



 **mbudsmant**NT



Thirty First Annual Report 2008/09

*Presented and ordered to be printed by the
Legislative Assembly of the Northern Territory*

ISSN 0159-4540

OMBUDSMAN FOR THE NORTHERN TERRITORY OF AUSTRALIA

Thirty First Annual Report 2008-09

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

Dear Chief Minister

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

Yours sincerely



*Carolyn Richards
Ombudsman*

30 September 2009

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

Julie Carlsen
Office of the Ombudsman
GPO Box 1344
DARWIN NT 0801
Telephone: 08 8999 1818 or 1800 806 380 (toll free within NT)
Facsimile: 08 8999 1828
Email: nt.ombudsman@nt.gov.au
Website: <http://www.ombudsman.nt.gov.au>

STATEMENT OF ACCOUNTABLE OFFICER

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

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

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

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



CAROLYN RICHARDS
Ombudsman
30 September 2009

CONTENTS

	Page No
1. INTRODUCTION AND OVERVIEW	6
OMBUDSMAN'S FOREWORD	6
2. ABOUT THE OFFICE OF THE OMBUDSMAN.....	12
FUNCTIONS OF THE OMBUDSMAN	12
OMBUDSMAN SERVICE STANDARDS	12
ORGANISATIONAL STRUCTURE.....	13
STAFFING	14
3. PERFORMANCE	16
OVERALL PERFORMANCE	16
ACTIVITY 1: RESOLUTION OF COMPLAINTS	17
OUTPUTS	17
TOTAL APPROACHES.....	17
INQUIRIES ONLY	19
COMPLAINTS ONLY.....	22
Overview of all Complaints.....	22
Northern Territory Agencies (excluding NT Police).....	23
Issues complained about.....	23
Outcomes of finalised complaints	25
Case studies	26
Northern Territory Police	35
Issues complained about.....	35
How complaints were finalised	36
Outcomes of finalised complaints	37
Case studies	39
ACTIVITY 2: IMPROVE THE DELIVERY OF SERVICES.....	51
OUTPUTS	51
HIGHLIGHTS	51
Prisoner Transfers	51
Was removal of Asbestos a hazard.....	55
Restraining and/or detaining patients at Royal Darwin Hospital (interim report)	61
ACTIVITY 3 INSPECTION OF NT POLICE RECORDS	62
OUTPUTS	62
HIGHLIGHTS	62
ACTIVITY 4: ACCESS AND AWARENESS.....	64
OUTPUTS	64
HIGHLIGHTS	64
Access and Awareness at National Level.....	64
Access and Awareness throughout the Territory	65
ACTIVITY 5: MANAGEMENT OF THE OFFICE OF THE OMBUDSMAN.....	68
OUTPUTS	68
CORPORATE GOVERNANCE.....	68
EQUAL OPPORTUNITY	68
TRAINING AND DEVELOPMENT	69
OCCUPATIONAL HEALTH AND SAFETY PROGRAM.....	70
INFORMATION ACT ANNUAL REPORTING REQUIREMENTS.....	71
RECORDS MANAGEMENT	71

4.	APPENDICES	74
A	ACCESS AND AWARENESS SESSIONS.....	74
B	DETAILED COMPLAINT STATISTICS FOR 2008/09.....	76
	Agencies the Subject of Complaints	76
	Issues in Complaints Received.....	78
C	FREEDOM OF INFORMATION.....	80
D	SERVICE STANDARDS OF THE OFFICE OF THE OMBUDSMAN.....	84
E	FINANCIAL STATEMENT OVERVIEW	88
5.	HOW TO CONTACT THE OMBUDSMAN	110

Ombudsman

Ombudsman

Introduction and Overview

Ombudsman

1. INTRODUCTION AND OVERVIEW

OMBUDSMAN'S FOREWORD

The purpose of this report is to provide Members of the Legislative Assembly, and the people of the Northern Territory, with detailed information on the role of the Northern Territory Ombudsman. In the reporting period 2008–09 the Ombudsman performed oversight functions on the activities of government agencies, public servants, shire councils, the Power and Water Corporation, and Police and Correctional Services.

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

The Ombudsman's role exists to provide independent scrutiny of the agents of government and ensure that the people who are governed have access to instruments of accountability¹. In liberal democracies, the Ombudsman is an integral part of the structure of governance – a defender of the citizen² - and, in the Northern Territory, the Ombudsman acts in defence of public rights within the governing systems, processes, values, and the institutions that surround each endeavour.

In the case of government services, that endeavour is to improve the quality of life for the people of the Northern Territory by:

- protecting them from injustice and abuse;
- affording them freedom; and
- ensuring equality under the law, and recourse to it.

The aim of the Ombudsman's Office is to improve good governance through a strong framework of accountability. According to the former President of the International Ombudsman Institute, Sir Brian Elwood CBE:

Good Governance cannot be said to be the exercise of power without accountability. The exercise of power should never be absolute. Good governance requires having confidence in the system by which we are governed and trust in those to whom as citizens we delegate through the ballot box the responsibilities and burden of governing.

This year was a significant milestone in the role of Ombudsman, both internationally and here in the Northern Territory. Internationally, 9 June 2009 marked the 200th anniversary of the establishment of the world's first Ombudsman in Sweden.

¹ Former President of the International Ombudsman Institute and former Chief Ombudsman of New Zealand, Sir Brian Elwood, CBE.

² See Donald C. Rowat, 1965, *The Ombudsman: Citizen's Defender*, George Allen and Unwin Ltd, UK.

Universally, the Ombudsman has become an institution of accountability and nowhere more so than in the Swedish Constitution. On the other side of the world, on 1 July 2009, at a sub-national level, the new Northern Territory Ombudsman Act commenced, 31 years after the office of the Ombudsman was first established in the Northern Territory. The introduction of a new Northern Territory Ombudsman Act illustrates government commitment to improve accountability and recourse to justice for the people of the Territory.

THE YEAR IN REVIEW

The reporting period has seen a substantial increase in the activities, and the public profile, of the Ombudsman of the Northern Territory.

Joint Venture with Charles Darwin University

Mid-year, Charles Darwin University entered into a joint venture partnership with the Ombudsman for the purpose of training public servants in the skills required to conduct investigations. The first course commenced in June 2009 with unexpectedly high levels of demand. The number of applicants proved to be five times greater than the number of places available.

The program was developed and delivered in-house by senior officers from the Ombudsman's office and, as a consequence of this, all of my staff will receive due recognition of their skills. There is also a cooperative dimension to the delivery of the course: officers from other agencies will be engaged in contributing to better public administration as a result of this training. On completion successful participants are awarded a Certificate IV in Government (Investigations).

New Northern Territory Ombudsman Act

In readiness for the operation of the new Ombudsman Act an education program was developed to inform Territorians about the services of the Ombudsman and the right of every citizen to expect that nobody is above the law.

A program of visits to people who live outside of Darwin and Alice Springs has been planned and, at the time of this report, the program had already commenced. The program is community-focused and based on raising public awareness of people's rights. A television campaign, designed around the role of the Ombudsman as an independent entity and protector of public rights, was first launched in July 2009. Public awareness of the Ombudsman's role was not high on the public agenda and the television commercials seek to reverse that by visually conveying the significance of the Ombudsman's role in the interest of the general public. Outcomes include public requests for the advertising material from both within Australia and internationally.

The awareness campaign was first screened on Imparja in August 2009. Visits to the website increased from 100 hits per week to 1296 in the first week following the start of the television campaign on Imparja. That, together with a redesigned website, resulted in a major increase of enquiries.

This is a measure of the interest generated among people living in remote areas coupled to increasing awareness of the Ombudsman's role. Since the advertising was placed on YouTube 484 people from 23 countries viewed the television advertisements over a six week period.

Alice Springs

In the first half of the reporting period, resources for effectively maintaining the shopfront presence of the Ombudsman in Alice Springs were constrained and the office ceased to operate. For many years the office received very few personal visits by members of the public. The services were, and continue to be, provided directly from the Darwin Office. Despite the closure, the savings have guaranteed the commencement of a program of regular visits to remote communities. Access to the service of the Ombudsman through community outreach will continue to be made available to the people of Central Australia.

The Future

As this report illustrates, public awareness of the existence, and the role, of the Ombudsman has increased markedly over the reporting period. The effectiveness of the Office, underlined by improved access, an increase in the number of people seeking justice, a reduction in the time taken for the resolution of complaints, and the number of reports produced, is expected to continue.

These factors are indicators that barriers to public awareness are being overcome and, together with building partnerships for the purpose of raising standards in the public service and the commencement of the new Northern Territory Ombudsman Act, will lead to an increasingly significant role for the Ombudsman in the Northern Territory.

PERFORMANCE OVERVIEW

The key performance indicators for the 2008/09 period were:

- Total number of approaches decreased by 3%.
- The actual number of complaints handled by the Ombudsman was 407 (the same as 2007/08).
- Around 36% of complaints were finalised because an adequate explanation was provided by the agency (only 20% in 2006/07 and 40% in 2007/08).
- The time taken to finalise complaints within 90 days improved from 74% in 2007/08 to 78% this year.
- There was a 4% reduction in the number of complaints received against police.

- Nearly two thirds (64%) of complaints against police were resolved by utilising the Complaint Resolution Process (CRP), that is the complaint was conciliated between police and the complainant.
- The time taken to finalise complaints against police within 180 days improved from 76% in 2007/08 to 79% this year. Since 2005/06 there has been a 45% improvement in the number of complaints against police finalised in 180 days.
- Total visits to the Ombudsman's website remained over 34,000 for the year.
- Resources were not available to increase public awareness of the Ombudsman's service.

Finally I record my personal appreciation for the work, support and commitment of staff at the Ombudsman's office during the year. Statistics in this report show that they continue to perform extremely well. This Office continues to make substantial improvements in productivity and this is attributed to the high quality and dedication of staff. I also acknowledge the support and collaboration of all those in the NT Public Service who strive to improve services to the public.



CAROLYN RICHARDS
OMBUDSMAN

Ombudsman

Ombudsman

About the Office of the Ombudsman

Ombudsman

2. ABOUT THE OFFICE OF THE OMBUDSMAN

FUNCTIONS OF THE OMBUDSMAN

The functions of the Ombudsman are:

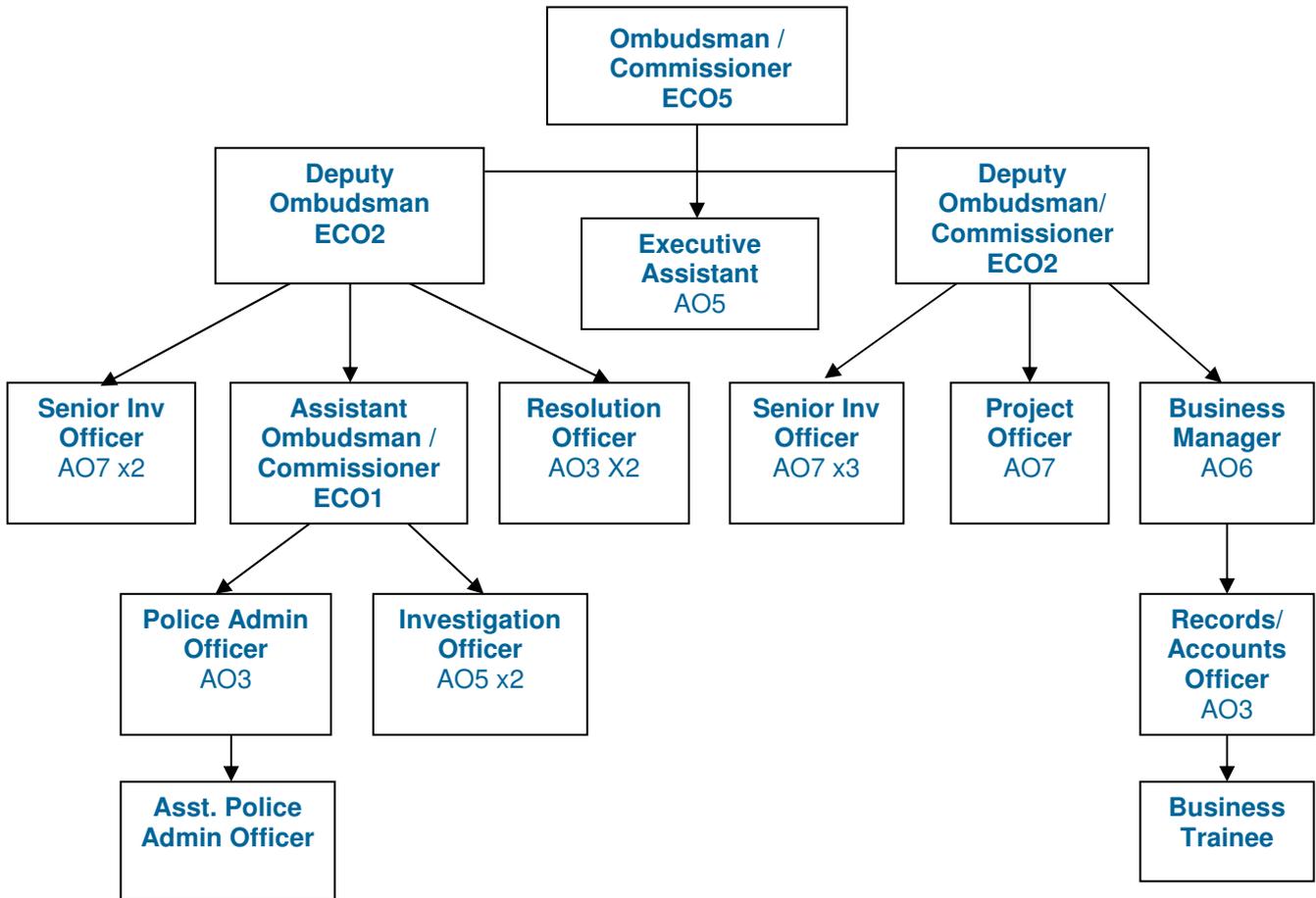
1. To investigate any administrative action by, in, or on behalf of, any Northern Territory Government Agency or Shire Council to which the *Ombudsman Act 2009* applies.
2. To arrange investigation, by the Ethical and Professional Standards Command of the Northern Territory Police, of any action taken, or refusal to take action, by a member of the Police Force of the Northern Territory.
3. To monitor and receive reports of investigations into the conduct of Members of the Northern Territory Police Force carried out by Ethical and Professional Standards Command of the Northern Territory Police.
4. To inspect records of the Northern Territory Police and report to the Legislative Assembly through the Minister on compliance with use of surveillance devices under the *Surveillance Devices Act 2007*. To monitor and report to the Minister on compliance with the *Telecommunications (Interception) Northern Territory Act* and the Commonwealth *Telecommunications (Interception and Access) Act* by law enforcement agencies within the Northern Territory.
5. Pursuant to a co-location agreement with the Commonwealth Ombudsman, to provide administrative support to representatives of the Commonwealth Ombudsman's Office who is co-located within the Office of the Ombudsman in Darwin.
6. To act as a member of the Northern Territory Law Reform Committee.
7. Pursuant to Section 9 of the *Health and Community Services Complaints Act* the Ombudsman is also appointed as the Commissioner for Health and Community Services Complaints. The Commission reports separately to the Legislative Assembly.

OMBUDSMAN SERVICE STANDARDS

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

ORGANISATIONAL STRUCTURE

The Organisational Structure for the Office of the Ombudsman for the NT and the Health and Community Services Complaints Commission at September 2009 is depicted below.



STAFFING

Table 1: Ombudsman's establishment at September 2009

Position Level	Ombudsman	HCSCC	Total
Ombudsman ECO5 ³	1		1
Deputy Ombudsman ECO2	1	1	2
Assistant Ombudsman ECO1	1		1
Administrative Officer 7	3	3	6
Administrative Officer 6	1		1
Administrative Officer 5	3		3
Administrative Officer 4	2		2
Administrative Officer 3	2		2
Trainee	1		1
Asst. Police Admin Officer	1		1
Total	16	4	20

Table 2: Establishment at September 2009 – By gender and position level

Position Level	Female	Male	Total
Ombudsman ECO5	1		1
Deputy Ombudsman ECO2	1	1	2
Assistant Ombudsman ECO1		1	1
Administrative Officer 7	5	1	6
Administrative Officer 6	1		1
Administrative Officer 5	2	1	3
Administrative Officer 4	2		2
Administrative Officer 3	1	1	2
Trainee		1	1
Asst. Police Admin Officer	1		1
Total	14	6	20

³ The Ombudsman for the Northern Territory is also the Commissioner for Health and Community Services Complaints.

Ombudsman Ombudsman

Performance

Activity 1 – Resolution of Complaints	17
Activity 2 – Improve the delivery of Services	51
Activity 3 – Inspection of NT Police Records	62
Activity 4 – Access and Awareness.....	64
Activity 5 – Management of the Office of the Ombudsman	68

Ombudsman

3. PERFORMANCE

OVERALL PERFORMANCE

The overall performance of the Ombudsman during 2008/09 is as follows:

Performance	Unit of Measure	2006/07	2007/08	2008/09
Quantity	1. Number of net approaches	1613	1962	1941
	2. Number of access and awareness visits	19	19	16
	3. Number of inspections of NT Police Telecommunication Interception records	1	2	2
	4. Number of inspections of NT Police Surveillance records	N/A	1	2
Quality	1. Percentage of reviews of decisions requested	% 1	% 1	% 3
Timeliness	1. Percentage of complaints closed within 90 days.	%	%	%
	a) General	90	74	78
	b) Police (180 days)	79	76	79
	2. Percentage of statutory inspections and reports conducted within time limits	100	100	100

The key performance indicators for the 2008/09 period were:

- Total number of approaches decreased by 3%.
- The number of complaints handled by the Ombudsman was 407 (same as 2007/08).
- Around 36% of complaints were finalised because an adequate explanation was provided by the agency (only 20% in 2006/07 and 40% in 2007/08).
- The time taken to finalise complaints within 90 days improved from 74% in 2007/08 to 78% this year.
- There was a 4% reduction in the number of complaints received against police.
- Nearly two thirds (64%) of complaints against police were resolved by the complaint being conciliated between police and the complainant.
- The time taken to finalise complaints against police within 180 days improved from 76% in 2007/08 to 79% this year.
- Total visits to the Ombudsman's website remained over 34,000 for the year.

ACTIVITY 1: RESOLUTION OF COMPLAINTS

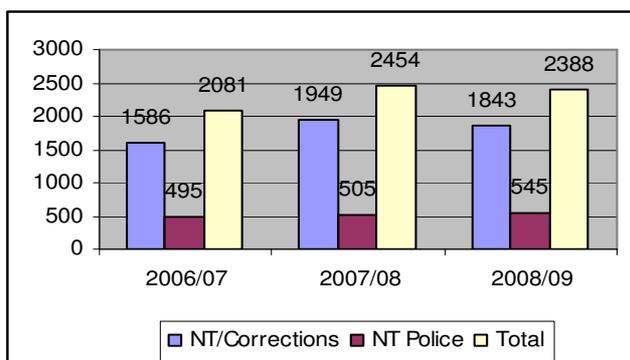
OUTPUTS

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

TOTAL APPROACHES

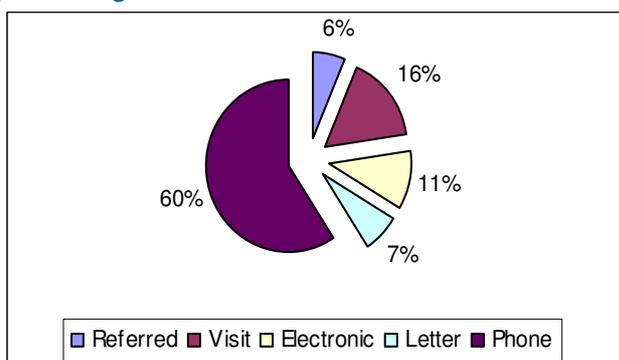
Total approaches to the Office are made up of all inquiries and complaints received in person, by telephone, by email, via the internet or in writing whether related to the "General" area (NT Agencies, Corrections and Local Government) or NT Police.

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



The total number of approaches has decreased by 3% this year from 2454 to 2388. This decrease mainly related to out of jurisdiction complaints and the General jurisdiction.

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



60% of all approaches to the Ombudsman were made by telephone and 16% in person.

88% of all complaints from prisoners were via the telephone.

The majority of referred complaints are from Police (80%).

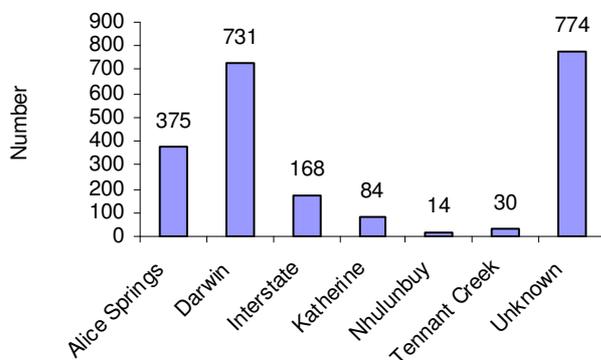
Table 3: Comparison between approaches received over past three years

Approaches	2006/07	2007/08	2008/09
Inquiries	1307	1793	1769
Complaints	774	661	619 ⁴
Total Approaches	2081	2454	2388
Inquiries to complaint	468	492	447
Net Approaches	1613	1962	1941

There was a slight decrease (3%) in the total approaches received when compared to last financial year and a 1% decrease in net approaches.

