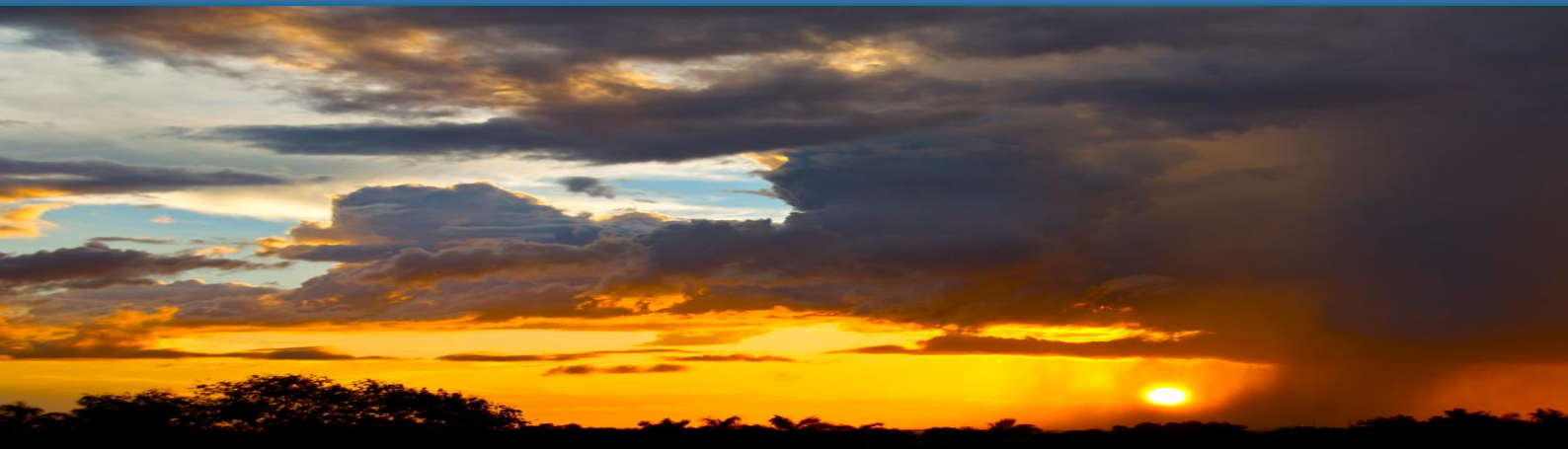




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# **Thirty Fourth Annual Report 2011/12**

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Legislative Assembly of the Northern Territory*

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**OMBUDSMAN FOR THE NORTHERN TERRITORY  
OF AUSTRALIA**

**Thirty Fourth Annual Report 2011-12**

*The Honourable Terry Mills, MLA  
Chief Minister  
Parliament House  
DARWIN NT 0800*

*Dear Chief Minister*

*In accordance with the provisions of Section 152 of  
the Ombudsman Act 2009, the Annual Report on the  
Office of the Ombudsman for the year ending 30  
June 2012 is submitted to you for tabling in the  
Legislative Assembly.*

*Yours sincerely*

A handwritten signature in blue ink, appearing to read 'Brenda Monaghan'.

*Brenda Monaghan  
Acting Ombudsman*

*30 September 2012*

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

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Website: <http://www.ombudsman.nt.gov.au>

## STATEMENT OF ACCOUNTABLE OFFICER

I advise in respect of my duty as Accountable Officer, and to the best of my knowledge and belief:

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

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

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



Brenda Monaghan<sup>1</sup>  
Acting Ombudsman  
30 September 2012

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<sup>1</sup> Carolyn Richards was Ombudsman and Accountable Officer during the reporting period. Ms Richards completed the Representation Letter for the Treasurers Annual Financial Report certifying the 11/12 Financial Statements before her retirement on 28 August 2012.

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Ombudsman  
Ombudsman

**Introduction and  
Overview**

Ombudsman

## OMBUDSMAN'S FOREWORD

The 2011/2012 financial year was the 34th anniversary of this Office - a year of significant events. It was the last year of Ms Carolyn Richard's seven year term as Ombudsman for the Northern Territory. Ms Richards remained to the end a passionate and vocal *Watchdog*, intent on improving the quality of decision-making and administrative practices in public authorities. Ms Richards and her staff are thanked for their commitment to the work of this Office.



A further noteworthy event occurred in October 2011 when the Health & Community Services Complaints Commission (HCSCC), previously co-located in the Ombudsman's Office, moved to separate premises. This restructure and relocation took some time and effort to complete but our colleagues are now firmly established in their own offices co-located with the NT Children's Commissioner. We look forward to maintaining a good working relationship with them and other complaint bodies.

2011/12 also saw the end of our close collaboration with the Commonwealth Ombudsman's Office. Commonwealth Ombudsman staff have shared our premises since 1995. This arrangement has been mutually beneficial – particularly as it has enabled us to improve our service to remote communities through good collaboration. Following their departure in September 2012, we expect to receive more complaints about service delivery in remote regions, particularly housing issues. More comment is made on this issue at page 25 of this report.

The year was a busy one. Complaints about Police and almost all public sector agencies and local councils fall within our remit. More people than ever approached the Office asking for help or advice about a myriad of matters. Many complaints and concerns were dealt with quickly or referred to other agencies. Complaints about Police were investigated by NT Police Professional Standards Command with our oversight in accordance with the legislation. A small number of complaints identified systemic issues and in the public interest became the basis for extensive Ombudsman investigations. These inquiries are not taken on lightly as they are time consuming and resource intensive. Despite considerable effort by Ombudsman staff, two such investigations were not completed by 30 June 2012 and will be reported on at a later stage. Two public reports were tabled and can be found at<sup>2</sup> <http://www.ombudsman.nt.gov.au/publications-reports/public-reports/>.

Although conducting investigations into complaints of poor administrative practices is core business, so too is our work in helping agencies to improve their performance in these areas. A regular cause of distress for many members of the public who contact us relates to poor handling of their complaint by an agency. Setting aside a small number of serial complainants who can be irrational in their demands, the expectations of most complainants are not unreasonable. They want to be heard, to be taken seriously, to receive a reasonable level of response and action without delay and to be advised of the outcome. Many matters are resolved with a simple acknowledgement that the complaint has been poorly handled and an apology or explanation given.

To those agencies that are dealing well with complaints from the public about their administrative practices or decision making; you are to be congratulated. For others that are struggling, our Office remains willing and able to assist your staff in making meaningful change.

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<sup>2</sup> See page 13 of this report for further details.

Looking to the future, we expect that 2012/13 will bring significant changes and challenges both for this Office and throughout the wider public sector. The reality for all publicly funded organisations is that we must find ways to perform our core functions with diminished resources. This is no easy task. The major risk is that the work of the Ombudsman's Office will by necessity remain reactive rather than proactive. This is not our intention. In particular, we need to better connect with more remote parts of the Territory. We are exploring cost effective options including new technologies and improved collaboration with other independent integrity offices who share the same objective. Our aspirations to provide an excellent service across the NT remain high but our ultimate business plan must be realistic and achievable in tough financial times.

In summary, the broad objectives of the Ombudsman's Office over the next year are:

- to be approachable, responsive and proactive in resolving complaints;
- to deliver credible, impartial and accountable decisions in the public interest;
- to assist public bodies to improve their administrative practices and decision-making; and
- to increase public awareness across the NT of our services and the rights of individuals under the Ombudsman Act.

The NT Ombudsman's Office looks forward to the challenge.



BRENDA MONAGHAN  
ACTING OMBUDSMAN  
30 September 2012



## OUR ORGANISATION

The NT Ombudsman is an independent institution governed by the *Ombudsman Act 2009* (NT). The Ombudsman safeguards the community by promoting high standards of administrative practice in public authorities and the Police.

### Our Vision

We strive for a Northern Territory where all Territorians can expect and receive excellence in public sector decision-making and where fairness and accountability are embedded as core components of good governance and administrative practice in all public authorities.

### Our Goals

- An independent, high quality and accessible complaint resolution service modelling best practice.
- Improved standards of administration and statutory compliance in public authorities.
- Strengthened institutional capacity to deliver high quality services.

### Our Values

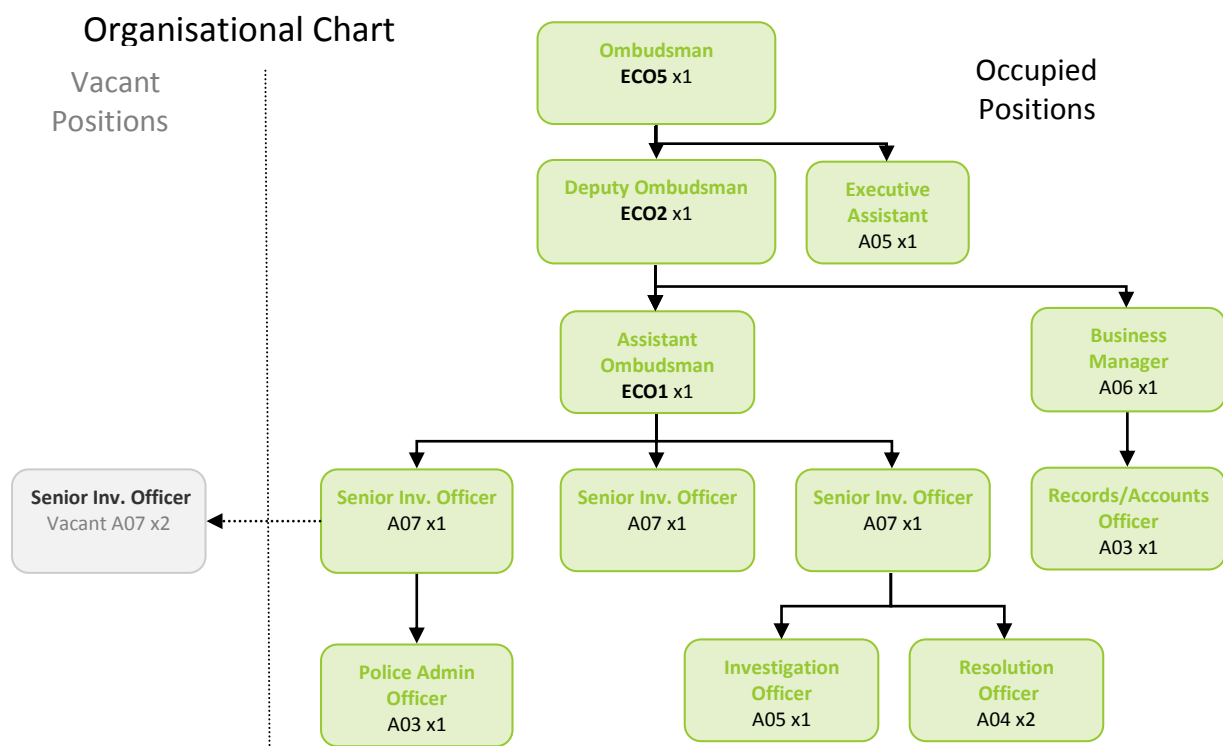
In everything we do, we value the principles of:

- fairness, independence and impartiality;
- integrity and honesty;
- respect for all people;
- professionalism and diligence; and
- efficiency and responsiveness

Our Office aims for our services to be of the highest quality, open to scrutiny and accountable. We have developed a service charter (Standards) against which our performance can be judged. These Standards can be found on our website: <http://www.ombudsman.nt.gov.au/about-us/service-standards/>

## OUR STRUCTURE

The Organisational Structure for the Office at the end of June 2012 is depicted below.



Last financial year this Office reported that we had 17 established positions. After reviewing an Establishment Report provided by OCEP in September 2011<sup>3</sup> we have amended our organisational chart. In reality, the Ombudsman's Office has 15 positions. There are 13 occupied and funded positions and 2 vacant and unfunded positions.

Funding and Occupancy details of these positions are outlined below:

Position Title	Level	Funding	Occupancy
<b>Ombudsman</b>	ECO5	Funded	Exec Contract
<b>Deputy Ombudsman</b>	ECO2	Funded	Exec Contract
<b>Assistant Ombudsman</b>	ECO1	Funded	Exec Contract
<b>Senior Investigation Officer x5</b>	AO7	3 Funded, 2 Unfunded	3 Permanently Occupied
<b>Investigation Officer</b>	AO5	Funded	Permanently Occupied
<b>Resolution Officer</b>	AO4	2 Funded	2 Permanently Occupied
<b>Police Administration Officer</b>	AO3	Funded	Permanently Occupied
<b>Executive Assistant</b>	AO5	Funded	Long Term Contract
<b>Business Manager</b>	AO6	Funded	Permanently Occupied
<b>Records/Admin Officer</b>	AO3	Funded	Short Term Contract

The 2 vacant AO7 positions have been filled from time to time by savings in other parts of the operational and personnel budget. One of these positions was filled for 10 months during the reporting period. It appears unlikely that these positions will be able to be filled in 2012/13. Any operational savings that have in the past been directed towards personnel costs are unlikely to exist. Instead, we must absorb the extra costs of licensing and servicing our new Resolve case management system. Further, we will no longer have the benefit of the rental revenue from the Commonwealth Ombudsman.

## JURISDICTION

The *Ombudsman Act 2009* determines the scope of the Ombudsman's jurisdiction, functions and powers. This Office investigates free of charge complaints against NT government agencies such as, but not limited to Police, Local Councils, Education, Corrections, and Housing. Despite popular belief, the Ombudsman does not have directive powers but can make recommendations to improve public administration. This is achieved through the complaints resolution process or through public reports tabled in Parliament. Most recommendations made by this Office are accepted.

### Outside Jurisdiction Matters

Many approaches made to this Office relate to matters outside the jurisdiction provided by legislation. We cannot investigate the decisions or actions of:

- Ministers and Cabinet
- Courts and Tribunals<sup>4</sup>
- Private individuals/businesses
- Commonwealth agencies

<sup>3</sup> A 2011 establishment report provided by OCEP shows 18 positions but the reality for this Office is that only 15 have been utilised in recent years and only 13 of those are currently able to be funded.

<sup>4</sup> An exception in relation to Tribunals or the DPP is that the Ombudsman may investigate an administrative action of these entities if satisfied there has been unreasonable delay by the Tribunal or DPP in relation to an action.

- Territory Insurance Office
- Child Protection Services (except when the complaint relates to Police)

In circumstances where there is a review right under other legislation, the Ombudsman can generally only investigate administrative actions of a non-exempt public authority with their consent. An exception allows the Ombudsman to proceed to investigate the matter where satisfied:

- it would be unreasonable to expect the complainant to resort to the review right; or
- the matter merits investigation to avoid injustice.

Many enquiries received by this Office relate to matters that are outside our jurisdiction. Some complainants simply seek quick advice on which bodies (government and non-government) to contact to address their issues. Many callers want assistance with employment related matters such as discipline, promotion, transfer, termination of employment, and remuneration. These matters cannot be investigated by us and callers are referred to the Office of the Commissioner for Public Employment, the Fair Work Ombudsman or Fair Work Australia depending on the details of the complaint.

On occasion, considerable time is spent by senior staff examining the detail of a complaint to ensure that the right advice is provided regarding jurisdictional issues and referral. A significant jurisdictional change worth noting occurred during the reporting period. In March 2011 legislative amendments to the *Ombudsman Act* and the *Care and Protection of Children Act* removed the power of the Ombudsman to investigate complaints about 'vulnerable children' as defined in the *Care and Protection of Children Act*. If the complaint relates to a vulnerable child then the matter must be referred to the Office of the Children's Commissioner.

### Discretion to Decline a Complaint

This Office may decline complaints for various reasons including:

- the complaint is trivial, frivolous or vexatious or not made in good faith;
- the complainant or a third party on their behalf does not have a sufficient interest in the matter;
- an investigation is unnecessary or unjustified; or
- the complainant has not made a complaint to the public authority about the action.

