

Annual Report 2015–16

Year at a glance

Complaints and notifications

11,358
formal matters

we received
41,535
complaints and notifications

30,177
informal matters

Visits

35
correctional and juvenile justice centres

3,125
OCV program visits to residential services

51
regional and remote community visits

Our staff

3.73%
statutory
officers

69.35%

Investigation, project,
review officers or
inquiries staff

11.41%
investigative
support

2.53%
other training
and OCV
support

13.98%
Corporate

Our diversity

19.3%

staff whose first
language is not
English

73.77%

women

11.1%
staff with
disability

0.46%
workers
compensation
incidence
rate

3.2

days training
per staff
member

3%
Aboriginal &
Torres Strait
Islander

Financial summary over five years

Subject	11/12	12/13	13/14	14/15	15/16
Operating revenue	25,898	27,981	29,995	31,864	33,511
Operating expenses	26,962	26,908	29,280	32,535	34,400
Total assets	3,040	3,839	5,347	9,066	6,479
Total liabilities	3,274	3,000	3,803	7,594	6,620
Net result	-1,064	1,073	705	-755	(930)
Total equity	-234	839	1,544	789	(141)



Contents

Year at a glance		Human services	80
		Children and families	82
Ombudsman's message	1	NSW Child Death Review Team	96
		People with disability	104
About us	2	Working with Aboriginal communities	114
Who we are	2	Working with Aboriginal communities	116
Our structure	2		
Our senior executive	4	Community education and training	128
		Workshops	131
Managing our organisation	14	Community education and training	133
Corporate governance	16		
Supporting our business	33	Financials	136
Our people	34	Our financials	137
		Independent auditor's report	141
Police and compliance	40	Financial Statement	143
Police	42		
Compliance and inspections	52	Appendices	164
		Index	199
Public administration	54	Glossary	205
Departments and authorities	56		
Custodial services	68		
Local government	76		

Letter to the Legislative Assembly and Legislative Council

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

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

Dear Mr President and Madam Speaker

NSW Ombudsman annual report 2015–16

I am pleased to present our 41st annual report to the NSW Parliament. This report contains an account of our work for the 12 months ended 30 June 2016 and is made pursuant to ss 30 and 31 of the *Ombudsman Act 1974*.

As the convenor of the Child Death Review team, I have included in this report the information required by s 34F of the *Community Services (Complaints Reviews and Monitoring) Act 1993*.

The report also provides information that is required pursuant to the *Annual Reports (Departments) Act 1985*, *Annual Reports (Departments) Regulation 2005*, *Government Information (Public Access) Act 2009*, *Law Enforcement (Powers and Responsibilities) Act 2002* and s 31 of the *Public Interest Disclosures Act 1994*.

The report includes updated material on developments and issues current at the time of writing (July–September 2016).

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

Yours sincerely



Professor John McMillan AO
Acting Ombudsman

27 October 2016

Credits:

Editor: Winglark Pty Ltd. Proofreader/Indexer: Indexat. Photographer: Derek Bogart Photography.
Photographs sourced from existing stock. Printed inhouse.

Ombudsman's message



Each year the Ombudsman's annual report shows how the office makes a difference. The office helps individuals resolve problems with bureaucracy. It works with agencies to build stronger administrative safeguards for the community. And it passes on its experience and insights in law reform projects, training and other forums and discussions.

Case studies in this report illustrate the valuable assistance people got by contacting the Ombudsman in 2015–16. We persuaded an agency to withdraw a \$637 penalty notice that was issued to a person who inadvertently underpaid a debt by \$1. We encouraged a council to reconnect a family's water supply that was improperly disconnected at the request of the landlord. We intervened to stop two inmates having to work with broken asbestos. We arranged for the basketball courts at a remote school to remain open over the Christmas holiday period so that local children had a place to socialise. We conciliated a dispute between a mother and a school to facilitate a more co-operative schooling arrangement for her son. And we ensured that a prisoner with cerebral palsy was able to purchase special shoes.

We reviewed the way that police handled 1,667 individual complaints, and found deficiencies in 17% of cases. The NSW Police Force acted on our criticisms to respond differently to a range of improper police conduct – sexual harassment of a woman after a traffic stop, unlawful arrest, possession by an officer of child pornography, association of an officer with a convicted sex offender, and failure to respond appropriately to a report of domestic violence. In other cases police acted to pay a vehicle towing charge that was wrongly incurred, apologised for mocking a person with disability, and acted to obtain an apprehended domestic violence order.

We worked on an exciting new project to improve complaint handling across government and to achieve better integration between technology and complaint handling. The complaint handling improvement program is being developed jointly with the Customer Service Commissioner and the Department of Finance, Service and Innovation. There is strong support across government for the program, that builds on the Ombudsman's four decades of promoting improved complaint handling in NSW government.

The NSW Ombudsman is a national leader in administering reportable conduct schemes to prevent workplace child abuse and abuse and neglect of people with disability. In

addition to handling many hundreds of notifications in the past year, we worked for systemic improvement in other ways. In February 2016 we made a special report to the NSW Parliament, 'Strengthening the oversight of workplace child abuse', and held a reportable conduct forum attended by over 800 representatives from government and non-government sectors. We are assisting the rollout of the National Disability Insurance Scheme (NDIS) across Australia through input to the development of the NDIS Quality and Safeguarding Framework. Generally, we have worked with many agencies and individuals over the year to promote the need for a comprehensive and nationally consistent framework for reportable conduct and child and disability safeguards.

Other Ombudsman reports this year reviewed the adequacy of safeguards and systems for vulnerable groups. The annual report of the Child Death Review Team looked at causes and trends in child deaths registered in 2014, and highlighted special factors such as transport accidents, drowning, suicide and abuse. We tabled a special report to Parliament, 'Fostering economic development for Aboriginal people in NSW'. We marked twenty years of the Official Community Visitor scheme, administered by the Ombudsman's office, with a special report on this valuable scheme for independent oversight of residential care in NSW. A report to Parliament on the operation of the consorting law in NSW drew attention to the impact of the law on children, the homeless and Aboriginal people.

We contributed our practical experience to other reviews and law reform discussions, through a great many submissions and presentations. Topics that were covered included child abuse, complaint handling, public interest disclosures, elder abuse, the role and functions of the Public Guardian, and abuse and neglect of people with disability.

A topic of special focus for the office in the past year was the Government decision to establish a new Law Enforcement Conduct Commission (LECC) from January 2017. While disappointed at losing our police oversight jurisdiction, we have assisted Government in submissions and discussion on the structure, jurisdiction, powers, staffing and transitional arrangements for the new Commission. Our input builds on the enormous contribution that many Ombudsman staff have made to police oversight work over many decades.

The NSW Ombudsman's office works across a great variety of issues each year. We are in contact annually with tens of thousands of people in government, in the private and community sectors, and with individuals who turn to us for help. We are fortunate that that with few exceptions that interaction occurs in a respectful and constructive manner. This provides a strong platform for equally challenging work in 2016–17. I end by acknowledging that valuable support, from within and outside the office. I extend particular thanks to Ombudsman staff who have worked so effectively over many years in police oversight work and extend our strong support and collaboration to staff in the new Commission.

A handwritten signature in black ink, appearing to read 'John McMillan'. The signature is fluid and cursive, written on a white background.

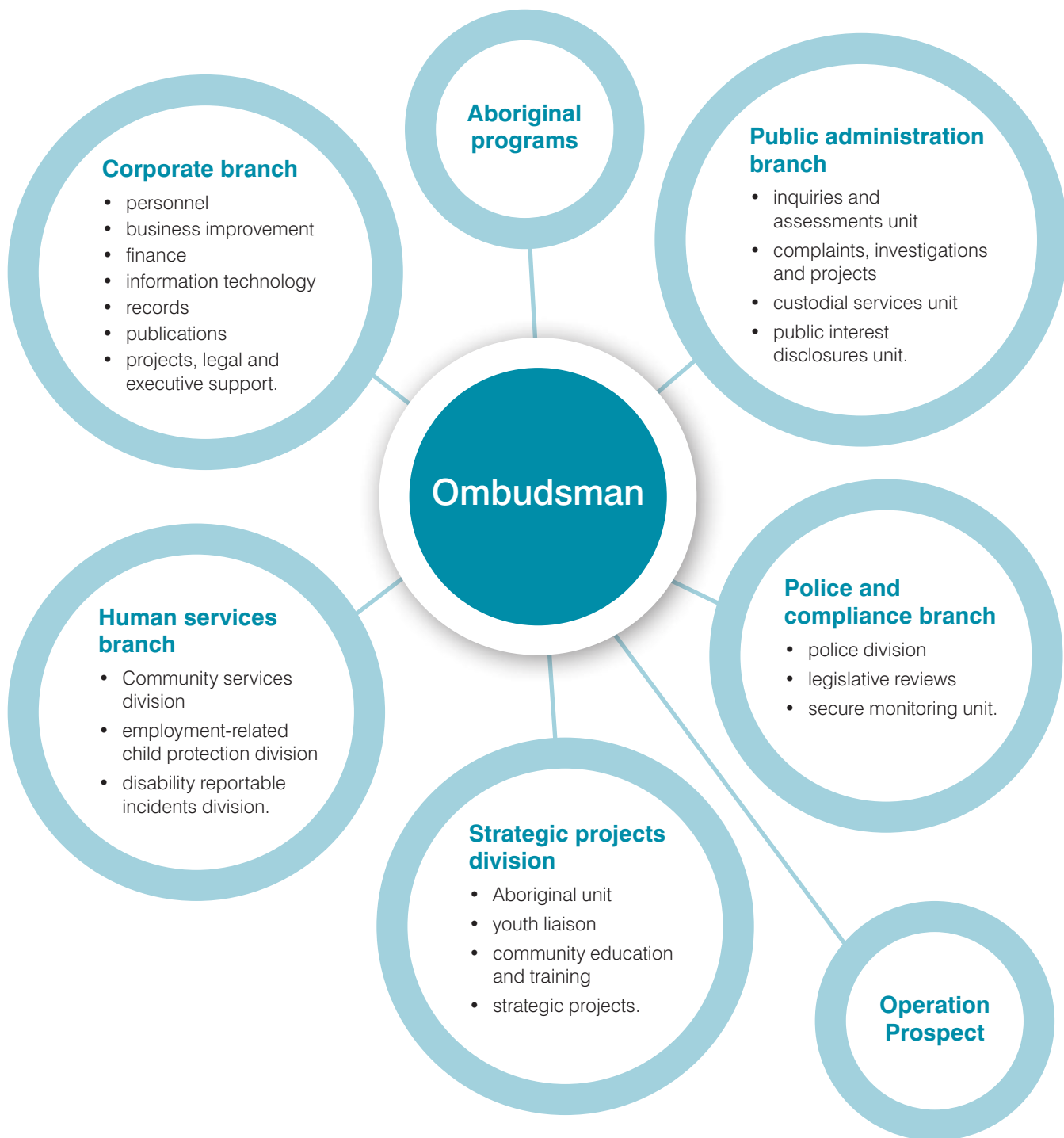
Professor John McMillan AO
Acting Ombudsman

About us

Who we are

The NSW Ombudsman is an impartial integrity body, independent of the government of the day and accountable to the community through the NSW Parliament. The office was established by the *Ombudsman Act 1974* (the Ombudsman Act).

Our structure





Our senior executive

Professor John McMillan AO

Acting Ombudsman

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

John is an Emeritus Professor at the Australian National University, where he taught administrative and constitutional law from 1983–2003. He has been a solicitor in private practice, a legal consultant to many parliamentary and governmental inquiries, and was active in public interest advocacy in promoting open government reform. He is a co-author of a leading student text, *Control of Government Action: Text, Cases and Commentary* (2015, 4th ed).

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

Steve Kinmond BA LLB, Dip Ed, Dip Crim.

Deputy Ombudsman

Community and Disability Services Commissioner

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

Steve leads the human services branch which includes the Community Services Division established by the *Community Services (Complaints, Review and Monitoring) Act 1993*. This branch receives and responds to complaints about community and disability services, and conducts inquiries into matters affecting people eligible to receive community and disability services and those who provide them.

The branch is responsible for the Ombudsman's monitoring and oversight functions under the reportable conduct scheme that applies to certain agencies providing care for children in NSW, and the disability reportable incident scheme that oversees the handling of serious incidents involving people with disability living in supported group accommodation.

The branch also reviews the circumstances and deaths of people with disability and certain children in care, supports the NSW Child Death Review Team, and coordinates the Official Community Visitor scheme.

The work of our human services branch is featured in the Human services chapter of this report.

Chris Wheeler BTRP MTCP, LLB (Hons)

Deputy Ombudsman

Chris was appointed Deputy Ombudsman in 1994. He has over 30 years of experience in complaint handling and investigations, as well as extensive experience in management and public administration. Chris is a town planner and lawyer who has previously worked in a variety of positions in state and local government in both NSW and Victoria, and as a solicitor in the private sector.

Chris leads the public administration branch. This branch receives and responds to inquiries and complaints about NSW government departments, public authorities and local councils. It also conducts investigations and project work aimed at improving public administration, and provides advice and assistance to public authorities and public officials on the operation of the *Public Interest Disclosures Act 1994*.

The work of the public administration branch is featured in the Public administration chapter of this report.

Linda Waugh BA, Post Grad Dip Psych, MBA

Deputy Ombudsman

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

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

Linda currently manages and coordinates Operation Prospect and leads the work of the secure monitoring unit (SMU).

Operation Prospect and the work of the SMU is featured in the Police and compliance chapter of this report.

Michael Gleeson BA, Dip Gov (Investigations)

Acting Deputy Ombudsman

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

The police and compliance branch oversees the handling of more serious complaints, conducts investigations, audits police records to check compliance with legislation relating to complaints, and keeps under scrutiny the systems established by police for dealing with complaints.

The branch also reviews the operation of legislation that gives the police new and extraordinary powers, deals with witness protection appeals and complaints, and inspects the records of law enforcement agencies about their use of certain warrants and prescribed covert investigation methods.

The work of the police division is discussed in the Police and compliance chapter of this report.

Danny Lester BAdEd, Dip Bus

Deputy Ombudsman

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

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

Our monitoring of OCHRE is discussed in the Working with Aboriginal communities chapter of this report.

Anita Whittaker PSMO BCom, MIIA (Aust)

Assistant Ombudsman

Anita has over 37 years experience in the NSW public sector. She has a strong background in public administration and financial and human resource management.

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

Anita leads the corporate branch.

Julianna Demetrius Dip Law (LPAB)

Assistant Ombudsman

Julianna's career with the Ombudsman spans 16 years. For the past nine years she has led the strategic projects division, and before that she managed the police division.

Julianna led the Ombudsman's three-year audit of Aboriginal child sexual assault and a number of large-scale systemic inquiries across the human service and justice areas. She now works closely with the Deputy Ombudsman to oversight the implementation of Aboriginal programs, starting with OCHRE. Julianna has also worked with the Deputy Ombudsman/Community and Disability Services Commissioner on our response to the Royal Commission into institutional responses to child sexual abuse.

Before joining the office, Julianna worked as a solicitor and in the fields of urban design and social research.

The strategic projects division works on a range of major projects and investigations, usually in collaboration with other branches and divisions in our office. Significant strategic projects in 2015–16 included monitoring OCHRE, preparing submissions and special investigation reports, and organising and supporting a number of roundtable meetings and a conference for the human services branch.

The work of the strategic projects division is featured in the Human services, Working with Aboriginal communities, and Community education and training chapters of this report.

The legislation we administer

The *Ombudsman Act 1974* is the principal legislation we administer. We also perform a range of specific functions under other legislation including the:

- *Community Services (Complaints, Reviews and Monitoring) Act 1993*
- *Disability Inclusion Act 2014*
- *Law Enforcement (Controlled Operations) Act 1997*
- *Law Enforcement (Powers and Responsibilities) Act 2002*
- *Police Act 1990*
- *Public Interest Disclosures Act 1994*
- *Surveillance Devices Act 2007*
- *Terrorism (Police Powers) Act 2002*
- *Witness Protection Act 1995*.

Our key stakeholders

Our key stakeholders are:

- the community
- the NSW Parliament
- the government
- government agencies
- non-government organisations and peak bodies
- other oversight bodies.

Our aim

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

In our own organisation and those we oversight, we work to promote:

- good conduct
- fair decision-making
- the protection of rights
- the provision of quality services.

Who we oversight

The organisations we oversight include:

- agencies delivering public services
- organisations delivering services to children
- organisations delivering community services
- agencies using certain warrants and prescribed covert investigation methods.

Our role is to make sure those organisations and their staff do their jobs properly and meet their responsibilities to the community.

We use our experience and knowledge to make sure organisations are aware of their responsibilities and act reasonably as well as lawfully.

How we do our work

The NSW Ombudsman assists people with individual problems. We also help organisations to address problems with their performance and to improve their systems and procedures.

In later chapters of this report, we discuss what we did in 2015–16 to deliver these important functions in the following specific areas:

- police and compliance
- public administration (departments and authorities, custodial services and local government)
- human services (children and families, and people with disability)
- working with Aboriginal communities.

The following information explains in general terms how we deal with inquiries and complaints and help organisations to address problems and improve their performance.

Inquiries and complaints

Receiving inquiries and complaints

People can visit our office in Sydney to make a complaint or inquiry in person. Sometimes people make a complaint or inquiry in person when we visit their community. We also receive complaints and inquiries by telephone, letter, facsimile, email and via the online complaint form on our website.

See our 'Facts and figures for 2015–16' on page 7 for details of the number of complaints and inquiries, how they were made, and the communities that we visited.

Assessing inquiries and complaints

Our inquiries and assessment staff handle the majority of contacts with our office. People from across the state, the country and even internationally ask us to resolve their complaints. We try to help wherever we can to achieve an outcome that is in the public interest.

People often contact us about problems we do not have the jurisdiction to handle. We provide information and advice about other bodies that might be able to help. These include other statutory and industry Ombudsman, government enforcement and regulatory bodies, legal advice services and relevant peak and consumer bodies. If appropriate, we will directly refer a complaint to one of these bodies.

For inquiries and complaints within our jurisdiction, we assess the subject matter using the Ombudsman's complaint assessment criteria published on our website www.ombo.nsw.gov.au. In many cases, the agency or organisation concerned will have an internal complaints process that the person can use.

Providing advice about the next step

Much of our inquiry and complaint work involves helping people understand the issues in their complaint, advising them about the relevant complaints process and giving them the confidence to use it. Often complainants and agencies can resolve the problem directly. We explain how to make a complaint and discuss what reasonable expectations are – including response times and possible outcomes. We also provide explanations when we do not believe there is evidence that the agency has done something wrong.

If the person has already tried to resolve their complaint with the organisation concerned but remains dissatisfied with the outcome, we may suggest they make a complaint to the Ombudsman. We discuss reasonable outcomes and timeframes and explain what information we need to formally assess their complaint.

If a complainant is a vulnerable member of the community and it is difficult for them to make a written complaint, we may take their complaint orally. We may also accept complaints orally if we believe there is a possible problem with an agency's imminent action or inaction and this is likely to have serious consequences for the complainant or another person.

Deciding whether to formally investigate

When assessing complaints, our focus is whether the conduct complained about was 'reasonable'. If we assess an agency's decision to be legal, supported by policy, soundly reasoned and there is no other evidence to indicate it is wrong, we have no grounds to formally investigate the decision further. We will explain to the complainant why we have made this decision.

Making informal inquiries

Before we start a formal investigation, we may contact the agency to make informal inquiries. Our primary focus is to resolve the problem by working with the organisation concerned. Over many years we have developed effective working relationships with the agencies and organisations within our jurisdiction to efficiently resolve most complaint issues.

If we are unable to resolve a complaint by making informal inquiries, we may decide to start a formal investigation.

Helping organisations

We help organisations within our jurisdiction to address problems with their administrative systems and complaint handling. These problems may be uncovered by complaints from the public or by people who work for those organisations. Problems may also come to our attention through our work in scrutinising the procedures these organisations have in place, overseeing their internal systems or reviewing the delivery of services.

We try to achieve outcomes that are in the public interest. Our work is aimed at exposing and addressing conduct that is unlawful, unreasonable, unjust or oppressive, improperly discriminatory, based on improper or irrelevant grounds, a mistake of law or fact, or otherwise wrong.

We formally investigate some of the more serious complaints, but in many cases we encourage the organisation being complained about to handle matters themselves. We monitor their progress and provide advice where necessary. Our focus is on helping organisations to satisfactorily resolve any problems identified.

We help organisations to prevent or reduce the number of complaints made about them by reviewing their systems. This proactive work also allows us to address problems if members of the public have legitimate grievances but, for whatever reason, do not or cannot take up the complaint themselves.

We aim to reduce the volume of complaints to our office by providing training and advice to the organisations we scrutinise about how they can effectively resolve and manage complaints.

We provide assistance, guidance and training to organisations and other watchdog agencies. Our community education and training work is discussed in a later chapter of this report.

Facts and figures for 2015–16

Estimated number and type of oversighted bodies

The organisations within the Ombudsman’s jurisdiction include:

Agencies delivering public services

- Several hundred NSW public sector agencies – including departments, statutory authorities, boards, correctional centres, universities and area health services.
- More than 2,000 public schools
- The NSW Police Force
- Over 140 local and county councils
- Certain private sector organisations and individuals providing privatised public services.

Organisations delivering services to children

- Over 7,000 organisations providing services to children – including schools, child care centres, family day care, out-of-school hours services, juvenile justice centres and organisations providing substitute residential care and health programs.

Organisations delivering community services

Government agencies and organisations funded, licensed or authorised by the Minister for Community Services or the Minister for Ageing and Disability Services to provide the following types of community services:

- licensed boarding houses and fee-for-service organisations

- child protection and family support services
- out-of-home care services for children and young people
- home and community care services
- services for people with disability
- specialist homelessness services.

Law enforcement agencies

We monitor and inspect records of the:

- NSW Police Force
- Crime Commission
- Independent Commission Against Corruption
- Police Integrity Commission.

We do this to ensure they have complied with the accountability requirements for controlled operations, telecommunication intercepts, surveillance devices, and covert and criminal organisation search warrants.

Complaints and notifications

We categorise the complaints we receive as formal and informal matters.

In 2015–16, we received 41,535 complaints and notifications across our jurisdiction – 11,358 formal matters and 30,177 informal. Figure 1 shows how we received those 41,535 complaints and notifications in 2015–16. Figure 2 shows the subject area of the complaints and notifications we received, and the breakdown of formal and informal matters within each subject area.

Figure 1: Complaints and enquiries received 2015-16

Subject area	Formal	Informal	Total
In person – community visit	13	36	49
In person – juvenile centre visit	2	85	87
In person – Official Community Visitor	29	2	31
In person – personal visit to office	19	275	294
In person – prison visit	5	374	379
Own motion – Ombudsman initiated	121	11	132
Police – direct to Ombudsman	1,016	169	1,185
Police – direct to Police	2,247	5	2,252
Police – PIC Inspector to Ombudsman	1	0	1
Police – PIC to Ombudsman	44	4	48
Section 25 of the PID Act	1	1	2
Telephone	971	26,945	27,916
Written – agency notifications (all methods)	2,074	8	2,082
Written – email	1,406	1,301	2,707
Written – fax	65	61	126
Written – letter	786	784	1,570
Written – online complaint form	2,558	116	2,674
Total	11,358	30,177	41,535

Figure 3 shows the number of formal complaints and notifications received and finalised in each of the last five years. Figure 4 shows the number of formal complaints and notifications finalised in each of the last five years, broken down by subject area. Figure 5 shows the number of formal investigations finalised in 2015–16, reported by branch.

Formal matters are those we responded to formally in writing. In most cases they will have been received in writing, including electronically. Informal matters are those we dealt with informally – for example, during a single telephone conversation giving information, advice or an explanation. Informal matters have usually been received orally, by telephone or in person.

Figure 2: Complaints and notifications we received in 2015–16

Subject area	Formal	Informal	Total
Departments and authorities	2,315	4,828	7,143
Local government	946	1,762	2,708
Correctional centres and Justice Health	688	4,172	4,860
Juvenile justice	40	163	203
Child and family services	421	748	1,169
Disability services	342	250	592
Other community services	66	233	299
Employment-related child protection	1,496	873	2,369
Police	3,309	2,374	5,683
Disability reportable incidents	732	158	890
Outside our jurisdiction	1,003	9,923	10,926
Requests for information (general inquiries)	0	4,693	4,693
Total	11,358	30,177	41,535

Figure 3: Formal complaints and notifications received and finalised

Year	11/12	12/13	13/14	14/15	15/16
Received	9,504	8,724	9,505	11,109	11,358
Finalised	9,326	8,555	9,108	10,694	10,807

Figure 4: Formal complaints and notifications finalised

Subject	11/12	12/13	13/14	14/15	15/16
Departments and authorities	1,778	1,566	1,807	2,274	2,335
Local government	933	765	872	959	936
Custodial services and Justice Health	1,003	766	576	681	651
Juvenile justice	91	65	55	55	38
Community services*	641	513	566	681	801
Employment-related child protection	988	998	1,063	1,298	1,367
Police	3,390	3,178	3,249	3,635	3,240
Disability reportable incidents	0	0	0	39	437
Agency outside our jurisdiction	502	704	920	1,072	1,002
Total	9,326	8,555	9,108	10,694	10,807

* Includes formal matters finalised in relation to child and family services, disability services and community services.

Figure 5: Number of formal investigations finalised

Subject area	Total
Human services	9
Police and compliance	1
Public administration	3
Total	13

Our proactive and systemic work

As well as handling complaints and notifications, we also do a great deal of proactive work. This includes conducting audits and reviews – both of systems and particular pieces of legislation.

Figure 6 outlines some of our proactive and systemic work for 2015–16. More information about this work is included in later chapters of this report.

Access and equity programs

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

Disability inclusion action plan

The NSW Disability Inclusion Act requires the government to be committed to removing systemic and attitudinal barriers so that people with disability have a better opportunity to live

a meaningful life and enjoy the full benefits of being a member of the community. The Act provides direction and sets a framework for continued consultation and partnership with people with disability, key agencies and members of the community. The Act works alongside the National Disability Insurance Scheme (NDIS) by increasing the accessibility of mainstream services and community facilities in NSW.

While our office is not required to have a Disability Inclusion Action Plan (DIAP), we see a need for such a plan to ensure our services continue to achieve good outcomes for people with disability. Our Disability Inclusion Action Plan 2016–18 confirms our continuing commitment to improving the lives of people with disability and their families and carers. The DIAP contains practical steps to break down barriers and promote access to our services, information, employment opportunities, and the rights of people with disability through our day-to-day work.

This year we continued to engage with key government and non-government agencies and provide training across the sector on the new disability reportable conduct scheme, as well as specific training on handling and responding to serious incidents. We distributed a newsletter Disability e-News Update, providing information about our work in relation to people with disability and the broader disability sector. We commenced a project that promotes the rights of people with disability in the lead-up to the full rollout of the NDIS. We participated in community events such as conferences, forums and expos to raise awareness of the role of the Ombudsman in community services and the rights of people receiving these services. For more details about our work in this area see the People with disability chapter starting on page 104.

Figure 6: Proactive and systemic work in 2015–16

Category	11/12	12/13	13/14	14/15	15/16
Audits and inspections					
Police records	2,708	1,657	2,963	3,053	805
Controlled operation files	372	388	406	408	425
Surveillance device warrant files	882	1,418	1,224	1,210	1,498
Covert search warrant files	24	35	38	33	32
Witness protection appeals	0	0	0	1	1
Activities undertaken to scrutinise NSWPF complaint handling systems	7	10	13	6	2
Criminal organisation search warrant files	0	0	73	0	15
Child protection 'agency' audits conducted	4	7	11	3	0
Police powers under review					
Reviews of legislation conferring new police powers completed	0	0	1	1	1
Reviews of legislation conferring new police powers in progress	4	4	5	5	5
Visits					
Hours spent on visiting services (OCV program)	6,222	6,139	8,261	8,307	8,613
Visits to residential services (OCV program)	2,215	2,056	2,771	2,990	3,125
Correctional and juvenile justice centre visits	53	52	44	33	35
Regional and remote community visits	62	42	27	30	51

Multicultural action plan

Under the Multicultural Policies and Services Program (MPSP), all NSW government agencies are required to prepare and report on multicultural plans that show how they will conduct their business within a culturally, linguistically and religiously diverse society. Our Multicultural Action Plan (MAP) 2015–19 assigns corporate responsibilities, sets priorities and timeframes, and guides the delivery of programs and services to people from culturally, linguistically and religiously diverse backgrounds.

Details of the implementation of our MAP can be found in Appendix G on page 196.

Aboriginal policy

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

We continued our community consultations this year and undertook a series of remote and regional community visits to meet face-to-face with communities – as part of our role in monitoring and assessing the delivery of the NSW Government's OCHRE initiatives. Our Deputy Ombudsman (Aboriginal Programs) hosted a week long online forum IndigenousX talking about the important work we do with Aboriginal communities. We issued a special report to Parliament – *Fostering economic development for Aboriginal people in NSW* and recommended measures to ensure that Government's efforts to foster economic development for Aboriginal people in NSW are successful.

Working with Aboriginal communities, on page 116, has more details about our work in this area.

Recognising carers

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

We implement a range of flexible work arrangements such as job sharing, part-time work, and family and community service leave that support staff who have caring responsibilities. We also value the input of carers in providing community services and deliver awareness training for them. For further details on our carers recognition policy, see appendix G on page 197.

The Department of Family and Community Services is currently reviewing the Act and pending the outcome of that review, we will be reviewing and updating our carers recognition policy.

Other outreach activities

We undertake a range of outreach activities to raise awareness about the services we provide and how people can access them. These activities include making

presentations at various conferences and forums and providing information sessions about the role of the Ombudsman to community workers and community groups. We held an information stall at an event for seniors at the Sydney Royal Easter Show and provided information about our role and face-to-face advice to thousands of senior citizens. Our information stall at the Sydney Gay and Lesbian Mardi Gras Fair Day provided information and advice to hundreds of people who attended this annual event.

Our work with others

We aim to be a leading integrity agency. To meet that aim, we work closely with other organisations in NSW, across Australia and around the world. This gives us the opportunity to share information and compare practices. These are some of the opportunities we have had in 2015–16 to meet with others doing similar work.

In NSW

NSW Integrity Agency Coordinating Group

Over many years we have developed close working relationships with a range of integrity agencies in NSW. These relationships help improve the way each agency does its own work, and ensure that we strategically target our efforts and avoid unnecessary duplication. That collaboration has now been given a more formal basis, with the establishment of the NSW Integrity Agency Coordinating Group. The group was established as an initiative of its members.

The NSW Integrity Agency Coordinating Group is made up of the statutory heads of six NSW integrity agencies – the NSW Ombudsman, the Audit Office of NSW, the Public Service Commission, the Office of Local Government, the Independent Commission Against Corruption, and the Information and Privacy Commission. The group intends to meet twice a year, with the inaugural meeting held in May 2016. We will continue to have ad hoc meetings with these integrity agencies to discuss specific matters of shared concern, as and when the need arises.

NSW Customer Service Council

The NSW Ombudsman is a member of the NSW Customer Service Council, along with representatives of other NSW government agencies with customer service responsibilities. The council is an initiative of the Department of Finance, Services and Innovation and was established to help deliver the NSW Government's commitment to improve customer satisfaction with government services. In 2015–16, we joined the NSW Customer Services Commissioner to lead a project to deliver a whole-of-government approach to complaint handling, together with the other members of the council. This complaint handling improvement program is discussed on page 59 of this report.

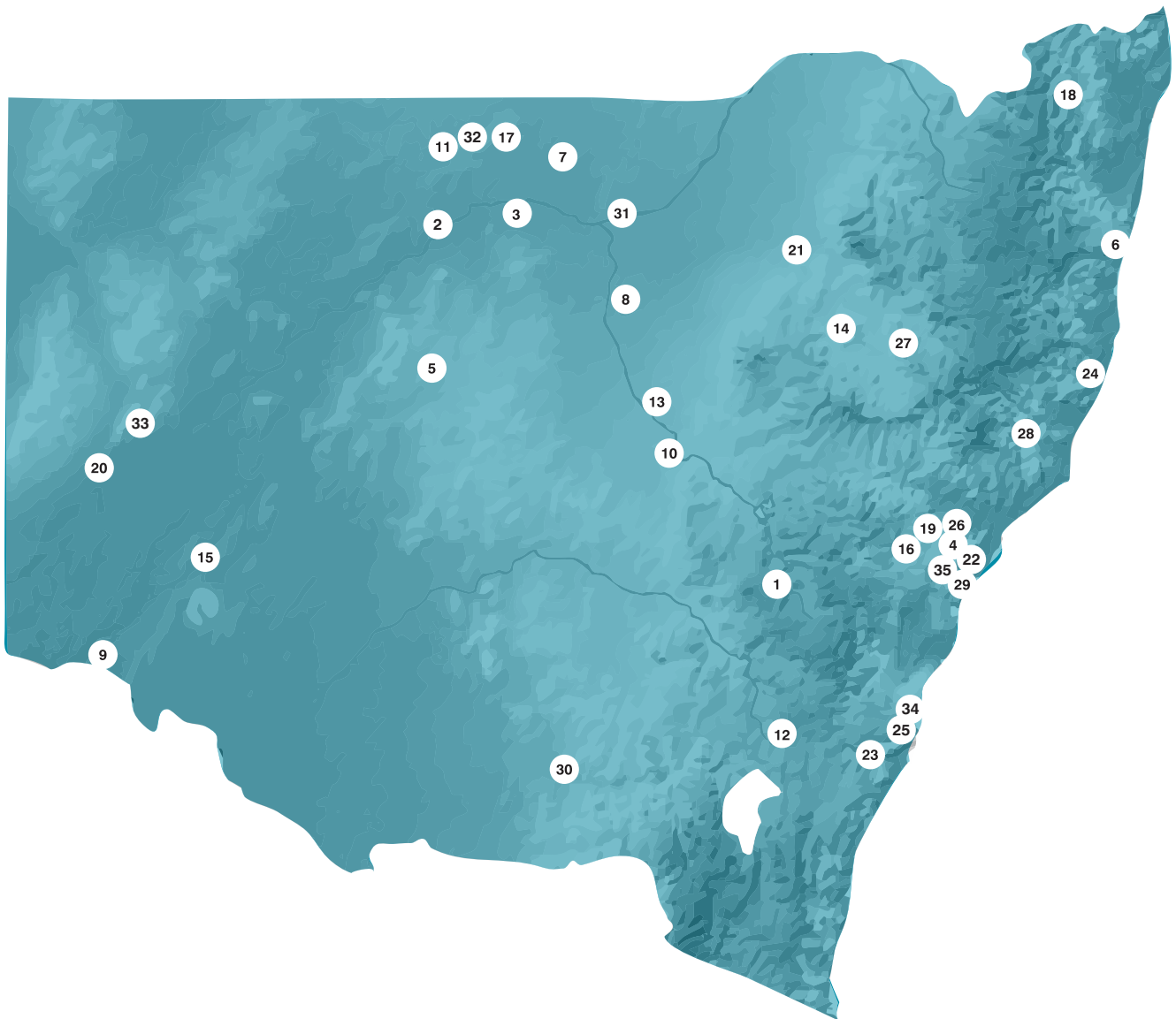
Public Interest Disclosures Steering Committee

The Ombudsman is a member and chair of the Public Interest Disclosures Steering Committee. This is made up of the heads of investigating authorities under the *Public Interest Disclosures Act 1994*, as well as the Department of Premier and Cabinet, the Public Service Commissioner and the NSW Police Force.

Community visits in 2015–16

We visit communities in locations throughout NSW to provide advice and information about our work. These outreach visits can include meetings with organisations that we oversight, information sessions for the general community, and receiving complaints and inquiries from members of the public. We also conduct training sessions and visit correctional centres and juvenile justice centres.

The map of NSW shows the location of the 35 NSW communities that we visited in 2015–16. We visited some of those communities more than once during the reporting period. In later chapters of this report we discuss some of the work that we did during those visits.



- | | | | |
|------------------|---------------------|--------------------|------------------|
| 1. Bathurst | 10. Dubbo | 19. Maitland | 28. Taree |
| 2. Bourke | 11. Enngonia | 20. Menindee | 29. Tumby Umbi |
| 3. Brewarrina | 12. Goulburn | 21. Narrabri | 30. Wagga Wagga |
| 4. Charlestown | 13. Gulargambone | 22. Newcastle | 31. Walgett |
| 5. Cobar | 14. Gunnedah | 23. Nowra | 32. Weilmoringle |
| 6. Coffs Harbour | 15. Ivanhoe | 24. Port Macquarie | 33. Wilcannia |
| 7. Collarenebri | 16. Kurri Kurri | 25. Shellharbour | 34. Wollongong |
| 8. Coonamble | 17. Lightning Ridge | 26. Singleton | 35. Wyong |
| 9. Dareton | 18. Lismore | 27. Tamworth | |

Meetings with stakeholders

As part of our project work, we frequently convene roundtable meetings with a range of stakeholders to explore problems and discuss possible solutions. The people we invite to these roundtables are senior representatives of the oversight organisations and other regulatory bodies, depending on the specific issues. In the human services chapter of this report, we discuss some of the roundtables held in 2015–16.

We also held a Reportable Conduct Forum in February 2016, attended by over 800 people (see page 92 of this report).

Across Australia

Working with other parliamentary Ombudsman

Each Australian jurisdiction (Commonwealth, state and territory) has a 'parliamentary Ombudsman' that is equivalent to the NSW Ombudsman, with similar statutory functions in relation to government agencies and departments in that jurisdiction. Given the similarity of our functions, we find it valuable to keep in contact with the other parliamentary Ombudsman offices. At times we work collaboratively on projects with them.

Meeting with Australian disability commissioners

The Community and Disability Services Commissioner (who is also a Deputy Ombudsman) meets regularly with the disability commissioners in other Australian jurisdictions.

Preparing for the NDIS

In later chapters of this report, we discuss our work with the Commonwealth Ombudsman and the Department of Social Services to prepare for the rollout of the National Disability Insurance Scheme (NDIS) across Australia. We have also attended meetings and provided information about the reportable conduct scheme in NSW to the relevant Ombudsman and government officials in the ACT, Victoria and Queensland – as they consider similar arrangements for their jurisdictions.

Meeting with Victorian Parliamentary Committees

We met with two Victorian Parliamentary Committees this year. On 16 May 2016, we appeared before the Independent Broad-based Anti-corruption Commission Committee, and on 17 May 2016 members of the Accountability and Oversight Committee visited our office. Both committees were interested to compare our work with that of similar bodies in Victoria.

Supporting the Royal Commission into Institutional Responses to Child Sexual Abuse

We continued to provide information and support to the Royal Commission into Institutional Responses to Child Sexual Abuse. For more information about our work with the Royal Commission, please see the Human services chapter.

Attending the Public Interest Disclosure Oversight Forum

We attended the annual meeting of the Australian Public Interest Disclosure (PID) oversight bodies. This forum is an opportunity to exchange and share resources and information and explore opportunities for inter-jurisdictional collaboration.

Around the world

Australian and New Zealand Ombudsman Association

In early 2016, the NSW Ombudsman became a member of the Australian and New Zealand Ombudsman Association (ANZOA). Established in 2003, ANZOA is a professional association and the peak body for Ombudsman in Australia and New Zealand. ANZOA's members are individual Ombudsman working in not-for-profit industry-based, parliamentary and other statutory offices, which meet accepted high standards of independence, impartiality and effectiveness, and which observe the *Benchmarks for Industry-Based Customer Dispute Resolution* (CDR Benchmarks).

Through the Ombudsman's membership of ANZOA, our staff benefit from the professional development opportunities offered by participation in ANZOA's interest groups, for staff who perform similar roles. We have nominated staff to join each of ANZOA's nine staff interest groups, which meet several times a year to share information on topics related to Ombudsman functions and complaint handling.

International Ombudsman Institute

We have continued our membership of the International Ombudsman Institute (IOI). The Australasian and Pacific Ombudsman Region of the IOI met in Melbourne in May 2016. At that meeting, the 'starter kit' for new Ombudsman and developing or expanding offices was launched. This was a joint project undertaken by the Western Australian Ombudsman and NSW Ombudsman and funded by the IOI.

The kit is an accessible, web-based induction tool for newly appointed Ombudsman. It contains a comprehensive collection of information and documents on topics relevant to Ombudsman offices, contributed by Australasian and Pacific Ombudsman Region members. It is also a resource for Ombudsman offices expanding their functions or dealing with novel or challenging issues. IOI Members can access the starter kit through the member area of the IOI website www.theioi.org/member-area.

In connection with our IOI membership, we also hosted a delegation from the Ombudsman of the Republic of Indonesia and participated in research into Ombudsman-type institutions – conducted by a team of scholars from Jagiellonian University in Poland together with the Office of the Human Rights Defender of the Republic of Poland.

Pacific Ombudsman Alliance

The Pacific Ombudsman Alliance (POA) is a service delivery and mutual support organisation for Ombudsman and allied institutions of countries that are members of the Pacific Islands. It has 17 foundation members. The funding for the POA ended on 30 June 2016 and its future is uncertain.

In connection with our POA membership, we hosted Ombudsman Michael Dick – the recently appointed Accountancy Ombudsman for the Ombudsman Commission of Papua New Guinea.

The offices of the Commonwealth and NSW Ombudsman also worked together to develop and present a three day training course in Vanuatu in April 2016, funded by the POA. The 'Strengthening Skills in Administrative Investigations' program covered a range of topics – including core

investigative principles, conducting interviews, obtaining information, assessing evidence, managing key stakeholders, managing risk, keeping records and preparing investigation reports.

The investigators who attended the program came from the Vanuatu Ombudsman, the Land Ombudsman, the Professional Standards Unit of the Vanuatu Police Force, and the Vanuatu Public Service Commission.

‘Strengthening Skills in Administrative Investigations’ program, participants and trainers, Vanuatu, April 2016.



Figure 7: Overseas visits by officers and employees in 2015–16

Date	Destination	Statutory officer/employee	Principal purpose
22 – 29 November 2015	Hong Kong	Deputy Ombudsman	To represent Australia at the International Standards Organisation meeting, which reviewed a series of ISO Standards, including the standard on complaint handling
7 – 9 December 2015	New Zealand	Acting Ombudsman	To attend a meeting of Australian/NZ Ombudsman
17 – 23 April 2016	Vanuatu	Deputy Ombudsman	To provide training in Vanuatu
1 – 5 May 2016	New Zealand	Principal investigator	To attend a workshop in Wellington to learn techniques for applying behavioural insights.



In this chapter

Corporate governance.....	16
Supporting our business	33
Our people	34

This chapter of the report outlines what we do to make sure we operate effectively. It discusses our corporate governance framework, which is led by our senior officers group. It also outlines the work we do to support our office. This work is performed by staff working within various areas that make up the corporate branch.

We work hard to ensure our staff have the personnel, finance, information technology and records support they need, and that our systems and processes keep pace with changes and developments in technology. We also work hard to ensure our office is open and inclusive, and provide training and support to our staff to achieve this.

Managing our organisation



In 2015-16, we

- Finalised three audits identifying two low risks, two medium risks and some areas for improvement.
- Attested compliance with the core requirements of the NSW Treasury Internal Audit and Risk Management Policy for the NSW Public Sector.
- Attested compliance with the NSW Government Digital Information Security Policy.
- Progressed our legislative compliance program and developed a legislative compliance checklist.
- Reduced our energy use as a result of improvements to our fitout.
- Improved data capture and reporting in our human services branch.
- Developed guidelines for recording, monitoring and updating agency progress towards implementing our suggestions and recommendations or any undertakings they give.
- Encouraged all our staff to respond to the people matter employee survey and provide perceptions of their workplace, increasing our participation rate to over 63%.
- Finalised our transition to the Government Sector Employment Act new senior executive arrangements.
- Exceeded all government targets for the employment of people in diversity groups.
- Were congratulated by the Disability Council for our exemplary record of employment of people with disability.
- Significantly reduced our workers compensation incidence rate from 1.01% in 2014–15 to 0.46% in 2015–16.

Corporate governance

Strategic planning

Our statement of corporate purpose gives us high level direction and guidance. Our four key purposes are the categories used for the performance statement in this report (see page 23). The statement also includes several key success factors, which help us to monitor our progress in achieving our purposes. The following sections provide some information about what we have done to meet these this year.

Engaging effectively with partners and stakeholders

We work hard to meet with and talk to as many people involved in our work as we can. This interaction helps us to achieve good results. It also helps us to better understand the challenges facing people accessing services and those providing them.

We travel to rural and regional areas in NSW to attend various forums and conferences, give presentations, conduct training, consult community groups, or simply talk about our role.

In February 2016, we held a forum with over 800 attendees from across the education, out-of-home care, disability, early childhood, religious, sporting and recreational sectors. The '16 years of Reportable Conduct Forum' provided an important opportunity for us to partner with our stakeholders in reflecting on the operation of the reportable conduct scheme, identifying its strengths and weaknesses, and discussing its future direction.

We convened the first of a series of disability provider roundtable meetings, bringing together service providers to share success stories and discuss challenges they face in responding to reportable incidents. These meetings provide a venue to share learning among providers and to improve practices to protect people with disability from abuse and neglect.

We delivered training to agencies and community groups on a range of topics. Due to the relatively recent introduction of the disability reportable incidents scheme and the gradual rollout of the National Disability Insurance Scheme (NDIS), there has been a particular focus this year on training in the disability area. For more information about our education and training activities – see page 128.

Information on our stakeholder engagement activities can be found throughout this report.

Being flexible and responsive

Our disability reportable incidents division oversees and monitors the prevention, handling and response to reportable incidents by agencies in the disability services sector. Since this function started in 2014, the number of notifications of reportable incidents has far exceeded expectations and we have had to seek additional funding to manage the volume of work. The division has worked proactively with services across NSW to help them to respond appropriately to reportable incidents – see page 105.

This year we were funded to undertake our Disability Rights Project, which promotes the rights of people with disability in the lead-up to the full rollout of the NDIS – see page 110. We hosted an expert forum to discuss available resources and gaps around the capacity of people with disability and with complex needs to realise their rights under the NDIS and within the broader community. The forum was highly successful with over 40 attendees meeting to talk about how we can ensure that all people with disability can make the most of the NDIS reform.

Our work in responding to and supporting the work of the Royal Commission into Institutional Responses to Child Sexual Abuse has continued. As the main oversight agency for employment-related child protection in NSW, as well as the oversight agency for the provision of community services, we have continued to make significant contributions to this inquiry – see page 90.

Developing our workforce

We do our best to make sure our staff can participate in relevant and targeted training and development activities. This year, our staff attended sessions on a range of topics – including complaint management, communication, leadership, investigation skills, interviewing across cultures, Aboriginal language and culture, disability awareness and mental health awareness. For more information about our learning and development activities – see page 38.

Implementing best practice processes

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

During 2015–16, we:

- Reviewed and refined our key performance indicators (KPIs) and other management reporting to ensure we accurately track the outcomes we achieve.
- Improved our case management systems to enable a greater range of data to be collected about abuse matters in our human services branch.
- Reviewed and enhanced our case management system to better capture suggestions we make under section 31AC of the *Ombudsman Act 1974*.
- Continued our work to improve the way we classify and label information within our office in accordance with NSW Government policy.

For more information about these activities, see page 33.

Leading the office

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

Typically, the office has seven statutory officers – the Ombudsman, four Deputy Ombudsman and two Assistant Ombudsman. This year we also had an acting Deputy

Ombudsman to manage the police jurisdiction while the Operation Prospect investigation is managed by the substantive Deputy Ombudsman (Police and compliance).

The SOG is made up of all the statutory officers. It holds a formal management meeting every quarter to review workload, budget and staff matters. The SOG also tries to meet once a week to discuss emerging issues and topics from across the office.

The DMG is made up of the managers of each business area. They usually meet monthly to discuss operational issues and any policy and procedural changes.

Having effective policies

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

We updated our code of conduct to reflect the core values for public servants and to comply with the *Code of Ethics and Conduct for NSW Government Sector Employees*, issued in 2015.

A number of our policies were reviewed this year as part of our ongoing policy review program.

Measuring our performance

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

This information is an essential element of our governance system and helps the SOG make decisions on workload, priorities and the allocation of resources. We continue to measure our performance against our office-wide KPIs for our complaint handling and oversight work. We also reviewed some of our KPIs to make sure they were still current and required.

Our performance statement (see pages 23-30) provides information about what we have achieved in 2015–16 and what we plan for the coming year.

How we are held to account

Ultimately, the NSW Ombudsman is accountable to the community through the NSW Parliament. The Ombudsman Act requires us to provide an annual report to the NSW Parliament. We also provide an annual report to Parliament about our oversight of the *Public Interest Disclosures Act 1984*. A range of separate reporting requirements apply to our functions under other legislation – such as our biennial reports of work and activities under Part 6A of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

As well as the requirement to report to Parliament about our work, we have a range of other accountability mechanisms. Our internal accountability mechanisms include a complaints process for people who are unhappy with our service, and a review process for people who are unhappy with a decision that we have made about their complaint.

Complaints about us

We take all complaints seriously, including complaints about our office. This is consistent with our expectations of the organisations that we oversight. Complaints help us to provide a high quality service and give us an opportunity to identify areas where we can improve.

When someone is unhappy with our service, our staff make sure they know they can make a complaint to our office. Our 'compliments and complaints policy' is published on our website. We also have information on our website explaining how to make a complaint about our service.

We received 25 complaints about our office in 2015–16. See figure 8 for a summary of the issues raised in those complaints. Figure 9 shows the outcomes of the 24 complaints that we finalised in 2015–16. One was not completed before the end of the year.

Figure 8: Complaints made about us in 2015–16

Issue	Total
Bias/unfair treatment/tone	10
Confidentiality/privacy related	2
Delays	4
Denial of natural justice	2
Failure to deal appropriately with complaint	6
Lack of feedback/response	5
Limits to jurisdiction	1
Faulty procedures	6
Inaccurate information/wrong decision	6
Poor customer service	9
Corruption/conflict of interest	2
Other	1
Total issues	54
Total complaints	25

Figure 9: Outcome of complaints about us finalised in 2015–16

Outcome	No.
Unjustified	9
Justified or partly justified	10
Some substance and resolved by remedial action	5
Total	24

Internal reviews of our decisions

When we decide not to investigate a complaint or to stop an investigation, we notify the complainant and explain the reasons for our decision. If a complainant disagrees with our decision, they can ask for a review.

The Ombudsman Act does not provide a statutory right of internal review for our decisions. However, internal reviews are good administrative practice and an important feature

of fair, accountable and responsive service. Our 'request for review of decision policy' is on our website, along with information explaining our review process.

When a complainant requests a review, we ask them to explain why they believe our decision was wrong and to provide us with any new and important information that is relevant to the decision. Our next step is to contact the person by telephone and try to resolve the matter quickly and informally. If that is not possible, the request for review will be allocated to a member of staff who has had no previous involvement in the matter (the reviewer).

The reviewer assesses the original complaint, as well as any issues raised in the review request. They may also conduct further inquiries – including further discussions with, or explanations to, the complainant.

Once the reviewer completes their assessment, they may either:

- finalise the review as 'resolved' (because the complainant was satisfied with a further explanation)

- reopen the original complaint for informal inquiries or investigation
- recommend that the Deputy Ombudsman (or in some cases, the Ombudsman) confirms the original decision.

If the Deputy Ombudsman (or Ombudsman) decides to confirm the original decision, they will write to the complainant to explain the outcome of the review. In some cases, that letter will also explain any restrictions on the complainant's further contact with our office. We will only conduct one review of any matter.

This process provides members of the public with an avenue for review. It also gives us an opportunity to improve the way we handle matters, particularly the way we communicate our decisions.

Figures 10 and 11 provide information about the internal reviews we handled this year. We received fewer requests for reviews in 2015–16 than the previous year. The requests for review also represented a smaller percentage of formal complaints finalised than in 2014–15.

Figure 10: Requests for a review of our decision

Subject area	Number in 2015–16		Reviews as a percentage of formal complaints finalised last 5 years				
	requests for review	formal complaints finalised	11/12	12/13	13/14	14/15	15/16
Employment-related child protection	3	94	3.5	2.9	0.0	0.87	3.2
Community services	13	794	1.1	1.4	1.1	1.91	1.6
Custodial services/Justice Health	2	688	0.5	0.4	0.6	0.14	0.3
Local government	53	936	6.9	7.5	5.1	5.42	5.7
Other public sector agencies	47	2,336	4.6	3.7	3.6	2.15	2.0
Police	34	3,240	2.0	1.6	1.1	1.65	1.0
Disability reportable incidents	0	40	0.0	0.0	0.0	0.00	0.0
Outside our jurisdiction	0	1,002	0.0	0.1	0.0	0.00	0.0
Total	152	9,130	2.7	2.4	1.91	1.85	1.66

Figure 11: Outcome of reviews finalised in 2015–16

Subject area	Original outcome affirmed after				Total
	reviewing the file	further inquiries	Resolved	Reopened	
Employment-related child protection	2	1	0	0	3
Community services	8	1	4	0	13
Custodial services	2	0	0	0	2
Local government	36	14	1	2	53
Other public sector agencies	35	7	1	4	47
Outside our jurisdiction	0	0	0	0	0
Disability reportable incidents	0	0	0	0	0
Police	31	2	0	1	34
Total	114	25	6	7	152

Parliamentary committees

The Parliamentary Committee on the Ombudsman, Police Integrity Commission and NSW Crime Commission (the Committee) oversees the work of the NSW Ombudsman. It is made up of representatives from both Houses of Parliament and the major parties.

The Committee has a statutory role to monitor and review the Ombudsman's exercise of functions under the Ombudsman Act and other relevant legislation. It examines our annual reports and other reports to Parliament. The Committee may report to Parliament on any matter relating to the Ombudsman, including any changes it considers desirable to our functions, structures or procedures. However, the Committee cannot review our decisions about individual complaints.

We appeared before our Parliamentary Committee on 3 March 2016. This was a public hearing for the Committee's 2016 review of the annual reports of oversight bodies. The hearing transcript and the committee's report are both available on the NSW Parliament website www.parliament.nsw.gov.au.

The NSW Parliament may also appoint other committees to conduct inquiries into other aspects of our work. However, this did not occur in 2015–16.

Other NSW oversight bodies

The NSW Ombudsman also comes under the scrutiny of the Auditor-General, the Independent Commission Against Corruption, the Information and Privacy Commission and NSW Treasury.

Public interest disclosures

The Ombudsman is an investigating authority under the *Public Interest Disclosures Act 1994* (PID Act) and has a range of oversight and educative responsibilities under that Act. We are also a public authority subject to the PID Act. All public authorities are required to have policies and procedures in place to facilitate the reporting of wrongdoing by their staff. Heads of authorities are responsible for ensuring staff are aware of the PID Act and that they will be given protection and support if they make a public interest disclosure.

Each year, public authorities must report on what they have done to meet their obligations under the PID Act. The following sections provide information about public interest disclosures made by public officials within or about our office. Later this year, we will table our annual report on the oversight of the PID Act. This will include information about the public interest disclosures we have dealt with as an investigating authority and our other PID functions.

Policy framework

We recognise the value and importance of staff raising concerns when they see something they believe is wrong, and our internal reporting policy encourages staff to do this. It commits the Ombudsman and senior staff to handle these disclosures effectively and provide support to the staff making them.

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

Staff awareness

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. The Acting Ombudsman personally reinforced this message at an all staff meeting in March 2016.

Information about how to make a report about wrongdoing is included in staff bulletins and on posters displayed around our office. Our PID e-News – a newsletter for external subscribers outlining relevant recent developments and news – is also distributed within our office.

PID statistics

In 2015–16, none of our staff made a public interest disclosure to us about another public authority. We received one public interest disclosure from a member of staff about our office. The disclosed information concerned alleged maladministration. We took appropriate action in response to this disclosure, including providing a response to the reporter.

Under the PID Act, we are required to report information about the public interest disclosures that we receive from our staff and/or about our office – see figure 12.

Figure 12: Public interest disclosures 2015–16

Category and number of public disclosures we received	Public official performing their day-to-day functions	Under a statutory or other legal obligation	Others
Number of public interest disclosures made directly to the authority concerned (ie the Ombudsman)	0	0	1
Number of public interest disclosures received (including referrals from other authorities)	0	0	1
Number of public interest disclosures finalised	0	0	1
Primary issue in the public interest disclosures we received about our office			
Corrupt conduct	0	0	0
Maladministration	0	0	1
Serious and substantial waste	0	0	0
Government information contravention	0	0	0
Local government pecuniary interest contravention	0	0	0

Managing risk

Our fundamental asset is our reputation for independence and impartiality and we work hard to identify and manage any risks that could damage it.

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

Our risk, information and security committee (RISC) is responsible for ensuring we have appropriate systems to identify and effectively manage any risks that may arise. The RISC meets each month and is made up of representatives from across the office.

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

This year we updated our risk management framework, consulting with our ARC and RISC and our SOG for their endorsement. In the next 12 months, we will be focusing on embedding the framework within our office and reviewing associated policies and education strategies to support the updated framework. We are also planning to review current risks and their potential impact.

Our audit and risk committee

Our ARC provides independent assurance to the Acting Ombudsman by monitoring our governance, risk and control frameworks as well as our external accountability requirements.

The committee membership remained unchanged this year – with Carolyn Burlew continuing as our independent chair, David Roden being reappointed as an independent member, and Deputy Ombudsman Linda Waugh as the non-independent member. We are currently in the process of recruiting a third independent member who will replace the non-independent member as is now required under the NSW Treasury Internal Audit and Risk Management Policy.

The committee met five times during 2015–16 and considered issues such as:

- the implementation of our internal audit plan and development of our strategy for 2016–19 which outlines the audit schedule
- our risk management framework, which has been updated and is in the process of being finalised
- our legislative compliance program, which includes developing a legislative compliance checklist for all our divisions to complete each year
- our risks and our strategies for dealing with our changing business environment.

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

In response to NSW Treasury's revised policy, we updated our internal audit and audit and risk charters.

Internal audit program

The following audit reports were finalised during 2015–16 and provided, with management responses, to the Acting Ombudsman for approval:

- Tax – GST, FBT, superannuation – one low rated risk around formalising procedures for GST reconciliations and BAS preparation was identified as an area for improvement and has been addressed.
- Management of unallocated complaints and notifications (pool complaints) – two medium-rated risks around procedures and processes and their application were identified as areas for improvement and are being addressed.
- Office management of conflict of interests – one low-rated risk around communicating our policies and procedures was identified as an area for improvement and has been addressed.

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

Attestation of compliance

Internal audit and risk management

The Acting Ombudsman, following advice from the audit and risk committee, attests to compliance with seven core requirements of the NSW Treasury policy. We are currently transitioning to a fully independent committee which we must do by 1 July 2017. The attestation statement is provided on the next page.

Internal audit and risk management attestation for the 2015–16 financial year for the NSW Ombudsman's Office

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

Risk Management Framework core requirements

- 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

- 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

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

Membership

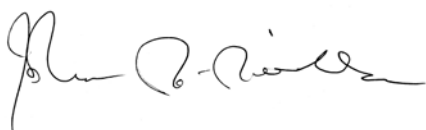
The chair and members of the ARC are:

- Independent chair – Ms Carolyn Burlew, start term date 11 May 2013, finish term date 10 May 2017.
- Independent member – Mr David Roden, start term date 27 June 2016, finish term date 26 June 2021.
- Non-independent member – Ms Linda Waugh, Deputy Ombudsman (police and compliance), start term date 1 July 2015, finish term date 30 June 2019.

I, John McMillan, advise that the internal audit and risk management processes for the NSW Ombudsman depart from the following core requirements set out in the *Internal Audit and Risk Management Policy for the NSW Public Sector*.

- 3.1 An independent Audit and Risk Committee with appropriate expertise has been established.

The departure from the core requirements is due to the agency implementing measures to achieve compliance with new policy requirements consistent with the permitted transitional arrangements.



Professor John McMillan AO
Acting Ombudsman

Date 14 September 2016

NSW Government Digital Information Security

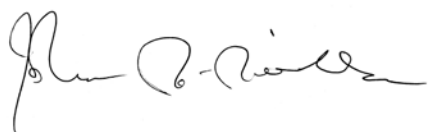
The Acting Ombudsman, following advice from the audit and risk committee, attests compliance with the NSW Government digital information security policy. The attestation statement is provided below.

Digital information security annual attestation statement for the 2015–16 financial year for the NSW Ombudsman's Office

I, John McMillan, am of the opinion that the Ombudsman's Office had an information security management system (ISMS) in place during the 2015–16 financial year that is consistent with the core requirements set out in the NSW Government digital information security policy.

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

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



Professor John McMillan AO

Acting Ombudsman

Date 14 September 2016

Our performance statement



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

What we said we would do in 2015–16:

Monitor and assess the implementation of OCHRE – the NSW Government’s plan for Aboriginal Affairs.

Review outcomes achieved by FACS’ *Aboriginal Cultural Inclusion Framework 2015-2018*.

Review behaviour support relating to client to client incidents to help to improve disability sector performance in preventing and effectively responding to abuse and neglect.



What else we did in 2015–16:

Issued revised *Enforcement Guidelines for Councils* and an improved *Model Compliance and Enforcement Policy*

Audited 2,777 records of law enforcement agencies using covert powers, to ensure the powers were used lawfully, and that the agencies maintain proper records.

Reported on the findings of our review of the NSW consorting law, and made recommendations to improve its operation.

Tabled a Special Report in Parliament - *Fostering economic development for Aboriginal people in NSW* to inform the government’s development of a state-wide policy framework.



What we plan to do in 2016–2017:

Continue to monitor and assess the implementation of OCHRE – the NSW Government’s plan for Aboriginal Affairs.

Develop guidelines for agencies providing services to children about the initial and early response to workplace child abuse.

Complete four legislative reviews relating to powers exercised by police and provide those reports to the Commissioner of Police and the relevant Minister for tabling in the NSW Parliament.

Finalise and issue resources to guide staff in disability services to appropriately respond to serious incidents involving people with disability.

Continue our project examining the practice of agencies using external investigators to conduct administrative investigations.





Inquire into matters affecting participants and providers of supports in the National Disability Insurance Scheme (NDIS).



Commence a major project to build the capacity of people with disability to resolve issues and raise concerns with service providers within the context of the transition to the NDIS.



Deliver a tailored version of our 'Rights Stuff' training package for youth workers/advocates who come into contact with migrant and refugee young people.



Investigated a range of complaints about the State Debt Recovery Office's use of garnishee orders and participated in a working group providing advice to government about debt recovery by government agencies.



Held a roundtable to discuss and resolve some of the challenges to publicly releasing personal information about reportable conduct allegations and investigations, to better protect children



Delivered 68 workshops to senior staff of disability services about responding to serious incidents in a disability setting, and 36 workshops for direct care staff.



Issued three *Disability e-News Updates* with information and support for agencies providing services to people with disability.



Continue to work on a guidance and training package to improve the way that complaint handlers and investigators communicate with people with cognitive impairment.



Issue a factsheet and sample letters to help agencies providing services to children to appropriately make and implement decisions to publicly release information about reportable conduct matters.



Examine and report on best practice in behaviour support for school students, with a particular focus on students with disability and additional support needs.



Continue our project to build the capacity of people with disability to resolve issues and raise concerns with service providers within the context of the transition to the NDIS.



Our performance statement



**Purpose
Two**

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

What we said we would do in 2015–2016:

Review our online complaint form.

Audit the complaint handling policies and procedures of various NSW public authorities.

Work with new providers of supports under the NDIS to improve their complaint handling practice and systems.

Host forums for complaint handlers and those handling public interest disclosures.



What else we did in 2015–2016:

Received 41,535 complaints, inquiries and notifications (11,358 formal and 30,177 informal) and finalised 40,984 matters.

Worked with the Customer Service Commissioner to develop a whole-of-government approach to complaint handling.

Conducted 35 visits to correctional and juvenile justice centres (a total of 94 staff days) and dealt with over 5,000 contacts from, and about, people in correctional and juvenile justice centres.

Revised our memorandum of understanding with the Office of Local Government.



What we plan to do in 2016–2017:

Continue our involvement in the implementation of the whole-of-government complaint handling improvement program.

Review agency compliance with the six complaint handling commitments endorsed by the NSW Secretaries Board in July 2016.

Work with the Department of Finance Service and Innovation to develop a business proposal for a web-based complaint management system for public sector agencies.



Key:  Achieved  On-going  Not achieved 

Provide training on the revised Australian and NZ Standard on complaint handling.



Continue to hold regular liaison meetings with a wide range of government agencies and service providers.



Report on the audit of complaint handling procedures and practices in NSW councils.



Publish a 'complaint handling tips' factsheet for local councils.



Made 22 community visits to locations where different OCHRE initiatives are being implemented, providing us with the opportunity to address a range of complaints and broader community concerns about service delivery.



Delivered 307 training workshops about topics including complaint handling, investigations skills, and public interest disclosures.



Developed a new training program aimed at supporting young people to make complaints and advocate for systemic change.



Implemented strategies to respond to reports of the abuse, neglect and exploitation of individuals living in community settings, such as their family home.



Finalise 'Operation Prospect' and table the report of our investigation in the NSW Parliament.



Publish the second edition of our *Effective Complaint Handling Guidelines*.



Improve our arrangements for receiving complaints and inquiries about community services, disability and child protection matters.



Our performance statement



Be a leading integrity agency.

What we said we would do in 2015–2016:

Host a forum in February 2016 to promote best practice in preventing and responding to reportable conduct, bringing together stakeholders from the education, early childhood, out-of-home care, religious, sporting and recreational sectors.

Support the work of the Royal Commission into Institutional Responses to Child Sexual Abuse through the provision of critical data, information holdings and observations about systemic issues and good practice.

Conduct a major revision of the unreasonable complainant conduct manual.



What else we did in 2015–2016:

Formalised our relationships with five key NSW integrity agencies, through the establishment of the NSW Integrity Agency Coordinating Group.

Joined the Australian and New Zealand Ombudsman Association.

Provided information to government officials in other Australian jurisdictions, to assist in the development of new reportable conduct schemes.

Made a supplementary submission to the Tink Review of Police Oversight.



What we plan to do in 2016–2017:

Hold a public forum on addressing the abuse, neglect and exploitation of people with disability in disability and community settings.

Participate in the parliamentary inquiry on the provision of education to students with a disability or special needs in government and non-government schools in NSW.

Participate in the NSW Parliament's review of the *Public Interest Disclosures Act 1994*.

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



Key:  Achieved  On-going  Not achieved 

Establish a social media presence for our office.



In conjunction with the WA Ombudsman, developed an on-line starter kit for new Ombudsman and expanding offices, which is hosted on the International Ombudsman Institute website.



Made submissions to a range of inquiries drawing from our experience of subject matter in our jurisdiction.



Worked closely with a range of state, territory and Commonwealth agencies to provide input to the NDIS Quality and Safeguarding framework.



Hold the 11th National Investigations Symposium in Sydney in November 2016, in conjunction with the NSW Independent Commission Against Corruption and IPAA NSW.



Work with the LECC implementation committee, and the LECC, to support and enable the transition of our statutory functions for oversight of the NSWPF.



Finalise the procedures manuals for each of our business lines and publish them on our website.



Our performance statement



Be an effective organisation.

What we said we would do in 2015–2016:

Finalise our implementation of the NSW Government information classification and labelling guidelines.

Finalise implementation of Follow Me printing as an additional step to improve our information security and reduce waste.

Complete the refurbishment of our office.

Upgrade our case management system Resolve.



What else we did in 2015–2016:

Reviewed and refined our KPIs and other management reporting to ensure we accurately track outcomes.

Expanded our wellcheck program to apply to all staff whose work potentially exposes them to known risk factors that can lead to traumatic stress and adjustment difficulties.

Implemented an online approval process for overtime.

Updated our code of conduct.



What we plan to do in 2016–2017:

Revise and finalise our fit-out project, to take account of our reduced staff numbers once the LECC commences operation.

Analyse our office's responses to the 2016 People Matter Employee Survey, and develop strategies to improve our workplace.

Achieve full compliance with information security standard ISO 27001.

Develop and implement actions to minimise the risk of psychological trauma to our staff in our child death review team.



Key:  Achieved  On-going  Not achieved 

Finish developing a reviewable disability deaths data dashboard to facilitate early identification and response to trends and patterns in preventable deaths.



Finalise our SES transition in accordance with our SEI Plan under the GSE Act.



Implement a national criminal records check for new staff.



Finalise implementation of SuperStream.



Continued our compulsory in-house training for all new staff on Aboriginal cultural appreciation and disability awareness, and offered staff training on mental health and cultural intelligence.



Reduced our energy use and recycled 5.2 tonnes of paper.



Finalised three internal audits covering different areas of our operations.



Updated our internal audit and audit and risk charters.



Replace our intranet.



Finalise our disability inclusion plan.



Review our performance management system and supervision arrangements.



Embed our updated risk management framework, review the associated policies and supporting education strategies, and conduct an office-wide risk assessment to develop risk profiles for each divisions and for the office.



Balancing our books

Most of our revenue comes from the government in the form of a consolidated fund appropriation. This was \$24.147 million in 2015–16. The government also provided \$1.941 million for certain employee entitlements such as defined benefit superannuation and long service leave. We received \$175,000 for our capital program which was spent on a range of items, including computer hardware and software.

