

OMBUDSMAN FOR THE NORTHERN TERRITORY OF AUSTRALIA

Twenty-Eighth Annual Report 2005-2006

The Honourable Clare Martin, MLA
Chief Minister
Parliament House
DARWIN NT 0801

Dear Chief Minister

In accordance with the provisions of Section 28(1) of the *Ombudsman (Northern Territory) Act 1978*, the Annual Report on the Office of the Ombudsman for the year ending 30 June 2006 is submitted to you for tabling in the Legislative Assembly.

Yours sincerely

Carolyn Richards
Ombudsman

October 2006

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STATEMENT OF ACCOUNTABLE OFFICER

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

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

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

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

CAROLYN RICHARDS
Ombudsman

CONTENTS

	Page No
1. INTRODUCTION AND OVERVIEW	5
OMBUDSMAN'S FOREWORD.....	5
PERFORMANCE OVERVIEW	9
2. ABOUT THE OFFICE OF THE OMBUDSMAN	11
FUNCTIONS OF THE OMBUDSMAN	11
OMBUDSMAN SERVICE STANDARDS	11
ORGANISATIONAL STRUCTURE	12
STAFFING	13
3. PERFORMANCE	14
OVERALL PERFORMANCE	14
ACTIVITY 1: RESOLUTION OF COMPLAINTS.....	15
OUTPUTS	15
TOTAL APPROACHES	15
INQUIRIES ONLY.....	16
COMPLAINTS ONLY.....	18
Overview of all Complaints.....	18
Northern Territory Agencies (excluding NT Police)	20
Issues complained about	20
Outcomes of finalised complaints	21
Case studies	23
Northern Territory Police	31
Issues complained about	31
How complaints were finalised.....	32
Outcomes of finalised complaints	33
Case studies	34
ACTIVITY 2: IMPROVE THE DELIVERY OF SERVICES	38
OUTPUTS	38
HIGHLIGHTS	38
Putting Screws In	38
Over-height Residences Give DCA a Headache.....	44
Direct Sale of Crown Land	52
ACTIVITY 3: ACCESS AND AWARENESS.....	55
OUTPUTS	55
HIGHLIGHTS	55
Access and Awareness at National Level.....	55
Access and awareness throughout the territory	57
ACTIVITY 4: MANAGEMENT OF THE OFFICE OF THE OMBUDSMAN	58
OUTPUTS	58
CORPORATE GOVERNANCE	58
EQUAL OPPORTUNITY	58
TRAINING AND DEVELOPMENT	59
OCCUPATIONAL HEALTH AND SAFETY PROGRAM.....	59
FOI ANNUAL REPORT REQUIREMENTS.....	60
RECORDS MANAGEMENT	61

APPENDICES
A	ACCESS AND AWARENESS SESSIONS 62
B	DETAILED COMPLAINT STATISTICS FOR 2005/2006 64
	Agencies the Subject of Complaints 64
	Issues in Complaints Received..... 66
C	FREEDOM OF INFORMATION 68
D	SERVICE STANDARDS OF THE OFFICE OF THE OMBUDSMAN..... 73
E	CERTIFICATION OF FINANCIAL STATEMENTS..... 77
F	INDEX OF TABLES, GRAPHS AND CHARTS 96
HOW TO CONTACT THE OMBUDSMAN	97

1. INTRODUCTION AND OVERVIEW

OMBUDSMAN'S FOREWORD

Since taking up my position on 29 August 2005, I have come to better understand the myriad ways in which government agencies impact on the lives of ordinary citizens. This Annual Report (and dozens of others that cross my desk from around Australia and the world) records the frequency and the ways in which my office intersects with the lives of those ordinary citizens who are led to complain about government agencies, police services, correctional services, and services about which there is no other avenue for independent complaint monitoring. 56 percent of inquiries to my office in the last 12 months were made by people who had a grievance about some service not within the purview of the Ombudsman.

The existence of the Office of Ombudsman is testament to a generally accepted belief that individuals who use public services have basic rights covering those services. Those rights include the right to be treated fairly and with respect; the right to be heard when aggrieved by the actions (or inaction) of those who provide public services and, above all, the right to be given reasons for decisions which affect them. Belief in these basic rights and the aspirations of those who approach the Ombudsman's Office to have them enforced not only sustain the spirit of those working in the Ombudsman's Office but drive public agencies to freely collaborate to resolve complaints and use them as steps forward in the pursuit of excellence.

Over the last twelve months difficult decisions had to be made about the extent to which the office could satisfy the expectations of those approaching it in the face of a static budget allocation and a backlog of investigations. Priority was given to investigations into complaints about the conduct of NT Police. All of these complaints are investigated by the Ethical and Professional Standards Command of NT Police (EPSC), the equivalent of the popularly known 'Internal Affairs Division'. Complaints alleging serious misconduct such as excessive use of force, wrongful arrest or detention, or misuse of powers are investigated by the EPSC, but monitored, and sometimes directed, by the Ombudsman's Office. All information gathered during the EPSC investigation is provided to the Ombudsman's Office which writes the report and jointly decides, with EPSC, whether the complaint is justified on the evidence and recommends what action should be taken as a result.

At the end of June 2005, the time that investigations were taking to complete was, as I reported in last year's annual report, unacceptable.

By the end of October 2005 the situation was:

- Thirty-one investigations had been completed by EPSC but the evidence was waiting to be analysed and the report and conclusions written by this office. The age of those complaints (the time between when those complaints were first made and the end of October 2005) is shown in Table 1.

Table 1: Age of Police Complaints with Ombudsman as at 31/10/2005

Age of Complaint	31/10/05
0 - 5 months	5
5 - 6 months	2
6 - 9 months	14
9 -12 months	3
12 -18 months	3
Over 18 months	4
Total	31

- Investigations commenced by EPSC but not finished and forwarded to the Ombudsman's Office, totalled thirty-three. Table 2 shows the age of those complaints.

Table 2: Age of Police Complaints with EPSC as at 31/10/2005

Age of complaint	31/10/05
0 - 5 months	20
5 - 6 months	5
6 - 9 months	3
9 - 12 months	1
12 -18 months	4
Total	33

Due to the concerted and extraordinary efforts of my staff and the investigating officers in the NT Police, particularly EPSC, by the end of June 2006 the backlog of reports was completely cleared by the Ombudsman's Office; the backlog of investigations was completely cleared; and most complaints received between the end of October and the end of June had been investigated and reported on.

At the end of June 2006 the number of outstanding investigations with EPSC had reduced from 33 to 19 and the age of these is shown in Table 3.

Table 3: Age of Police Complaints with EPSC as at 30/06/2006

Age of complaint	30/06/06
0 - 5 months	16
5 - 6 months	0
6 - 9 months	1
9 - 12 months	1
12 -18 months	1
Total	19

Apart from the backlog, my office and NT Police, during the reporting period received and either resolved or investigated 313 new complaints. (See page 31 later). It has been a splendid achievement and I commend all those who have played their part in achieving this turnaround and thank them for the professionalism with which they bore the pressure put upon them.

The government supported the efforts of the office during the year by approving additional once only funding of \$94,000 and assigning a senior executive to work in the Ombudsman's Office for 6 weeks. Without ongoing funding of at least that amount the chances are that timeframes may again become unacceptable. The situation is manageable now mainly because of a decline in the number of complaints being made to the office and because of the cut back to the Office's public education and awareness activities which are reported on at Activity 3, pages 55 to 57.

The Office of the Ombudsman in any society is the embodiment of a continuing commitment to administrative fairness. The extent to which the Office is valued and supported is a measure of the maturity of a society and of government which has created an organisation to monitor fair treatment of its citizens by its own agencies. At a time when people feel increasingly powerless in the face of a seemingly faceless, impenetrable bureaucracy; when they feel disengaged from the democratic process because they cannot see their actions having any effect, the Office of the Ombudsman offers an opportunity for individual action to lead to positive change. I have been struck by the number of people who, when asked what outcome they seek when making a complaint, reply that they want to ensure that other people do not experience similar problems. The agencies of the Northern Territory have as their goal the fair and efficient delivery of services. Sometimes they need assistance, an independent assessment to achieve that goal, especially when there is a gap between the principle and the practice. The Office of the Ombudsman aims to be the bridge over that gap, not by advocating for any individual but by offering an independent and impartial assessment, by identifying whether or not something is unfair and, if so, working to change things.

Change can only be effected by the agencies which serve the public or by the government directing those agencies. The willingness of those agencies to change is demonstrated by the statistics at page 38 of this report detailing the recommendations of the Ombudsman that agencies have adopted and implemented.

The resources of the Ombudsman's Office in the year ahead are being devoted to a project designed to assist agencies to identify for themselves, using complaints from the public, opportunities to change things for the benefit of a complainant, other people, the agency concerned and, ultimately, for the good order and government of the Northern Territory.

The *Ombudsman (Northern Territory) Act* provides that the Ombudsman may decline to investigate a complaint if a person has not complained to the agency about that agency's action or there has been inadequate redress by the agency. (This does not apply to complaints about police.) This is a sensible policy, and apart from complaints about NT Police, the Ombudsman's Office would normally require that any agency have an opportunity to "put its house in order" and redress a complainant's grievance before the Ombudsman is involved. The Ombudsman therefore has an interest in ensuring that all agencies have an adequate, responsive, and accessible complaint resolution process. A survey conducted in late 2005 disclosed that some agencies did not, and of those which do have systems, some do not comply with the Australian and (recently promulgated) International Standards on Complaint Management Processes. With assistance from the Queensland Ombudsman and the New South Wales Ombudsman a project is being undertaken to assist all agencies to either establish or improve an accessible, user friendly, responsive, complaint process.

The perceived benefits from this project are:

- speedier redress of grievances for the public at the point of service;
- better informed and higher quality assessment of grievances by people with expertise in the area;
- increased opportunities for agencies to review, modify or improve their service delivery in response to complaints;
- increased ability of the Ombudsman's Office to concentrate more quickly on more serious issues and complaints not resolved by the agency, or indicating on the face of them the desirability of the Ombudsman's involvement from the outset; and
- in the long term, an increase overall in the quality of public administration and service delivery.

At the same time the Ombudsman's Office will maintain its role as an independent impartial watchdog of those matters brought to its attention suggesting that an investigation of maladministration, abuse of power, capricious exercise of discretion or gross unfairness is warranted.

This Annual Report looks back at the last twelve months, it also points to some of what may lay ahead. Amendments to the *Ombudsman (Northern Territory) Act*, the development of the *Public Interest Disclosure Bill* (whistleblower protection), the implementation of changes within NT Police of how complaints against police are managed, as well as the continuing implementation of the four year plan for changes in Correctional Services will foreseeably impact on the Office of the Ombudsman in the near future.

COMMENCEMENT OF THE TELECOMMUNICATIONS (INTERCEPTION) NORTHERN TERRITORY ACT

On 31 May 2006 the *Telecommunications (Interception) Northern Territory Act 2001* commenced operation. It is expected that the Commonwealth Attorney-General will shortly declare the NT Police to be an agency for the purposes of the *Commonwealth Telecommunications (Interception) Act*. It is a condition of such a declaration that the Northern Territory establishes arrangements for the Ombudsman to inspect, twice each year, the records held by the Police Commissioner of all telephone interceptions in the Northern Territory. The Ombudsman is required to report to the Attorney-General following each inspection and to advise the Commonwealth Ombudsman. How this function will affect the office is not predictable until the number of interceptions and quantity of records to be inspected is known. The resources needed to fulfil this function are yet to be allocated to this office.

There are some changes in the format of statistics in this report which may not make comparison with past years easy. This is due to difficulties in assigning statistics to agencies that have restructured in the past few years, as well as to a fresh approach which is hoped will make the contents of the report clearer than before. I wish to thank

and acknowledge the Treasurer, the Hon Syd Stirling, MLA for making available the expertise of Jenny Coccetti and Sarah Windle from Treasury to assist with the preparation of this report.

PERFORMANCE OVERVIEW

The key performance indicators for the 2005/06 period were:

- Approaches to the Ombudsman decreased by 15% when compared to 2004/05 but increased by 1% over 2003/04.
- Approaches finalised during 2005/06 decreased by 8% when compared to 2004/05, but increased by 10% over 2003/04.
- There were more complaints finalised than received during the year resulting in a 60% reduction in the number of complaints remaining open at the end of the year.
- The overall time taken to finalise complaints (other than complaints against police) improved marginally.
- The time taken to finalise complaints against police was reduced by 20%.
- The number of recommendations made by the Ombudsman and adopted by agencies has increased by over 400% since 2003/04.
- There continued to be a reduction in access and awareness activities. Presentations made by the Ombudsman reduced by 33% and the use of media by 50% over the past two years.
- Although total expenditure for 2005/06 was \$115,250 less than in 2004/05, this was 5.4% over budget allocation for the year.
- Expenditure on staff training and development during 2005/06 amounted to \$9,500 for twenty one employees. (A quarter of one percent of the overall budget.)

This snapshot of the Ombudsman's activities over the 2005/06 financial year demonstrates a productivity and efficiency improvement. Although there has been a 15% reduction in the number of approaches to the office this financial year when compared to 2004/05, the number of approaches is similar to 2003/04. When compared to approaches received by the Ombudsman over the past ten years, it is my opinion that the 15% increase in approaches last financial year was a "one off" and that the numbers this financial year and prior to 2004/05 are more the "norm".

When comparisons are drawn with 2003/04, it can be seen that the time taken to finalise general complaints has improved considerably (97% within benchmark this financial year compared to 63% in 2003/04). The number of approaches finalised in 2005/06 also increased by 10% in comparison with 2003/04 and this resulted in a decrease of 60% in the number of complaints remaining open at the end of the year.

Most pleasing however is the apparent effect this Office is having on improving the administrative processes and procedures of agencies within the jurisdiction of the Ombudsman. I feel confident in making this statement based on the fact that some 244 recommendations were made to improve processes and practices this financial year (108 in 2004/05) of which 94% were agreed to.

CAROLYN RICHARDS
OMBUDSMAN

2. ABOUT THE OFFICE OF THE OMBUDSMAN

FUNCTIONS OF THE OMBUDSMAN

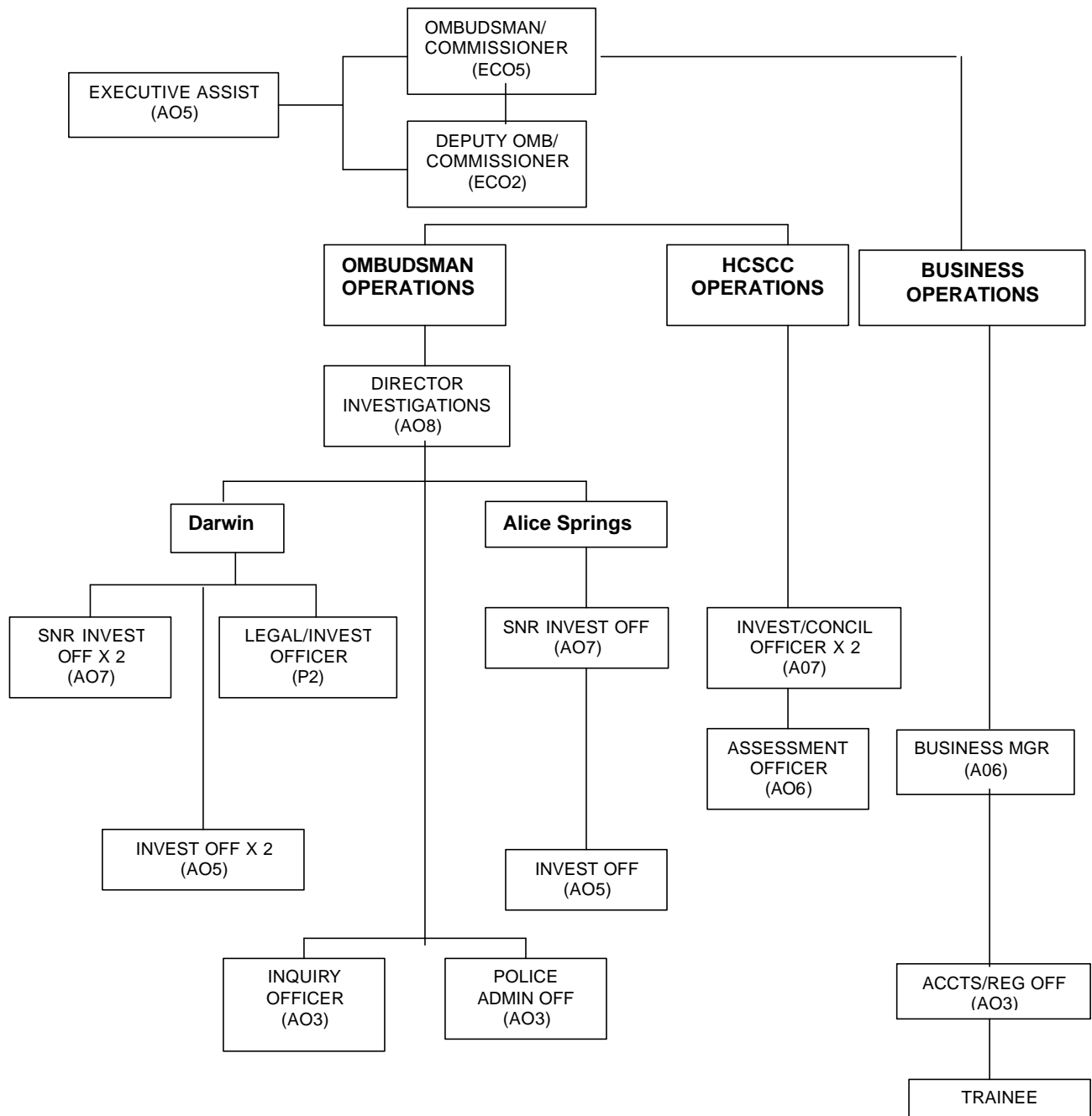
The functions of the Ombudsman are:

1. To investigate any administrative action by, in, or on behalf of, any Northern Territory Government Agency or Local Government Council to which the *Ombudsman (Northern Territory) Act* applies.
2. To investigate any action taken, or refusal to take action, by a member of the Police Force of the Northern Territory, whether or not that action was an administrative action, where that action was, or was purported to be, for, or in connection with, or incidental to, the exercise or performance of that member's powers or functions as a member of the Northern Territory Police Force.
3. Pursuant to Section 9 of the *Health and Community Services Complaints Act* the Ombudsman is also appointed as the Commissioner for Health and Community Services Complaints. The Commission reports separately to the Legislative Assembly.
4. Pursuant to a co-location agreement with the Commonwealth Ombudsman, to provide administrative support to a representative of the Commonwealth Ombudsman's Office who is co-located within the Office of the Ombudsman in Darwin. The Alice Springs Office acts as the representative of the Anti-Discrimination Commission.
5. Pursuant to Section 48 of the *Legal Practitioners Act 1974* and by virtue of the role as Ombudsman for the Northern Territory, to act as a Statutory Member of the Legal Practitioners Complaints Committee.
6. To act as a member of the Northern Territory Law Reform Committee.
7. To consider requests from the Law Society of the Northern Territory for assistance in carrying out its functions.

OMBUDSMAN SERVICE STANDARDS

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

ORGANISATIONAL STRUCTURE



Note:

The organisation chart includes reference to the Health and Community Services Complaints Commission (HCSCC) to illustrate the relationship between relevant positions in the Ombudsman’s Office, and to show the shared human resources included under the expenses of the Office of the Ombudsman.

STAFFING

Table 4: Ombudsman's establishment

Position Level	Ombudsman	HCSCC	Total
Ombudsman ECO5 ¹	1		1
Deputy Ombudsman ECO2 ²	1		1
Administrative Officer 8	1		1
Administrative Officer 7	3	2	5
Professional Level 2	1		1
Administrative Officer 6	1	1	2
Administrative Officer 5	4		4
Administrative Officer 3	3		3
Trainee	1		1
Total	16	3	19

During the financial year the office lost the services of Ms Cindy Bravos, Director Investigations and Ms Clare Hopkins, Legal/Investigation Officer. The position of Director Investigations has been capably filled by Ms Julie Carlsen, while the Legal/Investigation Officer position remained vacant due to an effective funding shortfall.