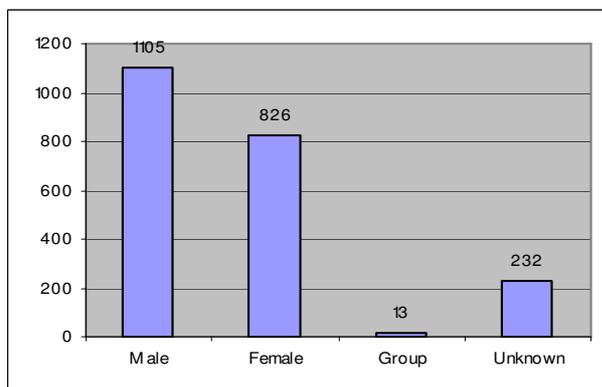
Of the net approaches to the Office, 32% were dealt with as formal complaints under the Act. In the previous year 34% of net approaches were dealt with on that basis.

Chart 3: Geographic breakdown



The majority of approaches were from people in the Darwin area (34%), followed by people in the Alice Springs area (17%). The large number of unknown (36%) is because of the number of complaints received that are out of jurisdiction and in these cases the location of the person is not requested.

Chart 4: Gender breakdown



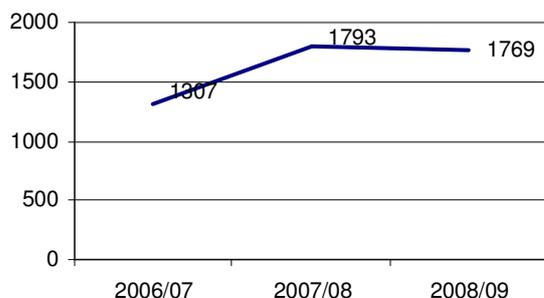
Overall the male:female ratio is 57:43. However within the Corrections area the ratio is 94:6. This high ratio of male complainants within the prison system has a significant impact on the overall ratio.

⁴ Within this figure are 212 complaints which were referred back to the agency for direct resolution with the complainant. Once referred back, the Ombudsman took no further action in relation to the complaint and it was closed.

INQUIRIES ONLY

All inquiries received by the Ombudsman are recorded on a dedicated Enquiries data base. Complaints are recorded on a separate database. This report distinguishes between the two.

Chart 5: All Inquiries – 3 year comparison



There was a 2% decrease in the number of inquiries received in 2008/09 when compared to 2007/08.

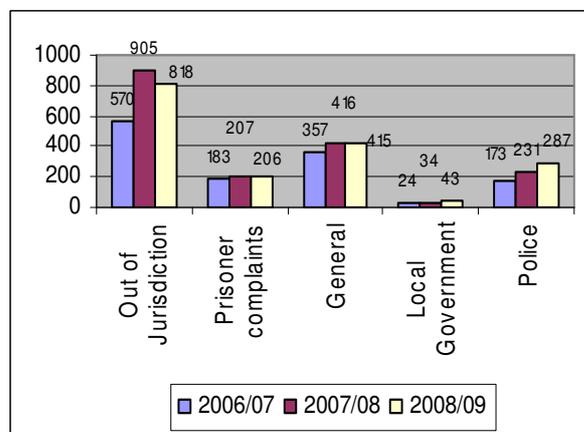
The decrease was mainly associated with inquiries that were out of jurisdiction. It is likely that this results from improvements to the Ombudsman's website,

During the financial year, 1769 inquiries were recorded. Of these, 235 became complaints and have been included in the complaint statistics. The remainder of inquiries can be summarised as follows:

Table 4: Summary of Net Inquiries

Jurisdiction	All Inquiries	Developed to Complaints	Net Inquiries
Out of Jurisdiction	818	0	818
Corrections - Prisoner complaints	206	24	182
General	415	77	338
Local Government	43	10	33
Police - against police officers	287	124	163
Total:	1769	235	1534

Chart 6: All Inquiries by jurisdiction



53% of the net inquiries received by the Ombudsman were out of jurisdiction (50% in 2007/08). In these cases the person was referred elsewhere, or relevant information was provided and the inquiry closed.

The "General" area which consists of NT Government agencies received 22% of the net inquiries with complaints against Correctional Services 12% and police 11%.

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

Chart 7: Inquiry Issues – Correctional Services

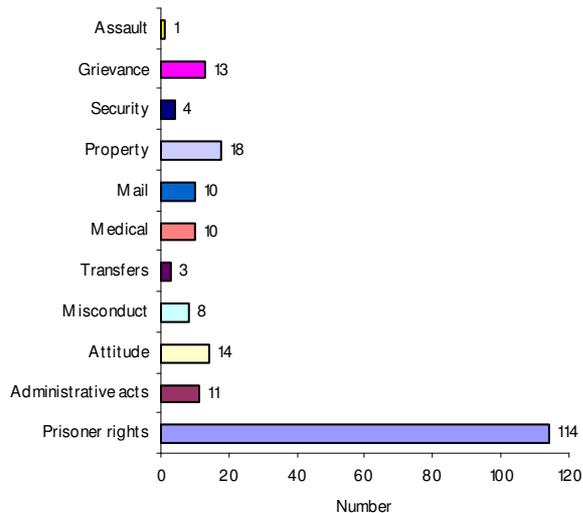


Chart 8: Inquiry Issues - General/ Local Government

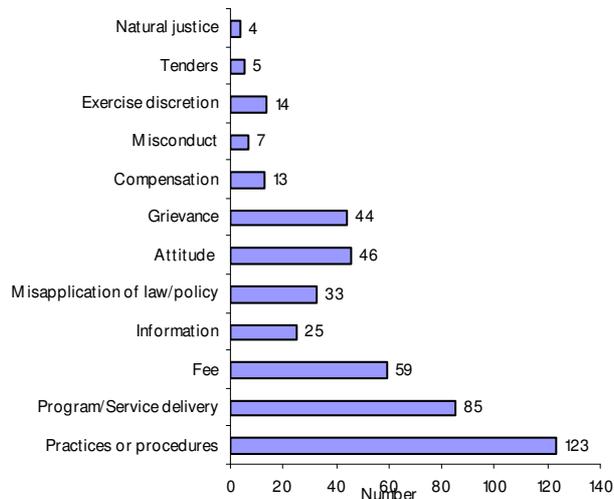


Chart 9: Inquiry Issues – Police

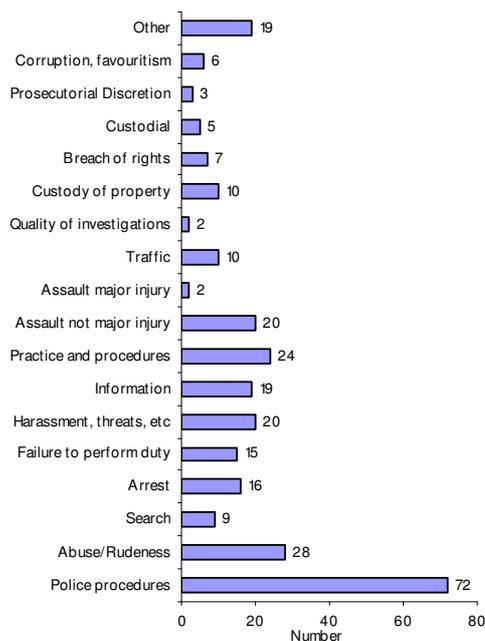


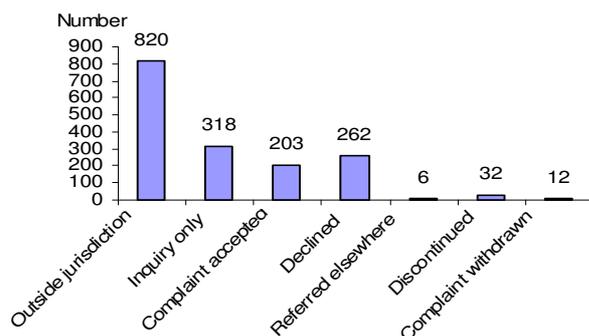
Chart 7: The primary issue of enquiry for prisoners related to their rights or lack of them (55%).

Chart 8: In the General/Local Government area, enquiries about deficiencies in practices and procedures amounted to 27%.

Chart 9: Enquiries about police procedures (25%) was the main issue regarding police enquires.

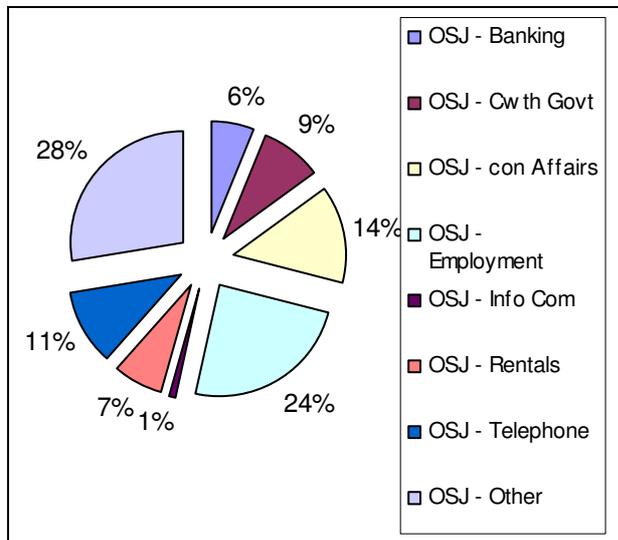
The outcome of each inquiry is recorded and these are depicted in Chart 10 below.

Chart 10: Inquiry Outcomes



Of those inquiries within jurisdiction, 19% were seeking advice or information. A further 16% were declined so that the person could approach the agency for resolution and return if unsatisfied..

Chart 11: Outside Jurisdiction



Statistics were kept for the first time regarding the inquiries that were out of jurisdiction. The results show that 24% were about employment issues and 14% related to consumer affairs issues.

Some examples of out of jurisdiction inquiries follow:

The employer contacted the complainant to ask for his address so he could send termination papers to him. The complainant asked why he was being terminated and the employer told him he didn't have to tell him. The employer was a private company.

The complainant ate a meal in a shop at a public shopping centre and had half eaten it when he discovered a cockroach in it.

The complainant was suffering from severe head injuries. He had concerns and issues regarding the Federal Government and their spending habits over the past 10 years.

The complainant had signed a lease for a rental property and had just picked up the keys. None of the keys worked. When she complained to the real estate agent, the complainant was told it was her problem as she had already signed the lease.

The complainant had concerns about a tree lopping contractor whom she had hired to remove some trees in her yard. Unfortunately one of the trees being moved fell on the house causing some damage. The repairs to this damage had not been completed.

The complaint was about a store owner who it was alleged was changing the use by dates on food items.

A prisoner called to say he didn't think the design of the ashtray in the block was up to Australian Design Standards.

The complainant paid over \$10,000 to a mechanic to have her engine replaced. This was not done and the mechanic had since gone on a 3 month round Australia holiday with his family. The vehicle had not been returned to the owner.

The complainant was having problems with a phone company who was charging her for mobile services which she had requested to be stopped.

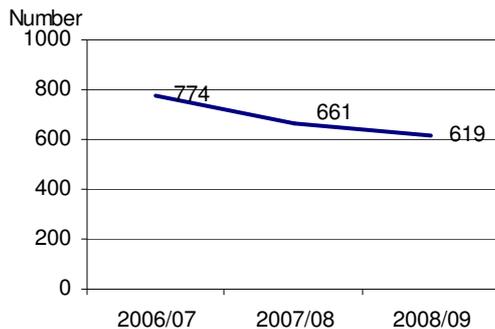
The complainant's fridge, which was still under warranty, had broken down. The supplier would not repair it.

COMPLAINTS ONLY

OVERVIEW OF ALL COMPLAINTS

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

Chart 12: All Complaints – 3 year comparison



There has been a 7% reduction in the number of complaints received when compared to 2007/08, even though net approaches (inquiries and complaints) only decreased by 1%.

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

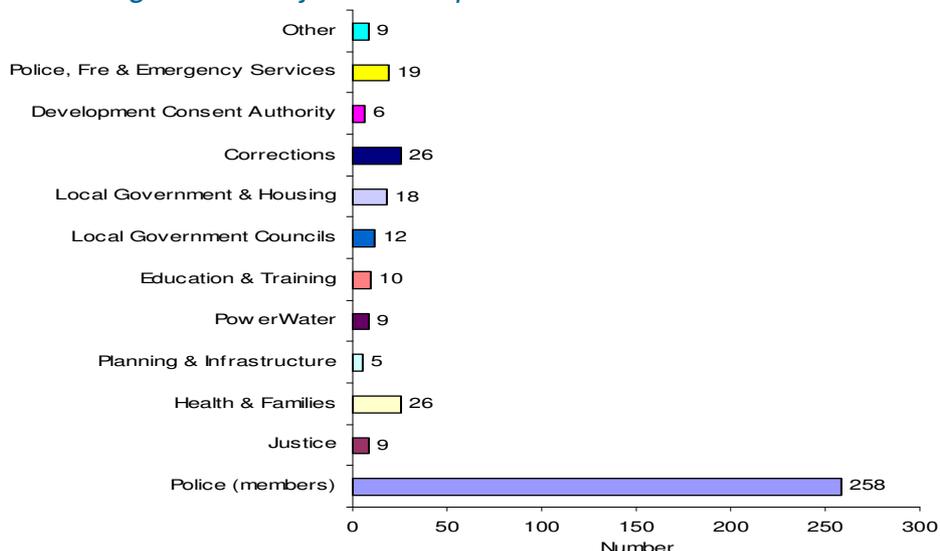
- The excellent work being done by the inquiry officers in resolving approaches expeditiously; and
- Improved complaint handling services at the point of service within agencies.

Actual complaints handled by the Ombudsman were as follows:

	07/08	08/09
All complaints received	661	619
LESS complaints referred back to agency	<u>254</u>	<u>212</u>
Actual complaints handled	407	407

Although there were more initial complaints received last year, the number of complaints actually handled by the Ombudsman remained the same (407). Chart 12 provides a breakdown of the 407 complaints that were handled by the Ombudsman. Complaints against NT Police members accounted for 63% (67% in 2007/08).

Chart 13: Agencies subject to complaints



Agencies included in the Other category are Batchelor Institute of Indigenous Tertiary Education (1), Business & Employment (1), Charles Darwin University (3), Chief Minister (1), Natural Resources, Environment and the Arts (2) and Territory Insurance Office (1). The following agencies received no complaints: Office of the Commissioner for Public Employment, Darwin Port Authority, Treasury and Primary Industries, Fisheries and Mines.

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

The analysis which follows relates to the 407 complaints accepted by the Ombudsman and is reported on under the following headings:

- Northern Territory Agencies (149) (excluding NT Police); and
- NT Police – complaints against police officers (258) actioned by NT Police Ethical and Professional Standards Command

NORTHERN TERRITORY AGENCIES (EXCLUDING NT POLICE)

ISSUES COMPLAINED ABOUT

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

Correctional Services

There were 26 complaints actioned by the Ombudsman in respect of Correctional Services, raising 38 issues of complaint.

Chart 14: Issues in Correctional Services complaints

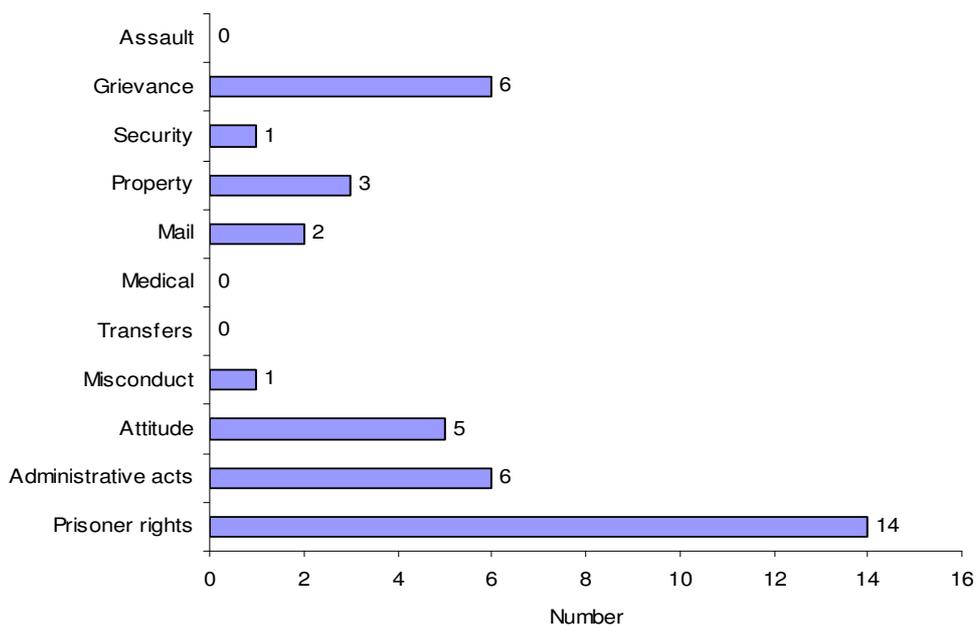


Table 5: Correctional Services issues most complained about – 3 year comparison

Issues	2006/07 %	2007/08 %	2008/09 %
Prisoner rights	32	38	37
Administrative acts	18	11	16
Attitude	16	9	13
Medical	2	6	0
Misconduct	7	6	2
Grievance	9	13	16

Issues about prisoners' rights remain the major concern (37%) followed by administrative acts and grievances (16%). Complaints relating to the grievance process continue to increase. It is pleasing to see that complaints relating to prison officer misconduct are decreasing.

NT Agencies (excluding Correctional Services and NT Police Members)

There were 123 complaints actioned by the Ombudsman in respect of NT agencies, excluding NT Correctional Services and NT Police, raising 133 issues of complaint.

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

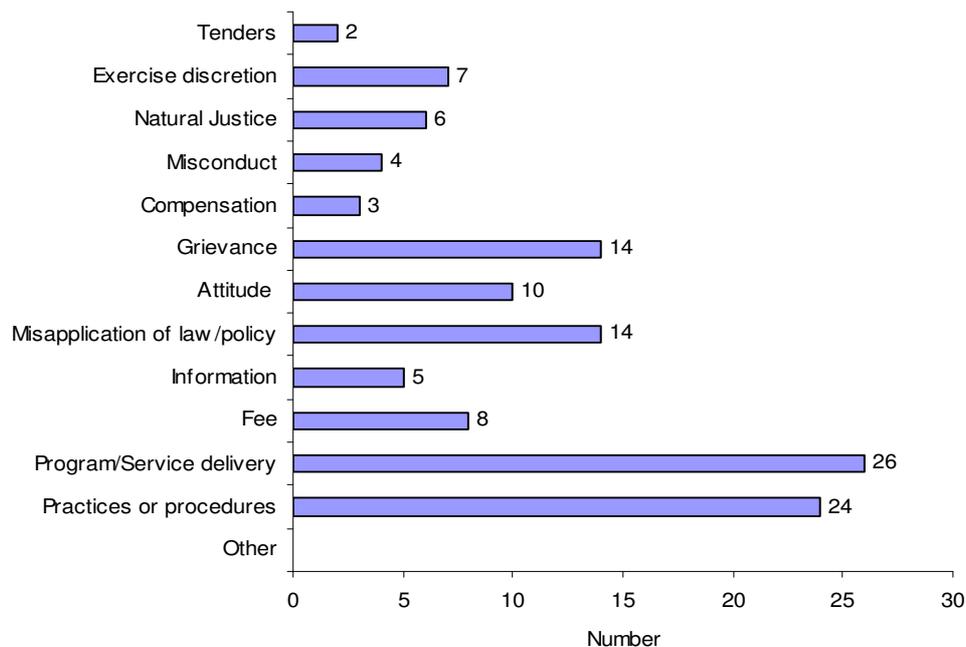


Table 6: General and Local Government issues most complained about – 3 year comparison

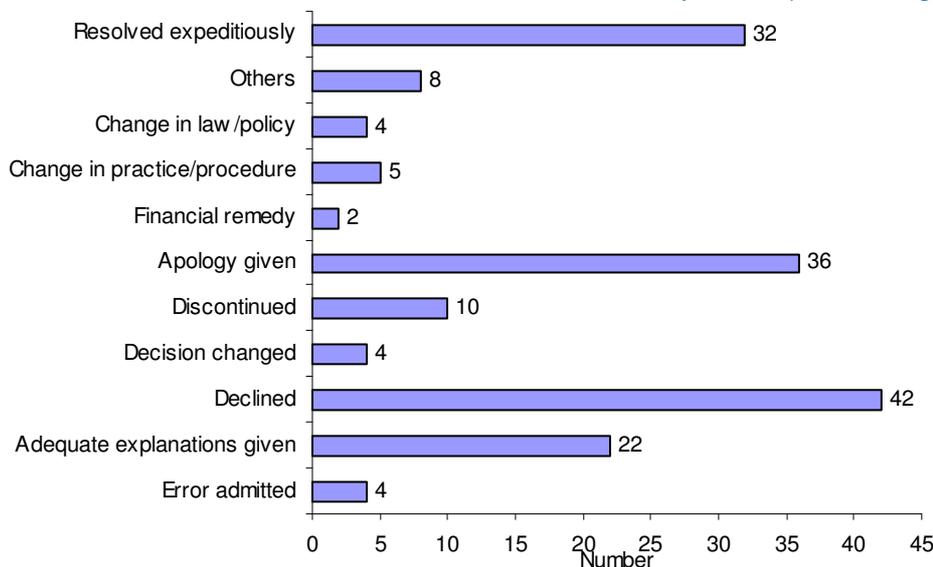
Issue	2006/07 %	2007/08 %	2008/09 %
Practices & procedures	15	14	19
Service Delivery	19	23	20
Fees	15	11	5
Grievance	11	11	9
Misapplication of law/policy	14	17	8
Attitude	5	6	8

Issues about service delivery (20%) and practices and procedures (19%) were complained about most. Issues relating to the attitude of agency staff continues to increase slightly

OUTCOMES OF FINALISED COMPLAINTS

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

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

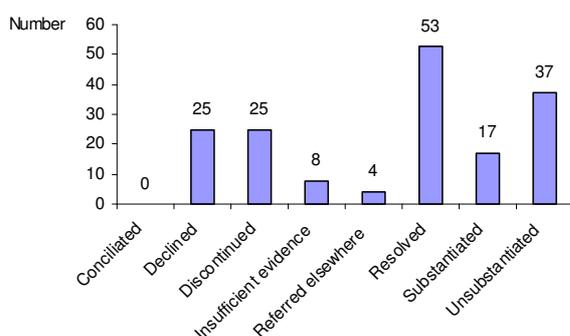


Of significance is the fact that:

- 25% of cases were declined for continuing investigation after obtaining preliminary information (18% in 2007/08). Reasons for declining included, the matter was trivial or vexatious, investigating the matter further was unnecessary or unjustified as no worthwhile purpose or outcome could be achieved, the matter was more than 12 months old or there was a remedy available before a court, tribunal, or other process more suitable.
- 21% of complaints resulted in an apology being given.
- 19% of complaints were resolved expeditiously between the complainant and agency with the assistance of the Ombudsman (16% in 2008/09).
- 18% of complaints were finalised because an adequate explanation was provided.