In addition to our consolidated fund allocation, we received a number of specific purpose grants totalling \$6.167 million. This included funding for Operation Prospect (see page 47), our disability reportable incidents function (see page 106), our Aboriginal programs role (see page 121), the disability rights project (see page 110) and to fund redundancies.

Other than our appropriation, our usual main source of revenue is from conducting training courses. We generated \$1.081 million through fee-for-service training courses, consultancy work and bank interest (see page 138).

Most of our revenue is spent on employee-related expenses including salaries, superannuation entitlements, long service leave and payroll tax. We spent just over \$28.5 million on these items in 2015–16 and the day-to-day running of our office cost about \$4.9 million (see page 138).

Figure 13: Financial summary

	14/15 \$'000	15/16 \$'000	Change %
Operating revenue including government contributions	31,864	33,511	5.17
Operating expenses	32,535	34,400	5.73
Total assets	9,066	6,479	-28.54
Total liabilities	8,277	6,620	-20.02
Net result	(755)	(930)	-23.18
Total equity	789	(141)	-117.87

Our operating revenue increased by 5.17% in 2015–16, while our operating expenses increased by 5.73%. The major area of change in our revenue base was an increase in specific purpose grants, which totalled \$6.167 million. We had about a 5% decrease in our self-generating revenue – which includes fee-for-service training and other miscellaneous revenue items. Changes to public sector financial management practices mean that we will no longer accrue interest on our cash at the bank. We successfully argued to government that our recurrent appropriation should be increased to compensate for the loss of our interest revenue.

There was a \$540,000 increase in the acceptance by the Crown of employee benefits and other liabilities. This was mostly an increase in long service leave after an actuarial assessment of this employee benefit.

Our asset base decreased largely because of a reduction in receivables, as the 2014–15 year's figure included \$2.076 million owing as part of our lease incentive for fit-out improvements.

Our liabilities have also decreased. As 30 June 2016 was a pay day, our accrued wages and on-costs were only \$3,000 – down from \$857,000 the previous year. Provision for annual leave was similar to the previous year as we proactively managed our leave entitlements. Creditors were significantly lower than the previous year.

Our recurrent allocation was \$1.935 million less than budget, primarily as a result of NSW Treasury's cash management reforms which require all non-restricted cash and cash equivalents in excess of a readily assessable short term level to be held within the Treasury banking system. This meant that in the 2015–16 financial year we were required to use our 'own' cash before recurrent funding was provided by government. Our negative 'net result' was a direct result of this change as was the reduction in the level of recurrent appropriation received.

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

In line with the NSW Government's commitment to improve financial management in the public sector, we continue to review our internal accounting practices and the quality of the information we provide to NSW Treasury. This year, NSW Treasury also sought feedback on a number of policy papers as part of its financial management transformation project.

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

For more details about our financial position, please see the 'Our financials' section of the report at page 137.

Reducing our environmental impact

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

Our accommodation lease negotiations in late 2014 included agreement by the building owner to a lease incentive to improve our fit-out. We took this opportunity to adopt energy saving initiatives that would reduce our energy usage over time and would also improve our work environment. We have completed the first two stages of our fit-out project with parts of our office open plan. Our lights are fitted with energy saving motion sensors and we have paid particular attention to improving the performance of the air-conditioning. We had expected to finalise the fit-out project this year, but due to the government's announcement of the establishment of the Law Enforcement Conduct Commission (see page 42) it has been necessary to reconsider our ongoing accommodation needs. Our fit-out project will be revised and finalised in 2016–17.

Energy

Our building has achieved a 4.5 Star (5 Stars with Green Power Allocation) NABERS Energy rating. The GREP has a number of strategies to improve the use of energy – including minimum NABERS Energy ratings, minimum standards for new electrical appliances and equipment, minimum fuel efficiency standards, and purchasing 6% green power. We purchased energy efficient equipment, purchased 6% green power and encouraged our staff to adopt energy efficient practices. As our fit-out improvement project is only partially complete, we have not yet been

audited for NABERS compliance. However, since the partial completion of our fit-out, we have already reduced our energy use (see figure 15 Electricity consumption).

To improve the environmental performance of our motor vehicle fleet, we:

- purchase fuel efficient cars based on NSW clean car benchmarks that are compatible with E10 blends of fuel
- maintain our cars according to the manufacturer's recommendations
- encourage staff to use public transport where practicable.

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

Our other energy efficiency initiatives included:

- monitoring our energy usage through auditing, preventive maintenance, staff education programs and purchasing energy efficient equipment
- enabling power-management features when installing office equipment
- installing video conferencing facilities to provide an alternative to travel, helping us reduce our greenhouse gas emissions
- supporting our building's environmental programs.

Waste

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

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

During the year, we continued to reduce our reliance on paper-based products. This includes significantly reducing the number of reports we print, including annual reports and special reports to Parliament. We make these reports available electronically on our website along with our guidelines, brochures and fact sheets.

We use Australian 80% recycled content paper in our printers and copiers and purchased 3,500 reams of copy paper. This averages 16.3 reams per staff member – higher than the ICT Sustainability Plan's July 2015 target of nine reams per person. The implementation of 'follow me print' has had a small impact on our paper usage and we will be working to further monitor and report on it. We will then use this information to target inefficiencies and waste and work towards reducing paper usage.

We recycle all our clean waste paper through our secure paper recycling bins and collected 5.2 tonnes of paper in 2015–16. We recycle all our toner cartridges through the HP Planet Partners Program.

Other waste reduction initiatives included:

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

Water

We lease premises in a building that is fitted with a range of water-saving technologies including low-flow taps and showers, dual-flush cisterns and waterless or low-flow urinals and grey water systems. The building has a 3.5 star NABERS water rating. We do not have any data on our tenancy's water usage.

Clean air

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

Figure 14: Fuel consumption

	11/12	12/13	13/14	14/15	15/16
Fuel (l)	2,743	1,882	1,657	2,333	1,328
Distance travelled (km)	36,809	23,472	18,944	28,026	21,111

Figure 15: Electricity consumption

	11/12	12/13	13/14	14/15	15/16
Electricity (kWh)	224,942	240,891	274,617	308,352	243,891
Kilowatts converted to gigajoules	810	867	988	1,110	878
Occupancy (people)*	186	180	193	199	215
Area (m ²)	3,133	3,133	3,133	3,133	3,133
Gigajoules per person	4.35	4.82	5.11	5.57	4.1

* rounded to nearest whole number

Supporting our business

Our corporate branch supports our operational areas and provides personnel, business improvement, accounting, information technology (IT), information management, publications design and layout, and project and administrative support. The work of our personnel unit is discussed later in this chapter and our accounting activities are discussed in the financial section of this report (page 137). As with all areas of the office, the work of our corporate branch is guided by our corporate and other planning documents – and some of our key corporate projects this year are outlined below as well as throughout the report.

Improving our information systems and reporting

The quality of our information is vital to assisting the community and identifying systemic issues over time. We make every effort to effectively manage the large volumes of information we receive from agencies or access directly from their systems. This helps us make connections and identify risks across a range of information, and adds significant value to our work.

Accurate and comprehensive data is important to us. The Royal Commission into Institutional Responses to Child Sexual Abuse has highlighted the importance of capturing relevant data in abuse matters. This year we worked with our human services branch to enhance the range of data that we capture about incidents, alleged victims, service receivers, and those the subject of allegations. This was a significant project that resulted in changes to Resolve, our case management system. It also included developing an 'add-in' solution to allow staff to capture complex data which otherwise was not possible through the standard Resolve interface. We are revising our reporting to ensure that we use the information captured to monitor trends and inform our decision-making.

An internal audit in 2014–15 made a number of suggestions to improve how we capture and monitor the recommendations we make to agencies. This year we worked with all business areas to develop guidelines for recording, monitoring and updating agency progress towards implementing our suggestions and recommendations or any undertakings they give. We also made changes to Resolve to improve how we monitor and report on compliance with our suggestions or recommendations.

Other changes to Resolve included:

- creating a new business process to reflect our work with the Children's Guardian on the NSW Carers Register
- developing a new business process to capture public interest disclosure audit reviews
- implementing the recommendations of last year's Resolve review.

This year we continued to improve our website. We reviewed and updated our on-line complaints form as well as the information and resources for agencies and the public.

Monitoring organisational performance

We continued to improve and refine our KPIs and other management reporting – reviewing a number of indicators to ensure that they were correctly tracking our performance.

Working with division managers, we identified the need for some changes to Resolve to ensure data was consistently captured and reported.

Upgrading our infrastructure and software

Our infrastructure is important to making sure we are able to provide the highest quality services to our stakeholders in a timely and effective manner. This year, we upgraded over 70% of our Microsoft Windows servers to Windows 2012, upgraded our intrusion prevention and detection systems to their latest version, and replaced our Microsoft Outlook Web Access two factors authentication tokens with RSA SecurID. We also upgraded our complaints management system and our accounting, personnel and payroll applications.

Complying with digital information security

The NSW digital information security policy sets out five core requirements for government agencies. This includes having an information security management system that complies with the minimum controls in the information security standard (ISO 27001) and code of practice. The Ombudsman has attested compliance with this policy earlier in this report (see page 22).

Protecting sensitive information

The Ombudsman deals with a significant amount of sensitive information. Under the NSW Government information classification and labelling guidelines, this information must be handled in accordance with its sensitivity. This includes labelling the information appropriately. We are continuing to work towards achieving full compliance with these guidelines.

Following an update to the NSW Government policy, we reviewed our internal policy. We took the opportunity to review our own guidelines to streamline our internal processes and provide better clarity around what staff are required to do. We progressed the rollout of our classification software solution to Word and Excel, presenting the solution to our business area for endorsement. We are also continuing to make changes to our records management system, TRIM to ensure compliance with the requirements of the policy.

Replacing our intranet

An intranet can be a valuable and effective business tool and a strategic asset that supports key business processes, improvements in efficiency and greater staff satisfaction. Our current intranet was created to provide a portal for reports and has grown to provide a range of information and links to other information repositories. Overall staff usage of the current intranet is low, mostly due to the difficulty in navigation. Staff have indicated that a more flexible, collaborative design is required. This year we started a project to replace our intranet. We expect that the new intranet will be operational by December 2016.

Our people

At 30 June 2016, we had 236 people working for us on either a full or part-time basis. Our staff have diverse skills and experience and come from a range of backgrounds – including investigative, law enforcement, community and social work, legal, planning, child protection and teaching.

Human resources

Any exceptional movement in wages, salaries or allowances

The relevant industrial agreements were varied to increase salaries and salary-based allowances for our staff by 2.5%, effective 3 July 2015.

Our statutory officers as well as our other senior staff are remunerated through determinations of the independent Statutory and Other Offices Remuneration Tribunal (SOORT).

From 1 July 2015, the Ombudsman's remuneration was increased by 2.5% in line with SOORT's Public Office Holders determination.

The remuneration levels for public service senior executives – to which our Deputy Ombudsman, Assistant Ombudsman and other senior staff are aligned – were also increased by 2.5% from 1 July 2015. The application of this determination coincided with the transition of our senior staff to the new public service executive structure and any changes to their remuneration also had regard to the Public Service Commission's remuneration framework – see arrangements for senior executives below.

Personnel policies and practices

Our staff are employed under the provisions of the *Government Sector Employment (GSE) Act 2013* which, along with associated regulations and the Crown Employees (Public Service Conditions of Employment) Award 2009, set the working conditions for public servants. This means we have little scope to set working conditions and entitlements for staff.

This year, we finalised our SuperStream project which improved the efficiency of superannuation administration in line with federal government reforms. A key element of SuperStream is using a clearing house to disperse superannuation contributions quickly to relevant fund managers.

We also reviewed our staff vetting processes this year, and introduced national criminal records checks, replacing NSW only checks.

We continued to expand the capability of our HR21 system by rolling out an online overtime approval process. We will continue to develop HR21 as resources permit.

Working with the JCC

The Joint Consultative Committee (JCC) continued to work cooperatively during the year to discuss a range of issues affecting staff.

The NSW Government's announcement to create the Law Enforcement Conduct Commission and transfer our policing role to this new agency (see page 42) was the main focus of the JCC for much of the year. The Ombudsman and other senior staff met with the Public Service Association and staff representatives about this.

People Matter Employee Survey 2016

The Public Service Commission (PSC) conducts the People Matter Employee Survey to capture employees' perceptions of how well the public sector values are applied across the sector, as well as employee views on – and experiences in – their workplaces.

This is the third survey of its kind and was open to all NSW public sector employees. Over 63% of our staff responded to the survey, an increase in the response rate compared to previous years.

At the time of writing, we are still waiting for the survey results

Arrangements for senior executives

The GSE Act provides new executive arrangements for former senior executive service (SES), senior officer (SO) and equivalent positions. Under the Act's transitional provisions, the new executive arrangements must be adopted by all agencies within three years of the legislation coming into operation.

We developed a senior executive implementation (SEI) plan to guide our transition to the new arrangements. Most of our senior staff were transitioned by July 2015, with the process being finalised by April 2016.

Figure 16: Comparative staff levels as at 30 June

Subject	11/12	12/13	13/14	14/15	15/16
Statutory officers	4.00	4.00	4.00	6.00	8.00
Investigative, systemic review, project and research	118.75	115.37	125.66	124.32	138.36
Investigative support	20.40	19.60	18.6	24.5	24.50
Training and community education	3.00	2.50	1	2.5	2.00
Inquiries	8.74	9.74	9.56	11	10.00
Community visitor support	1.80	1.80	1.80	1.80	1.80
Corporate	29.67	26.81	32.37	28.23	30.00
Total Full-time equivalent	186.36	179.82	192.99	198.35	214.66

The provisions of the GSE Act for the employment of public service employees do not apply to the Ombudsman. The Ombudsman is a statutory appointee employed under the provisions of the *Ombudsman Act 1974*. Entitlements and other conditions are provided through the instrument of appointment. The SOORT determines the remuneration to be paid to the Ombudsman as a public office holder.

The Deputy Ombudsman and Assistant Ombudsman are also statutory appointees, employed under the Ombudsman Act. The provisions of the GSE Act relating to the employment of public service employees do not apply to a Deputy Ombudsman and Assistant Ombudsman except those about:

- the band in which an executive is to be employed
- the contract of employment
- remuneration, employment benefits and allowances
- termination of employment.

As at 30 June 2016, we had 14 senior executive staff – 57.14% of whom were women. See figures 17 and 18 for details of the levels of our senior positions as well as their remuneration. Although the Ombudsman is not subject to the GSE Act, he is included to make the table complete.

In 2015–16 13.01% of the Ombudsman’s employee-related expenditure in 2016 was related to senior executives, compared with 12.95% in 2014–15.

Figure 17: Senior executive level

Band	14/15		15/16	
	Female	Male	Female	Male
Band 4	0	1	0	1
Band 3	0	0	0	0
Band 2	1	3 [#]	1	3 [#]
Band 1	6 [*]	3	7	2
Total	7	7	8	6
Total both male and female	14		14	

* includes a staff member on leave without pay

[#] includes a temporary position created while a Deputy Ombudsman is leading a major investigation

Figure 18: Senior executive remuneration

Band	Range \$	Average remuneration \$	
		14/15	15/16
Band 4	441,201 – 509,750	487,898	500,097
Band 3	313,051 – 441,200	0	0
Band 2	242,851 – 313,050	274,504	281,600
Band 1	174,500 – 248,850	187,789	201,169

Workforce diversity

The GSE Act makes diversity a priority area for all public sector agencies. It focuses on existing groups (Aboriginal people, women, people from culturally and linguistically diverse backgrounds, and people with disability), but also provides flexibility to include other groups – including

mature workers, young people and carers. A key goal is for all public sector agencies to reflect the diversity of the wider community.

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

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

The NSW Government has set targets for employing people from various diversity groups. These targets are a useful measure of the effectiveness of our diversity program – see figures 19 and 20. We exceeded the target in the representation of women, people whose language first spoken as a child was not English, Aboriginal people and Torres Strait Islanders, and people with a disability requiring adjustment. There is no target for people with disability.

This year saw a significant increase in the representation of people with disability requiring adjustment in our staffing profile. In May 2016, the Disability Council congratulated our office on our exemplary record of employment of people with disability stating that having 11% of staff with disability ‘is commendable, given that across the NSW Public Service the rate of employment for people with disability is only 3%’. The Disability Council went on to say that ‘for people with disability, enjoyment of the right to employment on an equal basis with others is about more than just the wage. Employment provides a sense of meaning, inclusion, purpose, self-empowerment and identity and is a pathway to positive self-esteem, wellbeing and engagement in community life’.

Policies and practices

All government agencies must consider diversity policies, outcomes and priorities when they are recruiting and supporting staff. We make sure we have a diverse and skilled workforce, fair work practices and behaviours, and employment access and participation by diversity groups. Figure 21 shows the gender and diversity target groups of staff by salary level.

Preventing harassment and having respect for each other

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

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

There were three formal workplace grievances lodged during the reporting year.

Access and equity programs

We continued to implement our access and equity programs which focus on the needs of vulnerable groups. Our disability action plan, multicultural action plan and Aboriginal policy support our workforce diversity outcomes.

During the year, we reviewed our disability action inclusion plan to align it with new legislative provisions that came into operation in December 2015.

See Appendix G for more details about these programs.

Flexible work arrangements

We promote flexible work options to enable staff to balance work and their personal commitments. We offer part-time work, flexible working hours, working-at-home arrangements and a range of leave options. During the year 79 staff worked part-time.

The year ahead

In 2016–17 our priority will be to implement our disability inclusion plan and the reviews of our induction processes, supervision arrangements and performance management system.

Figure 19: Trends in the representation of EEO groups (percentages)

EEO group	Target (%)	Result (%)				
		11/12	12/13	13/14	14/15	15/16
Women	50	73.8	73.1	71.9	72.7	73.7
Aboriginal & Torres Strait Islander people	2.6	2.9	3	2.4	3.2	3.0
People whose language first spoken as a child was not English	19	18.1	16.1	20.1	19.5	19.3
People with disability*	n/a	10	12.1	10.1	11.1	11.1
People with disability requiring work-related adjustment	1.5	2.4	2.5	2.4	2.8	5.5

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

Figure 20: Trends in the distribution of EEO groups (distribution index)

EEO group	Target	Result				
		11/12	12/13	13/14	14/15	15/16
Women	100	92	92	93	95	97
Aboriginal & Torres Strait Islander people	100	n/a	n/a	n/a	n/a	n/a
People whose language first spoken as a child was not English	100	87	87	87	89	90
People with disability	100	102	100	99	100	104
People with disability requiring work-related adjustment	100	n/a	n/a	n/a	n/a	n/a

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

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

Figure 21: Percentage of total staff by level

Level	Total staff (no.)*	Respondents*	Men*	Women*	Breakdown by EEO group (%)				
					Aboriginal and Torres Strait Islander people	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with disability	People with disability requiring work-related adjustment
\$0 – \$44,683	0	0	0	0	0.0	0.0	0.0	0.0	0.0
\$44,683 – \$58,867	4	4	0	4	25.0	25.0	25.0	0.0	0.0
\$58,867 – \$65,608	12	12	1	11	8.3	41.7	41.7	16.7	0.0
\$65,608 – \$83,022	49	48	17	32	2.1	35.4	22.9	6.3	2.1
\$83,022 – \$107,362	90	89	20	70	1.1	21.3	22.5	11.2	5.6
\$107,362 – \$134,202	68	68	19	49	2.9	13.2	11.8	13.2	7.4
\$134,202 > (Non SES)	7	7	4	3	14.3	0.0	0.0	28.6	28.6
\$134,202 > (SES)	6	6	1	5	0.0	0.0	0.0	0.0	0.0
Total	236	234	62	174					

*This figure represents the actual number of full-time and part-time staff as at 30 June 2016 – not the full-time equivalent

Work health and safety

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

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

Our WHS committee

The implementation of our WHS framework is overseen by our WHS committee. The committee is made up of representatives from all divisions of our office who meet regularly to discuss issues relating to the health and safety of our staff.

This year, the committee:

- conducted an inspection to identify hazard and other risks around the workplace, and reported the results of the inspection to the audit and risk committee
- reviewed online resources to include in our staff induction program and for ongoing education and information purposes
- reviewed WHS-related policies and processes as well as our WHS framework
- consulted with staff about wellbeing programs.

Reasonable adjustments

During the year, we modified a number of work areas or work processes to help staff who have either ongoing medical conditions or other specific needs. These included desk adjustments and special equipment purchases –

including sit/stand desks, changing the placement of lights, and installing special software. Some of these modifications were made after medical or other external professional assessments.

Emergency evacuation procedures

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

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

Wellcheck program

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

This year, we engaged a consultant (FBG) to do a psychological trauma risk review for staff in our child death review team. The purpose of this review was to identify the levels and types of exposure to psychological trauma – both direct and vicarious – among staff reviewing child deaths. The review has made a number of recommendations that could minimise the risks to our staff. We are currently reviewing these recommendations and developing an implementation action plan.

Other programs to support WHS

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

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

Workers compensation

We are part of icare TMF, a self-insurance scheme for the NSW public sector. Only one claim was reported to our insurer during the reporting period (figure 23). As at 30 June 2016, we had one open workers compensation claim.

Our workers compensation incidence rate was substantially lower than the previous year as we had less claims and a higher number of staff.

Learning and development

Providing staff with learning and development opportunities helps us to continue to attract and maintain a skilled and committed workforce. Our staff are encouraged to participate in a diverse range of training to help them work more effectively and to gain skills that assist their personal and professional development.

Raising awareness

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

Developing professional skills

Our staff attended a range of conferences during the year – including the Institute of Internal Auditors South Pacific and Asia conference, Association of Children's Welfare Agencies conference, Aboriginal Child, Family and Community Care State Secretariat conference, Australia and New Zealand

Society of Criminology conference and the Australian Association of Developmental Disability Medicine conference. These events are an opportunity to learn from industry experts, improve understanding of contemporary issues affecting our work, and network with people who have similar roles, experience and skills.

Staff also attended a range of internal and external training courses including:

- effective time management
- managing the 'cost of caring' – understanding vicarious trauma, compassion fatigue and burnout in order to promote helper resilience – delivered by a registered psychologist
- a range of training specific to our complaint handling activities – including training on the new complaint handling standard, scientific content analysis (SCAN) and applying behavioural insights
- training sessions on the use of Microsoft Word, Excel and Outlook.

Managing people

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

Training for new staff

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

Providing study leave

Staff development also means encouraging staff to undertake further study to enhance their skills. Four staff used study leave provisions to attend tertiary education courses in 2015–16.

Figure 22: Time spent on training

Number of	14/15	15/16
Courses attended	109	105
Full-time equivalent staff	198.35	214.66
Total time spent – hours	3,735	4,801
Total time spent – days	533.57	685.86
Days spent per staff member	2.69	3.2
Training \$ per staff member*	825.97	776.84

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

Figure 23: Training expenditure

Year	11/12	12/13	13/14	14/15	15/16
Expenditure	\$155,000	\$174,000	\$213,000	\$158,000	\$166,756

Figure 24: Workers compensation

Claims entered in the year	11/12	12/13	13/14	14/15	15/16
Claims brought forward	5	4	3	3	0
New claims	7	8	2	2	1
Claims closed	8	9	2	5	0
Open claims 30 June	4	3	3	0	1

Figure 25: Workers compensation incidence rate

	11/12	12/13	13/14	14/15	15/16
Number of claims submitted	7	8	2	2	1
EFT staff number	186.36	179.82	192.99	198.35	214.66
Incidence rate (%)	3.76	4.45	1.04	1.01	0.46



In this chapter

Police.....	42
Compliance and inspections.....	52

This chapter outlines the work we do in relation to policing, including our reviews of the exercise of new laws giving police broader powers.

The chapter also discusses our compliance monitoring and inspection functions for controlled operations, telecommunications intercepts, surveillance devices and covert and criminal organisation search warrants.

Police and compliance



Highlights

In 2015–16, we

- Reviewed 1,667 complaints investigated by police, found 83% had been handled well, and made suggestions to remedy our concerns in the remaining 17%.
- Provided the report of our review of the consorting laws to the Attorney General.
- Continued our work on Operation Prospect, which we will finalise in late 2016.
- Made a supplementary submission to the Tink Review of Police Oversight in NSW.
- Provided detailed submissions to the Law Enforcement Conduct Commission implementation committee about draft legislation and other information to assist with the transition of our functions in 2017.

Reforming the NSW police complaints system

After its election in 2015, the NSW Government commissioned former NSW Shadow Attorney General, Mr Andrew Tink AM, to examine ways in which the oversight of the NSW Police Force (NSWPF) and the NSW Crime Commission could be streamlined and strengthened. Mr Tink was required to report on options for a single civilian agency for the oversight of police in NSW and make recommendations about its design, structure, cost and establishment.

We made detailed submissions to Mr Tink – alerting him to the strengths of the current system of civilian oversight and the challenges of combining the police oversight functions of the Police Integrity Commission (PIC) and the Ombudsman in one agency. Mr Tink acknowledged our concerns and adopted some of our suggestions in framing his recommendations.

In November 2015, Deputy Premier and Minister for Justice and Police, the Hon Troy Grant released Mr Tink’s report – *Review of Police Oversight* – and the government’s response. Mr Grant announced that the government accepted Mr Tink’s recommendations for a single civilian oversight body for the NSWPF and NSW Crime Commission, to be called the Law Enforcement Conduct Commission (the LECC). The new agency would have an Integrity Division – to perform the PIC’s current functions – and an Oversight Division to perform the current functions of our police and compliance branch (PCB).

This year we made detailed submissions to the LECC implementation committee, established by the NSW Department of Justice to develop legislation and make arrangements for the new agency to start operations in January 2017. The focus of our submissions has been to ensure that the LECC committee implements all 50 recommendations made by Mr Tink, so that the new agency is well placed to meet its objective of improving the system for civilian oversight of police.

The implementation committee considered and adopted many of our suggestions in developing the draft legislation. At the time of writing, discussions are continuing between our office and government about implementation of the recommendations and observations made by Mr Tink. Our concern is to ensure the effectiveness of the LECC and to strengthen the system of civilian oversight in NSW. Concerns that we have raised in a submission to the Joint Parliamentary Committee for the Ombudsman, PIC and the NSW Crime Commission are available on our website.

Work of the police and compliance branch

This chapter provides information about the last full year of operation of the current police complaints system under the Police Act. It has been a considerably challenging and uncertain time for our Ombudsman staff working in the PCB, since they learned that the positions in which they are employed in our office will not continue from January 2017. Despite these difficult circumstances, our staff have continued a proud Ombudsman tradition of keeping the NSWPF accountable for their handling of complaints about police.

Complaints

This year, we received and assessed 3,309 formal or written complaints about police officers. We finalised a total of 3,240 complaints. These numbers are consistent with complaint trends over the last 5 years – see figure 26.

Along with assessing formal complaints, we also dealt with 2,374 contacts from members of the public who were seeking advice, information or an explanation about how to make a complaint. In some circumstances, we are able to deal with a matter quickly and informally by contacting the local area command directly to resolve the complainant’s concerns.

Figure 26: Formal complaints about police received and finalised

	11/12	12/13	13/14	14/15	15/16
Received	3,386	3,287	3,390	3,434	3,309
Finalised	3,390	3,178	3,249	3,635	3,240

Figure 27 shows the number of complaints made by police officers about other police. These make up 35% of all complaints made this year – a consistent trend over the past decade.

It also shows the proportion of formal complaints made by members of the public, compared to the previous four years.

Figure 28 shows what people complained about this year. A single complaint will often include more than one allegation and may involve more than one officer. For further details about the actions that NSWPF took for each allegation, see Appendix A.

Figure 27: Who complained about the police

	11/12	12/13	13/14	14/15	15/16
Police	1,246	1,206	1,250	1,203	1,194
Public	2,140	2,081	2,140	2,231	2,115
Total	3,386	3,287	3,390	3,434	3,309

Improving the handling of individual complaints

Our role in the police complaint process is to make sure that the NSWPF handles complaints about police officers fairly and reasonably at every stage. For certain types of complaints, this is from the initial assessment decisions about whether or not the complaint needs further investigation through to final decisions about management action. We also encourage the NSWPF to provide complainants with reasons for decisions, whether about the complaint process or the outcome.

Figure 28: What people complained about in 2015–16

Subject matter of allegations	Number
Misconduct	1,868
Service delivery	1,316
Investigation	784
Information	614
Other criminal	594
Excessive use of force	448
Corruption/misuse of office	261
Prosecution	242
Drugs	189
Property/exhibits/theft	188
Search/entry	159
Complaints	131
Public justice offences	124
Custody	97
Arrest	95
Driving	63
Total	7,173

Investigating complaints from the outset

The decision that the NSWPF makes at the outset about how to handle a complaint (including whether or not to investigate it) is pivotal. Our scrutiny makes sure that all relevant information is taken into account by the NSWPF and its decision is appropriate. What we consider when assessing a notification from police depends on the nature and seriousness of the allegation. For example, we make sure allegations such as assault or unauthorised access to information are identified as criminal allegations and are investigated appropriately. We often make suggestions about particular lines of inquiry – such as reviewing certain documents or talking to certain witnesses. If we disagree with the decision not to investigate a complaint, we can require police to conduct an investigation. See case study 1 for an example.

Assessing the quality of investigations and outcomes

During the year, we carefully reviewed the handling of 1,667 complaints that were investigated by the NSWPF. Many of these matters are informally resolved without any remedial or management action needing to be taken. They can also often be handled quickly and to the satisfaction of all parties.

However, for more serious matters – such as potentially criminal conduct or where significant management action might be required – it is important that a more formal evidence-based investigation is done from the outset. This year, 650 of the 1,667 reports were this kind of investigation. The remaining 1,017 complaints were resolved informally.

We also reviewed 1,046 complaints where the NSWPF decided not to take any further action on a complaint, and another 526 complaints involving allegations such as rudeness and poor customer service. These were referred to police as 'local management issues' to resolve directly with the complainant without our oversight – see figure 31.

Figure 29: Action taken by the NSWPF after complaint investigation/informal resolution

	11/12	12/13	13/14	14/15	15/16
No management action taken	961	844	765	824	678
Management action taken	1,197	1,034	977	1,091	989
Total investigations completed	2,158	1,878	1,742	1,915	1,667

Figure 30: Police officers criminally charged in relation to notifiable complaints finalised

	11/12	12/13	13/14	14/15	15/16
Number of complaints leading to charges	67	62	56	63	74
Officers charged	66	61	59	63	70
Officers charged after complaints by other officers	52	43	54	49	47
% of officers charged after complaints by other officers	79	70	92	78	67
Total charges laid	149	150	123	139	216

Figure 31: Action taken in response to formal complaints about police finalised in 2015–16.

Investigated by NSWPF and oversighted by us	650
Managed by NSWPF through informal resolution and oversighted by us	1,017
Investigated by Ombudsman	1
Assessed by us as local management issues and referred to local commanders for direct action	526
Assessed by us as requiring no action (eg alternative redress available or too remote in time)	1,046
Total complaints finalised	3,240

Of the 1,667 more serious complaints investigated there was some form of management action taken in response to 989 of them. Figure 32 shows the management action taken in response to formal complaints about police that have been investigated.

A key part of our work is assessing the adequacy of any management action taken by commanders to remediate or address police conduct that has been found to be unlawful or unreasonable. This management action ranges from giving an apology, training and counselling up to the removal of an officer from the force. As figure 32 shows, the most common responses are counselling, providing officers with support such as coaching and mentoring, and giving an official reprimand or warning.

In 2015–16:

- 25 officers were removed by the Commissioner under section 181D of the Police Act.
- Serious 'reviewable' management action was taken against 54 officers – this includes a reduction in rank or transfer to another command.
- There were 313 instances where an officer agreed to comply with a conduct management or performance management plan – designed to improve their performance by providing access to training, mentoring or closer supervision.
- 299 officers were issued with a formal warning notice – including advice that further misconduct might result in removal from the NSWPF.

Making suggestions for improvement

When we are not satisfied with the way a complaint has been investigated or with the management action taken, we advise the NSWPF of our concerns and the reasons for these concerns. We may ask the commander to conduct further inquiries, reconsider the findings made or remedial action taken, or we may request further advice about the reasons for a decision. If we consider there is little utility or public interest asking for further action to be taken – for example, too much time has elapsed or the officer has since left the force – we still provide advice to the NSWPF to help avoid similar issues in the future. We also assess and record the timeliness of each investigation.

1. Investigating child abuse material

A complaint was made that an officer was in possession of a DVD believed to contain commercially produced child abuse material involving victims who appeared to be from an Asian country. It was alleged to be one item of an extensive collection. Other evidence revealed that in recent years the officer had made a number of solo trips to countries in South East Asia known to law enforcement authorities as having a sex tourism industry. Six years earlier, the officer had been the subject of a complaint investigation involving similar allegations about internet child abuse material. That investigation resulted in insufficient evidence to support criminal or disciplinary proceedings. The NSWPF declined to investigate the current complaint on the grounds that it contained no evidence to support it, was not made in good faith, and the incident occurred too long ago to warrant investigation. We disagreed and required the NSWPF to conduct an investigation. Professional Standards Command (PSC) subsequently undertook a thorough investigation. A search warrant was executed on the officer's home and numerous items and images believed to contain child abuse material were seized. Due to legal technicalities, there was insufficient evidence to lay any criminal charges. However, the evidence was considered sufficient to make a departmental finding that the officer was in possession of child abuse material. He has remained off duty since the search warrant and was recently served with an order for removal from the NSWPF under the Commissioner's confidence provisions.

2. Being sexually harassed after a traffic stop

A young woman complained that the NSWPF failed to properly investigate her allegations of sexual harassment by a highway patrol officer during a mobile random breath test. The incident was captured on an in-car video. The NSWPF treated the matter as a customer service issue and it was not notified to our office. The officer was counselled for unprofessional conduct, the file was closed, and no further action was taken.

The young woman complained to our office. She alleged that during the 25 minute stop, and in the presence of her young child, the officer repeatedly used sexually graphic and threatening language towards her while touching her arm a number of times. Over the next few weeks, the officer made several unsolicited visits to the woman's home without any policing purpose – once while he was on duty and twice off duty. During one of the visits, the officer touched her leg and made sexual remarks of a threatening nature. This caused the young woman to become anxious and uncomfortable.

We wrote to the NSWPF requesting further investigation and suggested a number of lines of inquiry that had not been taken. The Traffic and Highway Patrol conducted further inquiries and provided a report to our office. We found that the investigation and its outcome were still unsatisfactory. We wrote a further letter to the NSWPF insisting that the matter be reinvestigated. After our correspondence, the PSC conducted a comprehensive investigation and sustained findings against the officer for sexual harassment, misuse of authority and untruthfulness. He is no longer a serving NSW police officer.

3. Arresting a man unlawfully

A man complained about being stopped in his vehicle and arrested by two plain clothes officers in an unmarked police vehicle. The officers alleged that at a set of traffic lights the man mouthed the words ‘*what the f--k are you looking at*’ through his car window. They pulled the vehicle over and, after a further verbal exchange, the man was issued with a fine for offensive language. The man got out of his vehicle and walked to the passenger side door of the police vehicle. The officers allege that as they drove away from the incident they heard a loud bang on the outside passenger side of their vehicle. One of the officers arrested the man for malicious damage. However, the man contended that police drove off from behind him in a way that made him feel the vehicle was going to hit him, so he pushed off the vehicle as it went past.

The police investigation found that the officers had the authority to pull the man over because he had committed an ‘offensive language’ offence. The investigator also found that the arrest for malicious damage was lawful. We disagreed with this finding. In our view, the evidence did not show that the officer had reasonable grounds to exercise his arrest powers. The officers did not witness the man striking the police vehicle, the man stated that he had accidentally made contact with the vehicle, and there was no damage to the vehicle at the time of the incident. We also questioned under what authority the man’s vehicle was initially stopped.

We escalated the matter to region command who reviewed the investigation and agreed that the arrest was unlawful. The officer who conducted the arrest was counselled about the proper authority to make a vehicle stop.

4. Helping a young migrant

A Legal Aid solicitor made a complaint to the NSWPF on behalf of her client who was a young migrant from a disadvantaged background. The young man alleged that police had harassed him over a number of years by frequently stopping, searching and questioning him in public spaces and by performing frequent bail compliance checks on him at unreasonable times of the night. He also complained that police officers were often disrespectful and rude to him. The NSWPF notified us of the complaint and advised that an investigation was not needed because police officers had acted lawfully and reasonably when doing bail compliance checks and stopping and searching the young man.

We decided to require the NSWPF to conduct a further investigation into the complaint. We recommended that the NSWPF meet with the man to explain the outcome and address his concerns about future interactions with police. We decided to monitor the investigation and a representative from our office attended the meeting between police officers and the complainant.

At the meeting, the police explained to the man their powers in relation to conducting bail checks and discussed the legal basis for their previous interactions with him. In recognition of the man’s concerns, the local area commander agreed to send an email to all staff at the command reminding them to record sufficient details to show that any powers were exercised in line with law

continued page 46

Figure 32: Management action taken against police officers after investigation of notifiable complaints in 2015–16

Subject area	Percentage
Management counselling	21.5
Coaching/mentoring/referral to specialist services	15.9
Official reprimand/warning notice	14.4
Additional training	9.1
Increased or change in supervision	11.0
Conduct management plan	8.1
Performance agreement	6.2
Restricted duties	6.6
Transfers	3.0
Removal under s 181D	1.4
Change in policy/procedure	1.0
Reduction in rank/seniority	1.3
Formal apology	0.2
Deferral of salary increment	0.3
Total	100

This year we found that 83% of the 1667 complaints we assessed had been handled reasonably and in accordance with the legislative requirements. The other 289 (17%) were assessed as deficient – on the basis that the investigation was inadequate, the management action was not appropriate, or there had been unreasonable and unexplained delays in finalising the complaint.

Case studies 2 and 3 are examples of complaints where the initial investigation by the NSWPF was handled poorly, and then – after our involvement – improved and appropriate findings were made and management action taken.

Monitoring complaint investigations

The Police Act gives the Ombudsman the power to monitor the progress of police complaint investigations when we believe it is in the public interest to do so. In practical terms, this means we are able to observe interviews with witnesses or subject officers, be involved as the investigation is being undertaken, and be given a copy of the report once the investigation has been completed. Case study 4 is an example of the use of these powers.

Reviewing the handling of complaints

A complainant is able to raise concerns with our office about the way the NSWPF have managed their complaint. They can do this for all complaints – including those where the original complaint was not notified to us. Case study 5 is an example where we helped a dissatisfied complainant recover his company’s stolen motor vehicle.

Providing feedback on investigations

Most of the investigations we oversee are handled in accordance with legislative requirements and internal procedures. This is important because it increases the public’s level of confidence in the police complaint system. When we

provide feedback to local area commands (LACs), our aim is to improve the effectiveness of investigations and achieve better outcomes for both complainants and police officers.

Our feedback and advice in case study 6 resulted in the NSWPF recognising the need to send a letter of apology after the inappropriate actions of two police officers. In case study 7 we asked the NSWPF to conduct a thorough investigation into their response to a woman with an intellectual disability who had been the victim of domestic violence.

Identifying issues about police practices

Policing domestic violence

Complaints about the police handling of reports of domestic violence provide a valuable opportunity to ensure police meet their obligations in this crucial area of frontline policing. Case studies 7 to 11 illustrate some of the issues raised with us in complaints this year.

Possessing a service firearm while subject to an ADVO

Last year we reported on our investigation into a complaint about the NSWPF allowing a police officer to have possession of his service firearm when he was the subject of an ADVO, which included a condition that it be surrendered. We reported that the NSWPF had agreed to take steps to ensure that in future all provisional and interim ADVOs against police officers contain a specific condition that prohibits them from possessing firearms – including their service firearm. This would allow the court to determine whether restricted access to a service firearm should be granted to the police officer in issuing a final ADVO. We are disappointed and concerned that the NSWPF have not yet made changes to its standard operating procedures to implement these improvements and will continue to raise our concerns with the NSWPF about the delay.

Declarable associations policy

This year we reviewed two cases that involved the NSWPF's declarable associations policy. In one case – case study 12 – we advised police that an officer's failure to declare her political interests and activities did not breach the declarable associations policy. In case study 13, we expressed our view that a police officer was required to declare his association with a convicted child sex offender as it was inconsistent with his role as a police officer.

Improving the complaints system

Our responsibilities include keeping under scrutiny the systems for dealing with police complaints. This provides us with a perspective on the strengths and weaknesses of the systems – and we can then bring these to the attention of the NSWPF and work with them to find possible solutions.

Auditing the complaints process

We regularly audit different aspects of the processes the NSWPF use to handle less serious complaint allegations. This year, we visited two local area commands and found high levels of compliance with legislative provisions about what matters should be registered as complaints. As part of our auditing work this year, we reviewed 805 records and provided feedback to the commanders.

and policy and to treat the young man with respect and professionalism. To improve the relationship and trust between the young man and police, the commander also offered to arrange for him to be mentored via the Police Citizens Youth Club program.

5. Negotiating a satisfactory outcome

The owner of a car rental company made a report to police after a vehicle that was rented to a member of the public was not returned to the company as agreed. At the time of making the police report, the owner stated that if the vehicle was recovered by police it was not to be towed. These instructions were expressly noted in the police report. When police recovered the vehicle they arranged for it to be towed to a holding yard. The towing company contacted the vehicle owner and advised him that he would need to pay a substantial towing fee. The owner refused to pay the towing fee or any holding fees arising from the towing of the vehicle on the basis that police had acted contrary to his instructions. The owner complained directly to police, but was unable to resolve the dispute. He contacted us and indicated that the towing company was threatening to take legal action against him for the costs of the tow and several months of holding fees.

We reviewed the matter and felt that there was no reason for police to have acted contrary to the complainant's request when initially recovering the vehicle. We contacted the NSWPF, outlined our views, and encouraged them to negotiate a suitable arrangement with the involved parties. As a result, the NSWPF compensated the towing company and the vehicle owner was able to recover his motor vehicle at no cost to himself. The vehicle owner thanked us for our assistance, stating that he did not believe the outcome could have been achieved without our intervention.

6. Apologising for disrespectful behaviour

An Aboriginal man complained to the NSWPF about his treatment while in custody. The man alleged that two officers mocked and mimicked the way he walked. The man suffered from a limp as a result of a previous stroke. He said he was struggling to come to terms with his disability and this treatment caused him to feel 'shamed'.

The NSWPF investigator made sustained findings against the two officers (who accepted their conduct was unprofessional) and they were given advice and guidance to be 'mindful of respectful behaviour in future'. The local area commander wrote to the complainant and told him that the issue had been investigated and appropriate action taken.

We wrote to the commander and suggested that an apology to the man on behalf of the NSWPF might be warranted. We noted there was a possibility civil action could be taken by the man, but advised that the Civil Liability Act specifies that an apology has no effect on determining liability in any civil proceedings.

The commander wrote back to us, agreed with our suggestion, and sent a letter of apology to the man. The letter read in part: 'Please rest assured the actions of the

continued page 47

Case studies

two officers do not represent the values and attitudes of the NSWPF. The NSWPF has the highest respect for people with disabilities and values their contribution as members of our communities. We also acknowledge the challenges which persist for people with disabilities, that make the navigating of day-to-day life difficult and the courage displayed on a daily basis to overcome hurdles that others take for granted.'

We wrote to the Professional Standards Manager commending the commander on his leadership, and said that such apologies go a long way to establishing trust and facilitating greater cooperation with police in the community. We suggested the case be used as a training tool for Professional Standards Duty Officers on the benefits of providing apologies where appropriate.

7. Protecting a vulnerable victim

A manager of a disability service complained to us about the failure of police to apply for an Apprehended Domestic Violence Order (ADVO) and properly investigate a domestic violence assault involving a female client with an intellectual disability. The manager had observed significant bruising on the woman's arms and legs.

The woman disclosed to police officers that she was physically assaulted by her partner. Police did not obtain an ADVO on her behalf due to her limited capacity to understand how to enforce the conditions and her fitness as a witness in court. They also chose not to speak to the alleged perpetrator due to concerns this might place her at further risk.

continued page 48

The NSWPF internal complaint handling guidelines state that investigations are to be completed within 90 days and outcome-focused resolution matters are to be resolved within 45 days. Figure 33 shows that only 20% of investigations and 28% of resolutions were completed within these timeframes. The ability of the NSWPF to finalise complaints in a timely manner is an ongoing issue and will continue to require close monitoring.

Figure 33: Timeliness of the completion of investigations and informal resolutions by the NSWPF

Percentage	11/12	12/13	13/14	14/15	15/16
Investigations less than 90 days	34	25	24	23	20
Informal investigations less than 45 days	36	29	26	26	28

Every year we conduct an audit of all the complaints that have been notified to us which appear to be delayed, or where we have not received any advice about the reasons for the delay. This year we audited 383 matters and requested advice on the status of 119.

Unauthorised access to confidential information

It is important that NSWPF policies and procedures relating to when police are authorised to access confidential information are clear. This assists police to understand their obligations and ensure that complaints are dealt with effectively. During the year, the PSC asked us to provide feedback on proposed amendments to the Police Handbook. Although these changes are overdue, it is

Operation Prospect

Operation Prospect started in late 2012 and is one of the largest and most complex investigations this office has conducted. It is a comprehensive investigation of allegations about the conduct of officers of the NSWPF, the NSW Crime Commission and the PIC in relation to a number of investigations that occurred between 1998 and 2002. The Ombudsman is also investigating the release of confidential NSW Crime Commission and police records relating to these matters.

On 25 August 2015, the General Purpose Standing Committee No 4 of the NSW Legislative Council tabled its report into the progress of Operation Prospect. The committee recommended that the Ombudsman provide a written report by 1 November 2015, outlining the progress of the investigation and the anticipated time frame for completion. The Acting Ombudsman's first progress report explained that Operation Prospect was at an advanced stage, but could not be finalised until the individuals and agencies involved in the investigation had an opportunity to express their views on the provisional conclusions that had been reached. That 'procedural fairness stage' was expected to extend until December 2015, and we were working towards completing the investigation in the first half of 2016.

On 15 June 2016, the Acting Ombudsman provided a second progress report to Parliament on Operation Prospect. This report noted that a range of factors had extended the procedural fairness stage into May 2016. Document inspection by parties had taken longer than expected. Some key witnesses had provided supplementary submissions over some months. Some witnesses had been granted additional time to make submissions on reasonable and significant grounds that prevented them responding earlier. We also decided it was necessary to hold additional hearings into issues that were either not sufficiently addressed or required further evidence and responses from witnesses.

Operation Prospect will conclude with a written report to Parliament, which the Ombudsman will recommend be made public. The report is unlikely to be tabled in Parliament until towards the end of 2016.

pleasing that the PSC is taking positive measures to improve police conduct in relation to accessing confidential information. Meanwhile, we have continued to identify complaints that indicate police confusion about when they can access certain confidential information – including station summaries and/or statewide significant events recorded on COPS. Case study 14 is an example.

Conflicts of interest

The NSWPF's conflict of interest policy is designed to ensure that members of the community can be confident that all police officers perform their duties in a fair and impartial manner. It aims to ensure that officers do not perform official duties if that would give rise to an actual, potential or perceived conflict between their public duties as a police officer and their private interests. The policy recognises that perceived or potential conflicts of interest can be equally as damaging to the reputation of the NSWPF as actual conflicts of interest. Case study 15 is an example of the application of the policy.

Poor practices in need of reform

While keeping the police complaint system under scrutiny, we have identified a number of practices in need of reform. Despite ongoing discussions with the NSWPF over a number of years, some of these have not yet been addressed. We would expect the LECC to pursue these matters in the future if they remain unresolved when it starts its operations.

Investigating criminal allegations against police officers

Police officers who are alleged to have committed a criminal offence can be investigated and charged just like other people. Sometimes the complaint investigator identifies that the conduct being complained about is criminal in nature, or evidence of criminal conduct is uncovered during a complaint investigation. When this happens, the NSWPF needs to decide whether the officer should be criminally charged and prosecuted. The Police Act requires these decisions to be made by an officer who is an Assistant Commissioner or above, and not by the investigator. This division of responsibilities is intended to ensure the integrity of that decision. Neither a decision to charge an officer nor a decision not to charge them should be taken lightly.

An additional integrity measure is a formal protocol between the NSWPF and the Office of the Director of Public Prosecutions (ODPP) which contains guidelines on when the NSWPF should seek independent advice from the ODPP on whether to charge an officer with a criminal offence.

Under this protocol, the NSWPF should seek advice from the ODPP if:

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

In previous annual reports, we have discussed our concerns about officers not following this protocol and the need for changes to be made to provide better guidance to police officers.

We asked police to investigate the complaint. Although it was important that the officer considered the safety of the woman, this should not override legislative requirements to investigate domestic violence. The investigator agreed with our view and found that the alleged perpetrator should have been spoken to before any decision was made about investigating the complaint. As part of the inquiries, the investigator considered whether there were any ongoing safety concerns for the woman. As a result, police made sustained findings against the officer, and gave the officer formal counselling. The woman has now moved and is no longer at risk from the alleged perpetrator.

8. Not pursuing viable lines of enquiry

The NSWPF investigated a complaint that an officer failed to properly investigate a domestic assault. The complaint investigator found that the officer's initial investigation was adequate because it was based on the information available at the time and the surrounding circumstances. However, he concluded that further inquiries were warranted and charges should be laid against one of the involved parties.

We raised concerns with the NSWPF about whether the officer's overall investigation was adequate. It appeared to us that the officer had not pursued certain viable lines of enquiry and placed undue weight on certain evidence, instead of evaluating the evidence as a whole. We also raised concerns that the fact that the complaint investigator was able to obtain evidence of an assault and lay charges did not sit well with his conclusion that the officer's initial investigation was adequate.

The NSWPF accepted that the subject officer had failed to conduct an adequate investigation into the domestic assault, and also that the complaint investigation was deficient. A sustained finding was recorded against the officer and the complaint investigator was provided with guidance about the quality of his investigation.

9. Delays in managing a domestic violence matter

A NSWPF investigation was conducted after an internal police complaint which alleged that an officer in charge of investigating a domestic violence matter failed to apply for a warrant as directed by their supervisor and did not ensure police statements were taken. The officer also failed to create a case file and did not secure the victim's video evidence. Managerial action was taken against the officer.

Although we were satisfied with the investigation outcome in relation to the officer, we expressed concern that supervisory issues may have contributed to delays in the case management of the domestic violence incident.

We noted that four months after the domestic violence incident occurred, but before the investigation was finalised, the officer was transferred to another command. The case was not reallocated to another officer until three and a half months later. The new investigating officer took some action on the case, but there was another three and a half month delay before any further action was taken.

continued page 49

Case studies

As a result of our intervention, the NSWPF accepted that supervisory issues resulted in an inappropriate delay in charging the offender. The relevant command updated their processes to ensure that all cases are managed in a timely and transparent manner, including those that need to be reallocated.

10. Inadequately investigating an incident

A woman contacted police about threats made to her by a family member via email and Facebook. After speaking with a domestic violence liaison officer on the phone, she was advised she had grounds to apply for an ADVO and therefore went to a police station to make a statement.

The officer she spoke to at the police station refused to apply for an ADVO and did not believe that the alleged perpetrator's lengthy criminal history was relevant to an ADVO application. The woman complained that the officer failed to investigate the domestic violence incident and was also rude towards her, which left her feeling distressed.

The NSWPF investigated the complaint and decided that the officer had acted appropriately. We disagreed and raised concerns about the officer's conduct and about the adequacy of the police investigation of the woman's complaint. The NSWPF agreed and the LAC reinvestigated the complaint. The investigator concluded that the officer had become agitated during his conversation with the woman and should have removed himself at that point. The investigator also formed the view that inquiries into the criminal history of the family member were warranted. As a result, the NSWPF made sustained findings against the officer and he was given advice and guidance. The NSWPF applied for an ADVO on the woman's behalf and it was granted at court.

11. Failing to take out an ADVO

An internal police complaint raised concerns about the failure of an officer to adequately investigate a domestic violence incident. The officer had attended the incident, but failed to apply for an ADVO. The heavily pregnant victim told the officer she had been assaulted by her boyfriend – but would not elaborate. The victim was clearly distressed and asked police to drive her home. However, the officer allowed the victim to leave with the offender. The offender seriously assaulted the victim later that day. Police officers from another LAC were called and responded appropriately to this later assault.

The internal police complaint investigation examined whether the officer should have applied for the ADVO, found the officer had acted reasonably, and made a not sustained finding. We disagreed and wrote to the LAC asking for the finding to be overturned. In our view, the officer had relied too heavily on the victim's uncooperative behaviour and placed too much weight on her not providing further details. The officer also did not consider the victim's vulnerability due to being

In December 2013 we met with representatives of the NSWPF, the ODPP and the PIC to discuss these issues. It was agreed that the NSWPF would, in consultation with the parties, prepare a new protocol. Almost three years later, despite some progress, no protocol has been finalised. This is a matter of significant concern that should be addressed.

Civil proceedings alleging improper or unreasonable police conduct

When the NSWPF becomes aware of inappropriate officer conduct or problems with its systems, it can take remedial action. The way that the NSWPF learns of these matters is immaterial. A person may choose to make a complaint or bring civil proceedings. In both cases, the person is making an allegation that police officers have acted inappropriately.

In 2006, we recommended that the NSWPF should develop a system to ensure allegations against officers in civil proceedings were registered as complaints, dealt with as such, and notified to us for oversight purposes. This enables the NSWPF to investigate the allegations and take action if appropriate.

In response to our recommendation, the NSWPF introduced a system under which the Crown Solicitor – acting on behalf of the NSWPF in defending the civil proceedings – would refer a plaintiff's allegations against the NSWPF to the relevant commander for attention and appropriate action.

More recently, the NSWPF established a Litigation Strategy Review Panel to deal with civil proceedings involving allegations against police officers. Although we supported the creation of the panel, we have found that it has adversely affected the existing system. Some weaknesses we have identified include:

- allegations in statements of claim not being treated as complaints
- delays in registering allegations as complaints, referring the complaints to commanders and notifying our office.

As a result, criminal charges against police officers have sometimes been no longer possible and management action has been unduly delayed.

In May 2015, we wrote to the General Counsel of the NSWPF about our concerns. More than a year has passed and we have received no response to our letter.

Due to structural barriers in the civil litigation system, individuals rarely bring civil claims against police officers unless they perceive they have suffered as a result of police conduct that is seriously problematic. Unless our concerns are addressed, allegations of a serious nature raised during civil proceedings will not be dealt with in the same way as identical allegations made in a complaint. This presents a gap in the NSWPF's ability to effectively manage its officers, and a gap in the civilian oversight of the NSWPF's management of problems revealed through civil proceedings.

Providing adequate reasons to complainants

All public sector agencies, including the NSWPF, are expected to treat complaints about their actions as constructive feedback about the way they function. It is important that, whatever the outcome of a complaint, the NSWPF respectfully communicate this to the complainant. This maintains the public's trust that the complaints system will treat their concerns seriously.

continued page 50

The NSWPF has a policy that emphasises the importance of providing complainants with reasons. The policy states that giving reasons signifies that the NSWPF is prepared to be accountable for the quality of its decision-making. The policy also explains the practical benefits of giving reasons – that there will be fewer complaints and it will reduce the need for complainants to formally apply to access government information to find out the result of their complaint. A complainant who knows and understands the reasons for a decision is more likely to accept it. Those reasons can be provided in writing or orally, depending on the circumstances. In our experience, a failure to provide reasons almost always leaves the complainant dissatisfied and can sometimes lead to escalation.

Despite the police policy, we have continued to identify complaints where the NSWPF did not provide reasons to complainants and in some cases refused to do so. Against this background, we have submitted to the LECC implementation committee that the Bill to establish the LECC should include provisions specifically requiring the NSWPF to provide reasons for both its assessment of complaints and the outcomes of complaint investigations.

Responding to court findings

In last year's annual report, we discussed our concerns about the NSWPF's response to court decisions where the court has been critical of the conduct or evidence of police officers. Of particular concern were matters where – although the court had found the officers involved acted unreasonably or their evidence at court was untruthful – NSWPF complaint investigators were not prepared to accept the court's finding. In our view this is not appropriate, unless the complaint investigation obtained additional evidence that had not been presented at court and demonstrated the police officers had behaved reasonably or their evidence was reliable.

We suggested that the NSWPF should develop improved guidelines to ensure that court findings are respected, and a court's criticisms of officers are given proper weight when deciding whether or not the police conduct was reasonable.

In July 2015, the NSWPF advised it was drafting revisions to its existing guidelines and would provide us with the draft for comment. In November 2015, we were told the draft had not been completed but would be given to us in a few weeks. At the time of writing, we have still not received it.

If these guidelines are not revised by the end of 2016, this will be an ongoing issue for the LECC.

Reviewing legislation

We are responsible for examining the implementation and operation of new laws that give police broader powers. Since 1997, Parliament has asked us to conduct 28 reviews of this kind. Our responsibility is to 'keep under scrutiny' the exercise of new police powers – by examining whether police have implemented the new laws fairly and effectively, and whether the laws are operating in the way Parliament intended.

In 2015–16 we provided a report on our review of the consorting laws to the Attorney General, who tabled it in Parliament. Those laws made it an offence for a person to habitually consort with convicted offenders after receiving official police warnings about associating with those offenders.

heavily pregnant nor the offender's ten year history of domestic violence. We also raised concerns that the officer had allowed the offender to drive the victim home.

The superintendent upheld the not sustained finding. We therefore escalated this matter to Region. In our view the superintendent erred in his reasoning and we criticised the LAC's reliance on the victim's behaviour to support no further action. We specifically noted that ADVOs were able to offer a degree of protection to victims, even if there is insufficient evidence to support an arrest. Region reviewed the matter and made a sustained finding against the officer for failing to take out an ADVO.

12. Engaging in political activities

We received a complaint that a police officer was in breach of the NSWPF declarable associations policy because she failed to declare an affiliation with a political organisation. The organisation arranged protests that required approval from the NSWPF and the officer participated in some of these protests.

The NSWPF investigation found that the officer was in breach of the policy because her political position was inconsistent with the requirement that NSWPF officers be impartial. The investigator considered this gave rise to a conflict of interest which needed to be declared; sustained findings were made against the officer.

We reviewed the investigation and found that the officer's mere affiliation with the group did not constitute a conflict of interest that needed to be declared. We considered that the investigator's finding was inconsistent with the NSWPF 'Political Affiliations Policy Statement' which provides that NSWPF employees have a right to engage in political expression, affiliation and activities – provided certain responsibilities are met.

We wrote to the NSWPF requesting it review the decision to sustain findings against the officer. We suggested there was no evidence that her personal political interests or activities had conflicted with her policing duties, or that she had acted unfairly or with bias in performing her duties because of her political views. There was also little evidence that the group was involved in activities that were incompatible with her work as a police officer.

After our correspondence, the sustained finding on this issue was overturned and the NSWPF confirmed that the group was not involved in any activity that was incompatible with the work of a police officer.

13. Being friends with a convicted offender

The NSWPF received an anonymous complaint that a police officer had an ongoing relationship with a convicted child sex offender. The officer admitted that he had resumed his friendship with the offender after the offender was released from prison. The officer claimed that he was not aware that he was required to declare his association with the offender, who had completed his custodial sentence. As a result of this

continued page 51

complaint, the officer concerned submitted a declarable association form on which he proposed to continue his friendship with the convicted child sex offender. We wrote to police and expressed our view that the police officer's association with a convicted child sex offender – who is listed on the Child Protection Register and on parole – was inconsistent with his role as a police officer. We were also concerned that the association was likely to have a detrimental impact on the reputation of the NSWPF and was not an association that could be adequately managed. The NSWPF agreed with our concerns and gave the officer involved a direction that he was to have no contact with the offender and that further management action would be considered if he failed to act in accordance with this direction.

14. Accessing information on station summaries

The NSWPF investigated a complaint that a police supervisor made a number of station summary event inquiries to access information about a relative.

The investigation focused on whether it was improper for the officer to access information about a relative. The investigator determined that the officer was authorised to access any information (including information about a relative) that appeared on a station summary because this was in line with the officer's supervisory duties.

The Region Professional Standards Manager (PSM) reviewed the investigation and arrived at a different outcome to the original investigator. The PSM found that – if it is apparent that information on a station summary relates personally to an officer – that officer is not authorised to access the information.

We wrote to the NSWPF commending the approach of the PSM. In our letter we noted that the PSM considered the particular facts of the subject officer's accesses – in contrast to the original investigator who appeared to consider that a supervisor has general permission to review events that appear on a station summary and relate to his own command.

We communicated to the NSWPF our view that the parameters of an officer's permission to access information on station summaries or statewide significant events may be limited if it is clear from an event title that the event may contain information which is likely to give rise to a conflict of interest – or it appears the officer has prior knowledge that the event relates to their personal life or activities.

We asked the NSWPF to consider using this matter as a case study on how to handle complaints about officers accessing information from station summaries. The NSWPF responded positively to our letter and have used it as a training tool for complaint practitioners.

In the second half of 2016, we are finalising our final reports on four reviews. These are about laws that:

- give police the power to detain people and vehicles and enter premises without a warrant to determine compliance with a firearms prohibition order
- empower police to search premises for weapons and explosives under the Restricted Premises Act, and create new offences committed by owners and lessees of declared premises
- require police to provide their name and place of duty when exercising certain powers, such as arrest and search
- give police the ability to restrict the activities of any members of a body that has been declared a 'criminal organisation'.

We also have continuing responsibility for reviewing the exercise of powers conferred on police and other officers under Parts 2A and 3 of the *Terrorism (Police Powers) Act 2002*, which authorise police to place people in preventive detention and execute covert search warrants.

Our reviews involve various research methods. For example, this year – to gain an understanding about the circumstances and ways in which police used the various powers we are reviewing – we audited police records relating to over 1,300 search events and conducted 22 consultations with frontline police officers and senior police.

During 2015–16 we also ran consultations with 22 community stakeholders about their views on the different laws under review and their experiences of the ways the laws have been implemented. This included people subject to the use of police powers, homelessness service providers, peak bodies, groups representing victims of crime, and groups representing gun owners.

Sometimes the use of powers can result in police bringing charges for criminal offences. We track court hearings of those charges and observe the outcome. During 2015–16 we monitored the progress of over 100 charges.

We also published a description of the issues that each review raises and sought submissions from the public. In preparing our final reports we have considered views expressed in submissions from 31 parties.

Reporting on police use of emergency powers to prevent or control public disorder

This report is provided in accordance with s 87O(5) of the *Law Enforcement (Powers and Responsibilities) Act 2002*. The Ombudsman is required to report each year on our work in keeping under scrutiny the exercise of powers conferred on police to prevent or control public disorder (in Part 6A of that Act). These powers include measures such as establishing roadblocks around a target area, stopping and searching vehicles and pedestrians within that area, and imposing emergency alcohol free zones.

From April 2015 to March 2016, the NSWPF did not use these powers.

Compliance and inspections

Covert operations

There are several pieces of legislation giving law enforcement agencies the power to investigate criminal or corrupt activity; the powers can involve significant intrusion into people's lives. To provide the community with an assurance these covert powers are being used lawfully, the agencies must follow accountability measures set out in the relevant legislation. As an independent and impartial body, the Ombudsman is responsible for reviewing the agencies' compliance with those provisions.

The *Telecommunications (Interception and Access) (New South Wales) Act 1987* enables the NSWPF, the NSW Crime Commission, the Independent Commission Against Corruption and the PIC to apply for warrants to intercept telephone conversations and to access information about telecommunication activity. In particular, the Act specifies how and when intercepted information can be used and how it must be stored. This is an area we routinely monitor in our inspections.

Under the *Surveillance Devices Act 2007*, law enforcement agencies can apply for a warrant to use devices to listen to, photograph, video, and track people, objects and information. Among the records we inspect are those covering the need for a device which is no longer necessary, to be discontinued as soon as practicable.

'Undercover' or controlled operations can be carried out under the *Law Enforcement (Controlled Operations) Act 1997*. It covers activities that would otherwise involve breaches of the law, such as the possession of illicit drugs by police officers. We have a significant role in monitoring the approval process for these authorities which, unlike other warrants that are issued by a judicial officer, can be issued by the head of the law enforcement agency.

Covert search warrants are available to the NSWPF, PIC and NSW Crime Commission under the *Law Enforcement (Powers and Responsibilities) Act 2002*. These warrants allow a search to be executed and notification to the occupier about the search being delayed. Among the records we inspect are those about the notification to the occupier being made within the time set out in the warrant or any later time that may be granted if the agency applies to the court.

The *Criminal Organisations Legislation Amendment Act 2009* introduced a criminal organisation search warrant for use by the NSWPF. These warrants allow police to search premises for things connected with an 'organised criminal offence' – and they stay in force for 7 days rather than the usual 72 hours. They also require a lower evidentiary threshold than standard search warrants. Our inspections include monitoring the timeframe and reporting provisions of the Act.

Specific reports about our compliance work are prepared according to the requirements of the relevant legislation. In most cases, they are given to the Attorney General who must then table them in Parliament. Two exceptions are our report on controlled operations, which we table, and the telecommunications interception inspection report – which

15. Having a personal relationship with someone being investigated

A police officer conducting an investigation into a motor vehicle accident formed a personal relationship with the at-fault driver. This relationship only came to light after the officer's ex-partner complained to the NSWPF. The relationship started before the officer finished the accident investigation, but he did not declare any conflict of interest. He also sent the at-fault driver personal emails from his work account and official police emails from his personal account. After a number of weeks, the officer personally delivered an infringement notice to the at-fault driver.

We raised concerns about the officer's undeclared conflict of interest. The officer's failure to identify and declare his personal relationship with the at-fault driver while still conducting an investigation amounted to at least a potential or perceived conflict of interest. By not declaring the conflict of interest other people could reasonably speculate about the appropriateness of the investigation and the conduct of the officer. The officer's local area and region commanders argued that the officer had correctly issued the at-fault driver with an infringement notice, so no conflict of interest existed. They did not accept that there was a potential or perceived conflict of interest.

We asked the PSC to review the complaint – noting that NSWPF policy correctly states that a perceived or potential conflict of interest exists if a private interest could interfere with or influence an officer's official duties, irrespective of whether it actually interferes with or influences the way they conduct their duties.

The PSC responded positively and constructively by acknowledging that once the officer formed a personal relationship with the at-fault driver he was obliged to report this to his supervisor. He should also not have had any further involvement in the accident investigation. The PSC undertook to use this case as a training example and to include it in educational materials and upcoming reviews of the policy.

the Act prohibits us from tabling or commenting on further in this report. Once our reports are tabled, they are all made available on our website.

Witness protection

The *Witness Protection Act 1995* established a witness protection program designed to protect the safety and welfare of crown witnesses and some others who give information to police about criminal activities. If the Commissioner of Police refuses to admit someone, or tells them they are going to be removed from the program, the Ombudsman can hear their appeal against those decisions. Following an appeal, the Ombudsman's decision is final and must be acted on by the Commissioner.

This year we received one appeal which was withdrawn before determination.

Everyone entering the witness protection program signs a memorandum of understanding with the Commissioner setting out the basic obligations of all parties. People participating in the program have a right to complain to the Ombudsman about any matters covered in their memorandum. The immediate protection of witnesses is the focus of the program – and during the time leading up to and giving their evidence there is an intense level of contact between the witnesses and police. Some witnesses feel they are being abandoned when the level of police intervention in their life is reduced once they are settled into the program. The ideal outcome, however, is for a witness to move on with their new identity in a location away from physical threat, and have little if any contact with the police or their former life. It can be a feeling of unmet expectations on the part of participants that leads them to complain to us. At other times, the participant has not received the assistance they were promised. Generally the police will attempt to resolve these problems if it is possible to do so without compromising the program or any participant.



In this chapter

Departments and authorities	56
Custodial services.....	68
Local government	76

This chapter of the report outlines our work under the *Ombudsman Act 1974* in relation to a wide range of government departments and authorities, including custodial services. It also discusses the work we do in relation to local councils across NSW. This work is done by staff from our public administration branch.

We handle complaints and analyse systemic issues that can have a major impact on people's lives. We look to resolve as many matters as we can quickly and informally, ensuring agencies and those receiving services can maintain a good relationship wherever possible.

Public administration



Highlights

In 2015–16, we

- Finalised 7,144 complaints and inquiries about NSW public sector agencies and achieved a range of positive outcomes for complainants.
- Developed a whole-of-government complaint handling improvement program for NSW public sector agencies, in partnership with the Customer Service Commissioner.
- Surveyed 120 NSW public sector agencies about their systems and processes for managing complaints and addressing any systemic issues identified.
- Held our inaugural complaint handling forum, attended by over 50 practitioners from across the public sector.
- Worked with FACS Housing to improve their processes for terminating tenancies of vulnerable tenants.
- Audited the use of orders under the Inclosed Lands Protection Act by public schools in NSW.
- Received 946 written complaints about local government and responded by assessing the issues, providing information, making inquiries with councils, and achieving a range of positive outcomes.
- Issued our revised *Enforcement Guidelines for Councils* and *Model Compliance and Enforcement Policy*.
- Revised our MOU with the Office of the Local Government to more clearly outline the types of complaints we each handle so we can better manage our limited resources.
- Received over 5,000 contacts from inmates concerned about issues including overcrowding, access to health services, daily routines, transfers and visits.
- Spent the equivalent of 94 person days visiting correction centres and juvenile justice centres across NSW.
- Resolved a range of inmate complaints covering topics such as handling asbestos, providing storage for belongings, getting nicotine patches or special shoes, unfair punishments and being able to wear a scarf.
- Made suggestions to help manage the unintended effects of the recently introduced no smoking policy in NSW prisons.
- Monitored the use of segregation and separation powers in both adult and juvenile justice centres.

