



COMMONWEALTH
OMBUDSMAN



2016
2017

ANNUAL REPORT



COMMONWEALTH
OMBUDSMAN



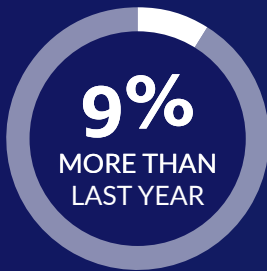
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HIGHLIGHTS

In 2016–17 we received a total of

41,301 approaches



LAST YEAR 85 per cent of complaints were finalised within 90 days.¹



We received

4,213 postal industry complaints

representing an 18 per cent decrease from 2015–16.



We received 429 complaints about the National Disability Insurance Agency,

a significant increase from the 62 complaints received in 2015–16.²

490 475

The Immigration Ombudsman made 475 recommendations,

from a record number of 1,325 assessments sent to the Minister, compared to 490 recommendations the previous year.



In 2016–17 the Overseas Students Ombudsman started

349 complaint investigations and completed 356,

compared to 315 investigations started and 291 completed last year.

¹ Please note that this calculation is only for those that were closed as complaints (or investigated) rather than all records received (approaches and complaints).

² The escalation in complaints was not unexpected given that around 90,000 additional participants were due to access the Scheme during the year.

The Office launched the new **Defence Force abuse reporting function**, established the **Vocational Education and Training (VET) Student Loans Ombudsman**, the **ACT Reportable Conduct Scheme** and the **ACT Judicial Council**.



Overall, 84%

of people who complained to the Private Health Insurance Ombudsman were satisfied or very satisfied with the handling of their complaints.

The Office conducted

63 inspections/reviews of the use of covert, intrusive or coercive powers

by law enforcement and regulatory agencies.

63

In 2016–17 the Defence Force Ombudsman received



635 complaints

about Defence agencies, compared to 491 in 2015–16, as well as 163 reports of serious abuse within Defence under the new jurisdiction which commenced on 1 December 2016.

A total of

684 public interest disclosures

were received in 2016–17, with

57 of 176 agencies receiving one or more.



The Commonwealth Ombudsman continued its international engagement with

8 countries across the Pacific and Asia

to develop and share best practice in complaint-handling and to strengthen integrity functions.

CREDITS

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Design: Papercut

LETTER OF TRANSMITTAL (TRANSMITTAL CERTIFICATE)

3 October 2017

The Hon Malcolm Turnbull MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

I am pleased to present the 40th Commonwealth Ombudsman Annual Report for the year ended 30 June 2017.

The report has been prepared in accordance with section 46 of the *Public Governance, Performance and Accountability Act 2013 (PGPA Act)* and section 63 of the *Public Service Act 1999*, which requires that you table the report in Parliament.

The Annual Performance Statement in Part 3 of this report is prepared in accordance with paragraph 39(1)(a) of the PGPA Act and accurately presents my Office's performance for the 2016–17 financial year, in accordance with paragraph 39(2) of the PGPA Act.

The report includes the audited financial statements for my Office, prepared in accordance with the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*.

In addition, I certify that I am satisfied my Office has appropriate fraud control mechanisms in place which meet our needs and comply with the PGPA Act, PGPA Rule and associated framework.

Yours sincerely



Michael Manthorpe PSM
Commonwealth Ombudsman

GUIDE TO THE REPORT

This report provides information on the activities, achievements and performance of the Office of the Commonwealth Ombudsman (the Office) for the 2016–17 financial year.

Part 1—REVIEW BY THE OMBUDSMAN

The Commonwealth Ombudsman Michael Manthorpe’s review of the year and the outlook for 2017–18.

Part 2—OVERVIEW OF THE OFFICE

This outlines the roles and functions and the organisational structure of the Office.

Part 3—REPORT ON PERFORMANCE

An overview of complaints received by the Office, our annual performance statement and a summary of our financial performance for the 2016–17 financial year.

Part 4—WHAT WE DO

Information about our work in our major areas of responsibility, including:

- Social Services agencies and programs
- Postal Industry Ombudsman
- Immigration Ombudsman
- Overseas Students Ombudsman
- Vocational Education and Training (VET) Student Loans Ombudsman

- Private Health Insurance Ombudsman
- Defence Force Ombudsman
- Inspections of covert, intrusive or coercive powers
- Law Enforcement Ombudsman
- Public Interest Disclosure scheme, and
- International Program.

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

Part 5—MANAGEMENT AND ACCOUNTABILITY

This outlines the Office’s governance and accountability arrangements including external scrutiny, management of human resources, procurement and asset management.

Part 6—APPENDICES

This includes the financial statements, a report on compliance with the information publication scheme, statistics on the number of approaches and complaints received by the Office, entity resource statement and the ecologically sustainable development and environmental performance for the Office.

Part 7—REFERENCES

This includes a glossary, a list of figures and tables contained in the body of the report, a compliance index and an alphabetical index.

CONTACTING THE OMBUDSMAN

Enquiries about this report should be directed to the Communication Manager, Office of the Commonwealth Ombudsman (by email to media@ombudsman.gov.au).

If you would like to make a complaint, or obtain further information about the Ombudsman, you can do one of the following things:

Online

Visit: ombudsman.gov.au

By phone

Call: **1300 362 072** between 9am and 5pm (AEST) Monday to Friday. (Note: this is not a toll-free number and calls from mobile phones are charged at mobile phone rates).

Indigenous Line: **1800 060 789**

In writing

GPO Box 442,
Canberra ACT 2601

Services available to help you

If you are a non-English speaking person, we can help you through the Translating and Interpreting Service (TIS) on **131 450**. If you are hearing, sight or speech impaired, a TTY Service is available through the National Relay Service on **133 677**.

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PART 1—REVIEW BY THE OMBUDSMAN

REVIEW BY THE OMBUDSMAN



I am pleased to introduce the annual report for the Office of the Commonwealth Ombudsman for 2016–17.

This is my first annual report, having been appointed to the role of Commonwealth Ombudsman on 8 May 2017. It is important to record, therefore, that the achievements and activities described in this report reflect most particularly on the efforts of my immediate predecessors: Colin Neave, whose term as Commonwealth Ombudsman ended on 13 January 2017, and Richard Glenn and Doris Gibb who fulfilled the role between Mr Neave's departure and my arrival.

Of course, none of the achievements of the Office are possible without the hard work and dedication of our staff, who I sincerely thank for their work.

As the following paragraphs demonstrate, it was a year of growing volumes of work and an expansion of the Office's jurisdiction. These factors, and the need to meet our statutory functions, made for a challenging year and set the scene for the years ahead.

Growth in complaints and new functions

In 2016–17, our complaint-handling work continued to grow. We received a total of 41,301 approaches compared to 37,753 in 2015–16—an increase of nine per cent.

While some of this increase was attributable to new functions, it is clear complaint numbers are rising, primarily driven by Human Services – Centrelink, private health insurance complaints and growing numbers of complaints about the National Disability Insurance Scheme (NDIS). In an environment of increasing demand for our services, we are focusing on innovation and technological opportunities to deliver our services more efficiently.

40 years of the Commonwealth Ombudsman

While this year was one of significant change for the Office, it was also a year of reflection—with 2017 marking the Office's 40th anniversary.

In April 2017, we celebrated 40 years of operation with the completion of a commemorative book—*Making a difference – 40 years of the Commonwealth Ombudsman*. The publication was launched at our 40th anniversary conference at Old Parliament House on 5 April 2017. Over 100 people attended to hear from national and international speakers on the Office's achievements, contemporary vision for integrity organisations, and the evolving role of ombudsmen.

Investigation reports

During 2016–17, my Office released the following investigation reports which are all available on our website.

- April 2017 – Centrelink’s automated debt raising and recovery system
- January 2017 – Investigation into the processing of asylum seekers who arrived on SIEV Lambeth in April 2013
- December 2016 – Investigation into Indigenous Language Interpreters
- December 2016 – Own motion investigation into people who have their Bridging visa cancelled following criminal charges
- December 2016 – The Administration of Section 501 of the *Migration Act 1958*
- December 2016 – Accessibility of disability support pension for remote Indigenous Australians
- August 2016 – Investigation into the management of the Small Pelagic Fishery Resources Assessment Group
- July 2016 – Investigation into the Tourist Refund Scheme and the application of the 30 minute rule.

Postal Industry Ombudsman

This year also marked the 10th year since the establishment of the Postal Industry Ombudsman, which investigates complaints about postal services provided by Australia Post and certain Private Postal Operators.

New function— VET Student Loans Ombudsman (VSLO)

The new VET Student Loans Ombudsman function, which investigates complaints about the VET Student Loans program and VET FEE-HELP scheme, commenced on 1 July 2017.

In 2016–17, we collaborated with a number of external agencies to take part in community engagement activities to raise awareness of the new function, and to engage with on-the-ground contacts in vulnerable communities. The VSLO Team presented to a wide range of agency and industry stakeholders at the Financial Counselling Australia Conference, and presented to nearly 3,000 vocational education and training providers across Australia as part of the Australian Skills Quality Authority (ASQA) provider briefing sessions.

Expanded function— Defence Force Ombudsman

From 1 December 2016, the Defence Force Ombudsman’s (DFO) functions expanded to provide an independent mechanism to report serious abuse in Defence.

The Office launched an outreach program in early 2017 which involved my staff visiting 40 Army, Navy and Airforce bases over a two-month period, providing 52 presentations to over 2,000 members. The program provided members with an overview of the role of the DFO and information on the new abuse reporting function.

One of the remedies we can offer to people who report serious abuse is participation in the Office’s Restorative Engagement Program. The program is designed to support the reportee to tell their story of abuse to a senior representative from Defence in a private, facilitated meeting called a Restorative Engagement Conference.

National Disability Insurance Scheme (NDIS)

To bolster our understanding of what participants, families, providers and support organisations experience when engaging with the National Disability Insurance Agency (NDIA) and the NDIS, our disability team travelled to a number of regions to meet with key stakeholders. These outreach activities enabled our staff to better understand issues participants were facing as part of the NDIS rollout and some of the barriers and challenges to seeking assistance and lodging complaints.

Expanded function—ACT Ombudsman

Under a Services Agreement between the ACT Government and my Office, I am also the ACT Ombudsman. In 2016–17, this function was expanded to include the ACT Reportable Conduct Scheme (the scheme) which commenced on 1 July 2017.

The scheme addresses employment-related child protection issues and covers certain employers who work with children.

We prepared for our new role by establishing relationships with child protection services, existing regulators, professional oversight bodies and employers in the ACT. From March to July 2017, the Office presented 31 information sessions to more than 750 attendees, most of which represented employers covered by the scheme. In addition, resources and practice guides were published by the Office to help employers understand their obligations under the scheme.

International engagement

Our continued partnerships with our allied integrity institutions in the Asia-Pacific region are important to my Office. In 2016–17 the Department of Foreign Affairs and Trade funded the Office's delivery of an International Program to improve the governance and accountability of integrity agencies in the Asia-Pacific region.

We delivered three programs: a partnership program with the Ombudsman Republik Indonesia, a twinning program with the Ombudsman Commission of Papua New Guinea, and the Pacific Governance and Anti-Corruption Program with seven Pacific Island countries.

Law Enforcement Ombudsman

It was another busy year for the Law Enforcement Ombudsman function of my Office.

In 2016–17 we received 290 complaints about the Australian Federal Police (AFP), compared to 286 in 2015–16.

As well as our regular engagement with the AFP Professional Standards (PRS), such as presenting at induction programs for new investigators, we monitored aspects of the AFP's cultural reform agenda. In particular, we noted the AFP's pro-active response to the report *Cultural Change: Gender Diversity and Inclusion in the Australian Federal Police*, which detailed the findings of a comprehensive study of diversity and inclusion in the AFP, by former Sex Discrimination Commissioner Elizabeth Broderick. This work will continue during 2017–18.

Private Health Insurance Ombudsman

The private health insurance complaint workload has continued to grow. After several years where private health insurance complaint levels remained steady, the past three years have seen an increase. In 2016–17, we received 5,750 private health insurance complaints, compared to 4,416 in 2015–16 and 4,265 in 2014–15. Similarly, the number of enquiries relating to private health insurance has also increased. In our consumer information and advice role, we received 3,749 consumer information enquiries in 2016–17, of which 67 per cent were received through consumer website privatehealth.gov.au

Looking forward

The Office's 40th anniversary was a time of reflection on the Office's achievements and its place in the administrative landscape. It is not, however, cause for complacency.

Looking forward, the Office confronts many challenges. Firstly, we need to ensure that people who come to us for help receive a service that is fair, professional and as useful as possible. Yet, given the increasing volumes of complainants, we must think carefully about our business models and priorities so that those who need us most can access our services, and where possible, we make use of technology to find the most efficient way to assist people.

Secondly, while the Office's new functions are at various stages of implementation as we enter the year, it will be critical during 2017–18 to execute them well. At the time of writing, for example, we had already received around 2,000 complaints about historic VET Fee Help debt issues that are placing an

immediate strain on the new VET Student Loans Ombudsman Team. We need to work closely and with a sense of urgency with relevant agencies to look for remedies for these complainants, where it is possible and fair to do so.

Thirdly, we need to maintain delivery of critical oversight functions to ensure the public can have confidence in the manner in which law enforcement and other agencies exercise certain intrusive or covert powers.

Finally, while managing individual complaints is important, of greater systemic importance is maintaining a critical eye on areas of complaints that highlight trends or issues that need to be addressed at the program or policy design and implementation level. In this context, we will maintain a particular focus on the rollout of the National Disability Insurance Scheme, further reform at the Department of Immigration and Border Protection and the yet to be created Department of Home Affairs, and various elements of welfare reform and service delivery.

We will need to do all of these things within a tight resource environment, though given the track record of our staff, I am confident we will succeed.



Michael Manthorpe PSM
Commonwealth Ombudsman



PART 2—OVERVIEW OF THE OFFICE

PART 2—OVERVIEW OF THE OFFICE

Roles and functions

The Office of the Commonwealth Ombudsman (the Office) is a non-corporate Commonwealth entity established under the *Ombudsman Act 1976* (the Act). The Act came into effect on 1 July 1977 and is administered by the Prime Minister.

The Commonwealth Ombudsman has seven major functions:

- complaint investigations
- own motion investigations
- compliance audits
- immigration detention oversight
- oversight of the Commonwealth Public Interest Disclosure scheme
- accepting and responding to reports of serious abuse within Defence
- private health insurance consumer information.

Table 1 – These functions are carried out by the branches as follows:

Branch	Complaint investigations	Own motion investigations	Compliance audits	Immigration detention oversight	Oversight of the Commonwealth Public Interest Disclosure scheme	Accepting and responding to reports of serious abuse within Defence	Private health insurance consumer information
Executive	■	■	■	■	■	■	■
Operations	■	■					
Integrity	■	■	■		■		
Defence	■	■				■	
Immigration, Industry and Territories	■	■	■	■			
Social Services, Indigenous and Disability	■	■					
Corporate Services (including Private Health Insurance team)	■	■	■				■

The Commonwealth Ombudsman has jurisdiction over all Commonwealth entities and their contracted service providers, subject to some specific statutory exclusions (such as the intelligence agencies). The Office also oversees the activities of a range of private sector organisations, including:

- private health insurers
- some postal operators, and
- some providers of education services to overseas students.

The Commonwealth Ombudsman has the following separate titles that describe specific functions and powers:

- Defence Force Ombudsman (DFO)—to investigate actions arising from the service of a member of the Australian Defence Force (ADF). The DFO can investigate complaints from current or former members of the Australian Defence Force about administrative matters relating to Defence agencies (such as the ADF and the Department of Veterans' Affairs). From 1 December 2016 the DFO's functions were expanded to provide an independent mechanism to report serious abuse in Defence.
- Postal Industry Ombudsman (PIO)—to investigate complaints about Australia Post and private postal operators that elect to register with the Postal Industry Ombudsman scheme.
- Overseas Students Ombudsman (OSO)—to investigate complaints from overseas students about private education providers in Australia. The OSO also gives private registered providers advice and training about best practice for handling complaints from overseas students.
- Private Health Insurance Ombudsman (PHIO)—to protect the interests of private health insurance consumers. This is done in a number of ways including dispute resolution, identifying systemic issues within the practices of private health funds and providing advice and recommendations to government and industry. The PHIO can deal with complaints from health fund members, health funds, private hospitals or medical practitioners, however, complaints must be about a health insurance arrangement.
- Immigration Ombudsman—to investigate complaints and undertake own motion investigations about the Department of Immigration and Border Protection. The Ombudsman has a specific statutory reporting function to report to the Minister on people who have been detained for more than two years and inspects immigration detention facilities.
- Law Enforcement Ombudsman—to investigate conduct and practices of the Australian Federal Police (AFP) and its members. In addition, under the AFP Act, the Ombudsman is required to review the administration of the AFP's handling of complaints, through inspection of AFP records. The results of these reviews must be provided to the Parliament on an annual basis.
- VET Student Loans Ombudsman (VSLO)—to investigate complaints from students studying a diploma, advanced diploma, graduate certificate or graduate diploma course, who have accessed the VET FEE-HELP or the VET Student Loans programs to cover the cost of their studies, in full or in part. The VSLO also provides vocational education and training providers with advice and training about best practice complaint-handling.

The Commonwealth Ombudsman is also the ACT Ombudsman. The ACT Ombudsman’s role is delivered by the Office of the Commonwealth Ombudsman under a Service Agreement between the ACT Government and the Commonwealth Ombudsman. A Senior Assistant Ombudsman and a dedicated team have day-to-day responsibility for managing the relationship with ACT agencies and the ACT community. Our Operations Branch handles complaints about ACT Government agencies, ACT Policing and our National Assurance and Audit Team undertakes inspections of policing.

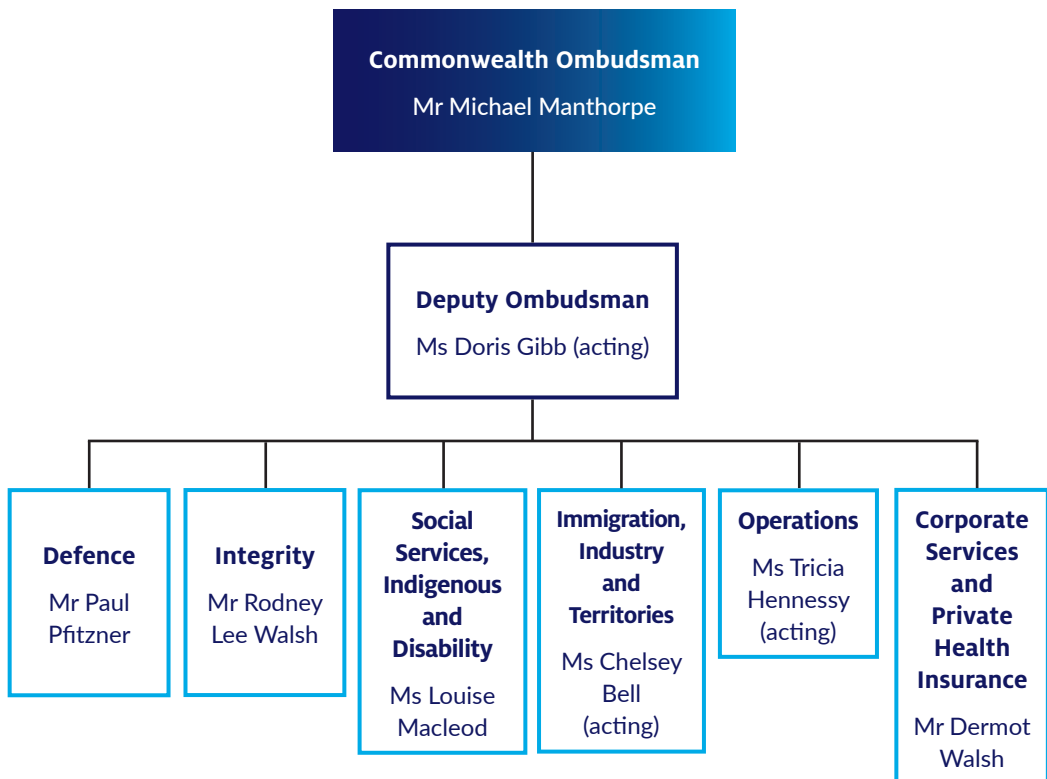
Additional information is located in the *ACT Ombudsman Annual Report 2016-17*.

Organisational structure

The Office of the Commonwealth Ombudsman is located in Canberra, Adelaide, Brisbane, Melbourne, Perth and Sydney.

The Ombudsman and Deputy Ombudsman are statutory officers appointed under the *Ombudsman Act 1976*. 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.

Figure 1 – Executive and Senior Management structure at 30 June 2017



Senior Leadership Group members



Senior Leadership Group (L to R): Chelsey Bell, Paul Pftzner, Louise Macleod, Michael Manthorpe, Fiona Sawyers, Rodney Lee Walsh, Dermot Walsh and Doris Gibb. Photo taken in August 2017.

Michael Manthorpe – Commonwealth Ombudsman



Michael Manthorpe PSM was appointed on 8 May 2017 as Commonwealth Ombudsman for a five year term. Coming to the role from the Department of Immigration and Border Protection, where he led the Visa and Citizenship

Services Group, he brings with him a wealth of experience from his many years in senior leadership roles across the public service.

Prior to joining the Department of Immigration and Border Protection in 2013, Michael was with the Department of Education, Employment and Workplace Relations and its predecessors for 25 years, where he worked across program, policy, corporate and strategy roles.

He was awarded the Public Service Medal in 2010 for his leadership of the government's handling of the insolvency of ABC Learning childcare centres.

Michael grew up in Queensland and studied journalism and history at the University of Queensland.

Doris Gibb – Deputy Ombudsman (acting)



Doris Gibb joined the Office in June 2013 as Senior Assistant Ombudsman for Immigration and Overseas Students. The branch has since expanded to include the Postal Industry Ombudsman, Indian Ocean Territories and the ACT Ombudsman.

Her career in the Australian Public Service started in 1995 after 12 years with the Royal Australian Air Force. She has performed a range of leadership roles across the public service and has led several public policy initiatives in Centrelink, Department of Education, Employment and Workplace Relations, the Defence Materiel Organisation and the Attorney-General's Department.

Doris has an Executive Masters in Public Administration and is currently undertaking a Graduate Certificate of Law at the Australian National University. She is also a convenor of the Canberra Australian and New Zealand School of Government Alumni.

Her experience ranges from delivery of unemployment services, to the formation of industry policy for small business.

Rodney Lee Walsh – Senior Assistant Ombudsman, Integrity Branch



Rodney Lee Walsh joined the Office in July 2011. The branch is responsible for statutory monitoring to Parliament on law enforcement matters, as well as the Public Interest Disclosure scheme and the International Program.

Rodney is a lawyer and mediator by training; inaugural convenor of the Commonwealth Complaint-Handling Forum and, since 2005, has held a range of SES roles including IT applications development, senior executive lawyer, organisational strategy, and state and national manager delivering a range of workplace relations inspectorate and employment programs.

Louise Macleod – Senior Assistant Ombudsman, Social Services, Indigenous and Disability Branch



Louise joined the Office in July 2016. Her public service career spans over 15 years in various leadership roles, conducting investigations, compliance monitoring and dispute resolution in agencies such as the

Administrative Appeals Tribunal, the Australian Competition and Consumer Commission, the Energy and Water Ombudsman Victoria, the Queensland Justice and Attorney-General's Dispute Resolution Centres and the Family Court of Australia. Prior to this, Louise spent seven years as an officer in the Australian Army and served on operations in East Timor.

Louise is a lawyer and mediator by training. She was part of the 2014–15 Tribunals Amalgamation Taskforce at the Attorney-General's Department and recently led the own motion investigation team into the Centrelink Online Compliance Intervention for the Ombudsman's Office.

In July 2017, Louise transferred to the role of Senior Assistant Ombudsman, Operations Branch.

Chelsey Bell – Senior Assistant Ombudsman (acting), Immigration, Industry and Territories Branch



Chelsey Bell joined the Office as director of the ACT Ombudsman Team in July 2016 and commenced as acting Senior Assistant Ombudsman for the Immigration, Industry and Territories Branch in June 2017.

In addition to carrying out immigration related functions, the branch supports specialist roles related to the ACT, the postal industry, and both overseas and VET students. The acting Deputy Ombudsman Doris Gibb is the substantive Senior Assistant Ombudsman for the branch.

Chelsey's previous roles have had a strong focus on administrative law, public policy and human rights. She has worked for the Attorney-General's Department (Office of International Law), the Victorian Equal Opportunity and Human Rights Commission, Safe Work Australia and the Administrative Appeals Tribunal.

Tricia Hennessy – Senior Assistant Ombudsman (acting), Operations Branch

Tricia Hennessy has worked for the Commonwealth Ombudsman for 12 years in various roles, including Senior Investigation Officer and Policy Governance Officer. For the past four years she has been the director of the

Operations South Team, which comprises public contact and investigation officers located in several states. She commenced a period as Acting Senior Assistant Ombudsman (SAO) of the Operations Branch, following the retirement of Ms Helen Fleming and pending the selection of a new permanent SAO. Tricia previously worked for the Social Security Appeals Tribunal and the Department of Human Services – Centrelink. She is based in Adelaide.

Paul Pfitzner – Senior Assistant Ombudsman, Defence Branch



Paul Pfitzner joined the Office in September 2016 as part of the expansion of the Defence Force Ombudsman jurisdiction relating to reports of serious abuse within Defence. He is currently responsible for matters relating

to Defence, both reports of serious abuse and influencing broader systemic improvement in Defence agencies. He also leads the work on the ACT Ombudsman's new Freedom of Information role.

Paul has been in the Commonwealth public service since 2003, most recently in senior roles in the Attorney-General's Department. He has worked in a variety of legal policy roles, relating to human rights, legal services, national security and criminal justice.

Dermot Walsh – Chief Operating Officer, Corporate Services Branch and Private Health Insurance



Dermot Walsh joined the Office in November 2014 as the Chief Financial Officer. He moved to the Chief Operating Officer role in October 2015 and leads the Corporate Services Branch and also the Private Health

Insurance Ombudsman function.

Before joining the Office, he held leadership roles in both the Australian and ACT Public Service, in a diverse range of organisations including the ACT Land Development Agency, ACT Economic Development Directorate, Comcare, the National Gallery of Australia, the Defence Service Homes Insurance Scheme and the Department of Veterans' Affairs.

Dermot has a Bachelor of Commerce and is a Fellow member of CPA Australia.

Fiona Sawyers – Senior Assistant Ombudsman, Social Services, Indigenous and Disability Branch



Fiona Sawyers joined the Office in July 2017 as Senior Assistant Ombudsman for Social Services, Indigenous and Disability Branch. Prior to joining the Office, Fiona held leadership roles in a variety of

Commonwealth agencies and departments, including most recently in Indigenous education at the Department of the Prime Minister and Cabinet.

Fiona has over 20 years' experience in social policy and program management, primarily at the Department of Social Services and its predecessors where she has worked on welfare and family payments, disability policy and housing support. Fiona's experience spans program management and implementation, research and evaluation, and policy development.

Fiona has lived and worked in rural NSW and in Canberra, and studied English literature and politics at the University of New South Wales.



PART 3—REPORT ON PERFORMANCE

PART 3—REPORT ON PERFORMANCE

Complaints overview

In 2016–17 we received a total of 41,301 approaches (complaints and other approaches such as calls to request a publication), compared to 37,753 approaches received in 2015–16, an increase of nine per cent.

Of the total approaches received, 34,606 were in-jurisdiction complaints (compared to 31,191 in 2015–16) with 56 per cent of the in-jurisdiction complaints related to the following agencies: the Department of Human Services (Centrelink: 11,867 and Child Support: 1,362), Australia Post (4,109) and the Department of Immigration and Border Protection (2,071). Complaints received about Centrelink increased by 36 per cent over the previous year and comprised 34 per cent of all in-jurisdiction complaints received.

The Office receives approaches by a variety of methods, with telephone being the preferred method, followed by online. Table 2 below shows the trend in how approaches and complaints were received over the last five years.

Complaint-handling

The Office was able to finalise 34,268 in-jurisdiction complaints in 2016–17, a nine per cent increase on 2015–16. Most of these complaints (89 per cent) were able to be finalised without having to commence an investigation.

Of the complaints investigated, 17 per cent required more substantial investigation (categories four and five in the Office's five-category complaint system), with some requiring the involvement of senior managers. This figure is slightly lower than in 2015–16 (19 per cent).

Reviews

The Office has a formal non-statutory review process for complainants who may be dissatisfied with the decision reached by the Office.

As a first step, the investigation officer will reconsider their decision where a complainant indicates they are dissatisfied with that decision. A complainant who remains dissatisfied following the reconsideration may request a review by an officer not previously involved with the matter.

Table 2 – How approaches were received by the Office

Year	Telephone	Online	Post	In person
2016–17	59%	38%	2%	1%
2015–16	58%	38%	3%	1%
2014–15	58%	36%	4%	2%
2013–14	56%	36%	5%	3%
2012–13	57%	35%	6%	2%

In 2016–17, we received 123 requests for review (representing 0.3 per cent of complaints finalised), compared to 104 (0.3 per cent of complaints finalised) received in 2015–16.

In terms of dealing with review requests on-hand at the beginning of 2016–17, together with those received during the year, the Office declined 23 requests, affirmed the original investigation decision in 94 reviews, decided to investigate, or further investigate, 18 complaints and to change the original investigation decision in three. One request for review was withdrawn by a complainant.

The significant proportion of review requests declined is consistent with an increased focus on whether there was any reasonable prospect of getting a better outcome for the complainant.

It should be noted there are instances where some complainants seeking a review do not provide a reason as to why a review should be conducted other than the fact that they do not agree with the investigation officer's decision.

Annual Performance Statement

Statement of Preparation

I, as the accountable authority of the Office of the Commonwealth Ombudsman (the Office), present the 2016–17 Annual Performance Statement of the Office, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act). In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the entity, and comply with subsection 39(2) of the PGPA Act.



Michael Manthorpe PSM
Ombudsman

Purpose statement

The Office is a non-corporate Commonwealth entity established by the *Ombudsman Act 1976* (the Ombudsman Act) and is subject to the PGPA Act.

Our purpose is to:

- provide assurance that the organisations we oversight act with integrity and treat people fairly
- influence systemic improvement in public administration in Australia and the region.

Outcome and program structure

The Office's outcome as described in its Portfolio Budget Statement for 2016–17 is:

'Fair and accountable administrative action by Australian Government entities and prescribed private sector organisations, by investigating complaints, reviewing administrative action and statutory compliance inspections and reporting.'

The Office established 11 KPIs that will enable measurement of performance in achieving this outcome. The results and subsequent analysis of performance are presented within this document.

The Office only has one program, which is 'the Office of the Commonwealth Ombudsman'.

Office results

A summary of the Office's 2016–17 annual performance results against each KPI, as established in the Office's 2016–17 Portfolio Budget Statement and 2016–17 Corporate Plan, is presented below at Table 3. For eight of the 11 KPIs, the target was met.

Table 3 – Office’s strategic objectives, key deliverables, key performance indicators, targets and results

Objectives	Deliverables	Key Performance Indicators	Target	Result
Objective 1 Influence Australian Government entities, prescribed private sector organisations and our regional partners, to improve the administration of their programs and complaint-handling systems	<ul style="list-style-type: none"> Identifying and reporting on systemic issues in public administration, including making recommendations 	KPI 1 – Percentage of recommendations/ suggestions made during an inspection for which progress has been followed up within 12 months of it being made	100%	100%
	<ul style="list-style-type: none"> Influencing Australian Government entities, prescribed private sector organisations and our regional partners to improve complaint-handling systems and administration of programs through stakeholder engagement and guidance 	KPI 2 – Percentage of recommendations made in public reports accepted by entities	75%	91.5%
	<ul style="list-style-type: none"> Identifying and reporting on systemic issues in public administration, including making recommendations 	KPI 3 – Percentage of reports on long term detention cases sent to the Minister within 12 months of the review being received from the department	80%	82.6%
		KPI 4 – Percentage of post-visit reports issued to the department within 90 business days of the inspection being completed	80%	100%

Objectives	Deliverables	Key Performance Indicators	Target	Result
Objective 1 Influence Australian Government entities, prescribed private sector organisations and our regional partners, to improve the administration of their programs and complaint-handling systems	<ul style="list-style-type: none"> Influencing Australian Government entities, prescribed private sector organisations and our regional partners to improve complaint-handling systems and administration of programs through stakeholder engagement and guidance Assistance to regional partners consistent with the Australian Aid priorities 	KPI 5 – Percentage of stakeholders which participated in engagement activities who provided an average of 'satisfied' or 'very satisfied' rating in feedback forms/surveys	90%	99.5%
		KPI 6a – Percentage of outputs delivered under the Australian Aid arrangements	80%	94.7%
		KPI 6b – Percentage of reporting requirements met under the Australian Aid arrangements	100%	100%
Objective 2 Provide an efficient and effective complaint-handling service	<ul style="list-style-type: none"> Ensuring the Office's complaint-handling service is delivered within its service standards 	KPI 7 – Percentage of approaches finalised within the Office's service standards	85%	76.6%

Objectives	Deliverables	Key Performance Indicators	Target	Result
Objective 3 Provide effective oversight of entities' compliance with legislation and policy in the use of selected intrusive or coercive powers	<ul style="list-style-type: none"> Office statutory requirements in relation to oversight of entities' compliance with legislation and policy in the use of selected intrusive or coercive powers are met 	KPI 8 – Percentage of Office's statutory requirements in relation to law enforcement met	100%	100%
	<ul style="list-style-type: none"> Inspecting and reporting on entity's compliance with accountability principles and policy requirements 	Addressed by result for KPI 1 above.		
Objective 4 Provide effective oversight and promotion of the administration of the Public Interest Disclosure scheme for the Commonwealth public sector	<ul style="list-style-type: none"> Office statutory requirements in relation to Commonwealth public interest disclosures are met 	KPI 9 – Percentage of Office's statutory requirements in relation to Commonwealth public interest disclosures met	100%	96.7%
		KPI 10 – Percentage of stakeholders who participated in engagement activities that provided a 'satisfied' or 'very satisfied' rating in feedback forms/ surveys	90%	98.3%
Objective 5 Provide quality and accessible private health insurance information	<ul style="list-style-type: none"> Providing consumers with accurate and up to date private health insurance information 	KPI 11 – Percentage of public users who completed the survey for privatehealth.gov.au who provided a 'satisfied' or 'very satisfied' response regarding the quality of information provided by the website	80%	76.4%

Further detail on these results are listed under each KPI throughout the results section below, which explains the methodology used to calculate results and the linkage to the 2016–17 Corporate Plan.

KPI 1 – Percentage of recommendations/ suggestions made during an inspection for which progress has been followed up within 12 months of it being made

Part of the inspection methodology of the Office is to follow up all issues at every subsequent inspection. As a measure of its success, the Office reports on the percentage of issues that have been followed up.

The data sources for this result are the 2015–16 and 2016–17 inspections calendars.

KPI Source

Office of the Commonwealth Ombudsman 2016–17 Corporate Plan, page 16.

Methodology

Total number of recommendations/ suggestions made during 2015–16 which were followed up within 12 months during 2016–17	KPI Target Achieved Result – 100%
Total number of recommendations/ suggestions made during 2015–16	Target – 100%

Result

The Office produced 63 inspection reports during 2015–16, 54 of which had issues that required follow-up. All 54 issues were followed up within 12 months. The Office did not conduct an inspection in 2016–17 to follow-up on previous surveillance device issues with the Queensland Crime and Corruption Commission because the Commission had not used the relevant power during 2015–16.

The Office's result for KPI 1 is 100 per cent.

KPI 2 – Percentage of recommendations made in public reports accepted by entities

In providing effective oversight of entities' and prescribed private sector organisations' compliance with legislation and policy in the use of selected intrusive or coercive powers, the Office identifies and reports on compliance and provides recommendations to these entities.

To measure its success in persuading entities to improve the administration of their programs and complaint-handling systems, the Office measures the acceptance rate of its recommendations.

Systemic improvement to public administration in one area has the potential to improve public administration generally. Every improvement the Office influences provides greater assurance that the organisations it oversees will act with integrity and treat people fairly.

KPI Source

Office of the Commonwealth Ombudsman 2016–17 Corporate Plan, page 16.

Methodology

Total number of issues identified within a public report for which at least one suggestion or recommendation has been accepted, partially accepted or noted during 2016–17	KPI Target Achieved Result – 91.5% Target – 75%
Total number of issues identified within a public report during 2016–17	

Result

The Office produced 12 publicly released reports with a total of 47 recommendations during 2016–17. Forty-three of the recommendations were accepted.

The Office's result for KPI 2 is 91.5 per cent.

KPI 3 – Percentage of reports on long-term detention cases sent to the Minister within 12 months of the review being received from the department

As part of the immigration detention oversight function, the Office reports 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).

KPI Source

Office of the Commonwealth Ombudsman 2016–17 Corporate Plan, page 16.

