



# OMBUDSMAN FOR THE NORTHERN TERRITORY OF AUSTRALIA

## Thirty Second Annual Report 2009-10

*The Honourable Paul Henderson, MLA Chief Minister  
Parliament House  
DARWIN NT 0800*

*Dear Chief Minister*

*In accordance with the provisions of Section 152 of the Ombudsman Act 2009, the Annual Report on the Office of the Ombudsman for the year ending 30 June 2010 is submitted to you for tabling in the Legislative Assembly.*

*Yours sincerely*

A handwritten signature in black ink, appearing to read 'Carolyn Richards'.

*Carolyn Richards  
Ombudsman*

*30 October 2010*

Enquiries about this report, or any of the information or references contained within, should be directed to:

Julie Carlsen  
Deputy Ombudsman  
GPO Box 1344  
DARWIN NT 0801

Telephone: 08 8999 1818 or 1800 806 380 (toll free except mobiles)  
Facsimile: 08 8999 1828  
Email: [nt.ombudsman@nt.gov.au](mailto:nt.ombudsman@nt.gov.au)  
Website: <http://www.ombudsman.nt.gov.au>

## STATEMENT OF ACCOUNTABLE OFFICER

I advise in respect of our duties as Accountable Officers, and to the best of my knowledge and belief:

- a. proper records of all transactions affecting the Office were kept and employees under my control observed the provisions of the *Financial Management Act*, the *Financial Management Regulations* and Treasurer's Directions;
- b. procedures within the Office afforded proper internal control, and a current description of these procedures can be found in the Accounting and Property Manual which has been prepared in accordance with the *Financial Management Act*;
- c. no indication of fraud, malpractice, major breach of legislation or delegations, major error in or omission from the accounts and records existed;
- d. in accordance with Section 15 of the *Financial Management Act* the internal audit capacity available to the Office is adequate and the results of internal audits were reported to me;
- e. the financial statements included in this Annual Report have been prepared from proper accounts and records and are in accordance with Part 2, Section 5 of the Treasurer's Directions where appropriate; and
- f. all actions have been in compliance with all Employment Instructions issued by the Commissioner for Public Employment.

In addition, I advise that in relation to items (a) and (e) the Chief Executive (CE) of Department of Business and Employment (DBE) has advised that to the best of his knowledge and belief, proper records are kept of transactions undertaken by DBE on my behalf, and the employees under his control observe the provisions of the *Financial Management Act*, the *Financial Management Regulations* and Treasurer's Directions.

The CE of DBE also advises all financial reports prepared by DBE for this Annual Report, have been prepared from proper accounts and records and are in accordance with Treasurer's Directions Part 2, Section 5 and Part 2, Section 6, where appropriate.



CAROLYN RICHARDS  
Ombudsman  
30 October 2010

<b>1. INTRODUCTION AND OVERVIEW.....</b>	<b>6</b>
<b>OMBUDSMAN FOREWORD .....</b>	<b>6</b>
<b>A YEAR IN REVIEW .....</b>	<b>7</b>
<i>Separation of Offices.....</i>	<i>7</i>
<i>Achieving Results.....</i>	<i>7</i>
<i>Certificate IV in Government (Investigations) .....</i>	<i>8</i>
<i>Ombudsman Act 2009 .....</i>	<i>9</i>
<i>The Future.....</i>	<i>9</i>
<i>Financial Pressures.....</i>	<i>9</i>
<i>Key Performance Indicators.....</i>	<i>9</i>
<i>Final Comments .....</i>	<i>10</i>
<b>2. ABOUT THE OFFICE OF THE OMBUDSMAN.....</b>	<b>12</b>
<b>FUNCTIONS OF THE OMBUDSMAN .....</b>	<b>12</b>
<b>OMBUDSMAN SERVICE STANDARDS .....</b>	<b>12</b>
<b>ORGANISATIONAL STRUCTURE.....</b>	<b>13</b>
<b>STAFFING ESTABLISHMENT .....</b>	<b>13</b>
<i>Current Establishment.....</i>	<i>14</i>
<i>Anticipated Establishment after separation of the HCSCC.....</i>	<i>14</i>
<b>3. PERFORMANCE .....</b>	<b>16</b>
<b>OVERALL PERFORMANCE .....</b>	<b>16</b>
<b>ACTIVITY 1: RESOLUTION OF COMPLAINTS .....</b>	<b>18</b>
<b>OUTPUTS .....</b>	<b>18</b>
<b>TOTAL APPROACHES .....</b>	<b>18</b>
<b>ENQUIRIES.....</b>	<b>20</b>
<i>Enquiries Overview .....</i>	<i>20</i>
<i>Outside Jurisdiction Enquiries.....</i>	<i>22</i>
<b>COMPLAINTS .....</b>	<b>23</b>
<i>Complaints Overview .....</i>	<i>23</i>
<b>NORTHERN TERRITORY AGENCIES (EXCLUDING NT POLICE) .....</b>	<b>25</b>
<i>Issues Complained About.....</i>	<i>25</i>
<i>Outcomes of Finalised Complaints .....</i>	<i>26</i>
<i>Case Studies.....</i>	<i>27</i>
<b>NORTHERN TERRITORY POLICE .....</b>	<b>42</b>
<i>Issues Complaint About.....</i>	<i>42</i>
<i>How Complaints were finalised.....</i>	<i>42</i>
<i>Engagement with Police .....</i>	<i>45</i>
<i>Issues Regarding Protective Custody.....</i>	<i>46</i>
<i>NAAJA Query.....</i>	<i>48</i>
<i>Case Studies.....</i>	<i>49</i>
<b>ACTIVITY 2: IMPROVE THE DELIVERY OF SERVICES.....</b>	<b>56</b>
<b>OUTPUTS .....</b>	<b>56</b>
<b>HIGHLIGHTS.....</b>	<b>56</b>
<b>LOWLIGHTS .....</b>	<b>56</b>
<b>ACTIVITY 3: INSPECTION OF NT POLICE RECORDS .....</b>	<b>60</b>
<b>OUTPUTS .....</b>	<b>60</b>
<b>OVERSIGHT FUNCTION .....</b>	<b>60</b>
<i>Telecommunications (Interception) Northern Territory Act.....</i>	<i>60</i>
<i>Surveillance Devices Act 2007 .....</i>	<i>60</i>
<b>ACTIVITY 4: ACCESS AND AWARENESS.....</b>	<b>64</b>
<b>OUTPUTS .....</b>	<b>64</b>
<b>HIGHLIGHTS.....</b>	<b>64</b>

<i>Meetings and Conferences</i> .....	64
<i>Written Material</i> .....	66
ACTIVITY 5: MANAGEMENT OF THE OFFICE OF THE OMBUDSMAN.....	68
OUTPUTS .....	68
HIGHLIGHTS.....	68
<i>Corporate Governance</i> .....	68
<i>Equal Opportunity</i> .....	68
<i>Training and Development</i> .....	69
<i>Occupational Health and Safety</i> .....	69
<i>Annual Insurance Reporting Requirements</i> .....	70
<i>Information Act Annual Reporting Requirements</i> .....	70
<i>Records Management</i> .....	70
<b>4. APPENDICES.....</b>	<b>74</b>
APPENDIX A – ACCESS AND AWARENESS.....	74
APPENDIX B – STAFF SATISFACTION SURVEY .....	75
APPENDIX C – FREEDOM OF INFORMATION.....	79
<i>Introduction</i> .....	79
<i>Information held by the Office of the Ombudsman</i> .....	79
<i>Disclosure of Information</i> .....	81
<i>Procedures for Providing Access to Information</i> .....	81
APPENDIX D – SERVICE STANDARDS.....	82
APPENDIX E – AGREEMENTS WITH OTHER JURISDICTIONS .....	85
<i>Memorandum of Understanding between the Commonwealth Ombudsman</i> <i>and the Ombudsman for the Northern Territory November 2009</i> .....	85
<i>Public Interest Disclosure Act Memorandum of Understanding</i> .....	90
APPENDIX F – FINANCIAL STATEMENTS .....	93
<b>5. HOW TO CONTACT THE OMBUDSMAN .....</b>	<b>113</b>

# Ombudsman Ombudsman

## Introduction and Overview

OMBUDSMAN FOREWORD .....	6
A YEAR IN REVIEW .....	7
<i>Separation of Offices</i> .....	7
<i>Achieving Results</i> .....	7
<i>Certificate IV in Government (Investigations)</i> .....	8
<i>Ombudsman Act 2009</i> .....	9
<i>The Future</i> .....	9
<i>Financial Pressures</i> .....	9
<i>Key Performance Indicators</i> .....	9
<i>Final Comments</i> .....	10

# Ombudsman

## 1. INTRODUCTION AND OVER VIEW



PO BOX 1344  
Darwin NT 0801  
PH: 89991818  
Fax: 89991828  
Toll Free: 1800 806 380

30 October 2010

### OMBUDSMAN'S FOREWORD

The 2009/2010 financial year is the 32<sup>nd</sup> anniversary of this Office. The purpose of this report is to provide Members of the Legislative Assembly, and the people of the Northern Territory, with detailed information on the activities of the Northern Territory Ombudsman.

In the reporting period 2009/10 the Ombudsman performed oversight functions on the activities of government agencies, public servants, shire councils, Power and Water Corporation, Police and Correctional Services.

This report accounts to the Legislative Assembly for the resources allocated to the Ombudsman, for the exercise of the power of the Ombudsman to improve public administration and good governance, and to resolve grievances for the public. In addition, the report illustrates the process through which the Ombudsman has contributed to public accountability during the reporting period.

This report was required to be delivered to the Chief Minister by 30 September 2010 for tabling in the Legislative Assembly. I acknowledge my responsibility for the delay and offer my regret and apologies to the Members of the Legislative Assembly for any apparent disrespect. The default was mainly due to a defect that developed in our database resulting in statistics having to be collated manually. The delay was exacerbated by workload pressure.

Much has been achieved in 2009/10 and the culmination of several major investigations over many months will be reports completed in 2010/11, some probably before this Annual Report is tabled.

The Ombudsman is an institution vital to the operation of a robust democracy, particularly one that has aspirations to achieve Statehood in the Commonwealth of Australia and I trust that this report records how and why the universal yearning of the human spirit for justice and fairness is served for the people of the Northern Territory by the Ombudsman.

A handwritten signature in black ink, appearing to read 'Carolyn Richards'.

CAROLYN RICHARDS  
OMBUDSMAN

## A YEAR IN REVIEW

---

This reporting period has seen a small increase in the activities of the Ombudsman. Numerically the number is not significant 2540 (2009/10) compared to 2388 (2008/9) but the increased complexity of services and issues and a demand for fast low cost dispute resolution cannot be measure by numbers only.

### Separation of Offices

On 28 August 2010 the Office of the Ombudsman separated from the Health & Community Services Complaints Commission (HCSCC). The Ombudsman's contract as the HCSCC Commissioner expired. The Ombudsman did not seek re-appointment for the reasons explained in the last two Annual Reports of the HCSCC. A temporary appointment to fill the position has been made. The HCSCC, from 2 January 2011, no longer operates as an independent entity and has become a division of the Department of Justice.

Historically the positions of Ombudsman and Commissioner were held by one executive. With a substantial increase in functions and duties of both offices this option is no longer viable. The substantial erosion of the independence of the Health and Community Services Complaints Commission by amalgamating it with the Department of Justice is regrettable.

### Achieving results

Taking a more consultative and informal approach to our work has led to some excellent results in resolving complaints. More opportunity to conduct major investigations into serious administrative failure, which is the long term aspirational goal of the Ombudsman, was possible. Three major investigation reports should be released in the next financial year.

### Customer Satisfaction Survey's

Satisfaction surveys are sent to numerous customers, the majority of these surveys are not returned. However on occasion returned surveys have provided suggestions on how this Office can improve its service. In the majority these surveys indicate that my Office is performing well. One returned survey strongly agreed that this Office was accessible, timely, fair, independent and professional. One customer's comment about our service was:

*"I would like to thank everyone within the Ombudsman's office. Keep up the good work!! Someone needs to keep the Government departments honest, and you're doing a fantastic job!!"*

It is not always the case that this Office can provide the outcome a customer is seeking although employees have demonstrated that they will do their best to achieve better public administration. It is the government agencies, their executive and staff that must effect change and the implementation of the Ombudsman's recommendations is in their hands.

### Staff Satisfaction Survey's

In February 2010 this Office conducted an internal staff satisfaction survey. This survey was modified from one conducted by the Commissioner for Public Employment across all government agencies. Below is a summary of the results. A full listing of the survey questions and responses can be found at Appendix C. Eleven staff from an eligible nineteen responded.

#### **PRINCIPLES OF THE NTPS CODE OF CONDUCT ARE UPHELD**

Agree / Yes 100% Disagree/No 0%

#### **COMMUNITY SERVICE & FAIRNESS**

Agree / Yes 100% Disagree/No 0%

### **ACCOUNTABLE FOR ACTIONS & PERFORMANCES**

Agree / Yes 97% Disagree/No 3%

### **EMPLOYMENT BASED ON MERIT**

Agree / Yes 95% Disagree/No 5%

### **POOR PERFORMANCE MANAGED – GOOD REWARDED**

Agree / Yes 97% Disagree/No 3%

### **EQUITY IN EMPLOYMENT**

Agree / Yes 96% Disagree/No 3% Not Applicable 1%

### **FLEXIBLE WORKPLACE**

Agree / Yes 91% Disagree/No 3% Not Applicable 6%

### **FAIR INTERNAL REVIEW SYSTEM**

Agree / Yes 91% Disagree/No 9%

### **REWARDING WORKPLACE**

Agree / Yes 100% Disagree/No 0%

### **APOLITICAL, IMPARTIAL & ETHICAL**

Agree / Yes 100% Disagree/No 0%

### **QUALITY LEADERSHIP**

Agree / Yes 98% Disagree/No 2%

### **DISCRIMINATION FREE & DIVERSITY RECOGNISED**

Agree / Yes 95% Disagree/No 3% Not Applicable 2%

### **EMPLOYEE CONSULTATION & INPUT ENCOURAGED**

Agree / Yes 98% Disagree/No 2%

### **SAFE WORKPLACE**

Agree / Yes 96% Disagree/No 4%

## **Certificate IV in Government (Investigations)**

Another two nationally accredited courses were run, one in 2009 and the other early 2010. This Office is the only Northern Territory government agency currently offering this training. The training focuses on administrative, civil and criminal law.

In the past, interstate providers have been required to travel to the NT to deliver the accreditation at a higher cost than offered by my Office and without customisation to local conditions. The alternative is government employees travelling interstate at substantial cost to their agency.

It is unfortunate that due to staffing shortages, next financial year my Office may not be able to continue to offer this training. This is a regrettable loss to the Northern Territory Public Service and to the improvement of public administration generally in the Northern Territory.

### **Feedback from a course participant**

*“Housing Services, formally known as Territory Housing, has a very difficult task in dealing with complaints regarding public housing tenants from the general community at large. Ensuring staff have the right skills in dealing with these matters is paramount but finding a course that dealt with all areas of investigation pertaining to Government are or I should say were hard to come by. The Cert IV in Government Investigations run by the Office of the Ombudsman jointly with CDU was a breath of fresh air. The course as I understand is one of the most comprehensive courses available so much so there is a lot of interest from agencies outside the NT Government. The presentation of the course was*



*second to none in its content and delivery, ensuring all students had a practical and theoretical understanding of the topic. As a result of attending the course, a number of changes and measures are being adopted in the way my agency, Housing Services, does business regarding investigations and having done the course myself, I can commend its value to any who require the skill sets on offer. It is informative, practical and most of all fun."*

## Ombudsman Act 2009

On 1 July 2009 the *Ombudsman Act 2009* came into force. This Act replaced the *Ombudsman (Northern Territory) Act*.

## The Future

In 2010/2011 it is envisaged that this Office will be tasked with oversight of *Controlled Operations* and *Assumed Identities* legislation. These are two bills currently before Parliament.

*Controlled Operations* legislation allows for operations to be conducted, or that are intended to be conducted, for the purpose of obtaining evidence that may lead to the prosecution of a person for an offence.

*Assumed Identities* legislation allows law enforcement officers to assume identities to facilitate investigations, gather intelligence and other related activities.

Such legislation requires oversight with biannual or annual reporting to a responsible Minister. Most importantly providing the oversight requires skills, experience, training and a level of responsibility for the people who must inspect, analyse and report. So far no increased funding has been provided to the Ombudsman's Office to pay for those people performing similar functions with respect to the *Surveillance Devices Act* and the *Telecommunications (Interception) Northern Territory Act*.

## Financial Pressures

As this report illustrates, the responsibility of this Office increased over the reporting period. There were an increased number of people seeking justice, and the numbers of reports needing finalisation; these duties require additional staff to that currently employed by my Office. There is an inability to conduct regular public awareness campaigns, caused by budget restrictions. Staff capping may result in less complaints able to be investigated over the next year.

The ability of this Office to cover the workload of officers on leave (maternity and long service leave) or who have been seconded to other agencies has not been adequate. Offering short term employment contracts has not resulted in much interest or appropriately skilled staff making application for advertised positions. Staff numbers are at critical levels and the effectiveness of this Office and the service it provides is expected to decrease.

## Key Performance Indicators

The key performance indicators for the 2009/10 period were:

- Total number of approaches were 2540; not significantly different from last year (2388).
- The actual number of complaints investigated by the Ombudsman was 620.
- Around 30% of complaints were finalised because an adequate explanation was provided by the agency (compared to 40% in 2007/2008 and 36% in 2008/2009).
- The percentage of complaints resolved within 90 days decreased slightly from 78% in 2008/09 to 72% this year.

- There was a 42% increase in the number of complaints received against Police.
- The percentage of complaints against Police resolved within 180 days improved from 79% in 2008/09 to 83% this year.
- Total unique visits to the Ombudsman's website were approx 28,000 for the year.
- In 2009 resources were temporarily available to increase public awareness of the Ombudsman's service. Eleven remote visits were undertaken by a three month contract staff member.

## Final Comments

In past years financial pressures have been placed on my Office including pay increases, efficiency dividends, new functions requiring more skilled and better trained staff at higher independently evaluated classifications. All government agencies are feeling some funding pressure but, as a very small agency, the reduction in budget has meant a reduction in staff numbers and output. The end result is that the amount of work undertaken to provide reports and resolution of complaints has required senior and executive staff to commit to excessive unpaid hours. Essentially this office is a reactive institution. Minimal staffing levels and the inability to recruit additional staff resulted in my Office not being able to conduct as many investigations as we had planned. The benchmark set for the past financial year was to undertake six systemic investigations; none were completed in this financial year.

The roles and responsibilities of this Office have increased dramatically over the years, yet resources and staff did not increase to appropriately address the increased complaints, new monitoring functions and oversight obligations of this Office.

I applaud the people who are the team at the Ombudsman's Office. They do not have the opportunities for professional development, training and career progress available in larger agencies. The opportunities for them to take advantage of the Northern Territory Public Service Work Life Balance initiatives or to engage in leadership development courses enjoyed by employees in larger agencies and promoted by the Commissioner for Public Employment are not available to them due to the unrelenting workload they carry. I express my gratitude for their dedication and loyalty. I share their frustration at the inability to follow up on important systemic issues due to their work not being valued as a priority for Government evidenced by real support not matching the need.

I thank the Chief Minister for his acknowledgement of the value of this Office in approving an increase of \$400,000 for the Ombudsman's budget allocation in November 2009. The sub-committee of Budget Cabinet, however, did not endorse the increase. I am pleased to report that in April 2011, after this reporting period, an increase of \$200,000 ongoing in the budget allocation was approved. This will enable positions that have remained vacant for some time to be filled.

# Ombudsman

# Ombudsman

## About the Office of the Ombudsman

FUNCTIONS OF THE OMBUDSMAN.....	12
OMBUDSMAN SERVICE STANDARDS .....	12
ORGANISATIONAL STRUCTURE.....	13
STAFFING ESTABLISHMENT .....	13
<i>Current Establishment.....</i>	14
<i>Anticipated Establishment after separation of the HCSCC.....</i>	14

# Ombudsman

## 2. ABOUT THE OFFICE OF THE OMBUDSMAN

### FUNCTIONS OF THE OMBUDSMAN

---

#### The functions of the Ombudsman are:

- To resolve complaints by the people of the Northern Territory about publicly administered services.
- To investigate any administrative action by, in, or on behalf of, any Northern Territory Government Agency or Shire Council to which the *Ombudsman Act 2009* applies.
- To improve public administration in the Northern Territory.
- To arrange investigation by the Ethical and Professional Standards Command (EPSC) of the Northern Territory Police of any action taken or refusal to take action by a member of the Police Force of the Northern Territory.
- To monitor and receive reports of investigations into the conduct of members of the Northern Territory Police Force carried out by the Ethical and Professional Standards Command of the Northern Territory Police.
- To inspect records of the Northern Territory Police and report to the Legislative Assembly through the Minister on compliance with use of surveillance devices under the *Surveillance Devices Act 2007*. To monitor and report to the Minister on compliance with the *Telecommunications (Interception) Northern Territory Act* and the *Commonwealth Telecommunications (Interception and Access) Act* by law enforcement agencies within the Northern Territory.
- Pursuant to a co-location agreement with the Commonwealth Ombudsman, to provide administrative support to representatives of the Commonwealth Ombudsman's Office who are co-located within the Office of the Ombudsman in Darwin.
- To act as a member of the Northern Territory Law Reform Committee.

### OMBUDSMAN SERVICE STANDARDS

---

The Ombudsman aims for its services to be of the highest quality, open to scrutiny and accountable. The Office has developed a service charter (or Standards) against which it can be judged. These can be found at appendix D.



## Current Establishment

**Table 1:** Ombudsman & HCSCC establishment at June 2010 by position level:

Position Level	Ombudsman	HCSCC	Total
Ombudsman ECO5	1	-	1
Deputy Omb. / Comm. ECO2	1	1	2
Assistant Ombudsman ECO1	1	-	1
Administrative Officer 7	5	3	8
Administrative Officer 6	1	-	1
Administrative Officer 5	3	-	3
Administrative Officer 4	2	-	2
Administrative Officer 3	2	-	2
Trainee	1	-	1
<b>Total</b>	<b>17</b>	<b>4</b>	<b>21</b>

**Table 2:** Ombudsman & HCSCC establishment at June 2010 by gender and position level:

Position Level	Female	Male	Total
Ombudsman ECO5	1	-	1
Deputy Ombudsman ECO2	1	1	2
Assistant Ombudsman ECO1	-	1	1
Administrative Officer 7	6	2	8
Administrative Officer 6	1	-	1
Administrative Officer 5	2	1	3
Administrative Officer 4	2	-	2
Administrative Officer 3	1	1	2
Trainee	1	-	1
<b>Total</b>	<b>15</b>	<b>6</b>	<b>21</b>

## Anticipated Establishment after Separation of the HCSCC

**Table 3:** Anticipated establishment after separation by position level

Position Level	Ombudsman
Ombudsman ECO5	1
Deputy Ombudsman ECO2	1
Assistant Ombudsman ECO1	1
Administrative Officer 7	5
Administrative Officer 6	1
Administrative Officer 5	3
Administrative Officer 4	2
Administrative Officer 3	2
Trainee	1
<b>Total</b>	<b>17</b>

**Table 4:** Anticipated establishment after separation by gender and position level

Position Level	Female	Male
Ombudsman ECO5	1	-
Deputy Ombudsman ECO2	1	-
Assistant Ombudsman ECO1	-	1
Administrative Officer 7	3	2
Administrative Officer 6	1	-
Administrative Officer 5	1	1
Administrative Officer 4	2	-
Administrative Officer 3	2	1
Trainee	1	-
<b>Total</b>	<b>12</b>	<b>5</b>

# Ombudsman

# Ombudsman

## Performance

OVERALL PERFORMANCE.....	16
ACTIVITY 1: RESOLUTION OF COMPLAINTS .....	18
ACTIVITY 2: IMPROVE THE DELIVERY OF SERVICES.....	56
ACTIVITY 3: INSPECTION OF NT POLICE RECORDS .....	60
ACTIVITY 4: ACCESS AND AWARENESS.....	64
ACTIVITY 5: MANAGEMENT OF THE OFFICE OF THE OMBUDSMAN.....	68
<i>ACTIVITY 1: RESOLUTION OF COMPLAINTS .....</i>	<i>18</i>

# Ombudsman

### 3. PERFORMANCE

#### OVERALL PERFORMANCE

The overall performance of the Ombudsman during 2009/10 is as follows:

**Table 5: Overall performance of the Ombudsman's Office during 09/10**

Performance	Unit of Measure	2009/10
Quantity	• Number of net approaches	2540
	• Number of access and awareness visits	11
	• Number of inspections of NT Police Telecommunication Interception records	2
	• Number of inspections of NT Police Surveillance records	2
Quality	• Percentage of reviews of decisions requested	% 1
Timeliness	• Percentage of complaints closed within 90 days.	%
	- General	72
	- Police (180 days) The time for investigation is determined by NT Police	83 100
	• Percentage of statutory inspections and reports conducted within time limits	

Reviews as of 1 July 2010 will no longer be a performance measure as this option is not a provision of the *Ombudsman Act*.



# Ombudsman Ombudsman

## Activity 1 Resolution of Complaints

OUTPUTS .....	18
TOTAL APPROACHES .....	18
ENQUIRIES.....	20
<i>Enquiries Overview</i> .....	20
<i>Outside Jurisdiction Enquiries</i> .....	22
COMPLAINTS .....	23
<i>Complaints Overview</i> .....	23
NORTHERN TERRITORY AGENCIES (EXCLUDING NT POLICE) .....	25
<i>Issues Complained About</i> .....	25
<i>Outcomes of Finalised Complaints</i> .....	26
<i>Case Studies</i> .....	27
NORTHERN TERRITORY POLICE .....	42
<i>Issues Complaint About</i> .....	42
<i>How Complaints were finalised</i> .....	42
<i>Engagement with Police</i> .....	46
<i>Concerns Regarding Protective Custody</i> .....	47
<i>NAAJA Query</i> .....	49
<i>Case Studies</i> .....	50

Ombudsman

## ACTIVITY 1: RESOLUTION OF COMPLAINTS

### OUTPUTS

The NT Ombudsman's Office measures the achievement of its goals against a series of output targets as listed.

The below statistics relate to the Office's levels of success in achieving these output targets.

#### OUR OUTPUTS

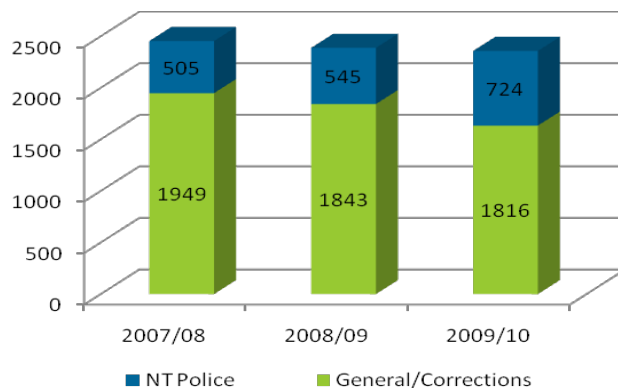
1. Accept enquiries and complaints.
2. Assess complaints in a timely, fair and independent manner.
3. Investigate complaints in a timely, thorough and independent manner.
4. Take appropriate action as a result of investigations.
5. Review investigations conducted by Northern Territory Police of its own members.
6. Report to the Legislative Assembly.

### TOTAL APPROACHES

The total of all approaches to the Ombudsman consists of all enquiries and all complaints. These are received in person, by telephone, by email, via the internet or in writing and can be related to the "General" area (NT Agencies, Corrections and Local Government) or NT Police.

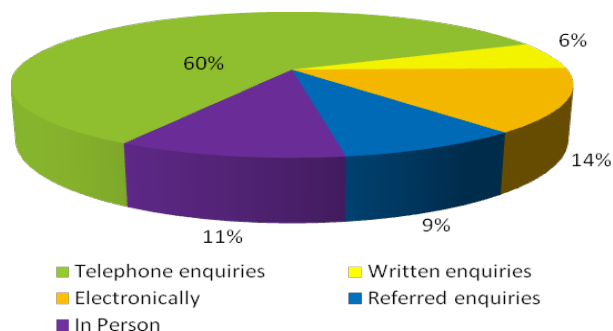
Some approaches initially registered as enquiries later become cases and are counted in both areas for the purpose of some statistics. In 09/10 395 enquiries were subsequently moved to cases. This duplication is accounted for wherever the term net approaches is used.

**Chart 1: Total Approaches**



The total number of approaches to the office has remained fairly stable increasing this year to 2540 from 2388 in 08/09.

