



# In Focus

Managing backlogs

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the people of NSW.

 **Ombudsman**  
New South Wales

## Managing backlogs

Timeliness is a fundamental principle of good administrative practice, but it is often challenged when government departments and public sector agencies experience internal backlogs.

In public service, backlogs can feel like an ever-present threat. The potential demands on a public sector agency are rarely matched by an equivalent availability of time and resources. While increased demand is often positive in the private sector – providing an opportunity to sell more or to raise prices – in the public sector, it all too frequently leads to escalating delays.

Backlogs can form in almost any administrative context. In decision-making contexts, they typically arise when the volume and speed of matters coming into an agency<sup>1</sup> overwhelms its capacity to review, investigate, analyse, make the requisite decision, or otherwise take the action required.

A vicious cycle can sometimes develop in which the delays caused by a backlog result in open cases demanding even more resources and taking inherently longer to resolve. For example:

- extensive delays may mean the agency needs to communicate more often with those affected by the delay, both pro-actively and in response to queries and complaints
- officers assigned to a matter may change, or even if there is no change in staff, they may need to remind themselves about a matter multiple times
- circumstances may change, requiring a matter to be triaged multiple times or more information to be sought
- ultimately, when the matter is responded to, it may be harder to obtain necessary supporting material or the information to resolve the matter if it has become very dated.

Many Commonwealth, state and territory-based agencies and bodies across Australia have experienced backlogs:

In 2023–24, Services Australia reported a backlog peaking at 1.35 million unprocessed new claims for health and welfare payments.<sup>2</sup>

As of September 2025, more than 26,000 applications for refugee status were awaiting determination by the Department of Home Affairs,<sup>3</sup> with more than 42,000 applications awaiting review at the Administrative Review Tribunal.<sup>4</sup>

In 2025, backlogs in admitting on-remand inmates into the corrections systems were reported to be causing downstream congestion, with “cell ramping” resulting in inmates being held for extended periods in NSW Police cells.<sup>5</sup>

<sup>1</sup> We use the term ‘agency’ throughout this paper to refer collectively to government departments and public sector agencies.

<sup>2</sup> Services Australia, Australian Government (2024) Annual Report 2023–24, p x  
<<https://www.servicesaustralia.gov.au/sites/default/files/2024-10/annual-report-2023-24.pdf>>

<sup>3</sup> Department of Home Affairs, Australian Government (2025) Monthly Update: Onshore Protection (Subclass 866) Visa Processing – September 2025, p 4 <<https://www.homeaffairs.gov.au/research-and-stats/files/monthly-update-onshore-protection-866-visa-processing-sept-2025.PDF>>

<sup>4</sup> Administrative Review Tribunal (2025) Protection Jurisdictional Area caseload summary by list country of reference (For the period 14 October 2024 to 31 May 2025) <[https://www.art.gov.au/sites/default/files/2024-12/ART\\_Protection\\_Caseload\\_2024-25.pdf](https://www.art.gov.au/sites/default/files/2024-12/ART_Protection_Caseload_2024-25.pdf)>

<sup>5</sup> Ee eg., Sunday Telegraph, Sydney, ‘Crook bottleneck has cops off beat: Stations so full of inmates police can’t go on patrol’ 23 February 2025, pg 8; Daily Telegraph online, ‘Complete failure of the system: shocking photos reveal police cells turned into makeshift prisons’ 25 November 2025 <<https://www.dailytelegraph.com.au/news/nsw/complete-failure-of-the-system-shocking-photos-reveal-police-cells-turned-into-makeshift-prisons/news-story/85815fefadd8da921c09a47eb4e01c4c>>



As an integrity agency responsible for overseeing a range of agencies,<sup>6</sup> we know how common and varied backlogs can be. They are caused by different factors, result in different impacts, and often require different interventions to achieve a resolution.

This edition of In Focus acknowledges the complexity and challenges associated with resolving backlogs in a public sector context. It supports agencies to prevent backlogs from emerging and to manage existing backlogs by identifying:

- the adverse impacts caused by backlogs
- common reasons why backlogs occur
- the risks of maladministration that can arise
- helpful approaches to backlog management.

