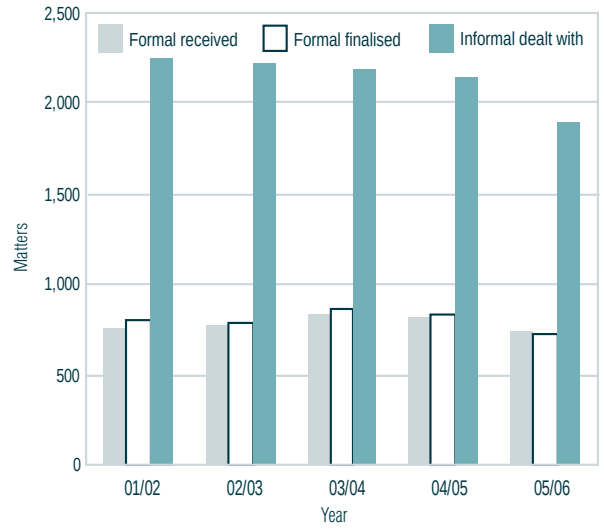
9. Local government

Highlights

- Of the 361 written complaints we conducted preliminary and formal investigations into, we achieved 260 positive outcomes, including the council changing their decision, providing apologies and reasons for their decisions and making changes to their policies.
- We finalised an investigation into fees charged by councils for access to documents, sent an information sheet to all NSW councils outlining the outcomes of our investigation and reminding them of their obligations to provide free access to documents and recommended amendments to section 12 of the *Local Government Act 1993.*

Matters received and finalised fig 41

Matters	01/02	02/03	03/04	04/05	05/06
Formal received	760	774	840	814	744
Formal finalised	809	791	865	833	720
Informal dealt with	2,247	2,226	2,194	2,138	1,891



Complaint trends and outcomes

There was a welcome drop of 10.7% in the overall number of complaints about councils this year. We received fewer complaints about development issues, rates and charges and engineering and environmental services. There was, however, an increase in the number of complaints about misconduct and enforcement issues.

Basic customer service issues, such as the failure to reply to correspondence, inaction, poor complaint-handling and failure to provide information continue to be matters that are frequently complained about. See figure 41 for the total number of matters about councils received and finalised, and figure 42 for a breakdown of the issues we received complaints about.

We achieved a broad range of outcomes — including the council changing their decision, admitting and correcting errors, providing apologies and changing their policies and procedures. The provision by councils of reasons for their actions and other information to help the complainant better understand the circumstances surrounding their complaint is also an important outcome for resolving grievances and misunderstandings. We achieved such positive outcomes in over 70% of the preliminary investigations we undertook.

We conducted preliminary or formal investigations into almost half of the matters we dealt with — see figure 43. We have achieved a number of outcomes in individual matters — for example, we have encouraged councils to find ways to improve how they communicate with complainants (see case study 27), and accommodate the differing needs of their residents (see case study 29). Although complaints may sometimes be discontinued after a preliminary investigation, they may still lead to improvements in the way councils do their work. For example, see case study 28. In other cases our inquiries may lead us to discover other flaws in the way a council is functioning, and we are able to help them better comply with the law and improve their systems. For example, see case study 30.

What people complained about

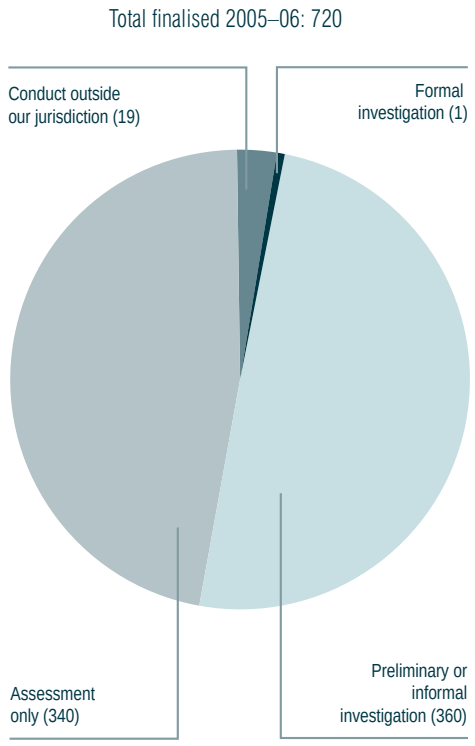
fig 42

This figure shows the complaints we received in 2005–06 about local government, broken down by the primary issue that each complainant complained about. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Issue	Formal	Informal	Total
Corporate / customer service	358	442	800
Development	81	385	466
Enforcement	120	216	336
Rates charges and fees	31	176	207
Engineering services	40	138	178
Environmental services	26	141	167
Object to decision	20	132	152
Misconduct	38	106	144
Uncategorised	0	49	49
Strategic planning	7	40	47
Community services	12	25	37
Conduct outside jurisdiction	8	28	36
Management	3	13	16
Total 2005–06	744	1,891	2,635

Formal complaints finalised

fig 43



Current Investigation (as 30 June)	
Under preliminary or informal investigation	58
Under formal investigation	1
Total	59

Access to council information

This year we completed our investigation into a complaint about Leichhardt Council charging a resident to access certain council documents. As part of our investigation, we requested information from fifty other councils about the fees they charge for access to documents listed in section 12 of the *Local Government Act 1993* (LG Act), and their other practices in this area.

We found that many councils, including Leichhardt, were illegally charging fees for providing information to the public that the LG Act requires them to provide for free. A number of them imposed fees to cover processing time and the cost of retrieving files from archives. Others charged photocopying fees that could not be considered to be 'reasonable' copying charges.

In relation to Leichhardt Council, we found that their fees and charges policy — and their frequent requirement for people to apply for documents under the FOI Act — was contrary to section 12 of the LG Act which requires those documents to be available free of charge. We also found council's interpretation of the term 'current documents' referred to in section 12 was too narrow. In our view, this term includes all documents that have not been revised or superseded by other documents, such as policy documents and annually adopted documents. All development applications, building applications and associated documents are current documents, regardless of age, if they remain operative. All property files are also current documents if they are relied upon by councils to perform their regulatory functions.

Our report included a number of recommendations to Leichhardt Council, all of which they adopted. In most circumstances, the council now no longer requires people to apply under FOI for access to documents available under section 12 of the LG Act. They have also amended their fees and charges policy and reduced their photocopying charges to cover only the direct costs associated with copying material.

We also sent an information sheet to all NSW councils informing them of the general nature and outcome of our investigation and reminding councils of their obligations to provide free access to the documents specified in section 12 of the LG Act.

In particular, we advised councils that:

- they should not use their ability to charge fees for FOI applications as a basis for forcing or encouraging applicants to use that process rather than section 12
- they should not charge more than the amount it would actually cost to copy documents such as local environmental plans, development control plans and other publications and reports

- a reasonable copying charge is 25 cents an A4 page, and copying charges should be no more than 60 cents — the median across the councils surveyed.

In addition, we recommended that the Minister for Local Government consider amending section 12 to allow councils to charge a reasonable fee to recover the costs they incur in retrieving non-current documents from archived storage. Unless and until the section is amended, councils are unable to impose fees for access to these documents.

We also provided feedback to the Local Government Managers Australia NSW Governance Network Privacy Working Group on their draft procedure templates for access to information.

CaseStudy27

An elderly man had operated a home radio station in his garage for 30 years. After receiving complaints about his aerial, the council issued a series of orders — for the aerial, mast and other equipment to be removed and for him to stop using the garage for radio transmission. When the council contacted the man, he claimed the council had issued a building permit for the activity in 1971 and he had a radio operator's licence. From that point, communications between council and the elderly man deteriorated.

The man complained to us that he had been ridiculed by staff for insisting he had a building permit, was prevented from meeting with the general manager, and was publicly humiliated by staff in the council's foyer. He also said his written complaint to the council had not been answered and he wanted compensation for the stress he had experienced in trying to convince the council his hobby had appropriate approvals.

The council conducted an investigation into his complaint and found that staff had conducted an inadequate search of the council's archives to locate the 1971 building permit. They also found complaint-handing procedures had not been followed and council staff had not been properly trained in document management.

Our inquiries found that the council had not advised the man of the outcome of their investigation, nor responded to his claim for compensation. At our suggestion, the general manager and a corporate manager both wrote to the complainant apologising for the situation. Council also gave him a summary of the internal investigation report and findings. The man was permitted to continue to operate his radio station.

Existing uses

One of a council's important tasks is to regulate the activities that take place on individual land, particularly if those activities have an impact on neighbouring residents or businesses. Some common examples are corner stores and services stations in residential areas.

Councils will sometimes redraft their environmental planning instruments to prohibit an activity that was previously permitted to be carried out on a particular piece of land, often for environmental reasons. When this happens, the existing activity can continue — but cannot start up again if it is abandoned for a period of time. Any attempt to intensify the use, such as increasing the area of land on which the activity is carried out, requires development approval. The person claiming the benefit of what is called an 'existing use' under section 106 of the *Environmental Planning and Assessment Act 1979* is required to provide evidence to establish that the land has been continuously used to carry out the permitted activity.

Sometimes neighbours disagree with people's claims that there is an 'existing use' on a property. They will often complain to our office if their representations to council are unsuccessful.

We acknowledge that councils sometimes face considerable difficulties and need to devote extensive resources to determine the existence and extent of an 'existing use'. However, they have a statutory and environmental responsibility to uphold the current planning regime of their local community. This means councils should require people to provide sufficient evidence to support their claims that there is an existing use, and only allow the activity if there is sufficient evidence.

This year we found that a number of councils had accepted claims that there was an existing use without requiring sufficient supporting evidence or taking all available evidence into account. Some councils are also failing to record the nature and extent of the use and the evidence that has been provided to establish the use.

Councils need to keep proper records of the inquiries and decisions they make in relation to each claim for existing use. A suggestion we have made in previous years is the creation of an existing use rights register. The need for these registers is probably even greater now that so many councils are struggling to attract and retain appropriately qualified and experienced planning staff. Accurate and up-to-date records should reduce the need to refer matters back to the occupier whenever a question is raised about the use

of the site and may also help councils when they are reviewing their local environmental plans (LEPs).

On 31 March 2006, the Department of Planning issued a planning circular to encourage councils to identify development that would have existing use rights, and include these as 'permitted additional uses' on that land in any new LEPs.

CaseStudy28

A firm that had been unsuccessful in a tender process conducted by Kogarah Council complained that the council had failed to follow tendering procedures set down by the *Local Government (Tendering) Regulation 1999.* There was also a concern that a councillor may have had a conflict of interests in the matter. Our inquiries found that there was no notable conflict, but the requirements of the regulation had not been followed.

Council's tender assessment panel had decided not to accept any of the tenders and immediately entered into further negotiations over the terms of the contract with one of the tenderers, without obtaining a council resolution. They also failed to document their decision. The regulation states that if a council declines all tenders, they must make a resolution stating the reasons for their decision. Council admitted this failure to comply with the regulation, saying this probably resulted from the emotional distress and administrative disruption caused at the time by a staff member's suicide in front of other staff.

We closely reviewed council's assessment of the respective tenders. Once we had seen all relevant documents, including those considered in a confidential meeting, we understood the reasons for the panel's decision to pursue negotiations with one of the tenderers. We declined to pursue the individual matter further as, although the process was in breach of the regulation, it did not have a substantial effect on the outcome.

However, the general issue of compliance is an important one. There is strong potential for perception of conflicts and unfair decision-making to arise in situations where rules are not followed and the process is not transparent. We reinforced with council the importance of making sure that their tendering processes are both fair and transparent. Council are rewriting their tendering guidelines and procedures and plan to incorporate our comments and the draft tendering guidelines produced by the Department of Local Government.

Accredited private certifiers

We have received a small but increasing number of complaints about developments where an accredited private certifier, rather than the council, is the principal certifying authority (PCA) for a development. Most complaints relate to a lack of action in response to concerns raised. These include work not complying with approved plans, work occurring outside approved hours, nuisance created by blocking driveways or footpaths, or boundary fences being pulled down or in danger of collapse due to excavation work.

The PCA — whether council or private — has primary responsibility for ensuring building work complies with the development consent. Councils continue to have responsibility for illegal works unconnected with the development consent, and remain ultimately responsible for serving orders on recalcitrant developers. Complainants often raise multiple issues that may require action by both council and the private PCA.

Some examples of the complaints we received in 2005-06 are:

- A complainant called council a number of times about building work not complying with the approved plans. Council staff initially failed to inform the caller that the private PCA was responsible for ensuring compliance, nor did they pass on the concerns to the PCA. When the complainant finally contacted the PCA, the building work had progressed to a point that made investigating and rectifying any non-compliance much more difficult.
- Some complainants were referred by a council to the PCA only to be referred back to council, with each claiming the other was responsible for the matter. Direct communication between the PCA and council could have quickly resolved the matter.
- A council told us they would ensure a developer provided visitor car spaces as required in the approved plans. However council was unaware that the PCA had issued a final occupation certificate at least four months beforehand. They therefore found they could not pursue the matter because the final occupation certificate had been issued and some ambiguity existed in the approved plans.

Many of the complaints we received this year have been resolved through improved communication between private PCAs and councils. Issues may also be resolved by explaining to property owners the roles and responsibilities of private PCAs and councils.

We suggest these types of complaints can be minimised if councils:

- develop policies detailing the respective roles and responsibilities of council and PCAs and those matters council will not become involved in — ie those where the individuals must pursue their own resolution, possibly through private legal action
- develop separate procedures for dealing with complaints about illegal or non-complying development where council is the PCA and where a private certifier is the PCA
- train staff about these policies and procedures
- produce a brochure for complainants to better explain the roles and responsibilities of councils and private PCAs
- prepare a standard letter to be sent to private certifiers once council is notified of their appointment as a PCA, explaining council's expectations about their communications with council, submission of certifications and complaint handling procedures.

CaseStudy29

A man called us to complain that Tweed Shire Council would not allow him to pay a domestic on-site sewage management facility fee by credit card. The man was on a pension and had no other means of paying the amount due. He had been unaware that he couldn't pay this fee by credit card until he tried to do so. Council informed us that this fee is generally not payable by credit card.

Following our intervention, council contacted the man and told him they would accept his payment by credit card and reminded staff of the need to exercise discretion in individual cases. They also agreed, as part of their upcoming review of their payments policy, to consider how best to notify residents about which fees are payable by credit card and which are not.

CaseStudy30

We received a complaint alleging that a council in Sydney's inner-west had incorrectly handled a number of development applications. When we contacted the council they admitted that the staff member responsible, who was new to the position, had not fully understood some of council's obligations in regard to issuing construction certificates. As a result of our intervention, council provided further training to ensure the error would not re-occur. We also suggested council consider an audit of their handling of such issues.

The same complaint also highlighted the problems that can be caused when council staff have different opinions about the merits of an application. It appeared that in one case a recommendation made by an officer that an application should not be granted had been removed from council's file after a senior officer had made a different recommendation.

Under the State Records Act, councils are obliged to keep records including file copies of drafts submitted for comment or approval by others and drafts containing significant annotations. Senior staff at council had widely differing understandings of what administrative practices should apply if there was a disagreement between staff about a development assessment. We suggested council review the management practices of their development assessment section to ensure clarity and consistency in their handling of similar situations in the future.

10. Corrections

Highlights

- Our staff spent 148 person days visiting 27 correctional centres to speak directly with inmates, assess their concerns and take up those with merit or that warranted explanations, and to gain an insight into the running of the centres.
- Because of our intervention, correctional centres changed a number of their practices including those relating to inmate access to legal representation, visits from inmates' children and the facilities for such visits, segregation orders, and the safety of strict protection inmates.
- Therapeutic programs will now be provided at Kariong Juvenile Correctional Centre after we raised our concerns with the Commissioner.
- Our staff interviewed each person charged with a 'terrorist related crime' and made recommendations to the department about the treatment of these people, some of which have been adopted.
- A staff member visited two international 'best practice' correctional system oversight organisations to benchmark and review the way we do our work in this area.

Introduction

By responding to individual complaints and identifying systemic problems, we aim to improve the administration of the correctional system and promote humane conditions for people in custody in New South Wales. There are currently about 9,300 custodial inmates in NSW and many thousands more people under community offender services. The construction of new correctional centres, and the increasing inmate population, makes it unlikely that we will experience a significant drop in the number of inquiries and complaints we receive from inmates in the foreseeable future.

Case studies 31–33 demonstrate the range of issues raised with our office. Some of these issues can be creatively resolved relatively quickly, while others, due to their systemic nature, require a far more comprehensive approach.

This year we reviewed the way we do our work in this area. To help us identify areas for improvement, we decided to look at two 'best practice' organisations that are responsible for overseeing and handling complaints about correctional systems. The Office of the Correctional Investigator in Canada (OCI) and the Prisons and Probation Ombudsman for England and Wales (PPO) are each recognised as leading specialist prison oversight organisations.

In June 2006 we arranged a week-long placement at both OCI and the PPO for the manager of our corrections unit. She undertook an induction program at each office and observed their work in practice, including visiting prisons with their investigators. There were many similarities between our system and theirs. For example, the main issues inmates in both Canada and England / Wales raised with their Ombudsman do not vary greatly from those we receive in NSW. These include lost property, problems with visits, disciplinary action and access to programs, work and education. The main differences were the systems within the jurisdictions set up to deal with complaints. In Canada and England the prison services have clearly defined grievance and complaint systems. Both have a multi-step process, with embedded timeframes and escalating levels of review within the prison

service. After that process has been exhausted, an inmate can complain to the relevant prison ombudsman, or they can complain earlier if the prison service does not meet the timeframe requirements of the internal complaint system.

Until recently, the NSW Department of Corrective Services did not have a comprehensive internal complaint system. We therefore did not have sufficient confidence in the responsiveness and integrity of their internal processes for grievance and complaint-handling to routinely refer inmates back to that process if they approached us first. Inmates, too, did not have confidence in the fairness of these internal systems.

The department has now introduced a Corrective Services Support Line (CSSL), an internal complaints service for inmates at all centres. We feel there is scope for us to work further with the department to improve their internal complaint-handling mechanisms.

Given the number of times inmates contact us, and the consequent number of inquiries we raise with the department, our professional relationship with the department is very important. The department's newsletter *Corruption Prevention News* noted, in early 2006, that we generally have had a 'constructive and positive cooperative relationship' with them. We hope this relationship will continue, although, as noted later in this chapter, there are some current tensions that need to be resolved.

CaseStudy31

An inmate complained that when he was placed on a segregation order at Lithgow Correctional Centre, he was not asked after 14 days whether he wanted the order reviewed by the Serious Offenders Review Council (SORC), as he was entitled to.

When we reviewed the paperwork relating to the segregation order, we found one of the relevant forms had not been correctly filled out — leaving some doubt as to whether the complainant had requested a review. We were aware of a 'segregation review checklist' used at Parklea Correctional Centre which helped staff to make sure that the administrative aspects of a segregation order were completed. We wrote to the Commissioner noting the uncertainty created by the paperwork relating to the segregation order, and commending the Parklea form as potentially beneficial in all correctional centres.

We received advice this year that there would be a gradual adoption of a standardised segregation review checklist in all centres. The complainant was also notified of this. We will monitor the use of this checklist during our visits to centres.

CaseStudy32

An inmate being held at the Bateman's Bay court holding cells called us one Friday. His property, including all the money he had in his inmate account, was being held at Goulburn Correctional Centre where he had been before attending court at Bateman's Bay. He was about to be released.

A Centrelink crisis payment — which is available to anyone held in custody for longer than 14 days to provide transport home, buy food and pay rent — is generally paid in cash to inmates when they are released from a correctional centre. As our caller was being released from court cells, he had been told he would receive his payment as a cheque sent to his forwarding address, along with the money from his inmate cash account held at the centre. His other property would not be delivered to Bateman's Bay until Sunday, leaving him literally with nothing but the shirt on his back. It was unlikely the cheque would reach his home until later the following week, and it would then take several days to clear once it was banked. He was very concerned about how he would get through this difficult first week, especially as his partner had recently given birth to twins.

After we discussed the complainant's problem with officers at the court cells, they arranged for his parents to collect his property from them on the Sunday. To ensure he had enough money to get through his first week, we asked that his Centrelink cheque be cashed at Goulburn Correctional Centre and the cash be sent with his property to Bateman's Bay. This would allow his parents to collect the money and give it to him much earlier than posting would allow. With the cooperation of the Goulburn accounts unit, the officers at the court cells and the complainant's family he had some money to cover his initial costs on release.

CaseStudy33

Inmates often need access to computers for educational purposes and legal preparation. In early 2005, due to breaches in security, the Commissioner of Corrective Services placed severe restrictions on computer access. Since then the department has been working on a way to allow inmates computer access without risking further security breaches.

It is stipulated that staff must actively supervise inmate computer use. While staff can supervise access during class times, this approach makes it difficult for inmates to get access out of class times to do assignments for university or TAFE or for non-educational use, such as preparing legal files. We have been monitoring the department's response to a number of complaints about this issue.

The department has advised that they have come up with a 'technical solution' to this problem. All computers will be required to meet strict IT security requirements to prevent misuse, so that inmates do not have to be directly supervised while using them. This will involve significant expenditure and may take up to two years to roll out. As part of this program, unused departmental administration computers are being refurbished by inmates at one of the centres — and this will provide some computers for inmates to use in the near future.

Complaint trends and outcomes

The rise in the inmate population in NSW was reflected this year in the continuing increase in complaints we received from inmates. The number of inmates who approached us on centre visits rose by 16%, and informal complaints about correctional centre matters increased by 10% to 3,460. Formal written complaints about correctional centre issues rose by 41% to 852. See figure 44.

As in previous years, complaints about aspects of inmates' daily routine were the most common by far — 18% of all correctional centre complaints. This category covers complaints about general treatment, placement in centres, access to telephones, lack of basic amenities, inadequate hygiene, time out of cells, lack of activities and staff lockdowns. Property complaints were the second major complaint category followed by complaints about records and administration. See figure 45 for a full breakdown of complaints received.

Ultimately, we are measured by the outcomes we achieve for our complainants or the issues we identify as 'of concern'. This year we finalised 708 complaints through preliminary or formal investigation. See figure 46. From these investigations, we achieved 537 positive outcomes. These included the prison authority admitting and correcting errors, providing reasons for decisions and further information to explain actions, changing policies and procedures, changing decisions and making compensation payments. In a number of cases, more than one type of positive outcome was achieved.

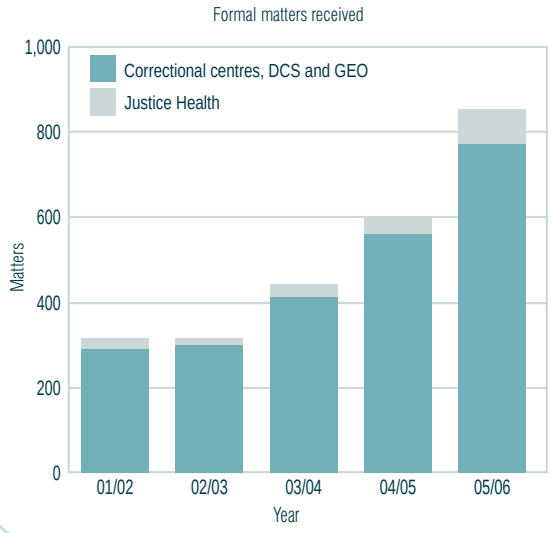
Positive outcomes can usually be achieved where the complaint relates to basic administrative errors, such as insufficient attention being paid to inmate records. See case study 34. Case study 35 shows how immediate action can rectify miscommunication.

Formal and informal matters received about correctional centres and Justice Health

fig 44

	01/02	02/03	03/04	04/05	05/06
Formal					
Correctional centres, DCS and GEO	291	299	412	561	772
Justice Health*	24	15	30	41	80
Sub-total	315	314	442	602	852
Informal					
Correctional centres, DCS and GEO	3,156	2,585	2,773	2,852	3,242
Justice Health*	350	292	327	283	218
Sub-total	3,506	2,877	3,100	3,135	3,460
Total	3,821	3,191	3,542	3,737	4,312

* Justice Health provides services in correctional centres and Juvenile Justice centres. For simplicity, all Justice Health matters are reported in this table.



What people complained about

fig 45

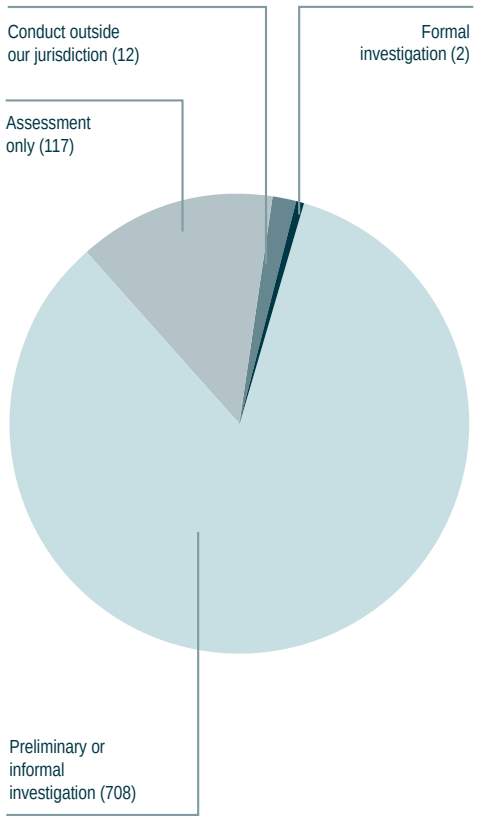
This figure shows the complaints we received in 2005–06 about correctional centres, broken down by the primary issue that each complainant complained about. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Issue	Formal	Informal	Total
Daily routine	156	564	720
Property	76	337	413
Records / administration	79	199	278
Transfers	40	231	271
Visits	44	225	269
Officer misconduct	69	190	259
Classification	30	192	222
Buy ups	29	130	159
Other	15	141	156
Medical	22	128	150
Work and education	39	105	144
Unfair discipline	11	130	141
Probation / parole	20	106	126
Case management	32	81	113
Segregation	22	68	90
Mail	14	64	78
Food and diet	13	59	72
Legal problems	7	64	71
Day / other leave / works release	13	44	57
Fail to ensure safety	9	45	54
Information	12	42	54
Security	7	45	52
Conduct outside jurisdiction	9	28	37
Court cells	1	12	13
Periodic / home detention	3	8	11
Community programs	0	3	3
Child abuse related	0	1	1
Total 2005–06	772	3,242	4,014

Formal complaints finalised

fig 46

Total finalised: 839



Current investigations (at 30 June)	
Under preliminary or informal investigation	82
Under formal investigation	3
Total	85

CaseStudy34

We received a complaint that an inmate who suffers from severe spinal injuries was sleeping on the concrete floor of a cell at the Metropolitan Special Programs Centre (MSPC). The complainant had a doctor's certificate specifying he should not be allocated a top bunk bed, as he cannot climb onto such beds. However when he was relocated to the MSPC from Long Bay Hospital Area 2 while it was being refurbished, he was allocated a 'top bunk'. We made inquiries with MSPC staff and, after checking his file, they confirmed he did have a doctor's certificate about his bedding and had been incorrectly allocated a top bunk. They took immediate action to place him in a single cell.

CaseStudy35

An inmate who spoke very little English complained to us he had been stood down from his job in the correctional centre and had therefore not received any money for several weeks. He thought he had not received any money because he had been accused of stealing. We made inquiries with the centre and were told he had not received any money because he had refused to work. There was clearly a communication problem.

Further inquiries indicated the complainant did not understand that if he refused work he would not receive unemployment benefits from corrective services. It also appeared he did not understand that he could request work at any time.

We asked if there was any record of the work policy being explained to the complainant and were told that the policy is explained to all inmates when they refuse to work. Unfortunately there was no record to demonstrate this was the case, as inmates are not asked to sign anything. It is also unlikely the complainant would have understood the policy unless an interpreter translated it for him.

This complaint raised the broader systemic issue of the department's communication with inmates whose first language is not English. As a result of our intervention, the Commissioner informed us the inmate handbook will now be published in Chinese, Arabic and Vietnamese.

