



 **mbudsmant**NT



# Annual Report 2018/19

## Part 2 – Ombudsman Operations

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





## Annual Report 2018/19

### Part Two

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## REPORT STRUCTURE

This annual report is divided into two parts.

Part 1 – *The Justice Continuum* focusses attention on the enormous issues impacting on the Northern Territory justice system that have been identified in the course of Ombudsman complaints and investigations — the systemic issues that need to be addressed for there to be real progress in justice outcomes.

This Part 2 – *Ombudsman Operations* describes the day to day operations of the Office and other Ombudsman functions undertaken during 2018/19.



**PETER SHOYER**  
**OMBUDSMAN**  
**30 September 2019**



## OVERVIEW OF OPERATIONS - 2018/19

### OFFICE OF THE INFORMATION COMMISSIONER TRANSFER

Following on from a recommendation in the Martin Report (which led to the establishment of the Independent Commissioner Against Corruption) the Office of the Information Commissioner (OIC) functions were transferred to the Ombudsman's Office.

In August 2018, we welcomed the staff of the OIC. I was appointed as Information Commissioner in addition to my role as Ombudsman. The former Information Commissioner has taken up the position of Deputy Ombudsman and Deputy Information Commissioner. All other OIC staff also transferred.

The transfer had been anticipated for some time, and some appointments and initiatives in the Ombudsman's Office were delayed in order to facilitate a seamless transition. This impacted to some extent on the capacity of the Office during the reporting period. The OIC is now well settled and the combined offices are operating smoothly together.

We will continue to produce a separate annual report in relation to OIC functions.

### OMBUDSMAN OFFICE OPERATIONS

In 2018/19, we saw a further substantial increase in approaches to the Office, with 2,592 compared to 2,304 and 2,036 in the two previous years. This represents a much higher approach workload than the historical average over many years of just over 2,000 approaches per year.

Our staff worked exceptionally well to cope with this additional workload, managing to finalise 2,605 approaches during the year, with only 80 matters (3%) remaining open at the end of the year. This was achieved with finalisation rates of 96% of general approaches within 28 days and 88% of police approaches within 90 days.

Major contributors to the increase in approaches over the previous year were Correctional Services, NT Police, Fire & Emergency Services and Jacana Energy. Correctional Services and NT Police are by far the largest subjects of approach to our Office. NT Police conduct approach numbers are at their highest point ever, although numbers of the more serious complaints (Category 1 and 2) fell from 57 in 2017/18 to 37 this year.

In the great majority of cases, we attempt to deal with and resolve approaches informally. There is a more detailed description of what we do and how we do it in Chapter 12.

In 2018/19, we finalised a major investigation on *Strangers in their own land – Use of Aboriginal interpreters by NT public authorities*, with a report to the Chief Minister for tabling in the Legislative Assembly. We also produced a comprehensive report for the new Commissioner of Correctional Services in relation to developments in Correctional Services since 2016.

We continued to monitor implementation of recommendations from previous investigation reports, including *Women in Prison II - Alice Springs Women's Correctional Facility*.

We also liaised with the new Office of the ICAC regarding our respective roles and opportunities for support and co-operation, and undertook steps necessary to ensure we comply with the new ICAC legislation.

In addition to dealing with approaches, we conducted a broad range of community engagement and quality improvement initiatives. Highlights during the year included:

- continuing our indigenous engagement strategy, with visits to 20 remote and regional communities and facilitating discussions between various public sector organisations and Aboriginal community representatives;
- contributing to NT Government policy development by:
  - providing input on matters such as youth justice legislation amendments, Treasurer's Directions on Gifting, draft agency complaints policies, essential services financial hardship policies, policies relating to Aboriginal communities and police discipline and management processes;
  - serving on the Northern Territory Law Reform Committee;
- facilitating, undertaking or contributing to a range of training activities and presentations aimed at promoting professional development of public sector staff;
- organising or taking part in a range of public events aimed at promoting public knowledge and awareness of the Office and the rights of community members; and
- serving on the Executive of the Australian and New Zealand Ombudsman Association.

The year was also a busy one from a corporate perspective with considerable work carried out on:

- dealing with the many issues that arise when taking on a new function or role (in this case, the OIC);
- preparing to move to new offices as part of a building refurbishment (due to take place in the near future);
- a substantial records management project aimed at preparing numerous hard copy files for disposal or off-site storage; and
- assisting other independent offices in the development or review of a number of corporate functions.

## KEY PERFORMANCE INDICATORS

Key Deliverables	2016/17	2017/18	2018/19
<p><b>Total approaches received</b></p> <p>Comprises all enquiries and complaints, including matters referred on to another body or found to be outside jurisdiction.</p> <p>The baseline average for the eleven years from 2003/04 to 2013/14 was 2,063 approaches.</p>	<b>2,036</b>	<b>2,304</b>	<b>2,592</b>
<p><b>Total approaches finalised</b></p> <p>Includes approaches carried over from the previous year and approaches reopened after the end of that year.</p> <p>80 approaches were open at 30 June 2019 compared to 90 at 30 June 2018.</p>	<b>1,999</b>	<b>2,293</b>	<b>2,605</b>
<p><b>Police approaches finalised within 90 days</b></p> <p>Includes enquiries and preliminary enquiries undertaken by the Office and matters dealt with by Police under oversight of the Ombudsman.</p>	<b>97%</b>	<b>92%</b>	<b>88%</b>
<p><b>Other approaches finalised within 28 days</b></p> <p>Refers to all non-Police approaches, including local government.</p>	<b>96%</b>	<b>92%</b>	<b>96%</b>
<p><b>Recommendations accepted</b></p> <p>Government or an agency may partially accept a recommendation or accept the principle behind a recommendation but decide to implement it in a modified form. In those cases, a proportional figure is allocated.</p>	<b>95%</b>	<b>88%</b>	<b>91%</b>

## VISION, MISSION, CORE VALUES

The Ombudsman NT:

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

### Our Vision (our ultimate aim)

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

### Our Mission (how we contribute to our vision)

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

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

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

## CHAPTER 12 – WHAT WE DO AND HOW WE DO IT

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

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

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

- **Major investigations** – Complex investigations involve major commitment of resources and usually involve systemic issues. These may be initiated by a complaint or on the Ombudsman’s own initiative. They may be finalised by a report to the Chief Minister for tabling in Parliament. We finalised one major investigation report for tabling in 2018/19 (see Chapter 13 for more).
- **Approaches – enquiries and complaints** – The bulk of our effort is spent in dealing with approaches to the Office. We received 2,592 approaches in 2018/19 and finalised 2,605 (including a number carried over from the previous year). In dealing with approaches, we emphasise speedy and informal resolution of issues, with agencies as far as possible taking responsibility for resolution of matters involving them (see Chapter 14).
- **Police conduct complaints** – A total of 589 of the approaches we received in 2018/19 were about Police conduct. Complaints about Police conduct have their own statutory framework set out in the *Ombudsman Act*. While the emphasis remains on speedy and informal resolution of less serious matters, more serious matters are subject to comprehensive investigation and reporting. In these cases, investigations are usually carried out by the Police Standards Command under Ombudsman supervision (see Part 1, Chapter 3).
- **Quality improvement** – Working with agencies and stakeholders in a co-operative manner outside the formal investigation process and facilitating exchange of information between agencies about initiatives and developments in public administration. This includes training and presentations to public sector bodies and officers (see Chapter 15).
- **Community and stakeholder engagement** – Other issues can be raised, clarified and resolved in the course of or as a result of stakeholder meetings, presentations and public discussions or through provision of information and links to information, for example, on the Ombudsman website (see Chapter 15).
- **Statutory auditing and investigation** – In relation to surveillance devices, telecommunications interception and controlled operations powers of law enforcement agencies, we have statutory obligations to audit/investigate and report on certain functions. Reports on surveillance devices and controlled operations powers are tabled in the Legislative Assembly on a regular basis and are available on our website (see Chapter 16).

## INDEPENDENCE

Independence and impartiality are key drivers of the Office. The *Ombudsman Act* makes it clear that the Ombudsman is independent of government in relation to complaints and investigations:

### **12 Independence in relation to complaints and investigations**

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

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

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

That independence has been strongly maintained in the 40 years since the Office commenced.

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

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

- appointment as Ombudsman can only be made on recommendation of the Legislative Assembly;
- members of parliament, local councils and political parties, along with people who have a recent political affiliation, are not eligible for appointment;
- appointment is for a fixed five year term (a person may be re-appointed for one further five year term);
- a broad power to report to the Legislative Assembly (through the Chief Minister) on the performance of the Ombudsman's functions or on a particular case;
- conditions of appointment that cannot be altered to the detriment of the Ombudsman during his or her term;
- termination for misconduct or incapacity can only be affected through a 2/3 vote of the Legislative Assembly; and
- the Ombudsman appears each year before the Budget Estimates Committee of the Legislative Assembly to report directly on appropriations matters.

## IMPARTIALITY

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

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

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

## SCOPE OF POWERS

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

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

## IDENTIFYING AND PRIORITISING ISSUES

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

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

The overall guide to allocation of resources and priority within the Office is what best serves the public interest, bearing in mind the objects and provisions of the *Ombudsman Act* and other relevant legislation.

Factors used to assess the significance of issues and the priority they should be afforded, include:

### **Potential harm involved**

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

### **Other factors**

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

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

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

## **INVESTIGATIONS CONDUCTED IN PRIVATE – REPORTING ON OUTCOMES**

The Ombudsman is required by the *Ombudsman Act* to conduct investigations in private.<sup>1</sup> There are confidentiality provisions that make the inappropriate disclosure of information relating to inquiries and investigations an offence.<sup>2</sup>

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

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

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

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

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<sup>1</sup> *Ombudsman Act*, s.49(1).

<sup>2</sup> *Ombudsman Act*, s.120.

## CHAPTER 13 – MAJOR INVESTIGATIONS

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

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

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

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

One major investigation report was provided to the Chief Minister in 2018/19 for tabling. It was titled, *Strangers in their own land – Use of Aboriginal interpreters by NT public authorities*. A summary of that report and an update on implementation of recommendations arising from it is set out below.

An update on developments relevant to a previous report, *Women in Prison II – Alice Springs Women's Correctional Facility* (May 2017) appears at Part 1, Chapter 11 of this Annual Report.

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

### STRANGERS IN THEIR OWN LAND

Imagine for a moment that you wake to find yourself in your own country, in a system where you do not have the privilege of a shared pervasive language, where the culture is vastly different from your own, and where everyday functions, from the most complex to the simplest, are conducted in a foreign language according to foreign rules.

In the Northern Territory, a substantial proportion of the population finds itself facing this confronting situation on a daily basis in communities they have called home for generations.

For Aboriginal Territorians, the level of English proficiency varies substantially. Many are articulate and confident in their dealings with officials. Many have sufficient English to understand and make themselves understood well enough in routine transactions. But many do not.

There is longstanding general recognition at international, Australian and Territory levels that equitable service delivery can only be effectively undertaken in a language in which the client is proficient.

With Aboriginal Territorians comprising over 30% of the Territory's population, there is a special onus on NTG agencies to be at the forefront in terms of providing information and interaction in Aboriginal languages. With this in mind, the role of Aboriginal interpreters must be a key focus for NTG agencies.