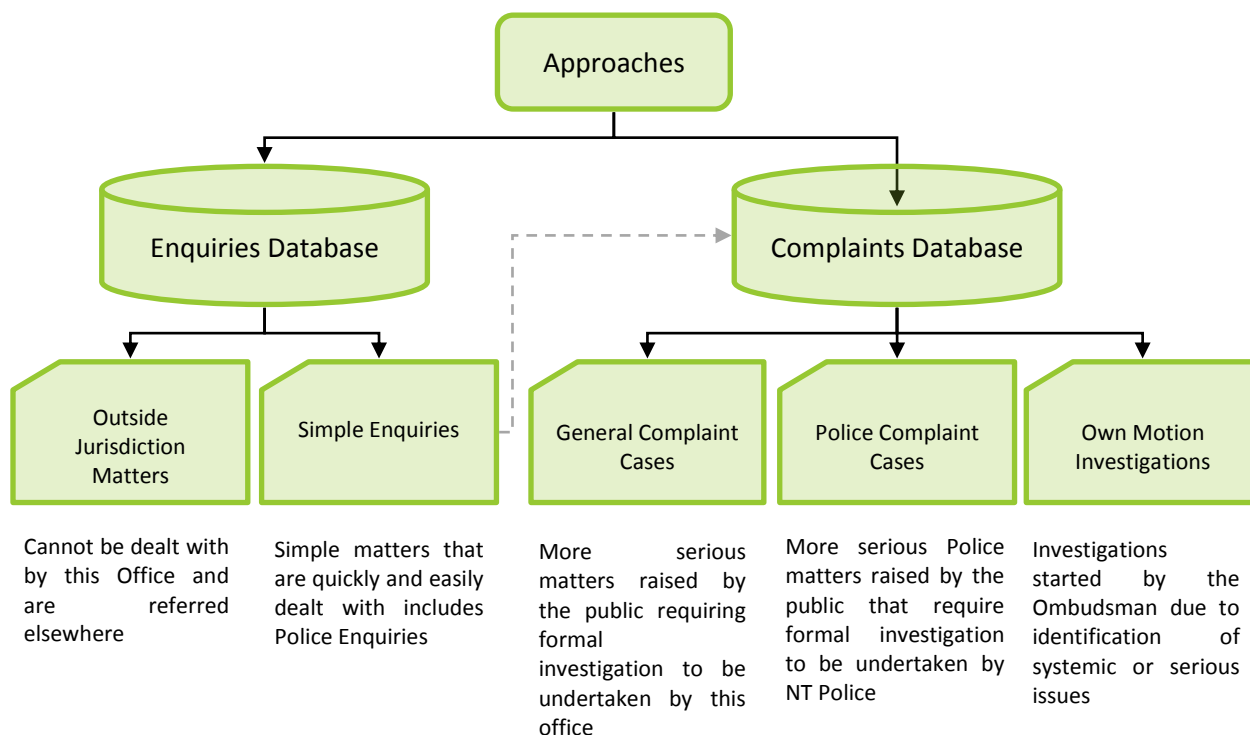
As a general rule, agencies should have the first opportunity to address complaints made about them. Minor matters in particular can often be quickly rectified by the Agency providing an apology, explanation or service. For this reason, complainants will normally be required by Ombudsman staff to first approach the agency unless the complaint relates to the conduct of Police or there are good reasons why this should not occur.

A two-step complaints process lessens the need for our Office to spend time resolving complaints that the Agency should deal with, leaving us with capacity to investigate the more serious and complex matters.

### Enquiries and Complaints

The major component of our core business is dealing with complaints from the public about poor administration or decision-making in Government Departments, Local Councils and other public authorities. Except in exceptional circumstances, the Ombudsman does not investigate complaints where a complainant has known about the problem for more than 12 months, or has a right of review that has not been used. Where complaints are not within our jurisdiction they are referred to the appropriate body to deal with.

There are currently 2 databases that contain information about approaches made to this Office; an Enquiries database and a Complaints database. The following diagram depicts the flow of approaches received and clarifies the terminology used when defining approaches to this office.



If the matters are more easily dealt with, they are noted as 'Enquiries'. They include:

- matters that can be resolved expeditiously or by conducting Preliminary Inquiries;
- matters that have been declined or discontinued;
- matters Outside Jurisdiction; and
- referrals.

Matters defined as 'Cases' include more serious complaints and formal investigations. In 2011/12 this Office recorded 2349 Enquiries and 238 Complaints. Detailed Complaint and Enquiry data is shown in the 'Performance' Section of this report.

When compared to data for 2010/11, there is a notable increase in Enquiries. It is often difficult to explain fluctuations in statistics. It may be that the increased publicity created by recent public reports of Ombudsman Investigations increased the number of approaches. Whatever the reason, the workload for frontline staff was significantly increased in dealing with the extra enquiries. The number of Cases requiring more in-depth investigation however, is slightly lower than last year but the decrease is not sufficient to be significant.

### Unreasonable Complainants

Complaint handling can be difficult particularly when complainants behave unreasonably or have unrealistic expectations. Such complainants often bombard the office with lengthy, irrelevant or misleading documentation and on occasion threaten staff. Our staff know that unreasonable complainant conduct doesn't preclude there being a valid issue and that dealing with these matters is part of the job. They strive to ensure that all complainants are treated with fairness and respect but the amount of time they will devote to a matter is determined by the merits of the case not the behaviour of the complainant.

An invaluable Practice Manual on managing unreasonable complaint conduct is available online at: [http://www.ombo.nsw.gov.au/\\_data/assets/pdf\\_file/0004/3568/GL\\_Unreasonable-Complainant-Conduct-Manual-2012\\_LR.pdf](http://www.ombo.nsw.gov.au/_data/assets/pdf_file/0004/3568/GL_Unreasonable-Complainant-Conduct-Manual-2012_LR.pdf). It is published by NSW Ombudsman (2<sup>nd</sup> Edition-May 2012) and is designed to help organisations and their staff take a systematic and consistent approach to managing their interactions with complainants.

## Referrals

### Formal referrals

Referrals to a complaints entity may be made under the *Ombudsman Act*. If, for example, a complaint involves serious improper conduct and the complainant wants protections against reprisal action, then the complaint may be referred to the Office of the Commissioner for Public Interest Disclosures. The Commissioner can either accept the referred complaint and investigate or provide the statutory protections to the discloser and refer the matter back to the Ombudsman for investigation.

To assist the smooth referral of complaints between this Office and Public Interest Disclosures, we have entered into a Memorandum of Understanding (MOU) covering the practical aspects of referrals, confidentiality and information sharing, the sharing of resources and minimising the risk of duplication. A copy of this MOU is attached at Appendix B.

Formal referrals are made to other complaints entities including:

- Office of the Children’s Commissioner ;
- Health and Community Services Complaints Commission; and
- Anti-Discrimination Commission.

Notice of a referral from the Ombudsman’s Office is provided to the complainant, the relevant public authority and if the matter relates to an investigation, the Minister.

### Assisted referrals

Our office takes every opportunity to assist complainants whenever we can. We maintain the view (strongly encouraged under the Act) that the relevant agency should be given the opportunity to resolve a complaint in the first instance. For this reason, complainants that come to our office without first addressing their concerns with the relevant agency will be assisted by our staff in making contact with the agency. This often involves our staff contacting the agency by phone and providing a letter that simply outlines the complainant’s concerns. We refer to these matters as our assisted referrals. The process works well and is appreciated by both the agency involved and the complainant. If the agency is unable to resolve the complaint, then the complainant can return to our Office for further assistance.

Over 100 matters were dealt with via the assisted referral process during the reporting period.

## Own Motion Investigations

Ombudsman investigations mainly arise from complaints received from the public. However, the Ombudsman may also undertake ‘Own Motion Investigations’ even when there is no particular complainant or where the source is anonymous. These investigations are resource intensive and are not undertaken lightly. A decision to conduct such an investigation is made if the public interest requires action to be taken under the *Ombudsman Act* to address a serious matter. e.g. An investigation might enquire into serious systemic issues that are impacting on good administration across a number of public bodies.

The criteria for deciding to carry out an Own Motion Investigation include the following considerations:

- whether the complaint is in the public interest to investigate;
- whether the agency complained of is already dealing with the complainant promptly and in good faith;
- significant personal consequences for a complainant or a large number of people affected;
- many complaints pertaining to similar issues suggesting systemic or multi-agency problems; and
- a likelihood that the matter will result in worthwhile and/or significant recommendations

Own Motion Investigations often result in recommendations being made by this Office to the agency in question. It is important that our recommendations are targeted, and able to be implemented to address the changes required. They can be many and varied and might include such matters as:

- immediate audits or external review of specific areas;
- changes to internal processes and procedures;
- a referral of a public officer to the Police for consideration of prosecution; or
- specific action to be taken to remedy the defect or address the damage caused.

The Ombudsman welcomes feedback on draft recommendations from public bodies to achieve a good outcome but will ultimately make recommendations that she considers right and necessary to address the problems. Almost all the recommendations made by the Ombudsman are accepted. The Ombudsman also has discretion as to whether or not an Own Motion Investigation report should be tabled. This decision is based on public interest considerations.

There were 2 public reports tabled in the Legislative Assembly this financial year:

- In August 2011, a public report titled “A Life Long Shadow” was tabled following a partial investigation of the Child Protection Authority.
- In May 2012, a public report was tabled following an investigation into the management of morgues located outside of the major centres in the Northern Territory. The investigation dealt with the inadequacy or non-existence of morgue facilities in or near many remote communities. It examined the very real and distressing problems this causes to remotely located public officers and grieving community members. The report made a number of recommendations and identified the need for an ‘appropriate NT Government Department’ to whom responsibility and resources for the establishment, maintenance and management of morgues should rest.

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

## **OVERSIGHT FUNCTIONS**

In addition to its complaint investigation function, the Ombudsman’s Office undertakes a variety of monitoring roles to ensure compliance with legislative requirements applying to a range of agency regulatory activities. Oversight includes, but is not limited to, the *Surveillance Devices Act*; the *Telecommunications Interception (NT) Act*, the *Legal Profession Act*, the *Mental Health & Related Services Act* and the *Electricity Reform (Administration) Regulations*. It is anticipated that the scope of this oversight function will only increase over time and will include monitoring of ‘Controlled (covert) Operations and Witness Anonymity’, as it applies to the Northern Territory Police Force, once the relevant legislation has been developed and enacted. Additionally our Office is expecting to gain further oversight functions under the National Rail Safety Regulations upon the Council of Australian Governments (COAG) reform agreements being implemented.

Our Office recognises the importance of building close relationships with other oversight bodies to achieve common objectives. We maintain regular contact with other Ombudsmen and oversight bodies both within Australia and overseas to discuss common problems in public administration. This collaborative approach is invaluable as it ensures we retain an awareness of emerging issues and a good insight into new initiatives that have worked well elsewhere.

### LEGISLATIVE REFORM SUBMISSIONS

The Ombudsman is regularly asked to make submissions on legislative reform relating to aspects of public administration. Several submissions were made throughout the reporting period including:

- a Joint submission with all Australian Ombudsmen to the Joint Standing Committee on Treaties regarding an Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Submissions on various issues surrounding (COAG) reform agenda. A primary concern was to ensure that there was an appropriate oversight mechanism in place for various licensing and regulatory schemes including national heavy vehicle regulation and national rail safety regulation;
- submissions on proposed amendments to legislation regarding Police Special Investigative Powers;
- amendments to the *Housing Act* regarding the establishment of the Public Housing Safety Officer (PHSO) scheme; and
- submissions on proposed legislative change to the *Care and Protection of Children Act*.

The Ombudsman values the opportunity to comment on such matters, particularly where they relate to legislative reform that may impact on public administration in the NT.

### CERTIFICATE IV GOVERNMENT (INVESTIGATIONS)

By far the most important training provided by this Office is the Nationally Accredited Certificate IV Government (Investigations) course. This is a 2 week intensive course delivered by senior staff. During the reporting period, two courses were conducted (Sept 2011 and June 2012) and a total of 34 students participated in the training program. Students included NT government employees from various local government and general government agencies. Many of these persons sought to augment skills that would assist them with future investigations.

The course of June 2012 was the first occasion when all course material (presentations, workbooks, relevant legislation, guidelines etc.) was provided to students electronically (by way of a portable storage device). The move to a wholly electronic presentation and delivery framework saw cost savings for the Office and considerable benefit to students as it allowed them easy access to quality information.

We are committed to providing one course in early 2013. Should resources permit and student interest continue to be high, we will attempt to provide a second course later in the year.

### Feedback from Certificate IV Government (Investigations)

Student feedback forms are provided to enable participants to comment on whether training is meeting their needs and expectations. Students were encouraged to complete and return them to the trainer at the end of each unit taught.

Students were asked to rank statements regarding the units delivered against outcomes of 'strongly agree (4)', 'agree (3)', 'disagree (2)' and 'strongly disagree(1)'. Overall the satisfaction levels were

very high with all units achieving rankings between 3.3 and 3.8. Students seemed to most enjoy the units *Produce formal Record of Interview* and *Investigate Non-Compliance*.

As part of the feedback process students were also encouraged to provide further comments. Below are some examples of comments provided:

- *"I would like to thank the Office of the Ombudsman for the opportunity to partake in this course. I felt the material presented was very clear, relevant, and useful and delivered in a logical and practical way."*
- *"I have come back to work with a renewed energy to perform my duties in accordance with the skills and knowledge acquired through my working history. My participation in your course has polished and dragged from my memory all the aspects of what it means to be an effective government investigator."*
- *"I really enjoyed the course and have taken a lot from it."*
- *"I found the course extremely valuable and interesting, it was really the first time I had considered and used legislation as it was meant to be used."*
- *"Excellent course. Well delivered."*
- *The presentations have been interactive and interesting."*

## COMMUNITY ENGAGEMENT

Our work brings benefit to the wider community by informing public policy and driving improvements in public services. During the reporting period, the Ombudsman and staff have welcomed the opportunity to speak to public bodies, community groups and the wider public about issues relevant to public administration. Complaints received daily by our Office give us a good insight into problems that people are experiencing in dealing with agencies and our investigations often highlight the hurdles preventing public bodies from responding proactively to concerns. Through our presentations and forums, we can canvass various concerns and propose better responses to problems. The presentations are also an invaluable way for Ombudsman staff to develop and maintain strong working relationships with stakeholders. During the reporting period, we gave presentations to legal aid organisations, disability networks, pensioner groups, health services and prison officer recruits to name a few.

Improving awareness of our Office and its services in remote communities is always a challenge and remains a work in progress. Our office is based in Darwin CBD and regular visits to regional communities are resource intensive and often beyond our budget. We continue to maintain contact with complainants outside of Darwin via telephone, email, post and our online complaints form.

The Commonwealth Ombudsman staff are to be commended for continuing to refer complaints to our Office during their outreach programs to remote communities. As the Commonwealth Ombudsman's NT Office is set to close in September 2012 we expect more complaints in the coming period and will need to explore new ways to improve our service in the bush. Information technology solutions and closer collaboration with other independent offices will hopefully strengthen our ability to reach those who live in more remote areas.



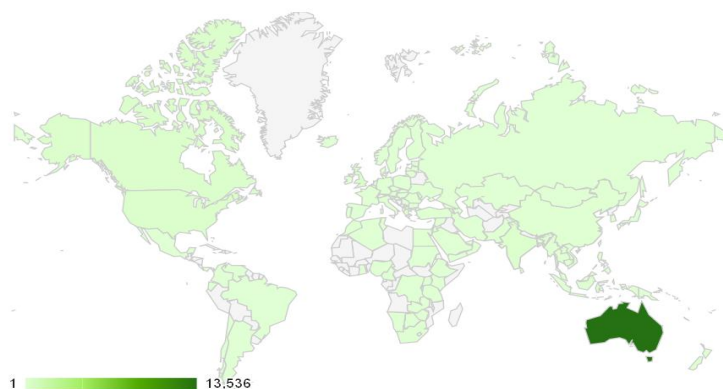
## WEBSITE VISITS

Each year there has been a steady increase in visits to the NT Ombudsman’s website. In 2011/12 there were 32,447 unique page views from 13,155 unique visitors. A summary of key web statistics is included below.

	2010/11	2011/12
<b>Total Unique Page view’s</b>	28,216	<b>32,447</b>
<b>Unique Visitors</b>	10,108	<b>13,155</b>
<b>Total Visits</b>	12,485	<b>16,203</b>

The most commonly visited pages contained information on how to contact this office, how to make a complaint and access to publications and reports. It is also fascinating to note that interest in this office and its findings spreads far beyond our local borders with the website receiving hits from both interstate and international visitors.

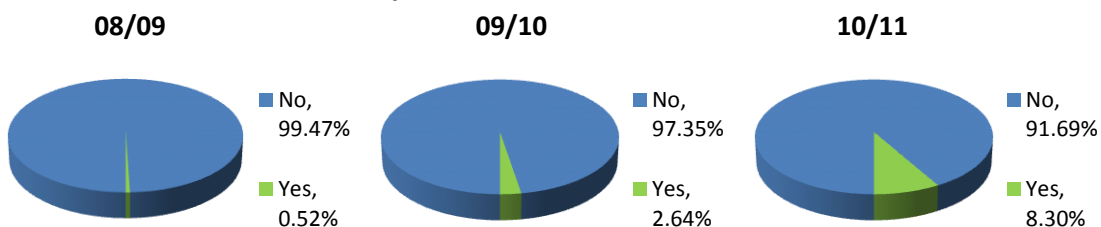
The following map depicts total website visits by region with darker colour indicating higher density of visits.



Region	Total Visits
<b>Australia</b>	13,536
<b>UK</b>	455
<b>US</b>	331
<b>Canada</b>	305
<b>India</b>	267
<b>Malaysia</b>	101
<b>Indonesia</b>	99
<b>Philippines</b>	96
<b>Other</b>	1,013

With global trends towards mobile technology increasing, we have also seen a steady increase in visits to our site from mobile devices. With the use of mobile technology being strongly adopted by the younger generation and being highly utilised in regional areas, we expect the trend to continue.

