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## Introduction

This Agency Information Guide brings together information about what we do and the government information that we hold. Its purpose is to better inform the public about the NSW Ombudsman's office, including in particular the information we make publicly available (and how that can be accessed) as well as other information we hold and whether we can or cannot make that available.

Under the [Government Information \(Public Access\) Act 2009](#) (GIPA Act), all NSW public sector agencies must make a guide of kind and make it available to the public. The object of the GIPA Act is to open government information to the public by—

- (a) authorising and encouraging the proactive public release of government information by agencies, and
- (b) giving members of the public an enforceable right to access government information, and
- (c) providing that access to government information is restricted only when there is an overriding public interest against disclosure.

## Our structure and functions

The NSW Ombudsman's Office – led by the NSW Ombudsman – is an independent integrity agency which pursues fairness for the people of NSW. We strive to ensure that those entrusted with public power and resources fulfil their responsibilities and treat everyone fairly.

The current NSW Ombudsman is Paul Miller. The Ombudsman is supported by our executive team, which includes Monica Wolf, Chief Deputy Ombudsman and Chris Clayton, Chief Operating Officer.

The principal legislation we operate under is:

- [Ombudsman Act 1974](#) (Ombudsman Act)
- [Community Services \(Complaints, Reviews and Monitoring\) Act 1993](#) (CS CRAMA)
- [Public Interest Disclosures Act 2022](#) (PID Act)
- [Mandatory Disease Testing Act 2021](#) (MDT Act).

We undertake a range of activities in addition to our traditional role of dealing with complaints about government agencies.

Statutory functions are conferred under the above legislation on the Ombudsman. Under the [Government Sector Employment Act 2013](#), the Ombudsman's office is established as a separate (i.e. independent) public sector agency to support the Ombudsman in the exercise of their functions. The Ombudsman is the head of agency for the Ombudsman's office and exercises all of the employment functions in respect of executive and non-executive staff employed in the Office.

## Our statutory functions

### Complaint-handling

We receive complaints over the phone, in person or in writing including via our online complaint form. Any person can complain to us about:

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

We can also receive and deal with Public Interest Disclosures (PIDs) about serious wrongdoing in the public sector reported to us by public officials under the PID Act. Such a disclosure could be both a PID (under the PID Act) and a complaint (under the Ombudsman Act).

We can generally deal with complaints about conduct relating to a matter of administration of:

- NSW state government departments
- local health districts, health specialty networks and hospitals
- public schools, TAFE NSW and other statutory education bodies
- other NSW government entities in our jurisdiction, which include:
  - NSW Government agencies such as Fire and Rescue NSW and Office of Sport
  - statutory bodies such as NSW Trustee and Guardian, Rental Bond Board, Health Care Complaints Commission, NSW Land and Housing Corporation, Service NSW, the Art Gallery of NSW and other NSW cultural agencies
  - state-owned corporations such as Sydney Water, WaterNSW, Essential Energy and Landcom
  - public universities established under NSW legislation.
- local government
- custodial services
- community service providers.

We cannot receive or deal with complaints about Ministers and members of Parliament, Judges and the Courts, Tribunals and other officers who conduct inquiries where witnesses must appear, or the NSW Police.

### Own motion matters

We can examine conduct of the agencies and officials referred to above even if we have not received a specific complaint about that conduct. Inquiries or investigations initiated by us (‘own motion’ matters) can arise from information that comes to our attention through a range of means including our various monitoring functions and our community engagement activities.

### Investigation

Most complaints we receive do not result in an ‘investigation’ under the Ombudsman Act. Generally, only those complaints or own motion inquiries that identify potentially serious or systemic maladministration and/or that we decide cannot be appropriately dealt with by other actions (such as conciliation or less formal inquiries) are likely to be considered for investigation. Investigations may result in findings of wrong conduct and may include recommendations for action.

## Review of agencies' complaint-handling systems

Public authorities and community service providers will have their own systems for handling complaints, and their own complaint management systems. We usually expect people to contact the agency first about their complaint before making a complaint to us. If this is hard to do or someone does not feel safe doing this, we help them. Complaints often come to us because an agency's systems have failed to result in a satisfactory resolution of the complaint.

