



 **ombudsmanNT**



Thirty Seventh Annual Report 2014/15

*Presented to the Chief Minister under section 152 of the Ombudsman Act
for tabling in the Legislative Assembly*



The Honourable Adam Giles MLA
Chief Minister
Parliament House
Darwin NT 0800

Dear Chief Minister

I am pleased to present to you the Annual Report for the Ombudsman for the Northern Territory for the financial year 1 July 2014 to 30 June 2015.

In respect of my duties as Accountable Officer, I advise that 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 *Treasurer's Directions*; and
- f) all *Employment Instructions* issued by the Commissioner for Public Employment have been satisfied.

In addition, in relation to items (a) and (e) above, the Chief Executive of the Department of Corporate and Information Services has advised that to the best of her knowledge and belief, proper records are kept of transactions undertaken by that Department on behalf of this Office and the employees under her control observe the provisions of the *Financial Management Act*, the *Financial Management Regulations* and *Treasurer's Directions*.

Yours sincerely

A handwritten signature in blue ink, appearing to read "P Shoyer".

Peter Shoyer
Ombudsman
25 September 2015



Thirty Seventh Annual Report 2014/15

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INTRODUCTION

OMBUDSMAN'S OVERVIEW

Integrity in public service

Live so that when your children think of fairness, caring, and integrity, they think of you.

H. Jackson Brown

Integrity is doing the right thing, even when no one is watching.

C S Lewis

Real integrity is doing the right thing, knowing that nobody's going to know whether you did it or not.

Oprah Winfrey

Developments in the course of the year have squarely raised the importance of maintaining integrity in the functioning of the public sector. In my report into *Matters arising from allegations of inappropriate conduct by a former Commissioner of Police and another officer*, I drew attention to the fact that an integrity system must deal with issues that go well beyond what may be popularly regarded as 'corruption', stating:

68. *Failure to meet the highest standards of integrity can frequently arise not through some deliberate and overt intention to subvert the law or the requirements of a position. In many cases, a failure will arise through:*
- *simple lack of appreciation that there is an issue; or*
 - *ineffective attempts to satisfy a range of competing official and personal interests — to steer a path through a complicated mess in an effort to avoid having to raise the issues with a superior officer.*
69. *[W]hile broad parameters and procedures can be established for identifying and dealing with integrity issues, the process does not, at the margins at least, lend itself to resolution by adherence to detailed, black and white rules. In many cases, deciding how best to deal with an issue will require considerable disclosure, discussion and debate.*
70. *It is therefore crucial that all police have regular opportunities to refresh and reflect on integrity issues and what constitutes ethical behaviour. The efficient functioning and the credibility and reputation of NT Police depend on it.*

Those comments are applicable to all public sector officers and agencies. It is vital that maintaining integrity is at 'front of mind' when we go about our daily duties. Integrity issues (and how to resolve them) should be a regular subject for consideration, evaluation and discussion by public servants.

This Office does all it can to focus on acting with integrity and promoting integrity in the broader public sector. Two of our five core values are *Fairness* and *Integrity*. We are independent and impartial. We respond to complaints without bias. We take action and make decisions based on our independent assessment of the facts, the law and the public interest.

More broadly, in addition to promoting integrity in the context of the individual complaints we deal with, the Office attempts to promote awareness and discussion of integrity issues in the public sector by measures such as:

- establishing and participating in the Integrity and Accountability Officers Group, comprising the Ombudsman, the Auditor-General, the Commissioner for Public Interest Disclosures and the Commissioner for Public Employment — with the aim of sharing information on relevant integrity issues and developments, fostering collaboration between public sector integrity bodies and inspiring operational co-operation and consistency in communication, education and support in public sector organisations;
- establishing the Complaints, Accountability, Integrity Network and distributing *CAIN Update* bulletins to disseminate information about events, reports, guidelines and developments in the NT and other jurisdictions (now published on the Ombudsman website).

The Office will continue to work with agencies to promote awareness and consideration of integrity issues in public sector operations and decision making.

Office operations

The year was a very busy and productive one for the Office. We received a record 2,767 approaches and finalised 2,762 (the historical average being slightly over 2,000).

Staff of the Office did an exceptional job to handle this increased workload and at the same time pursue a large number of other initiatives aimed at improving the quality of public sector decision-making and services.

Due to the efforts of staff and to co-operation from a range of public authorities, the increased workload did not impact on timeliness. The Office finalised 90% of general approaches within 7 days and 92% of Police conduct approaches within 28 days.

In the great majority of cases, we attempt to deal with and resolve approaches informally. There is a more detailed description of what we do and how we do it at Chapter 1.

In 2014/15, we finalised two major investigations with reports to the Chief Minister for tabling in the Legislative Assembly.

In addition to dealing with approaches, we conducted a broad range of quality improvement initiatives. Highlights in this area included:

- conducting a nationally accredited Certificate IV in *Government (Investigation)* course, run by the Deputy Ombudsman, for investigators from across the NT public sector;
- organising workshops for NT public sector officers presented by one of the most respected and experienced Ombudsman officers in Australia, the NSW Deputy Ombudsman, Chris Wheeler, in *Managing unreasonable complainant conduct* and *Administrative law in the public sector*;
- commencing an *Internal complaints handling* project with a number of agencies, aimed at creating a framework for complaint handling that can be utilised by NTPS agencies;
- commencing a *Gifts and Benefits* joint project with several agencies to raise awareness and assist NTPS agencies to deal with issues relating to the offer and receipt of gifts and benefits;

- commencing a joint project with the Office of the Commissioner for Public Interest Disclosures on *Dealing with being under investigation*, to assist agencies and their staff to better deal with the realities of being subject to investigation;
- finalising a Memorandum of Understanding with the Information Commissioner and a Police Complaints Agreement with NT Police, to facilitate complaint handling.

This year, we expanded our community and stakeholder engagement, with presentations and visits to a number community organisations. As well as undertaking various activities in Katherine and Alice Springs, we visited Wadeye, Bagot Community, Kulaluk Community and Palmerston Indigenous Village.

We also completed a new *Complaints and Enquiries Guide* which lists a broad range of private sector, Territory Government and Australian Government contacts, and updated our flyer and brochure.

A significant achievement during the year was the completion of our rejuvenated website, including a new online complaint form, with the intention of making the site more relevant and accessible to a variety of users.



I conclude by thanking senior managers and staff of the Office for their support and commitment during the year.

PETER SHOYER
OMBUDSMAN

VISION, MISSION, CORE VALUES

The Ombudsman NT:

- is an independent office that deals with complaints about administrative actions of public authorities and conduct of police officers;
- has powers in relation to NT Police, Corrections, NT government departments and authorities and local government councils;
- undertakes audit / investigation functions and makes reports relating to telecommunications interception, use of surveillance devices and controlled operations by NT Police; and
- has a general function to promote improvements in administrative practices and procedures.

Our Vision (our ultimate aim)

A high level of public confidence in fair and accountable public administration in the Northern Territory.

Our Mission (how we contribute to our vision)

- Give people a timely, effective, efficient, independent, impartial and fair way of investigating and dealing with complaints about administrative actions of public authorities and conduct of police officers.
- Work with public authorities and other stakeholders to improve the quality of decision-making and administrative practices in public authorities.

Core Values (guide what we do and how we do it)

- **Fairness**
We are independent and impartial. We respond to complaints without bias. We give everyone the chance to have their say. We do not take sides.
- **Integrity**
We take action and make decisions based on our independent assessment of the facts, the law and the public interest.
- **Respect**
We act with courtesy and respect. We recognise and respect diversity. We seek to make our services accessible and relevant to everyone. We consider the impact of our actions on others.
- **Professionalism**
We perform our work with a high degree of expertise and diligence.
- **Accountability**
We are open about how and why we do things. We are responsive and deal with matters in a timely manner. We allocate priorities and undertake our work so that the best use is made of public resources.

KEY PERFORMANCE INDICATORS

Key Deliverables	2012/13	2013/14	2014/15
<p>Total approaches received</p> <p>Comprises all enquiries and complaints, including matters referred on to another body or found to be outside jurisdiction.</p> <p>The baseline average for the eleven years from 2003/04 to 2013/14 is 2,063 approaches.</p>	2,243	1,992	2,767
<p>Total approaches finalised</p> <p>Includes approaches carried over from the previous year and 3 approaches reopened after the end of that year.</p> <p>42 approaches were open at 30 June 2015 compared to 34 at 30 June 2014.</p>	2,266	2,006	2,762
<p>Police approaches finalised within 90 days</p> <p>Includes enquiries and preliminary enquiries undertaken by the Office and matters dealt with by Police under oversight of the Ombudsman.</p>	88%	96%	97%
<p>Other approaches finalised within 28 days</p> <p>Refers to all non-Police approaches, including local government.</p>	92%	93%	97%
<p>Recommendations accepted</p> <p>Government may partially accept a recommendation or accept the principle behind a recommendation but decide to implement it in a modified form. In those cases, a proportional figure is allocated.</p> <p>15 of 16 operative recommendations were accepted and have been or are being implemented, with one under consideration.</p>	85%	N/A	94%
<p>Statutory audit/inspection and reporting requirements met</p> <p>The Ombudsman is required to undertake audit or investigation functions and make reports under telecommunications interception and surveillance devices legislation within certain timeframes.</p>	100%	100%	100%

CHAPTER 1 – WHAT WE DO AND HOW WE DO IT

The *Ombudsman Act* provides that our job is to:

- (a) give people a timely, effective, efficient, independent, impartial and fair way of investigating, and dealing with complaints about, administrative actions of public authorities and conduct of police officers; and
- (b) improve the quality of decision-making and administrative practices in public authorities.

Our independence and impartiality are discussed at Chapter 2. How we identify and prioritise issues is discussed at Chapter 3.

To do our job, we adopt a broad range of strategies:

- **Approaches – enquiries and complaints** – The bulk of our effort is spent in dealing with approaches to the Office. We received 2767 approaches in 2014/15 and finalised 2,762. In dealing with approaches, we emphasise speedy and informal resolution of issues, with agencies as far as possible taking responsibility for resolution of matters involving them.
- **Police conduct complaints** – A total of 488 of the approaches we received in 2014/15 were about Police conduct. Complaints about Police conduct have their own statutory framework set out in the *Ombudsman Act*. While the emphasis remains on speedy and informal resolution of less serious matters, more serious matters are subject to comprehensive investigation and reporting. In these cases, investigations are usually carried out by the Police under Ombudsman supervision.
- **Major investigations** – Complex investigations involve a major commitment of resources and usually involve systemic issues. These may be initiated by a complaint or on the Ombudsman’s own motion. They may be finalised by a report to the Chief Minister which is tabled in Parliament. We finalised two major investigations in 2014/15 (see Chapter 4).
- **Quality improvement** – Working with agencies and stakeholders in a co-operative manner outside the formal investigation process and facilitating exchange of information between agencies about initiatives and developments in public administration. This includes accredited training and presentations to public sector bodies and officers (Chapter 5).
- **Stakeholder and community engagement** – Other issues can be raised, clarified and resolved in the course of or as a result of stakeholder meetings, presentations and public discussions or through provision of information and links to information, for example, on the Ombudsman website (Chapter 6).
- **Statutory auditing and investigation** – In relation to surveillance devices telecommunications interception and controlled operations, we have statutory obligations to audit/investigate and report on certain functions (Chapter 7).

DEALING WITH APPROACHES AND COMPLAINTS

The focus of our Office is on achieving informal and timely resolution of approaches. Of the 2,762 approaches finalised in 2014/15, we finalised 90% of general approaches within 7 days and 92% of Police conduct approaches within 28 days.

We deal with approaches in a range of ways. In some cases, we may not have the power to investigate a matter but we may be able to point the enquirer in the right direction. For example, an approach may be about a private sector service provider or a Commonwealth department. In those cases, we assist enquirers by putting them in touch with the relevant complaints body or giving them contact details.

In other cases, we provide details of the enquiry to the relevant department or agency and ask it to respond directly to the enquirer. We may ask the agency to advise us of the outcome or let the enquirer know they can contact us again if they are unhappy with the agency's response.

Alternatively, we may make preliminary enquiries or require investigations to be undertaken, with a report to our Office. This, in itself, may take considerable time and effort and may or may not result in a formal investigation by our Office.

Chapter 8 contains a detailed analysis of approaches received during the reporting period.

FORMAL INVESTIGATIONS

In a small number of cases, the Ombudsman may determine that it is necessary to conduct a major investigation into an issue. This may arise from a complaint or may be undertaken on the Ombudsman's own motion.

The conduct of major investigations depends on the resources available to the Office and the issues that arise for consideration. Major investigations are very resource intensive. A major investigation may well involve a significant commitment of resources for up to or in excess of a year from the time the issue is identified.

There is no particular pattern as to when the need for a major investigation may arise and no target for a number of major investigations in a year. The number of major investigations resulting in tabled reports has typically been low, varying from year to year in recent times between 0 and 3. This is consistent with the approach in other Australian jurisdictions.¹

The reality is that almost all approaches and complaints are finalised without the need for a separate tabled report even if there has been a formal investigation.

INVESTIGATIONS CONDUCTED IN PRIVATE – REPORTING ON OUTCOMES

In each case, we make every effort to ensure that the enquirer or complainant and the agency concerned are kept up to date with the progress of the matter and informed about the final outcome.

¹ The number of major investigation reports finalised by the Northern Territory Ombudsman each year over the past six financial years has been 2, 0, 2, 1, 3, 0. These figures may be compared with Tasmania (0, 1, 4, 0, 1, 2) and Western Australia (0, 1, 1, 1, 1, 1). Even in a comparatively larger jurisdiction such as Queensland the number of tabled investigative reports over the past six calendar years has been 2, 4, 2, 3, 2, 3.

However, the Ombudsman is required by the *Ombudsman Act* to conduct investigations in private.² There are confidentiality provisions that make the inappropriate disclosure of information relating to inquiries and investigations an offence.³

The Ombudsman can publish conclusions and recommendations at the end of an investigation (by way of reports to Ministers and through them to Parliament). The Ombudsman can also include information about investigations in the Annual Report. However, the clear statutory scheme is for investigations to be conducted in private.

A major investigation may or may not result in findings that require publication. It may find that unpublished damaging allegations are baseless. It may deal with highly sensitive personal matters. Or a narrowly confined issue may be best addressed by simply raising it with the relevant agency.

The decision is ultimately for the Ombudsman as to whether the public interest is best served by creating a report for tabling.

² Ombudsman Act, s.49(1).

³ Ombudsman Act, s.120

CHAPTER 2 – AN INDEPENDENT AND IMPARTIAL OFFICE

Independence and impartiality are key drivers of the Office of the Ombudsman.

INDEPENDENCE

The *Ombudsman Act* makes it clear that the Ombudsman is independent of government in relation to complaints and investigations:

12 *Independence in relation to complaints and investigations*

(1) *The Ombudsman is not subject to direction by any person about:*

(a) *the way the Ombudsman exercises or performs the Ombudsman's powers or functions in relation to complaints and investigations; or*

(b) *the priority given to investigations.*

(2) *The Ombudsman must act independently, impartially and in the public interest in the exercise or performance of the Ombudsman's powers or functions in relation to complaints and investigations.*

That independence has been strongly maintained in the 37 years since the Office commenced in 1978.

The Office is resourced through NT Government budgetary processes but that is also true of judges, the courts and other independent officers such as the Auditor-General.

There are a range of special features that strengthen the independence of the Ombudsman, including:

- appointment as Ombudsman can only be made on recommendation from the Legislative Assembly;
- appointment is for a seven year term, which gives security of tenure;
- appointment is non-renewable, so there can be no speculation about favouring government interests in order to gain re-appointment;
- a broad power to report to the Legislative Assembly (through the Chief Minister) on the performance of the Ombudsman's functions or on a particular case;
- conditions of appointment that cannot be altered to the detriment of the Ombudsman during his or her term;
- termination for misconduct or incapacity can only be affected through a 2/3 vote of the Legislative Assembly;
- the Ombudsman appears each year before the Budget Estimates Committee of the Legislative Assembly to report directly on appropriations matters.

IMPARTIALITY

It is important to stress that independence from government does not mean that the Ombudsman represents or takes the side of complainants and enquirers. Nor does it mean that the Ombudsman must be immediately critical of all or any particular position taken by the NT Government of the day.

My Office makes every effort to ensure that complainants get a fair go in their dealings with government. However, we do not represent complainants or provide legal advice to them.

The Office assesses and investigates complaints impartially. In doing so, we attempt to resolve individual complaints and identify broader problem areas, particularly systemic issues, and push for improvements in those areas.

We will not hesitate to investigate and report on issues (whether raised by complaint or otherwise) where that is warranted.

SCOPE OF POWERS

Of course, while independent, the Ombudsman is bound to comply with the law and act within the boundaries set by the *Ombudsman Act*. The powers of the Ombudsman relate to the administrative actions of public authorities and police conduct.

Within those boundaries, members of the public can rest assured that the Office of the Ombudsman will consider, and where appropriate, independently investigate complaints and allegations relating to administrative actions and improper conduct of public sector officers with fairness and integrity.

CHAPTER 3 – HOW WE IDENTIFY AND PRIORITISE ISSUES

IDENTIFYING ISSUES

The Office of the Ombudsman identifies issues or potential issues of concern by a range of methods including analysis of complaints received, monitoring parliamentary debates, media reports and developments in other jurisdictions, and community and stakeholder engagement.

PRIORITY AND RESOURCE ALLOCATION

The Office must act within the resources available to it and accordingly must make decisions on the priority given and resources allocated to its various statutory functions, including investigation of particular complaints.

The overall guide to allocation of resources and priority within the Office is what best serves the public interest, bearing in mind the objects and provisions of the *Ombudsman Act*. Factors used to assess the significance of issues and the priority that should be afforded to issues, include:

Potential harm involved

- Death of a person
- Physical harm to a person
- Loss of liberty
- Loss, dislocation or disruption of residence
- Financial or asset damage or loss
- Loss of a benefit or financial hardship
- Mental stress or harm
- Harm to animals or the environment
- Denial of human or statutory rights, unfair treatment
- Damage to reputation
- Annoyance, inconvenience, disruption
- Harm to the public generally or a community or community group

Other factors

- Extent of potential harm – how much harm
- Number of people impacted or likely to be impacted
- Potential for ongoing future impact – is this a one off issue or will it continue in the future
- Number of similar complaints
- Unreasonable delay or disruption
- Potential corruption / criminal conduct

- Urgency, for example:
 - Statutory time limit for action
 - Potential for harm is imminent
- Serious / systemic issues
- Existence of prior investigations on similar issues – has the issue already been dealt with
- Availability of other suitable avenues for review, investigations / actions already in progress
- The extent of prior interaction by the complainant with agency – has the agency had a reasonable opportunity to deal with the issue
- Steps already taken by the agency to redress the issues.

Any decision on resource allocation and priority is ultimately one for the Ombudsman acting on the information provided by complainants and agencies and the advice of Ombudsman staff.

CHAPTER 4 – MAJOR INVESTIGATIONS

The identification of issues may give rise to a major investigation by the Ombudsman's office. A major investigation may be initiated based on one or more complaints or on the Ombudsman's own motion.

A major investigation involves a substantial commitment of resources by the Office and may result in the preparation of a report to the Chief Minister that is tabled in Parliament.

Two reports arising from major investigations were finalised in 2014/15:

- *Matters arising from allegations of inappropriate conduct by a former Commissioner of Police and another police officer* (May 2015).
- *'Let there be light' – Response by Department of Housing and Power and Water to widespread incidents of damage to electricity meters in a remote community* (June 2015).

Updates on acceptance and implementation of recommendations made in those reports and the following report finalised in an earlier year, are set out below:

- *Investigation Report into Morgue Management on Remote Communities in the Northern Territory* (March 2012).

All tabled reports are available at <http://www.ombudsman.nt.gov.au/publications>.

MATTERS ARISING FROM ALLEGATIONS OF INAPPROPRIATE CONDUCT BY A FORMER COMMISSIONER OF POLICE AND ANOTHER POLICE OFFICER

The report arose from investigation of allegations relating to the conduct of two NT Police officers, one of them the former NT Police Commissioner. In each case, it was alleged that a conflict of interests arose in relation to the same criminal investigation because of the association of the officer with a person who was under investigation ('the travel agent').

The information obtained by my Office did not suggest that there was any common course of action between the two police officers — the allegations arose out of the same investigation but the two officers acted separately and their actions could be considered separately. In addition to personal associations with the officers, the travel agent provided travel agency services to NT Police and was Chairperson of Crime Stoppers Northern Territory, a non-profit incorporated association that was closely aligned with but not part of NT Police. In the course of their association, the travel agent also gave a number of personal gifts to the former Commissioner.

The specific allegations against the officers were investigated by the Office of the Commissioner for Public Interest Disclosures (OCPID). Disciplinary proceedings were also initiated against the other officer.

While my Office conducted extensive preliminary investigations, I ultimately determined there would be no utility in reinvestigating the specific allegations. There were, however, a range of broader issues that were referred to me by the OCPID or otherwise identified in the course of my investigation. The report dealt with those issues.

Acceptance and implementation of Ombudsman recommendations

The recommendations made in the report are set out below.