Junee correctional centre

Unfortunately there are continuing high numbers of complaints from inmates at Junee Correctional Centre, which is operated by GEO Pty Ltd. We receive significantly more complaints from Junee than any other centre. These complaints are about a wide range of issues. Many are about minor matters, which indicates that the centre's internal grievance and complaint-handling procedures are not being well managed. We are also receiving a number of complaints about serious matters such as inmates' release dates, their security, and their access to legal representation. For examples, see case studies 36–39.

We will be increasing our visits to this centre this year.

CaseStudy36

Late one Friday afternoon we received a call from an inmate at Junee Correctional Centre. He told us that a cheque for $750, which was money towards his bail, had been received that morning at the centre. When he spoke with an officer about it the officer indicated the cheque might not be processed that day, so he would have to stay in custody over the weekend. Understandably, the inmate did not want that to happen. We called the centre and made some inquiries. A short time later we received a message from the centre advising us that the money was to be processed that afternoon, and the complainant would be released that day.

CaseStudy37

There are often inmates in correctional centres who require protection from other inmates – either at their own request or at the direction of the general manager. This protection may be 'strict', meaning they should not associate with any other inmate, or protection providing for a level of limited association with other inmates. We received a complaint from Junee that several strict protection inmates were being let out of their cells at the same time to have their daily shower, make telephone calls and do their laundry. The complainant raised two issues — a concern for the safety of the inmates, and that having all of the strict protection inmates showering and using the phones and washing machines at the one time meant that they were unlikely to have time to complete all these tasks in the allotted hour.

We contacted Junee management who advised that, due to refurbishment works, people under strict protection had been rehoused. The relocation made it difficult to give them time out of their cells separately, so they had given them this time together. While no incident had taken place at that time, we felt this was luck rather than good risk management and that the centre's duty of care required a better solution to their problem. Junee management contacted us several days later to advise the strict protection inmates had again been rehoused and were now rostered to leave their cells separately.

CaseStudy38

An inmate at Junee complained he had been assaulted by another inmate and, despite reporting this to officers, had been left in the same pod (accommodation area) as the alleged assailant. The complainant held grave fears for his safety and told us he had made this very clear to staff.

We contacted management at Junee, and details of the complaint were checked with pod staff. They were aware of the assault, but denied the complainant had raised concerns about his ongoing safety and intended leaving him in the pod. We pointed out that regardless of whether the complainant had directly expressed his fear to staff, he had now done so to our office and we expected them to take appropriate action. As a result of our intervention, staff undertook to make further inquiries with the complainant. Later that day they called and informed us the complainant had been moved and placed on a protection order.

CaseStudy39

An inmate from Junee complained that he was taken to Wagga Wagga police station for an interview, without any warning and without being given an opportunity to contact his legal representative.

The practice in all other correctional centres is that when an inmate is sent to attend a police interview they must be informed of the location and time so they can contact a legal representative to meet them there if required. From our discussions with Junee staff it was clear there was no system in place to ensure inmates are given this information.

Following this complaint, we were advised that Junee has implemented a register for police interviews. It shows when an inmate is taken to attend an interview with police and requires the inmate to sign to acknowledge they have been informed of their right to contact a legal adviser. While this change did not assist this particular complainant, it will help to ensure that in future other inmates will be able to seek legal advice before a police interview.

Visits to correctional centres

Each year we visit metropolitan and regional correctional centres to increase our 'visibility' in the centres, and to identify issues that may not have been brought to our attention by inmate complaints. During 2005-06 we spent 148 person days visiting 27 centres — a significant increase on the number of visits we made in previous years.

We aim to resolve complaints as directly as possible whether we receive them by letter, over the phone or during one of our visits. Complaints are more readily resolved when all of the parties have a common understanding of the issues. With correctional complaints, it is also necessary to have an understanding of the environment from which the complaint has arisen — and the correctional environment is very different to that which most of us are used to. Our visits give us a small insight into that environment and help us to do our work more effectively, especially when we are back in the office on the other end of a phone line.

Although 14 correctional centres and two transitional centres are located within a 90 minute drive of our office in the city centre, the remaining 16 centres (including Junee) cover the entire state. We have therefore developed a format for our visits that enables us to make the best use of our limited time in a centre.

We contact the general manger of the centre at least two weeks before each visit and send out notices to inmates. At the start of our visit, we meet with the general manager and other relevant staff to discuss recent happenings at their centre — such as staff changes and new programs — and to generally get a feel for how the centre is running.

We spend most of our time with inmates — in interviews, answering inquiries, advising on how to approach their matters of concern, and taking up some of the issues they raise with us. We are able to resolve most of the issues immediately by speaking to the general manager and other staff. Sometimes, however, we need to continue our work on the issue back in the office. For an example see case study 40.

Last year we reported on our concerns about the physical conditions in some of the older centres we visited. We are pleased to note that this year we have found some improvements in the wings at Bathurst and Goulburn, and Long Bay Hospital Area 2 is currently closed for refurbishment.

CaseStudy40

During one of our visits, an inmate spoke to us about being removed from the work release program because methadone had been detected in his urine during a routine test. He believed a mistake had been made. He had previously had a kidney transplant and was receiving a number of different medications which he felt could have influenced the outcome of his urinalysis. The centre's general manager however was obliged to act on the basis of the results reported by the laboratory.

On returning to the office we contacted the testing laboratory and were told the initial test had been clear, but a different test had 'showed a coloured spot which looked like methadone'. A third test was then conducted which also indicated methadone.

Following our intervention the supervising doctor agreed that, given the anomalies in the test results, the complainant should have been given the opportunity to be retested before any action was taken. The doctor agreed that the number of medications the complainant was prescribed could have caused a spurious result and agreed to write to the department suggesting this should be taken into account when reviewing the complainant's case. Subsequently the complainant was reinstated onto the work release program.

Family visits

There is no doubt that the visits inmates receive from their family and friends are one of the most important privileges they have. Many studies throughout the world have shown that visits to inmates — which allow them to retain ongoing links with family and friends — are crucial to their chances of successful re-integration into the community when they leave gaol. Naturally this is an area of extreme importance to inmates, and we receive many complaints about a wide range of issues relating to inmate visits. For example see case studies 41 and 42.

CaseStudy41

Two inmates complained to us that their children were left unsupervised during a pre-arranged 'child parent activity day' at Parramatta Correctional Centre. The children were aged 16 months and 5, 7 and 10 years. The problem arose from an administrative error. While the parents had been approved for transfer to the centre before the parent day, they were not actually transferred until some hours after the children had been dropped at the centre to visit them.

We asked the department to investigate the issue. We were told that while the baby's mother had been contacted to return and collect her child, the older children's parent had not been contacted because the children had been considered to be old enough to be left without adult supervision. We expressed concern about this and asked the department to review the relevant policy. As a result, changes were made to the procedures relating to children entering a correctional centre for child parent activity days, and those for carers leaving their children at centres for such days.

CaseStudy42

We received a complaint about the condition of strollers and baby-changing tables made available to visitors with babies and small children at the Metropolitan Special Programs Centre (MSPC). Visitors are not allowed to use their own strollers or prams as they have sometimes been used to convey contraband. We inspected the facilities provided with the MSPC general manager who agreed they were very poor and agreed to replace them. This complaint raised our concerns about the facilities in other centres and we will inspect them when we make our visits over the coming year.

People charged with terrorist related crimes

A significant change in corrections in NSW during 2005-06 has been the need to manage offenders who are charged with offences colloquially referred to as 'terrorist related'.

During 2005, the category AA (male) and category 5 (female) classification was introduced into the Crimes (Administration of Sentences) Regulation for those instances where the Commissioner of Corrective Services forms the opinion that an inmate may represent a special risk to national security. This may be because of a perceived risk that they may engage in, or incite other persons to engage in, terrorist activities. The Department of Corrective Services has written new operational procedures covering the management of category AA/5 inmates which severely restrict many of their amenities and privileges — such as access to the telephone to make or receive calls, the right to receive visitors, association with other inmates, property that can be purchased and retained in their cell, and access to religious books and articles.

Category AA/5 inmates must be accompanied by officers every time they leave their cell. After a period of close assessment, they may be permitted to associate with one other inmate at a time (who is approved by the Commissioner) in a locked area. There must also be custodial officers in any room when other staff, such as medical practitioners or staff providing offender services and programs, interview them and they are denied access to official visitors. Ombudsman staff therefore have a very unique position in relation to this category of inmate as we have unrestricted access to them (and they to us) by phone, in writing and in person.

When nine people were brought into custody in late 2005 and given the category AA classification, we received complaints about their general treatment. We made initial inquiries with the department and also — because of their strict management regime and because they were unconvicted and largely had little experience of prison life — decided to interview each of the inmates about their conditions.

Our staff visited the three centres in which the men were then being held. During the course of our interviews a woman was brought into the correctional system and given a category 5 classification, so we also interviewed her. We understand her classification has since been varied following a rigorous risk assessment, and were pleased to hear of the department's positive approach to that matter.

Some of the issues we identified through our interviews were:

- inconsistencies in the general management of the inmates, depending on which centre they were at
- the time taken to consider and advise the inmates on their applications for people to be approved as visitors and for phone accounts to be set up with requested phone numbers
- the grounds for isolating category AA inmates once they came into the correctional system.

The department has responded positively in rectifying the inconsistencies in general management of these categories of inmates, but some of our inquiries about these particular inmates are still continuing.

Sex offenders

It is increasingly unlikely that a convicted sex offender will be released from custody at their earliest date of release without having first participated in a treatment program. Following recent legislative amendment, application can now be made to the court by the Attorney General to detain a sex offender in custody past the end of their court imposed sentence if there is sufficient evidence that the risk of them reoffending has not been sufficiently reduced to warrant release.

The primary method of reducing this risk is the offenders' participation in a recognised sex offender treatment program. The main complaint we receive from inmates convicted of sexual offences is about access to these treatment programs.

The department provides a sex offender treatment program, CUBIT, at the Metropolitan Special Programs Centre (MSPC). Inmates are assessed as to their risk level ie the likelihood of them re-offending. In recent years there have been significant waiting lists for inclusion in these programs at all risk levels, potentially affecting the release date of these inmates. This does not seem to be a problem which is peculiar to NSW, as the manager of our corrections unit noted similar complaints from sex offenders in Canada and England.

Towards the end of 2005, the department appointed a new state-wide coordinator of the sex offender programs. He has reviewed the programs offered and instituted changes designed to better prioritise those on waiting lists, without comprising the integrity of the programs.

Many of the coordinator's changes have recently been, or are still being, implemented and it is too early to see their effect. We are hopeful that these changes will contribute to a reduction in complaints made to our office about this issue.

High risk management unit

The number of complaints from inmates in the high risk management unit (HRMU) — which is located within the Goulburn correctional complex — dropped slightly in the past year. It is likely that a contributing factor to this is the fact that we have no power to help them with their major complaint, which is their continued placement in the HRMU, and inmates are becoming aware of this.

The effect of seemingly minor matters is magnified enormously when a person is taken into custody — they lose many of their rights and the ability to make decisions about much of their day-to-day life. The very strict security environment at the HRMU means the inmates there have significantly reduced access to many of the amenities available to other inmates and very little input into the structure of their day.

All inmates in the HRMU are subject to a hierarchy of sanctions and privileges. This hierarchy governs things like the property they can have in their cell, how many phone calls they can make each week, how often they can have visitors, and whether or not they are allowed to associate with anyone other than staff. If an inmate complies with the HRMU rules and routine, and if staff consider they are ready to do so, they may move to the next level of the hierarchy of sanctions and privileges. The highest is level 3/3.

It was apparent from the complaints we received that most inmates in the HRMU understood they were there to participate in 'the HRMU program'. They saw the main component of this program as achieving level 3/3 of the hierarchy of sanctions and privileges — then they would be considered ready to prepare for re-integration into a mainstream correctional centre. However, some inmates come into the HRMU and move relatively quickly back into a mainstream centre, potentially without achieving the highest level of sanctions and privileges. Others appear to languish on level 3/3 for many years. The achievement of level 3/3 is clearly not the determining factor in moving out of the HRMU that the inmates understood it to be.

During the year we made inquiries with the department about this issue. They confirmed that the HRMU caters for different types of inmates, some of whom may remain in the unit for extended periods — potentially until the end of their sentence — despite their level on the hierarchy of sanctions and privileges. Individual placement is based on a number of factors, including an assessment of the risk to security they pose as well as changes in their behaviour. The Commissioner accepted our position that inmates in the HRMU should not be under the misapprehension that compliance with the behavioural expectations of the program is the only consideration in determining suitability for transfer out of the HRMU.

Although attainment of level 3/3 is not of itself the determining factor for an inmate to exit from the HRMU, it is the most observable indicator of compliance with rules and routine and presumably of the likelihood of violence to others, disruptive behaviour or other risks to security. Progression through the hierarchy of sanctions and privileges can take some time, and a concerted demonstration of compliance from the inmate. Regression to lower levels can occur for what sometimes appear to be minor infractions of behavioural standards, or for other seemingly capricious reasons. This creates an environment ripe for complaint, and also potentially threatens good order and security and compromises the safety of the staff.

We reported last year on an investigation we had conducted into the HRMU, and noted that the department had accepted our recommendation that it was appropriate for an evaluation of its operations and programs to be conducted. This evaluation was started during 2005 but, due to a number of unavoidable problems, it has not yet been finalised. We have received a preliminary report from the department and noted there were many areas still to be examined. We are hopeful the eventual report will cover some of the issues we have noted above, including the efficacy of the different roles the HRMU performs in relation to the different kinds of inmates held there.

Kariong

We continue to monitor Kariong Juvenile Correctional Centre on a regular basis and have visited the centre a number of times this year.

The school is always a highlight of the visit and it is pleasing to see so many young men eager to spend time in the classroom. The education program is so popular that one of the very few complaints we received was from a young inmate who was distressed because he had been stopped from attending class as a punishment.

The one area at Kariong that has caused us some concern is the lack of therapeutic programs. We raised this issue with the Commissioner and, as a result, the manager of the offender programs unit and the department's principal advisor on alcohol and other drugs visited the centre to assess the problem.

We have now been advised that several programs are being developed and implemented specifically for Kariong. All inmates are subject to the behaviour management program, which is a system of privileges

designed to manage and minimise disruptive behaviour. A satellite program of the young adult offender program will be run four times a year, a program targeting drug and alcohol users is to be introduced shortly, and anger management and violent offender programs are also being developed.

A challenge to our oversight

In mid 2005, some articles appeared in the Sydney press about a high profile inmate which included copies of letters allegedly seized by correctional staff and details of incidents that occurred during a visit with family members. We were concerned that these articles implied that the department or its staff were publicly discussing the management of inmates and confidential information may have been released to the media.

We made preliminary inquiries about whether these disclosures were authorised and, if not, whether the department had investigated them. Dissatisfied with the response, the Ombudsman met with the Commissioner. The Commissioner acknowledged that there were deficiencies in the department's policies and procedures about disclosure of information and said he was intending to have them reviewed and updated. He refused, however, to reveal any details about how the specific information about the inmate had been released. He advised he had legal advice that stated our inquiry related to an alleged violation of privacy, which is exempt from our jurisdiction by clause 17 of Schedule 1 of the Ombudsman Act. The Ombudsman emphasised to the Commissioner that our concerns were about the systems the department had to ensure that confidential information was not disclosed by departmental staff. We subsequently began an investigation into the adequacy of the policies and procedures covering the disclosure of departmental information, the investigation of unauthorised releases, and the action taken by the department to investigate the particular disclosures.

Several weeks later, a number of further articles were published that appeared to be sourced from, and included quotes from, a departmental intelligence report and inter-departmental correspondence about security related issues. These articles reinforced our concerns that confidential information was being inappropriately 'leaked' to the press by staff, and that the department's policies and procedures may not be adequate to prevent this happening. We amended the terms of our investigation to include these further apparent unauthorised releases of confidential departmental information.

The Commissioner has continued to challenge the Ombudsman's jurisdiction to investigate these matters. In an effort to avoid costly litigation, we have each sought and exchanged legal advice from Senior Counsel. Unfortunately these advisings each support the initial positions taken by the Commissioner and the Ombudsman respectively, despite a further clarification of the terms of the investigation.

In an effort to resolve the dispute, we have jointly sought binding advice from the Solicitor General.

Justice Health

Although we do not examine clinical or professional matters, we are often contacted by inmates about the health services provided in the correctional system. Justice Health provides these services and we are in regular contact with them about health-related complaints and inquiries from inmates. We usually try to go to the clinic during our visits to correctional centres and meet with the manager of the nursing unit. We are always pleased to see physical changes in clinics that make it easier for staff to deliver health services to inmates, such as the recent changes to the Broken Hill Correctional Centre.

We mostly contact Justice Health by email to enable quick action and resolution. Sometimes however an apparently simple complaint about a missed appointment can identify a far broader systemic problem, such as in case study 43.

CaseStudy43

As the health-care provider to the NSW correctional system, Justice Health performs psychiatric assessments of inmates and provides reports to agencies such as the State Parole Authority (SPA), Serious Offenders Review Council, the Mental Health Review Tribunal and the courts. For instance, the SPA regularly requests psychiatric reports before making decisions about an inmate's eligibility for parole and plans for their ongoing management in the community.

Following a complaint we received from an inmate about delays in getting a psychiatric assessment completed for the SPA, we made inquiries about the processes that are followed when an agency like the SPA asks for a psychiatric report. While we were pleased to see that, after our inquiries, the complainant's psychiatric assessment was completed and the report sent to the SPA, we found that Justice Health was straining to meet the demand for these reports. The wider implication of this issue is that delays in completing the reports may mean delays in having parole, classification or appeals determined by the various agencies requesting the reports.

Delays can be caused by a range of factors — such as psychiatrists having difficulty in accessing inmates due to inmate movement or lock downs in correctional centres, or simply not enough psychiatrists available to do the work.

The restructuring of various correctional centres has also had an impact on the provision of this service.

Long Bay Hospital Area 2 (LBH2) was previously used for most inmate medical, psychiatric and specialist appointments but, for a range of reasons — including plans to build a better general medical facility in the Long Bay Correctional Complex along with a forensic hospital — LBH2 was closed. This has affected the access inmates have to psychiatrists and other medical specialists. Clearly, the closure of a large transient prison medical facility has implications on the medical services that are provided at the other centres in the state, as inmates and medical staff are relocated.

With the closure of LBH2, psychiatric assessments are now conducted at the Metropolitan Remand and Reception Centre (MRRC) which has a purpose built mental health wing with 120 beds. However demand for this resource is high. There are still difficulties finding a bed in the facility to accommodate an inmate having a psychiatric assessment. Also the ongoing need for a safe, medical transit facility close to the new medical hospital and catering for all security levels does not seem to have been addressed.

Completion of the refurbishment of the prison hospital at Long Bay is still a couple of years off, and we are keen to see the processes for timely completion of psychiatric assessments streamlined. We understand that the department and Justice Health are working towards solutions to the problems that cause delays, and we will continue to monitor this issue over the coming year.

11. Juvenile justice

Introduction

We receive complaints from detainees in juvenile justice centres about a wide range of issues including the food provided in the centres, detainees' access to programs and activities and unfair discipline. Young people in detention can contact us by phone, by letter or during our visits to centres. This year we developed a youth brochure and poster outlining the services we provide and how to contact us. These were distributed to all juvenile justice centres, and a number of detainees have used the brochure to help them lodge a complaint.

When detainees call us, we encourage them to try to fix the problem directly with staff at the centre. If they have already tried or the matter is serious or urgent, we contact the centre to try to resolve the problem.

During 2005-06 we visited seven of the eight full-time juvenile justice centres twice and visited one centre, Acmena, three times. We also visited the part-time centre at Broken Hill once. During our visits we meet with centre staff, talk to detainees, inspect records and look around the centre.

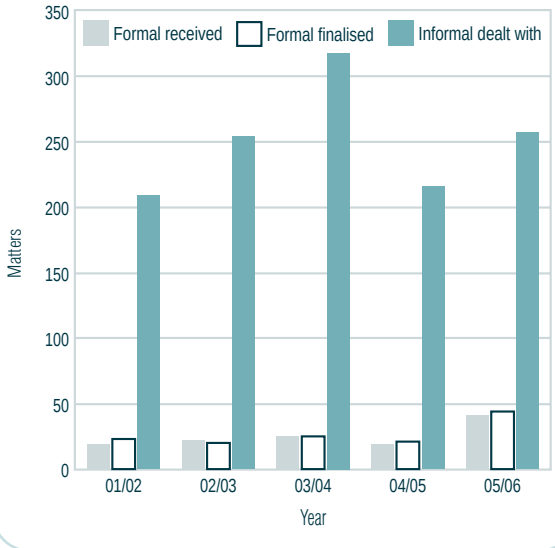
Each centre has a school run by the Department of Education and Training. During our visits this year we have arranged to meet with school staff to discuss the work they are doing. Many young people in detention have dropped out of school or have big gaps in their attendance. School and centre staff work hard to encourage them to study again. The education that is offered in centres ranges from basic literacy and numeracy tuition through to the higher school certificate and TAFE courses.

Complaint trends and outcomes

This year formal complaints about juvenile justice more than doubled from 2004-05, and informal complaints increased by 19%. See figure 47. Figure 64 in Appendix E shows how many complaints were made about each centre. Over a quarter of the complaints we received were from people who were concerned with aspects of their daily routine. We also received a significant number of complaints about the quality and quantity of the food provided in the centres. See figure 48.

Matters received and finalised fig 47

Matters	01/02	02/03	03/04	04/05	05/06
Formal received	19	22	25	19	41
Formal finalised	23	20	25	21	44
Informal dealt with	209	254	318	216	257



What people complained about

fig 48

This figure shows the complaints we received in 2005–06 about juvenile justice centres, broken down by the primary issue that complainants complained about. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Issue	Formal	Informal	Total
Daily routine	9	73	82
Food and diet	0	45	45
Other	1	30	31
Officer misconduct	3	18	21
Visits	3	13	16
Transfers	2	12	14
Unfair discipline	2	12	14
Case management	6	6	12
Medical	3	9	12
Day / other leave / works release	3	7	10
Property	4	3	7
Work and education	0	6	6
Classification	0	4	4
Fail to ensure safety	0	4	4
Records / administration	1	2	3
Segregation	1	2	3
Information	1	1	2
Legal problems	0	2	2
Conduct outside jurisdiction	0	2	2
Probation / parole	1	1	2
Security	0	2	2
Buy-ups	0	1	1
Child abuse related	0	1	1
Community programs	1	0	1
Mail	0	1	1
Total 2005–06	41	257	298

Numbers in custody

There have been periods during the year when the numbers of young people in detention have increased significantly. This seems to have been due to a range of factors, including more young people being refused bail. During the periods of very high numbers detainees complained to us that they had less access to programs and activities, reduced contact with detainees in different units, and delays in getting into school. See case study 44 for an example.

An increase in the numbers of detainees obviously affects the management of the centres. Sudden spikes in numbers can stretch physical resources — additional beds, mattresses, hot water, sheets and towels are all needed. An increase in centre numbers also affects their schools, which cater for a specific number of detainees. When the numbers of detainees in the centre go over capacity schools can find themselves short of places.

While we appreciate it is the courts that decide to place a young person in custody, not the Department of Juvenile Justice, it is the department that is left with the practicalities of accommodating and providing resources for the extra detainees. We will continue to monitor how this is managed and any impact it has on the services the department is able to offer.

CaseStudy44

We received a number of complaints about lockdowns at Cobham Juvenile Justice Centre. An extra unit was opened at Cobham when numbers in detention were particularly high. There were not enough staff to run the extra unit so rolling lockdowns were used. The centre explained that detainees were locked in their room for an hour, and then came out for an hour and so on throughout the day. The centre faxed us a copy of the daily routines and explained that activity packs of puzzles had been put together for detainees so they had something to do while they were locked in their rooms. Bedtimes were extended to allow detainees longer out of their rooms in the evening. Once the school holidays ended and most detainees were in school, lockdowns were mainly confined to weekend mornings in two units. While this was far from ideal, we were satisfied the centre was doing what they could to manage a difficult situation.

Detainee meetings

Regular detainee meetings provide a way of resolving complaints and concerns in centres. They are also a useful way for centre staff to give information to detainees about things that are going to happen. For example, the department has introduced a standard menu this year which is portion controlled. We have observed on our visits that when meetings were held to tell detainees about the menu in advance, explain the reasons it was being introduced and how they could give feedback on the new menu, the change was made more smoothly and with fewer problems.

We encourage centres to make sure detainee meetings are held regularly and that detainees are told the outcome of issues raised at the meetings. We also encourage detainees to raise issues at the meetings. In a welcome development, a number of centres have started displaying large format minutes of the meetings in accommodation units — setting out clearly what was talked about, who is responsible for any action and the outcomes of issues raised.

Robinson Program at Reiby Juvenile Justice Centre

The Robinson Program is designed to foster behavioural change and is for boys under 16 years old who display particularly challenging behaviour. Last year we had concerns that the program was experiencing significant problems, including a lack of clarity about its purpose and uncertainty about who should be referred to the program. We met and discussed these issues with senior departmental managers who have since advised us that progress has been made to refocus the program.

Some of the changes have included reviewing the program's aims and objectives, developing understood criteria for boys to be placed on and taken off the program, and incorporating departmental requirements into the program.

On our most recent visit to Reiby we found that there was an increase in referrals to the program from other centres, as well as from other units in Reiby. This has been helped by the completion of extensive building work at the centre and the opening of a third unit for younger detainees. The increased stability, now the construction work is finished, gives the department the opportunity to finalise the review of the Robinson Program and ensure it fulfils its role as an intensive therapeutic program.

Behaviour management

We understand that sometimes a detainee's behaviour means close management is required for their own safety, as well as the safety of other detainees and staff. However we believe that behaviour management plans involving significant periods of isolation should be used only as a last resort, and have concerns that in some cases detainees may be being placed on these plans when it is not really necessary. We expect centre managers and other senior staff who are required to sign off on such plans to make sure the detainee's behaviour actually poses an immediate and ongoing risk that warrants such strict management. Case study 45 highlights the difficulties that can sometimes arise with behaviour management plans.

Recent legislative amendments extended the length of time a detainee can be held in isolation, either as a punishment or for their own safety or that of others. We understand the department is establishing a high-level committee to consider how the changes to the legislation will operate in practice. We consider that stringent processes need to be put in place to ensure decisions to confine or segregate detainees for extended periods of time are made only when necessary, and such decisions are consistent and reasonable.

CaseStudy45

A detainee called us to complain he had been kept on his own for three days following an incident. We were concerned his behaviour — both at the time of the particular incident and in the three subsequent days — may not have warranted such strict management.

The department told us the detainee had been isolated to ensure staff safety. However our review of the documentation showed that a senior manager had raised concerns about the management plan — including the amount of time the detainee was kept on his own, the lack of review provisions and the lack of assessment of ongoing risk of the detainee.

Our inquiries showed that there was a breakdown in communication between the senior managers responsible for the decision to continue his segregation, and the concerns about the plan did not seem to have been conveyed to the centre. Senior management did follow up on the detainee's segregation, but only after he had already been transferred to another centre where he was managed under normal routines.

The department told us they are developing a standardised process for behaviour management plans which will provide more guidance to centre staff about their content — including provisions for recreation, ongoing assessment and review periods.

Community services

Our work tends to focus on the department's custodial services because young people in detention are particularly vulnerable and can find it difficult to make complaints. However the majority of the Department of Juvenile Justice's clients are in fact in the community. For example, the department supervises young people on court ordered good behaviour bonds, probation and community service orders. They also provide community based programs and specialist services to young people in the community as an alternative to detention.

This year we have done some work in this area — including talking to officers about the department's involvement in intensive case management in Dubbo, where key government agencies work together with a small number of families. We also met with juvenile justice staff in Bourke to discuss service provision in the west and far west of NSW, bail issues and interagency cooperation.

