



POLICY– RECOMMENDATIONS, SUGGESTIONS AND COMMENTS

ENDORSED AUGUST 2023

About this document	
Purpose	<p>Recommendations, suggestions and comments (RSC) are tools we use in our inspections, assessments and investigations to influence systemic improvement. While the Ombudsman does not have powers to compel outcomes, well-crafted recommendations, suggestions and comments can be effective in influencing change by setting out clearly the action or outcome we think is needed to remedy an individual or systemic issue. They also lay a foundation for follow-up action.</p> <p>This policy aims to promote consistency in the way teams and branches across the Office make recommendations, suggestions, and comments.</p> <p>This policy outlines the principles and provisions (statutory and administrative) for all ‘in scope’ recommendations, suggestions, and comments.</p>
User/s	All staff
Outcome	This policy promotes consistency in the way teams and branches across the Office make recommendations, suggestions, and comments.
Version number	1.0
Consultation	<p>Director, Strategic Insights</p> <p>Director, ACT & Commonwealth Investigations</p> <p>Director, Industry Investigations</p> <p>Director, PID Investigations</p> <p>Director, ACT Reportable Conduct and FOI</p> <p>Director, NAA/LEIO</p>
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In scope

Function	Powers
Investigation reports	<p>The Ombudsman may make recommendations in investigation reports under the <i>Ombudsman Act 1976</i> (Cth) (s 15, s 19F, s 19V, s 19ZQ, s 20Q, s 20U, s 20V) and in investigation reports under s 18 of the <i>Ombudsman Act 1989</i> (ACT).</p> <p>This applies to any report prepared about an investigation conducted under <i>Ombudsman Act 1976</i> (Cth) and <i>Ombudsman Act 1989</i> (ACT) in response to a complaint or on the Ombudsman’s own motion.</p>
Seeking legal opinion from Tribunal	<p>The Ombudsman may recommend during, or after an investigation that an agency refers a question to the Administrative Appeals Tribunal under s 11 of the <i>Ombudsman Act 1976</i> (Cth), or to the ACT Civil and Administrative Tribunal under s 13 <i>Ombudsman Act 1989</i> (ACT).</p>
Comments and suggestions made during or after investigations	<p>Under s 12(4) of the <i>Ombudsman Act 1976</i> and s 15(4) of the <i>Ombudsman Act 1989</i> (ACT), the Ombudsman may make suggestions or comments to agencies and prescribed authorities as part of investigations undertaken by our Office. This includes any public interest disclosure investigations conducted under the <i>Ombudsman Act 1976</i>.</p>
Public Interest Disclosure reports	<p>The Ombudsman may make recommendations in reports about investigations of public interest disclosures the Office undertakes under s 51 of the <i>Public Interest Disclosure Act 2013</i>.</p>
ACT Reportable Conduct recommendations and suggestions	<p>The Office provides suggestions and feedback on better practice in response to Reportable Conduct notifications (section 17G of the <i>Ombudsman Act 1989</i> (ACT)) and investigations (section 17J of the <i>Ombudsman Act 1989</i> (ACT)) designated entities provide to the Office. However, these suggestions and feedback are not made under the <i>Ombudsman Act 1989</i> (ACT) and designated entities are not required to implement them.</p> <p>Section 17K of the <i>Ombudsman Act 1989</i> (ACT) authorises the Office to make recommendations at the conclusion of an investigation conducted by the Office. A designated entity must comply with a recommendation under s 17K.</p> <p>The ACT Reportable Conduct team also considers complaints about the handling of a reportable conduct matter. Suggestions and feedback is provided through the complaints and is not made under the <i>Ombudsman Act 1989</i> (ACT).</p>
Reports about the circumstances of individuals’ long-term detention	<p>Section 486O of the <i>Migration Act 1958</i> requires the Ombudsman to send to the Minister an assessment of the appropriateness of the arrangements for the detention of every person who has been in immigration detention for more</p>

	<p>than 2 years, and every 6 months thereafter, with a copy to be tabled in Parliament. Under s 486O of the <i>Migration Act 1958</i> the Ombudsman may make recommendations in an assessment.</p>
<p>Commonwealth National Preventive Mechanism (NPM) team</p>	<p>The Commonwealth NPM makes reports as required by Article 23 of the Optional Protocol to the Convention against Torture (OPCAT).</p> <p>Article 19(b) of the OPCAT requires NPMs to make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment.</p> <p>In the absence of NPM specific legislation, the Commonwealth NPM's visit work is undertaken as an own motion investigation under the <i>Ombudsman Act 1976</i>. Recommendations are made using the authority of s 15 of the <i>Ombudsman Act 1976</i>.</p>
<p>LEIO Inspection reports – oversight of covert, intrusive and coercive powers</p>	<p>The Office regularly inspects and reports on law enforcement and integrity agencies' use of covert, intrusive and coercive powers under:</p> <ul style="list-style-type: none"> • <i>Telecommunications (Interception and Access) Act 1979</i> • <i>Crimes Act 1914</i> • <i>Surveillance Devices Act 2004</i> • <i>Part V of the Australian Federal Policy Act 1979 (Part V)</i> • <i>Part 3.11 and Chapter 4 of the Crimes (Child Sex Offenders) Act 2005 (ACT)</i>. • <i>Crimes (Assumed Identities) Act 2009 (ACT), the Crimes (Controlled Operations) Act 2008 (ACT) and the Crimes (Surveillance Devices) Act 2010 (ACT)</i> • <i>Part 15 of the Telecommunication Act 1997</i>. <p>Under these Acts, the Office is required to report on the extent of agencies' compliance with the relevant legislation. These Acts do not include prescribed terminology for our reports. The Office makes suggestions and recommendations to agencies focused on identified non-compliance.</p> <p>For inspections under the <i>Australian Federal Policy Act 1979 (Part V)</i>, under s 40XD our reports must include comments as to the comprehensiveness and adequacy of the administration of matters under Divisions 3 and 4, but there is no requirement to make suggestions or recommendations.</p>

Out of scope

Function	Reason
VET FEE Help	Scheme is scheduled to end on 31 December 2023.
Defence Abuse	<p>The legislative basis for making a recommendation to Defence that it make a reparation payment in acknowledgement of abuse where those criteria are satisfied is reg 14 of the <i>Ombudsman Regulations 2017 (Cth)</i>.</p> <p>Under the Regulations, the Defence Force Ombudsman's role with respect to reports of abuse is to take 'appropriate action to respond' (reg 14(1)(a)). For reportees eligible to seek assessment for a potential reparation payment, the options for 'appropriate action' include recommending that Defence make a reparation payment (regs 14(1)(a)(iiia) and 14A).</p>
Preliminary views made under the <i>Ombudsman Act 1976</i>	During investigations, the Office occasionally provides preliminary views to agencies or prescribed authorities. These views are made using s 8(3) of the <i>Ombudsman Act 1976 (Cth)</i> . This policy does not cover use of preliminary views. These are managed, and recorded by, investigation teams.
National Preventive Mechanism (NPM) Coordinator	Article 23 of OPCAT requires annual reporting of all NPM activity. Under Regulation 17(h) of the <i>Ombudsman Regulations 2017</i> , the NPM Coordinator is required to prepare an annual report covering the activities of all nominated and appointed NPM bodies across Australia. The annual report may contain recommendations representing the views of many separate, independent organisations, not just the Commonwealth NPM.

Overview of Recommendations, Suggestions and Comments

Recommendations, suggestions and comments are tools our Office uses as part of investigations, inspections or assessments to raise issues with, and seek action by the agencies, prescribed authorities and industry providers we oversee.

Our Office does not need to make recommendations, suggestions or comments in every investigation, inspection or assessment we undertake. We can also encourage an organisation to fix problems we identify without exercising our formal powers – for example, by providing feedback at liaison meetings and issues briefings, or arranging for the Ombudsman to write to the agency head.

Staff in our Office can make recommendations, suggestions or comments under a range of Acts and this policy provides guiding principles for doing so, as well as engaging with the specific legal thresholds that apply.

All recommendations, suggestions and comments must be:

- made in writing
- authorised by the Ombudsman or an appropriately delegated officer
- relevant to an investigation, inspection or assessment undertaken under relevant legislation.

The Office cannot compel a department, agency or prescribed authority to implement – or even respond to – its recommendations, suggestions or comments. However, we do have escalation options if agencies or providers do not accept and/or act on our recommendations. See **Failures to accept or action recommendations and suggestions**.

Delegations for making recommendations, suggestions and comments

Prior to making a recommendation, suggestion or comment, it is important to seek the approval of the Ombudsman or delegate, as appropriate.

The table below summarises the relevant delegations at the time this policy was last updated, but it is important staff check the current delegation instruments on the intranet before proceeding:

- [*Instrument of delegation and authorisation under the Ombudsman Act 1989 and Children and Young People Act 2008*](#)
- [*Delegations made under the Ombudsman Act 1976 and Australian Federal Police Act 1979*](#)

Recommendation, Suggestion and Comment type	Delegation
Recommendation in investigation report	Only the Ombudsman is authorised to make recommendations in investigation reports. ¹
Recommendation to refer action to AAT and ACAT	Where this recommendation forms part of an investigation report, only the Ombudsman is authorised to make recommendations in investigation reports. ² Where this recommendation occurs <i>during</i> an investigation, either the Ombudsman or Deputy Ombudsman may make these recommendations.
Suggestions relating to general investigations under the Ombudsman Act	Under our delegations, officers at EL2 level and above have delegation to make comments or suggestions under s 12(4) of the <i>Ombudsman Act 1976</i> (Cth) and s 15(4) of the <i>Ombudsman Act 1989</i> (ACT).
Comments relating to general investigations under the Ombudsman Act.	
Public Interest Disclosure reports	The Ombudsman or their delegated officer may make recommendations in a report about an investigation of a public interest disclosure under s 51 of the <i>Public Interest Disclosure Act 2013</i> .
ACT Reportable Conduct recommendations and suggestions	Only the Ombudsman and Deputy Ombudsman may make recommendations in relation to an investigation (s 17K(3)). The ACT Reportable Conduct Team provide feedback in response to s 17G notifications and s 17J reports. The feedback is in relation to the investigation by the entity into the reportable conduct matter. Sometimes a recommendation may be made that the entity reconsider its findings. Authority to provide feedback and recommendations sits with EL1 and EL2 staff.
Reports about the circumstances of individuals' long-term detention	Only the Ombudsman may make a recommendation to the Minister about the appropriateness of detention arrangements defined in s 486O of the <i>Migration Act 1958</i> .
Commonwealth National Preventive Mechanism (NPM)	The NPM Coordinator makes recommendations in annual reports under Regulation 17(h) of the Ombudsman Regulations. The existing instrument of delegation does not delegate the recommendation making power in Regulation

¹ See s 34 of the *Ombudsman Act 1976* (Cth) and s 32 of the *Ombudsman Act 1989* (ACT).

² See s 34 of the *Ombudsman Act 1976* (Cth) and s 32 of the *Ombudsman Act 1989* (ACT).