- 1 *NT Police review its policies and procedures dealing with conflicts of interest, associations and gifts and benefits in consultation with the Office of the Ombudsman and OCPID.*
- 2 *NT Police review its controls in relation to procurement of travel management services to minimise the potential for personal interests to influence decision-making.*
- 3 *NT Police review its training and awareness programs for all levels, including senior management, in order to ensure that all officers develop and maintain the analytical skills and mindfulness to be able to identify and address integrity issues as they arise.*
- 4 *The NT Government consider the need for, and benefits of, alternative options for reporting, investigating and seeking advice on integrity issues.*
- 5 *NT Police review procedures relating to education and awareness of options for police reporting concerns about other police (including external reporting) and treatment of police who report such concerns.*
- 6 *NT Police review procedures for identification and reporting of police complaints in consultation with the Office of the Ombudsman and OCPID.*
- 7 *The NT Government take steps to amend the Ombudsman Act to abrogate the privilege against self-incrimination for the purposes of investigations under the Act, subject to inclusion of adequate protections against future use of information disclosed.*

NT Police has accepted the recommendations made to it (1-3 and 5-6). The Commissioner of Police has provided the following update on implementation of the recommendations:

NTPFES have completed recommendation 1, that policies and procedures dealing with conflicts of interest, associations and gifts and benefits are reviewed. NTPFES has developed a Conflict of Interest Instruction and Procedure and a Gifts and Benefits Instruction and Procedure. Both instructions have been approved and are scheduled for gazettal on 24 September 2015.

NTPFES have completed recommendation 2, that the controls in relation to procurement of travel management services are reviewed. The NTPFES Accounting and Property Manual has been amended to align with the NTG Air Travel Policy. All commercial travel bookings are advanced through the NTG's Travel Management Company's contract and regular travel audits are being conducted.

Recommendations 3, 4, 5 and 6 are ongoing. The NTPFES has commenced the development of a framework to support interagency cooperation surrounding referrals and is conducting a review into current practices and supporting policy to determine adequacy surrounding the current framework that supports officers making reports. In addition, the NTPFES are also reviewing procedures for identification and reporting of Police complaints and have recently established a new investigative section titled the 'Special References Unit'. This team is attached to the Professional Standards Command and is undertaking investigations into allegations of corruption, matters that are politically sensitive, serious conflicts of interest and other complex internal matters.

The NTPFES will also be developing training materials in regards to identifying and addressing integrity issues as they arise and awareness of options for reporting concerns surrounding integrity issues and the treatment of those who report such concerns.

The NTPFES has now filled the Commissioner of Police and Chief Executive Officer of Fire and Emergency Services, the Deputy Commissioner, Assistant Commissioner and Commander positions.

Recommendation 4 has been addressed by a resolution of the NT Legislative Assembly passed on 26 August 2015 in the following terms:

That the Assembly:

1. *supports the establishment of an anti-corruption integrity and misconduct commission.*
2. *that this Parliament resolves, pursuant to section 4(a) of the Inquiries Act, to appoint a person qualified to be a judge in the Supreme Court of the Northern Territory to inquire into and report to the Administrator on the following matter. The establishment of an independent anti-corruption body in the Northern Territory including but not limited to the following considerations:*
 - (a) *the principles and provisions of ICAC and like legislation in other Australian jurisdictions and their applicability to the Northern Territory*
 - (b) *the appropriate powers such a body should have including but limited to:*
 - i. *the power to investigate allegations of corruption including against ministers, members of the Legislative Assembly and other public officials*
 - ii. *the power to conduct investigations and inquiries into corrupt activities and system-wide anti-corruption reforms as it sees fit*
 - iii. *the appropriate trigger for an NT ICAC jurisdiction and the relationship between this body and other Northern Territory bodies such as the Ombudsman*
 - iv. *models from any other jurisdictions*
 - v. *the use of existing Northern Territory legislation or Northern Territory statutory authorities*
 - vi. *the report will include indicative costs of establishing the various models they put forward.*
3. *that the qualified person referred to above be selected for recommendation to the Administrator of the Northern Territory based on the process outlined for the appointment of a Supreme Court judge in Appendix A of the review of the processes for the appointment of judicial officers in the Northern Territory, with the exception that the panel outlined in the process recommends one instead of two for consideration.*
4. *note that the qualified person appointed would consult with relevant stakeholders including, but not limited to, the Northern Territory Police, the Northern Territory Law Society and the Criminal Lawyers Association.*
5. *the qualified person appointed provides advice and report back to Parliament in a timely manner.*

Recommendation 7 (concerning the abrogation of the privilege against self-incrimination) has not been specifically addressed by the NT Government but may arise for consideration and comment in the course of the above inquiry and report.

'LET THERE BE LIGHT' – RESPONSE BY DEPARTMENT OF HOUSING AND POWER AND WATER TO WIDESPREAD INCIDENTS OF DAMAGE TO ELECTRICITY METERS IN A REMOTE COMMUNITY

The report outlined the findings of an investigation into the responses of the Department of Housing (the Department) and the Power and Water Corporation (PWC) to widespread incidents of criminal damage to electricity meters and other electrical fixtures and fittings for houses in the remote indigenous community of Wadeye.

Damage was done not only to meters but in some cases to backboards, circuit breakers, external and internal wiring, fittings and switches which must be in good working order to allow safe power supply. The damage took place in the course of disputes between families and community unrest.

Between June and December 2013, 43 houses in Wadeye had power disconnected because of damage to meters and/or associated property. The power to 20 households remained disconnected for more than 10 days, with 12 disconnected for over 20 days.

The report recognised that the Department and PWC operate within a complex environment when providing public housing and essential services to remote communities. In Wadeye, the situation was exacerbated by the large number of houses with damaged meters, backboards and electrical fittings and the extent of the damage in some houses.

Nevertheless, the report concluded that there was:

- unreasonable delay in repairing damaged meters and associated property and restoring power to a number of households;
- considerable delay and a lack of coordination in developing an agreed policy and procedures to deal with damaged electricity meters, brought about chiefly by frequent turnover of staff involved and failure to adequately record the outcome of discussions; and
- poor communication with interested stakeholders who raised concerns about the process for repairing damaged meters and a practice of requesting tenants pay for repairs.

Acceptance and implementation of Ombudsman recommendations

The recommendations made in the report are set out below.

1. *The Department of Housing and PWC take immediate steps to agree on which of them should take responsibility for the cost of replacing / repairing electricity meters on the Department's properties that have been damaged by events for which the tenant is not responsible.*
2. *If the Department and PWC do not reach agreement within three months of the date of this report, the NT Government decide which of them should take responsibility for those costs (or the share that each should contribute) and direct them to contribute accordingly.*
3. *The Department and PWC take prompt action to finalise an agreed policy and procedure for dealing with damaged electricity meters and associated property.*
4. *The policy and procedure clearly reflect the Department's obligations as a landlord under the Residential Tenancies Act.*

5. *The policy and procedure be developed in light of the matters discussed in this report and include:*
 - *indicative timeframes for conducting repairs, giving consideration to any environmental or safety factors that may affect the ability of contractors or agency staff to complete repairs within such timeframes;*
 - *a clear statement of which agency is responsible for the repair or replacement of a damaged meter and associated property, as well as for payment of the associated cost;*
 - *a requirement to take prompt action to arrange and undertake repair of damaged meters and associated property; and*
 - *provision for timely and effective information exchange between PWC and the Department;*
 - *information on, or provision for, a complaints and appeals mechanism.*
6. *The Department and PWC maintain coordinated, consistent and ongoing communication strategies to ensure that any feedback and commentary is considered and adequately recorded when developing the policy and procedure.*
7. *The Department and PWC take steps to explore and implement options for better protection of electricity meters and associated property in remote communities.*
8. *The Department and PWC work together to implement robust processes to monitor and coordinate the repair of damaged meters and associated property, where required, to ensure power is reconnected to affected households without unreasonable delay.*
9. *The Department improve communication and provide timely updates to tenants and interested stakeholders regarding changes to policies and procedures, the process of repairing damaged meters and associated property, as well as associated timeframes. In doing so, it should utilise indigenous interpreters to ensure its messages are clearly understood.*
10. *PWC develop and implement an appropriate customer charter or similar document for Wadeye and other nominated remote communities and towns.*

The Department and PWC accepted all recommendations in so far as they related to them. Recommendation 2 was made to the NT Government, contingent on a failure of the Department and PWC to agree on a course of action. Agreement was reached, so it did not arise for consideration.

With regard to implementation of the recommendations, the Department has provided the following update:

- *An agreement on the responsibility for cost recovery was reached and incorporated into the terms of agreement between the Department and PWC.*
- *The Department's Policy for Damaged Meters was published on 7 August 2015.*
- *The Department and PWC have established fortnightly meetings to improve provision of information and to progress any issues.*
- *A Damaged Meters Policy pack has been developed for internal staff which includes a staff induction presentation with supporting fact sheets, procedure and process flowcharts to clarify Department steps and responsibilities.*

- *The new processes address obligations under the Residential Tenancies Act (RTA) acknowledging a damaged power meter as an emergency repair, and committing to timeframes for restoration consistent with the Act.*
- *Departmental staff were briefed on 25 August 2015 on the approved policy when dealing with damaged meters.*
- *Customer information and advice was translated into 10 dialects for distribution across remote communities and will broadcast in six regional Indigenous radio stations from 5 September to 15 October. In addition, the community communications plan also incorporates information provided to the community on posters and magnets.*
- *A damaged meters report has been developed by PWC to inform the Department of damage.*
- *Specifically constructed security barriers were designed to protect meters while still allowing tenant access. The barriers have been built and installed on 77 at-risk dwellings by the Department to protect electricity meters in Wadeye. Posters and stickers have been created for distribution within remote communities to enhance the messaging of dealing with damaged meters.*

PWC has also provided an update on progress as follows:

- *Power and Water has worked productively with the Department of Housing to develop policies and implementation plans for replacing damaged electricity meters in the Wadeye community.*
- *Power and Water's adoption of new electrical smart meter technology for the replacement meters allows for greater remote monitoring as well as electronic transfer of funds to the power card.*
- *Security-grade barriers designed to protect new meters and boards have been constructed and installed on specific buildings in Wadeye by the Department of Housing.*
- *Power and Water and the Department of Housing participate in regular meetings to ensure ongoing provision of information and progress as well as timely responses to any issues that arise.*
- *Power and Water is currently updating its customer charter and customer contract to clarify our customers' role in the care of electricity meters.*

I am satisfied that both the Department and PWC have responded quickly to the report and recommendations. They have regularly updated my Office on progress and made substantial progress in the implementation of all recommendations.

MORGUE MANAGEMENT IN REMOTE COMMUNITIES

In March 2012, the former Ombudsman presented a report to the Chief Minister on *Morgue Management on Remote Communities in the Northern Territory*. The report was tabled in Parliament in May 2012.

The underlying issue was the failure over a number of years of anyone to take responsibility for provision or coordination of morgue management in remote communities. This contributed to a number of distressing outcomes, including:

- a body at Kalkarindji lay unrefrigerated for several days due to a broken unit, and in fact had hot air blowing on it. The deceased person's mother (who was the complainant in this case) was advised not to view her son's body due to the state of decomposition;

- a medical practitioner returned to Yarralin to discover that a body was being stored in the kitchen of her home as there was nowhere else to put it;
- storage in a shed with no air-conditioning as the body was decomposing and smelt too much;
- storage of a body in the Timber Creek Court room;
- Northern Land Council staff who had no training had to deal with the transport of a body;
- In 2014, a man's body was mistakenly swapped with the body of a young woman. The error was only discovered at the time of the man's funeral:

“We thought it was my brother, opened the body bag and I saw a different face. A woman's body. Then I closed it up and put the body bag back in the freezer and we came out and stopped the funeral.”⁴

Issues relating to the Kalkarindji Morgue had been brought to the attention of the then Minister for Local Government as long ago as October 2008 and issues relating to remote morgues have been raised by the former NT Co-ordinator General for Remote Services and the Deputy Coroner.

Eight recommendations were made by the Ombudsman. Our Office has followed up with the Northern Territory Government on a regular basis to establish what progress has been made.

On 23 June 2015, the Chief Minister and the Minister for Local Government and Community Services distributed the following joint media release:

Governments unite to build and upgrade morgues in remote communities

The Australian and Northern Territory Governments have agreed to spend almost \$5 million over three years building and upgrading morgues in remote communities.

Chief Minister Adam Giles said the management of morgues in remote communities in the Northern Territory had been a difficult issue for all three tiers of Government to resolve.

“I am extremely grateful to Senator Nigel Scullion and the Federal Government for agreeing to share the costs of upgrading and building new morgue infrastructure in remote communities,” he said.

“This funding will mean 20 remote communities will now have functioning morgues, with 16 existing morgues to be repaired and upgraded and four new morgues to be built.

“In urban locations, morgues are run by private enterprises but that commercial model doesn't exist in remote communities.

“This funding will help people living in remote communities properly care for the bodies of deceased family members.

“It's about ensuring remote Territorians can say a proper goodbye to the loved ones. It's about ensuring the deceased are treated with dignity.”

Mr Giles said the four new morgues would be built at Maningrida, Wurrumiyanga, Gailwink'ku and Docker River.

“The locations of the four new morgues have been chosen based on factors such as the population, difficulty in accessing private funeral services, and their suitability to provide morgue services to smaller communities in their regions,” he said.

⁴ Quoted in H Hollis, “Body swapped in morgue: anguished remote communities call for action” SBS online, 12 May 2014.

Minister for Local Government and Community Services Bess Price said she had campaigned hard to find funding to fix the morgues.

“Morgues are a sensitive issue that involve many communities in remote areas of the Northern Territory,” Mrs Price said.

“I made a commitment when I was elected in 2012 to work hard to find a way to get the morgues functioning efficiently.

“A death in the family is shocking enough, without having to stress about whether the body is being suitably cared for.

“This funding is a huge weight off my shoulders. I am a Warlpiri woman so I get involved in a lot of Sorry Business and see how traumatic it can be when things go wrong in the morgues.

“It is so important to have a functioning morgue. It is something families in town take for granted, so I am thrilled to see this funding rolled out across the Territory to improve the lives of those living remotely.”

While the infrastructure commitment is most welcome, there are still issues surrounding the ongoing management of remote morgue facilities that require resolution.

Acceptance and implementation of Ombudsman recommendations

The Department of Health (DoH) has provided the following update on progress in relation to each recommendation (Ombudsman recommendations are in bold):

1. Ensure Kalkaringi morgue (and any other morgue needing repairs within remote communities) is repaired and adheres with OH&S requirements, and Building and Industry Standards.

DoH update

The provision of \$4.77 million to upgrade 16 existing and build four new morgues will provide capacity for the fulfilment of this recommendation. Kalkarindji Morgue has been identified as a priority morgue for upgrades.

2. Revisit and implement the remaining recommendations made by former Northern Territory Coordinator General for Remote Services, Mr Bob Beadman, in his May 2010 report to the Minister for Indigenous Development: (I note that some work has already been done on Recommendations 8.1 and 8.3).

8.1 Clarify with all parties the roles and responsibilities of the Police, Coroner, Department of Health and Families, Land Councils, funeral directors, shires, and families of the deceased, on the management of the remains of a deceased person.

8.2 Install unambiguous arrangements for the onwards management of morgues, with appropriate funding arrangements to ensure that no cost shifting is occurring.

8.3 Explore business models for funeral services in Growth Towns (most likely in conjunction with morgue management).

DoH update

In August 2014 the Northern Territory Government determined the DoH would be the lead agency responsible for remote morgue policy.

A consultant with a background in working in remote communities and local government has been appointed to progress consultations with communities and other stakeholders across the Territory relating to the management of deceased persons.

3. In consultation with stakeholders, address the overall governance issue of responsibility for morgues in remote communities by:

- i) Developing new legislation (or amend existing legislation) to regulate the management of morgues within remote communities.**
- ii) Identifying an Agency, Shire or Council, (or a combination) to be responsible for maintenance and management of morgues in remote communities.**
- iii) Allocate sufficient funding.**
- iv) Developing appropriate policies and protocols to apply to morgue management.**
- v) Providing accredited industry training and best practice guidelines for staff involved in the operation of morgues.**

DoH update

A process of Territory-wide consultation is being undertaken, additional to discussions already held with Aboriginal Peak Organisations NT, the Northern Land Council and, informally, on the Tiwi Islands.

- i) The NT *Cemeteries Act* is being amended to provide for cemeteries on Aboriginal land.
- ii) Consultations in Progress.
- iii) Joint Commonwealth and Territory funding has been announced for 16 upgrades and 4 new morgues.
- iv) In progress.
- v) Not at this stage.

4. Until overall governance issue are completed:

- i) Appoint an agency to deal with morgue management and maintenance.**
- ii) Implement a project management system to track and report on progress to government.**

DoH update

Department of Health is responsible for policy. Department of Local Government is responsible for implementing the \$4.77 million infrastructure initiative.

5. Consider and implement the 21 October 2011 Deputy Coroner's recommendation (D0015/2011)

'...that government give consideration to the issue of who has responsibility for the maintenance and management of the Kalkaringi morgue...'

DoH update

Will be addressed as part of work on the Kalkarindji Community Management Agreement.

6. Develop an effective Audit, Repair and Maintenance program to monitor morgues in remote communities and consider whether the current Building Asset Management System (BAMS) could be used to record and maintain information.

DoH update

Darwin-based infrastructure consultant AECOM commissioned to examine morgues in 17 remote communities across the Territory.

An NTG asset management system is already in place to record and maintain information for the monitoring of remote morgues.

- 7. Offer an apology to the complainant for the hurt suffered as a result of not being able to view her son's body due to the failure of the Kalkaringi morgue.**

DoH update

Completed by Minister Price.

- 8. Develop time frames and a tracking mechanism for implementing recommendations.**

DoH update

No Further Action.

CHAPTER 5 – QUALITY IMPROVEMENT

The *Ombudsman Act* has two objects. The first relates specifically to investigating and dealing with complaints.

The second, and equally important object, is to “improve the quality of decision-making and administrative practices in public authorities”.

While information gained in the course of dealing with complaints may inform the Office in its pursuit of the second object, that object is considerably broader than the formal investigation of complaints.

The Office engages with public authorities and public sector officers through a range of mechanisms aimed at improving administrative practices across government. These include:

- delivery of accredited investigation training and a range of workshops and presentations;
- joint initiatives and regular contact with public authorities;
- joint initiatives and regular contact with complaints and review bodies;
- involvement in legislative and policy reform.

ACCREDITED TRAINING

The Office provides formal training to a wide range of investigators across Government by means of a nationally accredited Certificate IV in *Government (Investigation)* course – PSP41512.

This specialist qualification covers the competencies required by those responsible for statutory investigation under a range of legislation, regulations, mandated government and organisational policies and instructions.

It is a 2 week intensive course.

The course requires suitably skilled and formally trained staff at senior level within the Office. It also requires considerable effort to maintain national accreditation through a registered training organisation. The course is scheduled to be offered again in November 2015.

The cost for the November 2015 course is \$1900/person. There is currently a waitlist for future courses. Interested public servants wishing to attend can submit an expression of interest to nt.ombudsman@nt.gov.au.

WORKSHOPS AND PRESENTATIONS

In 2014/15, the Office was fortunate to secure the NSW Deputy Ombudsman, Chris Wheeler, to conduct a series of workshops for officers across the NT public sector. Mr Wheeler has over 30 years experience in complaint-handling and investigations, as well as management and public administration. He has served as Deputy NSW Ombudsman since 1994. The workshops covered:

- Managing unreasonable complainant conduct
- Administrative law in the public sector.

In addition, my Office delivered or participated in the following training and presentations to public sector officers:

- Police Recruit training
- Prison Officer training
- Office of Commissioner for Public Employment, Future Leaders Program
- Public Housing Appeals Board workshop
- Electorate Officers workshop
- Pensioner Concession Unit and Office of Disability Services (Department of Health).

JOINT PROJECTS

In 2014/15, my Office initiated three joint projects with public sector agencies aimed at improving the quality of public sector administration. Each project was ongoing at 30 June 2015.

Internal complaints handling project

The project is designed to assist public sector agencies to implement new or enhance existing internal complaint handling processes to ensure they represent best practice and comply with current Australian Standards.

Public sector agencies with a robust complaint handling processes are able to:

- meet the community's expectations that public sector agencies will be customer-focused and responsive to their feedback or complaints;
- resolve complaints without the Ombudsman's involvement; and
- demonstrate a high level of accountability and transparency.

The aim of the project is for my Office to work with a small but diverse group of public sector agencies to build on their experience and existing policies and procedures to create a framework for complaint handling in the Northern Territory Public Sector. It is hoped that the project will facilitate improvements in the complaint systems of participant agencies but more significantly provide useful guidance for other NT public sector agencies.

The agencies participating in the project are Alice Springs Town Council, Palmerston City Council, Jacana Energy, Power and Water Corporation and the Department of Business.

Gifts and Benefits project

The project is designed to raise awareness and assist public sector agencies to deal with issues relating to offers and receipt of gifts and benefits.

My Office is working collaboratively with a group of public sector agencies to build on their experience and existing policies and procedures to create a best practice framework for handling issues relating to gifts and benefits.

The agencies participating in the project are the Department of the Chief Minister, the Department of Lands, Planning and the Environment and the Department of Infrastructure.

Dealing with being under investigation project

This project is being undertaken to improve the way in which public sector agencies deal with being investigated by bodies such as my Office and the Office for the Commissioner of Public Interest Disclosures (OCPID).