12. Freedom of information

For a government to be properly accountable to Parliament and the public it is vital that its activities are as transparent as possible, and information is available about what the government is doing. The main way for people in NSW to access information held by government agencies is the *Freedom of Information Act 1989* (FOI Act). A central purpose of the Act is to enable members of the public to scrutinise government policies and decisions, and give them a chance to participate in the development and implementation of laws and public policy.

Under the FOI Act, if an agency decides not to release a document the applicant has two options. The first is to complain to our office. We have the power to review both the merits of the decision and the way the agency dealt with the application. The second option is to take the matter to the Administrative Decisions Tribunal (ADT). They can review the merits of the agency's decision and make a determination that replaces that decision.

We take an 'inquisitorial' approach to FOI reviews — not the 'adversarial' approach of the courts and ADT — and we do not take sides. We look at each matter from all perspectives and try to find an outcome that is in the public interest and consistent with the FOI Act and laws governing privacy and secrecy obligations.

As a first step, we review the documents being sought to see if we agree with the approach taken by the agency in assessing the application and their ultimate decision. If we have insufficient information to be able to understand the reasons for the decision or to assess if it was reasonable, we ask the agency for additional information or documents.

If, after completing our assessment, we agree with the agency's decision, we explain to the applicant why. If we disagree with the way in which the agency has dealt with the matter or with the decision itself, we put a preliminary view to the agency as to how we believe the matter should be dealt with, or suggest changes to their policies or procedures. We try to handle matters cooperatively and work through any points of disagreement.

Sometimes it is appropriate for us to make a formal suggestion to the agency under section 52A of the FOI Act — this can then be adopted by the agency and the matter closed.

Occasionally we believe it is in the public interest to use our formal powers to require agencies to produce documents or answer questions. In a few cases, we formally report under the *Ombudsman Act 1974* on our findings that an agency has handled a matter in a deficient way. We made three of these reports in 2005-06.

Trends in FOI complaints

This year we received 188 formal complaints about FOI applications, similar to the 189 we received last year, and considerably more than the 130–140 in each of the previous four years. See figure 49.

Most of these complaints were cases where access was refused, but a number of people were also concerned that an agency had used the wrong procedure in determining their application. See figure 50.

In 2005-06, we finalised 198 complaints in relation to FOI applications. Over half of these were resolved by persuading the agency to take some steps to address the complainant's concerns or because we found no evidence of wrong conduct. Please see Appendix F for a full list of the actions we took in relation to each complaint finalised this year.

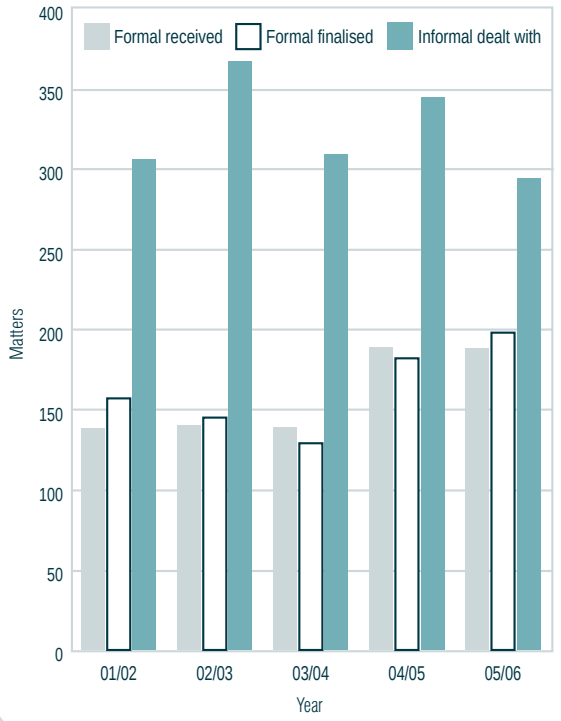
Print media organisations are increasingly obtaining information about the operations and activities of government by using the FOI Act. Over the past two years there has been a significant increase in the number of articles based on information obtained in this way.

There has also been an increase over the past four years in complaints to us from journalists about their FOI applications, although the number of complaints this year was less than the year before.

We have been receiving increasing numbers of complaints from non-government members of Parliament for some years, although the number of these complaints also fell slightly this year.

Matters received and finalised fig 49

Matters	01/02	02/03	03/04	04/05	05/06
Formal received	138	140	139	189	188
Formal finalised	157	145	129	182	198
Informal dealt with	306	367	309	345	294



What people complained about fig 50

This figure shows the complaints we received in 2005–06 about freedom of information, broken down by the primary issue that each complainant complained about. Please note that each complaint may contain more than one issue, but this table only shows the primary issue.

Issue	Formal	Informal	Total
Access refused	85	32	117
Wrong procedure	57	18	75
General FOI inquiry	1	65	66
Agency inquiry	0	57	57
Pre application inquiry	0	44	44
Pre internal review inquiry	3	38	41
Charges	11	9	20
Documents not held	12	8	20
Documents concealed	5	8	13
Amendments	7	3	10
Third party objection	2	7	9
Documents lost	2	2	4
Administrative wrong conduct	1	1	2
Documents destroyed	0	2	2
Conduct outside jurisdiction	2	0	2
Total 2005–06	188	294	482

Inconsistent laws about access to information

Agencies continue to face problems with trying to comply with inconsistent laws governing access to information in NSW. The main pieces of legislation are the FOI Act, the *Privacy and Personal Information Protection Act 1998* and section 12 of the *Local Government Act 1993*.

Over the years, the inconsistencies in these Acts have created considerable confusion for people seeking access to information and those responsible for administering the legislation.

The NSW government has now taken positive steps to address this issue. In 2006 the Attorney General directed the NSW Law Reform Commission to undertake an inquiry into this area.

The central purpose of the inquiry will be to achieve uniformity of privacy protection principles across Australia, and a consistent approach in the NSW legislation governing access to information. The Attorney General has also indicated it may be beneficial to introduce a statutory tort of privacy in NSW.

The Commission will liaise with the Australian Law Reform Commission and other relevant agencies in conducting this review. It is anticipated they will report on their findings in 2008.

Trends in the release of documents

This year we conducted our ninth annual review of the FOI statistics reported by over 100 NSW agencies in their annual reports. Since we started these reviews, the number of FOI applications reported to have been made to those audited agencies has almost doubled — from 8,328 in 1995–96 to 15,958 in 2004–05.

There has been a significant and disturbing downward trend in the percentage of applications where all documents requested were released in full — from 81% of determinations in 1995-96 to 55% in 2004-05. Over the same period, the numbers of applications refused in part has nearly tripled (from 12% to 34% of determinations), and the number of matters refused in full has remained largely the same (only increasing from 7% to 9% of determinations).

A comparison of NSW with other Australian jurisdictions shows that NSW has the lowest rate of full release of documents and the highest rate of partial release. See figure 51.

Another issue of concern is that the number of FOI applications reported to have been refused on the basis that advance deposits were not paid has increased almost fivefold over the period of our audits (from 36 to 172). We can only assume that this is primarily due to either an increase in the number of agencies charging advance deposits, or an increase in the amount charged by agencies as advance deposits. We have received a number of complaints about the amount of money charged — advance deposits are sometimes thousands of dollars. We actively encourage agencies to work with applicants to find a practical way to provide access to documents without expending an unreasonable amount of resources. Please visit our website for a full report on this year's audit.

Reviewing the Act

We have been calling for a comprehensive review of the FOI Act for over a decade. In previous annual reports we have set out the reasons why such a review is needed. As each year goes by, the need for such a review becomes more pressing.

The lack of a review of the Victorian FOI Act led the Victorian Ombudsman last year to conduct his own review of that Act.

The Commonwealth Ombudsman also conducted a review into the administration of the Commonwealth FOI Act last year and strongly recommended the creation of a statutory FOI Commissioner. He argued that such a body would be a constant, independent monitor of and advocate for FOI, and would be responsible for:

- collecting statistics on FOI requests and decisions and preparing an annual report on FOI (currently the Attorney-General's responsibility)
- auditing the compliance of agencies with the Commonwealth FOI Act
- publicising the Act in the community
- providing information, advice and assistance for FOI requests
- providing or overseeing FOI training to agencies
- setting a scale of charges for requests for access to information under the Act
- providing legislative policy advice on the Act.

This recommendation appears to be equally applicable to NSW.

Last year we again recommended that there be a comprehensive, independent and transparent review of the FOI Act. In the absence of any such review, we will consider conducting our own review of the administration and provisions of the FOI Act next year.

Comparison of determinations between jurisdictions* fig 51

	Full release	Partial refusal	Full refusal	Total applications
NSW (2004–05)	55%	34%	9%	16,000
WA (2004–05)	66%	27%	6%	8,600
Cth (2004–05)	72.5%	21%	6.5%	39,300
Vic (2004–05)	77%	20%	3%	22,500
Qld (2004–05)	79%	9%	12%	12,500
SA (2004–05)	83%	7.5%	9.5%	11,500

* Based on the most recent available figures. Sources: Sample audit of FOI reporting, NSW Ombudsman 2004–05 (NSW);** FOI Annual Report 2005, Office of the Information Commissioner (WA); Freedom of Information Act Annual Report 2004–05, Attorney General's Department (Cth); Freedom of Information Annual Report, Attorney General 2005 (Vic); Freedom of Information Act Annual Report 2004–05, Department of Justice (Qld) (re. documents); Freedom of Information Act 1991 Annual Report 2004–05, State Records (SA). All numbers have been rounded to the nearest whole number.

** In Australian jurisdictions other than NSW, all state and local government bodies subject to their FOI Act must report their FOI statistics to a central government agency, for example the Attorney General, Department of Justice or State Records.

FOI manual

We are pleased to report that an updated version of the FOI manual is now largely finalised. This manual is designed to provide guidance for NSW FOI practitioners on the interpretation of the FOI Act. It has been developed by our office, the Premier's Department and The Cabinet Office. It is intended to be available by the end of the year.

Cabinet confidentiality

Over the past two years we have seen a marked increase in agencies claiming Cabinet confidentiality, under clause 1 of Schedule 1 to the FOI Act, as a reason for refusing access to documents. It is not clear whether more documents are being refused on this ground because more applications are being made for high-level government records, or because agencies are inappropriately classifying documents in this way to avoid releasing them to the public.

In 2005, in the case of *National Parks Association of NSW Inc v Department of Lands,* the ADT adopted a narrow interpretation of the Cabinet document exemption clause. For example, the mere fact that a document or part of a document was attached to a Cabinet submission does not mean the document is covered by this exemption. See case study 47.

However, it would appear to us that in certain circumstances a document created before Cabinet discussion or deliberation could disclose information concerning that discussion or deliberation (eg a Cabinet meeting agenda). Further, a document created prior to Cabinet deliberation or discussion is capable of being caught by clause 1(1)(e) (which states that a document is exempt 'if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet') if there is evidence that it was deliberated on by Cabinet. However, in our view, the 'evidence' must be available to, or known by, the FOI decision-maker, and the applicant or the public generally, before this would apply.

In practice, it is unlikely that Cabinet records would be sufficiently detailed to indicate which particular documents were, or were to be, the subject of deliberation at a meeting. It is therefore unclear how, in practice, sufficient evidence would be available to the decision-maker unless they are given relevant information by a person present during Cabinet deliberations. Apart from certain Cabinet Office staff and occasionally senior public officials, the only people at Cabinet meetings are Ministers. It is possible that some Ministers may not be strong supporters of FOI and could see the FOI Act as imposing an unwarranted fetter on their ability to manage their portfolios, which might tend to influence their view as to whether documents should be exempt (schedule 1 and s. 22 of the Ombudsman Act prevent us from reviewing any such advice by a Minister to an FOI decision-maker). These problems pose difficulties for agencies attempting to rely on cl. 1(1)(e) to refuse access to documents.

Section 22 certificates

If we are handling a complaint where an agency has exempted documents under the Cabinet documents exemption clause, we ask the agency to obtain a certificate (under s. 22 of the Ombudsman Act) from The Cabinet Office confirming the requested document is a Cabinet document. If a s. 22 certificate is issued, we are not allowed to ask questions which in any way relate to the documents covered by the certificate, so we cannot test whether the documents should in fact be exempt. See case study 46.

There is no similar restriction on the jurisdiction or powers of the ADT in relation to its external review role under the FOI Act. If s. 22 of the Ombudsman Act is not amended, we may need to consider declining all FOI complaints where an agency has exempted documents from release under the Cabinet document exemption clause and recommend that those complainants go to the ADT. This approach would be particularly costly for both applicants and agencies. We intend to continue monitoring this issue closely.

CaseStudy46

The Department of Primary Industries claimed two reports about the protection of Grey Nurse sharks were Cabinet documents. After we notified the department that we would formally investigate the issue, The Cabinet Office issued a s. 22 certificate certifying that the documents were Cabinet documents. Despite this, the government subsequently tabled the documents in the Legislative Council and the department provided copies to the FOI applicant.

The reports were prepared by independent experts and reviewed the social, economic and scientific aspects of Grey Nurse shark protection. We understand the reports were not prepared for submission to Cabinet, had not been discussed at Cabinet, and there was no timeframe for their submission to Cabinet. However both reports were made the subject of a s. 22 certificate. We have subsequently raised this issue with The Cabinet Office in relation to another matter.

CaseStudy47

In September 2004 a *Sydney Morning Herald* journalist applied to the former Department of Infrastructure, Planning and Natural Resources for access to documents about proposals for the future use of the Darling Harbour East wharf areas. The department requested an advance deposit of $405 and advised that their preliminary view was that the documents would be exempt under the Cabinet documents exemption clause.

In April 2005 we began a formal investigation into the matter — requesting either copies of the documents claimed to be exempt or a certificate from The Cabinet Office confirming that the documents were Cabinet documents. The department refused to provide either and questioned our jurisdiction to investigate this matter.

When we issued the department with a notice requiring a relevant officer to attend our office and give evidence under oath, the department reconsidered their original decision. However, we were still not satisfied with their subsequent decision. We recommenced our formal investigation and held hearings under s. 19 of the Ombudsman Act using our Royal Commission powers.

The department's preliminary view was that 58 documents were exempt under cl. 1(1)(e). When they formally determined the application, they identified 75 documents as exempt under the Cabinet exemption clause, 45 of these under cl. 1(1)(e). This decision was made after the ADT's determination that the clause was to be interpreted narrowly.

After reviewing the titles of the documents and the evidence from the hearing, we formed the view (taking the approach of the ADT) that 34 of the 45 documents claimed as exempt under cl. 1(1)(e) fell outside the scope of the provision.

The department sought advice from the Crown Solicitor, who questioned the narrow approach of the ADT in the *National Parks* case and suggested adopting a broader interpretation.

However, even if the provisions of cl. 1(1)(e) are interpreted broadly, there are still two problems for a department wishing to claim that documents are exempt under that provision. If there is nothing in the document, or other evidence available, that indicates that the contents of the document had been the subject of a Cabinet deliberation or decision:

- how would the applicant or the public be aware that they had been?
- given Cabinet confidentiality, how would an agency FOI decision-maker know enough about Cabinet deliberations and decisions to be able to make such an assessment?

In response to our investigation and report, the department redetermined the application and released a number of additional documents to the applicant.

A further development was that the Premiers Department issued a circular which included guidelines for agencies dealing with FOI applications for documents that may be exempt under the Cabinet exemption clause.

Agencies withholding documents to save embarrassment

Each year we receive some complaints about refusals of access to documents which, on review, appear likely to be based on an agency's concern about possible embarrassment should the documents be released. See case study 48 for an example. In such situations, we remind agencies that the possibility of embarrassment is not a valid basis on which an agency can refuse access to documents. Section 59A of the FOI Act specifically states that when determining whether disclosure of a document would be contrary to the public interest, it is irrelevant that the disclosure may cause embarrassment to the government.

CaseStudy48

The *Daily Telegraph* applied to NSW Police for access to a large number of documents about allegations and inquiries into misconduct by staff and students at the police training academy in Goulburn. NSW Police claimed the relevant documents were exempt under clause 16 of the FOI Act — that to release them would be contrary to the public interest and would prevent them properly managing or assessing their personnel.

Once we reviewed the documents, we found that it appeared more likely that they had been claimed to be exempt because NSW Police could potentially be embarrassed by the information in them. We recommended that a number of the documents be released, and emphasised to NSW Police that documents cannot be exempt just because an agency may be embarrassed by their public release. As a result of our intervention, NSW Police released most of the documents.

For more details about this issue, please see our special report to Parliament on Misconduct at the NSW Police College, tabled in 2 August 2006.

The legal professional privilege exemption

Each year we see examples of agencies misapplying or misusing the legal professional privilege exemption clause. We continue to raise this issue with agencies, but we are still finding that some agencies are inappropriately relying on this clause to refuse access to documents. See case study 49 for an example.

CaseStudy49

A former employee of the Department of Community Services (DoCS) applied under FOI for all documentation relating to a personnel and recruitment matter.

DoCS released most of the requested documents but, in their internal review, deleted a bullet point from a briefing note on the basis it was subject to legal professional privilege.

Legal professional privilege can be claimed in relation to confidential communications between a client and a lawyer for the dominant purpose of either enabling the client to obtain, or a lawyer to give, legal advice or for use in litigation.

The deleted bullet point stated that corporate human resources had discussed the matter with the Director, Legal Services whose view was that the DoCS' response should be general, their position on the matter had not changed, and the applicant could take legal action if he wished. The dominant purpose of the discussion was not to obtain legal advice, nor was there a prospect of litigation arising.

After we made inquiries, DoCS reviewed the file and released the two documents in full. We considered this resolved the complaint and did not take any further action. However we reminded DoCS of their obligation to give full and clear reasons for any exemptions claimed in their FOI determinations.

Delays

A common theme in a number of complaints is the length of time taken by agencies to assess and determine FOI applications. We generally deal with such complaints as individual issues (see case study 50). However if there are a number of complaints alleging delay by a particular agency (for example NSW Police), we will sometimes review the overall FOI procedures, practices and resources of the agency concerned.

Our audit of FOI reporting by agencies in NSW found that only 67% of applications were dealt with within 21 days. A further 8% were processed between 22 and 35 days, and 25% of applications took longer than 35 days to process. Overall, over 25% of determinations were made outside the statutory time period — this is between 21 and 48 days, depending on the application.

CaseStudy50

In March 2005 a legal firm acting for a private school applied to the Department of Education and Training for documents about education funding and the department's policies relating to certain other private schools. Because the application requested access to a large number of documents, the department asked the legal firm to pay an advance deposit of $2,370 in processing costs. The legal firm paid the deposit within a month, but it was not until September 2005 — some five months after the statutory time period — that the department gave the applicant a determination, which was to refuse access to all documents requested.

We reviewed the matter and were not satisfied with the time taken to finalise it or the final determination. We wrote to the department and asked them to provide thorough reasons for their refusal to provide the documents. We also suggested they should refund at least part of the deposit, considering the long delay in providing their determination. The department agreed that not all the documents requested were exempt and refunded the advance deposit in full.

Capacity of NSW Police to handle FOI workload

In recent years we have become increasingly concerned about delays by NSW Police in dealing with FOI applications. Figures reported in NSW Police annual reports show that the number of FOI applications they receive has increased by over 300% since 1995–96.

The NSW Police FOI Unit has responded commendably by increasing their productivity significantly, but this has not been enough to deal with the increasing workload. We raised our concerns with NSW Police and conducted a formal investigation.

They have now allocated nine additional staff to their FOI Unit and we hope this will significantly improve their capacity to handle the increasing number of FOI applications they receive.

Unreasonable enforcement of statutory timeframes by agencies

We occasionally receive complaints that indicate an agency has rigidly enforced statutory timeframes to refuse to deal with an internal review request. This situation is exacerbated if the agency failed to comply with the timeframe for making their initial determination — see case study 51.

The FOI Act contains no penalties for agencies that fail to process determinations within the statutory timeframe, but permits agencies to refuse to process late applications.

CaseStudy51

We received a complaint that the Department of Corrective Services had refused to process an internal review that they had received a few days outside the statutory timeframe. In this case, the application for internal review had been received 7 days after the 28 day time period.

The department's refusal to process the internal review seemed unfair, given that they were 37 days late in completing the initial determination. Our inquiries found that the applicant had lodged a further FOI application for the same material that was to be reviewed in the internal review, and the department felt that processing the internal review would be unnecessary duplication.

Given these circumstances, we accepted the department's argument that there was little point in processing the applicant's internal review. They agreed with our suggestion to refund the applicant's internal review fee.

We clarified however that, if the applicant had not lodged a fresh application, they should process an internal review if it was received only a few days outside of the statutory timeframe, particularly if there had been delays in processing the initial application.

Guarantees of confidentiality

We regularly come across cases where agencies have entered into confidentiality agreements that aim to predetermine documents as exempt under the FOI Act. See case study 52. These agreements are contrary to the public interest and inconsistent with the spirit of the FOI Act.

CaseStudy52

We received a complaint on behalf of an environmental group about the Department of Primary Industries' determination of an application for annual reports from companies with exploration licences. Access to two of the reports had been refused — seemingly because of confidentiality provisions in the licensing agreements signed by the companies, and also under the business affairs and confidential material exemption clauses of the FOI Act.

We were concerned about the implications this had for the department's view of their obligations under the FOI Act and how they are managing those obligations after signing such agreements.

After constructive discussions, the department agreed to encourage companies to submit reports in a form that separates environmental content from information about business and commercial activities. They will also make it clear that they are unable to offer a guarantee of absolute confidentiality for documents provided.

The department redetermined the FOI application and, subject to third parties exercising their appeal rights, decided to release those parts of the mining companies' reports relating to environmental issues.

Unnecessary consultation with third parties

An agency cannot refuse an FOI applicant access to documents written by the applicant, even if the documents contain defamatory allegations against other people — for example, statements made by a complainant against staff of the department.

There is nothing stopping an agency consulting informally with their staff when releasing information that relates to them. However if the information clearly does not relate to the 'personal affairs' of staff, agencies should not consult them under the FOI Act — as this raises expectations about appeal rights that may not exist.

It is also incorrect to treat all allegations against staff as their personal affairs, regardless of their content. While it may sometimes be difficult to determine whether an allegation relates to personal affairs or not, many allegations about staff relate to matters performed in the course of their professional duties and so do not relate to their personal affairs. Case study 53 is an example of an agency misapplying this clause.

There is no obligation on agencies to tell their employees what information they hold about them, particularly if the information was unsolicited. If the agency decides to act on the information, they may be obliged to advise the employee of the information, as the principles of procedural fairness may apply.

CaseStudy53

An inmate made an FOI application to the Department of Corrective Services requesting access to all documents in his case file created between two specific dates. These documents included copies of complaints written by the inmate containing allegations against correctional officers, nurses and other inmates.

The department decided to treat all the allegations against the people mentioned in the inmate's complaints as their personal affairs, and consequently consulted with them under section 31 of the FOI Act. In their determination, the department took into account the comments of the people they consulted and deleted some of the names and other personal references from the documents in question.

After our intervention, the department eventually agreed to provide all the documents written by the inmate to him in full.

Claims of public interest immunity

Twice during 2005-06 an agency claimed they could refuse access to documents based on 'public interest immunity' (see case study 54). However public interest immunity is not one of the exemption clauses in the FOI Act.

The District Court considered this issue in *Simos v Wilkins* (District Court No 187 of 1996). In that case, in the context of public interest immunity, the court stated that in interpreting the provisions of the FOI Act:

> *… it is rarely useful to have regard to the circumstances in which, in other contexts, courts have ordered that documents be produced by one party to another or that the confidentiality of documents held by some party be protected.*

CaseStudy54

In this case, the FOI applicant was a claimant under the *Motor Accidents Compensation Act 1999*. After a motorcycle accident, he was assessed by a number of medical practitioners in relation to a disputed claim. At the end of the assessment process, he was given final reports and certificates stating the degree of his permanent impairment.

Under the relevant code, an assessor may correct or request the correction of an error in a draft report or certificate. The draft reports and certificates are therefore sent by the contracted medical assessors to the Motor Accidents Authority (MAA) only. If there is an error, the MAA will ask the assessor to correct it before issuing the final report and certificate to all the parties. The claimants are not given the draft versions of the reports or certificates.

If permanent impairment in any area is assessed to be 10% or more, the claimant is entitled to compensation for non-economic loss. One of our complainant's reports showed a permanent impairment of 9%. As this was close to the cut off for additional compensation, he made an FOI application for all the draft reports to satisfy himself the percentage had not been dropped after communication between the medical assessor and the MAA. The MAA released some documents to the applicant — but deleted the original percentages in the draft reports, and the communication about the draft report between the MAA and the contracted medical assessor.

The MAA argued that the application raised the question of whether medical assessors' notes, draft decisions and communications with MAA were subject to subpoena. They believed that these types of documents were subject to public interest immunity and were therefore exempt under the FOI legislation as well. They enclosed a copy of their legal arguments in a then current Court of Appeal litigation over the public interest immunity issue.

We advised the MAA that public interest immunity is not an exemption clause in the FOI Act. After a meeting with our office, they eventually agreed to release the draft report and other documents to the applicant in full.

Internal audit reports

Clause 16(1) of Schedule 1 of the FOI Act is intended to protect information about specific agency operations relating to tests, examinations and audits. Under this clause, protection exists where disclosure could prejudice or substantially adversely affect the operations of the agency, and therefore be contrary to the public interest. The mere fact that the information relates to audits is not sufficient reason for the exemption. However, some agencies have been misapplying this clause. See case study 55 for an example.

CaseStudy55

A journalist from the *Sydney Morning Herald* applied to the Department of Corrective Services for copies of four internal audit reports covering management issues such as staff air travel, senior executive leave reconciliation, computer use at a correctional centre, and a general audit of another centre. The department refused access to all four reports under cl. 16(1).

During our preliminary inquiries we became concerned that the department appeared to be treating internal audit documents as exempt, regardless of their content. Treating a document as a member of a class of documents when it is not creates a presumption against release, which is contrary to the aims of the FOI Act. It also prevents the decision maker from examining each document on its own merits.

In support of the exemption, the department argued that the success of audits depended on the auditor being able to obtain frank and candid information from members of staff. If staff were fearful that their identity and the information they provided would be published in the media, they may not provide information to auditors.

There is a common law duty on employees to obey the lawful orders of employers — including answering questions about how they have done their work or what they have done during working hours. It also implies a duty to be frank and candid with their employer. Claims by agencies that the requirements of transparency would inhibit the frankness and candour of their employees are therefore usually without foundation.

After our formal investigation into this complaint, the department agreed to release substantial portions of all four audit reports.

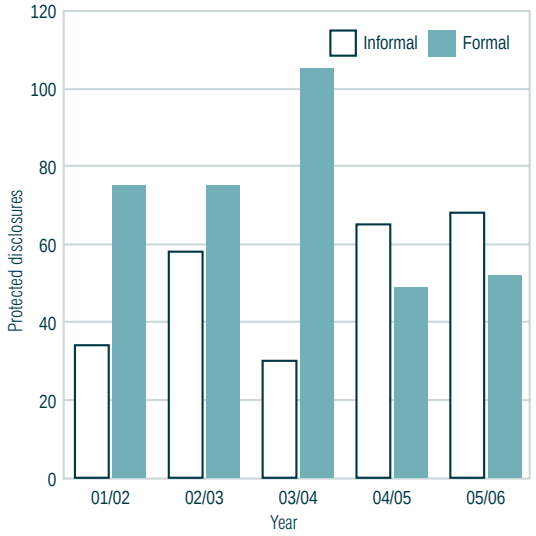
13. Protected disclosures

Highlights

- We provided a comprehensive submission to a Parliamentary review of the *Protected Disclosures Act 1994,* including recommendations for major structural changes to some sections of the Act, and for the establishment of a specialist protected disclosure unit within a NSW oversight body.
- We continued our involvement in the national research project *Whistling While They Work.*
- Together with the ICAC, we provided 'train-the-trainer' training on protected disclosures to internal trainers from a number of public sector agencies.