	<p>17(h). Accordingly, these recommendations can only be made by the Ombudsman as the head of the Commonwealth NPM.</p> <p>Suggestions may be made in post-visit summaries under authorisation of the Director OPCAT & Detention Monitoring. Agencies are not required to respond to suggestions, although they may choose to do so.</p>
Inspection reports – Office oversight of covert, intrusive and coercive powers	<p>The making of recommendations, suggestions and comments under the following Acts is not specifically delegated:</p> <ul style="list-style-type: none">• <i>Telecommunications (Interception and Access) Act 1979</i>• <i>Crimes Act 1914</i>• <i>Surveillance Devices Act 2004</i>• <i>Australian Federal Police Act 1979 (Part V) Registration of child sex offenders in the Australian Capital Territory.</i>• <i>Crimes (Assumed Identities) Act 2009 (ACT), the Crimes (Controlled Operations) Act 2008 (ACT) and the Crimes (Surveillance Devices) Act 2010 (ACT)</i>• <i>Part 15 of the Telecommunication Act 1997</i> <p>In practice, reports sent to agencies containing recommendations (which are formal reports) are made by the Ombudsman. Reports containing suggestions are usually cleared by the EL2 but may be cleared by an EL1 if the finding is administrative or does not involve public harm (streamlined reports and findings letters).</p> <p>All reports made under the Part V of the <i>Australian Federal Police Act 1979</i> and <i>Fair Work Act 2009</i> (Cth) are tabled in Parliament and provided to the agency by the Ombudsman.</p>

Making recommendations, suggestions and comments

Guidance on how to craft effective recommendations, suggestions and comments is available in our Office's [Crafting recommendations guidelines](#). While the guidelines specifically refer to recommendations, the Double SMART model should also be used when crafting suggestions and may be used when crafting comments.

Procedural fairness and agency opportunity to respond

A report by the Ombudsman is an expression of the Ombudsman's opinion: it is not a statement agreed between the Ombudsman and the agency.

Prior to finalising a report that includes actual or implied criticism (with or without a recommendation), the Office must provide the agency or person who is the subject of the report with the opportunity to appear before the Ombudsman and to make submissions, either orally or in writing.

This is a requirement under s 8(5) *Ombudsman Act 1976* (Cth) s 9(6) *Ombudsman Act 1989* (ACT) and accords with the expectation of procedural fairness embedded within the administrative law principles.

In practice, during this step, the Ombudsman may share a draft of our report and any recommendations with the principal officer of the department, agency or prescribed authority under investigation and invite them to:

- correct any errors of fact or omission in the report
- provide a formal response to the Office's findings including any recommendations.

The draft report must only be shared as a PDF document. It should be accompanied by clear instructions to the agency that the Office will not act on suggested or requested edits to the report unless they are necessary to address agreed errors.

Recommendations

The Ombudsman can use a recommendation to seek remedial action from a department, agency or prescribed authority, usually at the conclusion of an investigation, inspection or oversight activity. They can be made in respect of a single complaint or activity, groups of complaints/activities, or a systemic issue.

For example, we may make a recommendation where:

- We identify action taken appears to be contrary to law.
- We identify action taken was unreasonable, unjust, oppressive or improperly discriminatory.
- We identify action taken was, in all the circumstances, wrong.
- We identify one or more records that are not compliant with the legislation and indicate a serious systemic issue.
- We identify policies, procedures or culture that support, or contribute to serious or systemic problems in an entity's administration.

An agency's previous responsiveness to feedback, as well as what we know about its culture, may contribute to our assessment of whether a problem is sufficiently serious or systemic to warrant

a recommendation. These factors may also influence whether a report containing recommendations is published – whether in full, in part or at all.

The Ombudsman will ask the principal officer for their response to any recommendations. The 2 options available to agencies and prescribed authorities are to **accept** or **not accept**. We also ask:

- If the agency or prescribed authority **accepts** the recommendation, that it provides particulars of any action it proposes to take and expected timeframes for implementation. We may also include (as part of a recommendation) estimated reasonable timeframes for implementation of a recommendation.
- If the agency prescribed authority **does not accept** the recommendation, its reasons for not accepting.

It is the Office's practice not to allow an agency to 'note' recommendations and if it chooses to do so, we will formally regard the recommendation as being 'not accepted'. It is important we hold an agency to account for whether it takes appropriate action on matters we raise with it, including recommendations.

If an agency does not take sufficient and/or timely action to implement recommendations made in a s 15 report, the Ombudsman may choose to bring this to the attention of the Prime Minister and the Parliament via reports under s 16 and s 17 of the *Ombudsman Act 1976* (Cth). The Office may also choose to draw attention to an agency's inaction on other types of reports, including by engaging with relevant parliamentary joint committees or issuing a public statement.

Wherever possible, we should draft recommendations in a way that does not open them up to being split into different components, as this may increase the chances an agency will seek to accept only part of it. If an agency is reluctant to accept a recommendation because it cannot make necessary changes quickly, we should encourage them to take steps to manage the risk in the short term and schedule the intended change.

Ombudsman Act (Cth) and Ombudsman Act (ACT)

The term 'recommendation' has a specific meaning under the *Ombudsman Act 1976* (Cth) and *Ombudsman Act 1989* (ACT).

Recommendations may only be made when specified circumstances are met, under the following sections:

- in investigation reports under the *Ombudsman Act 1976* (Cth) – s 15, s 19F, s 19V, s 19ZQ, s 20Q, s 20U, s 20V)
- in investigation reports under s 17K or s 18 *Ombudsman Act 1989* (ACT)
- during, or following an investigation using ss 11(1) and 11(2) of the *Ombudsman Act 1976* (Cth)
- during, or following an investigation using ss 13(2) and 13(3) of the *Ombudsman Act 1989* (ACT).

Under section 15 of the *Ombudsman Act* (Cth) and section 18 of the *Ombudsman Act* (ACT), if the Ombudsman is of the opinion, based on a complaint or own motion investigation, that:

- an action appears to be contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or otherwise wrong in all the circumstances; and
- some action should be taken in response

- the Ombudsman must prepare a report containing reasons for that opinion and *may* include recommendations.

Appendix 3 includes more information about the criteria of which the Ombudsman must be satisfied before making a recommendation as part of an investigation.

Appendices 1 and 2 include decision flowcharts showing the steps involved when making recommendations, suggestions and comments in investigations under the *Ombudsman Act 1976*.

Public Interest Disclosure Act 2013

Under the PID Act, reports about investigations into a public interest disclosure may include recommendations to address investigation findings (s 51(2)(d)). A principal officer of an agency must take appropriate action in response to report recommendations and other matters contained in the investigation report (s 59(4)). Agencies are required to notify the Ombudsman of the actions the principal officer of the agency has taken during the financial year in response to disclosure investigations recommendations and findings (s 76(2)(a)(iv)).

Recommendations arising from inspections of use of covert and intrusive powers

The legislation under which the Office oversees and inspects law enforcement and integrity agencies' use of covert and intrusive powers does not include prescribed terminology. In practice, reports containing recommendations are sent to the agency by the Ombudsman.

Suggestions

A suggestion allows the Ombudsman and their delegates to suggest a department, agency or prescribed authority, take action (remedial or otherwise) during or following an investigation, assessment, inspection or oversight activity.

Suggestions are generally considered where the issue identified calls for remedial action but does not meet the level of seriousness required to make a recommendation. For example, we may suggest an agency takes action where:

- the legislative triggers for an investigation report with recommendations have not been met, but there is still action an agency can take to address identified issues
- we identify records that are not compliant with the legislation but do not appear to represent a serious or systemic issue
- we find policies, procedures, documented or undocumented practices that are not sufficiently robust to ensure compliance with legislation or are likely to contribute to instances of non-compliance
- practices or operations of an agency that are unnecessary or disproportionate to the role and functions of the agency
- during an OPCAT visit, we identify a local issue that has not yet reached a level of systemic effect and wish to prevent it escalating.

The discretion available to the Ombudsman or their delegate to make suggestions is quite broad and this option can be used more flexibly, compared to recommendations. Suggestions may reflect on any matter relating to or arising out of an investigation and be provided in any time or manner thought fit.

We can also make suggestions under the *Ombudsman Act (Cth)* and *Ombudsman Act (ACT)* to another agency not involved in the complaint, where the Ombudsman is of the view that this is warranted.

Where the Office makes a suggestion as part of an investigation, inspection or oversight activity, we expect the relevant agency, department or prescribed authority to provide a response. We also generally expect the body to act on the suggestion by making the proposed improvements and providing us a written response to confirm the outcome.

If an agency cannot make changes quickly, we should encourage it to take steps to manage the risk in the short term and schedule the intended change.

When communicating with the department, agency or prescribed authority about the suggestion, delegates should request a response to the suggestion within a particular time and seek the following information:

- Whether the suggestion is accepted or not accepted.
 - If the agency or prescribed authority **accepts** the suggestion, particulars of any action it proposes to take and expected timeframes for implementation.
 - If the agency or prescribed authority **does not accept** the suggestion, its reasons for not accepting.

Public Interest Disclosure investigations

If the Office decides to investigate a disclosure under the *Ombudsman Act 1976* (in accordance with s 49 of the PID Act), the investigation may be finalised with suggestions to address its findings as above.

Comments

A comment allows the Ombudsman and their delegates to bring an issue to an agency's attention during or following an investigation.

A comment can be used when:

- The agency has already taken steps to improve a deficiency in its administrative practices. For example, we may wish to make a comment where our investigation identified an action was unreasonable and the agency fixed it during the investigation. While a suggestion is unnecessary because the problem is already fixed, we may still want to put it on record that the agency's earlier actions were wrong.
- We want to highlight examples of good practice in government or industry to inform the agency's approach. For example, we might draw the agency's attention to an existing best practice guide or industry standard or let them know about recent initiatives developed by another agency on a similar issue.
- We want to highlight issues we observed during an investigation or inspection which do not warrant a recommendation or suggestion but are still important to raise with the agency. For example, we might comment on delays in the agency responding to the complainant's original contact, or that we experienced difficulty identifying which person or business area was responsible for responding to the Office.

When making a comment, agencies or entities are requested to acknowledge receipt of the comments. We welcome but do not require a formal response to the substance of the comments or advice of any actions the agency has taken in response to the comments.

Public Interest Disclosure investigations

If the Office decides to investigate a disclosure under the *Ombudsman Act 1976* (in accordance with s 49 of the PID Act), the investigation may be finalised with comments to provide context to investigation findings and the suggestions made.

Using recommendations, suggestions and comments together

Using a combination of recommendations, suggestions and comments in reports

Inspection or oversight reports may use a combination of recommendations, suggestions and comments to report the extent of issues identified.

Suggestions and comments may be included in an investigation report where the relevant triggers for a report are met. For example, following an own motion investigation, in addition to making recommendations, we may want to also include suggestions for administrative improvement that do not meet the requirements of s 15(1).

However, recommendations can only be made in reports under s 15 (mirrored in s 19F, s 19V, s 19ZQ, s 20Q, s 20U, s 20V) of the *Ombudsman Act 1976* (Cth) or s 17K or s 18 of the *Ombudsman Act 1989* (ACT).

'Escalating' comments and suggestions to recommendations

The Ombudsman Acts do not prohibit the Office from making a recommendation in an investigation report in a matter where it has already provided comments or suggestions under s 12(4) of the *Ombudsman Act 1976* (Cth) or s 15(4) of the *Ombudsman Act 1989* (ACT).

However, this should not automatically be used as an escalation process. For example, we do not escalate a suggestion to a recommendation solely on the basis that we are not satisfied that the agency has taken sufficient action. Please see the **Failures to accept or action recommendations and suggestions section** for more information on options.

However, if the Ombudsman is satisfied that the triggers for an investigation report (with recommendations) enliven an obligation to make a report, the Ombudsman is not precluded from making recommendations in respect of an investigation (or several investigations) where s 12(4) suggestions or comments were previously made.