This Ombudsman NT investigation was, in part, a scoping exercise to establish the current state of play for Aboriginal interpreter use by NTG agencies, to point to promising initiatives and to areas where further work is needed.

The report examined international, as well as Australian and Territory whole-of-government frameworks for Indigenous interpreter use. It also considered current practices of a cross-section of NTG agencies which interact regularly with Aboriginal Territorians as well as the work of the Aboriginal Interpreter Service (AIS) which provides interpreter services in numerous Aboriginal languages.

The investigation determined that various agencies are undertaking promising initiatives but there is work that remains to be done at all levels of government. The evidence strongly suggests that, for a variety of reasons, the real level of need for Aboriginal interpreter services is substantially greater than the current level of use.

Key conclusions of the report included:

- the fundamental obligation to ensure effective communication rests with the agency;
- ensuring effective communication may be complicated by a range of cultural and social factors involved in determining English proficiency but these complications are for the agency to recognise and manage;
- it is vital for agency officers to adopt a starting assumption, in the absence of clear knowledge to the contrary, that both they and the client may tend to overestimate the client's English proficiency, and accordingly to take the utmost care when assessing proficiency;
- the more complex the subject matter and the greater the potential to impact on the rights and interests of the individual, the greater the proficiency needed and the more involved the assessment that may be required;
- **WHEN IN DOUBT, USE AN INTERPRETER;**
- future efforts need to be directed at both increasing the use of interpreters and increasing the capacity of the AIS to provide services as and when required;
- the two objectives, increased demand and consistent high quality supply, must be developed hand in hand;
- there must be long term planning to enhance the attractiveness of interpreting and hence the capacity of the AIS;
- this can only be achieved by long term commitment based on a recognition that there is a need for substantially increased interpreter use across the board;
- this commitment must come from not only the NTG and its agencies but from local government, non-government organisations and the Commonwealth;
- the Department of Local Government, Housing and Community Development (DLGHCD) and the Department of the Chief Minister (DCM) should play key leadership roles in the development of a Territory-specific plan.

The report made eight recommendations for action and sought regular updates from the chief executives of DLGHCD and DCM on steps taken to implement the recommendations.

## Implementation of recommendations

The most recent detailed response of the DLGHCD is set out below under each recommendation.

### Recommendation 1

**NTG pursue with the Australian Government and other jurisdictions the finalisation and implementation of a National Framework for Indigenous interpreters.**

*The Department of the Chief Minister is responsible for coordinating the Northern Territory's participation in the Council of Australian Governments. As such, the Aboriginal Interpreter Service will work closely with the Department of the Chief Minister to drive the National Framework for Indigenous interpreters at a national level to be tabled at Council of Australian Government meetings.*

*Aboriginal Interpreter Service has commenced negotiations with Prime Minister & Cabinet Policy staff for the formulation of a Joint Working Group.*

### Recommendation 2

**NTG establish a long term Master Plan for the development of Aboriginal language services that recognises unmet need and provides for a substantial increase in interpreter demand over the next decade.**

*The need for a whole-of-government language(s) services Master Plan is duly noted.*

*The Aboriginal Interpreter Service commenced keeping formal records of job requests vs completion rates in the 2008/09 financial year. That year there were 5,277 interpreting jobs requested with 3,766 completed. A completion rate of 71%.*

*Since 1 July 2018 to 30 April 2019, AIS has received 11,387 job requests with 7,339 being completed - a completion rate of 64%.*

*Compared to the same period in financial year 2017/18 there has been a 26% increase in jobs requested with 9,048 received and 6,125 completed - a completion rate of 67%.*

*This increase in job requests from 5,277 (2008/09) to 11,334 (2017/18) represents an increase of 115% - more than double over roughly ten years.*

*If we use the past ten years as a guide, the need will continue to rise for interpreters and languages services more broadly. As identified in the Ombudsman Northern Territory Report, this only underscores the need for a long term Master Plan for the development of Aboriginal languages services.*

*The Chief Executive of the Department of Local Government, Housing and Community Development will be commencing conversations with colleagues across the Chief Executive Coordination Group to identify appropriate work units across government to begin developing a long term Master Plan. Further actions are pending the approval of the 2019-2023 Aboriginal Languages Services Policy Draft.*

### Recommendation 3

**Northern Territory Government agencies participate in the development of the long term plan and make long term support and financial commitments to raise the level of interpreter use to meet the real needs on Aboriginal Territorians.**

*The Aboriginal Interpreter Service will coordinate the development of a long-term strategy which must include financial commitments across all government agencies to allocate funds for agency staff to utilise Aboriginal interpreters.*

*The current economic environment in the Northern Territory is impacting financial commitments, however work will continue to promote and increase usage of the Aboriginal Interpreter Service.*

*The draft Aboriginal Languages Service Policy has an Action Plan identifying strategies that NTG agencies are recommended to incorporate into all relevant business activities.*

#### **Recommendation 4**

**NTG pursue with the Australian Government and key Commonwealth agencies the potential to participate in the formulation, implementation and support of the long term plan.**

*The Aboriginal Interpreter Service will continue to drive its language services reform agenda through the Department of the Chief Minister and the Council of Australian Governments.*

*Discussion at Officer level has commenced regarding the formulation of the National Joint working group to support long term planning and development of the Aboriginal Interpreter Services.*

#### **Recommendation 5**

**NTG establish and maintain a high level, broad based forum to facilitate development and implementation of the long term plan and facilitate collaboration and increasing efficiencies across NTG agencies and other stakeholders in relation to communication and engagement with Aboriginal Territorians.**

*The Aboriginal Interpreter Service will drive its languages services reform agenda through the Northern Territory Government's Chief Executive Coordination Group.*

*The Aboriginal Interpreter Service has presented the draft Aboriginal Languages Services Policy to the Chief Executive Coordination Group, receiving positive feedback.*

*This will provide high-level imprimatur across government to continue to implement a raft of actions as outlined in the Northern Territory Government's Aboriginal Languages Services Policy 2019 - 2023.*

*The Aboriginal Interpreter Service are currently promoting the service to Northern Territory service providers, community and Indigenous organisations by way of public information sessions and events celebrating 2019 the International Year of Indigenous Languages.*

*The Aboriginal Interpreter Service are also about to commence meeting with Northern Territory Government departments to further create awareness about the Aboriginal Interpreter Service and languages services more broadly. This will include an overview of the recording and rescripting services, multimedia and studio and the development of translating services moving forward.*

*The Aboriginal Interpreter Service will continue to deliver tailored Working with Interpreters Training (WWIT) packages to government departments as part of this awareness creating.*

*The Aboriginal Interpreter Service has commenced discussions to incorporate WWIT into NTG Corporate Induction. The Department of Health, as a key stakeholder, has responded favourably, however further policy development is required.*

*The Aboriginal Interpreter Service is preparing a formal approach to OCE to consider standardising WWIT for all NTG Inductions.*

#### **Recommendation 6**

**NTG review its Whole-of-Government Languages Services Policy, Cabinet templates and other whole of government documentation, with a particular emphasis on provision of Aboriginal languages services.**

*The Northern Territory Aboriginal Languages Services Policy 2019 - 2023 is currently being refreshed. The Northern Territory Aboriginal Languages Services Policy 2019 - 2023 aims to:*

- *ensure that all speakers of Aboriginal languages are afforded the right to communicate with government through their languages by using a qualified interpreter*
- *ensure there is equal support for all Aboriginal languages across the NT*
- *demonstrate that all Aboriginal languages are valued as assets, and*
- *celebrate and promote the vitality and maintenance of all Aboriginal languages by supporting language work.*

*It is anticipated the Northern Territory Aboriginal Languages Services Policy 2019 - 2023 will be publically released circa late-2019. The draft policy is currently pending Ministerial approval.*

*In May 2019, for the first time in Northern Territory Parliament the Aboriginal Interpreter Service was engaged to support a Member of Parliament to speak in his first language. Work will continue to establish the use of Interpreters in Parliament sittings as a standard process.*

### **Recommendation 7**

**NTG agencies develop or produce revised agency languages services policies and protocols aligned with the BPPs, the Indigenous BPPs and NTG whole of government policies. The policies should include specific and detailed reference to Aboriginal languages services (either included in one policy or in a stand-alone policy) and, in that regard, should place emphasis on:**

- a. Assigning clear responsibility within the agency for executive oversight and operational functions**
- b. Promotion of Aboriginal interpreter use among staff and clients, with a cautionary approach along the lines, ‘When in doubt, use an interpreter’.**
- c. Collaboration and cooperation with other government and non-government stakeholders to maximise the efficiency of interpreter use**
- d. Planning and adequate budgeting for Aboriginal interpreter use for all new programs (including rollout and evaluation) and regular review of existing programs to ensure adequate provision is explicitly made for ongoing needs**
- e. Promotion of adequate preparation and support for Aboriginal interpreters**
- f. Adequate training and guidance for agency staff in identifying the need for interpreter services and other relevant operational matters**
- g. Encouragement for the engagement by the agency of bilingual and multicultural workers**
- h. Record keeping that facilitates access to information about client needs and allows agency monitoring and review regarding the extent and consistency of provision of interpreter services**
- i. Provision of complaint mechanisms that encourage and facilitate approaches from Territorians who are not fully proficient in English**
- j. Extension of obligations to contracted service providers, including mechanisms that allow the agency to monitor and ensure compliance.**

*The Aboriginal Interpreter Service will seek to secure increased Northern Territory Government funding to continue to drive upward pressure on employment, training and career development for Aboriginal language speakers. Aboriginal Interpreter Service data shows that Northern Territory Government agencies continue to underutilise the language services provided by Aboriginal Interpreter Service across a range of sectors.*

*The draft Northern Territory Aboriginal Languages Services Policy, when implemented, will provide further impetus across government in driving the importance and use of language services. The draft Northern Territory Aboriginal Languages Services Policy will also provide a foundation for language services to be embedded across government commercial contractual arrangements (where applicable) and assist in ensuring that language services are understood to be an obligation, not a choice - and must be included as part of any government procurement contract.*

*The Aboriginal Interpreter Service has commenced providing Northern Territory Government Ministers with Working With Interpreter Training. This will allow Northern Territory Government Ministers to fully understand the importance of using Aboriginal interpreters when engaging with their constituents and the wider Aboriginal language speaking public.*

*It also allows government Ministers to set an example across their respective agencies by demonstrating that the use of Aboriginal interpreters must no longer be the exception but the rule when engaging with Aboriginal language speakers and delivering government services.*

*During the recent weather event, Tropical Cyclone Trevor, the NTPFES Commander engaged the services of an Aboriginal Interpreter Service Interpreter to provide the live Emergency messaging in an Aboriginal language. Furthermore the Interpreters had a strong presence at the Evacuation shelters located in Darwin and Katherine, assisting with Interpreting key messages in Aboriginal Languages and aspects of cultural advice. This strategy received very positive feedback from evacuees and volunteers.*

*NT Police identified a gap in client services when the community rang their local police station and the local police officer was not physically in the police station. This resulted in calls automatically being re-routed to the Joint Emergency Services Communication Centre (JESCC), placing extra burden, pressure and competition with these non-urgent / administrative calls competing with Triple Zero calls. This equated to 3,500 – 4,000 administrative calls per month that were not able to be actioned in the JESCC which resulted in a poor customer service experience.*