### 3 Year comparison of website visits from mobile devices



Ombudsman  
Ombudsman

## **Our Performance**

Ombudsman

## PERFORMANCE MEASURES

Budget Paper No 3 (BP3) sets Performance Measures for the Office for 2011/12 relating to quantity, quality and timeliness. The below table shows the performance measures as reported in BP3.

Key Deliverables	2010-11 Budget	2010-11 Estimate	2011-12 Budget
<b>Total complaints and inquiries received</b>	2500	1800	2000
<b>Inquiries and complaints resolved</b>	2400	1750	1850
<b>Complainants satisfied with service</b>	70%	80%	85%
<b>Inquiries and general complaints resolved within 90 days of receipt</b>	95%	90%	85%
<b>Police complaints resolved within 180 days of receipt*</b>	80%	85%	80%
<b>Recommendations accepted</b>	98%	95%	95%
<b>Reviews of decisions requested</b>	1%	1%	1%
<b>Telecommunications interception audits conducted</b>	2	2	2
<b>Telecommunications interception audit and report completed within 40 days</b>	100%	100%	100%
<b>Surveillance devices inspection and reports</b>	2	2	2
<b>Surveillance devices inspections and reports completed in accordance with the requirements of the Surveillance Devices Act</b>	100%	100%	100%

\* Resolution of complaints within this timeframe allows for recourse through the disciplinary provisions under section 162(6) of the *Police Administration Act*.

The terminology historically used to describe and measure our performance is confusing and some BP3 measures are not effective as best measures of our performance. We intend to review these measures and the terminology to be used in future years.

## PERFORMANCE OUTCOMES

The following summary details the performance of this Office over the reporting period against some of the key criteria highlighted in BP3.

### **Matters Received and Resolved**

During the 2011/12 reporting period, this Office received 2349 Enquiries and 238 Complaints giving a gross total of 2587 approaches<sup>5</sup>. This figure is significantly higher than our published estimate of 2000. Of those matters raised, 95% of approaches were finalised in the same reporting period with only 9 Enquiries and 48 Complaints remaining open at the end of the period.

Key Deliverables	2010-11 Budget	2010-11 Estimate	2011-12 Budget	2011-12 Actual
<b>Complaints and inquiries received</b>	2500	1800	2000	<b>2587</b>
<b>Inquiries and complaints resolved</b>	2400	1750	1850	<b>2530</b>

Of those Complaints that remained unresolved, 42 related to Police matters still under investigation.<sup>6</sup>

<sup>5</sup> Gross Total of approaches includes a small duplication of matters received as enquiries and later registered as complaints. This duplication has been removed where the term "Net Approaches" is used.

<sup>6</sup> For more information on the investigation of Police Complaints see Agency Snapshot and Case Summaries section of this report.

## Complainant Satisfaction

We have no control over the numbers of complaints received or the severity of the issues raised. It is also difficult to measure the satisfaction of our complainants as they rarely return the survey forms provided to them by mail at the completion of their matter. We seldom receive letters of complaint about our performance however, and we strive to complete investigations in a timely manner. Consideration will be given to removing complainant satisfaction as a Key Deliverable in the future except where Education and Training are concerned.

## Timeliness of Matter Resolution

BP3 requires 85% of all inquiries and general complaints (excluding Police) to be resolved within 90 days of receipt. Despite our Office receiving a significantly higher number of approaches than our BP3 targets, our goals for timeliness were met. This may be partially due to the higher volume of Out of Jurisdiction approaches which are generally resolved more easily.

The Office received a gross total of 2091 general approaches and 496 police approaches of which 2071 and 441 respectively met the target timeframes for completion. It is important to note that not all Police Matters are dealt with by this Office. Although we deal with many simple complaints and queries, Police investigations are conducted by NT Police with oversight by this Office. For more information on the process for resolution of Police Complaints see pages 28-42.

Key Deliverables	2010-11 Budget	2010-11 Estimate	2011-12 Budget	2011-12 Actual
<b>Inquiries and Complaints resolved within 90 days of receipt (excluding Police)</b>	95%	90%	85%	<b>99%</b>
<b>Police Inquiries and Complaints resolved within 180 days of receipt*</b>	80%	85%	80%	<b>89%</b>

\*Resolution of complaints within this timeframe allows for recourse through the disciplinary provisions under section 162(6) of the *Police Administration Act*.

The BP3 target sets performance measures for resolution of *all matters*. This is not the best measurement criteria for the performance of this Office as it includes Police Investigations that are not conducted by this Office and over which we have little control. It also includes a large number of Outside Jurisdiction Matters which are normally resolved within 1-3 days. An additional key measure is the time for completion of formal investigations undertaken by Ombudsman Staff. There were 13 formal investigations commenced this period, the timeframes for completion are shown below:

Key Deliverables	Within 90 Days	Within 180 days	Over 180 days	Still Open
<b>Completion of Formal Investigations by Ombudsman Staff</b>	<b>54%</b>	31%	0%	15%

The above table detailing our lack of timeliness in meeting our performance measures for formal investigations confirms the perception of office staff that we spend the majority of our time dealing with simple or minor matters leaving limited resources to deal with larger matters.

## Acceptance of Recommendations

The BP3 target for acceptance of the Ombudsman's recommendations was met. Although generally Ombudsman's recommendations are accepted, the implementation of recommendations is at times slower than anticipated or ideal. Our new complaint management system will assist us in tracking and reporting on the progress of implementation of recommendations in future years.

## Audits and Oversight Functions

This office is charged with the oversight of Police use of Telecommunications Interception and Surveillance Devices. During the reporting period audits were conducted in line with requirements and no notable issues were identified.

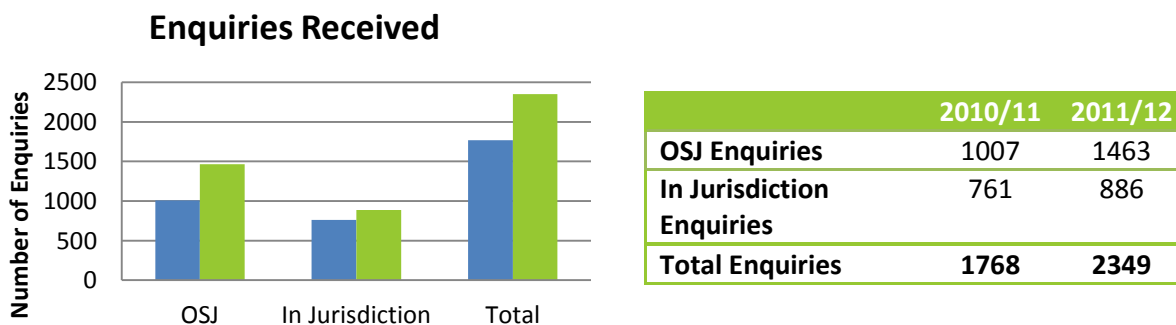
Key Deliverables	2010-11 Budget	2010-11 Estimate	2011-12 Budget	2011-12 Actual
Telecommunications interception audits conducted	2	2	2	2
Telecommunications interception audit and report completed within 40 days	100%	100%	100%	100%
Surveillance devices inspection and reports	2	2	2	2
Surveillance devices inspections and reports completed in accordance with the requirements of the Surveillance Devices Act	100%	100%	100%	100%

## SUMMARY OF APPROACHES RECEIVED

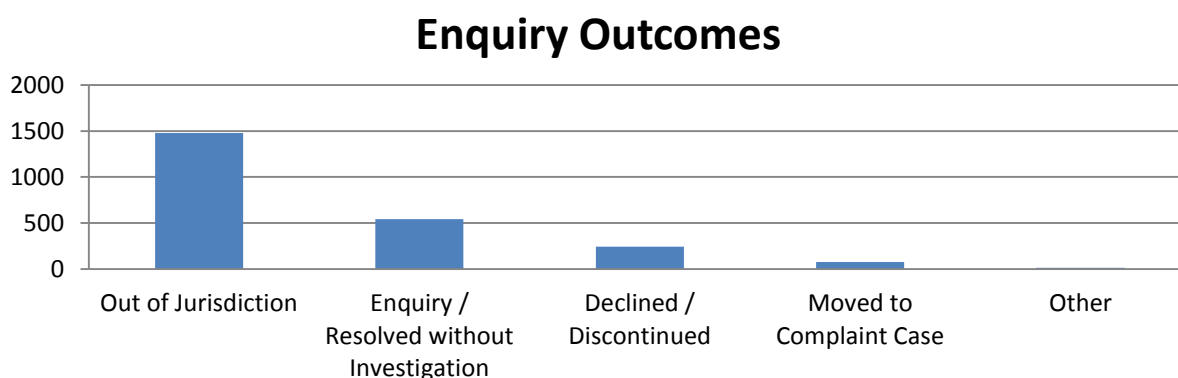
Every approach to this Office is assessed for jurisdiction, seriousness, public interest and appropriateness for referral. On the completion of assessment, an approach may be closed, referred, actioned, discontinued, investigated or declined. Wherever possible, we attempt to resolve matters informally, quickly and effectively.

## Enquiries

Simple matters received by this office are usually dealt with as Enquiries. There was a notable increase of 581 Enquiries received this year when compared to the previous reporting period. This increase can largely be attributed to a higher number of approaches about Out of Jurisdiction (OSJ) matters, however a measurable increase in general Enquiries was also recorded.



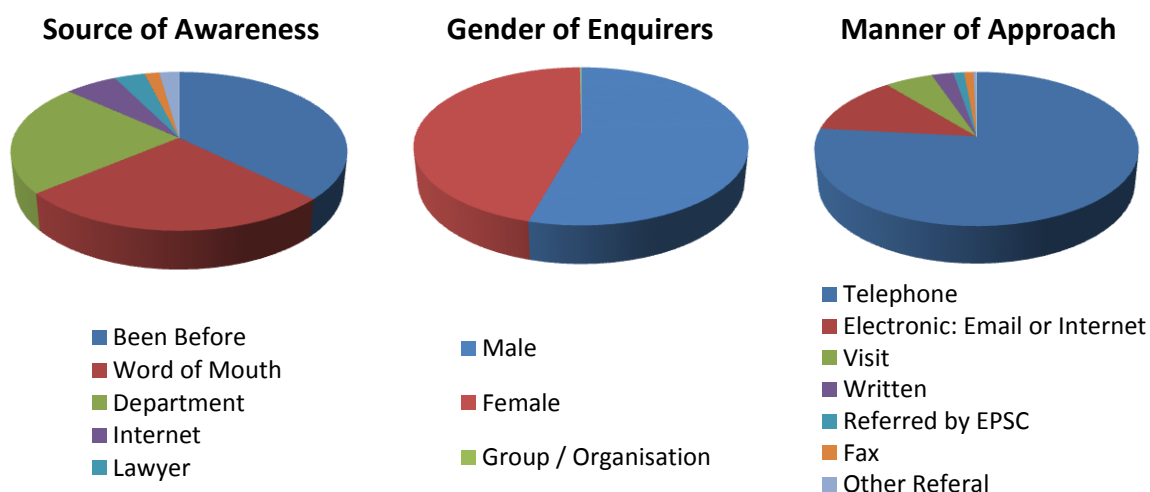
The below graph summarises the outcome of all Enquiries received.



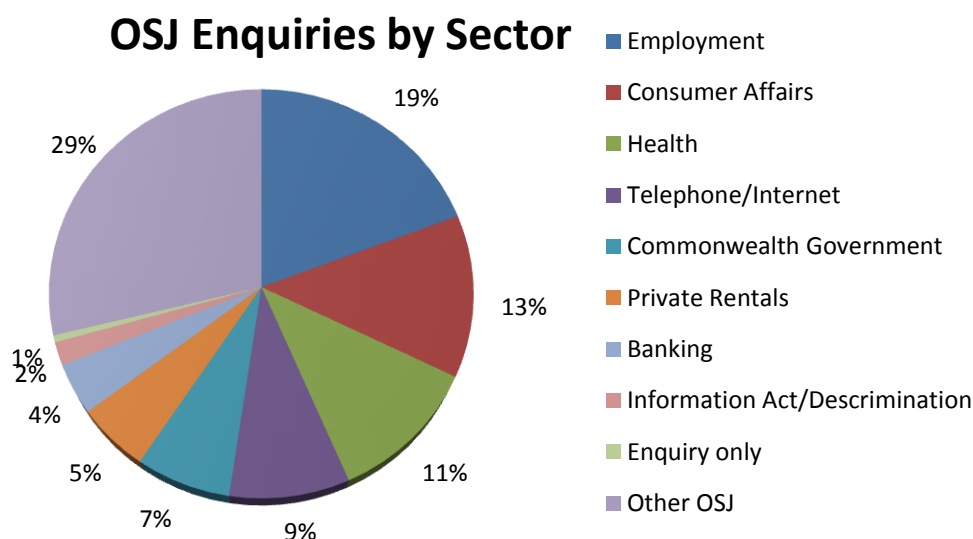
The below table details the time taken to finalise Enquiries from date of receipt. This excludes those remaining open at the end of the reporting period.

Agency Group	Same day	Less 1 Week	1 to 3 Weeks	Less 3 Months	Longer 3 Months	Grand Total
<b>Agency out of jurisdiction</b>	1129	272	34	28		1463
<b>Corrections - prisoner complaints</b>	123	64	16	10		213
<b>General</b>	111	121	70	46	5	353
<b>Local Government</b>	14	12	6	7	2	41
<b>Police - complaints against police officers</b>	75	103	62	29	1	270
<b>Grand Total</b>	<b>1452</b>	<b>572</b>	<b>188</b>	<b>120</b>	<b>8</b>	<b>2340</b>

Some basic statistics on total Enquiries are displayed below.



The below chart documents the matters that were outside jurisdiction and referred to a more appropriate body to deal with. The 'Other OSJ' category is used for complaints referred to lawyers, courts or boards etc.



### Where to complain if not in the Ombudsman's Jurisdiction

If you have a complaint that you believe falls outside the jurisdiction of this office but you aren't sure where to lodge your concerns you can download a printable version of the "Where to Complain" booklet from our website: <http://www.ombudsman.nt.gov.au/make-a-complaint/contact-the-ombudsman-if-you-are-not-sure-where-to-lodge-your-complaint/> or alternatively visit the Complaint Line website: [www.complaintline.com.au](http://www.complaintline.com.au)

### Complaint Cases

Complaint Cases (Cases) are matters that have been determined to be of a more serious nature. This financial year saw a slight decline in total Cases. This may be due to other complaint agencies addressing matters. For example 'protected children' complaints (ie juveniles in custody or those in the care of the Minister) are now dealt with by the Childrens Commissioner; and allegations of corruption and/or misconduct may be investigated by the Commissioner for Public Interest Disclosures.

### Case Numbers - Comparison

Entity Complained about	2010/11	2011/12
Batchelor Institute of Indigenous Tertiary Education	1	-
Charles Darwin University (CDU)	-	2
Construction and Infrastructure	3	1
Correctional Centres	1	1
Education & Training	2	-
Health and Families	7	-
Justice	5	-
Lands and Planning	1	-
Local Government and Housing	3	1
Local Government Councils	1	3
Natural Resources Environment the Arts and Sport	-	1
Planning and Infrastructure	1	3
Police Fire and Emergency Services	236	225
Port Authority (Darwin)	1	-
Power Water Corporation	1	1
Treasury	1	-
<b>Total</b>	<b>264</b>	<b>238</b>

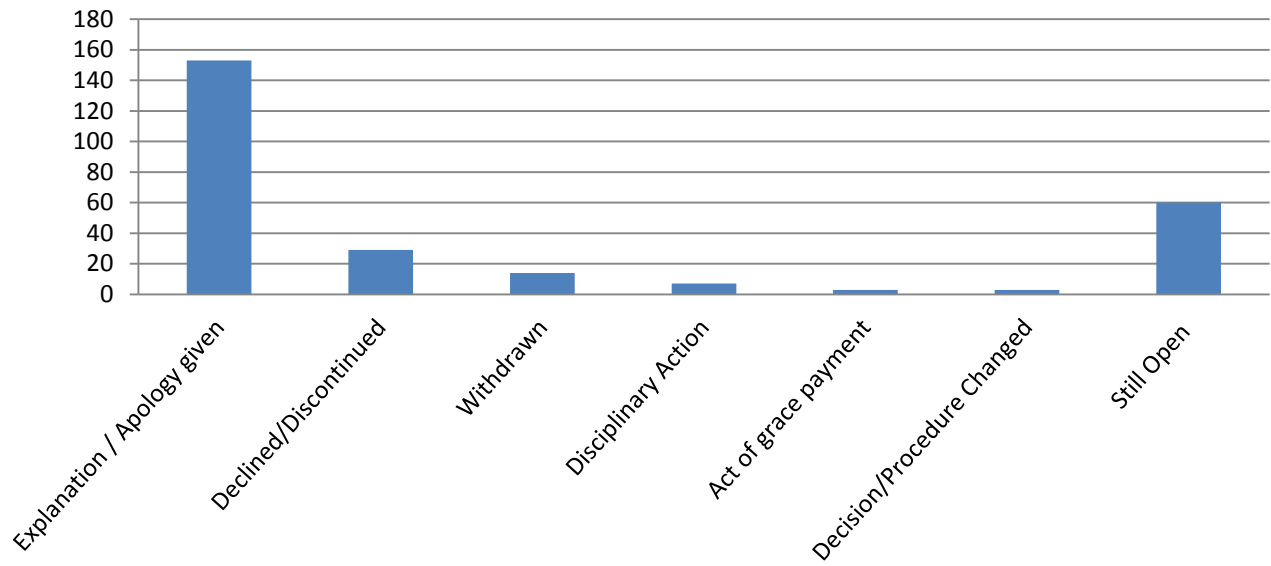
### Investigation of Cases – Timeliness

Agency Group	1 to 3 Weeks	Less 3 Months	Less 6 Months	Longer 6 Months	Still Open	Grand Total
General	2	3	3		2	10
Local Government		2	1			3
<b>Grand Total</b>	<b>2</b>	<b>5</b>	<b>4</b>		<b>2</b>	<b>13</b>

The timeliness figures do not include Police matters.