¹ *The Ombudsman for the Northern Territory is also the Commissioner for Health and Community Services Complaints.*

² *The Deputy Ombudsman is also the Deputy Commissioner for Health and Community Services Complaints.*

3. PERFORMANCE

OVERALL PERFORMANCE

The overall performance of the Ombudsman during 2005/06 (as stated in Budget Paper No. 3) follows:

Performance Measures	Unit of Measure	2003/04 Achieved	2004/05 Achieved	2005/06 Achieved
Quantity	1. Number of approaches	1976	2352	2000
	2. Number of access and awareness visits	36	30	25
Quality	1. Percentage of reviews of decisions requested	2.7	3	4
	2. Percentage of consumer satisfaction feedback	74	61	57
Timeliness	1. Percentage of complaints closed within 90 days.	%	%	%
	a) General	63	94	97
	b) Police (180 days)	66	54	64
	2. Percentage of formal investigations resolved within 180 days	0	0	0 ³

³ During the year, four investigations were finalised and they all took more than the 180 days. They in fact averaged 350 days each.

ACTIVITY 1: RESOLUTION OF COMPLAINTS

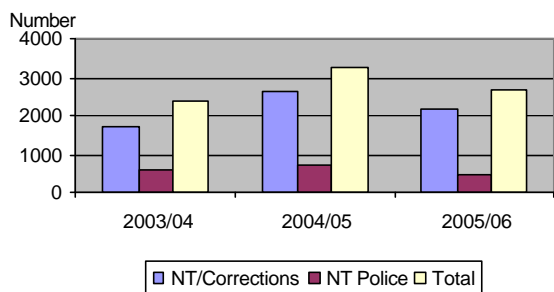
OUTPUTS

1. Accept inquiries and complaints.
2. Assess complaints in a timely, fair and independent manner.
3. Investigate complaints in a timely, thorough and independent manner.
4. Take appropriate action as a result of investigations.

TOTAL APPROACHES

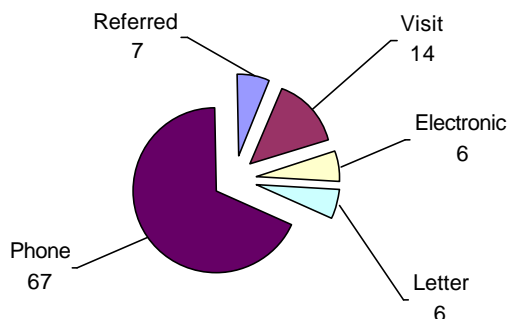
Total approaches to the Office are made up of all inquiries and complaints received in person, by telephone, by email, via the internet or in writing whether related to the “General” area (NT Agencies, Corrections and Local Government) or NT Police.

Chart 1: *New approaches for General and NT Police combined*



There has been a decline in the number of total approaches for both the police (28%) and general (16%) jurisdictions this year which has culminated in an 18% decrease in the number of approaches overall.

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



People can approach the Ombudsman’s Office in a number of ways. 67% of all approaches to the Ombudsman were made by telephone.

14% of people made their complaint in person.

Referred complaints are those referred to the Ombudsman’s office from Police.

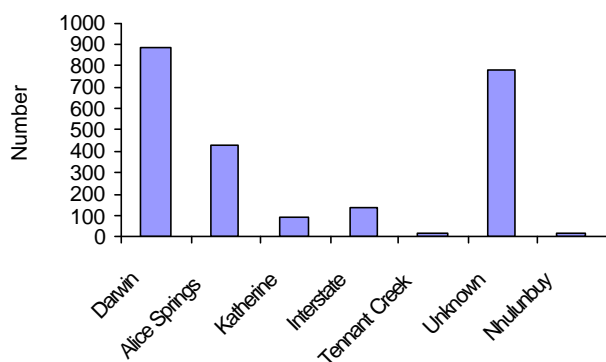
Table 5: Comparison between approaches received over past three years

Approaches	2003/04	2004/05	2005/06
Inquiries	1804	2141	1787
Complaints	551	1134	883 ⁴
Total Approaches	2355	3275	2670
Inquiries to complaint	379	923	670
Net Approaches	1976	2352	2000

Compared to last year there has been a 17% decrease in the number of inquiries received while the number of new complaints dealt with has decreased by 22%.

Of the net approaches to the Office, 44% were dealt with as formal complaints under the Act. In the previous year 39% of net approaches were dealt with on a formal basis.

Chart 3: Geographic source of complaint

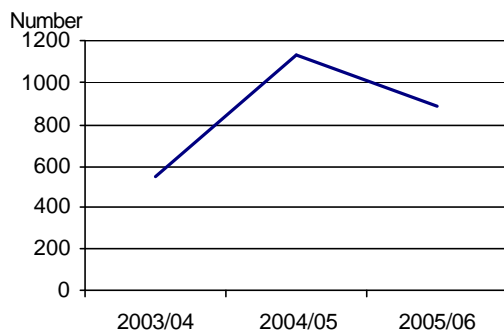


The majority of complainants came from the Darwin area, followed by Alice Springs. The large number of unknown is because of the large number of complaints received that are out of jurisdiction and in these cases the location of the person is not requested.

INQUIRIES ONLY

All inquiries received by the Ombudsman are recorded on a separate data base and the statistics that follow have been extracted from that data base.

Chart 4: All Inquiries – 3 year comparison



There was a 17% decrease in the number of inquiries received in 2005/06 when compared to 2004/05. There was only a 1% reduction when compared to 2003/04.

The major reductions were associated with complaints against police (35% reduction from 288 to 177) and prisoner complaints (25% from 350 to 265)

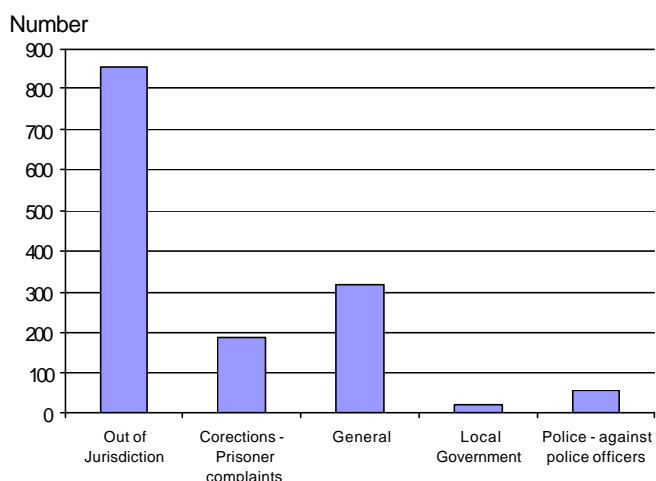
⁴ Within this figure are 322 complaints which were referred back to the agency for direct resolution with the complainant. Once referred back, the Ombudsman took no further action in relation to the complaint and it was closed.

During the financial year, 1,787 inquiries were recorded. Of these, 348 became cases and were transferred to the complaint data base and have been included in the complaint statistics. This can be summarised as follows:

Table 6: Summary of Net Inquiries

Jurisdiction	All Inquiries	Becoming Cases	Net Inquiries
Out of Jurisdiction	856	1	855
Corrections - Prisoner complaints	265	77	188
General	453	134	319
Local Government	36	14	22
Police - against police officers	177	122	55
Total:	1787	348	1439

Chart 5: Net inquiries by jurisdiction



59% of the net inquiries received by the Ombudsman were out of jurisdiction. In these cases the inquiry would have been referred elsewhere, relevant information provided or the inquiry closed.

The “General” area which consists of NT Government agencies received 22% of the net inquiries with Prisoner complaints amounting to 13%

The primary issue of complaint identified in an inquiry is recorded and these are depicted in Charts 6 to 8 below for each of the jurisdictions.

Chart 6: Inquiry Issues – Correctional Services

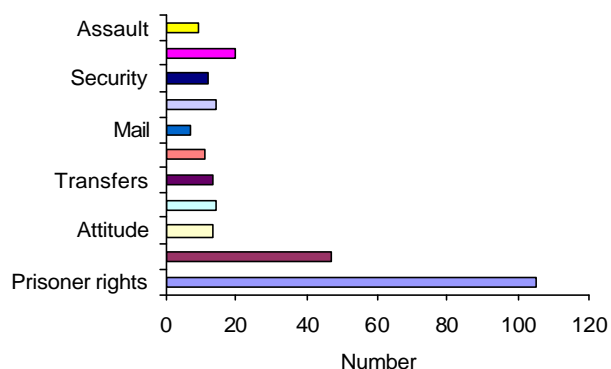


Chart 7: Inquiry Issues - General/ Local Government

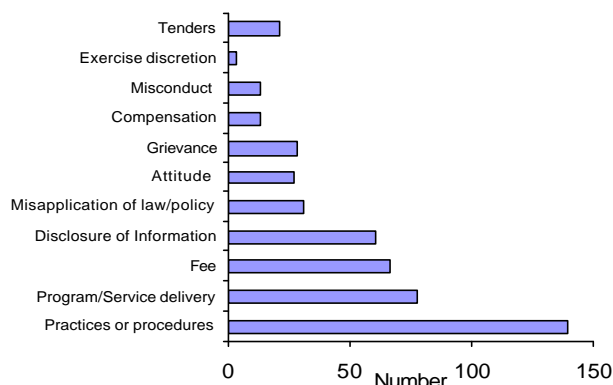
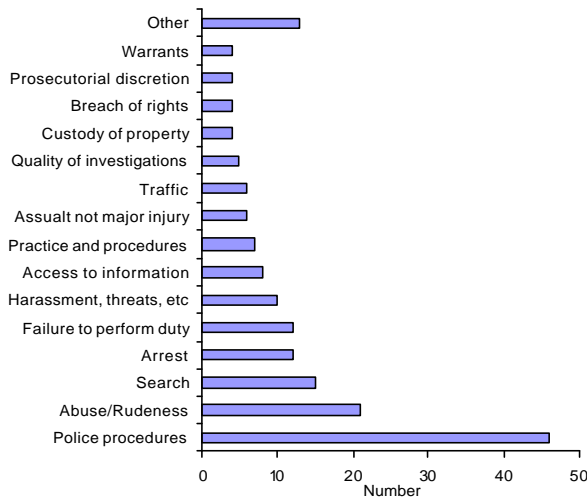


Chart 8: Inquiry Issues – Police



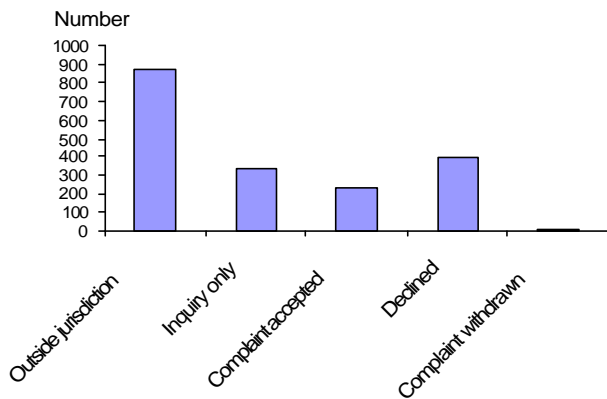
The primary issue of complaint for prisoners related to their rights or lack of them (39%).

In the General/Local Government area the primary issue was practices and procedures (28%).

With complaints against police, the main issue was police procedures (27%).

The outcome of each inquiry is recorded and these are depicted in Chart 9 below.

Chart 9: Inquiry Outcomes



A large proportion of inquiries could not have a recorded outcome as they were out of jurisdiction (48%).

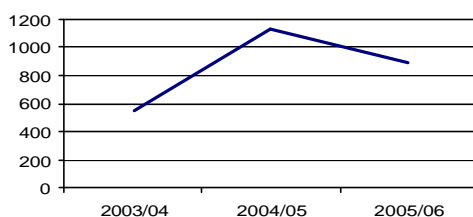
Of the remainder, 18% were inquiries only (ie seeking advice or information) and a further 21% were declined so that the person could approach the agency with the complaint in the first instant.

COMPLAINTS ONLY

OVERVIEW OF ALL COMPLAINTS

All complaints received and accepted by the Ombudsman are recorded on a separate data base and the statistics that follow have been extracted from that data base.

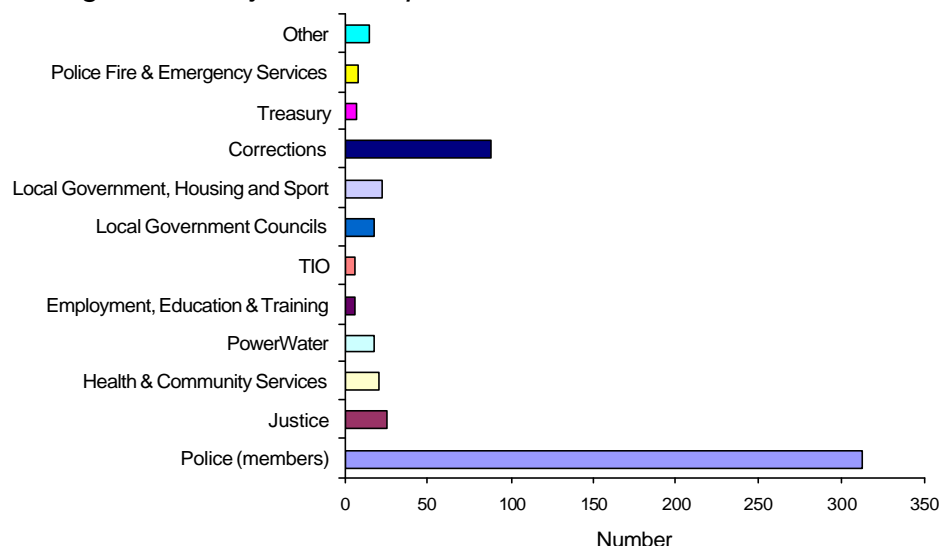
Chart 10: All Complaints – 3 year comparison



There has been a 22% reduction in the number of complaints received when compared to 2004/05. However, when compared to 2003/04 there has been a 60 % increase.

Chart 11 provides a breakdown of the 548 complaints (870 less 322) actioned by the Ombudsman. It can be seen that complaints against NT Police members accounted for 57% (34% in 2004/05), while 16% related to complaints from prisoners (25% in 2004/05).

Chart 11: Agencies subject to complaints



Agencies included in the Other category are Business, Economic and Regional Development; Charles Darwin University; Corporate and Information Services; Legal Aid Commission; NT Electoral Commission; Office of the Commissioner for Public Employment; Police, Fire and Emergency Services (administrative actions only); Primary Industries, Fisheries and Mines and Teachers Registration Board.

A detailed breakdown of all the complaints actioned by the Ombudsman can be found at Appendix B pages 64 to 67.

The analysis which follows relates to the 548 complaints actioned by the Ombudsman and is reported on under the following headings:

- Northern Territory Agencies (excluding NT Police) (235); and
- NT Police – complaints against police officers (313)

NORTHERN TERRITORY AGENCIES (EXCLUDING NT POLICE)

ISSUES COMPLAINED ABOUT

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

Correctional Services

There were 89 complaints actioned by the Ombudsman in respect of Correctional Services, raising 127 issues of complaint.

Chart 12: *Issues in Correctional Services complaints*

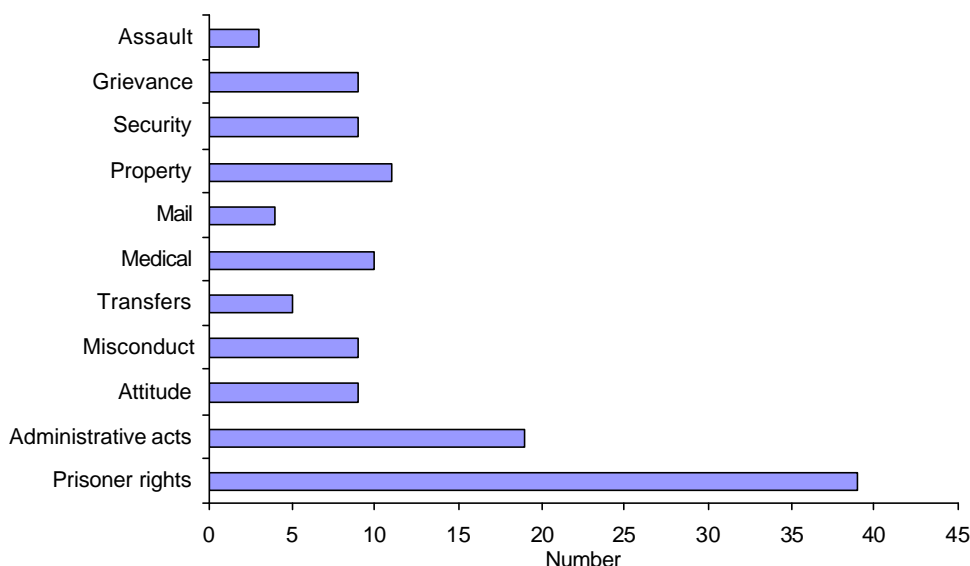


Table 7: *Corrections issues most complained about – 3 year comparison*

Issues	2003/04 %	2004/05 %	2005/06 %
Prisoner rights	35	45	31
Administrative acts	33	13	15
Attitude	5	10	7
Medical	5	5	8
Misconduct	4	5	7
Property	3	5	9

Issues about prisoners' rights remain the major concern, albeit that they have decreased from last year (45% to 31%). Medical, misconduct and property issues have all increased while those associated with administrative acts remain similar.

NT Agencies (excluding Correction Services and NT Police Members)

There were 146 complaints actioned by the Ombudsman in respect of NT agencies, excluding NT Correctional Services and NT Police, raising 176 issues of complaint.

Chart 13: *Issues in NT Agency complaints (excluding Correctional Services and NT Police Members)*

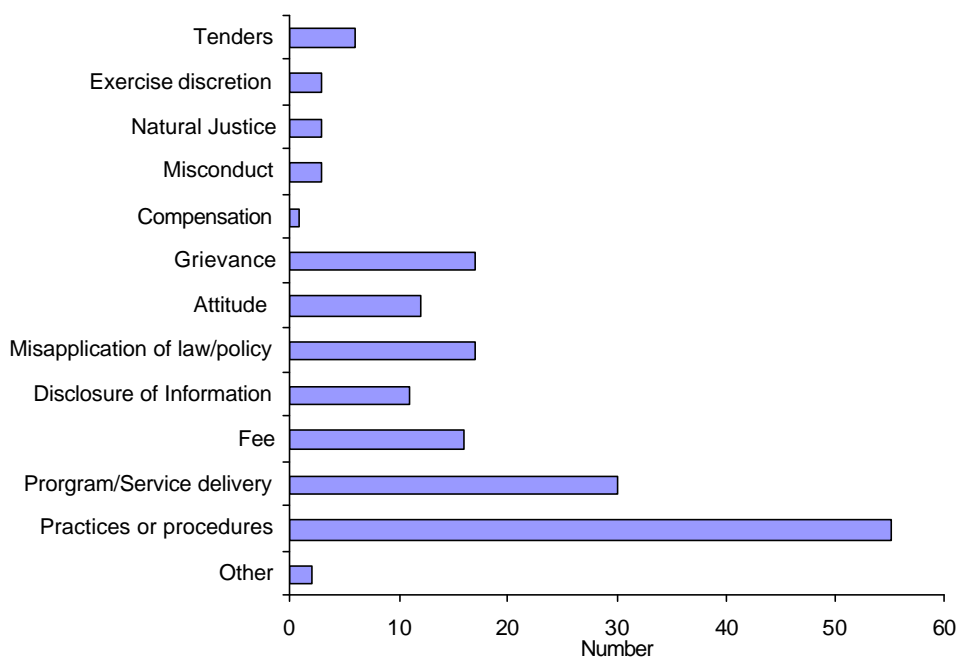


Table 8: *General and Local Government issues most complained about – 3 year comparison*

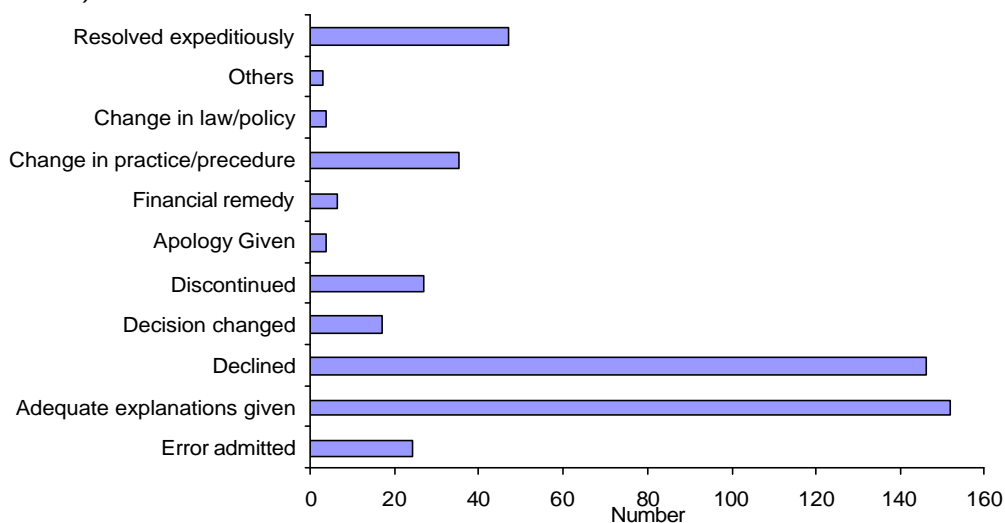
Issue	2003/04 %	2004/05 %	2005/06 %
Practices & procedures	28	33	30
Service Delivery	9	11	17
Fees	12	10	9
Disclosure of information	11	10	6
Misapplication of law/policy	9	9	10
Attitude	10	6	7

Issues about practices and procedures have ranged around the 30% mark over the past 3 years. Over the same period, service delivery issues have increased from 9% in 2003/04 to 17% in 2005/06. Issues associated with misapplication of the law have remained constant while those associated with fees, disclosure of information and attitude, have decreased.