As well as handling individual complaints, under the Ombudsman Act (for public authorities) and CS CRAMA (for service providers), we are able to conduct a review into an organisation's complaint handling system to ensure it is functioning effectively, fairly and in accordance with good practice.

## Monitoring and assessment of Aboriginal programs

We have an express legislative function to monitor and assess designated 'Aboriginal programs'. The Deputy Ombudsman, Aboriginal Programs leads this function.

Under [Part 3B](#) of the Ombudsman Act we have responsibility for overseeing OCHRE (Opportunity, Choice, Healing, Responsibility, Empowerment) — the NSW Government's overarching plan for Aboriginal affairs, which was launched in April 2013 and is coordinated by the Premier's Department (Aboriginal Affairs NSW).

OCHRE commits the NSW Government to working with, and in support of, Aboriginal communities by building strong working partnerships which have at their heart respect for local Aboriginal culture, leadership and decision-making.

Our office monitors and assesses OCHRE by, among other things, engaging with key stakeholders, visiting communities and attending community forums. We then provide feedback to OCHRE agencies and partners to enable them to address any issues raised early on, adopt good practices and achieve the plan's goals.

We also table public reports on OCHRE in Parliament as required. This is an important part of the accountability framework for OCHRE and an Australian first as NSW was the first to establish a dedicated Ombudsman oversight function for Aboriginal programs, and the first to provide for the appointment of an Aboriginal Deputy Ombudsman.

## Oversight of public interest disclosures scheme

Public interest disclosures (PIDs) may be made to the Ombudsman's office. Generally, the Ombudsman's office will deal with PIDs relating to alleged serious maladministration of an agency that we oversight. The Ombudsman also has a broader responsibility to oversight the PID Act generally. The PID Act commenced on 1 October 2023, replacing the previous *Public Interest Disclosures Act 1994*. We had similar functions under the previous Act.

Our functions under the PID Act include:

- to promote public awareness and understanding of the PID Act and to promote its objectives
- to provide information, advice, assistance and training to public authorities, investigating authorities and public officials on any matters relevant to the PID Act
- to issue guidelines and other publications to assist public authorities, investigating authorities and public officials
- to monitor and provide reports to Parliament on the exercise of functions under the PID Act and compliance with the PID Act by public authorities

- to audit and provide reports to Parliament on the exercise of functions under the PID Act and compliance with the PID Act by public authorities
- to provide reports and recommendations about proposals for legislative and administrative changes to further the objectives of the PID Act.

The Ombudsman also chairs and provides secretariat support to the PID Steering Committee which provides advice on the operation of the PID system and on possible legislative reforms.

## Community services monitoring, reviews and inquiries

Under CS CRAMA we monitor and review the delivery of ‘community services’. This includes community services that are provided by the non-government sector with funding or authorisation from the NSW Government’s community services portfolio.

We can:

- if necessary, review, on application or on the Ombudsman’s initiative, the situation of a particular child or a person in care (or a particular group of children or people in care)
- monitor and review the delivery of community services, inquire into matters affecting service providers and receivers and make recommendations for improvements in the delivery of community services
- review and report on the systems of community service providers for handling complaints.

## Mandatory disease testing

We monitor and report on the operation and administration of the MDT Act including how agencies exercise their functions under the Act. The Act provides for the mandatory blood testing of a person. This can occur when:

- the person’s bodily fluid comes into contact with a health, emergency or public sector worker,
- that was the result of the person’s deliberate action, and ,
- the worker may be at risk of contracting a blood-borne virus.

Agencies must notify us after determining a mandatory testing order application. The Chief Health Officer must also notify us following determination of a review.

## Reviewing the deaths of children

Under [Part 6](#) of CS CRAMA, we review deaths of children who were in care or detention, and children who died as a result of abuse or neglect, or whose death occurred in circumstances suspicious of abuse or neglect.

Under [Part 5A](#) of CS CRAMA we also convene and support the NSW Child Death Review Team (CDRT) which examines and maintains a register of all deaths of children in NSW and undertakes research to prevent or reduce the risk of child deaths in the future.