One of the key outcomes of the project will be guidelines and resources that assist agencies and individuals who are responding to enquiries and investigations. These will help better inform them of the processes involved, the role and powers of the investigative body, how complaints are investigated, key points the agency should consider regarding the implications of being investigated and how these should be addressed.

The project is being conducted jointly with OCPID. The agencies participating in the project are the City of Darwin and the Departments of Health, Education, Transport, Infrastructure and Lands, Planning and the Environment.

OTHER INVOLVEMENT WITH PUBLIC AUTHORITIES

Section 150 of the *Ombudsman Act* allows for the Ombudsman and the Police Commissioner to make an agreement about dealing with police complaints. An agreement was finalised in 2014/15 (see Appendix A). It provides considerable additional detail on the processes and procedures in place for dealing with police complaints.

My Office also maintained contact with public authorities and officers in the following ways:

- over 20 meetings between the Ombudsman and various public authority chief executives or senior executives;
- regular meetings with Police senior executives and members of the Police Standards Command;
- regular meetings with Corrections, Power and Water and Jacana Energy;
- visits to agencies in regional centres including, in Katherine, the Town Council, electorate offices and the NT Police.

COMPLAINTS AND REVIEW BODIES

In order to facilitate ongoing co-operative relationships with complaints and review bodies, the Ombudsman has entered into the following Memorandums of Understanding (MoUs):

Entity	MoU commenced	MoU available
Commonwealth Ombudsman	November 2009	2013/14 Annual Report
Commissioner for Public Interest Disclosures	August 2010	2013/14 Annual Report
Children's Commissioner	June 2014	2013/14 Annual Report
Information Commissioner	May 2015	Appendix A

The Ombudsman co-operates in a variety of other ways with complaints and review bodies in the Territory, across Australia and internationally. In 2014/15 this included:

- one on one meetings with various independent officers including the Auditor-General, the Electoral Commissioner, the Commissioner for Public Interest Disclosures, the President of the NT Civil and Administrative Tribunal, the Anti-Discrimination Commissioner and the Children's Commissioner;

- attendance at regular meetings of an NT independent officers group;
- participation in the Integrity and Accountability Officers Group;
- finalisation of an MoU with the Information Commissioner (see Appendix A);
- discussion of individual matters and formal referral to other bodies where appropriate;
- meeting with interstate and national counterparts as the opportunity arises, for example, hosting visits by staff of the Commonwealth Ombudsman and meeting with the Telecommunications Industry Ombudsman;
- maintaining membership of the Australian and New Zealand Ombudsman's Association (ANZOA) and the International Ombudsman Institute (IOI), allowing access to their forums and reference resources, for example, the Systemic Issues Investigations Interest Group of ANZOA;
- serving on the planning committee for the biennial ANZOA conference;
- attendance by the Ombudsman or Assistant Ombudsman at the following meetings and conferences:
 - Deputy Ombudsman Forum, November 2014;
 - Meeting of Australasian Ombudsmen, February 2015.
- maintaining contact with various Ombudsmen throughout Australia as the need or opportunity arose.

LEGISLATIVE AND POLICY REFORM

One of the roles of the Ombudsman is to take part in meetings of the Northern Territory Law Reform Committee (NTLRC). The NTLRC advises on issues referred by the Attorney-General relating to reform of the law in the Northern Territory. During the year, the Ombudsman served on a sub-committee of the NTLRC reviewing the law relating to perpetuities.

The Ombudsman is also asked to make submissions or provide input from time to time on policy and legislative reform relating to aspects of public administration. Input was provided in relation to a number of issues during the year.

CHAPTER 6 – STAKEHOLDER & COMMUNITY INVOLVEMENT

The Office engages with stakeholders and the broader community in a variety of ways.

PRESENTATIONS, EVENTS AND VISITS

In 2014/15 the Office undertook to increase its engagement with stakeholders and community groups in Darwin and regional areas of the Territory.

Presentations and visits included:

- in Darwin:
 - Top End Women’s Legal Service
 - Darwin Community Legal Service
 - Multicultural Council of the NT
 - Somerville Community Services
 - CatholicCare NT
 - Anglicare NT
 - St Vincent de Paul Society
- in Alice Springs:
 - Central Australian Aboriginal Legal Aid Service (CAALAS)
 - Central Land Council
 - NT Working Women’s Centre
 - Salvation Army
- in Katherine:
 - North Australian Aboriginal Justice Agency (NAAJA).

The Office also visited a number of indigenous communities, including Wadeye, Bagot Community, Kulaluk and Palmerston Indigenous Village.

In addition, the Office conducted a stall at the Supreme Court Open Day and a complaints clinic in Katherine.

PARTICIPATION IN STAKEHOLDER MEETINGS AND EVENTS

The Office attended and participated in various stakeholder meetings and events, including:

- joint public authority / stakeholder working groups;
- the Aboriginal Peak Organisation’s NT Aboriginal Remote Housing Forum;
- a Complaint Management for Indigenous Clients Forum.

PUBLICATIONS

The Office provides access to a broad range of its publications, in some cases, in hardcopy but mostly through its website. They include:

- Annual Reports dating back to 2002-03
- Investigation Reports dating back to 2002
- Surveillance Devices Compliance Reports dating back to 2014
- a variety of brochures, guides and other information for enquirers and complainants.

The Office frequently gets approaches from people who are unsure where to complain or make enquires about an issue. To assist these enquirers the Office previously published from time to time an updated hardcopy *Where to Complain* booklet in cooperation with the NT Legal Aid Commission. The most recent edition of that booklet was published in 2008.

Rather than produce a further hardcopy edition of this document, in 2014/15 my Office developed an electronic document that can take advantage of tools available in this format but is also printable if the reader prefers that option. Every effort was made to include a wide range of options for enquiry and complaint across the private sector, the NT Government and the Commonwealth Government.

The result was the new *Complaints and Enquiries Guide* which is published on the website. http://www.ombudsman.nt.gov.au/sites/default/files/downloads/complaints_and_enquiries_guide_june_2015.pdf.

The Office will endeavour to update the *Guide* on a regular basis to ensure it remains relevant.



During 2014/15, the Office also reviewed and produced updated brochures and flyers for distribution at presentations and events.

http://www.ombudsman.nt.gov.au/sites/default/files/downloads/better_government_a4_-_bi-fold_brochure.pdf

http://www.ombudsman.nt.gov.au/sites/default/files/downloads/better_government_dl_flyer.pdf

WEBSITE

In 2014/15, the Office completed a substantial overhaul of the Ombudsman NT website. The new website provides:

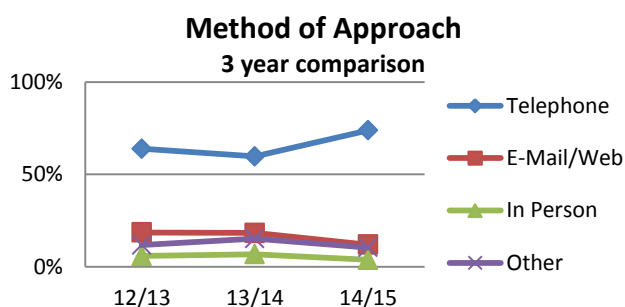
- streamlined referral links to connect users with the most appropriate body to handle their complaint;
- easily accessible resources and links relevant to public administration including regular Complaints Accountability Integrity Network bulletins;
- a streamlined online complaint form; and
- fully responsive website design for compatibility with most mobile devices.

Continuing the previous year's trend, visits to the Ombudsman website were down slightly when compared to the prior reporting period. In 2014/15, there were 27,957 unique page views, down from 30,770 in the prior period.

	2012/13	2013/14	2014/15
Total Unique Page view's	33,092	30,770	27,957
Unique Visitors	15,097	14,317	12,099
Total Visits	18,386	17,257	15,213

This drop in web use is consistent with the method of approach for complaints which also indicates the number of complaints originating from our website or being e-mailed has dropped when compared to previous years, with complainants preferring to approach the Office by telephone.

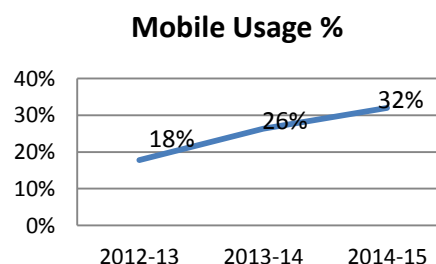
	12/13	13/14	14/15
Telephone	64%	60%	74%
E-Mail/Web	19%	18%	12%
In Person	6%	7%	4%
Other	12%	15%	10%
	100%	100%	100%



As in previous years, the most commonly visited pages continued to be those that contained information on how to contact the Office and how to make a complaint, and those that contained publications and reports.

The re-design of the website means that in future years it will be simpler to identify which information on our site is most regularly used so the content in those areas can be further developed or displayed more prominently.

Website visits from mobile devices continued to increase and now make up almost one third of all visits.



CHAPTER 7 – OVERSIGHT FUNCTIONS

SURVEILLANCE DEVICES

The purposes of the *Surveillance Devices Act* (the SDA) are to:

- (a) regulate the installation, use, maintenance and retrieval of surveillance devices;
- (b) restrict the use, communication and publication of information obtained through the use of surveillance devices or otherwise connected with surveillance device operations;
- (c) establish procedures for law enforcement officers to obtain warrants or emergency authorisations for the installation, use, maintenance and retrieval of surveillance devices in criminal investigations extending beyond this jurisdiction;
- (d) recognise warrants and emergency authorisations issued in other jurisdictions; and
- (e) impose requirements for the secure storage and destruction of records, and the making of reports to Judges, Magistrates and Parliament, in relation to surveillance device operations.

Section 63(1) of the SDA requires the Ombudsman to inspect the records of the Northern Territory Police Force (NT Police) to determine the extent of compliance with the SDA by NT Police and its law enforcement officers.

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

In accordance with the SDA, our Office undertook two inspections during the reporting period and reports were provided to the Minister. Tabled reports are available on the Ombudsman website.

TELECOMMUNICATIONS INTERCEPTION

The *Telecommunications (Interception and Access) Act* (the Commonwealth Act) prohibits the interception of, and other access to, telecommunications except where authorised. An “agency” as defined in the Commonwealth Act can apply for a warrant to authorise access.

The NT Police has been declared an agency under section 34 of the Commonwealth Act.

The *Telecommunications (Interception) Northern Territory Act* (the NT Act) enabled that declaration and provides for record keeping, inspection and reporting required under the Commonwealth Act (see section 35 of the Commonwealth Act).

Sections 9 and 10 of the NT Act provide for the NT Ombudsman to inspect NT Police records and report on compliance by members of the NT Police with Part 2 of the NT Act.

Section 10 of the NT Act provides that there must be an inspection at least once in every six month period and that an annual report on inspections must be provided to the NT Minister within three months of the end of the financial year. The NT Minister in turn provides a copy of the report to the Commonwealth Attorney-General.

In accordance with the NT Act, the Office of the Ombudsman undertook two inspections during the reporting period and an annual report was provided to the NT Minister.

CONTROLLED OPERATIONS

The *Police (Special Investigative and Other Powers) Act 2015* commenced on 1 July 2015. Part 2 of that Act provides for authorisation of 'controlled operations', which might colloquially be described as 'under cover' operations. It also provides protections against criminal and civil liability for people involved in authorised controlled operations.

As a safeguard, the Act provides for the Ombudsman to inspect the records of NT Police, at least once each year, in order to determine the extent of compliance by NT Police and its officers with Part 2.

The Ombudsman must report on compliance each year to the relevant minister. The report must include comments on the comprehensiveness and adequacy of 6 monthly reports which the Commissioner of Police is required to provide to the Ombudsman.

My Office undertook preparatory work for implementation of this new legislation in 2014/15. Inspection and reporting requirements will commence in 2015/16.

CHAPTER 8 – APPROACHES – ENQUIRIES AND COMPLAINTS

NUMBER OF APPROACHES

In 2014/15, there were 2,767 approaches to the Office (compared with 1,992 in 2013/14). These varied from matters outside our jurisdiction (which we refer on where possible) to quick queries, to matters requiring more work on our part and ultimately to complaints requiring significant investigation.

The top 12 government agencies by approach received in 2014/15 are set out below.⁵

Department / Agency	2012/13	2013/14	2014/15
Correctional Services	274	320	608
Police, Fire and Emergency Services⁽¹⁾	418	446	525
Housing	102	84	102
Power and Water	79	129	90
Jacana Energy	-	-	52
Attorney-General and Justice⁽²⁾	44	17	33
Charles Darwin University	15	20	28
City of Darwin⁽³⁾	11	20	24
Education	19	11	24
Transport⁽⁴⁾	34	31	19
Business	29	21	12
Children and Families	14	3	12

Notes

- (1) Includes Police conduct matters and approaches about administrative matters relating to the broader Police, Fire & Emergency Services organisation.
- (2) Includes Fines Recovery Unit (14)
- (3) In total, there were 55 approaches in relation to local government councils compared with 38 in 2013/14.
- (4) Includes Motor Vehicles Registry (17).

While Police, Fire and Emergency Services approaches increased by 18% over the previous year, they were overtaken by Correctional Services, which experienced a 90% increase on the basis of additional complaints from the new Darwin Correctional Centre.

Overall, energy and water approaches continued to be the third most prevalent but the functions formerly carried out exclusively by Power and Water Corporation were split at the start of 2014/15, with retail electricity functions in urban areas going to a new entity, Jacana Energy.

Approaches to the top five agencies are analysed in more detail later in this Chapter.

Of the other agencies in the top 12, it is notable that there is an ongoing trend of increasing approaches relating to Charles Darwin University and the City of Darwin. The numbers are not high by any means but they will bear monitoring in the future.

⁵ The list reflects the names and structures in place at 30 June 2015.

WHERE APPROACHES COME FROM

Establishing the demographic features of people who approach the Office is difficult. People who make a brief phone call or who contact us using the online complaint form, e-mail or facsimile may not provide an address that shows the region where they live. The statistics for region presented here therefore exclude a large number of ‘unknowns’.

Region	%
Darwin	54
Palmerston/Litchfield	20
Alice Springs	15
Katherine	5
Top End Rural	3
East Arnhem	2
Barkly	1

It is also difficult to establish in the course of dealing with an approach whether an enquirer identifies as indigenous. The current level of ‘unknowns’ in this regard rules out any meaningful report.



My Office considers it important to obtain such information to help us establish gaps in service provision and ways to improve our service. We have therefore developed a demographic information script for our staff to explain to enquirers why obtaining information of this type is important and ask questions about region, indigenous status and how they found out about the Office. The script and questions have also been incorporated into our complaints form. We hope that implementation of this script will lead to more meaningful statistics in the future.

However, as we stress to enquirers, it remains a matter of their personal choice whether they wish to answer any or all of these questions. That being the case, these statistics are likely to be at best instructive rather than comprehensive.

HOW APPROACHES ARE DEALT WITH

Approaches to the Ombudsman NT can be dealt with in a number of ways.

Dealt with as	Description
Ombudsman matters	Approach within jurisdiction and dealt with by Ombudsman NT.
Agency referral	If the complainant has not previously raised the issue with the agency, the Ombudsman NT will in almost all cases refer the complainant back to the agency to give it a chance to resolve the issue.

Complaint entity referral	There are other complaints and review bodies that deal with specific issues. The Ombudsman NT may formally refer a matter to one of those bodies.
Outside jurisdiction	Enquirer advised the Ombudsman NT has no jurisdiction. Referred or provided with contact details for another complaints body (government or private sector) if possible.

Ombudsman matters

The Ombudsman NT deals with complaints about NT government agencies, local government councils and the conduct of NT Police.

Complaints against Police have special rules regarding their conduct and approaches of this type are discussed in the section on *Approaches involving Police* below.

For other matters, the Ombudsman may make preliminary enquiries of a public authority to establish whether the Office is authorised to investigate a complaint and whether the action should be investigated.

Ombudsman matters may be resolved informally or a formal investigation may be undertaken.

The Office may decline to deal with a complaint for a variety of reasons, including that the complaint is trivial, frivolous, vexatious or not made in good faith, that the complainant does not have a sufficient interest, that investigation is unnecessary or unjustified, or that the action complained of has been or will be investigated by another complaints entity.

Giving the agency a chance to resolve the complaint

Our office maintains the view (strongly encouraged under the Act) that the relevant agency should be given the opportunity to resolve a complaint in the first instance. For this reason, complainants who come to our office without first addressing their concerns with the relevant agency will be assisted by our staff in making contact with the agency.

This often involves our staff contacting the agency by phone and providing a letter that simply outlines the complainant's concerns. The process works well and is appreciated by both the agency involved and the complainant. If the agency is unable to resolve the complaint, the complainant can return to our Office for further assistance.

Referrals to another complaints entity

There are a number of other NT Government complaints entities that deal with specific issues. In some cases, they have exclusive jurisdiction to deal with complaints of that type while in others there may be shared jurisdiction. The Ombudsman NT may refer inquiries of this kind to another entity (section 32 of the *Ombudsman Act*).

To assist the smooth referral of complaints and exchange of information between offices, our Office enters into memorandums of understanding covering the practical aspects of referrals, confidentiality and information sharing, the sharing of resources and minimising the risk of duplication.

Complaints entities that we may refer a matter to include:

- Commissioner for Public Interest Disclosures;
- Information Commissioner;
- Children’s Commissioner;
- Health and Community Services Complaints Commission; and
- Anti-Discrimination Commission.

Outside jurisdiction

Each year the Office also responds to a large number of enquiries relating to entities that do not fall within its jurisdiction, for example, enquiries about private sector or non-government organisations.

There are also some types of Government action that we do not have power to review, for example, personal decisions of Ministers, decisions of Cabinet and Executive Council, judicial decisions and decisions about public sector employment.

In outside jurisdiction cases, the Office attempts to either provide contact details or put the enquirer in touch with an entity that can assist them.

In 2014/15, we dealt with 1,153 outside jurisdiction approaches (compared to 818 in 2013/14 and 1,076 in 2012/13).

The following table lists the most common outside jurisdiction sectors where approaches were referred on to another complaints body.

Sector	2012/13	2013/14	2014/15
Employment	144	126	170
Consumer affairs	139	115	118
Health services	68	43	84
Commonwealth government	59	40	78
Financial services	65	66	71
Private housing	67	37	62
Telecommunications	65	45	58

HOW QUICKLY APPROACHES ARE DEALT WITH

In 2014/15, 2,762 approaches to the Office were finalised (compared to 2,767 received).

The bulk of approaches are dealt with expeditiously by the Office. This year, 92% of Police conduct approaches were finalised within 28 days and 90% of other matters were finalised within 7 days.

Time taken to finalise approaches - approaches finalised in 2014/15

Group	Up to 7 days	8 to 28 days	29 to 90 days	91 to 180 days	Over 180 days	Total
Police conduct	62%	30%	5%	3%	<1%	486
Other	90%	7%	2%	<1%	<1%	2,276
Total	2,357	301	76	21	7	2,762

A total of 42 matters remained open at 30 June 2015 compared with 34 at 30 June 2014 and 48 at 30 June 2013. This represents less than 2% of approaches received during 2014/15.

Age of open matters - at 30 June 2015

Group	Up to 7 days	8 to 28 days	29 to 90 days	91 to 180 days	Over 180 days	Total
Police	7	3	4	2	0	16
Other	9	6	8	1	2	26
Total	16	9	12	3	2	42

APPROACHES INVOLVING CORRECTIONS

The year saw an extraordinary increase in the number of approaches to our Office regarding the Department of Correctional Services (608 in 2014/15 compared to 320 in 2013/14).

This coincided with the transfer from the Berrimah Correctional Centre to the new Darwin Correctional Centre at Holtze, which took place in November 2014.

Analysis of approach figures shows that the increase is entirely attributable to additional approaches from the new Darwin Correctional Centre. In fact, approaches from the Alice Springs Correctional Centre saw a slight decline from 2013/14.

Approaches to our Office rose markedly in November 2014. They peaked over a three month period in November, December and January, with a high in January of 96 approaches. The period from February to May saw a decline from this peak, with approaches numbering in the 50s in each of those months. The decline continued in June, July and August 2015, with approaches numbering in the 40s in each month.

Nevertheless, approaches continue at a higher level than those experienced prior to the transfer to the new facility.

The need to deal with this increase in approaches has, of course, placed considerable additional pressure on the staff of my Office and the Department of Correctional Services. They are to be commended for the positive way in which they have responded to the increased workload.

Reasons for increased approaches

When there is a change in approaches of such a magnitude, it is important to explore the reasons behind it. This section discusses a number of factors that may have contributed to the large number of approaches. However, it is fair to say that the bulk of the increase is attributable to the transfer to the new facility and attendant new systems and processes.

An analysis of approaches made in 2014/15 shows that 21 enquirers made 5 or more approaches to the Office. One of them made 17 approaches. Those 21 enquirers were responsible for 25% of approaches to the Office relating to Correctional Services.

There were also a number of cases where multiple prisoners made approaches about the same issue or issues.

While this accounts for a substantial proportion of approaches, there have also been many approaches from individual prisoners on issues that concern them.

With regard to the transfer, a number of issues arose in the lead up to it. Some requests were put on hold pending the transfer and adoption of new procedures. For example, there was no point providing new equipment such as fans and TVs in the time leading up to the transfer. This proved a source of frustration for some prisoners who did not have access to those facilities in the interim.

