



Department of Agriculture, Fisheries and Forestry

Investigations and Enforcement Activities of DAFF Biosecurity

CONSOLIDATED REPORT: REVIEWS OF
INVESTIGATIONS CONDUCTED BY THE DAFF
BIOSECURITY INVESTIGATIONS AND
ENFORCEMENT PROGRAM

April 2012

Report by the Acting Commonwealth Ombudsman,
Alison Larkins, under the *Ombudsman Act 1976*

REPORT NO. **01|2012**

Reports by the Ombudsman

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EXECUTIVE SUMMARY

Between June 2010 and June 2011, the Commonwealth Ombudsman conducted a series of reviews of investigations undertaken by the Investigations and Enforcement Program (I&E Program) in DAFF Biosecurity, Department of Agriculture, Fisheries and Forestry (DAFF).

The reviews arose out of a Senate Rural and Regional Affairs and Transport Legislation Committee report about DAFF's administration of the 2004 citrus canker outbreak. The Committee recommended that the Ombudsman review investigations carried out by DAFF Biosecurity against relevant legislation and rules adopted by DAFF.

The reviews were conducted in each regional office of the I&E Program, examining 25% of the investigations that were finalised or substantially finalised between 1 June 2009 and 30 April 2011.

Overall, we concluded that investigations were conducted professionally by qualified and experienced staff in accordance with relevant legislation and, generally, according to the rules adopted by DAFF.

The following main issues were noted:

- the need for consistency in investigation management practices for more complex investigations
- the need to ensure defensible decision making by consistently keeping comprehensive records and detailing the reasons for decisions.

The following areas for improvement were also identified:

- the need to consistently conduct monthly assessments of investigation resource allocations
- the need for consistency in managerial review of briefs of evidence prior to submission to the Commonwealth Director of Public Prosecutions
- the need to provide due process by giving recipients of letters the opportunity to comment or reply to the letters
- the need to consistently prepare interview plans prior to the conduct of formal interviews
- the need to conduct regular audits of each regional office's evidentiary holdings by an independent auditor.

Recommendations were made, as applicable, to each regional office of the I&E Program. DAFF has accepted all the recommendations and is progressively implementing them. As a result of the reviews, DAFF has amended its policies and guidelines and implemented a new internal audit program.

A summary of the recommendations made and DAFF's response to them are provided in [Appendix A](#).

PART 1 – INTRODUCTION

Background

1.1 In June 2006, the Senate Rural and Regional Affairs and Transport Legislation Committee published a report (the Committee's report) on the Department of Agriculture, Fisheries and Forestry's (DAFF) administration of the 2004 citrus canker outbreak.¹ The Committee's report criticised the way in which the Australian Quarantine and Inspection Service (AQIS) handled the initial investigation into allegations of illegal importation of plant material into Emerald, Queensland.

1.2 The Committee hoped that by identifying some of the mistakes made by AQIS, those mistakes would not be repeated in another plant or animal pest outbreak. The Committee recommended that the Commonwealth Ombudsman review investigations carried out by AQIS to assess whether they had been conducted:

- by appropriately trained staff
- in a timely manner
- in accordance with relevant legislation and rules adopted by AQIS' executive.

1.3 Under s 5(1)(b) of the *Ombudsman Act 1976* (the Act), the Ombudsman may, of his or her own motion, investigate any action that relates to a matter of administration undertaken by a Department or a prescribed authority. In 2008, the then Ombudsman agreed to implement the Committee's recommendation through a series of reviews derived from his own motion powers under the Act.

1.4 On 14 November 2011, the AQIS title was superseded by DAFF Biosecurity. As such, the rest of this report will refer to DAFF Biosecurity rather than AQIS.

1.5 In August 2009, this office published a report on the findings of a review into the policies and procedures of DAFF Biosecurity.² This was intended to provide a basis for future reviews of individual investigations.

1.6 There were six further reviews conducted at the regional offices of DAFF Biosecurity's Investigations and Enforcement Program (I&E Program). The reviews looked at the investigations that were finalised or substantially finalised between 1 June 2009 and 30 April 2011. Appendix B provides details on the sample size in each review.