OUTCOMES OF FINALISED COMPLAINTS

Chart 14 identifies the outcomes achieved from the issues of complaint finalised in 2005/06 for all complaints actioned by the Ombudsman other than NT Police members complaints.

Chart 14: Outcomes achieved from finalised complaints (Excluding NT Police)

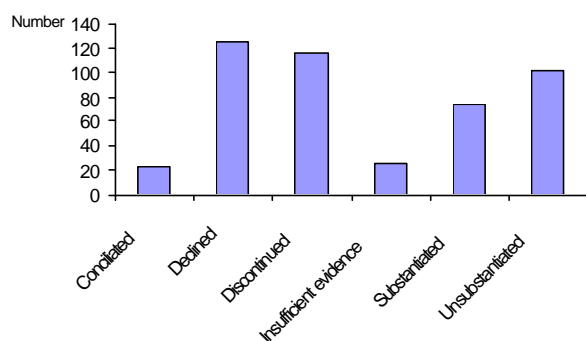


Of significance is the fact that:

- 32% of complaints were finalised because an adequate explanation was provided.
- 31% of cases were declined for investigation after the details were obtained. Reasons for declining included referral back to the Agency to resolve, investigating the matter further was unnecessary or unjustified, the matter was more than 12 months old or there was a remedy available before a court or tribunal.
- 10% of complaints were resolved expeditiously between the complainant and agency with the assistance of the Ombudsman.
- Less than 5% (1% in 2004/05) of cases that were accepted by the Ombudsman were resolved by the department admitting an error had occurred.
- 8% (3% in 2004/05) of cases resulted in a change in practice or procedure.

Extent to which outcome favoured the complainant

Chart 15: Issue determinations



This Chart sets out the practical outcome of complaints and reflects the Case Officer's assessment as to whether the issues associated with each complaint were substantiated or not.

One important observation is that the majority of complaints received by the Ombudsman are resolved by other than formal investigation processes.

CASE STUDIES

Correctional Services

When Nature Calls

My office received a complaint from a prisoner that the prison intercom system had broken down in his block. Some of the prisoners wanting to relieve themselves while outside their cells were unable to communicate with the prison officers to obtain permission to use the block toilets as a result.

My office contacted the Professional Standards Unit of NT Correctional Services (PSU) to convey the complaint and seek an explanation. PSU, after looking into the matter, advised my office that the intercom system in the particular Block was unserviceable and the entire system needed replacing in all the cells. PSU advised that the matter was a high priority and would be addressed urgently. As an interim measure (and at additional cost), prison authorities had put on extra prison officers to be available in the block to attend to any prisoner requests for assistance, until the system could be fixed.

I considered the response received demonstrated that reasonable action was being taken to rectify the problem and that no further action was required by my office. I notified the prisoner of this, who was satisfied that the problem was being attended to expeditiously.

"If only they had told me"

A lawyer hand-delivered three boxes of legal documents to the prison for his former client, to allow the prisoner to prepare for his upcoming appeal unrepresented. The property was accepted by prison officers at the gate and recorded on IJIS. However, the prisoner was not notified that his boxes had been received. He waited for some time and asked around before making a written request for the documents one month later, after which he received limited access to them. The prisoner complained about the failure to notify him, the subsequent delay in his receiving the documents, and the fact that a prison officer had told him that staff had no obligation to notify him that they had been received. The prisoner also complained about the decision that he would only be allowed to have one box at a time, and the extra delays involved with swapping one box for another.

Preliminary inquiries revealed that the decision to limit the prisoner's access to one box at a time was due to perceived fire risks as the prisoner was housed in a dormitory rather than a cell. The Ombudsman regarded this as not unreasonable, and the prisoner later gained full access in any case when he was moved to a cell.

Preliminary inquiries also revealed that the recording and notification procedures for hand-delivered property were unclear, in part because prisoner property was not generally accepted at the gate.

The Ombudsman recommended a number of specific amendments to clarify the procedures around prisoner property, especially legal documents. The Ombudsman also recommended that the prisoner receive a written apology or expression of regret for the failure to inform him of the delivery of the documents.

These recommendations were accepted, amendments drafted, and the prisoner received a letter of regret.

Action needed to uphold prisoner rights

The rights of persons incarcerated in correctional centres are, by both necessity and design, significantly curtailed. Aspects of life taken for granted by people 'on the outside' are in the main "privileges" for prisoners, liable to be rescinded for bad behaviour.

There are however certain minimum standards set by the Office of the High Commissioner for Human Rights and endorsed by Australian jurisdictions. These include, among other things, the right of prisoners to be permitted, under necessary supervision, to communicate with their family and reputable friends at regular intervals. In practice, this means permitting prisoners to receive visits, to speak with family and friends by telephone and to correspond in writing, to a reasonable extent.

My Office has in recent months received a number of complaints from prisoners concerning the difficulty of accessing the telephone in their block during 'unlock'. I am advised that each block in both the Darwin and Alice Springs Correctional Centres has only one telephone handset. At times, some blocks may hold over 50 prisoners – indeed M Block at Darwin Correctional Centre has held over 100 prisoners. Each prisoner is permitted (subject to any Loss of Privilege decisions) to make one 11 minute telephone call per hour during unlock. While theoretically this is a generous policy, one can clearly see how difficult it may be for prisoners in the more populated blocks to obtain access to the one handset available to them during the approximately five-hour period of unlock.

Information obtained from Professional Standards Unit indicated that NT Correctional Services fully recognised the problem and the impact it had on prisoners' ability to have regular communication with family and friends by telephone, however the Department lacked the funds to rectify the problem.

In view of the fact that the issue is one of resourcing and political priorities, rather than administrative decision-making, I wrote to the Minister for Correctional Services, noting my concern that prisoners may not be having the contact with family and friends that would be considered to meet the international standards and seeking to identify the priority that the Government is placing on this matter.

The Minister provided an update on the resource situation by advising that funding has now been approved to install more telephone lines at the Darwin Correctional Centre, to enable more handsets to be installed. Priority was being given to the blocks with the highest population and work was expected to be completed by June 2006. Similar upgrades were planned for the Alice Springs Correctional Centre in the near future.

I am now able to advise prisoners complaining about access to the telephones that action is being taken to address the problem.

Delay in compensating ex-prisoner for lost property

An ex-prisoner approached my office several times regarding the loss, by the correctional centre, of a valuable item of his property while he was incarcerated. Inquiries found that NT Correctional Services had accepted responsibility for the lost property and had authorised a sum of money to be paid to the complainant as compensation for the loss. My office was advised that the matter had been referred to Treasury as NTCS was not able to authorise the payment. NTCS advised there was nothing further it could do to expedite payment.

Some six months later the ex-prisoner again approached my office with a complaint that he still had not received the promised cheque. My office agreed to make limited inquiries to attempt to ascertain the cause of the delay. However attempts to track down the paperwork authorising payment were unsuccessful and it appeared likely that no cheque was in fact being prepared for the complainant.

As a result of my office's repeated inquiries with NTCS over several weeks, NTCS was prompted to re-issue the authorisation for payment. It eventuated that NTCS was in fact able to issue the payment, which was subsequently made by cheque to the complainant some four weeks after inquiries into the matter were renewed.

The complainant was grateful for the assistance of my office, without which it appeared likely he would not have received reimbursement for his lost property.

No explanation for Return to Sender

My office receives regular complaints from prisoners about the mail procedures within the correctional centres. However in this case the complaint was from a friend of a prisoner, who complained that a package he had sent to the prisoner was returned to him with no explanation as to why it was apparently unacceptable. The package contained copies of a newsletter for prisoners and a national drugs body publication.

The mail policy of correctional centres is based on the *Prisons (Correctional Services) Act*, which establishes the rules for the censorship of mail sent and received by prisoners. Pursuant to section 49 mail may be censored, destroyed or returned to the sender if:

- (a) *the contents may jeopardize the security or good order of a prison or police prison or a prisoner;*
- (b) *the contents contains subject-matter that would constitute a breach of this Act, the Regulations or any determination of the Director made under this Act;*
- (c) *the contents may be threatening or insulting to any person;*
- (d) *the contents may have a detrimental influence or effect on a prisoner; or*
- (e) *the letter is written in a code or is illegible.*

The Act requires the correctional centre to inform the prisoner of any censorship action taken. However the same requirement does not apply to the sender of the mail if the sender is not a prisoner.

With respect to this particular complaint, my office inquired as to why the package was returned to the sender. We were advised that the contents were not on the list of authorised publications permitted into the correctional centre. My office passed on this advice to the complainant and at the same time queried with NTCS whether there was any reason why it could not routinely advise senders of the reason for returning their mail.

Shortly after this complaint was finalised I was advised by NTCS that it had amended its mail policy so that senders would receive advice in future of the reason for the non-acceptance and return of their mail. This would be achieved by way of an NTCS stamp on the package indicating the reason for the return of the mail.

Prison labour rort claims referred to police

An ex-prisoner contacted my Office claiming rorting of the prison community labour program had been ongoing for several years. He claimed that a senior prison officer was having prisoners in the program make products for the prison officer's own private use. The ex-prisoner claimed to have first hand knowledge of the rort and provided detailed information to support his claims, albeit without being able to supply definitive proof.

His principle reason for making the complaint was because he had considered the work he was assigned to do in prison enabled him to "give something back" to the community he had wronged, and he was disgusted to find that he was – so he believed – simply helping an individual "line his own pocket". His desired outcome was for his allegations to be properly investigated and not covered up.

While there is always the possibility that claims of this nature may not be genuine, it is the responsibility of my office to accept allegations at face value. As the claims involved potentially criminal activity, I deemed it appropriate to refer the allegations to the chief executive of the Department of Justice with the recommendation that the matter be reported to police. I suggested that it may not be appropriate, in this instance, to refer the matter to the internal audit division of the Department, since internal investigation would alert the culprits, who might then take steps to cover their tracks and avoid criminal charges.

I closed my file after receiving confirmation that the matter had been reported to the police and they had interviewed the complainant.

NT Agencies (excluding Correctional services and NT Police)

“Trust me” (Public Trustee for the Northern Territory)

The complainant is the legal guardian and carer for his wife. Following a tragic car accident and protracted legal proceedings during the eighties, he and his wife were awarded compensation with his wife's share placed in trust with the public trustee. The complainant approached this office in July 2005 concerned that the public trustee's approach to his wife's trust account had become unreasonably restrictive in recent years, and that he was experiencing difficulties in accessing trust funds on his wife's behalf. He was concerned that he and his wife, now both elderly, might die before they had a chance to enjoy the benefit of the funds they had intended to set aside for their sundown years. He also complained that he felt humiliated having to justify his requests for money and believed that the public trustee's office were treating him with distrust. It appeared that the complaint was longstanding and that a number of attempts made in recent years by various organisations and individuals to resolve the complaint had failed.

The complainant had a number of specific requests for money which he understood to have been declined by the public trustee. Preliminary inquiries indicated that in fact the public trustee was open to a number of the complainant's requests. There appeared to be a breakdown of communication over a period of years between the complainant and the agency, at least from the complainant's point of view.

In order to facilitate this communication, the Ombudsman's office wrote to the public trustee setting out the complainant's concerns and requests. The public trustee responded with a compromise of annual lump sum payments with which the complainant was satisfied. The complainant regarded that all of his issues of complaint were resolved as a result of this arrangement.

But I wasn't even there!! (Power and Water)

Complainant asserted that she had left her partner (and marital home) mid 2004. She stated that she had recently applied for a personal loan and was advised that she had a 'default listing' against her name for amounts overdue with PowerWater. The complainant explained to this office that she had approached PowerWater at the time of her separation and advised them that she was no longer living in her marital home and requested that her name be removed from the account. The complainant said that at the time she was not advised that she needed her ex-husband to contact PAWA to confirm her removal from the account.

This office referred the matter to the Complaints Officer in PowerWater who promptly investigated and advised that the accounts were made up of a small portion of water and sewerage and the remainder was electricity that was consumed after the complainant had left the property in question. The Complaints Officer confirmed that the complainant had advised PowerWater that she had separated from her husband in the middle of 2004. At the time, the officer explained, the complainant had been incorrectly advised that she could not take the services out of joint names, which is not the case. The electricity could have been disconnected out of the joint names and then reconnected in the name of the person still residing at the house (ie the husband). The complaints officer revealed that the water and sewerage portion of the account correctly remained in joint names (as required by law) until the property settlement was finalised and therefore the landowners were responsible for the debt.

The good news was that the complainant, after discussions with the complaints officer, had agreed to pay the water and sewerage amount and her name was going to be taken off the credit rating agency list.

The difficulties in submitting Tenders is driving me insane!! (DCIS)

A complainant approached this Office wanting to complain about a decision of DCIS and the Procurement Review Board (PRB). The complainant had lodged an appeal with the PRB requesting that it reconsider the agency's decision not to accept their tender on the basis that it had been received late.

The complainant felt their tender should have been accepted because they were unable to electronically lodge their tender through the electronic service nominated in the tender documents as it had not been set up, and their attempts to fax the documents were not possible between the period 1.55 pm to 2.08 pm (the tender closed at 2.00 pm) because the fax machine was engaged.

The documents were then faxed through. Contract and Procurement Services subsequently advised that it took approximately one and a half hours for their submission to be received. A hard copy of the documents was also dispatched from their interstate office via courier as per the advice they received.

It was submitted by the complainant that as they were unable to deliver their tender by two of the methods nominated in the tender documents, due to matters beyond their control, that they should be afforded the opportunity to have their tender considered.

Following an assessment of this matter, some concerns were raised regarding the decision of the department not to accept the Tender in light of the difficulties the complainant had in trying to submit the tender. It should be noted that the facts as explained by the complainant were not disputed by the Department, or indeed the PRB.

On the basis of the concerns that were identified, this office immediately requested that the Department of Planning and Infrastructure delay the awarding of the Tender until this matter could be resolved. The Department subsequently actioned this request, even though a Ministerial press release had been planned for later that day to announce the successful tenderer.

The identified concerns were then raised with the Chairman of the PRB who gave an undertaking to immediately review the matter. The Chairman subsequently determined that the appeal should be reconsidered by the PRB and raised the matter at a special meeting the following day. The resulting decision of the PRB was to accept the appeal and allow the late Tender to be assessed with the other two Tenders.

The resulting problem was that the initial assessment of the other two Tenders had been completed and as such if the same panel were now to consider this Tender, there would be a level of bias due to the amount of work that had already gone into the assessment of the other tenders.

To manage this potential bias the Department advised that a new panel would be convened with only one of the previous panel members being used due to his technical expertise in the area. In so saying however this member would not chair the panel and any potential bias would be managed by the inclusion of two members who had not previously had any involvement in the process.

As a result of the positive action that was taken, I determined to close the matter.

Home Sweet Home (Department of Health and Community Services)

The complainant approached this Office to lodge a grievance against the Department of Health and Community Services (DHCS). Her complaint related to the Department's placement of a young girl – who was under the legal guardianship of the Minister for Family and Community Services – in a residence within the complainant's neighbourhood.

In short, the complainant was extremely unhappy with the Department's lack of proper consultation with them or the local community before making the decision in question. They also indicated that the Department's decision to house a 'troubled' youth in a residential area should be reconsidered.

I noted that both the Department and the relevant Minister had already written to the complainant about the matter, and that the case had attracted media attention. Nevertheless, my review of the complainant's concerns resulted in preliminary inquiries being conducted of the Department.

The Department's response to my inquiries was positive and very encouraging. It indicated that the Department had carefully considered all relevant issues and explored all options for meeting the special needs of the child before her placement. That said, the Department conceded that there should have been wider community consultation.

Information from interstate also revealed that in every jurisdiction there was limited success in placing children and young people where physical, sexual and emotional trauma at home had resulted in serious behavioural problems.

Keeping this in mind, the Department advised, among other things, that there was no permanent custodial secure facility in the Northern Territory. As a result, the Department had explored other ways to establish out of home options that could meet the child's needs. It had also engaged an expert consultant in relation to the development of care arrangements for this child and other children who were in a similar position.

During the course of my inquiries, the Department informed me that the child would be relocated to another location in Darwin. This was because the owners of the property in question had decided to sell their home. I was also advised that the child had made significant gains while living there.

Importantly, the Department had forwarded to me a copy of a letter which it had sent to residents living in the complainant's area, and a copy of a letter delivered to about 100 homes in the vicinity of the house in which the child would be placed. The Department had also door knocked about 20 of these properties in the immediate vicinity of the new location to provide face to face contact.

Where residents were not at home, an appropriate flyer was left explaining that Departmental staff had called. The Department also held a media briefing and the child's relocation subsequently made the papers.

In light of the positive actions taken by the Department, I formed the view that no more useful or meaningful outcome would be achieved by continuing to advance the matter. I determined to discontinue my inquiries and close my files in relation to this complaint.

FACS staffing resources impact on child protection investigation (DHCS)

A complaint was received of alleged administrative deficiencies in the course of a FACS child protection investigation.

My Office reviewed the policy in relation to child protection investigations. It ascertained that once a child protection report is received by FACS, intake workers, who are senior officers, must decide whether the report warrants a child protection investigation by assessing whether maltreatment has been indicated by the information. Once a decision is made to investigate the intake worker must conduct a child danger assessment to assist the caseworkers to assess the immediacy of the danger to the child, whether immediate intervention is required and what level of intervention is required. There are three response classifications:

- Child in Danger, which requires a response within 24 hours of receiving the report;
- Child at Risk, which requires a response within 3 days of receiving the report;
- Child Concern Report, which requires a response within 5 days of receiving the report.

In this instance, the report, received in early 2004, was classified as a child concern report, which meant that FACS considered the report indicated a relatively low level of danger to the child in the short term but with a risk of long term harmful implications. This classification indicates an absence of urgency but a need for intervention to prevent long term harm.

The case was allocated to a caseworker for investigation, however no action was taken to commence a child protection investigation for two months. The explanation for this was recorded on file as being resourcing issues in the child protection area. At this time an investigation plan was drawn up which indicated an intention to contact the reporter to obtain more detailed information, to be followed by interviews with people who could assist the investigation. It was noted at the time that due to the delay there was not much likelihood of obtaining the evidence necessary to determine if maltreatment was substantiated. However once a report is made and accepted by FACS there is currently no policy that supports non-investigation even after further consultation and consideration of the matter.

The investigation was finally carried out some nine months after the report was received. However it soon became evident that circumstances had changed for the child and the concerns evident when the report was received were no longer evident. The investigation did not substantiate maltreatment.

It was fortunate for the child that the delay in conducting the child protection investigation appeared not to have resulted in the child being exposed to further maltreatment. However the risk was there and the Department acknowledged that the delay in carrying out the investigation was unacceptable. It advised that staff resourcing issues were being addressed through the Caring for Our Children Reform Agenda, which was giving priority to recruitment of staff to the child protection area.

Nevertheless I brought this matter to the attention of the Minister for Family and Children's Services, to reinforce to the government the consequences to the clients and staff of FACS if resources are insufficient to cope with increasing workload.

Not Abandoned (Territory Housing)

The complainant and her young son lived in a Territory Housing unit for three years before a number of complaints of noise and nuisance made by neighbours led to her receiving a notice of termination. She came to our office to complain about her eviction and a number of other issues over the course of her tenancy, including that she should have been granted a transfer, that she had been subject to excessive property inspections, and that she was required to pay for property damage caused by unlawful break-ins.