Despite careful planning and a structured communication strategy, the transfer process itself led to some short term uncertainty. There was also some delay in the provision of even the most basic of necessities immediately prior to and after transfers. There were, for example, some delays in providing clean clothing and sanitary items.

In addition, the facilities themselves are new and were not without teething problems, a number of which have taken some time to resolve.

In the longer term, the transfer has seen many changes in the systems, processes and procedures adopted in the new Correctional Centre. This has required prisoners and prison staff to go through a learning and adjustment period.

A list of the most common issues raised by approaches in 2014/15 is set out in the table below. Some approaches raised more than one issue.

Issue	Notes	No.
Classification / Housing	Includes issues about sentence management and the classification of a prisoner, eg, high, medium, low security, as well as accommodation arrangements such as which area or block they are placed in and cell type.	78
Phones		72
Money / buys	Any issues dealing with prisoner accounts or purchases.	60
Work	Issues relating to work opportunities within prisons and externally, including pay rates	56
Visits	Includes prisoner to prisoner visits and prisoner leave.	45
Conduct of officers	Includes allegations of unfair treatment, abuse and excessive force.	42
Health / welfare	Issues regarding health services are referred on to the Health and Community Services Complaints Commission.	40
Recreation / Amenities	Matters relating to recreational activities and everyday aspects of living, eg access to publications, smoking, access to television, sporting and craft equipment.	40
Food	Issues relating to quality or service of food. Includes issues relating to special dietary requirements.	38
Hygiene	Includes hygiene products, clean clothing, hair care.	35
Mail		21
RASP processes	Problems accessing Request to Attend Superintendent's Parade forms.	21

Other issues raised related to limits on contact with legal advisers and complaints bodies, being placed in lockdown or having limited time outside, loss of property, provision for hot and cold weather, transfer between prisons and misconduct and appeal proceedings.

The following increases in approach numbers were of particular note:

- An increase in phone related approaches from 17 in the previous year to 72. To a large extent this was due to issues with the new phone system.
- An increase in approaches related to prisoner accounts and purchases from 16 to 60. In a number of cases, this was related to the combination of an increase in charges and changes to the payment structure for prisoners who are not engaged in work.
- An increase in approaches related to work from 16 to 56.
- An increase in approaches related to classification/housing from 40 to 78. This is likely to be partly attributable to lack of familiarity with new systems put in place at the new Centre.
- A substantial number of approaches relating to hygiene (35), chiefly to do with delay in provision of clean clothing. This issue arose primarily during the transfer period. There have not been a significant number of complaints on this issue in recent months.
- An increase in approaches relating to officer conduct from 16 to 42. This is likely to be substantially attributable to issues arising between officers and prisoners as they have adjusted to new systems and procedures.

Apart from the immediate impacts of the transfer, the increased use of the Ombudsman phone line during this period has also increased the familiarity of prisoners with the services our Office provides. This in itself is likely to lead to higher use of Ombudsman approach mechanisms into the future and accordingly a sustained higher level of approach numbers.

APPROACHES INVOLVING POLICE

Complaints against Police are addressed in detailed provisions of the *Ombudsman Act*. The Act requires the Commissioner of Police and the Ombudsman to notify each other, upon receipt of a complaint, and to provide details of the complaint. It provides a framework for the investigation of complaints against Police and defines the role of the NT Police Professional Standards Command (the PSC).

The provisions of the Act are supplemented by a detailed Police Complaints Agreement entered into between the Commissioner of Police and the Ombudsman under section 150 of the Act. The agreement, as in force at 30 June 2015, is set out at Appendix A of this Report.

Once a complaint against Police is determined to be within jurisdiction, the complaint is assessed in consultation with the Commander PSC, according to the level of response considered necessary.

Careful consideration is given to the potential seriousness or importance of the complaint, whether it is appropriate for the Police to deal with the matter in the first instance, and the responsible allocation of resources. The classification of complaints is intended to be flexible and, if necessary, may be changed according to the results of enquiries/investigations to hand. The final decision on the classification of a complaint rests with the Ombudsman.

How Police approaches are dealt with

During 2014/15, my Office received 525 approaches relating to NT Police, Fire & Emergency Services. This was an increase from 446 in the previous year. Of those 525 approaches, 488 related in some way to police conduct, with the balance relating to general administration.

Different ways of dealing with approaches relating to Police conduct are discussed below.

Enquirer assistance and preliminary inquiries

Many issues raised with the Office can be addressed simply by the provision of information. A person may be making enquires about the scope of the Ombudsman's powers and processes or may be calling to seek information for a friend. They may be enquiring about an issue that is beyond the powers of the Ombudsman, for example, a court decision.

In other cases, NT Police can deal with minor matters as customer service inquiries that do not require classification as complaints.

In addition, there are matters where the Office will conduct preliminary inquiries with Police and determine that there is no basis on which to further pursue an enquiry or complaint. In some cases, preliminary inquiries may involve considerable work, for example, obtaining and assessing a preliminary response from the officers concerned along with copies of relevant documentation and CCTV footage or sound recordings.

The Ombudsman may decline to deal with a complaint under section 67 of the Act on a variety of grounds, including that the complaint is trivial or vexatious, that the complainant does not have a sufficient interest, that disciplinary procedures have commenced or charges have been laid against the officer in question, or that dealing with the complaint is not in the public interest.

The great bulk of approaches to the Office are finalised in the above ways without the need for a formal investigation.

Complaint Resolution Process

The Complaint Resolution Process (CRP) is an informal process undertaken by Police where early personal contact between Police officers and complainants may lead to a quick and effective resolution. A CRP may involve explaining to a person why a particular course of action was taken, the legal and practical considerations surrounding the incident or a simple apology.

Ideally the Police officer and the complainant should be satisfied with the outcome but this may not always be achievable. CRP is a means of dealing with common complaints about practice, procedures, attitudes and behaviours and is not intended to be an approach focused on fault-finding or punishment.

Complainants are informed by Police that they can approach my Office if they are not satisfied with the outcome of the process. Outcomes of CRPs are provided to my Office.

In 2014/15, 47 matters were dealt with by way of CRP (compared to 104 in the previous year).

More serious complaints

For complaints that are assessed as more serious, there are a number of options for action.

Method	Description
<p>Ombudsman investigation</p>	<p>The Ombudsman may decide to directly investigate any Police complaint if satisfied it:</p> <ul style="list-style-type: none"> ○ concerns the conduct of a Police Officer holding a rank equal or senior to the rank of PSC Commander; ○ concerns the conduct of a PSC member; or ○ is about the practices, procedures or policies of NT Police; or ○ should be investigated by the Ombudsman for any other reason. <p>The Ombudsman may decide that the investigation be undertaken in conjunction with a PSC member.</p> <p>The Ombudsman can also commence an ‘own motion’ investigation into the conduct of a police officer.</p> <p>In 2014/15, the Ombudsman initiated one own motion investigation into matters arising from allegations of inappropriate conduct by a former Commissioner of Police and another police officer (see Chapter 4 for more detail).</p>
<p>Category 1 complaint investigation</p>	<p>This category is for the most serious allegations, for example complaints:</p> <ul style="list-style-type: none"> ○ considered to be of a serious or urgent nature, e.g. major assault, use of fire-arm or other perceived weapon, etc.; ○ involving threats or harassment considered to be of a serious nature e.g. threat to kill, threat to endanger life, threat to unlawfully harass, etc; ○ likely to result in criminal or disciplinary proceedings; ○ raising a matter of public interest; or ○ likely to raise significant questions of Police practice or procedure. <p>Police investigate and provide a report which is assessed by this Office. The Ombudsman provides an assessment, and any recommendations, to the Commissioner. If the Commissioner agrees with the recommendations, the Ombudsman then advises the complainant of the relevant outcomes of the investigation.</p> <p>If the Commissioner and the Ombudsman are unable to agree on the outcomes and recommendations, the Ombudsman may provide a report for tabling in the Legislative Assembly.</p> <p>In 2014/15, two matters were assessed as Category 1 complaints (compared with 8 in the previous year).</p>

Category 2 complaint investigation	<p>These complaints are not at the level of Category 1 complaints but are nevertheless important enough to warrant comprehensive investigation.</p> <p>They are investigated and resolved directly by Police in the first instance. Police report on the investigation to the Ombudsman and the complainant. The Ombudsman reviews the investigation and the complainant can raise any ongoing concerns relating to the police response with Ombudsman.</p> <p>In 2014/15, 10 matters were assessed as Category 2 complaints (compared with 17 in the previous year).</p>
Deferral	<p>If court proceedings or disciplinary procedures have been or will be commenced in relation to police conduct, the <i>Ombudsman Act</i> allows for the Ombudsman to discontinue investigation pending the outcome of those proceedings or to decline to deal further with the matter (sections 107 and 67(1)).</p> <p>In practice, I will consider this option on application by NT Police. In order to adopt this approach, I need to be satisfied that the proceedings will encompass all the substantive issues raised by the particular complaint. If satisfied that is the case, I may then defer further investigation until completion of the proceedings.</p> <p>On completion of proceedings, NT Police advise my Office of the outcome and I consider whether any further action is necessary.</p> <p>In 2014/15, I deferred four investigations pending the outcome of proceedings. Three of those cases resulted in criminal or disciplinary action. In the other case, proceedings have not yet been finalised.</p>

There is provision for formal conciliation in the *Ombudsman Act*. Conciliation may only be undertaken by agreement between the parties. It is not intended to absolve police officers of any misconduct or action. The process is an alternative dispute resolution process which is directed at reducing the need for civil matters proceeding to the courts. In practice, matters that might be resolved by this process are often dealt with as CRPs.

Issues and Outcomes

Analysis of approaches to the Office relating to NT Police, Fire and Emergency Services in 2014/15 again shows that the most common issues raised related to:

- the attitude or behaviour of officers, for example, complaints of rudeness;
- concerns about police investigations, for example, relating to delay or inaction; and
- use of force.

However, it is one thing for an issue or concern to be raised but another for there to be a finding that a complaint has been sustained.

Sustained issues in Category 1 and 2 complaints

As indicated above, Category 1 and Category 2 investigations deal with more serious complaints. For those complaints, an investigation is undertaken and a report is prepared by a Police investigating officer. The report is reviewed firstly by senior Police and then by Ombudsman investigators.

There are a variety of potential outcomes from an investigation. A complaint may be found to be sustained. It may be found to be unsubstantiated because there is no evidence or unresolved because there is insufficient evidence. The action or conduct of Police may be found to be reasonable or not unreasonable in the circumstances. More detail about potential findings can be found in the Police Complaints Agreement at Appendix A to this Report.

Nine Category 2 complaints finalised in the reporting period (and two serious matters that were deferred prior to being assigned a category) involved a finding that issues were sustained (either in terms of a finding by the investigating officer or the outcome of disciplinary or criminal proceedings).

How finalised	2012/13	2013/14	2014/15
Category 1 - sustained	10	3	0
Category 2 - sustained	6	5	8
Deferred in light of disciplinary action / charges	2	4	3
Total	18	12	11

The table below lists the number of cases involving sustained issues of each type described. In some cases, complaints involved more than one issue. In some, there was more than one officer involved.

Sustained Issue Type	Cases
Investigation – failure to undertake / inadequate / delay	4
Behaviour – abuse/rudeness/insensitivity	4
Arrest – unreasonable force	4
Interview – inappropriate or inadequate conduct	2
Practice / procedure – unreasonable	2
Arrest – unlawful / inappropriate arrest /detention	1
Custodial – personal safety / wellbeing – failure to monitor /safeguard	1

In addition to issues identified by complainants, investigating officers may identify ancillary matters in the course of an investigation. Often these involve failure to undertake a particular procedure or adequately complete relevant records.

Complaints may also give rise to ancillary issues regarding staff management and supervision where a complaint is substantiated against a more junior officer. In such cases, a supervisor may also be subject to appropriate guidance or action.

Actions taken in relation to officers arising out of complaints finalised in 2014/15 included cautions, counselling, good behaviour bonds, demotions, restrictions on performing higher duties, the requirement to undergo remedial training and managerial guidance under section 14C of the *Police Administration Act*.

Examples of Police complaints

DETENTION – Category 2 complaint

A juvenile who had earlier failed one attempt at a diversionary program was taken into custody and remained there for several days even though he had successfully completed the program at the second attempt. Unfortunately, neither the fact that he was undertaking the second program or had completed it was communicated to the prosecutor or the court. When the error came to light steps were taken to release the juvenile.

The allegation was sustained. The relevant police officer did not provide the prosecutions section with correspondence regarding the juvenile undertaking diversion a second time. Nor did the officer submit a final report advising that the juvenile had successfully completed diversion.

The juvenile was provided a formal apology.

A review of policy indicated that there was a deficiency regarding directions relating to the provisions of the *Youth Justice Act* dealing with referrals. There was a long standing practice but there was nothing in writing. Subsequently a Territory-wide restructure took place at the start of February 2015. A flow chart explaining Youth Diversion pathways was developed and distributed to Youth Diversion Staff. It is to be included in the relevant Police General Order.

POLICE ATTENDING COMMUNITY – Enquiry

Staff from the Office visited a community and provided advice about the role of our Office. Contact details were left and advice given as to what information is required if a community member has concerns about police conduct.

A community member subsequently called our Office to report that police were at the community and were recording on a camera without permission. Police were emptying out alcohol and giving people fines. The community member stated that police had entered a house without permission and without a warrant and that they seized some alcohol. The community member wanted police to leave the community alone and stop harassing them.

Senior police officers met with the senior members of the community a few days after the complaint was lodged. Police advised our Office that the meeting had been beneficial and the complaint might be withdrawn.

Our Office contacted the complainant who advised that she had discussed her concerns with senior officers. Following the meeting, the community member had a better understanding of the reasons why police were regularly attending the community. It was agreed that community members and police would work together in order to attempt to reduce the number of calls to the community due to alcohol related issues. The community member withdrew her complaint to our Office as she was satisfied with the response from Police.

EXCESSIVE FORCE, IMPROPER CONDUCT – Category 2 complaint

The complainant was arrested in relation to five outstanding warrants and breach of bail. The complainant was at her unit in the early hours of the morning when Police called out to her. Police stated the complainant failed to answer them. They used a loud hailer and eventually forced entry to the unit to carry out the arrest. The complainant alleged that an officer was very rough with her and spoke very rudely to her. She alleged her arm was pulled, spraining her wrist, and that the officer called her an offensive name. The complainant stated that she spat from the cage of the wagon at the officer and he said "you're lucky that missed me or I would come in there and flog you".

The investigation found that Police attended the residence looking for the complainant. Police spoke to one person who advised the complainant was not home. After discussions, Police determined the complainant was inside the unit. They used a loud hailer to try to gain the attention of the complainant however they failed. Police then forced their way into the unit and arrested the complainant.

The investigation determined that the actual arrest and forced entry into the unit were lawful. It was however accepted that, when considering the time of night, coupled with the use of the loud hailer; the forced entry and arrest could have been affected in a less confrontational manner.

Allegations of inappropriate comments by one officer and failure by another officer to properly record a complaint were sustained. Formal disciplinary proceedings were commenced against one officer and the other was subject to managerial guidance under section 14C of the *Police Administration Act*.

ARREST, IMPROPER CONDUCT – Category 2 complaint

The complainant was with a group of people, including family and friends. Further along the road a fight broke out between two males and police attended. One police vehicle attended to the fight and another spoke to the complainant's group. Bags were searched and alcohol found. The alcohol was poured out.

The complainant alleged that police spoke to a person in a disrespectful manner. The complainant took offence at the comments and questioned an officer about the remarks. The complainant stated that an argument ensued resulting in him being arrested. He complained about the decision to arrest him. The complainant was taken to the Watch house. He claimed that he was questioned without being properly cautioned. He also complained about being videotaped while in his cell.

The investigation concluded that one officer had inappropriately made a comment along the lines "Don't be retarded" when talking to a person who had ineffectually tried to conceal alcohol from police. It also found that officers had sworn at the complainant. It found that the complaints relating to the arrest and filming of the complainant were not sustained. However, it found that inappropriate questioning did take place while the complainant was in a cell.

The complainant was provided with an apology on behalf of NT Police. Two officers were subject to managerial guidance under section 14C of the *Police Administration Act* on issues relating to deficiencies of duty toward compliance with police policy and legislation.

ASSAULT, RACIST COMMENTS, THEFT – Enquiry

The complainant stated that he was assaulted by police, had cash stolen and had racist slurs made against him. He stated he was walking with a friend to a bar when he saw a vehicle with a person he thought he knew in the driver's seat. He opened the front passenger door to speak with him and was set upon by about five police officers. He said he was handcuffed and called an "Irish bastard" and left on the footpath in full view of the public. He said that when he was taken to the police van he was kicked in the back and had his left ear pulled by one of the officers. He advised that there were a number of officers there but he only remembered one of them.

Upon his release from the cells the next morning, he claimed he questioned his property as he said he had three \$100 notes in his pocket before he was apprehended by police but was only given \$140 on release. He further alleged that he was told that if he didn't sign the property document he would not be released. He then signed the document.

As an outcome, the complainant wanted his money back and police officers to stop making racist slurs against him.

CCTV footage provided from the street and the Watch house did not support the allegations made. Footage from the street showed the complainant open the door of a police vehicle and attempt to get in. Officers from the vehicle were conducting a traffic apprehension when they noticed the complainant open the door of their car. Footage showed no-one was in the vehicle at the time. The name the complainant gave as that of the friend he saw in the car is not the name of an NT police officer. An officer with a similar name denied being a friend of the complainant.

Watch house CCTV footage recorded how much cash the complainant had in his possession when he was being processed. It also showed the complainant being belligerent when asked questions relating to his personal information. After spending some time in custody, the complainant was in the process of being released but refused to sign for his property as he claimed money was missing. He eventually signed the name of the police auxiliary officer who was in attendance.

CCTV footage played a large part in dealing with this complaint. It assisted by showing the actions of the complainant accessing the police car. It showed his attitude to the officers in the Watch house and it assisted in consideration of the allegation that money was taken. The complaint was declined.

EXCESSIVE FORCE, FAILURE TO PROVIDE ADEQUATE CARE – Category 2 complaint

The complainant advised that he was approached by police outside a store. He told the officers he was sober however the officers did not believe him and told him he was drunk. The complainant stated he was grabbed in a very rough way resulting in his thumb being twisted and injured. He claimed he was pushed into the back of the paddy wagon in a very rough way. When he was at the Watch house he told police his thumb was hurting but he was not provided with any medical attention. The complainant said that, on his release from custody, he had to walk to the hospital to seek treatment and an X ray showed he had a fractured thumb.

Two issues of alleged excessive force were investigated. The version of events provided by the complainant indicated he was arrested outside a store. He stated that two officers arrested him however he was not able to state exactly what happened to his hand other than to say police grabbed his hand and twisted his thumb. *(continued over page)*

The version of the incident from police varied somewhat. The incident took place near a hotel. There was one officer present initially. The officer denied using excessive force to grab or twist the complainant's thumb. The officer stated that the complainant armed himself with a stick for a short time and subsequently was taken to ground and handcuffed.

It was only after this point that other officers arrived to convey the complainant to the Watch house. The two conveying officers did not see any interactions between the complainant and the arresting officer. They also could not recall anything untoward regarding the complainant being put into the rear of the paddy wagon. There was no CCTV footage available from the area to support either version of events. The investigating officer found insufficient evidence to support the allegations.

The injury to the complainant's thumb was not brought to the attention of police until he was at the Watch house. The on duty nurse did not assess the thumb on arrival due to the aggressive nature of the complainant. It was 1½ hours later when the complainant had settled down, that the on duty nurse assessed his thumb. The nurse considered the complainant fit for custody.

The complainant was eventually released and made his own way to the hospital. The investigation determined that Police should have conveyed the complainant to hospital on his release from the Watch house. An officer was subject to formal managerial guidance under section 14C of the *Police Administration Act* in relation to his failure to provide satisfactory care to the complainant on his release.

THREATS, USE OF TASERS - Category 2 complaint

This complaint related to concerns about the actions of police when looking for an escapee. Several homes within a community were searched for the escapee. Numerous persons were spoken to in the community regarding the escapee. It was alleged that police officers made threats including the possible removal of a child from their mother and that the escapee might be shot. It was also alleged that police drew their Tasers during searches in the presence of women and children.

Police inquiries determined that the searches of houses were undertaken with the consent of the occupiers. It was determined that two officers had inappropriately used Tasers as torches in the course of searches. It was also determined that one officer threatened that a young mother might have her child removed to the care of welfare authorities and another had made inappropriate comments about the potential that the escapee might be shot.

Formal disciplinary proceedings were commenced against one officer and two other officers were subject to managerial guidance under section 14C of the *Police Administration Act*. In light of early action by Police in relation to these matters, I decided to defer investigation under section 107 of the *Ombudsman Act* pending the outcome of the disciplinary procedures. Subsequently, I considered the outcome of the proceedings and determined to take no further action.

ENERGY AND WATER APPROACHES

At the start of 2014/15, the energy and water functions previously conducted solely by the Power and Water Corporation were split over three bodies:

- Jacana Energy took responsibility for electricity retail in urban areas;
- Territory Generation Corporation took responsibility for electricity generation;
- Power and Water Corporation retained responsibility for power networks, water and sewerage services and remote operations.

This has been a transitional year for both my Office and the energy and water agencies. While approaches have been recorded against Jacana Energy since the start of the year, a number of approaches regarding electricity retail issues arising from events prior to 1 July have been recorded against Power and Water.

