



Annual Report 2018–19

The NSW Ombudsman is an independent integrity agency that holds NSW government agencies and certain non-government organisations accountable to the people of NSW.

This report summaries the activities and performance of the Ombudsman's office for the 2018–19 financial year as well as reporting on our work during the year. The report addresses our obligations under the *Ombudsman Act 1974* and the *Annual Reports (Departments) Act 1985*.

This and earlier annual reports are available on our website: www.ombo.nsw.gov.au

Letter to the Legislative Assembly and Legislative Council

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

The Hon Jonathan O'Dea MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Mr President and Mr Speaker

NSW Ombudsman annual report 2018–19

I am pleased to present my annual report for 2018–19, outlining the work done by my office over the 12 months ending 30 June 2019. This is the 44th annual report to the NSW Parliament and is made under section 30 of the *Ombudsman Act 1974*.

The report also provides information that is required under the *Annual Reports (Departments) Act 1985*, *Annual Reports (Departments) Regulation 2005*, *Government Information (Public Access) Act 2009*, the *Public Interest Disclosures Act 1994* and the *Disability Inclusion Act 2014*.

Under section 31AA(2) of the *Ombudsman Act*, I recommend that this report be made public immediately.

Yours sincerely



Michael Barnes
Ombudsman

31 October 2019

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Ombudsman's message

It is with pleasure that I present this report of the office's activities and achievements in my first full 12 months in the role of NSW Ombudsman.

In last year's annual report, I identified that my priority for 2018–19 was to undertake a review of the organisation in the context of our changing statutory responsibilities. These changes prompted an assessment to determine the best corporate structure to align our business units with the delivery of our strategic goals. An initial review, completed in October 2018, produced a set of high-level recommendations. In 2019, we translated those recommendations into a new Statement of Corporate Purpose and a new flatter organisational structure in which business units reflected function rather than subject matter. See page 9 for details.

This was augmented by a refreshed senior executive (see Appendix 1.1 'Senior executive', page 75). The strategic review also recommended an enhanced capability in research and data analytics, community engagement, communications and capacity building.

Emanating from the Statement of Corporate Purpose and supported by our staff, a new set of values guide the operation and functions of the office. The values inform how the office and staff will deliver their functions to serve the NSW public sector, community service providers and the people of NSW.

A primary function of the office is to receive and resolve complaints about the conduct of state and local government agencies, government and non-government community service providers, and public and private correctional centres. Over the past year, we received more than 40,000 contacts, with almost half being complaints. Chapter 1 of this report outlines the types of contacts we received and how we handled them while Chapter 2 provides information on how we deal with complaints.

A key area of our work is undertaking investigations and providing special reports to Parliament on matters of public interest. In 2018–19, we managed 19 investigations, some of which are continuing from previous years and eight of which were closed by 30 June 2019. These included investigations into water compliance and enforcement, and Family and Community Services processes for sharing risk-related information. In September 2018, we tabled a report in Parliament



on the implementation of the Whole of Government Commitments to Effective Complaint Handling (the Commitments), which form part of the Complaint Handling Improvement Program. We continued our inquiry into allegations of abuse and neglect of adults with disability in home and community settings. That inquiry precipitated the establishment of the Ageing and Disability Commission. In a project focussed on the transfer of disability accommodation to the non-government sector, we identified issues that might adversely affect residents, and provided oversight and advice about addressing these issues during the transfer process. These, as well as other investigations and reports, are described in detail in Chapter 3 of this report.

The Public Interest Disclosures Steering Committee, of which I am Chair, provides advice to the Premier and makes recommendations for reform. Over the past year, we have analysed the Joint Parliamentary Committee's recommendations from their 2017 review of the *Public Interest Disclosure Act*. These issues are described in detail in Chapter 4.

Through our reportable conduct functions, we play a vital role in protecting and safeguarding the children of NSW, by promoting the safety of individual children and improving the child protection system; and people with disability in

supported accommodation. One of our functions is to keep under scrutiny the systems that agencies have for preventing, detecting and responding to reportable conduct. This year, we completed three audits, in collaboration with the Office of Children’s Guardian, where we identified concerns about compliance with reportable conduct and complaint handling practice. Chapter 6 outlines our work in relation to reportable conduct.

Another of our key functions is to review the deaths of all children, aged 0 to 17 years, as well as the deaths of people with disability in supported group accommodation. Our work in reviewing deaths is described in Chapter 8.

The office seeks to identify practical strategies to improve the health and wellbeing of Aboriginal people and monitors and assesses certain Aboriginal programs. We identify ways in which the government can work with communities on the changes needed to deliver real improvements for Aboriginal people and we deliver training on Aboriginal cultural awareness and working with Aboriginal communities. Our work with Aboriginal communities over the past year is described in Chapter 7.

More generally, we seek to improve the administration and delivery of public and community services in NSW through our training and community education program. Other education and training activities we have undertaken over the past year include complaint handling training in 307 workshops for over 5,000 people. We worked with our partners to deliver the 12th biennial National Investigations

Symposium in Sydney on 14 and 15 November 2018. This and the work we do in community education is covered in Chapter 9.

This report is in three parts:

1. Our work in 2018–19 – reporting on our activities as required under our governing and other legislation
2. Appendices – reporting on our corporate functions as required by annual report legislation and
3. Financial statements 2018–19.

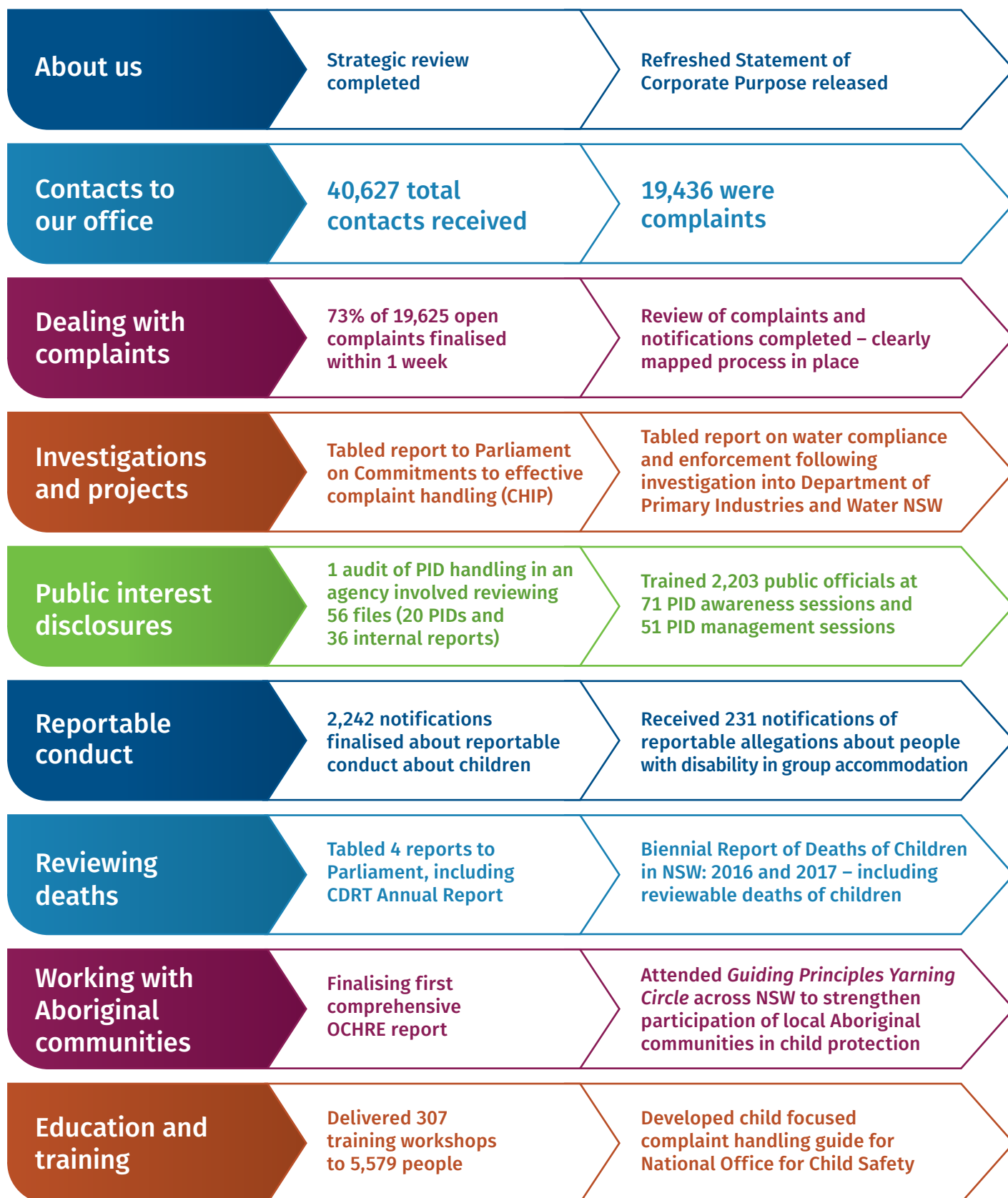
I thank the various individuals and committees that have supported the work of the NSW Ombudsman over the past year, including the members of the Public Interest Disclosures Steering Committee and the NSW Child Death Review Team members and expert advisers, for their expertise and guidance. I thank the Executive for their dedication and support over the past year. Finally, I thank the staff of the NSW Ombudsman, without whose hard work none of our daily activities could be undertaken.

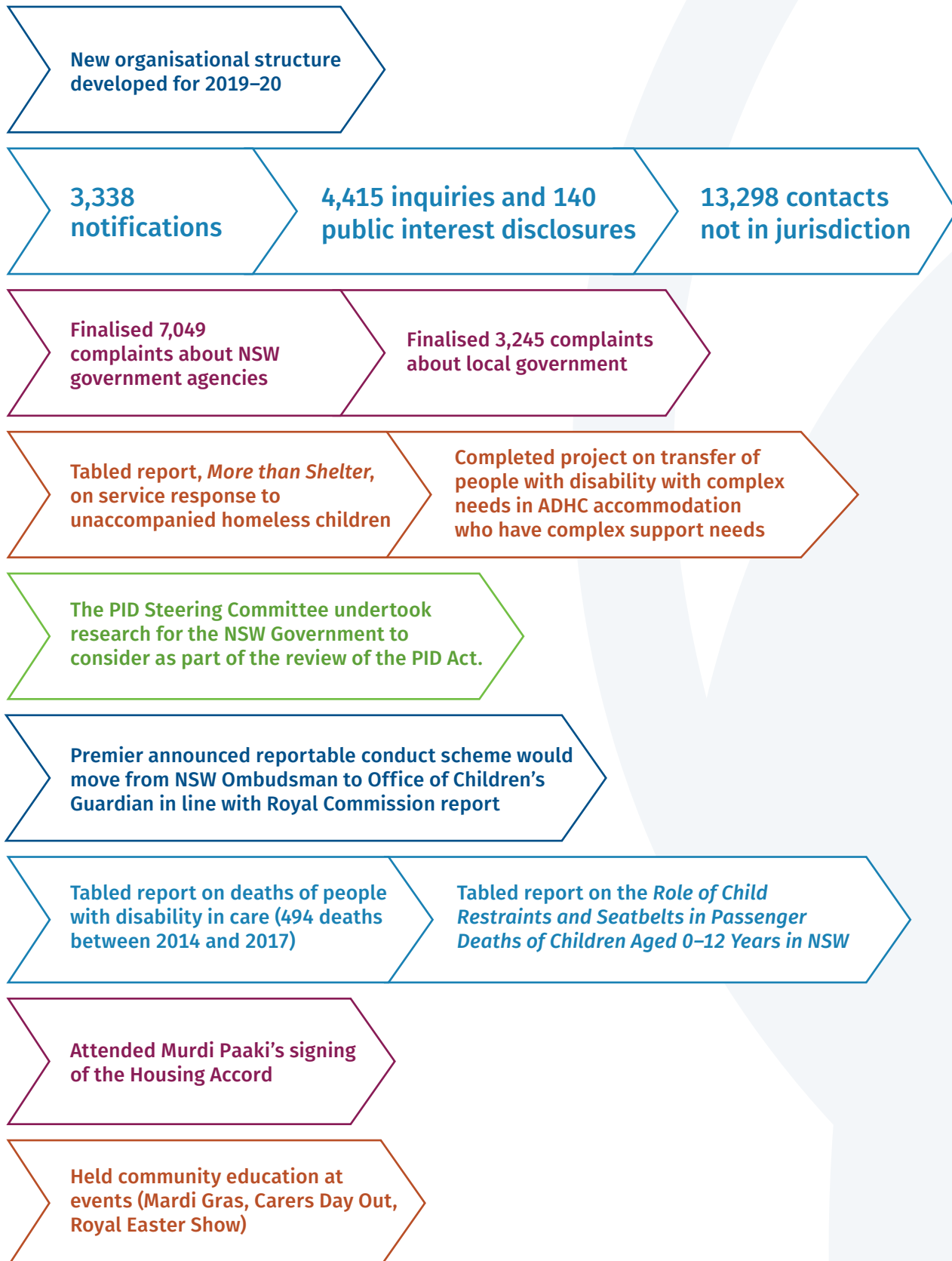


Michael Barnes
Ombudsman

Snapshot 2018–19

Highlights from our work





About us

Our role

The NSW Ombudsman is an independent integrity agency that holds NSW government agencies and certain non-government organisations accountable to the people of NSW.

Through complaint handling and resolution, review, monitoring, investigation, advice, training and community education, we seek to improve the administration and delivery of public and community services in NSW.

Our mission

We safeguard the interests of the people and communities of NSW by improving the quality of and level of accountability, integrity and fairness of government agencies and non-government organisations delivering public and community services.

Our key stakeholders and relationship values

Above all, we serve and are accountable to the people and communities of NSW. To maximise outcomes for the public, we seek to build relationships and, when appropriate, collaborate with our stakeholders, including the government, government agencies, non-government service-delivery organisations, peak bodies and other oversight bodies.

Our purpose

To be:

- a leader in best-practice complaint handling and oversight functions, in Australia and around the world
- an accessible resource for all the people of NSW
- a trusted safeguard of the public interest in holding government agencies and non-government organisations to account
- a resource to agencies and organisations to help to improve the quality, integrity and fairness of their administrative practices and service delivery
- a credible source of research and information
- a role model of NSW public sector practice and ethics.

Our values

Our values were determined through consultation with our staff and key stakeholders to develop a shared understanding of the type of ombudsman service we want to be.

Integrity:

we act lawfully, honestly, ethically and are committed to producing high-quality work in a consistent manner.

Impartiality:

we operate independently from government and act in a non-partisan manner, providing services informed by evidence to advocate for the public interest.

Fairness:

we strive to ensure people are treated fairly and reasonably by the government agencies with which they interact. We treat complainants and the employees of the agencies whose conduct we investigate fairly.

Transparency:

we document our operations and processes and communicate openly with our stakeholders and provide key information about the findings, recommendations and outcomes of our work.

Professionalism:

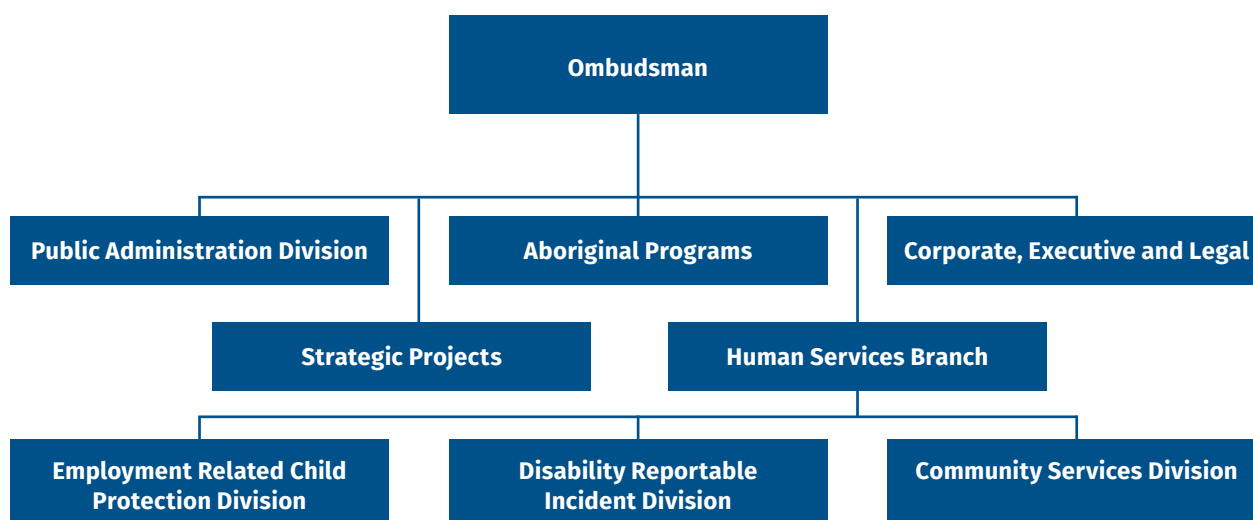
we work with government agencies and non-government organisations through relationships based on professionalism, trust and respect to find proactive and positive resolutions in the interest of the people and communities of NSW. We interact with the public and external stakeholders to understand their diverse contexts and emerging needs.

Respect:

we work with complainants, stakeholders and our colleagues in an inclusive manner, treating them with dignity and respect, and mindful of diversity.

Our structure

As at 30 June 2019, our organisational structure was as follows:



Each business unit is headed by either a deputy or assistant Ombudsman.

It is a statutory requirement for a Deputy Ombudsman to be appointed as Community and Disability Services Commissioner and for a Deputy Ombudsman to assess and monitor Aboriginal programs.

Strategic review – setting direction

Over time, our office has expanded and our functions have changed. More recent changes include:

- the transfer of responsibility for oversight of the NSW Police Force to the Law Enforcement Conduct Commission
- changes to our responsibilities for oversight of reportable incidents in the disability sector following the establishment of the National Disability Insurance Scheme, and
- plans to transfer our role in overseeing workplace child abuse allegations to the Office of the Children’s Guardian, in line with recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

In the context of these significant shifts, the Ombudsman initiated a review of our strategic direction and supporting structure of the office to best meet our current and future needs.

During 2018–19, substantial work was undertaken to achieve this goal. We engaged ARTD Consultants to assist in the initial phase of the strategic review. The review was informed through detailed interviews, consultations with and surveys of staff across the organisation, interviews with external stakeholders, including government agencies and non-government providers, and comprehensive documentary analysis and inter-jurisdictional review.

The initial stage of our strategic review was completed in October 2018. Outcomes included a refreshed Statement of Corporate Purpose, based on the values and priorities for the office identified by our staff. It sets out a vision and purpose for the office, the values we will hold ourselves accountable to, and factors through which we will demonstrate success. Our refreshed purpose and values are reflected above, and the full Statement of Corporate Purpose is at: www.ombo.nsw.gov.au/news-and-publications/publications/our-policies.

The review recommended a functional organisation structure with enhanced capability in research and analytics, community engagement, communications and capacity building.

A new organisational structure has been developed that will best help us to deliver excellent services in line with our statutory mandate and stakeholder expectations. The new structure will come into effect in the second half of 2019.

Our key functions and services

What we do

We take and resolve complaints about the conduct of NSW public (state and local government) agencies, government and non-government community service providers, and private correctional centres. We aim to resolve complaints and we can do this through inquiry, conciliation or investigation.

If complaints raise questions of serious or systemic wrong conduct, we can conduct a formal investigation. We can also make an agency conduct the subject of an investigation on our own initiative if we identify serious and/or systemic concerns in the absence of a complainant. We aim to make recommendations to agencies arising from our investigations to improve agency conduct and practice. If a complaint relates to the provision of community services, we can refer it to the agency for investigation, and oversee the investigation.

We keep systems under scrutiny, including systems for preventing, handling and responding to allegations of abuse or neglect against persons working with children, and allegations of abuse and neglect in some services for persons with disability. We audit agency systems for responding to public interest disclosures.

We monitor and assess Aboriginal programs, specifically those delivered under OCHRE – the NSW Government Aboriginal Affairs Strategy. We also monitor the delivery of community services, and compliance by agencies with the *Public Interest Disclosures Act 1994*. We monitor agency investigations of allegations of reportable conduct in child-related employment, and of reportable incidents in Family and Community Services disability services and assisted boarding houses.

We review the deaths of children in NSW, and convene, support and assist the work of the NSW Child Death Review Team. We also review the deaths of persons with disability in supported group accommodation. We review complaint handling systems in community services.

We promote awareness and deliver training in relation to the *Public Interest Disclosures Act 1994*, and provide training to assist agencies in effective complaint handling. We undertake projects and research related to our responsibilities, and publicly report our findings and recommendations.

Engaging with stakeholders

In performing our functions, we aim to **engage effectively** with our stakeholders through our everyday work. We do this in a variety of ways, including:

- regular liaison and consultation with government and non-government agency representatives, and peak bodies
- providing information about our work through presentations at conferences or events
- hosting forums and roundtables, and
- reaching out to communities, particularly through our Aboriginal engagement and youth liaison work.

Our legislation

Our principal governing legislation is:

- *Ombudsman Act 1974*
- *Community Services (Complaints, Reviews and Monitoring) Act 1993*
- *Public Interest Disclosures Act 1994*.

We also have responsibilities under the following legislation:

- *Child Protection (Working with Children) Act 2012*
- *Children and Young Persons (Care and Protection) Act 1998*
- *Government Information (Public Access) Act 2009*
- *Government Information (Information Commissioner) Act 2009*
- *Inspector of Custodial Services Act 2012*
- Children (Detention Centres) Regulation 2015.

Other annual reports

In addition to the Ombudsman's annual reporting responsibilities, we are also responsible for publishing a number of other separate annual and/or biennial reports:

- Public Interest Disclosure Steering Committee Annual Report
- Oversight of the Public Interest Disclosures Act 1994 Annual Report
- Official Community Visitors Annual Report
- NSW Child Death Review Team Annual Report
- Biennial Report of Reviewable Deaths: Persons with Disability in Residential Care
- Biennial Report of the Deaths of Children in NSW, Incorporating Reviewable Deaths of Children.

The background is a vibrant blue with a complex, layered texture. It features a grid of thin, dark lines that create a sense of depth and perspective. Overlaid on this grid are several vertical bands of a slightly different shade of blue, which appear to be slightly offset or layered, giving the overall effect a three-dimensional, architectural quality. The lighting is soft, highlighting the ridges and shadows of the grid and bands.

Our work in 2018–19

1. Contacts to our office

Contacts received by our office can be categorised as being of one of four types:

1. Complaints

- a. A complaint under the *Ombudsman Act 1974* section 12 is conduct of a public authority that is not excluded conduct. Schedule 1 of the Act describes excluded conduct.
- b. A complaint under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* is the conduct of a 'service provider' with respect to the provision, failure to provide, withdrawal, variation or administration of a community service in respect of a particular person or group of persons. 'Community service' and 'service provider' are defined in the Act.

Complaints include:

- public interest disclosures (*Public Interest Disclosures Act 1994*)
- complaints under section 35E of the *Ombudsman Act 1974*.

2. Requests for advice or assistance: contacts to our office that are not a complaint but seek advice or other assistance about a public authority or community service. This includes requests for advice or assistance from public officials dealing with public interest disclosures.

3. Notifications: matters that are required to be referred or reported to our office as required for the purpose of specific functions, including:

- a. notifications of reportable allegations or convictions under Part 3A of the *Ombudsman Act 1974* (employment-related child protection).
- b. notifications of reportable allegations or convictions under Part 3C of the *Ombudsman Act 1974* (protection of people with disability).
- c. notifications of segregation of detainees (juvenile justice) for protection under section 10(2) (a) of the *Children's (Detention Centres) Regulation 2015*.
- d. notifications of the deaths of children occurring in NSW, and the deaths of persons with disability in supported group accommodation, under Part 5A and Part 6 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

4. Contacts we have no jurisdiction to deal with: contacts to our office that are **not** about a public authority or community service, or that are about a public authority or community service, but involve conduct that is not within our jurisdiction.

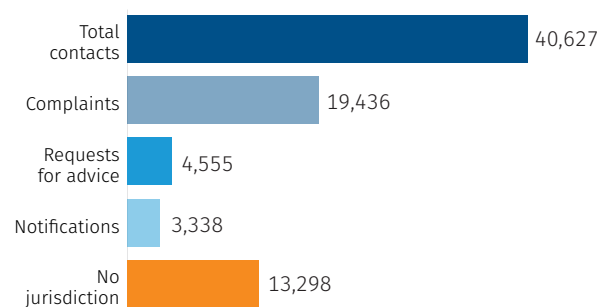
1.1. All contacts

In 2018–19, we received 40,627 contacts.¹

Of these contacts:

- 48% were complaints
- 11% were requests for advice or assistance
- 8% were notifications
- 33% were matters that we did not have jurisdiction to deal with (eg. employment-related grievances or complaints about Commonwealth agencies or private sector bodies that we do not oversight).

Figure 1: Contacts received in 2018–19



1. For this financial year, we have changed the way we classify contacts to our office. Previously, we reported on informal complaints and formal complaints. Our new contact type classification is described above. In the process of making these changes, there may be some adjustments to the way data is classified over time.

The total number of contacts in 2018–19 was marginally (3%) less than in the previous year (see Figure 2).

Figure 2: Contacts received over five years

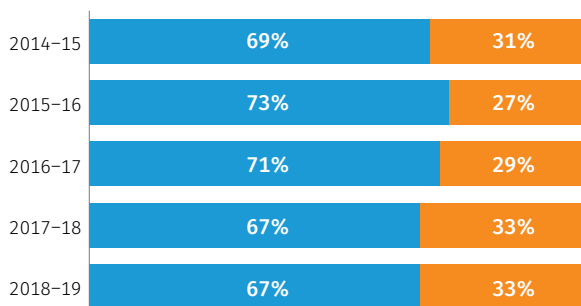


Table 1: How we received contacts

Phone	27,473	68%
Online	4,215	10%
Email	4,002	10%
Post	911	2%
In person	583	1%
Initiated by us	105	<1%
Agency notifications	3,338	8%

Over the past five years, the proportion of contacts that raised matters that were in jurisdiction and not in jurisdiction was similar each year (see Figure 3).

Figure 3: Contacts received in jurisdiction over five years

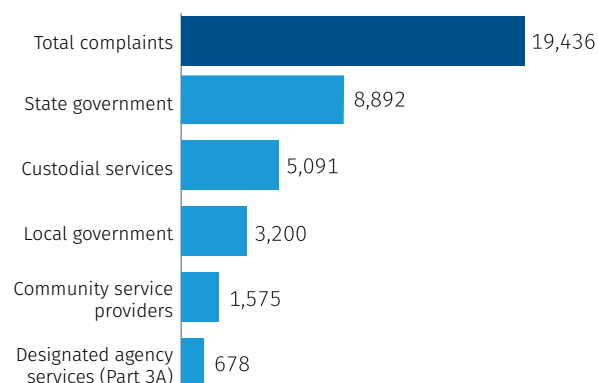


Although we are unable to accept complaints that are not in our jurisdiction, we nevertheless seek to provide effective advice and referral.

1.2. Complaints

In 2018–19, we received 19,436 complaints.

Figure 4: Complaints by sector



Further detailed information about complaints and our complaint handling work is provided in Chapter 2.

1.2.1. Online complaints

As part of its commitment to effective complaint handling, government agencies were required to enable online complaints through their websites in 2017.

While individual agencies are still responsible for managing complaints made via their own websites, our office is responsible for managing and directing feedback from the community that is received via the widget on www.nsw.gov.au.

These online complaints, made under section 35E of the *Ombudsman Act*, are dealt with directly or referred on to the appropriate agency to deal with.

In 2018–19, we dealt with 1,325 contacts this way and they are included in the 19,436 complaints we received. Most of the feedback provided related to online government content, while some people were asking for help from an agency to fix a problem.

1.3. Requests for advice or assistance

In 2018–19, we received 4,555 requests for advice or assistance. Of these:

- 4,415 were general enquiries
- 140 were matters relating to public interest disclosures.

These contacts are not complaints, but nevertheless we work hard to provide effective advice. In some cases, people contact us about complex and often difficult personal situations and problems with a government agency or non-government organisation. We work to understand their issues and to provide them with clear and helpful advice about what they can do. Where appropriate and necessary, we will take action to try and fix the issue. We also try to help staff in agencies and non-government organisations by clarifying advice they may have given to people.

1.4. Notifications

In 2018–19, we received 3,338 notifications, including:

- 2,121 notifications of reportable allegations or convictions against employees working with children in NSW (see Section 1.4.1)
- 231 notifications of reportable allegations or convictions of reportable incidents or behaviour that may involve a reportable incident for people with disability living in supported group accommodation (see Section 1.4.2)
- 361 notifications from Juvenile Justice about segregation and/or separation of detainees for more than 24 hours (see Section 1.4.3)
- 518 notifications of the deaths of children (see Section 1.4.4)
- 107 notifications of the deaths of persons with disability in residential care (see Section 1.4.4).

1.4.1. Reportable conduct by employees working with children

The Ombudsman’s employment related child protection function is outlined in Part 3A of the *Ombudsman Act* and schedule 1 of the *Child Protection (Working with Children) Act 2012*. Under

Part 3A, heads of government agencies and some non-government agencies are required to notify the Ombudsman of ‘reportable allegations’ as soon as practicable, and not later than 30 days of becoming aware of them.

Agencies are required to provide advice regarding the action they will be taking, and the reasons. Reportable allegations relate to inappropriate conduct with, towards, or in the presence of a child, including physical assault, neglect, sexual misconduct or a sexual offence, ill-treatment and psychological harm. ‘Employee’ is defined broadly to include persons who are engaged to provide services to children (including in a voluntary capacity).

Table 2 below shows the notifications of reportable allegations received during 2018–19 by agency type. The total number is seven per cent higher, compared to the previous year.

Our work in relation to employment-related child protection matters is discussed in more detail in Chapter 6, (pages 54–60).

1.4.2. Reportable incidents involving people with disability

Part 3C of the *Ombudsman Act* requires the Department of Family and Community Services (FACS)² and FACS-funded disability services to notify us of any allegations of serious incidents, involving people with disability living in supported group accommodation. We oversee the actions and systems of these providers to prevent, handle and respond to specified reportable incidents across four areas:

- employee to client incidents – any alleged sexual offence, sexual misconduct, assault, fraud, ill-treatment or neglect

Table 2: Notifications about reportable conduct

Type of agency	Number	%
Designated agencies – <i>Children and Young Persons (Care and Protection) Act</i>	733	35%
Department of Education	498	23%
Community services	362	17%
Non-government schools (independent and catholic)	211	10%
Approved children's services*	173	8%
All other agencies	144	7%
Subtotal	2,121	100%

* Approved children’s services are early childhood education and care services, including long-day care, community preschools, family day care, and out-of-school hours (OOSH) care.

2. Following machinery of government changes after 1 July 2019, the relevant agency is now the Department of Communities and Justice.

- client to client incidents – any alleged 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 another person with disability living in the same accommodation
- contravention of an apprehended violence order (AVO) taken out to protect a person with disability, and
- an unexplained serious injury.

The 231 notifications of reportable incidents received in 2018–19 comprised:

- 127 notifications by FACS of reportable incidents, involving residents in its accommodation services, and
- 104 notifications by National Disability Insurance Scheme (NDIS) providers, pertaining to alleged incidents that occurred before July 2019.

Our Part 3C work in relation to the protection of people with disability is discussed in greater detail in Chapter 6.

1.4.3. Juvenile Justice segregations

A young person in custody may be segregated from other young people for their personal safety, or the safety of another detainee or person, including staff. They may also be separated because they belong to a specific class of detainee or for another specific reason (eg. a young female is admitted into a centre for males, or several young people have contracted an infectious disease, such as chicken pox). Neither segregation nor separation are forms of punishment, but are about assessing and mitigating risk.

The Children (Detention Centres) Regulation 2015 requires centre managers to notify us if a young person has been segregated for more than 24 hours (see section 2.5.3). The Juvenile Justice

database – CIMS – automatically generates these notifications to us via email. The notifications allow us to review the current situation and the form of management for the young people we are notified about. We also contact the relevant centre if we have any specific queries or concerns.

In 2018–19, we received 361 notifications from Juvenile Justice across its six centres (see Table 3 below). Our monitoring of the segregation of detainees is discussed further in Chapter 2 (pages 16–43).

1.4.4. Deaths of children and persons with disability

Part 5A and Part 6 of *Community Services (Complaint Reviews and Monitoring) Act* require agencies such as the Registrar of Births, Deaths and Marriages and the State Coroner to notify us of the deaths of children in NSW, and persons with disability in supported accommodation.

In 2018–19, we received 625 notifications, including:

- the deaths of 518 children that occurred in NSW
- the deaths of 107 persons with disability in supported accommodation.

Our work in relation to reviewing these deaths is described in Chapter 8 (pages 65–68).

1.5. Matters we could not deal with

In 2018–19, we received 13,298 contacts that were not in jurisdiction. Of these:

- 12,483 matters were about bodies not in jurisdiction
- 815 matters were about conduct not in jurisdiction.

Where possible, we provide information, advice and/or referral to help direct the complainant to the right authority.

Table 3: Notifications about segregation and separation

Juvenile Justice Centre	Segregation	Separation	Total	Average daily occupancy	Rate (notifications per daily occupancy)
Acmena	6	57	63	35	2
Cobham	56	29	85	76	1
Frank Baxter	43	25	68	78	1
Orana	14	60	74	16	5
Reiby	12	26	38	44	1
Riverina	1	32	33	26	1
Total	132	229	361	275	Average 1

2. Dealing with complaints

The Ombudsman's complaint-related responsibilities are set out in Part 3 of the *Ombudsman Act 1974* and Part 4 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*. Under these Acts, any person can make a complaint about:

- the conduct of a public authority: any action or inaction, or alleged action or inaction, relating to a matter of administration (unless it is excluded conduct), or
- the conduct of certain community service providers with respect to service provision, failure to provide, withdrawal, variation or administration of a community service.

These complaints can include matters that are assessed as public interest disclosures, and matters that we assess and progress as a complaint initiated by us. That is, we can undertake inquiries or investigate conduct as above without receiving a complaint or referral. Complaints initiated by us can arise from our oversight of reportable conduct, our death review functions and our community engagement activities.

We handle complaints about the conduct of:

- **NSW state government** departments and authorities. There are now eight principal departments in NSW. Each is made up of a range of agencies that fall within the jurisdiction of our office. They include:
 - NSW government bodies (eg. Department of Education, Department of Fair Trading, Department of Family and Community Services – Housing (FACS Housing)³, NSW Land and Housing Corporation, NSW Trustee and Guardian, Revenue NSW, Transport for NSW, Roads and Maritime Services, TAFE NSW)
 - statutory bodies⁴ (eg. NSW Education Standards Authority, NSW Rental Bond Board, Building Professionals Board, Healthcare Complaints Commission, NSW Trains, and State Transit Authority of NSW)
 - state-owned corporations⁵ (eg. Sydney Water Corporation, Water NSW, Essential Energy and Landcom)
 - universities in NSW.

- **local councils, councillors and council staff.** We can look at the conduct of councillors and council employees and the administrative conduct of the council itself. Forty-eight local government areas in NSW cover 128 local councils and 10 county councils.
- **custodial services** (eg. Corrective Services NSW, Justice Health and Juvenile Justice NSW)⁶. We also take complaints about private correctional centres, such as Junee and Parklea. In total, we take complaints from 46 correctional centres, and deal with complaints about a range of custodial services, such as court cell complexes.
- **community service providers**, including services provided, authorised or licensed by the Minister for Family and Community Services⁷. This covers non-government providers, including:
 - community support and development (1,600 organisations)
 - early intervention (295 organisations)
 - child protection (51 organisations)
 - short-term accommodation and homelessness supports (145 organisations), and
 - out-of-home care and permanency support (494 organisations).

We have a range of options for dealing with complaints. These options include referral to another body that can deal with the issues at hand, preliminary inquiries (verbal and/or written), conciliation, and, in cases when we think the problem is very serious, formal investigation.

We also monitor issues arising from complaints to identify and respond to systemic issues.

2.1. Complaints we handled in 2018–19

In 2018–19, we received 19,436 new complaints. The vast majority (19,009 or 98%) of complaints received in 2018–19 were closed within the same period.

In 2018–19, we finalised 19,625 open complaints.