Inquiries were conducted and satisfactory explanations were provided by Territory Housing to all of these issues. There was however one remaining issue which our office decided to pursue further. This issue was that some months before the eviction, the complainant's unit had been temporarily repossessed by Territory Housing, and the complainant was subsequently charged for the cost of replacement locks.

The repossession was carried out on the basis of Territory Housing's belief that the complainant had abandoned the property and that it had been instead occupied by unauthorised persons. The complainant claimed that she was merely out of town for one week.

The complainant arrived back at the unit to find the locks changed and her rental fridge returned to the hire company. She called Territory Housing, received the new keys and was allowed back into the unit, but was subsequently charged over \$300 to replace the locks as a result of the temporary repossession.

Our office found that at the time of the repossession, the complainant's rent was not in arrears. The *Residential Tenancies Act* requires that rent be outstanding before the landlord has a legal right to enter and take possession of the property that it is believed to be abandoned. While possession of the property was quickly handed back to the complainant, the direct costs of the repossession were also passed on to her. The Ombudsman found that it was not lawful for Territory Housing to levy these charges.

Territory Housing staff had acted in accordance with the policy manual, but the manual itself incorrectly explained this aspect of the legislation.

It was recommended that the complainant receive a refund and an apology, and that the Territory Housing policy manual be amended to more clearly reflect this part of the legislation. In future, where Territory Housing believes that a dwelling has been abandoned but the rent is not in arrears, the agency should apply for an order from the Commissioner of Tenancies allowing them to take possession.

Territory Housing agreed to these recommendations. After some difficulty locating the complainant, she received a refund and apology, and the policy manual was amended.

Did he receive the fine notifications? Fines Recovery Unit

The complainant visited the Office of the Ombudsman in relation to an ongoing matter with the Fines Recovery Unit (FRU). He informed me that he had raised this matter with the agency, but remained dissatisfied with the result.

The complainant stated that between November 2003 and July 2005 he was issued with several speeding fines. The complainant did not dispute these fines, claiming he did not receive any letters from the FRU about any additional penalties to be incurred. The complainant was happy to pay the actual cost of the fine, but was reluctant to pay the additional penalties incurred, as in his view he did not receive any notification of these additional penalties.

The complainant claimed that he received a letter from FRU stating that his drivers licence has been 'suspended' until the amount owing was paid, or an agreement had been entered into with FRU to pay the outstanding penalties. This letter, the complainant informed me, was sent by registered mail, to ensure that he received it.

The complainant claimed that all other correspondence was sent by regular post. The complainant claimed that he queried the letters that he had not received, and was informed that the Act states that the letters have to be sent, and therefore, they had been.

The complainant stated that he was told it was due to legislation that FRU couldn't deduct the additional penalties. However he claimed that just before this statement was made to him, a \$50 penalty had been removed from the system.

The desired outcome the complainant was seeking was to pay the outstanding original cost of the incurred fine, but have additional penalties waived, as he claimed he didn't get any notification of these penalties. Further, that the matter of the mail not being sent be looked into.

Having carefully considered all the information received in relation to his grievance, I was of the opinion, pursuant to section 18(1)(d) of the *Ombudsman (Northern Territory) Act*, that continuation of the investigation of the matters raised in the complaint was unnecessary or unjustified.

I reached this conclusion because:

- he had entered into a 'Time to Pay Agreement' with the FRU in relation to outstanding debts;
- he was properly notified of the amount owing before the suspension of his licence; and
- on the whole, the FRU treated him fairly and reasonably.

The complainant's issues of complaint were raised directly with the FRU which stated, among other things, that:

The FRU has had numerous dealings with the complainant regarding penalties in his and his business' name.

When the FRU commenced (and for some time thereafter) its clients were treated very leniently and late payment of fines/penalties was often overlooked resulting in the waiving of additional costs. The majority of the complainant's penalties fell into this category and the late payments costs were never enforced. For a period of time the complainant also refused to pay the victims fee (which is statutory on all infringements).

When the complainant contacted FRU and asked if there were any outstanding infringements in his name (and didn't mention his business name) FRU only gave him details of the infringements that were issued to him and not his business. He therefore claims that we did not inform him of all the outstanding matters.

The complainant attended at the FRU and entered into a Time to Pay Agreement for the outstanding amount in his business name. The complainant also agreed to pay a sum each month.

The complainant's dealings with the FRU span a period of about six years and indicate a pattern of late and incomplete payments. When considered in its totality, the FRU did not treat the complainant unreasonably. In this regard, I noted that the FRU waived a number of additional costs/penalties when they were under no obligation to do so.

I am of the opinion that the FRU properly notified the complainant of his outstanding debts (at that time) and the likely consequences of failure to meet his financial obligations. The subsequent decision to suspend his licence was reasonably open to the FRU.

That aside, the FRU's delay in suspending the complainant's driver's licence some months after the FRU issued him with the 'Notice of Penalty Enforcement Order' – was excessive.

In response to this issue, the Acting Director of the FRU advised that the delay is a reflection of the high workload and competing priorities within the office. Having discussed this particular issue with the Acting Director, I was satisfied that she was clearly aware of my view that decisions which adversely affect an existing interest of a person should be implemented within reasonable periods of time and without undue delay.

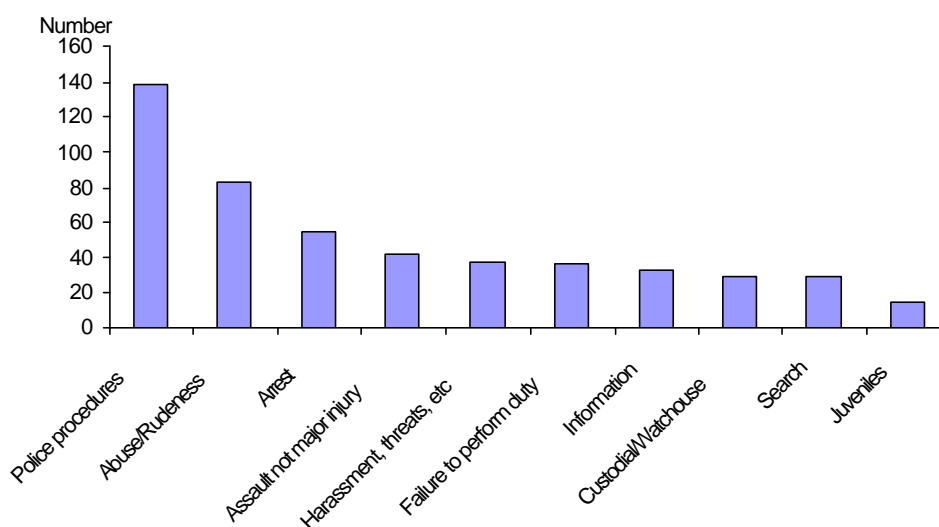
Finally, one of the outcomes of my discussions with the Acting Director was that a commitment was made to review the FRU's record keeping facilities with a view to creating full and accurate records which document all their activities.

NORTHERN TERRITORY POLICE

ISSUES COMPLAINED ABOUT

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

Chart 16: Issues Raised in Complaints (Police)



Additional issues complained about were custody of property (14), other conduct (10), traffic (10), breach of rights (9), warrants (8), prosecutorial discretion (7), corruption/favouritism (6), quality of investigation (4), major assault (4), and inadvertent wrong treatment (2).

Table 9: Police issues most complained about – 3 year comparison

Issues	2003/04 %	2004/05 %	2005/06 %
Policy and procedures	30	23	28
Abuse and rudeness	12	13	17
Arrest	13	7	11
Assault - minor	8	7	8

Issues about policy and procedures remain the major concern and they increased from 23% in 2004/05 to 28% in 2005/06. This was followed by issues associated with abuse and rudeness and these again increased this financial year from 13% in 2004/05 to 17%

HOW COMPLAINTS WERE FINALISED

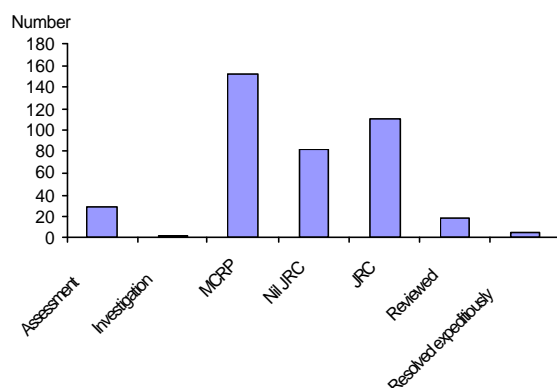
In all, 398 complaints were finalised in 2005/06.

Complaints against police are dealt with in various ways depending upon the severity of the allegation and the seriousness of the conduct complained about. Chart 17 provides a summary of the way complaints against police were resolved.

An explanation of the acronyms used in the Chart follows:

- JRC** – The Joint Review Committee (JRC) is established pursuant to the ‘*Guidelines Between Commissioner of Police & Ombudsman For The Handling Of Complaints Against Police*’ and is charged with the oversight of the investigations into the more serious complaints against police. The JRC comprises the Commander of the Ethical and Professional Standards Command (EPSC) as a representative of the Commissioner of Police and the Deputy Ombudsman as a representative of the Ombudsman. These complaints are initially investigated by the EPSC and their report together with all documents are reviewed by the Ombudsman’s Office and a joint report on the outcome of the investigation is then signed off by the JRC and provided to the complainant and the Commissioner of Police. The complainant may seek a review of the JRC decision by the Ombudsman.
- Nil JRC** – These are complaints that, by agreement with the Ombudsman’s Office, are investigated by the EPSC without oversight by the JRC. The outcome of the EPSC investigation is provided direct to the complainant and a copy is provided to the Ombudsman. The complainant may seek a review of the Nil-JRC report by the Ombudsman and, if that occurs, all the evidence and documents obtained by the EPSC are provided to the Ombudsman.
- Minor Complaints Resolution Process (MCRP)** – These are complaints where, by agreement with the Ombudsman’s Office, after considering details of the complaint, the complaint is conciliated directly between the Police Force and the complainant and an agreement is signed between the parties once concluded.
- Investigation** – A matter investigated solely by the Office of the Ombudsman.
- Reviewed** – These are matters that have been finalised under either the Minor Complaints Resolution Process, the Nil JRC process or the JRC process which are then referred by the complainant for personal review by the Ombudsman.

Chart 17: Finalised complaints (Police)



Of the 398 complaints finalised, 59% were referred to police to investigate and respond to the complainant directly (51% in 2004/05). Of these, 38% were resolved through the Minor Complaints Resolution Process (MCRP) and 21% through the Nil JRC process.

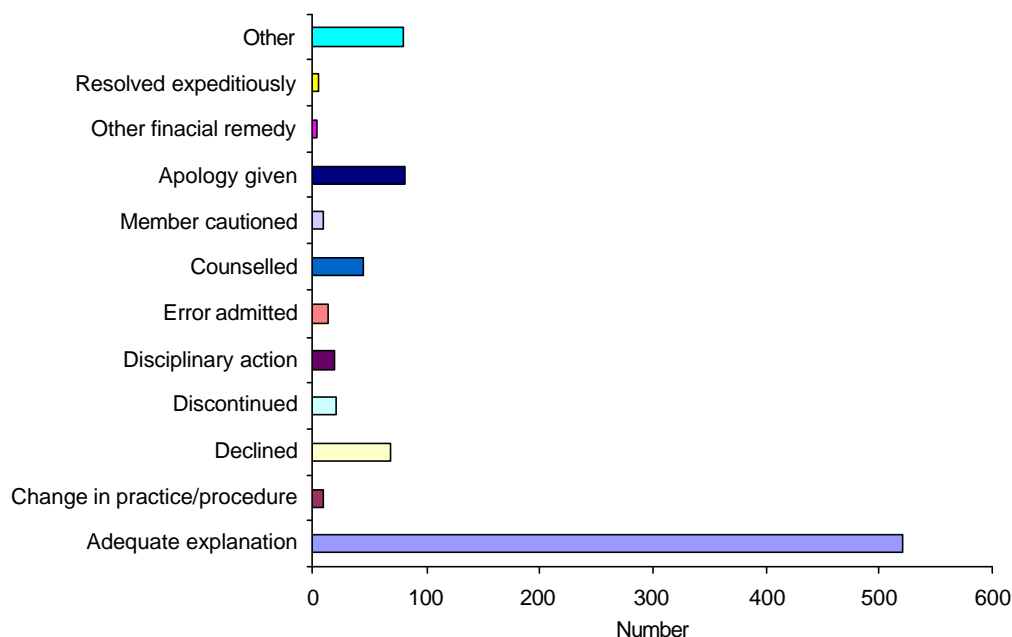
28% of the complaints finalised were through the Joint Review Committee (JRC) process (21% in 2004/05).

I am particularly pleased that of the 398 complaints finalised, 38% were resolved by utilising the MCRP process.

OUTCOMES OF FINALISED COMPLAINTS

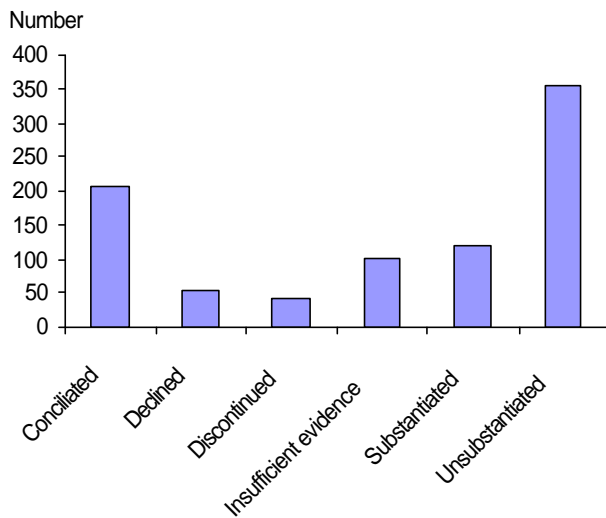
Chart 18 shows the outcome of complaints. As can be seen the most frequent outcome (59%) was to provide an adequate explanation to the complainant. This was followed by members of NT Police being counselled (8%) and the issuing of an apology by police (8%).

Chart 18: Outcomes achieved from finalised complaints



Extent to which outcome favoured the complainant

Chart 19: Issue determinations (Police)



This Chart sets out the practical outcome of complaints and reflects the Case Officer's assessment as to whether the issues associated with each complaint were substantiated or not.

40% of the issues of complaint were not substantiated (42% in 2004/05). 23% were conciliated, an increase on last year's result of 19%.

12% of issues could not be determined one way or the other because there was insufficient evidence to make such a decision.

CASE STUDIES - POLICE

False complaint

The complainant was involved in a domestic dispute with his neighbour. Off duty Police were called to attend the scene by another neighbour who was concerned that the complainant and another person were intoxicated and were about to brawl in the street. The complainant alleged that the attending officers had been drinking alcohol and that they physically and viciously attacked him resulting in broken ribs, bleeding from his ears and the re-breaking of his knee. A complaint of excessive force by police was lodged at this office. The complainant named several witnesses who could corroborate the assault, further reporting that a video of the incident had been recorded by another person.

A detailed investigation of the complaint was conducted by the Ethical and Professional Standards Command (EPSC) of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC). The investigation involved speaking with all the people identified by the complainant as witnesses to the alleged incident, the Police officers involved and other evidence that was presented to the investigation.

When the complainant was interviewed he mentioned that Police had broken his knee, but he had sought no medical help. When asked how he knew his knee was broken he stated that it had been broken many times in the past and he knew it was broken and would just let it heal by itself. A month and a half after the incident the complainant stated he had sought medical attention. Medical evidence did not support that the complainant had sustained any broken bones or bleeding from the ears.

The JRC determined that the complaint lodged against the police was a false representation of the facts. At the time of the incident the complainant was heavily intoxicated and non compliant with police instructions. The statements from friends at the scene did not support the complainant's version of the events. No other person at the scene reported that the Police appeared to have been drinking alcohol. It was ascertained that no video evidence existed.

The complainant in this matter made several implausible statements during the investigation. As a result, the JRC reported to the complainant pointing out that people making false or misleading statements to the Ombudsman or any other person acting pursuant to the *Ombudsman (Northern Territory) Act* can be charged under this Act.

Juvenile out of control

The complainant, a female juvenile, attended a Darwin Shelter with the intention of recovering monies she believed were owed to her by a resident of the Shelter. Various threats were made by the juvenile who commenced kicking and punching a door to the premises in an attempt to gain entry. Staff at the shelter called the police who attended and tried to calm the girl down. The juvenile alleged that the Police used excessive force in removing her from the premises and as a result she had suffered a wrist fracture and chipped bone.

A detailed investigation of the complaint was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on the behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC). The investigation involved speaking with all the people identified by the complainant as witnesses to the alleged incident, the Police officers involved and other evidence that was presented to the investigation.

On the arrival of police, the juvenile was seen to be continually kicking and punching a door. A shelter witness recalled that the juvenile had been punching and kicking the door for about half an hour before the Police arrived. The juvenile was told to desist with her actions with an officer placing himself between the juvenile and the door she was punching.

The juvenile continually stated that she would not leave until she received her money. Several warnings were given by the Police to the juvenile to leave the shelter. Refusing to comply, the officers took hold of her arms and physically removed her. The juvenile was given clear instructions that she was not to re-enter the premises and she replied that she would not leave until she was reimbursed. In an attempt to resolve the matter, cash was given to the juvenile by Shelter staff. Police then offered the juvenile and her friends a lift home to remove her and this offer was accepted.

Witnesses to the incident, including the juvenile's friends, report that she was indeed punching and kicking a door. Further that she had asked them to go and get her a knife so that she could use it against the Shelter workers. It was not denied that the police had used restraint holds to remove her from the premises but their actions were not deemed excessive in the circumstances.

A medical statement supplied by the complainant indicated that no bone fractures were suffered. The injury sustained was a soft tissue sprain which can occur by a sudden trauma impact. Having punched a door for approximately half an hour before the arrival of police and during their attendance at the scene the JRC found that it was highly probably that the juvenile's injury was self inflicted. The medical evidence and witness reports support this premise.

The JRC also had concerns regarding the actions of the police in that the behaviour of this juvenile was in breach of legislation and, under the circumstances, they believed she should have been arrested.

Dog gone it

Police in a remote locality attended a residence to apprehend a person with an outstanding warrant. Upon arrival the person was located and a struggle ensued. A dog on these premises bit an officer during a scuffle and he later sought medical treatment. The officers later returned to the residence having decided that they would put down the dog as they had deemed it to be a vicious animal.

An officer allegedly explained to the owner of the animal that if they handed over the dog it would make it easier on the person they had arrested (their son). The complaint received at this office was that the intention to put the dog down was not explained and the complainants were coerced into allowing the police to remove the dog in the belief that it was being taken to the pound. Sometime later in the day the dog returned to the owner's property with a bullet wound in its throat.

A detailed investigation of the complaint was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee. The investigation involved speaking with all the people identified by the complainant as witnesses to the alleged incident, the police officers involved and other evidence regarding the incident.

The officer's involved were interviewed about their actions on the day. It was not denied that the officers took the dog from the property. The dog, after removal from the residence, was taken into the bush and tied to a tree by a piece of rope with one of the officers firing at the restrained animal. It appears that this first attempt to destroy the dog failed as the officer reported the dog jumping all over the place after the shot. The second officer took the firearm from the first officer and also took a shot at the dog. This time the bullet passed through the dog's neck and through the rope holding the dog to the tree. The wounded animal took off into the bush and, unbeknown to the police at that time, it was heading home.

The dog arrived at the owner's property bleeding from its entry & exit bullet wound. The dog eventually recovered from its injury, without the ability to bark. The police subsequently became aware of the dogs return, however decided not to re-attend and destroy what they had deemed to be a vicious animal.

The Office of the Ombudsman was appalled by the actions of the officers. The JRC recommended disciplinary action against the officers for misleading statements made in the 'use of force' form and for the inhumane manner in which they attempted to destroy the dog. In addition to the internal disciplinary action, the police were served with notice of intent to summons the officers under the *Animal Welfare Act*.

Detention of juvenile unlawful

A complaint was received at this office from a young man who stated he had been assaulted by police. The complainant had been riding home on his push bike in the early hours of the morning when police in a vehicle spotted him riding without lights or a helmet.

He was stopped and questioned due to the late hour and lack of parental supervision because of his young age. During questioning the young man alleged that the Police slapped him causing his face to turn red. He was detained by the Police for the purpose of being issued an infringement notice for traffic offences. The youth further alleged that the police threw this infringement at him and told him to "f.... off home".