Protected disclosures received fig 52

	01/02	02/03	03/04	04/05	05/06
Informal	34	58	30	65	68
Formal	75	75	105	49	52
Total	109	133	135	114	120



It is important that staff in the public sector are encouraged to come forward with information about the management or operations of their agency, as they are often in the best position to expose serious problems in their workplace. Twelve years ago the *Protected Disclosures Act 1994* (PD Act) was passed by Parliament to provide a safe reporting environment for public sector employees. We have been aware for some time that the Act is not meeting its objectives, and have made this clear in previous reports, issues papers and in submissions to Parliamentary reviews of the Act.

Our work in relation to protected disclosures is very broad. We deal with disclosures made to us about maladministration as well as allegations about reprisals being made against whistleblowers. This year we received a total of 120 protected disclosures — 52 formal and 68 informal. See figure 52.

We also:

- provide advice and information to actual and potential whistleblowers, and to managers and CEOs who have received disclosures
- provide training to agencies to improve their handling of disclosures
- produce publications to assist individuals and agencies
- work with other watchdog agencies to monitor and improve the implementation and interpretation of the PD Act.

Submissions to the Parliamentary review of the Act

The Joint Parliamentary Committee on the Independent Commission Against Corruption (ICAC) is currently conducting a review of the PD Act. We made a submission to this review late last year. We also helped to draft a submission from the PD Act Implementation Steering Committee (PDAISC), which is chaired by Chris Wheeler (our Deputy Ombudsman) and has representatives from the ICAC, Audit Office, Police Integrity Commission, Department of Local Government, Premier's Department and NSW Police.

These submissions argued that the Act requires significant amendment to achieve its original objectives. We suggested major structural changes to the sections of the Act that deal with redress for whistleblowers and statutory obligations on agencies.

We also recommended establishing a specialist protected disclosure unit to:

- improve awareness of the Act in the public sector
- provide advice to agencies and their staff
- coordinate the collection of statistics on protected disclosures
- provide advice to the government or relevant agencies on Bills relating to matters concerning whistleblowing issues
- monitor trends in the operation of the scheme and report to the government and legislature.

In April this year we provided further information to the committee about the cost of creating such a unit. At the time of writing, the committee had not tabled its report of the review.

University of NSW investigations

Last year we reported on our investigations into how the University of New South Wales (UNSW) handled three protected disclosures. We were concerned about the way these disclosures were dealt with and the treatment of the whistleblowers themselves.

In May 2005 we issued the relevant parts of a preliminary document to the people concerned setting out the evidence obtained during the investigation and foreshadowing our conclusions and recommendations. We considered numerous submissions from affected parties and then issued a revised document to UNSW. In their subsequent submission, UNSW claimed that we did not have a legal basis to conduct almost all of our investigation because either the staff involved were not public officials and / or the investigation had been into industrial relations matters that we were not empowered to investigate. Their submission was supported by advice from senior counsel that was at odds with our legal advice. We therefore sought further advice from senior counsel which confirmed the conduct we were investigating was within our jurisdiction.

In May 2006 we issued a further revised document to UNSW and to certain significantly affected parties, and a relevant section of the document to another affected party, to give them a final opportunity to make submissions before finalising a draft investigation report to be sent to the Minister for Education and Training.

At the time of writing, a person whose conduct is the subject of part of the investigation has commenced proceedings in the Supreme Court against our office. We will be defending these proceedings. This has delayed our investigation — which will not be finalised until the proceedings have been completed.

We plan to use the report of this investigation to publish comprehensive complaint-handling guidelines for all NSW universities.

How disclosures affect workplace relationships

A difficult issue that may arise after an allegation has been made in a workplace is that — whether or not the allegation is true — the relationships between the people who make the disclosure and the people the subject of the disclosure may break down irreparably.

For example, in one case we dealt with this year, several staff made a complaint about their manager to another watchdog agency. One whistleblower took stress leave after making the complaint and, despite being medically fit to do so, was not allowed to return to work on the basis that her manager might not be able to cope with the stress of working with a person who had made a complaint about her conduct.

We acknowledge the difficulties faced by management in dealing with situations where workplace relationships may have been soured because a disclosure has been made. Common sense suggests that bitterness between colleagues may make a workplace environment untenable for one or more parties. In extreme circumstances, the only solution may be to transfer one of the people involved to another workplace.

However it is often difficult to work out the correct course of action to take in these situations. The PD Act makes it an offence to take detrimental action against a person for having made a disclosure, and transferring a whistleblower against their will could fall within this category. On the other hand, it may not be practicable or fair to transfer the person who was the subject of the disclosure, particularly if the allegation was not sustained.

Case study 56 is an example of a situation where a compromise solution was reached. However this will not always be the case. The guiding principle we use in considering situations of this kind is whether the actions of an agency are reasonable in the circumstances, and whether they have taken all relevant factors into account.

CaseStudy56

In 2004 we received a complaint from a public sector employee. The original allegation had been investigated by the organisation he worked in, but was not considered a protected disclosure under the Act. The employee was transferred against his wishes after he made the allegation. We made significant inquiries into the matter and suggested to the organisation that the disclosure could have been considered protected under the Act, and therefore the transfer could have been classed as 'detrimental action'. We decided not to formally investigate the matter because the whistleblower had made a successful appeal against his transfer to an independent transfer review panel.

However — despite the panel's decision — after requests from some of the staff who were the subject of the complaint, the head of the organisation decided not to allow the whistleblower to return to his position. He therefore complained to us again.

Initially the organisation was reluctant to enter into a mediation process to try to resolve the concerns raised by this complaint. However when we arranged a meeting between senior staff and the whistleblower, a number of positive outcomes were achieved. The organisation agreed to place the allegation on their register of protected disclosures. The whistleblower came to accept that his return to his substantive position might not be possible, given the bitterness that his allegation had created. Instead, he suggested a new path for his career and participated in designing a new position for himself at another location.

Whistling While They Work project

Last year we reported on our involvement in the development of a three-year national research project into the management and protection of whistleblowers in the Australian public sector. The project was officially launched at a symposium in Canberra in July 2005, where leaders in internal witness management discussed whistleblower policies, best practice internal witness management and required reforms. The event was a resounding success and was attended by more than 100 researchers, public sector representatives and whistleblower interest groups.

This year the research — which involves structured workshops, surveys, interviews and questionnaires — started. The first survey, *Agency Practices and Procedures,* was distributed to all Federal, NSW, Queensland and Western Australian agencies late last year. The results were positive, with 318 agencies responding. Most importantly, 137 of these agencies volunteered to participate in further in-depth surveys and case study analyses for the project. A number of other data collection instruments have also been developed to obtain information from public sector staff, internal witnesses, case handlers and managers.

Internal allegations about NSW Police officers

A significant proportion of whistleblower complaints are made by police officers, and we are actively involved in the NSW Police Internal Witness Advisory Council (IWAC).

This year, NSW Police have accepted our recommendations for improved guidelines and training to help police managers support internal witnesses. This is especially important when the confidentiality of an internal witness cannot be guaranteed, which is often the case with the more serious allegations.

We continue to raise with NSW Police the need to comprehensively respond to independent research about the harassment of police internal witnesses. This harassment has undoubtedly resulted in many officers agreeing that it was not worth reporting misconduct — and deciding that they would not report misconduct again. We asked NSW Police to undertake more research into the experiences of internal witnesses, and have canvassed methods to identify commanders who are dealing well or poorly with internal witnesses. Good practice can then be shared and action taken about commanders who are not effectively supporting internal witnesses.

Providing guidance to public sector agencies

In conjunction with ICAC, we provide 'train-the-trainer' training on protected disclosures to internal trainers from public sector agencies so they can train their own staff on these issues. During 2005-06 we provided training for a number of agencies in Sydney, Dubbo and Batemans Bay. Our Deputy Ombudsman also visited the Department of Housing and Business Link to train their trainers.

Our staff were trained in how to give advice to agencies who may have to deal with a protected disclosure.

As part of our A-Z Public Sector Agencies fact sheet series, we published a fact sheet on whistleblowing, which outlines the importance of whistleblowers and the appropriate response to disclosures.

14. Employment-related child protection

Highlights

- We have revised or entered into new 'class or kind' determinations with Catholic systemic schools, the Department of Community Services and a number of substitute residential care agencies, exempting them from having to notify certain types of conduct to us.
- We have convened industry forums to assist agencies develop their expertise in investigating reportable allegations involving their employees.
- We published an information sheet which has helped child care agencies develop and review their child protection policies and comply with their responsibilities under Part 3A of the *Ombudsman Act 1974*.
- We have provided over 40 free workshops and briefings to a range of agencies in metropolitan and regional areas, and have supported the training initiatives of a number of government departments.
- We have surveyed a number of agencies to obtain feedback about the way that we work, and have conducted two internal audits of how we handle agency notifications to identify areas for improvement.

Introduction

Part 3A was introduced into the *Ombudsman Act 1974* in 1998, giving us responsibility for making sure that certain agencies deal properly with allegations that their employees have behaved in ways that could be abusive to children.

Our work involves monitoring the way agencies handle these 'reportable' allegations — which include sexual offences, sexual misconduct, assault, ill-treatment, neglect, and behaviour that causes psychological harm to children.

There are over 7,000 government and non-government agencies that have to comply with this scheme. They vary in size, and range from schools and organisations running child care centres to substitute residential care providers and juvenile justice centres. The people who are covered by the scheme include employees, contractors and thousands of volunteers who support the work of these agencies.

Under the scheme, the heads of the agencies are required to:

- notify us within 30 days of becoming aware of any 'reportable' allegations involving their employees
- investigate those allegations
- take appropriate management action as a result of their investigations and, if necessary, notify the Commission for Children and Young People (CCYP).

Managers from our child protection team meet weekly to consider proposals for direct investigations, make policy decisions and carry out strategic and business planning.

We assess the notifications we receive and decide on the level of scrutiny and assistance that we need to provide. This depends on the seriousness of the allegations and the experience and ability of the agency to handle and investigate the allegations. Some of the larger agencies have a lot of experience, while other agencies may be handling this kind of matter for the first time. In these cases we may offer assistance to plan the investigation, keep in regular contact to monitor their progress, and provide guidance about analysing the information gathered during the investigation. However we do not make investigation findings for them.

We review the report prepared by the agency after they have completed their investigation. This year, we also closely monitored or investigated 25% of matters (see figure 53). If we are not satisfied with the way the agency has handled an allegation, we may ask them to take further action or provide more information to us.

Another important part of our work is making sure that agencies have systems in place to handle these kinds of matters. Clear policies and procedures are essential to ensure consistency and minimise the risk of things going wrong.

Agencies with good systems in place are better able to:

- be fair to employees who have been accused of behaving inappropriately
- manage the risk that such employees may pose
- manage the expectations of the children and other parties affected
- fulfil their other statutory and professional obligations.

We regularly use tools such as audits to look at the quality of the systems agencies have in place and suggest improvements.

Notifications handled this year

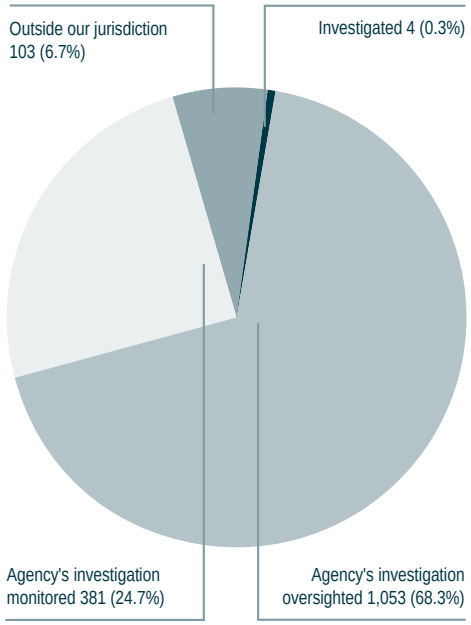
This year we received 1,786 notifications, which is down slightly from 1,815 last year — see figure 54. Figure 55 shows the notifications received about each agency category. This decrease can in part be attributed to the exemption of certain types of conduct under Part 3A of the Ombudsman Act and the 'class or kind' determinations we have in place with some agencies.

Nearly 60% of notifications involved allegations of physical assault, with another 17% involving a sexual offence or sexual misconduct. See figure 57.

A breakdown of overall notifications shows that the majority of alleged sexual offences and sexual misconduct involves male employees, whereas most alleged neglect involves female employees. See figure 56.

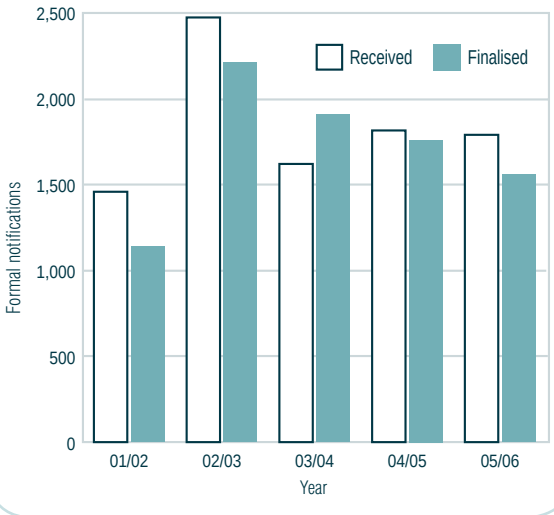
Action taken on finalised child protection notifications — fig 53

	No.
Agency's investigation oversighted	1,053
Agency's investigation monitored	381
Investigated	4
Outside our jurisdiction	103
Total written notifications finalised	1,541



Formal notifications received and finalised — fig 54

	01/02	02/03	03/04	04/05	05/06
Received	1,458	2,473	1,620	1,815	1,786
Finalised	1,141	2,211	1,908	1,760	1,541



Employment-related child protection

Performance indicator

Average time taken to assess notifications

Target	2005-06
5 working days	3 working days

Performance indicator

Average time taken to assess final investigation reports

Target	2005-06
30 working days	28 working days

Number of formal notifications received

fig 55

Agency	04/05	05/06
Department of Education and Training	799	666
Department of Community Services	352	436
Substitute residential care	192	210
Catholic systemic and independent schools	126	109
NSW Police*	97	104
Department of Juvenile Justice	74	100
Independent schools	66	88
Child care centres	72	68
Department of Health	59	45
Councils	33	20
Family day care	8	19
Department of Ageing Disability and Home Care	22	13
Other public authority - not local government	8	7
Department of Corrective Services	3	3
Department of Sport and Recreation	0	1
Other prescribed bodies	0	1
Agency outside our jurisdiction	1	0
Total notifications	1,815	1,786

*Notifications that are made by NSW Police are dealt with by our police team in the same way as other allegations of police misconduct. They are therefore not included in the 'Total' number.

Who the notifications were about

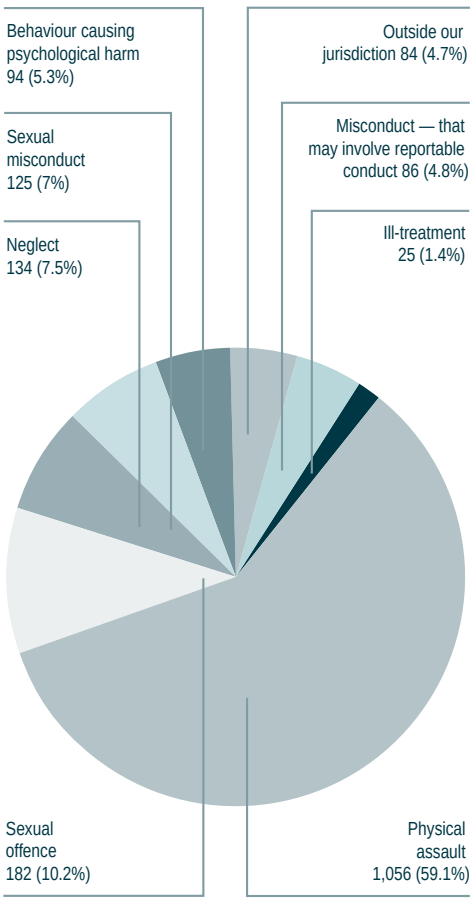
fig 56

Issue	Female	Male	Unknown	Total
Physical assault	523	488	45	1,056
Sexual offence	35	135	12	182
Neglect	83	44	7	134
Sexual misconduct	15	100	10	125
Psychological harm	52	36	6	94
Misconduct - that may involve reportable conduct	20	61	5	86
Ill-treatment	16	7	2	25
Outside our jurisdiction	28	47	9	84
Total notifications	772	918	96	1,786

What the notifications were about

fig 57

Issue	No.
Physical assault	1,056
Sexual offence	182
Neglect	134
Sexual misconduct	125
Psychological harm	94
Misconduct — that may involve reportable conduct	86
Outside our jurisdiction	84
Ill-treatment	25
Total notifications	1,786



‘Class or kind’ determinations

The Ombudsman has the power to exempt conduct of a certain ‘class or kind’ from the notification requirements of the Ombudsman Act. We do this by entering into ‘class or kind’ determinations with agencies when they demonstrate they have effective systems for handling low-risk reportable allegations, and we are satisfied we do not need to directly scrutinise every investigation. We monitor the way these types of allegations are handled by conducting regular audits.

We first made ‘class or kind’ determinations with the Department of Education and Training (DET) and Catholic systemic schools in 2001. These determinations exempted low-risk allegations of physical assault and neglect from notification to us. We have since extended these determinations with DET and the Catholic Bishops of NSW to exempt additional kinds of allegations from having to be notified to us.

In 2004, we made a new determination with the Association of Independent Schools (AIS) so that all independent schools that had met certain standards could also be exempted from notifying us of low-risk allegations, regardless of their AIS membership status. This year, we have also developed ‘class or kind’ determinations with some substitute residential care agencies. These are different from the determinations with the education sector, as they reflect the different risks that are present in these agencies. They are described in more detail in the discussion of our work with these sectors.

How agencies are performing

Education

Most notifications we receive are from the education sector. This is made up of the Department of Education and Training (DET), Catholic schools and non government independent schools.

Department of Education and Training

This year there has been a 17% decrease in notifications from DET, which can partly be attributed to the use of exemptions under Part 3A of the Ombudsman Act and the extended ‘class or kind’ determination that was made with DET in March 2005. We have completed two audits of exempted matters this year, and found that DET has continued to deal with the majority of these types of allegations well.

One exception to this usually good practice was a number of investigations completed in late December 2005 — which were poorly planned and may have been rushed to be finalised before the holidays started. We raised this issue with the DET employee performance and conduct unit and they have undertaken to better monitor the quality of investigations. New legislation (the *Education Legislation Amendment (Staff) Act 2006*) came into operation in August this year. It changes the way that DET and the TAFE Commission handle allegations of misconduct against their employees. Next year, we will monitor the application of this legislation and DET’s guidelines for remedial and disciplinary processes.

We run forums with staff from different sectors on child protection issues — in this case, Catholic independent schools.

Catholic systemic schools

In last year’s annual report, we reported that the head of agency arrangement for all Catholic diocesan agencies had reverted to the NSW Bishops. This year, we continued to support these changed arrangements through regular contact, quarterly forums and specific feedback about investigations.

We have also visited all dioceses to audit the existing ‘class or kind’ determinations for systemic schools and to discuss the way they investigate allegations against employees. We have seen significant improvements in the way investigations are identified and managed, and as a result, have extended the ‘class or kind’ determinations for systemic schools with the Bishops of ten of the eleven dioceses. However we continue to see a variation in the quality of investigations and the understanding of responsibilities, and have offered training to dioceses in these areas. See case study 57. We have also received fewer notifications from Catholic systemic schools than in previous years. This may be attributed to the use of exemptions under Part 3A of the Ombudsman Act and the ‘class or kind’ determinations.

Performance indicator

Percentage of recommendations from our investigations implemented

Target	2005-06
80%	100%

CaseStudy57

We received a notification from a Catholic schools office (CSO) about a teacher who was alleged to have downloaded child pornography on a school computer. The teacher admitted that he had accessed adult pornography sites and stated that, on one occasion, he had also accidentally accessed a site containing child pornography. However, when he realised the content of the site, he had immediately shut the computer down. The investigator concluded that the allegation should be sustained as 'reportable conduct' on the basis that the teacher admitted to the conduct. The CSO provided us with the draft investigation report and asked us for our opinion of the appropriateness of this preliminary finding.

We reviewed the matter and advised the CSO that, although the teacher's use of the school computer was inappropriate, the evidence supported his account that he had accidentally, rather than intentionally, accessed child pornography. After we met with the CSO and the Independent Education Union to discuss this matter, the CSO changed their finding to 'inappropriate behaviour but not reportable conduct' and a plan was developed to monitor the teacher's use of the internet at school.

Independent schools

There are more than 370 non-government and Catholic independent schools in NSW. Last year we commented on the low reporting rates from this sector and said that we would be exploring this issue. Our discussions with independent schools indicate that there are a number of factors that contribute to a generally low incidence of reportable matters. These include pastoral care systems (which facilitate a family and community orientated environment), selection practices, detailed child protection policies, and employees' understanding of child protection issues.

This year the number of notifications from independent schools has increased slightly. This may be attributed to the continuing training convened by the Association of Independent Schools (AIS) and the receipt of notifications from schools that have not previously reported to us.

We have noticed that investigations by some independent schools are handled well, but others continue to be conducted poorly. The quality of investigations often relates to the size of the school, the experience of the investigator, and the adequacy of the school's child protection policies and procedures. See case study 58.

Some schools continue to require significant assistance in conducting investigations, while others have developed considerable expertise in this area.

Our audits of nine of the 11 schools that used the 'class or kind' determination with the AIS — which allows schools that have an AIS-accredited investigator to utilise the exemptions under Part 3A of the Ombudsman Act — showed that most of these schools had a sound understanding of the determination and good investigation practices. We believe that the close relationships these schools have with the AIS, and the quality of advice the AIS provides, has helped them to develop good practices.

CaseStudy58

An independent school notified us of allegations that, approximately 20 years ago, a female teacher had developed an inappropriate relationship with a male student which had led to sexual intercourse. The principal consulted with us throughout the investigation to discuss issues arising from the evidence gathered, the likely outcome, and the notification of the matter to the CCYP.

Regular contact with the principal also ensured that any issues were managed as they arose. The investigation was finalised in a timely way and this helped to minimise the stress for everyone involved.

We also met with the principal to talk about the assessment of risk in this situation, given the seriousness of the allegations. From our discussions, the principal also identified a need to develop a code of conduct within the school and to provide child protection training for employees. We later organised a workshop that was attended by a number of staff from the school.

Using the internet

The increasing inappropriate use of the internet is one issue that we have paid close attention to this year. We have monitored a number of matters, including some where an internet chat room was used by adults for 'grooming' children as a pre-cursor to sexual assault. We have encouraged schools to consider this issue and to ensure that their policies include information about the appropriate use of the internet. Case studies 59 and 60 provide examples of our work in this area.

CaseStudy59

Allegations were made that a male departmental teacher had been communicating with female students in an internet chat room and that these 'conversations' included information of a sexual nature, and that he had inappropriately touched a number of female students. We monitored the investigation and had regular contact with the agency during this process. The agency formed a view that the man's behaviour was concerning and breached professional standards, and decided to formally monitor his conduct and performance for a specified period.

CaseStudy60

An independent school became aware of allegations of sexual misconduct involving four employees and two students when a student provided copies of a number of internet chat room conversations that were on a personal website. The school informed the police, as the allegations involved potentially criminal behaviour. The police interviewed one of the alleged victims, who denied the allegations. The police were unable to identify the person who made the allegations because they could not locate the user of the internet addresses. After the police concluded their investigation, the school interviewed the alleged victims, employees and potential witnesses. There was no evidence to support the allegations, and strong evidence that they were vexatious.

We helped the school to obtain information from the police so that they could finalise the matter. We also provided advice about how to make a determination in situations like this and agreed with the school's finding that, based on the available evidence, the allegations could not be supported.

Substitute residential care

The substitute residential care sector is the second largest reporter of notifications to us. This sector includes agencies responsible for children and young people in out-of-home care, youth refuges, residential settings and respite care. In 2005-06, we received an increased number of notifications from this sector. This may be attributed to an increased level of understanding of reporting requirements as a result of our regular forums and publications, notifications from agencies that have not made notifications to us before, and an increase in the number of notifications from DoCS.

Although the general standard of investigations in this sector continues to improve, many of the agencies providing substitute residential care to children do not have adequate systems in place to investigate reportable allegations against their employees.

This year we have assisted agencies to improve their practices and policies by giving them advice about specific investigations, providing training and convening regular forums. See case study 61. As many of these agencies are small and scattered across the state, our forums provide a valuable opportunity for agencies to exchange information and discuss issues relating to investigations of reportable conduct.

We have also audited five agencies and, as a result of the improvements we found, met with DoCS, Barnardos, Centacare and UnitingCare to develop 'class or kind' determinations with them. Many of these determinations have been finalised.

We hold quarterly forums for agencies providing substitute residential care and childrens services.

CaseStudy61

A substitute residential care agency was advised by police of allegations that a foster carer had indecently assaulted a child in their care. The child had already left the placement, but the agency had arranged for the carer to provide respite care to another child. We became concerned when the agency disclosed information about the allegations to the carer, against the advice of police, and continued to allow the carer to provide unsupervised respite care. The agency told us that they believed the allegations were false and vexatious.

After meeting with the agency a number of times to discuss our concerns, we decided to investigate their handling of the allegations. We were particularly concerned about the agency's record keeping practices, their assessment that the carer was a low risk to children (despite some evidence that the carer had indecently assaulted the other child), the delays in finalising the investigation, and their failure to make an appropriate finding.

As a result of our investigation, we made a number of suggestions and met with the agency again. They undertook to change their finding, take disciplinary action in relation to the carer, and notify the CCYP. They also reviewed their policies and procedures, attended additional training in investigation management, and now attend our regular forums for substitute residential care agencies. We were satisfied with the action that the agency had taken and discontinued our investigation.

Department of Community Services

As in previous years, the majority of allegations notified to us from this sector in 2005-06 were from the Department of Community Services (DoCS) and were in relation to foster carers (see case study 62). There has been a 10% increase in the number of notifications received from DoCS, which can be attributed to an improved awareness of reporting responsibilities and improved systems for reporting.

Last year we identified a number of systemic concerns about DoCS' response to reportable allegations — including the adequacy and timeliness of their response to requests we make for further information and the adequacy of their risk assessments for children living with, or having contact with, people against whom allegations have been made.

In the past year, we have continued to meet regularly with the allegations against employees unit (AAE) at DoCS and they have positively addressed most of our concerns. The AAE unit has continued to improve DoCS' systems for investigating reportable allegations. Most notifications are now sent to us within the required 30-day period and they are assisting regions to remedy deficiencies in investigations managed at a local level. DoCS have also made efforts to be more timely in providing information to us.

CaseStudy62

DoCS notified us of allegations that two foster carers had sexually assaulted two children in their care. DoCS told us that the children had made the allegations after leaving the placement, and there were no other children placed with these carers as they had been deregistered and were believed to have left Australia.

DoCS later sought to stop their investigation and withdraw the notification — on the basis that the carers had been deregistered before the children made the allegations. However it came to our attention that, although no other children had been placed with the carers, the recommendation to deregister the carers had not been actioned at the time the allegations were made. This meant that the allegations were in our jurisdiction and the notification could not be withdrawn.

We were concerned about DoCS' failure to deregister the carers and that — if the allegations were not investigated — the potential risks that the carers posed to children, either here or abroad, could not be properly assessed. We discussed this case with DoCS' senior management and, after further inquiries, found that the carers were still living in NSW. The allegations were investigated by the joint investigation response team. As a result of this investigation, the carers were deregistered and their details were notified to the CCYP. DoCS also asked for our advice on their deregistration process and have since made improvements to it.

Department of Ageing, Disability and Home Care

This year we have raised a number of concerns with the Department of Ageing, Disability and Home Care (DADHC) about their investigation practices. These concerns include their failure to pursue all appropriate avenues of inquiry in some investigations (such as interviewing witnesses or the alleged victim), their

record keeping practices, delays in providing us with information, the time taken to finalise investigations, and not providing information to the employee or to families about the outcome of an investigation. Last year we reported that DADHC were reviewing their child protection policy. We are concerned that this has not yet been completed and have asked them to provide us with a copy when it is finalised so that we can provide feedback.