The number of complaints finalised during the year includes some matters (836 or 4%) that were received in 2017–18. We finalised most complaints within 30 days (see Figure 5).

3. FACS Housing was formerly known as Housing NSW. FACS is now Department of Communities and Justice.

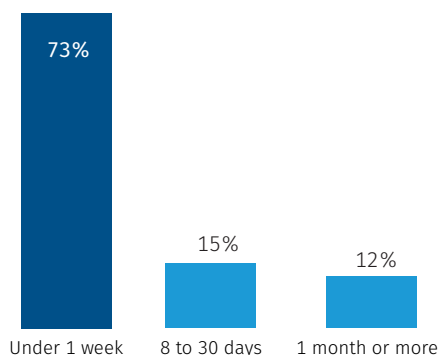
4. Statutory authorities are listed in Schedule 2 of the *Public Finance and Audit Act*.

5. State-owned corporations are listed in Schedules 1 and 2 of the *State Owned Corporations Act*.

6. On 1 July 2019, Juvenile Justice NSW became Youth Justice NSW as part of machinery of government changes.

7. Sourced from the Department of Community and Justice's Annual Report, https://www.fa.cs.nsw.gov.au/__data/assets/pdf_file/0007/637243/2017-18-Volume-3-Funds-granted-to-non-government-organisations.pdf

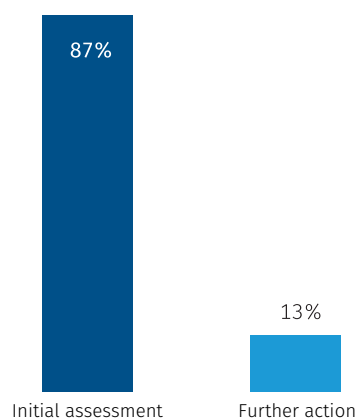
Figure 5: Time taken to finalise complaints



2.2. How we finalised complaints

Of the 19,625 complaints finalised, 17,075 (87%) were finalised after initial assessment (see Section 2.2.1), and 2,550 (13%) were finalised after further action (see Section 2.2.2 and Figure 6).

Figure 6: How we finalised complaints



2.2.1. Initial assessment

All complaints receive an initial assessment. In many cases, we are able to finalise complaints by providing advice or by referring a complainant to the relevant part of the relevant agency.

Advice and referrals

Making a complaint should generally start with contacting the agency involved. This provides the agency with an opportunity to respond and resolve concerns at the local level.

If a complainant has not contacted the agency directly prior to contacting us, we may consider the complaint to be premature, and advise the person to raise their concern with the agency and come back to us if they are not satisfied with the response.

In 2016, we established processes with a range of agencies to refer these complaints directly to them, rather than asking the complainant to start over again. We do this with consent, and advise the complainant about our referral. We also tell them that they can re-contact our office if they are not satisfied with the response they receive from the agency.

Of the 19,625 complaints finalised in 2018–19, we directly referred 1,270 complaints to agencies.

In April/May 2019⁸, we sought advice on how this direct referral process was working for our staff, for agencies and for complainants. To do this, we:

- surveyed 23 of our staff experienced in referring complaints
- sought feedback via an online survey from 15 of the agencies we regularly refer complaints to, and
- conducted structured phone interviews with 83 complainants whose complaint was referred under the process.

Responses from our staff and agencies were positive. The majority of agencies (11 of 15) saw that direct referrals helped them to resolve the concerns raised by complainants. Our staff also believed the process helped complainants have their issues addressed.

We asked complainants about their understanding and satisfaction with the referral process, as well as asking them if they were satisfied with the outcome of the complaint. Three-quarters of complainants surveyed were satisfied with our decision to refer their matter, and most understood the reason why we made a referral.

Just under half the complainants felt they were satisfied with the outcome the agency provided on their complaint. Before their complaint, almost all (74 of 83) were dissatisfied with the agency. When they were asked how they felt about the agency after their complaint was finalised, the number who were dissatisfied dropped from 74 to 51. We understand that a well-handled complaint can improve satisfaction and acceptance of an outcome, however, it does not follow that the complainant will agree with the outcome. The improvement in satisfaction with the agency after the referral indicated to us that the direct referral process is a positive initiative.

8. An initial survey was undertaken in May 2018.

2.2.2. Further action

Making preliminary inquiries

In handling a complaint, we can make preliminary inquiries under section 13AA of the *Ombudsman Act*. The purpose of preliminary inquiries is to decide whether to make particular conduct of a public authority the subject of a formal investigation. In making these inquiries, we ask agencies to provide us with answers to questions raised by the complaint. We may also seek documents that will help us to understand and address the concerns raised by a complainant. Our inquiries can be undertaken by telephone or in writing.

The majority of complaints are finalised following such inquiries. In some cases, the information we obtain results in us deciding that no further investigation is warranted. In other cases, our inquiries prompt agencies to take action to resolve the complaint, or the complainant is able to be given more substantive advice about the matter which addresses their concern.

Making comments and suggestions

Under section 31AC of the *Ombudsman Act*, we can provide information and comments to an agency with respect to a complaint. In practice, we use comments and suggestions to highlight issues that may affect other people in the same or similar circumstances as the complainant. We often make suggestions that may assist the agency to improve policy or practice and address the core issues that may have resulted in or contributed to a complaint.

Conciliating complaints

Under section 13A of the *Ombudsman Act*, we may attempt to deal with a complaint by formal conciliation. Participation in a conciliation is voluntary, and either the complainant or conciliator can withdraw at any time.

In 2018–19, we did not formally conciliate any complaints.

Investigations

Where it appears that any conduct of a public authority may be contrary to law, unreasonable, unjust, oppressive or improperly discriminatory, based on improper motives, irrelevant grounds or consideration, based on a mistake of law or fact, or otherwise wrong, the Ombudsman can choose to make the conduct the subject of an investigation under section 13 of the *Ombudsman Act*.

Investigations can be conducted in response to complaints and/or in response to systems issues, whether or not anyone has complained to us about the conduct.

The circumstances in which we might conduct an investigation and examples of our investigation work are detailed further in Chapter 3 (pages 44–50).

Reviews of complaint decisions

Complainants may not agree with decisions we make about their complaint and/or the reasons we provide for that decision. For example, a complainant may disagree with our decision not to conduct a formal investigation of their complaint. In these cases, complainants may seek a review of that decision. Reviews are not about simple dissatisfaction with the decision – we will undertake a review where the complainant can demonstrate there is good reason to do so and there is a question raised about the merit of a decision.

If a decision is made to proceed with the review, our process is to allocate the review to an officer not involved in the original decision and, if possible, a more senior officer than the person who handled the original complaint. When assessing the review outcome, we consider issues such as whether:

- the decision we reached was reasonable and based upon the relevant information available
- the process we used to reach our decision was fair and appropriate
- our decision was adequately explained to the complainant.

After careful consideration, we decide whether our original decision should be changed or not, and advise the complainant of the decision and reasons for the decision.

In 2018–19, we received 82 requests for a review of a decision. In 76 of these, we upheld our original decision. In four cases, we re-opened the complaint to make further inquiries and/or amend our decision. The following two examples illustrate these outcomes.

Complaint review example 1

A man whose company had paid a bond to a council complained to us after the council repaid the bond payment to his builder rather than to his company. When we initially assessed the complaint, we declined it on the grounds that the builder was the named development applicant, and that any dispute over the bond was a civil one between the man's company and the builder. He asked us to review our decision. When we reviewed the matter, we identified that the Environmental Planning and Assessment Regulation 2000 required the balance of any funds to be refunded to the person who provided the security. Council acknowledged that it should have paid the refund to the man's company, and contacted the builder to get them to transfer the funds. When the builder did not do so, the council reimbursed the man's company. The council also changed its bond fund request form to avoid the issue happening again.

Complaint review example 2

A grandfather complained to us that a Department of Family and Community Services (FACS) community services centre (CSC) had not acted on child protection concerns for two of his four grandchildren. There were Children's Court orders in place naming the grandparents as the children's guardians. The man said the two children were living with their parents, contrary to the grandparents' wishes. He raised concerns about their school attendance, exposure to drugs and drug taking. We initially wrote to the grandfather to advise that FACS had responded to his complaint and had offered to meet with him. We then closed the complaint. The grandfather asked us to review our decision.

Our initial focus was on FACS complaint handling rather than addressing the substantive issues of concern to the complainant, namely that the children were not residing with their guardians, were alleged to be at risk, and that the caseworker was advising the family of his concerns and this was having a detrimental impact on the grandparents' contact with the children. We re-opened the complaint and made further inquiries. The complainant had not raised these issues with FACS during the initial discussions. FACS and the Department of Education were working with the family to resolve the complaint issues prior to our office making contact with FACS. FACS conducted additional casework, including conducting a home visit and referring the family for multi-systemic therapy. FACS also updated its records regarding the current living arrangements, and confirmed that the two older children were enrolled in and attending TAFE and school.

Complaints and Notifications Process Re-engineering Project

As part of our strategic review, in March 2019, we engaged an external consultancy to undertake a project to re-engineer our business processes to reflect a refreshed office structure and enable us to handle all complaints and notifications via a clearly mapped process to ensure consistency in the way we manage these contacts regardless of how they come to us or who the matter is allocated to. Each stage of the workflow – contact, assess, action, investigate, finalise, and review – is described in detail, and is supported by flowcharts and decision frameworks to help staff navigate their way through the process and aid in decision-making.

The project subscribed to a number of key design principles to help ensure a fit-for-purpose outcome:

1. Ensuring the office is accessible to all members of the community by being flexible and responsive to the individual needs of complainants.
2. The design should offer an experience that incorporates legislative requirements with an appropriate balance of service towards both the agency and the customer, providing effective relationship management between internal and external stakeholders.
3. The process should aid the NSW Ombudsman to be ‘resolution-focused’ in order to set clear intent that we are committed to resolving all inquiries, complaints, notifications and reviews.
4. The design should clearly articulate the decision points and criteria throughout the process to support transparent and consistent complaint outcomes, provide oversight for the coordination of resources and help enable a collaborative, consistent and cohesive working culture.
5. The design should include seamless interfaces that promote coordination of information across the office and with other external agencies and service providers to such a degree that it can also support the information flow from, and for, our other engagement activities (eg. training and community visits).
6. The design should enable quality data collection to support the gathering and usage of intelligence for decision-making and the pursuit of audits, investigations and additional systemic projects while complying with NSW record-keeping requirements.
7. The design should encompass existing and modern technology as much as possible for better information, contemporary client experience, utilisation of skills and automation opportunities.
8. Training and development should be considered throughout design of the new process, in order to improve skills and capacity and encourage mobility at a team and individual level (eg. career paths).

A final design and implementation guides were delivered in May 2019 and will be implemented as part of our overall office restructure. Input from staff at all levels across the office has been a critical component of the project’s success. Staff engaged through interviews, working and reference groups to design, test and challenge the new design.

The following sections describe our complaint handling by sector.

2.3. Complaints about NSW government departments and authorities

An essential part of the work of the Ombudsman is dealing with complaints from members of the public who feel they have been treated unlawfully, unfairly or unreasonably by state government agencies.

As well as working to resolve individual complaints effectively, we work with agencies to promote improvements to their systems so that the same problems do not keep happening. We use information from complaints to identify and proactively investigate public interest issues. In this way, we can benefit a large number of people, including those who are less likely to come forward and complain.

2.3.1. Finalised complaints about state government agencies

In 2018–19, we finalised 7,049 complaints about NSW government departments and authorities.

The complaints were about 160 individual government agencies.

The top 10 individual agencies were the subject of two-thirds of finalised complaints (see Table 4). This does not necessarily indicate that these agencies are providing worse services than others. Higher numbers of complaints may be expected of agencies that come into contact with a large number of people, and which have a significant and daily impact on the lives of individuals.

The top 10 individual agency profile is similar each year (see Table 4).

2.3.2. Issues raised in complaints about state government agencies

In many cases, our involvement can help to achieve a positive outcome that can make a big difference to an individual and in some cases, lead to the agency fixing a systemic problem that could otherwise negatively affect others.



Case study – outdated information

A woman contacted the Western Sydney Local Health District (WSLHD) to ask for a Medicare item number to make a claim for an X-ray. She complained to our office when she did not receive a response.

After we made inquiries, the WSLHD confirmed she did not receive a response to her online inquiry, and a member of staff called her to apologise for the delay. Unfortunately, the X-ray she had was not covered by Medicare. WSLHD acknowledged that the form the woman had been given by her dentist was an old one and did not include this information. They offered her a full refund for the X-ray. WSLHD has now changed its processes to ensure people are provided with clear information about the fees associated with these types of procedures.

Table 4: Finalised complaints about state government agencies (top 10 by year) excluding custodial services

2018–19			2017–18		
Agency	Number	%	Agency	Number	%
FACS Housing	1,263	18%	FACS Housing	1,385	19%
Revenue NSW	663	9%	Revenue NSW	829	12%
Roads and Maritime Services	621	9%	Roads and Maritime Services	643	9%
Land & Housing Corporation	498	7%	NSW Trustee and Guardian	475	7%
NSW Trustee and Guardian	474	7%	Land & Housing Corporation	381	5%
Transport for NSW	314	4%	Transport for NSW	317	4%
TAFE NSW	207	3%	Fair Trading	208	3%
Fair Trading	206	3%	NSW public schools	175	2%
NSW public schools	205	3%	Service NSW	171	2%
Service NSW	192	3%	Department of Education	160	2%
Subtotal	4,646 of 7,049	66%	Subtotal	4,744 of 7,163	66%



Case study – wrong plates in a photo

A woman complained to our office after she was issued with a speeding fine. She had asked Revenue NSW to review the fine, as the speed camera photo showed a car with Victorian licence plates. Her vehicle was registered in Queensland. Revenue NSW decided the fine would still apply. Following our inquiries about this decision, Revenue NSW looked at the images again and also requested information from Vic Roads and Queensland Transport. Revenue NSW withdrew the penalty notice, and apologised to the complainant.

Asset management services

The NSW Land and Housing Corporation (LAHC) is a public trading enterprise responsible for administering the *Housing Act 2001*. LAHC owns and manages land, buildings and other assets within the portfolio, valued at approximately \$54.4 billion. An asset management services contract provides maintenance and other services for LAHC's public housing portfolio, with five companies contracted to provide these services across NSW. LAHC also engages FACS Housing to provide tenancy management services for the tenants living in properties owned and managed by LAHC.

Since the asset management services contract commenced in 2016, our office has seen an increase in contacts from tenants and others about LAHC. Many of these matters involve vulnerable tenants who are exposed to risks and less-than-optimal living conditions for long periods.



Case study – a collapsing bathroom

A woman complained to our office about FACS Housing and Land and Housing Corporation (LAHC) concerning termite damage to the property in which she and her teenage son were living and a failure to maintain the property adequately. The woman said she had been reporting her concerns about the property for the previous 11 months and that because of the damage her son had fallen through the shower floor.

Our inquiries revealed issues in communication and coordination between LAHC and FACS Housing concerning maintenance, escalating and responding to reports about safety, and communication with the complainant. FACS Housing told us they could not confirm the woman's home was fit for habitation. After we made further inquiries and escalated the

complaint, removalists assisted the woman and her son to move into a serviced apartment and have their belongings placed in storage. Two weeks later, they were assisted to move into a new FACS Housing property. The woman received a full rent abatement for the period of the tenancy.



Case study – tree damage repair delayed

A public housing tenant complained to our office about LAHC. The tenant said a tree fell on her house in January 2018, putting a hole in a bedroom ceiling. Contractors 'made safe' the external roof damage by putting a tarpaulin over the hole but it had remained this way for six months. The external work to repair the roof and the internal work to fix the partially collapsed ceiling in the bedroom remained outstanding. Extensive works were required to repair the roof and internal damage. Several months later LAHC repaired the roof. However, the tenant told us that completion of the internal repairs did not occur, leaving the bedroom partially exposed and mould had been growing. The roof damage had enabled water to leak into the bedroom that had damaged the bed, mattress and her son's shoes. In addition, contractors had further damaged her son's bed while inspecting the home and neither LAHC nor the contractor had reimbursed the tenant for the damage at that time. The tenant advised that she had made several attempts to report the issues and to raise a complaint and she had not received a response.

We made inquiries of LAHC concerning the delays in repairing the roof and the inadequate response to the tenant's complaint. Following our inquiries, LAHC apologised to the tenant for the delays, completed the remaining repairs, and provided the tenant with a rental reduction for the period in which the work should have been completed. The tenant's insurance claim for the damage to the bed, mattress and son's shoes was later negotiated with LAHC and settled. LAHC also acknowledged and apologised for the inadequate response to her earlier reports and complaint.

NSW Trustee and Guardian

The NSW Trustee and Guardian provides services to some of the most vulnerable members of our community. The NSW Trustee and Guardian can be appointed as a person's financial manager by a court or tribunal. People can also appoint the NSW Trustee and Guardian as their enduring guardian for health, lifestyle and medical decisions. These are significant responsibilities.

We acknowledge it can sometimes be challenging for agencies to respond to a large number of complaints while still providing frontline services. We have been closely monitoring the work the NSW Trustee and Guardian has been doing to improve its response to complaints.

Case study – managing finances

A woman, whose brother was under a financial management order managed by the NSW Trustee and Guardian, complained to our office. Her brother owned an apartment, which had been privately tenanted for several years. The tenants moved out and there were considerable delays in the NSW Trustee and Guardian making a decision as to whether to renovate and re-let the apartment or sell it. The apartment had been vacant for over 12 months before the NSW Trustee and Guardian made a decision that it would be in her brother's best interests to sell the apartment. The woman and her brother objected to the sale and wanted the apartment renovated and re-let.

We made extensive inquiries, after which the NSW Trustee and Guardian reviewed its decision and decided to renovate the property rather than selling it. We suggested the NSW Trustee and Guardian reimburse the lost rental income due to the delay, as well as legal and other management fees, which they did. The NSW Trustee and Guardian also made improvements to address similar issues in the future. The apartment was renovated and then let to private tenants.

Responding to issues – NSW Trustee and Guardian

Following an extensive restructure at NSW Trustee and Guardian between 2014 and 2017 and an increasing number of complaints to our office during that same time period, the NSW Trustee and Guardian told us it was moving to 'business as usual'. They said the restructure had caused some delays but that they had addressed these issues. We continued to receive high numbers of complaints about delays and poor communication in 2018, which was more than a year after the restructure had been finalised. We wrote to NSW Trustee and Guardian at the end of 2018, asking for information about how they were responding to these problems. They acknowledged there were areas where the impact of the restructure was

continuing to disrupt services, and outlined what its executive group was doing to improve its customer service including:

- introducing a new strategic direction for 2019 to 2025
- a backlog reduction project for the administration of deceased estates
- developing a core technical knowledge program to improve staff skills and help to train new staff
- releasing a guide to communication standards for all staff
- adding 65 new positions, most of which are in frontline service delivery roles.

We are pleased with the efforts NSW Trustee and Guardian are making to address the issues it was facing, and will continue to monitor its progress in the coming year.

2.4. Complaints about local government

Local councils provide many of the everyday services for communities across NSW. Examples of the types of complaints about local councils that we handle include:

- concerns about whether actions comply with proper procedures or the law
- issues with enforcement of development consent conditions
- concerns about lack of action on complaints about unauthorised work and illegal activities
- inadequate notice to affected people prior to decisions being made, and
- questions about compliance with tendering procedures.

2.4.1. Finalised complaints about local government agencies

In 2018–19, we finalised 3,245 complaints about local government agencies.

The vast majority of these complaints (3,149) were about local government councils. The average number of complaints was 26 per local council in NSW. The remaining complaints were about other local government services, such as water utilities, either owned or operated by local councils, or services provided by an accredited certifier.

Table 5 on page 24 shows the 10 councils with the highest number of complaints. The complaints about these 10 councils represent more than one-quarter (or 28%) of all local government complaints in 2018–19.

Table 5: Finalised complaints about local councils (top 10 by number)

Council	Number	%
Central Coast Council	125	4%
Northern Beaches Council	100	3%
Canterbury-Bankstown Council	97	3%
City of Sydney Council	92	3%
Blacktown City Council	82	3%
Inner West Council	81	3%
Sutherland Shire Council	78	2%
Lake Macquarie City Council	76	2%
Penrith City Council	71	2%
Georges River Council	70	2%
Subtotal	872 of 3,149	28%

As there is only a marginal difference in the per cent of complaints about individual councils, it is useful to consider the population of residents in each council area.

Table 6 shows the 10 local councils in NSW with the highest rate of complaints per 100,000 residents⁹. The average rate of complaints for all local councils in NSW was 40 per 100,000 residents. Some councils receive a low number of complaints but have a higher rate of complaints due to low resident populations.

Table 6: Finalised complaints about local councils (top 10 by rate)

Council	Number of complaints	Resident population	Rate – complaints per 100,000 residents
Kyogle Shire Council	20	8,870	225
Brewarrina Shire Council	3	1,655	181
Tenterfield Shire Council	11	6,638	166
Upper Lachlan Shire Council	13	7,961	163
Cootamundra-Gundagai Regional Council	15	11,260	133
Walgett Shire Council	8	6,051	132
Bega Valley Shire Council	44	34,348	128
Byron Shire Council	44	34,574	127
Snowy Monaro Regional Council	26	20,733	125
Federation Council	15	12,462	120

9. Resident population sourced from Australian Bureau of Statistics 2019, Cat no 1410.0 Data by Region 2013–18.

10. Regions are approximate to statistical area 4 (SA4) and sourced from Australian Bureau of Statistics 2019, Cat no 1410.0 Data by Region 2013–18.

Table 7 (on opposite page) groups councils according to regions¹⁰ in the Sydney area and outside of Sydney. There was no significant difference in the number of complaints for councils in Sydney versus regional NSW (each receive around 50% of complaints). The rate of complaints however, was 71 per cent higher for councils outside of Sydney compared to councils in the Sydney area (53 and 31 complaints per 100,000 residents respectively).

2.4.2. Issues raised in local government complaints

The types of issues people raised with us in 2018–19 were similar to earlier years. The most frequently raised issues include complaints about:

- council enforcement action
- standards of customer service
- objections to the processes councils use to make decisions, and
- charges and fees.

We encourage people to raise their complaint with the council first, and have put in place a direct referral process to ensure their complaint gets to the council as quickly as possible. Not all referred complaints are able to be resolved at the local level, so we step in.

Table 7: Finalised complaints about local councils by region

Region	Number	% of total complaints	Resident population	Rate –complaints per 100,000 residents
Outside Sydney				
South Coast	198	6%	227,876	87
Richmond-Tweed	191	6%	251,002	76
Mid North Coast	149	5%	225,857	66
Central West	128	4%	211,757	60
Newcastle and Lake Macquarie	128	4%	369,018	35
Central Coast	125	4%	342,047	37
New England and North West	111	4%	183,799	60
Hunter Valley	106	3%	278,370	38
Coffs Harbour-Grafton	101	3%	141,161	72
Illawarra	100	3%	311,317	32
Southern Highlands and Shoalhaven	96	3%	154,864	62
Far West and Orana	69	2%	110,477	62
Murray	61	2%	120,717	51
Riverina	55	2%	151,063	36
Subtotal	1,618	51%	2,988,780	53
Sydney				
Inner South West	167	5%	532,342	31
Inner West	166	5%	378,212	44
City and Inner South	153	5%	414,607	37
North Sydney and Hornsby	134	4%	501,672	27
Outer West and Blue Mountains	133	4%	340,700	39
South West	121	4%	528,075	23
Eastern suburbs	111	4%	287,343	39
Parramatta	107	3%	488,204	22
Northern Beaches	100	3%	271,278	37
Baulkham Hills and Hawkesbury	82	3%	239,556	34
Blacktown	82	3%	366,534	22
Sutherland	78	2%	229,213	34
Ryde	57	2%	142,355	40
Outer South West	40	1%	168,139	24
Subtotal	1,531	49%	4,888,230	31
Total/average rate	3,149	100%	7,877,010	15



Case study – improving complaint handling

We received a complaint about a council from a couple claiming they had received delayed and inadequate responses to their complaints about their neighbour's building work. We made inquiries, and were satisfied with council's decision not to take any action regarding the building works. However, we still had some concerns about the standard of the responses to their complaints. We suggested the council apologise for the delays and failures to respond, and review its complaint handling process to identify how it could improve its response to complaints. The council agreed and committed to developing new compliance enforcement and complaint handling policies to improve its future responses to complaints about building works.



Case study – property use

We received a complaint from a western Sydney resident. She had raised concerns with her local council about her neighbour parking multiple heavy vehicles on his property but was not satisfied with the response. We made inquiries with council, who told us that it had not consented to the use of the property as a transportation business or truck depot, and that it would take appropriate action. The council also said that it had told the business operator to stop loading and unloading car carriers on the nature strip outside his property. The council also agreed to repair any damage to the nature strip.



Case study – council fines

A woman was issued a parking fine by a council for allegedly parking over a driveway. The complainant provided council with photographic evidence that showed that at the time of the alleged offence, a driveway did not exist. Initially, a flight of stairs was in existence making it impossible for the area to be used as a driveway and subsequently the flight of stairs was dug up, removed and replaced with a mound of dirt in anticipation of creating a driveway.

The complainant asked for a review of the fine by NSW Revenue, which was unsuccessful. She then made a complaint to our office. We made inquiries and the council agreed to withdraw the fine. The council advised it had not sought legal advice regarding the fine and as a result had identified a gap in its processes in relation to reviewing fines. In future, the council's process

for reviewing infringements will include a referral to General Counsel to provide legal advice in cases where there is uncertainty about a definition of an offence.

2.5. Complaints about custodial services

People in custody, or offenders in the community, can complain to us about problems with Corrective Services NSW, the privately run correctional centres at Junee and Parklea, Justice Health, Department of Justice, or any other NSW government agency.

We provide a frontline phone service that inmates and detainees can call from their centres. These calls are free and not monitored by the centre. Inmates and detainees can also contact us in writing to make a complaint but we also travel across the state to visit adult correctional centres and juvenile justice centres to speak with inmates and young people, speak with staff, resolve issues and observe conditions and routines. Often, these contacts are about us providing information or directing them to the place that can better help with a complaint or problem.

2.5.1. Complaint handling in custody

Inmates and detainees who wish to raise issues or complaints about Corrective Services or Department of Justice are able to do so in the same way as 'customers' of other public sector agencies. Corrective Services and Department of Justice have complaint handling systems in place for inmates and detainees.

Most people consider raising concerns, challenging a decision or formally complaining to be a fundamental right and it is easy to contact organisations in a number of ways. In custody, people must first complain to the staff who work with them every day. Often their complaints are about these same people. In our experience, this can mean that an inmate may not be willing to follow through on making a complaint using the internal systems put in place within custodial services – even in instances where there is a serious allegation, such as assault by staff. It is difficult to compare the closed custodial environment to other public sector agencies, and it is hard to overstate the importance of their access to an independent and impartial outlet for complaints that our office provides. For this reason, we may intervene in matters – seek a resolution or investigate – at an earlier point than

with complaints made in other areas. As the Prison and Probation Ombudsman for England and Wales noted in their 2017–18 Annual Report, “On the face of it, some of these are about trivial matters, but we do not underestimate the potential consequences of small frustrations that are left unresolved”.

People in custody must experience humanity and decency if there is to be any ongoing benefit to them, and to the community, from the programs and other work done to reduce their reoffending.

In 2018–19, we finalised 5,108 complaints about custodial services, including both adult and juvenile custodial systems in NSW.

2.5.2. Finalised complaints about adult correctional centres

The majority (3,603 or 71%) of custodial service complaints involved adult correctional centres (see Table 8 on page 28).

The average number of complaints was 100 per adult correctional centre in NSW. The average rate of complaints for the adult correctional centre population in NSW was 27 complaints per 100 daily occupants.

Parklea Correctional Centre had the highest number of complaints (346). During the year, MTC Broadpectrum took over the management of this centre and this led to a large number of ‘teething issue’ type complaints.

However, the High Risk Management Correctional Centre had the highest rate of complaints – 215 complaints per 100 people – which is eight times higher than the average rate for adult correctional centres. This is not unusual as the management regime for these inmates is the most restrictive in the system.

Many centres have mixed levels of security. If centres are grouped by the highest level of security available at the centre, two-thirds (2,459) of correctional centre complaints were for centres with maximum levels of security. The rate of complaints was higher for centres with maximum (31 per 100 people) and medium (27 per 100 people) levels of security compared with minimal security centres (16 per 100 people).

In most cases, we were able to resolve complaints by making further inquiries and providing advice or an explanation to the complainant. For the remaining complaints, either we referred the person to a more appropriate agency – for example, we now refer complaints about police to

the Law Enforcement Conduct Commission – or we provided advice without the need to inquire into the issues raised.

Issues raised in complaints about adult correctional services

In both the adult and juvenile systems, we categorise most complaints we receive as being about the inmate or detainee’s daily routine. In the adult system, we also receive a high number of complaints about medical issues. The following case studies show how our intervention can assist inmates.



Case study – trying not to reoffend

A caller from the Metropolitan Special Programs Centre was worried that he was a minimum security classified inmate who was held for six months in a maximum security centre while waiting to do a program to help him not to reoffend. The delay meant he would be unlikely to complete the program before he would be eligible for parole. The man had a very sick son and was seeking release at his earliest date. He talked about withdrawing from the program because it would now run past this earliest release date. It appeared that no one had talked with him about the options that the parole authority might consider before allowing him to go on parole and that this would probably include him finishing the program.

We spoke with the person in charge of the program and they agreed he had experienced a delay caused by staff shortages and would now be unlikely to finish the program before his parole date. The person in charge advised the centre was in the process of recruiting suitably qualified people to deliver the program and security checks were being carried out for each candidate. This process could not be expedited.

The program manager spoke to the inmate about the reasons for the delay and the consequences for him not doing the program. When we spoke to the caller again we told him about this conversation and suggested that he seek approval for compassionate visits with his sick son.

Table 8: Finalised complaints about adult correctional centres

Adult Correctional Centre	Number	% of total complaints	Average daily occupancy	Rate (complaints per 100 daily occupants)
Maximum security				
Parklea Correctional Centre	346	10%	1,113	31
Metropolitan Special Programs Centre	315	9%	1,071	29
Metropolitan Remand Reception Centre	289	8%	1,052	27
Silverwater Women's Correctional Centre	222	6%	282	79
Mid North Coast Correctional Centre	202	6%	621	33
Wellington Correctional Centre	182	5%	688	26
Hunter Correctional Centre	166	5%	391	42
Lithgow Correctional Centre	163	5%	417	39
High Risk Management Correctional Centre	116	3%	54	215
Goulburn Correctional Centre	114	3%	519	22
South Coast Correctional Centre	108	3%	542	20
Shortland Correctional Centre	88	2%	323	27
Mary Wade Correctional Centre	70	2%	89	79
Macquarie Correctional Centre	51	1%	366	14
Special Purpose Prison	27	1%	49	55
Maximum security subtotal	1,618	51%	8,043	53
Medium security				
June Correctional Centre	181	5%	845	21
Bathurst Correctional Centre	141	4%	617	23
Grafton Correctional Centre	120	3%	257	47
Dillwynia Correctional Centre	95	3%	206	46
John Moroney Correctional Centre	62	2%	425	15
Berrima Correctional Centre	53	1%	50	106
Cooma Correctional Centre	46	1%	197	23
Kariong Correctional Centre	28	1%	94	30
Tamworth Correctional Centre	24	1%	90	27
Broken Hill Correctional Centre	17	0%	73	23
Medium security subtotal	767	21%	2,854	Average 27
Minimum security				
Cessnock Correctional Centre	98	3%	523	19
Dawn de Loas Correctional Centre	97	3%	479	20
Emu Plains Correctional Centre	58	2%	130	45
Kirkconnell Correctional Centre	53	1%	259	20
Outer Metropolitan Multi Purpose Centre	27	1%	110	25
St Heliers Correctional Centre	11	0%	212	5
Oberon Correctional Centre	10	0%	149	7
Glen Innes Correctional Centre	9	0%	167	5
Illawarra Reintegration Centre	8	0%	61	13
Yetta Dhinnakkal (Brewarrina) Centre	4	0%	265	2
Ivanhoe "Warakirri" Correctional Centre	2	0%	22	9
Minimum security subtotal	377	10%	2,377	Average 16
Adult correctional centre subtotal	3,603	100%	13,274	Average 27



Case study – special procedures for segregation

A woman who wrote to us from Silverwater Women’s Correctional Centre was in segregation and had been there for two weeks. The centre then increased her time in segregation for up to three months and she felt this was unfair.

We cannot influence how long someone remains segregated but will usually check they are being managed in accordance with policy and receiving their entitlements. We ensured the woman was able to ask the Serious Offender Review Council to review her segregation. There are also some policies relating specifically to managing Aboriginal inmates in segregation. When we contacted the centre we were told the inmate had initially not wanted to see the Regional Aboriginal Programs Officer and they currently did not have an Aboriginal identified inmate delegate. The centre agreed the extension of her segregation should trigger a further request for the Regional Aboriginal Programs Officer to visit the woman and this later took place.



Case study – use of force

A man called us from Long Bay Hospital 2 alleging that unreasonable and excessive force was used on him. When staff thought he had a ‘shiv’ (a gaol-made weapon), the Immediate Action Team had intervened and used chemical munitions (‘gas’). The inmate claimed he did not have a shiv and had complied with directions before the use of gas.

We reviewed reports of the incident and footage. We also asked the Commissioner to have the Professional Conduct Branch review the incident. On review, we decided it was reasonable for the staff to use force as there was room for them to believe a shiv was involved. A concern remained about the details in one officer’s report and the fact the inmate did appear to comply with directions before the use of gas. The Commissioner referred these matters to the staff misconduct process.

Monitoring the adult correctional system

At the start of the reporting year, the number of adults in custody approached 14,000. Around 25 per cent of the people in custody identify as

Aboriginal or Torres Strait Islander, which is widely acknowledged as a significant over-representation compared to the number of Indigenous people in our community. A large number of inmates are not literate, and many live with a range of disabilities and mental health illness. There are also many older people in custody. Managing the range of inmate needs, in a crowded system, presents challenges to Corrective Services NSW. Sometimes correctional services struggle to consistently provide the services inmates require. Each of these factors leads to complaints.

As part of our monitoring work, we collaborate regularly with the Inspector of Custodial Services, including providing insight from our complaint database and visits to centres, to help inform their preparation for inspections. We meet bimonthly and discuss general issues arising in both the adult and juvenile systems, as well as specific areas of complaint or review. We have a memorandum of understanding so we can share information and provide comprehensive oversight of custodial services in the state. This year, we have continued to provide information to assist the Inspector’s work on each of the areas in which they have issued terms of reference for review.

Managing risk

The volume of inmates places pressure on the accommodation provided, as well as access to work, programs and amenities. It has also led Corrective Services to rely on inmates sharing a cell to provide a bed for each person. Each pairing (or tripling in some cases) relies on an assessment of the risk of locking specific people into a cell together for a minimum of 12, but often 18, hours. This can, and has, increased the risk of inmates assaulting each other, in some cases resulting in death¹¹.

In 214 matters this year, we identified that the person was contacting us because they felt there had been a failure to ensure their safety. Many were worried about placement at specific centres (eg. allegiances to various outlawed motorcycle gangs or other gangs or cultures can create an unsafe environment for some people). Inmates often say staff dismiss their concerns when they alert them to possible association issues before they are moved to a different centre. In some cases, we advised inmates to write their concerns on an inmate form and give this to staff so proper checks and risk assessment can occur. Sometimes, we needed to contact the centre to ensure that these steps were taken.

11. Any matters involving the unexpected death of an inmate are the subject of a coronial investigation, as well as an internal Corrective Services critical incident investigation.

Many other contacts with us were about inmates being afraid of their cellmate, being told they would need to share a cell with someone whom they feared, or raising concerns about their own behaviour if they were to share a cell.

Transgender inmates have also raised concerns with us about their centre placement, and cell sharing. In these cases, we based our inquiries on Corrective Services policy and procedures for managing transgender inmates. We were concerned in some of these matters about the attitude of some staff (eg. staff refusing to refer to the inmate by their identifying gender as provided for in Corrective Services policy).

We have been alerted that some inmates who told us they needed to move locations due to safety concerns were trying to manipulate a change for other reasons. In all cases, proper implementation of the policy and procedures, and documenting decisions, helps ensure legitimate concerns are met, and cases of manipulation are easily identified.

