

The background of the entire page is a photograph of a busy city street. A large group of people is walking, their figures blurred to convey a sense of motion. The street is lined with modern buildings, and the scene is brightly lit, suggesting a sunny day.

ANNUAL REPORT 2011–2012

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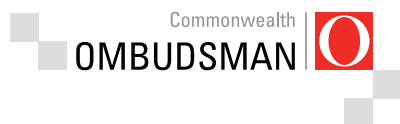
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ANNUAL REPORT 2011–2012



24 September 2012

The Hon Gary Gray AO, MP
Special Minister of State
and Minister for the Public Service and Integrity
Parliament House
CANBERRA ACT 2600

Dear Minister

I have pleasure in submitting the thirty-fifth Commonwealth Ombudsman Annual Report for the year ended 30 June 2012, as required by s 19(1) of the *Ombudsman Act 1976*.

The report also contains the annual reports of the Defence Force Ombudsman, Postal Industry Ombudsman and Overseas Students Ombudsman in accordance with s 19F(3), s 19X and s 19Z of the *Ombudsman Act* respectively.

I certify that this report has been prepared in accordance with the Requirements for Annual Reports for 2011–12 as approved by the Joint Committee of Public Accounts and Audit under ss 63(2) and 70(2) of the *Public Service Act 1999*.

Section 19(4) of the *Ombudsman Act* requires that the report be laid before each House of the Parliament within 15 sitting days of its receipt.

Yours faithfully

A handwritten signature in black ink, which appears to read "Colin Neave".

Mr Colin Neave

Commonwealth Ombudsman

GUIDE TO THE REPORT

In developing the Commonwealth Ombudsman Annual Report, we set out to meet the parliamentary reporting requirements and to provide information to the community about the diverse nature of the complaints handled by our office.

There are a number of target audiences for our report, including members of parliament, Australian Government departments and agencies, other ombudsman offices, the media, potential employees and consultants, and the wider public. As some parts of the report will be of more interest to you than others, you can read this page to help work out which will be more useful. Each part is divided into sub-parts.

PERFORMANCE OVERVIEW

The Performance overview includes the Foreword which provides a broad summary of the year. Chapter 1 — Organisation overview — gives an outline of the office's role, responsibilities and the organisation's structure. Chapter 2 — Report on performance — summarises the office's performance based on the outcomes and program structure set out in the Portfolio Budget Statements and Portfolio Additional Estimates Statements 2011–2012, and Chapter 3 details the office's management and accountability arrangements.

THE OMBUDSMAN AT WORK

Chapter 4 assesses our work with our top five complaint agencies, and provides an overview of complaints and approaches to our office. Chapter 5 provides case studies of remedies achieved for individual complainants and also examples of remedies that resulted in improved administration. Individual complaints can highlight a broader administrative problem that may affect many people. In these cases, the Ombudsman may recommend that an agency implement a systemic change or improvement that might include staff training or changing a process or procedure, for example. These case studies provide examples of how the office has improved administration.

Chapter 6 summarises the office's published reports and submissions and Chapter 7 reports on the office's specialist oversight functions, including as Defence Force Ombudsman, Law Enforcement Ombudsman, Immigration Ombudsman, Taxation Ombudsman, Postal Industry Ombudsman and Overseas Students Ombudsman. The chapter also reports on the office's compliance auditing activities, our role within the international community of ombudsmen and the oversight role under the Australian Government's Northern Territory Emergency Response and Closing the Gap initiatives in the Northern Territory.

Heads of departments and agencies were given the opportunity to comment on draft sections of this report that relate to their organisations.

APPENDICES AND REFERENCES

The appendices include: freedom of information reporting, statistics on the number of approaches and complaints received about individual Australian Government agencies; a list of consultants engaged during the year; and financial statements. Also included is a list of tables and figures contained in the body of the report, a list of acronyms and abbreviations, and the addresses of each of our offices.

CONTACTING THE COMMONWEALTH OMBUDSMAN

Enquiries about this report should be directed to the Director, Governance and Business Improvement, Commonwealth Ombudsman (ombudsman@ombudsman.gov.au). If you would like to make a complaint or obtain further information about the Ombudsman:

Visit:

The Commonwealth Ombudsman has offices in Adelaide, Brisbane, Canberra (our national office), Darwin, Hobart, Melbourne, Perth and Sydney.

Addresses are available on our website and at the end of this report.

Hours:

9am–5pm (AEDT) Monday to Friday.

Phone:

1300 362 072 (9am–5pm [AEDT]
Monday to Friday—not a toll-free number.
Calls from mobile phones are charged at mobile phone rates.

Write to:

GPO Box 442, Canberra ACT 2601

Fax:

02 6276 0123

Website:

www.ombudsman.gov.au
(an online complaint form is available)

SMS:

0413 COM OMB (0413 266 662)
standard carrier rates apply)

Twitter:

<http://twitter.com/CwealthOmb>

The Commonwealth Ombudsman Annual Report 2011–12 is available on our website.

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FOREWORD

It has been a productive and challenging year at the Commonwealth Ombudsman's Office. Through the work of the dedicated staff of the office, we have again made a significant contribution by both resolving individual complaints about agencies within our jurisdiction, and by improving broader public administration. Our contribution is outlined in more detail throughout this report.

During 2011–12 we received the highest number of complaints ever received by this office—22,991 in-jurisdiction complaints of the 40,092 total approaches we received. This was 16% more than 2010–11 complaint numbers.

We investigated five per cent more in-jurisdiction complaints than we did in 2010–11. Of the complaints we received we investigated 4,667 separate complaints, compared to 4,468 in 2010–11. More than 18% of those required more substantial investigation, sometimes involving a high level of senior officer involvement and the use of our formal powers. The timeliness of our complaint-handling also improved, with 27% of complaints finalised in one month (up from 20% the previous year).

We completed a number of own motion investigations and produced reports on five of these. Inspection reports of the records of controlled operations of the Australian Federal Police (AFP), the Australian Crime Commission (ACC) and the Australian Commission for Law Enforcement Integrity (ACLEI), and the surveillance devices records of the AFP, ACC and the Victorian Police Special Projects Unit were also published in January and March 2012 respectively.

We made seven formal submissions to Parliamentary committees and a number of submissions to government inquiries. We provided 110 reports on people who have been held in detention for two years to the Minister for Immigration for tabling in Parliament, compared to 41 reports in the previous year.

We began the year with a much higher staffing level than we could support under our funding, requiring us to take a number of steps to decrease overall staffing. We farewelled 44 staff through the year, seven through a voluntary redundancy program in the last quarter of the year. The office finished the year with an overspend of \$0.311 million dollars, but is now in a position to live within its budget during the 2012–13 year.

Substantial improvement to the office's information system infrastructure and a refresh of supporting HR and IT policies and procedures strengthened our operations. In the last quarter, we undertook a review of organisational structure and processes, with a view to ensuring we were well-placed to manage increasing complaint numbers within ongoing funding that is predicted to reduce. We moved to a new structure as an outcome of this review in August 2012.

Funding we received in 2007 to provide independent oversight and a complaints mechanism in relation to the Australian Government's Northern Territory Emergency Response (NTER) and Closing the Gap initiatives in the NT came to an end in June 2012. Despite the ending of formal funding for this role, the office remains committed to making complaint services accessible to

Indigenous Australians and to working with agencies to identify and improve government administration in this area.

We continued our involvement in building the capacity of other ombudsmans' offices in the Pacific Region through our role as chair of the Pacific Ombudsman Alliance. A particular highlight of our relationship with our Pacific colleagues was the bringing together of 14 officials from across the Pacific for the Australian Public Sector Anti-Corruption Conference in Fremantle in November 2011.

We welcomed three new functions to the office during the year. From 1 June 2012, we began our role overseeing the Fair Work Building and Construction's use of coercive examination powers. In June 2012 the Defence Force Ombudsman finalised a Memorandum of Understanding with the Chief of Air Force to formalise our new role in investigating complaints about aircraft noise arising from the Super Hornets' operations at RAAF Base Amberley.

In July the *Norfolk Island Act 2012* was passed by the Norfolk Island Legislative Assembly, and we commenced our role as Norfolk Island Ombudsman in August 2012. In March 2012, I attended a three-day community information program on Norfolk Island with staff from the office. This was a joint program involving the Information Commissioner, the President of the Administrative Appeals Tribunal (AAT) and the Commonwealth Ombudsman's Office. It was timed to coincide with the formal start of the AAT's jurisdiction over Norfolk Island administrative decisions. Our visit provided a great opportunity to familiarise ourselves with the Island, its residents and history. We look forward to our new role on behalf of the residents of Norfolk Island.

The former Ombudsman, Allan Asher, resigned and departed from the office on 28 October 2011. On 17 September 2012 we welcomed our new Ombudsman, Colin Neave AM. As a senior leader of both commonwealth and state public agencies, Mr Neave brings a wealth of experience to this office. He was the former Chief Ombudsman of the Financial Ombudsman Service, and has served as the Australian Banking Industry Ombudsman. We look forward to the coming years under his leadership.

Alison Larkins

Deputy Ombudsman
(Acting Ombudsman
October 2011–September 2012)



**PERFORMANCE
OVERVIEW**

CHAPTER 1
**ORGANISATION
OVERVIEW**

ORGANISATION OVERVIEW

ROLE AND FUNCTIONS

The Office of the Commonwealth Ombudsman (the office) exists to safeguard the community in its dealings with Australian Government agencies, and some private sector organisations, and to ensure that administrative actions by those agencies are fair and accountable. The Ombudsman has four major statutory roles:

1. Complaint investigations: conducting reviews of, and investigations into, the administrative actions of Australian Government officials, agencies and their service providers upon receipt of complaints from individuals, groups or organisations. The role includes the actions of registered private providers of training for overseas students and registered private postal operators.
2. Own motion investigations: on the Ombudsman's own initiative, conducting investigations into the administrative actions of Australian Government agencies. These investigations often arise from insights gained through the handling of individual complaints.

3. Compliance audits: inspecting the records of agencies such as the Australian Federal Police (AFP) and Australian Crime Commission (ACC) to ensure compliance with legislative requirements applying to selected law enforcement and regulatory agencies.
4. Immigration detention oversight: under s 4860 of the Migration Act, reporting to the Immigration Minister on the detention arrangements for people in immigration detention for two years or more (and on a six-monthly basis thereafter). Our reports as well as the Minister's response is tabled in Parliament. As Immigration Ombudsman we also oversight immigration detention facilities through a program of regular announced and unannounced visits to detention centres.

Handling complaints and conducting own motion investigations are traditional ombudsman activities; they account for most of the work done by the office. The guiding principle in an investigation is to examine whether an administrative action is unlawful, unreasonable, unjust, improperly discriminatory, factually deficient, or otherwise wrong. At the conclusion of an investigation, the Ombudsman may recommend that

corrective action be taken by an agency, either specifically in an individual case or more generally, by a change to relevant legislation, administrative policies or procedures.

The office seeks to foster good public administration within Australian Government agencies by encouraging principles and practices that are sensitive, responsive and adaptive to the needs of members of the public. The office is impartial and independent and does not provide advocacy services for complainants or for agencies.

The Ombudsman may consider complaints about most Australian Government departments and agencies, and most contractors delivering services to the community for, or on behalf of, the Australian Government.

In addition, the Ombudsman Act confers six specialist roles on the Ombudsman:

- Defence Force Ombudsman, to investigate action arising from the service of a member of the Australian Defence Force
- Immigration Ombudsman, to investigate action taken in relation to immigration (including monitoring immigration detention)
- Law Enforcement Ombudsman, to investigate conduct and practices of the Australian Federal Police and its members
- Postal Industry Ombudsman, to investigate complaints about Australia Post and private postal operators registered with the Postal Industry Ombudsman scheme
- Taxation Ombudsman, to investigate action taken by the Australian Taxation Office
- Overseas Students Ombudsman, to investigate complaints from overseas students about private education providers in Australia.

The Commonwealth Ombudsman is also the ACT Ombudsman in accordance with s 28 of the *ACT Self-Government (Consequential Provisions) Act 1988 (Cth)*. The role of ACT Ombudsman is performed under the *Ombudsman Act 1989 (ACT)*, and is funded under a services agreement between the Commonwealth Ombudsman and the ACT Government. The ACT Ombudsman annual report is submitted separately to the ACT Legislative Assembly.

ORGANISATION AND STRUCTURE

The national offices of the Commonwealth, ACT and Norfolk Island Ombudsman are co-located in Canberra. In 2011-12 the amendments to the Norfolk Island Ombudsman Bill 2012 were finalised, with the Norfolk Island Act 2012 passed in July 2012. In March 2012 the Acting Ombudsman, Alison Larkins, and staff from the Ombudsman's office attended a three-day community information program on Norfolk Island. This was a joint program involving the Information Commissioner, the President of the Administrative Appeals Tribunal (AAT) and the Commonwealth Ombudsman's office, timed to coincide with the formal start of the AAT's jurisdiction over Norfolk Island administrative decisions.

The Office of the Commonwealth Ombudsman also has offices in Adelaide, Brisbane, Melbourne, Perth and Sydney. The office has a Memorandum of Understanding in place with each of the Northern Territory and Tasmanian governments to provide Commonwealth Ombudsman services in Darwin and Hobart respectively.

The Ombudsman and Deputy Ombudsman are statutory officers appointed under the Ombudsman Act. Employees are engaged pursuant to the *Public Service Act 1999*. Senior Assistant Ombudsmen are Senior Executive Service Band 1 employees.

The executive and senior management structure is provided at Figure 1.1.

Figure 1.1: Executive and senior management structure at 30 June 2012



OMBUDSMEN IN AUSTRALIA

The office of Justitie-Ombudsman was introduced by the Swedish Parliament in 1809 to act as a defender of the people in their dealings with government.

Since then, the concept of an ombudsman as an independent person who can investigate and resolve disputes between members of the community and government has spread to more than 120 countries. It is considered an essential accountability mechanism in democratic societies, adopted by newly independent countries, those moving towards democracy and countries that have had a long tradition of stable government.

The focus and role of ombudsman offices will vary, in line with the form of government and the specific characteristics of the country. Nevertheless, the growth in ombudsman offices, and the adoption of the concept in sectors other than government, shows that it has stood the test of time.

In Australia, the Northern Territory and various state government ombudsman offices were established during the 1970s. The ACT Ombudsman started in 1989, when the ACT became self-governing.

The Office of the Commonwealth Ombudsman commenced operation on 1 July 1977 under the *Ombudsman Act 1976* (Ombudsman Act). The office sits within the portfolio administered by the Prime Minister.

The Commonwealth Ombudsman is a parliamentary ombudsman, appointed and funded by the Australian Government to handle complaints

about the administrative actions of government agencies. Each state and territory in Australia has a parliamentary ombudsman that handles complaints about actions or decisions made by government in the relevant jurisdiction.

In addition, Australia has various industry ombudsmen that are distinct from parliamentary ombudsmen. They handle complaints about, for example, financial services, employment, public utilities, health insurance, public transport, superannuation and telecommunications.

While the office works cooperatively with industry and state and territory ombudsmen, the Commonwealth Ombudsman has no jurisdiction over them.

OUTCOME AND PROGRAM STRUCTURE

The Portfolio Budget Statements for 2011–12 defined one Outcome and Program for the office. The outcome was:

Fair and accountable administrative action by Australian Government agencies by investigating complaints, reviewing administrative action and inspecting statutory compliance by law enforcement agencies.

The Program was defined as the Office of the Commonwealth Ombudsman. This annual report describes the office's performance against the Outcome and Program structure.



**PERFORMANCE
OVERVIEW**

CHAPTER 2

**PERFORMANCE
REPORT**

REPORT ON PERFORMANCE

This chapter summarises the office's performance based on the outcomes and program structure set out in the Portfolio Budget Statements and Portfolio Additional Estimates Statements 2011–12. An overview of people and financial management performance is provided in Chapter 3. Further financial information is available in the Appendices.

The following chapters provide a more comprehensive review of the outcome of the office's work:

- Chapter 4 provides an overview of complaint issues, statistics and other information relevant to the five agencies that produced the highest volume of complaints to the office during the past year
- Chapter 5 comprises case studies of complaints handled by the office during the reporting period, focusing particularly on the outcomes achieved for individuals and agencies
- Chapter 6 provides a summary of the published Ombudsman reports and submissions made to inquiries
- Chapter 7 looks at the specialist roles and functions performed by the office.

The Portfolio Budget Statements for 2010–11:

Fair and accountable administrative action by Australian Government agencies by investigating complaints, reviewing administrative action and inspecting statutory compliance by law enforcement agencies.

Supporting the Outcome statement was the Program called the Office of the Commonwealth Ombudsman.

PROGRAM OBJECTIVES, DELIVERABLES AND KEY PERFORMANCE INDICATOR ANALYSIS

The Portfolio Budget Statements for 2011–12 state that the Ombudsman's office seeks to be an exemplar for government agencies in delivering fair and accountable administration by pursuing the following objectives:

- continue high standards in complaint handling by ensuring effective responses to new areas of complaint, without impacting on timeliness, accountability or transparency
- continue to develop compliance auditing expertise and improvement of auditing methodologies and reporting
- enhance staff capability, attraction and retention to ensure quality standards for complaint handling and reporting
- ensure the continued timely effective resolution of complaints through sound working relationships with Australian Government agencies and related service providers
- enhance engagement opportunities for collaboration with stakeholders and intermediaries, national integrity agencies, regional and international partners

- make targeted submissions to Parliamentary and government inquiries, to contribute to debates on key public administration, integrity, accountability, and transparency issues that promote delivery of fair government policies and programs
- contribute to improving accountability of government through oversight and administration of prescribed legislative functions
- undertake own motion investigations and produce reports.

Deliverables listed for the office are:

- there will be improved public satisfaction with the quality of services provided by the Ombudsman's office
- better targeted stakeholder engagement through the provision of information and education regarding the role and importance of the Ombudsman's office
- greater adherence to internal service standards for complaint handling
- the Ombudsman's office will identify and report on significant and systemic problems in public administration, making recommendations and reporting on implementation
- the Ombudsman's office will contribute to Parliamentary and government inquiries and public debate through the presentations of submissions and papers, and appearances at associated forums

- the quality and timeliness of services of the Ombudsman's office will be enhanced through the review and development, and improvement of consistent and transparent policies, procedures and practices
- greater parliamentary and public assurance that covert powers are lawfully used by enforcement agencies.

Key performance indicators for the office are:

- administration of government programs will be attuned to accountability obligations and principles of good administration. While complaint numbers to the Ombudsman's office are unlikely to decline, administration of the areas of government exposed to this office will be improved
- internal complaint handling within agencies will resolve an increasing proportion of complaints. Through assistance provided by the Ombudsman's office, agencies' responsiveness and capability to deal with complaints will improve
- there will be improved compliance with legal requirements by enforcement agencies in the use of covert powers. Inspection reports will be timely and identify areas for improvement.

Deliverable 1

There will be improved public satisfaction with the quality of services provided by the Ombudsman's office.

Reviews

The office has a formal review process for complainants who may be dissatisfied with the conclusions and decision/s reached about their complaint.

In 2011–12, the office received 217 requests for review, compared to 251 received in 2010–11. The decreased number of requests for review may reflect an improvement in the level of satisfaction with the initial investigation and decision.

In 19 cases, the request for review was declined. Reasons for declining a request for review included that the matter was out of jurisdiction, the matter had been reviewed already, the complainant did not provide any information that gave grounds for a review or the complainant had not taken up previous advice to raise the

matter with the relevant agency in the first instance.

The office finalised 232 reviews during the year including some received in 2010–11. Of the finalised reviews, the original outcome was affirmed in 184 reviews (80%), fewer than in 2010–11 (82%). The office decided to investigate or investigate further 30 reviews (26 in 2010–11) and to change the decision on the original complaint in 15 reviews (three in 2010–11). One request for review was withdrawn by the complainant.

One important factor the office takes into account in deciding whether to investigate further is whether there is any reasonable prospect of getting a better outcome for the complainant. This helps to ensure that the office's resources are directed to areas of highest priority. If, as a result of a review, an investigation or further investigation is required, the review team allocates the complaint to a senior staff member, who decides who should undertake the work.

Table 2.1: Internal review of decisions 2011–12

COMPLAINANT'S REASON FOR SEEKING REVIEW	OUTCOME AFFIRMED	OUTCOME VARIED	FURTHER INVESTIGATION	REVIEW WITHDRAWN	GRAND TOTAL
Advice	1				1
Inadequate/Unclear	1				1
Behaviour	1				1
Bias	1				1
Decision/Action	184	15	30	1	230
Bias	3				3
Failed to address issue	22	3	3		28
Misunderstood issue	10	1	3		14
Other	8	1			9
Wrong	141	10	24	1	176
GRAND TOTAL	186	15	30	1	232

Timeliness

In 2011–12, the office finalised 80% of all approaches and complaints within one month of receipt, up from 75% the previous year. Figure 2.1 shows the time taken to finalise all approaches and complaints for the periods 2005–06 to 2011–12.

In 2011–12, 27% of investigated complaints were finalised in one month (up from 20% the year before) and 39% were finalised within three months (down from 59%). Table 2.2 shows some of the variation in the time it takes to finalise investigated complaints about different agencies.

Figure 2.1: Time taken to finalise all approaches and complaints 2005–06 to 2011–12

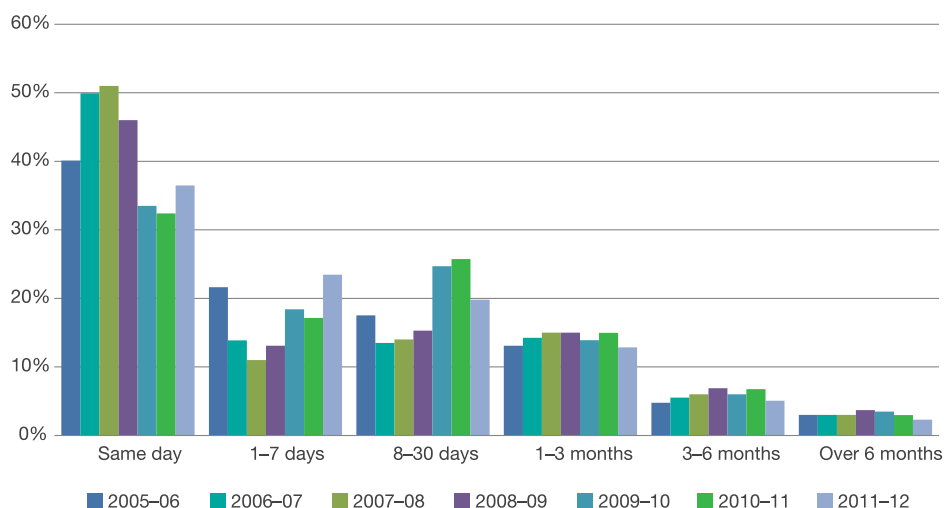


Table 2.2: Time taken to finalise investigated complaints for selected agencies 2011–12 (2010–11)

	NUMBER INVESTIGATED	% FINALISED WITHIN ONE MONTH	% FINALISED WITHIN THREE MONTHS
Australia Post	482 (871)	9 (19)	62 (87)
Australian Taxation Office	437 (708)	19 (10)	37 (47)
Centrelink	1532 (1269)	51 (44)	33 (79)
Child Support Agency	668 (751)	35 (30)	38 (68)
Department of Education, Employment and Workplace Relations	96 (150)	9 (9)	57 (59)
Defence agencies	234 (162)	9 (4)	47 (31)
Department of Immigration and Citizenship	275 (373)	4 (4)	38 (40)
Australian Federal Police	48 (104)	0	17 (60)

Deliverable 2

Better targeted stakeholder engagement through the provision of information and education regarding the role and importance of the Ombudsman's office

In 2011–12 we targeted our stakeholder engagement to three main sectors. Firstly, we engaged with those who were, in turn, able to influence and educate others. These engagements included:

- hosting a Social Support Round Table in Perth, attended by a number of community stakeholders including community legal centres and welfare rights centres
- presenting at a legal workshop for first year law students at the Australian National University
- informing legal advocacy services in the Northern Territory
- participating in a Community Roundtable meeting in Melbourne to discuss child support issues, with parent and carer support groups, community legal centres and Victoria Legal Aid
- launching the Overseas Students Ombudsman role at the Council of International Students Australia conference
- participating in an orientation session for new members of the Australian Federal Police
- holding consultations with community and advocacy groups in Sydney and Perth about Centrelink issues
- attending Child Support State Stakeholder Engagement Group (CSSEG) meetings in Parramatta, Adelaide and Melbourne
- attending roundtable meetings relating to detention with immigration and refugee community interest groups in Melbourne, Sydney and Darwin

We also targeted our engagement to the most vulnerable sectors of society. This year we:

- conducted outreach visits, ran community complaint clinics and information sessions in several remote Indigenous communities and town camps in the Northern Territory, to deal with complaints and raise awareness of our Office
- conducted regular complaint clinics at the Women's Information Service and the Hutt Street Centre, which provides support for homeless and vulnerable residents of inner-city Adelaide
- engaged with older Australians through stalls at the Sydney Retirement & Lifestyle Expo and seniors' days at the Royal Easter Show
- participated in the Department of Human Services Child Support Family Violence Reference Group
- took our message to rural and regional Australia, by presenting at the Central Coast Connect Day, the Nowra Aboriginal Community Information & Assistance Day, the 2011 NSW Aboriginal Rugby League Knockout in Bathurst, the Good Service Forum in Wilcannia, and the Dubbo Indigenous Family Fun Day and information day held in Goodooga.

Wherever possible, we increased our efficiency by working with other oversight bodies. For example:

- jointly with other NT complaints or oversight agencies we attended a Consumer Rights' Expo in Darwin, and a Consumer Rights and '50 something' expo in Alice Springs, to raise awareness about the role of the office
- jointly with the South Australian Ombudsman we held regular complaint clinics and staffed stalls at Homeless Connect, the Federation of Ethnic Communities' Councils of Australia with SA Ombudsman, the Royal Adelaide Show and the Courts Administration Authority of SA Open Day.

Deliverable 3

Greater adherence to internal service standards for complaint handling

Our service charter sets out the standards of service the public can expect from us. Improvements in the quality of our service may be shown by the reduced number of requests for review of our decisions, as discussed above. Our most important quantitative measure is our undertaking to investigate as quickly as possible. As our timeliness statistics above show, the number of complaints we finalised within one month increased from 75% to 80%.

Deliverable 4

The Ombudsman's office will identify and report on significant and systemic problems in public administration, making recommendations and reporting on implementation

The office identified significant and systemic problems in public administration and released the following reports in 2011–12:

- Department of Education, Employment and Workplace Relations: *Administration of the National School Chaplaincy Program* (Report 06/2011)
- Department of Agriculture, Fisheries and Forestry (DAFF): Report on reviews of investigations conducted by DAFF Biosecurity's Investigations and Enforcement program (Report 01/2012)
- Department of Immigration and Citizenship: Detention arrangements—the transfer of 22 detainees from Villawood Immigration Detention Centre to the Metropolitan Remand and Reception Centre Silverwater (Report 02/2012)
- Department of Families, Housing, Community Services and Indigenous Affairs (Cwth) and Department of Housing, Local Government and Regional Services (NT): Remote housing reforms in the Northern Territory (Report 03/2012)
- Department of Human Services and Department of Families, Housing, Community Services and Indigenous Affairs: Review of Centrelink income management decisions in the Northern Territory (Report 04/2012).

In addition, inspection reports of the records of controlled operations of the Australian Federal Police (AFP), the Australian Crime Commission (ACC) and the Australian Commission for Law Enforcement Integrity (ACLEI), and the surveillance devices records of the AFP, ACC and Victorian Police Special Projects Unit were published in January and March 2012 respectively.

Independent research commissioned by the office to better inform our approach to providing accessible complaint services to Indigenous communities was also made public in 2011–12. The research was undertaken by the Indigenous communications and research company, Winangali Indigenous Communications and Research. Although it focused on improving Ombudsman services, the research provides insights useful to any entity providing services to, or engaging with, Indigenous people and communities. Accordingly, the research was made publicly available.

Deliverable 5

The Ombudsman's office will contribute to Parliamentary and government inquiries and public debate through the presentations of submissions and papers, and appearances at associated forums

In 2011–12, we made seven formal submissions to House of Representatives and Senate standing and joint select committees on a broad range of public interest matters:

- Inquiry into the Public Service Amendment (Payments in Special Circumstances) Bill 2011
- Inquiry into language learning in Indigenous communities

- Inquiry into Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2011
- Inquiry into the Cybercrime Legislation Amendment Bill 2011
- Harmonisation of the regulatory framework applying to insolvency practitioners in Australia (consultation to The Treasury)
- Joint Select Committee on Australia's Immigration Detention Network
- Inquiry into Australia's agreement with Malaysia in relation to asylum seekers
- Inquiry into the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011.

The office also made a number of submissions to government inquiries:

- Australian Law Reform Commission's inquiry into family violence and Commonwealth laws
- Australian Law Reform Commission's inquiry into grey areas—age barriers to work in Commonwealth laws
- Phase two of the Australian Human Rights Commission's review into the treatment of women in the Australian Defence Force
- Department of Immigration and Citizenship's review of the student visa assessment level framework.

During the year, the office contributed to public debate through a range of presentations, including five presentations made by the Ombudsman or Acting Ombudsman:

- *Prospects, promises and performance in public administration*, 2011 National Administrative Law Forum
- *Improving administration: the impact and role of the Ombudsman*, Institute of Public Administration Australia
- *Why do good policy ideas turn into porridge?* MEAA and Walkley Foundation 2011 Public Affairs Convention
- *Wellbeing—the new measure of program success*, 2011 Australian Government Leadership Network Conference
- *Addressing Gender Equality and Women's Rights in Public Policy*, Address to 2012 International Women's Day Forum: APS Human Rights Network, Australian Human Rights Commission.

Deliverable 6

The quality and timeliness of services of the Ombudsman's office will be enhanced through the review and development, and improvement of consistent and transparent policies, procedures and practices

In 2011–12, the office set up five cross-office working groups, to review and develop specific areas of work practice. The subject matters for these working groups were:

- better handling of routine complaints
- improving internal communication processes

- IT user issues
- reviewing administrative deficient effectiveness and processes
- social inclusion.

The groups were formed from a cross-section of staff in the office, and they developed their own terms of reference, specific goals, and timeframes. Each group researched and consulted across the office, then reported to senior management with recommendations for action. Senior management considered all the working groups' recommendations, and agreed to several measures designed to improve the quality and timeliness of our services. The work of these groups continued in this reporting period.

Deliverable 7

Greater Parliamentary and public assurance that covert powers are lawfully used by enforcement agencies

The Ombudsman is required by law to inspect the records of certain enforcement agencies in relation to their use of the following covert and coercive powers:

- interception of telecommunications and access to stored communications under the *Telecommunications (Interception and Access) Act 1979* (TIA Act)
- use of surveillance devices under the *Surveillance Devices Act 2004* (SD Act)
- controlled operations conducted under the *Crimes Act 1914* (Crimes Act).

During 2011–12, the office conducted a total of:

- 23 inspections under the TIA Act of both Commonwealth and state and territory enforcement agencies
- six inspections under the SD Act of both Commonwealth and state and territory enforcement agencies
- four inspections under the Part IAB of the Crimes Act of Commonwealth enforcement agencies.

We also continued to develop compliance auditing expertise and improvement of auditing methodologies and reporting. Staff members participated in external training and conferences, and a new internal training program on compliance auditing. Auditing methodologies were regularly reviewed and kept up to date, and methodologies were amended to reflect ongoing examination of legislative requirements and changes to agencies' business practices.

The office is required to report to relevant ministers and parliament on the results of our inspections on an annual or bi-annual basis. During 2011–12, all 20 of our statutory reports were submitted within the legislated timeframes. We published a report on our inspections of the controlled operations' records of the Australian Federal Police (AFP), the Australian Crime Commission (ACC) and the Australian Commission for Law Enforcement Integrity (ACLEI), and published two reports on inspections of the surveillance devices records of the AFP, ACC and Victorian Police Special Projects Unit in January and March 2012 respectively.

Key performance indicators

The work of the Commonwealth Ombudsman is guided by the following key performance indicators:

KPI 1

Administration of government programs will be attuned to accountability obligations and principles of good administration. While complaint numbers to the Ombudsman are unlikely to decline, administration of the areas of government exposed to this office will be improved

Complaint investigation, compliance auditing and immigration detention oversight enables the office to deal with individual matters and also to provide regular feedback to agencies and suggestions for improvements. This work also provides an insight into broader systemic issues and other opportunities to contribute to improvements in public administration. We do this in a variety of ways, including conducting 'own motion' and major investigations into systemic issues, making submissions to parliamentary and other government inquiries, giving presentations at various forums and working with other oversight agencies.

The Ombudsman publicly released five own motion investigation and other reports during 2011–12 (see deliverable 4). Agencies adopted the majority of our report recommendations, leading to improvements in policy and program development, as well as administrative and complaint-handling practices. Examples of agency responsiveness to our reports and recommendations include: DEEWR made significant improvements to its administration of the newly-named *National School Chaplaincy and Student Welfare Program*. As part of its reforms,

DEEWR addressed the concerns this office had about the administration of the National School Chaplaincy Program and, on further follow-up, acted on the recommendations made in our own motion report. DEEWR developed new guidelines to require more rigorous assessment of applicants, expanded the program's code of conduct and agreed to improve complaint-handling procedures and program auditing processes. DEEWR also agreed to provide further information to enable greater clarity in relation to a range of matters such as child protection issues and police checks, requirements for adequate consultation with the school community and consent processes, and more rigorous service agreement between funding recipients and schools.

- DHS's income management decision-making underwent significant revision and improvement in response to concerns identified during an own motion investigation (*Review of Centrelink's Income Management Decisions in the Northern Territory*). During that investigation we identified flaws in decisions not to exempt a person from income management because they were financially vulnerable and decisions about applying income management to a person because they were considered vulnerable. When initially notified of these concerns in the course of the investigation, the Department of Human Services immediately conducted its own review of decisions made between August 2010 and March 2011. In addition to the review, DHS took substantial action to improve income management decision-making, including reviewing training, tools and templates, policy and guidelines, and developing a quality framework for income management decisions.

- During the year the office conducted an own motion investigation into certain aspects of the administration of *Project Wickenby*, a joint-agency taskforce which included the Australian Taxation Office and the Australian Crime Commission. While we did not publish the outcomes of this investigation, we were satisfied that the recommendations arising from the investigation had been accepted and were being implemented by the various agencies.

KPI 2

Internal complaint handling within agencies will resolve an increasing proportion of complaints. Through assistance provided by the Ombudsman, agencies' responsiveness and capability to deal with complaints will improve

The office continued to work with agencies to improve their internal complaint-handling systems. Using information gained through our unique position in investigating complaints, we have made recommendations for improvement at both an operational and structural level. Our fact sheet and guide, *Better Practice Guide to Complaint Handling*, have been provided to agencies as guidance on improving their internal systems. During the year we met with a number of agencies and provided feedback on how to improve their complaint handling. For example, the office met with the Department of Immigration and Citizenship to provide advice on how the department can use its own internal complaint system to provide feedback to the operational areas. In our role as the Overseas Students Ombudsman, part of our charter is to give feedback to private providers. We have also continued our streamlined process for transferring tax complaints back to the ATO.

KPI 3

There will be improved compliance with legal requirements by enforcement agencies in the use of covert powers. Inspection reports will be timely and identify areas for improvement

During 2011–12, inspections identified a high level of compliance by most agencies. We noted that most agencies had implemented our previous recommendations and we made fewer recommendations this year compared to the previous year. Other achievements made as a result of our inspections included:

- ensuring that ongoing and long-term controlled operations conducted by Commonwealth agencies are externally reviewed
- ensuring that law enforcement agencies obtain information and keep sufficient records to demonstrate that they are only dealing with lawfully obtained information
- noting a high level of acceptance of the Ombudsman's recommendations and suggestions for improvement, with agencies usually amending their processes to align with the office's advice.

The office also continued the practice of making a report to relevant agencies on the outcomes of inspections prior to submitting statutory reports to ministers and/or the Parliament. This process gives agencies an opportunity to provide further information and comments in response to inspection findings and assists the office to ensure that the Ombudsman's recommendations are accurate, relevant and constructive. In addition to inspection reports, we also met with agencies as required to resolve key compliance issues and give advice on improving their business practices.

Further information on some of these achievements is provided in Chapter 7.

FEATURE

CONTRIBUTING TO AUSTRALIA'S NATIONAL ANTI-CORRUPTION PLAN

In 2011–12, Ombudsman staff worked with the Attorney-General's Department (AGD) to assist in work that will lead to Australia's first National Anti-Corruption Plan.

The Australian Government announced its intention to develop and implement a national anti-corruption plan in September 2011. In the months following the announcement, Ombudsman senior staff met independently with counterparts in the Anti-Corruption Section of AGD and attended several interdepartmental committee meetings, workshops and forums.

'The Ombudsman's office is well-positioned to identify potential corruption risks...'

These forums provided a platform for academics, private practice lawyers, energy resource investment companies, international aid and development agencies, and accountability think-tank representatives to speak directly with government about the practical dilemmas and issues they confront in negotiating

public-private partnerships within Australia and overseas. The need for better government communication, guidance and advice on corrupt practices and detection, as well as proactive training and deterrence resources, was a recurring message at the forums.

In the latter part of the year, the office provided written comments on a series of corruption risk profiles prepared by key Australian government agencies as part of the National Anti-Corruption Plan drafting process.

The Ombudsman's office is well-positioned to identify potential corruption risks that may emerge from a wide cross-section of the Australian Public Service. Our daily interaction with agencies and our working knowledge of agency processes, systems and governance arrangements provides us with a valuable and unique perspective on corruption risks. It is with this background and knowledge that the office contributed toward the development of a National Anti-Corruption Plan.



PERFORMANCE OVERVIEW

CHAPTER 3

MANAGEMENT AND ACCOUNTABILITY

MANAGEMENT AND ACCOUNTABILITY

Senior Management team

Mr Allan Asher resigned as Ombudsman on 28 October 2011. Ms Alison Larkins has acted as Ombudsman from then until the new Ombudsman, Mr Colin Neave AM, took up his appointment on 17 September 2012.

Ms Larkins' substantive position is Deputy Ombudsman. This position remained vacant from 28 October

2011 until 18 April 2012, when Mr George Masri was appointed acting Deputy Ombudsman. Mr Masri was acting in the position as at 30 June 2012 until Ms Larkins returned to her position on 17 September 2012.

The remuneration for the Ombudsman and Deputy Ombudsman is set by a Determination made by the Remuneration Tribunal. See Note 11 in the Financial Statements for further details on executive remuneration.



The Ombudsman and the Deputy Ombudsman make up the Executive, and together with five Senior Assistant Ombudsmen comprise the Senior Management team. L–R, Helen Fleming, Diane Merryfull, Rodney Lee Walsh, Tracey Frey, Justine Jones, George Masri, and Alison Larkins.

At 30 June 2012, areas of responsibility were divided among Senior Assistant Ombudsmen as follows.

- **Helen Fleming**, Human Services, States and Public Contact Team:
 - specialist advice and complaints relating to DHS (including Centrelink, Child Support and Medicare) and relevant policy departments
 - oversight of Northern Territory Emergency Response (NTER) and Closing the Gap activities and complaints from Indigenous people
 - point of contact for all approaches to the office made by telephone, email or online
 - management and oversight of the Adelaide, Brisbane, Melbourne, Perth and Sydney offices.
- **Tracey Frey**, Organisational Services and Business Support:
 - corporate services and office support, comprising security, property, human resources, records management and governance
 - financial operations, risk management and business planning
 - information technology and communications infrastructure.
- **Justine Jones (acting)**, Immigration and Overseas Students:
 - specialist advice and complaints relating to DIAC
 - oversight of immigration detention
 - reviews of the circumstances of detainees who have been held in immigration detention for two years or longer
 - complaints from overseas students about private education and training providers.
- **Diane Merryfull**, Financial Services, Justice and Defence:
 - specialist advice and complaints relating to the Australian Defence Force, Department of Defence, Defence Housing Australia and Department of Veterans' Affairs
 - complaints and investigations relating to Australian Government law enforcement agencies' activities
 - inspection of law enforcement agencies' records for statutory compliance, adequacy and comprehensiveness
 - specialist advice and complaints relating to the ATO
 - complaints relating to the ACT Ombudsman function
 - specialist advice and complaints relating to Australia Post and registered postal operators of the Postal Industry Ombudsman scheme.

- **Rodney Lee Walsh**, Legal, Strategic Projects, Support and Policy:
 - specialist advice and complaints relating to more than 40 Australian Government agencies with low complaint numbers
 - work practices and procedures
 - public affairs and outreach
 - management of the office's International Program and related AusAID projects
 - in-house legal and policy advice.

CORPORATE GOVERNANCE

The 2010–13 Strategic Plan sets out the office's strategic objectives for the reporting period.

In 2011–12, the office undertook a major planning process that involved reviewing our strategic priorities, organisational structure, key work practices and support requirements. The aim was to consider how the office could meet the strategic objectives in an environment of tightened resources and increased demands for complaint handling services. Implementation of a new organisational structure and re-engineering of practices, support and business plans will occur in stages commencing early 2012–13. A range of projects has been identified to support the implementation.