Methodology

Total number of reports on long-term detention cases sent to the Minister during 2016–17 within 12 months of s 486N reports being received from the department	KPI Target Achieved Result – 82.6% Target – 80%
Total number of reports on long-term detention cases sent to the Minister during 2016–17	

Result

The Office gives priority to preparing s 486O assessments for people in detention, particularly those held in immigration detention facilities, over people who have been granted a visa and released from detention, who have been removed from Australia, or are held in concurrent detention in correctional facilities. Of 1,675 reviews from the department that were referenced in reports sent to the Minister, 1,383 were sent to the Minister within 12 months of the review being received from the department.

The Office’s result for KPI 3 is 82.6 per cent.

KPI 4 – Percentage of post-visit reports issued to the department within 90 business days of the inspection being completed

The Office is required to submit post-visit reports to the relevant department within 90 business days of completing an inspection of a department facility.

KPI Source

Office of the Commonwealth Ombudsman 2016–17 Corporate Plan, page 17.

Methodology

Total number of post-visit reports issued to the department within 90 business days of the inspection being completed during 2016–17	KPI Target Achieved Result – 100% Target – 80%
Total number of inspection reports issued to the department during 2016–17	

Result

The Office issued 20 post-visit reports in 2016–17. All reports were issued within 90 business days of the inspection being completed.

The Office’s result for KPI 4 is 100 per cent.

KPI 5 – Percentage of stakeholders which participated in engagement activities who provided an average of ‘satisfied’ or ‘very satisfied’ rating in feedback forms/surveys

Another method the Office uses to achieve its first strategic objective is through regular stakeholder engagement. Engagement activities are an enabler for improved Australian public administration through collaboration with agency, private sector and community stakeholders.

The Office measured the feedback from participants at stakeholder engagement activities (including stakeholder forums and communities of practice). This included post-event online surveys and evaluation forms completed by hand.

KPI Source

Office of the Commonwealth Ombudsman 2016–17 Corporate Plan, page 17.

Methodology

Number of respondents satisfied or very satisfied	KPI Target Achieved
Total number of respondents who participate in the survey	Result – 99.5% Target – 90%

Result

The Office conducted numerous stakeholder engagement activities—such as round table discussions, presentations and information sessions during 2016–17. Participants were surveyed after the activities and of the 375 responses received, 373 averaged ‘satisfied’ or better.

The Office’s result for KPI 5 is 99.5 per cent.

KPI 6a – Percentage of outputs delivered under the Australian Aid arrangements

The Office provides assistance to a range of regional partners consistent with Australian Aid priorities through the Department of Foreign Affairs and Trade (DFAT). Regional ombudsmen partners include: Indonesia, Solomon Islands, Papua New Guinea, and other pacific nations under the Pacific Ombudsman Alliance.

Systemic improvement to public administration in one area has the potential to improve public administration generally. Every improvement the Office brings about through its influence provides greater assurance that the organisations being oversighted will act with integrity and treat people fairly.

Data sources used to calculate the results were reviews of grant assessments and related correspondence.

KPI Source

Office of the Commonwealth Ombudsman 2016–17 Corporate Plan, page 17.

Methodology

Number of outputs delivered	KPI Target Achieved
Total number of outputs scheduled to be delivered under grant agreements	Result – 94.7% Target – 80%

Result

The International Team is required to carry out scheduled activities each year in order to comply with obligations under Australian Aid arrangements with DFAT. Out of 19 scheduled activities, 18 were met. Funding for the remaining activity was redirected to the Internship in Australia program with the approval of DFAT.

The Office’s result for KPI 6a is 94.7 per cent.

KPI 6b – Percentage of reporting requirements met under the Australian Aid arrangements

The continuing success of the Office in administering its Australian aid arrangements is contingent on strictly meeting DFAT reporting requirements for grant agreements.

KPI Source

Office of the Commonwealth Ombudsman 2016–17 Corporate Plan, page 17.

Methodology

Number of reporting requirements met	KPI Target Achieved
Total number of reporting requirements to be met under grant agreement	Result – 100% Target – 100%

Result

All reporting requirements for DFAT were met for 2016–17.

The Office’s result for KPI 6b is 100 per cent.

KPI 7 – Percentage of approaches finalised within the Office’s service standards

Receiving and investigating complaints/ approaches is an important function of the Office, as it enables the public to challenge (and seek independent review of) the actions of the entities the Office oversees. While complaint investigations may decrease over time, qualitative information suggests that complaints are becoming more complex and harder to resolve.

The Office aims to be valued for providing a professional and impartial complaint-handling and investigation service and will form a key element in enhancing citizens’ access to justice.

It is incumbent for the Office to provide an efficient and effective complaint-handling service. In line with the Office’s current work practices, complaints are to be appropriately dealt with in a timely manner (as per internal service standards) or escalated accordingly.

The Office measures timeliness of complaint-handling services based on the category of approaches received. Approaches can be assigned to one of five categories based on the complexity of the issue, with Category 1 being the least complex, and Category 5 being the most complex. The service standard timeframe for each category is consistent throughout the Office as follows:

Approach Category	To be finalised within
Category 1	3 working days
Category 2	2 weeks
Category 3	3 months
Category 4	6 months
Category 5	12 months

KPI Source

Office of the Commonwealth Ombudsman
2016–17 Corporate Plan, page 17.

Methodology

Total number of approaches closed by benchmark service standard	KPI Target Not Achieved
Total number of approaches closed	Result – 76.6% Target – 85%

Result

Taking the varied timeframes into account, the following results were calculated for the whole-of-Office during 2016–17.

The closure rate for Category 1 approaches improved from 86.5 per cent during 2015–16 to 96.4 per cent in 2016–17,

however the closure rate for Category 2, 3 and 4 approaches all fell slightly. Although the overall result does not meet the target, it should be noted that the number of approaches closed increased by 3,794 (11.8 per cent) compared to 2015–16. High volumes of approaches about Centrelink debt and private health insurance have impacted the Office’s ability to meet the service standards. The overall result was a slight improvement on 2015–16, and the Office will continue to focus on improving its complaint-handling service by focusing on improving the identification of emerging issues and working with agencies to resolve problems at the earliest possible opportunity.

The Office’s result for KPI 7 is 76.6 per cent.

Approach Category	Approaches closed within timeframe	Approaches closed	Percentage finalised within timeframe
Category 1	12,711	13,440	94.6%
Category 2	11,982	18,790	63.8%
Category 3	2,449	3,053	80.2%
Category 4	409	636	64.3%
Category 5	2	6	33.3%
Total	27,553	35,925	76.6%

KPI 8 – Percentage of Office statutory requirements in relation to law enforcement met

The Office is responsible for overseeing approximately 20 law enforcement agencies and their use of certain covert and intrusive powers. The Office’s role is to provide assurance that agencies are using their powers as Parliament intended, and if not, hold the agencies accountable to the Parliament and the public. Currently, the Office conducts inspections regarding:

- telecommunications interceptions under Chapter 2 of the *Telecommunications (Interception) Act 1979* (Cth) (TIA Act)
- stored communications under Chapter 3 of the TIA Act
- telecommunications data (metadata) under Chapter 4 of the TIA Act
- surveillance devices under the *Surveillance Devices Act 2004* (Cth), and
- controlled operations under Part IAB of the *Crimes Act 1914* (Cth).

In addition to our inspections, the Office also reviews:

- the exercise of coercive powers by the Director of the Australian Building and Construction Commission, and
- the AFP’s administration of Part V of the *Australian Federal Police Act 1979* (Cth).

KPI Source

Office of the Commonwealth Ombudsman 2016–17 Corporate Plan, page 18.

Methodology

Number of statutory requirements met	KPI Target Achieved
Total number of statutory requirements to be met	Result – 100% Target – 100%

Result

Limited detail can be provided publicly due to the sensitivity of operational aspects of this work carried out by the Office. The Office has statutory obligations to carry out inspection regimes on relevant agencies, including auditing relevant records and testing agencies’ processes and systems, and to meet reporting requirements to the Parliament following those inspections.

During 2016–17, the following reports were published:

- Telecommunications Interceptions Ministerial Report (2015–16 annual report, submitted on 21 September 2016)
- Surveillance Devices Report (1 January – 30 June 2016 half-yearly report, submitted on 22 September 2016), and
- Surveillance Devices Report (1 July – 31 December 2016 half-yearly report, submitted on 27 February 2017).

The Office’s result for KPI 8 is 100 per cent.

KPI 9 – Percentage of Office statutory requirements in relation to Commonwealth public interest disclosures met

In providing effective oversight and promotion of the administration of the Public Interest Disclosure scheme for the Commonwealth public sector, the Office has a range of statutory requirements. These include legislation, records and internal standards.

KPI Source

Office of the Commonwealth Ombudsman 2016–17 Corporate Plan, page 18.

Methodology

Number of statutory requirements met	KPI Target Not Achieved
Total number of statutory requirements to be met	Result – 96.7% Target – 100%

Result

The extent to which the Office met its statutory requirements in relation to the Public Interest Disclosure scheme was measured by analysis of the timeliness of allocation decisions made by authorised officers within the Public Interest Disclosure Team. Under the *Public Interest Disclosure Act 2013*, an authorised officer must use best endeavours to make an allocation decision within 14 days of receipt of a disclosure. Over the course of the year, authorised officers assessed 60 attempted public interest disclosures. A number of the allocation decisions were delayed by more than 14 days due to the complexity of the issue and/or resourcing issues.

The Office’s result for KPI 9 is 96.7 per cent.

KPI 10 – Percentage of stakeholders which participated in engagement activities who provided a ‘satisfied’ or ‘very satisfied’ rating in feedback forms/surveys

The Office conducts regular stakeholder engagement and guidance in an endeavour to ensure that its statutory requirements in relation to Commonwealth public interest disclosures are met and to assist entities with the proper implementation of PID within the public sector.

The role of the Office is to support and oversight entity complaint-handling processes. The Office provides assurance to agencies, the Government and the public that the organisations it oversees are dealing with complaints effectively.

The Office measured the feedback from participants at eight Public Interest Disclosure stakeholder engagement activities (including stakeholder forums and communities of practice). Feedback was provided via post-event online surveys and surveys at the finalisation of the event.

KPI Source

Office of the Commonwealth Ombudsman 2016–17 Corporate Plan, page 18.

Methodology

Number of respondents who provided a satisfied or very satisfied response	KPI Target Achieved
Total number of respondents who participated in the survey	Result – 98.3% Target – 90%

Result

A total of 115 attendees provided feedback following these sessions, of which two provided an average response of ‘less than satisfied’ with the Public Interest Disclosure event.

The Office’s result for KPI 10 is 98.3 per cent.

KPI 11 – Percentage of public users who completed the survey for privatehealth.gov.au who provided a ‘satisfied’ or ‘very satisfied’ response regarding the quality of information provided by the website

The Office gauged consumer satisfaction with the private health insurance consumer website via online surveys submitted by users throughout 2016–17. Amongst other questions, users were asked ‘please rate the privatehealth.gov.au website on quality of information’. All excellent, good and average responses were classified as satisfied or better for the purpose of measuring performance against this KPI.

KPI Source

Office of the Commonwealth Ombudsman
2016–17 Corporate Plan, page 18.

Methodology

Number of respondents satisfied or very satisfied	KPI Target Not Achieved
Total number of respondents who participated in the survey	Results – 76.4% Target – 80%

Result

577 of 755 respondents found the quality of information provided on the website to be excellent, good or average.

The Office’s result for KPI 11 is 76.4 per cent.

Analysis

By meeting eight of the 11 KPI targets for 2016–17 and failing to meet three KPI targets by a small margin, the Office has demonstrated its ability to carry out its purpose effectively throughout the year.

With respect to complaint-handling (KPI 7), the Office continues to operate in an environment of constrained resources with an increasing work volume. A total of 41,301 approaches were received during 2016–17, an increase of 9 per cent compared to 2015–16.

The closure rate for Category 1 approaches improved from 86.5 per cent during 2015–16 to 96.4 per cent in 2016–17. However, the closure rate for Category 2, 3 and 4 approaches all fell slightly. High volumes of approaches about Centrelink debt and private health insurance have impacted the Office's ability to meet the service standards. Overall, the closure rate for all categories rose from 76.5 per cent in 2015–16 to 76.7 per cent in 2016–17. The Office will continue to build on the improvements made during 2016–17 by focusing on improving the identification of emerging issues and working with agencies to address problems at the earliest opportunity.

Office statutory requirements in relation to Commonwealth public interest disclosures (KPI 9) recorded an improved result of 96.7 per cent of statutory requirements met, compared to the 2015–16 result of 93.8 per cent. The reasons for the delays were: delays in receiving information from disclosers; voluminous information received from disclosers; and turnover of authorised officers at the

beginning of the financial year. We have improved our internal systems and processes for managing the timeliness of disclosures going forward and we have identified and will be implementing further changes to continue to improve our systems and processes.

While respondent satisfaction with the private health insurance consumer website (KPI 11) did not meet the 80 per cent KPI target, 76.4 per cent of respondents indicated they were satisfied with the quality of information provided on the privatehealth.gov.au website. This is an increase from 75.1 per cent satisfaction rating from respondents during 2015–16. An updated search feature was introduced in February 2017 which may have contributed to the increased result. The Office values the feedback provided in these online surveys and will continue to review the feedback to improve the quality of the information on the privatehealth.gov.au website.

Financial performance

The Office recorded a small operating surplus of \$0.093 million (excluding depreciation and amortisation) in 2016–17 (2015–16: operating deficit \$0.079 million). The 2016–17 operating surplus was broadly consistent with the balanced outcome estimate included in the 2016–17 Portfolio Budget Statements.

Expenses

Total expenses increased from \$24.4 million in 2015–16 to \$29.9 million in 2016–17. The increase was mainly driven by travel costs, property costs and additional staffing costs associated with new functions including, Defence abuse reporting, VET Student Loans Ombudsman and the ACT Reportable Conduct Scheme.

Income

Appropriation revenue increased from \$20.8 million in 2016–17 to \$21.0 million in 2016–17, a marginal increase of \$0.2 million. This is the balance of the additional funding received to manage the new VET Student Loans Ombudsman function and the reduction generated by savings measures and efficiency dividends.

Sale of goods and rendering of services revenue increased from \$2.6 million in 2015–16 to \$8.1 million in 2016–17. The increase mainly related to funding from the Department of Defence for the abuse reporting function and additional revenue from the ACT Government for the Reportable Conduct Scheme. The remaining revenue is represented by the International Program funded by the Department of Foreign Affairs and Trade, and the work undertaken for the ACT Ombudsman function, funded by the ACT Government.

Assets

Total assets increased by \$2.8 million, comprising:

- An increase in cash held (\$0.2 million) up from \$0.15 million in 2015–16.
- Acquisition of assets (\$1.7 million), offset by depreciation and amortisation (\$0.9 million).
- An increase in trade and other receivables (\$11.5 million) up from \$9.6 million in 2015–16.

The Office acquired \$1.7 million in new assets in 2016–17, funded through the Departmental Capital Budget. This included the replacement of ICT infrastructure, purchase of new software, refurbishment of offices and enhancements to core existing ICT systems. Trade and other receivables accounted for a large increase in the total assets, this was primarily associated with the cost recovery arrangements for the Defence abuse reporting function. Assets were checked for impairment and a stocktake undertaken at year end to assure completeness. Assets are maintained and kept in good working order by the Office.

Liabilities

Total liabilities increased by \$2.8 million, which was mainly due to increased payables (\$1.4 million), trade creditors (\$0.4 million), unearned income (\$0.6 million) and salary increase (\$0.4 million). The increase in provisions of \$1.4 million was made up of employee provisions (\$0.9 million), onerous contracts (\$0.5 million) and an increase in make good provisions (\$0.060 million).



PART 4—WHAT WE DO

PART 4—WHAT WE DO

Social Services agencies and programs

Department of Human Services

In 2016–17, the Office received 13,832 complaints about Department of Human Services (DHS) programs. This represents a 30 per cent increase compared to the 10,662 received in 2015–16. This was largely due to an increase in the number of Centrelink complaints.

The department delivers a range of payments and services to millions of people across Australia.³ This includes services delivered through Centrelink and the Child Support

system. Our Office acknowledges that it is inevitable that errors and delays will occur in an operation of this scale. However, we also recognise that this can affect some of the most vulnerable members of our community. As a result, our Office works with DHS to improve service delivery.

Table 4 – DHS complaint trends

DHS Program	2015–16	2016–17	Change
Department of Human Services ⁴	508	603	19%
Centrelink	8,702	11,867	36%
Child Support	1,452	1,362	-6%
	10,662	13,832	30%

3 Department of Human Services Annual Report 2015–16, page VIII

4 Complaints about payments and services DHS delivers that are not part of the Centrelink or Child Support programs. For example, Medicare and early release of superannuation benefits.

CASE STUDY

Cessation of cheque payments

The 2015–16 Budget announced the phase-out of cheque payments for all Centrelink benefits from 1 January 2016. Payments would, in future, be made directly into customers' bank accounts or their payment nominee's bank accounts. DHS advised there would be no exceptions to this requirement.

Following complaints to our Office, we commenced an investigation. Our investigation revealed that as at 1 March 2016, 31 customers had payments suspended or cancelled due to not providing bank account details. Of these, 23 were Indigenous people living in remote communities, including 15 people living in residential aged care facilities. By 1 September 2016, payments had been restored to 25 customers and four were not receiving payments for reasons unrelated to the cessation of cheques. One customer was deceased. DHS explored a number of different

payment options for one customer who did not want to operate a bank account.

We provided feedback to the department about a number of matters we consider could have been better managed, including:

- providing an adequate transition period, particularly for vulnerable customers
- using the correct legislative powers to avoid customers' payments being unlawfully suspended/cancelled
- proper planning and consideration of vulnerable customers from the outset
- responding to our investigation in a timely manner.

DHS took our feedback into account in a post implementation review of the measure and advised our feedback would be considered in the implementation of future program changes.

CASE STUDY

Payment of Newstart while participating in New Enterprise Incentive Scheme

Paul was receiving the newstart allowance when he started participating in the New Enterprise Incentive Scheme (NEIS). When the Department of Employment notified Centrelink that Paul was participating in the NEIS, Paul's newstart allowance was automatically cancelled. A person cannot usually receive newstart allowance and NEIS payments at the same time. However, Paul was eligible to receive partial payments of newstart allowance because he had a dependent child in his care.

DHS explained to us that, although a person may be eligible to receive a partial payment of newstart allowance while participating in the NEIS, their payments are automatically cancelled when Centrelink is notified they have commenced in the NEIS. Centrelink relied on the NEIS participant to contact them

after the cancellation, so the newstart allowance could be restored. In Paul's case, his eligibility for a partial payment was not identified during his contact with Centrelink after commencing in NEIS, so the newstart allowance was not restored.

Following our investigation, DHS reviewed the decision to cancel Paul's newstart allowance and paid him arrears. DHS also reviewed its NEIS procedures and implemented processes to proactively identify and contact NEIS participants who may be eligible to receive a partial newstart allowance payment after they commence NEIS.

4 WHAT WE DO

DHS delivers a range of social security and other payments and services to people through Centrelink. Complaints about Centrelink represent a substantial proportion of complaints to our Office. This is not surprising considering the size and complexity of its service delivery responsibilities.

In cases where a person is vulnerable or requires help to make a complaint about Centrelink to DHS, our Office continues to use a complaint transfer arrangement. This means the complaint is passed directly to DHS on the understanding that the complainant may come back to us if they have not been contacted within five working days or the complaint has not been resolved.

CASE STUDY

Compensation for poor advice

Ming was in receipt of disability support pension (DSP). Prior to departing Australia in May 2015, Ming contacted Centrelink on several occasions for advice about how overseas travel would affect her DSP. Ming told Centrelink her departure and return date and understood, from the advice provided, that her DSP would be restored when she returned to Australia. However, the advice did not align with the changes to the portability rules which had occurred in January that year, which reduced portability from six weeks absence to 28 days during a 12 month period.

As Ming was overseas for longer than four weeks, Centrelink correctly suspended her DSP and, as she remained overseas for a further 13 weeks, her DSP was then cancelled. Ming was unable to reclaim DSP because she is of age pension age. However, she is not eligible to receive age pension as she is not yet residentially qualified. Centrelink granted Ming a Widow Allowance instead, which is paid at a lower rate than DSP.

Ming claimed compensation from Centrelink, saying that its staff incorrectly advised she could have her payments restored if she

returned within 19 weeks. She sought compensation for the difference between the Widow Allowance and DSP from the date of her return to Australia until the time she is able to claim age pension (which is paid at the same rate as DSP). Centrelink initially refused Ming's claim so, she approached our Office to make a complaint.

We investigated the complaint and asked DHS to reconsider the decision. In our view, Ming had provided Centrelink with her expected return date to Australia and it was therefore reasonable for Centrelink to have told her that her DSP would be cancelled prior to that date. DHS agreed that defective administration had occurred and made Ming an offer of compensation.

We also suggested that DHS consider revising the information provided to staff on DSP portability to prompt a discussion about the possibility of cancellation of DSP. DHS agreed to enhance Centrelink procedures to provide greater clarity for staff.

Significant Issues

Table 5 – Most common complaint issues⁵

Issue	Number
Non-program/Service delivery	2,065
Newstart allowance	1,962
Disability support pension	1,842
Age Pension	1,301
Debt/Automated data matching	849

The Office continued to monitor a number of issues of interest. During 2016–17, the most significant of these were:

- Centrelink Online Compliance Intervention system
- Centrelink debt recovery
- various aspects of the disability support pension (DSP)
- various aspects of Centrelink Authorised Review Officer reviews.

The Office has continued regular engagement with DHS staff to discuss and resolve systemic issues in Centrelink complaints, through scheduled quarterly meetings and ad hoc meetings by telephone or in person. Overall, the Office continues to monitor systemic issues arising and make recommendations both formally and informally in relation to strategic improvements.

Reports

Centrelink's automatic debt recovery system own motion investigation

In 2015–16, the Office liaised with DHS about improving customers' experience of Centrelink debts. DHS' management of Centrelink debt and the customer experience continued to be a focus for the Office in 2016–17. In July 2016, Centrelink launched a new online compliance intervention (OCI) system for raising and recovering debts. After the OCI system was implemented, the Office received many complaints from people who had incurred debts under the OCI. As a result, the Office considered the issue from a systemic perspective and, in April 2017, the Ombudsman published an investigation report into Centrelink's automated debt raising and recovery system.

The Office was satisfied the data matching process itself was unchanged, the debts raised by the OCI were accurate based on the information available to DHS at the time of decision, and it is reasonable for DHS to ask customers to explain discrepancies as a means of safeguarding welfare payment integrity. We found however, the OCI's initial messaging to customers, both through its letters and in the system itself, was unclear and did not include crucial information. Many of the OCI's implementation problems could have been mitigated through better project planning and risk management at the outset, such as more rigorous user testing, a more incremental rollout and better communication to staff and stakeholders.

We acknowledged the changes DHS had made to the OCI since the initial rollout, noting the changes had been positive and improved the usability and accessibility of the system. The Office also made recommendations about where further improvements could be made. DHS agreed with all of the recommendations.

5 A single complaint may reflect more than one issue. In turn, the total number of issues reported will usually exceed the total number of complaints.

CASE STUDY

Failure to collect

Samira complained about the department's failure to collect child support. In September 2015, she had opted for DHS to collect child support on her behalf, estimating arrears at that time to be approximately \$3,000. Samira provided DHS with information about the paying parent, Hamish's employment and banking details, but received no payments. When she complained to the department, she was told she needed to wait until Hamish lodged his tax return. Samira contacted our Office and we investigated her complaint.

DHS advised us that in October 2015 it had spoken with Hamish and he had provided his employer's details and asked for employer deductions to commence. DHS issued the employer with a notice under s 120 of the *Child Support (Registration & Collection) Act 1988* (an inquiry notice). The employer responded to that notice advising that Hamish was not an employee. The department also made other inquiries but was unable to identify a collection avenue.

In December 2015, DHS received advice from an inquiry notice issued to a bank that it held several accounts for Hamish. One account included regular deposits made by the company Hamish had named as his employer. However, a second inquiry notice was not issued to Hamish's employer until April 2016.

In response to the second notice, the employer again responded advising that Hamish was not an employee. In late June 2016, DHS then telephoned the employer who confirmed that Hamish was in fact an employee. The company explained the previous confusion was due to the operation of its two separate payroll sections: one for casual employees and one for permanent employees, with neither section able to access both payroll systems. Employer deductions were set up for Hamish's child support liability and the arrears that had accrued.

DHS advised our Office that further follow-up action with the employer should have occurred at an earlier date. DHS should have followed up with the employer when it first received the information from the bank, about the payments made by the employer into Hamish's account, which contradicted the employer's response to the two inquiry notices issued.

DHS further advised that it had undertaken a review of its procedures in relation to information gathering powers. As a result, it had updated its guidelines to staff to include steps to conduct further investigations if a response to an inquiry notice does not align with other information held by the department.

DHS' Child Support program has a variety of functions relating to the transfer of payments between separated parents or other carers of eligible children. The Ombudsman has jurisdiction to investigate complaints about DHS' administration of child support. The number of complaints received about Child Support remained relatively stable in 2016–17.

The major emerging complaint themes about Child Support are collection and enforcement, assessment, change of assessments and customer service. This year our Office received briefings from DHS about child support activities and trials undertaken relating to intensive collection activities. The department advised it has expanded its Departure Prohibition Orders (DPO) and enforcement teams. Our Office will continue to liaise with the department on this issue and monitor related complaints.

Child Support system

The department advised that the implementation of the redesigned child support IT system has proven to be more complex and costly than originally estimated. Implementation was expected to be complete by 30 June 2017. We are monitoring the implementation closely for any adverse impact on child support customers. We will continue to engage with DHS and expect to receive regular updates from the department.

Department of Social Services

Our Office has oversight of the Department of Social Services (DSS), the agency responsible for social security legislation and policy.

Garnishee orders

The *Social Security (Administration) Act 1999* requires that a 'saved amount' be left in a person's bank account to ensure they are able to support themselves. That amount is four weeks of income support payments, less the amount of those payments already spent. However, timing of garnishee orders and administrative processes can mean that, for some people, the saved amount is zero.

During 2016–17 our Office, in collaboration with the NSW Ombudsman, has facilitated engagement with key stakeholders about options to reduce the impact of garnishee orders on people already experiencing, or at risk of, severe financial hardship. This included:

- producing a joint paper on the issue, that was provided to DSS, the electronic Statutory Information and Garnishee Notices (eSIGN) Management Committee, the Financial Ombudsman Service and the states that contributed information to the paper, and
- leading a discussion at the Australia and New Zealand Ombudsman Alliance's Financial Hardship Interest Group meeting. Following that meeting, an options briefing was provided to the interest group for feedback.

We expect to meet with DSS on this issue in early 2017–18.

National Disability Insurance Agency

The National Disability Insurance Agency (NDIA) is the agency responsible for administering the National Disability Insurance Scheme (NDIS), a Commonwealth scheme that provides funding to people with a permanent and significant disability to assist them to participate in everyday activities. People who are granted access to the NDIS are referred to as participants.

The NDIS was run on a trial basis in a number of trial sites from July 2013. In July 2016, the NDIA commenced gradually implementing the Scheme across the rest of Australia. The arrangements for entering the NDIS vary depending on the state or territory in which participants live.

The Commonwealth Ombudsman has jurisdiction to investigate complaints about the administrative actions and decisions of the NDIA, as well as complaints about organisations who are contracted to deliver services on behalf of the NDIA (for example, local area coordinators who conduct information gathering and pre-planning interviews).

Complaint trends

During 2016–17 we received 429 complaints about the NDIA, which is an increase on the 62 complaints we received during 2015–16. This escalation in complaints was not unexpected given that around 90,000 additional participants were due to access the Scheme during the year.

Complaints to our Office have covered many areas of the participant and provider experience, including:

- confusion about timeframes for receiving a plan after access to the Scheme is granted
- dissatisfaction with the mode and location of planning interviews
- delays in providers receiving payment for goods and services delivered
- difficulties using the participant and provider online portals
- delays in having quotes approved, particularly for home modifications and assistive technology
- confusion about how and when a participant may access NDIS funded supports
- confusion about NDIA's internal review and plan review arrangements
- lengthy delays in responding to complaints and requests for review.

The five most common complaint issues for this year are outlined in Table 6. These issues account for almost three quarters of all complaints about the NDIA.

Table 6 – Five most common complaint issues

Issue	Number
Planning	113
Review	92
Complaints service	55
Access request	51
Service delivery	45

Portal problems

In July 2016, the NDIA implemented new online ‘portals’ through which participants and providers can receive and send information to the NDIA. Many people and organisations reported to our Office and to the NDIA, problems they experienced using the portals. In some instances they also reported being unable to submit claims for payment for several months, resulting in financial hardship.

In response to the problems raised, the NDIA provided additional information to support providers and participants in lodging payment claims on the portal. This took the form of regular updates on the NDIA website and direct engagement with people and organisations who continued to experience problems.

The Department of Social Services (DSS) subsequently engaged PricewaterhouseCoopers (PwC) to undertake an audit of the implementation of the NDIA's new ICT system, including the online portals. PwC's report identified a number of areas in which the NDIA, its staff, participants and providers were not properly prepared for the change and made recommendations aimed at ensuring similar problems do not recur as the NDIS continues to be rolled out nationally.

In the second half of the year we received fewer complaints about problems with the portal, although some providers still report difficulties in obtaining adequate support from the NDIA to resolve technical issues as they arise. We continue to investigate those matters and to provide feedback to the NDIA as needed.

Reviews

Throughout this year we have received many complaints from participants and families who are having trouble with the NDIA's review processes. This includes:

- confusion about whether they should ask for an internal review of decision or a plan review
- what will be considered in a review
- whether they have the right to be involved in the review process
- the reasons for the eventual review decision
- whether they have any further review rights and, if so, how they pursue them.

The most common complaint about reviews relates to the time it takes for the NDIA to complete a review and the lack of acknowledgement or updates provided during the process.

In response to our investigations, the NDIA has acknowledged it receives large numbers of review requests and, at the time of publishing, does not have timeliness standards for acknowledging or completing reviews.

Access to robust, transparent and accessible review mechanisms is a key element of good public administration and is particularly important when an agency's decision is subject to significant discretion as is the case with NDIS plans. The NDIA's handling of reviews is likely to be a particular focus for our Office in 2017–18.

Major activities

Stakeholder engagement

Although complaints about the NDIA have increased during 2016–17, we are mindful that many people with a disability are reluctant to complain or may not feel able to do so without significant support. This year, to bolster our understanding of the experience of participants, families, providers and support organisations in engaging with the NDIA and

the NDIA, we have travelled to a number of NDIS regions to meet with stakeholders. This included visits, public events and presentations in the Barwon, East Melbourne and North East Melbourne regions (VIC), Perth Hills region (WA), Barkly and Alice Springs regions (NT), Canberra (ACT), Townsville (QLD) and Western Sydney region (NSW).

These outreach activities also helped us build community awareness of our role in handling complaints about the NDIA.

Submissions

In 2016–17 we made submissions in response to:

- the Productivity Commission's inquiry into *introducing competition and informed user choice into human services* (February 2017)
- the Joint Standing Committee on the NDIS's inquiry into *the provision of services under the NDIS to people with psychosocial disabilities related to a mental health condition* (February 2017)
- the Productivity Commission's inquiry into *the costs of the NDIS* (March 2017)
- the Department of Social Services' discussion paper on an *NDIS code of conduct* (June 2017).

Quality and safeguarding arrangements for the NDIS

In February 2017 the Minister for Social Services announced the release of a Quality and Safeguarding Framework for the NDIS. The Framework was the result of consultation with the Australian community, including our Office, and outlines the arrangements for ensuring the quality and safety of NDIS funded services.

In the 2017 Budget, the government announced it will implement an NDIS Quality and Safeguarding Commission that will have responsibility for registration and oversight of NDIS funded services. It will also have responsibility for taking complaints about these services. The Commission will

commence operations in July 2018 and will gradually assume the responsibilities of the state and territory disability complaints bodies who currently have jurisdiction over NDIS funded (and other disability) services.

We currently work closely with the state and territory oversight bodies to share information about our respective roles in handling complaints about the NDIS and, when needed,

jointly investigate complaints. We will continue to do so during 2017-18 and as the state and territory bodies transfer their responsibility to the Commission in the following years.

Our Office will also have jurisdiction to handle complaints about the Commission once it is established.

CASE STUDY

Communication about access and planning

In January 2017, Jennifer complained to our Office about the delay her son Bailey experienced in receiving an NDIS plan. Jennifer explained that Bailey had received a letter from the NDIA in November 2016 which indicated he had been accepted into the NDIS and the NDIA would contact him soon to make arrangements for a plan.

Jennifer explained she had contacted the NDIA on several occasions since Bailey received the letter, at which time the NDIA told her the area Bailey lives in would not commence implementation until November 2017. This date was twelve months after Bailey was accepted into the Scheme, and Jennifer said she did not know how Bailey would be supported in the meantime.

In response to our investigation, the NDIA:

- advised the letter sent to Bailey was a generic one with the purpose of advising him that he had been granted access to the NDIS
- acknowledged the letter had caused confusion by indicating Bailey would be contacted 'shortly' to commence

planning, despite the fact his local area was almost a year away from commencing rollout

- advised it was progressing changes to its letters to remove the reference to contact occurring 'shortly'
- advised it had sought to better manage expectations by amending its arrangements for assessing access requests to ensure that, unless someone meets the priority access criteria, prospective participants are only able to seek and be granted access up to six months in advance of their local area commencing rollout.

In response to comments we made at the conclusion of our investigation, the NDIA also undertook to include clear advice in access decision letters to participants and families that, until the NDIS commences in their local area, the relevant state or territory government remains responsible for providing disability services to people in their jurisdiction.

CASE STUDY

Communication about participant pathway

Deanne complained to us about the NDIA's refusal to reimburse her son's speech therapist for services they provided to him.

Deanne explained that she received a letter from the NDIA, which advised that her son had been granted access to the NDIS. Shortly after receiving the NDIA's letter, and understanding her son was now able to access NDIS funds, she booked appointments for him with a speech therapist. When the speech therapist attempted to make a claim with the NDIA for the services they provided to Deanne's son, the claim was refused because he did not yet have an NDIS plan. Deanne complained that the NDIA's letter had not made it clear she must wait until her son had a plan before she could purchase supports for him.

Based on the information the NDIA provided in response to our investigation, we were satisfied the NDIA was not able to reimburse the speech therapist for the services they provided to Deanne's son prior to his support plan being approved. However, we suggested the NDIA update its written communications to participants to make it clear that, although they may have been granted access to the Scheme, participants cannot access NDIS funded supports until they have an approved NDIS plan. In its response, the NDIA advised it is working to strengthen the information in its letters to make it clearer to participants when they can commence accessing NDIS-funded supports.

Department of Employment

The Department of Employment has responsibility for the national policies and programs assisting Australians to find employment and work in a safe, fair and productive workplace.

Complaints in 2016–17

During 2016–17, we received 382 complaints about the Department of Employment, which is significantly less than the 499 complaints received in 2015–16. In 2016–17 our Office investigated and finalised 40 complaints.

Within our Office, all complaints about employment service providers are recorded against the agency with the oversight responsibility for the program complained about. This means that complaints concerning the Department of Employment's National Customer Service Line are directed to the agency that has policy responsibility for the employment program. For example, complaints about Disability Employment Services providers are recorded as complaints about the Department of Social Services, complaints about jobactive providers are recorded as complaints about the Department of

Employment, and complaints about Community Development Programme providers are recorded as complaints about the Department of the Prime Minister and Cabinet (PM&C).

Most complaints received about the Department of Employment during 2016–17 concerned the actions of jobactive providers and the National Customer Service Line. The key issues in complaints about jobactive providers included the standard of service provided, job support services provided, quality of complaint-handling and job seekers wanting to change provider.

We have continued to engage with the Department of Employment, and have agreed to formal liaison meetings every six months. In 2016–17, the Department of Employment provided a briefing to our office about the National Customer Service Line.

Clarification of comments in our 2015–16 Annual Report

The Commonwealth Ombudsman’s 2015–16 Annual Report included comments that the jobactive Deed provided no effective way for the Department of Employment to direct that efforts be more targeted and focused on participants’ prior experience. Following consultation with the Department of Employment and further examination of the Deed and relevant guidelines, we recognise the statement was not correct.

We also acknowledge that comments made about receipt and investigation of complaints where it appeared that manifestly unreasonable referrals of job seekers to activities had occurred were not substantiated by the complaints we received in the relevant period.

We will continue to monitor any trends and systemic issues that arise in complaints we receive about the Department of Employment, as we do for all agencies within our jurisdiction.

INDIGENOUS

CASE STUDY

Indigenous language interpreters

Holly is an Aboriginal non-English speaking woman. DHS conducted a tape recorded (prosecution) interview with her without the assistance of an Indigenous language interpreter. We reviewed a transcript of the interview and asked DHS a series of questions about its handling of the interview.