A detailed investigation of the complaint was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee. The investigation involved speaking with all the people identified by the complainant as witnesses to the alleged incident, the police officers involved and other evidence from police records.

Due to the lack of corroborating evidence the complaints regarding the alleged assault and comment made to the young man could not be substantiated. As a side issue the detaining of the young man was raised by the JRC as legislation does not support such an action when the identity and address of the person had been established.

As a result of the JRC investigation recommendations were made to the NT Police to reinforce to officers that detaining a person for the purpose of issuing a traffic infringement notice when their identity is known is in breach of legislation. An apology was sent to the complainant.

Drunken Police

A group of off-duty police who had been drinking alcohol and were intoxicated came across some young lads playing on their skateboards and push bikes. Three of the officers crossed the road and began a conversation with these youths asking to 'have a go' on their skateboards and bike.

The complainant saw the three adult males talking to the boys and believed they were giving the boys a hard time so he decided to intervene. The complainant, not realising at the time the males were police, told them to leave the boys alone. He alleged that one of these males started threatening him. This male then identified himself as a police officer and produced what appeared to be a Police ID wallet with badge and photograph. Words were exchanged before the male that had produced the ID wallet pushed the complainant in the chest with both hands. Further words were exchanged between the complainant and this male who then punched the complainant once to the left side of his head with a clenched fist. The male continued to provoke the complainant to fight back until one of the other men pulled him away. The complainant called 000 to report being assaulted by police.

A detailed investigation of the complaint was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on the behalf of the Ombudsman, under the supervision of the Joint Review Committee. The investigation involved speaking with all the people identified by the complainant as witnesses to the alleged incident, the Police officers involved and other evidence that was presented to the investigation.

Inquiries into the incident revealed that one of the boys had also allegedly been assaulted. The investigation by the JRC resulted in the allegations being substantiated. Recommendations by the JRC resulted in disciplinary action being taken by the NT Police. In addition to this action the officers concerned were charged with assault by the DPP.

ACTIVITY 2: IMPROVE THE DELIVERY OF SERVICES

OUTPUTS

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

HIGHLIGHTS

During the year, the Ombudsman made 244 recommendations to government agencies, local councils and the NT Police of which 230 were adopted and implemented in some form.

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

Table 10: Recommendations made

	2003/04	2004/05	2005/06
Recommendation made	60	108	244
Recommendation adopted	50	102	230

There has been a major increase in the number of recommendations made (410%) and recommendations adopted (460%) over the past three years.

Examples of significant investigations undertaken by the Ombudsman follow.

PUTTING THE SCREWS ON!!

BACKGROUND

A representative of Company A contacted my office by telephone and lodged a complaint against the Building Advisory Committee (BAC) and Building Advisory Services (BAS), of the Department of Planning and Infrastructure, in relation to the handling of its application for inclusion of building products in the Northern Territory Deemed to Comply Standards Manual (the NT DTC Manual). The complaint contained the following allegations:

A short time after receiving the complaint from Company A, representatives of Company B attended at my office to lodge a complaint stating that they had been experiencing problems with the BAC in obtaining approval for inclusion in the DTC Manual of one of their products. The complaint included a number of allegations including:

Both Company A and Company B supplied my office with copies of their respective letters from the BAC. On the basis that complaints were substantially similar I determined that they would be handled by my office as one matter (“the complaint”), with joint complainants. Following preliminary inquiries into the matter, the following issues of complaint were investigated;

1. Unreasonable delay on the part of Building Advisory Services and/or the Building Advisory Committee in their handling of the applications by Companies A and B.
2. Unreasonable administrative processes on the part of Building Advisory Services and/or the Building Advisory Committee in their handling the two applications (fragmented requests for information, lack of clear procedures);
3. Unreasonable or wrong decision by the Building Advisory Committee with respect to the two applications (including denial of procedural fairness and failure to make a decision);
4. Unreasonable or unjust actions on the part of the Building Advisory Committee (inconsistency of treatment between the two applications and Company C’s application and implied allegation of improper conduct on the part of staff of Building Advisory Services and/or members of the Building Advisory Committee).

INVESTIGATION PROCESS

In broad terms, my inquiries and resulting investigation into the complaint involved:

- Consideration of evidence provided by representatives of companies A and B;
- Responses provided by the Department and the BAC in relation to the issues of complaint;
- Consideration of relevant legislation and policy documents including *Building Act* (NT) and Regulations; Building Code of Australia; NT DTC Manual;
- Formal and informal discussions with relevant departmental staff;
- Examination of relevant departmental files;
- Formal interview with representatives of Company C;
- Formal interview with consultant engineer to BAS during relevant period;
- Examination of document entitled ‘Review and Upgrade of NT Deemed to Comply Standards Manual – Stage 1’ published January 1997 (‘the review report’);
- Consideration of legal advice of Solicitor for the NT;
- Research case law relating to failure to make decision.

RESPONDENTS TO COMPLAINT

Building Advisory Committee (BAC)

The BAC is a statutory authority established under section 9(1) of the *Building Act 1993 (NT)*. One of their functions is the approval of building products and systems for inclusion in the DTC Manual. The BAC also establishes technical standards for

certain building products and systems and provides specialist advice to the responsible Minister.

Early inquiries suggested that BAC's role, in assessing and approving products for inclusion in the DTC Manual, was exercised pursuant to its 'accreditation' function under s11(1)(c) of the Act. Subsequent inquiries however, revealed that the 'accreditation' process was something quite different from the DTC Manual process. I therefore sought to clarify this matter through investigation.

In this regard, my final investigation report outlined the following conclusions:

- the function currently performed by the BAC in assessing and approving applications for inclusion of building products and systems in the NT Deemed to Comply Standards Manual, ought to be the subject of an express statutory power.
- there should be a right of appeal or review of a decision of the BAC (except for judicial review in the Supreme Court).

I further recommended that, in the meantime, arrangements be made for the responsible Minister to impose the relevant function on the Building Advisory Committee pursuant to s11(1)(d) of the *Building Act*.

In their responses, both the Department and the BAC agreed that the functions currently performed by the BAC in assessing applications for inclusion of a building product and system in the NT DTC Manual should be covered by express statutory powers provided in legislation. As such, appropriate amendments to the *Building Act* were being considered. They also agreed that there should be some form of review or appeal from a decision of the BAC and were working towards that end. In the meantime, it was explained, it was likely that the current appeals mechanism to the BAC would be utilised.

Building Advisory Services (BAS)

BAS is a Division of the Department of Planning and Infrastructure. BAS has a number of roles, one of which is to provide administrative and some technical support to various statutory authorities including the BAC. At the relevant time, BAS were responsible for receipt of DTC Manual applications, initial assessment of the same, and eventual submission to the BAC. BAS technical staff provided advice and assistance to the BAC. BAS staff also provided advice and information to persons wishing to make a DTC Manual application.

It should be noted that the *Building Act* establishes a building control system supported by private sector certification. In brief, this means that unlike some other jurisdictions, the building approval process is fully privatised with the role of Government (BAS) being to:

- provide advice to industry, the public and Government;
- maintain a central building records system;
- develop and implement regulations and policies;
- provide administrative and technical support to statutory bodies; and
- monitor, audit and enforce the requirements of the Act.

The investigation dealt in part with BAS' role in providing administrative and technical support to the BAC, a statutory body established under the Act.

OUTCOMES

Allegation 1: Unreasonable delay on the part of Building Advisory Services and/or the Building Advisory Committee in their handling of the applications by companies A and B

Having considered all the relevant material in relation to this issue, I did not consider that there was unreasonable delay on the part of BAS in relation to its handling of the applications by Companies A and B. However, I was of the view that the process for presenting applications to the BAC was deficient.

The process for the handling of DTC manual applications in practice at the time relevant to this investigation involved a preliminary assessment of each application by BAS staff - although it was clear that all parties considered that the BAC was the decision making body. I note that the process was not provided for in any statute, nor was it set out in any procedural document. Recommendations were made elsewhere in the final report in this regard.

It is a well established principle of good decision making that decisions should be made expeditiously, particularly if they are adverse decisions. I suggested that this is doubly the case where business is involved as affected parties need to be able to make their commercial decisions expeditiously in order to maximise profit or mitigate loss. On the face of the record, this had not occurred in relation to the applications in question. I made the observation that this procedural deficiency was as much the responsibility of the BAC as it was of BAS.

I did not make any formal recommendations in respect of these findings as it was my strong view that the delays in this matter, and the failure by the BAC to make clear decisions, had a large amount to do with the fact that there were no written procedures in place and no formal protocols or arrangements between BAS and BAC for the handling of DTC Manual applications. These procedural shortcomings were discussed later in my final report.

Allegation 2: Unreasonable administrative processes on the part of Building Advisory Services and/or the Building Advisory Committee in their handling of the applications by Companies A and B (fragmented requests for information, lack of clear procedures)

I found that the administrative processes in place during the period relevant to this investigation relating to the handling of the complainant's applications for inclusion of their products in the DTC Manual were unreasonably poor. At the time there were:

- no written criteria for inclusion of a product in the DTC Manual;
- no guidelines for applicants in relation to the application process or for use in the preparation of technical data sheets;
- no written procedures to be followed by BAS staff or the BAC during the application process;

- no clear delineation of the BAC's and BAS's respective roles;
- no tracking of applications;
- no formal briefings from BAS to the statutory body (BAC);
- poor administrative practice within BAS in relation to the application files; and
- (if the 1997 review report is correct) significant long standing problems with the content of the DTC Manual itself.

I also acknowledged that the situation had improved considerably since the time that companies A and B had lodged their respective applications. At the time of writing my investigation report, the Department had commenced implementation of some of the less costly (but nonetheless important) recommendations of the 1997 review report relating to the application procedure.

Consequently, I formed the opinion that the administrative actions of the Department and the BAC in the handling of the two applications may have been unreasonable (in the sense contemplated by s 26(1)(c) of my Act) and recommended that the Department and the BAC formally report to me within 3 months of the date of this report as to:

1. Which recommendations of the 1997 Review Report were to be or had been implemented?
2. In relation to those recommendations that were not going to be implemented, an explanation as to why not?
3. A time table and proposal for implementation of those recommendations that are yet to be implemented?

I noted that their joint response to my final report, the Department and the BAC included a table containing pertinent information on the 1997 review report recommendations; the recommendations specifically endorsed by BAC; the status of these recommendations and evidence of implemented recommendations. I also noted that the majority of the 1997 review report recommendations, including removal of procedural defects, had been implemented. I was also advised the relevant procedures were the subject of continual review and improvement.

Finally, the joint response explained that the BAS was in the middle of a reform agenda in relation to its building legislation. In addition, the upgrading of the NT DTC Manual was a priority, and subject to decisions on a unified (national) testing regime, the Department hoped to commence the review in the coming year.

Allegation 3: Unreasonable or wrong decision by the Building Advisory Committee with respect to the applications by companies A and B (including denial of procedural fairness and failure to make a decision)

It was difficult to identify an actual decision on the part of the BAC with respect to the applications by companies A and B, in the sense that at no time during the period relevant to the investigation was either application refused or approved by the BAC.

Following my investigation, I formed the opinion that the administrative actions of BAS staff and the BAC surrounding two particular decisions of the BAC (in relation to the applications by companies A and B) were unreasonable in that BAC denied

procedural fairness to companies A and B. I stated that although as a matter of law the BAC may not have been required to provide formal reasons for its decision/s to the applicant, as a matter of good administration I found that the BAC ought to have provided both companies with an explanation as to why it determined to treat their respective applications in the manner that it did. I also made the observation that if decisions are made in a timely manner and the reasons for them are adequately explained, adversely affected parties are far more likely to be accepting of them.

As a result, I recommended that my findings be formally brought to the attention of the relevant Departmental staff and BAC members. It was further recommended that the Department and the BAC arrange for appropriate training of BAS staff and BAC members to cover basic principles of administrative law. Such training could be provided by the Department's own legal officers.

I was pleased to note that the joint response by the Department and the BAC appeared to generally recognise the deficiencies in their processes and procedures which I identified as having occurred in these particular cases. The Department's intended approach to these administrative shortcomings – to actually conduct training in the principles of administrative law – was forward looking and would, I believe, substantially reduce the risk of similar occurrences in the future.

It should be noted that at the time of writing this case summary, the Department had facilitated appropriate training for departmental and BAC staff in relevant principles of administrative law.

Allegation 4: Unreasonable or unjust actions on the part of the Building Advisory Committee (inconsistency of treatment between companies A/B applications and company C application and implied allegation of improper conduct on the part of staff of Building Advisory Services and/or members of the Building Advisory Committee

It was very clear from my investigation that the products of companies A and B were treated in a far more cautious and conservative manner by both BAS and the BAC than Company C's application. After carefully considering all of the evidence available to me, I concluded that the treatment of Company C's application as compared with companies A and B was clearly inconsistent in terms of the requirements in relation to the technical data sheets, but that such conduct on the part of BAS and the BAC in the circumstances was not unreasonable.

Apart from the issue of inconsistent treatment, I did not consider that Company C's application process had any further relevance to the handling of the applications from companies A and B.

It was my strong view that the complaints lodged with my office by companies A and B arose for other reasons. It is clear to me that the lack of written application criteria, the lack of application procedures and the failure of the BAC to adequately explain the reasons behind its approach, led to an unfortunate situation whereby two interstate companies lost such confidence in the conduct of Government business in the Northern Territory that they felt the need to approach my office. This situation

was exacerbated by the fact that the complainants were well aware of Company C's actions in the market place.

Finally I recommended that the BAC report to me as to its formally adopted policies with respect to certain technical data relevant to particular products. The subsequent joint response (by the Department and the BAC) provided satisfactorily details.

Shortly after receiving the joint response to my final investigation report, I formed the view that no further action was required by my Office. As a result, after a lengthy and elaborate investigation process, I closed my files in relation to the investigation.

OVER HEIGHT RESIDENCES GIVE DCA A HEADACHE

INTRODUCTION

This report details my views into a matter of complaint that had been under my investigation for some considerable time. The matter concerned the actions of the then Department of Infrastructure, Planning and Environment ('the Department') and the Development Consent Authority (DCA) in relation to a building that was being constructed that would, when completed, allegedly exceed the height limitations set out in the Darwin Town Plan ('DTP'). The complainants were concerned that the over-height building would obstruct their visual amenity and that *"this building and others were creating a precedent for over-height houses throughout the area"*.

I received two complaints over a period of 6 months:

1. The first complaint concerned the response of the Department and the DCA to the complainant's objections regarding the construction of a residence and the circumstances surrounding DCA's advice that their own house may also be in breach of the DTP.
2. The second complaint concerned the actions of the Department and the DCA with reference to the same residence and another. The complainant stated that he had been advised by the then DCA Chairman that his own house, which had been completed over 5 years ago, was in breach of the DTP and that he was now required to put in a waiver application to obtain approval for the alleged breach.

Following receipt of these complaints, there were a number of developments that necessitated new lines of inquiry. In addition, delays to the investigation occurred while awaiting the outcome of an appeal lodged by one of the complainants with the Northern Territory Planning Appeals Tribunal ('the Tribunal'). That delay, in itself, became a matter for my involvement in order to facilitate a decision that was long overdue.

OUTLINE OF OMBUDSMAN'S INVESTIGATION

Inquiries were commenced by my Office concerning these complaints and subsequently written responses from both the DCA and the Department were

received by me. At the conclusion of these inquiries I determined to investigate the following issues:

- Department and DCA complaint handling process;
- Policies and techniques for checking compliance with the Town Planning Scheme;
- Enforcement of Town Planning Regulations;
- Department's Regulatory Processes for the Building Industry;
- DCA's Actions in relation to Perceptions of Impropriety;
- Department's Role in the Notation on the complainant's Title

1. DEPARTMENT AND DCA COMPLAINT HANDLING PROCESS

The initial complaints were that the Department's response to their notifications that the residence exceeded the maximum height limits of the DTP was inadequate. Subsequent events resulted in the complaints encompassing the manner in which the Department and the DCA responded to the complaints received on a number of additional allegations of breaches of the DTP, including:

- complaints made against the complainant's residence;
- complaints made against other residences;
- complaints made about a number of buildings within Darwin.

The difficulties experienced by the complainants in their attempts to find a resolution, the length of time the complaints remained without resolution and the fact that some of these complaints remain unresolved, raised a number of questions about the complaint handling process of both the Department and the DCA. In particular, questions were raised about the respective roles of the two agencies when a complaint is received, the powers of the two agencies and the guidelines and policies of each agency for handling complaints.

Findings

It was my view that neither the Department nor the DCA had an effective mechanism in place for handling complaints from members of the public about alleged breaches of building or planning regulations. Specifically, it was my view that the Department and the DCA had:

- no clearly established process for responding to complaints, obtaining independent checking as necessary or subsequent auditing of amendments;
- a lack of guidelines for determining what people can complain about, eg. the complainants were able to complain about houses that had no impact on their amenity; and
- an inability to address complaints due to the delay of the Tribunal determination.

I was therefore of the view that pursuant to section 26(1)(b) of the *Ombudsman (Northern Territory) Act* the actions of both the Department and the DCA in this regard were unreasonable.

Additionally, it was my opinion that the lack of an effective complaint handling process did not facilitate the regulation and auditing of the self-certification process

currently in place within the building industry. These complaints again brought attention to the fact that self-regulation did not appear to be working. The reasons for this in my view were inadequate resources, poor practices and a lack of real auditing resulting in a lack of compliance. I was of the strong view that this was a situation where the potential harm to the public outweighed any argument that budgetary constraints justified the situation continuing.

Whilst I accepted that budgetary constraints do have substantial bearing on the development and implementation of new processes, I did not in this case consider that the formulation of an effective written complaint handling policy would pose a significant resource impact on the Department. The crux of the issue was that builders, and building certifiers were not encouraged to comply with town planning regulations.

2. POLICIES AND TECHNIQUES FOR CHECKING COMPLIANCE WITH THE TOWN PLANNING SCHEME

This issue relates to the adequacy of the tools and materials available to the agencies to enable them to check compliance with land use control plans. These include guidelines such as those incorporated in the DTP, the approved plans of the building, the survey contours and the physical measurement of the building.

It was acknowledged by the Department early on in the progress of this complaint that the DTP did not provide clear interpretation of the height restrictions on sloping blocks. There appeared to have been a situation whereby various interpretations of the height clause 22.5 were accepted as equally valid by the Department. Unsurprisingly, this resulted in some disagreement between the complainants and the Department as to whether their respective measurements of the residence were correct.

This problem was to some extent rectified by the adoption of the Municipality of Darwin Policy No. 11, which clarified the application of clause 22.5 of the DTP with regard to sloping sites and also provided additional instructions on the definition of habitable roof space.

The first dispute arose as a result of the DCA receiving a complaint that the complainants' house may be in breach of the height restrictions. The complainants replied that their house was not in breach and they did not consider themselves obliged to prove this until such time as they were advised that there was some basis for the allegation. The DCA responded by stating that the plans lodged with the Building Advisory Services Branch (BASB) indicated that their residence was over-height.

The complainants raised several objections to the calculations by the Department and it became clear that the DCA and the Department did not have in place sufficient policy and procedures for resolving disputes about the height of a dwelling.

At this point I met with the Department to discuss how the complaints could be resolved and it was agreed that independent surveys of the height of the residences would be obtained. Regrettably, the DCA declined involvement in the matter. The

survey was then conducted and the report gave assurances that the guidelines had been followed. The DCA, having declined involvement and therefore failing to avail itself of the opportunity to view the surveyor's methodology, advised that in their view the surveyor had not followed the guidelines and that the margin of error deemed applicable by the surveyor was excessive.

Findings

I had several comments to make in relation to the DCA's response to the matter:

- It's failure to take an appropriate lead in this matter. This was graphically illustrated when it subsequently wrote to both complainants saying it would approve waivers when previously it had denied that one of the residences was in breach of the DTP.
- It is to be criticised for failing to respond to the first complainants' objections to DCA's claims of having achieved an accurate measurement of their house. It neither provided an adequate rebuttal nor suggested any alternative method of resolving the dispute. Further, when an alternative method was suggested – a re-survey by an independent expert – it declined to participate in or to endorse the action.
- It refused to accept the results of the independent survey without, in my view, providing a convincing argument for its reasons.

It was my contention that the DCA had, in the final analysis, unreasonably rejected all efforts to bring the matter to resolution.

I concluded that It was the responsibility of the DCA to determine how disputes such as this could be resolved, eg by identifying reasonable methods for measuring houses. However, it did not do this and it then failed to accept the methods negotiated by the parties involved in the dispute and agreed to by all, including the Department to resolve the matter.