Extent to which outcome favoured the complainant

Chart 17: Issue determinations



This Chart sets out the practical outcome of complaints and reflects the Case Officer's assessment as to whether the issues associated with each complaint were substantiated or not. One important observation is that the majority of complaints received by the Ombudsman are resolved by other than formal investigation processes.

CASE STUDIES**Correctional Services*****Prerogative-Not Privilege***

A long term prisoner with children growing up interstate, raised concerns about being given contradictory information by various prison officers about maintaining telephone contact with his children while serving a penalty of “loss of privileges” (LOP) for prison misconduct.

An investigation was conducted into Correctional Services legislation and policy with respect to access by prisoners to telephones. The NTCS Directive on the Prisoner Telephone System was consistent with the Standard Guidelines for Australian prisons, endorsed by all Australian states and territories. The Directive encourages prisons to assist prisoners to maintain their family ties and relationships in the community to assist with reintegration on release.

The Correctional Services’ policy went further by stating that prisoners on LOP may not have access to the Prisoner Telephone System except with the express approval of the prison superintendent, which in practice was never permitted. As prisoners may receive the LOP for up to 28 days, the denial of access represented a significant loss of contact with family and friends.

The potential for a lengthy suspension of contact between prisoners and their family was a concern to me. A review of the legislation empowering prison superintendents to impose the penalty of LOP found they believed their authority derived from the *Prisons (Correctional Services) Act* (the Act), which identified the specific “prescribed privileges” that a prisoner could lose when penalised for prison misconduct. The list included such privileges as access to television, radio and the use of library facilities, but it did not include access to the telephone.

When questioned about the justification for including access to the telephone in the list of privileges that prisoners lost, the Department asserted it had a right to do so because the provision in the Act empowered the NT Correctional Services Director to set the terms on which prisoners can access the telephone. I was not satisfied that this clause empowered the Director to, in effect, change the list of prescribed privileges developed by the legislators.

I sought a legal opinion on the issue and received a response to the effect that the policy was clearly unlawful. I forwarded the opinion to the Department and invited it to reconsider its decision. The Department did so and shortly afterward advised that it would amend its policy by removing the telephone restriction for prisoners on LOP.

When Nature Calls

A prisoner complained about a prison officer rudely slamming a toilet door on a child who had been using the reception toilet facilities during a visit by her relatives. She also expressed concern about the prison’s decision that visitors must use the toilet facilities available at the nearby main prison reception centre, a few minutes walk away, because the reception toilet was only intended for use by staff. The complainant claimed that the time taken by visitors to walk over and use the main block toilet would reduce their visiting time with relatives.

In regard to the allegation of rudeness, the officer advised that he was not rude to the child but had closed the sliding door of the toilet because it was being used and he did not want to be accused of anything untoward. I informed the complainant that in the absence of any witnesses or other evidence to corroborate the allegation the issue remained unresolved.

In regard to the issue of visitors using the toilet facilities at the main prison block, the department advised it had issued a directive to all staff making it clear any time lost by visitors would be added to the visit time. The complainant was informed of the agency’s positive response and outcome which also benefited other inmates having visitors.

All Alone

The complainant was served with a penalty of Loss of Privileges (LOP) for 28 days for misconduct. He was removed from his dormitory accommodation and placed in a single cell which had its own small covered exercise area annexed (4 x 4 metres with no visual contact with other people). In accordance with the Alice Springs Correctional Centre (ASCC) LOP regime, he was placed in the cell with only writing material and a bible and only permitted to move out of his cell into the walled and covered exercise area for between one and five hours each day.

When interviewed after a week into his 28 day penalty, the prisoner alleged he had not had any contact with other prisoners during the previous week except for a brief shouted conversation over the wall of the exercise area. His only other contact for the week had been with prison staff, a prisoner's aid worker, a telephone call to a lawyer and an interview with a member of my staff. The prisoner complained that the method used to enforce his LOP amounted to separate confinement.

Section 6 of the *Prison (Correctional Services) Regulations* prescribed the privileges prisoners lose when given a penalty for misconduct. In accordance with NTCS Directives the LOP prisoner can be moved to accommodation which allows enforcement of the loss of privileges, but the prisoner "is not to be separately confined".

I was advised that at ASCC, LOP prisoners are accommodated in the High Security Unit and allowed to mix with other prisoners serving LOP. They are not allowed contact with prisoners not serving LOP due to the risk of trafficking items. It is not unusual for more than one prisoner to be serving LOP at the same time, but quite often prisoners are on a combination of regimes or, at their own request, do not wish to mix with others. The current practice, where a prisoner could find himself "isolated", seemed at odds with the intent of the legislation.

The Chief Executive of the Department acknowledged that in this instant the complainant did spend 15 of his 28 days on his own in G Block. As a result, Correctional Services advised they would review the procedures for prisoners serving LOP in both Darwin and Alice Springs correctional centres in order to bring management practices into line with the legislation. He advised that new prisoner management regimes would be developed and implemented, along with changes to operational procedures.

NT Agencies (excluding Correctional services and NT Police)

I Am Who I Am (Motor Vehicle Registry)

A complainant required a Motor Vehicle Registry (MVR)-issued photo identity card ("Evidence of Age", or "18 Plus" Card) so he could buy alcohol. He went to the MVR counter in Darwin city and enquired about getting the card. He was told they could not issue the card and that he would have to go to the main MVR office about 4 kilometres away. The complainant was elderly, unwell, and on a pension. Being on a pension he had very little money and could not afford a taxi to the main MVR office. Nor was he able to catch a bus because he could not walk the distance to the bus stop.

Staff at the MVR Darwin city office advised him that he needed to produce proof of identity and residence documents before he could be issued with a Proof of Age card. The documents needed consisted of one primary form of identification, such as a driver's licence (current or expired no more than two years, and with photograph), a passport or a birth certificate and two secondary forms of identification such as Medicare and pension cards.

The complainant still possessed his NT Driver's Licence which had expired in 1994 when he stopped driving for health reasons. He had no passport or other primary identification, but did have multiple secondary forms of identification such as Medicare, pension and seniors cards. The complainant wanted to use his expired driver's licence as primary identification even though it had expired more than two years ago but MVR told him it could not be used.

As there were no alternative identification documents, my staff decided to try to resolve the complaint expeditiously by making inquiries with MVR management to establish how rigid the identification rules were and whether there was any prospect of the card being issued at the Darwin city office. The manager was sympathetic to the complainant's mobility problems. On the basis that the complainant could still produce his old licence with the photograph, the manager agreed to use his discretion to allow the complainant's expired 1994 licence to be used as his primary form of identification.

As to the complainant's difficulty in getting out to the main office, the manager explained that the MVR office in the city was an agency only, set up to provide a convenient location for customers in Darwin city to pay registration and other accounts. Staff in the city office were not expected to use discretion, particularly the kind being sought on this occasion. The manager however did agree to authorise MVR staff in the city office to accept the old licence as primary identification so that it could be processed with minimal inconvenience and cost to the complainant. The manager emphasised that this was a one-off event. The complainant then completed the transaction at the city office.

Degrees of Responsibility (Motor Vehicle Registry)

The complainant, a young woman purchased a second hand car and attended the Motor Vehicle Registry (MVR) with all the documents required to transfer ownership and renew the registration. To her surprise, she was told she did not need to pay stamp duty and her paperwork was not required. Some months later she received in the mail a Traffic Infringement Notice for speeding and driving an unregistered vehicle. Bemused, she checked her registration sticker, only to find that it referred to her previous car, which she had still owned when she purchased her new car and which had only a few weeks of registration left when she sold it shortly after.

The complainant attended MVR to query the matter and was subsequently advised that a human error had occurred, whereby the details of her previous car had been called up on the computer screen when she had attended to transfer the new vehicle into her name resulting in the wrong car being registered. This then resulted in the complainant being required to pay the registration for her new car.

The complainant then wrote to MVR seeking an apology for the mistake they had made and a refund of the registration fees inadvertently paid for her old car. She also wrote to the Traffic Infringement Office (a division of NT Police Fire & Emergency Services which issues Traffic Infringement Notices) seeking to have the fine for driving unregistered withdrawn. In response MVR provided an apology but did not admit fault or refund the registration fees. The Traffic Infringement Office also refused to withdraw her fine on the basis that there was nothing illegal in it being issued and advised that she could dispute the issue of the Notice through the Court of Summary Jurisdiction.

The young woman then approached my Office seeking an admission of fault from MVR and an agreement to refund her registration fees and pay her fine for driving unregistered. This amounted to \$500 which was a significant amount of money for a young person. In the meantime the complainant chose to pay the fee and fine.

On making inquiries, the Department was initially reluctant to accept fault, noting that there was no proof of the young woman's statement regarding her dealings with the customer service officer. However, the circumstantial evidence supported the complainant's story including the timing of her visit to the MVR and the fact that neither she nor the purchaser of her old car benefited from the situation. Ultimately the Department acknowledged fault and agreed to refund the registration fee for the old car. It was not however prepared to refund the fine for driving unregistered, arguing that, as the owner, she was responsible for checking that the details on the Certificate of Registration were correct before affixing it to her vehicle.

While the complainant was not entirely happy with this outcome, she considered that the fault was at least shared between herself and MVR. I noted that there was a statutory process available for her to dispute the fine. I also recommended that the Department review the front counter process and staff training to avoid similar errors in the future. I also recommended that the staff member involved be counselled regarding the consequences of their actions. The Department accepted my recommendations and asserted its commitment to ongoing evaluation and training to ensure all staff offer the best possible service to customers.

Stretching the Boundaries (Katherine Town Council)

A property owner complained about Katherine Town Council (the Council) issuing him with multiple council charges, (comprising 4 separate charges for land rates and garbage collection fees) for one property which had a number of structures on it. Following an inspection of the complainant's property, under the *Local Government Act*, Council determined that the structures were separate parts or units, adapted for separate occupation and therefore applied a separate land rate and garbage collection fee for each one.

The complainant admitted that the property was legally one parcel of land containing 4 structures which were being rented out to a number of tenants. The complainant recognised that the situation was illegal, (not having obtained approval to sub divide from the relevant planning authorities) but still questioned how Council could legally apply multiple rates and charges, claiming that it was illegal. The complainant believed that he should only pay Council for 1 set of rates and garbage collection fees, as he had done in previous years.

Preliminary inquiries were conducted with the Council, which included a review of relevant documentation, sections of the *Local Government Act*, and Council's Rates and Charges Notice for 2008/09. In short, the Act gave Council the authority to divide a parcel of land (that is subject to the same ownership) into separate allotments and apply separate rates and garbage collection fees for each structure on the property.

Having been satisfied that the Council had acted reasonably and within its powers under the legislation, no further investigation was necessary, as it was not my role or function to determine whether the property was illegal or non-compliant. I also noted that Council had afforded the complainant a right of reply by holding a meeting with him to discuss the matter. However, the complainant still remained dissatisfied.

The complainant then advised me of his intention to remove the tenants and the extensions made to the property so that the rates and charges could be reduced and sought my advice on this matter. The complainant was advised to contact Council direct about the proposal and to request an inspection of the property and reassessment of rates accordingly. As there was nothing more I could do for the complainant, I closed the file.

A Dogged Affair (Alice Springs Town Council)

A woman complained to my office about how the Alice Springs Town Council (ASTC) dealt with her son's two dogs. The dogs escaped from her yard while she was looking after them and got into a fight with another dog in a nearby street and killed it. The two dogs were impounded by ASTC Rangers and subsequently destroyed.

A ranger explained the investigation process to the complainant and emphasised that the attack by the dogs was vicious. The complainant gained the impression that the Council might allow the dogs to be returned to her son on certain conditions (suitable yarding, micro-chipping and registration). The son told my office that when he later spoke to the Ranger by phone he also got that impression.

The son stated he told the ranger he would be keeping the dogs out bush again but would not be in town until the following week when he would ring the ranger to sort things out. The son alleged the ranger agreed to his request and the son also agreed that he would pay a \$1,100 fine. The son contacted the ranger the following week (as agreed) and eventually spoke to another ranger who told him that the dogs had been put down because of the vicious nature of the attack. The son was very upset about this.

The complainant said there were many inaccuracies in the information from the rangers. They got the date of the attack wrong, they gave two dates for the date the dogs were destroyed and they wrongly recorded the date the son would be returning to town. The complainant sought an explanation as to why the dogs were destroyed without further reference to the family as they had believed would happen. The complainant also wanted the Council to be much more active in letting Aboriginal people know about their processes for dogs, particularly since the new by-laws were commencing.

I reviewed the ranger's records and was able to confirm the date of the attack and the date the dogs were destroyed. One of those dates had been given incorrectly to the complainant. The ranger also stated he had no reason to doubt the dogs were well loved and cared for. The Ranger stated he had the power to make an order for the dogs to be destroyed and there was sufficient evidence to justify this. I reviewed the by-laws in place at the time, and the evidence from the file, and formed the view that his decision was lawful, based on clear evidence, and therefore reasonable.

The main issue was why the rangers did not wait until the Wednesday week before destroying the dogs, which was when the son said he would be returning to town. The ranger's understood the son would be coming into town on the Wednesday of the current week while the son clearly recalled saying "Wednesday *next week*". I concluded that there was a miscommunication about this date and not enough evidence to resolve the matter one way or the other. Further investigation was unlikely to bring to light any other information of assistance, and was therefore not justified.

The other main issue stemmed from the conversations the complainant and her son had with the ranger about releasing the dogs on payment of a fee or fine. The ranger's notes confirmed that he advised the son "*of the serious nature of the allegations*", that it "*warranted the animals being destroyed*" and that "*the animals were under council investigation*". I noted that the phrase "*under investigation*" implied that the outcome could go either way. The ranger denied talking about money and said that nothing they would require in the way of monies would even add up to that amount, however the son was adamant that a discussion about paying money to have the dogs released took place. The issue of whether the son was told he could have his dogs back by paying a fee or fine remained unresolved as there was insufficient evidence to resolve what was said.

Finally, the complainant asked if nothing else came from this complaint, she would like the ASTC to educate Aboriginal people about the dog laws, especially as they have recently changed. The ranger outlined the public awareness sessions which his unit had undertaken in the recent past and planned to conduct in the future, and offered to talk further with the complainant about this.

Border Crossing (Department of Education and Training)

A complaint was received against the Department of Education and Training (DET) following a refusal to grant a subsidy under the NT Conveyance Subsidy Scheme (NTCSS). The scheme provides assistance (a per-kilometre reimbursement) for the cost of daily car travel to the nearest school for full-time school students who are disadvantaged by distance. The student and the school must both be in the NT, the school must be more than 5 kilometres away and four trips must be made by the parent each day, that is, to and from the school in the morning and to and from the school in the evening.

The complainant lived on a cattle station near the Queensland border. The nearest NT school was 400 kilometres away, but there was a school just over the border, 70 kilometres away, which the complainant's child could attend. When her child started school, the complainant got a part-time job in the same Queensland town, to help her pay for the cost of the fuel in getting her child to school. The complainant made a verbal application to DET for the subsidy and was told that even though the school was in Queensland, an exception would be made in her case and she could obtain the subsidy.

On the basis of this verbal approval, the complainant lodged the forms, but was then advised she could not receive the subsidy as she did not comply with the condition requiring four trips per day. The complainant was unhappy with this decision.

The Minister's letter to the complainant confirmed that the Chief Executive Officer of DET had exercised discretion and allowed the subsidy to apply for travel to a Queensland school but discretion in relation to the number of trips could not be applied because it would set a precedent allowing many other parents in the NT who live more than 5 kilometres from their children's schools to claim the subsidy.

I undertook some preliminary enquiries and ascertained that although the Minister's office was told that the complainant was working in Queensland, it did not pass this information on to DET when the matter was first referred to it, so the department made its initial decision based on only one factor which was non compliant with the policy (ie that the school must be in the NT).

It wasn't until the complainant submitted her application in writing that the department became aware there was a second non-compliance, (that the complainant was only doing two trips per day). For this reason the verbal decision was overturned. I concluded that the department's actions were reasonable and that the clerical mistake in not passing the information on to the department at the verbal enquiry stage, though regrettable, did not justify further investigation. I advised that I felt the department's refusal to use its discretion in relation to compliance with the two trips per day was reasonable and I closed my file.

Protectionist Law Ruled Invalid (Department of Planning and Infrastructure)

An interstate builder complained that the Northern Territory legislation governing the registration of builders in the NT was discriminatory against interstate applicants. He argued that it set onerous conditions on the registration of companies by requiring a company director or nominee to be a Territory resident. The builder asserted that it was not feasible for him to relocate to the Territory or to nominate a building practitioner who resided in the NT. He argued that the residency requirement unfairly discriminated against small interstate companies as it placed a significant barrier on their ability to carry out residential building work in the Territory.

The *Building Act* was amended in 2006 to require builders, carrying out residential building work, to be registered. The purpose of the registration scheme was to impose certain minimum standards for the qualifications and experience of building contractors in the residential market in order to protect consumers. The residency requirement, which applied to corporations but not to unincorporated businesses, was also intended to provide protection to consumers, by ensuring that companies did not operate at too much arms-length from the building work being performed.

While the objectives of the new provisions are fully endorsed by me, I was concerned that the residency requirement applying to companies planning to carry out residential building work was discriminatory in a protectionist sense and therefore possibly in contravention of section 92 of the Australian Constitution, which prohibits any infringement on free trade and commerce. The Department was not of this opinion but agreed to obtain a legal opinion.

The opinion obtained by the Department was that the provision relating to the residency requirement was an infringement of the *Self-Government Act*, because it put out-of-Territory suppliers at a competitive disadvantage.

On receiving the legal opinion, the Department sought approval from the Minister to prepare the necessary amendments to the legislation. As at the time of writing, a submission was being prepared for Cabinet. The legislation remained however, as it was invalid, the department was unable to apply it. I am informed that the repealing legislation will be introduced in late 2009.

Bus Behaviour (Department of Planning and Infrastructure)

A parent complained that buses used to convey students to school were not equipped with a signalling system (buzzer) to alert the driver of a students' intention to get off. Therefore, when the bus approached a stop there was no way for students to inform the driver that they wanted to disembark.

As a result her child had to approach the driver to let her know that she wanted to get off. The driver then had to stop suddenly resulting in the child being "jolted" forward. The driver issued the child with a written warning about leaving her seat before the bus had stopped which the parent considered to be unfair. The complainant requested that the warning be withdrawn and a signalling system be installed.

My enquiries revealed that the Transport Division of the Department of Planning and Infrastructure had developed a Code of Conduct for School Bus Behaviour which school children when travelling on dedicated school buses anywhere in the Territory were required to comply with. It was reported to me that the complainant's child had been warned before about leaving her seat before the bus had stopped.

On the day of the incident, the child almost caused a serious accident when the bus driver had to brake heavily causing her to fall forward. This behaviour by the child was classified under the Code as

dangerous and the sanction for this was a ban on the student travelling on the bus for up to ten school days.

In this case, the driver used her discretion and gave the child a written warning to reinforce the safety issues relating to her actions. The Transport Division advised that it supported the issue of the warning letter because it was vital for bus drivers to continue to remind students of safety and behavioural standards when travelling on buses.

The Transport Division confirmed the bus was not equipped with a signalling system and that this was not necessary. When travelling on these buses students must advise drivers verbally of their intention to disembark at the required bus stop. This system had been operating successfully for a number of years and so the Department advised that it had no plans to install a signalling system on these school buses.

I was satisfied that the appropriate procedures were followed in issuing the warning and in providing the parent with an opportunity to access the review process set out in the Code of Conduct for School Bus Behaviour and closed the file.

Terminated (Territory Housing)

A tenant of Territory Housing complained that Territory Housing unfairly terminated their tenancy, did not inform them and denied them access to Territory Housing's three Tier Appeals Mechanism. As a result the complainant was not able to appeal the decision before termination action commenced. The complainant also advised that Territory Housing referred the matter to the Tenancy Commissioner, effectively placing it outside of the appeals process, contrary to its own policy. Following a hearing, the Tenancy Commissioner confirmed the eviction but deferred the vacating date to allow the complainant more time to find alternative accommodation. The complainant then appealed the Commissioner's decision in the Magistrates Court.