DHS acknowledged, on review of the transcript, it would have been appropriate to have engaged an interpreter for Holly, rescheduled the interview to allow her to get legal advice, and for DHS to have arranged an accredited interpreter.

In response to contact from our Office, DHS said it would make the e-learning package ‘Indigenous Interpreters’ mandatory for investigators.

This year saw the completion of the Office’s Indigenous Accessibility Review, undertaken by Aboriginal communications company, Gilimbaa Pty Ltd. This review involved Gilimbaa considering all elements of the Office’s operations, to provide guidance about how we can ensure our services are accessible to Indigenous people irrespective of where they live in Australia. This project also aimed to enhance our capacity to handle Indigenous complaints effectively and appropriately, and contribute to a ‘no wrong door’ approach for Indigenous complaints.

CASE STUDY

Centrelink debt and use of Indigenous language interpreters

Maggie is an Aboriginal non-English speaking woman. She is also illiterate and innumerate. She lives in a remote town several hours from the nearest Department of Human Services (DHS) Customer Service Centre and has no reliable access to telephone and internet services.

Maggie incurred 23 small debts between November 2011 and August 2015. She had difficulty declaring her income correctly and consequently her local Centrelink office had made arrangements for her employer to email her payslips to DHS each fortnight. However, while Maggie's employment pay period and Centrelink reporting day were aligned to Fridays, her payslips were not generally available from her employer until the following Thursday. She had her reporting requirements repeatedly explained to her in English and her language needs were not noted in her record.

This complaint was included in our own motion report into the accessibility of Indigenous language interpreters to highlight issues around staff training and awareness

of the need to use interpreters (rather than family members) and the importance of ensuring that a customer's record accurately identifies their first language.

In Maggie's case, DHS identified four local servicing solutions that could be offered to improve her ability to accurately declare her earnings. While not all of these options are scalable nationally, the department indicated it would conduct an immediate review of key operational materials to better clarify available options to help people calculate and declare employment income correctly. In the medium to long term, DHS will explore opportunities to define clear referral pathways for claimants who have continuing difficulty declaring their earnings, so that individually tailored solutions can be found.

In the course of this complaint, DHS also agreed with our Office that there is value in authorised review officers undertaking refresher training in applying debt waivers and using Indigenous language interpreters.

The review focused on three key areas:

- communication and engagement with Aboriginal and Torres Strait islander audiences
- an enhanced internal strategy for handling Indigenous complaints
- staff training and development to support implementation activity across the Office.

Implementation of the report and recommendations will be a priority for the Office in 2017–18.

Reconciliation Action Plan

During the year we started working on our second Reconciliation Action Plan (RAP). This is being developed by a working group of staff from across the Office.

The new RAP will be underpinned by the actions from the accessibility review. It will focus on enhancing relationships with our Aboriginal and Torres Strait Islander stakeholders, implementing programs for cultural learning, employment of Aboriginal and Torres Strait Islander people and supplier diversity.

The RAP is a vital part of our continuing commitment to an Office that is culturally aware, respectful, collaborative, inclusive and trusted.

Events

The highlight of our National Reconciliation Week activities was an Aboriginal Art Workshop held in Canberra which brought together staff from each state.

The Office held a stall at the Indigenous Expo at Yarramundi markets at the Aboriginal and Torres Strait Islander Cultural Centre in Canberra in May 2017.

We coordinated a number of Community Round Tables and stakeholder events throughout 2016–17. Round Tables provide an opportunity for local legal, community and support organisations to talk to us about issues they and their clients are experiencing with ACT or Australian Government agencies. They also allow us to talk with stakeholders about the work we do.

Outreach

As part of our outreach program, we met with a number of Indigenous communities in the Alice Springs and Tennant Creek areas of the Northern Territory during 2016–17. These meetings provided valuable insights into a range of issues, including the use of Indigenous Language Interpreters, the administration of the Community Development Programme, the roll-out of the National Disability Insurance Scheme to Aboriginal and Torres Strait Islander peoples, and issues related to the delivery of Centrelink services in remote communities.

From 14 May to 24 June, the Office participated in the Jawun program, which partners with the Australian Public Service and the corporate sector to develop greater self-sufficiency for Indigenous people and their communities. Jawun aims to share skills and knowledge to build the capacity of Indigenous people and organisations and increase cultural awareness.

Community of Practice

We held our second Commonwealth Government Indigenous Complaint-Handling Community of Practice event in Canberra in April. Thirty five staff from 10 Commonwealth agencies participated. The theme for the symposium: *Engaging meaningfully with Indigenous Australians using digital media—opportunities and challenges for government..*

The highlights included:

- Aunty Violet Sheridan opened the event with a welcome to country on behalf of the Ngunnawal people
- Professor Peter Radoll, Dean of Aboriginal and Torres Strait Islander Leadership and Strategy at the University of Canberra, delivered a keynote address about how Indigenous Australians use media
- Ten speakers across two panels spoke about opportunities, challenges and lessons learned by business, welfare, youth and government sectors. These discussions also challenged the negative discourse relating to Indigenous issues and the 'narrative of the downtrodden'.

Feedback from the symposium indicated it was a successful event that provided valuable insights into the complexities, challenges and opportunities for government agencies using these mediums to engage with Aboriginal and Torres Strait Islander peoples.

Working groups

Right to Complain working group and ANZOA Indigenous Complaint-Handling interest group

During 2016–17 the Office coordinated an Indigenous Right to Complain working group, comprising representatives from a number of agencies we oversee and also facilitated the

Australian and New Zealand Ombudsman Association's (ANZOA) Indigenous Complaint-Handling interest group.

The purpose of these groups was to identify and share best practice in Indigenous complaint-handling and promote a 'no-wrong-door' approach across sectors.

Issues of interest

We continue to monitor a number of important issues of interest. This year, the most significant of these were:

- use of Indigenous language interpreters
- accessibility of disability support pension for remote Indigenous people
- Indigenous Centrelink debt
- income management and the cashless debit card trials
- Centrelink call wait times in remote areas
- Centrelink Agent Services
- administration of the ABSTUDY program.

Reports and own motion reports

Disability support pension report

In December 2016, the Ombudsman published an investigation report into the accessibility of the disability support pension (DSP) for remote Indigenous Australians. The investigation analysed complaints from remote Indigenous DSP claimants and included case studies which illustrate the challenges Aboriginal and Torres Strait Islander peoples face in the DSP claim process. For example, barriers to accessing supporting medical evidence and lack of access to face-to-face job capacity assessments.

The report analysed areas where the Department of Human Services' claim process could be improved to address these barriers. It made practical recommendations about the job capacity and medical assessment processes, including the conduct of assessments, flow of information to and from health professionals, and communication with claimants about DSP 'program of support' requirements.

During the investigation of these complaints and the production of this report, DHS made a number of improvements to the claim process for remote Aboriginal and Torres Strait Islander customers. We recommended that DHS establishes a framework to monitor and evaluate the effectiveness of these changes.

Indigenous interpreters own motion

In April 2016, the Ombudsman approved an own motion investigation into the accessibility and use of Indigenous language interpreters spanning 47 government agencies.

The investigation considered the performance of government agencies against the recommendations of our 2011 Report *'Talking in Language: Indigenous language interpreters and government communication 05/2011'*.

The findings of the investigation were published in a formal report. While there has been some progress since 2011, communication between government and Indigenous non-English speakers continues to be undermined by major barriers to accessing Indigenous language interpreters.

Our investigation found that accessibility challenges go beyond the ability of any one agency to address, and a coordinated whole of government response is required. After the commencement of the investigation, the Department of the Prime Minister and Cabinet (PM&C) reconvened an Inter-Departmental Committee for Indigenous Interpreters.

Our report recommended that PM&C work with the states and territories to prioritise finalisation and adoption of a National Framework for Indigenous Interpreters and further investment in programs and trials that have delivered results. It recommended that all agencies consider how their policy settings and administrative arrangements might be developed or better oriented to address the issues raised in the report and proposed best practice principles for the use of Indigenous language interpreters.

Postal Industry Ombudsman

Overview

The Postal Industry Ombudsman (PIO) role of the Commonwealth Ombudsman was established in 2006 to provide an industry ombudsman service for postal operators and their customers. This year marks our 10 year anniversary.

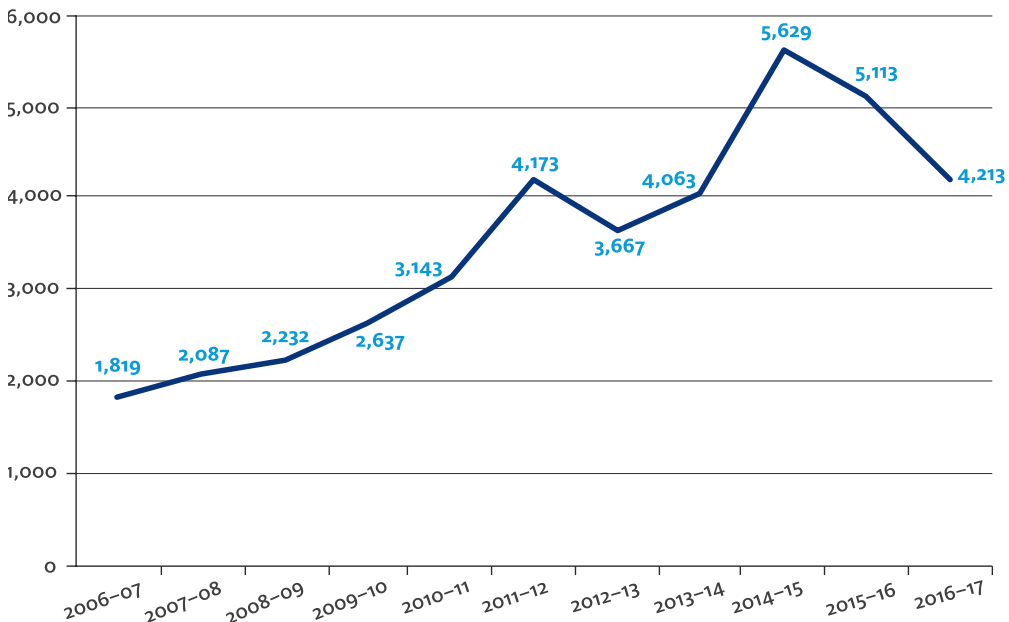
The Office investigates complaints about postal and similar services provided by Australia Post and Private Postal Operators (PPOs). We also investigate complaints about administrative actions and decisions taken by Australia Post.

Australia Post is a mandatory member of the PIO Scheme, while PPOs may choose to voluntarily register. As at 30 June 2017, there were six voluntary members on the Private Postal Operator Register.

Statistics

In 2016–17, we received 4,213 complaints, representing an 18 per cent decrease from the previous financial year.

Figure 2 – PIO complaint numbers: 2006–07 to 2016–17



Most of the complaints (4203) we received were about Australia Post (including Startrack), the largest provider of postal services in Australia.

A nominal number of complaints (10) were received regarding the other PPOs.

CASE STUDY

International parcel returned to sender

Sally posted an International Express Post parcel from Australia to her son in Europe who said he never received the parcel. She contacted her local Post Office about the parcel and was told the tracking showed the parcel had been delivered to the European address but had been returned to sender. Ten weeks later the parcel was returned to Sally who confirmed that the correct address and details were used.

Sally lodged a complaint about the lost parcel and requested a refund of the postage costs. She was not satisfied with the delay in Australia Post finalising her complaint and complained to us.

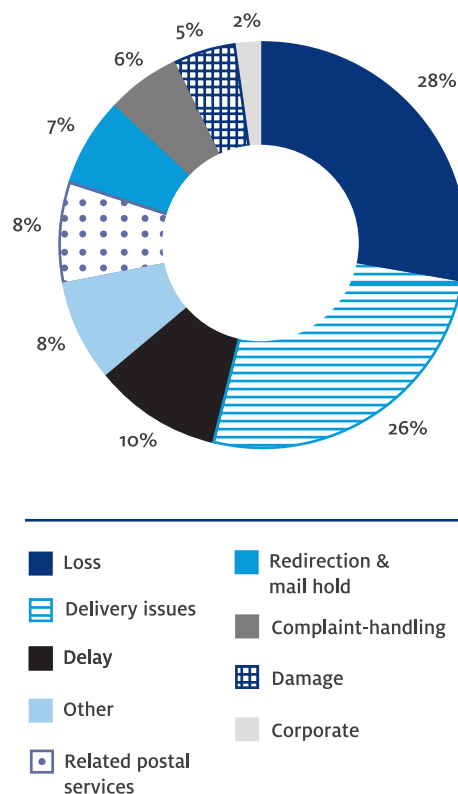
As a result of our investigation, Australia Post apologised for the delay in handling the complaint and acknowledged some errors had occurred and compensated Sally for the cost of postage.⁶

Significant issues

We have observed an increase in complaints about parcels and a decrease in complaints about letters. This is consistent with Australia Post's reports of increases in domestic parcel deliveries and a reduction in the demand for its reserved letter services.⁷ Around 90 per cent of complaints about Australia Post related to non-reserved services such as parcel delivery, express and premium services and retail services. The remainder related to reserved services predominantly concerning the delivery of regular letters.

Complaints about loss, delivery and delay continue to generate significant numbers of complaints to our Office, with the main focus on particular delivery processes like 'Safe drop' and carding.

Figure 3 – Australia Post complaint issues in 2016–17



⁶ A single complaint may reflect more than one issue. In turn, the total number of issues reported will usually exceed the total number of complaints.

⁷ Australia Post's reserved and non-reserved services as defined under Division 2 of Part 3 of the *Australian Postal Corporation Act 1989*

CASE STUDY

Disputed delivery

Ruprecht was expecting a parcel however it failed to arrive. He contacted the sender who advised the tracking showed the parcel had been delivered. He enquired with Australia Post parcels who informed him the parcel had been 'Safe dropped' and no further investigation was warranted. Ruprecht complained to Australia Post on the basis that his property was close to the road and there

was no safe place to leave the parcel that was not in view of passers-by. Australia Post declined to investigate the matter further.

Ruprecht contacted our Office. We conducted an investigation into the complaint and as a result of that investigation, Australia Post discovered the parcel was delivered to the wrong address and agreed to cover the cost to replace the item and the postage costs.

Outcomes

The Office values the complaints we receive from the community about postal services and uses this feedback to work with Australia Post and help it improve its customer service.

On 1 July 2016, we replaced our 'Second Chance Transfer' process which has been in operation since 2012 with a new short investigation process focusing on the rapid resolution of postal disputes.

In 2016–17, we finalised 881 investigations—and we have continued to provide feedback to Australia Post following our investigations. One of the factors that contributed to the rise in investigations was the replacement of the transfer process with a short investigation process. The Office continues to explore methods to improve its operational efficiency and effectiveness.

Some key investigative outcomes this year have been:

- the faster resolution of complaints with the average time taken to finalise investigations reducing by over one third on last year
- the provision of better explanations by our Office and by Australia Post
- apologies provided by Australia Post to complainants
- the provision of financial remedies including compensation, refunds, goodwill payments and in-kind services
- feedback to Australia Post staff.

Not all complaints need to be investigated. Almost 30 per cent of complainants who contacted us had not first complained to the postal operator, which is the fastest and most effective way to address the complaint. Some complaints are resolved before we commence an investigation.

CASE STUDY

Matter resolved without need for investigation

Isadora contacted us because she was not satisfied with the way Australia Post responded to her complaint. She advised that Express Post parcels were always delivered but general parcels were not delivered, leaving a card for later collection at the Post Office even though she was home each time. She complained to Australia Post over the phone and at the Post Office but nothing appeared to change.

Before we could investigate, Isadora contacted us and withdrew her complaint because Australia Post had arranged for a manager to attend her home and address the matters raised in her complaint. Australia Post advised that it would discuss the issue with the driver and ensure that it does not happen again. Isadora advised she was happy with this outcome.

Commencement of review of Australia Post

In June 2017, we commenced a review of three historical PIO reports regarding Australia Post to address the issues we continue to receive regarding delivery, loss and damage, and compensation.⁸ The review will consider Australia Post's implementation of the recommendations and observations in the previous reports in addition to the other measures it has introduced to address these issues.

The review will look at the impact of these measures on current complaint numbers and common issues and is scheduled for release in late 2017.

Additional reporting under s 19X of the Act

It is a requirement of the Office to report on the following in regard to s 19X of the Act:

- The Postal Industry Ombudsman made no requirements under section 9 during 2016–17.
- There were no occasions where a complaint—or part of a complaint—was transferred from the Postal Industry Ombudsman to the Commonwealth Ombudsman under subsection 19N (3).
- The Postal Industry Ombudsman made no reports during the year under section 19V.

8 Australia Post: Use of notification cards – 2008; Australia Post: Determining levels of compensation for loss or damage of postal items – 2010; Australia Post: 'Safe drop' program – a review of the first year – 2010

Immigration Ombudsman

Overview

The Office investigates complaints about the Department of Immigration and Border Protection including the Australian Border Force (the department), and we review systemic issues that can arise from complaints.

The complaints can be about general immigration matters like visa processing delays, or detention-related issues, and complaints about Customs' functions, such as delays in releasing inspected international cargo. We also monitor the department's compliance activities and detention centres. Monitoring of visa compliance activities involves looking at the issuing of warrants that allow departmental officers to enter premises where there is reasonable cause to believe that a person is residing unlawfully in Australia. We regularly inspect immigration detention facilities. We also have a statutory reporting function to report to the Minister on people who have been detained for more than two years.

Complaints

In 2016–17 we received 2,071 complaints about the department, compared with 2,341 in 2015–16, a decrease of 11 per cent. Of these, we investigated 438 (21 per cent). The Office generally declines to investigate when:

- the matter is out of jurisdiction (for instance it might relate to the actions of a Minister)
- the complainant has not approached the agency first (we generally give agencies an opportunity to address matters)
- the matter complained of is more than 12 months old
- there is no prospect of getting a remedy for the complainant.

Common themes for detention complaints are similar to those in previous years: loss or damage to detainees' property, placement within the detention network and medical issues such as access to specialist care, appropriate treatment for injuries and illness, and delays in the processing of claims for asylum.

Complaints about delays in granting citizenship have continued to increase. We sought a briefing from the department on this issue in 2015–16 and we were advised that the department is taking actions to minimise the delay for people applying for citizenship, taking into account the need to ensure that appropriate attention is given to identity and security matters. We continue to monitor this issue.

Investigations

Delays in the processing of permanent partner visa applications is another issue of interest for the Office. We have observed a significant increase in processing times for onshore partner visa applications despite a decline in the overall number of applications. The department has advised that the impact of staffing reductions, introduction of mandatory police checks for sponsors since 18 November 2016, and managing visa grants within the migration program planning levels, have contributed to the average processing time exceeding 12 months. In turn, this has resulted in increased enquiries and complaints from applicants trying to find out the status of their visa application.

There have been delays in processing visas for those partners and families who are sponsored by former irregular maritime arrivals. Under Ministerial Direction 72, the department has been directed to move these to the lowest processing priority.

Own motion investigations

The Ombudsman released three reports on own motion investigations about immigration in 2016–17:

Report 07/2016 (published December 2016)
‘The administration of people who have had their Bridging Visa cancelled due to criminal charges or convictions and are held in immigration detention’

We commenced this investigation in response to complaints and stakeholder concerns raised with us about the cohort of people who have had their Bridging visa cancelled on the basis of a criminal charge, conviction, or the possibility that the person poses a threat to the Australian community. The Minister can (but is not required to) cancel a person’s Bridging visa if that person has been convicted or charged with a criminal offence, or there is a possibility that the person poses a threat to the Australian community.

When a person’s visa is cancelled, they will be liable for immigration detention if they remain in Australia unlawfully. If they are considered to be an irregular maritime arrival, the law prohibits them from lodging any further visa application without the personal intervention of the Minister. Intervention by the Minister is facilitated by departmental identification of cases that fit the guidelines for referral to the Minister.

We were concerned that people were being detained based on criminal charges:

- where the charges are later withdrawn, and
- the person is not promptly released from immigration detention once the criminal charges against them have been resolved.

The report identified a case management system that is struggling to adequately manage the volume of people in immigration detention. This, coupled with the mandatory requirement for ministerial intervention in many cases before any progress toward status resolution can be made, means people are remaining in detention longer than is desirable.

The report cites examples of people who were not prioritised for consideration for release from detention after their criminal charges were resolved and who have remained in immigration detention.

The report’s recommendations encouraged the department to:

- allow the person who is the subject of a Notice of Intent to Consider Cancellation of a visa, adequate time and resources to seek advice
- provide written notice of decisions for Bridging visa cancellations in the person’s own language including the reasons for the decision, review rights, the timeframe for seeking review, details on how to seek a review and how the department can facilitate contact with the tribunal and a legal representative
- not transfer a person between detention facilities until the statutory time to lodge an appeal has expired (two days), and ensure that a person has the resources, such as access to the internet, in order to request a review
- promptly seek the Minister’s intervention to grant a visa where a decision is set-aside by the Administrative Appeals Tribunal but the person’s visa has expired, and identify all such cases and brief the Minister
- ensure the case management and escalation framework supports timely referral of cases to the Minister that meet the referral guidelines.

In response, the department suggested that the application of Direction 63 has delivered the policy intent expected by government. The department did not accept the recommendations and provided a substantial response that is attached to the published report, which includes responses specific to each recommendation.

Our Office notes in particular, the department’s overall comment that the Australian Border Force (ABF) has matured since the investigation

was undertaken, with increasing skill levels as well as broader familiarity with legislative and policy requirements. The department acknowledged some capability gaps around cancellations since the integration of ABF and the department—which it indicated it was addressing—and recognised a need for further training of officers so that cancellation decisions can demonstrate clear consideration of Ministerial Direction 63 and clear assessment against cancellation grounds.

**Report 08/2016 (published December 2016)
‘The administration of section 501 of the Migration Act 1958’**

The Ombudsman’s Office has a long standing interest in the administration of s 501 of the *Migration Act 1958* and in 2006 completed an own motion investigation, *Administration of s 501 of the Migration Act 1958 as it applies to long term residents*. That report was critical of the quality of information provided to the decision maker when considering visa cancellations. In particular the Office was concerned that the then Department of Immigration and Multicultural Affairs (DIMA) did not always provide the Minister with all relevant information, especially mitigating information, about long-term Australian residents.

Section 501 was amended on 11 December 2014 by the *Migration Amendment (Character and General Visa Cancellation) Bill 2014*. Changes included the insertion of s 501(3A) that requires mandatory cancellation of visas in certain circumstances. The number of visas cancelled under s 501 increased from 76 in 2013–14 to 983 in 2015–16.

Complaints to our Office, observations from our compliance monitoring of the department’s use of intrusive powers and our inspection of immigration detention facilities raised concerns about the following aspects of the administration of s 501:

- the length of time a person spends in immigration detention while awaiting a revocation request outcome
- notification of a visa cancellation shortly before release from prison

- the impact of prolonged and interstate detention on detainees and their families
- the impact on immigration compliance operations and the detention network.

The department aims for cancellations of visas under s 501 to occur well before the estimated date of release from prison so that any revocation process can be finalised while in prison.

Our report concluded that there was:

- a backlog in identifying people subject to a possible s 501 cancellation which prevents the cancellation/revocation process from being considered prior to the end of a prisoner’s custodial sentence
- a delay in deciding the outcome of revocation requests. This leads to former prisoners spending prolonged periods in immigration detention.

The Ombudsman’s recommendations focus on:

- improving the administration of s 501 by trying to have the cancellation and revocations processes completed prior to the end of a prisoner’s sentence, and
- prioritising cases impacting upon children.

The department accepted the Office’s recommendations and has provided the Office with information about the initial measures it has taken to implement these.

**Report 01/2017 (published January 2017)
‘Investigation into the processing of asylum seekers who arrived on the SIEV Lambeth in April 2013’**

In July 2015 our Office identified apparent errors in the assessment of individuals’ claims for protection as part of its statutory reporting obligations under s 486 of the *Migration Act 1958* to report on the circumstances of people who have been detained for more than two years.

Some of the passengers of the SIEV *Lambeth* were taken aboard an Australian Customs vessel and sailed through the waters of Ashmore Lagoon (a place excised from the Australian migration zone) for the purpose of rendering them as offshore arrivals and subject to the s 46A bar. Other passengers were taken directly to Darwin for medical treatment. We sought information from the department to clarify our understanding of this situation. The department took an unreasonably long time to respond and some of the information was incomplete, or contradictory. The Ombudsman commenced an own motion investigation in December 2015.

The investigation looked at the processing of irregular maritime arrivals between 13 August 2012 and 20 May 2013 (the Australian mainland was excised from the migration zone on 20 May 2013).

We discovered that:

- not all of the of people were subject to the s 46A bar
- relevant information was not recorded in the department's records.

Overall, we were satisfied that the department's processing of these passengers reflected the legislation in force at the time. The Ombudsman made two recommendations:

- That the department review the information that was recorded for people arriving on board SIEV *Lambeth* and identify any shortcomings in the scope and manner of the information recorded and ensure that all relevant information is available to all departmental officers who have a reasonable need for access to it.
- That the department consider any learnings from this review and apply these to its systems more broadly where appropriate.

The department accepted both recommendations and has provided a response outlining the initial measures taken to implement the recommendations. The department has also completed a review of all persons who arrived between 13 August 2012 and 20 May 2013 and is considering the review findings.

The full reports can be found at ombudsman.gov.au/publications/investigation-reports

Liaison and stakeholder engagement

We meet with the department regularly to discuss systemic issues and matters of interest. We also receive briefings from the department where we request detailed information on an issue.

In May 2017, the department provided its first quarterly update to the Ombudsman's Office on the implementation of recommendations made in own motion investigations. Following consultation with our Office, the department is actively tracking the implementation of recommendations made in the Ombudsman's reports with progress on implementation reviewed by the department's audit committee.

We have a program of community roundtable meetings and held meetings in all capital cities in the first quarter of 2017, as well as meeting with, and presenting to, advocacy groups such as the Refugee Council of Australia.

The Office also hosts quarterly meetings between our Office, and the heads of the Australian Human Rights Commission, the United Nations High Commissioner for Refugees, the Australian Red Cross and Foundation House.

Compliance monitoring

The Office conducts an ongoing own motion investigation into the department and the Australian Border Force (ABF) compliance activities that locate, detain and remove unlawful non-citizens. The investigation provides the government and the public with assurance that Australian Border Force's processes are lawful and in accordance with good practice.

We presented at training courses for ABF compliance staff on the functions of the Ombudsman's Office and observed field compliance operations in:

- Darwin – August 2016
- Melbourne – March 2017
- Brisbane – March 2017
- Sydney – April 2017
- Perth – June 2017
- Adelaide – June 2017.

Australian Border Force officers were observed to carry out their duties professionally and we did not identify any areas of significant or systemic concern. However, we identified that many of the administrative issues raised in the field compliance report for 2014–15 report sent to the department in September 2016, remained ongoing areas for improvement in the 2015–16 report, provided to the department in June 2017. Both reports recommended the Australian Border Force:

- ensure that when detaining a person, departmental officers secure and tag the detainee's valuables in bags and provide a receipt to the detainee
- afford detainees a reasonable opportunity to secure and dispose of their assets before their removal, where practicable
- examine options to allow the ABF to seize identity documents such as Medicare cards and passports not belonging to household members.

The 2014–15 report also noted two issues but did not make a recommendation. These related to:

- ensuring officers are aware that when a person requires medication during a field compliance operation, officers must contact the Health Advisory Service for advice
- Translating and Interpreting Service (TIS) displaying some poor practices and difficulties obtaining a TIS interpreter outside of business hours.

The department's response to the 2014–15 report (provided in April 2017) accepted all the report's recommendations and outlined their commitment to address the issues raised in that report.

People detained and later released as 'not-unlawful'

The department provides the Ombudsman with six-monthly reports on people who were detained then later released with the system descriptor 'not-unlawful'. This descriptor is used when a detained person is retrospectively found to be holding a valid visa, usually because of case-law affecting their particular circumstance or because of notification issues surrounding visa cancellation decisions.

For the 2016 calendar year, the department reported that out of a total of 6,876 people detained, 25 (0.36 per cent) were later released as not-unlawful, compared to 22 (0.29 per cent) out of 7,653 persons detained during 2015. The average time people have spent in detention prior to errors being identified, and their subsequent release as 'not-unlawful', decreased from an average of 46 days in 2015 to an average of nine days during 2016.

Generally detention in these cases was not the result of maladministration but a complex immigration record. However, in seven of the 25 cases we noted that the person was the target of an ABF operation. It appears that the ABF systems either do not adequately

support field staff who are required to make on the spot decisions, or there is human error involved. Considering the serious consequences of making a wrong decision—that is a person is detained in an immigration detention centre in error—it is important that departmental systems adequately support quality decision making. We regularly see in the reports of people detained and later released as not unlawful that a more thorough examination of departmental records, often by the detention review manager, will identify issues such as invalid notification advices from previous visa decisions. When this occurs it becomes clear that the person still holds a valid visa and that they should be released from detention.

We are aware that two Australians were wrongly held in immigration detention following their release from prison. The department advised the Ombudsman promptly when this was discovered and the department undertook an external review of the situation and provided that report to our Office. The Ombudsman's Office is continuing to engage with the department on these matters.

Immigration Detention Reviews

Statutory reporting (two-year review reports)

When a person has been in immigration detention for two years, and then after every six months, the Secretary of the department must give the Ombudsman a report, under s 486N of the *Migration Act 1958*, relating to the circumstances of the person's detention.

Section 486O of the Act requires the Ombudsman to give the Minister for Immigration and Border Protection an assessment of the appropriateness of the arrangements for that person's detention. The Office also provides a de-identified version of the assessment that protects the privacy of the detainee and this version is tabled in Parliament and published on the Ombudsman's website.

The trend for an increase in the number of assessments the Ombudsman sends to the Minister continued in 2016–17. A total of 1,325 reports were tabled, an increase of 469 (55 per cent) over the previous year.

There was a decrease in the number of s 486N reports received from the department from the previous year's total of 1,662, with 1,320 being received in 2016–17. This trend is forecast to continue and is one factor that is likely to result in a gradual decline in the number of assessments the Ombudsman sends to the Minister in 2017–18.

In 2016-17, we saw an increase in assessments for people who have had their visa cancelled under s 501 of the Act as they did not pass the character test. It is anticipated that this cohort of detainees will continue to increase in 2017–18. However, with the number of detainees being released from detention, either on Bridging or other visas, or being removed from Australia, it is anticipated that this will further reduce the number of assessments the Ombudsman will send to the Minister in 2017–18.

In 2016–17 the Ombudsman made recommendations in 475 assessments. In 296 cases these were generic recommendations that applied to a cohort of detainees, such as those who were barred from lodging visa applications under s 46A of the Act. 169 reports contained recommendations that were specific to the individual detainee, and included matters such as placement within the detention network, access to appropriate medical treatment, having the assessment of their immigration status expedited, and consideration of the granting of a visa or placement into community detention.

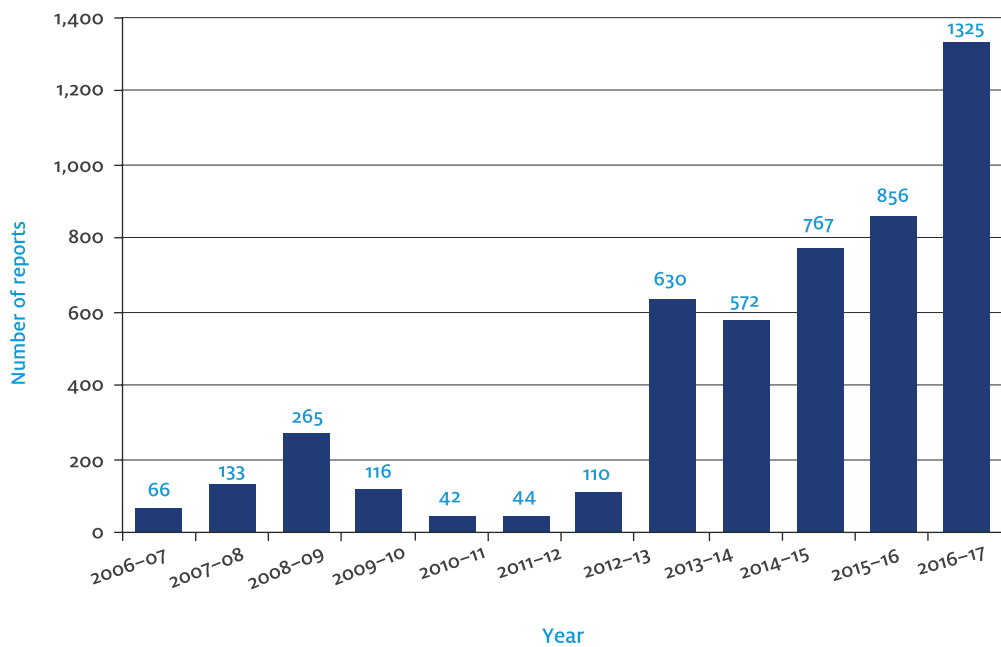
Issues raised in the s 486O assessments include:

- delays in the processing of claims for protection
- the possibility of indefinite detention for those assessed as not being owed protection but who are not able to be returned to their home country
- the movement of detainees within the

detention network that can impact on their ability to attend specialist medical or court appointments, as well as their access to family support and legal representation

- the uncertainty for people who have returned to Australia from Regional Processing Centres for medical treatment and who, under current policy settings, are not able to have their claims for protection assessed in Australia.

Figure 4 – s 486O assessments tabled by year



Detention inspections

The Office oversees immigration detention facilities and during 2016–17, we inspected the immigration detention facilities listed in Table 7 below:

Table 7 – Immigration detention facility inspections

Immigration Detention Facility	Location	Timing
Adelaide Immigration Transit Accommodation	Adelaide SA	Oct 2016 Mar 2017
Brisbane Immigration Transit Accommodation	Brisbane QLD	Nov 2016 Apr 2017
Manus Island Regional Processing Centre	Papua New Guinea	Oct 2016 Feb/Mar 2016
Maribyrnong Immigration Detention Centre	Melbourne VIC	Nov 2016 Jun 2017
Melbourne Immigration Transit Accommodation	Melbourne VIC	Nov 2016 Jun 2017
Nauru Regional Processing Centre	Nauru	Aug/Sep 2016 Jun 2017
Christmas Island Immigration Detention Centre	Christmas Island WA	Aug 2016 May 2017
Perth Immigration Detention Centre	Perth WA	Aug 2016 May 2017
Perth Immigration Residential Housing	Perth WA	Aug 2016 May 2017
Villawood Immigration Detention Centre	Sydney NSW	Dec 2016
Yongah Hill Immigration Detention Centre	Northam WA	Sep 2016 Feb 2017

The inspection function has been undertaken under the provisions of the Ombudsman's own motion powers⁹, and in accordance with our jurisdiction to consider the actions of agencies and their contractors. The Office provides feedback to the facility after each visit including any observations and suggestions. The Office submits a formal report to the department at the end of each inspection cycle (every six months). The level of co-operation with this Office across the immigration detention network is generally high, with all staff having a reasonable understanding of the role of the Office.

The key issues that arose over this reporting period include:

- security based models in administrative detention
- restrictive practices within detention
- use of Force and the Continuum of Force
- placement of detainees in the detention network
- management of internal complaints
- introduction of a service provider operational electronic records management system
- programs and activities
- management of detainee property
- access to mobile phones.

Security based model of administrative detention

The *Migration Act 1958* enables the detention of unlawful non-citizens, such as those who enter or remain in Australia without a valid visa. Detention has been mandatory for all unauthorised maritime arrivals since 1992 and since 2014, for people whose visas have been cancelled on character grounds.¹⁰

While placement in an immigration detention facility is mandatory for certain cohorts, it is administrative in nature, that is, an individual is detained for the purpose of conducting an administrative function rather than as an end state of the criminal justice system.

The operations of an immigration detention facility is not supported by a legislative framework. The reliance on an administrative rather than a legislative framework to underpin the operations of the immigration detention network remains a key concern for the Office.

During this inspection cycle we noted an increasing emphasis on a security based operational model. While the increasing numbers of detainees with histories of violent or anti-social behaviours require an increased focus on safety and security, we remain concerned that this may be at the expense of a focus on the welfare of detainees. This is not to imply that welfare should be the primary consideration when determining the management program for a detainee, but rather both welfare and security need to be in balance to achieve a fair and reasonable outcome for all concerned.

Security based operational models such as the 'controlled movement model' are the most restrictive of all operational models. Detainees are restricted to accommodation areas and unable to move freely between common areas. Whilst there are circumstances where this model is appropriate, such as in high security compounds, facilities where detainees are vulnerable to coercion or intimidation, or immediately following periods of unrest, this model should not be the first preference for an administrative detention environment.

9 Ombudsman Act 1976 section 5(1)(b)

10 Direction No. 65 Migration Act 1958 Visa refusal and cancellation under s 501 and revocation of a mandatory cancellation of a visa under s 501CA dated 22 December 2014

Restrictive practices in detention

The department and their service providers have a duty of care to both detainees and their staff to protect them from violent/aggressive behaviours and the ongoing risk of damage to people or property. We acknowledge that there are occasions where for the good order, security and welfare of the facility a detainee may need to be placed in restraints or moved to a more restrictive environment. Furthermore, since the implementation of the Minister for Immigration and Border Protection Direction 65, and the subsequent increase of detainees with histories of violent or anti-social behaviours, we have noted an increasing use of these restrictive practices across the immigration detention network.