During the year, the Senior Management team considered monthly reports on finance, human resources, operations and information technology.

Management committees

Management committees are set up to assist the Executive and Senior Management team with decision making in key areas. The committees make recommendations to the Senior Management team, which meets monthly.

Senior Management team

The Senior Management team comprises the Ombudsman, Deputy Ombudsman and Senior Assistant Ombudsmen. It meets monthly to discuss a broad range of issues relating to the work of the office.

Internal Audit Committee

As required by the *Financial Management and Accountability Act 1997* (FMA Act), the office has an Internal Audit Committee. The committee's role is to review and, where necessary, make improvement to the:

- adequacy of governance arrangements (internal control environment)
- operational effectiveness of the risk management framework
- adequacy of controls designed to ensure the office's compliance with legislation
- content of reports of internal and external audits, for the purpose of identifying material that is relevant to the office, and advising the Ombudsman about good practices
- adequacy of the office's response to reports of internal and external audits
- coordination of work programs relating to internal and external audits, as far as possible.

In addition, the Audit Committee advises the Ombudsman:

- about action to be taken on significant matters of concern, or significant opportunities for improvement, that are mentioned in reports of internal and external audits
- on the preparation and review of the office's financial statements
- about the Ombudsman's obligations under the Act
- about the internal audit plans of the office
- about the professional standards to be used by internal auditors in the course of carrying out audits in the office.

At 30 June 2012, the Audit Committee was chaired by the Deputy Ombudsman. In addition to the chair, membership comprised three Senior Executive Service (SES) officers and two external independent members. Observers included representatives from the Australian National Audit Office (ANAO), PricewaterhouseCoopers (the office's internal auditors) and the Chief Financial Officer.

During 2011–12, PricewaterhouseCoopers conducted one internal audit and commenced another to be finalised in 2012–13. In addition, they completed one project implementation review. The office is implementing the recommendations from the audit; the Audit Committee is monitoring progress against each action item.

Occupational Health and Safety Committee

The office's Occupational Health and Safety (OH&S) Committee is made up of elected representatives from each office and is chaired by the Assistant Director, Human Resources, who represents management. The committee met twice during the year.

Workplace Relations Committee

The Deputy Ombudsman chairs the Workplace Relations Committee. It comprises employee, management and union representatives, and is the main consultative body on workplace conditions within the office. The committee met eight times during the year and considered matters such as human resources policies, learning and development, and change management and workplace issues.

Corporate governance practices

The office's risk management activities are overseen by the Internal Audit Committee. The risk management framework comprises an overarching risk management policy and a strategic risk management plan. The Senior Management team reviews the strategic risks quarterly as part of the business planning process.

The office continues to participate in the annual Comcover Risk Management Benchmarking Survey, which independently assesses the risk management arrangements.

Fraud prevention and control

During the year, the office reviewed and updated its fraud control plan and fraud risk assessment. The risk of fraud remains low for the office. The Internal Audit

Committee oversees the implementation of the Fraud Control Plan.

I certify that the Office of the Commonwealth Ombudsman has:

- prepared fraud risk assessments and fraud control plans
- appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes that meet the specific needs of the office
- taken all reasonable measures to minimise the incidence of fraud in the office and to investigate and recover the proceeds of fraud against the office.

Colin Neave

Commonwealth Ombudsman

Ethical standards

The office maintained its commitment to ethical standards by ensuring staff were aware of the Australian Public Service Values and Code of Conduct. The office's induction package includes relevant documentation and training information, as well as internal policies such as the Harassment Prevention Policy and the Work Practice Manual. The office's ethical standards are reinforced regularly through mechanisms such as the internal quality assurance process.

Business continuity planning

The purpose of the office's Business Continuity Plan is to ensure that the most critical work of the office can continue with minimal disruption, or be quickly resumed, in the event of a disaster. A thorough review of the plan was undertaken during the year to bring

it up-to-date with current business practices and arrangements.

Complaint management

The office has an established internal complaints and reviews process, which allows reviews about Ombudsman decisions and complaints about service quality to be resolved fairly and informally. In 2011–12, the office evaluated its practices against its own *Better Practice Guide to Complaint Handling*.

The outcome of the review will be considered in the context of further improvements to complaint handling processes, and processes for accepting and monitoring complaints about the office's service delivery. The office's complaints mechanism is set out in its service charter. More information about the review process is provided in Chapter 2.

Accessibility

In developing and maintaining the office's websites, the priority 1 and 2 checkpoints of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines 1.0 are used as the benchmark. Activities to ensure compliance include testing colour contrast for the vision impaired, limiting the use of graphics, simplifying navigation and providing a site map, separating document formatting from content with style sheets, providing text equivalents for non-text elements, and improving metadata.

Environmental matters

Environment policies and management systems

The office continued to encourage staff to manage all resources, including energy, prudently and in an ecologically responsible manner. The Office's Environmental Management Policy focuses on the conservation of energy within the workplace, including the use of light, computer equipment, water and transport and on recycling.

Compliance and reporting obligations

The office is required to report on certain environmental matters under s 516A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), and to detail the office's environmental performance and its contribution to ecologically sustainable development.

Procurement practices

As part of its procurement practices, the office considers factors such as the impact on the environment and human health

when considering the value for money of comparable products or services. As a result, the office now purchases recycled paper and recycles many office products, such as files and stationery.

Efficient use of energy, water, paper and other resources

The office recycles toner/printer cartridges, paper and cardboard products, classified waste and cans, bottles and plastic. Staff are encouraged via Workplace Relations Committee communications, intranet items and the induction program to participate in these activities. The office has also introduced an electronic records management system, which helps to reduce paper usage.

When selecting a new office location, one factor taken into consideration was the environmental credentials of potential sites.

The office's estimated energy consumption per person per year decreased by 11.7% between 2010–11 and 2011–12. This was achieved through the relocation of the Sydney and Perth offices, where a reduction in staff numbers enabled a reduction in the total floor space required.

External scrutiny

Privacy

The office is subject to the *Privacy Act 1988*. It provides information required for the Personal Information Digest. The Privacy Commissioner did not issue any report or make any adverse comment about the office during the past year.

Court litigation

The office was the respondent in one matter brought by an applicant in the Federal Magistrates Court.

The applicant sought orders, among other things, to set aside the Ombudsman's decision not to investigate her complaint. The applicant discontinued her application before the matter was determined by the Federal Magistrates Court.

Tribunal litigation

The office was not involved in any tribunal litigation during 2011–12.

Office of the Australian Information Commissioner

The office was the respondent in five matters investigated by the *Office of the Australian Information Commissioner* (OAIC). All related to decisions under the *Freedom of Information Act 1982* (FOI Act) to exempt documents in part or in full.

In one matter, the applicant sought a review of the Ombudsman's decision not to release documents within the scope of his request. The Freedom of Information Commissioner affirmed the decision that a release of the documents would be a breach of confidence as provided for in s 45 of the FOI Act.

Two matters were withdrawn by the applicant before completion of the Information Commissioner's review.

The final two matters relate to a decision to exempt in full or in part several documents that were within the scope of the request. Both matters are being reviewed by the Information Commissioner; no decision has yet been made.

Australian Human Rights Commission

The office is subject to the jurisdiction of the Australian Human Rights Commission (AHRC).

In 2011–12, the AHRC advised the office it had received two complaints alleging discrimination by this office.

The first complaint related to the manner in which the office handled a complaint. Following an investigation, the AHRC terminated the complaint on the basis that it lacked substance.

The second complaint concerned an alleged disability employment matter. The AHRC terminated this complaint on the basis that there was no reasonable prospect of the matter being settled by conciliation.

PEOPLE MANAGEMENT

Human resources

During 2011–12, the office reduced the number of staff employed to enable it to operate within budget, while investing in the skills and knowledge of remaining staff through learning and development.

The office reduced its headcount from 184 to 149 over the year, including seven through a voluntary redundancies program.

During the reporting period, the office developed and implemented a new Performance Development Program focused on developing and supporting staff capabilities, promoting appropriate behaviours, achieving outputs and aligning individual objectives with organisational priorities. This was an initiative identified and agreed through the new Enterprise Agreement.

Workplace relations

The office's Enterprise Agreement 2011–14 came into effect on 27 July 2011; it will reach its nominal expiry date on 30 June 2014. The Enterprise Agreement focuses on people, remuneration and employment arrangements, working environment and lifestyle, learning and development, and performance management and improvement.

A total of 143 employees are covered under the Enterprise Agreement. Conditions are provided for the office's five SES staff under s 24 (1) of the Public Service Act. No staff were employed under Australian Workplace Agreements or common law contracts. There were no Individual Flexibility Agreements.

The Enterprise Agreement does not make provision for performance pay. Salary advancement within each of the non-SES classifications is linked to performance. Determinations under s 24 (1) of the Public Service Act provide for SES annual salary advancement based on performance and do not make provision for performance pay. During the year the office undertook a review of its SES remuneration arrangements and new determinations were agreed in July 2012.

Staffing profile

Including the Ombudsman and Deputy Ombudsman, the average full time equivalent number of employees for the year was 158.5 and the full-time equivalent number of employees as at 30 June 2012 was 139.1.

Table 3.1 shows the number of employees by gender and APS classification and salary range. Table 3.2 shows the office's staffing profile by location. Tables 3.3 and 3.4 show the office's part-time employee profile by location and classification.

During the year, five employees were engaged on an ongoing basis and 27 ongoing employees left the office, equating to a turnover rate of 18% (compared to 21% the previous year). There were 44 separations, including ongoing and non-ongoing employees. Table 3.5 shows staff separations by classification at 30 June 2012.

Table 3.1: Staffing profile by gender, APS classification and salary range at 30 June 2012

APS CLASSIFICATION AND SALARY RANGE	MEN (AS AT 30 JUNE 2012)			WOMEN (AS AT 30 JUNE 2012)			TOTAL			
	ONGOING	NON-ONGOING	ONGOING	NON-ONGOING	ONGOING	NON-ONGOING	ONGOING		NON-ONGOING	
							AS AT 30 JUNE 2011	AS AT 30 JUNE 2012	AS AT 30 JUNE 2011	AS AT 30 JUNE 2012
APS1 \$41,602 – \$45,984	–	–	–	–	–	–	–	–	–	–
APS2 \$47,083 – \$52,211	–	–	–	–	–	–	2	–	1	–
APS3 \$53,630 – \$57,883	–	–	2	–	2	–	2	2	1	–
APS4 \$59,771 – \$64,896	11	–	18	–	–	–	34	29	1	–
APS5 \$66,666 – \$70,691	8	–	14	–	–	–	24	22	3	–
APS6 \$72,005 – \$82,712	10	–	19	–	–	–	40	29	2	–
EL1 \$92,306 – \$109,723	15	1	28	–	–	–	46	43	–	1
EL2 \$107,478 – \$120,989	7	–	10	–	–	–	19	17	–	–
SES \$170,233 – \$174,902	2	–	3	–	–	–	5	5	–	–
Statutory officers	1	–	–	–	–	–	2	1	–	–
TOTAL	54	1	94	–	–	–	174	148	8	1

Note: under the enterprise agreement, employees moving to the office from a higher salary range may be maintained at that salary until increments in the office's salary range exceed the salary differential.

Note: 'EL' is 'Executive Level'.

Table 3.2: Staffing profile by location at 30 June 2012

LOCATION	MEN	WOMEN	TOTAL
ACT	42	65	107
NSW	2	9	11
QLD	3	7	10
SA	3	4	7
VIC	3	8	11
WA	2	1	3
TOTAL	55	94	149

Table 3.3: Staffing profile showing part-time employees by location at 30 June 2012

LOCATION	MEN	WOMEN	TOTAL
ACT	5	15	20
NSW	–	1	1
QLD	–	2	2
SA	–	1	1
VIC	–	2	2
WA	–	–	–
TOTAL	5	21	26

Table 3.4: Staffing profile showing part-time employees by classification at 30 June 2012

LOCATION	MEN	WOMEN	TOTAL
APS1	–	–	–
APS2	–	–	–
APS3	–	1	1
APS4	1	3	4
APS5	–	7	7
APS6	–	3	3
EL1	3	4	7
EL2	–	3	3
SES	1	–	1
TOTAL	5	21	26

Table 3.5: Staffing profile showing staff separations by classification at 30 June 2012

LOCATION	ONGOING	NON-ONGOING	TOTAL
APS1	–	–	–
APS2	–	2	2
APS3	–	2	2
APS4	5	3	8
APS5	4	2	6
APS6	12	2	14
EL1	2	2	4
EL2	3	3	6
SES	1	–	1
Statutory Office Holders	–	1	1
TOTAL	27	17	44

Career development and training

The office's learning and development framework includes programs in three areas—leadership, corporate and core business.

The office runs a suite of 11 in-house training modules designed specifically to develop core competency and skills in investigations, inspections, writing, administrative law, office practices and record keeping. These modules are conducted regularly and staff are required to attend sessions that are relevant to their work.

Each staff member is encouraged to undertake learning and development programs that are designed to promote their capability in relation to their corporate and core business training and development.

An electronic scheduling system identifies learning and development opportunities, provides online booking facilities and records the training history for each employee.

In addition, during the reporting period staff representatives delivered a variety of in-house training on information technology, finance, risk and fraud management, bullying and harassment, APS Code of Conduct and investigation workshops across all offices. This led to an increase in consistency in the use of the office's complaint management system and improved compliance with the requirements of the financial framework and record keeping following the training.

The office supports staff attendance at courses, seminars and conferences identified in their personal development plans. During 2011–12, staff were able to participate in development opportunities offered through job rotation, special project work, higher duties, placements with other agencies and representation on work committees.

The office also supports staff to undertake relevant study at tertiary institutions through study leave and/or financial assistance.

In line with the Enterprise Agreement, the next financial year will see continued emphasis on learning and development strategies. A revised learning and development framework will be developed.

Work health and safety

With the introduction of the new *Work Health and Safety Act 2011* (WHS Act), the office developed a Work Health and Safety Strategy 2012–14 and a new intranet page dedicated to work health and safety. Employees were kept up-to-date on developments through information sessions, handouts, emails and intranet news items. All employees were required to complete an e-learning module on the new work health and safety laws and responsibilities.

During the first half of the year, no accidents or injuries occurred that are reportable under s 68 of the *Occupational Health and Safety Act 1991* (OH&S Act), or, during the second half of the year, notifiable under s 38 (5) of the WHS Act. There were no investigations conducted within the office under sections 29, 46 or 47 of the OH&S Act or under Part 10 of the WHS Act.

All new employees are advised of the importance and responsibilities of staff and management for health and safety in the workplace during their induction and are required to complete the e-learning module on the new work health and safety laws and responsibilities. New employees undertake a workstation assessment during their first week with the office. Employees who work from home also undertake workplace assessments.

A Work Health and Safety Officer (WHSO) is located at each office site. The WHSOs manage workplace health and safety matters either through the OH&S Committee, regular staff meetings or by seeking assistance from an officer under the WHS Act.

During 2011–12, the office undertook the following health and safety initiatives:

- arranged health assessments, where necessary
- conducted individual workplace assessments
- facilitated eye examinations, where necessary
- made first aid facilities and supplies available, and provided first aid training to First Aid Officers (refresher and senior first aid for new officers)
- provided workplace health and safety training to WHSOs
- conducted regular simulated fire evacuations
- provided harassment and bullying information sessions
- targeted individual health awareness by providing flu vaccinations to employees free-of-charge, a healthy lifestyle reimbursement of up to \$299 per annum, individual health assessments and mental health first aid training.

For the fourth consecutive year the office entered a team in the Stromlo Running Festival Corporate Challenge held in February. The office encourages participation of staff and their families as part of the office health and wellbeing programs. This year was another successful event for the office with a significant number of staff and their families and friends participating, helping the office to achieve second placed.

To promote a supportive working environment, the office provides staff with access to an employee assistance program, which includes a confidential counselling service.

Disability strategy

The office has responsibilities under the Commonwealth Disability Strategy framework, including reporting on employer activities through the Australian Public Service Commissioner's annual *State of the Service* report, and agency-level material is available in that publication at <http://www.apsc.gov.au/publications-and-media/current-publications/state-of-the-service>.

FINANCIAL MANAGEMENT

The office's operations are primarily funded through parliamentary appropriations. Revenue is also received from the ACT Government for the provision of ombudsman services in relation to ACT Government agencies and the AFP, when providing police services to the ACT.

Revenue is also received from AusAID to support the work of ombudsmen and similar entities in Indonesia, Papua New Guinea and Pacific Island nations. Details of the Office's resources are included in Appendix 6.

Financial performance

The office reported an operating loss of \$1.3 million for the year ending 30 June 2012. Appropriations have been based on a net cash approach since 2010–11 so the underlying net operating loss (excluding depreciation and amortisation) was \$0.3 million, compared to the \$1.5 million surplus in 2010–11. The office received approval from the Finance Minister to operate at a loss of \$1.6 million that was provided in part to assist in funding a voluntary redundancy program to help reduce future overspends.

Expenses

Total expenses for the office were \$23.385 million, an increase of \$1.986 million from the prior year. The increases were mainly due to:

- an increase in employee expenses of \$2.515 million of which \$2.025 million reflects the higher than budgeted staffing level and the impact of the Certified Agreement increase, and \$0.345 million for voluntary redundancy payments
- a decrease in supplier expenses of \$0.486 million from a reduction in contractor and consultancy costs and a reduction in lease costs;
- an increase in depreciation and amortisation of \$0.230 million resulting from the appreciation in the value of leasehold improvement and plant and equipment assets in June 2011;
- a decrease in write down and impairment of assets of \$0.28 million. The value in 2010–11 resulted from a one-off adjustment to a make good provision relating to a lease disposal.

Income

Own-source revenue increased by \$0.291 million due to an increase in activity in the AusAID program. A new component of the program (for Peru) generated an additional \$0.184 million.

Revenue from Government was \$19.998 million, an increase of \$0.482 million from 2010–11. The increase related to funding for the Public Interest Disclosure measure.

Financial position

The net asset position of the office has reduced by \$0.537 million. The main factors driving this were the increase in appropriation receivable resulting from an underspend in capital activity and greater increases in employee provisions and payables and the operating loss.

Assets

The office's total assets increased to \$11.422 million from \$10.933 million in 2010–11. The main movements were:

- an increase in receivables of \$1.051 million. This is due to underspends of the Departmental Capital Budget for 2011–12 of \$0.759 million due to the reprioritisation of projects during the year
- a reduction in lease incentive assets resulting from the maturing of leases and rent-free periods expiring, and
- a reduction to non-financial assets corresponding to the delay in implementing capital projects.

Liabilities

Total liabilities increased by \$1.025 million (14.42%). The increase can be attributed to:

- the increase in supplier payables of \$0.308 million mainly relating to leasehold improvement works in Adelaide (\$0.208 million) and lease creditors
- an increase in fixed lease increases of \$0.255 million reflecting the new lease in Adelaide, and
- an increase in employee provisions of \$0.374 million due to the impact of the Certified Agreement increase.

PURCHASING

Procurement

The Office is committed to achieving the best value for money in its procurement practices. Purchasing practices and procedures are consistent with the Commonwealth Procurement Guidelines and are set out in the Chief Executive's Instructions.

The Office published its Annual Procurement Plan on the AusTender website (as required under the Commonwealth Procurement Guidelines) to facilitate early procurement planning and to draw to the attention of businesses the office's planned procurement for the 2011–12 financial year.

The office engages consultants when the expertise required is not available internally, or when the specialist skills required are not available without diverting resources from other higher priority tasks. Consultants are selected by open tender, panel arrangements, select tender or direct sourcing. The main categories of contracts relate to information technology, financial services, human resources services, governance and legal advice.

Consultants

During 2011–12, seven new consultancy contracts were entered into involving total actual expenditure of \$0.251 million. No ongoing consultancy contracts were active during 2011–12.

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website www.tenders.gov.au.

Table 3.6 shows expenditure on consultancy contracts over the three most recent financial years.

The office's standard contract templates include an ANAO audit clause.

The Office did not sign any contracts in the reporting period of \$100,000 or more (inclusive of GST).

The office did not exempt any contracts or standing offers that cost more than \$10,000 (including GST) from publication in AusTender.

The office did not administer any grant programs during 2011–12.

Table 3.6: Expenditure on consultancy contracts 2009–10 to 2011–12

YEAR	NUMBER OF CONSULTANCY CONTRACTS	TOTAL ACTUAL EXPENDITURE
2011–12	7	\$251,010
2010–11	7	\$185,691
2009–10	4	\$154,400

Information Communications Technology

In 2011–12, the office reviewed and upgraded its underlying information communications technology (ICT) infrastructure and use of automation to increase productivity.

A high-level review was undertaken to document the enterprise architecture. One outcome was the identification of several obsolete and ageing infrastructure components. A series of projects was then undertaken to systematically replace various servers, switches and storage components.

Significant benefits achieved through this process have included building a robust ICT infrastructure and improving overall network performance and reliability.

This work has also facilitated the introduction of new technologies, such as Power over Ethernet (PoE) capability. PoE is a technology that allows electrical power to be safely passed over data (Ethernet) cabling. PoE is now used to power the office's VoIP phone network and has allowed removal of power transformers to these phones. This is part of the overall move to 'greening' ICT and reducing the office's ICT energy use.

Productivity improvements have also resulted from enhancements to existing systems and integration of systems. Examples of this include a new workflow being introduced to the office's case management system (Resolve), which also had a major upgrade during the year, and greater integration between corporate systems.

The office also began work to replace its out-of-date intranet platform. The new site, to be delivered in 2012–13, will incorporate new functions to help improve staff productivity and access to information and resources.

During the year, the VoIP network was extended to the Perth and Adelaide offices.

Advertising and market research

The office did not undertake any market research activities or advertising campaigns during the 2011–12 financial year.



**THE OMBUDSMAN
AT WORK**

CHAPTER 4

**AGENCIES
OVERVIEW**

AGENCIES OVERVIEW

APPROACHES AND COMPLAINTS RECEIVED

In 2011–12 we received 40,092 approaches compared to 38,919 in 2010–11. Of these 22,991 were about agencies within the Ombudsman's jurisdiction, compared to 19,821 the previous year, a 16% increase on prior year in-jurisdiction complaints. These are complaints for which the office is directly responsible to consider for investigation and possible remedy. There was a 6% decrease in the number of complaints

about matters outside jurisdiction and requests for information. Figure 4.1 shows the trend in approaches and complaints over the past seven years.

The number of complaints and approaches received electronically increased again in 2011–12. Over the past seven years the percentage of approaches received electronically has increased from 7% to 23% of the total (up a further 5% in the past financial year), as Table 4.1 shows.

Figure 4.1: Approach and complaint trends, 2005–06 to 2011–12

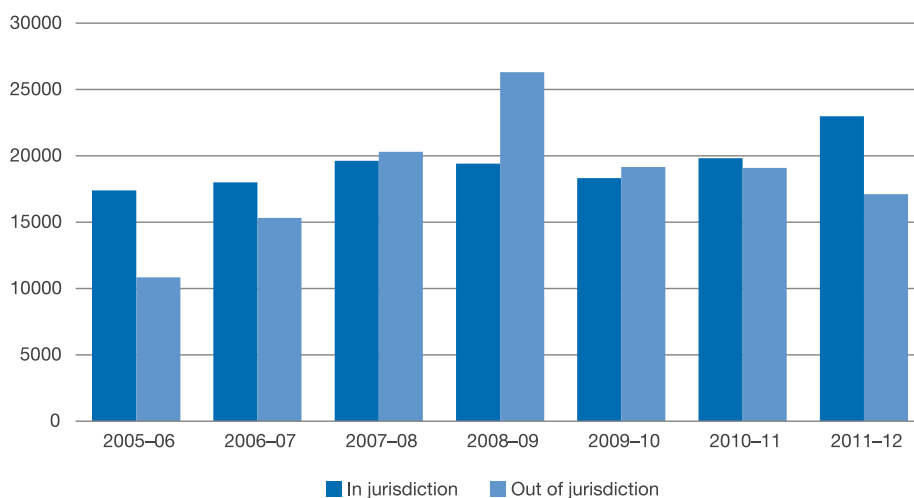


Table 4.1: Approaches and complaints, by method received, 2005–06 to 2011–12

YEAR	TELEPHONE	WRITTEN	IN PERSON	ELECTRONIC	AFP	TOTAL
2011–12	27,953	2,156	912	9,070	1	40,092
	70%	5%	2%	23%	0%	
2010–11	29,090	1,891	1,015	6,923	0	38,919
	75%	5%	3%	18%		
2009–10	28,447	2,210	1,005	5,803	3	37,468
	76%	6%	3%	15%	0%	
2008–09	35,738	2,654	875	6,452	–	45,719
	78%	6%	2%	14%	0%	
2007–08	30,568	2,861	1,194	5,306	5	39,934
	77%	7%	3%	13%	0%	
2006–07	26,081	2,626	812	3,539	264	33,322
	78%	8%	2%	11%	1%	
2005–06	22,897	2,383	528	2,046	373	28,227
	81.1%	8.4%	1.9%	7.2%	1.3%	

APPROACHES AND COMPLAINTS FINALISED AND INVESTIGATED

We finalised 40,477 approaches and complaints, up from 38,957 the previous year. Of these, 23,317 were about agencies within the Ombudsman's jurisdiction (compared to 19,903 in 2010–11). We investigated 4,667 separate complaints compared to 4,468 in 2010–11. Of the complaints investigated, over 18% required more substantial investigation, sometimes involving a high level of involvement by senior management and the use of formal powers (categories 4 and 5 in our five category classification system). This figure is comparable to the previous year.

Some agency error or deficiency was identified in 3% of complaints investigated. The most common type of deficiency noted was unreasonable delay (14%),

procedural deficiency (30%), followed by inadequate advice, explanation or reasons (16%), flawed administrative process or systems (15%) and human or factual error (10%). The balance of deficiencies was very small in number and included legal error, unreasonable action and resource limitations.

CAUSES OF COMPLAINTS

The majority of finalised complaint issues (70%) were about correctness, propriety or timeliness of agency decisions or actions, down from 72% in 2010–11. The remainder of the complaint issues involved other matters, such as the application of policy or legislation to the complainant's circumstances (8%), the accuracy or completeness of advice given by agencies (6%), or the conduct of officers in agencies (2%).

COMPLAINTS CARRIED FORWARD

The number of complaints carried forward (past 30 June 2012) was 1,058, compared to 1,657 for the same time the previous year. This continued a trend of cases being carried forward. Roll-over of complaints from the previous year will always occur as some complaints are received late in the reporting period and some complaints are complex and take longer to investigate.

There was a 5% increase in the overall number of complaints investigated. Overall we finalised 1,520 more cases in 2011–12 than the previous year.

DECISIONS NOT TO INVESTIGATE

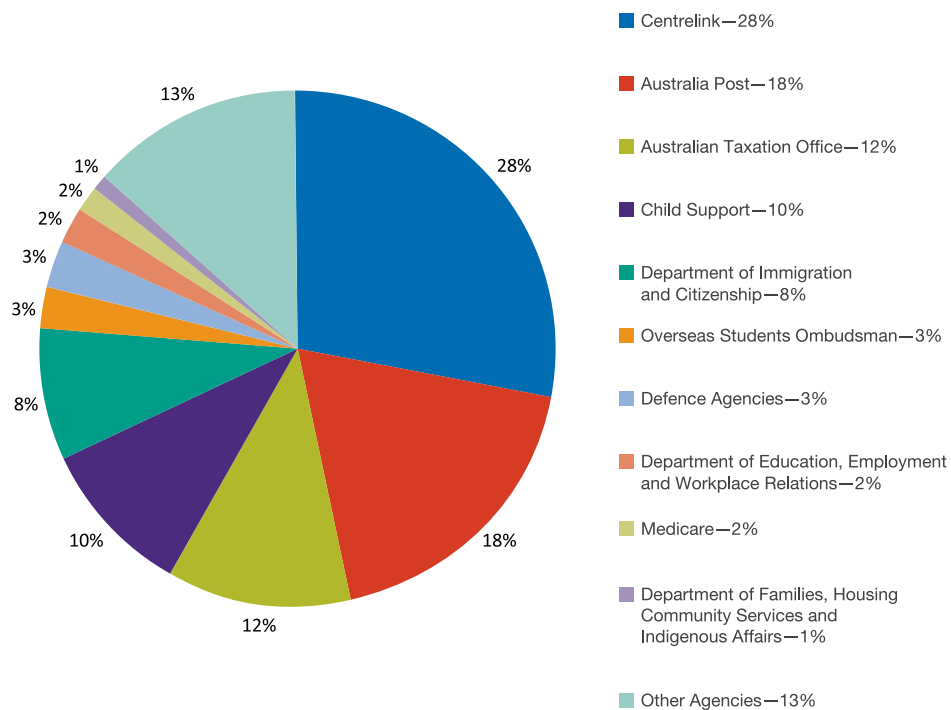
In 2011–12 we advised the complainant to take the matter up with the relevant agency in the first instance in 52% of the matters within the Ombudsman's jurisdiction (51% in 2010–11).

Complaints falling within the jurisdiction of the office about the 'top five' Australian Government agencies comprised 76% of the total number of complaints received by the office. The top five agencies (or programs within agencies) were:

1. Centrelink, Department of Human Services
6355 (28%)
2. Australia Post
4137 (18%)
3. Australian Taxation Office
2717 (12%)
4. Child Support, Department of Human Services
2228 (10%)
5. Department of Immigration and Citizenship (DIAC)
1873 (8%)

This chapter assesses our work with these top five agencies in handling complaints and dealing with broader issues during 2011–12. We note that Centrelink and Child Support are now part of the Department of Human Services (DHS) agency, so we have placed our discussion of complaints about Centrelink and Child Support together.

Figure 4.2: Approaches and complaints within jurisdiction by agency/area 2011–12



DEPARTMENT OF HUMAN SERVICES

The Department of Human Services (DHS) provides access to Commonwealth social, health and other payments and services. As part of the government's Service Delivery Reform agenda, on 1 July 2011, Medicare Australia, Centrelink and Commonwealth Rehabilitation Service (CRS) Australia were integrated into DHS along with the Child Support program and Australian Hearing.

Over a period of four years, Service Delivery Reform is intended to deliver more one-stop shops, more self-service and more support for people based on their individual needs and circumstances, especially people who need more intensive support or have more complex needs. DHS intends to transform its services by offering more convenient options to customers who prefer to manage their own affairs (such as online, or over the phone) while giving extra assistance and referrals to people who need more intensive support. DHS says that its customers will have the option of accessing services and information in ways that best suit them.

As part of its integration strategy, DHS has decided to use the generic terms 'the Department' or 'DHS', rather than referring to each of the individual programs (Centrelink, Child Support or Medicare Australia). However, most of DHS's customers still deal with staff employed in one of the individual DHS programs. The people who complain to us about DHS still refer to the particular 'program' that took the decision or action. We have therefore continued to record complaints about DHS against the particular program the complainant identified as the source of

their complaint. Where appropriate, we have referred to those individual DHS programs in this chapter.

In 2011–12 the office received a total of 8967 complaints about DHS. This is 24% more than the combined 2010–11 complaints to the Ombudsman about the individual programs and agencies in the Human Services portfolio. We received more complaints about DHS in 2011–12 than about any other Commonwealth agency.

If we consider each of the DHS programs as a separate agency, two of those programs make it into the Ombudsman's 'top five': Centrelink at number one and Child Support at number four. We discuss these two DHS programs in detail. Complaints about DHS's Medicare program ranked at number eight and is discussed as a separate feature in this chapter.

DHS—CENTRELINK PROGRAM

This year has been a time of great change in the Centrelink program, not only because of its integration into DHS. Centrelink has also amended its internal complaint handling and review processes in response to our report *Right to review—having choices, making choices* (04/2011) and reformed two areas of its Income Management decision making in response to our report *Review of Centrelink Income Management Decisions in the Northern Territory*. Among these significant changes, Centrelink has continued to deliver a complex and diverse array of programs in a high volume environment to some of Australia's most vulnerable people.

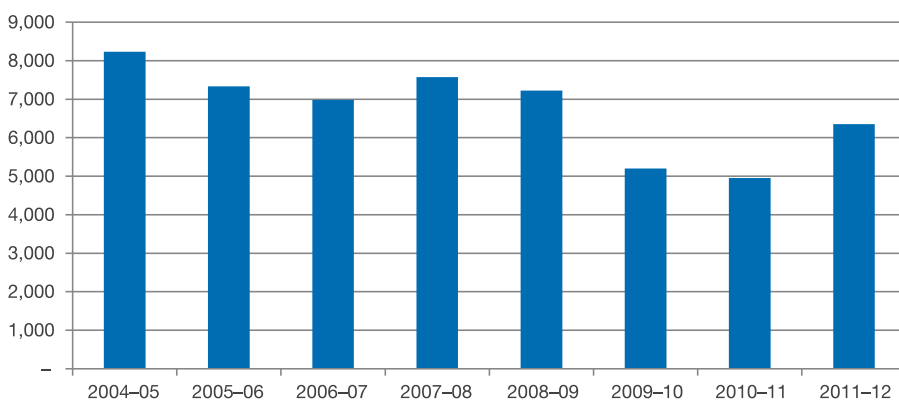
Complaints themes

In the 2011–12 financial year we received 6355 complaints about Centrelink. This constitutes 28% of the total number of in-jurisdiction complaints we received from the public during this year and is the highest number of complaints received about any agency. It also represents a 28% increase in complaints about Centrelink, reversing a two-year trend of declining complaint numbers.

Despite this increase, we investigated 1532 (almost 24%) of the Centrelink complaints we closed during the period. Last financial year we investigated 1098 (22.4%) of the Centrelink complaints we closed during that period. It is unlikely that we will be able to sustain this rate of investigation if the number of Centrelink complaints continues to rise.

We believe that there are two significant factors driving the trend of increasing complaints to this office about Centrelink. One is the significant wait times on Centrelink's telephone lines (discussed below under the heading 'Inability to get through to Centrelink on the phone'). The second is that many Centrelink customers seem to call us, rather than using the DHS Feedback and Complaints line. We think this can be attributed to the way Centrelink promotes the DHS Feedback and Complaints line. Although Centrelink letters encourage customers to give feedback about Centrelink's service, since January 2012, Centrelink has been gradually changing the way it tells people to do so. Centrelink is progressively amending its standard letters to remove the telephone number for people to give feedback and instead tells them to "go to humanservices.gov.au/feedback".

Figure 4.3: Centrelink—received complaints 2004–05 to 2011–12



Immediately following that instruction, Centrelink includes the Ombudsman's telephone number for people to call if they remain dissatisfied with Centrelink's service. Centrelink's intention is that people should first try to resolve their problem by using its internal complaints service, but many people skip that step and call the Ombudsman instead. While we are keen for Centrelink to continue including our number in its letters, we think that it should also include a telephone number for the DHS Feedback and Complaints service. This simple step would improve accessibility and promote the DHS Feedback and Complaints service as a responsive and efficient way for Centrelink customers to quickly resolve problems.

Consistent with last year, the top four payment types that we investigated complaints about were Newstart Allowance, Disability Support Pension, Family Tax Benefit and the Age Pension. However, Youth Allowance was overtaken by an increase in complaints about non-program services. These complaints typically concerned:

- problems getting through on Centrelink's phone lines
- service provision at interface points such as Centrelink counters or over the phone
- the loss of, or repeated requests for, documents or information
- poor or confusing letters.

The increase in this type of complaint stems, in part, from the difficulties that many Centrelink customers have had in accessing Centrelink via one of its phone lines. It may also reflect media and stakeholder reports about increasing levels of dissatisfaction with Centrelink's customer service.

Identifying and acting on vulnerability

A key component of Service Delivery Reform is ensuring that those who most need assistance and support receive services that are tailored to their particular circumstances. In order to do this effectively, Centrelink must identify those customers with particular needs and areas of vulnerability. This includes people adversely affected by mental health conditions or cognitive impairment; people who are homeless or at risk of homelessness; and those experiencing severe financial hardship. We have some concerns about the effectiveness of Centrelink's screening arrangements for identifying customers with special vulnerabilities. We investigated many complaints where a person's vulnerability went unidentified or where Centrelink failed to remove unnecessary barriers to resolve problems for vulnerable people.

A common example drawn from this year's complaints is: a person who is in severe financial hardship applies for a family payment, but the processing of that claim is delayed. Sometimes, their financial hardship was not picked up or acted on by Centrelink even though this is one of the triggers for priority processing. More information about this problem is detailed under 'Processing delays' below.

The Centrelink case studies 'Unreasonable barriers removed in the face of financial hardship', 'Unreasonable delay truncated for IM customer' and 'Harsh, unnecessary red tape avoided' in Chapter 5 of this report are additional examples of the kinds of remedies we have achieved for complainants who are vulnerable and in need of help to achieve an outcome that is appropriate to their circumstances.

We have recently established a 'warm transfer' process for those Centrelink customers who have not yet formally complained to DHS. In the past, we would have started an investigation of many of these complaints, out of a concern that the complainant's particular vulnerability leads us to doubt they are likely to make a formal complaint to the agency themselves, or if they did, they may not be able to articulate their complaint in a way that is likely to achieve an appropriate outcome. Under the warm transfer process, we obtain the person's consent to transfer their complaint directly to DHS's complaints area with a request that DHS engage directly with the person. We do not investigate the matter at that time, but if it is not resolved, we invite the person to contact us again. This gives Centrelink an opportunity to fix the individual problem, and any associated systemic issues, as quickly as possible, which is in the best interests of its current and future customers.

Accessibility

Many of the complaints we receive about Centrelink arise from problems people have accessing its services and understanding its programs. The difficulty people have experienced in reaching Centrelink by telephone is one example which is detailed under 'systemic issues' below. It is also common to find that people struggle to understand Centrelink's correspondence. Consequently, they can miss out on opportunities to resolve a problem, to provide additional information to Centrelink or to claim an appropriate service or payment.

In addition, we have sought remedies for people who are unhappy with the emphasis on online service delivery

and processes, particularly if they are not skilled or equipped to conduct their business online or require help to do so. This is most evident in complaints from people who are receiving the Age Pension, although it is also raised by some Disability Support Pension recipients and carers.

This issue is illustrated by complaints that arose earlier in 2012 when Centrelink stopped posting printed Centrelink Statements to its customers. The statement details key information that Centrelink has recorded for a person which it also takes into account when calculating payments. Centrelink has replaced the printed statement with an online version that provides fuller details about payments, income, assets advances and any debts. It issued a flyer to its customers to explain the change and set up a support system to encourage people to move to online servicing.

When we met with Centrelink to discuss the change, we expressed concern that there was no communication strategy to remind those people who were not inclined or able to conduct their business online that they could obtain the statement by calling Centrelink. After the meeting, Centrelink advised that it would conduct a review of the change in mid-2012 and implement an ongoing communication strategy to 'make sure that ... customers are well informed and advised about the options available to them to access their information'.

Following feedback from customers and other stakeholders, such as the National Welfare Rights Network, Centrelink also improved its explanatory flyer so the various methods by which people can now obtain their statement are more prominent. We no longer receive complaints about this issue. However,

we are conscious that Centrelink's move to online servicing may have a tendency to shift responsibility to its customers to seek out and check the information that Centrelink is using to calculate their entitlement. We will monitor whether this leads to vulnerable people missing out on their entitlements, or being overpaid, through lack of information.

As the above example shows, when people have difficulty accessing information from agencies, they often turn to other sources of information or assistance, such as advocacy groups, members of Parliament or this office, in order to address matters that would otherwise be dealt with by the agency. We hope that further integration under Service Delivery Reform as well as better phone systems, online services, and ongoing improvements to Centrelink's letters will see a reduction in these kinds of complaints. We will continue to work with Centrelink to see that result.

The reforms to Centrelink's review processes, resulting from our report *Centrelink: Right to review—having choices, making choices* (04/2011), have improved people's access to the reasons for decisions and information about their review rights (see 'Improving Centrelink's internal reviews' below). These changes are expected to improve the procedural fairness, quality and accessibility of Centrelink's decisions.

Processing delays

Another recurring theme in the complaints we received this year was delays in processing claims. One source of complaint was the length of time that Authorised Review Officers (ARO) took to process and decide reviews of Centrelink's decisions. When we raised this with Centrelink it

acknowledged delays and explained what it was doing to address the issue. We used this information to assess whether delays in individual complaints were unusual or unreasonable, and therefore warranted investigation.

Another and more frequent source of complaint arose from delays in the processing of claims for family payments such as family tax benefit and the baby bonus. Centrelink confirmed there was a backlog for these payments and explained that since January 2012 it had permitted family payment officers to work overtime and, since February 2012, call centre and service centre staff had also been assisting. It also implemented processes so that customers who were experiencing financial hardship, an indicator of vulnerability or other difficulties had their claim prioritised. Where we identified that people should have been given priority processing due to financial hardship or some other difficulty, we investigated the matter to establish why priority had not already been given. The remedy achieved in these cases was usually priority processing and payment of the claimed benefit and any arrears.

While complaints about processing delays have gradually decreased, we recognise that Centrelink has very little control over peaks and troughs in application numbers. Nevertheless, these kinds of complaints may point to underlying problems with Centrelink's ability to quickly move resources in response to changes in demand. Processing delays also have a flow-on effect, with higher levels of enquiry from customers who fear their application may have been lost, or for whom the delay leads to financial hardship.