As the matter was in the hands of the Court, I declined to investigate the matter, pursuant to the *Ombudsman (Northern Territory) Act*. However, informal inquiries were conducted with Territory Housing into the the complainant's allegation of not being provided information about and denied access to the appeals process. On following this up, Territory Housing advised that on realising the situation, it immediately made arrangements for the matter to be heard by its third Tier Appeal Mechanism (the Appeals Board).

Following that hearing, the Board found the complainant had not been dealt with in a fair and equitable manner, and that, although the correct policy had been applied, their situation had not been comprehensively considered. The Board therefore recommended an extension of their lease. Territory Housing supported the Board's recommendation and undertook to review and amend its relevant policy and procedures.

While acknowledging the admissions and undertakings Territory Housing made to remedy the situation and improve processes, I still remained concerned about aspects of its administrative process; specifically, the issue of whether clients were being adequately informed of and assisted with access to Territory Housing's Appeals Mechanism and the adequacy and effectiveness of the current appeals awareness process. I considered it imperative that, when applicable, and as far as possible, Territory Housing clients should be informed of and given quick and easy access to those processes in order to try and resolve their issues informally and expeditiously, while affording natural justice.

In this regard, I sought assurances from the Department that adequate steps were being (or had been) taken, to improve and strengthen processes to prevent a similar situation from recurring.

I requested the Department look into the matter and advise whether appropriate training had been recently provided to staff dealing with clients about its three Tier Appeals Mechanism; whether staff had been adequately made aware of and understood the importance of a clients right to be informed of the appeal mechanism; whether staff had been made aware of the need to offer assistance to clients needing assistance in accessing and lodging appeals; and the extent to which Territory Housing informs its clients about its appeals mechanism generally. As the matter had been resolved I closed the file.

Billing Dispute (Territory Housing)

Following eviction of the complainant from his Territory Housing flat by a court order, he was issued with a letter of demand for payment of repair, cleaning and legal bills. He entered into an Agreement to Pay for the amount of the demand, authorising Territory Housing to have a regular amount per fortnight taken from his Centrelink benefits. The complainant attended my office to raise concerns about the eviction and detail of the repairs and cleaning bill he received (even though he had already signed the Agreement to Pay).

The complainant alleged that some items on the bill were entered twice, some were charges applicable to a four bedroom house not a one bedroom flat, and some items were not the tenant's responsibility. He also claimed that he was given 48 hours to leave the flat, so he did not have time to clean it himself, which would have saved him a lot of money.

I advised the complainant that my office could not interfere with the decision of a court, and therefore the complaint about the eviction per se would not be investigated. I did however contact Territory Housing about the other matters.

In relation to the notice, I was advised that the complainant had been served with a 60 day notice to vacate. When he did not vacate by the nominated date, a Warrant of Possession was obtained and the complainant was evicted a fortnight later. I felt that the tenant therefore did have reasonable time to clean the property.

In relation to the bill for repairs and maintenance, Territory Housing organised for one of their officers to go through the bill in detail and to discuss and explain the disputed items with the complainant. After this process, Territory Housing reduced the bill by \$395. A new Agreement to Pay was issued for the lesser amount and signed by the complainant. I closed my file.

Don't Say No (Department of Health and Families)

I received a complaint against the Department's Patient Assistance Travel Scheme (PATS) for refusing a claim for reimbursement of expenses for the complainant's partner who escorted him interstate for medical treatment not available in the NT. No explanation or reason was provided for the decision.

Informal inquiries were conducted with the Department. While making these inquiries the Department reviewed and changed its decision by paying the claim. At the conclusion of my inquiries I raised some concerns about aspects of PATS administrative and decision making processes. I also made suggestions for improving aspects of administration.

A positive response was received from the Department advising that PATS had reviewed and paid the complainant's claim, acknowledged the concerns raised and gave an undertaking to implement the suggestions for improvement to processes. In summary, the following were some of the concerns raised and undertakings received:

- In relation to the complainant not being given any explanation and reason for the claim not being approved; the Department acknowledged this and undertook to write to the complainant confirming payment and including reasons for the previous decision.
- In relation to the failure to record details of the PATS Committee's deliberation of the claim and the relevant criteria/policy/etc; the Department acknowledged this and undertook to ensure that decisions would in future be "minuted" and the correct process adhered to.
- In regard to the issue that the Department provide reasons for decisions reached in future correspondence to unsuccessful applicant/s and include information about the availability of PATS formal Appeals processes; the Department undertook to ensure that this would occur in future.
- In regard to general information about the PATS Appeals and Complaints processes not being available on the agency's intranet site for the information of applicants and the public; the Department acknowledged this and undertook to place this information on its Internet site. At the time of writing this report the appeals information was not on the department's internet sight.

After informing the complainant of the outcome and given the Departments response and undertakings to improve aspects of its administration, I concluded inquiries and closed the file.

Overlooked (Department of Health and Families)

I received a complaint from a parent concerning the Department's Patient Assistance Travel Scheme (PATS). The complainant claimed that PATS had arranged for the complainant's child and an escort to travel from a remote community to Darwin for medical treatment on a weekend. However, on arrival to Darwin there was no one to meet them at the airport to take them to their accommodation.

The complainant claimed that a volunteer from a local organisation had met them at the airport on previous PATS-arranged trips on weekdays. It was discovered that the volunteers did not work on weekends and as a result the escort had to borrow money from relatives to pay for their own transport. The complainant claims to have spoken to a PATS representative about the matter but alleges that the person hung up during the conversation.

I conducted informal inquiries with the agency to obtain an explanation and to determine whether adequate information had been made available about the scheme. Following my inquiries, I was advised that the patient and escort needed to travel on the Sunday for a Monday medical appointment, that it was generally known by remote clinic staff arranging travel that volunteers did not work on weekends. Also it was PATS policy that patients and escorts were responsible for arranging transport to/from public transport terminals.

Notwithstanding this, to improve communication and awareness about the scheme policy, the agency undertook to remind remote clinic staff of the unavailability of volunteers on weekends and patients responsibilities for transport costs and arrangements in these circumstances. Although some time had passed since the incident, the agency also undertook to interview the staff member on return from leave in relation to allegedly hanging up the phone.

On being satisfied with the explanation and proposed positive course of action by the agency to improve communication, I notified the complainant and closed the file.

Mistaken Identities (Power and Water Corporation)

I received a complaint from a client of Power and Water Corporation (PWC) alleging that the electricity meter for their unit (No.1) had been wrongly connected to their neighbour's unit at (No. 2) in their Duplex and vice versa resulting in the complainant having paid the neighbours high electricity bills. On initially contacting PWC, the complainant remained unconvinced with the explanation and re-assessed amount that was required to be paid, believing it was still too high.

Our initial inquiries revealed that the matter had not been handled satisfactorily (notwithstanding the good intentions of staff to resolve the matter in the first instance). When not resolved at the point of service it should have been referred to a more senior level.

My office contacted PWC to discuss the matter and as a result they asked for the opportunity to investigate and resolve it informally and expediently. I accepted PWC's offer with the complainant's consent and provided my initial views and a suggestion on an expedient resolution.

Following a review of the bill, PWC advised the complainant and my office it had re-assessed and significantly reduced the amount to be repaid as a gesture of goodwill and in recognition of the inconvenience suffered by the complainant. In regard to the metering issue, PWC advised the complainant and my office that it needed more time to conduct a proper internal investigation, which had commenced, and would notify the complainant and my office of the outcome when completed.

On being satisfied with the remedial action and undertaking, and after requesting PWC to inform my office of the outcome of the investigation, I closed my file on the matter.

NORTHERN TERRITORY POLICE

During the course of the financial year the Ombudsman received 258 complaints against police (274 in 2007/08) resulting in a 4% decrease in the number of complaints received.

The average time taken to close complaints against police within 180 days has improved when compared to last financial year, eg:

- 2005/06 – 64% closed
- 2006/07 – 79% closed
- 2007/08 – 76% closed
- 2008/09 – 80% closed

ISSUES COMPLAINED ABOUT

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

Chart 18: Issues Raised in Complaints (Police)

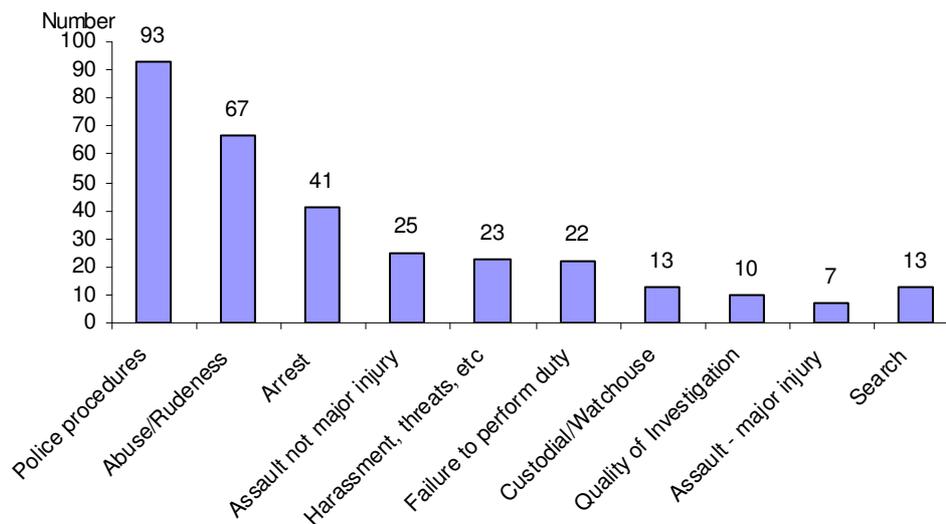


Table 7: Police issues most complained about – 3 year comparison

Issues	2006/07 %	2007/08 %	2008/09 %
Policy and procedures	29	28	26
Abuse and rudeness	18	17	19
Arrest	10	10	11

The three major issues complained about have not changed much over the past three years nor have they as a percentage of total issues complained about.

HOW COMPLAINTS WERE FINALISED

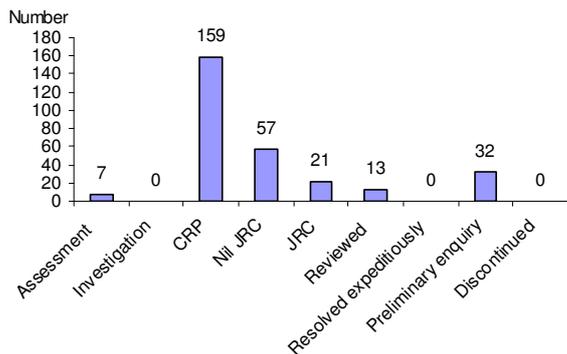
In all, 289 complaints were finalised in 2008/09.

Complaints against police are dealt with in various ways depending upon the severity of the allegation and the seriousness of the conduct complained about. Chart 18 provides a summary of the way complaints against police were finalised.

An explanation of the acronyms used in the Chart follows:

- **JRC** – The Joint Review Committee (JRC) is established pursuant to the ‘*Guidelines Between Commissioner of Police & Ombudsman For The Handling Of Complaints Against Police*’ and is charged with the oversight of the investigations into the more serious complaints against police. The JRC comprises the Commander of the Ethical and Professional Standards Command (EPSC) as a representative of the Commissioner of Police and the Deputy Ombudsman as a representative of the Ombudsman. These complaints are initially investigated by the EPSC and their report together with all documents are reviewed by the Ombudsman’s Office and a joint report on the outcome of the investigation is then signed off by the JRC and provided to the complainant and the Commissioner of Police. The complainant may seek a review of the JRC decision by the Ombudsman.
- **Nil JRC** – These are complaints that, by agreement with the Ombudsman’s Office, are investigated by the EPSC without oversight by the JRC. The outcome of the EPSC investigation is provided direct to the complainant and a copy is provided to the Ombudsman. The complainant may seek a review of the Nil-JRC report by the Ombudsman and, if that occurs, all the evidence and documents obtained by the EPSC are provided to the Ombudsman.
- **Complaints Resolution Process (CRP)** – These are complaints where, by agreement with the Ombudsman’s Office, after considering details of the complaint, the complaint is conciliated directly between the NT Police and the complainant and an agreement is signed between the parties once concluded.
- **Investigation** – A matter investigated solely by the Office of the Ombudsman.
- **Reviewed** – These are matters that have been finalised under either the Minor Complaints Resolution Process, the Nil JRC process or the JRC process which are then referred by the complainant for personal review by the Ombudsman.
- **Preliminary Enquiries** – These are complaints where the Ombudsman’s Office undertakes initial inquiries into the matters complained about to assist in determining the substance of the complaint. Where it is found that there is no substance to the complaint no further action is taken.
- **Resolved Expeditiously** – These are complaints which are resolved quickly by the Ombudsman’s Office direct with the complainant through the provision of information or advice.

Chart 19: Finalised complaints (Police)



Of the 289 complaints finalised, 86% were referred to police to investigate (88% in 2007/08). Of these, 64% were resolved through the Complaints Resolution Process (CRP), 23% through the Nil JRC process and 14% were finalised through the Joint Review Committee (JRC) process.

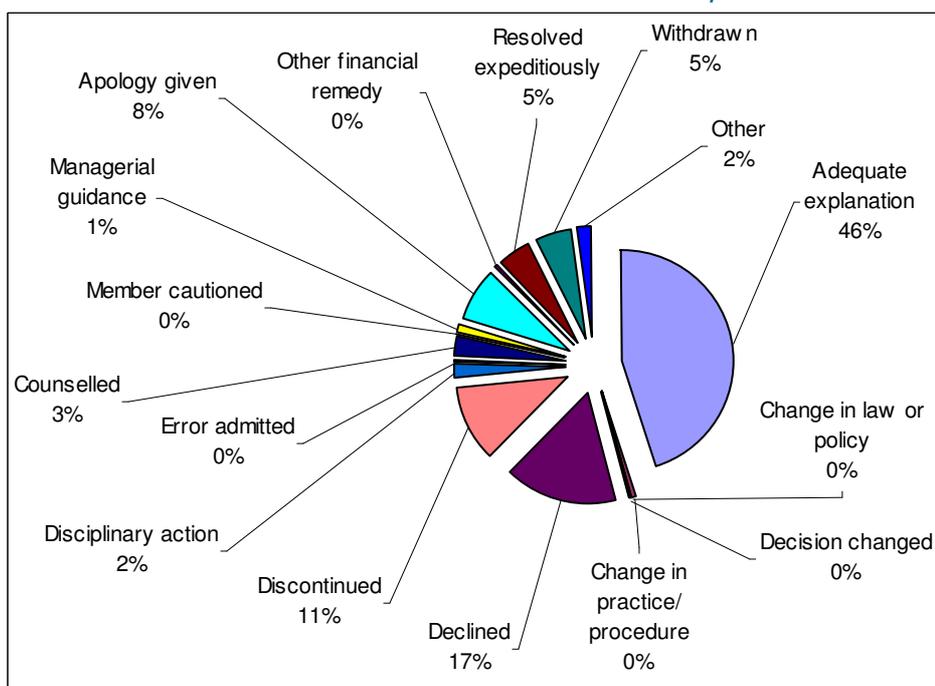
I am particularly pleased that:

- of the 289 complaints finalised, nearly two thirds (64%) were resolved by utilising the CRP process (52% in 2007/08).
- 13% of complaints were finalised without the need to be referred to Police to investigate or respond to (9% in 2007/08). They were either found to have no substance, were discontinued or were resolved expeditiously.

OUTCOMES OF FINALISED COMPLAINTS

Chart 20 shows the outcome of complaints. As can be seen the most frequent outcome (46%) was to provide an adequate explanation to the complainant.

Chart 20: Outcomes achieved from finalised complaints



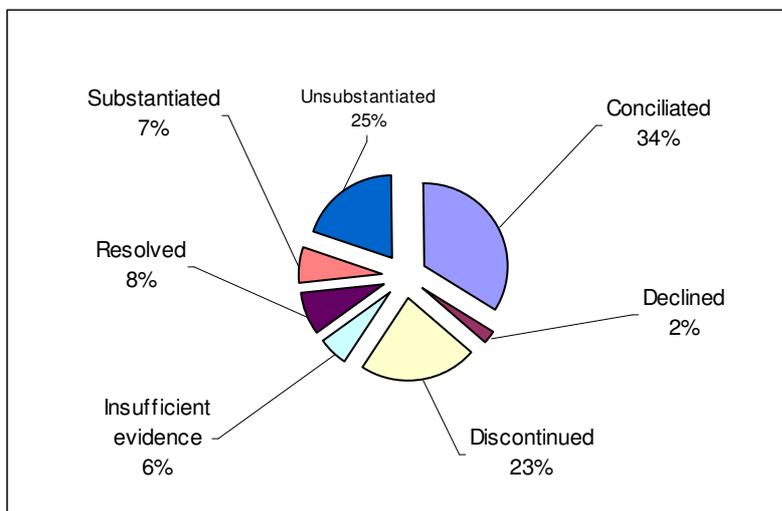
Action was directly taken against members of the NT Police as follows:

- Managerial guidance (1%)
- Counselling (3%)
- Discipline (2%)

Extent to which outcome favoured the complainant

Chart 21 sets out the practical outcome of complaints and reflects the Case Officer's assessment as to whether the issues associated with each complaint were substantiated or not.

Chart 21: Issue determinations (Police)



25% of the issues of complaint were not substantiated (32% in 2007/08). 34% were conciliated (41% in 2007/08).

6% of issues could not be determined one way or the other because there was insufficient evidence to make such a decision.

Who the hell are you

One evening the complainant, his wife and a group of family members went to a hotel as a continuation of a buck's party. One member of the party was refused entry as the bouncer believed he was intoxicated. The complainant alleged that while the group was talking to the bouncer, two men attacked one of the men in their party which resulted in them going to his assistance. The two attackers were then joined by others, and a fight ensued. After a while the two men who allegedly started the fight produced handcuffs and said they were police officers. The complainant and the other men were conveyed to the Darwin watch-house. They were advised they would be charged with the offences of 'assault police' and 'resist arrest', however they were issued an infringement notice for disorderly conduct and released.

The complainant wanted to know why the police officers did not identify themselves in the first place and why they attacked one of his family. He wanted to know what offence any member of his party had committed to have the 'off duty/undercover' officers react in the manner they had, and why this could not have been dealt with by summons. He also wanted to know why they were supposedly arrested for a serious offence and then given summary infringement notices.

An investigation of the complaint was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

The JRC established that there were three hotel security staff involved and four plain clothes police present at the incident. The police had been present on another matter. Four uniformed police arrived towards the end of the incident, in marked paddy wagons. The JRC found that two of the men in the party were legitimately refused entry by security staff. One had accepted this decision, and started to move off. The other became agitated or upset and continued to argue with the security officer who then called a plain clothes police officer over to assist him. The plain clothes officers and security officer told both men on several occasions that the men in civilian clothing were police. The JRC found that the man who refused to leave was also warned that if he did not leave he would be arrested. Whilst the JRC accepts that the officers felt they had explained often enough who they were, there was insufficient evidence to show that they made use of their police identification badges as they should have done.

Having been asked to assist, plain clothes police in the vicinity were obliged to do so and they were entitled to use reasonable force. The JRC was of the view that despite the complainant's family evidence that it appeared to be an unprovoked attack by police, the man refused entry had actually resisted the removal or arrest which plain clothes police had purported to effect.

The JRC accepted that no-one from the complainant's party, other than the member refused entry, was aware that the man had been arrested. When the man resisted, another member of the complainant's family jumped on top of the plain clothes officer and this had the effect of starting the fight. The JRC acknowledges that it was a natural reaction by the complainant and other family members to seek to rescue each other from the unknown assailants. The other two plain clothes officers and the three uniformed security officers also quite reasonably sought to remove the complainant and his family members from the plain clothes officers and in doing so had to fend off other attacks from the other members of the complainant's family. The incident escalated quickly.

The JRC concluded that police (and security officers) did try to tell the complainant and his party during the fight that they were police and that the police did identify themselves. There is also strong evidence that the family did not, for various reasons, hear or heed the advice.

The JRC agreed with police that dealing with a matter by summons involves an element of co-operation and accessibility which was not present in this case. The man could have been charged with a breach of section 121(2) of the *Liquor Act*, however the police officer decided to arrest the man for Disorderly Behaviour in a Public Place, which was also valid. The police officer then needed to remove the man from the premises so that the offence did not continue and says he offered to find the man a taxi, or even take him home himself, but this was ignored. The police officer then took the only option remaining, which was arrest.

In only issuing infringement notices to the men, the officer took into account various issues relating to the sufficiency of the evidence gathered to date, the likelihood of a warning achieving the desired result, the severity of the assaults, the safety of the public, the version of events from the family's point of view, and the personal circumstances of the people arrested. These were legitimate considerations and the JRC was not willing to criticise the police officer for issuing the infringement notice.

The lead police officer admitted to not filing a Use of Force and the JRC recommended that he be formally counselled. There were issues with record keeping at the watch-house, and the JRC recommended that the Custody Manual and Standard Operating Procedures for the Darwin watch-house be reviewed on the issue of who is responsible for people held in the holding cell. The JRC also recommended that two of the officers be spoken to about the importance of ensuring that they show police identification in such situations.