Following a series of incidents, the Commissioner of Corrective Services announced in June 2019 the formation of a taskforce to look at the assessment and decision-making processes used to determine cell placements¹².

Accommodation out of the mainstream

We also receive contacts from inmates being moved out of mainstream accommodation, seemingly outside of policy. Legislation permits inmates to be segregated, separated and confined to cells for a range of reasons and there are procedures for each of these. We still get complaints about these actions, but there is a rigorous statutory framework to use in assessing them. When inmates move to 'assessment', observation, dry or 'camera' cells, no specific legislation applies, but there is policy and procedure. From the complaints we receive, it seems not all staff are aware of their obligations when using non-routine accommodation. We continue to make inquiries on many of these individual contacts to ensure the accommodation and management of these men and women are not unreasonable or inappropriate.

Using force

In custody, staff sometimes use physical force on inmates, usually because of safety reasons. This mostly occurs when an inmate refuses to move, is involved in a fight, or staff have to protect

themselves from attack. Complaints are usually about the force being unnecessary, excessive, or both. In these cases, we usually review the documentation, the situation that led to the incident, and any footage (eg. CCTV, hand held camera, or body worn camera) of what happened. After our review, we might make suggestions for improvement or refer an allegation to the Commissioner for review by the Professional Conduct Branch.

This year, the Independent Commission Against Corruption (ICAC) held public hearings and released a report on corrupt conduct at Lithgow Correctional Centre around a use of force on an inmate. ICAC's report referred to work done by this office over the past few years on this issue. The Commissioner of Corrective Services also established a taskforce to review use of force practices and to implement the ICAC recommendations. We continue to receive complaints about the use of force, many of which are mixed with allegations from inmates they were assaulted. Our initial inquiries often still find a deficit in de-escalation as a first resort, and in the reports written about the need for force and the force used.



Case study – use of restraints

This year, we received a reply to a suggestion we made to the Commissioner of Corrective Services about the use of restraints on inmates. Our suggestion was for Corrective Services to seek legal advice about whether handcuffing inmates to fixed objects, such as poles or hospital beds, are examples of authorised restraints, and whether restraining an inmate in this manner should be reported as a use of force. The Commissioner confirmed the Crown Solicitor's Office had given the legal advice and there would be changes made to Corrective Services policy. Those changes include a specific provision on use of force on tethering restraints to fixed objects. The provision means that, if it is necessary to tether an inmate to a fixed object in a correctional environment, the action is to be reported as a use of force. Corrective Services advised us the policy does not apply to inmates in hospital who may be handcuffed to hospital beds and showers rails. They will investigate a regulatory amendment around the tethering of inmates in hospital.

12. The report is not publicly available as it contains information about detailed security arrangements within correctional facilities.

Telephones

Telephones are an inmate's lifeline to their families and friends, especially those who cannot write and those whose centres are a long way from home, making visits difficult. Telephones also cause many complaints: not enough access, calls are too expensive, lack of interpreters for inmates from different backgrounds who must have their calls monitored, and many others. During this year, Corrective Services changed the offender telephone system provider and this led to even more complaints.



Case study – access to calls

All unconvicted inmates are eligible to receive free calls to their legal representatives, including those already convicted on some charges, but still waiting to go to court on others. When we made inquiries we found the offender telephone system allows free legal calls for inmates based on their conviction status as it appears in the offender database, OIMS. Once convicted, this shows as their primary status in OIMS, even if they have more matters at court. The offender telephone system then uses that status to determine eligibility for free legal calls or not. As a result of our inquiries, Corrective Services put interim measures in place for reimbursement of the cost of legal calls for affected inmates while the system was changed. It is now possible for the offender telephone system to recognise a dual conviction status for an inmate and allow them their free legal calls.

High Risk Management Correctional Centre

While the High Risk Management Correctional Centre or 'supermax' is a small centre, it is the source of a relatively large number of complaints. This is unsurprising given the strict management regime. The majority of High Risk Management Correctional Centre inmates have either a national security or extreme high-risk restricted designation and this regulates with whom they can associate in the centre, talk to on the phone, visit with and write to, including in which language these interactions must occur. The process for approving their contact with solicitors and family is often confusing to the applicants and the process is sometimes lengthy, resulting in complaints.

We receive complaints about the High Risk Management Correctional Centre Behaviour Management Program, which rewards inmates with privileges for compliant behaviour and lose privileges for being non-compliant. This year, police charged one inmate for assaulting an officer, and as a result, he received a conviction and an additional sentence. He appealed this decision on the basis he was already punished for the assault when he had several privileges removed and dropped in levels under the Behaviour Management Program. The appeal judge found in his favour and quashed the conviction, resulting in some public controversy when media reports categorised the decision as 'allowing' inmates to assault officers without punishment. In June 2019, the NSW Government introduced amending legislation to authorise Corrective Services to operate a Behaviour Management Program that allowed the withdrawal of privileges despite there also being any internal or external charges laid against an inmate, without this being treated as punishment¹³.

While we continue to deal with complex issues, the majority of the complaints we resolve for these inmates are of the day-to-day kind.

Internal secretion of contraband

Being strip-searched is an undignified process that all inmates experience. We regularly receive complaints about how officers do searches and many inmates tell us of the re-lived trauma the searching brings to them. This year, Corrective Services ran a trial using a low-dose X-ray machine, similar to those used at airports, to search inmates at John Moroney Correctional Centre. Before the trial, we were informed about how the machine works and given answers to questions inmates might ask us. We have not received any complaints from inmates participating in the use of this machine. We expect that many prefer this less intrusive form of searching of internally secreted contraband to the use of strip searches or the Body Orifice Scanner Seat used at the High Risk Management Correctional Centre.

Otherwise, complaints to us from inmates related to strip searches are often about management of a positive search or when staff continue to believe an inmate has contraband after they have been searched. In response to inquiries we made this year, the Commissioner gave us information about how they will manage these inmates to help detect internally secreted contraband. We will use this information to assess future complaints.

13. Section 65A of the *Crimes (Administration of Sentences) Act 1999* authorising behaviour management policies came into force on 25 June 2019.

Consultation

During 2018–19, we were asked to give advice and information in a variety of forums looking at matters relating to the custodial system. We answered questions on notice from the Legislative Council’s Legal Affairs Portfolio Committee inquiry into Parklea Correctional Centre and other operational issues. We met with members of the taskforce established by the Corrective Services Commissioner to review the use of force procedures and practices in NSW correctional centres. The Audit Office also consulted with us in the preparation of their performance audit on the Prison Bed Capacity Program. Task Force Themis members also met with us about matters relating to their Terms of Reference involving professional boundaries between corrections staff and inmates.

2.5.3. Finalised complaints about Juvenile Justice centres

In 2018–19, we finalised 143 complaints about Juvenile Justice centres. These matters represent three per cent of all custodial service complaints. The average rate of complaints for the Juvenile Justice centre population in NSW was 58 complaints per 100 daily occupants.

In addition to complaints about a detainee’s daily routine, in the juvenile system we also receive a high number of complaints that can broadly be classed as allegations of ‘officer misconduct’ – this captures a range of complaints from allegations a youth worker spoke rudely to a young person through to allegations of use of excessive force.



Case study – head and neck restraints

A detainee alleged to us that staff had used excessive force on him. We reviewed incident reports, the video footage and a report of an internal investigation. Juvenile Justice procedures stipulate that a young person should not be restrained by the head and, if staff believe young people are trying to spit, staff may place their hand across a young person’s face to stabilise their head movement. The young person in this case remained under restraint in a prone position for several minutes. Staff reported he made hacking sounds leading them to think he was trying to spit.

We were aware Juvenile Justice was reviewing all matters relating to using force. We suggested Juvenile Justice should also review the policy, procedure and training for staff on best practice when responding to the threat of spitting, with a specific focus on alternatives to restraining the head or neck. We also suggested they increase staff awareness of the warning signs of asphyxia and the use of the prone position to restrain someone. Juvenile Justice advised our office that its review would consider our suggestions.

Monitoring Juvenile Justice

While there are fewer children and young people in custody than several years ago, our work continues to have a strong focus on Juvenile Justice. There are six Juvenile Justice centres in NSW, providing custodial care for young people, mostly aged under 18. More than 50 per cent of the detainees identify as Aboriginal or Torres Strait Islander, despite Aboriginal and Torres Strait Islander young people making up only five per cent of the NSW population under the age of 18. This means that Aboriginal and

Table 9: Finalised complaints about Juvenile Justice centres

Juvenile Justice Centre	Number	%	Estimated daily occupancy	Rate (complaints per 100 daily occupants)
Cobham	52	36%	76	68
Frank Baxter	42	29%	78	54
Reiby	15	10%	44	34
Acmena	13	9%	35	37
Orana	11	8%	16	69
Riverina	10	7%	26	38
Subtotal	143 of 5,108	100%	245	Average 58

Torres Strait Islander young people aged 10–17 years were 19 times as likely as their non-Indigenous counterparts to be in detention on an average night (30.7 versus 1.6 per 10,000 young people aged 10–17 years, respectively for June quarter 2018)¹⁴.

Young people in custody raise a wide range of issues with us over the phone and on our visits to the centres. The complaints may be about their food, decisions they feel are unfairly made, and more serious matters, such as excessive punishments or use of force. We encourage young people to talk to staff at the centres about many of these issues and they often engage in mediated meetings with the staff. It is important for young people who, despite their offences, are still learning and growing to experience positive social role modelling from the adults around them. We also intervene in matters we consider need our attention.

Some young people who come into custody may have a traumatic history, and will require additional assistance and support from professional staff to deal with their specific needs. This year, we were advised of a number of initiatives to improve responses to young people in Juvenile Justice centres, which we welcomed.

Inspector's report

In November 2018, the Inspector of Custodial Services published a report, *Use of Force, Separation, Segregation and Confinement in NSW Juvenile Justice Centres*¹⁵. The report included recommendations for improvement in these areas of practice in juvenile justice. In regard to our office, the report recommended that Juvenile Justice work with us to develop a notification system for use of force on young people, an ability for us to review partially clothed searches and also to improve the notifications made to us when young people spend more than 24 hours in total in confinement, separation and segregation. In March 2019, the Inspector received the government's response to her recommendations, which indicated these recommendations had been complied with. We later met with Juvenile Justice about these recommendations and how we could work toward their implementation. The Inspector acknowledged she would recognise the status of these recommendations as being 'underway' instead of complete.

Use of force

It is sometimes necessary for Juvenile Justice staff to use force on young people in custody. Young people may contact us when they have force used against them, especially if they feel the force was excessive or believe they have been assaulted. When we receive these complaints, we review the relevant documents and may watch any hand-held video or CCTV footage.

One of the Inspector's recommendations was for the Ombudsman to be notified about pre-planned uses of force on young people. While the government response indicated our access to the Juvenile Justice database (CIMS) enables us to review these records, this is not as easily accessible as envisaged. We met with Juvenile Justice to discuss this recommendation and agreed we would run a trial to externally review a number of uses of force using our current CIMS database access and are awaiting a response. This review will be completed in 2019 and we will use the results to inform our ongoing monitoring in this area. We immediately identified an issue with our lack of access to incident reports and wrote to the Executive Director seeking to have this rectified.

Searching young people

As with most custodial systems, Juvenile Justice search detainees in an effort to detect contraband. During the year, a new regulation commenced which provides for greater accountability in relation to searches. Searches must be on a risk-assessed basis, rather than as routine practice. The name of the searches also changed to 'partially clothed searches', in an effort to enhance safeguards on the rights and dignity of detainees. Juvenile Justice also introduced a new search policy providing operational guidance to frontline staff who perform the searches.

In her November 2018 report, the Inspector of Custodial Services recommended a system of notification to the Ombudsman when young people are searched. We met with senior Juvenile Justice staff about this recommendation and agreed that while these searches are still recorded manually in registers at each centre, we would continue to check them during our visits. Juvenile Justice will consider whether records can be included in CIMS to allow for external monitoring in real time by our office to support full implementation of the Inspector's recommendations.

14. Australian Institute of Health and Welfare (2018) *Youth Detention Population in Australia* (Table S10).

15. Inspector of Custodial Services (2018). *Use of Force, Separation, Segregation and Confinement in NSW Juvenile Justice Centres*, Department of Justice, November 2018. Accessed at <http://www.custodialinspector.justice.nsw.gov.au/Documents/use-of-force-seperation-segregation-confinement-nsw-juvenile-justice-centre.pdf>

Segregation of young people

Segregation and separation of young people can result in their spending little of their day with other people, and sometimes only short periods out of their rooms.

Currently we are only required to be notified of segregations and separations that occur for a continuous period of more than 24 hours. The Inspector made a recommendation in her 2018 report that the system of notification to this office be expanded to include any cumulative periods of combined confinement, segregation and separation that resulted in a young person spending over 24 hours in their room. When we met with Juvenile Justice about these recommendations they told us this would require significant changes to the CIMS database which could take some time to establish. We agreed that generally it is our understanding this situation rarely occurs and we could be notified separately in these instances while they are working out how their system can be changed. To date, we have not been notified of any matters of this kind. We are working with Juvenile Justice to ensure the Inspector's recommendation is fully implemented.

During the year, there were several incidents at the larger centres – Cobham and Frank Baxter – that led to several young people being segregated. A detainee risk management plan usually accompanies the use of over 24-hour segregation for young people. We monitor the use of detainee risk management plans, which can be quite

restrictive in what they allow a young person to do each day. We seek to ensure they are in place to manage the risk the young person presents – to themselves or to others – and not as a form of punishment. A primary aim in monitoring the plans is to ensure young people receive sufficient time out of their room. Juvenile Justice have a stated aim of six hours each day even for those detainees who cannot interact with other young people at all, though we are sometimes told this is difficult for them to achieve. We consider it is important to look at what purposeful activity or other means they have to occupy themselves when they are out of their room. We generally monitor the management plan of a young person on a detainee risk management plan until they return to a normal unit routine.

2.5.4. Finalised complaints about other custodial services and agencies

Other custodial services include court cell complexes, diversionary centres and transitional centres operated by Corrective Services NSW, the Forensic Hospital operated by NSW Health, as well as Community Corrections (adult) and Juvenile Justice Community.

In 2018–19, we finalised 1,362 complaints about other custodial services, mainly Justice Health and Juvenile Justice. These 'other custodial services' complaints represent just over one-quarter (or 27%) of all custodial complaints.

Table 10: Finalised complaints about other custodial services

Service provider	Number	%
Justice Health	720	53%
Corrective Services NSW*	400	29%
Long Bay Prison Hospital	107	8%
Community Offender Services	83	6%
The Forensic Hospital	14	1%
State Parole Authority	13	1%
Court Escort/Security Unit	6	<1%
Juvenile Justice*	6	<1%
Amber Laurel Transitional Centre	4	<1%
Women's Transitional Centres	4	<1%
The Balund-a (Tabulam) Program	3	<1%
Corrective Services Academy	1	<1%
Serious Offenders Review Council	1	<1%
Subtotal	1,362 of 5,108	100%

* Corrective Services NSW and Juvenile Justice refer to the agency itself, rather than to correctional or detention centres.

Justice Health

The Justice Health and Forensic Mental Health Network, still mostly called Justice Health by their patients, provide medical care and treatment for most inmates and all young people in custody.

Inmates at the Junee and Parklea centres, which operate under contract, receive healthcare from the providers associated with the respective management companies. Justice Health is also involved in community-based care in a range of criminal justice settings.

People in the adult and juvenile systems experience poor health at higher rates than the rest of the community, particularly in the area of mental health. This provides Justice Health with significant challenges for meeting inmates' needs while they are in custody.

We regularly get inquiries about medical issues (eg. people waiting too long to see medical staff, disagreements with a diagnosis or treatment plan, or lack of knowledge about how the system works). We do not review a person's medical care or the adequacy of medical decisions. We will refer these people to the nursing unit manager at their centre, or the Health Care Complaints Commission. Similarly, complaints about the time it takes a patient to see medical staff are difficult for us to resolve because this depends on which patient has a greater need, and this is not something we can assess.

Until the establishment of the Justice Health Patient Inquiry Line in January 2018, our practice was to respond to those complaints where it seemed an inmate patient was unable to express the urgency of their situation or may have fallen through a crack in the appointment system. While we can and still do this, in most cases we will now refer the inmate to the Justice Health Patient Inquiry Line. Inmates have access to the inquiry line as a free call on the inmate phone system and it has significantly reduced the number of contacts we make with Justice Health.

2.6. Complaints about community service providers

We have specific responsibilities in relation to overseeing the delivery of community services in NSW, through the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS CRAMA). We handle and resolve complaints about these services, and we monitor and review how these services are delivered.

Community services providers include any services provided by:

- Department of Family and Community Services (FACS)
- organisations that are funded, licensed or authorised by the Minister for Family and Community Services, the Minister for Ageing, or the Minister for Disability Services, such as FACS operated disability accommodation, assisted boarding houses, child protection and out-of-home care services, early intervention services, refuges for young people, women, families and men, and neighbourhood and family support services.

On 1 July 2018, the National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission commenced in NSW, and some of our functions in relation to services and supports for people with disability moved to the NDIS Commission.

2.6.1. Child and family services

Under CS CRAMA, our functions include providing information, education and training about the making, handling and resolution of complaints about the delivery of community services. Complaints can originate from a range of sources, including children and young people in out-of-home care, parents, foster carers, agency staff and professionals providing services to children and young people. We encourage providers to maintain a consistent approach to complaints, no matter who raises the concerns.

In 2018–19, we finalised 1,541 complaints about child and family services. The vast majority (nine in ten) of these complaints were about out-of-home care (OOHC) (60%) or statutory child protection (30%) services (see Table 11 on page 36).

Table 11: Finalised complaints about child and family services

Service area	Number	%
OOHC (home based) – foster care	428	33%
Statutory child protection	383	30%
OOHC (home based) – kinship care	269	21%
OOHC (residential care)	61	5%
Early intervention/family support	45	3%
OOHC (other) – alternative care arrangements	26	2%
Specialist homelessness services – adult	23	2%
Other service area	22	2%
OOHC (other) – VOOHC	12	1%
Specialist homelessness services – youth	6	<1%
After care/leaving care	6	<1%
Adoption	5	<1%
Neighbourhood centre	4	<1%
Subtotal	1,290 of 1,541	100%

Complaints about statutory child protection

Thirty per cent of complaints that we received during 2018–19 related to Department of Family and Community Services' (FACS) management of statutory child protection functions. The majority of these complaints were from parents who objected to having their children removed. The decision to remove a child from their family is made by the Children's Court and our office cannot review a decision made by a court. We therefore advise these complainants to seek legal advice.

Some complaints, however, are received from mandatory reporters and other members of the community raising concerns they had made child protection reports to the Child Protection Helpline but no action had been taken in response. We received 16 such complaints in 2018–19. We made inquiries in relation to these complaints. In some cases, our inquiries identified that FACS had taken action but was not able to provide detailed information to the reporter due to privacy considerations. In other cases, our inquiries resulted in some further action by FACS to provide support and/or intervention to the families identified as a result of the complaints.

Complaints about out-of-home-care issues

The majority (62%) of the complaints about child and family services relate to out-of-home care.



Case study – Helpline response

An Aboriginal member of the community contacted us to raise concerns about her 14-year-old nephew. She said her nephew had packed his bags and left his mother's home. He had lived on the streets before moving into his aunt's house. The complainant made a report to the Helpline and said that FACS had not offered any assistance. She said her nephew had been exposed to domestic violence at home for many years. She alleged that his stepfather had physically assaulted him, burned him with cigarettes, and had driven him out to rural locations and made him get out of the car and driven off.

We made inquiries with FACS who agreed to reconsider the child protection report, which had been closed at the Helpline. FACS reviewed the report in consultation with an Aboriginal caseworker and the report was allocated to an Intensive Support Adolescent Team caseworker for a field assessment of the supports that could be provided to the young person.

These services include foster care, kinship care and residential care. Complaints raised concerns about:

- the child in care, including whether the nature of care being provided is appropriate to the needs of the child and the child's safety and wellbeing – concerns can extend to how children are supported after they leave care, including how the young people can access records from their time in care

- the child’s carer, often about the assistance being provided to the child’s carer, including financial assistance
- the child’s birth parents, with concerns often focused on the level of contact they have with their children.

Contact with children

Where appropriate, it is important for children to maintain contact with their parents, siblings and other family members after they have been placed in care so they can maintain cultural and family connections.

We expect out-of-home-care providers to especially support parents with disability who have children in care. Parents with intellectual disability may have difficulty in understanding the reasons why their children have been removed and it is important for providers to ensure they support parents with intellectual disability to plan and attend contact visits with their children.



Case study – access visits

A father called to complain about the difficulties he and his partner were having with access to their children, who resided in a kinship placement with their aunt. The complainant lived some hours’ drive away from the children. He had been having trouble negotiating visits with the children and struggled to make the trip because of the cost of petrol and accommodation. The complainant said he could not make a 14-hour round trip in one day, as he did not feel safe driving that many hours.

We made inquiries with the out-of-home-care provider responsible for case managing the children. The provider advised that they would schedule visits for holidays or on weekends. The provider also indicated they would be happy to pay for accommodation and assist with petrol expenses, and also offered to assist with the cost for activities during the visits.



Case study – care review

A parent with intellectual disability complained that FACS had removed her child from her care. Her son had been placed with foster carers and she was permitted contact with him once a month. She wanted more contact but believed his foster carers wanted to adopt her son and would not support additional contact. She wanted her son returned to her care. The complainant advised she had a second child still in her care and FACS had

not raised any concerns for her care of him. She did not understand why one son was placed with a foster carer but her other son resided with her.

We referred the complaint to FACS for local resolution. FACS spoke directly with the complainant and explained the reason for her son’s removal from her care, which related to violence on the part of her partner at the time. FACS advised it had not received any child protection reports about her younger son. FACS advised that it would hold another permanency consultation with a view to her older son being restored to her care. FACS also undertook to refer her case to its Office of the Senior Practitioner for a review.

Financial assistance

We received a number of complaints from foster and kinship carers who sought financial assistance from FACS for occasional expenses incurred while caring for children. Establishment payments help cover the cost of buying essential items for a child or young person when they first enter care, such as bedroom furniture, bed linen, clothing and footwear and other personal items.



Case study – reimbursement

A kinship carer called to complain about his request for bedding and mattresses, which was made before he was granted guardianship over his grandchildren. The carer made a request for reimbursement for the purchase of mattresses. His caseworker at the time said she would put the request through but he did not receive a response as to whether FACS would reimburse him. The carer phoned FACS several times but no one responded to his calls.

We contacted FACS who acknowledged they had previously agreed to support the carer but had not followed up on the request. FACS also acknowledged that it had not updated the carer’s contact details on their database. FACS contacted the carer, apologised, and asked him to provide two quotes for bedding, which he agreed to do.

Voluntary out-of-home care

Some children with a significant disability are unable to be supported by their family to reside in the family home, and have to enter care under a voluntary arrangement. These arrangements allow families to continue to have an active role in their child’s life and to make decisions in relation to

their children. Since the introduction of the National Disability Insurance Scheme (NDIS), we received a number of complaints regarding uncertainty about funding for children currently residing under these arrangements.

Complaints raised by official community visitors

We work closely with the official community visitors (OCVs) who are appointed by the Minister for Community Services to regularly visit residential out-of-home-care services for young people. The OCVs regularly bring concerns to the attention of residential providers. However, if they are not able to resolve the issue, they will escalate their concerns to our office.



Case study – medication administration

An OCV raised concern with our office about a residential out-of-home-care provider. During a visit, she observed that some prescriptions for the young people had not been filled. She also raised concern that the medication administration form had not been completed by staff and it was unclear why medication was not administered. Details were missing from the medication form, including missing signatures, times and number of tablets.

We made inquiries and, as a result, the provider delivered further training to staff in relation to medication administration and ensured that all house managers were monitoring and reviewing the medication administration by their staff. Refresher training continues to be available to all staff.

Leaving care

Leaving care is a challenging time for young people who may not have the benefit of family support to pursue their life goals, such as study, finding employment and arranging independent living. We expect out-of-home care providers to have a conversation with young people and their carers well before they turn 18 to identify the supports the young person will need when they leave care.

FACS' *Guidelines for the Provision of Assistance after Leaving Out-of-Home Care* state that all young people leaving care must have a leaving care plan developed by the agency managing their placement. Planning should commence at 15 years of age and be completed before the young person leaves care. For young people with a disability, this

is particularly important. This timeframe allows the implementation of appropriate supports, which could include obtaining a NDIS plan, arranging supported accommodation and ensuring the young person has access to employment and/or support to engage in the community.



Case study – day support

A young person with an acquired brain injury was cared for by foster carers for 17 years. When one carer passed away, the young person's poor behaviour escalated in response to adjusting to the carer's death. The surviving foster carer could not manage the young person's behaviour and, therefore, could no longer look after him. The young person moved to a group home funded by his NDIS package. A requirement of living in the home was that residents could not be present between 9.00 am and 3.00 pm. The young person required two-to-one staffing support. Because he was under 18, his NDIS plan did not fully fund his supports and his funding did not extend to activities while he was required to be elsewhere during the day. In addition, the foster carer was paying for his medication for which he did not have funding.

We made inquiries with the young person's out-of-home-care provider. The provider arranged for the young person to attend a day program, arranged a work placement for him, and arranged funding for the young person's activities, medication and medical support. The provider also agreed to ensure the young person's after-care planning was taking place and that he would be well supported once he turned 18. The young person's foster carer applied to the NSW Civil and Administrative Tribunal to become the young person's guardian so she could continue to support him to make decisions.

Access to records for people who have left care

We received a number of complaints about adults who had been in out-of-home care having difficulty in accessing their files relating to the time they were in care. Access to this information is important as it assists adults to make sense of their childhood experiences. We expect agencies who hold these files to make them available immediately on request and to provide support to the person leaving care to interpret the information on their files.



Case study – accessing records

A young person leaving care contacted an out-of-home-care provider and requested access to his file. The provider did not respond to the request so he made a complaint to the provider. When the provider did not respond, the young man contacted our office. He told us that his case manager had not been helpful and had not replied to his requests.

We made inquiries with the provider. The provider delivered the file to the young person at his workplace but did not provide him with any support while he was reading his file. We suggested that the provider apologise to the care leaver for the stress and delay he experienced in accessing his file, and for delivering the file without a support person in attendance. The provider agreed to apologise.

Complaints about homelessness services

FACS funds a number of providers in NSW to provide specialist homelessness services. We received a number of complaints about homelessness providers, ranging from concerns about complaint handling policies to perceived lack of support for a person's health issues, as well as services not assisting people to obtain temporary accommodation, forcing them to sleep rough.



Case study – emergency accommodation

A complainant called to advise that a homelessness service was not helping him to find emergency accommodation. He said he was homeless and had been sleeping in a tent with his dog for the last three months. He tried calling a state-wide homelessness information and support service but he could not obtain assistance because he had a dog. He said the dog helped calm him during schizophrenic episodes.

We made inquiries with the provider, who agreed to organise a meeting so the complainant could discuss his concerns. The complainant met with the provider and obtained suitable temporary accommodation. He intends to stay there until he finds a suitable rental property with assistance from FACS Housing. The complainant was able to take his dog with him to the temporary accommodation.

2.6.2. Disability services and supports

In 2018–19, we finalised 251 complaints about disability services. A key focus of our disability-related complaint work was on resolving complaints about National Disability Insurance Scheme (NDIS) providers received before 1 July 2018, as well as handling new complaints about FACS operated or funded disability services and assisted boarding houses.

After 1 July 2018, jurisdiction for any complaints about disability services provided by NDIS-registered providers was transferred to the NDIS Quality and Safeguards Commission. Our office retains responsibility for FACS funded or licensed services.

The complaints primarily raised concerns about quality of care, conduct of staff, and management of finances of people with disability living in residential centres and assisted boarding houses.



Case study – strengthening safeguards

We received a complaint about alleged abuse and neglect of residents of an assisted boarding house, including financial abuse. The complainant also alleged that certain NSW public sector agencies, including FACS and the NSW Trustee and Guardian, and a number of non-government providers had colluded to perpetrate the alleged abuse and neglect of the residents.

We made inquiries with a number of public sector agencies, including FACS, NSW Trustee and Guardian, the Public Guardian, and the National Disability Insurance Agency. We also made inquiries of non-government NDIS providers. We reviewed records held by FACS and NSW Trustee and Guardian and met with them separately in relation to the issues.

While there was no evidence of collusion between agencies, the information raised questions about the adequacy of the actions of the NSW Trustee and Guardian to respond to the concerns and to take steps to address the issues and strengthen safeguards for residents. We met with NSW TG to discuss the matter, and then wrote to the agency and suggested a number of improvement activities. These included that NSW TG should internally review its handling of the matter and develop an action plan to ensure that it implements systems and processes to clearly identify, and quickly and effectively respond to, allegations or concerns about the potential financial abuse and exploitation of clients under its financial management.

As a result, NSW Trustee and Guardian established regular interagency meetings between all relevant stakeholders to discuss and resolve issues of concern. NSW Trustee and Guardian also engaged an auditor to examine whether the funds of residents are being distributed and spent appropriately. NSW Trustee and Guardian will regularly review residents' budgets, including regular liaison with the residents and their NDIS support coordinators. Residents are also being supported to build their capacity to manage their finances more independently where possible. In addition, NSW Trustee and Guardian is developing a framework to ensure there are consistent practices around responding to allegations of financial exploitation of clients.

2.6.3. Monitoring and reviewing the delivery of community services

One of our functions under CS CRAMA is to monitor and review the delivery of community services and related programs. Child protection and out-of-home-care services are key services, targeting very vulnerable children and young people.

Reporting on systemic and practice reform

In 2018–19, we joined with FACS in publishing the *Joint Ombudsman and FACS Report Card* on the Department's progress towards addressing systemic and practice issues that we identified through our various oversight functions. We have been using an internal version of this report for several years to monitor key areas of the

Monitoring the operation of the Joint Investigation Response Team program

The Joint Investigation Response Team (JIRT) is a tri-agency program in NSW, delivered by the Department of Family and Community Services (FACS), NSW Police Force and NSW Health. JIRT 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. The program has existed in one form or another for more than 20 years.

In October 2018, we tabled a report in Parliament that outlines progress made by agencies in responding to recommendations in our 2017 report into the operation of the JIRT program. The new report, entitled *The JIRT Partnership – 20 Years on*, includes formal responses by agencies to the original recommendations and a progress update. In the report, we note that agencies support the majority of recommendations and practice suggestions, and welcome the opportunity to reassess their agency's performance and the future direction of the program. Despite differing views on certain issues, the agencies remain collectively committed to maintaining the essential components of the program, that children should receive a seamless, tri-agency response which promotes their safety, health and wellbeing.

The report includes a summary of key results to-date and agencies' views about the future direction of the JIRT program, together with copies of the agencies' full responses. Key achievements for the program include:

- strengthening of governance – establishing direct oversight by the heads of each agency along with regular and timely engagement at the operational level
- enhancing the capacity of the JIRT Referral Unit – through budget enhancements, extended business hours and staffing and improved after-hour responses
- better systems to track FACS JIRT performance and improvements to NSW Health's JIRT governance
- additional funding for therapeutic services for young people who engage in harmful sexual behaviour
- strengthening the police area command response to child abuse, and
- work to establish new fit-for-purpose co-location arrangements.

Since the report was tabled, the program has been renamed the Joint Child Protection Response (JCPR) program, to reflect a clearer delineation of agency roles and responsibilities, while reinforcing the overall aim of the program to ensure a collaborative partnership between the partner agencies, focused on protecting the safety and wellbeing of children.

The report can be accessed at: <https://www.ombo.nsw.gov.au/news-and-publications/publications/reports/child-protection/the-jirt-partnership-20-years-on>.

Department's work, and responses to recommendations we have made through investigations and inquiries.

The report card highlighted some of the significant areas of reform in the child protection and out-of-home-care sectors, which we have continued to monitor. They include:

- The implementation of *Their Futures Matter*, a reform agenda due to be completed by 2020. The broad reform goals are to reduce entries into out-of-home care by earlier identification of children at risk of entering the system and to improve outcomes for children in out-of-home care.
- New recruitment, training and support services to carers in out-of-home care through the contracting of the non-government organisation, Adopt Change. The aim of the *My Forever Family* initiative is to match children in out-of-home care with families that best meet their needs, whether through authorised carers to support a proposed restoration to a child's birth family, or to prospective guardians or adoptive parents. The goal links to a new legislative timeframe that requires achievement of permanent placements for children within two years of entering out-of-home care.

We kept abreast of reform agendas by analysing FACS data on out-of-home care placements, engaging through forums such as the Ministerial Advisory Group, and regular liaison with the Secretary and senior executives of FACS.

2.7. Complaints related to employment-related child protection

Part 3A of the *Ombudsman Act* sets out the Ombudsman's responsibilities in relation to employment-related child protection. In addition to receiving notifications about reportable allegations or convictions, described more fully in Chapter 6, we also accept complaints in relation to an agency's conduct and handling of reportable allegations or convictions. These complaints came from various sources, including employees who were the subject of allegations, alleged victims, their families and other interested parties. Our priority is always to give agencies the opportunity to respond to complaints about them in the first instance. We get involved as a last resort if the complaint cannot be resolved.

In 2018–19, we finalised 1,209 complaints about agencies' conduct and/or handling of reportable conduct matters. Three-quarters of the complaints were about non-government out-of-home-care (OOHC) and accredited voluntary out-of-home-care (VOOHC) providers, approved children's services, government and non-government schools.



Case study – responding to complaints

We received a complaint about a student being indecently assaulted by a member of the public during an overnight school camp at premises shared with members of the public. The complainant was concerned at the lack of support offered to the student following the incident, and the apparent inadequacies of a child protection focus in the school's policies and procedures for such excursions.

We discussed our concerns with the school and they acknowledged the deficiencies in their policies and procedures and the support they had offered to the affected student. They then undertook a full review of their overnight excursions, including the relevant policies and procedures. They also met with the camp providers.

This resulted in important changes for future overnight excursions. Most notably, it was decided that two venues would be removed as accommodation options from the school's camp programs; and other accommodation options would be assessed to ensure they provided dedicated and secure accommodation in circumstances where the premises may be shared with members of the public. This was communicated to the entire school community. The school also apologised to all involved parents, met with the affected students, and established ongoing supports for those students. The complainant expressed satisfaction at the approach the school took to addressing the concerns raised.

Most significantly, this complaint resulted in changes being made to the camp provider's policies, a positive outcome for children across NSW.

Table 12: Finalised complaints about reportable conduct

Service area	Number	%
Non-government OOHC and accredited VOOHC	287	24%
Approved children's service	237	20%
Government school	133	11%
Non-government school – Independent	129	11%
Non-government school – Catholic	119	10%
Agency providing substitute residential care	101	8%
Community services	69	6%
Other services	52	4%
Health	23	2%
Family day care	20	2%
Out-of-school-hours care (OOSH)	18	1%
Sport and recreation	11	1%
NSW Police Force	5	0%
TAFE	3	0%
Ageing, Disability and Home Care	1	0%
Juvenile Justice	1	0%
Total	1,209	100%

2.8. Complaints related to people with disability in supported group accommodation

Part 3C of the *Ombudsman Act* sets out the Ombudsman's responsibilities in relation to reportable incidents involving people with disability, who are living in supported group accommodation (prior to a legislative change in June 2019). In addition to receiving notifications of reportable allegations or reportable convictions, described more fully in Chapter 6, we can also accept complaints in relation to an agency's conduct and handling of these matters, and initiate our own inquiries where additional concerns are identified while monitoring a reportable incident.

In 2018–19, we finalised 148 complaints about agencies' conduct and handling of reportable incidents in supported group accommodation for persons with disability. The complaints involved approximately 60 different agencies, and included complaints from members of the public who raised concerns about the handling of a reportable incident or the welfare of a person residing in supported group home accommodation, and issues arising from the transfer of services from FACS to the non-government sector.

2.9. Complaints related to public interest disclosures

In 2018–19, we received 101 complaints related to public interest disclosures (PIDs). Of these:

- Twenty-two complaints were assessed as meeting the criteria to be a PID. We are formally investigating two matters, referred three to a more appropriate investigating authority under section 25 of the *Public Interest Disclosures Act*, and made inquiries about the remaining 17 complaints.
- Eleven complaints were assessed as not meeting at least one of the mandatory PID criteria set out in the Act. These were dealt with as ordinary complaints to the extent that they raised matters within our jurisdiction.
- Thirteen complaints were not PIDs themselves but complaints about the handling of a PID by an agency, in 11 cases, we made inquiries and commenced a formal investigation into two matters.
- For the remaining 55 complaints, we provided advice to the reporter about internally reporting the matter to their agency, how to provide further information to our office, or to contact another investigating authority under the PID Act.