Without a legislative framework to underpin these practices, the department must rely on its administrative framework to support operating in this environment. We are concerned that the administrative processes underpinning these practices are not as robust as they should be, and have identified shortfalls associated with the:

- use of mechanical restraints when transferring detainees
- use of the controlled movement operational model as the standard operational model
- placement of detainees in behaviour management programs.

Where there is no legislative framework to support the use of restraints or placement in contained environments, the administrative framework must support the principles of procedural fairness, provide independent points of review and appeal, and appropriate mitigation against the risk of such practices becoming punitive in nature.

We acknowledge that the ABF has taken steps to tighten the administrative frameworks surrounding the use of high care accommodation and has adopted practices that provide procedural safeguards for detainees placed in behaviour management regimes. We consider that this area provides a significant area of risk to the department and we would encourage the department to continue to strengthen the administrative framework that supports these critical operational areas.

Use of Force and the Continuum of Force

Over the inspection cycles of this period the Office has noted an increasing use of unplanned force¹¹ by the department when dealing with detainees. While it is accepted that use of force can be necessary to protect the individual, other people or property, we are concerned that the review of incident management records did not reflect the use of de-escalation techniques prior to the application of force.

The continuum of force¹² commences with verbal de-escalation and escalates through a number of phases to the ultimate use of deadly force. On occasions, we perceived that some operational staff considered the application of physical force to address noncompliant behaviour as the start-point rather than the mid-point of the continuum. This suggests a continued need for training in this area.

In facilities where additional training in negotiation and de-escalation skills have been undertaken, the Office has observed an overall improvement in the method of engaging with detainees. That is, the first option is to approach a situation with a view to achieving a negotiated outcome first, with the use of force only considered as a last resort.

11 Unplanned force is defined as the use of force that has not been given prior approval to be used. For example transferring a detainee with a high flight risk will generally include the pre-approved use of force in the form of mechanical restraints and the application of certain escort holds.

12 www.crimedoctor.com/security-guards-2.htm, www.nij.gov/topics/law-enforcement/officer-safety/use-of-force/Pages/continuum.aspx

Placement of detainees within the network

The Commonwealth, through the ABF and its respective facility Superintendents, has a duty of care to all detainees.¹³ In order to fulfil the duty of care, detainee placements within a facility and the broader network should be made by considering the full set of circumstances of a detainee. The Office remains concerned that placement decisions do not apply adequate weighting to detainee circumstances such as court appearances, specialist medical treatment and family considerations. We acknowledge that the risk assessment of a detainee is a significant consideration, however it would appear that little consideration is given to other factors.

While placement will be driven by operational needs, in particular bed space in east coast facilities, this should not be the sole basis for placing a detainee on Christmas Island or at Yongah Hill. Where the facility is remote and isolated, it is essential that placement decisions take account of all relevant considerations and information.

Of equal concern to the Office is an inaccurate risk assessment or a poorly analysed assessment that is applied without consideration of individual circumstances. Determining that all detainees who have a criminal history involving violence exhibit high-risk behaviour can result in unfair outcomes. Good decision making requires consideration of relevant factors such as the type of behaviour, the age of the detainee at the time of the incident, the passage of time since the incident, and the circumstances that generated the behaviour and the relevance to the current environment. Positive reinforcement of good behaviour is negated in an environment where the negative behaviours of the past consistently dictate the use of restraints or placement in remote facilities.

Towards the end of this reporting period, we have noted an increasing willingness to provide a more thorough analysis to the information upon which the risk assessment is based. The improvement in the provision of information held externally to the department has assisted in this and the ABF continues to work with these sources to maximise the effectiveness and accuracy of the risk assessments.

We have been advised that the placement tool used by the department is intended to address these issues and take into account the detainee's personal circumstances, family and community linkages, and legal or medical circumstances. We acknowledge that the placement considerations involve juggling numerous competing considerations ranging from ensuring the safety and security of detainees and staff through to coordinating complex medical and legal needs and the decreasing bedspace on the east coast as the detention network is realigned. As the placement processes including the application of the revised placement tool have evolved during this reporting period, we have noted that the decisions relating to the placement of a detainee within the network have improved with decisions being made in a somewhat more holistic manner. We will continue to monitor this as the placement modelling and risk assessment processes continue to evolve.

Management of internal complaints

One of our primary focuses for this reporting period was the management¹⁴ of internal complaints by the ABF and its service providers. Good complaint management requires a systematic approach that is timely, appropriate and responsive. Overall, the standard of complaint management across the immigration detention network was reasonable with the suggestions made by the Office for improvements being implemented in a number of facilities.

13 *Behrooz v Secretary of the Department of Immigration and Multicultural and Indigenous Affairs* [2004] HCA 36; 219 CLR 486; 208 ALR 271; 78 ALJR 1056 (6 August 2004) Gleeson CJ at para [21].

14 www.ombudsman.gov.au/docs/better-practice-guides/onlineBetterPracticeGuide.pdf

During 2016–17 we undertook a detailed assessment of the internal complaint management practices across the immigration detention network. We noted during the June – December 2016 inspection cycle that there was no overarching ABF policy for the management of complaints and considerable variation in the processes and procedures applied in the individual facilities. The department subsequently reviewed the management of complaints during this reporting period and issued an overarching standard operating procedure. Despite this we continued to note inconsistency in the manner or methods applied to the management of complaints made against the department and/or their service providers. We will continue to closely monitor this issue.

Introduction of service provider operational electronic records management system

During this reporting period Serco Immigration Services have introduced an electronic record keeping and process management tool. This system is intended to streamline and capture operational activities such as welfare checks, attendance at activities, detainee property management and the compilation of incident management documents.

Despite a number of initial connectivity and other operation alignment issues, we have noted an overall improvement in the quality of record keeping with the use of this system. We will continue to monitor the impact that this system has on the quality of reporting within the immigration detention network, especially in those areas where the tool does not reflect the current departmental or service provider policies. This is apparent in the management of detainee property where the tool has generated a process that is not reflective of the current guidelines.

Programs and activities

Where detainees fail to engage with programs and activities, it is more than likely that they will experience deteriorating levels of mental health, and an increased likelihood of self-harm or other non-compliant behaviour.¹⁵

Engagement should be meaningful and involve activities that the detainees wish to undertake, rather than simply being carried out to alleviate boredom. We noted that activities that focused on physical fitness, life skills (such as cooking, resume writing and job interview skills), and adult art and craft, were more likely to be considered meaningful by detainees and attract higher participation rates. Activities that were considered to be juvenile appeared to generate participation that was based on avoiding tedium rather than enjoyment.

We acknowledge there has been a significant change in the types of activities offered to meet the needs of the changing cohorts within centres. However, additional effort needs to be made to address the adult education needs of people who have often been educated in the Australian education system in an age appropriate manner. Additionally, while most centres still offer an excursion program, ineligibility due to high risk ratings has dramatically reduced participation rates.

Management of detainee property

The management of detainee property is a key area of interest for this Office. During this reporting period we noted an overall general improvement across the network. The introduction of an electronic record keeping and process management tool has improved the overall management of detainee property. We have noted a number of inconsistencies that will be addressed as the property management guidelines are amended to include the new electronic management system.

15 www.ombudsman.gov.au/_data/assets/pdf_file/0022/30298/December-2013-Suicide-and-self-harm-in-the-Immigration-Detention-Network.pdf

There are outstanding complaints and associated issues relating to the compensation for items lost or damaged in the November 2015 unrest on Christmas Island. During the unrest, the secured storage facility used for the storage of detainee intrust property was ransacked and detainees' personal property removed. This incident and the subsequent difficulties that the department has experienced in compensating detainees for the loss of their intrust property reinforces the importance of detainee property being accurately recorded.

The new electronic property management system that includes both photographs and a detailed written description should address a number of the issues arising from this incident including:

- correctly identifying lost property
- providing appropriate levels of compensation for items that cannot reasonably be returned to a detainee on departure.

Access to mobile telephones

Since 2010, this Office has raised the issue of the inequity within the department's policy relating to the possession of mobile telephones by detainees within the network. Irregular Maritime Arrivals and all detainees held on Christmas Island are the only detainee cohort not permitted to hold mobile telephones in their possession. Whilst the department had sought to introduce a blanket no mobile policy within the detention network this has been challenged in the Federal Court

where an interlocutory injunction ordered was issued on 17 February 2017.¹⁶ We remain of the view that the policy regarding access to mobile telephones should be the same for all detainees. We will continue to monitor this issue.

Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT)¹⁷

On 9 February 2017, the Attorney-General Senator the Honourable George Brandis QC announced the Government's intention to ratify OPCAT in December 2017.¹⁸ Ratification of OPCAT creates obligations on states parties regarding oversight of places of detention. This oversight is intended to assist states to better protect people in detention from torture and mistreatment.

Ratification of OPCAT requires the establishment of a 'National Preventive Mechanism' (NPM) to prevent torture and mistreatment. This Office has been appointed by the government to undertake the coordination role for the NPM. We expect the formal establishment of the NPM within one to three years after ratification of OPCAT.¹⁹

Our Office is working with both the Attorney-General's Department and the Australian Human Rights Commission in the lead up to ratification.

16 www.smh.com.au/federal-politics/political-news/federal-court-orders-halt-to-border-force-phone-confiscation-plans-20170219-gugdja.html

17 UN General Assembly, *Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment*, 9 January 2003, A/RES/57/199, available at: <http://www.refworld.org/docid/3de6490b9.html>

18 www.attorneygeneral.gov.au/Speeches/Pages/2017/FirstQuarter/2017-dfat-ngo-forum-on-human-rights-national-museum-of-australia-canberra.aspx

19 OPCAT, article 24

Overseas Students Ombudsman

Overview

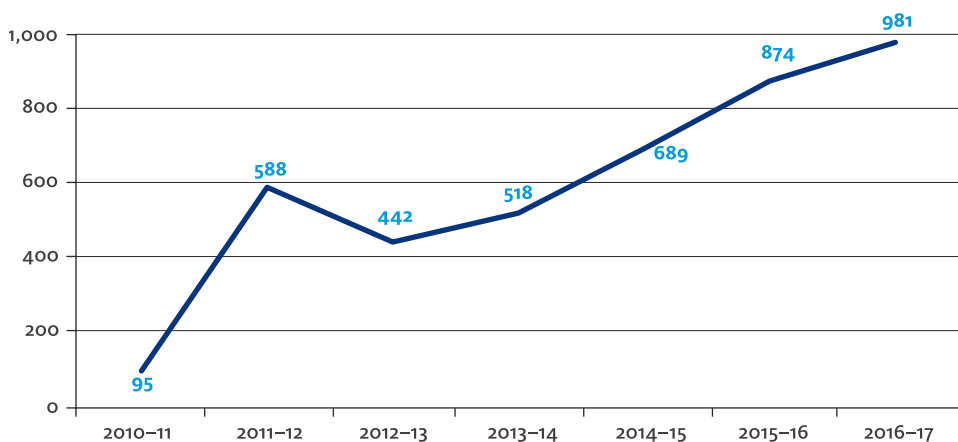
The Office investigates complaints and appeals from intending, current and former international students about private colleges, universities and schools.

Public institutions, including most universities, do not fall within our jurisdiction. In most cases, complaints about them can be diverted to state ombudsmen.

In 2016–17, we received 981 complaints and appeals, 12 per cent more than in 2015–16.

The growth in complaints and appeals is consistent with the sustained growth in the international student sector.

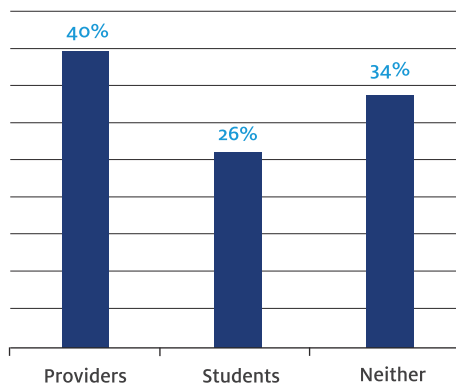
Figure 5 – Overseas Students Ombudsman complaints received by year



In 2016–17 we started 349 complaint investigations and completed 356, compared to 315 investigations started and 291 completed last year. We started and completed more investigations than in any previous year of operation.

Of the completed investigations, 40 per cent were resolved in favour of the provider, and 26 per cent in favour of the complaining student. In 34 per cent of cases, our investigation outcome favoured neither party because the case was otherwise finalised. For example, the provider fixed the problem before we needed to investigate, or we decided after starting an investigation that the issue would be better dealt with by another complaint-handling body.

Figure 6 – Outcome favoured



We finalised 635 complaints without investigating (compared to 575 last year) because we:

- referred the student back to his or her education provider's internal complaints and appeals process
- transferred the complaint to another complaint-handling body as provided by s 19ZK of the *Ombudsman Act 1976*
- formed a view based on the documents provided by the student that no further investigation was required.

Figure 7 – How complaint issues were finalised

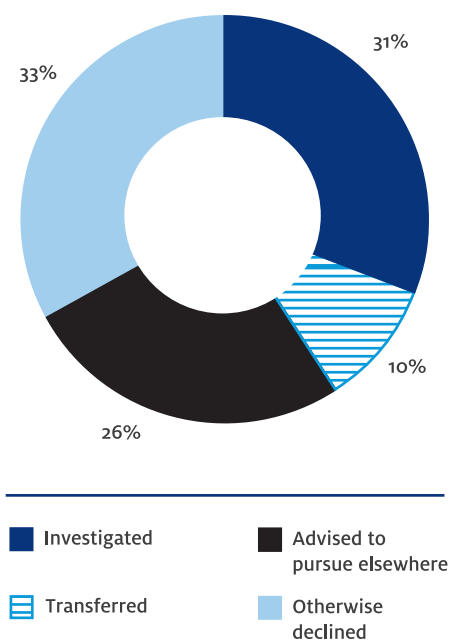


Table 8 – Complaints transferred to other complaint bodies

Complaint body	Complaints transferred in 2015-16	Complaints transferred in 2016-17
Australian Human Rights Commission	1	2
Australian Skills Quality Authority (ASQA)	21	37
Fair Work Ombudsman	1	0
Office of the Training Advocate, SA	12	4
Other (DIBP, VRQA & OAIC)	0	3
Tertiary Education Quality and Standards Agency	0	1
Tuition Protection Service (TPS)	55	48
Total	90	95

Helping students through impartial complaint-handling

Complaint issues

The two main complaint issues continued to be provider refunds and fees disputes (396 complaints/external appeals) and providers' decisions to refuse a student transfer to another provider under Standard 7 of the National Code (177 complaints/external appeals).

The decision by a provider to report students to the Department of Immigration and Border Protection (DIBP) for failing to meet attendance requirements under Standard 11 of the National Code, was the third most common issue (82 complaints/external appeals).

The fourth main complaint issue was the decision by providers to report students to DIBP for unsatisfactory course progress under Standard 10 of the National Code.

The top five complaint issues represent 68 per cent of all issues raised in complaints received in 2016–17 (792 out of a total of 1,171 issues).

Table 9 – Top five complaint issues

ISSUE	2015–16	2016–17
Standard 3 – Formalisation of enrolment	312	396
Standard 7 – Transfer between registered providers	174	177
Standard 11 – Monitoring attendance	115	82
Standard 10 – Monitoring course progress	88	69
Standard 13 – Deferring, suspending or cancelling the student's enrolment	104	68
Total	793	792

Reports to the regulators

We have the power under s 35A of the *Ombudsman Act 1976* to disclose information of concern about provider actions to the relevant regulator. In 2016–17 the Office made two s 35A reports to Australian Skills Quality Authority (ASQA), compared to six last year.

The two s 35A disclosures to ASQA concerned two issues:

1. the obligations of providers towards students who are under 18, where that provider confirms to the Department of Immigration and Border Protection that it is assuming responsibility for the student's accommodation and welfare arrangements.
2. managing the transition to updated training courses and completion of courses within expected time frames.

We did not use our s 9 powers (of the Act) to obtain information or documents in 2016–17.

Reports on trends and systemic issues

Submissions and issues papers this year include:

- a submission to the Department of Education and Training (DET) on the revision of the National Code 2007 in March 2017
- a consultation report on external complaint avenues for international students, published in February 2017
- three reports on the providers we have received the most complaints and appeals about, published in January 2017, December 2016 and August 2016
- four quarterly statistical reports highlighting key issues, trends and outcomes
- two e-newsletters for private education providers, published in March 2017 and August 2016

- an OSO advertisement in the Insider Guide for international students, published in Adelaide, Brisbane, Canberra, Melbourne, Perth, Sydney, China, the Middle East, South East Asia and India in January 2017
- online articles in the Insider Guides e-newsletter for international students published in July and August 2016
- a student video produced in English, Hindi, Korean, Indonesian, Malay, Mandarin and Vietnamese, published in July 2016.

We collaborated with VOIS Magazine (Voice of International Students in Australia), a student-run publication which produced a student video in Mandarin with English subtitles to illustrate common complaint issues and how we can help international students.

Stakeholder engagement and promoting best practice complaint-handling

Student focused activities

In 2016–17, we collaborated with student leaders at the Council for International Students Australia (CISA) national conference in Darwin in July 2016, to present a series of interactive role plays to highlight common complaint issues and how students can avoid common problems. In September 2016, we provided training to CISA's first grievance officers.

We presented to students at the Australian Federation of International Students – Study Melbourne, international student information day in March and participated in the ACT Minister's welcome event for international students in Canberra in March 2017.

Conferences and forums:

We presented to or participated in the following conferences:

- Australian Council for Private Education and Training (ACPET) conference in Hobart in August
- English Australia conference in Brisbane in September
- National Overseas Student Complaint Handlers Forum, hosted by Study Melbourne in October
- Australian International Education conference in Melbourne in October
- Council for International Education in Adelaide in February
- Tuition Protection Service (TPS) education provider sessions in Sydney, Melbourne, Brisbane and Canberra in February
- Victorian schools registrars meeting in Melbourne in March
- Universities Australia Deputy Vice Chancellors meeting in Brisbane in April
- Australian New Zealand education agent and provider workshops in Cairns in April
- NEAS national conference in Sydney in May
- Australian Council for Private Education and Training Victorian State Forum in June
- Australian Skills Quality Authority (ASQA) provider information sessions held in various capital cities in April, May and June.

Liaison activities

In October 2016, we discussed our role in helping international students with representatives from the Ombudsman Republik Indonesia and the Office of the Ombudsman of the Republic of Korea.

We facilitated regular meetings with the regulators, Australian Skills Quality Authority, the Tertiary Education Quality Standards Agency, Tuition Protection Service, the Department of Education and Training and Department of Immigration and Border Protection, to discuss issues relating to international education and overseas student complaints.

The Office participated in the Commonwealth, State and Territory International Education and Training Forum.

Looking forward

In February 2017, we published a consultation report on external complaint avenues for international students with a complaint about their education provider. We asked stakeholders whether any changes could be made to strengthen or simplify the existing external complaint avenues.

There was significant support for the creation of a single international student ombudsman to handle complaints from students studying with public and private education providers as well as the introduction of a national data reporting standard for international student complaints.

We will continue to work with stakeholders on ways to improve access to external complaint avenues for international students.

CASE STUDY

An international student applied through a college agent to enrol in an English language course. The student later cancelled his enrolment, as he was concerned about misleading information provided by the agent.

The agent notified the college of the student's withdrawal and negotiated a partial refund with the college, which represented 80 per cent of his initial tuition fees. However, the college paid the refund to the agent, not the student, as stipulated in the enrolment agreement.

The agent advised the college it would pay the refund to the student, however, the agent failed to do so. When the college queried this, the agent advised the matter was 'complicated' and was now with the agent's lawyers. The student subsequently complained to our Office.

We investigated and recommended the education provider pay the refund directly to the student, since the college had breached s 47D of the *Education Services for Overseas Students Act 2000* by paying the refund to a person not included in the written agreement. We also recommended the college take immediate corrective action in relation to its agent.

As a result, the college paid the refund to the student directly, updated its refund policy in its agreement to state that all refunds are to be issued directly to the student, and advised our Office it had terminated its agreement with the agent due to misconduct.

VET Student Loans Ombudsman

The Australian Government's new VET Student Loans program commenced on 1 January 2017, replacing the VET FEE-HELP scheme. To complement the VET Student Loans program, the government established a VET Student Loans Ombudsman (VSLO) function within the Office.

We commenced operations as the VSLO on 1 July 2017, providing a free, independent and impartial service to students and VET Student Loans scheme providers.

The VSLO is an industry-focused ombudsman function responsible for investigating complaints, making recommendations, and reporting on providers delivering education and training services under both VET Student Loans and VET FEE-HELP.

We also give VET Student Loans scheme providers advice and training about best practice complaint-handling and will lead the development of a Code of Practice in collaboration with industry.

If required, we have powers to compel VET Student Loans or VET FEE-HELP approved providers to attend meetings, and to make recommendations to other Commonwealth agencies in relation to systemic issues about provider practices uncovered through our investigations.

Since the announcement of the new function, our staff have consulted with a range of stakeholders to raise awareness of the Office's new VSLO function, identified information sharing opportunities and determined processes and actions that would meet the needs of affected parties.

Stakeholder engagement activities

Community and stakeholder focused activities

In 2016–17, we collaborated with a number of external agencies to take part in community engagement activities to raise awareness of the new function, and to engage with on-the-ground contacts in vulnerable communities. Specifically, we participated in community sessions as part of the Northern Territory Australian Competition and Consumer Commission's service provider session in the Bagot Community, the Energy and Water Ombudsman NSW's Bring Your Bills Day in Walgett, Coonamble, and Gulargambone, and the NSW Government's Aboriginal Youth Day in Parkes.

The VSLO Team presented to a wide range of agency and industry stakeholders at the Financial Counselling Australia Conference, and presented to nearly 3,000 vocational education and training providers across Australia as part of the Australian Skills Quality Authority (ASQA) provider briefing sessions.

Memoranda of Understanding

As part of our stakeholder engagement activities, we are finalising a number of *Memoranda of Understanding* with key agencies and departments.

A *Memorandum of Understanding* (MoU) was signed between our Office and the Commonwealth Department of Education and Training (DET). The MoU specifically covered information sharing and the transferring of legacy complaints. The MoU was signed in May 2017.

We are in the process of establishing MoUs with the following organisations:

- Australian Skills Quality Authority (ASQA)
- Victorian Registration and Qualifications Authority (VRQA)
- Tertiary Education Quality and Standards Agency (TEQSA)
- Victorian Department of Education and Training
- Training Accreditation Council of Western Australia (TACWA)
- Western Australian Department of Education and Training (WA DET)
- Australian Competition and Consumer Commission (ACCC)
- Western Australian Government, and
- The Queensland Ombudsman.

Looking forward

From 1 July 2017 we started focusing on investigating disputes between students and providers.

As part of this, we will continue extensive stakeholder engagement in the general community, with providers, and with departments, agencies and interested community groups.

Private Health Insurance Ombudsman

Context

The Commonwealth Ombudsman is also the Private Health Insurance Ombudsman (PHIO). Our role is to protect the interests of consumers in relation to private health insurance. The Ombudsman is an independent body that acts to resolve disputes about private health insurance at all levels within the private health industry. We also report and provide advice to industry and government about these issues.

Overview of 2016–17

In a busy period with an increase in workload, it was pleasing that the standard of service provided to complainants was maintained, and in some areas improved, as measured by audit and survey data. The level of overall satisfaction as reported by complainants to our Office was 84 per cent, compared to 85 per cent in the previous year.

After several years where private health insurance complaint levels remained steady, the past four years have seen an increase. In 2016–17, we received 5,750 private health insurance complaints, compared to 4,416 in

2015–16. As total complaints in Figure 8 indicates, the private health insurance complaint workload over the past 10 years has continued to grow.

The number of enquiries relating to private health insurance remained stable. In our consumer information and advice role, we received 3,749 consumer information enquiries in 2016–17, of which 67 per cent were received through consumer website privatehealth.gov.au

Complaints about Private Health Insurers

The following table illustrates the number of complaints and disputes received about registered private health insurers, and compares these to their market share. A high ratio of complaints or disputes compared to market share usually indicates either a less-than-adequate internal dispute-resolution process, especially for complex issues, or an underlying systemic or policy issue.

Figure 8 – Total complaints and enquiries by year

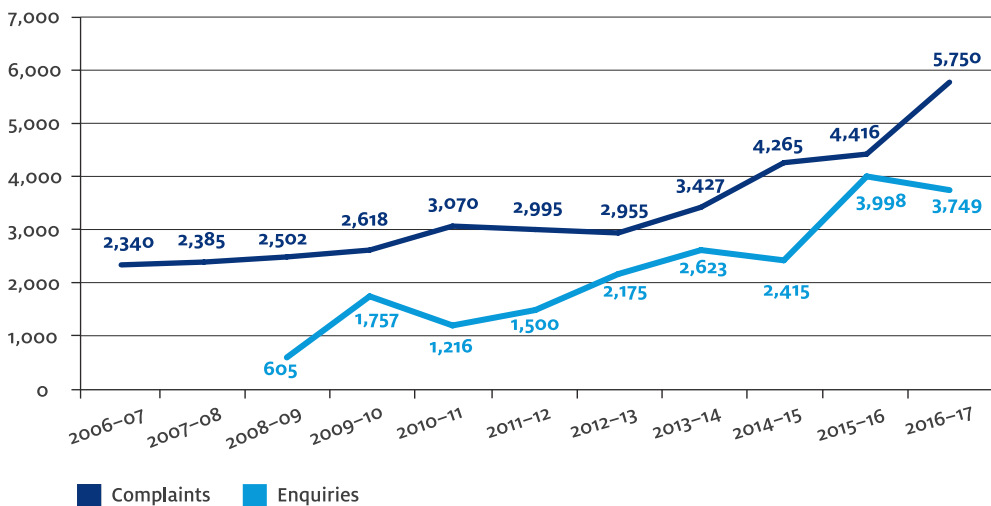


Table 10 – Complaints or disputes about registered private health insurance

	2016–17				
	Complaints	Percentage of complaints	Disputes	Percentage of disputes	Market share
ACA	1	0.0%	0	0.0%	0.1%
Australian Unity	241	4.8%	32	5.9%	3.1%
BUPA	889	17.6%	149	27.4%	27.0%
CBHS Corporate Health	1	0.0%	1	0.2%	-
CBHS	30	0.6%	3	0.6%	1.4%
CDH (Cessnock)	0	0.0%	0	0.0%	<0.1%
CUA	75	1.5%	27	5.0%	0.6%
Defence	35	0.7%	1	0.2%	1.9%
Doctors	10	0.2%	3	0.6%	0.2%
Emergency Services Health	0	0.0%	0	0.0%	-
GMHBA	103	2.0%	10	1.8%	2.1%
Grand United Corporate	23	0.5%	6	1.1%	0.4%
HBF (incl. GMF/ Healthguard)	225	4.4%	13	2.4%	8.0%
HCF (Hospitals Contribution Fund)	491	9.7%	63	11.6%	10.3%
HCI	1	0.0%	0	0.0%	0.1%
Health Insurance Fund of Australia	28	0.6%	1	0.2%	0.9%
Health.com.au	62	1.2%	15	2.8%	0.6%
Health-Partners	17	0.3%	3	0.6%	0.6%
Latrobe	12	0.2%	2	0.4%	0.7%

	2016-17				
	Complaints	Percentage of complaints	Disputes	Percentage of disputes	Market share
Medibank (AHM)	2341	46.3%	143	26.3%	27.6%
Mildura	2	0.0%	0	0.0%	0.2%
National Health Benefits (Onemedifund)	0	0.0%	0	0.0%	0.1%
Navy	4	0.1%	2	0.4%	0.3%
NIB	307	6.1%	46	8.5%	8.1%
Nurses and Midwives	1	0.0%	0	0.0%	-
Peoplecare	10	0.2%	0	0.0%	0.5%
Phoenix	4	0.1%	0	0.0%	0.1%
Police	3	0.1%	1	0.2%	0.3%
Queensland Country Health	1	0.0%	1	0.2%	0.3%
Railway and Transport	21	0.4%	2	0.4%	0.4%
Reserve	0	0.0%	0	0.0%	<0.1%
St Lukes	8	0.2%	0	0.0%	0.4%
Teachers Health	75	1.5%	13	2.4%	2.1%
Teachers Union	20	0.4%	4	0.7%	0.6%
Transport	9	0.2%	0	0.0%	0.1%
Westfund	7	0.1%	3	0.6%	0.7%
	5,057		544		

Complaint Issues

CASE STUDY

Sunita was trying to make an EFTPOS purchase when her payment was rejected. She discovered that her insurer had incorrectly direct-debited her bank account for \$700 that morning without any prior notice. Sunita's policy was paid every month in advance, so there was no reason for her to expect this debit.

She contacted the insurer and was told it would take up to two weeks for the \$700 to be refunded. Not satisfied, Sunita contacted us for assistance.

We contacted the insurer to expedite the process and they responded that they would need to raise the issue with the insurer's ICT team. The matter was escalated and the money was restored to Sunita's account within three days.

The insurer waived one month's worth of premiums due to the inconvenience which had been caused and implemented a new process to identify and correct similar problems.

4 WHAT WE DO

Service

Complaints: 1,370

Key issues:

- service delays
- premium payment problems
- general service issues

Service issues are usually not the sole reason for complaints. The combination of unsatisfactory customer service, untimely responses to simple issues, and poor internal escalation processes can cause policy-holders to become more aggrieved and dissatisfied in their dealings with the insurer, until the service itself becomes a cause of complaint as well as the original issue.

There was a significant increase in the number of service-related complaints in 2016–17. This was mainly the result of Information Communication Technology (ICT) problems at Medibank Private which caused significant delays in the issuing of tax certificates, and

various problems associated with premium payments and policy administration. The insurer took action to reduce the causes of the ICT and service complaints in the second half of 2016 and consequently, the incidence of new ICT complaints reduced by the end of the 2016–17 year.

Information

Complaints: 599

Key issues:

- verbal advice
- lack of notification

Information complaints usually arise because of disputes or misunderstandings about verbal or written information provided by an insurer. In most years, verbal advice is the cause of more complaints than any other sub-issue and these can be particularly complex if the insurer has not kept a clear record or call recording of its interaction with the member.

CASE STUDY

Lars purchased a hospital insurance policy that had minimum benefits for a variety of procedures, including cataract procedures. Lars stated that he was expecting to have cataract surgery in the future and asked how much he would be covered out of a cost of approximately \$6,000.

A staff member from the insurer's office replied that as long as Lars completed the 12 month waiting period for pre-existing conditions, then the policy would allow him to 'enjoy minimum benefits' and that he would be fully covered for the hospital fee.

Lars waited for 12 months and then booked into hospital for his cataract surgery.

It was at this stage that he found his cover

would not be sufficient to cover the full hospital cost. He then contacted our Office.

On investigating the case, we reviewed the call recordings and found that the insurer had failed to explain that minimum benefits for cataract surgery would only cover Lars in a public hospital for a shared room, and that if he went to a private hospital he would have to pay a large portion of the hospital fees himself. Due to the incorrect advice, the fund agreed to cover the cost of Lars' procedure in a private hospital.

Membership

Complaints: 1,159

Key issues:

- cancellation
- clearance certificates

Membership complaints typically involve policy administration issues, such as processing cancellations or payment of premium arrears. Delays in the provision of clearance certificates when transferring between health insurers is also a major cause of complaint.

Benefit

Complaints: 1,740

Key issues:

- hospital exclusions and restrictions
- general treatment (extras or ancillary benefits)
- delay in payment

The main issues of concern were hospital policies with unexpected exclusions and restrictions. Some basic and budget levels of hospital cover exclude or restrict services that many consumers assume are routine treatments or standard items. Delays in benefit payments and complaints about insurer rules that limited benefits were the other large areas of complaint.

CASE STUDY

Justine was reviewing her insurance and realised she had incorrectly been paying a 60 per cent Lifetime Health Cover (LHC) loading because the clearance certificate from her previous insurer was not properly transferred to her new insurer. The LHC rules determine how much an individual pays for private hospital cover, and in Justine's case, she should have been paying zero LHC loading, or the base rate for her hospital policy. On investigation, we found that the error had actually occurred several memberships ago, with Justine holding policies across several insurers with the incorrect 60 per cent loading for the past six years.

We assisted Justine in contacting all of her previous insurers and correcting six years of policy history. Justine's LHC loading was removed and the excess premiums she had paid were refunded, totalling several thousand dollars.

The Ombudsman's advice to consumers is to always check that their LHC is correct, and to make sure their clearance certificates from their previous insurer are successfully received and processed by their new insurer. If any mistakes have been made, it is easier to correct these as soon as possible rather than some years after the fact.

4

CASE STUDY

Giselle approached an insurance broker service because she wanted to save money on her family's health insurance. The health insurance broker offered her a policy which was much cheaper than her current policy because it covered considerably fewer major surgeries and treatments, including a restriction on psychiatric admissions. Giselle agreed to the cheaper policy and changed her cover.

One year later, however, her teenage son required an urgent hospitalisation for psychiatric treatment. Giselle contacted her insurer and was advised her policy was not sufficient to cover his admission to a private hospital as it provided only a restricted benefit for psychiatric admissions. She then contacted us.

In investigating the case, we reviewed the phone records and found that the broker had not fully informed Giselle of the implications of choosing the cheaper policy. Giselle did clearly state that she wanted to make sure

she continued to have cover for psychiatric admissions in case her son needed treatment. However, the broker encouraged her to downgrade the policy in order to save money, stating that with restricted cover her son would still be covered in a public hospital. The broker said that if she felt her son's condition was getting worse, she could just add it back on and wait the two month psychiatric benefit waiting period. For other services such as knee replacements, the broker did not fully explain waiting periods and gave the incorrect impression this would be a low risk change because 'your doctor will always give you plenty of notice for a knee replacement.'

Giselle made the decision to downgrade her cover based on incomplete and inaccurate advice, with the broker leading her to believe that she was not making a significant downgrade. The broker agreed it should have provided better advice to Giselle and on this basis agreed to pay 50 per cent of the remaining expenses of her son's admission.

Table 11 – Complaint issues

ISSUE			
Sub-issue	2014-15	2015-16	2016-17
BENEFIT	1,392	1,359	1,740
Accident and emergency	40	49	43
Accrued benefits	9	3	5
Ambulance	51	66	86
Amount	63	67	166
Delay in payment	154	142	237
Excess	56	56	68
Gap – Hospital	50	53	75
Gap – Medical	131	151	151
General treatment (extras/ancillary)	105	194	214
High cost drugs	13	13	12
Hospital exclusion/restriction	320	276	308
Insurer rule	192	131	152
Limit reached	24	14	18
New baby	22	6	22
Non-health insurance	8	9	9
Non-health insurance – overseas benefits	8	3	2
Non-recognised other practitioner	29	22	35
Non-recognised podiatry	12	15	14
Other compensation	16	14	15
Out of pocket not elsewhere covered	9	15	25
Out of time	19	15	18
Preferred provider schemes	50	32	54
Prostheses	9	11	8
Workers compensation	2	2	3
CONTRACT	22	28	43
Hospitals	10	18	23
Preferred provider schemes	9	8	17

ISSUE			
Sub-issue	2014-15	2015-16	2016-17
Second tier default benefit	3	2	3
COST	137	149	146
Dual charging	5	2	8
Rate increase	132	147	138
INCENTIVES	182	143	275
Lifetime Health Cover	156	121	222
Medicare Levy Surcharge	12	11	10
Rebate	13	9	41
Rebate tiers and surcharge changes	1	2	2
INFORMATION	736	599	599
Brochures and websites	47	34	55
Lack of notification	91	90	70
Verbal advice	522	430	408
Radio and television	4	1	1
Standard Information Statement	8	6	9
Written advice	64	38	56
INFORMED FINANCIAL CONSENT	70	84	68
Doctors	19	35	25
Hospitals	50	36	36
Other	1	13	7
MEMBERSHIP	765	845	1,159
Adult dependents	25	15	25
Arrears	144	106	114
Authority over membership	20	16	21
Cancellation	299	315	399
Clearance certificates	108	196	310
Continuity	100	114	190
Rate and benefit protection	19	32	17
Suspension	50	51	83

ISSUE			
Sub-issue	2014-15	2015-16	2016-17
OTHER	368	232	216
Access	0	3	2
Acute care certificates	4	2	7
Community rating	0	1	0
Complaint not elsewhere covered	56	54	73
Confidentiality and privacy	12	11	21
Demutualisation/sale of health insurers	1	1	1
Discrimination	3	4	0
Medibank sale	0	1	1
Non-English speaking background	0	0	0
Non-Medicare patient	8	2	9
Private patient election	3	6	9
Rule change	281	147	93
SERVICE	605	704	1,370
Customer service advice	82	106	137
General service issues	184	234	298
Premium payment problems	184	211	494
Service delays	155	153	441
WAITING PERIOD	398	363	380
Benefit limitation period	6	1	5
General	41	29	28
Obstetric	49	51	31
Other	19	14	23
Pre-existing conditions	283	268	293

Complaints about hospitals, health practitioners, brokers and others

Most complaints (88 per cent in 2016–17) are made about health insurers. However, complaints can also be made about providers including hospitals, health practitioners, health insurance brokers and other practitioners (such as dentists).