For inspection reports, the Office may escalate a suggestion to a recommendation if inaction results in continued non-compliance or non-compliance of a serious nature.

Making comments and suggestions after an investigation report

It is important to note that we cannot make formal comments or suggestions to an agency or a prescribed authority about a matter where the Ombudsman has previously furnished a report under ss 15, 19F, 19V, 19ZQ, 20Q, 20U, 20V of the *Ombudsman Act 1976* (Cth) or s 18 of the *Ombudsman Act 1989* (ACT) relating to that matter or matters that include that matter. The intention of the Act is that, where a report has been furnished to an agency, all formal matters for that agency arising out of an investigation should be covered in the report of the investigation.

However, this does not prevent the Office engaging with an agency about an issue following the provision of a report about that issue. For example, the Ombudsman might write to the agency head to highlight further examples of a systemic issue included in a report, or investigations staff

might provide feedback at an agency liaison meeting that the previously high level of complaints which prompted the Office to issue its report has recently subsided.

Failures to accept or action recommendations and suggestions

Recommendations under the Ombudsman Act

If a department, agency or prescribed authority does not accept a recommendation or does not take remedial action following a recommendation, the Ombudsman Acts provide that the Ombudsman can:

- include an agency's response to recommendations in any investigation report – which is provided to the relevant Minister under s 15(6) of the *Ombudsman Act 1976* (Cth) or s 18(6) of the *Ombudsman Act 1989* (ACT)
- for parliamentary investigation recommendations – inform the Prime Minister and make a report on the matter to the Parliament under s 16 and s 17 of *Ombudsman Act 1976* (Cth) or s 15(4) of the *Ombudsman Act 1989* (ACT).

In the Overseas Student Ombudsman context, s 19ZQ(6)(b) provides that the Ombudsman must give the Minister any comments given by the provider in response to a recommendation.

Subsection 8(8) also provides that the Ombudsman can discuss any matter relevant to an investigation with the responsible Minister, whether during an investigation or after its completion.

In deciding whether any of these actions are appropriate, officers should use discretion and identify the best course of action, considering factors such as the seriousness of the issue at hand, the strength of the Office's position, previous attempts by the Office to influence an outcome, the agency's record of compliance, and the overarching public interest.

Other options – recommendations, suggestions

Our Office may also consider the following options when engaging with entities who do not accept and/or act on our recommendations and suggestions:

- Internally escalating the action or inaction to the Senior Assistant Ombudsman, Deputy Ombudsman or Ombudsman.
- Publishing, or disclosing to a relevant authority, our Office's views about the action or inaction – under s 35A of the *Ombudsman Act 1976* (Cth) or s 34 of the *Ombudsman Act 1989* (ACT).
 - **Note:** SES Band 1 and above (and some EL2s) are delegated to authorise disclosures under these sections.
- Article 23 of OPCAT requires publication and dissemination of annual reports on NPMs, including presentation to parliament, the Subcommittee for Prevention of Torture and the United Nations. Agency responses and the NPM's assessment of action or inaction on recommendations are included in these reports.
- For the oversight of covert and intrusive powers, failure to action recommendations and suggestions that increase compliance, or the risk of non-compliance, may result in the Office conducting additional oversight activities. Serious or systemic non-compliance by a specific agency is reported to the Minister or Parliament in our quarterly, biannual or annual reports. These reports are tabled in Parliament and available publicly. Failure by an agency to adequately address our recommendations and suggestions is likely to

undermine confidence of the Parliament and public in that agency's abilities to use the powers and, in extreme cases, could lead to their access to use the powers being rescinded.

Additional and linked resources

[Monitoring Recommendations Policy](#): Policy for monitoring implementation of RSC [current but will be updated]

[Resolve Recommendations Tab Procedure](#): How to record and track RSC's in Resolve.

[Crafting recommendations guidelines](#): guidance on developing well-crafted RSCs.

[Parliamentary Complaint Handling Procedure 10](#) – Actioning your decision: conducting investigations.

Recommendations, Suggestions and Comments Procedure (to be developed)

Recommendations, Suggestions and Comments guidance (under development)

[Factsheet Oversight of the use of covert intrusive and coercive powers update](#)

[Commonwealth NPM Standard Operating Procedures \(under development\)](#)

Approval

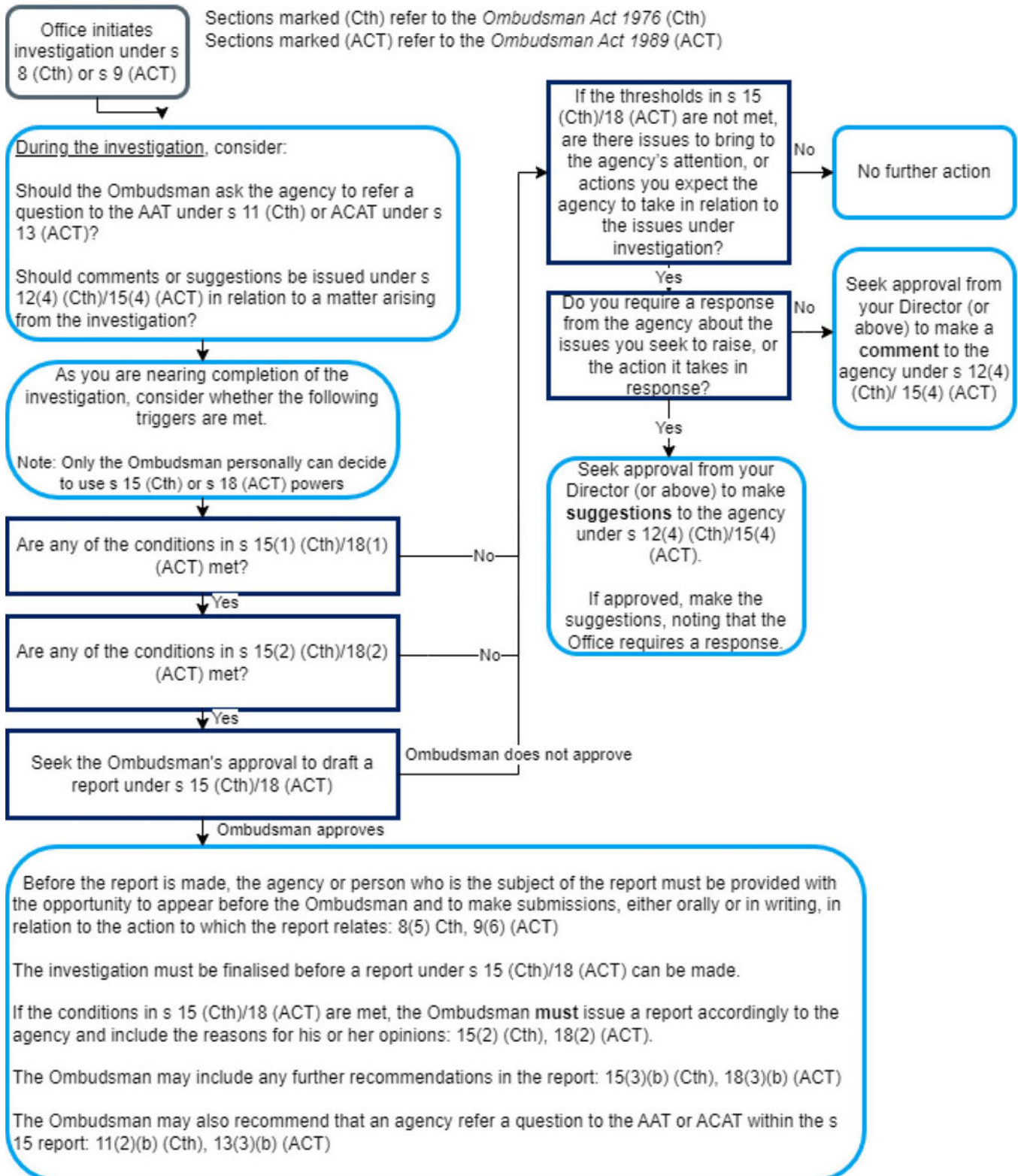
Document Owner: Strategic Investigations 1, Investigations Branch
Strategic Investigations 2, DIAL Branch

Review Cycle: Annual

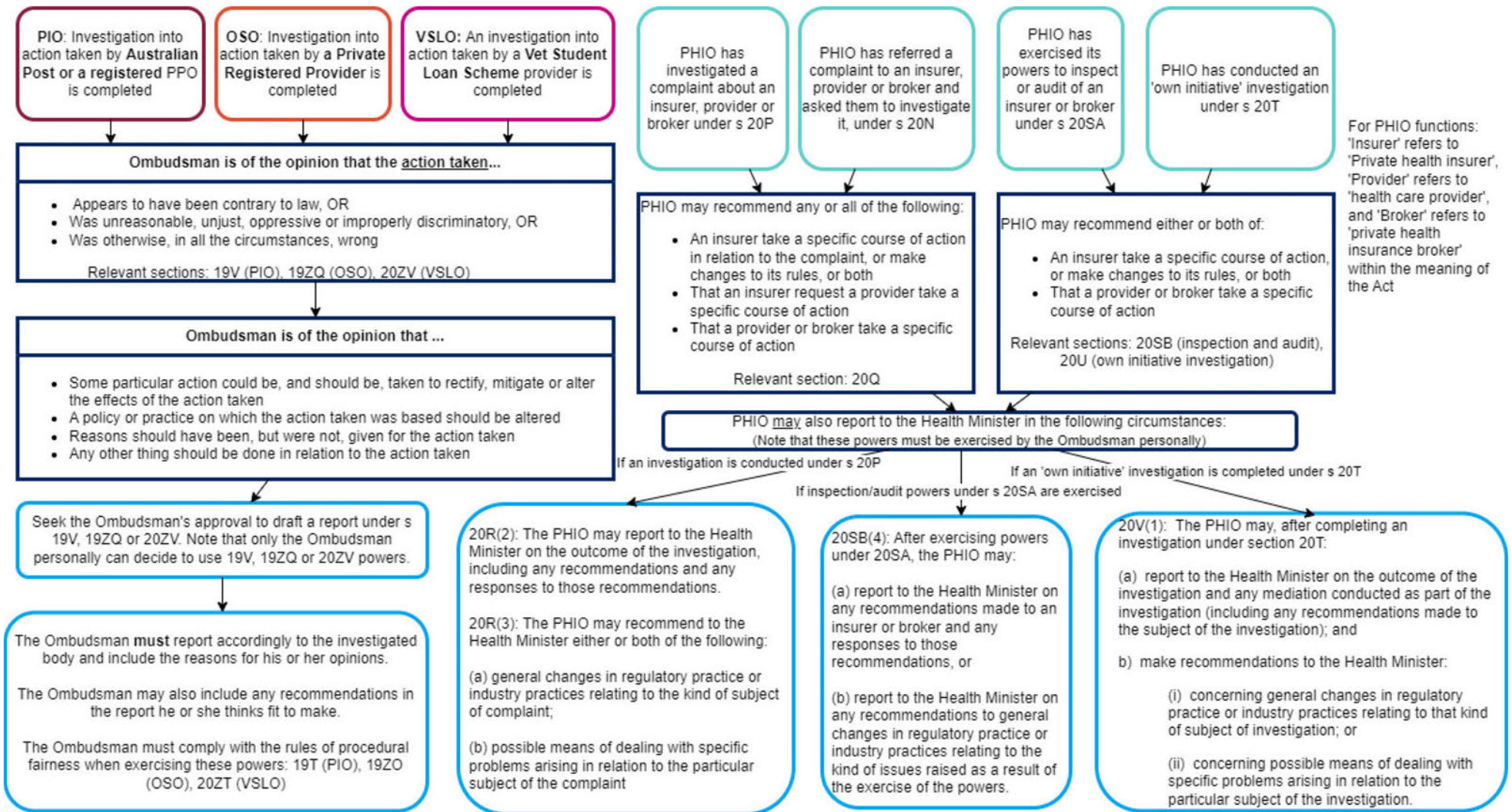
Version	Date Approved	Approved by	Comment
1.0	3 August 2023	Iain Anderson, Ombudsman	