Trivial Pursuit

A youth's parents complained that a police patrol vehicle had given chase to their son while he was riding his bicycle and, on catching up with him, grabbed and threw him to the ground. The police then arrested the youth and took him back to the police station in the cage of the police van where he was issued with an infringement notice for riding his bicycle without a helmet. The parents said their son had suffered injuries as a result of the incident and believed the actions of police were excessive, considering the minor nature of the offence.

The complaint was investigated under the oversight of the Joint Review Committee. There were a number of witnesses to the incident, including other youths riding with the young man and an adult who was driving past when the apprehension took place, and they were all interviewed.

The investigation found that the police – a senior officer and two junior officers – were on the road to attend a serious incident when the youth rode his bike onto the road ahead of them. The youth then raced off and the senior officer instigated a pursuit in the belief that the youth, based on his behaviour, may have committed an offence. The police used their car to force the youth to stop and when he reacted with verbal aggression grabbed him and pushed him against a wall.

A struggle took place and after the youth became compliant the senior officer continued on his original mission, leaving his juniors to deal with the youth. Accounts differed as to whether or not the youth gave his name and address and whether police asked him to accompany them to the police station or simply instructed him to go. In any event, he got into the cage of the police van and was taken to the police station, where police wrote out an infringement notice and rang his parents to come and collect him.

The JRC concluded that there was no reasonable basis for the police to pursue the youth and the senior officer exercised poor judgement by diverting from a serious matter to pursue the youth. It concluded that the police had no lawful basis for apprehending and detaining the youth, or for taking him to the police station in a manner that clearly gave him the impression that he did not have a choice in the matter.

The JRC recommended that disciplinary action be taken against the senior officer and that the junior officers be formally counselled. The recommendations were accepted and an apology issued to the parents.

You want chips with that?

In August 2008 the complainant was working as a waiter. Two uniformed officers attended the restaurant to order a take away meal. Whilst waiting to be served the complainant's girlfriend recognised one of the police as the officer who had had interaction with the complainant three months earlier. The complainant's girlfriend pointed the officer out to the complainant who was tending a table.

The complainant stated that he went to the food counter to place a customer's order and said to the officer "*oh have you been demoted?*" The officer allegedly responded by saying "*f**k off you little smart arse, don't get cheeky*". This was denied by the officer. It was reported that the complainant then replied to the officer "*I hope you like your food, it was extra special*" with the officer deducing that the complainant had spat in the food he served to the officer and his family when they had previously attended the restaurant.

The complainant returned to the restaurant tables and observing that the officer was watching him, gave him *'the finger'*. The officer immediately walked to where the complainant was standing and forced him to leave the restaurant by taking him outside.

Outside, words were exchanged between the officer and the complainant. The complainant stated that he believed the officer was going to punch him but restrained himself as people were watching. The officer and his partner denied this was the case. The complainant was not immediately allowed to return to the restaurant; either because the doorway was blocked by police or because the complainant considered he was in custody (Obscene conduct Section 47 of the *Summary Offences Act* penalty \$2000, 6 months custody or both). After an exchange of words and intervention by the complainant's girlfriend, the complainant walked back into the restaurant and returned to waiting tables. The officer then attended at the service counter and spoke with the manager and advised him that he should not employ people like the complainant. The officers then left the restaurant.

A detailed investigation was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

There was no doubt that the complainant's actions towards police were the catalyst for the incident. The complainant's behaviour was found to be immature, disrespectful, inflaming and offensive, not only to the officer but probably the other restaurant patrons who may have seen him give *'the finger'* to a police officer.

The JRC found the allegation that the officer acted inappropriately and outside of his authority in forcing the complainant from the restaurant (regardless of how this physical force was applied) was substantiated. An officer, unless undertaking a lawful function of his office, is not entitled to detain, physically handle or restrain another person. In the case of the officer's interaction with the complainant, the JRC viewed the physical handling of the complainant as a criminal assault under the provisions of the *Criminal Code Act* (Assault Common) and in February 2009 requested the NT Police submit a file to the DPP for opinion.

The JRC found the allegation that the officer threatened the complainant outside the restaurant unsubstantiated as there was no evidence that supported this view. The allegation that the officer acted inappropriately and unprofessionally in speaking to the shop manager was substantiated. The JRC accepted the restaurant manager's recollection that the officer told him that the complainant was a *'criminal'*.

The last issue addressed by the JRC was whether or not the officer used obscene language in his dealings with the complainant at the restaurant. The complainant and his witness reported that the officer was swearing whilst speaking with the complainant. The officer and his partner did not recall swear words being used. If there had been no other evidence available this matter would have remained unresolved. However, shortly after leaving the restaurant, the officer was recorded at the Mitchell Street watch-house having a discussion with another police officer about his interaction with the complainant. In a one minute conversation with this officer, the member swore six times using the language alluded to by the complainant and his witness. On the balance of probabilities the JRC was of the opinion that the officer did use obscene language when speaking with the complainant at the restaurant. This was not an issue raised by the complainant; however the police have a code of conduct and the expectation of the public to display high ethical, moral and professional standards.

A Section 79 Notice was issued to the officer and disciplinary action undertaken. As such no further recommendation was made.

Protective Custody?

The complainant, who was highly intoxicated, was spoken to by police in Cavenagh Street, Darwin. Police contacted the complainant's daughter but she refused to take responsibility for her mother. Due to the complainant's level of intoxication she was arrested, placed into protective custody and conveyed to the Mitchell Street watch-house.

The complainant was placed into a holding cell briefly before being processed by watch-house staff. Once processed and given a blanket the complainant was placed into the female 'drunk tank'. Video footage obtained by my staff from the watch-house showed the complainant making her way to the far corner of the cell and sitting down. There were approximately six other persons in the cell at that time and another two females were placed into the same cell approximately five minutes later.

In the early hours of the morning one of the females is seen to stand up and walk towards the complainant striking her a number of times. A short time later a second female is seen doing the same thing.

Two police auxiliaries were seen opening the cell door after the second assault. One of the auxiliaries is observed pointing at one of the offending females and then at others in general. The complainant was observed to approach the auxiliary at the doorway where a conversation appeared to take place.

At sunrise the complainant was at the charge counter to be released and informed the auxiliaries that she was assaulted and pointed out the assailants. She was given the names of the two alleged assailants by one of the auxiliaries and advised to go to the front counter to make a complaint of assault. The complainant was then released from custody.

After being released the complainant went directly to the front counter of the police station and reported the assault. The front counter auxiliary recalled observing the complainant with swelling to her eye and at the time complaining of a sore lip however the auxiliary could not recall if the injury was visible. A subsequent medical examination found swelling to the complainant's eye.

A detailed investigation was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

The JRC found that the complainant's arrest for protective custody and subsequent incarceration was lawful and appropriate given the circumstances.

However the JRC found that the Custody Manual had not been complied with by the watch-house auxiliaries, who should have reported the alleged assault to the Watch Commander or a patrol supervisor who would then have been required to action the complaint immediately. The JRC also found that the persons who assaulted the complainant had not been charged or spoken to regarding the assault and that it was still under investigation at the time the JRC report was submitted. Not only did the auxiliaries fail to advise the Watch Commander but they failed to commence an investigation into the assault allegations. To tell a person to go to the front counter to report an assault did not meet the obligations placed on a watch-house keeper.

The complainant also believed the lack of police action was because she was an Aboriginal person. It was accepted by the JRC that the police were unaware until the morning that the complainant had been assaulted and there was no evidence to support the allegation that the complainant was treated differently because she was an Aboriginal person.

The JRC recommended to the Commissioner of Police that disciplinary action be taken against the auxiliaries for their failure to take the complaint of assault. The JRC also recommended that the Northern Territory Police Force offer an apology for this failure and the fact that the offenders had not been spoken to regarding the assault.

Just riding my bike!!

A juvenile complainant almost rode into the side of a police car before trying to evade apprehension. After a short chase he was cornered and apprehended. The juvenile claimed that during the apprehension he had been choked, had his right arm twisted behind his back and had his right leg lifted causing him to fall to the ground. He was restrained on the ground and, after standing up, was again restrained before being taken to the police cage. He then had his head pushed up against the police cage while the door was opened to place him in the van. The complainant also alleged he was called a "c*** head", a "f*** head" and a "f***en' idiot". He was issued with an infringement for riding without a helmet and riding a bicycle incorrectly.

The JRC identified six issues requiring investigation.

Issue 1 – Allegation that there was no lawful or reasonable basis for the pursuit and apprehension of the juvenile

The police member indicated he believed an offence may have been committed by the juvenile⁵. However the JRC noted that the police member had no intention of arresting the juvenile. Rather, his intention was simply to find out the reason why he was fleeing from police in order to confirm or refute his suspicion that an offence may have been committed. His only reason for having this suspicion was the juvenile's action in fleeing from police. As such, the JRC was not satisfied that the police member had "*reasonable grounds*" for his belief that the juvenile had or was about to commit an offence.

There is nothing that prevents police from pursuing a person in order to request that they stop and speak to them. However, if the person does not voluntarily stop and police force them to do so, the person is effectively being held in police custody. The action of police in pursuing and then detaining the juvenile on the footpath had to be authorised, justified or excused by law and in this case there was no specific evidence that the juvenile had committed any offence.

With respect to the allegation that there was no lawful or reasonable basis for the pursuit of the juvenile, the JRC found that police did not exceed their powers, but there was no reasonable basis for the pursuit. The JRC was of the view that the decision by the police member to divert from the original task in order to pursue the juvenile was poor judgement on his part. With respect to the allegation that there was no lawful or reasonable basis for detaining the juvenile, the JRC also found that police did not exceed their powers, but there was no reasonable basis for detaining him.

The JRC was of the view that the two subordinate officers involved in the pursuit should not have been held responsible as they were duty bound to provide assistance to their senior officer. The JRC found that the senior police member failed to instruct his subordinate officers of the reason for the apprehension, thus allowing them to continue in the mistaken belief that there was a reasonable basis for continuing to detain (i.e. hold in custody) the juvenile. The JRC recommended to the Commissioner of Police that disciplinary action be taken against the senior police member.

Issue 2 – Allegation that excessive force was used in effecting the juvenile's apprehension

The issue under consideration was whether the force used on the juvenile was excessive in the circumstances. However before discussing this issue, the JRC pointed out that in its view had police exhibited better judgement the incident involving the use of force by police may not have occurred at all.

The NT Police Operational Safety Training and Procedures (OSTP) Manual states that once police have made a decision to apprehend a person, the apprehension must be carried out "*to effectively bring a situation under control whilst protecting lives and property*" and sets out the principles for the use of force.

The JRC observed that all three police officers involved in the juvenile's apprehension asserted that the force used was proportionate to the occasion, i.e. not unnecessary. The JRC was able to conclude that the juvenile was first grabbed around the arms by police members K and M because he was waving them around and shouting. The juvenile was then pushed up against the wall of the church. Police member L arrived at around this time and seeing the youth struggling and waving his arms around, went and assisted the officers as they did not appear to be in full control of the situation. The JRC noted that neither officer K or M admitted to feeling the situation was out of control.

After police member L grabbed the juvenile they both fell to the ground. There was insufficient evidence to determine whether this was accidental or intentional. Once on the ground, police officer L used a ground stabilisation technique called a 'three point hold down' where a resisting subject is held face down. It was not clear from the evidence whether the juvenile was actively resisting police during the incident. After police had made the juvenile comply, he was lifted to his feet and spoken to.

⁵ The legislation that empowers police to pursue and apprehend persons for this reason is Section 123 of the *Police Administration Act*.

With respect to the allegation that a pressure point technique was applied to the juvenile's throat area, the JRC observed that this was supported by the juvenile's statement but denied by all the police officers. The JRC was of the opinion that during the struggle there was some accidental pressure applied to the juvenile's throat by the police officer.

After the juvenile was brought to his feet the police officers grabbed the back of his neck, which was not the standard method of escorting a person in custody, and the JRC concluded that it constituted an unnecessary use of force.

The police then escorted the juvenile to the police vehicle, restrained him against the side of the vehicle while opening the cage and then placed him in the cage. The JRC was of the view that the restraint was unnecessary since there were two officers present, one of whom could have held the juvenile while the other opened the cage door. The JRC found there was an unnecessary use of force at this point.

In conclusion, the JRC found that this allegation was substantiated and recommended to the Commissioner of Police that police officers K and M be formally counselled with respect to their use of unnecessary force while the juvenile was in their custody.

Issue 3 – Allegation that there was no lawful basis for taking the juvenile to the watch house

The police denied placing the juvenile under arrest. A person who is not under arrest is not obliged to accompany police to the police station. However, in the JRC's view it was clear that the juvenile was not afforded the opportunity to make up his own mind about whether he was prepared to accompany the police or not. The JRC was satisfied that the juvenile considered he was still in police custody.

The JRC found the allegation was substantiated. It further found that it was not reasonable in the circumstances for the police to place the juvenile in the cage of the police vehicle.

The JRC recommended to the Commissioner of Police that police officer K be disciplined with respect to his failure to adhere to NT Police General Orders and that police officer M be formally counselled with respect to his failure to adhere to NT Police General Orders.

Issue 4 – Allegation that police exceeded their powers in giving directions to a witness in relation to his filming the incident

The JRC concluded that whatever actual words were used by police officer K, his instruction to the witness to delete the film footage on his camera left no doubt in the witness' mind that the officer had the power to issue such an instruction. It also concluded that police do not have any power to require a person to delete film footage or photos taken and that such footage could be used as evidence.

The JRC found that the allegation was substantiated and recommended to the Commissioner of Police that police officer K receive a caution with respect to his actions.

Issue 5 – Allegation that police exceeded their powers in giving directions to a witness in relation to her stopping to witness the incident

The JRC concluded there was sufficient evidence to support the witness' belief that police officer K was attempting to prevent her from viewing the incident or threatened to defect her car if she did not obey police directions to move on. However, the JRC was of the view that police officer K acted in an unnecessarily officious manner by asking her if her car was registered and if she had a licence.

The JRC found that police did not exceed their powers in respect of this allegation, but the action of police was not reasonable in the circumstances and recommended to the Commissioner of Police that police officer K be formally counselled with respect to his poor judgement in this incident.

Issue 6 – Allegation that police used offensive language during the incident

The JRC found there was insufficient evidence to sustain the allegation.

'No brains'

An Aboriginal male (the complainant) was taken into custody for breaking and entering. This person had fallen asleep outside the premises, due to being highly intoxicated, and was arrested at the scene. A complaint was subsequently lodged relating to his treatment whilst at the watch-house.

A detailed investigation was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

The watch-house CCTV footage was obtained during the investigation process. This footage showed the complainant's shirt being taken off him by the attending officers because it had a strong smell of petrol.

The complainant could be heard mumbling something whilst he was seated on the bench, although it was not discernable as to what was said. One of the attending officers responded with "shut your face." Further comments made to or about the complainant within the next 30 minutes included, "dumb f**k", "f**king loser", "d**khead over there", "... no brain", "he's from CSI, one of our smart criminals who breaks and enters and then collapses outside the scene" and "f**king retard." There were several officers present during the comments, not one of them suggesting they were wrong or inappropriate.

The JRC found that the comments made to or about the complainant were unacceptable. Each of the officers present when the comments were made were considered to be in breach of the NT Police General Order: Code of Conduct and Ethics for their failure to demonstrate integrity, respect and responsibility. My office recommended to the Commissioner of Police that the officers receive managerial guidance in relation to appropriate conduct when dealing with detainees.

Further footage was viewed to observe the police officers treatment of the complainant.

The footage showed that the duty officer was eating a piece of toast. He was pointing to the toast and then himself and later pointed to another breakfast behind the counter. In the officer's statement he claimed he was indicating to the complainant that his breakfast was behind the counter. However on viewing the video it appeared the duty officer ate the complainant's toast that was sitting with the complainant's weetbix. He then went to a box sitting on the bin containing breakfast rubbish and took out a white bag with toast and a carton of milk. The duty officer then poured the milk on the weetbix and brought this, along with the toast in the white bag, to the complainant. It was concerning that the duty officer provided the complainant with toast and milk which appeared to have been taken from rubbish sitting on the bin. The JRC recommended to the Commissioner of Police that the officer concerned receive managerial guidance in relation to food hygiene and appropriate conduct when dealing with detainees.

I was concerned about a number of aspects on viewing the video evidence. In addition to the inappropriate comments identified above the duty officer was heard and observed making the following statements to or about the complainant:

- "stupid f**king idiot"
- "make things quite clear, ..., if you wanna f**kin' play up I'll make things hard for you"
- "god, he f**king stinks"
- "didn't bang head for too long coz it hurt" one officer apparently mocking the complainant to another officer
- Two officers were joking about the complainant hitting his head against the cell door because he wasn't given a blanket. One officer stating that the complainant had said he would jump in the air and land on his head killing himself. The officer then stating "go ahead, do it." The other officer stating "make sure you do it in front of the cameras"
- "piece of s**t that he is"
- After the officer established that the complainant was dialling his wife whom he had a domestic violence order against, the officer said "get back in your f**king cell you spastic" "you've got a domestic violence order that says you are not allowed to contact her, you f**king wanker. You're not allowed to approach her, you're not allowed to contact her directly or indirectly you f**king wanker"
- "how about you shut the f**k up"
- "spastic c**t" whispered by officer

Further to the above comments the video recordings also showed another officer making gestures to the complainant that could have been perceived as threatening. The officer was interviewed and a statement was taken in relation to this conduct. It was determined that some of the conduct was highly inappropriate for police officers and in breach of the NT Police Code of Conduct and Ethics and General Orders. The JRC recommended that the officers receive managerial guidance in relation to appropriate conduct when dealing with detainees. The JRC noted that it had already been recommended that the officers receive formal counselling.

The investigation also revealed that appropriate entries were not made into the watch-house log or offender journal. The JRC recommended that the Commissioner of Police issue a bulletin reminding staff to enter required information.

I just want to sleep!

The complainant contacted my Office stating that her young son was arrested for a break and enter. His matter was listed for court. In the meantime her son signed a bail agreement to be subject to a curfew whereby he was to stay in his mother's care from 7pm to 7am. The complainant was a co-signature to this agreement.

The complainant stated that on the first night of the curfew police came to the house at 4.30am, to check that her son was home with his mother. This visit apparently woke everyone in the house.

The complainant objected to the police visiting at such an early hour. Police replied that as her son had signed up for the curfew (which she counter signed) the check by police was a natural consequence of the agreement. If the complainant and her son hadn't signed he would have been held in custody. When asked why police "practically banged the door down" the police allegedly said that they had to wake people up to get them to answer the door.

The complaint was that once woken at 4.30am, the household was not able to get back to sleep, and then they had to get up for school and work. The complainant stated she would prefer the checks to be at around midnight, or 6.30am but not 4.30am. The complainant stated that at 4:30am, it is not possible to get back to sleep and the day is then very difficult with everyone going to school tired. The complainant said that if the 4.30am checks continued, she would be forced to take her son out of school until the curfew is over, or move with him to another address.

Enquiries were conducted by my office. It was determined that curfew checks are conducted at random times between the hours listed on the conditions. In the case of the complainant it was endorsed that checks would be completed between the hours of 7pm to 7am. Therefore the police were required at random times between those curfew hours to check that her son was there. Setting a convenient time for the alleged offender is not a consideration. If the complainant did not wish to be awakened for these checks then she should not have agreed to the curfew times. If she and her son moved without authority it would be in breach of the curfew conditions and her son would be apprehended when located.

It is commonsense that if set times for police checks, say 12pm and 6:30am, were implemented, the youth would be aware that after the midnight check he had 6 hours to go out and do whatever he wished and be back for the 6:30am check.

The complainant was told that she had two choices, accept the 'random' checks or have her son incarcerated until the court date. This complaint was declined because further investigation was unjustified.

Protective custody of juvenile not what it should be

The complainant's son, a juvenile, was at East Point Reserve with a group of friends when police arrived. He admitted being intoxicated. He said the police grabbed him and took him towards their vehicle. He admitted he was uttering obscenities and this caused the member to twist his arm up his back, push him towards the ground, slam him into the bonnet of the police vehicle, punch him in the left eye and then slam him into the police vehicle about four times. The juvenile claimed he was then picked up and thrown head first into the cage of the police vehicle and driven roughly to the watch house.

Once at the watch house, he stated he was slammed against the bench a few times by more than one police member. He was then placed into a cell and soon after another Aboriginal person, who had previously wanted to fight him, was placed with him. The juvenile alleged that when police placed this person into the cell with him they said “*have fun*” and walked off. The Aboriginal male then punched the juvenile up to five times with both fists. The Aboriginal male was then removed and placed in the cell opposite, whereupon he commenced laughing at the juvenile.

The juvenile alleged he then began kicking the cell wall and pressed the intercom button, to which someone answered “*you got bashed by a black*”. He also stated that loud classical music was played in the cell all night. The next morning a police member came to the cell and told the juvenile that he got the black eye because he was a racist and he also threatened him.

The complaint raises a number of issues.

Issues 1, 2, 3 & 4 – Was it correct for police to take the juvenile into protective custody? Should police have dropped him at home instead of lodging him in the cells at the Darwin watch house? Was he kept in custody longer than was necessary? Should his parents have been contacted sooner?

In accordance with section 128 of the *Police Administration Act* (PAA), a member may take an ‘intoxicated person’ into ‘protective’ custody. The law treats the taking of a person into protective custody as an ‘arrest’; and as such the police have a duty of care to persons taken into custody, just as they would for someone they have arrested for committing an offence.