DADHC's ethics and professional standards unit (EPSU) has the responsibility for handling reportable allegations against their employees and responding to disciplinary matters. We meet regularly with the EPSU to monitor the action that they are taking to address the concerns we have identified, and have recently participated in child protection training for DADHC staff to help them better understand child protection issues and their reporting obligations.

Department of Juvenile Justice

The Department of Juvenile Justice (DJJ) works with highly vulnerable children and young people in the community and in juvenile justice centres. In previous years, we reported that we held — and had investigated — significant concerns about the way that DJJ investigated reportable allegations against their employees.

This year we have continued to monitor DJJ's compliance with our recommendations and have observed a number of positive changes to their practices and procedures — including the development of new guidelines for investigating allegations against employees.

However, we have some concern about DJJ's failure to provide information to us and to finalise some investigations in a timely manner. We have raised these concerns with DJJ and will monitor their response over the coming year. We have also continued to meet regularly with DJJ and have provided training to the regional directors of their juvenile justice centres.

Child care sector

As a result of changes to the legislation governing the child care sector in September 2004, all licensed childrens services — including all family day care services and mobile and home-based childrens services — now fall within our child protection jurisdiction. These amendments have had a considerable impact on our work with the child care sector and, over the past twelve months, we have received a significant number of telephone inquiries from this sector plus an increased number of notifications from family day care services.

Some child care agencies do not have a clear understanding of our child protection role and the matters that are exempted from notification to us. Others are faced with conflicts of interests in investigating reportable allegations because they are small, stand-alone centres.

This year, we continued to assist child care centres to develop their expertise in this area by convening quarterly forums, providing education and training, and giving advice regarding investigations. See case studies 63 and 64.

We also published an information sheet to help child care agencies to develop and review their child protection policies and comply with their responsibilities under the Ombudsman Act.

There has been considerable media coverage this year about the child care sector — particularly the quality of care being provided to children in long day care in both privately run and not-for-profit centres. We have paid close attention to this debate, and have audited five centres and started investigations into three organisations providing child care.

CaseStudy63

We received a notification that the combined licensee / authorised supervisor of a child care centre had allegedly ill-treated children and used excessive force when caring for them at the centre. This person was considered to be the head of agency for the purposes of the Ombudsman Act and was therefore also responsible for investigating the allegations.

Given the obvious conflict of interests in this situation, we decided to investigate the allegations in coordination with DoCS. We visited the centre and interviewed a number of witnesses, including the licensee / authorised supervisor. We also reviewed the centre's policies and their child and employee attendance records. We found no wrong conduct and discontinued the investigation.

However we did identify some areas where the centre could have improved their systems for preventing reportable conduct and responding to reportable allegations. As a result of our involvement the centre agreed to review their behaviour management, complaints and child protection policies, review their code of conduct, and implement child protection training for staff.

CaseStudy64

Another notification from a child care centre related to the licensee of the centre, who was the spouse of the head of agency. We were concerned about the ability of the head of agency to investigate the allegations impartially and decided to monitor the centre's investigation. We requested information from DoCS so we could determine the level of risk associated with the allegations and the action required to ensure the matter was handled properly. We then met with the head of agency to talk about the investigation process and guided the centre in their risk assessment and development of a risk management plan. We also decided to attend the interview that the head of agency conducted with the licensee, giving them the opportunity to formally respond to the allegations.

As a result of our involvement, the head of agency took prompt action to manage the risks when they became aware of the allegations. The centre also reviewed their child protection and behaviour management policies and provided their staff with further child protection training.

Department of Health

Last year, we reported that we had started an investigation into the Department of Health's systems for handling reportable allegations against employees and, in particular, the role of their employment screening and review branch (ESRB). We later decided to discontinue this investigation because the department responded to our concerns and implemented some changes. On 1 July 2005, the area health services resumed all of their head of agency responsibilities, with the ESRB retaining an advisory role.

Despite these changes, we have continued to raise some issues with the department about the role of the ESRB, their understanding of processes, and the way that some matters are being handled within the area health services. We have observed significant differences in the way that area health services handle reportable allegations against their employees, and continue to have concerns about delays in information being provided to us. See case study 65.

In October 2005, we decided to investigate the way that an area health service and the Department of Health had handled a matter involving sexual assault allegations against a doctor. Our investigation found that the area health service did not have clear policies and procedures for handling these types of matters, and had not conducted an adequate risk assessment in relation to the initial allegations against the doctor.

We have held regular meetings with the department and have begun regular forums with area health services to discuss these issues. We have also provided the department with advice during their review of their child protection policies and procedures, and worked closely with them in developing the child protection training for staff that began in June 2006. We are pleased with the department's response to this issue.

CaseStudy65

We received a notification from an area health service about an employee who was charged with the aggravated indecent assault of a child. The matter was dismissed at court because, even though the magistrate considered that the child's evidence was credible, the charge could not be proven beyond reasonable doubt.

The area health service advised us that they had considered the court's decision and had made a finding that reportable conduct had not occurred. They considered that the employee posed a low risk to children and had not notified the CCYP.

We advised the area health service that they could not simply rely on the court outcome when making their finding. Although they needed to wait for the outcome of the criminal proceedings before finalising their investigation, they could make a finding based on the lower civil standard of 'on the balance of probabilities' — rather than the criminal standard of 'beyond reasonable doubt'.

We asked the area health service to clarify the particulars of the allegations, obtain more information from the police about their investigation, find out why the charges were dismissed, and then make their own assessment of the available information and make their own finding.

Despite our regular contact with the area health service and the ESRB, there were extensive delays in finalising this matter. However after we met with the area health service and provided them with written advice, they changed their finding to 'not sustained — insufficient evidence' and the employee's details were notified to the CCYP as a category one employment proceeding. This means that this information will be taken into account if the employee applies for child-related employment in the future.

Scrutinising systems

Our audit work

One of our key roles is to scrutinise the systems that agencies have for protecting children and responding to reportable allegations against their employees. Our aim is to help agencies provide safer environments for the children in their care.

We continue to review agency systems through audits. Our audits generally involve examining the agency's child protection policies and procedures — and then visiting the agency's premises to observe their operations, inspect files and other documents, and talk to the head of agency, employees and, where possible, users of the service such as parents or young people. We usually give the head of agency feedback straight away, particularly if we have identified areas of concern.

Audits provide us with a means of working closely with agencies in a constructive and cooperative way to help them to meet their responsibilities under Part 3A of the Ombudsman Act, and to develop effective child protection policies and procedures that protect both the children in their care and their employees.

We selectively identify agencies for audits. Over the past year, we have conducted 10 audits of child care centres and agencies providing substitute residential care for children. We have identified these types of agencies because of the vulnerability of the children they look after.

We have also completed 22 audits of our 'class or kind' determinations. These audits checked compliance with our previous recommendations and, in some cases, allowed us to extend the determinations with these agencies.

While most of the agencies we audited last year were very positive about the process and our recommendations for improvements in their systems, two of them either failed to comply with our requests to enter premises or failed to implement our recommendations in a timely manner.

We decided to investigate these agencies and they then complied with our requirements. While we make all attempts to encourage agencies to work cooperatively with us, if we continue to be concerned about their systems for protecting children we will use our investigative powers under the Ombudsman Act. See case study 66.

In 2006-07 we will be reviewing our audit methodology and approach in light of some of the issues we have faced this year.

CaseStudy66

We audited an agency that runs a number of child care centres and, after visiting the service and reviewing their policies and procedures, identified a number of areas for improvement.

We issued a provisional audit report to the agency with a number of recommendations and asked them to provide any comments to us before we issued our final report. The agency chose not to comment on our report before it was finalised.

After we had issued our final report, we asked the agency to provide us with information about the action they had taken to implement our recommendations. However, despite our repeated contact with the agency, they failed to implement our recommendations or give us reasons why this was not possible.

Given our concerns about the agency's systems for preventing reportable conduct and responding to reportable allegations against their employees, we decided to investigate. The agency then gave us information about the action they had taken to implement our recommendations.

Monitoring agency investigations

This year we closely monitored 381 agency investigations, which is 25% of the notifications that we finalised. When deciding whether or not we will monitor an agency's investigation, we consider:

- the nature and seriousness of the allegations
- the vulnerability of the alleged victim
- the agency's ability to respond to the matter in a timely and appropriate way.

In most cases, we monitored the agency's investigation from the outset. This meant that we could closely scrutinise and provide guidance throughout the investigation by asking for regular updates and having phone contact or meetings with the agency to discuss any issues that arose.

However sometimes the agency's inability to handle a matter without closer scrutiny and guidance did not become evident until some time after we received the notification. For example, more information may have been obtained that indicated that there were higher risks to children than previously thought, or there may have been an unreasonable delay in the agency finalising the investigation.

Some of the matters we monitored during 2005-06 included the following.

- The first case concerned allegations that employees of a small independent school had physically assaulted and caused psychological harm to students at the school over a number of years. We met with the school and maintained contact by 'phone and email to discuss the allegations, how they would best be investigated, and the appropriate findings. As a result of our concerns about potential conflicts of interests, the school decided to appoint an independent investigator to conduct the investigations and an external consultant to make the final decisions on these matters.
- A second case involved allegations that an employee of a substitute residential care agency had physically and sexually assaulted a child who was a resident of the agency. The allegations were investigated by the police and DoCS, but the head of agency was initially reluctant to undertake their own investigation to determine the action to be taken regarding the employee. We invited the head of agency to spend a day at our office — firstly to attend our substitute residential care forum on 'weighing up evidence' and 'making a finding', and secondly to meet with us to discuss the matter. Following this, the head of agency wrote to the police and DoCS to obtain information about their investigations, informed the employee of the allegations and invited him to respond, and notified the employee's details to the CCYP.
- Another case was about allegations that a female teacher acted in a sexual manner towards students while they were at a school camp and had inappropriate conversations with students, including telling a male student that she wanted to have sex with him. We assisted the school to clarify the allegations, provided advice about how to properly investigate the allegations, and gave guidance about making findings. The teacher subsequently resigned from her position.

Many of the cases that we monitored related to allegations of the sexual assault of children or sexual misconduct. It is not uncommon for children who have been sexually assaulted to be reluctant to disclose the abuse because they are fearful of the possible negative consequences — such as pressure from their family or the alleged offender, or anxiety about the investigatory proceedings. Sometimes a child may deny or retract an allegation of sexual assault, even when there is other evidence that may support the allegation. However, with support, many children will later re-affirm the allegation.

As well as receiving allegations that relate to current situations, we are also notified of situations where a current employee is alleged to have sexually assaulted a child some time ago. In these cases, the alleged victim may now be an adult. We have found that it is just as important for agencies to protect and support adults who make allegations of sexual assault, as they may be reluctant to come forward because they have similar fears about the consequences of disclosing, or may feel under pressure to retract their allegations. See case study 67.

CaseStudy67

We received a notification about sexual assault allegations involving employees from a number of schools. The alleged victim (who is now an adult) was reluctant to be identified and, after telling their story, withdrew from the investigation process.

We made some preliminary inquiries to establish how many employees were involved in the alleged incidents and how many agencies were involved in the investigation. We then met with the agencies to discuss the best way of investigating the allegations without contaminating the evidence of each discrete investigation.

One agency continued to provide support, information and advice to the alleged victim and helped to clarify some aspects of their complaint. This support allowed the victim to feel more comfortable with being identified when the allegations were put to the employees, and the agencies were able to properly investigate the allegations.

Grooming behaviour

Allegations of employees engaging in 'grooming' behaviour with children is an issue that we have paid particular attention to this year. 'Grooming' is a term used to describe a type of sexual misconduct that involves a range of behaviours or a pattern of behaviour aimed at involving children in sexual acts.

Grooming may involve a person identifying a particularly vulnerable child (such as a child who may be isolated, unhappy or needy) or a child who stands out in other ways (such as a child who is gifted or talented) and using tactics to establish trust with the child for inappropriate purposes.

The grooming process may include:

- Persuading a child that a 'special' relationship exists — spending inappropriate time alone with the child, inappropriately giving gifts, engaging in inappropriate correspondence with the child (eg text messages or emails), showing special favours to them but not to other children, or allowing the child to overstep the rules.
- Testing boundaries — undressing in front of the child, allowing the child to sit on the person's lap, talking about sex, 'accidentally' touching the child inappropriately.

In order to maintain their relationship with the child, the person may 'groom' others — such as family members or other employees — to ensure they are seen as a credible person and the child is someone who is not to be believed if they do disclose inappropriate behaviour.

We decided to study this issue further when we noticed a number of matters where there were allegations of employees grooming children in their care. We had also spoken to a number of agencies who expressed some confusion about investigating and making findings in relation to these types of allegations. See case study 68.

We met with the CCYP to discuss the definition of grooming behaviour and recognised that this type of reportable conduct includes both 'non-sexual' and 'sexual' types of behaviour. There are some cases where an employee is alleged to have acted inappropriately or formed an inappropriate relationship with a child, but has not engaged in sexualised behaviour. Our advice to agencies investigating these types of allegations is to focus on the appropriateness of the employee's behaviour in that context, rather than trying to understand the employee's intent, and to ensure that their policies and procedures clearly define the types of behaviours that are appropriate and inappropriate in the particular employment context. See case study 69.

We have presented the outcome of our study at our agency forums and liaison meetings to stimulate discussion and to help agencies develop skills in identifying and investigating allegations of grooming behaviour.

CaseStudy68

The principal of a school contacted us when allegations were made that a teacher had developed an inappropriate relationship with a 16 year old girl. Based on the seriousness of the allegation, we decided to monitor their investigation. The school decided to engage an independent investigator, and we maintained contact with the school during the investigation to ensure that appropriate risk management strategies were being implemented.

At the end of the investigation, we reviewed the investigator's report and identified a number of significant flaws in their reasoning when making their findings. The investigator and the school believed that the teacher's alleged behaviour did not constitute reportable conduct, but we believed the evidence indicated the behaviour could be sustained as sexual grooming. We discussed the matter with the CCYP and they advised that it should be notified to them as a category one relevant employment proceeding.

We talked to the school about the components of sexual misconduct and the dynamics of sexual grooming and advised them that, in our view, the alleged behaviour constituted sexual misconduct and should have been notified to the CCYP. The school reviewed their investigation, amended their findings and notified the CCYP.

CaseStudy69

We received a notification that a teacher had acted inappropriately by touching a student and making comments to her that had a sexual innuendo. Similar allegations had been made previously against the teacher. The agency investigated the allegations and concluded that the teacher's actions did not constitute reportable conduct because there was no corroborating evidence and no evidence that there was any sexual motivation or intent to the teacher's actions. While we agreed with this outcome, we were concerned that the teacher's history had not been taken into account in determining the action to be taken. We asked the agency to review the matter, given our concerns about the teacher's conduct. As a result of this review, the agency decided to remind the teacher of his responsibilities under their code of conduct and child protection policy.

Managing information

Agencies investigating reportable allegations against employees have a clear responsibility to properly document the investigation process, make sure their records are maintained securely, and have systems in place so they can access information held about their employees if the need arises in the future. This year we have become aware of a number of agencies who have problematic information management systems.

In some cases, our concern was that the agency's practices had encouraged the investigator to focus on fulfilling procedural requirements rather than analysing the issues. Although it is important for agencies to ensure that they have adequate records of the investigation to support disciplinary or other action — such as proceedings in the Industrial Relations Commission — we do not require extensive documentation for every investigation. Rather, we ask that agencies consider the seriousness and context of the allegation in determining the level of investigation, and the level of documentation, required in each case.

In another case, an agency appeared to have a good system in place to ensure that the information it held was secure and could only be accessed by appropriate people. However difficulties arose when the person who was in charge of this system left the agency, but did not provide enough information about the way matters were catalogued to enable others to find relevant material. This meant that we were not able to finalise our oversight of investigations into reportable allegations against four employees because the files relating to the investigations could not be found. Fortunately, the head of agency was able to provide us with some information and we were able to assess how well they had handled the allegations.

Working with agencies to improve systems

The agencies in our jurisdiction are many and varied, and we recognise that the needs of one agency may be significantly different from the needs of another. We have continued to receive positive feedback from agencies about the usefulness of our contact with them through phone calls, meetings, letters, agency audits and newsletters. This year we started a number of new forums to bring agencies together to discuss issues relating to the investigation of reportable conduct, and have encouraged agencies to share information and work together.

Staff from our different specialist teams have also worked closely to provide regional Aboriginal services with information about our work, and to discuss with NSW Police how they investigate historical allegations against employees and the information they provide to employees during an investigation.

We have noticed a positive change in the way that some agencies are working. For example, since the change to the head of agency arrangements with the Catholic sector, we have noticed an increase in cooperation between dioceses and a corresponding improvement in their expertise in investigating reportable allegations.

This year we also conducted a training needs survey in the Catholic sector. This survey was sent to all diocesan offices, Catholic independent schools and relevant Centacares. We asked a number of questions — including the types of issues that they would like to have included in any training, and how and when they would like to receive training. We had 36 responses to the survey, with most interest being expressed in a two-day investigation course and a series of issues-based workshops. We have tailored our training program to suit these needs and plan to run it next year.

We continue to review the way that we work to ensure that we are using our resources efficiently and our work is of a high standard. We have done this by auditing a number of our files, training our staff in the assessment of agency investigations, and introducing new ways of tracking high-risk cases.

We have also asked agencies for feedback about the way that we work. In May 2006, we asked over 200 agencies in our jurisdiction to complete a questionnaire about their contact with us and the usefulness of our advice about investigating reportable allegations. We also asked them to comment on what we do well and what we could improve. We received 51 responses to this questionnaire and they were overwhelmingly positive. Most agencies commented that they have good relationships with our staff, the advice we provide is clear, helpful and well-considered, and our staff are readily available and approachable. They also said they appreciated the time we take to support them in conducting investigations and acknowledged that we play an important role in child protection. Next year, we will use this information to continue to review our work practices and adapt our approach to meet the different needs of agencies in our jurisdiction.

Financial statements

GPO BOX 12
Sydney NSW 2001

INDEPENDENT AUDIT REPORT

Ombudsman's Office

To Members of the New South Wales Parliament

Audit Opinion

In my opinion, the financial report of the Ombudsman's Office:

- presents fairly the Ombudsman's financial position as at 30 June 2006 and its performance for the year ended on that date, in accordance with Accounting Standards and other mandatory financial reporting requirements in Australia, and
- complies with section 45E of the *Public Finance and Audit Act 1983* (the Act) and the *Public Finance and Audit Regulation 2005*.

My opinion should be read in conjunction with the rest of this report.

Scope

The Financial Report and Ombudsman's Responsibility

The financial report comprises the operating statement, statement of changes in equity, balance sheet, cash flow statement, program statement - expenses and revenues, summary of compliance with financial directives and accompanying notes to the financial statements for the Ombudsman's Office, for the year ended 30 June 2006.

The Ombudsman is responsible for the preparation and true and fair presentation of the financial report in accordance with the Act. This includes responsibility for the maintenance of adequate accounting records and internal controls that are designed to prevent and detect fraud and error, and for the accounting policies and accounting estimates inherent in the financial report.

Audit Approach

I conducted an independent audit in order to express an opinion on the financial report. My audit provides *reasonable assurance* to Members of the New South Wales Parliament that the financial report is free of *material* misstatement.

My audit accorded with Australian Auditing Standards and statutory requirements, and I:

- assessed the appropriateness of the accounting policies and disclosures used and the reasonableness of significant accounting estimates made by the Ombudsman in preparing the financial report, and
- examined a sample of evidence that supports the amounts and disclosures in the financial report.

An audit does *not* guarantee that every amount and disclosure in the financial report is error free. The terms 'reasonable assurance' and 'material' recognise that an audit does not examine all evidence and transactions. However, the audit procedures used should identify errors or omissions significant enough to adversely affect decisions made by users of the financial report or indicate that the Ombudsman had not fulfilled his reporting obligations.

My opinion does *not* provide assurance:

- about the future viability of the Ombudsman's Office,
- that it has carried out its activities effectively, efficiently and economically,
- about the effectiveness of its internal controls, or
- on the assumptions used in formulating the budget figures disclosed in the financial report.

Audit Independence

The Audit Office complies with all applicable independence requirements of Australian professional ethical pronouncements. The Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General, and
- mandating the Auditor-General as auditor of public sector agencies but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office are not compromised in their role by the possibility of losing clients or income.

A T Whitfield, FCA
Acting Auditor-General

SYDNEY
20 September 2006

NSW Ombudsman
Level 24 580 George Street
Sydney NSW 2000
Phone 02 9286 1000
Fax 02 9283 2911
Tollfree 1800 451 524
TTY 02 9264 8050
Web www.ombo.nsw.gov.au
ABN 76 325 886 267

20 September 2006

STATEMENT BY THE OMBUDSMAN

Pursuant to Section 45F of the *Public Finance and Audit Act 1983* to the best of my knowledge and belief state that:

(a) the accompanying financial statements have been prepared in accordance with the provisions of the *Public Finance and Audit Act 1983*, the Financial Reporting Code for Budget Dependent General Government Sector Agencies, the applicable clauses of the Public Finance and Audit Regulation 2005 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 2006, and transactions for the year then ended;

(c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.

Bruce Barbour
Ombudsman

Ombudsman's Office
Operating statement
for the year ended 30 June 2006

	Notes	Actual 2006 $'000	Budget 2006 $'000	Actual 2005 $'000
Expenses excluding losses				
Operating expenses				
Employee related	2(a)	14,675	15,305	14,535
Other operating expenses	2(b)	3,824	3,468	3,712
Depreciation and amortisation	2(c)	706	747	874
Total expenses excluding losses		**19,205**	**19,520**	**19,121**
Less:				
Revenue				
Sale of goods and services	3(a)	74	54	108
Investment revenue	3(b)	44	30	30
Grants and contributions	3(c)	48	32	67
Other revenue	3(d)	15	-	42
Total revenue		**181**	**116**	**247**
Loss on disposal	4	-	-	17
Net cost of services	18	**19,024**	**19,404**	**18,891**
Government contributions				
Recurrent appropriation	5(a)	17,904	17,529	16,548
Capital appropriation	5(b)	742	715	143
Acceptance by the Crown Entity of employee benefits and other liabilities	6	409	1,017	1,757
Total government contributions		**19,055**	**19,261**	**18,448**
SURPLUS / (DEFICIT) FOR THE YEAR		**31**	**(143)**	**(443)**

The accompanying notes form part of these financial statements.

Ombudsman's Office
Statement of changes in equity
for the year ended 30 June 2006

	Notes	Actual 2006 $'000	Budget 2006 $'000	Actual 2005 $'000
TOTAL INCOME AND EXPENSE RECOGNISED DIRECTLY IN EQUITY		-	-	-
Surplus / (deficit) for the year	16	31	(143)	(443)
TOTAL INCOME AND EXPENSE RECOGNISED FOR THE YEAR		**31**	**(143)**	**(443)**

The accompanying notes form part of these financial statements.

Ombudsman's Office
Balance sheet
as at 30 June 2006

	Notes	Actual 2006 $'000	Budget 2006 $'000	Actual 2005 $'000
ASSETS				
Current assets				
Cash and cash equivalents	8	579	355	539
Receivables	10	585	545	545
Total current assets		**1,164**	**900**	**1,084**
Non-current assets				
Plant and equipment	11	1,124	864	896
Intangible assets	12	857	1,049	1,049
Total non-current assets		**1,981**	**1,913**	**1,945**
Total assets		**3,145**	**2,813**	**3,029**
LIABILITIES				
Current liabilities				
Payables	13	250	328	290
Provisions	14	1,372	1,013	1,223
Other	15	96	54	86
Total current liabilities		**1,718**	**1,395**	**1,599**
Non-current liabilities				
Provisions	14	12	222	12
Other	15	78	33	112
Total non-current liabilities		**90**	**255**	**124**
Total liabilities		**1,808**	**1,650**	**1,723**
Net assets		**1,337**	**1,163**	**1,306**
EQUITY				
Accumulated funds	16	1,337	1,163	1,306
Total equity		**1,337**	**1,163**	**1,306**

The accompanying notes form part of these financial statements.

Ombudsman's Office
Cash flow statement
for the year ended 30 June 2006

	Notes	Actual 2006 $'000	Budget 2006 $'000	Actual 2005 $'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(14,106)	(14,250)	(14,093)
Other		(4,490)	(4,099)	(4,250)
Total payments		**(18,596)**	**(18,349)**	**(18,343)**
Receipts				
Sale of goods and services		74	54	108
Interest received		32	30	45
Other		626	552	519
Total receipts		**732**	**636**	**672**
Cash flows from government				
Recurrent appropriation		17,904	17,529	16,548
Capital appropriation		742	715	143
Cash reimbursements from the Crown Entity		-	-	821
Cash transfers to the Consolidated Fund		-	-	(113)
Net cash flows from government	18	**18,646**	**18,244**	**17,399**
NET CASH FLOWS FROM OPERATING ACTIVITIES		**782**	**531**	**(272)**
CASH FLOWS FROM INVESTING ACTIVITIES				
Purchases of leasehold improvements, plant and equipment and infrastructure systems		(742)	(715)	(143)
NET CASH FLOWS FROM INVESTING ACTIVITIES		**(742)**	**(715)**	**(143)**
NET INCREASE / (DECREASE) IN CASH		**40**	**(184)**	**(415)**
Opening cash and cash equivalents		539	539	954
CLOSING CASH AND CASH EQUIVALENTS	8	**579**	**355**	**539**

The accompanying notes form part of these financial statements.

Ombudsman's Office
Program statement — expenses and revenues for the year ended 30 June 2006

	Program 1*		Program 2*		Program 3*		Program 4*		Not Attributable		Total	
Agency's expenses and revenues	**2006 $'000**	**2005 $'000**	**2006 $'000**	**2005 $'000**	**2006 $'000**	**2005 $'000**	**2006 $'000**	**2005 $'000**	**2006 $'000**	**2005 $'000**	**2006 $'000**	**2005 $'000**
Expenses excluding losses												
Operating expenses												
Employee related	4,711	4,413	3,406	3,478	2,365	2,460	4,193	4,184	-	-	14,675	14,535
Other operating expenses	1,214	1,135	871	893	555	550	1,184	1,134	-	-	3,824	3,712
Depreciation and amortisation	238	281	173	216	117	143	178	234	-	-	706	874
Total expenses excluding losses	**6,163**	**5,829**	**4,450**	**4,587**	**3,037**	**3,153**	**5,555**	**5,552**	-	-	**19,205**	**19,121**
Revenue												
Sale of goods and services	(5)	(5)	(45)	(73)	(2)	(2)	(22)	(28)	-	-	(74)	(108)
Investment revenue	(15)	(10)	(11)	(7)	(7)	(5)	(11)	(8)	-	-	(44)	(30)
Grants and contributions	-	-	(48)	(67)	-	-	-	-	-	-	(48)	(67)
Other revenue	(5)	(13)	(4)	(12)	(2)	(7)	(4)	(10)	-	-	(15)	(42)
Total revenue	**(25)**	**(28)**	**(108)**	**(159)**	**(11)**	**(14)**	**(37)**	**(46)**	-	-	**(181)**	**(247)**
Loss on disposal	-	-	-	-	-	-	-	-	-	17	-	17
Net cost of services	**6,138**	**5,801**	**4,342**	**4,428**	**3,026**	**3,139**	**5,518**	**5,506**	**-**	**17**	**19,024**	**18,891**
Government contributions**	-	-	-	-	-	-	-	-	(19,055)	(18,448)	(19,055)	(18,448)
NET EXPENDITURE / (REVENUE) FOR THE YEAR	**6,138**	**5,801**	**4,342**	**4,428**	**3,026**	**3,139**	**5,518**	**5,506**	**(19,055)**	**(18,431)**	**(31)**	**443**

* The name and purpose of each program is summarised in Note 7.

** Appropriations are made on an agency basis and not to individual programs. Consequently, government contributions are included in the 'Not Attributable' column.