*NT Police approached the Aboriginal Interpreter Service and requested a Recorded Voice Announcement (RVA) in the local Aboriginal language and English advising the community to hang up and dial 000 if the call was an emergency or hang up and dial 131 444 if they required non urgent police assistance. If the station was unattended, a further RVA advised that staff were currently unavailable and the caller was invited to leave a message. Messages were then actioned when staff were available.*

*All police stations in the NT now have a recorded voice announcement at the beginning of each call in the local Aboriginal language. If staff are not able to answer the call the caller can leave a voice message which is sent to the police station via email.*

*A joint entry between AIS and NT Police has been submitted to the iAwards.*

## **Recommendation 8**

**Aboriginal Interpreter Service review its current procedures and practices in light of the issues raised in this report to establish whether there are aspects of its operations that can be improved.**

*In order to create employment pathways for interpreters and to respect the unique skills and knowledge of Aboriginal interpreters that we start to value their language speaking skills and also value Aboriginal teaching styles as opposed to just academic qualifications.*

*The Aboriginal Interpreter Services has developed a Traineeship proposal for school-based students. The traineeship is a two year Community Services model with a core module of an Aboriginal Language as a competency. The traineeship is aimed at creating career pathways, recognised training and development leveraging off the students pre-existing bi-lingual skills.*

*The Aboriginal Interpreter Service has undergone high level management changes and since incorporated governance measures to improve all aspects of business activities, human resources and recruitment, training and development.*

*In May 2019 the Aboriginal Interpreter Service facilitated a Strategic Planning workshop with staff representatives from all regions across the Territory, a strategic business work plan and vision will be developed from the staff and management input.*

Since that detailed update, DLGHCD has provided the following additional information:

*I am pleased to advise that since the first and second responses, the Aboriginal Interpreter Service (AIS) has taken steps to promote the services to service providers. This has included promoting the services provided by the AIS through the delivery of Working With Interpreter Training (WWIT) sessions, through presentations at conferences and forums and through embedding these sessions in the Department's corporate induction program.*

*The AIS is also collaborating with the Menzies School of Health Research (MSHR) and the Royal Darwin Hospital (RDH) on a wards round trial, which has already produced positive results. Part of this will also involve delivering a WWIT session to RDH staff. A local forum on interpreting and health care for Aboriginal people is also being held in collaboration with MSHR. This will be the first forum of its kind and it will be pertinent that it take place this year, being the International Year of Indigenous Languages.*

*In addition, the AIS team is currently undertaking an exercise to incorporate WWIT sessions in all Northern Territory Government agency's corporate induction programs, as well as working with staff from the Office of the Commissioner for Public Employment to have WWIT training made available on the NTG Intranet site.*

The Chief Executive of DCM had previously advised:

*The value and recognition of Aboriginal languages in the Northern Territory and in this case the Aboriginal Interpreter Service (AIS) cannot be underestimated. The AIS is a vital service provided and supported by the Northern Territory Government, and is essential to the government delivering on its Aboriginal Affairs agenda, such as progressing Treaty or Treaties, Local Decision Making and delivery of the Aboriginal Affairs Strategy.*

*... DCM is working across agencies and with Aboriginal stakeholders to finalise a Northern Territory Aboriginal Affairs Strategy that focuses on Aboriginal self-determination, empowerment and well-being, through commitments to valuing Aboriginal languages and the importance of targeted and effective communications, and championing best practice remote engagement and coordination in the way government does business while supporting placed based approaches.*

*DCM, in partnership with the Department of Local Government, Housing and Community Development (DLGHCD) has commenced engagement about how to strengthen, value and recognise Aboriginal languages, and in particular continue to action the recommendations of the Ombudsman's Report ... .*

*I understand that DLGHCD has provided you with a comprehensive update about the actions taken so far, which includes significant progress such as the Working with Interpreter Training provided to government Ministers.*

*It is anticipated that the Northern Territory Aboriginal Affairs Strategy will be released mid-2019, and include further actions to support innovative reforms across government and nongovernment sectors. ...*

The NT Government has released a draft Aboriginal Affairs Strategy for consultation titled, *Everyone Together 2019-2029*. It includes numerous references to Aboriginal language, including the following:

*Connecting to Culture, Connecting to Country, Connecting to Community – This plan sets a direction for the NT Government on the ongoing use and promotion of Aboriginal languages across all aspects of engagement and service delivery with Aboriginal people. It affirms the NT Government’s commitment to support the right of all Aboriginal people in the Territory to use, promote, maintain and communicate in their first languages. Access to qualified interpreters is critical to ensuring Aboriginal people are able to make informed decisions and a robust and sustainable languages service will help Aboriginal people receive fair and equitable services.*

Given the need for ongoing commitment and action across the NTG and across all levels of government and the non-government sector, it is imperative that DCM maintain an active role in promoting and co-ordinating implementation of the recommendations, in co-operation with DLGHCD.

The updated NT Aboriginal Languages Services Policy has not yet been published. Our Office will continue to monitor progress of implementation.

## CHAPTER 14 – APPROACHES – ENQUIRIES AND COMPLAINTS

### NUMBER OF APPROACHES

In 2018/19, there were 2,592 approaches to the Office (compared with 2,304 in 2017/18 and 2,036 in 2016/17). These varied from matters outside our jurisdiction (which we refer on where possible) to quick queries, to matters requiring more work on our part and ultimately to complaints requiring significant investigation.

The top government agencies by number of approaches received in 2018/19 are set out below.

Department / Agency	2016/17	2017/18	2018/19
<b>Police, Fire and Emergency Services</b>	504	609	657
<b>Correctional Services<sup>(1)</sup></b>	324	401	586
<b>Jacana Energy</b>	83	134	181
<b>Local Government, Housing &amp; Community Development</b>	75	66	103
<b>Attorney-General and Justice<sup>(2)</sup></b>	58	67	66
<b>Infrastructure, Planning &amp; Logistics<sup>(3)</sup></b>	43	33	59
<b>Power Water</b>	44	46	46
<b>Territory Families</b>	17	20	25
<b>City of Darwin<sup>(4)</sup></b>	17	25	19
<b>Charles Darwin University</b>	20	22	17
<b>Education</b>	7	23	14
<b>Health</b>	17	21	10

#### Notes

- (1) Numbers for Correctional Services continue to be reported separately although it is now part of the Department of the Attorney-General and Justice.
- (2) Includes Fines Recovery Unit (18).
- (3) Includes Motor Vehicles Registry (33).
- (4) In total, there were 39 approaches in relation to local government councils compared with 49 in 2017/18.

### VARIATIONS FROM PREVIOUS YEARS

The reporting year saw a major increase in approach numbers. The additional 288 approaches over the previous year represented a 13% increase over that year and a 27% increase over the year before that. This was a major increase in workload for staff of the Office.

Notwithstanding variations across the board, the increase could be accounted for by increases relating to three functions — Correctional Services (185 more approaches), Police, Fire & Emergency Services (48 more approaches) and Jacana Energy (47 more approaches). All three had experienced substantial growth in approach numbers in the previous year. The Department of Local Government, Housing and Community Development (37 more) and the Department of Infrastructure, Planning and Logistics (26 more) also experienced notable growth in numbers.

Increases in the justice agencies, Correctional Services and NT Police, are discussed in Part One.

Jacana Energy approaches continued a rising trend that emerged in the second half of 2017/18. Local Government, Housing and Community Development approach numbers, which had fallen in the previous two years, returned to a level that had persisted for several years prior to that. The nature of issues raised in approaches relating to these two agencies is discussed further later in this chapter.

The increase in Infrastructure, Planning and Logistics approaches was almost entirely attributable to approaches involving the Motor Vehicle Registry (MVR). MVR approaches have frequently reached the mid-20s in recent years but the figure of 33 for 2018/19 represents an increase on historical figures.

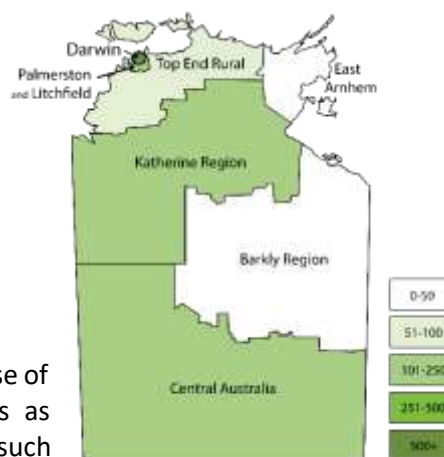
The number of more complex approaches again rose in 2018/19 compared with the previous year, with numbers of the two most complex categories rising from 617 to 731. This was largely a factor of the increase in overall numbers but there was a slight increase in the proportion they represent of all matters rising from 27% to 29%.

Complexity	2016/17	2017/18	2018/19
<b>Complex matters</b>	117	263	202
<b>Resolved Exeditiously</b>	442	354	529
<b>Enquiries</b>	1,477	1,687	1,861

## SOURCES OF APPROACH

Establishing the demographic make-up of people who approach the Office is difficult. People who make a brief phone call or contact us using e-mail, the online complaint form or facsimile may not provide an address that shows the region where they live. The statistics by region shown below therefore exclude a large number of 'unknowns'.<sup>3</sup>

Region	%
Darwin	51
Palmerston/Litchfield	15
Alice Springs/Central	14
Katherine	10
Top End Rural	5
Barkly	3
East Arnhem	1



For similar reasons, it can be difficult to establish in the course of dealing with an approach whether an enquirer identifies as Indigenous. Our Office considers it important to obtain such information to help us establish any gaps in service provision and ways to improve our service.

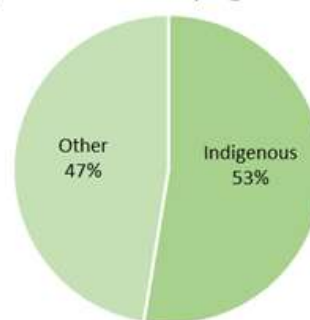
We therefore use a demographic information script for our staff to explain to enquirers why obtaining information of this type is important and ask questions about region, Indigenous status and how they found out about the Office. The script and questions have also been incorporated into our complaints form.

<sup>3</sup> The figures also exclude prisoners at correctional centres.

However, as we stress to enquirers, it remains a matter of their personal choice whether they wish to answer any of these questions.

In 2018/19, 19% of enquirers identified or were identifiable as Indigenous. However, over half of enquirers did not identify a background at all, so these statistics are at best broadly instructive rather than definitive. Of enquirers whose background was identifiable, 53% were Indigenous, an increase from 46% last year.

Complainants Identifying as Indigenous



## HOW APPROACHES ARE MADE

The Office offers a range of options for contact.

In 2018/19, two thirds of enquirers made initial contact with the Office by telephone.

This compared with 18% of people who utilised either e-mail or the Office’s online web form.

Manner of approach	%
Telephone	66
e-mail	14
Referred by police	11
Online form	4
In person	4
Letter	2

## HOW APPROACHES ARE DEALT WITH

The Ombudsman deals with complaints about NT government agencies, local government councils and the conduct of NT Police. Complaints against police have special rules regarding their conduct and approaches of this type are discussed in Part One, Chapter 3.

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

There are other cases where we share jurisdiction with another complaints or review body that deals with specific types of issue. Our Office may, in consultation with that body, refer a matter to it if we consider it is better placed to deal with the case.