Regional office	Dates of review
Sydney ³	28 June to 1 July 2010
Brisbane	19 to 22 October 2010
Melbourne	28 February to 2 March 2011
Adelaide	3 and 4 March 2011
Sydney	23 to 25 May 2011
Perth	6 to 9 June 2011

1.7 The first report of the review of investigations conducted by the Sydney office of the I&E Program was published in January 2011 (the published Sydney report). Subsequent reports relating to each regional office were provided to DAFF for its

¹ The Senate Committee's report is available at http://www.aph.gov.au/senate/com/rrat_ctte/completed_inquiries/2004-07/citrus_canker/index.htm.

² The report is available at http://www.ombudsman.gov.au/files/investigation_2009_13.pdf.

³ The findings of this review were published in January 2011. The report is available at http://www.ombudsman.gov.au/files/daff_biosecurity_services_group_commonwealth_ombudsman_own_motion_report.pdf.

comments and response. Due to the frequency of reviews subsequently conducted, it was agreed that the results of those reviews would form a consolidated report to be published.

1.8 This report presents an overview of the results of our reviews across the I&E Program. The findings in the published Sydney report have not been included in this report, other than for the purposes of benchmarking the progress made in subsequent reviews.

1.9 The published Sydney report contains more detail on the criteria used to assess the investigations.

Review scope and methodology

Legislative and policy requirements

1.10 Investigations conducted by the I&E Program are subject to various Commonwealth legislation, and external and internal policies and guidelines.

1.11 Legislation includes:

- *Quarantine Act 1908*
- *Export Control Act 1982*
- *Australian Meat and Live-stock Industry Act 1997*
- *Imported Food Control Act 1992.*

1.12 External policies and guidelines include:

- Prosecution Policy of the Commonwealth – published by the Commonwealth Director of Public Prosecutions (CDPP)
- Guidelines on Brief Preparation – published by the CDPP
- Australian Government Investigations Standards (AGIS)
- Overarching principles for selecting cases for investigation and administrative, civil and criminal sanction – published by the Attorney-General's Department.

1.13 The internal policies and guidelines applicable to the conduct of investigations by the I&E Program include:

- standard operating procedures (SOPs)
- work instructions (WIs).

1.14 New policies and guidelines were implemented by the I&E Program on 1 July 2011. As the reviews examined investigations that were finalised prior to this date, all regional offices were assessed in accordance with the old internal policies and guidelines.

Review criteria and methodology

1.15 In accordance with the Committee's recommendation, the Ombudsman identified 11 specific areas for review:

- investigations are conducted by appropriately trained staff
- investigations are conducted in a timely manner
- investigations are conducted in accordance with relevant legislation and rules adopted by DAFF in relation to:

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- case management
- decisions to conduct interviews
- application and execution of warrants
- handling of exhibits
- preparation of briefs of evidence for the CDPP
- issuing Letters of Warning (LOW)⁴
- issuing Letters of Advice (LOA)⁵
- decisions to take no further action
- record keeping by investigators.

Appendix C provides more details on these areas.

Each area is governed by requirements contained in legislation and guidelines or internal policies. The reviews examined the I&E Program's adherence to these requirements.

1.16 The reviews were carried out by:

- reviewing investigation files
- reviewing entries on the Jade case management system
- where possible, interviewing investigators responsible for each investigation.

Report limitations

1.17 The reviews assessed the I&E Program's conduct of investigations against its own policies and guidelines in the 11 areas identified. The reviews did not:

- examine the quality of DAFF Biosecurity's internal policies and guidelines
- assess whether DAFF Biosecurity's internal policies and guidelines align with external policies and guidelines such as the AGIS
- assess the merit of decisions made throughout the conduct of investigations
- look at the activities of other areas of DAFF that enforce Australia's export and quarantine requirements.

⁴ Letters of Warning are issued where there is evidence to support a prima facie case concerning the breach of the portfolio legislation but it is not deemed appropriate to have the matter referred to the CDPP.

⁵ Letters of Advice are issued where there is some evidence to support an allegation concerning a breach of the portfolio legislation but there is insufficient evidence to establish a prima facie case.