A number of our investigations in recent years have arisen from PIDs, often because of the insight such disclosures gave us into the conduct of agencies.

2.10. Working to improve public sector complaint handling

Responding to complaints will always be the core work of our office, but we also work with agencies to identify opportunities to improve their complaint handling systems, and provide opportunities for staff to develop and improve their complaint handling skills through training and learning from the experiences of others working in the same area.

2.10.1. e-Learning – effective complaint handling

One of the central issues highlighted by our review of the implementation of the NSW Government’s principles for effective complaint handling was the need to increase public sector understanding of the six commitments, and complaint handling more generally. While our office provides face-to-face complaint handling training courses, we need additional strategies to try to reach as many public sector employees as possible.

We have developed two e-learning modules to achieve this goal. One module is aimed specifically at those employees with complaint handling responsibilities, and the other is for the public sector more broadly. The modules do not provide comprehensive training on how to respond to complaints but are a starting point, and include links to our more detailed advice and guidance.

We have also developed a short awareness resource for senior staff and heads of public sector agencies. It includes a video message from the Ombudsman and the NSW Customer Service Commissioner explaining some of the organisational benefits of responding well to complaints.

2.10.2. Customer experience community of practice

Having good complaint handling systems is one of a number of essential elements to effective customer service. To make sure we reach as wide a public sector audience as possible, we have worked with agency representatives over the past year as a member of the organising group for the public sector customer experience community of practice. This is one of a number of groups aimed at regularly bringing together staff working in an area to hear about developments and good practice.

We co-hosted a community of practice event with the Department of Education, looking at how agencies use compliments, complaints and suggestions to shape organisational culture. This event involved a panel, including one of our Deputy Ombudsmen, representatives from several government departments, a senior executive from the Commonwealth Bank and a senior academic from the University of Newcastle. The Deputy Ombudsman also presented a follow up ‘catch up’ event with a small group of staff to ask questions about best-practice complaint handling and hear about the work of our office.

2.10.3. Return on investment

As a complaint handling body, we see the benefits of effective complaint handling for the community and public sector agencies. This led to our office supporting research currently being conducted to assess the tangible benefits of good complaint handling for the public sector.

In addition to providing funding, we are one of a number of Ombudsman offices that form part of a steering committee for the project. The research is being conducted by a team from the University of Newcastle, and is focussed on looking closely at the complaint handling practices and experiences of three public sector agencies. The project leader, Professor Tania Sourdin, recently noted that the insights gained so far have allowed the team “to uncover the true costs and benefits of managing complaints well and allow us to develop practical and evidence-based guidance as to how these organisations can improve their complaint management practices, as well as their return on investment”. The project team is expecting to report its findings in 2020.

3. Investigations and projects

Formal investigations are resource and time-consuming activities. They are reserved for the more complex and serious cases where the alleged conduct, if proven, would meet the threshold set out in section 26 of the *Ombudsman Act*. The purpose of an investigation is to ascertain the full facts of a matter in order to determine whether we can make an actual finding of wrong conduct.

Not all systemic issues we identify meet investigation thresholds but, nonetheless, they are important in bringing forward and helping to resolve systems issues affecting the effective delivery of government and community services. In these cases, we may undertake targeted project work.

3.1. Investigations

Investigations can result from individual complaints or conduct. Where it appears that the conduct of a public authority or a community service provider could reach a threshold for investigation, the Ombudsman can also investigate whether or not any person has complained to us. We refer to these investigations as being of our ‘own motion’. Relevant conduct may come to our attention through our various functions (eg. reviewing deaths, overseeing the reportable conduct scheme or providing assistance with public interest disclosures).

In most cases, the conduct we investigate is systemic in nature and changes resulting from investigations can prevent the same issue arising in the future.

In deciding to investigate, we will have regard to considerations such as:

- the scope and impact of the alleged conduct, especially whether the issues are likely to affect others and/or affect people who are vulnerable and have few other avenues of redress
- how the responsible agency has responded to the concerns raised, and whether any action has been taken that may address the concerns
- whether there are alternative actions to investigation that would effectively resolve the issue, or other reasonable avenues of redress.

In 2018–19, we managed 19 investigations. Of these, we:

- initiated seven investigations that remained open as at 31 June 2019

- have four ongoing investigations that were initiated in previous years and remained open as at 30 June 2019
- closed eight investigations that were initiated in previous years. Six were finalised and two were discontinued following a decision to provide information to the agency under section 31AC of the *Ombudsman Act*.

Some investigations involved conduct or issues that related to more than one agency.

Under section 17 of the *Ombudsman Act*, an investigation under the Act is required to be made in the absence of the public. Where an investigation results in a finding of wrong conduct within the meaning of section 26 of the Act, a report is prepared and provided to the relevant agency. It is a matter for the Minister and the relevant agency whether a report from the Ombudsman is then made public. However, under section 31 of the Act, the Ombudsman has the ability to make a special report to Parliament at any time and, on occasion, the Ombudsman will do so on a particular investigation, particularly where it has raised a systemic issue or a matter of public interest. Otherwise, we do not undertake public investigations and we do not report publicly on investigations that are ongoing in order to ensure privacy and to afford procedural fairness to those whose conduct may be under scrutiny. The examples below of finalised agency investigations illustrate our investigation work.

3.1.1. Water compliance and enforcement

In August 2018, the Ombudsman tabled his final report outlining his findings and recommendations in relation to the investigation into the Department of Primary Industries and Water NSW. The central systemic issues addressed in the report include:

- the difficulties created by repeated agency restructures and transferring important responsibilities and staff
- the challenges associated with applying customer service principles to an enforcement environment
- the importance of enforcement agency independence, adequate resourcing and the development and support of the right culture.

The report is built around three case studies that show the substantial impact these organisational issues had on the enforcement and compliance functions under the *Water Management Act 2000*.

Many of the recommendations were aimed at the newly created Natural Resource Access Regulator to ensure it was adequately resourced, and that its policies, procedures, staff training and selection ensured that some of the investigative and management practices outlined in the report are not repeated.

The Ombudsman recommended that the Department of Primary Industries and Water NSW review their communication, record keeping and delegations policies and practices. The Ombudsman also recommended that the Department of Primary Industries assess whether the aims of its 'no meter no pump' could be achieved sooner than planned.

Since the release of the report, our office has received updates from the Natural Resource Access Regulator, the Department of Primary Industries and Water NSW outlining what is being done to address the Ombudsman's recommendations. This has included Natural Resource Access Regulator increasing its staffing levels, and working to respond to a greater number of compliance and enforcement matters. We will continue to monitor this area in the next year.

The report on our investigation can be accessed at our website.

3.1.2. Family and Community Services processes for sharing risk-related information

No single agency has sole responsibility for protecting children so the exchange of information is a vital part of arrangements to respond when risks arise. It is equally important that risk-related information is shared appropriately and swiftly within individual agencies.

This year, we completed an investigation into the adequacy of Department of Family and Community Services' (FACS) actions in sharing information, internally and with external agencies, in relation to concerns about the conduct of staff who had been working with an out-of-home-care provider. We decided to investigate FACS' actions after we were told that the department had received information about child protection risks but had not alerted the out-of-home-care agency until more than a week later. In that context, it also appeared that FACS had not taken steps to exchange the information with our office. Our investigation focused on how departmental staff had handled the information internally and whether they had acted appropriately to provide it to external agencies. We provided a report of our investigation

to FACS and asked FACS to tell us whether its systems were adequate for sharing significant risk-related information.

FACS acknowledged that it had concerns about the case. FACS said it needed to enhance its systems and related guidance for staff about sharing information between its business units, and with external bodies responsible for child protection functions. FACS told us it would revise casework practice mandates by including a clear timeframe for notifying agencies about allegations against individuals who are engaged to deliver services to children and, secondly, by updating advice on providing information to the Children's Guardian. FACS said it would ensure that its operational staff are aware of their obligations under the revised mandates. We welcome the work the Department has undertaken to improve its processes.

3.2. Projects and systems inquiry

3.2.1. Complaint handling commitments

On 3 September 2018, we tabled a report in the NSW Parliament on the implementation of the Whole of Government Commitments to Effective Complaint Handling (the Commitments), which form part of the Complaint Handling Improvement Program (CHIP).

The CHIP is a two-part program. The first part was the implementation of the six Commitments, a high-level principles-based approach to effective complaint handling which lays the foundation on which agencies can build their complaint management systems. The second part of the CHIP is the creation and implementation of an online website tool *Feedback Assist*, which is designed to provide an efficient and consistent method of providing positive and negative feedback on government services.

Our report outlined the findings of our review of the implementation and application of the Commitments by the agencies in scope. The findings demonstrate the significant value of the CHIP to the public sector and the community, and highlight what is being done to improve complaint handling and, in turn, satisfaction with government services.

During our review, we made 86 suggestions to agencies on how to improve complaint handling practices and procedures, including:

- developing and supporting a culture that values complaints

- making sure there is a clear and accessible complaint handling process
- providing training, support and resources on how to deal with complaints appropriately and efficiently
- establishing and monitoring clear timeframes and targets for dealing with complaints
- analysing complaints to identify when policies, procedures and practice can be improved.

Our suggestions were generally accepted by agencies, with undertakings for further action. They show that agencies are continuing to refine and develop their systems, work to raise staff awareness and understanding of how to respond well to complaints, and ensure that their complaint handling processes are as accessible as possible. We will continue to work with agencies to identify future improvements to complaint handling systems.

The CHIP report is available at: <https://www.ombo.nsw.gov.au/news-and-publications/publications/reports/state-and-local-government/complaint-handling-improvement-program-commitments-report>.

3.2.2. Alleged abuse and neglect of adults with disability in community settings

During 2018–19, we continued our inquiry into allegations of abuse and neglect of adults with disability in home and community settings. These matters relate to the alleged conduct of family members, spouses, informal carers, and members of the community – not staff members. The continuation of our inquiry was pending the establishment of the new Ageing and Disability Commission.

In 2018–19, we received 130 reports of alleged abuse and/or neglect of adults with disability. The following case studies provide examples of the kinds of reports we dealt with this year, and the outcomes from them.

Information about legislative changes are detailed in Appendix A3, page 88.

Actions to improve safeguards for vulnerable adults

On 2 November 2018, we tabled a special report to Parliament on our inquiry. The report detailed the nature of the then over 200 reports we had received, highlighted the gap in the existing safeguards in NSW that left vulnerable adults without adequate protection, and outlined what

was urgently required to address the gap. We recommended that the NSW Government should establish an independent statutory body to investigate and take appropriate action in relation to the suspected abuse and neglect of vulnerable adults in NSW, consistent with the recommendations of the NSW Law Reform Commission in its report on the review of the *Guardianship Act 1987*.

Against the background of these reports and earlier inquiries into elder abuse, we welcomed the NSW Government's announcement in December 2018 that it would establish an Ageing and Disability Commissioner from 1 July 2019. Among other things, the Ageing and Disability Commissioner is intended to investigate allegations of abuse, neglect and exploitation of adults with disability and older people in home and community settings. It will also coordinate the Official Community Visitor scheme in relation to disability services and assisted boarding houses.

In 2019, we provided information and assistance to FACS to support its work to establish the Ageing and Disability Commissioner, including:

- providing detailed information on our operational arrangements for the inquiry and the Official Community Visitor scheme
- sharing information and knowledge about our data holdings and systems, and providing guidance on the relevant data fields for the work of the Commissioner
- providing input to the draft legislation and policies for the Commission.

In May 2019, the NSW Legislative Council Standing Committee on Social Issues held a short inquiry into the provisions of the Ageing and Disability Commissioner Bill 2019. We made a submission to the inquiry and gave evidence at a hearing on 31 May.

On 1 July 2019, the *Ageing and Disability Commissioner Act 2019* commences and the Ageing and Disability Commission begins operation.

3.2.3. Transfer of disability accommodation to the non-government sector

The NSW Government is in the final stages of transferring specialist disability residential services operated by Department of Family and Community Services – Ageing, Disability and Home Care (ADHC) to non-government organisations. Between 1 July 2017 and September 2018, we

conducted a project to look at the transfer process for people with disability in ADHC accommodation who have complex support needs.

We wanted to identify early any significant issues that might affect residents, and to provide oversight and advice about addressing these issues during the transfer process. To inform our work, we drew on the expertise of a reference group comprising representatives of AHDC, Department of Family and Community Services (FACS), Department of Premier and Cabinet, Ministry of Health, Department of Justice, the Intellectual Disability Rights Service, the NSW Council for Intellectual Disability, People with Disability Australia (PWDA), and the Public Guardian.

Our project involved a targeted sample, encompassing 15 residences and 64 residents from:

- two group homes in Southern NSW and Murrumbidgee
- three group homes from the closure of Metro Residences
- two specialist supported living units for people with complex behaviour needs
- three Integrated Services Program residences
- two Community Justice Program residences, and
- the residences known as Mountview, Summer Hill group homes, and Casuarina Grove¹⁶.

We visited the residences before and after transfer to review records and to talk with staff and residents, and to hear from guardians, families and other supporters, and Official Community Visitors. Ahead of the transfer, we raised with FACS issues about individual residents and the broader transfer process, and tracked subsequent responses.

The main issues we raised in relation to the transfer of services for people with complex support needs are described in the following text.

Transfer of information

The shift from FACS to non-government organisations involved the transfer of a large number of resident and staff-related data and information, including digitised records. We emphasised the need for FACS to:

- ensure that all information is current and complete ahead of transfer, to provide a comprehensive and accurate picture of the residents' needs, risks, and existing supports

- make it easier for non-government organisations to manage the digitised information, such as addressing any difficulties experienced in sorting the records, and providing more time to validate the information ahead of transfer
- ensure that administrative preparations (eg. archiving older records) do not occur when residents are home, or affect support services to residents.

In the initial transfers, we also highlighted the need for FACS to implement a clear process for identifying relevant and important information held by its districts that needed to be provided to and discussed with the non-government organisations, and the timeframes and mechanisms for providing the information ahead of transfer. For subsequent transfers, FACS appointed an operational director for each service to facilitate the transfer of key information.

Separately, we asked FACS about the transfer of ADHC employee misconduct and performance summary information to the non-government organisations. After cross-referencing FACS' information with our information holdings from the Ombudsman's disability reportable incidents scheme, we identified matters that had not been included in the original lists that had been provided to the non-government organisations. We therefore agreed in talks with FACS that it would provide non-government organisations with information relating to 60 former ADHC employees.

Communication of risks and development of key relationships

The project highlighted the need to ensure that new providers have the opportunity to understand key client and operational risks ahead of transfer. We emphasised the need for operational managers and new providers to discuss critical client and operational risks early in the transfer process. This would enable the new providers to better understand key issues and risks to be managed after transfer, and to ensure that they have appropriate responses in place.

We also provided the feedback of non-government organisations that the transfer process would be improved by facilitating earlier contact between the new providers and families to develop relationships and open dialogue early, provide and receive information, and respond to concerns. We noted the experience of the initial transfers helped to inform and improve the process for later

16. At the time of writing, Casuarina Grove had not transferred to a non-government organisation.

transfers, including earlier and ongoing contact between non-government organisations and families.

Some of the residents involved in the transfer process have complex health, behaviour, support or other needs. It is vital to have timely access to emergency and crisis supports in the community, and effective working relationships at a local and provider level with mainstream services, including police and health services. We urged FACS to ensure that everything was done ahead of transfer to develop and maintain relationships with key community agencies to enable effective handovers and continue those relationships.

Business continuity

The involved non-government organisations provided valuable information to inform subsequent transfers, including identifying opportunities to reduce disruptions to support and operation services. They highlighted issues that affected business continuity at transfer, such as transfer to new IT systems, new fleet management arrangements, household payments and cash systems, and restrictive practice authorisation arrangements. Mostly, staff reported that the new providers responded quickly to address the problems, and these appeared to have minimal impact on the operation of the residences or on the support provided to residents. However, the information from non-government organisations provided a useful guide for specific aspects that warranted early discussion and planning for later transfers.

Broader issues

The implementation of the National Disability Insurance Scheme (NDIS) at the same time as service transfer was a source of confusion for residents and families involved in the project. They found it difficult to separate the two processes, and, during discussions, we found that issues and questions more often related to the implementation of the NDIS than to the accommodation transfer.

A significant and recurring issue parties raised related to continuity of support. Families were concerned that NDIS plans that were developed post-transfer did not adequately reflect the existing support needs (and supports) of the residents, and NDIS funding did not reflect current support levels. The delays in obtaining a review of the NDIS plans added to the anxiety of families. In the meantime, FACS provided advice that it was facilitating processes between the National

Disability Insurance Agency (NDIA) and non-government organisations to review plans. The NDIA advised that it had created a centralised team to process Supported Independent Living quotes, and was working with non-government organisations to resolve discrepancies between the NDIS plans and support needs.

3.2.4. People with disability and the criminal justice system

In June 2017, we released a joint protocol for disability providers and police to reduce the unnecessary contact of people with disability in supported accommodation with police and the criminal justice system. In 2018–19, we continued to promote and oversight the implementation of the protocol.

In July and November 2018, we convened meetings of the Statewide Steering Committee for the protocol, comprising representatives of 27 agencies, including NSW Police, FACS, non-government disability accommodation providers, the NDIA and other key government and non-government agencies. The meetings enabled us to track progress in implementing the protocol across disability providers and police, identify opportunities to promote and enhance understanding of the protocol, and to address issues affecting its implementation.

As part of our monitoring of the protocol's implementation, we asked disability accommodation providers to notify us of any incidents in which police were called in response to the behaviour or conduct of a resident between 1 September 2017 and 30 June 2018. At the Statewide Steering Committee meeting in November, we presented our final analysis of the data, including that:

- The most common type of event that prompted disability providers to contact police related to concerns about a resident leaving the accommodation without support, or not returning to the residence at the expected time. These matters accounted for 24 per cent of the reports to police.
- We took a closer look at a subset of reports (304) to better examine the circumstances, and identify opportunities for prevention and to minimise recurrence. In 22 per cent of these matters, it was not evident that police contact was warranted. This included matters where staff indicated that contact with police was to comply with internal operating procedures, the incident involved verbal threats only, or risks had been mitigated before police were contacted.

- In a range of matters, an apprehended violence order had been taken out against a resident to protect a staff member, and the staff member had continued to work with the person. In over half of these matters, the client had then breached the order. We took a closer look at these matters, including discussions with the providers. These matters emphasised the importance of the protocol, including not seeking police involvement for lower-level matters (eg. verbal abuse), and having effective communication and working relationships between providers and police.

During the course of the project, we held four regional forums with senior police and disability accommodation providers across NSW, to assist the parties to develop relationships and improve communication. At its meeting in November 2018, the Statewide Steering Committee heard positive practices between providers and police that had been developed through the implementation of the protocol, including development of relationships with local police Vulnerable Communities Liaison Officers and evidence of increased awareness and understanding of the protocol by frontline police officers and disability support staff. We have continued to support the implementation of the protocol in 2019, including providing police with key provider contacts and accommodation outlets to facilitate a final regional forum on the Far North Coast, and enable local meetings.

3.2.5. Safeguards and the NDIS

In October 2018, we gave evidence before the NSW Legislative Council inquiry into the implementation of the NDIS and disability services in NSW. We emphasised the need for strong governance and independent oversight of mainstream services to meet their responsibilities to people with disability, and to ensure that the existing governance arrangements for NDIS in NSW are effective and timely in resolving issues for individuals and systems.

In September 2018, we settled operational arrangements with the NDIS Commission for:

- our office, the NDIS Commission and the State Coroner in relation to the deaths of people with disability in residential care in NSW
- Official Community Visitors and the NDIS Commission.

Both arrangements primarily relate to information sharing between the parties to enable effective and coordinated functions and services for people with disability.

In June 2019, through the Department of Premier and Cabinet, the NDIS Commission commenced work with NSW agencies to establish information sharing arrangements.

3.2.6. Supporting homeless children

Last year, we tabled a report, *More than Shelter – Addressing Legal and Policy Gaps in Supporting Homeless Children*¹⁷, following our inquiries into the service response to unaccompanied homeless children. We conducted an inquiry in this area after the youth homelessness sector raised concerns about the extent of non-government agencies' legal authority to make decisions for homeless children under 16.

Our work in 2017–18 confirmed a need for legislative clarity around the capacity of agencies to make decisions about homeless children when parental responsibility remains with their parents. We also highlighted the need for FACS to settle effective operational arrangements that clearly spelled out the roles and responsibilities of FACS and homelessness services. The report included nine recommendations aimed at:

- addressing gaps in decision-making authority for homeless children
- strengthening the policy and practice framework for guiding responses to unaccompanied children accessing homelessness services
- clarifying lead case management responsibilities
- introducing mandated case review to prevent children 'over-staying'
- improving processes for identifying, reporting on, and responding to children staying in homelessness services who are in out-of-home care
- providing additional safeguards for other children and young people staying in homelessness services, and
- better monitoring of outcomes for children who are homeless or at risk of homelessness, and performance measures to demonstrate outcomes.

17. NSW Ombudsman (2018). *More than Shelter – Addressing Legal and Policy Gaps in Supporting Homeless Children*, 21 June 2018.

Since then, FACS and representatives of youth homelessness services have held roundtable meetings to work on reform. FACS is proposing to undertake research into youth homelessness, and has produced options for a legislative framework on decision-making for homeless children. Separately, the Department has foreshadowed plans to pilot a new Family Outreach and Child Adolescent Service for homeless children and young people this year in Sydney and southern NSW. Given that concerns about the response to these highly vulnerable children are long standing, we are keen to see substantial progress towards implementing our recommendations over the coming year.



4. Public interest disclosures: promoting, monitoring and providing advice

Our public interest disclosures functions are detailed in separate annual reports. These can be accessed on our website at: <https://www.ombo.nsw.gov.au/news-and-publications/publications/annual-reports/public-interest-disclosures>

The *Public Interest Disclosures Act 1994* (PID Act) encourages public officials to report serious wrongdoing by providing them with certain legal protections if they do so. The term 'public official' refers to public sector staff, contractors of agencies and people performing statutory functions, including volunteers.

The PID Act also deters detrimental action from being taken in reprisal for a person making a public interest disclosure (PID), by providing that such action can be a criminal offence, grounds for disciplinary action, and grounds for seeking compensation for damages by the reporter.

The PID Unit within our office coordinates the implementation of the Ombudsman's functions under the PID Act, including:

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

All public authorities are required to collect and report certain information in relation to their handling of public interest disclosures. This information has to be reported directly to our office every six months and included in the public authority's annual report.

4.1. Monitoring systems

As part of our statutory function to oversight the handling of PID matters, we audit and monitor the exercise of functions under and compliance with the PID Act by agencies.

4.1.1. Auditing agency systems

In 2018–19, we conducted a face-to-face audit of the handling of PIDs at one agency, which involved reviewing 56 files – 20 PIDs and 36 internal reports.

We also wrote to 13 agencies that we had audited between 2014 and 2016 to request information about their implementation of our audit recommendations, barriers to implementation, significant outcomes achieved, and other information to identify best practices in handling PIDs. We took the opportunity to gain feedback from these agencies to assist us continuously improve our audit activities.

4.1.2. Parliamentary review of the scheme

The NSW Ombudsman chairs the Public Interest Disclosures Steering Committee. The committee includes the heads of investigating authorities in the PID Act, as well as the Department of Premier and Cabinet, the Public Service Commissioner and a Deputy Commissioner of the NSW Police Force. One of the committee's key functions is to provide advice to the Premier on the operation of the PID Act and make recommendations for reform.

A focus for the PID Steering Committee this year arose from the 2017 report of the Joint Parliamentary Committee on the Ombudsman, Law Enforcement Conduct Commission and the Crime Commission (JPC) on their statutory review of the PID Act. The government formally requested that the Steering Committee examine in detail the implementation issues arising from the JPC's recommendations. We look forward to this consultation continuing in 2019–20.

As secretariat for the PID Steering Committee, we undertook research into the JPC recommendation that the PID Act be amended to allow a person to be deemed a public official for the purposes of protecting them when they make a report of wrongdoing that would otherwise be a PID. For example, this would include sub-contractors or not-for-profit employees undertaking government functions. Our research included surveying PID practitioners, estimating the number of providers who may be affected by the change, and comparing the approaches taken in other Australian jurisdictions. The research informed the

committee's recommendation that NSW adopt the Commonwealth deeming model as part of the review of the PID Act.

The *Public Interest Disclosures Steering Committee Annual Report 2018–19* details these and other activities, and will be tabled in Parliament by the Premier later this year.

4.1.3. Research and policy development

With over 20 years of practical experience, we contribute to research and the development of whistleblowing policy beyond the jurisdiction of NSW. For example:

- Our partnership with researchers and 22 other integrity and governance organisations continues with the Australian Research Council project, *Whistling While They Work 2: Improving Managerial Responses to Whistleblowing in Public and Private Sector Organisations*, led by Griffith University. During the year, we co-authored a working paper on preventing detrimental whistleblowing outcomes through risk assessment and proactive management. We found that reporters perceive better treatment from managers and colleagues when organisations assess risk early, and face, on average, half as many repercussions. Risk factors for higher reporter repercussions and management mistreatment include:
 - the type of wrongdoing – that is, a mix of public interest wrongdoing and personal or workplace grievances, as opposed to purely public interest
 - greater seniority of the alleged wrongdoer(s) and number of people involved
 - confidentiality not being maintained.
- We are members of a Standards Australia technical committee on organisational governance that is responsible for developing an Australian standard for whistleblowing programs in organisations. The standard will mirror the first international standard on whistleblowing management systems. Our Senior Research and Policy Officer received funding from Standards Australia and Griffith University to attend a four-day meeting in Paris in March and provide expertise to draft the international standard. We also participated in an editorial task group following the meeting.
- We made submissions to the Commonwealth Attorney General's Department on their National Integrity Commission consultation paper and the Commonwealth Senate Legal and Constitutional Affairs Legislation Committee on the National Integrity Commission Bill 2018 and related Acts, and appeared before a hearing of

the latter. We supported the creation of a National Integrity Commission and outlined the principles that underpin an effective model.

- We were a partner organisation to the Australian Research Council project, *Strengthening Australia's National Integrity Systems – Priorities for Reform*, led by Griffith University. During the year, this project published a discussion paper, *A National Integrity Commission – Options for Australia*, and the draft report on Australia's sector national integrity system assessment, *Governing for Integrity: A Blueprint for Reform*.

4.2. Engagement and advice

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 with agencies enables us to promote awareness of the PID Act, provide support and guidance, identify any problems and respond appropriately.

Demand has increased this year for our PID-related activities, and we have:

- trained 2,203 public officials at 71 PID awareness sessions and 51 PID management sessions across metropolitan and rural NSW, an increase of 46 per cent over the previous year
- distributed two issues of the PID e-News to 1,579 subscribers, a 22 per cent increase
- facilitated two PID practitioner forums – one focused on complications that commonly arise in the management of internal disclosures and the protection of reporters, while the other took a behavioural insights approach to managing reports of wrongdoing
- responded to 140 requests for advice or assistance from staff who had reported wrongdoing or were thinking about doing so, or from agencies about managing a report or with a policy query
- hosted information stands at the Corruption Prevention Network Forum and the National Investigations Symposium
- spoke at a range of events, internally within agencies and at conferences and seminars, including the National Investigations Symposium, the inaugural Whistleblowing Symposium, the National Integrity Systems Symposium and to Regional Leadership Executives
- in collaboration with the Queensland and Commonwealth Ombudsman's offices, hosted a closed online community, the Whistling Wiki
- received 637 PID statistical reports from agencies for two reporting periods as of 6 August 2019.

5. Official Community Visitors

Our Official Community Visitors function is detailed in a separate annual report. This can be accessed on our website at <https://www.ombo.nsw.gov.au/news-and-publications/publications/annual-reports>

Official Community Visitors (OCVs) are independent statutory appointees of the Minister for Families, Communities and Disability Services. They operate under Part 2 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS CRAMA). OCVs visit government and non-government residential services in NSW that provide fulltime care to:

- children and young people in residential out-of-home care
- people with disability living in supported accommodation
- people living in assisted boarding houses.

OCVs provide a crucial safeguard for vulnerable people. Their independent monitoring role and ability to undertake unannounced visits given them a unique perspective on the day-to-day lives of residents. The authority and functions of OCVs enable them to have genuine conversations with residents, to consider the extent to which residents' support needs are being met, and to identify critical gaps in the provision of support. OCVs provide the Ministers, the NSW Ombudsman, and the Office of the Children's Guardian with advice and reports on matters relating to the conduct of the service.

The Ombudsman has a general oversight and coordination role over the OCV scheme, and supports OCVs on a day-to-day basis. The Ombudsman also prepares a report each year of the work and activities of OCVs. The report includes detailed information about visits conducted, their work in identifying and resolving issues, outcomes for residents, and major issues raised.

In 2018–19, the majority of issues identified by OCVs related to disability supported accommodation (4,260 of 5,573 issues). The most common issues identified for people living in disability supported accommodation involved:

- plans not developed, documented, implemented and/or reviewed according to legislation, policy, consents, approvals and assessments
- appropriate furniture, fittings, amenities, heating and cooling not provided and maintained in a reasonable state of repair and/or safe working order

- the use of restricted and restrictive practices that did not comply with requirements (including appropriate consent, authorisation and review)
- residents not actively encouraged and/or supported to participate in their community in ways that were meaningful and important to them
- identified health, medical, dental, optical, auditory, nutritional, psychological and/or developmental needs not addressed.



6. Reportable conduct

Under Part 3A of the *Ombudsman Act*, heads of government agencies and some non-government agencies are required to notify the Ombudsman of 'reportable allegations' within 30 days of becoming aware of the allegation. We oversee and monitor agency investigations into reportable allegations, and keep systems for preventing reportable child-related conduct and for responding to allegations of such conduct under scrutiny.

Under Part 3C of the *Ombudsman Act*, certain service providers are required to notify the Ombudsman of incidents of abuse or neglect involving persons living in supported group accommodation. We oversee and monitor agency investigations into reportable incidents, and keep systems for preventing reportable disability-related incidents and for responding to allegations of such incidents.

6.1. Children

When carrying out our reportable conduct functions, we consider the value we can add to help promote the safety of individual children and/or improve the child protection system more generally. A key role for us involves guiding and assisting agencies to respond appropriately to ensure:

- all reporting obligations are met, including to NSW Police Force and Department of Family and Community Services (FACS)
- children are protected
- responses are appropriately rigorous
- employees are treated fairly, and
- any systems gaps are identified and addressed.

We also respond to child protection concerns arising from notifications that are outside of an employer's remit by referring information to relevant bodies or facilitating the exchange of information between bodies.

Of the 2,242 notifications finalised during 2018–19, 15 per cent were notified to us outside the maximum timeframe permitted by the legislation, meaning we did not have an opportunity to oversight the agency's response. In a number of those cases, we considered the agency's response to be inadequate. For this reason, we have focused on raising awareness in agencies, through training and other means, of the need to alert us as soon as practicable when allegations arise.

In addition to the notifications that agencies are required to make, we can also receive information about reportable allegations or agencies' systems from members of the public, through our inquiries line or our complaint-handling function.

6.1.1. Notifications received

This year there were notable shifts in notification rates from the largest sectors, with notifications from the out-of-home-care sector increasing by 24 per cent while notifications from the education sector dropped by 15 per cent.

Consistent with previous years, notifications of reportable conduct most frequently involved allegations of physical assault of a child (38%) and allegations of a sexual nature (29%). The types of allegations notified vary by sector. For example:

- approximately two-thirds of physical assault and neglect allegations from the out-of-home-care sector
- nearly half the sexual offence allegations, and three-quarters of the sexual misconduct allegations involving education-sector employees.

We closed 2,242 notifications in 2018–19. Of those, we:

- assessed 110 as not being in jurisdiction or exempted from notification and we had no role in these matters
- actively oversighted 1363, of which we monitored 596 and
- assessed 769 as not warranting ongoing monitoring.

Source of allegations

We collect data in relation to the source of reportable allegations. Across all sectors:

- 39% were made by persons to whom a victim had disclosed
- 32% were made by witnesses
- 12% were made directly by the victim, the majority of whom were older children in their teens, and
- the remaining matters (17%) included sources, such as anonymous or unknown, and self-reporting by a child-related employee.

In the early childhood sector, direct reports from victims occurred in less than one per cent of matters, while witness reports accounted for 64 per cent of the reportable allegations. Of the witness reports in early education, in most cases (66%) the witness was another employee. This

strong internal reporting culture reflects the higher employee-child ratios in the early childhood sector, the highly visible nature of the workplace environment, and a recognition that children in this environment are, due to their age, often less able to disclose concerns themselves.

Children are more likely to disclose abuse or ill-treatment to someone with whom they have a trusting relationship. Reportable allegations involving school employees were disclosed by the victim to a family member in 19 per cent of cases, and to a teacher in 14 per cent. Reportable allegations relating to authorised carers were disclosed by the victims to their caseworker in 15 per cent of matters, but to a teacher in only five per cent of matters. There is scope to build greater awareness about the important role teachers can play in providing a safe opportunity for children in out-of-home care to disclose concerns about their home environment.

6.1.2. Monitoring reportable conduct: children

When we receive a notification, we assess the level of scrutiny required and whether the agency needs our help. We consider:

- the seriousness of the allegation
- the vulnerability of the alleged victim and other children
- our knowledge of the agency's systems
- the complexity of the case
- whether any other agencies are, or should be, involved.

When we monitor an individual matter, we may offer advice about developing an investigation plan and provide guidance about the investigation process. We may also take steps to facilitate information exchange or encourage interagency collaboration. Often concerns about individual matters may be indicators of broader system shortcomings.



Case study – employee treated unfairly

We assessed an investigation into the conduct of a foster carer employed by an out-of-home-care agency. The agency had sustained findings of sexual misconduct, reported the findings to the Office of the Children's Guardian and shared them with another employer.

We identified a number of deficiencies with the investigation. We identified concerns about fairness to the employee, the accuracy and detail

of the information shared with the other employer, and the degree to which evidence supported the agency's findings. We held concerns that the actions of the agency in response to the findings may have an unfair adverse effect on the carer's employment.

We outlined these concerns to the agency and asked it to review its findings. On review, the agency amended the findings to 'not sustained' and formally advised the carer, her employer and the Office of Children's Guardian.



Case study – supporting an inexperienced agency

We received an inquiry about an allegation that an early childhood educator had hit a child on the face. We sought and received a notification from the early childhood service, which had already completed its investigation and reached a sustained finding of reportable conduct. This was the agency's first interaction with our office and the first time they had notified us of a reportable allegation. Our review of the investigation identified questions about whether the employee had been afforded procedural fairness.

We provided detailed feedback to the agency about these concerns, and other concerns we had about the agency's investigation, analysis of the evidence and the final decision-making. In response, the agency took positive action to address the concerns, including the lack of fairness to the employee.



Case study – ensuring a thorough investigation

While we were monitoring an investigation into allegations of sexual misconduct against a school employee, the agency decided to discontinue the investigation because the employee had recently retired. The employee had a protracted history of similar concerns and, although he was retiring from his position at the school, it would not preclude him from working with children elsewhere. We also noted that the agency's investigation had identified sufficient evidence to sustain the allegations.

We met with the agency and expressed concerns about the decision to discontinue the investigation. The agency agreed to review the matter and subsequently reopened the investigation. They proceeded to make a sustained finding and reported the finding to the

Office of Children’s Guardian. This triggered an assessment of the man’s suitability to continue working with children in NSW. The agency acknowledged that it should not have discontinued the investigation and provided the investigating officers with feedback and guidance.

6.1.3. Overseeing and keeping under scrutiny

One of our reportable conduct functions is to keep under scrutiny the systems that agencies have for preventing, detecting and responding to reportable conduct. We do this in a variety of ways, including providing feedback on individual notifications, delivering training and capacity building activities, and conducting audits of agency systems and related governance frameworks.

We regularly analyse the information we hold and obtain feedback via our ongoing liaison with regulatory bodies (eg. the Office of Children’s Guardian, the NSW Education Standards Authority, the Department of Education’s Early Childhood Directorate as well as the Department of Family and Community Services (FACS) in their capacity as a commissioner of out-of-home-care services) to identify which agencies we should target for our auditing activities.