## Dealing with Ombudsman matters

The focus of our Office is on achieving informal and timely resolution of approaches.

Our Office maintains the view (strongly supported under the Act) that the relevant agency should be given the opportunity to resolve a complaint in the first instance. For this reason, unless a case involves an element of urgency or particular sensitivity, enquirers who come to our office without first addressing their concerns with the relevant agency will usually be assisted by our staff to make contact with the agency.

In cases where we think an enquirer may need additional assistance, our staff will contact the agency with an outline of the concerns and ask it to respond directly to the enquirer. We may ask the agency to advise us of the outcome depending on the nature of the matter. The enquirer is advised that they can contact us again if they are unsatisfied with the response of the agency.

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

If necessary, we have the power to commence a formal investigation into a complaint or to launch an investigation on our own initiative.

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

## **Referrals to another complaints entity**

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

NT complaints entities that we may refer a matter to include:

- Independent Commissioner Against Corruption;
- Information Commissioner;
- Children’s Commissioner;
- Health and Community Services Complaints Commission;
- Anti-Discrimination Commission.

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

## **Outside jurisdiction**

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

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

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

In 2018/19, we dealt with 763 outside jurisdiction approaches (compared with 778 in 2017/18). The following table lists the most common outside jurisdiction sectors where approaches were referred on to another complaints body or forum.

Sector	2016/17	2017/18	2018/19
Consumer affairs	122	94	138
Employment	108	99	99
Financial services	58	70	86
Commonwealth government	76	50	63
Health services	43	38	59
Telecommunications	70	53	27
Private housing	44	41	26

## HOW QUICKLY APPROACHES ARE DEALT WITH

In 2018/19, 2,605 approaches to the Office were finalised. The bulk of approaches are dealt with expeditiously by the Office. This year, 88% of Police approaches were finalised within 90 days and 96% of other matters were finalised within 28 days.

### Time taken to finalise approaches - approaches finalised in 2018/19

Group	Up to 7 days	8 to 28 days	29 to 90 days	91 to 180 days	Over 180 days	Total
Police	55%	15%	18%	5%	6%	609
Other	85%	11%	3%	1%	<1%	1,996
<b>Total</b>	<b>2,038</b>	<b>318</b>	<b>162</b>	<b>44</b>	<b>43</b>	<b>2,605</b>

A total of 80 matters remained open at 30 June 2019, compared with 90 at 30 June 2018.

### Age of open matters - at 30 June 2019

Group	Up to 7 days	8 to 28 days	29 to 90 days	91 to 180 days	Over 180 days	Total
Police	5	8	23	7	10	53
Other	12	11	3	0	1	27
<b>Total</b>	<b>17</b>	<b>19</b>	<b>26</b>	<b>7</b>	<b>11</b>	<b>80</b>

In recent years, the proportion of finalised Police matters taking more than 90 days to close has been in the range of 3-4%. Last year it rose to 8% and this year it rose again to almost 12%.

Police conduct matters are often more complex and having some matters extend for a length of time is not unusual or necessarily concerning. Some matters take time for the NT Police Standards Command to investigate thoroughly. There may be delays caused by the absence of police or civilian witnesses or the inability to locate witnesses. The increase in the number of police conduct matters requiring investigation in recent times has also, no doubt, been a contributing factor.

However, a continuation of a high proportion of protracted investigations is a matter which would give grounds for concern. We will continue to monitor the situation closely.

## OUTCOMES

The Office achieves a large number of informal positive outcomes. These can take many forms, including:

- A better explanation of reasons for a decision;
- A chance for the complainant to restate their case;
- A change in a decision or approach by an agency for the particular complainant;
- An apology;
- A change to procedures to improve systems.

Some examples of informal outcomes are set out below.

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### Example – Motor Vehicle Registry

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The complainant contacted our Office regarding a delay in being provided a new driver's license. Due to personal circumstances, the complainant had to relocate numerous times in just a few months, each time emailing MVR to advise of the new address in order for an updated driver's license to be sent out. The only correspondence received from MVR was an automated email reply, and the complainant was left unsure if the request had been actioned.

The complainant then attended the MVR office to follow up on their request in person. The complainant claimed that MVR confirmed the licence was posted to a PO Box however, it could take up to a month to arrive. As these items aren't tracked, there was no telling where the license was in the mailing system. The complainant stated MVR requested that they pay \$21 to have another one issued which they refused to pay.

The complainant was referred to MVR for further investigation and the matter was resolved within the week. MVR advised that the complainant attended MVR the following day to collect a copy of their driver's licence at no cost.

Through review of this complaint and discussion with the complainant, MVR identified a number of improvements for immediate implementation, including:

- improved email responses to include succinct information relevant to the enquiry;
- internal notes to be completed when physical collection of MVR customer documentation, including driver's licences, occurs.

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### Example – Power & Water Corporation

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The complainant contacted this Office concerning an invoice for town water usage of several thousand dollars for one quarter on a small acreage block. PWC had to estimate usage because it was unable to access the complainant's water meter at the time. The complainant informed that he only uses water in his house and he uses water from a nearby river to maintain a small garden. He was also confident that there were no water leaks during the period in question.

The complaint was referred to PWC who investigated and resolved the complaint within a week. They informed the complainant that they had made an error in calculating his water usage by estimating usage based on the same quarter in the previous year. Unfortunately, there had been a significant water leak in the previous year and they had used this invoice amount for the current estimated reading.

PWC examined the complainant's average invoices, apologised to him and issued him with a new invoice for less than one tenth of the original amount.

### Example – Local Council

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Our Office received a call from a complainant regarding a high water bill. The complainant advised that the high bill was due to damage done to his water infrastructure by an external contractor for the local Council. We first referred the complainant back to the Council to give it an opportunity to deal with the matter.

We were subsequently contacted by the complainant who was dissatisfied with the Council's response. We enquired with the Council and were provided with a copy of a liability clause in the Council's agreement with the contractor and contact details for the contractor to pass on to the complainant.

We expressed the view that, whatever the legal position might be regarding liability between the Council and the contractor, it was appropriate for the Council to consider what was reasonable in the circumstances between the Council and the complainant, given the amount of the loss, the fact that the contractor had been working on behalf of the Council and that the Council would be in a better position than the complainant to approach the contractor to cover the loss.

We referred the matter back to the Council for further consideration. A Council officer met with the complainant on site to discuss the matter and the Council agreed to pay the complainant a specified amount to cover part of the bill.

## SPECIFIC AGENCIES

Approaches relating to police conduct and Correctional Services are discussed in detail in Part One.

### Jacana Energy approaches

The total number of approaches relating to Jacana Energy for 2018/19 was 181. This was substantially higher than the 134 approaches in 2017/18.

In cases where a consumer has not already approached Jacana, our Office will usually encourage them to initially make direct contact with Jacana, with the option to recontact the Ombudsman if they remain dissatisfied with the response. Many approaches are resolved by Jacana without further contact with our Office.

The top issues raised in relation to Jacana in 2018/19 are set out in the table below.

A single complaint may raise a number of issues. The complainant may have received a large bill but be uncertain as to the precise cause. They may say they have not received adequate notice of the bill. They may say the size of the bill must be due to a faulty meter. They may say the provider has not been reasonable in making arrangements for repayment. They may say the provider has been too quick to disconnect. They may object to the payment of a reconnection fee.

The figures that follow are based on an assessment of the primary issue of complaint. They record issues raised, not sustained issues.

### Jacana Energy – Most commonly raised issues - 2018/19

Issue	Notes	No.
<b>Excessive charges</b>	Includes issues arising from estimation process	<b>44</b>
<b>Credit listing</b>	Seeking to remove listing with a credit agency	<b>35</b>
<b>Financial hardship</b>		<b>25</b>
<b>Disconnection</b>		<b>24</b>
<b>Billing</b>	For example, bill not received or two bills received at the same time, or sent to wrong address, refund delay	<b>22</b>
<b>Solar</b>	Includes delay in paperwork for new systems, high estimates not taking solar installation into account, issues relating to solar rebate calculation	<b>10</b>
<b>Changed circumstances</b>	Includes problems arising due to change in address or living arrangements, administration of estates	<b>6</b>

These figures suggest an across-the-board increase in approaches rather than a rise in concerns about one particular aspect of Jacana operations.

Many approaches have a financial hardship element, even if they are not expressed in those terms. Bearing that in mind, a substantial portion of the jump in Jacana approaches may be attributable to increased financial pressures faced by many Jacana customers in challenging economic times.

During the year we liaised with Jacana regarding its reviews of its complaints and financial hardship policies.

### Local Government, Housing and Community Development approaches

There were 103 approaches to the Office relating to the Department of Local Government, Housing and Community Development in 2018/19 (compared to 66 in 2017/18).

Almost all of these related to Housing issues. Some issues raised by enquirers are set out in the table below. The table records issues raised, not sustained issues.

Issue	Notes	No.
<b>Repairs &amp; Maintenance</b>		<b>22</b>
<b>Conduct of tenants and third parties</b>	Includes complaints about tenants, theft or damage to tenant property and anti-social behaviour	<b>17</b>
<b>Allocation of housing</b>	Includes priority housing	<b>17</b>
<b>Financial issues</b>	Includes rental amounts, debts, deductions and rebates	<b>14</b>
<b>Transfer of tenancy</b>	Includes refusal to transfer and delay	<b>11</b>
<b>Officer conduct</b>	Includes rude and inconsiderate behaviour	<b>6</b>
<b>Termination/banning</b>	Includes termination of tenancy and banning from premises	<b>3</b>
<b>Availability of housing</b>	Includes calls for additional housing and issues relating to building new houses and refurbishment	<b>2</b>

Again, increases were across-the-board rather than pointing to problems in any one particular area.

During the year, we liaised with the Department's Town Camps Futures Unit in relation to policy issues identified in the course of complaints to our Office, including debts owed by Aboriginal communities for provision of essential services. One example of that type of issue can be found in our report, *Bills, Bills, Bills - Essential Services – Power and Water billing and debt management practices in an urban indigenous community* (2016).

We also had ongoing contact with the Department regarding the implementation of recommendations we made in *Strangers in their own land – Use of Aboriginal interpreters by NT public authorities* (see Chapter 13).



## CHAPTER 15 – QUALITY IMPROVEMENT AND COMMUNITY ENGAGEMENT

### QUALITY IMPROVEMENT

The *Ombudsman Act* has two objects. The first relates specifically to investigating and dealing with complaints. The second, and equally important object, is to:

*“improve the quality of decision-making and administrative practices in public authorities”.*

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

The Office engages with other independent offices, public authorities and public sector officers through a range of mechanisms aimed at improving government services.

### Legislative and policy reform

The Ombudsman is a member of the Northern Territory Law Reform Committee (NTLRC). The NTLRC advises on issues referred by the Attorney-General relating to reform of the law in the Northern Territory.

References considered during the year related to Bullying and Tree-related disputes. The Ombudsman served on a sub-committee that developed the draft NTLRC report on the latter reference.

The Ombudsman is also invited from time to time to make submissions or provide input on policy and legislative reform relating to aspects of public administration. For example, input was provided in relation to the following matters during the year:

- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT);
- youth justice legislation amendments;
- Treasurer’s Directions on Gifting;
- various draft agency complaints policies;
- essential services financial hardship policies;
- policies relating to Aboriginal communities; and
- Police discipline and management processes.