Jacana Energy and Power and Water have put considerable effort into developing/enhancing their consumer enquiry and complaint handling systems during the year.

Both have worked closely with my Office to deal with complaints as they arose and minimise the potential for disputes as to who should handle which approach. From a practical point of view, I do not believe the split in functions has had a negative impact on the way approaches to my Office have been dealt with.

The total number of energy and water approaches for 2014/15 was 142 (an increase from 129 in 2013/14).

This comprised 90 approaches recorded against Power and Water and 52 recorded against Jacana Energy.

The top four issues raised in relation to Power and Water were:

- Excessive charges (31);
- Financial hardship, debt collection arrangements, credit listing (25);
- Billing irregularities (11) – for example, bill not received or two bills received at the same time, or sent to wrong address;
- Loss or damage (5) – due to action of agency or interruption to power supply.

The top four issues raised in relation to Jacana Energy were:

- Billing irregularities (15) – for example, bill not received or two bills received at the same time, or sent to wrong address;
- Disconnection (10) - unreasonable or in error;
- Excessive charges (10);
- Financial hardship, debt collection arrangements, credit listing (8).

APPROACHES INVOLVING HOUSING

There were 101 approaches to the Office relating to the Department of Housing in 2014/15 (compared with 84 in 2013/14 and 102 in 2012/13). The six most common issues raised by enquirers related to:

- Allocation of housing (19), including priority housing and delays in completion of housing;
- Failure to take appropriate action on complaints against neighbours (18);
- Repairs and maintenance (17);
- Financial issues (13), including rental amounts, debts, deductions and rebates;
- Transfer of tenancy (8), including refusal to transfer to new accommodation and delay in transfer;
- Termination of tenancy (6).

In line with comments in previous annual reports, remote public housing remained a key focus of the Office in 2014/15.

Taking responsibility for building, refurbishing and managing housing in remote communities has been a huge undertaking which has presented many challenges for the Department. Our Office has continued to receive complaints in this area and has continued to work with the Department and stakeholders to assist in any way it can with the resolution of a broad range of issues.

Chapter 4 discusses one investigation in this area which resulted in a tabled report — *‘Let there be light’: Essential services – Response by Department of Housing and Power and Water to widespread incidents of damage to electricity meters in a remote community.*

In the report, I described issues relating to delay in developing policies and procedures, brought about chiefly by frequent turnover of staff involved and failure to adequately record the outcome of discussions; and poor communication with interested stakeholders. (I note that the Department responded quickly to the recommendations in the report, has kept my Office regularly updated and has made substantial progress on all aspects of implementation.)

One thing which I consider must underpin the remote housing framework is the establishment of a tenancy agreement that reflects the Department’s obligations under the *Residential Tenancies Act* (the RTA), and provides a basis (along with supporting documents) for effectively communicating with tenants and occupants about their rights and responsibilities.

Concerns with the adequacy of the tenancy agreement were raised by the Northern Territory Legal Aid Commission in 2011. In 2012, the Commonwealth Ombudsman released a report on *Remote Housing Reforms in the Northern Territory*, which recommended that the relevant Commonwealth department and the Department of Housing review the latter’s tenancy agreements and practices to ensure compliance with the RTA.

Both this Office and legal service providers have pursued the issue over a number of years. There has also been every indication that the Department has put considerable resources into developing a tenancy agreement.

Recent briefings from the Department give me every confidence that the finalisation of the tenancy agreement has been given high priority and that there is a clear process in place for timely progression of development of the agreement and supporting documents.

This process will include stakeholder consultation, which I regard as crucial in the development of a document of such importance to a large proportion of the population. When executed effectively, stakeholder engagement can be used to improve communications, obtain wider support, gather useful data and ideas, enhance agency reputation, and provide for more sustainable decision-making.

At my request, the Department has provided the following update on initiatives it has implemented to improve service provision and communication with tenants and other stakeholders:

- 1. In conjunction with the Solicitor for the Northern Territory, developed a final draft Tenancy Agreement for consultation with stake holders.*
- 2. Clarified roles and responsibilities within the Department in relation to complaints management to ensure timely responses to legal advocates and tenants.*
- 3. Commenced work on a strategic risk framework for the Department.*
- 4. Closed out on the recommendations of the 'Let there be Light' Report. Final recommendation 9 required implementation of the policy which will now see policy and messages translated into 11 dialects on 6 community radio stations and radio announcements commenced on 5 September 2015.*
- 5. Established monthly meetings with legal advocate group to foster ongoing informal collaboration on matters of mutual interest for the benefit of clients and tenants.*
- 6. Established a central point of contact for legal advocates to ensure the Department monitors and provides timely responses to inquiries.*

CHAPTER 9 – OUR OFFICE

OUR STAFF

Staffing details for the Office as at 30 June 2015 are outlined below:

Position Title	Level	Number	Status
Ombudsman	ECO5	1	Statutory appointment
Deputy Ombudsman	ECO2	1	Executive Contract
Assistant Ombudsman	SA02	1	Ongoing
Senior Investigation Officer	AO7	3	1 Ongoing, 2 Fixed period
Investigation Officer	AO5	1	1 Ongoing
Resolution Officer	AO4	3	2 Ongoing (1 part time), 1 Fixed period
Business Manager	SA01	1	Ongoing AO6 on Higher Duties
Business Support Officer	AO4	1	Ongoing

There were a number of changes to the staffing structure of the Office in 2014/15.

In light of efficiencies brought about with the introduction of the Office's new complaints management system, it was decided to discontinue the Police Administration Officer position. This was implemented once the incumbent officer secured a transfer to another position in the public sector.

In addition, on the retirement of the Ombudsman's Executive Assistant in September 2014, it was decided to trial a discontinuation of that position.

Both these changes reduced the resources available for the conduct of corporate administrative functions as both officers had spent a considerable portion of their time assisting in general administrative areas.

In order to aid the Business Support Unit in the conduct of corporate and administrative duties, it was decided to employ an additional Resolution Officer and train and utilise Resolution Officers to provide some additional administrative assistance. This not only provides a broader skill base in a small office to deal with scheduled and unexpected absences and peaks in demand. It also adds substantially to the professional development and flexibility of the staff concerned. Even so, it has involved, and will continue to involve, a significant investment of resources in terms of ongoing training and support.

Savings in these areas have allowed a greater emphasis to be placed on frontline resolution and investigative officer services. While this arrangement appears to be working well at the moment, we will continue to monitor the situation to confirm there is an appropriate balance of resources to ensure the operational and administrative needs of the Office are adequately met.

Professional Development

Staff professional development attendance supported by the Office during 2014/15 included:

- *Diploma of Government (Investigation)*
- *Certificate IV in Government (Investigation)*
- Managing unreasonable complainant conduct workshops (7 staff)

- Administrative law in the public sector workshop (5 staff)
- National Investigation Symposium
- First Aid Training (2 staff)
- TRIPS and ECMS System Training
- Resolve System Configurator Training (2 staff)
- How to Excel at Managing and Supervising People
- Getting your Message Across: Key Communication Skills
- Microsoft Excel 2010 - Level 2
- Conversations for Life - Suicide Prevention training (2 staff).

The Office also has one staff member continuing a Bachelor of Business (Management) degree and another continuing a Diploma in Business. Both these courses are being undertaken with the support of the Office and are due to be completed in the 2015/16 reporting period.

In addition, the Office conducts a monthly internal presentation series. They are aimed at updating staff on a range of topics of relevance to the Office and to complaint handling and investigations generally. All staff are encouraged to present from time to time. This also provides a valuable professional development avenue for staff who can hone their presentation skills.

CORPORATE GOVERNANCE, FINANCIAL PLANNING AND PERFORMANCE

Under the *Ombudsman Act*, the Ombudsman is independent of Government in relation to complaints and investigations (section 12). However, for administrative purposes, the Ombudsman's Office is an Agency under the administrative responsibility of the Chief Minister and the Ombudsman is the Chief Executive Officer of the Agency.

This means that under the *Financial Management Act*, the Ombudsman is the accountable officer for the Ombudsman's Office, and has responsibility for the efficient, effective and economic conduct of the Office. It also means that the Ombudsman has responsibilities as a Chief Executive Officer under the *Public Sector Employment and Management Act*.

The Statement of Accountable Officer is on the first page of the Financial Statements for 2014/15, which forms Appendix B of this Report.

The Ombudsman NT Strategic Plan provides guidance and a general framework for strategic operations and annual business planning. A copy of the current Strategic Plan is available online at: <http://www.ombudsman.nt.gov.au/about-us/our-policies/>.

Within the constraints of available resources and in alignment with the strategic and business plans, financial planning is undertaken and an annual budget prepared at the commencement of each financial year.

Monthly Staff, Complaints Management and Management Board meetings are held to facilitate the administration of the Office and monitor progress against budget, strategic and business plans. Weekly Strategic Management Group meetings are also held to update current projects and facilitate open communication and discussion within the management team.

Budget Paper 3 identifies Corporate Governance as a separate Output Group within the Office. The Key Performance Indicator for Corporate Governance is *Client satisfaction with services*. This is an internal measure of satisfaction on the part of staff with the performance of Corporate Governance. The target in the Budget Papers for 2014/15 was 90%. The outcome for 2014/15, based on a client survey, was 89%.

PUBLIC SECTOR PRINCIPLES

The Office of the Ombudsman upholds the public sector principles relating to administration management, human resource management (including merit and equality of employment opportunity) and performance and conduct set out in the *Public Sector Employment and Management Act*.

As a small organisation we frequently rely on the work of the Office of the Commissioner for Public Employment, larger NT agencies or our counterparts in other jurisdictions to assist in policy development in this area, adopting or adapting policies and the like as the needs of the Office require. Their contributions in this regard are most appreciated.

During the reporting period, the Office finalised a review of its *Operations Manual* and *Gifts and Benefits Policy* and implemented a new policy for *Disposal of Temporary Records that have been Digitised*. Policies and procedures are reviewed on a rolling schedule.

WORK HEALTH AND SAFETY

The Office of the Ombudsman is committed to providing a safe and healthy working environment for all of our workers and visitors to the Office. We maintain an OHS Management System, including an Occupational Health and Safety Management Plan that meets the requirements of the *Work Health & Safety (National Uniform Legislation) Act* and *Employment Instruction 11 – Occupational Health and Safety Standards Programs*.

Workplace Health and Safety (WH&S) is a standing agenda item on monthly Staff and Management Board meetings. An officer has been assigned primary responsibility for WH&S issues and regular WH&S audits are conducted.

Only minor WH&S issues were identified during the year and were recorded and rectified promptly. Should any significant WH&S issue arise which cannot be promptly addressed by the Office, the regulator NT WorkSafe will be contacted for advice/assistance.

ANNUAL INSURANCE REPORTING REQUIREMENTS

Under Treasurers Directions (M 2.1.3 – 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.

WH&S assessments of possible physical injury to staff within the Office are consistently assessed as low. This risk is further mitigated through implementation and adherence to Security and Risk Management systems. 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 its leased motor vehicle.

Risk to motor vehicles is mitigated through commercial vehicle insurance with TIO which costs the Office approximately \$1,000 per year.

RECORDS MANAGEMENT, DISCLOSURE AND CORRECTION

The Ombudsman complies with the relevant requirements of Part 9 of the *Information Act – Records and Archives Management*.

Information held by the Office

The Ombudsman holds information in the following categories:

- information relating to inquiries and investigations into complaints against Northern Territory Government agencies, local government councils or the actions of a member of the NT Police Force. This information includes complaints, correspondence and consultations with complainants and agencies, 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 action, 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 'Providing access to information' below).

Complaint files

The Ombudsman keeps detailed records of all complaints made under the *Ombudsman Act*. Incoming complaints are registered in a relational complaints management database, this allows indexing and searching on a large number of fields including the complainant's name, the agency complained about, issues, outcome, related parties and the subject of the complaint.

Physical files of documents relating to each written complaint are also maintained. On completion of matters, all physical files or documents are stored in the Darwin office until moved to archives or destroyed in accordance with approved disposal schedules.

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 the Office has been provided with. These opinions cover issues arising during the investigation of complaints and issues involving the Ombudsman's functions and powers. They are not routinely disclosed.

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. Some printed copies of the current Annual Report are available free of charge soon after publication.

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.

Policies, manuals and guidelines

The Ombudsman has a variety of policy and procedural documents and guidelines. A number are available on the Ombudsman's website. Access to information contained in these documents may be provided depending on the content of the relevant documents. Charges may apply.

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.

Providing access to information

Publicly available documents

The following documents may be available for inspection, distribution or purchase on request:

Brochures: No charge.

Annual Report: \$30 for the purchase of a hard copy or available free on website.

Service Standards: No charge.

Administrative arrangements for access to information

General inquiries 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 (excluding public holidays).

Access under Part 3 of the Information Act

One object of the *Information Act* is to extend, as far as possible, the right of a person to access government and personal information held by government.

Initial inquiries about access to documents under Part 3 can be made to the Deputy Ombudsman through any of the contact options set out on the last page of this Report. An application to access information under Part 3 should be in writing and addressed to the Deputy Ombudsman. It may be sent by letter, facsimile or email or hand delivered.

While some information held by the Office is available under these provisions, a considerable amount is exempt from disclosure. For example, information is exempt from disclosure under section 49C of the *Information Act* if it is:

- contained in a complaint under the *Ombudsman Act*; or
- obtained or created under that Act in the course of or for making preliminary enquiries, or the conduct of conciliation, mediation, the police complaints resolution process or an investigation.

Applications for this type of information will be transferred to the organisation from whom information in the control or custody of the Ombudsman was sourced.

In 2014/15, the Ombudsman received no information access requests under the *Information Act*.

Procedures for Correcting Information

The *Information Act* also provides for applications to correct personal information.

Initial inquiries about correcting personal information under Part 3 can be made to the Deputy Ombudsman through any of the contact options set out on the last page of this Report. An application to correct personal information under Part 3 should be in writing and addressed to the Deputy Ombudsman. It may be sent by letter, facsimile or email or hand delivered.

In 2014/15, the Ombudsman received no personal information correction requests under the *Information Act*.

APPENDIX A – AGREEMENTS WITH OTHER BODIES

INFORMATION COMMISSIONER

**MEMORANDUM OF UNDERSTANDING
BETWEEN
INFORMATION COMMISSIONER
AND
NORTHERN TERRITORY OMBUDSMAN**

Background

1. The Ombudsman is an independent statutory office holder with a range of statutory functions, including investigating the administrative actions of Northern Territory Government officials and agencies and Police conduct, either on receipt of a complaint, or on the Ombudsman's own initiative.
2. The Information Commissioner is an independent statutory office holder established pursuant to the *Information Act* charged with a range of functions including:
 - a) to deal with complaints about breaches of privacy and about FOI decisions made by public sector organisations; and
 - b) to promote an understanding and awareness of FOI and Privacy in the community and the public sector.
3. Given the statutory jurisdictions of the Ombudsman and the Information Commissioner, there are cases where issues that may be subject to investigation by one office overlap or are closely related to issues that may be subject to investigation by the other office.
4. There are statutory provisions that define the limits of jurisdiction of the offices and provide for referral of complaints and information in appropriate cases. It is important that there be a clear understanding on the part of the Ombudsman and Information Commissioner as to the effect of those provisions and that there are mechanisms in place to facilitate discussion and agreement on which office is empowered to deal with an issue and, if both have power, which is best placed to do so.
5. It is also important that there be mechanisms in place for exchange of information obtained in the course of related investigations in order to minimise inappropriate duplication of activity. For example, evidence may be obtained in the course of an investigation of a complaint by one office that is relevant to the investigation of a closely related complaint by the other office.

Liaison and co-operation

6. Therefore, noting sections 19 and 117 of the *Ombudsman Act* and sections 97, 108 and 120 of the *Information Act*, the Ombudsman and Information Commissioner agree to liaise and cooperate in accordance with this Memorandum of Understanding (MoU) for the purpose of avoiding inappropriate duplication of investigative or review activity, including to exchange information and evidence for the purpose of:
 - a) considering who should conduct an investigation or review;
 - b) referring a matter to the other office for investigation or review; and
 - c) facilitating the conduct by the other office of an investigation or review that is within its jurisdiction.

Regular Contact

7. Each party will nominate a contact officer as the first point of liaison for the purposes of this MoU.
8. The Ombudsman and Information Commissioner will meet at least once in each year to discuss any issues arising from complaints and issues that may be of mutual interest.

Guiding principles

9. The guiding principles for this MoU will be:
 - a) Ensuring that the office that ultimately deals with a matter has legislative authority to do so;
 - b) Minimising the potential for unnecessary duplication of investigative activity or overlap in inquiries;
 - c) Minimising the impact on complainants when dealing with complaints that could have jurisdictional issues;
 - d) Ensuring that each complaint is dealt with by the office best placed to effectively and appropriately deal with it; and
 - e) Both parties will act in a co-operative and consultative manner to ensure those outcomes.

Initial assessment of complaints

10. If it is known that a person has contacted both agencies, and that the person is considered at risk of self-harm or of harming others, there will be prompt sharing of information between the agencies to the extent that they are lawfully able to do so.
11. If one office receives a complaint that solely relates to issues that are not within its jurisdiction but may relate to issues that are within the jurisdiction of the second office, it will immediately take action to either direct the complainant to the second office or contact the contact officer of the second office to discuss the potential for a referral.
12. If one office receives a complaint that relates to one or more issues that may fall within its jurisdiction but where the second office may have jurisdiction, the first office will consult with the contact officer of the second office to discuss the best way to proceed.
13. If, as part of that consultation, it is agreed that one or more issues should or could be more effectively dealt with by the second office, bearing in mind the guiding principles, the contact officers will identify the issues to be dealt with by each office and record the agreed approach in writing (an e-mail exchange is acceptable).
14. If it is agreed that a formal referral should be take place, a referral will be made in writing setting out the reasons for the referral.
15. If agreement cannot be reached, the matter will be referred to the Information Commissioner and the Ombudsman for discussion and resolution.
16. Nothing in this MoU, including a reference to 'dealing' with a complaint, constrains either office in the exercise of its respective statutory powers, including making a decision not to accept or investigate or not to investigate further any complaint.

Police complaints

17. In order to promote awareness of individual rights, where it appears to an Ombudsman officer that an issue raised in a complaint against Police received directly by the Office of the Ombudsman may relate to an alleged breach of privacy or other interference with privacy, the officer will advise the complainant of that potential. The advice should include the following:
 - a) That it is possible that the complainant may have a valid complaint of breach of privacy;
 - b) If proved, the Information Commissioner may order an apology, a change of processes, a correction or a payment of compensation from the organisation; and
 - c) That they are able to get advice from the Information Commissioner (NT) by phoning 1800 005 610 or by email to Infocomm@nt.gov.au.
18. Noting the limitation on investigations by the Ombudsman in section 120 of the *Information Act*, the parties acknowledge and agree the following in relation to complaints against Police:

- a) there are substantial benefits in speedy resolution of complaints;
- b) privacy issues often form one aspect of a broader complaint;
- c) the Police Complaint Resolution Process (CRP) is an informal process undertaken by Police where early personal contact between Police members and complainants may lead to a quick and effective resolution. CRP is a means of dealing with common and relatively minor complaints about practice, procedures, attitudes and behaviours and is not intended to be an approach focused on fault-finding or punishment;
- d) CRP may involve explaining to a person why a particular course of action was taken, 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 this may not always be achievable;
- e) where a complaint is made directly to Police, a CRP may have been finalised by the time the complaint is notified to the Ombudsman;
- f) in cases that involve a privacy element that are assessed as suitable for CRP, NT Police will pursue the CRP but the Ombudsman will notify the Information Commissioner contact officer and request NT Police to include advice in the document finalising the CRP along the lines contained in clause 17;
- g) in other cases, the Information Commissioner will give priority to initial assessment under clauses 12 to 15 to ensure timely investigation of the complaint.

Information security and confidentiality

19. The offices acknowledge that they are bound by strict confidentiality provisions. The confidentiality of information exchanged between the offices will be maintained and information will be disclosed only in circumstances permitted by law.

General

20. The offices agree that they should work together to share information and experience in relation to their respective roles. Each office will keep the other informed of recent developments that may be of interest to the other, within the scope of this MoU and to the extent permitted by the relevant legislation governing the offices.
21. If one office has obtained evidence or materials during the course of an inquiry or investigation that is likely to be material to an investigation on a related matter being conducted by the second office, the first office may, if it considers appropriate and in order to avoid unnecessary duplication of investigative activity, provide that evidence or material to the second office for the purpose of facilitating the conduct by the second office of an investigation or review that is within its jurisdiction.
22. One office may consult the other in relation to matters where the other party has a specific expertise, experience or qualification that is relevant to an investigation.
23. If one office becomes aware during an investigation that the other office is also considering or has considered a complaint about the same matter, then the first office will consult with the contact officer of the second office in an effort to avoid unnecessary duplication of investigative activity.
24. Joint investigations may be conducted by agreement between the Ombudsman and the Information Commissioner. The scope and procedures for a joint investigation, including the delegation of any legislative powers to staff of either agency, will as far as practicable be agreed at the start of the investigation.
25. The parties will assist each other, wherever possible, in the distribution of general material to target audiences and the community generally about how to make complaints.