We also use available information to determine which agencies or sectors should be the subject of new or extended ‘class or kind determinations’. These determinations exempt agencies from having to notify less serious matters to our office, on the basis that they have mature systems and investigative practices for preventing and responding to reportable conduct. We already have over 20 such class or kind determinations in place, resulting in efficiency gains for our office and the agency. They also enable us to focus our resources on the most serious allegations of reportable conduct and on sectors with less experience.

This year, we completed three audits in collaboration with the Office of Children’s Guardian where we identified concerns about compliance with reportable conduct and complaint handling practice. Standard 3 of the Office of Children’s Guardian’s *Child Safe Standards for Permanent Care – Child Protection and Child Safety*, covers both areas. The audits provided us with an opportunity to give detailed feedback to the agencies about strategies for strengthening their systems and practices.

Transfer of the reportable conduct scheme to the Office of Children’s Guardian

In October 2018, the Premier announced that responsibility for the reportable conduct scheme would move from our office to the Office of Children’s Guardian. We welcome this decision, which is consistent with the Royal Commission’s recommendation that the oversight body for the reportable conduct scheme should also be responsible for monitoring and enforcing Child Safe Standards.

Since the Premier’s announcement, we have been working closely with the Children’s Guardian to support the transfer of the scheme. This work has included consulting closely with the Children’s Guardian on the drafting of enabling legislation, developing new integrated policies and procedures, transferring existing protocols for information sharing with NSW Police Force and FACS, and establishing joint staff-led working groups from our office and the Office of Children’s Guardian to help make the transition as smooth as possible.

Establishing a child safety standing committee

Last year, we reported on our work to establish a standing committee for survivors and faith groups to provide governance arrangements to help drive the response to the Royal Commission’s recommendation to extend the reportable conduct scheme to the faith sector. The standing committee met twice during the year, most recently in March 2019. Over 60 representatives of survivor groups, faith groups, and government agencies attended the meeting. New attendees included representatives from the Australian Baha’i Community, the International Society for Krishna Consciousness, the Church of Jesus Christ of Latter-day Saints in Australia, and the Buddhist Council of NSW. The committee now has representation from almost all the main faith groups.

In March 2019, we briefed participants on the NSW Government’s support for the recommendation of the Royal Commission to extend the reportable conduct scheme to cover religious entities. The Director of the National Office of Child Safety provided information to participants about the National Principles for Child Safe Organisations, and the Children’s Guardian ran a consultation session on the regulation mechanisms for the Child Safe Standards in NSW.

In the context of our work with the survivor and faith group standing committee and consultation with the faith sector, we decided to focus capacity building funding provided by the NSW Government

to develop resources to help agencies meet their joint child safe and reportable conduct responsibilities. We have been working with the faith resource group and a separate working group established with survivors of abuse, to develop two key resources:

- an interactive IT tool adapted to suit a faith setting, which gives faith bodies practical tips and guidance – with links to good practice examples of policies and initiatives – to help them comply with relevant requirements (the 10 Child Standards, the National Principles for child safe organisations, and their impending reportable conduct requirements) via one user-friendly IT platform
- a guideline for faith bodies, developed in consultation with survivors and survivor groups, about engaging with survivors.

We expect to finalise work on these resources in 2019.

6.2. People with disability in supported group accommodation

6.2.1. Notifications received

Over the past 12 months, we have worked to finalise reportable incident matters involving National Disability Insurance Scheme (NDIS) providers that occurred before 1 July 2018, as well as handling new reportable incidents involving people with disability living in FACS supported accommodation.

In 2018–19, we received 231 notifications of reportable allegations.

Notifications of employee to client matters

Consistent with previous years, more than half (133 or 58%) of notified incidents involved employee to client incidents. Of the 133 notifications we received, most involved allegations of neglect, followed by alleged physical assault and ill-treatment. Since 2015–16, neglect and physical assault have consistently been the leading notified allegations against employees as part of the reportable incidents scheme.

The following case study provides an example of a matter we handled this year, involving multiple reportable incident notifications against a disability support worker that highlights the importance of recruitment practices and probity screening.



Case study – recruitment practices

In early 2017, we received information from a disability provider (Provider 1) about alleged fraud by a disability support worker, involving the misappropriation of funds from the group home. The alleged conduct did not meet the criteria of a reportable incident as it did not involve a client. However, the provider advised us of its actions, including that it had terminated the employment of the worker and referred the matter to NSW Police.

In mid 2017, the same worker featured in a reportable incident notification by another disability provider (Provider 2) concerning alleged neglect of a client. As part of our oversight of the investigation, we made enquiries with Provider 2 about the worker’s employment. We established that Provider 2 had engaged the worker through a labour-hire agency before they had been terminated by Provider 1. The worker had been cleared for employment by Provider 2,

Table 13: Notifications of employee to client matters

Issue	Government	Non-government	Total
Neglect	29	23	52
Physical assault	18	10	28
Ill-treatment	7	17	24
Not in jurisdiction	2	8	10
Sexual offence	4	6	10
Sexual misconduct	2	4	6
Fraud	0	3	3
Total matters	62	71	133

following relevant probity checks, including a criminal record check and working with children check. At the end of the investigation, Provider 2 sustained the allegation of neglect, and advised us that it would not be offering further shifts to the worker.

In mid 2018, a third disability provider (Provider 3) notified our office of allegations that the same worker had defrauded a client of approximately \$3,000. The provider referred the matter to NSW Police for investigation and permitted the worker to resign.

In light of our concerns about the worker’s history of alleged conduct, we made inquiries of our own motion into the worker’s current employment status and any criminal history. Our inquiries identified that a labour-hire agency had contracted the worker to continue to work for Provider 2, despite Provider 2 advising us that they would not re-engage the worker.

As a result, we made further inquiries of Provider 2 regarding its recruitment practices, and released information to the provider about the worker’s previous fraud allegations in 2017 and 2018 to enable them to conduct a risk assessment. Following the risk assessment, Provider 2 decided to terminate the worker’s employment. The provider also implemented improvements to its recruitment practices, including:

- changing its online human resources system to put employees from labour-hire agencies on a separate register, which alerts the provider to employees who should not be re-engaged to provide support to clients
- improving the communication between the human resources team and the investigations team
- ensuring that it strengthened its human resources team, including appointing a workforce development manager, three

human resources specialists, and other human resources administration support staff.

We also suggested that Provider 2 should amend its recruitment policies and procedures and referee checking form to capture information about whether the prospective employee has been the subject of any previous employment proceedings.

Notifications of client-to-client matters

In 2018–19, we received 36 notifications about client-to-client reportable incidents. Most of these matters involved allegations of a pattern of abuse by one client against another. Patterns of abuse against co-residents have consistently been the leading type of client-to-client notification under the reportable incidents scheme (see Table 14).

The following case study provides an example of a client-to-client notification we handled that resulted in improved client supports, and identified staff practice concerns in supported group accommodation.



Case study – responding to investigation findings

We received a notification involving a 30-year-old person with a severe intellectual disability and autism for two reportable incidents of physical assault toward a 45-year-old co-resident with an acquired brain injury.

We had previously received notifications about this client that primarily involved allegations of biting other residents leading to visible injuries. We had also received multiple notifications for other clients at the home who all had complex health and behavioural needs.

Table 14: Notifications of client-to-client matters

Issue	Government	Non-government	Total
Pattern of abuse	9	14	23
Sexual offence	2	7	9
Assault causing serious injury	1	0	1
Assault involving the use of a weapon	1	0	1
Not in Jurisdiction	0	1	1
Contravention of AVO	0	1	1
Total matters	13	23	36

Against the background of multiple notifications and previous attempts by the agency to reduce these sorts of incidents, the agency conducted an initial fact-finding review, focusing on circumstances that led to the incidents. The review identified concerns about staff practices at the site, particularly those involving staff trying to prevent client-to-client incidents that in turn resulted in additional notifications to the Ombudsman about employee to client neglect.

The agency conducted a full investigation of all reportable incidents. The investigation found that a number of staff failed to actively engage with clients in accordance with their support plans, often withdrawing for long periods to the staff office. This contributed to the number of incidents occurring between clients in the home. The investigation also found that staff failed to take preventative measures before incidents occurred. While the agency confirmed the client-to-client reportable incidents, it also found the conduct of staff to be a major contributing factor. The agency made sustained neglect findings against some staff.

In response to the investigation findings, the agency implemented a service delivery improvement plan aimed at improving client support, and staff and client engagement. The plan included:

- appointing new staff at the site to lead a change in culture, with a renewed focus on building clients' capacity for independence and increasing participation in community based activities
- development of a tailored induction program for new staff and formalising of staff supervision
- introduction of a range of programs and activities to enrich clients' daily activities and provide opportunities for client input at weekly reference meetings, with appropriate communication aids
- establishing a new sensory area and equipment for clients to increase meaningful activity
- placing a behaviour support clinician on site to revise client behavioural profiles and deliver staff training.

Notifications of unexplained serious injuries

As described in Part 3C of the *Ombudsman Act*, a serious injury includes, but is not limited to, a fracture, burn, deep cut, extensive bruising or concussion. A serious injury is unexplained if it is not known how the injury occurred. Typically, this arises when a client is unable to provide an account of what happened and another person did not witness the circumstances that caused the injury. In 2018–19, we received 62 notifications of unexplained injury.

The following case study provides an example of a notification we handled this year involving an unexplained serious injury to a client in supported group accommodation.



Case study – documentation and handover

We received a notification from a disability service provider about an unexplained serious injury to a resident of a group home. The 55-year-old man with a severe intellectual disability had sustained multiple rib fractures and been diagnosed with a collapsed lung. We had previously received a notification of an unexplained serious injury to the same client a year earlier, involving a head laceration and fractures to three fingers, requiring surgery.

In the most recent notification, staff had found the client on the floor following an unwitnessed fall when he had attempted to walk to the bathroom after retiring to bed. The man is able to walk with staff assistance, but uses a wheelchair due to a history of falls. At the time of this fall, he did not have access to his wheelchair as staff had removed it for routine cleaning. Staff provided first aid for small abrasions to the man's leg but did not report the fall or record it in his notes. This meant that the next day when the client saw his general practitioner for a recurrent chest condition, the general practitioner was not informed of the fall.

Staff later observed bruising on the client's head and made an incident report. Two days after the fall, the Unit Manager became aware of the fall and contacted the general practitioner to inform them of this and the bruising. The general practitioner advised staff to take the client to hospital. The hospital found the client to be acutely unwell, with fractured ribs, a collapsed lung, and underlying pneumonia. Fortunately, the client recovered and was discharged 10 days later.

In light of the client's identified high falls risk, we sought clarification from the provider about the measures that were in place to prevent recurrence and, in particular, the support provided to the man to use the bathroom during the night. We also sought advice about the actions the provider had taken to reduce the risk of falls and further injuries to the client, including steps to implement an occupational therapist's recommendations for new equipment, obtain a physiotherapy assessment, and train staff in the man's revised manual handling plan. We noted that the client was using a borrowed wheelchair and there appeared to be an extensive delay in obtaining approval of existing applications for a new wheelchair and shower commode.

The provider advised that the man received the new equipment six weeks after his discharge from hospital and staff had received training in his new manual handling plan. The provider also advised of actions taken to:

- obtain a home medicines review (with the client's general practitioner and pharmacist)
- develop a physiotherapy falls risk screening action plan, which included the use of a walk belt as an interim measure
- put in place an audible monitor at night to alert staff to the man's movement out of bed
- revise his manual handling plan to ensure the client had access to his wheelchair and staff support when going to the bathroom at night.

6.2.2. Monitoring reportable incidents: people with disability

On 1 July 2018, jurisdiction for monitoring reportable incidents occurring in connection with NDIS service providers transferred to the NDIS Quality and Safeguarding Commission. The only matters we continue to actively monitor are those that relate to the remaining large residential centres operated by FACS, and outstanding notifications that were not resolved prior to the commencement of the NDIS Commission.

6.2.3. Preparation for the NDIS Worker Check screening system

In 2019–20, the worker screening system for the NDIS, NDIS Worker Check, is expected to commence. The Intergovernmental Agreement on Nationally Consistent Worker Screening for the NDIS identifies that the types of information NDIS worker screening units may take into account to determine an applicant's eligibility for an NDIS Worker Screening Check clearance includes 'state-based reportable or notifiable conduct schemes, such as from State Ombudsman and Complaints Commissions and professional associations'.

This year, we have taken steps to prepare for the introduction of the new screening system by:

- bringing, to the attention of the Office of Children's Guardian and the NDIS Commission, the types of data and other information in relation to sustained findings against employees under the disability reportable incidents scheme that we believe will be relevant to assessing risk in relation to applicants
- undertaking quality assurance of our relevant information holdings to ensure that the information is accurate, consistent and complete.

7. Working with Aboriginal communities

We work with Aboriginal communities in a range of areas, including the provision of community services and child protection, out-of-home care, disability services, local councils, Aboriginal land councils, housing, juvenile justice and corrections. We look at ways the government can work with communities on the changes needed to deliver real improvements for Aboriginal people.

Increasingly, our work with Aboriginal communities involves identifying practical strategies to tackle major issues that impact on the health and wellbeing of Aboriginal people. We review the efficiency and effectiveness of service delivery to some of the most disadvantaged locations in NSW.

The Ombudsman's particular responsibilities for monitoring and assessing Aboriginal programs are outlined in Part 3B of the *Ombudsman Act*. Our work is aimed at improving transparency and accountability in the provision of services to Aboriginal communities and the outcomes they deliver.



Case study – maintaining cultural connections for Aboriginal children

The legislation governing the out-of-home-care system emphasises the importance of children's connections to their birth families, communities and culture. Given the history of the Stolen Generations, the maintenance of these links is particularly important for the disproportionate number of Aboriginal children in out-of-home care. During the year, we dealt with two cases (one recent, and one older case) where those links were jeopardised or disrupted.

The grandfather of an Aboriginal girl in the Minister's care complained to us that while the Department of Family and Community Services (FACS) had case management responsibility for her over a seven-year period, they did not comply with a court order which gave him sole responsibility for her religious and cultural care. The man himself was a member of the Stolen Generation and reported that his granddaughter's carers had raised her in their religious tradition without any connection to her Aboriginal heritage. After we referred the complaint to FACS, its representatives met the grandfather and apologised for failing to support him to fulfil his role as envisaged by the court

order. FACS also agreed to help the man work on family history to share with his granddaughter and to review contact arrangements and cultural planning.

In another case, a woman raised concerns with us about the long-term placement of her Aboriginal grandson with non-Aboriginal carers. The relationship between the grandparents and the carers had broken down over time, cutting off contact between the child and his older siblings who were in the informal care of the grandparents. We again referred the matter to FACS, which took steps to re-establish the relationship between the carers and the grandparents. FACS also decided to apply to the Children's Court for orders that would re-allocate parental responsibility to FACS for the purpose of the child's family contact and cultural care.

7.1. OCHRE: opportunity, choice, healing, responsibility, and empowerment

OCHRE stands for 'opportunity, choice, healing, responsibility, and empowerment'. It is now six years since the launch of OCHRE – the NSW Government's plan for Aboriginal affairs – and five years since our office was given responsibility to monitor and assess OCHRE programs.

OCHRE commits the NSW Government to working with, and in support of, Aboriginal communities by building strong working partnerships that have at their heart respect for local Aboriginal culture, leadership and decision making. It includes the following key initiatives: Connected Communities, Local Decision Making, Aboriginal Language and Culture Nests, Opportunity Hubs, and the Aboriginal Economic Prosperity Framework (AEPF). These initiatives are underpinned by a mandate of 'solution brokerage' for Aboriginal Affairs NSW and a commitment to advance the dialogue in NSW about trauma and healing.

Since commencing our function, our approach has involved providing strategic and timely feedback to agencies to enable them to address any shortcomings or gaps that may limit the capacity of OCHRE to meet its objectives. Our observations have been informed by regular engagement with Aboriginal peak bodies, leaders and communities, together with the agencies and partners responsible for implementing and coordinating

OCHRE initiatives, particularly Aboriginal Affairs, Department of Premier and Cabinet, Department of Industry and the Department of Education.

A key priority in discharging our responsibilities is directly observing progress in locations where OCHRE initiatives are being implemented. To do this, we regularly visit regional and remote communities to hear from Aboriginal community members and other stakeholders about how OCHRE is working 'on the ground'. Since we began monitoring OCHRE, we have made 66 visits to 35 different communities across NSW.

While we can handle complaints and formally require agencies to provide us with information we need to carry out our role, we aim to facilitate practical solutions before problems escalate. We also implement proactive engagement principles to identify good or promising practices that could be considered for wider implementation across the government sector.

This year, we focused on finalising our first comprehensive report to Parliament about OCHRE, which will inform the review of the strategy by the NSW Government. The report will be tabled in Parliament in late 2019, and will provide our analysis of, and recommendations to, the NSW Government OCHRE initiative. More broadly, the report will examine the implementation and impact of OCHRE over its first six years.

There has now been sufficient time for the full implementation of OCHRE initiatives. The first reports from the 10-year OCHRE evaluation were released in July and August 2018, and the final report on the evaluation of the Connected Communities initiative was finalised in August 2018. The report has yet to be publicly released.

In addition to the work preparing our OCHRE report this year, we made 11 trips to nine communities or regions, including attending an education/employment summit in Bourke, attending signings of Local Decision Making accords between communities and government, and meeting face-to-face with a number of the Regional Alliances.

Over time, our OCHRE work has contributed to improving the effectiveness and efficiency of specific initiatives.

In a 2016 special report to parliament on fostering economic development for Aboriginal people in NSW, we recommended that the NSW Government should expand incentives within procurement policies and processes to encourage government

agencies and the private sector to increase engagement of Aboriginal businesses. Consistent with our recommendation, in May 2018, the NSW Government launched the Aboriginal Procurement Policy which, together with the Aboriginal Procurement in Construction policy, sets a whole-of-government target to support 3,000 fulltime employment opportunities for Aboriginal people by 2021; to award Aboriginal businesses at least three per cent of domestic contracts for goods and services by 2021 and at least a 1.5 per cent spend on Aboriginal participation in every government construction project over \$1 million. Our future monitoring will focus on attaining these targets.

We established the Aboriginal Procurement Advisory Committee to monitor the implementation of the procurement policies, provide advice to the Government on their strategic application and to enable ongoing dialogue between the Aboriginal business sector in NSW and government agencies. Launched in September 2018 by the then Minister for Finance, Services and Property and the Minister for Aboriginal Affairs, the Aboriginal Procurement Advisory Committee has met twice this year to review challenges and opportunities in the implementation of the policies and to provide a platform to showcase best-practice case studies. Our office has also provided extensive feedback to the NSW Government's 12-month review of the policies, including suggestions on the format and content of roundtables held with Aboriginal businesses, agencies and contractors as well as feedback on the survey placed on the NSW Government's 'Have Your Say' community consultation webpage. This has ensured that the policy review and any potential changes will be driven by relevant stakeholder feedback and complemented by strengthened data.

As part of our legislative function to share relevant information, insights and observations gathered through our work, we have attended several meetings of the OCHRE Independent Evaluation Steering Committee. We have provided the Committee with information including our observations on the need to strengthen data collection and analysis.

In 2018, NSW Treasury finalised their *Aboriginal Economic Prosperity Outcome Framework*, which focuses on capturing and measuring meaningful outcomes for Aboriginal communities. These outcomes include changes that occur for individuals, groups, families, organisations, systems, or communities and are measured

through attitudes, values, behaviours or conditions. We will continue to monitor OCHRE as part of our commitment to ensure government agencies are delivering effective and efficient services and programs in partnership with Aboriginal people and communities. Through our continued focus on embedding the outcomes based framework across all OCHRE initiatives, our office will continue to monitor the need for greater accountability from Government in delivering services and programs that promote positive social, cultural and economic outcomes for Aboriginal people.

7.2. Community engagement

Our work this year has continued to focus on ensuring good relationships and communication are developed and nurtured between agencies and service providers, and the most vulnerable people in NSW.

The impact of historical colonisation and dispossession is a significant contributing factor to inter-generational trauma that exists today in many communities. Our regular outreach visits provide valuable information to help us to identify problems linked with trauma and systemic issues. This enables us to talk to individuals and communities about the quality of service provision, and to provide much needed support. We can also supply people with contact details of service providers and agencies that may provide relevant assistance.

7.3. Our Aboriginal Unit activities

Our Aboriginal Unit has continued to do access and awareness visits to remote, regional and urban Aboriginal communities. We also engage community by participating in events, forums, conferences and celebrations. Highlights this year included:

- a promotional stall held at the annual Yabun festival on Australia Day, a significant event to promote the Aboriginal Unit's work in breaking down historical barriers and strengthening relationships with diverse Aboriginal communities, and the broader public
- the PCYC Origin Rugby League event, which plays an important role in bringing together Aboriginal and non-Aboriginal youth to participate in the largest sporting event in NSW

- celebrations in our Sydney office for NAIDOC Week in July, as well as key external NAIDOC events in community, including Penrith and Campbelltown
- ongoing attendance at the *Guiding Principles Yarning Circle* that oversees the implementation across NSW of the Guiding Principles for strengthening the participation of local Aboriginal communities in child protection decision-making.

We continue to do outreach engagement visits to remote communities with the Good Service Mob, in collaboration with representatives of service providers from complaint handling agencies in NSW. Advice provided to attendees include consumer's rights, and access to free advice. Other service providers included NSW Fair Trading, Anti-Discrimination Board, Senior Rights Service, Law Access, Centrelink, Energy and Water Ombudsman NSW, NSW Trustee and Guardian, NSW Revenue, NSW Legal Aid and the Law Enforcement Conduct Commission.

This year, we also attended regular meetings and workshops with government, stakeholders, and peak bodies in remote communities. Earlier this year, senior staff from our office attended the Three Rivers Local Decision Making Accord signing, and the Murdi Paaki Regional Assembly Housing Accord signing.

7.4. Consultations with stakeholders

We continued to have regular meetings with government and non-government agencies and peak bodies to share information about issues and initiatives that affect Aboriginal communities. We also participated in workshops relating to understanding the role and responsibilities of various agencies in capacity building for Aboriginal Community Controlled Organisations.

For example, we attended the Aboriginal Child and Family Investment Strategy workshop hosted by AbSec. Agencies attending included FACS, Office of the Children's Guardian, and NSW Treasury. The purpose was to develop a framework, setting out a common understanding of capacity building, challenges and opportunities, and to reach agreement on a number of important steps to expand the framework.

Our office also regularly participates in significant roundtable meetings and workshops. Some of these involve agencies and others are at the

invitation of community leaders and Elders. During the year, the Deputy Ombudsman Aboriginal Programs and/or senior staff:

- attended a workshop meeting hosted by Aboriginal Affairs to explore the impact of Aboriginal Identification on understanding economic prosperity
- attended an Employment Training Community Summit workshop in Bourke
- attended the Murdi Paaki Regional Assembly meeting in Cobar to share our relevant work, initiatives and observations and hear from the Community Working Party Chairs on priorities for the future initiatives of the Working Party Chairs and members
- met with representatives from the Maranguka initiative, the NSW Government Data Analytics Centre, Department of Premier and Cabinet, Aboriginal Affairs and NSW Treasury to map out a potential Data Analytics Centre project that would track key outcomes resulting from Maranguka's stronger, smarter, safe strategy approach underway in Bourke, NSW
- attended the Three Rivers Local Decision Making Accord Signing, and the Murdi Paaki Regional Assembly Housing Accord signing.



8. Reviewing deaths

Our death review functions are detailed in separate annual reports. They can be accessed on our website at: <https://www.ombo.nsw.gov.au/news-and-publications/publications/annual-reports/reviewable-deaths>

The Ombudsman has two independent statutory functions to review the deaths of all children (0–17 years), as well as the deaths of people with disability in supported group accommodation. The purpose of these functions is to help prevent or reduce these deaths. Our review functions are undertaken under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS CRAMA).

8.1. NSW Child Death Review Team

The NSW Child Death Review Team (CDRT) was established under Part 5A of CS CRAMA to undertake specific functions to prevent or reduce the deaths of children in NSW. The CDRT consists of experts in healthcare, child development, child protection and research, as well as representatives of key government agencies. The NSW Ombudsman is the CDRT's Convenor and Ombudsman staff provide support and assistance for its work, including conducting research and undertaking reviews.

The main functions of the CDRT are to:

- maintain a register of child deaths occurring in NSW
- classify those deaths according to cause, demographic criteria and other relevant factors, and to identify trends and patterns relating to those deaths
- undertake, alone or with others, research that aims to help prevent or reduce the likelihood of child deaths and to identify areas requiring further research, and
- make recommendations that may assist in preventing or reducing the likelihood of child deaths.

8.1.1. Reports to Parliament in 2018–19

In 2018–19, we tabled four reports.

- *NSW Child Death Review Team Annual Report 2017–18* (22 October 2018). Section 34F of CS CRAMA requires that CDRT report on an annual basis about its operations and activities during the preceding financial year, including details of progress regarding implementation of the CDRT's recommendations.

- *The Role of Child Restraints and Seatbelts in Passenger Deaths of Children Aged 0–12 Years in NSW* (5 June 2019). Road crashes are one of the main causes of injury-related deaths of children in NSW. Factors such as speeding, fatigue, and driving under the influence of alcohol or other drugs are well known significant risks. We also know that despite strong messages to 'buckle up safely', children continue to be placed at risk through failure to use properly, or at all, seatbelts and child restraints. In this context, the CDRT commissioned Dr Julie Brown from Neuroscience Research Australia, to review the role of seatbelts and child restraints in passenger fatalities of children aged less than 13 years in NSW. The review examines the deaths of 66 children in crashes during the 10-year period 2007–16, using in-depth data collected by the CDRT. The findings of the review are presented in this report. The review found that many of the deaths (20 of the 66) could likely have been prevented if the children had been properly buckled up, and makes a number of recommendations to this end.
- *Review of Suicide Clusters and Evidence-based Prevention Strategies for School-aged Children* (25 June 2019). Suicide is one of the leading causes of premature death among young people. Among many factors, young people are at higher risk of being involved in a suicide cluster than adults. While suicide clusters are relatively rare, they attract considerable public attention and devastate both families and their communities. To better understand what more might be done in prevention and response, the CDRT commissioned the Australian Institute for Suicide Research and Prevention to review existing research, and to examine existing strategies in NSW that aim to prevent youth suicide, and that are in place to reduce risk and promote healing after a suicide death. The report presents the results of this work. It found that strategies in place in NSW schools following the suicide death of a child are in line with what is considered current best practice, and that NSW seems to be taking the right steps in this area.

- *Biennial Report of the Deaths of Children in New South Wales: 2016 and 2017, Incorporating Reviewable Deaths of Children* (25 June 2019). The report, made under sections 34G and 43(1) of CS CRAMA, examines the deaths of 981 children aged 0–17 years who died in NSW during the two years – 2016 and 2017. Until 2016, this report (s 34G) was prepared and tabled on an annual basis. The report presents a holistic overview of the deaths of all children in NSW, the underlying risk factors that may have contributed to preventable deaths, and what can and should be done to protect children in the future.

The biennial report presents detailed information about deaths in 2016 and 2017 in the context of trends over the 15-year period, 2003–17, including leading causes of death, natural causes, Sudden Unexpected Death in Infancy (SUDI), and injury deaths (eg. transport-related, drowning, other unintentional injury, suicide, and abuse and neglect).

Overall, the rate of child deaths has declined in NSW. From 2003 to 2017, the mortality rate for children declined by 27 per cent – this mostly reflects a significant decline in the deaths of infants. However, the overall decline has not been uniform. Children living in the most disadvantaged areas and children living in remote areas have higher mortality rates than those living in the least disadvantaged areas and those living in major cities. While the mortality rate for Aboriginal and Torres Strait Islander children has declined, it is still twice that for non-Indigenous children.

Most children die from natural causes (75%). However, almost one in five of the children died from injury: the majority of these deaths (72%) were from unintentional (accidental) injury; the remaining 28 per cent of injury-related deaths were due to suicide (18%) and abuse (9%).

All reports are available on our website at: <https://www.ombo.nsw.gov.au/news-and-publications/publications/annual-reports/nsw-child-death-review>.

8.1.2. Recommendations

The biennial report makes a number of recommendations in relation to Sudden Unexpected Death in Infancy, road fatalities, and suicide.

- Our recommendations on Sudden Unexpected Death in Infancy focus on ensuring that NSW Health develops and implements strategies to

reduce the risk of infant death for those families most affected, including families known to child protection services, families living in remote areas of the state, and families living in areas of greatest socio-economic disadvantage. We have also recommended the promotion of resources to assist parents and carers to identify illness in infants.

- Our recommendations on preventing child deaths in road and off-road crashes include promoting the need for young people to make safer vehicle choices where possible, more effective targeting of strategies to improve child restraint practices in vehicles, regular monitoring of child restraint practices across NSW, and measures to reduce misuse through restraint design and produce standard requirements. We have also recommended the establishment of a specific focus on children within the government’s *Quad Bike Safety Improvement Program*.
- Our recommendations on preventing suicide deaths of school-aged children and young people include:
 - the inclusion of specific measures targeted to school-aged children in any suicide prevention plan
 - the development of effective strategies to manage and contain identified risk
 - the need for ongoing monitoring and evaluation of suicide prevention and intervention strategies
 - agency review of their involvement with young people who die by suicide, and
 - the implementation of strategies by Department of Family and Community Services (FACS) to address the particular vulnerability of children known to child protection services and/or in out-of-home care.

Initial agency responses to our recommendations are detailed in the *Child Death Review Team Annual Report 2018–19*.

8.2. Reviewable deaths: children

Part 6 of CS CRAMA also prescribes our responsibilities for reviewing the deaths of certain children, including:

- a child whose death is or may be due to abuse or neglect or that occurs in suspicious circumstances, and
- a child who, at the time of the child’s death, was in care or in detention.

The Ombudsman's main functions are to:

- monitor and review reviewable deaths
- make recommendations as to policies and practices for implementation by government and service providers to prevent or reduce the likelihood of reviewable deaths
- maintain a register of reviewable deaths
- undertake, alone or with others, research that aims to help prevent or reduce or remove risk factors associated with reviewable deaths that are preventable.

8.2.1. Report to Parliament

In June 2019, we tabled our *Biennial Report of the Deaths of Children in New South Wales: 2016 and 2017, Incorporating Reviewable Deaths of Children*, noted above. The report combines our statutory responsibilities for reporting to the NSW Parliament on the deaths of all children in NSW (CDRT) and the reviewable deaths of children. In the past, the reports for each function have been presented separately. Following legislative change, reporting requirements aligned in 2018. Bringing together our work and findings into one report will help strengthen a public health approach to reviews of child deaths in NSW by ensuring that the focus is on modifiable risk factors and whole-of-population measures for prevention.

As noted, the report considers the deaths of all children aged 0–17 years that occurred in 2016 and 2017, including the deaths of 44 children whose deaths were reviewable by the Ombudsman because they were the result of abuse or neglect or occurred in suspicious circumstances (20 children), or the child died while they were in care (24 children).

Reports of reviewable deaths of children are available on our website at: <https://www.ombo.nsw.gov.au/news-and-publications/publications/annual-reports/reviewable-deaths>.

8.2.2. Making recommendations

One of the main functions of our reviewable death function is to formulate recommendations as to policies and practices that can be implemented by government and non-government agencies to prevent or reduce the deaths of children in care, children at risk of death due to abuse or neglect, and children in detention.

We made two recommendations in our biennial report that relate specifically to reviewable child deaths.

- We recommended measures to address the over-representation of young people with a child protection history in suicide deaths. Our work has shown that over the past 15 years, young people in care were 2.9 times more likely to die from suicide than those not in care. Our reviews of these deaths have found that at times, mental health issues were either not fully understood or addressed by either FACS caseworkers or the broader service system, or were not taken seriously. FACS is currently reviewing its tool to assess risk of significant harm in certain cases, and we will be monitoring how changes to the tool will assist FACS staff to understand and respond to risk of significant harm (ROSH) reports made about children and young people in care where those reports raise concerns about mental health, self-harm and/or suicidal behaviours.
- As part of the planned implementation of NSW Health's new expanded mental health framework¹⁸, we have recommended the agency develop an evaluation strategy to ensure the benefits of the framework can be measured and adjusted as needed. The recommendation highlights the importance of ensuring comprehensive and appropriate clinical practice and competency in relation to recognising and responding to any potential risk to children of parents with mental illness, and the effectiveness of current NSW Health strategies and initiatives. We will monitor agency responses to these recommendations over the coming year.

8.3. Reviewable deaths: people with disability

Under Part 6 of CS CRAMA, we review the death of any person living in, or temporarily absent from, residential care provided by a service provider or assisted boarding house. We focus on identifying issues relating to preventable deaths, and making recommendations aimed at helping to reduce preventable deaths.

8.3.1. Report to Parliament

In August 2018, our ninth report on the deaths of people with disability in care was tabled in Parliament. The report examines the deaths of 494 people with disability that occurred over the four-year period 2014–17, and draws on our work over the past 16 years. We made seven recommendations to NSW Health, focusing on

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managing breathing, swallowing and choking risks, managing fracture risks, and improving support to access health services and treatment. We are continuing to monitor the implementation of the recommendations.

8.3.2. Reviews of the deaths of people with disability in NDIS services

While the NDIS Quality and Safeguards Commission has primary oversight responsibility in relation to NDIS providers, our office continued to have jurisdiction over National Disability Insurance Scheme (NDIS) providers in 2018–19 via a Ministerial arrangement between the Commonwealth and NSW Governments. To minimise duplication of effort in relation to the deaths of people with disability in the residential care of NDIS providers, we have had a joint approach with the NDIS Commission, whereby the Commission focuses on the NDIS providers, and we focus on the person's involvement with NSW service systems, such as health services. In

September 2018, we finalised operational arrangements with the NDIS Commission and the State Coroner to guide the joint approach to these matters.

The Ministerial arrangement only provided our office with jurisdiction over NDIS providers until 1 July 2019. To enable continued NDIS jurisdiction in relation to our reviewable deaths functions without the need for a further Ministerial arrangement, the Ageing and Disability Commissioner Bill 2019, introduced into Parliament in May 2019, included proposed changes to CS CRAMA. The *Ageing and Disability Commissioner Act 2019* commenced on 1 July 2019, and CS CRAMA was amended to include in reviewable deaths the death of any person 'who, at the time of the person's death, was living in, or was temporarily absent from, supported group accommodation or an assisted boarding house'. The legislation notes that this includes supported group accommodation provided by a registered NDIS provider.



9. Education and training

9.1. Complaints and notifications

Through our training and community education program, we seek to improve the administration and delivery of public and community services in NSW. Our role in monitoring, overseeing and receiving complaints and notifications about a diverse range of government and non-government service providers gives us unique insights into the challenges they face and an understanding of how they can better meet their responsibilities.

In 2018–19, we delivered 307 training workshops to 5,579 people. We provided complaint handling training in:

- frontline complaint handling
- effective complaint management systems
- managing unreasonable complainant conduct.

We also provide tailored complaint-related training for particular audiences, including:

- supporting young people to make complaints and advocate for systems change
- Speak Up! – for people with disability and their supporters
- The rights stuff – tips for solving problems and making complaints.

We also deliver specific training in relation to our functions under the *Public Interest Disclosures Act* and the *Ombudsman Act*, including training in:

- public interest disclosures
- notifying and reporting allegations of workplace child abuse
- responding to child protection allegations against employees
- handling serious child protection allegations against employees
- initial and early response to abuse or neglect in disability services
- handling serious incidents in the disability sector.

During 2018–19, we also rolled out the new reportable conduct training for specialist homelessness services that provide supported accommodation for children and young people under the age of 18. This training provides an overview of the reportable conduct scheme and the obligations it places on agencies and their employees.

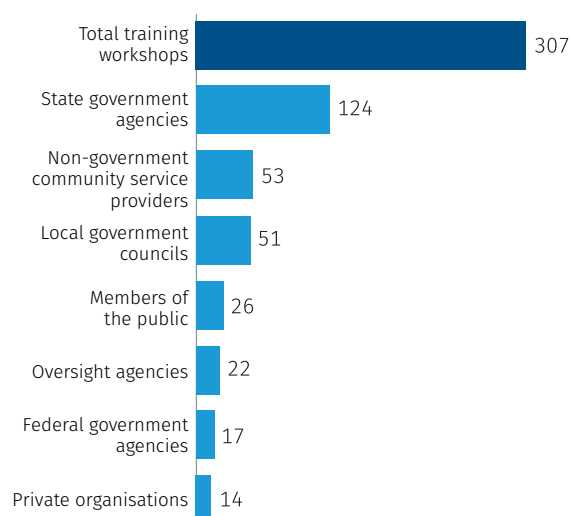
We also delivered access and equity training, including Aboriginal cultural appreciation, working with Aboriginal communities and Disability awareness.