I suggested that, had the DCA at an early stage determined to accept the original site contour plan prepared by the surveyors, which provided the best evidence of the existing ground levels at the time of title issue, and had it agreed to be a party to the independent survey, then this dispute could have been resolved on receipt of the survey results.

With the above in mind, it was my view that pursuant to section 26(1)(b) of the *Ombudsman (Northern Territory) Act*, the actions of the DCA with respect to its handling of this matter were unreasonable.

3. ENFORCEMENT OF TOWN PLANNING REGULATIONS

The role of the DCA, in upholding applicable development provisions, land use objectives and guidelines, through determining development applications in the context of the relevant provisions of the NT Planning Scheme, deserves consideration. The complaints questioned the extent to which the DCA had upheld the DTP land use objectives.

Complaints were lodged about at least four houses within the area, for allegedly exceeding the height restriction and it was common ground that two were found to be in breach. Overall, the evidence suggested that there was no real attempt to enforce compliance with the DTP height restrictions within the area. Responsibility for this lay in several places:

- the certifier who has responsibility of ensuring that a building complies with all relevant regulations;
- the Department who has responsibility for monitoring the building approval system; and
- the DCA who has responsibility for considering waiver applications within the appropriate context.

There were grounds for questioning whether any of these entities or bodies had fulfilled their responsibilities adequately.

Findings

I concluded that, overall, the DCA and the Department had not adequately enforced the town planning regulations and had given insufficient consideration to the consequences of their failure to do so. It was my view that pursuant to section 26(1)(b) of the *Ombudsman (Northern Territory) Act*, the actions of the DCA in this regard had been unreasonable.

4. DEPARTMENT'S REGULATORY PROCESSES FOR THE BUILDING INDUSTRY

The events surrounding this complaint raised the issue of routine breaches of the DTP by building practitioners and certifiers and the Department's lack of auditing abilities and lack of response to this non-compliance.

There is evidence to suggest that at least in respect of three residences, there appeared to have been a clear contravention of DTP compliance by the respective certifiers.

During the course of my inquiries, the Department was asked what audit procedures are employed by the Department with reference to building certification. In response the Department stated that, where an allegation is made that a Permit to Build does not comply, the certifier would be requested to demonstrate compliance. Failure to do so would then be referred to the Building Practitioners Board. No certifier was referred to the Building Practitioners Board in relation to the three residences in question.

Findings

In 1993, a system of non-government-industry practitioner, self certification-building controls was introduced in the Northern Territory. With the introduction of the new system it was foreshadowed that it would be accompanied and backed up by an effective and systematic auditing process. The auditing process was to ensure that those registered practitioners who did not fulfil their statutory obligations would be readily identified and dealt with appropriately. It was clearly evident from my investigation that this had not occurred.

During the conduct of a previous investigation and as reported in the annual report for 1999-00, the Department indicated that a new computer based auditing system would be developed. It was claimed that its introduction would provide the Department with the appropriate technology and effective audit management tools to adequately monitor the self-certification process. As evidenced by the events contained within this report, this new auditing system had either not been introduced or was totally ineffective.

It was my view that the Department's actions with respect to enforcing compliance had, pursuant to section 26(1)(b) of the *Ombudsman (Northern Territory) Act*, been unreasonable.

The Department did subsequently accept that their current process of auditing certifiers was inadequate and that this was because of limited resources and the current provisions in the *Building Act*. They further advised that both of these issues were being addressed within the review of the *Building Act*.

5. DCA'S ACTIONS IN RELATION TO PERCEPTIONS OF IMPROPRIETY

In the early stages of my involvement in this matter, the complainants both alleged that the complaints received by DCA against their respective houses, of which they were notified by the DCA, were the direct result of their having put in a complaint to DCA about the height of another residence. It was their contention that the complaints had either been fabricated or solicited by the DCA.

Findings

I was of the opinion that there was a clear perception by both complainants that they were being treated unjustly, merely because they had complained to the Department and the DCA. Having examined the chain of events, I was easily able to concur with their perception.

In addition, the lack of participation by the DCA in attempts to resolve the issue with my involvement, appeared to indicate that the DCA were not committed to a resolution of the matter.

6. DEPARTMENT'S ROLE IN NOTATION ON A COMPLAINANT'S TITLE

Following a title search by a complainant's lawyer, it was noted that the title of their house in the Land Titles register contained a notation that read '*alleged height encroachment of two storey residence*'. The complainant considered that until the dispute over the height of their house was resolved, there was no good reason for the Department to record the allegation, particularly as the notation could be detrimental to them, should they ever wish to sell their property.

I agreed to undertake inquiries to identify how such a notation came to be placed on the title and whether notations of this nature are routinely recorded by the relevant Department.

Findings

My comments related specifically to the notation made by the custodian – Town Planning - and given the Department's advice of the purpose of such notations, its advice that they are routinely made and that a similar notation appeared on the records of all the properties mentioned in my report, there appeared to be no cause for criticism for the initial notation.

I was, however, of the opinion that these notations should not have remained on the register once the matter in dispute had been resolved as it was no longer an issue requiring notification to interested parties.

Another aspect to these notations on the register that raised my concern was that parties affected by the notations ie. the property owners, were not advised by the relevant custodian that such a notation was being placed on the land title register.

The Department responded that the notations on the land information system were extensive and central to their records and they did not support their removal.

Despite the Department's comments, I remained of the view that once the issue causing the entry to be made had been resolved, then that entry should be removed as it no longer applied.

SUMMARY OF RECOMMENDATIONS

Following my investigation I made the following recommendations:

1. An effective and efficient process for accepting and dealing with complaints needed to be developed by both the Department and the DCA. This process needed to clearly establish procedures in relation to the receipt and recording of complaints; the appropriate person or body with whom the complaint is to be taken up; the actions able to be taken under legislation regarding a complaint; the timeliness of the complaint handling process; procedures for monitoring unresolved complaints; whether and under what circumstances complainants can appeal the decision and who will review the decision. Whilst the Department had gone some way towards establishing a formal complaints handling process, I was not of the opinion that it was sufficient, primarily due to its lack of detail.
2. A clearly stated policy was required to be developed by the Department and the DCA as to how complaints would be handled when the complaint concerned both agencies. This needed to incorporate the policy for deciding who would be the lead agency in the handling of the complaint and in doing so would enable the complainant to be advised as to whom they should contact regarding the progress of their complaint.
3. A clear set of guidelines needed to be established through liaison between the Department and the DCA as to what matters could be accepted as a formal complaint. The situation in which a person could lodge a complaint against any house at any time was not conducive to peace of mind or quiet enjoyment as home owners had a right to expect. By allowing only those complainants that

were directly affected by the issue of their complaint to lodge a formal complaint, the risk of malicious or vexatious complaints would be reduced. Consideration also needed to be given to legislative review to address this issue.

4. The DCA should formulate and adopt a reasonable method for physically measuring the height of houses constructed that were the subject of a complaint. Clear guidelines were required to promote agreement by all parties involved, to identify original site levels and the process for calculating the applicable margin of error relevant to the site. Adoption of an appropriate method based on a clear and definitive process for measuring the residence under dispute, thereby easily identifying compliance or non-compliance, was desirable to reduce disputes and aid resolution of them if they occurred.
5. The DCA was to develop and adopt a written policy that ensured that waiver applications were not granted indiscriminately and without any thought being given to the individual circumstances of each application.
6. The Department develop a proactive program of auditing certifiers to ensure compliance with the legislation or at the very least, rectify the deficiencies contained within its current auditing system.
7. Guidelines needed to be established by the Department as to when to undertake action on identified breaches of the Act by private building certifiers.
8. As previously noted, the DCA needed to develop an effective, impartial and efficient process for accepting and dealing with complaints. Of particular importance, was the need to have an appropriate process to avoid perceived bias and conflict of interest if the complaint manager was the DCA Chairman himself.
9. The process of entering administrative issues on the Land Titles Register be reviewed with a view to removing the entry once it had been resolved thereby not creating a permanent record that could be detrimental to the owner in future dealings. Additionally the review should examine the issue of notifying the owner of the intent to create the notation on the register.

RESPONSE TO RECOMMENDATIONS

I am satisfied from the responses received from the Department and DCA that all but recommendation 5 have been or are in the process of being appropriately actioned.

I must report however that despite the previous Chairman of the DCA agreeing to implement recommendation 5 on 18 August 2004 he took no such action. That is despite the previous Ombudsman having made the following attempts to follow up this matter:

- 17 December 2004 – letter from Ombudsman to Chairman
- 20 January 2005 – letter from Ombudsman to Chairman
- 15 February 2005 – telephone conversation between Ombudsman and Chairman
- 16 May 2005 – face to face meeting between A/Ombudsman and Chairman where assurances were given that the appropriate documentation would be finalised within 4 weeks.

- 22 June 2005 – Email from A/Ombudsman to Chairman.

I could only conclude that the previous Chairman held the Office of the Ombudsman in low regard and in such circumstances the actions open were to prepare a report to the Minister for presentation to the Legislative Assembly or to publicly report the situation in my Annual Report. I have chosen the latter course as my concern is not so much with the overall action being taken on the recommendations but with the attitude of the previous Chairman.

I should point out that the previous Chairman of the DCA was made aware that I would be making this report as a result of his inaction.

DIRECT SALE OF CROWN LAND

BACKGROUND

The complainants applied to what was DIPE for a grant by direct sale of adjoining Crown land in an industrial estate. Their application was rejected because it did not comply with the direct sales criteria (the land was going to be released later by the public competitive process). However, after the complainants approached the office of the then Minister for Lands, they were told to reapply, which they did. According to a file note on the Department's file, the Minister directed that the application proceed, (despite the fact that it did not comply with the direct sales criteria) subject to the complainants contributing to the cost of a road extension.

The complainants were of the belief that after being told to reapply and having heard nothing to the contrary for 3 years that their application would, as a matter of course, be approved and that the department would recommend to the Minister that he make an offer to sell the land to them. The Department proceeded to process the application, which took three years, because native title had to be acquired. In that time, the Department contacted the complainants just once, to get further details in preparation for a brief to the Minister recommending that the land be offered to them. In the meantime, the Government's plans to release the land by the public competitive process were postponed, and the road extension did not proceed either.

After native title was acquired in 2002, but before the Department took action to finalise the application by submitting a draft offer in a brief to the Minister, another company applied to the Department for a grant of part of the same land. A manager within the Department decided to treat them as competing applications and determined that the second application had more merit. He conducted a 'drive past' site inspection. He then wrote to the complainants advising that their application had lapsed, and that it did not comply with the direct sales criteria, (citing a different ground, that the complainants' current block was under utilised and therefore the need for extra land was not justified). The manager did not consult with the Director of Land Administration before writing this letter, nor was the matter referred to the Minister.

The second application proceeded and when it was advertised for public comment, the complainants lodged an objection. Departmental officers then conducted a site inspection of the complainants' property. When the second application was ready to

complete, the Minister was briefed on the merits of the two applications. The brief recommended that the land be sold to the second applicant and the Minister acted on that recommendation. The complainants made a complaint to my office about the way in which the matter was handled by the Department. They also argued that their application did comply with the direct sales criteria, and that the department had failed to fully understand their application.

The complainants consulted the former Chief Minister who advised them that his recollection was that his government had approved the sale at cabinet level, and that this may mean that a cabinet decision had been overturned by administrative action. I therefore decided to formally investigate the matter.

THE INVESTIGATION

The Department's view was that the original Ministerial direction only amounted to a requirement that the Department consider the complainants' application – not that the application would necessarily be granted. Determining whether this was the case was problematic due to the lack of a written direction from the then Minister.

The complaint *that a direction of a Minister was overturned by administrative action, was contrary to law and to the detriment of the complainants* was found to be sustained, at least to the extent that the Minister's direction should not have been overturned in the way that it was. The administrative action of the Department was, in my view based wholly or partly on a mistake of law or fact within the meaning of section 26(1)(f) of the *Ombudsman (Northern Territory) Act*. It was also wrong within the meaning of section 26(1)(g) of the Act.

In regard to the second complaint that *the Department's decision to reject the complainants' application to purchase the land was unreasonable in that the Department had not understood their arguments as to why they need the extra land and that the Department had failed to apply the legislation and their current policies correctly*; and- the third complaint that *the overall administrative process relating to the Department's assessment of the complainant's application was unfair, that the complainants were given insufficient information, and that there were unreasonable delays*, both complaints were sustained at least in a partial sense as follows:

1. Before rejecting the application the Department failed to give the applicants an opportunity to be heard.
2. In relation to the rejection by letter:
 - The Department failed to apply its policy correctly, in that there was no "lapsing" policy in existence at the time.
 - In purporting to reject the application using the direct sales criteria and in particular the phrase "under utilised":
 - the site inspection conducted by driving past the complainants' current block was insufficient to establish compliance with the policy without giving the complainants an opportunity to understand the purpose and views formed as a result and an opportunity to comment. It would have allowed for the possibility of expert evidence being provided on the issue in question.

- the policy was applied inflexibly using criteria (“under-utilised”) not stated in the policy and without reference to the individual circumstances of the case.
- 3. The Ministerial brief prepared by the Department contained wrong, inaccurate or misleading advice (however unintentional). The Minister followed the recommendations of the Department, which were based partly, but significantly, on those exclusions and incorrect statements. The complainants were detrimentally affected by this advice to the Minister.
- 4. The Department failed to keep comprehensive and accurate records of its attendances on this file and failed to employ a case management system whereby the matter continued to be monitored.

The actions of the Department in this regard were unreasonable and unjust within the meaning of section 26(1)(b) of the Act. They were also wrong within the meaning of section 26(1)(g) of the Act.

RECOMMENDATIONS

I recommended that:

1. The applicants should be advised that they can reapply for a direct sale of the adjoining land they need for expansion [which had not already been sold to the second applicant] and the requirement for the payment of the application fee should be referred for direction to the Department’s Chief Executive in this instance.
2. That the Department should consider contributing to the costs which the applicants may incur in preparing engineering or other plans and drawings which may be required to support the application or to justify that the additional land is required to improve and/or expand their business.
3. That the application be accepted by the Director of Lands for processing and that the processing of the second stage of the application be completed expeditiously.
4. Upon processing of the application, the Minister should be briefed by an officer independent of the Department and without any previous involvement in this matter as nominated by the Chief Executive, and a briefing should include the following:
 - (i) a summary of this investigation and its findings;
 - (ii) a recommendation that the Minister, in his discretion, reconsider the applicants’ application, taking into account the fact that the applicants had previously had Ministerial approval to have their application considered outside the direct sale criteria and that the Ombudsman formed the view that the Minister, in considering the matter in 2002, had been misinformed.
5. The Department should draft an operations manual for handling direct sales matters giving clear guidelines to project officers about file management and record keeping. It should also include a direction about how and when applicants should be updated, and should impose a file management/supervision regime on the manager of that section of the Department.

The Department responded positively to all the recommendations.

ACTIVITY 3: ACCESS AND AWARENESS

OUTPUTS

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

HIGHLIGHTS

The program has two distinct objectives:

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

In all other States and Territories in Australia, the Ombudsman only has an Office in the capital city of their respective State or Territory. In contrast, in the Northern Territory, the Ombudsman has offices located in both Darwin and Alice Springs. The Northern Territory Government has maintained a commitment to provide services and access to Territorians in Central Australia. The Alice Springs Office is therefore an integral part of this office's access and awareness activities.

I am disappointed to report that over the past three financial years activities associated with access and awareness have had to gradually be reduced because "efficiency dividends" continue to impact on the funds available for discretionary activities. Access and awareness visits have reduced by 33% over the past three years as follows:

Table 11: Access and awareness visits – 3 year comparison

2003/04	2004/05	2005/06
36	30	25

ACCESS AND AWARENESS AT THE NATIONAL LEVEL

Meeting of Police Oversight Agencies, Sydney, December 2005

All the various Australian police oversight agencies met in Sydney on Friday 9 December 2005. This was the first such meeting and provided a great opportunity to meet counterparts, obtain briefings as to recent developments within the various jurisdictions and to discuss matters of common interest.

The topics discussed included:

- outline by each agency of key functions, current workloads and critical issues;
- common themes, and opportunities for joint work and further cooperation;
- the value of regular meetings of police oversight agencies;
- the possibility of secondments between agencies, and also of ensuring that job vacancies were circulated to each of the agencies for distribution to relevant officers; and
- opportunities for officers to visit other oversight agencies in a similar spirit of cooperation.

The meeting was attended by Ombudsman from New South Wales, Queensland, Commonwealth, Australian Capital Territory, Western Australia and Tasmania as well as by the Chairperson of the Independent Commission Against Corruption (NSW), the CEO of the Crime and Misconduct Commission (Qld), the Commissioner of the Corruption and Crime Commission (WA) and the Police Complaints Authority (SA).

National and International Collaboration

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

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

The support, information and collaboration of these offices is essential to maintain professionalism and access best practice and current information. It provides assistance that is otherwise unaffordable. I publicly express my gratitude to those named as well as to the Independent Commission Against Corruption and the Crime and Misconduct Commission.

There were opportunities to enhance these invaluable collaborative relationships that have been financially out of reach over the last twelve months. No one from the NT office was able to attend the following conferences and meetings:

Ombudsman

- November 2005 – Australian and New Zealand Ombudsman Association (ANZOA) Meeting – Melbourne.
- December 2005 – The 9th Asian Ombudsman Association Conference - Hong Kong

- April 2006 - Australian and Pacific Ombudsman Meeting - Perth
Deputy Ombudsman
- September 2005 – Meeting of all Australian Deputy Ombudsman - Melbourne
- April 2006 – Meeting of all Australian Deputy Ombudsman - Adelaide

ACCESS AND AWARENESS THROUGHOUT THE TERRITORY

A detailed breakdown of sessions and conferences attended is provided at Appendix A, page 62. Access and awareness visits have been confined to Darwin and Alice Springs which is where staff are based and the cost is minimal.

Written Material

The Office has continued to distribute its pamphlets and posters throughout the Northern Territory and to target organisations and consumer groups. During the year the Ombudsman also produced its first ever Newsletter which was made available through the website.

Community Newsletters

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

Advertising

The Office advertised in newspapers and newsletters during the year. To coincide with Youth Week the ANZOA produced a postcard advertising the members of the Association and 4000 were distributed in the NT. The cost to the office for all the art work, printing and distribution was less than \$1,000 of the overall cost of \$50,000.

Website

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

During 2005/06 the number of people accessing the website were:

Total visits:	7,946
Total page views:	18,607
Average visits per day:	22
Average visits per week:	153
Average visits per month:	660

I speculate that increased use of the website may be one of the factors accounting for the 15% decline in approaches over the last 12 months.

ACTIVITY 4: MANAGEMENT OF OFFICE OF THE OMBUDSMAN

OUTPUTS:

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

CORPORATE GOVERNANCE

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

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

EQUAL OPPORTUNITY

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

- Foster an understanding and commitment to equity and diversity principles, activities and outcomes by all employees in the agency.
- Equity and diversity in all Human Resource Management policies and practices.
- Eliminate workplace discrimination and harassment.
- Balancing work, family and cultural responsibilities.

Through its Equity and Merit Plan the Office of the Ombudsman aims to ensure best and fairest employment practices by:

- Providing an opportunity for all staff to contribute to and benefit from the achievement of the Agency's objectives.
- Establishing and maintaining a work environment free from discrimination and harassment in which all individuals are guaranteed equitable access and treatment in all aspects of employment including conditions of service, recruitment, staff development and training.

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

TRAINING AND DEVELOPMENT

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

A major objective achieved through the implementation of this program is the design of individual annual training and development programs for all staff.

This process is incorporated into the Business Plans for both the Ombudsman's Office and the Health and Community Services Complaints Commission. The plans were not fully implemented in 2005/06 as insufficient funds were available. The effects of this reduction can be seen from the figures below.

Expenditure on staff training and development during 2005/06 amounted to \$9,500 for twenty one employees. This expenditure represents only 0.4% of the overall budget or 1.7% of the operational budget and reflects poorly on this office. The effect of the budget allocated to this office in 2005/06 on our ability to train and develop staff (our most important asset) was identified to government and Treasury but no allocation increase resulted. The situation for 2006/07 does not look any better.

The \$9,500 provided 252 training hours (629 in 2004/05) and comprised 34 training opportunities (40 in 2004/05).

OCCUPATIONAL HEALTH AND SAFETY

The health, safety, security and well being of staff continues to be monitored in accordance with the Occupational Health and Safety Management Plan. The presence of health and safety risks within the office is consistently being assessed as low. During the year there were two reported days lost as a result of reported injuries.