The below graph summarises the outcome of all issues raised in Complaints Cases including Police matters.

### Complaint Issue Outcomes



For further details about both Case Complaints and Enquiries, refer next section.



# Ombudsman

## **Agency Snapshot and Case Summaries**

The following Section provides a snapshot of matters dealt with by the Ombudsman's Office during the reporting period. The public authorities and case studies included provide good examples of the types of complaints that we received and the outcomes reached. The case studies are often reflective of the sorts of complaints made against many other public authorities.

# Ombudsman

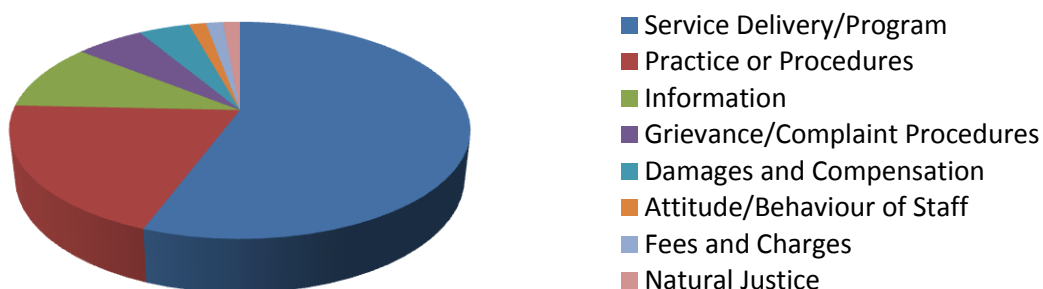
## DEPARTMENT OF HOUSING, LOCAL GOVERNMENT AND REGIONAL SERVICES

The Department of Housing Local Government and Regional Service (DHLGRS) has a number of agencies, services and responsibilities under its authority including Territory Housing, Animal Welfare and Regional Services.

### **Territory Housing**

Territory Housing continued to be the DHLGRS agency that received the most complaints. This financial year there were 112 complaints with 70 relating to Territory Housing. The most common complaints relate to concerns about homelessness, eviction, maintenance and refused housing applications.

**Enquiries by Primary Issue Category**



Our first aim is to provide agencies with an initial opportunity to address issues of complaint received by our Office. For this reason, 28 of the 70 complaints received were referred back to DHLGRS and successfully resolved. The good working relationship we have fostered with the Complaints Appeal Unit in DHLGRS (Complaints Unit) helps us to quickly resolve problems and their staff are commended on providing timely responses to our concerns.

### Remote Housing Issues

Section 31 of the *Northern Territory National Emergency Response Act 2007* provided for the compulsory acquisition of 73 Indigenous communities in the NT by the Australian Government. The Commonwealth took five year statutory leases over each of the communities. The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) administered/managed the leases over these communities on behalf of the Australian Government. As a result, FaHCSIA was responsible as the landlord for public housing in these communities. As FaHCSIA is a Commonwealth department the Commonwealth Ombudsman had jurisdiction to investigate complaints related to public housing.

The statutory leases over these communities expire as at 17 August 2012. This means that the Commonwealth, through FaHCSIA, will no longer be the landlord and the Commonwealth Ombudsman will not have jurisdiction to investigate housing complaints in the 12/13 reporting period. Housing matters in remote Indigenous communities (similar to all other NT public housing matters) will be solely the responsibility of the NT Government. It is expected that this change will result in our Office receiving more remote public housing complaints. The importance of servicing remote areas is acknowledged and we will endeavour to meet demand as best we can on available resources.

## Territory Housing Case Studies

### *A Sensitive Approach*

An elderly indigenous woman contacted our office distraught at the prospect of becoming homeless. The woman was a public housing tenant and had received paperwork from the department advising her she needed to be relocated. The woman believed that she was being evicted. We contacted the complaints unit in Territory Housing who advised that maintenance work needed to be undertaken and while this was occurring Territory Housing needed to relocate the woman. The Complaints Unit arranged for an officer to meet with the woman to explain the process and arranged for people to assist with the temporary removal of her belongings.

### *A Tall Story*

A tenant called to say that Territory Housing had given her a Notice to Remedy to remove all rubbish and debris from her yard and to trim the garden. The tenant claimed that her lawn was well trimmed and the only items in her yard were two custard apple trees that did not require trimming. Our Office referred the matter to the Complaints Unit in the first instance to give them an opportunity to resolve the matter. In the meantime, we suggested she should take photos of her yard as evidence of its current state. Upon referring the matter to the Complaints Unit our office received photographic evidence that the garden was clearly not maintained and in fact horses could be seen in the yard. The Complaints Unit arranged for a reasonable plan of action to be entered into by the tenant that would resolve the issues.

### *The Power of Collaboration*

A public housing tenant contacted us with concerns about black mould in her bathroom. The tenant explained that she had spoken to her tenancy manager about her concerns regarding the mould, but felt that she was being ignored. She informed our office that she had resided at the property for four years and during this time her health had deteriorated and she had developed asthma. In the past the tenant had requested ventilation to be installed in the bathroom to help dry out the mould, however she was only provided with an 'alteration form' to allow her to install ventilation herself at her own cost.

Our office undertook some inquiries and determined that if black mould remains untreated it can lead to health concerns including asthma. We provided this information to the Complaints Unit and they agreed to have the tenant's ceilings replaced as a priority. In the meantime an exhaust fan was installed in the bathroom as a temporary measure.

## Local Government Councils

An investigation into Shire Morgues (*'Morgue Management on Remote Communities in the Northern Territory'*) was completed in March 2012. This report was provided to the Minister on 26 March 2012 and tabled on 3 May 2012.

This report can be found in the publications section of the NT Ombudsman's website: <http://www.ombudsman.nt.gov.au/publications-reports/public-reports/>

## Local Government Case Studies

### *Small Errors - Big Problem*

#### *Background*

In October 2010, the complainant's Victorian registered vehicle was stolen from a residence in Alice Springs. He reported the theft to Police and was advised that Police had seen his vehicle parked at a local club at around 4am that same morning. The Police had treated the vehicle as suspicious and had attached a yellow Police awareness sticker to it, intending to make formal enquiries with the owner during day shift. The Police attended later that morning but the vehicle was gone.

After reporting the vehicle stolen, the complainant did not hear from the Police or any other person so he was forced to purchase another vehicle. In June 2011, the complainant was driving in Alice Springs when he noticed that he was following his stolen vehicle. He immediately contacted the Police who attended and apprehended the driver for unlawful use of a motor vehicle. It soon became clear however that the driver had legally purchased the stolen car for \$100.00 at an ASTC auction.

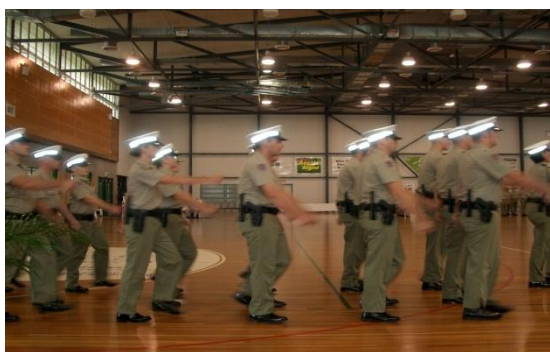
#### *Investigation*

The investigation revealed that Alice Springs Town Council (ASTC) had sold the stolen vehicle without taking appropriate steps to identify or contact the owner. The further allegation of police inaction following receipt of the initial stolen vehicle report was investigated by NT Police Ethical & Professional Standards Command. Police and Ombudsman's investigations determined that both ASTC and NT Police actions were deficient. ASTC had made no contact with the registered owner, VicRoads or the NT Police when they impounded the vehicle on the same day it was stolen. The Rangers who impounded it noted the yellow Police awareness sticker on the vehicle but made no effort to contact the Police to determine its status.

#### *Outcome*

This matter ultimately had a positive outcome. The complainant settled the matter privately with ATSC. More importantly, the Council improved its procedures including putting in place arrangements to access the Interstate Registration databases to avoid such incidents occurring again. No further action was required by this Office.

## COMPLAINTS AGAINST POLICE



Unlike a number of other jurisdictions the Northern Territory does not have an independent Police complaints oversight authority. Instead, the Ombudsman is charged with ensuring that complaints about the conduct of Police Officers are investigated in a timely, effective and impartial way.

These complaints are dealt with under specific provisions in the *Ombudsman Act* (the Act). The Act requires both the Commissioner of Police and the Ombudsman to notify each other, upon receipt of a complaint, and to provide details of the complaint. It provides a framework for the investigation of complaints against Police and defines the role of the Northern Territory Police Ethical and Professional Standards Command, which is now referred to as the Professional Standards Command (PSC). The PSC is responsible for the investigation of Police related complaints with oversight from the Ombudsman.

There is a commonly held misconception that the Ombudsman conducts investigations into complaints made against the Police. Although the Ombudsman routinely deals with simple Enquiries and may in certain circumstances exercise her prerogative to undertake an 'Ombudsman Investigation', the majority of Complaint Cases against Police are investigated by PSC. It is the oversight and assessment of such complaint investigations, the 'Complaint Resolution Process' and any formal 'Conciliations' for which the Ombudsman is responsible under the Act.

Year	Enquiries	Cases	Total Approaches	Enquiries moved to Cases	Net Approaches
2010/2011	241	238	479	51	428
2011/2012	271	225	496	53	443

### Classification of Police Complaints

Once a Police complaint has been determined to be within jurisdiction, the complaint is assessed by this Office (in consultation with the Commander PSC) according to the level of response considered necessary to resolve it.

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

### Methodology and Terminology

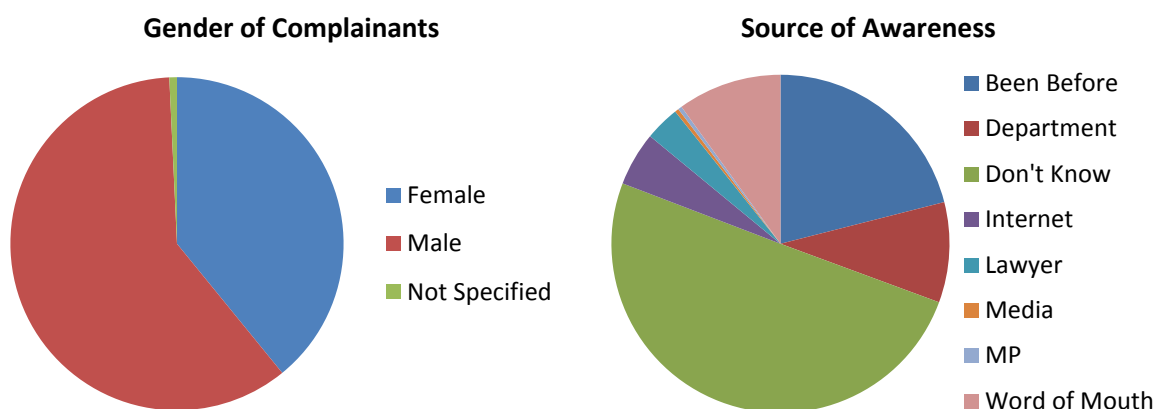
The methodology for 'counting' complaints differs slightly between this Office and the PSC and on occasion leads to small differences in the number of complaints recorded by each office. All approaches to this Office are recorded but not all such approaches are assessed as complaints. Additionally this Office records *people* as both complainants and complaints. Police on the other hand record complaints stemming from an 'incident' where there may be a number of complainants complaining about differing events arising from the same 'incident'.

Effective from 1 July 2012 the Office of the Ombudsman will utilise a 'new' case management system with all approaches (be they 'complaints' or otherwise) being recorded and forwarded to PSC for recording purposes.

### Enquiries

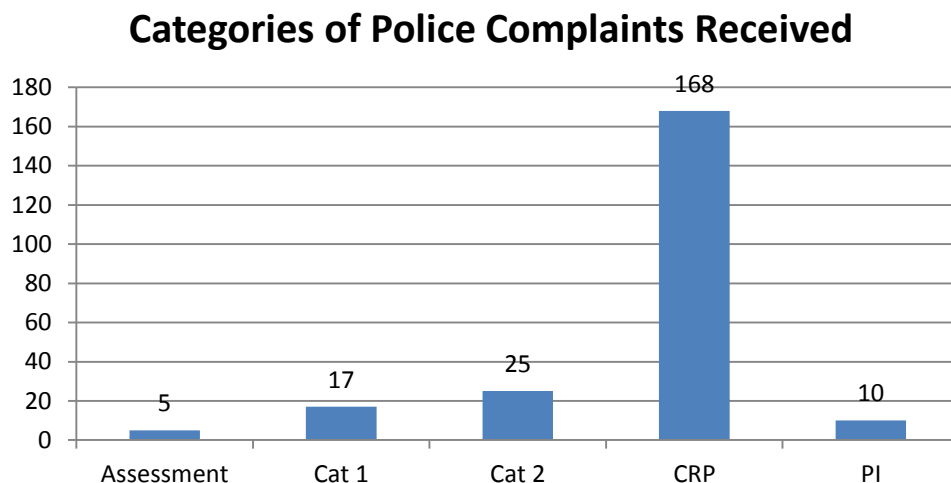
Some matters are addressed simply by the provision of information, advice or referral without recourse to the PSC. Such matters are referred to as 'Enquiries' and are generally dealt with by Ombudsman staff.

The graphs below provide some basic information about complainants approaching this office regarding Police matters.



### Complaints

The graph below depicts those matters of complaint that were assessed, categorised and investigated (or remain under investigation) over the financial period.



Formal Complaint Cases received may be classified as follows:

#### *Preliminary Inquiries:*

Once a matter has been assessed as a complaint the Ombudsman may make informal/preliminary inquiries to determine whether to exercise jurisdiction, decline or discontinue that complaint. Those preliminary inquiries may extend to PSC who will assist in

providing any requested information or material. These informal inquiries are intended to assist in determining whether a matter will be declined/discontinued or categorised.

### ***Complaint Resolution Process (CRP):***

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

A CRP form, completed and signed by a complainant to verify how issues were resolved provides an outcome(s) section that must be endorsed (written/verbal) as accepted by the complainant before a matter can be closed.

The outcome may consist of one or more of the following:

- I accept that the conduct of the subject member was lawful and reasonable;
- I accept the apology given (by or on behalf of) the subject member;
- I accept the apology given on behalf of the Police Force;
- I accept that everything possible has been done to resolve my complaint, which has been brought to the attention of the subject member/s. No further action is required.

### ***Formal Conciliation:***

The decision to conciliate a complaint at any time may be by the Ombudsman's own initiative or at the request of another party to a Police complaint, including:

- the complainant;
- the Police Officer the subject of the complaint;
- the PSC; or
- the Commissioner.

Conciliation may only be undertaken by agreement with the parties and is not intended to absolve Police Officers of any misconduct or action. The process is an alternative dispute resolution which is directed at reducing the need for civil matters proceeding to the courts, or as an alternative to that process.

Although formal conciliation is an available option for the resolution of Police complaints there have been no conciliations undertaken during this financial period.

### ***Ombudsman's Investigation:***

The Ombudsman may determine to investigate any Police complaint through her own resources under section 86 of the Act (An Own Motion Investigation) regarding:

- The conduct of a Police Officer holding a rank equal or senior to the rank of PSC Commander;
- The conduct of a PSC member; or
- The practices, procedures or policies of the Northern Territory Police Force; or
- For any other reason determined by the Ombudsman.

The Ombudsman may also decide that:

- The investigation be undertaken in conjunction with a PSC member; or
- The investigation should not be undertaken by a PSC member.

There were no Own Motion Investigations about Police conducted during the reporting period.

### ***Category 2 Complaint Investigations:***

This is the category for complaints which do not fall within the guidelines for CRP complaints, but which are not considered sufficiently serious, or of such a nature so as to warrant a Category 1 investigation, nor the direct involvement of the Ombudsman (through an Ombudsman Investigation). These complaints are managed, investigated and resolved directly by Police in the first instance.