We also received complaints about delays in Centrelink's processing of Paid Parental Leave (PPL). The government introduced PPL on 1 January 2011. Our investigation of these complaints indicated that Centrelink was generally managing PPL claims within its service standards. However, we did find a range of problems associated with the newness and complexity of PPL that were contributing to delays in processing. Some complaints were about the PPL process itself but others pointed to problems with documentation or evidence, computer systems and employer cooperation. Consistent with government policy, Centrelink pays the employer, who pays their employee according to their usual pay cycle.

FaHCSIA and DHS are aware of and working to address PPL timeliness issues, with a focus on improved claim processing timeliness. Other strategies being developed include improved processes to minimise payment arrangement delays, improved proof of birth arrangements, and further promotion of pre-birth claiming. Changes implemented are improving timelines.

SYSTEMIC ISSUES

Inability to get through to Centrelink on the phone

Service Delivery Reform is intended to:

- make it easier for people to do business with government in a time and manner that suits their circumstances
- give people better quality services and more intensive help and support at times in their lives when they need it
- give people better service from government that ensures they receive the benefits and support they are entitled to in ways that are effective for them.

As part of these reforms, Centrelink has promoted the use of online information and services as well as telephone based contact. While we recognise the reforms are ongoing, in the second half of 2011 we began to receive a steady stream of complaints about problems with Centrelink's phone lines. The complaints increased in the period leading up to Christmas, when many people were becoming anxious about resolving payment problems before the public holidays. Although the numbers have decreased, we continue to receive complaints from people who just cannot get through to Centrelink on the telephone.

People complain about phone queue delays of tens of minutes through to more than an hour, while they wait for their call to be transferred to a Centrelink officer. Others complain that they waited in the phone queue for extended periods but believed they had been disconnected when the 'hold' music suddenly stopped. Some phone queues contained messages advising that the average wait time would be ten minutes, when it was significantly longer. People also complain that they have been transferred between phone queues or, having waited on hold for an extended period of time, were simply told to call another number which resulted in further delays.

Some people have tried to call Centrelink on many numbers at various times of the day and on different days of the week. Others have attended Centrelink offices in person but have expressed frustration when Centrelink staff have referred them to the phones in the Centrelink office itself.

These phones experience the same delays and people may have to wait for a phone to become available.

Many of Centrelink's customers have very limited incomes and a high proportion have mobile phones rather than landlines. A call to Centrelink on a landline is charged as a local call, but it is a timed call on a mobile phone. Centrelink customers with mobile phones can incur an expense they can ill afford while waiting to speak to someone at Centrelink. For many, the need to contact Centrelink arises from their payment obligations such as the need to make contact if they missed an appointment and to regularly report income. Others are seeking information about the types of payments they may be entitled to, assistance with a claim form, or to have a decision to suspend or cancel a payment reviewed.

The problem with Centrelink's phone lines has received considerable levels of media attention and has been the subject of questions in the Senate. We have discussed this problem with Centrelink at three meetings this financial year. Between October 2011 and May 2012, we provided Centrelink with monthly data on the number and types of complaints we received about its telephone service.

Some of the steps Centrelink says it has taken to improve this include:

- putting more staff on the phones and using overtime to address peaks in demand
- prioritising certain kinds of calls and improving call volume monitoring

- implementing an automated call back facility to enable people who are registered for phone self service to request that Centrelink call them back
- improving wait time messaging to more accurately reflect wait times
- enabling more staff at Centrelink offices to provide face to face service, rather than referring customers to the phones.

Despite these improvements, we continue to receive complaints from people about the difficulties they have with Centrelink's phone lines. For those who are experiencing financial hardship or vulnerability as well as phone problems, we established a separate process for transferring their complaint to Centrelink for direct contact. However, the number of complaints we receive about this problem makes it impossible for us to do this in each case. We will continue to monitor and engage with Centrelink on this issue.

Financial Information Services

One issue that was present in previous years but became more prominent this year was the information and records of Centrelink's Financial Information Services officers (FISOs). FISOs provide an important and free service to Centrelink customers and members of the public who wish to know more about the payments they may be entitled to and how their financial arrangements may affect their entitlement. FISOs do not give financial advice but they are an important source of information.

During this financial year we examined our records to identify complaints in which the actions, information and records of FISOs were central to the issue complained about. We found that FISO activities were an underlying cause of a number of complaints about Centrelink refusing to compensate people under the Compensation for Detriment caused by Defective Administration (CDDA) scheme.

The CDDA scheme allows Centrelink to compensate a person for financial loss arising from Centrelink's failure to provide information, or giving wrong or misleading advice. CDDA claims are often made months or even years after the event. We highlighted to Centrelink the need for more stringent FISO record keeping obligations, improved record content and retention of records for a longer period of time because the records were inadequate for both customers and Centrelink, leaving them uncertain about the accuracy and quality of the information provided by some FISOs.

As a result of our engagement with Centrelink on this issue, it has revised the FISO user guide to take account of our concerns. Improvements continue and we will remain engaged with the further reforms that are planned such as amendments to FISO training course material.

Cross-agency issues

It is not uncommon for an issue to involve Centrelink as well as other agencies that have policy responsibility for a program administered by Centrelink. For instance, our investigation into Income Management required us to engage with, and make recommendations to, Centrelink

and the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). Similarly, our investigation into the implementation of an Administrative Appeals Tribunal decision has necessitated enquiries with Centrelink, FaHCSIA and the Department of Education, Employment and Workplace Relations (DEEWR). Both of these investigations are discussed in more detail below.

Before Centrelink and Child Support merged into DHS, we frequently investigated the actions of both agencies where the complaint concerned the interaction of Centrelink and Child Support in relation to Family Tax Benefit (FTB). As discussed below in the section of this chapter concerning Child Support complaints, we envisage that the divide between Centrelink and Child Support will diminish as Service Delivery Reform brings closer alignment.

Social Security Appeals Tribunal / Child Support

In our 2010–11 Annual Report we mentioned that the Social Security Appeals Tribunal (SSAT) had questioned the Ombudsman's power to investigate complaints about decisions made by SSAT members. In October 2011, we wrote to FaHCSIA about this issue, but have yet to receive a response. We will pursue this in the coming year.

We are pleased to report that the SSAT has cooperated with our investigations in 2011–12. We include a case study in Chapter 5, 'Written review decision amended', where the SSAT promptly altered a decision to correct an obvious error that we brought to its attention.

Reports and submissions

Bringing about changes to income management decisions

The Ombudsman's investigation into Centrelink's Income Management (IM) decision making and our report, *Review of Centrelink Income Management Decisions in the Northern Territory: Financial Vulnerability and Vulnerable Welfare Payment Recipient Decisions* led to extensive changes to Centrelink's practices. Our investigation examined two types of Centrelink decisions:

- to not exempt a person from IM because they were considered financially vulnerable, and
- to apply IM to a person because they were determined to be a vulnerable welfare payment recipient.

The investigation concerned both Centrelink, as the service delivery agency, and the policy agency, FaHCSIA.

The report highlighted that initial decision-making tools and guidelines did not enable decision makers to meet legislative requirements. We also identified problems with the use of interpreters, record keeping, training and the handling of review and exemption requests. As a result of the investigation, significant improvements were made to the way these decisions are made, documented, explained and reviewed. This report is also discussed in Chapter 5 and in our feature 'Ombudsman oversight of Northern Territory Emergency Response'.

Update from last year

Implementation of tribunal decision

In our 2010–11 Annual Report we mentioned our concerns about the processes for scrutinising and responding to tribunal decisions. As case study 'Integrity of a tribunal decision maintained' in Chapter 5 shows, this remains an area of interest for us.

In our last annual report, we also raised concerns about the way tribunal decisions that have broader implications for policies and procedures are dealt with. This is particularly the case where those decisions require Centrelink to consult with policy departments such as FaHCSIA and DEEWR. During this financial year we started an own motion investigation into these agencies' responses to a particular Administrative Appeals Tribunal decision. The investigation is largely complete and we will write to the agencies early in 2012–13 to communicate the outcome and our recommendations.

Improving Centrelink's internal reviews

Our 2011 report, *Centrelink: Right to review—having choices, making choices* led to extensive reforms to the way Centrelink dealt with its customers' requests for a review of a decision. These reforms were trialled throughout 2011 and progressively implemented by Centrelink across all of its decision making areas in the first half of 2012. We met with Centrelink many times to discuss the proposed reforms and their implementation. We also attended trial sites to discuss the changes with staff

and reviewed Centrelink's amended policy documents and instructions.

Centrelink made the following key improvements in response to our recommendations:

- people only have to ask for review once in order to obtain an internal review of a decision by an Authorised Review Officer, whereas they previously had to ask for review at two points or they were taken to have accepted the adverse decision
- each review request receives a unique identification number that enables the review to be tracked through each stage from end to end
- before adverse decisions are made, Centrelink attempts to contact the customer to discuss the intended decision. This new step provides people with information about the reasons for the decision and enables Centrelink to correct its understanding if there has been an error
- there is now a standardised quality assurance process before a decision is reviewed and a process that enables the officer conducting that quality assurance to quickly implement a fully favourable decision where appropriate
- reviews can be prioritised at the point of request according to standardised criteria that take account of vulnerabilities and hardship
- 'payment pending review' and revised debt repayment arrangements can be considered during the review process, whereas only AROs had this authority previously.

This office has been closely monitoring the agency's response to our recommendations. The only recommendation that we are not satisfied Centrelink has implemented yet is recommendation 3(a): 'In debt cases ... analyse cost effectiveness of suspending debt recovery action through write-off during reviews'. We will continue to engage with Centrelink about this recommendation and monitor complaints to assess the efficacy of the changes.

Reforming agency approaches to people with mental illness

In October 2010 we published the report *Falling through the cracks—Centrelink, DEEWR and FaHCSIA: Engaging with customers with a mental illness in the social security system*. Centrelink subsequently established an interagency working group comprised of representatives from the DHS, DEEWR and FaHCSIA to plan implementation of the recommendations. Centrelink also set up a working party consisting of agency representatives, and a number of welfare, disability, advocacy and carer organisations to guide implementation of some of the recommendations.

Given the work being undertaken as part of Service Delivery Reform, we decided to engage with the periodic DHS Consumer Consultative Group and Service Delivery Advisory Group meetings to ensure that this important issue remains a prominent feature in the program and administrative changes that are underway.

Debts

We continue to receive complaints about Centrelink's decisions to raise and recover debts, particularly where it has intercepted a person's tax return, garnisheed their bank account or referred the debt to a private debt collection agent. A portion of the complaints highlight problems, particularly where Centrelink recognises a debt has been raised in error but proceeds to recover the debt nonetheless. We have met with Centrelink's debt area three times this year to discuss emerging issues and explore what further improvements it can make to its debt-related processes. Centrelink has been very cooperative and forthcoming during these meetings, but we continue to receive complaints about unfair or insensitive debt recovery practices. Centrelink has proactively reviewed its practices and instructions to staff to address some of the underlying causes of debt recovery complaints. In 2012–13 we will be monitoring Centrelink's implementation of changes to debt-related practices and procedures.

Customers in crisis

There were fewer complaints about crisis payments this financial year. We expect that we will now use our new warm transfer process to refer these complaints directly to Centrelink for resolution.

Stakeholder engagement, outreach and education

The office's working relationship with Centrelink involves regular communication, meetings and briefings, in addition to our contacts to investigate individual complaints. We have also participated in the DHS Consumer Consultative Group and Service Delivery Advisory Group.

During the latter part of 2011, we conducted consultations with community and advocacy groups in Sydney and Perth. These consultations enabled us to establish new relationships with community stakeholders, and to build upon existing connections. One of our key stakeholders is the National Welfare Rights Network, as well as Welfare Rights Centres in capital cities and regions. We continue to have contact with many of our community stakeholders outside of formal meetings and find that our engagement with them enriches our understanding of people's experiences with the social security system. This ongoing contact often brings matters to our attention that would not otherwise have been evident from complaints alone.

We have maintained our regular complaint sessions at the Women's Information Switchboard in Adelaide. This is a joint activity with the South Australian Ombudsman. We have also continued with complaint clinics at several homeless shelters in capital cities around the country (see the feature on Homelessness in this report).

Looking ahead

We continue to look for ways to improve Centrelink's service delivery to vulnerable people. As noted above, a warm transfer process started in July 2012 and we are pleased with its progress to date. We will continue to monitor its effectiveness throughout the coming year and, should we find that transferred complaints are not being resolved by Centrelink, it is likely that we will conduct more investigations into the agency's complaint handling processes.

We are mindful of the potential for increasing numbers of complaints about income management as that program is delivered in trial sites across the nation. Similarly, recent changes to payments and services as a result of Budget announcements may see an increase in certain types of complaints.

The coming year will see further integration of the Centrelink, Child Support and Medicare programs under the Service Delivery Reforms. This will bring opportunities to suggest service delivery improvements. Ideally, we would like to see improved standardisation of procedures and policies across DHS. We are also keen to see a decrease in the number of complaints about problems with Centrelink's phones and will continue to raise this with the agency.

DHS—CHILD SUPPORT PROGRAM

DHS's Child Support program (Child Support) assesses and transfers payments between separated parents of eligible children (and less commonly, from parents to step-parents or other carers such as foster carers). Child Support also registers and collects court-ordered child and spousal maintenance. The Ombudsman has jurisdiction to investigate the decisions and actions that Child Support officers take in administering the child support scheme. Child Support routinely advises its customers, through information in letters and brochures, how they can contact the Commonwealth Ombudsman to make a complaint.

In 2011–12, we received 2228 complaints about Child Support, slightly more than in 2010–11, when we received 2121 Child Support complaints. Complaints about

Child Support comprised just under 25% of the complaints we received about DHS in 2011–12.

In 2011–12, the Ombudsman finalised 2276 Child Support complaints, of which just over 29% were investigated, the same proportion as in 2010–11.

A large proportion of the Child Support complaints that we decided not to investigate were matters that we considered appropriate for the complainant to pursue in another way. For example, there is an internal Child Support complaint service that can deal with a customer's service delivery complaint. There is also a legislated internal review process (objections) that Child Support customers can use to challenge a decision they think is wrong or unfair. If a Child Support customer is dissatisfied with an objection decision, they can apply to the Social Security Appeals Tribunal (SSAT) for a review.

We categorise all the complaints that we receive, investigated or not, to monitor trends and track systemic problems in Child Support's administration. Our analysis of the trends helps us to understand how members of the public experience the Child Support Scheme and identify emerging problems in Child Support's administration.

We continued our quarterly liaison meetings with Child Support in 2011–12. These meetings provide us with a valuable opportunity to exchange information about the program and complaint issues with senior program staff.

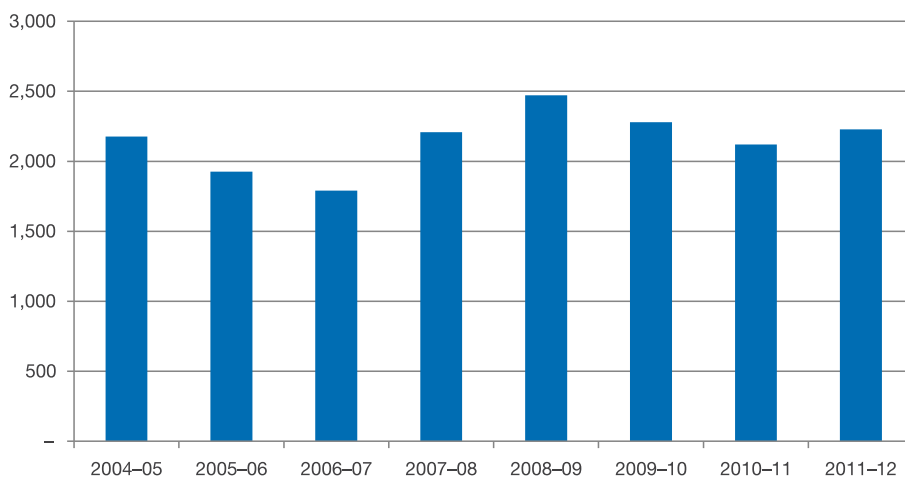
In July 2011, Child Support introduced a single telephone number for our staff to contact Child Support officers with direct access to customer records and

authority to take a range of actions to quickly resolve complaints with minimal formality. Those arrangements ceased from July 2012 when DHS centralised responsibility for all Ombudsman matters to a single team located in its national office. We have advised DHS of our concern about the impact that this centralised contact arrangement will have on our capacity to efficiently resolve a large volume of complaints. We will be carefully monitoring the

timeliness and quality of DHS's responses to our investigations this year.

Last year we reported our intention to develop a process in consultation with Child Support to directly transfer some complaints to its internal complaints process for resolution. We were not able to introduce this 'warm transfer process' in 2011–12, but hope to do so early in 2012–13.

Figure 4.4: Child Support—received complaints 2004–05 to 2011–12



Complaints

Common complaint issues and trends

Who is most dissatisfied?

Payers or payees?

Every child support case has a payer (the person liable to pay child support) and a payee (the person entitled to receive child support). Almost all the complaints that we receive about Child Support are made by payers and payees unhappy with their own child support case. Sometimes we receive complaints from the new partners of payers, or less commonly, the new partner of a payee, or another family member acting on behalf of the payer or payee. We hear very rarely from the other people affected by the Child Support Scheme, such as employers and third parties who Child Support requires to make deductions to collect child support from payers, and the children for whom child support is payable.

Child Support's role is to assess how much money the payer should transfer to their former partner for the care of the children of their relationship. In approximately half of all cases, Child Support is also the debt collector. In 2011–12, we dealt with slightly more than twice the number of payer than payee complaints about Child Support, consistent with the trend we noted last year. We think that the actions that Child Support takes to assess and collect debts from payers are more likely to lead to payer dissatisfaction than payee dissatisfaction. However, we do not have any basis for concluding that Child Support tends to treat payers 'worse' than payees, or that it treats men worse than women, although some complainants believe that this is the case.

In descending order, the three most common Child Support issues that we investigated in 2011–12 were:

1. debt enforcement
2. assessments (which is Child Support's calculation of the amount of child support a person is liable to pay or receive for a child)
3. customer service (which includes correspondence, publications, face-to-face service, and telephone communications and Child Support's complaints service).

Very few 'customer service' complaints were about delays in accessing Child Support by telephone. Our complaints statistics suggest that complaints about telephone delays are in the main limited to DHS's Centrelink program.

Debt enforcement

As was the case in 2010–11, the most common issue in the Child Support complaints that we investigated was debt enforcement. In 2011–12, we investigated 299 payer complaints and 246 payee complaints about Child Support's debt enforcement. The payer complaints tended to be that Child Support's actions were harsh or unfair; payee complaints tended to be that Child Support had not done enough to collect the debt from the payer.

In Chapter 5 we have included a case study 'Debt recovered from responsible party' that shows how we assisted a man who maintained he had already paid his Child Support debt. His employer had deducted child support from his wages, but had

gone into liquidation without sending the money to Child Support. Once we contacted Child Support, it was able to resolve the matter by discussion with the liquidator. We believe that Child Support's decisive action to remedy this complaint reflects the work that it had done to improve its procedures in the light of our investigation of a similar complaint discussed in last year's annual report.

Overseas cases

We continue to receive complaints about Child Support's management of cases where one of the parents is located outside of Australia. In our 2010–11 report, we observed that Child Support's administration of some overseas cases is marred by communication problems, delays or a general lack of responsiveness. We are aware that Child Support has implemented a range of strategies to improve its management of overseas cases, including introducing 'account managers' to deal with the reciprocating maintenance authorities. However, we will continue to monitor the way that the agency deals with international cases.

In Chapter 5 we have included a case study 'Payments finally extracted from Child Support and provided to the rightful owner' about a complaint made by a payee living outside of Australia. Ms P complained to us that Child Support had failed, over an extended period, to collect money from her former husband in Australia; and that it would not communicate with her directly. She was also unhappy that Child Support would not respond directly to her communication and would only deal

with her local maintenance authority. Our investigation revealed that Child Support had actually collected significant amounts of child support for Ms P, but that this had not been paid to her because of a series of administrative errors. She has now been paid the money and Child Support is communicating with her to resolve the other issues in her complaint.

Child Support overpayments

Last year we reported that Child Support had advised that it was developing a new approach to child support overpayments. We were keen to see whether the new approach was an improvement. However, Child Support's approach has remained largely unchanged while it works through a range of legal, policy, and administrative issues related to the proposed change. We remain concerned about child support overpayments.

In 2011–12, complaints about child support overpayments were few in number (20), but significant in impact. In Chapter 5 we have included a case study about a child support overpayment 'Consequences of payment error sorted out'. Child Support paid \$6000 to Ms R in error and was seeking to recover it from her. Ms R's case is just one example of a situation where Child Support will decide that a payee has been overpaid child support. In some cases, an overpayment arises because the payee has failed to tell Child Support about changes in their circumstances (such as their income), or those of the children. In other cases, the overpayment occurs because the payer belatedly advises of a change in their own situation, or when Child Support delays acting upon

information that it has received about a parent's income or other dependants.

The Child Support legislation provides that a payer can apply to court for an order to recover overpaid child support directly from the payee, even if Child Support was responsible for transferring the money between the parents.

In recovery proceedings, the court must consider a range of factors, including why the overpayment occurred, in deciding whether it is fair to require the payee to repay the overpaid child support.

However, for those cases where Child Support transferred the overpaid money between the parents, Child Support considers that it is obliged to recover the money from the payee. Child Support has taken the view that its obligation to recover from the payee, in order to repay the payer, is unaffected by the payer's right to recover from the payee.

We have a range of concerns about Child Support's procedures for raising and recovering overpayments from payees. Child Support does not provide written reasons for an overpayment decision. A payee cannot challenge Child Support's decision to raise and recover an overpayment through its internal objection process, or in the Social Security Appeals Tribunal. When Child Support raises an overpayment, the payee's child support payments immediately stop, even if there is still an ongoing child support assessment. The exception is when Child Support decides to refund the overpayment to the payer, and then recovers it from the payee by withholdings from future child support payments. Even then, those future payments are reliant upon the

payer making further payments to Child Support. In several complaints, a payee negotiated a repayment arrangement with Child Support which failed because of problems in the way Child Support administered it, leaving the payee still in debt and without any regular child support. Child Support has assured us that it is working to address these administrative problems. We will continue to monitor this in the coming year.

We are also concerned that Child Support's policy of recovering all overpayments from payees, regardless of the reasons why the overpayment occurred, may not be an appropriate response in some cases. In our view, it is inequitable for Child Support to recover an overpayment from a payee if a court would not order the payee to repay the payer directly. We are continuing to watch for further cases. One situation where we believe a court would be unlikely to order a payee to repay is an overpayment arising from Child Support's retrospective decision that a payer was no longer an Australian resident because he or she is working in another country with which Australia does not have reciprocal child support obligations.

Child Support is considering our views about its approach to overpayments, in consultation with FaHCSIA, which is the policy agency responsible for the Child Support Scheme. We will continue to work with DHS and FaHCSIA to monitor this very complex issue over the coming year.

Cross-agency issues

Interaction of child support and family tax benefit

There is a very close link between the child support and Family Tax Benefit (FTB) systems. Centrelink makes FTB payments to parents and carers to help with the costs of raising the children in their care. The amount of child support that a person receives for a child may affect their FTB. If a parent is separated from the other parent of their child, and they receive child support for that child, any child support above the maintenance threshold will reduce their FTB for that child.

In Chapter 5, we include a case study about Ms Q ‘Consequences of payment error sorted out’, in which Centrelink reduced Ms Q’s FTB because she received a lump sum of child support. The lump sum exceeded the maintenance threshold for FTB. However, Child Support decided that it had paid the lump sum to Ms Q in error and it raised an overpayment against her. Our investigation led Centrelink to review Ms Q’s FTB so that it did not take into account the lump sum that Child Support paid her in error.

Taking ‘reasonable maintenance action’

The FTB rules are designed to encourage separated parents to apply for, and collect, child support wherever possible. FTB Part A is paid subject to a ‘reasonable maintenance action test’ (RMAT). Under the RMAT, if Centrelink decides a parent has not taken reasonable action to obtain child support, their FTB Part A is reduced to the base rate.

There is a significant difference between the base rate and the maximum rate of

FTB Part A. As at 1 July 2012, the base rate of FTB Part A for a child aged 13 or more was \$54.32 per fortnight. The higher rate of FTB Part A was \$220.64 per fortnight, and a person receiving more than the base rate of FTB Part A may also be entitled to rent assistance of up to \$140.98 per fortnight for a single person (or \$159.46 if they have three or more children). Given the significant financial detriment attached to failing the RMAT, we think it is critical that both Child Support and Centrelink make it very clear to parents, at the earliest possible time, what they are expected to do.

In the Ombudsman’s last annual report, we noted that we had been working for some time on a project with Centrelink and Child Support, looking at why some FTB customers acquired large FTB debts when Centrelink decided they had retrospectively failed the RMAT. When we started this project, Centrelink and Child Support were separate agencies and neither seemed to have a detailed understanding of the legal and practical interactions of the FTB and child support systems. Part way through, the two agencies became part of the new integrated DHS and the DHS areas responsible for the Child Support Scheme and FTB were also amalgamated. At around the same time FaHCSIA integrated its policy branches responsible for the Child Support Scheme and FTB.

Throughout 2011–12, we made concerted efforts to bring DHS and FaHCSIA together to discuss the underlying policy and administrative problems that were revealed by a range of FTB and Child Support complaints that we had investigated and finalised. We were satisfied that some of the underlying problems that led to retrospective RMAT failures no longer applied because of unrelated changes to the Child Support

Scheme. We also identified that Centrelink could do more to ensure that FTB recipients are aware of the need to apply for child support and given a reasonable period in which to do so, before their FTB is reduced to the base rate.

Centrelink has undertaken to refine its procedures and review its automated communication with FTB customers to improve its administration of the RMAT. We will continue working with DHS to monitor its implementation of these improvements. We want Centrelink to take all reasonable steps to ensure that FTB customers do not miss out on the higher rate of FTB through confusion or ignorance about the RMAT, or its misapplication.

Care percentages: how much time does a child spend with each parent?

Another area of close interaction between the Child Support and Centrelink programs is the process for deciding the 'care percentage' to be used in calculating a parent or carer's child support assessment and, where relevant, their FTB entitlement. Since 1 July 2010, whenever Child Support makes a care percentage decision, this will also apply to Centrelink's FTB records (and vice versa). However, Child Support and Centrelink have different computer systems, so Centrelink must transfer data about any changes it makes to the parent's care percentage to Child Support, for Child Support to apply to its record for that parent (and vice versa). In our 2010–11 annual report we noted that we had investigated a small number of complaints about the transfer of 'care percentage' data between the programs.

In 2011–12 we monitored complaints about the transfer of care data between Centrelink and Child Support, to establish

whether there were simply 'teething problems' or something more serious. The people who complained to us, although few in number, all gave similar accounts of repeatedly being referred between Child Support and Centrelink in their efforts to have the correct care percentage applied to their cases. This fell far short of the standard of service that people should be able to expect from an integrated DHS.

We raised this systemic problem with DHS and were assured that Child Support's complaint service was best placed to deal with individual complaints about data transfer problems. We started to refer most new complaints to Child Support to resolve, but continued to receive complaints from people frustrated by the delays, or who were told that there was a 'computer glitch' that was preventing Child Support or Centrelink making a correct assessment. While we were able to resolve these complaints individually, we remained concerned about what appeared to be a range of system and training deficiencies in both Centrelink and Child Support. We wrote to DHS about this in October 2011 and February 2012, with details of all the individual complaints that we had received and investigated.

DHS advised us that it established a 'Care Review Project' in January 2012, to investigate the underlying causes for the persistent problems it was experiencing in transferring care data between Centrelink and Child Support and applying it accurately to customers' records.

We received a briefing about the project in late April 2012. We continue to receive complaints about this problem and are very keen to see the results of DHS's Care Review project in the coming year.

Child Support and the Australian Taxation Office (ATO)

DHS and the ATO are separate Commonwealth agencies. However, Child Support used to be part of the ATO and at the time of their separation, administrative and legislative arrangements were made to ensure that Child Support was still able to get access to the ATO information it needs to administer the Child Support Scheme. The ATO informs Child Support when it makes an assessment of a Child Support customer's taxable income, so Child Support can make a new child support assessment. We investigated several complaints in 2011–12 where problems in the transfer of income information between Child Support and the ATO meant that Child Support failed to make a new assessment at the appropriate time. Child Support attempted to remedy this by making a retrospective assessment when it discovered the problem. It has recently acknowledged that the child support legislation does not permit it to make retrospective assessments in these cases. We will continue to investigate this problem in the coming year.

Another frequent interaction between the ATO and Child Support is the tax refund intercept process. If the ATO is about to make a refund to a taxpayer who is also a child support debtor, Child Support can require the ATO to transfer that refund to Child Support, to be applied to the person's child support debt. In 2010–11, Child Support collected \$108.7 million by intercepting payers' tax refunds.

In 2011–12 we investigated a complaint from Ms M (2011-100688; 2011-100994), which led to the ATO paying Ms M compensation for failing to send her former partner's tax refund to Child Support.

The error occurred through a human error in the ATO's manual processing of returns when it was implementing its new computer system. Ms M's former partner remains liable for the full amount of his child support debt. Ms M has agreed to repay the ATO when and if Child Support ever collects that debt from him and pays it to her.

Child Support's response to compensation claims

We believe the ATO's remedy for Ms M's complaint is an appropriate response to a missed collection opportunity. It is a very different result to the way that Child Support responds to compensation claims lodged by its customers when Child Support makes a mistake that causes it to miss a certain collection opportunity to the detriment of one of its customers. We suggested that Child Support reconsider its usual approach to compensation claims of this type. We intend to pursue this matter further when an appropriate case arises.

Update from last year

Child Support's 'capacity to pay' investigations

In our 2010–11 annual report we mentioned that we intended to monitor Child Support's implementation of recommendations in *Report 11/2010—Child Support Agency, Department of Human Services: Investigation of a parent's capacity to pay*, published August 2010. We are satisfied that Child Support has acted on all the recommendations. We did not receive any complaints in 2011–12 that indicated any significant ongoing problems with this area of Child Support's administration.

Child Support's 'write only' service restrictions

We also mentioned in our 2010–11 annual report that we planned to examine Child Support's records of its review of the cases where it had restricted customers to 'write only' access. We recommended that Child Support conduct that review in *Report 14/2010—Department of Human Services, Child Support Agency: Unreasonable Customer Conduct and 'Write Only' policy*, published November 2010. In August 2011, we wrote to Child Support to report on our review of the cases, acknowledging significant improvements to its procedures for imposing and reviewing service restrictions.

In April 2012, DHS briefed us on the work it was doing to align the way that Child Support and Centrelink impose and review service restrictions on their customers. We made comments on the early draft DHS 'Alternative Service Arrangement' (ASA) procedures and have agreed to provide further feedback as DHS develops ASA procedures that will apply across all of DHS.

Stakeholder engagement, outreach and education activities

Last year we noted our intention to do more to ensure that Child Support customers are aware of their right to complain to the Ombudsman's office. Set out below are some of the things that we did.

In July 2011, the Ombudsman's office held a Community Roundtable meeting in Melbourne to discuss child support issues. We invited people from parent and carer support groups; community legal centres and Victoria Legal Aid. The people who attended said that they learned a lot about the role of the

Ombudsman's office and how we can help people who are having problems in their dealings with Child Support, or associated Centrelink problems.

In September 2011, we produced brochures for distribution at the Family Relationship Services of Australia conference on the Gold Coast, explaining the sorts of complaints that the Ombudsman can investigate.

In November 2011, we gave a presentation at Victoria Legal Aid to a group of solicitors who deal with child support matters.

Also in November 2011, we attended the Conference of the National Council of Single Mothers and their Children—Diversity, Dignity and Determination, in Melbourne. A copy of our brochure explaining the sorts of complaints that the Ombudsman can investigate was included in each conference delegate's package.

We attended four meetings of the Child Support National Stakeholder Engagement Group (CSNSEG) in Canberra (July and November 2011, March and June 2012) convened by DHS and FaHCSIA. The CSNSEG members include a range of people and organisations with an interest in the child support scheme: parent and carer support groups; the courts; researchers in the field of families, children and separation; family relationship centres; community legal centres; migrant resource centres; solicitors in private practice; community legal centres; state and territory legal aid bodies and other government organisations.

Throughout 2011–12, we attended Child Support State Stakeholder Engagement Group (CSSEG) meetings in Parramatta; Adelaide and Melbourne. These meetings put us in touch with a range of local people and organisations with an interest in the Child Support Scheme, similar to those who attend CSSEG meetings.

In August and November 2011, we attended meetings of the NSW Child Support Legal Liaison Group convened by Legal Aid NSW in Parramatta.

We participated in the DHS Child Support Family Violence Reference Group, attending meetings in July, August and November 2011. The reference group advised Child Support on its development of a definition of violence, and how Child Support could make its processes more responsive to victims of family violence.

Looking ahead

In 2012–13 we will continue to participate in activities that will enrich our understanding of the way DHS customers experience the child support scheme and any associated impacts on their FTB entitlements.

Our top two priorities in 2012–13 are to assist DHS to improve:

1. the way that the Child Support program responds to payee overpayments
2. its administration of the reasonable maintenance action test.

Department of Human Services—Medicare program

On 1 July 2011 Medicare Australia became the Medicare program of the Department of Human Services. In 2011–12 the Ombudsman received 359 approaches about DHS—Medicare (Medicare). This is an increase of 103% on the number of approaches received in 2010–11 (177). The increase appears to be the result in part to changes in program responsibilities. In particular, from 1 November 2011, Medicare became responsible for approving applications for early release of superannuation benefits under the Superannuation Industry (Supervision) Regulations 1994. This was previously the responsibility of the Australian Prudential Regulation Authority (APRA) and was performed by Medicare Australia and the Medicare program of the Department of Human Services under delegation from 3 February 2011.

Early release of superannuation

Forty per cent of complaints about Medicare in 2011–12 concerned the processing of applications for early release of superannuation benefits. Complaint issues included the clarity of advice about the information that must be supplied by an applicant for early release; multiple requests for similar information; and processing timeframes.

Recovery of Medicare benefits affected by advance payments by insurers

In 2011–12 the Ombudsman received a number of complaints about Medicare recovering benefits paid for medical treatment where an insurer is liable to pay compensation for the same treatment and has made an advance payment to Medicare. The recovery action is authorised by the *Health and Other Services (Compensation) Act 1995* which provides strict timeframes for the issuing and return by customers of Medicare History Statements and the issuing of Notices of Past Benefits. If a customer does not challenge the Medicare History Statement within the required timeframe, Medicare can assume that all benefits paid are related to the compensable injury and recover them from the customer. However, if Medicare fails to meet the legislated timeframe for issuing a Notice of Past Benefits, this operates as a discharge of the customer's liability to repay benefits paid for the relevant treatment and Medicare must refund to the customer the advance payment that it received from the insurer.

A number of complainants approached us about Medicare seeking to recover debts relating to compensation cases that had settled some years earlier, including one in 2000. On investigation, Medicare advised us that, due to its failure to meet the legal timeframes, these debts were not owed. Medicare cancelled the debts and refunded the insurer's advance to the customers. Medicare's internal review indicated that its failure to meet the time frames was in turn due to insurance companies not following the correct procedure in providing a settlement statement and payment to Medicare. Medicare undertook to review its unfinalised compensation recovery cases to ensure they were not subject to the same error.

POSTAL INDUSTRY OMBUDSMAN AND AUSTRALIA POST COMPLAINTS

Overview

The Commonwealth Ombudsman has served as the Postal Industry Ombudsman (PIO) since 6 October 2006. The PIO was set up to offer an ombudsman service for the postal and courier industry, with the aim of recovering its costs from the industry it regulates.

An Australian Government business enterprise, Australia Post is subject to the jurisdiction of the Commonwealth Ombudsman and the PIO. Other private postal operators (PPOs) can voluntarily register with the PIO. In 2011–12, in addition to Australia Post, eight PPOs were registered under the PIO scheme.

The PIO can only investigate complaints made about a postal or similar service, and only if made within 12 months after the action that caused the complaint. The PIO cannot investigate complaints about other aspects of a postal provider's operations, such as retail services, employment matters or environmental issues. The exception is Australia Post, where the Commonwealth Ombudsman may investigate administrative actions of Australia Post that do not fall within the jurisdiction of the PIO.

Typical examples of matters that fall within the Commonwealth Ombudsman's jurisdiction include complaints about Australia Post's retail products and services, damage to property, processing of passport applications and bill payments.

Complaints

Australia Post remains the main provider of postal services and 99% of complaints received are about Australia Post mail services. While the number of complaints received was a relatively small proportion of the number of daily transactions completed by Australia Post, the impact of a disrupted mail service upon an individual or business can be significant.

In 2011–12 we received a total of 4173 complaints about postal matters. Over 350 of those were outside the jurisdiction of the PIO. Postal matters accounted for 18% of the total number of complaints received by our office during the year. This is 1014 more postal complaints than we received in 2010–11, an increase of over 32%. This follows an increase of 19% the previous year. The following table shows the continuing growth in complaints received about the postal industry since the start of the PIO in 2006–07.

Table 4.2: Complaints received about the postal industry since 2006–07

YEAR	AUSTRALIA POST COMPLAINTS RECEIVED	PRIVATE POSTAL OPERATORS COMPLAINTS RECEIVED	TOTAL COMPLAINTS RECEIVED	COMPLETED INVESTIGATIONS
2011–12	4137	36	4173	486
2010–11	3123	20	3143	513
2009–10	2626	11	2637	557
2008–09	2219	13	2232	648
2007–08	2083	4	2087	745
2006–07	1819	1	1820	706

Of the total complaints received, 3816 or 92% were within the jurisdiction of the PIO. This proportion is consistent with previous years.

The largest proportion of complaints received related to one-off problems with mail, with most of these being about parcel deliveries. Australia Post reported that it experienced significant parcel volume growth in 2011–12, with 70% of that volume generated by eCommerce, as growing numbers of Australians do their shopping online. Complaints about parcel delivery are largely about parcels that have been lost or damaged. We may investigate if it appears that Australia Post has unreasonably refused to pay compensation, or has been unable to reasonably resolve the complaint.

In dealing with complaints about single instances of mail service failure by Australia Post and assessing what is fair and reasonable, we consider Australia Post's commercial and community service obligations. Part of our role is to help complainants better understand these obligations as Australia Post customers often appear to either be unaware of or reluctant to accept them.

We take into account Australia Post's terms and conditions for the particular mail service that has been used. Generally, we are able to obtain a better outcome when a parcel has been sent using a service that includes tracking or delivery receipt, and the loss of the parcel can be directly attributable to a failure of Australia Post to comply with the requirements of that service. Examples of this include when a person can verify they did not sign for an article, appropriate identification checks were not completed by Australia Post, proper records have not been kept, a policy has been misapplied, or the customer service response has been inadequate. In addition to resolving the individual case, our investigation aims to identify any errors that might indicate a more systemic problem.

When a one-off problem occurs due to a failure to correctly implement an Australia Post procedure, we expect Australia Post to try to identify how the problem occurred and if necessary, to raise the issue with the staff involved to prevent similar problems in the future.

The next most common area of complaint relates to recurrent mail issues. These issues are broad-ranging and, in addition to complaints about lost or damaged mail, they also include complaints about:

- repeatedly misdelivered mail
- incorrect safe drop procedures
- failure to attempt delivery of parcels
- refusal to deliver mail
- irregularity of service to a new area
- errors with the address database, and
- repeat or ongoing failure of a mail redirection or hold service.

We have managed to resolve a number of complaints where confusion about an address has caused ongoing misdelivery of mail. We have also been able to resolve some issues where parcels were being left for collection at inconvenient locations.

During the year we investigated multiple complaints from Australia Post customers about failed mail redirections or holds. These customers reported a variety of problems, including missing or lost mail, mail delivered incorrectly to them or another address, and unauthorised mail redirections. Customers also reported problems with Australia Post's complaint-handling, particularly in relation to the advice provided by Australia Post and its requirements regarding evidence to prove failure. We generally investigated when there was evidence of failure and an unreasonable response from Australia Post. In many cases we achieved a better result, such as increased checking of

mail by Australia Post to ensure correct delivery, and refund of the redirection fee covering the period of failure.

Systemic issues

In 2011–12 we did not publish any new reports about Australia Post, but we followed up its progress in implementing our recommendations from a number of reports released over recent years. We sought information about what improvements and changes Australia Post has made in the administration of these services. We sought follow up information on the following five reports:

- *Use of notification cards—December 2008*
- *Administration of the mail redirection service—June 2009*
- *Community polling practices: gauging community support for changes to postal delivery services—March 2009*
- *Passports lost in the mail—June 2010*
- *Safe drop program—a review of the first year—March 2010*

We are analysing the further information and will continue to monitor Australia Post's implementation of the recommendations from our earlier reports.

Looking ahead

We do not anticipate significant changes to the trends in postal complaints in 2012–13. As Australia Post's geographical delivery network expands each year, it is likely that complaints will also continue to grow, particularly if the parcel volume continues to increase.