PART 2 – REVIEW FINDINGS

Summary of the findings

2.1 In our view, investigations by the I&E Program were conducted professionally by qualified and experienced staff. Allegations of breaches of portfolio legislation were assessed, and investigations commenced, in a timely manner. Investigators were generally aware of the internal and external policies and guidelines concerning the conduct of investigations. This was demonstrated in records relating to the conduct of interviews and the handling of exhibits. Nothing came to our attention to suggest that legislative requirements were not observed when applying for, and executing, warrants.

2.2 The reviews identified two main areas for improvement. First, there appeared to be different methods of record keeping (particularly in relation to critical decisions made during an investigation) to various levels of detail across the I&E Program. The keeping of comprehensive and contemporaneous records provides assurance that decision making is informed, defensible and consistent over time. Second, investigation management tools, which can be useful in planning complex investigations, were inconsistently adopted. The appropriate use of investigation tools assists to ensure that investigations are planned according to their level of complexity.

2.3 The I&E Program has made progress in addressing the areas where we noted that improvements could be made.

Positive findings

Investigators' qualifications

2.4 The Committee's report expressed concern that the Brisbane office did not have adequate capacity or experience to respond to the citrus canker outbreak. For a discussion relating to the I&E Program's capacity to undertake investigations, refer to paragraph 2.34.

2.5 In accordance with the Committee's recommendation, we examined whether investigators in the I&E Program held qualifications that complied with internal policy.

2.6 At the time of the reviews, all but one investigator in the I&E Program held appropriate qualifications. One investigator in the Sydney office was in the process of attaining a relevant qualification, which has since been awarded.

Timeliness in conducting investigations

2.7 The Committee's report noted concerns over the initial delays in the citrus canker investigation following DAFF's receipt of the incident report. As recommended by the Committee, our reviews assessed whether investigations were conducted in a timely manner. This included the timeliness in deciding whether to commence an investigation based on an incident report and the timeliness in commencing an investigation once the decision was made to do so.

2.8 In most cases examined across the I&E Program, incident reports were assessed within 48 business hours of receipt⁶ in order to decide whether or not an investigation should be commenced. Those that were not considered within 48

⁶ The assessment of incident reports within 48 hours of receipt was an agreed standard between DAFF and this office.

business hours of receipt generally involved matters of lower risk. They were assessed three to seven business days after receipt of the incident report.

2.9 When assessing incident reports, the Regional Investigations Manager (RIM) is required to prioritise investigations in accordance with a process called the Investigation Prioritisation Procedure (IPP),⁷ which results in incidents being classified as either high priority, routine or low priority. The purpose of this procedure is to ensure that DAFF Biosecurity can quickly devote its resources to matters of the highest risk or severe non-compliance with legislation.

2.10 In the samples of investigations reviewed, the IPP was consistently followed by the I&E Program upon receipt of an incident report. In accordance with internal guidelines, investigations into all matters assessed as high priority were commenced within seven days of receipt of the incident report and all other routine investigations were commenced in a timely manner.

Decisions to conduct interviews

2.11 Interviews are an important component of the evidence gathering process. We examined decisions to conduct formal or informal interviews and whether interviews complied with internal requirements.

2.12 In accordance with internal guidelines, most formal interviews were conducted for more serious matters (where it was anticipated that a LOW would be issued or a brief of evidence would be prepared). Informal interviews were mostly conducted for routine matters (where it was anticipated that a LOA would be issued or it was unlikely that any sanction would be applied).

2.13 We understand that investigators exercise discretion in deciding whether to conduct a formal or informal interview, based on the facts of each case. Therefore, where there was a decision to conduct an interview contrary to internal guidelines, we expected to see reasons for the decision recorded. In three cases examined that resulted in a LOW or brief of evidence,⁸ informal interviews were conducted. Based on the internal guidelines, it appeared that formal interviews should have been conducted. There were limited records to demonstrate the reasons for conducting the informal interviews and, therefore, it could not be determined if the informal interviews conducted in each case were appropriate.

2.14 The internal guidelines require the keeping of contemporaneous notes of informal interviews and tape recordings of formal interviews. The guidelines were followed in all investigations examined.

2.15 The internal guidelines also require that interview plans be prepared prior to the conduct of formal interviews. Regional offices complied with this requirement, except in one case in the Perth office. In response to our recommendation to the Perth office, DAFF advised that it had implemented measures to ensure adherence to internal guidelines on the preparation of interview plans.