Recommendations, Suggestions and Comments Policy: Appendices

Appendix 1 – Parliamentary investigations decision flowchart – Recommendations Suggestions and Comments



Appendix 2 - Industry investigations decision flowchart – Recommendations



Appendix 3 – Triggers for recommendations under the Ombudsman Act (Cth) and (ACT)

Function	Legislative reference	Triggers which must be met prior to making recommendation
Parliamentary investigation report recommendations ACT and Commonwealth agencies and prescribed authorities	15(1) <i>Ombudsman Act 1976 (Cth)</i> 18 <i>Ombudsman Act 1989 (ACT)</i>	After an investigation is completed, the Ombudsman is of the opinion: <ul style="list-style-type: none"> (a) that the action: <ul style="list-style-type: none"> (i) appears to have been contrary to law; (ii) was unreasonable, unjust, oppressive or improperly discriminatory; (iii) was in accordance with a rule of law, a provision of an enactment or a practice but the rule, provision or practice is or may be unreasonable, unjust, oppressive or improperly discriminatory; (iv) was based either wholly or partly on a mistake of law or of fact; or (v) was otherwise, in all the circumstances, wrong; (b) that, in the course of the taking of the action, a discretionary power had been exercised for an improper purpose or on irrelevant grounds; or (c) in a case where the action comprised or included a decision to exercise a discretionary power in a particular manner or to refuse to exercise such a power: <ul style="list-style-type: none"> (i) that irrelevant considerations were taken into account, or that there was a failure to take relevant considerations into account, in the course of reaching the decision to exercise the power in that manner or to refuse to exercise the power, as the case may be; or (ii) that the complainant in respect of the investigation or some other person should have been furnished, but was not furnished, with particulars of the reasons for deciding to exercise the power in that manner or to refuse to exercise the power, as the case may be;
	15(2) <i>Ombudsman Act 1976 (Cth)</i>	<p style="text-align: center;">AND</p> (2) Where the Ombudsman is of the opinion: <ul style="list-style-type: none"> (a) that a decision, recommendation, act or omission to which this section applies should be referred to the appropriate authority for further consideration; (b) that some particular action could be, and should be, taken to rectify, mitigate or alter the effects of, a decision, recommendation, act or omission to which this section applies; (c) that a decision to which this section applies should be cancelled or varied; (d) that a rule of law, provision of an enactment or practice on which a decision, recommendation, act or omission to which this section applies was based should be altered; (e) that reasons should have been, but were not, given for a decision to which this section applies; or (f) that any other thing should be done in relation to a decision, recommendation, act or omission to which this section applies;

Function	Legislative reference	Triggers which must be met prior to making recommendation
		the Ombudsman shall report accordingly to the Department or prescribed authority concerned.
Parliamentary investigation recommendation to refer question to the Administrative Appeals Tribunal	11 <i>Ombudsman Act 1976</i> (Cth) 13 <i>Ombudsman Act 1989</i> (ACT)	<ul style="list-style-type: none"> • Where the Ombudsman is investigating the taking of action by a Department or by a prescribed authority under a power, whether conferred by an enactment or otherwise, the Ombudsman may recommend, in writing, to the principal officer of the Department or authority that the principal officer refer a specified question about the taking of the action, or the exercise of the power, to the Administrative Appeals Tribunal for an advisory opinion. • The Ombudsman may: <ul style="list-style-type: none"> (a) give the recommendation to the principal officer at any time before the Ombudsman completes the investigation; or (b) include the recommendation in his or her report to the Department or prescribed authority under section 15.
Industry investigation report recommendations	19V(1)(a) 19ZQ(1)(a) 20ZV(1)(a)	If after an investigation under this Act into a PIO, OSO or VSLO provider has been completed:
		AND
Postal Industry Ombudsman Overseas Students Ombudsman	19V(1)(b) 19ZQ(1)(b) 20ZV(1)(b)	the Ombudsman is of the opinion that the action taken: <ul style="list-style-type: none"> (i) appears to have been contrary to law; or (ii) was unreasonable, unjust, oppressive or improperly discriminatory; or (iii) was otherwise, in all the circumstances, wrong; and
		AND
Vet Student Loan Ombudsman	19V(1)(c) 19ZQ(1)(c) 20ZV(1)(c)	the Ombudsman is of the opinion that: <ul style="list-style-type: none"> (iv) some particular action could be, and should be, taken to rectify, mitigate or alter the effects of the action taken; or (v) a policy or practice on which the action taken was based should be altered; or (vi) reasons should have been, but were not, given for the action taken; or (vii) any other thing should be done in relation to the action taken.
Private Health Insurance investigation report recommendations	20Q 20R	(1) The Private Health Insurance Ombudsman may make recommendations under this section after: <ul style="list-style-type: none"> (a) receiving a report from the subject of a complaint after referral under Subdivision C; or (b) investigating a complaint under Subdivision D. (1) The Private Health Insurance Ombudsman may report and make recommendations under this section after completing an investigation of a complaint against a particular subject under Subdivision D.

Function	Legislative reference	Triggers which must be met prior to making recommendation
	<p>20U</p> <p>20V</p>	<p>(5) Before reporting to the Health Minister under this section, the Private Health Insurance Ombudsman must:</p> <ul style="list-style-type: none"> (a) inform the subject of the complaint that the Private Health Insurance Ombudsman proposes to make the report and of the nature of any criticism of the subject’s conduct that will appear in the report; and (b) invite the subject to comment on such criticism, before the end of the period specified in the invitation. <p>The Private Health Insurance Ombudsman must include in the report any comments made by the subject.</p> <p>(1) The Private Health Insurance Ombudsman may make recommendations under this section after conducting an investigation under this Division.</p> <p>(1) The Private Health Insurance Ombudsman may, after completing an investigation under section 20T:</p> <ul style="list-style-type: none"> (a) report to the Health Minister on the outcome of the investigation and any mediation conducted as part of the investigation (including any recommendations made to the subject of the investigation); and (b) make recommendations to the Health Minister: <ul style="list-style-type: none"> (i) concerning general changes in regulatory practice or industry practices relating to that kind of subject of investigation; or (ii) concerning possible means of dealing with specific problems arising in relation to the particular subject of the investigation. <p>(3) Before reporting to the Health Minister under this section, the Private Health Insurance Ombudsman must:</p> <ul style="list-style-type: none"> (a) inform the subject of the investigation that the Private Health Insurance Ombudsman proposes to make the report and of the nature of any criticism of the conduct of the subject that will appear in the report; and (b) invite the subject to comment on such criticism, before the end of the period specified in the invitation. <p>The Private Health Insurance Ombudsman must include in the report any comments made by the subject.</p>

MONITORING AND ASSESSMENT OF RECOMMENDATIONS AND SUGGESTIONS (MARS) POLICY

ENDORSED APRIL 2024

About this document	
Purpose	This policy sets out the Office's approach to monitoring, assessing, and reporting on agency and industry providers' implementation of recommendations and suggestions made by our Office.
User/s	All teams conducting investigations, inspections or assessments that result in recommendations and suggestions made to agencies, as well as the staff members who undertake monitoring or assessing implementation, are within scope of this policy.
Outcome	<p>The policy aims to:</p> <ul style="list-style-type: none"> • enhance consistency in approaches to recommendation and suggestion implementation across teams and branches, wherever possible • provide clear rules for monitoring, assessing and reporting on recommendation and suggestion implementation • support our Office's strategic objective to <i>influence enduring systemic improvement in public administration, through formal and informal comments, suggestions and recommendations, strategic engagement, inspections, visits, education and investigations.</i>
Version number	1.0
Consultation	<p>Director, Strategic Insights Director, ACT & Commonwealth Investigations Director, Industry Investigations Director, PID Investigations</p>

	Director, ACT Reportable Conduct and FOI Director, LEIO Director, ACT Strategy and Inspector Director, OPCAT and Detention Monitoring Director, Defence Abuse Legal (specific parts only) SAO Investigations Branch SAO Defence, Investigations, ACT and Legal Branch SAO Policy & Assurance
Approved/endorsed by	Iain Anderson, Commonwealth Ombudsman
Date approved/endorsed	4 April 2024
Next review date	4 April 2025
Contact team	Strategic Investigations 1, Investigation Branch Strategic Investigations 2, DIAL Branch

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1. Purpose

This policy sets out the Office's approach to monitoring, assessing, and reporting on agencies', industry providers' and prescribed authorities' ('entities') implementation of recommendations and suggestions made by our Office.

This policy does not apply to comments made by our Office under s 12(4) of the *Ombudsman Act 1976* as we do not follow up on entity implementation of comments.

The policy aims to:

- enhance consistency in approaches to recommendation and suggestion implementation across teams and branches, wherever possible
- provide clear guidance for monitoring, assessing and reporting on recommendation and suggestion implementation
- support our Office's strategic objective to *influence enduring systemic improvement in public administration, through formal and informal comments, suggestions and recommendations, strategic engagement, inspections, visits, education and investigations.*

This policy complements our [Investigations Policy](#) and [Recommendations, Suggestions and Comments Policy](#), and should be read with the [Resolve Recommendations Tab Procedure](#) and specific team standard operating procedures and work practice manuals.

This policy replaces the

- [Monitoring Recommendations Policy](#) (last updated 30 July 2021)
- [Monitoring Recommendations Procedure](#) (last updated 30 July 2021).

Senior Assistant Ombudsmen have overall accountability for ensuring their teams comply with this policy. Each team has responsibility for ensuring they adhere to this policy.