### Training

In 2018/19, our Office delivered training and presentations to public sector officers in the following forums:

- Trainee Correctional Officers course;
- OCPE Foundations of Public Sector Governance course;
- Department of Treasury and Finance FOIT/Graduate Training session;
- City of Palmerston councillors.

The Ombudsman also facilitated or participated in the following presentations:

- *Australian Public Sector Fit for Public Purpose? Fit for the Future?* (panel member);
- Australia and New Zealand Ombudsman Association, *Fairness* presentation (facilitator);
- Commonwealth Ombudsman staff briefing (panel member).

## Complaints and review bodies

Our Office strives to minimise the potential for duplicated effort in dealing with complaints and matters of public interest, while at the same time ensuring that all matters of significance are dealt with by the body best placed to deal with them.

To that end, we regularly meet or liaise with other independent offices to discuss matters that have come to our attention that may touch on issues within their jurisdiction. These discussions will usually result in an agreed course of action and potentially the formal referral of a complaint. This may involve provision of information already obtained by the Office and, in some cases, provision of support to another office.

More generally, we make every effort to facilitate ongoing co-operative relationships with NT complaints and review bodies. We have entered into the following Memorandums of Understanding to cement those relationships:

Entity	MoU commenced	MoU available
Children's Commissioner	June 2014	2013/14 Annual Report
Information Commissioner	May 2015	2014/15 Annual Report

We also benefit from relationships with other independent bodies across Australia and internationally. The ability to share information and draw on the knowledge, experience and materials of like bodies from our region and around the world is a major advantage for a small organisation.

In 2018/19, our involvement at this level included:

- membership of the International Ombudsman Institute (IOI), a global organisation for the cooperation of around 200 independent Ombudsman institutions from more than 100 countries worldwide - [www.theioi.org](http://www.theioi.org);
- membership of the Australian and New Zealand Ombudsman's Association (ANZOA) a professional association and the peak body for Ombudsmen in Australia and New Zealand. ANZOA's members are individual Ombudsmen working in not-for-profit industry-based, parliamentary and other statutory offices, which meet accepted high standards of independence, impartiality and effectiveness, and which observe the *Benchmarks for Industry-Based Customer Dispute Resolution*. Through the Ombudsman's membership of ANZOA, our staff benefit from the professional development opportunities offered by participation in ANZOA's numerous interest groups - [www.anzoa.com.au](http://www.anzoa.com.au) ;
- serving on the ANZOA Executive Committee;
- attending the following meetings and conferences:
  - IOI, Asia Pacific Ombudsman Region conference
  - ANZOA AGM and Members meeting;
  - Australasian parliamentary ombudsman meeting;
  - Deputy parliamentary ombudsman meeting; and
- meeting interstate and national counterparts as the opportunity arises, for example, hosting visits by staff of the Commonwealth Ombudsman.

## Other involvement with public authorities

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

- numerous meetings between the Ombudsman and various public authority chief executives or senior executives;
- regular meetings with Police senior executives and members of the Police Standards Command; and
- regular meetings with Correctional Services and Jacana Energy.

## COMMUNITY AND STAKEHOLDER ENGAGEMENT

In 2018/19, Ombudsman staff visited 20 remote and regional centres. On these visits our staff talk with as many community members and groups as possible, engaging the support and help of local community members, elders and officials. Brief presentations about the work of our Office will be followed by individual or small group discussions about topics of interest. We explain to community members what we can and cannot do but listen to all their concerns.

On occasion we present at a meeting or group discussion that has previously been organised. More often, we will, without being intrusive, talk to people where we find them, wherever they feel comfortable talking to us.

Where we can, we co-ordinate visits or at least the timing of visits with other bodies, for example, the Top End Women's Legal Service or NT Legal Aid.

Where a matter is within our power, we take it on board. If it is not, we will either point the person in the right direction or undertake to pass it on to relevant authorities. The intention of the visits is not to raise a large number of complaints but to establish our presence and let people know we are there if they need us.

The centres visited in 2018/19 were:

Acacia	Kalano	Peppimenarti
Ali Curung	Katherine Township	Rockhole
Alice Springs Township	Knuckeyes Lagoon	Tennant Creek Township
Belyuen	Likkaparta	Ti Tree
Binjari	Maningrida	Wadeye
Gunbalanya	Minjilang	Waruwi
Jabiru	Naiyu (Daly River)	

We undertook further community engagement through presentations to, or participation in stalls at:

- Clontarf Students
- Supreme Court Open Day
- Adult Migrant Students
- International Women's Day
- Working Women's Centre
- Territory Families conference
- Seniors Expo.

The Office provides access to a broad range of publications and resources through its website. Available resources include:

- Annual Reports dating back to 2002/03;
- Investigation Reports dating back to 2002;
- Surveillance Devices compliance reports;
- Controlled Operations compliance reports;
- a variety of brochures, guides and other information for enquirers and complainants;
- a set of eight Aboriginal language audios and a multilingual brochure containing brief introductions to the Office;
- webpages providing links to an array of complaints management resources and other resources relating to integrity, conflict of interest, accepting gifts, benefits and hospitality, corporate governance, good decision-making and stakeholder engagement.

## CHAPTER 16 – OVERSIGHT FUNCTIONS

We have separate statutory obligations to audit/investigate and report in relation to the utilisation of surveillance devices, telecommunications interception and controlled operations powers of law enforcement agencies.

### SURVEILLANCE DEVICES

The purposes of the *Surveillance Devices Act 2007* (the SDA) are to:

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

Section 63(1) of the SDA requires the Ombudsman to inspect the records of each law enforcement agency to determine the extent of compliance with the SDA by the agency and its law enforcement officers.

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

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

### TELECOMMUNICATIONS INTERCEPTION

The *Telecommunications (Interception and Access) Act 1979* (the Commonwealth Act) prohibits the interception of, and other access to, telecommunications except where authorised. An “agency” as defined in the Commonwealth Act can apply for a warrant to authorise access.

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

The *Telecommunications (Interception) Northern Territory Act 2001* (the NT Act) enabled that declaration and provides for record keeping, inspection and reporting required under the Commonwealth Act (see section 35 of the Commonwealth Act).

Sections 9 and 10 of the NT Act provide for the NT Ombudsman to inspect NT Police records and report on compliance by members of the NT Police with Part 2, Division 1 of the NT Act.

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

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

## **CONTROLLED OPERATIONS**

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

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

The Ombudsman must report on compliance each year to the relevant minister. Two reports were provided to the Minister during the reporting period. Reports are tabled in the Legislative Assembly in due course. Tabled reports are available on the Ombudsman website.

## CHAPTER 17 – OUR OFFICE

### CORPORATE GOVERNANCE, PLANNING AND PERFORMANCE

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

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

The Statement of Accountable Officer is on the first page of the Financial Statements for 2018/19, which are set out at Appendix B.

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

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

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

### OUR STAFF

The staffing structure for the Office as at 30 June 2019 is outlined below, although there was some variation at the time due to absences and vacancies.

Position Title	Level	Number	Status
<b>Ombudsman</b>	ECO5	1	Statutory appointment
<b>Deputy Ombudsman</b>	ECO2	1	Executive Contract
<b>Assistant Ombudsman</b>	SAO2	1	Ongoing
<b>Senior Investigation Officer</b>	A07	4	2 Ongoing, 2 Fixed period
<b>Investigation Officer</b>	A05	1	Ongoing
<b>Resolution Officer</b>	A04	2	1 Ongoing, 1 Fixed period
<b>Business Manager</b>	SAO1	1	Ongoing
<b>Business Support Officer</b>	A04	1	Fixed period

In order to aid the Business Support Unit (BSU) in the conduct of corporate and administrative duties, Resolution Officers provide additional administrative assistance as required. In turn, BSU staff assist Resolution Officers from time to time by taking initial calls from enquirers. This provides a broader skill base in a small office to deal with scheduled and unexpected absences and peaks in demand. It also adds substantially to the professional development and flexibility of the staff concerned.

## Public Sector Principles

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

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

## Professional Development

Staff professional development attendance conducted or supported by the Office during 2018/19 included:

- Sharpening your Teeth training program (Ontario Ombudsman)
- Investigation Compliance and Enforcement training (Certificate IV)
- National Investigation Symposium x 2
- Freedom of Information training x 4
- Resilience, the Grit Factor x 2
- Practising Trauma Informed Care x 2
- Resolve case management conference
- Cultural Safety Framework –Aboriginal Health Policy Unit (workplace session)
- Working With Interpreters Training (workplace session)
- Alternative Dispute Resolution presentation
- Launch of Talk Up
- Cyber briefings
- OCPE Hands up for inclusion launch
- Internal development sessions by various staff, including:
  - Breaking the Cycle video
  - Getting to know Ombudsman resources
  - Health & Safety
  - Community Engagement Program
  - Resilience training
  - Records Management
  - FOI and Privacy
  - Ombudsman Office jurisdiction
  - National Investigation Symposium overview.

As indicated above, the Office conducts regular internal development presentation sessions. Sessions are aimed at updating staff on a range of topics of relevance to the Office and to complaint handling and investigations generally. All staff are encouraged to present from time to time. This also provides a valuable professional development avenue for staff to hone their presentation skills.

## SYSTEMS, POLICIES AND PROCEDURES

The operations of the Office are supported by a range of systems, policies and procedures. The *Accounting and Property Manual* deals with a wide range of issues, including financial and procurement matters, corporate systems, Information and Communications Technology, Risk Management and Audit. During the reporting period, various chapters of the Manual were reviewed to ensure consistency with new or varied Treasurer's Directions.

The day to day work of resolution and investigative officers is also guided by the Office's *Operations Manual*. A review of the *Operations Manual* was completed in 2018/19.

The work of our officers is supported by the Office's case management system, Resolve. The maintenance and development of the system involves a substantial ongoing investment of staff time and resources but it has proven to be of great benefit in terms of the management of individual matters and more general reporting.

Numerous other independent offices in the Northern Territory have taken up the Resolve system. We regularly provide assistance to offices that are considering acquiring the system or are in the process of developing or implementing it.

## **WORK HEALTH AND SAFETY**

The Office of the Ombudsman is committed to providing a safe and healthy working environment for all of our workers and visitors to the Office. We maintain an OHS Management System, including an Occupational Health and Safety Management Plan that meets the requirements of the *Work Health & Safety (National Uniform Legislation) Act 2011* and *Employment Instruction 11 – Occupational Health and Safety Standards and Programs*.

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

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

## **RECORDS MANAGEMENT, DISCLOSURE AND CORRECTION**

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

### *Information held by the Office*

The Ombudsman holds information in the following categories:

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

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

### Administrative and policy files

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

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

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

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

### Complaint files

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

Physical files of documents relating to written complaints may also be maintained. On completion of matters, physical files or documents are stored in the Darwin office or at an off-site storage facility until moved to archives or destroyed in accordance with approved disposal schedules.

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

### Legal opinions

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

### Annual reports

Copies of the current Annual Report and some previous Annual Reports are available for downloading on the Ombudsman's website at [www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au).

### Brochures

The Ombudsman has a range of brochure material available to the public. The material details the functions of the Ombudsman and provides a guide to using the services of the office. Some printed copies of these brochures are available free of charge from the Ombudsman's Office in Darwin and some are available for downloading on the Ombudsman's website.