Table 12 – Number of complaints about hospitals, health practitioners and brokers

	2014-15	2015-16	2016-17
Hospitals	38	47	48
Health practitioners	29	58	30
Brokers	34	75	75

Overseas Visitors Health Cover

Each year, we help consumers with complaints about Overseas Visitors Health Cover (OVHC) and Overseas Student Health Cover (OSHC) policies for visitors to Australia. These complaints are counted separately from complaints made against domestic health insurance policies.

The most common issue for overseas visitors included 87 complaints about policy cancellation and refunds, 55 complaints about the pre-existing condition waiting period and 49 complaints about delays in paying benefit payments. We received 23 complaints about hospital gaps in 2016–17, increasing from 7 complaints in the previous year.

Table 13 – Overseas visitors health cover complaints

Insurer	2015-16	2016-17
Allianz (Lysaght Peoplecare)	69	96
Australian Unity	12	20
BUPA	119	176
CBHS	0	1
GMHBA	0	3
Grand United	0	3
HBF	1	2
HCF	1	2
HIF	3	2
Medibank Private (AHM)	73	107
NIB	43	58
Total	321	470

Complaint-handling procedures and categories

In 2016–17, 81 per cent of complaints were resolved as 'Problems'. In most instances, we refer a complaint directly to a nominated representative of the insurer or service provider, on behalf of the complainant. This approach ensures a quicker turnaround time and our client satisfaction survey confirms that complainants have a high satisfaction rate with this method of resolution.

'Grievances' are a moderate level of complaint. They are dealt with by investigating the issues of grievance and providing additional information or a clearer explanation directly to the complainant, without the need for a report from the health insurer or health care provider. Approximately six per cent of complaints were registered as 'Grievances'.

Approximately 13 per cent of complaints were classified as 'Disputes' (slightly lower than last year's 19 per cent). In these cases, we request a detailed report from a health insurer or other object of a complaint. The report is then reviewed and a decision is made on whether the initial response was satisfactory or further investigation is warranted.

Complaint outcomes

We regularly carry out a postal survey of randomly selected private health insurance complainants. Each fortnight, we send survey forms to a sample of complainants whose cases have been closed during the previous period. In 2016–17, we received 163 responses (30 per cent)—a reasonable participation rate for a postal survey of this kind.

Overall, 84 per cent of clients who responded were satisfied or very satisfied with the handling of their complaint, compared to 85 per cent the previous year.

Consumer website: privatehealth.gov.au

In 2016–17 we responded to 2,503 individual enquiries, provided written consumer information and advice and managed the consumer website privatehealth.gov.au which is Australia's leading source of independent information about health insurance for consumers.

Website usage has continued to grow annually since the website's launch in 2007, with 1,297,851 visits in 2016–17.

During 2016–17 we worked with industry representatives on improving the Compare Policies feature for consumers and the new feature was launched in February 2017.

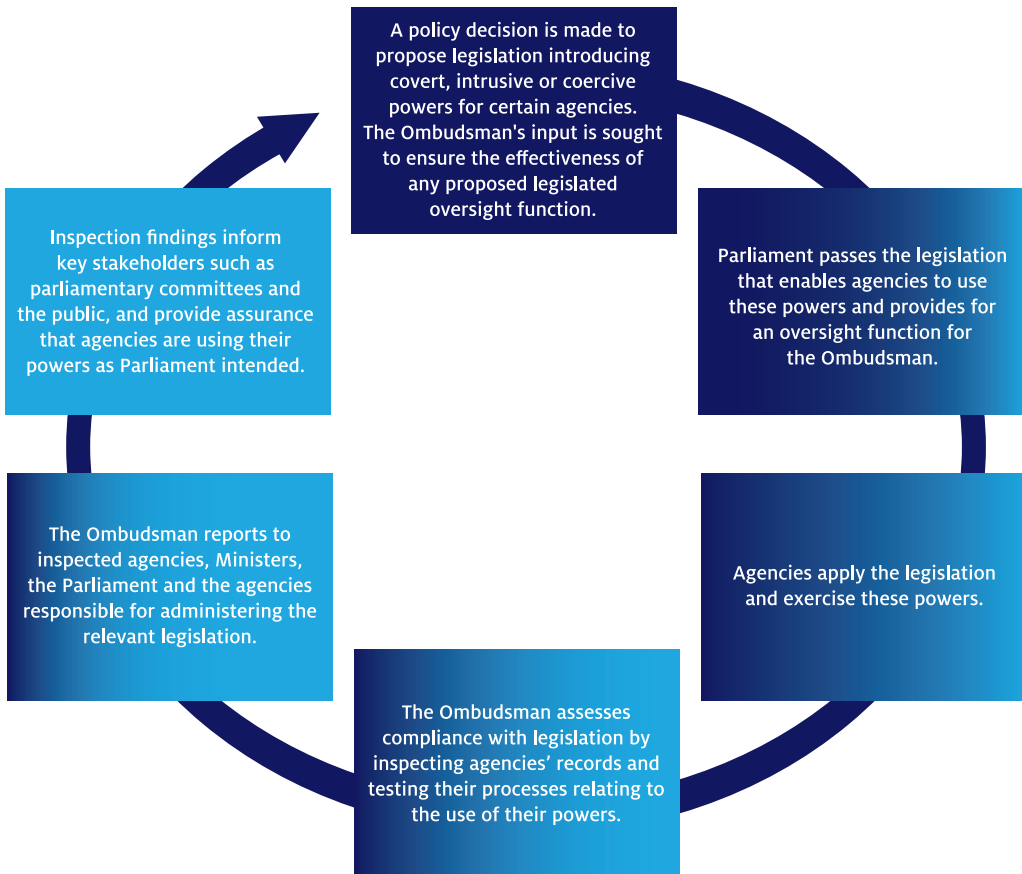
The new search allows consumers to select the benefits and features most important to them, and ranks the search results accordingly, from most to least relevant to each individual's search.

Table 14 – Client survey for private health insurance complaints

	2015–16	2016–17
Overall satisfaction	85%	84%
Agreed that staff listened adequately	93%	90%
Satisfied with staff manner	90%	85%
Resolved complaint or provided adequate explanation	81%	85%
Thought Ombudsman acted independently	86%	86%
Would recommend Ombudsman to others	86%	85%
Happy with time taken to resolve complaint	79%	80%

Inspections of covert, intrusive or coercive powers

Figure 9 – The independent oversight process



Our oversight activities

In 2016–17, the Ombudsman performed oversight functions under the *Telecommunications (Interception and Access) Act 1979*, the *Surveillance Devices Act 2004*, Part IAB of the *Crimes Act 1914*, *Fair Work (Building Industry) Act 2012* and the *Building and Construction Industry (Improving Productivity) Act 2016*. This legislation grants intrusive, and often covert, powers to certain law enforcement agencies. Our role is to provide assurance to the government, Parliament, and the public, that these agencies are using their powers as Parliament intended, and if not, hold the agencies to account.

We are required to inspect the records of enforcement agencies, and report to the relevant Minister (who is responsible for administering the Commonwealth Acts we oversee) on the activities agencies have undertaken, under each legislation. Reports to the Minister are subsequently tabled in Parliament.

Table 15 – Overview of our oversight activities in 2016–17

Function	Number of inspections or reviews in 2016–17
Inspection of telecommunications interception records under the <i>Telecommunications (Interception and Access) Act 1979</i>	6
Inspection of stored communications—preservation and access records under the <i>Telecommunications (Interception and Access) Act 1979</i>	16
Inspection of metadata records under the <i>Telecommunications (Interceptions and Access) Act 1979</i>	20
Inspection of the use of surveillance devices under the <i>Surveillance Devices Act 2004</i>	8
Inspection of controlled operations conducted under Part IAB of the <i>Crimes Act 1914</i>	4
Review of Fair Work Building and Construction’s use of its coercive examination powers under the <i>Fair Work (Building Industry) Act 2012</i>	9
Review of Australian Building and Construction Commission’s use of coercive examination powers under the <i>Building and Construction Industry (Improving Productivity) Act 2016</i>	0
Total	63

Other activities

In 2016–17, we appeared before the Parliamentary Joint Committee on Law Enforcement regarding the involvement of the Australian Criminal Intelligence Commission and the Australian Federal Police in controlled operations under Part IAB of the *Crimes Act 1914*, and similarly briefed the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity regarding the Australian Commission for Law Enforcement Integrity’s controlled operations.

We also regularly responded to requests from agencies for advice about best practices in compliance, and requests from other oversight bodies for guidance in developing inspection methodologies.

Our approach

We value independence, fairness and transparency. These values inform the way we conduct inspections and reviews, and how we engage with the agencies.

For each of these inspections and review functions, we develop sets of methodologies that are applied consistently across all agencies. These methodologies comprise test plans, risk registers, checklists and templates. They are based on legislative requirements and best practice standards in auditing, and ensure the integrity of each inspection and review.

We focus on areas of high risk and take into consideration the effect of non-compliance such as, unnecessary privacy intrusion. It is our practice to regularly review our methodologies to ensure their effectiveness.

We also give notice to agencies of our intention to conduct an inspection and provide them with a broad outline of our criteria against which we assess compliance.

To ensure procedural fairness, we provide a draft report on our findings to the agency for comment before it is finalised. Depending on our reporting requirements under each function, the final report is either presented to the relevant Minister or forms the basis of our published reports.

For our published reports, we remove reference to any sensitive information that could undermine or compromise law enforcement activities. All of our published reports are available on our website.

Metadata oversight for 2016–17

On 13 October 2015, new laws came into effect under the *Telecommunications (Interception and Access) Act 1979* (the TIA Act) requiring telecommunication carriers and service providers to retain certain data associated with its services, known as ‘metadata’, for a mandatory two-year period.

In 2015–16 we conducted a ‘health check’ at each agency, analysing its policies and procedures for accessing metadata. The results of our ‘health checks’ were presented in a report to the Commonwealth Attorney-General (the Minister), and we used these results to inform our records-based inspections in 2016–17. The Ombudsman is required to report its inspection findings to the the Minister after 30 June 2017.

In addition to our record-based inspections, the Office hosted a Metadata Senior Leadership Forum in Canberra, where we communicated our key findings and identified risks from our ‘health checks’. Leaders from 18 different law enforcement agencies attended, including some commissioners of police and chief executive officers. We also hosted two Operational Metadata Forums in Melbourne and Sydney. The forums were well attended by all 20 agencies subject to the Ombudsman’s oversight.

New counter terrorism oversight function

In 2016–17 the Ombudsman acquired a new oversight role with the passing of the Counter-Terrorism Legislation Amendment Bill (No. 1) 2016 in Parliament. The bill amended the *Crimes Act 1914* by introducing Part IAAB, which provides for both overt and covert powers for law enforcement agencies to monitor a person subject to a control order.

Part IAAB includes a number of safeguards and accountability mechanisms, including record keeping and reporting requirements, and independent oversight by our Office of the covert powers. The Ombudsman must also report annually to the Minister on agency compliance with Part IAAB. In gaining this new oversight function, we ensured an effective oversight model was provided in the Act through engaging in the public debate regarding the bill.

Stakeholder engagement

During 2016–17, we participated in, and presented at, various forums and workshops held by the law enforcement community. At the following forums we provided advice on best practices in achieving compliance with relevant legislation and working productively with our Office:

- Australian Internet Governance Forum
- Police Technology Forum
- Public Sector Fraud and Corruption Summit
- National Policing Summit
- Inter-Agency Integrity Forum
- New South Wales Police Stored Communications Workshop.

Law Enforcement Ombudsman

The Office has a comprehensive role in the oversight of the Australian Federal Police (AFP). When performing functions in relation to the AFP, the Commonwealth Ombudsman may also be called the Law Enforcement Ombudsman.

These functions include:

- assessing and investigating complaints about the AFP
- receiving mandatory notifications from the AFP regarding complaints about serious misconduct involving AFP members, under the *Australian Federal Police Act 1979* (AFP Act), and
- statutory reviews of the AFP's administration of Part V of the AFP Act.

In 2016–17 we received 290 complaints about the AFP, compared to 286 in 2015–16. Of these, we investigated 37. Of the complaints we received in 2015–16, we finalised 149.

In the majority of cases, we declined to investigate complaints if the person had not first complained to the AFP. In this case, we referred them back to the AFP. We also declined to investigate a small number of complaints due to another oversight body being the more appropriate agency with whom to raise the matter. Other reasons for not investigating included: that the matter had already been to court, the complaint lapsed due to the complainant not providing us with certain information, the complainant had insufficient interest in the matter, and some complaints were withdrawn.

When we investigate a complaint, we first look at how the AFP handled the issue, and assess the particulars of the matter against the relevant law, policy and practice. Six of the complaints we investigated were finalised because an appropriate remedy was provided by the AFP. However, the majority of complaints were finalised on the grounds that further investigation was not warranted in all the circumstances. This usually meant that the issue, actions and decisions of the AFP were open to be made and not unreasonable. Additionally, in resolving and finalising 11 complaint investigations in 2016–17 we made suggestions to the AFP with a view to remedying individual complaints and for future improvements.

Our Office also conducted two reviews of the AFP's administration of Part V of the AFP Act and published a report on the results of previous reviews.

As well as our regular engagement with the AFP Professional Standards (PRS), such as presenting at induction programs for new investigators, we monitored aspects of the AFP's cultural reform agenda. In particular, we noted the AFP's pro-active response to the report *Cultural Change: Gender Diversity and Inclusion in the Australian Federal Police*, which detailed the findings of a comprehensive study of diversity and inclusion in the AFP, by former Sex Discrimination Commissioner Elizabeth Broderick. This work will continue during 2017–18.

Defence Force Ombudsman

The Office investigates complaints from serving or former members of the Australian Defence Force (ADF). Defence agencies include:

- the ADF
- Department of Defence
- Department of Veterans' Affairs (DVA)
- Defence Housing Australia (DHA)
- Australian Defence Force Cadets.

In 2016–17, we received 635 approaches about administrative matters, compared to 491 in 2015–16. The main areas of complaint concerned:

- the Redress of Grievance process
- discharge
- career
- DVA entitlements
- access to healthcare.

CASE STUDY

Debt raising and offsetting by DVA

Melanie complained to the Ombudsman that the Department of Veterans' Affairs (DVA) had raised a \$7,190 debt against her. She receives DVA income support. DVA changed the assessment of her income from annually to fortnightly. As a result, DVA believed that Melanie had been overpaid.

Melanie sought a review of DVA's decision. DVA affirmed its decision that she had been overpaid. However DVA discovered that it had miscalculated her previous lump

sum compensation payments against her ongoing income support from DVA. As a result, the debt was reduced to \$3,481.

Our investigation found that DVA had been underpaying Melanie since 1998 due to incorrect offsetting of her lump sum compensation payments, resulting in an underpayment of \$51,766. However, our investigation also found that the \$3,481 debt was correct. DVA paid Melanie \$48,245 to settle both debts.

In 2016–17, we finalised 562 complaints, compared to 490 in 2015–16. Of the 562 complaints finalised, 438 were finalised without a formal investigation (compared to 375 in 2015–16).

Stakeholder engagement

During 2016–17 our Office regularly engaged with stakeholders from Defence agencies, veterans and ex-service organisations and members of Parliament.

Outreach to Defence bases

We commenced an outreach program to Defence bases around Australia on 31 January 2017. Our staff travelled to 40 Army, Navy and Airforce bases over two months and gave 52 presentations to around 2,000 members. The program provided members with an overview of the role of the Office and included information on the new abuse reporting function. It also provided members with an opportunity to talk to our staff about any issues of concern.

Submissions and Reports

During 2016–17 the Ombudsman made six submissions to Senate Committee Inquiries relating to the work of the DFO.

Defence Abuse Reporting

Since 1 December 2016, the DFO jurisdiction includes an independent, external and impartial process for serving and former ADF members to report serious abuse. Reports of abuse can also be made by Australian Public Service employees and contractors deployed outside Australia in connection with Defence activities.

From 1 December 2016 to 30 June 2017, we received 163 reports of abuse.

Our expanded DFO function enables reportees (people who have experienced abuse) to confidentially report abuse if, for whatever reason, they feel unable to report through internal Defence complaint mechanisms. We will not take action in

response to a report of abuse which is the same in substance as a complaint that was previously dealt with by the Defence Abuse Response Taskforce (DART).

We can offer reportees a range of support options, including counselling services and Restorative Engagement conferences.

Delivering trauma-informed care

The establishment of the Liaison Team within the Defence Branch represents the evolution of government service delivery for victims of trauma and abuse. It recognises that disclosing information about interpersonal violence is difficult and distressing, and that reportees should be treated in a sympathetic, constructive and reassuring manner at all times to enable them to participate in processes that may be able to address the harm they have suffered.

The work of the Liaison Team is governed by trauma-informed practice and principles, which include safety, trustworthiness, choice, collaboration and empowerment. Where possible, we will have a single point of contact with reportees that allows us to provide an individualised response and support through DFO processes, including assistance in documenting their experiences which is often a very challenging and slow process.

Reparation Payment

On 9 May 2017, the Australian Government announced it would further expand our functions to enable the DFO to recommend that Defence make a reparation payment in certain circumstances. We are working with the Government to settle the policy parameters for such payments.

Restorative Engagement

One of the responses that might be available to a person who reports serious abuse in the Australian Defence Force is participation in the Office's Restorative Engagement Program.

The Restorative Engagement Program is an innovative program using principles of restorative justice in responding to institutional abuse. Building on the experience of the Defence Abuse Response Taskforce, the Office established the program as a means of directly addressing the harm, needs and interests of people arising from their experience of abuse in Defence.

Participation in the program provides an opportunity for reportees to participate in an evidence-based, safely led restorative conference that allows their personal account of abuse to be heard and acknowledged by Defence. A secondary objective of the program is to enable a broader level of insight into the impact of abuse and its implications for individuals and Defence. This insight is critical to building on cultural change strategies in Defence.

A restorative engagement conference involves a carefully facilitated meeting between the person who suffered the abuse, their support person and a senior representative from Defence. The program is guided by the core principles of restorative practice and trauma-informed care. The overarching principle is to do no further harm.

The term Restorative Engagement was adopted to reflect the application of restorative conferencing. In this setting, the allegations and impacts are accepted and not in dispute.

During 2016–17, the Restorative Engagement Program was in its implementation phase. This included finalising the program framework and protocols between the Office and Defence, undertaking a national procurement process to establish a panel of Facilitators to prepare and convene restorative engagement conferences and the delivery of induction sessions to this panel. In 2017–18, we will focus on the final stages of implementation, including the delivery of training preparatory sessions to a pool of 200 + senior Defence Representatives, and the operational delivery of restorative engagement conferences to eligible reportees.

Public Interest Disclosure scheme

The Office supports and monitors the administration by other agencies of the Public Interest Disclosure (PID) scheme established under the *Public Interest Disclosure Act 2013* (the Act).

The Act, established in January 2014, created a legislative ‘whistleblower’ scheme to investigate allegations of wrongdoing in the Commonwealth public sector and provide robust protections for public officials making disclosures.

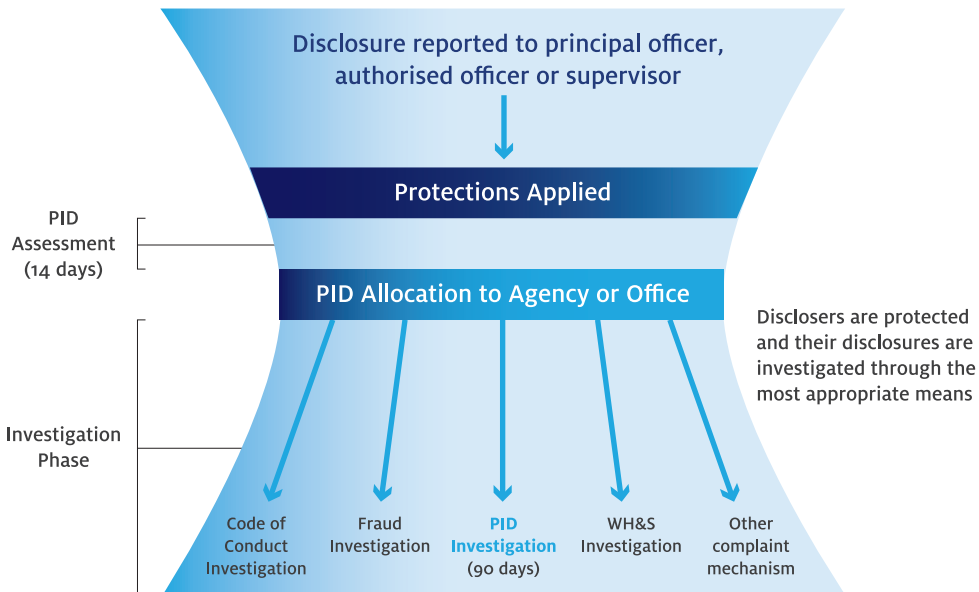
One hundred and seventy-six Commonwealth departments and agencies are currently subject to the PID scheme.²⁰ The Ombudsman can investigate PIDs and complaints made about the outcomes of an agency’s PID investigation. The Office of the Inspector-General of Intelligence and Security (OIGIS) performs a similar role in relation to the six Australian intelligence agencies.

The Ombudsman is also required to assist agencies in relation to the operation of the Act, including by conducting educational programs relating to the Act and reporting annually to Parliament on the operation of the Act.

The Parliament intended the PID scheme to be a reporting mechanism that facilitates cultural change in the Australian Public Service. Due to the strong protections and low threshold for making a PID, public officials are encouraged to come forward and report any suspicions of wrongdoing.

The PID scheme encourages agencies to investigate PIDs internally and to seek guidance and support from our Office, if required. The scheme encourages agencies to consider PIDs as risk management tools. Staff are able to come forward to identify potential wrongdoing in their agency, which can be rectified before any reputational damage or serious risks are realised. This Office promotes a pro-disclosure Australian public service in its educative role under the PID scheme.

Figure 10 – Encouraging a pro-disclosure culture



20 The six Australian intelligence agencies can make public interest disclosures to the Inspector-General of Intelligence and Security. The remaining 170 agencies report to the Commonwealth Ombudsman.

Operation of the PID scheme

The PID scheme is designed to encourage public officials to raise concerns about potential wrongdoing in the Commonwealth. The threshold for disclosable conduct is deliberately low. It is our view that agencies with a high number of disclosures do not necessarily have significant problems. At this early stage in the Act's implementation, those numbers are more likely to reflect agencies who have effectively promoted the Act, as their public officials appear more willing and confident to make disclosures.

An allegation or complaint meets the criteria of a PID when: a public official (current or former) discloses information about disclosable conduct, to an authorised internal recipient.

As the threshold is low, most matters are determined to be a PID and subsequently invoke the PID Act protections.

Figure 10 on page 99 shows how the PID scheme can be seen as encouraging reporting of all types of wrongdoing.

The disclosure is then investigated by the agency (or in limited circumstances by our Office) through the most appropriate means. This includes, but is not limited to, a PID investigation, Code of Conduct investigations, Fraud investigations and Work Health and Safety investigations. A PID investigation must be completed within 90 days of allocation, with a report provided to the discloser, unless an agency seeks an extension from our Office.

The tight timeframes and reporting requirements make PID a unique integrity measure in the Commonwealth. Unlike other investigative processes, the PID scheme ensures the discloser is recognised for raising concerns and is provided with feedback on the outcome of the investigation. The Act directs agencies to ensure that PIDs are considered as soon as a concern is raised and that the investigation is completed in a timely manner.

When a matter has been accepted as a PID by an agency and allocated for investigation, our Office is notified. This allows us to track

the number of investigations each year. This oversight also enables the Office to observe any significant increases or decreases in PID reporting amongst agencies and to provide training and/or assistance where needed.

The broader whistleblower community

The Office is a key research partner for the *Whistling While They Work 2* project led by Griffith University. This project is looking at improving managerial responses to whistleblowing in the private and public sector. During the year we have attended Steering Committee meetings and Research Team workshops. We have been actively involved in the research design and have participated in the first round of data collection through completion of the *Integrity@WERQ* survey.

We also maintain a presence on the online PID community (Whistling Wiki) which the Office jointly administers with the NSW and QLD Ombudsman Offices.

We actively engage with the Commonwealth's broader integrity framework across the Commonwealth public sector. As part of this we have presented at the Public Sector Fraud and Corruption Summit and the Defence Anti-Fraud and Corruption Summit.

The PID Team presented at the Canberra Institute of Technology Investigations Course. Participation in the event was undertaken to build the capacity of PID investigators. It has been noted that several agencies are increasingly outsourcing their PID investigations. As such, this engagement helps to ensure PID literacy across private providers as well as the public service.

What is happening with PID

A review of the operation of the PID Act (in accordance with s 82A) took place in the first half of 2016. The review was led by the former Integrity Commissioner, Mr Philip Moss AM, and informed by public submissions. The Moss Review was tabled in Parliament on 20 October 2016. We understand that the government is considering its response.

Prior to the Statutory Review, the Office focused resourcing on ensuring that agencies had the appropriate frameworks in place to allow their employees to make PIDs. This included training authorised officers, disseminating guides and providing advice on implementing procedures.

In the 2016–17 financial year, recognising that the PID Act was now quite well understood in the Commonwealth, the Office focused on increasing awareness. Analysis of last year's annual report data identified that smaller agencies required greater engagement with this Office and did not have a well-developed understanding of the operation of the PID scheme. Recognising our educative role under the scheme, the Office has engaged in general awareness training, communities of practice and has worked on improving usability of online materials.

Assistance, education and awareness

The PID practitioner community is a strong contributor to the operation of the PID scheme. Authorised officers and investigating officers are able to disseminate information across their agencies and are a useful resource for providing feedback to us. Our Office hosted a Community of Practice forum for PID practitioners to discuss best practice risk management and risk of reprisal under the PID scheme. This was identified as an area where improvements could be made in the 2015–16 annual report data.

The Community of Practice encouraged practitioners to discuss their experience with the PID Act's operation directly with our Office. Due to the success of this event, similar forums have been planned for 2017–18 in Canberra and nationally. Each event will target issues raised by practitioners in the Office's annual report survey.

The Ombudsman, in accordance with the Act, assists principal officers, authorised officers and public officials (current and former) with their understanding of PID. This is effectively achieved through publically available information packages and by conducting educational and awareness programs.²¹ Our Office delivered 22 training presentations on the PID scheme to agencies. Feedback showed that attendees are satisfied with the information they are receiving on the PID scheme. This year, we met directly with over 80 agencies, and in a number of cases helped to review their procedures and information on the PID Scheme for staff and contractors. Meeting with almost half the number of agencies subject to the PID Act was part of our new proactive stakeholder engagement strategy to promote compliance and cultural change.

Enquiries about the PID Act

The Office received 265 enquiries in relation to the PID Act through our dedicated telephone line and email contact points. In addition to the complaints, disclosures and agency notifications were received.

Information gathered from these enquiries provides an important insight into the day-to-day operational issues faced by agencies and officials. Advice provided by our Office to agencies, regularly involved complex matters demonstrating an improved understanding of the Act by both agencies and disclosers.

21 In accordance with section 62 of the PID Act.

Information and guidance materials

The Office's PID website was improved this financial year and continues to be a key resource for agencies looking for information about the scheme. During the year there were 12,082 visits to the PID website.²² We published two editions of PID e-News—in November 2016 and April 2017—providing articles on particular issues faced by PID practitioners, information about relevant events and links to our updated guidance products and forms.

The 2015–16 annual report data identified that contractors had limited access to the PID scheme. Recognising the prevalence of contractors in the Commonwealth, the Office conducted one-on-one consultations with key agencies who engage contractors regularly. The PID Team will be using the advice provided by these agencies to better target training to address contractors in the next financial year.

Overview of the data collected

Section 76(1) of the PID Act requires the Ombudsman to prepare a report on the Act's operation each financial year. In conjunction with the OIGIS, the Office asked agencies subject to the PID Act to complete a survey and workbook for the 2016–17 financial year.²³ All 176 agencies completed and returned the survey, providing responses to questions about their experience with the scheme.

Information gathered during the annual reporting period is essential to inform where we should target our resources.

PIDs received

A total of 684 PIDs were received by Commonwealth agencies subject to the PID Act during the 2016–17 financial year.

The overall number of PIDs made to a Commonwealth agency has increased from 612 in the 2015–16 financial year to 684.²⁴ However, the number of agencies receiving PIDs has decreased from 69 agencies in the 2015–16 to 57. Most PIDs were made in large agencies²⁵, with only 112 PIDs made in agencies with fewer than 1,000 employees.

The Office received 461 notifications of allocation of PIDs.²⁶ There were only four occasions when a PID was allocated without the required notification being made to our Office. The 99.1 per cent compliance rate in providing notifications is a substantial increase on the 88 per cent compliance rate in the 2015–16 financial year and suggests that agencies are more aware of their obligations.

We note that the number of PIDs reported by agencies at the end of the financial year was greater than the number of notifications of allocation decisions received by the Ombudsman throughout the year, pursuant to s 44 of the Act. Agencies are not obligated to notify the Ombudsman when a public official attempts to make a PID. The Ombudsman's Office is *only* notified when a PID is established and allocated for investigation. The PID Act asks our Office to collate data, on the number of PIDs received by an agency, not just those allocated for investigation. From this data, we are able to better identify the number of public officials seeking to utilise the PID scheme to raise concerns about possible wrongdoing within their Agency.

- 22 This counts the number of unique page views to five of our main pages on the PID website, that is, the number of visits during which the specific page was viewed at least once. Where a person views the same webpage from the same computer more than once, this will only be counted as one unique page view.
- 23 Information was obtained from the survey/workbook responses of 170 agencies, including a consolidated response for the six agencies of the Australian Intelligence Community.
- 24 An internal PID is made when a public official discloses to an authorised internal recipient information which tends to show, or which the discloser believes on reasonable grounds tends to show, disclosable conduct (s 26)
- 25 84 per cent of PIDs were made within 29 agencies with 1,000 or more employees.
- 26 227 of the 684 PIDs were assessed by an authorised officer or principal officer as not meeting the threshold to be a qualifying PID.

Table 16 on page 111 sets out, by agency, the number of PIDs received and the types of disclosable conduct. Table 17 on page 118 lists the agencies which did not receive any PIDs.

Disclosable conduct

Of the 684 PIDs reported, agencies identified 809 possible instances of disclosable conduct. The PID Act is not prescriptive about what conduct could constitute disclosable conduct under the Act and does not provide definitions of the terms used in the Act. It is at an agency's discretion how to determine the definitions of disclosable conduct. There may be some overlap in areas of disclosable conduct, for example maladministration and conduct that may result in disciplinary action can result from the same PID.

Examples of maladministration seen in notification summaries sent to our Office have included: giving contracts to a company that a spouse worked for without the correct security clearances or skill level and failing to afford procedural fairness in internal agency processes.

The Office understands that 'maladministration' and 'conduct that *may* result in disciplinary action' are broad notions. An authorised officer is not expected to initiate an investigation in order to determine the exact disclosable conduct. During the investigation process, the investigating officer is better placed to decide if the conduct amounts to maladministration or abuse of public trust for example. Therefore, the investigation may find that there was a different type of disclosable conduct to that alleged and allocated. Under the Act agencies are not required to advise this Office of the outcome of an investigation.

As shown in Figure 11 on page 104, the largest group (30 per cent) concerned conduct that may result in disciplinary action. This was an expected rise from last year's figure due to increased awareness of the low threshold for PIDs, as well as authorised officers understanding their role in the scheme. It suggests that authorised officers are accurately assessing matters as PIDs and using a broad interpretation of disclosable conduct where necessary.

The other common categories of alleged misconduct were contravention of a law of the Commonwealth, state or territory (28 per cent) and maladministration (23 per cent) which remains fairly consistent with the previous financial year. Conduct alleged to be engaged in for the purposes of corruption has notably decreased this financial year from four per cent to one per cent. We believe that authorised officers now have a greater understanding of the scheme and as such are not using specific definitions, such as corruption in their initial assessment.

Types of Disclosers

Nine per cent of PIDs were made by persons who were deemed to be public officials under s 70 of the PID Act. This figure may include anonymous disclosers or individuals who have 'inside information' through their close connection with an agency or public official. The Office has promoted 'deeming' in the case of anonymous disclosers to ensure the discloser can receive the protections under the PID Act.

Agencies reported that only seven per cent of disclosures were made to a supervisor, who then passed the information to an authorised officer. The vast majority of PIDs were received by authorised officers (83 per cent), and a smaller percentage directly to principal officers (10 per cent). The Office is now considering ways to provide greater awareness of the scheme for supervisors.

The 2016–17 financial year has seen a fall in contracted service providers accessing the scheme to nine per cent from 19 per cent in 2015–16. The 2016–17 survey identified that accessibility is an ongoing issue for contactors with only 70 per cent of agencies reporting that their PID procedures were publicly available.²⁷ This reduction can also be attributed to the decrease in PIDs received from contractors with Australia Post. Australia Post relies on the terms of the contract, supported by existing policies and procedures, for contractors to be aware of the scheme.

²⁷ In 2015–16, 19 per cent of disclosers were identified by agencies as contracted service providers.

Figure 11 – Comparison of the kinds of disclosable conduct

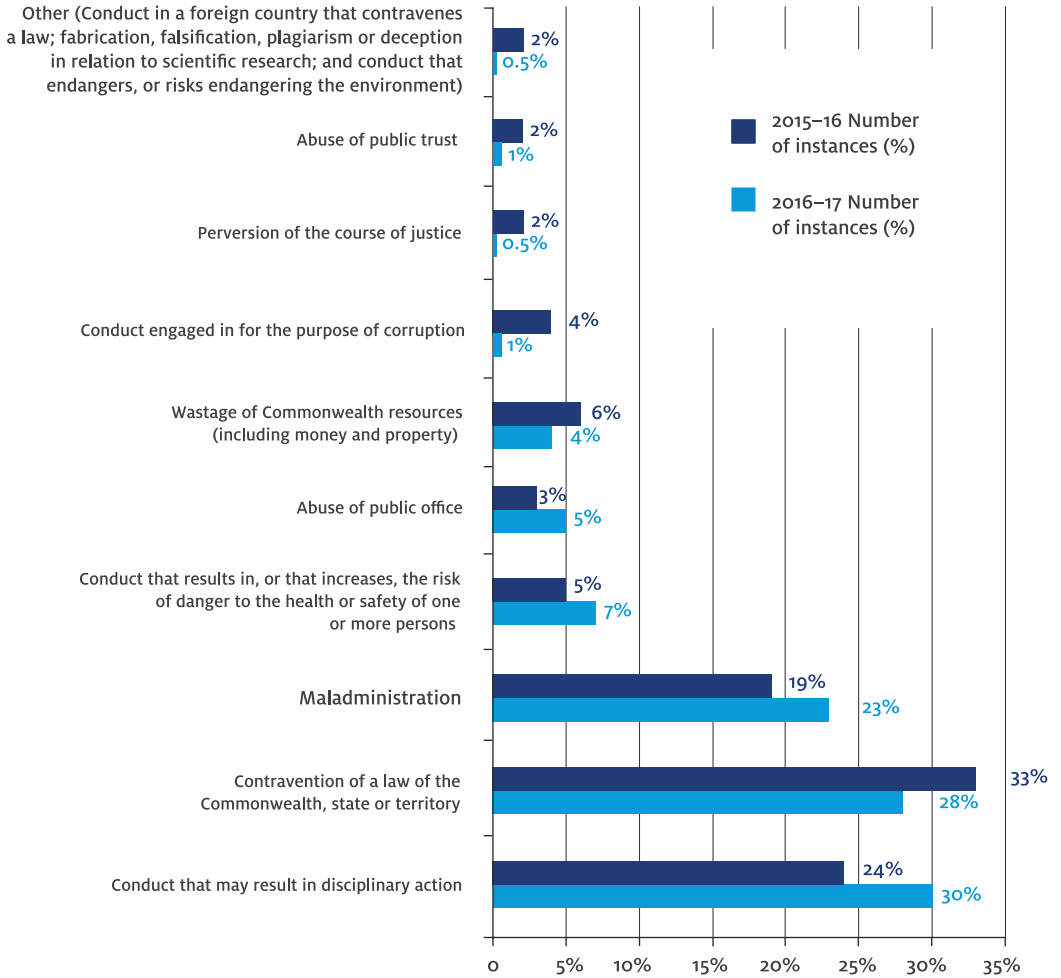
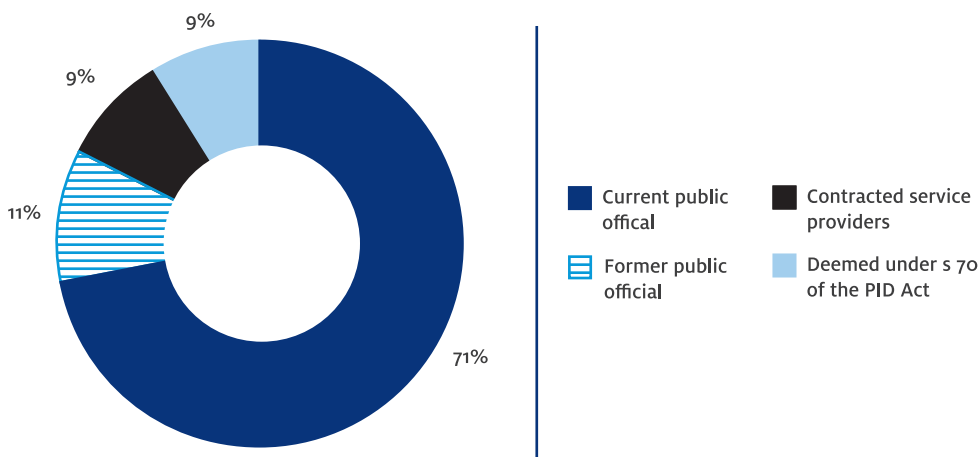


Figure 12 – Types of disclosures



As shown in Figure 12, the PID Act is being used by a range of individuals to report possible wrongdoing across the Commonwealth. Agencies reported that most disclosers were current public officials (71 per cent). This increase of 12 per cent from last financial year may suggest an increased awareness of and confidence in the protections provided under the PID scheme.