2. Introduction

Under the *Ombudsman Act 1976* (Cth) and the *Ombudsman Act 1989* (ACT), the Office has the power to make recommendations and suggestions to entities. The Office also has powers to make recommendations and suggestions under various other pieces of legislation (see Section 3: Scope). **It is the implementation of these recommendations and suggestions that ensure our insights effect real change so we need to ensure agencies do properly implement recommendations and suggestions they have agreed to.**

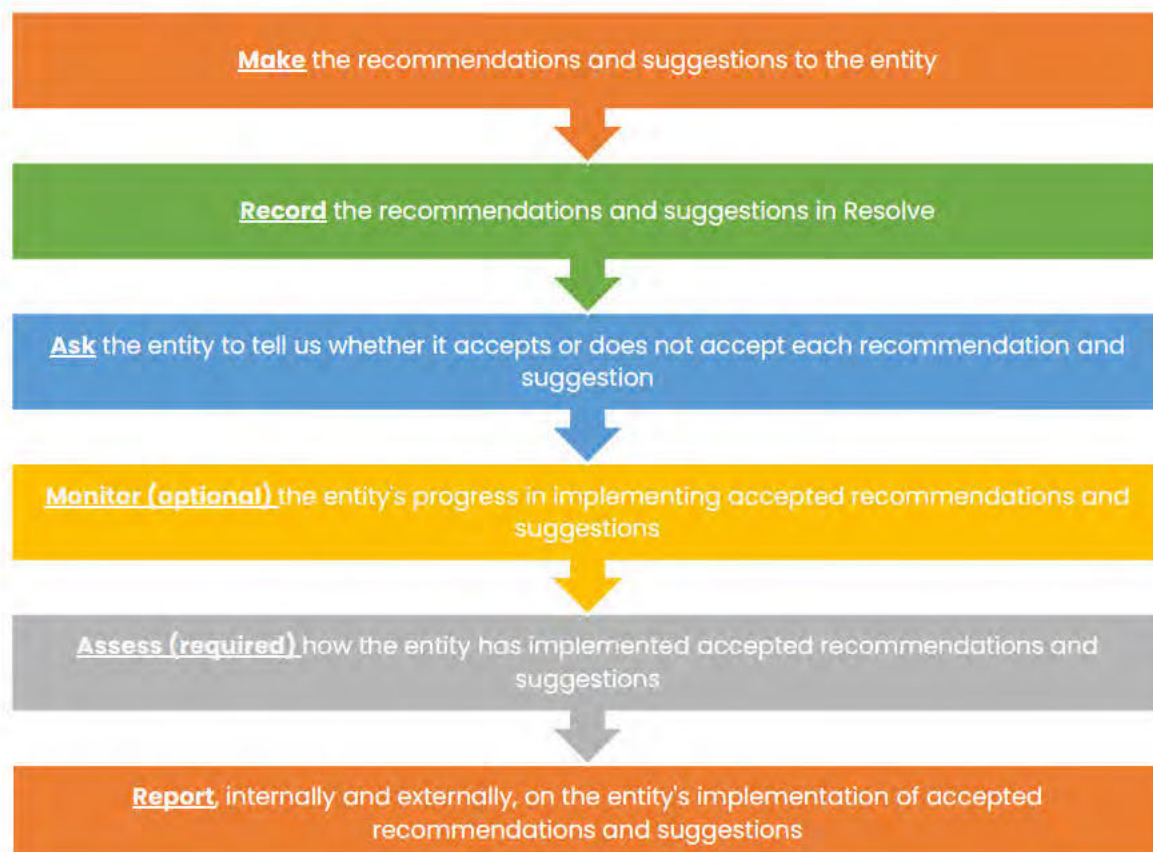
Assessing implementation of recommendations and suggestions includes:

- seeking and obtaining evidence of implementation
- reviewing information and evidence to form an impartial, evidence-based assessment of progress
- identifying any issues that need to be addressed.

This action enables us to:

- measure outcomes and achievements
- brief the Executive on progress, issues and outcomes
- report publicly on outcomes, to hold agencies to account and to provide assurance to Parliament and to the community
- identify key learnings about the way we write and present recommendations and suggestions to inform drafting of future recommendations and suggestions.

An overview of the general process from making a recommendation or suggestion to assessing and reporting on entity implementation is outlined below.



3. Scope

In scope

This policy applies to all recommendations and suggestions made using the following powers.

Function	Powers
<p>Commonwealth Ombudsman</p> <p>ACT Ombudsman</p> <p>Investigation reports</p>	<p>Recommendations and suggestions in any report prepared about an investigation conducted under <i>Ombudsman Act 1976</i> (Cth) or the <i>Ombudsman Act 1989</i> (ACT) in response to a complaint or on the Ombudsman’s own motion.</p>
<p>Commonwealth Ombudsman</p> <p>ACT Ombudsman</p> <p>Seeking legal opinion from Tribunal</p>	<p>Recommendations that an entity refers a question to the Administrative Appeals Tribunal under s 11 of the <i>Ombudsman Act 1976</i> (Cth), or to the ACT Civil and Administrative Tribunal under s 13 of the <i>Ombudsman Act 1989</i> (ACT).</p>
<p>Commonwealth Ombudsman</p> <p>Public Interest Disclosure Act powers</p>	<p>Recommendations in reports about investigations of public interest disclosures the Office undertakes under s 51 of the <i>Public Interest Disclosure Act 2013</i> (the PID Act).</p> <p>Recommendations under s 55 of the PID Act as part of an investigation into an agency’s handling of a public interest disclosure where the investigation was commenced on the basis of either a complaint, or a notification, to this Office.</p>
<p>ACT Ombudsman</p> <p>ACT Reportable Conduct recommendations and suggestions</p>	<p>Suggestions in response to Reportable Conduct notifications (s 17G of the <i>Ombudsman Act 1989</i> (ACT)) and investigations (s 17J of the <i>Ombudsman Act 1989</i> (ACT)) designated entities provide to the Office.</p> <p>Recommendations under s 17K of the <i>Ombudsman Act 1989</i> (ACT). A designated entity must comply with a recommendation under s 17K.</p>
<p>Commonwealth Ombudsman</p> <p>Reports about the circumstances of individuals’ long-term detention</p>	<p>Recommendations in an assessment under s 486O of the <i>Migration Act 1958</i>.</p>

Function	Powers
<p>Commonwealth Ombudsman</p> <p>Commonwealth National Preventive Mechanism (NPM) team</p>	<p>Recommendations made under s 15 of the <i>Ombudsman Act 1976</i> (Cth) from Commonwealth NPM visit work (as required by Article 19(b) of the Optional Protocol to the Convention against Torture (OPCAT).</p>
<p>ACT Ombudsman</p> <p>ACT NPM team</p>	<p>Recommendations made under s 18 of the <i>Ombudsman Act 1976</i> (Cth) from ACT NPM visit work.</p>
<p>Commonwealth Ombudsman</p> <p>ACT Ombudsman</p> <p>Inspection reports – oversight of covert, intrusive and coercive powers</p>	<p>Recommendations and suggestions following inspections on law enforcement and integrity agencies' use of covert, intrusive and coercive powers under:</p> <ul style="list-style-type: none"> ○ <i>Telecommunications (Interception and Access) Act 1979</i> ○ <i>Crimes Act 1914</i> ○ <i>Surveillance Devices Act 2004</i> ○ Part V of the <i>Australian Federal Policy Act 1979</i> (Part V) ○ <i>Crimes (Assumed Identities) Act 2009</i> (ACT), the <i>Crimes (Controlled Operations) Act 2008</i> (ACT) and the <i>Crimes (Surveillance Devices) Act 2010</i> (ACT) ○ Part 15 of the <i>Telecommunication Act 1997</i> ○ compulsory examination powers under the <i>Fair Work Act 2009</i> ○ monitoring the <i>Crimes (Child Sex Offenders) Act 2005</i> (ACT) (CCSO Act) under Division 2.2 of the <i>Ombudsman Act 1989</i> (ACT).
<p>ACT Ombudsman</p> <p>Inspector of the ACT Integrity Commission</p>	<p>Recommendations made under s 272 of the <i>Integrity Commission Act 2018</i> (ACT).</p>
<p>Defence Force Ombudsman</p> <p>Recommendations related to Defence abuse (excluding reparation recommendations)</p>	<p>Recommendations made under reg 14(1)(a)(iii) of the <i>Ombudsman Regulations 2017</i> (Cth) in respect of a complaint.</p> <p>Recommendations and suggestions made under reg 14(1)(c) of the <i>Ombudsman Regulations 2017</i> (Cth) in relation to inquiring into matters relating to complaints of abuse (for example, the Defence Department's and Defence Force's procedures relating to such complaints, and the effectiveness and appropriateness of those procedures).</p>

Out of Scope

This policy does not apply to comments made by our Office under s 12(4) of the Ombudsman Act 1976 as we do not follow up on entity's implementation of comments.

Function	Reason
<p>VET Student Loans Ombudsman</p> <p>Student Redress Measures</p>	<p>The Office's role under Student Redress Measures ends on 30 June 2024.</p>
<p>Defence Force Ombudsman</p> <p>Reparation recommendations</p>	<p>Scheme closed to new reports eligible for reparation recommendations on 30 June 2023.</p>
<p>Commonwealth Ombudsman</p> <p>ACT Ombudsman</p> <p>Preliminary views made under the <i>Ombudsman Act 1976</i></p>	<p>These views are made using s 8(3) of the <i>Ombudsman Act 1976</i> (Cth) or s 8 of the <i>Ombudsman Act 1989</i> (ACT). This policy does not cover use of preliminary views. These are managed, and recorded by, investigation teams.</p>
<p>Commonwealth Ombudsman</p> <p>National Preventive Mechanism (NPM) Coordinator</p>	<p>Article 23 of OPCAT requires annual reporting of all NPM activity. Under reg 17(h) of the <i>Ombudsman Regulations 2017</i>, the NPM Coordinator is required to prepare an annual report covering the activities of all nominated and appointed NPM bodies across Australia. The annual report may contain recommendations representing the views of many separate, independent organisations, not just the Commonwealth NPM.</p>
<p>ACT Ombudsman</p> <p>Inspector of the ACT Integrity Commission – recommendations to the Speaker</p>	<p>Section 273 of the <i>Integrity Commission Act 2018</i> (ACT) provides for the Inspector to recommend the ACT Legislative Assembly Speaker appoint a special investigator to investigate the commissioner or commission staff.</p> <p>Under s 283(2)(b) the Inspector may include in its annual report recommendations for change to territory laws or for administrative action the Inspector considers should be made as a result of the exercise of its functions.</p>

Function	Reason
Internal recommendations made to the Office (i.e. from audits and management initiated reviews or arising from glasshouse assessments)	A separate procedural instruction applies: Internal Recommendations, Continuous Improvement Monitoring and Assurance Procedural Instruction , endorsed in September 2023.

4. Making recommendations and suggestions

Recommendations and suggestions made in investigation, inspection, visit, and assessment reports

During or following an investigation, inspection, visit, or assessment conducted by the Office, staff may make recommendations or suggestions to an entity to address an issue or risk identified. Prior to making a recommendation or suggestion, staff must consider who has the appropriate delegation or authority to do.¹

The [Recommendations, Suggestions and Comments Policy](#) (RSC Policy) provides guidance to staff on making recommendations and suggestions, as well as engaging with specific legal thresholds. Staff must refer to and comply with this policy.

As per the RSC Policy, the Ombudsman or delegate will ask the entity to respond to advise whether it accepts the recommendations and/or suggestions. Where an entity accepts a recommendation or suggestion, we ask the entity to provide the particulars of any action it proposes to take and expected timeframes for implementation. In some instances, it may be necessary for our Office to expressly state the timeframe we believe is appropriate for implementation in the actual recommendation or suggestion itself. If an entity does not accept the recommendation, we ask it to provide reasons for its decision.²

Receiving this information from an entity is critical to planning recommendations and suggestions monitoring and implementation assessment activities. To support this information being received in a consistent format, we have developed an optional entity response template (see **Appendix A**). This template should be sent to entities with the draft report and returned with the entity's response. We may decide to publish the entity's completed response template if a decision is made to publish the report (redacting staff names (excluding senior executive staff) and staff contact details). If so, we must tell the entity of this possibility at the time of providing the entity response template.

Reminder: Draft reports are to be sent to entities in a non-editable format (PDF).

¹ See page 4 of the RSC Policy.

² Pages 8 and 10 of the RSC Policy.



When the entity response is received, staff should consider the implementation timeframes provided and whether the timeframes are reasonable having regard to the information the entity provided regarding its planned actions. If staff have any concerns regarding the reasonableness of implementation timeframes, further action may be needed. We may also suggest reasonable timeframes for implementation when we afford procedural fairness on the draft report.