### Policies, manuals and guidelines

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

### Service Standards

The Ombudsman's Service Standards set out the standards of service you can expect. The Service Standards are available on the Ombudsman's website.

## Providing access to information

### Publicly available documents

Numerous documents are available for download through the Ombudsman website. Hard copies of some brochures may be obtained from the Office on request depending on availability.

### Administrative arrangements for access to information

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

### Access under Part 3 of the Information Act

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

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

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

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

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

In 2018/19, the Ombudsman received no information access requests under the *Information Act*.

### Procedures for Correcting Information

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

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

In 2018/19, the Ombudsman received no personal information correction requests under the *Information Act*.



# APPENDIX A – POLICE COMPLAINTS AGREEMENT

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

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

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## 1. Scope of Terms

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

## 2. Introduction

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

Specifically, the Agreement provides for the following matters:

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

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

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

## 3. Purpose and Intent of the Agreement

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

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

The Parties mutually agree to:

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

#### **4. Obligations of Professional Standards Command**

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

#### **5. Obligations of Police Officer**

Police officers who receive a CAP are required to record and immediately report that complaint to the Commander, PSC and comply with the terms of the General Order issued by the Commissioner.

A police officer is not to accept a CAP from a person if the complaint concerns that member's conduct. The member is to inform the person to make the complaint to another police officer or directly to the Ombudsman.

#### **6. Notification on the Making of a Complaint**

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

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

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

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

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

#### **7. Assessing and Determining Whether to Deal With a Complaint**

##### **7.1 Complaints Made Out of Time**

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

## 7.2 Preliminary Inquiries

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

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

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

## 7.3 Declining a Complaint

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

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

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

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

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

As a general rule:

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

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

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

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

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

## 8. Classification of Complaints

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

Complaints fall into one of the following classifications:

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

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

Careful consideration is to be given to:

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

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

## 9. Re-Classification of Complaint

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

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

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

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

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

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

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

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

## **10. Conciliation [Part 7, Division 3]**

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

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

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

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

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

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

### **10.1 Representation at Conciliation**

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

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

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

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

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

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

### **11.1 Ombudsman's Oversight**

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

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

### **11.2 Categories of CRP Conduct**

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

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

### **11.3 CRP Process**

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

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

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

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

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

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

#### **11.4 Successfully Completed CRP**

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

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

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

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

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

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

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

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

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

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

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

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

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

### **11.5 Unsuccessful CRP**

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

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

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

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

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

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

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

#### **11.6 Police Officer Dissatisfied**

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

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

#### **11.7 Police Officer's Rights**

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

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

#### **11.8 Enquiries Reveal a Matter is More Serious**

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

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

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

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

#### **11.9 Withdrawal of Complaint**

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

#### **11.10 CRP Action Requirements**

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

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

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

## 12. Professional Standards Command Investigation

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

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

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

### 12.1 Preliminary Inquiry

#### Authorised Conduct of Preliminary Inquiry

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

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

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

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

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

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

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

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

## **12.2 Category 2 PSC Investigation**

### **Authorised Conduct of Category 2 Complaint**

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

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

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

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

### **Assignment of complaint to Investigating Officer**

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

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

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

### **Functions of Investigating Officer**

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

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

## Responsibilities of Investigating Officer

The IO is to:

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

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

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

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

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

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

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

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

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

### **Re-classification of Complaint**

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

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

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

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

### **Ombudsman Review**

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

### **Requirements when Serious Breach of Discipline Identified**

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

### **Commissioner Notification to the Ombudsman**

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

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

### **Deferral of Investigation**

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

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

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

## **12.3 Category 1 PSC Investigation**

### **Authorised Conduct of Category 1 Complaint**

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

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

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

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

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

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

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

### **Assignment of Complaint to Investigating Officer**

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

## Functions of Investigating Officer

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

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

## Responsibilities of Investigating Officer

The IO is to:

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

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

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

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

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

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

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

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

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

The Ombudsman may decide to investigate a CAP:

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

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

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

#### **13.1 Finalisation Process**

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

The Commissioner will notify the Ombudsman whether the Commissioner:

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

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

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

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

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

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

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

## 13.2 Complaint Findings

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

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

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

## 14. Reviews by Ombudsman

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

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

## 15. Confidentiality & Immunity

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

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

## **16. Suspected Criminal Conduct**

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

## **17. Procedural Fairness**

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

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

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

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

## **18. Other**

### **18.1 Non-Disclosure of Information**

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

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

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

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

**18.2 Restricted Use of Information**

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

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

**18.3 Register of Police Complaints**

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

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

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

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

**19. Scope of This Agreement**

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

**20. Review of This Agreement**

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

**October 2014**

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## APPENDIX B – FINANCIAL STATEMENTS

### Financial Statement Overview

#### For the year ended 30 June 2019

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

During 2018-19 the Office took on the functions of the Information Commissioner, adding responsibility for promoting knowledge about freedom of information (FOI) and privacy rights, and investigating and resolving complaints about FOI and privacy matters.

The net result for the office during 2018-19 was a surplus of \$145,000. This was largely attributable to both personnel and operations savings relating to the postponed implementation of a new structure following transfer of the Information Commissioner function combined with protracted unavailability of senior staff.

Operating expenses totaled \$2,688,000 comprising \$2,086,000 for employee expenses and \$602,000 for the purchase of goods and services (which includes \$353,000 for services received free of charge).

### Certification of the Financial Statements

We certify that the attached financial statements for the *Ombudsman's Office* have been prepared based on proper accounts and records in accordance with the prescribed format, the *Financial Management Act 1995* 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 2019 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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PETER SHOYER

Ombudsman

30 August 2019

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SARAH SCHULTZ

Business Manager

30 August 2019

**OMBUDSMAN'S OFFICE**  
**Comprehensive Operating Statement**  
**For the year ended 30 June 2019**

	Note	2019 \$000	2018 \$000
<b>INCOME</b>			
Appropriation			
Output	1	2 480	1 932
Goods and services received free of charge	4	353	359
<b>TOTAL INCOME</b>		<b>2 833</b>	<b>2 291</b>
<b>EXPENSES</b>			
Employee expenses		2 086	1 565
Administrative expenses			
Purchases of goods and services	5	227	148
Repairs and maintenance		1	
Property Management		21	15
Other administrative expenses <sup>1</sup>		353	359
<b>TOTAL EXPENSES</b>		<b>2 688</b>	<b>2 129</b>
<b>NET SURPLUS/(DEFICIT)</b>		<b>145</b>	<b>161</b>
<b>COMPREHENSIVE RESULT</b>		<b>145</b>	<b>161</b>

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

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

**OMBUDSMAN'S OFFICE**  
**Balance Sheet**

**As at 30 June 2019**

	Note	2019 \$000	2018 \$000
<b>ASSETS</b>			
<b>Current assets</b>			
Cash and deposits	7	1 456	1 346
Receivables	8	3	
Prepayments		4	6
<b>Total current assets</b>		<b>1 463</b>	<b>1 353</b>
<b>TOTAL ASSETS</b>		<b>1 463</b>	<b>1 353</b>
<b>LIABILITIES</b>			
<b>Current liabilities</b>			
Payables	10	37	15
Provisions	11	324	329
Other liabilities			
<b>Total current liabilities</b>		<b>361</b>	<b>344</b>
<b>TOTAL LIABILITIES</b>		<b>361</b>	<b>344</b>
<b>NET ASSETS</b>		<b>1 101</b>	<b>1 008</b>
<b>EQUITY</b>			
Capital		295	346
Accumulated funds		807	662
<b>TOTAL EQUITY</b>		<b>1 101</b>	<b>1 008</b>

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

**OMBUDSMAN'S OFFICE**  
**Statement of Changes in Equity**  
**For the year ended 30 June 2019**

	Note	Equity at 1 July \$000	Comprehensive result \$000	Transactions with owners in their capacity as owners \$000	Equity at 30 June \$000
<b>2018-19</b>					
<b>Accumulated funds</b>		662	145		807
<b>Capital – transactions with owners</b>					
Equity injections		398			398
Equity withdrawals		(52)		(52)	(104)
		346		(52)	295
<b>Total equity at end of financial year</b>		<b>1008</b>	<b>145</b>	<b>(52)</b>	<b>1101</b>
<b>2017-18</b>					
<b>Accumulated funds</b>		501	161		662
<b>Capital – transactions with owners</b>					
Equity injections		398			398
Equity withdrawals		(52)			(52)
		346			346
<b>Total equity at end of financial year</b>		<b>847</b>	<b>161</b>		<b>1008</b>

*The statement of changes in equity is to be read in conjunction with the notes to the financial statements.*

**OMBUDSMAN'S OFFICE**  
**Cash Flow Statement**  
**For the year ended 30 June 2019**

	Note	2019 \$000	2018 \$000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Operating receipts</b>			
Appropriation			
Output		2 480	1 932
Receipts from sales of goods and services		11	11
<b>Total operating receipts</b>		<b>2 491</b>	<b>1 943</b>
<b>Operating payments</b>			
Payments to employees		2 089	1 504
Payments for goods and services		242	181
<b>Total operating payments</b>		<b>2 330</b>	<b>1 685</b>
<b>Net cash from/(used in) operating activities</b>		<b>161</b>	<b>258</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
<b>Financing payments</b>			
Equity withdrawals		52	
<b>Total financing payments</b>		<b>52</b>	
<b>Net cash from/(used in) financing activities</b>		<b>109</b>	
Net increase/(decrease) in cash held		109	258
Cash at beginning of financial year		1 346	1 089
<b>CASH AT END OF FINANCIAL YEAR</b>	<b>7</b>	<b>1 456</b>	<b>1 346</b>

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

**OMBUDSMAN'S OFFICE**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2019**

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**OMBUDSMAN'S OFFICE**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2019**

**1. Objectives and funding**

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

From August 2018 the Ombudsman also became the Information Commissioner adding responsibility for promoting knowledge about freedom of information (FOI) and privacy rights, and investigating and resolving complaints about FOI and Privacy Matters.

The Ombudsman's Office is predominantly funded by, and is dependent on, the receipt of Parliamentary appropriations. The financial statements encompass all funds through which the agency controls resources to carry on its functions and deliver outputs. For reporting purposes, outputs delivered by the agency are summarised into three output groups, Ombudsman Operations, Information Commissioner and Corporate and Governance.

Note 3 provides summary financial information in the form of a Comprehensive Operating Statement by output group. Additional information in relation to principal activities of the Ombudsman's Office and Information Commissioner may be found in their respective Annual Reports.

**a) Machinery of government changes**

***Transfers in***

*Details of transfer:* 1 business unit consisting of 3 staff transferred from the Department of the Attorney General and Justice

*Basis of transfer:* Administrative Arrangements Order 13 August 2018

*Date of transfer:* Effective from 13 August 2018

The net assets transferred as a result of this change were as follows:

<b>Assets</b>	<b>\$000</b>
Cash	
Receivables	
Property, plant and equipment	
	-
<b>Liabilities</b>	
Payables	4
Provisions	48
Other liabilities	
	52
<b>Net assets</b>	<b>(52)</b>

**OMBUDSMAN'S OFFICE**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2019**

**2. Statement of significant accounting policies**

**a) Statement of compliance**

The financial statements have been prepared in accordance with the requirements of the *Financial Management Act 1995* and related Treasurer's Directions. The *Financial Management Act 1995* requires the Ombudsman's Office to prepare financial statements for the year ended 30 June based on the form determined by the Treasurer. The form of agency financial statements should 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.