Departments and authorities

Complaint trends and outcomes

After a steeper than usual rise in the number of complaints received over the previous two years, 2015–16 saw a levelling in the number of complaints received (2,315, compared with 2,323 in 2014–15). This is still almost 67% higher than the number of complaints received in 2010–11. We managed to finalise 20 more complaints than we received in 2015–16, however this required us to decline a greater number of complaints at the outset. We also worked on a range of systemic issues and projects, which are discussed below.

Customer service issues remained the most common primary concern raised in complaints made to us during the year, making up 2,226 (31%) of all issues in complaints received. We received fewer complaints about internal complaint handling by departments and authorities, but more about the merit of decisions. In our experience, better communication can influence a customer's perception of the reasonableness of a decision – even if that decision is unfavourable. We think it is timely for agencies to consider how well they explain their decision-making processes and the reasons for a decision.

The public is best served by having agencies that openly acknowledge and promptly deal with problems. In 2015–16, we continued our proactive and preventative work with agencies to improve their complaint handling – including developing and updating resources reflecting current thinking and approaches to complaint handling, and being involved in the whole-of-government complaint handling improvement program.

The case studies in this chapter show the variety of matters dealt with by our staff and some of the outcomes we achieved. We receive increasing numbers of complaints by email or via our online complaint form, but we still receive a steady flow by post and telephone. We recognise that some people have limited access to digital channels, while others are unwilling or unable to use them. This is particularly so for people who are elderly, those in remote areas and some people with disability. Some people distrust government or digital systems. Having a person to speak with face to face or by phone about their concerns – who can help them clarify what issues they need to pursue, with whom and how, and assist them to document their concerns – remains a necessary service that our staff regularly perform. This takes time, patience and skill.

Figure 36: Formal and informal matters received and finalised

Matters	11/12	12/13	13/14	14/15	15/16
Received	1,737	1,566	1,794	2,323	2,315
Finalised	1,778	1,566	1,807	2,274	2,335
Informal dealt with	3,938	4,300	4,438	4,713	4,809

These figures do not include complaints about public sector agencies that fall into the categories of police, community services, local government, or custodial services.

We welcome the efficiencies and ease of access many enjoy through digital communication and complaint channels, but we encourage agencies to be mindful of ensuring their complaint handling systems cater for the full range of needs and circumstances of the people they deal with.

Figure 34: What people complained about in 2015–16

Matters	Formal	Informal	Total
Charges and fees	187	286	473
Complaint handling/ investigation process	151	252	403
Complaint/investigation outcome	88	156	244
Contractual issues	25	57	82
Customer service	678	1,548	2,226
Debt recovery action	46	70	116
Duty of care	86	121	207
Enforcement action	148	331	479
Management	23	64	87
Misconduct	34	66	100
Not in our jurisdiction	103	238	341
Object to decision-making process	145	266	411
Object to merits of decision	410	870	1,280
Other	8	79	87
PID-related	12	28	40
Policy/law	94	201	295
Record-keeping	77	195	272
Total	2,315	4,828	7,143

Figure 35: Current investigations at 30 June 2016

Matters	Number
Under preliminary or informal investigation	90
Under formal investigation	3
Total	93

Figure 36 shows the action that we took on the complaints that we finalised in 2015–16. Further detail about formal complaints is in Appendix B.

16. Ignoring repeated complaints

A woman complained about a five and a half month delay in getting a refund of an application fee for transferring a small bar licence. She was initially told the refund would take six weeks. After this time, she emailed and phoned the then Office of Liquor, Gaming and Racing (OLGR) to complain about not receiving the refund. Apart from once being told her request had been sent to the relevant team, the woman received no other contact from the OLGR. We discovered that there was an issue with the Independent Liquor and Gaming Authority's (ILGA) computer system in processing the refund, but neither the OLGR nor ILGA explained this to the complainant. The computer issue was resolved after about a month but the refund was not processed for another three months, despite the woman's further complaints. We were pleased to hear that Liquor and Gaming NSW, which replaced the OLGR, has implemented processes to record and respond to customer complaints.

17. Closing communication gaps between agencies

A man called us a few weeks before Christmas to complain about Service NSW and Fair Trading. He was in financial hardship and was experiencing unreasonable delays in obtaining a refund. His case reflects an increasing trend in complaints to our office where it is unclear which agency the complaint is about – Service NSW or the client agency, such as Fair Trading.

The man had been out of work for over 12 months while battling a serious medical condition. The NSW Civil and Administrative Tribunal had ordered him to pay \$2,500 in a building dispute. On the advice of Fair Trading, he paid in person at a Service NSW centre on the day it was due. Later that day he received a call from a Service NSW officer who explained the payment could not be accepted as it was a payment for an individual. The man was unable to call in to the office that day for a refund because of his medical treatment, so he asked Service NSW to pay the money back into his bank account.

The man called Service NSW each Monday for the next 6 weeks to check on the progress of the refund, and received general undertakings that the matter would be followed up with the relevant department. In the meantime, the creditor lodged a statement of claim at the local court. The man had to pay the court close to \$3,000 to cover the original amount and court costs.

Service NSW advised us that the money was transferred to Fair Trading the same day Service NSW accepted it, but a technical error at Fair Trading prevented the refund from being issued. Service NSW said that our inquiry alerted them to the problem. They acknowledged that their records showed the man had spoken with both Service NSW and Fair Trading staff during the preceding weeks. Since it would take Fair Trading six weeks to issue the refund by cheque, Service NSW agreed to organise an electronic transfer. The man confirmed that he received the money soon after. We suggested he complain to Fair Trading about the financial impact of its incorrect advice and the delay.

A changing environment

Increasingly privatised social housing

The Ombudsman has a broad jurisdiction to investigate the administrative conduct of NSW government agencies. Over many years, our scrutiny has led to significant and systemic improvements in the way government services are delivered. However, the public can lose access to our office as an independent external oversight body when a government service is privatised.

We can deal with complaints about social housing provided by the Department of Family and Community Services (FACS Housing), but community housing providers are outside our jurisdiction. The progressive transfer of social housing services to the private community housing sector is reducing our oversight of this area of government service delivery.

In 2015–16, around 8% of all our inquiries and complaints about social housing services concerned community housing providers. The assistance we can provide to these complainants is limited. If appropriate, we refer them to the Registrar of Community Housing and their local advocacy or support services for possible assistance. However the Registrar's office does not consider it has a role in resolving individual complaints in the same way that we do.

In our view, the privatisation of key government services should not put those services beyond external scrutiny. This is particularly so when the consumers of those services are among the more vulnerable in our community. The NSW Government has already acknowledged the importance of Ombudsman oversight of privatised community and disability services, and we believe the same principle should apply to social housing.

New technologies, new ways of communicating

The way people interact with government has fundamentally changed since the Ombudsman was established in 1975. The internet, email, Facebook, Twitter, mobile phones, tablets, websites and apps have all altered people's modes of communication and their expectations about response times. Government records now include email and text strings, electronic databases and case management systems as well as paper files, physical diaries and letters.

We do our best to keep abreast of these changes within our existing budgetary and staffing capabilities. Our website, and increasing digitalisation of our processes reflect this. This year, we upgraded our website to provide better information to complainants up front about how we will deal with their complaint. The online complaints form also seeks consent to refer the complaint to the agency concerned, if we decide that is an appropriate way for it to be handled. However, our capacity to streamline our service delivery is sometimes hampered by certain provisions of the Ombudsman Act relating to the obligation to give written reasons and the restrictions on our ability to disclose certain information, as discussed below.

Giving written reasons

When we make a decision on a complaint, our legislation obliges us to give written notice and reasons to the complainant or the person who made the disclosure. We find that many people prefer a phone call. This gives the

complainant direct contact with the decision maker – who can explain the decision, their reasons and any other options – and can also check that the complainant understands the information provided.

Although it is appropriate to require the Ombudsman to inform the complainant of our decision and the reasons for it, it is not efficient in every case to provide this in written form. Many complainants do not expect or need written follow up after speaking with us. Some complainants, including some who are homeless, are only able to provide a mobile phone number – making it difficult to provide a written response. Text messages may satisfy this requirement, but some recipients will not thank us for sending lengthy texts detailing our decision and the reasons for it. For some, a written response is of little use due to literacy issues.

We will consider proposing an amendment to the Ombudsman Act to remove the requirement for providing written notice and written reasons in all cases.

Secrecy and non-disclosure provisions

The Ombudsman Act requires us to conduct our investigations and inquiries in private. The Act also prevents us from disclosing information without the consent of the person or agency who provided it – unless the disclosure is for the purpose of exercising a statutory function or otherwise authorised by statute.

These provisions enable people to feel confident in fully disclosing information to the Ombudsman, without fear of their identity or sensitive information being made public before a matter is properly considered and determined. However, an unintended consequence is that these restrictions limit our ability to respond to negative public statements and allegations questioning the integrity of our staff and our office – whether made by a complainant or a public official who is the subject of investigation.

Aggrieved individuals can now publicly express their displeasure with government agencies and services by creating their own websites, posting on social media, or by sending their narrative and attachments to multiple agencies and media outlets in the one email (or perhaps multiple emails). The experience of many agencies is that their decisions and actions are commonly misrepresented and misquoted. At the same time, journalists today are more pressured to provide copy – and because of this may not wait for the outcome of a complaint or investigation, and be more prepared to put forward articles that are based on the viewpoint of the aggrieved individual. For the Ombudsman, the concern is that the public may question the office's competence and integrity.

Even where our strict statutory secrecy obligations might not apply, there are often procedural fairness or operational reasons why we are unable to respond in any meaningful way to such criticisms. In some cases we may have taken considerable action on the issues raised, but as that action was unconnected to that person's complaint we have been limited in what information we can give them. In other cases, we may have determined the claims are spurious or ill conceived and/or that the agency that has provoked the criticism is blameless.

While we could invite the person to speak with us off-line, in some instances, we have already had to terminate further communication with that person about their concerns. This is to prevent our resources being further spent continually responding to a steady stream of letters and/or emails disagreeing with our decision on the person's complaint.

18. Confusion over addresses resolved

A man complained that he did not receive notice of his fines because the OSR sent them to an old address. He felt it was unfair for the OSR to impose additional enforcement costs for not paying his fines by the due date. The OSR advised us that it served the notices to his address on the RMS database. The man told us that he had given the RMS his new address when he applied to transfer his Queensland driver licence to a NSW driver licence. We asked the RMS to investigate. The RMS identified that the staff member who transferred his licence had failed to update his postal address, so the OSR waived the enforcement costs.

19. Auto-renewal process not so auto

A man was fined for driving an unregistered car. He provided us with evidence that his vehicle was insured and checked by a mechanic, and that he was entitled to RMS's automated registration renewal process available to pensioners. The RMS told us the auto-renewal of registration was not successful because it did not receive the electronic transfer of the vehicle check from the mechanic. The man's insurance expired and reverted back to the insurer unused. The RMS asked the OSR to waive the fine.

20. Helping a tenant modify her unit

Public housing tenants with disability can ask FACS to modify their rented property to meet their needs – for example, install rails or steps. Any significant modifications must be supported by an occupational therapist (OT).

A woman contacted us because she had been waiting two years for modifications to her property. She twice submitted the OT report to her FACS local office, but it could not locate her application.

We found that the local office had not followed existing procedures for recording information and failed to action critical steps in the application process. FACS apologised to the complainant for the delays and ensured the changes to her property were completed, and provided training for staff on responding to and recording modification applications. We suggested that FACS also publish a fact sheet for OTs, tenants and the general public explaining how to apply for modifications and what tenants can expect from the process.

21. Addressing a student's needs

While dealing with a complaint from an online TAFE student, we became aware that TAFE's head office had failed to communicate information to his teachers about the student's mental health issues and related preference to communicate only by email. The teachers had unsuccessfully tried to telephone the student throughout the semester to discuss his progress, but he did not respond due to his documented phobia. The student was struggling with the course and felt unheard. TAFE acknowledged that its current processes had let the student down and undertook to review how it treats online students, particularly those with disability.

22. Responding to student violence

We received a complaint about the way a western NSW school responded to an assault against a 12-year-old student by another student. The incident had happened after school, while students were waiting for buses and making their way home.

The 12-year-old student's family complained that the school had not contacted them promptly about the assault and had not reported the incident to police or the Department of Education's Safety and Security Directorate. The family made their own report to police. Although the incident had not caused a severe injury, it was serious enough that police dealt with it under the Young Offender's Act. The student's family also believed that the school had not taken appropriate action against the student responsible for the assault.

We found that although the school had disciplined the student, it had not clearly informed the 12-year-old student's family of that action. At our suggestion, the school agreed to provide more information and has revised its policy and procedures in this area. We asked the principal whether further advice from the department might help schools to decide what information can properly be provided to the family of a victim in these circumstances. The principal agreed this would be helpful.

The principal told us that low-level incidents frequently occur at schools and that it is not reasonable to formally report the majority of them. However, the school agreed with our suggestion that if the department were to provide a clearer definition of violence and injury this would help schools to decide whether or not to report an incident to the Safety and Security Directorate and/or to local police.

The school also addressed a gap in its policy, which now requires staff to immediately report to a supervisor any violent incident that occurs after school so more experienced staff can respond to it.

23. Poor administration and complaint handling

A student complained that a TAFE institute did not respond to his complaints. He claimed the institute:

- failed to provide him with a breakdown of his course fees
- did not give students written advice of the re-enrolment date
- misrepresented a voluntary handling fee as mandatory
- did not provide students with mid-year transcripts
- failed to respond to his application for recognition of prior learning (RPL) for over five months.

Institute staff also failed to attend scheduled classes for his course and did not provide students with feedback on their work for three months.

After our multiple inquiries, the institute acknowledged its poor handling of the student's complaint, responded to each of the issues raised, and provided an unreserved apology to the student. The institute undertook to audit compliance with its procedures relating to the issues raised by the complaint. We will monitor the audit outcomes and intend to meet with senior executive staff from the institute to discuss effective complaint-handling practices.

An option may be to amend the Ombudsman Act to permit the Ombudsman to more readily address substantial misrepresentations about the outcome of an investigation or the conduct of Ombudsman staff.

The importance of good complaint handling

We regularly see examples of poor complaint handling. Failing to promptly address simple issues can lead to unnecessary escalation, further dissatisfaction and staff stress. Conversely, a well-handled complaint can foster trust and confidence and increase a complainant's overall satisfaction with an agency. People often care as much about how their complaint was handled as they do about the outcome.

Case studies 16 and 17 are examples of relatively simple complaints taking far too long to be resolved.

Complaints are a useful source of information about the effectiveness of an agency's services. They can help to identify areas that need improving and contribute to a better understanding about sources of customer satisfaction and dissatisfaction. Agencies that view complaints and complaint handling as a necessary and useful part of their operation can improve service provision, customer relations and staff wellbeing.

We have been directing a greater proportion of our resources to encouraging and helping agencies to improve their complaint management practices. As part of this strategy, in 2015–16 we have:

- developed a whole-of-government complaint handling improvement program, in partnership with the Customer Service Commissioner
- conducted a survey of the complaint handling systems of public sector agencies and councils and issued targeted guidance
- convened the first of a program of forums for complaint handling practitioners
- reviewed our complaint handling guidance materials and training packages to ensure they are best practice
- held our annual university complaint handlers forum.

Improving whole-of-government complaint handling

This year we have been working in partnership with the Customer Service Commissioner to develop a whole-of-government approach to complaint handling.

In November 2015, the NSW Secretaries Board endorsed our joint proposal to develop a two-staged approach to improving whole-of-government complaint handling. Stage one was a set of agreed commitments to effective complaint handling. Stage two is a 'no wrong door' concept to give customers an easily accessible contact point to supplement and integrate with existing agency systems to lodge, track and manage complaints. This web-based system (current working title 'Complaint Assist') will include a repository of information for customers about making complaints and guidance for agencies on good complaint handling practices.

In July 2016, the NSW Secretaries Board endorsed the commitments to effective complaint handling for agencies to implement by the end of the calendar year.

The commitments, supported by adequate systems and staff, are an undertaking to:

- treat customers who make a complaint with courtesy and respect
- make it easy and accessible for people to make a complaint and provide information and help if needed
- keep the complainant informed, including acknowledging receipt and giving progress updates at regular intervals
- train staff who manage complaints and make one person or team a contact point for managing a complaint
- set and publicise expected timeframes for dealing with complaints
- record and analyse data from complaints to improve services.

In the coming year, we will conduct an initial review of agency compliance with these commitments. A program of ongoing monitoring will be necessary to ensure long-term sustainability and transparency in complying with the commitments.

We are part of the program team led by the Department of Finance, Services and Innovation to develop a detailed business proposal on Complaint Assist in the second half of 2016. This will include consulting with agencies to understand requirements, identifying common customer experience journeys, and exploring a number of delivery options.

Surveying complaint handling systems

In March 2016, we surveyed 120 NSW public sector agencies to obtain information about their systems and processes for managing complaints and whether complaints are being used to contribute to business improvement. We received responses from or on behalf of 94 agencies – a 78% response rate.

Although most agencies had complaint handling policies and/or procedures, our review of their content identified significant variation in the quality and level of guidance for both staff and complainants.

Close to 40% of agencies do not have a dedicated complaint handling position or unit, and 62% do not give frontline staff delegations to resolve routine complaints. The inability to resolve complaints at the first opportunity can create further dissatisfaction and delay while the complaint is referred to the 'authorised' and usually more senior person who may need to be briefed on the matter – taking up additional time and staff resources.

We also found that few agencies provide information about their complaint handling processes in other languages and alternative formats, making accessibility an issue for some people.

There is considerable variation in the data that agencies collect about complaints, although the majority record the date of receipt, issues raised and actions taken in response to the complaint. It was pleasing to see that 88% of agencies reported they analyse trends in the subject matter of complaints and keep track of complaint numbers. However, only a third of agencies reported analysing compliance with performance standards and policies and only a few record any systemic issues identified.

We will use this information to develop further guidance for agencies and to refine the development of the whole-of-government complaint handling improvement program.

24. Fixing a transcript error

A man complained that he could not obtain his building certificate because his TAFE transcript was missing an essential subject that he completed in 1997. The TAFE institute accepted that he had completed the subject. It advised him to re-enrol in the subject and pay the current fee of over \$3,000 for the course – so it could award recognition of his prior learning. The man felt this outcome was unfair because he would not actually be doing the course and the error was on the part of TAFE.

When we made inquiries, the institute explained that it could not correct and re-issue the transcript from 1997 because the course had been superseded and the transition period had expired. This would be against a directive from the Australian Skills Quality Authority, a federal government agency. The Institute also explained it could not waive the course fees because this was not permitted under the Smart and Skilled Fee Administration Policy. However, it had discretion to reduce the fee and offered to reduce it to \$1,000. We acknowledged that the student should have checked his transcript and corrected any errors at the time. The recognition of prior learning was processed and the student received his transcript.

25. Needing a supervisor

We handled a complex and heavily contested complaint that arose from a relationship breakdown between a complainant and the supervisor of his higher degree research (HDR) thesis. The complainant claimed that he did not need a supervisor and that he could complete his thesis without one. We did not consider his position was reasonable, but found that it was based on a deficiency in the university's HDR rules. The university had streamlined them in 2014, but went too far and dramatically undercut a candidate's formal responsibility to submit to the supervisory relationship. The university subsequently reviewed its rules, policies and procedures to address this anomaly and to remove any ambiguity from the requirement that all HDR students should be supervised.

26. Refunding tuition fees just in time

An international student complained that Macquarie University refused to refund his tuition fees because sanctions in his country of origin prevented the university refunding fees by international transfer. The university also refused to deposit the funds in the student's Australian bank account because he no longer had a valid student visa. The student was distressed as he was leaving Australia in a week and the university did not offer any other solutions. He was also unhappy with the amount the university deducted from the refund for fees. Our inquiries led the university to reduce the fee and deposit the refund in his Australian bank account the day before he left the country.

27. Making policies consistent

An international student complained that the University of New England had unreasonably excluded him from further studies at the university and he was no longer permitted to stay in Australia.

The university told us that it had excluded the student as he had not made satisfactory academic progress. The student said the university failed to contact him and offer sufficient support when it first identified that his academic progress was not meeting required standards.

We found that the university's central policy on communicating with students at risk of falling short of the required standard of academic progress was inadequate, and a student could receive a different outcome depending on the faculty they were enrolled in. The university agreed to review the policy and standardise the practices across all faculties. It created a new unit to review policies and ensure the information given to students is consistent and up to date.

Although we considered the university should have intervened earlier in the student's case, we concluded that the decision to exclude him was reasonable based on his academic history.

28. Fault due to system error

A man complained that despite transferring a recently purchased vehicle into his name, he was later pulled over by police and fined for driving an unregistered car. We made inquiries with the RMS and established that a systems error occurred when the dealer submitted the notice of disposal – and the vehicle had not been transferred into the complainant's name. The RMS acknowledged that neither party would have been aware of the system error. It arranged to waive the fine and offered the complainant one year of free registration.

29. Certifiers finally certified

A motor vehicle dealer complained that he had been waiting nearly seven months for the Roads and Maritime Service (RMS) to process his application to become a certifier under the vehicle safety compliance certification scheme. He applied for the licence because he had been unable to engage a suitably qualified certifier to certify modified vehicles for sale and the delay was affecting his business. The RMS told him that it had not been able to fill the position responsible for undertaking competency interviews, which are part of the application determination process.

We found a year long backlog of applications affecting 43 applicants. The RMS had unsuccessfully attempted to recruit a suitably qualified person. It appeared that the RMS executive was not aware of the extent of the problem until we contacted them. To resolve the issue, the RMS:

- found a qualified officer from within the RMS to interview the applicants
- dedicated resources to clear the backlog
- set up a steering committee to review the application process to prevent similar problems happening in the future.

Holding a complaint handling forum

In April 2016, over 50 practitioners from across the public sector attended our inaugural complaint handling forum. We introduced the complaint handling improvement program and discussed preliminary results from our survey of complaint handling systems. The Deputy Ombudsman spoke about new tools for complaint management, referred to below.

94% of the participants rated the forum as either excellent or good. We intend holding similar forums three to four times a year, with a view to establishing a community of practice where people can exchange information about complaint handling and work through specific challenges.

Reviewing our complaint handling guidelines

During 2015–16, we have been working on a second edition of our effective complaint handling guidelines. We expect to publish the revised guidelines in the second half of 2016.

The revised guidelines will provide information and advice on best practice complaint handling, and will be informed by the revised Australian/New Zealand Standard published in 2014: *AS/NZS 10002:2014 Guidelines for complaint management in organizations*, and our complaint management framework and complaint handling model policy published in 2015.

Addressing unreasonable conduct by complainants

We encourage agencies to respond constructively to complaints, but we also recognise that complaint handlers need to protect their staff from damaging and unrelenting demands imposed by a very small group of individuals who do not comply with generally accepted standards of behaviour. We have developed a number of publications and training packages on managing unreasonable conduct by complainants. In 2015–16, we continued to work on a review of our *Managing Unreasonable Complainant Conduct Practice Manual*, and we hope to be able to publish a third edition before the end of 2016.

It is natural and understandable that people who make complaints may be angry, particularly if they believe they have been treated badly by the organisation concerned. Dealing with people whose behaviour may be difficult is an integral part of a complaint handler's role, and our resources for managing unreasonable conduct have been very well received. However, we consider it is appropriate to explore additional options to deal with difficult or challenging conduct that crosses the line and becomes unacceptable.

In recent years, we have noticed a growth in the number of complainants who present with increasingly challenging and at times disturbing behaviours. More complainants are angry, aggressive and abusive to staff. They may be uncooperative, threaten harm, intentionally omit facts or deliberately withhold relevant information. They may flood organisations with unnecessary telephone calls, emails and massive quantities of irrelevant and at times slanderous material. Some insist on outcomes that are clearly not possible or appropriate, make unreasonable demands, are unwilling to accept decisions, and continue to demand that further action be taken on their complaints. A few create

websites or make highly inflammatory posts on social media to further their position and decry complaint handling agencies and individual staff.

Unreasonable conduct by complainants can severely affect an agency’s resources, disturb the equitable allocation of those resources across complaints, and raise concerns about duty of care and WHS obligations towards staff. We intend to issue a discussion paper in the coming year to gather views from relevant parties on balancing the right to complain and the reasonable obligations on complainants in relation to their conduct toward complaint handlers.

Our formal investigations

Social housing

Last year, we started a formal investigation into FACS practices and processes relating to terminating tenancies of vulnerable tenants. The investigation included complaint case studies that we used to highlight possible systemic issues, as well as concerns about those individual matters. This year we presented our preliminary findings and recommendations to the Deputy Secretary and received his submissions.

FACS complied with our preliminary recommendations about an individual complainant. This included:

- making an ex-gratia payment to compensate for the loss of the complainants belongings and distress suffered as a result of the termination of a long-term tenancy
- rehousing the complainant during our investigation
- formally apologising.

We also made a range of preliminary recommendations to FACS aimed at improving its data collection and reporting on at-risk tenancies, improving communications with tenants about rights and obligations; and identifying and referring vulnerable tenants to specialist officers for support. We are still in discussions with FACS about some of our recommendations.

We commend FACS for its response to our concerns about the use of certain sections of the *Residential Tenancies Act 2010* to terminate the tenancies of people who breach their tenancy agreement. FACS amended its processes and instructions to staff on terminations for breaches so those decisions are now procedurally fair.

Using garnishee orders

In 2015–16, we started a formal investigation to examine the Office of State Revenue’s (OSR) use of administrative garnishee orders (GOs). In particular, we are examining the impact of GOs on vulnerable people and whether the OSR’s current policies and practices are adequate and reasonable. The investigation is currently in its fact-finding stage. Further detail about our work in this area is in the Fines and enforcement section of this chapter on page 66.

Employing external investigators

We have been concerned for some time about the quality of administrative investigations carried out by external bodies and contracted individuals on behalf of government

30. Correcting the impact of delayed marking

A woman completing an HDR thesis complained to Macquarie University about one of her examiners. The university sustained her complaint and sent her thesis to an expert panel for moderation, rather than rely on the marks of the examiner. The new mark significantly improved her weighted average score. However, the delay meant she missed the deadline to apply to study in the next year. The university offered to expedite the woman’s entry into the next academic year and promised to review its appeal processes. We are monitoring the review and the university’s implementation of its findings.

31. A \$637 fine for being \$1 short

The complainant paid his car registration by Bpay. The RMS’s online system did not renew his registration because his payment was \$1 short. The man did not realise this and was shocked when he received a large fine for driving an unregistered vehicle. The Office of State Revenue (OSR) declined his request for a review.

The RMS advised us that its online system sends an email confirmation when it processes a registration renewal but, due to limitations, cannot notify people about a processing problem. In these cases, the notice can only be sent by mail. RMS pointed out that its online system warns people that their registration is not complete until they receive a receipt number by email.

We asked the OSR to reconsider the matter, pointing out the limitations of the RMS system and that the fine was a disproportionate penalty for such a minor and honest mistake. The OSR agreed to withdraw the penalty notice and issue a caution instead.

32. Reconsidering a garnishee order

A woman on disability support pension complained that the OSR had taken all the money from her account via a bank GO. She told us that she had been the victim of a crime and had spent time undergoing treatment and getting her life back on track. She had been itinerant until she secured social housing. She said she had obtained a payment from Victims Services but, less than two weeks after the money was deposited in her account, the bank received a GO and sent the entire balance to the OSR.

The woman contacted the OSR, obtained a partial refund, and entered a payment plan for the balance. She did not have an advocate at the time and was very confused given her circumstances. She complained that she should have been given a full refund – because Victims Services paid the money to help her establish her new home, not to pay fines.

After our inquiries, the OSR approved a full refund. They reviewed the complainant’s records and her capacity to deal with the outstanding debt, and noted that the payment plan would continue until 2028. OSR decided to write off the outstanding debt as it would be unfair or unjust to continue enforcement action. This outcome had a significant and positive impact on the complainant’s life.

33. Requesting a second look

A young woman contacted us after her bank account was frozen while the bank complied with an OSR GO. She was pregnant, had two young children and lived in a rural area. Her only source of income was from Centrelink. She had no access to funds until her next payment in a fortnight and was unable to pay rent, buy food or travel home. She was worried she would be evicted from her social housing property. Two of her three outstanding fines were issued nine years before when she was under 18, and were reactivated when she received a new fine in 2015. She said the OSR told her that there was nothing she could do. After our inquiries, OSR withdrew the order and asked her bank to lift the freeze on her bank account. She arranged to pay off her fines by deductions from her Centrelink payments.

34. Applying for a refund

A financial counsellor complained about an OSR GO that left her client in financial hardship. The counsellor complained that when she rang the OSR to request a refund, the operator advised the application would be declined because it was submitted too late – even though her client was illiterate and the delay was because she needed a financial counsellor's help to apply for the refund. We made inquiries with the OSR who reviewed the refund application, acknowledged the advice was wrong, and gave a full refund on hardship grounds. The OSR used this case to inform its review of the refund policy and business rules.

35. Improving call centre responses

A woman complained to us after she was unable to resolve her fines directly with the OSR. She said the OSR refused to reschedule her payment plan and told her she should borrow money to immediately pay the outstanding amount. The woman said the contact centre operator refused to transfer her call to a supervisor or provide information about how she could make a complaint to our office. After reviewing the call, the OSR agreed that it could have been better handled. As a result, the OSR agreed to reschedule the payment plan, gave feedback to the contact centre officer, and reminded all contact centre staff about when to provide information about the NSW Ombudsman.

36. Making a property safe

A woman contacted us because she had been unable to get FACS to do urgent repairs to her temporary property. There was a leak in the sewerage pipe under the house causing the foundations to sink. She had concerns for her safety and that of her children. She told us she believed FACS was unwilling to do the repairs because the property was due to be sold. When we contacted FACS we found out that a plumber had visited the property and incorrectly reported that the leak had been fixed. Repairs were immediately carried out to the pipe and the house was made safe.

agencies. In 2015–16, we worked on a discussion paper setting out the key issues. We published the discussion paper in August 2016 and are seeking submissions from individuals and organisations involved in employing and managing external investigators.

A selection of complaint themes

School education

We recognise school staff are generally committed and caring professionals who want to see their students succeed both academically and socially. Balancing the diverse needs of the students in their classroom along with the expectations of parents – as well as fulfilling the department's administrative demands – can be exhausting and daunting.

We regularly receive complaints about the Department of Education and its schools, including how staff:

- communicate with and manage the expectations of parents and carers
- work with parents and carers of students with disability, particularly about managing students' behaviours and accommodating their needs
- manage allegations of student-on-student assaults and harassment
- make decisions about matters such as suspensions, that can have an adverse impact on students
- decide to restrict the access of parents and others to school grounds due to poor conduct.

Our case studies reflect the diversity of issues we have dealt with in the education area this year.

Unfortunately, complaints and inquiries made to us about schools frequently indicate a low sense of trust and respect between school staff and complainants. By the time they come to our office, some complainants have developed firm views about the perceived uncaring and judgemental attitude of those they have dealt with in the school system. We believe that formal training in complaint handling – and communicating with and working with parents and carers – should be a priority for all teachers. Ensuring a constructive relationship between the parties while the child or children remain at the school should be an important part of managing any complaint. Our feature article on page 67 – Conciliation between parent and school – is an example of a complaint that led to a breakdown in communication.

We also consider that the department should be flexible in accommodating other ways to communicate with parents and carers about the needs of a child. This can be especially valuable for parents of a child with disability – who can face significant difficulties in caring for their children, maintaining an income for the family, and engaging with other agencies affecting their lives and the lives of their children. In our experience, a suitably skilled advocate can have a positive influence in discussions about management and support. They can help clarify misunderstandings and ensure a student's needs are appropriately recognised. This is particularly so if parents may be unable to do this themselves due to their own circumstances or their own disability.

Restricting access to school grounds

The *Inclosed Lands Protection Act 1901* (the Act) authorises school principals to restrict a person's access to school grounds by issuing an order. The power can be appropriately used when an individual has engaged in:

- physical violence – including damage to property, firearms offences and other criminal offences such as assault
- intimidation or harassment – such as repeated, uninvited and inappropriate phone calls, text or phone messages, emails, online comments, letters etc
- stalking online or in person
- threatening, aggressive or abusive behaviour or comments in person, over the phone or in writing
- persistently presenting under the influence of drugs or alcohol
- refusing to leave the premises after legitimately being requested to do so
- behaving in an offensive manner after being asked to leave.

We have received a small but steady number of complaints and inquiries about orders under the Act. Case study 39 – lifting restrictions – demonstrates the distress that restricting a child, parent or carer's access to the school can cause.

The information we received in the course of responding to this complaint led us to audit the department's use of orders under the Inclosed Lands Protection Act.

We asked all public schools in NSW to participate in an online survey. Approximately 1600 schools responded, which is a response rate of 72%. Those responses have given us a useful insight into how schools use the Act. For example, in the two-year period to 31 December 2015, 34% of responding schools had issued a warning under the Act and 24% had issued an order. In the coming year, we will meet with representatives from the Department of Education to discuss issues arising from the survey in greater detail.

School suspensions

A student may be suspended when their behaviour is found to be unacceptable or when the school believes it is in their best interest to be absent for a period of time.

It is important that suspensions are applied properly because they are a form of punishment and their incorrect application can result in:

- disruption to the school community
- a breakdown of the relationship between the student and the school
- the student falling behind in class work
- further consequences for the student, including a longer suspension and/or expulsion
- the student being stigmatised and refused entry to other schools.

We have inquired into a number of complaints involving school suspensions, one of which is detailed in case study 38.

TAFE complaint handling practices

In the course of dealing with complaints about TAFE, we became concerned about a lack of clarity and consistency in the complaint handling processes of TAFE institutes. This was confusing for people who wanted to make a complaint, and made it difficult for us to advise people how best to

37. Assessing capacity to pay

A woman contacted us after receiving notice that her driver's licence would be cancelled due to unpaid fines. She had been on a payment plan, but this stopped during a time when she suffered multiple assaults and health complications. She was receiving treatment for complex trauma and her capacity to deal with things like outstanding fines fluctuated. The OSR advised her that she could avoid her licence being cancelled by entering a further payment plan of \$100 per fortnight. She could not afford this on her disability support pension.

OSR staff reviewed the case and recognised the high risk of default on a further payment plan. This would likely result in further enforcement action such as a GO. The OSR decided to write off the outstanding fine debt. It was pleasing to see the OSR officer who reviewed the matter was proactive in seeking the most appropriate course of action and took a holistic approach to the woman's situation.

38. Complying with suspension procedures

We received a complaint about a student-on-student assault at a school. The victim's mother claimed that – rather than acknowledge the assault – the school had disregarded witness statements and departmental procedures and given her daughter a long suspension equal to the one given to the aggressor. We made extensive inquiries with the school and the Department of Education about the incident, and conducted an audit of suspensions and expulsions issued by the school in the relevant school term. It appeared that the mother's concerns were justified. We suggested that the long suspension be removed from the child's permanent school record, that an apology be given to the girl and her family for the school's handling of the matter, and that all schools be reminded of their obligation to comply with the department's suspension procedures. The department accepted all of our suggestions.

39. Lifting restrictions

We received a complaint from a woman who had been issued with an order under the Inclosed Lands Protection Act preventing her from engaging with the school about her child's education. The order was issued without warning, after a parent-teacher meeting in which the woman became angry and stood up during a heated conversation with one of her child's teachers. The order had been personally delivered by a police officer at the woman's place of employment, causing her public embarrassment. The principal issued the order on advice from the Department of Education's Safety and Security Directorate.

After seeking information from the department, we confirmed that the order was issued for behaviour that did not meet the required threshold for making an order without a prior written warning. We asked the department to review its decision and the order was lifted.

40. Correcting delayed rental calculations

A public housing tenant received a notice of termination for rent arrears, requiring her to attend the NSW Civil and Administrative Tribunal in two days. The tenant said she had been paying extra rent as she was aware that she had some arrears. She also told us that FACS had not given her written confirmation of her current rent or subsidy. The woman's rental subsidy had been recalculated several times in the previous 12 months because she started receiving Centrelink payments after a period of illness. The woman told us that each time there was a change in her income, FACS took a long time to recalculate her subsidy. We contacted the local office urgently. Staff reviewed their records and confirmed that the subsidy had not been correctly calculated for a period in 2015 – the tenant was actually in credit by almost \$400. FACS agreed to withdraw the tribunal proceedings and contact the tenant to provide an explanation and an apology.

41. How long should a refund take?

A woman complained that she had been waiting almost 11 months for FACS Housing to refund a rent credit of \$846.37. She had ended her tenancy, moved overseas and needed the money for surgery. We made inquiries and discovered that her client service officer had not reconciled her accounts in a timely manner. There was also a problem with processing her refund because FACS was unsure whether the woman wanted a cheque or direct deposit to an overseas bank account. However, apart from one unsuccessful attempt to phone the woman, FACS had made no other attempts to contact her either by phone, email or using her overseas postal address. The money was finally refunded. We suggested that FACS remind its staff of the correct procedure to process refunds in a timely manner and to improve its communication with clients to resolve their concerns. FACS agreed to carry out a wider audit to detect and address any systemic problems with finalising the accounts of past tenants.

42. Responding to online complaints

A number of people complained to us that FACS had not responded to their online complaints to the client feedback service. When one of the complainants phoned FACS to follow up, she was told that her complaint had not been received and she should re-submit it. We discovered that there was a problem with the amalgamation of FACS's websites and online complaints had been referred to the wrong business unit. FACS fixed the problem and started addressing the backlog of online complaints that had been received – but not referred to the right place.

complain. We reviewed the complaint handling information on institute websites. Some had two separate complaint pathways – one for 'consumer protection' complaints and another for government 'service delivery' type complaints. It was not clear to us which complaints fell into which category. The complaint escalation process was also unclear and it appeared difficult to access some institutes' complaint processes.

We recently established a closer liaison relationship with TAFE and provided this and additional information to TAFE's Managing Director and senior executives. We were advised that TAFE would conduct a comprehensive review of its complaints management system in 2016–17. In the meantime, TAFE has instructed each institute to ensure the information on their websites is clear and internally consistent.

Universities

In February 2016, we held a university complaint handlers forum. This has been an annual event since 2007, and is usually attended by representatives from all of the public universities in NSW. We also regularly have attendees from organisations in the higher education sector who are not within our jurisdiction, such as private universities, authorities who regularly deal with NSW universities and interstate universities and other Australian bodies who perform a similar role to the Ombudsman. Forum participants consistently give positive feedback about the forum as an opportunity to discuss ideas about how higher education complaints can be addressed fully, efficiently and fairly.

This year's forum focused on the new national complaint handling standard and higher degree research (HDR) complaints, discussed below.

Managing expectations about supervision

Earlier this year, we released a draft discussion paper about HDR supervision complaints. Although the number of these complaints has not increased in recent years, there has been an observable change in their character. They tend to be more personal, complex, hostile and vengeful. In some ways this is understandable – the academic career of the student may rest on the result of their complaint. In turn, the supervisor's reputation may be damaged if the complaint is sustained.

In developing the discussion paper we surveyed NSW universities, interviewed complaint handlers from each university, and spoke with other interested parties – such as representatives of several postgraduate student associations. We received nine submissions from interested parties.

Disputes about supervision are unpleasant because they are so bitterly contested, but also costly to resolve. Our discussion paper set out a number of suggestions for universities to deal with problems at an earlier stage, when a resolution or a productive outcome is much more realistic. We will refine these in our final report, which we expect to release later this year.

International students

The Education Services and Overseas Students National Code (ESOS Code) recognises that a university's decision to suspend or exclude a student can have far greater consequences for international students than local

students. Because of this, the code requires universities to implement mechanisms giving greater accountability for decision making in this area – including notifying students before their Grade Point Average (GPA) drops to such an extent that their enrolment may be suspended. We receive a steady number of complaints alleging that universities have not fulfilled these requirements.

Transport

Registration processing difficulties

This year we had a number of complaints where people were fined for driving unregistered and uninsured vehicles in circumstances where they believed they followed the correct registration process. Case studies 18, 19, 28 and 31 tell the story.

Fines and enforcement

The Office of State Revenue (OSR) performs a difficult but important role in collecting revenue and outstanding debts for NSW, including fines, land taxes and ambulance fees. The law provides the OSR with various processes to do this, as well as review and appeal mechanisms for individuals who wish to contest such matters. The OSR's policies recognise situations in which an individual's circumstances may mean that the debt should be waived or limited, or paid off over time, through a payment plan. Some people are eligible for a work and development order, which is a non-monetary means of dealing with fine debt. We are concerned however that these policies may not be widely known or used – to the detriment of individuals who would be entitled to such consideration.

This year, we have expanded the scope of our research and consultation about the impact of GOs issued for outstanding fine and ambulance debt to include banks, other fine collection agencies, and other government agencies that collect debt, debt collectors in other industries, the Financial Ombudsman Service and experts in dealing with financial hardship.

We are also part of a debt recovery working group convened by the Department of Justice. The group provides advice to government about the recommendations of the NSW Legislative Assembly Legal Affairs Committee's 2014 inquiry into debt recovery in NSW and the statutory review of the *Civil Procedure Act 2005*.

Garnishee orders

We continue to receive complaints from Centrelink recipients, as well as people earning wages, about garnishee orders (GOs) the OSR has issued on their bank for outstanding fine and ambulance debt, case studies 32-34 are some examples. Once the bank receives the GO, it withdraws money from the person's account without warning and pays it to the OSR. Until recently, OSR's policy was to remove all available funds in an account, up to the total value of the person's debt. This leaves some people with insufficient funds to buy food, support their families, pay for medical expenses and maintain other financial commitments – including rent, loans and utility bills. They may face eviction and incur further financial penalties by, for example, falling into arrears on loan payments. We frequently hear from people who need help from government and charitable services after a GO.

43. Identifying vulnerable tenants

We were contacted by a tenant living in a private property leased by FACS. The tenant had disabilities and cared for his elderly father who had a tumour and limited mobility. The tenant told us that a burst pipe had flooded parts of their unit. The landlord's repairman removed part of the floor to access the pipes, but had not completely fixed the floor. Instead some wood had been placed over the hole and it was left unattended.

After our inquiries, a FACS customer service officer visited the tenants to discuss their concerns. They were satisfied that the repair work was appropriate, but identified that the tenants were vulnerable and – because of the father's deteriorating condition – considered that he would need a property with wheelchair access and an accessible bathroom in the near future. They arranged for a specialist customer service officer to help the tenant apply for a priority transfer on medical grounds.

44. Providing specialist accommodation

A woman and her advocate contacted us. The woman had recently been discharged from hospital with no money or belongings and was living on the streets. The advocate said that the NSW Trustee and Guardian (NSWTG) had prolonged the woman's homelessness by delaying its assessment of the budget for a proposed care plan.

The NSWTG told us it had approved a short-term accommodation plan as an interim measure. The woman had complex needs and there were no accommodation providers with vacancies that could support her. NSWTG staff had been liaising with the Public Guardian to work out a sustainable long-term plan for the woman.

We made inquiries with the Public Guardian, who made representations to the Ministry of Health to secure a place for the woman in a facility that could support her needs and offer a chance of rehabilitation. The advocate advised us a short time later that the woman was happily settled in her new accommodation.

45. Solving power problems

A public housing tenant said she had no electricity for a number of days and had not been able to resolve the issue through the FACS contact centre. The woman lived in a housing complex where a circuit breaker had been tripped a number of times over the weekend. Tradespeople had reset the circuit breaker, but had not addressed the underlying cause so the power kept cutting out. Despite a number of calls to the contact centre, they had not been able to resolve the problem. The woman told us she had not had a hot shower for days and food in her fridge had been spoilt.

After contact from our office, the Land and Housing Corporation (LAHC) – the agency responsible for carrying out maintenance work to FACS properties – isolated and arranged to replace the hot water heater causing the problem and restored power to the complex.

Case studies

46. Fixing leaks and faulty wiring

A public housing tenant complained about issues with the electrical wiring in his property. He experienced electric shocks when touching light switches and power points, there were exposed electrical wires, the circuit breaker was not activating properly, and there were power failures and blackouts as a result of these electrical issues. His roof was leaking and water was entering several rooms in the property and coming into contact with the exposed electrical wires. He said he had been trying to have these issues fixed for some time but with no success.

We were concerned about the safety of the tenant and made urgent inquiries with the LAHC, the agency responsible for carrying out maintenance work to FACS properties. After our inquiries, the LAHC rewired the entire property and agreed to complete further repairs to the roof – with a view to replacing the roof after new head contracting arrangements started if the repairs did not solve the problem. We closed the complaint on that basis.

The complainant wrote to us again because the roof continued to leak and he had received no advice about when it would be replaced. He wrote to his local Housing office to seek an update, but received no response. The local Housing office staff told us these letters were not on the complainant's file. We also found out that the LAHC had issued an order to the new contractor requesting a full scope of work for replacing the roof. As the roof replacement was going to take some time, we asked FACS Housing to appoint a contact person to provide progress updates to the complainant.

Although the OSR has a refund policy, we are concerned that some vulnerable people may not realise that this exists and others are unable to take the steps required to demonstrate their need. Although there is some statutory protection for money in the accounts of Centrelink recipients, this appears to be of limited benefit. We have seen many cases where all, or almost all of a person's Centrelink payment is taken from their account.

In August 2016, OSR advised us it will be introducing a new measure to safeguard people on low incomes from the impact of GOs, by introducing a protected amount that will remain in their account. This is a welcome change. We will monitor OSR's implementation of the new policy and related changes to its refund policy and business practices.

Case study 37 demonstrates the importance of agency staff taking the time to ensure they understand a person's circumstances before making a decision that will negatively affect that person. OSR's procedures should be designed in recognition of the fact that some people will be reluctant or unaware of the need to disclose personal circumstances that may make them eligible for alternative options. Given the impact OSR enforcement decisions may have on individuals, OSR staff have a particular responsibility to balance the competing public interests of collecting fine debt and preventing vulnerable people being further distressed or made destitute and/or homeless.

Conciliation between parent and school

The mother of a boy with a mild intellectual disability and behavioural issues complained that the school for specific purposes he had been attending was failing him. She claimed he was being unfairly treated, was frequently suspended, and was effectively learning nothing. She said her efforts to raise her concerns had resulted in the principal issuing a notice preventing her from entering the school or contacting anyone at the school, other than the principal.

When we made inquiries, the principal stated that the mother was unreasonable in her demands, was intimidating towards staff, and was refusing to contribute to planning meetings for her son's management at school. The principal considered the mother's behaviour had become unacceptable and could no longer be tolerated and decided to restrict her access to the school. The mother acknowledged she could become emotional, but said this was due to feeling ignored and blamed for her son's behavioural difficulties.

We decided that making further written inquiries to determine whether the school had acted reasonably was likely to increase the existing conflict between the mother and the school. Given the boy still had years of schooling ahead, we offered to conduct a conciliation between the mother and the school. We hoped this would lead to a suitable outcome and a more constructive relationship between the parties. All parties agreed.

Representatives from various parts of the department attended the voluntary conciliation conference, including the school counsellor and the new principal of the school. The conciliation was successful, due in large measure to the willingness of all parties to put aside any preconceptions and work together to establish a more cooperative relationship – with the boy's education and future school experience at its centre. The department and the mother reached an agreement, which included a communication protocol and detailed steps to help the boy feel more positive about his schooling. The department agreed to formally apologise to the mother and her son for certain oversights. The mother was pleased with the outcome and felt more assured that any future concerns would be considered fairly.

Custodial services

Our work in the custodial system is very much frontline – we speak directly with thousands of inmates and detainees on the phone and visit centres to hear complaints and learn more about systems and procedures. In 2015–16, our staff made 25 visits to 22 correctional centres and 10 visits to seven juvenile justice centres, as well as dealing with matters while in the office.

The Ombudsman staff who deal with complaints and inquiries about custodial services are alert to the custodial environment, which is particularly important in times of significant change. People who contact us from correctional or juvenile justice centres value the personal interaction with our staff as it gives them an opportunity to explain their situation in their own words. We receive positive feedback about the service we offer, often even from those we cannot help.

The combined and unrelenting pressures of increasing numbers of inmates, crowded facilities and a new ‘no smoking’ policy in the NSW adult correctional system saw us receive over 5,000 contacts this year, up from 3,800 last year. The number of matters we took up as formal complaints remained largely the same as the previous year, but our role of providing a ‘pressure valve’ on the system is clearly shown in the increased number of contacts where we gave advice or suggested other ways people could deal with their problems. Sudden changes to governing procedures in individual centres to accommodate more inmates can lead to inmate unrest. Often they call us to check if what they have been told by officers is correct and lawful. We can give advice and let them know we will monitor any changes to ensure they are also reasonable in practice, and do not unduly infringe upon inmates’ limited rights.

More inmates means more inquiries and more pressure on our resources. We try to provide a comprehensive service, but at times we can struggle to keep up with demand.

Figure 39: Formal and informal matters received

	11/12	12/13	13/14	14/15	15/16
Formal					
Correctional centres, CSNSW and GEO	886	660	483	572	571
Justice Health	107	96	88	112	117
Juvenile Justice	92	65	54	54	40
Subtotal	1,085	821	625	738	728
Informal					
Correctional centres, CSNSW and GEO	3,371	3,670	3,286	2,636	3,662
Justice Health	213	357	389	274	510
Juvenile Justice	205	222	195	186	163
Subtotal	3,789	4,249	3,870	3,096	4,335
Total	4,874	5,070	4,495	3,834	5,063

Complaint trends and outcomes

Figure 37: Formal complaints finalised – correctional centres, CSNSW, GEO and Justice Health

	14/15
Preliminary or informal investigation completed	512
Assessment only	132
Conduct outside our jurisdiction	6
Formal investigation completed	1
Total finalised	651

Figure 38: Formal complaints finalised – juvenile justice centres.

	14/15
Preliminary or informal investigation completed	38
Formal investigation completed	0
Assessment only	0
Conduct outside our jurisdiction	0
Total finalised	38

Figures 40 and 41 show the primary issue in each of the formal and informal matters that we dealt with in 2015–16. These are separately reported for correctional centres and juvenile justice centres.

In the correctional system, issues relating to the health service provided by Justice Health were the ones most commonly raised with us in 2015–16. This reflects the general poor health and high medical needs of the inmate population, many of whom only seek treatment when they are in custody.

The second most common primary issue was daily routines in gaols – followed by issues to do with inmate property, transfers and visits. These problems typically affect the large number of people in custody on remand, who face the prospect of being moved to different centres as the demand for beds ebbs and flows. Those moves can have a flow-on effect – with property being lost or damaged in transit, and visits no longer being possible for family if there are great distances involved. Corrective Services NSW (CSNSW) is trying to have more beds at each security classification available in the metropolitan area to relieve this stress, but this will take time.

In Juvenile Justice, there continued to be fewer young people in custody overall – but those who are in a centre are mostly on remand. A variety of organisations have made significant efforts to help young people who are having trouble meeting their bail conditions. However, there is still a large number of young people who the courts decide must wait in custody to have their matter heard. Concerns with daily routine were the most common issue in the juvenile justice matters that we dealt with in 2015–16, followed by issues to do with food and diet. On a positive note, contacts alleging officer misconduct dropped significantly during the year.

Figure 40: What people complained about – juvenile justice centres

Issue	Formal	Informal	Total
Case management	5	12	17
Classification	0	1	1
Daily routine	7	54	61
Day/other leave/works release	0	1	1
Fail ensure safety	1	2	3
Food & diet	1	26	27
Information	1	0	1
Legal problems	0	1	1
Mail	0	2	2
Medical	4	6	10
Not in our jurisdiction	0	1	1
Officer misconduct	7	15	22
Other	1	13	14
Property	1	1	2
Records/administration	2	1	3
Security	3	6	9
Segregation	1	2	3
Transfers	2	8	10
Unfair discipline	3	6	9
Visits	1	4	5
Work & education	0	1	1
Total	40	163	203

Adult correctional system

Increasing numbers of people in custody

In 2015–16 the number of people in custody in NSW correctional centres continued to increase, reaching almost 13,000. The population has risen steadily over the past few years, but there was no early warning of this sustained period of growth. Understandably, new correctional centres need funding and planning and CSNSW has adopted interim measures to accommodate and manage the volume of inmates while that happens. Long held policies such as single cell accommodation, placement close to your family, and longer and more frequent visits have succumbed to the pressure created by overcrowding.

Figure 41: What people complained about – correctional centres

Issue	Formal	Informal	Total
Buy ups	8	99	107
Case management	20	122	142
Charges/fees	2	9	11
Classification	14	133	147
Community programs	0	3	3
Court cells	7	11	18
Daily routine	111	667	778
Day/other leave/works release	15	39	54
Fail ensure safety	17	71	88
Food & diet	8	68	76
Information	12	46	58
Legal problems	23	82	105
Mail	7	68	75
Medical	134	716	850
Not in our jurisdiction	10	17	27
Officer misconduct	32	268	300
Other	11	187	198
PID-related	0	1	1
Probation/parole	18	126	144
Property	68	317	385
Records/administration	36	190	226
Security	7	43	50
Segregation	19	131	150
Transfers	23	271	294
Unfair discipline	32	196	228
Visits	39	206	245
Work & education	15	85	100
Total	688	4,172	4,860

Correctional centres that closed several years ago when the inmate population was declining have been, or are about to be, reopened. The government has announced a \$3.8 billion budget to build new centres and provide new accommodation areas in existing centres over the next few years. Hopefully this investment in infrastructure is also a commitment to permanently closing some of the oldest centres in the state.

The issues that inmates raise with us change little from year to year – usually revolving around the daily routine. Some people think of prison as a type of holiday camp, but that is not the case. The routine and conditions in many centres do little to prepare inmates to return to the community.

For example, on a July afternoon the temperature at Goulburn could be about 6 degrees. Maximum security inmates would have had their lunch at 11am and by 2pm be given their 'evening' meal which is a salad. By 2.30pm they are locked into their cell, which they share with another inmate, and where they will stay until about 8am the next morning. If they use the toilet during that time, they do so with someone else in the room. A small number of the several hundred inmates at Goulburn each day will have had access to education or programs to address their offending behaviour. The rest will have spent their day pacing, exercising and 'networking' with other inmates. The correctional system must deter crime and protect the community, but constant demands to lock up more people for longer periods will impede the system's ability to fulfil its fundamental role of rehabilitation in humane conditions. These conditions, in particular, lead to complaints – especially as staff struggle with managing more and more inmates and the associated security, movements, assistance and administration.

Unintended effects of no smoking policy

Plans had been underway for some time to introduce a no smoking policy in all adult correctional facilities in 2015–16. Even without crowding in prisons, this policy was going to seriously test the inmates, the staff and the system.

When the program started on 10 August 2015, all inmates who identified as smokers were given an eight week supply of nicotine replacement therapy (NRT) patches delivered in two lots – each intended to last four weeks. After the policy had been in place for eight weeks, only new inmates were offered an eight week supply of NRT.

In June 2016, CSNSW announced a change to the NRT program. New inmates now only receive a single two week supply of NRT. Nicotine replacement lozenges are available for all inmates to purchase on the weekly 'buy up' along with other products.

In prison, any item declared as contraband becomes currency – especially when it is a highly addictive, though otherwise legal, substance. All forms of contraband give rise to opportunities for standover, violence and potential corruption. From the contacts made with us, it is clear that tobacco-related violence and standover are widespread. Non-smoking inmates have been threatened and forced to identify as smokers to get NRT patches for other inmates. Inmates with NRT supplies are attacked and their supply stolen.

Other issues arising from the no smoking policy have been the improper use of other products to make 'smokes', usually by soaking tea in water infused with the NRT

47. Refunding an incorrect charge

An ambulance was called for an inmate at Wellington Correctional Centre who said he had been assaulted during a dispute about nicotine patches. He was taken to Dubbo Hospital and examined, and then returned to the centre by ambulance. The correctional centre ordered him to pay \$500 compensation for the cost of the ambulance as the examination had found nothing wrong with him. He felt this was unfair. We believed that inmates could only be charged compensation for damage to property. We spoke with the general manager who sought legal advice, which confirmed our view that compensation can only be ordered in response to physical property damage. The general manager agreed to refund immediately any money already deducted from the inmate's account. He also undertook to inform all staff about the legal advice and its application.

48. Supplying an approved scarf

Items that are routine in the community can sometimes cause concern in a custodial environment. A young woman called from Juniperina Juvenile Justice Centre and said she was not allowed to wear a headscarf outside her room in the centre. As a young Muslim woman, she felt uncomfortable around male officers with her hair uncovered. The scarf did not cover her face and did not require pins, so its potential as a security risk was minimal. When we inquired we were told management could not confirm she had been told she could only wear a scarf in her room, but the scarf the detainee did have was not one approved by the centre. Arrangements were made with the chaplain to provide her with an approved scarf that she could wear outside her room. A supply of approved scarves was purchased and the centre was prepared when another Muslim detainee came into custody shortly after.

49. Approving visits

The partner of a woman who had been moved to Dillwynia Correctional Centre from another centre made a booking to travel from Canberra to visit her. When he told his partner he had booked for both the morning and afternoon sessions, she told him to recheck with the centre as usually bookings for both sessions need the approval of the general manager and neither of them had made such a request. He called the centre and was told it was a mistake – and then was put on hold for a long time before being transferred on to someone else who could not help him. He called again and was on hold for nearly an hour before the call was disconnected. Fearing his whole visit would be cancelled he asked us for assistance. We spoke with the manager of security and she confirmed there was a double visit booked, but that this had not been approved. As it was clear this was an administrative mistake, she offered to give retrospective approval on this occasion. The inmate and her partner were very happy with the outcome.

50. Following confinement procedures

A detainee from Cobham Juvenile Justice Centre was given a punishment of 24 hours confinement after he was involved in a fight. When confinement is given as a punishment, it is usual practice at Cobham for it to be reviewed regularly throughout the period to determine if the punishment needs to continue. This boy told us he had not been reviewed and had spent the entire 24 hours in his room. He also said he was not asked to sign any paperwork acknowledging the outcome of the misbehaviour hearing, or given the chance to talk to managers before his punishment started. After we discussed the case with the centre manager, the staff involved were counselled and given a written reminder of the need to follow centre procedures in cases of misbehaviour.

51. Issuing nicotine patches

Justice Health staff at one centre refused to give an inmate his second batch of nicotine patches because his records did not show he was issued a first batch on arrival into custody at another centre. The inmate complained to us because he had started NRT on reception under the quit smoking policy and was entitled to complete the course of treatment – at that time, an eight week supply of patches. We made inquiries and it was confirmed the nursing unit manager could not find any record of the initial issue on the patient's record. An examination of electronic records held by Justice Health showed he identified as a smoker on his initial reception and was issued with patches. The inmate was called to the clinic that day and issued with his second four-week supply of patches.

52. Addressing asbestos concerns

An inmate called us after he was directed to work on demolishing a building at Ivanhoe Correctional Centre because he was concerned they were working with asbestos. He is a tradesman with his 'asbestos ticket' and recognised the asbestos in the wall, and then saw a sticker on a sheet he and another inmate were moving. Their concerns were dismissed locally and they were told it would be okay as long as they did not break the sheet. He claimed it was already broken – but said they were ordered to continue, so he worked until the end of his shift when he had to clean up the broken material. In response to his concerns, he was given a small protective mask – but the material had been dumped uncovered, potentially sending fibres into the air. He had written out a complaint but wanted to let us know as well. Given the potential seriousness of the situation, we contacted the general manager who is based in Wellington – quite some distance from Ivanhoe. The general manager told us the work had started in an area not previously surveyed for asbestos, but the asbestos register compiled in 2000 indicated non-friable cement sheeting with asbestos ingredients in some areas of the centre. He directed all work on the site to stop immediately, organised for the inmates and staff to be interviewed and checked, and commissioned a survey and action management plan. Centre management assured the inmate that he had done the right thing by drawing attention to the situation.

patches. This produces a dangerously toxic 'smoke'. The practice has led to tea bags being removed from some correctional centres, causing complaints from those who use them for their proper purpose of making tea. There is sufficient danger in this misuse that it is not possible to categorise their removal as a collective punishment. We hope that once the no smoking policy has been in place for a longer period of time, there will be an opportunity to review the decision to remove tea bags.

Matches have also been banned as part of the no smoking policy. This has given rise to another unintended consequence, which has led to complaints of collective punishment. Some inmates use power points to cause a spark to light illicit smokes. This 'sparking' can cause power outages over several cells or even a whole wing. This usually happens after the inmates are locked in. In many cases, centre management have decided that the power will not be restored until the following morning when appropriately qualified staff or contractors can ensure there is no fire risk or hazard. There have been suggestions that power points should be removed from all cells to stop this happening. This would see the cells in NSW returned to a Victorian era where inmates cannot make a hot drink, watch TV or operate a fan for up to 18 hours a day.

A more recent issue arising from the no smoking policy was the practice of using a spark to light a tampon which creates a long-burning wick. This also produces toxic smoke in the air and has resulted in at least one women's centre deciding to stop supplying tampons. Reluctantly, we conceded that as long as sanitary pads were still provided there were few options available to management to ensure the safety of all the women at the centre. We suggested this decision be reviewed after a few months to see if tampons could once again be supplied. While there was no immediate agreement, we will discuss this possibility on our next visit to the centre.

Managing HRMCC inmates

The High Risk Management Correctional Centre (HRMCC), or 'supermax' as it is commonly called, is the centre from which we regularly receive most contacts per capita. This year the HRMCC accommodated the highest number of inmates since it was commissioned. More than half of those inmates are designated as Extreme High Risk Restricted (EHRR), placing additional restrictions on their rights and privileges. An EHRR designation increases the need for the inmate's requests to be approved outside the centre and for significant monitoring of their communication by centre staff. While we acknowledge that EHRR designations are government policy, we are concerned to ensure that the policy is not administered in a way that erodes basic legal and human rights.

Several EHRR inmates and their legal representatives complained about the Commissioner requiring those legal representatives to submit to specific checks as part of an approval process to visit their clients, and also that the inmates speak only in English on the phone and on visits. There is a concern this indicates a potential for the Commissioner to control which lawyer an inmate may retain. There is a further concern that monitoring phone calls and visits between the inmate and their legal representative could breach lawyer-client confidentiality. We have made inquiries into these issues and will continue to do so in the coming year.

Many of the contacts we get from the HRMCC relate to matters that we consider should have been resolved at the centre before our intervention. At times, we have been concerned by what appears to be an unprofessional attitude about providing these inmates with basic amenities and privileges. A large number of HRMCC inmates are either convicted or remanded on national security offences and we have received complaints about officers making reference to their offences in their day-to-day contact. The general manager has responded by taking immediate action when such reports are substantiated. Such actions by correctional officers are inappropriate and counterproductive, particularly in a climate where there is an overarching interest in role modelling an inclusive community and gaining the trust of inmates who are considered radicalised.

There are many rules around how all inmates move around the HRMCC, how many can be in an area at the same time, and who they may be in contact with both inside and outside the centre. Those limitations are exacerbated by the additional restrictions on EHRR inmates. Currently the HRMCC is struggling to provide all inmates with proper access to telephones, family visits, legal conferences and calls – leading to further complaints. It was built with an open visiting area and only limited non-contact visit rooms, which is not appropriate for a centre that was always intended to have controlled associations between inmates. We are aware management at the HRMCC have sought resources to better configure parts of the centre to try and meet some of the demands now being placed on it.

Reviewing the use of separation

Most correctional systems can remove inmates from the mainstream prison population for good order and security or for protection. That can be by way of segregation and protection – which is authorised by ss 10 and 11 of the *Crimes (Administration of Sentences) Act 1999* and subject to a range of accountability mechanisms. Segregated inmates have the right to appeal their segregation or protection to the Serious Offenders Review Council. There are also administrative checks and balances in the Act and CSNSW procedures to ensure segregated inmates are reviewed regularly.

It is also possible for a prisoner to be subject to 'separation' under s 78A of the *Crimes (Administration of Sentences) Act 1999*. Section 78A allows the correctional system to keep an inmate separate from other inmates and to vary an inmate's conditions of custody. The CSNSW procedures manual refers to separation for inmates such as fine defaulters, forensic patients or those who would be at risk if not separated from other inmates or are under threat. The procedures require a Director to give permission to establish an area for separation of inmates, approve local operating procedures for these areas, and be advised each time an inmate is placed in separation. There is however no legal requirement for separated inmates to be reviewed regularly, or for any other senior officer outside of the correctional centre to be kept advised of the ongoing separation of an inmate. Also, an inmate is not able to appeal against their separation or a variation of conditions to a body such as the Serious Offenders Review Council. Some centres establish programs such as behaviour intervention using the separation powers under the Act and these usually provide a level of accountability in their program documentation.

53. Making calls to family

Almost two weeks after coming into custody, an inmate at Parklea Custodial Centre was still unable to call his family to let them know where he was. Despite asking, he had not been able to access his mobile phone to write down any numbers to add to his gaol account. As inmates are usually given an opportunity to call their family or take down their numbers once they arrive at a correctional centre, we called the centre. It was agreed that for an unknown reason this inmate had not been able to get his numbers or make a call on or after his arrival. This was rectified and he was able to get his numbers and put them on his account.

54. Getting a prescription filled

After waiting five months for a cream prescribed for a rash, an inmate was told the cream was no longer dispensed by Justice Health. He was also told he would need to wait another month to see a doctor to get a different prescription. We made inquiries with Justice Health. They told us the cream was available from their dispensing pharmacy and could not explain why it had not been given to the inmate. The inmate was seen by a doctor, had the cream dispensed and was given an apology.

55. Reviewing separation

An inmate at Long Bay Hospital 2 called us to complain that he was in the segregation unit but was not on a segregation order. His daily routine was an hour a day out of his cell to exercise and shower in a separate yard, and he was not allowed to associate with other inmates. This was the same routine as those inmates who were in segregation 'for good order and security' alongside him. We called the centre and were told he was waiting to be transferred to another centre and, in the interim, was being kept separate due to concerns for his safety and security if he was placed in the centre's mainstream area. The inmate was being held separate using s 78A of the *Crimes (Administration of Sentences) Act 1999*. We reviewed the management plan for the inmate and were given an undertaking that the inmate (and any others separated under s 78A) would be reviewed weekly along with the segregated inmates. The general manager advised us when the inmate was subsequently transferred to a centre where he could be in the general population.

56. Obtaining special shoes

Sometimes we have to encourage correctional managers to think outside the box. We were told by an inmate with cerebral palsy that he needed special shoes and that at his last centre he was allowed to have them sent in by his family. Inmates are now no longer allowed to have shoes sent to them from outside the system, so he could not get his new shoes. We contacted the manager of security at the Outer Metropolitan Multi-Purpose Correctional Centre, who agreed to allow the inmate's family to send in extra money and for centre staff to buy the shoes on his behalf.

57. Keeping records of punishment

Being ordered to pay compensation is a significant punishment for an inmate and the administration of this punishment must be exercised with care. An inmate at Cessnock Correctional Centre complained that he had been unfairly punished for property he was accused of damaging and ordered to pay \$700 compensation. When we made local inquiries, neither the records relating to the alleged offence nor the compensation orders could be found. We wrote to the Commissioner making some observations about the case, including CSNSW's obligation to comply with the *State Records Act 2000*. We suggested the lack of records made both the punishment and compensation orders invalid. The Commissioner accepted our suggestions and quashed the charges against the inmate, and refunded him the \$525 compensation he had already paid. The Commissioner also agreed to improve the record-keeping systems at Cessnock.

58. Providing storage for possessions

An inmate at Lithgow Correctional Centre told us his unit now held 40 more inmates after extra bunks were installed in what had already been small single cells. There was no shelving or storage in the cells and inmates had to place all their property, including food and clothing, on the floor. The inmate said they had asked for storage tubs but had not been given any. We contacted the manager of security who checked and said he was surprised to find there was no storage available. He told us storage tubs would be provided immediately. This did not happen – but, after we followed up for several weeks, the tubs were eventually provided.

59. Correcting faulty records

An inmate contacted us about problems with the records of his work and development order (WDO). WDOs allow inmates to complete educational courses and programs while in custody to work off fine debts in a constructive way, such as by learning new skills. The program allows inmates to leave custody without owing a fine debt.

The inmate told us he had checked his fines balance with the Office of State Revenue (OSR) when he entered into a number of WDO programs. He thought he had worked off his entire balance. However, officers at the correctional centre, who had spoken to the OSR, told him that he still had a significant number of fines outstanding. The inmate was worried about this because he was due to be released in a month. We contacted the OSR who identified that the additional amount had not been correctly assigned to the inmate's record. The OSR fixed the records and the inmate was able to leave custody without a fine debt.