Table 15: Training workshops delivered by topic

Topic	Workshops	Participants
Public interest disclosures	122	2,203
Complaint handling	95	1,851
Community and disability services sector	26	463
Employment-related child protection	42	678
Access and equity	15	241
Investigation skills	7	143
Total	307	5,579

Delivered by experienced practitioners, our workshops are highly interactive and provide practical tools and tips to help improve participants' skills and knowledge in a range of areas where our office has specialist expertise, from complaint handling to Aboriginal cultural appreciation. Our participants include employees of public sector agencies and non-government organisations, as well as consumers of community services and representatives of community groups across NSW. We also provide training to federal government agencies and other oversight bodies in Australia and overseas.

Figure 7: Training workshops delivered by sector



Participants consistently rate our training workshops very highly for the quality and relevance of the content and resources, and our

trainers' expertise and delivery. During 2018–19, 89 per cent of participants completed evaluations of our training. Of these:

- 98% rated our trainers as excellent/good
- 97% rated our training overall as excellent/good
- 97% rated the content covered in the training as excellent/good
- 97% strongly agreed/agreed they could implement what they had learnt at training in their workplace.

9.2. Education and training highlights

9.2.1. Promoting effective complaint handling

In 2018–19, we:

- developed three e-learning training modules aimed at promoting the importance of good complaint handling and raising awareness of the six complaint handling commitments that go across the NSW public sector. The modules will be released in August 2019
- partnered with Indigenous Business Australia to deliver a new, tailored program on *Handling Difficult Conversations* with a cultural component, across Australia. We also continued to deliver our tailored *Resolving conflicts and complaints* training for the Centre for Property Acquisition
- published a video featuring the Ombudsman and Customer Service Commissioner discussing the benefits for organisations of having effective complaint handling systems.

9.2.2. Developing a child focused complaint handling guide

During 2018–19, the National Office for Child Safety commissioned us to develop a jointly branded product, *Complaint Handling Guide: Upholding the Rights of Children and Young People*. The Guide supports the implementation of National Principle 6 of the National Principles for Child Safe Organisation (processes to respond to complaints and concerns are child focused), and addresses the issues outlined in Volume 7 of the Royal Commission into Institutional Responses to Child Sexual Abuse, *Improving Institutional Responding and Reporting*.

The Guide will be published in 2019, and will provide practical advice for organisations working with children and young people about how to develop, implement and maintain a complaint-handling system that prioritises child safety and promotes the rights of children to have a voice in decisions that affect them. It was developed through a national consultation process involving our office, the Office of the e-Safety Commissioner, Australian Human Rights Commission, children's guardians and commissioners across Australia, as well as the ACT/Commonwealth Ombudsman's office.

9.2.3. Community education

As well as delivering training in structured learning environments, we actively share our expertise and exchange information in other settings, including community forums and events. This year, we held stalls at the following community events: Australian Community Workers Association Conference, National Community Legal Centre Conference, Carers Day Out, Law and Justice Expo, Mardi Gras, Harmony Day, Easter Show, and South West Sydney Legal Fair.

We are dedicated to reaching as many people as possible, particularly vulnerable groups who might otherwise have difficulty accessing our services. Our community education activities with Aboriginal communities are described in Chapter 7. Our Youth Liaison Officer also undertakes a diverse community education program focussed on raising awareness about how to access the Ombudsman's services.

Young people

We undertake a range of community engagement activities to identify the most pressing issues facing young people and to promote access to our services. Our outreach activities inform the broader work of our office with the aim of improving service delivery to young people, their advocates and to other vulnerable groups, including families from refugee or migrant backgrounds and young people in our state-wide juvenile detention centres.

During 2018–19, we undertook various engagement activities, for example we:

- delivered tailored information sessions or workshops for students at Cessnock, Kurri Kurri, Jamison and Glendale High schools and community services students at Bomaderry, Wauchope, Port Macquarie, Nowra and Kingscliffe TAFE colleges.

- undertook face-to-face consultations with staff at various youth services in the Georges River, Mid-Western and Mid-North Coast regions
- met with youth and community engagement staff at Bathurst, Mudgee and Clarence Valley Councils
- held information stalls at the annual Cobham Juvenile Justice Services Expo and also at the National Community Legal Conference.

Child protection at pre-school and school

Police officers, child protection and health workers operate a joint response to alleged criminal child abuse. Changes to this response were introduced in response to a review we conducted and the work of the Royal Commission into Institutional Responses to Child Sexual Abuse.

In May 2019, we hosted a forum on the Joint Child Protection Response Program for the schools and early childhood sectors. The purpose of the forum was to explain the changes and discuss the operations of the program, formerly known as the Joint Investigation Response Team Program (see page 40). Senior representatives of the three agencies joined us in presenting information to almost 100 people from the schools and early childhood sectors on topics including managing initial disclosure by children; collaborative responses to problematic and harmful, sexualised behaviour; and the implementation of the witness intermediary scheme.

9.2.4. National Investigations Symposium

During the year we worked with our partners, the Independent Commission Against Corruption (ICAC) and the Institute of Public Administration Australia NSW, to deliver the 12th biennial National Investigations Symposium, held in Sydney on 14 and 15 November 2018 (with pre-symposium interactive workshops on 13 November). The Symposium aims to enhance investigative and complaint-handling knowledge and skills across the public and private sectors, the non-government sector, and the wider community. Over 550 Australian and international delegates from a wide array of professional backgrounds participated.

Emeritus Professor Geoff Gallop, Director of the Graduate School of Government at the University of Sydney, gave the keynote address. Session speakers included leading Australian and international experts, including:

- Ontario Ombudsman, Paul Dubé, on the outcomes from his investigation into services for adults with developmental disabilities in crisis.



- Victorian Ombudsman, Deborah Glass, on her recent report inquiring into the systematic misuse of public funds by 21 members of parliament during a recent election campaign.
- Australian academic, Professor AJ Brown, Griffith University and international whistleblowing expert, Dr Wim Vandekerckhove, Reader in Business Ethics at the University of Greenwich, convened a plenary session, 'exploring new ways to better protect whistleblowers'.

The symposium closed with a panel session chaired by ICAC Commissioner, Patricia McDonald SC, reflecting on a number of Australia's most notable Royal Commissions, with contributions from Former Royal Commissioner and Queensland Police Commissioner, Robert Atkinson AO APM; Former NSW Police Commissioner, Ken Moroney AO APM MA; Chief Commissioner of the Independent Commission Against Corruption, Hon. Peter Hall QC; Community and Disability Services Commissioner and Deputy Ombudsman, Steve Kinmond, and Head of Zimmerman Services, Diocese of Maitland-Newcastle, Sean Tynan.

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The background is a solid blue color with a complex, textured pattern. It features a grid of thin, dark lines that intersect to form a series of overlapping, slightly offset rectangular shapes. This creates a 3D effect, as if the surface is composed of many small, raised rectangular blocks. A prominent vertical band of a slightly different shade of blue runs down the center of the image, adding depth and contrast to the overall design.

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A1. Our people

A1.1. Senior executive

As at 30 June 2019, we had 11 senior executives, including the Ombudsman. However, of those 11, four (Anita Whittaker, Kathryn McKenzie, Chris Wheeler, Julianna Demetrius) were transitioning out of the organisation. Of the Executive, 72.2 per cent were women. Six were statutory officers, under the *Ombudsman Act 1974*. Except for the Ombudsman, the remuneration of statutory officers is aligned to the public service senior executive remuneration framework.

A1.1.1. Continuing executive

Our Executive Leadership Team

Michael Barnes – Ombudsman

Bachelor of Arts, Bachelor of Laws and Master of Laws

Michael was appointed NSW Ombudsman in December 2017. He has been the NSW State Coroner and the inaugural Queensland State Coroner, and has presided over high-profile inquests, including deaths arising from the sinking in the Torres Strait of the Department of Immigration vessel *Malu Sara*, and the Lindt Café siege.

Michael specialised in criminal and administrative law and has done research and teaching in criminal justice, health law, and the investigation of corruption and organised crime. He was adjunct professor of the Faculty of Law at the Queensland University of Technology and of the Australian Institute of Suicide Research and Prevention at Griffith University.

Michael joined the office in a period of significant change. He has taken the opportunity to refresh the strategic direction and priorities of the office, including evaluating existing structures and processes to meet ongoing demands. His priority is to increase the number of formal investigations we do.

Paul Miller PSM – Deputy Ombudsman, Review, Investigation and Community Services/Community and Disability Services Commissioner

Bachelor of Economics, Bachelor of Laws (Hons), Master of Laws, Masters of Business Administration (MBA), Masters of Arts (Philosophy), Solicitor of the Supreme Court of NSW

Paul was appointed Deputy Ombudsman and Community and Disability Services Commissioner on 29 April 2019. Following changes to the organisational structure of the Ombudsman's Office commencing on 1 July 2019, Paul assumed responsibility for the Ombudsman's core operations, including complaint handling and investigations, and reviews and monitoring functions.

Paul was previously a senior public servant with the NSW Government, having served as Deputy Secretary (Strategy and Policy) with the Department of Justice and as Deputy Secretary (Legal and Cabinet) and General Counsel with the Department of Premier and Cabinet. Before joining the public service Paul was a lawyer in private practice.

Danny Lester – Deputy Ombudsman (Aboriginal Programs)

Bachelor of Adult Education and Diploma Business

A proud Wonnarua man, Danny was appointed Deputy Ombudsman in 2014. Danny is the inaugural Deputy Ombudsman responsible for the monitoring and assessment of Aboriginal programs in NSW.

Prior to this role, Danny worked in frontline positions in Commonwealth and NSW agencies, and the non-government sector. He worked at the Aboriginal Employment Strategy (AES) – including as its CEO for eight years, and with the Australian Employment Covenant.

Danny has served on boards and advisory committees, including as a member of the advisory council for the Centre for Social Impact.

Nicole Lawless – Assistant Ombudsman, Complaints and Investigations

Bachelor of Arts (Psychology), Postgraduate Diploma (Forensic Psychology), Bachelor of Laws, Master of Laws, Solicitor of the Supreme Court of NSW

Nicole was appointed as Assistant Ombudsman in July 2019. Nicole leads the Complaints and Notifications Branch which is responsible for handling inquiries, complaints and juvenile justice notifications and undertaking monitoring activities and investigations. Nicole previously worked in the Ombudsman's office as a legal advisor and Counsel Assisting the Ombudsman.

Nicole was admitted as a solicitor in 2002 and has had a varied career, including working as a prosecutor at the NSW Department of Public

Prosecutions, as the Deputy Director of the Criminal Law Review Division in the NSW Attorney General's Department, as a policy advisor in the Department of Premier and Cabinet on the prevention of violence against women and leading the legal and strategy team representing the Department of Family and Community Services in the Royal Commission into Institutional Responses to Child Sexual Abuse.

Monica Wolf – Assistant Ombudsman, Projects and Systemic Reviews

Bachelor of Arts, Graduate Diploma Education Studies, Graduate Certificate Public Policy, Graduate Certificate Public Sector Management

Monica was appointed Assistant Ombudsman in July 2019. Monica leads teams responsible for systemic reviews and monitoring functions; and projects, research and data analytics.

Prior to this, Monica held a number of executive roles in our Community Services Division, including leading teams responsible for reviews of the deaths of children, policy and systemic projects and complaints and investigations. Monica worked for a two-year period with the Royal Commission into Institutional Responses to Child Sexual Abuse, leading teams in both investigations and policy. In 2019, Monica completed the NSW Leadership Academy Leading Executives Program.

Ainslee Scott – Director, Corporate

Bachelor of Commerce, Executive Master's Degree in Business Administration (MBA), Member of Australian Institute of Company Directors (MAICD), Fellow of certified practising accountants (FCPA)

Ainslee Scott joined the Executive team of the NSW Ombudsman on 28 June 2019. She has the responsibility for the Ombudsman's Corporate Services Division, which includes financial management, human resources, ICT, procurement and other varied support functions.

Prior to joining the Ombudsman, Ainslee held a number of executive and senior positions across both the public and private sectors, including with the Australian Curriculum Assessment and Reporting Authority (ACARA), NSW Treasury, TransGrid and Colonial First State. She has a strong and diverse background in accounting, strategic and corporate planning, governance, project management and business transformational change.

Additional executive positions

Natasha Mewing – Director, Employment Related Child Protection

Bachelor of Arts, Bachelor of Laws (Hons)

Megan Smith – Legal Counsel

Bachelor of Science (Psychology)(Hons), Bachelor of Law (Hons), Solicitor of the Supreme Court of NSW

A1.1.2. Transitioning executive

Steve Kinmond – Deputy Ombudsman, Community and Disability Services Commissioner (to December 2018)

Bachelor of Arts, Bachelor of Laws, Diploma of Education, Diploma of Criminology

Chris Wheeler PSM – Deputy Ombudsman (Public Administration) (to June 2019)

Bachelor Town and Regional Planning, Masters Town and Country Planning, and Bachelor of Laws (Hons)

Julianna Demetrius – Assistant Ombudsman (Strategic Projects)

Diploma of Law

Kathryn McKenzie – Director, Disability

Bachelor of Education

Anita Whittaker PSM – Assistant Ombudsman (Corporate)

Bachelor of Commerce

A1.1.3. Executive levels and remuneration

See Table 16 (on page 77) for details of the levels of our senior positions and Table 17 for their remuneration. The tables include all executives who were employed at any time during 2018–19. The Ombudsman is included in these tables.

Of our employee related expenditure in the reporting period, 15.38 per cent was related to senior executives, compared to 12.19 per cent in the 2017–18 reporting period.

Our statutory officers are paid in accordance with the determinations of the Statutory and Other Offices Remuneration Tribunal.

Table 16: Senior executive levels (all executives employed during 2018-19)

Band	2018		2019	
	Female	Male	Female	Male
Band 4	0	1	0	1
Band 3	0	0	0	1
Band 2	0	2	0	0
Band 1	7	2	8	1
Total	7	5	8	3
Total both male and female	12		11	

Table 17: Senior executive remuneration

Band	Range \$	Average \$	
		2017-18	2018-19
Band 4	475,101 - 548,950	478,100	490,050
Band 3	337,101 - 475,150	0	390,489
Band 2	268,001 - 337,100	328,900	0
Band 1	187,900 - 268,000	219,451	233,148

Table 18: Full time equivalent staff levels – five-year comparison as at 30 June

	2015	2016	2017	2018	2019
Senior executive	7.00	8.00	7.00	6.00	6.00
Investigative, systemic review, project, research and legal	118.62	135.96	114.23	129.94	104.58
Inquiries and assessment	12.00	11.00	12.14	11.07	10.00
Investigative and administrative support	42.23	41.56	30.97	22.97	21.77
Community engagement and training	4.50	4.00	4.10	4.20	4.50
Corporate – human resources, finance, information technology and governance	14.00	14.14	15.20	18.60	17.80
Total full-time equivalent	198.35	214.66	183.64	192.78	164.65

Table 19: PMES 2018 results – comparison against the public sector average and 2017 results

Satisfaction area	2018 Ombudsman %	2018 Public sector average – %	2017 Ombudsman %
Employee engagement	70%	66%	72%
Engagement with work	78%	73%	77%
Senior managers	53%	49%	58%
Communication	66%	61%	67%
High performance	69%	64%	71%
Public sector values	67%	62%	72%
Diversity and inclusion	78%	68%	–
Flexible working	83%	59%	80%
Action on results	52%	36%	55%

A1.2. Staff

At 30 June 2019, we had 183 people working for us on either a full-time or part-time basis. Our staff have diverse skills and experience, and come from a range of backgrounds, including community and social work, legal, planning, investigative, law enforcement and child protection.

Specific information about staff, grouped by the type of work they do, is included in Table 18 below. Information about numbers and remuneration of senior executive staff is also provided above in the section A1.1.

There were no exceptional movements in wages, salaries or allowances during 2018-19.

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, sets their working conditions and entitlements. We endorse flexible work arrangements to enable staff to balance work and personal commitments. This includes part-time work, flexible working hours and working at home arrangements.

A1.2.1. Staff satisfaction

The level of staff satisfaction with the NSW Ombudsman as identified in the 2018 People Matters Employee Survey (PMES) was higher than the public sector average across all areas. The response rate to the PMES for all staff at the NSW Ombudsman was 71 per cent for 2018.

Areas staff feel we need to improve

There has been a marginal decline from the 2017 results in the areas of employee engagement, senior managers, communication, high performance and public sector values.

Areas we are doing well

Staff indicated increased satisfaction in their engagement with work and flexible working arrangements.

Focus for the year ahead

We will be focusing on key areas for improvement that have been identified by staff through the PMES. In 2019–20, we will be enabling greater opportunities for increased office collaboration and knowledge sharing to ensure staff have input into the future direction of the organisation.

A1.2.2. Performance

The NSW Ombudsman is responsible for safeguarding the interests of the people and communities of NSW. Our Office delivers this by improving the quality and level of accountability, integrity and fairness of government agencies and certain non-government organisations delivering public and community services.

Productivity

We engaged an external consultancy firm to review our business processes in line with our revised structure. They examined current processes in place for the handling of inquiries, complaints and investigations in order to identify appropriate business processes for complaints and notifications moving forward. The new processes have been designed to enable consistent, efficient and quality handling of matters and provision of customer service.

Input from staff was a critical component of designing our future business processes. Staff were invited to participate through various working and reference groups, interviews and other

engagement channels. This enabled a robust proposal to be recommended to the NSW Ombudsman, which was endorsed in mid 2019.

Focus for the year ahead

In 2019–20, we will be implementing these processes under the new structure which comes into effect in October. The Executive will work with staff to embed new processes as we move toward through the year.

Enhancing technology infrastructure and systems

In 2018–19, we continued improvements in our technology infrastructure through systems and process. Some of the technology achievements improvements included:

- greater visibility of information in Resolve – our case management system
- implementing a collaborative file sharing portal to ensure all information we share with other agencies is secure
- developing the performance management module within our human capital management system
- commencing the NSW Ombudsman new intranet upgrade.

Performance management

Over the past year, we continued a review of all policies relating to performance management, including a new performance management policy in alignment with best practices in the NSW Public Sector. The performance management policy includes managing unsatisfactory performance process, probation process, performance increments guidelines and a tool kit for managers to assist them in managing performance across the organisation. These policies and procedures will be rolled out to staff during 2019–20.

Focus for the year ahead

In 2019–20, we will be:

- implementing a new organisational structure as well as new processes and policies to support the new structure
- continuing to develop the performance management system and researching the learning and development capabilities to ensure compliance.

A1.2.3. Staffing and recruitment

Gender breakdown in management

In 2018–19, the number of women as a percentage of the total workforce was 77.7 per cent. The representation of women in senior leadership roles has also increased slightly to 72.7 per cent from the previous 58 per cent. The NSW Ombudsman has an ongoing commitment to supporting the growth and development of women in the organisation.

Workforce diversity

The *Government Sector Employment Act 2013* makes diversity a priority area for all public sector agencies. A key goal is for all public sector agencies to reflect the diversity of the wider community. The Act has a clear focus on established diversity groups (Aboriginal people,

women, people from culturally and linguistically diverse backgrounds, and people with disability), and also provides flexibility to include diversity through the employment of mature workers, young people and carers.

All government agencies must consider diversity policies, outcomes and priorities when they are recruiting and supporting staff. The NSW Ombudsman encourages staff to respect the social and cultural backgrounds of others, and, to promote this, we run in-house training on Aboriginal cultural appreciation and disability awareness as well as training on cultural intelligence and mental health awareness. Over the past year, the NSW Ombudsman as an organisation celebrated events such as NAIDOC, Reconciliation Week, Youth Week, Harmony Day and International Day for People with Disability.

Table 20: Trends in the distribution index for workforce diversity groups per calendar year

Workforce diversity group	Benchmark	2016	2017	2018	2019
Women	100	97	100	99	101
Aboriginal and/or Torres Strait Islander people	100	N/A	N/A	N/A	N/A
People whose first language spoken as a child was not English	100	91	92	90	89
People with a disability	100	104	100	92	94
People with a disability requiring work-related adjustment	100	N/A	N/A	N/A	N/A

Note 1: A Distribution Index score of 100 indicates that the distribution of members of the Workforce Diversity group across salary bands is equivalent to that of the rest of the workforce. A score less than 100 means that members of the Workforce Diversity group tend to be more concentrated at lower salary bands than is the case for other staff. The more pronounced this tendency is, the lower the score will be. In some cases, the index may be more than 100, indicating that members of the Workforce Diversity group tend to be more concentrated at higher salary bands than is the case for other staff.

Table 21: Trends in the representation of workforce diversity groups

Workforce diversity group	Benchmark	2016	2017	2018	2019
Women	50%	73.73%	74.15%	76.50%	77.70%
Aboriginal and/or Torres Strait Islander people	3.3%	2.98%	2.45%	2.30%	2.70%
People whose first language spoken as a child was not English	23.2%	19.26%	19.62%	21.20%	19.70%
People with a disability	5.6%	11.09%	9.80%	10.14%	10.60%
People with a disability requiring work-related adjustment	N/A	5.54%	1.48%	1.38%	1.60%

Note 1: The benchmark of 50% for representation of women across the sector is intended to reflect the gender composition of the NSW community.

Note 2: The NSW Public Sector Aboriginal Employment Strategy 2014–17 introduced an aspirational target of 1.8% by 2021 for each of the sector’s salary bands. If the aspirational target of 1.8% is achieved in salary bands not currently at or above 1.8%, the cumulative representation of Aboriginal employees in the sector is expected to reach 3.3%.

Note 3: A benchmark from the ABS Census of Population and Housing has been included for People whose First Language Spoken as a Child was not English. The ABS Census does not provide information about first language, but does provide information about country of birth. The benchmark of 23.2% is the percentage of the NSW general population born in a country where English is not the predominant language.

Note 4: In December 2017 the NSW Government announced the target of doubling the representation of people with disability in the NSW public sector from an estimated 2.7% to 5.6% by 2027. More information can be found at: [Jobs for People with Disability: A plan for the NSW public sector](#). The benchmark for ‘People with Disability Requiring Work-Related Adjustment’ was not updated.

Table 22: Workforce diversity actual staff numbers at census date 2018

Remuneration level of substantive position	Total staff (men, women & unspecified)	Respondents	Men	Women	Unspecified gender	Aboriginal and/or Torres Strait Islander people	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring work-related adjustment
\$0 – \$48,119	0	0	0	0	0	0	0	0	0	0
\$48,119 – \$63,199	1	1	0	1	0	1	0	0	0	0
\$63,199 – \$70,652	13	13	1	12	0	0	5	6	3	1
\$70,652 – \$89,406	27	27	11	16	0	0	8	7	5	0
\$89,406 – \$115,617	80	80	18	62	0	0	17	17	5	2
\$115,617 – \$144,521	56	56	8	48	0	3	10	7	6	0
\$144,521 > (Non SES)	6	6	4	2	0	1	0	0	1	0
\$144,521 > (SES)	5	5	0	5	0	0	0	0	0	0
Total	188	188	42	146	0	5	40	37	20	3

Supporting our staff

As a public sector agency, we provide value for money to the people of NSW and produce work of the highest standard. To do this work optimally, we need to ensure we are taking care of our employees. During 2018–19, we started the process of developing a health and wellbeing framework, a commitment of the executive leadership team to improve the health, safety and wellbeing of all staff. The Framework consist of five main focus areas of health and wellbeing – physical wellbeing, psychological wellbeing, social and community engagement wellbeing, occupational wellbeing and financial wellbeing.

Staff recognition

In 2018–19, two of our employees, Christopher Wheeler and Laurel Russ, were awarded the Public Service Medal (PSM) for outstanding public service.

Social and cultural activities

Staff at the NSW Ombudsman were born in 19 different countries and speak 12 languages. In 2018–19, we celebrated many cultural festivals, such as Harmony Day, International Women’s Day and NAIDOC Week. These celebrations help us recognise the diversity of our workplace and encourage our staff to learn more about other cultures.

Focus for the year ahead

In the coming year, we will continuing our social activities to celebrate diversity and inclusion in our workplace. We are planning to implement the health and wellbeing framework and develop a staff recognition scheme that celebrates the significant contributions of our employees.

A1.2.4. Professional development

Through 2018–19, we offered our staff a variety of work and development opportunities. Staff are where possible given the opportunity for career progression in various ways including acting at higher levels, secondments to other departments and working across the public sector on whole of government initiatives.

Leadership and training programs

Providing staff with learning and development opportunities ensures we have a skilled, flexible, responsive and committed workforce. During 2018–19, we focused on:

- developing and facilitating tailored leadership programs for statutory officers, human services directors, other senior managers and legal officers
- providing mandatory training for supervisors and managers to ensure they have the necessary skills and knowledge to effectively carry out their responsibilities

- providing anti-bullying and harassment training for all staff
- continuing to rollout accredited certificate IV and diploma in government investigations training to relevant staff
- developing the professional skills of our staff more broadly through attendance at a range of conferences and forums, as well as internal and external training courses
- providing relevant and effective induction programs for new staff.

Opportunities for staff development

As part of our commitment to offer staff experiences in other organisations, we seconded a number of staff to other public sector agencies across NSW, including to Department of Communities and Justice, Office of Children’s Guardian, Department of Aboriginal Affairs, NSW Electoral Commission and Independent Commission Against Corruption. We also supported numerous internal secondments between branches.

Investment in training

We invested \$278,000 in 2018–19 of training and development for our staff.

Focus for the year ahead

We will continue to provide training and induction for staff and support opportunities to be seconded to other positions across the NSW public sector.

A1.2.5. Workplace health and safety

We are committed to providing the best possible standards of work health and safety for all staff and visitors to our office. We are subject to the provisions and responsibilities of the *Work, Health and Safety Act 2011* and Regulations as well as public-sector work health and safety policies.

Work health safety injuries and incidents

There were seven work related incident and four non-work related incidents during 2018–19.

Our main safety hazard and most frequently reported risk is ‘slips, trips and falls’, accounting for half of the injuries reported. Hitting stationary objects, being hit by a person accidentally, contact with a sharp object and ‘other’ factors, all contribute to the remaining 48 per cent of our injuries.

Notifiable injuries

We had no notifiable injuries in 2018–19.

Workers’ compensation claims

We are part of icare Treasury Managed Fund, a self-insurance scheme for the NSW public sector. There were no new claims reported to our insurer during the reporting period and the one open at the beginning of the year was closed. As at 30 June 2019, there are no claims open.

Table 23: Workers’ compensation – 5-year comparison

	2014–15	2015–16	2016–17	2017–18	2018–19
Claims brought forward	3	0	1	0	1
New claims	2	1	0	1	0
Claims closed	5	0	1	0	1
Open claims 30 June	0	1	0	1	0

Table 24: Workers’ compensation incidence rate – 5-year comparison

	2014–15	2015–16	2016–17	2017–18	2018–19
Number of submitted claims	2	1	0	1	0
FTE staff number	198.35	214.66	183.44	192.78	164.65
Incidence rate (%)	1.01	0.46	0.00	0.00	0.00

Work Health Safety Committee

We have a Work Health Safety Committee, made up of elected staff and nominated management representatives, who actively work to identify and resolve safety concerns. The committee reviews and actions the results of internal audits and inspections, identifies work health and safety hazards and risks, and understands the impact of operational and business requirements on the safety and wellbeing of our staff. This proactive

approach ensures the office complies with, and actively supports, our overarching Work Health and Safety Framework.

Staff satisfaction with work health safety

We continue our commitment to Work, Health and Safety through our regular convening of the Work, Health and Safety Committee. This ensures a forum for any staff safety concerns to be raised and addressed to a satisfactory standard.

Work health safety initiatives

Table 25: Work health safety initiatives

Category	Initiative
Consultation	<ul style="list-style-type: none"> • Work Health Safety Committee met 5 times. • WHS Committee actively consulted and engaged with all workgroups throughout the year.
Ergonomics	<ul style="list-style-type: none"> • Provided reasonable adjustments, including installation of sit-to-stand workstations. • Our workstation self-assessments checklist was reviewed and updated and issued to staff for completion. • Continued our Workspace program which advises employees when to stretch and take ergonomic breaks
Information, education and training	<ul style="list-style-type: none"> • Preventing bullying and harassment training was rolled out for new supervisors and condensed version of the training was rolled out for non-supervisory staff. • 1 new member completed Work Health Safety Committee training. • 92 non-supervisory staff attended 'Work Health and Safety' training. • 5 new supervisors and managers attended 'Work Health and Safety for Managers' training. • Wardens attended training about their role in an emergency. • Information was provided to statutory officers about their responsibilities as 'persons conducting a business or undertaking'.
Policies and procedures	<ul style="list-style-type: none"> • Continued our program of continuously reviewing WHS policies and procedures.
Safety alerts	<ul style="list-style-type: none"> • Participated in the emergency evaluation drill. • Safety alerts routinely communicated to staff.
Electrical	<ul style="list-style-type: none"> • Annual check done to ensure all electrical equipment is tested and tagged.
Mental health and wellbeing	<ul style="list-style-type: none"> • 2 staff members completed a 2-day Mental Health First Aid course.
Programs	<ul style="list-style-type: none"> • Flu vaccination (four strain) offered to staff. • Reviewed the wellbeing programs offered to staff dealing with sensitive and distressing material. • Employee Assistance Program (EAP) available to all staff. • EAP details formally communicated quarterly, and information updated and made available on our intranet.

Focus for the year ahead

In 2019 – 20, we will:

- continue with the review of all work health and safety related policies, including the development of a new safe driving policy
- conduct an office-wide Work Health Safety Committee election
- conduct two work health safety internal inspections
- develop a work health safety survey to track staff satisfaction.

A1.2.6. Environment

Reducing our environmental impact

The NSW Government resource efficiency policy (GREP) commits NSW public sector agencies to reduce operating costs as well as increase the efficiency of the resources they use. In 2018–19, we continued to reduce our environmental footprint through a range of strategies, such as:

- ensuring our office fit out complied with the Australian paint approval scheme by using low-volatile organic compound (VOC) surface coatings
- recycling all toner bottles and cartridges, diverting over 53.22 kilograms from landfill
- using Australian 100 per cent recycled content paper for our printers and copiers
- reducing our paper usage to 11.84 reams per person. This is, however, still over the 2015 ICT Sustainability Plan’s target of 9 reams per person
- recycling 27 tonnes or 100 per cent of clean waste paper
- recycling cardboard through the building recycling program

- replacing our lights with more energy efficient models and installing additional motion sensors
- improving our workstation configuration to benefit from natural light and to further reduce the amount of lighting required
- publishing all our publicly available reports online only
- replacing paper forms with online forms
- moving from physical to electronic records
- purchasing six per cent green electricity
- using timers on photocopiers, printers and computers
- improving the fuel efficiency of our motor vehicle fleet
- monitoring energy usage through auditing, preventive maintenance, staff education programs, and purchasing energy efficient equipment
- enabling power-management features when installing office equipment.

Greenhouse performance

In 2018–19, the NSW Ombudsman achieved a greenhouse building rating of 4.5 stars. We achieved this by supporting our building’s environmental programs – 580 George Street, Sydney – which has:

- a 4.5 star NABER’s energy rating (5 stars with Green Power Assist) and
- a 3.5 star NABER’s water rating.

Environmental achievements and initiative

In 2018–19, we completed our office fit out with a focus on reducing our environmental footprint. This included ensuring we complied with the Australian paint approval scheme by using low-volatile organic compound (VOC) surface coatings.

Table 26: Electricity consumption

	2013–14*	2014–15	2015–16	2016–17	2017–18	2018–19
Electricity (kWh)	267,789	384,186	312,417	240,780	212,861	185,734
Kilowatts converted to gigajoules	964	1383	1,124	866	766	669
Occupancy (people)	193	199	215	205	215	183
Area (m2)	3,133	3,133	3,133	3,133	3,133	3,133
Gigajoules per person	4.99	6.95	5.23	4.22	3.56	4.10
	*base year					

Focus for the year ahead

In 2019–20, we will continue to implement improvement initiatives that continue to deliver on the NSW Government NABERS target of 4.5 stars.

A1.2.7. Building a consultative culture

Consultative forums

We have two main consultative forums – our Work Health Safety Committee, and our Joint Consultative Committee. The forums meet separately and regularly during the year to discuss a range of issues affecting staff.

Staff wellbeing and positive workplace culture

The wellbeing of staff is a priority for the office. During 2018–19, we drafted a Work Health and Safety Framework and Action Plan. We are currently consulting with staff and with the Work Health Safety Committee on this initiative to ensure it addresses the needs of our workforce.

We have a range of strategies that aim to ensure our workplace is free of harassment and bullying, and that staff show respect for and value each other. These strategies included engaging with a third party provider to deliver a mandatory training program to all supervisors and managers on preventing bullying and harassment in the workplace. During this year, the course was modified to provide staff with a better understanding of workplace expectations as well as tools, techniques and supports available to them. This modified course was delivered to all our staff.

A2. Governance

As an independent statutory body, we are accountable to the people of NSW through the NSW Parliament – not to the government of the day. The work of the Ombudsman is scrutinised by the Parliamentary Joint Committee on the Office of the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission (PJC). For example, the PJC examines our annual report and other reports to Parliament and may report to Parliament on any matter relating to our work. This includes any changes they consider desirable to our functions, structures or procedures. However, the PJC cannot review our decisions about individual complaints.

Core governance principles are based on the Audit Office of NSW Governance Lighthouse framework which comprises the following elements:

- management and oversight – leadership and strategic and business plans, regular reporting against plans, clear accountability and delegations, diversity policy
- structure – key governance committees
- ethics – ethical framework, fraud and corruption control framework, compliance framework
- corporate reporting – Ombudsman and chief financial officer sign off, internal and external audit, audit and risk committee
- disclosure – continuous disclosure, annual report
- remuneration – remuneration is fair and responsible
- risk management – Ombudsman and management sign off on internal controls, risk management program
- key stakeholder rights – key stakeholder management program.

A2.1. Measuring our performance

We track our performance across all areas of our work. This includes individual case management, our systems and processes. We use data from our case management system to monitor and identify where there may be backlogs, delays or issues.

Our Senior Officers meet quarterly to review how our organisation is performing against agreed targets and identify any remedial action required to ensure we are meeting our objectives.

A2.2. Risk management and insurance activities

Our risk management framework provides the principles and processes for all risk management activities across the office. In 2018–19, we continued to implement strategies to mature our approach to risk management. Our Audit and Risk Committee (ARC) provides us with independent assurance about our risk management practices. The Committee met five times and operated in accordance with NSW Treasury requirements.

Internal audit and Risk Management Attestation for the 2018 – 2019 Financial Year for the Ombudsman’s Office

I, Michael Barnes am of the opinion that the Ombudsman’s Office has internal audit and risk management processes in operation that are compliant with the eight (8) core requirements set out in the *Internal Audit and Risk Management Policy for the NSW Public Sector*, specifically:

	Status
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 and 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 Audit and Risk Committee are:

- Independent Chair – Ms Christine Feldmanis, start term date 24 May 2017, finish term date 23 May 2022.
- Independent Member – Mr David Roden, (re-appointed) start term date 27 June 2016, finish term date 26 June 2021.
- Independent Member – Ms Vicki Allen, start term date 23 August 2017, finish term date 22 August 2022.



Michael Barnes
Ombudsman

A2.2.1. Completing internal audits

The Audit Risk Committee continue to be committed to delivering upon the Internal Audit Program, in partnership with an independent outsourced provider and the Executive.

The NSW Ombudsman finalised one significant internal audit in 2018–19 relating to our Disability Reportable Incidents Scheme. The audit identified various areas for improvement which are being implemented over the coming period.

A2.3. Digital information security

The NSW Ombudsman’s information security framework is a priority focus for the office. We regularly review our information systems to ensure they are stable, secure and resilient to external attacks and threats. The office maintains a robust cyber security control framework and conducts regular intrusion testing on our systems to ensure any known risks are mitigated.

During the reporting year, we continued the ongoing review of our information security management system including the policies that govern our information. In February 2019, the NSW Government released its Cyber Security Policy, which complements the Federal Government's Australian Cyber Security Centre (ACSC) Essential 8. The Office regularly monitors its progress against best practise in information security management and will continue to strengthen its ability to achieve government policy targets.