**b) Basis of accounting**

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.

**Standards and interpretations effective from 2018-19**

**AASB 9 Financial Instruments**

AASB 9 applied for the first time in 2018-19. AASB 9 Financial Instruments replaces AASB 139 Financial Instruments: Recognition and Measurement for annual periods beginning on or after 1 January 2018.

As the agency did not hold any financial instruments during the period there is nil effect as a result of adoption of this new accounting standard.

Several other amending standards and AASB interpretations have been issued that apply to the current reporting periods, but are considered to have no impact on public sector reporting.

**Standards and interpretations issued but not yet effective**

No Australian accounting standards have been early adopted for 2018-19.

On the date of authorisation of the financial statements, the following standards and interpretations were in issue but are not yet effective and have been considered for potential impact on future reporting periods:

**OMBUDSMAN'S OFFICE**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2019**

**AASB 16 Leases**

AASB 16 Leases is effective for annual reporting periods beginning on or after 1 January 2019 and will be reported for the first time in 2019-20 financial statements. When effective, the standard will supersede AASB 117 Leases and require the majority of leases to be recognised on the balance sheet.

It is expected that the new leases standard will have no significant impact on the Agency's financial statements as existing operating lease arrangements are with other NT government agencies which are exempt from the recognition of criteria as per the draft Treasurer's Direction – Leases.

Other amending standards and AASB interpretations have been issued that apply to future reporting periods, but are considered to have limited impact on future financial reporting.

**c) Reporting entity**

The financial statements cover the agency as an individual reporting entity.

The *Ombudsman's Office* ("the Agency") is a Northern Territory agency established under the *Interpretation Act 1978, Administrative Arrangements Order*.

The principal place of business of the Agency is: NT House, 22 Mitchell Street, Darwin.

**d) Agency and Territory items**

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

**Central Holding Authority**

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

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

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

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

**e) Comparatives**

Where necessary, comparative information for the 2017-18 financial year has been reclassified to provide consistency with current year disclosures.

**f) 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

**OMBUDSMAN'S OFFICE**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2019**

\$500 or less being rounded down to zero. Figures in the financial statements and notes may not equate due to rounding.

**g) Changes in accounting policies**

There have been no changes to accounting policies adopted in 2018-19 as a result of management decisions.

**h) 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.

**i) 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.

**j) 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 1995* 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 as adjustments to equity.

The statement of changes in equity provides additional information in relation to contributions by, and distributions to, Government.

**OMBUDSMAN'S OFFICE**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2019**

**3. Comprehensive operating statement by output group**

	Note	Ombudsman Operations		Information Commissioner		Corporate & Governance		Total	
		2019	2018	2019	2018	2019	2018	2019	2018
		\$000	\$000	\$000	\$000	\$000	\$000	\$000	\$000
<b>INCOME</b>									
Appropriation		2 480	1 932					2 480	1 932
Output									
Goods and services received free of charge	4	353	359					353	359
<b>TOTAL INCOME</b>		<b>2 833</b>	<b>2 291</b>					<b>2 833</b>	<b>2 291</b>
<b>EXPENSES</b>									
Employee expenses		1 577	1 396	251		258	169	2 086	1 565
Administrative expenses									
Purchases of goods and services	6	138	137	50		38	11	227	148
Repairs and maintenance		1						1	
Property management		10	12	4		7	3	21	15
Depreciation & amortisation	9		42						42
Other administrative expenses <sup>1</sup>		353	359					353	359
<b>TOTAL EXPENSES</b>		<b>2 079</b>	<b>1 949</b>	<b>305</b>		<b>303</b>	<b>180</b>	<b>2 688</b>	<b>2 129</b>
<b>NET SURPLUS/(DEFICIT)</b>		<b>753</b>	<b>341</b>	<b>(305)</b>		<b>(303)</b>	<b>(180)</b>	<b>145</b>	<b>161</b>
<b>COMPREHENSIVE RESULT</b>		<b>753</b>	<b>341</b>	<b>(305)</b>		<b>(303)</b>	<b>(180)</b>	<b>145</b>	<b>161</b>

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

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

AAO changes occurred on 13 August 2019. Financial statements of the Agency reflect the whole year activity for the Information Commissioner output, being the period 1 July 2018 to 30 June 2019. Comparative amounts for the prior years have not been included. Allocation of expenses between output groups will be reviewed in 2019-20.

**Income**

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.

**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

**OMBUDSMAN'S OFFICE**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2019**

- 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.

**Repairs and maintenance expense**

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

	2019 \$000	2018 \$000
<b>4. Goods and services received free of charge</b>		
Corporate and information services	353	359
	<b>353</b>	<b>359</b>

**5. Purchases of goods and services**

The net surplus has been arrived at after charging the following:

**Goods and services expenses:**

Accommodation	7	4
Advertising <sup>(1)</sup>	3	2
Communications	22	16
Consultants <sup>(2)</sup>	3	
Document production	2	1
Information Technology Charges	95	73
Insurance Premiums <sup>(3)</sup>	17	7
Legal expenses <sup>(4)</sup>	6	
Marketing and promotion <sup>(5)</sup>	11	
Memberships and subscriptions	6	3
Motor vehicle expenses	12	8
Official duty fares	17	11
Training and study	9	10
Travelling allowance	5	2
Other expenses	12	11
	<b>227</b>	<b>148</b>

<sup>(1)</sup> Does not include recruitment, advertising or marketing and promotion advertising.

<sup>(2)</sup> Includes marketing, promotion and IT consultants.

<sup>(3)</sup> Includes workers compensation and motor vehicle insurance costs.

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

<sup>(5)</sup> Includes advertising for marketing and promotion but excludes marketing and promotion consultants' expenses, which are incorporated in the consultants' category.

*Goods and services expenses for 2017-18 has been restated to be consistent with 2018-19 disclosures.*

**OMBUDSMAN'S OFFICE**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2019**

**6. Write-offs, postponements, waivers, gifts and ex gratia payments**

The Ombudsman's Office had no write-offs, postponements, waivers, gifts or ex gratia payments in 2018-19 or 2017-18.

	2019	2018
	\$000	\$000

**7. Cash and deposits**

Cash on hand  
Cash at bank

	1 456	1 346
	<b>1 456</b>	<b>1 346</b>

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.

The total of agency 'Cash and deposits' of \$1,456 recorded in the balance sheet is consistent with that recorded as 'Cash' in the cash flow statement.

	2019	2018
	\$000	\$000

**8. Receivables**

**Current**

GST receivables  
Other receivables

	3	
--	---	--

**Non-current**

Other receivables

--	--	--

**Total receivables**

	<b>3</b>	-
--	----------	---

Receivables include accounts and other receivables and are recognised at fair value less any loss allowance.

Accounts receivable are generally settled within 30 days.

	2019	2018
	\$000	\$000

**9. Property, plant and equipment**

**Plant and equipment**

At fair value  
Less: accumulated depreciation

	66	66
	(66)	(66)
	-	-

**Computer Software**

At cost  
Less: accumulated depreciation

	400	400
	(400)	(400)
	-	-

**Total Property, Plant and Equipment**

	-	-
--	---	---

**OMBUDSMAN'S OFFICE**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the year ended 30 June 2019**

**2019 Property, plant and equipment reconciliations**

There was no movement in the carrying amount of property, plant and equipment during 2018-19 as all property plant and equipment was fully depreciated at the end of 2017-18 and there were no new acquisitions.

**2018 Property, plant and equipment reconciliations**

A reconciliation of the carrying amount of property, plant and equipment at the beginning and end of 2017-18 is set out below:

	Plant and equipment \$000	Computer Software \$000	Total \$000
<b>Carrying amount as at 1 July 2017</b>		42	42
Additions			
Disposals			
Depreciation		(42)	(42)
<b>Carrying amount as at 30 June 2018</b>		-	-

**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 Infrastructure, Planning and Logistics is responsible for managing general government capital works projects on a whole of government basis. Therefore appropriation for capital works is provided directly to the Department of Infrastructure, Planning and Logistics 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.

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**Revaluations and impairment**

**Revaluation of assets**

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

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

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

**Impairment of assets**

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

Non-current physical and intangible agency assets are assessed for indicators of impairment on an annual basis or whenever there is indication of impairment. 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 current replacement cost and fair value less costs to sell. Any amount by which the asset's carrying amount exceeds the recoverable amount is recorded as an impairment loss.

No impairment adjustments were required within the reporting period.

**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:

	2019	2018
Plant and equipment	10 years	10 years
Computer Software	6 years	6 years

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

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**Leased assets**

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

**Finance leases**

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

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

**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 should be recognised as a deduction of the lease expenses over the term of the lease.

	2019 \$000	2018 \$000
<b>10. Payables</b>		
Accounts payable	23	4
Accrued expenses	14	12
<b>Total payables</b>	<b>37</b>	<b>15</b>

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.

	2019 \$000	2018 \$000
<b>11. Provisions</b>		
<b>Current</b>		
<i>Employee benefits</i>		
Recreation leave	256	267
Leave loading	26	18
Other employee benefits	2	
<i>Other current provisions</i>	40	44
<b>Total Provisions</b>	<b>324</b>	<b>329</b>

The Agency employed 16 employees as at 30 June 2019 (13 employees as at 30 June 2018).

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**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.

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 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's Office and as such no long service leave liability is recognised in agency financial statements.

**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.

**12. Commitments**

Disclosures in relation to capital and other commitments, including lease commitments. Commitments are those contracted as at 30 June where the amount of the future commitment can be reliably measured.

	2019		2018	
	Internal <sup>(a)</sup>	External <sup>(a)</sup>	Internal	External
	\$000	\$000	\$000	\$000
<b>(i) Other expenditure commitments</b>				
Other non-cancellable expenditure commitments not recognised as liabilities are payable as follows:				
Within one year	3		3	
Later than one year and not later than five	2		5	
	<b>5</b>		<b>8</b>	

<sup>(a)</sup> Internal commitments are to entities controlled by the NTG (entities listed in TAFR 17-18 Note 42: details of controlled entities at reporting date), whereas external commitments are to third parties external to the NTG.

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**13. Financial instruments**

A financial instrument is a contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity.

Financial assets and liabilities are recognised on the balance sheet when the agency becomes a party to the contractual provisions of the financial instrument. The agency's financial instruments include cash and deposits; receivables; advances paid; investment in shares; payables; advances received; borrowings and derivatives.

Due to the nature of operating activities, certain financial assets and financial liabilities arise under statutory obligations rather than a contract. Such financial assets and liabilities do not meet the definition of financial instruments as per AASB 132 Financial Instruments: Presentation. These include statutory receivables arising from taxes including GST and penalties.

The Ombudsman's Office has limited exposure to financial risks as discussed below.

Exposure to interest rate risk, foreign exchange risk, credit risk, price risk and liquidity risk arise in the normal course of activities. The NT Government's investments, loans and placements, and borrowings are predominantly managed through the NTTC adopting strategies to minimise the risk. Derivative financial arrangements are also utilised to manage financial risks inherent in the management of these financial instruments. These arrangements include swaps, forward interest rate agreements and other hedging instruments to manage fluctuations in interest or exchange rates.

