disclosure		
PODS	Police Oversight Data Store		
POI	Person of interest		
PSA	Public Service Association		
PSC	Professional Standards Command		
RBP	Rapid build prisons		
RISC	Risk, information and security committee		

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