## Monitoring the segregation of detainees in youth detention

Under the [Children \(Detention Centres\) Regulation 2015](#), Youth Justice is required to notify us if a young person in detention is segregated for more than 24 hours. We are also notified if a young person is separated for more than 24 hours (for example, because of medical advice). These notifications allow us to examine the circumstances of the segregation or separation and to make inquiries if appropriate.

## Public reports to Parliament

We are required to make various annual and other periodic reports to Parliament in respect of specific functions. These include:

- an annual report on our work overseeing the PID Act
- a report every 3 years on our work monitoring the operation of the MDT Act
- an annual report on our work convening the CDRT
- a report every 2 years that analyses the deaths of children in NSW.

Under [section 31](#) of the Ombudsman Act, we can also make special reports to Parliament at any time on any matter arising in connection with the discharge of any of the Ombudsman’s functions.

Any report we make to Parliament that is published by Parliament is also published on our website.

## Supporting our functions

### Encourage good administration in the public sector

We provide advice, training and resources to agencies we oversight to identify and encourage good administrative practice.

### Community engagement

We run and participate in events and forums across NSW to raise awareness about our role and services.

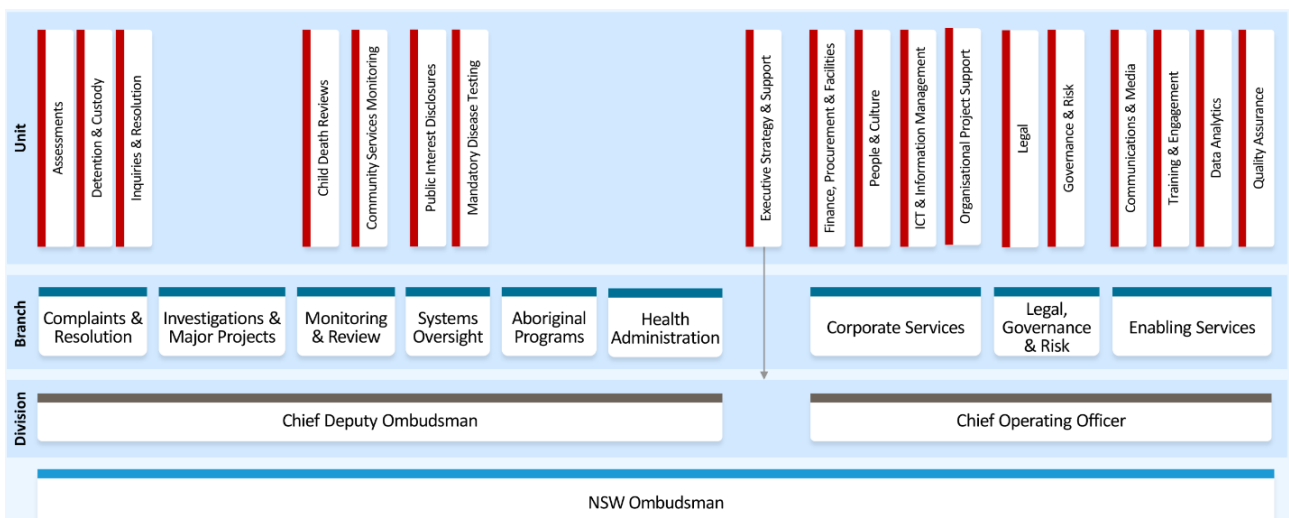
### Website and social media

We maintain a website ([www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)) to inform the public, agencies and other stakeholders about our functions and where we publish our public reports and other resources. The website includes our online complaint form for the making of complaints to our office.

We also maintain social media accounts ([Linkln](#), [Facebook](#), [X](#) and [Youtube](#)) to help in providing current information about our activities and other topics of interest.

## Our structure

Our organisational structure is set out below.





## Oversight of the NSW Ombudsman

The Parliamentary Joint Committee on the Ombudsman, the Law Enforcement Conduct Commission and the New South Wales Crime Commission scrutinises our work and performance, and ensures we are accountable to the people of NSW.

Information about the Committee, including transcripts of its hearings, is on the NSW Parliament website ([www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au)).