Matters that were not internal PIDs

Thirty-four of the 176 agencies recorded the number of disclosures assessed by an authorised officer as not meeting the PID criteria. In those agencies, there were 227 matters that were assessed as not being PIDs. In contrast with the last financial year, the most common reason was that the discloser was not a public official (59 per cent).

This increase can be attributed to Australia Post. Australia Post has received the majority of matters which were not from a public official. We understand that the phrase ‘public interest disclosure’ may mislead members of the public to think they qualify as a discloser when it may be a customer or client concern.

A small percentage of agencies (three per cent) reported that they had determined a matter was not a PID for reasons other than the threshold criteria²⁸ or that the information was not provided to an authorised internal recipient. This indicates there may still be a number of instances where irrelevant considerations are leading to incorrect decisions regarding the classification of a disclosure as a PID and that authorised officers are perhaps not easily accessible to public officials (current and former).

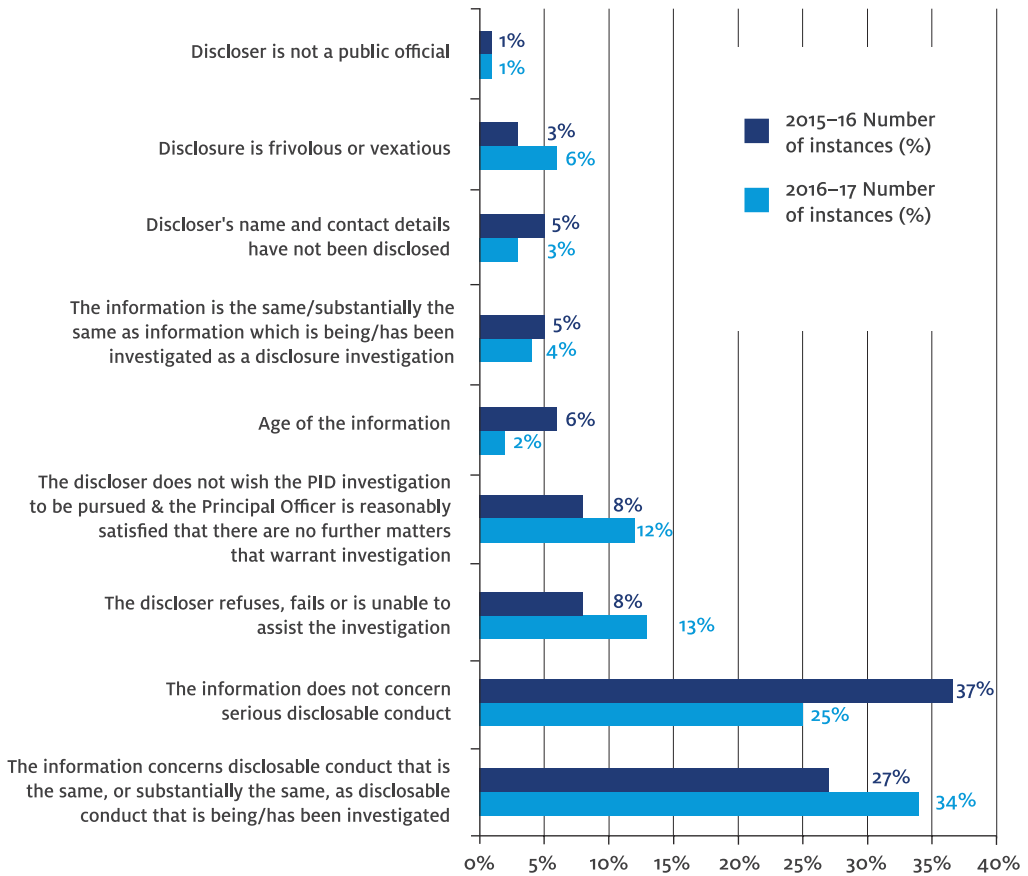
Matters not investigated (s 48)

Of the 684 PIDs reported, covering 809 instances of possible disclosable conduct, agencies reported that in 106 instances they decided not to investigate (or not investigate further) under s 48 of the PID Act.²⁹ This occurs when the decision is made to not investigate the disclosure, or to stop investigating it, if one of the discretionary grounds, listed in Figure 13, of s 48 of the PID Act applies.

28 Specifically not a public official, not disclosable conduct or not given to an authorised internal recipient.

29 Noting that there may be more than one reason for not investigating a PID, or an instance of disclosable conduct contained in a PID.

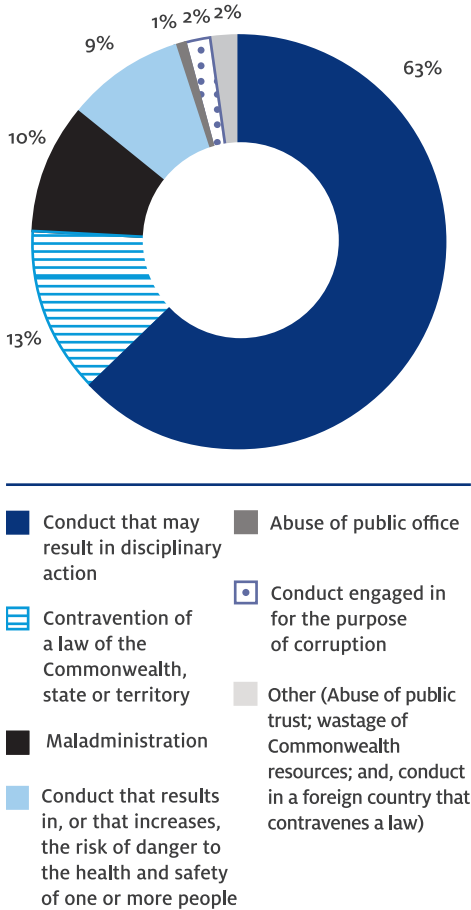
Figure 13 – Comparison of reasons for s 48 decisions



As shown in Figure 13, the most common reasons were that the information was the same, or substantially the same as information which had been, or was being, investigated under another law of the Commonwealth (34 per cent); and that the information did not concern serious conduct (25 per cent).

There has been a 14 per cent increase in the number of PIDs referred for subsequent investigation under the Code of Conduct in the *Public Service Act 1999*. This suggests that agencies have an enhanced understanding of how the PID scheme interacts with other mechanisms, specifically the Code of Conduct. Enhanced awareness by agencies is a direct result of the Office's targeted training on the intersection of PID and Code of Conduct.

Figure 14 – Findings of disclosable conduct



Findings, recommendations and actions taken

During the year our Office received 156 requests for extensions of time. The vast majority of these were approved in full or in part, with only eight denied. We also received 88 notifications of decisions not to investigate and 461 notifications of allocations of PIDs.

During the reporting period 21 agencies reported that they had completed 365 disclosure investigations. Table 18 on page 120 summarises the information provided

by agencies about the number of disclosure investigations completed in the reporting period and the actions taken in response to recommendations from those disclosure investigations.

Of the 365 investigations finalised in 2016–17, 105 investigations found that there was at least one finding that disclosable conduct occurred. This financial year the types of conduct found to have occurred included:

- an employee fraudulently claiming to possess qualifications for positions
- sexual assault
- severe bullying and harassment
- staff making racist and sexist comments towards colleagues
- an employee leaking emails containing sensitive information to the media, and
- unsafe work practices such as falling asleep whilst operating heavy machinery.

This figure has more than doubled since the previous financial year. That is as a result of two agencies who commenced a large number of PID investigations in the 2015–16 financial year which were not completed until this year.

Figure 14 details the kinds of disclosable conduct found to have been engaged in. Agencies reported a range of actions taken in response to recommendations in disclosure investigations, including disciplinary action, termination of employment, internal reviews, and changes to policies and procedures.³⁰

There was an increase in findings that conduct occurred which may lead to disciplinary action. That is, from 28 of 57 allegations in 2015–16 financial year to 79 of 126 allegations in 2016–17 financial year. This suggests an increased use of the scheme by public officials as a reporting mechanism and that the scheme is assisting to identify wrongdoing.

30 This information was obtained in accordance with s 76(2)(a)(iv).

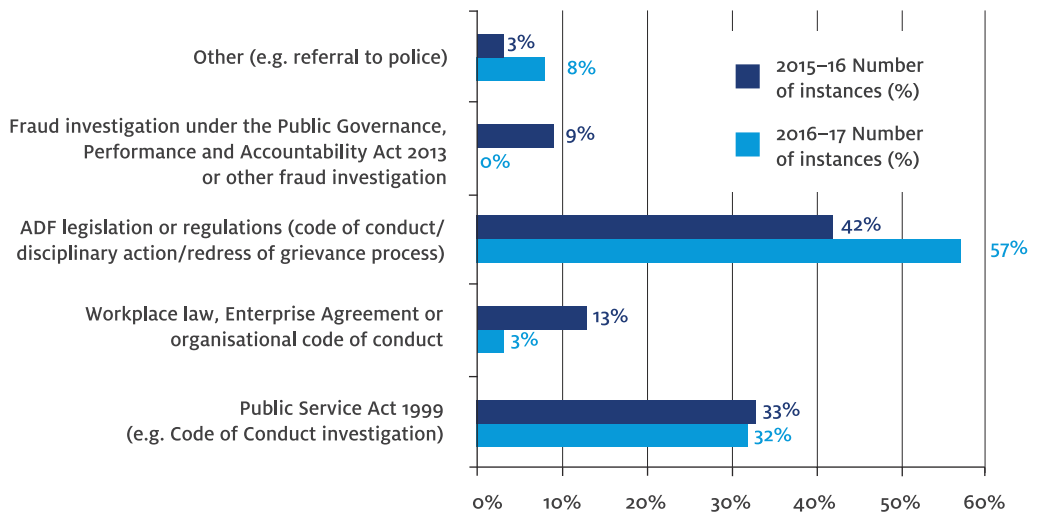
There were two instances where state or federal police were notified of information in accordance with s 56 of the PID Act during the financial year. These results demonstrate that the scheme is an instrument which enhances the integrity of the public sector. As there is no requirement under the Act to inform us, this Office does not know what action was taken as a result of those referrals.

A PID investigation can result in the recommendation that the matter proceed under another law or procedure of the Commonwealth. Of the 365 PID investigations completed, 59 investigations recommended that the PID be reopened under another law or procedure. This shows us that the PID Act is being used by public officials to raise concerns about wrongdoing. It allows the public official to raise allegations of wrongdoing, and be protected from reprisal action and civil, criminal and administrative liability. It also allows an agency to consider

the allegations through other established investigative mechanisms. We understand that PID is being used by agencies to facilitate reporting of wrongdoing. The PID Act provides agencies with scope to consider the most appropriate investigation process once an allegation is raised, increasing their flexibility and handling matters in the most effective way possible.

A decrease in the number of overall recommendations of referral at the conclusion of a PID investigation is attributed to investigations being redirected at an earlier stage in the process through s 48 decisions. As illustrated in Figure 15, decreases are observed in all types of referrals except one. The exception to this trend is the increase in recommendations of referral to ADF legislation or regulations. This reflects the overall increase in PIDs received by the Department of Defence and their strong PID awareness programs.

Figure 15 – Comparison of the kinds of referrals to other investigative methods



Ombudsman investigations

The Ombudsman accepted 60 direct approaches from people wishing to make a PID about another Commonwealth agency. We determined that two thirds of these approaches were not PIDs.³¹

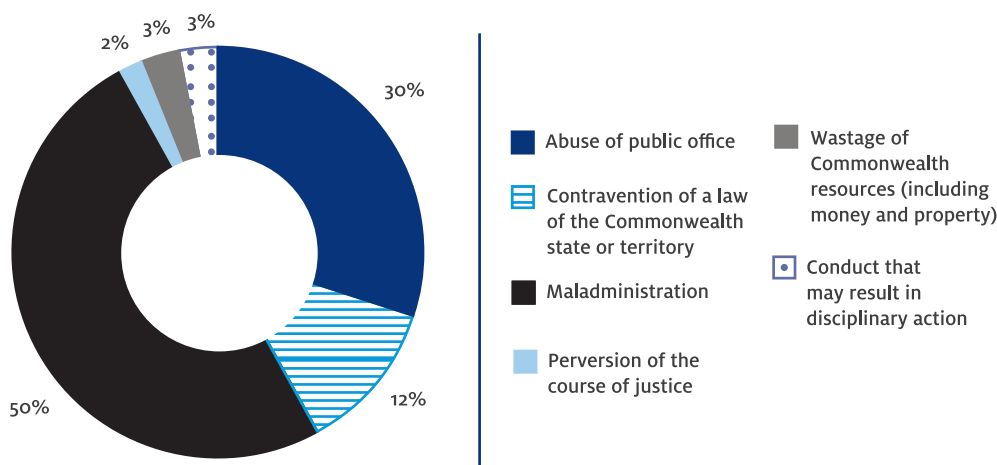
In 17 of these matters the information disclosed did not meet the statutory threshold and were referred to the appropriate reporting body. In three of these matters the Ombudsman was not an authorised internal recipient because there were no reasonable grounds for the discloser to believe that the matter should be investigated by our Office.

Of the 40 PIDs which we accepted, 23 were allocated to the Agency concerned. Figure 16 illustrates the types of disclosable conduct found in these PIDs received by our Office.

The remaining 17 were allocated to the Ombudsman for investigation under the *Ombudsman Act 1976*. Three of the 17 PIDs investigated by the Ombudsman were referred to us by other agencies who had raised concerns about the complexity of the matters.

During the reporting period one investigation was finalised and referred to the Australian Public Service Commission as the relevant agency with jurisdiction. One investigation was finalised by the Office. There have been no own motion investigations arising from PIDs in this financial year. No investigations were finalised under section 48 of the PID Act.

Figure 16 – Types of disclosable conduct received by the Office



31 The threshold for an internal PID is in s 26 of the PID Act.

OIGIS investigations

Throughout the year the OIGIS provided assistance and advice to officials within the intelligence agencies.³² The OIGIS coordinates meetings involving all agencies of the Australian Intelligence Community on PID matters, as the need arises. This Office assisted the OIGIS, where needed, on the operation of the PID scheme and the performance of their functions under section 63 of the Act.³³

The OIGIS received 11 PIDs, four were allocated to AIC agencies for investigation, with five remaining with OIGIS for investigation. Two did not meet the PID Act threshold. During the year, five investigations were completed under the *Inspector General of Intelligence and Security Act 1986* (OIGIS Act).

Managing reprisal risk and incidents of reprisal

The PID Act requires agencies to have procedures in place for assessing risks of reprisal against disclosers. The PID Act also obliges principal officers to take reasonable steps to protect public officials from detriment, or threats of detriment, in relation to making a PID.³⁴

Eighty-nine per cent of agencies reported they had procedures for assessing reprisal risk. During the year, 15 agencies reported having taken action in relation to 34 instances of potential or actual reprisal relating to a PID. This is more than double the instances of potential or actual reprisal relating to a PID in 2015–16.

This increase may reflect PIDs made several years' prior and subsequent allegations of reprisal. Allegations of reprisal cover all years in which the Act has been in force. Increased awareness of reprisal may also be attributed to the theme of the Community of Practice during the year, and therefore agencies are more astute in identifying such instances.

Our Office has received a number of complaints from disclosers relating to allegations of reprisal action. We are not

aware of any cases in the Federal Court or Federal Circuit Court that have been finalised in relation to alleged reprisal or in pursuit of immunity from liability in relation to a PID.

Complaints

During the reporting period, our Office received 34 complaints about agencies' conduct in relation to PIDs and finalised 44 complaint investigations. Fourteen of these finalised investigations were carried over from the previous financial year.

The OIGIS did not receive any complaints about the handling of PIDs this financial year. The majority of complaints we received were made by disclosers about the process and outcome of PIDs.

Consistent with previous years, timeliness, procedural issues and communication with disclosers, remain the most common areas of complaint. Disclosers continue to raise concerns about agencies' failure to keep them informed and comply with notification requirements. Additionally, disclosers complained about delays in the investigation and issuing the investigation report under s 51 of the PID Act, as well as the extent to which those reports were redacted.

Another common area of complaints related to the way in which PID investigations were conducted and the outcome of those investigations. Consistent with previous years, the key issues identified in complaints were:

- the investigation process was flawed because of a conflict of interest or bias
- insufficient enquiries were made, including failure to interview the discloser or key witnesses, and
- the investigator reached the wrong conclusion based on evidence.

We noted an increase in complaints alleging reprisal action in the two previous financial years. This trend continues, with disclosers concerned about reprisals against them and a lack of support, risk assessment and action in relation to reprisals and reprisal risk. Reprisal issues were often accompanied by concerns about breaches of secrecy and confidentiality in the PID process and fears that a discloser's identity had been compromised.

32 In accordance with section 63 of the Act.

33 In accordance with section 62(c) of the Act.

34 See section 59 (1) and (3).

There has also been an increase in complaints alleging agencies' failure to identify the full range of possible disclosable conduct in a PID. Some of these complaints focus on the conduct of individuals, rather than broader procedural or systemic problems. We also received a number of complaints about agencies' failure to treat particular matters as a potential PID, and either not dealing with them or dealing with them outside of the PID Act.

In the course of our complaint investigations, we identified shortcomings in some agencies' PID handling and recommended remedial action and improvements. In most of those cases we asked agencies to provide greater transparency for disclosers and to comply with timeframes, notifications and reporting requirements in the Act. In some matters we identified a need for improvements in the handling of PID information and recommended developing processes for confidentiality in PID investigations.

Table 16 – Number of disclosures received and kinds of disclosable conduct

Agency	Number of PIDs received by authorised officers (s 76(2)(a)(i) PID Act) ³⁵	Types of disclosable conduct to which the disclosures relate (s 76(2)(a)(ii) PID Act) ³⁶
1. Department of Defence	269	<ul style="list-style-type: none"> • Contravention of a law of the Commonwealth, state or territory (38%) • Maladministration (33%) • Conduct that may result in disciplinary action (15%) • Abuse of public office (7%) • Wastage of Commonwealth resources (including money and property) (3%) • Conduct that results in, or that increases, the risk of danger to the health or safety of one or more people (3%) • Conduct in a foreign country that contravenes a law (1%)
2. Australian Postal Corporation	152	<ul style="list-style-type: none"> • Contravention of a law of the Commonwealth, state or territory (46%) • Conduct that may result in disciplinary action (46%) • Conduct that results in, or that increases, the risk of danger to the health or safety of one or more people (8%)

35 A PID is information that has been assessed as meeting all the requirements under s 26(1) of the PID Act. These statements do not include reference to disclosures that were received under the PID Act but not assessed as meeting the s 26 requirements.

36 This column details the percentage of each kind of disclosable conduct within the PIDs referred to in Column 1, as reported by agencies, noting that an individual PID may contain allegations of instances of more than one kind of disclosable conduct. It should be noted that this table lists the disclosable conduct alleged by the discloser, but does not represent the findings at the conclusion of any investigation. Percentages in this table have been rounded and may not total 100 per cent.

Agency	Number of PIDs received by authorised officers (s 76(2)(a)(i) PID Act) ³⁵	Types of disclosable conduct to which the disclosures relate (s 76(2)(a)(ii) PID Act) ³⁶
3. Office of the Commonwealth Ombudsman	40 ³⁷	<ul style="list-style-type: none"> • Maladministration (50%) • Conduct that may result in disciplinary action (33%) • Contravention of a law of the Commonwealth, state or territory (13%) • Perversion of the course of justice (3%) • Wastage of Commonwealth resources (including money and property) (3%)
4. Australian Taxation Office	34	<ul style="list-style-type: none"> • Conduct that may result in disciplinary action (52%) • Contravention of a law of the Commonwealth, state or territory (15%) • Maladministration (13%) • Abuse of public office (10%) • Wastage of Commonwealth resources (including money and property) (6%) • Abuse of public trust (2%) • Conduct that results in, or that increases, the risk of danger to the health or safety of one or more people (2%)
5. Airservices Australia	31	<ul style="list-style-type: none"> • Conduct that may result in disciplinary action (54%) • Contravention of a law of the Commonwealth, state or territory (20%) • Conduct that results in, or that increases, the risk of danger to the health or safety of one or more people (20%) • Maladministration (2%) • Abuse of public trust (2%) • Wastage of Commonwealth resources (including money and property) (2%)

37 The Office of the Commonwealth Ombudsman received 40 PIDs relating to other agencies.

Agency	Number of PIDs received by authorised officers (s 76(2)(a)(i) PID Act) ³⁵	Types of disclosable conduct to which the disclosures relate (s 76(2)(a)(ii) PID Act) ³⁶
6. Department of Immigration and Border Protection	12	<ul style="list-style-type: none"> • Maladministration (54%) • Conduct that may result in disciplinary action (30%) • Contravention of a law of the Commonwealth, state or territory (8%) • Wastage of Commonwealth resources (including money and property) (8%)
7. Australian National Maritime Museum	11	<ul style="list-style-type: none"> • Contravention of a law of the Commonwealth, state or territory (32%) • Conduct that may result in disciplinary action (32%) • Conduct that results in, or that increases, the risk of danger to the health or safety of one or more persons (32%) • Wastage of Commonwealth resources (including money and property) (4%)
8. Consolidated Australian Intelligence Community response	11	<ul style="list-style-type: none"> • Maladministration (57%) • Conduct that results in, or that increases, the risk of danger to the health or safety of one or more persons (22%) • Conduct that may result in disciplinary action (14%) • Wastage of Commonwealth resources (including money and property) (7%)
9. Office of the Inspector-General of Intelligence and Security (OIGIS)	11 Note: the OIGIS received 11 PIDs relating to other agencies	<ul style="list-style-type: none"> • Maladministration (82%) • Contravention of a law of the Commonwealth, state or territory (9%) • Conduct that results in, or that increases, the risk of danger to the health or safety of one or more people (9%)

Agency	Number of PIDs received by authorised officers (s 76(2)(a)(i) PID Act) ³⁵	Types of disclosable conduct to which the disclosures relate (s 76(2)(a)(ii) PID Act) ³⁶
10. Department of Prime Minister and Cabinet	7	<ul style="list-style-type: none"> • Wastage of Commonwealth resources (including money and property) (43%) • Conduct that may result in disciplinary action (43%) • Abuse of public office (14%)
11. Department of Veterans' Affairs	7	<ul style="list-style-type: none"> • Conduct that may result in disciplinary action (50%) • Maladministration (40%) • Abuse of public trust (10%)
12. Department of Human Services	6	<ul style="list-style-type: none"> • Abuse of public office (50%) • Maladministration (25%) • Wastage of Commonwealth resources (including money and property) (25%)
13. Australian Building and Construction Commission	5	<ul style="list-style-type: none"> • Contravention of a law of the Commonwealth, state or territory (100%)
14. Civil Aviation Safety Authority	5	<ul style="list-style-type: none"> • Maladministration (31%) • Abuse of public office (23%) • Wastage of Commonwealth resources (including money and property) (15%) • Conduct that results in, or that increases, the risk of danger to the health or safety of one or more people (15%) • Conduct that may result in disciplinary action (15%)

Agency	Number of PIDs received by authorised officers (s 76(2)(a)(i) PID Act) ³⁵	Types of disclosable conduct to which the disclosures relate (s 76(2)(a)(ii) PID Act) ³⁶
15. Aboriginal Hostels Limited	83 (aggregated total of all PIDs received by these agencies).	<ul style="list-style-type: none"> • Conduct that may result in disciplinary action (27%)
16. Administrative Appeals Tribunal	This section aggregates data for agencies reporting four or fewer PIDs received during the reporting period.	<ul style="list-style-type: none"> • Maladministration (24%)
17. Australian Submarine Corporation Pty Ltd		<ul style="list-style-type: none"> • Contravention of a law of the Commonwealth, state or territory (12%)
18. Austrade		<ul style="list-style-type: none"> • Abuse of public office (8%)
19. Australian Broadcasting Corporation		<ul style="list-style-type: none"> • Wastage of Commonwealth resources (including money and property) (8%) • Conduct that results in, or that increases, the risk of danger to the health or safety of one or more persons (8%)
20. Australian Bureau of statistics		<ul style="list-style-type: none"> • Conduct engaged in for the purpose of corruption (5%)
21. Australian Competition and Consumer Commission		<ul style="list-style-type: none"> • Abuse of public trust (3%) • Conduct in a foreign country that contravenes a law (3%)
22. Australian Federal Police		<ul style="list-style-type: none"> • Perversion of the course of justice (2%)
23. Australian Human Rights Commission		
24. Australian Institute of Marine Science		
25. Australian Nuclear Science and Technology Organisation		
26. Australian Rail Track Corporation		
27. Australian Securities and Investment Commission		

Agency	Number of PIDs received by authorised officers (s 76(2)(a)(i) PID Act) ³⁵	Types of disclosable conduct to which the disclosures relate (s 76(2)(a)(ii) PID Act) ³⁶
28. Australian Skills Quality Authority		
29. Australian Sports Commission		
30. Australian War Memorial		
31. Bureau of Meteorology		
32. Cancer Australia		
33. Commonwealth Scientific and Industrial Research Organisation		
34. Defence Housing Australia		
35. Department of Agriculture and Water Resources		
36. Department of Communications and the Arts		
37. Department of Employment		
38. Department of Finance		
39. Department of Foreign Affairs and Trade		
40. Department of Health		
41. Department of Industry, Innovation and Science		

Agency	Number of PIDs received by authorised officers (s 76(2)(a)(i) PID Act) ³⁵	Types of disclosable conduct to which the disclosures relate (s 76(2)(a)(ii) PID Act) ³⁶
42. Department of Infrastructure and Regional Development		
43. Department of Parliamentary Services		
44. Department of Social Services		
45. Department of Environment and Energy		
46. Federal Court of Australia		
47. Grains Research and Development Corporation		
48. Indigenous Business Australia		
49. National Archives of Australia		
50. National Offshore Safety and Environmental Management Authority		
51. NBN Co. Limited		
52. Special Broadcasting Service Corporation		
53. Sydney Harbour Federation Trust		
54. Torres Strait Regional Authority		

Table 17 – Agencies that have reported not receiving PIDs

1. AAF Company
2. Anindilyakwa Land Council
3. Army and Air Force Canteen Service
4. Asbestos Safety and Eradication Agency
5. Attorney-General's Department
6. Australian Council for the Arts
7. Australian Accounting Standards Board and Audit and Assurance Standards Board
8. Australian Aged Care Quality Agency
9. Australian Centre for International Agricultural Research
10. Australian Commission for Law Enforcement Integrity
11. Australian Commission on Safety and Quality in Health Care
12. Australian Communications and Media Authority
13. Australian Criminal Intelligence Commission
14. Australian Curriculum, Assessment and Reporting Authority
15. Australian Digital Health Agency
16. Australian Electoral Commission
17. Australian Financial Security Authority
18. Australian Fisheries Management Authority
19. Australian Grape and Wine Authority
20. Australian Hearing
21. Australian Institute for Teaching and School Leadership
22. Australian Institute for Aboriginal and Torres Strait Islander Studies
23. Australian Institute of Criminology
24. Australian Institute of Family Studies
25. Australian Institute of Health and Welfare
26. Australian Law Reform Commission
27. Australian Maritime Safety Authority
28. Australian Military Forces Relief Trust Fund
29. Australian National Audit Office
30. Australian National University
31. Australian Pesticides and Veterinary Medicines Authority
32. Australian Prudential Regulation Authority
33. Australian Public Service Commission
34. Australian Radiation Protection and Nuclear Safety Agency
35. Australian Reinsurance Pool Corporation
36. Australian Renewable Energy Agency
37. Australian Research Council
38. Australian Sports Anti-Doping Authority
39. Australian Sports Foundation Ltd
40. Australian Strategic Policy Institute
41. Australian Transaction Reports and Analysis Centre
42. Australian Transport Safety Bureau
43. Bundanon Trust
44. Central Land Council
45. Clean Energy Finance Corporation
46. Clean Energy Regulator
47. Climate Change Authority
48. Coal Mining Industry (Long Service Leave Funding) Corporation
49. Comcare
50. Commonwealth Department of Treasury
51. Commonwealth Director of Public Prosecutions
52. Commonwealth Superannuation Corporation
53. Corporations and Markets Advisory Committee

54. Cotton Research and Development Corporation
55. Creative Partnerships Australia
56. Department of Education and Training
57. Department of the House of Representatives
58. Department of the Senate
59. Digital Transformation Agency
60. Export Finance and Insurance Corporation
61. Fair Work Commission
62. Fair Work Ombudsman
63. Family Court of Australia
64. Federal Circuit Court of Australia
65. Fisheries Research and Development Corporation
66. Food Standards Australia New Zealand
67. Future Fund Management Agency
68. Great Barrier Reef Marine Park Authority
69. High Court of Australia
70. Independent Hospital Pricing Authority
71. Independent Parliamentary Expenses Authority
72. Indigenous Land Corporation
73. Infrastructure Australia
74. Inspector-General of Taxation
75. Moorebank Intermodal Company Limited
76. Murray-Darling Basin Authority
77. Museum of Australian Democracy (Old Parliament House)
78. National Australian Day Council
79. National Blood Authority
80. National Capital Authority
81. National Competition Council
82. National Disability Insurance Scheme Launch Transition Agency
83. National Film and Sound Archive
84. National Gallery of Australia
85. National Health Funding Body
86. National Library of Australia
87. National Mental Health Commission
88. National Portrait Gallery of Australia
89. National Transport Commission
90. Northern Australia Infrastructure Facility
91. Northern Land Council
92. Office of Parliamentary Council
93. Office of the Australian Information Commissioner
94. Office of the Official Secretary to the Governor-General
95. Organ and Tissue Authority
96. Outback Stores Pty Ltd
97. Parliamentary Budget Office
98. Productivity Commission
99. Professional Services Review
100. RAAF Welfare Recreational Company
101. Reserve Bank of Australia
102. Royal Australian Air Force Welfare Trust Fund
103. Royal Australian Navy Central Canteens Board
104. Royal Australian Navy Relief Trust Fund
105. Rural Industries Research and Development Corporation
106. Safe Work Australia
107. Screen Australia
108. Tertiary Education Quality and Standards Agency
109. Tiwi Land Council
110. Tourism Australia
111. Workplace Gender Equality Agency
112. Wreck Bay Aboriginal Community Council

Table 18 – PID investigations completed and actions taken in response to recommendations

Agency	Number of disclosure investigations conducted during the financial year (s 76(2)(a)(iii) PID Act) ³⁸	Actions taken during the financial year in response to recommendations relating to disclosure investigations (s 76(2)(a)(iv) PID Act) ³⁹
1. Australian Postal Corporation	139	<ul style="list-style-type: none"> • No action taken (58%) • Agency provides education and advice (12%) • Instruction and or improvement of Public Official and/or spot auditing ordered (8%) • Disciplinary action/resignation (6%) • Agency makes enhancements to processes/procedures (5%) • Termination and/or Police referral (4%) • Resolution made during PID investigation (4%) • Monitoring and further investigations (2%) • Other matters (1%)
2. Department of Defence	111	<ul style="list-style-type: none"> • Investigation ceased – matter unfounded (57%) • S 47(3) Recommend Other Act (16%) • Administrative Action (13%) • Investigation ceased – insufficient evidence (8%) • Charges not recommended (4%) • Admin action (1%) • Audit (1%) • <i>Public Service Act 1999</i> Action (1%)

38 This column details the number of disclosure investigations that agencies completed during 2016–17. It includes investigations that commenced during the previous financial year but were not completed. It does not include investigations by the Ombudsman and OIGIS under their separate investigative powers.

39 Noting that a disclosure investigation may or may not result in a recommendation being made, and the actions taken may or may not occur in the same financial year that the disclosure investigation was completed. Percentages in this table have been rounded and may not total 100 per cent.

Agency	Number of disclosure investigations conducted during the financial year (s 76(2)(a)(iii) PID Act) ³⁸	Actions taken during the financial year in response to recommendations relating to disclosure investigations (s 76(2)(a)(iv) PID Act) ³⁹
3. Airservices Australia	26	<ul style="list-style-type: none"> Enhancements to application processes created (20%) All contact lists have been reviewed, revised and now consolidated into one single document and issued for operational use (20%) Key procedures updated including management, security and emergency (20%) Cultural improvements implemented (20%) Introduction of new and stronger systems (20%)
4. Australian Taxation Office	15	<ul style="list-style-type: none"> HR Remedy action taken, employee informally counselled (100%)
5. Consolidated Australian Intelligence Community Responses	7	<ul style="list-style-type: none"> Due to the sensitivity/classification of information, response is not publically available/required
6. Department of Prime Minister and Cabinet	7	<ul style="list-style-type: none"> No breach determined (100%)
7. Department of Human Services	5	<ul style="list-style-type: none"> Matters referred for investigation under the Australian Public Service Code of Conduct procedures (100%)
8. Department of Immigration and Border Protection	5	<ul style="list-style-type: none"> Referred externally for greater consideration (33.3%) Report and recommendations referred for endorsement (33.3%) Briefing provided to discloser (33.3%)

Agency	Number of disclosure investigations conducted during the financial year (s 76(2)(a)(iii) PID Act) ³⁸	Actions taken during the financial year in response to recommendations relating to disclosure investigations (s 76(2)(a)(iv) PID Act) ³⁹
9. Aboriginal Hostels Limited	45 investigations were completed by the agencies in this section.	<ul style="list-style-type: none"> Referred to Code of Conduct investigation and disciplinary action taken against employees (31%)
10. Australian Broadcasting Corporation	This section aggregates data for agencies reporting	<ul style="list-style-type: none"> Investigation referred to other legislation (15%)
11. Australian Competition and Consumer Commission	four or fewer investigations being conducted during the period.	<ul style="list-style-type: none"> Recommendations referred to management for action (9%)
12. Australian Federal Police	four or fewer investigations being conducted during the period.	<ul style="list-style-type: none"> Review of recruitment processes and practice (7%)
13. Australian Film and Television School		<ul style="list-style-type: none"> No further action as allegations unsubstantiated and discloser notified (7%)
14. Australian Human Rights Commission		<ul style="list-style-type: none"> Not applicable – no disclosable conduct identified (5%)
15. Australian National University		<ul style="list-style-type: none"> Review change management practices and communication strategies (4%)
16. Australian National University		<ul style="list-style-type: none"> Investigation finding that allegations were not true (4%)
17. Australian Rail Track Corporation		<ul style="list-style-type: none"> Management to review contracting procedures (3%)
18. Australian Skills Quality Authority		<ul style="list-style-type: none"> Policy disbanded or under review (3%)
19. Australian Sports Commission		<ul style="list-style-type: none"> Additional training for HR and PID awareness raising activities more generally (3%)
20. Australian War Memorial		<ul style="list-style-type: none"> Review workplace people skills within relevant division and provide training about appropriate behaviours (3%)
21. Bureau of Meteorology		<ul style="list-style-type: none"> Conflict of interest led to employee resignation (1%)
22. Civil Aviation Safety Authority		<ul style="list-style-type: none"> Continued monitoring of discloser's workload (1%)
23. Comcare		<ul style="list-style-type: none"> Recommendations made in relation to exit interviews (1%)
23. Commonwealth Scientific and Industrial Research Organisation		

Agency	Number of disclosure investigations conducted during the financial year (s 76(2)(a)(iii) PID Act) ³⁸	Actions taken during the financial year in response to recommendations relating to disclosure investigations (s 76(2)(a)(iv) PID Act) ³⁹
24. Department of Agriculture and Water Resources		<ul style="list-style-type: none"> • Periodic reviews of complaints management process conducted (1%)
25. Department of Finance		<ul style="list-style-type: none"> • Discretionary compensation payment made under <i>Parliamentary Services Act 1999</i> (1%)
26. Department of Foreign Affairs and Trade		
27. Department of Health		
28. Department of Industry, Innovation and Science		
29. Department of Parliamentary Services		
30. Department of the Environment and Energy		
31. Grains Research and Development Corporation		
32. Indigenous Business Australia		
33. National Disability Insurance Scheme Launch Transition Agency		
34. National Offshore Safety and Environmental Management Authority		
35. NBN Co Limited		

International Program



Overview

In 2016–17 the Department of Foreign Affairs and Trade funded the Office's delivery of an International Program to improve the governance and accountability of integrity agencies in the Asia-Pacific Region.