⁷ The IPP has been developed to assist managers to consider the acceptance, rejection, termination, finalisation and resourcing of investigation matters. This recognises the Prosecution Policy of the Commonwealth, which states that not all criminal offences must result in criminal prosecution and that the resources available to an agency should be appropriately directed under a risk managed process.

⁸ Jade 65, Jade 230 and CIS18507.

Application for, and execution of, warrants

2.16 Generally, warrants were applied for, and executed, in accordance with relevant legislation and internal policies and guidelines.

2.17 Under legislation administered by DAFF,⁹ authorised officers¹⁰ may apply for warrants to investigate possible breaches of the legislation. At the time of the reviews, investigators in DAFF Biosecurity were authorised officers for the purposes of the legislation. All warrants were applied for in accordance with legislative requirements and nothing came to our attention to suggest that warrants were not executed in accordance with legislation.

2.18 Prior to the execution of warrants, internal guidelines require investigators plan ahead using 'operational orders'. Most warrants examined were accompanied by operational orders outlining the warrant execution process, personnel requirements, tasks allocated to personnel and reporting channels. In each operational order sighted, personnel constituting each warrant team appeared to satisfy the requirements of the internal guidelines. Further, local police were generally notified prior to the execution of each warrant, as recommended by the internal guidelines.

2.19 For two warrants, operational orders were not available. One could not be located and DAFF advised that in the other case, an operational order was not required due to the procedural nature of the execution on a financial institution.¹¹

Handling of exhibits

2.20 The Committee's report noted a criticism in the submissions relating to the way plant material samples were handled during the citrus canker investigation. The reviews indicated that seized items were generally handled in accordance with internal guidelines.

2.21 To ensure that exhibits are properly handled, internal guidelines require that seized items are contemporaneously recorded and subsequently entered into the Exhibit Register. This was done in all cases except for two investigations (conducted by the Sydney and Perth offices), where the exhibits were not properly recorded in the Exhibit Register.¹² It was noted that these were administrative errors and not indicative of normal practice.

2.22 In the published Sydney report, we recommended that the evidentiary holding of each regional office of DAFF Biosecurity be audited every six months by an independent auditor in order to comply with the requirements of the AGIS. In all subsequent reviews other than in the Melbourne office of the I&E Program, the evidentiary holdings of each regional office had been audited by an independent auditor. We were advised that the Melbourne office's evidentiary holdings were audited subsequent to our review.

⁹ *Quarantine Act 1908, Export Control Act 1982, Australian Meat and Live-stock Industry Act 1997 and Imported Food Control Act 1992.*

¹⁰ The term 'authorised officers' is used in this context to describe officers who are able to apply for warrants once they have been authorised by the DAFF Secretary or the Director of Quarantine (depending on the legislation).

¹¹ CIS 18507 and Jade 148.

¹² Jade 124 and Jade 245.

Areas for improvement

Record keeping

2.23 The Committee's report found that investigators kept poor records, which contributed to the criticisms of the citrus canker investigation. In the context of investigations, comprehensive and contemporaneous record keeping is essential for evidentiary purposes; demonstrates the consistency of decisions over time; and is the basis for defensible decision making should a decision be reviewed or tested in the courts.

2.24 DAFF Biosecurity guidelines require that comprehensive and contemporaneous records are kept by investigators throughout the course of an investigation to demonstrate the reasons for taking actions (critical decisions).

2.25 The results of the reviews indicated that record keeping practices were inconsistently applied across the regional offices. There appeared to be different methods of record keeping to various levels of detail across the I&E Program. For example, reasons for issuing LOWs and LOAs were not consistently recorded across the regional offices.

2.26 In relation to the Perth and Adelaide regional offices, we generally noted comprehensive records of critical decisions, details or events that occurred throughout the investigation and contemporaneous notes of conversations conducted with various stakeholders. In relation to the Brisbane, Melbourne and Sydney offices, we made recommendations for investigators to consistently follow internal policies and guidelines on record keeping.

2.27 DAFF advised that it has since reinforced the requirement to comply with internal policies and guidelines and implemented processes to increase consistency in record keeping. The I&E Program has initiated annual internal audits of investigations across regional offices, which incorporate an assessment of record keeping practices. Further, in response to a suggestion in the published Sydney report, the revised guidelines provide specific guidance on documenting critical decisions.