**Chart 2: Manner of approach as a percentage**



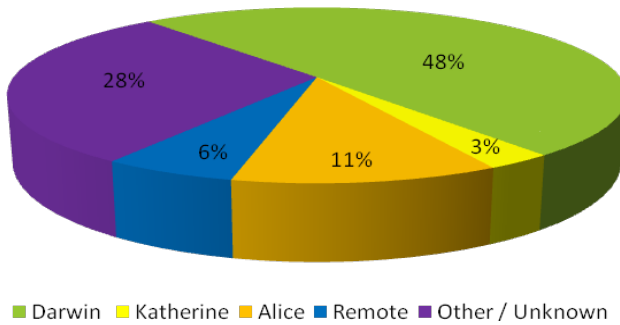
Of all approaches 60% were made by telephone, 14% electronically (via the web or e-mail) and 11% in person. This is the first time electronic approaches have out-numbered complaints in person.

As in previous years the majority of all complaints from prisoners were via the telephone (89%) and the majority of referred complaints are from police (74%).

**Table 6:** Comparison between approaches received over past three years

A comparison between approaches over the past 3 years is not provided in this report. Unknown to this Office statistical data sourced through the IT case management system has been corrupted and unreliable. A new case management system is being sourced.

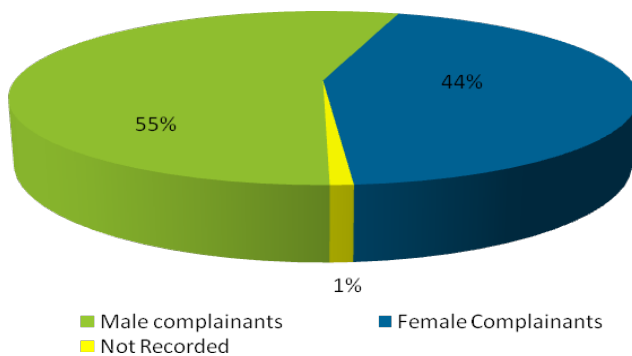
**Chart 3:** Geographic breakdown for all approaches



The majority of approaches were from people in the Darwin area (48%) followed by people whose location was not provided. (28%).

The large number of other/unknown approaches (28%) is due to a large number of complainants not providing location information.

**Chart 4:** Gender breakdown for all approaches



Overall the male/female ratio for complaints is 55:44.

However within the Corrections area the ratio is 92:6. This high ratio of male complainants within the prison system has a significant impact on the overall ratio.

## ENQUIRIES

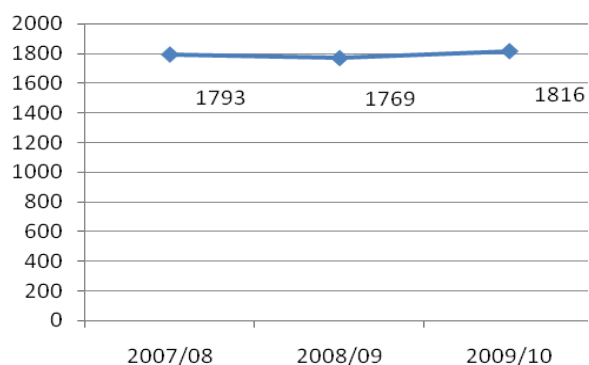
---

### Enquiries Overview

All enquiries received by the Ombudsman are recorded on a dedicated Enquiries database. Complaint cases are recorded on a separate database.

The statistics below relate to the Enquiries database only. Accuracy of figures cannot be confirmed due to database corruption.

**Chart 5: All Enquiries – 3 year comparison**



There was a very small increase in the number of enquiries received in 2009/10 when compared to 2008/09.

The increase was mainly associated with enquiries that were out of jurisdiction. Many of these related to persons seeking the Workplace or Telecommunications Ombudsman or had matters to be dealt with by Consumer Affairs.

During the financial year 1816 enquiries were recorded. Of these, 395 became complaints and have been included in the complaint statistics. The remainder of enquiries can be summarised as follows:

**Table 7: Summary of Net Enquiries 2009/2010**

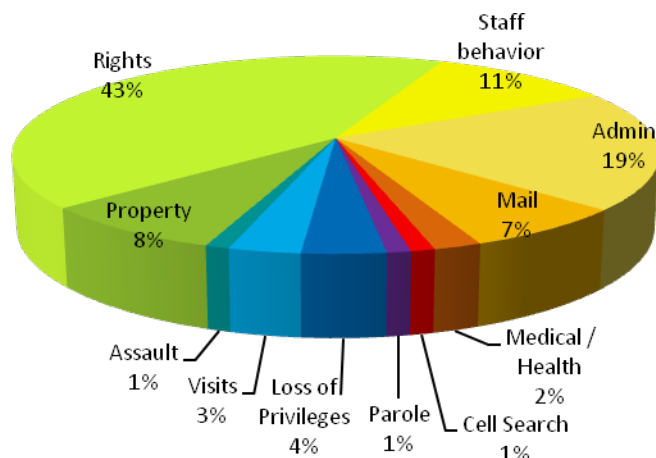
Due to an unreliable IT case management system, a summary of net enquiries is not available

**Chart 6: All Enquiries – by Jurisdiction 3 Year Comparison**

Due to an unreliable IT case management system, a summary of all enquiries by jurisdiction - 3 year comparison is not available.

The primary issue identified in an enquiry is recorded and these are depicted in Charts 7 to 9 below for each of the jurisdictions.

**Chart 7: Enquiry Issues – Correctional Services**

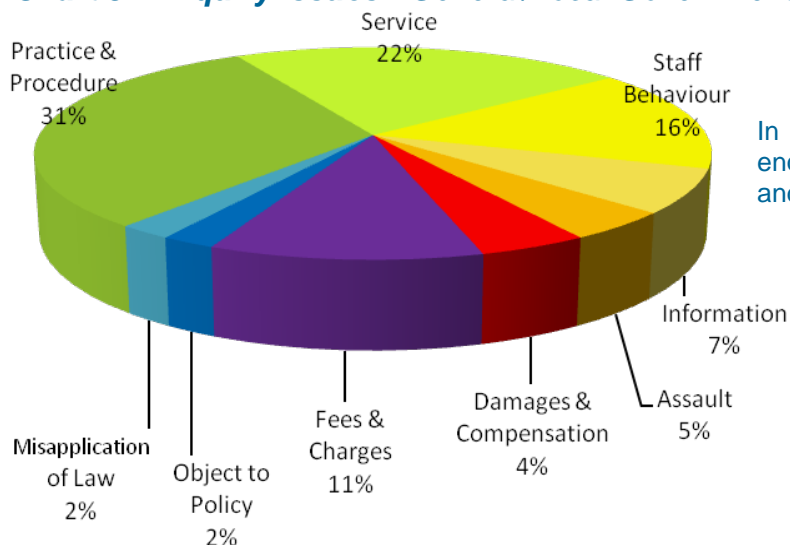


The primary issue of enquiry for prisoners related to their rights or lack of them (43%).

Rights of prisoners refer to such things as access to hobbies, sports and educational programs; the prison buy scheme; meal quality/nutritional value and access to the telephone system.

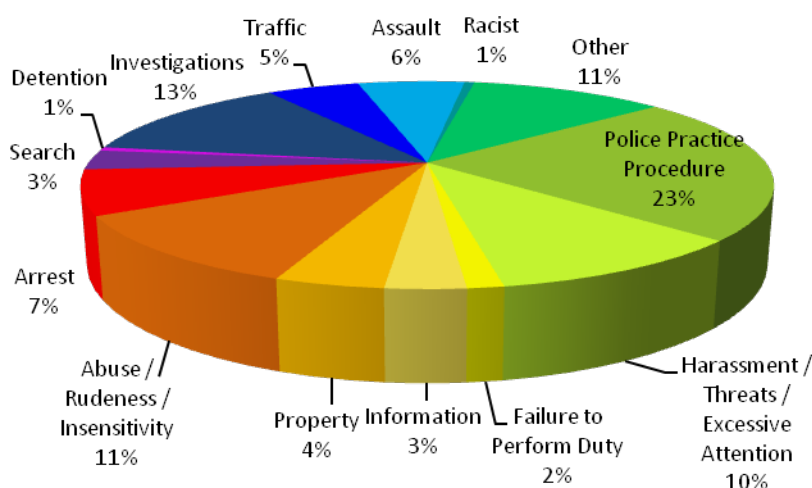
An example of one of these complaints relates to a prisoner not being able to purchase lace up shoes.

**Chart 8: Enquiry Issues - General/Local Government**



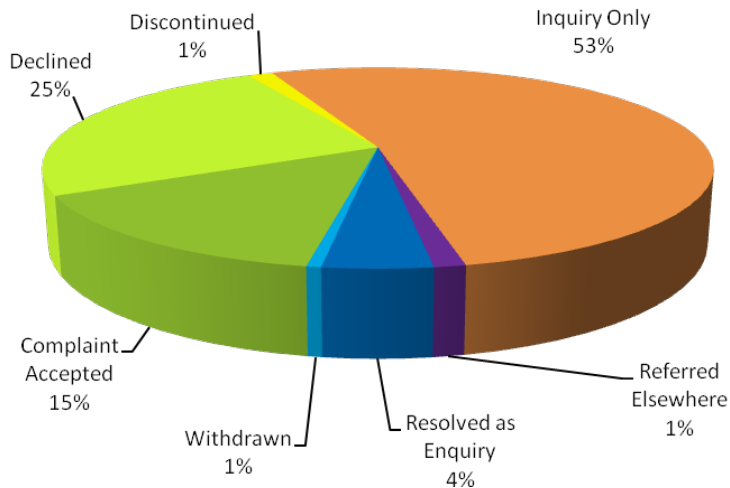
In the General/Local Government area, enquiries about deficiencies in practices and procedures amounted to 31%.

**Chart 9: Enquiry Issues – Police**



Enquiries about Police procedures (23%) was the main issue raised in Police enquiries.

**Chart 10: Enquiry Outcomes**

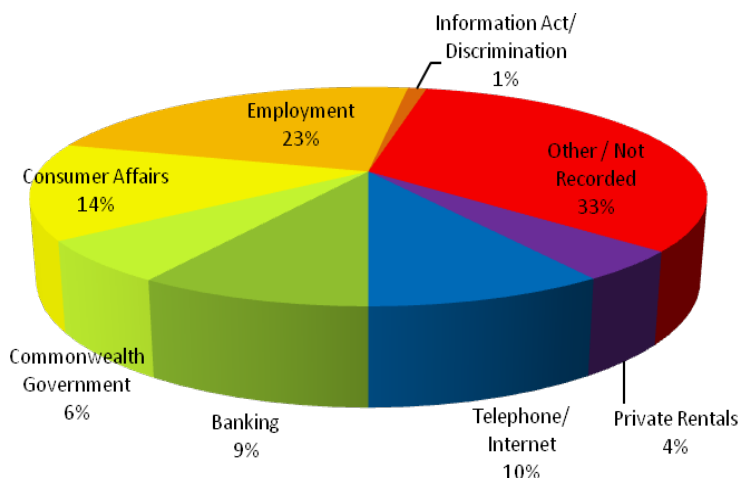


Of those enquiries within jurisdiction 53% were seeking advice or information.

A further 25% were declined so that the person could approach the agency for resolution and return if unsatisfied.

## Outside Jurisdiction Enquiries

**Chart 11: Matters Outside Jurisdiction**



Statistics were also kept regarding the enquiries that were out of jurisdiction. The results show that 23% were about employment issues and 14% related to consumer affairs issues.

### Examples of out of Jurisdiction Enquiries

*A prisoner complained that there were no exit signs in prison cells.*

*A prisoner complained that there were no fire extinguishers accessible to inmates.*

*A prisoner complained that he had not been released at midnight when his friends would be out cruising. He stated it was inconvenient to him to be released at lunchtime.*

*A complainant wanted to know if he was still entitled to his long service leave as he had been made redundant.*

*A complainant purchased a puppy that subsequently ran away. It was later located at an animal shelter where it had been de-sexed and micro-chipped without the owner's consent. The owner was unhappy about being billed for the charges. The dog was stolen 3 weeks after it was reclaimed. Several weeks later, due to micro chipping, the owner was called by a veterinary clinic and told that the dog had been treated for injuries and the owner would have to pay for the treatment. The owner was unhappy with having to pay for this treatment.*

A complainant wished to complain about Jet Star losing her pram during transit.

A prisoner complained that he had not committed the offences that he was currently in remand for and wanted my office to investigate who was responsible for the crimes for which he was incarcerated.

A complainant wanted to complain about OH&S issues at his public housing block. When asked what the problem was he stated that a knife was on the kitchen table next to a cake and a wet towel had been left on the

floor. He then added that there was no seeded mustard in the kitchen for his sandwiches.

A complainant was dismissed from a remote community board and was unsure where to lodge a complaint.

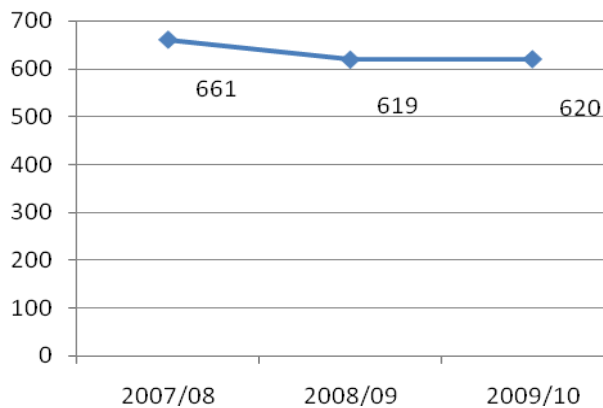
A complainant's neighbour built a pool in their duplex complex. The water meter is a shared cost. The complainant wanted to complain about having to pay for half the water without having access to the pool.

## COMPLAINTS

### Complaints Overview

All complaints received and accepted by the Ombudsman are recorded separately from enquiries.

**Chart 12: All Complaints – 3 year comparison**



There has been less than 1% increase in the number of complaints received when compared to 2008/09.

As was the case last year, the reasons for this are:

- the excellent work being done by the enquiry officers in resolving approaches expeditiously; and
- improved complaint handling services at the point of service within agencies.

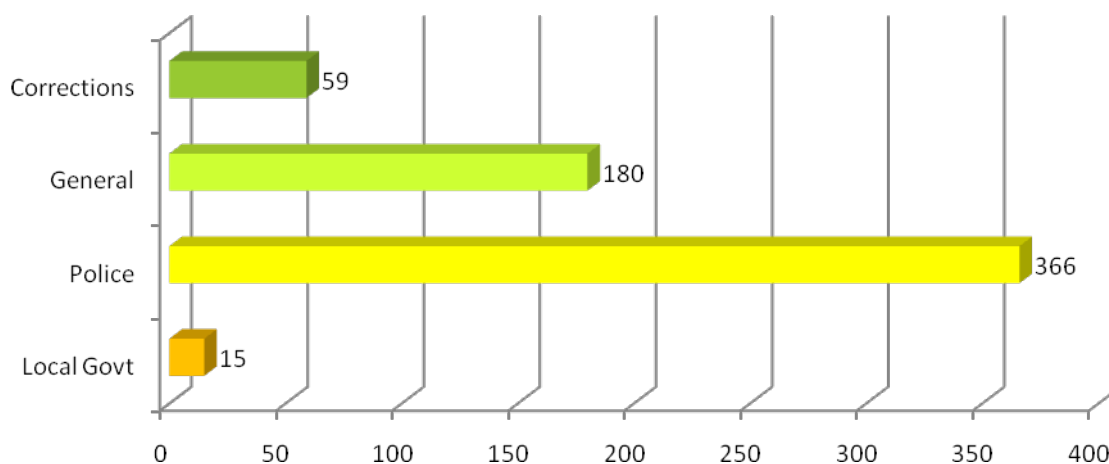
Actual complaints handled by the Ombudsman were as follows:

**Table 8: Complaints Received – 3 year Comparison**

Complaints Category	07/08	08/09	09/10
All complaints received	661	619	620
Less complaints referred back to agency	254	212	195
Actual complaints handled	407	407	425

Although there were essentially the same number of complaints received as last year the number of complaints actually handled by the Ombudsman increased by 4% from 407 to 425. Chart 13 provides a breakdown of all matters that were handled by the Ombudsman.

**Chart 13: Agencies subject to complaints**



Agencies included in 'General' are:

- PowerWater Corporation
- RDPIFR (Regional Development Primary Industries Fisheries and Resources)
- Development Consent Authority
- DET (Department of Education and Training)
- NRETAS (Natural Resources, Environment and the Arts)
- DLGHS (Department of Local Government, Housing and Sport)

The following agencies received no complaints:

- Bachelor Institute of Indigenous Tertiary Education
- Department of Business and Employment
- Department of the Chief Minister
- Office of the Commissioner for Public Employment
- Darwin Port Authority
- Treasury

The analysis which follows relates to the complaints accepted by the Ombudsman and is reported on under the following headings:

- **Northern Territory Agencies** (excluding NT Police); and
- **NT Police** – complaints against Police officers actioned by NT Police Ethical and Professional Standards Command



## NORTHERN TERRITORY AGENCIES (EXCLUDING NT POLICE)

### Issues Complained About

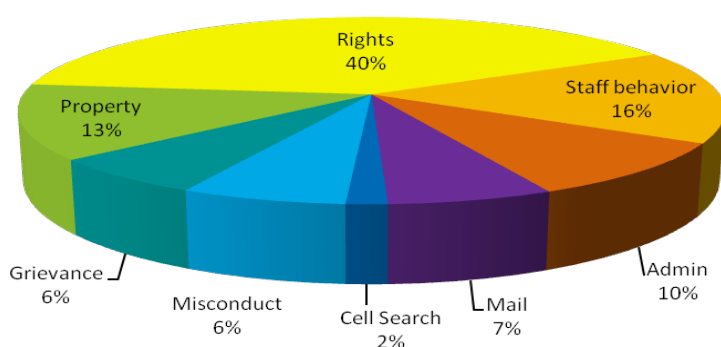
Different issues are identified for complaints against Correctional Services and those for the remainder of Northern Territory agencies, including local government. A summary of the primary issues for each area are as follows.

#### Correctional Services

Of the 59 Corrections complaints received there were 8 complaints actioned by the Ombudsman. The other complaints were referred back to the agency for response.

Within the 59 complaints received 62 issues of complaint were raised.

**Chart 14:** *Issues in Correctional Services complaints*



**Table 9:** *Correctional Services issues most complained about – 3 year comparison*

Complaints Category	07/08 %	08/09 %	09/10 %
Prisoner Rights	38	37	40
Administrative Acts	11	16	10
Staff Behaviour	9	16	16
Mental Health	6	0	0
Misconduct	6	2	6
Grievance	13	16	6
Other	17	13	22

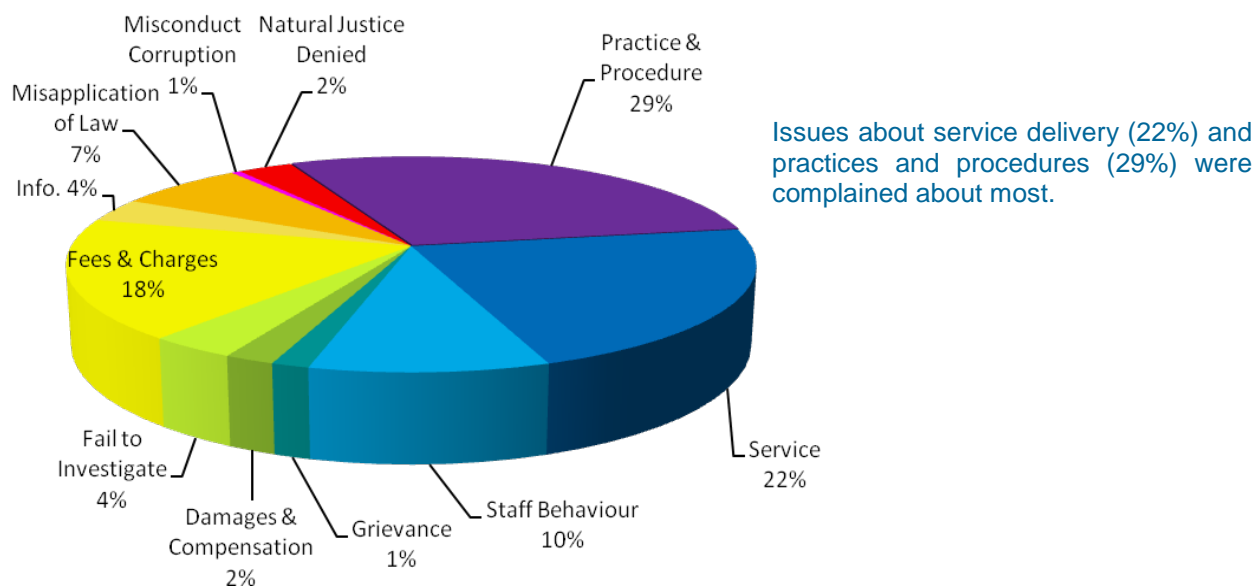
Issues about prisoners' rights remain the major concern (40%) followed by Staff Attitude / Behaviour (16%).

#### NT Agencies (excluding Correctional Services and NT Police Members)

Of the 195 complaints in respect of NT agencies, excluding NT Correctional Services and NT Police received, there were 50 complaints actioned by the Ombudsman raising 54 issues of complaint. The other complaints were referred back to the agency for response.

Within the 195 complaints received 199 issues of complaint were raised.

**Chart 15: Issues in NT Agency complaints (excluding Correctional Services and NT Police Members)**



**Table 10: General and Local Government issues most complained about – 3 year comparison**

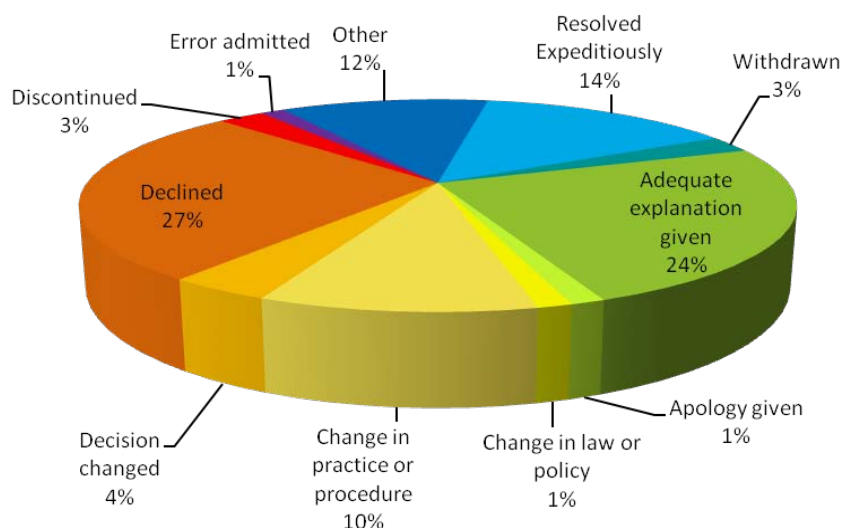
Complaints Category	07/08 %	08/09 %	09/10 %
Practice & Procedures	14	19	29
Service Delivery	23	20	22
Fees	11	5	18
Grievance	11	9	1
Misapplication of Law / Policy	17	8	7
Staff Attitude / Behaviour	6	8	10
Other	18	31	13

Issues relating to the attitude of agency staff have continued to increase slightly over the past 3 years and has become the fourth most significant issue at 10%.

### Outcomes of Finalised Complaints

Chart 16 identifies the outcomes achieved from the issues of all complaints finalised by the Ombudsman other than NT Police member complaints.

**Chart 16: Outcomes achieved from finalised complaints (Excluding NT Police)**



Of significance is the fact that:

- 27% of cases were declined for continuing investigation after obtaining preliminary information (25% in 2008/09). Reasons for declining included, the matter was trivial or vexatious, or investigating the matter further was unnecessary or unjustified as no worthwhile purpose or outcome could be achieved, the matter was more than 12 months old or there was a remedy available before a court, tribunal, or other process more suitable.
- 1% of complaints resulted in an apology being given.
- 14% of complaints were resolved expeditiously between the complainant and agency with the assistance of the Ombudsman (19% in 2008/09).
- 24% of complaints were finalised because an adequate explanation was provided.

## Case Studies

### Correctional Services

#### **Family Ties**

*A complainant was with a relative and victim at the time he allegedly committed an offence (murder) for which he was incarcerated. Leaving the vicinity of a crime with the victim and relative the complainant stated he fell and was left behind. The complainant stated that while he was not present his relative murdered the victim. The complainant was apprehended by Police and kept at the Alice Springs Police Station over night.*

*The next day he was interviewed by Police with his mother present. However, on the advice of his lawyer the complainant remained silent during the interview. He was then taken to the Alice Springs Correctional Centre and placed in isolation. Whilst there, the complainant alleged that when most of the prison officers left the area two senior prison officers approached his cell and told him "You don't know what you've done- you're scum, and a maggot" and things like that. The complainant said that there were no witnesses.*

*On the third day the complainant was removed from his cell without being told where he was going. The complainant's family was not told of the complainant's movement. The complainant and his relative were then taken to the Alice Springs airport where the deceased's family were*

*gathered. The complainant said that one of the deceased's family members was on the plane.*

*The family seemed to know him and called out his name in anger. The complainant said that he didn't know these people or had never met them before and was concerned about how they knew him. The complainant said that he was told that he was being transferred to the Darwin Correctional Centre because his life was at risk in the Alice Springs Correctional Centre from other prisoners. The complainant's court hearing was to be held in Alice Springs and he was concerned about what would happen to him if he returned.*

*Enquiries were undertaken into the matter in which it was established that the CCTV footage had been recorded over as it is maintained for a one month period only. There were no independent or other witnesses to the alleged conduct by the senior prison officers. It was found that the complainant's flight to Darwin coincided with the victim's funeral. The victim's family at the airport and on the plane was purely coincidental. The complainant was told that our office would take no further action on the matter. The complainant was satisfied with the enquiries that had been made into his complaint.*

### **Addiction**

A prisoner was receiving Nicorette Gum at his cost which had been supplied for two months. He claimed that for an unknown reason he was not given the gum with his last prison purchase. Instead he was charged and given Nicobate Patches which he found too expensive and was not what he requested.

The prisoner said he had raised the matter with one of the prison officers, however, no action was taken or explanation given. The complainant was requested to submit a complaint form (known as a Request to see the Superintendent – RASP). He said that it would take too long as he would be “climbing the walls” by the time his complaint was considered under the RASP process.

On seeking a response from Correctional Services it was established that gum was no longer permitted as it was deemed a security risk for locks. Enquiries by our office established that there were lozenges available at similar cost to the gum.

The complainant accepted the lozenges in place of the gum. However the unauthorised debit to his account remained unreversed. Correctional Services acknowledged there was no authorisation by the complainant to debit his account for the patches and agreed to reimburse the money. The complainant was satisfied with the outcome and the matter was closed.

### **Officer Counselling**

A prisoner complained that one evening a prison officer requested he obtain toilet paper from J Block. On arriving at J Block the prisoner saw a group of prison officers. As he stood behind one of the prison officers he claimed he heard a prison officer say to the others that the complainant was a paedophile.

The prisoner told my office that he was not a paedophile and was incarcerated for manslaughter. The prisoner has a young daughter and felt highly offended and outraged at the alleged comment. He said that he had submitted an internal prison complaint form (RASP) to the Superintendent. The prisoner said it reached the Senior Prison Officer level and would not be going any further.

Whilst not allowed by law, the prisoner alleged that one of the prison officers told him that if enquiries were made and the allegation unsubstantiated, then the prisoner would be considered as causing trouble and be moved to isolation with loss of privileges. The prisoner believed this to be unfair and unjust. He said that there were Closed Circuit Television cameras in J Block. However, it was not clear if the prison

officer was captured on camera during the alleged conduct.

Correctional Services conducted their own enquiries which established that a general conversation did take place about paedophiles, however the officer denied calling the prisoner a paedophile. Further to the complaint the prisoner then said that he was being targeted by the prison officer in question and described an incident whereby it appeared he was being unfairly treated.

On bringing this claim to the agency's attention an internal investigation was immediately conducted. During the Correctional Services investigation everyone present during the incident was interviewed, however, there was insufficient evidence to verify the prisoner's claims. The prison officer was, however, found to be conducting himself in a manner not consistent with the professional conduct expected of a prison officer and was provided with counselling. I accepted the Correctional Services investigation was reasonable and that no other outcome was feasible.