We will continue to focus on referring complainants to Australia Post's customer contact centre to resolve their issues of concern, especially in instances of one-off problems. We will focus our limited resources on identifying systemic issues and possible improvements. In particular, we will aim to work with Australia Post to examine how its own complaint handling could be improved to achieve better and more lasting solutions at the first point of contact. As foreshadowed in last year's annual report we have conducted a review of how we charge for investigations conducted under the PIO scheme. We completed an analysis of investigations completed over a period of time to better ascertain the resources required to undertake investigations at different levels of complexity. We will be seeking to discuss changes to the fee structure for PIO investigations with Australia Post, PPOs and the Department of Broadband, Communications and the Digital Economy over the coming year.

TAXATION OMBUDSMAN AND ATO COMPLAINTS

Overview

The Taxation Ombudsman role was created at the suggestion of the Joint Committee of Public Accounts and Audit (JCPAA) in 1995 in recognition of the unequal position between the Australian

Taxation Office (ATO) and taxpayers.

The role aimed to increase the focus on the investigation of complaints about the ATO. The Taxation Ombudsman appears at the annual hearings of the JCPAA with the Commissioner of Taxation and provides a review of the ATO's performance based on the complaints received by this office and our liaison activities with the ATO. The role does not otherwise confer any additional duties or functions other than these under the Act.

In 2011–12 we received 2717 complaints about the ATO, the highest number of complaints in 10 years and a 4.7% increase on complaints received in 2010–11. Overall, complaints about the ATO have more than doubled since 2007–08. In 2011–12 complaints about the ATO accounted for 12% of complaints received by the office.

Complaints

The most common ATO complaints received were about:

- income tax refund delay
- other processing issues
- debt recovery actions
- time taken in the investigation of unpaid superannuation entitlements owed to employees
- audit actions by the ATO, most often in relation to goods and services tax matters
- superannuation excess contributions tax imposed
- delays in processing Australian Business Number (ABN) applications.

During the year, with the ATO's cooperation, we commenced a 'one last chance' referral process. We use this process when a person complains to us about a matter that has already been considered and finalised by the ATO, but where we assess that the issue is one that could still easily be resolved by the ATO.

Under this arrangement we refer complaints to the ATO for action within 14 days, identifying the possible remedies. The ATO then reports back to us on what actions it took to resolve the complaint directly with the taxpayer. We then consider whether further action by this office is warranted. This process allowed remedies to be provided quickly and efficiently. The ATO has demonstrated its capacity to satisfactorily resolve the large majority of referred complaints, without requiring further investigation by our office. Examples of the types of remedies provided by the ATO include:

- sending forms or statements of account
- providing better explanations for its decisions and tax-related matters
- processing payments.

Given the ATO's success in implementing the 'one last chance' initiative, we have encouraged it to examine all new complaints referred by us to consider whether it can quickly and efficiently resolve the complaint without further involvement of our office.

We are pleased with the cooperation provided by the ATO. We continue to emphasise that the ATO should learn from their complaints, and apply the lesson to improve its resolution practices and broader administration.

We have noted a high level of complainants (around 50%) coming directly to the Ombudsman without the complainant first attempting to address their complaint with the ATO. In these circumstances, the ATO accepts and actions a transfer of a complaint from this office. This removes the need for the complainant to contact and repeat the complaint to the ATO. We intend to investigate whether the number of people coming directly to us with complaints about the ATO is in line with the proportion who come to us with complaints about other agencies. We will also seek to determine what factors may be driving this behaviour. The ATO has agreed to assist in this review in the course of its complaints re-engineering project.

We participated in and provided feedback to the ATO as part of their complaint re-engineering program which followed the completion of a consultant report on the ATO's complaints handling in August 2011. We continue to encourage the ATO to adopt and implement the recommendations identified in its complaint re-engineering project. In particular to:

- build its analytical capability
- make better use of intelligence from complaints in policy, service design and implementation
- make executive officers accountable for the resolving root-cause of complaints
- undertake more first contact resolution.

Systemic issues

Since 1 July 2011, we have been more proactive in providing feedback at the conclusion of investigations to draw particular issues to the ATO's attention. For example, we commented on cases where the ATO's actions had not followed its policy and administrative guidelines. We also made suggestions to the ATO about administrative processes which warranted further consideration or enhancement. In other cases we acknowledged the efforts made by the ATO to provide remedies to problems identified through our investigations.

Income Tax Refund Integrity program 2011

A significant number of complaints we received this year related to an increase in activity in the ATO's income tax return integrity (ITRI) checking. For the past three years the ATO has used computer system-generated models to identify, and stop for further checking, income tax returns which display certain indicators.

In 2011 the ATO stopped substantially more returns than it had capacity to process. This resulted in significant delays to taxpayer refunds. The average time until refund for these cases was five months, with 30% taking between six and nine months to conclude. These delays led to a large number of complaints to both the ATO and this office. Once we became aware of the situation we advised taxpayers and tax agents that we were aware of the delays arising from the backlogs, and that it might take the ATO some time to finalise the processing of their tax return. We held regular meetings with the ATO to provide feedback on this issue, and to seek further information based on the complaints that were coming to us; obtain updates on the

ATO's progress in addressing the backlog; and bring to its attention matters that may require priority.

The ATO states that the program resulted in it amending 75% of the returns stopped, which amounted to the protection of revenue estimated at \$200 million. We acknowledge the purpose and apparent success of the ITRI program. However, we also note the consequences for taxpayers who were affected by the delays. We provided feedback to the ATO on:

- the need for better communication where the ATO identifies an issue that will impact on taxpayers, for example, the need to notify taxpayers and tax agents of expected delays in the processing of tax returns
- unreasonable delay—lengthy delays were experienced by many taxpayers. We sought an explanation as to why it was necessary to review each of the returns stopped
- the need to provide clearer explanations and reasons in correspondence when adjustments are made to a taxpayer's return.

The ATO conducted a substantial review of its 2011 ITRI program, and has taken into account our feedback in making adjustments to the 2012 ITRI program. We anticipate that these changes will deliver a much improved program and avoid the issues we noticed in 2011.

Departure Prohibition Orders

During the year we investigated four complaints relating to the ATO's exercise of its power to issue a Departure Prohibition Order (DPO). A DPO prohibits a person who owes

a tax debt from leaving Australia. As a result of our investigations the ATO has improved its administrative processes for DPOs, including:

- providing reasons to taxpayers for why a DPO was issued
- providing information on rights of review and appeal in the ATO's letters to affected taxpayers
- reducing further the number of officers able to issue a DPO and introducing a requirement to seek senior executive level endorsement
- directing decision makers to consider the currency and accuracy of the information they rely on
- reviewing its use of its DPO power at least yearly, and ensuring that all staff delegated to approve and/or issue a DPO undertake refresher training
- assigning a new decision maker when a taxpayer requests a review and imposing a five-day timeframe for those reviews to take place
- undertaking to revise the guidance to officers relating to the issuance of a Departure Authorisation Certificate (DAC).

While four complaints is not a significant number, over the past few years the ATO has on average issued 20 DPOs per year (not all of the complaints related to a single year). Furthermore, the impact of a DPO on an individual can be significant. The ATO acknowledges this and accepts the importance of careful administration in these circumstances.

Communication and use of plain language

We have continued to provide feedback to the ATO in relation to its letters and communication.

The 'one last chance' complaint program often picks up cases where 'better explanation' is the necessary remedy. This might include explanation of the ATO's decision, its obligations or limitations and those of the taxpayer. The ATO should use these cases to improve its communication products. We do note that a complainant may describe their misunderstanding differently to this office than it might to the ATO. There are clear benefits to the ATO of providing as clear and straightforward information to taxpayers as possible.

In one example we provided the ATO with two of its own letters sent to taxpayers advising them of its refusal to accept a repayment plan for a debt. In both cases the letters stated only that the repayment offer was refused because it was 'not acceptable'. The letter did not offer further reasons for the refusal, or offer to consider further repayment offers, but insisted on full payment. These letters led to complaints to our office.

The letters were found to have been issued by an area of the ATO which handled a limited number and scope of debt matters. As a result of our referral, the ATO revised its standard template letters, including providing officers with examples of reasons for refusal to be used, and developed 'payment plan refusal guidelines'.

Cross-agency issues

We have continued to receive and investigate complaints about the ATO's action or inaction and consequences for the complainant in their dealings with other agencies, such as Centrelink and Child Support.

Reports or submissions

We concluded an own motion investigation into certain aspects of the administration of the joint-agency taskforce, Project Wickenby. We decided not to release the report publicly to protect the privacy of taxpayers identified in the report. The agencies (it was not limited to the ATO) agreed with the recommendations. Our recommendations in relation to the ATO were that it:

- in consultation with Australian Crime Commission (ACC), develop guidance to officers who might become ACC members of staff or handle ACC material in the course of their duties
- review and improve its guidance on what officers should consider as factors in determining acceptable security for the granting of a Departure Authorisation Certificate.

Update from last year

Tax File Number compromise

For the past few years we have had an ongoing interest in Tax File Number (TFN) compromise cases and produced a report on this issue in 2010. We can report that we have received very few complaints related to this issue in the last year. Those that we have received have not been subject to any delay by the ATO but were nonetheless addressed promptly when we brought the matters to the ATO's attention.

We have also noted fewer complaints in relation to delays in the ATO determining applications from Compensation for Detriment caused by Defective Administration (CDDA).

IMMIGRATION OMBUDSMAN AND DEPARTMENT OF IMMIGRATION AND CITIZENSHIP COMPLAINTS

Overview

In 2011–12 the office focused on two streams of complaints related to the Department of Immigration and Citizenship (DIAC or the department). One related to irregular maritime arrivals and detention issues and the second stream related to other migration programs and activities. The Ombudsman can investigate decisions or matters relating to visa applications, citizenship processing or immigration detention which cannot be resolved between the client and the department.

During 2011–12 the number of irregular maritime arrivals increased significantly and there were record numbers of people in immigration detention. This was notwithstanding the impact of the government's policy from November 2011 to grant Bridging Visas and release people into the community after initial processing. The average period of detention decreased significantly during 2011–12 due to this policy. However, there remained a large number of people in detention for longer than three months. We investigated both systemic issues and complaints from people in detention and their advocates and representatives. As part of our active visits program we conducted complaint clinics at detention centres where 36% of the detention-related complaints were made (compared with 50% in the previous year).

Overall, we received 1873 complaints relating to DIAC in 2011–12 (compared with 2137 in 2010–11) and 1967

complaints were finalised. Of these complaints, 44% were from people in detention. We investigated 290 or 15% of complaints received (compared with 16% in 2010–11) and were able to facilitate remedial action in 67% of these cases.

We have ongoing engagement with DIAC via its Ombudsman and Human Rights Coordination Section including regular briefings on areas of interest to us. This helps us to understand the context of the complaints we receive and enables us to follow up with the department on systemic issues.

In addition to monitoring and highlighting systemic issues, our complaint investigation has achieved positive outcomes for some individuals such as: improved decision records, a better explanation for some decisions, refunds on Visa Application Costs, reconsideration of decisions by the department, and expediting processing of some applications.

Details of the Ombudsman's immigration inspections and oversight functions is covered in Chapter 7 of this annual report, including our role under s 486O of the *Migration Act 1958* in preparing reports on people who have been in immigration detention for more than two years, and every six months thereafter.

Complaint themes and systemic issues

The complaint themes we observed in 2011–12 were similar to those in the previous year with delay being the main cause of complaints. During the year several issues emerged in relation to applications for student and visitor visas which are discussed further below.

While the quality and level of information provided by DIAC's internal complaint handling mechanism, the Global Feedback Unit (GFU) improved, the complaints we received did highlight cases where the department did not adequately respond to complaints when provided the opportunity. The Ombudsman provided feedback to DIAC on the draft Global Feedback Operating Manual for Managing Client Feedback Policy, which includes reference to the role of the Ombudsman. We will continue to monitor and work with DIAC to improve its internal complaint handling processes.

The Ombudsman identifies recurring issues through complaints and monitors these through a systemic issues register. The Ombudsman has investigated a number of complaints about the refusal of student and visitor visas and decided to raise them in a holistic manner with the department for their consideration and comment. The Ombudsman is preparing an issues paper on the department's refusal of student and visitor visa applications on 'genuineness' grounds. We take a particular interest in student and visitor visa applications that are not subject to merits review or external scrutiny and oversight outside of our role.

Delay in processing claims

Processing delays remain one of the main causes of complaints to this office on immigration matters. Complaints about delay have related to: security checks; visa processing; response to complaints to DIAC's Global Feedback Unit; primary and secondary decision making; access to property in detention facilities; and, detainees access to public health services.

Global Special Humanitarian Program

The Ombudsman's office liaised with DIAC to improve the quality of information provided in the decision records relating to offshore applications for visas under the Global Special Humanitarian Program. This was in response to complaints from applicants and families who did not understand or receive adequate explanations and/or reasons for the visa refusals.

Overseas Posts

The Ombudsman received numerous complaints in regards to the processing of visa applications by overseas posts. Our office is aware of the difficult environment some posts operate within and we take that into account when investigating complaints. The complaints range from delays in the processing of visa applications; the approach taken in dealing with applicants; and the interpretation and application of the *Migration Act 1958* and Regulations in assessing visa applications, especially in regard to a consistent application on the issue of genuineness. Some posts have been more represented than others from the complaints we have received which resulted in our office examining the department's oversight and audit procedures at specific posts. We note that the department has been receptive to our input and has made some relevant changes.

Compensation for Detriment caused by Defective Administration

The Compensation for Detriment caused by Defective Administration (CDDA) scheme allows government agencies to provide discretionary payments to people where it believes there is a moral obligation due to detriment as a result of an agency's defective actions or inactions. The Ombudsman provides the review mechanism for agency decisions made under the CDDA scheme. During the year we received a number of complaints about the department's decision not to compensate for claims of defective administration and we reviewed these decisions. In the majority of cases we agreed that DIAC's decision was not unreasonable but we asked DIAC to reconsider its decision in some. In one case DIAC agreed to change the decision and pay compensation to the applicant.

Compliance and Removals

The Ombudsman has a role in monitoring the administration of coercive powers delegated to immigration officers including powers to search premises, seize documents and valuables, and to detain and remove unlawful non-citizens from Australia. During the year, we participated as observers in the department's compliance, removal and training activities to assist in identifying gaps in systems, policies and procedures.

To assist in the Ombudsman's oversight function, DIAC provides us with a six-monthly report in relation to detainees who have been released from immigration detention with a system release indicator of 'not unlawful'. These comprehensive reports explain the circumstances of the detention and release and provide appropriate

mitigating strategies to either prevent lawful non-citizens from being detained, or by resolving immigration issues promptly in order to release the person lawfully back into the community. The Ombudsman maintains ongoing oversight in this area and continues to investigate individual complaints about compliance and removal activities.

Complaints from people in detention

During 2011–12 we noted a decrease in the number of complaints received from detainees, which was predominantly due to a significant drop in the number of complaints received in person at detention facilities (298 complaints compared to 491 in the previous year). Complaint clinics are undertaken during visits to detention facilities as part of our oversight function. The numbers of complaint clinics were comparable with the previous year but there was less interest from detainees and the nature of complaints changed. This may in part be the result of reduced time spent in restrictive detention following the change in government policy and introduction of Bridging Visas in November 2011.

Common issues raised by detainees during visits

Common issues raised by detainees include:

- concern at length of time in detention and feelings of hopelessness and uncertainty about the future; however, we observed less of these concerns with the increased granting of Bridging Visas and the decreased average time in detention by the latter part of the year
- delay in processing protection claims and the consequences of these delays on physical and mental health

- uncertainty and confusion over the immigration process and the status of their claims for protection
- confusion over contact with a department case manager—this was more apparent with detainees experiencing mental health issues who had difficulty recalling who their case manager was and the last time they had spoken to them
- problems with property management and loss of property. It is recognised that the large number of people coming into immigration detention and being moved within the detention network creates challenges for managing detainees' property. We have received a number of complaints about this issue, particularly relating to items of high value and cash
- confusion over the medical system, their treatment regime and delays in obtaining appointments for specialist care through the public health system
- confusion about the basis of placement decisions for some detainees being moved around the detention network
- anxiety over being unable to earn money and concern for families remaining at home
- perceptions of unfair Refugee Status Assessment and Independent Merits Review decision-making including the

alleged bias of some decision-makers and out-of-date country information

- concerns about the skill and accuracy of some interpreters and a perception that detainees' claims are not being appropriately addressed.

Reports and submissions

Reports

Department of Immigration and Citizenship: Detention arrangements — The transfer of 22 detainees from Villawood Immigration Detention Centre to the Metropolitan Remand and Reception Centre Silverwater (released in April 2012).

In April 2011, a large scale disturbance at Villawood Immigration Detention Centre resulted in major damage to the centre with a number of facilities being destroyed by fire. Twenty-two detainees suspected of involvement in the disturbances were transferred from Villawood to the Metropolitan Remand and Reception Centre at Silverwater on the recommendation of the Australian Federal Police (AFP).

The Ombudsman's office received a complaint from the legal representative of the detainees about the reason for their transfer and that DIAC's own procedures had not been followed in this instance.

The office investigated the complaint and found that the transfer of the detainees to a correctional facility was

a decision that was made in good faith on the advice of the AFP and that it was necessary as part of regaining control of Villawood IDC. However, there were a number of aspects of DIAC's procedures that had not been followed, in particular the notification in writing to the detainees and legal representatives of the reasons for their transfer. There were also shortcomings identified in DIAC's record keeping and the frequency of visits by case managers to the detainees while they were held at Silverwater.

The Ombudsman issued a report under s 15 of the *Ombudsman Act 1976* and made a number of recommendations to DIAC to ensure that effective procedures are in place for those occasions where detainees are transferred from an immigration detention facility to a correctional facility and that proper records are kept at each stage of the transfer.

DIAC accepted the recommendations and advised this office that its procedures relating to the transfer of detainees from detention to correctional facilities will be rewritten in 2012.

Own motion investigation into suicide and self-harm in the immigration detention network.

The office announced in July 2011 it would undertake an own motion investigation to examine the incidence and nature of suicide and self-harm in the immigration detention network. This investigation is still underway.

Submissions

During 2011–12 the Ombudsman's office contributed to the following inquiries and reviews on issues relating to immigration:

- Joint Select Committee on Australia's Immigration Detention Network, September 2011
- Senate Standing Committees on Legal and Constitutional Affairs inquiry into Australia's Agreement with Malaysia in Relation to Asylum Seekers, September 2011
- Australian Law Reform Commission's inquiry into Family Violence and Commonwealth Laws, September 2011
- DIAC's Review of the Student Visa Assessment Level Framework, March 2012

Department of Climate Change and Energy Efficiency

During 2011–12 we received 99 approaches and complaints about the Department of Climate Change and Energy Efficiency (DCCEE), compared to 305 approaches and complaints in the previous year. This continues the trend, noted in last year's annual report, for complaints decreasing as a result of a number of the Australian Government's energy efficiency programs coming to an end.

Last year we observed that complaints to us during 2010–11 had highlighted a lack of integration between DCCEE's contracted call centres and the Department's line areas responsible for delivering programs. Early indications were that the problem was improving after the department engaged a new call centre provider. We can report that similar problems have not been prevalent in the complaints received during 2011–12.

Last year, we committed to continuing to work with DCCEE as it developed a whole-of-department complaint-handling process. The department has now introduced a new Compliments and Complaints Policy, as well as an updated Customer Service Charter. The Compliments and Complaints Policy reflects the key principles set out in our *Better Practice Guide to Complaint Handling*.

A key priority for us in the year ahead will be to ensure that the new agencies in the DCCEE portfolio established under the government's Climate Change Plan, such as the Clean Energy Regulator and Climate Change Authority, also have appropriate review and complaint-handling mechanisms in place.



**THE OMBUDSMAN
AT WORK**

**CHAPTER 5
CASE STUDIES**

CASE STUDIES

Remedies to a complaint can vary significantly depending on the issue complained about, the expectations of the complainant and the rules or framework that govern the decision or action that is the subject of a complaint.

On an individual level, a range of remedies is available, such as a better explanation of the reasons for a decision, an apology, getting a decision changed or the award of compensation.

More broadly, one complaint from an individual can lead to administrative reform that improves administration and service delivery to other members of the public. While many complainants approach the Ombudsman's office seeking redress in an individual case, many do so in the hope that other people will not have the same difficulties or experiences they have had.

The case studies in this chapter highlight some of the outcomes achieved for individuals and in improving agency administration as a result of Ombudsman investigations conducted during the reporting period.

REMEDIES FOR THE INDIVIDUAL

One of the office's primary functions is to consider and investigate complaints from members of the public. At the end of an investigation, where it appears there has been an error or some other failing, the Ombudsman will often recommend that an agency provide a particular remedy to an individual. These recommendations are usually well received by agencies and are acted upon.

On occasion, agencies use Ombudsman investigations and recommendations to proactively examine and fix identified problems.

Australia Post

Compensation paid after post office erred

Following an Ombudsman investigation, Australia Post agreed to pay discretionary compensation to Mr A for a lost parcel.

Mr A was interstate when Australia Post delivered a notification card to his home advising him that his personal signature was required to collect an item from the local post office. Upon returning home, Mr A signed an authorisation allowing his wife to collect the parcel. When Mr A's wife went to collect the parcel, post office staff told her that Mr A had already done so. Australia Post declined to investigate the matter because, it said, post office staff had checked the identification of the person who had signed for, and collected, the parcel.

When the Ombudsman's office became involved, Australia Post agreed to consider evidence from Mr A that he could not have signed for the parcel. Mr A produced travel documentation that showed he was interstate at the time the parcel was collected. As a result, Australia Post accepted that post office staff had erred when they gave out the parcel.

Value of lost ring reimbursed

An Ombudsman investigation led Australia Post to pay a customer discretionary compensation for jewellery lost in the mail.

Mr B complained to the Ombudsman's office that Australia Post had declined his insurance claim for a diamond ring lost in transit to the United Kingdom. Australia Post refused to reimburse him for the insured value because he had sent it using an inappropriate service. Australian Post also claimed that he had not lodged an enquiry within the 30-day time limit.

The Ombudsman's investigation led Australia Post to accept that it may have given Mr B incorrect advice about the best mail service to use to send valuable jewellery overseas. It also conceded that when Mr B contacted it within the 30-day time limit, he had been incorrectly referred to Customs, which delayed his claim. Australia Post decided to offer him compensation of \$5000 as a goodwill gesture.

Department of Defence

Improved access to medication

As a result of arrangements made by the Department of Veterans' Affairs, following an Ombudsman investigation, Mr C now receives through the mail the medication to which he is entitled for the treatment of a condition accepted as service-related.

Mr C complained to the Ombudsman's office that he had difficulty obtaining the medication from his pharmacy. He believed the problem was caused by the Air Force's assessment of his condition. The Ombudsman investigation established that the problem actually related to the dispensing pharmacy's practice of charging above the recommended price for the medication. Arrangements were then made for the medication to be sent to Mr C from another pharmacy, at no extra cost to him.

Department of Families, Housing, Community Services and Indigenous Affairs

Compensation agreement honoured

An Ombudsman investigation led to FaHCSIA meeting with traditional owners in a remote Indigenous community and documenting a compensation agreement, including a complaints resolution mechanism, which has since been implemented.

Mr D complained that the Australian Government had not honoured a compensation agreement relating to accidental damage of a sacred site. Community compensation had been agreed in the form of a tractor and a truck, and a storage compound to house the vehicles. The shire purchased the vehicles with money from FaHCSIA, but then used them in other communities until the truck broke down. The compound was not built.

Since the Ombudsman investigation, the shire has repaired the truck and built the storage compound.

House modified to meet specific needs

An Ombudsman investigation identified significant delays in modifications being made to Mr E's house in order to make it a safer place to live.

A Northern Territory (NT) government agency recommended the modifications after it determined that Mr E's house required ramps for motorised scooter access, a threshold ramp into the bathroom, toilet rail, hand-held shower and removal of the shower hob wall. Mr E had fallen three times trying to get in and out of his house and without the modifications he was at risk of further accidents.

Once this office alerted FaHCSIA to the complaint, it followed up the matter and advised that a work order had already been issued on 20 February 2012. The majority of the work was completed in March 2012.

Department of Human Services: Centrelink

Agency error uncovered via explanation of debts

An Ombudsman recommendation resulted in Centrelink officials meeting with Ms F, a resident of a remote Indigenous community, to explain the three debts she was repaying to the agency. When Ms F queried one of the debts, Centrelink re-examined its records and discovered that the debt had been raised in error. Centrelink erased the debt and explained the error to Ms F.

Unreasonable barriers removed in the face of financial hardship

An Ombudsman request to Centrelink that it liaise direct with the ATO regarding Ms G's social security and family assistance claims meant that they were processed without her needing to engage with her former partner.

Ms G was experiencing financial hardship and living in a women's refuge with her four children. She had an apprehended violence order against her former partner and was exempted from the requirement to obtain child support from him to claim the family tax benefit (FTB). However, when Ms G applied for FTB, she was told that her former partner needed to lodge his tax returns before the claim could be processed.

Ms G could not safely approach her former partner, so the Ombudsman's office asked Centrelink—and it agreed—to liaise with the ATO to obtain the necessary information. Ms G was provided a crisis payment and subsequently received \$4,870.89 in arrears and entitlements.

A tailored solution for a disability support pension recipient

Ms H was able to continue working, rather than giving up work and returning to a full disability support pension (DSP), after the Ombudsman's office requested that Centrelink reconsider her case.

Centrelink had suspended Ms H's DSP because she was working 15 hours a week. DSP recipients had their payments suspended or cancelled if they were working 15 hours a week or more under the 15-hour rule policy guidelines in place at the time Ms H lodged her complaint. Ms H explained to Centrelink that she could not exist on her employment income alone but, owing to her mental health condition, was not able to take on more work.

The Centrelink Authorised Review Officer (ARO) observed that although Ms H participated in employment, to do so she required high levels of ongoing support from her employment support services provider. The ARO took into consideration Ms H's situation and the intention of the relevant policy and changed the original Centrelink decision.

Years of underpayments acknowledged and recompensed

A couple received in the order of \$13,000 in underpaid social security payments after the Ombudsman drew to Centrelink's attention its failure to action multiple requests for review.

Mr and Mrs J complained that while their appeal to the Administrative Appeals Tribunal (AAT) about the way Centrelink had assessed the assets of their family trust had been successful, the AAT had decided it could only backdate its decision to reduce those assets back to 2009. Mr and Mrs J had sought repayment back to 2005.

Upon reviewing the records, the Ombudsman discovered that since 2005 Mr and Mrs J had consistently protested to Centrelink about the way it had assessed the family trust's assets as that assessment reduced the rate of benefit paid to Mr J. The Ombudsman pointed out that these contacts were really requests for review, yet Centrelink had treated them as opportunities to re-explain its decisions. Centrelink acknowledged this view and backdated the effect of the AAT decision to 2005. The outstanding review requests were finally actioned and Mr J was entitled to the money he had missed out on between 2005 and 2009.

Harsh, unnecessary red tape avoided

In response to an Ombudsman investigation, Centrelink restored Ms K's carer payment (CP) for the care she provided to her severely disabled daughter without unnecessary red tape and delay.

Initially, Ms K was paid CP in respect of her daughter only, but later she was paid CP for the care she provided to her father-in-law as well. When Ms K's father-in-law died, she contacted Centrelink to re-establish her CP on the basis of her care for her daughter only once more. Centrelink informed Ms K that to change the payments she would need to lodge a new claim, along with supporting medical documentation, and that it would take 49 days for the new claim to be processed.

Ms K contacted the Ombudsman's office because she was in severe financial hardship. She had two children to care for and could not understand why Centrelink required her to resubmit the relevant documentation given the severity and unchanging nature of her daughter's condition.

The Ombudsman's office pointed out to Centrelink that the severity of Ms K's daughter's condition meant her care requirements were the same as they had been previously. Centrelink responded by arranging for Ms K to attend an office where she was granted CP immediately.

Integrity of a tribunal decision maintained

Centrelink erased a debt and apologised to Mr L following Ombudsman advice that a Social Security Appeals Tribunal (SSAT) decision that the debt should not have been raised was not an invitation for Centrelink to raise a recalculated debt.

Centrelink had raised a debt of around \$7900 against Mr L. The SSAT decided that Mr L had not incurred a debt of \$7900. Centrelink did not appeal the SSAT decision. Instead it made a new calculation on the basis of substantially the same evidence and raised a new debt against Mr L.

Centrelink had formed the view that the SSAT decision did not mean that there was no debt, rather there was not a debt of \$7900. The Ombudsman pointed out to Centrelink that had the SSAT meant for the debt to be recalculated, it would have remitted the matter to Centrelink for that purpose. Centrelink agreed it could not raise a new debt without substantively new information.

Income Management customers empowered through information

Ms M, an Indigenous person in the NT, was granted an exemption from Income Management (IM) with the assistance of the Ombudsman's office.

Ms M was not aware that she could apply for an exemption until she spoke to Ombudsman staff, who provided her with contact information for Centrelink. Centrelink administers the IM scheme on behalf of FaHCSIA. Ms M subsequently advised the Ombudsman's office that Centrelink had refused her request for exemption and that she did not know why. The decision letter to Ms M provided no information about which part of the exemption test she had failed or her right to request a review of the decision.

The Ombudsman investigation revealed which part of the test Ms M had failed and Ombudsman staff provided an explanation to her. Ms M then provided additional information to Centrelink and was granted an exemption from IM.

Unreasonable delay truncated for Income Management customer

After an Ombudsman observation that Centrelink had not followed its own guidelines in relation to money incorrectly allocated to a third party, Mr N was immediately re-credited funds that had been transferred in error to the wrong community store.

Mr N lives in a remote Indigenous community. Under IM, he receives half his Centrelink payments, while Centrelink retains and administers the remaining portion to pay for his priority needs and expenses. Mr N complained to the Ombudsman's office that Centrelink had told him it would take up to three weeks for his \$119 to be recalled and re-allocated to the correct store.

In response to Ombudsman enquiries, Centrelink acknowledged that it had failed to follow its own guidelines and Mr N's money was re-credited to him immediately.

Department of Human Services: Child Support

Payments finally extracted from Child Support and provided to the rightful owner

It was only after an Ombudsman investigation that Ms O was paid the \$8619.78 that Child Support had collected from her former husband seven years earlier.

Ms O, who lives overseas, complained to the Ombudsman's office that Child Support had not done enough to collect child support payments from her former husband in Australia. Child Support refused to talk to Ms O because it said it could only deal with the central authority in the country in which she resided. Child Support ignored Ms O's letters about the matter.

The Ombudsman investigation revealed that Ms O's former husband had made regular payments to Child Support, but it had failed to successfully transfer the money to Ms O. Despite having held one returned cheque for four years, it was not until the Ombudsman's investigation that Child Support communicated with Ms O and the central authority and discovered that, due to its poor administration, Ms O had not in fact received the money that Child Support had collected for her.

Debt recovered from responsible party

Child Support cancelled penalty fees and provided a small refund to Mr P after he complained to the Ombudsman's office, while an outstanding sum in child support payments was made to his former partner.

Mr P had a child support debt that he was certain he had paid. He suspected that his employer had not passed on to Child Support the money that it had deducted from his wages.

When the Ombudsman's office investigated, Child Support said that Mr P's employer was in liquidation and that it was attempting to obtain the missing payments from the liquidator. Child Support conceded that it had made multiple errors in its administration of Mr P's case, including not responding to his letters.

Consequences of payment error sorted out

In response to an Ombudsman investigation, in late 2011 Centrelink reduced Ms Q's Family Tax Benefit debt by \$1500 and Child Support supported her application to the Department of Finance and Deregulation (DoFD) for it to waive the requirement for her to repay \$6000 of child support that had been paid to her in error.

Ms Q came to the Ombudsman's office because she was confused about why two debts had been raised against her—one to Centrelink and one to Child Support.

In 2008, Centrelink told Ms Q that she had been overpaid FTB of \$1700 because of a \$6000 lump sum that Child Support had paid to her in 2007. Ms Q was repaying this debt to Centrelink at \$20 per fortnight.

In 2009, Child Support took Ms Q's tax refund (\$750) to recover an overpayment. When Ms Q questioned this, Child Support told her that she had to repay some money that it had paid to her in error. Child Support had discovered that the \$6000 it received from Ms Q's

former husband (Mr Q) was money that he had deducted from his employees for their own child support. Child Support reversed the credit for Mr Q and paid the money to the correct people. Child Support then raised a \$6000 debt against Ms Q but failed to tell her about it before taking her tax refund.

As a result of the Ombudsman investigation, Centrelink decided that it should not treat the \$6000 as child support for FTB purposes.

Department of Human Services: Medicare

Insurance money refunded

Following an Ombudsman investigation, Medicare paid Mr R \$7000 that had been withheld from him in error for 10 years. In addition, Medicare agreed to the Ombudsman's suggestion that Mr R was entitled to interest on the sum and, accordingly, paid him \$4500 in interest.

Medicare is entitled to recover any money it has paid in relation to an injury for which a person is later compensated. Mr R had been in an accident in 1997 for which he received compensation in 2000. By then, Mr R was subject to a guardianship order. The insurance company sent a portion of the settlement to Medicare (\$7000). Medicare then sent a notice to Mr R's guardian listing all the benefits he had received since suffering his compensable injury so that he could declare which benefits were for treatment of his injury. Medicare did not receive a response, so deemed all of the benefits in the notice to be related to Mr R's compensable injury and thus recoverable. Medicare raised a debt of \$15,000 against him.

Mr R became homeless and the guardian stopped acting for him. Over a period of 10 years, Medicare and Mr R periodically attempted to contact one another. In 2011, when Mr R tried, unsuccessfully, to get his Medicare records, he complained to the Ombudsman's office.

The Ombudsman investigation revealed that Medicare had not sent the notice to the guardian within the statutory timeframe. This meant that the \$15,000 was not recoverable and Mr R was entitled to have the \$7000 refunded.

Department of Immigration and Citizenship

Incorrectly imposed charges repaid

The Ombudsman investigation of a complaint from a migration agent resulted in DIAC repaying \$8240 to a visa applicant.

Mr S complained that DIAC failed to properly consider his client's visa application because the DIAC case officer decided that the visa applicant did not have functional English. The case officer had made the assessment that Mr S's client did not meet the criteria for functional English because the evidence that had been provided was not particularly recent. The case officer imposed a second Visa Application Charge (VAC2) which is payable if applicants do not have functional English.

The Ombudsman's office asked DIAC to reconsider its decision to impose the second VAC. Upon review of the facts of the case, DIAC agreed that the decision to impose the second VAC had been made incorrectly.

Written review decision amended

Social Security Appeals Tribunal

The written record of a Social Security Appeals Tribunal (SSAT) review decision was corrected after the Ombudsman looked into the matter.

During an SSAT hearing about child support, Mr T and the other parent agreed that he would make certain child support payments until 2 December 2011. However, the SSAT's written decision contained an error, and showed the date as 2 November 2011. As a result, Mr T's child support assessment increased above the agreed rate to a higher rate from 2 November 2011 to 1 December 2011. When Mr T pointed this out to Child Support, he was told to contact the SSAT. When he contacted the SSAT, he was told to contact the Ombudsman's office.

The Ombudsman's office wrote to the SSAT to suggest that it consider using its statutory power to correct an obvious clerical or typographical error in the text of a decision. In response, the SSAT advised that the member who presided over the review had decided to correct the date in the decision, which Child Support then implemented.

ADMINISTRATIVE IMPROVEMENT

Individual complaints can highlight a broader administrative problem that may affect other members of the community. In this situation, in keeping with the office's objective of improving government administration, the Ombudsman may recommend that an agency implement a systemic change or improvement. Typical improvements include staff training, changing a process or procedure, amending information on a

website or in publications or reviewing a cohort of decisions to see if they should be changed.

Administrative improvement may not necessarily achieve the outcome that an individual sought when they complained to the office, but it can lead to greater consistency and fairness.

Australian Federal Police

Improved conflict of interest management guidelines

The Australian Federal Police (AFP) established new guidelines for dealing with conflicts of interest following an internal AFP review of a complaint investigated by the Ombudsman's office.

The new guideline advises that no matters are to be assigned for investigation to AFP members who have had any involvement in the original incident unless the involvement was supervisory in nature and any conflict of interest is identified and can be reasonably managed.

Australian Pesticides and Veterinary Medicines Authority

Communications reviewed and new training introduced

The Australian Pesticides and Veterinary Medicines Authority (APVMA) responded to an Ombudsman investigation by improving its formal template letters, revising its procedures and providing relevant training to staff.

Mr U runs a pet supply business. He complained to the Ombudsman's office about a letter he received from the APVMA advising him that he could not sell several identified products as they were not registered under the legislation regulating the sale of veterinary medicines.

The APVMA letter did not explain why the products had to be registered. It did, however, request Mr U provide information to APVMA about his sales and suppliers and warn that *'failure to provide the information required will result in further compliance action'*.

Following the Ombudsman investigation, the APVMA:

- agreed that when asking a person to restrain from conduct it should clearly explain why it considers the conduct to be a breach of the law
- accepted that the letter improperly suggested that Mr U was not required by law to provide the information, and failed to warn him that he did not have to provide any information that might tend to incriminate him
- revised its letter templates, internal work instructions and guidance for staff and introduced a new clearance procedure for correspondence
- arranged for the Australian Government Solicitor to provide procedural fairness training to staff.

Australian Prudential Regulation Authority

Agreement to update public information

An Ombudsman investigation led to the Australian Prudential Regulation Authority (APRA) updating its forms, letters, information materials and website to ensure information provided to the public is accurate.

APRA's delegate asked Mr V to lodge a fresh application for the early release of his superannuation on compassionate grounds, even though he was not an Australian resident. Non-Australian residents are not able to obtain an early release on compassionate grounds.

This rule had been in place for two years by the time Mr V made his application, but it had not been reflected in APRA's forms or on its website.

Australia Post

Consistency introduced to postal procedures

Australia Post aligned its retail arrangements with its postal terms and conditions after the Ombudsman brought an inconsistency to its attention.

An overseas coin collector complained to the Ombudsman's office when he did not receive some coins and banknotes sent from Australia. Australia Post deemed the parcel lost but refused to pay compensation on the basis that sending 'cash' through international post was prohibited.

The Ombudsman investigation identified that Australia Post itself sold coins to Australian and overseas purchasers through its retail business arrangements with the Perth Mint and Royal Australian Mint. Australia Post acknowledged this practice was inconsistent with its terms and conditions and made changes to its practices. It no longer sends coins to international destinations.

Department of Finance and Deregulation

Decision correspondence to be sent direct to applicants

As a result of an Ombudsman investigation, Finance is taking steps to provide decisions direct to claimants, wherever practical and appropriate, in relation to applications to waive debts.

Ms W asked a government agency to waive a debt raised against her.

However, the agency did not have the power to do so and forwarded her request to Finance to consider. Finance sent its decision to decline the request back to the agency rather than to Ms W. The agency advised Ms W's representative of the Finance decision, who then advised Ms W.

Ms W sought review by the Ombudsman, but Finance declined to reconsider the decision. Ms W then asked Finance to provide her with reasons for its decision, but Finance declined to do so. Finance advised that Ms W's request was outside the timeframe in which she could ask for a statement of reasons.

The Ombudsman's office observed that Finance's practice of corresponding with agencies rather than applicants meant that Finance could not be sure that applicants received timely or complete advice about decisions. Nor could Finance be sure that the information sheet sent with decision letters, which sets out a person's post-decision options and relevant timeframes, was passed on. Finance acknowledged this and agreed to change its practices wherever practical and appropriate.

BOTH INDIVIDUAL AND ADMINISTRATIVE OUTCOMES

Some Ombudsman complaint investigations result in remedies that help individuals and improve public administration.

Australian Securities and Investment Commission

Commitment to keep website information up to date

ASIC has updated its media policy to ensure that its practice of updating media releases on its website to accurately

reflect significant changes such as appeal decisions is reflected in a written policy document.

In June 2008, ASIC decided to ban Mr X from managing a corporation for two years. It issued a media release to that effect, which stated that Mr X had knowingly lodged false documents. Mr X applied to the AAT for a review of ASIC's decision. In 2010, the AAT set aside ASIC's decision and disqualified Mr X for one year only. In addition, the AAT rejected ASIC's view that Mr X had knowingly lodged false documents, deciding instead that he had made an honest mistake.

Mr X complained to us that ASIC had not updated the 2008 media release on its website about his case after the AAT decision. Following an investigation that identified an oversight in implementing ASIC's practice of updating media releases, ASIC amended the 2008 media release by removing the reference to knowing lodgement of false documents; explained that the AAT had varied the disqualification decision to a period of one year and included a clear direction to ASIC staff in its policy statement about the need to ensure media releases are updated.

Australia Post

Responsibility accepted for licensee actions

An Ombudsman investigation led to Australia Post accepting responsibility for the non-payment of a customer's Telstra bills, making the payments and issuing a series of escalated warnings to the relevant post office licensee.

Ms Y complained to the Ombudsman's office that a licensed post office failed to process payments of two Telstra bills totalling \$878. Although Ms Y's bills had

been stamped 'paid', Australia Post found no record of the payments and declined to take further action.

Following our investigation, and taking into account other problems at the licensed post office, Australia Post accepted responsibility for the shortfalls in the post office's staffing and processing practices.

Department of Education, Employment and Workplace Relations

Apprenticeships claims assessed against current criteria

Mr Z was granted a payment to which he was entitled and DEEWR updated its Australian Apprenticeships Incentives Program criteria information in response to the findings of an Ombudsman investigation.