In practice, however, individual inmates are now also being moved to segregation (or multi-purpose) units and told they are being managed under s 78A in circumstances we consider would usually meet the threshold for ss 10 or 11 segregation or protection. When we ask about the use of separation in these cases, we are often told that this is done so the inmate's case records don't include periods of segregation or protection – both of which can make their future placement and program pathway more difficult to plan.

Case study 55 is an example of a complaint made by an inmate under separation. We consider that separation of individual inmates within segregation units does not provide sufficient protection or external accountability. An inmate can be placed into separation and remain there without any review. If they contact us, we ask to see a management plan for their separation and evidence of action taken to move them to another location where they can be in mainstream accommodation. We also try to ensure that separated inmates are reviewed at the weekly meetings that must be held for segregated and protected inmates.

Spending more time in court cells

The large inmate population also means that people coming into custody are being forced to spend more time in cells attached to police stations or court complexes. In most of these complexes the inmates cannot exercise, make calls, have visits or change their clothes. Section 72(3) of the *Crimes (Administration of Sentences) Act 1999* specifies that an inmate is not to be held in a police station or court cell complex for more than seven days at a time.

Until the crowding situation arose, CSNSW aimed to move people to a correctional centre within 100 hours of coming into custody. We are now regularly receiving complaints from family members (as the inmates in these cells cannot call us) about people remaining in court or police cell complexes for up to 10 days. CSNSW have acknowledged that in some areas 10 days is the standard timeframe for transfer to a correctional centre. Although we note this means CSNSW is breaking the law, it is difficult to know what they can do if there is no bed available to move a person to.

When CSNSW took back ownership of the Emu Plains Juvenile Justice Centre it was re-gazetted as Amber Laurel Correctional Centre, and designed as a transit facility between western Sydney police and court complexes and the centres in the area where the inmates would come into custody. The gazettal of Amber Laurel as a correctional centre means the seven day clause does not apply to it. We visited Amber Laurel this year and found the conditions for inmates to be virtually identical to the cell complex at Surry Hills that is attached to the police centre. The inmates have no exercise, no association, only basic meals and few if any opportunities for phone calls other than to their legal representatives. The conditions for staff are also significantly inferior to those in a correctional centre. Amber Laurel correctional staff are responsible for heating and delivering inmates' meals, providing a minimal welfare service and secure custody. In our view, Amber Laurel is in effect a court/police cell complex where the seven day rule does not apply. We have written to the Commissioner outlining our views on this issue.

Juvenile Justice

The good news that there are fewer young people in custody than there were a few years ago has continued. In early 2016, there were so few young women in juvenile custody that the government decided the Juniperina Juvenile Justice Centre would be handed over to Corrective Services NSW for use as an adult women's correctional centre.

We make regular visits to juvenile justice centres to give young people the opportunity to discuss any concerns about their management in custody or issues they may have with other government agencies. Our staff visiting these centres will often include our youth liaison officer or a member of our Aboriginal unit. Case study 48 on page 70 is an example of a complaint about juvenile justice.

In 2015–16, we participated in expos at Cobham Juvenile Justice Centre along with other government and non-government organisations providing services to young people. We also attended the roundtable held by the Children's Commissioner at the Australian Human Rights Commission to discuss implementation of the Optional Protocol on the Convention Against Torture (OPCAT) in the juvenile justice arena in Australia.

On a visit to Reiby Juvenile Justice Centre, one detainee spoke to us about how force had been used on him resulting in injuries. During that same visit, another use of force incident was raised with us. We spoke with centre staff and took the opportunity to view the hand held and CCTV footage of both incidents along with the centre manager, assistant manager and unit manager. We identified some areas in the footage that indicated further training of centre staff would be beneficial. The centre manager also referred information about those incidents to their Professional Standards Unit to be assessed for notification to our office as reportable allegations under the employment-related child protection scheme.

Monitoring the Chisholm behaviour program

In mid-2015, Kariong Juvenile Correctional Centre was re-gazetted as an adult correctional facility. As a result, the young people in the behaviour management program at Kariong were transferred to Cobham Correctional Centre and Juvenile Justice established a behaviour management program there – known as the Chisholm Behaviour Program (CBP). When we wrote our 2014–15 annual report, we had visited the CBP site at Cobham and the first group of young people were starting the program. Our early impression was that the program documentation indicated a greater emphasis on individual case management, with the prospect of the boys spending less time separated from the main population.

Towards the end of 2015 we received several complaints alleging many boys were being kept isolated for lengthy periods. They were also regularly being returned to lower stages of the program where they had little or no chance to associate with others or attend school. We reviewed the data we could access in the Client Information Management System (CIMS) (the Juvenile Justice database) and saw evidence of lengthy periods of separation and regression to

lower phases by some boys. While we usually receive direct notification from the database any time a detainee is held separate or segregated for a period of 24 hours or more, the CBP data was not captured by these notifications.

We visited Cobham and met with the management team to discuss the CBP. We were told other groups and agencies that regularly interacted with the CBP boys had also raised issues about the program. Management told us about steps they had already taken to change parts of the program, and we spoke with each of the boys who were in CBP about their views of the program – both negative and positive. We discussed those views with the management team as well as further changes that could be made to the program. Importantly, we were told the CBP was to be formally evaluated to determine if it was meeting its objectives. We decided to suspend our inquiries pending the evaluation but asked to be given access to the outcome as soon as it was available.

We visited the CBP several times this year, and also met with participants who were moved to Frank Baxter Juvenile Justice Centre after an incident at Cobham caused structural damage to the CBP building. Over time, we noted some incremental improvement. While waiting to hear further about the evaluation of the CBP, we were advised by the acting Executive Director that a decision had been made to close the program and use the existing policies and procedures available to Juvenile Justice to manage young people presenting challenging behaviours. Under these policies and procedures, young people who may otherwise have been in CBP in isolated circumstances will once again be captured by the notification system direct to our office – and this will provide real-time monitoring.

Receiving notifications about segregation and separation

Juvenile Justice can stop children and young people in custody from associating with others, apart from key staff. This non-association takes two forms – segregation or separation – and each is used for different purposes.

A young person may be separated because of age, gender or medical reasons, because they are vulnerable if left in the main population, or because their classification has changed and they need to move to a different centre.

Segregation occurs when a young person is kept away from others to protect their personal safety or the safety of another person.

Clause 10 of the Children (Detention Centres) Regulation 2010 requires Juvenile Justice to notify the Ombudsman when any young person is segregated for more than 24 hours. Juvenile Justice agreed with us several years ago that they would also notify us when young people were separated for more than 24 hours in keeping with the spirit of the Regulation.

Segregation and separation notifications are now automatically generated by the Juvenile Justice (CIMS) database and sent directly to our custodial services unit mailbox. We assess each notification and make contact with the centre if we have any questions about it. We also record the notifications in our database where only select staff may access the information. We use the information in our database to monitor notification trends.

Figure 42 shows the number of notifications we received from each centre. The number of notifications received this year is similar to last year's total of 213. The higher number of separations in rural centres such as Acmena, Orana and Riverina is usually a reflection of the limited facilities available in those areas and the distances between them. This means that girls may be received into a male centre and be held until they go to court or can move to the female centre. Similarly, boys may be initially received into a centre which houses children and young people with a lower classification, while they wait to transfer to another facility.

Figure 42: Segregation and separation notifications

Centre	Segregation	Separation	Total
Acmena	18	20	38
Frank Baxter	4	10	14
Juniperina	8	2	10
Orana	25	32	57
Reiby	21	0	21
Riverina	21	19	40
Cobham	26	4	30
Total	123	87	210

Segregation and separation are not to be used as a form of punishment. Section 21 of the *Children (Detention Centres) Act 1987* specifies the actions that centre managers may take to punish detainees for minor misbehaviour. One possible punishment is to confine the detainee to their room, subject to certain conditions. However, the period of confinement cannot exceed 12 hours or, in the case of a detainee over the age of 16 years, 24 hours. Juvenile Justice is not required to notify us about any instances of confinement. Case study 50 on page 71 is an example of a complaint about confinement.

Working with the Inspector of Custodial Services

The inaugural Inspector of Custodial Services, Dr John Paget, retired in August 2015. We had enjoyed a beneficial professional relationship with Dr Paget and his team. That strong relationship has continued following Fiona Rafter's appointment as the Inspector in April 2016. Since Ms Rafter's appointment we have continued to collaborate on our respective areas of work, including their inspections focusing on the management of radicalised inmates in the adult system and the use of force in juvenile justice centres. We also have regular contact with the manager of the official visitor scheme covering both systems, who is also located in the Inspector's office.

Justice Health

The Justice Health & Forensic Mental Health Network (known as 'Justice Health' in the custodial system) provides health services to inmates and young people in custody at all centres except for Junee Correctional Centre. Justice

Health also has a significant presence in court locations and works in the community on diversionary programs for specific groups such as those with a mental illness, and assists people with health needs when transitioning from custody into the community.

We receive many contacts from people in custody about matters relating to their health. Most of these we will redirect to the nursing staff at their centre or to the Health Care Complaints Commission. We do not usually become involved in issues relating to decisions made about a person's medical care, although we may ask Justice Health to explain these to the individual or tell us when they think someone might be seen by specialist medical services.

In many cases we are contacted about delays in accessing medical services. We cannot generally ensure that anyone is seen any sooner than they are already scheduled to be seen on a waiting list. The resources of Justice Health are also limited and there are often lengthy waits to see a doctor, dentist, optometrist. Sometimes the waiting time will depend on where the inmate is located and the services available in the local area. Waiting lists are triaged by on-site medical staff, but a security lock down or variation to a day that affects the doctor's ability to go into the centre can significantly delay the list. We have a good relationship with the client liaison staff at Justice Health, and in many cases we are able to ensure any communication blockages are resolved or further information is provided.

Local government

Complaint trends and outcomes

In our last annual report we noted an 8.5% increase in written complaints. In 2015–16, the number of written complaints remained at a similarly high level. We discuss below the pressures on our resources and how we handle high numbers of complaints with only three local government specialist staff.

Customer service and enforcement continue to be our two primary complaint issues at 21% and 16% respectively. Engineering services is also high (11%) – this category includes complaints about traffic, parking and parking infringements. We also receive many complaints about development applications and other development-related decisions (12%).

Figure 43: Local government – what people complained about

Matters	Formal	Informal	Total
Community services	18	17	35
Corp/customer service	192	372	564
Development	91	230	321
Enforcement	167	278	445
Engineering services	148	151	299
Environmental services	66	152	218
Management	0	4	4
Misconduct	29	53	82
Not in our jurisdiction	24	27	51
Object to decision	81	203	284
PID-related	3	8	11
Rates charges & fees	119	258	377
Strategic planning	8	9	17
Total	946	1,762	2,708

The councils with the most complaints are typically the larger or city councils. However this year Eurobodalla Shire Council received a spike in complaints, almost doubling from last year. Analysis of those complaints revealed no major issues – in several cases the same complainant made more than one complaint. Shoalhaven City Council also had an increase in complaints, from eight last year to 20 this year. Again no significant issues were raised that flagged serious maladministration or wrong conduct.

Figure 45: Local government – formal and informal matters finalised

Matters	11/12	12/13	13/14	14/15	15/16
Received	925	764	873	948	946
Finalised	933	765	872	959	936
Informal dealt with	1,962	1,795	1,698	1,962	1,761

Figure 73 in Appendix B provides a breakdown of the action we took on the local government complaints that we finalised in 2015–16, grouped according to specific councils.

Managing our limited resources

With limited resources, we are constantly reviewing how much work we are able to take up and how we can best 'add value' in the public interest.

In 2015–16, we found we declined to investigate 75.3% of the formal complaints made to us about local government. In around a third of those matters, we assessed the complaint to our office as premature and told the complainant to take other action first. We provided the complainant with information about how to make a complaint to the council directly and a complaint pro forma to help them include all the necessary information.

Figure 44: Local government – formal complaints finalised

	Number
Assessment only	693
Preliminary or informal investigation completed	231
Conduct outside our jurisdiction	12
Formal investigation completed	0
Total	936

Case studies 60 and 61 are examples of the help that we can give people – even if we decide not to make inquiries directly with the council concerned.

We also have to recognise when there are problems that warrant our immediate involvement, whether or not a complainant has first raised the issue with the council concerned. Case study 62 is an example of such a case.

Early assessment of all complaints and providing information about other options enables us to focus our efforts on those complaints that have been through the appropriate channels – but with no effective outcome (whether or not to the satisfaction of the complainant). Case studies 63, 64 and 65 are examples of the complaints that we decide to take up with the council concerned.

60. Explaining the process

We received a complaint about a brothel in the complainant's residential building. The person had complained to their council only two days before and council had advised it would take 35 days to investigate. The complainant wrote to us because they considered 35 days to be too long and they believed their personal safety was at risk. We advised them that the council needs the opportunity to collate evidence to develop a case before they have the power to take enforcement action. We gave them advice on how to make complaints and invited them to come back to us if their current complaint was not resolved.

61. Dealing with delay

We received a complaint that a council had failed to reply to a complaint made two years earlier about an unauthorised shack. We told the complainant that they had left it too long for us to step in at this stage. However, we advised them it was appropriate to 'renew' their complaint with the council and gave them a pro forma to assist. We were aware that there were new governance staff at the council and that their administrative and complaint handling processes had significantly improved in the last six months. We invited the complainant to come back if their complaint was not resolved.

62. Recovering an impounded car

We dealt with a complaint about an unregistered car impounded by a council. Although there is an avenue of alternative redress under the *Impounding Act 1993*, we recognised that it was unlikely that the complainant would be able to meet the 28 day deadline to apply to the NSW Civil and Administrative Tribunal. We contacted the council and obtained additional details about the circumstances of the case. Although the council's conduct was reasonable and lawful, we were able to give the complainant advice about verifying ownership of the car to have it released from impound.

63. Incorrect rates

We received a complaint about legal fees and interest charged on a person's rates. The complainant said that council had incorrectly recorded their address for rates notices. After the council acknowledged the error and reversed all costs on the rates account, the complainant received a further notice of charges that they should not have been responsible for. Their attempts to contact the council appeared to be ignored and time was of the essence.

We contacted the council to find out why the complainant was still receiving these notices. The council responded to the complainant that the notice he received was the result of a system error, and confirmed that the error had been isolated and reversed. Council also apologised to the complainant.

Revising our memorandum of understanding

Under Part 6 of the *Ombudsman Act 1974*, we are able to enter into a complaint referral arrangement with relevant agencies such as the Office of Local Government (OLG). We recently revised our memorandum of understanding (MOU) to more clearly outline the types of complaints for which we would take primary responsibility.

Due to our overlapping responsibilities for councils, it is not unusual for people to complain to the OLG and our office about the same matter – often at the same time. Sometimes this is obvious (for example, if the complainant clearly addresses a letter to both offices) and sometimes not. To reduce the risk of duplication, we have clearly identified the subject matter that each of our offices will and will not handle directly.

We concentrate our role on complaints in the following areas of local government administration:

- Compliance and enforcement – application of discretion (both when deciding to take action and when not to take action), reasonable decision making, and policies that align with our recently revised publication *Enforcement Guidelines for Councils* and model compliance and enforcement policy.
- Complaint handling – investigating complaints, procedural fairness, and the quality and performance of complaint management systems that align with our newly published *Complaint Handling Framework* and model complaint handling policy, based on AS/NZS 10002:2014.
- Unreasonable conduct by complainants – applying our *Managing Unreasonable Complainant Conduct Practice Manual* and policies that align with our model policy and procedure.

The types of complaints that the OLG takes primary responsibility for are about:

- Code of conduct – compliance with the model code of conduct, adopted individual codes of conduct, and processes in accordance with the OLG's *Procedures for the Administration of the Code of Conduct*.
- Meetings procedures – compliance with the OLG's *Meetings Practice*, Practice Note 16.
- Tendering – compliance with the Local Government Act and Regulations, and the OLG's *Tendering Guidelines for NSW Local Government*.
- Any other matter relating to compliance and performance against guidelines issued under s 23A of the *Local Government Act 1993*.
- A council's financial management and performance, including rating policies.
- Compliance and performance against swimming pool legislation.
- Compliance and performance against companion animal legislation.
- Public land management – such as councils as trust manager for Crown land, and managing operational and community land.

The MOU between the Ombudsman and the OLG has been developed to prevent duplication and to allow each agency to focus its limited resources on key areas. We can decline to act on a complaint that we have agreed the OLG may be best placed to determine. However if there is a good reason

for our involvement – or a reason that the OLG should not or could not deal with the complaint – we are not prevented from handling the complaint directly.

The revised MOU is available to read or download on our website.

Recovering outstanding water charges

Last year we reported our concerns about councils taking action to restrict the water supply to a tenanted property because the landlord had not paid the water rates and charges. After our intervention in one case, the council changed its decision and reviewed its debt recovery policy to reflect that disconnecting a tenant's water supply should only occur as a last resort after other lawful options had been exhausted.

In 2015–16 we approached the OLG with our concern that disconnecting or restricting a tenant's water supply because of a landlord's debt was a common area of complaint across many local government areas. We asked the OLG to review and reissue its previous circular to councils (*Circular 08-69: Recovery of Outstanding Water Charges from Residential Tenants*).

The OLG responded by releasing Circular 15–40 in December 2015. This circular is firmly worded and asks councils to review their debt recovery policies to align with the *Local Government Act 1993* and to safeguard against unfair impacts on tenants. Councils were also advised that they must take reasonable steps to identify whether a property is tenanted, and to not restrict or disconnect water when they are aware it is.

The circulars are available on the OLG's website.

Effects of council amalgamations

In May 2016, the Minister announced the creation of 19 new councils. These councils have partly been created by amalgamating existing councils, plus there have been some other changes through boundary adjustments. For example, the former Parramatta City Council and Holroyd City Council have both been split and now partly form the new City of Parramatta Council and Cumberland Council. Portions of Hornsby Shire Council and The Hills Shire Council are also transferred to the City of Parramatta in a boundary adjustment. However, Hornsby Shire Council and The Hills Shire Council continue to exist as standalone councils.

There have already been some unique situations created by the boundary adjustment. A complaint we received about the former Parramatta City Council revealed that it had issued orders to start enforcement action. On the creation of the City of Parramatta Council and Cumberland Council, the records and action remained with City of Parramatta Council. However, after its investigation, the City of Parramatta discovered that the boundary adjustment meant that the property was now within Cumberland Council. As the City of Parramatta had no powers to take any further action, it collected all the relevant information and records and sent them to Cumberland Council for it to assess and decide what action to take.

Last year, we asked Manly Council to review its permit parking scheme in light of proposed revised guidelines from Roads and Maritime Services (RMS). The revised RMS guidelines were issued in March 2016 and are available

64. Challenging an invoice

A small plumbing company complained to us about a council's invoice for road restoration works. The company had applied to council for a road opening permit to do plumbing work for a client. The company informed council when the work was complete so that council could finalise the permanent restoration of the road. However, the council did not at that time do any restoration works. The company understood that there were road works planned and there was therefore no need for the restoration works, so no further costs needed to be passed on to their client. The company billed their client accordingly.

A year later, council did the restoration works and invoiced the company for \$3,070 which the company was unable to recover from its client. The company disputed the invoice. Council reviewed the matter but decided that the company remained liable for the cost of restoring the road.

We made inquiries with council and identified that there had been a failure of their systems. When the company applied to council for the road opening permit, it should have been asked to estimate the affected area and pay restoration costs on that estimate. Council also identified that there had been a delay in investigating and organising for the road works to occur. Despite the fact the company took every action considered reasonable in the circumstances, council informed us it believed the charge should stand.

We considered that the company had acted appropriately in obtaining a permit for the restoration works and notifying council when the works were soon to be completed and restoration works could be done. The fact that the restoration work was not done soon after the works were completed was a matter outside the company's control. Issuing an invoice one year later was the result of the council's system failures and would have a negative financial impact on the company.

We wrote to council making suggestions under section 31AC of the *Ombudsman Act 1974* seeking council's response before we decided whether to formally investigate the complaint. Council then decided to stop recovery action against the plumbing company and made arrangements to write off the debt.

65. Unreasonably restricting a water supply

We received a complaint from a tenant that the council had placed a water restrictor on their water supply because of their landlord's unpaid water rates and charges. We contacted the council and found that it had placed unreasonable weight on the fact that the tenant was the landlord's son.

We had several discussions with the council. We put forward our views about sections 561 and 569 of the *Local Government Act 1993* and that the property owner is legally liable for rates and charges despite any relationship with the tenant. Council agreed to remove the restrictor and legally pursue the property owner for the debt.

66. Promoting better customer management

A complainant contacted us because he believed a council had unfairly restricted the types of complaints he could make due to what it considered was his unreasonable behaviour. We made inquiries with the council to determine whether the reasons for its decision were in accordance with their unreasonable customer conduct procedures and in the spirit of our *Managing Unreasonable Complainant Conduct Practice Manual*. After assessing the complaint against the council's policy, we saw that the council had not given the complainant information about his rights to seek a review of council's decision to restrict his contact.

The council subsequently provided the complainant with that information, but only after an unreasonable delay. Council's communication with the complainant also gave the impression our office was satisfied with the council's actions.

Although we were ultimately satisfied with the council's reasons for its decision to restrict contact, we were not satisfied with the several month delay providing information to the complainant. We had also not finalised the matter and informed the council or complainant of the outcome.

We wrote to the council under s 31AC of the *Ombudsman Act 1974* to express our views about this. We suggested the council remind staff about timeliness in conducting their work, and create a template letter to be sent to customers placed on restricted contact arrangements that automatically includes information about their right to an internal review.

67. Reconnecting a water supply

A young single mother with three children received a notice that their water was to be disconnected. The landlord had decided to resolve a dispute with the tenant by applying to the council to terminate the water service completely.

The tenant was successful in getting orders from the NSW Civil and Administrative Tribunal, ordering the landlord to reconnect the water supply. However the landlord refused to do so, stating that they could not afford the reconnection fee.

We contacted the council to determine how it would resolve this, particularly given the landlord's actions to punish their tenant rather than go through the legal channels to evict them. The council agreed to issue orders to the tenant to reconnect the water supply – giving council the power to override the landlord's inaction and reconnect the water supply free of charge.

The council also took action to change its application forms, requiring anyone applying to disconnect a water supply to disclose whether the property was tenanted or otherwise occupied. If the property is tenanted, or later found to be tenanted, council would then refuse the application.

online. Manly Council area is now part of the amalgamated Northern Beaches Council. It is anticipated that there will be a number of policy reviews over time – not just permit parking schemes – as the amalgamated councils align and review their various policies.

In our annual report each year, we report the number of finalised local government complaints according to the council concerned. For 2015–16, we have reported local government complaints against the relevant former councils but, where possible, we have grouped those former councils under the newly created/amalgamated council name. See Figure 73 in Appendix B of this report. The councils affected by boundary adjustments are shown with an asterisk (*).

Issuing a factsheet and enforcement guidelines

In November 2015, we issued a fact sheet *Tips for local councils: Building a best practice complaint management system*, which includes the findings of our audit of complaint handling procedures and practices in NSW councils. In December 2015, we issued our revised *Enforcement Guidelines for Councils* – along with a significantly improved *Model Compliance and Enforcement Policy* that councils could adapt.

The revised guidelines address topics that had featured in a substantial number of complaints to our office. We are aware that councils rely heavily on the guidelines and many had indicated that they will benefit from the improvements.

The factsheet, guidelines and model policy are available to read or download on our website.

Implementing the model litigant policy

In 2014, the Australian Government Productivity Commission reported about its inquiry, *Access to Justice Arrangements* (No. 72, 5 September 2014). The report identified that model litigant rules should be implemented to address power imbalances and recognise that governments should 'play fairly'. It also recognised that local governments were common parties to legal disputes. The report stated that '*the inherent power of government and its proper role to act in the public interest provides a policy basis for all levels of government (and their legal representatives) to be subject to model litigant obligations*'.

On 29 June 2016, the Premier issued a memorandum (M2016-03-Model Litigant Policy for Civil Litigation and Guiding Principles for Civil Claims for Child Abuse) requiring compliance with the model litigant policy by departments, executive agencies related to departments, advisory entities, separate agencies, statutory authorities and subsidiaries of the NSW Government established under the Corporations Act.

For some time we have been concerned about what appears to be a heavy presence of councils in the local court system for debt recovery matters, including disputed fines. We plan to survey councils in the coming year to find out more about their litigation and hardship policies. We will also be asking whether they can provide any good reason why the model litigant policy should not also apply to councils for mandatory compliance. We will then determine whether a submission should be made to the government seeking this requirement.



In this chapter

Children and families	82
NSW Child Death Review Team.....	96
People with disability	104

This chapter of the report outlines the work of our human service branch, which receives and responds to complaints about community and disability services, and conducts inquiries into matters affecting people eligible to receive community and disability services and those who provide them.

It also discusses our work relating to the reportable conduct scheme that applies to certain agencies providing care for children in NSW, and the disability reportable incident scheme that oversees the handling of serious incidents involving people with disability living in supported group accommodation.

The annual report of the NSW Child Death Review Team is included in this chapter, and information about our work reviewing the circumstances and deaths of people with disability and certain children in care, and coordinating the Official Community Visitor scheme.

Human services



Highlights

In 2015–16, we

- Significantly contributed to child protection and criminal justice responses arising from our complaint handling and employment-related child protection functions.
- Supported the work of the Royal Commission into Institutional Responses to Child Sexual Abuse by providing submissions and appearing at roundtables and hearings.
- Tabled a special report to Parliament on strengthening the oversight of workplace child abuse allegations.
- Held a forum on the reportable conduct scheme attended by over 800 representatives from across the education, out-of-home care, disability, early childhood, religious, sporting and recreational sectors.
- Worked with agencies in Victoria and the ACT to help them set up their own reportable conduct schemes.
- Convened a roundtable to discuss the issues around publicly releasing personal information while handling reportable conduct allegations.
- Brokered a joint protocol with government and non-government agencies to reduce the contact of young people in residential OOHC with the criminal justice system, and started to oversight its implementation.
- Prepared a comprehensive submission to the inquiry by the Legislative Council General Purpose Standing Committee No.2 into child protection.
- Prepared and provided to the NSW Police Force a consultation draft 'guarantee of service' for agencies that receive disclosures of historical child sexual abuse from adult victims who do not wish to pursue criminal action.
- Finalised 312 formal complaints about disability services – 32% more than last year.
- Responded to 686 notifications of reportable incidents, and provided guidance in our *Disability e-News Update* about the scope of the disability reportable incidents scheme.
- Developed a draft joint protocol to reduce the contact of people with disability in supported accommodation with the criminal justice system.
- Worked on a range of strategies as part of the 'Rights project for people with disability', such as developing resources, delivering training and holding an expert forum.
- Participated in a research partnership to improve the mental health outcomes of people with intellectual disability, and shared data from our work on reviewable deaths.
- Tabled the 20th anniversary edition of the Official Community Visitors annual report, including personal accounts by residents and visitors and practical examples of outcomes achieved.

Children and families

Handling complaints about child and family services

Under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA), we are responsible for handling complaints about certain agencies that provide community services. These include:

- Community Services, which is part of the Department of Family and Community Services (FACS) – in relation to child protection, out-of-home care (OOHC), prevention and early intervention services
- Ageing, Disability and Home Care (ADHC), also part of FACS – in relation to disability accommodation and support services and home care services
- other organisations that are licensed or funded by the Minister for Family and Community Services or the Minister for Ageing and Disability Services.

Our main focus when resolving complaints is to improve outcomes. We do this in a range of ways, including:

- making inquiries to obtain more information about the complaint and the conduct of the agency
- meeting with agencies to collect relevant information and negotiate outcomes
- formally referring complaints to agencies to resolve or investigate themselves
- providing information and advice to help complainants deal with their own complaint.

Figure 46: Formal complaints about child and family services finalised in 2015–16

Outcome	Number
Complaints resolved after inquiries	153
Complaints declined at outset	153
Complaints resolved by agency prior to contact	94
Complaints consolidated into another complaint	7
Complaints referred to agency for local resolution	6
Service improvement comments or suggestions to agency	4
Direct investigation	6
Referred to agency concerned or other body for investigation	1
Complaints conciliated/mediated	0
Total	424

We finalised 424 formal complaints about child and family services, a slight increase of 4% from the 409 complaints finalised in 2014–15.

Figure 47: Matters received about agencies providing child and family services

Agency category	Formal	Informal	Total
Community Services			
Adoption	1	2	3
Child protection	128	230	358
Family support	1	13	14
OOHC	149	292	441
Subtotal	279	537	816
ADHC			
Family support	0	2	2
OOHC	1	0	1
Subtotal	1	2	3
Other government agencies			
Child protection	3	26	29
Family support	0	1	1
OOHC	4	27	31
Subtotal	7	54	61
Non-government funded or licensed services			
Adoption	1	0	1
Child protection	15	12	27
Family support	7	3	10
OOHC	108	108	216
Subtotal	131	123	254
General inquiries			
Child protection	0	4	4
OOHC	0	1	1
Subtotal	0	5	5
Other (general inquiries)	0	13	13
Agency unknown	0	12	12
Outside our jurisdiction	3	2	5
Subtotal	3	27	30
Total	421	748	1,169

Our extensive work with Aboriginal children and families is discussed in the later chapter, *Working with Aboriginal communities*.

68. Moving interstate without consent

A woman who was the legal guardian of her nephew complained that a youth homelessness service had helped him to go interstate without her consent. She told us the boy – who was under 16 – had been admitted to a mental health unit and then discharged to the service, which operated a refuge. The service helped him to attend a camp in another state, and the boy then moved in with his father in that state. The police conducted a welfare check and advised his aunt that the boy was not safe, but said she should seek an order through the courts. She complained to the service, who said it would call her back after consulting its solicitors. She told us she did not hear anything further. We referred the complainant for legal advice and made inquiries with the service. As a result of our intervention, the service reviewed the case and concluded that it had not obtained proper consent for the boy to travel interstate. The service reviewed its policies and procedures for engaging with families, obtaining consent from parents/guardians and privacy. It also put in place guidelines in relation to consent forms and revised its forms for young people to include consent for the release of information.

69. Improving a domestic violence service

A complainant told us about a negative experience with a domestic violence homelessness program. She said she felt bullied by the manager of the service and that the previous manager had been fired abruptly in front of clients in an incident that involved staff shouting at each other. A new service manager was appointed but 'was dismissed in mysterious circumstances'. The complainant said she and other clients did not have access to a case manager and their complaints were ignored. After we referred the matter for local resolution, representatives of the service met with the complainants. The service acknowledged poor outcomes due to the lack of case management services, assigned a new case manager and redeveloped the program to be more flexible and oriented to individual needs. They offered to extend the program by six months for one complainant, paid for four private counselling sessions for two complainants, provided ongoing performance feedback and clinical supervision to staff, and updated policies and procedures about collecting information, confidentiality and privacy. They also implemented regular training for staff, introduced a newsletter for staff and clients, and arranged regular meetings between clients and the management committee.

This year, we received 1,169 complaints about child and family services – a similar amount to last year but a 10% increase on 2013–14. Of these, 421 were formal complaints, a 9% decrease from the 458 received last year, and 748 were informal complaints – an 8% increase from the 689 received last year.

Complaints about Community Services relating to OOHC again made up about 40% of all complaints we received (149 formal complaints and 292 informal complaints). As with last year, the most frequent issues raised related to the quality of casework and problems with how services were meeting the needs of children and young people in care.

Complaints about child protection services made up 33% of the total complaints. We received 149 complaints about inadequate child protection casework across the entire sector – these related to FACS's casework and early intervention practices by non-government organisations (NGOs) with children at risk.

Complaints about non-government-funded or licensed OOHC services made up 22% of the total number of complaints we received. Case studies 68-71 show some of the issues that we dealt with in complaints about child and family services this year.

Details of the complaints we received about other community services in 2015–16 are in Appendix C, see figures 81 to 83.

Monitoring child protection

We have examined the overall 'health' of the child protection system in two reports to Parliament – *Keep them safe?* in 2011 – and in a follow up report, *Review of the NSW Child Protection System: Are Things Improving?* in 2014.

As we reported last year, FACS supported the recommendations in our 2014 report, and has since embarked on implementing a range of significant child protection reforms under the banner of 'Safe Home for Life' – which focuses on delivering safety and permanency to children and young people at risk of significant harm (ROSH). Over the past year, FACS has continued to brief us on the progress of these initiatives. We meet quarterly with the FACS Secretary and deputy secretaries to track progress and address critical concerns stemming from our oversight.

In May 2016, the Legislative Council General Purpose Standing Committee No.2 established an inquiry into child protection. We had intended to table a further follow up report on the child protection system this year, but instead we prepared a comprehensive submission to inform the work of the inquiry.

Our work on this submission commenced in the reporting period and carried over into the next year. Our submission highlighted that the child protection system has undergone more than a decade of extensive change and – although significant efforts have been made by FACS and agency partners to improve the efficiency of the system and the quality of child practice since our 2011 report – there is still more to be done.

Despite the improvements made by FACS to its own systems and practices, the caseworker response rate for ROSH reports remains unacceptably low at 29%. There has been an increase over time in the number of children seen by FACS, but this gain has been offset by FACS having to deal with a 20% increase over the last two and a half years in the number of children reported to be at ROSH. It is important to note that FACS has succeeded in reducing its overall staff

vacancy rate from 11% at the time of our last report to 3%. However, even with much lower vacancy rates, FACS has been unable to significantly lift the ROSH response rate.

We believe that the overall data confirms our observation in 2014 that meeting ROSH demand cannot be achieved by FACS initiatives alone. It is therefore critical that the various co-design initiatives unfolding in districts – for example, the Central Coast and Coonamble initiatives discussed in *Working with Aboriginal communities* – are closely examined to see whether they lead to more at-risk children being seen by FACS or another agency and a quality response being provided. The most recent published data is too early to show the impact of these initiatives. However, if they prove to be successful, it will be critical that the key elements of these approaches are adapted for rollout elsewhere.

In our submission, we also highlighted the importance of FACS's increased reliance on the NGO sector being supported by appropriate quality assurance systems. It will be important to collect and report on the actual outcomes being delivered by the NGOs that are working with families across the whole spectrum of need – from those who might require a statutory child protection response to those in need of early intervention and support. As the role of the NGO sector expands, the quality of interagency practice will need to be increasingly examined to ensure government agencies and NGOs are working effectively together. If there is a lack of clarity around roles and responsibilities, children can fall through the cracks.

Our submission also highlighted concerns about the capacity of the child protection system to respond to a range of particularly vulnerable groups. These include children in OOHC, Aboriginal children and families, victims of family violence, children at risk of educational neglect, vulnerable older children and adolescents, and children with disability.

The Committee invited the Deputy Ombudsman/Community and Disability Services Commissioner, and the Assistant Ombudsman (strategic projects) to appear at its public hearings in September 2016.

Developing an effective governance framework

Last year, we reported on our work with FACS to develop an integrated governance framework (IGF). A key component of the IGF is a joint document used to track FACS's progress towards implementing systemic reforms and addressing discrete practice issues that we have identified from our oversight work. During the year, we have worked together to improve the framework and put in place processes to ensure its effective operation. We have also discussed with FACS the possibility of making a version of the IGF public to help promote transparency and accountability.

Two examples of the important systems issues that we have progressed through the IGF this year are managing risks around the Child Protection Register (CPR) and referring criminal allegations to police.

Managing risks associated with people on the CPR

In 2010, we investigated matters arising from the sexual abuse of a girl by her mother's partner. At the time of the offences, the man was on the CPR after unrelated offences committed several years earlier.

As a result of this investigation, we convened a roundtable in 2011 – with FACS, the NSW Police Force (NSWPF), and Corrective Services NSW – to discuss ways to strengthen interagency cooperation in responding to child protection concerns involving registered offenders. A range of initiatives were agreed to, including that FACS would develop interagency guidelines for frontline staff about the roles and responsibilities of the three agencies for exchanging information about offenders on the CPR.

Last year we reported that, after a significant delay, the interagency guidelines were finalised. The development of this document is a significant step. However, after reviewing the guidelines, we identified a number of areas that could be strengthened to ensure that the concerns we identified in our 2010 investigation had been adequately addressed. For example, while FACS has more clearly outlined its responsibilities, the document could give better guidance on the responsibilities of staff across all three agencies, including how they escalate matters if there is a disagreement between agencies – this was one of the key issues raised by our 2010 investigation and related roundtable.

We recently gave FACS feedback on how the draft interagency guidelines could be improved. FACS acknowledged there would be benefit in further enhancing the guidelines and has agreed to convene a meeting with the other agencies and our office to progress further amendments.

We were encouraged to hear that, despite the guidelines still needing further work, there have been significant improvements in practice relating to the exchange of information about individuals on the CPR. This is due to the development of strong working relationships between relevant senior officers at each of the agencies working on the guidelines.

Referring criminal allegations to police

For a number of years we have raised concerns with FACS about its failure to routinely refer criminal allegations to police. In 2013, FACS acknowledged that its procedures in this area were inadequate and said it was actively developing guidance to inform frontline staff of when and how to refer matters to the NSWPF or other relevant authorities.

Throughout 2014 and 2015, FACS updated the relevant procedure a number of times. A number of significant improvements were made, but we remained concerned that the procedure did not provide clear enough guidance to staff. In particular, it lacked the necessary clarity to guide staff in making appropriate and consistent decisions about when to make a report to police – and the threshold for making a report was too high.

To help FACS address our concerns, in May 2016 we provided an amended version of the document for it to consider. FACS has recently indicated that, subject to some minor adjustments, it will be publishing a final version of the procedure shortly.

Reviewing the JIRT

Our 2012 report to Parliament, *Responding to Child Sexual Assault in Aboriginal Communities*, included an examination of the operation of the Joint Investigation Response Team (JIRT).

70. Victims compensation and leaving care

A young woman left care in 2013. Before leaving, FACS advised her that it had lodged a victims compensation claim on her behalf. However, in March 2015, she discovered that FACS had not made the claim. FACS told her that as she was now 18 she would have to request her files, seek legal advice and make her own claim. After we raised the case with FACS, it acknowledged that it had made mistakes and agreed to pursue the claim on behalf of the young woman or cover the cost of a lawyer. The local FACS office involved in the matter conducted an audit of young people who had not had a victims compensation claim made on their behalf and identified another four claims.

71. Improving OOHC placement matching

We received a notification of allegations about a foster carer's conduct towards a child in her care, which raised questions around the agency's practice in assessing the suitability of the placement for the particular child.

Unsuitable placement decisions were an issue we highlighted in our submission to the Royal Commission on preventing sexual abuse of children in OOHC. Rigorous placement-matching practices can be an effective up-front protection for both carers and children.

In this case, we initiated formal inquiries into the agency's placement-matching practices and identified that it had no clear processes in place for documenting placement matching processes or decisions. In response, the agency agreed to review its current practices and policies and we monitored the agency's compliance with this undertaking.

72. Ensuring police have all the information

We received a telephone call from a Catholic Diocese advising us of allegations that one of their casual teachers was allegedly sending inappropriate messages to female students of the school via social media. The Diocese had also reported the allegations to the NSWPF and a criminal investigation was underway. They called us out of concern that the teacher would seek work in schools outside their Diocese.

After the telephone call, and before receiving the agency's notification of this matter, we checked our system and found that the teacher had been notified to us in the past over similar concerns by two other agencies in the schools sector. We immediately took action to alert the investigating officers to the past matters, and obtained information from the OCG about the teacher's other child-related work.

There have been important changes stemming from our recommendations – including the permanent establishment of the JIRT referral unit and Bourke JIRT; significant resourcing enhancements to the Child Abuse Squad (CAS) which is the NSWPF arm of the JIRT; enhancements to the numbers of JIRT caseworker positions in FACS; and additional NSW Health JIRT Senior Health Clinician positions.

More recently, the JIRT agencies advised us that they had committed to undertake a joint review of the JIRT and asked us to provide independent oversight of this process. This is the first comprehensive review of the JIRT since 2006. It will provide an important opportunity for the agencies to consider the current strengths of the JIRT and identify areas for improvement. We are currently liaising with the agencies about the review process and timeframes.

Keeping young people out of the criminal justice system

We have been working with government and non-government agencies to reduce the contact of young people in residential OOHC with the criminal justice system. After extensive consultation with a wide group of stakeholders, we brokered a 'joint protocol' between the NSWPF, FACS, the Association of Children's Welfare Agencies (ACWA), and the Aboriginal Child, Family and Community Care State Secretariat (AbSec) – which was endorsed in August 2015.

As part of the consultation process, we worked with the Office of the Children's Guardian (OCG) to ensure that its revised OOHC accreditation standards reinforced the need for residential care providers to more effectively manage behaviour within individual residences and develop strong collaborative relationships with police. The NSW Child Safe Standards for Permanent Care were released in November 2015 and included a 'behaviour support' standard that requires providers to have clear protocols about using police as a behaviour management strategy or in response to risk taking behaviour by children and young people.

In September 2015, we hosted the first meeting of the statewide steering committee (SSC) which was formed to oversee the protocol's implementation. The SSC includes senior representatives from a range of government agencies and NGOs, as well as representatives of residential service providers. The final draft of the protocol was approved at the SSC meeting and it has since been officially endorsed by the four signatory agencies.

The SSC also established two working groups to focus on priority issues – such as identifying necessary data to inform the ongoing implementation and evaluation of the protocol, involving young people in the evaluation, and processes for identifying and sharing good practice. The work of these groups will inform the development of the evaluation strategy, which all agree needs to be simple and practical.

More recently, the signatory agencies have progressed a range of actions to implement and raise awareness about the protocol. For example:

- Police are promoting the protocol throughout the NSWPF using tailored communications for the police executive, crime management units and frontline police, as well as through their regular publications – the Police Monthly and the Policing Issues and Practice Journal. Posters promoting the protocol will also soon be displayed in police stations across the state.

- The Minister for Family and Community Services has written to all residential OOHC services to inform them about the protocol and the need to put it into practice. Information about the protocol is being provided to FACS staff and OOHC agencies through existing governance structures in each of the FACS districts, and resources are being produced for frontline service staff.
- AbSec's two accredited OOHC agencies are actively developing the local relationships necessary to put the protocol into practice.
- ACWA is informing residential services about the protocol and developing online training to provide further support.

The protocol is already having an impact across the state. We are aware, for example, that its implementation in one location has led to closer working relationships between local police, FACS and an OOHC agency, and an improved understanding of each other's roles. A number of practical outcomes have also been achieved – including agreement on processes for the timely sharing of information to support better placement decisions, behaviour management, and improved responses to incidents at the service.

We will continue to work with the relevant stakeholders to support the rollout of the protocol, and we intend to audit its implementation in future.

Placing children under 12 years in residential care

Children and young people living in residential OOHC account for a small proportion of the total OOHC population. As of the first quarter 2015–16, around 3% of children and young people in OOHC were living in residential OOHC placements – although we understand that the number has since increased.

FACS's policy envisages placing younger children in residential care in certain circumstances. These include when the child:

- is part of a sibling group where a residential care setting is sought to keep the sibling group together
- has special needs relating to a disability, medical condition or challenging behaviour that require specialised intervention and support that cannot be provided in a family home setting.

The placement of a child under 12 years of age in residential care must first be endorsed by the relevant FACS District Director. The agency is also subject to various reporting requirements to both FACS and the OCG, so that the placement can be closely monitored throughout its duration – which ideally should only be for a short period of time.

We are concerned that there are an increasing number of children under 12 being placed in residential care. We have started discussions with both the OCG and FACS to collectively examine the main drivers for this increasing use of residential care and to identify whether sufficient suitable options are available for these very vulnerable young children.

Successfully transitioning from care

We have previously reported on FACS's practices in identifying and handling claims for victims compensation on behalf of children and young people in OOHC, and the level of support given to ensure that these young people are able to successfully transition to independent living.

In 2014, we were advised that FACS had started a comprehensive review of its procedures to ensure that they met the new NSW Charter of Victims Rights. A working party was established to develop Community Services's response to its responsibilities under the charter. Community Services also conducted a case file audit of children aged 15 and over who were preparing to leave care – including children being case managed by the NGO sector – and identified all potential legal claims before the children left care.

This year, FACS advised us that it has specifically developed and implemented practice guidelines, supporting tools and monitoring processes on leaving care for both FACS and NGO OOHC providers. FACS has also developed a casework practice guideline to ensure children in OOHC who have been victims of crime have access to their rights and entitlements.

In March 2016, the Royal Commission into Institutional Responses to Child Sexual Abuse published a consultation paper on OOHC. A number of submissions made in response to the consultation paper also raised concerns about the current quality of leaving care planning and the lack of practice improvement since our reviews – and suggested various ways to improve the process.

Although FACS has indicated that it expects the transfer of OOHC to the NGO sector will lead to enhanced capacity to meet the leaving care standards, we are yet to be advised of how FACS intends to implement a uniform sector-wide system to monitor and report on performance in leaving care practice and victim support. It is therefore timely for FACS to take stock of the practical suggestions put forward by stakeholders in various submissions and research, and look at developing a best practice framework for leaving care planning and after care support.

Unaccompanied children in homelessness services

As part of our focus on at risk adolescents, we monitor the adequacy of systems for responding to unaccompanied homeless children and young people.

It is now more than two years since FACS implemented a policy that outlines its role and responsibilities, and those of Specialist Homelessness Services (SHS), toward unaccompanied homeless children aged 12–15. In that period, FACS has also developed a draft district-level interagency protocol to support the policy, and we provided feedback on that draft protocol last year. We suggested that the draft could be strengthened by including practical guidance that reflected legislated responsibilities and promoted a more consistent response to unaccompanied homeless children throughout the state.

In late 2015, FACS told us that it would revise the draft protocol and that further consultation would take place. In particular, FACS said the revised version would provide greater clarity about FACS's role in relation to unaccompanied homeless children for whom there were safety concerns. The document remains in draft form and subject to stakeholder consultation.

It will be important to implement the protocol to support the policy and to promote consistency in practice across districts. Over the coming year, we will be examining the extent to which the new policy and related protocol address the need to provide adequate support to vulnerable unaccompanied children in homelessness services. We will also review the adequacy of key aspects of the legal, policy and practice framework for homeless children living in SHS.

Employment-related child protection

The Ombudsman's employment-related child protection function is outlined in Part 3A of the Ombudsman Act. It requires the heads of government agencies and some non-government agencies to notify the Ombudsman of any reportable conduct involving their employees. Reportable conduct includes allegations and convictions relating to abuse or misconduct involving children and young people.

More information about the reportable conduct scheme is available on our website.

Notifications, complaints and inquiries

This year we received 2,369 matters:

- 1,496 formal matters – 1,385 notifications and 111 complaints.
- 873 informal matters (inquiries).

This is a 5% increase in formal matters on the previous year, following an increase of 33% over the preceding two years.

Informal matters have also increased each year for the last three years. We received 11% more informal matters this year than last year, and 66.5% more than we received in 2012–13.

The overall increase in matters received has coincided with the start of our new functions – including those associated with the 'new' working with children check (WWCC) scheme and the introduction of a carers register – which required more complex responses to reportable allegations.

Responding to notifications

Our role in ensuring that relevant parties are made aware of critical police and child protection information is very resource-intensive, yet undeniably effective. See, for example, case study 72. To ensure we could allocate

adequate resources to the highest risk and most complex notifications, we decided not to oversight 9% of matters notified to us in 2015–16.

We regularly used own motion inquiry powers to address risks to individual children – see case studies 74 and 77 – and systemic concerns (case study 71). We also used our own motion powers this year after information came to our attention that did not constitute a reportable allegation but which, under our broader jurisdiction, warranted action to ensure the safety of children. Case study 73 is an example of this.

We started 32 and finalised 15 preliminary inquiries under s13AA of the Ombudsman Act in 2015–16. We were able to achieve satisfactory resolution in all the finalised matters. Case studies 71, 73 and 74 are examples.

Figure 49: Formal notifications received, by agency – a three year comparison

Agency	13/14	14/15	15/16
Ageing, Disability and Home Care	8	13	7
Agency providing substitute residential care	0	24	35
Approved children's service	76	135	114
Community Services	276	223	232
Corrective Services	3	7	0
Designated agency under the Children and Young Persons (Care and Protection) Act	255	373	467
Education	330	226	276
Family Day Care	13	14	13
Health	6	27	28
Juvenile Justice	24	24	34
Sport and Recreation	2	3	0
Not in our jurisdiction	4	2	1
Non-government school – Catholic	63	81	76
Non-government school – independent	97	105	69
Out-of-school hours care	11	19	9
Other public authority	21	20	20
Other public authority – local government	0	9	4
Total	1,189	1,305	1,385

Figure 48: Notifications received – breakdown by allegation

Allegation	Number	Percentage
Ill-treatment	107	8
Neglect	270	19
Not in our jurisdiction	74	5
Physical assault	428	31
Psychological harm	19	1
Sexual misconduct	277	20
Sexual offence	210	15
Total	1,385	100

Figure 50: Formal notifications received and finalised in 2015–16

Matter	11/12	12/13	13/14	14/15	15/16
Received	1,157	995	1,189	1,305	1,385
Finalised	931	929	972	1,183	1,273

Figure 51: Action taken on formal child protection notifications finalised in 2015–16

Action	Number
Agency notification exempted	1
Agency investigation monitored	533
Not in our jurisdiction	76
No ongoing oversight	111
Agency investigation oversighted	552
Total written notifications finalised	1,273

Figure 52: Finalised notifications – breakdown by gender of alleged offender and allegation

Allegation	Female	Male	Unknown	Total
Ill-treatment	89	40	1	130
Neglect	170	73	3	246
Not in our jurisdiction	53	21	2	76
Physical assault	230	177	2	409
Psychological harm	6	10	0	16
Reportable conviction	1	0	0	1
Sexual misconduct	67	238	0	305
Sexual offence	10	80	0	90
Total notifications closed	626	639	8	1,273

Investigating complaints

Of the 111 complaints we received this year, 32 were matters that we decided to investigate on our own motion, based on intelligence received. The remaining 79 complaints were made by members of the public.

Of the complaints from the public:

- 46.8% were from or on behalf of victims
- 45.6% were from or on behalf of employees the subject of reportable allegations
- 7.6% were from 'others'.

Complaints from, or on behalf of, victims have increased in the last three years. This may reflect a greater awareness among the general public of the reportable conduct scheme and the Ombudsman's role in it. These complaints are very valuable in bringing to our attention matters that should have – but have not – been notified, systems issues relevant to the protection of children, and other concerns that may fall within our broader jurisdiction.

Handling inquiries

We received 873 employment-related child protection inquiries in 2015–16:

- 5% were from employees the subject of reportable allegations
- 10% were from (or on behalf of) alleged victims of reportable conduct
- 18% were from 'others'
- 67% were from agencies.

Most of the 584 inquiries from agencies were employers seeking advice about whether they were obliged to notify a particular matter to us. When an inquiry of this type alerts us to a pending notification and the information indicates children may be at risk, we do not wait for the formal notification before taking action. Case study 72 is an example.

What the reportable conduct data tells us

Notifications received

As figure 49 shows, allegations of sexual offences and sexual misconduct make up the largest group of notifications we received this year (35%), closely followed by allegations of physical assault (31%), and then neglect (19%). This data is consistent with last year's trends.

In 2015–16:

- 70% of the physical assault allegations came from the OOHC sector – this is 42% of notifications from that sector
- 69% of the neglect allegations came from the OOHC sector – this is 27% of that sector's notifications
- 48% of all sexual offence allegations were notified by the schools sector – this is 24% of all notifications from that sector
- 65% of all sexual misconduct allegations were notified by the schools sector – this is 43% of all notifications from that sector.

Taken together, sexual offences and sexual misconduct make up 67% of all 'schools' notifications, 20% of approved childrens services notifications and 16% of OOHC notifications.

This breakdown provides insight into the different reporting dynamics across sectors, which in turn reflects their different environments and client groups.

Notifications finalised

Reportable allegations that constitute allegations of criminal offences

Of matters closed in the reporting period involving a criminal investigative response, 26% (68/263) resulted in criminal charges and 60% (41/68) of those resulted in convictions. In many of these matters, we have liaised extensively with police and other stakeholders.

The reportable conduct scheme takes on particular significance in connection with the 18% (227/1273) of matters that are investigated criminally – and which either do not result in charges, or in which charges are laid but there is no conviction. Although in these matters there was insufficient evidence to support a prosecution or a conviction beyond reasonable doubt, under the Part 3A scheme the employer is required to look beyond allegations of criminal offences to any broader reportable conduct and must weigh all relevant information on the balance of probabilities.

In total, 222 matters were investigated criminally with no criminal conviction. Of these, the ensuing reportable conduct investigation resulted in the employee being removed from their child-related employment in 39% (87) of matters, other disciplinary action being taken in 15% (34), and remedial action being taken in 22% (50).

73. Alerting police about a prohibited person's contact with children

While monitoring a reportable conduct matter, we identified information indicating that a man – who was considered a 'prohibited person' by the Children's Commissioner and therefore disqualified from undertaking paid or voluntary child-related employment – was engaging in a range of activities that brought him into close contact with children. These included volunteering at a drop-in centre where children were known to complete their homework after school, playing a ceremonial role at child-focused celebrations/events, and running family-oriented activities. The man had come to the attention of police and FACS on several occasions since his release from prison, and been reminded about the restrictions his 'prohibited person' status placed on him.

We raised our concerns with the relevant NSWPF Local Area Command. Police logged an intelligence report and spoke to the man, again reminding him of the conditions of his 'prohibited person' status. The man discontinued his involvement in the drop-in centre and agreed that he would inform the parents of any children attending his family-oriented events that he is a prohibited person.

74. Identifying a high risk member of a carer's household

A school employee allegedly indecently assaulted a female student and committed an indecent act in her presence on school premises. After the investigation, police decided that there was enough evidence to charge the man. However, the student declined to pursue the matter and no charge was laid. A reportable conduct investigation found further inappropriate conduct by the man towards the girl, including exposure to pornography. The school made a sustained finding of sexual misconduct and reported its finding to the OCG.

The school's investigation report indicated that the man may pose risks to children other than just those connected with his previous employment. We made our own motion inquiries through KiDS (the FACS child protection database) and identified that the man lived at the same address as an authorised foster carer who had children in her care. Although the man was apparently a household member in the foster carer's home, he was not identified as such in KiDS or in the carer register and he had not applied for a WWCC under the new scheme – even though household members are required to do so.

We then made formal inquiries with FACS, who confirmed that the man was a household member of the foster care placement. FACS conducted a safety assessment of the children in the placement and required the man to apply for a new WWCC. When he applied, the sustained sexual misconduct finding triggered a risk assessment of his suitability to work with children and the OCG ultimately barred the man from working with children. As a result, FACS required him to move out of the authorised carer's home and established a safety plan to ensure that he did not have contact with the child living in that home. Ultimately, the carer herself was de-authorised by FACS after breaching the safety plan by permitting the man to live in the home.

These figures demonstrate one way in which the reportable conduct scheme complements the criminal justice system to protect children in NSW. At the same time, the scheme aims to ensure that employees are treated fairly and that any disciplinary or remedial action taken against them is supported by a procedurally fair, evidence-based investigation.

Collecting reportable conduct data about disability

During the year, we reviewed the information we receive from agencies about whether an alleged victim is a person with disability and, if so, the nature of the disability. The aim of the review was to improve the accuracy and consistency of the data agencies were providing to us. After consulting our stakeholders, it was agreed that aligning our data with the *Nationally Consistent Collection of Data on School Students with Disability* used by schools was the best approach for all agencies.

We therefore amended the notification form used by agencies to report allegations of reportable conduct to our office. The form now requires agencies to advise us if an alleged victim has a disability and if the disability is physical, cognitive, sensory or social/emotional. These changes will allow us to better assess whether agencies are providing appropriate support to alleged victims through the investigation process and – once we have collected and analysed sufficient data – enable us to share our findings with the Royal Commission and key stakeholders across the reportable conduct sector.

Improving working with children checks

Since July 2013, the Ombudsman has been able to make a notification of concern (NoC) to the OCG about a person who the Guardian may, after conducting a risk assessment, be satisfied poses a risk to the safety of children. We issued eight NoCs over the year – case study 76 is an example.

We also provided information about 214 cases to the OCG on the safety of children under Chapter 16 of the Children and Young Persons (Care & Protection) Act – to help the Guardian assess individuals who are or might be working with children.

When the OCG conducts a risk assessment of a person's suitability to work with children and has reason to believe that the Ombudsman may hold relevant information, the Guardian issues us with a Section 31 Notice to produce information. During the year, we responded to 160 of these notices.

We also use Chapter 16A to request information from the OCG about the WWCC status and verification history of individuals about whom we have significant concerns. We made 116 requests of this type over the year and, with many of these cases, then passed on risk-related information to relevant employers, FACS, police and other stakeholders. Case study 72 is an example of a request of this kind to the OCG.

This year we also received 91 inquiries and complaints about the administration of the WWCC, up from 55 last year. Despite the increase, it remains a comparatively low number – given that the OCG processed more than 330,000 WWCC applications in the same period. The majority of complaints continue to relate to the time taken to process applications that require a risk assessment.

As well as liaising with the OCG to quickly resolve individual complaints, we also provided advice to the OCG about common emerging themes from complaints to help them

refine their business practices – and gave feedback as part of a review of the information they provide to applicants about the risk assessment process. We will continue to work proactively with the OCG over the next two years to improve their complaint-handling policies and procedures as the final industry sectors (including the education and early education and child care sectors) are phased in to the new WWCC scheme.

Working collaboratively

The first action we take when we are notified of a reportable allegation, is to confirm that other reporting responsibilities have been complied with – particularly, that criminal allegations have been reported to the NSWPF and allegations indicating ROSH to children have been reported to FACS. If these reports have not been made, we take immediate action to ensure that this occurs. Usually we do this by guiding the employer to make all relevant reports, but we will report directly to the NSWPF or FACS if necessary.

We then work closely with the employer to ensure that any police or FACS response is not compromised, and that any employment-related risks are adequately assessed and managed pending clearance for the employer's Part 3A investigation to begin. We often also help identify and/or exchange information between two or more other agencies to address any broader risks.

Of the 1,273 notifications we closed this year, 21% involved matters that had some level of criminal response by the NSWPF – a child abuse squad and/or local area command.

At the time of writing (July 2016), we had 1,399 open notifications. Of those notifications, 27% are or have been the subject of a police investigation associated with the reportable allegation and 9% are the subject of criminal charges.

We also work collaboratively with FACS in a range of ways. Case study 75 provides an example.

Supporting the work of the Royal Commission

During 2015–16, we continued to provide information to the Royal Commission into Institutional Responses to Child Sexual Abuse. Since January 2013, the Commission has been examining individual matters and systemic issues associated with a range of institutions, many of which we hold critical information about as a result of our oversight of the reportable conduct scheme.

In September 2015, we made a submission in response to the Commission's issues paper on addressing the risk of child sexual abuse in primary and secondary schools. On average, we receive around 440 notifications from the schools sector each year – accounting for between one third and one half of all notifications made to our office over each of the past five years. As a result, we were able to provide comprehensive data to the Commission about notifications from the schools sector. For example, our submission highlighted that:

- notification rates and sustained finding rates for allegations of sexual misconduct and sexual offences are similar across the government, Catholic, and independent school 'industry groups' – an indicator that

75. Keeping more accurate records

We received notification from a school about allegations that a teacher, who was also a church youth leader, had indecently assaulted and engaged in broader sexual misconduct towards a young girl during a church camp. The church running the camp is not an employer covered by the reportable conduct scheme because of the short duration of their camps. Police charged the man, but the victim was too vulnerable for the charges to proceed to trial.

In the course of ensuring all potential risks had been addressed, we identified that the matter had been reported to the FACS helpline – but the related record had only captured the youth leader's first name and no date of birth. We also identified that a helpline report about risks to the man's own children had been 'screened out' because the children could not be identified. We worked cooperatively with FACS and the NSWPF to ensure that the FACS records accurately identified the man by his full name and date of birth, that he was identified as a 'person of interest' in connection with the alleged victim, and that his children's particulars were recorded in the database. FACS assessed the man's children as being at ROSH and allocated the matter to a CSC for action.

76. Notifying concerns to the OCG

We received a notification that a volunteer at a primary school had been arrested and charged with offences after he was discovered masturbating outside another primary school. However, the offence was not in the category of offences that would automatically trigger a risk assessment of the man's WWCC. The man had volunteered at the school in a range of areas over a number of years – despite having no children at, or other family connection with, the school. The school's notification indicated that there had been a range of concerns about the man's interaction with children during this time, which should have – but had not – been notified to us. We compiled all the information into a NoC to the Guardian, who immediately started a risk assessment of the man's suitability to work with children. Within two weeks of our NoC, the man had surrendered his WWCC clearance and was no longer permitted to work with children.

77. Identifying concerns about a foster carer

While oversighting a notification involving allegations against an authorised foster carer, we identified concerns about the circumstances of the children who had been placed in her care. In particular, several of the children appeared to have left the placement and were transient and/or homeless and one child – who was reportedly drug-addicted – had recently given birth. We made inquiries of FACS about our concerns for the children, including the newborn. In response, FACS formally reviewed the circumstances of the children and identified that the newborn was at ROSH. FACS has now taken action to address this risk and is liaising with the relevant district about the other children.

the systems in place for identifying and responding to allegations are generally working consistently across the schools sector

- around one third (34%) of all schools made a sexual misconduct or sexual offence notification over the past five years, with government schools slightly more likely to have made a notification of this type when compared to non-government schools (35% compared to 31%)
- allegations of sexual misconduct or sexual offences in the schools sector account for a high proportion of the total matters resulting in criminal charges. At the time of our submission, 60% of current matters involving related criminal charges of a sexual nature were from the schools sector – despite the sector accounting for less than 40% of all open notifications.

Our submission also highlighted some of the key systemic issues relevant to preventing and responding to child sexual abuse in schools, including issues relating to risk management processes for casual teachers who may be simultaneously employed in more than one school sector. We have since had further discussions with representatives from the education sector about possible mechanisms for improving the exchange of information in these circumstances.

In March 2016, the Deputy Ombudsman/Community and Disability Services Commissioner gave evidence at the Commission's public hearing into criminal justice issues relating to child sexual abuse in an institutional context – see the Royal Commission case study 38 on its website www.childabuseroyalcommission.gov.au. The Commission was particularly interested in the role of the reportable conduct scheme in helping to achieve child protection outcomes in circumstances where an allegation does not proceed to a criminal conviction or to criminal charges.

In April 2016, the Deputy Ombudsman/Community and Disability Services Commissioner was also invited to participate in a public roundtable on reporting offences. The purpose of the roundtable was to discuss issues relating to people other than the victim reporting historical child sexual abuse to police – including the relevant legislative framework, agency processes for making reports, and the police processes for responding to such reports. It included a focus on 'blind reporting' – the practice of reporting information about an allegation of child sexual abuse to police while withholding the victim's name.

Since the roundtable, we have progressed a number of related actions including:

- preparing a submission to the Commission to provide further information about our view that legislative reform is required in NSW – whether by way of an amendment to section 316 of the *Crimes Act 1900*, and/or the creation of a specific offence relating to the reporting of child sexual offences – to give greater clarity in relation to the obligations on individuals and agencies to report disclosures of child sexual abuse to police
- raising with police the need for clear and comprehensive internal processes for responding to reports of historical sexual abuse, including developing a consistent label for blind reports which are processed by local area commands so that they can monitor the number of reports and the related responses

During the year we also:

- provided detailed information at the request of the Commission in relation to four different institutions
- prepared a response to the Commission's issues paper on advocacy, support and therapeutic treatment services.
- responded to the Commission's consultation papers on child sexual abuse in OOHC, and best practice principles in responding to complaints of child sexual abuse in institutional contexts
- participated in a private roundtable on disability in the context of institutional responses to child sexual abuse, and a public roundtable on multidisciplinary and specialist policing responses
- met with the Royal Commission and an external consultant to discuss child sexual abuse crime data, including the methodology used in our 2012 report on Aboriginal child sexual assault.

The Royal Commission has identified the NSW reportable conduct scheme as a promising oversight mechanism, and has engaged KPMG to undertake a research project that explores the nature and components of the scheme – including the scheme's intended aims and outcomes, its strengths and any gaps or areas for improvement, the costs of the scheme, and the factors that support its effective implementation. We have had ongoing discussions with, and provided information to, KPMG for this project.

During the year, representatives from the Royal Commission also attended our February 2016 reportable conduct forum and privacy roundtable – discussed on pages 92 and 94.

Special Report to Parliament: 'Strengthening the oversight of workplace child abuse allegations'

Last year, we reported that the NSW Solicitor General had provided advice which brought many agencies running camps for children under the jurisdiction of the reportable conduct scheme. In response, we have been engaging with a range of affected agencies over the past two years. A number of cases arose this year that illustrate the benefit of these agencies being part of the scheme. For example:

- One organisation referred a matter to us that it had previously investigated, after the victim's family complained that the subject youth worker had been re-engaged. We reviewed the agency's original handling of the matter and identified a number of deficiencies – including a failure to report an alleged sexual offence to police and a failure to notify the OCG of a sustained finding of sexual misconduct. The individual matter has now been notified to the OCG and the organisation has a better understanding of its responsibility to report criminal allegations to police.
- Another organisation sought our advice about a number of its volunteer members about whom it had concerns. In the course of providing guidance, we identified that one of the volunteers had been the subject of two reportable allegations notified to us by a former employer – involving the sexual assault of two children, decades apart. The volunteer had provided false information to the agency about those matters, and also did not have a new WWCC. We assisted the agency to obtain information from police and alerted the OCG to the matter.

In February 2016, we tabled a special report to Parliament called *Strengthening the oversight of workplace child abuse allegations*, which is available on our website. The report suggests that Parliament review what the reach of the reportable conduct scheme should be, in light of the Solicitor General's advice. In particular, we noted that:

- The nature of an organisation's involvement with children, rather than its particular legal structure, should determine whether it falls within our reportable conduct jurisdiction.
- There are no sound public policy reasons for allowing the coverage of the reportable conduct scheme to be determined by factors extraneous to risks to children – such as whether or not an organisation's camps use tents or fixed structures, and distinctions between whether camps are held for a weekend or longer.
- We support the view of key stakeholders that there is a need to better align the coverage of the reportable conduct and WWCC schemes. A review of the coverage of both schemes provides the opportunity to consider whether other legislative amendments are required that are relevant to child protection practice in this area.

As an initial response to our report, in May 2016 the FACS Secretary convened a reportable conduct roundtable on behalf of the Minister for Family and Community Services. The roundtable was attended by more than 20 agencies – including agencies that have been in our jurisdiction since the start of the reportable conduct scheme, as well as those within the 'new and emerging' jurisdictions such as the religious, sporting and recreation sectors. It was clear from the discussions that the majority of stakeholders strongly support the reportable conduct scheme and endorse the need for legislative amendments to extend its reach by aligning it with the WWCC scheme.

The NSW Government has indicated that it will not respond to our report until the Royal Commission has reported its findings. In the meantime, we will continue to proactively work with organisations in those sectors affected by the Solicitor General's advice to build capacity to respond to allegations of reportable conduct.

Working with other jurisdictions

During the year, both the Victorian and ACT governments announced their intention to establish their own reportable conduct schemes, modelled on the NSW scheme. We have been working with the Victorian Department of Health and Human Services (DHHS) and key Victorian agencies to help them establish a reportable conduct scheme, and have also had a range of discussions with representatives from the ACT Government responsible for implementing their reportable conduct scheme.

The announcement that the Council of Australian Governments (COAG) has agreed in principle to work towards harmonising reportable conduct schemes – similar to the current model in operation in NSW and the schemes announced in the ACT and Victoria – is a very significant development. We will continue to actively provide relevant stakeholders with advice and assistance in relation to the operation of the scheme in NSW.

More recently, in August 2016, a bill was unanimously passed in the ACT Legislative Assembly for a reportable conduct scheme and new information sharing provisions.

In our work with other states, and in our submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, we have emphasised that there are a number of critical elements which must form part of every scheme. In particular, we have argued that it is critically important that information sharing provisions – similar to the Chapter 16A provisions in NSW – are introduced in each jurisdiction to promote the safety, welfare and wellbeing of children. Legislative provisions should also be introduced to allow relevant bodies within each state and territory to exchange information across borders when needed.

We have also emphasised that operational consistency will be key to the success of reportable conduct schemes in other jurisdiction – for example, we have highlighted the critical role of our direct access to the NSWPF database (COPS) and the FACS database (KIDS).

Holding a reportable conduct forum

In February 2016, we held a forum on the reportable conduct scheme. It was attended by over 800 representatives from across the education, OOHC disability, early childhood, religious, sporting and recreational sectors – as well as representatives from other jurisdictions that are currently in the process of, or considering, implementing a reportable conduct scheme.

The Hon. Brad Hazzard MP, Minister for Family and Community Services, gave the opening address to the forum. Keynote speeches were delivered by the NSW Police Commissioner, Andrew Scipione – who spoke highly of the productive working relationship between police and our office and its significance to the success of the scheme – and Carol Ronken, Research Manager at Bravehearts – who highlighted the importance of whole-of-organisation approaches to prevention and providing supportive responses for victims of child abuse.

The forum also featured panel discussions which brought together diverse participants to reflect on issues of relevance to the education and early childhood sector, children and young people with disability (with opening remarks provided by the Hon. John Ajaka MP, Minister for Ageing, Disability Services, and Multiculturalism), and religious and community bodies.