## Denied Visitation Rights

*I received a complaint from a former inmate against the Darwin Correctional Centre (DCC) for banning the complainant from visiting a relative in prison without allegedly providing any reasons for that decision.*

*Preliminary enquiries were conducted into the administrative actions of the DCC. The response said that the complainant was denied entry to DCC on a suspicion of trafficking contraband into the prison. Both parties had a history of drug activity which posed a security risk to DCC. The authority cited for this decision was the Prisons (Correctional Services) Act (the Act), NTCS Commissioner Directives and Superintendent Instructions.*

*On following up whether the complainant had been formally informed of the decision, the reasons, and of a right to contest the decision per the Directive (Banning a Visitor), DCC said that it had not done so. DCC then promptly undertook to write to the complainant and forward a copy of the letter to my Office. My Office told the complainant of this action and asked him to consider appealing the decision to the Executive Director on receipt of DCC's letter.*

*However, the Superintendent's letter to the complainant, in banning him from temporarily visiting DCC, pursuant to the Act, did not explain the specific reasons for the ban and did not advise the complainant of a right of review of the decision if dissatisfied as per the Directives. I also noted that the Act empowers the Director to take such precautions to maintain the security and good order of the prison. This was not being questioned. However, the issue I had was with*

*the administrative process followed in taking such action.*

*As a matter of natural justice and good public administration, the complainant is entitled to be informed of the reasons and period for the ban and of a right to contest the decision if dissatisfied. I also noted that the relevant NTCS Directive spells out the process that the General Manager (or Superintendent) is to follow in banning a visitor from visiting a correctional centre.*

*In short, this Directive (among other things), states that the Superintendent will give the banned visitor:*

- written notice of the ban within 7 days of being imposed*
- detail the reasons, period and expiry date of the ban*
- advise the visitor that he/she may seek a review of the decision by the Executive Director if dissatisfied*
- be notified of the review decision (if contested)*
- be told he/she can complain to the Ombudsman, if still dissatisfied with the review decision.*

*It did not appear that this procedure was followed on this occasion or whether the authorities were fully aware of its requirements since the letter did not contain these details. After notifying the complainant I brought it to the attention of senior management for follow up so that the proper procedures could be followed in future to avoid a recurrence.*

## NT Agencies (excluding Correctional Services and NT Police)

### **Pooch Passenger - Department of Transport**

*In November of 2009 an elderly person with a disability entered my Office visually upset that the Transport Department would not allow his 'assistance dog' to travel on public transport (buses) with him. The complainant had been told that his dog did not fit into the allowable category as defined in Section 13 of the Public Transport (Public Safety) Act 2008. This legislation states that a person must not bring an animal onto a bus, unless the person has impaired sight or hearing and requires the assistance of a guide-dog or a hearing-dog. The complainant had produced a medical certificate to the Transport Department in support of his complaint that he needed his dog to assist him to live with disabilities other than his sight or hearing.*

*This complaint was referred to the Department of Lands & Planning – Transport Division. A*

*response was subsequently received. The matter had been reviewed and I am pleased that in this case sensitivity and good judgement were applied. The Department considered the provisions of the Disability Discrimination Act and the circumstances that necessitated the complainant's dog travelling with him. A card was issued to the complainant which acted as a proof of authority for the complainant to travel on buses with his dog. Additionally, the Department said that legislative changes relating to Assistance Dogs would be considered in line with other Northern Territory Government legislative priorities.*

*The complainant was extremely grateful for the Department's prompt investigation into his complaint and the subsequent response.*

### **This Act does not bind the Crown – Territory Housing**

*In December 2009 a person living next door to a Territory Housing (TH) residence complained to my Office. The dog from the neighbouring property had bitten the complainant through a broken fence and had gotten loose into her yard so often the complainant was frightened to exit her house. Complaints were made to the Darwin City Council (DCC) who acted within the confines of the By-Laws. The complainant was told by the DCC that the issue should also be raised with Territory Housing in an attempt to fix the fence between the two properties.*

*Section 3 of the Fences Act reads 'this Act does not bind the Crown'. This means that the provisions of this Act are not applicable to government agencies, however members of the public must adhere to the requirements. Without the legislation binding the government, Territory Housing referred to their fencing policy regarding what structure is suitable within Darwin suburbs. This policy was created in 1997 and, in my view, it was unsuitable, unreasonable and very much outdated. This policy documented that if a fence was 1.6m tall and made of chain link mesh then it was appropriate. My officers attended the*

*premises to inspect the adjoining fence. They saw a damaged, unsteady and inadequate structure. They also noted that the front fence of the Territory Housing property was a new 1.8m tall chain link mesh of sound structure. Subsequently my Office was told that the front fence of the TH property had been replaced due to the number of complaints received about the dog being at large. My Office was told that regardless of the need to replace the front fence the adjoining fence was suitable and would not be replaced. Over several weeks the complainant filmed the neighbour's dog in her yard and outside of the property acting aggressively. Discussions continued with DCC and TH in an attempt to remedy this problem. The complainant in an attempt to resolve this issue offered to pay for half the cost of a replacement fence, TH refused advising their policy was to only pay \$19 per lineal metre.*

*I am pleased to report that after meetings and discussions between government agencies commonsense and fairness prevailed. The adjoining fence was replaced by Territory Housing at their cost.*

### **Terminated – Territory Housing**

A complaint was lodged with my office on behalf of a tenant of Territory Housing who was issued with an Order of Possession after terminating the tenancy and deciding not to renew the tenant's fixed term tenancy. It was claimed that the decision was due to anti-social behaviour (ASB) and that natural justice was denied by not being informed of the allegations.

My office undertook preliminary enquiries that included reviewing the Territory Housing Appeals Board file in relation to this tenancy. I concluded

that the actions of Territory Housing in this instance were reasonable. However, I made a recommendation to the Department that it's 2 year exclusion policy for tenants who have been evicted as a result of ASB be conveyed to tenants on a more frequent basis than was currently occurring. Territory Housing accepted the recommendations and amended all the ASB template letters to ensure that risks of termination proceedings and of a 2 year ban to tenants from NT Housing are told to tenants.

### **Liability – MVR – “The Young and the Restless”**

April 2010 saw a 19 year old man enter my Office to complain about a lack of assistance provided by MVR. This complainant had purchased a car in late 2009, worked on it and sold the vehicle at a profit a number of weeks later. Section 20 of the Motor Vehicles Act requires the seller within 14 days to deliver to the Registrar a notice of disposal signed by the former and new owner which documents the full name, address and date of birth of the new owner. In this instance the seller did not obtain the signature of the buyer. When the complainant took the notice of disposal to MVR they refused to accept it on the basis it was unsigned. The new owner failed to submit his copy. The new owner was an Aboriginal who gave an address on Groote Eylandt but frequently moved about.

The complainant contacted the Police to find out how to deal with this matter. He was told to complete a statutory declaration and provide a copy to the Police and MVR. The Police accepted the statutory declaration albeit subsequently misplacing it, and MVR refused to accept it in lieu of the completed disposal notice. In December 2009 the car was photographed speeding on the Stuart Highway. Due to MVR's refusal to change the vehicle ownership details the fine was posted to the complainant as the owner of the car. The complainant contacted the Police advising that he was not the owner and threw away the fine. The complainant should have completed the fine by filling in the new owner details. He didn't.

In April 2010 a notice of enforcement was sent to the complainant. The complainant again attended MVR, this time he was told that he was liable to pay all fines and be issued demerit points associated with traffic offences as he was the listed owner of the vehicle. The complainant could not understand how he could be held liable

for offences under the provisions of the Traffic Act that he had not committed. MVR told the complainant to report the car stolen as in their view he was the registered owner. The complainant called the Police. At this time he was told that if he reported the car stolen he would be charged with making a false report. Another speeding fine was issued for a second offence with the complainant attending my Office.

Contact was made with MVR who confirmed that MVR may not accept a Notice of Disposal where there is incomplete or missing information. My Office raised with MVR that the Registrar could apply his/her discretion to register the vehicle on such conditions as the Registrar thinks fit (section 8(b)) Motor Vehicles Act). My Office sought information from MVR as to when the Registrar was appraised and considered this matter. Many months passed with a variety of discussions held between my Office and MVR. In September 2010 the Department of Lands & Planning transferred the vehicle registration into the new owner's name. The Department's legal advisor also said that whilst there was little scope to exercise any discretion when it comes to compliance with Section 20 of the Motor Vehicles Act, as a matter of policy the Department should be prepared to accept other forms of documentation as evidence of sale/disposal. The Department's Solicitor also said that he was suggesting that if there was any money in the budget for advertising that money should be spent to remind sellers that it is their responsibility to ensure that registration is transferred. In my view the legislation requires review. The consequences of a seller not obtaining the purchaser's signature and details should in my view be prominent on the transfer form. I do not see that as an overly expensive initiative.

### **Exercising One's Review Rights – Patient Assisted Travel (DHF)**

A complainant alleged that he received only partial reimbursement of airfares under the Department's Patient Assistance Travel Scheme (PATS) on his fourth interstate trip to hospital, even though he received full reimbursement of airfares for himself and his wife on 3 previous trips. The documentation supplied to my Office indicated that the reimbursement was for the original amount he had paid after receiving a Pensioner Concession.

The additional cost for rescheduling the return flight was refused on the grounds that PATS as per policy is not responsible for bookings made by patients on their own accord. The complainant stated that the cost would have been the same if PATS had made the booking and claimed the decision was inconsistent with previous decisions to reimburse fares and

questioned the decision. He stated he received no reply to his request for reconsideration. The issues of complaint were summarised as:

An apparent inconsistency in the decision, in that, previous requests for reimbursement were accepted but this one was not (albeit this claim differed in that the return flight had to be rescheduled and cost more than originally planned).

The complainant's request for reconsideration did not appear to have been treated as a request for review and was not referred to the PATS Review Committee and no response was given.

No explanation for the decision not to reimburse the whole cost was provided.

### **Failure to Respond – Territory Housing**

CAALAS complained that their client was issued with a tenancy termination notice alleging unspecified anti social behaviour. Their client wrote to Territory Housing to request a review of the decision in line with the agency's appeals policy but allegedly received no response. During this period, the client had to stay at her ex partner's home who had a history of domestic violence. CAALAS stated Territory Housing had not offered their client an opportunity to enter into any anti social agreement as part of their policy. CAALAS was apparently told that Territory Housing decided not to review the decision.

Preliminary enquiries were undertaken. A formal response was received from Territory Housing and the complainant's tenancy file reviewed. Although Territory Housing actions were considered reasonable, procedural failings were noted, namely that Territory Housing had failed to provide written confirmation and respond to

the complainant's request for a review and a priority housing application. However, as the client had handed vacant possession "voluntarily" nothing additional could be achieved through further investigation.

The complaint was forwarded to the Department and the case reviewed. As a result of the review the Department decided to support the complainant's application and he was reimbursed all travel costs. Recommendations were made to the Department that all applicants whose applications were refused should be provided with a comprehensive explanation.

Territory Housing was however reminded of the importance of formally acknowledging all correspondence from clients and of documenting reasons for decisions that impact on a client's tenancy each and every time.

### **Fuming!! – NT Worksafe**

A shop operator complained to NT WorkSafe of fumes/smells coming from an adjacent shop coming in to her store, which made her staff sick. They consulted specialist doctors and were diagnosed as suffering from Multiple Chemical Sensitivity. The issues were first raised several years before and the complainant had been liaising with various people, ie, NT WorkSafe, shopping centre management, local members of Parliament, specialist doctors, and independent engineers since that time to have the issue resolved and her concerns addressed. She had incurred considerable expense and suffered years of discomfort. It was thought that the

problem with the fumes stemmed from a faulty extraction system with the air-conditioning. NT WorkSafe was contacted.

However, the complainant had concerns about the standard of work that WorkSafe carried out, claiming it was dismissive and slow in responding.

The complainant was unhappy with NT WorkSafe alleging they had signed off on work done to the air-conditioning that was not up to Australian Standards and therefore prolonged her exposure to the fumes.



The complainant's documents and NT WorkSafe files relating to this issue were reviewed. NT WorkSafe files indicated that the action taken was not unreasonable although very slow. They had maintained regular contact with the complainant and liaised with the property managers to ensure that testing and extraction

works were being carried out and therefore, any further investigation of the matter was unnecessary and unjustified. The complainant was informed the outcome she sought was not the role of NT Worksafe to enforce or determine. She was told to seek legal advice.

### **Improving Dog Control Processes – Darwin City Council**

I received a complaint regarding the actions of officers from Darwin City Council (DCC) over dog and fencing issues. Enquiries commenced into the administrative processes of DCC. The DCC wrote to the complainant advising that the Notice issued to the complainant to rectify fencing issues would be withdrawn; that no further action in relation to the fencing would be undertaken and no conditions would be placed on the dog's registration.

As a result of a visit to inspect DCC records it was identified that record keeping practices at DCC could be improved. Part of the role of this Office is to recommend improvements when a deficiency in administration is identified. As an outcome of the meeting operational procedures were established by DCC with enhanced administration processes to achieve a more consistent, transparent and effective process.

Additionally, Council Rangers would receive regular training sessions to ensure a higher

standard of customer service and improved investigation techniques. Individual Customer Action Requests will be recorded as individual complaints on the Council's data management system enabling accurate figures to be retrieved relevant to the number of complaints recorded in relation to a property or person.

Additionally, new administration procedures were being drafted to ensure more consistent record keeping; new animal and general procedures had been drafted and were being implemented via regular fortnightly training sessions; new procedures had been drafted addressing individual by-law offences; new draft procedures also included all essential administrative requirements and impounding procedures. All this information will be accessible to the public through Darwin City Council's website or by request to DCC.

### **Trade Waste – Power & Water Corporation**

A complainant alleged that her company had been unfairly disadvantaged as a result of the way that Power and Water Corporation (PWC) implemented its Trade Waste Charges. The complainant claimed that she had begun paying charges whilst other industry competitors were still undergoing assessment.

Enquiries showed that PWC had undertaken the following action in relation to Trade Waste Charges:

PWC said that the assessment process for a competitor had been completed and was assessed as a Category B discharger; therefore, no trade waste charges were levied.

Businesses discharging trade waste water were to be assessed and classified as either A, B or C category discharges. Charges were to be levied at different rates according to the volume and potential toxicity of the waste with charges highest for Category 3.

PWC said that the general staged approach to the implementation of the Trade Waste Management System as a whole was as follows:

Stage 1: Preliminary identification, registration and categorisation commenced following the initial Cabinet approval for the development of a Trade Waste Management System in 2002 and was completed in 2004. Information from this stage was utilised in the Cabinet submission for the introduction of Trade Waste Charges in late 2003.

Stage 2: Implementation of Waste Minimisation Programs including installation and maintenance of pre-treatment commenced in 2004 following the Cabinet Decision on Trade Waste Charges, which proposed the implementation of a Waste Minimisation strategy, and the phased introduction of trade waste charges for "large" dischargers.

*Stage 3: Implementation of Trade Waste Charges commenced in 2007.*

*During stage 1 approximately 49 customers were internally assessed as potential Category C dischargers. At Stage 3 there were currently 15 dischargers identified as potential Category C customers who had undergone or were undergoing assessment. Two other related businesses (in addition to the complainant's and the competitor) were identified as potential Category C customers. PWC confirmed that the assessment process for these businesses had been completed and Trade Waste Charges against them had commenced.*

*The complainant's company was issued with an initial Trade Waste Discharge permit on 1 January 2004. This was renewed on 1 August 2007. A Trade Waste Agreement (with applicable charges) was established on 27 April 2009.*

*The complainant's frustration of being the first company within the industry to be charged and the considerable delay between the complainant being charged and other like businesses being charged, was acknowledged by PWC. Given that the relevant legislation was introduced in 2001 and that the Minister announced in 2004 that trade waste charges would be applied to Category C sites, the complainant could have considered her business fortunate that PWC had taken so long to implement the 3 staged process and that charges were only levied against the complainant in April 2009.*

*PWC confirmed that as a result of the issues raised, a review and restructure of its approach*

*to the introduction of Trade Waste Charges would be conducted.*

*It is important to note that PWC must operate within the approved management frameworks, regulations and policy directions provided by Government.*

*Based on this, PWC decided to prioritise implementation of Category C Trade Waste charges based on the size of the business (combined assessment of the quantity and quality of wastewater discharged). Unfortunately, this assessment process was intensive and time consuming and whilst it seemed correct to prioritise the assessment of major polluters, this approach risked businesses from similar industries feeling unfairly disadvantaged. It is not open to PWC to disclose to one business the waste discharge profile of another business. It was a decision of the Government to delay introduction of the charges between 2001 and 2007. The Ombudsman is not authorised to question a policy decision of a Minister or Cabinet.*

*I informed the complainant that through raising her concerns the outcome had encouraged PWC to implement Trade Waste Charges in a fairer more efficient and more timely manner. I requested PWC to advise my office when the review and restructure process was completed and to provide copies of relevant amended policy documents. If PWC makes its policies publicly available businesses can assess and plan for the impact of the charges on their businesses.*

### **Blacklisted**

*A complainant complained about of the then Department of Employment Education and Training officials for allegedly blacklisting him for raising issues of health and safety at a school. The complainant was teaching at a remote school and was on a temporary work visa. He raised issues of students and staff being exposed to asbestos, animals being abused and their health ignored, animals roaming throughout the school, dogs sitting in water troughs and fighting, urinating, defecating and copulating on the school grounds, forcing the children to eat their food in the classroom and children not disciplined when misbehaving.*

*He alleged that he was targeted outside school hours with his house being pelted with rocks. The Department stated that it had investigated the claims and found them to be untrue. Lengthy*

*preliminary enquiries were conducted with the Department which involved receiving formal responses, reviewing relevant files and liaising with contact officers informally. Employment and discrimination issues were referred on to the Anti-Discrimination Commission.*

*Following enquiries, some recommendations were made in relation to staff responsibilities on record handling, complaint handling and how relevant Departments may better work together. The Department acknowledged the recommendations, being a communication strategy around staff responsibilities be drafted and meetings between relevant Departments be better organised. Satisfied, I declined to undertake further investigations and notified the complainant of the outcome.*

## **Justice Delayed is Justice Denied**

A nurse complained about the length of time it was taking for a Tribunal to be convened to hear his matter concerning an alleged breach of a condition of his registration in 2007, pursuant to the Health Practitioners Act (the Act). The complainant also complained that he was not kept regularly informed of progress and was still waiting for the Tribunal to be formed. A decision had been made in 2007 by the Nursing and Midwifery Board to refer a report of alleged unprofessional conduct to the Health Practitioners Tribunal for hearing and determination. Until the Tribunal determined the matter the nurse could not work.

Following enquiries, the former Health Professions Licensing Authority (HPLA) said that the Nursing and Midwifery Board of the NT, after conducting a preliminary investigation and receiving a submission from the complainant, suspended his registration and decided to refer the matter to the Tribunal.

The HPLA said that it made a number of unsuccessful attempts throughout 2009 to contact the complainant by telephone and letter requesting him to contact an inspector to discuss the matter. The HPLA wrote to the complainant in late 2009, advising, among other things, the reasons for the delay and an apology for not keeping in regular contact.

The HPLA provided a range of administrative support and services to a number of Boards, including convening the Tribunal. The delay in convening the Tribunal was that no standing Tribunal existed at the time of deciding to refer it to the Tribunal in October 2007. No permanent members held office at the time and new members needed to be recruited and appointed by the Minister for Health. The selection process was delayed due to the unfortunate death of a member of the selection panel. Two of the applicants being considered for appointment were unavailable for early interview and this also caused delay to the Tribunal.

The HPLA said that there was no dedicated secretariat support or budget for the Tribunal. In the past it had fallen to individual HPLA staff members to provide support to the Tribunal on an as-requested basis.

I noted that the Act (among other things) provided for the establishment, constitution, membership, functions, procedures and decision making processes of the Tribunal. The Act

stated that the Tribunal must conduct an enquiry into a complaint referred to it by a Board and must conduct its proceedings expeditiously, with little formality and observe the rules of procedural fairness. The Act provided for membership of the Tribunal and also required the Tribunal to make a decision within 3 months after completing its enquiry. There was no time limit stated in the Act for a Tribunal to be convened.

The HPLA also provided an explanation (from available records) of the steps taken since October 2007 to convene the Tribunal. It appeared that there were some periods where there was little or no activity for several months with seemingly not enough supervision, monitoring or follow up action throughout 2008. As the complainant's earning capacity as a nurse had been removed during the period of the delay this was unjust.

In relation to the issue of the delay in setting up the Tribunal, I determined that the time being taken to convene the Tribunal was unacceptable, being about two and a half years since the decision was made to refer the matter to the Tribunal. The system had failed the complainant and the complainant had been denied justice by not being promptly afforded the opportunity to have his matter heard by the Tribunal to determine if allegations were justified.

In April 2009 the Minister for Health entered into an agreement for the Northern Territory to be a party to a National Health Practitioners Registration Scheme to operate from 1 July 2010. Registration of health practitioners in the Northern Territory is now managed by a Commonwealth agency known as the Australian Health Practitioners Regulation Agency (AHPRA) with most professions currently regulated under the Act to become regulated under new legislation that provides for a national scheme regulating health practitioners to be overseen by National profession-based Boards.

The NT Minister for Health did appoint members to the Tribunal in February 2010 and the preliminary hearings began. The National Health Professions Regulation Scheme, since 1 July 2010, has responsibility for ensuring that a person in the complainant's position does not in the future undergo the delay and prejudice that the complainant did. The National Scheme has appointed an Ombudsman to oversee the operation of these matters which are no longer part of my jurisdiction.

## **Overseas Students Fees Policy – Charles Darwin University**

My office inquired into a complaint against the Charles Darwin University (CDU) made by an overseas student relating to a request for the refund of fees paid as he was not able to proceed with his Masters thesis. The correspondence forwarded to CDU requested that the university respond directly to the complainant about this request as they had not addressed it in their response to this Office.

CDU told the complainant that a refund was not payable as he had been provided with an appropriate opportunity to conduct his research. Not being satisfied and on contacting CDU's Student Support and Equity he was told that the response was final with no further process for review.

On reviewing the letter I determined the explanation provided was inadequate. My office conducted a number of enquiries in relation to this matter including corresponding with CDU and their solicitor and reviewing applicable policies and procedures.

The issues raised by the complainant were forwarded to the Vice Chancellor CDU for response. As the first response by CDU did not adequately explain the reasons for the decision as required by the rules of natural justice, a further response was sought and obtained from the solicitors representing CDU. Discussions with the solicitors on the existing policy led to the drafting of an amended policy which would provide clarity for future international students seeking a refund of their fees.

The response provided by the solicitors acting on behalf of CDU confirmed the complainant was not entitled to a reimbursement of fees as services had been provided to him for the particular semester in 2007 and he remained enrolled for part of the Semester in 2008 and continued to receive university services up to March 2008. CDU elected not to impose fees on him for the services he received during Semester 1, 2008.

The response accepted that CDU's Policy (Refund for International Students) did not address a refund of fees in the event that a student's candidature is terminated due to a lack of progress after services had been provided, but section 29 of the Education Services for Overseas Students (ESOS) Act 2000 applied. CDU relied on this provision to determine that he was not entitled to a reimbursement of fees for Semester 2, 2007. CDU would amend its policy to mirror the terms of this Act to save confusion even though it considered it had no obligation to do so.

I was satisfied that sufficient progress had been made by CDU to amend its current policy so that overseas students were fully informed. The solicitors for CDU prepared a draft which would not be publicly available until it was approved at the next University management meeting but it was sighted by my office. The Ombudsman does not have the jurisdiction to direct the decisions of CDU about the reimbursement of fees and I decided that any further action by this Office would be unnecessary and unjustified as CDU's decision were not unreasonable.

## **Use of Statutory Powers – NT Family & Childrens Services (formerly FACS) a Division of the Department of Health and Families**

A complainant said that FACS workers along with the Police attended her premises. The FACS workers had not notified the complainant that they were attending. They questioned the complainant and her defacto partner and removed the children from their custody. The children were the complainant's and defacto's biological children. The FACS workers did not provide any paper work to the complainant or her defacto. It was alleged that a Police officer attending asked the FACS worker for the paper work, however no response was provided.

The complainant believed that this removal was as a result of old allegations that had already been dealt with in court. The complainant said that their lives had been improving as her defacto had commenced working and she was able to get off the pain killers (part of the complainant's

limb is amputated). The complainant felt no sufficient reason was provided for the removal of her children and no paper work was provided.

When asked by our Office whether there were any incidents that may have triggered a concern by FACS the complainant explained that her daughter's attendance at school had decreased because she had been bullied in school. The complainant referred to section 64 of the Care and Protection of Children Act which related to the Execution of a Warrant. The complainant was told that sections 52 and 32 of the Act were applied in this instance which the complainant disagreed with. The complainant said that she had made attempts to complain to FACS however did not get anywhere.

The role of the Ombudsman was explained to the complainant. Several issues that were being raised were matters for the court particularly as the matter was returning to court. However the complainant was told that our Office would contact FACS with respect to their procedures, ie allegedly not being provided with adequate reasons or paper work for the removal of her children.

The complainant then went on to advise that after the 72 hour holding period she contacted FACS to find out what the grounds were and she was told that these had not been confirmed as yet, however, they were probably drugs and neglect. In addition to the procedural concerns the complainant also expressed concerns in

relation to the child car seat in which her children were placed. The complainant claimed that it was not secured to the vehicle properly and if an accident had occurred her children would have been killed.

Enquiries were made with FACS in which a response detailing the circumstances was provided to our office. In addition to this FACS arranged for the complainant to meet with a senior officer and the Kidsafe representative and be provided with a demonstration of what constitutes a secure child seat in accordance with the Australian Standards. The complainant was satisfied with this outcome and the matter was closed.

### **Fatal Action – Barkly Shire Council**

I received a complaint from a lawyer representing the complainants who alleged that the Barkly Shire Council, (the Council) allegedly destroyed their dogs without consulting and obtaining their permission.

From an assessment of the documentation provided and the legislation, I noted that Council were acting under directions from the NT Police, who were authorised to seize and destroy the dogs under section 75A (6) of the Summary Offences Act, with or without the consent of the owner or a warrant, where it is believed on reasonable grounds that a dog had caused injury to a person.

A letter from Police was sent to the complainants stating that Police authorised the Council to seize

and destroy the dogs. A Police record provided disclosed details of the incident of the dog attack. It was recorded that one of the complainants attended the Police Station and was told that the dogs would also be euthanised and buried later that day.

I did not find any maladministration by the Council who were acting under directions of Police. The Act is silent in regard to Police delegating functions to Council. The common law principles of the agency made Council's actions unlawful. I informed the complainants that there was nothing more meaningful I could achieve for them and that any question of possible compensation for the destruction of the dogs was not an issue that I could pursue.

### **Frustrated – Patient Assisted Travel Services (DHF)**

A patient complained that PATS staff disallowed his application to travel to Darwin for specialist medical treatment despite it being approved by the Specialist. He also claimed that PATS staff were very rude to him when dealing with him over the application. Enquiries were conducted with the Department.

In relation to the disallowed application, the Department said that although the Specialist who saw the complainant also made the appointment for the Orthopaedic Clinic and CT Scan, he did not complete a PATS form at the time. The PATS form was completed instead by the visiting Doctor at Borroloola Clinic who it appeared, only recorded the Orthopaedic appointment (which is available in Katherine) and not the CT scan appointment (which is not available in Katherine).

This resulted in the form not being approved by the PATS delegate. If the CT scan appointment had been noted on the PATS application form as well then it would have been approved by the delegate. When this anomaly was discovered the decision was reversed and the application form later approved by the authorised Delegate under the PATS Guidelines.

It was also understood that, after PATS travel staff faxed the non-approved application to Borroloola, if there had been a follow up discussion between the remote clinician who completed the application form and the delegated officer who disapproved the form, then the issue of the CT Scan appointment would have been raised and the application subsequently approved at that time. However, this communication did not occur at the time. When queried, the Department said that this was

not a case of a departmental policy overriding a Specialist's referral.

In acknowledging that the complainant experienced some inconvenience and frustration at the time, in order to improve administration (communication), I wrote to the Department about the need for a follow up between the delegate and clinician to be made for clarification, particularly where an application is not approved, in order to avoid a recurrence of this type of situation in future.

In relation to the allegation of rudeness by PATS travel staff, the Department said that on being questioned about the allegation, PATS staff denied being rude. In the absence of sufficient evidence or witnesses to support the claims I was unable to make a definitive finding or arrive at a conclusion. Notwithstanding, this did not mean that I did not believe the complainant's version of events or that it was not taken seriously. Having regard to the explanation received, I did not consider that any further investigation of this matter was warranted as I could not see it achieving anything more meaningful.

### **Car Parking Capers – Territory Housing**

A complainant alleged that common car parking spaces at their unit complex were being misused by a neighbour and that Territory Housing had failed to take steps to address this issue.

I sought a formal response from the Department of Housing, Local Government and Regional Services and reviewed relevant documentation exchanged between the parties. I was told by the Department that a site inspection occurred and that there were no items which would prevent the neighbour complained about from parking his vehicle in his designated car park. I also viewed photos of the neighbour's designated car park which did not reveal any outdoor furniture which would restrict his vehicle from being housed.

The Department said that the Body Corporate informed the Department that there were no specified house rules for that unit complex. Consequently, the Housing Manager requested the Body Corporate to convene an extraordinary meeting to resolve the issues relating to the car

parking in the complex. This resulted in the standard parking memorandum being revised and voted on by all owners to allow all residents to utilise the spare car parks at the front of the complex.

I was satisfied that the Department kept the complainant informed of the process and provided adequate information and their reasons in accordance with policy, procedure and legislation.