Mr Z applied for a personal benefit payment under the program, but his application was incorrectly refused in the first instance and again upon review. Following the Ombudsman investigation, DEEWR acknowledged that it had failed to update its National Skills Needs List when the Australian Standard of Classification of Occupations was superseded by the Australian New Zealand Standards Classification of Occupations (ANZSCO) in January 2010.

Accordingly, DEEWR:

- reassessed Mr Z's application and granted him a 'Tools for the Trade' payment
- updated the National Skills Needs List to properly reflect the occupations classifications in the ANZSCO and published the revised list on the Australian Apprenticeships website
- updated the guidelines for the occupations that were affected.

Department of Human Services: Centrelink

Script amended to ensure the right questions are asked

Centrelink revised its carer payment 'question and answer' scripts in relation to overseas travel to remedy a problem identified during an Ombudsman investigation.

Mr and Mrs AA receive carer related payments for the care they provide to their disabled daughter. When they contacted Centrelink to explain that they needed to urgently travel overseas, they were told they could travel for 13 weeks without any impact on the payments. Centrelink did not ask Mr and Mrs AA if their daughter would be travelling with them. Upon realising that Mr and Mrs AA's were travelling alone, Centrelink cancelled the payments and raised a debt against Mr and Mrs AA.

The Ombudsman investigation established that Centrelink had failed to ask Mr and Mrs AA about their plans for their daughter while they were away. Centrelink agreed to waive the debt and invited Mr and Mrs AA to claim compensation for the payments they missed out on because of its incorrect advice.

Department of Human Services: Medicare

Claim assessments based on full information

Mr AB received the medical rebates he was owed and Medicare reinforced to staff the correct procedures to follow when assessing claims after the Ombudsman made enquiries on Mr AB's behalf.

Mr AB attended two regular therapy sessions at different times on the same day each week. He complained to the Ombudsman's office because Medicare refused 11 of his electronic claims for the second service on each day, saying they were duplicates.

The Ombudsman investigation found that a combination of factors had contributed to the problem. Medicare officers had not read all the text in the electronic claim and the service provider made it clear that two separate services had been provided to Mr AB on a single day. Accordingly, Medicare reassessed Mr AB's claims and paid him the rebates.

Medicare contacted Mr AB's service provider to explain the information required for claims for patients receiving multiple services in a single day. Further, Medicare reminded its staff of the importance of reading the service text in full and of the policy for processing suspected duplicate claims.

Department of Immigration and Citizenship

Visa criteria correctly applied

DIAC apologised to Ms AC and Mr AD, carried out additional staff training and reviewed public information and correspondence to other concurrent visa applicants as a result of an Ombudsman investigation.

Ms AC, a citizen of the Russian Federation, applied for an Australian Partner Visa. She also applied for a Visitor Visa so that she could visit her partner, Mr AD, in Australia while her Partner visa was being processed. DIAC's Moscow Post told Ms AC that she could not be issued a Visitor Visa until she had provided all the information required for

the Partner Visa application, including medical and police checks, and met the requirements for the Partner Visa.

The Ombudsman's office suggested to DIAC that it had inappropriately applied the Partner Visa criteria to the Visitor Visa application, for which there was no basis in policy or legislation. DIAC agreed. Subsequently, Ms AC was issued a Partner Visa.

Overseas students' private education provider

Visas reinstated

A student whose visa was cancelled by DIAC as a result of incorrect education provider information had it reinstated following an Ombudsman investigation. The education provider responded by reviewing its records for the previous six months to identify any other errors.

Ms AE's education agent enrolled her in two courses with two different education providers at the same time, although she only wished to study with one. Ms AE completed one course only to discover her visa had been cancelled after the second education provider reported her to DIAC for non-attendance. This should not have occurred, as Ms AE had never started the course. The provider also sent the notice advising Ms AE that she had been reported to DIAC to the wrong address. Consequently, DIAC set aside the visa cancellation.

On the Ombudsman's recommendation, the education provider reviewed its records for the previous six months and identified a further 20 students who had been incorrectly reported to DIAC. Eight students had their enrolment reinstated and DIAC was notified of the other errors.

In addition, the education provider updated its attendance policy so that students now have their enrolment cancelled instead of being reported to DIAC for poor attendance. And it delivered training to staff on the correct procedures to be followed in the future.

Course fees refunded after visas denied

Fifteen students were paid full refunds totalling \$119,356 and an education provider revised its refund policy in response to an Ombudsman investigation.

An agent complained to the Ombudsman's office on behalf of 13 Chinese students, all of whom had been refused student visas, because their course fees had not been refunded. Education providers are required to refund fees within four weeks of a course start date if a student's visa application is refused. Refusal of a visa prevents a student from commencing a course. The agent had regularly asked the education provider for fee refunds from September 2011 but after many months the fees had not been refunded and, contrary to the *Education Services for Overseas Students Act 2000* (ESOS Act), the provider had not reported to DIAC that the students had been unable to commence their courses.

As a result of the Ombudsman investigation, the education provider is aware of the legislative requirements regarding refunds. The provider now contacts students who have not commenced a course on the start date to organise a new start date or arrange a refund within four weeks of the start date if a visa application has been refused.

FEATURE

CONNECTING WITH PEOPLE WHO ARE HOMELESS

Homelessness is the hard reality for thousands of Australians—young people, older people, men, women and families with children are all represented among the homeless population. People without a permanent home are among those groups that are less likely to come to the Commonwealth Ombudsman's office when they have a problem with a government agency. For many reasons, including being disengaged from the mainstream, access to government services can be difficult. Yet it is often people who are homeless who are most dependent on these services and who experience problems with the way some services are delivered.

The Ombudsman's office wants to build a better understanding of the kinds of problems that homeless people confront in their dealings with government, and hearing and resolving complaints is a useful way to do this. The office has explored a few approaches to engagement, including liaising with welfare rights organisations and running complaint clinics in parallel with organisations that are already providing services to homeless people.

During the past couple of years, the Ombudsman has held regular clinics in Adelaide, Sydney and Brisbane, and participated in Homeless Connect nationally. An initiative of the Council of Capital City Lord Mayors, the Homeless Connect Australia Program enables cities, towns and communities to join in events where people who are homeless or at risk of homelessness can receive a meal, medical and dental care, a haircut

and hygiene services. Such events are an opportunity to share information with participants and provide a connection to other services such as housing, employment, government assistance and legal support that can lead to a more secure and stable life.

The small size of the Ombudsman's office means that it's simply not possible to run complaint clinics nationally. However, participating in Homeless Connect and similar events has helped staff in the office to better understand the barriers homeless people confront and allowed quicker and simpler cross-referrals between organisations providing different services.

Adelaide

Staff in the Adelaide office conduct a regular complaint clinic at the Hutt Street Centre on the third Thursday of each month. Run by The Daughters of Charity, the centre offers support, advice and practical help in a welcoming location. Ombudsman staff work collaboratively with social workers and other casework staff there, providing information about the Ombudsman's role and receiving complaint referrals from them, or directly from people visiting the centre.

People going to the centre often hear about the Ombudsman complaint clinics from others, or from seeing the posters advertising the events. The people who come to the complaint clinics—usually two to four each time—would be very unlikely to come to the Ombudsman's own office, so it's an important way of connecting

with them. Staff from the South Australian Ombudsman's office often attends too, making it simpler to deal with matters across state and federal government agencies.

Brisbane

During 2011–12, Ombudsman staff ran monthly complaints clinics at the Brisbane Homelessness Service Centre (BHSC) and at Roma House, in partnership with the Queensland Ombudsman. BHSC provides information, support, advocacy, health, recreational and employment services for people who are homeless or at risk of homelessness. Roma House offers intensive support and accommodation to people experiencing homelessness in the Brisbane area, who may have been excluded from existing services, and who have complex needs.

In partnership with the Homeless Person's Legal Clinic (based at the Queensland Public Interest Law Clearing House), Ombudsman staff have delivered training to caseworkers employed by non-government organisations providing services across South East Queensland. This has helped to foster strong connections with—and referrals from—many 'front line' organisations, as well as more direct contacts with people who are homeless.

Sydney

The Sydney office of the Commonwealth Ombudsman has been participating in the Woolloomooloo Integrated Services Hub (WISH) in inner city Sydney since April 2010. The WISH project, under the auspices of the Council of the City of Sydney, is a monthly event that provides a one-stop shop for people who are homeless to connect with a range of government and community services.

The ability to refer issues to other agencies and organisations in the same room and work together to resolve particular problems are just two of the many benefits of this project. As well as accepting individual complaints, Ombudsman staff are available to talk to people about how to deal with Australian government agencies more generally. For example, officers might provide information about which agencies provide which services, explain letters, or provide advice about how to approach particular problems with agencies.

At the last street count (February 2012), 310 people slept rough in the city of Sydney and another 451 occupied hostel beds for the night.





**THE OMBUDSMAN
AT WORK**

CHAPTER 6
**INVESTIGATIONS,
REPORTS AND
SUBMISSIONS**

INVESTIGATIONS, REPORTS AND SUBMISSIONS

Two of the key strategies of the Ombudsman's office, outlined in the Portfolio Budget Statements, are to:

- conduct own motion investigations and produce publications that promote good public administration, and
- make submissions to Parliamentary and government inquiries and contribute to broader public debate which promotes good public administration and accessibility of government program design and implementation.

This chapter outlines our work this year in these two areas.

REPORTS

Reports released in 2011–12 were:

- Department of Education, Employment and Workplace Relations (DEEWR): *Administration of the National School Chaplaincy Program* (Report 06/2011)
- Department of Agriculture, Fisheries and Forestry (DAFF): Report on reviews of investigations conducted by DAFF Biosecurity's Investigations and Enforcement Program (Report 01/2012)
- Department of Immigration and Citizenship: Detention arrangements — the transfer of 22 detainees from Villawood Immigration Detention Centre to the Metropolitan Remand and Reception Centre Silverwater (Report 02/2012)

- Department of Families, Housing, Community Services and Indigenous Affairs (Cth) and Department of Housing, Local Government and Regional Services (NT): Remote housing reforms in the Northern Territory (Report 03/2012)
- Department of Human Services and Department of Families, Housing, Community Services and Indigenous Affairs: Review of Centrelink Income Management decisions in the Northern Territory (Report 04/2012).

A summary of the office's published reports is set out below.

Inspection reports of the controlled operations records of the Australian Federal Police (AFP), Australian Crime Commission (ACC) and Australian Commission for Law Enforcement Integrity (ACLEI), and the surveillance devices records of the AFP, ACC and Victorian Police Special Projects Unit were published in January and March 2012 respectively.

This year, the office also published independent research commissioned to better inform the development and provision of accessible complaint services to Indigenous communities. The research was undertaken by Indigenous communications and research company, Winangali Indigenous Communications and Research. Although it focused on improving Ombudsman services, the research provides insights useful to any entity that provides services to, or engages with, Indigenous people and communities. Accordingly, the office made the research available publicly.

Report summaries

National School Chaplaincy and Student Welfare Program

In March 2012, the Acting Ombudsman confirmed that she was satisfied that the Department of Education, Employment and Workplace Relations (DEEWR) had, during the past six months, acted on recommendations from the Ombudsman's earlier report published in July 2011, *Administration of the National School Chaplaincy Program* (Report No 06/2011).

During 2010–11, the Ombudsman had conducted an own motion investigation into DEEWR's administration of the National School Chaplaincy Program, in response to a report released by the Northern Territory (NT) Ombudsman following her office's investigation of complaints about the program. The NT Ombudsman's report identified issues with DEEWR's administration of the chaplaincy program, which she was unable to investigate due to a lack of jurisdiction. These matters were referred to our office for consideration, leading to the decision to initiate the investigation.

By March 2012, DEEWR had made a significant effort to reform its administration of the newly-named *National School Chaplaincy and Student Welfare Program*. The program had been expanded to allow schools to engage welfare workers, as well as chaplains, all of whom must now hold or be working towards a minimum qualification in youth work, pastoral care or an equivalent discipline. New internal guidelines had been developed that required more rigorous assessment of applicants and provided greater clarity in relation to child protection issues and police checks.

Some of the problems highlighted by the Ombudsman's investigation last year involved processes for gaining parental consent for children to participate in the program, funding agreements and complaint handling. Since then, DEEWR has responded by:

- agreeing to develop and provide to parents relevant information about the program
- clarifying its expectations about what constitutes adequate consultation with the school community and consent processes
- creating a service agreement between funding recipients and schools to ensure that: all key participants in the program are accountable; protection of children and parental rights is central to the administration of the program; schools manage the program in accordance with the guidelines; and consistent national monitoring of the program can be undertaken by schools and DEEWR officials
- amending and expanding the program's code of conduct, and
- reviewing complaint-handling procedures and auditing the operation of new procedures.

Biosecurity

In April 2012, the Ombudsman released a report of an own motion investigation into the compliance and investigation activities of the Biosecurity Program (formerly the Australian Quarantine and Inspection Service) in the Department of Agriculture, Fisheries and Forestry (DAFF).

The office conducted five reviews between 2010 and 2011 at all regional offices of the Biosecurity Program. The reviews examined a total of 25% of all investigations finalised or substantially finalised during this period.

The reviews found that, overall, investigations were conducted professionally by qualified and experienced staff and in accordance with relevant legislation. However, the reviews also found that the Biosecurity Program needed to improve record keeping, provide due process to recipients of correspondence, and strengthen internal guidelines. As such, the Ombudsman made a number of suggestions and recommendations, which DAFF accepted and agreed to implement.

As a result of our reviews and the recommendations made, DAFF amended relevant policies and guidelines and implemented a new internal audit program. DAFF Biosecurity's Investigations and Enforcement Program has been strengthened by direct Ombudsman oversight during the past three years.

Immigration detainee transfer

In April 2012, the Ombudsman released an investigation report into the transfer of 22 detainees by the Department of Immigration and Citizenship (DIAC) to the Metropolitan Remand and Reception Centre at Silverwater during the April 2011 riots at Villawood Immigration Detention Centre. The Ombudsman investigated the transfer following a complaint by the detainees' legal representative, a member of the NSW Council for Civil Liberties.

The report found deficiencies in the way in which detainees were notified about their transfer to Silverwater, the records kept by DIAC and the follow-up with detainees after their transfer. Notwithstanding the operational demands at the time, once the physical threat to staff and detainees had passed, DIAC had an obligation to ensure that all procedural and administrative requirements were met. This did not occur. For instance, DIAC did not fully comply with its mandated requirement to visit a detainee in a correctional institution within 24 hours of arrival at the institution and to contact them weekly thereafter, either in person or by telephone.

DIAC agreed to the Ombudsman's recommendations for improving its processes and instigated a review of transfer arrangements between immigration and correctional detention, as well as within the wider immigration detention network. DIAC expects to update relevant policy and procedures for implementation later in 2012.

Remote housing reforms in the Northern Territory

In June 2012, the Ombudsman released an investigation report into remote housing reforms in the Northern Territory (NT).

Over the past two years, concerns about the implementation of the housing reforms have been a key source of complaints to the Ombudsman. Through investigations of these complaints, the office has identified areas in which further work by the Australian and NT governments would improve service delivery in remote Indigenous housing. In reporting on areas for improvement, the office acknowledged that the scale of the reforms and the complex nature of

the environment in which they were being delivered presented significant challenges for the agencies involved.

The report highlighted a range of service delivery problems and provides recommendations to address them. The report identified three thematic issues underlying these problems—communication, IT systems support, and accountability and complaints processes.

Income management

In June 2012, the Ombudsman released an investigation report into two aspects of the Department of Human Services' (DHS) income management decision making. The investigation examined:

- decisions not to exempt a person from income management because they are financially vulnerable, and
- decisions about applying income management to a person because they were considered vulnerable.

The reviewed decisions had all been made between August 2010 and March 2011.

The report highlighted that the initial decision-making tools and guidelines used by DHS decision makers did not adequately assist them to meet legislative requirements. The Ombudsman's review also identified problems with the use of interpreters, record keeping, training and dealing with review and exemption requests. Some decisions reviewed by the office did not show that legislative criteria had been met and many lacked a sound evidence base. Letters designed to explain decisions were inadequate and did not inform customers of their review rights.

Given the seriousness of the issues that the investigation found, the Deputy Ombudsman wrote to DHS and the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) part way through the investigation to raise her concerns. The agencies took substantial action to address the problems raised by the office, including:

- establishing a taskforce to review decisions, training, decision-making tools and templates, policy and guidelines and to develop a quality framework for income management decisions
- amending decision-making tools and processes to ensure decision makers properly address the legislative criteria
- revising its training packages and delivering training to 300 staff
- updating policy, reference material and guidelines to better reflect the intent of the legislation
- improving procedures relating to the use of interpreters and establishing a working group to advise on the appropriate use of interpreters in line with best practice
- updating and improving template decision letters.

DHS income management decision making has undergone significant revision and improvement in response to concerns identified during this review.

SUBMISSIONS

In addition to reports, the Ombudsman makes formal submissions to Parliamentary committees. This year, the Ombudsman made submissions to House of Representatives and Senate standing and joint select committees, including on language learning in Indigenous communities, cybercrime, and immigration detention. Submissions made in 2011–12 were:

- Inquiry into the Public Service Amendment (Payments in Special Circumstances) Bill 2011
- Inquiry into language learning in Indigenous communities
- Inquiry into Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2011
- Inquiry into the Cybercrime Legislation Amendment Bill 2011
- Harmonisation of the regulatory framework applying to insolvency practitioners in Australia (consultation to The Treasury)
- Joint Select Committee on Australia's immigration detention network
- Inquiry into Australia's agreement with Malaysia in relation to asylum seekers

- Inquiry into Australia's clean energy future; and
- Inquiry into the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011, the Education Services for Overseas Students (TPS Levies) Bill 2011, the Education Services for Overseas Students (Registration Charges) Amendment Bill 2011 and the Higher Education Support Amendment Bill (No. 2) 2011.

The office also made a number of submissions to government inquiries:

- the Australian Law Reform Commission's inquiry into family violence and Commonwealth laws
- the Australian Law Reform Commission's inquiry into grey areas—age barriers to work in Commonwealth laws
- Phase two of the Australian Human Rights Commission's review into the treatment of women in the Australian Defence Force, and
- The Department of Immigration and Citizenship's review of the student visa assessment level framework.



**THE OMBUDSMAN
AT WORK**

CHAPTER 7
**SPECIALIST AND
OTHER ROLES**

SPECIALIST AND OTHER ROLES

In addition to the Ombudsman's role in investigating complaints about the administrative actions of Australian Government departments and agencies, the office has a number of specialist oversight functions. These include the following responsibilities:

- *Defence Force Ombudsman:* investigate complaints about the Australian Defence Force (ADF) relating to or arising from present or past service
- *Law Enforcement Ombudsman:* oversight of Australian Government law enforcement agencies including joint responsibility for handling complaints about the Australian Federal Police (AFP) with AFP's Professional Standards
- *Immigration Ombudsman:* in addition to investigating complaints, conducts visits to immigration detention facilities and reports to the Immigration Minister in relation to people who have been in immigration detention for two years or more
- *Taxation Ombudsman:* investigate complaints about the Australian Taxation Office (ATO)
- *Postal Industry Ombudsman:* investigate complaints about Australia Post and other postal or courier operators that are registered as a Private Postal Operator
- *Overseas Students Ombudsman:* investigate complaints about problems that overseas students or intending overseas students may have with private education and training in Australia.

In August 2012, the office added a further specialist role as the Norfolk Island Ombudsman.

In addition to these specific specialist Ombudsman roles the office also has the following functions:

- statutory responsibility for compliance auditing of the records of law enforcement and other enforcement agencies in relation to the use of covert powers
- an international role as an active participant within the international community of ombudsmen, with a focus on sharing its experience in handling complaints about government agencies and fostering good public administration within various countries in the Asia-Pacific Region
- over the past five years, oversighted the administration of programs to Indigenous communities under the Australian Government's Northern Territory Emergency Response (NTER) and Closing the Gap initiatives in the Northern Territory. Funding for this role has now ceased.

This chapter reports on these specialist Ombudsman roles (except for the Taxation Ombudsman and Postal Industry Ombudsman roles which are dealt with in Chapter 4), and other functions over the last year.

DEFENCE FORCE OMBUDSMAN

There are a number of Defence-related portfolio agencies that we receive complaints about and which we can investigate as either the Commonwealth Ombudsman or the Defence Force Ombudsman, depending on the circumstances. This year the Commonwealth and Defence Force Ombudsman received 662 complaints about Defence-related agencies, compared with 632 received in 2010–11.

Complaint themes

The primary themes arising from complaints this year were the quality and timeliness of service delivery by the Department of Veterans' Affairs (DVA) and delays in the processing of Australian Defence Force (ADF) Redress of Grievance (RoG) decisions at the service chief level.

Many current and former ADF members contacted our office seeking a better understanding about their eligibility for benefits, compensation and military superannuation under one or more of the three Acts administered by DVA. We have also observed an increase in complaints from former ADF members receiving adverse DVA decisions based on the circumstances of their discharge from the ADF, the discharge usually having occurred many years prior to the DVA decision.

People also complained about delays by the Department of Defence (Defence) sending information to DVA which in turn delayed DVA finalising their claims for compensation or benefits. In May 2012, the Government responded to DVA's Review of Military Compensation Arrangements, recommending the establishment of key performance indicators to ensure timely access to Defence information in resolving compensation claims.

We received 38 complaints about delays associated with the RoG process, an increase of four from the previous year. The backlog of longstanding RoG claims was significantly reduced by a temporary resourcing increase in Defence. However, the consistent rise in complaints received by our office each year indicates that the problem of RoG delay remains as a systemic issue. Many of our earlier recommendations about improving RoG processing were accepted and recorded in the Department of Defence's *Pathway to Change: Evolving Defence Culture* publication of March 2012.

The governance role of the Defence Force Ombudsman in relation to the Review of Allegations of Sexual and other Abuse in Defence (the Review), conducted by law firm DLA Piper, continued in 2011–12. Twenty-two submissions to the Review that were unable to be assessed by DLA Piper due to a conflict of interest were referred to our office, with the consent of the complainants. The Defence Force Ombudsman is assessing these cases and will provide advice to the Minister for Defence, consistent with the methodology used by DLA Piper.

Reports and submissions

We made three submissions to Defence-related inquiries: Review of the Management of Incidents and Complaints in Defence; Phase Two of the Review into the Treatment of Women in the Australian Defence Force, and Inquiry into Workplace Bullying.

Stakeholder engagement, outreach and education activities

On 17 August 2011, the Defence Force Ombudsman met with senior Warrant Officers of the Tri-services to discuss issues of delay, tensions and problems in the ADF, increasing our awareness of contemporary concerns and emerging issues.

In June 2012, the DFO finalised a Memorandum of Understanding with the Chief of Air Force to formalise the Ombudsman's role in investigating complaints about aircraft noise arising from the Australian Super Hornets operations at RAAF Base Amberley.

LAW ENFORCEMENT OMBUDSMAN

Overview

The Commonwealth Ombudsman is also the Law Enforcement Ombudsman and has a comprehensive role in oversight of Australian Government law enforcement agencies. The Ombudsman deals with complaints about the:

- Australian Federal Police (AFP)
- Australian Commission for Law Enforcement Integrity (ACLEI)
- Australian Crime Commission (ACC)

- Attorney-General's Department (AGD)
- Australian Transaction and Reports Analysis Centre (AUSTRAC)
- Commonwealth Director of Public Prosecutions (CDPP), and
- CrimTrac.

The Ombudsman can refer allegations of corruption against law enforcement officers to the Integrity Commissioner of ACLEI.

The Ombudsman also has a statutory responsibility to review AFP complaint-handling arrangements.

AUSTRALIAN FEDERAL POLICE

The Ombudsman's office investigates complaints about the AFP from both members of the public and AFP members. We also have a legislative requirement to conduct annual reviews of the AFP complaint management processes under Part V of the *Australian Federal Police Act 1979*.

With this combination of functions, the Ombudsman is well placed to promote public confidence in the AFP by being independent, impartial and honest in views formed through our oversight activities.

During 2011–12, we received 334 complaints about the AFP. This is a reduction on the 349 received in 2010–11. We advised 54% of the complainants to contact the AFP in the first instance, in line with our office's policy that the agency complained about should have the first opportunity to resolve a complaint.

We finalised 357 complaints about the AFP in this reporting period. Apart from those that we referred to the AFP in the first instance, we declined to investigate 86 complaints for reasons such as there being insufficient basis for a complaint, or the matter being complained of was being considered by a court or tribunal, or the complaint was over 12 months old.

We completed 48 investigations and advised the AFP that we were critical of its actions in several of these cases. One case related to an unreasonable delay in the AFP finalising a complaint; one related to the use of a search warrant and one related to an incorrect National Police check being provided to a person's employer.

Complaints and systemic issues

The complaint themes were:

- inappropriate action, such as excessive delay, failure to act or inadequate investigation
- customer service
- serious misconduct
- minor misconduct.

In September 2011, we provided a report to the AFP Commissioner titled, *Report on a review of the AFP's administration of Part V of the Australian Federal Police Act 1979*.

In November 2011, we provided our annual report on the Commonwealth Ombudsman's activities under Part V of the AFP Act to Parliament, covering the period 1 July 2010 to 30 June 2011.

We reviewed all of the use of force reports relating to tasers by ACT Policing General Duties officers and our report on

this will be published in the next financial year. We will continue to maintain an interest in this use of force option over the next reporting period.

The only cross-agency issue that arose during the reporting period was the AFP's involvement in providing support to the Department of Immigration and Citizenship (DIAC) at Christmas Island in March 2011, following a disturbance by immigration detainees. The office investigated these events and provided comments to the AFP Commissioner in June 2012, rather than a formal report, noting that the office's considerations were consistent with recommendations made by the Hawke Williams report, 'Review of Immigration Detention Centre Incidents'.

The office attended the AFP Complaint Management Team Forum held in July 2011. One outcome of that forum was that AFP Professional Standards introduced new procedures for Category 1 conduct issues to simplify the processes in communicating with complainants where an investigation was not considered appropriate.

The office has worked closely with AFP Professional Standards in order to reduce the time taken to finalise complaint investigations. During the past year, improvements have been noted. Information on this is available in our annual report to Parliament. We made no formal recommendations in our report to Parliament in November 2011, but we did note areas where the AFP could improve its complaint-handling methods.

Stakeholder engagement, outreach and education activities

During the year, the Ombudsman Law Enforcement Team:

- attended the AFP Professional Standards/Ombudsman annual forum in July 2011, which considered the AFP Categories of Conduct—a legislative instrument determined jointly by the AFP Commissioner and the Ombudsman under the AFP Act
- presented at a legal workshop for first year law students at the Australian National University in April 2011. Feedback from the workshop indicated that attendees found the information very helpful
- presented at an orientation session for new members of the AFP Professional Standards (PRS). This provides us with an opportunity to make new members of PRS aware of our role in managing complaints about AFP members
- attended an AFP demonstration in August 2011 of less-lethal AFP weapons used on Christmas Island in March 2011. This aided our understanding of the practical use of these weapons and the impact they may have on an individual.

Looking ahead

Over the next year we will continue to focus our attention on working with the AFP to improve its timeliness in finalising complaint investigations and make suggestions where appropriate to improve AFP complaint handling methods. We will also continue to monitor the way the AFP deals with complaints about excessive use of force, particularly against members of the public.

OTHER LAW ENFORCEMENT AGENCIES

This office also investigates complaints about the Australian Crime Commission, the Attorney-General's Department (AGD), the Australian Commission for Law Enforcement Integrity, the Commonwealth Director of Public Prosecutions, CrimTrac and AUSTRAC.

We received less than ten complaints about each of these agencies except for the Attorney-General's Department about which we received 54 complaints. This was an increase from the previous year's 31 complaints. In seven cases we found these were out of our jurisdiction to investigate—for example, they were employment-related matters—and in 18 cases we asked the complainant to provide their complaint to the AGD in the first instance. We investigated six complaints and were able to provide a better explanation to the complainants in these cases as there was no other remedy available to them.

While we did not formally register any systemic issues in relation to complaints received about AGD, we will be monitoring complaints about the following areas during the next year:

- marriage celebrants' legislation
- the Federal Offenders Unit
- family law court complaints.

AGD has indicated that it is currently reviewing its complaint-handling methods and we look forward to providing input to this process during the year.

OVERSEAS STUDENTS OMBUDSMAN

Overview

The Overseas Students Ombudsman role was created following a recommendation by the Hon Bruce Baird in his Review of the *Education Services for Overseas Students Act 2000* (ESOS Act). The Baird Review found that overseas students studying with private education providers were particularly vulnerable, and would benefit from access to a statutorily independent complaint handling body such as the Commonwealth Ombudsman. Following amendment to the *Ombudsman Act 1976*, the Overseas Students Ombudsman started operation on 9 April 2011.

The Overseas Students Ombudsman has three clear roles under the legislation:

- investigate individual complaints
- report on trends and systemic issues in the sector
- work with providers to promote best practice complaint handling.

Within the office of the Commonwealth Ombudsman, the Overseas Students Ombudsman role complements existing jurisdiction in relation to the Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE) and the Department of Immigration and Citizenship (DIAC). It is also relevant to the ACT Ombudsman's jurisdiction in relation to public education providers in the Australian Capital Territory.

During the period from 1 July 2011 to 30 June 2012, the office has continued to establish the Overseas Students

Ombudsman role, resolving complaints for overseas students and working with education providers. We have engaged with peak bodies within the private education industry sector and those representing overseas students, and participated in, and presented at, industry conferences.

We have resolved a large number of complaints and provided advice back to providers on how to improve their compliance with legislation and the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 (National Code) and improve their complaint handling and appeal processes. In addition, the office undertook a major investigation of the administration of the ESOS Act in relation to refund payments made from the ESOS Assurance Fund.

In order to satisfy the requirements s 19ZS(4) of the *Ombudsman Act of 1976*, Appendix 3 of this report provides additional detail to that contained in this section of the annual report.

Complaint themes

The Overseas Students Ombudsman is not limited in the type of complaints it can investigate, as long as the complaints are made by, or on behalf of, an intending or actual overseas student, and in connection with the actions of a private registered education provider. The Ombudsman has a particular role in conducting external reviews of providers' decisions to report students to DIAC for failing to meet course progress or attendance requirements.

The Overseas Students Ombudsman received 588 complaints related to private

education providers, of which 262 investigations were undertaken where education providers were asked to explain their actions and provide documentation supporting their decisions.

The largest proportion of complaints (146) related to refunds of course fees. Issues arising from transfers between providers led to 101 complaints. External reviews of decisions to report students for failing to meet attendance (84) and progress requirements (33) were also significant. Issues relating to enrolment agreements accounted for 54 complaints.

As a whole, providers have been quick to respond to requests for information from the Overseas Students Ombudsman and to act on recommendations made as a result of complaint investigations. Common themes in complaints are discussed below.

Refunds following student default

Sections 27, 28 and 29 of the ESOS Act set out the rules relating to refunds in the case of student default. Complaints in this area generally relate to delay by providers in paying refunds where a prospective student has defaulted because their visa has been refused; or to either the delay, quantum of refund, or harshness of refund policies where a student cancels or withdraws from a course for other reasons.

Delay in the payment of refunds is quite common and can be an indicator of a provider experiencing financial difficulty. Where a student is refused a visa the obligations on a provider to pay the refund within four weeks are clear, and we will generally inform the regulator where payment is not forthcoming after our involvement, or where there are repeated failures by a provider.

Investigation of complaints relating to course withdrawals and cancellations generally require a consideration of the existence and clarity of refund provision in enrolment agreements. Often it is the case that students withdraw from courses without proper consideration of their contractual obligations and there is little to be done about their financial loss. However, with changes to the ESOS Act on 1 July 2012, the amount of money that a provider may take upfront is limited and this should help to address this issue to some extent.

Transfers to new providers

A large number of the complaints received and investigated by the Overseas Students Ombudsman are about registered providers not releasing overseas students for transfer to another registered provider if the student has not completed the first six months of their principal course. A student's principal course is the highest level course, and when a student has a package of courses with a provider, this could mean that they need to stay with the one provider for two or three years before they can be released.

If an overseas student wants to be released before studying for six months of the principal course, the education provider is required to assess the request. If they refuse to issue a letter of release to the student, they must give the student written reasons for refusing the request. In respect of these decisions, Standard 7 of the National Code states:

It is expected that the student's request will be granted where the transfer will not be to the student's detriment.

This obliges providers to release students unless they have reason to suspect that the transfer to a particular provider will disadvantage the student. We understand that many providers put considerable investment into sourcing students from overseas, and that allowing them to transfer to another provider is both bad for business and a disincentive to such investment. Nonetheless, students must be allowed sufficient flexibility to enable them to meet their often changing needs.

It is not sufficient for providers to cite detriment to their business as a basis for denying transfers. The detriment must be to the student, and it is often the case that we overturn decisions on appeal on this basis.

Student visa attendance requirements

Registered providers must report students who have breached attendance requirements to DIAC, under s 19 of the ESOS Act. Standard 11 of the National Code requires providers to record the attendance of each student and regularly assess their attendance. If a student is absent for more than five consecutive days without approval, or is at risk of not attending at least 80% of the course contact hours, the provider must contact and counsel that student. Before reporting students providers are required to provide an internal and external appeal opportunity. The provider is required to inform the student of their appeal rights where there is an adverse decision. In many cases we investigated we found the decision of the provider to report the student to be correct. However, there were also cases where providers failed to adequately monitor students

or notify and counsel them about the consequences of their actions. Students must take responsibility for their own attendance, but where providers have failed to meet their obligations under the National Code, and we believe that failure was a significant factor in the student not meeting their attendance requirements, we will generally recommend that the student not be reported.

Cross agency issues

Both DIISRTE and DIAC have significant roles in relation to the overseas student sector. Their policies directly affect both providers and students. As Commonwealth and Overseas Students Ombudsman, we have the capacity to investigate complaints about both these departments and the providers affected by their actions. We are also in a good position to liaise with and transfer complaints, where appropriate, to better provide resolution.

In total, 23 complaints were transferred to other Commonwealth and state agencies in 2011–12 where we considered the action could be more effectively dealt with by that agency, including to the Australian Skills Quality Authority (17), the Australian Competition and Consumer Commission (1), the Australian Human Rights Commission (1) and the Western Australia Training and Accreditation Council (4).

Submissions

During 2011–12 we made the following submissions:

- House of Representatives Standing Committee on Education and Employment inquiry into the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011, the Education Services for Overseas Students (TPS Levies) Bill 2011, the Education Services for Overseas Students (Registration Charges) Amendment Bill 2011 and the Higher Education Support Amendment Bill (No. 2) 2011. This submission referred to the first of these bills, and made general observations arising from our experiences handling complaints as the Overseas Students Ombudsman.
- The House of Representatives Standing Committee on Education and Employment held an international education roundtable on 3 April 2012, at which the Overseas Students Ombudsman made a verbal submission and participated in discussions.
- DIAC Review of the Student Visa Assessment Level Framework—This submission discussed the role of the Commonwealth Ombudsman as the Overseas Students Ombudsman and the Immigration Ombudsman, as well as addressing selected questions contained in the Review of the Student Visa Assessment Level Framework Discussion Paper of January 2012.

Stakeholder engagement and outreach

The Overseas Students Ombudsman has engaged actively following the launch of the role, meeting with and presenting to state ombudsmen, regulators, provider peak bodies and student support organisations. This consultation has helped to clarify the scope of the role and its intersection with other complaint handling and support bodies and ultimately to ensure that overseas students studying with private education providers are treated fairly.

Individual advice is given to providers regarding better complaint handling as part of our contact with them while investigating complaints. Providers are also referred to our *Better practice complaints guide for private education providers* on our website: www.oso.gov.au/docs/better_practice_complaint_handling_for_education_providers.pdf

The following engagement and outreach to students and providers (focusing on improving complaint handling) was undertaken:

- Council of International Students Australia (CISA) Conference and launch of the Overseas Students Ombudsman, 12–13 July 2011, Melbourne, Victoria
- Australian Council for Private Education and Training (ACPET) Conference, 26 August 2011, Brisbane, Queensland

- TAFE Directors Australia Conference, 6 September 2011, Sydney, New South Wales
- English Australia Conference, 23-24 September 2011, Adelaide, South Australia
- Council of International Students Western Australia (CISWA), 6 October 2011, Perth, Western Australia
- Federation of Ethnic Communities' Councils of Australia (FECCA), 17 November 2011, Adelaide, South Australia
- International Education Australia Conference, 2 December 2011, Hobart, Tasmania
- NSW Ombudsman Complaint Handling Forum, 17 February 2012, Sydney, New South Wales.

Looking ahead

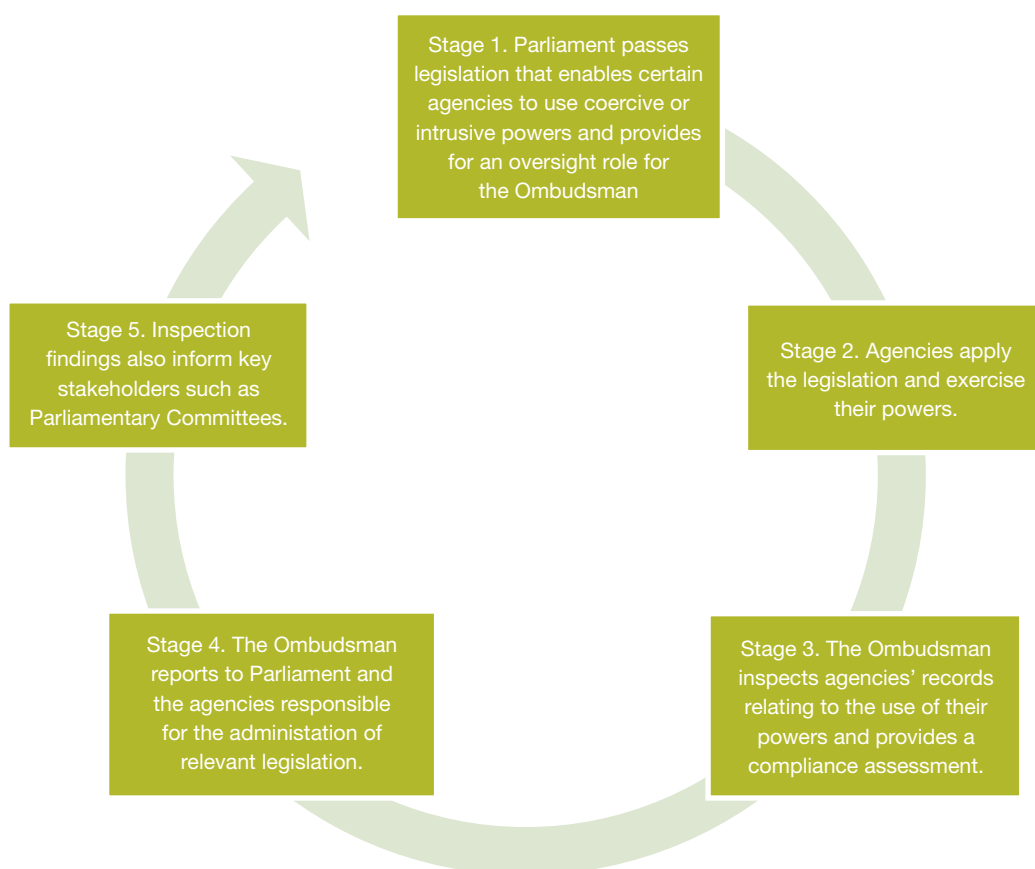
Priorities for the year ahead include continued liaison with industry stakeholders and education providers to help improve complaint handling, and to educate students to ensure that our role is understood and accessible.

We will continue to identify and act on opportunities to streamline referral and transfer of complaints and to make the appeals process more efficient.

INSPECTIONS

Our law enforcement inspections role and follow-up agency engagement and feedback provide an integrated five stage approach to independent oversight.

The independent oversight process



Stage 1

The purpose of an *independent oversight mechanism* is to increase accountability and transparency of law enforcement agencies' use of covert and intrusive powers. As an oversight mechanism, the Ombudsman is required by law to inspect the records of certain agencies in relation to their use of covert and intrusive powers, which include:

- telecommunications interceptions by the Australian Federal Police (AFP), the Australian Crime Commission (ACC) and the Australian Commission for Law Enforcement Integrity (ACLEI)
- access to stored communications by Commonwealth agencies, including the AFP, the ACC, the Australian Customs and Border Protection Service, and state and territory law enforcement agencies
- use of surveillance devices by the AFP, ACC, and ACLEI, and state and territory law enforcement agencies under the Commonwealth legislation
- controlled operations conducted by the AFP, ACC and ACLEI.

From 1 June 2012, we gained a new oversight function regarding Fair Work Building and Construction's use of coercive examination powers.

Stage 2

When law enforcement agencies exercise their powers, they are required to keep records of their related activities, including any use or communication of information obtained through such activities. We then inspect these records to determine agencies' compliance with their legislative obligations.

Stage 3

In 2011–12 we conducted 33 inspections, at both Commonwealth and state and territory levels. As well as inspecting agencies' records to make a compliance assessment, we aimed to assist agencies to improve their processes to comply with the various legislative provisions. This included liaising with agencies outside of inspections and communicating shared issues to relevant stakeholders, as well as providing advice on best practice.