The forum provided an important opportunity for us to join with our stakeholders in reflecting on the reportable conduct scheme's operation over the last 16 years, identifying its strengths and weaknesses, and discussing its future direction. A summary of the feedback from each of the sessions was distributed to participants and can be found on our website. We are currently working with stakeholder groups to progress the outcomes from the relevant panel sessions.

79. Facilitating charges against a child sex offender

As part of our ongoing oversight of two notifications involving alleged historical child sexual abuse by a man, we became aware – through our access to the NSWPF ‘COPS’ database – that police had set up a taskforce to investigate similar allegations about the same man involving multiple victims.

As the man was no longer living in Australia, the police were considering extradition – a process that can take several years and is highly resource-intensive. We became aware that the man was working for his church in ‘schools administration’ in another country, and we were concerned about ongoing risks to children in the overseas location.

We made contact with police and advised them that we were considering raising our concerns with the church. We subsequently facilitated a joint teleconference with police and the church, during which the church made an undertaking to ensure that the alleged offender returned to NSW.

As a result, the man returned voluntarily to NSW one week later and was charged with numerous offences. He pleaded guilty to a number of child sexual abuse offences and is currently serving a custodial sentence.



In addition, we have noted critical links between the NSW reportable conduct and WWCC schemes, which were designed to complement each other. The reportable conduct scheme means that most workplace records that are notified to the OCG – to inform the WWCC – will have been subject to independent oversight. We suggest that the development of nationally consistent reportable conduct schemes needs to be closely linked to developing a nationally consistent WWCC scheme which will include an assessment of workplace records.

Improving child protection practices in the transport area

Last year we reported on the positive responses from Transport for NSW (TfNSW) and Roads and Maritime Services (RMS) after the start of our investigation into TfNSW’s conduct in responding to child protection issues relating to passenger transport services.

In April 2016, we provided TfNSW with a report detailing the preliminary observations and recommendations from our investigation. The report makes a number of recommendations aimed at improving the transport cluster’s policies and procedures for preventing and responding to child protection issues, including by:

- encouraging and monitoring compliance with the WWCC scheme by bus operators and driving instructors
- reviewing the investigation policies that transport agencies have to guide their investigations into misconduct that may involve allegations of a child protection nature
- determining whether there is a need for a legislative amendment to the *Driving Instructors Act 1992* to enable RMS to take appropriate risk management action against driving instructors on the basis of a pending criminal charge.

TfNSW is due to formally respond to our report by August 2016, but we understand that they have already taken a number of positive steps in response to the preliminary report. This includes liaising with RMS about whether a legislative amendment of the *Driving Instructors Act* is required, and starting a review of the cluster’s policies and procedures.

Engaging with stakeholders

We regularly meet with key external stakeholders and, if required, undertake capacity building work with individual agencies or sectors as a whole. For example, we have regular liaison meetings with both the schools and OOHC sectors – as those sectors account for the majority of notifications to our office. During the year, we also initiated regular meetings with the early childhood sector – after it was highlighted at our reportable conduct forum in February that one of the key challenges for this sector is a high variability in the level of staff understanding of child protection obligations, and the sheer number of agencies the various peak bodies and our office have to reach to educate the sector about their responsibilities.

Our active stakeholder engagement gives us the opportunity to discuss emerging issues in each sector, and to work with agencies to resolve those issues and generally improve practice. Some examples of systemic issues that have been identified or progressed as a result of our stakeholder engagement during the year are outlined below.

Providing information to children, parents and carers

It is important to ensure that victims (and, if relevant, responsible adults) are given appropriate advice about the progress and outcomes of reportable conduct investigations – including actions taken by employing agencies to manage risks.

In 2013, we convened a stakeholder roundtable on this issue and there was a clear consensus that legislative amendments were required to enable agencies to provide appropriate information to victims and their families.

In November 2015, the *Ombudsman Act 1974* was amended (by inserting section 25GA) to allow the head of a designated agency and the Ombudsman to disclose information – in the context of an investigation of reportable conduct – to the alleged victim, their parent or authorised carer. This information could be about:

- the progress of the investigation
- the findings of the investigation
- any action taken in response to those findings.

This amendment is a positive development. It provides for better transparency of the reportable conduct scheme and enables agencies to be more responsive to the needs of victims and their families. It also presents considerable challenges – in particular, the need for agencies to balance the benefits of providing information to victims and their families with the need to afford procedural fairness to the subject of an allegation, and the need to avoid prejudicing any subsequent criminal, civil or disciplinary proceedings.

Since November, we have been working closely with some of our key stakeholders to develop resources for agencies to support the practical application of the new provision, including a best practice guideline. Once finalised, the resources will include comprehensive guidance for agencies to support their decisions around when and how to release information and what level of detail to provide.

Supporting adult survivors of child sexual abuse

After our participation in the Royal Commission's criminal justice roundtable into reporting offences, we identified the need to improve the quality and consistency of information given to adult victims of alleged child sexual abuse – and other forms of serious abuse – about what will happen if they make a report to police.

Since the roundtable, we have been working with key agencies to develop a 'guarantee of service'. This is aimed at providing victims and their supporters with information about how police will respond to reports of historical child sexual abuse, as well as providing a commitment to victims that they will be treated with courtesy, compassion, cultural sensitivity and respect.

As well as being an important resource for police, the document will assist other agencies that receive disclosures of historical child sexual abuse (such as religious bodies and educational institutions) to encourage victims to make a report to police. It also helps agencies to deal with disclosures if a victim has indicated they do not want to pursue criminal action – by providing an explanation of why an agency is obliged to report the

disclosure to police, and giving certain assurances to victims about the approach that the police will take if a victim does not want to be part of a police investigation. We will provide a copy of the document to other key stakeholders for feedback once a draft has been settled with police.

Convening a privacy roundtable

After a reportable allegation has been made, an agency needs to consider if certain information should be provided to the broader community or to particular groups with an interest in the matter – such as parents associated with a school or a child care centre in which the individual the subject of the reportable allegation works. For example, the release of certain information can help allay concerns of parents when word has spread about allegations. It can also help to manage the flow of information to prevent contamination of evidence and result in other victims or witnesses coming forward.

During the year, a number of agencies raised with us the difficulties they face in making decisions about the 'public' disclosure of personal information in these circumstances, particularly:

- the need to balance the benefits of releasing information with privacy and defamation considerations
- the legislative framework in which the agency operates
- duty of care and confidentiality obligations
- the need to ensure procedural fairness and avoid interfering with police and judicial processes.

In June 2016, we convened a roundtable to discuss the issue of public release of personal information in the context of handling reportable allegations, and to explore what might constitute best practice in this area. It was attended by senior representatives from the NSW Information and Privacy Commission and the Office of the Australian Information Commissioner, as well as representatives from the Royal Commission, NSWPF, FACS, the Department of Premier and Cabinet, the Department of Education, and a range of non-government stakeholders.

The roundtable resulted in an agreement that – if an agency is involved in investigating an allegation – the police, rather than the agency, will be responsible for writing to the identified parties. This will ensure that police are able to control the release of information in a way that will not interfere with their investigation, and will help avoid any issues relating to privacy legislation. This is because the police have certain exemptions from privacy laws in the context of carrying out law enforcement activities.

It was also agreed that – if police are not involved in a matter but FACS is investigating child protection concerns – there is scope for FACS to release information rather than the agency, due to similar legislative exemptions.

As a result of the roundtable, we have also agreed to develop a fact sheet outlining practical considerations for agencies in making decisions around the release of information, as well as sample letters that police and other agencies can use.

Reviewing the deaths of children

Child deaths reviewable by the Ombudsman

The Ombudsman has a statutory obligation to review the deaths of children who die as a result of abuse or neglect, or in circumstances suspicious of abuse or neglect, and children who die while in care or detention. In 2015–16, we assessed the deaths of 17 children and young people who met the criteria of a 'reviewable' child death. At the end of the period, we are waiting for additional information to determine the status of the deaths of 16 other children and young people. The Ombudsman's biennial report of reviewable child deaths in 2014 and 2015 will be tabled in early 2017.

Child deaths reviewable by the NSW Child Death Review Team

The NSW Child Death Review Team (CDRT) – established by the *Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2* (CS-CRAMA) – reviews and reports on the deaths of all children in NSW, with the aim of preventing and reducing the likelihood of child deaths.

Under CS-CRAMA, the Ombudsman is the convenor of the CDRT – and the Advocate for Children and Young People and the Deputy Ombudsman/Community and Disability Services Commissioner are required members. Other CDRT members are appointed by the Minister for Community Services. Appendix C of this report includes a full list of CDRT members in 2015–16. They include representatives from the Departments of Family and Community Services, Health, Education and Communities, Attorney General and Justice, the NSW Police Force, and the Office of the NSW Coroner as well as individuals with expertise in relevant fields – particularly health care, child protection and research methodology. Ombudsman staff support and assist the CDRT in its work.

In October 2015, the Ombudsman tabled the CDRT's statutory child death review report in the NSW Parliament. The report covered children whose deaths were registered in NSW in 2014 and is available on our website www.ombo.nsw.gov.au.

In November 2015, Parliament passed amendments to CS-CRAMA (s 34G) to align the CDRT's reporting requirements with the Ombudsman's biennial reviewable child death reporting requirements. The CDRT's 20th child death review report will be the final annual report, and is expected to be tabled in Parliament in late November 2016. It will cover child deaths occurring in NSW in 2015. The CDRT's first biennial child death review report will be tabled in late 2018 and will cover child deaths occurring in 2016 and 2017.

The CDRT is also required to report separately each year on its operations. The CDRT's 2015–16 Annual Report is included in the following section of the Ombudsman's annual report.

NSW Child Death Review Team

2015–16 Annual Report

This is a report of the operations of the CDRT in 2015–16, as required by s 34F of CS-CRAMA.

It includes:

- a description of the CDRT's activities in relation to each of its functions
- details of the information that the Ombudsman (as convenor) has disclosed in connection with research to help prevent or reduce the likelihood of deaths of children in NSW
- information about the extent to which the CDRT's previous recommendations have been accepted.

The CDRT's activities

We convened four CDRT meetings between 1 July 2015 and 30 June 2016, which focused on reviewing the current work program and determining future priorities.

The CDRT's achievements in the year included:

- finalising and tabling an annual report of child deaths in 2014 (tabled October 2015) and preparing the child death review report for 2015 (to be tabled in November 2016)
- finalising and tabling the report, *A scan of injury prevention and disease prevention infrastructure in NSW*
- developing and commissioning a number of research projects on topics such as deaths from infectious diseases, preventing childhood injuries, and a geographic analysis of child deaths in NSW.

Tabling reports

CDRT's 19th annual child death review report

The CDRT's 19th annual child death review report was tabled in October 2015. It examined the deaths of 485 children registered in NSW between January and December 2014.

Key observations in the report included:

- The 485 deaths reflected a directly standardised mortality rate of 28.41 deaths per 100,000 children. This was the second lowest annual rate since 2000.
- Almost one in five children died as a result of injury.
- As in previous years, Aboriginal and Torres Strait Islander children were over-represented in child deaths in NSW. Their rate of death was almost 2.6 times that of non-Indigenous children.
- While rates of sudden unexpected death in infancy have declined over past decades, the decline appears to have plateaued.

The report made a number of recommendations relating to asthma, sudden unexpected death in infancy and house fires.

A scan of injury prevention and disease prevention infrastructure in NSW

The CDRT's report *A scan of childhood injury and disease prevention infrastructure in NSW* was tabled in October 2015. The report was prepared for the CDRT by the Centre for Health Service Development, Australian Health Services Research Institute at the University of Wollongong.

The scan identified gaps in the available data sources – which make it difficult to gain a complete picture of the scale of childhood injury and disease prevention for the CDRT target population. These limitations also reduce the capacity for direct comparisons between NSW and other jurisdictions. The report identified that some developments are taking place in data linkage, but noted considerable scope for a NSW focused strategy.

The report also found that, although there are highly effective stakeholders working to reduce the impact of childhood injury and disease in NSW, there is no formal coordinating mechanism – and collaboration between stakeholders is based on professional and personal networks.

The infrastructure scan was conducted as stage one of the project. Stage two – on preventing childhood injury – is currently underway.

Undertaking research projects

A key function of the CDRT is to undertake, alone or with others, research that aims to help prevent or reduce the likelihood of child deaths. In 2015–16, the CDRT continued or started three major projects.

Child deaths from infectious diseases

In 2015, the CDRT commissioned the National Centre for Immunisation Research and Surveillance (NCIRS) to complete a report on child deaths from infectious diseases in NSW over a 10 year period from 2005 to 2014. The focus was on recommendations to prevent or reduce deaths from vaccine preventable diseases.

The NCIRS analysed data from the Child Death Register, with reference to the notifiable conditions information management system. The report will be tabled in November 2016, with the CDRT's report of child deaths in 2015.

Preventing childhood injuries in NSW

The CDRT commissioned the Australian Health Services Research Institute at the University of Wollongong to undertake stage two of its project focusing on preventing childhood injuries. It will consider three key areas:

- Research coordination – are there opportunities to coordinate research on childhood injury prevention, and who should lead that?
- Data coordination – are there opportunities to link and analyse relevant data sets to inform childhood injury prevention initiatives, and who should lead that?

- Stakeholder initiatives – are there opportunities for organisations with a role in childhood injury prevention to coordinate activities and messages?

The research methodology includes a literature review, interviews with key stakeholders and consideration of how other jurisdictions coordinate childhood injury prevention activities and mechanisms. The project will be completed by the end of December 2016.

Geographic analysis of child deaths in NSW

The CDRT commissioned the Australian Institute of Health and Welfare to map and analyse the distribution of child deaths in NSW between 2002 and 2015. The analysis will consider:

- The spatial distribution of child deaths in NSW – disaggregated by cause of death, age, indigenous status, and child protection history.
- The variation of child death rates across geographic areas within NSW – the data will be disaggregated by broad causes of death or population group.
- The variation of child death rates by area characteristics such as socioeconomic status, with area-level child death rates linked to other area-level characteristics.
- The effect of area-level characteristics on cause of death, beyond the individual level characteristics of the child.

The project will be finalised by the end of December 2016. It is envisaged that the work will result in a high level report, as well as informing the work of the CDRT.

Working with others

Liaison and collaboration

The CDRT continues to work with other groups contributing to the prevention or reduction of deaths of children.

Collaborative work this year included:

- A retrospective review of sudden and unexpected deaths of infants where no cause of death could be determined. The review was supported by the Office of the NSW State Coroner and provided useful insights, which will be detailed in the CDRT's report of child deaths in 2015. We will consider how the observations made by expert reviewers can inform progress in this important area.
- An update of the CDRT's 2012 analysis of drowning deaths in swimming pools. This was primarily to inform the independent review of swimming pool barrier requirements for backyard pools in NSW, undertaken by Michael Lambert. A version of this work is published on the Ombudsman's website. Following on from Mr Lambert's review, the NSW Government commissioned a cost-benefit analysis of the review recommendations. The CDRT provided further information and advice to that cost-benefit analysis.

The CDRT and the Ombudsman's office participated in three research projects in 2015 and 2016:

- We provided information to researchers developing a 'Child Safety Good Practice Guide' for NSW.
- Our database was considered in a 'stocktake of data sources for childhood injury in NSW'.
- We participated in a forum on preventing unintentional injury for Aboriginal children and young people.

The CDRT and the Ombudsman's office maintain ongoing contact with agencies performing child death review functions in other Australian states and territories.

We also participate in forums relevant to our prevention work, including:

- The Australian and New Zealand Child Death Review and Prevention Group annual meeting, in April 2016, focusing on cross-border child protection issues and child death review national data.
- The Paediatric Injury Prevention and Management Forum.
- The Children's Hospitals Swimming Pool Safety Working Group – as an observer.

The CDRT also met with relevant agencies to discuss issues arising from its work, including the Australian Bureau of Statistics, Family and Community Services, NSW Health and the Office of the NSW State Coroner.

Disclosing CDRT information

CS-CRAMA contains confidentiality provisions that prevent the disclosure of CDRT information except in specific circumstances. Section 34L(1)(b) of CS-CRAMA enables the Ombudsman – as the CDRT convenor – to authorise the disclosure of information in connection with research that is done to help prevent or reduce the likelihood of deaths of children in NSW.

Since the last report, the Ombudsman authorised the disclosure of information under s 34L(1)(b) in the following instances:

- To the Queensland Family and Child Commission (QFCC) – de-identified data relating to child deaths in NSW for comparative analysis published in the QFCC child deaths annual report (for the Australian and New Zealand Child Death Review and Prevention Group).
- To the Department of Fair Trading NSW – de-identified data relating to the analysis of product-related deaths of children in NSW.
- To the Children's Hospitals Network – de-identified transport and drowning fatality rates by age for research by the network.
- To Michael Lambert (independent review of swimming pool barrier requirements) – de-identified data on swimming pool deaths in NSW for analysis and publication as part of the review of swimming pool barrier regulation.
- To the North Coast Primary Health Network – de-identified data on suicide rates for internal research by the network.

Data relating to reviewable child deaths may also be released for research to prevent reviewable deaths under s 39(2) and (3) of CS-CRAMA. However, no information was released under these powers during the reporting period.

Monitoring CDRT recommendations

An important part of the CDRT's role is to find out if agencies accept the recommendations in its reports and monitor the implementation of those recommendations.

In this section, we reproduce what agencies have told us they are doing, or have done, to implement the CDRT's recommendations. The CDRT report of child deaths in 2015, to be tabled in Parliament in November 2016, will provide further analysis of agency progress.

Implementing recommendations from the CDRT report of child deaths in 2014

The CDRT annual report of child deaths in 2014 made nine recommendations. These related to asthma, sudden unexpected deaths in infancy and house fires. Some of the recommendations were carried over from earlier reports. The report also noted that the CDRT would continue to monitor some aspects of earlier recommendations relating to low-speed vehicle run over crashes and off-road vehicle fatalities.

Recommendation 1 (asthma)

As auspice agency of the cross-sectoral working party that has been established to identify strategies for improving school-based support to children with asthma and their families, NSW Health should provide detailed advice to the Team on the outcomes of the working party, including any action taken to develop a standard asthma action plan for use in schools.

NSW Health response

The Working Party has met on four occasions. The fourth meeting was held on 29 May 2016 which included expanded representation from Asthma Australia and the National Asthma Council Australia.

The meeting held on 29 May 2016:

- Discussed the impact of the development of the NSW Draft Standardised School Asthma First Aid Plan in relation to existing national activities, including the current Asthma Action Plans produced by both Asthma Australia and the National Asthma Council Australia;
- Considered the inclusion of the NSW Draft Standardised School Asthma First Aid Plan in the review processes due to commence in 2016 by Asthma Australia and the National Asthma Council Australia regarding their respective Asthma Action Plans; and
- Allowed these national bodies an opportunity to provide direct input on the content of the draft NSW document.

The final draft NSW Standardised School Asthma First Aid Plan will be available for formal consultation in August 2016. Following the consultation period the approval process for release and distribution of the final document within schools will be managed by the NSW Department of Education.

Recommendation 2 (asthma)

NSW Health should consider the Team's review of asthma deaths 2004–13 in relation to post-hospitalisation follow-up of children with asthma, and provide detailed advice to the Team on the adequacy of processes within Health for:

- identifying children/families who may require more assertive follow-up and asthma education
- facilitating active follow-up of these children/families, and
- monitoring practice and related outcomes in relation to acute management by health services of asthma in children, including links to follow-up support.

NSW Health response

The Aiming for Asthma Improvement in Children Program, based at the Sydney Children's Hospitals Network, continues to take a lead role on behalf of NSW Health in the

development of advice and resources relating to children with asthma. The Program has been funded to develop resources that relate to this recommendation, including:

- video on the four steps in asthma first aid with voice over and language titles in Bengali, Mandarin, Vietnamese, Arabic, Nepalese and Korean.
- parent asthma iBook.

The NSW Ministry of Health continues to produce the Clinical Practice Guideline on the Acute Management of Asthma, which is predominately used in Emergency Departments (PD2012_056). The guideline includes discharge planning advice including the importance of providing an Asthma Action Plan and directions to the parent regarding clinical follow up after leaving hospital.

The Sydney Children's Hospitals Network is leading an integrated care project that includes a cohort of children with asthma. The aim of the project is to reduce the impact of non-complex asthma on a child's life, and to reduce emergency department presentations through better management of their asthma, including increased engagement with their general practitioner. This project is being piloted and evaluated in the Murrumbidgee, South Eastern Sydney and Western Sydney Local Health Districts. The Office of Kids and Families and the Asthma Foundation are partners in this project.

Recommendation 3 (sudden unexpected death in infancy)

NSW Health should review the policy directive *Newborn Infants with Respiratory Maladaptation to Birth – Observation and Management*, with a view to updating procedures to reflect contemporary observation and monitoring standards for potential opiate overdose.

NSW Health response

The Office of Kids and Families has reviewed the content of the policy directive *Newborn Infants with Respiratory Maladaptation to Birth – Observation and Management*. The 2016 update of the Clinical Excellence Commission Between the Flags Standard Newborn Observation Chart (SNOC) includes contemporary observation and monitoring standards for potential opiate overdose. Release of the updated version of the SNOC will negate the need for this policy directive which will subsequently be rescinded.

Recommendation 4 (sudden unexpected death in infancy)

The Department of Family and Community Services (FACS) and NSW Health should jointly consider initiatives in other jurisdictions that specifically target high risk populations, with a view to considering their applicability to NSW. This should include consideration of the findings emerging from safe sleep pod programs in New Zealand and Cape York.

NSW Health response

NSW Health supports evidence based practice and monitors emerging evidence across health related fields. The Office of Kids and Families continues to monitor safe sleep research from other jurisdictions.

The most recent Australian information identified was that the program trialling infant sleep pods operating in Queensland (with 10 government and NGO Aboriginal controlled medical organisations across over 20

communities) found that parents perceived the product as safe, convenient and portable. As yet, no data appears to be available on any effect on the rate of SUDI incidents. The Office of Kids and Families is aware that the results of trials of pods in New Zealand have claimed reductions in infant mortality over 2–3 years, but note that this is all causes of infant mortality, not specifically SUDI/SIDS. Monitoring of the research with a view to assessing any impact on the rates of SUDI or SIDS will continue. Work with FACS is ongoing in relation to high risk populations.

FACS response

The recommendation is supported. The SCR Team has undertaken a preliminary review of the findings emerging from the safe asleep pod programs in Queensland and New Zealand, and has found that they appear to be showing promising signs about user take-up and safety. However, it is noted that the 'emerging' findings are based on very small cohorts: that is, five families in Queensland and 22 participants in New Zealand with larger controlled studies currently taking place. At this point in time, there are no conclusive published findings that the sleeping devices are as safe as a cot in preventing SUDI. SIDS and Kids continue to caution that sharing a sleep surface with a baby can increase the risk of SUDI and fatal sleeping accidents and that the safest place for an infant to sleep is in a cot, preferably located in the parent's room beside the parent's bed. Particularly if the parent smokes, drinks or takes drugs or medication. With this in mind, FACS will continue to follow the outcome of larger cohort studies in Queensland and New Zealand and review current policies and practice resources in line with any new evidence.

Recommendation 5 (sudden unexpected death in infancy)

In relation to the review of the *Death – Management of Sudden Unexpected Death in Infancy* policy directive and model of response to SUDI, NSW Health should provide advice to the Team on:

- the findings of the review, including the outcomes of consideration of the potential for NSW to adopt a more centralised response to SUDI, and a multidisciplinary case review approach to the SUDI investigation process, and
- any action NSW Health intends to take in response to the findings.

NSW Health response

The *Death – Management of Sudden Unexpected Death in Infancy* policy directive has been reviewed, and a redrafted policy directive and revised model of response was distributed to Local Health Districts/Speciality Networks for final comment, which were finalised in March and April 2016. Responses received were generally positive of the revisions to the approach, and the comments demonstrated the commitment of Health staff to providing a sensitive, local, highly professional service to families who have suffered a SUDI during the crisis response and throughout follow up care.

Findings from a review of Australian and international evidence and feedback from NSW stakeholders, informed the development of the revised approach, which is similar to the model in PD2008_070 but with greater clarity of multidisciplinary roles in crisis and follow up care, and a clearer step by step structure based on the Merseyside

Joint Agency Protocol. The revised version also includes a new multidisciplinary case discussion process following the SUDI response.

The Sudden Infant Death Advisory Committee has previously provided advice to inform the policy review. The draft has now been provided to the SIDAC for comment by the end of July 2016. Once SIDAC comments have been received, endorsement of the revised interagency response embedded in the policy directive will be sought from heads of all agencies involved in the implementation of the multi-agency response.

Recommendation 6 (sudden unexpected death in infancy)

In relation to the promotion of safe sleeping practices, NSW Health should provide detailed advice to the Team on the outcome of the audits conducted by Local Health Districts to assess compliance with the *Maternity – Safer Sleeping Practices for Babies in NSW Public Health Organisations* policy directive. The advice should include NSW Health's assessment of:

- the adequacy of the audits, including the scope and method (such as the use of spot checks)
- the findings of the audits regarding compliance with the policy requirements, and
- whether there are any systemic issues identified by the audits and, if so, the actions NSW Health will take in response
- the progress of NSW Health's work with SIDS and Kids to review Health's Sudden Infant Death Syndrome (SIDS) and safe sleeping for infants guidelines and provide guidelines to community-based staff.

NSW Health response

The *Safer Sleep for Babies 2014* audit report was finalised in July 2015. Progress to date with the recommendations from the 2014 audit is as follows:

- Provision of an educational Power Point presentation to all Local Health Districts in May 2015, intended for the in-service training of all health professionals who provide care to babies and expectant or new parents.
- Provision of evidence and information to health workers to inform responses to parental questions and concerns about co-sleeping. The evidence-based responses are provided as an Appendix to the Policy Directive *Babies – Safe Sleeping – Policy and procedures for staff of NSW Public Health Organisations* (currently awaiting final comment from the NSW SIDAC members by end July 2016).
- The development of a Safer Sleep webpage targeted to clinicians where relevant resources can be accessed. These include access to, and ordering of, the SIDS and Kids resources.
- The responses to parental questions have been provided as FAQs for clinicians, alongside an information sheet containing referenced evidence for safe sleeping practices. These resources were made available to clinicians via the Office of Kids and Families Safer Sleep webpage in June 2016.
- The publication of posters in June 2016 to alert staff to the dangers of specific unsafe practices identified in the 2014 audit, including co-sleeping, side sleeping, cot tilting, hats on babies and toys in cots.

- The posters, information sheets and FAQs were delivered to 78 NSW public health facilities providing maternity care in June 2016. Chief Executives of the Local Health Districts were informed in June 2016 of the availability of the resources and the information that further copies can be printed from the Safer Sleep webpage.
- The completion of a survey to investigate the variety of cot cards currently in use across NSW maternity units, and the number that contain safe sleep messages. The survey supports the development of a NSW Health cot card, in partnership with SIDS and Kids, which contains safe sleep messages. This project will be completed by 30 July 2016.
- The audit of the *Maternity – Safer Sleeping Practices for Babies in NSW Public Health Organisations* policy directive was repeated in December 2015 and the report on this audit is expected to be completed by the end of July 2016.
- The Office of Kids and Families reviewed the most current evidence, and consulted widely with experts, clinicians and other stakeholders. This included consultation on an early draft with the NSW Sudden Infant Death Advisory Committee (SIDAC). Based on the information received in consultation, a decision was made to simplify the NSW Health documents that provide guidance on safe sleeping for babies in NSW Public Health Organisations (PHOs), and to combine the existing *Guideline 2005_063 Sudden Infant Death Syndrome (SIDS) and safe sleeping for infants* and NSW Health Policy Directive 2012_62 *Maternity – Safer Sleeping Practices for Babies in NSW Public Health Organisations* into a single Policy Directive: *Babies – Safe sleeping – Policy and Procedures for staff of NSW Public Health Organisations*. The new policy is currently in draft form.
- The draft policy represents a significant revision of content from the initial draft, and was included in the agenda for the SIDAC meeting held on 5 July 2016 for further comment prior to endorsement and release.

Recommendation 7 (sudden unexpected death in infancy)

In relation to post mortem examinations following unexpected deaths of infants, NSW Health should provide to the Team:

- a copy of the plan developed by the Paediatric Histopathology Working Party to address key issues relating to perinatal and infant post mortems, and
- advice about progress in implementing the plan.

NSW Health response

Perinatal post-mortem reports

Presently there is no clear data on turnaround times for perinatal post mortem reports, though it is known that some reports have taken more than 12 months to finalise. This is due to the disparate way in which these services have historically been structured and operated, together with poor data collection based on inconsistent case definition and classification.

The need for accurate, consistent data is one of the key issues behind a push for a more effective model for perinatal post-mortem and related services. Agreement has been reached on what should be a minimum data set for perinatal post-mortem and related services under the new model.

Coronial perinatal and paediatric post-mortem report

Improvements in timeliness of final reports reported last year were based on extracts from the National Coronial Information System Database.

Requests for current turnaround times would need to be submitted to the Office of the NSW Coroner, which has access to the National Coronial Information System Database.

However, the Department of Forensic Medicine advises the previous improvements have not been sustained due to the well-documented shortage of forensic and paediatric pathologists.

At present, the turnaround time for final reports for Department of Forensic Medicine cases may exceed 12 months depending on the priorities of the court.

The service model for delivery of perinatal post-mortem services

A new service model and implementation plan was approved by the NSW Health Pathology Executive Leadership Team in June 2016.

The scope of the service includes autopsies for:

- Deaths of more than 20 weeks gestation or weights greater than 400g (where gestation is unknown) and up to 28 days including stillbirths, neonatal deaths in hospital, intra uterine deaths and terminations of pregnancies.
- Fetuses more than 12 weeks and less than 20 weeks where cause has not been established by generic testing.

The new model aims to provide high quality, family-centred, accessible, efficient and sustainable perinatal post mortem and related services for NSW families.

The model proposes that three main referral centres to operate as one coordinated statewide service, rather than three separate services. These centres are:

- The Children's Hospital Westmead
- NSW Health Pathology – South Eastern Area Laboratory Service (Randwick campus) and
- NSW Health Pathology – Pathology North (John Hunter Hospital campus).

The proposed model would require consultation with Local Health Districts to proceed and a sustainable funding model.

Paediatric specialists assisting in paediatric post mortems

Expert paediatric pathologists are not routinely assisting in Coronial paediatric post mortems mainly due to the shortage of these experts.

Paediatric anatomical pathology numbers are small nationally and there is a universally acknowledged workforce shortage in Australia and overseas.

Forensic pathologists who carry out paediatric coronial post-mortems may in some cases seek expert advice from paediatric anatomical pathologists if needed, and if they are available.

The proposed new service model (above) would include a workforce plan detailing strategies to address this challenge.

Recommendation 8 (sudden unexpected death in infancy)

In relation to FACS's cohort review of SUDI where the infant's family had a child protection history, the agency should provide advice to the Team on:

- progress in the development and publication of an online training package on SUDI
- delivery of training to FACS field staff in relation to work with culturally and linguistically diverse families
- the findings of any audit of training delivery
- the outcome of discussions between the Office of the Senior Practitioner and the Helpline relating to the current Structured Decision Making tool to better support Helpline staff in identifying risk
- the outcome of meetings with NSW Health to establish consistent cross-agency messages on safe sleeping and barriers to this.

FACS response

There has been a great deal of progress made in developing resources to assist frontline practitioners improve their knowledge, skills and practice in working with SUDI. The progress on this particular area of work is outlined below:

- Consultations with NSW Health are currently underway to look at existing Health e-learning packages and whether they could be adapted into an SUDI online e-learning package for wider use amongst FACS and non government organisation staff. While the development of the package was underway with an external provider, some delays and quality issues meant that other options for development are now being pursued.
- The development of the SUDI training package has taken into consideration the higher representation of Aboriginal and culturally and linguistically diverse infants in SUDI and the content has been developed to enhance practitioner's skills and confidence to have strong and consistent safe sleeping conversations in a cultural context.
- The SUDI face-to-face training package for use by FACS Community Service Centres (CSC) staff was circulated to the CSCs in February 2016. Evaluation forms have been circulated with the package and the information from these forms will be collated to inform future revisions of the package.
- The FACS cohort review *Safe Sleeping: Supporting parents to make safe choices when placing their baby to sleep* (November 2014) page 13, provided details on the changes to the Helpline Structured Decision Making (SDM) tools implemented following the recommendations made from the review. To date, there have been no issues identified from the application of the revised tool at the Helpline.

- The cohort review and subsequent development of the SUDI training package and resources was undertaken in consultation with Health and contains consistent cross-agency messages about safe sleeping. It also encourages co-presentation of the training package with Early Childhood Health Workers or Nurses to strengthen local interagency network collaboration.

Recommendation 9 (house fires)

Against the background of the high proportion of children with a child protection history who were among those who have died in house fires in the last 10 years; the high proportion of these fires having been started by children playing with matches/lighters; and the previous recommendations of the NSW Coroner, FACS and Fire & Rescue NSW should provide advice to the Team on actions taken, or planned, to reduce fire risks to children with a child protection history.

FACS response

FACS met with Fire and Rescue NSW in December 2014 and agreed that part of its strategy to address the issues identified in the Ombudsman's cohort review would be to increase staff awareness of fire safety. With this in mind the neglect practice resources currently in development for completion in late 2016, will focus on supporting practitioners in the field to achieve a more holistic and comprehensive response to neglect and cumulative risk of harm and will contain some of the key safety issues that have been identified in FACS serious case reviews. It is expected that this resource will assist practitioners to make informed assessments of a child's immediate and long term safety needs and consider problems such as alcohol and drugs, mental health and domestic violence which may compound a parent's ability to provide appropriate supervision. The resource will better address supervisory and other forms of neglect and will promote collaborative work with partner agencies.

NSW Fire and Rescue response

Fire & Rescue NSW officers (FRNSW) met with the Department of Family and Community Services (FACS) in late 2014. Attempts by FRNSW to re-engage FACS in 2015 were stalled due to a change in personnel in FACS. In August 2016, FRNSW contacted FACS, and both parties will be meeting later this month to progress actions to address the recommendation.

Implementing recommendations from the CDRT report of child deaths in 2013

Recommendation 8 (low speed vehicle incidents)

In 2015, the Centre for Road Safety should provide the Team with an update on the progress of its work in relation to low-speed vehicle run-over incidents, including:

- stakeholder committee discussions to determine further countermeasures to prevent low-speed vehicle run-overs, and
- implementation of the new driveway safety public awareness campaign.

Transport for NSW response

Transport for NSW is committed to addressing low speed vehicle run-over incidents and the 2013 recommendations for:

- Stakeholder committee discussions to determine further countermeasures to prevent low speed vehicle run-overs.
- Implementation of the new driveway public awareness campaign.

Progress on stakeholder committee discussions

In 2015, Transport for NSW convened an Interagency Working Group to investigate low speed pedestrian crashes in NSW. The Working Group included representatives from the Centre for Road Safety, Department of Premier and Cabinet, NSW Police Force, Department of Justice (Office for Police), State Insurance Regulatory Authority, and the Department of Education and Communities.

The Working Group met in February and December 2015 to review and examine data, and identify key factors involved in low speed vehicle crashes.

The Working Group noted progress of several initiatives, including completion of an implementation study into reversing cameras which is now being considered by the Federal Government. NRMA Insurance has also developed a 'reversibility index' to measure drivers' rear visibility from a range of car makes and models.

At the December 2015 meeting, the Working Group also noted a range of relevant safety measures have been completed through the Pedestrian Safety Action Plan 2014–16. These include pedestrian safety measures through the Safer Roads program, and increased roll-out of lower speed limit areas with supporting infrastructure. Measures also include improvements to intersections and pedestrian crossings, promotion of safety technologies, and development of communication materials and education campaigns.

The group agreed to continue to meet each year to monitor issues in relation to low speed pedestrian crashes. It is intended future meetings will be aligned with the release of the draft report from the Child Death Review Team each year.

The Centre for Road Safety will include consideration of low speed pedestrian crashes during development of the next Pedestrian Safety Action Plan.

Progress on implementation of the new driveway public awareness campaign

The NSW Government launched the State's first-ever campaign to boost driveway safety in October 2014. The campaign was launched in conjunction with the Georgina Josephine Foundation, and provides safety advice to parents, carers, drivers and residents, including tips on how to design homes and yards to improve child safety. The objectives of the campaign were to:

- Raise awareness of the safety risks to young children on driveways.
- Facilitate use of strategies and countermeasures to help prevent driveway safety incidents.
- Discourage the use of driveways as play areas.

The NSW Driveway Safety Campaign promotes three simple steps to 'supervise, separate and see', and reaches more than 3,500 early childhood services in NSW. Popular television personality, Mr Scott Cam, and the Georgina Josephine Foundation feature in the campaign. The Foundation was set up in memory of Mr Peter and Mrs Emma Cockburn's 15-month old daughter who died in a driveway crash in April 2011.

The campaign includes TV, online and radio advertising and an educational video on YouTube. The video was promoted to parents through Georgina Josephine Foundation workshops and the Centre for Road Safety's Kids 'n' Traffic Early Childhood Program. It may also be found on the Centre for Road Safety website (roadsafety.transport.nsw.gov.au - search 'driveway safety'). Driveway safety learning resources are also provided on the NSW interactive road safety website for families and schools (safetytown.com.au).

Recommendation 10 (drowning: private swimming pools)

The Office of Local Government (OLG) should provide a progress report to the Team on the implementation of changes to the Swimming Pools Act, including:

- its analysis of data and other information relating to compliance with the amendments, including but not limited to:
 - the number of swimming pools registered
 - the number of swimming pools that have been inspected
 - the proportion of inspected swimming pools that were deemed non-compliant with the Act at the time of inspection
 - the main defects identified at the time of inspection, and
 - whether or not owners have rectified defects within a reasonable period of time.
- major challenges in implementing the Act, and any actions that OLG has identified to address these challenges.

Recommendation 11 (drowning: private swimming pools)

OLG should provide advice to the Team on how it will publicly report on swimming pool inspection and compliance activity across NSW.

OLG response

The NSW Government is continuing to evolve the framework to improve the safety of young children around backyard swimming pools. In May 2015, Mr Michael Lambert was engaged to review the swimming pool barrier requirements for backyard pools in NSW. Mr Lambert provided the Government with his final report complete with findings and recommendations in December 2015.

The Government is considering Mr Lambert's final report and is due to provide its response and release the final report later in 2016. As the response is a matter for Cabinet consideration, the Office is unable to provide any details of the final report or any potential future strategies until the NSW Cabinet has been able to carefully consider the implications of Mr Lambert's final report.

The NSW Government continues to implement amendments made in 2012 to the *Swimming Pools Act 1992* to promote active inspection and maintenance of Child Resistant Barriers around backyard swimming pools. The Office provides the following information that the CDRT is seeking from the CDRT's Annual Report 2013 recommendations 10 and 11.

- Following the recent commencement of the sale and lease provisions (commenced 29 April 2016) after being delayed in 2014 and 2015, the Office is consulting with inspection stakeholders and developing the reporting framework for the implemented changes.
- The Office of Local Government 2015–2016 Annual Report will include information on swimming pool statistics and enhancements to the NSW Swimming Pools Register.

People with disability

Under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS-CRAMA), we have specific functions relating to people using community services, people with disability, and disability services. These functions include:

- handling and investigating complaints about disability services, including any supports funded under a National Disability Insurance Scheme participant's plan
- inquiring into major issues affecting people with disability and disability services
- reviewing the care, circumstances and deaths of people with disability in residential care
- monitoring, reviewing and setting standards for the delivery of disability services
- coordinating the Official Community Visitors in their visits to people with disability in supported accommodation and assisted boarding houses.

Under Part 3C of the Ombudsman Act, we also oversight the actions of disability services to prevent – and effectively respond to – serious incidents involving people with disability living in supported group accommodation in NSW.

This chapter provides details of the work we have done in relation to these functions during the past year.

Handling complaints about disability services and supports

We resolve and investigate complaints about disability services and supports, review the causes and patterns of complaints, and provide information and training to improve how services handle complaints.

CS-CRAMA has a strong focus on resolving complaints locally and informally. An important part of our work is helping people with disability, their supporters, and disability services to work together to resolve issues as early as possible.

This year, we received 592 complaints (inquiries and formal complaints) about disability services, a 20% increase on the previous year (493). Over the past four years, the number of complaints about disability services has increased by 94%.

We also finalised more formal complaints than last year. In 2015–16, we finalised 312 formal complaints about disability services – 32% more than in 2014–15 (237). See figure 77 in Appendix C.

Complaints about disability accommodation services

This year, we received 247 complaints about disability accommodation providers – that is accommodation operated, funded, or licensed in NSW by the Department of Family and Community Services (FACS) or funded as part of a National Disability Insurance Scheme (NDIS) participant's plan. Complaints about disability accommodation services made up 41% of all disability complaints in 2015–16.

Top 5 issues raised in complaints about disability accommodation services in 2015–16

- Actions to meet individual needs (44) – including not providing adequate accommodation, not providing adequate access to health care, and not meeting nutritional needs.
- Alleged client to client abuse (15) – including patterns of abuse, placing incompatible residents together, and inadequately responding to incidents of abuse.
- Alleged staff to client abuse (14) – including neglect, physical assaults, and inadequately responding to incidents of abuse.
- Unprofessional conduct of staff (10) – including staff misusing funds and not following policies and requirements.
- Failing to uphold client rights (9) – including inappropriate use of restrictive practices, and not providing decision-making support and choice.

Case studies 80 and 81 are examples of some of the complaints we have handled about disability accommodation services this year.

Complaints about disability support services

Disability support services provide community-based support for people with disability. In NSW, these can be FACS operated and funded services or NDIS funded supports and services – including community participation and day programs, respite care, case management services, and drop-in accommodation support.

This year, we received 286 complaints about disability support services. In 2015–16, complaints about disability support services increased by 33%, and made up 48% of all complaints about disability services.

Figure 78 in Appendix C shows the issues in the complaints we received about disability services in 2015–16.

Figure 53: Complaints received about disability services and supports

Matter	11/12	12/13	13/14	14/15	15/16
Formal complaints	158	133	204	289	342
Informal complaints	193	172	176	204	250
Total	351	305	380	493	592

Top 5 issues raised in complaints about disability support services in 2015–16

- Actions to meet individual needs (28) – including not meeting the person’s hygiene or social needs, and inadequate funding to meet the person’s support needs.
- Alleged abuse in the community (27) – including physical abuse, sexual abuse, ill-treatment, neglect, and financial abuse.
- Access to services (10) – including not providing a service, or unfairly exiting clients from the service.
- Allowances and fees (10) – including increasing fees, restricting the use of funding, and charging clients for service expenses.
- Inadequate case management (9) – including not involving clients in planning and decisions, not developing adequate support plans, and not providing access to specialist services and supports.

Case studies 80, 81 and 85 provide examples of complaints we received about disability support services.

Disability reportable incidents

On 3 December 2014, the disability reportable incidents scheme was established under Part 3C of the Ombudsman Act. This means that FACS and funded disability services are required to notify our office of allegations of serious incidents involving people with disability living in supported group accommodation. NDIS funded providers must also notify us of such allegations under the NSW transitional safeguards working arrangements (see page 112).

Under the scheme, we oversight the actions and systems of FACS and funded providers to prevent, handle and respond to specified reportable incidents involving people with disability living in supported group accommodation across four areas. These areas are:

- employee to client incidents – involving any sexual offence, sexual misconduct, assault, fraud, ill-treatment or neglect
- client to client incidents – involving assault that is a sexual offence, causes serious injury, involves the use of a weapon, or is part of a pattern of abuse of the person with disability by the other person
- contravention of an apprehended violence order (AVO) taken out to protect a person with disability
- unexplained serious injury.

More information about the incidents that have to be notified to us can be found in our *Guide for services: Reportable incidents in disability supported group accommodation* on our website.

This year, our disability newsletters (*Disability e-News Update*) have included additional guidance about services that are included in the scope of the disability reportable incidents scheme. For example:

- Supported employment providers that are part of an agency that is a ‘funded provider’ under the NSW *Disability Inclusion Act 2014* are covered by the scheme.

- NSW day program providers are covered by the scheme for allegations relating to employee to client incidents, certain client to client incidents (where both clients are living in the same supported accommodation), and unexplained serious injuries.

Figures 79 and 80 in Appendix C show details of the reportable incidents notified to us in 2015–16.

Notifications of reportable incidents

This year, we received 686 notifications of reportable incidents. Figure 54 shows the type of notifications we received in 2015–16.

Figure 54: Notifications of reportable incidents in 2015–16

Issue	Notifications
Employee to client incidents	310
Client to client incidents	260
Unexplained serious injury	113
Breach of an AVO	3
Total	686

Notifications about employee to client matters

Of the 310 notifications we received about employee to client reportable incidents, the majority involved allegations of physical assault, ill-treatment, and neglect.

Figure 55: Employee to client reportable incidents in 2015–16

Issue	Notifications
Physical assault	108
Ill-treatment	67
Neglect	56
Not in our jurisdiction	42
Sexual offence	16
Sexual misconduct	13
Fraud	7
Reportable conviction	1
Total	310

Case studies 88 and 89 provide examples of employee to client reportable incidents notified to our office.

Notifications about client to client matters

Of the 260 notifications we received about client to client reportable incidents, most involved allegations of a pattern of physical abuse by one client against another – followed by allegations of sexual offences, and physical assault causing serious injury.

Figure 56: Client to client reportable incidents in 2015–16

Issue	Total
Pattern of abuse	139
Sexual offence	51
Assault causing serious injury	48
Assault involving the use of a weapon	15
Not in our jurisdiction	7
Total	260

Case studies 84 and 86 provide examples of client to client reportable incidents notified to our office.

Complaints about disability reportable incidents

This year, we received 46 complaints relating to disability reportable incidents. The main issues concerned:

- inadequate action by service providers to prevent, and effectively respond to, serious incidents
- inadequate action by service providers to identify and manage risks to clients
- not meeting the individual needs of clients – including medication, health care and nutrition needs
- poor communication with families and guardians – including not providing advice on the outcome of investigations.

Improving practices

A significant amount of our work is dedicated to building the capacity of service providers to prevent and effectively respond to disability reportable incidents, and to address the abuse and neglect of people with disability more broadly. We proactively engage with service providers and other agencies to influence the direct management of incidents as they unfold, to enable the timely involvement of police, the provision of medical assistance and other supports for alleged victims, and to ensure appropriate communication with families/carers and guardians.

We also work to identify and address any systemic issues that emerge through the disability reportable incidents scheme. This year, we contracted Associate Professor Leanne Dowse (Chair in Intellectual Disability Behaviour Support, UNSW) to review a number of client to client incidents that were notified to our office. In the coming year, we will use the findings and recommendations from her paper to assist the disability sector to improve practices to prevent, and effectively respond to, client to client matters and patterns of abuse.

Best Practice Working Group

Since July 2014, we have been convening a Best Practice Working Group to support and inform the work of our office and the broader disability sector in relation to the Disability Reportable Incidents scheme. The group comprises disability leaders and key subject matter experts within and outside the disability sector. It includes representatives from

80. Providing better support in the community

A member of the public complained about the support being provided to a person with intellectual disability who was living in social housing (the tenant). The complainant was concerned that the tenant was at risk from people living with him who were not on the lease and who were providing him with illicit drugs. When the tenant asked the people living with him to leave, he was physically assaulted by one of them. He feared further assaults and was afraid to stay in the accommodation.

We were concerned that the disability service that was providing drop-in support to the tenant had not recognised that he needed more support. We also identified that the service had not provided key information to police about the alleged assault. After consulting with the service, we gave the police a written brief outlining the information relevant to their investigation.

In response to our inquiries, the service:

- negotiated with the housing provider to move the tenant into alternative accommodation
- significantly increased the hours of support they gave him
- reviewed key support plans to make sure they included guidance about the tenant's drug use
- commissioned an external consultant to analyse how the service could best support clients within their group home and drop-in accommodation support models
- developed policy guidance for their staff on contact with the police, including reporting and providing information on alleged criminal matters.

81. Improving employee screening to reduce risks

We made inquiries with a disability support service about its engagement of an employee. Our records showed that a previous employer had sustained an allegation against the employee relating to the physical abuse of children with disability.

The disability service told us that its recruitment processes did not include asking applicants whether they had been the subject of employment-related investigations, so the employee had not been asked this question before being engaged by the service.

We met with the service and made suggestions for improving its recruitment and screening processes for prospective employees. As a result of our suggestions, the service:

- revised its application for employment and referee check forms to include a question about whether the applicant has ever been the subject of employment-related investigations and, if so, the outcome of those investigations
- reviewed its recruitment policy and procedures, informed by the National Disability Service's *Zero Tolerance Practice Guide*. Its new policy will require two references, one from a current supervisor and one from a previous employer.

82. Taking quick action to improve outcomes for residents

An OCV made a complaint to us that a disability service was planning modifications to a group home that would have negative outcomes for the residents and not be in their best interests. The service had decided to modify the house because no alternative placements could be found for two residents involved in assaults. The OCV was concerned that the modifications would result in smaller bedrooms, a reduced living area and a smaller kitchen – and told us that the residents had been moved to temporary accommodation with only four days notice.

Within a week of receiving the complaint, we met with the disability service and the OCV and reached an agreement about more appropriate options for the residents. The service helped one resident to move to a new accommodation option and modified those premises to meet her needs. In response to the OCV's feedback, the service reconfigured the existing group home to suit the remaining residents, and acted to improve their support and living arrangements. This included training staff to manage trauma, engaging clinicians to embed appropriate behaviour and person-centred support, and implementing strategies to improve relationships between the residents.

83. Responding to a choking incident

We received a notification of alleged neglect by staff, relating to an incident in which a client choked on food that was not safe for him to eat. The client was known to be at serious risk of choking when eating normal textured food, and he had to have emergency surgery to remove the food from his throat.

The service found that staff on duty at the time of the incident did not follow the client's mealtime management plan or adequately consider known risks about his access to food. We identified other issues in relation to the actions of staff and the service's guidance for staff to manage risks. The client's behaviour support plan did not address his behaviours around food that presented significant choking risks. We also considered that staff practices in the group home unreasonably contributed to risks to clients – for example, when experienced staff went off-site to do household shopping and left inexperienced staff alone to support clients.

We provided feedback to the service about the issues we identified and made suggestions for improvement. These included assessing the client's swallowing and nutrition risks, improving guidance for staff on the appropriate consistency and texture of the client's meal requirements (including visual aids), and a review of staff training and induction.

The service's response to its investigation findings and our suggestions included implementing appropriate allied health assessments, training staff to meet the client's food preparation and mealtime support needs, and working collaboratively with the client and his family to promote his mealtime safety and enjoyment.

FACS, the NSW Police Force (NSWPF), National Disability Services (NDS), non-government disability accommodation providers, NSW Legal Aid, expert clinicians, advocates, and leading academics. The group met three times this year.

To guide the work of the group, we developed a schedule of business activities that is reviewed, amended and updated at each meeting. The schedule covers a range of activities relevant to preventing and effectively responding to disability reportable incidents, including support for victims with disability and sector engagement of relevant clinicians.

This year, the group covered a range of important issues – including reportable incidents arising in the context of staff managing client behaviours of concern and delivering personal care, and critical practice issues that have arisen through our oversight of client to client incidents.

Facilitating disability service provider roundtable meetings

This year, we started hosting a series of disability service provider roundtable meetings to bring together a small number of service providers to discuss their experience in identifying and responding to reportable incidents, including their successes and challenges. These small forums provide an opportunity for services to discuss ways in which they have tried to overcome the practical challenges they have experienced, to share learning, and to promote good practice in protecting people with disability from abuse and neglect. The first roundtable meeting in March 2016 focused on the topic of coordinating risk management and investigative responses to incidents.

Providing education and training

We run workshops for disability service staff on responding to serious incidents in a disability service setting. The training provides practical advice to help staff to understand:

- how to identify and respond to abuse, neglect and other serious incidents
- the systems and processes that contribute to a 'client-safe' environment
- the fundamental principles and strategies for conducting an investigation
- the responsibilities of key agencies – including the NSWPF, FACS and the NSW Ombudsman.

This year, we delivered 68 workshops to approximately 1,322 staff of disability services. We also provide a modified version of the workshop for direct care staff. It focuses on identifying, responding to and reporting incidents – as well as the broader requirements relating to supporting people with disability in supported accommodation. We delivered 36 of these workshops this year.

A sample of 160 evaluations completed by workshop participants in 2015–16 showed that:

- 100% would recommend the workshop to others
- 96.8% rated the workshop overall as good/excellent
- 100% rated the presenter as good/excellent
- 97.5% rated the content as good/excellent
- 93.9% rated the resources as good/excellent
- 97.5% agree/strongly agree that they feel confident they can implement what they have learnt in the workplace.

Developing guidance on responding to serious incidents

This year, we have developed draft guidance for staff in disability services about the initial and early response they need to make to serious incidents – including a comprehensive resource guide, a quick guide, and a one-page flowchart. The resources have been developed in consultation with a range of NSW agencies. However, we are conscious that anything we develop in this area must have an eye to the national landscape. In November 2015 we therefore convened a roundtable meeting in Melbourne to discuss the draft resource guide with key NSW, Victorian and Commonwealth parties – including representatives of NSWPF and Victoria Police.

We also developed a draft *Joint Protocol to reduce the contact of people with disability in supported accommodation with the criminal justice system*. The core principles are based on the protocol we have developed and implemented for young people in residential out-of-home care. The joint protocol aims to:

- reduce the frequency of police involvement in responding to behaviour by people with disability living in supported accommodation, particularly if the behaviour can be better managed by the disability service provider
- promote the safety, welfare and wellbeing of people with disability living in supported accommodation by improving relationships, communication and information sharing between local police and disability services
- ensure that appropriate responses are provided to people with disability living in supported accommodation who are victims.

We have consulted with a range of parties in NSW about the joint protocol – including the NSWPF, FACS, NDS, the Intellectual Disability Rights Service, the NSW Council for Intellectual Disability, the NSW Mental Health Commission, People with Disability Australia, and Legal Aid. As the two documents provide complementary guidance, we intend to issue the joint protocol next year – at the same time as the resource guide for disability services staff.

Resources to improve investigative interviewing of people with cognitive disability

There are substantial barriers to people with disability engaging with the criminal justice system on an equal basis with others, including reporting to police and participating in investigations and court proceedings. To ensure allegations of abuse are effectively investigated and prosecuted, it is essential that investigators have the resources to help them to interview people with cognitive disability using an appropriate and sensitive approach.

This year, as part of our 'Rights project for people with disability', we have started to develop a guidance and training package for complaint handling staff and investigators in disability services to improve their communication with people with cognitive impairment, and to provide advice on obtaining 'best evidence' from people with cognitive impairment who are the subject of, or witnesses to, alleged abuse. The resources will provide practical advice about the impact of trauma and cognitive disability on communication, fundamental principles of investigative interviewing, specific interview techniques, and practices to avoid. They will also include a broad disability awareness component which focuses on cognitive disability, and will be tailored for use by police in their training of investigators and other officers.

84. Acting on significant issues raised by an OCV

Following concerns raised with us by an Official Community Visitor (OCV) about the safety and welfare of residents of a group home, we conducted our own motion inquiries of the disability service. The OCV had reported a number of serious incidents they had witnessed at the group home. They also raised concerns about the service not appropriately matching residents before placement, inadequate staffing, ongoing property maintenance issues, and inadequate behaviour support.

We met with the service and obtained an action plan it had developed to address the issues. Among other things, the service indicated that it would obtain specialist behaviour support, increase the supports and resources at the home, renovate and remodel the property and fix any remaining maintenance issues, and give careful consideration to the entry of any new residents.

The OCV visited the group home again a few months later. After that visit, the OCV reported that the property maintenance issues were continuing, there had been an increased number of incidents – and staff were not reporting all of them. The OCV raised concerns about the wellbeing and quality of life of the residents, who were spending most of their time in their rooms to avoid incidents.

Our next meeting with the service prompted more significant remedial action. The service made notifications to our office about incidents involving a pattern of abuse, and transitioned all the residents into appropriate alternative accommodation. Some moved to a new purpose-built property operated by the service. Others transitioned to accommodation options that provided them with support better suited to their needs. The service also implemented behaviour support strategies, and provided training for staff on reporting incidents and the disability reportable incidents scheme.

We continued to monitor the service's actions and visited the new property with the OCV. We have noted a significant decrease in incidents between residents of the group home and an improvement in the morale of both residents and staff.

85. Helping a couple in a regional area

A couple with disability live in a remote regional area which is located between two FACS districts. The couple complained to us that they hadn't been able to access disability support from FACS because each district had referred them to the other district.

As a result of our inquiries, FACS referred the couple to a service located in their broader region to assess their needs. The service allocated a case worker to develop a case plan, including negotiating with local services to support the couple.

As part of handling the complaint and having discussions with the couple, we linked them to independent advocacy support. The advocacy service met with them and assisted with their health-related issues.

86. Implementing better behaviour support

We received a notification about a pattern of abuse between residents in a group home. We found that the client who was allegedly assaulting other residents did not have a behaviour support plan, and we had questions about the strategies that were in place to address and manage the risks in the home. These concerns were heightened by a subsequent notification that the same client was the alleged victim of inappropriate use of force by an employee – in the context of the staff member trying to manage the client's behaviour.

In response to our inquiries, the service advised that it was developing a behaviour support plan for the client. After the plan was developed, we liaised with the service about the strategies it had put in place to ensure staff were able to consistently implement the plan – including staff training and increased supervision.

We continued to monitor the service's implementation of the behaviour support plan until we were confident that it was successful in reducing the frequency and severity of the incidents between clients in the home.

87. Managing falls

A service notified us of an unexplained serious injury of a client with disability after he was diagnosed with a fractured shoulder. The man was known to have epilepsy and frequent falls. The information we received from the service indicated that there had been delays in obtaining medical assistance for the client after previous falls. It was not clear how or when the fracture occurred or what had caused it, although it was suspected to be the result of an unwitnessed fall.

We identified a range of concerns with the service's management of the client's risk of falling, including:

- a lack of appropriate assessments
- inconsistent and inadequate medical intervention
- gaps in the available guidance for staff
- inadequate consideration of pain management.

We raised these issues with the service provider and made suggestions to address them. This included ensuring that the client had access to medical and other assessments, reviewing his support plans to ensure that they included current information about his falls risks and strategies to manage those risks, and delivering training to staff to provide appropriate support. We followed up with the service to make sure that our feedback had been accepted and implemented.

To help us develop these resources in the coming year, we intend engaging an expert with extensive knowledge and experience in communicating with people with cognitive disability in an investigative environment. We will also seek input and advice from a range of stakeholders in the disability and criminal justice sectors.

Collecting, analysing and reporting on data

During 2015–16, we reviewed the information we had about notifications of disability reportable incidents by provider to identify potential areas of under-reporting. Our analysis identified:

- providers who had yet to notify us of any disability reportable incidents
- providers who appeared to be under-reporting particular types of reportable incidents (such as client to client incidents)
- under-reporting of unexplained serious injuries by non-government providers.

To ensure that all providers across the sector have a strong awareness and working knowledge of the scheme, we are providing refresher training to those who have not yet notified our office of any reportable incidents. We have also met with a range of providers in relation to identified areas of potential under-reporting, and have noted improvements in their practice in response to our discussions – including internal changes to enable a coordinated and consistent approach to assessing incident reports.

Our *Disability e-News Update* newsletter provides detailed data on disability reportable incident notifications – including breakdowns based on the gender of alleged victims and subjects of allegation, and by type of provider (government or non-government). It is published on our website.

In 2016–17, we will analyse the information provided to us about finalised investigations, so we can report aggregated data about outcomes, including the action taken in response to findings. This data will provide a more detailed picture of how effective the scheme has been in promoting the safety and welfare of people with disability living in supported accommodation.

Addressing abuse, neglect and exploitation in community settings

We are increasingly contacted by people raising concerns about the abuse, neglect and exploitation of individuals with disability living in community settings, such as their family home. Some of the actions we have taken this year to try to address this issue are outlined in the following sections.

Working with the National Disability Abuse and Neglect Hotline

Since earlier this year, we have had an agreement with the National Disability Abuse and Neglect Hotline that they will – with the caller's consent – make 'warm referrals' to our office of matters involving allegations or concerns about abuse, neglect or exploitation of people with disability in community settings. In response, we typically make inquiries, check available intelligence, and identify further action that may be required to resolve concerns or to establish whether the person needs protection and/or support.

Liaising with the Public Guardian

In some cases, we identify that further investigation is required to establish whether the person with disability is in need of guardianship or other protection/support. We have an agreement with the Public Guardian to refer relevant information for his consideration as to whether submission of a guardianship application – or other action – might be appropriate. Guardianship legislation in NSW does not currently allow the Public Guardian to automatically investigate the care and circumstances of people with disability (or older people) who are reported to be at risk. The Public Guardian has to lodge a guardianship application with the NSW Civil and Administrative Tribunal (NCAT) and seek a short-term order to enable him to undertake such investigations, including consulting with the person reported to be at risk.

Convening interagency meetings

A key role we play if someone with disability may be being abused, neglected or exploited is to bring relevant agencies together to discuss the information that is known about the person's current care, circumstances and risks – and to reach agreement on what action is required. These agencies may include any disability service currently or formerly involved with the person, the police, the Public Guardian, and possibly housing and health services. We facilitate the exchange of relevant information, the coordination of the safeguarding approach for the person with disability, and the oversight of the agreed actions.

Making submissions to inquiries and reviews

In March 2016, we made submissions to inquiries and reviews related to the abuse and neglect of people with disability – including the NSW Legislative Council's inquiry into elder abuse in NSW, and the NSW Law Reform Commission's *Review of the Guardianship Act 1987*. Both submissions emphasised the need to expand the functions and powers of the NSW Public Guardian to strengthen the Public Guardian's ability to conduct investigations in relation to vulnerable adults who are reported to be at risk of abuse or neglect in the community.

Our submission to the NSW Law Reform Commission also highlighted the need to amend the Guardianship Act to:

- reflect the UN Convention on the Rights of Persons with Disabilities and incorporate more expansive, comprehensive and human-rights-centred principles
- ensure that financial management orders are time-limited and subject to regular review
- incorporate information exchange provisions that are focused on ensuring the safety of people with cognitive impairment.

Forum on the abuse, neglect and exploitation of people with disability

We believe the time is ripe to improve systems and practice in relation to the abuse, neglect and exploitation of people with disability, and we are keen to work with key parties in NSW and nationally to improve community-based safeguards. It is important that the opportunities afforded by inquiries, reviews and other relevant work are maximised to drive a coordinated approach to addressing these issues – with a view to national consistency wherever possible. In November 2016, we

therefore plan to hold a forum on this topic, focusing on the abuse, neglect and exploitation of people with disability in both disability service and community settings.

Rights project for people with disability

We have been funded by FACS to deliver the 'Rights project for people with disability'. This is a capacity-building project to develop a practical framework that enables people with disability and their supporters to better understand and exercise their rights.

Our focus is on helping people with disability to be able to understand and exercise their rights in the transition to the NDIS across three main areas:

- empowering people with disability to understand and exercise their rights
- promoting accessible complaint systems and practices among NSW government agencies and disability service providers
- strengthening systems to prevent, identify and respond to abuse, neglect and exploitation of people with disability.

In 2015–16, we have worked on a range of practical and targeted resources for people with disability in a variety of formats, including 'Speak up' – a revision of our Rights Stuff Toolkit to reflect the NDIS landscape. We are developing tailored versions of the package for a variety of audiences, and delivered the first presentation in May 2016, at the Stockton Centre in Newcastle. In the coming year, we will prioritise delivering this training to people with disability living in large residential centres and group homes. In September 2016, we expect to launch a new video to improve the understanding of government agencies and disability service providers about person-centred complaint handling.

To inform our project, we have established a joint advisory committee with three related FACS funded projects. The other 'rights' projects are being run by the NSW Council for Intellectual Disability and My Choice Matters, the Public Guardian and NSW Trustee and Guardian, and a consortium of the Association of Children's Welfare Agencies, the Intellectual Disability Rights Service and Life Without Barriers. We are providing secretariat support for the meetings on behalf of all these projects. The committee has met three times so far, and will meet quarterly for two years.

In April 2016, we held our first 'expert forum'. It brought together 40 experts from across Australia to discuss the access of people with disability – particularly those who are more vulnerable – both to the NDIS and other key supports. After the forum, we produced a consolidated list of resources from across Australia and internationally that are relevant to upholding the rights of people with disability. This list is available on our website.

Safeguards and the NDIS

Developing a national safeguarding framework

During 2015–16, we have continued to be actively involved in providing input to the development of the NDIS Quality and Safeguarding Framework. We wanted to make sure that it provides a comprehensive and nationally consistent

88. Improving responses to alleged abuse

Two clients with disability who lived at different accommodation locations with the same disability service separately disclosed to that service that the same disability support worker had engaged in inappropriate conduct with them – including allegations of indecent assault. The service notified us of the allegations several weeks after receiving the information.

When we received the notification, the service had informed the disability support worker of the allegations but had not contacted police. The staff member was still working alone with both alleged victims. We worked with the service to ensure that the matter was reported to the police. We also advised them to do a risk assessment, which resulted in the staff member being removed from working with the alleged victims.

We established that the disability service had initially advised the police that the alleged victims would not be able to provide information. We subsequently liaised with the NSWPF over an extended period of time to ensure that appropriate attempts were made to interview the alleged victims.

The police were unable to proceed with the matter, and the service also declined to investigate it further. After we emphasised the need for the service to conduct an investigation and ensure that appropriate supports were being provided to the alleged victims, it made the inquiries we had requested and provided training on reportable incidents to all its staff.

We provided extensive feedback to the service about its investigation, including the importance of:

- reporting matters to police in a timely manner and seeking clearance from police to start an internal investigation
- ensuring investigations are free from bias and conducted by appropriately trained personnel
- interviewing people in a timely manner and with appropriate support
- not using leading questions during interviews
- communicating appropriately with families and guardians.

approach to safeguards for people with disability that are at least as strong as those that currently exist in NSW. Against the background of our work in relation to the NSW disability reportable incidents and reportable conduct schemes, our views have particularly been sought on the reporting and handling of serious incidents involving NDIS participants, and the screening of employees seeking to work with participants. We have emphasised the need for:

- an independent national body to have a proactive and hands-on approach to overseeing reportable incidents
- expansion of the current reportable incidents scheme to cover a broader range of participants and providers – with provision to prescribe the suppliers/types of supports that are included in the scope of the scheme so that it can be adjusted over time
- information exchange provisions relating to the safety of participants
- a nationally consistent approach to screening employees and prospective employees of registered providers and certain unregistered providers.

We have also stressed the importance of a national oversight body having functions that enable a strengths-based rather than deficit-based approach. Using the breadth of our functions in relation to community and disability services as a benchmark, we have indicated that the oversight body should have functions in relation to examining systemic issues such as:

- reviewing the causes and patterns of complaints and identifying ways in which the underlying causes could be removed or minimised
- inquiring into issues affecting NDIS participants (or people eligible for NDIS supports) and NDIS providers of supports
- keeping under scrutiny the systems of NDIS providers of supports for handling complaints and for preventing, handling and responding to reportable incidents
- promoting access to advocacy and decision-making support for NDIS participants and people eligible for NDIS supports
- monitoring and reviewing the delivery of NDIS supports, both generally and in particular cases
- making recommendations for improvements in the delivery of NDIS supports and for the purpose of promoting the rights of NDIS participants.

We will continue to work with NSW and Commonwealth representatives to support the development and design of the framework.

This year, we also made submissions to the Commonwealth Department of Social Services (DSS) to inform its reviews of the National Disability Advocacy Framework (in July 2015) and the National Disability Advocacy Program (in June 2016). We emphasised the critical role that individual and systemic advocacy supports play in relation to people with disability, their families and other supporters – including in identifying, reporting and supporting people with disability to speak up about abuse. We also highlighted the need for greater access to advocacy supports across Australia, including via an outreach approach. We also emphasised the need for clarity and national consistency in how the quality and outcomes of advocacy support are measured and reported. Copies of our submissions are available on our website.

Information sharing and transitional safeguarding arrangements

We have finalised the information sharing arrangements between our office and the National Disability Insurance Agency (NDIA) to facilitate the appropriate referral and handling of complaints and other issues involving NDIS participants and service providers. The arrangements also include guidance on the incidents that the NDIA will refer to us and in what circumstances, and the timeframes for acknowledging the receipt of these referrals.

These information sharing arrangements are part of broader 'NSW Transitional Quality Assurance and Safeguards Working Arrangements' agreed between the NSW and Commonwealth governments and the NDIA in June 2016. One of the goals is to ensure that the strengths of the existing Commonwealth and NSW quality assurance and safeguards systems are retained until new national arrangements are in place, and all NDIS participants are given protections through existing Commonwealth and state safeguarding mechanisms. The working arrangements make it clear that all of the NSW Ombudsman's current functions in relation to people with disability and disability services apply to the NDIS during the transition period. This includes:

- handling complaints about registered and unregistered providers
- being notified of reportable incidents involving people with disability living in supported group accommodation
- reviewing the deaths of people with disability in residential care
- coordinating the OCV scheme
- being notified of employment-related child protection reportable allegations.