We acknowledge that entities may only be able to provide a high-level description of the action it proposes to take to implement a recommendation or suggestion within the procedural fairness period. This is sufficient and it is not necessary that full details are known at this time. Extensions will generally not be granted because an entity needs more time to complete the entity response template. Reports should not be delayed on this basis – entities can provide the entity response template after publication if necessary.

Where an entity does not provide an implementation date, we can proceed to publish/finalise the report but will need to go back to the entity to determine reasonable timeframes as soon as possible, as this is vital to planning monitoring and assessment activities. For recommendations made under s 15 of the Ombudsman Act, failing by an agency to act on recommendations within a reasonable time also enables us to consider using s 16 to escalate the matter further.

5. Recording recommendations and suggestions in Resolve

Prior to the implementation of the Office's new Complaint, Case and Client Relationship Management (CRM) system, all recommendations and suggestions within scope of this policy, except for those related to Law Enforcement & Integrity Oversight, OPCAT & Detention Monitoring and PID investigations under the PID Act³, should be included in the Resolve Recommendations Tab. All teams will be moving towards the recording of recommendations and suggestions when the Office's new CRM is implemented. The Resolve Recommendations Tab is a central repository of information about the implementation monitoring of recommendations and suggestions.

³ Available for PID handling complaints and PID investigations under the Ombudsman Act.

Recommendations and suggestions must be entered into Resolve as soon as possible. In most instances this will be within 2 weeks after publication/finalisation of a statement or report, after the Office finalises the recommendation or suggestion with the entity or publishes it in a report. The team conducting the investigation, inspection or assessment is responsible for complying with this requirement. Refer to the [Resolve Recommendations Tab Procedure](#) for more information.

For recommendations and suggestions not recorded in Resolve, each team is responsible for keeping manual records and reporting internally. However, they should similarly keep these records current and record the recommendation or suggestion within 2 weeks.

6. Monitoring implementation

Monitoring activities vs Assessing implementation

While we assess implementation of all accepted recommendations and suggestions, not all recommendations and suggestions will require active monitoring while an entity's implementation of the recommendation or suggestion is in progress.

Monitoring activities typically occur in the period between the recommendation or suggestion being made and the date the entity advises that it intends to have implemented the recommendation/suggestion. Essentially, monitoring activities allow us to keep an eye on the entity's progress in implementing recommendations and/or suggestions. There are some circumstances where we think this is likely to be useful as set out below.

Assessment of implementation of recommendations and/or suggestions happens after the intended implementation date. In some instances, we will not have monitored an entity's progress against the recommendation or suggestion prior to returning to the entity to commence assessment of implementation. While the type of activities we conduct to assess implementation of recommendations and suggestions may be similar to monitoring activities, the purpose for which we conduct such activities is different.

Monitoring is performed through engagement and liaison with an entity from time to time to maintain an awareness of the entity's progress in implementing accepted recommendations and suggestions. Monitoring activities, in most cases, will not require use of any formal powers.

Updates may be obtained in writing or verbally at regular liaison meetings and are distinct from seeking information or evidence for the purpose of formally assessing implementation of the recommendations and suggestions (see Section 7: Assessing Implementation). Factors that may be considered in determining whether to actively monitor include:

- where action needed to implement the recommendation or suggestion is complex and we want to monitor implementation to ensure the entity's actions are going to appropriately address the root-cause of the issue
- where the recommendations and/or suggestions relate to topical or sensitive issues and we want regular updates from the entity on its remediation
- where there is a strong public interest (assessed by relevant EL2) in holding the entity accountable to implement the recommendation or suggestion appropriately and in a timely manner
- where there has been delay from the entity in implementing or one or more actions are expected to take a long time to implement (such as more than 12 months) and we want to monitor to ensure implementation progresses in a timely manner.

While monitoring activities can be conducted informally, all communication with the entity must be documented and stored appropriately in Objective or Resolve (e.g. emails or minutes of meetings).

The team responsible for the initial investigation, assessment, visit, or inspection determines the form and timing of monitoring activities (within the bounds of any relevant legislation).

7. Assessing implementation

Assessing implementation means reviewing evidence and information provided by the entity to determine whether the entity has taken all action necessary to implement the recommendation or suggestion and address the risk or, if not, the extent of the progress made.

As a general principle, we assess implementation of all recommendations and suggestions that have been accepted (this includes those that have been agreed, accepted in principle, partially accepted and supported). We do not assess implementation of recommendations and suggestions which have not been accepted. When an entity 'notes' a recommendation or suggestion rather than specifying whether the recommendation or suggestion is accepted or not, we record and report on the recommendation or suggestion as not accepted. If an entity notes a recommendation or suggestion, the team should communicate with the entity that this is treated as not accepted and encourage the entity to either accept or not accept the recommendation or suggestion.

If a team is of the view that implementation of an accepted recommendation or suggestions should not be assessed (perhaps because the risk no longer exists), this should be discussed with the responsible Senior Assistant Ombudsman who retains discretion to decide not to assess implementation. A record of this decision must be kept in Resolve and/or Objective. Decisions not to assess implementation will be captured in internal reporting (see section 8).

The team responsible for the original investigation, assessment, visit, or investigation is generally responsible for assessing implementation of the resulting recommendations and suggestions.

When do we commence our assessment?

Own motion and systemic investigations

We consider the implementation dates provided by an entity (for example, in the entity response template referred to above) to determine when to return to the entity to assess its implementation of recommendations and suggestions.

Depending on the nature of our recommendations and suggestions, it is reasonable to expect that some recommendations and suggestions will be implemented quicker than others. For example, implementing system changes will usually take longer than changes to policies and procedures.

In circumstances where most recommendations and suggestions will be implemented at approximately the same time but there is an outlier that will take, for example, an additional year to implement, we do not want to delay assessment of all recommendations and suggestions. Timely assessment is critical as we want to assess whether the entity's implementation action has achieved the desired outcome and sufficiently addressed the root-cause(s) of the issue. If implementation action taken is insufficient, it is much better to tell an entity sooner rather than a significant period of time after it has implemented changes. Timely assessment also facilitates timely reporting which enhances transparency to the public and Parliament.

To achieve a balance here, generally we will commence assessment of implementation of recommendations and suggestions when approximately 80% of the recommendations and suggestions made to the entity are scheduled to have been implemented. In most instances, assessment activities should commence within 3-6 months of this date.

Example 1

Following an OMI, we made a s 15 report to the entity on 15 December 2023 which included 5 recommendations. In response to our draft report, the entity advised it intended to implement recommendations 1, 2 and 3 by 30 June 2024, recommendation 4 by 30 September 2024, s 47E(d)

We considered the action the entity was proposing to take to implement the recommendations and formed the view that these implementation dates were reasonable.

In planning when to commence assessing implementation of the recommendations, we considered that 80% of the recommendations were due to have been implemented by 30 September 2024 and that there was a substantial period of time between then and implementation of the final recommendation. As such, assessment activities were scheduled to commence within 3 – 6 months from 30 September 2024. These assessment activities covered recommendations 1, 2, 3 and 4. s 47E(d)

s 47E(d)

Example 2

Following an OMI, we made a s 15 report to the entity on 15 December 2023 which included 5 recommendations. In response to our draft report, the entity advised it intended to implement recommendations 1,2 and 3 by 30 June 2024, recommendation 4 by 31 July 2024 and recommendation 5 by 31 August 2024. We considered the action the entity was proposing to take to implement the recommendations and formed the view that these implementation dates were reasonable.

In planning when to commence assessing implementation of the recommendations, we considered that 80% of the recommendations were due to have been implemented by 31 July 2024. We also considered that Recommendation 5 was due to have been implemented only 1 month later. Noting the short amount of time between 80% and 100% scheduled implementation, assessment activities were scheduled to commence within 3 – 6 months from 31 August 2024. Assessment activities would cover all 5 recommendations.

Other recommendations and suggestions

The Office may also make recommendations and suggestions in:

- complaint investigations
- law enforcement and integrity oversight inspections
- public interest disclosure investigations
- ACT reportable conduct reports
- Commonwealth NPM reports.

If a team does not have a team specific policy or procedure on how they will comply with this requirement, teams must follow the direction in this policy regarding when to commence assessment action for own motion and systemic investigations.

The following teams have developed their own procedures or policies that should be read in conjunction with this policy.

Public Interest Disclosure Investigations

Refer to the [Standard Operating Procedures for facilitating and dealing with public interest disclosures about other agencies, complaints about agencies' handling of disclosures and the Office's statutory responsibilities](#).

Law Enforcement and Integrity Oversight

Our oversight of law enforcement and integrity agencies is delivered through a biannual or annual inspection of the agency's records, policies, practices, training or administrative procedures.

A progress tracker will accompany each Inspection Report to enable agencies to record and report on progress they have made against our recommendations and suggestion. We review this progress tracker at the beginning of each subsequent Inspection to assess whether the agency has taken sufficient steps to implement the recommendation or suggestion.

Sufficient timely implementation, or the lack thereof, should be taken into account when assessing the risks attached to an agency or scheme and planning future inspection activity.

Commonwealth NPM Reports

Recommendations made in Commonwealth NPM post visit summaries will be revisited and assessed for implementation at either the next visit to that facility or on drafting the Annual Report, whichever comes first.

Recommendations made in the Annual Report will be re-assessed when drafting the following year's report.

Statutory reporting on long-term immigration detention cases

The Statutory Reporting team are notified upon tabling of the assessments by the Department of Home Affairs whether a recommendation has been accepted or not. Comment may be made in the next assessment about whether progress has been made in regard to any recommendations made.

How do we commence our assessment?

When commencing assessment activities, it is important that staff are aware of the powers they are using to undertake this action and any delegations in place.

Own motion investigations and complaint investigations

There is no explicit power in the Ombudsman Act to follow up entities' implementation of recommendations and suggestions. While recommendations and suggestions can be followed up and assessed informally with an entity, the preferred option is to seek information and evidence from entities using our formal powers.

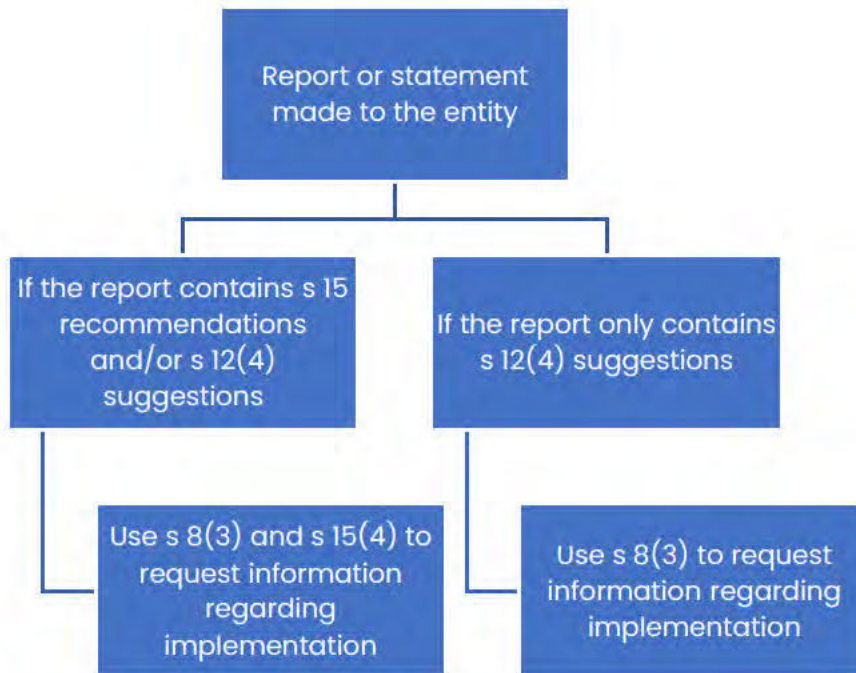
To facilitate this, at the time of commencing assessment activities, staff will use s 8(3) and/or s 15(4) information gathering powers under the Ombudsman Act (Cth) (or equivalent for other Ombudsman jurisdictions). It is not necessary to commence a new investigation to use these powers.