The court has held that the purpose of section 128 is primarily that of protection – protection of the individual and protection of others. The court has also stated that there is a two stage process in taking someone into custody under section 128: first the person is taken into the physical custody and secondly a decision is made as to where the person will be located. It is not necessarily the case that a person will be held in cells at the police watch house.

Furthermore the NT Police Custody Manual states *Police cells should only be used as a last resort for the custody of intoxicated persons.*

As the juvenile was seriously affected by alcohol and or other substances at the time of his arrest the JRC found that it was a lawful decision by the police to decide to take him into protective custody. However, what is not clear is why he was taken to the Darwin watch-house and placed in cells instead of being taken home. Police policy is quite clear that the police cells are only to be used as a last resort. The JRC found that the police should have considered this and conveyed the juvenile home or at least contacted his parents before taking him to the watch-house. Further, that the watch-house staff should have contacted his parents as soon as possible and not at the expiration of the maximum period of custody allowed for persons in protective custody (that is from midnight to 0730 hours). This was especially so given the fact that the juvenile was only 15 years of age at the time of the incident. The watch house keeper is the member responsible for ensuring all procedures are followed with respect to persons in their custody, and thus should have ensured that contact was made with the juvenile’s mother as soon as possible in an effort to get him released.

The JRC recommended that disciplinary action be taken against the watch-house keeper and that the other responsible police officer be given managerial guidance as to the proper procedures to be followed regarding persons taken into protective custody, especially in regards to juveniles and contacting parents or guardians in the first instance.

Issues 5 & 6– Was unreasonable force used by police against the juvenile when he was taken into custody at East Point Reserve? Was the police vehicle driven in an unduly ‘rough’ manner when conveying the juvenile to the watch-house?

The evidence tendered by the police members present during the juvenile’s apprehension was fairly consistent throughout. On the other hand, the evidence of the civilian witnesses varied to a significant extent. In light of this fact, the JRC found that the complaint that the juvenile was assaulted with a torch and also punched by a police member at East Point Reserve was unresolved.

The JRC noted that the time taken by the police officers in conveying the juvenile to the watch-house from East Point Reserve was within an acceptable time frame, however the fact that the police officers were not questioned about the juvenile's conveyance to the watch-house dictated that this aspect of his complaint remained unresolved.

Issue 7 – Was unnecessary force used by police against the juvenile at the counter in the watch house?

The action of the police members involved in restraining the juvenile against the counter was done only after he failed to comply with repeated verbal requests by police to stand still and to keep his hands on the counter in front of him. The JRC found that the force used by the police involved, in pushing the juvenile against the counter, was reasonable given the circumstances and the allegation was unsubstantiated.

Issue 8 – Did police conspire to have another person assault the juvenile in the cells at the watch house?

The JRC found that a senior auxiliary failed to follow general orders in regards to making the required journal/database entries associated with the assault on the juvenile. He was the Watch House Keeper at the time and it was his duty to do so.

The NT Police Custody Manual provides that every member has a duty of care in relation to the safety and welfare of a person in custody whenever and wherever they come into contact with that person. It is therefore true to say that all members in contact with the juvenile during his period of custody owed him a duty of care. The JRC found that the senior auxiliary failed in his duty of care by deciding to house another person and juvenile in the same cell, when the hostility between them was clearly displayed. The JRC also found that the other police members at the watch-house failed in their duty of care to the juvenile, by not questioning the decision of the senior auxiliary. They could have fulfilled their duty by notifying the Watch Commander of the situation, but they chose to do nothing. Whilst it is true that the decision was the senior auxiliary's, it does not remove the duty owed to the juvenile from these members – they should have expressed their concern, acted or intervened.

The JRC noted that both the senior auxiliary and a senior constable were charged with assault with respect to this matter, but the DPP withdrew all charges against the two members. This did not alter the JRC's finding that these two members' failed in their duty of care to the juvenile. The JRC also noted that disciplinary action had already been taken against the other police members.

The JRC recommended that the Commissioner of Police formally apologise to the juvenile for the actions of his members and that the two other auxiliaries be given managerial guidance in relation to their duty towards people in custody, and their failure to fulfil that duty to the juvenile.

Issue 9 – Was the juvenile given adequate medical attention for the injuries he suffered after being assaulted by the person?

The JRC found that the injuries as described by the juvenile and corroborated by police photographs were suffered as a direct result of the assault by the other person in the cell upon the juvenile.

The only member that attempted to examine the juvenile's injuries was a senior auxiliary. However, he did not carry out a thorough examination, claiming the juvenile wouldn't let him. The senior auxiliary advised the Watch Commander of the assault and that the juvenile had suffered an injury to his eye. He also advised the Watch Commander that the juvenile had refused treatment.

The JRC found that no effective medical treatment was rendered to the juvenile for the injuries suffered as a result of his assault and that the Watch House Keeper failed to make the required journal/database entries about the injuries suffered by the juvenile.

The JRC recommended that the senior auxiliary be formally counselled for his failure to ensure that adequate medical treatment was given to the juvenile and noted that a Senior Sergeant and an Acting Senior Sergeant had already been formally counselled in relation to this custody issue.

Issue 10 – Was the juvenile harassed by watch house staff through their playing of loud classical music and verbal taunts directed at him through the cell’s intercom system?

Due to the absence of evidence to determine the matter one way or the other, the JRC found that this aspect of the complaint was unresolved.

Major changes to policy relating to length of time in custody

The complaint arose from an incident at Daly River in January 2007 and relates to the manner in which the complainant was treated by police. In particular the manner in which he was apprehended and placed in custody after being found in the “Drinking Paddock” while being banned.

The specific issues of complaint were:

- Whilst fleeing from the police he felt threatened because one of the officers had his gun by his side and he believed he would be shot if he did not stop running. He also alleged he was pushed to the ground, slapped across the face approximately 3 times, kned in the chest and roughly placed into the van by the police officer.
- He was apprehended by police and not advised of the reason for the apprehension.
- He was kept in custody for 14 hours.

An investigation of the complaint was conducted by the Ethical and Professional Standards Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

In relation to the first issue, the JRC found that the complainant and a friend started running from the police as they were aware they had been banned from the drinking paddock and, if caught, would be issued with a Summary Infringement Notice (SIN). They both were subsequently apprehended, issued with a SIN, placed in the back of the police vehicle, taken into protective custody and held in custody overnight. There was no evidence to prove on the balance of probabilities that the police officer was rough, slapped the complainant or threatened to shoot him, therefore the JRC found this aspect of his complaint unsustainable.

In relation to the second issue the JRC had two concerns. Although the complainant had been drinking and was intoxicated enough to be taken into protective custody, every effort should have been made to have him released into the care of family or friends as supported by Section 8 of the Custody Manual. The JRC found that the police officer made no such attempt and therefore failed to give consideration to Section 131 of the Police Administration Act or adhere to Section 8 of the Custody Manual. The JRC recommended that the police officer be counselled for this failure.

Another issue related to the issuing of a SIN to the complainant. The JRC found that the complainant was apprehended for breaching a condition of the Exemption Certificate but should not have been issued with a SIN as there was no penalty to do so. However, the JRC acknowledged that the police members involved in the apprehension and the issuing of the SIN had done so in good faith. In investigating this complaint the JRC became aware that the issuing of SIN’s at Daly River had subsequently ceased and all previously issued SIN’s were being withdrawn. The JRC supported the action being taken by NT Police to cease the issuing of SINS and withdrawal of those previously issued and made no further recommendations in this regard.

In relation to the last issue, the JRC found that the terms of section 129 of the PAA clearly placed an obligation on the Watch House Keeper, or the police officer acting in that role, to determine whether the person in custody was still intoxicated at midnight as it is only then that there is adequate justification to hold the person in custody for a further seven and a half hours.

The complainant was taken into protective custody at 1851 hours. This being the case, at midnight he had been in the cell in custody for five hours and nine minutes. It was reasonable then to expect that the complainant was no longer “seriously affected apparently by alcohol or drug” at this time. At the very least, that length of time required the Watch House Keeper or a police member acting in this role, to have reasonable grounds to believe that the complainant was still intoxicated.

However, although cell checks were undertaken no physical examination or assessment was made by either of the police members to determine the complainant's level of intoxication. Without such an examination the JRC found there was no authority for the complainant to be held in custody for a further five hours and fifty six minutes after midnight.

The JRC acknowledged that the detention of the complainant after midnight was done in good faith. This finding was based on the fact that the interpretation of section 129 of the PAA had only just become an issue and been considered as a result of staff from the Office of the Ombudsman requesting a legal opinion to be obtained as a result of this complaint.

The JRC recommended that an apology be provided to the complainant for being detained without legislative authority for a period of at least five hours and that a bulletin be issued reiterating the requirements associated with taking persons into protective custody under section 128 of the PAA. It was recommended the bulletin emphasise the length of time a person can be detained, and the need to actually form or confirm an opinion that at midnight a person is still intoxicated. Further that this opinion be noted within IJIS by the officer in charge of the watch house.

ACTIVITY 2: IMPROVE THE DELIVERY OF SERVICES

OUTPUTS

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

HIGHLIGHTS

During the year, the Ombudsman made 113 recommendations to government agencies, local councils and the NT Police of which 108 were adopted and implemented in some form.

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

Table 8: Recommendations made

	2006/07	2007/08	2008/09
Recommendation made	131	141	113
Recommendation adopted	125	135	108

There has been a reduction in the number of recommendations made and recommendations adopted this year when compared to last financial year.

Examples of significant investigations undertaken by the Ombudsman follow:

1. PRISONER TRANSFERS

Background

There is not enough capacity in the Darwin Correctional Centre (DCC) to house all prisoners sentenced by Darwin Courts, and so this necessitates transfer of Darwin prisoners to the Correctional Centre in Alice Springs, from time to time. Several prisoners, men originally from Darwin, had complained to my office that after being compulsorily transferred from the DCC to the Alice Springs Correctional Centre (ASCC), they had spent years applying for re-transfer to Darwin. The response to these applications was always the same, that there was not enough bed space at the Darwin Correctional Centre. They detailed the detrimental affect that the distance from their families was having on their mental health, their families and their cultural ties.

The purpose of this investigation was to find out whether the Northern Territory Correctional Service (NTCS) process of assessing and approving re-transfer applications from Top End prisoners housed at the ASCC was fair, transparent and accountable. It also sought to establish what obligation NTCS has to alleviate the

hardship caused to prisoners who are housed far from their families and communities, and how well it does so.

The department follows Guideline 1.39 of the Australian Standard Guidelines for Corrections which states that prisoners should be housed as close as possible to their family and support networks. This practice has personal benefits for the prisoner and management benefits for the department. It improves the chances of successful reintegration upon release.

The benefits of maintaining family contact are especially so for indigenous prisoners, and the Royal Commission into Aboriginal Deaths In Custody (RCADIC), whose recommendations centred on reducing the proportion of indigenous prisoners in the overall prisoner population, made several recommendations about prisoners keeping up family contact. In the Northern Territory, with 82% of prisoners being indigenous, and the highest recidivism rate in Australia, the RCADIC recommendations are especially relevant. All the complainants in this investigation were indigenous men.

NTCS has a difficult job balancing prisoner numbers at ASCC and DCC in such a way as to follow the Standard Guideline on prisoner placement. I concluded however that the principle should be written into NTCS policy documents.

I was told that there is now a practice of compulsorily transferring only shorter term prisoners and I concluded that this should also be written into NTCS policy documents.

I concluded that the NTCS policy documents covering re-transfer are unclear and unaccountable, and need revision.

Where NTCS cannot house a prisoner as close as possible to family and community due to the restrictions in the size of the DCC, in my view it has an obligation to alleviate the stress and hardship caused to those prisoners who have to be transferred to ASCC, where possible. In this regard, I have formed the view that it could and should do more than it currently does. I have made recommendations to that effect.

Summary of Recommendations

1. That a statement reflecting Standard Guideline 1.39 should be incorporated into Directive 2.4.1.
2. That the new unwritten policy of compulsorily transferring prisoners with a shorter length of time left to serve in preference to prisoners serving lengthy sentences, should be set out in Directive 2.4.1., (subject to seeking prior approval from Cabinet if necessary).
3. That consideration be given to setting (in consultation with expert opinion) a maximum time limit for prisoners compulsorily transferred, or a time after which such a transferee's request for re-transfer will be automatically approved and actioned, and include this time limit in Directive 2.4.1.
4. That Section 6.3 of Directive 2.4.1 be redrafted, setting out a transparent and accountable re-transfer process which is as easy as possible to follow and

comply with by both prisoners, prisoners' support, and corrections staff. If the redrafted section includes reference to a waiting list, the procedures governing its operation should include a list of factors, with sufficient explanation, by which NTCS chooses re-transfer prisoners from that list. The new section should also have re-application forms attached to it.

5. That NTCS investigate possible sources of funding for a financial assistance scheme for Top End families of compulsorily transferred prisoners to visit their prisoner relatives from time to time.
6. That the identification discretion in Directive 2.15.4 be revised along the lines of the Western Australian Director's Guidelines, to give clear instruction to prison staff that discretion as to suitable identification is to be exercised in favour of families visiting from distant and remote locations wherever possible. The revision should also include clear instruction that staff must have due regard to the importance of visits by friends and relatives to Aboriginal prisoners.
7. That NTCS implement Recommendation 48 of the CAYA Report as it relates to video conferencing, allowing for weekly access to video conferencing for involuntary transferees.
8. That NTCS find out where other videoconferencing facilities are in the Top End and how they are best accessed. That survey should include an assessment of the viability of using PC based web-cam video links. A list of locations, contacts, accessibility restrictions, costs and any other relevant information, should be made available for the benefit of all prisoner families, but especially families of involuntarily transferred prisoners.
9. That NTCS should subsidise the cost of the use of any non-NTCS-owned videoconference equipment for families of involuntary transferees.
10. That NTCS reduce the charge for telephone calls made by ASCC involuntary transferees, to a local call rate and that Directive 2.15.2 be altered to reflect this.
11. That NTCS produce a visitor information handbook for compulsory transferees' families and friends. This handbook should be available on the Department of Justice (NTCS) website and all NTCS facilities, including regional Community Corrections offices. The following information should be included:

Policy

- An explanation for the need for these transfers
- A statement of policy, and any maximum time the prisoner can expect to spend in ASCC

What to expect

- Any differences at ASCC which the prisoner can expect, and which would be helpful for the family to know when communicating with the prisoner

Visits

- Contact details for ASCC.
- The normal visiting hours and how to organise a special visit.

- How to apply for financial assistance (if available) for travel and accommodation expenses.
- How to get to Alice Springs from Darwin or Katherine (transport options and approximate costs), and information about accommodation whilst in Alice Springs.
- How to get to the ASCC from Alice Springs, including the role of and how to contact 'Prison Fellowship' in Alice Springs.
- What to expect/ what to bring on the visit and what facilities there are for children etc.
- Requirements about proof of identity, timeliness and any other rules affecting the duration or quality of the visit.
- How to complain at the gate, if refused entry.

Video conferencing

- Prisoner videoconference entitlements and a statement which encourages families to use these facilities.
- The location of the NTCS free videoconferencing facilities (particularly in the Top End) and how to access these facilities
- Who the family can bring to the videoconference, the rules about speaking in 'language', and any information which will help the family to get the most out of the event.
- The location of other videoconferencing facilities (again, especially in the Top End), how to access them and the costs

Telephone calls

- The cost of prisoner phone calls (STD and by mobile) and how the family may contribute to the prisoner's phone account.

Post

- What can/cannot be sent to the prisoner in ASCC by post, including rules about photographs etc

Agencies which can assist

- The role of and how to contact the Welfare/Aboriginal Liaison Officers at ASCC
- The role of and how to contact Legal Aid Services in Alice Springs
- How to contact, and the role of, 'Prisoners' Aid' in Alice Springs
- The postal address for the Executive Director so the prisoner's family can write to Operations Support with any concerns about the prisoner whilst he/she is on compulsory transfer.

Funerals

- The rules for prisoners attending funerals, how this is arranged and some idea of costs.

Re-transfer

- The re-transfer request process and what if anything, the family can do as part of it.

Complaints

- The role of and how to contact the Ombudsman

12. That once the handbook referred to in Recommendation 11 is produced, consideration be given to adapting it to produce a handbook of information for the families of the wider prisoner population.

Response to Report

The report was sent in draft to the Department of Justice for comment prior to release of the final report. The Department CEO Mr Greg Shanahan stated that the Executive Director of NTCS:

“has considered the recommendations in the draft investigation report. Whilst NTCS have agreed to introduce part of the recommendations in the investigation report, the division needs flexibility to manage increasing prisoner numbers between Darwin and Alice Springs Correctional Centres”.

The CEO added that he is

“satisfied that the Executive Director, NTCS effectively monitors prisoner numbers in both Correctional Centres and the ability to transfer prisoners is a vital part of enabling prison management to operate in the most efficient way for the benefit of both the prisoners and the community in general. Movement of prisoners involuntarily is as a last resort.

Prison requirements in the Northern Territory over the next ten years are being addressed with the current major capital works projects to increase bed capacity at both institutions and the planned new 1000 bed prison project in Darwin”.

2. WAS REMOVAL OF ASBESTOS A HAZARD?

This report detailed an investigation into a complaint against the Office of Work Health (now known as NT WorkSafe,), primarily in regard to its alleged failure to enforce compliance with the legislation, regulations and codes of practice relevant to the removal of asbestos.

The complainants in this matter were the proprietor of a child care centre, located in the grounds of the former Tiwi Primary School, and her partner, also an employee. At the time of the events under investigation, 2002-03, a lease for the child care centre was in place with the owner of the property (the then Department of Infrastructure, Planning and Environment – DIPE) which was not due to expire until 2005.

Following a decision by the NT Government in 2002 to demolish the school buildings to make way for a new development, tenders were called for the demolition contract, which included removal of asbestos cement material contained in the building. This work may only be undertaken by licensed asbestos removalists, pursuant to the NT Work Health (Occupational Health and Safety) Regulations. Licensing was the responsibility of the then Office of Work Health, which was the administrative and regulatory arm of the Northern Territory Work Health Authority. The Authority, a statutory body established under the *Work Health Act*, was and is responsible for promoting best practice in occupational health and safety, enforcing compliance with occupational health and safety standards, and investigating possible incidents of non-compliance.

With respect to asbestos removal, the Office of Work Health required contractors to supply a safety plan demonstrating how they would achieve compliance with the national standards for the safe removal of asbestos (NOHSC:2002[1988]). Where occupational health and safety concerns were brought to its attention, the Office of Work Health was required to respond promptly and to take any reasonable action within its power and without breach of contract. Essentially, the Office had the power to take an informal or formal approach to achieve compliance. Formal approaches within its power included issuing infringement notices, prohibition notices and prosecution action. It reported its findings to the Authority and to interested parties such as the complainant and contractor complained about.

In response to the complaint the subject of this report, two separate occupational health and safety concerns about the asbestos removal at the school were raised with the Office of Work Health in 2002-03. It responded by investigating both notifications, which entailed visiting the workplace, inspecting the site and interviewing the contractor. Staff also spoke with the air monitoring specialist, who was engaged by DIPE to provide independent verification that the asbestos removal met safety standards. They also met with the complainants and viewed videos taken by the complainants of the workplace. The Office of Work Health reported finding no evidence of any breach of the national standards, with the exception of some instances of workers removing their protective clothing, which the Office took no action on, and one instance of the contractor removing his face mask, for which an infringement notice was issued.

The investigation by my Office found that the relevant actions of the Office of Work Health were in accordance with its powers and responsibilities. Due to the length of time since events and the absence of detailed records concerning some disputed facts, the investigation was not able to reach definitive conclusions in respect to some aspects of the complaint. In particular, it found there was insufficient evidence to support some of the allegations of an inadequate response by the Office of Work Health. In general the investigation found that it was unlikely that the Office of Work Health could have done much more than it did, in view of the fact that it was not in a position to constantly monitor the asbestos removal and that it was constrained by the contract into which it had entered with the contractor, which gave the contractor the right to proceed without undue interference by the monitoring agency.

A summary of the specific issues of complaint follows:

1. That the Office of Work Health failed to prevent and/or failed to take appropriate action in response to discovering and/or were aware of and endorsed, unsafe or illegal workplace practices during the demolition of the Tiwi Campus.

Conclusion

The complaint was not substantiated overall.

2. The Office of Work Health was responsible for the lack of a safety barrier around the worksite which placed a child at risk of injury on or about 23 August 2002.

Conclusion

The action complained about was not an administrative action as defined in the *Ombudsman (Northern Territory) Act* and therefore not an action that could be investigated by this Office.

3. That on or about 31 July 2002 when workers smashed asbestos sheeting, with children in close proximity, the Office of Work Health took inadequate action against the contractor for a breach of the Code of Practice.

Conclusion

The evidence did not support the allegation that the actions of the Office of Work Health were inadequate in response to the notification of unsafe work practices.

4. Alleged breaches of the Code of Practice said to have occurred during stage 1 demolition on 24-25 August 2002 were reported to the Office of Work Health by letters on 27 August and 6 September 2002 and the Office of Work Health failed to find the contractor in breach of a Code of Practice and failed to either enforce compliance or take action to penalise the alleged non compliance.
 - a. Failure to wear protective clothing

Conclusion

There was insufficient evidence to support the allegation that the actions of the Office of Work Health in response to the notification of the alleged breach were inadequate or defective. The immediate response of the Office of Work Health was to investigate the matter promptly. The investigation appeared to have been adequate and no adverse comment could be made on the Office's failure to prosecute the contractor even after an investigation by a Royal Commission.

- b. Failure to provide/use decontamination facilities.