It is important to note that all providers of NDIS supports in NSW come under our jurisdiction during the transition period – even when the service is solely funded by the NDIS.

During 2015–16, we identified and dealt with a range of matters affecting participants and providers of supports in the NDIS. These came to light through our analysis of issues arising from our various functions (complaints, reviewable deaths, disability reportable incidents, and OCVs), and our liaison with key stakeholders, including people with disability, their supporters, and service providers. We also convened a roundtable discussion with FACS, Public Guardian, the NDIA, DSS, and the Commonwealth Ombudsman to discuss issues relating to unregistered providers of supports, and abuse and neglect of people with disability in community settings.

Reducing preventable deaths of people with disability in residential care

Under CS-CRAMA, we review the death of any person living in, or temporarily absent from, residential care provided by a service provider or an assisted boarding house. This includes the deaths of NDIS participants living in residential care. We focus on identifying issues that may contribute to deaths or that may affect the safety and wellbeing of people with disability in residential care, and make recommendations aimed at helping to reduce preventable deaths.

89. The importance of immediately reporting client disclosures of abuse

A woman with disability disclosed to one of her disability support workers that an agency staff member indecently assaulted her while providing personal care. The disability support worker did not report the matter to a manager until late the following day. This delay potentially caused the loss of physical or forensic medical evidence that may have supported the client's disclosure.

On becoming aware of the disclosure, the manager immediately reported the allegation to the labour hire agency and contacted police. However, the labour hire agency interviewed the subject of the allegation before the police had an opportunity to do so. This action significantly compromised the police investigation as the employee was already aware of the specific allegations against him before the police interview.

The client was highly anxious about going to hospital for possible medical evidence to be collected and did not want to go. There was no indication that the disability service considered ways in which they could help the client to reduce her anxiety about going to the hospital – such as ensuring that she had someone familiar with her. The opportunity to gather medical evidence was lost.

We provided feedback to the disability service about the consequences of the delay in reporting the incident, and suggested that they train staff how to manage disclosures of sexual assault. We also:

- advised them to obtain guidance from a sexual assault clinic or doctor about strategies to assist alleged victims to attend hospital for necessary medical evidence to be collected
- explained the need for services to always seek clearance from police before starting an internal investigation.

During the course of this matter, we liaised with police to ensure that the subject of the allegation was interviewed.

To assist with this work, we have developed a reviewable disability deaths data dashboard and use it to identify trends and patterns. The dashboard includes a range of data such as key health information, cause of death and risk indicators.

In 2016–17 we will issue our next biennial report to Parliament on the reviewable deaths of people with disability in residential care. It will cover the deaths of 237 people with disability in 2014 and 2015. We are continuing to monitor the actions of agencies in response to the 10 recommendations in our previous report, and will provide details of their progress in our next report.

Research partnership for better health outcomes

We are part of a National Health and Medical Research Council Partnership for Better Health project on 'Improving the mental health outcomes of people with intellectual disability'. The project is led by the Chair of Intellectual Disability Mental Health at the University of NSW, and is made up of 11 partner organisations across a range of NSW government, peak and advocacy agencies.

The project aligns with many of the concerns we have identified and raised through our work in reviewing the deaths of people with disability in residential care – such as concerns about the support provided to people with dual diagnoses of intellectual disability and mental illness (including access to mental health services and interagency collaboration). We are part of the project's data linkage group, which is creating a linkage of administrative minimum datasets of key project partners to, for example, enable:

- a detailed examination of mental health profiles and service utilisation
- a comprehensive development of intellectual disability mental health services in NSW.

In 2014, CS-CRAMA was amended to include provisions for our office to share reviewable deaths information and data to facilitate research that is done to help prevent or reduce the likelihood of reviewable deaths in NSW. Our involvement in the data linkage component of the partnership project, facilitated by the Centre for Health Record Linkage (CHeReL), marks the first occasion in which we have been able to provide data to facilitate such research.

Accessing preventive health programs

Many people with disability in residential care have multiple health risks related to lifestyle factors – including obesity, poor diet, and insufficient physical activity. People in assisted boarding houses also face significant risks due to very high rates of smoking. However, despite their substantial health risks, our reviews have identified few people who had access to preventive health support – such as quit smoking programs, referrals to dieticians, and weight management or exercise programs.

This year, we met with NSW Health's Centre for Population Health and the Office of Preventive Health about the access of people with disability to their programs. We also held a forum to bring together the Office of Preventive Health and key stakeholders in the disability sector to discuss options for ensuring that the *NSW Healthy Eating and Active Living Strategy: Preventing overweight and*

obesity in NSW 2013–2018 (HEAL strategy) is inclusive of people with disability. We will continue to actively monitor the progress of NSW Health's work to improve the access of people with disability in residential care to the HEAL strategy, and to broader population and preventive health programs.

Coordinating the OCV scheme

The Ombudsman has a general oversight and coordination role for the OCV scheme and we support OCVs on a day-to-day basis. Our work includes operating and administering the scheme, providing information and advice to OCVs, allocating services and prioritising visits to meet the needs of residents, supporting OCVs to respond to concerns about residents, and identifying and addressing issues of concern that require a complaint or other action.

This year, our OCV team's activities included:

- inducting 10 new OCVs through two stages of training
- conducting recruitment across a range of areas in NSW, and recommending a further 13 visitors for appointment
- organising and running a two-day OCV annual conference – with presentations on improving organisational skills and maintaining motivation, augmentative communication tools for people with disability, and supported decision making
- facilitating regular meetings between OCVs and the ministers responsible for the scheme, the Ombudsman's office and other OCVs
- holding an event at Parliament House to celebrate 20 years of the OCV scheme in NSW.

In December 2015, we tabled the 20th anniversary edition of the OCV annual report. It included detailed information about the work of OCVs, personal accounts by residents and OCVs, and practical case examples of issues and outcomes. The OCV annual reports are published on our website.



In this chapter

Working with Aboriginal communities 116

This chapter of the report outlines our work aimed at improving service delivery to Aboriginal communities. This work is carried out by staff from our strategic projects division, alongside staff from our Aboriginal unit. They handle direct inquiries and complaints from communities, often received during visits and meetings.

The chapter also discusses the work of our office, led by the Deputy Ombudsman (Aboriginal programs) to monitor the implementation of OCHRE, the NSW Government's plan for Aboriginal affairs.

Working with Aboriginal communities



In 2015–16, we

- Released a special report to Parliament in May 2016 called *Fostering economic development for Aboriginal people in NSW*.
- Made 22 community visits to locations where different OCHRE initiatives are being implemented, providing us with the opportunity to address a range of complaints and broader community concerns about service delivery.
- With the Department of Family and Community Services (FACS), facilitated the launch of the *Guiding principles for strengthening the participation of local Aboriginal communities in child protection decision making* that we prepared in collaboration with the Grandmothers Against Removals (GMAR) last year, and actively monitored the progress of its implementation.
- Helped improve education for Aboriginal communities about handling asbestos.

Working with Aboriginal communities

Raising awareness of our work

This year, we targeted most of our community visits to locations within the Murdi Paaki region in Western NSW. This is where the first Local Decision Making accord is being implemented as part of OCHRE – the NSW Government’s plan for Aboriginal affairs. Further information about these visits and our broader work in monitoring the implementation of OCHRE can be found at pages 121-127.

The following are some of the awareness raising activities our senior staff have been involved in this year:

- Senior Ombudsman staff participated by invitation in the Ministerial Roundtable on improving outcomes for Aboriginal children in out-of-home care.
- The Deputy Ombudsman/Community and Disability Services Commissioner delivered a presentation to the Batiba Guwiya ‘Extinguishing the Flame’ conference about our work to address child sexual assault in Aboriginal communities.
- The Deputy Ombudsman (Aboriginal programs) and Assistant Ombudsman (Strategic projects) participated in an Indigenous Complaint Forum hosted by the Commonwealth Ombudsman, providing advice about strategies for improving Aboriginal people’s access to complaint systems.
- The Deputy Ombudsman (Aboriginal programs) gave a presentation to the Australian and New Zealand Ombudsman Association 2016 Conference about engaging with Indigenous communities.
- The Deputy Ombudsman (Aboriginal programs) participated in a panel discussion at the Aboriginal Career and Leadership Development Program orientation for Aboriginal public sector employees in NSW.
- The Deputy Ombudsman (Aboriginal programs) was interviewed on Koori Radio and NITV about our role in monitoring the implementation of OCHRE, and guest hosted the Twitter account of online platform Indigenous X.
- The Assistant Ombudsman (Strategic projects) delivered a tailored complaint handling workshop for approximately 20 staff from the central and regional offices of Aboriginal Affairs (AA).

During 2015–16, we also:

- provided information sessions about our role to the FACS Sydney and South East Sydney Aboriginal Staff Practice Forum and the Aboriginal Child, Family and Community Care State Secretariat (AbSec) Youth Ambassadors Program
- held information stalls at a number of events – including the Koori Knockout, AbSec Forum, Summer on the Green, Kids in Care Cup and Getting it Together expo
- accompanied staff from the Education Centre Against Violence on a community visit to Moree and Boggabilla.

We have regular liaison meetings with key stakeholders to discuss issues relating to Aboriginal communities – including AA, the Secretary of the Department of Education, the NSW Aboriginal Housing Office (AHO), the Aboriginal out-of-home care (OOHC) agency accreditation team within the Office of the Children’s Guardian (OCG), and AbSec. During the year we also met with many



A staff member from our Aboriginal Unit with an Inspector of police (NSWPF) sharing one of many footballs that we proudly sponsor each year for the Nations of Origin football knockout.

non-government entities and organisations, such as the Australian Indigenous Education Foundation, Australian Indigenous Governance Institute, Clontarf Foundation and Supply Nation.

Helping to resolve complaints

Helping Aboriginal people to resolve complaints about a broad range of issues remains a core focus of our work. We receive complaints in a number of ways. Case studies 90-99 on pages 117-121 are matters we have dealt with this year identified through our visits to various areas across the state or as a result of individuals phoning or writing to us about their concerns – and the outcomes our involvement has achieved.

Educating Aboriginal communities about handling asbestos

For several years, we have been examining how NSW government agencies have dealt with asbestos. In our 2010 report to Parliament titled *Responding to the asbestos problem: The need for significant reform in NSW* we highlighted that many Aboriginal communities have homes constructed of bonded asbestos. Some of those homes are more than 50 years old and require repair. As education campaigns about the risks of handling asbestos delivered through mainstream media and web-based initiatives were unlikely to reach many Aboriginal people, we recommended that a tailored approach for Aboriginal communities be developed.

In response to our report, the then WorkCover NSW set up the Heads of Asbestos Co-ordinating Authority (HACA) – comprised of the heads of the various government agencies with responsibilities for asbestos – informed by

90. Keeping basketball courts open during school holidays

Community members from Collarenebri sought our help just before Christmas 2015 to ensure the local basketball courts remained open and accessible over the Christmas holiday period, as they provide an important place for children to socialise and play outside of school terms. We immediately contacted the Department of Education on their behalf and secured an undertaking that the courts would not be locked. The community welcomed this outcome and appreciated our assistance.

91. Implementing water fluoridation in Walgett

We made enquiries with Walgett Shire Council after concerns were raised with us about the lack of a fluoridated water supply in Walgett. The council advised us that their staff needed specific training to become accredited as fluoride operators before fluoride dosing for the town water supplies could start. We encouraged council to work with NSW Health and TAFE NSW to ensure the necessary training was arranged without delay. Council subsequently advised us that it had arranged with NSW Health for the training to be provided to staff, and it plans to implement fluoridation in Walgett by the end of 2016.

92. Establishing a housing strategy for Bourke

Last year, we facilitated discussions with the Chair of the Bourke Aboriginal Community Working Party, the AHO and AA about establishing an appropriate and affordable housing sector strategy for Bourke. This year, the AHO arranged two forums with community members and partner agencies to consider a preliminary environmental scan and help shape the development of the strategy. Workshops and targeted meetings with stakeholders were also held to ensure robust and broad community engagement. Several priorities have been identified for the strategy – including a fair and transparent allocation policy, improved housing design and maintenance, better support for tenants, and opportunities for home ownership. We have emphasised to the partner agencies that the final strategy should take account of other relevant initiatives underway in Bourke, particularly those relating to broader service sector reforms discussed on page 125. The housing strategy is expected to be finalised in 2016–17 once the community endorses it.

93. Transferring to a new school

Legal Aid contacted us on behalf of an Aboriginal woman who wanted to transfer her two primary school-aged children to a different school because of exceptional circumstances that were preventing them from attending their current school. The Department of Education had told the woman that a transfer of enrolment was not possible. After we liaised with the department, we were informed that it had been unaware of the seriousness of the family's circumstances and, as a result, approval was promptly given for the children to transfer to the other school.

a project committee tasked with focusing on educating Aboriginal communities on the proper management and handling of asbestos. Pleasingly, the project committee has identified a number of initiatives which go beyond community awareness. These include:

- Piloting a new approach to improving the knowledge and method of asbestos handling within Aboriginal communities that taps into community-based networks, organisations and individuals in two communities.
- Up-skilling Aboriginal people in the handling of asbestos through a partnership with TAFE NSW. This will involve training individuals in the methods for identifying, managing and disposing of materials containing asbestos.
- SafeWork NSW continuing to lead the project as well as provide ongoing assistance for training, licensing and asbestos-related advice.

We also asked the AHO and the NSW Aboriginal Land Council (NSWALC) to endorse this new approach and they have agreed to work closely with community housing providers and local Aboriginal land councils (LALCs) as a conduit for information to tenants about the safe handling of asbestos. The CEOs of NSWALC and the AHO together with SafeWork NSW have agreed to form an executive committee to meet with us twice a year to oversee the project until its conclusion. We look forward to the outcomes from this critically important work.

Working with Aboriginal out-of-home care agencies

We work in a range of ways to support the capacity of Aboriginal OOHC agencies as their responsibilities grow. In recent years, we have focused on providing hands-on advice and support to enable agencies to appropriately meet their child protection obligations, including their obligations under the Ombudsman's employment-related child protection scheme (discussed in the Children and families chapter). For example, this year we worked with a large OOHC agency to identify ways it could improve its systems for responding to reportable conduct, including creating a dedicated position for managing these matters. We scheduled regular teleconferences with the agency to discuss relevant issues arising from open reportable conduct matters, and have also committed to developing and delivering a training session for its staff.

In March 2016, we delivered a tailored training session to 30 frontline caseworkers and managers from two other large Aboriginal OOHC agencies in regional NSW. The training focused on how to identify and respond to reportable conduct. Using case studies based on scenarios that caseworkers might commonly come across in the course of their job, we emphasised the importance of initial risk management and reporting requirements – including reporting to police and FACS. We received very positive feedback from the participants. At the AbSec Conference in November 2015, the Deputy Ombudsman/Community and Disability Services Commissioner delivered a workshop on handling serious reportable conduct incidents.

We also liaise regularly with AbSec, the Office of the Children's Guardian (OCG) and FACS about issues affecting the OOHC sector. More recently, our Assistant Ombudsman (Strategic projects) was invited to sit on the newly established Strengthening Aboriginal OOHC Providers Governance group.

Guiding principles for strengthening the participation of local Aboriginal communities in child protection decision making

The Grandmothers Against Removals (GMAR) group was formed in Gunnedah in 2014 to provide an avenue for concerned community members to have a say about the implementation of child protection practices and the relationship between Aboriginal families and FACS. Last year, we reported that we had established a working group with GMAR and FACS to inform the development of a set of guiding principles for improving Aboriginal participation in child protection decisions as envisaged by the Aboriginal Child Placement Principles and FACS's Aboriginal Cultural Inclusion Framework (ACIF). It was intended initially that these guiding principles would operate locally, but we recommended to GMAR and FACS that a document be developed for statewide implementation – and they agreed. We prepared the document in close collaboration with GMAR, and it was ultimately endorsed by FACS and AbSec. The Minister for Family and Community Services officially launched the guiding principles in Tamworth on 9 November 2015.

Since then, we have continued to support and monitor the implementation of these principles. After GMAR members raised concerns with us in March 2016 about the progress of implementation, we asked FACS for advice about establishing governance arrangements and promoting the principles. We also convened meetings with FACS, GMAR and AbSec to discuss the next steps. FACS subsequently invited GMAR to give a presentation about the principles to delegates at the Ministerial roundtable on Aboriginal children and young people in OOHC in May 2016.

Senior FACS staff also met with GMAR representatives for two days to discuss relevant initiatives and agree on further actions. Governance arrangements for implementing the guiding principles have now been

settled, and FACS's newly established Aboriginal Child and Family Reform Group will include two GMAR representatives. A dedicated implementation working group will also be established and we will have observer status. FACS has also agreed to work with GMAR to plan and deliver initiatives to promote and implement the guiding principles in local communities across the state.

Over the coming year, it will be vital that the governance arrangements are bedded down and opportunities for local implementation of the principles are identified and supported. It is pleasing that, at the time of writing, FACS had recently invited a GMAR representative to meet with the Western District Director to discuss ways of building on new local protocols the district had already started to develop with Aboriginal community members before the launch of the guiding principles. We understand FACS has committed to ensuring GMAR plays a role in the planned evaluation of these protocols – and in designing a model to trial a support service for Aboriginal family members involved in kinship care to help them better understand their rights and responsibilities. Community groups in other areas have approached us for advice about how we worked with the GMAR group in Gunnedah and FACS to develop the guiding principles.

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



"This document is the first step. There will need to be vigilance and commitment as to its implementation..."

GMAR has begun the journey and invite all Australians irrespective of race, creed and political allegiances to tread this path with us, and unite with a steadfast commitment to positive change..."

Suellyn Tighe, GMAR member

GMAR members at the launch of the guiding principles [L to R Deb Swan, Suellyn Tighe, Hazel Collins, Aunty Patty Mackenzie, Aunt Minn Humble, Jen Swan.

94. Reducing energy costs for Aboriginal housing

This year we continued to support the Energy and Water Ombudsman NSW (EWON) to establish a strategy – in partnership with the AHO, the Office of Environment and Heritage (OEH), Good Shepherd Microfinance and NSWALC – to help Aboriginal households to reduce and manage their energy costs. The partners have now prepared a draft strategy which includes an education campaign targeting Aboriginal housing tenants and communities on ways to reduce and manage energy costs, as well as access low or no-interest loan schemes. The AHO also resolved to install air conditioning in all Aboriginal housing in NSW deemed to experience extreme climates, and to ensure that all new housing constructed includes 6 star-rated energy efficient design features and solar panels. The AHO intends to roll out air-conditioning units at the same time as installing solar panelling and smart metering, and to provide education programs to support Aboriginal households to reduce their vulnerability to energy-related financial stress.

95. Sharing information about child protection risks

An Aboriginal carer complained that her caseworker at the OOHC agency had breached her privacy by inappropriately disclosing sensitive information about a family member to other staff employed by the agency. The OOHC agency's response to our inquiries indicated that it had acted appropriately to take protective action in response to information it received about a potential risk to the safety of a child or young person in care. However, based on our review of relevant information holdings, we identified that police had not provided the agency with critical information about child protection risks after the agency requested it. We contacted the crime manager at the relevant police command, who acknowledged that it appeared local information-sharing protocols had not been followed and agreed to liaise directly with the agency to resolve the matter. The command thanked us for bringing the matter to their attention.

96. Meeting the health needs of a young woman in out-of-home care

We received a complaint from an Official Community Visitor (OCV) about FACS's transfer of case management arrangements for a young Aboriginal woman in OOHC. The OCV was concerned that FACS had not provided vital information about the young woman – including details of her significant health needs – to the OOHC agency assuming responsibility for her care. In response to our inquiries, FACS acknowledged certain failings in providing timely and critical advice to the OOHC agency, noting that staff had failed to comply with FACS's relevant case transfer policies and practices. FACS said it had taken steps to rectify this and had given the OOHC agency all the relevant information about the young woman.

Reviewing FACS's Aboriginal Cultural Inclusion Framework

In our 2014–15 annual report, we said that we intended to review the outcomes achieved by FACS's Aboriginal Cultural Inclusion Framework 2015–2018. Accordingly, in 2015–16 we put in place regular liaison arrangements with the Aboriginal Policy Unit in FACS, and accepted FACS's invitation to participate in the new governance arrangements established to guide Aboriginal child and family reforms. As discussed on page 118, we also assisted FACS to give effect to its Aboriginal Cultural Inclusion Framework, by working with FACS and the Grandmothers Against Removals (GMAR) to develop guiding principles for improving Aboriginal participation in child protection decisions.

Responding to child sexual assault in Aboriginal communities

In June 2015, the NSW Government released a progress report on its response to the recommendations in our 2012 report to Parliament, *Responding to Child Sexual Assault in Aboriginal Communities*. Our 2012 report was the result of a three-year audit of the implementation of the interagency plan to tackle child sexual assault in Aboriginal communities. Although the progress report constituted the final stage in formally responding to our report, FACS is continuing to coordinate the work being undertaken by the government to effectively support vulnerable children and families in this critical area.

Since this progress report was released, the following additional developments have taken place:

- In November 2015, legislation was passed to facilitate a pilot scheme enabling the pre-recording of a child's cross-examination, and the introduction of 'children's champions' or witness intermediaries to support child witnesses through the trial process. The pilot scheme started on 31 March 2016 and will operate for three years. It will apply to victim complainants under the age of 18 who are witnesses in prescribed sexual offence matters heard in the Newcastle and Sydney District Courts.
- In August 2015, two additional judges were appointed to the bench of the District Court. We understand that these judges were to receive intensive training on child sexual assault matters and dedicate most of their time to conducting these matters.
- In September 2015, the revised *NSW Health Professionals Workforce Plan 2012–22* was released. The plan aims to increase the number of health professionals working in regional, rural and remote communities, support rural training and improve capacity planning. The government has also recommended the development of a new incentive scheme for counsellor, caseworker and other positions in difficult-to-recruit locations.

Through our ongoing role in monitoring the delivery of community services, we are continuing to progress a range of additional systems issues examined through our audit of child sexual abuse. For developments relating to the Child Protection Register and the Joint Investigation Response Team (JIRT), please see page 84, in the Children and families chapter.

Overall, significant progress has been made to address a range of critical issues we identified through our audit. However, challenges remain, particularly in relation to responding to children who display sexually abusive behaviours and improving the criminal justice system for victims.

Helping children who display sexually abusive behaviours

Despite the enhancements made by NSW Health to the capacity of New Street – the main specialist program providing therapeutic treatment for children and young people who have problematic and abusive sexual behaviours – those who live outside the areas where the program is currently based have little chance of receiving the help they need. Juvenile Justice offers important specialist programs and interventions, but there are numerous impediments to helping young people with multiple and complex needs within the relatively brief time allowed by a control order or a community supervision plan.

In our 2012 report, *Responding to Child Sexual Assault in Aboriginal Communities*, we recommended that all agencies and services with responsibilities in this area come together to consider creating a cohesive legislative and policy framework that explicitly sets out their respective roles in supporting effective treatment strategies – including the use of treatment orders (see recommendations 65-73). We also recommended that consideration be given to adopting elements of the scheme introduced by the Victorian Government in 2007 for identifying and diverting into treatment young people found to be engaging in sexually abusive behaviours. We understand that NSW Health has now recommended that a combined interagency review consider whether a similar model to the Victorian scheme could be established in NSW.

Improving the criminal justice system for victims

We note the positive reforms introduced by the NSW Government to improve the handling of child sexual assault cases by the courts. However, there are a number of areas where our audit identified that the response is unclear and further investment or reform is required.

These include the need for:

- Further work to ensure that the reasons for the attrition of child sexual abuse matters from the criminal justice system are better understood, reported on and, where possible, addressed.
- Additional funding for the Witness Assistance Service to enable it to consistently provide appropriate specialist support to victims.
- A review of the current case management processes for sexual offence cases heard in both the District and Local Courts to determine the extent to which improvements can be made to minimise delays and encourage earlier guilty pleas.
- The expansion of remote witness facilities and audio-visual links to ensure that high quality facilities are available to victims and other witnesses across the state.
- A review of section 66EA of the *Crimes Act 1900*, which relates to the offence of persistent sexual abuse of a child.
- Legislative reform to create a presumption in favour of joining trials for sexual assault matters.

97. Resolving a community's concerns about their local school

A community legal service contacted us about 27 separate complaints by Aboriginal parents and community members about their local school. The complaints covered events that had taken place over a number of years and included concerns about the school's handling of certain allegations and incidents, poor communication with parents and the school community, and the implementation of policies and procedures for managing behaviour. The concerns were being raised in various forums and this was affecting the relationships between certain sections of the community and the school.

We convened a meeting with senior officers from the Department of Education to discuss the large number of complaints, identify which of them had already been addressed, and decide if further advice to families might be needed. Several complaints had already been resolved while other issues were now too old to effectively investigate. The department agreed to refer a further group of complaints back to the school principal for resolution in consultation with the regional director so they could identify whether any further action or advice was needed. Plans are now underway for a community information session about the most effective ways to deal with any concerns about the school that might arise in future.

98. Completing a case review

An Aboriginal grandmother complained to us about FACS's lack of action to review its involvement with her family, including its decision to place her grandchildren with non-Aboriginal carers. FACS had committed several months earlier to do a review, but it had not been substantially progressed.

After our inquiries, FACS completed a comprehensive case review. The review identified a number of practice issues – including a lack of family participation in decision-making for the children, insufficient evidence to support some of FACS's decisions, and its involvement with the family being characterised by a lack of cultural responsiveness. FACS has since apologised to the grandmother and is now working with the family to change the direction of the children's case plan. FACS has developed a learning plan with the relevant Community Services Centres to address the practice issues identified in the review.

99. Helping to secure appropriate housing

An AHO tenant with serious health problems complained to us that his property was unsuitable. The front entrance to the house was not accessible and – because the bedroom was too small for his dialysis equipment – he needed to attend hospital regularly to receive treatment. The man also said that FACS Housing had approved a transfer to another property two years before and the AHO had also agreed to install a ramp – but neither of these actions had occurred.

Our inquiries with FACS Housing indicated that the AHO had not installed the ramp because of confusion about whether or not the tenant would be transferred to another property. We suggested that the ramp should be installed unless the man's transfer to another property was imminent. A short time later a suitable property became available, FACS Housing offered it to the man, and he accepted.

Monitoring Aboriginal programs: OCHRE

It is now two years since we were given an important new role to monitor and assess designated Aboriginal programs in NSW, starting with OCHRE – the NSW Government's plan for Aboriginal affairs. Complementing and building on our work with Aboriginal communities over more than a decade, our oversight of OCHRE is intended to provide greater transparency and accountability in relation to both individual initiatives and associated outcomes.

From the beginning, we have actively sought to raise implementation issues and opportunities with the agencies responsible for OCHRE as we identify them. We have also focused on bringing together parties with common objectives, and on highlighting examples of good practice that could be replicated. During the first year of our function, it was important for us to get an overall sense of progress in the early stages of implementing the various OCHRE initiatives across the state. This year, we have taken a more targeted approach – focusing our monitoring activities on key aspects of OCHRE where we have identified that we can best add value at this time, particularly economic development and Local Decision Making (LDM) initiatives.

Pleasingly, since we detailed our concern at the delay in starting the evaluation of OCHRE in last year's annual report, the Social Policy Research Centre (SPRC) at the University of NSW has been engaged to conduct a long term (10 year) evaluation of eight key OCHRE projects sites. As we noted last year, we commend Aboriginal Affairs for its commitment to ensuring that high quality participatory practice is at the centre of the OCHRE evaluation. However, we remain concerned at the time it has taken to involve the community and other stakeholders in shaping the targets for tracking progress. The OCHRE plan envisaged there would be a process to enable results to be examined after three years, yet the first evaluation report will not be

provided to AA until June 2018 – more than five years after OCHRE began. By now, we would have hoped to have seen interim high level measures to inform the implementation of the initiatives and enable adjustments to be made if required. In terms of our own monitoring and assessment role, the delay in settling targets and measures has made it difficult for us to request performance and outcomes data from relevant agencies.

Such targets and measures could have reflected the objectives that the architects of OCHRE must have had in mind when designing the actual initiatives, which were themselves developed in response to community feedback provided through a lengthy consultation process. Indeed, the original OCHRE plan contemplated that ongoing evaluation would be built into the implementation of the initiatives.

As we were only recently provided with the evaluation plan, this year we have continued to directly liaise with OCHRE agencies and communities to observe progress and hear from them about the impact that individual OCHRE initiatives are having on the ground. In order to be satisfied that the evaluation will respond to community expectations and deliver on stated commitments, we met with the SPRC research team in April this year to discuss their approach, our role and our key observations to date. A priority for us over the coming year will be ensuring that our oversight is informed by and complements the evaluation, especially given that some sites and initiatives are not subject to the formal evaluation process.

Economic development

In May this year we tabled a special report to Parliament, *Fostering economic development for Aboriginal people in NSW*, based on our research and consultations with Aboriginal leaders and the business community over the last 18 months. The report sets out what we believe are the key areas of reform needed to deliver tangible and sustainable improvements to economic outcomes for Aboriginal people in NSW. It recognises that the Aboriginal Economic Prosperity Framework (AEPF) currently being developed under OCHRE will provide an important platform for promoting economic independence in Aboriginal communities, and makes six recommendations to ensure it is sufficiently strong and flexible. These include that:

- the AEPF takes a tiered approach so that it provides opportunities at multiple levels including for individuals, enterprises and communities
- the AEPF clearly assigns responsibilities to relevant agencies, has authority across portfolios, and is underpinned by robust governance arrangements
- a strong and suitable body is appointed to implement the necessary changes. This could be a new entity or an existing one – as long as it has the skills, experience and clout to drive the implementation in partnership with the business community and Aboriginal leaders.

Our report also emphasised the need for the AEPF to tackle key barriers to Aboriginal people successfully participating in the economy – including higher rates of unemployment, poor educational attainment, comparatively high rates of incarceration, financial exclusion and low rates of home ownership. At the same time, there are considerable existing opportunities to enhance Aboriginal economic development. These include unprecedented infrastructure investment, the unique assets held by Aboriginal communities such as land and social capital, an appetite for collaboration and

partnership among the corporate and NGO sectors, a solid Aboriginal business sector and entrepreneurial capacity, and supportive government procurement policies.

In July 2016, the NSW Legislative Council Standing Committee on State Development issued a discussion paper based on submissions and evidence it has received to its inquiry into economic development in Aboriginal communities. The discussion paper draws on our submission and previous work in this area, and reflects a number of our key recommendations. The Deputy Ombudsman (Aboriginal Programs) was asked to assist the Committee identify specific actions to recommend to government through participating in a panel discussion on 18 August, focusing on the 'big picture' of systemic policy reform. Two other panels concentrated on land, and capacity building respectively. The committee is due to report by 30 September 2016. As the agency with responsibility for coordinating the implementation of OCHRE, including the AEPF, the Department of Education is due to respond to our recommendations in October 2016. It is expected that the AEPF will be finalised during the next 12 months.

This year we also facilitated collaborations aimed at achieving practical economic outcomes. For example, we assisted Westpac Bank and the Murdi Paaki Regional Assembly (MPRA) to reach a working partnership strategy under the MPRA LDM Accord. This is the first private sector agreement struck by MPRA and will enable it to secure support for its members and residents – including mentoring, financial governance training, microfinance services, financial literacy training, and home ownership advice and support. We also introduced the NSW Indigenous Chamber of Commerce to Efic, Australia's export credit agency, to broaden the access of Aboriginal businesses to loans for export markets.

Local Decision Making

The OCHRE Local Decision Making (LDM) initiative aims to empower Aboriginal regional governance bodies (regional alliances) to make informed decisions about funding and service delivery for the local communities they represent. The aim is to progressively delegate powers to regional alliances through staged phases and accords agreed with government as capacity is proven and once pre-determined conditions are met. At the time of publication, one accord – between the NSW Government and the MPRA – was in place.

Before accord negotiations start, both the regional alliance and participating government agencies must demonstrate their readiness against self-assessment criteria set out in AA's good governance guidelines. Last year, we raised the need for regional alliances to be given clear guidance on probity standards and suggested to AA that this should be incorporated in the guidelines. AA has advised us that it intends to conduct a review of the guidelines by July 2017 to update the governance principles that must be demonstrated for the progressive delegation of powers. This review will also consider the governance and capacity requirements of government as a key enabler for supporting the progressive devolution of decision-making power to alliances. The review will be informed by targeted consultations with regional alliances and NSW Government officers participating in LDM.

During the year we consulted with representatives of the six regional alliances, both individually and through attending some meetings of the LDM Regional Chairpersons group by invitation. This gave us the opportunity to hear directly about progress, challenges and priorities in each region.

Regional alliances have told us that their staffing, skills and funding capacity do not match the work they need to do to prepare for negotiating or implementing accords. The alliances that are most progressed in the process appear to be those that can draw on a pre-existing 'backbone' organisation with administrative, secretariat, policy, legal and financial roles already in place. We note that the national Empowered Communities initiative – which includes many similar elements to the LDM initiative – provides dedicated funding for a backbone organisation to conduct the work of a representative body. Other regional alliances that have formed new entities or consortia report that they are struggling, particularly if broad community or member consultation is necessary to establish governance processes, determine priorities and map services. AA confirmed that regional alliances receive nominal resourcing to support their governance capacity and operations, which may be used for capacity building at both the regional and local levels. AA also seconds officers to work directly with Aboriginal governance bodies. We understand that, given limited resourcing, alliances have largely used funding for their operations (meetings and administration) rather than training and development.

In our ongoing monitoring, we will focus on other ways that regional alliances can be supported to discharge their responsibilities. For example, we have suggested to the Secretary of the Department of Education and the Head of AA that it is worth exploring the potential of the Jawun program. It involves seconding staff from government and corporate partners to Indigenous organisations to help those organisations achieve their development goals. AA has advised that it has since raised with departmental secretaries the option of seconding senior officers from across government to work with alliances on their operations and strategic planning, and to provide them with policy advice. We understand that AA has also met with KPMG to discuss options for practical governance capacity building, which was further explored between LDM regional alliance chairs and KPMG in August 2016. AA is planning to convene an LDM conference in November 2016 to strengthen relationships between the NSW Government and regional alliances and focus on sharing decision-making power.

Effective interaction between regional and local Aboriginal governance structures will be critical to the success of LDM, so we have continued to focus on this aspect of the initiative's implementation. In March 2016 we attended part of the MPRA regional meeting and we have also visited most of the 16 member communities of MPRA – to find out how the accord is understood and operating locally, and how regional and local priorities are aligned. In each location, community working parties (CWPs) reported experiencing many of the same capacity constraints as those at the regional level, and told us this was limiting their ability to effectively participate in the LDM initiative.

Although the Commonwealth Government has helped many of the CWPs to revise their community action plans, more than half of the revised plans failed to refer to the LDM initiative, the MPRA accord or its identified priorities. We understand that AA has developed a regional profile for the MPRA (and all regional alliances) based on available census data. NSW Treasury has also conducted spend mapping with the MPRA, but data limitations have made it difficult to provide data on specific communities. A number of CWPs indicated that this information had not been shared at the community level. There appeared to be limited awareness of OCHRE initiatives and government

strategies that might be adopted to benefit local communities. All CWP had sought secretariat assistance and capacity building to enhance their ability to participate in the LDM initiative and ensure it serves local as well as regional priorities.

AA also require regional alliances, through the staged LDM phases, to demonstrate good governance in how they will make decisions – including how they will be accountable to the broader community and cultural legitimacy. It is incumbent upon regional alliances and their member entities to ensure the arrangements are effective in practice and make adjustments where required. In considering how regional alliances may be better supported to discharge their responsibilities, AA should also seek their advice about how the regional governance structure engages with its member base and what local member entities need to participate effectively. This may include governance mechanisms which enable the participation of local members in the operation of the alliance and implementation of the accord. AA has advised us that it continues to work with CWPs to build their capacity, however – due to limited staffing resources – sometimes the level of support does not meet CWP needs and expectations. We will continue to closely monitor developments in this area.

Connected Communities

Last year we noted some promising progress and ongoing challenges for the OCHRE Connected Communities strategy. Connected Communities aims to improve educational outcomes for Aboriginal students through building partnerships between schools and their local Aboriginal communities, and giving executive principals unprecedented authority to tailor education responses to the needs of those communities. Participating schools are intended to operate as ‘service hubs’ and play a lead role in connecting Aboriginal students and their families with the supports and services they need to reduce barriers to children learning.

Progress in addressing challenges and concerns

Last year, we noted the significant challenges facing many Connected Communities locations such as Walgett. We visited Walgett several times this year and observed considerable progress, with a new leadership team in place at the school and the appointment of the Principal (Teacher and Learning) and the second Executive Principal with a sole focus on teaching and learning. The Director, Public Schools NSW has been taking a strong interest in supporting the school’s executive and intends to help them engage other services by negotiating regional-level service agreements. The school is giving priority to strategies to improve literacy, has introduced project-based learning, and is working closely with the local Aboriginal Education Consultative Group Inc. (AECG) to develop and implement a local Aboriginal cultural education program.

The Department of Education has also responded positively to concerns we raised on behalf of community members about the Connected Communities school in Wilcannia. The Director, Public Schools NSW has worked intensively with Wilcannia Central School’s executive, staff and community to implement improvement strategies focusing on leadership, school culture, and the welfare of staff and students. In Term 1, a full-time counsellor worked with the senior school psychologist on improved processes for referring students to additional services and supports.

At the time of writing there was access to a school counsellor one day per week at the school. In addition, the Department has reviewed the effectiveness of student attendance and behaviour management strategies at the school to ensure that wellbeing is prioritised. Measures have also been implemented to improve communication between the community and the school.

In March 2016, we observed the Connected Communities professional development forum attended by Executive Principals, Senior Leaders/Leaders Community Engagement, School Reference Group members and AECG representatives. The forum provided an opportunity to consider the interim findings of the evaluation by the Department of Education’s Centre for Education Statistics and Evaluation (CESE) – discussed below – and identify ways to enhance the practical implementation of the strategy. Importantly, the forum also showcased some effective approaches taken by schools not participating in the Connected Communities initiative. We witnessed a strong commitment by participants to learning from experience and sharing both challenges and successes, and understand the outcomes are being developed into an action plan for schools.

The Department of Education has recently resolved to develop and fund a flexible model for ‘transition centres’ in consultation with Connected Communities schools in Taree and Coonamble that have identified challenges for students transitioning back into the classroom from juvenile justice detention or other long periods of absence. It is expected that the model will include:

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

These transition centres are expected to be operational by the start of the 2017 school year.

Interim evaluation of Connected Communities

In early 2016, the CESE released its first evaluation report on the Connected Communities strategy, based on data and information collected in 2014 and early 2015. Many of CESE’s observations broadly aligned with those that were detailed in our last annual report. CESE highlighted a range of positive practices – including the recruitment of Executive Principals, a greater focus on Aboriginal language and culture in schools, an enhanced focus on the early years and transitions to school, and physical improvements to schools through the capital works programs – and it also identified similar challenges.

In particular, CESE found that the ‘service hub’ model was not yet operating as intended – with little evidence that participating schools are effectively connecting parents/carers and other adult community members with support services to address issues at home that are creating barriers to their children’s learning. Contributing factors identified by CESE include a lack of clarity about the model, the absence within schools of the skills needed to coordinate the model, competing priorities, and lack of cooperation by other agencies in some communities.

Like us, CESE found unmet demand for counselling and stressed the importance of addressing the prevalence and severity of trauma-related mental health issues in

Connected Communities schools. The Connected Communities Healing and Wellbeing Model announced in October 2014 – which committed \$8 million to establish a culturally responsive wellbeing model to support students, school staff and the community at each school – had not been implemented at the time of our visits nor when CESE was collecting evaluation data. The Department of Education has advised of progress made in rolling out the model over the past year. Resources were allocated to each Connected Communities school to employ additional staff to support student wellbeing. The initiative involved full consultation with the AECG and with TAFE NSW Western Institute, and an implementation plan was developed for the staff wellbeing program after piloting in one school. These are positive steps and we are keen to see that the model is addressing the significant need identified as it becomes more established.

CESE considered it was too early to conclude with any confidence that Connected Communities is having an impact on student academic outcomes, but also observed that the data presented in the report only covered the first half of a five-year strategy. CESE found some evidence of improved performance in the Best Start Kindergarten assessment and a continuation of a pre-existing upwards trend in primary school attendance rates, but no clear signs of improvement in the rate of secondary school attendance or participation or attainment in NAPLAN for students at Connected Communities schools.

Overall, the interim evaluation findings suggest a need to consolidate and further strengthen strategies to support Aboriginal students to attend, engage and achieve at Connected Communities schools. While Connected Communities is the key vehicle, other relevant measures should be leveraged as needed – such as the NSW Government's Resource Allocation Model, the Networked Specialist Centres and the Commonwealth Government's Remote Schools Attendance Strategy.

To improve service coordination, the engagement and support of other government and non-government agencies also needs to be strengthened. As we have previously observed, the success of Connected Communities ultimately depends on its ability to realise the 'service hub' model envisaged by the strategy. Although schools have a critical role to play in addressing entrenched disadvantage in vulnerable communities, they cannot effectively address the complex issues involved in the absence of a holistic, long-term, whole-of-government and community approach. Despite observing examples of positive interagency cooperation in Connected Communities locations, it is clear that a place based approach is yet to be embedded in practice in high need locations across the state.

The Department of Education has accepted all five of CESE's recommendations and moved quickly to address each one. For example, it has assigned a new Director to focus exclusively on the Connected Communities strategy apart from school operations. The Director is working with schools, local agencies and services to strengthen partnerships and better position schools as service hubs. Other priorities include fully implementing the Healing and Wellbeing Model, further clarifying the purpose of the Local School Reference Groups with their members, and working with other government departments to highlight issues for remedying place based service delivery.

Improving service delivery in high need communities

We have been advocating for the adoption of place based service delivery approaches in high-need communities since 2010, and have continued to closely monitor, and contribute to, developments unfolding in various sites across the state. The NSW Government is committed to implementing place based service delivery reforms in Aboriginal communities and, in response to our 2012 report about responding to child sexual abuse in Aboriginal communities, the Department of Premier and Cabinet (DPC) is leading these reforms through its Service Delivery Reform Initiative.

In 2015–16 we focused our monitoring on the work taking place across a number of OCHRE sites, including the DPC's Far West Initiative and the collaborative approaches being used in Bourke and Coonamble – both Connected Communities school sites – and on the Central Coast, which is covered by the Barang Local Decision Making initiative.

The Far West Initiative is the main vehicle DPC is using to examine a new whole-of-government model for service delivery and governance in far west NSW. In February 2015, the DPC released a paper summarising its consultations so far. In August 2016, the Office of Local Government released a consultation paper seeking feedback on a proposed regional statutory body in the Far West to enable a more coordinated and strategic approach to governance, service delivery and infrastructure development in the region. We will continue to track progress closely.

FACS is also playing a critical role in leading service reform, and over the last year has launched 'co-design projects' in a number of its districts. These projects bring together stakeholders to develop solutions that respond to the specific needs of local communities – with a particular focus on improving outcomes for vulnerable children and their families.

Central Coast

In November last year, the Central Coast district commenced trialling the multi-agency local intake and service point centre, staffed by the departments of FACS, Education and Health with input from the NSWPF. The centre aims to provide better service responses, including more comprehensive and timely joint assessments of child protection reports that are diverted from the central child protection helpline. If risks do not require a statutory response and it is appropriate to do so, intake staff will assist reporters to explore options for continuing to support the child and family. For reports that do not meet the risk of significant harm threshold – nearly half of all reports received in the district – staff work with other co-located services to respond quickly to support families and prevent them from having to tell their story multiple times. This approach is intended to free up caseworkers to deal with the most serious cases. Our consultations have revealed that results so far are promising.

The December 2015 report on the Legislative Council Standing Committee on Social Issues' inquiry into service coordination in communities with high social needs included a recommendation that the NSW Government evaluate the Central Coast co-design project. In response, the

government indicated that DPC would coordinate a review of the project which would inform a broader examination of how the Central Coast model could be adapted and rolled out in other locations. The work unfolding in Bourke and Coonamble which we discuss below, is also consistent with the Standing Committee's key recommendation to government that it engage in collaborative decision-making around planning and funding in communities with high social needs – an issue we have repeatedly raised in our public reports on improving service delivery.

Coonamble

FACS has recently launched another co-design project in Coonamble. This project aims to give clients the help they need regardless of how they may have accessed the service system – by getting services to work together to deliver an integrated response that removes duplication and fills service gaps. For many years, the Coonamble community has reported concerns about not being well served by the mostly drive-in/drive-out services from other larger regions. We know from our monitoring of the Connected Communities strategy that Coonamble has a number of strengths – including the positive gains made by both its primary and secondary schools in engaging services to support students and their families, and the strong leadership shown by its Aboriginal community working party. We were asked to participate in the first meeting of the project steering committee in July. This committee, which includes community representatives, will guide the development of a new service model and decide how resources should be allocated to respond to identified community need.

Bourke

We have continued to closely track and provide advice on the work government agencies are doing with the Bourke community – which last year saw the launch of the state's first joint community and agency family referral service. Since profiling this work, the Premier has appointed the FACS Minister as Government Champion for Bourke and recently established a new cross-sector leadership table to support the Maranguka Justice Reinvestment project. This group includes senior leaders from all sectors and aims to foster collaborative action around the project's main goals – reducing Aboriginal incarceration and creating a safer community.

In June 2016, we attended the first meeting of the cross-sector leadership table in Dubbo. The meeting considered the Bourke community's *Growing our kids up safer, smart and strong* strategy – which sets out the areas where they want to see better outcomes for their young people. The document includes a number of strategies and measures for delivering on the stated goals. We suggested that it was important for agencies to have a greater 'buy-in' to setting the proposed strategies and measures put forward by the community, so that – as far as possible – agencies and the community were working towards the same objectives and maximising their collective expertise, resources and efforts.

The cross-sector leadership table agreed with our suggestion and asked us to facilitate a meeting with senior regional agency staff to discuss this issue with them. That meeting, held 13 September 2016, also focused on a FACS proposal to kick-start a joined up service approach by

adopting 'one case plan and one caseworker' for vulnerable young people in Bourke at risk of entering the justice system. The aim is to reduce the current complexity and fragmentation of services. It is hoped that if the approach delivers some 'early wins', it will provide a strong platform for driving broader service sector reforms in Bourke.

Overall it is important to recognise that this type of innovative work poses significant challenges for agencies and communities alike. It is therefore critical that participants are given 'permission to fail' and the opportunity to refine practice over time – including allowing lessons learnt to inform implementation along the way and in other locations.

Opportunity Hubs

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

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

This year we wrote to the lead agency for the initiative, Training Services NSW, to advise it of key systemic issues and good practices we have identified from our consultations with hub service providers and stakeholders over the past year. For example, some hubs are trying to serve a broad catchment with a large number of schools, and this may limit the extent of intensive or individualised support they are able to provide to students. We suggested that Training Services NSW encourage the hubs to identify and target high needs and/or hard-to-reach students in a particular school network, as well as any gaps and value-adding they can deliver over and above what certain schools are already providing to their Aboriginal students. We also suggested that Training Services NSW and the Department of Education better coordinate their efforts to support schools to engage with hubs, including pointing out the benefits in doing so. We noted that the key performance indicators in the contracts with hub service providers may need adjusting to encourage a focus on optimising outcomes rather than maximising outputs.

Throughout the year we were also able to offer practical assistance in response to requests from individual hubs. For example, we helped one hub which was struggling to reach Aboriginal students at Catholic schools in its region. After we raised the issue with Training Services NSW, it met with the relevant Catholic Diocese to outline the hub initiative and benefits for Aboriginal students, and secured a commitment to facilitate Catholic school participation. We also introduced the Campbelltown Hub to representatives of the Dorchester Juvenile Justice Education Training Unit and understand that this has led to the hub increasing its activities with Aboriginal students in detention.

Aboriginal Language and Culture Nests

The OCHRE Aboriginal Language and Culture Nests are intended to be a vehicle for Aboriginal people and communities to reclaim, revitalise and maintain their traditional Aboriginal languages. During the year we continued to liaise closely with the Department of Education

and the AECG, which are jointly leading the initiative. We also visited three nest sites in Lightning Ridge, Wilcannia and Coffs Harbour – building on earlier visits to nests last year.

We reiterated to the Department of Education our concerns about the ongoing delay in filling nest coordinator roles and its impact on the success of this initiative. It advised us that tendering issues, intellectual property matters and staffing shortages contributed to the delay. We understand that the department recently settled a contract with the AECG to auspice the nest coordinators (now called advisors), and manage and resource keeping places to house language and cultural resources. Under this arrangement, the AECG will be responsible for ensuring each nest has its own advisor, increasing the provision of tutors for students in schools, formalising community involvement through local reference groups, and supporting the functions of community-endorsed keeping places. It will be important to ensure that local reference groups respect existing cultural leaders while enabling representation from a broad cross-section of each community.

The Department of Education has also agreed with our suggestion to develop comprehensive guidelines for nest staff about their responsibilities, lines of accountability, and expenditure of funds. After consultation with key stakeholders, the department intends to provide updated guidance to nests later this year.

Finalising the advisor roles, governance structures and keeping places over the coming year will enable a concentrated focus on the language and cultural outcomes sought through nests. The department advises that over 5,000 students – both Aboriginal and non-Aboriginal – within the nest areas are now studying Aboriginal languages and, from this year, students in Year 11 and 12 will be able to study Aboriginal languages for the Higher School Certificate. Although we have not independently reviewed relevant data, this appears to be a very strong basis to further grow the work of the nests.

We also welcome the Department of Education's recent focus on identifying good practices in areas where there has been significant growth, and considering innovative ways of delivering language initiatives across broad geographical regions. It is important for the department to learn from and support promising approaches wherever these emerge – including community-led initiatives such as the Wiradjuri language smart phone 'app' we profiled in last year's annual report. We have also emphasised the opportunity for collective or complementary support for local language initiatives if the Commonwealth and NSW Governments better coordinate their respective programs – including those serving adult learners outside of schools. We have made the relevant introductions required to kick-start those conversations.

Healing

NSW is the first state to incorporate healing into its Aboriginal affairs policy, recognising the intergenerational trauma and loss inflicted on Aboriginal people by colonisation and previous government policies – particularly the forced removal of children from families. OCHRE includes a commitment from the NSW Government to advance the dialogue with Aboriginal communities, policy practitioners and service providers about healing and to develop responses informed by evidence of good practice. The

Aboriginal and Torres Strait Islander Healing Foundation defines healing as restoring and reaffirming an individual's sense of pride in cultural identity, connection to country and participation and contribution within the community through spiritual, emotional and social wellbeing. Healing activities may take many forms, including strengthening connection to country and culture, individual counselling services, support groups, and healing centres.

Following a statewide healing forum coordinated by AA and the Healing Foundation in July 2014, these organisations will work with Aboriginal communities during 2016–17 to develop a further six OCHRE healing forums in locations where communities have indicated they are ready to have a discussion with government about healing. The forums are aimed at identifying local/regional issues and building local partnerships for healing. We understand that each forum will be co-designed by community-based local planning committees, supported by the Healing Foundation and AA, and that forum participants will include government, local community and non-government stakeholders. AA advised us that each forum is expected to be led by reference groups made up of community representatives; forum outcomes will be documented; the Healing Foundation will evaluate the forums; and the implementation of commitments will be monitored. It is anticipated that the first forum will be held in December 2016, however this will be dependent on site readiness.

In June 2016, the Legislative Council General Purpose Standing Committee No. 3 issued *Unfinished Business*, the final report of its inquiry into reparations for the Stolen Generations in New South Wales. The report recommended that the NSW Government:

- establish a reparations scheme
- provide funding for collective healing initiatives, programs, forums and community centres
- consider increasing the number of Aboriginal language and culture nests under OCHRE.

The government response to the committee inquiry report is due by the end of 2016.

Although we recognise the importance of Aboriginal-led strategies for healing and the need for government to respect the approaches and pace set by community members, we also note that clear directions emerged from the statewide forum in 2014 and, more recently, in evidence to the committee inquiry. Healing requires a whole-of-government and place based approach tailored to local priorities, directed by Aboriginal people and delivered through a strong community-controlled sector. The co-design approach for the regional forums is a positive step. Community healing strategies should also be supported. Given the OCHRE evaluation will not specifically examine healing, it will be critical that AA takes a strong lead in influencing government stakeholders to understand healing and adopt trauma-informed approaches in their areas of responsibility, and carefully monitor the outcome of approaches taken. We will also continue to scrutinise actions taken to respond to this critical area of need and the resulting outcomes for individuals, families and communities.

Solution brokerage

In March 2015, AA assumed a 'solution brokerage' function under OCHRE. A specific Premier's Memorandum gives administrative power to the head of AA to declare an issue

for solution brokerage if it is deemed that no agency has a clear mandate to resolve it, the issue has whole-of-government implications, or the issue is otherwise identified by the Secretaries Board. NSW government agencies are expected to work flexibly with AA and to collaborate with Aboriginal communities, non-government organisations and other tiers of government to find practical solutions to declared issues.

To ensure AA's limited resources are applied effectively and efficiently in this area, an issue can only be declared for solution brokerage if specified criteria apply – including that it can be resolved within six months using existing agency resources. To date, three issues have been declared:

- developing an integrated early childhood service model for the Murdi Paaki region, as reflected under the MPRA LDM Accord
- resolving land and economic participation issues for the Eden Local Aboriginal Land Council
- coordinating land use planning and municipal infrastructure in 61 discrete Aboriginal communities, and addressing barriers to economic development on Aboriginal owned lands – referred to as the Aboriginal Community Land and Infrastructure Project or ACLIP.

AA has indicated that the strong commitment by Aboriginal leaders to resolving these issues in partnership with government has been key to early successes, and that their formal solution brokerage role is encouraging agencies to work in a new way to solve problems.

For the model to operate effectively, we agree with AA's observation that lead agency representatives must have sufficient subject matter knowledge, capacity and authority to commit to and drive the implementation of practical changes. Responsibility for resolving issues should not automatically default to AA and/or Aboriginal staff (who are not otherwise involved) in partner agencies. Our experience over many years has shown us that a lack of adequate governance and accountability – including a failure to clearly delegate responsibility to individuals with sufficient authority – are critical obstacles to achieving genuinely integrated responses.

AA has found there has been value in connecting solution brokerage activities to existing accountability mechanisms – such as the LDM accords that require government agencies to respond to regional and community priorities. AA also plans to make some immediate adjustments to the solution brokerage model based on early implementation experiences. These include appointing a back-up for the lead officer, ensuring a greater investment in time to prepare before declaring an issue, bringing together the lead officers for each declared issue to share learnings, extending projects beyond six months if required, and promoting solution brokerage to Commonwealth and local governments to support their engagement.

These appear to be sensible practical adjustments. It will also be important for AA to consider whether the solution brokerage criteria are effective in enabling the most suitable issues for resolution to be declared and equipping AA to drive an outcomes-focused interagency response. There may be a need to revisit the criteria to enable the function to be more flexibly employed at AA's discretion when significant issue arise.



In this chapter

Workshops 131
Community education and training 133

This chapter of the report outlines our community education and training work. This work is supported and driven by our strategic projects division. We design our training to help agencies and other service providers to improve their administrative conduct, decision making and service delivery. We also provide training and awareness courses to consumers of community and disability services, their families, carers and advocates. We strive to ensure our training and education activities are relevant, useful and informative.

Community education and training

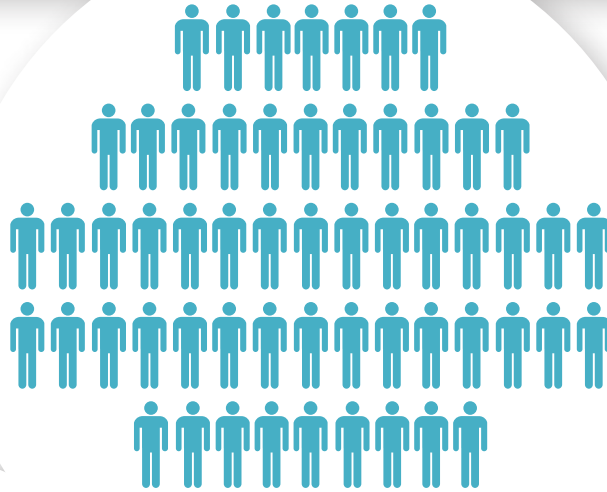


Highlights

In 2015–16, we

- Delivered 307 workshops to 6,317 people across the state.
- Delivered 55 workshops to AHDC staff – 19 x Handling serious incidents in the disability sector and 36 x Responding to serious incidents in the disability sector – and delivered tailored training on handling serious incidents to 12 non-government disability service providers.
- Developed a new training program aimed at supporting young people to make complaints and advocate for systemic change.
- Generated an increase in requests for our employment-related child protection training after our Reportable Conduct Forum in February, which attracted 800 representatives from a broad range of organisations.
- Renewed ‘train the trainer’ licences for a frontline government agency and a large disability service provider to deliver our complaint handling workshops.

6,317 participants



138

Community education activities

445
workshops

307

Training workshops

workshops for ADHC staff

Handling serious incidents in the disability sector

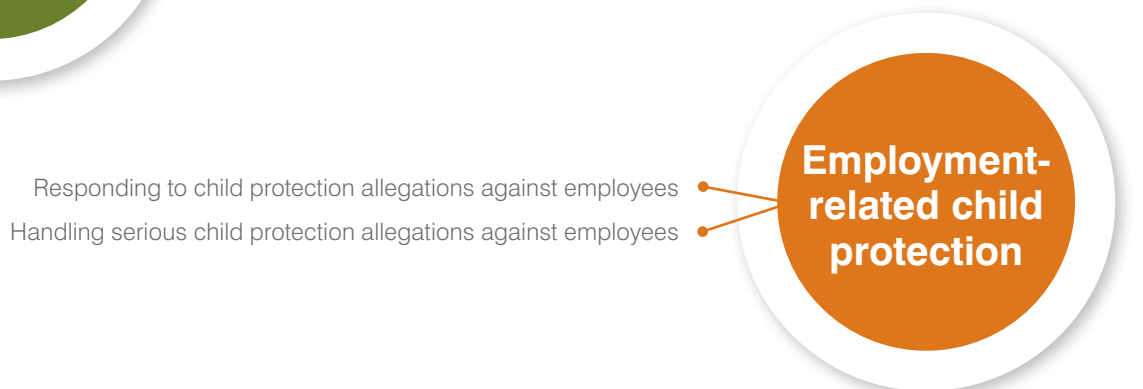
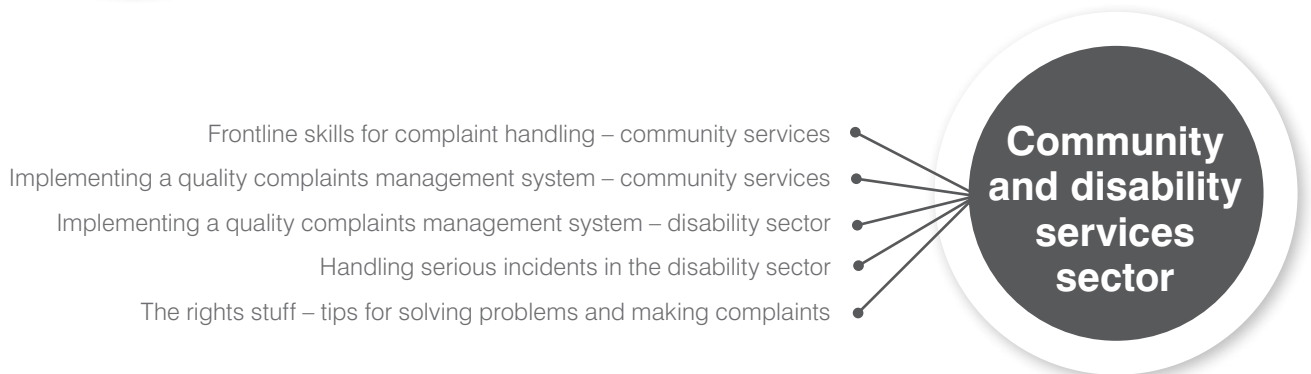
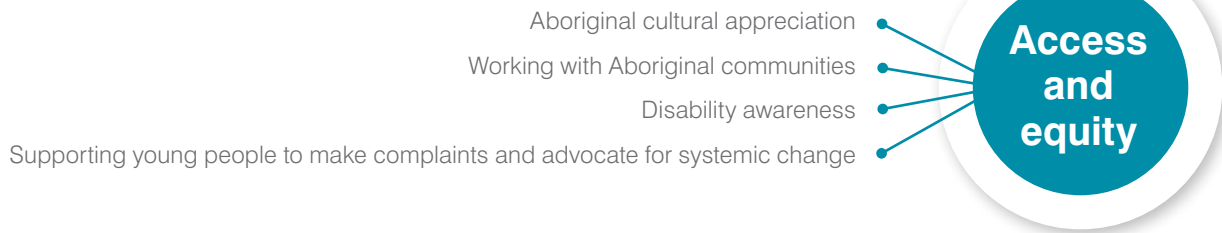
19

55

36

Responding to serious incidents in the disability sector

Workshops



Feedback about our training

Participants consistently rate our training workshops very highly, complimenting the practical relevance of the content and the expertise of our trainers. This year 94% of participants completed evaluations for our in-house training.

98.2
%

rated our training
as excellent/good.

98
%

rated our trainers
as excellent/good.

97.1
%

would recommend
our training to others.

97.7
%

strongly agreed/agreed they could
implement what they had learnt at
our training in their workplace.

Aboriginal cultural appreciation

'The personal stories were great and really made the history clearer.'

*'Great to have trainers with lived experience and not just textbook theory.
We can understand the context from an Aboriginal perspective.'*



Managing unreasonable complainant conduct training

'Extremely knowledgeable and experienced trainer using relevant examples and anecdotes and referring to relevant legislation. Good understanding of agency process.'

Investigating misconduct training

'Trainer is an absolute wealth of knowledge. All content very well communicated and delivered. Content would be relevant to both NGOs and public sector.'

Community education and training

Our community education and training program is based on over 40 years expertise we have as an oversight body. It is the largest such program of any Australian parliamentary Ombudsman. We strive to be leaders in developing tailored and highly relevant training for both government and non-government staff. We have workshops targeted to NSW public sector agencies, non-government organisations, federal and local government agencies, and other oversight bodies – including Ombudsman offices in Australia and overseas.

Our training aims to improve administrative conduct, facilitate fair decision-making, and ensure high standards of service delivery by providing participants with critical knowledge and practical skills.

We also offer workshops to people who access community services. We work hard to ensure vulnerable people are aware of their rights and can access the services and supports available to them. Our workshops provide important messages about the standards consumers should expect from service providers and practical tips for effectively dealing with agencies and resolving problems.

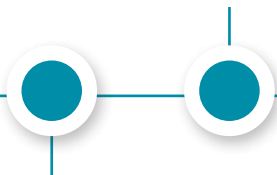
Our experienced trainers deliver workshops in a dynamic and inclusive way, by encouraging questions and discussion of issues that are important to individual participants. To ensure our training program remains informative and relevant, we continue to refine it based on valuable feedback from workshop participants.

This feedback also informs our broader complaint-handling, investigative and systemic work. We continually review and update our training course materials to reflect changes in policy and legislation.

Handling serious incidents training

'Gained a vast knowledge which will be very helpful in my role. Became more aware/informed of the legislation/reporting guidelines. Better understanding of what needs to be reported and to whom.'

'The best training I have been to, trainer made it very interesting. Makes a difference when trainers know their subject.'



Effective complaints management

'The most knowledgeable and engaging presenter I've dealt with in many years; passionate, articulate and practical.'

Complaint handling for frontline staff training

'Great workshop – the real case experience was very valuable.'

'The best speaker we have ever had; entertaining and well presented; highly intelligent and informative.'

A new training program

Supporting young people to make complaints and advocate for systemic change

We are committed to helping young people to access our services. Our youth liaison officer (YLO) plays an important role in promoting the assistance we can give to young people and the workers who support them, as well as providing advice about individual complaints. By regularly engaging with youth services and peak bodies, the YLO is also well placed to identify systemic issues of concern for young people, which informs our broader work to improve service delivery to vulnerable groups in the community.

This year we developed a new training workshop – *Supporting young people to make complaints and advocate for systemic change*. This workshop, delivered by our YLO, is aimed at frontline staff from organisations that work directly with children and young people – such as neighbourhood centres, out-of-home care and youth support services. It is also being delivered to TAFE students doing courses in community services and youth work, and to international students attending Intensive English Centres operated by the Department of Education.

Each workshop is tailored to suit the needs of individual services. It provides user-friendly information about the role of the Ombudsman as well as empowering young people to make complaints when they have a problem with a service. Participants also receive tips about how they can effectively advocate for systemic change for young people.

Uptake of the training has been steadily increasing, with each workshop providing us with a valuable opportunity to hear from service providers about the most pressing issues affecting young people in their local area.

Feedback from this training has been very positive, with 99% of participants rating the training as good or excellent and 100% indicating they would recommend the training to others. Participants found the training to be practical, helpful, and relevant to their roles in supporting young people to make complaints. Young people attending the session have also benefited from attending:

'As a young person, I now feel a bit more comforted/supported knowing I do have other rights and they are being listened to.'

Figure 58: Training and education activities

	11/12	12/13	13/14	14/15	15/16
Number of training workshops	427	194	219	317	307
Number of community education activities	170	118	118	85	138
Total	597	312	312	402	445

Note: The significant rise in 2011–12 training figures was due to our new responsibility that year for promoting awareness and understanding of the changes to the Public Interest Disclosures Act.

A wide range of workshops and activities

Our workshops and activities are designed to meet the needs of different audiences and can be tailored if required. They cover most of the subject matter that our office deals with as part of our statutory complaint handling, oversight and monitoring functions. We publish a complete list of our workshops and events on our website, with a description of the content and the cost, along with a calendar of planned events.

We deliver most of our training on a fee-for-service basis. This enables us to continue to develop our training offerings and use highly skilled and passionate presenters, without compromising the Ombudsman's statutory complaint handling, oversight and monitoring functions.

Figure 57: Types of training workshops

Matters	Workshops	Participants
Complaint-handling and negotiation skills	115	2,290
Revised Australian Standard for complaint management	4	54
Public interest disclosures	59	1,494
Community and disability services	70	1,364
Access and equity	15	270
Workplace child protection	12	237
Investigation skills	15	251
Supporting young people to make complaints	12	242
Other (eg international delegation)	5	115
Total	307	6,317

Community education

Working with young people

During Youth Week (8–17 April) this year we travelled to Gunnedah in north-east NSW, where our YLO held an information stall at the Gunnedah Youth Expo and a forum for Gunnedah Shire Council's youth councillors. Both events gave us the opportunity to promote our complaint-handling and broader systemic work to improve outcomes for vulnerable children and young people. The YLO also delivered our new training workshop, *Supporting young people to make complaints and advocate for systemic change* to local service providers.

We also held an internal Youth Week event at which our staff were addressed by Tracy Howe, CEO of the NSW Council of Social Services (NCOSS), about the current work of the COAG Advisory Panel on Domestic and Family Violence to reduce the devastating impact of this crime on women and children.

During the year, our YLO also:

- visited the Juniperina, Cobham and Orana juvenile justice centres with our custodial services unit
- held information stalls for detainees at the Juniperina and Cobham Juvenile Justice Centre Expos
- delivered workshops about our role to newly arrived people from a range of culturally and linguistically diverse communities
- surveyed children at the Parramatta and Bidura Children's Court as part of our review of changes to Part 15 of the *Law Enforcement (Powers and Responsibilities) Act 2002*
- attended a range of youth-related forums and conferences, and delivered information sessions for youth service providers at 10 interagency meetings across the state
- liaised with the NSW Police Force's youth officers and approved victims support counsellors employed by the Department of Justice to raise awareness about our work with young people.

Sharing information about what we do

This year we gave presentations and provided information about our work at a number of forums, conferences and other events. These included:

- a half day complaint handling workshop for staff from Aboriginal Affairs central and regional offices in March 2016 – including tailored information about our jurisdiction, processes and expectations through case studies and comparative data
- an information session about frontline complaint handling at the National Disability Services Regional Support Worker Forum at Homebush in May 2016
- a workshop in June 2016 for staff from the Fair Work Ombudsman about managing unreasonable complainant conduct

- presentations about our role to agencies and consumers of services – including to SydWest Multicultural Services, Probus groups, central coast HSC students and other community groups and services
- an information stall and event sponsorship at the NCOSS Festival for Civil Society in October 2015
- a presentation about our role to the FACS Sydney and South East Sydney Aboriginal Staff Practice Forum in October 2015.

Our senior staff also attended a number of events to share information about the work we do, particularly in the child protection and disability areas. For example, we:

- gave a presentation on good practice in relation to handling reportable conduct and critical incidents in out-of-home care at the AbSec forum in November 2015
- addressed the Western Sydney Vocational Support Network (WSVSN) Steering Committee – which supports school leavers with disability to access both employment and prevocational education and training programs – about our disability rights project and the broader role of our office on 26 May 2016 at the University of Western Sydney
- briefed the NSW Legal Assistance Forum Education Working Group in February 2016 about our work in relation to improving educational outcomes for vulnerable children and young people.