Staff safety and well-being in the office continued to be promoted and monitored throughout the year in line with the Northern Territory Public Service and Work Health Occupational Health & Safety Policy and legislation. Any potential hazards identified during the year were attended to and resolved. The Occupational Health and Safety (OH&S) Officer conducts regular inspections to identify and address any potential risks and hazards and provides monthly reports on any OH&S issues identified during the month.

When necessary, the OH&S Officer consults with and seeks advice from the OH&S DCIS Consultant on any important OH&S issues that may arise. The ideal response to identified risks is however constrained by availability of funds. Staff are supported and encouraged to participate in sporting activities to promote team spirit and well being of staff and encouraged to maintain a healthy lifestyle.

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

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

- Workstation assessments as required by a DCIS OH&S Consultant
- Formal OH & S workplace inspection of the Darwin office by a DCIS OH&S Consultant.

During 2005/06 the combined number of sick day absences for both Ombudsman for the NT and the Health and Community Services Complaints Commission amounted to 135 days.

Employee safety and physical security continues to be addressed by regular monitoring and testing of the duress alarm system. In addition a security risk assessment was carried out and a security policy developed. A security review on the physical security of staff in the Darwin Ombudsman's Office was performed by Australian Federal Police and organised by the Commonwealth Ombudsman. Recommendations to be implemented include the installation of electromagnetic locks to create an easy and safe exit for staff and the removal of items from the interview rooms that have the potential to be used as a weapon. Specific precautions must be taken at the Alice Springs office which has two staff, both female, and at times one person may be in the office alone.

FOI ANNUAL REPORTING REQUIREMENTS

Section 11 of the *Information Act* sets out the information a public sector organisation must publish annually in relation to its process and procedures for accessing information. A detailed description of the Office's obligations under Section 11 of the Act are provided at Appendix C, pages 68 to 72.

RECORDS MANAGEMENT (Not compliant with NT standards)

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

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

- (a) keeps full and accurate records of its activities and operations; and
- (b) is in the process of implementing practices and procedures for managing its records necessary for compliance with the standards applicable to the organisation through the implementation of a Records Management Plan.

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

- records management staff fully trained;
- adoption of new methods and technologies for keeping and managing records; and
- become fully compliant with the *Information Act (2003)* and the NTG Standards for Records Management.

The third objective has been stalled by lack of funds. The software systems which the Ombudsman operates need modifying and the Ombudsman needs to acquire the whole of government program, TRIM. The current system does not enable the Ombudsman to comply with the NT Archives Standards. The cost of becoming compliant is around \$70,000. A request for funds for this purpose was "deferred" by Cabinet. (See also note 15 to the Financial Statements at page 94 "Contingent Liabilities" arising from the inadequacy of the case management system.)

Appendix A

ACCESS AND AWARENESS SESSIONS

As part of the public awareness program the following occurred:

Talks:

Speaker	Date	Details
Investigation Officer, Alice Springs.	8 September 2005	Recruit Course, Alice Springs Correctional Centre
Senior Investigation Officer	13 September 2005	Prison Officer in Training Course, Darwin Correctional centre
Ombudsman	23 September 2005	CDU – Graduate Dip. In Legal Practice
Ombudsman	30 September 2005	Management Board of the Legislative Assembly
Ombudsman	14 October 2005	CDU Graduation Ceremony
Ombudsman	9 November 2005	NT Police, Leadership Development Program
Ombudsman	23 November 2005	NT Women Lawyers Association
Ombudsman	25 November 2005	Zonta Club, White Ribbon Day Breakfast
Snr Invest Off	25 January 2006	North Australian Aboriginal Legal Assistance Service
Investigation Officer	8 February 2006	Department of Health and Community Services, Orientation
Investigation Officer, Alice Springs	8 February 2006	Inter-agency Meeting, Alice Springs
Ombudsman	1 March 2006	Treasury students
Ombudsman	2 March 2006	University of 3 rd Age
Ombudsman	3 March 2006	Department of Chief Minister, Management Board
Ombudsman	30 March 2006	Rotary Club of Darwin
Investigation Officer, Alice Springs	10 May 2006	Inter-agency Meeting, Alice Springs
Senior Investigation Officer, Alice Springs	15 May 2006	Various, Tennant Creek
Ombudsman & Director Investigations	17 May 2006	Tiwi Islands
Senior Investigation Officer, Alice Springs	17 May 2006	Law Society, Alice Springs
Senior Investigation Officer, Alice Springs	18 May 2006	Public Sector Management Course, Alice Springs

Ombudsman	25 May 2006	Territory Housing Appeal Board
Ombudsman	2 June 2006	NT Police
Ombudsman	9 June 2006	Womens Network
Ombudsman	15 June 2006	NT Police, Senior Officers
Deputy Ombudsman	19 June 2006	NT Police, Recruit Squad

Conferences/Meetings

Ombudsman	25 October 2005	Meeting with Chairperson ANZOA, and day at Power and Water Ombudsman's Office
Ombudsman	7 December 2005	Meeting with Community Development Officer and Aboriginal Liaison Officer, Electricity and Water Ombudsman (NSW)
Ombudsman	9 December 2005	Meeting of Police Oversight Agencies

Appendix B

DETAILED COMPLAINT STATISTICS FOR 2005/06

AGENCIES THE SUBJECT OF COMPLAINTS

The following is a detailed breakdown by agency of the 870 complaints accepted by the Office of the Ombudsman. Agencies not included in the following table have not been the subject of any complaints.

NT AGENCIES (EXCLUDING CORRECTIONS AND LOCAL GOVERNMENT)

AGENCY	2005/06
Business, Economic and Regional Development	1
Business Development	1
Charles Darwin University	3
Corporate and Information Services	3
Procurement Policy	2
Procurement Review Board	1
Employment, Education and Training	6
College	1
Strategic Services and Operations	1
NT Worksafe	1
Primary School	3
Health and Community Services	20
Community Services	18
Strategic Policy and Financial Services	1
Health Professionals Licensing Services	1
Justice	25
Community Corrections	1
Consumer Affairs	5
Correctional Services (Administrative)	4
Office of Courts Administration	1
Fines Recovery Unit	4
Magistrates Court	3
Public Trustees Office	6
Small Claims Court	1
Legal Aid Commission (NT)	2
Local Government, Housing and Sport	23
Animal Welfare Unit	1
Local Government	1
Pool Fencing Authority	3
Territory Housing	18
NT Electoral Commission	1
Office of the Commissioner for Public Employment	1

Police, Fire and Emergency Services	8
Police Administration (not member)	5
Emergency Services	1
Fire Services	2
Power and Water Corporation	18
Electric Generation and Supply	15
Non Electricity Sewerage Drainage or Water Issues	2
Public Water Supplies	1
Primary Industries, Fisheries and Mines	3
Minerals and Energy	2
Primary Industry Group	1
Teachers Registration Board	1
Territory Insurance Office	6
Treasury	7
Commissioner of Taxes	2
Racing, Gaming and Licensing	5

CORRECTIONAL SERVICES

Sections	2005/06
Correctional Services	89
Executive	2
Correctional Centre – Darwin Prison	58
Correctional Centre – Alice Springs Prison	29

LOCAL GOVERNMENT COUNCILS

Local Government Councils	2005/06
Councils	18
Alice Springs Town Council	3
Darwin City Council	4
Elliot District Community Government Council	1
Katherine Town Council	3
Litchfield Town Council	1
Ngukurr Community Council	1
Palmerston Town Council	1
Peppimenarti Community Council	1
Pine Creek Community Government Council	2
Other	1

NT POLICE

NT Police	313
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REFERRED TO AGENCY

Referred to Agency	322
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ISSUES IN COMPLAINTS RECEIVED

Information is recorded about the issues described in every complaint, and often more than one issue is recorded against a complaint. Standard matter descriptions are used and these are grouped under categories.

An understanding of the issues raised in complaints can serve to highlight areas where service and administrative improvement is warranted. This section provides information about the total number of complaints received against the different categories.

NT AGENCIES (INCLUDING LOCAL GOVERNMENT)

Issues	2005/06
Other	2
Practices or procedures	55
Program/Service delivery	30
Fee	16
Disclosure of Information	11
Misapplication of law/policy	17
Attitude	12
Grievance	17
Compensation	1
Misconduct	3
Natural Justice	3
Exercise discretion	3
Tenders	6
Total	176

CORRECTIONAL SERVICES

Issues	2005/06
Prisoner rights	39
Administrative acts	19
Attitude	9
Misconduct	9
Transfers	5
Medical	10
Mail	4
Property	11
Security	9
Grievance	9
Assault	3
Practice and procedures	0
Total	127

NT POLICE

Issues	2005/06
Police procedures	138
Abuse/Rudeness	83
Arrest	54
Assault not major injury	42
Harassment, threats, etc	37
Failure to perform duty	36
Information	33
Custodial/Watchouse	30
Search	29
Juveniles	15
Custody of property	14
Other misconduct	10
Traffic	10
Breach of rights	9
Warrants	8
Prosecutorial discretion	7
Corruption/Favouritism	6
Quality of investigations	4
Assault causing major injury	4
Inadvertent wrong treatment	2
Firearms	2
Total	573

Appendix C

FREEDOM OF INFORMATION

INTRODUCTION

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

The Office of the Ombudsman is a 'public sector organisation' for the purposes of the Act and the information held by it may be the subject of an application under the Act. The Act requires an agency to make a decision on applications within 30 days, but this may be extended if consultations are required. An applicant may have to pay processing charges. Internal review of decisions is available to applicants whose applications are refused. External review, through the Information Commissioner, became available as of 1 July 2004.

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

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

- organisation (refer page 11 of this Annual Report)
- functions (refer page 10 of this Annual Report)

INFORMATION HELD BY THE OFFICE OF THE OMBUDSMAN

Broadly speaking, the Ombudsman holds information in the following categories:

- (a) information related to inquiries and investigations into complaints against any Northern Territory Government Agency, Local Government Council or the actions of a member of the NT Police Force. This information includes: complaints; correspondence and consultations with complainants and agencies; and other information sources such as background material, records of conversation, analysis and advice and reports;
- (b) information related 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
- (c) information related 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:

1. Administrative and policy files

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

These files are usually housed in Darwin, although Alice Springs has some administrative files relating to its own operations. There are also files of documents 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.

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

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

2. Complaint files

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

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

Paper records have previously been stored in the office where the complaint was received, although there are occasions when files created in one office are located in another office. On completion of inquiries, complaint files or documents are stored in the Darwin office.

Access to the information on these files is generally restricted depending on who is seeking the information. Some information may be accessible under the *Information Act* and complainants will generally have a greater right of access to their own file than a third party (see 'Procedures for Providing Access to Information' below).

3. FOI request files

The office keeps files relating to requests under the *Information Act* for access to documents in the possession of the Ombudsman. A register of such requests will also be kept by the Ombudsman.

Some information on these files may be accessible (see 'Procedures for Providing Access to Information' below).

4. Legal opinions

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

Access to information contained in legal opinion files are predominately covered by privilege from release but may be provided depending on the content of the relevant documents. Charges may also apply (see 'Procedures for Providing Access to Information' below).

5. Annual reports

Copies of the current Annual Report and some previous Annual Reports are available 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 (subject to availability).

6. 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 Offices in Darwin and Alice Springs and some are available on the Ombudsman's website at www.ombudsman.nt.gov.au.

7. Manuals and guidelines

The Ombudsman has the following manuals:

- **FOI Manual:** The Manual provides Ombudsman staff with guidance on dealing with FOI requests.
- **Procedures Manual:** This sets out general information about the role and functions of the Ombudsman and the policies and procedures applicable to officers dealing with complaints.

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

8. Service Standards

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

DISCLOSURE OF INFORMATION

The information the Ombudsman holds may be disclosed:

- (a) As required by law (although the relevant legislation provides substantial protection for investigation information);
- (b) On request, for example in relation to information sought by a complainant about the investigation of his or her own complaint, where the documents are routine, an ongoing investigation will not be prejudiced and there is no other interest likely to be adversely affected by disclosure; or
- (c) As required under the *Information Act*. The Act creates a general right of access to documents held by government sector organisations, subject to exemptions which recognise the need to protect sensitive personal and commercial information and some government records. Where a person makes a request under the Act, an agency must respond within specified times and the applicant is able to seek internal and external review of any adverse decision.

PROCEDURES FOR PROVIDING ACCESS TO INFORMATION

1. Documents available

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

- **Brochures:** No charge
- **Annual Report:** \$20.00 for the purchase of a hard copy of the report
- **Service Standards:** No charge
- **Procedures Manual:** \$75.00 for the purchase of a hard copy
- **FOI Manual:** \$50.00 for the purchase of a hard copy.

2. 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 either the Darwin Office or the Alice Springs Office. Alternatively, current or past complainants or respondents may choose to approach the relevant Case Officer directly. Each office is open between 8.00am and 4.30pm on weekdays. Access via these arrangements are free.

3. Access Under the Information Act

A person may apply for access to information under the provisions of the *Information Act*. A processing charge may apply. Inquiries about this process should be directed to the FOI Coordinator on 8999 1950. An application form can be obtained by phoning 8999 1818.

The *Information Act* in Section 29 provides that if a request is made to one agency and the information sought originated from or is more closely related to the operations of another public sector organisation the application may be transferred to that more appropriate organisation. Most information held by the Ombudsman falls

into the category of derivative information covered by Section 29 and applications are transferred. Since 1 July 2006 by amendment to the *Information Act* documents and information held by the Ombudsman in connection with an investigation are exempted from release. It will become the practice to transfer applications to the appropriate organisation.

PROCEDURES FOR CORRECTING INFORMATION

Inquiries about correcting personal information should be directed to the relevant Case Officer or the FOI Coordinator on 8999 1950.

Appendix D

SERVICE STANDARDS OF THE OFFICE OF THE OMBUDSMAN

THOSE WE SERVE:

The Ombudsman's clients are:

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

OUR COMMITMENT:

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

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

Fairness

We promise that:

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

Independence

We promise to be independent, objective and impartial.

Professionalism

We will:

- Be ethical, honest and will respect your confidentiality.

- Act with integrity and consistency.
- Be courteous, helpful and approachable.
- Be trained and competent and will provide information about our role and processes.
- Declare any interest which conflicts with our duty to properly determine complaints.
- Assist you by providing appropriate referrals to another organisation if your complaint is beyond our jurisdiction.
- Work together as a team to provide you with the highest standard of service possible.

Accountability

We will strive to:

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

Accessibility

- Our office hours are 8.00 am to 4.30 pm Monday to Friday.
- We will visit regional centres on a regular basis.
- Toll free telephone access within the Northern Territory will be maintained.
- Information material about our work will be freely available.
- We are trained in the use of translation and interpreter services and can arrange these services if required.
- We will use plain language in communicating with you in our letters and during interviews.
- You are welcome to bring a friend or mentor with you to talk with us, or to assist you in lodging your complaint.
- You can have someone else lodge a complaint on your behalf. However, you will need to authorise that person to act for you.
- Wheelchair access is provided at both Darwin and Alice Springs Offices.
- We will give you the name of a contact officer from our office whom you can contact to check on progress of your complaint at any time.
- You can lodge a complaint in person, in writing, by telephone or fax, or via the Internet. However, you will need to consider the risks of disclosing personal or confidential information on the Internet.

Timeliness

Where possible:

- Your complaint will be acknowledged within 7 days and you will be promptly informed of the action to be taken.
- Telephone, facsimile and email messages will be answered promptly, usually within 24 hours.
- Letters will be acknowledged within 7 days of receipt.
- You will be informed of the progress of the complaint regularly and usually every 6-8 weeks.
- We will be flexible in our approach and try to achieve a conciliated resolution of the complaint when appropriate.
- We will respond promptly to requests for information.
- If we cannot meet these benchmarks in your case you will be informed.

Courtesy and Sensitivity

We will always strive to:

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

Our Expectations of You

All we ask is that you:

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

Our Commitment to Continuous Improvement

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

How We Will Respond to Your Complaint

The Ombudsman's Office is an office of last resort. Our legislation requires a person to, wherever possible, refer their complaint back to the agency complained about, to

try and resolve the matter quickly. However, if you still remain dissatisfied with that approach, you can contact us with your complaint for further assistance. We will first assess your complaint to decide whether or not it is within the Ombudsman's power to investigate. If it is not, we will assist you in referring your complaint to the appropriate agency or other organisation. When considering whether to investigate a matter ourselves or hand it over to another agency, we are obliged to consider the public interest and the capacity of the agency to deal with the matter. We also do not determine guilt. Only a court or tribunal can decide if someone is guilty or not guilty.

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

What the Ombudsman Cannot Do

The Ombudsman must comply with the terms of the *Ombudsman (Northern Territory) Act*. The Act states that the Ombudsman cannot:

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

Appendix E

FINANCIAL STATEMENT OVERVIEW

During the 2005-06 financial year the Office of the Ombudsman for the Northern Territory and the Health and Community Services Complaints Commission received total operating revenue of \$2,196,000. This amount includes \$27,000 for Agency Agreements with the Commonwealth Ombudsman and the Department of Justice; \$15,000 Apprentice/trainee incentive funding; \$1,864,000 output revenue and \$290,000 for services received free of charge from the Department of Corporate and Information Services.

Operating expenses comprised \$1,597,000 for employee expenses, \$283,000 for the purchase of goods and services, \$290,000 for services received free of charge from the Department of Corporate and Information Services. Depreciation and Amortisation totalled \$9,000.

The net result for 2005/06 is a surplus of \$18,000 and can be attributed to the reduction in the provision for employee entitlements.

CERTIFICATION OF FINANCIAL STATEMENTS

We certify that the attached financial statements for the Ombudsman for the Northern Territory 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 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 2006 and the financial position on that date.

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

CAROLYN RICHARDS
Ombudsman and Accountable Officer

KAREN LEWIS
Business Manager

Date:

Date:

**OMBUDSMAN FOR THE NORTHERN TERRITORY
OPERATING STATEMENT
For the year ended 30 June 2006**

	NOTE	2006 \$'000	2005 \$'000
INCOME			
Output revenue		1,864	1,970
Sales of goods and services		42	44
Goods and Services received free of charge	4	290	288
TOTAL INCOME	3	2,196	2,302
EXPENSES			
Employee expenses		1,597	1,589
<i>Administrative expenses</i>			
Purchases of Goods and Services	5	282	393
Repairs and Maintenance		1	0
Depreciation and Amortisation	8	9	22
Other Administrative Expenses		290	288
TOTAL EXPENSES	3	2,178	2,293
NET SURPLUS/ (DEFICIT)	11	18	9

The operating statement is to be read in conjunction with the notes to the financial statements.