Investigation management

2.28 Investigation management is an integral part of any investigation, the primary purpose of which is to gather admissible evidence for any subsequent action, whether civil, criminal or administrative. In its report, the Committee criticised DAFF Biosecurity's failure to pursue apparently obvious lines of inquiry in the citrus canker investigation. As a result, we assessed the I&E Program's investigation management practices against internal policies and guidelines.

2.29 Internal guidelines outline techniques for managing investigations, such as developing overall plans, milestones and deadlines for individual tasks. The tools available include an evidence matrix and investigation plan, which can assist the investigator to plan an investigation, focus on desired outcomes and make informed decisions.

2.30 We understand that the use of these investigation tools is not mandatory and may not be applicable to relatively simple matters. However, in more complex investigations, their use would demonstrate that investigations were carried out methodically, resources were used effectively, obvious lines of inquiry were pursued and sources of evidence were not overlooked.

2.31 The reviews noted that investigation tools were not consistently applied in complex cases. We made a recommendation to all regional offices (arising from each review) to consistently use investigation management tools that are commensurate with the complexity of the investigation.

2.32 In response to our recommendation, DAFF advised that it has since reinforced the requirement to comply with internal policies and guidelines on investigation management and implemented processes to increase consistency in the use of investigation tools. The revised guidelines provide more detailed advice about investigation management and planning practices. The annual internal audits will also review these practices.

2.33 At our second review of the Sydney office, we noted it had adopted investigation planning practices in more complex matters.

Monthly assessment of ongoing investigations

2.34 The Committee's report expressed concern that the Brisbane office did not have adequate capacity to undertake the citrus canker investigation. For ongoing investigations, regular consideration of the resourcing demands would ensure that adequate resources are allocated to each investigation. The internal guidelines recommend that this occur at least monthly.

2.35 The records we examined demonstrated that consideration of resourcing needs was done only on an ad-hoc basis across the regional offices. We made a recommendation to all regional offices (arising from each review) to consistently conduct monthly assessments for ongoing investigations in accordance with internal guidelines.

2.36 In recognising the importance of ensuring that finite resources are directed to matters of the highest priority, DAFF advised it has reinforced to regional offices the requirement to comply with internal policies and guidelines on investigation prioritisation. DAFF indicated that monthly assessments of investigations may not be necessary; as such, the redrafted guidelines recommend open cases are reviewed at least every three months, rather than monthly.

Preparation of briefs of evidence

2.37 The internal guidelines require that briefs of evidence are thoroughly reviewed by the RIM (or other officer as outlined in the guidelines), prior to submission to the CDPP. The internal guidelines contain a template for this process.

2.38 The reviews indicated that there was inconsistent application of the brief review process throughout the I&E Program. In Perth, all briefs were reviewed by the RIM. In Brisbane, all briefs except one were reviewed by the RIM, which was reviewed by the same investigator conducting the investigation. In Sydney, it initially appeared that the briefs had not been reviewed by the RIM, however, DAFF advised that the RIM had reviewed the briefs without using the prescribed review template. No assessment was made in relation to the Melbourne and Adelaide offices as the briefs of evidence were either in the process of being prepared or were in the possession of the CDPP.

2.39 The revised guidelines require all briefs of evidence to be reviewed by a national manager to ensure consistency in the quality of briefs provided to the CDPP for prosecution.

Issuing letters to offenders

2.40 The internal guidelines require that due process is afforded to recipients of LOWs or LOAs. In our published Sydney report, we recommended that the templates for the LOW and LOA include the opportunity for the recipient to comment or reply to the letters. On 4 December 2010, DAFF advised that the template letters were updated to provide recipients with the opportunity to respond to the letters. All LOWs and LOAs examined that were issued after this date provided the recipient with the opportunity to respond.

PART 3 – MOVING FORWARD

3.1 The Committee's report criticised the way DAFF Biosecurity investigated allegations of illegal importation into Emerald, Queensland and recommended that the Commonwealth Ombudsman review investigations conducted by DAFF Biosecurity.