Section 8(3) allows us to request information about what steps have been taken by the entity to implement the recommendation or suggestion (s 9(4) of the Ombudsman Act (ACT) is the equivalent power for the ACT Ombudsman). An investigation does not need to be on foot to allow us to use this power, the wording in

s 8(3) 'for the purposes of the Act' broadens the interest past for the purposes of an investigation.

Section 15(4) provides that the Ombudsman may request the Department or prescribed authority to which a s 15 report has been furnished to give particulars of any action it proposes to take with respect to the matters and recommendations included in the report (s 18(4) of the Ombudsman Act (ACT) is the equivalent power for the ACT Ombudsman). A broad interpretation of this provision is that 'proposed to take' is encompasses actions already taken as well as future actions of the entity. However, to cover a narrow interpretation that s 15(4) does not include requesting information about the implementation of recommendations, the request to the entity could reference both s 8(3) and s 15(4).

A s 15 report must have been made to the entity to subsequently rely on s 15(4) of the Act.



This approach has the following benefits:

- it enlivens the protections under the Ombudsman Act when requesting information from, and communicating with, the entity.
- it allows us to control when we commence implementation assessment activities, rather than waiting for entities to reach out to us with information
- it minimises administrative burden and allows for a smoother transition to post-investigation activities, noting that only the Ombudsman and Deputy Ombudsman can commence an OMI as per the Office's [delegation instrument](#)⁴.

⁴ The delegation instrument in effect at the time of drafting was signed on 11 July 2023.

An optional entity self-assessment has been developed to assist in obtaining information from agencies regarding implementation (available at **Appendix B**).

Public Interest Disclosure investigations

Section 55 of the *Public Interest Disclosure Act 2013* (PID Act) gives us powers to make recommendations about the handling of a disclosure where we investigate on the basis of either a complaint from a discloser or a notification from an agency. Section 55 requires agencies to tell us whether they accept our recommendations or not but there is no explicit power to follow up on agency implementation of recommendations and suggestions.

To assess implementation of these recommendations and suggestions, an OMI may need to be commenced to assess implementation of recommendations and suggestions made following our investigation of a disclosure or a complaint about the handling of a disclosure by an agency.

Where the original investigation took place under the *Ombudsman Act 1976* (Cth), refer to above direction for own motion investigations and complaint investigations.

Law Enforcement and Integrity Oversight

Assessment of implementation of recommendations and suggestions is undertaken as part of regular inspection activities using provisions of the:

- *Telecommunications (Interception and Access) Act 1979*
- *Crimes Act 1914*
- *Surveillance Devices Act 2004*
- Part V of the *Australian Federal Police Act 1979*
- under the *Ombudsman Act 1989* (ACT), ACT Policing's compliance with Part 3.11 and Chapter 4 of the *Crimes (Child Sex Offenders) Act 2005* (ACT).
- *Crimes (Assumed Identities) Act 2009* (ACT), the *Crimes (Controlled Operations) Act 2008* (ACT) and the *Crimes (Surveillance Devices) Act 2010* (ACT)
- Compulsory examination powers under the *Fair Work Act 2009*
- Part 15 of the *Telecommunication Act 1997*.

ACT Reportable Conduct

Section 17K of the *Ombudsman Act 1989* (ACT) gives us the power to conduct an investigation into any reportable allegation or reportable conviction involving an employee of a designated entity or the response of the designated entity to the reportable allegation or reportable conviction. It also allows us to make recommendations to any person or body (s 17K(3)(b)). An entity must, as far as practicable, comply with a requirement of the Ombudsman Act under s 17K (s 17K(4)).

Assessment of the implementation of recommendations can be initiated under s 17K.

Commonwealth and ACT NPM reports

The Commonwealth NPM's work is undertaken as an ongoing own motion investigation under the *Ombudsman Act 1976* and ACT Ombudsman's NPM work is undertaken as an own motion investigation under the *Ombudsman Act 1989 (ACT)*. The same powers for OMs apply.

How to form a view on implementation status

There are several sources of evidence that agencies may provide to inform our assessment of whether a recommendation or suggestion is implemented. Teams need to consider what type of information is sufficient to form an independent assessment. There are various considerations here including the nature of the recommendation and action taken by the entity and resource implications for our Office.

Types of evidence	Sources of evidence	Examples of evidence
Management assertion	Management assertion (typically from entity SES) is obtained using our powers – seeking answers to specific questions from agencies	Written answers to questions, meeting with agencies (followed up with notes/ records)
Documentary	Documentary evidence in physical or electronic form is a common form of evidence.	File reviews, websites, spreadsheets
Physical	Physical evidence is obtained by observing people and events or examining property.	Direct observation, photographs, videos
Testimonial	Oral or testimonial evidence is obtained in the form of statements in response to inquiries or interviews.	Interviews, focus groups, public submissions
Complaints	Our Office has access to complaints about agencies – can indicate systemic issues	Resolve records – issues strings, decision letters and assessment actions

Expert opinion	Obtained through procuring third-party expert reports and analyses, where we may not have the required skills	Data analysis, actuarial modelling
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Once you have obtained sufficient information and evidence from the entity or have given the entity sufficient opportunity to provide requested information, you can proceed to form a view on whether each recommendation or suggestion has been implemented, partially implemented or not implemented.

Other sources of information that may be useful in considering the action an entity has taken include complaints to our office, and other reports about the entity, policy or program.

A recommendation or suggestion is considered **implemented** when the Office determines the entity has completed the required actions as described in the recommendation or suggestion and has provided appropriate evidence to support these claims.

A recommendation or suggestion is considered **partially implemented** when the Office determines that the entity has completed some of the required actions as described in the recommendation or suggestion and provided appropriate evidence to demonstrate that the action has been taken. A recommendation or suggestion is not considered partially implemented where the entity simply advises of further plans to take action, unless the entity demonstrates that action has commenced.

A recommendation or suggestion is considered **not implemented** when the Office considers that either no or very limited action has taken place, or where the Office has not received information that enables us to form a view of the implementation status.

In some circumstances, we may find that the entity has **met the intention** of the recommendation or suggestion. This may occur where:

- the entity takes action that does not specifically implement what the recommendation or suggestion said but achieves the intended result by addressing the root-cause of the issue or the risk the issue presents. We are interested that the implementation action addresses the issue and should not be rigid about the form the action takes
- an entity has not been able to deliver the recommendation or suggestion in practice as the situation has not occurred, but the entity can demonstrate it has taken steps to support application of the recommendation or suggestion to the process when it does occur (i.e. through processes, training, policies etc)
- an entity has done everything in their power to implement the recommendation but full implementation is beyond the entity's control and subject to a third party's action. We would still expect that the entity provide

evidence that demonstrates that they took all action possible (including seeking to influence the appropriate entity to take action).

Each team should have procedures or processes in place to support their staff in determining appropriate levels of evidence and action by an entity.

Where an entity has partially accepted a recommendation or suggestion and has taken all action needed to implement the accepted part of the recommendation or suggestion, this will be considered full implementation of the part of the recommendation or suggestion that was accepted. You may wish to distinguish this from full implementation of fully accepted recommendations or suggestions in any reporting.

When assessing implementation of recommendations and suggestions, be aware of 'scope creep'. While our Office's statements in the bodies of reports or investigation finalisation notices can provide useful context for the meaning and purpose of recommendations and suggestions, it is not appropriate for us to 'stretch' the original recommendation or suggestion to include additional required actions.

Where an entity has completed all required actions as described in the recommendation or suggestion, and provided appropriate evidence, you should assess the original recommendation or suggestion as implemented (not partially implemented). If, during your assessment, you identify additional improvements or actions the entity may take which could be beneficial, consider making a further recommendation, suggestion or comment to cover the new action identified.

Example

In our investigation, we recommended that the entity develop a policy to provide guidance to staff on communicating with customers. The entity agreed with our recommendation. While conducting our assessment of the entity's implementation actions, we noticed that the new policy did not appear to have been communicated to staff. It is critical that staff are given awareness of new policies to ensure they are followed. While the entity was assessed as having implemented the recommendation by developing the policy, we provided additional commentary to the entity in our report to take action to ensure that staff are aware of and adhere to the new policy.

In some instances, you may decide to provide the entity with an opportunity to comment on a preliminary view first, before reaching a final view on the implementation status.

Example

An entity proactively writes to the Ombudsman to provide advice on its implementation of recommendations from an OMI. This occurs prior to our formal implementation assessment activities commence and is not in response to any specific request from our Office.

The team assesses the information provided by the entity and forms preliminary views on the implementation status. However, there are some gaps in the information provided. The team writes to the entity to provide preliminary views and ask specific questions designed to address the gaps identified before finalising the assessment.

Implementation status sign-off is required from the relevant Senior Assistant Ombudsman. For particularly sensitive matters, Deputy Ombudsman or Ombudsman approval may be required. If a recommendation implementation report meets the threshold of a s 15 report (s 18 for ACT Ombudsman), this is not delegable and must be approved by the Ombudsman. See the [Investigations Policy](#) for more information on these thresholds.

8. Reporting on implementation

External reporting

External reporting on the outcomes of our assessment of an entity's implementation of recommendations and suggestions is important to provide transparency to the public and hold agencies accountable.

Published recommendations and suggestions from investigations

We may publicly report on an entity's implementation of recommendations and suggestions where the Ombudsman or delegate is satisfied that it is in the interest of the entity, a person or the public to do so (as per s 35A of the Ombudsman Act Cth or s 34 of the Ombudsman Act ACT).

Where we have published a recommendation or suggestion, it is generally in the public interest to complete and publish a Recommendation and Suggestion Implementation Report. The Recommendation and Suggestion Implementation Report is a short and sharp entity specific snapshot report provided after our assessment of implementation is complete. An example is available here: [Recommendation Implementation Report: Investigation into the Department of Veterans' Affairs' communication with veterans making claims for compensation.](#)

Where our Recommendation and Suggestion Implementation Report concludes that an entity has not implemented all our recommendations and suggestions, we will not necessarily publish a subsequent second Recommendation and Suggestion Implementation Report after the entity has taken further action. This decision will be made on a case-by-case basis having regard to considerations including how advanced the entity's progress was at the time of the first report.

Example 1

In the Recommendation and Suggestion Implementation Report for Entity A, we found that 4 of the 5 recommendations were implemented and the remaining

recommendation was partially implemented with outstanding action being to finalise a draft policy. In this scenario, we are unlikely to publish a second Recommendation and Suggestion Implementation Report after we assess that the remaining recommendation has been implemented.

Example 2

In the Recommendation and Suggestion Implementation Report for Entity B, we found that 1 of the 5 recommendations was partially implemented and the remaining recommendations were not implemented with significant action needed. In this scenario, it is likely to be in the public interest to publish a second Recommendation and Suggestion Implementation Report after we re-assess implementation status at a later date, to provide transparency on the entity's actions.