## How our functions affect the NSW Public

Our Strategic Plan sets out the key outcomes we want to achieve in our work to do this:

- **Outcome 1:** Complaints to us are resolved effectively and individuals are satisfied with our service
- **Outcome 2:** Public authorities and community service providers are held to account for serious wrong conduct
- **Outcome 3:** Improvements in public administration and community services delivery occur as a result of our work
- **Outcome 4:** Parliament gets support from us in the exercise of its functions

We engage with agencies and service providers in various ways to achieve these outcomes.

We can review, monitor or keep under scrutiny how agencies and community service deal with complaints to ensure that they are properly dealt with.

In our complaints and investigations jurisdiction, we engage with agencies and community service providers about complaints we receive, and may make preliminary inquiries to clarify the issues. Our engagement can encourage timely resolution of complaints by an agency or provider of its own accord, such as reconsidering their decisions and conduct, or taking steps to better engage with and inform their clients. We may also assist complainants and agencies to reach a satisfactory resolution by dealing with a complaint by way of a conciliation process.

We may also decide to investigate the conduct of an agency or provider including in circumstances where a complaint cannot otherwise be resolved. We will independently examine and decide whether an agency or provider's actions and decision may have been:

- contrary to law,
- unreasonable, unjust, oppressive or discriminatory,
- in accordance with established law or practice that are themselves unreasonable, unjust, oppressive or discriminatory,
- based wholly or partly on improper considerations, irrelevant grounds, irrelevant consideration, mistake of fact or law
- conduct for which reasons should have been given but were not given
- otherwise wrong.

Where we find such conduct following an investigation, we report to the relevant agency or service provider and to relevant Minister, making findings and recommendations.

We also make reports to Parliament on a range of matters, including any matter arising in connection with the discharge of the Ombudsman’s functions. These reports are available to the public for free via our website.

## Public and community engagement

### Feedback and complaints about us

We welcome feedback and complaints about how we deal with matters people bring to us, and have information about how to provide this on our [website](#). We use feedback and complaints to help us understand what we are doing well and where we may need to improve our services.

### Engaging with the community

We are committed to serving all people and communities in NSW. Throughout the year, we undertake community engagement activities across NSW to promote community awareness of the right to bring complaints to us.

Our [Community Engagement Strategy](#) outlines our approach to connecting with the diverse range of people and communities in NSW. The strategy focuses our efforts to particular communities that may benefit from additional support to access our services, including:

- Aboriginal people and communities
- people from culturally and linguistically diverse communities including newly arrived migrants and refugees
- people in or recently released from custody
- children and young people
- people with disability.

Our aim is to demonstrate and further develop our commitment to listening, providing accurate and meaningful information, and engaging with members of the public and communities across NSW.

## Kinds of government information held

The following describes the different kinds of government information held by the NSW Ombudsman. Some of these categories overlap because some information will fall into more than one category.

1. **Public information** – this is information we have published, typically by making a report to Parliament or otherwise on our website. This information is freely available at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).
2. **Personal information** – This is information or an opinion about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. Exceptions to this definition include information that is contained in publicly available publications, and health information.
3. **Health information** – This is personal information:
  - a. that is information or an opinion about an individual’s physical or mental health or disability, their express wishes about the future provision of health services to them, or a health service that has or will be provided to them

- b. collected to provide, or in providing, a health service to an individual, or
  - c. about an individual collected in connection with the donation, or intended donation, of an individual's body parts, organs or body substances. Certain genetic information, and healthcare identifiers, are also 'health information'.
4. **Ombudsman information** – This is information obtained or created when exercising complaint handling, investigative, monitoring or review functions under Ombudsman Act Part 3, CS CRAMA, or *Royal Commissions Act 1923* Part 2 Div 1, and CDRT functions under CS CRAMA Part 5A. Much of this information will also be personal information or health information.
  5. **Employee information** – This is information about statutory officers and staff of the Office relating to their employment. Some of this information will also be personal and health information.
  6. **Government/Parliament information** – This is information from or about government agencies (other than Ombudsman information) or the NSW Parliament. It is usually not personal or health information, but there may be other obligations to keep it secret or confidential (for example, it may be Cabinet in Confidence).
  7. **Office information** – This is information about entities that the Office contracts with, such as IT software providers. It is usually not personal or health information, but may be protected by contractual confidentiality.

## Information access

### Open access information

The NSW Ombudsman pro-actively makes available information described as “open access information” under the GIPA Act.