3.2 Our reviews across the I&E Program's five regional offices concluded that investigations were conducted in accordance with relevant legislation and, generally, the rules adopted by DAFF Biosecurity's executive. However, the reviews also highlighted two main areas for improvement relating to the consistency in record keeping practices and the management, particularly in the planning stage, of investigations.

3.3 We made recommendations to each regional office. As our reviews progressed across the I&E Program, we noted the results of DAFF's implementation of the recommendations. As discussed in this report, these include the improvement in the Sydney office's investigation management practices, the provision of due process to recipients of LOWs and LOAs, and the conduct of biannual independent audits of the evidentiary holdings of each regional office.

3.4 In response to our recommendations, DAFF has reinforced to regional offices the requirement to follow internal policies and guidelines. Internal guidelines have been strengthened where reviews highlighted the need to do so. For example, more detailed guidance is now provided in relation to documenting critical decisions.

3.5 DAFF has also initiated an annual internal audit of the investigation activities of each regional office of the I&E Program based on the recommendations identified by our reviews. These audits will enable DAFF to monitor the progress made in areas we identified for improvement and the consistency of investigative practices adopted across the program.

ABBREVIATIONS AND ACRONYMS

AGIS	Australian Government Investigations Standards
AQIS	Australian Quarantine and Inspection Service
CDPP	Commonwealth Director of Public Prosecutions
DAFF	Department of Agriculture, Fisheries and Forestry
IPP	Investigation Prioritisation Procedure
I&E Program	Investigations and Enforcement Program
LOA	Letter of Advice
LOW	Letter of Warning
RIM	Regional Investigation Manager
SOPs	Standard Operating Procedures
WIs	Work Instructions

APPENDIX A – RECOMMENDATIONS AND AGENCY RESPONSE

Recommendation 1 – made to all regional offices

NB: the planning aspect of this recommendation was not applicable to the Sydney office.

The I&E Program should consistently engage in case management and planning practices which are appropriate to the complexity of the investigation, and identify the steps and decisions taken to demonstrate adherence to AGIS requirements.

DAFF response: Agreed

DAFF Biosecurity has reinforced to regional offices the requirement to comply with internal policies and guidelines on case management.

DAFF Biosecurity recognises that although the use of case management and investigative tools is not mandatory, their use contributes to consistency in investigative approaches.

The I&E Program has implemented processes to increase consistency in the use of case management tools that are commensurate with the complexity of the investigation and identify steps and decisions to demonstrate adherence to AGIS requirements.

The revised national instructional material and the implementation of enhanced quality management system arrangements will see greater guidance in relation to this matter and the ongoing review of this requirement.

DAFF Biosecurity has implemented key performance indicators in its 2011-12 Business Plan, which now incorporates an assessment of case management review.

Recommendation 2 – made to the Brisbane, Melbourne and Sydney offices

The I&E Program should consistently follow internal policies and guidelines on record keeping, including documenting the reasons for decisions made and activities and events that occurred throughout an investigation in a comprehensive, consistent and contemporaneous manner.

DAFF response: Agreed

DAFF Biosecurity has reinforced to regional offices the requirement to comply with internal policies and guidelines on record keeping.

The I&E Program has implemented processes to increase consistency in record keeping associated with investigations.

The revised national instructional material will provide greater guidance in relation to this matter.

DAFF Biosecurity has implemented key performance indicators in its 2011-12 Business Plan which now incorporate an assessment of case management review.

Recommendation 3 – made to all regional offices

The I&E Program should follow the requirements in *SOP 4 – Investigation Prioritisation and Procedure* and use the monthly investigation prioritisation procedure for ongoing matters.

DAFF response: Agreed

DAFF Biosecurity has reinforced to regional offices the requirement to comply with *SOP 4 – Investigation Prioritisation Procedure*.

The I&E Program has implemented processes to comply with this requirement that will be reviewed by the National Manager Investigations and Intelligence quarterly.

Revised national instructional material, implemented on 1 July 2011, will see procedures amended to require reviews of open cases to be undertaken at least once every three months in all regions.

Recommendation 4 – made to the Brisbane office

The Brisbane office of DAFF Biosecurity should ensure that local police are notified prior to the execution of warrants in all cases as required by *SOP 5 – Investigation Management*, and keep a record of each notification. Alternatively, if the requirement contained in SOP 5 is not practical, then the policy should be reviewed and changed if necessary.