We delivered three programs: a partnership program with the Ombudsman Republik Indonesia, a twinning program with the Ombudsman Commission of Papua New Guinea, and the Pacific Governance and Anti-Corruption Program with seven Pacific Island countries.

Indonesia

We continued our ongoing Partnership Program with the Ombudsman Republik Indonesia (ORI), exchanging knowledge and expertise in complaint-handling and investigations. The program supported Ombudsman-to-Ombudsman engagement and delivered a number of training activities and internships.

Throughout the 2016–17 period, 323 ORI staff were trained in a number of activities, focusing on basic investigations, leadership and complaint-handling. We also hosted two internship cohorts of ORI staff. This two week program supported interns to identify, scope and implement projects aimed at organisational change.

Papua New Guinea

We have a longstanding twinning program with the Ombudsman Commission of Papua New Guinea (OCPNG). In 2016–17, the program supported the delivery of ten activities, including training, placements and technical support.

This year saw enhanced senior engagement with the OCPNG. In April, the Chief Ombudsman and Secretary visited Canberra for an International Integrity Leaders Forum. The visit was an opportunity for the OCPNG to engage closely with counterparts in Indonesia and the Pacific. This followed a successful visit to Papua New Guinea by the Acting Commonwealth Ombudsman.

Three short-term twinning placements were completed in Australia in 2016–17. With training, mentoring and support

from our Office, the OCPNG officers successfully progressed identified projects for the organisation. One officer drafted a comprehensive law reform paper for the OCPNG, while another officer prepared best practice guidance and an organisational strategy for developing complaint-handling in Papua New Guinea government agencies.

Lastly, the program strengthened mutual understanding and cooperation between the OCPNG and their counterparts in Indonesia. OCPNG staff participated in a regional complaint-handling workshop in Indonesia, alongside our Office and the ORI. OCPNG staff also completed an Australian Ombudsman internship program together with ORI investigators, exchanging information on best practice complaint-handling models.

CASE STUDY

Sustainable outcomes for the ORI

Our partnership with the ORI has focused on building sustainable training capability. Over a number of years, the partnership has developed a pool of skilled ORI trainers and a tailored training program for basic and advanced investigation skills.

In March, the partnership delivered Basic Investigation Training for 206 newly inducted staff. Three Australian trainers worked alongside ORI trainers to facilitate two large training courses in Jakarta. The program and materials

were developed by ORI trainers, using the skills and experience developed through previous training activities under the partnership program.

The workshop provided ORI trainers the opportunity to lead a large scale training activity, and further refine their presentation skills under the guidance of experienced Australian trainers. In addition, the training activity provided a large cohort of new ORI staff with a consistent and best practice approach to complaint-handling.

Pacific

Throughout 2016–17, we delivered a number of key outcomes for the Pacific Governance and Anti-Corruption (PGAC) program. The program focused on strengthening engagement with senior integrity leaders and targeted training for addressing corruption and maladministration. Partners included ombudsman, public audit and leadership code bodies in the Federated States of Micronesia, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, and Vanuatu.

An International Integrity Leaders Forum was held in Canberra in April 2017, bringing together all of the Office's partnering organisations from across the Asia-Pacific Region. Ombudsmen and Auditors-General

discussed leadership and organisational challenges, and opportunities to strengthen co-operation between integrity bodies tackling corruption in the Pacific.

The program also funded its first regional training activity in May 2017 on managing conflicts of interest within a Pacific context. Twenty-three participants tackled theory and practical sessions, exploring real case studies and learning how to develop best practice policy and management tools. The program also developed a network of practitioners from partnering organisations, who shared practical expertise on promoting good governance and overcoming barriers in integrity networks.



Integrity leaders from the Asia-Pacific Region, International Integrity Leaders Forum, April 2017.



**PART 5—MANAGEMENT AND
ACCOUNTABILITY**

PART 5—MANAGEMENT AND ACCOUNTABILITY

Corporate governance

As required by the Commonwealth's Enhanced Performance Framework, the Office developed and publicly released its 2016–17 Corporate Plan (the Plan) in August 2016. The Plan framed the Office's strategic vision, objectives, deliverables and key performance measures for the next four years.

In developing the Plan, a review of the Office's performance framework was initiated with the aim of providing meaningful information to Parliament and the public on how the Office is delivering its strategic objectives. The result was an expansion of the Office's key performance indicators (KPIs) from nine in 2015–16 to 11 in 2016–17, including enhancements to existing KPIs.

Senior Leadership Group

The group comprises the Ombudsman, Deputy Ombudsman, Senior Assistant Ombudsmen and the Chief Operating Officer. The group meets twice monthly to consider strategic and operational issues relating to the work of the Office.

Audit Committee

The Office has established an Audit Committee in compliance with s 45 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and PGPA Rule s 17 Audit Committees for Commonwealth Entities.

The role of the Audit Committee is to provide independent assurance to the Ombudsman on the Office's financial and performance reporting responsibilities, risk oversight and management and systems of internal control.

The Audit Committee met four times during the year. The Audit Committee comprised the following membership during the reporting period:

Members	Position	Period of membership during year
Richard Glenn	Chair, Deputy Ombudsman	1 July 2016 – 13 January 2017
Doris Gibb	Chair, acting Deputy Ombudsman	14 January – 30 June 2017
Joanna Stone	Member, independent	1 July 2016 – 30 June 2017
Kurt Munro	Member, independent	1 July 2016 – 30 June 2017

Regular observers at committee meetings included representatives from the Australian National Audit Office, Ernst and Young and BellchambersBarrett (the Office's internal auditors), the Chief Operating Officer and the Chief Financial Officer.

Management Committees

Management committees assist the Ombudsman and Senior Leadership Group with decision making in key areas. The committees make recommendations to the group.

People Committee

The People Committee is chaired by the Senior Assistant Ombudsman, Integrity Branch and comprises the Chief Operating Officer, the Senior Assistant Ombudsman, Social Services, Indigenous and Disability Branch, the Senior Assistant Ombudsman, Immigration, Industry and Territories Branch, the Manager, Human Resources and staff representatives from each branch.

The Committee has been established to guide and advise on matters relating to the Office's Strategic Workforce Plan and priorities with the aim of ensuring the Office has a capable and adaptive workforce to enable it to respond to current and future business needs.

The Committee meets on a quarterly basis, or more frequently when determined by the Chair, and matters can be considered out of session if needed. The key focus this year was the development of the Staff Recognition Scheme Policy, the new Learning and Development Strategy and responding to issues arising from the 2016 APS Employee Census.

Work Health and Safety Committee

The Office's Work Health and Safety Committee is made up of elected staff representatives from each of our state and Canberra offices, and is chaired by the Senior Assistant Ombudsman, Operations Branch. The committee meets on a quarterly basis throughout the year. It has a strategic role in reviewing work health and safety matters and procedures to ensure we comply with the terms of the *Work Health and Safety Act 2011*.

Workplace Relations Committee

The Chief Operating Officer chairs the Workplace Relations Committee. It comprises employee, management and union representatives and is the principle forum for regular exchange on change and workplace issues.

Information Governance and Management Committee

This Committee is chaired by the Deputy Ombudsman and provides strategic oversight and guidance:

- in the development and implementation of information management policy, processes and systems, and
- to examine issues impacting on the Office with regard to Information Management.

The role of the Information Governance and Management Committee is to make strategic decisions or recommendations (including resource prioritisation) on information management related issues and to provide recommendations and/or advice to the Senior Leadership Group or the Ombudsman, as appropriate, to achieve Office objectives.

Risk and Security Governance Committee

The Risk and Security Governance Committee provides guidance and advice on operational risk and security governance matters for the Office. It is chaired by the Chief Operating Officer, has representatives from the branches and subject matter experts and meets on a quarterly basis.

The Committee's role is to:

- provide practical guidance and support on risk management and security strategies for the Office to effectively deliver its critical functions and services
- facilitate the implementation of the Office's Business Continuity Management Framework and the delivery of related outcomes, including assisting with the development and review of Business Continuity Plan initiatives
- in cooperation with the Agency Security Adviser (ASA) and the Information Technology Security Adviser (ITSA) facilitate the implementation of the Office's protective security measures and information and communication technology security measures
- review and report on the Office's operational risks
- report to Senior Leadership Group on progress against risk management and security initiatives, including identifying and raising significant issues for decision.

Inclusion Committee

The Inclusion Committee is chaired by the Deputy Ombudsman and comprises a variety of staff from across the Office. The Committee was established with the aim of providing advice on inclusion matters, including the Reconciliation Action Plan and the Multicultural Plan. It also supported a number of days of recognition across the Office including, International Women's Day, Harmony Day and R U Ok Day among others.

The Committee also hosted events to support the fundraising efforts of four executive staff who represented the Office at the 2017 Vinnies CEO Sleepout in Canberra.

Corporate Governance Practices

Risk management

Our risk management framework comprises: a formal policy and protocol, a strategic risk plan and register, and a risk appetite statement. Strategic risk reporting is undertaken at least bi-annually.

The Senior Leadership Group regularly reviews strategic and operational risks as part of the business planning process. The Office also participates in the annual Comcover Risk Management Benchmarking Survey, which independently assesses the Office's risk-management maturity.

Additional oversight of our risk management is provided by the Audit Committee and the Risk and Security Governance Committee.

Business Continuity planning

Our Business Continuity Plan is one of our key risk-management strategies. It sets out our strategies for ensuring that the most critical work of the Office can continue to be done, or quickly resumed, in the event of a disaster.

We further reviewed the plan in 2016-17 and we are continuing to refine the plan and the Office's preparation.

Accessibility

In developing and maintaining the Office's websites, we use the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines 2.0 as the benchmark.

We have implemented a substantial upgrade of our online services. This has improved compliance with Web Content Accessibility Guidelines 2.0 (AA level). The upgraded systems included authoring tools to check for accessibility issues, and compliance reporting against the website. A graphic design refresh also simplified the presentation of content and increased contrast to assist readability.

While this marks a substantial improvement in accessibility, providing further improvements in information sharing using web enabled technology remains a high priority.

Ethical standards

The Office promotes ethical standards and behaviours by providing extensive information to staff and promoting the Australian Public Service Commission's Ethics Advisory Service and our Ethics Contact Officer. Our intranet contains information on:

- APS Values and Code of Conduct
- workplace discrimination, bullying and harassment
- conflict of interest
- acceptance of gifts and hospitality
- procedures for determining breaches of the Code of Conduct
- procedures for facilitating and dealing with public interest disclosures relating to the office.

Employee Performance Development Agreements contain the following mandatory key behaviour: *in undertaking my duties I will act in accordance with the APS Values, Employment Principles and APS Code of Conduct.*

The Induction Handbook for new starters provides appropriate information for new starters on ethical standards and behaviours and we have implemented APS Learn Hub which contains eLearning modules on APS Values and Principles and Fraud Awareness.

External scrutiny

Court and tribunal litigation

No decisions of courts or administrative tribunals made in 2016–17 had, or may have, a significant impact on the operations of this Office.

Office of the Australian Information Commissioner

During the reporting period, the Office of the Australian Information Commissioner (OAIC) advised this Office of seven matters where the applicant sought review of our decisions under the *Freedom of Information Act 1982* (the FOI Act). Of these seven applications, two were withdrawn, two were closed by the OAIC under s 54W(a)(i) of the FOI Act and, at the time of reporting, the remaining three were under consideration by the Information Commissioner.

At the time of reporting, there was one pending OAIC review that was commenced during 2015–16.

The Office received one decision from the Information Commissioner in relation to a review that commenced in 2015–16. In this matter, the Information Commissioner affirmed the Ombudsman's decision under review.

The Office is subject to the *Privacy Act 1988*. During the reporting period, the Privacy Commissioner advised of the outcome of one complaint about our Office made during 2016–17. The Privacy Commissioner did not issue any report or make any adverse comment about the Office during 2016–17.

Australian Human Rights Commission

The Office is subject to the jurisdiction of the Australian Human Rights Commission. During the reporting period the Commission did not receive any new complaints about our Office.

Management of Human Resources

Overview

The Office's Workforce Plan 2015–19 is aligned to business planning processes, and:

- seeks to identify high-level trends and developments that will affect the availability of the workforce capability required to deliver organisational outcomes, and
- articulates a suite of actionable strategies that will enable mitigation of the workforce risks identified.

The Workforce Plan is reviewed on an ongoing basis to identify emerging workforce issues and, if these are assessed to be workforce risks, to ensure proactive mitigation can be initiated before the full potential impact of the risks are realised.

Our People Plan 2014–17, includes a range of strategies under three key areas—attract, develop and motivate, and retain and align. The People Plan is reviewed regularly to ensure it reflects the people priorities for the Office.

The Workforce Plan and People Plan are complemented by:

- the Office's Workplace Diversity Program 2015–18
- the APS Disability Employment Strategy 2016–19
- the Commonwealth Aboriginal and Torres Strait Islander Strategy
- Balancing the Future: Australian Public Service Gender Equality Strategy 2016–19.

A quarterly report on the status of activities being undertaken against the Workforce and People Plans is provided to the Senior Leadership Group.

Learning and Development

This year we continued to deliver training against the core competencies established under the Learning and Development Strategy 2013–16, together with other targeted learning and development opportunities against identified priority areas.

The new Learning and Development Strategy 2017–19 is currently being developed and will be finalised and implemented early in the new financial year.

The training delivered in 2016–17 included:

- When do I lead? When do I manage?
- De-escalating conflict and managing difficult clients
- Committee Member training
- Peer Leadership Program
- Translating and Interpreting Service (TIS) training
- Mental Health First Aid
- Writing courses
- Building a bullying free workplace
- Building high performance teams
- Website content publishing
- Workplace health and safety (online through LearnHub)
- APSC training
 - Building relationships and engagement
 - Influencing, negotiation and persuasion
 - Presentation skills
- Attendance at APSC Event Series sessions
- Privacy refresher and FOI training
- Administrative Law
- Resilience training
- Office writing for the Australian Public Sector
- Trauma-Informed Service Delivery training.

We also support staff to undertake relevant study at tertiary institutions through study leave and/or financial assistance.

Work Health and Safety

The Office is committed to maintaining a safe and healthy workplace for all our employees, contractors and visitors. We acknowledge our employer responsibilities under the *Work Health and Safety Act 2011* (WHS Act), the *Rehabilitation and Compensation Act 1988* and anti-discrimination legislation.

During 2016–17 the Office undertook the following health and safety initiatives:

- The Office WHS Policy was endorsed by Senior Leadership Group in 30 September 2016 and published on the intranet.
- An event was held in recognition of R U OK? Day, with materials distributed to staff to assist them in having conversations with friends, family and colleagues and a presentation by a Beyond Blue speaker.
- To coincide with National Safe Work Month, messaging regarding general office safety was promoted to staff by Senior Management and the Office joined a free trial of an online ergonomic assessment tool for all staff to access.
- Internal sources of WHS and Employee Assistance Program (EAP) information were refreshed and developed.
- The EAP contract was renewed for a further 12 months to ensure staff have ongoing access to confidential counselling, facilitation of teamwork issues, career advice and the management of personal or professional issues.
- Workplace safety inspections were undertaken across all offices.
- Health and Safety Representation (HSR) across the Office has been reviewed and refreshed, with the relevant initial five day HSR training provided as required.
- Targeted individual health awareness by providing flu vaccinations to employees free of charge, a healthy lifestyle reimbursement of up to \$299 per year, and undertaking workstation assessments.

During the reporting period there was one dangerous incident classified as an uncontrolled escape, spillage or leakage of a substance which was notified to Comcare under Section 37(a) of the WHS Act. The incident was a result of activity that was being undertaken by another person conducting a business or undertaking (PCBU) with shared tenancy at the premises. Ombudsman staff were briefly exposed to a hazardous chemical, resulting in some minor side-effects which resolved quickly after completion of the works.

At the time of preparing this report, Comcare were conducting a site inspection and preparing a report in relation to the incident. There were no investigations conducted within the office under Part 10 of the Act in the reporting period.

The Office conducted its second internal audit of its Rehabilitation Management Systems, in accordance with the requirements of the Guidelines for Rehabilitation Authorities 2012. This audit found that the Office achieved a 73 per cent conformance rating, representing an improvement on the 62 per cent conformance rating achieved in the previous year.

Workplace arrangements

The Office's Enterprise Agreement 2011–14 (the Agreement) came into effect on 27 July 2011 and reached its nominal expiry date on 30 June 2014. The Office held an unsuccessful ballot for a new Agreement in November 2016, in which 86 per cent of eligible employees participated in the ballot with 59 per cent of these employees voting no.

The Office has continued to bargain in good faith in relation to the new Enterprise Agreement and it is envisaged that it will be finalised early in the 2017–18 financial year.

As at 30 June 2017 a total of 219 employees were covered under the current Agreement. The Agreement does not make provision for performance pay. Salary advancement within each of the non-SES classifications is linked to performance. Fifteen employees had an Individual Flexibility Arrangement in place under the provisions contained in the Agreement.

Conditions are provided for SES staff under s24 (1) of the *Public Service Act 1999*. Determinations under s 24 (1) of the *Public Service Act 1999* provide for SES annual salary advancement based on performance and do not make provision for performance pay.

The Office does not have any staff employed under Australian Workplace Agreements or common law contracts.

The Office offers non-salary benefits to our employees under the enterprise agreement and other individual industrial instruments. These benefits incorporate various types of leave, including annual, personal and long service leave, as well as flexible working arrangements, access to salary packaging and eyewear reimbursement for screen based work.

Workforce profile

As at 30 June 2017 there were 228 staff (211.3 full time equivalents) employed across the Office. These figures include the Ombudsman and Deputy Ombudsman who are statutory office holders.

Females made up 67 per cent of the Office's workforce as at 30 June 2017 and 24 per cent of employees worked part-time. The number of staff who identified as Indigenous was 1.3 per cent (down from 2.3 per cent in 2016) and 3.1 per cent of staff identify as having a disability (down from 3.5 per cent in 2016).

Table 19 – Workforce Profile as at 30 June 2017 and 30 June 2016

Category	At 30 June 2017			At 30 June 2016		
	Ongoing	Non-ongoing	Total	Ongoing	Non-ongoing	Total
APS Classification						
APS2	-	2	2	-	-	-
APS3	8	7	15	11	3	14
APS4	16	11	27	17	6	23
APS5	38	3	41	26	3	29
APS6	48	3	51	29	2	31
Executive Level 1	49	10	59	45	6	51
Executive Level 2	23	2	24	15	2	17
SES Band 1	6	-	7	4	-	4
Statutory Officers	2	-	2	3	-	3
Total	190	38	228	150	22	172
Location						
ACT	120	27	147	83	13	96
NSW	16	2	18	16	4	20
QLD	16	1	17	12	3	15
SA	22	5	27	19	1	20
VIC	13	3	16	16	1	17
WA	3	-	3	4	-	4
Total	190	38	228	150	22	172
Gender/Diversity						
Female	128	25	153	102	12	114
Male	62	13	75	48	10	58
Indigenous	1	2	3	1	3	4
People with a disability	6	1	7	5	1	6
Employment status						
Full-time	149	25	174	110	17	127
Part-time	41	13	54	40	5	45

Table 20 – Remuneration by classification as at 30 June 2017

Classification	Salary range
APS1	\$43,283 – \$47,841
APS2	\$48,985 – \$54,321
APS3	\$55,796 – \$60,222
APS4	\$62,186 – \$67,518
APS5	\$69,359 – \$73,547
APS6	\$74,914 – \$86,053
Executive Level 1	\$96,035 – \$103,702
Executive Level 2	\$111,820 – \$126,743
SES Band 1	\$147,900 – \$187,060

Note: Under the Enterprise Agreement 2011–2014, where an employee moves to the Office from another agency and their salary exceeds the maximum point in the Office's salary range for the relevant classification, the higher salary will be maintained until the salary is absorbed by the Office's salary rates.

Purchasing

The Office is committed to achieving the best value for money in procurement activity and manages this using procurement practices that are consistent with the Commonwealth Procurement Rules. This includes the use of the Commonwealth Contracting Suite to prepare approaches to market and formalise contracts. The procurement practices are supported by the Accountable Authority Instructions and internal policies and guidelines.

To improve efficiency in procurement, the Office accesses established procurement panels where possible. The Office supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website. The Office's procurement methods

aim not to discriminate against small and medium-sized enterprises. Our policies and processes highlight the requirement to first access the Supply Nation website to check whether there are any Indigenous businesses that can provide the goods and services required. The Office will seek to enter into engagements with Indigenous businesses where possible ensuring that the arrangement adheres to the value for money and best fit principles. All procurements entered into by the Office are done on the basis of value for money and best fit.

Procurement plans are published on AusTender as they become known to facilitate early procurement planning and to draw attention to our planned activity. All procurements that are in excess of \$10,000 are published on AusTender as soon as practicable.

Consultants

The Office engages consultancy services in circumstances when particular expertise is not available internally or when independent advice is required. During 2016–17, three new consultancy contracts were entered into, involving total actual expenditure of \$0.187 million (including GST). In addition, five ongoing consultancy contracts were active during the 2016–17 year, with total expenditure of \$0.089million. These contracts covered financial services, IT development and mediation services.

No contracts were let containing provisions that do not allow the Auditor-General to have access to the contractor's premises, and no contracts were entered into that were exempt from being published on AusTender. 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 at tenders.gov.au.

The Office does not administer any grant programs.

Table 21 – Expenditure on consultancy contracts 2014–15 to 2016–17

Year	Number of consultancy contracts	Total actual expenditure \$'000
2016–17	8	276
2015–16	10	291
2014–15	9	321

Advertising campaigns

The Office did not undertake any advertising campaigns.

Exempt contracts

There were no contracts over \$10,000 exempted from reporting on AusTender.

Compliance reporting

There were no significant issues reported to the responsible minister under paragraph 19 (1) (e) of the *PGPA Act* that relates to non-compliance with the finance law by the Office. The Office has conducted a review of the Fraud Control Plan and the Fraud Risk Register and has rolled out mandatory fraud awareness training. An internal compliance process is undertaken throughout the year and the results considered by the Senior Leadership Group and the Audit Committee.

Asset management

The assets managed by the Office include ICT assets, plant and equipment, property and intangible assets such as software. With the exception of the property assets, all of these assets are handled internally and the five year capital replacement and capital investment plans predict our requirements.

Our ICT assets are managed in-house and our property plant and equipment assets are primarily ICT assets and supported by maintenance agreements and warranties. Intangible assets comprise software and websites. These are either supported internally or through a support contract. The other major asset is property leasehold fit out. We currently have offices in Adelaide, Brisbane, Canberra, Melbourne, Perth and Sydney.



PART 6—APPENDICES

PART 6—APPENDICES

Appendix 1—Financial Statements



INDEPENDENT AUDITOR'S REPORT

To the Prime Minister

Opinion

In my opinion, the financial statements of the Office of the Commonwealth Ombudsman for the year ended 30 June 2017:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Office of the Commonwealth Ombudsman as at 30 June 2017 and its financial performance and cash flows for the year then ended.

The financial statements of the Office of the Commonwealth Ombudsman, which I have audited, comprise the following statements as at 30 June 2017 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement; and
- Notes to and forming part of the financial statements, comprising a summary of significant accounting policies and other explanatory information.

Basis for Opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Office of the Commonwealth Ombudsman in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* to the extent that they are not in conflict with the *Auditor-General Act 1997* (the Code). I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Accountable Authority's Responsibility for the Financial Statements

As the Accountable Authority of the Office of the Commonwealth Ombudsman the Commonwealth Ombudsman is responsible under the *Public Governance, Performance and Accountability Act 2013* for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under that Act. The Commonwealth Ombudsman is also responsible for such internal control as the Commonwealth Ombudsman determines is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Commonwealth Ombudsman is responsible for assessing the Office of the Commonwealth Ombudsman's ability to continue as a going concern, taking into account whether the entity's operations will cease as a result of an administrative restructure or for any other reason. The Commonwealth Ombudsman is also responsible for disclosing matters related to going concern as applicable and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

Auditor's Responsibilities for the Audit of the Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance

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with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit 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 entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Ron Wah
Audit Principal

Delegate of the Auditor-General

Canberra
18 September 2017

OFFICE OF THE COMMONWEALTH OMBUDSMAN

STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER


In our opinion, the attached financial statements for the year ended 30 June 2017 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013 (PGPA Act)*, and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Office of the Commonwealth Ombudsman will be able to pay its debts as and when they fall due.

Signed.....

Michael Manthorpe PSM
Commonwealth Ombudsman
Accountable Authority

18 September 2017

Signed.....

Mathew Ford
Chief Financial Officer

18 September 2017

OFFICE OF THE COMMONWEALTH OMBUDSMAN
STATEMENT OF COMPREHENSIVE INCOME
for the year ended 30 June 2017

	Notes	2017 \$'000	2016 \$'000	Original budget \$'000
NET COST OF SERVICES				
Expenses				
Employee benefits	2A	20,370	16,749	16,820
Supplier	2B	8,649	6,716	5,549
Depreciation and amortisation	2C	919	894	940
Write-down and impairment of assets	2D	1	6	-
Total expenses		29,940	24,365	23,309
OWN-SOURCE INCOME				
Own-source revenue				
Sale of goods and rendering of services	3A	8,103	2,559	2,219
Other revenue	3B	54	53	45
Total own-source revenue		8,157	2,612	2,264
Total own-source income		8,157	2,612	2,264
Net cost of services		21,784	21,753	21,045
Revenue from Government	3C	20,957	20,780	20,105
Deficit		(826)	(973)	(940)
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in asset revaluation surplus		(74)	31	-
Total other comprehensive income		(74)	31	-
Total comprehensive (loss)		(900)	(942)	(940)

The above statement should be read in conjunction with the accompanying notes.

Budget Variances Commentary

Expenses

Employee benefits increased by \$3.6m and was driven by the expansion of the Office's functions. Supplier expenses increased by \$3.1m and was mainly driven by travel costs, additional consultancies and costs associated with new business represented by the VET Student Loans Ombudsman, ACT Judicial Review, ACT Reportable Conduct Scheme and the expanded Defence Force Ombudsman function. Property costs were higher this year with rent paid on two sites as we changed office premises in Melbourne and Perth. The increase of \$1k for the write-down and impairment of assets is attributed to the results of the annual stocktake.

Own-Source Income and Revenue from Government

Sale of goods and rendering of services increase of \$5.9m is represented by the Defence Force Ombudsman function funded by Department of Defence, ACT Government and the International program funded by the Department of Foreign Affairs and Trade. The Appropriation revenue variance of \$852k is attributed to Appropriation Act 3 appropriated for the new VET Student Loans Ombudsman. The other revenue variance of \$9k is attributed to the increase of external audit services provided by the Australian National Audit Office.

Other Comprehensive Income

The \$74k variance in the asset revaluation reserve is attributed to the revaluation undertaken by an independent valuer as at 30 June 2017.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
STATEMENT OF FINANCIAL POSITION
as at 30 June 2017

	Notes	2017 \$'000	2016 \$'000	Original budget \$'000
ASSETS				
Financial assets				
Cash and cash equivalents	4A	198	154	113
Trade and other receivables	4B	11,509	9,573	9,744
Other financial assets	4C	576	547	23
Total financial assets		12,283	10,274	9,880
Non-financial assets				
Land and buildings	5A	1,828	1,493	-
Property, plant and equipment	5A	1,241	942	2,225
Intangibles	5A	808	755	1,310
Other non-financial assets	5B	370	288	298
Total non-financial assets		4,247	3,478	3,833
Total assets		16,530	13,752	13,713
LIABILITIES				
Payables				
Suppliers	7A	731	321	644
Other payables	7B	3,148	2,227	2,824
Leases	7C	1,365	1,266	-
Total payables		5,244	3,814	3,468
Provisions				
Employee provisions	8A	4,821	3,926	4,377
Other provisions	8B	712	188	113
Total provisions		5,533	4,114	4,490
Total liabilities		10,777	7,928	7,958
Net assets		5,753	5,824	5,755
EQUITY				
Contributed equity		8,441	7,613	8,834
Reserves		1,069	1,143	1,213
Accumulated deficit		(3,758)	(2,932)	(4,292)
Total equity		5,753	5,824	5,755

The above statement should be read in conjunction with the accompanying notes.

Budget Variances Commentary

Assets

This expansion of the Office contributed to the variance of \$1.8m in trade and other receivables. The variance of \$553k in the other financial assets relates to the recognition of two new lease incentives.

The variance in the non-financial assets can be attributed to the revaluation provided by an independent valuer as at 30 June 2017 and an increase in prepaid expenses.

Liabilities

Employee provisions variance of \$444k is attributed to the change in the Government bond rate as at 30 June 2017.

Other provisions variance of \$599k relates to the movement in the provision for restoration and onerous contracts.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
STATEMENT OF CHANGES IN EQUITY
for the year ended 30 June 2017

	Notes	2017 \$'000	2016 \$'000	Original Budget \$'000
CONTRIBUTED EQUITY				
Opening Balance				
Balance carried forward from previous period		7,613	5,602	8,006
Opening Balance		7,613	5,602	8,006
Comprehensive income				
Transactions with owners				
Contributions by owners				
Departmental capital budget		828	1,181	828
Restructuring		-	830	-
Total transactions with owners		828	2,011	828
Transfers between equity components		-	-	-
Closing Balance as at 30 June		8,441	7,613	8,834
RETAINED EARNINGS				
Opening Balance				
Balance carried forward from previous period		(2,932)	(1,959)	(3,282)
Opening Balance		(2,932)	(1,959)	(3,282)
Comprehensive income				
Surplus/(Deficit) for the period		(826)	(973)	(940)
Total comprehensive income		(826)	(973)	(940)
Transactions with owners				
Contributions by owners				
Other		-	-	(70)
Total transactions with owners		-	-	(70)
Closing Balance as at 30 June		(3,758)	(2,932)	(4,292)
ASSET REVALUATION RESERVE				
Opening Balance				
Balance carried forward from previous period		1,143	1,112	1,213
Opening Balance		1,143	1,112	1,213
Comprehensive income				
Other comprehensive income		(74)	31	-
Total comprehensive income		(74)	31	-
Closing Balance as at 30 June		1,069	1,143	1,213
TOTAL EQUITY				
Opening Balance		5,824	4,755	5,937
Balance carried forward from previous period		5,824	4,755	5,937
Adjusted Opening Balance		5,824	4,755	5,937
Comprehensive income				
Surplus/(Deficit) for the period		(826)	(973)	(940)
Other comprehensive income		(74)	31	-
Total comprehensive income		(900)	(942)	(940)
Transactions with owners				
Contributions by owners				
Departmental capital budget		828	1,181	828
Restructuring		-	830	(70)
Total transactions with owners		828	2,011	758
Closing Balance as at 30 June		5,753	5,824	5,755

The above statement should be read in conjunction with the accompanying notes.

Accounting Policy

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 Government entity under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

Budget Variances Commentary

Contributed Equity

There was an increase in contributed equity relating to the Departmental Capital Budget.

Asset Revaluation Reserve

The variance in the asset revaluation reserve is due to the revaluation provided by an independent valuer as at 30 June 2017.

Total Equity

The variance in total equity can be attributed to the revaluation provided by an independent valuer as at 30 June 2017.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
CASH FLOW STATEMENT
for the year ended 30 June 2017

	Notes	2017 \$'000	2016 \$'000	Original budget \$'000
OPERATING ACTIVITIES				
Cash received				
Sales of goods and rendering of services		6,446	2,289	2,219
Appropriations		27,914	24,039	20,543
Net GST received		632	515	1
Other		901	337	(131)
Total cash received		35,893	27,180	22,632
Cash used				
Employees		18,516	17,390	16,820
Suppliers		10,283	8,036	5,812
Section 74 receipts transferred to the OPA		6,957	2,607	-
Total cash used		35,756	28,033	22,632
Net cash from/(used by) operating activities		137	(853)	-
INVESTING ACTIVITIES				
Cash used				
Purchase of property, plant and equipment		1,310	571	828
Purchase of intangibles		409	293	-
Total cash used		1,719	864	828
Net cash used by investing activities		(1,719)	(864)	(828)
FINANCING ACTIVITIES				
Cash received				
Departmental Capital Budget		1,626	896	828
Total cash received		1,626	896	828
Net cash from financing activities		1,626	896	828
Net increase in cash held		44	(821)	-
Cash and cash equivalents at the beginning of the reporting period		154	975	113
Cash and cash equivalents at the end of the reporting period	4A	198	154	113

The above statement should be read in conjunction with the accompanying notes.

Budget Variances Commentary

Operating Activities

Cash received

Sales of goods and rendering of services can be attributed to the expansion of Office functions including the Defence Force Ombudsman, ACT Reportable Conduct Scheme and ACT Judicial Review.

Cash used

Supplier expenses was mainly driven by travel costs, additional consultancies, property costs and additional staffing costs associated with expanded Defence Force Ombudsman function, additional ACT Government functions and the new function of VET Student Loans Ombudsman.

Investing Activities

Cash used

The expansion of Office functions and requirements for the enhancement of systems, the purchase of video conferencing and the refurbishment of the new Melbourne office contributed to the entity utilising the Departmental Capital Budget from prior years.

Financing Activities

Cash received

The introduction of new functions, video conferencing and accommodation requirements contributed to the entity utilising the Departmental Capital Budget from prior years.

**OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the year ended 30 June 2017**

Note

- 1: Overview
- 2: Expenses
- 3: Income
- 4: Financial Assets
- 5: Non-Financial Assets
- 6: Fair Value Measurement
- 7: Payables
- 8: Provisions
- 9: Key Management Personnel Remuneration
- 10: Related Party Disclosures
- 11: Financial Instruments
- 12: Appropriations

**OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the year ended 30 June 2017**

Note 1: Overview

1.1 Office of the Commonwealth Ombudsman Objectives

The Office of the Commonwealth Ombudsman (the Office) is an Australian Government controlled entity. It is a not for profit entity. The objective of the Office is to assist the Commonwealth Ombudsman to carry out his duties and responsibilities under the *Ombudsman Act 1976* and other relevant legislation.

The Office is structured to meet one outcome:

Fair and accountable administrative action by Australian Government entities and prescribed private sector organisations, by investigating complaints, reviewing administrative action and statutory compliance inspections and reporting.

The continued existence of the Office in its present form and with its present program 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.

1.2 Basis of Preparation of the Financial Statements

The Financial Statements are general purpose financial statements and are required by section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The Financial Statements have been prepared in accordance with the:

- a) *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR)* for reporting periods ending on or after 1 July 2015; and
- b) Australian Accounting Standards and Interpretations - Reduced Disclosure Requirements 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.

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.

1.4 Contingent Liabilities and Contingent Assets

Contingent liabilities and contingent assets are not recognised in the Statement of Financial Position. 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.

The Office had no contingent assets or liabilities in 2017 (2016: nil).

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 (2016: nil).

1.5 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.

1.6 Events After the Reporting Period

No significant events occurred after balance date.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
 for the year ended 30 June 2017

Note 2: Expenses

	2017	2016
	\$'000	\$'000
Note 2A: Employee Benefits		
Wages and salaries	15,028	12,354
Superannuation:		
Defined contribution plans	1,467	988
Defined benefit plans	1,507	1,365
Leave and other entitlements	1,984	1,894
Separation and redundancies	384	149
Total employee benefits	<u>20,370</u>	<u>16,749</u>
Note 2B: Suppliers		
Goods and services		
Travel	1,204	1,122
Information technology and communications	928	744
Employee related	839	666
Property operating expenses	939	423
Media related	281	178
Consultants and contractors	914	809
Printing, stationery and postage	249	139
Legal	86	36
Memberships fees and subscriptions	53	68
Translate, Interpret and Transcript	68	70
Insurance premiums	36	37
Other	204	145
Total goods and services	<u>5,801</u>	<u>4,438</u>
Goods and services are received in connection with:		
Provision of goods	973	255
Rendering of services	4,828	4,183
Total goods and services	<u>5,801</u>	<u>4,438</u>
Other supplier expenses		
Operating lease rentals	2,592	1,922
Workers compensation expenses	256	357
Total other supplier expenses	<u>2,848</u>	<u>2,278</u>
Total supplier expenses	<u>8,649</u>	<u>6,716</u>
Leasing commitments		
Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:		
Within 1 year	2,545	1,960
Between 1 to 5 years	12,456	7,877
More than 5 years	2,999	6,146
Total operating lease commitments	<u>18,000</u>	<u>15,983</u>

Accounting Policy

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
 for the year ended 30 June 2017

Note 2: Expenses

	2017 \$'000	2016 \$'000
Note 2C: Depreciation and Amortisation		
Depreciation:		
Leasehold improvements	246	271
Property, plant and equipment	316	268
Amortisation:		
Intangibles - Computer Software	357	355
Total depreciation and amortisation	<u>919</u>	<u>894</u>
Note 2D: Write-Down and Impairment of Assets		
Asset write-downs and impairments from:		
Impairment of property, plant and equipment	1	6
Total write-down and impairment of assets	<u>1</u>	<u>6</u>

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
 for the year ended 30 June 2017

Note 3: Income

	2017	2016
OWN-SOURCE REVENUE	\$'000	\$'000

Note 3A: Sale of Goods and Rendering of Services

Rendering of services	8,103	2,559
Total sale of goods and rendering of services	8,103	2,559

Accounting Policy

Rendering of Services

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.