## Adverse impacts of backlogs

Backlogs in government administration can have significant real-life consequences. An agency's failure to discharge its functions in a timely way can result in delayed justice and further entrench disadvantage and harm for the people waiting for a decision or outcome. It is often the case that administrative justice delayed is justice denied.<sup>7</sup>

For example, in 2022, the Royal Commission into Defence and Veteran Suicide sounded alarm over the compensation claims backlog within the Department of Veterans' Affairs (DVA). At the time, more than 41,000 claims were yet to be allocated to DVA staff for processing. Veterans were typically waiting between 329 to 391 days to receive a decision about their claims, far exceeding DVA's target timeframes of processing claims within 50 to 100 days.<sup>8</sup> For many veterans, the delays in providing compensation for illness or injury caused by their military service affected their ability to finance medical care or access therapy.<sup>9</sup> Delays within the DVA claims process were found to increase stress and anxiety. They were also found to contribute to the development and/or exacerbation of mental health issues and the risk of a veteran dying by suicide.<sup>10</sup>

The pressure associated with administrative backlogs can also affect staff morale, contributing to reduced productivity and burnout, as well as difficulties in recruitment and retention. Similarly, the need to achieve outcomes with limited resources can result in a lack of compliance with policy, process or procedure. For example, improper recruitment practices to address staff shortages or a poor workplace culture arising from heavy workloads can create risks of corrupt conduct.

Backlogs can also result in considerable reputational damage and embarrassment for the agency concerned, eroding public trust and contributing to disillusionment with government processes more broadly.

<sup>6</sup> The NSW Ombudsman's jurisdiction includes oversight of state government bodies, community service providers, local councils and universities.

<sup>7</sup> See, for example, Ombudsman of Ontario (2023) Investigation into whether the Ministry of the Attorney General, Tribunals Ontario and the Landlord and Tenant Board are taking adequate steps to address delays and case backlogs at the Landlord and Tenant Board <<https://www.ombudsman.on.ca/en/our-work/investigations/administrative-justice-delayed-fairness-denied>>

<sup>8</sup> Royal Commission into Defence and Veteran Suicide (2022) *Interim Report*, pp 223–225 <<https://defenceveteransuicide.royalcommission.gov.au/system/files/2023-05/interim-report-dvsrc-may-2023.pdf>>

<sup>9</sup> Royal Commission into Defence and Veteran Suicide (2022) *Interim Report*, p 228 <<https://defenceveteransuicide.royalcommission.gov.au/system/files/2023-05/interim-report-dvsrc-may-2023.pdf>>

<sup>10</sup> Royal Commission into Defence and Veteran Suicide (2022) *Interim Report*, p 222 <<https://defenceveteransuicide.royalcommission.gov.au/system/files/2023-05/interim-report-dvsrc-may-2023.pdf>>



As we discuss below, backlogs also create particular risks of maladministration. This includes when a backlog results in an agency's failure to perform its functions in accordance with a statutory duty, or when an agency tries to take remedial action that leads to 'cutting corners' and inadvertently causes or contributes to maladministration.

## Why do backlogs occur?

An agency's capacity to perform its functions can be affected by both internal and external factors, some of which may be beyond an agency's control. Backlogs can rarely be attributed to a single cause. It is usually a multitude of complex and intersecting factors that result in a backlog forming and impede a swift resolution. There may be a temptation to blame a backlog on a 'perfect storm' of factors.<sup>11</sup> However, backlogs tend to form incrementally before expanding exponentially. With diligent monitoring, the warning signs can typically be foreseen.

External pressures can include:

- inadequate funding to support the delivery of an agency's functions. For example, resource constraints can lead to underinvestment in necessary technologies or system upgrades to improve efficiency.
- changes in an agency's operating environment. For example, legislative reform or a new government policy may expand or alter an agency's functions or jurisdiction, or introduce additional complexity around the exercise of existing functions.
- a spike in demand for an agency's services. For example, following media coverage that draws public attention to an agency's functions.

Backlogs are more likely to develop when there has been insufficient planning or investment to uplift an agency's capacity to accommodate increased demand for its services.

Backlogs can also arise or worsen as a result of deficiencies in an agency's internal systems and/or processes. For example:

- staffing shortages due to poor workforce planning and/or problems with recruitment and retention
- inefficiencies and/or duplication across different stages in a workflow (including over-engineered processes that need to be streamlined)
- delegations or requirements for approval of decision-making that are set at inappropriate levels of seniority or are incorrectly applied
- inappropriate prioritisation or poor time management (potentially caused or exacerbated by productivity targets or Key Performance Indicators (KPIs))
- reliance on outdated technology or infrastructure that is no longer fit for purpose (including a failure to invest in maintenance and/or upgrade of existing systems)
- implementing and transitioning to new technology or infrastructure (including as a result of downtime, distraction and efficiency loss as staff come up to speed with the new tools)
- the absence of internal reporting mechanisms or designated responsibility for monitoring and escalating concerns around performance, workflow or other agency practices.