Duration

26. This MoU operates until either party terminates it or both parties agree to replace it.

May 2015

POLICE COMPLAINTS AGREEMENT

AGREEMENT BETWEEN COMMISSIONER OF POLICE (NT) OMBUDSMAN FOR THE NT

This agreement is made pursuant to section 150 of the *Ombudsman Act*. It records the joint commitment of the Commissioner of Police NT and the Ombudsman for the NT to the open, accountable and fair resolution of complaints against Police and describes agreed administrative procedures to achieve that outcome.

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1. Scope of Terms

Commander, PSC:	PSC Commander or their delegate.
Commissioner:	Commissioner of Police (NT) or their delegate. The Commissioner is charged with the general control and management of the Police Force. As such, the Commissioner is responsible for the taking of appropriate action on complaints including the institution of both formal and informal disciplinary and criminal actions against police members where appropriate. The Commissioner has issued a General Order to members clarifying their obligations in this regard.
General Order:	Complaints Against Police.
Ombudsman:	Ombudsman or their delegate. The Ombudsman is charged with investigating, overseeing and reporting on complaints against Police and may make recommendations to the Commissioner concerning how a complaint may be resolved.
PSC:	Professional Standards Command of the NT Police Force is tasked with the internal administration, coordination and investigation of all reported complaints against Police. Functions include ensuring the obligations of the Commissioner of Police under the Act are observed and liaising with the staff of the Ombudsman on all complaints and investigations. The term Professional Standards Command is to be read as meaning the Police Standards Command as referred to in the <i>Ombudsman Act</i> .
The Act:	<i>Ombudsman Act</i> .
The Parties:	The Ombudsman and the Commissioner.

2. Introduction

This Agreement for dealing with police complaints has been made between the Commissioner of Police (NT) and the Ombudsman for the NT pursuant to section 150 of the Act.

Specifically, the Agreement provides for the following matters:

- (a) the kinds of complaints for which the police Complaints Resolution Process (CRP) may be conducted;
- (b) the conduct of the CRP process;
- (c) report of the result of the CRP process;
- (d) the kinds of complaints for which PSC report under Part 7, Division 6, Subdivision 1 or Subdivision 2 is required; and
- (e) other matters the Ombudsman and Commissioner consider appropriate for dealing with the complaints mentioned in paragraphs (a) and (d).

The Parties agree that the CRP procedures will be specified in the General Order: Complaints Against Police (the General Order) for the benefit of those members who are conducting an investigation into a Complaint Against Police (CAP).

The Commissioner agrees to consult with the Ombudsman prior to promulgating the General Order and before making any amendments to the General Order.

3. Purpose and Intent of the Agreement

The purpose of this Agreement is to facilitate the sound investigation and appropriate determination of CAPs whether made to the Commissioner or the Ombudsman. The Agreement gives effect to the obligations placed on both the Ombudsman and Commissioner by virtue of the Act and the *Police Administration Act*.

Bearing in mind the differing obligations and roles of the Ombudsman and Commissioner, this Agreement outlines the manner in which the various categories of police complaints will be considered, investigated and reported.

The Parties mutually agree to:

- (a) consult and jointly consider complaints to ensure they are resolved thoroughly, impartially and according to law;
- (b) facilitate the open exchange of information, materials and cooperation between the NT Police and the Ombudsman;
- (c) monitor and review the operation of the police complaints process; Police Complaints
- (d) provide accurate, thorough and timely reports on the outcome of complaints; and
- (e) comply with the rules of natural justice and fairness to both complainants and police officers subject to any provisions which authorise information not be released.

4. Obligations of Professional Standards Command

Section 34H(b) of the *Police Administration Act* authorises PSC to investigate and otherwise deal with CAPs under Part 7 of the *Ombudsman Act*. In so doing the PSC will ensure that the Ombudsman's obligations in respect of complaints are met by the provision to the Ombudsman of timely and complete information as necessary.

5. Obligations of Police Officer

Police officers who receive a CAP are required to record and immediately report that complaint to the Commander, PSC and comply with the terms of the General Order issued by the Commissioner. A police officer is not to accept a CAP from a person if the complaint concerns that member's conduct. The member is to inform the person to make the complaint to another police officer or directly to the Ombudsman.

6. Notification on the Making of a Complaint

To facilitate the efficient handling of complaints, the Parties agree to notify each other of the making of a police complaint as soon as reasonably practicable. Wherever possible, notice of the making of a complaint will be provided to the other party within **ten (10) working days** of receipt of the complaint.

In accordance with section 65(2) of the Act, the notice provided to the Ombudsman by PSC will be submitted in writing and include:

- (a) if the complaint was made in writing, a copy of the complaint, or
- (b) if the complaint was made orally, a copy of the statement of particulars of the complaint prepared by the police officer to whom the complaint was made.

The Commander, PSC may include in the notice written recommendations to assist the Ombudsman in assessing and deciding how to deal with the complaint under section 66 of the Act.

The Parties acknowledge that the Commissioner may take immediate action against a member under section 80(1) of the *Police Administration Act* upon receipt of a police complaint. The Commissioner agrees to notify the Ombudsman of any action taken as soon as it is reasonably practicable to do so.

7. Assessing and Determining Whether to Deal With a Complaint

7.1 Complaints Made Out of Time

The Ombudsman may refuse to deal with a complaint if it was lodged out of time and the complainant has failed to establish any special circumstances or there is no public interest in accepting the complaint (section 25(3)) of the Act.

7.2 Preliminary Inquiries

On receipt of a complaint the Ombudsman may make preliminary inquiries for the purposes of determining whether to exercise jurisdiction or to decline to deal with the complaint.

The Parties agree that except where the Ombudsman states otherwise, the notification of a complaint by the Ombudsman to the Commander, PSC includes a request that PSC makes preliminary inquiries into the grounds of the complaint and recommends:

- (a) a particular classification under section 66 of the Act; or
- (b) that the Ombudsman decline to deal with the complaint.

7.3 Declining a Complaint

Under section 67 of the Act, the Ombudsman may decline to deal with a complaint, or decline to continue the investigation of a complaint, if the Ombudsman is of the opinion the complaint is:

- (a) trivial, frivolous, vexatious or not made in good faith;
- (b) the complainant does not have sufficient interest in the conduct that is the subject of the complaint; and there are no special reasons justifying dealing with the conduct under Part 7 of the Act;
- (c) disciplinary procedures have been started against the police officer whose conduct is the subject of the complaint for a breach of discipline in relation to the conduct;
- (d) the police officer whose conduct is the subject of the complaint has been charged with an offence in relation to the conduct;
- (e) dealing with the complaint is not within the public interest; or
- (f) another complaint's entity has, or will, investigate the conduct at substantially the same level the Ombudsman would otherwise have investigated the complaint.

In addition, the Ombudsman may defer a decision on how to deal with, or to decline to deal with, a police complaint under Part 7 of the Act if satisfied that:

- (a) a proceeding before a court or tribunal has been, or is to be, commenced in relation to the conduct the subject of the police complaint; or
- (b) disciplinary procedures against a police officer whose conduct is the subject of a police complaint have been or are to be commenced in relation to the conduct (section 107(1)) of the Act.

NOTE: There is no presumption or rule that the investigation of a police complaint under the Act should be delayed if proceedings are commenced. Each case will be assessed on its facts and consideration given to the issues being considered by the respective Court or Tribunal.

As a general rule:

- **Civil Proceedings** — If civil proceedings have been instituted there is unlikely to be any justification for delaying action on a complaint solely by reason of the existence of these proceedings; or
- **Criminal Proceeding** — If a complaint is made while criminal charges are pending, and the complaint relates to the same incident from which the charges arose, the complaint is likely to be delayed if the elements of the charge(s) will result in the Court deciding the issues of the complaint.

If a complaint is declined by the Ombudsman it will be processed in the following manner:

- (a) if the complaint was made directly to the Ombudsman by the complainant or their representative:
 - i) the complainant or their representative will be notified by the Ombudsman that no further action will be taken on the matter;

- ii) the file will be closed; and
 - iii) the complaint will not be forwarded to PSC;
- (b) if the complaint was submitted by PSC to the Ombudsman:
- i) the complainant or their representative will be notified by PSC that no further action will be taken on the matter;
 - ii) PSC will send confirmation to the Ombudsman; and
 - iii) the file will be closed.

Reasons for the refusal to accept the complaint or for discontinuing the investigation will be given to the complainant or their representative.

8. Classification of Complaints

If a complaint is accepted, the Ombudsman agrees to consult with the Commander, PSC on the classification of the complaint.

Complaints fall into one of the following classifications:

- (a) conciliation under Part 7, Division 3;
- (b) CRP under Part 7, Division 4;
- (c) investigation of category two (2) complaint (section 66(2)(d)(i)) of the Act - PSC investigates and reports to complainant under Part 7, Division 4, Subdivision 2;
- (d) investigation of category one (1) complaint (section 66(2)(d)(ii)) of the Act — PSC investigates and reports to Ombudsman under Part 7, Division 4, Subdivision 2; or
- (e) section 86 Investigation — Ombudsman investigation under Part 7 Division 5 of the Act.

If the Ombudsman and the Commander PSC are unable to agree on the classification of a complaint, the Ombudsman's decision will be final.

Careful consideration is to be given to:

- (a) the seriousness of the complaint;
- (b) any relevant police practices, procedures or policies; and
- (c) the responsible allocation of resources in determining the classification.

The classification process is intended to be flexible. This means a complaint may be changed at any time to another level of classification based on the particular circumstances of the case.

9. Re-Classification of Complaint

Consideration may be given to re-classification of a complaint if:

- (a) the complainant is dissatisfied with the CRP process, the outcome of the CRP process or does not agree to continue with the CRP process;
- (b) evidence indicates the complaint is not suitable as a CRP;
- (c) a CRP process is otherwise unsuccessful, or likely to be unsuccessful;
- (d) inquiries reveal the complaint is more or less serious than first considered; or
- (e) the Ombudsman's own motion powers are utilised.

If the complainant is dissatisfied with the CRP process, they are to be advised of their right to request that the Ombudsman decides whether to have the matter dealt as a PSC or an Ombudsman investigation. PSC is to record the complainant's request and include details in their notification to the Ombudsman. This notification will be provided in the completed CRP Form (also advising unsuccessful resolution).

If the police officer conducting the CRP becomes aware the CRP will be unsuccessful, the officer is to suspend the CRP and notify the Commander, PSC.

The Ombudsman may refuse the request to re-classify a complaint if satisfied the issues raised by the complainant are being, or have been adequately dealt with in the CRP.

Where a complaint is being investigated as a PSC Investigation, Category 2 Complaint and evidence establishes the complaint is more serious than initially considered, the investigator is to suspend the investigation and notify the Commander, PSC. The Commander, PSC is to immediately notify the Ombudsman of the suspension of the investigation and the reasons for it.

The Ombudsman agrees to consult with the Commander, PSC on the re-classification of the complaint. In the event the Ombudsman and the Commander, PSC do not agree on the relevant classification, the Ombudsman's decision is final.

The Ombudsman is to notify the complainant of the manner in which the complaint is to be investigated.

10. Conciliation [Part 7, Division 3]

The Parties jointly recognise that a successful conciliation greatly reduces the likelihood of future civil litigation against the Commissioner. If a complaint might be resolved through the conciliation process, the Parties agree to use their best endeavours to progress the complaint in this manner.

Conciliation is not intended to absolve the police officers of any misconduct or action. Rather, the process is an alternative dispute resolution process directed towards facilitating agreeable results arising out of the grounds of complaint.

The complainant, a police officer, PSC or the Ombudsman may, at any time, request a complaint be dealt with by way of conciliation.

The Ombudsman acknowledges the Commissioner is a 'relevant official' for the purposes of the conciliation process. The appointment of a conciliator is to be made by mutual agreement.

The conciliator's functions are to be as agreed between the Parties however, in general terms the conciliator is to settle a complaint by:

- (a) explaining the conciliation process and the voluntary nature of the conciliation process;
- (b) explaining privilege and confidentiality as described under section 114 of the Act;
- (c) arranging discussions and negotiations between the complainant and the provider;
- (d) assisting in the conduct of discussions and negotiations;
- (e) assisting the complainant and provider to reach agreement; and
- (f) assisting in resolving the complaint in any other way.

10.1 Representation at Conciliation

Approval may be given for a party to the conciliation to be represented by another person. If the conciliation is being administered by PSC, approval is to be given by PSC, otherwise approval will be given by the Ombudsman. Approval may not be granted if PSC or the Ombudsman is satisfied the proposed representative person's attendance will adversely affect the conciliation process.

The Parties agree to consult each other on the question of whether a representative is an appropriate person.

11. Complaint Resolution Process (CRP) Procedures [Part 7, Division 4, Subdivision 1]

The Commissioner and the Ombudsman have jointly agreed to the CRP procedures referred to in this agreement. It is agreed by the parties that the CRP includes the following elements and processes:

- (a) that the early intervention into minor complaints may lead to a quick resolution of the complaint. This may involve listening to the complainant's specific issues and an explanation as to why a particular course of action was taken by members, the legal and practical considerations relating to the incident or the offering of a simple apology;

- (b) the CRP is not focused on fault-finding or punishment. The CRP is a means of dealing with common complaints about practice, procedures, attitudes and behaviour. One of the aims of this procedure is to settle and finalise minor complaints without proceeding to formal disciplinary action against members.
If some inappropriate conduct is identified, a member is advised / assisted by the CRP officer to correct the conduct; and
- (c) the informal resolution may be undertaken by the police officer taking the complaint or some other police officer, but not the police officer whose conduct initiated the complaint.

11.1 Ombudsman's Oversight

The Parties acknowledge that in accordance with section 85 of the Act, the Ombudsman maintains a supervisory role for all CRPs.

If the Ombudsman takes an action of the kind described in section 85(1), the Ombudsman agrees to consult with the Commander, PSC on the process to be taken to resolve the outstanding CRP to the satisfaction of all parties.

11.2 Categories of CRP Conduct

The following categories of complaints can be dealt with as a CRP:

- (a) failure to:
 - i) take a complaint seriously;
 - ii) respond promptly during inquiries;
 - iii) promptly attend the scene of a minor complaint;
 - iv) return telephone calls;
 - v) keep people informed of the progress of inquiries;
 - vi) charge a person (in minor cases only, e.g. motor vehicle disputed); and / or
 - vii) return property;
- (b) rudeness / incivility;
- (c) perception of a threat or harassment, subject to severity and nature of threat or harassment;
- (d) unreasonable treatment of a minor matter, e.g. matters where the police action appears appropriate and justified by law and the complaint arises from a misunderstanding of police powers, practices and procedures;
- (e) impartiality, e.g. allegedly taking sides with one of the parties in a dispute;
- (f) a complaint of police driving or parking behaviour which is not aggravated or is able to be reasonably explained;
- (g) a complaint made by a person who has an apparent mental dysfunction or is otherwise disturbed or obsessive and the complaint has either been made previously or appears, by its nature, to be without substance and consistent with the complainant's apparent state of mind;
- (h) a complaint concerning an incident of minor force associated with an arrest or other lawful police conduct. This may include jostling, pushing and shoving in the execution of duty — without any intended features such as intimidation or attempts to obtain a confession — but excludes unlawful assaults or unnecessary or unreasonable use of force; and/or
- (i) other such conduct as the Ombudsman and the Commander, PSC determine should be subject to CRP.

11.3 CRP Process

The Parties agree that the CRP should be carried out in accordance with the following process.

The OIC of a station / section / unit, being a member of or above the rank of Sergeant, is authorised to informally resolve minor CAPs. This officer will be acknowledged as the CRP Officer.

On being advised of a complaint, the CRP Officer is to determine whether the conduct complained about comes within one of the authorised categories.

If the matter is appropriate to be dealt with as a CRP and is capable of being immediately resolved the CRP Officer is to:

- (a) ensure reasonable steps have been, or are being, taken to preserve evidence;
- (b) ensure the complainant is clearly identified on the CRP Form;
- (c) personally contact the complainant (if not present) within twenty four (24) hours if possible;
- (d) explain the CRP as well as the formal investigation process to the complainant;
- (e) ask the complainant's view on the outcome he / she expects;
- (f) obtain the complainant's agreement to the matter being informally resolved. The CRP is a voluntary process and if the complainant does not agree, the process should not be commenced;
- (g) contact the member(s) involved, advise the details and explain the CRP process. Ensure the member(s) are aware of the no-blame procedure and invite an explanation; and
- (h) attempt to settle the issues arising out of the complaint. To do so it may be appropriate for the CRP Officer to arrange a meeting between the complainant and the member(s) concerned.

A CRP Officer has a large degree of flexibility available to them in order to manage the CRP complaint. For example, it is not necessary for sworn statements or records of interview to be taken in support of the investigation, unless the CRP Officer establishes the complaint is unlikely to be resolved.

11.4 Successfully Completed CRP

If the complainant is satisfied with the process, the CRP Officer is to record the details of the complaint and mark that the complaint was successfully resolved on the CRP Form.

The CRP may be resolved through the following means, the details of which are to be included in the CRP Form:

- (a) remedial advice given to member(s) — complainant satisfied;
- (b) apology given to complainant — complainant satisfied. Generally an apology may be offered personally by the member or on behalf of the member through the CRP Officer. A personal apology can only be offered where the member gives consent;
- (c) action taken by NT Police Force explained to the satisfaction of the complainant;
- (d) acknowledgement by complainant where, on enquiry, the complainant accepts error or misunderstanding made by himself / herself;
- (e) complainant satisfied for the matter to be brought to the attention of the member(s) concerned;
- (f) complainant and member(s) fail to agree on subject of complaint but complainant satisfied that everything possible has been done to resolve the matter; and/or
- (g) complainant was offered and accepted reimbursement for minor expenses, i.e. dry cleaning of clothes, etc.

Proof of the outcome agreed upon by the complainant is to be provided (for example, by signature, email or some other form of proof).

On completion of the CRP, the CRP Officer is to identify any outstanding issues of concern which arise from the enquiries made. Those issues are to be identified on the CRP Form. Where issues are within the responsibility of the CRP Officer he / she is to take the necessary steps to address those issues.

Where the issues relate to the responsibilities of another member, the CRP Officer is to ensure those issues, along with the recommendations, are sent to that member for follow up. This matter is also to be addressed on the CRP Form submitted to PSC at the completion of the process.

The Commander, PSC is to forward the CRP Form to the Ombudsman at the earliest opportunity but within seven (7) days of the CRP being finalised.

On receipt of the CRP Report the Ombudsman will consider the complaint and determine whether:

- (a) the action taken was reasonable;
- (b) there are any outstanding issues;
- (c) the complaint was resolved; and
- (d) further action is required.

The Ombudsman will finalise the complaint as a CRP if the matter requires no further action.

The Ombudsman may determine that the CRP is not suitable for finalisation and may re-classify the complaint where:

- (a) the complainant is dissatisfied with the CRP, the outcome of the CRP or does not agree to continue with the CRP;
- (b) evidence indicates the complaint is not suitable as a CRP;
- (c) a CRP is otherwise unsuccessful or likely to be unsuccessful;
- (d) inquiries reveal the complaint is more serious than first considered; or
- (e) on the Ombudsman's own motion.

If the Ombudsman is of the view the complaint should be dealt with in another way, the Ombudsman will notify the complainant of that decision.

11.5 Unsuccessful CRP

If the complainant is dissatisfied with the outcome of the CRP they may ask the Ombudsman to have the complaint investigated by PSC under Part 7, Division 4, Subdivision 2, or by the Ombudsman under Part 7, Division 5, Subdivision 2 of the Act.

In the event the complainant is dissatisfied with the CRP, the complainant is to be advised of their right to request the Ombudsman to have the matter dealt with as a PSC or an Ombudsman investigation. The CRP Officer is to record the complainant's request and PSC are to include this in their notification to the Ombudsman. This notification will be provided in the completed CRP form (also advising unsuccessful resolution).

Where the CRP Officer forms an opinion the CRP will be unsuccessful, the CRP Officer is to suspend the CRP and notify the relevant Command Management Team (CMT) and the Commander, PSC.

In the event of an unsuccessful CRP, the relevant CMT is to send a letter to the complainant detailing what action was taken to resolve their complaint and their right to contact the Ombudsman to have the matter reinvestigated. The letter will include the following paragraph:

- a) If you are dissatisfied with the outcome it is necessary for you to set out detailed reasons as to how the investigation was inadequate and forward these to the Ombudsman. However, please note, the Ombudsman may refuse to review your continued concern if satisfied the issues raised have been dealt with in the investigation.*

If the Ombudsman is satisfied the issues raised in the complaint are being, or have been, adequately dealt with in the CRP, the Ombudsman will refuse the request.

If the Ombudsman agrees with the request, the Ombudsman and the Commander, PSC will re-classify the complaint and the Ombudsman will notify the complainant of the terms of the new investigation.

11.6 Police Officer Dissatisfied

A police officer who is dissatisfied with the progress or the outcome of the CRP may make a written submission to the Commander, PSC. Upon receipt of the submission the Commander, PSC will consider the submission and if satisfied the CRP will be unsuccessful, notify the Ombudsman.

The Commander, PSC and the Ombudsman will re-classify the complaint if appropriate and the Ombudsman will notify the complainant of the terms of the new investigation.

11.7 Police Officer's Rights

The Ombudsman and the Commissioner agree that evidence obtained from a police officer in the CRP cannot be used in any disciplinary investigation or proceedings against the member [section 114(1) of the Act].