The outcome for these complaints may include, but are not limited to the need for:

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

In a Category 2 investigation, the Commissioner of Police provides the outcome of the complaint to the complainant.

### ***Category 1 Complaint Investigations:***

These are matters where the Commissioner provides a report to this Office and we in turn conduct an assessment of the investigation. Once completed the Ombudsman provides her assessment, and any recommendations she has made, to the Commissioner of Police. Provided the Commissioner agrees with the recommendations, the Ombudsman then advises the complainant with the relevant outcomes of the investigation. These investigations are normally undertaken into complaints which are:

- considered to be of a serious or urgent nature, e.g. major assault, use of fire-arm or other perceived weapon, etc.;
- threats or harassment considered to be of a serious nature e.g. threat to kill, threat to endanger life, threat to unlawfully harass, etc;
- likely to result in criminal or disciplinary proceedings;
- a matter of public interest; or
- likely to raise significant questions of Police practice or procedure.

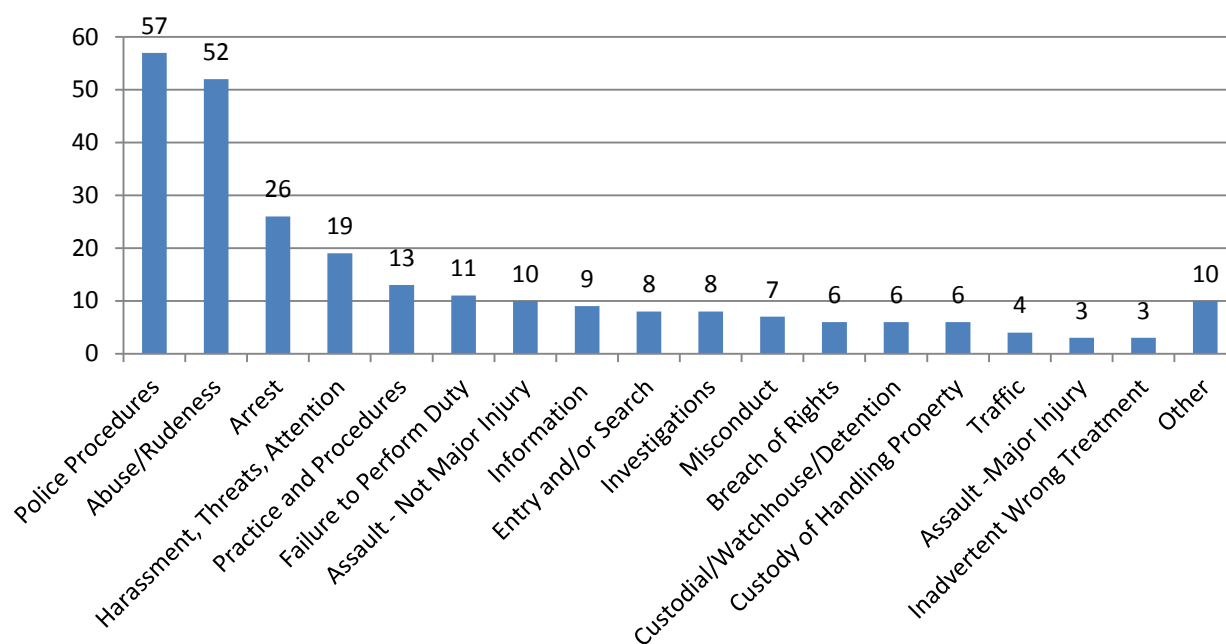
There have been few occasions when the Commissioner and the Ombudsman were unable to reach agreement on the outcomes and recommendations arising from a complaint. In those cases where an impasse is reached, the Ombudsman may provide a separate report to the complainant. Alternately the Ombudsman may elect to table a report before the Northern Territory Parliament detailing the matters in dispute with the Commissioner. Between 2005 and 2012 there have been only three instances where an impasse has been reached and on those occasions, the Ombudsman elected to provide her own report to the complainant.



## Police Complaint Cases

A record of complaint is made in the Case Complaint database for each complainant (acknowledging that a complaint may have more than one issue). A person may, for example, complain about their arrest, the amount of force used to effect the arrest, their treatment in custody etc. The remedies might be an apology for the treatment, managerial guidance for the force used and both an apology and managerial guidance for the arrest. The graph below identifies the nature of and principal issue of complaint for those matters recorded over this reporting period.

### Primary Issues of Police Complaint



## Police Case Summaries

Detailed below is a number of case summaries that reflect the nature and type of investigations, as well as the outcomes achieved through the various categories of complaint. All of these matters were dealt with through:

- the CRP process with outcomes agreed to by the complainant;
- investigation as a Category 2 complaint by PSC with outcomes reported directly to the complainant(s); or
- investigation as a Category 1 complaint by PSC, with the investigation report the subject of assessment by the Ombudsman and advice regarding outcomes furnished to the complainant by this Office.

## Complaint Resolution Process (CRP) Case Studies

### *A question of Attitude – Case 1*

#### *Background*

The complainant made 3 allegations:

- an Officer assigned to her son's assault investigation gave an impression that the complainant was wasting Police time;

- while a victim statement was taken from her son, the Officer answered a personal mobile phone call that had an offensive ring tone containing swear words, or at the very least, inappropriate content.
- the investigation was not conducted in a timely manner with the Officer lacking motivation to investigate or finalise it.

#### Outcome

The complainant was contacted by Police. She was advised that:

- the investigation into the assault on her son had been completed and Police were proceeding with a prosecution of the alleged offender.
- the Officer concerned had been counselled in relation to both his attitude and the importance of keeping complainants informed; and
- the Officer was required to ensure that the ring tone on his mobile phone was suitable for the position he held and to ensure that it could not be seen as rude and/or offensive.

The complainant was happy with this outcome and the matter was closed.

### A question of Attitude – Case 2

#### Background

The complainant in this matter had observed two Police Officers approach a group of Aboriginal people at a local shopping centre and tip out a quantity of alcohol. The complainant had formed an impression that the group were not drunk or drinking from containers that contained alcohol and he felt that the Police were being heavy handed.

The complainant spoke with the Police voicing an opinion that the group were being harassed. The complainant was upset by the response of an Officer who said something like *'you don't know what they are like'* and *'we can drop them off at your place if you want'*.

#### Outcome

The Police who attended this call out were interviewed. It was determined that the Police acted appropriately when disposing of the liquor (tipping it out). However, the comments made to the complainant were not appropriate. The Officer was reprimanded and reminded of the importance of maintaining a calm, professional and courteous manner in his dealings with the public. An apology was provided to the complainant who was happy with this outcome.

### Misleading Complaints

#### Background

This complaint stemmed from an interaction between the complainant and Police Officers stationed at a remote community in December 2011. The complainant alleged that the Police Officers used excessive force during his apprehension and that they inflicted blows to his neck, upper body, elbow and upper leg. The complainant stated that he was not struggling or attempting to flee at that point. He stated that he temporarily lost consciousness during this episode. He was then dragged to a waiting Police vehicle by Police Officers and taken to the local Police Station. The complainant provided names of two (2) independent witnesses who saw the incident and who were willing to provide statements.

#### Outcome:

This complaint was found to be unsubstantiated – Police denied that excessive force was used. The two independent witnesses confirmed that the complainant was ground stabilised, handcuffed and

walked to the Police vehicle. There was no evidence to support that claim that the complainant lay on the ground voluntarily and was then assaulted by Police. The independent witnesses stated that the complainant walked to the Police vehicle and got in by himself. The force used to subdue the complainant was determined to be appropriate and justified.

### **The Power of an Apology – Case 1**

#### **Background**

The complaint related to the alleged condescending tone used by the Police which upset the complainants. When Police attended the complainants' residence at 6am to serve a Domestic Violence Order on their 17 year old daughter, the Police were allegedly rude and confronting saying "Why don't you know where she is, you're her mother?"

The parents were having ongoing problems with their daughter who they described as uncontrollable and in a dangerous relationship. They felt the Police were insensitive and unprofessional.

#### **Outcome**

The matter was resolved by an apology from the Police to the parents for the distress caused by the comments.

### **The Power of an Apology – Case 2**

#### **Background**

On a Saturday afternoon Police were called to the Todd Mall in Alice Springs. A shop keeper had reported a disturbance involving a drunk female. Police attended and spoke to an apparently intoxicated woman believed to be causing the commotion. The complainant intervened as Police were placing the woman in their vehicle and indicated that she would look after her friend and take her home. Police declined this offer stating they would take the woman into 'protective custody' (section 128 of the *Police Administration Act*) to a sobering up shelter and that she would be released after 6 hours.

The complainant called the sobering up shelter a short time later. She was advised that her friend had not stayed long and had walked out. The complainant then searched for her friend in the local area. The woman in question returned to her friend's house unharmed.

#### **Outcome**

Police met with the complainant and offered an apology for the misinformation provided that her friend would be held for 6 hours. In reality, section 128 of the *Police Administration Act (Protective Custody)*, does not give sobering up shelters the power to detain drunk people who wish to leave. If a person taken to a shelter walks out, the Police are notified and, if available, will look for the person and take them to a watch-house. Apart from an apology, no further action was necessary.

### **Poor Behaviour – Fair Result – Case 1**

#### **Background**

A complaint was made following a minor car accident involving a drunk driver. The driver and the owner of the car (who had arrived later) were at the scene when the Police arrived. One of the Officers suggested that the owner drive the car back to her home a few hundred metres away. A

third Officer arrived at the scene. He was allegedly 'cocky and rude' and he insisted the car be towed to a holding yard. Even when the tow truck driver offered to tow the car to the complainant's home, the third Officer demanded it be taken to a holding yard. This Officer allegedly said that this would teach the arrested person a lesson and he stood by until the car was towed. The owner made a complaint to our office stating that she could not afford to pay for towing and vehicle release. The car was being held in storage at a cost of over \$500.

#### *Outcome*

Police reviewed the incident. Records indicated that the Police had requested a tow at the owner's expense. It was found that the decision to remove the car to the car yard was unfair. As a result, Police contacted the towing yard, organised for the car to be towed to the owner's home and for all costs for towing and storage to be billed to the NT Police. An apology was also offered to the complainant. The Officer who directed the tow to the car yard was provided with managerial guidance with regard to his decision making and communication delivery.

### **Poor Behaviour – Fair Result – Case 2**

#### *Background*

During 2011 Police executed a search warrant for drugs but none were found. A complaint was made to Police regarding the manner in which an Officer conducted himself during the execution of the warrant. The complainant stated the Officer had overstepped his authority in playing with and breaking an expensive compound bow (archery equipment). The complainant wrote to this Office asking for a review of the Police case.

The complainant said that during the course of the search an Officer decided to 'play around' with a compound bow and that by 'dry-firing' it, he had caused the bow extensive damage. The complainant immediately reported the damage to Police and he was told that enquiries would be undertaken. He was subsequently advised that the Officer concerned would not accept liability for the damage stating that he had drawn the bow and returned the string slowly and that such action would not have caused damage to it. The complainant said the Officer later changed his statement as it became obvious that he was not telling the truth. He was advised to make a formal complaint if he wanted to take the matter further. After obtaining quotes and providing these to the Police, an offer was made to pay for repairs. The complainant rejected this offer on the grounds that the damage was irreparable. Police sent the bow to a company in SA for assessment and a quote for repair was submitted. The complainant wrote to the manufacturer who replied that the replacement of the broken part would render it beyond economical repair; it would be cheaper to buy a new bow. The Police admitted liability for damage to the bow but maintained their position regarding the level of compensation they were willing to pay. An Officer informed the complainant that their investigation was concluded and the bow was returned in a state of disrepair.

#### *Investigation*

The Police notified the Ombudsman's Office that resolution of the complaint was unlikely as there were opposing versions of events and the complainant was seeking compensation above what was deemed reasonable. The Deputy Ombudsman reviewed the file, discussed it with the Deputy Commissioner and by agreement referred it back to him. The matter was upgraded to a category 2 complaint (unable to be conciliated).

#### *Outcome*

The Deputy Commissioner agreed with the view of the Deputy Ombudsman. An apology and the full cost of a replacement bow was provided to the complainant. The complainant confirmed that he was happy with the outcome and the file was signed off as successfully conciliated.

## Category 2 Complaints – Case Studies

### *Domestic Dispute*

This complaint was originally assessed as being of a kind that could be dealt with by way of the Complaint Resolution Process; however the complainant was dissatisfied with the Police response and requested the matter be re-categorised and re-investigated.

### *Background*

The complainant had shared custody of her child with the child's father under a 'parenting' plan. On the day in question a dispute arose at the child's school between the complainant and a relative of the father. The relative was a 'protected person' under a Domestic Violence Order (DVO) taken out against the mother. The dispute was about who should take the child home and a 'tug of war' between the complainant and the relative took place to gain control over the child.

Police attended and the complainant was subsequently arrested and charged with an alleged breach of the DVO. The matter was listed for a hearing in court, however on the day of hearing the case was withdrawn by the Prosecutor.

Subsequently, in September 2011, the complainant lodged a complaint with the Ombudsman's Office stating inter alia that:

- At the school, both she and her son had been assaulted by the relative;
- The Police failed to consider all circumstances of the incident and her arrest was unlawful.
- The charges against her for breach of a Domestic Violence Order had since been withdrawn; and
- The Police Officers involved should be counselled and her legal costs reimbursed.

### *Investigation*

The complainant provided our Office with documentation to support her request for a reinvestigation of her complaint.

A review was undertaken of all the material including:

- The prosecution determination to withdraw the charges,
- The parenting order between the parties,
- The domestic violence order between the parties,
- All relevant statements including statements from witnesses to the original incident at the school;
- Transcripts

The review revealed that there was a prima facie (at face value) case for the complainant's arrest for the offence of breaching the Domestic Violence Order. This action had not been done lightly. It was supported by the evidence of independent witnesses and the Police had gone so far as to seek guidance from a supervisor before the arrest.

Although the complainant had an entitlement to be at a location where her son was to be collected by a relative of the child, she had no right to harass, threaten or verbally abuse that person. The allegation that she and her son had been assaulted by him was not supported by the evidence.

The review also revealed that the decision by the prosecutor to withdraw the charge of breaching the Domestic Violence Order was due in part to the unavailability of critical crown witnesses and the refusal of the Court to adjourn the case.

### Outcome

For the reasons outlined, the Ombudsman determined not to take any further action and the complainant's application to have the matter re-categorised and re-investigated was denied.

### Off Duty Police Behaviour

#### Background

In September 2011 the complainant, a tradesman, was approached by the resident of a unit near his worksite. This resident was unhappy that the complainant had parked his work vehicle across the driveway blocking the entrance. A verbal disagreement ensued and a scuffle between the complainant and the resident took place. The complainant received some grazes.

#### Investigation

An investigation was undertaken by Professional Standards Command (PSC). The complainant told PSC that when he parked his vehicle in the driveway of the units he was approached by a resident who was 'fuming', told the complainant he was trespassing and to get his car out of the driveway. The complainant stated he said "*It would be nice if you were a little more courteous and obliging*". At this, the resident allegedly flashed "*something like a badge or an ID*" and told the complainant to get off the property. The complainant stated that he replied "*I will move if you wish, if you say please and be nice and courteous about it*". He was then ordered off the property by the resident (subsequently identified as a serving Northern Territory Police Officer).

The complainant stated that when he was ordered off the property he started walking away and was tackled to the ground by the Officer, who grabbed him in a headlock. He also stated that while the pair were on the ground the Officer grabbed his hair and banged his head on the pavement, then said something that the complainant did not recall. The complainant also stated that during this scuffle the Officer was trying to get his car keys from his pocket. At about this time one of the Officer's children, who was nearby, began crying and this is when the physical scuffle stopped. The complainant stated that he then left in his vehicle. He suffered grazes on his forehead and knees which were photographed by Police. An audio statement was obtained. At the time of the incident the complainant said he was seeking an apology from the Officer, however, the next day said he wished to have the Officer charged with assault.

#### Outcome

The investigation was referred to the Director of Public Prosecutions for an opinion as to whether a charge of assault should be laid. Given the entirety of the circumstances, a recommendation was received from the DPP that no prosecution be pursued. A letter setting out the Police investigation findings was sent to the complainant. A review was not requested. Action against the Officer was undertaken through the internal Police discipline process.

### Lack of Action

#### Background

In June 2011 a male complainant attended the Office of the Ombudsman and stated he was aggrieved by the lack of action taken by NT Police in response to his numerous complaints regarding incidents of Stalking, Harassment and Threats to Kill. The complainant resided in the rural area with his wife and children and advised of a falling out he had with a former tenant. In the past Police had been called and the tenant had been served with a Trespass Notice, prohibiting him from being at or near the complainant's property. The complainant alleged that the former tenant had moved to a neighbouring property and had embarked on a campaign of intimidation, including threatening

behaviour, causing the complainant and his family to fear for their safety and well-being. The complainant detailed numerous incidents which had all been reported to Police at Humpty Doo, Palmerston and also Darwin.

The complainant was visibly upset and concerned that this matter would escalate into physical violence against his family.