The Department said that it telephoned the complainant and discussed this matter at length and was informed that the issue had been resolved as the neighbour was no longer utilising the spare car park. Further, the Department said that mediation was suggested as an avenue to resolve the issues but was declined. I recommended to the complainant that should this issue occur again then mediation should be considered as a means of resolving this dispute.

### **Voluntary School Parent Contributions – Department of Education and Training**

This matter first came to my attention in September 2008 as a result of an individual complaint in relation to the NT Open Education Centre charging school fees. Upon receipt of the latest complaint I determined to broaden the scope of my enquiries to look at the charging of school fees across all government schools. I agreed to hold off commencing an investigation at that time when the Department agreed to take its own action to direct schools to take action to ensure that parents were not misled into thinking that "fees" were compulsory when they can only, under the Education Act, be voluntary donations.

The following actions were taken:

I met with the Acting Chief Executive in November 2008 to discuss the issue and general practice. As a result of that meeting the

Department nominated two officers to assist me with my enquiries.

In April 2009 the Department sent out correspondence to all School Principals and school council chairpersons requesting that all references to "school fees" be changed to "parent contributions". Schools were also directed to publish an article in the school newsletter to inform parents of the voluntary nature of parent contributions.

In June 2009 the Department sent out correspondence to all School Principals requesting that they provide written confirmation that the actions dated April 2009 had been implemented.

*In August 2009 the Department told my Office that all schools had complied with the instructions. However, web-based searches conducted by my Office indicated that some schools had failed to amend their website material as requested;*

*In August 2009 I wrote to the Department expressing my concern that this matter had still not been adequately dealt with.*

*In October 2009 I met with the Department to discuss the issue.*

*In November 2009 the Department wrote to me and confirmed that the following action had been taken:*

*Department staff had spoken to the Principals of each school previously highlighted as being non-compliant and requested that they take steps to ensure that internet based communications were reviewed and appropriately corrected to remove reference to "fees" for school activities;*

- The Department had sent out general correspondence to all schools again reminding them of their obligations;*
- Department staff held discussions with relevant Principals at forums such as the Senior Secondary Principals Forum;*
- New content had been introduced to the Department's training for new Principals.*

*As a result of the above listed action, I was satisfied that the Department had adequately addressed the issue and finalised my enquiries in November 2009.*

*However, media interest in the matter and a further complaint to this office in January 2010 highlighted that some schools were still not complying with the directions of the Department. I wrote to the Department requesting a response in relation to what action the Department intended to take in relation to the continued non-compliance. The reply confirmed that the*

*following steps to encourage compliance had been undertaken:*

- That all School Principals were directed to personally ensure that all school procedures, publications and websites removed all references to 'school fees' and to stress the voluntary nature of parent contributions.*
- That a random audit of fifty schools was conducted by Departmental staff to monitor compliance.*
- That further correspondence was sent out to all Principals in February 2010 reminding them that there is no power under the Education Act to charge school fees.*

*I determined to commence a formal investigation as a result of information that some schools were, by various strategies, enforcing payment of voluntary contributions such as denying services to students where parents did not make voluntary contributions and provided the Department and the Minister with a notice of investigation as required by Section 47 of the Ombudsman Act 2009. I requested the Department to provide me with the results of the audit the Department had conducted. In February 2010 the Department provided me with the requested information. I was told that of the 50 schools, 10 did not request contributions, 23 were found to be compliant and 17 were requested to amend their publications in some way.*

*I reviewed the audit information and my staff conducted a check of the relevant school websites and materials. Whilst this check indicated that there was still not 100 per cent compliance, I was satisfied that the remaining non-compliance was insignificant. Accordingly, I determined not to investigate this matter further at that point in time. However, my office would continue to monitor this situation and would undertake a review of school websites to ensure continued compliance. Should this review indicate renewed non-compliance of a significant nature then I would consider recommencing my investigation into the matter. I appreciated the work undertaken by the Department in relation to this issue.*

### **Three Children Separated for Lack of \$3,000 – DHF - NTFCS**

*The complainant is the grandmother of three children. She had full custody of two children and shared custody of one child. The complainant said she was in her sixties and unwell with mobility issues. The complainant was not paid as a foster carer to care for the children. She lived in public housing on a public pension. Child Protection Services told the complainant that her house was dirty and unfit for the habitation of her grandchildren. She was told that*

*if the house was not cleaned the kids would be taken from her care. She was not offered any financial or other support to clean up.*

*The complainant admitted that her house had become messy and her car had broken down. The complainant believed she had done everything asked of her however certain conditions of the house were permanent and it*

was the responsibility of Territory Housing to do repairs.

An inspection took place the day prior to the complaint being lodged with my Office by two Child Protection Service officers. As a result of this inspection, the children were removed. The complainant said she was not provided with any paperwork and challenged the officers understanding of the Act. The complainant's concerns were submitted to DHF for a response.

The Care and Protection of Children Act allows an officer of the Child Protection Services to remove children from carers/parents/guardians for up to 72 hours if there is reason to believe that the children are at risk of immediate harm or risk to their wellbeing (Section 61). The children were removed as the house was so unhygienic due to human and animal faeces, smells, rotten food and widespread filth. The cost of cleaning the house was estimated at \$3,000. NTFC had not considered providing support services for the

wellbeing of the children and their grandmother. Once they were removed the children were separated and placed with four different foster carers all of whom were paid. The cost of placing the children with other carers far exceeded the sum of \$3,000 to have the house professionally cleaned. Support services had been recommended as a result of reports to NTFC in the preceding years

As a result of the Ombudsman's enquiries the NTFC agreed to develop a notice to give carers or parents when removing children. Even though it was not a legal requirement it was considered to be the fair and humane action to take in most circumstances. NTFC also set up a case planning meeting with the complainant and other services to discuss what was in the best interests of the children, what their needs were and to establish arrangements for their long term care as well as that of their grandmother.

### **Short Changed – Department of Business & Employment**

A worker at a hospital discovered several discrepancies in her pay due to allegedly incorrect calculation of overtime and notified my office of the possibility that incorrect payment of workers may be widespread. She said that many of her workmates had similar problems with their pay.

The substance of the complaint was that payroll staff were not adequately trained in relation to the award and penalty entitlements of workers and that as a result the complainant and her colleagues at the Central Australian Mental Health Service (CAMHS) experienced a high number of errors with their fortnightly pay.

Two further complaints from employees were received. All complainants were employed at CAMHS. CAMHS had operated under a slightly different payroll system to other areas of health - paper time sheets were still being kept. However, this system was soon to be replaced with the

new OneStaff pay system that should improve the service.

Enquiries conducted with the Department of Business and Employment indicated that in a period of ten weeks August – October 2008 payroll errors had been made in the Departments of Health and Families, Police, Power and Water and NTPS totalling 554 occasions. This amounted to approximately 4% of all payments. That is a small proportion of the total number of public servants but for the 554 people underpaid it was significant. The problem was caused because of the use in CAMHS of manual fortnightly paper time sheets. Since the complaint was made the payroll for CAMHS staff has been automated. A payroll officer was arranged to travel to regional areas to train staff on the use of that system and to give all staff an opportunity to raise their concerns. I was satisfied that the action taken by the Department was reasonable and declined to investigate the matter further.



## **Addressing Anti Social Behaviour – Territory Housing**

*A complainant alleged that Territory Housing had failed to act appropriately regarding ongoing complaints of anti-social behaviour lodged against a neighbour. Enquiries were conducted and documentation exchanged between the complainant, Territory Housing and the Minister was reviewed.*

*Due to the neighbour's right to privacy I was unable to provide the complainant with all details of all action taken by Territory Housing. Territory Housing as the landlord for both tenants also could not tell the complainant what they had done about the allegedly disruptive neighbour as it had an obligation of confidentiality to both tenants. However, I reviewed the action taken by Territory Housing and decided it was reasonable that the following strategies designed to address anti-social behaviour were adopted by Territory Housing:*

- Conducted a neighbourhood survey to determine the impact of the reported behaviour on surrounding residents;*

- Request police attendance and records about reported incidents;*
- Required the tenants to enter into an Acceptable Behaviour Agreement which is an agreement not to engage in any kind of anti-social behaviour;*
- Closely managed the tenancy - this is achieved by a tenancy manager regularly contacting the tenants and undertaking property inspections;*
- Referred tenants to external support agencies for advice and assistance;*

*If the behaviour is serious Territory Housing can terminate the tenancy and apply to the Local Court or Commissioner of Tenancies to evict the tenants. In addition, Territory Housing confirmed that they encourage parties to attend mediation and provided the complainant with advice on taking action against the neighbour in the Local Court which the complainant did and was successful in addressing the problem.*

## NORTHERN TERRITORY POLICE

During the course of the financial year my Office received 366 complaints about police (compared to 258 cases in 2008/09) resulting in a 42% increase in the number of complaints received.

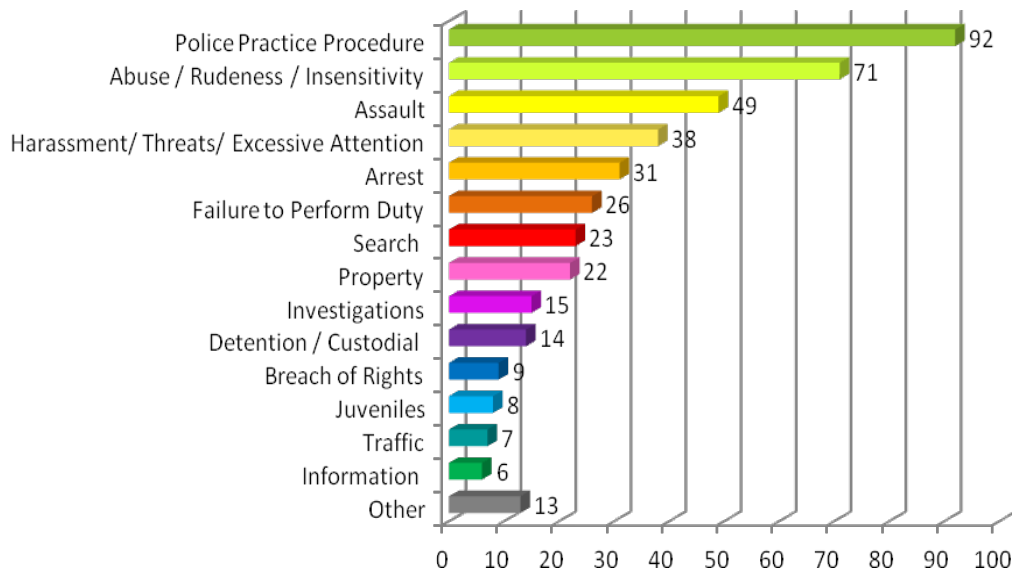
The proportion of complaints about police closed within 180 days has consistently improved when compared to previous financial years:

Year	% within 180 Days
2007/08	76%
2008/09	79%
2009/10	83%

### Issues Complained About

Information is recorded about the issues described in every complaint received about Police. The issues complained about are depicted in the Chart below.

**Chart 17: Issues Raised in Complaints (Police)**



The two major issues complained about have not changed much over the past three years however this year assault (also recorded as excessive force) has risen to overtake arrest as the third highest issue of concern.

### How Complaints were finalised

In all, 366 Police complaints were finalised in 2009/10. This number will not tally with those in the NT Police annual report recording of statistics and dates of receipt. They are recorded differently by our agencies. For example, if NT Police receives a complaint on 30 June 2009 and it is sent to my Office in July 2009 then NT Police would record the approach in 2008/2009 whereas my Office would record it in 2009/2010.

Complaints against Police are dealt with in various ways depending upon the severity of the allegation and the seriousness of the conduct complained about. Chart 19 provides a summary of the way complaints against Police were finalised.

An explanation of the main categories used in the Chart follows:

### **Preliminary Enquiry**

At the preliminary enquiry stage EPSC acquire further information to be reviewed before an informed assessment can be made as to the appropriate category of the complaint. That further information may include CCTV footage where available, Police account of events or any other information relating. Complaints closed at the preliminary enquiries stage can be resolved before an investigation is required or where it is found the complaint lacks substance.

### **CRP / MCRP**

This is an informal process where early personal contact between Police members and complainants may lead to a quick and effective resolution. CRP may involve explaining to a person why a particular course of action was taken by Police, the legal and practical considerations surrounding the incident or a simple apology. Ideally the Police member and the complainant should be satisfied with the outcome but it is appreciated that this may not always be achievable. CRP is a means of dealing with common complaints about practice, procedures, attitudes and behaviours and is not a punitive or fault-finding approach.

### **Category 2 / Nil JRC**

Category 2 is for complaints which do not fall within the guidelines for CRP complaints, but which are not considered sufficiently serious or of such a nature as to warrant Ombudsman involvement.

These complaints are not likely to result in criminal or disciplinary proceedings. The outcome might include the need for:

- Training/education
- Coaching/mentoring
- Counselling
- Personal Improvement Plan
- Reprimand or warning
- Restricted duties
- Caution – verbal or written
- Transfer by agreement

These complaints will be managed, investigated and resolved directly by Police in the first instance.

Where, in the course of investigation, serious misconduct or maladministration is suspected to have occurred then the matter shall be reported to the Ombudsman, through the EPSC. The Ombudsman in consultation with EPSC will then give further directions on the complaint.

### **Category 1 / JRC**

Category 1 investigations will normally be undertaken into complaints which are:

- considered to be of a serious or urgent nature, eg major assault, use of fire-arm;
- likely to result in criminal or disciplinary proceedings;
- a matter of public interest; or
- Likely to raise significant questions of Police practice or procedure.

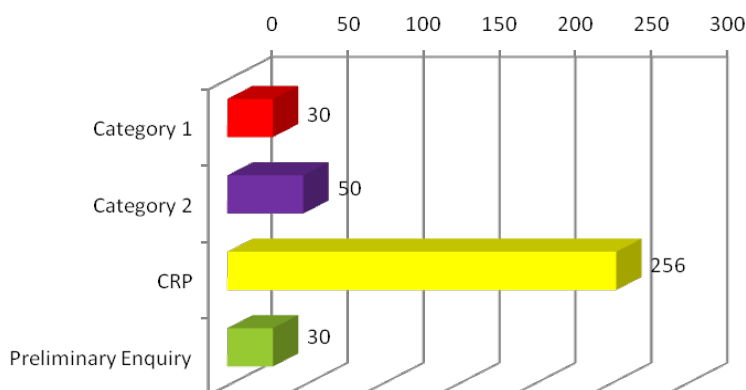
EPSC is tasked with undertaking the investigation. Once the investigation is complete a report is created containing all the findings of the investigation. The report is forwarded to the Commissioner of Police for his comments and then to the Ombudsman's Office. The report is reviewed and the Ombudsman makes recommendations. The report is then returned to the Commissioner. Once the recommendations have been agreed upon all parties are notified of the outcome.

Due to the changeover between the *Ombudsman (NT) Act* and the *Ombudsman Act 2009* there is some overlap between the complaint categories used under the old Act and the new Act.

For the purpose of the below statistics the following categories from the old *Ombudsman (NT) Act* have been summarised into the new categories listed below.

<b>Category 1</b>	<b>Category 2</b>	<b>CRP</b>
JRC	Nil – JRC	MCRP

**Chart 18: Finalised complaints (Police)**



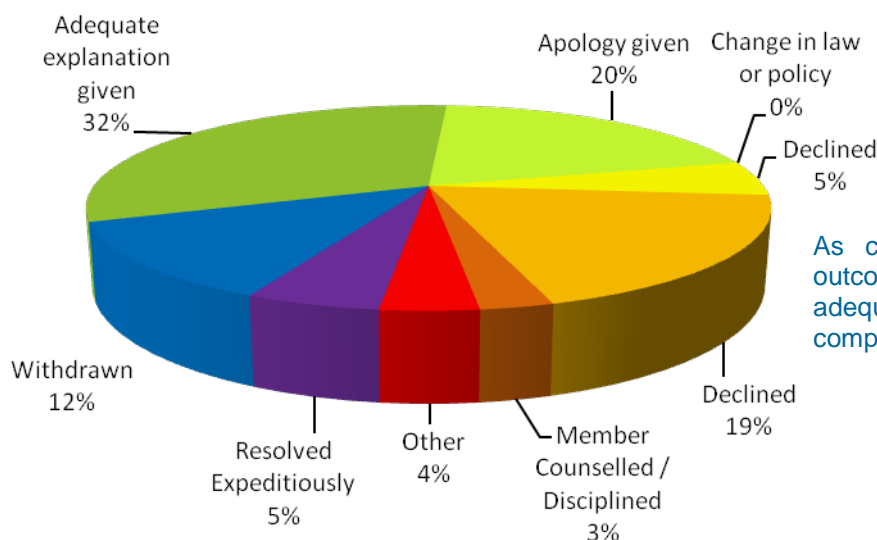
Of the 366 complaints finalised, 92% were referred to Police to investigate (86% in 2008/09).

Of the complaints referred to Police, 70% were resolved through the Complaints Resolution Process (CRP), 14% through Category 2 process and 8% were finalised through the Category 1 process.

It is also noteworthy that:

- Of the 366 complaints finalised, 256 (70%) were resolved by utilising the CRP process (64% in 2008/09).
- 8% of complaints were finalised by the Ombudsman without the need to be referred to police to investigate or respond to (13% in 2008/09). They were either found to have no substance, or were discontinued after explanation and discussion between the complainant and the Office of the Ombudsman.

**Chart 19: Outcomes achieved from finalised complaints**



As can be seen the most frequent outcome (32%) was to provide an adequate explanation to the complainant.

My Office has no control over the length of time taken by the police to investigate complaints against police. On receipt of a police complaint the matter is referred to EPSC to investigate the issues. The timelines for dealing with police complaints should be found in the NT Police Annual Report.

## Engagement with Police

### On Patrol

*There are occasions when it is suggested that my staff are out of touch with policing. With this in mind on 22 January 2010 two of my officers went on 'foot patrol' with members of City Safe. One of these officers was an ex police officer from Western Australia with 12 years policing experience, the other staff member was a lawyer.*

*The Ombudsman Office staff at no stage intervened, just observed. What my officers observed that night suggested that further training was required by some police staff. For example a person removed from licensed premises that night was deemed to be seriously intoxicated (Section 128 Police Administration Act - PAA) requiring protective custody. Asked why this person was deemed to be in need of protection, my staff was told that it was due to that person being argumentative. The indicia of blood shot eyes, unsteady whilst standing, slurring words, etc were not mentioned nor were these indicia seen. The view of my staff was that this person did not meet the legislative criteria as apparently being seriously affected by alcohol or drugs and apart from debating the reasoning for his removal from the premises this person appeared to be capable of looking after himself.*

*The outcome was puzzling because the person was not taken into protective custody despite the officers believing he should be.*

*Protective custody has been a concern of mine since my appointment. Close to 40,000 to 50,000 persons are apprehended each year under the provisions of Section 128 (PAA). Over the years I have had several discussions about Section 128 with the Commissioner, Deputy Commissioner and Commander in Charge of Ethical and Professional Services Command.*

*A discretionary power to detain people has serious inherent risks of misuse by NT Police of the power given by Section 128 of the Police Administration Act. Its effectiveness in maintaining social order does not justify the power being used for purposes other than those complying strictly with the terms of Section 128 no matter how desirable, effective or convenient are the results from its misuse. The next three pages expand on this topic.*

*I am pleased to report that Darwin watch-house now have a police sergeant stationed at the watch-house and a new procedure adopted to minimise the risk of persons not meeting the definition of "seriously affected" being held. In addition a nurse will present at Darwin and Alice Springs watch-houses to add to the protection of persons apprehended and reduce the risk to police of adverse incidents.*

### Recruit Training

*Staff from my Office attended the Peter McAulay Centre to present to new recruits and accelerated recruit program participants. Recruits are told about the role of the Ombudsman relating to complaints against*

*Police (CAPS). Recruits are also presented with previous case studies from recent annual reports and legal advice provided to my Office regarding cases that were investigated and advice sought.*

## Issues Regarding Protective Custody under Section 128 of the Police Administration Act

### **Use of Section 128 of the POLICE ADMINISTRATION ACT – protective custody**

On 17 July 2009 the Northern Territory News reported that I would be investigating whether the police are misusing their power when taking persons into protective custody.

On 5 August 2009 a request was made to EPSC to provide the names for Section 128 apprehensions for Darwin for the past 6 months. Additionally, a request was made to ascertain how many use of force forms were submitted in relation to these apprehensions. Whenever force of any degree is used by a police officer General Orders require that a report be made.

On 14 September 2009 this Office was told that there were four (4) apprehensions which involved the use of force. There were over 200 named persons taken into protective custody during the same period. In other words 196 so drunk that they needed to be apprehended for their own protection made no resistance.

Of these entries, 90 people were apprehended for protective custody two or three times in the same day. I question whether that is inherently likely.

Of concern is that some entries failed to identify the person in custody. For example, one entry has the person's surname as "blue dress" and their Christian name as "maroon top"; another two entries list the surname as "unknown"; another surname is listed however it has question marks after the listing. I am concerned that according to these records the police do not know who they have in custody and it does not appear from these records that they ascertained the name of that person prior to release.

NT Police in response to the action taken and proposed by the Ombudsman identified a need for an internal 'review' into the use of Protective Custody in the Northern Territory. That project initiative has been named "Project Definition". NT Police commenced the review in April 2009. I decided to take no further action pending the report of the internal review.

The current Police Commissioner, at our initial meeting shortly after he took up his Office, was already aware of the issues surrounding the use of Section 128. We were both of the view that the use of police resources to apprehend nearly 50,000 people a year was less than ideal. Commissioner Roberts commissioned his own review and provided a copy of the resulting

report to me. The number of people apprehended for being seriously intoxicated in the year 2008/2009 was 55,276. That is an average of 155 per day. Of those 55,276 incidents, 35,397 people were in protective custody in police facilities and 19,879 were taken to sobering up shelters. Strenuous efforts are being made by government to manage alcohol and drug abuse in the Northern Territory by changes to legislation and initiatives to reduce the sale of take away alcohol. The statistics above indicate that if resources were directed to more sobering up shelters police would be more available for other operational duties.

In the 2007/2008 financial year there were 7792 person arrested and 4908 persons summonsed for offences in the Northern Territory. During that same period there were 29139 persons taken into Protective Custody and held at police facilities. Another 20184 were accommodated at sobering up shelters. This equates to a 2007/2008 total of 49323 Protective Custody episodes excluding persons conveyed to their home address.

It is commendable that such a review is being undertaken. The current review covers:

- Identify intelligence gaps associated with Protective Custody.
- Examine strategy, policy, legislation and practice relating to Protective Custody and identify any alignment issues or need for amendment.
- Examine the role, practices and interaction with other agencies, organisations and stakeholders including sobering up shelters.
- Examine potential risks associated with Protective Custody and risk treatment options.
- Examine any police training needs relating to Protective Custody.

In October 2003 the then Commissioner Paul White and the then CEO of DHCS (now DHF) signed a 'Joint Policy Agreement for Medical Assessment and Management of Persons in Police Protective Custody'. This agreement at point 5 states that it will remain valid for an indefinite duration until terminated by either party.

When speaking to officers about this agreement, many were unaware of its existence.

*This Office has also informally spoken to a few Northern Territory Police officers in an attempt to understand the reasons behind the excessive number of persons taken into custody. It has been reported that in some cases Protective Custody is used as a 'punishment' for persons who were rude/obnoxious or disrespectful to police. If what these officers reported is true then this would be an astonishing action to take in light of the minor nature of the matter and a breach of those person's rights. Still other officers reported that it is easier to use Protective Custody to remove a person from a place and*

*then issue a Summary Infringement Notice at the watch-house.*

*It is obviously not easy to deal with persons who consume considerable amounts of alcohol and/or drugs. Of the complaints made to my Office that a misuse of section 128 occurred, there are only a few of these that have been substantiated. These have led in some instances to apologies being issued by the Commissioner and in other cases managerial guidance or re-training has been recommended.*

### **Case Involving Section 128 of the Police Administration Act**

*In February 2009 a group of males were in Darwin for a pre-wedding celebration. One of the males needed to relieve himself and did so in a public place. This offence was observed by a police officer who approached to speak with the male. Whilst the police officer was speaking with the male some of his group approached and heckled. Some were telling their friend to run, in general making it difficult for the Police officer to undertake his duty. The officer at this time wished to issue the male with a Summary Infringement Notice (SIN) for urinating in a public place. The officer during this process forced the male to the ground several times citing that he had every right to use force as the male was under arrest. Arrest and being issued with a SIN were inconsistent and contradictory actions or decisions in the circumstances. The male did not believe that the action taken by the officer to force him to the ground was lawful. The situation was not controlled resulting in the SIN not being served and the male being apprehended.*

*Twenty minutes after admission to the watch-house the reason for custody was changed to protective custody. The male was not told, no attempt to find a sober adult was made and the SIN was deposited into the male's property.*

*An investigation into the following issues was undertaken:*

- Whether or not the use of force used during the incident in Mitchell Street, Darwin, was justified, lawful or excessive.*
- Whether or not the arrest and detention was reasonable and/or a proper exercise of discretion in the circumstances.*
- Whether or not the alleged intimidatory and threatening behaviour of an Acting Sergeant*

*by threatening to arrest the other members of the group for hindering police was reasonable.*

- Whether or not the Acting Sergeant failed to take charge at the scene of the incident.*
- Whether or not police informed the male that he had been arrested.*
- Whether or not the Acting Sergeant failed to provide his name and number when asked.*
- Whether or not the Acting Sergeant conducted himself reasonably when called*

*to the front counter to speak to some of the group who had requested to speak with a Senior Sergeant/Inspector about the conduct of the officers who arrested the male.*

- Whether or not the Acting Sergeant complied with an obligation to arrange for the complaint against Police (CAP) to be taken at the station.*
- Whether or not the Acting Sergeant inappropriately accessed information about a witness on the NT Police IT system.*
- Whether or not there was a denial/refusal to the apprehended person's request to make a phone call while in custody.*

*The investigation revealed many concerns resulting from the actions taken by police. Issues 1, 2, 4, 6, 7, 8 and 10 above were substantiated. The Commissioner of Police issued a written apology to the complainant for the manner in which force was used at the scene. Other actions taken by the police included reviewing the Custody Manual, appointing a senior officer to the Darwin Watch-house and providing remedial training or guidance to the arresting officer and the Acting Sergeant.*

### Questions & Answers

*I received an enquiry from NAAJA querying my Office's procedures for investigating complaints against police. I informed NAAJA that my Office does not investigate complaints about Police (CAP's) but oversees investigations that Police conduct into CAP's. The closure of an Ombudsman file has the effect that NT Police, through the Ethical and Professional Standards Command (EPSC), will not report back to the Ombudsman. NAAJA were told that police were still investigating their client's complaint and would report to them. The questions asked of me were:*

- 1. whether this Office considers a failure to attend Court is a valid reason to discontinue a complaint under section 67 of the Act;*
- 2. whether this Office has a practice of terminating complaints where the complainant is unable to be contacted, and, if so, on which ground under section 67 such a decision would be made and what efforts are made to contact the complainant before such a decision is made; and*
- 3. this Office's standard practice for attempting to contact complainants from remote communities, including any steps taken to assist the special needs of indigenous complainants in this context?*

*In response, NAAJA was told:*

*Their client was to appear before the Magistrates Court to answer charges arising from the incident he complained of. If a complaint is made while criminal charges are pending, and the complaint relates to the same incident from which the charges arose, it is my view action on the complaint should be delayed if the elements of the charge(s) will result in the Court deciding the issues of the complaint. This was the case in this matter.*

*Our file was closed not because their client failed to attend Court. The effect of him not attending was a delay in finalisation of the case against him. The hearing on a 'not guilty' would have considered and determined whether or not he was lawfully arrested. If he was lawfully placed under arrest then the use of reasonable force would be allowable. If their client was found to have been wrongfully arrested then the use of force would amount to an assault. However, a Police officer cannot have disciplinary charges brought against him after 6 months from the date of an incident. In this case that date was 14*

*February 2010. A Police officer is also entitled to claim the privilege against self incrimination when being questioned about a possible offence and the questions arise from a CAP under the Ombudsman Act 2009.*

*A failure of a person to attend Court to answer charges is a factor that is taken into consideration when deciding whether to continue an investigation, or whether to require EPSC to try and locate the complainant. In this case there seemed very little likelihood of locating the complainant before 14 February 2010. The specific provision relied on is Section 67(1)(e). In my opinion it is not in the public interest to expend NT Police resources, and Ombudsman resources to investigate a CAP when the time limit for taking disciplinary proceedings has expired; when a Court is likely to consider the same circumstances as are the subject of a CAP; and where the complainant cannot be located to assist in the investigation of the complaint.*

*I acknowledged NAAJA's indignation at the results which often flow from the 6 months time limit, especially as it affects Aboriginal people most frequently. I did make strong submissions to the government when the Ombudsman Act was a Bill being developed for introduction to the Legislative Assembly to alter the time limit or to give me and the complainant the power to apply for an extension of time but to no avail. If a complainant is unable to be located then it is very difficult to progress an investigation especially when they are the complainant and possibly the only witness to the incident complained of.*

*Normally if a complainant lost contact with this office we would telephone, email or write to the person concerned. If we knew they were represented we would contact the legal practitioner or legal aid service. Their client made the complaint himself; my officers were not aware that NAAJA was involved until December 2009.*

*I accepted, however, that the writing of a letter to a person in a remote community, without knowing that person's level of literacy and allowing 21 days to respond is not best practice. I welcomed any suggestions from NAAJA on how to manage that dilemma when a lawyer or legal aid service is not known to be involved, and we have no phone number. I would also review the issue with my own staff. At the least a longer time than 21 days should be allowed.*



### Lawyer Loses It

January 2010 saw a member of the NT legal fraternity removed from an international flight due to being severely intoxicated. This solicitor was said to have been so uncooperative with Federal and Territory law enforcement officers that Customs had to complete re-entry protocols in the rear of the police van in which the solicitor had been restrained.