Ombudsman's Office
Summary of compliance with financial directives

	2006				2005			
	RECURRENT APP'N	EXPENDITURE / NET CLAIM ON CONSOLIDATED FUND	CAPITAL APP'N	EXPENDITURE / NET CLAIM ON CONSOLIDATED FUND	RECURRENT APP'N	EXPENDITURE / NET CLAIM ON CONSOLIDATED FUND	CAPITAL APP'N	EXPENDITURE / NET CLAIM ON CONSOLIDATED FUND
	$'000	$'000	$'000	$'000	$'000	$'000	$'000	$'000
ORIGINAL BUDGET APPROPRIATION / EXPENDITURE								
*Appropriation Act	17,529	17,529	715	715	16,217	16,217	67	67
*Additional Appropriations	-	-	-	-	-	-	-	-
*s 21A PF&AA — special appropriation	-	-	-	-	-	-	-	-
*s 24 PF&AA — transfers of functions between departments	-	-	-	-	-	-	-	-
*s 26 PF&AA — Commonwealth specific purpose payments	-	-	-	-	-	-	-	-
	17,529	**17,529**	**715**	**715**	**16,217**	**16,217**	**67**	**67**
OTHER APPROPRIATIONS / EXPENDITURE								
*Treasurer's advance	375	375	27	27	331	331	76	76
*Section 22 — expenditure for certain works and services	-	-	-	-	-	-	-	-
*Transfers to/from another agency (s28 of the Appropriation Act)	-	-	-	-	-	-	-	-
	375	**375**	**27**	**27**	**331**	**331**	**76**	**76**
Total appropriations / Expenditure / Net claim on Consolidated Fund	**17,904**	**17,904**	**742**	**742**	**16,548**	**16,548**	**143**	**143**
Amount drawn down against appropriation		**17,904**		**742**		**16,548**		**143**
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).

The liability to Consolidated Fund represents the difference between the 'Amount drawndown 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 2006

1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting entity

The Ombudsman's Office is a NSW government department. Its role is to make sure that public and private sector agencies and employees within jurisdiction fulfil their functions properly. It helps 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 it has no cash generating units. There are no other entities under our control.

The Office is consolidated as part of the NSW Total State Sector Accounts.

This financial report has been authorised for issue by the NSW Ombudsman on 20 September 2006.

(b) Basis of preparation

The Office's financial report is a general purpose financial report, which have been prepared in accordance with:

* applicable Australian Accounting Standards (which include Australian equivalents to International Financial Reporting Standards (AEIFRS));
* the requirements of the *Public Finance and Audit Act 1983* and Regulation 2005; and
* the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer.

The financial statements have been prepared in accordance with the historical cost convention.

Judgements, key assumptions and estimations made by the management are disclosed in the relevant notes to the financial report.

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 AEIFRS.

This is the first financial report prepared based on AEIFRS and comparatives for the year ended 30 June 2005 have been restated accordingly, except as stated below.

In accordance with AASB 1 *First-time Adoption of Australian Equivalents to International Financial Reporting Standards* and Treasury mandates, the date of transition to AASB 132 *Financial Instruments: Disclosure and Presentation* and AASB 139 *Financial Instruments: Recognition and Measurement* was deferred to 1 July 2005. As a result, comparative information for these two standards is presented under the previous Australian Accounting Standards which applied to the year ended 30 June 2005.

The basis used to prepare the 2004–2005 comparative information for financial instruments under previous Australian Accounting Standards is discussed in Note 1(u) below. The financial instrument accounting policies for 2005–2006 are specified in 1(q) and (r) below.

Reconciliations of AEIFRS equity and deficit for 30 June 2005 to the balances reported in the 30 June 2005 financial report are detailed in Note 21. This note also includes separate disclosure of the 1 July 2005 equity adjustments arising from the adoption of AASB 132 and AASB 139.

(d) Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable by the Office. Additional comments regarding the accounting policies for the recognition of income are discussed below.

(i) Parliamentary appropriations and contributions

Parliamentary appropriations and contributions from other bodies (including grants and donations) are generally recognised as income when the Office obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

An exception to the above is when appropriations remain unspent at year end. In this case, the authority to spend the money lapses and generally the unspent amount must be repaid to the Consolidated Fund in the following financial year. As a result, unspent appropriations are accounted for as liabilities rather than revenue.

(ii) Sale of goods

Revenue from the sale of goods comprises revenue from the provision of products i.e. user charges such as the sale of publications. User charges are recognised as revenue when the Office transfers the significant risks and rewards of ownership of the assets.

(iii) Rendering of services

Revenue from the rendering of services comprises revenue from conducting training programs. Revenue is recognised when the service is provided or by reference to the stage of completion, for instance based on labour hours incurred to date.

(iv) Investment revenue

Interest revenue is recognised using the effective interest method as set out in AASB 139 Financial Instruments: Recognition and Measurement.

(e) Employee benefits and other provisions

(i) Salaries and wages, annual leave and on-costs
Liabilities for salaries and wages (including non-monetary benefits), and annual leave that fall due wholly within 12 months of the reporting date are recognised and measured in respect of employees' services up to the reporting date at undiscounted amounts based on the amounts expected to be paid when the liabilities are settled.

Long-term annual leave is measured at present value in accordance with AASB 119 *Employee Benefits*. Market yields on government bonds of 5.78% are used to discount long-term annual leave.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued.

The outstanding amounts of payroll tax, workers' compensation insurance premiums and Fringe Benefits Tax, which are consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

(ii) Long service leave and superannuation

The Office's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity.

The Office accounts 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'. Prior to 2005-2006 the Crown Entity also assumed the defined contribution superannuation liability.

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 06/09) 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 (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

(f) Insurance

The Office's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for Government agencies. The expense (premium) is determined by the Fund Manager based on past claim experience.

(g) Accounting for the Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of GST, except where:

* the GST incurred by the Office 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, or
* receivables and payables are stated with GST included.

(h) Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Office. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Fair value is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

(i) Capitalisation thresholds

Plant and equipment, and intangible assets costing $5,000 and above individually are capitalised. For those items that form part of a network, the threshold is $1,000 individually.

(j) Revaluation of plant and equipment

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP 05-3). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment and AASB 140 Investment Property*.

Plant and equipment is measured on an existing use basis, where there are no feasible alternative uses in the existing natural, legal, financial and socio-political environment. However, in the limited circumstances where there are feasible alternative uses, assets are valued at their highest and best use.

Fair value of plant and equipment is determined based on the best available market evidence, including current market selling prices for the same or similar assets. Where there is no available market evidence, the asset's fair value is measured at its market buying price, the best indicator of which is depreciated replacement cost.

Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value.

When revaluating non-current assets by reference to current prices for assets newer than those being revalued (adjusted to reflect the present condition of the assets), the gross amount and the related accumulated depreciation are separately restated.

For other assets, any balances of accumulated depreciation at the revaluation date in respect of those assets are credited to the asset accounts to which they relate. The net asset accounts are then increased or decreased by the revaluation increments or decrements.

Revaluation increments are credited directly to the asset revaluation reserve, except that, to the extent that an increment reverses a revaluation decrement in respect of that class of asset previously recognised as an expense in the surplus / deficit, the increment is recognised immediately as revenue in the surplus / deficit.

Revaluation decrements are recognised immediately as expenses in the surplus / deficit, except that, to the extent that a credit balance exists in the asset revaluation reserve in respect of the same class of assets, they are debited directly to the asset revaluation reserve.

As a not-for-profit entity, revaluation increments and decrements are offset against each other within a class of non-current assets, but not otherwise.

Where an asset that has previously been revalued is disposed of, any balance remaining in the asset revaluation reserve in respect of that asset is transferred to accumulated funds.

The assets of the Office are short-lived and their costs approximate their fair values.

(k) Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, the Office is effectively exempted from AASB 136 *Impairment of Assets* and impairment testing. This is because AASB 136 modifies the recoverable amount test to the higher of fair value less costs to sell and depreciated replacement cost. This means that, for an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

(l) 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 are:

Computer hardware — prior to 1 July 2005	33.33%
Computer hardware — from 1 July 2005	25%
Office equipment	20%
Furniture & fittings	10%
Leasehold improvements	Life of lease contract

(m) Restoration costs

Wherever 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.

(n) 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 component of an asset, in which case the costs are capitalised and depreciated.

(o) Leased assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risks and benefits.

Operating lease payments are charged to the Operating Statement in the periods in which they are incurred.

Lease incentives received on entering non-cancellable operating leases are recognised as a lease liability. This liability is reduced on a straight line basis over the lease term.

The Office has no finance leases.

(p) Intangible assets

The Office recognises intangible assets only if it is probable that future economic benefits will flow to the Office and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

The useful lives of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Office's intangible assets, the assets are carried at cost less ant accumulated amortisation.

The Office's intangible assets are amortised using the straight-line method over a period of 3 to 5 years depending on the year of acquisition. The amortisation rates used are:

Computer software — prior to 1 July 2003	33.33%
Computer software — from 1 July 2003	20%

In general, intangible assets are tested for impairment where an indicator of impairment exists. However, as a not-for-profit entity, the Office is effectively exempted from impairment testing [refer to paragraph (k)].

(q) Receivables — Year ended 30 June 2006 (refer to Note 1(u) for 2004–2005 policy)

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 accounted for in the Operating Statement 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.

(r) Payables — year ended 30 June 2006 (refer to note 1(u) for 2004–2005 policy)

These amounts represent liabilities for goods and services provided to the Office 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.

(s) Budgeted amounts

The budgeted amounts are drawn from the budgets formulated at the beginning of the financial year with any adjustments for the effects of additional appropriations approved under s 21A, s 24 and / or s 26 of the *Public Finance and Audit Act 1983*.

The budgeted amounts in the Operating Statement and Cash Flow Statement are generally based on the amounts disclosed in the NSW Budget Papers (as adjusted above). However, in the Balance Sheet, the amounts vary from the Budget Papers, as the opening balances of the budgeted amounts are based on carried forward actual amounts; i.e. per audited financial report (rather than carried forward estimates).

(t) Comparative information

Comparative figures have been restated based on AEIFRS with the exception of financial instruments information, which has been prepared under the previous AGAAP Standard (AAS 39) as permitted by AASB 1.36A (refer para (u) below). The transition date to AEIFRS for financial instruments was 1 July 2005. The impact of adopting AASB 132/139 is further discussed in Note 21.

(u) Financial instruments accounting policy for 2004-2005 comparative period

Investment income

Interest revenue is recognised as it accrues.

Receivables

Receivables are recognised and carried at cost, based on the original invoice amount less a provision for any uncollectable debts. An estimate for doubtful debts is made when collection of the full amount is no longer probable. Bad debts are written off as incurred.

Payables

These amounts represent liabilities for goods and services provided to the Office.

(v) New Australian Accounting Standards

At the reporting date, a number of Accounting Standards adopted by the AASB had been issued but are not yet operative and have not been early adopted by the Ombudsman. The following is a list of these standards:

* AASB 7 — Financial Instruments: Disclosure (issued August 2005)
* AASB 119 — Employee Benefits (issued December 2004)
* AASB 2004-3 — Amendments to Australian Accounting Standards (issued December 2004)
* AASB 2005–1 — Amendments to Australian Accounting Standards (issued May 2005)
* AASB 2005–5 — Amendments to Australian Accounting Standards (issued June 2005)
* AASB 2005–9 — Amendments to Australian Accounting Standards (issued September 2005)
* AASB 2005–10 — Amendments to Australian Accounting Standards (issued September 2005)
* AASB 2006–1 — Amendments to Australian Accounting Standards (issued January 2006)

The initial application of these standards will have no impact on the financial results for the Ombudsman. The standards are operative for annual reporting periods beginning on or after 1 January 2006.

	2006 $'000	2005 $'000
2 EXPENSES EXCLUDING LOSSES		
(a) Employee related expenses		
Salaries and wages (including recreation leave)	12,463	11,908
Maintenance — employee related	75	73
Superannuation — defined benefit plans	306	292
Superannuation — defined contribution plans	827	821
Long service leave	85	577
Workers' compensation insurance	73	51
Payroll tax and fringe benefit tax	762	729
Payroll tax on superannuation	68	67
Payroll tax on long service leave	16	17
	14,675	**14,535**
(b) Other operating expenses include the following:		
Auditors remuneration — audit or review of financial reports	23	25
Operating lease rental expense — minimum lease payments	1,696	1,684
IT leasing — minimum lease payments	120	243
Insurance	17	21
Fees	510	485
Telephones	182	173
Stores	125	101
Training	117	78
Printing	189	134
Travel	375	391
Books, periodicals & subscriptions	40	49
Advertising	45	31
Energy	39	34
Motor vehicle	36	32
Postal and courier	41	54
Maintenance — non-employee related	191	118
Other	78	59
	3,824	**3,712**
**Reconciliation — Total maintenance*		
Maintenance expenses — contracted labour and other (non-employee related), as above	191	
Employee related maintenance expense included in Note 2 (a)	75	
Total maintenance expenses included in Notes 2 (a) and 2 (b)	**266**	

	2006 $'000	2005 $'000
(c) Depreciation and amortisation expense		
Depreciation		
Plant and equipment	329	414
Total depreciation expense	**329**	**414**
Amortisation		
Intangible assets	377	460
Total amortisation expense	**377**	**460**
Total depreciation and amortisation expenses	**706**	**874**
3 REVENUE		
(a) Sale of goods and services		
Sale of publications	14	14
Rendering of services	60	94
	74	**108**
(b) Investment revenue		
Interest	44	30
	44	**30**
(c) Grants and contributions		
Review of the *Children (Criminal Proceedings Act)*	48	67
	48	**67**
(d) Other revenue		
Miscellaneous	15	42
	15	**42**
4 LOSS ON DISPOSAL		
Loss on disposal of plant and equipment		
Written down value of assets disposed	-	17
Net loss on disposal of plant and equipment	**-**	**17**
Total loss on disposal	**-**	**17**
5 APPROPRIATIONS		
(a) Recurrent appropriation		
Total recurrent draw-downs from Treasury (per Summary of Compliance)	17,904	16,548
	17,904	**16,548**
Comprising:		
Recurrent appropriations (per Operating Statement)	17,904	16,548
	17,904	**16,548**

	2006 $'000	2005 $'000
(b) Capital appropriation		
Total capital draw-downs from Treasury (per Summary of Compliance)	742	143
	742	**143**
Comprising:		
Capital appropriations (per Operating Statement)	742	143
	742	**143**

6 ACCEPTANCE BY THE CROWN ENTITY OF EMPLOYEE BENEFITS AND OTHER LIABILITIES

	2006 $'000	2005 $'000
The following liabilities and / or expenses have been assumed by the Crown Entity or other government agencies:		
Superannuation	306	1,113
Long service leave	85	577
Payroll tax	18	67
	409	**1,757**

7 PROGRAMS / ACTIVITIES OF THE OFFICE

(a) Program 1: Resolution of complaints about police

Objectives:

Oversight and scrutinise the handling of complaints about the conduct of police. Promote fairness, integrity and practical reforms in the NSW Police.

(b) Program 2: Resolution of local government, public authority and prison complaints and review of Freedom of Information complaints

Objectives:

Resolve complaints and protected disclosures about the administrative conduct of public authorities and local councils. Promote fairness, integrity and practical reforms in New South Wales public administration.

(c) Program 3: Resolution of child protection related complaints

Objectives:

Scrutiny of complaint handling systems and monitoring of the handling of notifications of alleged child abuse.

(d) Program 4: Resolution of complaints about and the oversight of the provision of community services

Objectives:

Provide for independent monitoring of community services and programs, keep under scrutiny complaint handling systems and provide for and encourage the resolution of complaints. Review the deaths of certain children and people with a disability and formulate recommendations for the prevention or reduction of deaths of children in care, children at risk of death due to abuse or neglect, children in detention and correctional centres or disabled people in residential care.

	2006 $'000	2005 $'000
8 CURRENT ASSETS — CASH AND CASH EQUIVALENTS		
Cash at bank and on hand	579	539
	579	**539**
For the purposes of the Cash Flow Statement, cash and cash equivalents include Cash at bank and on hand.		
Cash and cash equivalent assets recognised in the Balance Sheet are reconciled at the end of the year to the Cash Flow Statement as follows:		
Cash and cash equivalents (per Balance Sheet)	579	539
Closing cash and cash equivalents (per Cash Flow Statement)	**579**	**539**
9 RESTRICTED ASSETS — CASH		
Department of Juvenile Justice	-	48
	-	**48**

The Ombudsman received funding of $200,585 in the form of an advance payment from the Department of Juvenile Justice to cover the costs of the Ombudsman's review of the operation and effect of s19 of the Children (Criminal Proceedings) Act for the financial years to 30 June 2006. The project was completed in 2005–2006.

10 CURRENT ASSETS — RECEIVABLES		
Sale of goods and services	3	-
Transfer of leave	-	27
Workshops	2	3
Bank interest	27	15
GST receivable	107	64
Salaries and wages	3	102
Other	-	1
Prepayments	443	333
	585	**545**

Management considers all amounts to be collectible and as such, no allowance for impairment was established.

Prepayments		
Salaries and wages	-	7
Maintenance	132	104
Prepaid rent	145	144
Worker's Compensation Insurance	88	-
Subscription/membership	13	18
Training	22	7
Motor vehicle	6	2
Employee assistance program	6	5
IT leasing	7	41
Insurance	14	-
Cleaning	4	4
Travel	5	1
Other	1	-
	443	**333**

11 NON-CURRENT ASSETS — PLANT AND EQUIPMENT

	1 July 2005 $'000	1 July 2004 $'000	30 June 2006 $'000	30 June 2005 $'000
Plant and equipment				
Gross carrying amount	2,371	2,478	2,860	2,371
Less: Accumulated depreciation	(1,475)	(1,265)	(1,736)	(1,475)
Net carrying amount at fair value	**896**	**1,213**	**1,124**	**896**

	2006 $'000	2005 $'000
Reconciliation		
A reconciliation of the carrying amount of plant and equipment at the beginning and end of financial years is set out below:		
Net carrying amount at start of year	896	1,213
Additions	557	114
Disposals	-	(17)
Depreciation expense	(329)	(414)
Net carrying amount at end of year	**1,124**	**896**

12 NON-CURRENT ASSETS — INTANGIBLE ASSETS

	1 July 2005 $'000	1 July 2004 $'000	30 June 2006 $'000	30 June 2005 $'000
Software				
Gross carrying amount	2,657	2,637	2,803	2,657
Less: Accumulated amortisation	(1,608)	(1,157)	(1,946)	(1,608)
Net carrying amount at fair value	**1,049**	**1,480**	**857**	**1,049**

	2006 $'000	2005 $'000
Reconciliation		
A reconciliation of the carrying amount of software at the beginning of and end of financial years is set out below:		
Net carrying amount at start of year	1,049	1,480
Additions	185	29
Amortisation expense	(377)	(460)
Net carrying amount at end of year	**857**	**1,049**

Under the former AGAAP, intangibles were classified as plant and equipment.

13 CURRENT LIABILITIES — PAYABLES

	2006 $'000	2005 $'000
Accrued salaries, wages and on-costs	140	135
Creditors	110	155
	250	**290**

14 CURRENT / NON-CURRENT LIABILITIES — PROVISIONS

	2006 $'000	2005 $'000
Current employee benefits and related on-costs		
Recreation leave	905	792
Annual leave loading	163	136
Payroll tax on recreation leave	64	55
Workers' compensation on recreation and long service leave	29	25
Payroll tax on long service leave	155	151
Other on-costs on recreation and long service leave	56	64
	1,372	**1,223**
Non-current employee benefits and related on-costs		
Payroll tax on recreation and long service leave	8	8
Other on-costs on recreation and long service leave	4	4
	12	**12**
Aggregate employee benefits and related on-costs		
Provisions — current	1,372	1,223
Provisions — non-current	12	12
Accrued salaries, wages and on-costs (Note 13)	140	135
	1,524	**1,370**

The value of annual leave and associated on-costs expected to be taken within 12 months is $677,000 and $455,000 after 12 months.

The value of long service leave and associated on-costs expected to be settled within 12 months is $25,000 and $227,000 after 12 months.

15 CURRENT / NON-CURRENT LIABILITIES — OTHER

	2006 $'000	2005 $'000
Current		
Department of Juvenile Justice advance payment review of s19 of the *Children (Criminal Proceedings) Act*	-	48
Dealing with Difficult Complainants Project	54	-
Prepaid Income	8	4
Lease incentive	34	34
	96	**86**
Non-current		
Lease incentive	78	112
	78	**112**

16 CHANGES IN EQUITY

	Accumulated Funds		Total Equity	
	2006 $'000	2005 $'000	2006 $'000	2005 $'000
Balance at the beginning of the financial year	1,306	1,749	1,306	1,749
Changes in equity — other than transactions as owners	-	-	-	-
Surplus (Deficit) for the year	31	(443)	31	(443)
Balance at the end of the financial year	**1,337**	**1,306**	**1,337**	**1,306**

17 COMMITMENTS FOR EXPENDITURE

Operating lease commitments

	2006 $'000	2005 $'000
Future non-cancellable operating lease rentals not provided for and payable:		
Not later than one year	1,844	1,941
Later than one year and not later than five years	4,050	5,885
Total (including GST)	**5,894**	**7,826**

The leasing arrangements are generally for leasing of property. The lease is a non-cancellable lease with a 10-year term, with rent payable monthly in advance. An option exists to renew the lease at the end of the 10-year term for an additional term of five years. The total operating lease commitments include GST input tax credits of $535,000 which are expected to be recoverable from the Australian Taxation Office.

18 RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET COST OF SERVICES

	2006 $'000	2005 $'000
Net cash used on operating activities	782	(272)
Cash flows from Government / Appropriations	(18,646)	(17,399)
Acceptance by the Crown Entity of employee benefits and other liabilities	(409)	(936)
Depreciation and amortisation	(706)	(874)
Decrease/(increase) in provisions	(149)	86
Decrease/(increase) in payables	40	411
Increase/(decrease) in receivables	40	9
Decrease/(increase) in other liabilities	24	101
Net loss on disposal of non-current assets	-	(17)
Net cost of services	**(19,024)**	**(18,891)**

19 BUDGET REVIEW

Net cost of services

The actual net cost of services is lower than budget by $380,000 primarily due to a decrease in employee related expenses. In particular, long service leave expense increased by only $85,000 as opposed to the original budgeted amount of $694,000. This was due to a number of people leaving and the change in accounting for long service leave oncosts.

Assets and liabilities

Current assets are higher than budget by $264,000 due to an increase in cash assets. Current liabilities were higher than budget by $323,000 and non-current liabilities were lower than budget by $165,000 mainly due to a change in the percentage used to calculate current and non-current provisions.

Cash flows

Cash flows from operating statements are higher than budget by $251,000 primarily due to additional supplementations received from Treasury for our Legislative Review functions. The Ombudsman was asked to review a number of new Acts in relation to terrorism and we were funded additional recurrent allocation in the sum of $375,000.

20 FINANCIAL INSTRUMENTS

The Office's principal financial instruments are outlined below. These financial instruments arise directly from the Office's operations. The Office does not enter into or trade financial instruments for speculative purposes. The Office does not use financial derivatives.

Cash

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to NSW Treasury.

Receivables

All trade debtors are recognised as amounts receivable at balance date. Collectibility 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 the Office will not be able to collect all amounts due. The credit risk is the carrying amount (net of any allowance for impairment, if there is any). No interest is earned on trade debtors. The carrying amount approximates fair value. Sales are made on 14-day terms.

Other assets

All other assets are current and they are mainly represented by prepayments of maintenance and rent. The credit risk is the carrying amount. There is no interest earned on prepayments.

Bank overdraft

The Office does not have any bank overdraft facility.

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 Treasurer's Direction 219.01. 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. Treasurer's Direction 219.01 allows the relevant Minister to award interest to late payment. The Office did not pay any penalty interest during the year.

Fair value

Financial instruments are carried at cost. The fair value of all financial instruments approximates their carrying value.

21 THE FINANCIAL IMPACT OF ADOPTION OF AUSTRALIAN EQUIVALENTS TO INTERNATIONAL FINANCIAL REPORTING STANDARDS (AEIFRS)

The Office applied the AEIFRS for the first time in the 2005–2006 financial report. There are no key areas where changes in accounting policies have impacted the Office's financial report.

Also, in adopting AEIFRS, there are no financial impacts on total equity, deficit and cash flows as reported under previous AGAAP. There are no other financial impacts on the Office's equity as at 1 July 2004 and 30 June 2005 after applying Treasury's mandates and its policy decisions.

	30 June 2005 $'000	1 July 2004 $'000
(a) Reconciliations — 1 July 2004 and 30 June 2005		
Reconciliation of equity under previous Accounting Standards (AGAAP) to equity under AEIFRS:		
Total equity under previous standards	1,306	1,749
Nil adjustment	-	-
Total equity under AEIFRS	**1,306**	**1,749**
Reconciliation of deficit under previous AGAAP to deficit under AEIFRS:		
Year ended 30 June 2005		
Deficit under previous standards	(443)	
Nil adjustment	-	
Deficit under AEIFRS	**(443)**	

Based on the above, the application of AEIFRS in 2004-2005 does not have any impact on the net cost of services.

(b) Grant recognition for not-for-profit entities

The Office, as a not-for-profit entity has applied the requirements in AASB 1004 *Contributions* regarding *contributions* of assets (including grants) and forgiveness of liabilities. There are no differences in the recognition requirements between the new AASB 1004 and the previous AASB 1004. Refer to Note 1 (v) for more details.

End of audited financial statements.

Appendices

Contents

A: Police complaints profile

Outcomes of written complaints about police officers finalised, categorised by allegation

fig 58

Each individual complaint that we receive may contain a number of allegations about a single incident. For example, a person arrested may complain to us about unreasonable arrest, assault and failure to return property. In the 3,833 complaints we finalised this year, 11,363 allegations were made. This figure lists these in categories and shows the action that was taken in relation to each allegation.

Category		Declined	Management outcomes following investigation of complaint (including adverse findings)	No management outcome (including no adverse finding)	Conciliated / other	Total
Criminal conduct						
	Conspiracy / cover up	55	35	364	0	454
	Drug offences	29	14	136	0	179
	Theft	14	21	126	1	162
	Consorting	19	23	136	0	178
	Bribery / extortion	18	2	58	0	78
	Perjury	20	4	53	0	77
	Fraud	8	35	60	0	103
	Sexual assault	8	17	63	0	88
	Dangerous / culpable driving	2	1	9	0	12
	Murder / manslaughter	5	0	4	0	9
	Telephone tapping	1	0	2	0	3
	Other	38	34	109	0	181
	Total	217	186	1,120	1	1,524
Assault						
	Physical / mental injury	70	61	392	5	528
	No physical / mental injury	76	49	356	12	493
	Total	146	110	748	17	1,021
Investigator / prosecution misconduct						
	Faulty investigation / prosecution	314	184	539	75	1,112
	Fabrication	39	8	61	0	108
	Failure to prosecute	12	18	61	1	92
	Disputes traffic infringement notice	55	1	3	0	59
	Unjust prosecution (non-traffic)	6	2	24	1	33
	Suppress evidence	5	2	13	0	20
	Forced confession	2	0	4	0	6
	Total	433	215	705	77	1,430
Stop / search / seize						
	Unreasonable arrest / detention	56	24	185	12	277
	Unnecessary force / damage	4	3	35	2	44
	Unjust search / entry	22	17	84	18	141
	Strip search	1	1	22	0	24
	Faulty search warrant	0	2	15	0	17
	Improper IP Detention	0	0	6	0	6
	Total	83	47	347	32	509

Category		Declined	Management outcomes following investigation of complaint (including adverse findings)	No management outcome (including no adverse finding)	Conciliated/other	Total
Abuse / rudeness						
	Traffic rudeness	13	4	21	10	48
	Racist	5	0	31	7	43
	Other social prejudice	9	8	13	7	37
	Other	113	56	206	31	406
	Total	140	68	271	55	534
Administrative wrong conduct						
	Deficient management	8	61	61	4	134
	Deficient investigation	0	27	42	2	71
	Delay in correspondence	5	6	4	2	17
	Summons / warrant / order	2	2	10	0	14
	Cell / premises conditions	0	2	2	0	4
	Child abuse related	2	0	2	1	5
	Whistleblower	20	3	50	6	79
	Inapp permit / licence	5	0	0	0	5
	Other	21	34	32	1	88
	Total	63	135	203	16	417
Breach of rights						
	Unreasonable treatment	66	35	163	41	305
	Failure to provide / delay	34	20	116	23	193
	Failure to return property	26	10	28	4	68
	Total	126	65	307	68	566
Inadvertent wrong treatment						
	Property damage	7	3	32	3	45
	Administrative matter arising	3	5	7	1	16
	Total	10	8	39	4	61
Information related						
	Inappropriate disclosure of confidential information	33	62	252	14	361
	Providing false information	60	106	164	4	334
	Inappropriate accessing of information	8	69	114	1	192
	Failure to notify or give information	42	45	67	10	164
	Total	143	282	597	29	1,051
Other misconduct						
	Breach of police rules or regulations	170	804	939	34	1,947
	Threats / harassment	158	93	492	47	790
	Failure to take action	216	75	249	49	589
	Misuse of office	21	52	183	5	261
	Traffic / parking	22	45	88	6	161
	Faulty policing	1	13	18	1	33
	Failure to identify as police officer or wear number	11	0	14	6	31
	Sexual harassment	1	25	28	0	54
	Drink on duty	2	9	23	1	35
	Other	261	24	54	10	349
	Total	863	1,140	2,088	159	4,250
Summary of allegations						
	Total	2,224	2,256	6,425	458	11,363

B: All departments and authorities* — summary of action taken

KEY

A Decline after assessment only, including:
Conduct outside jurisdiction | Trivial | Remote | Insufficient interest | Commercial matter | Right of appeal or redress | Substantive explanation or advice provided | Premature — referred to agency | Concurrent representation | Investigation declined on resource / priority grounds

Preliminary or informal investigation:

B Substantive advice, information provided without formal finding of wrong conduct
C Advice / explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource / priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions / comment made
H Consolidated into other complaint
I Conciliated / mediated

Formal investigation:

J Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

*Excludes complaints about NSW Police, DoCS, DADHC, and those relating to child proteciton notifications.