Conclusion

The Office of Work Health investigated the allegation and found no evidence to support it. The evidence relating to the Act and response of the Office of Work Health did not support the allegation that the Office took inadequate action in response to the notification of the particular alleged breach of work health requirements.

- c. Failure to fence worksite.

Conclusion

It was not disputed that in July 2002 the worksite was not initially fenced. The Royal Commission's finding related to the July 2002 incident. With respect to the demolition in August 2002 there is some ambiguity in the Regulations relating to what is "effective screening". The interpretation of effective screening and the conclusion that the fencing complied with the Regulations on the part of the Office of Work Health could not be criticised as it was a reasonable and open interpretation of the Regulations as they stood at the relevant time.

- d. Failure to erect a barrier around asbestos removal zone.

Conclusion

I concluded that, initially, the Office did not enforce the placing of a barrier and that the contractor's safety plan did not propose any barrier. The Code of Practice was intended to ensure that there was a barrier between the site of asbestos removal and the work area surrounding it and areas that might be visited by the public. I concluded that the allegation that the Office of Work Health failed to enforce safety requirements was substantiated and that the Office of Work Health was wrong. In view of the circumstances and subsequent erection of a barrier, further pursuit of the Office's initial non-enforcement would not have resulted in the betterment of public administration and I recommend no further action, the Department having acknowledged its fault and remedied the deficiency.

- e. Refusal of site access to complainant's agent on 24 August 2002.

Conclusion

I concluded that the refusal of access to the agent was not the result of any administrative action on the part of the Office of Work Health or on the part of DIPE, the owner of the property. Access was refused by an independent consultant for good reason. There is no evidence that the Office of Work Health was asked again for access after the occasion on 24 August 2002.

5. Alleged breaches occurring during stage 2 demolition on 15-16 March 2003 as detailed in the complainant's letter to the Office of Work Health dated 16 March 2003.

- a. Failure by the Office of Work Health to take action on a complaint that workers and supervisor were failing to wear protective clothing at the site.

Conclusion

The Office of Work Health responded immediately and inspected the site upon receiving the complaint. The evidence did not support any allegation that the Office of Work Health, in response to the complaint, took inadequate actions or decisions.

- b. Smashing of asbestos sheeting.

Conclusion

The evidence did not support the allegation that the Office of Work Health's actions were inadequate in response to the notification that asbestos sheeting was being smashed.

- c. Failure to use drop sheets or to conduct a site clean up.

Conclusion

The evidence did not support the allegation that the actions or determinations of the Office of Work Health in response to the complaint that heavy equipment was not decontaminated and/or should not have been used on site were inadequate.

6. Allegation that the Office of Work Health failed to enforce proper procedures in air monitoring during stage 2 demolition work, as detailed in a letter to Minister Stirling on 15 June 2003.

- a. That air monitors were not evident and air monitoring was not being conducted.

Conclusion

Evidence did not support the allegation that the actions of the Office of Work Health were deficient in respect to investigating the complaint that air monitoring was not being carried out.

- b. That the Office of Work Health falsely claimed that the air monitors were moved around. If they were moved then a breach of the Code of Practice and a breach of the safety plan occurred on which the Office of Work Health took no action.

Conclusion

The evidence did not support the allegation of any administrative deficiency on the part of the Office of Work Health. There was no evidence that the Office's actions were inadequate in relation to monitoring the Occupational Hygienist on whose expertise they were entitled to rely.

- c. The air monitors were not outside the site as required by the Code of Practice and that the Office of Work Health failed to respond to a complaint relating to that issue.

Conclusion

The Office of Work Health was entitled to rely on the professional judgement of the Occupational Hygienist unless they had some good reason to question his judgement or scrutinise his actions. I concluded that the decision of the Office of Work Health not to investigate the allegation in light of the involvement of the Occupational Hygienist was not unreasonable.

- d. The sampling methods used were not approved by NATA and the Office of Work Health ought to have known that and ought to have taken action.

Conclusion

My conclusion was that the evidence did not support the allegation that the Office of Work Health accepted an inadequate sampling method.

7. That the Office of Work Health failed to respond adequately to complaints of unsafe work practices by people potentially likely to suffer harm from those practices.

Conclusion

The complainants had a direct interest in the conduct of the demolition works at the old Tiwi School. I concluded that they were entitled to not only receive an assurance but to receive sufficient information to be able to assure themselves that they were safe.

This complaint was partially sustained pursuant to Section 26(1)(b) of the *Ombudsman (Northern Territory) Act* in that the action of Office of Work Health, in failing to respond fully to the complainant's concerns, was inadequate. I did not propose that NT WorkSafe take any action with respect to these particular complainants since this investigation report contained the details that were not initially provided to the complainants and which ought to have been.

Recommendation

That in future NT WorkSafe provide to directly interested parties a full and detailed account of the action taken in response to notifications of alleged unsafe work practices affecting the health or welfare of those interested parties.

Department's response to draft report

The Department accepted the recommendation.

8. That the Office of Work Health failed to follow proper process when issuing infringement notices to the complainant as evidenced by the later withdrawal of those notices.

Conclusion

I considered that I did not have jurisdiction to consider the adequacy of the process of issuing an infringement notice since that is a matter for the person receiving the notice who can dispute or appeal against the notice initially to NT WorkSafe and then to the Magistrate's Court. If I had any jurisdiction at all it was limited to the circumstances relating to the withdrawal of the notice. My view was that the evidence did not support any allegation that proper processes were not followed in the withdrawal of the notices.

9. That officers of the Office of Work Health harassed the complainant.

Conclusion

Although it is understandable that the complainant had the interpretation that he was being harassed, I could not find any objective evidence to support the allegation that the Office of Work Health officers harassed the complainant either by anything they said or by any of their actions. At the highest there may have been some insensitivity in the way the situation was handled and this was acknowledged by the Department.

10. That the Office of Work Health officers harassed complainant. Specifically by the issue of infringement notices on 24 March 2003 and by allegedly taking photos of the childcare centre.

Conclusion

I had no jurisdiction with respect to the issuing of the notices. The withdrawal of the infringement notices was done for good reason and proper process. The evidence disclosed that it was not the Office of Work Health that took photos or used a video camera on the occasion the subject of complaint. The allegation that the Office of Work Health was involved was at best speculation. The actions of the contractor were outside the jurisdiction of my office.

3. RESTRAINING AND/OR DETAINING PATIENTS AT ROYAL DARWIN HOSPITAL (Interim Report)

Background

In December 2008 and January 2009, information was given confidentially to the Ombudsman as a result of which an 'Own Motion' investigation was commenced by the Office of the NT Ombudsman into systemic concerns surrounding the legality of powers being exercised to restrain and/or detain patients at Royal Darwin Hospital (RDH).

The investigation has been of the administrative actions and decisions of Corporate Executives managing the administration of RDH in directing and initiating a process of authorising restraint and detention of patients relying on the provisions of the *Medical Services Act* Section 16.

That Act did not authorise for the restraint and/or treatment without consent, nor arrest of a person trying to leave the hospital.

Implementation of the policy endorsed by the RDH General Manager in December 2008, titled '*Policy for the Management of Patients pursuant to Sections 16(2) and (3) of the Medical Services Act*' (to address the use of the *Medical Services Act* by RDH) was unjustified under the law of the Northern Territory.

As the subject of the interim report is still under review and negotiations to solve the difficulties posed by impaired patients is still being reviewed, I do not intend to report on the investigation further.

ACTIVITY 3: INSPECTION OF NT POLICE RECORDS

OUTPUTS

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

HIGHLIGHTS

TELECOMMUNICATIONS (INTERCEPTION) NORTHERN TERRITORY ACT

In the 2008/09 financial year the NT Ombudsman undertook two inspections of the Northern Territory Police records in accordance with Part 3 Section 9 of the *Telecommunications (Interception) Northern Territory Act*. The inspection requirement is pursuant to Section 10(1) & (2) of the Act which requires that the Ombudsman inspect the records of the NT Police Force at least once in each period of 6 months.

These inspections are undertaken to ascertain and report to the Minister for Police, Fire and Emergency Services the extent to which the officers of NT Police have complied with the requirements of Part 2 of the Act.

No later than 3 months after the end of each financial year, the Ombudsman must report in writing to the Minister on the results of inspections carried out in that financial year.

Section 12 of the Act, requires the Ombudsman to notify the Commonwealth Minister in writing that the report has been given to the Minister and must provide a copy of the report to the Commissioner of Police.

In accordance with the *Telecommunications (Interception) Northern Territory Act*, inspections were carried out, on 11 December 2008 and 12 June 2009, of the records held by the Northern Territory Police Force.

On 2 July 2009 the Minister and the Commissioner for the NT Police were provided with a written report on the result of inspections.

On 2 July 2009 notification was sent to the Commonwealth Minister that the report had been provided to the Minister and the Commissioner of the NT Police.

As per legislation, two inspections will be undertaken during the course of 2009/2010.

SURVEILLANCE DEVICES ACT 2007

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

The inspections are undertaken to ascertain and report to the Minister the extent to which the officers of NT Police have complied with the requirements of Part 8 of the Act.

In the 2008/2009 financial year, the NT Ombudsman undertook 3 inspections of the NT Police records in accordance with Part 8 Section 63 of the *Surveillance Devices Act 2007*.

The Ombudsman is required to report to the Minister at 6 monthly intervals the results of each inspection under section 63.

The Minister must within 7 sitting days after receiving the report table a copy of it in the Legislative Assembly.

On 19 December 2008, 22 December 2008 and 1 May 2009 inspections were undertaken of the NT Police records.

On 9 February 2009 the inspection report relating to the December 2008 inspections was provided to the Minister and subsequently tabled in Parliament (Paper 254). It reported that NT Police were not complying with some of the requirements of the legislation.

On 7 May 2009 the inspection report relating to the May 2009 inspection was provided to the Minister and subsequently tabled in Parliament (Paper 53). It reported significant improvement in the record keeping of the NT Police resulting in the NT Police meeting the record keeping requirements of the Act.

ACTIVITY 4: ACCESS AND AWARENESS

OUTPUTS

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

HIGHLIGHTS

The program has two distinct objectives:

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

Access and awareness visits for 2008/09 decreased by 15% when compared to last financial year. Only three (3) of the 16 visits were outside of either Darwin or Alice Springs.

Table 9: Access and awareness visits – 3 year comparison

2006/07	2007/08	2008/09
19	19	16

ACCESS AND AWARENESS AT NATIONAL LEVEL

National and International Collaboration

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

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

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

Ombudsman

- October 2008 – Annual Public Sector Update: Navigating governance challenges – Darwin
- November 2008 – Australian Regional Women Leaders Convention – Melbourne
- February 2009 – Prison Planning, Design and Development – Brisbane
- April 2009 – Australian Public Sector Leadership Summit 09 – Melbourne
- June 2009 – International Ombudsman Institute World Conference – Stockholm, Sweden

Deputy Ombudsman

- November 2008 – Deputy Ombudsman Meeting – Hobart
- May 2009 – Deputy Ombudsman Meeting - Brisbane

Assistant Ombudsman

- July 2008 – National Inspection Officers Conference – Melbourne
- August 2008 – National Telecommunications Conference – Brisbane

ACCESS AND AWARENESS THROUGHOUT THE TERRITORY

A detailed breakdown of visits, talks and conferences attended is provided at Appendix A.

Public Awareness Project

The new *Ombudsman Act* (the 'Act'), came into effect on 1 July 2009 and the services of a Public Awareness Manager were engaged in May 2009 for a period of 6 months to oversee the implementation of a public education program in relation to the new Act and the services provided by the Ombudsman.

The aim of the project is to coordinate a general NT wide public awareness campaign, develop a uniform corporate image and presentation, and address inequities in remote and regional penetration.

Outcomes are primarily societal and secondary client population. First it is desired to raise awareness of the Ombudsman office and the services it provides with the longer term view of reducing complaints by ensuring more effective and efficient government services.

Activities that have already been undertaken include a new website with an improved online complaint form, Territory wide television ad campaign, press and other media engagement, regional and remote outreach visits, agency and consumer information seminars, a new social media strategy and other awareness strategies.

It is my intention to ensure that by the end of next financial year a representative from the Ombudsman will have visited all major communities throughout the Territory. As at 31 August 2009 the following 25 communities have been visited:

Community/ Regional Centre	Date	Agencies Visited
Katherine	20/07/09	FACS, NAAJA, Step Out, Parole Office, MVR
Binjarri	20/07/09	Ni
Minyerri	21/07/09	GBM, Health Clinic, Aged care
Ngukurr	21/07/09	GBM, Store, Aged Care, Police Station
Ngukurr	22/07/09	Health Clinic, School, Centrelink, Council office
Katherine	29/07/09	Aged and Disability, FACS, NAAJA, Police Commander
Wadeye	19/08/09	Aged care, Police, Probation and Parole, Health Clinic, Store, Woman's Centre, Council
Palumpa	20/08/09	Health Clinic, Store, Council
Peppiminti	20/08/09	School, Health Clinic, Store, Woman's Centre, Council, CDEP Office, Woman's Centre
Daly River	20/08/09	Police, Health Clinic, Store, Council, CDEP Office.
Top Springs	07/09/09	Store
Lajamanu	08/09/09	School, Health Clinic, Store, Woman's Centre, Central Land Council, Rangers Office, Outstations Office, Council, CDEP Office, Woman's Centre, Library/Resource Centre
Kalkarindji	08/09/09	School, Health Clinic, Store, Council
Daguragu	08/09/09	School, Health Clinic, Store, Council
Yarralin	09/09/09	School, Health Clinic, Store, Woman's Centre, Council, CDEP Office,
Timber Creek	10/09/09	School, Health Clinic, Store, Woman's Centre, Council, CDEP Office,
Ngaliwurru-Wuli Association	10/09/09	Council, Library/Resource Centre
Bark Hut	14/09/09	Store
Cooinda	14/09/09	Store
Patonga	15/09/09	Outstation
Murdurjul	15/09/09	Outstation
Spring Peak	15/09/09	Outstation
Oenpelli	15/09/09	School, Health Clinic, Store, Woman's Centre, Central Land Council, Rangers Office, Outstations Office, Council, CDEP Office, Woman's Centre, Library/Resource Centre
Jabiru	16/09/09	School, Health Clinic, Store, Woman's Centre, Central Land Council, Rangers Office, Outstations Office, Council, CDEP Office, Woman's Centre, Library/Resource Centre
Annabaroo	16/06/06	Store

Written Material

New pamphlets, posters and cards were produced during the later part of the financial year as part of the new imaging of the office and these are currently being distributed around the Territory.

Community Newsletters

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

Advertising

The Office advertised in newspapers and has commenced advertising on TV. This advertising campaign will continue throughout 2009/10.

Website

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

Our website received a total overhaul as part of the Public Awareness Project and is now much improved.

The total numbers of people accessing the website over the past three years were:

<u>2006/07</u>	<u>2007/08</u>	<u>2008/09</u>
31,001	34,868	34,212

ACTIVITY 5: MANAGEMENT OF OFFICE OF THE OMBUDSMAN

OUTPUTS:

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

CORPORATE GOVERNANCE

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

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

EQUAL OPPORTUNITY

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

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

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

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

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

TRAINING AND DEVELOPMENT

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

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

This process is incorporated into the Business Plans for both the Ombudsman's Office and the Health and Community Services Complaints Commission.

Expenditure on staff training and development during 2008/09 amounted to \$27,186 (\$32,530 in 2007/08).

Training undertaken includes 8 Conferences making up a total of 28 days, with 5 staff attending conferences throughout the year.

Other training undertaken comprised 428 training hours and included 30 training opportunities.

Training completed included 2 staff undertaking a Certificate IV in Training and Assessment course to enable them to deliver a Certificate IV in Investigations course that has been developed in partnership with Charles Darwin University.

Delivery of the first Certificate IV in Investigations course by Ombudsman staff commenced 26 June 09.

The key areas of focus for training activities for 2008/09 were: technical skills and professional training such as investigation skills, mediation skills, conflict management and resolution and finance training.

The Ombudsman for the NT is committed to the government's apprentice program. In 2008/09 one apprentice successfully completed a Certificate III in Business and one apprentice commenced in February 2009.

OCCUPATIONAL HEALTH AND SAFETY

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

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

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

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

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

- Workstation assessments as required.
- Workplace Inspection of the Darwin office.
- Entrance to the Business Support Unit expanded to comply with standards.
- Implement recommendations following a workplace inspection of the Darwin Office:
 - Exit light repaired
 - Update furniture with ergonomic workstations as required

Employee safety and physical security continues to be addressed by regular monitoring and testing of the duress alarm system in the Darwin Office.

ANNUAL INSURANCE REPORTING REQUIREMENTS

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

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

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

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

During the 2008/09 financial year the Office made one claim against this policy to the amount of \$933.00 and received a reimbursement of \$433 after paying a \$500.00 excess.

INFORMATION ACT ANNUAL REPORTING REQUIREMENTS

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

RECORDS MANAGEMENT

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

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

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

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

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

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

Ombudsman Ombudsman

Appendices

Appendix A – Access and Awareness Sessions	74
Appendix B – Detailed Complaint Statistics for 2008/09	76
Appendix C – Freedom of Information	80
Appendix D – Service Standards of the Office of the Ombudsman	84
Appendix E – Financial Statement Overview.....	88

Ombudsman

Appendix A

ACCESS AND AWARENESS SESSIONS

As part of the public awareness program the following occurred:

1. **Visits made:** Ngukurr (1) Alice Springs (1)

2. **Talks**

Speaker	Date	Details
Vic Feldman, Deputy Ombudsman	7 July 2008	Menzies School of Health Research – Lunchtime Seminar
Jane Hartwig, Senior Investigation Officer, Alice Springs	20 August 2008	Interagency Meeting, Alice Springs
Helena Casseeram, Investigation Officer, Alice Springs	3 September 2008	Aboriginal Hostels Ltd
Helena Casseeram, Investigation Officer, Alice Springs	5 September 2008	Mt Gillen Safe Health Accommodation Centre, Alice Springs
Carolyn Richards, Ombudsman	20 October 2008	Induction of new CLP Members of the Legislative Assembly
Carolyn Richards, Ombudsman	24 October 2008	Induction of new ALP Members of the Legislative Assembly
Marisa Hislop, Senior Investigation Officer	31 October 2008	North Australian Aboriginal Justice Agency, Gove
Carolyn Richards, Ombudsman	6 November 2008	Charles Darwin University – Stepping Up Program in NT Health and Families
Carolyn Richards, Ombudsman	26 November 2008	CLP Electorate Officers
Shane Davidson, Principal Invest Off & Victoria Ryan, Resolution Officer	19 January 2009	Acacia Lake Aboriginal Community
Shane Davidson, Principal Invest Off & Victoria Ryan, Resolution Officer	19 January 2009	Palmerston Indigenous Village
Shane Davidson, Principal Invest Off & Victoria Ryan, Resolution Officer	20 January 2009	One Mile Dam Aboriginal Community
Elizabeth Jacob, Senior Investigation Officer	5 March 2009	Territory Housing Workshop
Carolyn Richards, Ombudsman	12 May 2009	Law Students, Charles Darwin University

3. Conferences/Meetings

Jane Hartwig, Senior Invest Officer, Alice Springs and Victoria Ryan, Resolution Officer	3-4 July 2008	Seminar for Staff Dealing with Custodial Services, Melbourne
Shane Davidson, Principal Invest Officer	5 July 2008	TASER Medical Research Seminar, Sydney
Julie Carlsen, Assistant Ombudsman/Commissioner	21-22 July 2008	National Inspection Officers Conference, Melbourne
Julie Carlsen, Assistant Ombudsman/Commissioner	14-15 August 2008	National Telecommunications Conference, Brisbane
Marisa Hislop, Senior Investigation Officer	7-8 August 2008	2008 Administrative Law Forum (Practising Administrative Law), Melbourne
Carolyn Richards, Ombudsman	27 October 2008	Annual Public Sector Update – Navigating governance challenges, Darwin
Elizabeth Jacob, Senior Investigation Officer	14 November 2008	Schools Policy and Operational Branch, Department of Education and Training
Carolyn Richards, Ombudsman	17-19 November 2008	Australian Regional Women Leaders Convention, Melbourne
Vic Feldman, Deputy Ombudsman/Commissioner	20-21 November 2008	Deputy Ombudsman Meeting, Hobart
Carolyn Richards, Ombudsman	24-25 February 2009	Prison, Planning, Design and Development, Brisbane
Carolyn Richards, Ombudsman	20-21 April 2009	Australian Public Sector Leadership Summit 09, Melbourne
Vic Feldman, Deputy Ombudsman/Commissioner	30 April – 1 May 2009	Deputy Ombudsman Meeting, Brisbane
Carolyn Richards, Ombudsman	9-12 June 2009	International Ombudsman Institute World Conference, Stockholm, Sweden

Appendix B

DETAILED COMPLAINT STATISTICS FOR 2008/09

AGENCIES THE SUBJECT OF COMPLAINTS

The following is a detailed breakdown by agency of the 619 complaints accepted by the Office of the Ombudsman.