For more information about our community education activities, please see the Working with Aboriginal communities chapter.

Developing new resources

This year we have developed or started work on a range of new resources. These include:

- A video to strengthen the understanding of government agencies and disability service providers about the key components of person-centred complaint handling.
- A new version of our Rights Stuff Toolkit to reflect the changes occurring due to the rollout of the National Disability Insurance Scheme.
- A guide for practitioners about best practice in responding early to serious disability incidents, plus corresponding training materials.
- A fact sheet for councils about the findings of our audit of local government complaint handling, including tips for good practice.
- A fact sheet about the findings of our audit of complaint handling by government departments and authorities.
- A revised version of our Effective Complaint Handling Guidelines will be released in late 2016.



In this chapter

Our financials	137
Independent auditor's report	141
Financial Statement	143

This chapter of the report contains our financial statements for 2015–2016 and a discussion of their contents. These statements, the supporting documentation and our systems and processes have been reviewed by the Audit Office of NSW. We received an unqualified audit report.

Our audit and risk committee continued its role of providing assurance to the Ombudsman that our financial processes comply with legislative and office requirements.

Financials

Our financials

The financial statements that follow provide an overview of our financial activities during 2015–16. These statements, our supporting documentation, and our systems and processes have all been reviewed by the Audit Office of NSW. We received an unqualified audit report.

Most of our revenue comes from the government in the form of a consolidated fund appropriation. Our consolidated fund allocation for 2015–16 was \$24.147 million. The government also provided \$1.941 million for certain employee entitlements such as defined benefit superannuation and long service leave. We received \$175,000 for our capital program, which was spent on a range of items including computer hardware.

In addition to our consolidated fund allocation, we received a number of specific purpose grants totalling \$6.167 million. This included funding for Operation Prospect, our disability reportable incident function, our Aboriginal programs role, the disability rights project and to fund redundancies.

The implementation of Treasury's cash management reforms – which require all non-restricted cash and cash equivalents in excess of a readily assessable short-term level to be held within the Treasury Banking System – affected our financial position. This year we were required to use our own cash before recurrent funding was provided by government and, with the influx of grant funding and self-generating revenue, our recurrent allocation was \$1.935 million less than budget. Some of our grant funding was for projects extending over financial years, so we were required to seek approval from Treasury to carry forward funds to 2016–17. This approval will be shown in our appropriation in 2016–17. Another consequence of the cash management reforms is our negative 'net result'.

We continue to have 'saving' initiatives deducted from our budget allocation and we have a range of strategies to deal with our budget pressures – including cutting staffing costs and generating revenue through fee-for-service training. Cutting staff costs in particular has an impact on the delivery of our services to the public.

Our audit and risk committee (ARC) continued to provide assurance to the Ombudsman that our financial processes comply with legislative and office requirements. For more details about our ARC, please see the corporate governance section on page 20.

In line with the NSW Government's commitment to improve financial management in the public sector, we continued to review our internal accounting practices as well as the quality of information we provide to NSW Treasury. This year we have actively engaged with NSW Treasury to provide feedback or obtain information on its financial management transformation initiatives, which often require us to review our processes or procedures. One such project was mapping our chart of accounts to Treasury's new online reporting database PRIME.

Following recommendations from previous audits, we continued to improve our fixed asset procedures. Our compliance with taxation and superannuation obligations was reviewed as part of our internal audit program. We actively discuss issues with both internal and external audit and, if necessary, with our ARC.

The Ombudsman receives funding from the NSW Government. Although we account for these funds on an office-wide basis – as reflected in our financials – internally we allocate them between our three business branches, the strategic projects division and corporate. The NSW state budget reports expenses and allocations against service groups. We have one service group – 'Complaint Advice, Referral, Resolution or Investigation'.

Revenue

Most of our revenue comes from the government in the form of a consolidated fund appropriation. This is used to meet both recurrent and capital expenditure. Consolidated funds are accounted for on the statement of comprehensive income as revenue, along with the provision that the government makes for certain employee entitlements such as long service leave.

Our 2015–16 final recurrent consolidated fund allocation was \$24.147 million. Included in this allocation was \$1.225 million for our review of the implementation of new police powers (see page 50). Figure 61 shows the amount provided for our legislative reviews over the last four years. Funding for legislative reviews represents about 5.07% of the Ombudsman's 2015–16 recurrent allocation.

In 2015–16 we budgeted that the Crown Entity would accept \$944,000 of employee benefits and other entitlements. However, the actual acceptance was \$1.941 million. This variance is primarily due to actuarial adjustments for the net present value of our long service leave liability.

We were allocated \$1.3 million for our capital program, but only spent \$175,000. We had scheduled to complete our office fit-out but – with the announcement that the Ombudsman's policing jurisdiction was transferring to a new agency – we deferred our fit-out upgrade until we could consider our ongoing accommodation needs.

This year we received \$6.167 million in grants including funding for Operation Prospect (see page 47), our disability reportable incident function (see page 105), our Aboriginal programs role (see page 121), the disability rights project (see page 110) and to fund redundancies.

We generated \$1.081 million, primarily through our fee-for-service training courses. We needed to adopt a proactive approach to generating revenue to help us with ongoing budget pressures. By coordinating our activities and identifying training needs in agencies and the non-government sector, we have increased our revenue base and used these funds to support our core work as well as enabling us to undertake more proactive project work. See figure 59. There is a breakdown of our revenue, including capital funding and acceptance of employee entitlements, in figure 60.

Figure 59: Revenue from other sources

	\$'000
Workshops and publication sales	1,063
Bank interest	1
Grants and contributions	6,167
Other revenue	17
Total	7,248

Figure 60: Total revenue 2015–16

	\$'000
Recurrent appropriation	24,147
Capital appropriation	175
Acceptance of certain employee entitlements	1,941
Total government	26,263
From other sources	7,248
Total	33,511

Figure 61: Legislative reviews

	\$'000
2011–12	843
2012–13	1,457
2013–14	1,336
2014–15	1,177
2015–16	1,225

Expenses

Most of our revenue is spent on employee-related expenses such as salaries, superannuation entitlements, long service leave and payroll tax. Our statement of comprehensive income shows that last year we spent \$28.565 million – or 83.04% of our total expenses – on employee-related items.

Salary payments to staff were just over 11.3% higher than the previous year. This was due to a combination of factors – including the public sector wage increase and the employment of additional staff for our new disability reportable incident role.

Our long service leave expenses increased by \$468,000 while our workers compensation costs were \$53,000 lower than the previous year, due to improved fund performance and our management of claims.

The day-to-day running of our office costs us about \$4.9 million. Our significant operating items are rent (\$2.098 million), fees (\$904,000), travel (\$447,000), maintenance (\$259,000), training (\$163,000) and contractors (\$243,000).

There were five consultants engaged during 2015–16 as detailed in figures 63 and 64. There was one consultancy over \$50,000. The amounts reported include GST, but the amount for consultants reported in our financial statements excludes GST.

Figure 62: Consultancies valued at less than \$50,000

Category	Count	Cost \$*
Management services	4	63,452
Total		63,452

*figure rounded to whole dollars

Figure 63: Consultancies valued at \$50,000 or more

Category	Consultant	Nature	Cost \$*
Management services	Australian Institute of Health & Welfare	Geospatial research and analysis (services over two financial years – total cost \$98,553)	73,915
Total			73,915

*figure rounded to whole dollars

The financial statements show that \$932,000 was expensed for depreciation and amortisation. Although capital funding is shown on the operating statement, capital expenditure is not treated as an expense – it is reflected on the balance sheet as Non-Current Assets.

Figure 64: Total expenses 2015–16

Expenses category	\$'000
Employee-related	28,565
Depreciation and amortisation	932
Other operating expenses	4,903
Total	34,400

We have an accounts payable policy that requires us to pay accounts promptly and within the terms specified on the invoice. However, there are some instances where this may not be possible – for example, if we dispute an invoice or do not receive it with enough time to pay within the specified timeframe. We therefore aim to pay at least 98% of our accounts within the specified timeframe.

We identify small business vendors to ensure that payment timeframes are within the Government's policy commitment. If agencies – including our office – fail to pay invoices to small businesses on time, a penalty fee is paid. Figure 65 provides details of our accounts paid on time. As figure 65 shows, we had four invoices to a small business that were not paid on time. Short turnaround times of invoices can have an impact on our performance.

During 2015–16 we paid 98.93% of our accounts on time. We have not had to pay any penalty interest on outstanding accounts.

Figure 65: Performance indicator: Accounts paid on time – all suppliers

Measure	Sep 2015	Dec 2015	Mar 2016	Jun 2016	Total
All suppliers					
Number of accounts due for payment	701	645	587	690	2,623
Number of accounts paid on time	690	635	581	689	2,595
Actual % of accounts paid on time (based on number of accounts)	98.43%	98.45%	98.98%	99.86%	98.93%
Dollar amount of accounts due for payment	2,921,936	2,400,615	1,815,029	3,201,146	10,338,725
Dollar amount of accounts paid on time	2,887,040	2,389,925	1,799,172	3,200,836	10,276,973
Actual % of accounts paid on time (based on \$)	98.81%	99.55%	99.13%	99.99%	99.40%
Number of payments for interest on overdue accounts	0	0	0	0	0
Interest paid on overdue accounts	0	0	0	0	0
Small business suppliers					
Number of accounts due for payment to small businesses	37	37	19	44	137
Number of accounts due to small businesses paid on time	37	36	19	44	136
Actual % of small business accounts paid on time (based on number of accounts)	100%	97.30%	100%	100%	99.27%
Dollar amount of accounts due for payment to small businesses	30,134	37,137	35,692	55,909	158,871
Dollar amount of accounts due to small business paid on time	30,134	32,190	35,692	55,909	153,924
Actual % of small business accounts paid on time (based on \$)	100%	86.68%	100%	100%	96.89%
Number of payments to small businesses for interest on overdue accounts	0	0	0	0	0
Interest paid to small business on overdue accounts	0	0	0	0	0

Note – this table does not include direct salary payments to staff, but it does include some employee-related payments such as payments to superannuation funds.

Assets

Our statement of financial position shows that we had \$6.479 million in assets at 30 June 2016. The value of our current assets decreased by \$1.922 million from the previous year, while non-current assets decreased by \$665,000.

Just under 53% of our assets are current assets, which are categorised as cash or receivables. Receivables are amounts owing to us – they include fees for services that we have provided on a cost recovery basis, and GST to be recovered from the Australian Taxation Office. Our receivables also included lease incentive receivables of \$1.333 million, but unlike last year there was no recoupment of fit-out costs receivable. Also included in receivables are amounts that we have prepaid. We had \$516,000 in prepayments at 30 June 2016. The most significant prepayments were for rent and maintenance renewals for our office equipment and software support.

Our cash assets increased by \$255,000. This was despite the implementation of Treasury's cash management reforms which require all non-restricted cash and cash equivalents in excess of a readily assessable short term level to be held within the Treasury Banking System. Even with this requirement, our influx of grant funding for projects extending over financial years increased our cash at bank – but resulted in us receiving less recurrent funding than

budget. We sought approval from Treasury to carry forward funds to 2016–17. This approval will be shown in our appropriation in 2016–17.

Our non-current assets, which are valued at \$3.053 million, are categorised as:

- plant and equipment – this includes our network infrastructure, computers and laptops, fit-out and office equipment
- intangible assets – these include our network-operating and case management software.

We were allocated \$1.3 million in 2015–16 for asset purchases, but only spent \$175,000. We had expected to finish our fit-out refurbishment using both capital funding and our lease incentive, but this project was put on hold after the announcement that our policing function will be transferring to a new agency. As we need to reassess our accommodation requirements, we sought approval to transfer \$1.125 million capital funds to the 2016–17 financial year.

Figure 66: Analysis of accounts on hand at the end of each quarter

Measure	Sep 2015 (\$)	Dec 2015 (\$)	Mar 2016 (\$)	Jun 2016 (\$)
All suppliers				
Current (ie within due date)	143,451	292,136	146,586	168,971
Less than 30 days overdue	-	-	-	-
Between 30 days and 60 days overdue	-	-	-	-
Between 60 days and 90 days overdue	-	-	-	-
More than 90 days overdue	-	-	-	-
Total accounts on hand	143,451	292,136	146,586	168,971
Small businesses				
Current (ie within due date)	-	-	457	-
Less than 30 days overdue	-	-	-	-
Between 30 days and 60 days overdue	-	-	-	-
Between 60 days and 90 days overdue	-	-	-	-
More than 90 days overdue	-	-	-	-
Total accounts on hand	0	0	457	0

This table does not include credit notes.

Liabilities

Our total liabilities at 30 June 2016 are \$6.62 million, a decrease of \$1.657 million over the previous year. There was a substantial reduction in our liabilities for unpaid salaries and wages – from \$857,000 to \$3,000 – as 30 June 2016 was a pay day. We have made provision of \$2.584 million for other employee benefits and related on-costs, including untaken recreation (annual) leave. The Crown Entity accepts the liability for long service leave.

We owe about \$354,000 for goods or services that we have received but not yet paid for. The value of accounts on hand (which excludes amounts we accrue) at 30 June 2016 was \$168,971 – see figure 66. We monitor the amounts owing on a regular basis to make sure we are paying accounts within terms.

Financial statements

Our financial statements are prepared in accordance with legislative provisions and accounting standards. They are audited by the NSW Auditor-General, who is required to express an opinion as to whether the statements fairly represent the financial position of our office. The audit report and our financial statements follow.



INDEPENDENT AUDITOR'S REPORT

Ombudsman's Office

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of the Ombudsman's Office, which comprise the statement of financial position as at 30 June 2016, the statement of comprehensive income, statement of changes in equity, statement of cash flows and summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

In my opinion the financial statements:

- give a true and fair view of the financial position of the Ombudsman's Office as at 30 June 2016, 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 those standards are further 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 auditor independence requirements of:

- Australian Auditing Standards
- ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants' (the Code).

I have also fulfilled my other ethical responsibilities in accordance with the Code.

The PF&A Act further 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, but precluding the provision of non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Acting Ombudsman's Responsibility for the Financial Statements

The Acting Ombudsman is responsible for preparing financial statements that give a true and fair view in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Acting Ombudsman determines is necessary to enable the preparation of financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Acting Ombudsman must assess the Ombudsman's Office ability to continue as a going concern unless the Ombudsman's Office operations will cease as a result of an administrative restructure. The assessment must include, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting'.

Auditor's Responsibility for the Audit of the Financial Statements

My objectives are to:

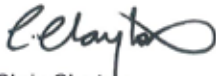
- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A further description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: <http://www.auasb.gov.au/Home.aspx>. The description forms part of my auditor's report.

My opinion does *not* provide assurance:

- that the Ombudsman's Office carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented.



Chris Clayton
Director, Financial Audit Services

12 September 2016
SYDNEY

8 September 2016

Statement by the Acting Ombudsman

Pursuant to section 45F of the *Public Finance and Audit Act 1983* and to the best of my knowledge and belief I state that:

- (a) the accompanying financial statements have been prepared in accordance with the provisions of the Australian Accounting Standards (which include Australian Accounting Interpretations), the *Public Finance and Audit Act 1983*, the Financial Reporting Code for NSW General Government Sector Entities, the applicable clauses of the Public Finance and Audit Regulation 2015 and the Treasurer's Directions;
- (b) the statements exhibit a true and fair view of the financial position of the Ombudsman's Office as at 30 June 2016, and our financial performance for the year then ended; and
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Professor John McMillan AO
Acting Ombudsman

Ombudsman's Office

Statement of comprehensive income for the year ended 30 June 2016

	Notes	Actual 2016 \$'000	Budget 2016 \$'000	Actual 2015 \$'000
Expenses excluding losses				
Operating expenses				
Employee related	2(a)	28,565	25,606	25,482
Other operating expenses	2(b)	4,903	4,884	6,428
Depreciation and amortisation	2(c)	932	680	625
Total Expenses excluding losses		34,400	31,170	32,535
Revenue				
Recurrent appropriation	3(a)	24,147	26,082	24,348
Capital appropriation	3(a)	175	1,300	350
Sale of goods and services	3(b)	1,063	781	1,006
Investment revenue	3(c)	1	–	73
Grants and contributions	3(d)	6,167	1,939	4,623
Acceptance by the Crown Entity of employee benefits and other liabilities	3(e)	1,941	944	1,401
Other revenue	3(f)	17	17	63
Total Revenue		33,511	31,063	31,864
Gain/(loss) on disposal	4	(41)	–	(84)
Net result		(930)	(107)	(755)
Other comprehensive income				
Total other comprehensive income			–	–
Total comprehensive income		(930)	(107)	(755)

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of financial position as at 30 June 2016

	Notes	Actual 2016 \$'000	Budget 2016 \$'000	Actual 2015 \$'000
Assets				
Current Assets				
Cash and cash equivalents	6	1,351	740	1,096
Receivables	7	2,075	431	4,245
Other financial assets	8	–	6	7
Total Current Assets		3,426	1,177	5,348
Non-Current Assets				
Plant and equipment	9	2,084	1,460	2,573
Intangible assets	10	969	985	1,145
Total Non-Current Assets		3,053	2,445	3,718
Total Assets		6,479	3,622	9,066
Liabilities				
Current Liabilities				
Payables	11	357	276	1,841
Provisions	12	2,584	2,120	2,314
Other	13	2,942	17	3,439
Total Current Liabilities		5,883	2,413	7,594
Non-Current Liabilities				
Provisions	12	737	624	683
Total Non-Current Liabilities		737	624	683
Total Liabilities		6,620	3,037	8,277
Net Assets		(141)	585	789
Equity				
Accumulated funds		(141)	585	789
Total Equity		(141)	585	789

The accompanying notes form part of these financial statements

Ombudsman's Office

Statement of changes in equity for the year ended 30 June 2016

	Accumulated funds 2016 \$'000	Accumulated funds 2015 \$'000
Balance at 1 July	789	1,544
Net result for the year	(930)	(755)
Total comprehensive income for the year	(930)	(755)
Balance at 30 June	(141)	789

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of cash flows for the year ended 30 June 2016

	Notes	Actual 2016 \$'000	Budget 2016 \$'000	Actual 2015 \$'000
Cash flows from operating activities				
Payments				
Employee related		(27,203)	(25,415)	(23,779)
Other		(7,083)	(5,231)	(8,465)
Total Payments		(34,286)	(30,646)	(32,244)
Receipts				
Recurrent appropriation		24,147	26,082	24,348
Capital appropriation (excluding equity appropriations)		175	1,300	350
Sale of goods and services		1,063	781	1,006
Interest received		14	4	81
Grants and contributions		6,167	1,939	4,623
Other – GST and lease incentives		3,276	579	737
Total Receipts		34,842	30,685	31,145
Net cash flows from operating activities	15	556	39	(1,099)
Cash flows from investing activities				
Purchases of Leasehold Improvements, plant and equipment		(220)	(1,210)	(157)
Purchase of software		(88)	(90)	(194)
Advance repayment received		7	–	1
Net cash flows from investing activities		(301)	(1,300)	(350)
Net increase/(decrease) in cash		255	(1,261)	(1,449)
Opening cash and cash equivalents		1,096	2,001	2,545
Closing cash and cash equivalents	6	1,351	740	1,096

The accompanying notes form part of these financial statements.

Ombudsman's Office

Statement of compliance with financial directives for the year ended 30 June 2016

	2016			2015		
	Recurrent app'n \$'000	Expenditure/ net claim on consolidated fund \$'000	Capital app'n \$'000	Expenditure/ net claim on consolidated fund \$'000	Recurrent app'n \$'000	Expenditure/ net claim on consolidated fund \$'000
Original budget appropriation/expenditure						
• Appropriation Act	26,082	24,147	1,300	175	24,369	350
	26,082	24,147	1,300	175	24,369	350
Other appropriations/expenditure						
• Transfers to/from another entity (per section 32 of the Appropriation Act)	–	–	–	–	–	–
	–	–	–	–	–	–
	26,082	24,147	1,300	175	24,369	350
Total appropriations/expenditure/net claim on consolidated fund						
	26,082	24,147	1,300	175	24,369	350
Amount drawn down against appropriation						
		24,147		175		350
Liability to consolidated fund*		–		–		–

The Summary of compliance is based on the assumption that consolidated fund monies are spent first (except where otherwise identified or prescribed). See note 16.

* If there is a 'Liability to consolidated fund', this represents the difference between the 'amount drawn down against appropriation' and the 'total expenditure/net claim on consolidated fund'.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

1 Summary of Significant Accounting Policies

(a) Reporting entity

The Ombudsman's Office is a NSW government entity. Our role is to make sure that public and private sector agencies and employees within our jurisdiction fulfill their functions properly. We help agencies to be aware of their responsibilities to the public, to act reasonably and to comply with the law and best practice in administration.

The Office is a not-for-profit entity (as profit is not its principal objective) and we have no major cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

The financial statements for the year ended 30 June 2016 has been authorised for issue by the Acting Ombudsman on 8 September 2016.

(b) Basis of preparation

Our financial statements are general purpose financial statements, which have been prepared on an accrual basis in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations);
- the requirements of the *Public Finance and Audit Act 1983* and the Public Finance and Audit Regulation 2015; and
- the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.

Property, plant and equipment are measured at fair value. Other financial statements items are prepared in accordance with the historical cost convention.

Judgements, key assumptions and estimations that management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

(c) 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 icare TMF Scheme of self insurance for Government agencies. The expense (premium) is determined by the Fund Manager, and is calculated by our past claims experience, overall public sector experience and ongoing actuarial advice.

(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 components of cash flows arising from investing and financing activities which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

(f) Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of income are discussed below.

(i) Parliamentary appropriations and contributions

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants) are recognised as income when the entity obtain 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 13 as part of 'Current liabilities - Other'. The amount will be repaid and the liability will be extinguished next financial year.

(ii) Sale of goods

Revenue from the sale of goods such as publications are recognised as revenue when we transfer the significant risks and rewards of ownership of the assets.

(iii) Rendering of services

Revenue from the rendering of services such as conducting training programs, is recognised when the service is provided or by reference to the stage of completion, for instance based on labour hours incurred to date.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

(iv) Investment revenue

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

(g) Assets

(i) Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by us.

Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent; i.e. deferred payment amount is effectively discounted over the period of credit.

(ii) Capitalisation thresholds

Individual plant and equipment and intangible assets costing \$5,000 and above are capitalised. All items that form part of our IT network, such as software and hardware, are capitalised regardless of the cost.

(iii) Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 Impairment of Assets is unlikely to arise. As property, plant and equipment is carried at fair value, impairment can only arise in the rare circumstances where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not-for-profit entities to the higher of fair value less costs of disposal and depreciated replacement cost, where depreciated replacement cost is also fair value.

(iv) Depreciation of plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life.

All material separately identifiable components of assets are depreciated over their shorter useful lives.

Depreciation rates used:

- Computer hardware 25%
- Office equipment 20%
- Furniture & fittings 10%

Amortisation rates used:

- Leasehold improvements Useful life of 10 years or to the end of the lease, if shorter.

(v) Restoration costs

Whenever applicable, the estimated cost of dismantling and removing an asset and restoring the site is included in the cost of an asset, to the extent it is recognised as a liability.

(vi) Maintenance

The costs of day-to-day servicing or maintenance are charged as expenses as incurred, except where they relate to the replacement of a part or component of an asset, in which case the costs are capitalised and depreciated.

(vii) Leased assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor 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%.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

(ix) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(x) Revaluation of property, plant and equipment

We value our physical non-current assets in accordance with the *Valuation of Physical Non-Current Assets at Fair Value* Policy and Guidelines Paper (TPP 14-01). This policy adopts fair value in accordance with AASB13 Fair Value Measurement, AASB 116 *Property, Plant and Equipment* and AASB 140 Investment Property.

Non-specialised assets with short useful lives are measured at depreciated historical cost as an approximation of fair value. The entity has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

(h) Liabilities

(i) Payables

These amounts represent liabilities for goods and services provided to us as well as other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(ii) Employee benefits and other provisions

(a) Salaries and wages, annual leave, sick leave and on-costs

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% 2015)) can be used to approximate the present value of the annual leave liability. We have assessed the actuarial advice based on our circumstances and have determined that the effect of discounting is immaterial to annual leave liability.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

(b) Long service leave and superannuation

Our liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. We account for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Long service leave is measured at present value in accordance with AASB 119 Employee Benefits. This is based on the application of certain factors (specified in NSWTC 15/9) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for defined contribution superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For defined benefit superannuation schemes (State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

(c) Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

(iii) Other Provisions

Other provisions exist when: the entity has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation. If the effect of the time value of money is material, provisions are discounted at 1.98%, 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.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

(i) Fair value hierarchy

A number of the entity's accounting policies and disclosures require the measurement of fair values, for both financial and non-financial assets and liabilities. When measuring fair value, the valuation technique used maximises the use of relevant observable inputs and minimises the use of unobservable inputs. Under AASB 13, the entity categorises, for disclosure purposes, the valuation techniques based on the inputs used in the valuation techniques as follows:

- Level 1 – quoted prices in active markets for identical assets/liabilities that the entity can access at the measurement date.
- Level 2 – inputs other than quoted prices included within Level 1 that are observable, either directly or indirectly.
- Level 3 – inputs that are not based on observable market data (unobservable inputs).

The entity recognises transfers between levels of the fair value hierarchy at the end of the reporting period during which the change has occurred.

The Office is using depreciated historical cost to measure plant and equipment as it presents an approximation of fair value of plant and equipment.

(j) Equity

The category accumulated funds includes all current and prior period retained funds.

(k) 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 16.

(l) Comparative information

Except when an Accounting Standard permits or requires otherwise, comparative information is disclosed in respect of the previous period for all amounts reported in the financial statements.

(m) New Australian Accounting Standards issued but not effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards unless NSW Treasury determines otherwise. The following new Accounting Standards which are applicable to the office, have not yet been applied and are not yet effective.

- AASB 9 and AASB 2014-7 regarding financial instruments
- AASB 15, AASB 2014-5 and AASB 2015-8 regarding Revenue from Contracts with Customers
- AASB 1057 and AASB 2015-9 Application of Australian Accounting Standards
 - AASB 2014-4 regarding acceptable methods of depreciation and amortisation
 - AASB 2015-1 regarding annual improvements to Australian Accounting Standards 2012-2014 cycle
 - AASB 2015-2 regarding amendments to AASB 101 (disclosure initiative)
 - AASB 2015-6 Amendments to Australian Accounting Standards – Extending Related Party Disclosures to Not-for-Profit Public Sector Entities
 - AASB 2015-7 Amendments to Australian Accounting Standards – Fair Value Disclosures of Not-for-Profit Public Sector Entities

We do not anticipate any material impact of these accounting standards on the financial statements of the Office.

(n) Going concern

The Ombudsman's Office is a 'going concern' public sector entity. We will receive a Parliamentary appropriation as outlined in the NSW Budget Papers for 2016-2017 on an 'as needs' basis from the Crown Entity.

(o) Equity Transfers

The transfer of net assets between agencies as a result of an administrative restructure, transfers of programs/functions and parts thereof between NSW public sector agencies and 'equity appropriations' are to be treated as contributions by owners and recognised as an adjustment to 'Accumulated Funds'. This treatment is consistent with AASB 1004 *Contributions and Australian Interpretation 1038 Contributions by Owners Made to Wholly-Owned Public Sector Entities*.

Transfers arising from an administrative restructure involving not-for-profit entities and for-profit government departments are recognised at the amount at which the assets and liabilities were recognised by the transferor or immediately prior to the restructure. Subject to the following paragraph, in most instances this will approximate fair value.

All other equity transfers are recognised at fair value, except for intangibles. Where an intangible has been recognised at (amortised) cost by the transferor because there is no active market, the agency recognises the asset at the transferor's carrying amount. Where the transferor is prohibited from recognising internally generated intangibles, the agency does not recognise that asset.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

	2016 \$'000	2015 \$'000
2 Expenses excluding losses		
(a) Employee related expenses		
Salaries and wages (including annual leave)*	23,328	20,966
Superannuation - defined benefit plans	334	263
Superannuation - defined contribution plans	1,769	1,708
Long service leave	1,589	1,121
Workers' compensation insurance	69	122
Payroll tax and fringe benefit tax	1,476	1,302
	28,565	25,482
(b) Other operating expenses include the following:		
Auditor's remuneration - audit of the financial statements	35	31
Operating lease rental expense - minimum lease payments	2,098	2,507
Insurance	16	13
Fees	904	1,805
Telephones	73	63
Stores	150	317
Training	163	158
Printing	41	38
Travel	447	481
Consultants	125	110
Contractors	243	334
Maintenance - non-employee related*	259	203
Other	349	368
	4,903	6,428
* Reconciliation - Total maintenance		
Maintenance expenses - contracted labour and other	259	203
Employee related maintenance expense included in Note 2(a)	75	128
Total maintenance expenses included in Notes 2(a) and 2(b)	334	331
(c) Depreciation and amortisation expense		
Depreciation		
Plant and equipment	171	192
Leasehold Improvements	494	121
Furniture and Fittings	21	27
Total depreciation expense	686	340
Amortisation		
Software	246	285
Total amortisation expense	246	285
Total depreciation and amortisation expenses	932	625

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

	2016 \$'000	2015 \$'000
3 Revenue		
(a) Appropriations		
Recurrent appropriation		
Total recurrent draw-downs from NSW Treasury (per Summary of compliance)	24,147	24,348
	24,147	24,348
Comprising:		
Recurrent appropriations (per Statement of comprehensive income)	24,147	24,348
	24,147	24,348
Capital appropriation		
Total capital draw-downs from NSW Treasury (per Summary of compliance)	175	350
	175	350
Comprising:		
Capital appropriations (per Statement of comprehensive income)	175	350
	175	350
(b) Sale of goods and services		
Rendering of services	1,063	1,006
	1,063	1,006
(c) Investment revenue		
Interest	1	73
	1	73
(d) Grants and contributions		
Crown Entity funded redundancies	271	130
Operation Prospect - Grant from the Department of Premier and Cabinet	2,157	2,070
Disability Reportable Incidents - Grant from Department of Family & Community Services	2,000	998
Working with Children Check/Notifications of Concern - Grant from the Department of Premier and Cabinet	-	336
Aboriginal Programs - Grant from Aboriginal Affairs NSW	739	589
Child Protection - Grant from the Department of Premier and Cabinet	-	500
Disability Rights Project - Grant from Department of Family & Community Services	1,000	-
	6,167	4,623
(e) Acceptance by the Crown Entity of employee benefits and other liabilities		
The following liabilities and/or expenses have been assumed by the Crown Entity:		
• Superannuation - defined benefit	334	263
• Long service leave	1,589	1,121
• Payroll tax on superannuation	18	17
	1,941	1,401
(f) Other revenue		
Miscellaneous	17	63
	17	63

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

	2016 \$'000	2015 \$'000
4 Gain/(loss) on disposal		
Gain/(loss) on disposal of plant and equipment	(23)	(48)
Gain/(loss) on disposal of software	(18)	(36)
	(41)	(84)
5 Service groups of the entity		
The Ombudsman's Office operates under one service group - the independent resolution, investigation or oversight of complaints made by the public about agencies within the jurisdiction of the Ombudsman and the scrutiny of complaint handling and other systems of those agencies.		
6 Current assets – cash and cash equivalents		
Cash at bank and on hand	1,351	1,096
	1,351	1,096
For the purposes of the statement of cash flows, cash and cash equivalents include cash at bank and on hand.		
Cash and cash equivalent assets recognised in the statement of financial position are reconciled at the end of the year to the statement of cash flows as follows:		
• Cash and cash equivalents (per statement of financial position)	1,351	1,096
• Closing cash and cash equivalents (per statement of cash flows).	1,351	1,096
Refer Note 17 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.		
7 Current assets – receivables		
Long service leave refundable	25	–
Workshops and other	120	155
Bank interest	–	32
GST receivable	81	19
Prepayments	516	440
Lease incentive receivable	1,333	1,523
Recoupment of fitout costs	–	2,076
	2,075	4,245
Refer to Note 17 for further information regarding credit risk, liquidity risk and market risk arising from financial instruments.		
8 Current assets - other financial assets		
Other loans and deposits	–	7
	–	7
Refer to Note 17 for further information regarding credit risk, liquidity risk and market risk arising from financial instruments.		

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

9 Non-current assets – plant and equipment

	Plant and equipment \$'000	Leasehold improvement \$'000	Furniture and fitting \$'000	Total \$'000
At 1 July 2015 - fair value				
Gross carrying amount	1,143	3,745	376	5,264
Accumulated depreciation	(695)	(1,755)	(241)	(2,691)
Net carrying amount	448	1,990	135	2,573
At 30 June 2016 - fair value				
Gross carrying amount	1,103	3,515	320	4,938
Accumulated depreciation	(780)	(1,856)	(218)	(2,854)
Net carrying amount	323	1,695	102	2,084

Reconciliation

A reconciliation of the carrying amount of each class of assets at the beginning of and end of financial years is set out below:

Year ended 30 June 2016				
Net carrying amount at start of year	448	1,990	135	2,573
Additions	49	163	8	220
Write-off on disposal	(3)	–	(20)	(23)
Depreciation expense	(171)	(494)	(21)	(686)
Net carrying amount at end of year	323	1,659	102	2,084

At 1 July 2014 - fair value

Gross carrying amount	1,178	2,045	651	3,874
Accumulated depreciation	(563)	(1,982)	(538)	(3,083)
Net carrying amount	615	63	113	791

At 30 June 2015 - fair value

Gross carrying amount	1,143	3,745	376	5,264
Accumulated depreciation	(695)	(1,755)	(241)	(2,691)
Net carrying amount	448	1,990	135	2,573

Year ended 30 June 2015

Net carrying amount at start of year	615	63	113	791
Additions	25	2,048	97	2,170
Write-off on disposal	–	–	(48)	(48)
Depreciation expense	(192)	(121)	(27)	(340)
Net carrying amount at end of year	448	1,990	135	2,573

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

10 Non-current assets – intangible assets

	1 July 2014 \$'000	30 June 2015 \$'000	1 July 2015 \$'000	30 June 2016 \$'000
Software				
Gross carrying amount	2,335	2,334	2,334	2,292
Accumulated amortisation	(1,063)	(1,189)	(1,189)	(1,323)
Net carrying amount	1,272	1,145	1,145	969

Reconciliation

A reconciliation of the carrying amount of software at the beginning of and end of financial years is set out below:

	2016 \$'000	2015 \$'000
Net carrying amount at start of year	1,145	1,272
Write-off on disposal	(18)	(36)
Additions	88	194
Amortisation expense	(246)	(285)
Net carrying amount at end of year	969	1,145

All intangibles were acquired separately and there are no internally developed intangible assets.

11 Current liabilities – payables

Accrued salaries, wages and on-costs	3	857
Creditors	354	984
	357	1,841

Refer Note 17 for details regarding credit risk, liquidity risk and market risk arising from financial instruments

12 Current/non-current liabilities – provisions

Current provisions

Annual leave	1,345	1,202
Annual leave loading	267	239
Provision for related on-costs on annual leave	188	166
Provision for related on-costs on long service leave	784	707
Total current provisions	2,584	2,314

Non-current provisions

Provision for related on-costs on long service leave	68	61
Provision for make-good	669	622
Total non-current provisions	737	683

Reconciliation – make good

Carrying amount at the beginning of financial year	622	494
Additional provision	47	128
Carrying amount at the end of financial year	669	622

The provision for make good is non-current liabilities and was recognised for the estimate of future payments for make good upon termination of the current accommodation lease. The five year lease started in October 2014. We reviewed the amount we had set aside for our make good and based on updated advice increased this provision.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

	2016 \$'000	2015 \$'000
Aggregate employee benefits and related on-costs		
Provisions - current	2,584	2,314
Provisions - non-current	68	61
Accrued salaries, wages and on-costs (Note 11)	3	857
	2,655	3,232

The value of annual leave and associated on-costs expected to be taken within 12 months is \$1.702 million (2015: \$1.607 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 \$0.085 million (2015: \$0.077 million) and \$0.767 million (2015: \$0.691 million) after 12 months.

13 Current liabilities – other

Current		
Prepaid income	83	65
Lease Incentive Liability	2,859	3,374
	2,942	3,439

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 2015/16, the lease incentive liability was reduced by \$0.515 million due to depreciation on lease incentive assets and GST adjustment on recoupement of fit-out.

14 Commitments for expenditure

Operating lease commitments

Future non-cancellable operating lease rentals not provided for and payable:

Not later than one year	3,016	2,894
Later than one year and not later than five years	7,222	10,204
Total (including GST)	10,238	13,098

The total operating lease commitments include GST input tax credits of \$0.931 million (2015: \$1.191 million) which are expected to be recoverable from the Australian Taxation Office.

The new 5 year accommodation lease, which was negotiated and signed by the then Government Property NSW commenced in October 2014.

15 Reconciliation of cash flows from operating activities to net result

Net cash used on operating activities	556	(1,099)
Depreciation and amortisation	(932)	(625)
Decrease/(increase) in provisions	(324)	(109)
Increase/(decrease) in prepayments	76	(69)
Decrease/(increase) in payables	1,484	(817)
Increase/(decrease) in receivables	(2,246)	3,582
Decrease/(increase) in other liabilities	497	(1,534)
Net gain/(loss) on disposal of assets	(41)	(84)
Net result	(930)	(755)

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

16 Budget review

Net result

Our revenue was \$2.448 million higher than budget due to grants being received for Operation Prospect (\$2.157 million), the disability rights project (\$1 million) and for redundancies (\$271,000) as well as an increase in grant funding for the disability reportable incident role (\$800,000). In addition, we had an increase in revenue from the provision of fee for service training (\$282,000) and higher than anticipated employee entitlements accepted by the Crown Entity (\$997,000). Our recurrent allocation was \$1.935 million less than budget primarily as a result of NSW Treasury's cash management reforms outlined in Circular 15-01 *Cash Management - Expanding the Scope of the Treasury Management System* which requires all non-restricted cash and cash equivalents in excess of a readily assessable short term level to be held within the Treasury Banking System. This meant that in the 2015-2016 financial year we were required to use our 'own' cash before recurrent funding was provided by government. Our negative 'net result' was a direct result of this change as was the reduction in the level of recurrent appropriation received.

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

As a result of increased revenue, most of which was provided for specific purposes, our total expenses were significantly more than budget (\$3.132 million). Most of the increase was spent on employee related items such as salaries, superannuation and other on-costs. Our long service leave expense was also increased following an actuarial review. Long service leave is an employee entitlement accepted by the Crown Entity and the expense is offset by a revenue item.

Assets and liabilities

Our net assets were \$0.628 million less than budget. Our cash balance was \$0.6 million higher than budget due to grant funds carried forward to 2016-2017.

Both assets and liabilities increased as a result of the Office receiving a lease incentive for fitout improvements. An asset was recognised as we capitalised \$0.142 million of the incentive for fitout work completed as at 30 June 2016, with the remainder of the incentive to be capitalised in 2016-2017. We have also reflected the incentive as a receivable, as we have a legal entitlement to the funds from the building owner. A lease incentive liability has also been recorded. Following the lease negotiations, we reviewed the amount we had set aside for our make good and based on updated advice increased this provision.

There was also a slight increase in employee provisions.

Cash flows

Our net cash flow from operating activities was \$0.517 million higher than budget. Total receipts were higher by \$4.157 million and total payments were higher by \$3.640 million due to additional grants for disability reportable incident function, the Disability Rights project and Operation Prospect.

17 Financial instruments

The Ombudsman's Office principal financial instruments are outlined below. These financial instruments arise directly from the Office's operations and are required to finance our operations. The Office does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

Our main risks arising from financial instruments are outlined below, together with the Office's objectives, policies and processes measuring and managing risk. Further quantitative disclosures are included throughout these financial statements. The Ombudsman has overall responsibility for the establishment and oversight of risk management and reviews and approves policies for managing these risks. The Audit and Risk Committee (ARC) has been established to provide advice to the Ombudsman. The ARC does not have executive powers. Risk management policies are established to identify and analyse the risks faced by the Office, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Audit and Risk Committee on a regular basis.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

			Carrying Amount	
			2016 \$'000	2015 \$'000
(a) Financial instrument categories				
Class	Note	Category		
Financial assets				
Cash and cash equivalents	6	N/A	1,351	1,096
Receivables ¹	7	Receivables (at amortised cost)	1,478	3,786
Other financial assets	8	Loans and receivables (at amortised cost)	–	7
Financial Liabilities				
Payables ²	11	Financial liabilities measured at amortised cost	357	1,841

Notes

¹ Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

² Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

(b) Credit risk

Credit risk arises when there is the possibility of our debtors defaulting on their contractual obligations, resulting in a financial loss to the Ombudsman's Office. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment). Credit risk is managed through the selection of counterparties and establishing minimum credit rating standards. Credit risk arises from the financial assets of the Ombudsman's Office, including cash, receivables and authority deposits. No collateral is held by the Ombudsman's Office and the Office has not granted any financial guarantees.

Cash

Cash comprises cash on hand and bank balances within the Treasury Banking System.

Receivables – trade debtors

The only financial assets that are past due or impaired are 'sales of goods and services' in the 'receivables' category of the statement of financial position. All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that we will not be able to collect all amounts due. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. The credit risk is the carrying amount (net of any allowance for impairment, if there is any). No interest is earned on trade debtors. The carrying amount approximates fair value. Sales are made on 14-day terms. The Ombudsman's Office is not exposed to concentration of credit risk to a single debtor or group of debtors.

	Total* \$'000	Past due but not impaired* \$'000	Considered impaired* \$'000
2016			
< 3 months overdue	120	120	–
3 months - 6 months overdue	–	–	–
> 6 months overdue	–	–	–
2015			
< 3 months overdue	137	137	–
3 months - 6 months overdue	–	–	–
> 6 months overdue	–	–	–

* Each column in the table reports 'gross receivables'. The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7 and excludes receivables that are not past due and not impaired. Therefore, the 'total' will not reconcile to the receivables total recognised in the statement of financial position.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

(c) Liquidity risk

Liquidity risk is the risk that the Ombudsman's Office will be unable to meet its payment obligations when they fall due. We continuously manage risk through monitoring future cash flows to ensure adequate holding of high quality liquid assets. During the current and prior year, there were no defaults of loans payable. No assets have been pledged as collateral. The entity's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

Bank overdraft

The Office does not have any bank overdraft facility. During the current and prior years, there were no defaults or breaches on any loans payable.

Trade creditors and accruals

The liabilities are recognised for amounts due to be paid in the future for goods and services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, if trade terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payments to other suppliers, the Head of an authority (or a person appointed by the Head of an authority) may automatically pay the supplier simple interest. The Ombudsman's Office did not pay any penalty interest during the financial year.

The table below summarises the maturity profile of our financial liabilities.

Payables	Weighted average effective interest rate	Nominal amount# \$'000	Interest rate exposure			Maturity dates		
			Fixed interest rate	Variable interest rate	Non-interest bearing	< 1 yr	1-5 yrs	5 yrs
2016								
Accrued salaries, wages and on-costs	-	3	-	-	3	3	-	-
Creditors	-	354	-	-	354	354	-	-
Total	-	357	-	-	357	357	-	-
2015								
Accrued salaries, wages and on-costs	-	857	-	-	857	857	-	-
Creditors	-	984	-	-	984	984	-	-
Total	-	1,841	-	-	1,841	1,841	-	-

The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earlier date on which the Office can be required to pay. The tables include both interest and principal cash flows and therefore will not reconcile to the statement of financial position.

(d) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Our exposure to market risk are primarily through interest rate risk. The Office has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on the result and equity due to a reasonably possible change in risk variable is outlined in the information below for interest rate risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the Office operates and the time frame for the assessment (i.e. until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the statement of financial position date. The analysis is performed on the same basis for 2016. The analysis assumes that all other variables remain constant.

Ombudsman's Office

Notes to the financial statements for the year ended 30 June 2016

	Carrying amount \$'000	-1%		+1%	
		Results \$'000	Equity \$'000	Results \$'000	Equity \$'000
2016					
Financial assets					
Cash and cash equivalents	1,351	(14)	(14)	14	14
Receivables	1,478	–	–	–	–
Other financial assets	0	–	–	–	–
Financial liabilities					
Payables	357	–	–	–	–
2015					
Financial assets					
Cash and cash equivalents	1,096	(11)	(11)	11	11
Receivables	3,786	–	–	–	–
Other financial assets	7	–	–	–	–
Financial liabilities					
Payables	1,841	–	–	–	–

(e) Fair value measurement

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of many of the financial instruments.

18 Contingent liabilities

There are no contingent assets or liabilities for the period ended 30 June 2016 (2015: nil).

19 Events after the Reporting Period

There were no events after the reporting period 30 June 2016 (2015: nil).

End of the audited financial statements



In this section

Appendix.....	166
Index.....	199
Glossary.....	205

These appendices provide additional information on our activities and compliance reporting, complaint profiles, action taken on formal complaints, and other resource information.

Appendices

Contents

Appendix A

Profile of notifiable police complaints 2015–16 166

Appendix B

Public administration..... 170

Custodial services..... 176

Local government 178

Appendix C

Human services 182

Appendix D

Legislation and legal matters..... 189

Legal changes 189

Litigation..... 190

Appendix E

Compliance with annual reporting requirements . 191

Appendix F

NSW Ombudsman GIPA report..... 193

Review of the Ombudsman's proactive
release program..... 193

Appendix G

Access and equity programs 196

Appendix H

Publications list 198

Annual reports..... 198

Reports and submissions..... 198

Fact sheets and guidelines..... 198

Brochures..... 198

Newsletters 198

Index 199

Glossary..... 205

Appendix A

Profile of notifiable police complaints 2015–16

Figure 67: Action taken on finalised notifiable complaints about police officers in 2015–16

The number of allegations is greater than the number of complaints finalised because each complaint may contain more than one allegation about a single incident or involve a series of incidents.

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Arrest				
Improper failure to arrest	1	2	2	5
Unlawful arrest	22	8	11	41
Unnecessary use of arrest	26	10	13	49
Subtotal	49	20	26	95
Complaints				
Deficient complaint investigation	7	10	3	20
Fail to report misconduct	5	36	9	50
Fail to take a complaint	3	6	1	10
Inadequacies in informal resolution	6	1	1	8
Provide false information in complaint investigation	3	32	8	43
Subtotal	24	85	22	131
Corruption/misuse of office				
Explicit threats involving use of authority	8	2	5	15
Improper association	29	56	17	102
Misuse authority for personal benefit or benefit of an associate	56	30	29	115
Offer or receipt of bribe/corrupt payment	16	2	3	21
Protection of person(s) involved in criminal activity (other)	7	1	0	8
Subtotal	116	91	54	261
Custody/detention				
Death/serious injury in custody	0	2	0	2
Detained in excess of authorised time	4	0	1	5
Escape from custody	0	0	5	5
Fail to allow communication	1	0	1	2
Fail to caution/give information	1	1	0	2
Fail to meet requirements for vulnerable persons	2	0	3	5
Improper refusal to grant bail	1	0	0	1
Improper treatment	33	6	16	55
Inadequate monitoring of persons in custody	0	0	1	1
Unauthorised detention	8	3	8	19
Subtotal	50	12	35	97

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Driving-related				
Breach pursuit guidelines	1	4	5	10
Drink driving offence	4	14	6	24
Negligent/dangerous driving	5	11	3	19
Unnecessary speeding	4	4	2	10
Subtotal	14	33	16	63
Drug-related				
Cultivate/manufacture prohibited drug	2	1	0	3
Drinking/under the influence on duty	1	3	3	7
Protection of person(s) involved in drug activity	50	14	4	68
Supply prohibited drug	26	9	3	38
Use/possess restricted substance	1	10	1	12
Use/possession of prohibited drug	15	39	7	61
Subtotal	95	76	18	189
Excessive use of force				
Assault	188	110	124	422
Firearm discharged	0	0	2	2
Firearm drawn	2	3	1	6
Improper use of handcuffs	10	2	6	18
Subtotal	200	115	133	448
Information				
Fail to create/maintain records	14	41	41	96
Falsify official records	12	62	29	103
Misuse email/internet	3	9	8	20
Provide incorrect or misleading information	16	41	31	88
Unauthorised access to information/data	12	105	14	131
Unauthorised disclosure of information/data	48	71	55	174
Unreasonable refusal to provide information	1	0	1	2
Subtotal	106	329	179	614
Investigation				
Delay in investigation	15	8	37	60
Fail to advise outcome of investigation	10	0	4	14
Fail to advise progress of investigation	5	0	2	7
Fail to investigate (customer service)	191	38	92	321
Improper/unauthorised forensic procedure	1	0	1	2
Improperly fail to investigate offence committed by another officer	2	2	3	7
Improperly interfere in investigation by another police officer	10	16	5	31
Inadequate investigation	198	35	109	342
Subtotal	432	99	253	784

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Misconduct				
Allow unauthorised use of weapon	0	3	0	3
Conflict of interest	12	32	23	67
Detrimental action against a whistleblower	2	3	1	6
Dishonesty in recruitment/promotion	0	1	1	2
Disobey reasonable direction	2	21	11	34
Fail performance/conduct plan	0	0	2	2
Failure to comply with code of conduct	130	443	331	904
Failure to comply with statutory obligation/procedure	36	73	105	214
False claiming for duties/allowances	6	5	5	16
Inadequate management/maladministration	31	41	53	125
Inadequate security of weapon/appointments	2	16	27	45
Inappropriate intervention in civil dispute	3	3	5	11
Minor workplace-related misconduct	1	16	16	33
Other improper use of discretion	2	3	2	7
Unauthorised secondary employment	1	15	10	26
Unauthorised use of vehicle/facilities/equipment	16	26	10	52
Workplace harassment/victimisation/discrimination	56	182	83	321
Subtotal	300	883	685	1,868
Other criminal				
Conspiracy to commit offence	1	1	0	2
Fraud	0	5	1	6
Murder/manslaughter	1	0	0	1
Officer in breach of domestic violence order	0	7	1	8
Officer perpetrator of domestic violence	2	22	2	26
Officer subject of application for domestic violence order	1	23	2	26
Other Indictable offence	28	133	6	167
Other summary offence	29	238	16	283
Sexual assault/indecent assault	10	63	2	75
Subtotal	72	492	30	594
Property/exhibits/theft				
Damage to	8	3	18	29
Fail to report loss	0	0	3	3
Failure or delay in returning to owner	27	2	14	43
Loss of	8	9	22	39
Theft	12	12	6	30
Unauthorised removal/destruction/use of	7	13	24	44
Subtotal	62	39	87	188
Prosecution				
Adverse comment by court/costs awarded	1	6	11	18
Fail to attend court	1	6	14	21

Category	Allegations declined	Allegations subject of investigation	Allegations conciliated or informally resolved	Total
Fail to check brief/inadequate preparation of brief	5	11	26	42
Fail to notify witness	1	6	9	16
Fail to serve brief of evidence	2	5	10	17
Failure to charge/prosecute	10	2	17	29
Improper prosecution	44	5	20	69
Mislead the court	5	1	3	9
Mislead the defence	0	1	1	2
PIN/TIN inappropriately/wrongly issued	19	0	0	19
Subtotal	88	43	111	242
Public justice offences				
Fabrication of evidence (other than perjury)	27	6	1	34
Involuntary confession by accused	5	0	0	5
Make false statement	21	12	6	39
Other pervert the course of justice	17	11	3	31
Perjury	3	2	1	6
Withholding or suppression of evidence	3	2	4	9
Subtotal	76	33	15	124
Search/entry				
Failure to conduct search	0	0	6	6
Property missing after search	7	2	7	16
Unlawful entry	1	1	0	2
Unlawful search	45	13	47	105
Unreasonable/inappropriate conditions/damage	6	2	5	13
Wrongful seizure of property during search	12	1	4	17
Subtotal	71	19	69	159
Service delivery				
Breach domestic violence SOP	104	40	87	231
Fail to provide victim support	19	5	26	50
Fail/delay attendance to incident/'000'	15	9	9	33
Harassment/intimidation	123	9	53	185
Improper failure to WIPE	13	4	11	28
Improper request for identity/proof of identity	1	0	0	1
Improper use of 'move on' powers	2	0	2	4
Neglect of duty (not specified elsewhere)	13	19	31	63
Other (customer service)	261	25	110	396
Rudeness/verbal abuse	115	34	91	240
Threats	33	18	34	85
Subtotal	699	163	454	1,316
Total summary of allegations	2,454	2,532	2,187	7,173

Appendix B

Public administration

Public sector agencies

Description

The following key is used through Appendix B for figures 68, 69, 70 and 73.

Decline after assessment only, including:

- A** Conduct outside jurisdiction; trivial; remote; insufficient interest; commercial matter; right of appeal or redress; substantive explanation or advice provided; premature – referred to agency; concurrent representation; investigation declined on resource/priority grounds

Preliminary or informal investigation:

- B** Substantive advice, information provided without formal finding of wrong conduct
- C** Advice/explanation provided where no or insufficient evidence of wrong conduct
- D** Further investigation declined on grounds of resource/priority
- E** Resolved to Ombudsman's satisfaction
- F** Resolved by agency prior to our intervention
- G** Suggestions/comment made
- H** Consolidated into other complaint
- I** Conciliated/mediated
- J** PID preliminary inquiries

Formal investigation:

- K** Resolved during investigation
- L** Investigation discontinued
- M** No adverse finding
- N** Adverse finding
- O** PID investigation

Figure 68: Action taken on formal complaints finalised in 2015–16

Complaint about	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Bodies outside jurisdiction	1,002	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,002
Custodial services	138	27	226	6	256	26	4	4	0	1	0	1	0	0	0	0	689
Departments & authorities	1,371	24	403	4	370	81	22	51	1	6	0	2	0	0	0	0	2,335
Local government	705	20	120	1	38	3	5	44	0	0	0	0	0	0	0	0	936
Total	3,216	71	749	11	664	110	31	99	1	7	0	3	0	0	0	0	4,962

Figure 69: Action taken on formal complaints about departments and authorities finalised in 2015–16

Where possible we have recorded complaints against functional units of the principal departments.

Agency	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Department of Finance, Services and Innovation																	
Board of Surveying and Spatial Information of NSW	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Building Professionals Board	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Department of Finance, Services and Innovation	1	0	0	0	0	0	2	0	0	0	0	0	0	0	0	3	
Fair Trading	68	3	12	0	6	7	1	2	0	0	0	0	0	0	0	99	
Insurance and Care NSW (icare)	5	0	1	0	0	0	0	0	0	0	0	0	0	0	0	6	
Land and Property Information	7	0	1	0	1	0	0	0	0	0	0	0	0	0	0	9	
Office of State Revenue	197	9	62	0	77	11	1	11	0	0	0	1	0	0	0	369	
Rental Bond Board	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Safe Work NSW	5	0	4	0	1	0	0	0	0	0	0	0	0	0	0	10	
Service NSW	40	1	15	0	11	1	1	0	0	0	0	0	0	0	0	69	
State Insurance Regulatory Authority	8	0	1	0	0	0	0	0	0	0	0	0	0	0	0	9	
Sydney Harbour Foreshore Authority	1	0	0	0	1	0	0	1	0	0	0	0	0	0	0	3	
Subtotal	339	13	97	0	97	19	5	14	0	0	0	1	0	0	0	585	
Department of Family and Community Services																	
Aboriginal Housing Office	2	0	0	0	3	0	0	0	0	0	0	0	0	0	0	5	
Ageing, Disability and Home Care	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Department of Family and Community Services	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	2	
Housing NSW	110	2	30	0	65	8	1	8	0	0	0	1	0	0	0	225	
Land & Housing Corporation	31	0	6	0	54	7	0	1	0	0	0	0	0	0	0	99	
Multicultural NSW	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1	
Registrar of Community Housing	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
Subtotal	145	2	38	0	122	15	3	9	0	0	0	1	0	0	0	335	
Department of Justice																	
Anti-Discrimination Board	5	0	1	0	0	1	0	0	0	0	0	0	0	0	0	7	
Attorney General	13	0	2	0	0	0	0	0	0	0	0	0	0	0	0	15	
Australian Museum	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Department of Justice	8	0	2	0	3	0	1	0	0	0	0	0	0	0	0	14	
Fire and Rescue NSW	2	0	0	0	0	0	0	0	0	1	0	0	0	0	0	3	
Independent Liquor and Gaming Authority	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	3	
Legal Aid Commission of New South Wales	15	1	5	0	3	2	0	0	0	0	0	0	0	0	0	26	
Liquor and Gaming NSW	5	0	0	0	1	0	2	0	0	0	0	0	0	0	0	8	
Ministry for Police & Emergency Services	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	

Agency	Assessment only	Preliminary or informal investigation										Formal investigation					Total
		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
NSW Trustee and Guardian	64	0	12	0	13	4	0	1	0	0	0	0	0	0	0	94	
Registry of Births, Deaths and Marriages	15	0	8	0	5	2	0	0	0	0	0	0	0	0	0	30	
Rural Fire Service NSW	3	0	0	0	2	1	0	0	0	0	0	0	0	0	0	6	
Sheriffs Office	4	0	1	0	0	0	0	2	0	0	0	0	0	0	0	7	
State Emergency Service	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	2	
Sydney Opera House	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Victims Services	3	0	1	0	1	0	0	0	0	0	0	0	0	0	0	5	
Subtotal	141	1	32	0	29	10	4	3	0	1	0	0	0	0	0	221	
Department of Education																	
Board of Studies, Teaching and Educational Standards	1	0	3	0	2	0	0	0	0	0	0	0	0	0	0	6	
Department of Education	36	0	12	0	4	1	2	0	0	0	0	0	0	0	0	55	
NSW Public School Regions	53	2	30	0	6	7	1	4	1	0	0	0	0	0	0	104	
Office of Communities	0	0	0	0	3	0	0	0	0	0	0	0	0	0	0	3	
Office of Education	1	0	1	0	0	0	1	0	0	0	0	0	0	0	0	3	
Subtotal	91	2	46	0	15	8	4	4	1	0	0	0	0	0	0	171	
Department of Industry, Skills and Regional Development																	
Ausgrid	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8	
Department of Industry, Skills and Regional Development	4	0	3	0	0	0	0	2	0	2	0	0	0	0	0	11	
Endeavour Energy	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Essential Energy	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
NSW Local Land Services	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Primary Industries	14	1	10	0	1	0	0	1	0	1	0	0	0	0	0	28	
State Training Services	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	
Sydney Water Corporation	11	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	
TAFE NSW	42	0	8	0	10	3	0	0	0	0	0	0	0	0	0	63	
Transgrid	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	
Water NSW	3	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4	
Subtotal	97	1	21	0	13	3	0	4	0	3	0	0	0	0	0	142	
Department of Planning and Environment																	
Department of Planning and Environment	7	0	5	0	0	0	1	0	0	0	0	0	0	0	0	13	
Environment Protection Authority	4	0	4	0	0	1	0	0	0	0	0	0	0	0	0	9	
Office of Environment and Heritage	13	0	1	0	2	0	2	0	0	0	0	0	0	0	0	18	
Office of Local Government	3	0	4	0	1	0	0	1	0	0	0	0	0	0	0	9	
UrbanGrowth NSW	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Subtotal	31	0	14	0	3	1	3	1	0	0	0	0	0	0	0	53	

Agency	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Department of Premier and Cabinet																	
Centennial Park & Moore Park Trust	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Department of Premier and Cabinet	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	
Internal Audit Bureau of NSW	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Office of Sport	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	3	
Parramatta Park Trust	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Public Service Commission	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Subtotal	6	0	1	0	0	0	0	1	0	0	0	0	0	0	0	8	
Ministry of Health																	
Ambulance Service of New South Wales	9	0	0	0	2	0	0	0	0	1	0	0	0	0	0	12	
Health Education and Training Institute NSW	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Health Infrastructure	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Health Professional Councils Authority	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	3	
HealthShareNSW	3	0	1	0	2	0	0	0	0	0	0	0	0	0	0	6	
Medical Council of New South Wales	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Metropolitan NSW Local Health Districts	29	1	1	0	4	0	0	0	0	0	0	0	0	0	0	35	
Ministry of Health	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	
Rural and Regional NSW Local Health Districts	16	0	1	0	0	0	0	1	0	0	0	0	0	0	0	18	
Specialty Networks	4	0	0	0	1	0	0	0	0	0	0	0	0	0	0	5	
Subtotal	72	1	5	0	10	0	0	1	0	1	0	0	0	0	0	90	
New South Wales Aboriginal Land Council																	
Awabakal Local Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Bodalla Local Aboriginal Land Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Deerubbin Local Aboriginal Land Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Dubbo Local Aboriginal Land Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
Metropolitan Local Aboriginal Land Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	
New South Wales Aboriginal Land Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Worimi Local Aboriginal Land Council	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1	
Subtotal	2	0	0	1	4	0	0	0	0	0	0	0	0	0	0	7	

	Assessment only	Preliminary or informal investigation										Formal investigation					Total
Agency	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	Total	
The Treasury																	
Long Service Corporation	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Subtotal	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Transport for NSW																	
NSW Trains	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9	
Roads and Maritime Services	148	1	69	0	34	10	0	6	0	0	0	0	0	0	0	268	
State Transit Authority of NSW	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Sydney Trains	17	0	4	0	0	0	0	1	0	0	0	0	0	0	0	22	
Transport for NSW	87	2	12	0	10	7	0	2	0	1	0	0	0	0	0	121	
Subtotal	263	3	85	0	45	17	0	9	0	1	0	0	0	0	0	423	
Universities																	
Charles Sturt University	11	1	10	1	3	1	0	0	0	0	0	0	0	0	0	27	
Macquarie University	4	0	5	0	3	0	0	0	0	0	0	0	0	0	0	12	
Southern Cross University	4	0	3	0	2	1	0	0	0	0	0	0	0	0	0	10	
University of New England	6	0	1	1	2	0	1	0	0	0	0	0	0	0	0	11	
University of New South Wales	12	0	4	0	1	0	0	1	0	0	0	0	0	0	0	18	
University of Newcastle	9	0	4	0	3	0	0	0	0	0	0	0	0	0	0	16	
University of Sydney	21	0	9	0	4	0	0	0	0	0	0	0	0	0	0	34	
University of Technology Sydney	8	0	7	0	2	0	0	1	0	0	0	0	0	0	0	18	
University of Wollongong	7	0	0	1	0	2	1	1	0	0	0	0	0	0	0	12	
UTS Insearch	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	2	
Western Sydney University	7	0	6	0	0	1	1	0	0	0	0	0	0	0	0	15	
Subtotal	89	1	49	3	20	5	3	5	0	0	0	0	0	0	0	175	
Independent bodies																	
Director of Public Prosecutions	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Electoral Commission NSW	7	0	1	0	0	0	0	0	0	0	0	0	0	0	0	8	
Health Care Complaints Commission	14	0	4	0	3	0	0	0	0	0	0	0	0	0	0	21	
Housing Appeals Committee	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Independent Commission Against Corruption	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Independent Pricing and Regulatory Tribunal	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Information and Privacy Commissioner	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Mental Health Review Tribunal (& Psychosurgery Review Board)	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
NSW Civil and Administrative Tribunal	26	0	2	0	1	0	0	0	0	0	0	0	0	0	0	29	
Office of the Children's Guardian	13	0	5	0	7	3	0	0	0	0	0	0	0	0	0	28	

Agency	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Office of the Legal Services Commissioner	7	0	1	0	0	0	0	0	0	0	0	0	0	0	0	8	
Office of the Registrar <i>Aboriginal Land Rights Act 1983</i>	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Planning Assessment Commission	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	
Southern Region Joint Regional Planning Panel	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Sydney West Joint Regional Planning Panel	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Workers Compensation Independent Review Office	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	3	
Subtotal	95	0	14	0	12	3	0	0	0	0	0	0	0	0	0	124	
Total	1,371	24	403	4	370	81	22	51	1	6	0	2	0	0	0	2,335	

Custodial services

Figure 70: Action taken on formal complaints about people in custody finalised in 2015–16.

Agency	Assessment only	Preliminary or informal investigation										Formal investigation					Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Corrective Services	126	19	152	5	199	21	4	4	0	1	0	1	0	0	0	532	
Justice Health	12	6	58	0	38	5	0	0	0	0	0	0	0	0	0	119	
Juvenile Justice	0	2	16	1	19	0	0	0	0	0	0	0	0	0	0	38	
Total	138	27	226	6	256	26	4	4	0	1	0	1	0	0	0	689	

Note: Refer to key on page 170. Some complaints may involve more than one centre.

Figure 71: Number of formal and informal complaints about Juvenile Justice received in 2015–16

Institution	Formal	Informal	Total
Acmena Juvenile Justice Centre	1	22	23
Cobham Juvenile Justice Centre	11	72	83
Frank Baxter Juvenile Justice Centre	7	15	22
Juniperina Juvenile Justice Centre	8	13	21
Juvenile Justice NSW	3	4	7
Orana Juvenile Justice Centre	6	18	24
Reiby Juvenile Justice Centre	4	15	19
Riverina Juvenile Justice Centre	0	3	3
Total	40	162	202

Figure 72: Number of formal and informal complaints about correctional centres, DCS and GEO received in 2015–16.

Institution	Formal	Informal	Total	Operational capacity	Total complaints as % of operational capacity
Maximum security					
Cessnock Correctional Centre	29	183	212	844	25
Goulburn Correctional Centre	23	149	172	567	30
High Risk Management Correctional Centre	65	145	210	42	500
Lithgow Correctional Centre	26	116	142	414	34
Long Bay Hospital	6	59	65	410	16
Metropolitan Remand Reception Centre	44	293	337	1037	32
Metropolitan Special Programs Centre	22	209	231	1091	21
Parklea Correctional Centre	39	244	283	966	29
Silverwater Women's Correctional Centre	16	165	181	302	60
South Coast Correctional Centre	23	159	182	624	29
Special Purpose Prison Long Bay	1	2	3	51	5
Wellington Correctional Centre	16	158	174	670	26
Medium security					
Bathurst Correctional Centre	8	140	148	622	24
Broken Hill Correctional Centre	3	24	27	82	33
Cooma Correctional Centre	2	19	21	197	11

Institution	Formal	Informal	Total	Operational capacity	Total complaints as % of operational capacity
Dillwynia Correctional Centre	10	69	79	243	32
Grafton Correctional Centre	8	67	75	250	30
John Morony Correctional Centre	15	111	126	396	32
Junee Correctional Centre*	30	191	221	839	22
Kariong Correctional Centre	2	22	24	93	26
Mid North Coast Correctional Centre	17	162	179	542	33
Tamworth Correctional Centre	1	18	19	81	23
Minimum security					
Dawn De Loas Special Purpose Centre	9	76	85	448	19
Emu Plains Correctional Centre	10	61	71	179	40
Glen Innes Correctional Centre	2	6	8	169	5
Ivanhoe 'Warakirri' Correctional Centre	2	1	3	35	8
Kirkconnell Correctional Centre	6	43	49	244	58
Mannus Correctional Centre	2	3	5	159	3
Oberon Correctional Centre	0	4	4	127	3
Outer Metropolitan Multi-Purpose Centre	10	57	67	354	19
St Heliers Correctional Centre	4	24	28	272	10
Yetta Dhinnakkal (Brewarrina) Centre	1	3	4	36	11

*Includes complaints about medical service at Junee which is not provided by Justice Health.

Total	449	2,053	2,502	11,485
Other				
Amber Laurel Correctional Centre	4	2	6	
Balund-a (Tabulam)	0	2	2	
Community Offender Services	19	61	80	
Compulsory Drug Treatment Centre	0	0	0	
Corrective Services Academy	0	1	1	
Corrective Services NSW	87	576	663	
Court Escort/Security Unit	2	6	8	
Justice Health	117	501	618	
Serious Offenders Review Council	1	2	3	
State Parole Authority	4	28	32	
The Forensic Hospital	1	9	10	
Women's transitional centres	1	1	2	
Total	688	4,172	4,860	

Local government

Figure 73: Action taken on formal complaints about local government finalised in 2015–16

In May 2016, 19 new councils were created through amalgamation and boundary adjustments. In 2015–16 we recorded local government complaints against the relevant former councils but, where possible, we have grouped those former councils under the newly created/amalgamated council name. Councils affected by boundary adjustments are shown with an asterisk (*).

Refer to key on page 170.