A complaint about police actions on that day was subsequently made to the Ethical & Professional Standards Command of the Northern Territory Police. This Office has no jurisdiction over Federal matters so I make no comment on the actions of airport police who hold dual powers under Federal and Territory legislation.

The allegations made against NT Police were that they had stolen a large quantity of cash and had assaulted the solicitor in the watch-house. The solicitor was detained under the provisions of the Northern Territory Police Administration Act, and held in Protective Custody (s.128). The watch-house CCTV recording was obtained and viewed by my staff.

The footage showed the solicitor being removed from a van and placed into a holding cell. The solicitor tried to force his way back out as the door was being closed. The solicitor was filmed in the holding cell for a period of approximately 16 minutes. During this time the solicitor kicked the cell door and urinated in the corner of the room on a bench seat.

Subsequently asked to attend the front counter for processing the solicitor refused to leave the holding cell stating that unless the names of the officers were given to him and a pen and paper provided the solicitor would not willingly leave the holding cell. The police asked the solicitor several times to acquiesce, including saying 'please come out' but the solicitor refused. Officers entered the holding cell to restrain the solicitor and he was then removed from the cell to the front charge counter.

Any person taken into custody must be searched for valuables, weapons and items that may be a danger to any person. These items are removed and placed in a holding room until a person's release.

The solicitor when being searched was observed resisting the officers. The police continually asked that he stop resisting. Both of the solicitor's arms were being held against the counter for a search to be conducted. The solicitor yelling out, amongst other things, that his 'f\*\*king arms' were hurting. The holds applied by police are approved techniques taught to police. It was my view that these holds were acceptable and appropriate where a person is non-compliant or showing signs of aggression. The solicitor was heard yelling abuse at the officers calling them 'pricks', he also yelled that the officers were hurting his 'balls' as the search was conducted.

The solicitor was subsequently led to a cell. The footage showed him struggling down the corridor towards the cells. Placed into a cell on his own the solicitor began a constant tirade. He kicked the glass doors and walls, he constantly pressed the assistant call button, he took off his shirt, wrapped a blanket around his shoulders and ran at the glass door and walls, he bunched his blanket up around the glass door and kicked at it. The same blanket was held against the glass with punches being thrown at the glass and a toilet roll was thrown around the cell. This behaviour was astounding. The solicitor was observed on a couple of occasions trying to pull-up the metal toilet, remove the mirror from the wall and also placed himself on all fours so he could kick backwards at the cell glass panels.

On release the solicitor refused to sign for property taken from him on arrest. At one point despite his luggage and other items being his property the solicitor stated that the items were not his.

My Office declined to accept the solicitor's complaint pursuant to section 33(d) of the Ombudsman Act 2009. Enquiries that had been conducted found that the money he stated was stolen by police had been left with a colleague, and the force used by police to minimise harm and ensure compliance was deemed appropriate. Allegations of injuries caused to the solicitor by police were not supported by the footage. The actions of this solicitor in constantly throwing his body against the glass cell, punching and kicking the glass would in my view be the cause of any injury to his person. The solicitor was unhappy with my Office's decision not to investigate the matter further.

### **Seeing is Believing**

The complainant was arrested and placed in an empty cell in the watch-house. He alleged his shirt was removed and denied more than one blanket and food for several hours. He was angry and banged his head against the door. He alleged the male officers laughed at him and teased him. Police interviewed the complainant later that day. Before the interview the complainant alleged police threatened him to 'tell the truth'; he felt pressured to talk during the interview; the complainant also alleged he was not informed that he had the right to speak with a lawyer.

During the interview the complainant's Aunt acted as a support person. The complainant alleged he was denied the opportunity for a private conversation with his Aunt. The complainant considered the way the Police teased and laughed at him when he was detained in the watch-house was unnecessary and 'not right', he claimed he was upset and shamed when the Police teased him and swore

at him as he was being escorted from the courthouse to the watch-house.

The complainant did not speak with a lawyer before his interview. He did not know that he could ask for a legal aid lawyer to attend. He believed he should have been informed that he had a right to speak with a lawyer.

A JRC investigation was conducted and the EPSC nominated investigator provided his report to this office. In reviewing the report it was brief and it was determined that the Investigator had not reviewed the video evidence as he had found each of the claims to be unsubstantiated. When this office reviewed the video evidence most of the claims were substantiated. The EPSC investigator was reported to the Commissioner of Police for consideration and action. The other officers involved in the incident were provided with managerial guidance and/or formal counselling.

### **Conduct Unbecoming**

The complainant contacted police on behalf of her son complaining that he had been assaulted by an off duty police officer. Circumstances behind the alleged assault were that the complainant's son was sitting in a park with a group of his friends. The off duty Police officer observed the youths acting suspiciously and called himself on duty as it was his belief that the youths were preparing to commit an offence (trespass onto residential property/stealing). The police officer approached the youths, stated he was a police officer and was alleged to have then struck the complainant's son to the back of his head as he attempted to flee.

A criminal investigation into the matter was carried out by Major Crime. A summons file of an assault was submitted to the Director of Public Prosecutions however the advice received was that there was no reasonable prospect of a conviction and charges were not laid.

A further investigation was then conducted by the Ethical & Professional Standards Command Inspectorate and the Police officer in question was charged with improper conduct contrary to section 76(a) of the Police Administration Act. Disciplinary action was commenced. Being satisfied with the action taken no further action was recommended.

### ***It's None of My Business!***

*The complainant was walking towards a takeaway store at a remote community. He observed a verbal altercation nearby involving several females including his wife. He said he was unaware of the nature of the altercation between the females. Local police constables were in attendance and spoke to the complainant's relatives. The complainant said he commented to one of the women as he walked past to take his wife home as she looked upset. One of the constables called to the complainant and asked him to stop and give his name. The complainant believed that the officer already knew his name.*

*The officer then allegedly said "I know you, you're that "\*\*\*\* B\*\*t\*\*d". The complainant told the constable that he was not involved in the trouble between the females and that it was women's business. The constable then allegedly said "don't walk away from me, I'm talking to you" to which the complainant raised his voice and replied it was not his business - that it was women's business. The constable then told the complainant that he was being disorderly in a public place. The complainant claimed he was not doing anything unlawful and was not told that he was under arrest for committing any offence. The complainant observed the constable standing with a can of spray facing him. The complainant attempted to walk away from the scene. The constable then attempted to restrain the complainant and a struggle ensued.*

*The complainant said that police sprayed his face several times. The complainant said he was kicked painfully in the ankle and forcefully punched in the stomach. He said he was then tackled to the ground and hit his head on impact suffering grazing and bruising. One of the officers was allegedly forcibly gripping the complainant's hair which led to trouble breathing. The complainant said he was being held with extreme force by the officers' knees and boots in the sides of his body and back. One of the witnesses said they observed the officers kicking the complainant and one officer calling the complainant a "\*\*\*\* B\*\*t\*\*d".*

*The complainant was subsequently arrested and told he was to be charged with assaulting police. Whilst in custody medical staff from the local health clinic attended the complainant at the police station. Grounds for his complaint were:*

- 1. Use of force excessive, unreasonable and unnecessary;*
- 2. Unlawful detention;*
- 3. Police training in appropriate use of force inadequate;*
- 4. Police use of offensive language unacceptable.*

*Remedies sought were:*

- 1. That a comprehensive investigation into this complaint be promptly undertaken;*
- 2. That appropriate disciplinary action be taken against the police officers involved;*
- 3. That the complainant receive a formal apology in relation to his treatment by police;*
- 4. That information be provided as to whether the use of force by police was properly recorded in the Northern Territory Police Use of Force Register.*
- 5. That the police officer involved receive training in relation to what constitutes grounds for lawful arrest and what constitutes appropriate use of force, in particular in relation to the use of capsicum spray.*

*An investigation into the matter revealed many witnesses, each with different versions of the incident. Consistent pieces of information were identified to assist in establishing the sequence of events. There was insufficient evidence to support the claim of excessive force, unlawful detention, inadequate Police training and offensive language being used by the constable. However it was identified during the investigation that the aftercare provisions and face wash unit were inadequate for detainee requirements. As a result a new face wash unit was installed to assist with spray aftercare.*

### ***No Drinking in a Public Place***

*The complainant and his two brothers were drinking alcohol in a public area near flats located to the rear of a local police station. In the area were a number of other persons also drinking and fighting. Upon the arrival of Police, the complainant stated he became scared and started to run away. After determining he had no reason to run he stopped and put his hands in the air. The complainant stated he was then*

*apprehended by a Police officer who began walking him to the Police van where another Police officer punched him once in the mouth causing a split lip.*

*A detailed investigation of the complaint was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on behalf of the Ombudsman, under the*

supervision of the Joint Review Committee (JRC). The JRC noted that the whole of the township is a prescribed area under the NT Emergency Response Act and, as such, drinking in a public place is an offence.

### **Conclusions**

All of the officers denied punching or seeing anyone else punch the complainant. Physical contact with Police however did occur with the complainant on several occasions. The first time was when he was repeatedly pushed away by one officer while one of the complainant's relatives was being taken into custody. The officer described these pushes as two handed hard clearance pushes to the complainant's chest and were hard enough that, coupled with the complainant's level of intoxication, caused him to fall over.

The next occasion was when an officer slipped as he was running towards the complainant and another officer caused them all to fall onto the ground on top of one another. The injury was not disputed. However there was no medical evidence provided by the complainant to indicate the injury was serious. Nor did he seek any medical assistance as a result of the injury.

The JRC concluded that there was no evidence to support the allegation that a Police officer punched the complainant in the mouth. It is probable however, that the injury occurred during one of the number of times that the complainant fell to the ground when pushed by an officer, or when accidentally knocked over by him when he slipped on wet grass. It is also possible that the injury occurred prior to the arrival of Police, given the complainant's advice that there was fighting at the scene.

Whilst in Police custody, the complainant's legal representative instructed that an officer assaulted him by kicking him in the lower leg, causing a great deal of pain. When in the Police cells, the complainant was in such pain that he requested to be taken to the hospital. The member's responded "Shut up and sit down you black c\*\*t!" The complainant replied "Take me to the f\*\*k\*\*g hospital!" to which the officer again said "Shut up you black c\*\*t!"

The issues of complaint were:

- Assault - Not Major Injury
- Abuse/Rudeness/Misdemeanour – Racist

The following evidence was considered

:

- Taped Interviews of the complainant, Police officers and other relevant persons
- Statutory Declarations of Police and relevant persons

- Interrogation of the IJIS system
- NT Police General Orders and Policy
- Watch-house footage

### **Conclusions**

#### **Issue 1 – Assault Not Major Injury:**

On reviewing all of the available statements and interviews it is clear that the complainant was seriously affected by alcohol. This may have affected his recollection as to the events on the date of the incident. Both constables deny kicking him at any stage and the independent civilian witness stated that the complainant was never kicked. Another witness had no recollection of the incident due to her level of intoxication. The JRC found that there was no evidence to support or corroborate the allegation that the complainant was kicked, and as such found this aspect of the complaint unsubstantiated.

#### **Issue 2 – Abuse/Rudeness/Misdemeanour – Racist:**

The JRC found that the officer used inappropriate language when speaking to the complainant. The JRC further noted that the complainant was issued with a summary infringement notice. The investigating officer has arranged for the summary infringement notice to be officially withdrawn and the complainant was told of this fact.

The JRC found that, on balance, the officer assessed the injury complained of by the complainant who, in his interview with the investigating officer, said he had fallen asleep in the cells and said "I got back up and I had a cramp, bad cramp in my leg". The JRC found the injury was assessed and the decision to not seek further medical attention was appropriate in the circumstances. The JRC noted that the officer had already received managerial guidance as to the language he used whilst speaking to the complainant.

During the investigation of this complaint attempts were made by the investigating officer to obtain the visual footage of the complainant's reception and release from custody. The relevant footage was not captured. The reason given for this was that the watch-house keeper responsible for the tape change neglected to make the change. The JRC was of the view that the visual recording would not have added to the investigation as the complainant did not appear to have an issues with his reception into custody or his release from custody. However, the JRC recommended that a log be kept at the watch-house to ensure relevant staff were aware of when the tapes needed to be changed and the watch-house keeper update the log when the tapes are changed.

## Road Side Breath Testing When in Protective Custody

The complainant alleged that he was walking home with a friend from a hotel having consumed 5 beers over a period of 3 hours. He said he purchased a carton of beer and a bottle of rum to consume later that evening. As he was walking home two police officers approached him and asked him how much he had had to drink. The complainant told police that he was not drunk. He alleges that the police then informed him that they wanted to breathalyse him. He asked why he was being breathalysed and the police said words to the effect "If you don't blow into the machine you will have to come with us."

The complainant agreed to be breathalysed and returned a reading of 0.229. A Police officer told him that he was intoxicated and under arrest and he was placed into a police van. Upon arrival at the police station the complainant alleged that the police officers pulled him from the vehicle and twisted his arm up his back. The complainant further alleged that once in the cell area the Police officers "roughed him up", pushing him to the ground. One of the officers stuck his knee in his neck and put his full weight on the knee. As a result of the incident the complainant alleges that he sustained a sore neck and sustained a lump to his leg and continued to experience difficulty walking.

An hour later the complainant's wife attended the Police Station and the complainant was released with an infringement notice for "Disorderly behaviour in a Police Station". He later attended hospital and had his injuries recorded. The complaint related to the behaviour of the police during the complainant's arrest and subsequent detention in the police station watch-house. The issues of complaint were itemised as follows:

- The complainant was required to undergo a road side breath test;
- The complainant was taken in to protective custody;
- The complainant was pulled from the police vehicle and his arm twisted up his back;
- The complainant was in the cell area where the police officers "roughed him up", pushing him to the ground. One of the officers stuck his knee in his neck and put his full weight on the knee.

A detailed investigation of the complaint was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on behalf of the Ombudsman. In investigating this matter the following evidence was considered:

- Letter of complaint from the North Australian Aboriginal Justice Agency and the complainant.
- Use of Force Incident Report.
- Newspaper article.
- Transcript of interview between the relevant Police officers and other persons.
- EPSC 1st Interim Report.
- Transcript of Interviews between Police officers and other persons.
- Statutory Declaration of a hospital doctor.
- Watch House Log.
- CCTV Footage of watch-house.
- Final Investigation Report of Police.

Attempts to interview the complainant and his wife were unsuccessful. The complainant failed to keep two scheduled appointments and attempts to re-schedule, which included liaison with the Central Australian Aboriginal Justice Agency, were unsuccessful. The complainant and his wife were eventually located and spoken to by the investigating officer.

### Conclusions

**Issue 1** – The complainant was required to undergo a roadside breath test:

Based on the evidence reviewed, a road side breath test was conducted. However, the evidence is conflicting regarding who instigated the test being conducted. Accordingly, it was concluded that there was insufficient evidence to substantiate the complainant's allegation that he was forced to undergo a road side breath test. However, it was noted that there is no legal provision for police officers giving breath tests when dealing with potential protective custody subjects and the police officers should not have, for any reason, resorted to the use of a breath test. The issue was raised with the Officer in Charge at the police station who was taking steps to ensure that this practice did not occur again in the future.

The JRC noted the discrepancy in the recollection of the complainant and the officers regarding the breath test reading. It may be that the complainant was mistaken in his belief of what the officers told him, however, in any event the main issue was whether the officers were correct in their assessment of the complainant as being intoxicated for the purpose of taking the complainant in to protective custody. The JRC made no recommendation after noting that officers had been counselled on the inappropriateness of undertaking road side breath tests on potential protective custody subjects.

**Issue 2** – The complainant was taken in to protective custody:

In accordance with section 128 of the Police Administration Act, a member may take an 'intoxicated person' into custody (commonly referred to as Protective Custody). 'Intoxicated' is defined under section 127A of the Act as meaning 'seriously affected by alcohol or a drug.' The purpose of section 128 is primarily of protection – protection of the individual and protection of others (*Police v Stuart Ross Wallin*).

Based on the evidence reviewed, the JRC concluded that the complainant's allegation that he was unlawfully arrested and taken in to protective custody was unsubstantiated. The JRC was of the opinion that the complainant exhibited signs consistent with being seriously intoxicated and requiring protection and that there was sufficient grounds for the complainant to be taken into custody under section 128 of the Police Administration Act.

**Issue 3** – The complainant alleged that the Police officers pulled him from the vehicle and twisted his arm up his back:

Based on the evidence reviewed, the JRC concluded that the complaint was unsubstantiated for the following reasons:

The complainant had no corroboration for this allegation;  
The officers denied the allegation;  
The Statutory Declaration of the hospital doctor did not record any injuries consistent with the alleged assault.

**Issue 4** – The complainant alleged that in the cell area the Police officers "roughed him up", pushing him to the ground. One of the officers stuck his knee in his neck and put his full weight on the knee.

Based on the evidence reviewed, the JRC concluded that the complaint was unsubstantiated. This conclusion was based on the following:

The complainant had no corroboration for this allegation;  
The officers denied the allegation;  
The Statutory Declaration of the hospital doctor did not record any injuries consistent with the alleged assault;

The CCTV footage indicated that the amount of force used was only sufficient to gain control of the complainant and did not provide any evidence of injury being sustained.

# Ombudsman Ombudsman

## Activity 2

### Improve the Delivery of Services

OUTPUTS .....	56
HIGHLIGHTS.....	56
LOWLIGHTS .....	56

Ombudsman

## ACTIVITY 2: IMPROVE THE DELIVERY OF SERVICES

### OUTPUTS

The below statistics relate to the Office's levels of success in achieving these output targets.

#### OUR OUTPUTS

1. Recommendations made to agencies and other appropriate bodies.
2. Follow-up on implementation of recommendations.

### HIGHLIGHTS

During the year, the Ombudsman made 18 recommendations to government agencies, local councils and the NT Police of which 100% were adopted and implemented in some form.

A comparison of the number of recommendations made and those adopted over the past three years follows:

**Table 12: Recommendations made**

	2007/08	2008/09	2009/10
Recommendation made	141	113	18
Recommendation adopted	135	108	18

There has been a reduction in the number of recommendations made and recommendations adopted this year when compared to last financial year. This is due to several investigative reports carrying over into the 2010/11 financial year. These recommendations will be reported in the next financial year.

### LOWLIGHTS

Over the years I have not made public numerous concerns about the quality and appropriateness of documentation provided to my investigations. Failure to report on these issues can be attributed to immediate remedial action being undertaken and evidence of those actions being provided to my Office. I have tried to minimise the embarrassment and loss of public confidence with the government in many aspects. Media releases in 2008 and 2009 indicated that the Minister for the Department of Health & Families (DHF) defended security measures in place at Royal Darwin Hospital (RDH) after the release of two of my reports.

The matter I now report on is due to a failure by the Department of Health & Families to convince me that immediate and appropriate changes were implemented. In April 2009 my interim report of an investigation into *Restraint and Detention at Royal Darwin Hospital* was tabled. A full copy of this report can be obtained from [www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au).

I sought a copy of the RDH Security Department's *Security Officer Procedure Manual* that formed part of a recommendation to DHF. The 109 page manual provided caused great concern. I took a copy to Dr Burns the then Minister for Health to alert him to the matter, I also spoke to Dr Ashbridge the then CE of DHF and my Deputy raised the matter with Dr Notaras the then General Manager of RDH. I was told that the Department was embarrassed that the manual in its current form had been sent especially since it had been checked by several employees before delivery to me. Some of the content of the RDH security manual contained the following dot pointed information. I have not replicated the whole content due to limited space to repeat every concern in this annual report.



I noted:

- Numerous question marks throughout the manual where security information should have been entered.
- Notes written to the Security Manager to fill in certain sections or whole sections.
- Confusion as to what actions were to be taken by Security Officers during incidents. One example was found on page 23 of 109 - *'Security Officers shall record any security breaches in your log and advise work unit managers by the use of a Security Breach Report form??????'*
- Under the heading of *Patient Anonymity and Privacy* it is written that a staff member is to find out more on this subject for entry into the manual.
- Under the heading of *Disturbance – Violent* it is written *'Person behaving in a disorderly manner can be removed from the Hospital. Section 254 of the Criminal Code ??? provides the legal power to do so...'* I note that section 254 of the *Criminal Code Act (NT)* refers to *Communicating Infectious Diseases to Animals*.
- Under the heading of *Non Patient Area* it is written *'The Threatening Incident Policy ???????????'*
- Under the heading of *Securing Evidence* it is written *"Ensure a Property/Drug Receipt is completed. ???"*
- Of significance is page 63 of 109. On this page under the heading of *Duress Alarm or Emergency Call* it is written *'Comments here are from Pete I think – copied from your old manual?'* and then further down the page *'All calls for assistance will require caution. WTF'*.
- Under the heading of *Noisy and Abusive Patients/Visitors* it is written *'What's this all about? ED or wards? When does the duty medical officer examine, what is with demand? In ED it's the triage nurse who assesses, on the ward the TL'*.
- Under the heading of *Prisoners as Patients* it is written *'Where there is a high risk prisoner, paste the paras into here from memo?'*
- Under the heading of *Patients Property – Weapons in Emergency Department* it is written *'This was in the new manual – not sure what you feel about RDH????'*
- In the appendices under the heading of *Legislative Considerations and Use of Force* there are references to the Western Australian *Criminal Code*.
- Page 99 of 109 referred to the *Carparking Clerk* of which there is none at RDH.
- Numerous replication of the Royal Perth Hospital Manual.

Several weeks after tabling my report into restraint and detention at RDH and after extensive media coverage I received an email from a Security Officer at RDH. In part, this email stated that *'DHF is telling huge lies'* and that the employee had been *threatened with losing his job* if he didn't act under senior management direction. The employee said that the Security Manager was also threatened by senior management and that both officers were told they were *liable for discipline*. The employee concluded *'My life was made hell for a year by those above me, and even by my colleagues who were caught between listening to me or being disciplined...I hope there will be a positive outcome and DHFS don't ignore it and send us back to where we were...'*

DHF subsequently said that many of my recommendations were accepted and had been implemented.

In February 2010 I sent an email to DHF querying whether the recommendation for a central record of all patients detained with information about the reason and grounds, length of time detained, whether physical or chemical restraint was used and who was the authorising person. No response about this issue was received. Addendum: In November 2010 I was told that RDH are currently working on a response to my query 'as a priority'. This response will be shown in next year's annual report.

# Ombudsman Ombudsman

## Activity 3 Inspection of Police Records

OUTPUTS .....	60
OVERSIGHT FUNCTION .....	60
<i>Telecommunications (Interception) Northern Territory Act</i> .....	60
<i>Surveillance Devices Act 2007</i> .....	60

Ombudsman

## ACTIVITY 3: INSPECTION OF NT POLICE RECORDS

### OUTPUTS

---

The below statistics relate to the Office's levels of success in achieving these output targets.

#### OUR OUTPUTS

1. Inspections undertaken pursuant to the Telecommunications (Interception) Northern Territory Act and the Surveillance Devices Act 2007.
2. Reports to the appropriate Minister.
3. Notification to the Commonwealth Attorney Generals Department (Telecommunications).

### OVERSIGHT FUNCTION

---

#### Telecommunications (Interception) Northern Territory Act

Section 10 of the *Telecommunications (Interception) Northern Territory Act*, requires that I report to the Police Minister the results of inspections carried out under Section 9 of the Act. Since the inception of the Act these inspections are of the records held by the Northern Territory Police Force.

I am required to ascertain and report to the Minister the extent to which the officers of the Northern Territory Police complied with the requirements of Part 2 of the Act. Two inspections (9 November 2009 and 12 March 2010) were undertaken in the financial year.

The Act does not require that the results of these inspections are made public. As such the results of my inspections have not been released except to the Minister who is then required to report to the Attorney General.

#### Surveillance Devices ACT 2007

The *Surveillance Devices Act 2007* (the Act) came into operation on 1 January 2008. It provides a legislative basis for the use of surveillance devices by law enforcement agencies (LEA) where such use would ordinarily be prohibited under Northern Territory law.

The Act restricts the use, communication and publication of information obtained through the use of surveillance devices, establishes procedures to obtain permission to use such devices in relation to criminal investigations, prescribes reporting requirements and imposes requirements for the secure storage and destruction of records in connection with surveillance device operations.

Pursuant to Section 63(1) of the Act, the Ombudsman is required to inspect the records of the Northern Territory Police Force, to determine the extent of compliance with the Act by the agency and its law enforcement officers (LEOs). Section 63(2)(a) requires the Ombudsman to notify the Chief Officer (Commissioner of Police) of the intention to inspect records. Two formal inspections were carried out (23 October 2009 and 29 June 2010) a third visit was necessary to review improvements in the police record keeping practices.

The Ombudsman is also required, under Section 64(1) of the Act, to report to the Minister at six monthly intervals on the results of each inspection. Pursuant to Section 64(2) of the Act, the Minister must, within 7 sitting days after receiving a report, table a copy of it in the Legislative Assembly.

The results of inspections carried out under Section 63(1) of the Act have been tabled. I reported that several areas identified non compliance with the requirements of the *Surveillance Devices Act*. An extract from one of my reports follows:

Of the records inspected-

- Two (2) warrants failed to state the timeframe within which an effectiveness report must be made to a Judge or Magistrate, as required under section 22(1)(b)(xi) of the Act. This is an action required of the Judge or Magistrate. There should be a template field available on the warrant for the Judge or Magistrate to complete this information. In one instance this field had either been removed by the LEO promulgating the warrant or the template used was obsolete. The use of obsolete templates is being addressed by the NT Police.
- Of the thirty-one (31) warrants inspected, only two (2) documented that records had been destroyed pursuant to the requirements of Section 55(1)(b). Four (4) records were listed as required for court purposes and five (5) warrants were not executed, therefore no destruction was necessary. Twenty (20) records should have been destroyed when no longer required; many of these were listed as being used for '*intelligence purposes*'. EPSC sent out reminder notices for destruction at the time of inspection and this issue has been adequately addressed.
- In several cases the report to the Judge/Magistrate (Section 58) was provided outside of the documented period determined by the Judge/Magistrate. There was obvious confusion as to when a Section 58 report was required to be submitted. Some officers appear to have formed the view that if the Judge/Magistrate documents '*within 14 days*', that that time starts from the date of expiration of the warrant. In my view Section 58(1) requires the LEO to provide the report within the time stated by the Judge/Magistrate, for example, within 14 days of endorsement (unless otherwise stated). Due to this issue causing confusion, the warrant template was changed to remove this uncertainty.
- A Senior Officer when asked by EPSC to provide Effectiveness Reports (Section 61) advised that Effectiveness Reports are a duplication of Reports to the Judge (Section 58) and were therefore not required. These Effectiveness Reports, required by law, were not provided to EPSC from this officer's Unit. I note that the information required for each report does contain similarities but additional information is required in an Effectiveness Report than is required in the Report to the Judge. This issue was addressed and rectified by EPSC.
- There were 5 files that failed to contain effectiveness reports (Section 61). Three of these reports were subsequently provided to EPSC prior to completion of this report.
- There were 3 files that failed to contain Applications (section 19) for surveillance device warrants. In one case an officer based at a remote location applied for and was granted warrants, this officer was unaware that an application under section 19 was required. There is an obvious need for training for officers seeking to obtain surveillance device warrants. This issue was addressed and the officer informed of the correct requirement by EPSC.

- The warrant authorising the use of a surveillance device template had in some cases an added 'Note' that reads "*The warrant remains in force for 21 days after the day it would expire, but for subsection (2) of Section 13 of the Act, for the purpose only of authorising the retrieval of the device(s) specified in the warrant*". In my view this addition conflicts with the Judge/Magistrate setting the period that the warrant is in force and the requirement for Retrieval Warrants. This issue has been dealt with by EPSC.
- Without being able to view Affidavits (as they are held by the LEO executing the warrant), this Office is unable to fulfil its obligation to inspect all records held by the NT Police relating to Surveillance Devices. When an Application (Section 19) is made to a Judge/Magistrate there is a requirement (Section 19(5)(b)) for a duly sworn affidavit to be provided to the Judge/Magistrate not later than the day following the making of the Application. Being unable to view Affidavits results in this requirement not being able to be inspected. EPSC were informed of this problem. My officers were told that all original documents in the future will be held at EPSC remedying this inspection problem.
- The 'Register of Warrants' (Section 62) sets out at subsection 2 what the register must document. It was noted at the time of inspection that the requirement to notate the name of the Judge/Magistrate was missing from the register. This was immediately rectified by EPSC.