Action taken on formal complaints finalised in 2005–06 about all departments and authorities (except NSW Police, DoCS and DADHC and those relating to child protection notifications) — summary table

fig 59

This figure shows the action we took on each of the formal complaints that we finalised this year about public sector agencies, broken down into agency groups. See Appendices C, D, E and F for a further breakdown into specific agencies in those groups.

Complaint about	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Departments and authorities	656	51	306	25	196	61	16	0	0	0	0	0	6	1317
Correctional centres, Justice Health and Juvenile Justice	130	132	307	9	253	47	3	0	0	0	0	0	2	720
Local government	359	35	204	10	78	25	6	2	0	0	0	0	1	422
Agency outside jurisdiction	422	0	0	0	0	0	0	0	0	0	0	0	0	198
Freedom of information	26	5	68	1	72	13	2	0	0	2	6	0	3	883
Total	1,593	223	885	45	599	146	27	2	0	2	6	0	12	3,540

C: Departments and authorities*

KEY

A Decline after assessment only, including:
Conduct outside jurisdiction | Trivial | Remote | Insufficient interest | Commercial matter | Right of appeal or redress | Substantive explanation or advice provided | Premature — referred to agency | Concurrent representation | Investigation declined on resource / priority grounds

Preliminary or informal investigation:

B Substantive advice, information provided without formal finding of wrong conduct
C Advice / explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource / priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions / comment made
H Consolidated into other complaint
I Conciliated / mediated

Formal investigation:

J Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

Action taken on formal complaints finalised in 2005–06 about departments and authorities

fig 60

This figure shows the action we took on each of the formal complaints finalised this year about departments and authorities discussed in chapter 7: Departments and authorities.

Agency	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Ambulance Service of NSW	5	0	2	1	0	0	0	0	0	0	0	0	0	8
Anti-Discrimination Board	2	0	0	0	1	0	0	0	0	0	0	0	0	3
Attorney Generals Department	5	0	4	0	3	1	0	0	0	0	0	0	0	13
Board of Optometrical Registration	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Board of Studies	1	0	2	0	0	0	0	0	0	0	0	0	0	3
Building and Construction Industry Long Service Payments Corporation	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Building Professionals Board	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Charles Sturt University	4	0	2	1	0	0	0	0	0	0	0	0	0	7
Community Relations Commission	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Country Energy	3	0	1	0	0	0	0	0	0	0	0	0	0	4
Countrylink	1	0	1	0	0	0	0	0	0	0	0	0	0	2
Cowra Showground Racecourse and Paceway Trust	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Crown Solicitors office	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Dental Board of New South Wales	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Department of Aboriginal Affairs	0	0	0	0	1	0	1	0	0	0	0	0	0	2
Department of Arts, Sport and Recreation	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Department of Commerce	22	3	12	2	16	1	1	0	0	0	0	0	1	58
Department of Education and Training	42	0	17	1	4	7	2	0	0	0	0	0	0	73
Department of Energy, Utilities and Sustainability	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Department of Environment and Conservation	6	1	8	0	3	2	0	0	0	0	0	0	0	20
Department of Housing	40	7	35	0	37	10	3	0	0	0	0	0	0	132
Department of Infrastructure, Planning and Natural Resources	3	0	2	0	0	0	0	0	0	0	0	0	0	5
Department of Lands	49	1	10	0	4	1	1	0	0	0	0	0	0	66
Department of Local Government	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Department of Natural Resources	4	2	5	0	0	1	0	0	0	0	0	0	0	12

Agency	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Department of Planning	8	0	2	1	1	1	1	0	0	0	0	0	0	14
Department of Primary Industries	3	2	3	1	2	0	0	0	0	0	0	0	0	11
Director of Public Prosecutions	3	0	0	0	0	0	0	0	0	0	0	0	0	3
Energy Australia	6	0	0	0	0	0	0	0	0	0	0	0	0	6
Environment Protection Authority	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Fire Brigades, NSW	2	0	0	0	1	1	0	0	0	0	0	0	0	4
Gaming and Racing	1	0	1	0	0	1	0	0	0	0	0	0	0	3
Greater Southern Area Health Service	6	0	0	0	0	0	1	0	0	0	0	0	0	7
Greater Western Area Health Service	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Health Care Complaints Commission	8	1	8	0	5	0	0	0	0	0	0	0	0	22
Heritage Office, NSW	1	1	1	0	1	1	0	0	0	0	0	0	0	5
Housing Appeals Committee	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Hunter and New England Area Health Service	4	1	1	1	0	0	0	0	0	0	0	0	0	7
Illawarra Local Aboriginal Land Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Infringement Processing Bureau	41	2	23	0	16	1	1	0	0	0	0	0	1	85
Integral Energy	3	0	0	0	0	0	0	0	0	0	0	0	0	3
Land and Property Information NSW	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Landcom (NSW Land and Housing Corporation)	4	0	1	0	0	0	0	0	0	0	0	0	0	5
Lands Board	0	0	0	0	1	1	0	0	0	0	0	0	0	2
Legal Aid Commission of NSW	12	0	2	1	2	2	0	0	0	0	0	0	0	19
Lord Howe Island Board	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Macquarie University	2	0	2	0	1	0	1	0	0	0	0	0	0	6
Marine Parks Authority NSW	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Mine Subsidence Board	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Ministry for Police	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Ministry of Transport	3	2	7	0	4	2	0	0	0	0	0	0	0	18
Motor Accidents Authority	1	0	1	0	0	0	0	0	0	0	0	0	0	2
Motor Vehicle Repair Industry Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	1
National Parks and Wildlife Service	1	1	0	0	0	0	0	0	0	0	0	0	0	2
Natural Resources Commission	0	0	0	0	0	1	0	0	0	0	0	0	0	1
New South Wales Aboriginal Land Council	0	0	1	1	0	0	0	0	0	0	0	0	0	2
North Coast Area Health Service	7	0	1	0	1	0	0	0	0	0	0	0	0	9
Northern Sydney and Central Coast Area Health Service	3	0	1	0	0	0	0	0	0	0	0	0	0	4
NSW Sport and Recreation	1	0	0	0	0	0	0	0	0	0	0	0	0	1
NSW Health	7	3	0	1	2	1	0	0	0	0	0	0	1	15
NSW Lotteries	0	0	1	0	0	0	0	0	0	0	0	0	0	1
NSW Maritime Authority	8	0	2	1	3	0	0	0	0	0	0	0	0	14
NSW Medical Board	0	0	1	0	0	0	0	0	0	0	0	0	0	1
NSW Treasury	3	0	0	0	0	0	0	0	0	0	0	0	0	3
Nurses Registration Board	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Office of Protective Commissioner	9	2	5	0	3	1	0	0	0	0	0	0	0	20
Office of Public Guardian	2	0	2	0	0	0	0	0	0	0	0	0	0	4
Office of State Revenue	41	2	20	0	23	3	0	0	0	0	0	0	0	89
Pillar Administration	1	0	2	0	1	1	0	0	0	0	0	0	0	5

Agency	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Police Integrity Commission	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Port Kembla Port Corporation	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Psychologists Registration Board	0	0	3	0	0	0	0	0	0	0	0	0	0	3
Public Trustee	7	0	4	0	1	0	0	0	0	0	0	0	0	12
RailCorp	56	1	6	4	10	2	0	0	0	0	0	0	2	81
Registry of Births, Deaths and Marriages	1	0	0	0	4	2	0	0	0	0	0	0	0	7
Rental Bond Board	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Roads and Traffic Authority	63	4	33	0	10	5	1	0	0	0	0	0	0	116
Rural Assistance Authority	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Rural Fire Service	4	0	2	0	0	0	0	0	0	0	0	0	0	6
Rural Lands Protection Board	4	0	1	0	1	0	0	0	0	0	0	0	0	6
Sheriffs Office	1	0	0	0	0	0	0	0	0	0	0	0	0	1
South Eastern Sydney and Illawarra Area Health Service	7	0	2	0	1	1	0	0	0	0	0	0	0	11
South Eastern Sydney Area Health Service	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Southern Cross University	2	0	1	0	0	0	0	0	0	0	0	0	0	3
State Authorities Superannuation Trustee Corporation	1	0	0	0	0	0	0	0	0	0	0	0	0	1
State Debt Recovery Office	16	7	31	1	9	5	0	0	0	0	0	0	0	69
State Emergency Service	2	2	0	0	0	0	0	0	0	0	0	0	0	4
State Transit Authority of NSW	5	1	1	1	0	0	0	0	0	0	0	0	0	8
State Water Corporation	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Sydney Catchment Authority	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Sydney Ferries Corporation	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Sydney Harbour Foreshore Authority	0	0	1	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	1
Sydney South West Area Health Service	7	2	0	0	0	1	0	0	0	0	0	0	0	10
Sydney Water Corporation	5	0	1	1	0	0	0	0	0	0	0	0	0	7
Sydney West Area Health Service	1	0	0	0	0	0	1	0	0	0	0	0	0	2
TAFE	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Tow Truck Authority of NSW	1	0	1	0	0	0	0	0	0	0	0	0	0	2
University of New England	2	0	2	0	1	0	0	0	0	0	0	0	0	5
University of NSW	3	0	1	0	0	0	0	0	0	0	0	0	0	4
University of Newcastle	2	0	1	0	1	0	0	0	0	0	0	0	0	4
University of Sydney	4	0	4	0	1	0	1	0	0	0	0	0	0	10
University of Technology Sydney	2	0	1	0	0	0	0	0	0	0	0	0	0	3
University of Western Sydney	4	1	2	4	3	1	0	0	0	0	0	0	0	15
University of Wollongong	2	0	0	0	1	0	0	0	0	0	0	0	0	3
Valuer General	25	1	2	0	5	0	0	0	0	0	0	0	1	34
Veterinary Surgeons Investigating Committee	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Western Sydney Area Health Service	3	0	0	1	0	0	0	0	0	0	0	0	0	4
Workcover Authority	28	1	7	1	7	0	1	0	0	0	0	0	0	45
Workers Compensation (Dust Diseases) Board of NSW	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Zoological Parks Board of NSW	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Unnamed agency	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Total	656	51	306	25	196	61	16	0	0	0	0	0	6	1,317

D: Local government

KEY

A Decline after assessment only, including:
Conduct outside jurisdiction | Trivial | Remote | Insufficient interest | Commercial matter | Right of appeal or redress | Substantive explanation or advice provided | Premature — referred to agency | Concurrent representation | Investigation declined on resource / priority grounds

Preliminary or informal investigation:

B Substantive advice, information provided without formal finding of wrong conduct
C Advice / explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource / priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions / comment made
H Consolidated into other complaint
I Conciliated / mediated

Formal investigation:

J Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

Action taken on formal complaints finalised in 2005–06 about local government

fig 61

This figure shows the action we took on each of the formal complaints finalised this year about individual councils.

Council	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Albury City Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Armidale Dumaresq Council	1	0	2	0	0	0	0	0	0	0	0	0	0	3
Ashfield Municipal Council	3	0	0	0	1	0	0	0	0	0	0	0	0	4
Auburn Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Ballina Shire Council	1	0	2	0	2	0	0	0	0	0	0	0	0	5
Bankstown City Council	2	0	3	0	1	0	0	0	0	0	0	0	0	6
Bathurst Regional Council	2	0	2	0	0	0	1	0	0	0	0	0	0	5
Baulkham Hills Shire Council	5	0	1	0	0	0	0	0	0	0	0	0	0	6
Bega Valley Shire Council	3	0	4	1	0	0	0	0	0	0	0	0	0	8
Bellingen Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Blayney Shire Council	1	0	2	0	0	0	0	0	0	0	0	0	0	3
Blue Mountains City Council	7	1	4	0	2	0	0	1	0	0	0	0	0	15
Bogan Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Bombala Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Botany Bay City Council	1	0	3	0	0	0	0	0	0	0	0	0	0	4
Broken Hill City Council	2	0	0	1	0	0	0	0	0	0	0	0	0	3
Burwood Council	1	0	0	0	0	1	0	0	0	0	0	0	0	2
Byron Shire Council	2	0	0	0	2	1	0	0	0	0	0	0	0	5
Camden Council	1	0	2	1	0	0	0	0	0	0	0	0	0	4
Campbelltown City Council	1	0	3	0	1	1	0	0	0	0	0	0	0	6
Canada Bay City Council	2	0	1	0	1	0	0	0	0	0	0	0	0	4
Canterbury City Council	4	0	1	0	0	0	0	0	0	0	0	0	0	5
Carrathool Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Central Darling Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Central Tablelands Water	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Cessnock City Council	1	1	0	0	1	0	0	0	0	0	0	0	0	3
City of Blacktown Council	9	0	3	0	1	0	0	0	0	0	0	0	0	13
Clarence Valley Council	3	0	9	0	1	1	0	0	0	0	0	0	0	14
Cobar Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Coffs Harbour City Council	2	0	1	0	1	1	0	0	0	0	0	0	0	5
Cooma-Monaro Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	2
Cowra Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Dubbo City Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Dungog Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	2
Eurobodalla Shire Council	5	0	2	0	1	0	0	0	0	0	0	0	0	8
Fairfield City Council	8	0	0	0	1	1	0	0	0	0	0	0	0	10
Gosford City Council	13	1	10	2	0	1	1	0	0	0	0	0	0	28

Council	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Goulburn Mulwaree Shire Council	4	0	1	0	1	0	0	0	0	0	0	0	0	6
Great Lakes Council	8	1	3	1	0	0	0	0	0	0	0	0	0	13
Greater Taree City Council	1	0	1	0	0	0	0	0	0	0	0	0	0	2
Griffith City Council	2	0	0	0	1	0	0	0	0	0	0	0	0	3
Gunnedah Shire Council	3	0	0	0	0	0	0	0	0	0	0	0	0	3
Guyra Council	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Hawkesbury City Council	5	0	3	1	1	0	0	0	0	0	0	0	0	10
Holroyd City Council	4	0	3	0	0	0	0	0	0	0	0	0	0	7
Hornsby Shire Council	11	1	4	0	2	0	0	0	0	0	0	0	0	18
Hunters Hill Municipal Council	2	0	1	0	0	0	0	0	0	0	0	0	0	3
Hurstville City Council	6	0	0	0	2	0	0	0	0	0	0	0	0	8
Inverell Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Jerilderie Shire Council	0	0	1	0	1	0	0	0	0	0	0	0	0	2
Kempsey Shire Council	10	1	3	1	2	1	0	0	0	0	0	0	0	18
Kiama Municipality Council	2	0	0	0	1	0	0	0	0	0	0	0	0	3
Kogarah Municipal Council	2	0	3	0	0	0	0	1	0	0	0	0	0	6
Ku-Ring-Gai Municipal Council	3	0	3	0	1	0	0	0	0	0	0	0	0	7
Lake Macquarie City Council	5	2	8	0	0	1	0	0	0	0	0	0	0	16
Lane Cove Municipal Council	3	0	1	0	0	1	0	0	0	0	0	0	0	5
Leichhardt Municipal Council	7	1	0	0	0	1	0	0	0	0	0	0	1	10
Lismore City Council	2	0	1	0	1	0	0	0	0	0	0	0	0	4
Lithgow City Council	8	3	4	0	3	0	0	0	0	0	0	0	0	18
Liverpool City Council	3	1	2	0	1	1	1	0	0	0	0	0	0	9
Liverpool Plains Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Maitland City Council	0	1	4	0	0	0	0	0	0	0	0	0	0	5
Manly Council	5	0	2	0	0	0	0	0	0	0	0	0	0	7
Marrickville Council	0	0	2	0	1	0	0	0	0	0	0	0	0	3
Mid-Western Regional Council	0	0	3	0	4	0	0	0	0	0	0	0	0	7
Moree Plains Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Mosman Municipal Council	5	4	0	0	0	1	0	0	0	0	0	0	0	10
Murray Shire Council	1	0	0	0	1	0	0	0	0	0	0	0	0	2
Muswellbrook Shire Council	1	0	1	0	0	0	1	0	0	0	0	0	0	3
Nambucca Shire Council	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Narrabri Shire Council	2	0	1	0	0	0	0	0	0	0	0	0	0	3
Narrandera Shire Council	1	0	5	0	0	0	0	0	0	0	0	0	0	6
Narromine Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Newcastle City Council	13	1	5	0	2	1	0	0	0	0	0	0	0	22
North Sydney Council	4	1	0	0	0	0	0	0	0	0	0	0	0	5
Palerang Council	5	0	2	1	1	1	0	0	0	0	0	0	0	10
Parramatta City Council	1	0	2	0	2	2	0	0	0	0	0	0	0	7
Penrith City Council	2	0	2	0	3	1	0	0	0	0	0	0	0	8
Pittwater Council	4	2	3	0	0	1	0	0	0	0	0	0	0	10
Port Macquarie-Hastings Council	7	0	3	1	0	0	0	0	0	0	0	0	0	11
Port Stephens Shire Council	9	0	5	0	0	0	0	0	0	0	0	0	0	14
Queanbeyan City Council	4	0	1	0	0	0	0	0	0	0	0	0	0	5
Randwick City Council	4	1	2	0	0	0	1	0	0	0	0	0	0	8
Richmond Valley Council	3	0	1	0	0	0	0	0	0	0	0	0	0	4
Rockdale City Council	6	1	2	0	1	1	0	0	0	0	0	0	0	11
Ryde City Council	3	0	0	0	0	0	0	0	0	0	0	0	0	3
Shellharbour City Council	4	0	0	0	1	0	0	0	0	0	0	0	0	5
Shoalhaven City Council	5	1	2	0	1	0	0	0	0	0	0	0	0	9
Singleton Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Snowy River Shire Council	1	0	1	0	0	0	0	0	0	0	0	0	0	2
Strathfield Municipal Council	4	1	2	0	1	1	1	0	0	0	0	0	0	10
Sutherland Shire Council	8	2	10	0	3	1	0	0	0	0	0	0	0	24
Sydney City Council	8	1	4	0	4	0	0	0	0	0	0	0	0	17

Council	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Tamworth Regional Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Tenterfield Shire Council	1	0	3	0	0	0	0	0	0	0	0	0	0	4
Tumbarumba Shire Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Tweed Shire Council	7	1	4	0	2	0	0	0	0	0	0	0	0	14
Upper Hunter Shire Council	2	1	1	0	0	0	0	0	0	0	0	0	0	4
Upper Lachlan Shire Council	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Uralla Shire Council	0	0	2	0	0	0	0	0	0	0	0	0	0	2
Wagga Wagga City Council	3	0	1	0	1	0	0	0	0	0	0	0	0	5
Walgett Shire Council	1	0	3	0	0	0	0	0	0	0	0	0	0	4
Warringah Council	6	0	3	0	0	0	0	0	0	0	0	0	0	9
Waverley Council	5	0	1	0	6	1	0	0	0	0	0	0	0	13
Willoughby City Council	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Wingecarribee Shire Council	3	0	1	0	4	0	0	0	0	0	0	0	0	8
Wollondilly Shire Council	1	0	2	0	0	0	0	0	0	0	0	0	0	3
Wollongong City Council	11	1	7	0	3	0	0	0	0	0	0	0	0	22
Woollahra Municipal Council	6	1	2	0	0	0	0	0	0	0	0	0	0	9
Wyong Shire Council	5	1	3	0	1	1	0	0	0	0	0	0	0	11
Unnamed council	1	0	1	0	0	0	0	0	0	0	0	0	0	2
Total	359	35	204	10	78	25	6	2	0	0	0	0	1	720

E: Corrections

A Decline after assessment only, including:
Conduct outside jurisdiction | Trivial | Remote | Insufficient interest | Commercial matter | Right of appeal or redress | Substantive explanation or advice provided | Premature — referred to agency | Concurrent representation | Investigation declined on resource / priority grounds

Preliminary or informal investigation:

B Substantive advice, information provided without formal finding of wrong conduct
C Advice / explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource / priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions / comment made
H Consolidated into other complaint
I Conciliated / mediated

Formal investigation:
J Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

KEY

Action taken on formal complaints finalised in 2005–06 about corrections fig 62

This figure shows the action we took on each of the formal complaints finalised this year about corrections.

Agency	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Department of Corrective Services	111	112	192	8	161	34	2	0	0	0	0	0	2	622
Department of Juvenile Justice	1	3	27	0	11	1	1	0	0	0	0	0	0	44
Justice Health	10	5	38	1	19	2	0	0	0	0	0	0	0	75
GEO Australia	8	12	50	0	62	10	0	0	0	0	0	0	0	142
Total	130	132	307	9	253	47	3	0	0	0	0	0	2	883

Formal and informal complaints received about correctional centres, DCS and GEO

fig 63

Institution	Formal	Informal	Total
Bathurst Correctional Centre	29	155	184
Berrima Correctional Centre	10	25	35
Broken Hill Correctional Centre	3	11	14
Cessnock Correctional Centre	13	94	107
Community Offender Services	12	22	34
Cooma Correctional Centre	6	29	35
Corrective Services Academy	0	1	1
Court escort / Security unit	16	26	42
Dawn De Loas Special Purpose Centre	3	15	18
Department of Corrective Services head office	105	442	547
Dillwynia Correctional Centre	15	117	132
Drug Dog Detector Unit	0	2	2
Emu Plains Correctional Centre	10	45	55
Glen Innes Correctional Centre	0	6	6
Goulburn Correctional Centre	49	202	251
Grafton Correctional Centre	13	65	78
High Risk Management Unit	13	9	22
Ivanhoe "Warakirri" Correctional Centre	0	1	1
John Morony Correctional Centre	17	58	75
Junee Correctional Centre	140	453	593
Kariong Juvenile Correctional Centre	3	18	21
Kirkconnell Correctional Centre	13	57	70
Lithgow Correctional Centre	20	137	157
Long Bay Hospital Area One	15	51	66
Long Bay Hospital Area Two	7	52	59
Mannus Correctional Centre	0	9	9
Metropolitan Special Programs Centre	52	158	210
Metropolitan Remand Reception Centre	67	272	339
Mid North Coast Correctional Centre	61	249	310
Mulawa Correctional Centre	15	90	105
Oberon Correctional Centre	3	16	19
Parklea Correctional Centre	22	167	189
Parramatta Correctional Centre	13	32	45
Parramatta Transitional Centre	1	5	6
Periodic Detention Centres	2	2	4
Silverwater Correctional Centre	18	110	128
Special Purpose Prison Long Bay	1	12	13
St Heliers Correctional Centre	6	26	32
Tamworth Correctional Centre	7	46	53
Yetta Dhinnakkal (Brewarrina) Correctional Centre	2	2	4
Total 2005–06	782	3,289	4,071

*Some complaints may involve more than one centre

Formal and informal complaints received about juvenile justice centres and DJJ

fig 64

Institution	Formal	Informal	Total
Department of Juvenile Justice head office	18	37	40
Acmena Juvenile Justice Centre	3	37	40
Cobham Juvenile Justice Centre	6	34	64
Frank Baxter Juvenile Justice Centre	6	58	55
Juniperina Juvenile Justice Centre	9	23	32
Keelong Juvenile Justice Centre	0	13	20
Orana Juvenile Justice Centre	3	12	25
Reiby Juvenile Justice Centre	1	24	13
Riverina Juvenile Justice Centre	4	16	15
Yasmar Juvenile Justice Centre	0	4	4
Total 2005–06	50	258	308

F: Freedom of information

KEY

A Decline after assessment only, including:
Conduct outside jurisdiction | Trivial | Remote | Insufficient interest | Commercial matter | Right of appeal or redress | Substantive explanation or advice provided | Premature — referred to agency | Concurrent representation | Investigation declined on resource / priority grounds

Preliminary or informal investigation:

B Substantive advice, information provided without formal finding of wrong conduct
C Advice / explanation provided where no or insufficient evidence of wrong conduct
D Further investigation declined on grounds of resource / priority
E Resolved to Ombudsman's satisfaction
F Resolved by agency prior to our intervention
G Suggestions / comment made
H Consolidated into other complaint
I Conciliated / mediated

Formal investigation:

J Resolved during investigation
K Investigation discontinued
L No adverse finding
M Adverse finding

Action taken on formal complaints finalised in 2005–06 about FOI

fig 65

This figure shows the action we took on each of the formal complaints finalised this year about individual public sector agencies relating to freedom of information.