For example, in conducting our inspections of stored communication access records, we highlighted the importance of, and encouraged agencies to have in place, procedures that ensure that they are only dealing with lawfully accessed stored communications. These procedures involve monitoring all stored communications received by carriers to check that the accessed stored communications are those permitted by the warrant. The procedures should also include quarantining (that is, not using for investigation purposes) any stored communications where there is any doubt about their lawfulness or where there is insufficient information to determine their lawfulness.

Stage 4

In addition to reporting to the agencies on our inspection findings, we are required to inform the Commonwealth Attorney-General's Department (AGD) of our inspection findings, and report regularly to the Attorney-General and the Minister for Home Affairs. These findings may also form the basis of our annual briefings to relevant Parliamentary Joint Committees.

In addition, we provide feedback to the AGD, the Department responsible for administering the regimes we inspect, on:

- how law enforcement agencies apply different regimes
- provisions of relevant Acts that work well
- high-level systemic problems and issues.

For example, we have previously highlighted to the AGD a systemic issue regarding the stored communications access regime, where agencies were unable to determine the date a carrier or service provider executed the warrant on their behalf. As the period a stored communications warrant remains in force is limited, it is necessary for agencies to know the date it was executed so they can assure themselves that they are dealing with lawfully obtained information. During 2011–12, we worked with the AGD on developing a mechanism for agencies to obtain this information. We are now monitoring agency use of this mechanism.

Stage 5

As well as meeting our statutory reporting requirements, we aim to provide useful information gained from our inspection functions to key stakeholders. For example, during 2011–12, we made a submission to the Joint Select Committee on Cyber-Safety, in relation to their inquiry into the Cybercrime Legislation Amendment Bill 2011. We also made a submission relating to our oversight role to the Senate Standing Committee on Education, Employment and Workplace

Relations inquiry regarding the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2011.

In addition, we have provided advice to AGD on proposed reforms to the *Telecommunications (Interception and Access) Act 1979* (the TIA Act), to improve the regimes under the TIA Act, based on our knowledge and experience gained from our inspection activities. These reforms have also been considered by the Parliamentary Joint Committee on Intelligence and Security.

Improving our business practice in 2011–12

A key focus in 2011–12 for our inspection role was to improve the timeliness of how we communicate compliance issues to agencies, to assist them to better comply with legislation and to improve our working relationships with agency stakeholders. Timeliness can be an issue because we only inspect some agencies once a year. If we identify an issue at the start of the year and wait until the end of that year to inform an agency that we inspect, a substantial period of time would have elapsed before the agency could address the issue.

In 2011–12, we increased our proactive and ongoing engagement with law enforcement agencies throughout the whole year, not just during inspections. This included meeting outside of an inspection period, discussing compliance issues as they arose, highlighting ‘best practices’ and making suggestions for improvement. For example, we met with some agencies to discuss the policies and procedures that

provide guidance to their staff on how to lawfully use their covert and intrusive powers. During these discussions we highlighted both good practices as well as any gaps in their processes that may pose potential compliance risks.

Similarly, this past year we have met with the AGD and other agencies to resolve key issues in a timely manner.

Keeping the public and decision makers informed

In addition to the submissions we made to parliamentary inquiries, during 2011–12 we published four reports and submitted 18 reports to the Attorney-General and the Minister for Home Affairs. Our published reports are a key element in enhancing accountability and transparency of law enforcement agencies' use of covert and intrusive powers.

Our published reports generally provide an outline of our inspection methodology and criteria, our findings against each criterion, and any agency responses to our findings. In 2011–12, the Ombudsman released the following reports:

- September 2011—Biannual report to the Attorney-General on the results of inspections of records under section 55 of the Surveillance Devices Act 2004
- January 2012—Annual Report on the Commonwealth Ombudsman's activities in monitoring controlled operations conducted by the Australian Crime Commission and the Australian Federal Police in 2010–11
- March 2012—Biannual report to the Attorney-General on the results of

inspections of records under section 55 of the Surveillance Devices Act 2004

- April 2012—Report to the Department of Agriculture, Fisheries and Forestry (DAFF) on our own motion investigation of the compliance and investigations activities of DAFF Biosecurity Program.

Currently, the TIA Act does not permit us to publish reports on our telecommunications interception and stored communications access inspections. Instead we provide information to the AGD for inclusion in the Attorney-General's annual report to Parliament.

CASE STUDY: working with agencies to resolve compliance issues

In May 2010, during an inspection of the Australian Crime Commission's (ACC) controlled operations records under Part IAB of the *Crimes Act 1914* (the Crimes Act), we identified the then practice of the ACC to internally issue consecutive authorities to continue a controlled operation, without seeking external approval from the Administrative Appeals Tribunal (AAT) to extend the controlled operation. Under the Crimes Act, the maximum duration of an authority to conduct a controlled operation is three months, unless varied by a member of the AAT to extend the authority for a further period of up to three months. Rather than seek AAT approval to extend existing controlled operations authorities, the ACC issued new authorities every three months for the same controlled operation.

Although we noted that this practice was not unlawful, and we accepted the ACC's view that its processes of internally applying for, and issuing, authorities demonstrated good internal governance, we did not consider it a substitute for external approval by the AAT to extend ongoing operations. In our view, the AAT's approval should be sought in all instances where operations extend beyond three months.

As we were concerned with the ACC's practice of issuing consecutive authorities, we brought this issue to the attention of the ACC. We subsequently raised it with the Parliamentary Joint Committee on Law Enforcement and the Minister of Home Affairs in our published controlled operations annual reports.

In response to our concerns, the ACC agreed to adopt the practice of seeking AAT approval to extend an authority where legally possible from March 2011. However, there was a divergence of view between the ACC and our office about when it was 'legally possible' to seek AAT approval. Consequently, the ACC sought advice from the Attorney-General's Department (AGD) on this matter. In January 2012, the AGD provided guidance on when it would be legally permissible for an agency to seek a variation of a controlled operations authority and when agencies would need to obtain a new authority to conduct the controlled operation.

This guidance supported our view and resulted in the ACC amending its procedures, with the effect that all requests to extend the period of effect

of an authority beyond three months are now made to the AAT. The ACC sought our input on the development of its new procedures, on which we provided comments. We also noted that we will assess the ACC's amended procedures on a case-by-case basis.

At our most recent inspection, we noted the measures that the ACC has taken to ensure external approval is sought to extend ongoing operations and its positive attitude towards compliance.

IMMIGRATION DETENTION OVERSIGHT

In 2011–12 there was a substantial increase in the office's workload associated with the oversight of immigration detention. The number of irregular maritime arrival people increased significantly and there were record numbers of people in immigration detention. This was despite the government's policy from November 2011 to grant Bridging Visas and release people into the community after initial processing. The average period of detention decreased significantly during 2011–12 due to this policy, although there remained a large number of people in detention for longer than three months.

Due to the large number of people in immigration detention, the number and location of detention facilities in operation and limited resources to undertake oversight activities, the office takes an integrated approach to our Immigration Ombudsman function.

“We aim to visit each facility in the immigration detention network at least twice each year.”

The inspections visit program is at the core of our oversight function. We aim to visit each facility in the immigration detention network at least twice each year. This provides an opportunity to conduct complaint clinics and information sessions, interview people detained for more than two years (who are the subject of our statutory reports), inspect the detention facilities, and discuss operations with DIAC and the service providers. Visits can be either announced or unannounced and feedback is provided to DIAC following each visit.

The Ombudsman has a statutory role to report to the Minister for Immigration and Citizenship on the appropriateness

of the detention arrangements for each person held in immigration detention for two years and at subsequent six-monthly intervals. Over the past few years the office has also undertaken a non-statutory review of the detention arrangements of people detained for six, 12 and 18 months and reported to the Secretary of DIAC. It was not possible to continue a practice of reporting on individuals detained for such periods during the past year due to the large numbers of people in detention. The Office and DIAC have agreed a revised approach to systemic analysis of people remaining in detention at these intervals, which is discussed further 7 below.

The office also has oversight of the processes for assessing the refugee protection claims of the irregular maritime arrival people.

Immigration detention inspections program

During 2011–12 our teams visited the following detention centres:

IMMIGRATION DETENTION FACILITY	LOCATION	TIMING
Adelaide Immigration Transit Accommodation	Adelaide SA	May-11 Jun-12
Berrimah House Immigration Residential Housing	Darwin NT	Jul-11 Oct-11
Brisbane Immigration Transit Accommodation	Brisbane QLD	Nov-11 Apr-12
Construction Camp Alternative Place of Detention	Christmas Island	Dec-11 May-12
Curtin Immigration Detention Centre	Derby WA	Sep-11 Apr-12
Darwin Airport Lodge Alternative Place of Detention	Darwin NT	Jul-11 Oct-11
Inverbrackie Alternative Place of Detention	Woodside SA	Nov-11 May-12
Leonora Alternative Place of Detention	Leonora WA	Apr-12
Maribyrnong Immigration Detention Centre	Melbourne VIC	Nov-11 May-12
Melbourne Immigration Transit Accommodation	Melbourne VIC	Nov-11 May-12
Northern Immigration Detention Centre	Darwin NT	Jul-11 Oct-11
North West Point Immigration Detention Centre	Christmas Island	Dec-11 May-12
Perth Immigration Detention Centre	Perth WA	Oct-11
Perth Immigration Residential Housing	Perth WA	Oct-11
Port Augusta Immigration Residential Housing	Port Augusta SA	Nov-11 Jun-12
Scherger Immigration Detention Centre	Weipa QLD	Nov-11 Apr-12

IMMIGRATION DETENTION FACILITY	LOCATION	TIMING
Sydney Immigration Residential Housing	Sydney NSW	Jul-11
		Aug-11
		Feb-12
		Apr-12
Villawood Immigration Detention Centre	Sydney NSW	Jul-11
		Aug-11
		Feb-12
		Apr-12

We provide post-visit reports to DIAC detailing our observations of detention facilities arising from the visit program and DIAC responds to the issues and suggestions outlined in these reports.

We observed positive changes and improvements in the management of immigration detention facilities over the course of the year. Although the numbers of people in detention remain high, we observed less tension and improved atmosphere. In part, this appears to be due to the change in Government policy enabling Bridging Visas to be issued to detainees pending the outcome of their protection obligation determination process and the subsequent decrease in the average time detained. In particular we noted:

- a decrease in complaints from detainees
- a decrease in group and individual unrest and self-harm incidents across the network
- greater provision of activities and excursions in remote locations, particularly Christmas Island

- increasing levels of community engagement in most detention facilities.

During our inspections we observed some issues of concern within the detention network including:

- inconsistent practices and procedures applied across the network relating to issues such as:
 - access to mobile telephones
 - property management processes and procedures
 - management of detainee expectations on movement into the community
 - management of the Individual Allowance Program
 - education available to minors ranging from attendance at both primary and secondary schools in some states to limited in-centre schooling in other states
 - rollout of training on the Psychological Support Program.

- limited access to community activities and visitors in remote localities, especially at Scherger and Christmas Island
- limited recreational and educational activities and excursions across the detention network which were a source of ongoing frustration for detainees
- low levels of accuracy, competency and qualifications of interpreters, especially among language groups not well established in the Australian community
- the use of unqualified staff to teach English as a second language in remote or isolated detention facilities
- issues surrounding the development and use of Support and Management Units at North West Point Immigration Detention Centre.

Detention reviews

The Ombudsman is required under s 486O of the Migration Act 1958 to review the circumstances of the detention of people held in immigration detention for two years, and every six months thereafter. The Ombudsman reports to the Minister for Immigration and Citizenship on the appropriateness of the person's detention arrangements and a de-identified version of the report is tabled in Parliament along with the Minister's response to each report.

In 2008 it was agreed that the Ombudsman would review and report to the Secretary of DIAC on the detention arrangements for people who had been in detention for six months and then at 12 and 18 months if the person was still in detention. At the time this process was

implemented there were approximately 400 people in immigration detention. Over the past year we have focused our detention review on the statutory requirements due to the high number of people detained for more than two years.

Detention reviews can provide a valuable insight into systemic issues in immigration detention and refugee claims processing. The office and DIAC have agreed a new process to start from July 2012 whereby the Ombudsman will receive copies of all DIAC senior officer reviews in relation to persons in detention at six, 12 and 18 months. The office will not report on an individual's detention unless these reviews indicate that a report is warranted. However, there will be a focus on identifying systemic issues identified in the reviews that may be indicative of wider issues or problems in the detention network.

Two-year review reports

In 2011–12, there was a large increase in the number of two-year detention reports received from DIAC (as required by s 486N of the Migration Act 1958). The office received 683 reports in 2011–12 compared with 60 detention reports in the previous year. Many of the people subject to these reports were released on Bridging Visas or moved to community detention by the time we were ready to interview them and complete our report to the Minister.

The Ombudsman provided 130 reports to the minister for tabling in Parliament, compared to 41 reports in the previous year.

The increase in the number of reports received has placed considerable strain

on the ability of the office to report to the Minister in a timely manner. Steps are being taken to address this, including focusing resources on more complex reports and those who are still held in restrictive detention, and considering more streamlined reporting on less complex cases.

Of the reports received from DIAC in 2011–12, 116 were reports for people who have been in detention for 30 months or longer. Twenty-nine of these are for people who have been found to be owed protection but have received an adverse security clearance from the Australian Security Intelligence Organisation. The office is concerned that there does not appear to be any resolution to their status in the foreseeable future. It is noted that in many cases they have been transferred to a less restrictive form of detention in immigration residential housing. The office has recommended that the government give priority to finding a solution that reconciles the management of any security threat with its duty of care to immigration detainees, including considering alternative avenues for managing any security threat.

Other trends and issues raised in the two-year reports include:

- deteriorations in mental health of some individuals, particularly those people held in immigration detention facilities for prolonged periods, and the importance of DIAC and its service providers working together to ensure duty of care to detainees is met
- delays in processing refugee protection claims and the length of detention, noting this is less of an issue now that people are granted Bridging Visas pending Protection Visa decisions

- quality of IMA asylum seeker decision-making, both at the primary and review stages
- an increasing number of boat crew who are either awaiting trial or have been convicted and sentenced for people smuggling offences and remain in detention for lengthy periods
- a number of people whose visas have been cancelled under s 501 and for whom Australia may have non-refoulement obligations who are subject to prolonged and possibly indefinite detention.

Reports

Department of Immigration and Citizenship: Detention arrangements – The transfer of 22 detainees from Villawood Immigration Detention Centre to the Metropolitan Remand and Reception Centre Silverwater (released in April 2012).

The Ombudsman issued a report under s 15 of the *Ombudsman Act 1976* and made a number of recommendations to DIAC to ensure that effective procedures are in place for those occasions where detainees are transferred from an immigration detention facility to a correctional facility and that proper records are kept at each stage of the transfer. (More detail on this report can be found in Chapter 6.)

DIAC accepted the recommendations and advised this office that its procedures relating to the transfer of detainees from detention to correctional facilities will be rewritten in 2012.

Own motion investigation into suicide and self-harm in the immigration detention network

The office announced in July 2011 that it would undertake an own motion investigation to examine the incidence and nature of suicide and self-harm in the immigration detention network. The investigation is still underway with a report expected before the end of the year.

Collaborative and consultative approach to immigration detention oversight

We held regular liaison and engagement meetings with DIAC's Ombudsman and Human Rights Coordination Section to discuss complaint issues. DIAC also conducted a series of briefings on matters of interest to the office.

An important development was the introduction in April 2012 of quarterly meetings with DIAC and its service providers. These meetings provide the opportunity for the office to provide feedback to DIAC and service providers on systemic issues we identify through the range of oversight activities we undertake. It also enables DIAC to update the office on issues and developments in the detention network, including changes in operational policies and practices.

Quarterly liaison meetings were held with the Australian Red Cross, the Australian Human Rights Commission and the United Nations High Commissioner for Refugees. These informal meetings enable sharing of information and on areas of mutual interest and concern in relation to immigration detention.

Ad hoc meetings were held throughout the year with a number of advocacy groups on immigration detention-related matters, including the Asylum Seeker Resource Centre, RISE and Amnesty International.

The Ombudsman also consulted with a range of government and non-government stakeholders to inform the own motion investigation into suicide and self-harm in the detention network and held roundtable meetings in a number of capital cities.

Future issues in immigration oversight

A challenge for the year ahead will continue to be the review and oversight of systemic issues and individual cases within the immigration detention framework, given the high number of statutory reviews we are required to do for those people detained for two years or more, and the number of immigration detention facilities in the network. We will continue to examine the circumstances of prolonged detention and advise DIAC on systemic issues arising from our oversight activities. The government's decision in August 2012 to reinstate offshore processing may affect this office's role in overseeing the processing of protection claims for irregular maritime arrivals and immigration detention.

The office will also be engaging with other stakeholders as the government considers the ratification and implementation of the Optional Protocol to the Convention Against Torture (OPCAT).



The Pacific Ombudsman Alliance brought together 14 officers from across the Pacific for the Australian Public Sector Anti-Corruption Conference held in Fremantle, WA in November 2011.

INTERNATIONAL— COMMITMENTS AND ACHIEVEMENTS

Consolidating the Pacific Ombudsman Alliance into a strong peer support network

Our office provides secretariat support to the Pacific Ombudsman Alliance (POA), a regional network for Ombudsmen and allied institutions throughout the Pacific. The POA provides technical support and policy advice to members, including capacity development activities to enhance the efficiency and effectiveness of offices. POA also supports activities that are designed to raise awareness among the public and government stakeholders about the importance of accountability institutions and effective complaint handling.

The POA is funded by the Australian Agency for International Development and governed by an engaged and active board comprised of Ombudsmen from the Cook Islands, New Zealand, Papua New Guinea and Australia, and a senior government representative from Niue.

At the June 2011 annual members' meeting, POA members agreed to develop strategic action plans for each of their offices. As part of the strategic planning process, the POA secretariat has worked with members to conduct studies of their offices. These studies identify key policies, processes and practices that exist within each office and provide an indication of where there is opportunity for improvement over the short and long-term. These studies will then be consolidated with other planning information and used to prepare a strategic plan that captures each office's vision. These plans will form the basis for a five-year plan for POA.

The POA emphasises the value of cooperation between member offices and the benefits of strong inter-agency cooperation between officers at all levels within our member organisations. In November 2011 the POA brought together 14 officers from across the Pacific for the Australian Public Sector Anti-Corruption Conference (APSACC). APSACC provided an opportunity for our attendees to understand contemporary trends, future directions and emerging issues for good governance and public sector integrity. Prior to the conference, the POA convened a one-day workshop for attendees to share experiences, discuss issues unique to the Pacific and learn from the successes and challenges of their Pacific colleagues.

As part of our focus on regional cooperation, the POA has supported regional sub-committees for members whose offices share similar mandates or geo-political issues. In 2011 the POA supported the establishment of a Leadership Code Sub-Committee for Ombudsmen offices responsible for administration and enforcement of Leadership Codes in Papua New Guinea, Solomon Islands and Vanuatu. A Smaller Islands States Sub-Committee was also established for members from Kiribati, Nauru, Niue, Tuvalu and the Federated States of Micronesia who do not have Ombudsmen offices. These sub-committees provide a mechanism for officers within participating organisations to access regional knowledge and resources and develop culturally appropriate tools to assist them to tackle common issues.

RAMSI exit strategy

Our office has worked with the Office of the Solomon Islands Ombudsman (OOSI) for many years as part of the POA. In 2011, we entered into a more intensive institutional partnership arrangement currently funded by the Regional Assistance Mission to the Solomon Islands (RAMSI). As RAMSI stages its exit from the Solomon Islands in 2013, our office will play a part in the ongoing Australian development assistance through the Accountability Program. The goal of this program is to contribute to improved government accountability in the Solomon Islands, through increasing the efficiency and effectiveness of the core accountability institutions, including the OOSI.

The first activity under this program was an organisational assessment, conducted by this office's International Team, and an assessment of the OOSI's information and communications framework, conducted by John Harper, Director IT, Commonwealth Ombudsman's office. Both of these activities identified strengths and weaknesses in OOSI's structure that will form the focus of further partnership activities.

Andrew Brown, Queensland Deputy Ombudsman, was also part of this delegation to OOSI. Our International Program is greatly enhanced by being able to call on the expertise and varying experiences of other Australian ombudsmen. We hope that the Queensland Ombudsman will be part of our partnership with OOSI into the future. Our program will also link OOSI into the activities of the POA.



Commonwealth Ombudsman officer, Carolyn Langley, and Marshall Islands Auditor-General, Junior Patrick.

In May 2012 the Solomon Islands Ombudsman and his two most senior staff members travelled to Canberra and Brisbane to further explore case management theory and practice. One of the biggest challenges for OOSI is storing information about individual complaints in a way that is both secure and allows for monitoring the progress of individual complaints. Working on this issue will be an immediate priority of our institutional partnership.

In August 2012, our two offices signed a Memorandum of Understanding as a formal expression of our commitment to the partnership, and the principles that will govern how we work together.

Peru

Our program with the Defensoria del Pueblo in Peru has taken our office into a new area of work focusing on disputes in relation to resource extraction and land use. The ongoing social conflict in Peru has highlighted the need to explore new models of regulation, which balance economic development needs with governance, social and environmental concerns.

Peru has identified weak state institutions as one of the drivers of ongoing conflict. Our program, which is still at the scoping stage, examines examples of regulatory organisations in



The Defensoria del Pueblo runs an active outreach program to Peru's diverse community.

both Australia and Peru, and the ways that effective complaint mechanisms may improve the development outcomes for local people of resource extraction. We promote the use of complaints as a way of engaging with populations, and as a source of information to strengthen and reform organisations.

The Defensoria del Pueblo runs an active outreach program to Peru's diverse community. The delegation was able to participate in a number of activities designed to highlight the work of the Defensoria to the Afro-Peruvian community of Lima.

Assisting the new Indonesian Ombudsmen

Our strong relationship with the Ombudsmen of the Republic of Indonesia (ORI) continues as ORI grows into one of the key accountability agencies in Indonesia. As a way of reaching all of Indonesia's widespread and diverse population, ORI is

undertaking a program of opening offices in each of the 33 provinces. It is anticipated that this program will be completed by December 2013. A delegation from the Commonwealth, NSW and West Australian Ombudsman offices visited the newly opened office



Commonwealth Ombudsman officers outside the Ministry of Culture, Peru. Our program with the Defensoria del Pueblo has taken the office into a new area of work.

in Bandung, West Java as well as the established regional office in Yogyakarta in July 2011. The delegation discussed the different training and other support needs of a growing organisation and some of the difficulties in maintaining organisational coherence across a number of regional offices.

Many of the key public sector services provided to the Indonesian people are delivered at the provincial level. A meeting of provincial government offices was hosted by ORI in December 2011 and attended by Vice President Boediono. This meeting was designed to highlight the importance of Ombudsmen

to improving public sector services and to drive public sector reform. We gave a presentation on the Australian experience of 30 years of ombudsman services and were able to demonstrate the value of using the information derived from complaints.

ORI has identified the need for effective complaint handling mechanisms throughout the public sector in Indonesia as a way for the public to provide the supervision and feedback necessary to drive public sector reform. Our office supports this initiative with training and mentoring programs. This is a key priority for our future work together.



Staff of the Indonesian and Australian Ombudsman offices at regional office, Yogyakarta, Indonesia.

FEATURE

OMBUDSMAN PROGRESS IN THE PACIFIC: SAMOA

The Board of the Pacific Ombudsman Alliance said Mr Woodhead's placement in Samoa was 'one of the most successful activities of the Alliance to date'.

The Commonwealth Ombudsman's International Program, largely funded by AusAID, works to improve government administration, complaint handling and 'ombudsmanship' on the international stage. It focuses particularly on Australia's Pacific Island neighbours.

In 2011–12, the Office of the Ombudsman of Samoa, Komesina o Sulufaiga, conducted a review of its role and functions. Through the placement of staff member Michael Woodhead, this office was able to provide assistance through a project jointly funded by the Samoa Law and Justice Sector and Pacific Ombudsman Alliance (POA). Mr Woodhead's placement builds on previous placements from our office in 2008 and 2009.

Mr Woodhead worked with local staff to implement improvements in areas such as complaint management, communication, networks and strategic engagement with government agencies. These initiatives included:

- Development of an audit and review role for the Samoan Police Service Professional Standards Unit (PSU).
- In conjunction with the Australian Federal Police and Samoan Ombudsman staff, setting up a database for complaint and administrative files and developing an archives policy to manage them. This freed up space in the office and made administration more efficient.
- Developing new information materials—Samoan and English language brochures, bookmarks and printed bags. The materials are now being delivered through outreach activities with government ministries and agencies, colleges and universities and non-government peak bodies. In addition, a television campaign featuring one-minute advertisements, was developed. These activities are resulting in higher awareness of the Ombudsman in the Samoan community.
- Identifying training needs of local staff that, when achieved, will boost capacity and professional development opportunities into the future.

The POA Board noted that Mr Woodhead's placement in Samoa was '*one of the most successful activities of the Alliance to date*', and has undertaken to study his '*method and philosophical approach as a model for future placements*'.

Good local news

During his placement, Mr Woodhead helped to develop an audit and review role for the Samoan Police Service Professional Standards Unit, which was well received locally:

‘The Office of the Ombudsman ... is there to help the Police to perform their duties responsibly. This is achieved through the knowledge that if a police officer is accused of any wrongdoing, there is an independent body that will ensure the investigation is done without fear or favour. ... The presence of the Ombudsman should also clear any doubts about the integrity and credibility of police officers investigating each other.’

The Samoa Observer, 28 January 2012



Staff of the Office of the Ombudsman of Samoa wearing their new uniform. From left, Vaiao Eteuati, Folau Ioane, Seiao Saena, Michael Woodhead (Adviser).

OMBUDSMAN OVERSIGHT OF NORTHERN TERRITORY EMERGENCY RESPONSE

Overview

The Commonwealth Ombudsman received funding in 2007 to provide independent oversight and a complaints mechanism in relation to the Australian Government's Northern Territory Emergency Response (NTER) and Closing the Gap initiatives in the NT. A dedicated team, the Indigenous Unit, was established to undertake this role.

The team focused on communities affected by the NTER and other Indigenous programs and dealt with complaints, provided information about the role of the Ombudsman, and obtained feedback about the effects of the programs and services at a local and individual level. The team has worked closely with agencies to share this feedback, negotiate remedies and outcomes for complainants and improve the administration of programs affecting Indigenous people in the NT.

The NTER finished at the end of this financial year, but several NTER programs will continue under the government's Stronger Futures in the NT initiative. The Ombudsman's office did not receive funding to continue to provide independent oversight and a complaints mechanism for Indigenous people in the NT affected by Stronger Futures programs. However, the office remains committed to making complaints services accessible to Indigenous Australians and to working with agencies to identify and improve government administration in this area.

Five years of oversight

Since 2007, members of the Indigenous Unit have visited the 73 prescribed communities and town camps in the NT at least once and taken in excess of 1500 complaints. Investigation of these complaints has identified problem areas that ombudsman staff have worked with agencies to address. This has included finding remedies for individuals, such as better explanations of decisions, review or reconsideration by agencies of decisions or actions, or more timely consideration or resolution by agencies of matters where there has been delay (for relevant case studies see Chapter 5).

Ombudsman investigations have helped to identify broader or systemic problems, including issues that cross multiple agencies or levels of government. The following case studies are representative of the many complaints the Indigenous Unit has brought to the attention of agencies to assist them to find adequate solutions to bigger or persistent problems.

CASE STUDY: Improving agencies' awareness and approach to the use of Indigenous interpreters

A member of a remote Indigenous community complained in 2009 that residents had been asked to sign tenancy agreements for their public houses without the agreements having been explained or interpreters used. The community did not understand the purpose and effect of the documents.

Although the Commonwealth had a statutory lease over this community (that put it in the position of land owner), tenancy management had been devolved to a NT department—Territory Housing—which, in turn, funded a shire to deliver tenancy services.

The investigation established that the shire had developed its own tenancy-related documentation that it had explained to the community, without interpreters, at group meetings. The shire was instructed by Territory Housing to stop using the documents, and a new process using interpreters was developed.

CASE STUDIES: Strengthening agencies' income management (IM) and housing services

Mr AJ's story

Centrelink arranged for Mr AJ to receive regular unrestricted cash payments from his income managed funds as a result of an Ombudsman investigation.

Mr AJ complained to the Indigenous Unit in January 2012 that IM was causing him financial difficulties. He said that he had applied for an IM exemption, but was not successful. Mr AJ explained that he lives on the property of a mining company and that he has limited expenses—he does not pay for rent, phone or electricity. As a result, Mr AJ said he was having difficulty using all his income-managed funds to pay for priority goods and was not able to resolve this difficulty with Centrelink.

Mr AJ did not qualify for an IM exemption. However, Ombudsman staff determined, after discussing the matter with Mr AJ, that a core issue for him was that he was able to meet all of his priority needs with only part of his income-managed funds. This meant that a portion of funds that he could not easily access or use remained in Mr AJ's income-managed account. The office asked Centrelink if it would consider allowing Mr AJ to access unrestricted cash payments. This is an option

whereby customers can access income-managed funds via cash payments where the customer has demonstrated that their priority needs have been met. Centrelink agreed.

Ms AK's story

FaHCSIA advised the Ombudsman's office that, together with Territory Housing, it had made improvements to the processes for handling requests for rent reimbursement. These included investigating the details of claims, liaising with Centrelink and ensuring applicants were informed of outcomes.

In November 2010, Ms AK complained about rent she had been charged for a house in a community over which the Commonwealth had a statutory five-year lease. Ms AK initially believed that she and her partner had been charged two lots of rent for the same period. She had been unable to resolve the matter with the housing association that had collected the money.

Ombudsman enquiries revealed that Ms AK and her partner had paid money for a house classified as an improvised dwelling. Under the policy, tenants of improvised dwellings are entitled to reimbursement of any money paid after 1 July 2009. Consequently, the office was informed in August 2011 that Ms AK and her partner would be reimbursed the \$630 due to them. In September 2011, 10 months after the issue was first raised with agencies, the money was placed into the Centrelink accounts of Ms AK and her partner.

CASE STUDIES: Assisting agencies to improve their approach to communication, consultation and engagement

Information about tenants' obligations

In response to recommendations made by the Ombudsman, FaHCSIA and Territory Housing developed an information pack for primary tenants containing information about rent, bonds and other housing issues.

Several complaints indicated that people did not understand the new remote housing rent policy introduced by the NT Government. Tenants frequently complained that they did not know how much rent and bond they should be paying, whether other tenants should also be contributing to rent, or the respective amounts each tenant should be, or were, paying.

The office raised this matter with FaHCSIA and the NT Government through individual complaint investigations, during meetings, and in a public report on remote housing reforms in the NT. The Ombudsman recommended that relevant documents and information should be left with tenants to make them aware of, and as a reference to check, how much rent they and others in the household should be paying, the total household rent, the maximum dwelling rent, and the bond amount. Moreover, the Ombudsman recommended that this information be left with all affected tenants in a house each time a new rent assessment is conducted.

Information about health and safety issues

Following intervention by the Ombudsman's office, FaHCSIA agreed to meet with individual complainants about concerns that their homes contained asbestos.

In March 2012, the office received five complaints from residents in two neighbouring five-year leased communities concerning asbestos warning signs that had been attached to their houses. The signs had been attached in January 2011, when high-risk asbestos was being removed from their respective communities. They indicated that asbestos was present in the house, that it could be dangerous and that damages should be reported.

The complainants were concerned that the asbestos might be affecting their health and wanted to know if any action would be taken to remove it from their homes. They were unsure where in the house the asbestos was located or what action they should take if it was damaged.

FaHCSIA advised that it had provided information about asbestos and its risks to residents at the time the signs were put up. However, more than 12 months later, residents had received no further information.

This office suggested to FaHCSIA that it consider placing signs or posters on community noticeboards to explain the asbestos warning signs and to provide residents with information about how and with whom they should raise any concerns. FaHCSIA advised that it would inform the NT Government of the suggestion. FaHCSIA also met with complainants to discuss their specific circumstances.

CASE STUDIES: Improving services in remote communities

Ms AL and Mr AM's stories

FaHCSIA provided funding for a women's safe house and a men's shelter in response to two separate Ombudsman investigations in the same remote community.

Ms AL complained that there was a men's shelter but no women's safe house in her community. She explained that when an incident occurred in the community, the women often stayed at her house, but this was not a good solution. It placed her family at risk.

After Ombudsman staff raised the matter with FaHCSIA, it consulted the community about the need for a women's safe house and considered other available information. FaHCSIA then agreed to provide funding to the community to establish a women's safe house.

When the Ombudsman's Indigenous Unit staff later returned to the community, Mr AM made a separate complaint about the men's shelter having been converted into a women's safe house. Mr AM understood why, and agreed, there was a need for a safe house for the women. However, he was concerned that several men had lost their employment at the men's shelter as a result of its closure. He indicated that another shed in the community had been identified as a possible new men's centre, but it was below the flood line and therefore not a viable option.

In response to Ombudsman enquiries, FaHCSIA advised that it would provide funding to the local shire to upgrade the

shed so that it could be used as a men's shelter. FaHCSIA also advised that it had not been aware of the flood line and agreed to make improvements to the shed so that it would not be damaged during the wet season.

Access to income-managed funds

Multiple complaints highlighted difficulties that people faced on weekends when they had no money on their BasicsCards and could not contact Centrelink to arrange a transfer. The office raised this matter with Centrelink. In response, Centrelink extended its customer service for the allocation of income managed funds to BasicsCards to seven days a week between 8:00 am and 5:00 pm.

Restored mail service

Complaints to this office highlighted that Australia Post did not deliver mail to most town camps in Alice Springs. Instead, the mail was sent to the Council office. Intermittently, people would collect their mail from the Council office, but this inadequate arrangement also resulted in mail being lost, people not collecting their mail, and people missing important appointments. In response to these complaints, FaHCSIA contacted Australia Post to explore options for mail delivery to town camps. Australia Post has since commenced services to some town camps in Alice Springs. FaHCSIA advised that services to other town camps will be progressively rolled out as infrastructure works are completed.

Complaints

Income Management and housing reforms have been the key source of complaints to this office. This year, an own motion investigation into two aspects of Centrelink's IM decision making found that the tools and guidelines used by decision makers did not adequately assist them to meet legislative requirements. Problems were also identified with the use of interpreters, record keeping, training and dealing with review and exemption requests. DHS and FaHCSIA have taken substantial action to address these problems and implement the Ombudsman's recommendations.

The office also published a report detailing the common themes and problems identified in complaints about remote housing reforms in the NT. While there is still a lot to be done to fully implement the housing reforms, the report recommendations have been acknowledged by the agencies involved and they have advised that progress is being made to address the problems.

The Commonwealth Ombudsman was able to handle complaints about remote housing problems in the NT because FaHCSIA, on behalf of the Australian Government, administered the statutory five-year leases over community housing. Effectively, this placed the Commonwealth in the role of landlord for community housing. The leases will expire in August 2012, bringing to an end the Ombudsman's jurisdiction to investigate most of these housing matters.

During the past five years, the Indigenous Unit has drawn on the Ombudsman's own motion and public reporting powers to investigate and publish its findings on broad or systemic issues. These

reports, listed below, are available on the Commonwealth Ombudsman website at <http://www.ombudsman.gov.au/indigenous-content/>.

- *Improving the services of the Commonwealth Ombudsman to Australia's Indigenous peoples*
- *Review of Centrelink Income Management Decisions in the Northern Territory* (Report 04|2012)
- *Remote Housing Reforms in the Northern Territory* (Report 03|2012)
- *Talking in Language: Indigenous language interpreters and government communication* (Report 05|2011)
- *Administration of funding agreements with regional and remote Indigenous organisations* (Report 16|2010)
- *Review rights for income managed people in the Northern Territory* (Report 10|2010)
- *Northern Territory Emergency Response (NTER): Department of Families, Housing, Community Services and Indigenous Affairs asbestos surveys: Communication issues* (18|2009).

Key observation

The delivery and implementation of Indigenous programs and services in the NT is a challenging and complex area for all agencies and stakeholders. Significant barriers exist for government officials working with, and delivering services and programs to, remote Indigenous communities. These include remoteness; language and literacy levels; complexity of problems/history of government neglect; a gross shortage of services;

diversity of communities and needs; the array of programs and services' reforms currently being implemented; and the number of agencies and levels of government involved.

Acknowledging these challenges and complexities, Indigenous Unit staff have consistently observed during five years of complaint investigations, outreach visits and systemic issue work that all agencies could improve and strengthen service delivery in some key areas.

Accessible and effective complaints mechanisms

It has been this office's experience that Indigenous people living remotely in the NT have preferred to discuss complaints or problems in person. Generally, people have been confused by the raft of new government programs and services and the resulting impact on them as individuals.

Because people have generally not been aware of how services or programs should work or what their rights, entitlements or options may be, they have not been in a position to identify when a problem exists or that an error may have occurred that warrants complaint. It is therefore critical that agencies do not assume that an absence of complaints means that there are no problems or that people are satisfied with their interactions with agencies.

This office has regularly reiterated the need for agencies to ensure that their complaints services are accessible to Indigenous people, particularly those living in remote locations. This requires more than a locally based or visiting officer or a freecall 1800 line.

While most agencies report having a complaints process for people in remote Indigenous communities, feedback to this office has been that they are not aware of their right to complain or how to do so.

Indigenous Unit staff have observed that where people have raised issues with agency staff, these have not been identified as complaints requiring action or escalation. Repeatedly, action by agencies to address a person's concern has occurred only after this office has become involved.

It is apparent that agencies delivering programs and services to remote Indigenous communities in the NT could make improvements to their complaints services, including:

- advertising locally to explain how to make a complaint to an agency
- improving communication and messaging to communities about the value and importance of complaints
- assisting local staff to better identify issues and concerns raised by people as complaints and clarifying the escalation and resolution process
- establishing more structured processes for taking people's concerns, referring them to the complaints team, having them investigated and resolved and providing people with outcomes, remedies and reasons in a timely way
- training staff to analyse complaint themes and identify systemic or potentially bigger problems and take timely action to resolve these.

Accessible, robust and responsive complaints processes are an important tool for facilitating, encouraging and empowering Indigenous Australians in remote communities in the NT to become actively involved in the services and programs that affect them. Complaints provide agencies with a unique insight into the effect or success of their programs and services from an end-user perspective. This office will continue to work with agencies responsible for Indigenous programs and services to ensure complaints processes are accessible and responsive.

Working together

The Ombudsman has reiterated the need for policy and funding agencies to take responsibility for service delivery outcomes, not just the development of underpinning policy. Increasingly, the delivery of services is being devolved to contracted service providers, state or territory governments and other third parties. There are also more programs and services involving multiple agencies and levels of government.

Commonwealth agencies need to take greater responsibility for ensuring the effectiveness of these arrangements and achievement of policy objectives. Accordingly, they need to have adequate mechanisms to:

- monitor outcomes
- support effective integration between policymakers and those delivering services
- identify and address problems arising in the delivery of services

- clearly establish roles, responsibilities and processes at the outset
- establish quality relationships between agency staff at all levels.

The Ombudsman report into remote housing reforms in the NT discusses in detail accountability arrangements where levels of government are working together. It emphasises the need for clarity about who is responsible for what and how people can raise concerns or problems for reconsideration or redress.

Agencies need to have mechanisms in place that can deal with problems involving more than one agency or service provider and that allow them to identify and take action when parts of a process are not working, even where the failure rests with another agency or level of government. Moreover, agencies have a responsibility to ensure that these pathways are visible and understood by the people to whom the services are provided. This office has consistently observed that where agencies or levels of governments are working together, more attention on accountability arrangements and shared responsibility for outcomes is needed.

Communication and engagement

A common theme of complaints made by Indigenous people in the NT is poor communication. Problems stemming from poor communication by agencies include: inadequate reasons for decisions in letters; information being delivered once at the start of a new program or policy with little follow up or updated information over time; failure to use interpreters or provide information in language; and local agency staff not having access to the information required to address people's queries and concerns.

Two causes of many complaints to this office are confusion and an inability to access information or assistance to resolve a concern or answer a question. Even where agencies have invested time and effort in running community information sessions and distributing visual material about new programs or services before they start, people later complain that they are confused or are unaware of why or how they have been affected. This office has advised agencies of the need for information to be delivered in a range of ways, over extended periods of time, and face-to-face with individuals as they become affected.

Further, the Ombudsman has provided extensive feedback to agencies about communication failures and opportunities for improvement. We commissioned independent research to improve Ombudsman complaint services to Indigenous communities and published it on our website (www.ombudsman.gov.au/files/improving_the_services_of_the_commonwealth_ombudsman_to_australias_indigenous_peoples.pdf) with a short report detailing lessons learned through the Indigenous Unit's outreach work in remote communities (<http://www.ombudsman.gov.au/media-releases/show/207>). The lessons and areas identified for improvement mainly concern communication and engagement.