Of concern was the constant effort required by EPSC to chase LEO's to provide documents to the central repository. For example on 15 April 2010 an email was sent to the Drug Enforcement Section seeking reports and other documents necessary to meet the requirements of inspection. Attached to this email was a table documenting that at the time there were seven (7) outstanding files where various documents had not been provided to EPSC. These seven (7) files failed to contain effectiveness reports or destruction logs and six (6) failed to contain applications or reports to Judge/Magistrate. This issue was address by EPSC.

# Ombudsman Ombudsman

## Activity 4 Access and Awareness

OUTPUTS.....	64
HIGHLIGHTS.....	64
<i>Meetings and Conferences</i> .....	64
<i>Written Material</i> .....	66

Ombudsman

## ACTIVITY 4: ACCESS AND AWARENESS

### OUTPUTS

The below statistics relate to the Office's levels of success in achieving these output targets.

#### OUR OUTPUTS

1. Distribute Ombudsman brochures.
2. Provide a brochure in 10 different ethnic languages.
3. Give presentations on the Ombudsman's role and functions.
4. Utilise the media (radio, television and newspaper) to educate the public and increase awareness about the Ombudsman.
5. Visit rural and remote communities.

### HIGHLIGHTS

The program has two distinct objectives:

1. raising public awareness about the Ombudsman's role and functions; and
2. facilitating a complainant's access to the Ombudsman's services.

A detailed breakdown of community access and awareness visits is provided at Appendix A.

Access and awareness visits for 2009/10 have decreased when compared to last financial year due to lack of staff availability and financial resources for conducting these visits.

**Table 13:** Access and awareness visits/activities – 3 year comparison

	2007/08	2008/09	2009/10
Total Activities for Year	19	16	11

### Meetings and Conferences

The Office relies heavily on education and training resources that have been developed and created by similar offices across Australia, the Pacific region and the International Ombudsman Institute.

I express my thanks to the Commonwealth Ombudsman, the New South Wales, Queensland, Victorian, Tasmanian, Western Australian and South Australian Ombudsman, and the members of the Australian New Zealand Ombudsman Association (ANZOA). The ANZOA comprises the various industry Ombudsman such as the Banking and Financial Services Ombudsman, Insurance Ombudsman and Electricity and Water Ombudsman.

Opportunities were taken to enhance these invaluable collaborative relationships with officers attending the following conferences and meetings:



## **Access and Awareness at a National level**

### **Ombudsman**

- August 2009 - Attended Garma Festival 2009 in Gove

### **Deputy Ombudsman**

- August 2009 - Conducted Access and awareness community visits in Daly River, Peppiminarti, Port Keats, and Pulumpa with other Ombudsman staff

### **Assistant Ombudsman**

- Nil

### **Other Ombudsman Staff**

A comprehensive access and awareness program was conducted from July – September visiting many of the major communities within the NT regional centre, this was done in conjunction with other NT Agencies for cost efficiency.

A complete listing of communities visited is included at Appendix A.

## **National and International Collaboration**

### **Ombudsman**

- Sept 2009 - Good, Better, Best National Ombudsman Conference – Canberra
- Oct 2010 - Annual Public Sector Update – Darwin
- May 2010 - 5th International Conference in Health Care Quality Around the World - Melbourne
- March 2010 – Australian Pacific Ombudsman Conference – Canberra

### **Deputy Ombudsman**

- July 2009 - Australian Public Service Anti Corruption Conference – Brisbane
- July 2009 – Police Integrity Agency Forum
- September 09 – 30<sup>th</sup> Annual conference of United States Ombudsman Association - Denver Colorado
- November 2009 – Deputy Ombudsman Conference - Canberra
- April 2010 – National Telecommunications Conference – Sydney

Each year the United States Ombudsman Association (USOA) holds a conference for all US Ombudsman Association members with invitations sent to a variety of International Ombudsmen. In January 2010 the USOA invited the Deputy Ombudsman to the October 2010 Ohio conference as a guest speaker. This honour could not be accepted due to lack of funds.

### **Assistant Ombudsman**

- April 2010 – National Telecommunications Conference – Sydney
- July 2009 – Police Integrity Agency Forum

### **Other Ombudsman Staff**

- July 2009 – Australian Public Sector Anti Corruption Conference

## Written Material

Pamphlets, posters and cards are currently under review.

## Community Newsletters

Information concerning the Office has appeared in some newsletters produced for and by some community groups. This method reaches the Territory's diverse population at minimum cost.

## Advertising

The Ombudsman's Office conducted a television advertising campaign from July 2009 – December 2009 involving Channel 10 and Imparja. This campaign was run in line with the release of the *Ombudsman Act 2009* to highlight new investigative powers and promote the functions of the office.

## Website

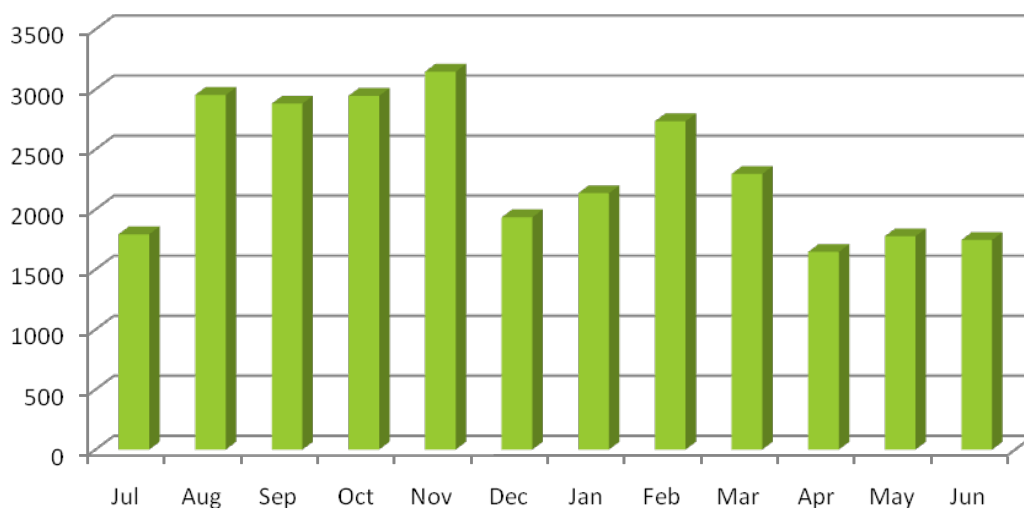
Due to the introduction of the new *Ombudsman Act 2009*, our website was required to be updated with new information. At this stage a rebranding exercise was also conducted to modernise and reconstruct the website in a new format.

People throughout the Northern Territory, and indeed worldwide, can access the Ombudsman through our website [www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au). By logging onto the site people can make a complaint, access information (including Annual Reports), review our legislation or ask questions without the need to contact the Office.

Due to the change in our website our statistical reporting has also changed and comparing site traffic against previous data has been difficult.

We can confirm that on average our site receives over 2,200 unique views per month and almost 28,000 unique views in this reporting period.

**Chart 20: Website Traffic**



# Ombudsman Ombudsman

## Activity 5 Management of the Office of the Ombudsman

OUTPUTS .....	68
HIGHLIGHTS.....	68
<i>Corporate Governance</i> .....	68
<i>Equal Opportunity</i> .....	68
<i>Training and Development</i> .....	69
<i>Occupational Health and Safety</i> .....	69
<i>Annual Insurance Reporting Requirements</i> .....	70
<i>Information Act Annual Reporting Requirements</i> .....	70
<i>Records Management</i> .....	70

## ACTIVITY 5: MANAGEMENT OF THE OFFICE OF THE OMBUDSMAN

### OUTPUTS

---

The below statistics relate to the Office's levels of success in achieving these output targets.

#### OUR OUTPUTS

1. Production of an Annual Report.
2. Compliance with the *Ombudsman Act 2009*.
3. Compliance with the *Financial Management Act* and *Public Sector Employment and Management Act*.
4. Compliance with policies and procedures associated with:
  - Equal Employment; and
  - Occupational Health and Safety.
5. Compliance with the *Information Act*.
6. Management of resources.
7. Continuous review cycle.
8. Strategic Plan.
9. Annual Business Plan.
10. Five Year Corporate Plan.

### HIGHLIGHTS

---

#### Corporate Governance

As the accountable officer for the Office of the Ombudsman, the Ombudsman has the responsibility under the *Financial Management Act* for the efficient, effective and economic conduct of the Office.

Under the *Ombudsman Act 2009*, the Ombudsman is independent of the Government and is not accountable to a Minister, but rather to the Legislative Assembly as a whole. However, under the Administrative Arrangements Orders, where relevant, the *Ombudsman Act 2009* is the administrative responsibility of the Chief Minister.

#### Equal Opportunity

The Ombudsman for the NT has an Equal Opportunity Management Plan with the following objectives:

- Foster an understanding and commitment to equity and diversity principles, activities and outcomes by all employees in the agency.
- Equity and diversity in all Human Resource Management policies and practices.
- Eliminate workplace discrimination and harassment.
- Balancing work, family and cultural responsibilities.
- Through its Equity and Merit Plan the Office of the Ombudsman aims to ensure best and fairest employment practices by:
  - Providing an opportunity for all staff to contribute to and benefit from the achievement of the Agency's objectives.
  - Establishing and maintaining a work environment free from discrimination and harassment in which all individuals are guaranteed equitable access and treatment in

all aspects of employment including conditions of service, recruitment, staff development and training.

- In addition, the Office of the Ombudsman has a Career Development Plan and continues to examine how to best utilise the skills of those it employs to improve the Ombudsman's ability to provide culturally appropriate services to Aboriginal people.

## Training and Development

A performance appraisal framework has been implemented to meet the needs of the Ombudsman's Office.

A major objective achieved through the implementation of this program is the design of individual annual training and development programs for all staff. This process is incorporated into the Business Plan for the Ombudsman's Office.

Expenditure on staff training and development during 2009/10 amounted to only \$15,537 (\$27,186 in 2008/09 and \$32,530 in 2007/08). The reason for the continued downslide in training funds spent is an overall deficiency in agency funding and no other cost that can be reduced.

Training undertaken includes 12 Conferences making up a total of 21 days, with 4 staff attending conferences locally and nationally throughout the year.

Other training undertaken comprised 806 training hours (compared to 428 in 08/09) and comprised 28 training opportunities. This includes total of 4 Ombudsman staff undertaking a Certificate IV in Government Investigations course free of charge, as part of the delivery of this course by the office.

Delivery of the first Certificate IV in Investigations course by Ombudsman staff commenced 26 June 09. Since that date two further courses have been held 12 March 2010 and 19 July 2010.

The key areas of focus for training activities for 2009/10 were: technical skills and professional training such as investigation skills, mediation skills, conflict management and resolution and finance training.

The Ombudsman for the NT is committed to the government's apprentice program. In 2009/10 one apprentice was placed in this office to undertake a Certificate III in Business.

During the year one Ombudsman staff member completed a Bachelor of Business and another completed a Law Degree with the Office's support.

## Occupational Health and Safety

Health, safety, security and well being of staff continue to be monitored in accordance with the Occupational Health and Safety Management Plan. The presence of health and safety risks within the Office is consistently being assessed as low. During the year there were no reported days lost as a result of reported injuries.

Staff safety and well-being in the Office continued to be promoted and monitored throughout the year in line with the Northern Territory Public Service and Work Health OH&S Policy and legislation. Any potential hazards identified during the year were attended to and resolved. The Occupational Health and Safety Officer conducted regular inspections to identify and address any potential risks and hazards. Monthly reports on any OH&S issues identified during the month are prepared and distributed. OH&S is an agenda item on each monthly staff meeting.

When necessary, the OH&S officer consults with and seeks advice from the OH&S DBE Consultant and NT WorkSafe Officers on any important OH&S issues that may arise. Staff are encouraged and supported to participate in sporting activities to promote team spirit and the well being of staff.

My Office has a contract with the Employee Assistance Service of the Northern Territory (EAS) to provide Employee Assistance Program services including counselling and other advisory and training services to staff on an as needs basis. The availability of this service is actively promoted to all staff.

Some important OH&S initiatives completed during the year were:

- Workstation assessments as required.
- Workplace Inspection of the Darwin office.
- Implement recommendations following a workplace inspection of the Darwin Office.
- Employee safety and physical security continues to be addressed by regular monitoring and testing of the duress alarm system in the Darwin Office.

### Annual Insurance Reporting Requirements

Under Treasurers Directions (R2.1 – Insurance Arrangements) each agency and Government Business Division is required to report insurance related information in their annual report. Details of the Office's insurance arrangements are discussed below.

During OH&S assessments risks of physical injury of staff within the Office are consistently being assessed as low. This risk is further mitigated through the implementation and adherence to an agency level Security and Risk Management policy. No commercial insurance is required for this risk category.

The Office does not hold large amounts of physical assets and as such the highest risk exposure to the Office is the physical risk of damage to leased motor vehicles.

Risk to motor vehicles is mitigated through commercial vehicle insurance with TIO which costs this office approximately \$2,000 per year and covers both of the agency's leased vehicles.

During the 2009/10 financial year the Office made one claim against this policy to the amount of \$576.50 and received a reimbursement of \$76.50 after paying a \$500.00 excess.

### Information Act Annual Reporting Requirements

Section 11 of the *Information Act* sets out the information a public sector organisation must publish annually in relation to its process and procedures for accessing information.

A detailed description of the Office's obligations under Section 11 of the Act are provided at Appendix C.

### Records Management

Part 9 of the *Information Act* relates to Records and Archives Management. This section sets out the obligations, standards and management of records and archives to be complied with.

In accordance with Section 134 of the *Information Act*, the Ombudsman for the Northern Territory:

- keeps full and accurate records of its activities and operations; and

- Implements practices and procedures for managing its records necessary for compliance with the standards applicable to the organisation through the implementation of a Records Management Plan.

The Records Management Plan for the Ombudsman's Office incorporates the Health and Community Services Complaints Commission and is designed to achieve the following objectives:

- records management staff fully trained;
- adopt new methods and technologies for keeping and managing records; and
- ensure compliance with the *Information Act* and the NTG Standards for Records Management.

The Ombudsman's Office is fully compliant with the *Information Act* and the NTG Standards for Records Management.





# Ombudsman

# Ombudsman

## Appendices

APPENDIX A – ACCESS AND AWARENESS.....	74
APPENDIX B – STAFF SATISFACTION SURVEY.....	75
APPENDIX C – FREEDOM OF INFORMATION.....	79
<i>Introduction</i> .....	79
<i>Information held by the Office of the Ombudsman</i> .....	79
<i>Disclosure of Information</i> .....	81
<i>Procedures for Providing Access to Information</i> .....	81
APPENDIX D – SERVICE STANDARDS.....	82
APPENDIX E – AGREEMENTS WITH OTHER JURISDICTIONS.....	85
<i>Memorandum of Understanding between the Commonwealth Ombudsman</i> <i>and the Ombudsman for the Northern Territory November 2009</i> .....	85
<i>Public Interest Disclosure Act Memorandum of Understanding</i> .....	90
APPENDIX F – FINANCIAL STATEMENTS .....	93

# Ombudsman

## 4. APPENDICES

### APPENDIX A – ACCESS AND AWARENESS

As part of the Office's public awareness program the following community visits occurred:

Regional Centre Visited	Date	Details
Katherine	20/07/09	Promotional materials distributed, also discussed Ombudsman Office objectives with agencies, community members and stakeholders including FACS, NAAJA, Step Out, Parole Office & MVR.
Binjarri	20/07/09	BBQ held jointly by Consumer Affairs / NTLAC and Office of the Ombudsman, information was distributed at the BBQ.
Minyerri	21/07/09	BBQ held jointly by Consumer Affairs / NTLAC and Office of the Ombudsman, information was distributed at the BBQ.
Ngukurr	21/07/09	Attended as part of joint Offices trip, visited GBM, Store, Aged Care and Police Station and set up table with Promotional Materials.
Ngukurr	22/07/09	Attended as part of joint Offices trip, visited Health Clinic, School, Centrelink and Council Office and set up table with promotional materials.
Katherine	29/07/09	Ombudsman conducted talks with workers at key agencies including Aged & Disability, FACS, NAAJA, and with Police Commander.
Wadeye	19/08/09	Promotional materials distributed, also discussed Ombudsman Office objectives with agencies, community members and stakeholders including Police, Probation and Parole, Health Clinic, Store, Women's Centre and Council.
Palumpa	20/08/09	Promotional materials distributed, also discussed Ombudsman Office objectives with community members and stakeholders.
Peppiminarti	20/08/09	Promotional materials distributed, also discussed Ombudsman Office objectives with agencies, community members and stakeholders including the School, Health Clinic, Store Women's Centre, Council, and CDEP Office.
Daly River	20/08/09	Promotional materials distributed, also discussed Ombudsman Office objectives with agencies, community members and stakeholders including Police, Health Clinic, Store, Council and CDEP Office.
Top Springs	07/09/09	Promotional materials distributed, and discussed Ombudsman Office objectives with community members. Also visited the community store.

## APPENDIX B – STAFF SATISFACTION SURVEY

Below are the questions and responses received in the staff satisfaction survey conducted during the reporting period.

### OVERALL EVALUATION THAT PRINCIPLES ARE UPHELD

1. I am aware of the Principles of Public Administration, the Principles of Human Resource Management & the Principles of Conduct (*Public Sector Employment & Management Act*).
2. I am aware that there is a NTPS Code of Conduct (Employment Instruction Number 13) that applies to all employees and officers.

	Q1	Q2
Agree / Yes	11	11
Disagree / No	0	0
Not Applicable	0	0

### COMMUNITY SERVICE & FAIRNESS

3. My workplace strives to match services to customer needs.
4. Employees in my workplace are committed to providing excellent customer service.
5. In my workplace, we use feedback from our customers and clients to improve the services we deliver.
6. Employees in my workplace behave ethically, professionally and fairly when making decisions that affect their clients and customers.
7. Confidentiality of information is taken seriously in my workplace.
8. Employees in my workplace do not abuse their authority or position when dealing with customers or clients.

	Q3	Q4	Q5	Q6	Q7	Q8
Agree / Yes	11	11	11	11	11	11
Disagree / No	0	0	0	0	0	0
Not Applicable	0	0	0	0	0	0

### ACCOUNTABLE FOR ACTIONS & PERFORMANCES

9. My direct supervisor provides consistent information about our goals and priorities.
10. Employees in my workplace are committed to helping to achieve the workplace goals.
11. Employees in my workplace take responsibility for their decisions and actions.

	Q9	Q10	Q11
Agree / Yes	11	11	10
Disagree / No	0	0	1
Not Applicable	0	0	0

### EMPLOYMENT BASED ON MERIT

12. My organization has good procedures and processes for selecting employees.
13. The selection criteria for vacancies advertised in my workplace accurately reflect the requirements of the job.
14. People who serve on selection panels in my workplace have the skills to select the best people to fill job vacancies.
15. My workplace selects people with the right knowledge, skills and abilities to fill job vacancies.
16. Favouritism is not a factor in decisions to promote employees in the workplace.
17. Recruitment & promotion decisions in this workplace are fair.

	Q12	Q13	Q14	Q15	Q16	Q17
Agree / Yes	10	11	11	10	10	11
Disagree / No	1	0	0	1	1	0
Not Applicable	0	0	0	0	0	0

## MANAGING PERFORMANCE

18. My organisation has a formal performance management system.
19. My immediate manager is committed to managing employees so as to ensure that they perform their work well.
20. My manager gives me enough feedback on my performance to ensure that I understand the results that he/she requires.
21. Most people in my workplace use time and resources efficiently.
22. In my workplace, good work performance is recognised.
23. My current manager deals effectively with employees that perform poorly

	Q18	Q19	Q20	Q21	Q22	Q23
Agree / Yes	11	11	11	10	11	10
Disagree / No	0	0	0	1	0	1
Not Applicable	0	0	0	0	0	0

## EQUITY IN EMPLOYMENT

24. My organisation is committed to promoting equity in employment.
25. Gender is not a barrier to success in my workplace.
26. Age is not a barrier to success in my workplace.
27. Cultural background is not a barrier to success in my workplace.
28. Sexual orientation is not a barrier to success in my workplace.
29. Having a disability is not a barrier to success in my work place.
30. Having family responsibilities is not a barrier to success in my workplace.
31. Working part-time or using other flexible work options is not a barrier to success (including career progression) in my workplace.

	Q24	Q25	Q26	Q27	Q28	Q29	Q30	Q31
Agree / Yes	11	11	10	10	11	11	11	9
Disagree / No	0	0	1	1	0	0	0	1
Not Applicable	0	0	0	0	0	0	0	1

## FLEXIBLE WORKPLACE

32. My workplace culture supports people to achieve a good work-life balance.
33. My workplace provides opportunities for me to work part-time if I want to.
34. My current manager takes into account the differing needs and circumstances of employees when making decisions.

	Q32	Q33	Q34
Agree / Yes	11	8	11
Disagree / No	0	1	0
Not Applicable	0	2	0

## FAIR INTERNAL REVIEW SYSTEM

35. My workplace has a formal process or procedure for resolving grievances and disputes.
36. I have confidence in the procedures and processes that my organisation uses to resolve employee grievances.
37. My current manager is skilled enough to effectively resolve grievances and disputes that arise in my workplace.
38. I would be comfortable approaching my current manager to discuss a workplace grievance or dispute.
39. I feel confident that if I lodge a grievance, I will not suffer any negative consequences.

	Q35	Q36	Q37	Q38	Q39
Agree / Yes	11	9	10	10	10
Disagree / No	0	2	1	1	1
Not Applicable	0	0	0	0	0

## **REWARDING WORKPLACE**

- 40. My workplace encourages the professional development of its employees.
- 41. My workplace values academic qualifications and achievements.
- 42. My current manager provides recognition for the work I do.
- 43. I feel that I make an important contribution to achieving workplace and organisational objectives
- 44. My job provides me with the opportunity to work to my full potential.
- 45. My workload is usually about right for me.

	Q40	Q41	Q42	Q43	Q44	Q45
Agree / Yes	11	11	11	11	11	11
Disagree / No	0	0	0	0	0	0
Not Applicable	0	0	0	0	0	0

## **APOLITICAL, IMPARTIAL & ETHICAL**

- 46. My organisation actively encourages all employees to behave in an ethical manner.
- 47. In my workplace, decisions about all work matters are made fairly, objectively and ethically
- 48. My current manager would take appropriate action if decisions being made about work matters were not objective, fair and ethical.
- 49. My current manager encourages employees to avoid conflicts of interest.

	Q46	Q47	Q48	Q49
Agree / Yes	11	11	11	11
Disagree / No	0	0	0	0
Not Applicable	0	0	0	0

## **QUALITY LEADERSHIP**

- 50. The leadership in my workplace is of a high standard.
- 51. Senior managers in my organisation lead by example in ethical behaviour.
- 52. My current manager is good at managing people.
- 53. I understand what my organisations priorities are.
- 54. I understand what my workplace needs to achieve.
- 55. My workplace provides leadership training opportunities for its employees.

	Q50	Q51	Q52	Q53	Q54	Q55
Agree / Yes	11	11	11	11	11	10
Disagree / No	0	0	0	0	0	1
Not Applicable	0	0	0	0	0	0

## **DISCRIMINATION FREE & DIVERSITY RECOGNISED**

- 56. My organisation is committed to creating a diverse workforce.
- 57. My current manager treats employees with dignity and respect.
- 58. People in my workplace are expected to treat each other respectfully.
- 59. Bullying and/or harassment is not tolerated in my workplace.
- 60. My workplace is free of bullying and/or harassment.
- 61. My workplace is free from sexual harassment.

	Q56	Q57	Q58	Q59	Q60	Q61
Agree / Yes	10	11	11	10	10	11
Disagree / No	1	0	0	0	1	0
Not Applicable	0	0	0	1	0	0

### **EMPLOYEE CONSULTATION & INPUT ENCOURAGED**

- 62. Change is managed well in my workplace.
- 63. My current manager listens to employees.
- 64. My current manager is receptive to ideas put forward by employees.
- 65. My current manager keeps the people in my workplace informed about what is going on.
- 66. My input is adequately sought and considered about decisions that directly affect me.

	Q62	Q63	Q64	Q65	Q66
Agree / Yes	10	11	11	11	11
Disagree / No	1	0	0	0	0
Not Applicable	0	0	0	0	0

### **SAFE WORKPLACE**

- 67. My workplace is committed to employee health and safety.
- 68. My current manager ensures the occupational health & safety guidelines for my workplace are followed.
- 69. My current manager encourages employees to report health & safety incidents and hazards.
- 70. Employees in my workplace display good occupational health & safety awareness.
- 71. At present, I do not feel overly stressed at work.

	Q67	Q68	Q69	Q70	Q71
Agree / Yes	10	11	11	10	11
Disagree / No	1	0	0	1	0
Not Applicable	0	0	0	0	0

## APPENDIX C – FREEDOM OF INFORMATION

---

### Introduction

The object of the *Information Act* (the Act) is to extend, as far as possible, the right of a person to access government and personal information held by government, and to have personal information corrected if inaccurate. Some information is exempt from this process.

Section 49A-49C of the Act states that information is exempt under section 44 if:

- it is obtained or created in the course of an action that is in the nature of an investigation, audit or enquiry;
- taken by the Health and Community Services Complaints Commissioner
- contained in a complaint under the *Ombudsman Act*.

Under Section 11 of the Act, a public sector organisation must publish a statement about its structure and functions, kinds of government information usually held, a description of the organisation's procedures for providing access and a description of the organisation's procedures for correcting information.

Information concerning the organisation and functions of the Ombudsman can be found as follows:

- functions (refer page 9 of this Annual Report)
- organisation (refer page 10 of this Annual Report)

### Information held by the Office of the Ombudsman

The Ombudsman holds information in the following categories:

- information relating to enquiries and investigations into complaints against any Northern Territory Government Agency, Local Government Council or the actions of a member of the NT Police Force. This information includes: complaints; correspondence and consultations with complainants and agencies; and other information sources such as background material, records of conversation, analysis and advice and reports;
- information relating to the Ombudsman's role as the chief executive of an NT agency with a particular set of responsibilities, in terms of the development or implementation of administrative process, policy or legislation; and
- information relating to the Ombudsman's management of the office, including personnel, contracting and financial records and information about asset management.

The following are specific types of information held by the Ombudsman:

#### **Administrative and policy files**

The Ombudsman keeps files of correspondence and other documents, indexed by subject matter, on issues concerning office administration and management.

There are records on a wide range of policy and general questions concerning the Ombudsman's functions and powers, the operation of the Office and the approach taken by the Ombudsman to particular classes of complaints.

Files may relate to the Ombudsman's jurisdiction over a particular body or over particular classes of actions, or they may represent the recording and consolidation of information on subjects or issues that have arisen in the course of investigations.

Access to information held on these files may be provided depending on the content of the relevant documents. Charges may also apply (see 'Procedures for Providing Access to Information' below).

### **Complaint files**

The Ombudsman keeps files of documents relating to each written complaint made under the *Ombudsman Act 2009*. The files are indexed in several ways, including the complainant's name, the agency complained about and the subject of the complaint.

The Ombudsman maintains a computer-based register of all complaints. The Office also keeps records on special forms for some oral complaints received. A paper based file is also maintained.

On completion of enquiries, complaint files or documents are stored in the Darwin office.

Access to the information on these files is generally restricted depending on who is seeking the information.

### **Legal opinions**

The Ombudsman maintains a copy of legal opinions it has been provided with. These opinions cover issues arising during the investigation of complaints and issues involving the Ombudsman's functions and powers.

### **Annual reports**

Copies of the current Annual Report and some previous Annual Reports are available for downloading on the Ombudsman's website at [www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au). Some printed copies of the current Annual Report are available free of charge soon after publication (subject to availability).

### **Brochures**

The Ombudsman has a range of brochure material available to the public. The material details the functions of the Ombudsman and provides a guide to using the services of the office. Some printed copies of these brochures are available free of charge from the Ombudsman's Office in Darwin and some are available for downloading on the Ombudsman's website at [www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au).

### **Manuals and guidelines**

The Ombudsman has the following manuals:

- **Procedures Manual:** This sets out general information about the role and functions of the Ombudsman and the policies and procedures applicable to officers dealing with complaints.
- **Accounting and Property Manual:** provides relevant, current and accurate information on the accounting systems, practices and procedures to be used by employees.



- **Employment and Training Policy and Procedures Manual:** provides a consolidated statement of policies, standards, procedures relating to employment and training.

Access to information contained in these manuals may be provided depending on the content of the relevant documents. Charges may also apply (see 'Procedures for Providing Access to Information' below).