Agency	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Armidale Dumaresq Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Attorney Generals Department	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Bathurst Regional Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Blacktown City Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Board of Studies	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Cabinet Office	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Camden Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Canterbury City Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Coffs Harbour City Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Cowra Shire Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Department of Ageing, Disability and Home Care	0	0	0	0	0	0	0	0	0	1	0	0	0	1
Department of Commerce	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Department of Community Services	0	0	2	0	3	1	0	0	0	0	0	0	0	6
Department of Corrective Services	1	0	5	0	2	0	0	0	0	0	0	0	0	8
Department of Education and Training	1	1	8	0	5	1	1	0	0	0	0	0	0	17
Department of Housing	0	0	0	0	2	0	0	0	0	0	0	0	0	2
Department of Infrastructure, Planning and Natural Resources	1	0	0	0	0	0	0	0	0	1	0	0	1	3
Department of Lands	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Department of Planning	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Department of Primary Industries	1	0	1	0	1	0	0	0	0	0	1	0	0	4
Dubbo City Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Energy Australia	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Fairfield City Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Gaming and Racing	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Gilgandra Shire Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Gosford City Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Greater Southern Area Health Service	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Greater Western Area Health Service	0	0	1	0	2	0	0	0	0	0	0	0	0	3

Agency	Assessment only	Preliminary or informal investigation								Formal investigation				Total
	A	B	C	D	E	F	G	H	I	J	K	L	M	
Health Care Complaints Commission	2	0	0	0	0	1	0	0	0	0	0	0	0	3
Heritage Council of NSW	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Justice Health	1	0	2	0	0	1	0	0	0	0	0	0	0	4
Kiama Municipality Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Links Youth and Disabilities Services Pty Ltd	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Marrickville Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Ministry for Police	0	0	0	0	0	0	0	0	0	0	0	0	1	1
Motor Accidents Authority	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Northern Sydney And Central Coast Area Health Service	0	0	3	0	0	0	0	0	0	0	0	0	0	3
Nowra Anglican College	0	0	0	0	1	0	0	0	0	0	0	0	0	1
NSW Department of Environment and Conservation	0	0	1	0	0	0	0	0	0	0	0	0	0	1
NSW Health	0	0	0	0	2	0	0	0	0	0	0	0	0	2
NSW Maritime Authority	0	0	0	0	2	0	0	0	0	0	0	0	0	2
NSW Police	7	3	17	0	15	1	0	0	0	0	0	0	1	44
NSW Treasury	0	0	0	0	0	0	0	0	0	0	5	0	0	5
Office of Protective Commissioner	0	0	2	0	0	0	0	0	0	0	0	0	0	2
Office of State Revenue	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Orange City Council	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Penrith City Council	0	0	1	0	0	1	0	0	0	0	0	0	0	2
Pillar Administration	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Port Kembla Port Corporation	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Premier's Department	1	0	0	0	1	0	0	0	0	0	0	0	0	2
RailCorp	0	0	2	0	1	1	0	0	0	0	0	0	0	4
Randwick City Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Roads and Traffic Authority	2	0	7	1	4	2	0	0	0	0	0	0	0	16
South Eastern Sydney and Illawarra Area Health Service	0	0	1	0	2	0	0	0	0	0	0	0	0	3
Southern Sydney Area Health Service	0	1	0	0	0	0	0	0	0	0	0	0	0	1
State Transit Authority of NSW	1	0	0	0	1	1	0	0	0	0	0	0	0	3
Sydney City Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Sydney Ferries Corporation	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Sydney Organising Committee for the Olympic Games	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Sydney South West Area Health Service	1	0	1	0	0	0	0	0	0	0	0	0	0	2
Sydney Water Corporation	0	0	0	0	2	0	0	0	0	0	0	0	0	2
Tourism NSW	0	0	0	0	0	0	1	0	0	0	0	0	0	1
University of Newcastle	1	0	1	0	0	0	0	0	0	0	0	0	0	2
University of NSW	0	0	1	0	1	0	0	0	0	0	0	0	0	2
University of Sydney	0	0	0	0	1	0	0	0	0	0	0	0	0	1
University of Western Sydney	0	0	0	0	3	0	0	0	0	0	0	0	0	3
Upper Hunter Shire Council	0	0	0	0	2	0	0	0	0	0	0	0	0	2
Waverley Council	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Western Sydney Area Health Service	0	0	1	0	0	0	0	0	0	0	0	0	0	1
WorkCover Authority	1	0	1	0	2	0	0	0	0	0	0	0	0	4
Unnamed agency	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Total	26	5	68	1	72	13	2	0	0	2	6	0	3	198

G: FOI report

The following information is provided in accordance with the *Freedom of Information Act 1989* (FOI Act), the Freedom of Information Regulation 2005 and the NSW Ombudsman 'FOI Procedure Manual'.

We received seven new FOI applications during 2005-06. No applications were brought forward from the previous year and one is ongoing.

Three applications were for documents that related to the Ombudsman's complaint-handling, investigative and reporting functions. In all these cases an explanation of the position of Ombudsman under section 9 and our inclusion in Schedule 2 of the FOI Act was provided. In another application we provided access to some documents, determined some documents as exempt under clause 11(b) of Schedule 1 in the FOI Act and provided an explanation about why other documents were exempt documents under s. 9 and Schedule 2.

In another application we allowed the applicant access to some documents following consultation with a third party and determined other documents as exempt under clause 6 of Schedule 1. The final application was withdrawn.

We received five application fees of $30, one of $15, and one internal review application fee of $40. One of the $30 fees was carried forward to be determined, one was returned to the applicant as the application was withdrawn, one was returned to the applicant as we did not provide access to the documents, and two were retained to process the determinations. The $15 fee and internal review application fee were returned to the applicants, as we did not provide access to the documents.

Dealing with these FOI applications did not impact to a significant degree on our activities, nor did the preparation of our Statement of Affairs and Summary of Affairs.

One appeal was made during the year to the ADT about our handling of the applicant's FOI application. In light of the decision of the ADT in *McGuirk v ICAC* (2006 NSWADTAP 17), a matter relating to documents held by the ICAC, the ADT remitted the matters involving the Ombudsman back to our office for determination without deciding the appeals.

The decision of the ADT in *McGuirk v ICAC* is the subject of a pending appeal to the Supreme Court. The decision has affected our determination of those matters where s. 9 and Schedule 2 of the FOI Act apply.

Section A: Numbers of new FOI requests

FOI requests	2005–06		2004–05	
	Personal	Other	Personal	Other
New (including transferred in)	4	3	7	2
Brought forward	0	0	0	0
Total to be processed	4	3	7	2
Completed	3	3	7	2
Transferred out	0	0	0	0
Withdrawn	0	1	0	0
Total processed	3	3	7	2
Unfinished (carried forward)	1	0	0	0

Section B: Result of completed requests

FOI requests	2005–06		2004–05	
	Personal	Other	Personal	Other
Granted in full	0	0	0	0
Granted in part	2	0	1	2
Refused	1	3	6	0
Deferred	0	0	0	0
Completed	3	3	7	2

Section C: Ministerial certificates

We issued no Ministerial certificates in relation to FOI applications to the Ombudsman in 2005-06 or 2004-05.

Section D: Formal consultations

Request requiring formal consultation	2005–06	2004–05
	1	1

Section E: Amendment of personal records

We received no requests for the amendment of personal records in 2005-06 or 2004-05.

Section F: Notation of personal records

We received no requests for notations in 2005-06 or 2004-05.

Section G: FOI requests granted in part or refused

Basis for disallowing or restricting access	2005–06		2004–05	
	Personal	Other	Personal	Other
s 19 (application incomplete, wrongly directed)	0	0	0	0
s 22 (deposit not paid)	0	0	0	0
s 25(1)(a1) (diversion of resources)	0	0	0	0
s 25(1)(a) (exempt)	2	3	7	1
s 25(1)(b), (c), (d) (otherwise available)	0	0	0	0
s 28(1)(b) (documents not held)	0	0	0	1
s 24(2) (deemed refused, over 21 days)	0	0	0	0
s 31(4) (released to Medical Practitioner)	0	0	0	0
Total	2	3	7	2

Section H: Costs and fees of requests processed during the period

Request requiring formal consultations	2005–06		2004–05	
	Assessed costs	FOI fees received	Assessed costs	FOI fees received
All completed requests	$60	$175	$130	$190

Section I: Discounts allowed

No discounts applied to the applications received in 2005-06 or 2004-05.

Section J: Days to process

Days to process	2005–06		2004–05	
	Personal	Other	Personal	Other
0–21 days	2	3	7	1
22–35 days	1	0	0	1
Over 35 days	0	0	0	0
Total	3	3	7	2

Section K: Processing time

Processing hours	2005–06		2004–05	
	Personal	Other	Personal	Other
0-10 hours	3	3	7	2
Over 10 hours	0	0	0	0
Total	3	3	7	2

Section L: Reviews and appeals

Reviews and appeals finalised	2005–06	2004–05
Internal reviews finalised	1	1
Ombudsman reviews finalised	0	0
ADT appeals finalised	0	0

Section L1: Details of internal review results

Grounds on which internal review requested	2005–06				2004–05			
	Personal		Other		Personal		Other	
	Upheld	Varied	Upheld	Varied	Upheld	Varied	Upheld	Varied
Access refused	0	0	1	0	1	0	0	0
Deferred	0	0	0	0	0	0	0	0
Exempt matter	0	0	0	0	0	0	0	0
Unreasonable charges	0	0	0	0	0	0	0	0
Charge unreasonably incurred	0	0	0	0	0	0	0	0
Amendment refused	0	0	0	0	0	0	0	0
Totals	0	0	1	0	1	0	0	0

H: Mandatory annual reporting requirements

Under the *Annual Reports (Departments) Act 1985*, the Annual Reports (Departments) Regulation 2000 and various Treasury circulars, our office is required to include in this report information on the following topics. All references to sections are to sections in the Annual Reports (Departments) Act and all references to clauses are to clauses in the Annual Reports (Departments) Regulation, except where stated otherwise. TC means Treasury Circular, PC means Premier's Circular.

Legislative provision	Topic	Comment
s 11A	Letter of submission	See the inside front cover
s 16(5)	Particulars of extensions of time	No extension applied for
s 11	Charter	See page 2 and this Appendix (Legislation administered)
Sch 1 to the Annual Reports (Departments) Regulation 2000	Aims and objectives	See page 2
	Access	See the back cover
TC 01/12	Management and structure: • names of principal officers, appropriate qualifications • organisational chart indicating functional responsibilities	See pages 4 and 5 and this Appendix (Significant committees)
	Summary review of operations	See pages 2–3, 6–7
	Funds granted to non-government community organisations	We did not grant any funds of this sort
	Legal change	See this Appendix
	Economic or other factors	See pages 13–16
	Management and activities	See pages 13–36
	Major works in progress	There were no such works
	Research and development	See page 51
	Human resources	See pages 17–20
	Consultants	We used no consultants this year
	Equal Employment Opportunity	See pages 18–19
	Disability plans	See page 30
	Land disposal	We do not own and did not dispose of any land or property
	Promotion	See this Appendix (Overseas visits) and Appendix I: Publications
	Consumer response	See pages 35–36
	Guarantee of service	See page 2
	Payment of accounts	See this Appendix
	Time for payment of accounts	See this Appendix
	Risk management and insurance activities	See pages 14 and 19–21
	Controlled entities	We have no controlled entities
	Ethnic affairs priorities statement and any agreement with the CRC	See page 32
	NSW Government Action Plan for Women	See page 33
	Occupational health and safety	See pages 19–21
	Waste	See pages 21–22
s 9(1)	Financial statements	See pages 125–142
cl 4	Identification of audited financial statements	See pages 129–142
cl 6	Unaudited financial information to be distinguished by note	not applicable
cl 5	Major assets	See this Appendix
TC 00/16	Copy of any amendments made to the Code of Conduct	The Code of Conduct was reviewed and there were no substantial changes made. Changes include updates to reflect the new Statement of Corporate Purpose and changes to position titles and organisational terminology. A copy of the current Code of Conduct may be accessed on our website at www.ombo.nsw.gov.au
	particulars of any matter arising since 1 July 2006 that could have a significant effect on our operations or a section of the community we serve	Not applicable

Legislative provision	Topic	Comment
cl 5	Total external costs incurred in the production of the report	$20,874 (including $13,173 to print 750 copies)
TC 00/16 (continued)	Is the report available in non-printed formats	Yes
	Is the report available on the internet	Yes, at www.ombo.nsw.gov.au
cl 7, 8; TC 00/24; PC 92/4	Executive positions	See this Appendix
Freedom of Information Act 1989	Statistical and other information about our compliance with the Freedom of Information Act	See Appendix G
Privacy and Personal Information Protection Act 1998	Privacy management plan	We have a privacy management plan as required by s 33(3) of the *Privacy and Personal Information Protection Act 1988*. This also covers our obligations under the *Health Records and Information Privacy Act 2002*. We had no requests for an internal review under part 5 of the Act this year.
PM 91-3	Evaluation of programs worth at least 10% of expenses and the results	This year we undertook a comprehensive review of all our programs. See page 15.
PM 94-28	Departures from *Subordinate Legislation Act 1989*	This year we did not depart from the requirements of the Subordinate Legislation Act. See this Appendix (Legal changes) for more details about the regulations with which we had some involvement this year.
PM 98-35	Energy management	See pages 21–22
PM 00-12	Electronic service delivery	We have implemented an electronic service delivery program to meet the government's commitment that all appropriate government services be available electronically. We provide an online complaints form, an online publications order form and a range of information brochures on our website.
TC 99/6	Credit card certification	The Ombudsman certifies that credit card use in the office has met best practice guidelines in accordance with Premiers memoranda and Treasury directions.
s 42(8) Ombudsman Act 1974	Must distinguish between complaints made directly to our office and those referred to us	There were three complaints referred to us from other agencies.

Legislation relating to our functions

Ombudsman Act 1974

Community Services (Complaints, Reviews and Monitoring) Act 1993

Enabling legislation for each NSW university, as amended by the *Universities Legislation Amendment (Financial and Other Powers) Act 2001*

Freedom of Information Act 1989

Police Act 1990

Protected Disclosures Act 1994

Witness Protection Act 1995

Law Enforcement (Controlled Operations) Act 1997

Telecommunications (Interception)(NSW) Act 1987

Child Protection (Offenders Registration) Act 2000

Children and Young Persons (Care and Protection) Act 1998

Children (Criminal Proceedings) Act 1987 – as amended by the *Children (Criminal Proceedings) Amendment (Adult Detainees) Act 2001*

Firearms Amendment (Public Safety) Act 2002

Justice Legislation Amendment (Non-Association and Place Restriction) Act 2001

Law Enforcement Legislation Amendment (Public Safety) Act 2005

Law Enforcement (Powers and Responsibilities) Act 2002

Police Powers (Drug Detection Dogs) Act 2001

Terrorism (Police Powers) Act 2002

Crimes (Administration of Sentences) Amendment Act 2002

Summary Offences Amendment (Places of Detention) Act 2002

Crimes Amendment (Forensic Procedures) Act 2000

Significant committees

Our staff are members of the following significant inter-organisational committees:

Staff member	Committee name
Ombudsman – Bruce Barbour	Regional Vice President for the Australasian and Pacific Ombudsman Regional Group; Director on the Board of the International Ombudsman Institute; Institute of Criminology Advisory Committee; Police Oversight Agency Meeting
Deputy Ombudsman – Chris Wheeler	Protected Disclosures Act Implementation Steering Committee; Integrity in Government Co-ordination Group; Public Sector Liaison Group
Deputy Ombudsman (Community Services) – Steve Kinmond	Police Aboriginal Strategic Advisory Committee (PASAC)
Assistant Ombudsman (General) – Greg Andrews	Community Services Panel Churchill Fellowships
Assistant Ombudsman (Children and Young People) – Anne Barwick	Child Protection and Sex Crimes Squad Advisory Council
Assistant Ombudsman (Police) – Simon Cohen	Internal Witness Advisory Council; Police Oversight Agency Meeting
Team Manager – Julianna Demetrius	PASAC; Youth Justice Coalition
Project Manager, Investigations – Brendan Delahunty; SOI – Laurel Russ	PASAC
Youth Liaison Officer – Mandy Loundar	NESB Youth Issues Network
SIO – Geoff Briot	Corruption Prevention Network Committee
SIO – Kate Jonas; Judith Grant	Child Protection Learning and Development Forum
IO – Tamaris Cameron	Network of Government Agencies: Gay, Lesbian, Bisexual and Transgender Issues

IO = investigation officer SIO = senior investigation officer

Litigation

The Ombudsman was a party to the following four actions in 2005–06:

- In the matter of *The Ombudsman v Laughton* [2005] NSWCA 339, the Ombudsman challenged the decision of the Government and Related Employees Appeal Tribunal (GREAT) permitting an unsuccessful applicant for an Ombudsman position to appeal to the GREAT without leave of the Supreme Court. Appointments by the Ombudsman are made under section 32 of the *Ombudsman Act 1974* (the Act). Section 35A of the Act prevents criminal and civil proceedings against the Ombudsman without leave first being obtained from the Supreme Court. The Ombudsman's view was that s. 35A applied to GREAT appeals. On 30 September 2005 the Court of Appeal dismissed the Ombudsman's case. Chief Justice Spigelman, with whom the other judges agreed, stated that there was tension between ss 32 and 35A of the Act. The Chief Justice found that s. 35A was concerned with the exercise by the Ombudsman of statutory powers and functions with external effect, such as an investigation. It was not concerned with internal matters, such as the employment of staff under s. 32. The unsuccessful applicant did not require leave of the Supreme Court to appeal to GREAT. The GREAT appeal was finalised in December 2005, with the original Ombudsman appointment confirmed in the position.
- Two decisions by the Ombudsman to refuse a person access to certain documents under the *Freedom of Information Act 1989* are presently before the Administrative Decisions Tribunal.
- A teacher has applied to the Supreme Court to challenge the way misconduct allegations were managed by the Department of Education and Training (DET), including the notification of the matters to the Ombudsman as reportable allegations. The teacher has asked the Court to declare that the conduct alleged was not reportable to the Ombudsman, and for orders including that the Ombudsman destroy records of the DET report. The Ombudsman is opposing the teacher's application.

Legal changes

There were a number of changes in legislation relating to our child protection functions in 2005–06.

Ombudsman Regulation 2005

The 2005 Regulation, which commenced on 1 July 2005, repealed and replaced the *Ombudsman Regulation 1999.* The new Regulation changes the definition of 'head of agency' for some Catholic organisations. We reported on this in our 2004–05 Annual report.

Child Protection (Offenders Prohibition Orders) Act 2004

This Act commenced on 1 July 2005. The object of the Act is to enable a Local Court to make child protection prohibition orders preventing 'registrable persons' (such as convicted child sexual offenders and other serious offenders against children) from engaging in certain conduct. Conducts courts may prohibit include associating with specified people, being in specified locations and being in employment of a specified kind. The Act also makes some amendments to the *Child Protection (Offenders Registration) Act 2000* and the *Commission for Children and Young People Act 1998* (CCYP Act).

Commission for Children and Young People Amendment Act 2005

This Amendment Act, passed in December 2005, has not yet commenced. It will, in effect, amalgamate the CCYP Act and the *Children (Prohibited Employment) Act 1998* and provide for consistency and clarity in relation to provisions relating to the obligations of employers. The amalgamated Act will use uniform terminology and a single definition of child-related employment.

Major assets

Major assets fig 66

Description	04/05	Acquisition	Disposal	05/06
File servers (mini computer)	6	8	4	10
Hubs	2	0	0	2
Personal computers	27	193	10	210
Printers	11	1	0	5
Photocopiers	5	0	0	5
Telephone systems	1	0	0	1

Payment of accounts

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 where we dispute an invoice, or where we do not receive an invoice with enough time to pay within the specified timeframe. To account for this, we aim to pay accounts within the specified timeframe 98% of the time. This year we paid 99.79% of our accounts on time. We have not had to pay any penalty interest on outstanding accounts. We had $68,673 worth of accounts on hand at 30 June 2006. See figure 67.

Aged analysis of accounts on hand at the end of each quarter fig 67

	September 2005	December 2005	March 2006	June 2006
Current (ie within due date)	$94,697	$157,957	$133,167	$68,673
Less than 30 days overdue	0	$5,906	0	0
Between 30 days and 60 days overdue	0	$821	0	0
Between 60 days and 90 days overdue	0	$1,124	0	0
More than 90 days overdue	0	0	0	0
Total accounts on hand	$94,697	$165,808	$133,167	$68,673

Performance indicator
Accounts paid on time

Quarter	Target %	% paid on time	Amount paid on time $'000	Total amount paid $'000
September 2005	98	99.93	$1,344	$1,345
December 2005	98	98.81	$1,347	$1,363
March 2006	98	99.91	$2,112	$2,114
June 2006	98	99.94	$5,421	$5,423
Total	98	99.79	$10,223	$10,245

Overseas visits

The Ombudsman attended the ninth Asian Ombudsman Association conference in Hong Kong in November last year.

The manager of our corrections visited the Canadian Correctional Investigator and the UK's Prison and Probation Ombudsman in June 2006.

Executive positions

Chief and senior executive service

Our office has six senior positions — the Ombudsman, two Deputy Ombudsman and three Assistant Ombudsman. A woman currently holds one of those positions. There was no change in the number of senior positions during the reporting year. Please see figure 68 for details of the levels of our senior positions.

Chief and Senior Executive Service fig 68

	2005	2006
SES Level 4	2	2
SES Level 2	3	3
CEO*	1	1
Total	6	6

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

Executive remuneration

In its annual determination, the Statutory and Other Officers Remuneration Tribunal awarded increases to our statutory officers. The Deputy Ombudsman and our three Assistant Ombudsman were awarded a 4% increase effective 1 October 2005. The Ombudsman's remuneration increased by 4%.

Figure 69 details the Ombudsman's remuneration which includes salary, superannuation and annual leave loading.

Executive remuneration fig 69

Position	Ombudsman
Occupant	Bruce Barbour
Total remuneration package	$374,573
$ Value of remuneration paid as a performance payment	nil
Criteria used for determining total performance payment	n/a

I: Publications list

The following is a list of reports to Parliament and other publications issued between 1 July 2005 and 30 June 2006. To obtain a copy of these reports, contact us or visit our website at www.ombo.nsw.gov.au. All listed publications are available at the website in Acrobat PDF.

Reports to Parliament

2006

Special report to Parliament: DADHC: Monitoring standards in boarding houses

Special report to Parliament: Services for children with a disability and their families. Department of Ageing, Disability and Home Care (DADHC): Progress and future challenges

Review of the *Crimes (Administration of Sentences) Amendment Act 2002* and the *Summary Offences Amendment (Places of Detention) Act 2002*

2005

Special report to Parliament: Improving the quality of land valuations issued by the Valuer-General

On the Spot Justice? The trial of Criminal Infringement Notices by NSW Police

Review of the child protection register

Review of the *Police Powers (Drug Premises) Act 2001*

Review of the *Police Powers (Internally Concealed Drugs) Act 2001*

Review of the *Police Powers (Vehicles) Amendment Act 2001*

Annual reports

2005

Law Enforcement Controlled Operations Annual Report 2004–2005

NSW Ombudsman Annual Report 2004–2005

Official Community Visitor Annual Report 2004–2005

Reviewable Deaths Annual Report 2004–2005

Fact sheets

2006

Women's fact sheet: The Ombudsman and you

2005

Advice for people working with youth: Young people with complaints about police

Information sheet: Child protection policy framework for childrens services

Public sector agencies fact sheets A – Z

- Oversight of public administration
- Security of information
- Transparency and accountability
- Useful tips
- Very difficult complainants
- Whistleblowing
- eXpectations in service provision
- Youth participation
- Z: A-Z of public administration

Reports not yet tabled

These reports have been provided to the Attorney General and relevant Minister but have not yet been tabled. They are not available at the website.

Review of the *Firearms Amendment (Public Safety) Act 2002.* Provided to the Attorney General and Police Minister in April 2006.

Review of the *Children (Criminal Proceedings) Amendment (Adult Detainees) Act 2001.* Provided to the Attorney General in November 2005.

Review of the *Police Powers (Drug Detection in Border Areas Trial) Act.* Provided to the Attorney General in January 2005.

Brochures

General information – making a complaint to the Ombudsman

Training workshops 2006

Youth: Got a complaint?

J: Our staff

Zaldy Bautista
Yvon Piga
Wayne Kosh
Vincent Riordan
Vincent Scott
Vince Blatch
Vanessa Vega
Trisha Bayler
Tony Day
Tim Lowe
Therese Griffith
Terry Manns
Terry Chenery
Teresa Law
Teresa Sulikowski
Tara Croft
Tania Martin
Tamaris Cameron
Sue Meade
Sue Phelan
Stuart McKinlay
Storm Stanford
Steve Chen
Stella Donaldson
Stan Waciega
Stacy Warren
Sophia Lazzari
Sonya Price-Kelly
Shelagh Doyle
Sheila O'Donovan
Sheena Fenton
Sharon Johnson
Sharat Arora
Seranie Gamble
Selena Choo
Scott Campbell
Sarah Harris
Sanya Silver
Samantha Guillard
Samantha Langran
Sally Haydon
Ruth Barlow
Robert Wingrove
Reinhard Hitzegrad
Rebecca Curran
Rebecca Piper
Rebeca Garcia
Philomena Janson
Phil Abbey
Peter Burford
Paula Novotna
Patrick Broad
Patricia Kelly
Pamela Rowley
Padmadakini
Oliver Morse
Nicole Blundell
Nicole Newman
Natasha Seipel
Natasha McPherson
Nadine Woodward
Monica Wolf
Monalyn Afflick
Mickey Conaty
Michelle Chung
Michelle Stewart
Michele Noble-Paulinich
Michele Powell
Michael Gleeson
Michael Quirke
Merly Vasquez-Lord
Melissa Clements
Melissa Heggie
Mele Tapa
Megan Bernard
Maya Borthwick
Matthew Dening
Matthew Harper
Maryanne Borg
Mary McCleary
Mark Mallia
Marina Paxman
Marie Smithson
Marianne Adzich
Margo Barton
Margaret Kaye
Marcelle Williams
Mani Maniruzzaman
Mandy Loundar
Lynne Whittall
Luke Phelps
Luci Abdipranoto
Louise Clarke
Lois Stevenson
Liz Humphrys
Lisa Du
Lisa Formby
Linda Mudronja
Lin Phillips
Lily Enders
Lilia Meneguz
Liani Stockdale
Les Szaraz
Laurel Russ
Kylie Parsons
Kirsteen Banwell
Kim Castle
Kim Kenny
Kim Swan
Kerrie Gazzard
Kelvin Simon
Katya Rozenblit
Katrina Sanders
Katrina Antoun
Kathryn McKenzie
Katharine Ovenden
Katerina Paneras
Kate Doherty
Kate Johnston
Kate Jonas
Kate McDonald
Kate Shone
Kate Smithers
Justine Simpkins
Julie Power
Julie Withers
Julie Brown
Julianna Demetrius
Judith Grant
Joy Philip
Josephine Formosa
John McKenzie
Joanna Jones
Jo Flanagan
Jillian Burford
Jenny Owen
Jennifer Agius
Jeanie O
Jayson Leahy
Janine Allen
Janette Coughlan
Janette Ryan
Janet Coppin
Jane Moores
Jacqui Lobos
Jacqueline Grima
Jacqueline Preece
Ivy Kwan
Ian McCallan-Jamieson
Ian Robinson
Helle McConnochie
Helen Ford
Helen Mueller
Heidrun Blackwood
Heather Brough
Greg Andrews
Greg Williams
Geoff Briot
Gaye Josephine
Gary Dawson
Gareth Robinson
Gabrielle McNamara
Gabrielle Moran
Emma Koorey
Emily Minter
Elizabeth Burford
Elizabeth Rose
Elizabeth Le Brocq
Eileen Graham
Edwina Pickering
Dylan Thompsett
Dominique Rowe
David Chie

David Ryan
David Snell
David Watson
Daryn Nickols
Daniel Culhane
Cuong Tran
Claire Edmonds
Claire Fernandez
Christine Brunt
Christine Carter
Christine Flynn
Chris Wheeler
Chi Chung
Chetan Trivedi
Charlene Joyce
Cathy Ciano
Cathy Samuels
Carolyn Campbell-McLean
Caroline Tjoa
Carol Ryan
Candice White
Bryce Purches
Bruce Barbour
Brooke Eisenhuth
Brendan Delahunty
Bina Aswani
Barbara McAuley
Bao Nguyen
Anne Barwick
Anne Radford
Anna Ciliegi
Anita Whittaker
Andrew Christodoulou
Andrew D'mello
Alison McKenzie
Alison Shea
Alex Hicks
Alan Matchett
Aimee Tan
Adam Glen

K: Glossary

AAT	Administrative Appeals Tribunal
ADT	Administrative Decisions Tribunal
AIS	Association of Independent Schools
CCER	Catholic Commission for Employment Relations
CCTV	Closed-circuit television
CCYP	Commission for Children and Young People
CS-CRAMA	*Community Services (Complaints, Reviews and Monitoring) Act 1993*
DADHC	Department of Ageing, Disability and Home Care
DCS	Department of Corrective Services
DET	Department of Education and Training
DJJ	Department of Juvenile Justice
DoCS	Department of Community Services
DPP	Director of public prosecutions
EAPS	Ethnic affairs priority statement
EEO	Equal employment opportunity
EWON	Energy and Water Ombudsman (NSW)
FOI	freedom of information
HACC	home and community care
ICAC	Independent Commission Against Corruption
IOI	International Ombudsman Institute
LG Act	*Local Government Act 1993*
MRC	migrant resource centre
MRRC	Metropolitan reception and remand centre
OH&S	Occupational health and safety
OOHC	out-of-home-care
PADP	program of appliances for disabled people
PIC	Police Integrity Commission
PJC	Parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission
PPIP Act	*Privacy and Personal Information Act 1998*
SAAP	supported accommodation assistance program
YLO	youth liaison officer

Index

Index