#### *Investigation*

A Category 2 Investigation was undertaken by Police Officers under the direction and supervision of PSC. Eleven (11) individual Officers were the subject of investigation with a total of nineteen (19) allegations. Over fourteen (14) months each of the identified Officers were interviewed and afforded an opportunity to provide their respective version of events. Evidence collected from the complainant included video footage and audio recordings were reviewed and analysed.

A comprehensive investigation and review of eighteen (18) PROMIS cases determined that:

- Fourteen (14) PROMIS cases were satisfactorily investigated;
- Three (3) PROMIS cases were not fully investigated on the basis that there was prima facie evidence of offences or further investigation might have revealed sufficient evidence to result in prosecution;
- One case resulted in a finding that it was not determined that Police acted unreasonably in the circumstances;
- Two (2) of the Police Officers involved in these matters were to be given managerial guidance in respect of Investigation Guidelines and Customer Service under section 14C of the *Police Administration Act*.

#### *Outcome*

Throughout the investigation, this Office maintained a watching brief and provided regular updates to the complainant. The ultimate findings and recommendations of PSC were accepted by the Ombudsman. At the conclusion of the investigation, the complainant expressed his gratitude and acknowledged the efforts of Police in finalising the matter in line with his expectations.

### **Category 1 Complaints – Case Studies**

Category 1 complaints are matters deemed to be of a serious or systemic nature.

#### **Cat 1 - Case Study 1**

##### *Background*

In 2010 a complaint was received stemming from the Police investigation into a sexual assault committed upon a young woman. The initial Officers who attended searched the scene, initiated a sexual assault investigation examination and arranged for a female Officer to take a statement from the victim. This is approved practice. Part of the way through the victim statement, two Officers, the main subjects of this complaint, became involved. These two Officers took charge of the investigation. One of the Officers was a Sergeant. The Sergeant intervened during the taking of the victim statement. He took the victim from the station to the crime scene and attempted to identify the make and model of the suspect's vehicle. After driving the victim around she was returned to the station to complete her statement. A suspect vehicle was subsequently identified and the driver of the vehicle questioned regarding his knowledge of the alleged sexual assault. Although not detailed at the time, this person was ultimately arrested for the alleged offence.

This person, a male and an ex-member of the Northern Territory Police Force subsequently complained to our Office alleging:

- Unlawful arrest;
- Abuse/rudeness by Police;
- Improper techniques used by Police;
- Improper computer facial Identification techniques(COMFIT) procedures;
- Dealing with vulnerable witnesses.

The Professional Standards Command conducted a lengthy and comprehensive investigation into these allegations. In summary, PSC found the Sergeant had fabricated evidence and attempted to pervert the course of justice through a search warrant which was sworn on oath. The Sergeant failed to include in the warrant a number of exculpatory details that may have resulted in the Justice not being satisfied that the warrant should be issued. The investigation also determined that the Sergeant may well have procured another to pervert the course of justice by fabricating evidence and directing a junior Officer to make alterations in the offender's description, so it would better match the complainant's and the COMFIT image.

Additionally the investigation found the Sergeant had destroyed evidence, namely the original victim statement that had been handed to the Sergeant but had later disappeared. The Sergeant at interview denied any wrong doing. The investigation further identified a number of short comings in the original sexual assault investigation including Police deceiving a witness, fabricating evidence and potentially perverting the course of Justice. It was apparent that elements of deception led to one Officer creating a COMFIT image which was based upon tainted information.

The Police investigation report noted the investigator's belief that initially both Officers were excited on the discovery of a similar vehicle to the offender. However, after a heated altercation with the complainant, they deliberately ignored all the exculpatory evidence and only concentrated on inculpatory evidence, fabricating most of the inculpatory evidence.

Ultimately the PSC sought an opinion from the Office of the Director of Public Prosecutions (DPP) as to whether charges (including those below) against several Police Officers should be proceeded with:

- Fabrication of Evidence – Section 99 *Criminal Code Act*;
- Attempt to Pervert Justice – Section 109 *Criminal Code Act*;
- By Omissions, Attempt to Pervert the Course of Justice - Section 109 *Criminal Code Act*;
- Procure Another to Pervert the Course of Justice – Section 280 *Criminal Code Act*;
- Counsel Another in the Fabrication of Evidence – Section 12 *Criminal Code Act*; and
- Destroying Evidence – Section 102 *Criminal Code Act*

PSC received legal opinion from the DPP indicating that although there was evidence of criminal conduct by Police, there was insufficient evidence to commence criminal proceedings.

#### *Outcome*

The matter was dealt with through internal investigation and disciplinary processes with the majority of issues raised by the complainant having been sustained. Disciplinary action was commenced against all of the Officers found at fault during the course of this investigation. The Sergeant, the subject of most of the criticism has since resigned from the Police Force.

#### *Final Comment*

PSC Investigators have recommended that the records pertaining to the complainant's arrest be completely expunged from NT Police systems. There may be restrictions on doing this however as a result of the provisions of the *Information Act*. Nonetheless PSC have confirmed that a clear notation should be added to the records, to nullify any adverse effect. This Office concurs with that recommendation. The Office of the Ombudsman also notes that this investigation was protracted and complex. We acknowledge and commend the efforts by the investigating Officers.



## Cat 1 - Case Study 2

### Background

In mid-2011 Police referred a complaint to our Office where the complainant alleged that Police had searched her property and during the course of that search Police located \$17,000 (which the complainant stated she had recently withdrawn as cash from her bank account for an upcoming holiday). The complainant stated that when Police returned seized property from the search to her only \$12,000 was returned. The complainant also alleged that a 4 carat uncut sapphire was stolen by Police during the search warrant execution. The complainant believed that Police had stolen both \$5,000 and the sapphire. Additionally the complainant stated that Police caused damage to her garage door during the search estimated at \$1,000 to repair. She stated that Police refused to fix the damage.

In brief the allegations of the complaint were summarised as:

- Police stole \$5000 from her premises;
- Police stole a sapphire stone from her premises;
- Police damaged the garage door and refused to pay for its repair;
- Police damaged the veranda decking;
- Three to four Police Officers pointed a firearm at her head and chest area;
- Police failed to provide care to her;
- Police failed to provide a copy of the Evidence List; and
- Police told her she would be taken to the Police Station and arrested and that did not occur.

### Investigation

The PSC conducted an investigation into the allegations made by the complainant. It was established that members of the Northern Territory Police Drug and Organised Crime Unit executed a search warrant under Section 120B of the *Police Administration Act* at the complainant's residential home with the assistance of the Territory Response Group ('TRG'). NT Police were in receipt of information that the manufacture of dangerous drugs was occurring on the premises and had a duly authorised search warrant. The warrant execution was deemed 'high risk' given the history of the person of interest who was known to reside at the residence and the nature of the dangerous drugs being sought. Entry to the premises was effected by the TRG's rapid and expedient entry team. A number of items including cash were seized during the course of the search.

The investigation determined that most of the allegations raised by the complainant were not substantiated. There was no evidence to support the allegation of the theft of \$5,000 nor the sapphire gem. The money in the first instance had been counted in front of the complainant and there was nothing to indicate Police had at any point discovered the gem. The allegations of damage to the garage door and veranda decking were substantiated but damage to these items occurred during execution of the search warrant and the use of force was considered justified and lawful. The allegation that Police pointed a firearm at the complainant was not substantiated.

### Outcome

Although the principal issues of complaint in this case were not substantiated several ancillary issues were identified by the investigating Officer that are worthy of comment. The recommendations relevant to these issues are strongly supported by our Office and are detailed below:

- failure to record the use of force appropriately (to be addressed through a broadcast message reminder to all Police Officers and clarification of the requirements to complete a 'Use Of Force' form when a firearm is drawn)
- a requirement for search warrants to be digitally recorded (a search warrant procedures broadcast message to be distributed to all Police Officers)

- a copy of exhibits seized as a result of search warrants be provided to the occupant (amendments to be made to search warrant booklets to facilitate a copy of exhibits seized being provided to the occupant.)
- where seized money is to be returned to an occupant the Officer in charge will facilitate that return rather than simply suggesting the person concerned attend at the RTM to have the money returned (a broadcast message is to be developed and disseminated outlining procedures to be adopted where seized money is to be returned to the owner).

The recommendations arising from this investigation have been referred to the Commander, Drug and Organised Crime Unit as well as the Commander, Traffic & Specialist Services for implementation.

### ***A matter for Police***

The complainant wanted to complain about Police services provided to Titjikala. Santa Teresa Police responded to matters at Titjikala, a 2 hour drive away. Titjikala residents wanted a more permanent Police presence in their community. The complainant stated that there was Police accommodation in Titjikala and that some years ago the Commissioner of Police advised residents that once accommodation was available, they would stay overnight on a regular basis.

The complainant complained that the accommodation was progressively used less and less and now not at all. This issue was forwarded to Police. The allocation of Police staff to service remote areas is not an issue that this Office can control.

### ***A matter for the individual***

The complainant wanted to provide appropriate clothing to a relative held in a Police watch-house, before the person appeared before a Magistrate. The Police were alleged to have refused to take and provide the clothes. Enquiries were made with the Police. The person in custody had refused to accept the change of clothes. The Police were not responsible for this person not wearing clean clothing. The matter was closed.

### ***Bouquets and brickbats:***

It may appear that our office deals only with complaints against Police however from time to time we receive positive feedback regarding the interaction between Officers of the Northern Territory Police and the general public. Below is one such positive interaction:

*...This e-mail is long overdue, and I hope its significance is not lost due to how long it took me to actually finally send it*

*I want to just take a quick moment for thanking the Ombudsman team for helping my family and I out in this matter. On Boxing Day 2011, Sergeant Conan Robertson (and I forget the name of the Senior Sergeant that came along with him) showed up at our house to discuss matters regarding our accident/complaint with us.*

*These two Officers were probably not pleased with having to deal with a complaint on Boxing Day, but they turned up. They were caring, completely professional, understanding of our situation, and promised that they would take action in the Alice Springs Police Department to make some positive protocol changes with the way that some of the Officers in the Police Department handled matters.*

*I don't know if that actually happened, or how much actually changed - but I did want to take a moment to express my gratitude to the Ombudsman for getting involved, and also for the Police for promptly turning up and the help they provided us by doing their best to answer our questions.*

*I've lived in the Alice for over 8 years, and I've seen both good and bad here. At times there are things left to be desired by the Police department, but it's not all bad. My perception and perspective toward the Police in this town has changed for the better I think - specifically due to the nature of how these Officers handled our matter. The Police here cop a fair bit of criticism, and at times, some of that is deserved -- but rarely do I ever hear, see, or read about the Police force being praised for doing something good.*

*I'd just like to say thanks to Sergeant Conan Robertson for how he handled our issue and for the care that he demonstrated toward us in the matter. There are good people, good examples within the Alice Springs Police Force, and Sergeant Robertson is one of them.*

*Kind Regards, (name withheld)*

*Resident*

## DEPARTMENT OF JUSTICE

The Department of Justice (DoJ) has several Agencies and Independent Offices that fall within its responsibility. These include Correctional Services, Court Support Services, Fines Recovery Unit and Licensing Regulation & Alcohol Strategy.

DoJ also provides corporate support to a number of Independent Offices including the Anti-Discrimination Commission and the Information Commission. Some of these agencies are exempt from the provisions of the *Ombudsman Act 2009* (e.g. the Coroner). Others (e.g. independent offices) can only be investigated if there has been an unreasonable delay in their administrative processes

During the reporting period 266 Enquires and 1 Complaint were registered about the Department of Justice and its areas of responsibility. This is a notable increase from the 211 Enquiries and 1 Complaint received in the prior period. The below table summarises the Enquiries received:

Agency subject of Enquiry	2010/11	2011/12
Anti-Discrimination Commission	1	2
Births Deaths and Marriages		2
Community Corrections		2
Consumer Affairs	1	2
Coroner's Office		1
Correctional Services	162	227
Court Support Services	8	2
Criminal History Warrants & Infringements		1
Fines Recovery Unit	17	7
Legal Practitioners Complaints Committee		1
NT Worksafe	4	7
Public Trustee's Office	11	7
Racing Gaming & Licensing	7	5
<b>Grand Total</b>	<b>211</b>	<b>266</b>

The increase in approaches is primarily attributable to an increase in prisoner complaints.

### **Correctional Services**

There were a total of 227 Enquiries received from prisoners during the reporting period. This is a significant increase from 162 enquiries received in 2010/11.

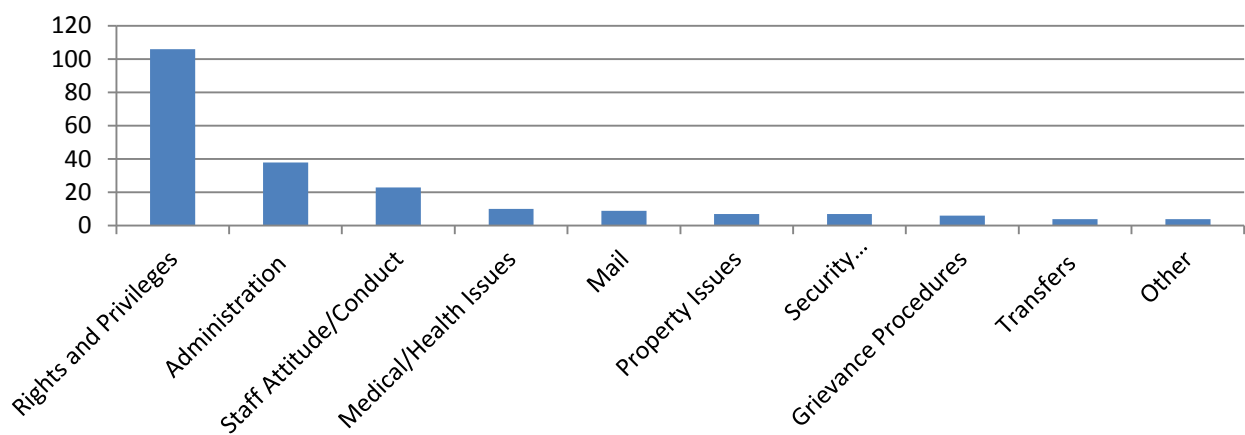
The fair treatment of prisoners and good administration within corrective institutions remains a key focus of our office. Our work in the Corrections area is a complex one given we do not have easy access to the complainants. The inmates do however have a direct line to our office which is not monitored. Many were initially wary about using the service, but they have come to trust it and now use it extensively. Noting their high level of representation in the Corrections system, Indigenous offenders require special attention. Our resolution officers are selected because of their cross cultural experience and aptitude in effective communication. We also work closely with the complaints unit within the Corrections system known as the Professional Standards Unit (PSU). When we want to verify information with an inmate, we liaise with PSU to arrange to have the inmate contact our office.

We do not investigate all the complaints that come to us, but every enquiry receives a response. Before taking on any complaint, we ask three questions:

- Is there sufficient indication within the material provided to the Ombudsman by the inmate that the prison has acted improperly or unfairly?
- Is there evidence that no remedy for any injustice or hardship claimed by the inmate has been provided? and
- Is intervention by the Ombudsman likely to produce the result sought by the inmate or another worthwhile outcome?

The spread of issues raised by Prisoners is generally similar to previous years with *Prisoner Rights* being the main issue this year. *Administration* has also become a larger issue of complaint.

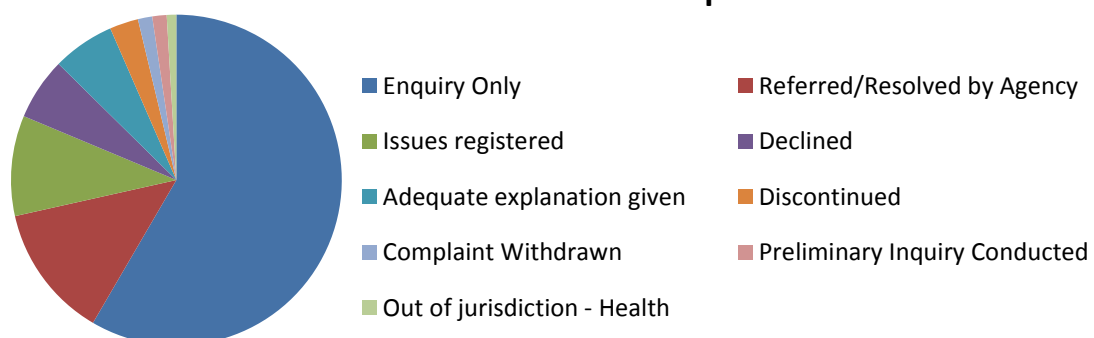
### Issues of Prisoner Enquiries



Many prisoner complaints are about issues not considered serious enough or within the public interest to investigate. When we decline to carry out an investigation we provide our reasons. Listed below are some examples of complaints that we did not investigate further:

- Prisoner had trouble calling his daughter. He wanted my Office to fix the phone. However, the phone wasn't broken; the inmate didn't have enough credit to make calls.  
*Reason: Justified reason as to why the prisoner was unable to call.*
- Prisoner complained that inmates do not get salt with their meals any more.  
*Reason: No substantive issue identified to warrant an investigation*
- Female prisoner unhappy that prison officers had found contraband (mobile phone) in her cell and that she had been punished for this matter.  
*Reason: No maladministration found and Corrections acting in accordance with current policy and procedures.*

### Outcome of Corrections Enquiries



## *Corrections Case Studies*

### ***Serious injustice averted***

Our Office received a complaint from a prisoner adamant that he was being incarcerated for a longer period than the Court imposed. The prisoner believed he had been sentenced to 6 months jail but he had been informed by prison guards his stay was for 8 months. We contacted PSU who confirmed that their paperwork indicated an 8 month sentence. Our Office obtained a copy of the court transcript revealing an error had occurred and the sentence was indeed for a 6 month period. We provided this information to PSU and the inmate's lawyer so as the matter could be brought back before the court for correction.