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<sup>11</sup> See, for example, Ombudsman of Ontario (2023) Investigation into whether the Ministry of the Attorney General, Tribunals Ontario and the Landlord and Tenant Board are taking adequate steps to address delays and case backlogs at the Landlord and Tenant Board <<https://www.ombudsman.on.ca/en/our-work/investigations/administrative-justice-delayed-fairness-denied>>



Inaction, inertia or a reluctance to respond when risk factors arise or an emerging backlog is identified can also reveal underlying problems in an agency's organisational culture.

## Risks of maladministration

The way an agency manages or fails to manage a backlog can constitute, cause or contribute to maladministration.

### Failing to adequately respond to a backlog

The failure to take appropriate action to manage a serious or persistent backlog can obviously constitute maladministration. However, a finding of maladministration can also be made when an agency unreasonably fails to identify and respond to the warning signs of an emerging backlog.

In many cases, frontline staff are uniquely positioned to identify shifts in demand for services and difficulties with meeting timeframes. This underscores the importance of establishing clear reporting lines for staff to escalate concerns regarding workflow at the earliest opportunity, as well as measures to capture and monitor trends in demand for an agency's services.

A well-functioning front-line complaint handling system can also be an important source of intelligence about emerging backlogs: an increase in complaints about inaction or service delays may be an early warning sign that a backlog is building.

The following case study illustrates some of the ways that agencies can fail to appropriately manage an emerging backlog.

#### Case study – A backlog in radiology reports (2025)

In October 2023, we received a public interest disclosure about the Sydney Local Health District's (SLHD) management of a backlog of unreported radiology scans within Concord Hospital's radiology department. This included approximately 50,000 scans where no final report had been prepared. Most of the backlog related to the reporting of x-rays, with some unreported scans that dated back several years. The risk to patient safety was deemed to be relatively low as most x-rays had been reviewed by staff or the patient's referring clinician, but simply lacked a radiologist's report.

Our investigation revealed that the causes of the backlog were multifactorial and complex. This included an increase in the number of scans performed due to technological advances and increased Emergency Department presentations; higher clinical workloads for radiologists that took time away from their reporting responsibilities; and challenges recruiting and retaining skilled staff, including a national shortage of radiologists.

We found that the SLHD failed, over a protracted period of several years, to address ongoing and unreasonable delays in reporting radiology studies at Concord Hospital. One of the primary reasons for our finding was that the SLHD had ample warning that a reporting backlog in radiology was accumulating, would worsen if not addressed, and therefore required strategic intervention. As early as 2019, radiology staff started raising concerns about the risk of a backlog and potential impacts on patients and staff wellbeing. However, the SLHD did not take effective steps to fully understand, monitor, eliminate or contain the growing backlog. It is therefore not surprising that the backlog increased dramatically from mid-2022. Despite some internal efforts, the backlog was not successfully managed by the SLHD until April 2023. Similarly, the SLHD did



not begin systematically identifying and addressing potential patient safety risks arising from the delayed reporting until 2023.

It was not until late 2024 that the backlog was largely resolved, after the SLHD outsourced some radiology reporting to the private sector. We recommended that the SLHD develop a forward-looking action plan to ensure existing resources and processes are fit for purpose to meet future radiology demand.

### Taking action that inadvertently results in maladministration

It is also important to ensure that any steps taken to address an existing backlog do not inadvertently cause or contribute to maladministration. For example, by leading to poor or rushed decision-making, compromising the quality of service provided, or a lack of transparency or obfuscation around an agency's progress in clearing a backlog.

Considerable risks arise when agencies implement 'quick fix' solutions to deal with backlogs. For example, by shifting from manual processes to automated decision-making without appropriate parameters, guidelines, and oversight to monitor the quality and consistency of decisions that are made.

Similarly, it is common for agencies facing backlogs to engage in a 'hiring blitz' to rapidly increase staffing, or to outsource their decision-making functions. These approaches can escalate the risk of poor or inconsistent outcomes as the people now responsible for decision-making may not have the requisite experience or expertise.

In some cases, agencies that have been overwhelmed by the demand for their services have introduced a means test or a higher threshold that must be met before their services can be engaged. This is generally intended to limit or reduce the scope of matters the agency will deal with and can be problematic when it leads to a denial of service or inappropriately constrains an agency's functions as set out in legislation.

The following case study demonstrates how practices that result in a denial of service can constitute maladministration – whether they are initiated in response to an emerging or existing backlog or as a pre-emptive measure to manage resource constraints.