DAFF response: Agreed

DAFF Biosecurity has reinforced to regional investigators the requirement to notify local police of the execution of warrants in all cases as required by *SOP 5 – Investigation Management*, and keep a record of each notification.

The revised national instructional material will address this matter.

Recommendation 5 – made to the Perth office

The Perth office of DAFF Biosecurity should consistently prepare interview plans prior to the conduct of formal interviews, as required under *Work Instruction 5a – Conduct of Interviews*.

DAFF response: Agreed

DAFF Biosecurity has reinforced to the Perth regional office the requirement to comply with internal policies and guidelines in relation to conduct of interviews.

The Perth office has implemented measures which oversees adherence to new instructional material which was implemented on 1 July 2011, including guidelines in relation to conduct of interviews.

Recommendation 6 – made to the Melbourne office

The Melbourne office of DAFF Biosecurity should engage an external or independent auditor to assess its exhibit holdings.

DAFF response: Agreed

DAFF Biosecurity implemented revised audit arrangements in July 2010 which requires exhibit holdings in each of its regional offices audited once every six months by an independent auditor with appropriate security clearance.

Revised instructional material, implemented on 1 July 2011, require six monthly independent audits of exhibit holdings by an independent auditor.

The Melbourne office had its exhibit holdings audited on 21 July 2011. This audit was undertaken by an independent auditor – no breaches were noted.

APPENDIX B – SAMPLE OF INVESTIGATIONS

Regional office	Investigations available for review	Investigations reviewed
Brisbane	163	18 (11%)
Melbourne	134	37 (28%)
Adelaide	31	16 (52%)
Sydney	147	38 (26%)
Perth	193	57 (30%)
Total	668	166 (25%)

APPENDIX C – REVIEW CRITERIA

The Ombudsman identified the following areas for review covered by the Committee's recommendation.

Investigations are conducted by appropriately trained staff

1. Investigators hold an appropriate qualification – assess the qualifications of investigators in accordance with DAFF internal requirements.

Investigations are conducted in a timely manner

2. Timeliness in conducting investigations – assess the timeliness in the assessment of initial incident reports and the commencement of investigations. It was agreed with DAFF that all incident reports should be assessed within 48 business hours of their receipt. The investigations should commence within the timeframe outlined in the relevant SOPs.

Investigations are conducted in accordance with relevant legislation

3. Application for, and execution of, warrants – assess the use of warrants in accordance with legislation administered by DAFF, internal SOPs and WIs which reflect the requirements in the AGIS.

Investigations are conducted in accordance with the rules adopted by DAFF Biosecurity's executive

DAFF has adopted SOPs and WIs to reflect Commonwealth guidelines for conducting investigations such as the AGIS. The reviews examine:

4. Case management – assess investigators' case management practices in accordance with internal SOPs, WIs and the AGIS.
5. Record keeping by investigators – assess record keeping practices in accordance with internal SOPs, WIs and the AGIS.
6. Decisions to conduct interviews and record keeping – assess the preparation for and record keeping of formal and informal interviews in accordance with internal SOPs, WIs and the AGIS.
7. Handling of exhibits – assess the handling of exhibits in accordance with internal SOPs, WIs and the AGIS.
8. Preparation of briefs of evidence for the CDPP – assess the preparation of briefs of evidence in accordance with internal SOPs and WIs which reflect CDPP guidelines (the review does not consider whether or not a decision to prepare a brief of evidence is correct or incorrect).
9. Decisions to issue Letters of Warning (LOW) – assess whether LOWs were issued in accordance with internal SOPs and WIs which reflect CDPP guidelines (the review does not consider whether or not a decision to issue LOW is correct or incorrect).
10. Decisions to issue Letters of Advice (LOA) – assess whether LOAs were issued in accordance with internal SOPs and WIs which reflect CDPP guidelines (the review does not consider whether or not a decision to issue LOA is correct or incorrect).
11. Decisions to take no further action – assess decisions to take no further action in accordance with internal SOPs and WIs which reflect CDPP guidelines (the review does not consider whether or not a decision to take no further action is correct or incorrect).