There will be no records kept on the personnel file of the member in respect to the results of any CRP.

11.8 Enquiries Reveal a Matter is More Serious

If enquiries reveal that the matter is more serious than first thought, or if evidence indicates the complaint is not suitable as a CRP, the CRP Officer is to suspend the enquiries and forward all documents to the Commander, PSC.

The following factors could lead to a suspension of the CRP:

- (a) identified inculpatory evidence warranting a formal PSC investigation;
- (b) additional issues requiring further enquiry; and/or
- (c) evidence of involvement of other police officers in the police conduct.

The Commander, PSC and the Ombudsman will re-classify the complaint. The Ombudsman will notify the complainant of the terms of the new investigation.

11.9 Withdrawal of Complaint

If a complainant wishes to withdraw a minor complaint, it is to be confirmed in writing by the complainant and the CRP Officer and forwarded to PSC. The withdrawal should include the complainant's reasons for withdrawing the complaint.

11.10 CRP Action Requirements

Complaints dealt with under the CRP are to be completed within fourteen (14) days of the complaint being received.

An application to extend the period may be made to the Commander, PSC at any time before the expiry of the fourteen (14) days. The application is to provide particulars of the reasons for the delay in finalising the CRP within the specified period. Applications will only be approved on the joint approval of the Commander, PSC and the Ombudsman.

Completed CRP forms are to be forwarded by the Commander, PSC to the Ombudsman at the earliest opportunity but within seven (7) days of the complaint being finalised.

12. Professional Standards Command Investigation

There are three (3) types of Investigation undertaken by or on behalf of the Professional Standards Command. Those are:

- **Preliminary Inquiry (PI)** - An investigation carried out by PSC or other member on behalf of PSC upon initial receipt of a complaint against police. The investigation is carried out to examine available material and allow for a considered recommendation to be made to the Ombudsman on the categorisation of the complaint;
- **Category 2** - An investigation carried out by PSC or other member on behalf of PSC where the Commissioner or his/her delegate reports directly to the complainant (Part 7, Division 4, Subdivision 2 and Part 7, Division 6, Subdivision 1 of the Act). These are complaints relating to incidences of minor misconduct that are not suitable for CRP or sufficiently serious to be subject to a category one (1) classification; and
- **Category 1** — An investigation carried out by PSC or other member on behalf of PSC where the Commissioner or his/her delegate reports to the Ombudsman, who considers the report and reports to the complainant (Part 7, Division 4, Subdivision 2 and Part 7, Division 6, Subdivision 2 of the Act). These are serious complaints relating to alleged serious misconduct or maladministration.

All three types of investigation are evidence based and intended to collect evidence to either sustain or negate the grounds of complaint.

12.1 Preliminary Inquiry

Authorised Conduct of Preliminary Inquiry

The purpose of a PI is to source, secure and examine all relevant evidence upon initial receipt of a complaint against police. This is done to ensure that the Ombudsman is fully apprised of all the facts of a matter when making a determination on the classification of the complaint.

Although this is an initial enquiry and no formal determination of complaint classification has been made, investigative rigour is still to be applied through all stages of the PI.

The PI can involve any of the following actions by an investigator:

- (a) examination of PROMIS, IJIS or any other NT Police computer systems;
- (b) examination of all relevant CCTV footage, including watch house audio recordings;
- (c) examination of any Territory Communications Section records including audio files of telephone calls and radio transmissions;
- (d) examination of any written documentation relevant to the complaint, including any notes made by a police officer;
- (e) contact with a police officer to clarify any aspect of the complaint;
- (f) contact with the complainant, a witness or other person to clarify any aspect of the complaint;
- (g) examination of any legislation, policy or procedure relevant to the complaint; and
- (h) examination of any evidence the investigator deems relevant to the enquiry.

All evidence examined during the PI will be made available to the Ombudsman.

The PI is to be conducted within **ten (10) days** of receipt of the complaint unless an extension has been granted by the Ombudsman. Any extension of the time to complete a PI will be made by the Ombudsman on a case by case basis. Factors that can be considered by the Ombudsman are the size and complexity of the matter, the availability of witnesses or reasonable delays in sourcing other evidence.

The PI may result in PSC recommending to the Ombudsman that a complaint be dealt with in the following manner:

- (a) as a Category 1 Complaint Against Police;
- (b) as a Category 2 Complaint Against Police;
- (c) as a matter suitable for conciliation under Part 7 Division 3 of the Act;
- (d) as a matter suitable for the Complaint Resolution Process;
- (e) as a Customer Service Enquiry; or
- (f) the complaint should be declined under section 67 of the Act.

12.2 Category 2 PSC Investigation

Authorised Conduct of Category 2 Complaint

These are complaints relating to police misconduct that are not suitable for CRP or sufficiently serious, or of such a nature as to warrant a section 66(2)(d)(ii) Investigation (Category 1) or direct Ombudsman involvement (section 86 of the Act.).

Subject to any direction given by the Commissioner or the Ombudsman, a Category 2 investigation will normally be carried out with limited oversight from the Ombudsman.

A complaint may become a Category 2 investigation due to an unsuccessful CRP process or when evidence establishes the complaint is more serious than originally considered.

Notwithstanding the Ombudsman's decision that the complaint may be investigated by PSC, the complainant may, at any time, ask the Ombudsman to investigate the complaint.

Assignment of complaint to Investigating Officer

If a complaint is classified as a Category 2 and the Ombudsman did not instruct that the complaint was to be investigated by a PSC member, the Commander, PSC will notify the Commander of the relevant station / section / unit to arrange to have the complaint investigated.

The relevant Commander will assign the investigation to an appropriate investigating officer (IO). In determining who to allocate the Complaint against Police to, the relevant Commander is to consider:

- (a) whether the proposed IO's rank is above that of the subject member;
- (b) if the proposed IO's skill, capacity and training is adequate to complete the Complaint against Police;
- (c) the IO's leave requirements and/or other commitments; and
- (d) any obvious conflict of interest (being a supervisor or manager of the subject member alone does not constitute a conflict of interest).

Functions of Investigating Officer

It is the function of the IO to collect and consider all relevant evidence available to either prove or disprove the allegations made against the subject member including:

- (a) collecting all relevant information and evidence (both inculpatory and exculpatory) relating to the grounds of complaint;
- (b) investigating and reviewing the information and evidence;
- (c) reaching a reasonable and logical conclusion; and
- (d) preparing a report and other supporting documentation for the Commissioner or delegate's consideration.

Responsibilities of Investigating Officer

The IO is to:

- (a) immediately declare any conflict of interest when a conflict, or perceived conflict, arises;
- (b) conduct the investigation impartially and in a timely manner in accordance with the timeline requirements for Category 2 investigations in the General Order;
- (c) conduct the investigation in a manner that preserves the subject member's common law rights to natural justice;
- (d) maintain confidentiality in accordance with NTPFES Instructions and Procedures: *Internal and Sensitive Investigations Security* and in accordance with the General Order;
- (e) comply with any instructions from the Ombudsman, Commissioner or Commander, PSC;
- (f) regularly consult with the complainant about the conduct of the investigation; and
- (g) if practicable and where it will not compromise the investigation, regularly advise members involved of the status of the investigation.

The IO is to immediately contact the complainant, advise them of their assignment to the investigation and attempt to schedule an interview with the complainant or otherwise obtain a statement from them.

It is essential that the IO takes all reasonable steps to obtain or secure the evidentiary material, if not already completed. Failure to take these critical steps early in the investigation will cause irreparable damage to the outcome of the investigation, especially if the evidence is likely to be lost with the passage of time.

At the completion of the investigation, the IO is to prepare a Final Report on the findings of the investigation. The report is to include an assessment of the conduct of the subject member and may include:

- (a) an assessment on whether the conduct of the subject member:
 - i) constituted an offence or breach of discipline or was contrary to law;
 - ii) was unreasonable, unjust, oppressive or improperly discriminatory;
 - iii) was in accordance with an Act or a practice, procedure or policy that is or may be unreasonable, unjust, oppressive or improperly discriminatory;
 - iv) was based either wholly or partly on a mistake of law or of fact;
 - v) was otherwise wrong in the circumstances;
 - vi) exercised a power for an improper purpose or on irrelevant grounds; and/or
 - vii) in exercising a power in a particular way or refusing to exercise a power:
 - a. irrelevant considerations were taken into account in the course of reaching the decision to exercise the power in that way or to refuse to exercise the power; or
 - b. a person was entitled at law to have been given, but was not given, the reasons for deciding to exercise the power in that way or to refuse to exercise the power; or
- (b) recommendations that one or more of the following actions be taken:
 - i) a member be charged with an offence;
 - ii) disciplinary action be taken against a member for a breach of discipline;
 - iii) conciliation in relation to the conduct of the member subject of the investigation be conducted;
 - iv) a decision made by the subject member be reconsidered, varied or reversed or reasons be given for a decision;
 - v) the effects of a decision, act or omission made by the subject member be rectified, mitigated or altered; and
 - vi) an Act, practice, procedure or policy on which a decision, act or omission was based be amended.

Any ancillary issues identified during the investigation are to be reported on.

A copy of the completed complaint file, including the report, a draft letter endorsing the report to the Ombudsman and a draft letter of response to the complainant is to be forwarded to the relevant Assistant Commissioner.

The draft letter to the complainant is to advise of their right to ask the Ombudsman to have the complaint investigated by the Ombudsman under Part 7, Division 5, Subdivision 2 of the Act. The letter will include the following paragraph:

- a) *'If you are dissatisfied with any aspect of the investigation you may request the Ombudsman to consider reinvestigating your matter. In that event, it is necessary for you to set out detailed reasons as to how the investigation was inadequate, however please note, the Ombudsman must refuse this request if satisfied the issues raised in your complaint have been dealt with in the investigation.'*

Re-classification of Complaint

Where a complaint is being investigated as a PSC investigation, Category 2 complaint and evidence establishes the complaint is more serious than initially considered, the investigator is to suspend the investigation and notify the Commander, PSC. The Commander, PSC is to immediately notify the Ombudsman of the suspension of the investigation and the reasons for it.

The Ombudsman agrees to consult with the Commander, PSC on the re-classification of the complaint. In the event the Ombudsman and the Commander, PSC do not agree on the relevant classification, the Ombudsman's decision is final.

The Ombudsman is to notify the complainant how the complaint is to be investigated.

Where a complainant makes a statement requesting the CAP to be withdrawn, the PSC will seek authorisation from the Ombudsman to discontinue the investigation. Should the Ombudsman agree that the CAP is to be discontinued, the CAP file is to be returned to the PSC for case finalisation.

Ombudsman Review

In the event the complainant exercises their rights and asks the Ombudsman to re-investigate the complaint, the Ombudsman must consider the request. The Ombudsman must refuse the request if satisfied the complaint has been adequately dealt with.

Requirements when Serious Breach of Discipline Identified

Should a serious breach of discipline be identified during the investigation, the IO is to suspend the enquiries and forward all the documents to the Commander, PSC.

Commissioner Notification to the Ombudsman

Should disciplinary proceedings or criminal charges be brought against the subject member during the investigation of the Complaint, the Commissioner is to notify the Ombudsman within **five (5) days** of:

- (a) the commencement of proceedings or laying of the charges; and
- (b) the final outcome.

Deferral of Investigation

An investigation may be deferred or discontinued by the Ombudsman at any time if:

- (a) proceedings against the subject member in relation to the conduct have been, or are about to be, commenced in a court or tribunal; or
- (b) disciplinary procedures have been, or are about to be, started against the subject member.

An investigation may be deferred pending the finalisation of court proceedings or disciplinary procedures.

12.3 Category 1 PSC Investigation

Authorised Conduct of Category 1 Complaint

Category 1 complaints relate to serious police misconduct. Allegations of Police misconduct will result in a Category 1 complaint if the conduct:

- (a) involved alleged criminal behaviour;
- (b) involved a breach of some other Act;
- (c) was, or appeared to be, deliberate;
- (d) resulted in the use of a firearm or other weapon;
- (e) involved a threat or harassment of a serious nature;
- (f) was recklessly indifferent to the negative outcome of the specific conduct;
- (g) resulted in death or injury, major property damage or financial loss to the claimant or some other person;
- (h) constitutes an issue which is in the public interest; or
- (i) is likely to identify significant questions of police practice or procedure.

Category one (1) complaints, when sustained, may result in one or more of the following outcomes pursuant to Part IV of the *Police Administration Act*:

- (a) counselling;
- (b) formal caution in writing;
- (c) good behaviour Bond (GBB);
- (d) fine;
- (e) pay compensation/restitution;
- (f) transfer;
- (g) reduce rate of salary;
- (h) suspension — paid/unpaid;
- (i) demotion; or
- (j) dismissal.

A Category 1 complaint will receive Ombudsman oversight and will be reviewed and reported on by the Ombudsman.

Complaints may be classified as a Category 1 complaint because of:

- (a) the serious nature of the alleged police misconduct; or
- (b) the complaint has been re-classified:
 - i) because evidence established the police misconduct was more serious than first considered; or
 - ii) at the request of the complainant to the Ombudsman.

Assignment of Complaint to Investigating Officer

Allegations, which if true, would involve substantial breaches of the criminal law, are to be assigned in consultation with the Commander, PSC to PSC investigators, Crime Division members, Commissioned Officers or an experienced criminal investigator.

Functions of Investigating Officer

It is the function of the IO to collect and consider all relevant evidence available to either prove or disprove the allegations made against the subject member. It includes:

- (a) collecting all relevant information and evidence (both inculpatory and exculpatory) relating to the grounds of complaint;
- (b) investigating and reviewing the information and evidence;
- (c) reaching a reasonable and logical conclusion; and
- (d) preparing a report and other supporting documentation for the Ombudsman's consideration.

Responsibilities of Investigating Officer

The IO is to:

- (a) immediately declare any conflict of interest when a conflict, or perceived conflict, arises;
- (b) conduct the investigation impartially and in a timely manner in accordance with the timeline requirements for category one (1) Investigations in the General Order;
- (c) conduct the investigation in a manner that preserves the subject member's common law rights to natural justice;
- (d) maintain confidentiality in accordance with Instructions and Procedures: *Internal and Sensitive Investigations Security* and in accordance with part two of the General Order;
- (e) comply with any instructions from the Ombudsman, Commissioner or Commander, PSC;
- (f) regularly consult with the complainant about the conduct of the investigation; and
- (g) if practicable and where it will not compromise the investigation, regularly advise members involved of the status of the investigation.

The IO is to immediately contact the complainant, advise them of their assignment to the investigation and attempt to schedule an interview with the complainant or otherwise obtain a statement from them.

It is essential the IO takes all reasonable steps to obtain or secure the evidentiary material, if not already completed.

At the completion of the investigation, the IO is to prepare a final report on the findings of the investigation. The report is to include an assessment of the conduct of the subject member and may include:

- (a) an assessment on whether the conduct of the subject member:
 - i) constituted an offence or breach of discipline or was contrary to law;
 - ii) was unreasonable, unjust, oppressive or improperly discriminatory;
 - iii) was in accordance with an Act or a practice, procedure or policy that is, or may be, unreasonable, unjust, oppressive or improperly discriminatory;
 - iv) was based either wholly or partly on a mistake of law or of fact;
 - v) was otherwise wrong in the circumstances;
 - vi) exercised a power for an improper purpose or on irrelevant grounds; and/or
 - vii) in exercising a power in a particular way or refusing to exercise a power:
 - a. irrelevant considerations were taken into account in the course of reaching the decision to exercise the power in that way or to refuse to exercise the power; or
 - b. a person was entitled at law to have been given, but was not given, the reasons for deciding to exercise the power in that way or to refuse to exercise the power; or
- (b) recommendations that one or more of the following actions be taken:
 - i) a member be charged with an offence;
 - ii) disciplinary action be taken against a member for a breach of discipline;
 - iii) conciliation in relation to the conduct of the member subject of the investigation be conducted;
 - iv) a decision made by the subject member be reconsidered, varied or reversed or reasons be given for a decision;

- v) the effects of a decision, act or omission made by the subject member be rectified, mitigated or altered; and
- vi) an Act, practice, procedure or policy on which a decision, act or omission was based be amended.

Findings in relation to the complaint allegations are to be provided as outlined within Part Ten of the General Order.

Any ancillary issues identified during the investigation are to be included in the report.

13. Ombudsman Investigation [Part 7, Division 5, Subdivision 2]

The Ombudsman may decide to investigate a CAP:

- (a) on the Ombudsman's own initiative under section 14 of the Act;
- (b) where the Ombudsman considers the complaint should be investigated by the Ombudsman under section 86 of the Act; or
- (c) where parliamentary reference is made for the investigation of police conduct under section 87(1)(b) of the Act.

The Ombudsman may, or may not, notify the Commissioner of the investigation.

If the Ombudsman's draft report contains an adverse finding about police conduct, the Ombudsman is to provide the member and the Commissioner with reasonable details about the adverse comments and allow the member the opportunity of making any submissions. Any submissions are to be dealt with in the report.

13.1 Finalisation Process

Following completion of the investigation, the Ombudsman is to provide the Commissioner with a copy of a draft report of the investigation. The report is to contain an assessment and recommendations.

The Commissioner will notify the Ombudsman whether the Commissioner:

- (a) agrees with the Ombudsman's assessment and recommendations; or
- (b) does not agree with the Ombudsman's assessment and recommendations.

If the Commissioner supports the Ombudsman's assessment and recommendations, the Ombudsman will notify the complainant and PSC will notify the subject member of the outcome of the Complaint and of any action to be taken.

If the Commissioner does not support the Ombudsman's assessment and recommendations, the Ombudsman may:

- (a) confirm or vary the assessment or recommendation; or
- (b) substitute a new assessment or recommendation.

The Commissioner will notify the Ombudsman of the steps taken to give effect of the Ombudsman's recommendation as agreed, or as substituted or varied. Written notice to the Ombudsman is to be made within **five (5) days** of the taking of the action.

Where the Commissioner does not implement the Ombudsman's recommendations:

- (a) the Commissioner is to provide written notice as to the Commissioner's reasons for not taking the steps;
- (b) the Ombudsman may provide the Police Minister with a copy of the Ombudsman's report along with the Commissioner's written notice; and
- (c) the Ombudsman may also provide the Police Minister with a copy of a final report for tabling in the Legislative Assembly.

13.2 Complaint Findings

In the interests of complainants and the subject member, agreement is made with the Ombudsman to adopt a consistent approach to respective findings on a complaint. The broad categories agreed below are intended to operate in a flexible manner:

- (a) **unresolved** - Given differing versions, where the Ombudsman and PSC are unable to come to any conclusion about the allegation. This finding may be used in respect of allegations when the only available evidence is the complainant's version against that of the members or all witnesses provide a differing/inconsistent version;
- (b) **no evidence to support the allegation** - Based on the material, there is no evidence to support the allegation. This finding may apply to an allegation of minor assault (e.g. push/slap) and there is no medical evidence to support the allegation, there are no witnesses to the incident, there is no video evidence or other members present, to positively support the fact that it did or did not occur;
- (c) **insufficient evidence to sustain the allegation** - Based on the material there is some evidence to support the complainant, but it is insufficient to sustain the allegation. This may apply where there is some evidence to support the allegation but the quality of the evidence is unreliable, or taking into account other evidence (e.g. the medical evidence or the evidence of the police), the evidence as a whole is insufficient to sustain the allegation;
- (d) **action / conduct was not found to be unreasonable given the circumstances** - This finding may be used in cases where a member may have done something unusual or prima facie questionable, but the surrounding circumstances are such that it is inappropriate to make an adverse finding against the member;
- (e) **the police action / decision was reasonable** - This is a positive finding to the effect that the Ombudsman / PSC supports the action / decision by the police;
- (f) **the allegation is sustained** - Where there is sufficient evidence to sustain the allegation on the balance of probability; and
- (g) **the allegation is found to be wilfully false** - Where an investigation into a complaint against Police reveals that the allegation was wilfully false, that finding will be brought to the attention of the Ombudsman to consider a prosecution under the Act. Any criminal charges arising from a wilfully false allegation will be referred to the Commander, PSC for action.

In order to facilitate a prompt finalisation of the complaint, a complaint finding is to include the recommended action(s) to be taken against the subject officer, if any.

14. Reviews by Ombudsman

The Ombudsman may review files relating to investigations into complaints against Police howsoever made or reported. Where a request for a review is made by the Ombudsman, PSC will provide all records and materials relating to the particular matter and ensure that the Ombudsman has access to Police investigators with knowledge of the investigation. Requests for access to investigation files for review purposes should be in writing so as to provide an audit trail for all relevant documents.

Where, as a result of a review, the Ombudsman requires further action on a complaint, that request will be made to the Commander, PSC in the first instance.

15. Confidentiality & Immunity

Sections 114, 120, 122, 159 and 160 of the Act impose strict confidentiality and secrecy requirements and provide legal protections on persons involved in the Ombudsman complaint process.

The use of information obtained in the course of, or for the purposes of making preliminary inquiries, conducting conciliation, undertaking a CRP or conducting an investigation, is restricted. Persons administering the Act cannot be compelled to give evidence or produce documents relating to the Ombudsman's statutory duties. This protection extends to inquiries or investigations being conducted by PSC pursuant to this Agreement.