#### Case study – Failure to meet statutory duty in the context of child protection (2025)

We recently investigated the conduct of the Department of Communities and Justice (DCJ). Under the *Children and Young Persons (Care and Protection) Act 1998* (NSW) (Care Act), DCJ is required to assess and investigate any report it receives that raises a reasonable suspicion that a child or young person is 'at risk of significant harm' (at ROSH). Our investigation applied particular scrutiny to DCJ's practice of closing ROSH reports citing 'no capacity to allocate' the matter to a caseworker for investigation.

This issue is longstanding. DCJ's practice of closing reports on this basis, or because the allocated caseworker has other 'competing priorities', can be traced back to the mid-1990s. In 2010, Parliament raised the threshold for reporting from 'risk of harm' to 'risk of *significant* harm' in an effort to direct DCJ's limited resources to the highest priority cases. However, despite changes to the reporting threshold and ongoing efforts by DCJ, this practice has continued.





According to data published in our *Protecting children at risk* (2024) report, in 2022–23, case closure occurred during the initial triage stage due to ‘no capacity to allocate’ for almost two-thirds (64%) of all the children DCJ considered were potentially at risk of significant harm. Only 25% of children reported to be at ROSH were seen by a caseworker.<sup>12</sup>

Our investigation assessed legislative alignment, quality of decision-making, transparency and the adequacy of DCJ’s response to ROSH reports. While we acknowledge the practical reality that DCJ operates within a context of limited resources, including funding and workforce challenges, we found that DCJ’s conduct involved maladministration. This is because closing ROSH reports when serious concerns persist about whether a child or young person is at ROSH is contrary to DCJ’s statutory duties under the Care Act.

## Unreasonable delays

A finding of maladministration could also be made against an agency when a backlog results in an unreasonable delay in performing its functions.

Determining what constitutes an ‘unreasonable delay’ is a complex matter. Though not directly applicable in NSW, the Federal Court’s comments on unreasonable delay provide some instructive guidance for agencies dealing with backlogs due to resource constraints. Firstly, in the absence of specified time limits, decisions required by statute are to be made within a reasonable time.<sup>13</sup> Secondly, determining whether a delay is unreasonable requires an assessment of all the circumstances.<sup>14</sup> Resourcing is a relevant consideration when determining whether a delay is unreasonable. However, an agency cannot simply rely on resourcing constraints as justification for a delay in making a statutory decision. There is a limit beyond which a delay becomes unreasonable, regardless of whether an agency is insufficiently resourced to perform its functions.<sup>15</sup>

The following case study provides an example of unreasonable delay and illustrates some of the ways that agencies can fail to appropriately manage a persistent backlog.

### Case study – Delays in processing mining applications (2023)

In 2012, we received a complaint about the Division of Resources and Geoscience (DRG)<sup>16</sup> involving delays in processing applications under the *Mining Act 1992* (NSW) (Mining Act). We made inquiries with DRG and established that it had no set timeframes or KPIs for determining mining applications. Significant delays were common and had led to a substantial backlog of applications, including some that dated as far back as 1989.

Between 2013 and 2017, we monitored DRG’s progress in addressing the backlog of applications and other administrative issues. Among other actions taken over this period, DRG implemented service delivery standards that set timeframes or KPIs for processing applications under the

<sup>12</sup> NSW Ombudsman (2024) *Protecting children at risk: An assessment of whether the Department of Communities and Justice is meeting its core responsibilities*, p 26 <<https://cmsassets.ombo.nsw.gov.au/assets/Reports/Protecting-children-at-risk-report-2024.pdf>>

<sup>13</sup> *Patrick v Australian Information Commissioner* [2024] FCAFC 93, [37].

<sup>14</sup> *Patrick v Australian Information Commissioner* [2024] FCAFC 93, [45].

<sup>15</sup> *Patrick v Australian Information Commissioner* [2024] FCAFC 93, [32].

<sup>16</sup> During the period covered by our investigation, the Division of Resources and Geoscience (DRG) went through several restructures and three machinery of government changes. In 2012, it was known as the Division of Resources and Energy and was located within the former Department of Industry (DoI). In April 2017, the division was transferred from DoI to the Department of Planning and Environment (DPE) and became known as the Division of Resources and Geoscience (DRG). In April 2020, the division then became part of the newly formed Department of Regional NSW (DRNSW), and became known as Mining, Exploration and Geoscience (MEG). For simplicity, we refer to the relevant division as ‘DRG’ for conduct that occurred prior to April 2020 and as ‘MEG’ for conduct that occurred after April 2020.



Mining Act, with the aim of improving timeliness and increasing accountability and transparency. They also began publicly reporting on their performance against the service delivery standards and their progress in reducing the backlog. The progress reports we were provided by DRG indicated significant improvements and backlog reduction.