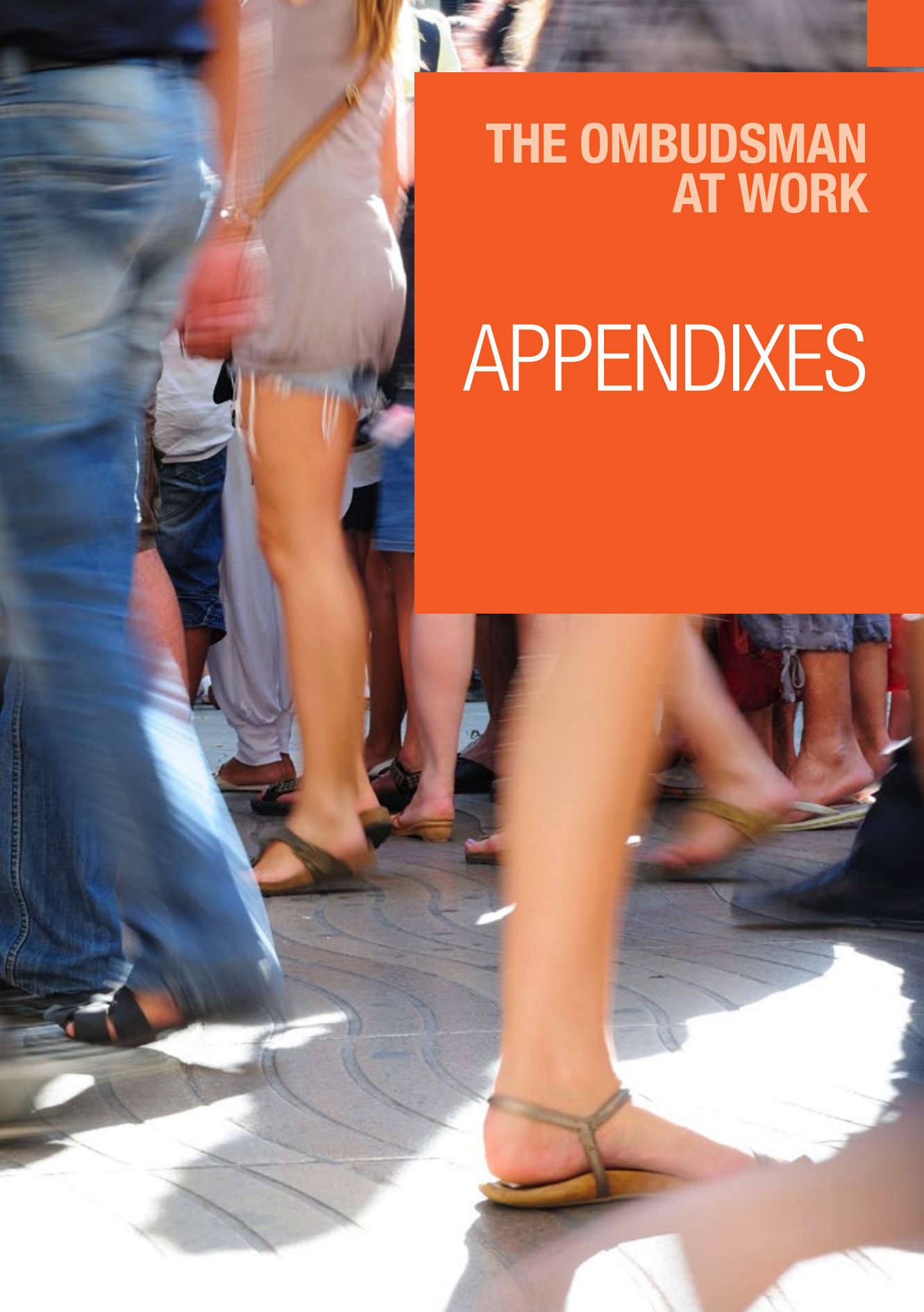
Looking ahead

An important focus of the Indigenous Unit's outreach work has been to establish relationships with community based stakeholders, representatives and services. These groups have provided valuable insights into the issues

people face and assisted those people to connect with this office to make complaints. The office intends to increase this work with stakeholders as resources will restrict future outreach visits.

The Ombudsman remains committed to ensuring complaint services are accessible to Indigenous Australians and providing independent oversight of the administration of Indigenous programs in the NT and across Australia. The office looks forward to working with agencies to further improve their internal complaint handling services for Indigenous Australians and to working with stakeholders to better understand the impact of government programs and services on Indigenous Australians.





THE OMBUDSMAN AT WORK

APPENDIXES

APPENDIXES

APPENDIX 1: INFORMATION PUBLICATION SCHEME (FOI STATEMENT)

Agencies subject to the *Freedom of Information Act 1982* (FOI Act) are required to publish information to the public as part of the Information Publication Scheme (IPS).

This requirement is in Part II of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report. Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements. This is available on the ombudsman website.

APPENDIX 2: PRESENTATIONS BY STAFF

PRESENTER	DATE (YEAR)	TITLE OF PRESENTATION	RECIPIENTS
Aleema, P.	Jul-11	Complaints about the Child Support Agency	Melbourne community roundtable
	Oct-11	The challenges of delivering government policy	Department of Human Services, Sydney Leadership Team
	Nov-11	Complaints about the Department of Human Services, Child Support	Victoria Legal Aid, Community Legal Centres
Andrews, G.	Dec-11	Common perceptions on complaint handling in the local government environment	National workshop held by Ministry of Internal Affairs for Indonesia
	Dec-11	Complaint handling and good administrative practice	Ombudsman of the Republic of Indonesia Forum for Provincial Governors

continued

PRESENTER	DATE (YEAR)	TITLE OF PRESENTATION	RECIPIENTS
Asher, A.	2011–12 (several)	Overseas Students Ombudsman	Council of International Students Australia (CISA) Conference & Launch of the OSO; TAFE Directors Australia Conference
	22 July 2011	Promises, prospects and performance in public administration	National Administrative Law Forum
	23 Aug 2011	Improving Administration—Impact and role of Commonwealth Ombudsman	Institute of Public Administration—ACT Division
	6 Sept 2011	Why do good policy ideas turn into porridge?	Public Affairs Conference, Walkley Foundation and The Media, Entertainment and Arts Alliance
Bowring-Greer, F.	Oct-11	Overseas Students Ombudsman	Council of International Students Western Australia (CISWA); Western Australian Private Education and Training Industry Association
Chia, L.	Sep-11	Suicide and self-harm own motion investigation	Detention centre staff Curtin IDC (WA—Near Derby WA)
	Oct-11	Suicide and self-harm own motion investigation	Detention centre staff Villawood IDC (Sydney)
	Oct-11	Suicide and self-harm own motion investigation	Detention centre staff Northern IDC (Darwin)
Cziesla, J.	Nov-11	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Villawood Detention Facilities
	Nov-11	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Brisbane ITA
	May-12	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Melbourne immigration detention facilities

continued

PRESENTER	DATE (YEAR)	TITLE OF PRESENTATION	RECIPIENTS
Hennessy, T.	March–April 2012	Role of the Commonwealth Ombudsman	FaHCSIA complaints workshops
Jamieson, E.	2011–12 (several)	Role of the Defence Force Ombudsman	RAAF Administrative Officers
Larkins, A.	Dec-11	Overseas Students Ombudsman	International Education Australia Conference
	9 Mar 2012	Addressing Gender Equality and Women's Rights in Public Policy	Australian Public Service Human Rights Network, Human Rights Commission
Masri, G.	2011–12 (several)	Overseas Students Ombudsman	Australian Council for Private Education and Training (ACPET) Conference; English Australia Conference; Federation of Ethnic Communities' Councils of Australia (FECCA)
	Jul-11	Accountability to the client—Auditing the performance of Indigenous programs	ANAO workshop seminar
	Jul-11	Administrative Law & Control of Government Action	SES orientation course APSC
	Dec-11	Immigration Ombudsman: Role and observation	2011 Migration Agents Institute of Australia Annual Conference
	Feb-12	Complaint handling and compliance monitoring: Impact on governance and performance	Integrating Governance Framework Conference, Canberra
	Feb-12	Administrative Law & control of government action	SES orientation course APSC, Canberra
	Apr-12	Administrative law & control of government action	SES orientation course APSC, Canberra
	May-12	Overseas Students Ombudsman: Role and observations	2012 NEAS Annual Conference, Sydney
	Jun-12	Ombudsman observations: Principles of public administration	Therapeutic Goods Administration (TGA), Canberra
	Oct-11	Role of immigration Ombudsman and Suicide and self-harm own motion investigation	Community Stakeholders Sydney, Darwin and Melbourne

continued

PRESENTER	DATE (YEAR)	TITLE OF PRESENTATION	RECIPIENTS
Parker, P.	Mar-12	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Villawood Detention Facilities
	Apr-12	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Leonora APOD (East of Kalgoorlie WA)
	Jun-12	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Inverbrackie APOD
	Jun-12	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Port Augusta IRH
	Jun-12	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Adelaide ITA
Passlow, S.	May-12	The role of the Commonwealth Ombudsman in investigating complaints about tax administration	Tax Institute Forum

continued

PRESENTER	DATE (YEAR)	TITLE OF PRESENTATION	RECIPIENTS
Reeves, S.	Oct-11	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Christmas Island detention facilities
	Nov-11	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Inverbrackie APOD (Adelaide Hills)
	Nov-11	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Scherger IDC (Near Weipa FNQ)
	November 2011	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Port Augusta IRH
	Dec-11	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Christmas Island detention facilities
	Apr-12	Immigration Ombudsman oversight role in immigration detention facilities	Detention Centre staff and detainees Scherger IDC
	Apr-12	Immigration Ombudsman oversight role in immigration detention facilities	Detention centre staff and detainees Curtin IDC
	May-12	Immigration Ombudsman oversight role in immigration detention facilities	Detention Centre staff and detainees Christmas Island

continued

PRESENTER	DATE (YEAR)	TITLE OF PRESENTATION	RECIPIENTS
Roberts, C.	Jul-11	Role of the Commonwealth Ombudsman	AFP Professional Standards
Walsh, R.	Aug-11	Role of the Commonwealth Ombudsman	University of Wollongong; postgraduate students
	Aug-11	Role of the Commonwealth Ombudsman	Vietnamese Government officials delegation
	September 2011 and March 2012	Administrative law and the role of the Commonwealth Ombudsman	Australian Public Service Commission: SES orientation
	Nov-11	Public interest disclosures	Macquarie University
	Nov-11	Managing persistent complainants	APSC Ethics Contact Officers Network
	Dec-11	National Anti-Corruption Day; Role of the Commonwealth Ombudsman	APS and Federal law enforcement agencies
	Jun-12	Role of the Commonwealth Ombudsman	Indonesian Government vice-ministerial officials delegation

APPENDIX 3: STATISTICS

PORTFOLIO/AGENCY	RECEIVED	FINALISED					
		NOT INVESTIGATED		INVESTIGATED			
	Total Received Approaches	Category 1	Category 2	Category 3	Category 4	Category 5	Total Finalised Approaches
ACT	763	338	241	126	27	1	733
Agriculture, Fisheries and Forestry	95	34	41	13	4		92
Attorney-General's	569	257	238	73	27		595
Broadband, Communications and the Digital Economy	4246	2009	1786	424	62		4281
Climate Change and Energy Efficiency	99	31	29	27	13		100
Commonwealth Parliamentary	4	4					4
Courts	66	33	27	6			66
Education, Employment and Workplace Relations	724	332	275	95	29		731
Defence	662	202	270	176	52	6	706
Families, Housing, Community Services and Indigenous Affairs	337	68	175	82	28		353
Finance and Deregulation	111	28	64	13	9		114
Foreign Affairs and Trade	140	79	51	5	3		138
Health and Ageing	162	64	65	31	4		164
Human Services	8967	4910	1875	1984	279		9048
Immigration and Citizenship	1921	1005	735	229	51	1	2021
Industry, Innovation, Science, Research and Tertiary Education	85	29	36	9	3		77
Infrastructure and Transport	76	29	25	17	6		77
Prime Minister and Cabinet	24	15	8	2	1		26
Regional Australia, Local Government, Arts and Sport	45	29	14	8			51
Resources, Energy and Tourism	9	1	6	2	1		10
Sustainability, Environment, Water, Population and Communities	28	11	11	2	1		25
Treasury	3234	1386	1393	306	214		3299
Out of Jurisdiction/OMB	17101	16100	930	121	8		17159
Overseas Student Ombudsman	588	18	342	172	38	1	571
Private Postal Operators	36	7	25	3	1		36
GRAND TOTAL	40092	27019	8662	3926	861	9	40477

Nb: Comprehensive statistics available at www.ombudsman.gov.au/pages/publications-and-media/reports/annual/index.php

	FINALISED									
	REMEDIES									
	Grand Total	Remedy provided by agency without Ombudsman Intervention	Other non-financial remedy	Law, policy or practice changed	Financial Remedy	Explanation	Disciplinary action	Decision changed or reconsidered	Apology	Action expedited
	176	12	12		3	102	6	13	13	15
	16	1	1	2	1	7		1	1	2
	91	4	5	1	2	48	2	9	8	12
	1604	26	120	15	174	704	107	118	271	69
	42	2	4	2	6	16		6	3	3
	3	1	1	1						
	173	6	5	2	15	108		13	6	18
	244	11	17	1	21	115	2	27	13	37
	126	4	7	6	1	85		3	2	18
	13	1		1	1	8		1		1
	12				2	8	1	1		
	30		2	3	1	16		2	1	5
	2999	140	106	20	474	1265	25	337	191	441
	196	14	19	12	11	76	1	25	18	20
	10	2	0	1		4	1	1	1	
	24	1	1	5	2	6		4	2	3
	3					2				1
	7		1			3			1	2
	3			1		2				
	3	1	1							1
	688	21	29	9	113	320	3	35	67	91
	238	4	18	6	52	83		57	12	6
	8				1	3	1	1	1	1
	6709	251	349	88	880	2981	149	654	611	746

APPENDIX 4: ADDITIONAL REPORTING ON POSTAL INDUSTRY OMBUDSMAN

This appendix provides additional reporting on the Postal Industry Ombudsman (PIO) function as required under s19X of the Ombudsman Act.

Details of the circumstances and number of occasions where the PIO has made a requirement of a person under s 9.

The PIO made no requirements under s 9 during 2011–12.

Details of the circumstances and number of occasions where the holder of the office of the PIO has decided under subsection 19N(3) to deal with, or to continue to deal with, a complaint or part of a complaint in his or her capacity as the holder of the office of Commonwealth Ombudsman.

There were no occasions where a complaint or part of a complaint was transferred from the PIO to the Commonwealth Ombudsman under s 19N(3).

Details of recommendations made in reports during the year under s19V; and statistical information about actions taken during that year as a result of such information.

The PIO made no reports during the year under s 19V.

APPENDIX 5: AGENCY RESOURCE STATEMENT

Agency Resource Statement 2011–12

	ACTUAL AVAILABLE APPROPRIATION FOR 2011–12 \$'000	PAYMENTS MADE 2011–12 \$'000	BALANCE 2011–12 \$'000
Ordinary Annual Services ¹			
Departmental appropriation ²	27,286	22,393	4,893
Total	27,286	22,393	4,893
Total ordinary annual services	27,286	22,393	4,893
Other services			
Departmental non-operating			
Equity injections	25	25	–
Total	25	25	–
Total other services	25	25	–
Total available annual appropriations and payments	27,311	22,418	4,893
Total net resourcing and payments for the Office of the Commonwealth Ombudsman	27,311	22,418	4,893

¹ Appropriation Act (No. 1) 2011–12. This includes s 31 relevant agency receipts.

² Includes an amount of \$0.759m in 2011–12 for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contribution by owners'

Resources Summary Table—Expense for Outcome 1

OUTCOME 1: Fair and accountable administrative action by Australian Government agencies by investigating complaints, reviewing administrative action and inspecting statutory compliance by law enforcement agencies.	BUDGET 2011–2012 \$'000	ACTUAL EXPENSES 2011–2012 \$'000	VARIANCE 2011–2012 \$'000
Program 1: Office of the Commonwealth Ombudsman			
Departmental expenses			
Departmental appropriation ¹	23,475	23,385	90
Expenses not requiring appropriation in the Budget year	929	985	(56)
Total for Program 1	24,404	24,370	34
Outcome 1 Totals by appropriation type			
Departmental expenses			
Departmental appropriation	23,475	23,385	90
Expenses not requiring appropriation in the Budget year	929	985	(56)
Total for Outcome 1	24,404	24,370	34
Average Staffing Level (number)	159	158	1

¹ Departmental Appropriation combines 'Ordinary annual services' (Appropriation Act No. 1) and 'Revenue from independent sources (s 31)'.

APPENDIX 6: FINANCIAL STATEMENTS



INDEPENDENT AUDITOR'S REPORT

To the Cabinet Secretary and Minister for the Public Service and Integrity

I have audited the accompanying financial statements of the Office of the Commonwealth Ombudsman for the year ended 30 June 2012, which comprise: a Statement by the Chief Executive and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; and Notes to and forming part of the financial statements comprising a Summary of Significant Accounting Policies and other explanatory information.

Chief Executive's Responsibility for the Financial Statements

The Chief Executive of the Office of the Commonwealth Ombudsman is responsible for the preparation of financial statements that give a true and fair view in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards, and for such internal control as is necessary to enable the preparation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Office of the Commonwealth Ombudsman's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office of the Commonwealth Ombudsman's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Chief Executive of the Office of the Commonwealth Ombudsman, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting my audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Opinion

In my opinion, the financial statements of the Office of the Commonwealth Ombudsman:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Office of the Commonwealth Ombudsman's financial position as at 30 June 2012 and of its financial performance and cash flows for the year then ended.

Australian National Audit Office



Kristian Gage
Audit Principal

Delegate of the Auditor-General

Canberra
13 September 2012

OFFICE OF THE COMMONWEALTH OMBUDSMAN

STATEMENT BY THE CHIEF EXECUTIVE AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2012 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.

Signed.....

Alison Larkins
Acting Chief Executive

14 September 2012

Signed.....

Tracey Frey
Chief Financial Officer

14 September 2012

OFFICE OF THE COMMONWEALTH OMBUDSMAN
STATEMENT OF COMPREHENSIVE INCOME
for the period ended 30 June 2012

	Notes	2012 \$	2011 \$
EXPENSES			
Employee benefits	3A	17,178,711	14,663,674
Supplier expenses	3B	5,174,146	5,660,370
Depreciation and amortisation	3C	985,270	754,889
Losses from asset sales	3D	6,255	-
Write-Down and Impairment of Assets	3E	40,819	320,738
Total expenses		23,385,201	21,399,671
LESS:			
OWN-SOURCE INCOME			
Own-source revenue			
Sale of goods and rendering of services	4A	2,052,436	1,760,960
Total own-source revenue		2,052,436	1,760,960
Gains			
Sale of assets	4B	-	2,100
Other	4C	31,000	386,488
Total gains		31,000	388,588
Total own-source income		2,083,436	2,149,548
Net cost of (contribution by) services		(21,301,765)	(19,250,123)
Revenue from Government	4D	19,998,000	19,516,000
Surplus (Deficit) attributable to the Australian Government		(1,303,765)	265,877
OTHER COMPREHENSIVE INCOME			
Changes in asset revaluation reserves		7,800	471,320
Total other comprehensive income		7,800	471,320
Total comprehensive income (loss)		(1,295,965)	737,197
Total comprehensive income (loss) attributable to the Australian Government		(1,295,965)	737,197

The above statement should be read in conjunction with the accompanying notes.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
BALANCE SHEET
as at 30 June 2012

	Notes	2012 \$	2011 \$
ASSETS			
Financial Assets			
Cash and cash equivalents	5A	248,108	213,089
Trade and other receivables	5B	7,848,535	6,796,815
Other	5C	106,871	390,944
Total financial assets		8,203,514	7,400,848
Non-Financial Assets			
Property, plant and equipment	6A,B,C	2,476,604	2,933,888
Intangibles	6D,E	324,137	353,894
Other	6F	417,246	244,506
Total non-financial assets		3,217,987	3,532,288
Total Assets		11,421,501	10,933,136
LIABILITIES			
Payables			
Suppliers	7A	835,955	527,491
Other	7B	3,432,978	3,082,375
Total payables		4,268,933	3,609,866
Provisions			
Employee provisions	8A	3,739,585	3,365,522
Other	8B	128,107	135,907
Total provisions		3,867,692	3,501,429
Total Liabilities		8,136,625	7,111,295
Net Assets		3,284,876	3,821,841
EQUITY			
Parent Entity Interest			
Contributed equity		3,739,000	2,980,000
Reserves		571,010	563,210
Retained surplus (accumulated deficit)		(1,025,134)	278,631
Total parent entity interest		3,284,876	3,821,841

The above statement should be read in conjunction with the accompanying notes.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
STATEMENT OF CHANGES IN EQUITY
for the period ended 30 June 2012

	Retained earnings		Asset revaluation reserve		Contributed equity/capital		Total equity	
	2012	2011	2012	2011	2012	2011	2012	2011
	\$	\$	\$	\$	\$	\$	\$	\$
Opening balance								
Balance carried forward from previous period	278,631	12,754	563,210	91,890	2,980,000	2,158,000	3,821,841	2,262,644
Adjusted opening balance	278,631	12,754	563,210	91,890	2,980,000	2,158,000	3,821,841	2,262,644
Comprehensive income								
Other comprehensive income	-	-	7,800	471,320	-	-	7,800	471,320
Surplus (Deficit) for the period	(1,303,765)	265,877	-	-	-	-	(1,303,765)	265,877
Total comprehensive income (loss)	(1,303,765)	265,877	7,800	471,320	-	-	(1,295,965)	737,197
of which:								
Attributable to the Australian Government	(1,303,765)	265,877	7,800	471,320	-	-	(1,295,965)	737,197
Transactions with owners								
Distributions to owners								
Contributions by owners								
Equity injection - Appropriation	-	-	-	-	-	25,000	-	25,000
Departmental capital budget	-	-	-	-	759,000	797,000	759,000	797,000
Sub-total transactions with owners	-	-	-	-	759,000	822,000	759,000	822,000
Closing balance as at 30 June	(1,025,134)	278,631	571,010	563,210	3,739,000	2,980,000	3,284,876	3,821,841
Closing balance attributable to the Australian Government	(1,025,134)	278,631	571,010	563,210	3,739,000	2,980,000	3,284,876	3,821,841

The above statement should be read in conjunction with the accompanying notes.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
CASH FLOW STATEMENT
for the period ended 30 June 2012

	Notes	2012 \$	2011 \$
OPERATING ACTIVITIES			
Cash received			
Goods and services		2,004,080	2,187,991
Appropriations		22,192,601	19,778,000
Net GST received		218,081	356,952
Other		590,259	187,589
Total cash received		25,005,021	22,510,531
Cash used			
Employees		17,384,439	14,822,175
Suppliers		4,952,860	5,746,635
Section 31 receipts returned to the Official Public Account		2,594,339	2,229,789
Total cash used		24,931,637	22,798,599
Net cash from (used by) operating activities	9	73,384	(288,069)
INVESTING ACTIVITIES			
Cash received			
Proceeds from sales of property, plant and equipment		-	2,100
Total cash received		-	2,100
Cash used			
Purchase of property, plant and equipment		197,361	329,164
Purchase of intangibles		101,004	99,403
Total cash used		298,365	428,567
Net cash from (used by) investing activities		(298,365)	(426,467)
FINANCING ACTIVITIES			
Cash received			
Contributed equity		25,000	145,000
Departmental Capital Budget		235,000	414,000
Total cash received		260,000	559,000
Net cash from (used by) financing activities		260,000	559,000
Net increase (decrease) in cash held		35,019	(155,535)
Cash and cash equivalents at the beginning of the reporting period		213,089	368,624
Cash and cash equivalents at the end of the reporting period	5A	248,108	213,089

The above statement should be read in conjunction with the accompanying notes.

**OFFICE OF THE COMMONWEALTH OMBUDSMAN
SCHEDULE OF COMMITMENTS**

as at 30 June 2012

	2012	2011
	\$	\$
BY TYPE		
Commitments receivable		
Sale of services	1,225,128	2,078,273
Net GST recoverable on commitments	1,733,396	1,548,266
Total commitments receivable	2,958,524	3,626,539
Commitments payable		
Operating leases	20,020,416	18,757,402
Other	272,071	351,792
Total commitments payable	20,292,487	19,109,194
Net commitments by type	17,333,963	15,482,655
BY MATURITY		
Commitments receivable		
Sale of services		
One year or less	741,128	1,568,145
From one to five years	484,000	510,128
Total services income	1,225,128	2,078,273
GST recoverable on commitments		
One year or less	113,269	(35,840)
From one to five years	718,412	458,179
Over five years	901,716	1,125,927
Total GST recoverable	1,733,396	1,548,266
Commitments payable		
Operating lease commitments		
One year or less	1,732,524	971,204
From one to five years	8,369,021	5,401,004
Over five years	9,918,872	12,385,194
Total operating lease commitments	20,020,416	18,757,402
Other Commitments		
One year or less	254,565	202,703
From one to five years	17,506	149,089
Total other commitments	272,071	351,792
Net commitments by maturity	17,333,963	15,482,655

NB: Commitments are GST inclusive where relevant.

This schedule should be read in conjunction with the accompanying notes.

Operating leases included are effectively non-cancellable and comprise leases for office accommodation.

General description of all leasing arrangements (the office was the lessee)

Leases for office accommodation: lease payments for Canberra, Melbourne and Brisbane were subject to a fixed rate increase in accordance with each contract. The initial periods of office accommodation leases are still current and Brisbane and Melbourne may be renewed for up to five years at the Office's option.

**OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR
THE YEAR ENDED 30 JUNE 2012**

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OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of Significant Accounting Policies

1.1 Office of the Commonwealth Ombudsman Objectives

The Office of the Commonwealth Ombudsman is an Australian Government controlled entity. It is a not for profit entity. The objective of the Office of the Commonwealth Ombudsman to provide a cost-effective form of independent administrative review, which is timely, informal and involves no direct cost to individuals. Coverage is comprehensive, embracing almost all of the administrative activity of the Commonwealth departments and agencies.

Through the handling of complaints and the conduct of own motion investigations, the Office contributes to continuous improvement in the performance of agencies and their accountability to Government, the Parliament and the community.

The Office is structured to meet one outcome:

Outcome 1: Fair and accountable administrative action by Australian Government agencies by investigating complaints, reviewing administrative action and inspecting statutory compliance by law enforcement agencies.

The continued existence of the Office in its present form and with its present programs is dependent on Government policy and on continuing appropriations by Parliament for the Office's administration and programs.

The Office's activities contributing toward this outcome are classified as departmental. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by the office in its own right. The Office has no administered activities.

1.2 Basis of Preparation of the Financial Statements

The financial statements are general purpose financial statements and are required by section 49 of the *Financial Management and Accountability Act 1997*.

The Financial Statements have been prepared in accordance with:

- Finance Minister's Orders (or FMO) for reporting periods ending on or after 1 July 2012; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial statements are presented in Australian dollars.

Unless an alternative treatment is specifically required by an accounting standard or the FMO, assets and liabilities are recognised in the balance sheet when and only when it is probable that future economic benefits will flow to the entity or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under Agreements Equally Proportionately Unperformed are not recognised unless required by an accounting standard. Liabilities and assets that are unrecognised are reported in the schedule of commitments or the schedule of contingencies.

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the statement of comprehensive income when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

The Office has had no administered revenues, expenses, assets, liabilities or cash flows in the year ended 30 June 2012 or in the comparative financial year.

1.3 Significant Accounting Judgements and Estimates

No accounting assumptions or estimates or other judgements have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next accounting period.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of Significant Accounting Policies**1.4 New Australian Accounting Standards***Adoption of New Australian Accounting Standard Requirements*

No accounting standard has been adopted earlier than the application date as stated in the respective standard.

Future Australian Accounting Standard Requirements

New standards, reissued standards, amendments to standards or interpretations ("the new requirements") applicable to future reporting periods have been issued by the Australian Accounting Standards Board during the year. It is anticipated that the new requirements will have no material financial impact on future reporting periods.

1.5 Revenue*Other Types of Revenue*

Revenue from the sale of goods is recognised when:

- the risks and rewards of ownership have been transferred to the buyer;
- the Office retains no managerial involvement or effective control over the goods;
- the revenue 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.

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when:

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

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at end of reporting period. Allowances are made when collectability of the debt is no longer probable.

Resources Received Free of Charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Revenue from Government

Amounts appropriated for departmental outputs for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the Office gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of Significant Accounting Policies**1.6 Gains***Resources Received Free of Charge*

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government Office or authority as a consequence of a restructuring of administrative arrangements (Refer to Note 1.7).

Sale of Assets

Gains from disposal of assets are recognised when control of the asset has passed to the buyer.

1.7 Transactions with the Government as Owner*Equity Injections*

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

Restructuring of Administrative Arrangements

Net assets received from or relinquished to another Australian Government Office or authority under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

Other Distributions to Owners

The FMOs require that distributions to owners be debited to contributed equity unless in the nature of a dividend.

1.8 Employee Benefits

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of end of reporting period are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Office is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the Office's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the estimated future cash flows to be made in respect to all employees as at 30 June 2012. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of Significant Accounting Policies**Separation and Redundancy**

Provision is made for separation and redundancy benefit payments. The Office recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

Staff of the Office are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS accumulation plan (PSSap) or some other fund.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap and the other funds are defined contribution schemes.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported by the Department of Finance and Deregulation as an administered item.

The Office makes employer contributions to the employee superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government of the superannuation entitlements of the Office's employees. The Office accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

1.9 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

1.10 Borrowing Costs

All borrowing costs are expensed as incurred.

1.11 Cash

Cash and cash equivalents includes cash on hand, cash held with outsiders, demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of Significant Accounting Policies**1.12 Financial Assets**

The Office classifies its financial assets in the following categories:

- financial assets at fair value through profit or loss; and
- loans and receivables.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition. Financial assets are recognised and derecognised upon trade date.

Financial Assets at Fair Value Through Profit or Loss

Financial assets are classified as financial assets at fair value through profit or loss where the financial assets:

- have been acquired principally for the purpose of selling in the near future;
- are a part of an identified portfolio of financial instruments that the Office manages together and has a recent actual pattern of short-term profit-taking; or
- are derivatives that are not designated and effective as a hedging instrument.

Assets in this category are classified as current assets.

Financial assets at fair value through profit or loss are stated at fair value, with any resultant gain or loss recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest earned on the financial asset.

Loans and Receivables

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting periods.

- *Financial assets held at amortised cost* - if there is objective evidence that an impairment loss has been incurred for loans and receivables or held to maturity investments held at amortised cost, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the statement of comprehensive income.
- *Available for sale financial assets* - if there is objective evidence that an impairment loss on an available-for-sale financial asset has been incurred, the amount of the difference between its cost, less principal repayments and amortisation, and its current fair value, less any impairment loss previously recognised in expenses, is transferred from equity to the statement of comprehensive income.
- *Financial assets held at cost* - If there is objective evidence that an impairment loss has been incurred the amount of the impairment loss is the difference between the carrying amount of the asset and the present value of the estimated future cash flows discounted at the current market rate for similar assets.

1.13 Financial Liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

Financial Liabilities at Fair Value Through Profit or Loss

Financial liabilities at fair value through profit or loss are initially measured at fair value. Subsequent fair value adjustments are recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest paid on the financial liability.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of Significant Accounting Policies**Other Financial Liabilities**

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs.

These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.14 Contingent Liabilities and Contingent Assets

Contingent liabilities and contingent assets are not recognised in the balance sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

1.15 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor Office's accounts immediately prior to the restructuring.

1.16 Property, Plant and Equipment**Asset Recognition Threshold**

Purchases of property, plant and equipment are recognised initially at cost in the balance sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'makegood' provisions in property leases taken up by the office where there exists an obligation to restore the property to its original condition. These costs are included in the value of the office's leasehold improvements with a corresponding provision for the 'makegood' recognised.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of Significant Accounting Policies

Revaluations

Fair values for each class of asset are determined as shown below:

<i>Asset Class</i>	<i>Fair value measured at:</i>
Leasehold improvements	Depreciated replacement cost
Plant and equipment	Market selling price

Following initial recognition at cost, property plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Office using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2012	2011
Leasehold improvements	Lease term	Lease term
Plant and Equipment	3 to 10 years	3 to 10 years

Impairment

All assets were assessed for impairment at 30 June 2012. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the Office were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of Significant Accounting Policies**Derecognition**

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

1.17 Intangibles

The Office's intangibles comprise internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the Office's software are 1 to 8 years (2010-11: 1 to 8 years).

All software assets were assessed for indications of impairment as at 30 June 2012.

1.18 Taxation

The Office is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Revenues, expenses and assets are recognised net of GST except:

- where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- for receivables and payables.

OFFICE OF THE COMMONWEALTH OMBUDSMAN**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR
ENDED 30 JUNE 2012****Note 2: Events After the Reporting Period**

No significant events occurred after balance date that would materially affect the financial statements.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED
 30 JUNE 2012

Note 3: Expenses

	2012	2011
	\$	\$
<u>Note 3A: Employee Benefits</u>		
Wages and salaries	12,637,605	11,147,992
Superannuation:		
Defined contribution plans	805,214	701,990
Defined benefit plans	1,190,754	1,148,847
Leave and other entitlements	2,200,320	1,664,845
Separation and redundancies	344,818	-
Total employee benefits	17,178,711	14,663,674

Note 3B: Suppliers

Goods and services

Travel	913,601	895,944
Information technology and communications	725,839	744,669
Employee related	462,111	630,015
Property operating expenses	312,552	273,942
Media related	277,364	376,211
Consultants and contractors	193,227	378,296
Printing, stationery and postage	156,824	210,417
Legal	150,196	79,254
Other	302,040	296,728
Total goods and services	3,493,754	3,885,477

Goods and services are made up of:

Provision of goods – external parties	230,364	309,963
Rendering of services – related entities	502,489	299,969
Rendering of services – external parties	2,760,901	3,275,545
Total goods and services	3,493,754	3,885,477

Other supplier expenses

Operating lease rentals – external parties:		
Minimum lease payments	1,517,618	1,655,106
Workers compensation expenses	162,774	119,787
Total other supplier expenses	1,680,392	1,774,893
Total supplier expenses	5,174,146	5,660,370

Note 3C: Depreciation and Amortisation

Depreciation:		
Leasehold improvements	421,357	275,606
Property, plant and equipment	433,150	331,139
Amortisation:		
Intangibles - Computer Software	130,763	148,144
Total depreciation and amortisation	985,270	754,889

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED
 30 JUNE 2012

Note 3: Expenses

	2012	2011
	\$	\$
Note 3D: Losses from Asset Sales		
Property, plant and equipment:		
Proceeds from sale	(346)	-
Carrying value of assets sold	5,983	-
Selling expense	618	-
Total losses from asset sales	6,255	-
Note 3E: Write-Down and Impairment of Assets		
Asset write-downs and impairments from:		
Impairment on financial instruments	40,819	3,319
Impairment of property, plant and equipment	-	213,808
Impairment on intangible assets	-	103,611
Total write-down and impairment of assets	40,819	320,738

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR
 ENDED 30 JUNE 2012

Note 4: Income

	2012	2011
	\$	\$

REVENUE

Note 4A: Sale of Goods and Rendering of Services

Rendering of services - related entities	886,582	802,583
Rendering of services - external parties	1,165,854	958,377
Total sale of goods and rendering of services	2,052,436	1,760,960

Note 4B: Sale of Assets

Property, plant and equipment:		
Proceeds from sale	-	2,100
Carrying value of assets sold	-	-
Net gain from sale of assets	-	2,100

Note 4C: Other Gains

Resources received free of charge	31,000	30,000
Reversal of makegood provision	-	321,216
Reversal of leasehold incentive	-	35,272
Total other gains	31,000	386,488

REVENUE FROM GOVERNMENT

Note 4D: Revenue from Government

Appropriations:		
Departmental appropriation	19,998,000	19,516,000
Total revenue from Government	19,998,000	19,516,000

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30
JUNE 2012

Note 5: Financial Assets

	2012 \$	2011 \$
Note 5A: Cash and Cash Equivalents		
Cash on hand or on deposit	248,108	213,089
Total cash and cash equivalents	248,108	213,089
Note 5B: Trade and Other Receivables		
Good and Services:		
Goods and services - related entities	-	178,334
Goods and services - external parties	187,859	10,570
Total receivables for goods and services	187,859	188,904
Appropriations receivable:		
For existing outputs	7,564,339	6,553,657
Other receivables:		
GST receivable from the Australian Taxation Office	96,337	54,254
Total trade and other receivables (gross)	7,848,535	6,796,815
Receivables are expected to be recovered within 12 months.		
Receivables are aged as follows:		
Not overdue	7,798,861	6,795,528
Overdue by:		
0 to 30 days	-	1,287
31 to 60 days	-	-
61 to 90 days	-	-
More than 90 days	49,674	-
Total trade and other receivables (gross)	7,848,535	6,796,815
Debts of more than 90 days were fully paid in July 2012.		
No receivables are deemed to be impaired as at 30 June 2012.		
Note 5C: Other Financial Assets		
Lease incentives	106,871	390,944
Total other financial assets	106,871	390,944

Total other financial assets are expected to be recovered within 12 months.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 6: Non-Financial Assets

	2012 \$	2011 \$
Note 6A: Leasehold improvements		
Leasehold improvements:		
Fair value	1,664,781	1,596,991
Work in progress	215,187	-
Accumulated depreciation	(421,357)	-
Total leasehold improvements	1,458,611	1,596,991

Note 6B: Property, Plant and Equipment

Other property, plant and equipment:		
Fair value	1,424,509	1,337,760
Accumulated depreciation	(406,516)	(863)
Total other property, plant and equipment	1,017,993	1,336,897
Total property, plant and equipment	2,476,604	2,933,888

All revaluations were conducted in accordance with the revaluation policy stated at Note 1. An independent valuer conducted the revaluations as at 30 June 2011.

No indicators of impairment were found for property, plant and equipment.

No property, plant and equipment is expected to be sold or disposed of within the next 12 months.

Note 6C: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment (2011-12)

	Leasehold improvements \$	Other property, plant & equipment \$	Total \$
As at 1 July 2011			
Gross book value	1,596,991	1,337,760	2,934,751
Accumulated depreciation and impairment	-	(863)	(863)
Net book value 1 July 2011	1,596,991	1,336,897	2,933,888
Additions:			
By purchase	282,977	120,229	403,206
Depreciation expense	(421,357)	(433,150)	(854,507)
Disposals:			
Other	-	(5,983)	(5,983)
Net book value 30 June 2012	1,458,611	1,017,993	2,476,604
Net book value as of 30 June 2012 represented by:			
Gross book value	1,879,968	1,424,509	3,304,477
Accumulated depreciation	(421,357)	(406,516)	(827,873)
	1,458,611	1,017,993	2,476,604

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 6: Non-Financial Assets**Note 6C (cont'd): Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment (2010-11)**

	Leasehold improvements \$	Other property, plant & equipment \$	Total \$
As at 1 July 2010			
Gross book value	2,888,976	2,388,739	5,277,715
Accumulated depreciation and impairment	(1,101,718)	(1,254,849)	(2,356,567)
Net book value 1 July 2010	1,787,258	1,133,890	2,921,148
Additions:			
By purchase	10,397	331,499	341,896
Revaluations and impairments recognised in other comprehensive income	249,868	241,528	491,396
Depreciation expense	(275,606)	(331,139)	(606,745)
Disposals:			
Other	(174,926)	(38,881)	(213,807)
Net book value 30 June 2011	1,596,991	1,336,897	2,933,888

Net book value as of 30 June 2011 represented by:

Gross book value	1,596,991	1,337,760	2,934,751
Accumulated depreciation	-	(863)	(863)
	1,596,991	1,336,897	2,933,888

Note 6D: Intangibles

	2012 \$	2011 \$
Computer software:		
Purchased	1,548,413	1,516,085
Work in progress	68,677	-
Total computer software (gross)	1,617,090	1,516,085
Accumulated amortisation	(1,292,953)	(1,162,191)
Total computer software (net)	324,137	353,894
Total intangibles	324,137	353,894

No indicators of impairment were found for intangible assets.

No intangibles are expected to be sold or disposed of within the next 12 months.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 6: Non-Financial Assets**Note 6E: Reconciliation of the Opening and Closing Balances of Intangibles (2011-12)**

	Computer software purchased \$
As at 1 July 2011	
Gross book value	1,516,085
Accumulated amortisation and impairment	(1,162,191)
Net book value 1 July 2011	353,894
Additions:	
By purchase	101,006
Amortisation	(130,763)
Net book value 30 June 2012	324,137
Net book value as of 30 June 2012 represented by:	
Gross book value	1,617,090
Accumulated amortisation and impairment	(1,292,953)
	324,137

Note 6E (cont'd): Reconciliation of the Opening and Closing Balances of Intangibles (2010-11)

	Computer software purchased \$
As at 1 July 2010	
Gross book value	1,543,280
Accumulated amortisation and impairment	(1,061,031)
Net book value 1 July 2010	482,249
Additions:	
By purchase	123,402
Amortisation	(148,144)
Disposals:	
Other	(103,613)
Net book value 30 June 2011	353,894
Net book value as of 30 June 2011 represented by:	
Gross book value	1,516,085
Accumulated amortisation and impairment	(1,162,191)
	353,894

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 6: Non-Financial Assets

	2012	2011
	\$	\$
Note 6F: Other Non-Financial Assets		
Prepayments	417,246	244,506
Total other non-financial assets	417,246	244,506

No indicators of impairment were found for other non-financial assets.