The majority of revenue received by the Office relates to the ACT Ombudsman service provided to the ACT Government, international programs funded by the Department of Foreign Affairs and Trade and the expansion of the Defence Force Ombudsman function funded by the Department of Defence.

Note 3B: Other Revenue

Resources received free of charge

Remuneration of auditors	54	53
Total other revenue	54	53

Accounting Policy

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.

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.

Sale of Assets

Gains from disposal of assets are recognised when control of the asset has passed to the buyer.

REVENUE FROM GOVERNMENT

Note 3C: Revenue from Government

Appropriations:

Departmental appropriation	20,957	20,780
Total revenue from Government	20,957	20,780

Accounting Policy

Revenue from Government

Amounts appropriated for departmental outcomes 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 2017

Note 4: Financial Assets

	2017 \$'000	2016 \$'000
Note 4A: Cash and Cash Equivalents		
Cash on hand or on deposit	198	154
Total cash and cash equivalents	<u>198</u>	<u>154</u>
Note 4B: Trade and Other Receivables		
Good and Services:		
Goods and services	2,695	48
Total receivables for goods and services	<u>2,695</u>	<u>48</u>
Appropriations receivable:		
For existing programs	8,745	9,421
Total appropriations receivable	<u>8,745</u>	<u>9,421</u>
Other receivables:		
GST receivable from the Australian Taxation Office	89	103
Total trade and other receivables	<u>11,529</u>	<u>9,573</u>
Less impairment allowance account:		
Other	(20)	-
Total impairment allowance account	<u>(20)</u>	<u>-</u>
Total trade and other receivables (net)	<u>11,509</u>	<u>9,573</u>

Receivables are expected to be recovered within 12 months.

There was a \$20k movement in the carrying amount of the impairment allowance for receivables in 2016-17 due to an independent audit of defined superannuation contribution schemes as at 30 June 2017 (2016: nil).

Note 4C: Other Financial Assets

Lease incentives	576	547
Total other financial assets	<u>576</u>	<u>547</u>

Total other financial assets are expected to be recovered within the term of the lease.

Accounting Policy

Financial Assets

Refer note 11

Effective Interest Method

Refer note 11

Income

Refer note 3

Receivables

Goods and services, with 30 day terms, are recognised at the nominal amounts due, less any impairment allowance account. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
 for the year ended 30 June 2017

Note 5: Non-Financial Assets

	2017 \$'000	2016 \$'000
Note 5A: Land and Buildings		
Leasehold improvements:		
Fair value	1,828	1,493
Work in progress	-	-
Accumulated depreciation	-	-
Total leasehold improvements	1,828	1,493
Total Land and Buildings	1,828	1,493
Note 5A: Property, Plant and Equipment		
Other property, plant and equipment:		
Fair value	1,241	1,485
Accumulated depreciation	-	(542)
Total other property, plant and equipment	1,241	942
Total property, plant and equipment	1,241	942
Note 5A: Computer Software		
Computer software		
Fair value	3,804	3,352
Work in progress	20	63
Accumulated depreciation	(3,016)	(2,659)
Total computer software	808	755

Revaluations

All revaluations were conducted in accordance with the valuation policy stated at Note 5. An independent valuer conducted the revaluations as at 30 June 2017.

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 5A: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment (2016-17)

	Leasehold improvements \$'000	Other property, plant & equipment \$'000	Computer software purchased \$'000	Total \$'000
As at 1 July 2016				
Gross book value	1,493	1,485	3,414	6,392
Accumulated depreciation and impairment	-	(542)	(2,659)	(3,202)
Net book value 1 July 2016	1,493	942	755	3,190
Additions:				
By purchase	768	541	409	1,718
Revaluations recognised in the operating result ^(a)	(102)	75	-	(27)
Depreciation and amortisation	(246)	(316)	(357)	(919)
Other movements				
Restoration of Makegood	(77)	-	-	(77)
Disposals:				
Other	(8)	(1)	-	(9)
Net book value 30 June 2017	1,828	1,241	807	3,877
Net book value as of 30 June 2017 represented by:				
Gross book value	1,828	1,241	3,824	6,893
Accumulated depreciation	-	-	(3,016)	(3,016)
Net book value 30 June 2017	1,828	1,241	808	3,877

(a) The changes in the asset revaluation surplus in the Statement of Comprehensive Income does not reflect the revaluations recognised in the operating result due to other movements in the asset revaluation reserve including an increase and reversal in the provision for restorations.

No indicators of impairment were found for property, plant and equipment.

No property, plant and equipment and 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 2017

Note 5: Non-Financial Assets

Revaluations

All revaluations were conducted in accordance with the valuation policy stated at Note 5. An independent valuer conducted the revaluations as at 30 June 2017.

	2017 \$'000	2016 \$'000
Note 5B: Other Non-Financial Assets		
Prepayments	370	288
Total other non-financial assets	<u>370</u>	<u>288</u>

No indicators of impairment were found for other non-financial assets.
Total other non-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 2017

Note 5: Non-Financial Assets

Property, Plant and Equipment

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's accounts immediately prior to the restructuring.

Asset Recognition Threshold

Purchases of property, plant and equipment are recognised initially at cost in the Statement of Financial Position, 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.

Revaluations

Fair values for each class of asset are determined as shown below:

Asset Class	Fair value measured at:
Leasehold improvements	Depreciated replacement cost
Plant and equipment	Depreciated replacement cost & 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:

	2017	2016
Leasehold improvements	Lease term	Lease term
Plant and equipment	3 to 10 years	3 to 10 years

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the year ended 30 June 2017

Note 5: Non-Financial Assets

Property, Plant and Equipment

Impairment

All assets were assessed for impairment at 30 June 2017. 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.

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.

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 (2016: 1 to 8 years).

All software assets were assessed for indications of impairment as at 30 June 2017.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
 for the year ended 30 June 2017

Note 6: Fair Value Measurement

The following table provides an analysis of assets and liabilities that are measured at fair value.

Note 6A: Fair Value Measurements

	Fair value measurements at the end of the reporting period	
	2017 \$'000	2016 \$'000
Non-financial assets:		
Leasehold improvements	1,828	1,493
Property, plant and equipment	1,241	942
Total non-financial assets	3,069	2,435

(a) All non-financial assets were measured at fair value in the statement of financial position.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
 for the year ended 30 June 2017

Note 7: Payables

	2017	2016
	\$'000	\$'000
Note 7A: Suppliers		
Trade creditors and accruals	731	321
Total supplier payables	<u>731</u>	<u>321</u>

Settlement is usually made within 30 days.

Note 7B: Other Payables

Salaries and wages	223	87
Superannuation	161	3
Separations and redundancies	182	104
Lease incentives	1,574	1,628
Unearned income	940	304
Other	68	99
Total other payables	<u>3,148</u>	<u>2,227</u>

Note 7C: Leases

Operating lease rentals	1,365	1,266
Total leases	<u>1,365</u>	<u>1,266</u>

Minimum lease payments expected to be settled

Within 1 year	2,545	1,960
Between 1 to 5 years	12,456	7,877
More than 5 years	2,999	6,146
Total leases	<u>18,000</u>	<u>15,983</u>

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
 for the year ended 30 June 2017

Note 8: Provisions

	2017 \$'000	2016 \$'000
Note 8A: Employee Provisions		
Leave	4,821	3,926
Total employee provisions	4,821	3,926

Accounting policy

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 2017. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

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

Employees of the Office are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS accumulation plan (PSSap) or other contributory funds as nominated by the employee. 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 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. The Office accounts for the contributions as if they were contributions to defined contribution plans. The liability for superannuation recognised as at 30 June 2017 represents outstanding contributions for the final working day of the year.

**OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the year ended 30 June 2017**

Note 8: Provisions

	2017 \$'000	2016 \$'000
Note 8B: Other Provisions		
Provision for restoration obligations	248	188
Provision for onerous contracts	<u>464</u>	<u>-</u>
Total other provisions	<u><u>712</u></u>	<u><u>188</u></u>

There was a \$60k movement in the carrying amount of the provision for restorations in 2016-17 due to the recognition of an additional provision (2016: \$60k).

The Office currently has three agreements (2016: two) 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. Adjustments to provisions have been taken to the asset revaluation reserve.

There was a \$464k movement in the provision for onerous contracts. The Office has two onerous lease contracts (2016: nil).

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the year ended 30 June 2017

Note 9: Key Management Personnel Remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity. The entity has determined the key management personnel to be the Ombudsman, Deputy Ombudsman, 6 Senior Assistant Ombudsman and 1 Chief Operating Officer. Key management personnel remuneration is reported in the table below:

	2017	2016
	\$'000	\$'000
Short-term employee benefits:		
Salary	1,727	1,452
Motor vehicle and other allowances	153	149
Total short-term employee benefits	<u>1,880</u>	<u>1,601</u>
Post-employment benefits:		
Superannuation	270	263
Total post-employment benefits	<u>270</u>	<u>263</u>
Other long-term benefits:		
Annual leave accrued	133	125
Long-service leave	43	42
Total other long-term benefits	<u>176</u>	<u>167</u>
Termination benefits	87	-
Total	<u>2,413</u>	<u>2,031</u>

The total number of key management personnel that are included in the above table are 13 individuals (2016: 8 individuals). The increase is a result of four terminations, three commencements and associated acting arrangements as a result.

The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the entity.

**OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the year ended 30 June 2017**

Note 10: Related Party Disclosures

Related party relationships:

The entity is an Australian Government controlled entity. Related parties to this entity are Key Management Personnel including the Portfolio Minister and Executive, and other Australian Government entities.

Transactions with related parties:

Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include the payment or refund of taxes, receipt of a Medicare rebate or higher education loans. These transactions have not been separately disclosed in this note.

Giving consideration to relationships with related entities, and transactions entered into during the reporting period by the entity, it has been determined that there are no related party transactions to be separately disclosed.

OFFICE OF THE COMMONWEALTH OMBUDSMAN
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
 for the year ended 30 June 2017

Note 11: Financial Instruments

	Note	2017 \$'000	2016 \$'000
Note 11A: Categories of Financial Instruments			
Financial Assets			
Loans and receivables:			
Cash and cash equivalents	4A	198	154
Trade and other receivables	4B	2,675	48
Carrying amount of financial assets		2,873	202
Financial Liabilities			
At amortised cost:			
Supplier payables	7A	731	321
Carrying amount of financial liabilities		731	321

Accounting Policy

Financial Assets

The Office classifies its financial assets as 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.

Effective Interest Method

Income is recognised on an effective interest rate basis except for financial assets that are recognised at fair value through profit or loss.

Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period.

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.

Financial Liabilities

Financial liabilities are recognised and derecognised upon 'trade date'. 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. 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).

OFFICE OF THE COMMONWEALTH OMBUDSMAN
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the year ended 30 June 2017

Note 12: Appropriations

Table A: Annual Appropriations ('Recoverable GST exclusive')

Annual Appropriations for 2017

	Appropriation Act		PGPA Act		Total Appropriation \$'000	Appropriation applied (current and prior years) \$'000	Variance ^(a) \$'000
	Annual Appropriation \$'000	AFM \$'000	Section 74 \$'000	Section 75 \$'000			
DEPARTMENTAL							
Ordinary annual services	20,957	-	7,079	-	28,036	27,870	166
Capital Budget ^(c)	828	-	-	-	828	1,626	(798)
Total departmental	21,785	-	7,079	-	28,864	29,496	(632)

Notes:

- (a) The variance of \$0.6m in ordinary annual services was primarily due to the fitout of office premises.
(b) \$10,000 was permanently quarantined due to WoAG Public Sector Superannuation Accumulation Plan administration fees.
(c) Departmental and Administered Capital Budgets are appropriated through Appropriation Acts (No.1,3 and 5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.

Annual Appropriations for 2016

	Appropriation Act		PGPA Act		Total Appropriation \$'000	Appropriation applied (current and prior years) \$'000	Variance \$'000
	Annual Appropriation \$'000	AFM \$'000	Section 74 \$'000	Section 75 \$'000			
DEPARTMENTAL							
Ordinary annual services	21,462	-	2,607	-	24,069	24,911	(841)
Capital Budget	1,181	-	-	-	1,181	864	317
Total departmental	22,643	-	2,607	-	25,250	25,775	(524)

Table B: Unspent Annual Appropriations ('Recoverable GST exclusive')

Authority	2017 \$'000	2016 \$'000
DEPARTMENTAL		
2014-15 Appropriation Act 1- Departmental Capital Budget	-	1,046
2015-16 Appropriation Act 1	-	7,204
2015-16 Appropriation Act 1- Departmental Capital Budget	601	1,181
2016-17 Appropriation Act 1	6,474	-
2016-17 Appropriation Act 1- Departmental Capital Budget	828	-
2016-17 Appropriation Act 3	852	-
Cash on hand or on deposit	198	154
Total	8,953	9,585

Appendix 2—Statistics

Approaches and complaints 2016–17

Jurisdiction/ Portfolio	Received					Finalised					Remedies					Total Remedies
	Cat 1	Cat 2	Cat 3	Cat 4	Cat 5	Total Finalised	Action expedited	Apology	Decision changed or reconsidered	Agency officer counselled or disciplined	Explanation	Financial remedy	Law, policy or practice changed	Other non-financial remedy	Remedy provided by agency without Ombudsman intervention	
ACT	526	154	286	15	1	508	6	5	16	43	43	3	7	1	81	
Commonwealth	23,494	8,487	12,268	441	7	23,239	289	912	261	336	1,925	87	662	61	5,357	
Agriculture and Water Resources	42	11	26	4	1	43	1	1	1	4	4	2			8	
Attorney-Generals	384	104	234	28	15	382	3	1	3	21	21	4	3		35	
Commonwealth Parliament	2	2				2										
Communication and the Arts ¹	4,228	851	2,352	873	17	4,093	3	829	28	302	737	574	550	10	3,042	
Courts	73	30	39	4		73	1	1	1	4	4	1	1		8	
Defence	635	109	329	91	33	562	24	2	23	76	76	12	11	4	157	
Education and Training	114	17	64	17	12	110	3	7	7	7	7	6	2	1	29	

1. Including Australia Post.

Jurisdiction/ Portfolio	Received					Finalised					Remedies							Total Remedies
	Cat 1	Cat 2	Cat 3	Cat 4	Cat 5	Total Finalised	Action expedited	Apology	Decision changed or reconsidered	Agency officer counselled or disciplined	Explanation	Financial remedy	Law, policy or practice changed	Other non-financial remedy	Remedy provided by agency without Ombudsman Intervention			
Employment	518	210	267	42	20	539	3	3	11	2	66	8	8	3	6	110		
Environment and Energy	23	5	13	1	2	21	1	1	1	2	2					4		
Finance	107	24	60	11	8	103	1	1	6	13	1	1				22		
Foreign Affairs and Trade	142	42	92	7	3	144				9						9		
Health and Aged Care	143	49	78	10	5	142			5	14	1	2				22		
Immigration and Border Protection	2,071	453	1,193	329	110	2,086	105	8	38	301	6	16	34	18	531			
Industry, Innovation and Science	60	16	39	5	4	64				5						5		
Infrastructure and Regional Development	41	9	30	3	6	48	1	1		4		1				7		

For a full breakdown of the Jurisdictions/Portfolio in this table, visit ombudsman.gov.au

APPENDICES 6

Jurisdiction/ Portfolio	Received					Finalised					Remedies							Total Remedies
	Cat 1	Cat 2	Cat 3	Cat 4	Cat 5	Total Finalised	Action expedited	Apology	Decision changed or reconsidered	Agency officer counselled or disciplined	Explanation	Financial remedy	Law, policy or practice changed	Other non-financial remedy	Remedy provided by agency	Without Ombudsman Intervention		
Prime Minister and Cabinet	89	11	44	11	14	80	5	1	3	16	7	2	1	1	1	35		
Social Services	14,327	6,374	7,109	584	187	14,258	138	64	132	639	29	210	29	55	20	1314		
Treasury	495	172	297	16	4	489	2	2	2	7	4	4	2	1	1	19		
Norfolk Island	2	2	2			2												
OMB	1,135	514	598			1,112												
OOJ	5,560	4,110	1,445			5,555												
OSO	981	31	604	232	124	991	8	4	119	259	51	20	23	28	512			
Private Health Insurance Ombudsman	9,499	4,367	4,245	760	61	9,433												
Postal Industry Ombudsman	104	15	63	14	3	95	1	7	17	2	1	4	3	35				
TOTAL	41,301	17,678	19,511	3,095	644	40,935	303	921	397	2,244	877	111	696	93	5,985			

Appendix 3—Information Publication Scheme

The Information Publication Scheme (IPS) applies to Australian Government agencies that are subject to the *Freedom of Information Act 1982*. This scheme requires an agency to publish a broad range of information on their website.

The Office of the Commonwealth Ombudsman's website makes available the Ombudsman's Information Publication Scheme plan, describing how the Office complies with these requirements and giving access to information published under the scheme. More information can be found at: ombudsman.gov.au/about/information-publication-scheme

Appendix 4—Entity Resource Statement

Entity Resource Statement 2016–17

	Actual available appropriation for 2016–17 \$'000	Payments made 2016–17 \$'000	Balance 2016–17 \$'000
	(a)	(b)	(a) – (b)
Ordinary Annual Services¹			
Departmental appropriation ²	44,436	29,496	14,940
Adjustment – actual s74 ³	(5,987)	-	(5,987)
Total resourcing and payments	38,449	29,496	8,953

- 1 Appropriation Act (No. 1) 2016–17 and Appropriation Act (No. 3) 2016–17. This also includes prior year departmental appropriation and S74 relevant agency receipts.
- 2 Includes an *available* amount of \$0.828m in 2016–17 for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contribution by owners'.
- 3 Actual s74 receipts in 2016–17 were \$7.079m compared to the Budget estimate of \$13.066m.

Resource Summary Table - Expenses for Outcome 1

Outcome 1: Fair and accountable administrative action by Australian Government entities and prescribed private sector organisations, by investigating complaints, reviewing administrative action and statutory compliance inspections and reporting.

	Budget 2016–17 \$'000	Actual Expenses 2016–17 \$'000	Variance 2016–17 \$'000
Program 1.1: Office of the Commonwealth Ombudsman			
Departmental expenses			
Departmental appropriation ¹	22,369	28,967	(6,598)
Expenses not requiring appropriation in the Budget year	985	973	12
Total for Program 1.1	23,354	29,939	(6,585)
Total for Outcome 1	23,354	29,939	(6,585)
Average Staffing Level (number)	149	178	(29)

- 1 Departmental Appropriation combines 'Ordinary annual services' (Appropriation Act No. 1 and Appropriation Act No. 3) and 'Revenue from independent sources (S74)'.

Appendix 5—Ecologically Sustainable Development and Environmental Performance

Section 516A of the *Environment Protection and Biodiversity Act 1999* sets out the principles and framework for the Office to report on environmental matters. We also have an environmental-management policy to help us manage activities in an environmentally sustainable manner. Our environmental impact is mainly through office-based energy consumption, paper resources and waste management.

Energy consumption

During the year the Office reduced its energy consumption by 35 percent in kilowatt hours and 22 per cent in mega joules per person. Kilowatt per person is 34.1 compared to 52.34 in 2015–16 and mega joules per person is 67.3 compared to 86.29 in 2015–16.

Paper resources

In 2015–16, we implemented the Information and Records Management (IRM) work program to better facilitate business needs, compliance with legislation and the Government Digital Transition Policy.

The Office ensures we engage in predominantly digital record keeping and e-business practices to reduce paper files. Our paper supplies are either manufactured from at least 50 per cent recycled products or carbon neutral. Other office materials such as files, folders and unused stationary are recycled within the Office to reduce procurement activity for stationery.

Waste management

We actively manage the waste we produce through several mechanisms:

- recycling bins are provided in all offices to encourage recycling of waste such as paper and cardboard packaging
- toner cartridges are recycled
- kitchen waste such as plastic bottles and cans are recycled via special bins provided in breakout areas.



PART 7—REFERENCES

PART 7—REFERENCES

Glossary

Term	Definition
Approach	Contact with our Office about a matter. An approach may be about a matter outside our jurisdiction.
Authorised internal recipient	A person who is authorised to disclose material. In certain cases, also an authorised officer of the Commonwealth Ombudsman and the Inspector-General of Intelligence and Security.
Authorised officer	An officer appointed by the principal officer of an agency to receive and allocate public interest disclosures.
Category	Approaches to our Office are divided into five categories: see below.
Category 1 Initial approach (approach)	An approach made by phone or in person that can be resolved simply, including by referral to a more appropriate agency. Also where we used our discretion not to investigate.
Category 2— Further assessment (approach)	An approach which calls for further assessment. This might include internal enquiries/research (or obtaining more information from the complainant), but in which we applied our discretion not to investigate.
Category 3— Investigation (complaint)	An approach investigated and resolved after a single contact with the agency.
Category 4— Further investigation (complaint)	An approach that was resolved after two or more substantive contacts with the agency.
Category 5— Formal reports (complaint)	An approach where formal powers have been exercised and/or a s 15 report issued.
Closed approach	An approach that has been finalised.
Community detention	A form of immigration detention that enables people in detention to reside and move about freely in the community without having to be accompanied or restrained by an officer under the <i>Migration Act 1958</i> .
Compensation for Detriment caused by Defective Administration (CDDA)	A scheme that allows Australian Government agencies under the <i>Public Governance, Performance and Accountability Act 2013</i> to provide discretionary compensation to people who have been adversely affected through an agency's defective actions or inaction.

Term	Definition
Compliance auditing	The action of inspecting the records of law enforcement agencies to determine compliance with relevant legislation.
Complaint	An approach to the Ombudsman that expresses dissatisfaction about government administrative action or industry service provision, and where a response or resolution is expected. It does not include an approach that merely seeks 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 a prosecution of a person for a serious offence. The operation may involve law enforcement officers engaging in conduct that would otherwise constitute an offence.
Cross-agency issue	A complaint or investigation that involves more than one agency, for example where the policy of one agency is administered by another, or if an issue is common to a number of agencies.
Decision to investigate	The Ombudsman may investigate the administrative actions of most Australian Government departments and agencies, and private contractors delivering government services and industries that we oversee. 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 he/she considers that an investigation would not be warranted in all the circumstances.
Established complaint	The Australian Federal Police (AFP) considers a complaint has been 'established' if an AFP investigation concludes in favour of the complaint or against the AFP member.
Finalised complaint	A complaint that has been resolved or in which investigation has ceased.
Formal powers	The formal powers of the Ombudsman are similar to those of a Royal Commission. They include the ability to compel an agency to produce documents and to examine witnesses under oath.
Garnishee	Some government agencies such as 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.
General treatment policy	Private health insurance that covers non-hospital medical services that are not covered by Medicare, such as dental, physiotherapy, and ambulance services. Also known as 'extras' or 'ancillary' cover.
Hospital policy	Private health insurance that covers costs incurred by a private patient in hospital.

Term	Definition
Hospital exclusions and restrictions	An exclusion is a treatment or service which is not covered by a hospital insurance policy. A restriction is a treatment or service which is covered to a limited extent, such as covering the cost of admission as a private patient in a shared room in a public hospital; rather than the cost of a private room.
Informed Financial Consent (IFC)	The provision of information to patients, including notification of likely out-of-pocket expenses (gap fees) by all relevant service providers, preferably in writing, prior to admission to hospital.
Inspection (immigration)	Inspection of immigration detention facilities and other places of detention to monitor the conditions of, and services provided to, detainees and to assess whether those services are compatible with good public administration and operational effectiveness. This includes assessments of the services provided to regional processing centres by the Australian Border Force.
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. We inspect records relating to telecommunications interceptions, stored communications, surveillance devices and controlled operations.
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 by a complainant, or because the Ombudsman has chosen to use her/his own motion powers.
Improvised dwelling	Makeshift accommodation considered to be unsafe and unsuitable for living in. 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 per cent of a person’s income support payments. The funds so managed may 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 alcohol, gambling products, tobacco or pornography.
Independent Merits Review	These are conducted by reviewers appointed by the Minister for Immigration. They are experienced decision-makers, most whom have a background in merits review decision making in federal and state administrative tribunals, such as Administrative Appeals Tribunal.

Term	Definition
Integrity agency	An independent body that oversees the actions of public sector and/or other specified organisations to ensure that they are accountable for their decisions and that their clients are treated fairly. Integrity agencies may carry out their functions by investigating complaints, conducting investigations, auditing records or reviewing processes.
Jurisdiction	<p>Under the <i>Ombudsman Act 1976</i>, the Commonwealth Ombudsman may investigate the administrative actions of most Australian Government agencies and offices; Australia Post and registered private postal operators; private registered education providers in relation to overseas students; and private health funds or health care providers in relation to private health insurance.</p> <p>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).</p>
Lifetime Health Cover (LHC)	A government initiative that determines how much consumers pay for private hospital insurance, based primarily on their age. The Lifetime Health Cover rules are contained in the <i>Private Health Insurance Act 2007</i> (Cth).
Medical gap	The amount a private patient pays personally for medical treatment in hospital, over and above what is received from Medicare or a private health insurer. Health insurers may have gap cover arrangements with service providers to insure against some or all of these additional payments.
Medicare Benefits Schedule (MBS)	A listing of the Medicare services subsidised by the Australian government. It includes a schedule of fees.
Medicare Levy Surcharge	An income tax levy that applies to Australian taxpayers who earn above a certain income threshold and who do not hold appropriate private hospital insurance.
Natural justice	In administrative decision-making, natural justice means procedural fairness. This includes the right to a fair hearing; that decisions are made without undue bias; providing a person to present a case addressing any adverse matters; and providing reasons for decisions.
Non-refoulement	The principle that people seeking asylum may not be returned to a place where they fear harm, including persecution.
Objective	The name of the electronic information management system used by the Ombudsman's Office.
Outcomes	The results, consequences or impacts of government actions.

Term	Definition
Outcome statements	These articulate government objectives and serve three main purposes within the financial framework: <ol style="list-style-type: none"> 1. to explain why 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 the non-financial performance of agencies and programs in contributing to Government policy objectives.
Out of jurisdiction (OOJ)	A matter about which the Office has no legal power under the Ombudsman Act 1976 to investigate.
Overseas Student Health Cover (OSHC)	A type of health cover designed for overseas student visa holders which can be purchased from some Australian private health insurers.
Overseas Visitors Health Cover (OVHC)	A type of health cover designed for people without Medicare benefits or with only reciprocal (partial) Medicare benefits which can be purchased from some Australian private health insurers and some international insurers.
Own motion investigation	An investigation conducted on the Ombudsman's own initiative.
Principal officer	The head of an agency.
Private Health Insurance Rebate	The Australian Government provides an income tested rebate to help people meet the cost of private health insurance. The Rebate is income-tested and varies depending on age group and family composition.
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.
Public interest disclosure	Unless otherwise stated, this relates to an internal disclosure of wrongdoing, which has been reported by a public official to an authorised internal recipient.
Redress of Grievance (ROG)	Members of the Australian Defence Force are encouraged to seek resolution of any complaint at the lowest possible level in the chain of command. Members who are not satisfied with the outcome of the normal administrative processes may seek review through a formal Redress of Grievance submission to their commanding officer.
Remedy	A solution or correction to a problem that has been the subject of a complaint.
Resolve	The name of the electronic case management system used by the Office of the Commonwealth Ombudsman.

Term	Definition
Review rights	People who disagree with a decision made about them or who believe they have been treated unfairly by a government agency may appeal against the decision or ask for it to be reviewed by the agency. If the person is not satisfied with this process he or she may complain to the Ombudsman (provided the complaint is within our jurisdiction).
Review (Ombudsman)	A complainant who disagrees with a decision by the Ombudsman may request that the matter be reconsidered by an 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.
Second Chance Transfer	These refer to complaints about Australia Post, and refer to relatively uncomplicated complaints which were not investigated but instead were referred back to Australia Post for reconsideration.
Root cause Analysis	A structured approach to identifying the reason or source of a problem in order to prevent its recurring.
SmartForm	A web-based form that guides a person through the process of completing it.
Stored communications	This typically refers to emails and text (SMS) messages, but may also include images or videos, that have been 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 receive it. Stored communications access occurs under warrant for the purposes of obtaining information relevant to the investigation of an offence.
Surveillance devices	These are typically listening devices, cameras and tracking devices. The use of these devices will, in most circumstances, require the issue of a warrant.
Systemic issue	A problem that is likely to recur. 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.

Term	Definition
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 their visa had their visa cancelled. Some unlawful non-citizens will have entered Australia without a visa.
Waiting period	How long a person needs to be covered under a private health insurance policy before he or she is eligible for benefits. The maximum waiting periods for hospital policies are set down in the <i>Private Health Insurance Act 2007</i> (Cth).
Warm transfer	An arrangement between the Ombudsman's Office and the Department of Human Services – Centrelink whereby the Ombudsman's Office will forward the details of a complaint to Centrelink to enable it to investigate it in the first instance. This arrangement is used most commonly in situations that are urgent or which seem simple, or where we think there are good reasons why the complainant should not be required to make a direct complaint to the agency.
Within jurisdiction	An approach about a matter that the Office may investigate under the <i>Ombudsman Act 1976</i> .
s 486O report	The Ombudsman has a specific statutory role under s 486O of the <i>Migration Act 1958</i> to report to the Minister for Immigration concerning the circumstances of anyone who has been in immigration detention for two years or more.

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List of requirements

Below is the table set out in Schedule 2 of the PGPA Rule. Section 17AJ(d) requires this table to be included in the Commonwealth Ombudsman annual report as an aid of access.

Ref	Part of report	Description	Requirement	Page number(s) in this report
17AD(g) & 17AI		Letter of transmittal	Mandatory	5
17AD(h)	Aids to access			
17AJ(a)		Table of contents	Mandatory	8–9
17AJ(b)	Section 7	Alphabetical index	Mandatory	190–202
17AJ(c)	Section 7	Glossary	Mandatory	174–80
17AJ(d)	Section 7	List of requirements	Mandatory	183–9
17AJ(e)		Contact officer	Mandatory	7
17AJ(f)		Website address	Mandatory	7
17AJ(g)		Electronic address of report	Mandatory	7
17AD(a)	Review by the Ombudsman			
17AD(a)	Section 1	Review by the Ombudsman	Mandatory	12–15
17AD(b)	Commonwealth Ombudsman Overview			
17AE(1)(a)(i)	Section 2	Role and functions	Mandatory	18–20
17AE(1)(a)(ii)	Section 2	Organisational structure	Mandatory	20
17AE(1)(a)(iii)	Section 3	Outcomes and programme structure	Mandatory	27
17AE(1)(a)(iv)	Section 3	A description of the purposes of the entity as included in corporate plan	Mandatory	27
17AE(1)(b)		Portfolio structure	Portfolio departments mandatory	Not applicable
17AE(2)		Changes in outcomes and programs administered by the Office	If applicable, Mandatory	Nil to report

Ref	Part of report	Description	Requirement	Page number(s) in this report
17AD(c)	Report on the Performance			
	<i>Annual performance Statements</i>			
17AD(c)(i); 16F	Section 3	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule	Mandatory	27
17AD(c)(ii)	<i>Report on Financial Performance</i>			
17AF(1)(a)	Section 3	Discussion and analysis of the office's financial performance	Mandatory	40
17AF(1)(b)	Section 6	Total resources and total payments	Mandatory	170
17AF(2)		Discussion of any significant changes in financial results from the prior year, from budget or anticipated to have a significant impact on future operations	If applicable, Mandatory	Nil to report
17AD(d)	Management and Accountability			
	<i>Corporate Governance</i>			
17AG(2)(a)	Section 5	Information on compliance with section 10 (fraud systems)	Mandatory	137
17AG(2)(b)(i)		A certification by the Commonwealth Ombudsman that fraud risk assessments and fraud control plans have been prepared	Mandatory	5
17AG(2)(b)(ii)		A certification by the Commonwealth Ombudsman that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the office are in place	Mandatory	5

Ref	Part of report	Description	Requirement	Page number(s) in this report
17AG(2)(b)(iii)		A certification by the Commonwealth Ombudsman that all reasonable measures have been taken to deal appropriately with fraud relating to the office	Mandatory	5
17AG(2)(c)	Section 5	Structures and processes for the office to implement principles and objectives of corporate governance	Mandatory	128–30
17AG(2)(d) – (e)		A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance	If applicable, Mandatory	Nil to report
<i>External Scrutiny</i>				
17AG(3)	Section 5	Significant developments in external scrutiny	Mandatory	131
17AG(3)(a)	Section 5	Judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner	If applicable, Mandatory	131
17AG(3)(b)		Reports by the Auditor-General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman	If applicable, Mandatory	Not applicable
17AG(3)(c)		Capability reviews	If applicable, Mandatory	Nil to report

Ref	Part of report	Description	Requirement	Page number(s) in this report
<i>Management of Human Resources</i>				
17AG(4)(a)	Section 5	Assessment of effectiveness in managing and developing employees to achieve the office's objectives	Mandatory	132–4
17AG(4)(b)	Section 5	Statistics on staffing	Mandatory	134
17AG(4)(c)	Section 5	Information on enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i>	Mandatory	134
17AG(4)(c)(i)	Section 5	SES and non SES employees covered by agreements etc. identified in paragraph 17AG(4)(c)	Mandatory	134
17AG(4)(c)(ii)	Section 5	Salary ranges by classification level	Mandatory	136
17AG(4)(c)(iii)	Section 5	Non salary benefits provided to employees	Mandatory	134
17AG(4)(d)(i – iv)		Performance pay	If applicable, Mandatory	Nil to report
<i>Assets Management</i>				
17AG(5)	Section 5	Assessment of effectiveness of assets management	If applicable, mandatory	137
<i>Purchasing</i>				
17AG(6)	Section 5	Assessment of entity performance against the <i>Commonwealth Procurement Rules</i>	Mandatory	136

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Ref	Part of report	Description	Requirement	Page number(s) in this report
<i>Consultants</i>				
17AG(7)(a)	Section 5	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST)	Mandatory	136-7
17AG(7)(b)	Section 5	Statement that <i>"During 2016-17, three new consultancy contracts were entered into involving total actual expenditure of \$0,187 million. In addition, five ongoing consultancy contracts were active during the period, involving total actual expenditure of \$0.089 million."</i>	Mandatory	136
17AG(7)(c)	Section 5	Summary of the policies and procedures for selecting and engaging consultants	Mandatory	136
17AG(7)(d)	Section 5	Statement that <i>"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."</i>	Mandatory	136

Ref	Part of report	Description	Requirement	Page number(s) in this report
<i>Australian National Audit Office Access Clauses</i>				
17AG(8)	Section 5	Absence of provisions in contracts allowing access by the Auditor-General	If applicable, Mandatory	136
<i>Exempt contracts</i>				
17AG(9)	Section 5	Contracts exempted from publication in AusTender	If applicable, Mandatory	137
<i>Small business</i>				
17AG(10) (a)	Section 5	Statement that “the Office supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance’s website.”	Mandatory	136
17AG(10) (b)	Section 5	Procurement initiatives to support small business	Mandatory	136
17AG(10) (c)		If the entity is considered by the department administered by the Finance Minister as material in nature—a statement that “[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”	If applicable, Mandatory	Not applicable
<i>Financial Statements</i>				
17AD(e)	Section 6	Annual financial statements in accordance with subsection 43(4) of the Act	Mandatory	140–65

Ref	Part of report	Description	Requirement	Page number(s) in this report
17AD(f)	Other Mandatory Information			
17AH(1)(a)(i)		If the entity conducted advertising campaigns, a statement that <i>“During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity’s website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance’s website.”</i>	If applicable, Mandatory	Not applicable
17AH(1)(a)(ii)	Section 5	Advertising campaigns statement	If applicable, Mandatory	137
17AH(1)(b)		<i>Statement that “Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity’s website].”</i>	If applicable, Mandatory	Not applicable
17AH(1)(c)	Section 5	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	7, 134, 135
17AH(1)(d)	Section 6	Website reference to Information Publication Scheme statement pursuant to Part II of FOI Act	Mandatory	169
17AH(1)(e)	Section 4	Correction of material errors in previous annual report	If applicable, mandatory	53
17AH(2)	Section 4	Information required by other legislation	Mandatory	60, 99–123

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