**OMBUDSMAN FOR THE NORTHERN TERRITORY
BALANCE SHEET
For the year ended 30 June 2006**

	NOTE	2006 \$'000	2005 \$'000
ASSETS			
Current assets			
Cash and deposits	6	32	(9)
Receivables	7	4	3
Prepayments		0	1
Total current assets		<u>36</u>	<u>(5)</u>
Non-current assets			
Property, plant and equipment	8	54	63
Total non-current assets		<u>54</u>	<u>63</u>
TOTAL ASSETS		<u>90</u>	<u>58</u>
LIABILITIES			
Current liabilities			
Payables	9	(27)	(19)
Provisions	10	(174)	(177)
Other liabilities			
Total current liabilities		<u>(201)</u>	<u>(196)</u>
TOTAL LIABILITIES		<u>(201)</u>	<u>(196)</u>
NET ASSETS		<u>(111)</u>	<u>(138)</u>
EQUITY			
Capital	11	98	107
Accumulated funds	11	12	30
TOTAL EQUITY		<u>111</u>	<u>138</u>

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

**OMBUDSMAN FOR THE NORTHERN TERRITORY
STATEMENT OF CHANGES IN EQUITY
For the year ended 30 June 2006**

	NOTE	2006 \$'000	2005 \$'000
BALANCE OF EQUITY AT 1 JULY		<u>(138)</u>	<u>(161)</u>
Capital			
Balance at 1 July	11	(107)	(122)
Equity Injections		9	66
Equity Withdrawals		0	(52)
Balance at 30 June		<u>(98)</u>	<u>(107)</u>
Accumulated Funds			
Balance at 1 July	11	(30)	(39)
Surplus/(Deficit) for the Period		18	9
Balance at 30 June		<u>(12)</u>	<u>(30)</u>
BALANCE OF EQUITY AT 30 JUNE		<u>(111)</u>	<u>(138)</u>

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

**OMBUDSMAN FOR THE NORTHERN TERRITORY
CASH FLOW STATEMENT
For the year ended 30 June 2006**

	NOTE	2006 \$'000 (Outflows)/ Inflows	2005 \$'000 (Outflows)/ Inflows
CASH FLOWS FROM OPERATING ACTIVITIES			
Operating receipts			
<i>Receipts from sales of goods and services</i>			
Output revenue received		1,864	1,970
Other agency receipts		66	78
Interest received			
Total operating receipts		1,930	2,048
Operating payments			
Payments to employees		(1,594)	(1,614)
Payments for goods and services		(304)	(442)
Total operating payments		(1,898)	(2,057)
Net cash from/(used in) operating activities	12	32	(9)
CASH FLOWS FROM INVESTING ACTIVITIES			
CASH FLOWS FROM FINANCING ACTIVITIES			
Financing receipts			
<i>Equity Injections</i>			
Capital appropriation	11		
Equity injection		9	
Total financing receipts		9	
Financing payments			
Finance lease payments		0	0
Equity withdrawals	11	0	(52)
Total financing payments		0	(52)
Net cash from/(used in) financing activities		9	(61)
Net increase/(decrease) in cash held		41	(61)
Cash at beginning of financial year		(9)	52
CASH AT END OF FINANCIAL YEAR	6	32	(9)

The cash flow statement is to be read in conjunction with the notes to the financial statements

**OMBUDSMAN FOR THE NORTHERN TERRITORY
NOTES TO FINANCIAL STATEMENTS
For the year ended 30 June 2006**

INDEX OF NOTES TO THE FINANCIAL STATEMENTS

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

INCOME

4. Goods and Services Received Free of Charge

EXPENSES

5. Purchases of Goods and Services

ASSETS

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

LIABILITIES

9. Payables
10. Provisions

EQUITY

11. Equity

OTHER DISCLOSURES

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

1. OBJECTIVES AND FUNDING

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

The Department is predominantly funded by Parliamentary appropriations. The financial statements encompass all funds through which the Department controls resources to perform its functions.

In the process of reporting on the Department as a single Agency, all intra Agency transactions and balances have been eliminated.

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 Treasurer's Directions. The Financial Management Act requires the Ombudsman for the NT to prepare financial statements for the year ended 30 June 2006 based in the form determined by the Treasurer. The form of Agency financial statements is to include:

- (i) a Certification of the Financial Statements;
- (ii) an 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 form of Agency financial statements is consistent with the accrual budget format and the requirements of Australian Accounting Standards, including AASB 101, AASB 107, and AAS 29. The format also requires additional disclosures specific to Territory Government entities.

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 been prepared in accordance with the historical cost convention.

This is the Ombudsman for the NT's first financial report prepared following the adoption of Australian equivalents to International Financial Reporting Standards (IFRS). The adoption of Australian equivalents to IFRS has resulted in no adjustments to the Agency's financial statements.

(b) Agency and Territory Items

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

Central Holding Authority

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

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

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

The Central Holding Authority recognises and records all Territory items, and as such, these items are not included in the Agency's financial statements.

(c) Comparatives

Where necessary, comparative information for the 2004/05 financial year has been reclassified to provide consistency with current year disclosures.

In accordance with AASB 1: First Time Adoption of Australian Equivalents to IFRS, comparative information, with the exception of that relating to financial instruments, has been adjusted for the adoption of Australian equivalents to IFRS. Where changes to financial instruments are required as a result of the adoption of Australian equivalents to IFRS, any adjustments will occur as at 1 July 2005 (the 2005/06 financial year)

(d) Presentation and Rounding Amounts

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

(e) Changes in accounting policies

There have been no changes to accounting policies adopted in 2005-06 as a result of management decisions. Any changes to accounting policies that have been required as a result of the adoption of Australian equivalents to IFRS are not accounting policy changes for the purposes of AASB 108: Accounting Policies, Changes in Estimates and Errors.

(f) 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.

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 Statement of Cash Flows 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.

(g) Income recognition

Income encompasses both revenue and gains.

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

Output revenue

Output revenue represents Government funding for Agency operations and is calculated as the net cost of Agency outputs after taking into account funding from Agency income. The net cost of Agency outputs for Output Appropriation purposes does not include any allowance for major non-cash costs such as depreciation.

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

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.

Sale of goods

Revenue from the sale of goods is recognised (net of returns, discounts and allowances) when control of the goods passes to the customer and specified conditions associated with the sale have been satisfied.

Rendering of services

Revenue from rendering services is recognised on a stage of completion basis.

Interest revenue

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

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.

Contribution 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.

(h) Repairs and Maintenance Expenses

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.

(i) Interest expenses

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

(j) Cash and Deposits

For the purpose 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.

(k) Inventories

General inventories are all inventories other than those held for distribution and are carried at the lower of cost and net realisable value. Cost of inventories includes all costs associated with bringing the inventories to their present location and condition. When inventories are acquired at no or nominal consideration, the cost will be the current replacement cost at date of acquisition.

Inventories held for distribution are those inventories distributed at no or nominal consideration, and are carried at the lower of cost and current replacement cost.

(l) Receivables

Receivables include accounts receivable and other receivables and are recognised at fair value less any allowance for uncollectible amounts. The collectibility of receivables is reviewed regularly, and part of this process is to assess, at reporting date, whether an allowance for doubtful debts is required.

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

(m) Property, Plant and Equipment

Acquisitions

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

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

Complex assets

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

Subsequent additional costs

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

Construction work in progress

As part of Working for Outcomes, the Department of Planning and 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 Planning and Infrastructure and the cost of construction work in progress is recognised as an asset of that Department. Once completed, capital works assets are transferred to the Agency.

Revaluations

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

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

Fair value is the amount for which an asset could be exchanged, or liability settled, between knowledgeable, willing parties in an arms length transaction. Other classes of non-current assets are not subject to revaluation and are measured at cost.

The unique nature of some of the heritage and cultural assets may preclude reliable measurement. Such assets have not been recognised in the financial statements.

Depreciation and amortisation

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

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

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

	<u>2006</u>	<u>2005</u>
Buildings	N/A	N/A
Infrastructure Assets	N/A	N/A
Plant and equipment	10 Years	10 Years
Leased plant and equipment	N/A	N/A
Heritage and Cultural assets	N/A	N/A
Biological Assets	N/A	N/A
Intangibles	N/A	N/A

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

Assets Held for Sale

Assets held for sale consist of those assets which management has determined are available for immediate sale in their present condition, and their sale is highly probable within the next twelve months.

These assets are measured at the lower of the asset's carrying amount and fair value less costs to sell. These assets are not depreciated. Non-current assets held for sale have been recognised on the face of the financial statements as current assets.

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 assets 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.

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

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

(n) Leased assets

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

Finance leases

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

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

Operating leases

Operating lease payments made at regular intervals throughout the term are expensed when the payments are due, except where an alternative basis is more representative of the pattern of benefits to be derived from the lease property.

(o) 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.

(p) Employee benefits

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

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

Employee benefits 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 introduction of Working for Outcomes, the Central Holding Authority assumed the long service leave liabilities of Government Agencies, including Ombudsman for the Northern Territory and as such no long service leave liability is recognised in Agency financial statements.

(q) Superannuation

Employees' Superannuation entitlements are provided through the:

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

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

(r) Contribution 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 and note 11 provide additional information in relation to contributions by, and distributions to, Government.

(s) Commitments

Disclosures in relation to capital and other commitments, including lease commitments are shown at note 14 and are consistent with the requirements contained in AASB 101, AASB 117 and AAS 29.

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

3 STATEMENT OF FINANCIAL PERFORMANCE BY OUTPUT GROUPS

	Note	Output Group 1		Output Group 2		Total	
		2006 \$'000	2005 \$'000	2006 \$'000	2005 \$'000	2006 \$'000	2005 \$'000
OPERATING REVENUE							
Taxation revenue							
<i>Grants and subsidies Revenue</i>							
Current							
Capital							
Output revenue		1355	1416	509	554	1864	1970
Sales of Goods and Services		42	44			42	44
Interest Revenue							
Goods and Services Received Free of Charge	4	260	216	30	72	290	288
Gain on Disposal of Assets							
Other Income							
TOTAL OPERATING REVENUE		1657	1676	539	626	2196	2302
OPERATING EXPENSES							
Employee expenses		1180	1199	417	390	1597	1589
<i>Administrative expenses</i>							
Purchases of goods and services	5	206	302	75	92	281	394
Repairs and maintenance		1	0			1	0
Depreciation and amortisation	8	9	22			9	22
Other administrative expenses		260	216	30	72	290	288
<i>Grants and subsidies</i>							
Current							
Capital							
Community service obligations							
Interest expense							
TOTAL OPERATING EXPENSES		1656	1739	522	554	2178	2293
NET OPERATING SURPLUS/ (DEFICIT)	11	1	(63)	17	72	18	9

This Operating Statement by Output Group is to be read in conjunction with the notes to the financial statements

	<u>2006</u> <u>\$'000</u>	<u>2005</u> <u>\$'000</u>
4 GOODS AND SERVICES RECEIVED FREE OF CHARGE		
Corporate and information services	290	288
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)	16	29
Advertising (2)	1	0
Marketing and Promotion (3)	5	3
Document Production	11	20
Legal Expenses (4)	6	27
Recruitment (5)	3	22
Training and Study	21	18
Official Duty Fares	8	15
Travelling Allowance	3	8
(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.		
(5) Includes recruitment related advertising costs.		
6 CASH AND DEPOSITS		
Cash on hand	1	0
Cash at bank	32	(9)
On call or short term deposits		
	<u>32</u>	<u>(9)</u>
7 RECEIVABLES		
Current		
Accounts Receivable	2	0
Less: Allowance for Doubtful Accounts Receivable	<u>0</u>	<u>0</u>
	2	0
Interest Receivables		
GST Receivables	2	3
Other Receivables		
Non-current		
Other receivables		
Total receivables	<u>4</u>	<u>3</u>

8 PROPERTY, PLANT AND EQUIPMENT
Plant and equipment

At cost	77	77
Less: Accumulated Depreciation	(22)	(14)
	54	63

Computer Software

At cost	70	70
Less: Accumulated Depreciation	(70)	(70)
	0	0

Leased Computer Software

At capitalised cost	9	9
Less: Accumulated Amortisation	(9)	(9)
	0	0

Total property, plant and equipment

54	63
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Impairment of Property, Plant and Equipment

Agency property, plant and equipment assets were assessed for impairment as at 30 June 2006. No impairment adjustments were required as a result of this review.

PROPERTY, PLANT AND EQUIPMENT (Continued)

Property, Plant and Equipment Reconciliations

A reconciliation of the carrying amount of property, plant and equipment at the beginning and end of 2005-06 is set out below:

	Land	Buildings	Infrastructure	Construction (Work in Progress)	Plant & Equipment	Leased Plant & Equipment	Heritage & Cultural Assets	Biological Assets	Intangibles	Total
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Carrying Amount as at 1 July 2005	Nil	Nil	Nil	Nil	63	Nil	Nil	Nil	Nil	63
Additions										
Disposals										
Depreciation and Amortisation					(9)					(9)
Revaluation Increments/(Decrements)										
Carrying Amount as at 30 June 2006					54					54
Carrying Amount as at 1 July 2004	Nil	Nil	Nil	Nil	4		Nil	Nil	Nil	4
Additions					66	14				80
Disposals										
Depreciation and Amortisation					(8)	(14)				(22)
Revaluation Increments/(Decrements)										
Carrying Amount as at 30 June 2005					63	0				63

	<u>2006</u> <u>\$'000</u>	<u>2005</u> <u>\$'000</u>
9 PAYABLES		
Accounts Payable	(17)	(14)
Accrued Expenses	(10)	(4)
	<u>(27)</u>	<u>(19)</u>
10 PROVISIONS		
Current		
<i>Employee benefits</i>		
Recreation Leave	(132)	(140)
Leave loading	(20)	(13)
• <i>Other current provisions</i>		
Other provisions	(22)	(25)
	<u>(174)</u>	<u>(177)</u>
Non-current		
Other provisions		
Total provisions	<u>(174)</u>	<u>(177)</u>
The Agency employed 20 employees as at 30 June 2006 (17 employees as at 30 June 2005).		
11 EQUITY		
Equity represents the net deficiency in the Ombudsman for the NT liabilities over net assets. This deficiency in liabilities over assets is recorded in the Central Holding Authority as described in note 2 (b).		
Capital		
Balance as at 1 July	(107)	(122)
<i>Equity injections</i>		
Capital Appropriation	9	0
Equity transfers In	0	66
<i>Equity withdrawals</i>		
Capital Withdrawal	0	(52)
Equity Transfers Out		
Balance as at 30 June	<u>(98)</u>	<u>(107)</u>
Accumulated funds		
Balance as at 1 July	(30)	(39)
Surplus / (Deficit) for the Period	18	9
Balance as at 30 June	<u>(12)</u>	<u>(30)</u>

	2006 \$'000	2005 \$'000
12 NOTES TO THE CASH FLOW STATEMENT		
<p>The total of Agency Cash and Deposits of \$32,000 recorded in the Balance sheet is consistent with that recorded as 'cash' in the Cash Flow Statement.</p>		
<p>Reconciliation of Net Surplus (Deficit) to Net Cash From Operating Activities</p>		
Net Surplus/(Deficit)	18	9
<i>Non-cash items</i>		
Depreciation	9	21
Amortisation	0	0
(Profit)/loss on disposal of non-current assets		
<i>Changes in Assets and Liabilities</i>		
Decrease/(Increase) in Receivables	(1)	2
Decrease/(Increase) in Prepayments	1	0
Decrease/(Increase) in Other Assets	0	0
(Decrease)/Increase in Payables	8	(12)
(Decrease)/Increase in Provision for Employee Benefits	(1)	(29)
(Decrease)/Increase in Other Provisions	(2)	(1)
Net cash flows from/(used in) operating activities	32	(9)

13 FINANCIAL INSTRUMENTS

A financial instrument is a contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity. Financial instruments held by the Ombudsman for the NT include cash and deposits, receivables, payables and finance leases. The Ombudsman for the NT has limited exposure to financial risks as discussed below.

(a) Credit Risk

The Agency has limited credit risk exposure (risk of default). In respect of any dealings with organisations external to Government, the Agency has adopted a policy of only dealing with credit worthy organisations and obtaining sufficient collateral or other security where appropriate, as a means of mitigating the risk of financial loss from defaults.

The carrying amount of financial assets recorded in the financial statements, net of any allowance for losses, represents the Agency's maximum exposure to credit risk without taking account of the value of any collateral or other security obtained.

(b) Net fair Value

The carrying amount of financial assets and financial liabilities recorded in the financial statements approximates their respective net fair values. Where differences exist, these are not material.

(c) Interest Rate Risk

The Ombudsman for the Northern Territory 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 Ombudsman for the NT to interest rate risk.

	Weighted Average interest rate %	Fixed Interest Maturity					Total \$'000
		Variable interest \$'000	Under 1 year \$'000	1 to 5 years \$'000	Over 5 years \$'000	Non-Interest bearing \$'000	
2006 Financial Assets							
Cash and Deposits		N/A	N/A	N/A	N/A	32	32
Receivables		N/A	N/A	N/A	N/A	4	4
Total Financial Assets:						36	36
Financial Liabilities							
Deposits Held		N/A	N/A	N/A	N/A	N/A	0
Payables		N/A	N/A	N/A	N/A	(27)	(27)
Borrowings and Advances		N/A	N/A	N/A	N/A	N/A	0
Finance Lease Liabilities		N/A	N/A	N/A	N/A	N/A	0
Total Financial Liabilities:						(27)	(27)
Net Financial Assets (Liabilities):		Nil	Nil	Nil	Nil	9	9

	Weighted Average interest rate %	Fixed Interest Maturity					Total \$'000
		Variable interest \$'000	Under 1 year \$'000	1 to 5 years \$'000	Over 5 years \$'000	Non-Interest bearing \$'000	
2005 Financial Assets							
Cash and Deposits		N/A	N/A	N/A	N/A	N/A	0
Receivables		N/A	N/A	N/A	N/A	3	3
Total Financial Assets:						3	3
Financial Liabilities							
Deposits Held		N/A	N/A	N/A	N/A	N/A	0
Payables		N/A	N/A	N/A	N/A	(19)	(19)
Borrowings and Advances		N/A	N/A	N/A	N/A	N/A	0
Finance Lease Liabilities		N/A	N/A	N/A	N/A	N/A	0
Total Financial Liabilities:						(19)	(19)
Net Financial Assets (Liabilities):		Nil	Nil	Nil	Nil	(16)	(16)

14 COMMITMENTS

Operating Lease Commitments

The Agency leases property under non-cancellable operating leases expiring from 1 to 5 years. Leases generally provide the Agency with a right of renewal at which time all lease terms are renegotiated. The Agency also leases items of plant and equipment under non-cancellable operating leases. Future operating lease commitments not recognised as liabilities are payable as follows:

	2006 \$'000	2005 \$'000
Later than one year and not later than five years	3	3

15 CONTINGENT LIABILITIES AND CONTINGENT ASSETS

a) Contingent liabilities

The Ombudsman for the Northern Territory has one contingent liability as at 30 June 2006:

1. As a result of an Agreement for enhancements to the ProActive Complaint Management System. The liability may arise where a third party relies on incorrect information supplied by the system. The risk to the Territory under the Agreement is considered to be minimal and the contingent liability resulting from this undertaking is unquantifiable

The Ombudsman for the Northern Territory had two contingent liabilities as at 30 June 2005:

1. As a result of an Agreement for enhancements to the ProActive Complaint Management System. The liability may arise where a third party relies on incorrect information supplied by the system. The risk to the Territory under the Agreement is considered to be minimal and the contingent liability resulting from this undertaking is unquantifiable.
2. As a result of a finance lease required to purchase required Microsoft Licences over a two year period. There is a general indemnity clause, indemnifying the Lessor employees, officers, directors, agents and assignees against Claims arising from or in connection with the agreement. The risk to the Territory under the Agreement is considered to be minimal and the contingent liability resulting from this undertaking is unquantifiable.

16 EVENTS SUBSEQUENT TO BALANCE DATE

No events have arisen between the end of the financial year and the date of this report that require adjustment to, or disclosure in these financial statements.

17 WRITE OFFS, POSTPONEMENTS AND WAIVERS

The Ombudsman for the Northern Territory had no write offs, postponements or waivers in 2004-05 and 2005-06.

Appendix F

INDEX OF TABLES, GRAPHS & CHARTS

CHARTS

Chart No.	Description	Page No
1	New approaches for General and NT Police combined	14
2	Manner of approach as a percentage	14
3	Geographic source of complaint	15
4	All inquiries – 3 year comparison	15
5	Net inquiries by jurisdiction	16
6	Inquiry issues – Correctional Services	16
7	Inquiry issues – General/Local Government	16
8	Inquiry issues – Police	17
9	Inquiry outcomes	17
10	All complaints – 3 year comparison	17
11	Agencies subject to complaints	18
12	Issues in Correctional Services complaints	19
13	Issues in NT Agency complaints (excl. Corrections and NT Police)	20
14	Outcomes achieved from finalised complaints (excl. NT Police)	21
15	Issue determinations (excluding NT Police)	21
16	Issues raised in complaints (Police)	30
17	Finalised complaints (Police)	32
18	Outcomes achieved from finalised complaints (Police)	32
19	Issue determinations (Police)	33

TABLES

Table No.	Description	Page No
1	Age of Police complaints with Ombudsman as at 31/10/2005	6
2	Age of Police complaints with EPSC as at 31/10/2005	6
3	Age of Police complaints with EPSC as at 30/06/2006	6
4	Ombudsman's establishment	12
5	Comparison between approaches received over past 3 years	15
6	Summary of net inquiries	16
7	Corrections issues most complained about – 3 year comparison	19
8	General/Local Government issues most complained about – 3 year comparison	20
9	Police issues most complained about – 3 year comparison	31
10	Recommendations made	37
11	Access and awareness visits – 3 year comparison	55

HOW TO CONTACT THE OMBUDSMAN

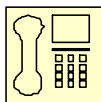
In Person:



Darwin
12th Floor
NT House
22 Mitchell Street
Darwin

Alice Springs
Ground Floor
Centrepont Building
Hartley Street
Alice Springs

By Telephone:



(08) 8999 1818

or

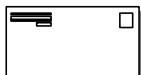
1800 806 380 (Toll Free)

By Email:



nt.ombudsman@nt.gov.au

In Writing:



GPO Box 1344
DARWIN NT 0801

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