Total other non-financial assets - are expected to be recovered in:

No more than 12 months	417,246	228,442
More than 12 months	-	16,064
Total other non-financial assets	417,246	244,506

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED
30 JUNE 2012**Note 7: Payables**

	2012	2011
	\$	\$
Note 7A: Suppliers		
Trade creditors and accruals	<u>835,955</u>	<u>527,491</u>
Total supplier payables	<u>835,955</u>	<u>527,491</u>

Supplier payables are expected to be settled within 12 months:

Related entities	<u>312,769</u>	105,599
External parties	<u>523,186</u>	421,892
Total supplier payables	<u>835,955</u>	<u>527,491</u>

Settlement is usually made within 30 days.

Note 7B: Other Payables

Salaries and wages	<u>410,064</u>	343,490
Superannuation	<u>52,242</u>	47,380
Lease incentives	<u>1,859,350</u>	1,808,499
Fixed lease increase	<u>734,370</u>	479,160
Unearned income	<u>376,952</u>	403,846
Total other payables	<u>3,432,978</u>	<u>3,082,375</u>

Total other payables are expected to be settled in:

No more than 12 months	<u>1,250,242</u>	956,746
More than 12 months	<u>2,182,736</u>	2,125,629
Total operating leases	<u>3,432,978</u>	<u>3,082,375</u>

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR
ENDED 30 JUNE 2012

Note 8: Provisions

	2012 \$	2011 \$
Note 8A: Employee Provisions		
Leave	3,739,585	3,365,522
Total employee provisions	3,739,585	3,365,522
Employee provisions are expected to be settled in:		
No more than 12 months	1,164,121	1,084,078
More than 12 months	2,575,464	2,281,444
Total employee provisions	3,739,585	3,365,522
Note 8B: Other Provisions		
Provision for restoration obligations	128,107	135,907
Total other provisions	128,107	135,907
Other provisions are expected to be settled in:		
No more than 12 months	17,316	12,000
More than 12 months	110,791	123,907
Total other provisions	128,107	135,907
	Provision for restoration \$	
Carrying amount 1 July 2011	135,907	
Amounts reversed	(7,800)	
Closing balance 2012	128,107	

The Office currently has four agreements for the leasing of premises which have provisions requiring the Office to restore the premises to their original condition at the conclusion of the lease. The Office has made a provision to reflect the value of this obligation.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 9: Cash Flow Reconciliation

	2012 \$	2011 \$
Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement		
Cash and cash equivalents as per:		
Cash flow statement	248,108	213,089
Balance sheet	248,108	213,089
Difference	-	-
Reconciliation of net cost of services to net cash from operating activities:		
Net cost of services	(21,301,765)	(19,250,123)
Add revenue from Government	19,998,000	19,516,000
Adjustments for non-cash items		
Depreciation / amortisation	985,270	754,889
Net write down of non-financial assets	-	317,419
(Gain)/loss on disposal of assets	5,636	(2,100)
(Gain)/loss on reversal of makegood provision	-	(321,216)
Changes in assets / liabilities		
(Increase) / decrease in net receivables	(552,720)	(1,999,246)
(Increase) / decrease in other financial assets	284,073	923,770
(Increase) / decrease in prepayments	(172,740)	17,797
Increase / (decrease) in employee provisions	374,063	105,996
Increase / (decrease) in supplier payables	102,964	(54,128)
Increase / (decrease) in other payable	350,603	(297,126)
Net cash from (used by) operating activities	73,384	(288,069)

**OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR
ENDED 30 JUNE 2012**

Note 10: Contingent Liabilities and Assets

The Office has no contingent liabilities.

The Office has identified in its contracts and leases a number of indemnity provisions. None of these are quantifiable and all are considered remote. There are no existing or likely claims of which the office is aware.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR
THE YEAR ENDED 30 JUNE 2012**Note 11: Senior Executive Remuneration****Note 11A: Senior Executive Remuneration Expense for the Reporting Period**

	2012	2011
	\$	\$
Short-term employee benefits:		
Salary	1,016,125	741,122
Annual leave accrued	117,880	60,137
Performance bonuses	-	-
Motor vehicle and other allowances	176,005	70,257
Total short-term employee benefits	1,310,010	871,516
Post-employment benefits:		
Superannuation	155,907	106,840
Total post-employment benefits	155,907	106,840
Other long-term benefits:		
Long-service leave	46,923	19,272
Total other long-term benefits	46,923	19,272
Total	1,512,841	997,629

Notes:

1. Note 11A excludes acting arrangements and part-year service where remuneration expensed for a senior executive was less than \$150,000.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 11: Senior Executive Remuneration (cont'd)

Note 11B: Average Annual Reportable Remuneration Paid to Substantive Senior Executives During the Reporting Period

2012						
Average annual reportable remuneration ¹	Senior Executives No.	Reportable salary ² \$	Contributed superannuation ³ \$	Reportable allowances ⁴ \$	Bonus paid ⁵ \$	Total \$
Total remuneration (including part-time arrangements):						
less than \$150,000	2	100,962	14,860	-	-	115,821
\$180,000 to \$209,999	1	163,698	19,419	-	-	183,117
\$210,000 to \$239,999	4	195,972	25,635	-	-	221,606
\$330,000 to \$359,999	1	301,187	33,950	-	-	335,137
Total	8					

Note 11: Senior Executive Remuneration (cont'd)

Average annual reportable remuneration ¹	Senior Executives No.	2011				Total
		Reportable salary ² \$	Contributed superannuation ³ \$	Reportable allowances ⁴ \$	Bonus paid ⁵ \$	
Total remuneration (including part-time arrangements):						
less than \$150,000	4	88,313	8,888	-	-	97,201
\$210,000 to \$239,999	3	193,555	24,818	-	-	218,374
\$270,000 to \$299,999	1	239,656	30,657	-	-	270,313
Total	8					

Notes:

- These tables report substantive senior executives who received remuneration during the reporting period. Each row is an averaged figure based on headcount for individuals in the band.
- 'Reportable salary' includes the following:
 - gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column),
 - reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits), and
- The 'contributed superannuation' amount is the average actual superannuation contributions paid to senior executives in that reportable remuneration band during the reporting period, including any salary sacrificed amounts, as per a report from the payroll system.
- 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individual's payment summaries.
- 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving the entity during the financial year.
- Various salary sacrifice arrangements were available to senior executives including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 11: Senior Executive Remuneration (cont'd)

Note 11C: Other Highly Paid Staff

There were no other highly paid staff in 2012.

	2011				
	Staff No.	Reportable salary ² \$	Contributed superannuation ³ \$	Reportable allowances ⁴ \$	Bonus paid ⁵ \$
Average annual reportable remuneration ¹					
Total remuneration (including part-time arrangements) \$150,000 to \$179,999	2	141,293	17,776	-	-
Total	2				159,069

Notes:

- This table reports staff:
 - who were employed by the entity during the reporting period,
 - whose reportable remuneration was \$150,000 or more for the financial period, and
 - were not required to be disclosed in Tables A, B or director disclosures.
 Each row is an averaged figure based on headcount for individuals in the band.
- Reportable salary includes the following:
 - gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column),
 - reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits), and
 - except foreign employment income.
- Contributed superannuation amount is the average actual superannuation contributions paid to senior executives in that reportable remuneration band during the reporting period, including any salary sacrificed amounts, as per a report from the payroll system.
- Reportable allowances are the average actual allowances paid as per the total allowances' line on individuals' payment summaries.
- Bonus paid represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving the entity during the financial year.
- Various salary sacrifice arrangements were available to other highly paid staff including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR
 ENDED 30 JUNE 2012

Note 12: Remuneration of Auditors

	2012	2011
	\$	\$
Financial statement audit services were provided free of charge to the entity by the Australian National Audit Office.		
The fair value of the services provided was:	31,000	30,000
No other services were provided by the Australian National Audit Office.		

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 13: Financial Instruments**Note 13A: Categories of Financial Instruments****Financial Assets****Loans and receivables:**

Cash and cash equivalents

Trade and other receivables

Carrying amount of financial assets**Financial Liabilities**

At amortised cost:

Supplier payables

Carrying amount of financial liabilities**Note 13B: Net Income and Expense from Financial Assets****Loans and receivables**

Impairment

Net gain/(loss) loans and receivables**Net gain/(loss) from financial assets**

The net income/expense from financial assets not at fair value from profit and loss is \$40,819. (2011: \$3,319).

Note 13C: Net Income and Expense from Financial Liabilities

The net income/expense from financial liabilities not at fair value from profit and loss is nil. (2011: nil).

Note 13D: Fair Value of Financial Instruments

The fair values of the financial instruments approximates their carrying amounts.

Notes	2012 \$	2011 \$
5A	248,108	213,089
5B	187,859	188,904
	<u>435,967</u>	<u>401,993</u>
7A	835,955	527,491
	<u>835,955</u>	<u>527,491</u>
	(40,819)	(3,319)
	<u>(40,819)</u>	<u>(3,319)</u>
	(40,819)	(3,319)
	<u>(40,819)</u>	<u>(3,319)</u>
	-	-

Note 13: Financial Instruments**Note 13E: Credit Risk**

The Office is exposed to minimal credit risk due to the nature of its financial assets. The maximum exposure to credit risk is the amounts held as trade and other receivables should default occur, \$187,859. (2011: \$188,904). The risk of default on these amounts was assessed to be nil as at 30 June 2012 (2011: nil).

Ageing of financial assets that are past due can be found in note 5B.

The Office manages its credit risk through its policies and procedures issued under the Chief Executive's Instructions.

Note 13F: Liquidity Risk

The Office's exposure to liquidity risk is minimal due to the appropriation funding mechanisms available from the Department of Finance and Deregulation. The office manages liquidity risk through its policies and procedures.

Maturities for non-derivative financial liabilities 2012

	On demand	within 1 year	1 to 2 years	2 to 5 years	> 5 years	Total
Supplier payables	\$ -	\$ 835,955	\$ -	\$ -	\$ -	\$ 835,955
Total	\$ -	\$ 835,955	\$ -	\$ -	\$ -	\$ 835,955

Maturities for non-derivative financial liabilities 2011

	On demand	within 1 year	1 to 2 years	2 to 5 years	> 5 years	Total
Supplier payables	\$ -	\$ 527,491	\$ -	\$ -	\$ -	\$ 527,491
Total	\$ -	\$ 527,491	\$ -	\$ -	\$ -	\$ 527,491

The office has no derivative financial liabilities in both the current and prior year.

Note 13G: Market Risk

The Office holds only basic financial instruments that do not pose any market risk. The Office is not exposed to currency risk or other price risk.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED
30 JUNE 2012**Note 14: Financial Assets Reconciliation**

	Notes	2012 \$	2011 \$
<u>Financial Assets</u>			
Total financial assets as per the balance sheet		8,203,514	7,400,848
Less: non-financial instrument components:			
Appropriations receivable	5B	7,564,339	6,553,657
Other receivables	5B, 5C	203,208	445,198
Total non-financial instrument components		<u>7,767,547</u>	<u>6,998,855</u>
Total financial assets as per the financial instrument note		435,967	401,993

Note 15: Appropriations

Table A: Annual Appropriations ('Recoverable GST' exclusive²)

	2012 Appropriations							Appropriation applied in 2012 (current and prior years)	Variance ^(b)
	Appropriation Act		FMA Act				Total appropriation		
	Annual Appropriation	Appropriations reduced ^(a)	AFM ^(b)	Section 30	Section 31	Section 32			
	\$	\$	\$	\$	\$	\$	\$	\$	\$
DEPARTMENTAL									
Ordinary annual services	20,757,000	-	-	111,944	2,594,339	-	23,463,283	22,392,582	1,070,701
Other services	-	-	-	-	-	-	-	25,000	(25,000)
Equity	-	-	-	-	-	-	-	-	-
Loans	-	-	-	-	-	-	-	-	-
Total departmental	20,757,000	-	-	111,944	2,594,339	-	23,463,283	22,417,582	1,045,701

Notes:

- (a) Appropriations reduced under Appropriation Acts (No 1.3.5) 2011-12: sections 10, 11, 12 and 15 and under Appropriation Acts (No 2.4.6) 2011-12: sections 12.13, 14 and 17. Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request that the Finance Minister reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament. In 2011-12 there was no reduction in any appropriation.
- (b) There were no adjustments that met the recognition criteria of a formal addition or reduction in revenue (in accordance with FMO Div 101) but at low the appropriations had not been amended before the end of the reporting period.
- (c) The variance of \$1.05m in ordinary annual services was primarily due to the office not achieving its departmental capital budget spend.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 15: Appropriations

	2011 Appropriations							Appropriation applied in 2011 (current and prior years) \$	Variance ^(c) \$
	Appropriation Act		FMA Act				Total appropriation \$		
	Annual Appropriation \$	Appropriations reduced ^(a) \$	APM ^(b) \$	Section 30 \$	Section 31 \$	Section 32 \$			
DEPARTMENTAL									
Ordinary annual services	20,313,000	-	-	184,345	2,229,789	-	22,727,134	20,531,880	2,195,254
Other services									
Equity	25,000	-	-	-			25,000	145,000	(120,000)
Total departmental	20,338,000	-	-	184,345	2,229,789	-	22,752,134	20,676,880	2,075,254

Notes:

(a) Appropriations reduced under Appropriation Acts (No.1,3,5) 2010-11, sections 10, 11, 12 and 15 and under Appropriation Acts (No.2,4,6) 2010-11, sections 12,13, 14 and 17. Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request that the Finance Minister reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament. In 2010-11 there was no reduction in any appropriation.

(b) There were no adjustments that met the recognition criteria of a formal addition or reduction in revenue (in accordance with FMO Div 101) but at law the appropriations had not been amended before the end of the reporting period.

(c) The variance of \$2.08m in ordinary annual services was primarily due to the office not achieving its budgeted average staffing level.

Note 15: Appropriations**Table B: Departmental and Administered Capital Budgets ("Recoverable GST exclusive")**

	2012 Capital Budget Appropriations			Capital Budget Appropriations applied in 2012			
	<i>Appropriation Act</i>	<i>FM/A Act</i>	Total Capital Budget Appropriations	Payments for non-financial assets ³	Payments for other purposes	Total payments	Variance
	Annual Capital Budget	Appropriations reduced ²					
	\$	\$	\$	\$	\$	\$	\$
DEPARTMENTAL							
Ordinary annual services - Departmental Capital Budget ¹	759,000	-	759,000	235,000	-	235,000	524,000

Notes:

1. Departmental and Administered Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.
2. Appropriations reduced under Appropriation Acts (No.1,3,5) 2011-12: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.
3. Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

	2011 Capital Budget Appropriations			Capital Budget Appropriations applied in 2011			
	<i>Appropriation Act</i>	<i>FM/A Act</i>	Total Capital Budget Appropriations	Payments for non-financial assets ³	Payments for other purposes	Total payments	Variance
	Annual Capital Budget	Appropriations reduced ²					
	\$	\$	\$	\$	\$	\$	\$
DEPARTMENTAL							
Ordinary annual services - Departmental Capital Budget ¹	797,000	-	797,000	414,000	-	414,000	383,000

Notes:

1. Departmental and Administered Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.
2. Appropriations reduced under Appropriation Acts (No.1,3,5) 2010-11: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.
3. Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 15: Appropriations**Table C: Unspent Annual Appropriations ('Recoverable GST exclusive')**

Authority	2012 \$	2011 \$
DEPARTMENTAL		
2010-11 Appropriation Act 1 - Departmental Capital Budget	396,108	6,741,746
2010-11 Appropriation Act 2 - Non-Operating - Previous Years	-	25,000
2011-12 Appropriation Act 1	6,657,339	-
2011-12 Appropriation Act 1 - Departmental Capital Budget	759,000	-
Total	7,812,447	6,766,746

OFFICE OF THE COMMONWEALTH OMBUDSMAN

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012

Note 16: Compensation and Debt Relief

	2012	2011
	\$	\$
No 'Act of Grace' expenses were incurred during the reporting period. (2011: No expenses).	-	-
No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the Financial Management and Accountability Act 1997. (2011: No waivers).	-	-
No payments were provided under the Compensation for Detriment caused by Defective Administration (CDDA) Scheme during the reporting period. (2011: No payments).	-	-
No ex-gratia payments were provided for during the reporting period. (2011: No payments).	-	-
No payments were provided in special circumstances relating to APS employment pursuant to section 73 of the Public Service Act 1999 (PS Act) during the reporting period. (2011: No payments).	-	-

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED
30 JUNE 2012

Note 17: Reporting of Outcomes

Note 17A: Net Cost of Outcome Delivery

	Outcome 1		Total	
	2012	2011	2011	2010
	\$	\$	\$	\$
Expenses				
Departmental	23,385,201	21,399,671	23,385,201	21,399,671
Total	23,385,201	21,399,671	23,385,201	21,399,671
Income from non-government sector				
Departmental				
Activities subject to cost recovery	-	-	-	-
Interest on cash deposits	-	-	-	-
Gain from disposal of asset	-	2,100	-	2,100
Reversal of previous asset write-downs	-	-	-	-
Goods and services income	1,165,854	958,377	1,165,854	958,377
Other	-	356,488	-	356,488
Total departmental	1,165,854	1,316,965	1,165,854	1,316,965
Total	1,165,854	1,316,965	1,165,854	1,316,965
Other own-source income				
Departmental	917,582	832,583	917,582	832,583
Total	917,582	832,583	917,582	832,583
Net cost of outcome delivery	21,301,765	19,250,123	21,301,765	19,250,123

Outcome 1 is described in Note 1.1. Net costs shown include intra-government costs that are eliminated in calculating the actual Budget Outcome. Refer to Outcome 1 Resourcing Table on page [page 154] of this Annual Report.

The office has one outcome, therefore the Major Classes of Departmental Expense, Income, Assets and Liabilities by Outcomes table has not been prepared.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR
 ENDED 30 JUNE 2012

18: Net Cash Appropriation Arrangements

	2012	2011
	\$	\$
Total Comprehensive Income (loss) Attributable to the entity		
Total comprehensive income (loss) attributable to the Australian Government ¹	(1,295,965)	737,197
Plus: non-appropriated expenses		
Depreciation and amortisation expenses	985,270	754,889
Total comprehensive income (loss) attributable to the entity	(310,695)	1,492,086

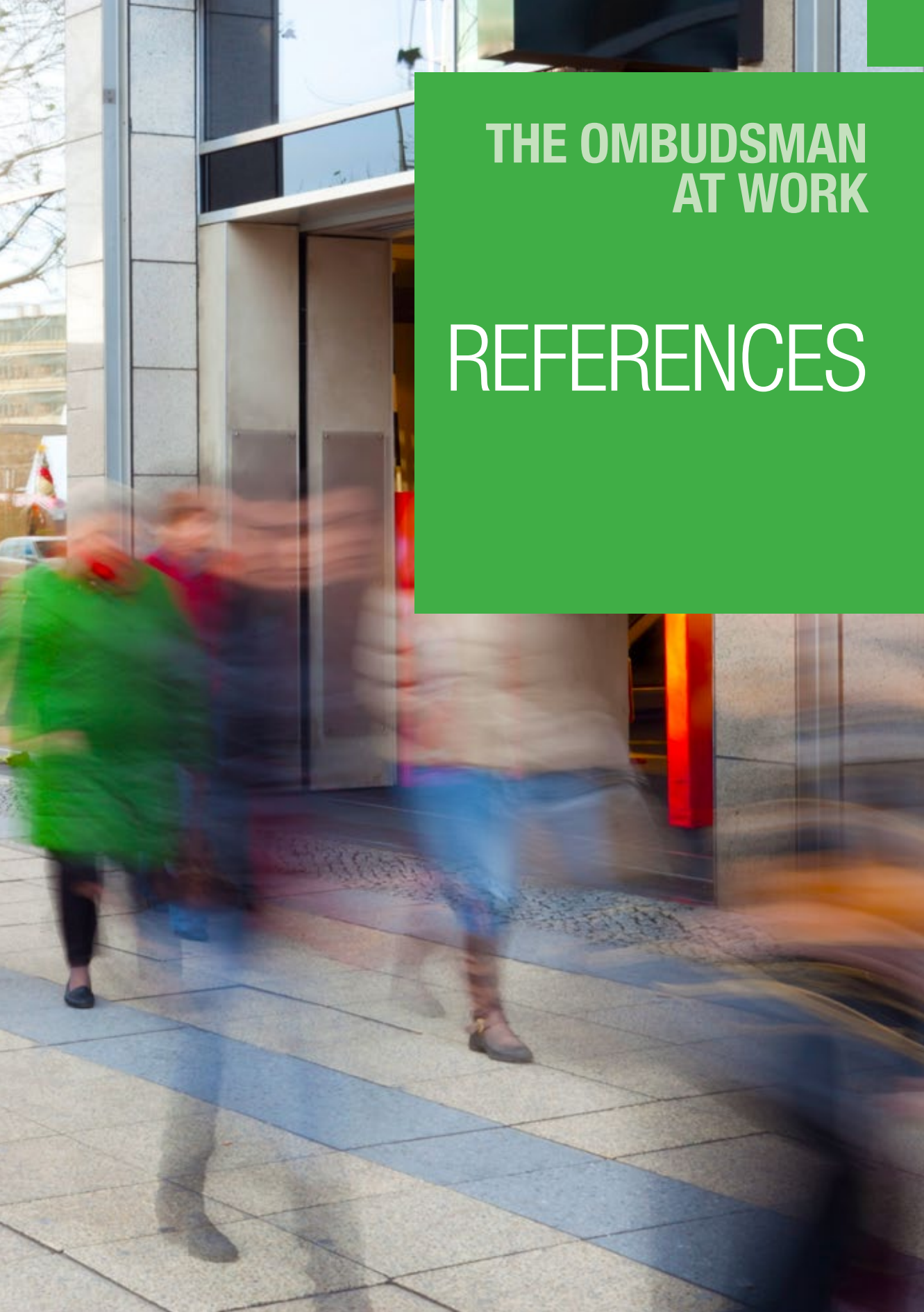
1. As per the Statement of Comprehensive Income.

APPENDIX 7: DISABILITY REPORTING MECHANISMS

Since 1994, Commonwealth departments and agencies have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007–08, reporting on the employer role was transferred to the Australian Public Service Commission's *State of the Service* report and the *APS Statistical Bulletin*. These reports are available at www.apsc.gov.au. From 2010–11, departments and agencies have no longer been required to report on these functions.

The Commonwealth Disability Strategy has been overtaken by a new National Disability Strategy which sets out a ten-year national policy framework for improving life for Australians with a disability, their families and carers. A high-level report to track progress for people with disability at a national level will be produced by the Standing Council on Community, Housing and Disability Services to the Council of Australian Governments and will be available at www.fahcsia.gov.au. The Social Inclusion Measurement and Reporting Strategy agreed by the Government in December 2009 will also include some reporting on disability matters in its regular *How Australia is Faring* report and, if appropriate, in strategic change indicators in agency annual reports. More detail on social inclusion matters can be found at www.socialinclusion.gov.au.





**THE OMBUDSMAN
AT WORK**

REFERENCES

GLOSSARY

TERM	DEFINITION
AFP complaint categories	Category 1—minor management or customer service matters Category 2—minor misconduct Category 3— serious misconduct Category 4—conduct giving rise to a corruption issue.
Approach	Contact with our office about a matter. An approach may be about a matter outside our jurisdiction.
Assisted transfer of complaints	An arrangement between the Ombudsman's office and the Australian Taxation Office (ATO) and the Department of Human Services – Centrelink (Centrelink) whereby the Ombudsman's office will forward a complaint to the ATO or Centrelink on behalf of the complainant if the complainant has not previously sought to resolve the complaint with the agency. The agency will then address the complaint. Also called a 'warm transfer'.
BasicsCard	A reusable, PIN-protected EFTPOS card that allows people to spend income-managed money at approved stores and businesses.
Category	Approaches are divided into five categories based on whether the approach is investigated or not, potential sensitivities and the degree of effort required to finalise the approach.
Category 1—Initial approach (approach)	An approach that was resolved by a single communication (e.g. referral to a more appropriate agency) and the discretion not to investigate was applied.
Category 2—Further assessment (approach)	An approach that required further communication and/or assessment (e.g. internal enquiries/research or more information from the complainant) and the discretion not to investigate was applied.
Category 3—Investigation (complaint)	An approach investigated via contact with the agency that is the subject of the complaint in order to resolve the matter.
Category 4—Further investigation (complaint)	An approach that required two or more substantive contacts with the agency that is the subject of the complaint in order to resolve the matter.
Category 5—Formal reports (complaint)	An approach where formal powers have been exercised and/or a s15 report issued.

TERM	DEFINITION
Closed approach	An approach that has been finalised.
Closing the Gap	A commitment by all Australian governments to work towards a better future for Aboriginal and Torres Strait Islander peoples in areas such as health, housing, education and employment. The Department of Families, Housing, Community Services and Indigenous Affairs is the lead Australian Government agency for Closing the Gap policies and programs.
Community detention	Community detention is a form of immigration detention that enables people in detention to reside and move about freely in the community without needing to be accompanied or restrained by an officer.
Compensation for Detriment caused by Defective Administration (CDDA)	A scheme that allows Australian Government agencies under the <i>Financial Management and Accountability Act 1997</i> to provide discretionary compensation to people who have experienced detriment as a result of an agency's defective actions or inaction.
Compliance auditing	The action of inspecting the records of law enforcement agencies to determine the extent of compliance with relevant legislation by the agency and its law enforcement officers.
Complaint	A complaint is an approach that is an expression of dissatisfaction made to the Ombudsman about government administrative action where a response or resolution is expected. A complaint does not include an approach that is a request for information.
Controlled operation	A covert operation carried out by law enforcement officers under the <i>Crimes Act 1914</i> (Cth) for the purpose of obtaining evidence that may lead to the prosecution of a person for a serious offence. The operation may result in law enforcement officers engaging in conduct that would otherwise constitute an offence.
Cross-agency issue	At times a complaint or investigation may involve more than one agency if, for example, one agency is responsible for a policy for which another agency administers the related program/s, or an issue is common to a number of agencies.

TERM	DEFINITION
Decision to investigate	The Ombudsman may investigate the administrative actions of most Australian Government departments and agencies and private contractors delivering government services. The Ombudsman can decide to not investigate complaints that are 'stale' or frivolous, where the complainant has not first sought redress from the agency, where some other form of review or appeal is more appropriate, or where it is considered an investigation would not be warranted in all the circumstances.
Departure Prohibition Order	An administrative order issued by the Australian Taxation Office (ATO) or Child Support Agency (CSA) that prevents a person with an overdue tax or child support debt from leaving Australia.
Established complaint	The Australian Federal Police (AFP) considers a complaint is 'established' if an AFP investigation concludes in favour of the complainant or against the AFP member.
Finalised complaint	A complaint where a decision has been made to stop investigating it.
Formal powers	The formal powers of the Ombudsman are similar to that of a Royal Commission, and include compelling an agency to produce documents and examining witnesses under oath.
Garnishee	Some government agencies such as the Australian Taxation Office and the Department of Human Services—Child Support have the power to seize money from a third party (such as a bank) to pay a debt. To seize this money is to "garnishee" it.
Garnishee notice	A written advice to a debtor and a third party, such as a financial institution or employer, that a person or business will be garnisheed.
Inspection (immigration)	Inspection visits to immigration detention facilities and other places of detention aim to monitor the conditions of, and services provided to, detainees and to assess whether those services comply with the immigration values and obligations of the Department of Immigration and Citizenship and its contracted service providers.
Inspection (other)	The Ombudsman has statutory responsibility for inspecting or auditing the records of law enforcement and other enforcement agencies in relation to the use of covert powers. The Office inspects records relating to telecommunications interceptions, stored communications, surveillance devices and controlled operations.

TERM	DEFINITION
Immigration Residential Housing	Immigration residential housing is a less institutional, more domestic and independent environment for low flight and security risk people in detention, particularly families with children.
Investigated complaint	An approach that is classified by the Office as Category 3 or above.
Investigation	Occurs when the Office contacts an agency about an issue raised as part of a complaint or because the Ombudsman has chosen to use her/his own motion powers.
Improvised dwelling	Makeshift accommodation considered to be unsafe and uninhabitable. These can range from tin sheds to car bodies and makeshift shelters.
Income management	A scheme that enables the Department of Human Services – Centrelink to retain and manage at least 50% of a person's income support payments. The managed funds can only be allocated to priority goods and services, such as housing, clothing, food, utilities, education and health care. Managed funds cannot be used to purchase prohibited goods such as alcohol, gambling products, tobacco or pornography. The remaining portion of a person's income support is available for that person to use as they wish.
Independent Merits Review	Independent merits reviews are conducted by independent reviewers appointed by the Minister for Immigration. Independent reviewers are experienced decision makers, the majority of whom have a background in merits review decision making in federal and state administrative tribunals, including the Refugee Review Tribunal.
Integrity agency	An independent body that oversights the actions of public sector and/or other specified organisations to ensure these organisations are accountable for their decisions and their clients fairly treated, and to improve administration. Integrity agencies may carry out their functions in one or more ways, including handling complaints, conducting investigations, auditing records and reviewing processes to ensure compliance with the relevant legislation.
Irregular Maritime Arrival	A person who arrived in Australia by boat without a visa.

TERM	DEFINITION
Jurisdiction	Under the <i>Ombudsman Act 1976</i>, the Commonwealth Ombudsman can investigate the administrative actions of most Australian Government agencies and officers. The Act confers six other roles on the Commonwealth Ombudsman: ■ Defence Force Ombudsman, to investigate action arising from the service of a member of the ADF ■ Immigration Ombudsman, to investigate action taken in relation to immigration (including immigration detention) ■ Postal Industry Ombudsman, to investigate complaints against private postal operators ■ Taxation Ombudsman, to investigate action taken by the Australian Taxation Office ■ Overseas Students Ombudsman, to investigate complaints from overseas students about private education providers in Australia The Commonwealth Ombudsman also undertakes the role of the ACT Ombudsman in accordance with s 28 of the <i>ACT Self-Government (Consequential Provisions) Act 1988</i> (Cth).
Migration Review Tribunal (MRT)	The MRT is an independent and final merits review body of decisions made in relation to visas to travel to, enter or stay in Australia. It reviews decisions made in respect of general visas (e.g. visitor, student, partner, family, business, skilled visas).
Natural justice	In administrative decision making, natural justice means procedural fairness. The principles of procedural fairness include: the right to a fair hearing; decisions made without bias; providing an opportunity for a person to present a case to address any adverse matters; and providing reasons for decisions.
Non-refoulement	The principle that a person seeking asylum cannot be returned to a place where they fear harm, including persecution.

TERM	DEFINITION
Objective	The name of the electronic information management system used by the Ombudsman's office.
Outcomes	The results, consequences or impacts of government actions.
Outcome statements	Outcome statements articulate government objectives and serve three main purposes within the financial framework: 1. to explain the purposes for which annual appropriations are approved by the Parliament for use by agencies 2. to provide a basis for budgeting and reporting against the use of appropriated funds 3. to measure and assess agency and program non-financial performance in contributing to Government policy objectives.
Out of jurisdiction (OOJ)	An approach about a matter about which the Office has no legal power under the <i>Ombudsman Act 1976</i> to investigate.
Own motion investigation	An investigation conducted on the Ombudsman's own initiative.
Prescribed community	Prescribed areas are defined in the <i>Northern Territory National Emergency Response Act 2007</i> and include: ■ Aboriginal land defined under the <i>Aboriginal Lands Rights (Northern Territory) Act 1976</i> ■ roads, rivers, streams, estuaries or other areas on Aboriginal land ■ areas known as Aboriginal Community Living Areas (a form of freehold title issued to Aboriginal corporations by the Northern Territory Government) ■ Any other area declared by the Minister to be a prescribed area.

TERM	DEFINITION
Program	Commonwealth programs deliver benefits, services or transfer payments to individuals, industry/business or the community as a whole and are the primary vehicles for government agencies to achieve the intended results of their outcome statements.
Project Wickenby	A cross-agency taskforce established in 2006 as part of the Australian Government's campaign against tax evasion, avoidance and crime.
Protection Obligations Determination (POD)	The Protection Obligations Determination is a non-statutory process that is outside the <i>Migration Act 1958</i> for determining whether a person is a refugee. It consists of two parts: a Protection Obligations Evaluation conducted by an officer of the Department of Immigration and Citizenship; and an Independent Protection Assessment conducted by an independent assessor. The POD process replaced the Refugee Status Determination process previously used for irregular maritime arrivals.
Public interest disclosure	When a person reveals information that demonstrates improper conduct by a public body in the exercise of its functions. Also known as “whistle-blowing”.
Redress of Grievance (ROG)	Members of the Australian Defence Force are encouraged to seek resolution of any complaint at the lowest possible level through the chain of command. A member who is not satisfied with the outcome of the normal administrative processes may seek review through a formal Redress of Grievance submission to their commanding officer.
Refugee Review Tribunal (RRT)	The RRT is an independent and final merits review body of decisions made in relation to visas to travel to, enter or stay in Australia. It deals with decisions made in respect of protection (refugee) visas.
Refugee Status Assessment (RSA)	The RSA process is a non-statutory process that is outside the <i>Migration Act 1958</i> for determining whether a person is a refugee. However, it does closely mirror the onshore protection visa process in that asylum seekers are assessed against the criteria set out in the Refugees Convention. The RSA process also builds in common law requirements of procedural fairness throughout the process.

TERM	DEFINITION
Remedy	A solution or correction to a problem that is the subject of a complaint.
Resolve	The name of the electronic case management system used by the Ombudsman's office.
Review rights	A person who disagrees with a decision made about them or believes they have been treated unfairly by a government agency may appeal the decision or ask for it to be reviewed by the agency. If the person is not able to resolve their issue with the agency, they may complain to the Ombudsman.
Review (Ombudsman)	A complainant who disagrees with an Ombudsman decision can request the matter be reconsidered by a more senior officer within the Office who was not involved in the original investigation.
Root cause	The reason or source of a problem that, if adequately addressed, may prevent the problem recurring.
Root cause Analysis	A structured approach to identifying the reason or source of a problem in order to address it and prevent the same or similar problems recurring. Involves identifying lessons learned.
SmartForm	A web-based form that can be designed to guide a complainant through the process of completing the form.
Stored communications	This typically refers to emails and text (SMS) messages, but may include images or video, which are electronically stored by a telecommunications carrier or internet service provider. For instance, an SMS message is stored by a carrier and sent when the intended recipient is able to take the message. Stored communications access occurs under warrant for the purposes of obtaining information relevant to the investigation of an offence.
Suppressions	Indicators or alerts that temporarily suspend automatic processing of income tax returns to allow corrective action or review, for example in the case of duplications or possible fraudulent activity
Surveillance devices	These are typically listening devices, cameras and tracking devices that are used to gather information relating to criminal investigations and the location and safe recovery of children. The use of these devices will, in most circumstances, require the issue of a warrant.

TERM	DEFINITION
Systemic issue	A problem that is likely to be repeated. These issues are often identified through the analysis of similar individual complaints.
Telecommunications interceptions	The recording of telephone conversations or other transmissions passing over a telecommunications network. Interceptions occur under warrant for the purposes of obtaining information relevant to a criminal investigation.
The office	The Office of the Commonwealth Ombudsman.
The Ombudsman	The person occupying the statutory position of Commonwealth Ombudsman.
Third-sector organisations	Community, voluntary and not-for-profit organisations.
Unlawful non-citizen	A national of another country who does not have the right to be in Australia. The majority of unlawful non-citizens in Australia at any given time have either overstayed the visa issued to them or had their visa cancelled. Some unlawful non-citizens will have entered Australia without a visa.
Warm transfer	See “Assisted transfer of complaints”.
Within jurisdiction	An approach about a matter that the office may investigate under the <i>Ombudsman Act 1976</i> .
486O report	The Ombudsman has a specific statutory role under s 486O of the <i>Migration Act 1958</i> of reporting to the Minister for Immigration concerning the circumstances of any person who has been in immigration detention for two years or more.

ABBREVIATIONS AND ACRONYMS

AAT	Administrative Appeals Tribunal
ACC	Australian Crime Commission
ACCC	Australian Competition and Consumer Commission
ACLEI	Australian Commission for Law Enforcement Integrity
ACT	Australian Capital Territory
ADF	Australian Defence Force
AFP	Australian Federal Police
AGD	Attorney-General's Department
ANAO	Australian National Audit Office
ANU	Australian National University
ANZOA	Australian and New Zealand Ombudsman Association
AP	Age pension
APRA	Australian Prudential Regulation Authority
APVMA	Australian Pesticides and Veterinary Medicines Authority
APS	Australian Public Service
AQIS	Australian Quarantine and Inspection Service
ARC	Australian Review Council
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
AusAID	Australian Agency for International Development
AUSTRAC	Australian Transaction Reports and Analysis Centre
AYAD	Australian Youth Ambassadors for Development
BAS	Business Activity Statement
CCMS	Child Care Management System
CDDA	Compensation for Detriment Caused by Defective Administration
CDPP	Commonwealth Director of Public Prosecutions
CO	Commanding Officer
CoA	Change of Assessment

COAG	Council of Australian Governments
Complaints Act	Complaints (Australian Federal Police) Act 1981
CRS	Commonwealth Rehabilitation Service
Crimes Act	Crimes Act 1914
CSA	Child Support Agency
CSNEG	Child Support National Stakeholder Engagement Group
CtG	Closing the Gap
Cth	Commonwealth
DAFF	Department of Agriculture, Fisheries and Forestry
DCCEE	Department of Climate Change and Energy Efficiency
DEEWR	Department of Education, Employment and Workplace Relations
DEWHA	Department of Environment, Water, Heritage and the Arts
DFAT	Department of Foreign Affairs and Trade
DFR	Defence Force Recruiting
DHA	Defence Housing Authority
DHLGRS	Department of Housing, Local Government and Regional Services (NT)
DHS	Department of Human Services
DIAC	Department of Immigration and Citizenship
DPO	Departure Prohibition Order
DSP	Disability Support Pension
DVA	Department of Veterans' Affairs
ESOS	Education Services for Overseas Students
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
FAO	Family Assistance Office
FISO	Financial Information Services Officer
FOI	Freedom of Information
FTB	Family Tax Benefit
GFU	Global Feedback Unit

GSM	General Skilled Migration
GST	Goods and Services Tax
Hon.	Honourable
IDCs	Immigration Detention Centres
IGT	Inspector-General of Taxation
IM	Income Management
IMAs	Irregular Maritime Arrivals
IU	Indigenous Unit
IT	Information Technology
JOIN	Joint Outreach Initiative Network
JSA	Job Services Australia
KPI	Key Performance Indicator
Migration Act	Migration Act 1958
MOU	Memorandum of Understanding
MRC	Mail Redistribution Centre
MRCA	Military Rehabilitation and Compensation Act 2004
MRT	Migration Review Tribunal
NOC	National Ombudsman Commission
NSW	New South Wales
NT	Northern Territory
NTER	Northern Territory Emergency Response
OCPNG	Ombudsman Commission of Papua New Guinea
OH&S	Occupational Health and Safety
Ombudsman Act	Ombudsman Act 1976
ORI	Ombudsmen of the Republic of Indonesia
PIO	Postal Industry Ombudsman
POA	Pacific Ombudsman Alliance
PPOs	Private Postal Operators
PRC	People's Republic of China

PSU	Professional Standards Unit
Prof.	Professor
QLD	Queensland
RAAF	Royal Australian Air Force
RAMSI	Regional Assistance Mission to the Solomon Islands
RBA	Reserve Bank of Australia
RMAT	Reasonable Maintenance Action Test
ROG	Redress of Grievance
RSA	Refugee status assessment
RSL	Returned and Services League
s	Section
ss	Subsection
SA	South Australia
SD	Surveillance Devices Act 2004
SES	Senior Executive Service
SIHIP	Strategic Indigenous Housing and Infrastructure Program
SSAT	Social Security Appeals Tribunal
STARTTS	Service for Treatment and Rehabilitation of Torture and Trauma Survivors
TAS	Tasmania
TFN	Tax File Number
TIA Act	Telecommunications (Interception and Access) Act 1979
TRA	Trades Recognition Australia
TTMRA	Trans-Tasman Mutual Recognition Agreement
UAC	Uniform Assessment Criteria
VAC	Visa Application Charge
VIC	Victoria
WA	Western Australia
WISH	Woolloomooloo Integrated Services Hub

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This is a guide to the report's compliance with the Requirements for Annual Reports as approved by the Joint committee of Public Accounts and Audit under subsections 63(2) and 70(2) of the *Public Service Act 1999*.

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Correction of material errors in previous annual report

No material errors have been identified in the Commonwealth Ombudsman Annual Report 2010–2011	
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Email: ombudsman@ombudsman.gov.au

Online complaint form:
www.ombudsman.gov.au

SMS: 0413 COM OMB (0413 266 662)
(standard carrier rates apply)

Twitter: <http://twitter.com/#!/CwealthOmb>

Services available to assist you to make a complaint

If you are a non-English speaking person, we can help through the Translating and Interpreter Service (TIS) on 131 450.

If you are deaf, or have a hearing impairment or speech impairment, contact us through the National Relay Service (<http://www.relayservice.com.au/>):

- TTY users phone 133 677 then ask for 1300 362 072
- Speak and Listen users phone 1300 555 727 then ask for 1300 362 072,
- Internet Relay users connect to the National Relay Service (<http://www.iprelay.com.au/call/index.aspx>) then ask for 1300 362 072.

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