Council	Assessment only	Preliminary or informal investigation										Formal investigation					Total
		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Accredited Certifier	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Albury City Council	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Armidale Regional Council																	
Armidale Dumaresq Council	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4
Guyra Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Ballina Shire Council	5	0	2	0	1	0	0	0	0	0	0	0	0	0	0	0	8
Bathurst Regional Council	3	0	1	0	0	0	0	1	0	0	0	0	0	0	0	0	5
Bega Valley Shire Council	8	2	2	0	3	0	0	0	0	0	0	0	0	0	0	0	15
Bellingen Shire Council	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Berrigan Shire Council	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	4
Blacktown City Council	16	2	0	0	0	0	0	2	0	0	0	0	0	0	0	0	20
Bland Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Blue Mountains City Council	11	0	2	0	0	0	0	1	0	0	0	0	0	0	0	0	14
Bogan Shire Council	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Botany Bay City Council	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Broken Hill City Council	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4
Byron Shire Council	8	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	10
Cabonne Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Camden Council	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Campbelltown City Council	10	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	14
Canterbury-Bankstown Council																	
Bankstown City Council	15	0	2	0	0	0	0	2	0	0	0	0	0	0	0	0	19
Canterbury City Council	12	0	2	0	1	0	0	1	0	0	0	0	0	0	0	0	16
Central Coast Council																	
Gosford City Council	15	1	3	0	0	0	0	3	0	0	0	0	0	0	0	0	22
Wyong Shire Council	19	0	2	0	2	0	0	2	0	0	0	0	0	0	0	0	25
Central Tablelands Water	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Cessnock City Council	5	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	7
City of Canada Bay Council	8	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9
City of Parramatta Council																	
Parramatta City Council*	12	1	3	0	2	0	0	1	0	0	0	0	0	0	0	0	19
City of Sydney Council	22	1	7	0	0	0	0	0	0	0	0	0	0	0	0	0	30
Clarence Valley Council	4	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Coffs Harbour City Council	5	1	2	0	1	0	0	3	0	0	0	0	0	0	0	0	12

Council	Assessment only	Preliminary or informal investigation										Formal investigation					Total
		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Coonamble Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Cowra Shire Council	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Cumberland Council																	
Auburn Council*	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	4
Holroyd City Council*	5	0	1	0	0	0	0	1	0	0	0	0	0	0	0	0	7
Dungog Shire Council	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Edward River Council																	
Deniliquin Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Conargo Shire Council	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Eurobodalla Shire Council	11	0	4	0	1	0	0	3	0	0	0	0	0	0	0	0	19
Fairfield City Council	12	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	13
Federation Council																	
Corowa Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Urana Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Forbes Shire Council	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	2
Georges River Council																	
Hurstville City Council	8	1	2	0	0	0	0	0	0	0	0	0	0	0	0	0	11
Kogarah City Council	7	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	8
Glen Innes Severn Shire Council	2	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	3
Goulburn Mulwaree Council	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Griffith City Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Gundagai Council																	
Gundagai Shire Council	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cootamundra Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Gwydir Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Hawkesbury City Council	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9
Hilltops Council																	
Boorowa Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Harden Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Young Shire Council	3	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Hornsby Shire Council*	5	0	4	0	1	0	0	1	0	0	0	0	0	0	0	0	11
Hunters Hill Municipal Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Inner West Council																	
Ashfield Municipal Council	8	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	9
Leichhardt Municipal Council	7	1	1	0	1	0	0	0	0	0	0	0	0	0	0	0	10
Marrickville Council	21	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	23
Kempsey Shire Council	7	0	1	0	1	0	0	1	0	0	0	0	0	0	0	0	10
Kiama Municipal Council	8	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	10
Ku-Ring-Gai Municipal Council	9	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	10
Kyogle Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Lake Macquarie City Council	14	0	4	0	2	0	0	0	0	0	0	0	0	0	0	0	20
Lane Cove Municipal Council	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9

Council	Assessment only	Preliminary or informal investigation										Formal investigation					Total
		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Lismore City Council	4	0	1	0	1	0	0	1	0	0	0	0	0	0	0	7	
Lithgow City Council	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	2	
Liverpool City Council	15	0	3	0	1	0	0	1	0	0	0	0	0	0	0	20	
Liverpool Plains Shire Council	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	
Maitland City Council	8	1	2	0	0	0	0	0	0	0	0	0	0	0	0	11	
Midcoast Water	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Mid-Coast Council																	
Gloucester Shire Council	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Great Lakes Council	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Greater Taree City Council	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	
Mid-Western Regional Council	4	0	1	0	2	0	0	0	0	0	0	0	0	0	0	7	
Mosman Municipal Council	2	0	2	0	0	0	0	0	0	0	0	0	0	0	0	4	
Murray River Council																	
Murray Shire Council	0	0	2	0	0	0	0	1	0	0	0	0	0	0	0	3	
Wakool Shire Council	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Murrumbidgee Council																	
Jerilderie Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Murrumbidgee Shire Council	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Nambucca Shire Council	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	
Narrabri Shire Council	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	2	
Narrandera Shire Council	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Narromine Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Newcastle City Council	14	1	3	0	1	0	0	0	0	0	0	0	0	0	0	19	
North Sydney Council	7	1	3	0	0	1	1	0	0	0	0	0	0	0	0	13	
Northern Beaches Council																	
Manly Council	9	0	1	0	0	0	0	0	0	0	0	0	0	0	0	10	
Pittwater Council	9	0	2	0	0	0	0	0	0	0	0	0	0	0	0	11	
Warringah Council	19	0	0	0	0	1	0	1	0	0	0	0	0	0	0	21	
Oberon Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
Orange City Council	2	0	0	0	0	0	0	1	0	0	0	0	0	0	0	3	
Penrith City Council	7	0	0	0	0	0	0	1	0	0	0	0	0	0	0	8	
Port Macquarie-Hastings Council	8	0	1	0	2	0	0	0	0	0	0	0	0	0	0	11	
Port Stephens Council	9	0	1	0	0	0	0	1	0	0	0	0	0	0	0	11	
Queanbeyan-Palerang Regional Council																	
Queanbeyan City Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Palerang Council	3	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4	
Randwick City Council	14	0	2	0	0	0	0	0	0	0	0	0	0	0	0	16	
Richmond Valley Council	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Riverina Water County Council	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	
Rockdale City Council	7	0	3	0	1	0	0	1	0	0	0	0	0	0	0	12	
Ryde City Council	13	1	3	0	1	0	0	0	0	0	0	0	0	0	0	18	
Shellharbour City Council	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7	

Council	Assessment only	Preliminary or informal investigation										Formal investigation					Total
		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Shoalhaven City Council	14	0	3	0	1	0	0	2	0	0	0	0	0	0	0	20	
Singleton Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	0	2		
Snowy Monaro Regional Council																	
Snowy River Shire Council	3	0	0	1	1	0	0	0	0	0	0	0	0	0	5		
Bombala Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1			
Cooma-Monaro Shire Council	1	1	0	0	0	0	0	0	0	0	0	0	0	2			
Snowy Valleys Council																	
Tumbarumba Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1			
Tumut Shire Council	2	0	0	0	0	0	0	1	0	0	0	0	0	3			
Strathfield Municipal Council	3	0	0	0	0	0	0	0	0	0	0	0	0	3			
Sutherland Shire Council	19	1	5	0	0	0	0	0	0	0	0	0	0	25			
Tamworth Regional Council	7	0	0	0	0	0	0	0	0	0	0	0	0	7			
Temora Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1			
Tenterfield Shire Council	3	0	1	0	0	0	0	0	0	0	0	0	0	4			
The Hills Shire Council*	4	0	1	0	0	0	1	1	0	0	0	0	0	7			
Tweed Shire Council	12	0	1	0	0	0	0	0	0	0	0	0	0	13			
Upper Lachlan Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2			
Uralla Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1			
Wagga Wagga City Council	3	0	1	0	0	0	0	1	0	0	0	0	0	5			
Walgett Shire Council	1	1	0	0	0	0	0	0	0	0	0	0	0	2			
Warrumbungle Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1			
Waverley Council	6	1	0	0	0	0	1	0	0	0	0	0	0	8			
Weddin Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1			
Western Plains Regional Council																	
Dubbo City Council	2	0	1	0	0	0	0	0	0	0	0	0	0	3			
Wellington Council	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
Willoughby City Council	4	0	0	0	0	0	0	0	0	0	0	0	0	4			
Wingecarribee Shire Council	13	0	1	0	0	0	0	1	0	0	0	0	0	15			
Wollondilly Shire Council	9	0	4	0	0	0	0	0	0	0	0	0	0	13			
Wollongong City Council	18	0	5	0	2	0	0	1	0	0	0	0	0	26			
Woollahra Municipal Council	7	0	0	0	0	0	0	1	0	0	0	0	0	8			
Yass Valley Council	3	0	0	0	0	0	0	0	0	0	0	0	0	3			
Unidentified council	3	0	0	0	0	0	0	0	0	0	0	0	0	3			
Total	705	20	120	1	38	3	5	44	0	0	0	0	0	0	936		

Appendix C

Human services

Child and family services

Figure 74: Issues in complaints about child and family services received in 2015–16

Program area	Adoption		Child protection		Children's services		Family support		General inquiry		Out-of-home care		Total
	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	
Access to service	0	0	1	1	0	0	0	0	0	0	2	1	5
Adult person with disability – abuse/neglect in community (home)	0	0	1	0	0	0	0	0	0	0	0	0	1
Allowances/fees	1	1	0	3	0	0	0	0	0	0	18	18	41
Case management	1	0	11	12	0	0	1	4	0	2	40	28	99
Case planning	0	0	0	0	0	0	0	0	0	0	3	4	7
Casework	0	0	61	88	0	0	0	1	0	1	37	65	253
Charges/fees	0	0	0	1	0	0	0	0	0	0	0	3	4
Client choice, dignity, participation	0	0	0	0	0	0	0	0	0	0	0	1	1
Client finances & property	0	0	0	0	0	0	0	0	0	0	1	1	2
Client rights	0	0	0	3	0	0	0	0	0	0	3	6	12
Client to client abuse/assault	0	0	0	1	0	0	0	0	0	0	5	3	9
Complaints	0	0	15	22	0	0	0	3	0	3	24	42	109
Customer service	0	0	6	25	0	0	0	8	0	4	15	43	101
File/record management	0	0	0	0	0	0	0	0	0	0	0	1	1
Information	0	0	6	11	0	0	0	3	0	2	17	26	65
Investigation	0	0	22	10	0	0	0	0	0	0	5	9	46
Legal problems	0	0	0	5	0	0	0	1	0	0	0	3	9
Meeting individual needs	0	0	10	26	0	0	1	2	0	0	57	82	178
Not applicable	0	1	0	9	0	0	0	0	0	1	0	7	18
Not in jurisdiction	0	0	2	18	0	0	1	0	0	0	1	6	28
Object to decision	0	0	10	37	0	0	1	0	0	0	20	59	127
Policy/procedure/law	0	0	0	0	0	0	1	0	0	0	1	2	4
Professional conduct/misconduct	0	0	3	5	0	0	3	0	0	0	8	15	34
Safety	0	0	0	0	0	0	0	0	0	0	1	1	2
Service funding, licensing, monitoring	0	0	0	1	0	0	0	0	0	0	0	0	1
Service management	0	0	0	0	0	0	0	0	0	0	4	5	9
Staff to client abuse/neglect	0	0	0	0	0	0	0	0	0	0	1	1	2
Unexplained serious injury of service receiver	0	0	0	1	0	0	0	0	0	0	0	0	1
Total	2	2	148	279	0	0	8	22	0	13	263	432	1,169

Description

The following key is used throughout Appendix C, for figures 75, 77, and 83.

- A** Complaints declined at outset
- B** Service improvement comments or suggestions to agency
- C** Referred to agency concerned or other body for investigation
- D** Direct investigation
- E** Complaints resolved after inquiries
- F** Complaints resolved by agency prior to contact
- G** Complaints consolidated into another complaint
- H** Complaints referred to agency for local resolution
- I** Complaints conciliated/mediated

Figure 75: Formal complaints finalised for child and family services in 2015–16

Program area	A	B	C	D	E	F	G	H	I	Total
Adoption	2	0	0	0	2	0	0	0	0	4
Child protection services	55	2	0	6	62	35	2	0	0	162
Children's services	0	0	0	0	0	0	0	0	0	0
Family support services	4	0	0	0	3	3	0	0	0	10
Out-of-home care	92	2	1	0	86	56	5	6	0	248
Total	153	4	1	6	153	94	7	6	0	424

Figure 76: Notifications finalised in 2015–16: breakdown by allegation and gender of alleged offender

Issue	Female	Male	Unknown	Total
Ill treatment	89	40	1	130
Neglect	170	73	3	246
Not in our jurisdiction	53	21	2	76
Physical assault	230	177	2	409
Psychological harm	6	10	0	16
Reportable conviction	1	0	0	1
Sexual misconduct	67	238	0	305
Sexual offence	10	80	0	90
Total notifications closed	626	639	8	1,273

Child Death Review Team members 2015–16

Statutory members

Professor John McMillan AO

Convenor

Acting NSW Ombudsman

Mr Steve Kinmond

Community and Disability Services Commissioner

Deputy Ombudsman

Mr Andrew Johnson

NSW Advocate for Children and Young People

Agency representatives

Ms Kate Alexander

Executive Director, Office of the Senior Practitioner

Department of Family and Community Services

Ms Robyn Bale

Director, Student Engagement and Interagency Partnerships

Department of Education

Ms Clare Donnellan (from June 2016)

District Director, South Western Sydney

Department of Family and Community Services

Ms Christine Callaghan (to April 2016)

District Director, Nepean Blue Mountains

Department of Family and Community Services

Ms Jane Gladman

Coordinator of the Coronial Information and Support Program

Office of the NSW State Coroner

Associate Professor Elisabeth Murphy (from June 2016)

Senior Clinical Adviser, Child and Family Health

Department of Health

Mr Marcel Savary (to May 2016)

Courts Policy Manager

Department of Attorney General and Justice

Professor Les White (to July 2016)

NSW Chief Paediatrician

NSW Health

Detective Superintendent Michael Willing

Commander Homicide

NSW Police Force

Aboriginal representatives

Professor Ngiare Brown

Executive Manager, Research

National Aboriginal Community Controlled Health Organisation

Professor Kathleen Clapham (from June 2016)

Australian Health Services Research Institute

University of Wollongong

Independent members

Dr Susan Adams

Director, Division of Surgery and Senior Staff Specialist

Paediatric General Surgeon, Sydney Children's Hospital

Dr Susan Arbuckle

Paediatric/perinatal pathologist

The Children's Hospital at Westmead

Dr Luciano Dalla-Pozza

Head of Department and Senior Staff Specialist (Oncology)

Children's Hospital at Westmead

Dr Jonathan Gillis

Deputy Convenor

Paediatrician

Dr Bronwyn Gould

General Practitioner

Professor Philip Hazell

Director Child and Adolescent Mental Health Services,

Sydney Local Health District

Conjoint Professor of Child and Adolescent Psychiatry,

Sydney Medical School

Professor Heather Jeffery

International Maternal and Child Health

University of Sydney/Royal Prince Alfred Hospital

Professor Ilan Katz

Director, Social Policy Research Centre

University of NSW

Dr Helen Somerville

Visiting Medical Officer, Department of Gastroenterology

Children's Hospital at Westmead

Disability services

Figure 77: Formal complaints finalised about disability services in 2015–16

Program area	A	B	C	D	E	F	G	H	I	Total
Disability accommodation services	19	12	0	0	81	24	12	5	1	154
Disability support services	37	3	1	3	73	27	12	2	0	158
Total	56	15	1	3	154	51	24	7	1	312

Refer to key on page 183.

Figure 78: Issues in complaints about disability services received in 2015–2016

A complaint may have more than one issue.

Program area	Disability accommodation		Disability support		General inquiry	Total
	Formal	Informal	Formal	Informal	Informal	
Access to service	3	0	12	7	0	22
Adult person with disability – abuse/neglect in community (home)	4	3	32	8	0	47
Allowances/fees	0	0	10	4	0	14
Case management	6	4	9	7	0	26
Casework	2	0	3	4	0	9
Charges/fees	0	1	0	0	0	1
Client choice, dignity, participation	2	3	3	1	0	9
Client finances & property	1	2	1	3	0	7
Client rights	9	3	2	5	0	19
Client to client abuse/assault	16	4	4	3	0	27
Complaints	5	5	8	13	0	31
Customer service	5	4	9	19	0	37
File/record management	0	1	0	0	0	1
Information	6	7	2	3	0	18
Investigation	2	0	2	3	0	7
Legal problems	0	0	1	0	0	1
Meeting individual needs	49	16	30	21	0	116
Not applicable	1	7	4	17	0	29
Not in jurisdiction	3	5	9	17	1	35
Object to decision	0	3	3	11	0	17
Policy/procedure/law	1	0	1	0	0	2
Professional conduct/misconduct	13	7	5	1	0	26
Safety	7	1	7	1	0	16
Service funding, licensing, monitoring	2	0	5	2	0	9
Service management	5	5	8	2	0	20
Staff to client abuse/neglect	15	13	9	1	0	38
Unexplained serious injury of service receiver	5	2	1	0	0	8
Total	162	96	180	153	1	592

Disability reportable incidents

Figure 79: Formal complaints and notifications received in 2015–16 (by FACS/non-government agency)

Primary agency	Employee to client	Client to client	Unexplained serious injury	Breach of AVO	Complaint	Total
FACS	116	86	80	0	21	303
Non-government agency	194	174	33	3	25	429
Total	310	260	113	3	46	732

Figure 80: Notifications received in 2015–16 (by primary issue, FACS/non-government)

Issue	FACS	Non-government agency	Total
Employee to client			
Physical assault	37	71	108
Ill-treatment	23	44	67
Neglect	38	18	56
Sexual offence	7	9	16
Sexual misconduct	4	9	13
Fraud	2	5	7
Reportable conviction	1	0	1
Not in jurisdiction	4	38	42
Subtotal	116	194	310
Client to client			
Pattern of abuse	55	84	139
Sexual offence	16	35	51
Assault causing serious injury	8	40	48
Assault involving the use of a weapon	7	8	15
Not in jurisdiction	0	7	7
Subtotal	86	174	260
Unexplained serious injury			
Unexplained serious injury	77	30	107
Not in jurisdiction	3	3	6
Subtotal	80	33	113
Breach of AVO			
Breach of AVO	0	3	3
Subtotal	0	3	3
Total	303	429	732

Other community services

Figure 81: Number of formal and informal matters about other community services received in 2015–16

Some complaints about supported accommodation and general community services may involve complaints about child and family and disability services.

Agency category	Formal	Informal
FACS - Community Services		
Specialist Homelessness Services (SHS)	0	0
General community services	2	4
Aged services	0	0
Disaster welfare services	0	0
Other	3	24
Subtotal	5	28
FACS - ADHC		
Specialist Homelessness Services (SHS)	0	0
General community services	1	1
Aged services	2	1
Disaster welfare services	0	0
Other	5	8
Subtotal	8	10
Other government agencies		
Specialist Homelessness Services (SHS)	0	0
General community services	0	5
Aged services	2	3
Disaster welfare services	0	0
Other	9	11
Subtotal	11	19
Non-government-funded or licensed services		
Specialist Homelessness Services (SHS)	7	3
General community services	2	8
Aged services	2	5
Disaster welfare services	0	0
Other	8	21
Subtotal	19	37
General Inquiries		
Aged services	0	1
Other	0	5
Subtotal	0	6
Other (general inquiries)	4	31
Agency unknown	7	71
Not in our jurisdiction	12	31
Subtotal	23	133
Total	66	233

Figure 82: Complaints issues for other community services received in 2015–16

Issue	Formal	Informal	Total
Access to service	2	5	7
Adult person with disability – abuse/neglect in community (home)	3	1	4
Allowances/fees	1	0	1
Case management	0	1	1
Casework	1	3	4
Charges/fees	1	2	3
Client choice, dignity, participation	0	2	2
Client rights	0	1	1
Client to client abuse/assault	3	2	5
Complaints	4	19	23
Customer service	5	8	13
Information	5	5	10
Investigation	1	0	1
Legal problems	1	1	2
Meeting individual needs	5	5	10
Not applicable	1	84	85
Not in jurisdiction	24	68	92
Object to decision	2	11	13
Policy/procedure/law	1	2	3
Professional conduct/misconduct	4	5	9
Safety	0	2	2
Service funding, licensing, monitoring	1	1	2
Service management	0	2	2
Staff to client abuse/neglect	1	3	4
Total	66	233	299

Figure 83: Formal complaints finalised for other community services in 2015-16

Program area	A	B	C	D	E	F	G	H	I	Total
Specialist Homelessness Services (SHS)	4	1	0	0	0	0	0	0	0	5
General community services	1	0	0	0	2	1	0	0	0	4
Aged services	8	0	0	0	2	0	0	0	0	10
Disaster welfare	0	0	0	0	0	0	0	0	0	0
Other	32	0	0	0	5	5	0	0	0	42
General inquiries	3	0	0	0	0	1	0	0	0	4
Total	48	1	0	0	9	7	0	0	0	65

Refer to key on page 183.

Appendix D

Legislation and legal matters

Legislation relating to Ombudsman functions:

Ombudsman Act 1974

Child Protection (Working with Children) Act 2012

Children and Young Persons (Care and Protection) Act 1998

Community Services (Complaints, Reviews and Monitoring) Act 1993

Crimes Act 1900

Crimes (Criminal Organisations Control) Act 2012

Firearms Act 1996

Government Information (Public Access) Act 2009

Government Information (Information Commissioner) Act 2009

Inspector of Custodial Services Act 2012

Law Enforcement (Controlled Operations) Act 1997

Law Enforcement (Powers and Responsibilities) Act 2002

Police Act 1990

Public Interest Disclosures Act 1994

Restricted Premises Act 1943

Summary Offences Act 1988

Surveillance Devices Act 2007

Telecommunications (Interception and Access) (New South Wales) Act 1987

Terrorism (Police Powers) Act 2002

Witness Protection Act 1995

The Ombudsman also has functions under legislation establishing the following universities:

Charles Sturt University

Macquarie University

Southern Cross University

University of Technology Sydney

University of New England

University of New South Wales

University of Newcastle

University of Sydney

University of Western Sydney

University of Wollongong

Legal changes

Amendments to the *Ombudsman Act 1974*

Disclosure of investigation information by the Ombudsman

Two new sections were inserted into the Ombudsman Act permitting the disclosure of information about investigations into reportable allegations under Part 3A (Child protection) and Part 3C (Protection of people with disability).

Section 25GA permits the Ombudsman or a designated agency to provide information about the progress or findings of a Part 3A investigation, and any action taken in response to those findings, to:

- the child allegedly the subject of the reportable allegation,
- the parents of that child, or
- any authorised carer providing the child with out-of-home care.

Section 25WA permits the Ombudsman, the Secretary of FACS or head of a funded provider to give information about the progress or findings of a Part 3C investigation, and any action taken in response to those findings, to:

- the person allegedly the subject of the reportable allegation,
- any person nominated by that person to receive the information, or
- if the person allegedly the subject of the allegation does not have the capacity to understand the information or to nominate a person to receive it, another prescribed person.

Extension of Part 3A to adults residing with authorised carers

Amendments to the Ombudsman Act have extended the scope of Part 3A by the introduction of s 25AAA. This section provides that an adult residing, for three weeks or more, on the same property as an authorised carer for children or young persons in their private capacity, will be taken to be an employee of the agency that authorised the carer. This extends the child protection provisions in Part 3A to adults residing on the same property as authorised carers.

Amendments to the *Community Services (Complaints, Reviews and Monitoring) Act 1993*

Child death review team – reports

Amendments to the Community Services (Complaints, Reviews and Monitoring) Act (s 34G) have changed the reporting schedule for the Child Death Review Team. The changes will bring the CDRT reporting base into line with the Ombudsman's reporting base for reviewable child deaths.

Under the previous schedule, the CDRT reported annually (by the end of October) on deaths registered in the previous calendar year. In future, the team will report biennially (as soon as practicable) on deaths occurring in the preceding two calendar years.

The CDRT's final annual report of child deaths will be tabled in 2016, covering deaths occurring in 2015. Its first biennial report of child deaths will be tabled in 2018 (covering deaths occurring in 2016 and 2017).

Amendments to the Children and Young Persons (Care and Protection) Regulation

Exchange of information and coordination of services between agencies

Amendments to the Children and Young Persons (Care and Protection) Regulation expanded the number of 'prescribed bodies' for the purposes of Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*. 'Prescribed bodies' may, in certain circumstances, provide information to another prescribed body that relates to the safety, welfare or wellbeing of a child or young person or class of children or young persons.

The amendment adds to the current list of 'prescribed person', the following categories: nurses, registered medical practitioners, registered midwives, registered psychologists, persons registered under the Health Practitioner Regulation National Law to practise as occupational therapists (other than as students), and speech pathologists eligible for membership of Speech Pathology Australia.

Litigation

The Ombudsman has not been a party to any litigation in the reporting year.

No significant judicial decisions were made during the reporting period that affect the NSW Ombudsman or users of its service.

Appendix E

Compliance with annual reporting requirements

The *Annual Reports (Departments) Act 1985*, the *Annual Reports (Departments) Regulation 2010*, various Treasury circulars and the *Ombudsman Act 1974* require us to include certain information in this report. The table below lists the required information and where it is located in this report.

Requirement	Comment/location
Letter of submission	See front section of the report.
Application for extension of time	We did not request an extension of time to table this report.
Charter - manner in which and purpose for which agency was established - principal legislation administered within department	Pages 5-6
Aims and objectives	Pages 5-6
Access to our office/services	Back page
Management and structure	Pages 2-5
Summary review of operations	Pages 23-31
Funds granted to non-government community organisations	No funds granted
Legal change	Appendix D
Economic or other factors	Pages 31
Management and activities	This report details our activities in the reporting period. Specific comments can be found in the 'Managing our organisation' chapter.
Research and development	Page 33
Human resources	Pages 34-37
Consultants	Page 138
Workforce diversity	Page 35-37
Disability Inclusion Action Plans	Page 9
Land disposal	We did not dispose of any land.
Promotion – overseas visits	Page 13
Consumer response	Page 17
Payment of accounts	Pages 138-139
Time for payment of accounts	Pages 138-139 We did not have to pay any interest due to late payments.
Risk management and insurance activities	Page 20
Internal audit and risk management police attestation	Page 21
Disclosure of controlled entities	We do not have any controlled entities.
Disclosure of subsidiaries	We do not have any subsidiaries.
Multicultural policies and services program	Appendix G
Agreements with Multicultural NSW	We do not have any agreements.
Work health and safety	Pages 37-38
Financial statements	Pages 137-162

Requirement	Comment/location
Identification of audited financial statements	Pages 140 and 162
Unaudited financial statements to be distinguished by note	We do not have any unaudited financial statements
Statement of action taken to comply with the <i>Privacy and Personal Information Protection Act 1998</i> (PPIPA)	We have a privacy management plan as required by s 33(3) of PPIPA, which includes our obligations under the <i>Health Records and Information Privacy Act 2002</i> . We received no requests for review under PPIPA during the reporting period.
After balance date events having a significant effect in succeeding year on: - financial operations - other operations - clientele/community served	Not applicable
External costs (such as fees for consultants and printing costs) incurred in the production of the report)	\$11,217.65
Exemptions from the reporting provisions	As a small department, the Ombudsman is exempted from the requirement to report annually, and may instead report each three years, on the following matters: - workforce diversity - disability inclusion action plans - multicultural policies and service program - work health and safety. However, we have chosen to include those matters in this report.
Numbers and remuneration of senior executives	Page 21
Digital information security policy attestation	Page 22
Public interest disclosures	Page 19
Requirements arising from employment arrangements	We do not provide personnel services to any statutory body.
Public availability of annual reports	Available on the Ombudsman website www.ombo.nsw.gov.au
Complaints referred to the Ombudsman	33 matters were referred to us by other agencies: 7 complaints were referred under s 42 of the Ombudsman Act 24 complaints and 2 inquiries were referred under Div 4, Pt 8A of the <i>Police Act 1990</i> .

Appendix F

NSW Ombudsman GIPA report

This is the Ombudsman's report for 2015–16, as required by s 125 of the *Government Information (Public Access) Act 2009* (GIPA Act) and clause 7 of the Government Information (Public Access) Regulation 2009 (GIPA Regulation).

The secrecy provisions of the *Ombudsman Act 1974* limit the information we can make publicly available. Information about our complaint handling, investigative and reporting functions is excluded information under Schedule 2 of the GIPA Act. Nevertheless, we still try to make as much information as possible publicly available.

This year we continued to make a range of information available on our website – including special reports to Parliament, guidelines and submissions. Appendix H lists the publications we issued in the reporting period.

Review of the Ombudsman's proactive release program

Each agency must review its program for releasing government information at least once every 12 months to identify the kinds of government information it holds that can be made publicly available, without imposing unreasonable additional costs on the agency (s 7(3) of the GIPA Act). Details of that review and the information made available as a result of it must be included in the agency's annual report (cl 7(a) of the GIPA Regulation).

Our program for proactively releasing information involves reviewing our information holdings. This includes reviewing any informal requests for information we receive where the information is given to the person making the request. Our right to information officers, along with other staff, identify any other information that can be made available on our website.

During the reporting period we started to use twitter as another way to engage with stakeholders – such as members of the public, community groups, professionals, government and non-government agencies. Our twitter account (@NSWOmbo) has 390 followers. We have tweeted about the release of our annual reports, media appearances, reports tabled in Parliament, the training we offer, and our involvement in community events. Our twitter terms of use are published on our website.

In 2015–16 we launched our new newsletter *Disability e-News Update*, which provides information about our work in the disability area. We published three issues during the year, with updates about the Official Community Visitors and Disability Reportable Incidents schemes and our community education and training offerings. The newsletter is distributed to a subscriber mailing list and made available on our website. Subscription is open to anyone via our website. We currently have 519 subscribers.

We produce the *PID e-news* as part of our role under the *Public Interest Disclosures Act 1994* to promote public awareness and understanding of the Act. In 2015–16, we distributed four issues to subscribers. *PID e-news* provides updates about changes to legislation and regulations,

training sessions, events, publications, guidance material and educational resources. It has 1,037 subscribers with subscription available to anyone via email to pid@ombo.nsw.gov.au.

One of the most effective ways of sharing information about our work is the latest news section of our website. Up-to-date information is provided about training sessions we have conducted, presentations, visits to rural and regional centres as well as visits from delegations to our office and other information that may be of public interest.

A range of fact sheets and policies are available on our website. The fact sheets feature topics such as Operation Prospect, the Ombudsman and the NDIS, and our complaint assessment criteria for complaints about government agencies. Key policies available include our statement of corporate purpose, code of conduct and our updated conflict of interests policy.

During 2015–16, we continued to review our interagency agreements to determine their suitability for release. We entered into one new agreement – a revised memorandum of understanding with the Office of Local Government – which we made publicly available on our website.

No changes have been made to our register of government contracts as we did not enter into any contracts with the private sector valued at over \$150,000.

GIPA access applications

Clauses 7(b) to (d) of the GIPA Regulation require an agency to report certain information each year about access applications received under the GIPA Act.

We received no formal access applications during the reporting year. This includes withdrawn applications but not invalid ones.

Statistical information about access applications

Figure 84: Number of applications by type of applicant and outcome

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

Figure 85: 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

Figure 86: Invalid applications

Reason for invalidity	No. of applications
Application does not comply with formal requirements (s 41 of the GIPA Act)	0
Application is for excluded information of the agency (s 43 of the GIPA Act)	17
Application contravenes restraint order (s 110 of the GIPA Act)	0
Total number of invalid applications received	17
Invalid applications that subsequently became valid applications	0

Figure 87: Timeliness

	No. of applications
Decided within the statutory timeframe (20 days plus any extensions)	0
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
Total	0

Figure 88: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the GIPA Act (valid applications only)

	No. of times consideration used
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0

Figure 89: Other public interest considerations against disclosure: matters listed in table to s 14 of the GIPA Act

	No. of times consideration used
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0
Total	0

Figure 90: Applications transferred to other agencies.

	No. of applications transferred
Agency-initiated transfers	0
Applicant-initiated transfers	0
Total	0

Figure 91: Number of applications reviewed under Part 5 of the GIPA Act (by type of review and outcome)

	Decision varied	Decision upheld	Total	% of Total
Internal review	0	1	1	50
Review by Information Commissioner*	0	0	0	0
Internal review following recommendation under section 93 of Act	0	0	0	0
Review by NCAT	0	1	1	50
Total	0	2	2	
% of Total	0	100		

*The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Figure 92: Applications for review under Part 5 of the GIPA Act (by type of applicant)

	No. of applications for review	% of Total
Applications by access applicants	2	100
Applications by persons to whom information the subject of access application relates (see s 54 of the GIPA Act)	0	0
Total	2	

Appendix G

Access and equity programs

Multicultural action plan (MAP)

Planned outcome	Strategies	Progress report for 2015–16
• Key priority area: Planning and evaluation		
Integrate multicultural policy goals into our corporate and business planning and review mechanisms.	Conduct a comprehensive review of our MAP to ensure that our plan reflects current legislation and policies concerning migrants and humanitarian entrants, and that our office is accessible to culturally, linguistically and religiously diverse people.	<ul style="list-style-type: none"> • Our MAP 2015-19 reflects changes in relevant legislation and government policies, and is outcome focused – with strategies and actions to ensure our services are accessible and appropriate for culturally, linguistically and religiously diverse people.
	Ensure that our MAP strategies are reflected in or linked to business plans.	<ul style="list-style-type: none"> • Strategies to address issues relevant to culturally, linguistically and religiously diverse people are linked to our corporate plan and relevant business plans. • The senior officers group receives reports on the implementation of our MAP.
	Gather and analyse information about issues affecting culturally, linguistically and religiously diverse people and use this to inform business planning processes.	<ul style="list-style-type: none"> • We use statistical information obtained from our contacts with clients – such as the use of our interpreters and translators register – and the results of our periodic customer satisfaction audits to inform our MAP and business planning processes.
Policy development and service delivery is informed by our expertise, client feedback and complaints, and participation on advisory boards, significant committees and consultations.	Establish a cross-office MAP advisory committee to ensure that all business areas participate in the multicultural planning process.	<ul style="list-style-type: none"> • Our MAP advisory committee, headed by the Assistant Ombudsman (Corporate) and represented by all branches and divisions, met regularly to provide advice and support and to monitor the implementation of our MAP. This committee is the main internal advisory and consultative forum for our MAP review process.
	Consult regularly with key multicultural groups to identify gaps in our awareness strategies and service delivery and ensure that issues identified are reflected in our planning process.	<ul style="list-style-type: none"> • We liaised with key multicultural groups to promote our services to people from culturally, linguistically and religiously diverse backgrounds, and to identify gaps in our awareness strategies and service delivery.
	Take all reasonable steps to encourage culturally, linguistically and religiously diverse people to participate in relevant committees, roundtable discussions and public forums.	<ul style="list-style-type: none"> • We held regular disability roundtables to consult with key disability organisations, including the Multicultural Disability Advocacy Association, on a range of issues relevant to people with disability, including those from a culturally, linguistically and religiously diverse background.
• Key priority area: Capacity building and resourcing		
Senior management actively promote and are accountable for the implementation of the principles of multiculturalism within the office and wider community.	MAP endorsed and promoted to staff by Ombudsman.	<ul style="list-style-type: none"> • Our MAP was approved by the Ombudsman and is office policy. It is available to all staff.
	Ensure that our MAP assigns clear responsibilities to key staff and division management for its implementation. Review staff performance agreements to ensure accountabilities for multicultural affairs are clearly assigned.	<ul style="list-style-type: none"> • The Assistant Ombudsman (Corporate) is the lead officer for our MAP and holds overall responsibility for developing and implementing our plan. • Our MAP assigns responsibilities to relevant staff. • We reported on the implementation of MAP strategies to our senior officers group quarterly.
Our capacity is enhanced by the employment and training of people with linguistic and cultural expertise.	Use the Community Language Allowance Scheme (CLAS), monitor implementation, and develop a register of staff who have bilingual skills as well as cultural and community knowledge.	<ul style="list-style-type: none"> • We actively promoted and used the CLAS within our office. • Five of our staff received the CLAS allowance and collectively they provided language assistance in six community languages. • We kept a central record when language assistance was provided, and this information helped to inform our planning process.
	Provide cross-cultural awareness and cultural competence training to our staff.	<ul style="list-style-type: none"> • We continued our cross-cultural awareness and competence training program as part of our formal induction training for all new staff.

Planned outcome	Strategies	Progress report for 2015–16
• Key priority area: Program and services		
Identify barriers to access to our services for culturally, linguistically and religiously diverse people, and develop programs and services to address issues identified.	Review our guidelines on the use of interpreters and translators and provide training to all staff.	<ul style="list-style-type: none"> We have up-to-date procedures in place for using translation and interpreting services. All frontline inquiry staff are trained to use interpretation and translation services.
	Ensure that our budget for interpreter services and interpreter use is monitored and reviewed.	<ul style="list-style-type: none"> We allocated funds for providing interpretation and translation services. We kept a register of our use of interpretation and translation services to inform our decision making in developing community language information. We provided language assistance to our clients on 126 occasions in 19 community languages.
Use a range of communication formats and channels to inform culturally, linguistically and religiously diverse people about our programs, services and activities.	Review our information in community languages and develop accessible and appropriate material in a range of formats (written, audio, online) to meet the specific needs of culturally, linguistically and religiously diverse people following consultation with key community organisations.	<ul style="list-style-type: none"> Our multilingual brochure provides key information about our services in 26 community languages. Our fact sheet 'Making a complaint to the Ombudsman' is available in 46 community languages. Everything we produce in community languages is checked by community 'readers' for language and cultural appropriateness. We have developed easy English information material to explain our role in community services, the NDIS, and complaint handling for people whose first language is not English.
	Explore and recommend where appropriate the use of a range of technology in targeted community languages to facilitate communication with culturally, linguistically and religiously diverse people and improve access to our services.	<ul style="list-style-type: none"> Our community language information is in accessible PDF format and available to download on our website.
	Develop initiatives to raise awareness of, and celebrate the contribution of, culturally, linguistically and religiously diverse people.	<ul style="list-style-type: none"> We distributed information and spoke to community members at community events including the community services expo in Parramatta, anti-poverty forum in Newcastle, Mardi Gras Fair Day and the Seniors Day at the Sydney Royal Easter Show. We promoted our office and services to community workers through multicultural worker networks such as the Mount Druitt Ethnic Communities Agency (MECA) and SydWest Multicultural Services.

Compliance with the NSW Carers (Recognition) Act 2010



Strategies	Progress report for 2015–16
Educational strategies.	<ul style="list-style-type: none"> Our carers recognition policy has been promoted to all staff and is available on our website. We provided information about the Carers (Recognition) Act and the NSW Carers Charter to staff via email and promotional material in our office. We participated in community events such as Carers Day Out to promote the rights of people with disability and their carers and increase awareness about how to make a complaint.
Consultation and liaison with carers.	<ul style="list-style-type: none"> Our disability action plan advisory committee and our division managers group are our internal consultative mechanisms for developing our carers policy. We maintained regular contact with peak carers organisations via our existing consultative platforms and through our core business work in oversighting the provision of community services. We provided our free tailored workshop The rights stuff - tips for solving problems and making complaints to users of community services and their carers.
Staff who are carers.	<ul style="list-style-type: none"> We promoted and made available to staff a range of policies that support employees who are carers – including flexible working hours, working from home, and family and community services leave policies. We continued to review relevant human resources policies to ensure that staff with caring responsibilities are valued and appropriately supported.

Appendix H

Publications list

We produce a range of publications including general information for the public, guidelines for agencies and organisations we oversight, discussion papers seeking information from the public, final reports at the conclusion of legislative reviews, annual reports outlining the work we have done during the financial year and special reports to Parliament about public interest issues.

A list of the publications we issued during 2015–16 follows. Our publications are available in Acrobat PDF online at www.ombo.nsw.gov.au. Hard copies are available by contacting us or submitting an online publications request on our website.

Annual reports

Law Enforcement (Controlled Operations) Act Annual Report 2014–2015

NSW Child Death Review Team Annual Report 2014

NSW Ombudsman Annual Report 2014–2015

Official Community Visitors Annual Report 2014–2015

Oversight of *Public Interest Disclosures Act 1994* Annual Report 2014–2015

Reports and submissions

A scan of childhood injury and disease prevention infrastructure in NSW – October 2015

CDRT submission to the independent review of swimming pool barrier requirements in NSW – October 2015

Drowning deaths of children (private swimming pools) 2007–2014 – September 2015

Fostering economic development for Aboriginal people in NSW – A Special Report to Parliament under s 31 of the *Ombudsman Act 1974* – May 2016

Ombudsman supplementary submission to the Review of the Police Oversight in NSW – July 2015

Operation Prospect – Second Progress Report by the Acting NSW Ombudsman – June 2016

Preliminary submission to the NSW Law Reform Commission's review of the *Guardianship Act 1987* – March 2016

Report from the Acting Ombudsman to General Purpose Standing Committee No. 4 on the progress of Operation Prospect – November 2015

Report under Section 242(3) of the *Law Enforcement (Powers and Responsibilities) Act 2002*, Covert Search Warrants for the period ending 28 May 2015 – November 2015

Report under section 242(3) of the *Law Enforcement (Powers and Responsibilities) Act 2002* for the period ending 7 August 2015 Criminal Organisations Search Warrants – November 2015

Report under Section 49(1) of the *Surveillance Devices Act 2007* for the 6 months ending 30 June 2015

Report under section 49(1) of the *Surveillance Devices Act 2007* for the 6 months ending 31 December 2015

Review of police use of Firearms Prohibition Order search powers – Issues Paper – July 2015

Review of Restricted Premises Act search powers and offence provisions – Issues Paper – August 2015

Strengthening the oversight of workplace child abuse allegations – A Special Report to Parliament – February 2016

Submission on Issues Paper 10 – Advocacy and support and therapeutic treatment services – November 2015

Submission on Issues Paper 9 – Addressing the risk of child sexual abuse in primary and secondary schools – September 2015

Submission on the Legislative Council into elder abuse in NSW – March 2016

Submission to Legislative Council Inquiry into service coordination in communities with high social needs – August 2015

Submission to Royal Commission OOHCC Consultation paper – 22 April 2016

The consorting law report on the operation of Part 3A, Division 7 of the *Crimes Act 1900* – April 2016

Fact sheets and guidelines

Complaining to the NSW Ombudsman about NSW government agencies and local councils

Enforcement guidelines for councils – updated December 2015

FACS – Reporting abuse and neglect to the NSW Ombudsman

Monitoring and assessing OCHRE – information sheet

Smart complaining – information sheet

Tips for local councils – Building a best practice complaint management system

Brochures

Do you want to make a complaint? Who to contact and some tips for making your complaint – updated

Newsletters

Disability e-News Update Issues 1 to 3

PID e-news Issues 29 and 30

Index

A

Aboriginal Affairs (AA), 116, 117, 121, 122, 123, 126
Aboriginal Child, Family and Community Care State Secretariat (AbSec), 85, 86, 116, 117, 118, 135
Aboriginal Economic Prosperity Framework (AEPF), 121, 122
Aboriginal Language and Culture Nests, 125
Aboriginal people. see also Deputy Ombudsman (Aboriginal Programs); OCHRE initiatives
Aboriginal Child Placement Principles, 118
asbestos handling education, 116–127
case studies, 116, 119–121
child sexual assault, 84–85, 119–120
diversionary measures (young people), 85–86
economic development, 121–122
Grandmothers Against Removals (GMAR) group, 118, 120
Healing and Wellbeing Model, 124
healing in Aboriginal policy, 126–127
monitoring programs, 121–124
OOHC agencies, 116, 117, 119
Opportunity Hubs initiative, 125
place based service delivery, 124
Stolen Generations, reparations inquiry, 126
victims and criminal justice, 120
Aboriginal policy (Ombudsman's), 9–10
access and equity programs, 9–10, 36, 196–197
accounts paid on time, 138
agencies
oversight by Ombudsman, 5, 7
oversight of Ombudsman, 19
asbestos handling education, 116–117
assets, 31, 139
Association of Children's Welfare Agencies (ACWA), 85, 86, 110
attestation of compliance, 20
Audit and Risk Committee (ARC), 20–21, 37, 159
Audit Office of New South Wales, 10, 137
audits
attestation, 21
internal, 20–21

C

capital program, 31, 137
carers recognition policy, 10
case management system, 16, 17
child and family services
complaints, 82, 83, 182–183
Ombudsman's function, 82
Child Death Register, 96
Child Death Review Team (CDRT), 37
Annual Report 2015-16, 96–103
information disclosure, 97
legislative changes, 189–190

members, 184
monitoring recommendations, 97–103
research, 96–97
child deaths
asthma, 98
drowning, swimming pools, 97, 102–103
geographic analysis, 97
house fires, 101
infectious diseases, 96
low speed vehicle incidents, 101–102
sudden unexpected death in infancy (SUDI), 98–101
Child Protection Register (CPR), 51, 84, 119
child protection. see also employment-related child protection; Royal Commission into Institutional Responses to Child Sexual Abuse
Aboriginal communities, 84–85, 119–120
allegations of child abuse, 81, 84–85
interagency cooperation, 84
investigations, 84
monitoring, 83–84
Ombudsman's responsibilities, 82
submission to Legislative Council inquiry, 83
Child Protection (Working With Children) Act 2012, 189
children and young people. see also child protection; juvenile justice; young people
homeless, 86
risk of significant harm (ROSH), 83–84
sexual assault, 119–120
sexually abusive behaviours, 120
with disability, 106
Children and Young Persons (Care and Protection) Act 1998, 89, 189, 190
amendments, 189–190
Children's Commissioner (AHRC), 74, 89
Children's Guardian, 33, 85, 116, 117
code of conduct, 17
community education and training, 128–135
community housing providers
complaints against, 57
outside Ombudsman's jurisdiction, 57
Community Services (Complaints, Reviews and Monitoring) Act 1993, 4, 5, 17, 82, 95, 96, 97, 104, 112, 113
community services sector
complaints, 187–188
Ombudsman's functions, 104
Complainants, unreasonable conduct, 61–62
Complaint Assist, 59, 60
complaint-handling
forums, 61
model policy, 61, 77
review, Ombudsman's guidelines, 61
secrecy and non-disclosure, 58
survey, public sector agencies, 60
whole-of-government, 59–60
complaints about Ombudsman, 17
review of decisions, 17–18
conflict of interest policy, 48

Connected Communities Healing and Wellbeing Model, 124
 consolidated fund appropriation, 31
 controlled operations, 7, 52
 COPS system, 92, 93
 corporate governance, 16–22
 correctional services. *see also* juvenile justice centres
 case studies, 70–71, 72–73
 complaints, 68, 69
 conditions, 70
 court cells, 73
 Extreme High Risk Restricted (EHRR), 71, 72
 High Risk Management Correctional Centre (HRMCC), 71–72
 inmate property, 69
 overcrowding, 69
 police cells, 73
 prison conditions, 70
 separation review, 72–73
 smoking policy, 70
 Corrective Services NSW (CSNSW), 69, 70, 72, 73, 74, 84
 Council of Australian Governments (COAG), 92
 Advisory Panel on Domestic and Family Violence, 135
 covert investigation methods, 4, 5, 52–53
 inspections of agency compliance, 52
 search warrants, 52
Crimes Act 1900, 91, 120, 189
Crimes (Criminal Organisations Control) Act 2012, 189
Criminal Organisations Legislation Amendment Act 2009, 52
 Customer Service Commissioner, 59

D

deaths. *see also* Child Death Review Team; child deaths
 people with disabilities, 112–113
 Department of Education, 63, 94, 98, 134
 and Aboriginal communities, 116, 117, 120, 122, 124, 126
 Centre for Education Statistics and Evaluation (CESE), 123
 Safety and Security Directorate, 59, 64
 Department of Education and Communities, 95, 102
 Department of Fair Trading NSW, 57, 97
 Department of Family and Community Services NSW (FACS)
 Aboriginal Cultural Inclusion Framework, 118
 and Aboriginal communities, 118, 119
 and privatisation of social housing, 57
 complaints cases, 65, 66
 criminal allegations procedure, 84
 disability reportable incidents, 107
 FACS Housing, 57, 65, 67, 121
 governance framework, 84
 leaving care practice, 86
 people with disability cases, 58, 108
 police collaboration, 90
 victims compensation, 85, 86
 Department of Justice, 42, 66, 102, 135
 Department of Premier and Cabinet (DPC), 10, 94, 102
 Service Delivery Reform Initiative, 124
 Department of Social Services (DSS) (Cth), 111

departments and authorities
 action taken on complaints, 171–175
 complaints, 56
 use of external investigators, 62–63
 Deputy Ombudsman (Aboriginal Programs), 10, 114, 116, 122
 digitalisation, records, 33
 disability awareness training, 36, 38
 Disability e-News Update (newsletter), 9, 105, 109, 193
 disability reportable incidents
 AVO contravention, 105
 Best Practice Working Group, 106–107
 case studies, 106–107, 108–109, 111–112
 client-to-client, 105
 complaints, 106, 186
 employee-to-client, 105
 NDIS funded providers, 105
 notifications, 105
 Ombudsman's functions, 104
 people with cognitive disability, 108–109
 under-reporting, 109
 unexplained serious injury, 105, 109
 Disability Rights Project, 16, 135, 137
 disability services
 case studies, 106–107, 108, 109, 111, 112
 complaints, 104–105, 185
 deaths, residential care, 112–113
 notifications, 186
 notifications, reportable incidents, 105–106
 Ombudsman's functions, 104, 111
 support services, 104–105
 case studies, 106, 107, 108, 109
 training for providers, 107
 domestic violence
 complaint against service, 83
 police handling, 47, 48–49, 50

E

education and training
 community, 133–135
 disability sector, 16, 107
 international, 12
 NDIS, 16
 revenue, 137
 staff, 16, 36, 37, 38, 39
 statistics, 130
 electricity consumption, 32
 emergency evacuation training program, 37
 employee assistance program (EAP), 38
 employee-related expenses, 31, 138
 employment-related child protection
 adult survivors of abuse, support, 94
 allegations, reportable, 88–89
 case studies, 89, 90, 93
 complaints, 87, 88
 investigations, 88
 criminal offences, allegations, 88–89, 90
 information disclosure issues, 94

notification of concern (NoC), 90
 notifications, 87, 88
 Ombudsman
 agency cooperation, 90
 cross jurisdiction work, 92, 93
 functions, 87
 Special Report to Parliament, 91
 police reporting, 90, 91, 93, 94
 prohibited person, 89
 reportable conduct
 data on disability, 89
 information disclosure, 94
 other jurisdictions, 92–93
 schools, 89, 90, 93
 working with children check (WWCC), 87, 89–90, 91, 92, 93
 Empowered Communities initiative, 122
 energy use, 31–32
 Enforcement Guidelines for Councils, 77, 79
 environmental impact reduction, 31–32
 equity programs, 9–10, 36, 196–197
 expenses, 31, 138–139

F

FACS Housing, 57, 65, 67, 121
 financial statements, 140–163
 financial summary, 31, 137–140
Firearms Act 1996, 189
 foster carers, 85, 89, 90
 frontline complaint handling, 60, 68, 84, 117, 134, 135
 fuel consumption, 32

G

garnishee orders (GOs), 62, 63, 64, 66, 67
Government Information (Information Commissioner) Act 2009, 189
Government Information (Public Access) Act 2009, 189, 193, 194, 195
 government resource efficiency policy (GREP), 31, 32
Government Sector Employment Act 2013, 34, 35
 Grandmothers Against Removals (GMAR) group, 118, 119
 grants, 137, 139
 Guide for services: Reportable incidents in disability supported group accommodation, 105
 Guidelines for complaint management in organizations (AS/NZS 10002:2014), 61

H

Healing and Wellbeing Model, 124
Health Records and Information Privacy Act 2002, 192
 Helpline, FACS, 101
 homelessness
 children (unaccompanied) in services, 86
 complaint case, 66
 human resources, see also staff, 34

I

Independent Commission Against Corruption (ICAC), 19, 52
 Information and Privacy Commission (IPC), 10, 19, 94
 information classification and labelling guidelines, 33
 information, sensitive, 33
 information technology (IT), 33
 integrity agencies, relationships, 10
 Intellectual Disability Rights Service, 108, 110
 internal audit, 20–21, 33
 Internal Audit and Risk Management
 attestation, 20–21
 Policy (NSW Treasury), 20
 International Ombudsman Institute (IOI), 12
 international partners, 12
 international students, 60, 61, 65–66, 134
 intranet replacement, 33–34

J

Joint Investigation Response Team (JIRT), 84–85, 119
 Joint Protocol to reduce the contact of people with disability in supported accommodation with the criminal justice system, 108
 Justice Health, 68, 71, 72, 75
 juvenile justice centres
 Chisholm Behaviour Program (CBP), 74
 complaints, 68, 69, 71
 Juvenile Justice Client Information Management System (CIMS) database, 74
 Optional Protocol on the Convention Against Torture (OPCAT), 74
 segregation and separation notifications, 74–75
 visits, 74

K

KiDS (FACS child protection database), 89, 92
 KPMG, 91, 122

L

Lambert, Michael, 97, 102
 Land and Housing Corporation (LAHC), 66, 67
 law enforcement
 agencies monitored, 7
 stakeholders, 51, 85, 86, 88
 Law Enforcement Conduct Commission, 31, 34, 42, 48, 50
Law Enforcement (Controlled Operations) Act 1997, 5, 52, 189
Law Enforcement (Powers & Responsibilities) Act 2002, 5, 51, 52, 135, 189
 legislation
 administered, 5, 189
 changes, 189–190
 reviews, police powers, 51
 legislative reviews, 137, 138
 liabilities, 31, 140
 litigation, 190

local government

- complaints
 - action on formal, 178–181
 - case studies, 77, 78, 79
 - trends and outcomes, 76
- council amalgamations, 78–79
- debt recovery policies, 78
- enforcement guidelines for councils, 77, 79
- MOU Office of Local Government, 77–78, 193

long service leave, 31, 137, 138, 140

M

Managing Unreasonable Complainant Conduct Practice Manual, 61, 79

Minister for Ageing and Disability Services, 7, 82, 92

Minister for Community Services, 95

Minister for Family and Community Services, 7, 86, 92, 118, 125

Minister Justice and Police, 42

Model Compliance and Enforcement Policy, 79

Multicultural Action Plan (MAP) 2015-19, 9, 36, 196

My Choice Matters, 110

N

National Disability Abuse and Neglect Hotline, 109

National Disability Advocacy Program, 111

National Disability Insurance Agency (NDIA)

- information sharing, 112

National Disability Insurance Scheme (NDIS), 9, 12, 16

- complaints about services, 104
- information sharing, 111
- NSW Transitional Quality Assurance and Safeguards Working Arrangements, 112

Ombudsmans

- functions, 112
- submissions, 111
- rights projects, 108, 110
- safeguarding framework, 110–111

NSW Aboriginal Housing Office (AHO), 116, 117, 119

NSW Aboriginal Land Council (NSWALC), 117, 119

NSW Auditor-General, 19, 140, 141

NSW Carers Register, 33, 87

NSW Child Death Review Team, 95, 96–103

NSW Civil and Administrative Tribunal, 57, 65, 77, 79, 110

NSW Coroner, 95, 97, 100, 101

NSW Crime Commission, 19, 42, 47, 52

NSW Health, 85, 117

- Centre for Population Health, 113
- Child Deaths Review, 97, 98–99, 99–100, 101
- New Street, 120–121

NSW Information and Privacy Commission, 10, 19, 94

NSW Legislative Assembly

- Legal Affairs Committee debt inquiry 2014, 66

NSW Legislative Council

- General Purpose Standing Committee No 2, 81, 83
- General Purpose Standing Committee No. 3, 126

- General Purpose Standing Committee No 4, 47
- inquiry into elder abuse, 110
- Standing Committee on Social Issues, 124
- Standing Committee on State Development, 122

NSW Ministry of Health, 66, 98

NSW Parliament, 19, 95

NSW Public Guardian, 66, 110

NSW Secretaries Board, 59–60

NSW Treasury, 19, 20, 31, 122, 137

- Internal Audit and Risk Management Policy, 20

NSW Trustee and Guardian (NSWTG), 66, 110

O

OCHRE initiatives, 10, 116

- Aboriginal Language and Culture Nests, 125–126
- accountability, 121, 127
- Connected Communities strategy, 123–124
- healing in Aboriginal policy, 126–127
- Local Decision Making (LDM), 116, 121, 122–123
- monitoring, 121–127
- Opportunity Hubs initiative, 125
- solution brokerage function, 127

Office of Kids and Families, 98, 99, 100

Office of Local Government (OLG), 10, 77–78, 193

- child deaths, CDRT response, 102–103
- complaints, 77
- MOU with Ombudsman, 77–78, 193

Office of State Revenue (OSR)

- complaints against, 58, 62–63, 64
- garnishee orders, 62, 63, 64, 66, 67, 73

Office of the Children's Guardian (OCG), 33, 85, 86, 89–90, 91, 93, 116, 117

Office of the Director of Public Prosecutions (ODPP), 48, 49

Official Community Visitor (OCV)

- case studies, 107, 108, 119

Ombudsman

- functions, 5–6
- jurisdiction, impact of privatisation, 57

Ombudsman Act 1974, 2, 5, 16, 17, 19, 35, 54, 57, 58, 59, 77, 78, 79, 87, 94, 104, 105, 191, 192, 193

- amendments, 189

Operation Prospect, 17, 31, 47, 137, 193

organisational structure, 2

out-of-home care (OOHC)

- Aboriginal people, 116, 117, 119
- and criminal justice system, 85–86
- children under 12 years, 86
- complaints, 83
- NGO sector transfer, 86
- residential, 86, 108
- transitioning from care, 86
- young people protocol, 108

outreach activities, 10

overseas visits, 13

P

Parliamentary Committee on the Ombudsman, 19

payroll tax, 31, 138

People Matter Employee Survey, 34

people with cognitive disability, 108–109, 113

people with disability. *see also* disability reportable incidents; disability services

- abuse in community setting, 109–110
- deaths in residential care, 112–113
- Official Community Visitor (OCV), 107, 108, 112, 113, 119

Ombudsman

- functions, 104, 112
- submissions, 110, 111

preventing deaths, 112

- 'Rights project for people with disability', 108, 110
- victim, reportable conduct, 89

people with disability. *see also* disability reportable incidents; disability services

- preventative health programs, 113

performance measurement, 17

performance statement, 23–30

personnel policies and practices, 34

police

- audits, 46, 47, 51
- Child Abuse Squad, 85, 90
- civil proceedings against, 49
- complaints
 - adequate reasons, 49–50
 - apology letter, 46
 - confidential information, unauthorised access, 47–48
 - conflict of interest, 48, 52
 - domestic violence, handling, 46, 47, 48–49, 50
 - failure to declare association with offender, 50–51
 - from police officers, 42
 - information access, 51
 - notifiable, 45, 166–169
 - political activities of officer, 50
 - statistics, 42, 45
 - subject matter, 43
- complaints system
 - audit by Ombudsman, 46, 47
 - management actions, 43, 44, 45
 - reasons provided to complainants, 49–50
 - reform, 42
 - scrutiny role of Ombudsman, 50, 51

COPS system, 48, 92, 93

covert investigation methods, 52

criminally charged, 43

Declarable Associations policy, 46, 50

disability awareness training, 108

disability reportable incidents, 107

domestic violence policing, 46

emergency powers report, 51

FACS collaboration, 90

investigations

- assessing police, 43
- criminal allegations against police, 48
- feedback on, 45–46

- monitoring, 45
- time frames, 47

Operation Prospect, 17, 31, 47, 137, 193

police powers, Ombudsman review of new, 50, 51

Professional Standards Command (PSC), 44, 47, 48, 52

review of police oversight, 42

witness protection program, 53

Police Act 1990, 5, 42, 44, 45, 48, 189, 192

Police Integrity Commission (PIC), 19, 42, 47, 49, 52

Privacy and Personal Information Protection Act 1998, 192

Privacy Commission, 10

Professional Standards Command (PSC), 44, 47, 48, 52

publications, 198

Public Finance and Audit Act 1983, 143, 149

Public Interest Disclosure Oversight Forum, 12

Public Interest Disclosures Act 1994, 4, 5, 10, 17, 19, 134, 189, 193

public interest disclosures (PID)

- Ombudsman's responsibilities, 19, 193
- reporting PID obligations, 19
- statistics, 19

Public Interest Disclosures Steering Committee, 10

Public Schools NSW, 123

Public Service Commission, 10, 34

Public Service Commissioner, 10

R

Remote Schools Attendance Strategy, 124

Resource Allocation Model (NSW Government), 124

Restricted Premises Act 1943, 51, 189

revenue, 31, 137–138

Review of Police Oversight (Tink Review), 42

Review of the Guardianship Act 1987, 110

reviews

- carers recognition policy, 10
- internal reviews of decisions, 17–18
- manuals and guidelines, 61
- new police powers, 50, 51

risk, information and security committee (RISC), 20

risk management, 20

risk of significant harm (ROSH), 83–84

Roads and Maritime Services (RMS), 58, 78–79, 93

- complaints, 61, 62

Royal Commission into Institutional Responses to Child Sexual Abuse, 12, 16, 85, 90

- criminal justice roundtable, 94
- Ombudsman's work, 33, 85, 90–91
- OOHC consultation paper, 86

S

schools

- and Aboriginal communities, 117, 120, 123–124
- case studies, 117, 120
- complaints, 63, 64, 67
- Nationally Consistent Collection of Data on School Students with Disability, 89

- restricting access to grounds, 64, 67
- student suspensions, 64
- student violence, 59, 64
- young people with disability, 67
- search warrants, 7, 51, 52
- senior executive, 4–5
 - remuneration, 34, 35
 - transition process, 34
- senior officers group (SOG), 16–17, 20
- Service NSW, 57
- social housing
 - case studies, 58, 65, 66, 67
 - complaints, 57
- Specialist Homelessness Services (SHS), 86
- staff
 - diversity, 35, 36
 - EEO, 36
 - employee assistance program (EAP), 38
 - induction, 38
 - learning and development, 16, 36, 38, 39
 - levels and numbers, 35, 37
 - psychological trauma risk review, 37
 - reasonable adjustments, 37
 - remuneration, 34, 35
 - study leave, 38
 - wellness program, 37
 - working conditions, 34
- stakeholders, see also international partners, 5, 16, 33
 - information and education, 135
 - law enforcement, 51, 85, 86, 88
- Stolen Generations, reparations inquiry, 126
- strategic planning, 16
 - 'Strengthening Skills in Administrative Investigations' program, 12
- sudden unexpected death in infancy (SUDI), 98–101
- SuperStream project, 34
- surveillance devices, 52
- Surveillance Devices Act 2007, 5, 52, 189

T

TAFE

- complaint handling, 64, 65
- complaints, 58, 59, 60
- training, 117, 134

Telecommunications (Interception and Access) (New South Wales) Act 1987, 189

Tink Review of Police Oversight in NSW, 42

U

universities

- complaint handlers forum, 59, 65
- complaints, 60, 61, 62

W

waste reduction, 32

water saving, 32

- wellcheck program, 37
- WHS committee, 37
- witness protection, 53
- workers compensation, 38, 39
- work health and safety, 37–38
- Work Health and Safety Act 2011*, 37
- working with children check (WWCC) scheme, 87, 89–90, 91, 92, 93

Y

young people

- criminal justice system, 85–86
- homeless, 86
- residential care, 86
- training, 134
- victims compensation, 85, 86
- Youth Liaison Officer (YLO), 134, 135

Glossary

AA	NSW Aboriginal Affairs	FACS	Department of Family and Community Services
AbSec	Aboriginal Child, Family and Community Care State Secretariat	FTE	Full-time equivalent
ACIF	Aboriginal Cultural Inclusion Framework	GEO	The GEO Group Australia Pty Ltd
ACLIP	Aboriginal Community Land and Infrastructure Project	GIPA	Government Information Public Access
ACWA	Association of Children's Welfare Agencies	GIPA Act	<i>Government Information (Public Access) Act 2009</i>
ADHC	Ageing, Disability and Home Care	GMAR	Grandmothers Against Removal
ADVO	Apprehended domestic violence order	GO	garnishee order
AECG	NSW Aboriginal Education Consultative Group Inc.	GPA	Grade Point Average
AEPF	Aboriginal Economic Prosperity Framework	GREP	Government resource efficiency policy
AHO	Aboriginal Housing Office	GSE Act	<i>Government Sector Employment Act 2013</i>
ANZOA	Australian and New Zealand Ombudsman Association	HACA	Heads of Asbestos Coordination Authorities
ARC	Audit and risk committee	HDR	Higher degree research
AVO	Apprehended violence order	HEAL	NSW Healthy Eating and Active Living Strategy
BIU	Business improvement unit	HRMCC	High Risk Management Correctional Centre
CBP	Chisholm Behaviour Program	HSB	Human services branch (Ombudsman)
CCTV	Closed-circuit television	ICAC	Independent Commission Against Corruption
CDRT	NSW Child Death Review Team	IGF	Integrated governance framework
CESE	Centre for Education Statistics and Evaluation	ILGA	Independent Liquor & Gaming Authority
CHeReL	Centre for Health Record Linkage	IOI	International Ombudsman Institute
CIMS	Juvenile Justice database	ISMS	information security management system
CLAS	Community Language Allowance Scheme	ISO	International Organization for Standardization
COAG	Council of Australian Governments	IT	Information technology
COPS	Computerised operational policing system	JCC	Joint Consultative Committee
CPR	Child Protection Register	JIRT	Joint Investigation Response Team
CS-CRAMA	<i>Community Services (Complaints, Reviews and Monitoring) Act 1993</i>	KiDS	Community Services compliant management system
CSC	FACS Community Services Centre	KPI	Key performance indicator
CSD	Community Services Division (Ombudsman)	LAC	Local Area Command (NSW Police Force)
CSNSW	Corrective Services NSW	LAHC	Land and Housing Corporation
CWPs	community working parties	LALC	Local Aboriginal Land Council
DHHS	Department of Health and Human Services (Victoria)	LDM	Local Decision Making
DIAP	Disability Inclusion Action Plan	LECC	Law Enforcement Conduct Commission
DMG	Division managers group (Ombudsman)	LEPRA	<i>Law Enforcement (Powers and Responsibilities) Act 2002</i>
DPC	NSW Department of Premier and Cabinet	MAP	Multicultural action plan
DRID	Disability reviewable incidents division (Ombudsman)	MOU	Memorandum of understanding
DSS	Department of Social Services (Commonwealth)	MPRA	Murdi Paaki Regional Assembly
EHRR	Extreme high risk restricted	MPSP	Multicultural Policies and Services Program
ERCPD	Employment-related child protection division (Ombudsman)	NCAT	NSW Civil and Administrative Tribunal
ESOS Code	Education Services and Overseas Students National Code	NCIRS	National Centre for Immunisation Research and Surveillance
EWON	Energy & Water Ombudsman NSW	NCOSS	NSW Council of Social Services
		NDIA	National Disability Insurance Agency
		NDIS	National Disability Insurance Scheme
		NDS	National Disability Services
		NGO	Non-government organisation

NoC	Notification of concern	SPRC	Social Policy Research Centre
NRT	nicotine replacement therapy	SSC	statewide steering committee
NSWALC	NSW Aboriginal Land Council	SUDI	sudden unexpected death in infancy
NSWPF	NSW Police Force	TAFE	New South Wales Technical and Further Education Commission, trading as TAFE NSW
NSWTG	NSW Trustee and Guardian	TfNSW	Transport for NSW
OCG	Office of the Children's Guardian	TRIM	HP TRIM Records Management System
OCHRE	Opportunity, Choice, Healing, Responsibility, Empowerment	VOC	Volatile organic compound
OCV	Official Community Visitor	WDO	work and development order
ODPP	Office of the Director of Public Prosecutions (NSW)	WHS	Work Health and Safety
OEH	Office of Environment and Heritage	WHS Act	<i>Work Health and Safety Act 2011</i>
OLG	Office of Local Government	WIPE	requirement for police to provide information when exercising certain powers.
OLGR	Office of Liquor, Gaming and Racing (former)	WSVSN	Western Sydney Vocational Support Network
OOHC	Out-of-home care	WWCC	Working with children check
OOSH	Out-of-school hours	YLO	Youth Liaison Officer
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment		
OSR	Office of State Revenue		
OT	Occupational Therapist		
PCB	Police and compliance branch (Ombudsman)		
PCYC	Police Citizen's Youth Clubs in NSW		
PHOs	NSW Public Health Organisations		
PIC	Police Integrity Commission		
PID	Public interest disclosure		
PID Act	<i>Public Interest Disclosures Act 1994</i>		
POA	Pacific Ombudsman Alliance		
PSC	Professional Standards Command (NSW Police Force)		
PSM	Professional Standards Manager (NSW Police Force)		
RISC	Risk, information and security committee		
RMS	Roads and Maritime Services		
ROSH	Risk of significant harm		
SDRO	State Debt Recovery Office		
SEI	Senior executive implementation		
SES	Senior Executive Service		
SHS	Specialist Homelessness Services		
SIDS	Sudden Infant Death Syndrome		
SIDAC	Sudden Infant Death Advisory Committee		
SMU	Secure monitoring unit (Ombudsman)		
SNOC	Standard Newborn Observation Chart		
SO	Senior Officer		
SOG	Senior officers group (Ombudsman)		
SOORT	Statutory and Other Offices Remuneration Tribunal		
SOP	Standard Operating Procedures		

CONTACT US

**NSW Ombudsman
Level 24, 580 George Street
Sydney NSW 2000**

Business hours: Monday to Friday 9am – 5pm

**General inquiries: 02 9286 1000
Toll free (outside Sydney Metro Area): 1800 451 524
Facsimile: 02 9283 2911**

Website: www.ombo.nsw.gov.au

Email: nswombo@ombo.nsw.gov.au

ISBN: 978-1-925061-93-2

ISSN: 1321 2044

© Crown Copyright, NSW Ombudsman, October 2016

This work is copyright, however material from this publication may be copied and published by State or Federal Government Agencies without permission of the Ombudsman on the condition that the meaning of the material is not altered and the NSW Ombudsman is acknowledged as the source of the material. Any other persons or bodies wishing to use material must seek permission.