NT AGENCIES (EXCLUDING CORRECTIONS AND LOCAL GOVERNMENT)

AGENCY	2008/09
Batchelor Institute Indigenous Tertiary Education	1
Business & Employment	1
Salaries	1
Charles Darwin University	3
Chief Minister	1
Major events	1
Development Consent Authority	6
Education and Training	10
Financial Services	1
NT Open Education Centre	2
Operations – North	2
Operations - South	4
Primary Schools	1
Health and Families	26
Acute Care Services	10
Health Services	5
NT Families & Children	9
Health Professions Licensing Authority	2
Justice	9
Births, Deaths and Marriages	2
Correctional Services (Administrative)	1
Court Support Services	1
NT Worksafe	2
Office of the Information Commissioner	1
Public Trustees Office	2
Local Government & Housing	18
Local Government	1
Pool Fencing Authority	2
Territory Housing	15
Natural Resources, Environment, the Arts & Sport	2
Natural Resource Management	1
Sport & Recreation	1
Office of Commissioner for Public Employment	0
Planning and Infrastructure	5
Lands Group	3
Transport Group	2

Police, Fire and Emergency Services	19
Emergency Services	19
Port Authority (Darwin)	0
Power and Water Corporation	9
Electricity Generation and Supply	6
Non Electricity Sewerage Drainage or Water Issues	3
Primary Industries, Fisheries and Mines	0
Territory Insurance Office	1
Treasury	0

CORRECTIONAL SERVICES

Sections	2008/09
Correctional Services	26
Executive	0
Correctional Centre – Darwin Prison	8
Correctional Centre – Alice Springs Prison	18
Juvenile Justice	0

LOCAL GOVERNMENT COUNCILS

Local Government Councils	2008/09
Councils	12
Alice Springs Town Council	2
Central Desert	1
Coomalie Community Government Council	1
Darwin City Council	4
Katherine Town Council	2
Roper Gulf Shire Council	1
West Arnhem Shire Council	1

NT POLICE

	2008/09
NT Police	258

REFERRED TO AGENCY

	2008/09
Referred to Agency⁶	212

⁶ These complaints were referred back to the agency for direct resolution with the complainant. Once referred back, the Ombudsman took no further action in relation to the complaint and it was closed.

ISSUES IN COMPLAINTS RECEIVED

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

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

NT AGENCIES (INCLUDING LOCAL GOVERNMENT)

Issues	2006/07	2007/08	2008/09
Other	0	0	0
Practices or procedures	21	19	24
Program/Service delivery	25	31	26
Fees and Charges	21	15	8
Information	12	5	5
Misapplication of law/policy	18	22	14
Attitude/Behaviour of staff	6	8	10
Grievance/Complaint procedures	15	15	14
Damages and Compensation	8	6	3
Misconduct	5	5	4
Natural Justice	4	3	6
Exercise discretion	1	3	7
Tenders/Contractual matters	2	2	2
Total	138	134	123

CORRECTIONAL SERVICES

Issues	2006/07	2007/08	2008/09
Prisoner rights and privileges	14	18	14
Administrative acts or omissions	8	5	6
Attitude/Behaviour of staff	7	4	5
Misconduct/Behaviour of staff	3	3	1
Transfers	1	2	0
Medical/Health issues	1	3	0
Mail	1	1	2
Property issues	1	1	3
Security measures/issues	3	3	1
Grievance/Complaint procedures	4	6	6
Assault	1	1	0
Practice and procedures	0	0	0
Total	44	47	38

NT POLICE

Issues	2006/07	2007/08	2008/09
Police procedures	125	106	93
Abuse/Rudeness	77	63	67
Arrest	44	36	41
Assault not major injury	15	28	25
Harassment, threats, etc	25	26	23
Failure to perform duty	21	23	22
Information	28	6	9
Custodial/Watchhouse	21	14	13
Search	15	10	13
Juveniles	9	7	5
Custody of property	4	12	7
Other misconduct	6	4	5
Traffic	6	6	2
Breach of rights	7	3	5
Warrants	2	1	3
Prosecutorial discretion	0	5	1
Corruption/Favouritism	6	4	2
Quality of investigations	10	13	10
Assault causing major injury	11	8	10
Inadvertent wrong treatment	3	3	5
Firearms	3	2	2
Total	438	380	363

Appendix C

FREEDOM OF INFORMATION

INTRODUCTION

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

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

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

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

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

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

INFORMATION HELD BY THE OFFICE OF THE OMBUDSMAN

The Ombudsman holds information in the following categories:

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

1. Administrative and policy files

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

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

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

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

2. Complaint files

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

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

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

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

3. Legal opinions

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

4. Annual reports

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

5. Brochures

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

6. Manuals and guidelines

The Ombudsman has the following manuals:

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

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

7. Service Standards

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

DISCLOSURE OF INFORMATION

The information the Ombudsman holds may be disclosed:

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

PROCEDURES FOR PROVIDING ACCESS TO INFORMATION

1. Documents available

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

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

2. Administrative Arrangements for Access to Information

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

3. Access Under the Information Act

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

PROCEDURES FOR CORRECTING INFORMATION

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

Appendix D

SERVICE STANDARDS OF THE OFFICE OF THE OMBUDSMAN

THOSE WE SERVE:

The Ombudsman's clients are:

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

OUR COMMITMENT:

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

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

Fairness

We promise that:

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

Independence

We promise to be independent, objective and impartial.

Professionalism

We will:

- Be ethical, honest and will respect your confidentiality.
- Act with integrity and consistency.
- Be courteous, helpful and approachable.

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

Accountability

We will strive to:

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

Accessibility

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

Timeliness

Where possible:

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

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

Courtesy and Sensitivity

We will always strive to:

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

OUR EXPECTATIONS OF YOU

All we ask is that you:

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

OUR COMMITMENT TO CONTINUOUS IMPROVEMENT

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

HOW WE WILL RESPOND TO YOUR COMPLAINT

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

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

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

WHAT THE OMBUDSMAN CANNOT DO

The Ombudsman must comply with the terms of the *Ombudsman Act*. The Act states that the Ombudsman cannot:

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

FINANCIAL STATEMENT OVERVIEW

For the Year Ended 30 June 2009

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

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

During 2008-09 the financial performance for the Office of the Ombudsman for the Northern Territory and the Health and Community Services Complaints Commission (the 'Department'), was better than expected with a net result of a deficit of \$37,000 compared to a revised projection of \$42,000. The Department received total operating revenue of \$2,408,000. This amount included \$46,000 for Agency Agreements with the Commonwealth Ombudsman; \$15,000 Apprentice/Trainee incentive funding; \$25,000 Project Employment funding; \$2,002,000 output revenue and \$320,000 for services received free of charge from the Department of Business and Employment.

Operating expenses for the Department comprised \$1,799,000 for employee expenses, \$304,000 for the purchase of goods and services and \$320,000 for services received free of charge from the Department of Business and Employment. Depreciation and amortisation totalled \$21,000.

Table 1 - Performance by Output Group

	Ombudsman		Health and Community Services Complaints Commission		Total	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Income	1909	1 832	499	425	2408	2 257
Expenses	1982	1 834	464	425	2445	2 259
Surplus/(Deficit)	(73)	(2)	35	-	(37)	(2)

CERTIFICATION OF THE FINANCIAL STATEMENTS

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

We further state that the information set out in the Operating Statement, Balance Sheet, Statement of Changes in Equity, Cash Flow Statement, and notes to and forming part of the financial statements, presents fairly the financial performance and cash flows for the year ended 30 June 2009 and the financial position on that date.

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



.....
CAROLYN RICHARDS
Ombudsman for the NT
31/08/09



.....
SARAH SCHULTZ
A/Business Manager
31/08/09

**OMBUDSMAN FOR THE NT
OPERATING STATEMENT
For the year ended 30 June 2009**

	NOTE	2009 \$'000	2008 \$'000
INCOME			
<i>Appropriation</i>			
Output		2,002	1,868
Sales of Goods and Services		61	52
Goods and Services Received Free of Charge	4	320	306
Other Income		25	31
TOTAL INCOME	3	<u>2,408</u>	<u>2,257</u>
EXPENSES			
Employee Expenses		1,799	1,639
<i>Administrative Expenses</i>			
Purchases of Goods and Services	5	303	297
Repairs and Maintenance		1	6
Depreciation and Amortisation	8	22	11
Goods and Services Received free of charge	4	320	306
TOTAL EXPENSES	3	<u>2,445</u>	<u>2,259</u>
NET SURPLUS/(DEFICIT)	11	<u>(37)</u>	<u>(2)</u>

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

**OMBUDSMAN FOR THE NT
BALANCE SHEET
As at 30 June 2009**

	NOTE	2009 \$'000	2008 \$'000
ASSETS			
Current Assets			
Cash and Deposits	6	280	142
Receivables	7	3	5
Prepayments		0	3
Total Current Assets		<u>283</u>	<u>150</u>
Non-Current Assets			
Property, Plant and Equipment	8	76	79
Total Non-Current Assets		<u>76</u>	<u>79</u>
TOTAL ASSETS		<u><u>359</u></u>	<u><u>229</u></u>
LIABILITIES			
Current Liabilities			
Payables	9	68	35
Provisions	10	175	161
Total Current Liabilities		<u>243</u>	<u>196</u>
Non-Current Liabilities			
Provisions	10	63	35
Total Non-Current Liabilities		<u>63</u>	<u>35</u>
TOTAL LIABILITIES		<u><u>306</u></u>	<u><u>231</u></u>
NET ASSETS		<u><u>53</u></u>	<u><u>(2)</u></u>
EQUITY			
Capital	11	0	(91)
Accumulated Funds		53	89
TOTAL EQUITY		<u><u>53</u></u>	<u><u>(2)</u></u>

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

**OMBUDSMAN FOR THE NT
STATEMENT OF CHANGES IN EQUITY
For the year ended 30 June 2009**

	NOTE	2009 \$'000	2008 \$'000
BALANCE OF EQUITY AT 1 JULY		<u>(2)</u>	<u>0</u>
Capital	11		
Balance at 1 July		<u>(92)</u>	<u>(91)</u>
Equity Injections		<u>92</u>	<u>0</u>
Balance at 30 June		0	(91)
Accumulated Funds	11		
Balance at 1 July		<u>89</u>	<u>91</u>
Surplus/(Deficit) for the Period		<u>(37)</u>	<u>(2)</u>
Balance at 30 June		53	89
BALANCE OF EQUITY AT 30 JUNE		<u>53</u>	<u>(2)</u>

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

**OMBUDSMAN FOR THE NT
CASH FLOW STATEMENT
For the year ended 30 June 2009**

	NOTE	2009 \$'000	2008 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES			
<i>Operating Receipts</i>			
Output Appropriation		2,002	1,868
Receipts From Sales of Goods And Services		118	123
Total Operating Receipts		<u>2,120</u>	<u>1,991</u>
<i>Operating Payments</i>			
Payments to Employees		(1,726)	(1,628)
Payments for Goods and Services		(330)	(367)
Total Operating Payments		<u>(2,056)</u>	<u>(1,995)</u>
Net Cash From/(Used In) Operating Activities	12	<u>64</u>	<u>(4)</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
<i>Investing Payments</i>			
Purchases of Assets	8	(18)	(38)
Total Investing Payments		<u>(18)</u>	<u>(38)</u>
Net Cash From/(Used In) Investing Activities		<u>(18)</u>	<u>(38)</u>
CASH FLOWS FROM FINANCING ACTIVITIES			
<i>Financing Receipts</i>			
<i>Equity Injections</i>			
Capital Appropriation		0	0
Other Equity Injections	11	92	0
Total Financing Receipts		<u>0</u>	<u>0</u>
Net Cash From/(Used In) Financing Activities		<u>92</u>	<u>0</u>
Net Increase/(Decrease) in Cash Held		137	(42)
Cash at Beginning of Financial Year		142	184
CASH AT END OF FINANCIAL YEAR	6	<u>280</u>	<u>142</u>

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

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

INDEX OF NOTES TO THE FINANCIAL STATEMENTS

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

INCOME

4. Goods and Services Received Free of Charge

EXPENSES

5. Purchases of Goods and Services

ASSETS

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

LIABILITIES

9. Payables
10. Provisions

EQUITY

11. Equity

OTHER DISCLOSURES

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

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

1. OBJECTIVES AND FUNDING

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

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

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

Additional information in relation to the Department and the Health and Community Services Complaints Commission and its principal activities may be found in the Annual Report.

2. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

(a) Basis of Accounting

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

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

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

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

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

(b) Agency and Territory Items

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

Central Holding Authority

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

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

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

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

(c) Comparatives

Where necessary, comparative information for the 2007-08 financial year has been reclassified to provide consistency with current year disclosures.

(d) Presentation and Rounding of Amounts

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

(e) Changes in Accounting Policies

There have been no changes to accounting policies adopted in 2008-09 as a result of management decisions.

(f) Accounting Judgements and Estimates

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

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

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

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

(g) Goods and Services Tax

Income, expenses and assets are recognised net of the amount of Goods and Services Tax (GST), except where the amount of GST incurred on a purchase of goods and services is not recoverable from the Australian Tax Office (ATO). In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of the expense.

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

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

(h) Income Recognition

Income encompasses both revenue and gains.

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

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

Grants and Other Contributions

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

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

Appropriation

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

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

Sale of Goods

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

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

Rendering of Services

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

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

Interest Revenue

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

Goods and Services Received Free of Charge

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

Disposal of Assets

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

Contributions of Assets

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

(i) Repairs and Maintenance Expense

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

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

(j) Depreciation and Amortisation Expense

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

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

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

	<u>2009</u>	<u>2008</u>
Plant and Equipment	10 Years	10 Years
Intangibles	3 Years	3 Years

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

(k) Interest Expense

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

(l) Cash and Deposits

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

(m) Receivables

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

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

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

(n) Property, Plant and Equipment

Acquisitions

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

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

- **Complex Assets**

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

- **Subsequent Additional Costs**

Costs incurred on property, plant and equipment subsequent to initial acquisition are capitalised when it is probable that future economic benefits in excess of the originally assessed performance of the asset will flow to

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

the Agency in future years. Where these costs represent separate components of a complex asset, they are accounted for as separate assets and are separately depreciated over their expected useful lives.

- **Construction (Work in Progress)**

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

(o) Revaluations and Impairment

Revaluation of Assets

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

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

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

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

Impairment of Assets

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

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

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

In certain situations, an impairment loss may subsequently be reversed. Where an impairment loss is subsequently reversed, the carrying amount of the asset is increased to the revised estimate of its recoverable amount. A reversal of an impairment loss is recognised in the Operating Statement as income, unless the asset is carried at a revalued amount, in which case the impairment reversal results in an increase in the Asset Revaluation Reserve. Note 16 provides additional information in relation to the Asset Revaluation Reserve.

(p) Leased Assets

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

Finance Leases

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

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

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

Operating Leases

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

(q) Payables

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

(r) Employee Benefits

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

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

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

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

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

(s) Superannuation

Employees' superannuation entitlements are provided through the:

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

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

(t) Contributions by and Distributions to Government

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

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

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

(u) Commitments

Disclosures in relation to capital and other commitments, including lease commitments are shown at note 14 and are consistent with the requirements contained in AASB 101, AASB 116 and AASB 117.

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

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

	Note	Ombudsman		Health and Community Services Complaints Commission		Total	
		2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
INCOME							
Appropriation Output		1522	1463	480	405	2002	1868
Sales of Goods and Services		61	52	0	0	61	52
Goods and Services Received Free of Charge	4	301	286	19	20	320	306
Other Income		25	31	0	0	25	31
TOTAL INCOME		1909	1832	499	425	2408	2257
EXPENSES							
Employee Expenses		1445	1292	354	346	1799	1639
<i>Administrative Expenses</i>							
Purchases of Goods and Services	6	214	239	90	59	303	297
Repairs and Maintenance		1	6	0	0	1	6
Depreciation and Amortisation	10, 11	21	11	0	0	21	11
Goods and Services Received Free of Charge	4	301	286	20	20	320	306
TOTAL EXPENSES		1982	1834	464	425	2445	2259
NET SURPLUS/(DEFICIT)	16	(73)	(2)	35	0	(37)	(2)

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

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

	2009	2008
	\$'000	\$'000
4. GOODS AND SERVICES RECEIVED FREE OF CHARGE		
Corporate and Information Services	320	306
	320	306

5. PURCHASES OF GOODS AND SERVICES

	2009	2008
	\$'000	\$'000
The net surplus/(deficit) has been arrived at after charging the following expenses:		
Consultants ⁽¹⁾	24	4
Advertising ⁽²⁾	(1)	1
Marketing and Promotion ⁽³⁾	11	2
Document Production	12	15
Legal Expenses ⁽⁴⁾	(17)	38
Recruitment ⁽⁵⁾	3	0
Training and Study	27	33
Official Duty Fares	33	21
Travelling Allowance	3	4

(1) Includes marketing, promotion and IT consultants.

(2) Does not include recruitment advertising or marketing and promotion advertising.

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

(4) Includes legal fees, claim and settlement costs and a reimbursement of prior year costs.

(5) Includes recruitment related advertising costs.

	2009	2008
	\$'000	\$'000
6. CASH AND DEPOSITS		
Cash on Hand	1	1
Cash at Bank	279	142
	280	142

7. RECEIVABLES

Current

Accounts Receivable	0	1
GST Receivables	3	4
Total Receivables	3	5

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

	2009 \$'000	2008 \$'000
8. PROPERTY, PLANT AND EQUIPMENT		
Plant and Equipment		
At Fair Value	83	121
Less: Accumulated Depreciation	(52)	(43)
	32	79
Computer Software		
At Fair Value	126	70
Less: Accumulated Depreciation	(83)	(70)
	44	0
Leased Computer Software		
At Capitalised Cost	9	9
Less: Accumulated Depreciation	(9)	(9)
	0	0
Total Property, Plant and Equipment	76	79

2009 Property, Plant and Equipment Reconciliations

A reconciliation of the carrying amount of property, plant and equipment at the beginning and end of 2008-09 is set out below:

	Plant & Equipment	Computer Software	Total
	\$'000	\$'000	\$'000
Carrying Amount as at 1 July 2008	79	0	79
Additions	(38)	56	18
Depreciation and Amortisation	(9)	(13)	(22)
Carrying Amount as at 30 June 2009	32	44	76

2008 Property, Plant and Equipment Reconciliations

A reconciliation of the carrying amount of property, plant and equipment at the beginning and end of 2007-08 is set out below:

	Plant & Equipment	Computer Software	Total
	\$'000	\$'000	\$'000
Carrying Amount as at 1 July 2007	52	0	52
Additions	38	0	38
Depreciation and Amortisation	(11)	0	(11)
Carrying Amount as at 30 June 2008	79	0	79

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

	2009 \$'000	2008 \$'000
9. PAYABLES		
Accounts Payable	46	14
Accrued Expenses	22	22
Total Payables	68	35
10. PROVISIONS		
Current		
<i>Employee Benefits</i>		
Recreation Leave	127	120
Leave Loading	14	17
Other Employee Benefits	4	1
<i>Other Current Provisions</i>		
Other Provisions	31	24
	175	162
Non-Current		
<i>Employee Benefits</i>		
Recreation Leave	63	35
	63	35
Total Provisions	238	196

The Agency employed 18 employees as at 30 June 2009 (19 employees as at 30 June 2008).

11. EQUITY

Equity represents the residual interest in the net assets of the *Ombudsman for the NT*. The Government's ownership interest in *Ombudsman for the NT* is held in the Central Holding Authority as described in note 2(b).

Capital

Balance as at 1 July	(92)	(92)
Equity Injections		
Capital Appropriation	92	0
Equity Transfers In	0	0
Balance as at 30 June	0	(92)

Accumulated Funds

Balance as at 1 July	89	91
Surplus /(Deficit) for the Period	(37)	(2)
Balance as at 30 June	53	89

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

12. NOTES TO THE CASH FLOW STATEMENT

Reconciliation of Cash

The total of Agency Cash and Deposits of \$280,000 recorded in the Balance Sheet is consistent with that recorded as 'cash' in the Cash Flow Statement.

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

Net Surplus/(Deficit)	(37)	(2)
<i>Non-Cash Items:</i>		
Depreciation and Amortisation	22	11
<i>Changes in Assets and Liabilities:</i>		
Decrease/(Increase) in Receivables	1	5
Decrease/(Increase) in Prepayments	3	(4)
(Decrease)/Increase in Payables	33	(19)
(Decrease)/Increase in Provision for Employee Benefits	34	3
(Decrease)/Increase in Other Provisions	8	2
Net Cash From Operating Activities	(64)	(4)

13. FINANCIAL INSTRUMENTS

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

(a) Credit Risk

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

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

(b) Net Fair Value

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

(c) Interest Rate Risk

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

14. COMMITMENTS

Operating Lease Commitments

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

	2009	2008
Within one year	1,830	-
Later than one year and not later than five years	1,830	-
	<u>3,660</u>	<u>-</u>

OMBUDSMAN FOR THE NT
NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2009

15. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The Ombudsman for the NT had no contingent liabilities or contingent assets as at 30 June 2009 or 30 June 2008

16. EVENTS SUBSEQUENT TO BALANCE DATE

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

17. WRITE-OFFS, POSTPONEMENTS AND WAIVERS

The Ombudsman for the NT had no write offs, postponements or waivers in 2008-09 and 2007-08

Ombudsman

Ombudsman

How to contact the Ombudsman

Ombudsman

HOW TO CONTACT THE OMBUDSMAN

IN PERSON



12th Floor
NT House
22 Mitchell Street
Darwin, NT



BY E-MAIL

nt.ombudsman@nt.gov.au

BY TELEPHONE



(08) 8999 1818
or
1800 806 380
(Toll Free)



BY MAIL

GPO Box 1344
DARWIN, NT 0801

ONLINE



www.ombudsman.nt.gov.au

OBTAINING COPIES OF THE ANNUAL REPORT

An electronic copy of this report is available on our website at
<http://www.ombudsman.nt.gov.au>

Printed copies are also available upon request.