### **Service Standards**

The Ombudsman's Service Standards set out the standards of service you can expect. A copy of the Service Standards is available on the Ombudsman's website at [www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au). Charges may apply where a hard copy is requested (see access arrangements below).

### **Disclosure of information**

The information the Ombudsman holds may be disclosed:

- As required by law (although the relevant legislation prevents disclosure of information obtained for the purpose of an investigation); or
- On request, for example, in relation to information sought by a complainant about the investigation of his or her own complaint, where the documents are routine, an ongoing investigation will not be prejudiced and there is no other interest likely to be adversely affected by disclosure, and the information is not personal information as defined in the *Information Act*.

### **Procedures for Providing Access to Information**

#### **Documents available**

The following documents are available for inspection or purchase on request:

**Brochures:** No charge

**Annual Report:** \$20.00 for the purchase of a hard copy of the report

**Service Standards:** No charge

**Procedures Manual:** \$75.00 for the purchase of a hard copy

#### **Administrative Arrangements for Access to Information**

General enquiries and requests for access to documents may be made in person, by telephone or in writing at the Darwin Office. Alternatively, current or past complainants or respondents may choose to approach the relevant case officer directly. The Office is open between 8.00am and 4.30pm on weekdays. Access is free for a complainants' or respondents' own complaint generated information.

#### **Access under the Information Act**

Commencing 1 July 2006 by amendment to the *Information Act* documents and information held by the Ombudsman in connection with an investigation are exempt from release. Applications will be transferred to the appropriate organisation from whom information in the control or custody of the Ombudsman was sourced.

#### **Procedures for Correcting Information**

Enquiries about correcting personal information should be directed to the relevant case officer, or to the Business Manager.

## APPENDIX D – SERVICE STANDARDS



### SERVICE STANDARDS FOR THE OFFICE OF THE OMBUDSMAN

#### Those We Serve:

##### The Ombudsman's clients are:

Community members of the Northern Territory  
Government Agencies and Statutory Authorities  
Local Government and Shire Councils  
The Northern Territory Police Fire & Emergency Services  
The Legislative Assembly of the Northern Territory

#### Our Commitment:

##### The Ombudsman and staff are committed to the following core values:

- Fairness
- Independence
- Professionalism
- Accountability
- Accessibility
- Timeliness
- Courtesy and Sensitivity

#### Fairness

##### We promise that:

- You will be treated fairly and with respect.
- You will be given the right to be heard during the complaint process.
- Our decisions will be balanced, taking into account all available evidence and points of view.
- We will explain our decision and reasons to you.
- You can request a review of any decision or conclusion we have reached about your complaint.

#### Independence

- We promise to be independent, objective and impartial.

#### Professionalism

##### We will:

- Be ethical, honest and will respect your confidentiality.
- Act with integrity and consistency.
- Be courteous, helpful and approachable.
- Be trained and competent and will provide information about our role and processes.
- Declare any interest which conflicts with our duty to properly determine complaints.

- Assist you by providing appropriate referrals to another organisation if your complaint is beyond our jurisdiction.
- Work together as a team to provide you with the highest standard of service possible.

#### Accountability

##### We will strive to:

- Act lawfully and in accordance with the *Ombudsman Act 2009*.
- Treat complaints against this Office seriously and with integrity.
- Be open and transparent in all our dealings.
- Be responsible for the appropriate use of our resources and will act on a complaint according to the nature and seriousness of the grievance and the reasonable needs of other complainants.
- Give you the opportunity to comment and provide feedback on our services by completing and returning anonymous survey forms.

#### Accessibility

- Our Office hours are 8.00 am to 4.30 pm Monday to Friday.
- We will visit regional centres on a regular basis.
- Toll free telephone access within the Northern Territory will be maintained.

- Information material about our work will be freely available.
- We are trained in the use of translation and interpreter services and can arrange these services if required.
- We will use plain language in communicating with you in our letters and during interviews.
- You are welcome to bring a friend or mentor with you to talk with us, or to assist you in lodging your complaint.
- You can have someone else lodge a complaint on your behalf. However, you will need to authorise that person to act for you.
- Wheelchair access is provided.
- We will give you the name of a contact officer from our Office whom you can contact to check on progress of your complaint at any time.
- You can lodge a complaint in person, in writing, by telephone or fax, or via the Internet. However, you will need to consider the risks of disclosing personal or confidential information on the Internet.

### Timeliness

#### **Where possible:**

- Your complaint will be acknowledged within 7 days and you will be promptly informed of the action to be taken.
- Telephone, facsimile and email messages will be answered promptly, usually within 24 hours.

- Letters will be acknowledged within 7 days of receipt.
- You will be informed of the progress of the complaint regularly and usually every 6-8 weeks.
- We will be flexible in our approach and try to achieve a conciliated resolution of the complaint when appropriate.
- We will respond promptly to requests for information.
- If we cannot meet these benchmarks in your case you will be informed.

### Courtesy and Sensitivity

#### **We will always strive to:**

- Identify ourselves to all people who contact us.
- Include in our correspondence your correct name, contact details and a file reference number.
- Respect your privacy.
- Seek your permission before obtaining any necessary information.
- Provide you with high quality information and advice.
- Explain complex information to you in clear and simple language.
- Give you reasons for our decisions and recommendations.

---

### Our Expectations of You

#### **All we ask is that you:**

- Treat us with respect and courtesy.
- Be clear and frank in your dealings with us.
- Provide us with as much relevant information when requested so that we can serve you better.
- Keep us informed of any new developments that have a bearing on your complaint.

### Our Commitment to Continuous Improvement

We are fully committed to providing the best service we possibly can and are always looking for opportunities to improve our services to the highest standard. We will monitor and review our services periodically in order to provide the optimum service to you. As your views and opinions are important to us, we are open to comments or suggestions for improving our services and will try and resolve any grievance you may have about the quality of our services. You can telephone, write or make an appointment to see us to discuss your concerns. We will also conduct client feedback and satisfaction surveys and report our activities in our annual report.

### How We Will Respond to Your Complaint

The Ombudsman's Office is an office of last resort. Our legislation requires a person to, wherever possible, refer their complaint back to the agency complained about, to try and resolve the matter quickly. However, if you still remain dissatisfied with that approach, you can contact us with your complaint for further assistance. We will first assess your complaint to decide whether or not it is within the Ombudsman's power to investigate. If it is not, we will assist you in referring your complaint to the appropriate agency or other organisation.

When considering whether to investigate a matter ourselves or refer it to another agency, we are obliged to consider the public interest and the capacity of the agency to deal with the matter. We also do not determine guilt. Only a court or tribunal can decide if someone is guilty or not guilty.

If we accept your complaint, it will be assigned to a case officer who, depending on the complexity or seriousness of the complaint, will make informal enquiries with the agency to try and resolve it expeditiously. In certain cases, a formal investigation may be necessary. We will keep you regularly informed of the progress of your enquiry or investigation. At the end of our investigation, we will report our findings to you and the agency. Where appropriate, we may make recommendations to improve the agency's administrative practices and/or policies or even seek an apology from the agency if appropriate.

### **What the Ombudsman Cannot Do**

The Ombudsman must comply with the terms of the Ombudsman Act.

The Act states that the Ombudsman cannot:

- Provide legal advice or representation;
- Act as an advocate; or
- Look into complaints about politicians, most employment disputes, racial vilification, decisions of the Courts, the Coroner, the Director of Public Prosecutions or actions of private individuals or businesses.

## APPENDIX E – AGREEMENTS WITH OTHER JURISDICTIONS

---

### MEMORANDUM OF UNDERSTANDING between THE COMMONWEALTH OMBUDSMAN and OMBUDSMAN FOR THE NORTHERN TERRITORY November 2009

#### PARTIES

1. The Parties to this Memorandum of Understanding (MOU) are the Commonwealth Ombudsman and the Ombudsman for the Northern Territory (NT Ombudsman).
2. To the extent possible and relevant, this MOU is an arrangement for the purposes of s 8A of the *Ombudsman Act 1976* (Com) and ss 19 and 148(1)(b) of the *Ombudsman Act 2009* (NT).
3. The Commonwealth Ombudsman is an independent statutory office holder established pursuant to the *Ombudsman Act 1976* (Com). The Commonwealth Ombudsman's mission includes fostering good public administration that is accountable, lawful, fair, transparent and responsive. The Commonwealth Ombudsman is charged with a range of functions including investigating the administrative actions of Australian Government officials and agencies either on receipt of a complaint or on the Ombudsman's own motion.
4. The Commonwealth Ombudsman is a complaint entity as defined in s 24 of the *Ombudsman Act 2009* (NT).
5. The NT Ombudsman is an independent statutory office holder established pursuant to the *Ombudsman Act 2009* (NT) charged with a range of functions, including:
  - i. investigating and dealing with complaints about administrative actions of public authorities effectively, efficiently, independently, impartially, fairly and in a timely way
  - ii. improving the quality of decision-making and administrative practices of public authorities.

#### DEFINITION

6. In this Memorandum of Understanding

"**administrative action**" for the purposes of the NT Ombudsman, has the meaning provided for in s 6 of the *Ombudsman Act 2009* (NT). For the purposes of the Commonwealth Ombudsman, it has a similar meaning to that of "action related to a matter of administration" in s 5(1) of the *Ombudsman Act 1976* (Com), as expanded by s 3(7) of that Act and qualified by s 5(2).

"**agency**" includes public authority as defined in the *Ombudsman Act 2009* (NT) as well as department and prescribed authority as defined in the *Ombudsman Act 1976* (Com).

"**delegation**" means the delegation of the powers and functions of the NT Ombudsman under ss 147 and 148 of the *Ombudsman Act 2009* (NT) and the delegation of the powers of the Commonwealth Ombudsman under s 34 of the *Ombudsman Act 1976* (Com).

**"investigation"** includes an investigation commenced on the basis of a complaint, the referral of a complaint or on the own motion of the Parties, within the meaning of the *Ombudsman Act 1976 (Cora)* and the *Ombudsman Act 2009 (NT)*, and includes preliminary enquiries under s 7A of the *Ombudsman Act 1976 (Cora)* and under Part 6, division 1 of the *Ombudsman Act 2009 (NT)*.

**"systemic issue"** means a recurring or persistent issue, policy or practice that may affect more than one individual.

## PURPOSES

7. This MOU sets out the framework for cooperation between the Parties in areas of common interest where cooperation is required for the effective performance of their statutory roles in relation to the administrative actions of agencies that deliver programs in the Northern Territory. This MOU is not intended to be overly prescriptive, to legally bind or to override the Parties' existing statutory rights, duties or responsibilities.
8. The Parties are jointly committed to the effective investigation and review of the administrative actions of agencies that deliver programs in the Northern Territory. The Parties share the objectives of ensuring that agencies are accountable for their decisions and actions, administration is enhanced and public confidence in agencies is maintained.
9. The Parties will work together to:
  - i. communicate the role of each Party to agencies and the public, including joint outreach and promotion
  - ii. refer complaints to one another
  - iii. resolve complaints expeditiously, effectively and in good faith
  - iv. investigate and resolve systemic issues affecting the administrative actions of agencies that deliver programs in the Northern Territory
  - v. liaise with each other to avoid duplication of investigative or review activity.

## STATEMENT OF COOPERATION BETWEEN THE PARTIES

10. Recognising the complex framework within which government programs are delivered in the Northern Territory, which often involves all three tiers of government, the Parties acknowledge the importance of cooperation and, where appropriate, collaboration, in order to ensure effective investigation and avoid unnecessary duplication.

## Sharing information

11. To the extent that privacy, confidentiality and legislative requirements allow, the Parties agree that their officers will work together to share information and knowledge gained in the performance of their respective roles. Where appropriate, the Parties will invite each other to attend briefings.
12. To the extent relevant and necessary, the Parties will obtain authorisations from complainants to discuss matters of mutual interest.

13. The Parties agree to consult with each other as soon as an investigation reveals information that may lead to the criticism of an agency that is within the sole jurisdiction of the other Party.
14. As appropriate, the Parties may consult each other in relation to matters on which the other Party has specific expertise or qualifications that are likely to be relevant to an investigation.
15. The Parties agree to discuss relevant issues, including working arrangements, and to meet at least once each quarter.

### Outreach

16. The Parties may undertake joint outreach activities to communities affected by the administrative actions of agencies that deliver programs in the Northern Territory. To that end, the Parties will regularly discuss opportunities for joint outreach activities.
17. The Parties will assist each other, wherever feasible, in the distribution of general material to target audiences and the community generally about how to make complaints and raise issues. They will, for example, include prominent links between their websites.

### Referral of complaints

18. Where one of the Parties (the receiving Party) receives a complaint about an agency that is solely within the jurisdiction of the other Party, the receiving Party will liaise with the other Party and the complainant to determine the most appropriate way to manage the complaint, consistent with the legislative requirements applying to each Party, including, but not limited to:
  - i. providing the details of the complaint to the other Party
  - ii. referring the complaint
  - iii. directing the complaint to the other party and facilitating that process for the complainant. For example, where appropriate, the receiving Party will provide a copy of the complaint to the other Party.
19. When a Party accepts a referred complaint it will manage the complaint independently and shall notify the complainant accordingly. In those circumstances, regard shall be had to ss 18 and 19 of the *Ombudsman Act 2009* (NT).
20. As appropriate, where a matter of administration comes within the jurisdiction of both Parties, the Parties will liaise to determine whether the issue requires:
  - i. joint investigation with or without delegation
  - ii. management by the Commonwealth Ombudsman (requiring delegation from the NT Ombudsman)
  - iii. management by the NT Ombudsman (requiring delegation from the Commonwealth Ombudsman)
  - iv. separation of the complaint so that the Commonwealth Ombudsman and the NT Ombudsman manage those parts within their own jurisdiction.
  - v. management using any, some or all of the above options.

## Joint Investigation

21. Subject to s 8A of the *Ombudsman Act 1976* (Cwth) and ss 19 and 148(1)(b) of the *Ombudsman Act 2009* (NT) and to the extent possible, where a joint investigation by both the Commonwealth Ombudsman and the NT Ombudsman is determined to be appropriate, the Parties shall cooperate as required to effectively and efficiently resolve or investigate the matter.
22. When a complaint is investigated jointly the Party which accepted the complaint initially will acknowledge the complaint and notify the complainant of the joint investigation.
23. In order to effectively conduct a joint investigation, a copy of the complaint or a summary of the systemic issue, as the case may be, will be provided to each Party. The Parties may make arrangements to brief each other and to attend joint briefings from third parties.
24. A joint investigation may either be conducted by:
  - i. each Party investigating matters within its jurisdiction and sharing the results of the investigation with the other party, or
  - ii. delegations from the NT Ombudsman to nominated officers of the Commonwealth Ombudsman and delegations from the Commonwealth Ombudsman to nominated officers of the NT Ombudsman.
25. A joint investigation may culminate in a joint report.

## Delegation

26. Where the Parties agree, the NT Ombudsman may make the required delegations to officers of the Commonwealth Ombudsman by an instrument of delegation. The delegated officers of the Commonwealth Ombudsman are required to sign Attachment A to this MOU.
27. Where the Parties agree, the Commonwealth Ombudsman may make the required delegations to officers of the NT Ombudsman by an instrument of delegation. The delegated officers of the NT Ombudsman are required to sign the Attachment B to this MOU.
28. The Parties will liaise in relation to any training, briefings or management issues that arise concerning delegates.
29. Where an investigation has been conducted by staff of one Party, but under or partly under, delegation issued by the other Party, the matter should not be finalised until:
  - i. The delegator has agreed to the final report and/or action
  - ii. The delegator has signed the final documentation/correspondence
  - iii. The Commonwealth Ombudsman and the NT Ombudsman have agreed to the final report and/or action and signed the final documentation/correspondence in those instances where delegations have been made by both Parties in order to conduct a joint investigation.

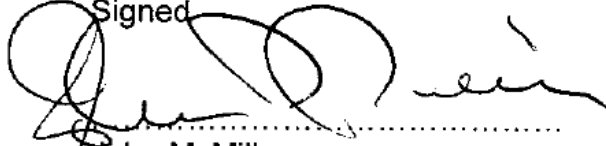


### Joint funding

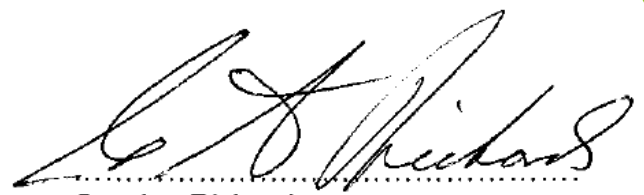
30. Where it is in the interests of both Parties, joint applications may be made for funding concerning the investigation and oversight of agencies that deliver programs relating to the Northern Territory.
31. The Parties will cooperate in order to meet any applicable financial accounting and reporting requirements.

### DURATION

32. This MOU operates until the Parties agree otherwise, or either Party informs the other that it wishes to replace, vary or terminate it.
33. The Parties shall meet annually to discuss the effectiveness of the MOU.

Signed  
  
.....  
John McMillan  
Commonwealth Ombudsman

dated  
3/12/09

  
.....  
Carolyn Richards  
Ombudsman for the Northern Territory

dated  
3/12/09

## **PUBLIC INTEREST DISCLOSURE ACT**

### **MEMORANDUM OF UNDERSTANDING**

BETWEEN:

**THE OMBUDSMAN FOR THE NORTHERN TERRITORY**  
(the Ombudsman)

and

**THE COMMISSIONER FOR PUBLIC INTEREST DISCLOSURES**  
(the Commissioner)

The Ombudsman and the Commissioner (the parties) record their mutual understanding of their roles and duties under the *Public Interest Disclosure Act* in relation to public interest disclosures and their agreement regarding information sharing as follows:

#### **JURISDICTION**

The parties recognise and acknowledge that:

- 1) The Ombudsman is an independent statutory office holder established pursuant to the *Ombudsman Act* charged with a range of functions including:
  - a) investigating and dealing with complaints about administrative actions of public authorities effectively, efficiently, independently, impartially, fairly and in a timely way; and
  - b) improving the quality of decision-making and administrative practices of public authorities.
- 2) The Commissioner is an independent statutory office holder established pursuant to the *Public Interest Disclosures Act* charged with a range of functions including:
  - a) providing for the disclosure and investigation of improper conduct of public officers and public bodies;
  - b) protecting persons making public interest disclosures and others from reprisal; and
  - c) ensuring that public interest information is properly investigated and any impropriety revealed by the investigation is properly dealt with.
- 3) To the extent possible and relevant, this MOU is an arrangement for the purposes of s19(1)(b) of the *Ombudsman Act* and is entered into to ensure that where there is a joint interest, matters are dealt with appropriately and expeditiously and that information is shared within the limits of the relevant legislation.

## DEFINITION

- 4) In this document:
  - a) For the purposes of complaints to the Ombudsman, the terms 'complaints entity', 'administrative action', 'agency' and 'delegation' have the same meaning as in the *Ombudsman Act*.
  - b) For the purposes of public interest disclosures, the terms 'public body,' 'public officers', 'acting in an official capacity', 'improper conduct', 'public interest disclosure', 'referral body', 'referred MLA disclosure' and 'reprisal' have the same meaning as in the *Public Interest Disclosure Act*.

## REFERRAL

- 5) Pursuant to s22 (1) (a) of the *Public Interest Disclosure Act* (and following consideration of any objection under s23 of the Act), the Commissioner may formally refer a public interest disclosure, other than a referred MLA disclosure, to the Ombudsman. Upon referral, the Ombudsman exercises his or her own powers of investigation and the *Public Interest Disclosure Act* does not apply to the investigation. The public interest disclosure does however retain its protection under the *Public Interest Disclosure Act*
- 6) An appropriate matter for formal referral to the Ombudsman might include:
  - a) a referral of a disclosure of 'improper conduct' where the identity of the discloser is generally known and a mediated settlement is preferred; or
  - b) a referral of a disclosure of 'improper conduct' where the Ombudsman is already conducting an investigation into the matter.
- 7) The Commissioner may also informally refer to the Ombudsman any complaint about a public body which is not 'improper conduct' under the *Public Interest Disclosure Act* but which deserves investigation.
- 8) The Ombudsman may informally refer a complainant to the Commissioner when the complaint relates to improper conduct by a public body or public officer and in particular when the complainant's continued anonymity or protection from reprisal is necessary.

## INFORMATION AND DOCUMENTS

- 9) To assist with investigations and to prevent avoid inappropriate duplication of investigative or review activity, the parties agree as follows:
  - a) The parties may from time to time seek from each other access to relevant documents and reports with respect to a current or past complaint or disclosure with one proviso. Where the Ombudsman is completing an enquiry or investigation under the repealed *Ombudsman Act*, the parties will not seek to access the relevant documents or reports of the other party.

- b) Requests for access will be in writing and accompanied by sufficient information (including the manner in which the documents will be used) to enable the other party to identify the relevant documents and reports and to consider whether there is good reason why access should not be granted or should be limited.
- c) In circumstances where the anonymity of the discloser is important, a request made by the Ombudsman for access to documents held by the Commissioner may be denied or limited. In all circumstances however, the parties will act reasonably to facilitate access to documents and reports where appropriate within the limits of the legislation.

## INFORMATION SECURITY

- 10) Prior to handling or accessing each other's information, staff of the parties will undergo full criminal history checks. Persons who have not passed the requisite security check should not be permitted to access this information.
- 11) Documents and reports provided by one party to the other party shall only be used for the purposes agreed between the parties and with due regard to the confidentiality provisions contained in the *Ombudsman Act* and the *Public Interest Disclosure Act*
- 12) Documents and reports provided by one party to the other party will be returned when they are no longer needed.

SIGNED IN RECOGNITION OF THE MUTAL UNDERSTANDING BY:



**CAROLYN RICHARDS**  
Ombudsman for the Northern Territory  
10 August 2010



**BRENDA MONAGHAN**  
Commissioner for Public Interest Disclosures  
9 August 2010

## APPENDIX F – FINANCIAL STATEMENTS

---

### OMBUDSMAN FOR THE NT FINANCIAL REPORT

## FINANCIAL STATEMENT OVERVIEW

For the Year Ended 30 June 2010

The Ombudsman's Office comprises two entities – the Ombudsman and the Health and Community Services Complaints Commission.

- The Ombudsman's role is to receive, investigate and resolve complaints made by members of the public about any administrative action to which the Ombudsman (Northern Territory) Act applies and to foster excellence in public sector services.
- The role of the Health and Community Services Complaints Commission is to conciliate, investigate and resolve health and community services complaints within the Northern Territory, to promote the rights of users of those services and to contribute to quality and safety in health care.

During 2009-10 the net result for the Ombudsman's Office and the Health and Community Service Complaints Commission was a deficit of \$104,000. This was achieved by leaving two established positions vacant throughout the year. Operating expenses comprised \$2,049,000 for employee expenses, \$320,000 for the purchase of goods and services and \$301,000 for services received free of charge from the Department of Business and Employment. Depreciation and amortisation totalled \$26,000.

### CERTIFICATION OF THE FINANCIAL STATEMENTS

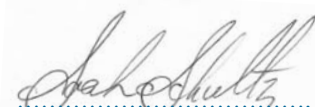
We certify that the attached financial statements for the *Office of the Ombudsman for the NT* have been prepared from proper accounts and records in accordance with the prescribed format, the *Financial Management Act* and Treasurer's Directions.

We further state that the information set out in the Comprehensive Operating Statement, Balance Sheet, Statement of Changes in Equity, Cash Flow Statement, and notes to and forming part of the financial statements, presents fairly the financial performance and cash flows for the year ended 30 June 2010 and the financial position on that date.

At the time of signing, we are not aware of any circumstances that would render the particulars included in the financial statements misleading or inaccurate.



CAROLYN RICHARDS  
Ombudsman for the NT  
26/08/2010



SARAH SCHULTZ  
Business Manager  
26/08/2010

**OFFICE OF THE OMBUDSMAN FOR THE NT  
COMPREHENSIVE OPERATING STATEMENT  
For the year ended 30 June 2010**

	NOTE	2010 \$'000	2009 \$'000
<b>INCOME</b>			
Appropriation			
Output		2,244	2,002
Sales of Goods and Services <sup>(1)</sup>		46	61
Goods and Services Received Free of Charge	4	301	320
Other Income		1	-
<b>TOTAL INCOME</b>	3	2,592	2,383
<b>EXPENSES</b>			
Employee Expenses		2,049	1,774
<i>Administrative Expenses</i>			
Purchases of Goods and Services	5	307	295
Repairs and Maintenance		1	1
Property Management		12	9
Depreciation and Amortisation	8	26	21
Other Administrative Expenses <sup>(2)</sup>	4	301	320
<b>TOTAL EXPENSES</b>	3	2,696	2,420
<b>NET SURPLUS/(DEFICIT)</b>	11	(104)	(37)
<b>COMPREHENSIVE RESULT</b>		(104)	(37)

*The Comprehensive Operating Statement is to be read in conjunction with the notes to the financial statements.*

<sup>1</sup> Includes training revenue

<sup>2</sup> DBE service charges

**OFFICE OF THE OMBUDSMAN FOR THE NT**  
**BALANCE SHEET**  
**As at 30 June 2010**

	NOTE	2010 \$'000	2009 \$'000
<b>ASSETS</b>			
<i>Current Assets</i>			
Cash and Deposits	6	292	280
Receivables	7	20	3
Prepayments		-	-
Other Assets		-	-
<b>Total Current Assets</b>		312	283
<i>Non-Current Assets</i>			
Property, Plant and Equipment	8	50	76
<b>Total Non-Current Assets</b>		50	76
<b>TOTAL ASSETS</b>		362	359
<b>LIABILITIES</b>			
<i>Current Liabilities</i>			
Payables	9	(60)	(68)
Provisions	10	(243)	(175)
<b>Total Current Liabilities</b>		(303)	(243)
<i>Non-Current Liabilities</i>			
Provisions	10	(61)	(63)
<b>Total Non-Current Liabilities</b>		(61)	(63)
<b>TOTAL LIABILITIES</b>		(364)	(306)
<b>NET ASSETS</b>		(1)	53
<b>EQUITY</b>			
Capital	11	(50)	-
Accumulated Funds		52	(53)
<b>TOTAL EQUITY</b>		1	(53)

*The Balance Sheet is to be read in conjunction with the notes to the financial statements.*

**OFFICE OF THE OMBUDSMAN FOR THE NT**  
**STATEMENT OF CHANGES IN EQUITY**  
**For the year ended 30 June 2010**

NOTE	Equity at 1 July \$'000	Compre- hensive result \$'000	Transactions with owners in their capacity as owners \$'000	Equity at 30 June \$'000
<b>2009-10</b>				
Accumulated Funds	53	(104)		(52)
	<u>53</u>	<u>(104)</u>	<u>          </u>	<u>(52)</u>
Capital - Transactions with Owners	-			-
Equity Injections				
Capital Appropriation			-	-
Equity Transfers In			-	-
Other Equity Injections			50	50
Equity Withdrawals				
Capital Withdrawal <sup>(d)</sup>			-	-
	<u>-</u>	<u>          </u>	<u>50</u>	<u>50</u>
Total Equity at End of Financial Year	<u>53</u>	<u>(104)</u>	<u>50</u>	<u>(1)</u>
<b>2008-09</b>				
Accumulated Funds	89	(37)	-	53
	<u>89</u>	<u>(37)</u>	<u>          </u>	<u>53</u>
Capital - Transactions with Owners	(92)			(92)
Equity Injections				
Capital Appropriation			-	-
Equity Transfers In			-	-
Other Equity Injections			92	92
Equity Withdrawals				
Capital Withdrawal <sup>(d)</sup>			-	-
	<u>(92)</u>	<u>-</u>	<u>92</u>	<u>-</u>
Total Equity at End of Financial Year	<u>(2)</u>	<u>(37)</u>	<u>92</u>	<u>53</u>

*This Statement of Changes in Equity is to be read in conjunction with the notes to the financial statements.*



**OFFICE OF THE OMBUDSMAN FOR THE NT**  
**CASH FLOW STATEMENT**  
**For the year ended 30 June 2010**

	NOTE	2010 \$'000	2009 \$'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<i>Operating Receipts</i>			
Appropriation			
Output		2,244	2,002
Receipts From Sales of Goods And Services		59	93
<b>Total Operating Receipts</b>		<u>2,303</u>	<u>2,095</u>
<i>Operating Payments</i>			
Payments to Employees		(1,974)	(1,726)
Payments for Goods and Services		(366)	(305)
<b>Total Operating Payments</b>		<u>(2,340)</u>	<u>(2,032)</u>
<b>Net Cash From/(Used In) Operating Activities</b>	12	<u>(37)</u>	<u>64</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
<i>Investing Payments</i>			
Purchases of Assets		-	(18)
<b>Total Investing Payments</b>		<u>-</u>	<u>(18)</u>
<b>Net Cash From/(Used In) Investing Activities</b>		<u>-</u>	<u>(18)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
<i>Financing Receipts</i>			
<i>Equity Injections</i>			
Capital Appropriation		-	-
Other Equity Injections		50	92
<b>Total Financing Receipts</b>		<u>50</u>	<u>92</u>
<i>Financing Payments</i>			
Finance Lease Payments	11	-	-
Equity Withdrawals		-	-
<b>Total Financing Payments</b>		<u>-</u>	<u>-</u>
<b>Net Cash From/(Used In) Financing Activities</b>		<u>50</u>	<u>92</u>
Net Increase/(Decrease) in Cash Held		13	137
Cash at Beginning of Financial Year		280	142
<b>CASH AT END OF FINANCIAL YEAR</b>	6	<u>292</u>	<u>280</u>

The Cash Flow Statement is to be read in conjunction with the notes to the financial statements.