**a) Categories of financial instruments**

The carrying amounts of the agency's financial assets and liabilities by category are disclosed in the table below.

**2018-19 Categories of financial instruments**

	<u>Fair value through profit or loss</u>		Fair value through other comprehensive income	<b>Total</b>
	Mandatorily at fair value	Amortised cost		
	\$000	\$000	\$000	\$000
Cash and deposits	1 456			1 456
Receivables <sup>1</sup>				
<b>Total financial assets</b>	<b>1 456</b>			<b>1 456</b>
Payables <sup>1</sup>		23		23
<b>Total financial liabilities</b>		<b>23</b>		<b>23</b>

<sup>1</sup> Total amounts disclosed here exclude statutory amounts

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**2017-18 Categories of financial instruments**

	Fair value through profit or loss			
	Designated at fair value	Financial assets - loans and receivables	Financial liabilities - amortised cost	Total
	\$000	\$000	\$000	\$000
Cash and deposits	1 346			
<b>Total financial assets</b>				
Payables <sup>1</sup>			4	
<b>Total financial liabilities</b>	<b>1 346</b>		<b>4</b>	

<sup>1</sup>Total amounts disclosed here exclude statutory amounts

**Classification of financial instruments from 1 July 2018**

From 1 July 2018, the agency classifies its financial assets in the following measurement categories:

- those to be measured subsequently at fair value (either through other comprehensive income (OCI) or through profit or loss), and
- those to be measure at amortised cost.

The classification depends on the agency's business model for managing the financial assets and the contractual terms of the cash flows.

For assets measured at fair value, gains and losses will either be recorded in profit or loss or OCI.

The agency reclassifies debt investments when and only when its business model for managing those assets changes.

At initial recognition, the agency measures a financial asset at its fair value plus, in the case of a financial asset not at fair value through profit or loss (FVTPL), transaction costs that are directly attributable to the acquisition of the financial asset. Transaction costs of financial assets carried at FVTPL are expensed in profit or loss.

*Debt instruments*

Subsequent measurement of debt instruments depends on the agency's business model for managing the asset and the cash flow characteristics of the asset. There are three measurement categories into which the agency classifies its debt instruments:

- *Amortised cost:* Assets that are held for collection of contractual cash flows where those cash flows represent solely payments of principal and interest are measured at amortised cost. Interest income from these financial assets is calculated using the effective interest rate method. Any gain or loss arising on derecognition is recognised directly in profit or loss and presented in other gains/(losses).
- *FVOCI:* Assets that are held for collection of contractual cash flows and for selling the financial assets, where the assets' cash flows represent solely payments of principal and interest, are measured at FVOCI. Movements in the carrying amount are taken through OCI, except for the recognition of impairment gains or losses and interest income which are recognised in profit or loss. When the financial asset is derecognised, the cumulative gain or loss previously recognised in OCI is reclassified from equity to profit or loss and recognised in other gains/(losses). Interest income from these financial assets is calculated using the effective interest rate method.

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- *FVTPL*: Assets that do not meet the criteria for amortised cost or FVOCI are measured at FVTPL. A gain or loss on a debt investment that is subsequently measured at FVTPL is recognised in profit or loss and presented net within other gains/(losses) in the period in which it arises.

**Classification of financial instruments until 30 June 2018**

The agency has elected not to restate comparative information. As a result, the comparative information provided continues to be accounted for in accordance with AASB 139.

Financial assets are classified into the following categories:

- financial assets at fair value through profit or loss
- loans and receivables and
- financial liabilities at amortised cost.

**Financial assets or financial liabilities at fair value through profit or loss**

Financial instruments are classified as at FVTPL when the instrument is either held for trading or is designated as at FVTPL. Financial instruments classified as at FVTPL are initially and subsequently measured at fair value. Gains or losses on these assets are recognised in the net result for the year.

**Loans and receivables**

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market other than those held for trading and available for sale. Loans and receivables exclude statutory receivables. Loans and receivables are measured initially at fair value and subsequently at amortised cost using the effective interest rate method less impairment.

**Financial liabilities at amortised cost**

Financial liabilities at amortised cost include all advances received, finance lease liabilities and borrowings. Amortised cost is calculated using the effective interest method.

**b) Credit risk**

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

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

**c) 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 funds to meet its liabilities when they fall due. This is achieved by ensuring that minimum levels of cash are held in the Agency bank account to meet various current employee and supplier liabilities. The agency's exposure to liquidity risk is minimal. Cash injections are available from the Central Holding Authority in the event that one-off extraordinary expenditure items arise that deplete cash to levels that compromise the agency's ability to meet its financial obligations.

All current financial liabilities will reach contractual maturity within 1 year (and are normally settled within 30 days).

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**d) 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's Office is not exposed to interest rate risk as agency financial assets and financial liabilities are non-interest bearing.

**(ii) Price risk**

The Ombudsman's Office is not exposed to price risk as it does not hold units in unit trusts.

**(iii) Currency risk**

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

**14. Related Parties**

**i) Related Parties**

The Ombudsman's Office is a government administrative entity and is wholly owned and controlled by the Territory Government. Related parties of the Agency include:

- the portfolio minister and key management personnel (KMP) because they have authority and responsibility for planning, directing and controlling the activities of the agency directly; and
- close family members of the portfolio minister or KMP including spouses, children and dependants; and
- all public sector entities that are controlled and consolidated into the whole of government financial statements; and
- any entities controlled or jointly controlled by KMP's or the portfolio minister or controlled or jointly controlled by their close family members.

**ii) Key management personnel (KMP)**

Key management personnel of the Ombudsman's Office are those persons having authority and responsibility for planning, directing and controlling the activities of the Agency. These include the Chief Minister and the Chief Executive Officer.

**iii) Remuneration of key management personnel**

The details below excludes the salaries and other benefits of the Minister, and long service leave expense and liability of KMP as these are recognized in the ledger of the responsible Departments.

The aggregate compensation of key management personnel of the Agency is set out below:

	2018-19	2017-18
	\$000	\$000
Short-term benefits	285	280
Long-term benefits	25	25
Termination benefits		
<b>Total</b>	<b>310</b>	<b>305</b>

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**iv) Related party transactions:**

**Transactions with Northern Territory Government controlled entities**

The agency's primary ongoing source of funding is received from the Central Holding Authority in the form of output appropriation. The agency also has significant transactions with the Department of Corporate and Information Services for the delivery of goods and services and the Department of Treasury and Finance with regards to Payroll Tax. The Agency's transactions with other government entities are not individually significant.

**Other related party transactions are as follows:**

Given the breadth and depth of Territory Government activities, related parties will transact with the Territory Public sector in a manner consistent with other members of the public including paying stamp duty and other government fees and charges and therefore these transactions have not been disclosed. No related party transactions in excess of \$10,000 or otherwise considered significant occurred during the reporting period.

**15. Contingent liabilities and contingent assets**

The Agency had no contingent liabilities or contingent assets as at 30 June 2019 or 30 June 2018.

**16. Events subsequent to balance date**

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

**17. Budgetary information**

<b>Comprehensive Operating Statement</b>	2018-19 Actual	2018-19 Original budget <sup>(a)</sup>	Variance	Note
	\$000	\$000	\$000	
<b>INCOME</b>				
Appropriation				
Output	2,480	1,938	542	1
Goods and services received free of charge	353	353		
<b>TOTAL INCOME</b>	<b>2,833</b>	<b>2,291</b>	<b>542</b>	
<b>EXPENSES</b>				
Employee expenses	2,086	1,714	372	1,2
Administrative expenses				
Purchases of goods and services	248	220	28	1,2
Repairs and maintenance	1	4	-3	
Depreciation and amortisation		3	-3	
Services free of charge	353	353		
<b>TOTAL EXPENSES</b>	<b>2,688</b>	<b>2,294</b>	<b>394</b>	
<b>NET SURPLUS/(DEFICIT)</b>	<b>145</b>		<b>145</b>	
<b>COMPREHENSIVE RESULT</b>	<b>145</b>	<b>-3</b>	<b>148</b>	

**Notes:**

The following note descriptions relate to variances greater than 10 per cent or \$20 000, or where multiple significant variances have occurred:

1. Original budget figure does not take into account the Machinery of Government transfer of the Information Commissioner function.
2. Overall personnel and operations savings largely attributable to postponed implementation of new structure following transfer of the Information Commission function and protracted unavailability of senior staff.

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<b>Balance Sheet</b>	2018-19 Actual	2018-19 Original budget	Variance	Note
	\$000	\$000	\$000	
<b>ASSETS</b>				
<b>Current assets</b>				
Cash and deposits	1,456	1,088	368	1
Receivables	3	3		
Prepayments	4	5	-1	
<b>Total current assets</b>	<b>1,463</b>	<b>1,096</b>	<b>367</b>	
<b>TOTAL ASSETS</b>	<b>1,463</b>	<b>1,096</b>	<b>367</b>	
<b>LIABILITIES</b>				
<b>Current liabilities</b>				
Payables	37	22	15	
Provisions	324	269	55	2
<b>Total current liabilities</b>	<b>361</b>	<b>291</b>	<b>70</b>	
<b>TOTAL LIABILITIES</b>	<b>361</b>	<b>291</b>	<b>70</b>	
<b>NET ASSETS</b>	<b>1,101</b>	<b>805</b>	<b>297</b>	
<b>EQUITY</b>				
Capital	295	346	-52	3
Accumulated funds	807	459	348	
<b>TOTAL EQUITY</b>	<b>1,101</b>	<b>805</b>	<b>297</b>	

**Notes:**

The following note descriptions relate to variances greater than 10 per cent or \$20 000, or where multiple significant variances have occurred.

1. Variance due to greater cash holdings from operational savings in both current and prior reporting periods.
2. Additional employment related provisions relating to additional function and associated staff.
3. Equity transfer out associated with transfer of opening balances for the Office of the Information Commissioner.

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<b>Cash Flow Statement</b>	2018-19 Actual	2018-19 Original budget	Variance	Note
	\$000	\$000	\$000	
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
<b>Operating receipts</b>				
Appropriation				
Output	2,480	1,938	542	
Receipts from sale of goods and services	11		11	
<b>Total operating receipts</b>	<b>2,491</b>	<b>1,938</b>	<b>553</b>	
<b>Operating payments</b>				
Payments to employees	2,089	1,714	375	1
Payments for goods and services	242	224	18	
<b>Total operating payments</b>	<b>2,330</b>	<b>1,938</b>	<b>392</b>	
<b>Net cash from/(used in) operating activities</b>	<b>161</b>		<b>161</b>	
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>				
<b>Financing payments</b>				
Equity withdrawals	52		-52	
<b>Total financing payments</b>	<b>52</b>		<b>-52</b>	
<b>Net cash from/(used in) financing activities</b>	<b>(52)</b>		<b>(52)</b>	
Net increase/(decrease) in cash held	109		109	
Cash at beginning of financial year	1,346	1,088	258	
<b>CASH AT END OF FINANCIAL YEAR</b>	<b>1,456</b>	<b>1,088</b>	<b>368</b>	

**Notes:**

The following note descriptions relate to variances greater than 10 per cent or \$20 000, or where multiple significant variances have occurred.

1. Variances as outlined in notes to Comprehensive Operating Statement.

## HOW TO CONTACT THE OMBUDSMAN

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