Security information and event management system

Maintaining digital and cyber security is a continuous and reiterative process, as cyber-attacks and techniques evolve so must our security infrastructure. This year, we began the deployment of an intrusion detection and security event


management system, projected to be completed in late 2019. Some of the key benefits of this system include real-time threat identification, automated incident response and threat remediation, and advanced search and forensic analysis.

Our Audit and Risk Committee regularly seeks advice on how we are addressing cyber security, as well as our progress in implementing government policy. The committee recommended that the NSW Ombudsman attests compliance with this policy with some areas still requiring further validation.

Focus for the year ahead

In 2019–20, we will be completing the implementation of our security information and event management system. Additionally, we will be focusing on complying with government policy to deliver best practise cyber security standards.

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Cyber security attestation statement for the 2018-19 financial year for the NSW Ombudsman


I, Michael Barnes, am of the opinion that the Ombudsman's Office has managed cyber security risks in a manner consistent with the Mandatory Requirements set out in the NSW Government Cyber Security Policy; however the Ombudsman's Office is not fully compliant with the policy.

Risks to the systems of the Ombudsman's Office identified as "crown jewels" in accordance with the NSW Cyber Security Policy have been assessed and are being managed to the extent possible using available resources.

Governance is in place to manage the cyber-security maturity and initiatives of the Ombudsman's Office.

A cyber incident response plan for the Ombudsman's Office is currently being developed and will be tested during the forthcoming reporting period.

An independent review of the Office's ISMS and the effectiveness of controls against the mandatory requirements of the NSW Cyber Security Policy, including compliance with ISO27001 will be undertaken in the forthcoming reporting period.



Michael Barnes
NSW Ombudsman
28 August 2019

A2.4. Internal public interest disclosures

As a public authority, the Ombudsman is required to have policies and procedures in place to facilitate the reporting of wrongdoing by staff. The Ombudsman is responsible for ensuring staff are aware of the *Public Interest Disclosures Act 1994* (PID Act) and that they will be given protection and support if they make a public interest disclosure.

As required, the following section provides information about public interest disclosures made within or about our office. Information about the public interest disclosures we have dealt with as an investigating authority is included in the separate publication – *Oversight of the Public Interest Disclosures Act 1994 Annual Report 2018–19*.

A2.4.1. Policy framework and staff awareness

We recognise the value and importance of staff being able to raise concerns when they see something they believe is wrong and our internal reporting policy, which is available on our staff intranet, encourages staff to do this. Our policy commits the Ombudsman and senior staff to handling these disclosures effectively and support the staff making them.

Staff awareness and understanding is an important part of creating a climate of trust. All staff should be comfortable and confident to raise their concerns. New staff are required to acknowledge that they have read the internal reporting policy as part of their induction. Information about how to make a report about wrongdoing is provided on posters around our office.

A2.4.2. PID statistics

Under the PID Act, we are required to report information about public interest disclosures that we receive from our staff and/or about our office. In 2018–19, we received one public interest disclosure from a member of staff about our office. The disclosed information concerned alleged corrupt conduct. We are taking appropriate action in response to this disclosure.

No public interest disclosures were finalised in 2018–19.

A2.5. Improving the way we do business

A2.5.1. Complaints about us

The NSW Ombudsman is an integrity agency so we take any complaints about our own services and decisions very seriously. Complaints provide us an opportunity to look at the quality of our services and the feedback we receive is used to improve our performance and services.

In 2018–19, we received 24 new complaints about the services we provided or the actions of our staff. We responded to all 24 complaints.

Some complaints were made in the context of requests for reviews of decisions (see 'Reviews of complaint decisions', page 19). For example, in a request for a review of a decision to decline a complaint, the complainant alleged that a staff member had failed to read documents sent to them. We responded to the complaint and reviewed the decision to decline.

Other complaints about us alleged that staff:

- had provided the wrong advice
- did not provide timely advice about the progress of a matter
- were unprofessional during a telephone call
- breached an individual's privacy by not obtaining consent before disclosing their email.

In cases where the complaint is substantiated or the staff member has not met expectations, we apologised to the complainant and counselled the staff member their privacy obligations.

The year ahead

In 2019–20, we will be adding a widget to the website to enable individuals and organisations to register their complaints online. This should improve the processes for tracking and responding to complaints within the organisation.

A3. Legislative changes

During 2018–19, two legislative changes were relevant to our work.

1. Minor amendments were made to the *NSW Ombudsman Act* by the *Criminal Legislation Amendment (Child Sexual Abuse) Act 2018*. Section 25A of the *NSW Ombudsman Act* was amended to reflect the creation of two new offences under the *Crimes Act 1900* (sections 43B and 316A) which fall within the definition of ‘reportable conduct’.
2. Amendments were made to the *Community Services (Complaints Reviews and Monitoring) Act 1993 (CS CRAMA)* by the *Ageing and Disability Commissioner Act 2019*. The amendments relate to our work reviewing the deaths of persons with disability in residential care and reflect the fact that most residential care services are now provided by agencies registered under the National Disability Insurance Scheme. Accordingly, section 35 of *Community Services (Complaints Reviews and Monitoring) Act* now refers to ‘supported group accommodation’, which includes accommodation provided under the National Disability Insurance Scheme, rather than ‘residential care provided by a service provider’.

A4. Public access to our information

The *Government Information (Public Access) Act 2009* (GIPA Act) and *Government Information (Public Access) Regulation 2009* (GIPA Regulation) provide guidance to government agencies in relation to access to government information holdings.

The GIPA Act prescribes two general principles:

- a presumption in favour of disclosure unless there is an overriding public interest against disclosure
- mandatory proactive release of certain government information, called open access information, such as policy documents, information guides, and reports tabled in Parliament.

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.

The GIPA Act also requires that agencies must, at least once every 12 months, review their program for releasing government information to identify the kinds of government information held that should, in the public interest, be made publicly available without imposing unreasonable additional costs on the agency.

The following information constitutes the Ombudsman’s report for 2018–19, as required by the GIPA Act and the GIPA Regulation.

A4.1. Review of our information release program

We have a program for proactively releasing information to ensure the public has access to as much information as is possible. We also review informal requests for information we receive where information is given to the person making the request.

In keeping with GIPA principles, we make a range of information available on our website. The latest news section of our website provides information about our most recent publications, training programs, presentations, visits to rural and regional centres, visits from delegations to our office, and other information that may be of public interest. The website also has links to publications, including annual and special reports to Parliament, fact sheets (which feature topics such as our complaint handling commitments, disability reportable incidents, research papers, and child death-related trends and patterns associated with our work), submissions, and guidelines. Key policies, including our statement of corporate purpose, code of conduct and conflict of interests’ policy, are also available on our website.

We also use social media – Twitter, Facebook, and YouTube – to provide information about our work and engage with stakeholders, including members of the public, community groups, professionals, government and non-government agencies. We also provide access to videos about our work and events that we have held, and provide some information for organisations about their obligations.

We publish the PID e-News to subscribers as part of our role under the *Public Interest Disclosures Act 1994* to promote public awareness and understanding of the Act. The newsletters provide updates about changes to legislation and regulations, training sessions, events, publications, guidance materials and educational resources.

A subscription is available to anyone via email to pid@ombo.nsw.gov.au. We distribute a training newsletter to subscribers that provides information about new training courses, resources and upcoming details of our training workshops. Anyone can subscribe via email to training@ombo.nsw.gov.au.

Table 27: Publications released in 2018–19

<p>Annual reports</p> <p>NSW Child Death Review Team Annual Report 2017-18</p> <p>NSW Ombudsman Annual Report 2017-2018</p> <p>Official Community Visitors Annual Report 2017-2018</p> <p>Oversight of <i>Public Interest Disclosures Act 1994</i> Annual Report 2017-2018</p> <p>Biennial Report of the Deaths of Children in New South Wales: 2016 and 2017 – incorporating reviewable deaths of children</p>	<p>Fact sheets and guidelines</p> <p>CDRT Deaths of children in NSW – 10 year review of child passenger deaths and seatbelt use – June 2019</p> <p>CDRT Deaths of children in NSW in 2016 and 2017: Sudden Unexpected Death in Infancy (SUDI) – June 2019</p> <p>CDRT Deaths of children in NSW in 2016 and 2017: injury – June 2019</p> <p>CDRT Deaths of children in NSW in 2016 and 2017: natural causes – June 2019</p> <p>CDRT Deaths of children in NSW in 2016 and 2017: overview and trends – June 2019</p> <p>Am I dealing with a public interest disclosure? Updated March 2019</p> <p>Thinking about reporting serious wrongdoing? Updated April 2019</p> <p>Complaints about child protection and other child and family services – December 2018</p> <p>The Ombudsman’s role in community services – July 2018</p> <p>Handling complaints about community and disability services – July 2018</p> <p>Assisted Boarding Houses – July 2018</p>
<p>Reports and submissions</p> <p>The role of child restraints and seatbelts in passenger deaths of children aged 0-12 years in NSW – June 2019</p> <p>Review of suicide clusters and evidence-based prevention strategies for school-aged children – June 2019</p> <p>Abuse and neglect of vulnerable adults in NSW – the need for action – November 2018</p> <p>Responses to inquiry into Parklea Correctional Centre and other operational issues – October 2018</p> <p>The JIRT Partnership – 20 years on – October 2018</p> <p>Water: compliance and enforcement – A special report to Parliament – August 2018</p> <p>Complaint handling improvement program - Commitments Report – August 2018</p>	<p>Brochures</p> <p>Know your rights as a consumer of community services – updated March 2019</p> <p>A voice for people in supported accommodation – updated February 2019</p>
<p>Newsletters</p> <p>PID e-news Issues 37 and 38</p>	

Statistical information about access applications

This year we received six applications relating to the Ombudsman's complaint handling, investigative and reporting functions, which are excluded information under the GIPA Act. Applications requesting access to excluded information are invalid and must be refused.

One applicant asked the Information and Privacy Commission to review our decision that their application was invalid. The Information

Commissioner recommended that some of the information requested did not fall within the definition of 'excluded information' for the purposes of the GIPA Act. (Note the Information Commissioner does not have the authority to vary decisions but can make recommendations to the original decision maker.) In accordance with the Information Commissioner's recommendation, the Ombudsman reviewed the request and the information sought, and provided access to some of that information.

GIPA application information

Table 28: Number of applications by type of applicant and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not for profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	0	0	0	0	0	0	0
Members of the public (other)	0	0	0	0	0	0	0	0

*More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to table 2.

Table 29: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

* A 'personal information application' is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

Table 30: Invalid applications

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the Act)	0
Application is for excluded information of the agency (section 43 of the Act)	6
Application contravenes restraint order (section 110 of the Act)	0
Total number of invalid applications received	6
Invalid applications that subsequently became valid applications	0

Table 31: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the GIPA Act (valid applications only)

	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0

* More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to table 5.

Table 32: Other public interest considerations against disclosure: matters listed in table to s 14 of the GIPA Act

	Number of occasions when application was 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

Table 33: Timeliness

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions) 1	0
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
Total	0

Table 34: 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	0	0
Review by Information Commissioner*	1	0	1
Internal review following recommendation under section 93 of Act	0	0	0
Review by Administrative Decisions Tribunal	0	0	0
Total	1	0	1

* 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.

Table 35: Applications for review under Part 5 of the GIPA Act (by type of applicant)

	Number of applications for review
Applications by access applicants	1
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	0

Table 36: Applications transferred to other agencies under Division 2 of Part 4 of the GIPA Act (by type of transfer)

	Number of applications transferred
Agency-initiated transfers	0
Applicant-initiated transfers	0

The year ahead

In 2019–20, we will be reviewing our systems to collect GIPA application data to streamline our recording and reporting of GIPA applications.

A5. Access and equity programs

It is important that we are accessible to all members of the NSW community, especially those who are disadvantaged or 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 in an accessible form.

Our access and equity policy sets out the framework for a range of access and equity programs including our Disability Inclusion Action Plan, Multicultural Policies and Services Program Action Plan and Carers Recognition Policy. Our report against these plans and policies is provided in this section. More details about our work and community engagement activities are provided in Appendix 4 page 88.

A5.1. Disability inclusion action plan

Developing positive community attitudes and behaviours

We have a strategic approach to the disability inclusion action plan with:

- an effective disability inclusion policy and strategies in place
- improved employee awareness and acceptance of the rights of people with disability, and improved inclusive practices
- improved community awareness and acceptance of the rights of people with disability, and improved inclusive practices.

In 2018–19, we:

- conducted disability awareness training as part of our mandatory induction training program
- participated in campaigns, such as International Day of People with a Disability, to raise staff awareness of the rights and achievements of people with disability
- identified and addressed barriers to services provided by the agencies we oversight through our complaint handling and project work

- delivered training to the public sector, non-government organisations and users of community services on:
 - handling serious incidents in the disability sector
 - the rights stuff (for users of support services)
 - Speak Up! workshops for people with disability to speak up when something is not right
 - initial and early response to abuse or neglect in disability services
- promoted and upheld the rights of people with disability, particularly those with complex support needs and provide training and resources to enable the rights of people with disability within agencies and the community
- participated in state and national discussions about the National Disability Insurance Scheme, the National Quality and Safeguards Framework and responses to serious abuse and neglect.
- promoting a workplace free of bullying and discrimination and conducting training for managers and supervisors as well as separate training for staff
- continuing our work with public sector agencies to improve their services to people with disability, such as the provision of social housing
- continuing our work with the Department of Family and Community Services and non-government organisations to improve services and outcomes for people with disability through our community services complaint handling and oversight activities, and promoting the implementation of our joint protocol for disability providers and police to reduce the unnecessary contact of people with disability in supported accommodation with police and the criminal justice system
- continuing our standing inquiry into allegations of abuse and neglect of adults with disability in the community. Following our report to Parliament, the Government announced the establishment of an Ageing and Disability Commissioner, to continue the work of our inquiry
- through our handling of disability reportable incident notifications, overseeing the actions and systems of certain disability service providers to prevent, handle and respond to specified reportable incidents
- through the Official Community Visitor program, inspecting visitable services and talking to residents about issues of concern.

Creating liveable communities

Our strategies to create liveable communities includes ensuring:

- our office building and any offsite venues we use are accessible to people with disability
- our information is accessible to people with disability
- our workplace is safe and accessible to all staff
- improved services to people with disability by the government and non-government agencies we oversight.

Activities in 2018–19 included:

- considering accessibility in our ongoing office refurbishment program
- considering accessibility when offsite venues for outreach and other activities were booked
- ensuring website accessibility standards were reached in the website redesign
- producing information resources in alternate formats for people with disability, taking into consideration the special needs of multiple disadvantaged groups, such as Aboriginal people and young people with disability
- providing reasonable adjustments to staff with disability, conducting regular workstation inspections to ensure ergonomically safe and sound work environments and reviewing personal emergency evacuation plans

Supporting access to meaningful employment

Our strategic approach to supporting access to meaningful employment includes:

- improving the recruitment experience for people with disability
- increasing opportunities for people with disability to join our office
- supporting staff with disability to have the same opportunity in training and career advance.

During 2018–19, we:

- created a diversity forum, to support our diversity program, with the forum to be rolled-out in 2019–20
- promoted our reasonable adjustment policy to job applicants and made adjustments for interviews if required
- used the special arrangements for the employment of people with disability under the *Government Sector Employment Act 2013*

- implemented reasonable adjustments to support our staff with disability to perform their duties in an inclusive and accessible workplace
- provided disability awareness and other relevant training to all staff on the rights and needs of people with disability in the workplace
- with 12.2 per cent of staff identifying as having a disability, we exceeded the NSW Government benchmark of 5.6 per cent for employment of people with disability.

Improving access to mainstream services through better systems and processes

Our strategies for improving access to services are:

- providing improved policy and guidelines that underpin our commitments to people with disability
- improving accessibility of our services for people with disability
- ensuring people with disability are able to access mainstream services and make informed choices.

Over the past year, we:

- continued to refine our reasonable adjustment policy
- promoted our commitment to people with disability internally and externally
- continued to improve our website to ensure it is accessible and easy to navigate for people with disability
- developed targeted accessible information for people with disability, such as easy English versions of fact sheets and information in video format
- provided all our published reports and other resources in accessible PDF format
- identified issues relating to services to people with disability and worked with agencies to address these issues
- identified and addressed systemic issues relating to the needs of people with disability, and facilitated improved service provision.

Focus for the year ahead

In 2019–20, we will:

- establish a diversity forum, based on the terms of reference that have been approved by the Ombudsman
- update and consult on our disability inclusion action plan to ensure it aligns with our new strategic direction and office priorities

- ensure that we continue to meet accessibility standards with the ongoing redevelopment of our website
- continue to provide our range of training courses to agencies
- continue to identify and address issues relating to service provision to people with disability.

A5.2. Multicultural policies and services program

Service delivery

During 2018–19, we:

- had procedures in place for using translation and interpreting services and trained our frontline inquiry staff to use these services
- allocated funds for interpreting and translation services
- provided three staff with the Community Language Assistance Scheme allowance to provide language assistance in four community languages
- provided language assistance to our clients on 131 occasions in 21 community languages
- provided information in community languages, including information about our services in 26 community languages
- made our *Making a Complaint to the Ombudsman* brochure available in 48 community languages
- ensured that everything we produce in community languages is checked by community 'readers' for language and cultural appropriateness
- developed easy English information material to explain our role in community services, the National Disability Insurance Scheme and complaint handling for people whose first language is not English
- provided our community language information in accessible PDF format and available for downloading on our website
- distributed information and spoke to community members at a range of community events
- trained all new staff on cross-cultural awareness and competence as part of our formal induction training for all new staff.

Planning

Our Multicultural Policies and Service Program 2015–19 is outcome focused with strategies and actions to ensure our services are accessible and appropriate for culturally, linguistically and religiously diverse people. We have:

- strategies to address issues relevant to culturally, linguistically and religiously diverse people linked to our corporate plan and relevant business plans
- reported on the implementation of our diversity programs
- where available, used statistical information about clients to inform our diversity programs and business planning processes
- kept a register of our use of interpreting and translation services to inform our decision-making in developing community language information.

Leadership

Our Multicultural Policies and Service Program 2015–19 is approved by the Ombudsman. During the reporting year, the Assistant Ombudsman (Corporate) was the lead officer and had overall responsibility for developing and implementing our plan. In addition, specific responsibilities were assigned to relevant staff.

Engagement

Over the past year, we liaised with 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. We attended community events and conferences, and delivered tailored information sessions.

To support our project about the transfer process into social housing accommodation for people with disability who have complex needs, we have developed fact sheets, videos and other resources, including an information sheet in Plain English, Easy English, Arabic, Italian and Spanish. We continued to consult key religious leaders, survivor groups and a number of former police and royal commissioners through our ‘child safety’ standing committee for survivors and faith groups to help drive the response to the Royal Commission’s recommendations.

2018–19 additional reporting requirements

Improving outcomes for women in leadership:

Through the Multicultural Policies and Service Program reporting, NSW Government agencies are asked to report on the number of women leaders from CALD backgrounds, the leadership training spend on CALD women, including the leadership positions and roles. As at 30 June 2019, we had:

- seven women in leadership roles (70% of leadership roles are filled by women)
- three women executives completed a targeted leadership program – the Assistant Ombudsman (Corporate); Legal Counsel; and Legal Counsel, costing \$10,500 in 2018–19. No participant is from a CALD background
- emerging leaders (roles below public service senior executive level) attended leadership training through programs sponsored by the Public Service Commission.

Language services: The main language requiring a translator or interpreter was Mandarin (see below for details of other languages). In 2018–19, we spent \$8,074 on translation and interpreter services. Three bilingual staff, who use their language skills in their daily work and are paid a Community Language Allowance Scheme allowance, had their language skills tested. Bilingual staff use the following languages – Russian, Serbian, Cantonese and Auslan. In 2018–19, all requests for assistance were met and all languages were serviced. We provided:

- interpreting services on 119 occasions
- translation services on 12 occasions
- services in the top 11 languages of Mandarin (45), Arabic (25), Cantonese (12), Russian (10), Farsi (7), Korean (5), Turkish (5), Greek (5), German (3), Serbian (2), Punjabi (2).

Services for humanitarian entrants

NSW Government agencies are asked to report on actions and outcomes they provide specifically to address the needs of refugees and humanitarian entrants. Our Youth Liaison Officer continues to strengthen relationships with key migrant support services such as Settlement Services International, Advance Diversity Services and Multicultural NSW. Over the past year, the Youth Liaison Officer, in collaboration with the Mount Drutt Ethnic Communities Agency, delivered regular information sessions about our services for migrants and refugees and responded to enquiries during the sessions. The Youth Liaison Officer liaised with Multicultural NSW’s Regional Advisory Council (RAC) facilitators/community engagement officers

about issues affecting migrant, refugee and other diverse groups in the community. The Youth Liaison Officer was invited to statewide RAC meetings and other events organised by Multicultural NSW.

Looking forward

In 2019–20, we will:

- establish a diversity forum, the terms of reference having been approved by the Ombudsman
- update our Multicultural Policies and Service Program to ensure it aligns with our new strategic direction and office priorities, consulting broadly on this program in light of changed priorities
- continue to identify and address issues relating to provision of service to people from culturally, linguistically and religiously diverse backgrounds.

A5.3. Compliance with NSW Carers (Recognition) Act 2010

We participated in community events to promote the rights of people with disability and their carers and to increase awareness about how to make a complaint we hosted a stall at the 2018 Carers Day Out. Over the past year, we provided ‘Speak Up’ training to family members and other carers and ‘The rights stuff – tips for solving problems and making complaints’ training to users of community services and their carers. One of our Deputy Ombudsman presented at the 2018 Carers NSW Conference on the topic of ‘Lessons learnt by the NSW Ombudsman on improving the handling of complaints by carers about disability and mainstream services’.

During 2018–19, we maintained contact with peak carers organisations via our existing consultative platform and through our core business work in overseeing the provision of community services. We worked with Carers NSW to promote our services to young people who are carers and participated in the Carers Rights and Complaints Network and helped to resolve complaints from carers.

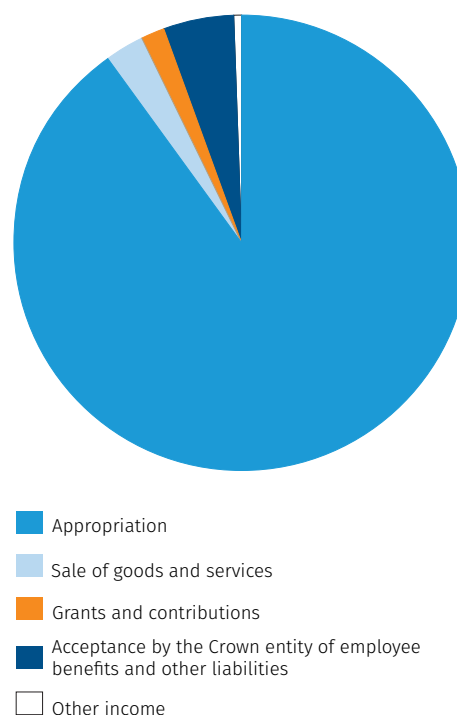
We provided information to staff about the *Carers (Recognition) Act* and the NSW Carers Charter is displayed in the office. We promoted a range of policies that support staff who are carers, including flexible working hours, working from home, and leave for carer responsibilities. We consulted broadly on policies affecting staff to ensure that issues of importance to staff with carer responsibilities are appropriately considered.

A6. Our Financials

The financial statements (pages 101–127) provide an overview of our financial activities during 2018–19. The Audit Office has reviewed these statements together with our systems and processes and have provided an unqualified audit report.

A6.1. Revenue

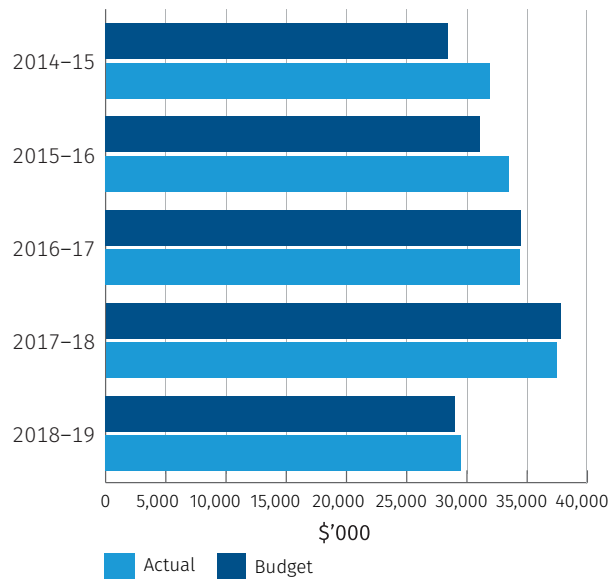
Figure 8: 2018–19 Revenue \$29.516 million



Most of our revenue comes from the NSW government in the form of a consolidated fund appropriation. This is used to meet both recurrent and capital expenditure. Note 3 within the financial statements provides details of the revenue received for the year \$29.516 million.

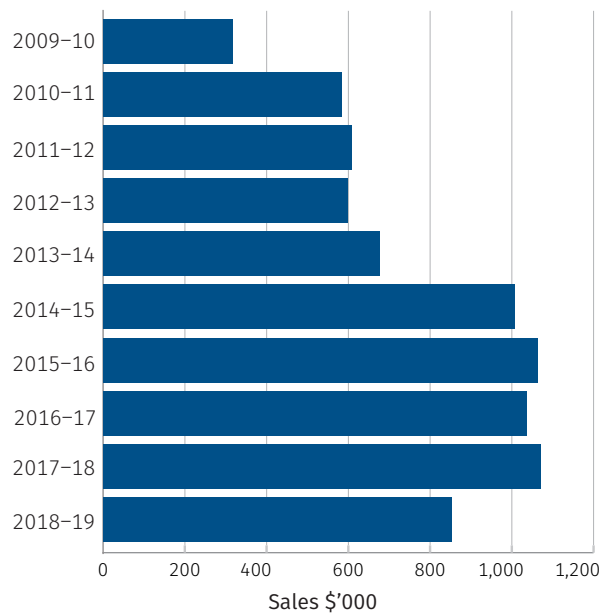
In March 2019, the office received \$505,000 in Grant funding from the Department of Family and Community Services to continue the disability reportable incidents function until September 2020, having previously received funding until June 2019. We sought approval to carry forward these funds to 2019–20 and 2020–21 and, to facilitate this carry forward, the Office reduced our 2018–19 appropriation accordingly (refer Note 3).

Figure 9: Revenue



Fee for service training accounted for \$853,000 of revenue during the year which is marginally lower than previous years.

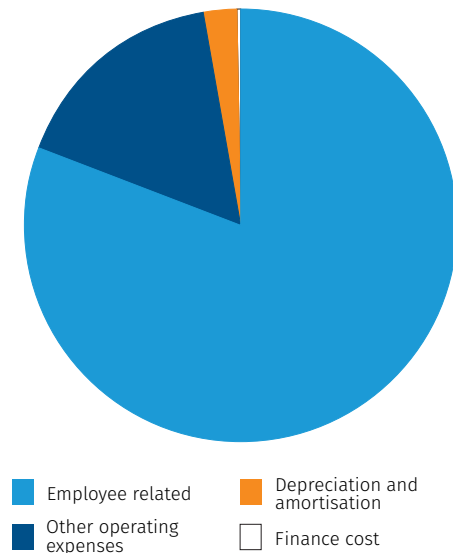
Figure 10: Training Revenue



A6.2. Expenses

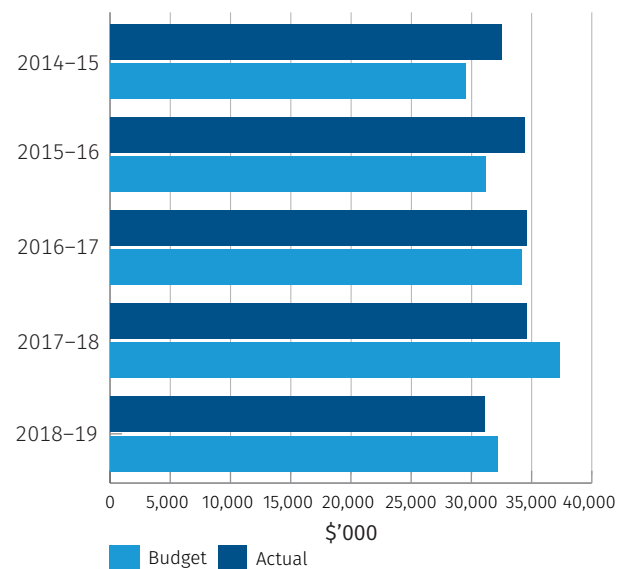
Our total expenses were \$31.109 million, \$1.022 million less than budget mainly due to the change in the period of depreciation applied to the leasehold improvement (refer to Note 15). Employee related expenditure accounts for 80.8 per cent of total expenditure.

Figure 11: 2018-19 Expenses \$31.109 million



The following graph shows a comparison of expenditure to budget over the past five years.

Figure 12: Expenditure



Our significant operating items are rent (\$1.821 million), fees (\$746,000), contractors (\$478,000), travel (\$474,000), training (\$278,000), non employee related maintenance (\$477,000), and consultants (\$377,000).

Table 37: Consultancies valued at less than \$50,000

Category	Count	Cost \$*
Information technology	–	–
Legal	–	–
Management services	1	37,400
Environmental	–	–
Total	1	37,400

Table 38: Consultancies valued at \$50,000 or more

Category	Consultant	Nature	Cost \$*
Organisational review	ARTD Pty Ltd	Strategic review of NSW Ombudsman Office (services over two financial years – total cost \$145,915)	115,916
Organisational review	Grisard Consulting	Strategic and operation advice to support the development and implementation of a new NSW Ombudsman structure	69,300
Organisational review	Third Horizon Consulting Pty Ltd	NSW Ombudsman’s business process analysis, re-engineering, and mapping	192,442
Total			377,658

*figure rounded to whole dollars

Figure 13: 2019–20 and 2018–19 All supplier accounts paid on time comparison

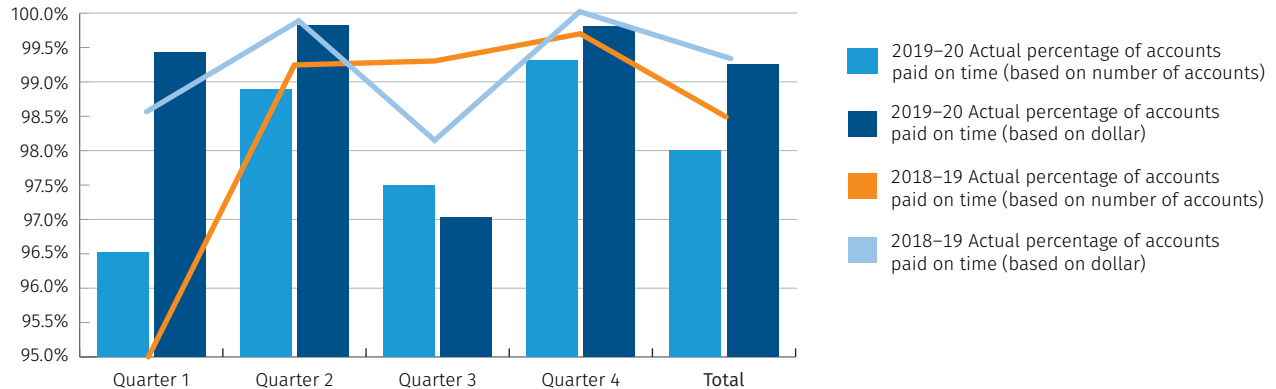
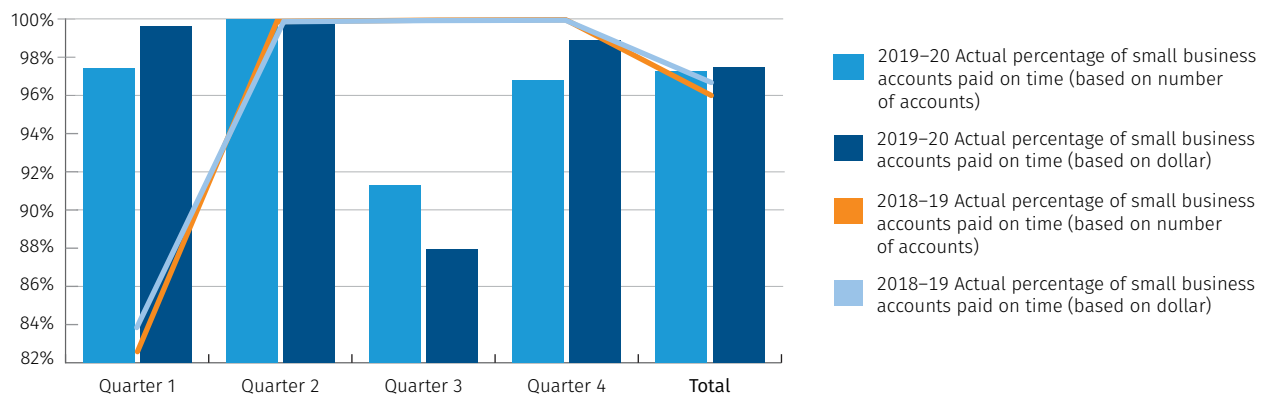


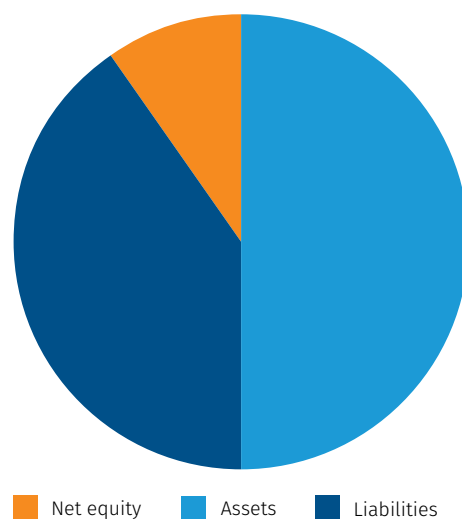
Figure 14: 2019–20 and 2018–19 Small business suppliers accounts paid on time comparison



A6.3. Financial position as at 30 June 2019

Our financial position is shown in Figure 15. Our financial position when compared to the 2017–18 year has been negatively impacted by a reduction in current assets by \$2.8 million and an improvement in liabilities by approximately \$1.5 million, resulting in a decrease in equity by approximately \$1.6 million.

Figure 15: Financial position as at 30 June 2019



A6.4. 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 are in the next section (pages 101–127).

Table 39: Analysis of accounts on hand at the end of each quarter

Quarter	Current (within due date)	< 30 days overdue	30–60 days overdue	61–90 days overdue	90 + days overdue	total accounts on hand
All suppliers						
September 2018		156,871	–	–	–	156,871
December 2018		90,954	–	–	–	90,954
March 2019		155,532	–	–	–	155,532
June 2019		119,188	–	–	–	119,188
Small businesses						
September 2018		33	–	–	–	33
December 2018		4,707	–	–	–	4,707
March 2019		2,983	–	–	–	2,983
June 2019		–	–	–	–	–

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The background of the page is a vibrant blue color with a complex, repeating geometric pattern. The pattern consists of interlocking, three-dimensional-looking shapes that resemble a honeycomb or a series of overlapping planes, creating a sense of depth and texture. The lighting is directional, casting shadows that emphasize the three-dimensional quality of the pattern.

Ombudsman's financial statements

In this part, we provide the audited financial statement of the Ombudsman's Office.



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 comprehensive income for the year ended 30 June 2019, the Statement of financial position as at 30 June 2019, the Statement of changes in equity and the Statement of cash flows, for the year then ended, notes comprising a Statement 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 2019, 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.

Other Information

The Ombudsman's Office annual report for the year ended 30 June 2019 includes other information in addition to the financial statements and my Independent Auditor's Report thereon. The Ombudsman is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by the Ombudsman.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

The Ombudsman's Responsibilities for the Financial Statements

The 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 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 Ombudsman is responsible for assessing the Ombudsman Office's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting except where the Ombudsman Office's operations will cease as a result of an administrative restructure.

Auditor's Responsibilities 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/financial report] 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 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.

A handwritten signature in cursive script, appearing to read 'D. Ryan'.