**OFFICE OF THE OMBUDSMAN FOR THE NT  
NOTES TO THE FINANCIAL STATEMENTS**

*For the year ended 30 June 2010*

**INDEX OF NOTES TO THE FINANCIAL STATEMENTS**

1. Objectives and Funding
2. Statement of Significant Accounting Policies
3. Comprehensive Operating Statement by Output Group

**INCOME**

4. Goods and Services Received Free of Charge

**EXPENSES**

5. Purchases of Goods and Services

**ASSETS**

6. Cash and Deposits
7. Receivables
8. Property, Plant and Equipment

**LIABILITIES**

9. Payables
10. Provisions

**EQUITY**

11. Reserves

**OTHER DISCLOSURES**

12. Notes to the Cash Flow Statement
13. Financial Instruments
14. Commitments
15. Contingent Liabilities and Contingent Assets
16. Events Subsequent to Balance Date
17. Write-offs, Postponements and Waivers

# OFFICE OF THE OMBUDSMAN FOR THE NT NOTES TO THE FINANCIAL STATEMENTS

*For the year ended 30 June 2010*

## 1. OBJECTIVES AND FUNDING

The Office of the Ombudsman for the Northern Territory (the 'Department') includes the Health and Community Services Complaints Commission. The Ombudsman's role is to receive, investigate and resolve complaints made by members of the public about any administrative action to which the Ombudsman (Northern Territory) Act applies. The Commission's role is to inquire into, conciliate, investigate and resolve health and community services complaints within the Northern Territory.

The Department is predominantly funded by, and is dependent on the receipt of Parliamentary appropriations. The financial statements encompass all funds through which the Agency controls resources to carry on its functions and deliver outputs.

For reporting purposes, outputs delivered by the Agency are allocated between two Output Groups, Ombudsman and Health and Community Services Complaints Commission. The allocation to the HCSCC is determined by a formula that does not accurately reflect the true expenses of the HCSCC because of shared personnel and expenses that have historically been allocated to the HCSCC.

Note 3 provides summary financial information in the form of a Comprehensive Operating Statement by Output Group. Additional information in relation to the Department and the Health and Community Services Complaints Commission and its principal activities may be found in the Annual Report.

## 2. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

### a) Basis of Accounting

The financial statements have been prepared in accordance with the requirements of the *Financial Management Act* and related Treasurer's Directions. The *Financial Management Act* requires the Office of the Ombudsman for the NT to prepare financial statements for the year ended 30 June based on the form determined by the Treasurer. The form of Agency financial statements is to include:

- (i) a Certification of the Financial Statements;
- (ii) a Comprehensive Operating Statement;
- (iii) a Balance Sheet;
- (iv) a Statement of Changes in Equity;
- (v) a Cash Flow Statement; and
- (vi) applicable explanatory notes to the financial statements.

The financial statements have been prepared using the accrual basis of accounting, which recognises the effect of financial transactions and events when they occur, rather than when cash is paid out or received. As part of the preparation of the financial statements, all intra Agency transactions and balances have been eliminated.

Except where stated, the financial statements have also been prepared in accordance with the historical cost convention.

The form of the Agency financial statements is also consistent with the requirements of Australian Accounting Standards. The effects of all relevant new and revised Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that are effective for the current annual reporting period have been evaluated. The revised Standards will not have a significant impact on the Financial Statements.

# OFFICE OF THE OMBUDSMAN FOR THE NT NOTES TO THE FINANCIAL STATEMENTS

*For the year ended 30 June 2010*

## b) Agency and Territory Items

The financial statements of Office of the Ombudsman for the NT include income, expenses, assets, liabilities and equity over which the Office of the Ombudsman for the NT has control (Agency items). Certain items, while managed by the Agency, are controlled and recorded by the Territory rather than the Agency (Territory items). Territory items are recognised and recorded in the Central Holding Authority as discussed below.

### *Central Holding Authority*

The Central Holding Authority is the 'parent body' that represents the Government's ownership interest in Government controlled entities.

The Central Holding Authority also records all Territory items, such as income, expenses, assets and liabilities controlled by the Government and managed by Agencies on behalf of the Government. The main Territory item is Territory income, which includes taxation and royalty revenue, Commonwealth general purpose funding (such as GST revenue), fines, and statutory fees and charges.

The Central Holding Authority also holds certain Territory assets not assigned to Agencies as well as certain Territory liabilities that are not practical or effective to assign to individual Agencies such as unfunded superannuation and long service leave.

## c) Comparatives

Where necessary, comparative information for the 2008-09 financial year has been reclassified to provide consistency with current year disclosures.

## d) Presentation and Rounding of Amounts

Amounts in the financial statements and notes to the financial statements are presented in Australian dollars and have been rounded to the nearest thousand dollars, with amounts of \$500 or less being rounded down to zero.

## e) Changes in Accounting Policies

There have been no changes to accounting policies adopted in 2009-10 as a result of management decisions.

## f) Accounting Judgements and Estimates

The preparation of the financial report requires the making of judgements and estimates that affect the recognised amounts of assets, liabilities, revenues and expenses and the disclosure of contingent liabilities. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances, the results of which form the basis of making the judgements about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period, or in the period of the revision and future periods if the revision affects both current and future periods.

Judgements and estimates that have significant effects on the financial statements are disclosed in the relevant notes to the financial statements. Notes that include significant judgements and estimates are:

- Employee Benefits – Note 2(r) and Note 10: Non-current liabilities in respect of employee benefits are measured as the present value of estimated future cash outflows based on the appropriate Government bond rate, estimates of future salary and wage levels and employee periods of service.
- Depreciation and Amortisation – Note 2(j), Note 8: Property, Plant and Equipment and Note 9.

## g) Goods and Services Tax

Income, expenses and assets are recognised net of the amount of Goods and Services Tax (GST), except where the amount of GST incurred on a purchase of goods and services is not recoverable from the

## OFFICE OF THE OMBUDSMAN FOR THE NT NOTES TO THE FINANCIAL STATEMENTS

*For the year ended 30 June 2010*

Australian Tax Office (ATO). In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of the expense.

Receivables and payables are stated with the amount of GST included. The net amount of GST recoverable from, or payable to, the ATO is included as part of receivables or payables in the Balance Sheet.

Cash flows are included in the Cash Flow Statement on a gross basis. The GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows. Commitments and contingencies are disclosed net of the amount of GST recoverable or payable unless otherwise specified.

### **h) Income Recognition**

Income encompasses both revenue and gains.

Income is recognised at the fair value of the consideration received, exclusive of the amount of goods and services tax (GST). Exchanges of goods or services of the same nature and value without any cash consideration being exchanged are not recognised as income.

#### ***Grants and Other Contributions***

Grants, donations, gifts and other non-reciprocal contributions are recognised as revenue when the Agency obtains control over the assets comprising the contributions. Control is normally obtained upon receipt.

Contributions are recognised at their fair value. Contributions of services are only recognised when a fair value can be reliably determined and the services would be purchased if not donated.

#### ***Appropriation***

Output Appropriation is the operating payment to each agency for the outputs they provide and is calculated as the net cost of Agency outputs after taking into account funding from Agency income. It does not include any allowance for major non-cash costs such as depreciation.

Revenue in respect of Appropriations is recognised in the period in which the Agency gains control of the funds.

#### ***Sale of Goods***

Revenue from the sale of goods is recognised (net of returns, discounts and allowances) when:

- the significant risks and rewards of ownership of the goods have transferred to the buyer;
- the Agency retains neither continuing managerial involvement to the degree usually associated with ownership nor effective control over the goods sold;
- the amount of revenue can be reliably measured;
- it is probable that the economic benefits associated with the transaction will flow to the Agency; and
- the costs incurred or to be incurred in respect of the transaction can be measured reliably.

#### ***Rendering of Services***

Revenue from rendering services is recognised by reference to the stage of completion of the contract. The revenue is recognised when:

- the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- it is probable that the economic benefits associated with the transaction will flow to the entity.

#### ***Interest Revenue***

Interest revenue is recognised as it accrues, taking into account the effective yield on the financial asset.

#### ***Goods and Services Received Free of Charge***

Goods and services received free of charge are recognised as revenue when a fair value can be reliably determined and the resource would have been purchased if it had not been donated. Use of the resource is recognised as an expense.

# OFFICE OF THE OMBUDSMAN FOR THE NT NOTES TO THE FINANCIAL STATEMENTS

*For the year ended 30 June 2010*

## *Disposal of Assets*

A gain or loss on disposal of assets is included as a gain or loss on the date control of the asset passes to the buyer, usually when an unconditional contract of sale is signed. The gain or loss on disposal is calculated as the difference between the carrying amount of the asset at the time of disposal and the net proceeds on disposal.

## *Contributions of Assets*

Contributions of assets and contributions to assist in the acquisition of assets, being non-reciprocal transfers, are recognised, unless otherwise determined by Government, as gains when the Agency obtains control of the asset or contribution. Contributions are recognised at the fair value received or receivable.

### **i) Repairs and Maintenance Expense**

Funding is received for repairs and maintenance works associated with Agency assets as part of Output Revenue. Costs associated with repairs and maintenance works on Agency assets are expensed as incurred.

### **j) Depreciation and Amortisation Expense**

Items of property, plant and equipment, including buildings but excluding land, have limited useful lives and are depreciated or amortised using the straight-line method over their estimated useful lives.

Amortisation applies in relation to intangible non-current assets with limited useful lives and is calculated and accounted for in a similar manner to depreciation.

The estimated useful lives for each class of asset are in accordance with the Treasurer's Directions and are determined as follows:

	<u>2010</u>	<u>2009</u>
Plant and Equipment	10 Years	10 Years
Intangibles	3 Years	3 Years

Assets are depreciated or amortised from the date of acquisition or from the time an asset is completed and held ready for use.

### **k) Interest Expense**

Interest expenses include interest and finance lease charges. Interest expenses are expensed in the period in which they are incurred.

### **l) Cash and Deposits**

For the purposes of the Balance Sheet and the Cash Flow Statement, cash includes cash on hand, cash at bank and cash equivalents. Cash equivalents are highly liquid short-term investments that are readily convertible to cash.

### **m) Receivables**

Receivables include accounts receivable and other receivables and are recognised at fair value less any allowance for impairment losses.

The allowance for impairment losses represents the amount of receivables the Agency estimates are likely to be uncollectible and are considered doubtful.

Accounts receivable and other receivables are generally settled within 30 days.

After the end of the reporting period an overpayment was identified for salary of a staff member transferred to another agency, to the amount of \$21k. An account receivable has since been raised to recover this amount (in the 2010/11 financial year) but is not reflected in these financial statements.

# OFFICE OF THE OMBUDSMAN FOR THE NT NOTES TO THE FINANCIAL STATEMENTS

*For the year ended 30 June 2010*

## n) Property, Plant and Equipment

### **Acquisitions**

All items of property, plant and equipment with a cost, or other value, equal to or greater than \$5,000 are recognised in the year of acquisition and depreciated as outlined below. Items of property, plant and equipment below the \$5,000 threshold are expensed in the year of acquisition.

The construction cost of property, plant and equipment includes the cost of materials and direct labour, and an appropriate proportion of fixed and variable overheads.

### **Complex Assets**

Major items of plant and equipment comprising a number of components that have different useful lives, are accounted for as separate assets. The components may be replaced during the useful life of the complex asset.

### **Subsequent Additional Costs**

Costs incurred on property, plant and equipment subsequent to initial acquisition are capitalised when it is probable that future economic benefits in excess of the originally assessed performance of the asset will flow to the Agency in future years. Where these costs represent separate components of a complex asset, they are accounted for as separate assets and are separately depreciated over their expected useful lives.

### **Construction (Work in Progress)**

As part of *Financial Management Framework*, the Department of Planning and Infrastructure is responsible for managing general government capital works projects on a whole of Government basis. Therefore appropriation for the Department's capital works is provided directly to the Department of Planning and Infrastructure and the cost of construction work in progress is recognised as an asset of that Department. Once completed, capital works assets are transferred to the Agency.

## o) Revaluations and Impairment

### Revaluation of Assets

Subsequent to initial recognition, assets belonging to the following classes of non-current assets are revalued with sufficient regularity to ensure that the carrying amount of these assets does not differ materially from their fair value at reporting date:

- Land;
- Buildings;
- Infrastructure Assets;
- Heritage and Cultural Assets;
- Biological Assets; and
- Intangibles.

Fair value is the amount for which an asset could be exchanged, or liability settled, between knowledgeable, willing parties in an arms length transaction.

Plant and equipment are stated at historical cost less depreciation, which is deemed to equate to fair value.

### Impairment of Assets

An asset is said to be impaired when the asset's carrying amount exceeds its recoverable amount.

Non-current physical and intangible Agency assets are assessed for indicators of impairment on an annual basis. If an indicator of impairment exists, the Agency determines the asset's recoverable amount. The asset's recoverable amount is determined as the higher of the asset's depreciated replacement cost and fair value less costs to sell. Any amount by which the asset's carrying amount exceeds the recoverable amount is recorded as an impairment loss.

## OFFICE OF THE OMBUDSMAN FOR THE NT NOTES TO THE FINANCIAL STATEMENTS

*For the year ended 30 June 2010*

Impairment losses are recognised in the Comprehensive Operating Statement unless the asset is carried at a revalued amount. Where the asset is measured at a revalued amount, the impairment loss is offset against the Asset Revaluation Surplus for that class of asset to the extent that an available balance exists in the Asset Revaluation Surplus.

In certain situations, an impairment loss may subsequently be reversed. Where an impairment loss is subsequently reversed, the carrying amount of the asset is increased to the revised estimate of its recoverable amount. A reversal of an impairment loss is recognised in the Comprehensive Operating Statement as income, unless the asset is carried at a revalued amount, in which case the impairment reversal results in an increase in the Asset Revaluation Surplus.

### p) Leased Assets

Leases under which the Agency assumes substantially all the risks and rewards of ownership of an asset are classified as finance leases. Other leases are classified as operating leases.

#### *Finance Leases*

Finance leases are capitalised. A leased asset and a lease liability equal to the present value of the minimum lease payments are recognised at the inception of the lease.

Lease payments are allocated between the principal component of the lease liability and the interest expense.

#### *Operating Leases*

Operating lease payments made at regular intervals throughout the term are expensed when the payments are due, except where an alternative basis is more representative of the pattern of benefits to be derived from the leased property. Lease incentives under an operating lease of a building or office space is recognised as an integral part of the consideration for the use of the leased asset. Lease incentives are to be recognised as a deduction of the lease expenses over the term of the lease.

### q) Payables

Liabilities for accounts payable and other amounts payable are carried at cost which is the fair value of the consideration to be paid in the future for goods and services received, whether or not billed to the Agency. Accounts payable are normally settled within 30 days.

### r) Employee Benefits

Provision is made for employee benefits accumulated as a result of employees rendering services up to the reporting date. These benefits include wages and salaries and recreation leave. Liabilities arising in respect of wages and salaries and recreation leave and other employee benefit liabilities that fall due within twelve months of reporting date are classified as current liabilities and are measured at amounts expected to be paid. Non-current employee benefit liabilities that fall due after twelve months of the reporting date are measured at present value, calculated using the Government long term bond rate.

No provision is made for sick leave, which is non-vesting, as the anticipated pattern of future sick leave to be taken is less than the entitlement accruing in each reporting period.

Employee benefit expenses are recognised on a net basis in respect of the following categories:

- wages and salaries, non-monetary benefits, recreation leave, sick leave and other leave entitlements; and
- other types of employee benefits.

As part of the *Financial Management Framework*, the Central Holding Authority assumes the long service leave liabilities of Government Agencies, including Office of the Ombudsman for the NT and as such no long service leave liability is recognised in Agency financial statements.

### s) Superannuation



**OFFICE OF THE OMBUDSMAN FOR THE NT  
NOTES TO THE FINANCIAL STATEMENTS**

*For the year ended 30 June 2010*

Employees' superannuation entitlements are provided through the:

- NT Government and Public Authorities Superannuation Scheme (NTGPASS);
- Commonwealth Superannuation Scheme (CSS); or
- non-government employee nominated schemes for those employees commencing on or after 10 August 1999.

The Agency makes superannuation contributions on behalf of its employees to the Central Holding Authority or non-government employee nominated schemes. Superannuation liabilities related to government superannuation schemes are held by the Central Holding Authority and as such are not recognised in Agency financial statements.

**t) Contributions by and Distributions to Government**

The Agency may receive contributions from Government where the Government is acting as owner of the Agency. Conversely, the Agency may make distributions to Government. In accordance with the *Financial Management Act* and Treasurer's Directions, certain types of contributions and distributions, including those relating to administrative restructures, have been designated as contributions by, and distributions to, Government. These designated contributions and distributions are treated by the Agency as adjustments to equity.

The Statement of Changes in Equity provides additional information in relation to contributions by, and distributions to, Government.

**u) Commitments**

Disclosures in relation to capital and other commitments, including lease commitments are shown at note 19 and are consistent with the requirements contained in AASB 101, AASB 116 and AASB 117.

Commitments are those contracted as at 30 June where the amount of the future commitment can be reliably measured.

**OFFICE OF THE OMBUDSMAN FOR THE NT  
NOTES TO THE FINANCIAL STATEMENTS**

*For the year ended 30 June 2010*

**3. COMPREHENSIVE OPERATING STATEMENT BY OUTPUT GROUP**

	Note	Ombudsman		Health and Community Services Complaints Commission		Total	
		2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000
<b>INCOME</b>							
Appropriation Output		1782	1522	462	480	2244	2002
Sales of Goods and Services <sup>(b)</sup>		46	61	0	0	46	61
Goods and Services Received Free of Charge	4	283	301	18	19	301	320
Other Income <sup>(b)</sup>		1	25	0	0	1	25
<b>TOTAL INCOME</b>		2112	1909	480	499	2592	2408
<b>EXPENSES</b>							
Employee Expenses		1688	1445	361	354	2049	1799
Administrative Expenses							
Purchases of Goods and Services	6	234	214	85	90	319	303
Repairs and Maintenance		1	1	0	0	1	1
Depreciation and Amortisation	10, 11	26	21	0	0	26	21
Other Administrative Expenses <sup>(1)</sup>	4	283	301	18	20	301	320
<b>TOTAL EXPENSES</b>		2232	1982	464	464	2696	2445
<b>NET SURPLUS/(DEFICIT)</b>		(196)	(73)	92	35	(104)	(37)
<b>TOTAL OTHER COMPREHENSIVE INCOME</b>		-	-	-	-	-	-
<b>COMPREHENSIVE RESULT</b>		(120)	(73)	16	35	(104)	(37)

This Comprehensive Operating Statement by Output Group is to be read in conjunction with the notes to the financial statements, in particular note 1.

<sup>1</sup> DBE service charges.

**OFFICE OF THE OMBUDSMAN FOR THE NT**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2010**

	2010 \$'000	2009 \$'000
<b>4. GOODS AND SERVICES RECEIVED FREE OF CHARGE</b>		
Corporate and Information Services	301	320
Internal Audits and Reviews	-	-
	301	320
<b>5. PURCHASES OF GOODS AND SERVICES</b>		
The net surplus/(deficit) has been arrived at after charging the following expenses:		
<b>Goods and Services Expenses:</b>		
Consultants <sup>(1)</sup>	5	24
Advertising <sup>(2)</sup>	9	(1)
Marketing and Promotion <sup>(3)</sup>	11	11
Document Production	15	12
Legal Expenses <sup>(4)</sup>	4	(17)
Recruitment <sup>(5)</sup>	3	3
Training and Study	16	27
Official Duty Fares	11	66
Travelling Allowance <sup>(6)</sup>	9	3
(1) Includes marketing, promotion and IT consultants.		
(2) Does not include recruitment advertising or marketing and promotion advertising.		
(3) Includes advertising for marketing and promotion but excludes marketing and promotion consultants' expenses, which are incorporated in the consultants' category.		
(4) Includes legal fees, claim and settlement costs. The 2009 figure for legal expenses includes a reimbursement of costs paid in the previous financial year.		
(5) Includes recruitment related advertising costs.		
(6) The 2010 figure for Travel Allowance includes an amount paid in 09/10 for travel that occurred in 08/09		
<b>6. CASH AND DEPOSITS</b>		
Cash on Hand	1	1
Cash at Bank	292	279
	292	280
<b>7. RECEIVABLES</b>		
<b>Current</b>		
Accounts Receivable	18	0
Less: Allowance for Impairment Losses	-	-
	-	-
Interest Receivables	-	-
GST Receivables	2	3
Other Receivables	-	-
	20	3
<b>Non-Current</b>		
Other Receivables	-	-
	-	-
<b>Total Receivables</b>	20	3

**OFFICE OF THE OMBUDSMAN FOR THE NT**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2010**

	2010 \$'000	2009 \$'000
<b>8. PROPERTY, PLANT AND EQUIPMENT</b>		
<b>Plant and Equipment</b>		
At Fair Value	72	83
Less: Accumulated Depreciation	(46)	(52)
	25	32
<b>Computer Software</b>		
At Cost	126	126
Less: Accumulated Depreciation	(101)	(83)
	25	44
<b>Total Property, Plant and Equipment</b>	50	76

**2010 Property, Plant and Equipment Reconciliations**

A reconciliation of the carrying amount of property, plant and equipment at the beginning and end of 2009-10 is set out below:

	Plant & Equipment \$'000	Computer Software \$'000	Total \$'000
<b>Carrying Amount as at 1 July 2009</b>	<b>32</b>	<b>44</b>	<b>76</b>
Additions			
Disposals			
Depreciation	(7)	(19)	(26)
Additions/(Disposals) from Administrative Restructuring			
Additions/(Disposals) from Asset Transfers			
Revaluation Increments/(Decrements)			
Impairment Losses			
Impairment Losses Reversed			
<b>Carrying Amount as at 30 June 2010</b>	<b>25</b>	<b>25</b>	<b>50</b>

**2009 Property, Plant and Equipment Reconciliations**

A reconciliation of the carrying amount of property, plant and equipment at the beginning and end of 2008-09 is set out below:

	Plant & Equipment \$'000	Computer Software \$'000	Total \$'000
<b>Carrying Amount as at 1 July 2008</b>	<b>79</b>	<b>0</b>	<b>79</b>
Additions	(38)	56	18
Disposals			
Depreciation	(9)	(13)	(22)
Additions/(Disposals) from Administrative Restructuring			
Additions/(Disposals) from Asset Transfers			
Revaluation Increments/(Decrements)			
Impairment Losses			
Impairment Losses Reversed			
<b>Carrying Amount as at 30 June 2009</b>	<b>32</b>	<b>44</b>	<b>76</b>

2010 \$'000	2009 \$'000
----------------	----------------

**OFFICE OF THE OMBUDSMAN FOR THE NT**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2010**

<b>9. PAYABLES</b>		
Accounts Payable	23	46
Accrued Expenses	37	22
Other Payables <describe where material>	-	-
<b>Total Payables</b>	<u>60</u>	<u>68</u>
<b>10. PROVISIONS</b>		
<b>Current</b>		
<i>Employee Benefits</i>		
Recreation Leave	172	127
Leave Loading	18	14
Other Employee Benefits	-	4
<i>Other Current Provisions</i>		
Other Provisions (FBT, Payroll Tax, Superannuation)	54	31
	<u>243</u>	<u>175</u>
<b>Non-Current</b>		
<i>Employee Benefits</i>		
Recreation Leave	61	63
<i>Other Non-Current Provisions</i>	-	-
	<u>61</u>	<u>63</u>
<b>Total Provisions</b>	<u>304</u>	<u>238</u>

No provision is made for:

- (a) Parental Leave as it cannot be estimated.
- (b) Long Service Leave, liability for which is assumed by NT Treasury.

**OFFICE OF THE OMBUDSMAN FOR THE NT**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2010**

	2010 \$'000	2009 \$'000
<b>11. RESERVES</b>		
<b>Balance as at 1 July</b>		
Changes In Accounting Policies	-	-
Correction of Prior period Errors	-	-
Increment/(Decrement) - Land	-	-
Impairment (Losses)/Reversals - Land	-	-
Increment/(Decrement) - Buildings	-	-
Impairment (Losses)/Reversals - Buildings	-	-
Increment/(Decrement) - Infrastructure	-	-
Impairment (Losses)/Reversals - Infrastructure	-	-
<Agencies are to add (remove) line items as required>	-	-
<b>Balance as at 30 June</b>	-	-

**12. NOTES TO THE CASH FLOW STATEMENT**

**Reconciliation of Cash**

The total of Agency Cash and Deposits of \$292 recorded in the Balance Sheet is consistent with that recorded as 'cash' in the Cash Flow Statement.

**Reconciliation of Net Surplus/(Deficit) to Net Cash From Operating Activities**

<b>Net Surplus/(Deficit)</b>	(104)	(37)
<i>Non-Cash Items:</i>		
Depreciation and Amortisation	26	21
<i>Changes in Assets and Liabilities:</i>		
Decrease/(Increase) in Receivables	(16)	1
Decrease/(Increase) in Prepayments	-	3
Decrease/(Increase) in Other Assets	-	-
(Decrease)/Increase in Payables	(9)	33
(Decrease)/Increase in Provision for Employee Benefits	44	34
(Decrease)/Increase in Other Provisions	23	8
<b>Net Cash From Operating Activities</b>	(37)	64

**13. FINANCIAL INSTRUMENTS**

A financial instrument is a contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity. Financial instruments held by the Ombudsman for the NT include cash and deposits, receivables, payables and finance leases. The Ombudsman for the NT has limited exposure to financial risks as discussed below.

**(a) Credit Risk**

The Agency has limited credit risk exposure (risk of default). In respect of any dealings with organisations external to Government, the Agency has adopted a policy of only dealing with credit worthy organisations and obtaining sufficient collateral or other security where appropriate, as a means of mitigating the risk of financial loss from defaults.

The carrying amount of financial assets recorded in the financial statements, net of any allowances for losses, represents the Agency's maximum exposure to credit risk without taking account of the value of any collateral or other security obtained.

**(b) Net Fair Value**

The carrying amount of financial assets and financial liabilities recorded in the financial statements approximates their respective net fair values. Where differences exist, these are not material.

**(c) Interest Rate Risk**

**OFFICE OF THE OMBUDSMAN FOR THE NT**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2010**

The Ombudsman for the NT is not exposed to interest rate risk as Agency financial assets and financial Liabilities are non-interest bearing.

	2010 \$'000	2009 \$'000
<b>14. COMMITMENTS</b>		
<b>(iii) Operating Lease Commitments</b>		
The Agency leases property under non-cancellable operating leases expiring from 1 to 5 years. Leases generally provide the Agency with a right of renewal at which time all lease terms are renegotiated. The Agency also leases items of plant and equipment under non-cancellable operating leases. Future operating lease commitments not recognised as liabilities are payable as follows:		
Within one year	1830	1830
Later than one year and not later than five years	0	1830
Later than five years	0	0
	1,830	3,660

**15. CONTINGENT LIABILITIES AND CONTINGENT ASSETS**

The Office of the Ombudsman for the NT had no contingent liabilities or contingent assets as at 30 June 2010 or 30 June 2009

**16. EVENTS SUBSEQUENT TO BALANCE DATE**

No events have arisen between the end of the financial year and the date of this report that require adjustment to, or disclosure in these financial statements.

**17. WRITE-OFFS, POSTPONEMENTS AND WAIVERS**

The Office of the Ombudsman for the NT had no write offs, postponements or waivers in 2009-10 or 2008-9.

Ombudsman  
Ombudsman

**How to contact the  
Ombudsman**

Ombudsman



## 5. HOW TO CONTACT THE OMBUDSMAN

### IN PERSON

12th Floor  
NT House  
22 Mitchell Street  
Darwin, NT



### BY E-MAIL

[nt.ombudsman@nt.gov.au](mailto:nt.ombudsman@nt.gov.au)



### BY TELEPHONE

(08) 8999 1818  
or  
1800 806 380  
(Toll Free - except  
mobiles)



### BY MAIL

GPO Box 1344  
DARWIN, NT 0801



### ONLINE

[www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au)



### Obtaining copies of the Annual Report

An electronic copy of this report is available on our website at  
<http://www.ombudsman.nt.gov.au>

Printed copies are available upon request. Numbers are limited in line with  
Northern Territory Government policy