

The organisation

HISTORY AND ESTABLISHMENT

The office of the Commonwealth Ombudsman commenced operation on 1 July 1977. The office was established by the *Ombudsman Act 1976* (Ombudsman Act) and is in the portfolio administered by the Prime Minister.

The statutory responsibilities of the Ombudsman have expanded as follows:

- ▶ 1981—handling complaints about the Australian Federal Police (AFP)
- ▶ 1982—handling complaints about freedom of information
- ▶ 1983—Defence Force Ombudsman
- ▶ 1988—compliance auditing of AFP and National Crime Authority (now Australian Crime Commission (ACC)) telecommunications interception records, with added responsibilities of monitoring controlled operations in 2001 and auditing of surveillance device records in 2004
- ▶ 1989—Australian Capital Territory (ACT) Ombudsman
- ▶ 1995—Taxation Ombudsman
- ▶ 2005—assessing and reporting on the detention of long-term (two years or more) immigration detainees
- ▶ 2005—Immigration Ombudsman
- ▶ 2005—handling complaints about Commonwealth service providers
- ▶ 2006—Postal Industry Ombudsman
- ▶ 2006—compliance auditing of access to stored communications by the AFP, ACC, Australian Commission for Law Enforcement Integrity and other enforcement agencies (such as the Australian Customs and Border Protection Service), and the use of surveillance devices by state law enforcement agencies under Commonwealth legislation
- ▶ 2006—Law Enforcement Ombudsman, with a specific responsibility to review the adequacy and comprehensiveness of the AFP complaint-handling system.

ROLE AND FUNCTIONS

The office of Commonwealth Ombudsman exists to safeguard the community in its dealings with government agencies, and to ensure that administrative action by Australian Government agencies is fair and accountable. The Ombudsman has three major statutory roles:

- ▶ *complaint investigation*: investigating and reviewing the administrative actions of Australian Government officials and agencies, upon receipt of complaints from members of the public, groups and organisations
- ▶ *own motion investigation*: investigating, on the initiative or 'own motion' of the Ombudsman, the administrative actions of Australian Government agencies—often arising from insights gained from handling individual complaints
- ▶ *compliance auditing*: inspecting the records of agencies such as the AFP and ACC, to ensure compliance with legislative requirements applying to selected law enforcement and regulatory agencies.

The complaint and own motion investigation roles of the Ombudsman are the more traditional ombudsman roles that constitute the majority of the work of the office. The guiding principle in an Ombudsman investigation is to examine whether the administrative action under investigation is unlawful, unreasonable, unjust, oppressive, improperly discriminatory, factually deficient, or otherwise wrong. At the conclusion of the investigation, the Ombudsman can recommend that corrective action be taken by an agency. This may occur either specifically in an individual case or more generally by a change to relevant legislation, administrative policies or procedures.

A key objective of the Ombudsman is to foster good public administration within Australian Government agencies, ensuring that the principles and practices of public administration are sensitive, responsive and adaptive to the interests of members of the public.

In undertaking these roles, the Ombudsman is impartial and independent. The Ombudsman is not an advocate for complainants or for agencies.

The role of the Commonwealth Ombudsman is principally performed under the Ombudsman Act.

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

In addition the Ombudsman Act confers five specialist roles on the Ombudsman:

- ▶ **Defence Force Ombudsman**—handling complaints by serving and former members of the Australian Defence Force relating to their service
- ▶ **Immigration Ombudsman**—dealing with matters relating to immigration
- ▶ **Law Enforcement Ombudsman**—handling complaints about the conduct and practices of the AFP and its members.
- ▶ **Postal Industry Ombudsman**—handling complaints about Australia Post and private postal operators registered with the Postal Industry Ombudsman scheme
- ▶ **Taxation Ombudsman**—dealing with matters relating to the Australian Taxation Office.

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

ORGANISATION AND STRUCTURE

The national office of the Commonwealth Ombudsman and the office of the ACT Ombudsman are co-located in Canberra. The Commonwealth Ombudsman also has offices in Adelaide, Alice Springs, Brisbane, Darwin, Hobart, Melbourne, Perth and Sydney.

The Ombudsman and two Deputy Ombudsmen are statutory officers appointed under the Ombudsman Act. Ombudsman office staff are employed under the *Public Service Act 1999*. Senior Assistant Ombudsmen are Senior Executive Service Band 1 staff.

Details of the office's senior executive and their responsibilities are set out in Chapter 4—*Management and accountability*.

Figure 2.1 illustrates the organisational structure of the Ombudsman's office.

OUTCOME AND OUTPUT STRUCTURE

The Portfolio Budget Statements for 2008–09 defined one outcome for the office, supported by two outputs. These did not change during the year.

The outcome was *administrative action by Australian Government agencies is fair and accountable*. The supporting outputs were:

1. review of administrative action
2. review of statutory compliance in specified areas.

This annual report describes our performance against this outcome and the supporting outputs.

The Government introduced a new program reporting framework from the 2009–10 Budget. Our new outcome from 2009–10 is *fair and accountable administrative action by Australian Government agencies by investigating complaints, reviewing administrative action and inspecting statutory compliance by law enforcement agencies*.

FIGURE 2.1 COMMONWEALTH OMBUDSMAN ORGANISATIONAL STRUCTURE AT 30 JUNE 2009