16. Suspected Criminal Conduct

Where a CAP discloses grounds to suspect that a Police Officer may have committed a criminal offence, the matter will immediately be referred to the Ombudsman to determine what further action is required in relation to the complaint. If the matter proceeds to criminal investigation by the Police the Commissioner will ensure the Ombudsman is provided with regular briefings (at least every six (6) weeks) on the progress of the investigation. Any criminal investigation arising from a police complaint should be investigated concurrently with the police complaint unless the Ombudsman directs otherwise.

17. Procedural Fairness

Any person with responsibility for investigating a CAP is to ensure that all parties are afforded procedural fairness and courtesy during the process. The complainant will be given a fair opportunity to express their complaint and reasons for complaint and receive an explanation for the police action complained about.

Police officers subject of a complaint under investigation will be advised of the particulars of complaint as soon as reasonably practicable without jeopardy to the investigation process and be given a fair opportunity to answer the complaint and provide their explanation. All information provided by the parties should be taken into account and given careful and impartial consideration when determining the outcome of a complaint.

Before assessing the PSC report, the Ombudsman may seek comment from a complainant or the complainant's legal advisor. To enable meaningful comment the relevant parts of section 95 reports may be provided. If PSC provides to the Ombudsman grounds for not disclosing the report or content in the report to the complainant or another person, the Ombudsman will consider those grounds before deciding whether to disclose all, or part, of the report.

Additionally to ensure that complainants from non-English speaking backgrounds are treated fairly, the 'tenor and spirit' of the 'Anunga' Guidelines, as described by Police Practice and Procedure: *Anunga Guidelines*, are to be applied by investigating officers during any interview process. This is particularly relevant when considering the use of interpreters generally, and any request by an Indigenous complainant to have a legal representative present at interview.

18. Other

18.1 Non-Disclosure of Information

The Commissioner may request the Ombudsman not to disclose certain information to a party to a police complaint. The Ombudsman will consider the request and if the Ombudsman does not agree to the request, is to advise the Commissioner of the decision and the reasons for refusal.

The parties acknowledge that a report prepared by PSC under section 95 of the Act (section 95 Report) may fall within a class of document for which a claim against disclosure on the basis of public interest immunity may be made. The parties agree to notify each other if any application for disclosure of a section 95 Report or part of the section 95 Report is made, including:

- (a) by a complainant or to any third party in a court or tribunal; or
- (b) by a complainant or third party to the other party;

in order to provide each other an opportunity to make submissions in relation to application for disclosure of the section 95 Report.

18.2 Restricted Use of Information

Anything said or admitted during the conciliation process or the CRP process and any documents prepared for conciliation cannot be used for any other purpose unless:

- (a) the person responsible or to whom the document relates consents; or
- (b) for the prosecution of a person who has committed an offence against the Act.

18.3 Register of Police Complaints

The Ombudsman will keep a register of all police complaints and for each complaint it will contain at least the following information:

- (a) the particulars of the decision on how the complaint was dealt with or declined;
- (b) the particulars of the decision made by the Ombudsman when a CRP or PSC investigation was referred back to the Commissioner for further investigation or to deal with in another way; and
- (c) the particulars of the conduct of the CRP or investigation.

The information contained in the Ombudsman's complaints management system will be used for this purpose.

Any party to a complaint can request an extract of the particulars mentioned above and the Ombudsman will agree to the request if satisfied it is appropriate to do so. The applicant is to be informed by the Ombudsman of the reasons for any refusal.

19. Scope of This Agreement

Nothing in this Agreement is intended to limit the powers of the Commissioner or the Ombudsman under the Act or the *Police Administration Act*.

20. Review of This Agreement

This Agreement is to be reviewed within two years of being signed but will remain in force until either party gives written notice of termination.

October 2014

APPENDIX B – FINANCIAL STATEMENTS

OMBUDSMANS OFFICE FINANCIAL STATEMENT OVERVIEW

For the Year Ended 30 June 2015

FINANCIAL STATEMENT OVERVIEW

The Ombudsman's role is to give people a timely, effective, efficient, independent, fair and free way of investigating, and dealing with complaints about, administrative actions of public authorities and the conduct of police officers, and to improve the quality of decision-making and administrative practices in public authorities.

During 2014-15 the net result for the Ombudsman's Office was a surplus of \$175,000. This surplus was primarily due to staff shortages due to difficulties finding suitably skilled applicants when a position became vacant.

Operating expenses comprised \$1,534,000 for employee expenses and \$639,000 for the purchase of goods and services (which includes \$363,000 for services received free of charge and depreciation and amortisation of \$46,000).

CERTIFICATION OF THE FINANCIAL STATEMENTS

We certify that the attached financial statements for the Ombudsman's Office 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 2015 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.



Peter Shoyer
OMBUDSMAN
27 August 2015



Sarah Schultz
BUSINESS MANAGER
27 August 2015

OMBUDSMAN'S OFFICE
COMPREHENSIVE OPERATING STATEMENT

For the year ended 30 June 2015

	Note	2015 \$000	2014 \$000
INCOME			
Appropriation			
Output		1 929	1 897
Sales of goods and services		22	16
Goods and services received free of charge	4	363	353
Other income		34	
TOTAL INCOME		2 348	2 265
EXPENSES			
Employee expenses		1 534	1 406
Administrative expenses			
Purchases of goods and services	5	228	218
Repairs and maintenance		2	2
Depreciation and amortisation	8	46	46
Other administrative expenses ¹		363	353
TOTAL EXPENSES		2 173	2 025
NET SURPLUS/(DEFICIT)		175	241
COMPREHENSIVE RESULT		175	241

¹ Includes DCIS service charges.

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

**OMBUDSMAN'S OFFICE
BALANCE SHEET**

As at 30 June 2015

	Note	2015 \$000	2014 \$000
ASSETS			
Current Assets			
Cash and deposits	6	907	667
Receivables	7	1	19
Prepayments		5	3
Total Current Assets		913	688
Non-Current Assets			
Property, plant and equipment	8	133	179
Total Non-Current Assets		133	179
TOTAL ASSETS		1 046	867
LIABILITIES			
Current Liabilities			
Payables	9	49	68
Provisions	10	162	141
Total Current Liabilities		211	209
Non-Current Liabilities			
Provisions	10	50	49
Total Non-Current Liabilities		50	49
TOTAL LIABILITIES		261	257
NET ASSETS		785	610
EQUITY			
Capital		346	346
Accumulated funds		438	263
TOTAL EQUITY		785	610

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

OMBUDSMAN'S OFFICE
STATEMENT OF CHANGES IN EQUITY

For the year ended 30 June 2015

	Note	Equity at 1 July \$000	Comprehensive result \$000	Transactions with owners in their capacity as owners \$000	Equity at 30 June \$000
2014-15					
Accumulated Funds		263	175		438
Capital – Transactions with Owners					
Equity injections					
Capital appropriation		573			573
Equity transfers in		(346)			(346)
Other equity injections		171			171
Equity withdrawals					
Capital withdrawal		(52)			(52)
		346			346
Total Equity at End of Financial Year		610	175		785
2013-14					
Accumulated Funds		22	241		263
Capital – Transactions with Owners					
Equity injections					
Capital appropriation		573			573
Equity transfers in		(346)			(346)
Other equity injections		171			171
Equity withdrawals					
Capital withdrawal		(52)			(52)
		346			346
Total Equity at End of Financial Year		369	241		610

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

OMBUDSMAN'S OFFICE**CASH FLOW STATEMENT****For the year ended 30 June 2015**

	Note	2015	2014
		\$000	\$000
CASH FLOWS FROM OPERATING ACTIVITIES			
Operating Receipts			
Appropriation			
Output		1 929	1 897
Receipts from sales of goods and services		39	
Other Operating Receipts		47	13
Total Operating Receipts		2,015	1,910
Operating Payments			
Payments to employees		(1 504)	(1 465)
Payments for goods and services		(271)	(206)
Total Operating Payments		1,775	1,671
Net Cash From/(Used in) Operating Activities	11	241	240
Net increase/(decrease) in cash held		241	240
Cash at beginning of financial year		667	427
CASH AT END OF FINANCIAL YEAR	6	907	667

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

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

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OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

1. OBJECTIVES AND FUNDING

The Ombudsman's role is to receive, investigate and resolve complaints made about administrative action to which the *Ombudsman Act* applies and to foster excellence in public sector services.

The Ombudsman 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 summarised into two output groups, Ombudsman Operations and Corporate and Governance.

Additional information in relation to the Ombudsman NT and its principal activities may be found in the Ombudsman's 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 agency 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 only standard of impact is noted below; other changes do not impact the financial statements.

AASB 1055 Budgetary Reporting

AASB 1055 sets out budgetary reporting requirements for not-for-profit entities within the General Government Sector. The required disclosures comprise a separate note accompanying the financial statements (see note 17).

b) Australian Accounting Standards and Interpretations Issued but not yet Effective

At the date of authorisation of the financial statements, Standards and Interpretations were in issue but not yet effective, these have been considered and do not impact the financial statements.

c) Agency and Territory Items

The financial statements of Ombudsman NT include income, expenses, assets, liabilities and equity over which the agency 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.

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

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.

The Central Holding Authority recognises and records all Territory items, and as such, these items are not included in the agency's financial statements. However, as the agency is accountable for certain Territory items managed on behalf of Government, these items have been separately disclosed in Note 25 – Schedule of Administered Territory Items.

d) Comparatives

Where necessary, comparative information for the 2013-14 financial year has been reclassified to provide consistency with current year disclosures.

e) 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.

f) Changes in Accounting Policies

There have been no changes to accounting policies adopted in 2014-15 as a result of management decisions.

g) Accounting Judgments and Estimates

The preparation of the financial report requires the making of judgments 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 for making judgments 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.

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

- Employee Benefits – Note 2(v) and Note 15: 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(k), Note 10: Property, Plant and Equipment, and Note 11.

h) 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 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.

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

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.

i) Income Recognition

Income encompasses both revenue and gains.

Income is recognised at the fair value of the consideration received, exclusive of the amount of 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.

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

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.

j) 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.

k) 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:

	2015	2014
Plant and Equipment	10 years	10 years
Computer Software	6 years	6 years

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

l) Interest Expense

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

m) 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.

n) 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 are generally settled within 30 days.

o) Property, Plant and Equipment

Acquisitions

All items of property, plant and equipment with a cost, or other value, equal to or greater than \$10 000 are recognised in the year of acquisition and depreciated as outlined below. Items of property, plant and equipment below the \$10 000 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.

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

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 the financial management framework, the Department of Infrastructure is responsible for managing general government capital works projects on a whole of Government basis. Therefore appropriation for all agency capital works is provided directly to the Department of 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.

p) 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.

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. No assets were assessed as being impaired within the reporting period.

q) 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 lease asset and lease liability equal to the lower of the fair value of the leased property and present value of the minimum lease payments, each determined at the inception of the lease, are recognised.

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

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

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.

r) 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.

s) 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, 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 Ombudsman for the NT and as such no long service leave liability is recognised in agency financial statements.

t) Superannuation

Employees' superannuation entitlements are provided through the:

- Northern Territory 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.

u) 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.

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

v) Commitments

Disclosures in relation to capital and other commitments, including lease commitments are shown at Note 13.

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

3. COMPREHENSIVE OPERATING STATEMENT BY OUTPUT GROUP

	Note	Ombudsman Operations		Corporate and Governance		Total	
		2015	2014	2015	2014	2015	2014
		\$000	\$000	\$000	\$000	\$000	\$000
INCOME							
Appropriation							
Output		1 929	1 897			1 929	1 897
Sales of goods and services		22	16			22	16
Goods and services received free of charge	4	363	353			363	353
Other income		34				34	
TOTAL INCOME		2 348	2 265			2 348	2 265
EXPENSES							
Employee expenses		1 342	1 237	192	168	1 534	1 406
Administrative expenses							
Purchases of goods and services	5	195	168	33	50	228	218
Repairs and maintenance		2	2			2	2
Depreciation and amortisation	8	46	46			46	46
Other administrative expenses ¹		363	299		54	363	353
TOTAL EXPENSES		1 948	1 753	225	272	2 173	2 025
NET SURPLUS/(DEFICIT)		400	513	(225)	(272)	175	241
COMPREHENSIVE RESULT		400	513	(225)	(272)	175	241

¹ Includes DCIS service charges.

This Comprehensive Operating Statement by output group is to be read in conjunction with the notes to the financial statements.

4. GOODS AND SERVICES RECEIVED FREE OF CHARGE

Corporate and information services

	2015	2014
	\$000	\$000
Corporate and information services	363	353
	363	353

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

	2015	2014
	\$000	\$000
5. PURCHASES OF GOODS AND SERVICES		
The net surplus/(deficit) has been arrived at after charging the following expenses:		
Goods and services expenses:		
Consultants ⁽¹⁾	2	
Advertising ⁽²⁾	3	
Marketing and promotion ⁽³⁾	5	
Document production	7	5
Legal expenses ⁽⁴⁾	3	
Training and study	52	18
Official duty fares	5	4
Travelling allowance		2
	77	30

⁽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.

	2015	2014
	\$000	\$000
6. CASH AND DEPOSITS		
Cash on hand	0	0
Cash at bank	666	426
	667	427

7. RECEIVABLES		
Current		
Accounts receivable		17
Less: Allowance for impairment losses		
	0	17
GST receivables	1	2
Non-Current		
Other receivables	0	0
Total Receivables	1	19

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

	2015	2014
	\$000	\$000
8. PROPERTY, PLANT AND EQUIPMENT		
Plant and Equipment		
At fair value	72	72
Less: Accumulated depreciation	(72)	(72)
	0	0
Computer Software		
At fair value	400	400
Less: Accumulated depreciation	(267)	(222)
	133	179
Leased Computer Software		
At capitalised cost	9	9
Less: Accumulated depreciation	(9)	(9)
	0	0
Total Property, Plant and Equipment	133	179

2015 Property, Plant and Equipment Reconciliations

A reconciliation of the carrying amount of property, plant and equipment at the beginning and end of 2014-15 is set out below:

	Plant and Equipment	Computer Software	Leased Computer Software	Total
	\$000	\$000	\$000	\$000
Carrying Amount as at 1 July 2014		179		179
Additions				
Disposals				
Depreciation		(46)		(46)
Revaluation increments/(decrements)				
Impairment losses				
Other movements				
Carrying Amount as at 30 June 2015	133	133	133	133

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

2014 Property, Plant and Equipment Reconciliations

A reconciliation of the carrying amount of property, plant and equipment at the beginning and end of 2013-14 is set out below:

	Plant and Equipment \$000	Computer Software \$000	Leased Computer Software \$000	Total \$000
Carrying Amount as at 1 July 2013		224		224
Additions				
Disposals				
Depreciation		(46)		(46)
Revaluation increments/(decrements)				
Impairment losses				
Other movements				
Carrying Amount as at 30 June 2014		179		179

9. PAYABLES

	2015 \$000	2014 \$000
Accounts payable	6	30
Accrued expenses	43	38
Other payables		
Total Payables	49	68

10. PROVISIONS

Current

Employee benefits

	2015 \$000	2014 \$000
Recreation leave	117	99
Leave loading	11	14
Other employee benefits	3	1

Other current provisions

Other provisions	32	28
	162	141

Non-Current

Employee benefits

Recreation Leave	50	49
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Other non-current provisions

Other provisions		
	50	49

Total Provisions

	212	189
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The Agency employed 12 employees as at 30 June 2015 (11 employees as at 30 June 2014).

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

	2015	2014
	\$000	\$000
11. NOTES TO THE CASH FLOW STATEMENT		
Reconciliation of Cash		
The total of agency 'Cash and deposits' of \$907,000 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		
Net Surplus/(Deficit)	175	241
<i>Non-cash items:</i>		
Depreciation and amortisation	46	46
<i>Changes in assets and liabilities:</i>		
Decrease/(Increase) in receivables	18	(17)
Decrease/(Increase) in prepayments	(2)	2
Decrease/(Increase) in other assets		
(Decrease)/Increase in payables	(19)	28
(Decrease)/Increase in provision for employee benefits	19	(31)
(Decrease)/Increase in other provisions	4	(28)
Net Cash from Operating Activities	241	240

12. 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 NT include cash and deposits, receivables, payables and finance leases. The Ombudsman 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.

Receivables

Receivable balances are monitored on an ongoing basis to ensure that exposure to bad debts is not significant. A reconciliation and aging analysis of receivables is presented below.

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

External Receivables	Aging of Receivables \$000	Aging of Impaired Receivables \$000	Net Receivables \$000
2014-15			
Not overdue	1		1
Total	1		1
2013-14			
Not overdue	19		19
Total	19		19

b) Liquidity Risk

Liquidity risk is the risk that the agency will not be able to meet its financial obligations as they fall due. The agency's approach to managing liquidity is to ensure that it will always have sufficient liquidity to meet its liabilities when they fall due.

c) Market Risk

Market risk is the risk that the fair value of future cash flows of a financial instrument will fluctuate because of changes in market prices. It comprises interest rate risk, price risk and currency risk.

(i) Interest Rate Risk

The Ombudsman NT is not exposed to interest rate risk as agency financial assets and financial liabilities, with the exception of finance leases are non-interest bearing. Finance lease arrangements are established on a fixed interest rate and as such do not expose the agency to interest rate risk.

(ii) Price Risk

The Ombudsman NT is not exposed to price risk the agency does not hold units in unit trusts.

(iii) Currency Risk

The Ombudsman NT is not exposed to currency risk as the agency does not hold borrowings denominated in foreign currencies or transactional currency exposures arising from purchases in a foreign currency.

2015		2014	
Internal ^(a)	External ^(a)	Internal	External
\$000	\$000	\$000	\$000

13. COMMITMENTS

Operating Lease Commitments

The agency 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	2	3
Later than one year and not later than five years		2
	2	5

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

14. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The Ombudsman NT had no contingent liabilities or contingent assets as at 30 June 2015 or 30 June 2014.

15. 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.

16. WRITE-OFFS, POSTPONEMENTS, WAIVERS, GIFTS AND EX GRATIA PAYMENTS

The Ombudsman NT had no write off's, postponements or waivers as at 30 June 2015 or 30 June 2014.

17. BUDGETARY INFORMATION

Comprehensive Operating Statement	2014-15 Actual	2014-15 Original Budget	Variance	Note
	\$000	\$000	\$000	
INCOME				
Appropriation				
Output	1 929	1 929		
Sales of goods and services	22		22	1
Interest revenue				
Goods and services received free of charge	363	353	10	
Other income	34		34	2
TOTAL INCOME	2 348	2 282	66	
EXPENSES				
Employee expenses	1,534	1,692	158	3
Administrative expenses				
Purchases of goods and services	228	233	-5	
Repairs and maintenance	2	4	-2	
Depreciation and amortisation	46	39	7	
Other administrative expenses	363	353	10	
TOTAL EXPENSES	2 173	2 321	-148	
NET SURPLUS/(DEFICIT)	175	(39)	214	
COMPREHENSIVE RESULT	175	(39)	214	

Notes:

The following note descriptions relate to variances greater than 10 per cent or \$20,000.

1. Additional revenue through conducting Unreasonable Complainant Conduct workshops.
2. Additional revenue through running of Cert IV in Government (Investigation) course.
3. Early savings due to staff shortages and difficulties in quickly finding suitably skilled applicants when a position became vacant.

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

Balance Sheet	2014-15 Actual	2014-15 Original Budget	Variance	Note
	\$000	\$000	\$000	
ASSETS				
Current assets				
Cash and deposits	907	427	480	1
Receivables	1	2	-1	
Prepayments	5	5		
Total current assets	913	434	479	
Non-current assets				
Property, plant and equipment	133	142	-9	
Total non-current assets	133	142	-9	
TOTAL ASSETS	1 046	576	470	
LIABILITIES				
Current liabilities				
Payables	49	43	6	
Provisions	162	198	-36	2
Total current liabilities	211	241	-30	
Non-current liabilities				
Provisions	50	50		
Total non-current liabilities	50	50		
TOTAL LIABILITIES	261	291	-30	
NET ASSETS	785	285	500	
EQUITY				
Capital	346	346		
Accumulated funds	438	-61	499	
TOTAL EQUITY	785	285	500	

Notes:

The following note descriptions relate to variances greater than 10 per cent or \$20,000

1. Variance due to greater cash holdings due to operational savings
2. Adjustment in provisions for employee entitlements based on current staffing

OMBUDSMAN'S OFFICE
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2015

Cash Flow Statement	2014-15 Actual ^(a)	2014-15 Original Budget ^(b)	Variance ^(c)	Note ^(d)
	\$000	\$000	\$000	
CASH FLOWS FROM OPERATING ACTIVITIES				
Operating receipts				
Appropriation				
Output	1 929	1 929		
Receipts from sales of goods and services	39		39	1
Other Operating Receipts	47		47	1
Total operating receipts	2 015	1 929	86	
Operating payments				
Payments to employees	1 504	1 692	-188	2
Payments for goods and services	271	237	34	3
Total operating payments	1 775	1 929	-154	
Net cash from/(used in) operating activities	241		241	
Net increase/(decrease) in cash held	241		241	
Cash at beginning of financial year	667	427	240	
CASH AT END OF FINANCIAL YEAR	907	427	480	

Notes:

The following note descriptions relate to variances greater than 10 per cent or \$20,000.

1. Additional receipts from courses delivered and settlement of accounts receivable open at beginning of reporting period.
2. Reduced employee payments due to lower than anticipated staffing levels.
3. Additional outgoings related to delivery of courses (see Operating Statement).

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