

FACTSHEET

Ombudsman own motion investigations information for agencies

The *Ombudsman Act 1976* (the Ombudsman Act) sets out the functions and powers of the Commonwealth Ombudsman (the Ombudsman).

The Ombudsman is responsible for investigating complaints from individuals, groups or organisations about the administrative actions of Australian Government officials and agencies, as well as some private sector organisations.

The Ombudsman may also investigate administrative action taken by agencies and selected private sector organisations, on his or her own motion, or own initiative (own motion investigations).

Own motion investigation process

The Ombudsman is an independent authority and is not subject to government direction in relation to own motion investigations. The Ombudsman can choose what to investigate and how an investigation should be conducted.

Ombudsman office staff are responsible for assisting the Ombudsman to conduct each investigation. Each investigation will differ slightly depending on the complexity of issues under investigation. However, the main phases of an investigation remain the same: planning, information gathering and analysis, and reporting.

Planning

Each own motion investigation involves a planning phase, where the Ombudsman will determine the following:

- the purpose of the investigation (objective)
- the issues under investigation (scope)
- the legislation, policies or standards the investigation will consider (assessment criteria).

The Ombudsman may consult with the agency or organisation during the planning phase and may share a draft investigation scope with the relevant agency or organisation.

The Ombudsman will formally notify the relevant agency or organisation of his or her intent to commence an investigation and will outline the purpose of the investigation. After this notice is received the investigation is considered to have commenced.

Information gathering and analysis

During the information gathering and analysis stage the Ombudsman office staff will request information from the agency or organisation to assist the Ombudsman to draw conclusions and make findings. This may include a request for documents or other written information, or meetings with staff who may have responsibility for, or knowledge of, the area being investigated. Ombudsman office staff may conduct site visits to observe work being undertaken or request a sample of 'live' cases to gain a better understanding of current practice.

Contact us

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Own motion investigation stages



Agencies and private sector organisations are afforded certain protections under the Ombudsman Act when providing information during an investigation. For example, an agency or organisation can share certain information with the Ombudsman that might otherwise be a breach of the *Privacy Act 1988*. The information you provide to the Ombudsman is handled in accordance with the *Privacy Act 1988*.

We recognise that own motion investigations can be time consuming for agencies. For this reason, we are committed to working cooperatively with agencies to determine the most efficient way of receiving information. In our experience, focusing on open and early communication swift responses to our requests for information, and remaining transparent ensures this part of the process runs as smoothly as possible.

During the analysis stage we may look to clarify information provided and check our understanding of documents or processes. We will look to engage with an agency or organisation to discuss our early thinking about findings from the investigation and discuss possible recommendations. This helps to ensure there are “no surprises” in the final investigation report and aims to ensure that our recommendations are realistic and practicable to implement.

Reporting

At the end of the information gathering and analysis phase, the Ombudsman may decide to write an own motion investigation report. If a report is written, we will provide a copy of the draft report to the agency or organisation and invite comment on any errors or omissions of fact. The Ombudsman also provides principal officers of agencies or private sector organisations with a formal opportunity to comment on any recommendations in the report.

The Ombudsman may decide to provide a copy to the head of the agency or organisation and the relevant Minister. Any own motion investigation report:

- **must** include reasons for the Ombudsman’s opinions, or findings, specified in the report, and
- **may** include comments, suggestions or recommendations for remedial action, or for improvements, that the Ombudsman thinks fit to make.

More information on the Ombudsman’s approach to making and monitoring recommendations can be found in our [Ombudsman Recommendations](#) factsheet.

Where an investigation report includes comment that could be considered implicitly or explicitly critical of a person or agency or organisation, the Ombudsman Act requires the Ombudsman to give the person, agency or organisation an opportunity to make submissions about the matter.

Report publication

The Ombudsman has a discretion to publicly release (or not) an own motion investigation report. In making this decision, the Ombudsman will assess whether releasing the report is in the public interest. If the Ombudsman decides to publish a report, we will notify the agency’s Minister, the principal officer of the agency or organisation, as well as our working level contacts. Any published report will include the agency or organisation’s response to the report and our recommendations.

The Ombudsman may also share the report with other interested bodies like parliamentary committees and other Ministers.

More information is available at ombudsman.gov.au.

Please note: This document is intended as a guide only. For this reason, the information should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases. To the maximum extent permitted by the law, the Commonwealth Ombudsman is not liable to you for any loss or damage suffered as a result of reliance on this document. For the most up-to-date versions of cited Acts, please refer to the [Federal Register of Legislation](#).