The following table sets out this information and where it may be found. This open access information is made available free of charge:

Type of open access information	Where found
this agency information guide	This document ( <a href="http://www.ombo.nsw.gov.au">www.ombo.nsw.gov.au</a> )
information about us contained in any document tabled in Parliament by or on our behalf (other than documents tabled by order of either House of Parliament)	On our website in the <a href="#">Publications</a> section ( <a href="http://www.ombo.nsw.gov.au/Find-a-publication">www.ombo.nsw.gov.au/Find-a-publication</a> )
our policy documents	On our website in the <a href="#">Policies</a> section ( <a href="http://www.ombo.nsw.gov.au/about-us/who-we-are/policies">www.ombo.nsw.gov.au/about-us/who-we-are/policies</a> )
our disclosure log of access applications under the GIPA Act	On our website in the <a href="#">Access to information</a> section ( <a href="http://www.ombo.nsw.gov.au/about-us/access-to-information">www.ombo.nsw.gov.au/about-us/access-to-information</a> )
our register of our government contracts	See our contracts with the private sector valued over \$150,000 on the NSW Government <a href="#">eTendering website</a> . ( <a href="http://www.tenders.nsw.gov.au">www.tenders.nsw.gov.au</a> )

Type of open access information	Where found
our record of any open access information (if any) that is not made publicly available on the basis of an overriding public interest against disclosure	Nil issued
any advertising compliance certificates issued by the Ombudsman under the <i>Government Advertising Act 2011</i> .	Nil issued

The NSW Ombudsman produces a range of publications including general information for the public, guidelines for agencies and organisations we oversight, discussion papers seeking information from the public, annual reports outlining the work we have done during the financial year and special reports to Parliament about public interest issues. Some of our publications are also available in languages other than English.

The types of information include the following:

Current and historical Information relating to our functions we currently hold:

- [Annual reports](#)
- [Strategic plan](#)
- [Multicultural plan](#)
- [NSW Child Death Review Team annual reports, Reviewable Child Death reports \(up to 2015\), Biennial Reports \(CDRT and Reviewable Child Deaths\) \(since 2016\)](#)
- [Oversight of the PID Act 1994 annual reports \(up to 2023\)](#)
- [Public Interest Disclosures Steering Committee annual reports \(up to 2022\)](#)
- [Reports following investigations](#)
- [Aboriginal programs \(reviews and monitoring\) reports](#)
- [Community Services \(reviews and monitoring\) reports](#)
- [Submissions to parliamentary committees and other bodies](#)
- [Fact sheets](#)
- [Posters and brochures](#)
- [In focus papers](#) and other occasional papers.

Historical information relating to functions we no longer hold:

- [Reviewable deaths of people with disability \(up to 2022\)](#)
- [Annual Reports of the Official Community Visitors \(2004 to 2019\)](#)
- [Police and Law Enforcement reports \(before 2017\)](#)<sup>1</sup>

<sup>1</sup> As noted above, the Ombudsman cannot handle complaints or investigate the conduct of the NSW Police Force or its members. It was able to do so before 2017.

## Access to other government information held by the Ombudsman

If you cannot find the information you're looking for on our website, contact our Right to Information Officer on (02) 9286 1000 or [legal@ombo.nsw.gov.au](mailto:legal@ombo.nsw.gov.au).

We encourage you to contact our Right to Information Officer before submitting a formal access application under the GIPA Act. They will let you know if the information you are looking for is already publicly available and help you find it free of charge. If it is not publicly available, they can let you know if you can make an application for it under the GIPA Act. Information about making an application may be found on our website under the [Access to information](#) section ([www.ombo.nsw.gov.au/about-us/access-to-information](http://www.ombo.nsw.gov.au/about-us/access-to-information)).

## Information not available to the public

Our office handles personal and sensitive information. We are also required by law to handle complaints and conduct investigations in the absence of the public.

The *Ombudsman Act 1974* does not allow us to disclose information publicly except in specific ways. The main way is when we table a report in Parliament.

For these reasons, information relating to our investigative, complaint handling and reporting functions is 'excluded' from the GIPA Act. This includes our functions relating to community services.

This means that you cannot apply to access this excluded information under the GIPA Act.