Dominika Ryan
Director, Financial Audit Services

Delegate of the Auditor-General for New South Wales

30 September 2019
SYDNEY

ABN 76 325 886 267

Level 24, 580 George Street, Sydney NSW 2000

T 02 9286 1000

Tollfree 1800 451 524

www.ombo.nsw.gov.au



30 September 2019

Statement by the Ombudsman

Pursuant to section 45F of the *Public Finance and Audit Act 1983* and to the best of my knowledge and belief I state that:

- (a) the accompanying financial statements have been prepared in accordance with the provisions of the Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the *Public Finance and Audit Act 1983*, the Public Finance and Audit Regulation 2015 and Treasurer's Directions issued under the Act.
- (b) the financial statements exhibit a true and fair view of the financial position of the Ombudsman's Office as at 30 June 2019, 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.

A handwritten signature in black ink, appearing to be "MB".

Michael Barnes
Ombudsman

Ombudsman's Office

Statement of comprehensive income for the year ended 30 June 2019

	Notes	Actual 2019 \$'000	Budget 2019 \$'000	Actual 2018 \$'000
Expenses				
Employee related expenses	2(a)	25,148	25,711	27,303
Operating expenses	2(b)	5,174	4,220	5,825
Depreciation and amortisation	2(c)	780	2,187	1,470
Finance Cost	2(d)	7	13	1
Total Expenses		31,109	32,131	34,599
Revenue				
Appropriations	3(a)	26,584	27,113	29,657
Sale of goods and services	3(b)	853	1,018	1,070
Grants and contributions	3(c)	505	-	5,340
Acceptance by the Crown Entity of employee benefits and other liabilities	3(d)	1,432	908	1,334
Other income	3(e)	142	-	40
Total Revenue		29,516	29,039	37,441
Gain/(loss) on disposal	4	(1)	-	(20)
Net result		(1,594)	(3,092)	2,822
Other comprehensive income				
Total other comprehensive income		-	-	-
Total comprehensive income		(1,594)	(3,092)	2,822

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of financial position as at 30 June 2019

	Notes	Actual 2019 \$'000	Budget 2019 \$'000	Actual 2018 \$'000
Assets				
Current Assets				
Cash and cash equivalents	6	763	906	3,109
Receivables	7	936	971	1,392
Total Current Assets		1,699	1,877	4,501
Non-Current Assets				
Plant and equipment	8	2,265	1,363	2,745
Intangible assets	9	1,010	861	865
Total Non-Current Assets		3,275	2,224	3,610
Total Assets		4,974	4,101	8,111
Liabilities				
Current Liabilities				
Payables	10	411	316	592
Provisions	11	2,395	2,705	2,586
Other current liabilities	12	454	737	1,638
Total Current Liabilities		3,260	3,758	4,816
Non-Current Liabilities				
Provisions	11	750	739	737
Total Non-Current Liabilities		750	739	737
Total Liabilities		4,010	4,497	5,553
Net Assets/(Liabilities)		964	(396)	2,558
Equity				
Accumulated funds		964	(396)	2,558
Total Equity		964	(396)	2,558

The accompanying notes form part of these financial statements

Ombudsman's Office

Statement of changes in equity for the year ended 30 June 2019

	Notes	Accumulated funds 2019 \$'000	Accumulated funds 2018 \$'000
Balance at 1 July		2,558	(324)
Net result for the year		(1,594)	2,822
Total comprehensive income for the year		964	2,498
Transaction with owners in their capacity as owners			
Increase/(decrease) in net assets from equity transfer	19	–	60
Balance at 30 June		964	2,558

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of cash flows for the year ended 30 June 2019

	Notes	Actual 2019 \$'000	Budget 2019 \$'000	Actual 2018 \$'000
Cash flows from operating activities				
Payments				
Employee related		(23,825)	(24,817)	(25,773)
Other		(7,265)	(5,846)	(8,211)
Total Payments		(31,090)	(30,663)	(33,984)
Receipts				
Appropriations		26,584	27,113	29,657
Sale of goods and services		853	1,018	1,070
Grants and contributions		505	–	5,340
Other		1,248	910	2,490
Total Receipts		29,190	29,041	38,557
Net cash flows from operating activities	14	(1,900)	(1,622)	4,573
Cash flows from investing activities				
Purchase of plant and equipment		(51)	(576)	(2,386)
Purchase of intangible assets		(395)	(230)	(265)
Net cash flows from investing activities		(446)	(806)	(2,651)
Net increase/(decrease) in cash		(2,346)	(2,428)	1,922
Opening cash and cash equivalents		3,109	3,334	1,187
Closing cash and cash equivalents	6	763	906	3,109

The accompanying notes form part of these financial statements.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

1 Summary of Significant Accounting Policies

(a) Reporting entity

The Ombudsman's Office (Office) is a NSW government entity and is controlled by the State of New South Wales, which is the ultimate parent. 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 independent of the government and agencies and non-government organisations that we oversight.

The Office is a not-for-profit entity (as profit is not its principal objective) and the Office has 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 2019 have been authorised for issue by the Ombudsman on 30 September 2019.

(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 Treasurer's Directions issued under the Act.

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 which is the Office's presentation and functional currency. 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.

(c) Statement of Compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Insurance

Our insurance activities are conducted through the NSW Treasury Managed Fund, the Scheme of self-insurance for Government entities. The expense (premium) is determined by the Fund manager, and is calculated by our past claims experience, overall public sector experience and ongoing actuarial advice.

(e) Accounting for the Goods and Services Tax (GST)

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 component of cash flows arising from investing and financing activities which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

(f) Revenue recognition and measurement

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 Office 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.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

(ii) Rendering of services

Revenue from the rendering of services such as conducting training programs, is recognised when the service is provided.

(iii) Grants and other contributions

Income from grants (other than contributions by owners) is recognised when the Office obtains control over the contribution. The Office is deemed to have assumed control when the grant is received or receivable. Contributions are recognised at their fair value. Contributions of services are recognised when and only when a fair value of those services can be reliably determined and the services would be purchased if not donated.

(g) Assets

(i) Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by us. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Fair value is the 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 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 to the Office.

All material identifiable components of assets are depreciated separately over their useful lives.

Depreciation rates used:

- Plant and equipment 20%-25% (2019 and 2018)
- Furniture & fittings 10% (2019 and 2018)
- Leasehold improvements Useful life of 10 years or to the end of the lease, if shorter.

(v) Revaluation of 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 Office has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

(vi) Maintenance

The costs of day-to-day servicing or maintenance are charged as expenses as incurred, except where they relate to the replacement or an enhancement of a part or component of an asset, in which case the costs are capitalised and depreciated.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

(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.

(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%. The amortisation period and the amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.

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) Fair value hierarchy

A number of the Office's accounting policies and disclosures require the measurement of fair values, for both financial and non-financial assets and liabilities.

The Office is using depreciated historical cost to measure plant and equipment as it presents an approximation of fair value of plant and equipment.

(x) Financial Assets

(a) Recognition and measurement of receivables

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

(b) Subsequent measurement under AASB 9 (from 1 July 2018)

The Office holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. 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.

(c) Subsequent measurement under AASB 139 (for comparative period ended 30 June 2018)

Subsequent measurement is at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

(d) Impairment under AASB 9 (from 1 July 2018)

The Office recognises an allowance for expected credit losses (ECLs) for all debt financial assets not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows and the cash flows that the Office expects to receive, discounted at the original effective interest rate.

For trade receivables, the Office applies a simplified approach in calculating ECLs. The Office recognises a loss allowance based on lifetime ECLs at each reporting date. The Office has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward-looking factors specific to the receivable.

(e) Impairment under AASB 139 (for comparative period ended 30 June 2018)

Receivables are subject to an annual review for impairment. These are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows have been affected.

The Office first assesses whether impairment exists individually for receivables that are individually significant, or collectively for those that are not individually significant. Further, receivables are assessed for impairment on a collective basis if they were assessed not to be impaired individually.

The amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the original effective interest rate. The amount of the impairment loss is recognised in the net result for the year.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

Any reversals of impairment losses are reversed through the net result for the year, if objectively related to an event occurring after the impairment was recognised. Reversals of impairment losses cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

(h) Liabilities

(i) Payables

These amounts represent liabilities for goods and services provided to us as well as other amounts. Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. 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. Gains and losses are recognised in the net result when the liabilities are derecognised as well as through the amortisation process.

(ii) Employee benefits and related on costs

(a) Salaries and wages, annual leave, sick leave

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% 2018)) 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. All annual leave is classified as a current liability even where the Office does not expect to settle the liability within 12 months as the Office does not have an unconditional right to defer settlement.

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.

(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 the present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using Commonwealth government bond rate at the reporting date.

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

Provisions are recognised when: the Office 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 3% (2018: 3%), 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. When discounting is used, the increase in the provision due to the passage of time (i.e. unwinding of discount rate) is recognised as a finance cost.

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

(i) Equity

(a) Accumulated funds

The category 'Accumulated Funds' includes all current and prior period retained funds.

(b) Equity transfer-recognition and measurement

The transfer of net assets between entities as a result of an administrative restructure, transfers of programs/ functions and parts thereof between NSW public sector entities 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 entities 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 Office recognises the asset at the transferor's carrying amount. Where the transferor is prohibited from recognising internally generated intangibles, the Office does not recognise that asset. Refer Note 19 for further information.

(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.

(k) Changes in accounting policy, including new or revised Australian Accounting Standards

(i) Effective for the first time in 2018-2019

The Office has adopted AASB 9 Financial Instruments (AASB 9), which resulted in changes in accounting policies in respect of recognition, classification and measurement of financial assets and financial liabilities; derecognition of financial instruments; impairment of financial assets and hedge accounting. AASB 9 also significantly amends other standards dealing with financial instruments such as the revised AASB 7 Financial Instruments: Disclosures (AASB 7R).

The Office applied AASB 9 retrospectively but has not restated the comparative information which is reported under AASB 139 Financial Instruments: Recognition and Measurement (AASB 139). Any differences arising from the adoption of AASB 9 have been recognised directly in accumulated funds and other components of equity.

(a) Classification and measurement of financial instruments

On 1 July 2018 (the date of initial application of AASB 9), the entity's management has assessed which business models apply to the financial assets held by the entity and has classified its financial instruments into the appropriate AASB 9 categories. The assessment of whether contractual cash flows on debt instruments are solely comprised of principal and interest was made based on the facts and circumstances as at the initial recognition of the assets. The classification and measurement requirements of AASB 9 did not have a significant impact to the Office. The Office continued measuring at fair value, all financial assets previously held at fair value under AASB 139.

The following are the changes in the classification of the entity's financial assets:

- Trade receivables and other financial assets (i.e., term deposits) classified as 'Loans and receivables' under AASB 139 as at 30 June 2018 are held to collect contractual cash flows representing solely payments of principal and interest. At 1 July 2018, these are classified and measured as debt instruments at amortised cost.
- The Office has not designated any financial liabilities at fair value through profit or loss. There are no changes in the classification and measurement for the Office's financial liabilities.

b) Impairment

The adoption of AASB 9 changed the Office's accounting for impairment losses for financial assets by replacing AASB 139's incurred loss approach with a forward-looking expected credit loss (ECL) approach. AASB 9 requires the Office to recognise an allowance for ECLs for all debt instruments not held at fair value through profit or loss. There is no material impact to the Office on adopting the new impairment model.

(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.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

- AASB 15, AASB 2014-5, AASB 2015-8 and 2016-3, regarding Revenue from Contracts with Customers
- AASB 16 Leases
- AASB 17 Insurance Contracts
- AASB 1058 Income of Not-for-profit Entities
- AASB 2016-8 Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities
- AASB2017-6 Amendments to Australian Accounting Standards – Prepayment Features with Negative Compensation
- AASB 2018-2 Amendments to Australian Accounting Standards – Plan Amendment, Curtailment or Settlement
- AASB 2018-3 Amendments to Australian Accounting Standards – Reduced Disclosure Requirements
- AASB 2018-6 Amendments to Australian Accounting Standards – Definition of a Business
- AASB 2018-7 Amendments to Australian Accounting Standards – Definition of Material
- AASB 2018-8 Amendments to Australian Accounting Standards – Right-of-Use Assets of Not-for-Profit Entities

(iii) Impact of Standards issued but not yet effective

AASB 16 Leases replaces all existing leases requirements and applies to annual periods beginning on or after 1 January 2019. For lessees, the distinction between operating and finance leases will no longer exist. Instead, AASB 16 Leases will require lessees to account for practically all leases under a single on-balance sheet model in a similar way to finance leases under AASB 117 Leases. The standard includes two recognition exemptions for lessees – leases of 'low value' assets (e.g. personal computers below \$10,000) and short term leases (i.e. leases with a lease term of 12 months or less). At the commencement of a lease, a lessee will recognise a liability representing its obligation to make future lease payments and an asset representing its right of use to the underlying asset for the lease term. Lessees will be required to separately recognise interest expense on the lease liability and depreciation expense on the Right of Use asset rather than Operating Lease expense.

The lease expense recognition pattern for leases will generally be accelerated as compared to today. Some Statement of Financial Position metrics may also be impacted. Also, the Statement of Cash Flows for lessees will be affected as payments for the principal portion of the lease liability will be presented within financing activities.

NSW Treasury has mandated modified retrospective application of this accounting standard, which requires recognising the cumulative effect of initially applying the new requirements at the initial application.

The Office has two motor vehicles and office accommodation under lease arrangements. Based on the impact assessments the Office has undertaken on currently available information, the Office estimates additional lease liabilities of \$13.692 million and right-of-use assets of \$13.692 million will be recognised as at 1 July 2019 for leases in which the Office is a lessee. Most operating lease expenses will be replaced by depreciation of the right of use asset and interest on the lease liability. The impact on the statement of comprehensive income is expected to be \$127,000.

AASB 15 Revenue from Contracts with Customers applies to annual periods beginning on or after 1 January 2019 for not-for-profit entities. AASB 15 establishes a contract-based five-step analysis of transactions to determine the nature, amount and timing of revenue arising from contracts with customers. This new standard requires revenue to be recognised when control of the goods or services are transferred to the customer at the transaction price. This standard is unlikely to have a material impact on the Office's financial statements.

AASB 1058 Income of Not-for-Profit Entities applies to not-for-profit entities and is effective for annual periods beginning on or after 1 January 2019. This standard requires entities to recognise income where the consideration to acquire an asset, including cash, is significantly less than the fair value principally to enable the entity to further its objectives. Under this standard, the timing of income recognition may be impacted depending on whether there is a liability or other performance obligation associated with the acquired asset, including cash. AASB 1058 also requires government entities to recognise income for volunteer services received if the fair value of those services can be measured reliably and the services would have been purchased if they had not been donated. This is consistent with current practice under AASB 1004 Contributions. This standard is unlikely to have a material impact on the Office's financial statements.

(iv) Going concern

The Office is a 'going concern' public sector entity. The Office receives a Parliamentary appropriation as outlined in the NSW Budget Papers for 2018-2019 on an 'as needs' basis from the Crown Entity.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

	2019 \$'000	2018 \$'000
2 Expenses		
(a) Employee related expenses		
Salaries and wages (including annual leave)*	20,742	22,177
Superannuation - defined benefit plans	226	214
Superannuation - defined contribution plans	1,641	1,757
Long service leave	1,194	1,108
Workers' compensation insurance	60	69
Payroll tax and fringe benefit tax	1,285	1,367
Redundancy	-	611
	25,148	27,303
(b) Operating expenses include the following:		
Auditor's remuneration - audit of the financial statements	36	33
Operating lease rental expense - minimum lease payments	1,821	2,055
Insurance	28	26
Fees	746	890
Telephones	71	135
Stores	73	194
Training	278	425
Printing	21	43
Travel	474	468
Consultants	377	154
Other contractors	478	604
Maintenance - non-employee related*	477	381
Other	294	417
	5,174	5,825
* Reconciliation - Total maintenance		
Maintenance expenses - contracted labour and other	477	381
Employee related maintenance expense included in Note 2(a)	82	80
Total maintenance expenses included in Notes 2(a) and 2(b)	559	461
(c) Depreciation and amortisation expense		
Depreciation		
Plant and equipment	184	169
Leasehold Improvements	324	1,050
Furniture and Fittings	22	16
Total depreciation expense	530	1,235
Amortisation		
Software	250	235
Total amortisation expense	250	235
Total depreciation and amortisation expenses	780	1,470
(d) Finance cost		
Unwinding of discount on provisions	7	1
	7	1

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

3 Revenue

Summary of Compliance

(a) Appropriations and Transfers to the Crown Entity

Original Budget per Appropriation Act

Other Appropriations/Expenditure

- Section 24 PFAA - transfers of functions between entities

- Transfers from another entity (per section 27 of the Appropriations Act)

Total Appropriations Expenditure/ Net Claim on Consolidated Fund

Appropriation drawn down

Liability to Consolidated Fund

Appropriations

Recurrent

Capital

	2019 \$'000		2018 \$'000	
	Appropriation	Expenditure	Appropriation	Expenditure
Original Budget per Appropriation Act	27,113	26,584	34,255	33,367
Other Appropriations/Expenditure				
- Section 24 PFAA - transfers of functions between entities	-	-	(3,710)	(3,710)
- Transfers from another entity (per section 27 of the Appropriations Act)	263	-	-	-
Total Appropriations Expenditure/ Net Claim on Consolidated Fund	27,376	26,584	30,545	29,657
Appropriation drawn down		26,584		29,657
Liability to Consolidated Fund		-		-
Appropriations				
Recurrent	26,936	26,139	28,636	27,884
Capital	440	445	1,909	1,773
	27,376	26,584	30,545	29,657

(b) Sale of goods and services

Rendering of services

(c) Grants and contributions

Crown Entity funded redundancies

Disability Reportable Incidents - Grant from Department of Family & Community Services

Managing unreasonable complaint conduct practice manual - Grant from Ombudsman of other states

Disability Rights Project - Joint Advisory Committee cost share from project partners

Complex Needs Project - Grant from Department of Family & Community Services

National Disability Insurance Scheme - Grant from Department of Family & Community Services

(d) 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

• Long service leave provision

• Payroll tax on superannuation

	2019 \$'000	2018 \$'000
Rendering of services	853	1,070
	853	1,070
Crown Entity funded redundancies	-	418
Disability Reportable Incidents - Grant from Department of Family & Community Services	505	3,869
Managing unreasonable complaint conduct practice manual - Grant from Ombudsman of other states	-	26
Disability Rights Project - Joint Advisory Committee cost share from project partners	-	7
Complex Needs Project - Grant from Department of Family & Community Services	-	593
National Disability Insurance Scheme - Grant from Department of Family & Community Services	-	427
	505	5,340
Superannuation - defined benefit	226	214
Long service leave provision	1,194	1,108
Payroll tax on superannuation	12	12
	1,432	1,334

The movement in long service leave is the result of an actuarial review.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

	2019 \$'000	2018 \$'000
(e) Other income		
Miscellaneous	142	40
	142	40
4 Gain/(loss) on disposal		
Gain/(loss) on disposal of plant and equipment	(1)	(20)
	(1)	(20)
5 Program groups of the Office		
<p>The Ombudsman's Office operates under one program group - the independent resolution, investigation or oversight of complaints and notifications 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	763	3,109
	763	3,109
<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> <ul style="list-style-type: none"> • Cash and cash equivalents (per statement of financial position) • Closing cash and cash equivalents (per statement of cash flows). 		
	763	3,109
	763	3,109
<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	95	167
Workshops and other	37	53
GST receivable	76	84
Prepayments	538	709
Lease incentive receivable	190	379
	936	1,392
<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 2019

8 Non-current assets – plant and equipment	Plant and equipment \$'000	Leasehold improvements \$'000	Furniture and fittings \$'000	Total \$'000
At 1 July 2018 - fair value				
Gross carrying amount	1,490	5,055	390	6,935
Accumulated depreciation	(904)	(3,074)	(212)	(4,190)
Net carrying amount	586	1,981	178	2,745
At 30 June 2019 - fair value				
Gross carrying amount	1,134	5,094	390	6,618
Accumulated depreciation	(725)	(3,394)	(234)	(4,353)
Net carrying amount	409	1,700	156	2,265

Reconciliation

A reconciliation of the carrying amount of each class of assets at the beginning of and end of reporting period is set out below:

Year ended 30 June 2019				
Net carrying amount at beginning of year	586	1,981	178	2,745
Additions	8	43	–	51
Disposals	(1)	–	–	(1)
Depreciation expense	(184)	(324)	(22)	(530)
Net carrying amount at end of year	409	1,700	156	2,265

At 1 July 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

At 30 June 2018 - fair value

Gross carrying amount	1,490	5,055	390	6,935
Accumulated depreciation	(904)	(3,074)	(212)	(4,190)
Net carrying amount	586	1,981	178	2,745

Reconciliation

A reconciliation of the carrying amount of each class of assets at the beginning of and end of reporting period is set out below:

Year ended 30 June 2018

Net carrying amount at beginning of year	184	1,329	82	1,595
Additions	571	1,703	112	2,386
Disposals	–	(1)	–	(1)
Depreciation expense	(169)	(1,050)	(16)	(1,235)
Net carrying amount at end of year	586	1,981	178	2,745

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

9 Non-current assets – intangible assets	1 July 2017 \$'000	30 June 2018 \$'000	1 July 2018 \$'000	30 June 2019 \$'000
Software				
Gross carrying amount	2,393	2,467	2,467	2,789
Accumulated amortisation	(1,539)	(1,602)	(1,602)	(1,779)
Net carrying amount	854	865	865	1,010

Reconciliation

A reconciliation of the carrying amount of each class of assets at the beginning and end of the reporting period is set out below:

	2019 \$'000	2018 \$'000
Net carrying amount at beginning of year	865	854
Impairment losses	–	(19)
Additions	395	265
Amortisation expense	(250)	(235)
Net carrying amount at end of year	1,010	865

All intangibles were acquired separately and there are no internally developed intangible assets.

10 Current liabilities – payables

Accrued salaries, wages and on-costs	234	158
Creditors	177	434
	411	592

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	1,173	1,388
Annual leave loading	224	248
Provision for related on-costs on annual leave	155	184
Provision for related on-costs on long service leave	843	766
Total current provisions	2,395	2,586

Non-current provisions

Provision for related on-costs on long service leave	73	67
Provision for make-good	677	670
Total non-current provisions	750	737

Movement in make good Provision

Carrying amount at the beginning of financial year	670	669
Unwinding/change in discount rate	7	1
Carrying amount at the end of financial year	677	670

The provision for make good is a non-current liability and was recognised for the estimate of future payments for make good upon termination of the current accommodation lease. The new five year lease will commence in October 2019.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

	2019 \$'000	2018 \$'000
Aggregate employee benefits and related on-costs		
Provisions - current	2,395	2,586
Provisions - non-current	73	67
Accrued salaries, wages and on-costs (Note 10)	234	158
	2,702	2,811

The value of annual leave and associated on-costs expected to be taken within 12 months is \$1.552 million (2018: \$1.82 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 \$92,000 (2018: \$83,000) and \$824,000 (2018: \$75,000) after 12 months.

12 Current liabilities – other

Current

Unearned revenue	23	52
Lease Incentive Liability	431	1,586
	454	1,638

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 2018-2019, the lease incentive liability was reduced by \$1.155 million due to depreciation on lease incentive assets and applying the lease liability as a rent reduction from April to June 2019.

13 Commitments for expenditure

Operating lease commitments

Entity as lessee

Future minimum rentals payable under non-cancellable operating lease as at 30 June are, as follows:

Within one year	4,193	3,566
Later than one year and not later than five years	19,494	876
Later than five years	1,415	-
Total (including GST)	25,102	4,442

The total operating lease commitments include GST input tax credits of \$2.282 million (2018: \$404,000) which are expected to be recoverable from the Australian Taxation Office.

The current five year accommodation lease was negotiated and signed by the then Government Property NSW commenced in October 2014. The new lease will commence in October 2019 for a period of five years.

14 Reconciliation of cash flows from operating activities to net result

Net cash used on operating activities	(1,900)	4,573
Depreciation and amortisation	(780)	(1,470)
Decrease/(increase) in provisions	178	(130)
Increase/(decrease) in prepayments	(171)	64
Decrease/(increase) in payables	181	(59)
Increase/(decrease) in receivables	(285)	(797)
Decrease/(increase) in other liabilities	1,184	721
Net gain/(loss) on disposal of assets	(1)	(20)
Decrease/(increase) in net asset from equity transfer	-	(60)
Net result	(1,594)	2,822

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

15 Budget review

Net result

There are a number of factors that resulted in a slightly better Net Result than budget. Firstly, it was announced in the 2018-19 State Budget that an increase in the efficiency dividend of 1% or \$277,000 would be applied from 2018-19 for four years. This efficiency dividend is an annual budget reduction for all NSW Government entities.

The Office obtained approval to carry forward \$37,000 in Grant money received in 2017-18 to finalise our 'complex needs' project. The Office also obtained a \$263,000 supplementation during the year to implement the capacity building recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

In March 2019, the Office received \$505,000 in Grant funding from the Department of Family and Community Services to continue the disability reportable incidents function until September 2020 having previously received funding until June 2019. The Office obtained approval to carry forward these funds to 2019-20 (\$402,000) and 2020-21 (\$103,000).

Training revenue was \$165,000 lower than budget, due to reduced demand for disability related training following the transition of some disability functions to the National Disability Insurance Scheme Quality and Safeguards Commission.

The Office had \$524,000 higher than budgeted Acceptance by the Crown Entity of Employee benefits (a non-cash revenue item). This offsets the increased long service liability recognised in Employee related expenses as a result of the annual actuarial review by Treasury.

Overall, total revenue was \$477,000 higher than budget. Total expenses were \$269,000 higher than budget mostly due to the Treasury's actuarial adjustment on long service leave mentioned above. The Office transferred some of our Employee related expense budget to other operating expense budget, which allowed us to engage contractors and consultants to support our core work including supporting the capacity-building project. The Office also engaged consultants to undertake a strategic review of the Office.

Depreciation expenses were \$1.407 million lower than budget as the Office decided to claim our remaining lease incentives as a rent deduction and extend the depreciation period for leasehold improvements over the life of the new lease ie. a further 5 years. This then increases the service potential of the asset from 1 year to 6 years.

Assets and liabilities

Overall, net liabilities were \$873,000 higher than budget due to the realignment of depreciation from 1 year to 6 years as stated above. This was offset by the Office having \$143,000 less cash than expected.

Total liabilities were \$487,000 lower than budget due to lower provisions for employee entitlements and the impact on the lease incentive liability on applying \$190,000 of lease incentives as a rent reduction.

As at 30 June 2019 our total assets exceeded our total liabilities by \$964,000.

Cash flows

Net cash flow from operating activities was \$278,000 higher than budget due to the engagement of consultants and contractors for the capacity-building project and strategic review of the Office. Receipts were \$149,000 higher than expected partially due to revenue received in advance for the disability reportable incident function.

Net cash flow for investing activities were \$360,000 lower than budget as the Office claimed \$190,000 of lease incentives as rent reductions rather than utilising it for leasehold improvements.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

16 Related Party Disclosure

There were eight key management personnel (KMP) in the Office during the year (two KMP in 2018). Compensation for these KMP is as follows:

	2019 \$'000	2018 \$'000
Short term employee benefits	1,976	539
Termination benefits	49	–
Post-employment benefits	164	45
Other long term employee benefits	145	47
Total Remuneration	2,334	631

Following changes to the terms of reference for our executive leadership group, we reviewed the application of AASB 124 Related Party Disclosures. The Office agreed that in addition to the Ombudsman, all the executives meet the definition of Key Management Personnel (KMP). This significantly increases the number of KMP and accordingly increases the KMP compensation reported in this note.

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 and qualitative 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. 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

As at 30 June 2019 under AASB 9

Class	Note	Category	Carrying Amount
			2019 \$'000
Financial assets			
Cash and cash equivalents	6	N/A	763
Receivables ¹	7	Amortised at cost	322
Financial Liabilities			
Payables ²	10	Measured at amortised cost	411

Notes

¹ Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

² Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

As at 30 June 2018 under AASB 139

Class	Note	Category	Carrying Amount
			2018 \$'000
Financial assets			
Cash and cash equivalents	6	N/A	3,109
Receivables ¹	7	Receivables (at amortised cost)	599
Financial Liabilities			
Payables ²	10	Financial liabilities measured at amortised cost	592

Notes

¹ Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

² Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

The Office determines the classification of its financial assets and liabilities after initial recognition and when allowed and appropriate, re-evaluates this at each financial year end.

(b) Financial risk

(i) 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). The credit risk is managed through the selection of counterparties and establishing minimum credit rate 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.

(ii) Cash

Cash comprises cash on hand and bank balances within the Treasury banking system.

(iii) Receivables – trade debtors

(a) Accounting policy for impairment of trade debtors and other financial assets under AASB 139 (comparative period only).

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. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. No interest is earned on trade debtors. The carrying amount approximates fair value. Sales are made on 14-day terms. The Office is not materially exposed to concentration of credit risk to a single debtor or group of debtors as at 30 June 2018. For the comparative period 30 June 2018, the ageing analysis of trade debtors is as follows:

	2018 \$'000
Neither Past due nor impaired	6
Past due but not impaired	
< 3 months overdue	47
3 months - 6 months overdue	-
> 6 months overdue	-
	53
impaired	
< 3 months overdue	-
3 months - 6 months overdue	-
> 6 months overdue	-
	-
Total receivables - gross of allowance for impairment	53

* The ageing analysis excludes statutory receivables and prepayments, as these are not within the scope of AASB 7. Therefore, the 'total' will not reconcile to the receivables total recognised in Note 7.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

(b) Accounting policy for impairment of trade debtors and other financial assets under AASB 9

Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. The Office applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade debtors. To measure the expected credit losses, trade receivables have been grouped based on shared credit risk characteristics and the days past due.

The expected loss rates are based on historical observed loss rates. The historical loss rates are adjusted to reflect current and forward-looking information on macroeconomic factors affecting the ability of the customers to settle the receivables. The Office has identified GDP and the unemployment rate to be the most relevant factors, and accordingly adjusts the historical loss rates based on expected changes in these factors.

Trade debtors are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include, amongst others a failure to make contractual payments for a period of greater than 365 days past due.

The loss allowance for trade debtors as at 30 June 2019 and 1 July 2018 (on adoption of AASB 9) was determined as follows:

	30 June 2019 \$'000				Total
	Current	< 30 days	61-90 days	> 91 days	
Expected credit loss rate	-	-	-	-	-
Estimated total gross carrying amount at default	8	29	-	-	37
Expected credit loss	-	-	-	-	-
	1 July 2018 \$'000				Total
	Current	< 30 days	61-90 days	> 91 days	
Expected credit loss rate	-	-	-	-	-
Estimated total gross carrying amount at default	6	47	-	-	53
Expected credit loss	-	-	-	-	-

* The analysis excludes statutory receivables, prepayments, as these are not within the scope of AASB 7. Therefore, the 'total' will not reconcile to the receivables total in Note 7. The entity is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors as at 30 June 2019..

(iv) 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 Office'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

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 payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For 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.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

The table below summarises the maturity profile of our financial liabilities based on contractual undiscounted payments, together with the interest rate exposure.

Payables	Nominal amount# \$'000	Interest rate exposure			Maturity dates		
		Fixed interest rate	Variable interest rate	Non-interest bearing	< 1 yr	1-5 yrs	5 yrs
2019							
Accrued salaries, wages and on-costs	234	-	-	234	234	-	-
Creditors	177	-	-	177	177	-	-
Total	411	-	-	411	411	-	-
2018							
Accrued salaries, wages and on-costs	158	-	-	158	158	-	-
Creditors	434	-	-	434	434	-	-
Total	592	-	-	592	592	-	-

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 amounts in the the statement of financial position.

(v) 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 profit 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 reporting date. The analysis is performed on the same basis as for 2018. The analysis assumes that all other variables remain constant.

	-1%		+1%	
	Net Result \$'000	Equity \$'000	Net Result \$'000	Equity \$'000
2019				
Financial assets				
Cash and cash equivalents	(8)	(8)	8	8
2018				
Financial assets				
Cash and cash equivalents	(31)	(31)	31	31

(c) Fair value recognised in the statement of financial position

Management assessed that cash, trade receivables, trade payables, and other current liabilities approximate their fair values largely due to the short-term maturities of these instruments.

18 Contingent liabilities and Contingent assets

There are no contingent assets or liabilities for the year ended 30 June 2019 (2018: nil).

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2019

19 Equity Transfer

There were no Equity Transfers in 2019. In 2018 the Law Enforcement Conduct Commission (LECC), commenced operations on 1 July 2017. It replaced the Police Integrity Commission and the police complaints division of the Ombudsman's Office. The Ombudsman's law enforcement related compliance work was transferred to the Office of the Inspector of the LECC, also from 1 July 2017. Funding was transferred to the LECC (\$3.455 million) and to the Department of Premier and Cabinet (DPC) (for the Office of the Inspector of the LECC) (\$255,000) under Section 24 of the Public Finance and Audit Act in October 2017. In addition to the transfer of funding, adjustments were made to equity when the Office transferred net assets, reducing the Officers' leave liabilities provision for staff transferred to LECC (\$43,000) and DPC (\$17,000) and increased equity by \$6,000.

20 Events after the reporting period

On 1 July 2019, the Ageing and Disability Commission (ADC) was established. The official community visitor (OCV) program that the Ombudsman administers will transfer to the ADC in the 2019-20 financial year. This transfer includes a transfer of funding, staff supporting the scheme, IT systems and records.

In October 2018, the NSW government announced that it would transfer the reportable conduct scheme under Part 3A of the Ombudsman Act 1974 from the Ombudsman to the Children's Guardian. By transferring the reportable conduct function, there will be greater integration and streamlining of oversight arrangements for safeguarding children in NSW and will remove duplication that currently occurs. Bringing the functions under one roof will deliver a cohesive approach to auditing, researching, reviewing and capacity building with the many thousands of agencies operating in this sphere. The proposed transfer date was 1 July 2019 however this was not achieved. It is expected that the scheme will transfer at some stage in the 2019-20 financial year. This transfer includes a transfer of funding, staff supporting the scheme, IT systems and records.

End of the audited financial statements

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NSW Ombudsman – serving the community

- 1974–75** The Office of the Ombudsman was created in legislation and our office established. For the first time, NSW citizens had a single independent body to make complaints to about government services.
- 1976** Local councils come under Ombudsman’s jurisdiction.
- 1980** Public sector agencies accept the general principle that reasons should be given where they deny liability.
- 1984** The office was given statutory independence when declared an ‘administrative office’ rather than part of the Premier’s Department.
- 1985** The office was given the power to conduct direct investigations of complaints against police officers.
- 1990** A parliamentary joint committee was established to oversee our operations.
- 1994** The *Protected Disclosures Act 1994* commenced, giving the Ombudsman authority to receive and investigate disclosures from public sector staff about maladministration.
- 1995** Our functions under the *Witness Protection Act 1995* began. We published the first comprehensive guidelines on good conduct and administration in the public sector.
- 1997** The office was given responsibility for monitoring compliance by law enforcement agencies with accountability mechanisms relating to undercover operations.
- 1998** Employment-related child protection functions come under the Ombudsman’s jurisdiction. Government and some non-government agencies are obligated to notify us of allegations of child abuse made against their employees. Our office was also given the function of reviewing the implementation of legislative changes to police powers. By 2005, this review function was effected for 17 separate changes to legislation.
- 2002** The Community Services Commission merged with our office, expanding our jurisdiction to cover both government and non-government organisations providing community services in NSW.
- 2003** Legislation was passed following the Wood Royal Commission to create a ‘reviewable deaths’ function within the office, involving certain children and people with a disability who died while in care.
- 2011** The Ombudsman takes on the role of Convenor of the NSW Child Death Review Team after the Team’s responsibilities were transferred from the NSW Commission for Children and Young People to our office. The Ombudsman was also given legislative responsibility for overseeing public interest disclosure legislation and the Public Interest Disclosures Steering Committee.
- 2014** An inaugural Deputy Ombudsman (Aboriginal Programs) was appointed to lead new functions and responsibilities for monitoring and assessing designated Aboriginal programs, including the NSW Government’s plan for Aboriginal affairs – OCHRE (Opportunity, Choice, Healing, Responsibility, Empowerment).
- The state’s new disability reportable incidents scheme commences under the Ombudsman’s jurisdiction.
- 2017** Responsibility for police complaints and law enforcement compliance are transferred to the Law Enforcement Conduct Commission (LECC).
- The current Ombudsman, Michael Barnes, commences his term.