Soon after we discontinued monitoring in 2017, we received a public interest disclosure from a former DRG staff member, followed by two further complaints, indicating that the backlog had not been reduced, that the progress reports had not been accurate, and that cultural and operational issues remained. We began an investigation in August 2019.

We found that DRG (by this stage known as Mining, Exploration and Geoscience (MEG)) had failed to address ongoing and unreasonable delays in processing applications under the Mining Act. These failures extended over a protracted period of at least a decade. It had also failed to keep and publish an accurate record of its progress in clearing the backlog. This had the effect that data made publicly available and provided to our office was at times inaccurate and misleading.

The backlog was not eliminated despite administrative efforts including:

- 3 projects dedicated towards clearing delayed applications
- 3 reviews conducted in 2014, 2017, and 2018/9 that consistently highlighted issues of ineffective leadership, high staff turnover, a lack of documented policies and procedures to guide staff, a reliance on manual processes, an inability to monitor workflow and delays implementing a case management system
- 2 organisational restructures aimed at addressing the structural factors contributing to the backlog.

The ongoing and persistent nature of the backlog suggested that there had been a failure to correctly identify and address its causal factors. It also demonstrated that further improvements were needed.

We recommended the expansion of a root cause analysis already underway to identify the causal factors behind the ongoing backlog, that MEG continues to review and update all relevant policies and procedures, and that it continues to report on its progress to reduce the backlog.

## Helpful approaches to backlog management

Effective backlog management will typically require short term measures to contain the backlog and deal with the immediate ‘symptoms’, and a longer-term commitment to identify and address underlying causal factors. This is essential to ensure that a backlog does not re-emerge in the future.

Depending on the circumstances, agencies could consider adopting the following measures that can be implemented in the short term while a longer-term approach to backlog management is underway.

### Triage and prioritisation

A characteristic of many backlogs is that matters sit in a single queue and are actioned based on the order that they were received by the agency. However, this may not always be an appropriate course of action, depending on the nature of the matters sitting in the backlog. There may be cases





where it is justifiable or necessary to action some matters before others. For example, where there is a risk to the health or wellbeing of a complainant if the resolution of their matter is delayed.

Where possible, agencies should introduce a triaging mechanism to categorise matters into different work streams, depending on the urgency with which they should be actioned. This should be a relatively swift determination based on the information available, rather than a comprehensive or detailed assessment of each matter. Staff exercising the triaging function should be given clear guidance on how to differentiate between matters, including the key factors or characteristics that help identify priority matters for urgent action.

### **Active monitoring**

Agencies should introduce an end-to-end case management system for active monitoring of progress in backlog reduction across all stages in the workflow.

This should enable visibility over the backlog as a whole and cases under management (active and on hold) through to case resolution – i.e. how many matters are at each stage in the workflow at any point in time, as well as the average length of time that matters have remained at the same status. It should also enable visibility of progress at an individual case level – i.e. the number of days a particular matter is unallocated, with a case officer, awaiting supporting documentation, etc.

Similarly, the introduction of regular audits across different agency functions could help identify emerging trends and issues as they arise.

### **Visibility at senior leadership level**

The responsibility for addressing a backlog ultimately rests with an agency's senior leadership. Firstly, leaders have a significant role to play in setting expectations, motivating staff, and championing backlog reduction as an agency-wide priority. This includes celebrating success when milestones have been met.

Agencies should also put in place mechanisms to ensure ongoing visibility and accountability at senior leadership level. For example, identifying target timeframes for backlog reduction accompanied by regular public reporting on progress, and introducing progress updates on backlog reduction as a standing agenda item during executive meetings.

### **Communication**

Finally, one of the most important practices in effective backlog management is transparent communication. Even when delays are long, clear communication with complainants or stakeholders about anticipated timeframes and a commitment to providing regular updates on the status of their matter will help to reduce uncertainty and manage expectations.

## **Concluding comments**

While backlogs are an inherent risk in a public sector context, it is critically important to take steps to avert a potential backlog or manage an existing backlog at the earliest opportunity. It is never a good idea to bury one's head in the sand and fail to act when faced with warning signs, especially across multiple pressure points. An emerging backlog is almost always easier to address, with less intensive and more cost-effective interventions, than a backlog that has been allowed to expand exponentially.



When faced with backlogs, agencies still need to ensure they continue to adhere to the principles of good administrative practice. While it is necessary to avoid any unreasonable delays, agencies must not sacrifice the lawful, diligent and fair exercise of their functions in the pursuit of timeliness.

And, once a backlog has been resolved, agencies should take the opportunity to reflect and learn, and to consider what longer-term strategies and mitigations may be needed to avoid a backlog recurring in the future.