### ***Small things matter***

A prisoner rang our Office to complain that his sticky tape had been removed from him. We liaised with PSU to find out why and were advised that sticky tape, blu tac and chewing gum were non approved items as they could be used to disable locks. Our Office conducted further inquiries and found that the current policy did not prohibit the purchase and use of sticky tape by inmates. PSU were provided with a copy of their current policy and the prisoner was ultimately given back his sticky tape and was able to continue with his art and craft pursuits.

### ***Ombudsman Comment:***

It takes a lot of red tape to run a prison and it is accepted that from time to time, staff will make mistakes. The concern is a tendency among some Corrections staff to rely upon past practice or out-dated policies when making decisions regarding inmates. It is only reasonable that current policies should be provided to both Corrections staff and inmates. Our Office looks forward to working with PSU on this and other issues that so easily impact on good administration.

## **POWER WATER CORPORATION**

Our office encourages complainants to first try to resolve their complaints directly with Power and Water (PWC). This process generally works well and most matters are resolved in this way. If a complainant is unhappy with the response from PWC, they can seek help from our Office.

PWC have recently begun recording all communications from customers to their 1800 number. This has improved our office's ability to quickly review complaints made to us.

We have had a number of complainants claim that they provided PWC with their new residential address when moving house so that the final bill could be sent to them. They complain that the final bill was never received by them at their new address resulting in its non-payment and the inclusion of their name on a bad debtors list. In each case, the recorded conversation that we listened to showed the complainant either failed to provide the new address to PWC or provided the wrong one.

Our Office has also recently received a number of complaints from customers after their accounts were estimated. (Their meters were not accessible for the meter reader to conduct a physical reading). In a few matters, the estimated reading was quite low as was the corresponding bill. However, when the meter was physically read the next quarter, the recorded consumption was high, (to cater for the period where it had been under-estimated). This resulted in a much higher bill being issued - in some cases more than double. Understandably customers became quite upset at receiving high bills, claiming they had not consumed the amount of water or electricity indicated.

Other concerns raised by customers included:

- No cards were received to allow them to provide their own reading;
- Not being informed straight away about the estimated read;
- Not being informed of potential leaks on their property that they needed to fix; and
- The adequacy of information on bills.

Complaint comparison for the financial years 2010/11 and 2011/12 by issues are below:

<b>Row Labels</b>	<b>2010/11</b>	<b>2011/12</b>
<b>Fees and Charges</b>	39	62
<b>Information</b>	2	9
<b>Misapplication or Law/Policy</b>	4	1
<b>Practice or Procedures</b>	9	8
<b>Service - Program Delivery/Entitlement to Service or Program</b>	1	3
<b>Other</b>	5	3
<b>Grand Total</b>	<b>60</b>	<b>86</b>

PWC's responses to the concerns included:

- Providing customers with explanations on possible causes of the high consumption;
- Offering to have customer's meters tested upon payment of an upfront test fee - refundable if the meter is found to be faulty or malfunctioning;
- Arranging energy audits to check energy use;
- Conducting test reads to confirm the meter was recording correctly;
- Offering an extension of time to pay the account.

We continue to liaise with PWC with the shared intention of identifying whether processes and customer service can be improved in these areas.

## DEPARTMENT OF LANDS AND PLANNING

The Department of Lands and Planning (DLP) services are delivered through several functional groups, these include Land Services, Strategic Planning and Transport. Details of complaints received are outlined below:

Lands Planning Divisions	Issues of Complaint	Count
<b>Government Business Division - Darwin Bus Service</b>	Attitude/Behaviour of Staff	<b>1</b>
<b>Lands Services - Building Advisory services</b>	Practice or Procedures	<b>1</b>
	Service - Program Delivery/Entitlement to Service or Program	<b>2</b>
<b>Lands Services - Development Assessment services</b>	Information	<b>1</b>
	Practice or Procedures	<b>1</b>
<b>Lands Services - Land Information</b>	Practice or Procedures	<b>1</b>
<b>Motor Vehicle Registry (MVR)</b>	Attitude/Behaviour of Staff	<b>1</b>
	Fees and Charges	<b>4</b>
	Information	<b>7</b>
	Misapplication or Law/Policy	<b>2</b>
	Practice or Procedures	<b>12</b>
	Service - Program Delivery/Entitlement to Service or Program	<b>6</b>
<b>Transport Services - Public transport</b>	Information	<b>1</b>
	Practice or Procedures	<b>2</b>
	Tenders/Contractual Matters	<b>1</b>
<b>Transport Services - Road Transport</b>	Attitude/Behaviour of Staff	<b>1</b>
	Practice or Procedures	<b>1</b>
<b>Grand Total</b>		<b>45</b>

The major area of complaint for DLP this year was the Motor Vehicle Registry (MVR).

We received 32 complaints relating to this area that principally related to record keeping practices. Examples included:

- A person complained to us that he had been fined by Fines Recovery Unit (FRU) because a reminder notice for an infringement had not been received by him at his new address. It appears that his details had not been updated in the MVR system.
- A person was told she would have to re-sit (and pay for) a repeat learner's driving test as there was no entry on the system to show she had already sat and passed it at another MVR outlet in the Territory.

The vast majority of complaints were resolved after preliminary enquiries were made.



## Motor Vehicle Registry Case Study

### Double Jeopardy

#### Background

A complaint was received from a man regarding the suspension of his driver's licence. He explained he had appeared before the courts in January 2011 to face a reckless driving charge. He had at the time already accumulated 22 demerit points and the Magistrate suspended him from driving for a period of 6 months and imposed a fine. The suspension finished in June 2011.

In January 2012 the man went to register a vehicle at the Motor Vehicle Registry (MVR). He was told that his licence had been suspended in December 2011 and would remain so until May 2012. The man could not understand this as his (court imposed) suspension had expired in June 2011. Fines Recovery Unit confirmed that his payments towards his fine had been received and they had not imposed a further suspension.

The man called the Demerit Points Unit and was told a letter had been sent to him in November 2011 regarding his demerit points. He was adamant that he never received any letters or he would have actioned his complaint sooner. The staff person in the Demerit Point Unit confirmed that his licence was suspended because of the same 22 demerit points that had been taken into account in his Court suspension. The staff member advised that there was nothing that could be done and he would not be legally permitted to drive until May 2012.

#### Investigation

Our office conducted inquiries with MVR and established the following:

- As at May 2010 the man had accumulated 13 points. Within 28 days of this date, the computer program utilised by MVR should have generated a letter to the man advising him that his license had been suspended for 3 months. Unfortunately this did not occur. Had this occurred the man would have already served his suspension by the time he went to court regarding the reckless driving charge and his demerit points would not have been considered by the Court when imposing penalty.
- On 8 November 2011, 1 year and 4 months later, the computer system became aware that the man had accumulated 22 points and therefore sent a letter to him imposing a 5 month suspension from December 2011 to May 2012.<sup>7</sup> A review of the legislation confirmed that a disqualification period imposed by a Court does not preclude MVR imposing an additional period of suspension.<sup>8</sup>

#### Outcome

MVR acknowledged that a malfunction in their computer program resulted in a licence suspension being imposed on the man later than it should have been. They confirmed that they would undertake a review of their systems so as to avoid these problems reoccurring in the future. MVR also offered the man the following options:

1. Amend the current suspension of 5 months to 3 months for the 13 demerit points. However the man was warned to be careful as he still had 9 demerit points left; or
2. Accept the 5 months suspension and start with clean slate with no demerit points.

The man opted for the 3 month suspension.

<sup>7</sup> The suspension period is 3 months for 12-15 demerit points; 4 months for 16-19 demerit points; and five months for more than 19 demerit points.

<sup>8</sup> Subsection 33X (1) of the *Motor Vehicles Act* provides that demerit points are not affected by a licence suspension under another law and that a suspension under Part 111 is in addition to any period of licence suspension or disqualification imposed under a law in force in the Territory. Demerit points recorded in the register against a person are not affected by a period of licence suspension or disqualification imposed by a court in Australia or any other Territory law.

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**Managing the Office**

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## CORPORATE GOVERNANCE

As the accountable officer for the Office of the Ombudsman, the Ombudsman has the responsibility under the *Financial Management Act* for the efficient, effective and economic conduct of the Office. Under the *Ombudsman Act*, the Ombudsman is independent of Government and is not accountable to a Minister, but rather to the Legislative Assembly as a whole. However, under the Administrative Arrangements Orders, where relevant, the *Ombudsman Act* is the administrative responsibility of the Chief Minister. The Statement of Accountable Office is included at page 2.

In 2011, the Ombudsman 2012-2016 Strategic Plan was developed to provide guidance and a general framework for our annual business planning. A copy of the Strategic Plan is available online at: <http://www.ombudsman.nt.gov.au/about-us/our-policies/>

## INVESTING IN OUR PEOPLE

By far the most valuable resource of any organisation is its staff and the Ombudsman's Office is no exception. Efforts continue to retain staff by creating training and advancement opportunities, offering flexible workplace practices and providing a positive work environment and rewarding work. Considerable effort was made during the reporting period to ensure staff are well trained to undertake their statutory functions and provide an excellent service to the NT. Training in specialist investigations, mediation and conciliation were specifically targeted.

Our Office has developed a Career Development Plan and continues to examine how to best utilise the skills of those it employs to improve our ability to provide culturally appropriate services to Aboriginal people.

Our Office has a contract with the Employee Assistance Service of the Northern Territory (EAS) to provide Employee Assistance Program services including counselling and other advisory and training services to staff on an *as needs* basis.

## 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.

## OH&S (EMPLOYMENT INSTRUCTION 11)

The Office of the NT Ombudsman is committed to providing a safe and healthy working environment for all of our workers, contractors and other affected parties in accordance with the *Work Health & Safety (National Uniform Legislation) Act 2012 (NT)*. Full compliance with all requirements is a work in progress. OH&S is an agenda item on each monthly staff meeting and reports on any OH&S issues identified during the month are attended to and resolved. The OH&S officer consults with and seeks

advice from the OH&S DBE Consultant and NT WorkSafe Officers on any important OH&S issues that may arise. During the year there were no days lost as a result of reported injuries.

## **ANNUAL INSURANCE REPORTING REQUIREMENTS**

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

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

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

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

## **RECORDS MANAGEMENT**

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

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

The Records Management Plan for the Ombudsman’s Office is designed to achieve the following objectives:

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

The Ombudsman’s Office is fully compliant with the *Information Act* and the NTG Standards for Records Management. A detailed description of the Office’s obligations under Section 11 of the Act are included below.

## **FREEDOM OF INFORMATION**

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.

Information is exempt under section 44 if:

- it is obtained or created in the course of an action that is in the nature of an investigation, audit or inquiry; or
- it is contained in a complaint under the *Ombudsman Act*

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

Information concerning the organisation and functions of the Ombudsman can be found in pages 8-14 of this Annual Report.

In 2011/12, the Ombudsman received no information access requests.

### *Information held by the Office of the Ombudsman*

The Ombudsman holds information in the following categories:

- information relating 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, other information sources such as background material, records of conversation, analysis and advice and reports;
- information relating to the Ombudsman's role as the chief executive of an NT agency with a particular set of responsibilities, in terms of the development or implementation of administrative process, policy or legislation; and
- information relating to the Ombudsman's management of the office, including personnel, contracting and financial records and information about asset management.

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

#### *Administrative and policy files*

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

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

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

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

#### *Complaint files*

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

On completion of matters, all physical files or documents are stored in the Darwin office until moved to archives or destroyed in accordance with approved disposal schedules.

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

### ***Legal opinions***

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

### ***Annual reports***

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

### ***Brochures***

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

### ***Manuals and guidelines***

The Ombudsman has the following manuals:

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

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

### ***Service Standards***

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

### ***Disclosure of information***

The information the Ombudsman holds may be disclosed:

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

## Procedures for Providing Access to Information

### **Documents available**

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

**Brochures:** No charge

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

Service Standards: No charge

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

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

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

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

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

### **Procedures for Correcting Information**

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

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## **Appendices**

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## APPENDIX A – SERVICE STANDARDS



### SERVICE STANDARDS FOR THE OFFICE OF THE OMBUDSMAN

#### **Those We Serve:**

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

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

#### **Our Commitment:**

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

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

#### Fairness

##### **We promise that:**

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

#### Independence

- We promise to be independent, objective and impartial.

#### Professionalism

##### **We will:**

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

#### Accountability

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

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

### Accessibility

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

### Timeliness

#### **Where possible:**

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

### Courtesy and Sensitivity

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

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

### Our Expectations of You

#### **We ask that you:**

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

### Our Commitment to Continuous Improvement

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

### How We Will Respond to Your Complaint

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

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

If we accept your complaint, it will be assigned to a case officer who, depending on the complexity or seriousness of the complaint, will make informal 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 the 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 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, the Territory Insurance Office or actions of private individuals or businesses.

## APPENDIX B – AGREEMENTS WITH OTHER JURISDICTIONS

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

#### PARTIES

1. The Parties to this Memorandum of Understanding (MOU) are the Commonwealth Ombudsman and the Ombudsman for the Northern Territory (NT Ombudsman).
2. To the extent possible and relevant, this MOU is an arrangement for the purposes of s 8A of the *Ombudsman Act 1976* (Com) and ss 19 and 148(1)(b) of the *Ombudsman Act 2009* (NT).
3. The Commonwealth Ombudsman is an independent statutory office holder established pursuant to the *Ombudsman Act 1976* (Com). The Commonwealth Ombudsman's mission includes fostering good public administration that is accountable, lawful, fair, transparent and responsive. The Commonwealth Ombudsman is charged with a range of functions including investigating the administrative actions of Australian Government officials and agencies either on receipt of a complaint or on the Ombudsman's own motion.
4. The Commonwealth Ombudsman is a complaint entity as defined in s 34 of the *Ombudsman Act 2009* (NT).
5. The NT Ombudsman is an independent statutory office holder established pursuant to the *Ombudsman Act 2009* (NT) charged with a range of functions, including:
  - i. investigating and dealing with complaints about administrative actions of public authorities effectively, efficiently, independently, impartially, fairly and in a timely way
  - ii. improving the quality of decision-making and administrative practices of public authorities.

#### DEFINITION

6. In this Memorandum of Understanding

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

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

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

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

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

## PURPOSES

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

## STATEMENT OF COOPERATION BETWEEN THE PARTIES

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

## Sharing information

11. To the extent that privacy, confidentiality and legislative requirements allow, the Parties agree that their officers will work together to share information and knowledge gained in the performance of their respective roles. Where appropriate, the Parties will invite each other to attend briefings.

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

### Outreach

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

### Referral of complaints

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

- iv. separation of the complaint so that the Commonwealth Ombudsman and the NT Ombudsman manage those parts within their own jurisdiction.
- v. management using any, some or all of the above options.

### Joint Investigation

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

### Delegation

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

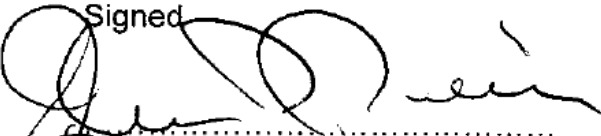
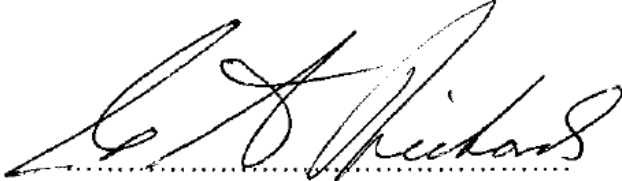
- iii. The Commonwealth Ombudsman and the NT Ombudsman have agreed to the final report and/or action and signed the final documentation/correspondence in those instances where delegations have been made by both Parties in order to conduct a joint investigation.