In addition to individual entity reporting, we capture and report on trends on entity implementation in a bi-annual report (the Bi-annual Recommendations and Suggestions Implementation Report or BRSIM). A BRSIM report covers data and trends from individual entity Recommendations and Suggestions Implementation reports published within the relevant 2-year financial period. Strategic Investigations is responsible for preparing BRSIM reports.

When disclosing information or making a statement that may be seen, either expressly or impliedly, as critical of an entity, we must provide procedural fairness to the entity (ensuring this is done in accordance with any legislated requirements). For further information regarding procedural fairness requirements, see the [Investigations Policy](#).

Non-published recommendations and suggestions – complaint investigations

Typically, the outcomes of individual complaint investigations and an entity's progress in implementing any recommendations or suggestions will not be reported publicly unless a s 15 report was published.⁵ However, it is open to the Ombudsman to decide to do so under s 35A of the Ombudsman Act (Cth) or s 34 of the Ombudsman Act (ACT) if it is in the interests of an entity, person or the public.

You can use the developed Recommendations and Suggestions Implementation Report as a guide (see example above).

Reporting where appropriate action is not taken

Where the Ombudsman is of the opinion that an entity has not taken adequate and appropriate action within a reasonable time to implement recommendations made in a s 15 report, the Ombudsman may report to the Prime Minister (s 16 of the Ombudsman Act (Cth), see s 16(4) and s 16(5) for how to read reference to the Prime

⁵ The Ombudsman or delegate must still form a view under s 35A of the Ombudsman Act (Cth) or s 34 of the Ombudsman Act (ACT) to publish a s 15 report.

Minister in the cases of implementing recommendations on courts and tribunals).
Section 19 of the Ombudsman Act (ACT) is the equivalent ACT Ombudsman provision.

Law Enforcement and Integrity Oversight

Each inspection is followed up with an Inspection Report which includes a progress tracker recording the agencies progress against our previous findings. These reports are provided to the agency and are not public.

Each regime also has a periodic statutory reporting obligation, which may result in either a published annual report, or a report to the responsible minister who will include our conclusions in their own public reporting. Periodic reports include general observations but are less likely to reflect on implementation of specific findings agency-by-agency.

Public interest disclosure investigations

Historically, secrecy provisions under the *Public Interest Disclosure Act 2013* prevented external reporting but do not apply to disclosures made on or after 1 July 2023. Case studies and summaries of investigations are included in the Commonwealth Ombudsman's annual report.

When an OMI is commenced to assess implementation of recommendations and suggestions, it would be open to the Ombudsman to publish any resulting report under s 35A of the Ombudsman Act if the requirements of this provision are met.

ACT Reportable Conduct

Reports or statements on an entity's implementation of recommendations arising from s 17K investigations can be disclosed publicly under s 34 of the Ombudsman Act (ACT) if it is in the interests of an entity, person or the public to do so. Bi-annual and annual ACT Ombudsman reporting includes high level data on investigations.

Commonwealth and ACT NPM reports

Commencing FY 23-24, Post Visit Summaries will be published on our website after each NPM Visit, following appropriate procedural fairness processes with agencies. Implementation of recommendations and suggestions made in these Post Visit Summaries will be followed up and reported in the Australian NPM Annual Report and/or the next visit to that facility, whichever occurs earlier.

Statutory Assessments under the Migration Act

The Statutory Reporting team are notified upon tabling of the assessments by the Department of Home Affairs whether a recommendation has been accepted or not. Comment may be made in the next assessment about whether progress has been made in regard to any recommendations made.

Inspector of the ACT Integrity Commission reports

Section 280(2)(c) of the *Integrity Commission Act 2018* (ACT) requires the Inspector to include information about whether the commission has implemented any previous recommendations made by the inspector in its annual operational review. This must be included as an appendix to the Inspector's Annual Report, which is tabled in the ACT Legislative Assembly and published on the ACT Ombudsman website within 15 weeks of the end of the relevant financial year.

Notifying a complainant when an agency has not taken adequate and appropriate action

Under s 12(5) of the Act, if the Ombudsman provides a s 15 report to an agency containing recommendations with respect to action in respect of which a complaint has been made:

- where the Ombudsman is of the opinion that adequate and appropriate action has not been taken by the agency within a reasonable time after the recommendations are provided, give the complainant a copy of the recommendations with any comments the Ombudsman thinks fit, or
- in any other case, provide the complainant with a copy of the recommendations with any comments the Ombudsman thinks fit.

Internal reporting

The Strategic Investigations teams report internally to the Executive Committee following the end of the financial quarter on the implementation of recommendations and suggestions. This only includes recommendations and suggestions that are captured in the Resolve Recommendations Tab.⁶ Refer to the [Resolve Recommendations Tab Procedure](#) for more information.

The team who conducted the investigation, inspection, visit or assessment is responsible for ensuring implementation action for recommendations and suggestions within Resolve is up to date. All teams must ensure their recommendations and suggestions are up to date by 1 week after the end of the quarter to ensure accurate reporting (for example for the July to September quarter, it must be up to date by 7 October).

Responsibility for internal reporting for any recommendations and suggestions not captured in Resolve lies with the team that conducted the investigation, inspection or assessment.

The number of recommendations and whether they have been accepted is reported in LEIO quarterly performance reports.

As our recommendation follow up is routinely published, the Commonwealth NPM team does not currently report internally on implementation.

⁶ With the move to all teams recording recommendations and suggestions in the new CRM, it is anticipated that future reporting under the new CRM will capture all recommendations and suggestions.

Reports about the circumstances of individuals' long-term detention which contain recommendations to the Minister for Immigration are not currently reported internally

9. When do we stop monitoring and assessing implementation

There may be circumstances where it is appropriate to stop monitoring and assessing implementation of a recommendation or suggestion before it is fully implemented. It can be resource intensive for our Office to monitor and assess implementation of recommendations and suggestions, so it is important to recognise when we can, or should, cease these activities.

Where we have assessed an entity has not implemented or partially implemented a recommendation or suggestion, a decision is made on a case-by-case basis whether to continue monitoring and implementation assessment activities. Relevant factors to consider may include:

- significant changes to the entity's policy, procedure, program delivery or systems that supersede our recommendation or suggestion
- where we assess there is minimal risk or consequence associated with failure to implement compared to the resourcing required by our Office to continue to monitor and assess implementation
- unreasonable delay by an entity in demonstrating implementation action or an entity's failure to cooperate in implementation monitoring and assessment processes.

Where we have decided not to undertake further implementation assessment or monitoring activity, we will formally advise the entity. In some instances, we may decide to include our decision in public reports. This may serve to publicly shift onus for implementing the recommendation or suggestion to the entity.

Where we have assessed a recommendation or suggestion as low risk and we decide not to continue active assessment activities, we may write to the entity and require it to provide updates to our Office at regular intervals on its implementation progress and when the recommendation or suggestion has been implemented. This shifts the onus of following up to the entity. We should be clear with entities that providing further information to our Office will not change our finding on the implementation status of the recommendation (partially implemented or not implemented) nor are we endorsing the entity's action or assessment of implementation status.

Options to externally report or disclose a decision to stop monitoring and assessing 'not implemented' and 'partially implemented' recommendations are:

- publishing our views on the implementation status
- making a report to Parliament
- discussing the matter with the relevant Minister

- informing the Prime Minister under section 16 Ombudsman Act (Cth) or the Speaker under section 19 Ombudsman Act (ACT).

For some functions such as our Law Enforcement and Oversight function, an entity's failure to implement recommendations and suggestions can impact risk assessments that inform the level of oversight applied in the team's forward work program.

In providing information to the decision maker, teams should highlight any risks involved for consideration. Decisions and the reasons for the decision must be recorded and saved in Objective/Resolve. Each team should specify in their own standard operating procedures or work practice manuals who the decision maker for these decisions is.

Appendix A – Recommendation and suggestions – Entity response template

This template may be sent to entities with the report during the procedural fairness phase for a formal response to the Office’s findings and any recommendations/suggestions. Entities are asked to include their completed report response in their response to the report. If the report is published, entity completed report responses may be attached to the published report. If we have any questions or concerns regarding whether implementation timeframes are reasonable, we will reach out to the entity to discuss.

Recommendation/Suggestion	Entity response to recommendations/suggestions	Action entity proposes to take and expected timeframes for implementation of recommendations/suggestions
	<p>Please indicate your response to each recommendation/suggestion. If you do not accept a recommendation/suggestion, please provide reasons.</p>	<p>Please provide particulars of any action you propose to take to implement the recommendation/suggestion and expected timeframes for implementation, including justification for the timeframes.</p>
<p>Recommendation 1</p>	<p><input type="checkbox"/> Accepted <input type="checkbox"/> Not accepted If not accepted, please provide reasons:</p>	<p>Proposed action: Expected timeframes: Justification for timeframes:</p>
<p>Recommendation 2</p>	<p><input type="checkbox"/> Accepted <input type="checkbox"/> Not accepted If not accepted, please provide reasons:</p>	
<p>Suggestion 1</p>	<p><input type="checkbox"/> Accepted <input type="checkbox"/> Not accepted If not accepted, please provide reasons:</p>	

Appendix B – Entity self-assessment – Implementation of recommendations and suggestions

The entity self-assessment is used to inform the Ombudsman’s assessment of an entity’s implementation of recommendations and suggestions previously made by our Office. Entities should complete the self-assessment following the guidance in the table below and return their completed self-assessment with copies of any relevant documents demonstrating implementation progress to the Ombudsman by the due date specified. While this is an opportunity for entities to self-assess their progress, the Ombudsman will ultimately make an independent assessment of implementation progress having regard to the information provided.

Entity: [OCO to include name of entity]

Investigation/Inspection/Assessment: [OCO to include name of the relevant investigation/inspection/assessment]

Date due back to the Ombudsman:

Entity Date of completion: [Entity to complete with the date it completed the self-assessment]

Attachment: [When providing to the entity, OCO to attach the entity’s initial response to the recommendations and/or suggestions, indicating which recommendations and/or suggestions were accepted and the planned implementation action.]

Recommendation/ Suggestion	Entity assessment of implementation status	Action taken by entity	Documents/evidence	Planned future action
Only accepted recommendations or suggestions will be assessed for implementation.	<p><i>Implemented</i> – You have completed all the required actions as described in the recommendation or suggestion.</p> <p><i>Partially Implemented</i> – You have completed some, but not all, of the required actions as described in the recommendation or suggestion.</p> <p><i>Not implemented</i> – None or very limited action has been taken.</p> <p>Select from the above which status best reflects your entity’s progress in implementing the recommendation or suggestion</p>	<p>Provide details of the action you have taken to implement the recommendation or suggestion?</p> <p>Please include the date the action was completed and who within your entity approved/signed-off on the action.</p> <p>[Note for OCO staff. This column can also be used to ask the entity specific questions regarding action taken.]</p>	<p>Please provide a list of documents/evidence to demonstrate your implementation progress.</p> <p>Please also copies of the documents and/or provide links.</p> <p>[Note for OCO staff. This column can also be used to request the entity provide specific documents/evidence.]</p>	<p>If a recommendation or suggestion has not been implemented, provide details of any further plans to implement.</p> <p>Please include timeframes for when you plan/intend to complete this action.</p>
Recommendation 1: [OCO to list each recommendation being assessed]				
Recommendation 2: [OCO to list each recommendation being assessed]				
Suggestion 1: [OCO to list each suggestion being assessed]				
Suggestion 2: [OCO to list each suggestion being assessed]				