**Joint funding**

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

**DURATION**

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

<p>Signed</p>  <p>John McMillan Commonwealth Ombudsman</p> <p>dated</p> <p>3/12/09</p>	 <p>Carolyn Richards Ombudsman for the Northern Territory</p> <p>dated</p> <p>3/12/09</p>
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# PUBLIC INTEREST DISCLOSURES & OMBUDSMAN MOU

## Memorandum of Understanding

### Between:

**The Ombudsman for the Northern Territory**  
(the Ombudsman)

### And

**The Commissioner for Public Interest Disclosures**  
(the Commissioner)

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

## JURISDICTION

The parties recognise and acknowledge that:

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

## DEFINITION

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

## REFERRAL

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

## INFORMATION AND DOCUMENTS

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

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

## INFORMATION SECURITY

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

SIGNED IN RECOGNITION OF THE MUTUAL UNDERSTANDING BY:



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



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

## APENDIX C – FINANCIAL STATEMENTS

### **OMBUDSMAN FOR THE NT FINANCIAL REPORT FINANCIAL STATEMENT OVERVIEW For the Year Ended 30 June 2012**

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

During 2011-12 the net result for the Ombudsman's Office was a surplus of \$15,000. This was only able to be achieved by leaving two established positions vacant throughout most of the year, which had the effect of lengthy delays in finishing investigations and helping the public to resolve grievances.

Operating expenses comprised \$1,645,000 for employee expenses, \$235,000 for the purchase of goods and services and \$299,000 for services received free of charge from the Department of Business and Employment. Depreciation and amortisation totalled \$16,000.

#### **CERTIFICATION OF THE FINANCIAL STATEMENTS**

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

We further state that the information set out in the Comprehensive Operating Statement, Balance Sheet, Statement of Changes in Equity, Cash Flow Statement, and notes to and forming part of the financial statements, presents fairly the financial performance and cash flows for the year ended 30 June 2012 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.



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CAROLYN RICHARDS  
Ombudsman  
22 August 2012



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SARAH SCHULTZ  
Business Manager  
22 August 2012

**OMBUDSMAN FOR THE NT**  
**COMPREHENSIVE OPERATING STATEMENT**  
**For the year ended 30 June 2012**

	Note	2012 \$000	2011 \$000
<b>INCOME</b>			
Appropriation			
Output		1868	1769
Sales of goods and services		61	59
Goods and services received free of charge	4	299	283
<b>TOTAL INCOME</b>	3	<b>2228</b>	<b>2111</b>
<b>EXPENSES</b>			
Employee expenses		1645	1491
Administrative expenses			
Purchases of goods and services	5	235	215
Property Management		18	10
Depreciation and amortisation	8	16	25
Other administrative expenses <sup>1</sup>		299	283
<b>TOTAL EXPENSES</b>	3	<b>2213</b>	<b>2024</b>
<b>NET SURPLUS/(DEFICIT)</b>		<b>15</b>	<b>86</b>
<b>COMPREHENSIVE RESULT</b>		<b>15</b>	<b>86</b>

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

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

**OMBUDSMAN FOR THE NT**  
**BALANCE SHEET**  
**As at 30 June 2012**

	Note	2012 \$000	2011 \$000
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and deposits	6	389	395
Receivables	7	9	15
Prepayments		0	2
Other assets <sup>(a)</sup>		0	0
<b>Total Current Assets</b>		<b>398</b>	<b>412</b>
<b>Non-Current Assets</b>			
Property, plant and equipment	8	283	34
<b>Total Non-Current Assets</b>		<b>283</b>	<b>34</b>
<b>TOTAL ASSETS</b>		<b>681</b>	<b>446</b>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Payables	9	(67)	(101)
Provisions	10	(174)	(201)
<b>Total Current Liabilities</b>		<b>(241)</b>	<b>(302)</b>
<b>Non-Current Liabilities</b>			
Provisions	10	(54)	(59)
<b>Total Non-Current Liabilities</b>		<b>(54)</b>	<b>(59)</b>
<b>TOTAL LIABILITIES</b>		<b>(296)</b>	<b>(361)</b>
<b>NET ASSETS</b>		<b>385</b>	<b>84</b>
<b>EQUITY</b>			
Capital		(336)	(50)
Accumulated funds		(49)	(34)
<b>TOTAL EQUITY</b>		<b>(385)</b>	<b>(84)</b>

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

## STATEMENT OF CHANGES IN EQUITY

For the year ended 30 June 2012

	Note	Equity at 1 July \$000	Comprehensiv e result \$000	Transactions with owners in their capacity as owners \$000	Equity at 30 June \$000
<b>2011-12</b>					
<b>Accumulated Funds</b>		34	15		49
		34	15		49
<b>Capital – Transactions with Owners</b>		50			50
Equity injections					
Capital appropriation			276		276
Equity transfers in			10		10
Other equity injections					
Equity withdrawals					
Capital withdrawal					
		50	286		336
<b>Total Equity at End of Financial Year</b>		<b>84</b>	<b>301</b>		<b>385</b>
<b>2010-11</b>					
<b>Accumulated Funds</b>		(52)	86		34
		(52)	86		34
<b>Capital – Transactions with Owners</b>		50			50
Equity injections					
Capital appropriation					
Equity transfers in					
Other equity injections					
Equity withdrawals					
Capital withdrawal					
		50			50
<b>Total Equity at End of Financial Year</b>		<b>(1)</b>	<b>86</b>		<b>84</b>

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

**CASH FLOW STATEMENT**  
For the year ended 30 June 2012

	Note	2012 \$000	2011 \$000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Operating Receipts</b>			
Appropriation			
Output		1868	1769
Receipts from sales of goods and services		110	88
<b>Total Operating Receipts</b>		<b>1978</b>	<b>1857</b>
<b>Operating Payments</b>			
Payments to employees		(1670)	(1537)
Payments for goods and services		(335)	(208)
<b>Total Operating Payments</b>		<b>(2005)</b>	<b>(1745)</b>
<b>Net Cash From/(Used in) Operating Activities</b>	11	<b>(27)</b>	<b>112</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
<b>Investing Payments</b>			
Purchases of assets		(265)	(9)
<b>Total Investing Payments</b>		<b>(265)</b>	<b>(9)</b>
<b>Net Cash From/(Used in) Investing Activities</b>		<b>(265)</b>	<b>(9)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
<b>Financing Receipts</b>			
Equity injections			
Capital appropriation		276	
Other equity injections		10	
<b>Total Financing Receipts</b>		<b>286</b>	<b>0</b>
<b>Net Cash From/(Used in) Financing Activities</b>		<b>286</b>	<b>0</b>
Net increase/(decrease) in cash held		(6)	103
Cash at beginning of financial year		395	292
<b>CASH AT END OF FINANCIAL YEAR</b>	6	<b>389</b>	<b>395</b>

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



**OMBUDSMAN FOR THE NT**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2012**

**INDEX OF NOTES TO THE FINANCIAL STATEMENTS**

Note

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3. Comprehensive Operating Statement by Output Group
- INCOME**
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## 1. OBJECTIVES AND FUNDING

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 Act 2009* applies and to foster excellence in public sector services.

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

Additional information in relation to the *Ombudsman for the NT* and its principal activities may be found in section 1 of the Ombudsman's Annual Report – Introduction and Overview.

## 2. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

### a) Basis of Accounting

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

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

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

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

The form of the agency financial statements is also consistent with the requirements of Australian Accounting Standards. The effects of all relevant new and revised Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that are effective for the current annual reporting period have been evaluated.

### 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.

### **c) Comparatives**

Where necessary, comparative information for the 2010-11 financial year has been reclassified to provide consistency with current year disclosures.

### **d) Presentation and Rounding of Amounts**

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

### **e) Changes in Accounting Policies**

There have been no changes to accounting policies adopted in 2011-12 as a result of management decisions.

### **f) Accounting Judgments and Estimates**

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

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

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

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

### **g) Goods and Services Tax**

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

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

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

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

#### **h) Income Recognition**

Income encompasses both revenue and gains.

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

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

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

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

#### **Appropriation**

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

Revenue in respect of appropriations is recognised in the period in which the agency gains control of the funds.

#### **Sale of Goods**

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

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

#### **Rendering of Services**

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

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

### **Interest Revenue**

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

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

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

### **Disposal of Assets**

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

### **Contributions of Assets**

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

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

Funding is received for repairs and maintenance works associated with agency assets as part of output revenue. Costs associated with repairs and maintenance works on agency assets are expensed as incurred.

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

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

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

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

	2012	2011
Plant and Equipment	10 years	10 years
Computer Software	6 years	
Intangibles	3 years	3 years

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

### **k) Interest Expense**

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

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

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

### **m) Receivables**

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

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

Accounts receivable are generally settled within 30 days.

### **n) Property, Plant and Equipment**

#### **Acquisitions**

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

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

#### **Complex Assets**

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

#### **Subsequent Additional Costs**

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

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

As part of the financial management framework, the Department of Construction and Infrastructure is responsible for managing general government capital works projects on a whole of Government basis. Therefore appropriation for all capital works is provided directly to the Department of Construction and Infrastructure and the cost of construction work in progress is recognised as an asset of that Department. Once completed, capital works assets are transferred to the agency.

## **o) Revaluations and Impairment**

### **Revaluation of Assets**

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

- land;
- buildings;
- infrastructure assets;
- heritage and cultural assets;
- biological assets; and
- intangibles.

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

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

### **Impairment of Assets**

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

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

Impairment losses are recognised in the Comprehensive Operating Statement. They are disclosed as an expense unless the asset is carried at a revalued amount. Where the asset is measured at a revalued amount, the impairment loss is offset against the asset revaluation surplus for that class of asset to the extent that an available balance exists in the asset revaluation surplus.

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

## **p) Leased Assets**

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

### **Finance Leases**

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

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

### **Operating Leases**

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

### **q) Payables**

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

### **r) Employee Benefits**

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

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

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

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

As part of the financial management framework, the Central Holding Authority assumes the long service leave liabilities of Government agencies, including Ombudsman for the NT and as such no long service leave liability is recognised in agency financial statements.

### **s) Superannuation**

Employees' superannuation entitlements are provided through the:

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

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



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

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

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

**u) Commitments**

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

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

### 3. COMPREHENSIVE OPERATING STATEMENT BY OUTPUT GROUP

The Health and Community Services Complaints Commission (HCSCC) was transferred to the administration of the Department of Justice on 1st January 2011, until this time outputs delivered by the Ombudsman were allocated between two Output Groups, Ombudsman and Health and Community Services Complaints Commission. In the 2010/11 Notes to the Financial Statements a Comprehensive Operating Statement by Output Group was provided for comparison, this is no longer required as this Office now functions under a single Output Group.

	2012	2011
	\$000	\$000
<b>4. GOODS AND SERVICES RECEIVED FREE OF CHARGE</b>		
Corporate and information services	299	283
	<u>299</u>	<u>283</u>

### 5. PURCHASES OF GOODS AND SERVICES

The net deficit has been arrived at after charging the following expenses:

#### Goods and services expenses:

Consultants <sup>(1)</sup>	7	8
Advertising <sup>(2)</sup>	1	3
Marketing and promotion <sup>(3)</sup>	1	2
Document production	7	17
Legal expenses <sup>(4)</sup>	3	8
Recruitment <sup>(5)</sup>	1	1
Training and study	26	24
Official duty fares	16	14
Travelling allowance	6	1

<sup>(1)</sup> Includes marketing, promotion and IT consultants.

<sup>(2)</sup> Does not include recruitment, advertising or marketing and promotion advertising.

<sup>(3)</sup> Includes advertising for marketing and promotion but excludes marketing and promotion consultants' expenses, which are incorporated in the consultants' category.

<sup>(4)</sup> Includes legal fees, claim and settlement costs.

<sup>(5)</sup> Includes recruitment-related advertising costs.

### 6. CASH AND DEPOSITS

Cash on hand	1	1
Cash at bank	388	395
	<u>389</u>	<u>395</u>

	2012	2011
	\$000	\$000
<b>7. RECEIVABLES</b>		
<b>Current</b>		
Accounts receivable	2	9
Less: Allowance for impairment losses	(0)	(0)
	<u>2</u>	<u>9</u>
Interest receivables		
GST receivables	7	5
Other receivables		
	<u>9</u>	<u>5</u>
<b>Total Receivables</b>	<b><u>9</u></b>	<b><u>15</u></b>
<b>8. PROPERTY, PLANT AND EQUIPMENT</b>		
<b>Plant and Equipment</b>		
At fair value	72	81
Less: Accumulated depreciation	(59)	(53)
	<u>13</u>	<u>28</u>
<b>Computer Software</b>		
At cost	400	126
Less: Accumulated depreciation	(130)	(120)
	<u>270</u>	<u>6</u>
<b>Total Property, Plant and Equipment</b>	<b><u>283</u></b>	<b><u>34</u></b>

**8. PROPERTY, PLANT AND EQUIPMENT (continued)**  
**2012 Property, Plant and Equipment Reconciliations**

A reconciliation of the carrying amount of property, plant and equipment at the beginning and end of 2011-12 is set out below:

	Plant and Equipment	Computer Software	Total
	\$000	\$000	\$000
Carrying Amount as at 1 July 2011	28	6	34
Additions	(9)	274	265
Disposals			
Depreciation	(6)	(10)	(16)
Other movements			
<b>Carrying Amount as at 30 June 2012</b>	<b><u>13</u></b>	<b><u>270</u></b>	<b><u>283</u></b>

### 2011 Property, Plant and Equipment Reconciliations

A reconciliation of the carrying amount of property, plant and equipment at the beginning and end of 2010-11 is set out below:

	Plant and Equipment	Computer Software	Total
	\$000	\$000	\$000
Carrying Amount as at 1 July 2010	25	25	50
Additions	9		9
Disposals			
Depreciation	(7)	(19)	(25)
Other movements			
<b>Carrying Amount as at 30 June 2011</b>	<b>28</b>	<b>6</b>	<b>34</b>

	2012	2011
	\$000	\$000
<b>9. PAYABLES</b>		
Accounts payable	29	41
Accrued expenses	39	60
Other payables <describe where material>		
<b>Total Payables</b>	<b>67</b>	<b>101</b>
<b>10. PROVISIONS</b>		
<b>Current</b>		
<i>Employee benefits</i>		
Recreation leave	126	124
Leave loading	18	14
Other employee benefits	1	
<i>Other current provisions</i>		
Other provisions (FBT, Payroll Tax, Superannuation)	30	62
	174	201
<b>Non-Current</b>		
<i>Employee benefits</i>		
Recreation leave	54	59
Other employee benefits		
	54	59
<b>Total Provisions</b>	<b>228</b>	<b>260</b>

2012	2011
\$000	\$000

## 11. NOTES TO THE CASH FLOW STATEMENT

### Reconciliation of Cash

The total of agency 'Cash and deposits' of \$389 000 recorded in the Balance Sheet is consistent with that recorded as 'Cash' in the Cash Flow Statement.

### Reconciliation of Net Surplus/(Deficit) to Net Cash from Operating Activities

<b>Net Surplus/(Deficit)</b>	15	86
<i>Non-cash items:</i>		
Depreciation and amortisation	16	25
<i>Changes in assets and liabilities:</i>		
Decrease/(Increase) in receivables	6	5
Decrease/(Increase) in prepayments	2	(2)
Decrease/(Increase) in other assets		
(Decrease)/Increase in payables	(34)	42
(Decrease)/Increase in provision for employee benefits	1	(53)
(Decrease)/Increase in other provisions	(32)	8
<b>Net Cash from Operating Activities</b>	<b>(27)</b>	<b>112</b>

## 12. FINANCIAL INSTRUMENTS

A financial instrument is a contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity. Financial instruments held by the *Ombudsman 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.

### Receivables

Receivable balances are monitored on an ongoing basis to ensure that exposure to bad debts is not significant.

### (b) Liquidity Risk

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

**(c) Market Risk**

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

**(i) Interest Rate Risk**

The *Ombudsman for the NT* is not exposed to interest rate risk as agency financial assets and financial liabilities are non-interest bearing.

**(ii) Currency Risk**

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

**(d) Net Fair Value**

The fair value of financial instruments derived from quoted prices in active markets for identical assets or liabilities.

	2012	2011
	\$000	\$000

**13. COMMITMENTS**

**Operating Lease Commitments**

The agency leases property under non-cancellable operating leases expiring from 2-4 years. Leases generally provide the agency with a right of renewal at which time all lease terms are renegotiated. The agency also leases items of plant and equipment under non-cancellable operating leases. Future operating lease commitments not recognised as liabilities are payable as follows:

Within one year	8	9
Later than one year and not later than five years	6	14
Later than five years	0	0
	<u>15</u>	<u>23</u>

**14. CONTINGENT LIABILITIES AND CONTINGENT ASSETS**

The Ombudsman for the NT had no contingent liabilities or contingent assets as at 30 June 2012 or 30 June 2010

**15. EVENTS SUBSEQUENT TO BALANCE DATE**

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

**16. WRITE-OFFS, POSTPONEMENTS AND WAIVERS**

The Ombudsman for the NT had no Write-Off's, postponements or waivers as at 30 June 2012.

In 2010/11 the Ombudsman received an approval in principle for a Treasurer's Advance of \$250,000 for the procurement of a new case management system; the procurement was completed in the 2011-12 financial year. There were no other Write-Off's, postponements or waivers as at 30 June 2011.

Ombudsman  
Ombudsman

**How to contact the  
Ombudsman**

Ombudsman

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